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PROCEEDINGS AND DEBATES OF THE 102^{d} CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Thursday July 11, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We know by Your grace, O God, that perfect love casts out fear and anxiety is eased by the presence of Your spirit. Give us, we pray, the confidence to believe that the cares of the day can be put aside and the gifts of faith and hope and love can bring us to a new way of life. For these and all Your blessings, gracious God, we give our thanks and praise. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Kentucky [Mr. BUNNING] please come forward and lead the House in the Pledge of Allegiance.

Mr. BUNNING led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2427. An act making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2427) entitled "An act making appropriations for energy and water development for the fiscal year ending September 30, 1992, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, Mr. SPECTER, and Mr. NICKLES, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 51. Concurrent resolution authorizing the use of the rotunda of the Capitol by the National League of POW/MIA Families for a ceremony to honor the members of the Armed Services and civilians missing and unaccounted for as a result of the Vietnam conflict.

RESIGNATION AS MEMBER OF COMMITTEE ON SMALL BUSINESS

The SPEAKER laid before the House the following resignation as a member of the Committee on Small Business:

HOUSE OF REPRESENTATIVES,
July 11, 1991.

Hon. THOMAS FOLEY,
Speaker of the U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER, I hereby resign my seat on the Committee on Small Business.

Very truly yours,

FRED UPTON,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. MICHEL. Mr. Speaker, I call up a privileged resolution (H. Res. 193) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 193

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Rep. Tom Ewing of Illinois to the Committee on Agriculture, and the Committee on Public Works and Transportation;

Rep. Bill Zeliff of New Hampshire to the Committee on Small Business; and

Rep. Richard Baker of Louisiana to the Committee on Interior and Insular Affairs.

Mr. MICHEL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

STATEMENT OF TROOP READINESS

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the ability of our Nation to defeat the future Saddam Hussein's of this world and the need to adjust our armed services according to a reduced eastern block threat can be viewed as opposing goals, but I believe that a cautious and intelligent approach will allow us to accomplish both. I've questioned the Pentagon's decision to reduce our forces by 25 percent without reassessment of happenings of the last 2 years.

As chairman of the Readiness Subcommittee, I want to ensure that our forces are prepared to meet the military threats of tomorrow. We cannot allow ourselves to return to the ill-prepared and hollow force of the time when there was inattention to readiness issues. I plan to carefully assess the preparedness of our forces as a result of the President's base closure and realignment proposals because we must maintain a defense establishment which is properly equipped, thoroughly trained, and fully ready.

NEW TAX BRACKET WOULD RESULT IN LOSS OF GNP

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, increasing tax for the wealthy would ultimately

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

result in the loss of GNP, proving detrimental to the U.S. economy. It has been proposed that Congress should increase the top tax bracket to 35 percent. Last year, when the creation of a 33-percent tax bracket was proposed, economists estimated effects from its implementation. According to former U.S. Treasury economists Aldona and Gary Robbins, a 33-percent tax bracket would have shocking effects:

First, between 1990 and the year 2000, the imposition of a 33-percent tax bracket would reduce GNP by $518 billion because of the decrease in spending and investment.

Second, the economy would generate 377,000 fewer jobs.

Third, the U.S. capital stock would be $604 billion lower than otherwise by the year 2000.

Although an increase in revenue due to increased income taxes would be expected, total Federal revenue would actually decrease by $22 billion because of the negative impact of the new tax rate on the U.S. economy. If the economic costs of a 33-percent tax bracket are so great, imagine the costs of a 35-percent tax.

The idea that creation of a higher tax bracket would increase Federal revenue is clearly a false assumption. Considering the contribution of the wealthy on the U.S. economy, increasing their taxes would reduce their contribution to total GNP, thus reducing total Federal revenues.

TRIBUTE TO JAMES HULL

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, in all the debates and speeches that fill Congress, we often mention the American spirit, or even just the idea of America. But, too seldom do we stand here to honor the individuals behind those words. As those individuals pass into the pages of history, we must be careful to pause and remember their contribution to society. Today, I rise to honor the memory of a great Texan, and a friend, who embodied that which is good in America.

James Hull was born in December 1930 at the height of the Great Depression. In the 61 years of his life, James demonstrated great talent, energy, and resourcefulness. He was a loving husband and caring father who always found time for his community. With the courage and ingenuity that Americans are known for, James brought to life a coalition of rural electric leaders interested in long-term energy management.

In fact, in a time when most people were criticizing rural electric suppliers, James ran the first co-op to become debt free. His wisdom and talents conquered daunting problems to improve rural energy service and control the cost of electricity. In his own natural way, James Hull made a vital contribution to rural America that should never be forgotten.

TAX INCREASE IS NOT TAX FAIRNESS

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I want to talk a little bit this morning about tax fairness. In my district is a small company, Marine Development Corp., that manufactures air-conditioners for luxury boats. As a result of our tax policy, on January 1, 1991, this company had 84 employees. As a result of this ill-advised tax policy, on May 1, the same company had 63 employees, a 23-percent reduction in force.

This company had an annualized payroll on January 1 of $2.13 million. On May 1 that annualized payroll had shrunk to $1.77 million, a 17-percent decrease, or $360,000 less.

The average worker laid off in this period had 7.5 years of experience. In 1990, this company provided six summer jobs for students. This year, none.

Mr. Speaker, I wonder if we would ask those people who are laid off, and those students who do not have summer jobs, if they think this is tax fairness. I rather doubt it.

SEND STORMIN' NORMAN SCHWARZKOPF TO JAPAN TO BASH AMERICA BASHERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Shintaro Ishihara America's No. 1 critic, is author of the book "The Japan That Can Say No."

Listen to what Ishihara says. He said, "America is really not the superpower it thinks it is. It is all an illusion." He said, "Japanese technology won the war. America should not be getting all that credit." Ishihara said, "In fact, without Japan, America can't even produce a weapon."

Mr. Speaker, Ishihara is not a critic. He is an America basher, and I say it is time to take care of the trade problem in America. I recommend the appointment of Gen. Stormin' Norman Schwarzkopf as Trade Representative. Send him to Japan to take care of our No. 1 problem, trade and guys like Mr. Ishihara can be turned from bashers to bashees.

If they are going to call us Japan bashers, let us tell it like it is: This is stone-cold America bashing. I think we should stand up for No. 1, America.

□ 1210

AMERICANS ARE PAYING LUXURY TAX WITH THEIR JOBS

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, last fall's tax bill—the second largest tax increase in the Nation's history—was hailed by many in this Chamber as a "tax the rich" piece of legislation.

Playing upon a strategy of division and envy, they proposed a luxury tax. Why should the rich not pay an extra 10 percent on their boats, fancy cars, airplanes, furs, and jewelry? Certainly, the wealthy can afford it, they said.

Well, Mr. Speaker, the rich will not pay if they do not buy, and they are not buying. Only those people employed by the boat, plane, and automobile manufacturing and sales companies, and only those employed by the fur and jewelry companies are paying—paying dearly with their jobs.

More than 3,000 people in the auto industry, and 19,000 in the boat manufacturing industry alone are expected to lose their jobs as a result of the steep drop in sales prompted by the increase in the luxury tax.

The same big taxers who aimed at the rich and hit the middle class last year are the same ones who are so quick to decry the tax policies of the Reagan administration. Yes, the rich got richer during the 1980's, but so did every other income group.

From 1982 to 1989, median family income jumped 14 percent. During the previous 14 years, median family income had dropped 2 percent. During the 1980's, families in the lowest fifth in terms of income saw their incomes rise 5.6 percent in real terms. During the 1970's, an era of rapidly rising taxes, that same group saw their income fall by 15 percent.

The choice is really between economic growth and opportunity for all, or the politics of division and envy. "Tax the rich"—it's a great sound bite. But, sound bites are not food in the mouths of all of the real people the big taxers have put out of work.

IMPORTATION OF PEANUTS IS A BAD IDEA

(Mr. PETERSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Florida. Mr. Speaker, last week President Bush took the first in a series of steps designed to destroy our domestic peanut market. In deciding to import 100 million pounds of foreign peanuts—from Argentina and China—the administration sent a crystal clear message to our Nation's peanut farmers; politics ranks higher than production.

The Bush administration maintains that this 50,000 ton "care package" is necessary in order to make up for last year's drought. But domestic peanut production is up. In fact the farmers in Georgia and my State of Florida are now expecting their best season in years.

There is simply no good reason to bring these foreign peanuts into our market. The administration's move is nothing more than a political decision based on an ill-conceived recommendation that may jeopardize one of the most efficient and well crafted farm programs we have. Above all it compromises the interests of our farmers who have worked too hard to have their businesses destroyed in exchange for political clout abroad.

I say that the peanut farmers in my district and throughout the Nation deserve better.

TURNING TAXES INTO A POLITICAL GAME

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, it is a lot of fun to bash the rich and it is a lot of fun to soak the rich. Playing on jealousy and taking advantage of envy has always been a favorite strategy of political opportunists since the world began.

But of course, raising taxes just to soak the rich is not very honest and it is certainly not very productive.

Raising taxes will cost jobs. It is not a matter of tax fairness. It is a matter of jobs fairness.

The proponents of raising the top tax rate to 35 percent are playing the worst kind of political game—class warfare for political profit. And the big loser will not be the wealthy. The most they can lose is a couple percent of their income.

The big losers, if we raise the taxes on the top taxpayers, will not be the upper income taxpayers at all. The big losers will be the half million Americans who lose the opportunity to hold a job. They lose it all.

THE PEOPLE SHOULD BE OUR NO. 1 PRIORITY

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, with the news last month from the administration that June's unemployment rate climbed to 7 percent, Americans today are seeing the highest unemployment rate in 4 years—8,750,000 Americans were looking for work in June.

I just returned from the Third Congressional District of Indiana and would like to share with my colleagues a little of what is going on in my home State.

The Bristol-Myers Squibb Co. just announced that it would be closing its Michigan City Laboratories in October. Hoosiers are also dealing with the closing of Whitehall Laboratories in Elkhart and the Uniroyal plant in Mishawaka.

Michigan City Laboratories is not a particularly large plant; 23 people are employed there. But those 23 men and women are Americans, are hard-working people, and are supporting family members.

They are more than just a tiny spike in someone's unemployment chart. The administration may want to ignore 23 here, 53 there, 103 somewhere else, but this pain and suffering adds up.

Yes, Mr. Speaker, signing an arms control agreement with the Soviets is important. Yes, making decisions on MFN for China is important. Yes, debating South African sanctions is important. And of course, Middle East peace is important. But, Mr. Speaker, we need to return our agenda to the heartland issues of our people and unemployment and jobs. That should be our No. 1 priority.

TAX POLICIES OF THE 1980'S

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, the U.S. economy ended the past decade in a far better shape than it began the decade.

At the end of the 1970's, the economy was in desperate shape—taxes were on the rise, inflation hit 13 percent, and interest rates were hovering around 21 percent.

The culmination of these factors led to two recessions in the early 1980's.

The Reagan revolution turned these conditions around, and beginning in 1982 through early 1990, this country experienced the second longest peacetime expansion in our history. U.S. GNP grew during this period faster than any previous peacetime expansion.

During the 1980's, our economy grew at an annual rate of 4 percent and 21 million new jobs were created.

Employment grew by more than 5 percent in almost every State and grew by more than 15 percent in 27 States. In 1989 the share of working-age population with jobs stood at a record high of 63 percent, up from 58 percent in 1983.

The tax policy of the 1980's was a key factor in U.S. economic growth during the past decade. It did not simply benefit the rich at the expense of the poor, but, rather provided a better way of life for all classes of Americans.

FUNDING FOR CLEANUP OF ENERGY WASTE SHOULD NOT BE REDUCED

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, once again the people who have lived in the shadow of our Nation's atomic weapons complex have reason to question the Federal Government's commitment to cleanup.

Reports today indicate that the Energy Department's budget will be amended to reduce significantly the money earmarked for cleanup by the House.

Mr. Speaker, those people who live in constant fear of cancer resulting from radioactive exposure deserve more. Their water, soil, and air have been polluted by our Nation's biggest polluter—the Federal Government. Priority: Cleanup the mess you've made before you make a new mess.

The House must resist all attempts to reduce cleanup money.

TAX INCREASES AFFECT TAXPAYERS' BEHAVIOR

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, some tax-hungry Members of Congress do not seem to understand how taxation affects our economy. In the real world, that is outside the Washington Beltway, taxpayer behavior depends on how much of their hard-earned money they are able to keep and on what we tax. In the late 1970's, when the top tax rate was 70 percent, the economy was in a period of deep stagflation and economic decline.

After 1981, after the Reagan tax cuts, families and businesses received incentives to work, incentives to invest, and incentives to save.

Despite the obvious economic consequences of a tax increase, last year's budget deal imposed the largest 1-year tax increase in American history and forced our economy once again into the first recession since the slowdown at the beginning of the 1980's. Income tax collections through May of this year are running only four-tenths of 1 percent above the 1990 levels, after averaging more than 7 percent annual growth between 1983 and 1990.

This slowdown alone should be proof for the big taxers on Capitol Hill that higher tax rates will harm families and businesses and restrict economic growth.

☐ 1220

TOO MANY MISLEADING REPORTS ON H.R. 5

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, in the next few days the House will take up H.R. 5, the Workplace Fairness Act, which would make it illegal for employers to hire permanent replacement workers during legal strikes. Quite a number of misconceptions—and just a few too many misleading reports and statements—have circulated about this legislation. It is time to correct a few of these misleading reports.

First, as amended in committee, H.R. 5 does not apply to nonunion workplaces. Just a few days ago, CRS, in a legal opinion, concluded:

> As amended, the bill would prohibit the granting of permanent replacement status or other employment preference only to those individuals who perform bargaining unit work in a labor dispute.

It has also been said that H.R. 5 would encourage workers to strike. Nothing could be farther from the truth. Mr. Speaker, those individuals who make these statements cannot know or understand the hardship that a strike brings every worker and his or her family. If anything, American workers want to avoid strikes as much or more than employees.

Finally, some say this legislation will drive American jobs to foreign countries. This is the same threat we heard when we passed a plant closing notification bill. It is simply an unfounded threat. American workers are among the most productive in the world and no employer interested in quality and productivity is going to seek a foreign setting for fear of this legislation.

Bottom line, Mr. Speaker and colleagues, American workers should not be forced to sacrifice their jobs in their attempt to obtain a fair pay and benefit package. I urge support for H.R. 5.

A RISING TIDE LIFTS ALL BOATS

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, President Kennedy declared that a rising tide lifts all boats. He thereupon proceeded to enact a dramatic tax cut for rich and poor alike. Dramatic economic expansion ensued.

In the early 1980's, repeating the pattern set by President Kennedy, the taxes for all Americans, rich and poor, were significantly cut again, and the result was the same. The income of all Americans, not just the wealthy, increased.

What our country needs today, Mr. Speaker, is more economic growth. Let us reject the politics of envy which call for higher tax rates and embrace the spirit of Presidents Kennedy and Reagan that brought us economic growth, jobs, and prosperity for all Americans.

Indeed, a rising tide lifts all boats.

CLASS WARFARE AND TAXES WILL NOT SOLVE PROBLEMS IN OUR COUNTRY

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, more than a century ago, President Lincoln understood that class warfare was not the answer to bringing a better situation to our middle and lower economic classes. He said:

> You cannot help the weak by weakening the strong. You cannot help the wage earner by pulling down the wage payer. And most importantly: you cannot further brotherhood by encouraging class warfare.

But, Mr. Speaker, class warfare was exactly what tax spenders had in mind last fall when they slipped into the budget a barrel of new fees called luxury taxes.

Without holding hearings, talking to economists or most of all, meeting with any of the hard working Americans who work in the affected industries, the tax spenders added into the budget agreement a 10-percent excise tax on large boats, expensive cars and jewelry, and other items. And what was meant by tax spenders to be another battle in the class war which they chose to perpetuate, has simply backfired into an assault on the working men and women of America. Tens of thousands of jobs have been lost.

Mr. Speaker, I think we would do well to follow the advice given to us by Abraham Lincoln. Class warfare, and taxes to pursue this goal, will not solve problems in our country. They only cause new ones, as this disastrous luxury tax has shown. Let us do the right thing now, admit a mistake, and repeal these taxes which are hurting working Americans everywhere.

INTRODUCTION OF COMMUNITY RIGHT TO KNOW MORE ACT OF 1991

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, today Republican and Democratic colleagues are joining with me in introducing the Community Right To Know More Act of 1991, building on one of America's most important environmental laws, the Community Right To Know Act, which we passed 5 years ago.

This bill is 60 pages long, but it boils down to three important things. First, community right to know expands public reporting of toxic chemical releases to include more facilities, including Federal facilities, and more chemicals.

Second, community right to know more requires big companies to report not only the dangerous chemicals they release but the ones they use and produce.

Third, community right to know more expands and improves current solid and hazardous waste reporting requirements.

When we passed the Community Right To Know More Act in a knockdown, drag-out, bruising, one-vote margin back 5 years ago, opponents said it was a radical concept. It was not. It was just common sense. It was then, and it is now.

For America's kids and for America's future, we have the right to know more.

THE 1980'S ECONOMIC EXPANSION TAX

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the foundation of the largest peacetime economic expansion in U.S. history was in the new policy direction adopted in 1981 and implemented in 1982. This was the Reagan-Bush income tax cut which reduced income tax rates for all, while monetary restraint and stability lowered inflation leading to a reduction in interest rates. With the adoption of these new policies, the economy rebounded in 1982 and continued to grow through 1990. Between 1982 and 1990, real GNP grew by 31 percent. The stagflation and falling incomes of the Carter years were replaced by economic growth and rising incomes.

This economic expansion created 21 million new jobs and boosted real median family income 12 percent. The misery index, which is the sum of the inflation and unemployment rates, was at 20 percent in 1980. Since 1980, the misery index has gone steadily downward reaching 10 percent in 1989.

Tax policies of the 1980's actually brought this country out of its contraction and put our Nation on the road to economic recovery. No matter what critics may say, there is no denying the fact that Reagan-Bush tax policies provided benefits to every American relative to their position at the end of the Carter era.

A WINDOW ON THE ADMINISTRATION'S PRIORITIES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we get today a real window on the administration's priorities.

First of all, the White House announces that it came out fully in favor of closing 33 military bases in the United States and was reopening negotiations with the Philippines on keeping the two Philippine bases open that have just been attacked by the volcano.

□ 1230

Now, I do not get that, and maybe some Member can explain that to me.

I do understand that the Congress is not allowed to vote on whether or not we will be able to go along with the agreement that we make with the Philippines, but they are talking about doubling the rent and talking about millions and millions of dollars to clean it up.

I can tell Members we do get to vote on that money stuff. We will not just be voting for that money stuff, I do not think. The threat has changed in the Pacific. There is all sorts of other places we could go. No one can guarantee Members that volcano is not going to go off again.

I cannot believe the priorities. We will spend anything to keep bases overseas, even if they are totally valueless, and we are willing to throw all sorts of Americans and communities into turmoil by closing them at home. If Members can explain that to me, I am more than happy to listen.

AMERICA NEEDS NEW ECONOMIC COURSE

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, the soak the rich approach of raising top tax rates from 31 to 35 percent is clearly a mistake. The tax policies of the 1980's have helped generate more jobs, more pay, and higher income for everyone.

Under the bracket creep of the 1970's virtually everyone got poorer—especially the lowest income group. A soak the rich mentality, such as the luxury tax, decreases economic investment, it stalls our economy and it costs jobs. We must vigorously pursue progrowth tax initiatives, like restoring an investment tax credit and reducing the rate of taxation on capital gains, and avoid punitive tax measures that stifle growth. That is what occurred during the Reagan-Bush years and if the Democrats are wondering why the Reagan-Bush years were so popular at the polls, it is because those income groups that voted most often were also those whose income was rising at the fastest rate under Reagan-Bush tax policies. It is time to commit to an economic course that will put America back to work.

COSPONSORS SOUGHT FOR INCOME-DEPENDENT EDUCATION ASSISTANCE ACT [IDEA]

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, one of the major hassles in applying for college student aid is filling out the complicated family needs analysis forms. Everybody hates them—they are intimidating, and they invariably have an element of unfairness, since they deal with the assets of the parents rather than with the students who, ultimately, are the ones who need the education.

There is a better way.

Not long ago I introduced a major student loan proposal, the Income-Dependent Education Assistance Act-IDEA for short.

Under IDEA, there would be no need for family needs analysis forms. IDEA loans would be available to students without regard to the parent's assets. The rate at which IDEA loans would be repaid would be determined by the student's income after leaving school.

Further, the IDEA Program would provide student loans at little or no cost to the taxpayers and would free up a great deal of Federal money which could be used for education grants and/or for deficit reduction.

Mr. Speaker, I am seeking cosponsorships, and those interested can find more information on IDEA on page E-1792 of the May 16 CONGRESSIONAL RECORD.

WHY CONTINUE TO SUBSIDIZE DEFENSE OF WESTERN EUROPE?

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, I join my colleague from Colorado [Mrs. SCHROEDER]. It is interesting that the administration keeps over 224 military bases and facilities operating in West Germany. West Germany is one of the strongest economic units in the world. They have universal health care. Virtually everyone has universal college education for its students, while in the United States we have tens of millions of Americans without health care, many others in economic harm's way as a result of health care costs. Many capable Americans cannot go to college because they do not have the funds. Yet we are sitting here, subsidizing the defense of Western Europe and Japan to the tune of $140 billion.

In my district, they want to reduce the size of a military facility, the NUSC facility, that does naval research. However, we will continue to subsidize the economies of Western Europe and Japan through our military presence there.

It is 50 years after World War II. It is time that they carry the financial burden and protect their interests. There are 333 million of the wealthiest people on this planet in Western Europe. American taxpayers ought not subsidize their defense. I am not against helping countries that are small and poor and in trouble, but I am against having American taxpayers subsidize countries that have a higher standard of living than our own.

INTRODUCTION OF LEGISLATION TO ABOLISH THE PRESIDENTIAL ELECTION CAMPAIGN FUND

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, today I will introduce legislation abolishing the Presidential Election Campaign Fund.

The fund is going broke because over 80 percent of the American people check "no" on their tax forms every year and reject this entitlement program for politicians. They reject it because they know it has failed and think that in a time of budget deficits of over $300 billion, we should not be spending hundreds of millions on political consultants, negative advertisements, and weeklong parties known as nominating conventions.

The fund has not decreased campaign spending and it has not limited special interest influence. It has given millions of dollars to convicted felon Lyndon LaRouche and Farakhan associate Lenora Fulani.

I urge the Congress to reject this failed experiment in taxpayer financed politics.

THE AMERICAN DREAM ENDANGERED BY GOVERNMENT RED TAPE

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, with each passing year it becomes more and more of a joke to say, "I am from the Government. I am here to help you."

Now, the Department of Housing and Urban Development has issued a report confirming what many builders and prospective home buyers have known for sometime. That is, that too much government, often carrying out the agenda of environmental extremists, has just about driven the price of a single-family house out of reach to most citizens.

To put it another way, government bureaucracy, rules, regulations, and red tape have almost destroyed a key part of the American dream for most people.

This HUD report called "Not in My Back Yard," was prepared by the Presidential Advisory Commission on Regulatory Barriers to Affordable Housing. The Commission was cochaired by a liberal Democrat and liberal Republican.

This Commission said, "Often environmental concerns raised against the development of multifamily or low-and moderate-income housing really constitute attempts at exclusionary zoning."

Unfortunately, environmentalism is increasingly becoming an elitism uppercrust movement and is used to prevent people from getting affordable housing. That is particularly sad.

NO NEW TAXES

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, incresing tax rates on the wealthy in an effort to create a more equal distribution of income would not benefit our country.

Tax rates affect the ability of individuals to earn income and, thus, the taxes they actually pay on that income. Because higher marginal tax rates discourage work and investment, they lead to less taxable income for all taxpayers. That means that everyone would bear the burden of a 35-percent tax bracket.

Those who are trying to help the lower-income group will do more harm than good. In an economy such as ours, any narrowly directed tax quickly becomes a tax on everyone.

Efforts to achieve a more equal distribution of income through higher tax rates would result in a decrease in income for both the rich and the poor. The Democrats have sold their increased taxes with the soak the rich argument. But the facts are they soak middle America—the white- and blue-collar workers.

□ 1240

TAX REFORM REDUCES INCOME GAP

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, tax reform is reducing the income gap.

The Democrats say they have proof that income of the rich is increasing while the poor are earning less. They cite the Census Bureau's annual family income and poverty survey of October 1990 which shows a 1987–89 acceleration of a two-decade trend in the rich-poor income gap. However, tax polcy cannot be responsible for such results because that report's estimates are based on pretax income and cannot show any net effects of tax policy.

Ironically, the total effect of the 1980's tax reform was to increase taxable income among top brackets by eliminating tax shelters. While this will indeed exaggerate the pretax income gap between rich and poor, its effect on after-tax income is exactly the opposite. The Census Bureau's Current Population Survey on after-tax income distribution shows that top income earners pay a higher percentage of taxes while the percentage of taxes paid by lower income earners decreased. This clearly lessens the gap between the rich and the poor.

Through implementation of the 1981 and 1986 tax reform, the income gap is decreasing. Any effort to increase tax revenue by raising taxes of anyone, rich or poor is shortsighted and counterproductive.

A LESSON IN ECONOMIC POLICIES

(Mr. HANCOCK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCOCK. Mr. Speaker, some in this House still question the benefits of low tax, progrowth economic policies. A history lesson is in order.

In 1980, the average American family lost about $1,800 in purchasing power. If the same trend had continued, the average American family would have lost $12,600 in real income by 1990. Anyone can see the devastating effects on American families of the economic policies of the last Democrat President. Thank goodness, he only served 4 years.

The low tax, progrowth economic policies of President Reagan, however, turned things around. Following the economic contraction from 1978 to 1982, an expansion began. During the expansion, the income of the bottom fifth of Americans rose 11.9 percent, while income for the middle fifth of Americans rose an amazing 12.6 percent.

Clearly, the policies of the Reagan-Bush era benefitted low income families, while those of the Carter era harmed them. The Reagan-Bush policies brought this country out of its economic contraction and gave us the longest expansion in our Nation's history.

OUR BASES IN THE PHILIPPINES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, our colleague, the gentlewoman from Colorado, a few minutes ago, spoke about our bases in the Philippines, and that is a subject about which this Member also intended to speak this morning. I have a different perspective on some of the things she said. Yet I agree with her on others.

First of all, the administration announced that it is reconsidering the possibility of leasing the Clark Air Force Base. Because of volcanic damage, we may indeed abandon it, and I think that is an appropriate decision.

Second, with respect to the Subic Bay Naval Base, it is important that the Philippines and our administration remind them that we have alternatives to Subic Bay, in Guam, in the Northern Marianas and in Palau. We have been paying far too much lease costs for these bases in the Philippines, and sometimes it seems they are not very grateful for what we do spend there. It was, after all, Clark Air Force Base where American planes left to put down the coupe against President Aquino; so my message to the administration, to our negotiators to the Government of the Philippines, and the Filipino people is, first of all, it is now time to close down our involvement in Clark Air Force Base. Second, it is time to reduce the lease costs for Subic Bay, Naval Base and if necessary to begin the process of phasing it out. We are not captives to that kind of lease arrangement.

TAX CHANGES AFFECT THE WHOLE ECONOMY

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, last year when Congress passed the luxury tax, the so-called soak the rich tax, what happened? They drowned several industries and thousands of jobs all over America. In my own district, the Carver Boat Co. had to revert to mass layoffs and to bankruptcy.

Now, did this help the working men and women of America? I do not think so.

Tax changes do not just affect the flow of money into the Treasury, but they affect the jobs in our economy. The urge to kick the achievers in our society by the liberals is unexplainable. It seems they have no objectivity when it comes to jobs.

The nonliberals in this body are saying this. Let us not commit economy suicide by having more and more taxes. That will cause workers to lose their jobs.

We are concerned about good paying jobs. That is why we are saying let us repeal this tax.

You know, a word to the wise, they say, is sufficient, but it seems that it is going to take the entire Webster's Dictionary and then some to get some people in this Congress to change their minds about taxes. It cannot be that jobs-be-damned mentality that has been prevalent in the past. We have got to have some sound economic thinking, and the time for that is now.

KEEP PRESSURE ON SOUTH AFRICA

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, yesterday the President lifted the bulk of the economic sanctions against South Africa, having concluded and reached the position that all the five conditions had been met most recently the release of political prisoners. However, not every sanction was lifted. There remain some, for example, the prohibition on United States-backed International Monetary Fund loans to South Africa and a ban on loans from the Export-Import Bank; so there are still some opportunities that we have as a country to monitor the further movement in South Africa toward racial justice and toward a color free and colorblind society.

I would certainly urge the President—since it appears that his action is irrevocable and will not be reviewed here on the Hill—to be watchful and mindful and very vigilant about making sure by the continued application of what sanctions remain and by constant contact with the leaders of South Africa, both the white leaders and the black leaders, that the movement, which has been salutatory, toward a more just society in South Africa continues. Progress has been made. Much more progress is needed.

SMALL BUSINESSES NEED SIMPLIFIED PENSION RULES

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, a recent hearing before the Small Business Committee confirms what many of us have known for some time: Small business owners want their workers to have adequate resources for retirement. But complex pension rules force owners to forego a plan rather than be weighed down under time-consuming paperwork and expense.

In response to this problem, my distinguished colleague JOHN LAFALCE and I recently introduced H.R. 2294, a pension simplification bill to encourage employer-employee partnerships in retirement saving.

I hope that debate on this and other proposals can begin soon so that meaningful legislation may be enacted.

Small business owners need to attract and retain good employees. Small business employees need a convenient and reliable mechanism for retirement saving.

We can meet the needs of both groups by making it easier for small employers to set up pension plans.

My colleagues, we need to move quickly to solve the pension dilemma facing our Nation's small employers and their employees.

Doing something is important. Remember, it is easy to say that you are all for small business. But it is how you vote that really counts.

ECONOMIC RECOVERY UNDER REAGAN

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, in order to combat the devasting economic contraction from 1978 to 1982, the Economic Recovery Tax Act of 1981 was passed under the Reagan administration. This act was designed to reduce the tax burden on labor and capital, thereby boosting jobs and economic growth. Issue has been taken about the act's effect on personal tax payments by various income groups.

The fact is that the income taxes paid by 90 percent of Americans, adjusted for inflation, fell by 10 percent from 1981 to 1987, while the income taxes paid by the richest 5 percent rose by nearly 43 percent.

Liberals then claimed that the rich got so much richer in this period while everyone else's income decreased. Actually, the top 5 percent did see their median income rise in constant dollars by nearly 25 percent.

□ 1250

But the median income of middle-income earners also rose by 9 percent. In that same period, however, the income taxes paid by the top 5 percent rose nearly twice as fast as the median income while the income taxes on the middle group actually fell by 10 percent. What it indicates clearly is that the middle class was clearly benefited by the Reagan tax cut of 1981 and the rich are paying a higher percentage of their income in taxes to help support the Government of this country.

WERE REAGAN TAX CUTS FOR THE RICH?

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, one of the Democrats' main political strategems over the last few years has been to convince the American people that the Reagan tax cuts were entirely for the rich and left the middle class and the poor paying more.

The fact is that income taxes paid by the top 10 percent of income earners have risen nearly 70 percent in real terms from 1981 to 1988, 70 percent, while those paid by the group earning less than $30,000 have fallen more than 15 percent in real terms.

The 1987 and 1988 income tax return data from the Internal Revenue Service show the massive concentration of the income tax burden to be on the top taxpayers. Furthermore, the data demonstrate conclusively that virtually all the growth in income tax revenues is now coming from the top 13 percent of the taxpayers and nearly 77 percent of it is coming from those with incomes over $100,000.

The rhetoric that the rich in this country pay very little taxes and are paying less every year at the expense of the poor and middle class is simply not true. The facts cannot be ignored. The top half of taxpayers in this country are paying 95 percent of the taxes and the bottom half, 5 percent.

A FIRST-CLASS OUTRAGE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BROOMFIELD. Mr. Speaker, The top managers of the U.S. Postal Service have just committed a first-class outrage.

After admitting a $1.4 billion loss, they are awarding themselves $20 million in bonuses. That is the screwiest incentive plan I have ever heard of.

This comes at a time of rising complaints about the postal system. There is not a Member in this House who doesn't have a stack of angry letters about the way the postal system is being managed.

Yet all we ever hear from the Postal Service are cries of poverty. Sackcloth and ashes. If they've got a loose $20 million hanging around, they ought to put it to better use.

I will soon introduce legislation to create a bipartisan commission to study America's postal system. We need to give the American people better service at more reasonable rates.

I hope many of my fellow Members will join me as cosponsors.

THE TAX POLICIES OF THE 1980'S DID NOT INCREASE THE AGONY OF THE POOR IN THIS COUNTRY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I guess you have taken notice by now, as has any visitor to our House proceedings, that we are attempting on the left side—your left—of this distinguished body to bring a little series of facts to some of the economic myths spread by the dominant media culture and those inside-the-beltway gurus.

Could I have the gentleman from Ohio's, Mr. TRAFICANT, attention? You know why we are on the left here? You know in all warfare you put your best units on your left because most people are right-handed, they have the sword in their right with the shield on the left. That is your weakest side. You put the strongest units over on the left.

So let me add with some pleasure to the economic facts: The tax policies of the 1980's did not increase the agony of the poor in this country. Just the contrary. Just hear three of many facts: Without the Federal income tax of the 1980's, a family of four would be paying $1,500 more every year in taxes, 1,500 smackers more.

The lowest 40 percent of income earners saw a tax decline of 31 percent. The highest 40 percent, only 9 percent; 31 percent drop for the lowest 40 percent of taxpayers, 9 percent for the top 40.

Final fact, Mr. Speaker, the 1986 Tax Reform Act under Ronald Reagan increased the standard deduction and the personal exemption, removing 4.3 million people, taxpayers from the tax rolls. Indeed, the tax policies of the 1980's helped the poor, did not hurt the poor.

Are you listening, Sam Donaldson and all those other inside-the-beltway gurus of the bash-Reagan cult? Probably not.

PACE: THE PARTNERSHIP TO AID CAREER EDUCATION

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, Cooper Industries is the parent company of Crouse-Hinds Electrical Construction Materials, an important manufacturing employer in my home district of central New York. I want to tell my colleagues today about an innovative grant program set up by Cooper and Crouse-Hinds that has already benefited school children in Syracuse, NY.

The PACE Program, Partnership to Aid Career Education, announced in March this year, was started as a test. What would school districts located in the communities where Cooper does business do with $375,000 in $10,000 allotments, with only one string attached: that they be used in vocational curriculum settings?

The results are encouraging for many reasons. In Syracuse our school districts used the money to develop a video presentation about its vocational programs. The video they use to educate the public about the advantages of vocational education. This, we hope, will have consequences far reaching. Who knows how many future designers, fabricators or engineers will be tempted to enter manufacturing because of this effort?

We in Syracuse were only one of 15 communities to benefit from this corporate good citizenship.

I want to publicly thank Cooper Industries and Crouse-Hinds for their civic responsibility.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION: A JOB WELL DONE

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, yesterday the President approved and sent to Congress the report of the Defense Base Closure and Realignment Commission, and I want to take this opportunity to compliment the Commission and its staff for a job well done. The Commission, in my judgment, did a thorough and professional job which established the credibility of the process and proved that an independent commission can correct the errors made by the Department of Defense in base closing determinations.

I particularly want to compliment the staff of the Commission for the many, many hours of extremely long and hard work and professional judgment that was used, I thought, exceptionally well.

Considering the difficulties confronting the Commission in its first set of deliberations under the new law, and the short time in which to do the job, the staff did an extraordinary job.

Although I cannot name every one of them because I did not have contact with each one, I certainly want to name and compliment two or three that I did: Paul Hirsch, who was the chief analyst for the Base Closure Commission staff, did a fine job. I know from my own work with the Navy part of it that Alex Yellin and Jerry Vernon also did, and I want to compliment them particularly for their hard work and professionalism.

AMERICAN BUSINESS: SHORT-TERMITIS?

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, who in this Congress can say that American business generally takes the long rather than the short view? Who in this Congress can say that American business does not suffer from short termitis? Short-term business horizons lead to underinvestment in technology, in human resources, in product and service quality, and in capital assets.

One fundamental cause of this United States industry preoccupation with the short term is the Securities and Exchange Commission's requirement that publicly held corporations file financial reports every 3 months, the so-called quarterly-report syndrome.

Mr. Speaker, I am introducing today a bill, the Long-Term Investment Promotion Act of 1991, that would do away with SEC's requirement for quarterly financial reporting. Firms would still be required to report their financial standing on an annual basis; if they wanted to do so they could do it quarterly. Instead of promoting the frequent buying and selling of existing financial securities, public policy needs to do more to promote their expansion, the creation of new ones and jobs and economic activity that go with it.

Instead of encouraging firms to sell off assets, slash R&D, cut personnel to look good every 3 months, Government policy should encourage patience and perseverance and belief in future awards, which is not happening in the United States of America.

The quarterly report is the enemy of American business; it is the enemy of the American worker.

PEARL HARBOR A DELICATE MATTER FOR UNITED STATES WITH JAPAN

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. BENTLEY. Mr. Speaker, recently, I read a story about Pearl Harbor in the Buffalo paper which shocked me. To avoid hurting Japanese feelings, the American Government is not inviting representatives from any government to the ceremonies on the 50th anniversary of the bombing of Pearl Harbor.

Our policymakers have forgotten that we won the war in the Pacific. We did not start the war. Japan did with a sneak attack on Pearl Harbor. I remember December 7, 1941, as a day which President Roosevelt said "would go down in infamy."

Then on top of that it seems our patriotic days are now being influenced by the Japanese. After four wonderful, enthusiastic, and patriotic all-American parades on the Fourth of July, we ended the day to watch fireworks on television. As far as I and those persons watching with me, the Fourth of July birthday celebration was ruined when an advertisement from Toyota was shown as the sponsor of the fireworks.

Americans fought and died to win our independence so we celebrate the Fourth of July. Americans valiantly fought and died at Pearl Harbor when attacked by Japan. We should invite government representatives to Pearl Harbor as a reminder that Americans will fight for their freedom now—just as we did 215 years ago. Those American holidays belong to the veterans of America, not to the Japanese.

□ 1300

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1212 AND H.R. 1213

Ms. SNOWE. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Indiana [Mr.

MYERS] be deleted as a cosponsor of H.R. 1212 and H.R. 1213.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentlewoman from Maine?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2282, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT AMENDMENTS OF 1991

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 190 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 190

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2282) to amend the National Science Foundation Authorization Act of 1988, and for other purposes. The first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science, Space, and Technology now printed in the bill, which shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 190 is an open rule providing for the consideration of H.R. 2282, the National Science Foundation Authorization Act amendments of 1991. The rule provides for 1 hour of general debate to be equally divided and controlled between the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The rule makes in order the Science and Technology Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. The resolution also provides for one motion to recommit with or without instructions.

Mr. Speaker, the primary purpose of H.R. 2282 is to authorize appropriations for the National Science Foundation for fiscal years 1992 and 1993. The measure authorizes funding for such important research and related programs as those in the fields of engineering, mathematical and physical sciences, and computer and information sciences. I urge adoption of House Resolution 190.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri [Mr. WHEAT], has explained the provisions of the rule. As he has stated, this is an open rule. Any amendment which does not violate the rules of the House will be in order.

Mr. Speaker, the National Science Foundation was established in 1950 to promote scientific progress in the United States through the provision of financial support to individual scientists and small groups performing basic research. That mission has expanded to include funding support for education in science and engineering and for the modernization of research facilities and instruments at U.S. institutions of higher learning, as well as for American research on Antarctica.

H.R. 2282 revises the authorization levels for fiscal years 1992 and 1993 as set by the 5-year National Science Foundation Authorization Act of 1988. That Act had left unspecified the authorization levels for each of the National Science Foundation's scientific directorates in those 2 years, and this bill would provide those specific levels. This legislation authorizes $2.7 billion in fiscal year 1992 and $3.1 billion in fiscal year 1993. The measure's fiscal year 1992 authorization is $456 million more than the fiscal year 1991 appropriations level, and equal to the President's request. The fiscal year 1993 authorization is also equal to the President's request.

Mr. Speaker, a number of universities have come under fire this year for charging the Federal Government for costs unrelated to research. For the first time, this bill places a cap on how much a university may be reimbursed for general administrative support relating to a federally funded grant. The bill limits the indirect cost reimbursement to 26 percent and requires that it be based on items such as salaries and wages, fringe benefits, materials and supplies, services, and subcontracts.

Mr. Speaker, the Rules Committee has provided a completely open rule for this legislation. I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 656, HIGH-PERFORMANCE COMPUTING ACT OF 1991

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 191 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 191

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 656) to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing. The first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science, Space, and Technology now printed in the bill, as modified by the amendments recommended by the Committee on Education and Labor now printed in the bill. Such substitute, as modified, shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 191 is the rule providing for consideration of H.R. 656, the High-Performance Computing Act of 1991.

This is an open rule providing 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The rule makes in order the Science and Technology Committee amendment in the nature of a substitute now printed in the bill, as modified by Education and Labor Committee amendments also printed in the bill, as an original bill for the purpose of amendment. Amendments will be considered under the 5-minute rule.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 656, the High-Performance Computing Act, authorizes funds for a national program to improve coordination and expand the support by several Federal agencies—including the National Science Foundation, NASA, and the Departments of Commerce, Education, and Energy—for research and development of high-speed supercomputers and systems.

The bill also authorizes funds to create a national network of supercomputers that will link research and educational institutions and industry throughout the country.

The bill enjoys bipartisan support in Congress. Legislation similar to H.R. 656 has been approved by Senate committees, and the program authorized in the legislation has been endorsed by the Bush administration, which included funding for it in its fiscal year 1992 budget proposal.

Mr. Speaker, House Resolution 191 is a simple, open rule that provides for consideration of legislation that would help the United States maintain its lead in an exciting, rapidly evolving technology.

I urge the adoption of the resolution so that we may proceed to the consideration of H.R. 656.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California [Mr. BEILENSON] has described the rule. As he has stated, it is a completely open rule with no waivers, and I support it.

Mr. Speaker, H.R. 656 establishes a multiagency program to develop high-speed supercomputers. It authorizes $2.9 billion in fiscal years 1992 through 1996 from previously authorized funds. The program is to be jointly funded by the National Science Foundation, the Environmental Protection Agency, the National Aeronautics and Space Administration, and the Departments of Energy, Commerce, and Education. The national high-performance computing program would coordinate the research and development activities of these agencies and departments on high-speed computing.

The central component of the new program would be the national research educational network, a computer network which will link research institutions and educational institutions, government, and industry throughout the country. The national research educational network will be a multiagency effort that would be supported by the same agencies and departments that would fund the national high-performance computing program.

I would like to note, Mr. Speaker, that the administration's policy statement for this legislation points out that the bill is consistent with the general goals and objectives of its high-performance computing and communications initiative. In its current form, however, the administration finds that H.R. 656 limits the ability of the Federal Government to pursue research and technology opportunities in this rapidly changing field.

Mr. Speaker, under this open rule, the concerns of the administration can be addressed. I urge its adoption.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I also have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1310

PROVIDING FOR CONSIDERATION OF H.R. 1989, AMERICAN TECHNOLOGY PREEMINENCE ACT OF 1991

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 192 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 192

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1989) to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes. The first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Science, Space, and Technology now printed in the bill. Such substitute shall be considered by title rather than by section, and each title shall be considered as read. All points of order against such substitute for failure to comply with clauses 5(a) and 8 of rule XXI are waived. It shall be in order to consider en bloc amendments offered by Representative Valentine of North Carolina or his designee. Such amendments en bloc may amend portions of the committee amendment in the nature of a substitute not yet read for amendment, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. It shall be in order to consider en bloc amendments offered by Representative Walker of Pennsylvania or his designee. Such amendments en block may amend portions of the committee amendment in the nature of a substitute not yet read for amendment, shall be considered as read, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except on one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MCNULTY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from Tennessee [Mr. QUILLEN] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 192 is the rule providing for the consideration of H.R. 1989, the American Technology Preeminence Act of 1991.

This is an open rule providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Science, Space, and Technology now printed in the bill as an original bill for the purposes of amendment under the 5-minute rule. The substitute will be considered for amendment by titles, instead of sections, with each title considered as read.

In addition, the rule waives points of order against the substitute for failure to comply with rule XXI, clauses 5(a), prohibiting appropriations in a legislative bill, and 8, requiring a CBO pay-as-you-go cost estimate to be included in any legislation providing receipts or direct spending. Section 507 of the bill currently would establish a National Quality Council trust fund which would not be subject to prior appropriations and which would violate the pay-as-you-go requirements. The rule's technical waivers will allow the substitute to be considered; the Committee on Science, Space, and Technology will offer amendments on the floor to cure these rule violations.

The rule makes in order two sets of en bloc amendments, one to be offered by Representative VALENTINE or his designee and a second to be offered by Representative WALKER or his designee. These en bloc amendments are in order although amending portions of the substitute not yet considered for amendment and are not subject to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 1989, the American Technology Preeminence Act, is a crucial step toward guaranteeing the future of America's quality of life, economic strength, and leadership in the world. It seeks to guard against further erosion of the foundation of our economic leadership, scientific research, technological innovation, and manufacturing productivity.

H.R. 1989 authorizes the programs of the Technology Administration of the Department of Commerce and the National Institute of Standards and Technology. It would expand the Advanced Technology Program, which awards grants for the development of innovative technologies. Funding is authorized for technology commercialization loans, which would assist small- and medium-sized companies in developing advanced world-class technologies. The bill also authorizes studies to produce recommendations on an effective role for the Federal Government in crucial areas of technology policy.

America has suffered huge job losses in the manufacturing sector over the last 20 years, with significant job losses in related service sectors of the economy. Our task is not just to reverse a negative trend, not just to play catch-up with our competitors, but to look ahead and envision the future we want to create. H.R. 1989 would take an important step toward this vision, by supporting our technological infrastructure, and by identifying strategies to improve America's productivity.

Mr. Speaker, this open rule, reported unanimously by the Rules Committee, will allow full and fair debate on the provisions of this important bill. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of the legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding. She has explained the provisions of the rule. It is an open rule, which I support.

Mr. Speaker, according to the administration's policy statement, the Secretary of Commerce will recommend a veto if the bill is presented to the President in its current form. In particular, the administration strongly objects to the Technology Commercialization Loan Program, which it finds would inappropriately channel Government funds away from broad technology goals to underwriting particular product development projects.

The administration also has serious concerns about the requirement that the Secretary of Commerce identify critical manufacturing industries and develop a 10-year plan to ensure the growth of those industries. This requirement is directly contrary to administration policy against targeting particular industries and centralized economic planning.

Mr. Speaker, I urge adoption of the rule, and recommend that we get down to the business of debating the bill itself.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT AMENDMENTS OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 190 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2282.

□ 1319

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2282) to amend the National Science Foundation Authorization Act of 1988, and for other purposes, with Ms. SLAUGHTER of New York in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia [Mr. BOUCHER] will be recognized for 30 minutes, and the gentleman from California [Mr. PACKARD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BOUCHER].

□ 1320

Mr. BOUCHER. Madam Chairman, I am pleased to rise in support of H.R. 2282, the National Science Foundation Act Amendments of 1991.

This measure authorizes programs in basic science and engineering research and in science education that are the basis for the future strength of our economy and for the well-being of our society.

I want to extend special thanks to the gentleman from California [Mr. PACKARD] and the ranking Republican member of the Science Subcommittee and to other members of the Science Subcommittee for their very thoughtful contributions to the process through which this measure is being brought to the floor.

I also want to thank the chairman of the Committee on Science, Space, and Technology, the gentleman from California [Mr. BROWN] and the gentleman from Pennsylvania [Mr. WALKER], the ranking Republican member of the full committee, for their contributions to the measure as well.

We have structured this bill in a cordial process of bipartisan cooperation. H.R. 2282 authorizes appropriations for the National Science Foundation's scientific directorates for fiscal years 1992 and 1993. The current authorization for the National Science Foundation extends through fiscal year 1993, but it does not contain line-specific authorizations for the individual scientific directorates.

It is the purpose of the measure before the House today to provide the line-specific authorization directorate by directorate. The bill lowers the total NSF authorization level for fiscal years 1992 and 1993 to reflect the current rate of growth in appropriations for the agency and to reflect the administration's budget request for fiscal year 1992, which is itself a 17.5-percent increase over the appropriation level for the agency for the current fiscal year.

The bill also affects a number of specific programs that are administered by the National Science Foundation. It removes $24 million for construction of the Gravitational Wave Observatory, otherwise known as LIGO, and specifically provides that additional research will be carried out by the National Science Foundation with regard to that project. These actions on LIGO are consistent with the recommendations of the Astronomy Survey Report of the National Academy of Sciences which suggests that the first priority for ground-based astronomy is refurbishment of existing facilities which have received inadequate maintenance during the past decade.

Madam Chairman, the bill provides $40 million for academic research facilities modernization and construction in fiscal year 1992 and $43 million for that activity in fiscal year 1993. This is a very popular program which supports the construction and upgrading of research facilities located on university campuses nationwide. There is an enormous national economic need for this program. The funds which are authorized in this measure do not meet that need, but they are a very significant step toward addressing that problem and should leverage contributions from other sources for the construction of those facilities.

Hearings before the Science Subcommittee clearly revealed the need for continued Federal funding in this category. The administration unfortunately had requested no moneys for this project for fiscal year 1992.

The bill before the House also provides $33.5 million in fiscal year 1992 for the administration's new initiative in research instrumentation and an increase of 7 percent in that category for fiscal year 1993. The bill also contains a provision designed to restructure indirect cost recovery for NSF grants to universities.

While we intend to pursue comprehensive legislation that would apply to all Federal agencies that fund research, and that is a collaborative effort among other committees that have authorizing jurisdiction, the provisions of H.R. 2282 would only regulate indirect cost recovery under the research grants that are funded by the National Science Foundation.

I think it is important that that be done in order to restore public confidence in the indirect cost recovery process as well as to facilitate the enactment of this reauthorization measure.

The provisions of any subsequent comprehensive bill, which we do intend to bring before the House later this year or early next year, will supersede this provision and the provision of any other authorizing measure that addresses indirect cost recovery.

Madam Chairman, this authorization will strengthen research programs at the National Science Foundation which have seen little real growth over the past few years, will sustain vigorous education activities and will support important initiatives and research facilities modernization and research instrumentation acquisition.

It is my pleasure to commend it to the House for its favorable consideration.

Madam Chairman, I include the following correspondence for the RECORD:

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, July 11, 1991.

HON. JOHN CONYERS, JR.,
Chairman, Committee on Government Operations, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter dated July 10, 1991, expressing concerns about the "Buy America" provisions in H.R. 1989, the American Technology Preeminence Act of 1991, and H.R. 2282, the National Science Foundation Authorization Act Amendments of 1991. In particular, your letter raises a number of points concerning the possible conflict of these provisions with existing "Buy America" laws and international trade agreements.

In adopting these provisions, the Committee did not intend to contravene current law. I therefore appreciate that you have brought these specific problems to the attention of the Committee. I share your concerns and will work to conform these provisions to existing law as the bill moves forward. Given your Committee's expertise and jurisdiction in this area, I will work closely with you to take care of the concerns you have raised. Since H.R. 1989 and H.R. 2282 are scheduled to be on the House Floor today, however, such changes would need to take place in a conference with the Senate.

I hope that this is a satisfactory resolution of these issues at this point, and I look forward to working with you to resolve the issues you have raised.

Sincerely,

GEORGE E. BROWN, JR.,
Chairman.

COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, DC, July 10, 1991.

HON. GEORGE E. BROWN JR.,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my opposition to section 111, the Buy American provisions, of H.R. 1989. These Buy American provisions in H.R. 1989 will undermine current Buy American laws and the conditions and circumstances for their application. I also request that the Committee on Science and Technology refrain from including any Buy American provisions in H.R. 2282 for the same reasons.

The Committee on Government Operations has jurisdiction over legislation on reciprocal trade agreements involving procurement from foreign countries by U.S. government agencies, and the application of Buy American restrictions under these agreements. Existing laws set forth the level of U.S. restrictions on procurement from foreign sources and the conditions and circumstances for their application. The proposed Buy American provisions in H.R. 1989 would establish new criteria and sanctions that may supersede existing laws and could have a major impact on reciprocal trade agreement obligations.

Subsection (a) of section 111 requires restrictions on contract awards to any foreign firm whose government practices procurement discrimination against U.S. goods and services. This provision undercuts Procurement Code enforcement by failing to differentiate between signatory and non-signatory countries as required by the GATT. Section 111 is also a piecemeal attempt at Buy American enforcement because it creates separate sets of criteria and sanctions for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce.

Section 111 (a) takes away important negotiating authority that the President has under current Buy American law to compel foreign governments to open their markets. Under section 305(e) of the Trade Agreements Act of 1979, as amended, and Article VII: 4 of the Government Procurement Code, once a country is identified as discriminatory, consultations are initiated between our government and the offending government to resolve the dispute before the consideration of sanctions. Our Committee supports this consultation requirement. Implementing sanctions without first entering into negotiations could trigger retaliatory steps by our trading partners which would cost opportunities both for U.S. firms and U.S. jobs.

In addition, current Buy American law gives the President a range of sanctions that can be carefully calibrated to best compel foreign countries to open up their procurement markets to U.S. firms. Section 111(a) is inflexible because it contains only one sanction, that no contracts be awarded for the procurement of items produced or manufactured in a foreign country whose government discriminates against U.S. firms. This sanction could also trigger retaliatory actions which are in fact harmful to U.S. businesses.

Subsection (b) of section 111 prohibits any person from receiving a contract or subcontract from the National Science Foundation who has fraudulently affixed a "Made in America" label to any product sold or shipped to the United States. This provision is unnecessary since currently if anyone commits an act of fraud, including false statements to the government, they can be suspended and debarred under the Federal Acquisition Regulation. However, by mandating ineligibility, thus eliminating any discretion on the part of the National Science Foundation to apply suspension and debarment procedures, this new provision may raise serious questions of Constitutional due process.

Subsection (c) of section 111 can undermine U.S. suppliers all of whom generally receive favorable consideration over foreign contractors under current Buy American law. Current Buy American law gives a preference to domestic goods. Domestic goods are defined as those goods that derive at least 50 percent of their value from articles, materials, or supplies mined, grown, produced or manufactured in the United States. A manufactured product is considered domestic if the final two manufacturing steps have taken place in the United States.

Subsection (c) changes current law by providing preferences based on the nationality of the firm, rather than the country of origin of the product. This turns the Buy American Act on its head. Under Section 111(c) a U.S. firm which manufactures and assembles an entire product overseas with foreign technology and jobs would actually get favorable consideration. On the other hand a foreign firm which manufactures and assembles the entire product here in the U.S., which employs U.S. workers and U.S. technology, would not get that consideration.

Finally, this provision undermines the protection provided by the Buy American Act to small businesses and depressed labor areas which currently receive a 12 percent price differential in non-defense procurement. The new provision shrinks that differential to 6 percent.

In closing, let me again stress my concern on this matter. This is a complex area of law. The proposed section, while well intentioned, is not in keeping with the goals we all share.

Thank you for your consideration of this request.

Sincerely,

JOHN CONYERS, JR.,
Chairman.

Madam Chairman, I reserve the balance of my time.

Mr. PACKARD. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 2282, the National Science Foundation Act amendments of 1991. H.R. 2282 allows for many exciting programs and initiatives within NSF—of which the building blocks continue to be research and education.

I want to thank Mr. BOUCHER, the chairman of the Science Subcommittee for his dedication and hard work on this piece of legislation. I would also like to thank Mr. WALKER, vice chairman of the committee and Mr. BROWN, chairman of the committee, and the other members of the Science Subcommittee for their contributions to H.R. 2282.

First, research and education—the cornerstones of the National Science Foundation; both are equally fundamental to this Nation's international competitiveness.

Second, research supported by the National Science Foundation has led to innovations in existing technology and discoveries in totally new processes and materials which have direct application to the commercial products being produced today.

Third, NSF also plays a vital role in education—supporting educational programs in math and science at the precollege, undergraduate, and graduate level.

This support is essential in producing the future scientists, engineers, and mathematicians of this country.

Fourth, H.R. 2282 amends the National Science Foundation Authorization Act of 1988. This 5-year authorization was intended to double the NSF budget, but appropriation levels over the past few years have not allowed the growth that is provided for in the existing authorization.

Fifth, the administration's request for fiscal year 1992 allows for a 17.5 percent increase over the appropriations level for fiscal year 1991. I am glad to report that H.R. 2282 contains authorizations for fiscal year 1992 at the level of the President's request and authorizations for fiscal year 1993 at the level of the administration's estimate. These increases represent the commitment to put the National Science Foundation back on the track of doubling the budget by 1994, based on the fiscal year 1987 funding level.

Sixth, the indirect cost provisions of the bill apply only to NSF grants. It is time that we move on this issue so that the universities are held accountable for the public funds they receive; also that the faith of the general public is restored by showing that Federal funds are actually going toward support of research.

I think the administrative CAP at 26 percent is entirely reasonable and it should be understood that we intend to work with other committees having authorizing jurisdiction in order to develop a comprehensive piece of legislation that would apply to all Federal agencies that fund research.

Seventh, National Science Foundation supports many exciting programs and initiatives. The basic research generates knowledge and has direct application to commercial products. The educational programs help to produce the future work force of America. All of these programs and initiatives are interrelated and they all promote the long-range economic competitiveness of this Nation.

Madam Chairman, I urge my colleagues to support passage of H.R. 2282.

Madam Chairman, I reserve the balance of my time.

☐ 1330

Mr. BOUCHER. Madam Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. VALENTINE], who is chairman of the Subcommittee on Technology and Competitiveness of the full committee.

Mr. VALENTINE. Madam Chairman, I rise in support of H.R. 2282, the National Science Foundation Authorization Act amendments of 1991. I want to commend Mr. RICK BOUCHER, chairman of the Science Subcommittee and its ranking Republican member, Mr. RON PACKARD, on the leadership they have shown in delivering this fine legislation in support of the basic sciences and education.

Fundamental research has led to profound changes in our world and provides the basis for continued progress in the more applied and developmental areas of research, which are essential for national competitive success. The National Science Foundation plays an important role as the general purpose science agency in the Federal Government. While most departments sponsor varying amounts of research related to their missions, it is the mandate of the National Science Foundation to ensure national strength and continued progress of basic science and engineering research across the spectrum of disciplines.

The National Science Foundation has, by and large, met this challenge very well over its 41-year existence. Our universities are the best in the world and the United States can boast consistently strong performance in basic research and, by far, more Nobel Prize winning scientists than any other Nation.

In addition, the NSF is playing a major role in the strengthening of science, mathematics and engineering education at all levels—grade school through graduate school. In this day, no nation can hope to compete in the global marketplace without high quality schools. Toward this end, H.R. 2282 authorizes $390 million for fiscal year 1992.

While NSF's achievements in supporting the basic sciences are well known, its performance in addressing the serious problems in education will require more patience and the results still remain to be seen.

However, I am pleased to mention that the State of North Carolina was recently awarded a grant to improve its entire system of science education under an NSF program. I am sure this will have profound effects in classrooms all across my State and the other States which were awarded similar grants.

The bill also authorizes $40 million for academic facilities modernization. No Member is unaware of the serious problems that institutions of higher education suffer in this area. Duke University, in our district, has received one of these highly competitive and prestigious awards last year. In addition, a new program to support research instrumentation is authorized which also holds great potential.

It is programs that push the frontiers of human knowledge forward, that build academic infrastructure, and enhance education and human resources, that will ensure that our Nation can compete in this complex, fast-changing world.

We should think of the National Science Foundation as a wise investment for the future of our Nation. Now is the time to recommit ourselves to civilian research and development, not the time to let funding slide due to budgetary pressures. For if we do not continue our support, we are risking our lead in the sciences, which is the underpinning of any strategy for international competitiveness that we may conceive—and once lost, that advantage is almost impossible to regain.

I strongly support H.R. 2282, and urge my colleagues to join me in my support.

Mr. PACKARD. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], the ranking member of the full committee.

Mr. WALKER. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, I rise in support of H.R. 2282 and the National Science Foundation Authorization Act Amendments of 1991.

The National Science Foundation and the support that it gives to science in this country really serves as the backbone of the basic research of the United States. H.R. 2282 funds the National Science Foundation at the President's request and, at the same time, reflects the committee's concerns and priorities.

I certainly support the President's efforts to double the National Science Foundation budget by fiscal year 1994. This authorization keeps us on that timetable and assures us that we move down that track toward a commitment in basic research for the Nation.

I want to thank the gentleman from California [Mr. BROWN], the chairman, the gentleman from Virginia [Mr. BOUCHER], the chairman of the Subcommittee on Science, and the Republican chairman, the gentleman from California [Mr. PACKARD], for their hard work on this important legislation.

The diligence of the gentleman from California [Mr. PACKARD] was especially helpful in bringing us a bill to the floor that is within the budget in the out years. Included within this bill is a major new initiative by our committee, and I think one that is important for the future of science in the country.

That is the 26-percent cap on administrative costs in university research that was established as a part of this bill. We additionally direct the NSF to examine current allocations of direct and indirect costs and determine the appropriateness of how these costs are being allocated. By addressing restrictions on administrative costs, the committee is committed to developing a solution that will protect the taxpayer and preserve our Nation's strong university research base.

I would like to congratulate everyone involved in putting that together, because I think it does serve as a beacon to other types of research programs and assures that research money in this country is going to be responsibly spent.

Madam Chairman, I urge my colleagues to support H.R. 2282.

Mr. BOUCHER. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN], the chairman of the full Committee on Science, Space, and Technology.

Mr. BROWN. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, let me take just a few minutes to offer a few comments with regard to this legislation and to congratulate the ones who have really done the work in bringing it to the floor, particularly the gentleman from Virginia [Mr. BOUCHER], who is the chairman of the subcommittee, but also the gentleman from California [Mr. PACKARD], who has worked very diligently, as the gentleman from Pennsylvania [Mr. WALKER] indicated, and, of course, the gentleman from Pennsylvania [Mr. WALKER] has himself made an invaluable contribution through his own leadership in this area. I want to express my appreciation to him. The gentleman from Pennsylvania [Mr. WALKER] is an extremely important member of the committee when he is cooperating with us, and a very formidable opponent when he is not, and we respect him for both reasons.

The chairman of the subcommittee, the gentleman from Virginia [Mr. BOUCHER], is undertaking the role of subcommittee chairman this year for the first time, and he makes me more and more appreciative of the fact that seniority is still a factor here, because if it was based on merit he would be the chairman of the full committee by now, and hopefully he will be at some point.

Madam Chairman, H.R. 2282, the National Science Foundation Authorization Act Amendments of 1991, represents an important investment in the Nation's future.

I congratulate Mr. BOUCHER, the Science Subcommittee chairman for his leadership in crafting H.R. 2282. Also, I would like to acknowledge the efforts of our colleagues on the other side of the aisle, Mr. WALKER, and Mr. PACKARD, the ranking Republican member of the committee and of the subcommittee, respectively, for their constructive efforts in the preparation of this bill.

The programs supported by the National Science Foundation in science and engineering research and in education provide the underpinnings for the long-term economic health and well-being of our country. These programs generate the new knowledge and produce the human capital needed to fuel a technologically based economy. Ultimately, the success of NSF programs will influence significantly how well we compete in the rapidly changing international marketplace.

The National Science Foundation supports much of the basic research in the physical sciences, mathematics, and the engineering sciences in U.S. colleges and universities. This research has led to discoveries ranging from new materials which touch our daily lives to new theories which seek to unravel the origins of the universe. The ideas generated from basic research are the foundation for the development of commercial products and processes that expand our economy, improve the lives of our citizens, and help sustain our national defense.

Equally important, the National Science Foundation's programs help to produce the scientists and engineers to meet the needs of industry and the National Defense Establishment, as well as to renew the ranks of research scientists in academia, industry, and government. Not only is direct support provided for graduate students but also for precollege and undergraduate science and mathematics education programs to help fill the pipeline for future scientists and engineers. Moreover, NSF supports initiatives to attract more women and other underrepresented groups to careers in science and engineering.

The National Science Foundation also plays a major role in the long-term development of first-rate research capabilities at universities in all regions of the United States. For example, the experimental program to stimulate competitive research, which will grow by 36 percent under this authorization bill, targets States which historically have received little Federal research funding and which are willing to provide joint funding for multiyear grants to build up research strength in specific discipline areas. The potential importance of this program can be seen from research funded at the University of Alabama-Huntsville, which produced one of the first sets of research results on a new class of high-temperature superconducting materials.

H.R. 2282 amends the National Science Foundation Authorization Act of 1988, a 5-year authorization that provided for doubling the NSF budget. Although NSF has received moderate growth over the past 3 years, the constrained fiscal situation has prevented appropriation levels from reaching the growth rates provided in the current authorization law. H.R. 2282 proposes to readjust the overall NSF authorization levels downward by about $500 million for fiscal years 1992 and 1993 and to authorize scientific directorate programs not included in the final 2 years of the 1988 act.

The authorization levels of $2.7 billion for fiscal year 1992 and $3.1 billion for fiscal year 1993 provided by H.R. 2282 are at the levels requested by the administration. The first year provides growth of 17.5 percent above the fiscal year 1991 appropriation level, and the second year 13 percent above the preceding year's authorization. These increases will allow NSF to meet expanding research opportunities in many fields of science and engineering, to address shortcomings in the academic research infrastructure and to improve science education at all levels of instruction.

I would note, in particular, that the bill strongly endorses continuation of the competitive program for refurbishment and repair of academic research facilities which was not funded in the President's budget request. This important program addresses the serious problem of deterioration of research facilities. It was funded at $20 million in each of the past 2 years and ought to be sustained and strengthened rather than eliminated. In addition, the bill authorizes a new Academic Research Instrumentation Program, proposed by NSF, although at a lower funding level than requested in order to also provide resources for the Research Facilities Program.

Among other provisions, H.R. 2282 establishes policies on reimbursement of indirect costs associated with NSF support of activities at institutions of higher education. The administrative component of indirect costs is capped at 26 percent of direct costs, which is about the mean for the top research institutions. Computation of other components of indirect costs are not affected by the bill. However, the bill does require that indirect costs associated with depreciation or use of research facilities be used by the recovering institution only for construction, renovation, or repair of research facilities or for purchase of research equipment.

These provisions on indirect costs are intended to be an interim measure. The committee is working with other committees to develop a comprehensive bill to thoroughly overhaul the current system for recovery of indirect costs, by providing clear guidelines and uniform procedures for identification of allowable costs. The comprehensive bill will amend this bill as well as any other legislation which includes an indirect cost provision.

Madam Chairman, the research and education programs supported by NSF are truly an investment in our Nation's future. H.R. 2282 endorses the most recent plan of the administration to complete doubling of the NSF budget by fiscal year 1994, based on the fiscal year 1987 funding level. The authorizations provided in this legislation will support programs that generate new knowledge and develop the human resource base that underpins our entire R&D enterprise.

Madam Chairman, I urge my colleagues to support passage of H.R. 2282.

□ 1340

Mr. PACKARD. Madam Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT], a valued member of the subcommittee.

Mr. BOEHLERT. Madam Chairman, we have spent a lot of time on this floor over the past few months arguing about the direction of U.S. science policy, about what kinds of projects ought to be consuming our scarce science dollars. I'm pleased to say that today we have before us a bill that should engender no such debate, a bill that we can all agree is a good and proper component of our science budget.

The National Science Foundation [NSF] is a bulwark of the Nation's basic research establishment and a model for other agencies. The Foundation funds thousands of individual university researchers each year in a wide variety of fields as well as small groups and centers.

It has special programs to help build our scientific base by helping poorer States, minorities and young researchers. It has special initiatives to target some research on areas of interest to industry or necessary to promote life safety. And perhaps most important of all, it is a major source of innovative ideas and programs for precollege science and mathematics education.

This bill would continue this body's strong backing of the President's plan to double the agency's budget.

The bill would also signal our approval of the Office of Management and Budget's intention to cap certain overhead payments to universities. This should result in more research dollars ending up in the hands of researchers—a reasonable goal. Passage of this provision is an essential step for Congress to take right now, although I hope that, in the end, the issue will be settled administratively, without any new legislation.

NSF and the researchers and teachers it aids deserve our continued support. I urge my colleagues to vote for this bill.

This bill is very carefully crafted by some dedicated colleagues on the committee, and I wish to commend the chairman of the subcommittee, my good friend, the gentleman from Virginia [Mr. BOUCHER], as well as my distinguished colleague, the gentleman from California [Mr. PACKARD], who have worked in tandem to develop something which we can all be proud of.

Ms. SNOWE. Madam Chairman, I rise to raise my concern over the decision of the Science and Technology Committee to prohibit the use of funds for the construction of the laser interferometer gravitational-wave observatory [LIGO]. While I was pleased to see that the committee recognizes the importance of LIGO as a scientific project, I am dismayed by their decision to only authorize funding for research activities or design studies.

The laser interferometer gravitational-wave observatory will use the detection of gravitational waves to provide new and compelling information about the nature of the universe. LIGO represents an invaluable opportunity for Congress to demonstrate its support for a project that will ensure American preeminence in physics well into the next century.

LIGO has been subjected to, and approved by, peer review. The National Science Board has approved a perfected LIGO prototype and the Brinkman Commission has endorsed the project. When the LIGO instruments become operational, the data collected will be available to scientists to expand the study of physics throughout the United States.

The National Science Foundation is in the process of selecting the 2 sites from 18 proposals located throughout the country. The project is ready to move on to the construction phase. Funding must be provided for fiscal year 1992 in order to ensure U.S. leadership in this developing new discipline. This program represents Federal scientific investment at its most visionary. By authorizing the construction of LIGO, Congress can bring Federal support to the cutting edge of science.

I hope that the committee will reconsider its decision not to authorize the use of National Science Foundation funds for the construction of LIGO. I urge my colleagues to support this truly visionary scientific effort.

Mr. BOUCHER. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PACKARD. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute is printed in the bill as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act Amendments of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1992.—Section 101(e) of the National Science Foundation Authorization Act of 1988 is amended to read as follows:

"(e) There are authorized to be appropriated to the Foundation $2,722,000,000 for fiscal year 1992, which shall be available for the following categories:

"(1) Research and Related Activities, $1,940,000,000, which shall be available for the following subcategories:

"(A) Mathematical and Physical Sciences, $626,580,000.

"(B) Engineering, $247,700,000.

"(C) Biological, Behavioral, and Social Sciences, $355,640,000.

"(D) Geosciences, $419,540,000.

"(E) Computer and Information Science and Engineering, $229,500,000.

"(F) Scientific, Technological, and International Affairs, $61,040,000.

"(2) Education and Human Resources, $390,000,000.

"(3) United States Antarctic Program, $193,000,000.

"(4) Academic Research Facilities Modernization Program, $40,000,000.

"(5) Academic Research Instrumentation Program, $33,500,000.

"(6) Salaries and Expenses, $122,000,000.

"(7) Office of Inspector General, $3,500,000.".

(b) FISCAL YEAR 1993.—Section 101(f) of the National Science Foundation Authorization Act of 1988 is amended to read as follows:

"(f) There are authorized to be appropriated to the Foundation $3,068,000,000 for fiscal year 1993, which shall be available for the following categories:

"(1) Research and Related Activities, $2,210,000,000, which shall be available for the following subcategories:

"(A) Mathematical and Physical Sciences, $731,460,000.

"(B) Engineering, $278,325,000.

"(C) Biological, Behavioral, and Social Sciences, $400,400,000.

"(D) Geosciences, $472,665,000.

"(E) Computer and Information Science and Engineering, $258,790,000.

"(F) Scientific, Technological, and International Affairs, $68,360,000.

"(2) Education and Human Resources, $439,000,000.

"(3) United States Antarctic Program, $210,000,000.

"(4) Academic Research Facilities Modernization Program, $43,000,000.

"(5) Academic Research Instrumentation Program, $36,000,000.

"(6) Salaries and Expenses, $126,000,000.

"(7) Office of Inspector General, $4,000,000.".

(c) LIMITATION.—Section 101 of the National Science Foundation Authorization Act of 1988 is amended by adding at the end the following new subsection:

"(i) Of the amount authorized in subsection (e), no funds shall be available for construction of the Laser Interferometer Gravitational Wave Observatory. This limitation shall not apply to expenditure of funds for research activities or design studies associated with such project.".

SEC. 3. ADMINISTRATIVE INDIRECT COST REIMBURSEMENT.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "administrative indirect costs" means general administrative and executive expenses, departmental administrative and support services, and sponsored projects administrative expenses, and does not include expenses incurred for the operation, maintenance, preservation, and protection of the institution's plant, expenses incurred for the operation of the library, expenses incurred for the administration

of student affairs and services to students, or depreciation or use allowances for buildings and equipment;

(2) the term "direct costs" means costs that can be identified specifically with a particular federally sponsored project;

(3) the term "facilities primarily devoted to research" has the meaning given such term pursuant to section 204(c)(1) of the National Science Foundation Authorization Act of 1988;

(4) the term "indirect costs" means costs incurred for common or joint objectives that include, but cannot be identified specifically with, a particular federally sponsored project;

(5) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(6) the term "modified direct costs" means those direct costs which consist of salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to $25,000 each;

(7) the term "renovation" has the meaning given such term pursuant to section 204(c)(1) of the National Science Foundation Authorization Act of 1988; and

(8) the term "repair" has the meaning given such term pursuant to section 204(c)(1) of the National Science Foundation Authorization Act of 1988.

(b) Administrative Indirect Cost Rate.—Financial assistance provided by the National Science Foundation to an institution of higher education may include an amount for administrative indirect costs of the institution, at a rate not to exceed 26 percent of the modified direct costs of the project.

(c) Non-administrative Indirect Costs.—Financial assistance provided by the National Science Foundation to an institution of higher education may include an amount for non-administrative indirect costs of the institution.

(d) Buildings and Equipment.—Amounts paid, in connection with financial assistance provided by the National Science Foundation to an institution of higher education, for depreciation or use allowance may only be used for construction, renovation, or repair of facilities primarily devoted to research owned by the institution of higher education, or for the purchase of equipment necessary to conduct scientific or engineering research.

(e) Certification.—The chief financial officer of an institution of higher education receiving financial assistance from the National Science Foundation shall certify to the Director of the National Science Foundation at the end of each fiscal year that all expenditures reported in connection with a claim for indirect costs during such fiscal year were made for appropriate purposes, and that all amounts received for depreciation or use allowance with respect to buildings or equipment have been expended or are reserved for appropriate purposes in accordance with subsection (d).

(f) Failure to Comply.—If the Director of the National Science Foundation determines that an institution of higher education has expended financial assistance in violation of this section, the Director shall recover from the institution of higher education an amount equal to the amount improperly expended, together with interest on such amount at a rate to be determined by the Director. Such amounts may be recovered through an offset against indirect cost awards to the institution of higher education in the subsequent fiscal year, or through a civil suit.

(g) Committee Determination.—

(1) Establishment and purpose.—The Director of the Office of Science and Technology Policy shall establish a committee whose purpose shall be to—

(A) identify which costs associated with federally funded projects can be properly allocated as—

(i) direct costs; and

(ii) the various categories of indirect costs, including buildings and equipment depreciation and use allowance; and

(B) examine the current practices of institutions of higher education in allocating costs for library expenses and for operation and maintenance of research facilities, make recommendations based on its finding as to the appropriateness of such practices, and determine whether changes in such practices are necessary.

(2) Membership.—The committee established under this subsection shall include—

(A) a representative of the Department of Health and Human Services;

(B) a representative of the Department of Defense;

(C) a representative of the Department of Energy;

(D) a representative of the National Science Foundation;

(E) a representative of the Office of Management and Budget;

(F) not more than 5 representatives of the higher education community, to be selected by the Director of the Office of Science and Technology Policy, of whom at least one shall represent researchers and at least one shall represent an institution of higher education which is not ranked among the top 100 of the institutions receiving Federal research and development funding; and

(G) the Director of the Office of Science and Technology Policy, who shall serve as Chairman of the committee.

(3) Report.—The committee established under this subsection shall submit to Congress a report containing its final identification under paragraph (1)(A) and the results of its activities under paragraph (1)(B), within 5 months after the date of enactment of this Act.

(h) Effective Date.—Subsections (b), (c), (d), (e), and (f) of this section shall take effect with respect to financial assistance provided after September 30, 1991.

SEC. 4. ADMINISTRATIVE AMENDMENTS.

Section 5(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1864) is amended by striking the last sentence of paragraph (2).

SEC. 5. BUY AMERICA PROVISIONS.

(a) Restrictions on Contract Awards.—No contract or subcontract made with funds authorized by an amendment made by this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) Prohibition Against Fraudulent Use of "Made in America" Labels.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the National Science Foundation, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

(c) Buy American Requirement.—(1) The Director of the National Science Foundation is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Director of the National Science Foundation, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Director of the National Science Foundation, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by an amendment made by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Director of the National Science Foundation, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For the purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

The CHAIRMAN. Are there amendments to the bill?

AMENDMENTS OFFERED BY MR. BOUCHER

Mr. BOUCHER. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Boucher: Page 7, lines 4 through 13, amend subsection (e) to read as follows:

"(e) Certification.—The chief financial officer of an institution of higher education shall certify to the Director of the National Science Foundation at the end of each fiscal year that, with respect to financial assistance received from the National Science Foundation, all expenditures reported to substantiate indirect costs were appropriate, and all amounts received for depreciation or use allowance with respect to buildings or equipment have been expended or are reserved for appropriate purposes in accordance with subsection (d).

Page 10, line 1, strike "Subsections" and insert in lieu thereof "(1) Except as provided in paragraph (2), subsections".

Page 10, after line 3, insert the following new paragraph:

(2) In cases where the application of subsection (b) to a university would result in that university suffering significant financial loss, the Director may delay the effective date of subsection (b) with respect to such university until September 30, 1992. Reimbursement of administrative indirect costs during the period of such extension

shall be made at a rate lower than the rate in effect for administrative indirect costs for such university as of June 30, 1991.

Mr. BOUCHER (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Madam Chairman, with respect to indirect cost recoveries, the amendment makes two provisions. First, it requires that the chief financial officer of each university that receives grants from the National Science Foundation, certify that all claims for indirect cost recovery are appropriate, and for allowable expenditures, and that all amounts that are received for depreciation or use allowance for buildings or equipment, have been expended or reserved for their proper purposes.

Second, the amendment says that, given the fact that it is possible that the 26-percent cap which the bill imposes with regard to the administrative portion of indirect costs, may result in significant financial loss for some universities, that it is not our intention for that loss to occur. Such a loss would occur not because of any mismanagement on the part of the university, but because that particular university has an accounting system that varies substantially from the accounting system that are in place at most universities nationwide.

In order to prevent a loss from occurring in that circumstance, the amendment will allow the director of the National Science Foundation to grant a 1-year delay in the 26-percent cap for administrative costs, upon two conditions. First, the director must determine that immediate imposition of the 26-percent cap would result in a significant financial loss for the university; and second, he must determine that the rate that he grants will be lower than the administrative indirect cost rate that was in effect for that university on June 30, 1991.

That is the sum and substance of the amendment, Madam Chairman, I want to extend my thanks and my commendation to the ranking Republican member of the full committee, the gentleman from Pennsylvania [Mr. WALKER], for his very able assistance in structuring this provision and for his helpful suggestions, and also to the gentleman from California [Mr. PACKARD], the ranking Republican member of our subcommittee, for his outstanding help.

Mr. PACKARD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would simply state that this is a straightforward amendment. It has been worked out in the Committee on Science, Space, and Technology. I offer my complete support.

Madam Chairman, I rise in support of the amendment offered by the chairman of the Science Subcommittee, Mr. BOUCHER.

The amendment has been worked out among the members of the Science Space, and Technology Committee as well as other Members who have taken an interest in this issue.

The amendment simply allows a transition period of up to 1 year beyond the effective date—October 1, 1991—for implementation of the indirect cost provision in the bill.

It is within the discretion of the Director of the National Science Foundation to determine whether a university will suffer significant financial loss as a result of imposition of the indirect cost provision by October 1, 1991.

Accordingly, the Director may allow indirect cost reimbursement over 26 percent but under the rate negotiated for the university.

Again I note that this provision merely allows a transition period of up to 1 year and then all universities will have to abide by the 26-percent administrative cap.

As the other part of the amendment clarifies, certification of uses of indirect costs made by the chief financial officer of the university only applies to grants funded by the National Science Foundation.

In conclusion, this is a straightforward amendment that has been worked out in the Science, Space, and Technology Committee and I offer my support for the amendment.

Mr. WALKER. Madam Chairman, I rise in support of the amendment offered by the chairman of the Subcommittee on Science, the gentleman from Virginia [Mr. BOUCHER].

While we are handing out commendations, I would like to thank the gentleman from Michigan [Mr. HENRY] for bringing to our attention some of the problems that universities had without this additional language, and it was through some of his efforts that we did arrive at some compromise language here.

The gentleman from Virginia has very adequately explained the amendment. It is as the gentleman from California said, a very straightforward amendment. I think it does solve a transitional problem here. It does not do damage to the problem we are setting up, 26-percent caps, but assures universities which live within that within their own accounting systems. I think this is a very good amendment, and I urge my colleagues to support it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia [Mr. BOUCHER].

The amendments were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute as amended was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1350

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MONTGOMERY) having assumed the chair, Ms. SLAUGHTER of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2282) to amend the National Science Foundation Authorization Act of 1988, and for other purposes, pursuant to House Resolution 190, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2282, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

HIGH-PERFORMANCE COMPUTING ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 191, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 656.

The Chair designates the gentleman from Texas [Mr. LAUGHLIN] as Chairman of the Committee of the Whole and requests the gentleman from Colorado [Mr. SKAGGS] to assume the chair temporarily.

□ 1353

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 656) to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing with Mr. SKAGGS, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. BROWN] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Speaker, I yield myself such time as I may consume.

The High-Performance Computing Act of 1991, H.R. 656, is among the most important pieces of legislation that the Congress will consider this year. This bill is at the heart of the creation of an information infrastructure that will be essential for this Nation's future economic strength and competitiveness in the world.

I would like to take this opportunity to thank Mr. BOUCHER and Mr. VALENTINE, the chairmen of the Subcommittee on Science and the Subcommittee on Technology and Competitiveness, respectively, for their efforts in developing the bill and their assistance during all of the committee proceedings. I would also like to acknowledge our Republican colleagues, Mr. WALKER, the ranking Republican member of the full committee, and Mr. PACKARD and Mr. LEWIS, the ranking Republican members of the two subcommittees, for their contribution in the preparation of this bill.

H.R. 656, as reported by the committee, is a truly bipartisan measure. We worked closely with our Republican colleagues and also with the administration to ensure that the bill is consistent with ongoing planning activities by the Office of Science and Technology Policy, which have resulted in the high-performance computing and communications initiative included in the President's fiscal year 1992 budget request.

I also want to thank Chairman FORD of the Education and Labor Committee for that committee's expeditious handling of a sequential referral of H.R. 656. The provisions added by the Education and Labor Committee will help ensure that the Department of Education participates in planning and research activities to support educational applications of the National Research and Education Network.

H.R. 656 is designed to improve coordination and expand support by Federal agencies for research and development of high-performance computing. This bill will accelerate the development of what has become an indispensable tool in science and engineering research. Moreover, the potential economic importance of high-performance computing is becoming increasingly evident in many applications arising in the manufacturing and the service sectors of the economy.

The March 1991 report of the National Critical Technologies Panel identifies 22 critical technologies, of which 7 fall within the broad area of information science and communications. Key enabling technologies listed in this portion of the report include high-performance computing and networking, software development, data storage and peripherals, and computer simulation and modeling. H.R. 656 provides for a coordinated Federal program which will address all of these technologies.

H.R. 656 will advance research and development activities in high-performance computing in universities, Federal laboratories, and industry. The bill will also increase support for development of the human resource base in computer and computational sciences. Funding is authorized for the development and use of new supercomputers, advanced software, and a National Research and Education network capable of transmitting billions of bits of data per second. The network, which will be designed to be widely accessible, will be a major step toward providing an equitable distribution of information resources across the Nation.

The bill provides flexibility for the agencies participating in the program to develop R&D activities consistent with their capabilities and mission responsibilities. Each year at the time of the President's budget submission, a report will be submitted to congress documenting each agency's role and associated budget contribution to the program, and documenting progress toward the overall program goals. Responsibility for coordination and planning for the interagency program is assigned to the White House Office of Science and Technology Policy.

H.R. 656 authorizes a total of $1.55 billion for the National Science Foundation, $609 million for the National Aeronautics and Space Administration, $666 million for the Department of Energy, $38 million for the Department of Commerce, and $30 million for the Environmental Protection Agency for fiscal years 1992–96. Each agency participating in the program is required by the legislation to specify the resources set aside for high-performance computing activities in its annual budget submission.

The cost of the high-performance computing program is an investment in the Nation's future prosperity. This has been shown in a study described by Dr. Allan Bromley, the President's Science Adviser, in testimony before the Science Committee earlier this year. This study predicted a payback to the Economy from the high-performance computing program of between $170 billion and $500 billion over the next 10 years. Even taking into account the uncertainties in such economic projections, the potential value of the program is evident.

Mr. Chairman, H.R. 656 provides an opportunity to maintain U.S. leadership in areas which are important for the long-term well-being of the Nation. High-performance computing will both enhance economic competitiveness and provide a resource to stimulate the creative imaginations of the Nation's scientists and engineers. I urge my colleagues to support this important measure.

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 656, the High Performance Computing Act. This legislation is the Brown-Walker substitute to the bill as originally introduced, and is the product of close consultations between the majority and minority on the Science Committee, and between the committee and the administration.

Mr. Chairman, I think it is well to note in the debate that the chairman of the Committee on Science, Space and Technology, the gentleman from California [Mr. BROWN] is really the leader on this issue, and it was his willingness to step forward and provide some original legislation to work from that brought us to the floor today. He is to be commended. We are building an information highway of the future here, and the gentleman is to be greatly thanked for getting us down the road. I think it shows the style of leadership that he is providing at the committee that we have such a bill on the floor today.

A number of other people have also contributed, the chairman of the subcommittee, the ranking Republican on the subcommittee, and I did want to commend them but this is really a sign of the leadership of the gentleman from California [Mr. BROWN] in the committee.

This bill, consistent with the President's initiative, provides a long-term plan for the development of an integrated high performance computing network. This technology will provide invaluable assistance in a wide variety of research fields, including aerospace, energy, health, and environment.

The administration's major objections to the bill have been addressed. The provisions of H.R. 656 ensure that the high performance computing initiative will be developed largely by the private sector and be operated in a commercial manner. In addition, the Federal Government will not be involved in procuring hardware and switches, except for research and development purposes. H.R. 656 also preserves the executive branch's discretion over the management of the program. Finally, the sums authorized for the agencies involved in the program are to be provided from funds already authorized, and are in line with the President's budget request.

I urge my colleagues to support this legislation.

☐ 1400

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE], the chairman of our Subcommittee on Technology and Competitiveness.

Mr. VALENTINE. I thank the gentleman for yielding to me.

Mr. Chairman, I rise, of course, in support of H.R. 656, the High Performance Computing Act of 1991.

Mr. Chairman, as other speakers have mentioned, I want to express my thanks and appreciation to the chairman of the full committee, the gentleman from California, Mr. BROWN. This is, to a substantial extent, his brainchild and the result of his labor, his initiative and his intelligent legislative instincts. We are all indebted to him for the fact that we stand here today.

I also would like to express appreciation to the ranking member of the full committee, the gentleman from Pennsylvania [Mr. WALKER], who has labored in the vineyard and has helped push this matter to the point where we stand today.

Of course, our colleague, the distinguished chairman of the Subcommittee on Science, the gentleman from Virginia [Mr. BOUCHER] and the ranking member of the Subcommittee on Science, the gentleman from California [Mr. PACKARD], I also want to thank for their efforts.

And last but certainly not least, the ranking member of our subcommittee, the gentleman from Florida, Mr. LEWIS, who has made an outstanding contribution.

Mr. Chairman, the advancement of America's technological interests is crucial to our well-being. High performance computing is a vital technology greatly affecting scientific, educational, and economic competitive interests. Advances in the current state of high performance computing will offer scientists the needed tools to research critical problems such as global climate change, conservation of energy, and severe weather forecasting.

The 1990's will be marked by continued rapid advancement of high performance computing technologies. While the United States is still regarded as the world's leader in this field, we are being challenged by foreign competitors.

Our Nation must continue to lead the way in the exploitation and development of high performance computing systems. We must continue to lead the way in developing and integrating advanced networks for supporting remote visualization, interactive communications, collaborative computing over distributed resources, and efficient transfer of enormous volumes of data.

We must broaden the application of high performance computing to aid American companies in becoming more competitive both at home and abroad. The use of high performance computing in the design, development, and manufacturing of products will permit companies to produce better quality and more reliable goods in a shorter period of time.

A coordinated national initiative such as the High Performance Computing Act of 1991 is required to ensure America's continued leadership in this critical area. H.R. 656 is a 5-year program for research and development on advanced computer hardware and software technologies and advanced computer networks. It will expand the number of researchers, educators, students, and industrial users with training in, and access to, high performance computing.

I am pleased to commend H.R. 656 to the House and I urge my colleagues to support this proposed legislation that is crucial to the well-being of our Nation.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 656, the High Performance Computing Act of 1991.

This bill provides for a coordinated, interagency initiative in high performance computing. Several Federal agencies will be involved in this initiative and the responsibilities assigned to each agency correspond with that agency's mission.

Each agency is required to submit an annual report to Congress outlining its role in the program and detailing the progress made towards achieving the goals of the program. It is important to realize that the authorizations for the various agencies are from sums otherwise authorized to the agencies through the usual authorization process.

The cooperative, interagency initiative will spur progress and innovation in high performance computing which has proven to be a powerful tool in manufacturing processes, product development, and scientific research. H.R. 656 will allow us to move towards fulfillment of these objectives through the development and use of new supercomputers, advanced software, expansion of the human resource base, and a national research and education network which will hopefully link—among others—scientists, engineers, and educational institutions across the Nation through computers.

H.R. 656 provides a vehicle for the United States to maintain its leadership position in high performance computing which will undoubtedly enhance this Nation's long-range economic competitiveness.

Mr. Chairman, I urge my colleagues to support passage of H.R. 656.

Mr. BROWN. Mr. Chairman, I yield 4 minutes to the distinguished chairman of the Subcommittee on Science of our full committee, the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. I would like to thank the chairman of the full committee, the gentleman from California, for yielding to me, and I would like to congratulate him on his leadership in bringing before the House H.R. 656. Mr. Chairman, he has been a leader on this issue of long standing and the moment at which we arrive today is due to his persistence in crafting this measure and persuading others of its merit.

Mr. Chairman, I also acknowledge the ranking minority member of the Subcommittee on Science, the gentleman form California [Mr. PACKARD], regarding our subcommittee's consideration of H.R. 656.

Mr. Chairman, as the new chairman of the Subcommittee on Science of the full committee, I also had the pleasure in crafting this bill to work very actively with the chairman of the Subcommittee on Technology and Competitiveness, the gentleman from North Carolina [Mr. VALENTINE], and the gentleman from Florida [Mr. LEWIS], the ranking Republican member of his subcommittee.

Mr. Chairman, high-performance computing has emerged as a powerful tool in science and engineering research, in product and process development, and in all aspects of manufacturing. Computers can be used to create elaborate models of natural processes that, in turn, can be used to fast-forward climate, zoom in on molecules, or slow down the physics of subatomic particles.

New insights and better understanding emerge from studies that focus on these phenomena at the right size and the right speed. High-performance computing permits the manipulation of enormous quantities of numerical data that can arise from scientific experiments and engineering projects.

For example, the proposed mission to planet Earth will produce in a mere 5 days from one satellite digital data equivalent to the contents of the entire Library of Congress. Only high-performance computing systems can translate this torrent of numbers into visual images that can be interpreted and understood.

But to utilize fully the capabilities of high-performance computing, the need exists to establish a high-capacity national data network. Such a network will bring every scientist and engineer in the country as close as his personal computer to collaborations with colleagues across the Nation, to access to central facilities such as supercomputers and to access to specialized databases.

Establishing a national network, as called for in this legislation, does not mean the laying of wires and cables in the traditional sense. Instead it will consist of the development of a new generation of software and high-technology switches and the establishment of uniform protocols and standards to facilitate the transmission of data at high rates through existing fiberoptic cables and satellite links. The goal is to achieve a hundredfold increase in data transmission speed on a user-friendly, widely accessible network.

An important focus of this program is to address particularly challenging problems in science and engineering which are barriers to scientific and technical progress. These problems are often referred to as the grand challenges, and they include the modeling of climate to assess the consequences of human activities, analysis of the fundamental structure of materials to develop better high-temperature superconductors, and determination of the function of biologically important molecules to unlock the secrets of cell biology and thereby open new avenues for the cure of disease.

□ 1410

Mr. Chairman, H.R. 656 provides a balanced program to accelerate development of all aspects of high-performance computing. I commend the chairman of our full committee for his leadership in bringing the measure forward.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman form Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding time to me and I would like to say, Mr. Chairman, that high-performance computing is a technology that is important for the national economic prosperity and competitiveness.

The High Performance Computing Act, H.R. 656, addresses this need by establishing a 5-year multiagency program for research and development of advanced computer hardware and software and advanced computer networks.

On April 25, 1991, the Office of Science and Technology Policy released a report on 22 critical technologies. One of those, which is no surprise, was high-performance computing.

The OSTP report states,

> * * * The United States no longer has a clear lead in non-defense supercomputing applications, and competition in the development of supercomputing systems is growing rapidly.

This legislation before us, is an important step in the direction of ensuring that we develop the computer technology to allow the United States to be competitive with other nations.

Nevertheless, it is just a first step which addresses Federal computing initiatives. There is much more that should be done to ensure our long-term competitiveness.

For example, Cray Research has essentially the only private sector research program in supercomputers. I do not know what the solution is, but in the future we may have to address ways of ensuring that U.S. industry is also a participant in this Federal program. The Japanese have such a program.

In 1990 Cray Research controlled 90 percent of the supercomputer business in 1980 and Japan had none. However, by 1990 Cray's share fell to approximately 50 percent and Japan's share of the supercomputer market rose to 28 percent.

The bill before us will benefit the private sector by providing technological advances developed by the Federal agencies, that will be available to U.S. industries. I hope the legislation will accomplish this purpose while at the same time advancing the status of the Federal Government's high-performance computer efforts.

Mr. Chairman, I want to thank the gentleman from North Carolina [Mr. VALENTINE], the subcommittee chairman; the committee chairman, the gentleman from California [Mr. BROWN]; the ranking member, the gentleman from Pennsylvania [Mr. WALKER]; the gentleman from Virginia [Mr. BOUCHER]; and the gentleman from California [Mr. PACKARD] for their hard work and leadership in moving this important legislation.

I urge my colleagues' support of the High-Performance Computing Act of 1991, H.R. 656, which is before us today.

Mr. BROWN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arkansas [Mr. THORNTON], a returning member of the Committee on Science, Space, and Technology, but a very valuable former member of the committee, and a good friend for whom I have the highest respect.

Mr. THORNTON. Mr. Chairman, over the last three decades the United States has been losing ground, losing its competitive edge, in several areas of high technology. Our technological infrastructure has slipped badly in several important fields. American firms have lost major global market shares in technologies that we pioneered and once dominated in world markets. If current trends in research and development, and product innovation and introduction continue, the United States will lag behind Japan in most emerging technologies and trail the Europeans in several by the year 2000.

Mr. Chairman, to reverse these trends requires leadership and vision, such as that reflected in this bill and in the leadership of the gentleman from California [Mr. BROWN], the gentleman from North Carolina [Mr. VALENTINE], and the gentleman from Virginia [Mr. BOUCHER], as well as the distinguished cooperation and leadership of Members on the other side of the aisle, the gentleman from Pennsylvania [Mr. WALKER], the gentleman from California [Mr. PACKARD], the gentleman from Florida [Mr. LEWIS], and others to reverse the trend and put America on its feet again in a broad approach to solving problems.

We must implement a coordinated, comprehensive, and strategic process that will allow us to regain our technological dominance and address the many pressing needs we have here at home. That is why I have been calling for a strategy for America as appropriate for our needs as those we employed with such success in rebuilding Europe and Japan after World War II. Then we used a Marshall plan for Europe to rebuild Europe, and I have been calling for a Marshall plan for America.

One of the lessons we learned from the gulf war is that technology is critical to our national security. While we remain ahead in some areas, the United States is in a race with both Europe and Japan. High-performance computing encompasses the leading edge of computing technologies: The most sophisticated computer chips, the fastest computers with the largest memories, and the fastest networks. This legislation proposes an approach for maintaining our strong position through focused cooperative research and development by Government, industry, and the academic community.

This bill and this program will advance research-and-development activities in universities, Federal laboratories, and industry, as well as improving education at all levels. Through a significant application of high-performance computing we can boost national productivity and competitiveness across the entire economic front.

This bill calls for a strategic investment in a specific technology. A coordinated and comprehensive strategy is made up of many interrelated parts, and this is one element of that process. The American people know it is time to focus our attention on measures to rebuild our infrastructure, revitalize our economy, and make America strong at home, and I congratulate the gentleman from California [Mr. BROWN] for developing this legislation, and urge my colleagues to support it.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I thank my neighbor for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 656, the High Performance Computing Act of 1991 which contains a package of education-related amendments adopted by the Education and Labor Committee. I also offer my compliments to my chairman, Representative BILL FORD, and to my colleagues on the Committee on Science, Space, and Technology for their bipartisan efforts to produce this important legislation. I am pleased to see this initiative come to the House floor in a timely manner and even more pleased we have a strong bill to offer the other body and the President.

The Education and Labor Committee sought sequential referral of the bill because of its long-term potential impact on education at all levels. While much research is to be done and many policy decisions must be made, both at the National, State, and local levels, the role of technology will grow significantly as we approach the 21st century.

In reporting the measure, our committee sought to enhance the National Research and Education Network's [NREN] potential to serve education at all levels. Many supporters of NREN forecast it will eventually benefit education in rural communities and in elementary and vocational schools, but how this will be accomplished is yet unknown. Our concern is that this objective be a focus of NREN from day one so the system is designed to meet the special needs of classroom education in all communities at all levels.

To this end, the committee adopted language authorizing the Secretary of Education to carry out a research program in the use of computational sciences by libraries, schools, and education research groups. Our preference is that Secretary Alexander, perhaps in line with the administration's "America on-line" initiative in its Education 2000 proposal, direct a research program which will provide useful guidance and direction for the use of computers in education. I should note, in this regard, the House version of the fiscal year 1992 Labor-HHS-Education appropriations bill contains report language urging the Secretary to undertake similar research in this area.

Again, I thank my chairman and all of my colleagues on the Education and Labor and Science, Space, and Technology Committees for their support of my amendments and this measure. I urge the House to support H.R. 656.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, I want to thank the gentleman from Pennsylvania [Mr. GOODLING] for his statement and, more generally, to thank both him and the chairman, the gentleman from Michigan [Mr. FORD], for their cooperation in this legislation. We recognize that the measure as comprehensive as this does fall within the jurisdiction of the gentleman's committee.

□ 1420

We believe very strongly that the elements of this legislation hold the potential for making revolutionary changes in education. We see this as the first step in developing a program that will allow broad-band digital communication over fiber optic lines or over satellites to every school in the Nation. We hope that day will come soon, and we hope that in trying to reach that we will have the continued close cooperation and even the leadership of the Committee on Education and Labor in this phase of the ultimate development of these programs.

I thank the gentleman very much for this very positive initial step that we are taking.

Mr. GOODLING. Mr. Chairman, I think I speak for all of the members on our committee, that we very much appreciate the fact that the gentleman has moved this legislation and we will give every bit of cooperation that the chairman would like to have.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of H.R. 656, the High-Performance Computing Act.

High-performance computing systems are the wave of the future and it is extremely important for the Nation to have an advanced research and development program. While there is much R&D activity taking place, it is spread among six Federal agencies and departments and lacks a coordinated effort.

This legislation would establish a central network entitled the National Research Educational Network which would link research and educational institutions, government, and industry involved in high-performance computing research and development. The network would be a multiagency effort that would be supported by the same agencies and departments that are currently funding the National High-Performance Computing Program. Further, the bill directs the Director of the White House's Office of Science and Technology Policy to set policy for the program and act as an intraagency facilitator.

This legislation will better enable Federal facilities such as the Los Alamos National Laboratory in my district to collaborate with industry and universities in high-performance computing research and development. In fact, supercomputing originated with the "Los Alamos problem," as predicting the performance of the first atomic bomb was called during the Manhattan project. Today, Los Alamos is the most powerful scientific computing center in the world. Los Alamos has established an advanced computing laboratory designed to be a catalyst for leading edge technology. We must take advantage of the valuable resources at Los Alamos and other facilities through a coordinated effort. Only through innovative collaboration among industry, Federal laboratories, and universities will the United States keep the leading edge of computing performance. I urge my colleagues' support for this legislation.

Mr. WALKER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT], who has been one of the leaders on this issue and one of the original cosponsors of this legislation.

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of H.R. 656. The computer industry is one of the few real bright spots in the Nation's high technology economy today, and we need to dedicate ourselves to preserving our predominance.

This bill would do just that, while at the same time expanding access to the machines through the creation of the national research and education network.

The bill basically endorses the administration's high performance computing initiatives and puts into law in fairly general terms the program's goals and procedures. The bill is not intended to limit the executive branch's flexibility in any way, but it will make clear and permanent the Nation's commitment to a strong, prolonged, well-planned interagency effort to improve computer hardware, software, and networking.

I want to commend all of my colleagues on the committee under the leadership of our chairman, the gentleman from California [Mr. BROWN] and our ranking member, the gentleman from Pennsylvania [Mr. WALKER], for their leadership in this area and for being so aggressive in moving forward this legislation in a timely manner.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I gladly yield to my chairman, the gentleman from California.

Mr. BROWN. Mr. Chairman, I am very pleased to recognize the contribution which the gentleman from New York has made, both to this legislation, and my recollection from several years ago is that he was a leading voice in the prodding of the various agencies of the executive branch, including the National Science Foundation, to take a more active role in the supercomputing field.

I think his long-standing interest in this is a tribute to his own leadership, and I am very happy to recognize that and hope that we will continue to work together on issues of this sort.

Mr. BOEHLERT. I thank my chairman, the gentleman from California [Mr. BROWN] for his very kind remarks. It is a pleasure to serve on the Committee on Science, Space, and Technology because we work in a bipartisan manner.

We have the best interests of the Nation at heart, and we are one of the committees that work hand in glove with the administration without too much rancor.

It is a pleasure to work under those circumstances.

Mr. BROWN. Mr. Chairman, if the gentleman will continue to yield, I think it is appropriate that I mention the fact that this is a Presidential initiative, that the President has shown extreme leadership. And I suspect that he has been beneficially influenced by his Science Adviser in recognizing that the multitude of different programs within the executive branch did need the kind of coordination and focus that this legislation will attempt to provide.

Without the leadership of the President and the Science Adviser, we would have had a great deal more difficulty in moving this legislation through.

I want to pay tribute specifically to Dr. Bromley for his work in bringing this initiative together.

Mr. BOEHLERT. My chairman has been very gracious with his comments. Those are well-deserved words of praise for the leadership provide by the President of the United States, but I think as we all recognize, the President cannot be expert in all fields. We are a very fortunate Nation to have in the Office of the Science Adviser to the President, Dr. Alan Bromley, who has been a real inspiration in his innovative approach to the science policy of this Nation. He has the President's ear, which is extremely important.

Science Advisers of the past have not always had access to the Oval Office. This Science Adviser does, and it is a winning combination for the United States of America and bodes well for our future.

Mr. BROWN. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Chairman, I rise in strong support of the High Performance Computing Act. It will help the United States remain the leader in this crucial area of technology, and I commend chairman Brown for his work on this legislation.

In addition, I want to express my appreciation to the chairman for his willingness to work with the majority leader and myself on language ensuring that the funds authorized by this bill will benefit primarily U.S. researchers, colleges, universities, and companies. The committee amendment would do just that, and I support it.

Mr. Chairman, for the last 10 years, I have been heavily involved in this Government's policies relating to the development of supercomputer technology in America. Throughout that time, I have experienced increasing frustration as our Government has continued without any kind of national policy on the supercomputer industry. This is not a minor omission, for supercomputers represent a critical area of technology, one in which Americans and American companies have held and retained world leadership.

In the early eighties, for example, we saw the National Science Foundation proposing the establishment of national supercomputer centers—and then allowing universities to apply for such grants to use foreign supercomputers. In the mid-eighties, we saw the Department of Defense buying advanced computer systems for command and control functions from foreign competitors when domestic systems were available. At the same time, the Government began to make it extremely difficult for our domestic supercomputer companies to sell overseas by adopting overly complicated and tortured export licensing procedures.

These problems continue today. The export problems have not been resolved. And domestic agencies trying to purchase American supercomputers—because they are the best machines available in the world today—are forced by our trade office to request bids from foreign competitors. The Department of Defense, 3 years after a congressional directive that it devise a comprehensive plan for supercomputer procurements, still has not done so.

Sadly, problems managing high technology are not limited to supercomputers. We have lost the domestic semiconductor industry to other countries. We never established an American VCR industry, even though the VCR is an American invention. And we can see increasing foreign control of American high-technology industries.

I have no problem with healthy international competition. But that is not what is happening here. Our foreign competitors are being heavily subsidized by their governments, while our industry is either treated indifferently by the U.S. Government, or is actually harmed by Federal policies and actions. And U.S. firms which try to sell overseas are often restricted by Government policies and collusive trading practices accepted by those governments.

This bill recognizes the importance of the U.S. hig-performance computing industry, and establishes a national policy supporting that sector. It provides funds for research into parallel vector and massively parallel supercomputers, computer chips, a national computer data network, new software, and switches for data transmission, and education in computer sciences. Although not a procurement bill, the bill allows procurement of prototype computers and networking equipment to support research, if the equipment is research equipment and purchases are limited in number. These are worthwhile efforts, and I support them.

In my view, however, it would have been self-defeating for us to enact legislation authorizing billions of dollars for advanced computer research without ensuring that the benefits of that research are tightly focused on this country. As I said in a letter to chairman BROWN, which was signed by 60 Members of the House of Representatives, such a policy would result in U.S. tax dollars being used to support advanced computing firms in other countries, this undermining the very industrial sector H.R. 656 is intended to support.

I am happy to say that because of the committee amendment offered by Chairman BROWN, this will not happen. Except in exceptional circumstances, the programs authorized by this bill will direct research funds only to U.S. universities and companies. In addition, the committee amendment would limit eligibility for procurement funds to U.S. firms—which means firms with majority ownership by U.S. citizens—and to U.S.-incorporated subsidiaries of foreign firms which come from countries that provide U.S. firms with investment and research opportunities equal to those provided to any other firms. In other words, the committee language would allow foreign corporate participation on the basis of reciprocity.

I have heard there is some concern that this provision might violate the code on government procurement of the General Agreement on Trade and Tariffs. In fact, the overwhelming majority of the money in this bill is designated for research, and research programs are not covered by the GATT code. In addition, the GATT code contains a provision—article iv, paragraph 16(e)—which waives competitive procedures for procurement of prototype equipment developed for research and experimentation. That is a fairly good description of much of the procurement that is envisioned in this bill.

In any case, as I have noted, foreign firms are eligible for procurements under this bill if their home countries provide identical opportunities for U.S. firms. That, indeed, is fair trade.

Finally, I would like to note that the committee amendment contains a very strong requirement that agencies notify Congress 60 days prior to awarding procurement funds to foreign firms. Under such circumstances, agencies are required to provide a detailed justification for its decision, and Congress would be able to overturn the decision by enacting a joint resolution.

I am pleased that the chairman of the Science Committee has offered this provision, and I look forward to working with him to ensure that the executive branch complies with the clearly expressed congressional directive that the funds authorized in this legislation be directed primarily to American universities and companies.

I urge adoption of this legislation.

Mr. BROWN. Mr. Chairman, may I express my thanks to the gentleman from Minnesota. It was a pleasure to work with him and the majority leader in drafting language which would meet their objectives and which we feel are a contribution to the bill.

Mr. SABO. Mr. Chairman, I thank the gentleman, and I appreciate his help and cooperation.

Mr. WALKER. Mr. Chairman, I have no additional requests for time, and I reserve the balance of my time.

Mr. BROWN. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I appreciate the gentleman yielding time to me. I rise for the purpose of engaging in a colloquy with the chairman of the committee, the gentleman from California [Mr. BROWN].

This country's high performance computing industry is a crucial national resource that must be maintained if we are to retain our technological superiority in this key area. A key question has been raised, however, as to whether the support provided by the bill would be limited to only one form of computer architecture known as massively parallel architecture.

□ 1430

My interpretation of high performance computing means scientific workstations, vector parallel architecture, special purpose and experimental computers, as well as large scale parallel systems. Is this a correct reading of the intent of this legislation?

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, that is clearly the intent of this legislation. The high-performance computing initiative is intended to promote development and support for both massively parallel, vector parallel, and any other high-performance computing technology. This country developed high-performance computing technology, and this technology led to a broad-based infrastructure that contributes in many ways to this Nation's economy. This legislation is designed to maintain support for the existing high-performance computing infrastructure while ensuring the development of new technologies vital to our economic well-being.

Mr. Chairman, I compliment the gentleman from North Carolina [Mr. VALENTINE] and thank him for giving me the opportunity to provide this additional explanation.

Mr. VALENTINE. Mr. Chairman, reclaiming my time, let me just thank the chairman of the full committee, the gentleman from California [Mr. BROWN], and again commend the gentleman for his work, and express to him our appreciation for the fact that this legislation is here, and, hopefully, will pass.

Mr. WALKER. Mr. Chairman, I have no further requests, and I yield back the balance of my time.

Mr. BROWN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor, as printed in the reported bill, shall be considered as an original bill for the purpose of amendment and is considered as read.

Mr. FORD of Michigan. Mr. Chairman, I rise in support of H.R. 656, a bill to accelerate the research and development of high-performance computing in industry, business, research, and education.

High-performance computing is becoming an indispensable tool for improving our county's research, education, economic competitiveness, and defense capabilities. These powerful computers, which are capable of making billions of mathematical calculations per second, have transformed the way in which we analyze and solve problems. Questions in science which were previously unanswerable may now be answered. Written texts and pictures not now readily available to educators, researchers and librarians may be stored on supercomputers and disseminated across the country on networks to libraries, schools, colleges, and universities.

Specifically, H.R. 656 provides for a focused and coordinated Federal research program in high-performance computing throughout several Federal agencies. The bill requires the Director of the Office of Science and Technology Policy to coordinate among the various Federal agencies a national network of high-speed computers, which would be known as the National Research and Education Network. Funds are also made available to the Federal agencies to carry out high-speed computer research and application.

I would like to note that the Education and Labor Committee has a particular interest in the application of high-performance computing to educational institutions and to libraries. The Department of Education can help train users of high-performance computing and in developing the application of this technology to education at every level, from research institutions to the classroom itself. Moreover, libraries as centers for receiving, processing and transmitting information, are natural partners for the National Research and Education Network. National libraries like the Library of Congress have long been at the leading edge of automation and of the electronic transmission of their holdings across the country, and their participation will greatly enhance the network's capabilities.

I appreciate the complete cooperation of Chairman BROWN of the Committee on Science, Space, and Technology in the referral of this bill to my committee for its consideration.

I urge my colleagues to approve H.R. 656 without delay.

The text of the committee amendment in the nature of substitute, as modified, is as follows:

H.R. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Performance Computing Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Advances in computer science and technology are vital to the Nation's prosperity, national and economic security, and scientific advancement.

(2) The United States currently leads the world in the development and use of high-performance computing for national security, industrial productivity, and science and engineering, but that lead is being challenged by foreign competitors.

(3) Further research and development, expanded educational programs, improved computer research networks, and more effective technology transfer from government to industry are necessary for the United States to fully reap the benefits of high-performance computing.

(4) Several Federal agencies have ongoing high-performance computing programs, but long-term interagency coordination, cooperation, and planning could enhance the effectiveness of these programs.

(5) A 1989 report entitled "The Federal High-Performance Computing Program" and a 1991 report entitled "Grand Challenges: High-Performance Computing and Communications" by the Office of Science and Technology Policy outlining a research and development strategy for high-performance computing provides a framework for a multi-agency high-performance computing program.

(6) Such a program would provide American researchers and educators with the computer and information resources they need, while demonstrating how advanced computers, high-speed networks, and electronic data bases can improve the national information infrastructure for use by all Americans.

(b) PURPOSE.—It is the purpose of Congress in this Act to help ensure the continued leadership of the United States in high-performance computing and its applications through—

(1) the expansion of Federal support for research, development, and application of high-performance computing in order to—

(A) establish a high-capacity national research and education computer network;

(B) expand the number of researchers, educators, and students with training in high-performance computing and access to high-performance computing resources;

(C) promote the further development of an information infrastructure of data bases, services, access mechanisms, and research facilities which is available for use through such a national network;

(D) stimulate research on software technology;

(E) promote the more rapid development and wider distribution of computer software tools and applications software;

(F) accelerate the development of high-performance computing systems and subsystems;

(G) ensure that emerging high-performance computing systems and software technologies are available to researchers for the application to Grand Challenges;

(H) promote the inclusion of high-performance computing into educational institutions at all levels;

(I) ensure that appropriate security controls are implemented; and

(J) encourage cooperative programs between industry and high-performance computing centers to enhance industrial competitiveness; and

(2) the improvement of planning and coordination of Federal research and development of high-performance computing.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Director" means the Director of the Office of Science and Technology Policy;

(2) "Grand Challenge" means a fundamental problem in science or engineering, with

broad economic and scientific impact, whose solution will require the application of high-performance computing resources;

(3) "high-performance computing systems" means—

(A) current and new generations of scientific workstations;

(B) vector supercomputer systems;

(C) special purpose and experimental computing systems; and

(D) large scale parallel systems,

developed in the private or public sector; and

(4) "Network" means the National Research and Education Network established under section 6.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) NONAPPLICABILITY.—Except to the extent the appropriate Federal agency or department head determines, the provisions of this Act shall not apply to—

(1) programs or activities regarding computer systems that process classified information; or

(2) computer systems the function, operation, or use of which are those delineated in paragraphs (1) through (5) of section 2315(a) of title 10, United States Code.

(b) ACQUISITION OF PROTOTYPE AND EARLY PRODUCTION MODELS.—As part of the Program described in section 5, and in accordance with Federal contracting law, Federal agencies and departments participating in the Program may purchase or lease prototype or early production models of new high-performance computing systems and subsystems to stimulate hardware and software development. Items of computing equipment acquired under this subsection shall be considered research computers for purposes of applicable acquisition regulations.

SEC. 5. NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.

(a) NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—(1) The President shall implement a National High-Performance Computing Program (hereafter in this Act referred to as the "Program").

(2) The Director shall—

(A) submit to the Congress an annual report, along with the President's annual budget request, describing the implementation of the Program;

(B) provide for interagency coordination of the implementation of the Program;

(C) review, prior to the President's submission to the Congress of the annual budget estimate, each agency and departmental budget estimate in the context of the Program and make the results of that review available to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget; and

(D) consult with academic, State, industry, and other appropriate groups conducting research on and using high-performance computing.

(3) The annual report submitted under paragraph (2)(A) shall—

(A) describe the goals and priorities for the Program;

(B) set forth the relevant programs and activities, for the fiscal year with respect to which the budget submission applies, of each Federal agency and department, including—

(i) the National Science Foundation;

(ii) the Department of Commerce, particularly the National Institute of Standards and Technology, and the National Oceanic and Atmospheric Administration;

(iii) the National Aeronautics and Space Administration;

(iv) the Department of Defense, particularly the Defense Advanced Research Projects Agency;

(v) the Department of Energy;

(vi) the Department of Health and Human Services, particularly the National Institutes of Health and the National Library of Medicine;

(vii) the Environmental Protection Agency; and

(viii) such other agencies and departments as the President or the Director considers appropriate;

(C) describe the levels of Federal funding for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies, for specific activities, including education, research activities, hardware and software development, and support for the establishment of the Network;

(D) describe the levels of Federal funding for each agency and department participating in the Program for the fiscal year during which such report is submitted, and the levels proposed for the fiscal year with respect to which the budget submission applies; and

(E) include an analysis of the progress made toward achieving the goals and priorities established for the Program.

(4) The Program shall address the security requirements, policies, and standards issued by the Secretary of Commerce necessary to protect national research computer networks and information resources accessible through national research computer networks, including research required to establish security standards for high-performance computing systems and networks. Agencies and departments identified in the annual report submitted under paragraph (2)(A) shall define and implement a security plan consistent with the Program and with applicable law.

(5) The Program shall—

(A) provide for the establishment of policies for management and access to the Network;

(B) provide for oversight of the operation and evolution of the Network; and

(C) ensure the connectivity among computer networks of Federal agencies and departments.

(b) HIGH-PERFORMANCE COMPUTING ADVISORY PANEL.—The Director shall establish a High-Performance Computing Advisory Panel consisting of non-Federal members, including representatives of the research, education, and library communities, network providers, and industry, who are specially qualified to provide the Director with advice and information on high-performance computing. The Director shall consider the recommendations of the Panel in reviewing and revising the Program. The Panel shall provide the Director with an independent assessment of—

(1) progress made in implementing the Program;

(2) the need to revise the Program;

(3) the balance between the components of the Program;

(4) whether the research and development funded under the Program is helping to maintain United States leadership in computing technology; and

(5) other issues identified by the Director.

(d) OFFICE OF MANAGEMENT AND BUDGET.—(1) Each appropriate Federal agency and department involved in high-performance computing shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to the Office identifying each element of its high-performance computing activities, which—

(A) specifies whether each such element (i) contributes primarily to the implementation of the Program, or (ii) contributes primarily to the achievement of other objectives but aids Program implementation in important ways; and

(B) states the portion of its request for appropriations that is allocated to each such element.

(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the annual report submitted under subsection (a)(2)(A), and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency or department's annual budget estimate that is allocated to each element of such agency or department's high-performance computing activities.

SEC. 6. NATIONAL RESEARCH AND EDUCATION NETWORK.

(a) ESTABLISHMENT.—As part of the Program described in section 5, the Director shall coordinate implementation of agency and department activities supporting the broad deployment and use of a national multi-gigabit-per-second research and education computer network, to be known as the National Research and Education Network, which shall link research institutions and educational institutions, government, and industry in every State. For purposes of this section, agency activities may include research and development, development of network applications important for research and education, and contracting for services, but shall not include purchasing switches, optical fiber, or any other networking hardware for purposes other than research and development.

(b) ACCESS.—Federal agencies shall work with State and local agencies, libraries, educational institutions and organizations, and private network service providers as appropriate in order to ensure that the researchers, educators, and students have access to the Network. The Network shall provide users with appropriate access to high-performance computing systems, computer data bases, other research facilities, and libraries. The Network shall provide access, to the extent practicable, to electronic information resources maintained by libraries, research facilities, publishers, and affiliated organizations.

(c) NETWORK CHARACTERISTICS.—The Network shall—

(1) be developed jointly with the computer, telecommunications, and information industries;

(2) be designed, developed, and operated in collaboration with potential users in government, industry, and research institutions and educational institutions;

(3) be designed, developed, and operated in a manner which fosters and maintains competition and private sector investment in high speed data networking within the telecommunications industry;

(4) be designed, developed, and operated in a manner which promotes research and development leading to deployment of commercial data communications and telecommunications standards, for such purposes as encouraging the establishment of privately operated high-speed commercial networks;

(5) be designed to ensure the continued application of laws that provide network and information resources security measures that protect copyright and intellectual property rights, or that control access to data bases;

(6) have accounting mechanisms which allow users or groups of users to be charged

for their usage of copyrighted materials available over the Network and, where appropriate and technically feasible, for their usage of the Network;

(7) ensure the interoperability of agency and department networks and regional private networks;

(8) be developed by purchasing standard commercial transmission and network services from vendors whenever feasible;

(9) be developed by obtaining customized network services from vendors when it is not feasible to obtain standard services or no such standard services are available; and

(10) support research and development of networking software and hardware.

(d) National Science Foundation Responsibility.—Within the Federal Government, the National Science Foundation shall be responsible for managing the Network according to policies established for the Program under section 5(a)(5)(A).

(e) Information Services.—The Director shall coordinate implementation of the activities of appropriate agencies and departments to promote the development of information services that could be provided over the Network. These services may include the provision of directories of users and services on computer networks, data bases of unclassified Federal scientific data, training of users of data bases and networks, access to commercial information services for users of the Network, and technology to support computer-based collaboration that allows researchers and educators around the Nation to share information and instrumentation.

(f) Use of Grant Funds.—The National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Defense, the Department of Commerce, the Department of the Interior, the Department of Agriculture, the Department of Health and Human Services, the Department of Education, and the Environmental Protection Agency may allow recipients of Federal research grants to use grant funds to pay for computer networking expenses associated with the Program.

SEC. 7. ROLE OF THE NATIONAL SCIENCE FOUNDATION.

(a) General Responsibilities.—As part of the Program described in section 5, the National Science Foundation shall provide computing and networking infrastructure support for all science and engineering disciplines, and support basic research and human resource development in all aspects of high-performance computing and advanced high-speed computer networking.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Science Foundation for the purposes of this Act $213,000,000 for fiscal year 1992; $262,000,000 for fiscal year 1993; $305,000,000 for fiscal year 1994; $354,000,000 for fiscal year 1995; and $413,000,000 for fiscal year 1996.

SEC. 8. ROLE OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) General Responsibilities.—As part of the Program described in section 5, the National Aeronautics and Space Administration shall conduct basic and applied research in high-performance computing, particularly in the fields of computational aerosciences, earth and space sciences, and remote exploration and experimentation.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of this Act $72,000,000 for fiscal year 1992; $107,000,000 for fiscal year 1993; $134,000,000 for fiscal year 1994; $151,000,000 for fiscal year 1995; and $145,000,000 for fiscal year 1996.

SEC. 9. ROLE OF THE DEPARTMENT OF ENERGY.

(a) General Responsibilities.—As part of the Program described in section 5, the Department of Energy shall—

(1) perform technology development and systems evaluation of high-performance computing systems;

(2) conduct computational research with emphasis on energy applications;

(3) conduct gigabit network applications research and develop related software tools; and

(4) support basic research and human resource development in computational science.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Energy for the purposes of this Act $93,000,000 for fiscal year 1992; $110,000,000 for fiscal year 1993; $138,000,000 for fiscal year 1994; $157,000,000 for fiscal year 1995; and $168,000,000 for fiscal year 1996.

SEC. 10. ROLE OF THE DEPARTMENT OF COMMERCE.

(a) General Responsibilities.—As part of the Program described in section 5—

(1) the National Institute of Standards and Technology shall conduct basic and applied measurement research needed to support various high-performance computing systems and networks, and, in consultation with other relevant agencies and private industry, may adopt standards and guidelines, and develop measurement techniques and test methods, for the interoperability of high-performance computing systems in networks and for common user interfaces to systems, and shall be responsible for developing benchmark tests and standards for high-performance computing systems and software; and

(2) the National Oceanic and Atmospheric Administration shall conduct basic and applied research in weather prediction and ocean sciences, particularly in development of new forecast models, in computational fluid dynamics, and in the incorporation of evolving computer architectures and networks into the systems that carry out agency missions.

(b) High-Performance Computing and Network Security.—The National Institute of Standards and Technology shall conduct research needed to support the adoption of security standards for high-performance computing systems and networks. In accomplishing this objective, the National Institute of Standards and Technology shall utilize whenever possible recognized centers of expertise that may exist in the academic and national laboratory communities.

(c) Study of Impact of Regulations.—(1) The Secretary of Commerce, in consultation with the Administrator of the Office of Federal Procurement Policy, shall conduct a study to evaluate the impact of Federal procurement regulations which require that contractors providing software to the Federal Government share the rights to proprietary software development tools that the contractors use to develop the software, including a determination of whether such regulations discourage development of improved software development tools and techniques.

(2) The Secretary of Commerce shall, within 1 year after the date of enactment of this Act, report to the Congress regarding the results of the study conducted under paragraph (1).

(d) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated—

(1) to the National Institute of Standards and Technology for the purposes of this Act $3,000,000 for fiscal year 1992; $3,500,000 for fiscal year 1993; $4,000,000 for fiscal year 1994; $4,500,000 for fiscal year 1995; and $5,000,000 for fiscal year 1996.

(2) to the National Oceanic and Atmospheric Administration for the purposes of this Act $2,500,000 for fiscal year 1992; $3,000,000 for fiscal year 1993; $3,500,000 for fiscal year 1994; $4,000,000 for fiscal year 1995; and $4,500,000 for fiscal year 1996.

SEC. 11. ROLE OF THE ENVIRONMENTAL PROTECTION AGENCY.

(a) General Responsibilities.—As part of the Program described in section 5, the Environmental Protection Agency shall conduct basic and applied research directed toward the advancement and dissemination of computational techniques and software tools which form the core of ecosystem, atmospheric chemistry, and atmospheric dynamics models.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Environmental Protection Agency for the purposes of this Act $5,000,000 for fiscal year 1992; $5,500,000 for fiscal year 1993; $6,000,000 for fiscal year 1994; $6,500,000 for fiscal year 1995; and $7,000,000 for fiscal year 1996.

SEC. 12. ROLE OF THE DEPARTMENT OF EDUCATION.

(a) General Responsibilities.—In accordance with the Plan developed under section 5, the Secretary of Education is authorized to conduct basic and applied research in computational research with an emphasis on the coordination of activities with libraries, school facilities, and education research groups with respect to the advancement and dissemination of computational science and the development, evaluation and application of software capabilities.

(b) Authorization of Appropriations.—From sums otherwise authorized to be appropriated, there are authorized to be appropriated to the Department of Education for the purposes of this section $1,500,000 for fiscal year 1992; $1,700,000 for fiscal year 1993; $1,900,000 for fiscal year 1994; $2,100,000 for fiscal year 1995; and $2,300,000 for fiscal year 1996.

AMENDMENT OFFERED BY MR. BROWN

Mr. BROWN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown: Page 21, after line 11, insert the following new section:

SEC. 13. FOSTERING UNITED STATES COMPETITIVENESS IN HIGH-PERFORMANCE COMPUTERS AND RELATED ACTIVITIES.

(a) Finding.—The Congress finds that it is appropriate for Federal agencies to use the funds authorized by this act to foster the maintenance and development of United States leadership in high-performance computers and associated technologies in and for the benefit of the United States.

(b) Research and Development.—

(1) Companies.—No Federal agency shall make any grant to, or enter into any contract or cooperative agreement with, any company that is not an eligible American

company for research and development under this Act.

(2) UNIVERSITIES AND NONPROFIT RESEARCH INSTITUTIONS.—No Federal agency shall make a grant to, or enter into a contract or cooperative agreement with, any university or nonprofit research institution located outside the United States for research and development under this Act, unless the Federal agency finds that such grant, contract, or cooperative agreement is necessary to carry out or obtain access to critical research and development that cannot be carried out adequately by universities or nonprofit research institutions located in the United States.

(c) PROCUREMENT OF GOODS AND SERVICES.—

(1) NOTIFICATION TO CONGRESS.—Procurement of goods and services, including hardware and software, by any Federal agency under this Act shall not be made from a company that is not an eligible American company, unless—

(A) the President notifies Congress of the Federal agency's intent to make such procurement before the obligation of any funds for such purpose; and

(B) such notification includes a detailed justification of the decision to make such procurement, including information on—

(i) the impact on United States national security and industrial mobilization concerns;

(ii) the availability, quality, cost-effectiveness, technical compatibility, and suitability of goods and services of eligible American companies, compared to those proposed to be procured;

(iii) the record of the company from which the procurement is proposed, and the country in which it or its parent company is incorporated, in complying with international and United States trade agreements, antidumping laws, and countervailing duty laws, and the record of such country in providing reciprocal access to its domestic market for comparable United States-produced goods and services; and

(iv) mechanisms to ensure that the procurement will not harm the competitiveness of the United States high-performance computing and associated industries.

(2) REQUIRED LAYOVER.—No funds may be obligated for any procurement under paragraph (1) until 60 days following the notification to Congress required under paragraph (1).

(3) CONGRESSIONAL DISAPPROVAL.—A procurement with respect to which a notification is transmitted to the Congress under paragraph (1) shall not be made if the Congress, within 60 days after such notification, enacts a joint resolution prohibiting such notification, enacts a joint resolution prohibiting such procurement.

(d) DEFINITION.—For purposes of this section—

(1) the term "eligible American company" means a company that—

(A) is a United States-owned company, or a United States-incorporated company the parent company of which is incorporated in a country which—

(i) affords to United States-owned companies opportunities, comparable to those afforded to any other company, to compete in its domestic high-performance computing and associated industries market;

(ii) affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and

(iii) affords adequate and effective protection for the intellectual property rights of United States-owned companies; and

(B) provides substantial economic value to the United States economy, as evidenced by the company's investments in the United States in research, development, and manufacturing; its significant contribution to employment in the United States, including employment beyond simply assembly operations; and its agreement to promote research, development, and manufacturing within the United States and to procure parts and materials from competitive suppliers; and

(2) the term "United States-owned company" means a company that has majority ownership or control by individuals who are citizens of the United States.

Mr. BROWN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN. Mr. Chairman, the committee amendment addresses the concern raised by a number of Members, including the distinguished majority leader, Mr. GEPHARDT, and the distinguished gentleman from Minnesota [Mr. SABO], that the bill as reported by the committee did not go far enough to promote the competitiveness of the American high-performance computing industry.

There can be little doubt that America remains the leader in supercomputer technology and research, in the domains of both hardware and software development. That leadership promises economic benefits in future high technology jobs, in sales of supercomputers and communications systems to other nations, and the development of new and more efficient industries based on high-performance computing applications. But as in other areas, our supremacy is under increasing attack from more sophisticated machines from Japan and Europe. Japan's MITI has announced plans to develop the next generation of software to run on these high-performance computers, with expectations of dominating the world market in a few years' time.

We do not want our dominance in high-performance computing to go the way of steel, computer chips, and consumer electronics. America must retain its high technology edge in supercomputing. As reported by the committee, H.R. 656 goes a long way to ensuring that we keep that edge, by putting together a unique public-private partnership to build the next generation high-speed research computing network and to focus our considerable resources on the grand challenges facing the high-performance computing industry.

Whether the American computer and communications industry can maintain its world leadership will ultimately depend on whether it can continue to make the critical technological breakthroughs and bring them to market faster and better than our global competitors. But we also need to enforce our existing trade agreements to ensure that we are competing on a level playing field.

The committee amendment is intended to help foster the competitiveness of American high-performance computing and associated industries by ensuring that the investment in high-performance research and technology development under the act goes primarily toward the development of a strong domestic high-performance computing R&D and manufacturing capability. While the amendment does not change existing international trade agreements, it is intended to complement trade laws intended to ensure fair competition with our global competitors.

The committee amendment expresses the sense of Congress that, with respect to procurement of goods and services, American companies that are eligible under the act should be the preferred suppliers. If an agency nevertheless chooses to procure hardware or software from a noneligible American supplier, the President must notify Congress and provide a report justifying the procurement and providing information on the impact of the proposed procurement on the domestic high performance computing industry. Congress would then have 60 days within which to disapprove the proposed procurement.

With respect to contracts with for-profit companies for research and development, as contrasted with procurement of goods and services, agencies would be required to use eligible American companies. Grants and cooperative R&D agreements could be made only with universities and nonprofit research institutions located in the United States, unless the agency finds that it must go outside of the United States to obtain access to critical technology or information. This provision would comport with existing agency practice.

Under the amendment, an eligible American company is defined as a U.S.-owned company, or a U.S.-incorporated subsidiary of a company located in a country whose trade laws do not discriminate against American companies. In addition, the company must conduct business which provides economic value to the U.S. economy, as evidenced by its investment in U.S. manufacturing, research, and employment. This definition is very similar to one adopted by the House last year in the American Technology Preeminence Act, and which the House will consider again later this afternoon.

Mr. Chairman, I want to commend Mr. GEPHARDT and Mr. SABO for their leadership on this critical issue. We all recognize that our investments in high technology today will yield the challenging and satisfying high-technology job opportunities for our children tomorrow. I believe that the committee amendment strikes the right balance between encouraging the continued development of a strong domestic high-performance computing industry and ensuring a global marketplace characterized by fair competition.

I ask Members for their support.

Mr. WALKER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the amendment before us is a responsible compromise. I want to commend the gentleman from California [Mr. BROWN] for his work in putting this compromise together. There was some concern expressed by the administration over the amendment that was originally proposed by the gentleman from Minnesota [Mr. SABO] and the gentleman from Missouri [Mr. GEPHARDT]. This language is not that same language, because of the work of the gentleman from California [Mr. BROWN].

Mr. Chairman, this language is consistent with other things that we have done in this regard, and, therefore, will be acceptable to the administration. I would like to commend the chairman again for his efforts, and urge the adoption of the amendment.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT OFFERED BY MR. BROWN

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment offered by Mr. BROWN: Page 5, after line 2, insert the following:

(e) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract under this Act from any agency or department for which funds are authorized under this Act, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of the title 48, Code of Federal Regulations.

(f) BUY-AMERICAN REQUIREMENT.—(1) The head of any agency or department for which funds are authorized under this Act is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the head of any agency or department for which funds are authorized under this Act, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the such agency or department head, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The head of any agency or department for which funds are authorized under this Act, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, the amendment calls for a report whenever any of these funds authorized under this particular act are used or engaged in any foreign procurement.

Second of all, it does reinforce the language, trying to keep an American presence in technology and competitiveness moving forward.

Mr. Chairman, I would like to say that I support the efforts of our chairman, the gentleman from California [Mr. BROWN]. It is evident that many Members are beginning to recognize that we should start looking after American interests, and the gentleman from California [Mr. BROWN] has certainly done that.

Mr. Chairman, my language would supplement and augment that which has been offered by the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, the gentleman is assiduous in his pursuit of the end of improving on the legislation that was produced by our committee. Needless to say, we are very grateful to him for his efforts at perfecting the language of our bill.

Mr. Chairman, having said that, I can come to no other conclusion other than that we are prepared to accept this language. As the gentleman from Ohio [Mr. TRAFICANT] indicates, it does provide for reporting provisions and for penalties for certain acts which we consider would be detrimental to the interests of American industry. We think these are useful additions. Originally we did not see that they were absolutely necessary, but the gentleman is so persuasive, that he has persuaded us we ought to accept these, and I am glad to do so.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, I would just advise Members that in a recent statement made by one of the great Japanese critics of America, Shintaro Ishihara, he said, "America should be ashamed for the fact that they have allowed Japan to overrun America's technology base."

Mr. Chairman, I commend the gentleman from California [Mr. BROWN] and all Members who have tried to make the bill better, and perhaps make research and development in America and some of these pursuits a little bit more American.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment offered by the gentleman from California [Mr. BROWN].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to the bill?

□ 1440

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 7, line 12, strike "implementation of the". On page 11, line 25 and page 12, line 1, strike "implementation of". On page 14, line 20, strike "implementation of".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, as I mentioned in my opening statement, the administration has worked closely with us on this bill. They had considerable difficulty because this bill does go across a number of different agencies, and bringing all of those agencies into harmony on this particular legislation was a difficult job.

I think that the President's adviser on science policy and his staff did a commendable job in getting those agencies to come forward with the concerns and to resolve them in a way that allowed the administration to be fundamentally supportive of what we are doing here.

They did end up with a few additional concerns, and this amendment addresses the administration's foremost concern as outlined in the formal statement of administration policy. It simply removes the word "implementation" in three places in the bill. This is necessary to make clear that the agencies participating in the high-performance computing program are responsible for implementation, not the Director of OSTP.

With the adoption of this amendment, I believe much of the administration's concern will be removed, clearing the way for support of this legislation.

This amendment has been cleared with the chairman, and I understand that there is no opposition to the amendment, and I would urge its adoption.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, I thank the gentleman for yielding. I appreciate his offering this amendment.

In the process of developing the final language of the bill there obviously were a number of areas in which the administration was sensitive to the possibility that the Congress was trying to go a little further than they might have wanted. The language indicated implementation leads to the connotation that the science policy adviser would be a direct administrator over this program, which he is not.

We are happy to accept this language which will help to clarify that fact and reassure the administration on that matter.

Mr. GEPHARDT. Mr. Chairman I want to commend the Committee on Science, Space and Technology for the work it has done to enhance U.S. strength and leadership in high-performance computing and related activities. The legislation before the House today, H.R. 656 will help us secure the necessary research, development and procurement to provide our nation with advanced hardware, software and services for an information infrastructure of the future.

Evidence of the importance of high-performance computing and its vital role in scientific research and technology development was presented in a March 22, 1991 Office of Technology Assessment [OTA] paper entitled "Seeking Solutions: High Performance Computing for Science." I believe that the committee's actions on H.R. 656 recognize the necessity of shoring up U.S. capabilities in areas to enhance U.S. competitiveness.

But our efforts in this area must not end with passage of this bill. We in Congress must be vigilant in ensuring that this bill is properly implemented by the administration. Only with their full cooperation can we foster the maintenance and development of U.S. leadership in high-performance computers and associated technologies in and for the benefit of the United States. We need to enhance our industrial base and provide opportunity for American workers.

The United States maintains a clear lead in computing and software. But, to remain healthy, the electronics sector must have access to the markets of our trading partners. Over the past 10 years, the administration has failed to recognize the importance of electronic components sectors like semiconductors and flat panel displays to U.S. national and economic security.

This thinking must be changed. And we must admit that unless Government and industry act together, our high-performance computing and software sectors will be devastated by the same kinds of predatory unfair trade practices that overtook U.S. capabilities in other sectors. Our country and our workers cannot afford to repeat the same scenario we experienced with semiconductors, semiconductor manufacturing equipment, flat panel displays, and materials.

We need to enact H.R. 656, to bolster American high-performance computing and associated industries, in conjunction with policies to create a level playing field in world trade.

To this end, Representatives SABO, MINETA and I have worked with Chairman BROWN to address the inequities which exist in access to U.S. Federal research and procurement dollars and markets vis-a-vis those funds of our trading partners. For too long, there has been a missing link in U.S. policies in these areas. We believe that the committee amendment clarifies congressional intent as to U.S. policies regarding Government research and development grant awards and procurement contracts.

It is the intent of Congress that limited U.S. resources should not be spent on the purchase of foreign products that are not necessarily superior to U.S. products and services and whose companies and/or home governments have failed to adequately abide by U.S. trade laws or comply with international and U.S. trade agreements.

Before awarding Federal funds under this bill for the purchase of foreign products the administration should consider U.S. industry/company success under trade agreements and their ability to enter into the market of the parent company before receiving funds. The Government must also certify that the Government of the intended foreign recipient provides reciprocal access to government research and procurement funds by U.S. firms and American workers and scientists.

Finally, I would also urge the administration to consult with and inform Congress of such consultations with U.S. manufacturers of products and services to be sought under the bill throughout the implementation of H.R. 656.

The value of H.R. 656 to the U.S. economy and our competitiveness cannot be underestimated. With Congress, the administration and U.S.-owned and based industry working together, the purposes of this legislation will no doubt be better achieved. Our workers and the U.S. industrial base deserve nothing less than such cooperation, as well as consideration of U.S. interests first, in ensuring that our information infrastructure for the 21st century and beyond will be the finest in the world.

Mr. WALKER. I thank the gentleman and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended, as modified.

The committee amendment in the nature of a substitute, as amended, as modified, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. LAUGHLIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 656) to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing, pursuant to House Resolution 191, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROWN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 656, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATION TO PREVENT A SHUTDOWN OF THE FEDERAL GOVERNMENT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, for three straight terms now I have introduced legislation which would say that if the Congress should fail to enact a budget by September 30, under the law under which it operates, that on October 1, the next day, the previous year's budget should automatically be reenacted until Congress can enact a new budget. This makes so much common sense that I know it has very little chance of passing in this session or in any other session of Congress.

But now I have new evidence, new documentation to prove that we ought to be considering it seriously. The GAO has just come out with a definitive report in which it says that when the Government shut down last year during the Columbus Day period the taxpayers of our country lost millions of dollars, sightseers in Washington were kept away from their favorite institutions, the soldiers and sailors and other members of the Armed Forces who were in the Persian Gulf at that time, 200,000 strong of our fellow Americans were poised for battle while our Government here was shutting down and there was no need for that. The GAO report cites my legislation as being of the type which is required to prevent such a shutdown.

I am going to make sure that each Member of the House has a copy of that report and will then join me in cosponsorship of the legislation which, as I said, for three terms now I have been pushing.

There is no reason why on September 30 of each fiscal year if we have not completed our business that the next day we ought to have an automatic adoption of the previous year's budget.

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I rise for the purpose of asking the majority leader if he could inform the membership of the schedule for next week.

I yield to the majority leader for that purpose.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

I would say our business is over for this afternoon.

☐ 1450

The House will not be in session tomorrow.

On Monday, July 15, the House will meet at noon to consider six bills on suspensions, but the recorded votes on suspensions will be postponed until Tuesday, July 16.

The bills under suspension will be:

H.R. 2347, the Carl O. Hyde General Mail Facility;

H.R. 998, the John Richard Haydel Post Office;

H.R. 157, the Clifford G. Watts Post Office;

H.R. 158, the Zora Leah S. Thomas Post Office;

H.R. 2014, the Oscar Garcia Rivera Post Office Building; and

H.R. 2031, the rural telephone cooperatives pensions bill.

Those bills, again, will be held on votes until Tuesday afternoon.

On Tuesday, July 16, the House will meet at noon to take up H.R. 1989, the American Technology Preeminence Act, an open rule, 1 hour of debate. The votes to be held from Monday, if there are votes called for, will come after the consideration of that bill. Members could expect votes to begin in midafternoon on Tuesday.

On Wednesday, July 17, the House will meet at 10 a.m. to take up H.R. 5, the Workplace Fairness Act, subject to a rule.

On Thursday, July 18, the House will meet at 10 a.m. to take up H.R. 1776, the Coast Guard authorization for fiscal year 1992, subject to a rule.

On Friday, July 19, again, the House will not be in session.

Mr. SOLOMON. Based on the schedule outlined by the majority leader, then, the votes on the suspensions laid over from Monday would come after the one bill that is scheduled for that day?

Mr. GEPHARDT. The gentleman is correct.

Mr. SOLOMON. The gentleman said, I think, that votes would come midafternoon on Tuesday?

Mr. GEPHARDT. The gentleman is correct.

Mr. SOLOMON. And it is reasonable to believe then, I guess, from the schedule, that we would be out early Thursday sometime with no votes on that Friday?

Mr. GEPHARDT. The gentleman is correct.

Mr. SOLOMON. Mr. Speaker, I thank the majority leader for enlightening the membership. We appreciate it.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent the the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 15, 1991

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection .

NATIONAL LITERACY ACT OF 1991

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs, with Senate amendments thereto, concur in the Senate amendment numbered 1 with an amendment, concur in the Senate amendment numbered 2 with an amendment, and concur in the Senate amendment numbered 3.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments, as follows:

Senate amendments:

Page 63, strike out all after line 11, over to and including line 23 on page 66, and insert:

TITLE VI—BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS

Page 67, line 1, strike out "602" and insert: "601".

Page 71, after line 3, insert:

TITLE VIII—AMENDMENTS AFFECTING THE TERRITORIES AND THE FREELY ASSOCIATED STATES

SEC. 801. ELIGIBILITY FOR EDUCATION PROGRAMS.

(a) HIGHER EDUCATION.—Section 484 of the Act (20 U.S.C. 1091) is amended by adding at the end thereof the following new subsection:

"(k) STUDENTS ATTENDING INSTITUTIONS IN THE FREELY ASSOCIATED STATES AND ELIGIBILITY FOR TRIO PROGRAMS.—Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A or part C of this title.".

(b) TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM.—Section 4502 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3142) is amended by striking "the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place it appears and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.".

(c) TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE.—Section 1204 of the Act (20 U.S.C. 1144a) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, an institution of higher education that is located in any of the freely associated states, rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 4 of part A of title IV of this Act.".

SEC. 802. TREATMENT OF TERRITORIES AND FREELY ASSOCIATED STATES.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Subsection (a) of section 1005 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) COMPETITIVE GRANTS.—(A) From amounts appropriated for purposes of carrying out this section, the Secretary shall reserve an amount equal to the amount described in subparagraph (B) for purposes of making competitive grants to local educational agencies in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands. The Secretary shall make such grants according to the recommendations of the Pacific Regional Laboratory in Honolulu, Hawaii, which shall conduct a competition for such grants.

"(B) The amount described in this subparagraph is the portion of the aggregate amount reserved in the fiscal year 1989 under sections 1005(a), 1291, 1404, 1405(a)(2)(A), and 1405(a)(2)(B) for the Trust Territory of the Pacific Islands that was attributable to the Republic of the Marshall Islands and the Federated States of Micronesia.

"(C) Subject to subparagraph (D), grants awarded under this paragraph may only be used for—

"(i) activities consistent with the purposes of—

"(I) title I;

"(II) the Adult Education Act;

"(III) the Education of the Handicapped Act;

"(IV) the Library Services and Construction Act; or

"(V) the Dwight D. Eisenhower Mathematics and Science Education Act;

"(ii) teacher training;

"(iii) curriculum development;

"(iv) instructional materials; or

"(v) general school improvement and reform.

"(D) Grants awarded under this paragraph may only be used to provide direct educational services.

"(E) The Secretary shall provide 5 percent of amounts made available for grants under this paragraph to pay the administrative costs of the Pacific Regional Laboratory with respect to the program under this paragraph.".

(b) ADULT EDUCATION ACT.—The Adult Education Act is amended—

(1) in sections 312(7) and 371(b)(7)(B)(i) (20 U.S.C. 1201a(7) and 1211(b)(7)(B)(i)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(2) in sections 313(b) and 361(a) (20 U.S.C. 1201b(b) and 1209a(a)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(a) STAR SCHOOLS PROGRAM.—Section 907(8) of the Star Schools Program Assistance Act (20 U.S.C. 4086(7)) is amended by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau".

(d) EDUCATION OF THE HANDICAPPED.—The Education of the Handicapped Act is amended in—

(1) section 602(a)(6) (20 U.S.C. 1401(a)(6)) by striking "or the Trust Territory of the Pacific Islands" and inserting "or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 611(a)(2) (20 U.S.C. 1411(a)(2)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau"; and

(3) section 611(e)(1) (20 U.S.C. 1411(e)(1)) by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

(e) LIBRARY SERVICES AND CONSTRUCTION ACT.—The Library Services and Construction Act is amended in—

(1) section 3(g) (20 U.S.C. 351a(g)) by striking "or the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(2) section 5(a)(3) (20 U.S.C. 351c(a)(3)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)";

(3) section 7(a) (20 U.S.C. 351e(a)) by striking "the Trust Territory of the Pacific Islands" and inserting "Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)"; and

(4) section 7(b) (20 U.S.C. 351e(b)) by striking "and the Trust Territory of the Pacific Islands" each place such term appears and inserting "the Commonwealth of the Northern Mariana Islands and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658)".

House Amendment to the Senate Amendment Numbered 1: Strike the matter proposed to be inserted by the amendment and insert the following:

SEC. 601. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or system-wide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of testing that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

House Amendment to the Senate Amendment Numbered 2: Strike "67," and all that follows and insert the following: "57, line 7, strike '$60,000,000' and insert '$100,000,000'.".

Mr. KILDEE (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

Mr. GOODLING. Mr. Speaker, reserving the right to object, today, we are considering H.R. 751, the Literacy Act of 1991. This legislation is basically the same as the legislation that we passed in the 101st Congress and again, with overwhelming support, earlier this year.

The Senate made amendments to the legislation but these differences have been worked out through compromise. The legislation includes Congressman Gingrich's prison literacy provision.

I support the unaninous consent request to pass the bill and I hope that the Senate can act quickly to pass this important legislation into law.

Mr. KILDEE. Mr. Speaker, H.R. 751, National Literacy Act of 1991, is the literacy bill passed by the House last year.

It authorizes funding for a number of activities to help ensure that all adults in the United States acquire the basic skills necessary to function effectively in their work and in their lives.

The amendments added by the Senate further strengthen the bill by ensuring that incarcerated individuals have access to literacy services.

I would like to commend Mr. SAWYER, who introduced the bill, and Mr. GOODLING, the ranking Republican on the Education and Labor Committee, for their fine work on this bill.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 751, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

TRIBUTE TO GEORGIA REGIONAL FISHERIES CENTER, WARM SPRINGS, GA

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, I want to call attention to the importance of the Nation's national fisheries, and I particularly want to focus on the Georgia Regional Fisheries Center located at Warm Springs, GA.

Warm Springs was made famous by President Franklin D. Roosevelt, who built his Little White House there which was close to the warm springs in which he swam for therapy against the crippling effects of polio.

Mr. Roosevelt's predecessor as President, a wildeyed, old radical named Herbert Hoover, once said that the only time that a man is really close to God is when he is in church or when he is fishing, and in both activities he had the time and the environment for contemplation, and both activities restore the human spirit. He also believed that instead of giving a person a fish, we should teach people how to fish and make some self-sufficent, and I think that is still a good idea.

I am pleased that our Nation supports these national fisheries, and I am pleased to call attention to it, and aside from the excellent production and the scientific research, important public use and environmental education takes place in our Nation's national fisheries.

Mr. Speaker, the Warm Springs Regional Fisheries Center was established in 1990. It incorporates four separate functions into a single complex. Those four functions are the following: the Warm Springs National Fish Hatchery; the regional fish health laboratory; the regional fish technology laboratory; and an environmental education unit.

The Warm Springs National Fish Hatchery continues to be an important part of the National Fish Hatchery System. It is currently producing gulf coast striped bass in support of restoration efforts for this species on the gulf coast, including the Apalachicola-Chattahoochee-Flint River Basin.

I seem to recall that a wild-eyed, old radical named Herbert Hoover once said that the only time a man is really close to God is when he is in church or when he is fishing.

In both activities, he has the time and the environment for contemplation. And both activities are important restoratives for the human spirit.

I am a firm believer in the church. I also know the joys that come from casting, setting a hook, and catching a wily, spirited, healthy fish, such as the gulf coast striped bass.

One of the jobs of the fishery is to produce these fish, both for sport and for the commercial fishermen who are supplying an element of the human diet; an element that health authorities now urge us to increase as a way of lowering high cholesterol.

Our Warm Springs, GA, Regional Fisheries Center has also begun its involvement in the production of gulf sturgeon. It is supporting restoration activities.

The regional fish health laboratory was established to centralize all fish health activities for the southeast region and to upgrade diagnostic capabilities. It currently provides fish diagnostic services to Federal, State, and private fish hatcheries throughout the southeastern United States.

Still another activity here is providing triploid grass carp certification inspection to private and commercial fish farms in Florida, Alabama and Arkansas.

And, eventually, the regional fish technology laboratory will address problems associated with the culture of anadromous fish species supporting restoration programs. It will also be the focal point of the southeast region's activities in providing technical assistance to the rapidly developing private aquaculture industry.

The many activities here require maintenance and rehabilitation. Currently, a maintenance backlog of over $3 million has been identified for the Regional Fisheries Center.

These needs include rehabilitation of all ponds ($1.7 million), the rehabilitation of other important units, repaving of roads, and for equipment needs.

Aside from the excellent production and scientific research, important public use and environmental education take place here.

Over 40,000 persons visit the hatchery and aquarium every year, making it one of the primary attractions in the Warm Springs area.

For those of you who are interested in the spawning and study of fish, I invite you to visit this center. It is located within the city limits of Warm Springs, GA, on U.S. Highway 27-Alternate and Georgia Highway 41. Warm Springs is 35 miles northeast of Columbus, GA, and 70 miles southwest of Atlanta.

You will be welcome. You will learn many things. And you will have a pretty good time during your visit.

ON THE INTRODUCTION OF THE MAGNETIC LEVITATION RESEARCH, DEVELOPMENT, AND CONSTRUCTION ACT OF 1991

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I am introducing today the Magnetic Levitation Research, Development, and Construction Act of 1991. I was prompted to introduce this bill by a recent hearing held by the House Budget Committee on our transportation infrastructure. I was moved by testimony which noted the lack of substantial Federal funding for new technologies in transportation compared to the Federal funding provided by trust funds for highways, mass transit, and aviation. One of the technologies which I believe has a unique potential to significantly reduce our dependence on the automobile is magnetic levitation high speed rail. Maglev, as it is commonly called, is environmentally clean, energy efficient, quiet, and safe.

The problem is, as with so many advanced technologies, the United States has fallen behind. The United States pioneered in this field until the late 1970's and then essentially dropped the ball. Since then, our leading international competitors, Japan and Germany, have spent billions of dollars in the research and development of magnetic levitation prototypes. Right now they are hoping to sell this technology to various States, such as Florida and California, who are interested in having such a system in their State.

Mr. Speaker, an efficient, integrated transportation network is an essential element in assuring the economic progress of this country. Our present transportation infrastructure faces severe operating constraints as highway and airport congestion intensifies. Our Nation's highways have become clogged with energy-inefficient automobiles. Delays due to highway congestion in major urban regions already cost more than an estimated $30 billion annually, almost one-half of the roughly $65 billion total spent by Federal, State, and local governments for highways in 1987. Vehicle miles have tripled since 1956 and will double again by the year 2020. Our airspace has also become saturated with aircraft—new airports are not only costly but must face enormous problems in terms of environmental and noise concerns. And worst of all, our conventional technologies of automobile, aircraft, and rail systems rely heavily on fossil fuels, which are in limited supply with fuel prices uncertain at best.

For these reasons, it is important to look ahead to new, energy efficient, environmentally sound, means of solving our transportation problems. Currently, our highway, transit, and aviation programs have a dedicated source of funding, the highway and aviation trust funds. My bill would allow use of the highway trust fund to provide $750 million as the Federal portion of funding over the next 5 years for research, development, and construction of a prototype magnetic levitation high-speed rail system which would subsequently be converted to commercial use.

The bill I am introducing provides a thorough plan for the development and production of a prototype that meets the needs of cost-effectiveness, ease of maintenance, safety, and limited environmental impact. It also provides a timetable to achieve a prototype system within the next 6 years. The bill requires the awarding a contract for building the prototype to the winner of a design competition with 18 months after enactment of the legislation and requires a constructed prototype, ready for operational testing, within the following 3 years.

Federal funding under this bill would be matched up to 25 percent by eligible applicants which could include private businesses, public and private education and research organizations, Federal laboratories, and consortia of such businesses, organizations, and laboratories. This same concept has already been endorsed by the U.S. Senate as part of the highway/transit reauthorization recently approved by that body.

Mr. Speaker, it is time for the United States to look ahead to meet our transportation needs. The ways of the past will no longer suffice. Mag-lev is coming to America, whether it's our technology or that of our international competitors. I believe we should lead the way in meeting our transportation problems with American know-how and American industriousness.

Mr. Speaker, I include the bill to be inserted at the end of my statement.

H.R. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Magnetic Levitation Research, Development, and Construction Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) an efficient, integrated transportation network is an essential element in asssuring the economic progress of the United States;

(2) the transportation infrastructure of the United States faces severe operating constraints as highway and airport congrestion intensifies and is projected to increase into the next centrury;

(3) congestion in United States aviation and highway systems poses major transportation, safety, and pollution problems which cannot be easily or fully remedied by additional construction of such systems;

(4) conventional transportation by automobile, aircraft, and rail systems rely heavily on fossil fuels which are in limited supply with fuel prices uncertain at best;

(5) ensuring the competiveness of the United States in the world market for advanced technologies is a national priority and, to ensure such competitiveness, it is necessary for the United States to develop and deploy advanced technologies;

(6) magnetic levitation and steel-wheel high speed-rail are developing transportation technologies which are environmentally clean, energy efficient, quiet, and safe;

(7) while magnetic levitation technology was pioneered in the United States, development since 1975 has been concentrated outside of this country, with billions of dollars invested in Germany and Japan;

(8) at the same time, France has pioneered the commercialization of steel-wheel high-speed rail;

(9) United States scientific and industrial capabilities exist to support a domestic high-speed rail industry and to construct operational transportation systems in the United States using these technologies; and

(10) to facilitate achievement of the potential for high-speed rail and magnetic levitation rail transportation within the United States, Federal efforts need to be significantly strengthened.

Sec. 3. NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.

(a) MANAGEMENT OF PROGRAM.—(1) There is hereby established a national magnetic levitation design program to be managed jointly by the Secretary of Transportation (hereinafter in this Act referred to as the "Secretary") and the Assistant Secretary of the Army for Civil Works (hereinafter in this Act referred to as the "Assistant Secretary"). In carrying out such program, the Secretary and the Assistant Secretary shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency. The Secretary and the Assistant Secretary shall establish a National Maglev Joint Project Office (hereinafter in this Act referred to as the "Maglev Project Office") to carry out such program, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions.

(2) The Secretary and the Assistant Secretary, in consultation with appropriation Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop a national strategic plan for the design and construction of a prototype magnetic levitation system. The plan shall be completed and transmitted to the appropriate committees of the House of Representatives and the Senate within 18 months of the date of enactment of this Act.

(b) PHASE-ONE GRANTS.—(1) Not later than 3 months after the date of the enactment of this Act, any eligible participant may submit to the Maglev Project Office a proposal for research and development of a conceptual design for a magnetic levitation system and an application for a grant to carry out that research and development.

(2) Not later than 6 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall award grants for one year of research and development to no less than 6 applicants which agree to submit a report to the Maglev Project Office detailing the results of the research and development, and agree to provide for matching of the phase-one grant at a 90 percent Federal, 10 percent non-Federal cost share. If fewer than 6 complete applicants have been received, grants shall be awarded to as many applicants as is practical.

(3) The Secretary and the Assistant Secretary may approve a grant under paragraph (2) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the rights-of-way of Interstate System highways, the potential for the guideway design to be a national standard, and the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity.

(4) For purposes of this section, the term "eligible participant" means United States private business, United States public and private education and research organizations, Federal laboratories, and consortia of such businesses, organizations, and laboratories.

(c) PHASE-TWO GRANTS.—Within 3 months of receiving the reports under subsection (b)(2), the Secretary and the Assistant Secretary shall select not more than 3 participants to receive one-year grants for research and development leading to a final design for a magnetic levitation system. The Secretary and the Assistant Secretary may only award grants under this paragraph if they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design in other areas of the Nation, and if the applicant agrees to provide for matching of the phase-two grant at a 80 percent Federal, 20 percent non-Federal cost share.

(d) PROTOTYPE.—

(1) Within 6 months of receiving the final designs developed under subsection (c), the Secretary and the Assistant Secretary shall select one design for development into a full scale prototype magnetic levitation system. Not more than 3 months after the selection of such design, the Secretary and the Assistant Secretary shall award one prototype construction grant to a State government, local government, organization of State and local governments, consortium of United States private businesses or any combination of these entities for the purpose of constructing a prototype magnetic levitation system in accordance with the selected design.

(2) Selection of the grant recipient under this paragraph shall be based on the following factors:

(A) The project shall utilize the rights-of-way of Interstate System highways.

(B) The project shall have sufficient length to allow significant full speed operations between stops.

(C) Not more than 75 percent of the cost of the project shall be paid by the United States.

(D) The project shall be constructed and ready for operational testing within 3 years after the award of the grant.

(E) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(F) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(G) The project shall be located in an area that experiences climatic and other environmental conditions that are representative of such conditions in the United States as a whole.

(e) Reports.—The Secretary and the Assistant Secretary shall provide periodic reports on progress made under this section to the appropriate committees of the House of Representatives and the Senate.

SEC. 4. LICENSING.

(a) Proprietary Rights.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this Act shall be disclosed.

(b) Commercial Information.—The research, development, and use of any technology developed pursuant to an agreement reached under this Act, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson/Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714). In addition, the Secretary and the Assistant Secretary may require any grant recipient to assure that research and development shall be performed substantially in the United States, and that the products embodying the inventions made under any agreement pursuant to this act or produced through the use of such inventions shall be manufactured substantially in the United States.

SEC. 5. ACCESS TO RIGHTS-OF-WAY.

(a) Availability of Rights-of-Way.—Subsection 142(g) of title 23, United States Code, is amended to read as follows:

"(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger or commuter rail, high speed ground transportation systems (including magnetic levitation systems or steel-wheel high speed rail systems), or highway or nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands and rights-of-way available without charge to a publicly or privately owned authority or company for such purposes.".

(b) Availability of Air Space.—Section 156 of title 23, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", except that States may permit governmental use, use by public or private entities for high speed ground transportation systems (including magnetic levitation systems), or other transit, utility use and occupancy where such use or occupancy is necessary for a transportation project allowed under this section, or use for transportation projects eligible for assistance under this title, without charge".

SEC. 6. FUNDING.

(a) Authorization of Appropriations.—For the national magnetic levitation design program under section 3 of this Act there is authorized to be appropriated, out of the Highway Trust Fund, $50,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $125,000,000 for fiscal year 1994, $250,000,000 for fiscal year 1995, and $250,000,000 for fiscal year 1996.

(b) Availability of Funds.—Funds authorized to be appropriated to carry out this Act shall remain available until expended.

FARMERS FACE DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. Alexander] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, farmers in Arkansas and across the Nation are facing an unmitigated disaster—and need immediate assistance if they are to survive financially.

There is legislation pending in this House which would lend that badly needed assistance in the form of direct disaster payments to cash-strapped farmers and I would urge support for that legislation.

Weather has claimed the wheat crop, leaving farmers without adequate income to take them through to the harvest this fall of their other crops.

In Arkansas—where the value of the wheat crop hit almost $200 million in 1988 and 1989—experts say that this years crop may not even bring $60 million.

Average per-acre yields run about 44 bushels in my State but this year we are looking at 28 or less.

And, farmers are being penalized at the grain dryer because of the poor quality of the wheat they are able to deliver.

I have had reports of discounts ranging up to 70 percent, and that means the wheat is really not worth the fuel it takes to get it to the dryer in the first place.

One farmer in my State paid $18 an acre to have his wheat custom cut, but realized only $13 an acre for the crop in the marketplace.

And, this does not count the other considerable costs associated with producing the crop.

To say that this farmer lost money on his wheat crop is an understatement.

Mr. Speaker, what this adds up to is a cashflow crunch for many farmers in Arkansas. It is of such a severe nature as to threaten the continuation of many farms.

When farmers realize nothing from their wheat crop, they do not have the funds to properly work their fall crops.

They cannot pay for fuel, labor, fertilizer or equipment costs, any costs, for that matter.

While some can go back to their lender for the money necessary to get them to the fall harvest, many—perhaps most—can not do so.

More debt is not what they need.

So, they are left between a rock and a hard place.

And, the hard place is getting harder by the day.

This Nation's agricultural economy is in a very fragile position, leaving farmers without the financial cushion necessary to ride out a disaster such as this year's wheat failure.

Farming has become such a day-to-day affair in financial terms that any unexpected occurrence is potentially fatal.

This situation can be traced back to the 1980's.

Economic policy decisions by the Reagan administration made debt harder to pay, sent commodity prices through the floor and cut deeply into the value of the land which farmers use as collateral for loans to continue operating.

Deflation meant that farmers were repaying debt with harder deflated dollars, making it more difficult, if not impossible, to pay off loans.

This, of course, left them awash in a rising sea of red ink since they were having to carry over old debts as they made new loans each year to put another crop in the ground.

Simultaneously, farm income began to drop as a result of lower, market-induced commodity prices and declining agricultural exports.

U.S. farmers had accelerated crop production in the late 1970's, early 1980's to meet anticipated demand for U.S. agricultural exports.

The demand fell short, plunging the world into a serious over supply situation, and the bottom dropped out of prices.

And, commodity oversupply combined with the overvaluation of the dollar deprived farmers of significant income, income needed to service and pay-off debt and, in many instances, prevent foreclosure.

The dominoes continued to fall as declining farm income caused land values to plummet.

In one county in my district, land value peaked at $2,400 an acre in 1981–92 and bottomed out at about $800 an acre in early to mid–1987.

These policies conspired to render the farm economy incapable of dealing with setbacks.

The margins are just too thin.

Today, in the case of the wheat crop failure, we are faced with the problem of immediate assistance.

But, we should also look to tomorrow, to an agriculture policy which will allow farmers to take a price from the marketplace which will allow them to continue working their land, at a profit.

Otherwise, we are going to continue to see what we have seen in Arkansas, where the number of farms declined by 10,000—from 59,000 to 49,000—during the decade of the 1980's.

Maintaining the ability of the Nation to produce food and fiber—to feed and clothe its people—is, in my view, equal to all other national purposes.

The purpose is clear, so we are left with a question of resolve.

I hope we have the resolve necessary to bring our farmers through the current crisis, but, more importantly, I hope we can display the leadership to tackle this problem on a more long-term basis.

Such action will be good for farmers and for the Nation.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1991

(Mr. PANETTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PANETTA. Mr. Speaker, on behalf of the Committee on the Budget and as chairman of the Committee on the Budget, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act of 1974, as amended, I am submitting for printing in the CONGRESSIONAL RECORD the official letter to the Speaker advising him of the current level of spending, credit, and revenues for fiscal year 1991.

This is the sixth report of the first session of the 102d Congress. This report is based on the revised budget aggregate levels and committee allocations for fiscal year 1991 as authorized in section 12 of House Concurrent Resolution 121 and as submitted to the House on May 29, 1991.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority, and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

As chairman of the Budget Committee, I intend to keep the House informed regularly on the status of the current level.

COMMITTEE ON THE BUDGET,
Washington, DC, July 10, 1991.
Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Section 12 of House Concurrent Resolution 121, the Fiscal Year 1992 Budget Resolution, outlined procedures for revising the Fiscal Year 1991 budget aggregates and allocations. That section, applicable only to the House of Representatives, permits the aggregate levels and committee allocations for fiscal year 1991 to be revised to make them consistent with the discretionary caps and pay-as-you-go provisions of the Budget Enforcement Act of 1990.

The 302(a) allocations to House Committees made pursuant to section 12 of H. Con. Res. 121 were printed in the Congressional Record on May 29, 1991, page H. 3698. The new aggregates and committee allocations set all direct spending and revenues exactly at current baseline levels using Congressional Budget Office (CBO) estimates. For discretionary appropriations, the new allocation exactly equals the sum of the existing discretionary caps.

As specified in Section 12, Committees are not required to subdivide the Fiscal Year 1991 amounts allocated to them, and enforcement of the allocations will be based on the total amounts allocated to a committee.

In order to facilitate enforcement under section 302 and 311 of the Congressional Budget Act, I am herewith transmitting the status report for fiscal year 1991 reflecting the changes in budget aggregates and allocations as authorized by Section 12.

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary new budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments.

Sincerely,
LEON E. PANETTA,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1991 CONGRESSIONAL BUDGET, ADOPTED IN HOUSE CONCURRENT RESOLUTION 310 AS REVISED PURSUANT TO SECTION 12 OF HOUSE CONCURRENT RESOLUTION 121

REFLECTING COMPLETED ACTION AS OF JULY 9, 1991

[On-budget amounts, in millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,187,800	1,155,800	793,000
Current level	1,187,563	1,155,200	793,000
Amount under ceilings	237	600	....
Amount over ceilings	....	....	....
Amount over floor	....	....	....

BUDGET AUTHORITY

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $237 million in budget authority for fiscal year 1991, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 310, as revised, to be exceeded.

OUTLAYS

Any measure that provides new budget or entitlement authority, that is not included in the current level estimate, and that exceeds $600 million in outlays for fiscal 1991, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 310, as revised, to be exceeded.

REVENUES

Any measure that would result in a revenue loss that is not included in the current level revenue estimate for fiscal year 1991, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 310, as revised.

FISCAL YEAR 1991 BUDGET AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION ALLOCATION BY COMMITTEE PURSUANT TO SECTION 302

[In millions of dollars]

	Current level		
	Budget authority	Direct loans	Primary loan guarantees
HOUSE COMMITTEE			
Agriculture	0	0	0
Appropriations	−237	0	0
Armed Services	0	0	0
Banking, Finance, and Urban Affairs	0	0	0
District of Columbia	0	0	0
Education and Labor	0	0	0
Energy and Commerce	0	0	0
Foreign Affairs	0	0	0
Government Operations	0	0	0
House Administration	0	0	0
Interior and Insular Affairs	0	0	0
Judiciary	0	0	0
Merchant Marine and Fisheries	0	0	0
Post Office and Civil Service	0	0	0
Public Works and Transportation	0	0	0
Science, Space and Technology.			
Veterans' Affairs	0	0	0
Ways and Means	0	0	0

Note.—Committees are over(+) or under (−) their 302(a) allocation for "discretionary action."

FISCAL YEAR 1991 ALLOCATION OF NEW ENTITLEMENT AUTHORITY (NEA) PURSUANT TO SECTION 302

[In millions of dollars]

	Allocation	Reported[1]	Enacted[2]	Enacted over (+)/ under(−) allocation
Committee				
Agriculture	0	0	0	0
Appropriations	0	0	0	0
Armed Services	0	0	0	0
Banking, Finance, and Urban Affairs	0	0	0	0
District of Columbia	0	0	0	0
Education and Labor	0	0	0	0
Energy and Commerce	0	0	0	0
Foreign Affairs	0	0	0	0
Government Operations	0	0	0	0
House Administration	0	0	0	0
Interior and Insular Affairs	0	0	0	0
Judiciary Merchant	0	0	0	0
Marine and Fisheries	0	0	0	0
Post Office and Civil Service	0	0	0	0
Public Works and Transportation	0	0	0	0
Science, Space and Technology	0	0	0	0
Veterans' Affairs	0	0	0	0
Ways and Means	0	0	0	0

[1] These figures are used for 401(b)(2) of the Budget Act.
[2] These figures are used for 302(f) points of order.

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, July 10, 1991.
Hon. LEON E. PANETTA,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels. These estimates are consistent with the technical and economic assumptions in the Concurrent Resolution on the Budget agreed to on May 22, 1991 and are compared to the revised 1991 budget aggregates pursuant to section 12 of House Concurrent Resolution 121. This report, for fiscal year 1991, is tabulated as of close of business July 9, 1991 and is summarized in the following table (in millions of dollars).

	On-budget current level	Revised on-budget aggregates	Current level +/− aggregates
Budget authority	1,187,563	1,187,800	−237
Outlays	1,155,200	1,155,800	−600
Revenues	793,000	793,000	....
Direct loans	18,355	18,355	....
Guaranteed loans	109,767	109,767	....

Since my last report, dated June 5, 1991, the President has signed into law H.R. 2251, the Emergency Supplemental for Humanitarian Assistance (P.L. 102–55). This action does not affect the current level estimates of budget authority, outlays or revenues.

Sincerely,
ROBERT D. REISCHAUER,
Director.

PARLIAMENTARIAN STATUS REPORT 102D CONG. 1ST SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS JULY 9, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues	....	....	793,001
Permanent appropriations	740,762	683,281	....
Other legislation	668,128	695,667	....
Offsetting receipts	−225,151	−225,151	....

PARLIAMENTARIAN STATUS REPORT 102D CONG. 1ST SESS., HOUSE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSE OF BUSINESS JULY 9, 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted in previous sessions	1,183,740	1,153,797	793,001
II. Enacted this session:			
Extending IRS deadline for Desert Storm troops (Public Law 102–2)			−1
Veterans' education, employment and training amendments (Public Law 102–16)	(1)	(1)	
Dire emergency supplemental appropriations, 1991 (Public Law 102–27)	3,823	1,401	
Higher education technical amendments (Public Law 102–26)	3	3	
OMB discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (Public Law 102–55)	(1)		
Total	3,824	1,403	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution			
On-budget current level	1,187,563	1,155,200	793,000
Revised on-budget aggregate	1,187,563	1,155,800	793,000
Amount remaining:			
Over budget resolution			
Under budget resolution	237	600	

[1] Less then $500,000.

Note.—Detail may not add due to rounding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SOLOMON) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 60 minutes, on July 15, 17, and 18.

Mr. GEKAS, for 5 minutes, today.

Mr. CAMPBELL of California, for 5 minutes, today.

Mr. LEACH, for 60 minutes, today.

(The following Members (at the request of Mr. FORD of Tennessee) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SOLOMON) and to include extraneous matter:)

Mr. CRANE.

Mr. ZIMMER.

Mr. JAMES in three instances.

Mr. SMITH of New Jersey.

Mr. BEREUTER.

Mr. PORTER.

Ms. ROS-LEHTINEN in two instances.

Mr. SCHULZE in two instances.

Mr. SOLOMON.

(The following Members (at the request of Mr. FORD of Tennessee) and to include extraneous matter:)

Mr. DARDEN.

Mr. FOGLIETTA in two instances.

Mr. PEASE.

Mr. RAHALL.

Mr. CLAY.

Mr. HUBBARD.

Mr. HAMILTON in two instances.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Thereupon (at 2 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until Monday, July 15, 1991, at 12 noon.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

"I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose or evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 102d Congress, pursuant to the provisions of 2 U.S.C. 25:

Hon. THOMAS W. EWING, 15th District, Illinois.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1705. A letter from the Director, Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of July 1, 1991, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 102–112); to the Committee on Appropriations and ordered to be printed.

1706. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 91–32), pursuant to 22 U.S.C. 2776(b); to the Committee on foreign Affairs.

1707. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 91–31), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1708. A letter from the Attorney General and the Director, Office of Management and Budget, transmitting a draft of proposed legislation to assure, for financial management and budget related purposes, an accurate reflection of program-related expenditures arising from the taking of private property; to the Committee on Government Operations.

1709. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to establish a program of public service scholarships, and for other purposes; to the Committee on Post Office and Civil Service.

1710. A letter from the Administrator, Environmental Protection Agency, transmitting the report on the national pretreatment program of toxic pollutants at publicly owned treatment works, pursuant to 33 U.S.C. 1375 note; to the Committee on Public Works and Transportation.

1711. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize the transfer by lease of four naval vessels to the Government of Greece; jointly, to the Committees on Foreign Affairs and Armed Services.

1712. A letter from the Comptroller General of the United States, transmitting a report entitled, "Credit Unions: Reforms for Ensuring Future Soundness"; jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

1713. A letter from the Administrator, General Services Administration, transmitting notification that it is necessary in the public interest to use procedures in the procurement of leased space in the One Judiciary Square Building, 441 4th Street NW., Washington, DC, pursuant to 41 U.S.C. 253(c)(7); jointly, to the Committees on Government Operations and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 2130. A bill to authorize appropriations for the National Oceanic and Atmospheric Administration for fiscal year 1992; with an amendment (Rept. 102–133, Pt. 2). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DeFAZIO:

H.R. 2869. A bill to amend title 23, United States Code, to improve the accessibility and safety of Federal-aid highways to bicyclists and pedestrians, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ARMEY (for himself, Mr. Michel, Mr. Gingrich, and Mr. Lewis of California):

H.R. 2870. A bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office; jointly, to the Committees on Government Operations and Rules.

By Mr. BRUCE (for himself, Mr. Oxley, Mr. Harris, and Mr. Wise):

H.R. 2871. A bill to promote research, development, and demonstration of clean coal technology and for other purposes; jointly, to the Committees on Science, Space, and Technology, Energy and Commerce, and Foreign Affairs.

By Mr. CAMPBELL of California:

H.R. 2872. A bill to provide for the expedited approval of drugs or biologics for individuals in need of treatment for a life threatening disease or seriously debilitating illness; to the Committee on Energy and Commerce.

By Mr. EDWARDS of Oklahoma:

H.R. 2873. A bill to amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes; to the Committee on Ways and Means.

By Mr. GEJDENSON (for himself, Mr. Schumer, Mr. Feighan, Mr. Levine of California, Mr. Abercrombie, Mr. Wolpe, Mr. Lantos, Mr. Gilman, Mrs. Lowey of New York, and Mr. LaFalce):

H.R. 2874. A bill to prohibit the awarding of U.S. Government contracts to foreign persons that comply with the Arab boycott of Israel; jointly, to the Committees on Government Operations and Foreign Affairs.

By Mr. GOODLING:

H.R. 2875. A bill to alleviate burdens imposed upon educational agencies and institutions by the Family Educational Rights and Privacy Act of 1974 with respect to the maintenance of records by campus law enforcement units; to the Committee on Education and Labor.

By Mr. HERGER (for himself, Mr. Hefley, Mr. Packard, Mr. Livingston, Mr. Oxley, Mr. DeLay, Mr. Dornan of California, Mr. Dreier of California, Mr. McCollum, Mr. Crane, Mr. Ramstad, Mr. Blaz, Mr. Santorum, and Mr. Duncan):

H.R. 2876. A bill to abolish the Presidential Election Campaign Fund; jointly, to the Committees on Ways and Means and House Administration.

By Mr. McDERMOTT:

H.R. 2877. A bill to provide incentives for certain health professionals to provide services to medically underserved groups, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. PANETTA (for himself and Mr. Kasich):

H.R. 2878. A bill to establish a program of research and development and construction of a commercial magnetic levitation transportation system, and for other purposes; jointly, to the Committees on Science, Space, and Technology, Public Works and Transportation, and Energy and Commerce.

By Mr. ROGERS (for himself and Mr. de la Garza):

H.R. 2879. A bill to amend the Internal Revenue Code of 1986 to exempt certain agricultural workers from the withholding of income taxes from wages; to the Committee on Ways and Means.

By Mr. SIKORSKI (for himself, Mr. Waxman, Mr. Boehlert, Mr. Eckart, Mr. Bonior, Ms. Molinari, Mr. Wolpe, Mr. Pallone, Mr. Towns, Mr. Ravenel, Mr. Scheuer, Mr. Markey, Mr. Wyden, Mr. Richardson, Mr. Bryant, Mr. Studds, Mr. Kostmayer, Mr. Peterson of Minnesota, Mrs. Unsoeld, Mr. Hertel, Mr. Andrews of Maine, Mr. Stokes, Mr. Olver, Mr. Moody, Mr. Torres, and Mr. Sanders):

H.R. 2880. A bill to amend the Solid Waste Disposal Act to reduce the use of toxic chemicals and to require additional reporting on certain chemicals; to the Committee on Energy and Commerce.

By Mr. STUDDS (for himself, Mr. Jontz, Mr. Lipinski, Mr. Gilchrest, Mr. Dellums, Mr. McGrath, Mr. Towns, Mr. Faleomavaega, Mr. Brown, Mr. Berman, Mr. Hochbrueckner, Mr. Ravenel, and Mr. Pallone):

H.R. 2881. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve management of the National Wildlife Refuge System, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. TORRICELLI:

H.R. 2882. A bill to amend the National Housing Act to require the Secretary of Housing and Urban Development to carry out and promote a program to provide mortgage financing incentives for energy-efficient housing subject to mortgages insured under such act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RUSSO (for himself, Mr. Sarpalius, Mr. Cox of California, Mr. Kolter, Mr. Dingell, Mr. Annunzio, Mr. Serrano, Mrs. Lowey of New York, Mr. Wolf, Mr. Smith of Florida, Mr. McGrath, Mr. Ritter and Mr. Durbin):

H.J. Res. 296. Joint resolution designating February 16, 1992, as "Lithuanian Independence Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE (for himself, Mr. Yatron, Mr. Clement, Mr. Jenkins, Mr. Bryant, Mr. Quillen, Mr. Mineta, Mr. Kolter, Mr. Panetta, Mr. Horton, Mr. Bustamante, Mr. Duncan, Ms. Kaptur, Ms. Norton, and Mr. Peterson of Florida):

H.J. Res. 297. Joint resolution to designate September 1991 as "National Mushroom Month"; to the Committee on Post Office and Civil Service.

By Ms. SNOWE:

H.J. Res. 298. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on Armed Services.

By Mr. BEREUTER (for himself, Mr. Dorgan of North Dakota, Mr. Emerson, Mr. Solarz, Mr. Herger, Mr. Espy, Mr. Thomas of California, Mr. Hayes of Louisiana, Mr. Jontz, Mr. Hughes, Mr. Sensenbrenner, Mrs. Meyers of Kansas, Mr. Leach, Mr. Alexander, Mr. Jacobs, Mr. Penny, Mr. Gejdenson, Mr. Grandy, Mr. Dooley, Mr. Holloway, and Mr. Gallegly):

H. Con. Res. 179. Concurrent resolution expressing the sense of the Congress with regard to supporting increased donations of commodities for international hunger alleviation purposes through purchases of agricultural commodities from the United States and developing countries financed by the Government of Japan; jointly, to the Committees on Foreign Affairs, Agriculture, and Ways and Means.

By Mr. KOSTMAYER (for himself, Mr. Porter, Mr. Beilenson, and Mr. Moody):

H. Con. Res. 180. Concurrent resolution to affirm the commitment of the United States to implement the recommendations contained in the Amsterdam Declaration adopted by the International Forum on Population in the Twenty-First Century; to the Committee on Foreign Affairs.

By Mr. MICHEL:

H. Res. 193. Resolution electing minority membership on certain standing committees of the House; considered and agreed to.

By Mr. BROOMFIELD:

H. Res. 194. Resolution expressing the sense of the House of Representatives regarding the establishment of a commission to investigate the operation of the U.S. Postal Service; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

219. By the Speaker: Memorial of the Legislature of the State of Louisiana, relative to expanding the current mission of the Army Corps of Engineers; to the Committee on Public Works and Transportation.

220. Also, memorial of the Legislature of the State of Louisiana, relative to a plan for the use of all dredged material for the purpose of creating and enhancing vegetated wetlands; to the Committee on Public Works and Transportation.

221. Also, memorial of the Legislature of the State of Louisiana, relative to collecting sales taxes from interstate sales transactions; to the Committee on Ways and Means.

222. Also, memorial of the Legislature of the State of Louisiana, relative to repealing the luxury excise tax on boats costing more than $100,000; to the Committee on Ways and Means.

223. Also, memorial of the Legislature of the State of Louisiana, relative to eliminating inequities in the payment of Social Security benefits; to the Committee on Ways and Means.

224. Also, memorial of the Legislature of the State of Louisiana, relative to a wetlands policy; jointly, to the Committee on Public Works and Transportation and Merchant Marine and Fisheries.

225. Also, memorial of the Legislature of the State of Louisiana, relative to an energy policy; jointly, to the Committee on Energy and Commerce, Ways and Means, Merchant Marine and Fisheries, and Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Zeliff, Mr. Gephardt, and Mrs. Mink.

H.R. 66: Mr. Bacchus.

H.R. 261: Mr. Riggs, Mr. Perkins, Mr. Bacchus, Mr. Abercrombie, Ms. Norton, Mr.

LEHMAN of Florida, Mr. PAYNE of Virginia, Mr. COBLE, Mr. ALEXANDER, and Mr. LEVIN of Michigan.

H.R. 288: Mrs. SCHROEDER, Mr. GUARINI, Mr. HOCHBRUECKNER, Mr. DYMALLY, Ms. NORTON, Mr. DICKS, and Mr. ROYBAL.

H.R. 325: Mr. GILCHREST and Mr. MOLLOHAN.

H.R. 338: Mr. COX of California.

H.R. 418: Ms. NORTON.

H.R. 662: Mrs. BYRON, Mr. CUNNINGHAM, Mr. WILSON, Mr. HYDE, and Mrs. JOHNSON of Connecticut.

H.R. 766: Mr. ZIMMER, Ms. SLAUGHTER of New York, and Mr. ATKINS.

H.R. 852: Mr. HAYES of Illinois.

H.R. 911: Mr. HEFLEY, Mr. KYL, Mr. MURTHA, Mr. MCCURDY, Mr. MCCANDLESS, Mr. DAVIS, and Mr. SISISKY.

H.R. 924: Mr. STENHOLM and Mr. DE LA GARZA.

H.R. 1079: Mr. WALSH.

H.R. 1177: Mr. REGULA and Mrs. LOWEY of New York.

H.R. 1241: Mr. ANDREWS of Texas, Mr. MILLER of Ohio, and Mr. YOUNG of Alaska.

H.R. 1293: Mr. EVANS, Mr. PERKINS, Mr. OWENS of New York, and Mr. FALEOMAVAEGA.

H.R. 1380: Mr. RHODES.

H.R. 1598: Mr. EARLY, Mr. MCHUGH, and Mr. PRICE.

H.R. 1628: Mr. PACKARD, Mr. ROBERTS, Mr. NATCHER, Mr. SISISKY, Mr. THOMAS of Wyoming, Mr. GONZALEZ, Mr. JOHNSON of South Dakota, Mr. SKEEN, Mr. CHAPMAN, Mr. MCGRATH, and Mrs. MINK.

H.R. 1633: Mr. ROSE, Mr. MATSUI, Mr. DORGAN of North Dakota, Mr. FOGLIETTA, Mr. SANDERS, Mr. CAMPBELL of California, Mr. VENTO, Mr. FORD of Tennessee, Mr. ANDREWS of Maine, Ms. NORTON, Mr. PAYNE of Virginia, Mr. DYMALLY, Mr. MARKEY, Mr. JACOBS, Mr. LANCASTER, Mr. SPRATT, and Mr. STAGGERS.

H.R. 1669: Mr. HERTEL and Mr. ZELIFF.

H.R. 1779: Mr. TALLON, Ms. WATERS, Mr. FROST, Mr. FRANKS of Connecticut, and Mr. GRAY.

H.R. 1820: Mr. CONYERS, Mr. DAVIS, Mr. RAHALL, and Mr. CONDIT.

H.R. 1958: Mr. SCHUMER, Mr. PAXON, Mr. ENGEL, and Mr. MCGRATH.

H.R. 2046: Mr. TRAXLER and Mr. ROE.

H.R. 2063: Ms. NORTON.

H.R. 2104: Mr. PICKETT.

H.R. 2200: Mr. HYDE.

H.R. 2258: Mr. HORTON, Mr. MCMILLEN of Maryland, Mr. MARKEY, Mr. PAYNE of Virginia, Mrs. ROUKEMA, and Mr. STAGGERS.

H.R. 2279: Mr. BROWN.

H.R. 2303: Mr. OWENS of New York, Mr. STUDDS, Mr. AUCOIN, Ms. SLAUGHTER of New York, Mr. FROST, and Mr. HOCHBRUECKNER.

H.R. 2309: Mr. LAFALCE, Mr. WALSH, Mr. YOUNG of Alaska, Mr. JONTZ, Mr. MCGRATH, and Mr. GREEN of New York.

H.R. 2354: Ms. KAPTUR, Mr. MANTON, Mr. MFUME, and Mr. STUDDS.

H.R. 2433: Mr. DWYER of New Jersey and Mr. WASHINGTON.

H.R. 2451: Mr. SYNAR, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. BEILENSON, Mr. PAYNE of Virginia, Mr. TORRES, Mr. JONTZ, Mr. ROE, Mr. SPRATT, Mr. BERMAN, Mr. ACKERMAN, Mr. JOHNSON of South Dakota, Mr. GILMAN, and Mr. SCHUMER.

H.R. 2495: Mr. HENRY, Mr. HORTON, Mr. MURPHY, Mr. SOLOMON, Mr. KLUG, Mr. FAWELL, Mr. GUNDERSON, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SAWYER, and Mr. ROE.

H.R. 2550: Mr. HORTON, Mr. RINALDO, Mr. LANCASTER, and Mr. FOGLIETTA.

H.R. 2579: Mr. GRANDY and Mr. MURTHA.

H.R. 2619: Mr. SAVAGE and Mr. TRAFICANT.

H.R. 2630: Ms. KAPTUR, Mr. TOWNS, Mr. MRAZEK, Mr. SMITH of Florida, Mr. FROST, Mr. BUSTAMANTE, and Mr. BRYANT.

H.R. 2779: Mr. PENNY, Mr. OWENS of New York, Mr. BEILENSON, and Ms. NORTON.

H.R. 2781: Mr. PENNY, Mr. OWENS of New York, Mr. BEILENSON, and Ms. NORTON.

H.J. Res. 67: Mr. SANGMEISTER, Mr. HALL of Ohio, Mr. MURPHY, Mr. MCEWEN, Mr. WEISS, Mr. OWENS of New York, Mr. PAXON, Mr. SPRATT, Mr. SABO, Mr. LEWIS of California, and Mr. HYDE.

H.J. Res. 153: Mr. TOWNS, Mr. SPRATT, Mr. APPLEGATE, Mr. SMITH of Iowa, Mr. UPTON, Mr. NOWAK, Mr. HUBBARD, Mr. SYNAR, Mr. PERKINS, Mr. BUNNING, Mr. REED, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. PICKETT, Mr. JONES of Georgia, Mr. HAYES of Illinois, Mr. DYMALLY, Mr. TRAFICANT, Mr. DEFAZIO, Mrs. LOWEY of New York, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. SCHUMER, Mr. FAZIO, Mr. PAYNE of New Jersey, Mr. BACCHUS, Mr. MARTINEZ, Mr. GEKAS, Mr. BALLENGER, Mr. LEWIS of California, Mrs. ROUKEMA, Mr. LIPINSKI, Mr. HALL of Texas, Mr. SAXTON, Mr. MRAZEK, Mr. STARK, Mr. COBLE, Mr. COLEMAN of Texas, Mr. HARRIS, Mr. KOLTER, Mr. BOUCHER, Mr. YATES, Mr. DARDEN, Mr. WYLIE, Mr. MFUME, Mr. GIBBONS, Mr. CLINGER, Mr. SMITH of Texas, Mr. MACHTLEY, Mr. LOWERY of California, Mr. MILLER of Ohio, Mr. RAMSTAD, Mr. GILLMOR, Mr. WISE, Mr. MILLER of California, Mr. GORDON, Mr. STALLINGS, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. KENNEDY, and Mr. TALLON.

H.J. Res. 181: Mr. ALEXANDER, Mr. DE LA GARZA, Mr. FLAKE, Mr. FUSTER, Mr. GILMAN, Mr. HYDE, Mr. KOPETSKI, Mr. ORTIZ, Mr. PACKARD, Mr. RHODES, Ms. ROS-LEHTINEN, Mr. ROTH, Mr. SCHUMER, Mr. TANNER, Mr. WYLIE, Mr. ZELIFF, and Mr. CLAY.

H.J. Res. 266: Mr. MCNULTY, Mr. HORTON, Mr. MCMILLEN of Maryland, Mr. OWENS of New York, Mr. KILDEE, Mr. SERRANO, Mrs. COLLINS of Michigan, Mr. SCHUMER, Mr. CLEMENT, Mr. ESPY, Mr. PAYNE of New Jersey, Mr. LAFALCE, MR. LIPINSKI, Mr. SMITH of Florida, Mr. MANTON, Mr. JONES of Georgia, Mr. ABERCROMBIE, Mr. DWYER of New Jersey, Mr. CAMP, Mr. WALSH, Mr. HALL of Ohio, Mr. HYDE, Mr. COBLE, Mr. RANGEL, Mr. GEKAS, Mr. GREEN of New York, Mr. MCGRATH, Mr. RAVENEL, Mr. PURSELL, Mr. RIGGS, Mr. WYLIE, Mr. QUILLEN, Mr. EMERSON, Mr. INHOFE, Mr. KENNEDY, Mr. ROE, Mr. ATKINS, Mr. BILBRAY, Mr. BUSTAMANTE, Mr. CARPER, and Mr. COSTELLO.

H. Con. Res. 163: Mrs. BOXER, Mr. PENNY, Mr. ACKERMAN, Mr. SCHEUER, Mr. FROST, Mr. CLEMENT, and Mr. WALSH.

H. Con. Res. 168: Mr. ENGEL, Mr. MILLER of California, Mr. PETERSON of Minnesota, Mr. VENTO, Mr. SABO, Ms. KAPTUR, Mr. FAWELL, Ms. OAKAR, Mr. KLUG, Mr. OBERSTAR, Mrs. UNSOELD, Mr. WEBER, and Mr. WHEAT.

H. Res. 107: Mr. GILMAN, Mr. PAYNE of Virginia, Mrs. JOHNSON of Connecticut, and Mr. GALLEGLY.

H. Res. 142: Mr. SHAYS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1212: Mr. MYERS of Indiana.

H.R. 1213: Mr. MYERS of Indiana.

SENATE—*Thursday, July 11, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, the Reverend Catherine Schuyler, Ponckhockie Congregational Church, Kingston, NY.

PRAYER

The guest chaplain, the Reverend Catherine Schuyler, Ponckhockie Union Church, Kingston, NY, offered the following prayer:

Let us pray:

O God of life and of love, we ask Your presence here in this Chamber this morning. We pray for the women and men who gather here to consider and decide on laws for this Nation.

O God of justice, we pray for Your children who are poor, for families without a roof over their heads, for babies who will go to sleep tonight without a decent meal. Give us wisdom and compassion to use the power and gifts given each of us to act courageously on their behalf.

We remember especially today our sisters throughout the Nation who struggle against injustice in our society. We celebrate Your hand as it works through groups which encourage women to recognize their potential and which call all Your people, men and women alike, to treat one another with the respect due to children of God. Yet as we celebrate, we know, too, that the struggle continues. Open our hearts and our minds to see the sexism and racism in our society. Work with us and within us that we might be part of transforming this world into the world that You have envisioned for us, our lives into the lives for which You have created us, where women and men and bricklayers and stockbrokers live as equal partners, where nation does not lift up sword against nation, and where children teach us to live in peace with one another. O God, inspire us to make Your dream our dream, and use us to make that dream a reality. We pray in Your holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 11, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein. The Senator from Nebraska [Mr. KERREY] is permitted to speak between the hour of 8:30 and 9:30 a.m. The time between 9:30 a.m. and 10:30 a.m. is under the control of the Republican leader or his designee.

The Senator from Wyoming.

Mr. SIMPSON. Mr. President, may I ask the indulgence of my friend from Nebraska if I might speak for not to exceed 2 minutes?

Mr. KERREY. Yes. I look forward to it.

The ACTING PRESIDENT pro tempore. The Senator may proceed.

THE GUEST CHAPLAIN

Mr. SIMPSON. Mr. President, it was a great pleasure to be in the Chamber to hear the remarks of Cathy Schuyler, and I thought before the Senate convened, your introduction and noting that the two whips were on the floor at the same time at a very early hour, was certainly an extraordinary event all of its own.

This young lady is a niece of very close and dear friends of ours from Wyoming, David and Mary Smith. Her father, if I recall, and grandfather were both involved as clergy, or at least her grandfather. So there is a long history of those in that family serving their faith.

It was a lovely prayer, and we thank her for it. It is a great honor to be present as she addresses the U.S. Senate.

I thank you, Mr. President. I thank Senator KERREY.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is now recognized until the hour of 9:30 a.m.

Mr. KERREY. I thank the chair.

(The remarks of Mr. KERREY pertaining to the introduction of S. 1446 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KERREY. I thank the Chair. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DIXON). The distinguished Senator from Nebraska [Mr. KERREY] yields the floor and suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I have been designated by Senator DOLE to control the 1 hour of time in the unanimous-consent request last night.

The PRESIDING OFFICER. The Senator is recognized as the designated Republican leader.

Mr. SYMMS. I will control the time. Several Republican Senators will be here to speak on the issue of tax fairness.

TAX FAIRNESS

Mr. SYMMS. Mr. President, there are many ways to look at fairness. We spend much of our time in Congress talking about fairness, or the issue of fairness. In each instance, if you listen to whoever is speaking about fairness, and you get their view of what fairness is. It is always redefined to suit the beliefs and the ideas of the Senator or the person who is talking.

Everybody talks about: Does their State get a fair shake? Do we get our slice of the pie? Yes? Well then that is fair. If we do not, it is just not fair. Those are the kinds of issues people talk about.

I learned at a very young age, in the orchards of Idaho as a young man, that someone has to grow an apple before someone else can divide it up. Washington, DC, primarily, has been in the business of dividing them up.

Do employees have to pony up to meet some new Government mandate? That may seem fair to the special-in-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

terest group and to the Senator who pushed through the mandate, but you can bet your boots that the employer that is forced to pay for some mandated benefit does not think it is fair, such as some small business struggling to keep its head above the water.

The way we typically look at fairness in tax policy is who pays what, and how much does the other guy pay. Here you find the soak-the-rich crowd, the practitioners of the politics of envy, those wonderful people who brought you luxury taxes just last year in the omnibus tax increase bill.

Funny thing, though; it seems that the very same luxury taxes are devastating the industries in the home States of the soak-the-rich crowd. Suddenly luxury taxes are no longer accepted as a means of pursuing the politics of envy.

I think this is important, Mr. President—and I want to make a little point, as I digress here. Congressman ARMEY, who is the ranking member of the Joint Economic Committee, of which I am a member, Congressman GINGRICH, and Congressman MICHEL, are considering making an inquiry into a dynamic model estimate done on whether luxury taxes raise or lose revenue for the Treasury.

I believe what will happen is that if anybody uses an honest model, they cannot help but come to the conclusion that the luxury taxes imposed on the people of this country last year in the name of tax fairness, in the name of raising revenue to close the so-called deficit, are actually a net loss to the Treasury. That is my view of it.

But we in the Congress have allowed the bean counters in a Joint Tax Committee to become more powerful than the Senators on the Finance Committee, and the Members on the House Ways and Means Committee, because they compute the projections of tax revenues. And we let that drive our taxmaking policy.

I am saddened by the devastation taking place in the mink industry in my home State of Idaho. I stood on the floor right at this seat, at this chair, last fall, and said: When we talk about taxing fur coats, we are talking about causing unemployment for the mink producers in my State of Idaho.

In addition, we are talking, in many cases, about taxing some young working woman in New York City, or in Minnesota, or in one of the northern regions, who decides it is a good investment to buy a fur coat for the use they get; and we have destroyed their ability to buy the coat, and we have devastated the people who earn their living raising minks.

The same thing is happening with the boat building industries. The people are going to the Bahamas to buy their boats, and they are not buying the boats manufactured in Rhode Island, or Seattle, WA, or somewhere else where boats are manufactured in this country. So those poeple who work to build boats have lost their jobs.

Closely related to this soak-the-rich crowd are those who think that the poor should pay no taxes at all—that is the other side of the equation—as though being poor excuses a citizen from carrying any financial responsibilities for citizenship. This is a high-risk proposition in itself.

Advocates of this school are constantly coming up with new ways of turning the income tax into an income support program. They want to increase the flow of Federal money to the poor, but they cannot pass new spending programs; so they turn the income tax into a spending machine. Their main tools in this are refundable tax credits, like the earned income tax credit, the child care tax credit, and so on.

And then, between these two groups, you can occasionally find someone taking a look at middle-income people. And what they find are families struggling under a mountain of Federal, State, and local taxes.

Oftentimes, Mr. President, family values become an issue in politics, and oftentimes it is totally misunderstood by people who write about it. The way to help families in America is to maintain a low-tax policy, so families can have some of the money they worked so hard for to raise and educate their own children, to pay their own way.

Defining tax fairness in terms of how much tax one group pays relative to another is important. But at least as important is the question of how much tax the country as a whole has to pay. We have been arguing about relative tax burdens and we forget that taxes have been soaring in absolute terms.

So when we argue whether the rich pay enough taxes, or the poor pay enough taxes, or the middle-income pay enough taxes, the fact is, Mr. President, that everyone is paying too many taxes. Often, we hear these reports, particularly about the middle-income people, that they are struggling. We read about how it takes two earners to make ends meet.

We read about the middle-class families who struggle with the bare necessities, because they have nothing left after taxes and a mortgage payment on a modest home. Why is it that people have to work harder just to keep even?

It is very simple, Mr. President. It is not easy to solve, but it is not that complicated to figure out. One does not have to be a rocket scientist to understand this. The Federal Government takes more money out of people's paychecks.

In 1984, the Federal Government collected $298 billion in individual income tax when measured in 1982 dollars. In 1992, the Federal Government is expected to get over $400 billion, again measured in 1982 dollars. That is a 34-percent increase in just 7 years. A 34-percent increase, Mr. President, in 7 years.

And that increase did not come about because we shifted taxes from corporations to individuals, because during the same period, in 1982 dollars, corporate income tax payments will go from $57 billion to $77 billion, an increase of over 35 percent. Thirty-five percent increase on corporate taxes. So what it tells us is that someone in Washington needs to shut off the spending machine so we can reduce the tax burden.

Just to complete the picture, when all the receipts of the Federal Government are added up, that is, individual and corporate income, sales, estate, Social Security taxes, and so on, the Federal take will go from $666 billion to $881 billion.

No wonder people are groaning. No wonder the middle-income people are complaining in America. No wonder people are frustrated. They keep working harder, and the Federal Government keeps taking more and more. And these numbers I have given are all real figures. They are all adjusted for inflation, so we are comparing apples to apples, not apples to oranges.

No matter what we say about tax fairness, when the Federal Government is taking this much out of our pockets, it is unfair. There is nothing fair about excessive taxation, imposing a burden on good, honest, hard-working people in this country who are trying to raise their families. It is just plain wrong.

Maybe we should change the ratios. I do not know whether they are right or they are wrong. In my view the relative ratios between upper- and middle-income people is probably a legitimate case for discussion. We could look at that. And I can assure the President—and I am sure the Presiding Officer knows this, too—that he will hear about this ad nauseam, that one group is not paying enough taxes and one group is paying too many taxes and so forth. But we need to take a longer, more intense look at how much we are taking out in the big picture, in total. That is where the problem is. And then, if any changes are made, it should be made in terms of reducing taxes.

Many of the people who are talking about tax fairness on the other side of the aisle, the crowd that I call the soak-the-rich crowd, the liberal Democrats, are never as interested in tax fairness as they are in finding excuses to tax further. We should call them the tax further crowd rather than the tax fairness crowd. I think that there has been a semantic mixup.

The soak-the-rich crowd want to tax someone else who they think is not paying enough taxes. Tax fairness for them is a smokescreen for tax increases. I can only believe that they are unfamiliar with the numbers that I just got through quoting about how taxes have increased. I frankly do not understand how anyone could propose an increase in taxes when they have increased over a third in just the last 7 years. Clearly, the real agenda is to increase taxes so they can pay for more Government spending programs to buy more votes from special interest groups that they need to sustain their majorities in the Congress.

We must not get ourselves trapped in the game of who should pay more. Nobody should pay more taxes. Many Americans should be paying less taxes. Enough is enough, and we have already gone past too much.

People are sick and tired of Congress fiscal game, phony budgets, phony budget deals. That is why I was so disappointed in the administration last fall when they played into the hands of the Congress phony budget game instead of calling it what it was, a giant tax increase, and vetoing the whole thing and calling for a budget freeze. If we could get back on a flexible freeze, we would not have to ever be talking about raising taxes in this country. We could talk about some real spending savings, and then a freeze in spending would bring about the ability to reduce taxes.

Mr. President, there was a wise political leader who once said you can fool all the voters some of the time, but you cannot fool all the voters all the time. They are getting wise to the game. Whatever the politicians and pundits are trying to tell them, the American voters know how hard they have to work and they know how much of their product is being taken away from their labor and given to the Government, and they are getting sick and tired of it.

We are due for another tax revolt. It has already started in my home State of Idaho. They call it the 1-percent initiative, and I endorse the idea of it. If you want more government and less freedom, vote for more taxes. If you want more freedom and less government, vote for less taxes. It is not that complicated to figure it out. It is starting in other States, and I hope it roars across this country like a prairie fire, a wildfire. State governments which have failed to control the purse strings during the good times are now finding a very angry electorate when they talk about raising taxes to fill their deficit. Do not be surprised if it begins to happen in your home State, I say to colleagues. Do not be surprised if it spreads to a nationwide demand for lower taxes.

Enough is enough. It is time to roll back the wave of tax increases that the Congress has slipped through by hook, and more often, by crook over the last few years.

You want tax fairness? Great. Try leaving more in the paycheck of American workers. That is the best thing you can do to give them tax fairness. Try leaving more for retirement pension income. If you are worried about tax fairness, that is where you should look—roll back the tax increases.

We should start by rolling back the payroll tax. We should start by reducing the tax on capital assets. We could pass those two things together, if the Congress would demand and take control of the tax projections of revenues instead of allowing static estimates. The technocrats look through glasses with eyeshades and calculate things all based on the past, nothing based on a future-looking dynamic model.

That's why we always fall into the trap of raising more taxes. If we would freeze the budget—refuse to raise spending levels across the board of the Federal budget—we could reduce the payroll tax and reduce the capital gains tax simultaneously, put more money in the hands of the families of America to spend for their own needs, restore more liquidity in the real estate and financial markets, and create more opportunities for more job creation. And the combination of those two tax cuts would actually generate, in my view, a stronger, healthier economy, take more revenue out of the Treasury, and leave more money to be kept at home, in people's pockets.

But if we continue to allow the folly of the static projections for taxes in this country, we are going to continue to be raising taxes, raising taxes, raising taxes, and it will bring about a long overdue tax revolt. The sooner it gets here, the happier this Senator will be.

I see some of my colleagues on the floor. I thank them for being here. I thank the Senator from Alaska [Mr. MURKOWSKI], who was here first, and I yield Senator MURKOWSKI 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent for permission from my colleague from Idaho that I may proceed as if in morning business for 3 minutes.

Mr. SYMMS. I am certainly happy to yield.

The PRESIDING OFFICER. Without objection, the distinguished Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair and my colleague.

(The remarks of Mr. MURKOWSKI and Mr. STEVENS pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SYMMS. Mr. President, I thank the Senator from Idaho for his indulgence. I want to say a word before I yield to him, with reference to what I said before about dynamic models. What I said about the Joint Tax Committee is certainly nothing personal. So anyone from the Joint Tax Committee who may be watching, the law requires that you do static models. I understand that. But that is the failure of Congress, to allow static estimates to continue to go on in the face of reality. I do not know what it takes to hit the congressional mule over the head to recognize it.

I think the luxury tax in some ways is a blessing in disguise because the soak-the-rich people have figured out that when they tried to soak the rich by taxing boats, what they did is just about shut down the boating industry in their respective States. Maybe what we can do is go in and amend the CBO model, and maybe we could have them use a dynamic model instead of the static model. Maybe if we did, we could do that and not continue raising taxes every year to no avail.

With that I yield to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Idaho.

TAX FAIRNESS

Mr. CRAIG. I thank my colleague for yielding and thank him for this special order that relates to tax fairness, an issue that clearly ought to be debated on this floor and not demagoged. Clearly it ought to be understood by American citizens and listened to very clearly, because I have always been interested in the unique definitions that politicians wish to place on the word "rich." That definition basically says, I know what rich is, and I am not. Meaning it is always the other person. And it is always the other person upon whom we would like to perpetrate a tax increase. Most assuredly that became the game in the last Congress, a phenomenally unfair game, to suggest that in this country it is somewhat un-American to be rich.

It is not a competition, Mr. President, between rich or poor. These young people who are here today, working on the floor of the U.S. Senate, I would hope embody the American dream, and that is to gain an education and somehow improve their lot in society so that in the long term they might end up being—more well off than their parents? More well off than their grandparents? Dare we use the word, they might be richer? Less poor?

I certainly hope so, because that is clearly what the American dream is all about. In the last 12 to 14 months, somehow, political parties in this country have tried to adjust their positions, and one party in particular has said we want to tax the rich because somehow they are getting away unfairly in the whole scheme of the system.

I suggest if we make it un-American to be rich, then we will all become equally poor in a society that rewards individual initiative. Because, to become equally poor means we stifle individual initiative, and that is not what tax law should be all about.

In the debate over tax fairness, the debate of the rich versus the poor is fundamentally a debate over the redistribution of income and the use of tax policy as a tool of social engineering in this country, instead of addressing the real economic concerns of America's working men and women.

Yesterday in the local press here, Michael Boskin, the Economic Adviser to the President, was quoted as suggesting that we are working our way out of this recession in a slow but sure process. Yet at the same time last year real spendable income declined. We have States across this country that are at this moment deadlocked in debate because they cannot meet their budgets because their revenues have declined. And they are all talking about a tax increase, or at least some of them are. And all politicians at the State level are ducking and running for cover because they are suggesting that they might have to increase taxes.

The reason that is happening is because we are in a major economic downturn in this country and nobody is willing to talk about it; not before an election. The economic indicators in this country are static, in the sense that they designed for an industrial state economy. Yet we have economists, and those of us who follow them and talk about what they predict, who suggest that the last recovery, one that sustained itself longer than any recovery in the late 20th century, was based on a service growth economy. It was the dynamics of that service economy that pulled us out of the last recession and sustained the economic growth in this country.

We do not have adequate economic indicators today to measure the service economy. We can measure investment. We can measure debt. We can measure industrial state economy. But we cannot measure service economy. Yet the very entities within the general economy that use service, local and State units of government and the Federal Government are the ones that are essentially in decline at moment—part of the general decline in this country because consumers are not doing as well as they should. They have invested themselves to the limit.

Why is that so? Let me suggest some of the things my colleague from Idaho suggested a few moments ago. Is it possible that people do not have the kind of money to spend today that they would like to have? And if that is the case, why is it happening? I suggest the top 10 percent of America's income earners pay half of the taxes in this country today at all levels and are being taxed at an all-time high. The top half of the income earners pay more than 90 percent of all taxes in this country today.

Soak the rich? I suggest we have an equitable tax base that draws from all of us a fair share without the kind of partisan wrangling that plays the game that ultimately produces the tax fairness question that we are here on the floor today to discuss.

Tax fairness debates focus on how to create an economic climate that gives all citizens a fair chance to improve their economic well-being. That is what a good tax law should be all about.

A real tax fairness question means removing tax burdens from American families. In 1948 a family of four at the median income level paid 2 percent of their income on the Federal income tax. Two percent. Today, families pay 24 percent of their earned income to the Federal Government. I suggest that is not very fair. Then if you add State and local government taxes it nears the 30-percent level, and that does equate to suggesting that this is tax at an all-time high level.

We did tax reform in 1986. We did tax reform in 1981. And we changed it all in incremental ways over the course of the last decade to a point that we are back to where we were in the late seventies, saying that all Americans are being taxed at a higher level today than they ever have. That is a fact and that is why my colleague from Idaho is very accurate in suggesting that tax revolts are beginning to emerge around this country at the State level as they did in the decade of the seventies because the American taxpayer is saying "Why are you taking from me my hard-earned labor? And I can no longer afford to provide for my family at the level that I would like to. And last year my gross income dropped at times when others in the world economy, their gross incomes were increasing." That is reality, and that is why we are here on the floor today, to suggest that is our problem that we need to address.

We need to address such issues as cutting payroll taxes, increasing personal exemptions for dependents, and an earned income tax credit. How about completly eliminating tax on capital gains due to inflation? If we want to unleash old money for new investment and create new jobs, then I suggest that the poor do not create jobs.

They are the ones who are looking for jobs. Yes, wealthy people and their investments create jobs and it is that job that provides the American dream that begins the upward mobility process that all young people are looking for and asking for today and turning to us to suggest that we should think about providing it for them. Those are the dynamics of an economy that truly address tax fairness—reforming the alternative minimum tax that increases the capital cost of U.S. business, changing the Tax Code bias against business investment.

There is nothing wrong with business, and I suggest that we as politicians could not engage in the business here on the floor of discussing where we are going to put all these resources that we call tax dollars if it were not for the business climate of this country cranking them out on a regular basis and if it were not for the working men and women of this country cranking out their tax dollars on a regular basis. If we want to provide more services of Government, we have to provide an economic climate that generates more income for this country and allows more to be retained.

Let me close by once again thanking my senior Senator from Idaho for bringing to the floor what has to be a fundamental debate of the decade of the nineties: Fair and equitable taxing in this country in a way that keeps and continues to generate economic well-being and growth so that all can prosper; that we do not divide society; that we do not suggest that it is somehow wrong to be rich or to aspire to be rich.

Let me close by suggesting, Mr. President, that if we play the game, we will all ultimately become equally poor.

I yield back the remainder of my time.

Mr. SYMMS. Mr. President, I thank my colleague from Idaho.

Let me say to the Senate how blessed I have been to have spent my first 10 years in the Senate with my then-senior colleague, James McClure, and now to have as my junior colleague LARRY CRAIG. I have been very blessed, and I am appreciative of that.

ECONOMIC RECOVERY TAX ACT

Mr. KASTEN. Mr. President, this summer marks the 10th anniversary of the Economic Recovery Tax Act, ERTA. The principal element of this program was a 25-percent across-the-board reduction in income taxes. This program was a tremendous success; pulling the economy out of recession, sparking the longest peacetime economic expansion in U.S. history, creating 20 million new jobs, dramatically reducing inflation and interest rates, and increasing the living standards of Americans in all income classes.

By the late 1970's, Government had grown too big and too powerful, taxes were too high and regulation was excessive. The American people demanded a change and they got it. President Reagan and then Vice President Bush implemented an agenda of lower taxes and less regulation. The fundamental premise of the Republican agenda was that a vigorous and growing economy was the best means of helping people, and that the most important engine of economic growth is the private sector. Without the Reagan-Bush agenda, there is no question that Government would be vastly more intrusive today than it is. For example, without the 1981 tax cuts, the average American family would now pay $1,500 more in income taxes every year.

ERTA was of particular benefit to low- and middle-income families because it mandated that tax brackets be indexed upward each year according to the rate of inflation. This eliminated inflation-induced bracket creep whereby cost-of-living increases earned by workers simply pushed them into higher tax brackets. ERTA put a stop to the age old trick of using Government-induced inflation to generate higher taxes.

While the economy grew and incentives to work increased, tax revenues doubled during the decade. In fact, by reducing the attraction of tax shelters and increasing the incentive to earn more income, ERTA resulted in the wealthy paying far more in income taxes by the end of the decade than at the beginning. By comparision the income tax burden on the poor was dramatically reduced. This trend culminated in the Tax Reform Act of 1986, when several million lower income workers were completely removed from the income tax rolls.

During the 1980's, the poor experienced real economic progress. Between 1983, the first full year of the expansion produced by the tax cuts, and 1989, real family income for the lowest 20 percent of the income distribution rose nearly 12 percent, approximately the same rate as for all other income levels. The economic growth sparked by the recovery also enabled Government to do more to help the poor. When all Government programs are taken into account, the average income of households in the lowest 20 percent of the income distribution is $5,500 higher per household today than in 1983.

One of the most important lessons of the 1980's is that tax cuts and economic freedom help all Americans. We must carry this lesson into the 1990's and continue to limit the ability of the Federal Government to shackle American families and businesses with punitive taxes and excessive regulations.

Mr. SYMMS. Mr. President, I yield 10 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 10 minutes.

TAX FAIRNESS

Mr. HATCH. Mr. President, I rise today to address the recurring rhetoric that resounds in this Chamber regarding the issue of tax fairness. There have been many assertions that the American tax system is regressive and unfair. The claims that high income taxpayers in this country are not paying their fair share of income taxes are simply not true. The U.S. tax system is more progressive today than it has ever been. A study released by the National Center for Policy Analysis found that the wealthiest 50 percent of taxpayers now pay 95 percent of all income taxes and 83 percent of all Social Security [FICA] taxes. This makes the U.S. tax system one of the most progressive in the world.

Despite this, there are those who persist in claiming that tax fairness is an issue. Many advocate raising the tax rate on the wealthy as a way to make the tax system more fair. What they are actually proposing is to use the money a tax increase is estimated to raise to finance new or existing underfunded programs. In some ways, Mr. President, the reasons for this are understandable. The new budget rules frustrate the availability of new or increased spending by requiring that they be paid for by either revenue increases or spending cuts in some other area. So tax increase advocates see few alternatives to raising tax rates as a way of paying for unmet social needs.

This soak-the-rich approach to taxes, however, is misguided and will not benefit our country. Taking from the rich to give to the poor is not the solution. By raising the tax rate on the wealthy, we affect their spending and investment behavior as well as their ability to earn income. This is a fact too often ignored by policymakers. Higher marginal tax rates discourage work and investment and lead to less taxable income. This produces less Federal revenue and will ultimately lower our gross national product. Raising taxes on the rich will not generate the expected additional revenue because the dynamic effects of the tax increase on the economy are not taken into consideration. The higher tax rates become a millstone around the neck of the economy and not just the rich, but everyone eventually bears the burden of the higher rate.

Mr. President, history is full of examples of the rich changing their behavior to the detriment of the economy in response to changes in the tax rates. The belief that Congress can shift the tax burden at will from one group to another without serious economic consequences ignores these lessons.

A good example of how misguided this concept can become is the luxury tax passed by Congress just last year. This tax was designed to target only the wealthy. Infortunately, as most in Congress now recognize, the effects of this tax have been much different than intended and the weight of the tax has fallen heavily on the middle and lower classes. Instead of paying more in taxes, the wealthy have simply purchased fewer of the luxury goods affected by the tax. This has caused an economic hardship for the working men and women who produce and sell these goods. Trade associations in the affected industries have stated that the tax has caused substantial declines in sales and production, costing many people their jobs. Rather than raising additional revenue for the Federal Government, the luxury tax will likely end up losing revenue.

The luxury tax example also points out a serious flaw in our revenue estimating methods, Mr. President. The Congressional Budget Office and the Joint Committee on Taxation usually determine the revenue effects of a tax increase based solely on static implications of the higher rate. The economic fact that tax rates have a significant effect on people's behavior is often completely ignored. These dynamic effects, however, represent the real world and should not be overlooked when policy decisions are made.

Therefore, even though it appears at first glance that increasing the income tax rate on middle and higher income families will raise revenue, in reality, such an increase will provide a disincentive to produce, invest, and spend. This in turn affects sales and production, which affects employment and ultimately, the amount of Federal revenues collected.

Mr. President, the American tax system was designated to raise revenues to finance necessary public programs. The principle of fairness should be an integral part of the system, along with the objective of maximizing revenue while encouraging economic growth. Attempts to use the tax system as a tool to further redistribute income by increasing the tax rate on the wealthy will not achieve his goal. Raising the taxes for high income taxpayers will not increase fairness since it will eventually lower the income of everyone.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. I yield 7 minutes to the distinguished Senator from Colorado.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Colorado [Mr. BROWN] is recognized for up to 7 minutes.

Mr. BROWN. I thank the Chair.

TAX CODE FAIRNESS

Mr. BROWN. I wish to thank the distinguished Senator from Idaho for gathering us together to address the question of tax fairness. I come to it as one who helped pay my way through college by filling out tax forms, one who has lived with the problems of taxes both as a member of the House Ways and Means Committee and as one who has practiced that area as a CPA and as an attorney. It is an area that I think is of great importance to the American people.

There is nothing more important than assuring the people who pay for the functions of the Federal Government that the money is raised in a fair manner.

We live in a tax system that has been dominated for 37 years by the Democratic Party. The Democratic Party has controlled the House Ways and Means Committee ever since the election of 1954. It is the longest period of one-party domination of any time in the history of this Nation.

The Tax Code which has come about because of that one-party domination I believe is one that reflects great problems for the American people. It is an unfair code. It is a complex code. It is one that caters to special interests who hire lobbyists on the Hill and forgets about the working men and women of this Nation.

Now, those are serious charges, and I hope the leadership of this great institution will come to the floor and defend the tax policy that the Democratic Party has brought this Nation. But in raising that question, I want to be specific because when you challenge the system that stands before us as unfair and unrepresentative of the desires of the American people, you have a responsibility to make sure that the people who want to respond to that have something specific. Let me be specific.

The savings rate of this Nation is the lowest savings rate of any mayor industrialized country in the world. Let me repeat that. The savings rate for the United States of America is the lowest savings rate, net savings rate, of any major industrialized country in the world.

What it means is we are condemning Americans in the future to be borrowers, to have foreign ownership of their businesses, and to lose opportunity for jobs and creativity in this Nation. It is a formula for economic folly in the years ahead, and it is a function of the Democratic Tax Code

The reason we have such low savings is because of huge deficits and a Tax Code that penalizes savings instead of rewarding it. It is the most complex Tax Code ever presented a nation on the face of the Earth. It is not just so huge in its volumes. It is not just that it is so complex in its intricacies. But it is complex because it is an effort to cater to special interest groups. It is not an effort anymore to just raise revenue. It is an effort to manipulate and control the lives of individual Americans through the complexity of the Code.

Mr. President, I think it is bad policy. I think we ought to be concerned about a simplified Tax Code and we ought to be concerned about a Tax Code that rewards savings. How do you do it?

Capital gains; what is the problem with our capital gains law? If working men and women in this country invest their money in a home and that home is impacted by inflation so the price doubles, when they go to sell that house they are taxed even though the buying power, the purchasing power, of that house has not gone up. Working men and women in America are taxed because of inflation, not because of gains, and that is wrong.

I hope the leadership of this body will come to the floor and tell us why men and women in this Nation ought to be taxed when they do not have a gain, why we are taxing away the very capital base and the savings base of this Nation.

We have introduced bill after bill in Congress to index the basis of capital assets to provide a fair tax policy for the American people and they are not allowed to be brought to the floor. But we ought to index the base of capital assets if we want to be fair with the American people.

I think we ought to look at the rules for passive losses. To say that you should not allow deductions for phony losses is a reasonable measure. But when you have cash out-of-pocket losses for a business venture and you are not allowed to offset those against income, that is wrong and it is unfair. We ought to correct it. We ought to address that question of passive losses.

I think a Tax Code that says when you make money on the sale of capital assets you have to report it as income, but when you lose money, you can only deduct a portion of it is unfair. It is heads the Government wins, tails the taxpayer loses. If you make money, you have to report it all and pay taxes on it all. But if you lose money, you can only deduct $3,000 a year. It is not fair, and it is not right, and it ought to be addressed.

One of the most outrageous examples, though, of unfairness to the American people is the earnings penalty. It is an arrogant attitude on the part of the leadership of this Congress to say to the American people we are going to penalize you when you are senior citizens and you go to work. The earnings penalty says we are going to take away your Social Security payment that you worked for, that you paid into all your life, because you committed the outrageous sin of working in your senior years.

That is not what made America strong. America is strong and creative and productive because we reward people who work hard, not come up with an extra special penalty for them.

We are at a point where we toss those people into a higher tax bracket than any major country in the world if they dare work when they are a senior citizen. What should we do? We ought to come to the floor and repeal the earnings penalty. We ought to come to the floor and correct the passive loss penalty and allow people deductions when they have real losses. We ought to come to the floor and correct the provisions so that if you have a gain you get to pay taxes on it, but when you have a loss you get to deduct it on a capital asset. We ought to come to the floor and we ought to index the basis for capital gains.

Mr. President, the fact is what the American people want is a Tax Code that is simple and is fair, and they are willing to pay their taxes.

We cannot expect them to agree with all the spending that comes through this body, but they have a right at least to expect a fair Tax Code, one that is understandable and reasonable.

I hope this body will respond by bringing these issues to the floor and giving the Members of this body an opportunity to vote up or down on whether or not the unfairness and the complexity of this Tax Code should be continued.

I thank the distinguished Senator from Idaho, and I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. I thank the Senator for a very excellent statement. I think his point about taxing people on the inflationary gains of their own homes is right on target. This is one of the most immoral things that takes place in this country.

The least we can do with respect to capital gains would be to index it and take out the inflation of the assets. The people who have worked and saved and scrimped their entire lives, when they turn around to sell their homes, are taxed on inflation and not just on any real increase in value. It is totally unfair.

I think the Senator is quite correct that those who oppose fixing the taxation of inflationary gains should have to explain it to the American people.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes 45 seconds.

Mr. SYMMS. I yield the remaining time to the Senator from Texas [Mr. GRAMM].

ECONOMIC STATISTICS

Mr. GRAMM. Mr. President, this morning I want to talk about the use of economic statistics to measure what is happening in America.

And I would like to ask those who will read these remarks in the RECORD, those who are watching them over television or listening to them in their offices, and those who are here, to think of economic statistics as being equivalent to the reading on a thermometer that you stick in a sick person's mouth, and then based on that reading, you try to decide, Is he getting sicker, or is he getting better?

The second point I want to make relates to a quote by a famous economist named Alfred Marshall.

> The greatest errors arise from overlooking the most obvious truths.

I am going to argue today that in looking at the 1980's, in their effort to discredit the Reagan economic program, Democrats have not only achieved their purpose with a statistical sleight of hand—and I think you will see and agree with that when you listen to what I have to say—but more importantly, they have so confused themselves, that they have reached the remarkable conclusion that economic growth is not the fundamental path to opportunity and to fairness.

As a result, the National Democratic Party, today, stands—other than a few people in Cuba—as the only organized political group in the world that still believes the answer is more government.

First of all, if you listen to the Democratic critics of the Reagan era, what they are basically saying is that the 1980's were made up of years that represented a benign neglect of the public, when the rich got richer and the poor got poorer. Let me read a few quotes, and I think those who have followed the debate will say these are representative:

> For the last 10 years, the working men and women of America * * * have been getting hit below the belt by Reagan and Bush economic policies.

Senator TOM HARKIN, June 1991.

> The 1980's were kind of a period when the wealthy basically ripped off the rest of society—and President Reagan essentially blessed the transfer.

House Budget Committee Chairman LEON PANETTA, March 1991.

> During 1978–1987, real income fell for the poorest 40 percent of Americans and stagnated for the "middle income" 20 percent, while the upper 40 percent gained. * * * Much of the rise in poverty can be traced to the Reagan-Bush budget policies, which constituted an attack on the poor.

Repesentative WILLIAM GRAY, November 1988, who at the time was chairman of the House Budget Committee.

Mr. President, every one of those conclusions is based on a phenomenal, almost unbelievable political sleight-of-hand use of statistics, because every one of those conclusions is produced only by counting years when Jimmy Carter was President, every day, 365 days of each year, as part of the Reagan era.

Let me give you some examples. Let me look at the Bill Gray quote. Looking at the actual data used by Congressman GRAY in his criticism of Reagan-Bush policies, quoted above, you will find that each and every negative statistic he complained about was generated before the Reagan policies went into effect.

From 1978 to 1980, the bottom 40 percent of income earners in the United States saw their average income fall by 6.5 percent. But from 1981 to 1987, it rose by 7.6 percent. The middle 20 percent and upper 40 percent of income earners saw their average income fall by 5.7 percent and 5.3 percent respectively from 1978 to 1980, and rise 10.1 percent and 17 percent respectively from 1981 to 1987.

When you drop 1978, 1979, and 1980 from the Gray data, every single conclusion he reaches is false. Everything he complains about happened not when Ronald Reagan was President, but when Jimmy Carter was President. And exactly the same thing is true with the other statements that I talked about.

What is surprising is not that people in leadership positions in the Democratic Party would try to confuse people about what happened when Ronald Reagan was President. What is surprising is that the media not only report this without any reference to the underlying data, but news organizations also use this data over and over and over again to criticize the Reagan era.

It is easy to forget, but important to remember, that Jimmy Carter was President every day in 1980. Ronald Reagan did not become President of the United States in 1980. Much as the Democrats would like us to forget that fact, it is true. Although Carter left the White House in January 1981, he signed every appropriation bill for fiscal year 1981, except a very small supplemental. It is important to remember that Reagan's 3-year tax cut did not go into effect until January 1982, and it went into effect in three stages.

Every economist would say that it takes at least 1 year for the impact of a change in tax or budget policy to have its full impact on the economy. The Congressional Budget Office points this out:

> . . . after a reduction in tax rates, there is an increase in GNP * * * the peak of which occurs after 4 quarters in all of the models (used by CBO).

Economists Robert Ekelund and Robert Tolison have observed that estimates vary, but it is thought that tax and spending changes may take from 1 to 2 years to have their full impact on income and employment.

While most economists would measure any kind of economic reaction to the Reagan program beginning in January of 1983, there is no economist that would argue that the state of the economy in 1981 was a result of Reagan policies, when he did not sign a single, general appropriations bill, for 1981, and when his tax cut did not go into effect until January 1982.

When you remember that Reagan took office on January 20, 1981, and his tax cuts went into effect in January 1982, when you look at that, the whole picture of this period of the 1980's changes. Let me just show you a couple of charts.

First of all, I have here a chart plotting out average family income. Remembering the year lag, so that Carter's policies first had effect in 1978 and the last year that his policies dominated the country was 1981, look at what happened to average family income. It started at about $33,500. It fell down to $30,500 by 1981. Ronald Reagan's programs went into effect on January 1, 1982, and look what happened to average family income. It rose like a rocket. What the Democrats do in each of their studies, from the Green Book put out by the Ways and Means Committee to studies done by the Joint Economic Committee, is to always measure from 1979 to 1989 and call that the Reagan era.

By their thermometer measurement, the economy got only slightly better from 1979 to 1989 but if you look at what actually happened to the economy, the economy got much worse under Carter. But then it got much better under Reagan. Yet the Democrats' conclusion is Reagan's program failed. And how did they reach that conclusion? They reached it by counting the Carter years in all of these studies such as the Green Book and others.

The PRESIDING OFFICER. The time has expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator be permitted to continue for 2 additional minutes.

Mr. GRAMM. Thank you.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 2 minutes.

Mr. GRAMM. Mr. President, I conclude on this point so as not to use up the time of the Senate. I want to ask my colleagues, when they read these studies criticizing the Reagan eighties, to carefully examine them and I assert they will find that in each and every case 1980 is counted as the year when Ronald Reagan began as President, every single case. There is not one study using the Reagan era on income or poverty or growth that does not count 1980 as the Reagan era, even though Jimmy Carter was President every day. Most of them start in 1979 and, as a result, all of the statistics are biased because 1980 was the worst year economically in the postwar period.

What I am basically trying to say, Mr. President, is this: When you look at what happened in America and you separate the policies of the Democrats during 1978 to 1981 from the Reagan policies during 1982 to 1989, here is what happened: The number of families with real incomes over $50,000 declined by 13.8 percent when Jimmy Carter was President. The number of families making between $50,000 and $15,000 rose by 1 percent; the number of families making under $15,000 rose by 17.5 percent. Under the Reagan policies the number earning under $15,000 fell by 14.3 percent; under $50.000 to $15,000 fell by 8.5 percent; the number of families earning over $50,000 rose by 36.8 percent.

I think that, if people will look at the data, they will conclude that American policies that went into effect on January 1, 1982, have worked.

I thank the majority leader.

TAX FAIRNESS AND ACCOUNTABILITY

Mr. McCAIN. Mr. President, let me begin with a quote from a great American, Abraham Lincoln:

> You cannot establish sound security by spending more than you earn.

Last year's budget summiteers would have better served the American public if they had heeded, or at least remembered, the wise words of Abraham Lincoln.

Instead, it was business as usual. Congress enacted one of the largest tax increases in history, raising $166 billion over 5 years.

Americans now spend 128 out of 365 days working for the Government, paying taxes. This is 3 days longer than before last year's budget deal.

Furthermore, the budget deal did not control or limit spending or reduce the deficit. In fact, for every $1 of new taxes, there was $1.83 in new spending.

Thus, as a result of last year's budget deal taxes went up, spending went up, and the deficit is projected to reach record levels, perhaps over $300 billion.

But, there is more to last year's budget deal than increased taxes, spending, and debt.

There is a provision which requires a 60-vote supermajority for tax cuts, but only requires a simple majority of 50 votes plus 1 for tax increases. This only ensures that there will be more and more tax increases to support more spending and ever increasing deficits and debt.

It has become clear that tax increases are enacted to support more spending and larger deficits.

Unless we control taxation, we will never control and limit spending.

Recognizing this, a supermajority requirement for tax increases is the all important first step in true budget reform.

That is why I have introduced the Tax Fairness and Accountability Act of 1991, S. 809. It is that much needed first step. My legislation is simple and honest. It would reverse the provision in last year's budget deal that requires 60 votes for a tax cut and only 51 vote simple majority for tax increases.

My legislation would require a 60-vote supermajority for tax increases and only a 51-vote simple majority for tax cuts. This would ensure that tax increases are debated openly, and that they will reflect a broad national consensus based on need. By requiring a broad national consensus represented by a supermajority, we can avoid senseless tax increases that do not reduce the deficit.

My legislation is the all-important first step toward true budget reform. However, it is the only first step toward establishing a sound and secure future by not spending more than we earn. Passage of S. 809 would refocus deficit reduction where it belongs, on spending control and reduction.

There are several excellent budget reform proposals that I support that would compliment my supermajority legislation. The Legislative Line-Item Veto Act of 1991, S. 196, introduced by Senator COATS would give the President an effective weapon to eliminate wasteful spending. It alone would not balance the budget.

Senator BURN's 4-percent solution, S. 847, would tackle the problem of deficit spending directly. It would limit annual discretionary spending increases to 4 percent. It would also eliminate current services budgeting which creates the illusion of spending cuts when spending really continues to grow.

These proposals together would go a long way toward balancing the budget and reducing the debt without incessant and misguided tax increases.

Mr. President, we are at an historic fiscal crossroad. We must take the first step toward a sound and secure fiscal future by enacting the Tax Fairness and Accountability Act of 1991.

TAX FAIRNESS

Mr. McCONNELL. Mr. President, I rise today to discuss an issue that concerns all Americans, the fairness of our Tax Code. The decade of the 1980's brought the United States an unprecedented period of sustained economic growth. Also, during this period millions of new jobs were created. For example, since 1982, 137,000 new jobs have been created in my home State of Kentucky. Some individuals, however, ignore the economic gains of the 1980's and point to our huge budget deficits. They complain the economic policies of the Reagan-Bush era, namely the 1981 tax cuts, created these deficits and that in the decade of the eighties the rich got richer and the poor got poorer.

These critics make it sound like the only ones who benefited from the 1981 tax cuts were the rich and that these tax cuts enable the rich to avoid paying their fair share. The 1981 Economic Recovery Tax Act reduced individual income tax rates across-the-board by approximately 23 percent. Tax rates were not just reduced for the rich but for everyone. The 1986 Tax Reform Act increased the standard deduction and personal exemption, removing 4.3 million low-income taxpayers from the tax rolls. Without the Federal income tax cuts of the 1980's a family of four would be paying $1,500 more in taxes every year. The lowest 40 percent of income earners saw a tax rate decline of 31 percent between 1980 and 1990, while the highest 40 percent saw a decline of 9 percent.

If the Carter administration's tax policies were in effect today, a family earning $10,000 a year would pay 134 percent more in income taxes. Including the increases in Social Security taxes, which were mandated in 1977, this family would pay 42 percent more in total taxes if the 1980 tax law was in effect.

The rich are paying more in taxes than ever before. In 1981, the top 1 percent of taxpayers paid 17.6 percent of all income taxes. In 1988, the same top 1 percent paid 27.5 percent of all income taxes. Over the same period, the average tax payment of the top 1 percent of taxpayers has increased from $68,752 to $104,008 in constant 1988 dollars. The wealthiest 50 percent of taxpayers pay 95 percent of all income taxes and 83 percent of Social Security [FICA] taxes.

We have also heard many complaints about the vanishing middle class. Individuals who decry the reduction of the middle class imply that the middle class has gotten poorer. In actuality, the middle class has grown smaller, but it is because it got richer. In 1977, 60 percent of American families made between $15,000 and $50,000 a year. By 1989, only 52.9 percent of families had an income in this range. During this same period, families making over $50,000 increased from 21.1 percent to 29 percent while those earning under $15,000 declined from 19.1 percent to 18 percent.

Proponents of increased tax rates for the rich maintain that such rates will produce more income for the Federal Government. They forget that low income tax rates encourage people to work harder and produce more income because there is less incentive to hide income in unproductive tax shelters. Raising taxes on the rich will inevitably reduce the share of taxes paid by the rich. History is replete with examples of the rich changing their behavior and taxable income in response to changes in the tax rates. Andrew Mellon, former Secretary of the Treasury, once argued, "Is it fair to tax the rich at a very high rate and collect a paltry amount or tax them at a lower rate but get more money?"

Currently, the U.S. Treasury collects more revenue than ever before. Income tax revenues are about 100 percent higher than in 1980, even with the 1981 tax cuts, and the 1986 Tax Reform Act. Between 1980 and 1990, Federal revenue has risen by $527 billion; $527 billion is a huge amount of money. Congressional spending, however, has increased by an even larger amount. Perhaps we should look in our own backyard when talking about the reasons for the deficit instead of complaining that tax cuts which boosted the economy and put money into the hands of working Americans were the culprit.

The reconciliation legislation we passed last year increased taxes for all but the poorest families. Proponents of the package maintained that the tax increases were aimed at the rich not the poor and middle classes. These claims were made despite the fact that 60 percent of the tax increases in the package were regressive excise taxes. We enacted 10 percent excise taxes on luxury items such as cars, boats, airplanes, jewelry, and furs priced over a certain amount. This was an attempt to tax the wealthy who it was considered were the primary purchasers of such luxury items.

Proponents stated that a majority of the rich would not change their buying habits because of an extra 10-percent tax. They were wrong. The rich have changed their buying habits because of this luxury excise tax, they decided to purchase fewer of these items. Fewer purchases means that fewer items need to be produced. Lower production means less employment for the working men and women of America. The rich do not produce these goods, working men and women do. When fewer of these so-called luxury items are produced, it is not the rich who face the economic hardship, it is the working men and women.

Trade associations who represent the industries that are now subject to the luxury excise taxes have stated that the taxes have caused a substantial decline in sales and production of these goods. The auto industry cites a permanent drop in demand of 20 percent. The boat manufacturers stated the taxes contributed to a net job loss of 19,000 blue-collar manufacturing jobs and bankruptcy for countless small family-owned businesses. The same trend can be seen in the jewelry, fur, and aircraft industries. Instead of raising revenue for the Federal Government, the luxury excise tax may cost the Government money. Jobs and production will be lost while unemployment and economic hardship for working Americans will increase.

Last year, we passed the second largest tax increase in the Nation's history. The reason was supposed to be to reduce the deficit and at the same time make the tax system more fair by targeting the new taxes to the rich. All but the poorest Americans, however, will suffer because of these new taxes. What would be more fair to all Americans would be for the Congress to change its spending habits so that tax increases would not be necessary. Domestic spending will be increased by $1.83 for every dollar of new taxes contained in last year's agreement; that is absurd. Congress must learn to control its spending so that all Americans can face a fairer tax system, one which lets them keep more of the money that they earn.

PRIVATE PROPERTY RIGHTS ACT

Mr. SYMMS. Mr. President, I rise today to discuss the rising tide of support for S. 50, the Private Property Rights Act of 1991. This bill has passed the Senate as an amendment to the Surface Transportation Act. However, pending action on this bill in the U.S. House of Representatives, I continue to see widespread support for my legislation.

This bill will extend the protection afforded by the fifth amendment of the Constitution to property owners whose rights are threatened by Federal rules and regulations by requiring that the Department of Justice determine whether or not the new rules take private property.

More than 15 national organizations have thrown their support behind the Private Property Rights Act and more are adding their endorsement every day. Supporters include the American Farm Bureau Federation, American Forest Council, American Sheep Council, U.S. Chamber of Commerce, National Milk Producers Association, National Water Resources Association, National Forest Products Association, National Grange, Citizens for a Sound Economy, Competitive Enterprise Institute, and Blue Ribbon Coalition.

The bill is also endorsed by the White House and has the support of the President's Council on Competitiveness, which is chaired by Vice President DAN QUAYLE.

Another endorsement comes from Mr. Douglas E. Ericson of Idaho Falls, ID.

Mr. President, Mr. Ericson asked in his letter that I use his response to show other Senators that he supports this bill. At this time, I ask unanimous consent that the entire text of his letter appear in the CONGRESSIONAL RECORD.

IDAHO FALLS, ID,
June 23, 1991.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Yes, I agree with you Senator Symms, and as a private property owner, I agree that private property rights must be protected, as guaranteed by the U.S. Constitution. I support the Private Property Act, and ask that you use my response to show other Senators that I support the bill.

Your letter on this subject specifically mentions the EPA as an agency that threatens property rights. Very appropriate.

For the past few years, at close range, I have seen the EPA in action. I have gained some insight into the attitude of the EPA administrators. My conclusions are not cheerful.

Zealots within EPA are able, and indeed anxious, to convert America to their vision to Utopia. There is little regard for private property rights in their vision.

Through the use of broad definitions of wetlands, and by arbitrary use of punitive measures relating to effluents, they have indirectly stated their agenda. That agenda is not amenable to the protection of private property rights.

Additionally, by placing most chemicals on sliding scales of toxicity and by clamping fiscally damaging regulations onto waste management, they are intruding into everyone's private life.

I believe your Private Property Act is a necessary statement to make at this time and I believe it can be an important first step in causing the EPA, and other offending agencies, to become more accountable to individual citizens.

Sincerely Yours,

DOUGLAS E. ERICSON.

JUDGE THOMAS IS NOT A QUOTA NOMINEE

Mr. HATCH. Mr. President, I would like to speak to the issue of the nomination of Judge Clarence Thomas to the Supreme Court of the United States.

Mr. President, some liberals have objected to his nomination and some have subjected President Bush and Judge Clarence Thomas to a very ironic criticism. They claim Judge Thomas is a quota appointment.

I find the claim patronizing and cynical. It is usually made by those who do not know the excellence of Judge Thomas.

Some of these same critics had indicated their wish that President Bush nominate a black person to succeed Justice Marshall. Evidently, they wanted it both ways: If the President had not nominated a black person, they would have called him insensitive. Now that he has done so, they accuse him of making a quota appointment.

This unfortunate charge is, of course, a byproduct of the racial preference and reverse discrimination policies favored over the years by many liberals who now criticize President Bush's appointment. Having fostered a racial and gender numbers game over the last 20 years, they have created an environment where any time a minority person or a woman gets a job or promotion that they deserve on the merits, especially in a nontraditional position, their qualifications are challenged.

In Judge Thomas' case, these liberals apparently cannot believe that an intelligent, hardworking, highly qualified black American does not necessarily subscribe to all of their tired, old policies. His beliefs may not fit their apparent stereotype of what a black leader should believe. Those liberals seem to be saying, he cannot be the best person for the job if he does not think like us. And, heaven forbid, he does not even share our love for numerical racial and gender preferences. He actually believes equal means equal, and that the law should apply without racial preference for or against anyone. Clearly, they say, such a black American cannot be the best available person.

Mr. President, it is often said that the Senate is the last plantation in America. I hope the Senate does not act like one when it considers Judge Thomas' nomination.

JUDGE THOMAS IS WELL QUALIFIED

Mr. President, let us dispose of this canard that Judge Thomas' nomination is in any way questionable because he has been a judge for less than 2 years. Out of the 105 Justices serving on the Supreme Court in our Nation's history, 41 had no prior State or Federal judicial experience—41, Mr. President. Another 10 Justices had 2 years or less experience on State or Federal benches. Many of the most distinguished Justices of the Supreme Court had no prior State or Federal judicial experience whatsoever.

James Wilson, of Pennsylvania, played a role second only to Madison at the Constitutional Convention, and he had no prior judicial experience.

John Marshall, of Virginia, who is widely regarded as the single greatest Justice to have ever served on the court, and he had no prior judicial experience.

Joseph Story, of Massachusetts, another all-time great Justice who stood shoulder to shoulder with John Marshall for 25 years in furthering a strong union, and for another 10 years after Marshall's death; who is well known for his 1833 commentaries on the Constitution of the United States, for his famed Harvard Law School lectures, and for his work on copyrights and patents; and he had no prior judicial experience.

John Archibald Campbell, of Alabama, who was so well regarded that he is probably the only nominee for whom the entire membership of the Supreme Court wrote a letter to the President, Franklin Pierce, urging his nomination, and he had no prior judicial experience.

Louis Brandeis, of Massachusetts, universally regarded as one of the all-time great Justices, served with distinction for 23 years, and he had no prior judicial experience.

George Sutherland, of my own State of Utah, a leader in the Utah bar, and the intellectual-philosophical leader of the anti-New Deal wing of the Supreme Court, has been rated by many court observers as one of the top Justices to have served, and he had no prior judicial experience.

Felix Frankfurter, of Massachusetts, served with great distinction for 23 years, and he had no prior judicial experience.

William O. Douglas, of Connecticut, a towering figure on the Court for over three decades, indeed he joined the Court from the chairmanship of a Federal agency, the Securities and Exchange Commission, and he had no prior judicial experience.

Robert H. Jackson, of New York, another highly regarded Justice, who authored the opinion in *West Virginia State Board of Education* v. *Barnette* (319 U.S. 624 (1943)) striking down a State flag salute statute and who served as the American Chief Prosecutor at the Nuremberg Nazi war crimes trials, and whose dissent in Korematsu versus United States, a case upholding the exclusion of Americans of Japanese ancestry from the west coast during World War II, rings out to this very day. He warned that "once a judicial opinion * * * rationalizes the Constitution to show that the Constitution sanctions such an order, the Court for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need. Every repetition imbeds that principle more deeply in our law and thinking and expands it to new purposes." His prophecy has come true, as reverse discrimination, to the extent the Court has so far sanctioned it, is justified by its proponents on the basis of allegedly urgent needs. Justice Jackson had no prior judicial experience—indeed, he never graduated from law school.

Earl Warren, of California, led the Court in overturning numerous precedents, including Plessy versus Ferguson, widened the rights of criminal defendants, reshaped State legislatures under the one-man, one-vote doctrine, and he had no prior judicial experience.

Justices Byron White, of Colorado, and Arthur Goldberg, of Illinois, appointed by President Kennedy; Justice Abe Fortas, of Tennessee, appointed by President Johnson; and Justices Lewis Powell, of Virginia, and William Rehnquist, of Arizona, appointed by President Nixon—combined, they had zero judicial experience.

Justice Hugo Black, of Alabama, had 1½ years of State judicial experience.

John Harlan, the elder, of Kentucky, nominated at the age of 44, is another Justice generally regarded as one of the all-time greats, and who penned one of the most famous dissents in the Court's history, in Plessy versus Ferguson, when he correctly and courageously wrote, "Our Constitution is colorblind, and neither knows nor tolerates classes among citizens," and he had 1 year of prior judicial experience on a State court.

His grandson, John Marshall the younger, was a brilliant exponent of his legal point of view, often in dissent in the Warren years, and he had only 1 year or prior judicial experience.

I could go on, but my point is this: I would not want to see Judge Thomas subjected to some kind of double-standard with regard to judicial experience. He has had so much or more judicial experience as nearly half of the Justices confirmed by the Senate. The use of double standards to deny black people jobs when the real reason is something else is an old tactic. Here, the reason his critics question his nomination is not because of a lack of judicial experience, but because they think he will not vote the way they want him to vote. Some critics are troubled that he is a forthright opponent of reverse discrimination, whatever the euphemism used to mask it. He believes our civil rights laws apply equally to all Americans, without preference for any American.

Moreover, Judge Thomas has a wealth of impressive qualifications. He is a graduate of the College of the Holy Cross and the Yale Law School. He served for 2½ years as assistant attorney general for Missouri, under our distinguished colleague, Senator JOHN DANFORTH. I cannot imagine a finer introduction to the practice of law and a better training ground for the Supreme Court than this office. He was an attorney at Monsanto Co. in St. Louis, MO, for over 2½ years. For nearly 2 years thereafter, he rejoined Senator DANFORTH as a legislative assistant. In this stint with Senator DANFORTH, he worked on matters involving energy, environment, public works, and the Department of the Interior. In 1981, he became assistant secretary of education for civil rights. A year later, he began an 8-year tenure as chairman of the Equal Employment Opportunity Commission. For over a year, he has sat on the prestigious Court of Appeals for the District of Columbia. He has been a member of the board of trustees of the College of the Holy Cross, his alma mater.

This wide range of public service, at the State and Federal levels, and in the private sector, will serve him well on the High Court. Judge Thomas has been in the public arena. He has faced controversial issues. He has stood up to pressures from both the right and the left while in the Reagan administration. He is his own man. He is well qualified and experienced.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for morning business be extended for 5 minutes so as to permit the Senator from Nebraska to address the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized for those 5 minutes.

Mr. EXON. I thank the Chair and the majority leader.

Mr. President, I ask unanimous consent that the remarks that I am about to make appear in the RECORD immediately following the remarks by my colleague from Nebraska, Senator KERREY, on the talk he gave regarding health care earlier this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 1446 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. I thank the Chair, and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2506

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 2506, the legislative branch appropriations bill for fiscal year 1992, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1241

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of S. 1241, the crime bill, that the time today until 12 noon be for debate only and be charged against the time remaining and that at 12 noon the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTINUED SUCCESS OF THE INTERNATIONAL FUND FOR IRELAND

Mr. KENNEDY. Mr. President, the International Fund for Ireland continues to be successful in creating jobs in disadvantaged areas of Northern Ireland as well as fostering cooperation between Protestant and Catholic communities. And the U.S. contributions to the fund are playing an important role in that success.

I recently received a letter from the Department of State which describes some of the recent successes of the fund and the significance of the U.S. contributions. I believe this letter will be of interest to all of my colleagues who are concerned about this issue, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, DC, July 2, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: Knowing of your interest in the International Fund for Ireland, I thought you might be interested in some recent activities of the Fund. These comments are largely based on reports from officers of our Consulate General in Belfast, who have devoted a great deal of attention to the Fund.

They report that the Fund has been getting good press in Northern Ireland lately, with a number of project openings and announcements enhancing its image. In the past months several new projects in all six counties of Northern Ireland and in everything from rural development to urban regeneration have been announced. Consulate officers participated in inaugural ceremonies for various projects and visited others. They received repeated strong public thanks from officials and participants for the U.S. contribution.

URBAN DEVELOPMENT

The Fund has recently announced that 41 new projects in Northern Ireland will be offered grants totaling 1.7 million pounds sterling under its Urban Development Plan. These grants are expected to attract additional private investment of 5.5 million pounds, and will create 450 new permanent jobs, as well as temporary construction jobs. Competition for the grants was stiff, with over 400 applications received. The program is designed to aid economic and social regeneration of urban areas with a focus on stimulating private investment. Many of the approved projects, which are spread evenly throughout the Province, will bring vacant buildings into productive use, renewing the physical fabric of run-down areas, and bolstering civic pride.

RURAL DEVELOPMENT

On April 4, the IFI announced that it would be spending 572,000 pounds in addition to funds already spent on a rural action project which will encourage diversification by small or part-time farmers in the most deprived areas of South Armagh and West Fermanagh. Under the project, 60 farmers are engaging in a diverse range of enterprises with commercial potential, such as strawberry and mushroom culture. The project will also fund R&D work on crops and markets.

The Consul General has visited the mushroom project, which struck him as an excellent method of supplementing incomes of marginal farmers. The project appears innovative and has a connection with a producer of mushroom spore in the Pittsburg area. Managers of similar projects tell us that by introducing new crops and new technology to small farmers, they hope to keep more young people on the farms and stop the waves of emigration from Rural areas.

CARRICKMORE

The International Fund, in partnership with the Department of Environment (DOE), launched a 1.9 million pound program for the County Tyrone town of Carrickmore, April 10th. The money will be spent over the next two years on the economic regeneration of the town center. The package will include a multi-purpose Community Resource Center with 18,000 square feet of workspace. Speakers at the opening ceremony for the project thanked the U.S. for its contribution.

Carrickmore is typical of the Province's smaller disadvantaged towns. It has very high unemployment levels and is a Provo stronghold, as the graffiti on its walls testify. The commercial premises are run-down and, as a divided community, it has had rather more than its share of inter-communal violence. Indeed, the Carrickmore ceremony had been scheduled for an earlier date but was postponed because of the sectarian murder of a man in a village nearby.

Consulate officers have had a good bit of contact with Carrickmore, although it won't appear on anyone's tourism map for some time, and the Consul General participated in the opening ceremony. On an earlier visit, he had been struck by the high quality of the board of the Development Group, most of whom are local businessmen. The Board also drew much praise at the ceremony. Given the community rifts brought on by the "troubles," just bringing a cross-community group together is a difficult feat. Several residents told the Consul General that the IFI-backed project has helped engender a new spirit of optimism in Carrickmore. We share with Fund Chairman John B. McGuckian the sense that the Carrickmores are just where the Fund should be operating.

KEADY AND DARKLEY

The Consul General participated with the Northern Ireland Minister for the Enviroment, Richard Needham, Mr. McGuckian, and Seamus Mallon, the Member of Parliament for the area, in the opening ceremonies for two IFI Projects in the particularly disadvantaged towns of Keady and Darkley, South Armagh. This major regeneration project, costing 1.5 million pounds, is the first project of IFI's Community Regeneration and Improvement Special Program (CRISP) to be announced for the troubled South Armagh area. The money will go toward construction of a business center and the refurbishment of a derelict mill in Keady Town Center. The local District Council is adding 30,000 pounds to open a Heritage Center based on the town's historic linen industry. All of the speakers went out of their way to stress the importance of the U.S. contribution to the Fund, and to offer their sincere thanks for the U.S. interest in Northern Ireland affairs.

DUNGANNON

The Cousul General and Vice Counsul visited a newly opened enterprise center in Dungannon on May 13. Local politicians joined them for a tour of the premises, which contains 34 small businesses. The project, which cost one million pounds, was co-funded by the IFI, the Dungannon District Council, and the Local Enterprise Development Unit (LEDU). Local Councillors made frequent reference to the importance of the center for the town, which has been hard hit by violence, and all thanked the U.S. for its contribution.

WEST AND NORTH BELFAST

The Vice Consul also paid repeat visits to two West and North Belfast enterprise centers to check on progress. The Ashton Development Center, located in the troubled New Lodge area, will open its new IFI-Funded Enterprise and Retail Center in July. This center is notable for the level of community support it received. Most of the 5,000 residents of the area, which suffers from 70 to 80 percent male head-of-household unemployment, chipped in 10 pounds for the construction. Managers tell us that since the construction there have been no incidents of vandalism or paramilitary graffiti although the center is only twenty yards from the spot where teenager Seamus Duffy was killed by a plastic bullet during a disturbance two years ago. The manager added that this year there was decidedly less violence, which he attributed in part to the center's existence. Again, the U.S. dimension was noted, and the management has requested that an American official formally open the center in August.

Farset Enterprise Center, located directly on the "Peace Line," which divides the Protestent Shankill from the Catholic Falls areas, was officially opened by Ambassador Catto in June last year. Since then, the center has increased its occupancy and maintained its 50-50 split between entrepreneurs from each community. Managers have encouraged cross-community groups to visit the center and note that they have experienced almost no crime or vandalism since the center has been in operation.

Our contacts with International Fund activities have led us to conclude that the Fund has succeeded in changing its image from the early days when it was accused of making the rich richer. By showing that it will go where some fear to tread, and by making a commitment to troubled areas with high unemployment, the Fund has attracted praise from all corners of Northern Ireland. So popular is the Fund that even some stronghold Unionists, once adamantly against the IFI for its links to the Anglo-Irish Agreement, have been agressively pursuing grants for projects in their areas.

I hope that these observations and conclusions have proved useful to you. If you have further questions, we will do our best to reply.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

ARTHUR OBERMAYER ON SOVIET ECONOMIC REFORM

Mr. KENNEDY. Mr. President, the debate over whether and how to assist the process of reform in the Soviet Union has generated a variety of proposals on how to achieve this goal. While much of the discussion centers on whether the West should provide massive amounts of financial assistance to the nation, several thoughtful individuals have advocated important and timely proposals that could be implemented simply and inexpensively.

One such idea has been put forward by Arthur Obermayer, president of the Soviet Countertrade Group of Newton, MA. Mr. Obermayer rightly points out that the debate over support for economic reform in the Soviet Union must include consideration of the need to educate Soviet citizens in basic elements of life under a market economy.

As Mr. Obermayer writes in a recent article in the Christian Science Monitor, the Soviet people "must be part of the economic reform process and must be convinced it can work. They need to understand the power of consumers, the expectations of employers, and the transiency of dislocations."

Mr. Obermayer suggests several educational activities that the United States could support at relatively little cost to United States taxpayers, but at great gain to the people of the Soviet Union. I believe his article adds an important element to the current debate over aid to the Soviet Union and I urge my colleagues to consider the proposals he suggests.

I ask unanimous consent that Mr. Obermayer's article may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 8, 1991]

OFF WE GO INTO THE WILD FREE MARKET

(By Arthur Obermayer)

We do not realize how little the Soviet people know about a free-enterprise system. Westerners, from early childhood, experience freemarket concepts through TV advertising, games like "Monopoly," and selling lemonade to neighbors. Even the brightest and best educated Russians have not had this kind of exposure and, as a result, do not automatically grasp concepts that are obvious to us. A few examples:

I know a computer magazine publisher who decided to publish a Russian edition of his magazine. The galley proofs of the first edition indicated that it was a few pages too long. He asked his Russian editor to bring them down to the required size. The Russian editor sent back the galleys with all of the advertising removed. He commented that the advertising provided very little new content of interest to the readers, and therefore it should be eliminated.

My niece showed an American newspaper to some Soviets in Moscow. After reading it, they asked, "What is a sale?" She responded that it occurs when a business sells its products for a lower price in order to attract customers. The Russians then asked, "Why would anyone want to sell a product for less?"

Last year, I met with leading bankers in one of the republics. The subject of credit cards came up, and I showed them mine. They had never seen any before, and were fascinated to learn how they are used. Bank checks are also a new concept. Consumer purchases in the Soviet Union are on a cash basis.

In Moscow last year, I met with some young entrepreneurs who were looking for investors to back an exciting new international magazine devoted to culture, aesthetics, philosophy, etc. The magazine had already generated a lot of enthusiasm among eminent people in the arts and sciences. I asked what they anticipated would be the subscription price. Their response was, "Two thousands dollars per year for four issues." I said, "No one would pay that amount." First they responded, "Don't libraries buy *all* magazines?" Next, they said they thought this was a fair price when compared with Western business and market reports that sell for just as much money, have no aesthetic value, are on poor quality paper, have no photographs, and contain, many fewer pages.

While our leaders urge President Gorbachev to institute economic reform, we are forgetting that the pariticpation and cooperation of the Soviet people are essential for success. They are envious of the higher standard of living in the West. But they are fearful of the unknown, are unaware of how it will affect their families, and are apprehensive when they hear about unemployment, homelessness, and higher prices that reforms may bring.

A top-down approach to reform imposed by their leaders can only bring resistance, frustration, disillusionment, and ultimate failure. The poeple must be part of the economic reform process and must be convinced it can work. They need to understand about the power of consumers, the expectations of employers, and the transiency of economic dislocations. Educating for a free enterprise system is a much sounder investment than direct financial aid, because it reaches beyond divisive Soviet leaders and bureaucrats and fundamentally influences peoples' attitudes. It helps them learn to help themselves.

Compared with full-scale financial aid, the expense of educating the Soviet people will be small. However, it will take many years to bring the level of understanding of their average citizen to that of a typical American.

Here are some educational activities we could support:

Television program aimed at the average Soviet citizen. This is the most effective and the principal medium for mass communications in the Soviet Union. TV stations throughout the USSR have already expressed interest in such programming.

Academic courses designed for all levels in schools and universities. Developing such courses requires outside help, as very few Soviet economists have a basic understanding of how a free enterprise system works.

Videotape for use in schools and workplaces. Bringing Soviet managers, professionals and factory workers for on-the-job training in American business environments could also produce rapid results, so long as the language barrier can be overcome. In the other direction, some American entrepreneurs, educators, and professionals have already started workshops and seminars in the USSR.

These prgrams could be begun with relatively little investment. The needed tools and skills are readily available in the United States. Many Soviet institutions are eager to enter into such ventures, but the combined efforts of a great many people are required. A commitment by major foundations and our government would accelerate the process. We have a rare opportunity to help the USSR and the world move in a direction that will benefit all of us.

GE/TUNGSRAM—A MODEL BUSINESS PARTNERSHIP

Mr. SASSER. Mr. President, I rise to submit for the RECORD the remarks of Frank P. Doyle, senior vice president at General Electric Co., before the National Foreign Trade Council.

As Eastern Europe begins its process of democratization the role that American companies can play in liberalizing the economies of Eastern Europe must not be underestimated. Active participation by American business is crucial to the transformation of Eastern European economies, and will in fact bolster our own economy as well.

One American company is charging ahead. In November of 1989, General Electric formed a partnership with Tungsram, a Hungarian lighting manufacturer. In this venture, GE found a tremendous business partnership.

Tungsram is globally competitive and technologically sophisticated, despite the past strains of a top-heavy bureaucracy and rudimentary management skills. Thus, GE's business strategy was clear and farsighted. Tungsram would gain a major European manufacturing base as well as major distribution channels for GE lighting prior to the formation of EC 92. Ultimately, Tungsram would be pivotal in bolstering global leadership for GE lighting, thereby enhancing U.S. leadership in the field.

Moreover, General Electric is committed to making a broader contribution to the growth of the Hungarian economy. It is funding a variety of local job training programs to help Hungary through this period of wrenching economic change. This investment in the Hungarian people should accelerate the pace of constructive economic change both for Tungsram and Hungary as a whole.

General Electric's blueprint for constructive economic participation in Eastern European exemplifies the importance of American assistance for those nations making a transition to a market economy. The General Electric approach to promoting capitalism in Hungary might well prove fruitful for the other emerging economies of Eastern Europe.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

[New York City, NY, June 18, 1991]

CONFERENCE KEYNOTE ADDRESS: OPPORTUNITIES FOR AMERICAN BUSINESS IN HUNGARY

(Remarks of Frank P. Doyle)

Thanks for that kind introduction, Frank. I didn't plan to make any speeches this month, since we're right in the middle of the negotiations we conduct every three years with the unions representing 67,000 GE employees. But this invitation was irresistible . . . both because of NFTC's standing in the trade field and because Frank Kittredge is an old friend and colleague.

This conference attracted me for another reason. That was the chance to emphasize, from my vantage point with GE, the important and urgent role American companies and investors can and should play in Hungary and the other liberalizing economies of Central and Eastern Europe. That's our view after eighteen months in partnership with Tungsram, certainly one of the most exciting and significant international ventures for GE in years.

We at GE like to emphasize speed and agility. But the fact that we announced our agreement to buy a majority interest in Tungsram just one week after the Berlin Wall fell in November, 1989 doesn't exactly give the right impression. Not only did GE and Tungsram maintain links over most of the twentieth century, but we expressed interest in a partnership over several years before we conducted serious negotiations over several months.

Our partnership with Tungsram is much less an historic leap of political faith and timing than a pragmatic business decision that made competitive sense.

TUNGSRAM: WHAT WE FOUND

What we found in Tungsram was, in some ways, a once-in-a-generation choice of a business partner.

We found a century-old globally-competitive enterprise . . . with 12 manufacturing plants and about 18,000 people . . . and a full product line in automotive, consumer and industrial lighting.

We found what is probably the lowest-cost producer of diverse lighting sources in the world, with manufacturing cost advantages gained from relatively low labor and energy costs.

We found Tungsram's greatest strength to be technology, technology sophisticated enough that Mercedes Benz and BMW use Tungsram headlamps on some of their models. It also turned out, as we swapped technologies, that Tungsram had more expertise in the chemistry of tungsten filaments than GE. A two-way technology flow is now strengthening both companies.

We also found a proud institution, an institution with strength and character. If anything, we underestimated just how well-educated, hard-working, highly-skilled and loyal Tungsram employees are.

Finally, we found a company not only with a base in Central and Eastern Europe, but with 70 percent of its sales in hard currency countries and a 7 percent market in Western Europe. The strategic fit for us was clear: Tungsram would gain a European manufacturing base and distribution channels for GE Lighting ahead of 1992; ultimately, Tungsram could be pivotal in building global leadership for GE Lighting to add to its domestic U.S. leadership position.

But close scrutiny revealed Tungsram not only to be a company of world-class potential, but also a company constrained by the accumulated inheritance of four decades of regional problems.

Let me be candid, and I hope constructive. We found too much bureaucracy . . . too many layers . . . too many reporting requirements . . . too much data and too little analysis . . . and virtually no office automation. We also found rudimentary accounting and financial management processes . . . under-developed marketing and pricing capabilities . . . product and process quality problems . . . and a company virtually starved of investment funds.

We found, in short, an extremely uneven terrain. Both the elements of Tungsram's success—and its shortcomings—became quickly apparent. We faced the challenge of integrating Tungsram into GE Lighting at a reasonable pace, and we also needed to pick the right person to take charge.

GEORGE VARGA: RIGHT OUT OF CENTRAL CASTING

GE enjoys a reputation for the strength and depth of its management team. Yet it was not immediately obvious to us who would be asked to take the sensitive job of leading Tungsram and GE through its transition and into the future.

But then a 28-year GE veteran, running a $500 million a year plastics plant in the Netherlands, came to mind. His name: George Varga. His qualifications, as we say in the U.S.: right out of central casting.

Budapest native and nationally-known teenage soccer hero; exile of the "Class of '56" turned naturalized American citizen; All-American soccer star at Western Maryland College and armed with a Masters degree in Economics from Stanford; top-performing GE manager: George Varga left Hungary, as he says, "with only the clothes on my back" not to return for 34 years, and then to head the largest industrial company in the country and the most visible Hungarian venture with the West.

George Varga and GE Chairman Jack Welch met together last year with President Goncz in Budapest. Varga later said, "If anyone had suggested I would some day be back in Hungary, sipping coffee with the President of the Republic—a man who was at one time on death row for his political beliefs—along with the chairman of a major American corporation, I would not have believed it."

The value of a Hungarian-American as President and CEO of Tungsram at this time—and the personal contribution that George Varga is making—cannot be overestimated. Being a native Hungarian speaker doesn't hurt when, as Varga says, "We're trying to mesh two cultures." Our task is not to impose GE values and practices on Tungsram, but to integrate the best of GE and the best of Tungsram. And we think we have the elements of a very strong combination.

GE/TUNGSRAM: THE PEOPLE CHALLENGE

We made several early commitments that immediately linked Tungsram's needs to GE's. One was to invest $50 million in the first three years, as well as to reinvest almost all of Tungsram profits for at least the same period. Another was to transfer advanced product and process technology.

We also made a commitment to transfer knowledge and to train Tungsram employees. We are focusing on basic management skills and special functional skills such as finance, marketing and information processing. Our training is casting a broad net. For example, just this week, Tungsram middle managers drawn from several plants are meeting with their counterparts at our Winchester, Virginia lighting plant. Their mission sounds mundane: learning preventive maintenance. But that's exactly the kind of improvement that will transform Tungsram's productivity.

As important—and more difficult—is training that focuses on the elusive but crucial issues of company culture. We hesitate to impose "American" culture. But there is one set of cultural attitudes that may seem all-American to many of our Hungarian colleagues. That is encouraging individual Tungsram employees to take responsibility for their work and its results. It's a difficult set of attitudes to measure, but we believe that emphasis on "soft" values often translate into "hard" results such as productivity growth.

We are conscious of the fact that the spotlight is on GE/Tungsram, giving us a special responsibility to move forward—with special sensitivity—the simultaneous processes of competitive restructuring, work force reductions and worker retraining. The necessary downsizing of the Tungsram work force is being achieved mostly through the combination of attrition, early retirements and a hiring freeze. At the same time, we are raising base pay for the remaining work force, and awarding merit raises based on measurable results.

A crucial part of the transition is union-management relations. The old company-tied union became independent in June, 1990, and a new leadership was elected. Our attitude is clear: develop a partnership with the union that will allow an effective voice for Tungsram employees. Free unions are intrinsic to free societies: free unions offer, in this case, authentic representation to their members and interests; they can also act as pragmatic partners with management, once trust is established.

We're also trying to make a broader contribution—beyond Tungsram—to worker retraining and the transition to a market economy in Hungary. The GE Foundation is funding a set of local labor market studies and community-specific job training programs to help Hungarians through this period of wrenching change. In the end, investment in people will help determine the pace and success of economic change both for Tungsram and the country.

RAISING OUR STAKE: CONFIDENCE IN THE FUTURE

Things are going well: so well that just last week, GE lighting announced that it has increased its ownership of Tungsram to 75% plus one share. The additional stake, representing a 19% increase in ownership, is a further demonstration of GE's confidence in Tungsram, its people and its progress.

At the same time, we announced a plan to increase capitalization in Tungsram in the near future to accelerate manufacturing efficiency programs and new product introductions. We are confident that Tungsram's strenghtening product line will translate into growth in European and world lighting markets.

Tungsram has gone a long way to position GE Lighting as a European and increasingly as a global player. So too has our acquisition last November, almost exactly one year after the Tungsram transaction was announced, of the UK-based lighting operations of Thorn EMI. We're now in a credible position to take on Philips and Osram in their European home base.

THE GE/TUNGSRAM STORY: THE LESSONS ARE LIMITED

The GT/Tungsram story is still unfolding after eighteen months, with many difficult chapters, no doubt, still ahead. I suggest caution in drawing any particular lessons from our experience to date. Several unusual—even unique—sets of circumstances were at work:

First, GE had a long-established familiarity and set of links with Tungsram. Other prospective investors may find this aspect of our venture to be the least difficult to repeat.

A second unusual circumstance was the fact that we were not acquiring a wholly state-owned enterprise. Tungsram's ownership first shifted in September, 1988 when 49% of its shares were sold to a consortium of Austrian banks. So when GE conducted its intensive negotiations with the Hungarian government and the Hungarian Credit Bank in November, 1989, Tungsram's ownership had already been passed in substantial part to a free-market seller.

Finally, many early decisions and actions affecting the future of GE/Tungsram were set in motion while the former government remained in power, before free elections were held last spring. That was both an advantage and a disadvantage: an advantage to the extent that we initiated the transition while consulting fully with the government then in power; a disadvantage to the extent that it became increasingly clear that the political environment and players would change.

So in at least these respects, it is difficult to envision a "GE" or "Tungsram" model for scouting the prospects, structuring the transaction, or moving a transition period forward.

But the same positive set of factors that attracted GE to Hungary applies for other prospective investors, especially the American investors who accounted for 40 percent of all foreign working capital in the country at the end of last year. These factors include:

Extraordinary demand for western capital and consumer goods and services.

Proximity not only to other Central and Eastern but also to Western European markets.

Entrepreneurial subcultures that survived through the Communist era and enlivened the Hungarian economy.

As importantly, a highly-talented, universally literate work force for whom English is replacing German as the most common second language.

These advantages continue to offer opportunities to other companies—large and small alike—in other industries. Major investments have already been made in diverse sectors of the Hungarian economy . . . from banking and financial services . . . to telecommunications and media . . . to autos and steel.

HUNGARIAN PROBLEMS/HUNGARIAN OPPORTUNITIES

Hungary remains the Central or Eastern European nation that is most attractive to foreign investors. But not unexpectedly, its economy also remains troubled:

Its $21 billion debt is the highest per capita in the region; Poland, not Hungary, has emerged as the regional laboratory for drastic debt reduction tied to substantial Western aid.

Trade with the former Comecon nations—especially with the Soviet Union—has virtually collapsed with the switch to hard currency trading in January. Hard currency trade with the West is not picking up quickly enough, and 66 percent of export earnings go to debt service.

Inflation is climbing, real incomes are declining and unemployment is increasing . . . all converging at the same time and all combining to depress national morale and confidence.

Finally, privatization is off to a slow start, and the politically-charged issue of property restitution stands unresolved. Addressing both issues is crucial not only to mark the way forward for economic development and liberalization, but to attract additional foreign capital and investment commitments.

It goes without saying that the greatest responsibility for helping Hungary rests with the Hungarians themselves. Hungarian opportunities rest on solving Hungary's problems.

But the fact is that Hungary's resources and options are severely limited. I believe that the government can improve the situation not only by clarifying the ownership and title issues and by setting forth its privatization priorities, but also by focusing on ways to build—not just distribute—capital. At the same time, foreign investors like GE can work closely with the Hungarian government to lower trade barriers so that Hungarian products can compete on a more level playing field.

AID VERSUS TRADE REVISITED

If trade is part of the answer, aid is another. Balance-of-payments aid directed to objectives such as debt reduction is extremely helpful; so too is development aid that includes grants and loans for capital projects, export credits and insurance, plus direct technical and training assistance. The West got off to a strong start in late 1989 with the G-24 assistance effort, but the actual flow of funds has so far been modest. The U.S. moved quickly at the end of that year with the SEED I programs targeted to Poland and Hungary, but has yet to move forward with additional SEED II aid. The G-24 aid structure remains in place, but attention and resources are now largely directed elsewhere; first and foremost, and for the foreseeable future, on the financial and social costs of German reunification; more recently, on the long-delayed but now launched European Bank for Reconstruction and Development; and now most immediately and momentously, on the prospect of massive aid to the Soviet Union.

My aim this morning is not to elaborate further on the aid situation except to encourage the prompt passage, finally, of the SEED II bill that broadens and deepens the U.S. commitment to the region. Nor do I have an academic interest in contributing to the old "trade versus aid" debate in the new context of Central and Eastern Europe. But that phrase does help frame the real issues. The best answer, of course, is to encourage both trade and aid. But if forced to make either/or choices—given the Soviet situation, on top of Gulf War costs and compounded by global recession—then I think that trade is the best and most realistic answer . . . trade even more than aid, although the absolute need for aid may well continue through the Nineties.

Trade is hardly the easy answer; it means exposing U.S. and EC markets to many low price products that will be competitive. But trade is the best answer: it is the lifeblood of the global economy; it is also the only sure route to open market economies in Central and Eastern Europe and eventually to a fully prosperous and integrated European Community.

Hungary moved to lift virtually all restrictions on imports at the beginning of this year, throwing its economy open to the rigorous test of competition. For its part, the U.S. can and should encourage more Hungarian imports. But trade and investment links with the EC will naturally play a far greater role in the economic revitalization of the region, for both historical and geographic reasons. We will be watching with great interest the extent to which the EC assures market access for Central and Eastern European products.

Trade policies during the transition period to what many observers expect to result in full EC membership by the end of the decade—at least for Poland, Hungary and Czechoslovakia—should be as open and liberal as possible. The EC should relax the trade regimes that currently apply to "state trade" economies. At the same time, the EC should move away from sectoral protection, especially in the few agricultural and industrial sectors where the Central and Eastern European nations stand a chance of being competitive in the near term.

The EC, much to its credit, has extended the duty-free benefits of the General System of Preferences (GSP) to Poland, Hungary and Czechoslovakia. Through the duration of that arrangement—or any successor tariff scheme—it is important that as few exceptions as possible are made.

The EC can continue to approach these issues on a biliteral or limited regional basis. Or it can act on a multilateral basis by joining with GATT members in these final months of the Uruguay Round to further liberalize trade regimes affecting Central and Eastern Europe. Whatever the approach or the forum, the Western European nations have both a special responsibility and specific ways to help. They should do so.

CENTRAL AND EASTERN EUROPE: STILL THE GREAT DRAMA

World attention has, understandably, focused on other events and issues over the past year. First and foremost has been the Iraqi invasion of Kuwait, the Gulf War and its aftermath. Natural and human disasters have struck from Bangladesh to Ethiopia; at the same time, global recession has constrained resources and narrowed horizons. To the extent that problems pertaining to the former Warsaw Pact nations have remained in focus, the issue has been less the prosperity of Central and Eastern Europe than the survival of Mikhail Gorbachev . . . and less the reintegration of those nations into the world community than the possible disintegration of the Soviet Union.

There are good reasons why those events and issues have commanded the attention of the media and policy-makers alike. But there is no doubt that the intensity of the focus on Central and Eastern Europe that was apparent twelve and especially eighteen months ago has diminished. Moreover, apart from transactions associated with German reunification, there has been a slowing down in the pace of Western—including American—investments in the region.

These are understandable trends, reflecting realistic assessments. Some would call them less short-sighted than clear-eyed.

But now is the time to refocus on Hungary in particular and on Central and Eastern Europe in general. The fact remains that the fate of the former East Bloc nations—and of course the Soviet Union—remains not only the great drama but the great set of events and issues of the late twentieth century. This proposition is certainly true from their point of view. I believe it should be true from ours, too.

Both bilateral and multilateral direct aid will have appropriate roles to play through the Nineties, and both on a region-wide and country-specific basis. Yet trade and investment—government-supported to be sure, but essentially private, flowing from enterprise to enterprise—will emerge as the broadest, most responsible form of engagement that the U.S., the EC and Japan can pursue.

Bad, uneconomic deals are in no one's interest. But a long view—and patient capital, for those who can afford it—are in everyone's interest. And it is not only big companies with that kind of staying power who should keep looking; it's also smaller companies with proven niches—such as environmental technology—who can contribute and profit at the same time.

Hungary and the other Central and Eastern European nations will rebuild their economies and reintegrate themselves into the rest of the world. The real issues are on whose terms, at what pace, and with what short- and long-term cost or benefit to the global economy and to the political community.

A truly clear-eyed assessment, I believe, reveals both serious problems but even greater opportunities. Finding the way between them will not be easy, but we at GE believe it will make history.

Thank you very much.

TRIBUTE TO GEN. AL GRAY

Mr. WARNER. Mr. President, images of the war in the Persian Gulf remain vivid in the minds of all Americans. From televisions and newspapers, and virtually everywhere we turned, we saw or heard the tale of conflict in the desert through vivid imagery made possible by the advanced technology available today.

I remember so well, the image of field commander Gen. H. Norman Schwarzkopf outlining in detail the various phases of Operation Desert Storm that resulted in the allied victory over Iraq. One particular aspect of the early stages of the ground war he described was the entry of the 1st and 2d Marine Divisions into Kuwait, and their breech of the enemy defenses at the border. The field commander told the media and the Nation that the performance of those Marine divisions was text book perfect, and that their achievements in the field would be studied for years to come as the model for operations of that kind.

Every marine well knows that the tremendous success of their fellow marines—not only in the gulf war, but in missions all over the globe—is due in no small part to the leadership of one man, their Commandant, Gen. Al Gray.

General Gray recently retired after more than 40 years of service to his Nation in the military. And I am privileged to have this opportunity to remark upon the distinguished career of the 29th Commandant of the Marine Corps.

There is much about Al Gray that is extraordinary, starting with his length of service. In October 1950, he made a commitment he would keep for over 40 years, when he enlisted in the Marine Corps. That commitment was to his Nation, to the Marine Corps, and to his fellow marines. Throughout those many years, his commitment has been unfailing; indeed it has been an inspiration to many.

A brief look at General Gray's career illustrates the inspiration to which I refer. He enlisted in 1950 and achieved the rank of sergeant in combat in Korea. He was commissioned in 1952, after which he has the rare distinction of having served as a communications officer, an artilleryman, and an infantryman. His service is also distinguished with valor. Wounded three times in two wars, Al Gray has been awarded the Silver Star, two Legions of Merit, three Purple Hearts and four Bronze Stars.

In light of his combat service, it is not surprising that as Commandant, General Gray has emphasized the basic principle of the marine as a warrior. While he has been at the forefront of the promotion of educational programs and acquisition of weapon systems that facilitate the mission of the Corps, the manifestation of this guiding principle of the marine as warrior is not often seen until the marines are in combat, performing the duties they have been trained to carry out—as we saw so brilliantly done in the gulf region.

It is in the execution of this duty that we recognize the look in the eye of a marine that tells of the fierce commitment they made at Paris Island, Quantico, Camp Lejeune, and other Marine camps around the country and the world. That commitment is modeled after Gen. Al Gray.

An extraordinary man it is indeed who has molded the Corps into a force to be reckoned with. For all his achievements, however, General Gray has never lost sight of his enlisted days. In him, every marine knows they have a comrade-in-arms. The trappings of leadership are frivolous to a man whose foremost concern is for the welfare of his marines. His charismatic leadership is tempered with a sense that he is only one member of the Corps, a marine as ordinary as the newest recruit.

President Ronald Reagan said, "Some people live an entire lifetime and wonder if they have ever made a difference in the world, but the marines don't have that problem." Al Gray certainly knows of the tremendous difference he has made in the world. And he has seen to it that each and every marine is instilled with the sense of duty and courage that ensures they, too make a difference in the world. The Commandant's legacy has already begun to be witnessed in the sands of the Arabian desert. But we will continue to witness the legacy of the work of Al Gray for many years, and we can fully expect that generations to come will read about the Commandant and his marines in history books.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1241 on which there are 10 hours remaining under cloture. The clerk will report.

The bill clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, we have, for the better part of 2 weeks now, been discussing a crime bill, as it is generally called, and maybe with cloture invoked, we will see the end of the debate today.

I would like to take a moment to offer some reflections on the subject and to discuss three amendments which I will offer at the appropriate time.

The first is to say that the fact of the Senate returning, once again, to this subject reflects the level of concern in the Nation. The very able Douglas Turner of the Buffalo News wrote his own comments on this recently. He described a public that had commenced to feel victimized by street crime, by the randomness of violence that has emerged in this Nation, and that wants some response.

Not to be surprised. We see this at every level in our society. We are a society violent in ways that is not known to other industrial democracies. Canadians do not follow what happens across their border.

We are violent in ways that are anarchic, increasingly so. There has always been violence in the United States, as there is in almost any society. Typically, until very recently, it was murder between persons who knew one another. Any police officer will tell you that the most dangerous situation he ever will get himself into is domestic violence when there is a weapon involved. That is part of life. It is not threatening to society.

What is threatening to society is the murder of a mother of three children driving along North Capitol Street on her way home having visited her own mother and finding herself between the gunfire of rival drug-related gangs with semiautomatic weapons. A mother was murdered. A 21-year-old was arrested, and he will go to prison probably, and he will stay awhile and come out and do more of the same. Some criminals will be picked up and some will not.

The appearance of that 21-year-old was forecast, if I may say, in an article in American magazine in 1965. I wrote that any society that allows a large portion of its young male children to be raised in anarchic family situations with no male authorities present—with no reasonable prospects in life, with no networks for entering an adult world that will channel them into reasonable prospects—that society asks for and gets chaos.

I said that from the wild Irish slums of New York in the early 19th century to the ghettos in 1965, the result has always been the same. Nobody could hear that then or, if they heard it, they said it was not so. So here we are a quarter century later thinking up new forms of the death penalty.

The death penalty will have no influence whatever on the behavior of these children. It might influence the behavior of a banker, marginally influence that of adults involved in calculated crimes where costs and benefits would be a matter of some consequence being the only reason you are involved, but generally speaking, no. The death penalty would not have deterred that 21-year-old arrested today if, indeed, he is the person involved. Somebody was involved, and that happens everywhere.

In the city of New York, the mayor went to a housing project where he announced that they were going to do something about guns in public housing, and in the middle of the ceremony a firefight broke out a block away. The mayor, a former Marine, stood his post but everybody else dived to the pavement.

These are the elemental social origins of what we are dealing with. I say it again, I said it would come, and it has come, and I do not see any prospect of it going away for a long while.

So most of what we are doing today is futile. Part of it partakes of a quality I find difficult in dealing with, and that is of vengeance. Two thousand, five hundred years ago Aristotle described justice as the application of reason devoid of passion. I, for one, have never felt that the death penalty was an impossible or forbidden exaction by society in response to behavior by individuals, but I have certainly never thought it should be an exaction of vengeance. The vengeance degrades those who take it as much as those who receive it, and we have had too much of that on this floor.

I have said, not with any sense of derision, a sense of anger, that much of the debate I have heard in the last 2 weeks comes down to a simple proposition: "throw the switch and watch them twitch." To take pleasure out of pain.

I do not think it becomes us as a body. If I vote for this bill at all, it will be on the condition that most of these obscene provisions are withdrawn in the conference, as the chairman clearly anticipates he will do.

But we have taken enormous liberties with habeas corpus. The great writ, habeas corpus is eroding before our incapacity to understand what we are dealing with. If only we could reach back and see what we now have, that 21-year-old apprehended for the murder of a mother of three with no father. That fact was denied and now that it has come it is not recognized.

Well, that is the price of a society that is careless about some people and distracted in other matters.

I have just come from the Committee on Foreign Relations where the Secretary of State presented an extraordinary treaty, the Conventional Forces in Europe Treaty. It marks the end of the cold war—over. A 50 years' crisis, 1939–89, is over. The Soviets have withdrawn most of their forces from Eastern Europe, west of the Urals. The Secretary of State has said it is over.

Whether we can now come back to our domestic concerns as Europeans long since have, I do not know, and whether we will do well when we do, I am not sure either. I have seen how much worse things are.

In my city of New York, I was raised on the west side in an area known as Hell's Kitchen, and we were sort of a mythic street warrior cast. If you look back, it was the heavenly kingdom, a peaceable kingdom: Random violence very contained, a social structure clearly in place, all of it disappeared right before our eyes. A real regression in behavior and character has happened in this society. The disappearance of family structure and of political structure, the decline of things like trade unions with the economic structure involved the organized geographic structure of religion disappearing. And as the consequence, random anarchic crime.

Now, what can we do about it? Mr. President, when you start dealing with a subject of this kind, it is an ethical responsibility to say I am not going to get rid of this problem altogether.

I am going to try to do something about it. I am going to try to make it a little easier, to ameliorate it.

I was meeting yesterday with a group of officials of a New York hospital. We were talking about some of these things. I made the remark, "You know, everybody who goes into your hospital dies." They paused a moment, and they said, "Yes, that is right, they all die. Not at that hospital, but in time all of us will die. And one of the conditions of life is the interval."

One of the things I would like to say about guns is that guns do not kill people; bullets kill people. It has been 15 years since I have been here we have debated gun control, and we have never really addressed the question of ammunition control, which makes the argument that this whole matter is symbolic. Symbolic behavior has its role. I am not against it. But I am not taking it very seriously.

Here is the fact, sir. There are about 200 million guns in the United States in private possession. That is about a two-century supply of guns.

Recently—it has been years now—the first Colt repeating revolver was sold at auction, with the stamp 0001, in perfectly good condition, a century and a quarter old. If you do not leave them out in the rain, and you do not fire them continuously, a handgun lasts a very long time.

It was one of those earlier experiences that tends to fix an idea in your head. I was once an officer on the deck on our ship in the Port of Spain almost 50 years ago. We all had .45 caliber weapons, clip-loaded and standard issue. It was a midnight watch, the Caribbean, nothing much to do. The gunners mate and I just decided to take the .45 apart and get to know the weapon. You are supposed to do that anyway; not on watch, but there was nothing very threatening.

Among the things I remember was the weapon had been manufactured in the Springfield, MA, armory in 1911. There is some ensign carrying it to this day. I say to you, we are changing over to a Beretta 9 millimeter. Those .45's are much too heavy a round. A 9 millimeter round will stop anybody just as well. The .45 is for bear.

But, the Army or the Navy gets 75 years use out of a .45, with no problem at all.

I said we have a two-century supply of handguns. We have about a 4-year supply of ammunition. The inventory of ammunition seems to turn over about every 4 years. We seem to manufacture as much as we consume.

Ammunition degrades unless it is stored in the proper setting. But in the main, most rounds will last until they are used. That is not a long period. They are used quickly.

This raises the question, Should we be paying attention to the manufacture, sale, and distribution of ammunition as well as guns? I would have thought so, if you care about people dying. That young mother who died 2 days ago on North Capitol Street—North Capitol Street runs from here for about a mile—died from a bullet, not a gun. Had bullets not been available, she would be alive.

The interesting thing is that we have this curious organization called the Bureau of Alcohol, Tobacco and Firearms, which is in the Department of the Treasury. Exactly how did we get these things together—tobacco and firearms? It is just a collection of revenue activities, and firearms somehow came into it.

They also regulate the manufacture of ammunition. If ever a deregulator's dream, it would be the way the BATF handles this matter. You write a letter, and enclose a postal order for $30, and they send you a license to manufacture as much ammunition as you want of any kind for 3 years, and no reporting to BATF. You can make 100 million rounds of 9 millimeter ammunition. It is your business; you paid your $30.

We really do not know anything about ammunition. The FBI's Uniform Crime Reports, for example, which is based on information provided by local law enforcement agencies, does not report the caliber or type of ammunition used in a crime.

I read in the Washington Post this morning that they apprenhended a young man, 21 years old, who is alleged to have fired the weapon that resulted in the death of this young mother. It is not part of police reporting to say it was a 9 millimeter. Or a .32 caliber, or .25 caliber. That does not get into our structure of thinking about crime. It is the first thing I would want to know. But I did not find it in the papers, and the police did not tell the papers.

The FBI will report the murder, but not the slug. The importers of ammunition are not required to keep any records to report to the Federal Government; manufacturers are not, either.

Well, if you do not care about this, you do not care about handguns; you care about the symbolism. No State in the Union, I think, has stricter handgun control than the State of New York. They date from Governor Rockefeller's period. Possession of a weapon gets you a year in jail. It went into effect just before the Democratic National Convention in 1976.

The first person arrested, I am sorry to say, was a Democratic delegate from the Western States. He carried a gun. He thought while he was in New York, he should. He saw a woman being molested, and he pulled the gun to protect this lady, who turned out to be an undercover police officer. The whole thing was a misunderstanding. But it has had no effect, as far as I can tell, on anything except perhaps increasing our prisons.

We are now getting a distinction. We have more people in prison in the United States than there are in the Soviet Union.

That is something to think about. More people in prison in the United States than in the Soviet Union. I think that is the case; we do not really know. Boris Yeltsin will get us the numbers pretty soon. Remember, many of those people in prison in the Soviet Union had not done anything but write a book. Ours are in prison for violent crime, in the main.

I have an amendment which I hope will be accepted and, if not, we will have a vote, which would require that the importers or manufacturers of ammunition keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms describing the caliber, amount, and type of ammunition, and will also ask the Secretary of Treasury, in consultation with the National Academy of Sciences, to conduct a study of the regulation and criminal use of ammunition, and to make recommendations on the efficacy of reducing crime by restricting access to information.

These things are public health emergencies. Much of the violence in the streets came with the advent of crack cocaine. We did not see it as an epidemic. About 4 weeks ago, the press announced the 10th anniversary of the onset of AIDS, the acquired immune deficiency syndrome. Ten years earlier the death of four males in southern California with a certain mysterious and possibly important disorder, was reported by Morbidity and Mortality, the weekly report of the Centers for Disease Control in Atlanta, which is our epidemiological center. They put out a weekly report of new strains of malaria, or whatever, and doctors spot it and hospitals see it. They spotted this.

Crack came, and they did not spot it at all. Crack appeared in the Bahamas in 1983. It was a mutant—things like morphine and cocaine and heroin are all the products actually of German laboratories in the 19th century where the chemistry was developed. Heroin was a trade name that Bayer aspirin manufactured. They tried it on their employees, and it made them feel heroic. I have seen heroin advertised in 1910. They are all now banned by the Harrison Act. Free base cocaine was figured out in a kitchen in the Bahamas, which is an entry point, as they say, for cocaine from South America making its way to the mainland, much as rum did in the Prohibition. This is the last statute of the Prohibition that is still in place. Free base cocaine produces extraordinary effects, and Dr. David Allen, the head of the Sandilands Rehabilitation Hospital in the Bahamas, observed. Doctor Allen was trained at Harvard and Yale, a physician, a psychiatrist, head of the Bahamian Drug Council. In 1985, he made a public statement saying, "What we have is the world's first free-basing epidemic which could be preceding an epidemic in the industrialized states." This got published in the Atlanta Journal. Nobody paid attention. In the spring of 1986, Allen and associates published an article, the lead article in the Lancet, which is the Journal of the British Medical Society, one of the most prestigious in the world. It was entitled, "Epidemic Free-Base Cocaine Abuse."

Again, nobody at the Center for Disease Control heard a word. I remember I first learned of it from Detective Charles Bennett in New York City, who, in the spring of 1986, said, "There are people standing around street corners snapping their wrists. They are up to something." About 3 months later he said, "They are selling something called 'crack'." That signal is of cracking a whip. Little by little, then, this epidemic spread. The medical profession paid no attention to it and did not see it becoming an epidemic of murders, as we have seen on North Capitol Street. I do not know whether the medical profession is able to do this. Merck's Manual, 15th annual, the standard reference manual for physicians, describes cocaine as "not addictive." There is no tolerance and no withdrawal symptoms. The medical profession could not see this public health emergency. We did not foresee that it would cause crime.

So, in hoping to get some attention to the subject of ammunition, I want to point out that some years ago, this body did pass the first statute ever to ban a round of ammunition—the cop-killer bullet, the armor-piercing teflon bullet. This bullet had been developed by amateurs who are interested in this subject, as a lot of Americans are. They thought they might be doing something to help the police, to let the police fire through escaping automobiles, for example, and penetrate the metal and glass and get to the driver. The police were interested, and then they decided it is best to be pretty sure who you are shooting. Then, in any event, the police began to develop body armor, which became very important to them, and found that this round would penetrate that armor.

Mr. Phil Caruso of the New York City Patrolmen's Benevolent Association came to me, asked if we might try to get it banned by Congress. We offered the bill. The National Rifle Association went ballistic, if that is the term. I think that is not what we really mean. Ballistic means that after all your power is expended you are on a descending arc back into the Earth. Their rockets went off, I shall say. But then they found, rather to their surprise, about a quarter of their members are police officers and did not like cop-killer bullets one bit.

In the end the NRA cooperated with us. A distinguished former President pro tempore, Senator THURMOND, cosponsored the bill and we passed it. So we passed the bill banning a round of ammunition. That happened before; it could happen again.

That would be the purpose of my next amendment, Mr. President, which would be to ban the sale, the importation, and manufacture of .25 caliber, .32 caliber, and 9-millimeter ammunition.

An exception would permit Government agencies to obtain such ammunition.

Let me, it if may, give you just a few numbers. I see other Senators wish to speak; I do not want to draw this on indefinitely. The .25 and .32 caliber are tiny rounds not much larger than a .22 which are used in "Saturday Night Specials," cheap and concealable guns.

In New York City 13 percent of licensed guns used .25 caliber or .32 caliber or 9-millimeter ammunition. Of guns seized by the police during 1990, seized because there is some criminal activity, 44 percent used these calibers. They are primarily used for holding up people and shooting people.

These calibers have accounted for 38 percent of all murders in the city in 1990, and they are altogether disproportionate where trouble comes from. We could ban .25 and .32 caliber and 9-millimeter and never hear a complaint from anybody as far as I can tell.

I have been putting this bill in, Mr. President, for some years. Nobody pays attention to it because it does not solve the problem. It just reduces it.

But to make my point again, the hospital administrators said yesterday, everybody, every man, woman and child, who goes into hospitals dies, eventually. But what happens in between then? This would not eliminate murders; it might cut them by a quarter. Well, if you were one of the persons whose life was spared, it might be worth it to you.

Nine millimeter is another matter, sir. I was down in a New York City firing range a while ago checking out the new guns, and we have a very serious pattern in New York. I bet it is happening in other cities. That is, our police are beginning to be outgunned. Our police are down on the street with .38 revolvers. There are people on the roof with 9-millimeter semiautomatics. They have much faster muzzle velocity and spraying capacity, which you need if you are a kid and cannot look, cannot sight, cannot hold, and do not understand weapons. You can spray with these weapons. People pay fortunes for them; $1,200 will get you a pretty good weapon. These guns are beginning to appear on the streets of New York. If it is happening in New York and Washington, it is going to happen in Miami.

They have that look of those fancy sneakers, as we used to call them. I do not know what they call them now. They cost $400 for a pair of $5 sneakers or whatever. These handguns have lots of chromium, lots of little holes and things like that that can make a 19-year-old think he is not a 19-year-old and think he is invulnerable. Most 19-year-olds think they are invulnerable anyway. That is the way the species turns out adults.

But those $1,200 guns with a clip may use a 30-round clip in less than a minute in a 9-millimeter semiautomatic. If you use up that clip and cannot get another, you just spent $1,200. You cannot do anything else with that weapon; you can throw it from the roof top, but cannot shoot it.

These 9-millimeters are wicked and they are easily gotten. They are all banned in New York, but they are there on the roof tops.

I do not know any other way to get at them than to cut off the supply of ammunition. Maybe that is too complicated an idea for the Senate. I suspect it is. We did it once on cop-killer bullets, but I guess we really would rather throw the switch and watch them twitch. That is our idea of what to do.

Lastly, Mr. President, I am going to ask about one simple matter which comes to this Senator from the Fraternal Order of Police, from the U.S. Conference of Mayors, on behalf of the International Association of Chiefs of Police, from the Honorable Lee P. Brown, who is the police commissioner of New York and is now currently serving as president of the IACP.

This is a simple measure. It would deal with a loophole we have in current practice which permits a Federal licensee to order an unlimited amount of guns from a manufacturer whether or not that licensee is legally permitted to sell them under State and local law.

I guess the nicest example would be here in Washington where sales of handguns are banned. However, if you have a Federal license to receive and deal guns in interstate commerce you can have a house in Washington and have arms shipped to you from outside the District. In other jurisdictions you have a license to sell guns but you have to keep records, you have to account for what you are doing, that sort of thing.

It is a loophole, and the amendment would simply say to the Federal Government that before you give out a Federal license the person applying has to establish that he has met the licensing requirements of the jurisdiction in which he operates. It is not very complicated.

May I say, sir, that a Federal gun dealer license is not a big deal. You get a 3-year license for $30. Many AK-47s, I think, are now surplus because of the conventional forces in Europe Treaty. The Bureau of Alcohol, Tobacco and Firearms says there are currently 245,000 Federal dealer licenses in the country.

They receive 30,000 applicants a year and something like 2,500 are turned down. You send your postal order in for $30 and fill out an application, bang, you get your Federal license. And the result is you have people all over the country with Federal licenses who could not get local licenses or have not chosen to apply because they do not mean to operate in the open.

It is a simple amendment that says to the Treasury Department: Do not give a Federal license to someone who cannot demonstrate they have a local license, if a local license is required. If a local license is not required, fine, you do not have to do that, but they must meet the local rules. The chiefs of police ask this of us, the police officers ask this of us, the mayors ask this of us. It is not too much and it might save a few lives, policemen's lives, not the least.

I hope we could do that, Mr. President. This would demonstrate a sense of, first of all, responding to police officers on the street. But thinking in the matter of rounds of ammunition, of bullets, thinking as epidemiologists think, how do you break the sequences that lead to a disorder. If death is a disorder, a bullet is one of the vectors. That is the term they use in epidemiology, vector. It hits you in the lower back of the head and you die.

There is a dead woman in Washington today who left three children behind, randomly murdered. We do not know the caliber of the ammunition, and do not seem curious. We might give some thought to the fact that if 9-millimeter ammunition were banned, or if the manufacturer was at least recorded, that person might be alive.

The Senate has indulged me, and you have most particularly. I see other Senators have risen and wish to speak, and so I yield the floor.

Mr. President, I ask unanimous consent to have printed in the RECORD the letters from the Conference of Mayors, Chief Brown, and the Fraternal Order of Police, and articles on this subject.

There being no objection, the letters and articles were ordered to be printed in the RECORD, as follows:

THE U.S. CONFERENCE OF MAYORS,
Washington, DC, June 25, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: Congratulations on your introduction of S. 1154, which would require applicants for a federal license to deal in firearms to have a state or local license for the same purpose. Your bill would close a serious loophole in our federal laws governing the sale of firearms, and it has the enthusiastic support of the U.S. Conference of Mayors.

We look forward to working with you on this and other legislation which addresses the serious problems of crime and violence in our cities.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

THE POLICE COMMISSIONER,
New York, NY, May 16, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senator,
New York, NY

DEAR SENATOR MOYNIHAN: I am writing to ask for your assistance in our common effort to reduce the proliferation and criminal use of illegal firearms in our city. As you know, Congressman Bill Green has introduced legislation that would require all Federal Firearm License applicants to submit proof that they are duly licensed under state and local law. I am asking you to introduce a similar bill in the Senate.

Under current federal regulations, applicants for Federal Firearm Licenses (F.F.L.) are required to be licensed with the state and local government of their residence. However, since applicants are not required to submit proof of their compliance with this requirement at the time of application there is no way to enforce the regulation. This loophole allows F.F.L. holders around the country to order weapons to be delivered to their houses or businesses without being licensed as firearm dealers or even having permits to possess firearms. There are nearly a thousand such F.F.L. holders in New York City. By contrast, only 77 individuals are licensed by the Police Department as firearms dealers. We are currently making efforts to contact these individuals to determine how many are actively using their licenses and to inform them of their responsibilities under the law. So far our efforts have led 18 individuals to surrender their licenses and the Bureau of Alcohol, Tobacco and Firearms is revoking an additional 83 licenses because of inaccurate addresses.

This legislation is consistent with our efforts to stop the flow of illegal weapons into our city and onto our streets. The enforcement of laws and regulations cannot be left to an honor system. I urge you to continue your efforts on this front by seeking Senate support for the concept embodied in this legislation.

With my best regards.

Sincerely,

LEE P. BROWN,
Police Commissioner.

FRATERNAL ORDER OF POLICE, NATIONAL LEGISLATIVE COMMITTEE,
Stafford, VA, June 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senator, Washington, DC.

DEAR SENATOR MOYNIHAN: Thank you for the opportunity to present our views on your proposal to amend the Federal Firearm Licensing law.

Such a gaping hole in existing law only serves to add to the proliferation of firearms that plague the streets of our Nation and increases law enforcement's burden in fighting the illegal "domestic arms race".

It is with great pleasure that, on behalf of Dewey Stokes, National President of the 230,000 member Fraternal Order of Police, we endorse and pledge our support for the passage of this important piece of legislation.

Yours truly,

ROBERT J. ROBBINS,
Leg. Comm. Member.

[From the Washington Post, May 8, 1991]

GUN DEALERS' "GREAT SCAM"

(By Michael Issikoff)

DETROIT.—The packages arrived at the United Parcel Service office twice a week—boxes filled with semiautomatic pistols and other handguns addressed to McClinton Thomas Jr., one of more than 7,200 federally licensed gun dealers in the city.

But when federal agents began looking into the shipments, they discovered that Thomas—operating under the name "MQ Firearms"—had never opened a gun store or kept records of his sales. Instead, federal agents said, Thomas ordered more than 400 handguns through the mail last year and distributed them for cash to gun runners working for a nearby crack house.

Thomas isn't charged with any crime, and in a recent interview he denied knowingly selling guns to drug dealers. But he acknowledged dealing "under the table" and illegally selling guns on the street.

"I never ask too many questions," said Thomas, 31, about his customers. "I didn't think I was selling to any homicidal maniacs or anything."

Thomas's activities illustrate what some officials say is one of the most gaping holes in federal firearms laws—and one reason for the proliferation in weapons that is fueling the nationwide surge in gun-related violence. By acquiring federal gun licenses—a relatively simple procedure that costs $30—illegal gun traffickers have discovered a convenient way to evade state and local gun control laws and acquire virtually unlimited quantities of high-powered weapons.

"It's a great scam—get a federal [gun] license, and you can buy and sell as many guns as you want," said David Krug, an agent with the Bureau of Alcohol, Tobacco and Firearms (BATF) office here. "and then you can drop them off as fast as you want—and not get caught."

The growing prevalence of such cases underscores the limitations of "piecemeal" gun control measures such as the seven-day waiting period scheduled to be voted on by the House today, some officials and gun control experts say.

The waiting period measure, dubbed the "Brady bill" after former White House press secretary James S. Brady, is designed to give local police time to conduct background checks on individual handgun purchasers, including reviewing federal and state felony records and making sure the buyers live in the residences they claim.

But federal officials say that abuses by loosely regulated federal gun dealers hold the potential for putting far more weapons on the street. "It's a loophole you can drive a truck through," said one federal law enforcement official.

There are 272,000 licensed gun dealers nationally—sports store owners, gun enthusiasts, Civil War collectors and "kitchen table" dealers who operate out of their homes. There are 2,400 licensed dealers in the Washington area, including 41 in the District where handgun sales to the public are banned.

Gun magazines promote the industry, carrying ads such as "Professional Gun Dealer Kit gives you everything you need!!" and "Federal Firearms License Guaranteed."

But increasingly, officials say, federal gun licenses have become a hot commodity on the streets, abused by illicit gun runners, drug dealers and others looking for fast and easy access to heavy firepower. In some of the city's drug-infested neighborhoods, "you have five, six or eight licensed [gun] dealers on the same street," said Bernard LaForest, special agent in charge of the Detroit BATF office.

But establishing criminal wrongdoing by dealers can be difficult. Last June, undercover BATF agents said, they trailed Thomas as he picked up boxes of handguns at the UPS office and then handed them over to two men in the UPS parking lot for large wads of cash.

The agents said they then followed the men to the crack house where, according to Krug, as many as 10 cars would congregate on the days that Thomas's UPS deliveries were due. Thomas said he did not know who was buying his guns, adding that all he knew was that a man named "Dave" he met playing basketball was willing to pay cash for his UPS shipments.

Thomas was arrested on gun charges last June, but a criminal complaint was dropped. Federal agents said they are continuing their investigation.

Since 1989, BATF has brought criminal charges against more than 270 licensed gun dealers. Federally licensed dealers have been charged with selling pistols to crack dealers and assault rifles to street gang members. Two Miami gun dealers, operating under the name "Commando's Gun Shop," sold machine guns to operatives of the Medellin cocaine cartel. An Ohio dealer shipped weapons to the Irish Republican Army.

In some of these cases, agents said, the licenseholders themselves turned out to be directly involved in the drug trade. Agents here said federal license applications surged after the head of one of the city's biggest drug gangs—who has since been murdered—acquired a license and began using it to arm himself and his associates. "It got to be a word of mouth thing," said Krug.

What makes such cases alarming is the sheer quantity of weapons to which gun dealers have access. It is illegal for ordinary citizens to buy handguns in a state where they do not live. Cities such as the District and Chicago prohibit the purchase of handguns and some states have banned military-style assault rifles.

But no such restrictions apply to licensed gun dealers. Licensed gun dealers "can purchase any handgun, rifle or shotgun anywhere and anytime," according to a recent BATF briefing paper on the subject.

A wide-ranging investigation into Detroit's illegal gun trade identified one licensed gun dealer who had imported 2,169 assault rifles and handguns through an Ohio wholesaler in the course of a year. The dealer, Larry Wilson, who was later convicted, kept no records of his sales and diverted most of the weapons to the black market where they sold for premiums of 300 and 400 percent, earning him proceeds of up to $1 million, agents said.

Carroll Brown, a Baltimore postal worker and licensed gun dealer, pleaded guilty last month to unlawfully selling more than 300 handguns, taking out classified ads in the Baltimore Sun touting his stock of semiautomatic Glock 9mm pistols—a weapon of choice of the city's drug traffickers. Gustavo Salazar, a Los Angeles gun dealer who agents believe once belonged to the "Mexican Mafia" street gang, purchased more than 1,400 handguns from wholesalers and, with an associate, hawked them out of a van in Lincoln Park, an area notorious for crack dealing and violence.

But some agents said that despite the Justice Department's push to impose stiff mandatory sentences on criminals caught carrying guns or using them in the commission of crimes, sentences for the licensed gun dealers who sell them their weapons remain light. Proving criminal intent is often difficult. Salazar received less than a year in prison, a term in line with U.S. Sentencing Commission guidelines for such crimes.

"The severity of sentences for licensed dealers hasn't caught up with the severity of the crime," said Steven J. Markman, the U.S. attorney in Detroit who has made prosecuting firearm offenses his number one priority.

At the heart of the problem, officials said, is the relative ease with which virtually anyone can receive a gun dealer's license.

All one need do is fill out a two-page federal form listing a place of business and hours of operation, and affirming that one is not a mental defective or illegal alien and has never been convicted of a crime punishable by more than a year in jail. The cost is $30, covering the annual fee for the first three years.

Approvals of license applications are routine. Most of the time the only check of applicants is performed at BATF's Firearms and Explosive Licensing Center in Atlanta, where four data processors run the applicants through the Treasury Department's law enforcement computer system. The system contains a data base of convicted felons, but officials acknowledge it is largely incomplete because it excludes arrests and dispositions from many of the states.

But applicants can avoid even that minimal risk by getting friends, girlfriends or even their mothers to file the application for them. BATF officials were embarrassed last year when they discovered they had approved applications for two dogs. "The point is well taken," said Jack Killorin, chief of BATF public affairs. "The dogs would clearly pass a record check designed for human beings."

John Struewing, assistant chief of the licensing center, said that between July 1, 1990, and last March 31, BATF received 26,190 applications for gun dealer licenses and rejected 38. Struewing said that another 1,403 applications were abandoned or canceled after BATF inspectors, having gotten a positive "hit" on the Treasury Department computer or a tip that something was amiss, contacted the applicant for a personal interview.

Once an applicant has gotten his license, it is rare that he will lose it. It cannot be revoked unless the dealer is criminally convicted. And one licensed dealer here had his license renewed two years ago despite his conviction on a felony charge of carrying a concealed weapon.

The loose regulation in large part reflects the peculiar politics of firearm law enforcement. For years, the National Rifle Association and other gun groups campaigned to abolish the BATF, accusing the agency of overzealous enforcement and harassment of gun store owners and other licensed dealers. In an NRA film made in 1981, Rep. John D. Dingell (D-Mich.), a member of the NRA board of directors, called BATF agents "a jackbooted group of fascists."

As a result of the NRA lobbying, Congress cut funding for BATF enforcement in the early 1980s and in 1986 passed a law that limited inspection of dealer records. The NRA is currently sponsoring a lawsuit in Ohio to block BATF agents from copying the records of firearm sales kept by dealers. BATF officials say they need the records for investigations like those they did here, tracing guns seized in crimes back to their source.

But NRA officials said they are adamantly opposed to "wholesale copying" of records. "That's a method by which you can register firearm owners," said James Jay Baker, the NRA's top Washington lobbyist.

BATF treads gingerly when it comes to gun dealers, according to Josh Sugarman, executive director of the Firearms Policy Project, a gun control group. "They have been kicked in the teeth too much," he said.

[From the New York Times, Jan. 4, 1991]

REVOKING LICENSES TO KILL

(By James B. Jacobs)

The Federal Bureau of Alcohol, Tobacco and Firearms and New York City, both license firearms dealers, but the city's licensing criteria are much more stringent, requiring fingerprints and a criminal-records check. Consequently, according to the New York City police, there are 1,043 federally licensed firearms dealers in New York City but only 77 city-licensed dealers.

Anyone with a Federal license can purchase unlimited firearms by mail order from manufacturers. The B.A.T.F. is required to grant an applicant's request for a license unless it has evidence that the applicant fails to meet Federal standards. Since the bureau does not require fingerprints or proof of eligibility, it essentially operates as an honor system. Moreover, while Federal regulations require prospective firearms dealers to follow all state and local laws and regulations, they do not require proof of having obtained a local license.

Not surprisingly, some federally licensed firearms dealers in New York City have criminal records and, even worse, are in business to supply weapons to criminals. A 1985 U.S. Department of Justice study found that 21 percent of armed criminals obtained their handguns directly through licensed gun dealers.

A small but eminently sensible step to take would be for Congress or the B.A.T.F. to require that applicants for Federal licenses provide proof of having met local laws for dealing in firearms. A New York City applicant would have to show that he had conformed to the city's demanding standards. If he could not make such a showing, he would be unable to obtain a Federal license—and unable to purchase firearms directly from legitimate manufacturers and wholesalers.

[From the New York Times, Dec. 6, 1990]

CONTROLLING GUNS: ONE IDEA STARTS WITH THE BULLETS

(By Sam Roberts)

Who was that 6-foot-4, white-haired man firing a TEC-9 semiautomatic weapon the other day on East 20th Street in Manhattan?

Hint: It was a United States Senator (but not Alfonse M. D'Amato, who was the target of considerable flak himself four years ago after he donned a disguise and ventured uptown undercover to dramatize the availability of illegal drugs). The gun-toting Senator was Daniel Patrick Moynihan. And in the privacy of the Police Academy, the New York Democrat was test-firing drug dealers' weapons of choice.

"What chilled me," Mr. Moynihan said later, is that some of the 9-millimeter semiautomatics are 'street dude' stuff. They have comic strip chromium that makes them look like space guns. But they are absolutely deadly, and they consume an enormous amount of ammunition."

Gun controls—among them the "Brady bill" restrictions, which Mr. Moynihan supported and which would have imposed a waiting period for purchase of some weapons—died again in Congress this year. Given the number of guns around, though, the Senator suggests a companion measure: transform the very appeal of the semiautomatics—their rapid-fire capacity—into a liability by banning the manufacture, transfer or importation of the bullets those weapons consume.

Mr. Moynihan says he will introduce legislation next month to restrict the availability of ammunition for 9-millimeter weapons and of bullets for cheap .25-caliber and .32-caliber Saturday night specials, which he said have little value to sportsmen.

"Measures such as the Brady bill are basically ethical statements, and greatly to be admired," he said. "But they won't reduce the number of handguns out there."

Predictably, his proposal is opposed by the National Rifle Association. "Trying to ban ammunition is a poor substitute for tough criminal justice measures," said Jim J. Baker, director of the N.R.A.'s Federal lobbying division.

"To ban two or three gun calibers in the hope that somehow a criminal isn't going to get another isn't very effective, even for those who favor gun control."

Indeed, one such group, Handgun Control Inc., has not embraced Mr. Moynihan's suggestion, preferring instead to "focus on taking handguns out of the wrong hands."

The Federal Bureau of Alcohol, Tobacco and Firearms supported a bill, pressed by Mr. Moynihan and former Representative Mario Biaggi, among others, that would have banned so-called cop-killer bullets capable of piercing body armor. But Jack Killorian, a bureau spokesman, said the Senator's latest proposal "doesn't sound like it's in line with the way this Administration has wanted to go, which is to punish criminals."

Charles R. Thomson Jr., who heads the bureau's New York office, was officially noncommittal, but said, "Guns aren't like drugs; they aren't consumed." Which is precisely Mr. Moynihan's point. Moreover, guns don't kill; bullets do.

"If we have, say, a century's supply of hand-guns, we have only about a four-year supply of ammunition," the Senator estimated—a rough estimate of the volume of .25- and .32-caliber bullets, since the Government requires virtually no record keeping, said Amy Barrett, who heads Mr. Moynihan's New York office.

By banning bullets for .25 and .32-caliber and 9-millimeter weapons, Mr. Moynihan said, "in 5 or 7 or 10 years, anywhere from 10 to 20 percent of the crime guns in the United States will be out of commission." Many will be replaced; meanwhile, some lives might be saved.

"Police officers are outgunned; they can't live with automatic weapons fired from four-story buildings. There's bulletproof vests, no bulletproof helmets," he said. "If there's no more ammunition to be gotten, then a $1,500 gun isn't worth anything."

Of 1,905 killings recorded in New York City last year, 1,235 were committed with handguns. About 1 in 10 of the 10,744 handguns recovered by the police were 9-millimeter semiautomatic weapons. Just yesterday, a Brooklyn nursery school teacher found a loaded .25 caliber automatic protruding from the pocket of a 4-year-old boy's jacket.

A large part of Mr. Moynihan's charm is his intellectual curiosity and his reservoir of what is oxymoronically called common sense, which he has sometimes tapped ahead of his time. "I find myself once again in that pitiable role of the meliorist," he said. "I want to try to cut back on the number of functioning weapons around, not to eliminate them altogether.

"Look at those old movies," he said. "What is the worst thing that can happen to the wagon train? To run out of ammunition!" He proposes to make that national policy. While Congress chews on gun control and other alternatives, he would bite the bullet.

[From the New York Times, Jan. 21, 1991]

END GUN VIOLENCE BY BANNING BULLETS

To the Editor:

To my surprise, none of the six contributors to "Guns, Guns Everywhere" (Op-Ed, Jan. 4) put forth what I think is the most promising solution to the problem of gun-related violence: a ban on bullets.

If the manufacture or sale of the most frequently used bullet calibers were limited or banned, gun-related violence would decrease almost immediately.

This approach has several merits:

(1) It is almost unheard of. Thus, its would-be enemies are unprepared for it. Quick bullet-control legislation might be passed before the gun lobby could respond.

(2) The argument can be made that a bullet ban, unlike a weapons ban, is legal. While the Constitution grants the right to bear arms, it does not necessarily grant the right to bear loaded arms.

(3) The logic behind bullet banning is the same as the logic behind a more popular anticrime movement, the war on drugs. The drug war is waged against cocaine, heroin and marijuana, not against crack pipes, plastic bags and rolling paper. Bullet banning follows this example: people can have as many guns as they want, just so long as they don't put any bullets in them.

By bringing an end to gun-related violence, a bullet ban will prove that guns don't kill people, and people don't kill people; it's bullets that kill people. Though skeptics may argue that this approach will never work, they must admit that at the very least it's worth a shot.

PETER FREED,
Research Associate, National Council on Crime and Delinquency.
SAN FRANCISCO, *January 4, 1991.*

[From the Sarasota Herald-Tribune, Jan. 23, 1991]

TO DEFANG A DEADLY COBRA

TALLAHASSEE.—What'll it be? America's easy access to guns still leads to thousands of tragedies, and that access must be vigorously controlled. Or: no, guns don't kill people; people kill people—to protect potential victims, enforce existing laws.

The country's long dispute over gun control—frustrating, inflamatory, often counter-productive—remains a debate focused on the sale of firearms in a population already saturated with an estimated 200 million guns of all kinds.

Next month, for instance, a computerized system operated by the Florida Department of Law Enforcement will check customer names provided by retail gun dealers against a list of felons. Supposedly, if the customer has a criminal record, a quick match-up is made and legal sale of a gun is prohibited.

FDLE Commissioner Tim Moore says the name check will take only a few minutes, although up to three working days can be taken to establish the customer's status. Three days also is the length of time a voter-approved waiting period will be, once it is enacted by the state legislature.

Regardless, Moore said, a thorough, normal background investigation actually would take a week or two.

The legislature will consider other gun laws, including restrictions on obtaining or possessing assault weapons and keeping guns in vehicles as well as attempts to tighten the state's flabby concealed-weapons law. No doubt there'll be more proposals, most carried over from years past.

So it goes.

All of the efforts to keep guns out of the hands of those who would threaten public safety certainly are admirable, but, to the innovative mind of U.S. Sen. Daniel Patrick Moynihan, they are of small impact. Sheer numbers make it so, he insists.

There must be another way, said Moynihan, D-N.Y., a few days ago, at least a stopgap attempt to reduce handgun violence until a permanent solution is found at the end of a seemingly endless debate. So, he proposed his interim safety measure in the form of the Violent Crime Prevention Act of 1991.

He illustrated the proposal this way, drawing on his days as U.S. ambassador to India:

"Admission to the legendary Indian Civil Service ultimately turned on a grueling oral examination. A favorite question asked the examinee to imagine himself a district officer on a two-day trek from his main base to an outlying village. As his party is preparing to make camp for the night he is struck on the forearm by a Malay King Cobra. What does he do?

"The correct answer is that he dies. The young men who thought of slashing and sucking their wound or sending runners for a doctor, or whatever, were deemed to have an insufficient hold on reality. A man struck on the arm by a Malay King Cobra as dark descends on the Indian jungle does exactly one thing. He dies.

"This is our problem with handgun control. We somehow don't grasp the significance of the fact that guns are out there, in our streets, 70 million of them and two million more each year. There is no getting rid of them. But this conundrum does give us a way out. Supposing the cobra had been defanged? Supposing the supply of bullets were restricted or eliminated?

"There are enough firearms to last well into the 22nd century, but only enough ammunition for those guns to last about four years. Of the 7.5 billion rounds in factory, commercial and household inventory in this country, about two billion are used each year. Were we to ban from today additional rounds from entering the market, existing ammunition supplies would soon run out. And what good is a gun without bullets?

"The exact numbers are sketch because the Bureau of Alcohol, Tobacco and Firearms does not have the authority to track the supply of ammunition in the same way it tracks firearms," explained Moynihan. "But even so, the point is the same: Guns don't kill people, bullets do."

The Violent Crime Prevention Act of 1991 would ban the manufacture, importation and transfer of .25-caliber, .32-caliber and 9-millimeter ammunition. It is that ammunition that is used in Saturday Night Specials and in the assault weapons favored by drug traffickers.

This isn't a new proposal by Senator Moynihan. Congress has ignored it before. But the Los Angeles Police Department effectively slowed firearm activity for several days during December by enforcing a ban on ammunition sales, and the idea gains credibility through continued failure of alternative attempts to control gun violence.

It's not a permanent solution, but a step in the right direction, as Senator Moynihan declared in his recommendation "to defang our cobra."

Ask yourself, as he asked the U.S. Senate: "Is it not more realistic to control ammunition as a means of controlling violent crime than it is to control handguns?"

[From Roll Call, Jan. 31, 1991]

THE BEST WE CAN

To the Editor:

Your fine editorial, "Stop the War" (Roll Call, Jan. 14), notes than Kenneth Goshorn was killed when his car was sprayed with a .32 caliber pistol for no apparent reason. And very properly you go on to suggest it is time the Congress do something about gun control.

May I suggest that there is a parallel approach that would be at least as useful, which is to say controlling ammunition.

Five years ago we enacted legislation banning the manufacture and sale of "copkiller bullets," the first legislation directed to a particular round of ammunition.

Since then I have been trying to ban the manufacture and sale of .25 and .32 caliber bullets, which are the classic caliber of the Saturday Night Special, and also 9-millimeter rounds which are used in assault weapons, the new weapon of choice, as you might say, among drug dealers. (This year the bill is S. 51. The ammunition would still be available to law enforcement agencies and to the military.)

I have a little theme: Guns don't kill people, bullets do. Plain fact, we have a two-century supply of guns—some 70 million handguns—but only about a four-year supply of ammunition, probably even less in the case of 9mm rounds.

An interesting fact is that $30 will get you a three-year license from the Bureau of Alcohol, Tobacco, and Firearms to manufacture as much of the ammunition you want, and with no reporting requirements whatsoever. But think of it, once a 20-round clip is used up, if there is no ammunition available, a $1,500 assault weapon becomes useless.

Would you indulge me in a general observation about Washington? Or rather, I suppose, a political one. I can't get anybody interested in my bill because it only proposes to improve a situation, not finally resolve it.

Licensing handguns has about it the aura of a final solution to a problem. It is not, but that is of no consequence; it sounds as if it is. Simply curtailing ammunition supply seems only remedial and, accordingly, unpersuasive.

We get through life doing the best we can.

Sen. DANIEL PATRICK MOYNIHAN.

[From the New York Post, Jan. 7, 1987]

GUNS DON'T KILL PEOPLE, BULLETS DO

(By Daniel Patrick Moynihan)

I was once ambassador to India, which has nothing to do with this article excepting for a story with a moral that Indians still tell.

Admission to the legendary Indian Civil Service ultimately turned on a grueling oral examination. A favorite question asked the examinee to imagine himself a district officer on a two-day trek from his main base to an outlying village. As his party is preparing to make camp for the night he is struck on the forearm by a Malay king cobra. What does he do?

The correct answer is that he dies. The young men who thought of slashing and sucking their wound or sending runners for a doctor, or whatever, were deemed to have an insufficient hold on reality. A man struck on the forearm by a Malay king cobra as dark descends on the Indian jungle—dies.

It seems to me this is our problem with handgun control. We somehow don't grasp the significance of the fact that guns are *there*. Sixty million and rising. Roughly one for every three adults in the land. There is no getting rid of them.

The pistol is a simple machine, fully developed before the Civil War with cliploading the only basic variation since. Unless constantly used, or allowed to rust, they last forever.

The armed services are just now phasing out their 1911 .45-caliber sidearm. (I carried one on watch in the Navy some 40 years ago. It had been manufactured at the Springfield Armory in 1915. I expect somewhere some ensign is still carrying it.) A *cheap* handgun, your average concealable Saturday Night Special, won't take heavy use, but otherwise it will function a lot longer than you or me.

It comes to this. We have a two-century supply of handguns. It won't make any difference at all to stop manufacturing them, importing them and selling them. There is no way to gather up those that are out there, and the people who get licenses for them aren't the people we are having trouble with.

The reality principle tells us to think of something else.

Supposing that cobra had been defanged?

Got it? Bullets!

A handgun is of no use without bullets. We have a two-century supply of handguns. *But we have a mere four-year supply of ammunition.*

Some 2 billion handgun cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial or household inventory. A four-year supply.

Ergo? *Control bullets*. Impossible, you say? We just did it. In 1982 the New York Patrolmen's Benevolent Assn. came to me and Rep. Mario Biaggi and asked us to do something to stop the sale (and manufacture and import) of "cop killer" bullets. This round is jacketed with tungsten alloys and other metals and rips through police flak jackets.

It took some time, but the administration helped, and the National Rifle Assn. went along, and on Aug. 28 the President signed Public Law 99-408, the Law Enforcement Officers Protection Act of 1986.

This was the first law in American history to outlaw a particular round of ammunition. Why stop there?

On Oct. 16, the next to last day of the 99th Congress, I introduced S. 2929, the Violent Crime Prevention Act, prohibiting the manufacture or import of .25- or .32-caliber ammunition.

These are murderous rounds; the Saturday Night Special rounds, the cop-killer rounds. (Of handguns fired at New York City police officers, 1975-1985, one quarter were .25- or .32-caliber.) President Reagan survived a .22-caliber wound. President Ford very likely would not have survived the .32-caliber round fired at him. President McKinley did not.

Anyway, the reality principle tells us not to fuss with the .22 pistol. Americans love it for target practice, and you would quickly be in a squabble about .22 rifles, which every other father in the land looks forward to giving to a son. The .45 pistol is a cannon no one can easily conceal and Alaskan guides need. (*Not* to kill grizzlies, but to have one last chance when grizzlies decide to kill them!)

Would this end the problem, the awful problem, of handgun killings? No. It would reduce it. Immediately? No, ammunition has a "shelf life" of seven years or so. But then there are still some armor-piercing rounds out there, and despite the new law, *some* will be fired at police officers before the powder degrades. An end to our troubles?

Of course not. *But* I'll make a bet. This year Detroit set out to have *one* day in which nobody in the city would be murdered by a bullet fired from a handgun. They almost made it. Pass the act and the day will come when they do.

[From the Washington Post, Feb. 1, 1988]

BAN BULLETS: AN IDEA FROM SEN. MOYNIHAN

Two items in The Post of Jan. 24 prompt me to try out an idea with you. It is a strategy for controlling handguns by banning bullets. Guns don't kill people, bullets do.

The editorial "The NRA vs. the Police" states that "police and others on the firing line protecting the public are furious at the NRA's persistent lobbying for 1) armor-piercing 'copkiller' bullets." Actually, almost two years ago, we succeeded in enacting legislation banning the import, manufacture or sale of this ammunition. The proposal came to me from the New York City Police Benevolent Association. I had great help in the Senate from Strom Thurmond and from police associations across the nation.

This was the first law in history to outlaw a particular round of ammunition. One thought led to another. There are 70 million handguns in the country, one for every family if you like. These are simple machines which, given minimum care, last indefinitely. (Forty odd years ago while in the Navy I carried on watch a .45 caliber gun manufactured at the Springfield, Mass. armory in 1912. I don't doubt some ensign is carrying it to this day.) In effect, we have a two-century supply of handguns.

On the other hand, we have a four-year supply of ammunition. I will spare you the numbers: that is what production, inventory and use come to. Why not, then begin to close off the supply of ammunition?

In the last Congress, and again in this one, I introduced a bill to ban the production and sale of .25 and .32 caliber ammunition—ammunition for Saturday night specials, the "snubbies." About one-quarter of the rounds fired at New York City police are of these two calibers.

I cannot doubt the same is true of the many children here in Washington who end up—as Joyce Ladner writes in her moving article in Outlook, "Washington, Save Your Children!"—as "bullet-riddled corpses." Children killing children.

Prof. Ladner proposes a number of measures: "The first is stepping up efforts to take guns away from teenagers." By all means try. But could we not also begin squeezing the "ammo" supply? I am going to introduce further legislation outlawing 9 mm. rounds—ammunition used in Uzis, which are fast becoming the weapon of choice in the drug world.

It won't transform our neighborhoods overnight. But wouldn't it help? Oughtn't we do what we can?

DANIEL PATRICK MOYNIHAN.

WASHINGTON.

Mr. GRAHAM. Mr. President, I would like to say that one of the pleasures of serving in the U.S. Senate is to be a regular member of Senator MOYNIHAN's always interesting, eclectic seminars. I wish to express my personal appreciation for the great contributions he makes to this great body and this Nation.

Mr. MOYNIHAN. I thank the Senator from Florida.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1447, S. 1448, S. 1449, and S. 1450 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. SHELBY). The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent the period for debate only on the bill be extended until 12:30 at which time the majority leader or his designee be recognized and during that 30-minute period following completion of the remarks of the Senator from Florida, the Senator from California be recognized for 10 minutes, and following the completion of his remarks, the Senator from Vermont be recognized for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MFN TREATMENT FOR THE PEOPLE'S REPUBLIC OF CHINA

Mr. SEYMOUR. Mr. President, yesterday the House of Representatives passed a resolution that attaches numerous and vague conditions to the renewal of most-favored-nation trading status to the People's Republic of China.

I strongly believe that this approach will cripple the causes of economic and political reform in China and further cripple our economic recovery here at home.

This Senator will, therefore, oppose any similar resolution when it comes before the Senate.

To endanger or deny MFN status to China will deny its most productive market-oriented and democratic forces from moving the PRC out from under the oppressive shadow of communism. This policy will achieve none of the results that its proponents seek, and it will punish all of the people that they hope to reward.

Without a doubt, the actions of the Chinese Communist leadership in recent years have deeply troubled me. The Tiananmen Square massacre of 1989 led to brutal murders, persecutions, and imprisonment. Our horror at this tragedy led us to expose many other unknown sins of the Beijing government. They use forced labor to make many of the agricultural products that China exports to the West. They sell ballistic missile launchers and warheads to gangster nations such as North Korea, Syria, and Libya. They continue to suppress freedom of thought even though they masquerade as the protectors of freedom for the working class.

But none of these sins came to the surface just 2 years ago. China's biggest sin is communism—with all of its ugly deceits and twisted concepts of collective human life. And the Government of China has been committing this sin for 33 years.

The People's Republic appeared on the original 1951 list of countries to which the United States refused to extend normal trade treatment. The Trade Agreements Extension Act of that year prohibited all Communist states, except Yugoslavia, from receiving MFN status.

What happened in China between 1951 and 1980 when this country did not belong to the MFN club? We saw Mao consolidate his power, purge his opponents, fill his prisons, and crush the Tibetans.

Between 1966 and 1976, we saw Mao launch his cultural revolution, one of the most murderous and culturally destructive campaigns ever conducted by a leader in this century.

In 1978 and 1979, when China still did not have MFN status, we saw a post-Mao leadership slowly re-assessing the disasters of communism and introducing profit incentives to the agricultural and manufacturing sectors.

The point, Mr. President, is that in the case of China, the MFN tool has very little effect on the political mercies of an aging leadership. Without this carrot, they murdered millions and buried the legacy of an ancient and glorious society. With this carrot, they still sent the tanks to Tiananmen Square.

I am not suggesting that we take no action to reduce the Communist government's ability to oppress its own people. On the contrary, I am suggesting that we take every action to build economic institutions and political movements in China to divorce the citizens from their dependence on, and their fear of, the state

MFN status for China has clearly contributed to this goal. It has encouraged entrepreneurs in the special economic zones dotting the Cantonese coast to discover new export markets and learn that prosperity is not an exclusive gift from the government.

It has allowed young farmers in this overwhelmingly rural land—harvesting bumper crops on state-run collectives—to migrate to urban communities where manufacturing jobs and democratic ideas are more common. Indeed, between 1980 and today, the industrial output from Communist-controlled factories dropped from 80 percent to 54 percent.

It has also opened the doors of our cities and universities to thousands of students, tourists, and businessmen who have come to learn how and why American society works.

These people and forces, Mr. President, represent the future of democracy and capitalism in China, and the continued availability of MFN treatment strengthens them and weakens their rulers.

I should also note that important segments of our own economy have benefited from the opening to China. United States exports to the People's Republic totaled approximately $5 billion last year, sustaining more than 100,000 jobs in this country.

Products leading the way to China included commercial aircraft, wheat, transportation equipment, and electronics. For domestic aerospace, agricultural, and high technology firms strapped by recession at home and subsidized industries abroad, emerging markets such as those in China will become more important to their ability to compete.

From the State of California, nearly 550 million dollars' worth of finished goods or production components were marketed in the People's Republic of China. Aircraft manufacturers and machine tool firms had the largest share of this amount.

This represents in my State close to 20,000 jobs.

In addition, between last year and this one, California textile exports to China grew by 340 percent and agricultural exports from the State increased by 73 percent.

But we are left with the question, Mr. President, of what obligations the United States has to punish the Chinese Government for its sins of repression, unfair trading practices, and ballistic missile deals with dictators.

On each of these accounts, the administration has chosen the right penalties for the right crimes.

After the Tiananmen tragedy, the Justice Department took steps to protect the Chinese students living in this country by extending temporary asylum to them. We also stopped supporting multilateral development bank loans to the People's Republic of China, suspended grants from the State Department's trade and development program, and ceased all overseas private investment corporation activities.

To address our growing trade deficit with China, the President recently designated the People's Republic as a priority country under the 1988 trade act. This classification allows the United States to directly retaliate against unfair importation barriers that a foreign government imposes.

To bring a halt to China's renegade arms peddling, the Defense Department terminated our military relationship with the country, denied all import licenses to Beijing's police organizations, and blocked international talks on relaxing the rules controlling what high technology products the Chinese can obtain.

These measures, Mr. President, punish the only criminals that I know of in China who cannot be rehabilitated—the Communist leaders. MFN status harm them in a subtle but profound way by slowly building a wall between their interests and those of their citizens. On one side of that wall, the discriminating consumer, the Shanghai trader, and the enterprising farmer will thrive. On the other side, the political leadership, marching to Mao's tune, will rot.

I am surprised that I have heard little from my colleagues about this process of making a penalty suit the crime when we discuss the MFN issue. For years since the original 1951 law and its famous amendment in 1974, Presidents and legislative leaders from both parties have allowed some of the most repulsive regimes in the world to escape the punishment of MFN denial.

Why did we not deny Iraq this status before last August?

Where were we in denying MFN status to Yugoslavia, Libya, Syria, Zaire, Uganda, Burma, Ethiopia, or the Sudan?

We have not taken away most-favored-nation trading privileges from any of these murderous regimes of either the past or the present.

And in June 1987, the Senate got around to approving the Armstrong resolution taking Romania's MFN status away for 6 months. But some of my colleagues across the aisle who will vote against the President on MFN for China, voted 4 years ago against a 6-month suspension of the same treatment for Romania, a regime that equaled or exceeed the Chinese Government's contempt for the rights of its citizens.

Because of our own past refusals to link MFN status with the human rights performance of so many tyrants across the globe, we lack the evidence to claim that this linkage will change the hearts of the Chinese rulers.

At some point, their hearts will stop beating and a new generation of leaders, Mr. President, who many believe will be more democratic in their philosophy and more humanistic in their policies will replace them.

In the meantime, we should be concerned, Mr. President, that we do all that we can to continue to drive a wedge between the people of China who would like a liberated democratic and free enterprise economy and the Communist leaders who so dominate them.

Mr. President, I had the privilege about 3 weeks ago to be in Orange County, CA, with our President to address a group of some 60,000 Asians. Prior to the President addressing this group, he met, and I was present wtih him, we met a number of Chinese students who were studying in our country at colleges like USC, UCLA, and the University of San Francisco. They were asking, if not begging, the President to ensure that this country does not cut off our own lifeline to their future back home, and they are the future of the People's Republic of China. So let us look to this future as we debate MFN status for China, Mr. President. Its denial would hurt the wrong people at the wrong time in their nation's history. Thank you very much.

The PRESIDING OFFICER. The Senator from Vermont.

LOW-INCOME ENERGY ASSISTANCE

Mr. JEFFORDS. Mr. President, I have with me identical letters addressed to Senators TOM HARKIN and ARLEN SPECTER, the chairman and ranking member, respectively, of the Appropriations Subcommittee on Labor, Health and Human Services, Education and Related Agencies. I ask unanimous consent that these letters be printed in the RECORD after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JEFFORDS. Mr. President, the letters ask the subcommittee to increase funding for the Low Income Home Energy Assistance Program, commonly known as LIHEAP, in fiscal year 1992 by $60 million, from $1.61 billion to $1.67 billion. This 4-percent increase is necessary to keep pace with inflation. Fifty-two Senators have signed these letters.

I am concerned that the subcommittee, when it meets today, may approve a substantial reduction—not an increase—in funding for LIHEAP.

I also have a table prepared by the Northeast-Midwest Institute. The table provides information on State-by-State LIHEAP allocations for fiscal years 1985—when Federal funding peaked at $2.1 billion—1991, and 1992. The 1992 column assumes $1 billion in funding, which is the level approved by the House of Representatives last month—a very substantial reduction in funding.

The table contains estimates for the numbers of households served in fiscal years 1989 and 1992. It documents how many households will lose benefits in each State should the House funding level prevail. These estimates are conservative, too.

Mr. President, I ask unanimous consent that the table also be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. JEFFORDS. I urge my colleagues to review that table so they can understand why I am before you today.

Mr. President, I do not pretend to speak for any of the other 51 Members who signed the letters, but I would like to make a few personal observations. I have been involved with the LIHEAP program and its struggles for many years.

Thirty years ago, we declared war on poverty. Today, I fear we are about to declare war on the poor. Believe me, there will be casualties.

This morning, the Labor-HHS Appropriations Subcommittee will mark up its fiscal year 1992 funding measure. Full committee markup is scheduled for this afternoon. The subcommittee and the full committee will, apparently, reduce the funding for LIHEAP from $1.61 billion to $1.30 billion. But of that amount—and this is the important thing for Members to realize—$445 million will not be made available until September 30, 1992. That is, after the winter and after next summer.

So, for all intents and purposes, this winter and next summer, the subcommittee proposes to fund LIHEAP at $855 million, almost a 51-percent reduction in real terms, and even lower—and even lower—than the House level.

According to the National Consumer Law Center—let us focus on some important figures here—the average annual income of program beneficiaries is below $6,000 a year. Most of these families have annual residential energy bills over $900. Consequently, they spend between 13 and 23 percent of their gross income on home energy. An earlier report prepared on behalf of the National Association of State Community Service Programs indicated that LIHEAP benefits can boost recipient discretionary income by 60 percent.

Mr. President, I would submit that we cannot balance the budget on the backs of the poor, of the elderly, of the handicapped who are on fixed incomes. LIHEAP beneficiaries are the poorest of the poor in our society. It is unfair and unconscionable for this program to bear the brunt of deficit reduction more than any other program of which I know.

If the committee appropriates just $855 million for LIHEAP next year, over 2 million households will lose their benefits in the midst of an economic downturn that has added 2 million households to the LIHEAP-eligible population.

Last winter, in my State of Vermont, the case load increased 20 percent over the previous season. The State had to close the program nearly a month earlier than usual, and this is at the old funding level. State officials anticipate a 23-percent additional increase in the case load for the next year.

Mr. President, winters can be brutal in my State. Vermont is predominantly a rural State. Many Vermont residents live in homes heated with propane, kerosene, and heating oil. The consequences are severe when people cannot pay their utility bills. People can die of hypothermia. Or they can die because they use unsafe space heaters, kerosene lanterns, and open stoves to heat their homes. The space heaters overload an electric cord. The kerosene lanterns are knocked over. The stoves ignite poorly constructed homes, resulting in deaths.

I might add that next summer, in warm-weather States, frail elderly people may die from heart attacks and strokes caused by heat stress because they don't think they can afford to turn on their air conditioners. We heard testimony to that fact last year in the Labor and Education Committee, when we held a reauthorization hearing on LIHEAP.

As I said, Mr. President, there will be casualties. This ought not to happen.

President John Kennedy remarked that "to govern is to choose." If we choose to eviscerate LIHEAP, we choose poorly and, Mr. President, we govern poorly.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 28, 1991.

Hon. TOM HARKIN,
Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to thank you for your support last year for the Low Income Home Energy Assistance Program (LIHEAP) and to request your continued support this year. Specifically, we urge the Appropriations Subcommittee on Labor, Health & Human Services, Education and Related Agencies to provide $1.67 billion in fiscal year 1992 funds for LIHEAP. This request represents a $60.0 million increase, or just enough to keep pace with inflation. We understand that eleven Appropriations Committee members wrote to you on June 3, 1991 also requesting $1.67 billion.

Federal funding for LIHEAP peaked at $2.10 billion in fiscal year 1985. Since then it has declined by nearly 30 percent in real (inflation-adjusted) dollars as measured by the Consumer Price Index for household fuels and other utilities. As a result of this reduction, nearly one million households have lost benefits. Fewer than six million households currently receive LIHEAP benefits nationwide; 18 million to 25 million households were eligible prior to the economic downturn. Another two million people are newly eligible as a result of this downturn.

According to the National Consumer Law Center, the average annual income of program beneficiaries is below $6,000. Most of these families have annual residential energy bills over $900. Consequently, they spend between 13 and 23 percent of their gross income on home energy. An earlier report prepared on behalf of the National Association of State Community Services Programs indicated that a LIHEAP benefit can boost a recipient's discretionary income by 60 percent.

We appreciate your strong commitment to LIHEAP and your leadership in reversing a downward spiral in funding for the program. We harbor no illusions about the difficult budget choices you and your fellow subcommittee members face. We recognize that the subcommittee will not be able to fund LIHEAP at its fiscal year 1992 authorization level of $2.23 billion. You may have difficulty providing the "current services" level we request but it is essential just to maintain benefits to those currently receiving them.

LIHEAP is the only means of protecting the poor and elderly people on fixed incomes from the sort of home energy price explosions we have witnessed over the past two years. Please do all that you can to maintain this vital safety net.

Sincerely,

Christopher J. Dodd, William S. Cohen, Daniel P. Moynihan, Larry Pressler, Carl Levin, Ted Stevens, Claiborne Pell, John H. Chafee, David Pryor, James M. Jeffords, Donald W. Riegle, Jr., Alfonse M. D'Amato, Alan J. Dixon, Dave Durenberger, Kent Conrad, John McCain, Herb Kohl, Christopher S. Bond, Edward M. Kennedy, John C.

Danforth, Paul D. Wellstone, Richard G. Lugar, Howard M. Metzenbaum, Warren Rudman, Patrick J. Leahy, Conrad Burns, Jeff Bingaman.

Dan Coats, Robert J. Kerrey, Wyche Fowler, Jr., Timothy E. Wirth, Max Baucus, Harry Reid, Harris Wofford, Richard C. Shelby, Brock Adams, Thomas A. Daschle, Joseph I. Lieberman, Bill Bradley, Paul S. Sarbanes, Frank R. Lautenberg, Jim Sasser, John D. Rockefeller IV, Albert Gore, Jr., Charles S. Robb, John F. Kerry, Paul Simon, John Glenn, Robert W. Kasten, Jr., George J. Mitchell, Quentin N. Burdick, Wendell H. Ford.

U.S. SENATE,
Washington, DC, June 28, 1991.

Hon. ARLEN SPECTER,
Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: We write to thank you for your support last year for the Low Income Home Energy Assistance Program (LIHEAP) and to request your continued support this year. Specifically, we urge the Appropriations Subcommittee on Labor, Health & Human Services, Education and Related Agencies to provide $1.67 billion in fiscal year 1992 funds for LIHEAP. This request represents a $60.0 million increase, or just enough to keep pace with inflation. We understand that eleven Appropriations Committee members wrote to you on June 3, 1991 also requesting $1.67 billion.

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EXHIBIT 2

A COMPARISON OF LIHEAP ALLOCATIONS AND HOUSEHOLDS SERVED: FISCAL 1985–92

State or region	Fiscal 1985 LIHEAP allocations[1]	Fiscal 1991 LIHEAP allocations[1]	Proposed fiscal 1992 allocations[2]	Change fiscal 1991 to fiscal 1992[3]	Households served in fiscal 1989[4]	Estimated households served in fiscal 1991[5]	Change from fiscal 1989 to fiscal 1991[6]
Alabama	18,312,310	15,856,352	8,600,450	−7,255,902	66,991	45,204	−21,786
Alaska	11,689,158	9,594,072	5,489,860	−4,104,212	8,906	6,010	−2,896
Arizona	9,648,195	6,200,052	4,159,280	−2,040,772	34,845	23,513	−11,332
Arkansas	13,973,158	11,068,912	5,562,550	−4,506,362	65,215	44,006	−21,209
California	98,219,787	68,764,442	46,138,910	−22,625,532	492,838	332,559	−160,279
Colorado	33,298,847	23,418,846	16,087,200	−7,331,646	63,025	42,529	−20,497
Connecticut	43,439,520	35,540,698	20,986,320	−14,554,378	75,673	51,063	−24,610
Delaware	5,931,025	4,599,538	2,785,530	−1,814,008	11,509	7,766	−3,743
District of Columbia	6,939,598	6,139,839	3,259,210	−2,880,629	20,767	14,013	−6,754
Florida	28,975,542	21,730,542	13,608,480	−8,122,062	183,909	124,099	−59,810
Georgia	22,909,609	17,438,800	10,759,590	−6,679,210	92,242	62,244	−29,999
Hawaii	2,242,836	1,530,666	1,083,550	−447,116	5,919	3,994	−1,925
Idaho	13,098,768	9,492,966	6,275,080	−3,217,886	34,592	23,342	−11,250
Illinois	123,679,361	85,711,209	58,086,510	−27,624,699	282,172	190,406	−91,767
Indiana	55,371,045	41,068,788	29,299,940	−14,768,848	140,135	94,561	−45,574
Iowa	38,581,057	28,719,086	18,639,120	−10,079,966	93,185	62,879	−30,305
Kansas	18,226,012	12,901,387	8,559,920	−4,341,467	70,783	47,763	−23,020
Kentucky	29,141,451	22,536,557	13,686,400	−8,850,157	76,628	51,708	−24,921
Louisiana	18,721,526	13,202,800	8,792,640	−4,410,160	104,229	70,332	−33,897
Maine	28,141,884	23,549,641	13,595,790	−9,953,851	54,727	36,929	−17,798
Maryland	34,214,462	29,360,614	16,068,960	−13,291,654	83,113	56,084	−27,030
Massachusetts	86,893,426	69,363,990	41,979,590	−27,384,400	125,668	84,799	−40,869
Michigan	114,150,782	86,099,210	55,148,050	−30,951,160	290,099	195,754	−94,345
Minnesota	82,256,230	62,063,452	39,731,050	−22,332,402	112,628	76,000	−36,628
Mississippi	15,682,911	12,390,734	7,373,550	−5,017,184	61,893	41,765	−20,129
Missouri	48,025,791	35,779,317	23,202,020	−12,577,297	123,343	83,230	−40,113
Montana	15,235,000	10,938,261	7,360,270	−3,577,991	21,349	14,406	−6,943
Nebraska	19,079,813	13,851,143	9,217,760	−4,633,383	40,990	27,660	−13,331
Nevada	4,159,423	3,213,962	1,953,491	−1,260,471	17,087	11,530	−5,557
New Hampshire	16,447,153	13,648,094	7,945,880	−5,702,214	22,184	14,969	−7,214
New Jersey	82,979,209	66,929,211	38,971,520	−27,957,691	152,749	103,073	−49,676
New Mexico	10,108,227	8,122,660	5,207,130	−2,915,530	42,032	28,363	−13,669
New York	263,390,085	214,983,027	127,247,910	−87,735,117	788,105	531,801	−256,304
North Carolina	40,378,234	35,611,552	18,963,800	−16,647,752	178,347	120,346	−58,001
North Dakota	16,689,945	12,502,501	7,995,480	−4,507,021	18,152	12,249	−5,903
Ohio	109,412,876	78,346,912	51,386,200	−26,978,712	405,667	273,738	−131,929
Oklahoma	16,832,774	12,249,509	7,905,580	−4,343,929	90,868	61,316	−29,552
Oregon	25,808,013	19,297,758	12,468,260	−6,829,498	62,074	41,887	−20,187
Pennsylvania	141,479,321	107,475,436	68,350,900	−39,124,536	339,740	229,251	−110,489
Rhode Island	14,303,153	11,571,838	6,910,080	−4,661,758	24,819	16,747	−8,072
South Carolina	14,543,706	12,450,694	6,830,510	−5,620,184	87,438	59,002	−28,436
South Dakota	13,301,226	10,690,959	6,493,730	−4,197,229	21,114	14,248	−6,867
Tennessee	29,519,666	21,651,512	13,864,030	−7,787,482	63,120	42,592	−20,527
Texas	48,205,634	36,455,109	22,639,970	−13,815,139	371,631	250,771	−120,860
Utah	15,372,326	11,061,545	7,475,760	−3,585,785	40,672	27,445	−13,227
Vermont	12,327,727	9,813,401	5,955,720	−3,857,681	16,397	11,064	−5,333
Virginia	41,677,041	36,050,642	19,573,790	−16,476,852	117,663	79,397	−38,266
Washington	42,450,627	31,495,007	20,508,570	−10,986,437	73,001	49,260	−23,741
West Virginia	19,285,111	13,675,783	9,057,330	−4,618,453	69,655	47,002	−22,653
Wisconsin	74,027,070	56,987,253	35,763,650	−21,223,603	161,684	109,102	−52,582
Wyoming	6,195,470	4,605,014	2,993,130	−1,611,884	11,275	7,608	−3,667
Total	2,094,973,121	1,607,819,293	1,000,000,000	−607,819,293	6,012,848	4,057,376	−1,955,473

[1] Includes both contingency funds and tribal allocations.

[2] One billion dollar base funding level assumed; each state's assumed share based on its share of the fiscal 1991 base grant.

[3] Difference between fiscal 1991 LIHEAP allocations and proposed fiscal 1992 LIHEAP allocations.

[4] Sum of households given heating assistance, cooling assistance and one-third of those receiving winter or year-round crisis assistance.
[5] Determined from the product of the number of people served in fiscal 1989 and the ratio of the assumed $1 billion base funding to fiscal 1989 funding to the programs mentioned in footnote 4.
[6] Difference between estimated people served in 1992 and those served in 1989.

Source: Based on U.S. Department of Health & Human Services *Annual Report*, Fiscal 1985–92 (Washington, D.C., 1985–91).

Mr. JEFFORDS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only on the bill be extended until 1 p.m. and that at 1 p.m. the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, as I understand it, the clock is running on, what, the 10 hours?

The PRESIDING OFFICER. The time remaining under cloture is running.

Mr. HELMS. How much time remains on the 10 hours that was agreed to last night.

The PRESIDING OFFICER. There remains 7 hours, 50 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I am not going through the litany I went through last night about the two amendments that I qualified more than 1 hour before the cloture vote yesterday, except to say that both amendments are amendments that some Senators do not want to vote on. My friends on this side of the aisle and my friends on the other side of the aisle are saying, look, if Helms offers these amendments then so and so is going to offer an amendment. Well, that is the way the Senate operates. But the two amendments I have, Mr. President, are of vital interest, I daresay, to 95 percent of the American people. Obviously, there is an effort to keep me from getting a vote.

Yesterday, I was led to believe that my two amendments would be in the unanimous-consent agreement. I was told at the last minute that, oh, no, they cannot be. So then cloture was voted, and the mechanics of the Senate are such that even though an amendment is directly related to the crime bill, under the Senate rules, it is not germane. I qualified the amendment, but it is not germane.

This is the same thing, in general, that happened when I offered a quota amendment last week. Nobody wanted to vote on it. As soon as I offered it—I offered it as a second-degree amendment to a Symms first-degree amendment—immediately the Senate shut down, went into a quorum call, and something like 10 hours elapsed. Then they muttered, well, Helms is holding up the bill. I was not holding it up I was ready to vote.

So, this little stage play that goes on ought to be apparent to the American people, and to the length of my capability, I am going to make it apparent. My first amendment involves doctors, dentists, and other health-care providers who know that they have AIDS and, nonetheless, go ahead and treat patients without telling the patient they have AIDS. If that is not a crime, I do not know the definition of a crime.

Now I am in a fix. I have to use a little bit of parliamentary procedure to get any sort of vote on my amendment, and I am going to get a vote on it. I said that last night, and I say it now. I do not like to appeal the ruling of the Chair, particularly when I think the Chair is right under the Senate rules; but I am going to do it if I have to, to get a vote on this, because then the American people will know that the only vote that was possible under the circumstances was on the appeal of the ruling of the Chair.

And Senators will, whether they like it or not, be expressing their willingness to support doing something about this dastardly business of people in the health-care business, such as a few doctors, dentists, health-care providers, putting hundreds upon hundreds of people at risk.

I talked about Miss Bergalis down in Florida. She got AIDS from her dentist, and she is dying. She is going to die any day now—a lovely, lovely young women. If this Senate is unwilling to take a position on that, we ought to pack up and go home.

My other amendment deals with smut peddlers, particularly, those repulsive people who engage in child pornography. As I explained last night, the Sentencing Commission has decided to reduce the sentences for the receipt and transportation of child pornography. What on Earth has happened to the mentality of the Sentencing Commission? If the Senate does not speak out on this question, we will be derelict in our duty.

These are smut peddlers—I cannot describe them in anyway close in polite society. The Sentencing Commission has reduced the sentences of people convicted of this crime so low that smut peddlers and pedophiles will receive, at most, probation. What goes on? This was certainly not the intent of Congress when it passed the child pornography bill in 1988 and 1990. If we are unwilling to do anything about that, why do we present ourselves as Senators interested in the welfare of the American people?

That amendment—the child pornography amendment—instructs the Sentencing Commission to increase the penalty for child porn offenses, so that the offenders will serve at least sometime in jail.

As far as I am concerned you can throw them in jail and throw away the key. As I say last night, child pornography is directly, clearly, demonstrably, connected to child molestation. I do not know whether other Senators are appalled at the increase in the incidences of this as I am. But being the grandfather of seven, it is on my mind. I do not know what I would do if 7-year-old Katy Stewart in Raleigh, NC, would be victimized. I am not sure I could restrain myself. I think you will find that 95 percent of the American people feel exactly the same way.

If we truly want to protect the children, we must at a minimum make sure that pedophiles go to jail. The Sentencing Commission is absolutely wrong in its action, and the Senate ought to say so.

I said last night that newspapers, other media, are filled with accounts of happenings in all parts of the country, including my own State, articles describing in graphic detail, most of the time, the physical and emotional suffering of hundreds of Americans who have been unknowingly exposed to AIDS by doctors, dentists, and health care workers who are carriers of this deadly virus, and they know it.

I talked last night about the case of Kimberly Bergalis. If you had not read about this young woman I hope you will. She is 23 years old. She lives in Florida, but she will not be living in Florida very long. She is not going to be living anywhere, because she is dying. She is in the last stages of AIDS-related tuberculosis, a condition which is slowly destroying her brain and body, Newsweek stated in its most recent edition, sometime in the next few days.

Kimberly Bergalis will probably become the first American to die from AIDS after being infected by her dentist. He knew he had it, and he did not tell her nor did he tell any of his other patients.

The Senate may not accept my amendments, either one of them. But I am going to do the best I can under the Senate rules to get a vote on them and do the best I can to get them approved. But for technical reasons if they are not adopted, that will not be my fault.

You say, "Helms, what is the alternative?" The alternative is simply to ask unanimous consent that it be in order for Senator HELMS' two amendments to be considered by the Senate and voted on. That is all you need. I wish to see somebody object to that.

I am going to call up one of the amendments and see what happens. But I predict that somewhere along the line, probably fairly early, there will be a point of order registered and the amendment will be declared by the Chair to be nongermane. And the Chair will be right, because technically speaking it is nongermane, but it is absolutely germane in context to this crime bill, because, as I said, if it is not a crime for a doctor or a dentist, or any other health care worker, knowing that he or she has AIDS for them to fail to notify their patients that they have AIDS, if it is not a crime, then I do not know how to define a crime. And the same thing is true about these pedophiles who are producing child pornography.

That is about it. Mr. President, let me get the number of the amendment and we will see how it comes out. I say to all Senators that all it will take is unanimous consent that the amendment be considered germane. As a matter of fact I am going to test it.

Mr. President, I ask unanimous consent that the two pending Helms amendments be considered germane for purposes of consideration by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I am going to call up amendment No. 701.

Mr. MITCHELL. Mr. President, it is my understanding that the period until 1 o'clock under a previous order was for debate only on the bill.

The PRESIDING OFFICER. The majority leader is correct.

Mr. MITCHELL. So that any request to make an amendment germane is inconsistent with the previous unanimous-consent agreement and therefore out of order; is that correct?

Mr. HELMS. Mr. President, if the Senator will yield——

The PRESIDING OFFICER. It may be inconsistent with the intention of the order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, let me ask the Chair a question. What is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is S. 1241.

Mr. HELMS. Which is?

The PRESIDING OFFICER. Which is the crime bill.

Mr. HELMS. The crime bill. Fine. Is the Chair saying to the Senate that it is out of order to ask unanimous consent that any amendments be considered germane; is that what the Chair is saying? I want to know the precedent on that.

The PRESIDING OFFICER. The Senator can make a unanimous-consent request, which he has done.

Mr. HELMS. Right. I made it. And the distinguished majority leader objected. And then he said until 1 o'clock discussion only, correct?

The PRESIDING OFFICER. Under a previous order debate only until 1 o'clock, that was the agreement.

Mr. HELMS. I was not debating. I was simply asking a unanimous consent, and the Chair says that that is out of order?

The PRESIDING OFFICER. The Chair did not say that. The Chair said there was the unanimous-consent request which the Senator from North Carolina made, but there was an objection to the unanimous-consent request.

Mr. HELMS. I understand. Very well. That is fine. This is another example.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, under the previous unanimous consent agreement, I was granted authority to proceed to H.R. 2622, the Treasury appropriations bill, following consultation with the Republican leader. I now exercise my right to call up that bill.

The PRESIDING OFFICER. The leader has that authority. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; *not less than $2,522,000 and 40 full-time equivalent positions for the Office of Foreign Assets Control;* not to exceed $2,330,000, to remain available until expended, for systems modernization requirements; not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; **[**$67,500,000**]** *$68,975,000.*

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; not to exceed $73,000 for official reception and representation expenses; not to exceed $2,487,000, to remain available until expended, for systems modernization requirements; **[**$32,794,000**]** *$33,855,000.*

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $2,000,000 for official travel expenses; not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; **[**$22,710,000**]** *$24,835,000.*

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; not to exceed $3,000 for official reception and representation expenses; $18,055,000, of which not to exceed $945,000 shall remain available until expended, for development of FinCEN's intelligence information systems.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifty-two for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109:

Provided, That the Center is authorized to accept gifts: *Provided further*, That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority; **[**$39,245,000**]** *$41,245,000*.

Acquisition, Construction, Improvements, and Related Expenses

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, **[**$5,359,000**]** *$16,534,000*, to remain available until expended.

Financial Management Service

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, **[**$189,195,000**]** *$228,968,000*, of which not to exceed **[**$10,794,000**]** *$10,294,000*, shall remain available until expended for systems modernization initiatives**[**: *Provided*, That notwithstanding any other provision of law, hereafter the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in processing Social Security Trust Funds benefit payments, including but not limited to, payment preparation, postage, and account reconciliation**]**.

Bureau of Alcohol, Tobacco, and Firearms

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; **[**$316,796,000**]** *$341,040,000*, of which **[**$15,000,000**]** *$22,000,000* shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1992, and, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); *of which $650,000 shall be available solely for improvement of information retrieval systems at the National Firearms Tracing Center; and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms; and the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms*: *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further*, That this provision shall not preclude ATF from assisting the International Civil Aviation Organization in the development of a detection agent for explosives or from enforcing any legislation implementing the Convention on the Marking of Plastic and Sheet Explosives for the Purpose of Detection: *Provided further*, That funds made available under this Act shall be used to achieve a minimum level of **[**4,073**]** *4,119* full-time equivalent positions for fiscal year 1992, of which no fewer than **[**1,037**]** *1,137* full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program.

United States Customs Service

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; **[**funds for additional positions for the San Francisco, California, the Baltimore, Maryland, and Port Huron, Michigan Customs Districts,**]** and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; **[**$1,226,514,000**]** *$1,270,005,000*, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed $4,000,000, to remain available until expended, for research, and not to exceed $3,500,000, to remain available until expended, for renovation and expansion of the Canine Enforcement Training Center: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or **[**his**]** *the Commissioner's* designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service**[**: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program**]**: *Provided further, That the United States Customs Service shall hire and maintain an average of not less than 17,411 full-time equivalent positions in fiscal year 1992, of which a minimum level of 960 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service, and of which a minimum level of 10,480 full-time equivalent positions shall be allocated to commercial operations activities: Provided further*, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1992: *Provided further*, That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

[Operation and Maintenance, Air Interdiction Program**]**

Operation and Maintenance, Air and Marine Interdiction Programs

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of *marine vessels*, aircraft, and other related equipment of the Air **[**Program**]** *and Marine Programs*; **[**$109,432,000**]** *$176,932,000*, to remain available until expended: *Provided*, That no aircraft or other related equipment shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1992.

Customs Air Interdiction Facilities, Construction, Improvements and Related Expenses

For acquisition of necessary additional real property, facilities construction, improvements, and related expenses of the United States Customs Service Air Interdiction Program, $26,600,000, to remain available until expended.

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $15,000,000, as authorized by Public Law 100-690, as amended by Public Laws 101-382 and 101-508; to be derived from deposits in the Fund.

Customs Services at Small Airports

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,981,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

United States Mint

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $53,806,000, including amounts for purchase and maintenance of uniforms not to exceed $285 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties; and, of which, $1,335,000 shall remain available until expended for expansion and improvements.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; [$192,270,000] *$185,659,000*.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; executive direction, management services, and internal audit and security; including purchase (not to exceed 125 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$144,503,000] *$141,653,000*, of which not to exceed $25,000 for official reception and representation expenses; and of which not to exceed $500,000 shall remain available until expended for research.

PROCESSING TAX RETURNS AND ASSISTANCE

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; statistics of income; providing assistance to taxpayers; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,661,298,000, of which $3,000,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; the purchase (not to exceed 451, for replacement only, for police-type use), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$3,606,124,000] *$3,582,485,000, of which not less than $292,248,000 and 4,293 full-time equivalent positions shall be available for the Tax Fraud Investigations during fiscal year 1992: Provided, That such sums and positions for the Tax Fraud Investigations shall be in addition to such sums and positions funded by transfer from the Special Forfeiture Fund of the Office of National Drug Control Policy*[: *Provided*, That additional amounts above fiscal year 1991 levels for international tax enforcement shall be used for the establishment and operation of a task force comprised of senior Internal Revenue Service Attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in noncompliance with the Internal Revenue Code]: *Provided further*, That additional amounts above fiscal year 1991 levels for the information reporting program shall be used instead for the examination of the tax returns of high-income and high-asset taxpayers.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: returns processing and services; compliance and enforcement; program support; and tax systems modernization; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,294,713,000, of which not less than [$492,000,000] *$427,323,000* shall remain available until expended for tax systems modernization, and of which not to exceed $60,000,000 shall remain available until expended for other systems development projects: *Provided, That of the $427,323,000 provided for tax systems modernization up to $15,000,000 may be available until expended for the establishment of a federally funded research and development center and may be utilized to conduct and evaluate market surveys, develop and evaluate requests for proposals, and assist with systems engineering, technical evaluations, and independent technical reviews in conjunction with tax systems modernization.*

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation *upon advance approval of the House and Senate Committees on Appropriations.*

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; *training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: Provided, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations;* not to exceed $12,500 for official reception and representation expenses; *not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations, in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year;* $475,423,000, *of which $2,500,000 shall remain available until expended for renovations at the temporary official residence of the Vice President and $1,600,000 to remain available until expended for renovations of the New York Field Office; and of which not to exceed $300,000 shall be made available for the protection at the one non-governmental property designated by the President of the United States and $70,000 at the airport facility used for travel en route to or from such property under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note).*

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

[SEC. 101. Of the funds appropriated in this or any other Act to the Internal Revenue Service, amounts attributable to efficiency savings for fiscal year 1992 as estimated by the Commissioner shall be withheld from obligation unless the estimated savings are not achieved: *Provided*, That 50 per centum of the actual efficiency savings shall lapse or be deposited into miscellaneous receipts of the Treasury with the exception of amounts in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law: *Provided further*, That notwithstanding any fiscal year limitations on the availability of appropriations, the remainder of the actual efficiency savings shall be made available in fiscal year 1993 for cash awards to IRS employees, as authorized by sections 4501–4505 of title 5, United States Code, and for future efficiency improvements to carry out those purposes authorized by law: *Provided further*, That none of the funds shall be made available for the program without the advance approval of the House and Senate Appropriations Committees.]

SEC. 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be used by the Secretary of the Treasury to direct bill a Treasury bureau for penalty mail costs incurred by another Treasury bureau.

SEC. 104. None of the funds made available to the Department of the Treasury by this or any other Act, shall be used to impose or assess any tax due under subchapter D of chapter 31 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum.

SEC. 105. None of the funds provided by this or any other Act shall be used to install or operate new voice messaging systems within the Department of the Treasury or any of its bureaus in fiscal year 1992.

This title may be cited as the "Treasury Department Appropriations Act, 1992".

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; [$649,301,000] *$383,000,000*: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1992.

Payment to the Postal Service Fund for Nonfunded Liabilities

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $40,575,000.

This title may be cited as the "Postal Service Appropriations Act, 1992".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

Compensation of the President

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: Provided further, That none of the funds made available for official expenses shall be considered as taxable to the President.*

Office of Administration

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; [$23,010,000] *$24,510,000* including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

The White House Office

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $34,885,000.

Executive Residence at the White House

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $8,362,000, *of which $1,100,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.*

Official Residence of the Vice President

OPERATING EXPENSES

For the care, [maintenance, repair and alteration] *operation*, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, *to be accounted for solely on his certificate;* $324,000: *Provided, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.*

Special Assistance to the President

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,932,000.

Council of Economic Advisers

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $3,345,000.

Office of Policy Development

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,701,000.

National Critical Materials Council

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98–373; $235,000: *Provided, That such funds shall only be used in support of work undertaken in collaboration and in close cooperation with the National Security Council, as authorized by Public Law 98–373: Provided further, That in the performance of this requirement, the Council shall carry out only those responsibilities and authorities which are consistent with the National Materials and Minerals Policy, Research and Development Act of 1980, Public Law 96–479: Provided further, That staff and resources of Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy shall be made available to the Council on a nonreimbursable basis.*

National Security Council

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $6,145,000.

Office of Management and Budget

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; [$50,470,000] *$53,434,000, of which not to exceed $5,000,000, shall be available to carry out the provisions of 44 U.S.C. chapter 35: Provided, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: Provided further, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): Provided further, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: Provided further, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: Provided further, That none of the funds made available by this or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcohol beverage and tobacco industries below fiscal year 1985 levels: Provided further, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.*

Office of Federal Procurement Policy

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $3,058,000.

Office of National Drug Control Policy

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; [$69,122,000] *$113,018,750*, [of which $1,000,000 shall support the Counternarcotics Technology Assessment Center] *of which $500,000 shall be available for salaries and expenses of the Counter-Drug Technology Assessment Center; of which $10,000,000 shall be available to the Counter-Drug Technology Assessment Center for counternarcotics research and development activities* and shall be available for transfer to other Federal Agencies and Departments and shall be available until expended; and, of which [$50,000,000] *$85,000,000* shall be available for drug control activities which are consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas [and shall be transferred to Federal agencies and departments for implementing approved strategies and shall be obligated by the end of fiscal year 1992]: *Provided, That of the $85,000,000 made available, up to $50,000,000 shall be transferred to Federal agencies and departments within 90 days of enactment of this Act for implementing the approved strategy for each high intensity drug trafficking area and shall be obligated by the end of fiscal year 1992: Provided further, That not less than $35,000,000 shall be transferred to the Department of Justice and the Department of the Treasury within 90 days of enactment of this Act for disbursement to State and local drug control entities for drug control activities which are consistent with the approved strategy for each High Intensity Drug Trafficking Area: Provided further, That in the case of the Southwest Border High Intensity Drug Trafficking Area, such funds shall be available for drug control activities which are consistent with the approved strategy and only for those activities approved by the Joint Command Group of Operation Alliance and the Assistant Secretary for Enforcement of the Department of the Treasury: Provided further, That notwithstanding any other provision of law, the Department of the Treasury, is authorized to transfer funds to other Federal, State, and local drug control agencies: Provided further, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.*

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100–690, **[$77,000,000]** *$67,000,000* to be derived from deposits in the Special Forfeiture Fund; **[**of which $10,000,000 shall be transferred to the Bureau of Prisons for prison construction; and of which $31,000,000 shall be transferred to the Alcohol, Drug Abuse, and Mental Health Administration for drug treatment capacity expansion; and of which $21,000,000 shall be transferred to the United States Customs Service (Salaries and expenses) for drug related activities, and of which $15,000,000 shall be transferred to the Bureau of Alcohol, Tobacco, and Firearms (Salaries and expenses), for drug related expenses**]** *of which $10,000,000 shall be transferred to the Alcohol, Drug Abuse, and Mental Health Administration's Office of Substance Abuse Prevention for implementation of not to exceed ten demonstration projects to permit substance-abusing women to reside with their children in comprehensive community prevention and treatment facilities; of which $10,000,000 shall be transferred to the Immigration and Naturalization Service for the hiring, equipping, and training of not less than an additional 100 full-time equivalent Border Patrol agents to be designated to sectors on the United States–Mexico border: Provided, That such positions shall be in addition to the full-time equivalent Border Patrol positions funded in the Commerce, State and Justice Departments Appropriations Act, 1992; of which $5,000,000 shall be transferred to the United States Secret Service for West African counter-drug task forces; of which $28,000,000 shall be transferred to Internal Revenue Service, tax law enforcement, for the hiring, equipping, and training of an additional 200 full-time equivalent special agents and 100 full-time equivalent support and administrative positions for drug-related investigations in designated High Intensity Drug Trafficking Areas; and of which $14,000,000 shall be transferred to the Counter-Drug Technology Assessment Center of the Office of National Drug Control Policy for counternarcotics research and development activities.*

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1992".

TITLE IV

INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $2,227,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271–79); $1,330,000, *and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.*

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92–28; **[$1,293,000]** *$1,446,000.*

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $18,808,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of Federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of Federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of **[$4,131,346,000]** *$4,027,836,276* of which (1) not to exceed **[$371,416,000]** *$385,104,276* shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

[California:

[Menlo Park, United States Geological Survey Office Laboratory Buildings, escalation, $11,047,000

[Monterey, Federal Building and U.S. Courthouse, $1,900,000

[Orange County, Courthouse, $250,000

[Georgia:

[Atlanta, Center for Disease Control, $5,000,000

[Florida:

[Fort Myers, Federal Building and U.S. Courthouse, $977,000

[Tallahassee, U.S. Courthouse Annex, $3,764,000

[Indiana:

[Hammond, Courthouse and Federal Building, $5,000,000

[Maryland:

[Prince George's County, U.S. Courthouse, $10,747,000

[Massachusetts:

[Boston, Thomas P. O'Neill Federal Building, claim, $3,100,000

[Minnesota:

[Minneapolis, Federal Building and U.S. Courthouse, $19,000,000

[Missouri:

[St. Louis, Federal Building and U.S. Courthouse, $30,000,000

[Nevada:

[Reno, C. Clifton Young Federal Building, United States Courthouse Annex, $307,000

[North Carolina:

[Asheville, Courthouse and Federal Building (construction), $25,300,000

[Tennessee:

[Knoxville, Courthouse, $2,500,000

[United States Virgin Islands:

[Charlotte Amalie, Saint Thomas, U.S. Courthouse Annex, $8,524,000

[Nonprospectus Construction Projects, $5,000,000**]**

California:

Menlo Park, United States Geological Survey, Office Laboratory Buildings, escalation, $11,047,000

Florida:

Fort Myers, Federal Building and United States Courthouse, $977,000

Tallahassee, U.S. Courthouse Annex, $3,764,000

Georgia:

Albany, U.S. Courthouse, design, $921,000

Augusta, U.S. Courthouse, $3,500,000

Kansas:

Wichita, U.S. Courthouse, $9,968,400

Maine:

Portland, Edward T. Gignoux U.S. Courthouse, $10,575,000

Maryland:

Food and Drug Administration, consolidation, site acquisition, planning and design, $200,000,000

Massachusetts:

Boston, Thomas P. O'Neill Federal Building, claim, $3,100,000

Missouri:

St. Louis, Federal Building and U.S. Courthouse, $30,000,000

Nevada:

Reno, C. Clifton Young Federal Building U.S. Courthouse Annex, design and site acquisition, $6,321,000

North Carolina:

Asheville, Grove Arcade Federal Building, $29,790,876

Tennessee:

Knoxville, U.S. Courthouse—Post Office, $36,616,000

United States Virgin Islands:

Charlotte Amalie, St. Thomas, U.S. Courthouse Annex, $8,524,000

West Virginia:

Beckley, Federal Building and U.S. Courthouse, $25,000,000

Nonprospectus Construction Projects, $5,000,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: Provided further, That all funds for direct construction projects shall expire on September 30, 1993, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: Provided further, That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects[*: Provided further*, That to the extent that savings can be effected in other

Federal Buildings Fund activities, the GSA shall seek reprogramming of up to $16,200,000 to supplement funds previously authorized and appropriated for the NOAA laboratory, Boulder, Colorado, subject to the approval of the House and Senate Committees on Appropriations according to existing reprogramming procedures]: *Provided further, That the amount available under this heading for Department of Transportation, Headquarters, site in Public Law 101–509, dated November 5, 1990 is hereby deferred and shall be available for obligation on October 1, 1992 and all contingencies and constraints on the use of such funds in the original language are continued herewith; (2) not to exceed $569,251,000 which shall remain available until expended, for repairs and alterations: Provided further, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:*

Repairs and Alterations:

California:

Pasadena, Court of Appeals and Federal Building, $9,218,000

Sacramento, Federal Building, 801 I Street, $9,529,000

Santa Rosa, John F. Shaw Federal Building, $1,583,000

Connecticut:

Hartford, William R. Cotter Federal Building, $3,814,000

District of Columbia:

Federal Building 10A, $16,527,000

Herbert Clark Hoover Department of Commerce Building, $3,857,000

Housing and Urban Development Building, $5,365,000

Justice Building, $7,495,000

New Executive Office Building, $8,083,000

Old Executive Office Building, $19,000,000

Wilbur J. Cohen Federal Building, $15,000,000

Illinois:

Chicago, John C. Kluczynski Federal Building, $20,335,000

Kentucky:

Louisville, Federal Building, $15,470,000

Maryland:

Baltimore, Edward A. Garmatz Federal Building U.S. Courthouse, $6,311,000

Massachusetts:

Boston, John Fitzgerald Kennedy Federal Building and Government Center (phase 2), $36,800,000

Worcester, Harold D. Donahue Federal Building and United States Courthouse, [$14,000,000] *$10,331,000*

Missouri:

Kansas City, Federal Office Building, $5,256,000

Montana:

Billings, Federal Building U.S. Courthouse, $1,919,000

New Mexico:

Albuquerque, Dennis Chavez Federal Building and U.S. Courthouse, $3,846,000

New York:

Brooklyn, Emanuel Celler Federal Building and U.S. Courthouse (phase 1), $8,729,000

Buffalo, Michael J. Dillon Memorial United States Courthouse, $5,962,000

New York, Alexander Hamilton Custom House (phase 1), $20,273,000

New York, Jacob K. Javits Federal Building, $11,955,000

Ohio:

Cincinnati, John Weld Peck Federal Building, $2,537,000

Columbus, Federal Building and U.S. Courthouse, $3,348,000

Pennsylvania:

Philadelphia, Robert N.C. Nix, Sr., Federal Building and United States Post Office, $10,000,000

Scranton, Federal Building and U.S. Courthouse, $2,600,000

Texas:

Austin, IRS, Department of Veterans Affairs, Treasury Complex, $11,366,000

Galveston, Post Office and U.S. Courthouse, $3,310,000

Houston, Bob Casey Federal Building and U.S. Courthouse, $7,222,000

San Antonio, Federal Building, $4,084,000

Utah:

Salt Lake City, Frank E. Moss U.S. Courthouse, $4,872,000

Salt Lake City, Wallace F. Bennett Federal Building, $3,254,000

Minor Repairs and Alterations, [$266,331,000] *$270,000,000: Provided, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: Provided further, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1993, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date;* [(1)] *(3)* not to exceed $144,587,000 for installment acquisition payments including payments on purchase contracts; [(2)] *(4)* not to exceed [$1,655,900,000] *$1,568,900,000* for rental of space; [(3)] *(5)* not to exceed $1,107,372,000 for real property operations [of which $7,000,000 shall be available for the relocation of the National Science Foundation headquarters]; [(4)] *(6)* not to exceed [$139,748,000] *$137,748,000* for program direction and centralized services; and [(5)] *(7)* not to exceed [$143,072,000] *$114,874,000* for design and construction services which shall remain available until expended: *Provided further, That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: Provided further, That none of the funds available to the General Services Administration, except for the Albany, Georgia U.S. Courthouse; the Augusta, Georgia U.S. Courthouse; the Wichita, Kansas U.S. Courthouse; the Portland, Maine Edward T. Gignoux U.S. Courthouse; the Maryland, Food and Drug Administration consolidation; the St. Louis, Missouri, Federal Building and U.S. Courthouse; the Reno, Nevada C. Clifton Young Federal Building and U.S. Courthouse Annex; the Asheville, North Carolina Grove Arcade Federal Building; the Knoxville, Tennessee U.S. Courthouse—Post Office; the Beckley, West Virginia, U.S. Courthouse and Federal Building, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: Provided further, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: Provided further, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections*[: *Provided,*]: *Provided further*, That revenues and collections *and any other sums* accruing to this Fund during fiscal year 1992 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of [$4,131,346,000] *$4,027,836,276* shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $54,605,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $14,227,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, [$16,000,000] *$8,000,000* to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other

Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property[: *Provided further*, That $3,770,000 of the amount shall be made available to the National Archives and Records Administration to pay expenses related to the establishment and relocation of the National Long Term Records Center (which shall be known hereafter as the "Silvio O. Conte National Records Center"), authorized and directed by Public Law 101–509].

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided, for Policy Direction, Board of Contract Appeals, and accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109, [$31,421,000] *$30,431,000: Provided, That this appropriation shall be available for general administrative and staff support services, subject to reimbursement by the applicable organization or agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: Provided further, That not less than $825,000 shall be available for personnel and associated costs in support of Congressional District and Senate State offices without reimbursement from these offices: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses.*

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; *and for the Information Security Oversight Office established pursuant to Executive Order 12356*; $46,014,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, [$34,994,000] *$35,994,000, of which not to exceed $2,400,000 shall remain available until expended for procurement and installment of an automation program in support of audits and investigations: Provided, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: Provided further, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.*

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138; $2,129,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

[Section 1. Notwithstanding any other provision of law, the General Services Administration shall pay from funds made available to GSA in the Real Property Relocation account, not to exceed $8,000,000, for expenses related to the relocation of the U.S. Fish and Wildlife Service regional office authorized and directed by Public Law 101–136.

[Sec. 2. The Administrator of GSA is authorized to accept property from the State of Maryland at no cost for the purpose of constructing a computer facility for the Bureau of the Census and to begin preliminary design work on such a facility. GSA is directed to submit to the appropriate authorizing and appropriations committees of the Congress an evaluation of need and prospectus for this project no later than August 23, 1991.]

SEC. 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 2 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1992 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. (a) Notwithstanding any other provision of law, agencies are hereafter authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

SEC. 6. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 7. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 8. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97–258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: Provided, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 9. Notwithstanding any other provision of law, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), is authorized to receive any revenues, collections, or other income received during fiscal year 1992 in the form of rebates, cash incentives or otherwise, related to energy savings, all of which shall remain in the Fund until expended, and remain available for Federal energy management improvement programs as may be authorized by law or as may be deemed appropriate by the Administrator of General Services. The General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority, in such activity or activities of the Fund as may be necessary. The General Services Administration is authorized to: receive amounts from the sale of materials for recycling, all of which shall remain in the Fund until expended, and shall remain available for Federal energy management improvement programs, for further source reduction and recycling programs, and for child day care or other Federal employee benefit programs to encourage employees to participate in recycling programs; receive amounts from concessionaires' fees, all of which shall remain in the Fund until expended, and shall remain available for programs which promote energy conservation in food service facilities and equipment; Provided, That no later than 8 months after the enactment of this Act the Administrator of General Services shall report to Congress on the progress toward meeting the energy performance and recycling goals established in Public Law 100–615 and Executive Order 12759, and shall submit legislation to implement the recommendations of the Administrator or appropriate measures that would assist Federal agencies in meeting or exceeding these goals.

SEC. 10. The Administrator of General Services shall submit to the Congress no later than September 30, 1992, an inventory of all the real property in Hawaii that is owned or controlled by any agency of the Federal Government, including the United States Department of Defense: Provided, That the Administrator of General Services shall submit an interim report no later than June 1, 1992 and shall compile all information including that received from the United States Department of Defense: Provided further, That the State of Hawaii shall cooperate to the fullest extent in the preparation of the inventory: Provided further, That the inventory shall identify and include: (1) ceded lands—title vested in the then territory of Hawaii, and nonceded territorial lands, title vested in the then territory of Hawaii; (2) ceded lands, title vested in the United States, but controlled and used by the then territory of Hawaii; (3) ceded lands formally setaside by Presidential executive orders for use by the United States Government; (4) then territorial lands formally set aside by gubernatorial executive orders for use by the United States Government; (5) ceded lands under the control of the then territory of Hawaii, but used by the United States Government under permits and licenses; (6) nonceded lands and private lands acquired and used by the

United States Government: Provided further, That for each property identified, the inventory shall provide: (1) an explanation of how the land was acquired, including the date of acquisition, the history and the current status of the title, an identification of all current encumbrances and leases, the expiration date of all leases, contracts and other agreements, and a record of the ceded lease fee or any other sums paid for the use of or title to the land; (2) the identity of past and present Federal users of the land, and a description of past and current use specifying which United States Government agency or department of the military has control of the property; (3) the obligations of the controlling United States Government agency or department of the military for the management and maintenance of the land.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, [$152,143,000] *$154,143,000*, of which [$5,400,000] *$6,000,000* for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, *shall remain available until expended.*

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101–194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $6,303,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor-vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: Provided, That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1992. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $116,593,000, of which not less than $600,000 shall be made available for the establishment of Federal health promotion and disease prevention programs for Federal employees; and in addition $79,757,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs: Provided further, That amounts authorized to be transferred from the appropriate trust funds for implementation of the Federal Employees' Retirement System automated recordkeeping system in this or prior Acts, may be transferred at any time the Office of Personnel Management deems appropriate: Provided further, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: Provided further, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: Provided further, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1992, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission: Provided further, That the Director of the Office of Personnel Management may transfer from this appropriation an amount to be determined, but not to exceed $253,000, to the National Advisory Council on the Public Service as established by Public Law 101–363, and of the moneys appropriated to the Office of Personnel Management under this heading in the Treasury, Postal Service and General Government Appropriations Act, 1991, the Director may transfer an amount to be determined, but not to exceed $84,000, to such Council, notwithstanding any other provision of this Act, to be available for expenditure no later than September 30, 1991.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, *rental of conference rooms in the District of Columbia and elsewhere,* hire of passenger motor vehicles: [$3,118,000] *$3,468,000*; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, *as determined by the Inspector General.*

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $2,503,535,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $14,249,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $6,078,686,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

[REVOLVING FUND

[Pursuant to section 4109(d)(1) of title 5, United States Code, cost for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.]

OFFICE OF PERSONNEL MANAGEMENT

GENERAL PROVISION

SECTION 1. The allowances provided to Federal employees at rates set under section 5941 of title 5, United States Code, and Executive Order Numbered 10,000 as in effect on the date of the enactment of this Act may not be reduced during the period beginning on the date of the enactment of this Act through December 31, 1995: Provided, That no later than March 1, 1995, the Office of Personnel Management shall conduct a study and submit a report to the Congress proposing adjustments to the methodology for calculating allowances which take into account all costs of living in the geographic areas of the affected employees.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $23,361,000, together with not to exceed $1,850,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95-454), and the Whistleblower Protection Act of 1989 (Public Law 101–12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $7,789,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $20,769,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; **[**$33,050,000**]** *$32,050,000: Provided, That travel expenses of the judges shall be paid upon the written certificate of the judge.*

This title may be cited as the "Independent Agencies Appropriations Act, 1992".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 504. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 505. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 506. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 507. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 508. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 509. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 510. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 511. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 512. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 513. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 514. The provision of section 513 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 515. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 516. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 517. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1992.

SEC. 518. (a) Notwithstanding any other provision of law, during fiscal year 1992, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1992 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1992, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 519. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 520. The Office of Personnel Management may, during the fiscal year ending September 30, 1992, accept donations of supplies, services, and equipment for the Federal Executive Institute, the Federal Quality Institute, and Executive Seminar Centers for the enhancement of the morale and educational experience of attendees.

SEC. 521. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 522. The United States Secret Service may, during the fiscal year ending September 30, 1992, accept donations of money to offset costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

[SEC. 523. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.]

SEC. 523. (a)(1) In the cases of all appropriations accounts within this Act with the exception of the Committee for the Purchase From the Blind and Other Severely Handicapped, salaries and expenses, from which expenses for travel, transportation, and subsistence (including per diem allowances) are paid under chapter 57 of title 5, United States Code, there are hereby prohibited to be obligated under such accounts in fiscal year 1992 a uniform percentage of such amounts, as determined by the President in accordance with the provisions of paragraph (2), as, but for this subsection, would—

(A) be available for obligation in such accounts as of October 1, 1991,

(B) be planned to be obligated for such expenses after such date during fiscal year 1992, and

(C) result in total outlays of $15,733,000 in fiscal year 1992.

(2) Before making determinations under paragraph (1), the President shall obtain from the Director of the Office of Management and Budget and the Comptroller General of the United States recommendations for determinations with respect to (A) the identification of the accounts affected, (B) the amount in each such account available as of such date for obligation, (C) the amounts planned to be obligated for such expenses after such date in fiscal year 1992, and (D) the uniform percentage by which such amounts need to be reduced in order to comply with paragraph (1).

(b) Within 30 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report specifying the determinations of the President under subsection (a).

SEC. 524. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

SEC. 525. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

SEC. 526. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

[SEC. 527. No funds in this Act may be used to award a Federal agency lease in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, which do not meet the following criteria:

[Any Federal agency which leases commercial space in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, when entering into new leases, shall give preference to space available meeting standard government lease criteria, which is offered at the lowest cost per square foot within the geographical area, provided it also meets the occupying agency's mission requirement.

[SEC. 528. (a) None of the funds appropriated by this Act may, with respect to an individual employed by the Bureau of the Public Debt in the Washington Metropolitan Region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to a position outside such region, or to accompany a position outside of such region, pursuant to a transfer of any of such Bureau's operations or functions to Parkersburg, West Virginia.

[(b) Subsection (a) shall not apply with respect to any individual who, on or after the date of enactment of this Act, declines an offer of another position in the Department of the Treasury which is of at least equal seniority, status, and pay, and which is within the Washington Metropolitan Region.

[SEC. 529. No later than eight months after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit, together with appropriate legislation to implement the recommendations of the Director, a report to Congress which surveys the use of work and family programs for Federal employees, and makes recommendations on appropriate measures to enhance the effectiveness of these programs, and to increase the number of employees participating.]

SEC. 527. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 528. (a) None of the funds appropriated by this Act, or by any Act appropriating funds for activities of the Department of the Treasury that is enacted before December 31, 1995, may, with respect to an individual employed by the Bureau of the Public Debt in the Washington Metropolitan Region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to an employment position outside such region, or to accompany an employment position outside of such region, pursuant to a transfer of the operations or functions of the Bureau to Parkersburg, West Virginia.

(b) Subsection (a) shall not apply if, after the date of enactment of this Act, the Department of the Treasury has established a program under which an individual referred to in subsection (a) has been provided—

(1) outplacement services, including employment counseling assistance, employment referral assistance, and assistance in the preparation of employment applications or résumés;

(2) notification of existing vacancies in employment positions in other departments and agencies of the Federal Government within the Washington Metropolitan Region, which positions have a status and pay similar to that of the position held by the individual at the Bureau of the Public Debt;

(3) in the case of an individual who seeks employment in a position referred to in clause (2), such training as the Secretary of the Treasury determines is necessary to qualify such individual for employment in the position; and

(4) any other assistance and training that the Secretary determines to be necessary or advisable.

(c)(1) Any individual referred to in subsection (b) who, within five years after the date of the enactment of this Act, submits an application for employment in a position of employment in a department or agency of the Federal Government shall be entitled to five additional points above the earned rating in the competitive service of such individual with respect to the application.

(2) The Secretary of the Treasury shall take such actions as are necessary to notify the individuals referred to in subsection (b) and the relevant officers of the departments and agencies of the Federal Government of the entitlement referred to in paragraph (1).

(d) Notwithstanding any other provision of law, if any vacancy arises in a position of employment at the Bureau of the Public Debt in the Washington Metropolitan Region during the period referred to in subsection (c)(1), the Secretary of the Treasury shall make such position available to any individual referred to in subsection (b) who is qualified to perform the duties of the position.

SEC. 529. None of the funds made available to the United States Customs Service may be used to collect or impose any land border processing fees at ports of entry along the United States-Mexico border.

SEC. 530. Section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended—

(1) in the first sentence by inserting "or at an airport facility used for travel en route to or from such property" after "Public Law 94–524,";

(2) in the fourth sentence by inserting after "$300,000", "at the one nongovernmental property, and $70,000 at the airport facility,"; and

(3) by adding at the end thereof the following after "Governments": ": Provided further, That

the airport facility is wholly or partially located in a municipality or political subdivison of any State where the permanent resident population is 7,000 or less, the airport is located within 25 nautical miles of the designated nongovernmental property, and where the absence of such Federal assistance would place an undue economic burden on the affected State and local governments".

SEC. 531. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1992 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding any other provision of law, a Federal employing agency shall make the deposit from existing appropriations into the Federal Employees Compensation Account of the Unemployment Trust Fund, as required by section 8509 of title 5, United States Code, not later than thirty days after the Department of Labor has billed the agency for the amount to be deposited.

SEC. 604. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United Stated Code.

SEC. 605. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: Provided, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: Provided further, That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: Provided further, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 606. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

SEC. 607. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: Provided, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: Provided further, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: Provided further, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: Provided further, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 608. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: Provided, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: Provided, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 612. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 613. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 614. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 616. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1992, or September 30, 1993, by this Act or any other Act, may be used to pay any prevailing *rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—*

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1991, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1992, and that portion of fiscal year 1993, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1993, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1992, under section 5303 of title 5, United States Code.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1991, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1991, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1991.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 617. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 618. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 619. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 620. No funds appropriated in this or any other Act for fiscal year 1992 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.".

SEC. 621. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 622. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 624. Notwithstanding section 1346 of title 31, United States Code, or section 607 of this Act, funds made available for fiscal year 1992 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 625. Notwithstanding any provisions of this Act or any other Act, during the fiscal year ending September 30, 1992, any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated in this or any other Act to install telephone lines, necessary equipment, and pay monthly charges, in any private residence or private apartment: Provided, That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

SEC. 626. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee *that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.*

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 627. Section 4521 of chapter 45, title 5, United States Code, is amended by deleting "5949(a)." at the end of the sentence and inserting in lieu thereof, "section 402 and section 405(b) of this Act."

SEC. 628. (a) Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the School District of Charleston County, South Carolina, a deed releasing the reversionary interest held by the United States to the property identified in paragraph (b).

(b) All that lot, piece or parcel of land, situated, lying and being on the west side of Chisolm Street, in ward 2, in the city of Charleston, County of Charleston, and State of South Carolina.

Measuring and containing in front on Chisolm Street 100 feet, and the same on the west or back line, and in depth on the northernmost line from east to west 150 feet and ½ inch, and the same on the southernmost line—be all the said dimensions a little more or less.

Butting and bounding to the north on lands now of Anderson Lumber Company, formerly of Mrs. E.C. Rennecker; east on Chisolm Street aforesaid; south on part of the original tract of land owned by the said A.B. Murray and West Point Mills Company, now reserved by the said grantors, and west on another part of the said original tract, formerly belonging to the said A.B. Murray and West Point Mills Company, and conveyed by them to the United States of America.

The said lot of land hereby conveyed being the northernmost portion of that portion of the Chisolm's Mills Property, reserved by the A.B. Murray and West Point Mills Company after conveyance of the greater part of the said Chisolm's Mills property to the United States of America, by Deeds which are recorded and may be seen in book U–24, page 582 and page 585 in the R.M.C. Office for Charleston County, and all of which is more fully shown and delineated on a plat of the said Chisolm's Mills Property, dated April 23, 1914, and made and certified to by H.D. King, Inspector, United States Light House Department, which said plat is on record in plat book C, page 97, in the R.M.C. Office for Charleston County.

Being the same premises which were conveyed to the United States of America by deed of Andrew B. Murray dated October 23, 1916, and recorded in the Office of the R.M.C. for Charleston County in book U–24, page 587, and by deed of West Point Mill Company, dated November 20, 1916, and recorded in said office in book U–24, page 589.

SEC. 629. NEW COLLEGE OF CALIFORNIA, INC.

(a) RELEASE OF REVERSIONARY INTEREST.—Notwithstanding any other provision of law, the Secretary of Education shall convey, without consideration, to the New College of California, Inc., a deed releasing the reversionary interest held by the United States to the property described in subsection (b).

(b) PROPERTY DESCRIPTION.—For the purpose of subsection (a), the property, sometimes known as 50 Fell Street, is described as: A parcel of land situated in the City and County of San Francisco, State of California, said parcel being described in the Judgment on Declaration of Taking entered 11 March 1946 in Civil Action No. 25791 in the District Court of the United States in and for the Northern District of California, Southern Division, which was filed March 22, 1946, in the Office of the Recorder, City and County of San Francisco, California. Beginning at a point on the northerly line of Fell Street distant therefrom 100 feet easterly from the easterly line of Van Ness Avenue and running thence easterly along said line of Fell Street 109 feet; thence at a right angle northerly 120 feet; thence at a right angle westerly 109 feet; thence at a right angle southerly 120 feet to the Point of Beginning, being a portion of Western Addition, Block No. 69, and known on the assessor's map as Lot 10, Block 814, City and County of San Francisco, California, containing 0.30 acres more or less. Improvements: One L-shaped Spanish-type building containing 27,020 square feet more or less.

SEC. 630. None of the funds appropriated by this or any other Act may be used to relocate the Department of Justice Immigration Judges from offices located in Phoenix, Arizona, to new quarters in Florence, Arizona.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1992".

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I would like to make a brief comment on the exchange that just occurred.

Under the rules of the Senate, there is an unlimited right of debate and an unlimited right of amendment. Those rules are protection for the minority in the Senate. We all respect and honor those rules and we respect and honor the institution and the integrity of the Senate.

Carried to their logical conclusion, if exercised without restraint, they would render the Senate incapable of any action whatsoever. And so over the course of many years, there has developed a practice of proceeding by unanimous consent with respect to specific legislation and thereby imposing time limits and other limitations that would not otherwise exist.

Hardly a day goes by in the Senate in which there is not operating a unanimous-consent agreement of one kind or another. And once an agreement has been reached, there is a degree of good faith and trust and confidence in the willingness of Members of the Senate to comply with those agreements so that the Senate can continue its business in the most efficient manner possible, given the nature of the institution and the rules which exist.

It is true that any Senator may at any time during the existence of such an agreement seek to reverse its intent by a contrary action. Senators should be aware that if that is to become the practice in the Senate, that will effectively undermine the methods by which we operate and will have the effect of greatly extending sessions of the Senate, making our ability to operate in an organized and predictable way extremely difficult, if not impossible.

If I cannot enter into an agreement with the Republican leader at 12:30 to assure a status on the Senate floor until 1 o'clock and not be able to leave the Senate for fear that someone is going to come in here and act in a manner directly contrary to the spirit and intent of that agreement, then the comity of the Senate and the willingness of Senators to cooperate, the ability of the Senate to function as a body in which civil and reasoned debate can and will occur will be severely undermined.

I have tired very hard over these past 3 years to work in a manner that every Senator felt was fair to each Member of the Senate; to build upon the legacy of my predecessors in creating a situation in which there was that necessary comity and trust and good faith.

I think it is very important that Senators understand what is at stake here. If agreements cannot be honored, if we cannot be confident that what we do in one minute will not be reversed in the next, then it calls into question the manner in which the Senate conducts its operations and will require me to reconsider the manner in which I have attempted to conduct the operations of the Senate.

Trust must be a two-way street. Cooperation must be a two-way street. Comity must be a two-way street. Fairness must be a two-way street. There cannot be trust one way. There cannot be fairness one way. It has to come from both sides and from all Senators.

Mr. President, it is my hope that we can, this afternoon, dispose of the Treasury and Postal Appropriations bill, and that we can return, upon completion of that bill, to the crime bill which I hope we will complete action on today. These are important measures. It is important that the Senate act on them.

But what is involved here is more important than either of these bills individually or in the aggregate or any bill. What is involved here is the manner in which the Senate will conduct its affairs and the integrity of the institution and the processes by which we seek to assure that the important business considered by the Senate will occur in a fair, reasonable, and responsible way. I hope all Senators will keep that in mind in the next several hours.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The legislative clerk continued with the call of the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator will proceed.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, today we are considering H.R. 2622, the fiscal year 1992 Treasury, Postal Service, and General Government appropriation bill. This measure provides funding for the programs of the Department of the Treasury, including the Customs Service, the U.S. Mint, the Secret Service, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco and Firearms.

In addition the bill provides funding for the payment to the Postal Service fund, the various offices within the Executive Office of the President, and certain independent agencies including the General Services Administration, the Office of Personnel Management, the National Archives, and the U.S. Tax Court.

The bill as recommended by the Committee on Appropriations provides total obligational authority of $19,581,993,750. This represents a decrease of $1,332,983,250 from the appropriations provided for fiscal year 1991 and a decrease of $48,708,250 from the House-passed bill. The bill as recommended is only $59,956,750, above the President's request. With respect to the subcommittee 602(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I commend Senator DECONCINI, chairman of the subcommittee, and Senator DOMENICI, the ranking minority member, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget. Their work was in no small part assisted by the cooperation of their colleagues on the Subcommittee and on the full Committee on Appropriations.

I also thank the subcommittee staff on both sides of the aisle: Patty Lynch, Shannon Brown, and Rebecca Davies. These professionals have worked tirelessly on behalf of the subcommittee.

I urge my colleagues to support this bill.

Mr. DOMENICI. Mr. President, the chairman of the subcommittee, Senator DECONCINI, will be along shortly. But I understand we are now on the Treasury, Postal Service appropriations bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I ask unanimous consent I may proceed for 30 seconds as in morning business and will return to the bill when the 30 seconds is up.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed.

MEMORIAL TO HENRY KIM, USDA FOREST SERVICE LEAD PILOT

Mr. DOMENICI. Mr. President, I rise today to pay tribute to a true American hero. His name was Henry Kim, a lead plane pilot with the Forest Service, killed while doing his job. Henry Kim was born in Honolulu, HI, and was a graduate of the U.S. Naval Academy. He was the recipient of several military decorations including the Navy Achievement Medal, the Air Medal, and the Vietnam Service Medal. But Henry was not just a lead plane pilot, he was also a husband and a father. He leaves behind his wife, Susan, and daughters Julie and Angeline who reside in Albuquerque, NM. He will be missed by his many friends and colleagues.

Mr. President, of late, it has been in vogue for many of us to heap abuse on Federal employees. It has also been fashionable lately to accuse the Forest Service of destroying our national forests. There are those who say that the Forest Service is doing here in America, on our national forests, what is alleged to be occurring in the tropical forests of South America.

Mr. President, this year is the 100th anniversary of the creation of the first forest reserve. The forest reserves were the beginnings of our magnificent National Forest System, administered under a multiple-use mandate from Congress by the USDA Forest Service. Today the mission of the Forest Service is being challenged as never before in their long history. In fact, the management philosophy of multiple-use itself is being challenged.

In a free and democratic society, challenging the actions and mission of a government agency is done frequently and is often an appropriate action for citizens to take. However, we must not forget that the Forest Service is comprised of a group of dedicated and professional people who are often only doing what the American people want done, and what Congress has directed them to do.

One of the Forest Service's most important missions is to protect the national forests from wildfire. This is the agency that rescued a bear cub in the Lincoln National Forest in New Mexico and gave America one of its most popular national symbols—Smokey the Bear. Fighting forest fires is a difficult and often dangerous task. When a wildfire starts, dedicated personnel in the Forest Service drop their day-to-day tasks and rush to the site to fight the spread of the blaze.

Henry Kim, was one of these brave civil servants. When called on to fight a forest fire, he was a "lead plane pilot." Lead planes are the "fighter planes of the Forest Service's unique Air Force. They are used in fighting forest fires to lead the larger and heavily loaded "retardant bombers" in their aerial bombardment of the leading edge of raging forest fires. Fire Retardant is used to slow the progress of a forest fire until ground crews are able to bring the fire under control. Retardant is used typically when the weather conditions are the most severe and in rough, rugged mountainous country where on-the-ground access is difficult.

The lead plane is used to direct the attack on the fire by the aerial tankers. They make the actual run ahead of the tankers, showing by a wag of their wings or by pointing out a specific landmark where each specific drop is to be made. After indicating where each drop should be made, the lead plane pulls up abruptly and turns quickly to watch the drop itself. The pilot can then determine how effective the drop was and plan for the next one. This cycle of tanker runs and drops continues until the progress of the fire has been slowed.

Lead pilots are not only responsible for directing the action of the aerial tankers but they are also responsible for the safety of the air operations. They determine the best way to make the run effective, to determine if the run can be done safety, to plan escape routes for the tankers from the hazardous terrain and fire situation, and to determine if the conditions are suitable for air tanker operations. If the turbulence is too great, if the visibility is too poor, or if in their judgment the operation cannot be conducted, it is the lead pilot who orders that the operations be ceased.

Henry Kim was an accomplished pilot. Prior to his career with the Forest Service, he was a naval aviator, flying planes on and off of aircraft carriers. Henry was also the aviation safety officer for the southwestern region.

On Friday, June 21, Henry Kim was in the air, piloting his lead plane and directing the aerial tankers as they attacked the Ziplock fire on the Cibola National Forest near Grants, NM. After leading a tanker on a run into a deep, rugged canyon on the slopes of Mount Taylor, Henry's plane pulled up abruptly and rolled into a tight turn. The plane, inexplicably, continued to roll and impacted into Mount Taylor, inverted and at full power.

Mr. President, this was a tragic accident, and I send my heartfelt sympathy to his wife and two daughters. Henry Kim was a fine and noble American, and we should all pay tribute to this courageous civil servant.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DECONCINI. Mr. President, I ask unanimous consent for Mr. John Shay, who is attached to my office for the time being, of the Appropriations Committee, be permitted the privilege of the floor during the consideration of the Treasury-Postal appropriations bill, including votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, what is the pending business?

The PRESIDING OFFICER. H.R. 2622.

Mr. DECONCINI. Mr. President, I am pleased to bring before us and talk in favor of H.R. 2622, an act making appropriations for the Department of the Treasury, the Postal Service, the Executive Office of the President, and certain independent agencies for fiscal year 1992. The bill we are recommending to the Senate totals $19.581 billion. This amount is $1.3 billion below the fiscal year 1991 enacted level; $48.7 million below the House-passed level; $59.9 million above the President's fiscal year 1992 budget request; and below the 602(b) allocations for budget authority and outlays.

The bill we bring before this body today balances the funding priorities of the Senate with those of the executive branch. It provides the President with the funds he needs to operate his executive offices; collect taxes; continue the war on drugs; train our Nation's Federal law enforcement officers; repair aging Federal buildings, and construct new office space for Federal agencies and courts to meet increased workload demands. It also funds the mandatory benefits owed to our Nation's current and retired civil servants.

Briefly, I will go over some of the highlights of the committee bill.

For the Federal Law Enforcement Training Center, the bill before you contains $57.8 million. These funds are needed to construct new facilities to keep pace with the rising demand for Federal, State, and local law enforcement training, particularly with respect to those agencies involved in drug enforcement.

For the Bureau of Alcohol, Tobacco and Firearms, the bill contains $341.1 million for alcohol and firearms compliance and enforcement. These funds will ensure the protection of our Nation's citizens against those using weapons to further their criminal activities. This funding level will also ensure that ATF has the resources it needs to keep criminal elements out of the alcohol industry in this country.

For the U.S. Customs Service, the bill contains $1.5 billion for drug enforcement, merchandise processing, and contraband detection. This funding level will permit the Customs Service to maintain its vigilant attack on illegal drug activities while permitting the expeditious processing of goods to keep U.S. business competitive in international trade.

For the Office of National Drug Control Policy, the bill contains $113 million for operations and activities of the drug czar and authorizes the expenditure of $67 million in special forfeiture fund proceeds for a number of antidrug activities. The President did not request funding in fiscal year 1992 for assistance to State and local drug control agencies for antidrug initiatives in designated high intensity drug trafficking areas. The committee bill recognizes the burdens placed on State and local law enforcement, particularly in the five areas where drug trafficking continues at staggering levels, and includes $35 million to continue direct assistance to State and local drug control agencies in the designated HIDTA areas. The bill also contains $23 million for counterdrug research and development activities to give Federal law enforcement agencies better tools to battle the drug war; $10 million to fund 10 demonstration treatment projects for substance-abusing women to take their children to certified residential centers for drug treatment services; $28 million for an additional 200 IRS special agents to conduct money laundering and other drug investigations; $10 million for an additional 100 border patrol agents for drug enforcement on the United States-Mexico border; and $5 million for a West African counter-drug task force to stem the increased heroin drug tide in the United States. All of these activities are vital to maintaining an aggressive attack on drug trafficking and drug use and are all vital components of the national drug control strategy.

For the General Services Administration, the bill funds a series of new courthouses throughout the country to meet the expanding requirements of the judiciary. The bulk of funds contained in the Federal Buildings Fund are for the expansion of existing court space and the construction of new courthouses for judgeships authorized by the Congress.

For the Internal Revenue Service, the bill contains $6.7 billion. This amount will fully fund the revenue compliance deficit reduction initiative, begun in fiscal year 1991; modernization of the Nation's antiquated tax systems to permit the IRS to meet the growing taxpayer processing and revenue collections demands in the decades ahead, and will permit some of the best-trained law enforcement agents in the country to crack down on those individuals who seek to evade the tax laws. The bill recommended to the Senate contains the full amount needed by the IRS to fund mandatory pay and other nondiscretionary costs so that funds are not diverted from important tax collection and taxpayer service activities to fund mandatory requirements.

Finally, the bill contains $322 million for Executive Office of the President agencies so that the President can carry out his official duties in the manner in which he deems appropriate. It also contains mandatory spending of $8.7 billion for payments to civil service annuitants for health, retirement, disability and life insurance benefits.

Mr. President, as I stated earlier, the bill we are recommending to the Senate is a fair and balanced bill. It doesn't contain funding for everything we would have liked to fund because the money simply wasn't there. Last year's budget agreement placed caps on domestic discretionary spending for deficit reduction purposes. Even though I voted against the budget agreement, as chairman of this appropriations subcommittee I am still required to comply with its limitations. As a result of last year's budget agreement, our job this year in developing funding recommendations for the important agencies in this bill has been more difficult than ever before. The fiscal year 1992 602(b) allocation for the treasury subcommittee is $1.6 billion in budget authority and $300 million in outlays below the current services baseline level. Those reduced spending limits have forced us to make some tough choices. For some programs, the President requested increases well above baseline levels. For others, he proposed major reductions from the level the Senate has historically supported. Not every program received the funding we thought it deserved because our allocation would not permit it. Nonetheless, the bill we are proposing recognizes the budgetary realities while funding those programs this body has continually supported.

This bill does not contain any pork, Mr. President. It funds basic expenses for the operations of many critical Government programs. All will have to toe the line in certain respects. For example, the bill does not contain the requested level of funds to implement the Chief Financial Officers Act; not because we don't support the goals of that Act but because we could not afford the additional costs. It does, however, contain CFO funds requested by OMB and does not restrict agencies in any way from using available funds to comply with the Act. The bill also contains a 5-percent across-the-board reduction in travel for virtually every account. For Customs and the Office of National Drug Control Policy, the travel cut is even higher. Despite the general view that Federal travel can be cut with little or no effect, Mr. President, I am concerned that travel reductions in certain areas, such as law enforcement, could have a detrimental effect on law enforcement investigations. Regardless, we had to take some actions which will be felt to meet our budgetary targets.

This is a just, responsible, and lean bill, Mr. President and one I hope the Members of this body will approve. It achieves deficit reduction while providing sufficient levels of funding for those programs which the Government needs to carry out some of this Nation's highest Federal program priorities.

I urge its adoption by the Senate and before I yield to my ranking member for any opening remarks he may wish to make, I want to take this opportunity to compliment my ranking member, the distinguished Senator from New Mexico, for his hard work in helping formulate this bill. He and his staff, Rebecca Davies, are real assets to the committee and I must say his cooperation and hard work have helped us develop an excellent bill during very trying times. I also want to thank Shannon Brown and John Shay of the subcommittee staff for their hard work and effort in helping to prepare this bill for floor consideration.

Let me end, Mr. President, by saying I wish we had more money. If we had more money, we would do a lot. We could not only continue the war on drugs, I think we could win the war on drugs. But we have not been able to mobilize this country or the administration, in my judgment, to really declare war on drugs as we declared war on Saddam Hussein and commit this country completely to that effort. In spite of that, we have done our best to maintain a level that will keep the drug lords on the defensive, that will permit our law enforcement officers to have the adequate financing they need, to have adequate supplies, and to have a modest expansion of their efforts against the drug smugglers and the drug dealers of this country.

I yield to my distinguished colleague.

Mr. DOMENICI. Mr. President, first let me thank my friend, the Senator from Arizona, chairman of this subcommittee, for all of his efforts in behalf of those in Government who must have this bill passed for them to have an ensuing year that is worthwhile and positive for them in their service to the Government.

I join the chairman in indicating to the Senate that it is my pleasure to bring before the Senate for their consideration H.R. 2622, the Fiscal Year 1992 Treasury, Postal Service, and General Government Appropriations Act.

This bill, as reported by the Senate Appropriations Committee, recommends a total of $19,582,000,000. This includes $9,660,000,000 for the U.S. Department of the Treasury, including the IRS; $322 million for the Executive Office of the President; $424 million in payments to the U.S. Postal Service; $8,716,000,000 for the Office of Personnel Management; $191 million for the General Services Administration, as well as authority for GSA to obligate $4,028,000,000 in Federal Buildings Fund revenues; and a total of approximately $268 million for the 11 other related independent agencies.

Including congressional budget scorekeeping adjustments and prior-year spending actions, the total nondefense discretionary spending recommended by this bill is $10,524,000,000 in budget authority and $11,199,000,000 in outlays. These levels are within the subcommittee's budget authority and outlay discretionary spending allocations, called 602(b)'s for fiscal year 1992.

Mr. President, I tell my colleagues at the outset that this has been a very difficult process for the subcommittee this year. The subcommittee's fiscal year 1992 discretionary outlay allocation is $300 million below the baseline for fiscal year 1992. Essentially what that means, Mr. President, heretofore when we did not reach baseline, everybody would refer to the amount by which we underspent baseline as a cut in programs. That is what we have here. We have $300 million below the baseline that is projected from last year's spending. That is the amount which would be required to continue discretionary spending programs and activities at their current levels adjusted for inflation. This does not take into account any increases for any new initiatives. These are not included in the definition of baseline.

As my colleagues are aware, this bill provides funding for a vast number of very basic essential government functions. They inlcude the debt financing, collections, and payments functions of the Federal Government; production of domestic coins; processing of cargo and passengers; the management, acquisition and disposal of Federal property; oversight of the Federal work force; and a host of other activities. These essential government functions are personnel intensive and require increased funding from year to year in order to maintain their base program levels and to keep pace with a growing workload which is required of most of them. Drastic cuts would be required—which we do not recommend—to yield any substantial outlay savings in the immediate fiscal year.

We have demanded sacrifices in these areas however. With the exception of the Committee for Purchase from the Blind and Severely Handicapped, which has a very small budget, we have taken 5 percent in travel expenses across all programs and activities in this bill, and some, perhaps, will have a difficult time with it. We are only hopeful that it will not affect their performance. We have deferred some important Treasury Department initiatives, and we have required the absorption of additional costs related to the Chief Financial Officers Act, and that has been explained by the chairman.

Let me make it clear that this bill in no way, either inferentially or directly, seeks to produce appropriations which do not finance the Chief Financial Officers Act. Quite to the contrary, in select cases, we funded these additional costs, and in all others we left a clear indication that if they want to fund it out of their current expenditures they ought to do that.

So we are not trying, as some tried in the House, not to fund this program. We think since Congress passed it, we ought to put all the various agencies and departments of Government on a regularized Government process internally, and that they ought to have a much clearer way of knowing where they are month by month with reference to their finances.

For the Internal Revenue Service, total funding of $6,680,000,000 is recommended. Everyone should know that is a very big increase, $572 million above the fiscal year 1991 funding level. This is less than the 10.2 percent funding increase recommended by the administration. This level of funding reflects the amount necessary, in our opinion, for the IRS to maintain its onboard personnel strength to meet increasing workload requirements, to provide adequate levels of service to the American taxpayer, and yes, to continue implementation of fiscal year 1991 resource compliance initiatives in accordance with last year's Omnibus Budget Reconciliation Act.

The funding recommendation for IRS also includes the increase requested by the administration for IRS' important tax systems modernization initiatives. This investment is essential to move our Nation's tax processing functions out of the 1950's and into the age of modern technology. This effort will result in an efficient, reliable system of tax administration which properly serves and responds to the American taxpayer.

Frankly, this is one of the most important things we are doing in this bill. Believe it or not, I think most Americans would expect the IRS—which collects a lot of money for us, in fact most of it—to have the most modern of computer systems and mechanization consistent with today's miracles of technology. Such is not the case.

As I said a moment ago, we have to get IRS out of the 1950's and into an age of modern technology and we are staying on that path with funding of the President's request in that regard. We cannot let that go by the boards without punishing future generations and not being able to respond properly to the taxpayers of America.

At the same time, this bill continues to place priority on our Nation's commitment to the war on drugs and crime by adequately funding essential Treasury Department law enforcement functions and activities of the Office of National Drug Control Policy.

It does not recommend all of the reductions proposed by the administration. It continues funding for State and local activities in designated high-intensity drug trafficking areas. It provides full funding for the Bureau of Alcohol, Tobacco and Firearms' alcohol compliance programs. It maintains the customs' inspection staffing at the level mandated by Congress for fiscal year 1991. We were hopeful that we could have done a lot better.

The bill provides $200 million as an increase above the President's $183 million for the payment to the U.S. Postal Service for revenue forgone as a result of carrying certain categories of mail at preferred or reduced rates. Although the amount recommended is above the President's requested level, it is short of the full subsidy required for the year 1992. We are unable to accommodate within the subcommittee spending the full amount requested by the Postal Service. This requirement is about $158 million above the fiscal year 1992 baseline and $466,301,000 above the President's fiscal year 1992 request.

While we recognize the benefits derived by small county newspapers, charitable organizations and others authorized to mail at subsidized rates, reforms in the subsidy program must be made to curtail its costs to the taxpayers while maintaining a longstanding policy of rate preferences for certain mailers.

Current law leaves it to the Board of Governors of the Postal Service to act to divide any reduced benefit among all relevant classes of reduced-rate mail in the case where Congress fails to appropriate the full amount. We do not necessarily think this is the best course of action.

It is our intent during the consideration of this bill to offer an amendment which we hope will be supported by our colleagues and the members of the authorizing committee to put into place one reform in this program recommended to us in a recent Postal Rate Commission report.

This reform will reduce the cost of this program to the taxpayers while protecting the worthy recipients of this benefit.

Mr. President, I would like to commend and thank the chairman of the subcommittee, my good friend, Senator DECONCINI, from the State of Arizona, for his leadership, hard work and dedication on this measure.

As I said, it has been a difficult process this year. We were forced to make some tough choices. However, I believe we have done a reasonably good job and have properly balanced the various competing spending needs, within our jurisdiction and within the limitations of money that we have available. I hope our colleagues will support this bill and support the amendment that we will offer regarding postal subsidies to make sure that all those who really need that service will continue to get it, and the reform will be explained in detail when we offer the amendment.

I yield the floor.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the committee amendments to H.R. 2622, with the exception of committee amendments on page 20, line 7; page 59, lines 7 and 8; and page 59, lines 13 and 14, be considered and agreed to en bloc; provided that no points of orders are waived thereon; and that the measure, as amended, be considered original text of the proposed and further amendments and providing futher that the remaining amendments may be temorarily laid aside by agreement of the floor managers of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate approve all those amendments before the Senate except those that were laid aside by this unanimous consent agreement just previously agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to with the exception of committee amendments on page 20, line 7; page 59, lines 7 and 8; and page 59, lines 13 and 14.

AMENDMENT NO. 732 TO EXCEPTED COMMITTEE AMENDMENTS ON PAGE 20, LINE 7

Mr. DECONCINI. Mr. President, on behalf of myself and Mr. DOMENICI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. DOMENICI, and Mr. BOND, proposes an amendment numbered 732 to the excepted committee on page 20, line 7.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee amendment, insert the following:

": *Provided*, That the last sentence of section 2401(c) of title 39, United States Code, is amended to read as follows:

"In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall (i) include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume; and (ii) calculate the sums requested in respect of mail under former sections 4452(b) and 4452(c) of this title as though all such mail consisted of letter shaped pieces, as such pieces are defined in the then effective classification and rate schedules."

": *Provided further*, That section 3626(a)(2) of title 39, United States Code, is amended to read as follows:

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be: *Provided, however*, that with respect to mail under former sections 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules."

": *Provided further*, That section 3626 (i)(2) is amended by adding at the beginning of the first sentence thereof the phrase, "Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title,"

": *Provided further*, That second-class in-county preferred mail shall continue at the rates in effect on the date of enactment of this Act during fiscal year 1992: Provided further, That third-class nonprofit mail rates in effect on the date of enactment of this Act, with the exception of pieces other than letter shape, shall not increase during fiscal year 1992 as a result of this appropriation and the United States Postal Service Board of Governors are instructed to reconcile any fiscal year 1992 funding shortfall as a result of this appropriation against future year appropriations requests: *Provided further*, That notwithstanding the provisions of sections 3624(c), and 3641(a) of title 39, United States Code, the Postal Service, in any proceeding it initiates under section 3622(a) of title 39, United States Code, for the sole purpose of increasing rates for third-class nonprofit mail other than letter shape, may place temporary rate changes into effect, as provided in the last sentence of section 3641(a) of title 39, upon such date as it may determine but in no case, less than 20 days following the filing of its request with the Postal Rate Commission."

Mr. DECONCINI. Mr. President, the amendment I am offering today with my distinguished ranking member, Senator DOMENICI, we believe, will resolve the ongoing controversy about sufficient funding for the foregone Postal Service program.

This amendment will permit us to meet our budget deficit targets without hurting those organizations whose very existence are dependent on the sustaining of the revenue foregone program.

I am sure all Members of this body have received mail at their offices or at their residence, mail that is subsidized at a preferred rate from numerous organizations. These subsidies are possible due to annual appropriation which the Congress provides to the U.S. Treasury-U.S. Postal Service. I am not sure, however, that the Members of this body understand what the total annual subsidy for such mailings amount to and how these subsidies are calculated.

The costs are substantial, Mr. President, and growing rapidly at a time when the Congress is forced to operate within restrictive domestic discretionary spending caps.

The Postal Service requests to the Congress for the revenue foregone subsidy to maintain current rates for preferred mailers in fiscal year 1989 is the $49.3 million. OMB, on the other hand, in the President's budget requested only $183 million to continue the program in fiscal year 1992. The OMB estimate assumes enactment of a series of legislative reforms by the authorizing committee. These reforms have not been enacted and probably will not be enacted this Congress although I am not the person who can state that for any certainty. It is the authorizing committee.

While I believe the OMB estimate to continue the revenue foregone program is inadequate. I also believe the Postal Service estimate is grossly overstated. The Postal Service and others would lead Members of this body to believe that any downward departure from the $649.3 million would lead to an immediate rate increase for third-class, nonprofit mailers.

Mr. President, I do not believe this is the case. Since the postal rate increase took effect on February 3 of this year, third-class mail volumes which amount for the bulk of the revenue foregone nonprofit subsidies are down by approximately 10 percent. And, second, the Postal Service estimate by its own admission did not take into account shifts in mailing behavior as a result of the rate increase already in effect.

The Postal Service will tell you that it is simply providing its best estimate of what is required based on obsolete data, current law, and existing regulations. I am convinced that the amount required to maintain the current rate structure for all preferred mail classes is probably $100 million less than the Postal Board estimated with no reforms to the particular program we are talking about. If this calculation is proven wrong, the Postal Service would not be required to raise rates. Under current law, it is left up to the Postal Board of Governors to consider a range of options, including the use of reconciliation adjustments against future year's appropriation requirements to make up for any shortfall in the subsidy.

To take it a step further, I believe there are legislative reforms to the program which can be enacted to reduce the subsidy requirements without doing harm to the legitimate mailing by literally thousands of organizations nationwide.

The amendment Senator DOMENICI and I are offering today does just that. It will render operational savings without requiring the Postal Service to raise rates on third-class, nonprofit mailings. It will make the subsidy for the nonletter shaped mail the same as the four-letter shaped mail a difference of 4.4 cents per piece. This will result in a cost savings of $180 million.

That means, Mr. President, we are adding to the revenue foregone account $180 million over the amount that is before the Senate today in the committee amendments, in the committee bill.

Last year, the committee requested the Postal Rate Commission to study the revenue foregone program with an emphasis on third-class mailers to identify ways to make the subsidy application consistent with congressional intent. There is the class of mail that accounts for the bulk of the subsidy.

The Postal Rate Commission recently submitted a report to the Appropriations Committee which contains a series of recommendations to alter eligibility for the subsidy one of which is reflected in the amendment that Senator DOMENICI and I have sent to the desk. Both the Senator from New Mexico [Mr. DOMENICI] and I believe this amendment is fair, makes good economic sense, and is a responsible way to cope with the spiraling cost of revenue foregone subsidies. By this simple and straightforward amendment, the Postal Rate Commission estimates that the American taxpayer will save in excess of $180 million for fiscal year 1992 alone.

The amendment we are offering would require the Postal Service to charge mailers higher rates for mailings which are more costly to process the mail. It would require other than letter-shaped pieces of mail, known as flat—and let me demonstrate to you what a letter-shaped piece of mail looks like.

As you can see, this is not the size of a normal letter that you receive in the mail. But this is a letter-shaped piece of mail, which means it can be a catalog, an advertisement; it can have a number of pages; it can have a certain weight. So this continues to be the subsidized piece under the amendment by the Senator from New Mexico and myself.

Now, the flat piece is this size. And you can see the difference. Not a whole lot, but some.

Now, why does this one cost 4.4 cents more to mail than this one? This one is of such a size that it can be handled through a mechanized process and computer process and thereby the cost is saved. This one cannot. This one is the one that is really eating up the subsidy. So what we have done is we have said to the people who mail this type of material that if you want to continue to mail the expensive one, you have to pay the 4.4 cents. Now, if you want to convert that one to this one, then you still get the subsidy.

I will show later in the debate where there are some that have already converted to a smaller category type, the mailer, the envelope and the mailer, rather than the flat, because I guess saving the printing cost of that was worthwhile. Now they can save even more money. So to receive the same subsidy provided the letter-shaped piece of mail, this the difference. You cannot get it unless you reduce the size of it.

Now, if you want to go ahead and spend the money—and there are many fine advertisements that are beautifully done and very expensive promoting different things for organizations—then they will decide to go ahead and spend that money. But they have an option. By reducing it, they can still get the subsidized rate.

These groups who chose to process flats will be required to make the payment. If they want to convert, they get the subsidy they get today.

It will not affect the rate charges for any other mailings. No other mailings will be involved except these two. And, as you can see, really only one, this one, known as the flat mailer.

This is an uncomplicated proposal, Mr. President. It costs the Postal Service more to process a flat piece than it does a letter piece. Because of the machines, as I pointed out, and feeding them and doing it by hand, it takes many more hours of personnel and thereby more costs. Flats must be hand sorted, they must be reviewed by each piece, and that accounts for most of the cost.

There is precedent for recognizing the cost difference in processing these two forms of mail. As part of the last rate case, the Postal Board of Governors recognized the difference and increased the cost for the mailings.

Currently the Post Office assesses the flat piece of mail, any piece of mail larger than this, which is 6⅛ by 11½ or 11¼ to reflect the additional processing costs at 1 cent above the regular price size of mail.

That action still did not fully compensate future cost differences between the two pieces of mailings. The subsidy difference is 4 cents per piece, roughly.

This Senator is not attempting to raise rates. Instead, we are attempting to generate savings by changing the behavior of the mailers. There are numerous congressional mandates to the Postal Service to lower its cost increases, increase efficiency, and encourage uniformity. This amendment accomplishes all three of these.

Allowing a nonprofit group to mail at a reduced rate is an inherently fair concept and policy which the Congress has traditionally supported. However, I see no reason why the American public should subsidize organizations who choose to utilize expensive processes, oversized envelopes for their mailings at a greater rate, when these organizations can accomplish the very same objective by using the letter-sized mailing.

I would say to my colleagues that if you were to check with your hometown constituents they would probably find no discernible difference between the two pieces of mail, one being a letter shape and one being considered a flat rate.

These are the differences. This one costs more. And if you want to mail it, you are going it have to pay a little more. If you want to reduce this one to this size, you get the subsidy.

But I am sure these same constituents would be outraged to know that currently their tax dollars are being used to support high-cost mailings which could be sent at a much lower cost by the Government.

The amendment that the Senator from New Mexico and I are offering will reform the program without hurting the mailers. If an organization currently mails flat pieces, it would be given the opportunity to convert those mailings to letter-shaped pieces with little or no effect, or simply pay the extra cost to continue if they decide that they want to absorb it.

The language of the amendment we have sponsored specifically prohibits—specifically prohibits—the Postal Service from raising rates above those rates in effect on the date of enactment during fiscal year 1992.

We have expended considerable efforts to identify alternatives to rate increases for these organizations who have preferred mailer status.

The problem we faced this year was an unprecedented $300 million shortfall in outlays and $1.6 billion in budget authority below the current service baseline levels for this subcommittee.

We are confronted with the options of either disseminating effective law and doing away with effective law enforcement initiatives or eating into the IRS where they could not go after tax fraud evaders and supply the services that were necessary and revenue generation capabilities or introducing modest reforms in an area where the impact would be felt the least.

With this amendment, I believe this accomplished the goal. The subsidy for flats will be the same as the subsidy for letter-class mail and save $180 million in 1982 revenues.

The Postal Rate Commission believes it is responsible and has recommended this particular way to approach this type of savings.

We have a study here which I commend to any member of the committee. Obviously you do not want to read it all, but somebody might want to look at it. It has a number of recommendations that are set forth here by the Postal Rate Commission dated July 8, 1991. And the first recommendation under the summary is the $180 million that is encompassed in the amendment that is before the Senate.

We have these available if any Member wants to review one or have their staff review it.

If action is not taken now to reduce the cost for the program, the situation will only be worse in future fiscal years. I can assure my colleagues that if this amendment is not adopted and we are forced to cut even deeper into other programs under our jurisdictions to guard against the further rate increases, our constituents will wonder why their phone calls to the IRS are unanswered or, when accurate information is not given to the taxpayer or the public, they are going to wonder why you do not have those services for us.

I think this makes good sense, Mr. President. By asking what is more important to have, good taxpayer services and to still have a subsidized mailing rate but only to change the size of it and thereby not have to eat into the IRS or some other important law enforcement area, I think is a solution that everyone can live with.

If we were to compare all of the negative effects a $180 million reduction would mean to other accounts, the possibility of some third-class mailers paying their fair share for large packages or converting to a letter-size mail, I think the choice is very clear. At least it is in this Senator's mind.

There are additional reforms that the authorizing committee may wish to consider during deliberations of revenue forgone. Many of these, however, would be much more restrictive and limited to the mailing groups.

As I stated earlier, I believe the amendment we are proposing offers a responsible solution to our funding dilemma without having any adverse effect. It permits current rates to continue for letter-size mail currently used by over 80 percent of the preferred mailing community, while providing an incentive to the remaining mailers to switch to the less expensive mailing option.

I urge my colleagues to support that.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI], is recognized.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator JOHNSTON from Louisiana be shown as an original sponsor of the DeConcini-Domenici amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DOMENICI. Mr. President, let me discuss a couple of issues that I think are obviously bothering a lot of Senators, and make sure that I try, to the best extent possible, to explain to them what we have done in this amendment.

First, I believe many Senators will come to the floor sooner or later and ask, in this bill or the amendment that is pending, if it is adopted—and I hope it will be—have we taken care of the rural newspapers, or newspapers delivered in rural parts of America? Because there are many, many Senators who have been getting phone calls and telegrams and messages from those who manage or own so-called small or rural newspapers, talking about the fact that they are not doing very well now, and if we raise the rates they would not make it.

Let me make sure every Senator knows that the DeConcini-Domenici amendment, in the fourth full paragraph, by direct language indicates that that subsidy as it exists today for second-class, in-county preferred mail, which covers newspapers delivered in rural parts of America, is continued.

Let me repeat. There is no change in this bill to those current subsidies for rural newspapers, and we have done that by express language. We have said:

> * * * *Provided, further,* That second class, in-county preferred mail shall continue at the rates in effect on the date of enactment of this Act during fiscal year 1992.

So, I know many Senators do not have a chance to hear each time we mention things on the floor, but I hope between now and the few minutes from now, as Senator DECONCINI repeats this, they hear they are taken care of. Newspapers delivered in rural counties, all of those now receiving the subsidy, will continue by mandate, in the amendment that is pending, which I hope will be adopted soon.

Let me, in my own way, try to explain what we were able to do here.

Frankly, this is one of the most difficult appropriation problems we have, because each and every year, the Postal Service of the United States sends to the Congress a dollar number, and says: This is what we expect it will cost for the subsidies, for the subsidized mail that you in the Congress have told us to accept in the post offices of the United States.

This year they sent us a request, which is their estimate of the taxpayer or subsidy required. The bill for fiscal year 1992 was for $649 million; to be exact, $649,301,000.

It is not interesting; it is as if we had the money there automatically to pay this full amount, but we do not. We have to appropriate it from that amount of money that we have for all of domestic discretionary spending. And the President of the United States sends a budget up and he makes sure that he has fit his budget within the cap set for domestic discretionary appropriations. But for this particular account, the administration's proposal assumed a series of major changes in these subsidies for mail. So they requested not the $649 million bill we got from the Postal Service, but they said: We want to spend $183 million.

So the difference, which is a huge number, over $450 million, we are supposed to pay for in this bill, even though we have the same amount of money as the President to spend and the administration has asked for only $183 million.

So what we said is we do not want to underfund the Internal Revenue Service of the Nation; we do not want to underfund the war on drugs. So what could we do that is reasonable to reform the mail subsidy program, and spend less than that $649 million the Postal Service estimates?

We asked some time ago that the Postal Rate Commission take a look at some reforms for us, and they found one that to me seems very rational, and we have incorporated it in the DeConcini-Domenici amendment, which is currently at the desk. If anyone is wondering whether we are supposed to make this kind of change on an appropriations bill, let me suggest this may not be subject to a point of order; it may not be legislation on an appropriations bill. The actual, substantive law says if you do not appropriate the full authorized subsidy amount, all the subsidies will get cut proportionately unless in the appropriations bill you want to protect certain categories of preferred rate mail. So you do not treat them all alike.

That is what we are essentially doing. We found many people are using subsidized rates for very big mailing pieces, like the one I am holding up. They are called flats. But the overwhelming number of people, who are the blind, the Red Cross, the Salvation Army, the Boy Scouts, who are soliciting funds are using letter-sized pieces—and this one is a letter size. It can be as big as the one I am holding up or just the size of a regular letter envelope.

Ninety-five percent of all solicitations by charitable organizations are done using letter size mail. We will not be changing them. Let me repeat: We will not be changing them.

What we are doing is lessening the subsidy on the large mailers, called flats. The Commission told us that, all by itself, would save $180 million.

So for those who are trying to figure out what we have done, the Senator from New Mexico really does not believe the $649 million bill is accurate. I believe they are going to come up with a lower number. The Postmaster has sent us a letter indicating that they will stand by that number for now, but they would like to look at the third quarter volumes to see if they have estimated it right?

So if we use that number and we subtract $180 million and $64 million, which is our estimate of the savings which might be gained through reduced main volumes in response to the last rate increase action—not these increased rates, but the February 1991 increased rates that have gone into effect. Say it will go down about $64 million for the whole thing—add the two together and what you need to maintain current rates is $404 million.

We were able to fund $383 million of that amount in the bill, and we still must go to conference. If the numbers remain right, we will have to find the additional $21 million, and we will come up with the full funding required for the subsidies so that there is no rate increases.

From what I can tell, again, the reform that we have is legitimate. It is bona fide. It is recommended in a Postal Rate Commission report, so we did not just pull it out of the air.

Again, it is very simple to understand. If we get on with passing this amendment, get it to conference and adopt it, we will be giving everybody 2 or 3 months notice, because it will have been law long before it takes effect on the mailing public.

Ninety-five percent of the charitable solicitations, those are the people and the entities we are concerned about, are all done in letter-shape mail size. They will not have any reduction whatsoever. They will continue, many of them, to mail in regular letter-shape mail size. They will receive the same subsidy they now have.

For those who want to go mail items somewhat larger but still be within the letter-shape size, they know they can do so. But if they print the big ones that are almost like notebooks, they will just have to pay a slightly increased, yet subsidized rate.

The reform this amendment proposes to put into law is recommended by the Postal Rate Commission in its July 8, 1991, report to the Congress on its third-class nonprofit mail study.

This reform continues the preferred rate mail subsidy for nonprofit third-class mailers, but only at the level for a letter-sized piece of mail. This reform does not change the subsidy levels for nonprofit third-class mailers if these mailers send letter-sized pieces of mail, rather than nonletter or flat-sized pieces of mail.

This reform will save the taxpayer $180 million in fiscal year 1992 and each year thereafter.

The payment to the Postal Service is the subsidy from the Treasury to make up the difference between the lower rates preferred rate mailers pay and the revenues the Postal Service would have received from regular rate payers in the same mail category.

According to the Postal Rate Commission, third-class nonprofit mailers currently can use about 50 rate categories depending on the shape of the mail piece, the weight, the presort level, the entry point relative to where the mail is destined, and the presence or absence of ZIP+4, and bar codes. Each category has different implicit attributable costs.

The basis of the subsidy is the attributable cost paid on different categories of mail. The higher the attributable cost, the greater the subsidy.

The new postal rate increases which took effect on February 3, 1991, for the first time reflect rate differentials for letter-sized versus flat or non-letter sized pieces of mail. This reflects the fact that it is less expensive for the Postal Service to handle a letter-sized piece of mail. As a result, the Government's average institutional contribution, or subsidy, for a letter is now 3.1 cents. For the average nonletter, it is 7.1 cents—4 cents more per piece on average.

What this amendment does is continue the subsidy for nonprofit third-class mail, but limits this subsidy to the institutional cost of a lower cost piece or mail. In other words, it says that taxpayers will only subsidize each piece of mail at an average rate of 3.1 cents, the rate of the less expensive piece of mail.

Under this amendment, third-class nonprofit mailers are given a choice. The subsidy is not removed. They can either continue to mail flat or nonletter sized pieces of mail and pay the difference between that higher cost piece of mail and the lower subsidy amount for a letter piece or convert their mailings to letter-size and pay no increase.

The Postal Rate Commission notes in its report that 80 percent of all pieces of nonprofit third-class mail are letter shaped. It also indicates that its data for the present study indicates that approximately 95 percent of the mail pieces whose primary purpose was solicitation were letter shaped.

Again, Mr. President, I want to make it clear that this amendment affects only the rates for nonprofit third-class pieces of mail which are not letter shaped. It provides a uniform subsidy amount per piece of mail at the letter rate.

The bill reported by the committee indicates that mail for the blind and overseas voting will continue to be free.

This amendment stipulates that second-class in-county preferred mail shall continue at current subsidized rates. It also provides that third-class nonprofit mail rates currently in effect, with the exception of nonletter shaped mail pieces, will not increase as a result of this appropriation.

We believe the reform we propose is reasonable. It protects preferred rates for those now eligible to receive this benefit. It reduces the cost of this program to the taxpayer. I hope it is one our colleagues will support.

I want to reiterate that if we are worried about rural newspapers, the DeConcini and Domenici amendment expressly says you continue the subsidy as is for 1992; that has not been changed. I have explained the others and what we did change.

I hope the Senate will adopt this amendment, in which event we will leave IRS alone, its modernization and the drug war will be left intact in this bill. That is the best we can do at this time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I just caught on television, the means by which we monitor what goes on over here, the remarks of Senator DOMENICI. I want to rise in support of at least that portion of the amendment that has this concession to rural newspapers.

Let me say, and I speak as a former rural newspaper publisher, I think the issue is much more important than simply that. We talk about the melting pot strength of America, and sometimes we act as though that is some kind of a breeding process where Danes and Germans and people from England and Africa and everywhere else come, and we come together and that is the melting pot strength of America.

The melting pot strength of America is this confluence of ideas, and whatever diminishes the flow of ideas in this country diminishes the strength of America.

What has happened with increased postal rates is that we have discouraged a lot of small magazines and small newspapers. I remember visiting with a newspaper in Paducah, KY, and because of increased postal rates, they had to increase rural subscription rates, and they were telling me what was happening in terms of the loss of rural subscriptions to that Paducah newspaper, what happens when that Paducah newspaper is not circulated as much in rural areas. I will tell my colleagues what happens. Those people are increasingly reliant on television for their news, and we have seen enough of the difficult job the television has in summarizing important issues in 30 seconds to know that that is not a healthy thing.

So I think it is extremely important that we, through subsidies, if necessary, encourage newspapers, magazines, and books, things that spread ideas and opinions. If we want to increase postage on packages of the Postal Service, fine; let us do that. But let us not do anything that discourages the free flow of ideas.

I note the presence on the floor of two people from rural areas, Senator KOHL, from Wisconsin, and Senator KERREY, from Nebraska. To have the people in Wisconsin and Nebraska and Illinois and other States increasingly dependent on television for their news is not a healthy thing for the future of this country. But that is precisely where we are headed right now.

So I am pleased to be here and spend a few minutes in support of the amendment offered by Senator DECONCINI and Senator DOMENICI.

Mr. DECONCINI. Will the Senator yield?

Mr. SIMON. I am pleased to yield.

Mr. DECONCINI. I want to thank the Senator from Illinois, because, quite frankly—and I do not want to speak for the Senator from New Mexico—when we started with even considering not having sufficient funds for the revenue foregone area, we did not fund the subsidized area, as you say, for rural countywide newspapers. Senator JOHNSTON, Senator KERREY, Senator STEVENS, and others on the Appropriations Committee, and others, said we have to find some solution. I said we will find some solution for this. It is not a big money item, No. 1. It is in the neighborhood of $20 million. It is big money to most people, but in this bill, it is not a large amount of money.

We decided that with the changes that we have put in, which are the recommendations of the Postal Rate Commission, we can absorb some $20 million to handle the second-class in-county preferred mail. Just so the Senator knows exactly what the wording is, it says further in the amendment "that second-class in-county preferred mail shall continue at the rate in effect on the date of enactment of this act during fiscal year 1992," which prohibits any rate increase for these in-county rural mailings, which are primarily newspapers.

Mr. SIMON. I want to commend my colleague from Arizona, as well as my colleague from New Mexico for what they have done.

Mr. DECONCINI. I thank the Senator. Quite frankly, a lot of it goes to a lot of other people who said we just cannot do this. I was ready to do it because I just did not have the money.

Mr. SIMON. I withdraw my commendation for the Senator.

Mr. DECONCINI. The Senator can give it to the Senator from Nebraska and others. They are right. Senator BENNETT JOHNSTON really raised it, and Senator STEVENS and others. They are right, I admit that, and I think we have taken care of it.

Mr. SIMON. I thank my colleagues, those who had the idea and those who, like Senator DECONCINI, followed through. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Nebraska [Mr. KERREY] is recognized.

Mr. KERREY. Mr. President, I have been deeply concerned about the Treasury-Postal Service Subcommittee's fiscal 1992 proposal regarding the revenue foregone provision.

The revenue forgone provision is important to a vast number of small newspapers throughout this country and thousands of educational, charitable, scientific, and other nonprofit associations.

It affects the mail you receive from your church, your college or university, your child's Little League or soccer association, the volunteer fire department or rescue squad in your community and the organizations which seek to combat cancer, heart disease, diabetes, birth defects, and other diseases, as well as those organizations which represent the elderly and other groups.

These mailers have traditionally been provided subsidized mailing rates because of a policy decision that the contribution they make to our society merits the benefit. I believe that policy remains as valid as ever as we seek to help those who are ill, to assist the elderly, to guide our children in the proper direction, to support our cultural heritage, and to expand our educational opportunities.

And, in an era of ever-expanding electronic media, it is vitally important that we preserve those newspapers which not only can offer an alternative view, but can also provide us with more indepth information and greater detail about local happenings.

These organizations which are so much a part of all our communities have already this year—in February—experienced a rise in postal rates, averaging upward of 30 percent. This comes at a time when, as a result of the economy, fundraising efforts are being constrained. As one organization put it, "Just in order to stay where we are, we are having to spend more."

Unfortunately, under both the administration's budget request and the subcommittee mark, there is the possibility that these organizations will have to spend yet more than that.

For fiscal 1992, the Postal Service requested $649 million for revenue forgone. The administration included in its budget $183 million, and recommended a number of reforms which it had to know were unlikely to be adopted. No legislation has even been introduced to accomplish these reforms.

The House included the full $649 million request. Because of budgetary constraints, however, the subcommittee recommended only $383 million. According to figures provided to me, this could result this October in an increase of as much as 12 percent in the postage rates for second class in-county newspapers and as much as 20-25 percent in certain third-class categories.

An increase 3 months from now on top of the increase last February is simply too much.

We ask the organizations affected to do a lot for us. They have sought to cover some of the funds and services lost over the past decade as a result of cuts in Federal spending.

Two major increases in a short time span—one of them, the current one, being unanticipated—not only exacerbates their task, it seems unfair.

I have drafted an amendment to this bill to restore funding for revenue forgone. I am not particularly happy with the amendment. I have had to make some assumptions about the actual needs in the revenue forgone account. Many people believe that with mail volume down and a change in the flat rate that a lesser appropriation is needed. The Postal Service stands by its estimate. That makes it difficult. In a tight budget year, we can ill afford to tie up money in a program where it may not be needed.

I am also not happy because there would have to be a reduction in other programs. Those are never easy.

But, we have to make choices. And, today, I think the choice has to be in favor of the in-county newspaper and of our charitable, educational, and religious organizations. Helping these organizations in a year when they have already had an increase in postal rates which are a large part of their operating expenses is more important to me than more Federal lawyers and accountants and postponing for a short time some of the modernization proposals which are in this bill.

I do appreciate the statement of the distinguished Senator from Arizona. In truth, in response to some concerns, the Senator from Arizona and the Senator from New Mexico are looking for a way to do what they wanted to do in the first place. They deserve a great deal of credit for seeking a solution. As the distinguished Senator from Arizona knows, I have an amendment I am prepared to offer that would take money from the Internal Revenue Service and use it for revenue foregone. It may not be necessary to offer that amendment. Indeed, it might be advisable for me to cosponsor his amendment because, if the $180 million in his amendment does the job, then it would appear that in conference committee we can get relatively close and that we can have the problem of revenue foregone solved, particularly as it affects rural newspapers and other nonprofit organizations that would be adversely affected.

Again, I say for emphasis, that the adverse impact of the subcommittee proposal is something that was measured carefully by the chairman and ranking member. It is as a consequence of their awareness of it that they offer this particular amendment.

I have some questions about the amendment. I received the Postal Rate Commission's report relatively late, and I am trying to ascertain whether I should support the amendment or even get ahead of the train and cosponsor it and take credit for its genius.

I wonder if either the distinguished Senator from Arizona or the distinguished Senator from New Mexico would tell me how they selected the basic subsidy as the preferred course of action?

I note that the PRC, though—again, I have not read the detailed report—discusses several options—the new subclass option and restriction on content and several other options as well. If the object is to try to narrow the subsidy and make distinctions and move those distinctions outside the range of subsidy, I would be very interested to know what the thought process was in selecting option No. 1.

Mr. DECONCINI. If the Senator from Nebraska will yield, I will be glad to attempt to answer that for him. We did not go into the content. Quite frankly, we felt we were already involved in an authorization process that rightfully should be reviewed by the Governmental Affairs Committee, which I think they have agreed to do, in the whole area of postal rates and all classes of subsidies.

So the reason we chose this particular one is because it was one of the recommendations from the Postal Rate Commission, and it gives an option to the mailer. If the mailer wants to continue to receive the subsidy, they only have to change their mail size. They do not have to do anything else. So they still have the advantage of that subsidy, but, as has been pointed out, they cannot use the flat mail or they will have to pay that additional cost themselves. That, in my judgment, was the primary reason to use this particular recommendation.

Second, it reduces the need by $180 million with what I think is a credible source of reform, having gone through the categories and the Postal Rate Commission report and assessing all of these costs. It is a large amount and would maybe keep us from having to argue on how much to take out of the IRS.

Mr. KERREY. Personally I think it is an attractive thing to try to avoid the content distinction. Is the distinguished Senator from Arizona suggesting that other options presented by the PRC can still be considered by an authorizing committee? It is not as if we are making a final determination; we are simply looking at one and trying to make a reasonable judgment about whether or not it would be something that would be good policy for the country.

Mr. DECONCINI. If the Senator will yield, that is exactly correct. We are not adopting or rejecting all of the Rate Commission's proposals. We are only saying that this one addresses the problem we have today and that we ought to adopt it now instead of waiting because of the circumstances we are in at this time. We do not have the funds, in the view of the full committee, to fund revenue foregone at the level requested, or at the level the Senator from Nebraska thinks is necessary.

Mr. KERREY. I want to ask the distinguished Senator from Arizona if my understanding of another matter is correct. The language of the amendment which the distinguished Senator from Arizona just read to the distinguished Senator from Illinois, specifically says that rural weekly newspapers will continue to get their subsidy. Is this something that in fact we can count on the Postal Service having to carry out? Is there any chance that even with the language of the law they would come back to us and say well, we just did not have the money. Could they come back and say that even though the law specifically mentioned them, we had to drop the subsidy that is available now for rural weeklies?

Mr. DECONCINI. If the Senator will yield, let me address that issue because it is always possible. As far as the second class—and that is the category for the in-county rural papers that we are talking about, which is different from these 3rd class mailers, of letters or flats—we are talking about a figure in the neighborhood of $20 to $23 million at tops, so we are not talking about a large amount of money.

But the Senator asks a very good question, a very fair question. Our prohibition here says they shall not raise the rates in 1992, but what if the Postal Service cannot make their payroll costs? They have to do something.

What our amendment says is that the Postal Service can reconcile those shortfalls out of next year's appropriations, which means we would have to address that issue next year in fiscal year 1993. But it ensures in fiscal year 1992 that there will not be an increase for those rural in-county mailings, primarily newspapers.

Mr. KERREY. I appreciate that, Mr. President. That helps a great deal. It seems to me that what the distinguished Senator is saying is that with the language in this amendment, it would be not only difficult but almost impossible for the Postal Service not to provide the second class subsidy to the in-county rurals. And it seems to me that the Postal Service has the opportunity in this language to continue the payroll if they are short; they will be able to get the revenue out of next year. It seems the distinguished Senator from Arizona has allowed in the amendment a considerable amount of flexibility for the Postal Service.

Mr. DECONCINI. If the Senator will yield, we wrote this to be as firm and ironclad as we could. It says the second-class in-county preferred mail shall continue at the rate in effect, when this law, the one before us here, is enacted, during fiscal year 1992. So unless they jump that rate between now and the signing of the bill by the President, which is a possibility, although we do not have any indication that that is going to happen and as a matter of fact, the Rate Commission was in my office yesterday and they indicated that was not going to happen, then that would not be a problem. If something happened during fiscal year 1992 where they just dumped all of their losses in this little area of second-class in-country rural mailings, then, the amendment says, they have to reconcile that with next year's appropriation, which means they have to come next year to get the money for the losses that were incurred in this particular year, which would be fiscal year 1992.

Mr. KERREY. I appreciate that. It would be better if we actually had the revenue, but it does seem to me that the distinguished Senator from Arizona has provided about as much protection as possible. We do not control the decisions of the Postal Service nor, I suggest, have a great deal of influence over how they are going to vote.

With that one caveat, it seems to me the distinguished Senator from Arizona has provided a sufficient amount of protection for the second-class subsidy for the rural county weeklies.

If I could, Mr. President, I would like to focus a little bit on the basic B subsidy. I apologize for not being here during the presentation of the case and how its impact would be felt by mailers. As I understand it, in your amendment we are essentially equalizing the subsidies for flats and for letter size. We are essentially saying we will equalize the subsidy and that, in turn, should encourage better behavior because it will reward mailings that are more efficient and lower cost. Is that essentially the case that is being made by the distinguished Senator from Arizona?

Mr. DECONCINI. If the Senator will yield, that is exactly the case we make. Let me just give the Senator an explicit example, which I think the Senator already understands, maybe everyone does who is listening in their Senate staff offices.

This is a letter item. This is letter size. Anything this size goes out at a subsidized rate today. This is also a letter. This is a catalog from a college. That is a letter size.

Now, these are what are called flats. They contain sometimes the same pages, not as condensed but they cost 4.4 cents more than the letter size does. And they are both subsidized now.

We are saying that flat no longer will be subsidized at the same rate as a letter. If you want to mail this size, a flat you are going to have to pay the difference. This one you are going to still get the same subsidy, which will obviously encourage people to shift from flats to letters unless they want to mail something larger, and it is of such promotional value that they want to go ahead and do it. So the Senator is correct in his statement that both of these are subsidized.

Here is another flat that is used and mailed out that is subsidized. They can still do that. Only if they want to get the present subsidy, they are going to have to reduce it to letter size. I hope that answers the Senator's question.

Mr. KERREY. It does answer the question I had.

To go a little deeper into the problem, what sort of profile of nonprofit organizations are we talking about that will be affected? Are there barriers to cutting down to letter size that I might—I see the distinguished Senator is referring to the report itself. It may be that I can simply reference it and not tie up additional time.

Mr. DECONCINI. If the Senator would turn to table 10, it starts after page 9 here of appendix B of the Postal Rate Commission's report, that may be of help to the Senator from Nebraska. But if the Senator looks through table 10—if the Senator can find table 10, he will see there the shape used by different types of organizations. He will see here religious, letter shape, which is this letter size, 17 percent; philanthropic, 14 percent; vocational education, 8 percent; medical health, 10 percent. The other shapes, which means the flats primarily, but there could be packages as well, are reflected there also.

So 80 percent of the subsidized mailing that goes out already under this third class, which includes both of these two comparisons, 80 percent of all these mailings that go out are letter size now. They are subsidized. They continue to be subsidized under this amendment. Twenty percent that now go out are flats. Now they are subsidized, but after this amendment they will not be subsidized at the same rate as letters. So it will encourage people who want the present subsidy to convert to this letter size.

Mr. KERREY. Again, I ask the distinguished Senator from Arizona, is there any way I can look at the catalog and get some sense of whose rates are going to be raised?

Mr. DECONCINI. Excuse me?

Mr. KERREY. I was asking the distinguished Senator, Mr. President, if it is possible for me to look at the report of the PRC and get some specific sense of whose rates might be raised under this particular proposal?

What I am trying to do, Mr. President, is get some sort of impact analysis of the possibility of change in the catalogs and the difficulty of change in the catalogs. Some organizations will be able to change quickly, and some may have more difficulty—I am just trying to get a sense of who might be impacted here.

Mr. DECONCINI. I am afraid I cannot tell the Senator that, except that 20 percent of these items that are now subsidized, these two together, the flat and the letter, 20 percent of them are the larger ones, flats. Though they will still be subsidized, they are going to have to pay the difference between today's subsidy and what it will cost when you take that away, which is roughly 4 cents.

I cannot tell the Senator how much it costs to print this one versus the other, or if you wanted to continue to print the flat and mail it; I do not know.

I can tell the Senator that 20 percent of those who are mailing now are using the larger one. You can understand why. I am surprised it is not greater, because it costs no more to mail. It costs more to print it, including the paper, and whatever you want to put into it, but it costs no more to mail it at present.

I can only conclude that some people will convert, because they want to save the money. Others will also save money in the printing and the amount of paper used. I do not have a financial figure for the Senator. I would be glad to share it if I did. I would be glad to include one in the RECORD if I can get one.

Mr. KERREY. Mr. President, I say to the distinguished chairman of the subcommittee, I think that really would be unnecessary. I am just trying to get a general sense of the impact on specific mailers.

Looking at table 10, I can see why option Y is attractive to the chairman. That is a surprisingly low number from all of the shapes from these organizations, and it gives one the sense that a conversion might be relatively easy.

But I am aware, Mr. President, that doing a setup for a printing piece has a substantial amount of cost. Perhaps the former publisher, the distinguished Senator from Illinois, can give us some sort of a sense of the impact of current changes like that. There are setup costs and cutting costs, and I know people make investments in art work and all that, and for a small organization, it might be difficult to make the conversion. I am trying to get a sense for that.

I must say to my colleagues who are listening that table 10 is a persuasive for the case of the Senator from Arizona. It seems to indicate that the amendment being offered would have a relatively benign impact.

I ask the distinguished Senator from Arizona, do we have any kind of response from the Postal Service itself to indicate how they might feel about this particular issue?

Mr. DECONCINI. Mr. President, if the Senator will yield, the only response I know of comes from the Postal Rate Commission, I do not know if the post office, per se, has taken a position. Although I understand the Postmaster General has just sent us a letter. I have not read it, but I will be glad to look at it and see what he says about it. I do not know.

I wish I knew what the cost was. I think each organization is going to face a couple of financial decisions. Do we want to continue to pay 4 cents and send the flat out, or can we save some money by reducing it, and not only save 4 cents, but no longer have to pay the difference between producing flats and letters, if you can make the necessary changes? I have seen university catalogs this size. I have seen them twice this size, depending on how much stuff you want to put in them.

Mr. GLENN addressed the Chair.

Mr. KERREY. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator from Nebraska retains the floor.

Mr. KERREY. I appreciate that. I do not need to ask any additional questions, and I will yield the floor momentarily.

I want to make it clear what the issue is. It is really revenue forgone, and trying to find the resources necessary to adequately fund revenue forgone, a very important part of the Postal Service effort.

I will simply say that the mail service has become an enormously important part of the American economy. I will say nothing more than that. I need not add any additional detail, other than to say the impact is rather substantial.

I believe that it may be that the distinguished Senator from Arizona and the distinguished Senator from New Mexico have a very good solution to this problem. With the reduction that we expect to be able to get from the $649 million—it is likely that we will be able to reduce that some—perhaps we can get to the number we actually need in order to cover revenue forgone.

Regarding the possibility of working some of this out in conference, it may in fact be that this amendment will help solve the problem of revenue forgone. And I say, Mr. President, that I appreciate very much the answers to my questions given here by the distinguished chairman of the subcommittee, the Senator from Arizona.

I yield the floor.

Mr. SIMON. If the Senator from Nebraska will yield, and through him I would like to ask a direct question that follows on the Senator's comments to the Senator from Arizona.

Mr. KERREY. It is unusual, but——

Mr. SIMON. If I may have the attention of the Senator from Arizona here. This is fairly obvious, but is there a substantial savings to the Postal Service if you reduce that size?

Mr. DECONCINI. The answer is yes, and the reason is that their method for handling letter size mail is all mechanized; whereas for this size, they have to process it by hand. It takes a lot more people and money to handle whatever you send that is above this letter size. Someday they might have a machine that will take the size of this desk, I do not know. Today, this letter size is as big as they can handle. They supplied us today with what their computer uses to measure the size of the mail. You can see this letter fits within the size that would go through the machine, where, obvously, this one does not; thereby, it has to be processed by hand.

Mr. SIMON. That is a very good answer. I thank the Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I am chairman of the Governmental Affairs Committee, and the Postal Service comes under our jurisdiction. We continually have problems about the rates, what the rates should be. We have hearing after hearing, and we work with the Postal Rate Commission, and the appropriation subcommittee does, also. It is not something that is brand new.

What is new is that this came to the floor so suddenly here, and I was not aware until late last evening that this was likely to be coming up today. There are several options here that we can pursue. One is to let it go, and one is to challenge this on the grounds that it is legislating on an appropriations bill. We can ask for an opinion on that later. Another is to try and find money under another function. And another is to try and work it out in the conference committee with the House. I wonder if we might be able to discuss all these for a few minutes here by putting in a quorum call, and perhaps we can explore some of these privately, if that is agreeable.

Mr. DECONCINI. If the Senator will yield before he puts in a quorum call, I welcome the opportunity to discuss this with the distinguished chairman of the Governmental Affairs Committee. As the chairman knows better than I do, these confereme committees are aware of how these things are put together. Quite frankly, the Senator's discussion about being legislation on an appropriations bill may be correctly interpreted or it may not be.

But for the sake of discussion right now, let us say it is. The House really raises Cain, and that is why I think if the Senator, the distinguished chairman of the Governmental Affairs Committee, can permit us to go to conference with this, we will work it out.

We did this last year with the chairman and the ranking member on the pay reform bill, as the Senator will recall. I went so far as to offer the chairman a membership on the conference committee. I was beyond my bounds as I found out very quickly, but we worked with him and his staff on a day-to-day basis, and we went through the conference quickly. Frankly, we could not have raised the pay for the postal workers and pay reform for the general government without the Senator's approval.

Mr. GLENN. Mr. President, I understand that and thank him for that consideration.

I am mindful of all the floor debate when we start dealing with postal rates. You get into a hornet's nest as fast as anything.

I do not know of anything that got us in more trouble with the Postal Service in a shorter period of time back some years ago when the Postal Service was going to combine a lot of post offices into a centralized function and eliminate losses. There were local post offices in small towns, and the Senator can remember the firestorm on that. I tell the Senator the post office and around the flag outside of the post office is something that is looked at almost as an identity, without which some of the towns feel they cease to exist an an entity in this country.

I am not making light of the concerns of mailers that are concerned about this situation because they run their budgets and most of these are charitable organizations, religious organizations. They are organizations that operate on a very, very thin budget to begin with, and postal matters and mailings which are a large part of some of their operations comprise a large part of their budget.

When you say they are going to change their rates, it may only be 4 cents to us here, referring to a certain piece of mail that is going out, but multiply that by several hundred thousand in their operation and it really runs the cost of their business up and down tremendously. So it is not something we can take lightly.

I think the fact that this came to the floor here suddenly, and I was not aware of it, I think we really need to look into this. I hope we can make some accommodation here.

Mr. DECONCINI. Mr. President, will the Senator from Ohio yield?

Mr. GLENN. Yes.

Mr. DECONCINI. I think the Senator from Ohio makes a very good point, that we should not take this lightly and, indeed, I do not.

Mr. GLENN. No.

Mr. DECONCINI. I wish I were not here, once again, as I was with the pay raise last year discussing these things with the Senator. But if you take the religious organizations, according to the Rate Commission's review, only 2 percent of all of the large mailings, the so-called flats, are used by religious organizations.

Now they can still mail it, but they are not going to get the same subsidy for this size as they would for letter size anymore. So if they convert this flat, say, to this letter size, then they get the full subsidy. So it is going to—and I do not take it lightly at all—cause them to make a decision either to raise more money or to expend more of their resources to make the mailing or to convert the size. If they convert, then they get the full subsidy and they lose nothing except the cost of converting.

That is true in the other categories as well, which is one of the reasons for the Senator to understand why we even focused on this particular reform. When we looked at it we felt that because only 20 percent of the mailings went out as a flat, though it is serious to those 20 percent, it was rather small in comparison to the amount of money we could save here and thereby prevent perhaps invading some other areas of this bill, particularly the IRS, which I know is the target of several other Senators.

Mr. GLENN. I knew the IRS was going to be targeted, I understood that anyway, if we could not work this out. I did not want to see that because I have worked for several years now on the Governmental Affairs Committee members just to get IRS pumped up to where we thought they were going to do a decent job in their computerization of things and new agents that earned back about 5 to 1 on their keep when we establish a new agent.

We have just gotten those things back up to at least the level and now talking about cutting them to provide revenue forgone over laws in the same funds. It does not make any sense. That is the reason I opposed that one also. I feel certain of how Commissioner Goldberg feels. I was not in the office. He contacted the office this morning. He does not think much of that idea either.

So, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to speak for 4 minutes as in morning business for the purpose of introducing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH and Mr. PACKWOOD pertaining to the introduction of S. 1453 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WIRTH. Mr. President, I yield the floor and, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THOMAS F. ROESER AND THE QUAKER OATS CO.

Mr. DIXON. Mr. President, I rise today to honor a great Illinoisan and American, Thomas F. Roeser, vice president for government relations for the Chicago-based Quaker Oats Co. Tom will retire from active service with Quaker Oats this August first. I want to recognize Tom's many contributions to Chicago and Illinois government, politics and civic life, and to acknowledge his effective advocacy on behalf of the Quaker Oats Co. in Washington, in Springfield, IL, and in other State capitals.

Tom Roeser's civic affairs leadership is not limited to oatmeal or gatorade, wonderful products though they may be. Tom initiated Quaker's leadership in urban affairs back in 1967 by founding a tutoring program for the benefit of the children of the Chicago Public Housing Authority, and the program flourishes to this day. Tom also established an innovative, community-based nutrition education program on the south and west sides of Chicago, directed by Mrs. Velma Dixon, and he developed a minority enterprise training program designed to assist owners, operators, and employees of retail food stores, which is conducted by the Chicago Cosmopolitan Chamber of Commerce. His involvement led to his appointment as the first Director of the U.S. Commerce Department's Office of Minority Business Enterprise in 1969, and later as Director of Public Affairs for the U.S. Peace Corps.

For years, Tom Roeser has served as the chief volunteer and president of the City Club of Chicago, overseeing important studies on municipal and State issues of great importance to business, education, and public finance. The City Club's forums and public meetings have given those of us in public life opportunities to present ideas, advocate solutions to public problems, and test public options and concepts in the Chicago area.

As a writer and broadcaster commentator, Tom Roeser has contributed to public discourse on politics and public affairs with insight and humor, and now and then a barb or two. His interests over the years have ranged from the right to vote at age 18 to a third airport for Metropolitan Chicago.

I salute Tom Roeser and his longtime association with the Quaker Oats Co. and its civic affairs programs. Tom will continue as a consultant to Quaker Oats, and will conduct public affairs programs and advocacy for a number of clients from offices on North Michigan Avenue. We can depend on Tom to keep the political dialog lively and interesting.

It is truly an honor and a privilege to represent fine Illinoisans like Tom Roeser.

Mr. President, I say to a doggone good Republican, Thomas Roeser: "Tom, the best in everything you do."

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. GLENN. Mr. President, it is really difficult to follow the distinguished Senator from Illinois on the floor because one thing he does not do is lack for enthusiasm. I always find it difficult to follow him on the floor.

But I rise again, Mr. President, to address the matter of the postal revenue forgone and how we are going to come up with these amounts of money that we discussed earlier during previous debate.

After consulting with the floor managers of the bill, I think probably the best we can do today is to not go ahead and challenge this as legislating on an appropriations bill, which I thought might be one option here, and that might carry. But it also might be voted down and leave us in a worse position than we are right now in going to conference. So that is of some concern.

I also would not like to see the IRS function cut back, because we have spent some 5 years getting more money into IRS so that we can do a better job on collecting the proper amounts that should be collected from those who owe it to the Government. And so we do not want to cut back on that.

The House, I would note, has full funding in this bill without having to change revenue forgone. And after discussing this with the floor managers of the bill, I believe they would agree that they will do everything they possibly can to work with us in this interim period between now and when the conference agreement is made to see if we cannot come up with some better arrangement here than just the change that we have in this bill or the first option of going to the IRS for money, or another option is to go to the House and try and make in conference an accommodation some way to come up as close as we can to their figures, which is full funding without changing revenue forgone.

If we have that kind of an assurance, Mr. President, I think the best thing we can do in this situation is to agree that is what we will all work toward and hopefully we can work this out between now and when the conference action is completed.

I would appreciate any comments the floor managers might make in that regard.

Mr. DOMENICI. Mr. President, I thank the distinguished Senator from Ohio, the chairman of the Government Operations Committee. Senator ROTH is the ranking member of that committee and Senator STEVENS is the ranking member on the subcommittee that handles post office matters.

But with Senator GLENN commenting as he has, and Senator STEVENS indicating that we ought to proceed today with this, seeing if we can do better between now and conference, I want to thank Senator STEVENS, who met with us before, and say to Senator GLENN I appreciate his remarks and I understand how difficult this issue is.

From my standpoint, for our side, we will try our best to work with him and his committee as this process moves its way along and hopefully we can do something before we finalize this matter in conference that might be more acceptable, as he has explained here on the floor.

Having said that, I just want to make three points. The DeConcini-Domenici amendment which we are going to ask the Senate to vote on will keep all of the rural newspapers exactly where they are. So if Senators are concerned about the small, rural newspapers and an increase in postal rates, that will not occur.

Second, there is express language that says the blind and their mailings will not be affected. They will be affected in no way. They will remain exactly as they are now.

Third, all subsidized mail that uses letter-sized mailings, letter-sized envelopes or mailings, will not be changed. The only ones that will have an increase—and they will be subsidized, but they will have an increase—are those so-called flat mailers.

Those are the very large catalog-type mailers. They are growing in quantity. And we think, of all of the suggestions, that is the most reasonable one, to let them get less of a subsidy so we can continue the subsidy for the others.

I thank the Senator from Ohio [Mr. GLENN] and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I join the Senator from New Mexico in thanking the Senator from Ohio for his willingness to go along with this. I understand his concern, and I will work with him, as the ranking member will, as we go through this process, both here and in conference. We have a very excellent relationship, as I said before.

Last year, we had attached to this bill an amendment by myself and the Senator from New Mexico dealing with wage increases for Federal employees, and a second one dealing with Federal law enforcement, which was in the jurisdiction, clearly, of the Governmental Affairs Committee.

Senator STEVENS, Senator ROTH, and the distinguished chairman, Senator GLENN, agreed to let us go ahead and proceed with this. We agreed, in turn, first of all to even put them on the conference committee. We had to change that. But we agreed to work with them on a daily, hourly, almost minute-by-minute basis as we negotiated this in the conference. We did that. I think the Senator was satisfied that he and his staff were included in all those negotiations and had the opportunity to signed off.

We will continue to work with him here. We have to go to conference with this bill. There is a lot of disparity between the House version, which has already passed, and what we think will pass here.

Revenue foregone is only one of those areas. IRS is another. The GSA account is another. The office of the executive branch is another. We have to deal with all of those, and as we deal with the revenue foregone, we will certainly work with the Senator from Ohio and his staff and keep them advised of what we are doing.

The PRESIDING OFFICER. Is there further debate?

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOUTH AFRICAN SANCTIONS

Mr. SIMON. Mr. President, I would like to comment on lifting of sanctions with South Africa. All of us applaud what has taken place in South Africa in terms of what the leadership there has done. President De Klerk has shown great courage.

I do believe, for two reasons, the action taken by the President was a bit hasty, as this morning's New York Times editorial indicated. I think we would have been wiser to take the same stand that Canada and some other countries have taken, and that is to continue with sanctions until serious negotiations take place. I think it is a mistake for two reasons.

No. 1, there is a serious question whether the law has been complied with. The African National Congress says there are 942 political prisoners in South Africa. They say this does not count political prisoners in the so-called homelands. I have no way of judging whether their statement is accurate or not accurate.

But I think before the United States assumed the statements of the South African Government were correct, we would have been wise to have Amnesty International or some other group take a look at that.

The second concern I have is, frankly, Mr. President, up until this point, we have had a very good working relationship between the State Department and the Subcommittee on African Affairs, which I have the privilege of chairing, in terms of working together, whether it is the Horn of Africa; whether it is South Africa; whether it is Angola; whether it is the Liberian situation. This is a departure from that.

I think, insofar as possible—whether it is Africa; whether it is the Middle East; whether it is Asia—where you can have Congress and the administration working together, it is better to have that working together. That does mean, sometimes, some compromises, some giving on both sides. That was not the case here.

Several of us met about 10 days ago with Assistant Secretary of State Herman Cohen in my office, and suggested that sanctions not be lifted until substantial negotiations take place. I think the administration would have been wiser to hold on until that point.

The President took the viewpoint that, well, he was opposed to sanctions when they were initiated, and obviously was eager to lift the sanctions at the first opportunity. This is not fatal to what is happening in South Africa. I think serious negotiations will continue, but I do not think the action that was taken is helpful.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2622, the Treasury Postal appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $476 million and its 602(b) outlays allocation by less than $1 million.

Section 104 in the Department of the Treasury general provisions prevents the imposition or assessment of certain taxes. This provision would have the effect of decreasing revenues by less than $500,000. If enacted into law, this shortfall would score against the pay-go scorecard.

I compliment the distinguished manager of the bill, Senator DECONCINI and the distinguished ranking member of the Treasury-Postal Subcommittee, Senator DOMENICI on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Treasury Postal appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2622; TREASURY POSTAL SUBCOMMITTEE—SPENDING TOTALS

[Senate reported; in billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2622		
New budget authority and outlays	19.2	17.1
Enacted to date	.1	3.4
Adjustment to conform mandatory programs to resolution assumptions	.2	.5
Scorekeeping adjustments/PLR's	0	0
Bill total	19.5	21.0
House 602(b) allocation	19.9	21.0
Total difference	−.5	
Discretionary:		
Domestic	10.5	11.2
Senate 602(b)	11.0	11.2
Difference	−.5	
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	0	0
Senate 602(b)	0	0
Difference	0	0
Total discretionary spending	10.5	11.2
Mandatory spending	8.9	9.8
Mandatory allocation	8.9	9.8
Difference	0	0
Discretionary total above (+) or below (−):		
President's request		.1
Senate-passed bill	NA	NA
House-passed bill	−.2	−.3

Note.—Sec. 104 of this bill has the effect of decreasing revenues by less than $500,000.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, we are about ready to commence a rollcall vote on the DeConcini-Domenici amendment dealing with revenue foregone. Just to summarize for the people to understand what this amendment does, in the bill before us, there is roughly $383 million set aside for revenue foregone. That is substantially less than what the Postal Service says is needed. Their figure is some $649 million. It is substantially more than what the President requested. The President requested roughly $183 million. The committee tried its best to come up with additional funds, and we came up with $383 million.

The amendment before us, in essence, does three things: One, it institutes a direct savings by changing the subsidies of flats versus letters of $180 million. That means a $180 million less is necessary to fund the revenue foregone account to subsidize those mailings on top of what is already in the bill, which is $383 million.

Second, it specifically states that the rates for second class in-county preferred mail, which are the rural in-county newspapers, will remain as they are today, or as it is on the date of enactment into law of this particular bill before us, at the same rate as fiscal year 1991, for all of fiscal year 1992. So the rates for those groups will not go up unless they go up in the next 3 weeks, and there is no proposal for that to occur.

Third, there are additional funds that most likely will be available for the revenue forgone. In the past, when there have been changes in mailings, as there are here, there is anywhere from a 2- to a 10-percent reduction in the use, at least for a certain period of time. So we are taking out of the Postal Service's estimate of $649 million an estimated $60 million, less than 10 percent. So we are increasing what is available for the revenue foregone account with the Domenici-DeConcini amendment by roughly $240 million above what it is in the bill.

I think it is a workable solution. It gets us to conference with some disparity, but a sizable increase in the revenue foregone. I think it also answers the problem, as the Senator from New Mexico so well pointed out, about the rural newspapers. We listened to our colleagues. We heard their arguments as to the communication necessity in these areas of rural America, and we fixed it. We fixed it completely so there will be no change in those rates.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder if the Senator, before we call for the vote, will yield to me?

Mr. DECONCINI. I yield the Senator as much time as he likes.

Mr. DOMENICI. Mr. President, I concur with the chairman of the subcommittee, my friend from Arizona, Senator DECONCINI. Let me summarize and tell the Senate why we are voting. When we left the subcommittee markup and then went to the full Committee on Appropriations, we had no way to propose some reform in the subsidized mail program, the revenue foregone program, because we did not have a report from the Postal Commission that we had asked to study this issue and give us some valid and viable reforms.

So what we reported and what is pending at the desk is a funding of revenue foregone, or mail subsidy, that we really do not like, but we had no alternative. So what we now are doing is offering an amendment that dramatically improves what is in the bill. We think Senators ought to have a chance to vote on it because it does three very good things and still comes very close to meeting the subsidy that is required by the Postal Service from the general taxpayers' appropriations.

First, it defines and says any mail by the blind associations is absolutely untouched. It remains as is. Whatever the subsidy, no change. Second, it says all rural newspapers, no change. Third it says all subsidized mail that is carried in letter-size envelopes remains as is. We are not changing it, we are not expanding it, we are not making it less, so long as it is mailed in letter-size envelopes, as defined by the Postal Service. So everyone will know, when I say "defined by the Postal Service"—in fact, it is larger than what one usually thinks of as letter-sized, but it is called letter-size because it fits all the automation machines.

What is changed, and the only thing being changed, is if you are using bigger mailouts than letter-sized, you will get less of a subsidy because there is no way that kind of mail fits through our automation process and it costs a lot more to handle. We are saying do not subsidize those more costly pieces of mail as much as we have been. Make them pay more of their costs. Subsidize at one uniform rate which reflects the subsidy for the lower-cost price of mail.

So, in a nutshell, everything remains the same, except for mailers that are larger than letter size, and they will pay somewhat more than they have been paying. By doing that, we have saved $180 million on what otherwise would be subsidized. We assume that the overall rate changes that are already in effect are going to lessen the demand, and we take credit for savings there. That is it.

We think the Senate ought to adopt the amendment.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment, No. 732, to the committee amendment on page 20, line 7. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—98

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NOT VOTING—2

Pryor
Specter

So the amendment (No. 732) to the committee amendment on page 20, line 7, was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask that the pending business be moved to the next order of business.

The PRESIDING OFFICER. The question is on the committee amendment, as amended.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. There will be order in the Chamber.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I yield to the Senator without losing my right to the floor.

Mr. DECONCINI. Mr. President, I urge adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I urge consideration of the next excepted committee amendment.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 59, LINES 7 AND 8

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 59, lines 7 and 8 insert "rental of conference rooms in the District of Columbia and elsewhere,"

Mr. DOMENICI. Mr. President, I promised the junior Senator from California [Mr. SEYMOUR] that he could have 5 minutes, and he has been waiting for about an hour. I wonder, without the Senator from North Carolina losing his right to the floor, if he could have 5 minutes as if in morning business.

Mr. HELMS. Yes.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator SEYMOUR be permitted to speak as if in morning business for 5 minutes and thereafter the floor be returned to Senator HELMS as if we had not interrupted him.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. SEYMOUR. I thank the Chair.

(The remarks of Mr. SEYMOUR pertaining to the introduction of S.1454 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the chair for recognizing me.

AMENDMENT NO. 734

(Purpose: To make it a federal crime for a doctor, dentist or other health care professional who has AIDs and knows it to perform invasive medical procedures without informing the patient)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration and ask that it be stated in full.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislation clerk read as follows:

The Senator from North Carolina [Mr. HELMS] for himself and Mr. THURMOND proposes an amendment numbered 734.

At the end of the Committee Amendment on page 59, line 8, add the following:

"Hire of passenger motor vehicles $3,468,000; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General.

"Title 18, United States Code, is amended by adding at the appropate place the following new section:

"SEC. . DELIBERATE TRANSMISSION OF THE AIDS VIRUS.

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than $10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available."

(c) DEFINITIONS.—As used in this section—

(1) the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional adminstering the procedure.".

Mr. HELMS. Mr. President, first let me emphasize that the distinguished Senator from South Carolina [Mr. THURMOND] has asked to be a principal cosponsor of this amendment, and I appreciate that.

Second, this may be the first of several efforts to have the Senate approve this amendment. I am glad I am finally in a position of getting a vote, which is what I have been seeking all along.

As I said last night—even though there were efforts by some Senators who had declared that Helms will not get a vote—Helms is going to get a vote, and that will happen quite shortly.

I ask for the yeas and nays on the amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Well, we will try again when enough Senators are here.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

It is tough to get a vote around this place.

Mr. President, I am going to begin by reading a letter that most of us I hope are familiar with. It was published in the July 1 edition of Newsweek and it has been published a number of places, and I have, I guess, two or three dozens copies of it in my office. It was written by a once-beautiful young lady, physically and spiritually. She no longer is physically beautiful, as she will descibe herself. Her name is Kimberly Bergalis of Fort Pierce, FL.

The Newsweek version of this letter had the headline: "I Blame Every One of You Bastards."

Newsweek said as a prelude:

> Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.

Here is the letter:

> When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea, I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.
>
> I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.
>
> I was infected by Dr. Acer in 1987.

I would say, parenthetically, that this was her dentist. Then she continues:

> My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.
>
> Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.
>
> Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?
>
> Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your fingers and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skelton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.
>
> Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.
>
> P.S. If laws are not formed to provide protection, then my suffering and death was in vain.
>
> I'm dying guys. Goodbye.

That was the letter from Kimberly Bergalis.

Four or five times in the past 2 or 3 days, I have stood on this floor trying to get a vote on the pending amendment. And every effort possible was made to block it. I said last night that I want to get a vote, and I am going to get it. During my previous discussions, I referred a number of times, Mr. President, to the thick file of newspaper clippings that I have from my own hometown paper in Raleigh, Washington papers, the Newsweek magazine, and others.

Every one of those articles describes in graphic detail the physical and emotional suffering of hundreds of Americans who have been unknowingly exposed to AIDS by doctors and dentists and health care workers who know that they are carriers of this deadly virus. That is what this amendment is all about.

I became aware of the case of Kimberly Bergalis, a 23-year-old young Florida woman. She probably will not be alive a week from today, if that long. But the last few months, as Kimberly said in her letter, she has suffered the tortures of the damned, not through her misconduct, but through the total irresponsibility of a dentist, a member of the medical profession; a dentist who knew that he had AIDS but he refused to notify his patients about it. He treated 1,700 people after he found out he had AIDS.

I mentioned last night that Lawton Chiles, one of our former colleagues here in the Senate, now Governor of Florida, went to see Kimberly Bergalis this week. And Lawton was obviously deeply touched, and made this statement to the media following that meeting.

He said:

> It's a lot like being in the presence of a saint. I told her how much I admired her. I told her I thought she had already protected many lives that wouldn't have been protected before.

I hope Lawton Chiles was right about that, because I hope the U.S. Senate and the House of Representatives and every other legislative body in this land will take steps to make certain that this kind of thing stops.

I might add, parenthetically, that this is striking everywhere. There is a little community, 8 or 10 miles outside of my hometown of Raleigh, NC. Sometime back, a native of that community who became a dentist went to San Francisco, where he had a lover, another man. Then all of a sudden, he came back home, and he was planning to bring his lover with him. But he could not come right at that moment. His parents set up a little dental office for him in that little community. He was awaiting the arrival of his lover, but the lover never arrived because he died of AIDS before he could get there.

This dentist told nobody anything about it; nothing. Not a soul. And he treated at least 800 patients. Finally, a form letter was sent to about 800 patients. But it was a little bit late. Two days after the letter was mailed, he died of AIDS. That is the threat we are living under.

About this amendment and whether it is something that the American people want and need, back in June, less than a month ago, there was a Gallup Poll precisely on this question. This poll found that 95 percent of the American people believed that surgeons who know that they have AIDS should be required to tell patients if they are infected with the AIDS virus. The same poll found that 94 percent of Americans believe that all physicians and dentists should be required to tell their patients that they have AIDS, that they, the physicians and dentists, have AIDS.

The story of Kimberly Bergalis, down in Florida, is not isolated by any means, and unless this Senate faces up to its responsibility, there will be a multiplicity of such cases, maybe even if we do nothing, because we have sat on our hands and bowed to the homosexual lobby time and time again when this Senator and others have stood on this floor pleading that something be done about these people who are responsible for the spread of AIDS.

I have been condemned and criticized, and that is fine. I appreciate being condemned and criticized by these people. I am reminded of what a friend of mine told me on one occasion about the day that he was in a taxicab coming from National Airport to my office. He stopped before the Archives Building, stopped right there, and my friend saw the words etched in the marble saying, "What is past is prolog." He thought he would have a little fun with the cab driver. So he leaned over and said, "Driver, what is past is prolog." He said, "What do you reckon that means?" He thought the driver would say, "I do not know." The driver did not hesitate a moment. The driver said, "Sir, that means you ain't seen nothing yet." So these people who are angry about trying to offer amendments think they have seen something yet. Let me tell them that what is past is prolog. They ain't seen nothing yet.

In the State of Minnesota, there is a pediatric surgeon who continued to perform deliveries of babies, and he did rectal and vaginal examinations, months after he found out that he had AIDS. In the most shocking part of this story, a Minnesota television station broadcast pictures of this surgeon delivering a baby while his bare arms were covered with sores. When asked about the sores by the mother of the child he was about to deliver, the doctor said, "Oh, well, these sores are just an allergic reaction."

Now this man knew that he had AIDS well before he delivered that baby. One of this doctor's patients told Newsweek, "He takes an oath to save lives not give a death sentence."

Back in my State, a health care trainee at a major hospital in eastern North Carolina worked with patients for more than a year after finding out he had the AIDS virus. Residents of the Fayetteville and Raleigh area have begun receiving letters from military and county health officials saying that they might have been exposed to AIDS because their dentist had the disease. The military installation was Fort Bragg.

Mr. President, I have read in various newspapers that the AMA and the American Dental Association have rejected calls for mandatory AIDS testing. The AMA says it is up to the doctors to determine if they should be tested. Responding to the position of the professional medical establishment, former Surgeon General C. Everett Koop told doctors that they faced a loss of credibility if they refused to be tested. He warned, and I quote Dr. Koop, "Be certain that the public knows that you are just as concerned about them as you are about yourselves."

As usual, the medical establishment thus far and the AIDS lobby—both have been silent in seven languages.

Let me say as emphatically as I know how, the Helms amendment now pending does not—repeat, does not—require that health care professionals undergo mandatory AIDS testing. I am going to visit that issue another time. But the Helms amendment now pending, which the clerk read in its entirety, does say that if a doctor, dentist, nurse, or health care worker performs or is involved with invasive medical techniques—that is, a surgeon, obstetrician, surgical nurse, so forth—and knows that he or she has AIDS and fails to notify his patients of that fact, he is subject to a fine and jail term of not less than 10 years. I, for one, believe that this is an adequate response, certainly a good beginning, to the rogues in the medical community who have knowingly and callously exposed hundreds upon hundreds of innocent people to the AIDS virus.

Let me say again for the purpose of emphasis, this amendment does not require mandatory testing. It does not require that the psychiatrist or the podiatrist undergo any testing, nor does it compel them to disclose to their patients that they have AIDS. We will visit that later also. Using language provided by the distinguished Republican leader, Senator DOLE, the Helms amendment says that if you perform invasive medical procedures, you must notify your patients if you know you have AIDS. The Helms amendment also provides a necessary safeguard for those in emergency situations. The notification provisions of this amendment do not apply to emergency situations.

We are not talking about hundreds of medical professionals with this amendment. The vast majority have honorably abided by the opening sentence of the Hippocratic oath. That opening sentence says: "I shall first do no harm." However, there are a few people in the medical establishment who have thrown away their duty to others. That doctor in Minnesota and that dentist in Florida, none of these should be treated any better than the criminal who guns down a helpless victim on the street. The effect is absolutely the same.

Mr. President, that is about it. I know there will be some opposition to it from the usual sources. I will yield the floor and listen as attentively as I am able. I thank the Chair.

Mr. President, I ask unanimous consent that a series of articles from the Raleigh News and Observer, the Washington Times, Newsweek and Human Events be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Raleigh News and Observer, June 28, 1991]

WAKE DENTIST HAS AIDS; PATIENTS WILL BE NOTIFIED

(By Tinker Ready)

A Wake County dentist may have treated several hundred people while infected with the AIDS virus, state and county health officials said Thursday.

The chance that any patients were infected is "very, very low," officials said.

The dentist, who is no longer practicing, has decided to notify all of his patients, said Wake County Health Director Leah Devlin, who called a news conference Thursday to announce the state's investigation into the case.

Dr. Devlin declined to release the dentist's name, noting that a state law barred the disclosure of the names of AIDS patients reported to the state.

She also refused to disclose any details about the dentist, including the date of diagnosis, the city or town in which the dentist practiced or the length of time the dentist practiced after learning he or she had AIDS.

But a government official who asked not to be identified said the dentist was a male who practiced in Wake County but not in the city of Raleigh. State and county officials were notified of the case by the dentist's doctor, and the dentist told officials that he had stopped practicing immediately after being diagnosed, the official said.

The dentist is being treated in a Triangle hospital for AIDS, the official said.

Another official said the dentist is 40 years old and was diagnosed last week as having AIDS.

Dr. Devlin stressed that she thought there was little chance that any of the dentist's patients were infected.

"We have done a thorough public health investigation," she said. "The risk of transmission to patients is extremely low."

She estimated the number of patients the dentist treated was in "the hundreds" and said he may have practiced outside Wake County while infected.

The only known case of a doctor or health-care worker infecting patients is that of a Florida dentist who was diagnosed with AIDS in 1987 and is thought to have infected five of his patients.

The Florida dentist failed to use proper infection control procedures, Dr. Devlin said, although investigators there have not determined that lack of proper infection control was the cause of transmission.

In contrast, the Wake dentist used "excellent" infection control procedures, including the use of gloves and masks and the sterlization of instruments, said RebeccaMeriwether, the head of the state's communicable disease control program.

Other factors the state looked at that might have contributed to the risk of transmission included the type of procedures performed by the dentist and any injuries the dentist had, Dr. Devlin said.

The dentist, and the dentist's staff and family, cooperated with the state's investigation, she said.

Dr. Devlin said she and her staff were convinced that the risk of transmission was so low that they would not have ordered the dentist to notify patients if the dentist had not chosen to do so.

The state is in the process of composing a letter to the dentist's patients to inform them of the "technical issues" surrounding their contact with the dentist. The dentist is planning to send out his own, separate letter, Dr. Devlin said.

Paul Arons, the medical director of the AIDS program at the Florida Department of Health and Rehabilitative Services, said several other dentists had been identified with HIV infection—including cases in Palm Beach, Delaware and Missouri. However, so far, no additional cases of transmission to patients have been discovered, he said.

The Centers for Disease Control has identified 167 dental workers with HIV infection, mostly dentists, Dr. Meriwether said. No such figures were available for North Carolina, she said.

Thomas V. Bennett, director of the N.C. Dental Society said after the news conference that the public should not single out dentists as having a high risk of transmitting AIDS when there has only been one dentist to pass the disease on to his patients.

He said his organization endorsed American Dental Association guidelines, which call on HIV-infected dentists to refrain from "invasive procedures"—those that break the skin—or to notify their patients of their condition.

"The bottom line is, it is safe to go to the dentist," he said. "Your chances of contracting AIDS at the dentist are astronomically small."

[From the Raleigh News and Observer, June 30, 1991]

Wake County Dentist Who Had AIDS Dies

(By Rachele Kanigel and Thomas Healy)

John Harvey Spell, 46, a Wendell dentist, died Saturday of AIDS, one day after notifying his patients that he had the disease.

On Thursday, state and Wake County health officials had announced that an unidentified Wake County dentist had acquired immune deficiency syndrome. They said that the dentist was no longer practicing and that there was no public-health reason for him to let his patients know of his condition.

Nonetheless, Dr. Spell told his patients of his condition in a letter dated Friday. "I am writing to let you know that I was recently diagnosed as having HIV infection and AIDS and will be closing my practice," he wrote.

He said his practice would close July 1.

"Out of my desire to let you make your own personal informed decision on whether or not you wish to be tested for HIV I have elected to notify you," the letter said.

Dr. Spell operated a dental office for several years on U.S. 64 Business just outside Wendell in eastern Wake County after moving to the area from Los Angeles.

A 1962 graduate of the former Wendell High School, he attended the University of North Carolina at Chapel Hill, where he graduated in 1971 with a degree in dentistry.

Upon graduation, he joined the U.S. Navy. He served for four years, leaving the service in 1975 as a lieutenant commander.

Family members declined to comment on his death.

Dr. Spell died at Wake Medical Center at 1:15 p.m., said Beverly D. Byrd, hospital clinical administrator.

State and Wake County health officials say there was very little chance that Dr. Spell had infected any patients with the human immunodeficiency virus, HIV, which causes AIDS.

A letter from health officials was sent to patients with Dr. Spell's letter. "Altogether the risk an infected dentist or other healthcare provider will past this virus to their patients [is] very, very low," the letter said.

In the letter, Leah Devlin, Wake County health director, and Ronald H. Levine state health director, wrote: "We examined the infection-control practices of this dentist and the staff . . . and concluded that they were excellent. Therefore, the risk of transmission is very low."

County and state health officials could not be reached for comment Saturday.

In interviews Saturday, two patients of Dr. Spell's said they were sorry to hear of the dentist's death but were not fearful for their own health.

"The office was very clean and he was always gloved and masked." said one patient who asked not to be identified. "I'm sure he took all the precautions."

The other patient, a Wendell woman, said she planned to get the HIV test just to make sure. "I don't think there's a bit of harm," she said. "I'm sorry he died. I really am, because he's a good person."

HIV is transmitted through the exchange of blood or other body fluids, usually through sexual relations or sharing of needles, so it is unlikely a dentist or other health-care worker could infect a patient.

The only known case of a health-care worker infecting patients is that of a Florida dentist who was diagnosed with AIDS in 1987. He is thought to have infected five of his patients.

Health officials have said the Florida dentist failed to use proper infection-control procedures, which can prevent the spread of HIV and other infectious diseases.

On Thursday, Rebecca A. Meriwether, the head of the state's communicable disease control program, said the infected Wake County dentist had used "excellent" infection-control measures, including the use of gloves and masks and sterilization of instruments.

Letter from Dr. John H. Spell dated June 28, 1991:

Dear Valued Patient,

I am writing to let you know that I was recently diagnosed as having HIV infection and AIDS and will be closing my practice.

Both the local and state health departments have done a thorough investigation of the possibility of transmission occurring in my practice. As the attached letter [from the Wake County Health Department] indicates, the risk of my transmitting HIV to any of my patients during dental treatment is extremely low. They also concluded that there was not a public health reason to let my patients know of my condition. However, out of my desire to let you make your own personal informed decision on whether or not you wish to be tested for HIV, I have elected to notify you.

My practice has closed effective July 1, 1991. Please contract the office at 365-6080 beginning July 8th during normal business hours if you would like a copy of your dental records forwarded to another dentist.

It has been my pleasure to have provided dental care for you and I apologize for any undue concern this unfortunate situation may cause.

My best wishes to you.

Sincerely,

JOHN H. SPELL, DDS.

[From the Raleigh News and Observer, July 1, 1991]

800 Patients Told Dentist Had AIDS

(By Thomas Healy)

About 800 former patients of a Wake County dentist who died Saturday of AIDS have been notified of their possible exposure to the virus that causes the deadly disease, health officials said Sunday.

The patients of John Harvey Spell, 46, of Wendell, were mailed letters Friday telling them of Dr. Spell's condition and of their risk of contracting AIDS. Authorities also are notifying health officials in Los Angeles—where Dr. Spell previously practiced—of the dentist's infection.

News that a Wake County dentist had contracted AIDS was released Thursday by state and Wake County health officials. They said the dentist was no longer practicing and that there was no public health reason for him to notify his patients of his condition.

But Dr. Spell decided to inform his patients. On Friday, about 800 letters were mailed to patients he had treated during his six-year stay in Wendell. Dr. Spell died of acquired immune deficiency syndrome the next day at Wake Medical Center.

Rebecca A. Meriwether, the head of the state's communicable disease control program, said Sunday that health officials had been notified of Dr. Spell's condition about a week ago by a spokesman for his family. She said the dentist had been diagnosed as having AIDS "very, very recently" and had quit practicing a short time thereafter.

Dr. Meriwether also repeated statements by health experts that there was little chance the dentist had infected any patients with the human immunodeficiency virus, HIV, which causes AIDS.

"The really important thing is that the risk of transmission is very, very low," she said.

HIV is transmitted through the exchange of blood or other body fluids, usually through sexual relations or the sharing of needles, so it is unlikely a dentist or other health-care worker could infect a patient.

But many residents of Wendell, a small town in eastern Wake County, were still worried that the disease could have been spread to patients. And they were surprised to learn AIDS had turned up in their quiet community.

"It is kind of shocking to think that it's right here in a small town, especially because it's a dentist," said Shirley Strickland, 38, a local Realtor. "And think about how many people he treated. It's getting too close for comfort."

Ms. Strickland wasn't a patient of Dr. Spell, but she was still concerned his patients could have become infected. "You never know. You never really know. All it takes is one time for you to contract AIDS."

One nearby resident said she had seen Dr. Spell recently, and he did not look ill.

"It was hard for me to believe he died that quick," said July Smith, 41, of Zebulon. She said Dr. Spell was a frequent customer of the Variety Pick-Up in Wendell, where she works. "It was really a shocker."

But Ronald H. Levine, state health director, said the time it takes for an AIDS patient to die can vary. "There are occasions of patients who have a very rapid downhill course, and that's apparently what happened to this young man."

Paul White, a friend of Dr. Spell since high school, said he didn't want people to overreact. And he said he was confident the dentist hadn't put his patients at risk of contracting AIDS.

"I expect if he was aware of it, he did whatever was necessary."

In a letter to Dr. Spell's patients, health officials said the dentist used "excellent" infection control practices, including gloves and masks.

[From the Raleigh News and Observer, July 2, 1991]

AIDS Tests Begin for Late Dentist's Patients

(By Tinker Ready)

Patients of a Wendell dentist who died of AIDS began coming to the Wake Health Department for tests Monday. The department added workers to perform the tests and answer questions about the risk of exposure.

County health officials said about 95 people had called by midday to make appointments to be tested for the HIV virus that causes AIDS, and they expect more of John H. Spell's 800 patients to receive the tests from the health department or their own doctors.

Dr. Spell last treated patients on June 7. Shortly after that, he was diagnosed with HIV and AIDS, said Leah M. Devlin, Wake County health director.

Patients began receiving letters from Dr. Spell on Saturday. He died that day at Wake Medical Center.

In the few days since they announced that a Wake dentist had been diagnosed with AIDS, health officials have emphasized repeatedly that they believe there is little chance he exposed his patients to the HIV virus or the disease.

They reiterated their assurances on Monday, and said callers seemed in general to be calmer than people who telephoned last week before Dr. Spell's name became public.

County officials said an HIV test was not necessary if a person's only exposure to the virus was at Dr. Spell's office. They said they believe Dr. Spell used stringent infection control measures, which minimized the risk of passing the virus to his patients.

But the county is providing Dr. Spell's patients with information about the possibility of exposure so they can make up their own minds about testing, said J. Steven Cline, deputy health director for Wake County.

"Most of them have already reached a decision about whether they will be tested and we don't try to talk them out of that," he said.

Despite the short length of time between Dr. Spell's diagnosis and his death, county and state officials reiterated on Monday that the dentist stopped practicing as soon as he found he had AIDS.

Although some people live for years after a diagnosis, Charles M. van der Horst, director of the AIDS clinical trials unit at UNC Hospitals, said it is not uncommon for a patient to die within weeks of being diagnosed with HIV and AIDS.

He said Dr. Spell, 46, probably grew ill with an AIDS-related disease, was tested for HIV at the time and then died of the related disease.

Such was not the case in Wilmington, Del, where state health officials learned that a dentist who died of AIDS in March had practiced for two years after being diagnosed.

Following an investigation of the case, the state decided the risk of transmission was small, but had some "concerns," and ordered the notification of patients, said Lester N. Wright, the state health director in Delaware. He would not identify what caused his concern about possible transmission.

The state sent letters out to about 1,890 patients and was contacted by 891, he said. None of the 593 people who have been tested so far has come up positive, he said.

In Wake County on Monday, the health department had three extra staff people answering phones and making appointments for AIDS tests and two extra people performing tests.

Some people called the AIDS Service Agency of Wake County, a private AIDS education program.

The agency has told callers they can be tested for AIDS either by their private doctors or by the county, said Harriette A. Bugel, the group's community education coordinator.

In many cases, the agency recommends the county test because, unlike private tests, it is free, she said.

In addition, the county offers a choice of anonymous testing—where the test subject uses a fake name or number—or confidential testing, where the county takes the test subject's name but agrees not to release it.

Like the county, the agency does not tell people whether they need to be tested, she said. "What we do is give out the factual information that transmission is close to impossible, if universal precautions are used" by healthcare workers, she said.

Universal precautions are infection-control procedures that include the use of gloves, masks and gown, and the sterilization and disposal of contaminated instruments. The measures are designed to protect both patients and health-care workers from exchanging body fluids, which is the major means of AIDS transmission.

Most people acquire AIDS through sex with an HIV or AIDS carrier, by sharing a needle with someone who has the illness, or, in the case of AIDS infected mothers, at birth.

[From the Raleigh News and Observer, July 2, 1991]

AIDS TEST BEGINS, ENDS, WITH ADVICE

The Wake County Health Department begins all AIDS tests with a counseling session.

The counselor asks people why they sought testing, talks about how AIDS is transmitted and how to avoid exposure.

The test subject then provides a blood sample and is asked to return in 10 working days for the results. The entire process takes between 20 and 30 minutes.

The blood sample is subjected to two tests. The first, the Elisa test, detects the presence of antibodies which form in the body to fight the human immunodeficiency virus, or HIV. The Elisa test is very sensitive and has been known to mistakenly identify healthy individuals as HIV carriers. So if the test is positive, the sample is double tested with the much more accurate, but more involved, Western Blot tests, which test for proteins present in HIV antibodies.

It usually takes about 12 weeks for the body to begin producing the antibodies after AIDS exposure, but it can take as long as 18 months. As a result, an AIDS test soon after an exposure is meaningless because a person may have been exposed, but the test will not show it until the body begins producing the antibodies.

Once the tests are completed, the subject is notified and must attend a post-test counseling session. If the test is negative, the counselor goes over the ways to avoid exposure to AIDS in the future.

If the test is positive, the counselor talks about how the test subject can avoid transmitting the illness and how to get medical care.

Tests are done free of charge at the health department clinic on Sunnybrook Road.

[From the Raleigh News and Observer, July 3, 1991]

TRAINEE HAD AIDS VIRUS WHILE WORKING AT HOSPITAL

(By Tinker Ready)

Officials at Pitt County Memorial Hospital in Greenville announced Tuesday that a heathcare trainee had worked at the hospital for more than a year after finding out he was infected with the HIV virus, which causes AIDS.

The hospital, in a written statement, said its preliminary investigation had indicated that the individual, who is no longer associated with the hospital, "engaged in only limited patient involvement" and presented no threat to the public.

The hospital declined to identify the student or the department where he worked.

The student who stopped working at the hospital in May, was diagnosed with HIV infection soon after he began his training about 18 months ago. Both the student's academic supervisor at the hospital and the county health department were aware of his condition.

They allowed him to complete his training because he was taking the precautions necessary to avoid transmitting the deadly illness to his patients, said Pitt County Health Director C. Timothy Monroe.

The hospital's administrative staff was unaware of the case until several weeks ago. Hospital officials think the odds that the student infected his patients are so low that there is no need to notify those who came in contact with him.

Hospital President David C. McCrae said he would wait until a panel of outside consultants completed a follow-up investigation before making a decision on notification.

The hospital chose to publicize the case because of growing concern about AIDS-infected healthcare workers, he said.

Pitt County Hospital is affiliated with the East Carolina University Medical School where 1,200 health-care workers are trained each year, including 300 medical students.

Last week, the Wake County Health Department announced that an unidentified dentist had been diagnosed with acquired immune deficiency syndrome but that there was little chance he had infected patients. On Saturday, the dentist, John Harvey Spell of Wendell, died of AIDS, one day after mailing letters to 800 patients alerting them of his condition.

As of late Tuesday, about 200 of his former patients had scheduled HIV tests with the county and 125 of those people had been tested.

The only known case of a health-care worker spreading AIDS to his patients is that of a Florida dentist who was diagnosed with the disease in 1987 and is thought to have infected five patients. Investigators said they did not think he practiced adequate infection-control procedures.

In Pitt County, the hospital's investigation of the HIV-infected student found that "stringent universal barrier precautions and CDC [Centers for Disease Control] guidelines were observed at all times and, as a result, the student's activities created virtually no chance of transmission to patients," Mr. McCrae said.

[From the Washington Times, June 25, 1991]

QUAYLE PUSHES AIDS TESTS FOR DOCTORS

Doctors and health care workers should be required to take AIDS tests to let patients know they could run the risk of infection. Vice President Dan Quayle said yesterday after a speech to the annual meeting of the American Medical Association.

"We have got to have this disclosure on this issue because you're talking about lives," Mr. Quayle told reporters after his speech.

In a meeting of the association's public health committee, doctors debated a proposal yesterday by the Missouri delegation that hospital patients and physicians be routinely tested for the AIDS virus.

"What's good for the goose is good for the gander," said Dr. George Bohigian, a St. Louis ophthalmologist who wrote the resolution.

The proposal is to be voted on this week by the full delegate assembly, which sets policy for the 300,000-member AMA. The Chicago convention continues through Thursday.

Police arrested about 25 protesters belonging to the AIDS Coalition to Unleash Power, or ACT UP, as about 200 members marched to the Chicago Hilton & Towers Hotel, where the convention was being held.

"The world's watching! The world's watching," demonstrators shouted, echoing the chant at the bloody 1968 Democratic National Convention.

Inside the hotel, a woman interrupted a speech by Mr. Quayle by repeatedly shouting, "People with AIDS need national health care!" She was hustled out of the room.

Former U.S. Surgeon General C. Everett Koop told the public health committee that doctors face a loss of credibility if they refuse to be tested.

"Be certain that the public knows that you are just as concerned about them as you are about yourselves," he said.

Many physicians worry that their practices will be devastated if patients learn they are infected with HIV even though doctors have said the risk of a health care worker infecting a patient is extremely low.

Given what he called the "extremely low odds," Brian Davis of Michigan told the committee that doctors should not have to undergo AIDS tests.

But other doctors told the panel that physicians who perform invasive procedures such as surgery should be tested.

The AMA has opposed across the board AIDS tests. One AMA official said, "It would be extremely expensive and would give a false sense of security."

The group's leadership has told doctors that if they think they are at risk for the disease, they should be tested and not to treat patients in any way that could pose a threat if they are infected.

In response to a question at a news conference on whether AIDS tests should be mandatory for doctors and medical personnel, Mr. Quayle said:

"I wouldn't say we ought to pass a federal law on that issue. But I think it's something that should be done at the state levels, at hospitals. It's a good idea.

"I believe that everybody would like to know whether their doctor is infected with the HIV. That is a good idea to have that knowledge, that information, as I think doctors would want to know if their patients were infected," Mr. Quayle said.

The U.S. Centers for Disease Control has recorded one instance in which an HIV infected dentist spread the disease to five patients. It has said the Florida dentist's precautions against spreading the infection must have been exceptionally shoddy and that the odds against this happening again are remote.

Patients in several states, including North Carolina, Minnesota and Michigan, have been notified that they were treated by HIV-infected physicians.

The medical group also is considering a recommendation that everyone sent to prison be tested as they enter jail and again when they are released.

[From the Washington Times, June 27, 1991]

AMA REJECTS REQUIRED TESTING

The American Medical Association yesterday rejected calls for mandatory AIDS testing of health care workers but did endorse regular voluntary testing of those whose practice puts them at risk of contracting the deadly disease.

"Physicians who are at risk have an obligation to know what their status is," said AMA board member Nancy Dickey at the Chicago convention.

But the AMA may not have the final word on the issue. In Washington, Rep. William E. Dannemeyer, California Republican, said yesterday he introduced a bill to require health providers who perform invasive procedures to be tested for HIV infection and hepatitis B.

Mr. Dannemeyer's legislation, known as the Kimberly Bergalis Patient and Health Providers' Protection Act of 1991, would prohibit infected doctors and dentists from performing any invasive procedures unless a patient expressly approves it. Miss Bergalis is a young Florida woman dying of AIDS she contracted from her dentist.

The bill would make states responsible for the HIV and hepatitis B screening. It would also give a doctor or dentist broad discretion to test for viruses without the patient's consent before performing an invasive procedure, provided the medical professional has reason to believe the patient poses a risk of transmitting an infection.

The decision by the AMA to back voluntary testing came on a voice vote among policy-making delegates after they rejected the counterproposal calling for mandatory testing.

The resolution suggests routine testing for doctors such as trauma physicians who regularly do invasive procedures and come into contact with patients' blood, or health care workers in areas where AIDS is prevalent, Miss Dickey said.

Family practitioners or others who are not normally at risk would not need regular testing.

The AMA resolution did not deal with the question of whether doctors should tell their patients if their test is positive.

Those opposed to mandatory testing argued that it would create a false sense of security because it can take as long as six months before tests may reveal the presence of the virus.

Mr. Dannemeyer discussed his bill at a news conference, where he was joined by Dr. Sanford Kuvin, medical adviser to Miss Bergalis. She is "very near death," Dr. Kuvin said yesterday.

In a letter he sent to Mr. Dannemeyer on Monday, Dr. Kuvin wrote "Today, Kimberly wailed a cry of joy to me that her prayers have finally been answered by the proposed legislation, and she expressed hope that every member of Congress will have an opportunity to vote on this legislation. Kimberly then said to me that if such a law were passed her death would not be in vain."

[From Newsweek, July 1, 1991]

DOCTORS WITH AIDS

It is 80 degrees in the Florida dusk, but Kimberly Bergalis huddles under a quilt on the couch in her family's living room. At 65 pounds, she is half her normal body weight. Her skin is chalk white and her eyes stare blankly at the television blaring out music videos just six feet away. In late March the 23-year-old Bergalis took long walks on the beach; now she can barely lift her arms. She is in the last stages of an AIDS-related tuberculosis that wastes body and brain. Sometime in the next few days, Bergalis will probably become the first American to die of AIDS after being infected by her dentist, Dr. David Acer, who died of AIDS last year.

Bergalis went public with her condition in August, campaigning fiercely for regulations governing HIV-positive physicians and dentists that would require them to disclose their condition and thus prevent anyone else from suffering her fate. Now she is just waiting for the end. "Please get this over with," she whispers hoarsely through her horribly blistered mouth, as her mother combs her hair. Later, after her father bathes her and carries her to bed, he says, "See you tomorrow." And she replies "Hopefully not."

More than a thousand miles away. Dr. Richard Duff, a Minneapolis family practitioner, also contemplates his final days. Duff was diagnosed with AIDS more than three years ago. He believes he contracted the virus sometime between 1985, when he and his wife divorced after 18 years of marriage, and 1988, when they remarried. While he was single, Duff says, "I chased around." Once an athletic 150-pound man who loved to play racquetball. Duff is now barely 110—and maintains that weight only through nightly intravenous feeding. As he sits in his kitchen, slowly spooning peaches into his mouth, he seems 90, not 51. Between the diagnosis and his retirement from practice last week, Duff saw hundreds of patients who did not know he had AIDS.

Duff defends his decision to keep his condition a secret from his patients. Because he avoided invasive medical procedures, he says he "wasn't putting anybody at risk." In fact, he might have gone quietly into the night if not for an incredible coincidence: Philip Benson, one of Duff's colleagues at the Palen Clinic in Minneapolis, found out last fall that he, too, has AIDS. Duff says he knows people will think the two were lovers: "That bothers me incredibly." But, he says, there's no connection between the two cases and he has no idea how Benson got sick. On June 14 Benson sent 328 patients a letter advising them to get AIDS tests because they had come to him for procedures that might have exposed them to the AIDS virus. In the wake of extensive publicity about Benson, Duff made his public announcement last week. So far, none of Benson's or Duff's patients has tested positive for AIDS. Duff thinks of himself as a role model for other AIDS-infected doctors. Careful physicians, he says, "aren't risky."

Bergalis and the Minneapolis doctors are on opposite sides of the explosive national controversy over AIDS-infected health-care workers. Just a year ago most authorities on AIDS considered it virtually impossible for an AIDS-infected physician or dentist to pass the virus on to patients. Universally accepted precautions—such as rigorous sterilization of equipment, double surgical gloves and masks—were deemed sufficient to prevent the blood contact needed for transmission. In fact, when Bergalis was first diagnosed, health officials investigating her case relentlessly looked for other explanations, such as intravenous drug use or promiscuity. When those avenues provided dead ends, they concluded that Acer had indeed given her AIDS—although health officials say the means of transmission are a mystery. Since then, four other Acer patients have been diagnosed with the same strain of AIDS.

Although the five are still the only patients known to have gotten AIDS from a physician or dentist, their cases have turned the impossible into a frightening reality. Some health officals say the public reaction in recent months has bordered on hysteria. Legislators in several states have introduced bills calling for all HIV-positive doctors to disclose their status to all their patients, a move most medical associations regard as extreme.

According to a Newsweek Poll, more than nine out of 10 Americans think doctors should be required to tell their patients if they have AIDS (poll). Around the country, aggrieved patients have filed lawsuits after learning that their physicians were infected—even though the patients are disease-free. Many patients say they have begun to be suspicious of any doctors they fear fall into a risk group for AIDS.

Indeed, some doctors and patients have begun to view each other as potential agents of destruction, rather than participants in the healing process. Two months ago Morey Filler, a San Francisco obstetrician, was about to perform major surgery on a 38-year-old woman when she suddenly asked him if he had been screened for AIDS. Startled, Filler told her that he and his surgical team were not in any high-risk group and took precautions in surgery. Filler says that he now dresses like a "road warrior" with high plastic boots and gloves. Los Angeles cancer surgeon Mitchell Karlan faced the opposite dilemma recently after performing surgery on a patient with a facial tumor. The procedure was a success and, four days later, Karlan was about to take out the stitches—without gloves—when the patient told Karlan that he was HIV positive and advised the surgeon to protect himself. Karlan thanked the patient, donned gloves and removed the stitches. Universal precautions required in the age of AIDS make surgery "like being on guard duty for 30 days, 24 hours a day," says Karlan. "Every time I pick up a needle, it's like picking up a cobra."

Even as they try to calm these fears, health officials admit that there is some risk for both patient and doctor. According to the federal Centers for Disease Control in Atlanta, there were 6,436 reported cases of health care workers with AIDS from the start of the AIDS epidemic in the early 1980s until this March, including 703 nonsurgeon physicians, 47 surgeons, 171 dental workers and 1,358 nurses (chart). Most experts say these figures probably represent only a small proportion of infected health-care workers since they are all full-blown reported cases of AIDS. Thousands more may have tested HIV positive. Others may be infected but symptom-free and therefore untested.

Health officials still emphasize that it is extremely unlikely that a patient will get AIDS from a physician, dentist or nurse; the much greater risk is that physicians and other health-care workers performing surgery or other invasive procedures on AIDS-infected patients will get the virus from their patients. At last week's international conference on AIDS in Florence, Italy, Dr. Albert Lowenfels of New York Medical College calculated that the risk of transmission from an HIV-infected surgeon to a patient is about one in 48,000.

"The risk closely resembles the risk of a vehicular fatality during transportation to and from the hospital," he concluded. In contrast to the five Florida cases, there are 40 known cases of health-care workers around the country who have gotten AIDS from patients, according to the CDC, most of them from accidental needle sticks or cuts. Some officials say the actual number of infected workers may be much higher.

Given the millions of surgical procedures performed in this country since the start of the AIDS epidemic, these figures should reassure both doctors and patients. But like everything else about AIDS, there's a big gap between knowledge and emotion. Many of Benson's patients panicked when they received their letters from the doctor. "I was screaming," says 30-year-old Kathy Nesby, a homemaker and mother of three. Benson delivered her daughter Nicole on Oct. 10—after he found out he had AIDS. Although Nesby says his arms and hands were covered with oozing sores, during the next few months Benson performed three well baby" checkups on Nicole, looking at her eyes, nose and ears. Without wearing gloves, Nesby says he also spread the lips of Nicole's vagina and put a tongue depressor in her mouth. Although she and Nicole have tested negative for AIDS. Nesby worries about anything that goes wrong with Nicole. "She's had a little diaper rash now for over a month and a half," says Nesby. "It's sure taking a long time to clear up."

Like other patients of Benson, Nesby was particularly disturbed by the weeping lesions on the doctor's arms and hands. Though he claims he wore gloves when necessary, Benson performed rectal, vaginal and throat exams during months when the sores were so severe that one health-care professional who saw them compared them to third-degree burns. KARE TV of Minneapolis last week broadcast a photograph of a doctor identified as Benson delivering an infant last August; the photo appears to show sores on the doctor's bare arm even as his gloved hands extract the baby. Nesby says that when she asked Benson about his skin condition, he told her that it was "an allergic reaction to the sun." Another of Benson's patients, who is suing him and wants to be identified only as "K.A.C." says she can't understand why the doctor put patients at risk. "He takes an oath to save lives," she says, "not give a death sentence."

HIDING THE TRUTH

Neither Benson nor his lawyer would talk to Newsweek about the case. But Duff, Benson's colleague, admits that he hid the truth from patients who asked him if he was sick as he lost weight and grew weaker. He told them, "I'm dealing with a significant illness," he says. Mostly, he was concerned about his sons—now 14, 18 and 20. "My kids are at an age where there's a certain amount of AIDS phobia," Duff says. "I didn't want to cause a major crisis in my life." According to Duff, the clinic staff knew for two years and no one quit. In fact, he says, he asked the staff to tell him if they felt he should stop practicing. "Let me know, and I'll retire right away," he says he told them. "Sometimes you can't see things yourself very well." Now he says he realizes he should have quit earlier. Because of exhaustion, he had already cut his patient load in half. "Maybe this is God's way of saying, 'If you're not going to quit on your own, I'll get you to quit'."

But should someone have intervened sooner? Patients assume that state or federal regulatory agencies are watching over their health care. While this may be true in some parts of the medical system, doctors with AIDS are pretty much on their own. Only one state—New York—has issued enforceable rules for HIV-infected health-care workers. There are no federal regulations covering infected physicians. After months of debate, the CDC is still in the process of drafting guidelines on the issue. This week Rep. William Dannemeyer (Republican of California) is planning to introduce legislation in Congress governing infected health-care workers. Michael Osterholm, Minnesota's state epidemiologist, is the chosen representative of the nation's state epidemiologists to the Centers for Disease Control in its deliberations on new standards. "The lag in the development of federal guidelines is one of public health's worst hours," he says. "If we professionals don't do something proactive, the state legislators and the insurance companies will do it for us."

In Minnesota, state health officials were first notified of the Benson case eight months ago; it took that long to work its way through bureaucratic channels. Officials at the Board of Medical Examiners struggled with the case: they knew of no other situation in which a practicing physician with AIDS had been reported to his state board. Finally, after combing through records, authorities estimated that 328 patients were at greatest risk because of a combination of the timing of the procedures and the presence of the lesions. That number, revised last week to 339, includes 38 mothers and 38 babies.

The American Medical Association and the American Dental Association both recommend that HIV-positive dentists and physicians either refrain from performing invasive procedures or disclose their condition and obtain informed consent from their patients. Dr. Nancy Dickey, an AMA trustee, says professional self-regulation works best because each case presents its own set of problems. Some infected doctors in specialties where they have little direct contact with patients, such as radiology, would be able to work safely as long as they are healthy. Others, particularly surgeons, present greater risks.

Mandatory testing of all health-care workers might seem like a good solution, but some AIDS experts say it's impractical and ineffective. There can be a six-month lag between infection and the development of antibodies that show up on a test. That could mean that a doctor who cuts himself while operating on an infected patient would have to stop practicing for at least six months until he can be tested. And a clean bill of health could be meaningless just a day after it is issued if the health-care worker becomes infected.

Where would disclosure end? Should a physician with a seizure disorder tell his patient about his condition? What about doctors who are recovering alcoholics or substance abusers? Disclosure is "incredibly murky," says Dori Zaleznik, and epidemiologist at Beth Israel Hospital in Boston. "Do you have to tell the patient you had a fight with your wife this morning and it is affecting your judgment?"

Other physicians think the risks of testing are worth it. "The inherent right to know—for patient and doctor alike—always has to supersede confidentiality," says Dr. Sanford Kuvin, vice chairman of the National Foundation for Infectious Diseases in Washington, D.C. "The doctor doesn't have to put up a signboard, but there has to be informed consent if he is going to do invasive procedures. 'First, do no harm' is the absolute bedrock of medicine. The Kimberly Bergalises of this world are avoidable."

Testing doctors inevitably brings up the issue of patient testing. This week the AMA will meet to debate recommendations that call for routine testing at the discretion of the doctor, accompanied by counseling and informed consent. "Doctors are afraid," says Dr. Paul Rothman, president of Search alliance, and AIDS-research organization in Los Angeles. "They want to know the HIV status of their patients, and doctors who work in surgery ask us about it all the time. If we get the patient's permission, we give the information, otherwise it's up to the surgeon to discover it on his own. In many institutions, blood is illegally and surreptitiously drawn on patients to find out their status."

Historians say AIDS presents unique medical and social dilemmas. In past epidemics, infected doctors were never required to disclose their status to patients, says Sheila Rothman, a medical historian at the Center for the Study of Society and Medicine at Columbia University. Nor were patients expected to tell doctors that they had an infectious disease. "There was silence on both sides," Rothman says. From 1800 to 1870, one out of every five deaths in this country was from tuberculosis. So many doctors got the disease, Rothman says, that by the 1920s it was sometimes referred to as the "occupational disease of physicians." But even then, there was no question of not treating sick patients or of doctors who were ill refraining from practice if they were physically able to work.

Today physicians who willingly disclose their illness can pay a terrible price. Dr. Hacib Aoun's entree into the nightmare world of AIDS came without warning, heralded only by the sharp crack of a breaking test tube and the sight of HIV-contaminated blood dripping over his cut finger. In December 1986, three years after that awful day, the Baltimore cardiologist was diagnosed with full-blown AIDS. Administrators at the hospital where he was training refused to renew his contract. He sued and settled for an undisclosed sum a year later. Aoun has not been able to find a job since. He spends his time traveling around the country lecturing on doctors and AIDS. "Death is going to catch me with my boots on," says Aoun, 36. "I'm not going to sit down and dwindle away. I have a message to pass on." He is bitter that HIV-positive doctors are treated like lepers. "The one thing that I am not doing now is the thing I love most in life and that is taking care of people, because medicine has no place for those who are HIV infected, regardless of your talent."

At this stage in the epidemic, doctors who admit they have AIDS and want to continue to help others have few choices. They can become activists, like Aoun; they can work in noninvasive fields like psychiatry or they can limit their practice to people with AIDS—considered pariahs by many doctors. In one recent study, two thirds of medical residents surveyed said they did not plan to treat people with AIDS and 74 percent of residents said they would not give lifesaving treatment to HIV-positive patients if the risk of infection to the resident were one in 100, according to Molly Cooke, an associate professor of clinical medicine at the University of California, San Francisco, who conducted the study.

Or HIV-positive doctors can continue to practice, keeping their painful secret. That is the choice that Bill (not his real name), a 41-year-old New York doctor, has made. It's been a little more than two years since Bill tested positive for HIV. He is still healthy and is not on medication. He follows the universal precautions to the letter, including hand-washing, gloves and masks. "Do I think there's no situation where HIV could be transmitted?" he asks. "No, there must be. But living in 1991 America puts us at risk for lots of things. You could ride on a subway that catches on fire. You can be involved in a car accident. Being alive involves risk."

Bill says he took the AIDS test when his lover became infected. Since his lover died a year ago, he has been especially grateful for his work. "In grieving," he says. "I've found that work can be a refuge. I'm glad to have it." Bill believes that not only is he not putting patients at risk, but he is serving some who would otherwise get no health care. "I'm talking about clinic patients, patients with tuberculosis, drug abusers, patients who have no access to health care. I'm one of very few in my specialty who don't turn away patients whose consult read 'HIV positive, insurance negative'."

In the absence of federal regulations, HIV-positive doctors must make their decisions the way Bill did—one case at a time. Patients can only guess about the health of their doctors; similarly, doctors must take risks with patients they may consider suspect (box, page 54). And the few for whom the issue is no longer theoretical will try to make some sense out of their tragedy.

Like Kim Bergalis, Barbara Webb was infected by David Acer, her dentist. the 65-year-old retired teacher says she never thought much about AIDS until she saw a story in the local paper about a patient suspected of contracting AIDS from Acer. She and her husband, Bob, also an Acer paient, went in to be tested. Her husband's test was negative; hers wasn't. "It was just like being hit in the solar plexus by a heavyweight boxer," says Webb. "I could hardly breathe. I thought: 'This is impossible'." In the months since, Webb, who is on AZT, has made a fragile peace with her disease, but she's still angry that Acer hid his illness. Earlier this year she needed eye surgery. She told her doctor she was HIV positive and explained that she would not be insulted if he refused to operate on her; he agreed to do the operation. "I would have understood totally and gone down to the AIDS clinic," she says. "And it wouldn't have bothered me at all to go down. I just gave him the option. Nobody gave me the option."

I Blame Every One of You Bastards

(Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.)

"When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

"I was infected by Dr. Acer in 1987. My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

"Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that *knew* Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

"Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

"Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your *fingers* and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skeleton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

"Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

"P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

"I'm dying guys. Goodbye."

In Florence, a Meeting of Mysteries

For the seventh year in a row, thousands of scientists from around the world gathered last week to share their research on a disease that frustrates and fascinates them. Although the International Conference on AIDS in Florence was less politicized than in past years, there were demonstrations over a U.S. immigration policy that bans anyone carrying the AIDS virus. There were gloomy predictions that by 1995, 15 million people will be infected worldwide. And some studies suggested it's easier to get AIDS through heterosexual intercourse than most people think. But the conference offered good news, too: researchers understand better why some people carrying the virus remain free of symptoms for many years—and new drugs hold out the promise of prolonging lives.

An estimated 8 million to 10 million people are infected with the AIDS virus, says Dr. James Chin, head of the World Health Organization's AIDS surveillance unit; more than half live in sub-Sahara Africa. By 1995, Chin says, newly diagnosed cases will likely plateau in the industrialized world, but transmission will explode in developing nations. During the next couple of decades in the Third World. Chin predicts, "AIDS will become the leading cause of death for adults in their most productive years."

In the developing nations AIDS is spread most often by heterosexual intercourse. Initially researchers believed the virus was harder to transmit by vagina sex than anal sex, where rectal bleeding gives it direct entry to the bloodstream. But researchers from Harvard University's Dana Farber Cancer Institute reported evidence of what scientists had long suspected: even very small concentrations of the virus can be transmitted directly through mucous membranes. Dr. William Haseltine's team discovered the virus in a type of cell found in the linings of the rectum, vagina and mouth. Although AIDS transmission through deep kissing (with exchange of saliva) is theoretically possible, says Haseltine, "most people in public health think the risk is a small one."

Viruses lurking in mucous membranes, away from the bloodstream, may be more difficult to zap with drugs. But at least one drug, AZT, has lengthened the lives of many people who are HIV positive. Several researchers reported that combining AZT with the experimental drugs known as DDC and DDI substantially increased survival rates.

Physicians have been tantalized by the puzzle of people with longstanding HIV infections who haven't developed symptoms. Dr. Jay Levy of the University of California, San Francisco, discovered that their immune systems naturally produce a substance that temporarily halts replication of the virus. It seems able to fend off the virus' ravages for as long as a decade, says levy, and could be useful in developing effective drugs.

As the conference ended, there was much apprehension among participants over whether they would meet again in 1992. Many said they won't attend next year's meeting in Boston if the restrictive U.S. immigration policy isn't changed; conference organizers may even cancel it. The U.S. Public Health Service recently recommended eliminating all but active TB from the list of eight infectious diseases that preclude entry to the United States. So far, the Bush administration has rejected that advice. Like many other aspects of AIDS, the outcome of this conflict is still uncertain.

INNOCENT GIRL'S BLOOD ON POLITICIANS' HANDS

(By Ray Kerrison)

In what may have been her last public communication before she dies, Kimberly Bergalis indicted the American public-health service in terms that haunt her soul. Her blood, she said was on their hands.

You bet it is, Kimberly Bergalis was a beautiful, healthy Unviersity of Florida student, as innocent as the sun in the sky, when she contracted AIDS from her dentist, Dr. David Acer. Now, at 23, she's a 70-pound skeleton, bedridden, wracked by pain, burning with fever, begging God to release her from her agony.

She is dying because the political and public-health systems are more interested in protecting the wayward, the deviant and the promiscuous than the upright.

She understands it so clearly that she wrote a letter to a health investigator that should sear the conscience of every politician, doctor and health worker in the country.

"Whom do I blame?" Kimberly wrote. "Do I blame myself? I sure don't. I never used drugs, never slept with anyone and never had a blood transfusion.

"I blame Dr. Acer and every single one of you bastards. Anyone who knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You're all just as guilty as he was. You've ruined my life and my family's."

The unforgivable fact of Kimberly's impending death is that it is so unnecessary. She was infected when she had two teeth extracted in December 1987—three months after Dr. Acer, a bisexual, was diagnosed as having AIDS.

She was like a lamb led to the slaughter. The whole political, medical and public-health system of Florida, as they do in so many states, including New York, joined in a conspiracy of silence to shield Dr. Acer's deadly disease and allow hundreds of patients to be exposed to his infection. If this is not cold-blooded, deliberate dereliction of duty on a massive scale, I don't know what is.

After contracting AIDS, Dr. Acer treated 1,700 unsuspecting patients before he died last September. He is believed to have infected four others in addition to Kimberly.

Kimberly concluded her letter, "If laws are not formed to provide protection, then my suffering and death was in vain. I'm dying, guys, Goodbye."

You'd think, Kimberly's plight would trigger universal dismay and anguish. Not in New York. Our state officials studied her tragedy and shrugged it off.

A hundred Kimberly Bergalises could be sacrificed and New York's so-called public-health officials would not be moved. Why? Because they are political and medical cowards.

The nation's leading health groups—the American Medical Association and the American Dental Association—have both taken the unequivocal position that doctors and dentists infected with the AIDS virus should warn their patients or give up surgery.

That's just common sense, but the New York State Health Department trashes it. Its policy is that health-care workers infected with the AIDS virus need not tell patients and certainly they may continue to operate or perform other invasive procedures. The department holds that patients don't have a legal right to know the health status of doctors or dentists given them care.

Dr. David Axelrod, as the state commissioner of health, made this policy in the winter, shortly before he was stricken with a stroke. He claimed the chance of being infected by a doctor or dentist was one in 100,000 or one in a million. He apparently liked those odds. They are not so great if your name is Kimberly Bergalis.

Dr. Axelrod was not alone. Gov. Cuomo, Mayor Dinkins, the city's health commissioners and most politicians have consistently opposed mandatory reporting of the AIDS virus, even though it is the law for all other sexually transmitted diseases such as herpes and syphillis.

Why is AIDS, the deadliest of all such diseases, the lone exception? Because New York's politicians, especially Cuomo and Dinkins and their government departments, are prisoners of the radical homosexual lobby. They place the public's health at risk rather than offend the militants in ACT-UP.

The day may come when New York will have its own Kimberly Bergalis. If it does, watch out. That's when the politicians and health authorities will be held accountable.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in strong support of the Helms amendment. This important amendment will make it a criminal offense for a doctor or other health care provider who is infected with the HIV virus to provide medical treatment without prior notification of such infection. Those who fail to warn their patients of such infection face a mandatory term of 10 years in prison.

Mr. President, I have great sympathy for individuals infected with the AIDS virus. However, those who recklessly provide medical treatment to unknowing patients without informing them should be held accountable. Any physician, dentist, or other health care provider who chooses to perform invasive procedures knowing he or she has the AIDS virus is causing the patient to take a deadly risk. Common sense dictates that the interested patient, not the physician with AIDS, make such a decision. Physicians take an oath to preserve life. This amendment ensures that they will take no such step to endanger a life.

For these reasons, I urge my colleagues to support the Helms amendment.

Mr. CRANSTON. Mr. President, the amendment of the Senator from North Carolina [Mr. HELMS] should be rejected by the Senate. It is a wrongful amendment—in its substance and in its timing.

Next week the Centers for Disease Control is expected to issue guidelines for health care workers and AIDS. I have no idea what these guidelines will contain. But I do know one thing: The CDC guidelines will be far more carefully considered and drawn—and based upon substantial consideration and input by experts and laypersons alike—than is the case of the amendment by the Senator from North Carolina. Because here we are again: Faced with legislation that will set not only American health policy with respect to one of the most serious health issues of our times, but also set severe criminal penalties for violating that policy—in a short period of debate on the floor of the U.S. Senate.

Mr. President, I think it unconscionable for the Senate to act so precipitously on a health issue of this gravity. We simply do not know what we are doing. We have no evidence that the amendment of Senator from North Carolina is a sound response to the issue at hand and that it would be effective in reducing the risk of infection to patients by HIV infected health care workers.

I totally understand—indeed, I share—the deep concern of any person over the possibility of transmission of the AIDS virus by a doctor or dentist or any other health care worker. But I think a very important question must be asked: Will this amendment, if enacted, reduce the risk of HIV transmission from health care workers to patients? It seems to me that what we want is for HIV-infected health care workers—as we want for all HIV-infected Americans—is to take actions that will reduce the risk to themselves and to others. Might it be that threatening health care workers with jail would tend to discourage them from being tested—and for those who know their status, to make them more fearful of seeking treatment out of fear of disclosure?

There is a another question that I find really goes to the heart of what is proposed by the Senator from North Carolina: Given all we know about this issue—and more importantly, what we don't know—is the behavior of HIV-infected health care workers an appropriate area for Federal criminal law? Is it an appropriate area for Federal—and I emphasize Federal—regulation at all?

Mr. President, I agree with the American Medical Association when it says that physicians doing invasive procedures have both a responsibility to determine their HIV status and they have an ethical obligation to avoid any professional activity which has an identifiable risk of transmission of the infection to a patient, or to obtain informed consent from a patient.

But is specifying and controlling these questions of professional ethics something the Federal Government should do?

Of all the issues affecting the doctor/patient relationship and the health of the patient, why does the Senator from North Carolina single out AIDS? If the Government is to dictate professional ethical standards and penalties for the practice of medicine, why don't we specify standards for professional competence? Why don't we establish a standard by which the successful procedures record of a surgeon can be evaluated in terms of the risk it poses to a propective surgical patient? What about other deadly infectious diseases? What about alcoholism, drug addiction, state of mind, or overall mental health.

Mr. President, I strongly oppose the amendment of the Senator from North Carolina. I think it is the wrong way to go—and I think it is particularly inappropriate at this time, knowing as we know that the CDC guidelines on this issue are about to be issued. I hope other Senators will share my view and accordingly vote no on the Helms amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, first I want to thank my long time friend and distinguished Senator from South Carolina [Mr. THURMOND] for his cosponsorship of this amendment, and for his endorsement of it. He was eloquent, as usual.

I want to suggest to the managers of the bill, since there seems to be no rush to criticize it, that we enter into a time agreement. I see Senator DOMENICI and I was just going to suggest to the Senator and the Senator from New Mexico that he may want to propound a request for a time agreement, a time limitation.

Mr. DECONCINI. Will the Senator yield?

Mr. HELMS. I will certainly yield.

Mr. DECONCINI. I do not think it is, as they say, in the cards to secure a time agreement.

Mr. HELMS. I see.

Mr. DECONCINI. From what I can gather—I have had a chance to look at the Senator's amendment—I very likely may end up supporting him.

Mr. HELMS. I thank the Senator.

Mr. DECONCINI. I am not the one to debate the Senator from North Carolina and that is why he has not seen me here. I might ask the Senator from Massachusetts to let us set this amendment aside and move to some other amendments that I think we can handle if we cannot seem to get the Helms amendment moving along to a conclusion today.

Mr. HELMS. What goes around comes around, does it not? That is what I have had with this amendment for 2 or 3 days.

I understand the position of the distinguished manager. I am not being critical of the Senator in the slightest. I thank the Senator for his cooperation. So we will just wait to see and do the best we can.

Mr. DOMENICI. Will the Senator yield without losing his right to the floor?

Mr. HELMS. Certainly.

Mr. DOMENICI. As the Senator knows, this is one of the appropriation bills and we were asked by the chairman of the committee to move it in its normal course. We are second this year. What our chairman, Senator DECONCINI, was alluding to, is if indeed it seems this is going to precipitate a prolonged discussion, which obviously one is entitled to within the rules of the Senate, we only have two or three contested amendments, I think we would do well to suggest to the Senator that we might try to get time agreements on a couple of them. Then, perhaps, get those sponsors to come to the floor and ask those involved in the pending amendment if they would let us take up these others with a time agreement.

Does the Senator not think we might do that with these other amendments?

Mr. DECONCINI. Yes.

Mr. DOMENICI. What does the Senator from North Carolina think of that?

Mr. HELMS. That is perfectly agreeable to me. I have managed bills before and I know how it is to sit there and waste time.

Let me ask this of the managers of the bill. I know they will. I would like to keep protected in case any motion is made. I would ask them to put in a quorum call before any action is taken on any motion made.

Mr. DOMENICI. We will do that as a matter of course. I appreciate the Senator reminding the Senator from New Mexico of it. There is no problem with that.

I ask the Senator from Massachusetts, if we get a couple of amendments on which we have a time agreement, would he be agreeable?

Mr. KENNEDY. I would be more than happy to agree.

I would like to speak briefly on this. Then I would agree.

Mr. DOMENICI. I thank the Senator.

Mr. HELMS. Mr. President, I have not yielded the floor. I shall in just a moment. I do thank the Senators. Under the circumstances I think I will go over and see if my office still exists.

Mr. DOMENICI. I thank the Senator.

Mr. HELMS. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the Senator from North Carolina has introduced legislation that would affect thousands of health personnel in this country and require that they be tested and, should the circumstances outlined in the amendment take place, be penalized for not less than 10 years in jail.

He has portrayed this amendment as a way to protect the American consumer. Nothing, quite frankly, could be further from the truth. That is why, Mr. President, the amendment should, at an appropriate time, either be defeated or be tabled.

I had not expected that this amendment would be up at this time because it proposes legislation on an appropriations bill. Many of us have been involved, or at least I have been over at the Armed Services Committee in the hope that we will be able to conclude the work on authorized legislation with regard to the administration's request. But I was just notified in the past few minutes about the Senator's amendment, and I would like to make some brief remarks.

Mr. President, all of us have an enormous sense of sadness and grief about the terrible tragedy that has happened to Kimberly Bergalis. I think all Americans feel indignation at her loss as a result of a dental procedure which allegedly has caused her to be not only HIV positive, but also to have the disease of AIDS from which she is now suffering.

If this particular amendment would do anything about her particular case, I would be in strong support of it, but it does not. That is why every major health association does not support this particular amendment but supports the efforts that are taking place at the Centers for Disease Control under Dr. Roper, who is the head of the Centers for Disease Control and who expects to promulgate guidelines and regulations in the early part of next week.

So any action is really precipitous prior to the time that Members of this body are permitted to examine those rules and regulations that would be applicable to health care workers and HIV transmission. That is the responsible way to proceed.

It is interesting that the Senator from North Carolina, in really only a few days before the promulgation of these regulations, wants to, in effect, come to judgment on this issue, prior to the opportunity for those who are concerned about the public health issues, and who have prime responsibility in this area as in other areas of public health, to issue regulations.

The Centers for Disease Control has been considering a variety of different concerns such as the mandatory testing and disclosure which the Senator from North Carolina talks about. They talk about issues involved with mandatory testing, the expense of testing for all members of the medical profession that perform invasive procedures, and what the effectiveness of the test is on any given day. An individual may actually have contact or be infected by the HIV virus in the month of March, and be tested in April, but it takes 3 months for the current test to be valid.

So what are we going to do with the medical profession? Are we going to test them every week, every month, or is everyone going to feel that if they support the Helms amendment and we know our doctors are being tested, that they will have the good seal of approval and cannot possibly have HIV? But look carefully at what is being studied by the Centers for Disease Control, and the difficulties show up. Even with the conduct of testing, it is very difficult to come up with an accurate prediction about who is going to be infected and who is not.

Second, Mr. President, the Centers for Disease Control is very concerned that, if they promulgate regulations about mandatory testing, anyone that has HIV and perform an invasive procedure is going to have 10 years in jail. They wonder whether individuals who may or may not have contracted HIV, are going to risk going down and having a test, because if they go down and have a test and then are involved in an invasive procedure, they will go off to jail for 10 years.

So what has been the public policy consideration there? Public health officials have found out when you have the mandatory test for a particular group, you drive the individuals who are most likely to have the HIV positive underground. That, quite frankly, is why the Centers for Disease Control believes that you may very well, with this kind of amendment, open up a greater kind of health hazard for the patients in this country, rather than considering some other kind of process or public policy with protections which may achieve what is the objective of all of us: to provide absolute safety, to the extent absolute safety can be achieved, for patients in this country.

These are some of the concerns I will include in the RECORD at this time, as we have not all been given an opportunity the CDC has had to review the various positions of just about every health professional organization on this particular issue. I am going to include some of those in the RECORD so Members will have a chance to review it, because they should.

This is an extremely important public policy. I mean, how easy it would be for this body to vote on this 95 to 5 and begin to believe that they are providing protection for the American people.

Some would say we have done our best. We would have said that anybody who is HIV positive goes to jail for 10 years, so any time you go to the dentist or have an operation, you are absolutely safe. Baloney, baloney. That is effectively what the Centers for Disease Control says about this particular amendment: baloney. What Dr. Roper says about it is his desire to first promulgate the regulations and permit the Members of the Congress, and the American people, and the American health professionals, a chance to review them and make recommendations, and then put into effect what is a sound public health policy.

That, Mr. President, is why it is important, and why effectively we will wait, until the promulgation of those regulations before taking any kind of action on this. Senators are quite entitled to votes, and I do not question the ability of the Senator from North Carolina to get a vote on this measure or another measure like it. I would not object to establishing a time where such a vote may take place. But it will not take place prior to the time that the Centers for Disease Control promulgates these regulations, which are enormously important.

Mr. President, many of us have been around here long enough that we have seen games played on the whole issue of the HIV, and have seen how easy it has been to play on the fear and trepidation of individuals. We have seen how ideology can take over and drive our public policy. But I thought we moved beyond that, Mr. President, when we passed the Ryan White bill last year, named after a brave young man, a teenager, a hemophiliac, who contacted AIDS as a result of a blood transfusion. I remember his mother being in this gallery and out in the reception room, pleading with tears in her eyes that we not address this issue in the context of an ideological debate, but that we should resolve this issue on sound public policy.

We heard speeches here regarding the authorization for the Ryan White bill. We passed that bill overwhelmingly, overwhelmingly in a bipartisan way.

We were not able to get the appropriations that we wanted but we made some modest advances even in this first year. But in speech after speech, Senators rose saying—let us finally put ideology and fear behind us and put sound public policy ahead. I wonder if we need Ryan White's mother to come back up here in the gallery and look down on the Members here and shame them into a conscionable and responsible vote. If that is what we need, that is what we will have, if she would be good enough to come back here. We will find out if this institution, these individuals, can be frightened right back into a shell. I hope that would not be the case, Mr. President,

But it seems to me that if we are going to try and effectively run roughshod over the Senate rules about legislating on appropriation—that is what is being done, and every one of us know that—we can send this amendment to the desk, and we know what the drill would be: Appeal the decision of the Chair on this kind of an emotional issue, run roughshod over the Senate rules, and stampede the Senate into a vote. Well, it will not happen this afternoon. It will not happen tomorrow, if the Senate comes in. If the Senate wants to go and proceed on the issues of cloture, so be it. I want to see those 60 names on it. I want to send those names right out to Ryan White's mother.

Mr. President, I ask unanimous consent that the following materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH & HUMAN SERVICES, PUBLIC HEALTH SERVICES,
Atlanta, GA.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC

DEAR SENATOR KENNEDY: In August 1987 the Public Health Service published guidelines addressing the appropriate use of human immunodeficiency virus (HIV) antibody testing in health care settings ("Recommendations for Prevention of HIV Transmission in Health-Care Settings," *MMWR* 1987; 36:1–188). The report of a possible transmission of HIV to a patient during an invasive dental procedure (MMWR 1990; 39:489–493) has prompted a review of existing guidelines.

This matter is currently under scientific evaluation. Comments have been obtained from members of the scientific, medical, and public health communities, as well as from members of the public at large. Additional opportunities for comment and review will be provided to all interested parties. A decision on the need for revision of guidelines, as well as the form that such new recommendations might take, is expected once this process is completed. I believe an open, thorough, scientific review of this matter, with no preestablished conditions or restrictions of any kind, is of critical importance to the public health of this Nation.

We look forward to working with all interested parties in developing appropriate science-based recommendations to protect the public health.

Sincerely,
WILLIAM L. ROPER, M.D., M.P.H.,
Director

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME,
Washington, DC, July 11, 1991.

On July 11, 1991 the National Commission on AIDS unanimously adopted the following resolution:

The National Commission on AIDS has followed the issues involved in HIV testing in the health care workplace with close attention. We have worked with the U.S. Public Health Service and have participated in the careful deliberations sponsored by Centers for Disease Control in February 1991 which involved testimony from over 100 individuals and organizations with a broad array of experience and/or expertise. We strongly urge Congress to refrain from enacting any legislation that would preempt this important process in advance of the release of, and orderly comment on, proposed revised guidelines concerning HIV safety in the health care workplace.

STATEMENT OF THE AMERICAN MEDICAL ASSOCIATION TO THE CENTERS FOR DISEASE CONTROL

(By Nancy W. Dickey, M.D.)

RE: HIV Transmission During Invasive Procedures.

My name is Nancy W. Dickey, M.D. I am a family physician practicing in Richmond, Texas and I am a member of the American

Medical Association's Board of Trustees. With me is M. Roy Schwarz, M.D., the AMA's Senior Vice President for Medical Education and Science. We appreciate this opportunity to comment on the Centers for Disease Control (CDC) risk assessment data on HIV-infected health care workers and to offer the AMA's assessment of these risks.

The AMA appreciates how difficult it is at present to estimate the risk of infection to patients by HIV and HBV infected health care workers. Unfortunately, there is enough data to alert us that transmission of HIV from an infected health care worker has occurred, but not enough data to describe with confidence how extensive the problem is.

Basic Principles. The problem of the HIV-infected physician is a difficult one. There are no perfect solutions. However, the AMA believes certain basic principles should guide the CDC and the medical profession.

First, a physician who has a transmissible and fatal disease should not place his or her patients at risk. That has been the view of the AMA's Council on Ethical and Judicial Affairs, which maintains the Code of Ethics that is generally regarded as the medical profession's code, for a long time.

It has also long been the view of AMA's Ethics Council—confirmed by common sense and now by the CDC's recent report regarding the Florida dentist who appears to have infected three patients—that the risk of transmission from an HIV infected physician during certain invasive procedures is very low but real. So some restraint on invasive procedures is necessary as a matter of the oldest precept of medical ethics—that *the physician shall do no harm*.

This is not a new or reactive position of the profession, and it is really the only acceptable position. Attached is the Ethics Council's opinion on the issue dated December, 1987. Moreover, taking this position we are acutely aware of the rights—as well as the duties—of physicians and other health care workers infected with AIDS.

Some four years ago the American medical association challenged the view of the Department of Justice that the Rehabilitation Act did not protect people with AIDS from irrational discrimination. The AMA filed a brief *amicus curiae* in the Supreme Court in the landmark case *School Board of Nassau County* v. *Arline*, 480 U.S. 273 (1987), arguing that persons with infectious diseases, including AIDS, were "handicapped" within the meaning of the Rehabilitation Act, and we offered a four part analysis for determining when such individuals were fully protected under the Act. The Supreme Court disagreed with the Justice Department and said "we agree with amicus the American Medical Association" and then quoted the key test as presented in our brief (480 U.S. 273, at 288). AMA then filed medical/legal briefs supporting the rights of persons with AIDS to be free from arbitrary discrimination in the leading cases in the courts at the time, including *Ray v. School District of DeSoto County*, 666 F. Supp 1524 (M.D. Fla. 1987) and *Chalk (Doe) v. Orange County Department of Education*, (9th Cir. 1987).

Secondly, the chief complication of this position cited by certain groups involves a policy that *the AMA opposes—mandatory testing of physicians*. When the very low probability of a surgeon acquiring AIDS from an infected patient is multiplied by the even lower probability that the same physician would then transmit the infection to patient, the risk to patients of becoming infected is virtually immeasurable, much lower than the risk that an *already* infected surgeon would transmit the disease.

Physicians who are at some measurable risk of acquiring AIDS—because they do significant invasive procedures on many HIV-infected patients or for other well-known reasons—do have an obligation to determine their seropositive status—to protect their loved ones as well as their patients—but this is by no means all surgeons or all physicians who do any invasive procedures.

Physicians who are HIV-positive have an ethical obligations to avoid any professional activity which has an identifiable risk of transmission of the infection to a patient. Or, they may proceed with the patient's informed consent. We believe that AMA's longstanding policy continues to be the best for physicians and patients. It will work because it reflects a fundamental tenet of professional ethics by which the vast majority of physicians abide. Indeed, many infected physicians have voluntarily restricted their practices. It will work because the liability risk to physicians and the improved treatment techniques for HIV infection will cause those at significant risk to be tested and seek help. It will work because AMA pledges to stand by and help the small number of physicians whose practices must be restricted.

Even if the policy is not universally effective, it is better than any of the alternatives. And patients are certainly better off knowing that the profession hs publicly reaffirmed that their interests will always come first.

CDC Risk Model. You have asked also for our comments on the CDC's risk model. The CDC's attempt to assess the risk and calculate the number of patients infected by physicians is based on a series of assumptions as the CDC correctly concedes. Although these assumptions are well-reasoned, different but equally reasonable assumptions would have a significant effect on the CDC estimates and alter the risk estimates for patients.

For example, the CDC's risk model is based on an infected health care worker receiving a needle stick during an invasive procedure and the contaminated needle coming into contact with the patient's wound. The model does not take into account other mechanisms of patient exposure such as bleeding into a patient's wound, skin and mucous membrane exposure, or contaminated instruments.

Another factor limiting the accuracy of the CDC's estimates is the uncertainty over how many surgeons and dental workers are HIV-positive. The CDC's method for estimating the number of surgeons with HIV infection relies on other imprecise estimates such as the number of people in the U.S. infected with HIV. This multiplies the chance of error.

Other limitations of the risk model and the estimates are spelled out in the CDC's draft document. Therefore, it would be appropriate for the CDC to conclude that at this time it is not possible to calculate an accurate estimate of the risk of transmission of HIV from health care worker to patient.

Let me again emphasize that the Association's policy is based on the principle of medical ethics that the health of patients must always be the paramount concern of physicians. Therefore, because of the uncertainty about the risks to patient health, physicians should err on the side of protecting patients.

In reaffirming this policy, the AMA gave thoughtful consideration to the consequences or "ripple effects" of our position. For example, some say that our policy will lead to mandatory HIV testing for those who perform invasive procedures or that, because of the economic consequences, fewer physicians will be willing to risk infection by performing invasive procedures on HIV-positive patients. We strongly disagree. Mandatory HIV testing for health care workers would be no more successful or cost-effective than mandatory testing for marriage license applicants. Two states tried mandatory testing for marriage license applicants but the low incidence of HIV infection in this population led to repeal in both states. In addition, testing of health care workers would need to be done periodically and even then there would be infected health care workers who would test negative because they had not yet seroconverted.

We also reject the suggestion that surgeons would violate our ethical obligation to treat HIV-infected patients out of fear of the economic consequences of becoming infected. Physicians treating HIV-infected patients have already accepted the small but real risk of life-threatening health consequences and will not be deterred by economic consequences to their medical practice.

AMA/Yale Task Force. We know there are no easy answers for HIV-infected physicians. We would like, however, to reassure HIV-positive physicians that the AMA's pledge of support is serious and not limited to AMA members. We have organized a Task Force on Personal and Educational Needs of HIV Infected Physicians. Working with a group at Yale, this Task Force will address current resources available, new resources needed, specific projects appropriate for the AMA, and potential roles for organized medicine and others.

We have focused these comments on HIV and not HBV. This is because the risk of transmission of HBV between surgeon and patient has been identified for some time. Existing CDC guidelines already call for exclusion of HBV infected health care workers under certain circumtances. Aggressive efforts by the AMA and other health organizations toward the vaccination of health care workers against HBV can eliminate the problem of HBV transmission to patients in the future. In the meantime, hepatitis B immune globulin is available to treat those exposed to HBV. On the other hand, there is no comparable vaccine or treatment for HIV, so we believe that the number of HIV-infected individuals and health care workers will grow and the risk of transmission will remain.

Conclusion. The AMA commends the CDC for drafting a carefully considered model for calculating the risk of HIV transmission to patients during invasive procedures. Unfortunately, the AMA finds that there is simply insufficient data to allow this model to yield useful estimates. This being the case, we recommend that the CDC acknowledge the limits of current knowledge and emphasize patient protection as the foremost consideration of CDC guidelines.

COUNCIL OF STATE AND
TERRITORIAL EPIDEMIOLOGISTS,
July 5, 1991.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: I understand that the Senate may soon be considering an amendment to S. 1241 which would force states seeking federal funding for health programs to require health care workers who know they are infected with HIV to disclose that information to their patients.

As president of the Council of State and Territorial Epidemiologists (CSTE), I request that you oppose this amendment. My reasons for this request include:

1. There is no risk of HIV transmission from most health care providers to their patients. Even for health care workers who perform invasive procedures such as surgery, this risk is extremely small.

2. State laws requiring health care providers who know they are HIV-infected to notify their patients may actually increase the small risk of transmission to patients. Under such laws, a health care worker can avoid losing his or her livelihood simply by not being tested and by remaining ignorant of his or her HIV infection. This is perhaps the most dangerous scenario—an HIV-infected surgeon who is ignorant of his or her infection, who has not sought advice for protecting patients, and who is not practicing routine infection control precautions with special attention.

3. Solving the problem raised in item 2 by requiring periodic testing of health care providers would be far too costly relative to the minuscule risk such a measure would address.

I strongly believe that an approach which seeks the voluntary cooperation of an HIV-infected health care worker for protecting patients is much more likely to be effective than the proposed mandatory approach. An example of such a voluntary approach as used in Oregon is described in the attached "CD Summary".

Thank you for considering my request. If I, or other members of CSTE can provide additional information to help you as you consider this complicated issue, please let me know.

Sincerely,
LAURENCE R. FOSTER, M.D., M.P.H.,
President.

STATEMENT OF THE AMERICAN HOSPITAL ASSOCIATION BEFORE THE CENTERS FOR DISEASE CONTROL ON REDUCING THE RISK OF HIV AND HBV INFECTION DURING INVASIVE PROCEDURES—FEBRUARY 21, 1991

Good morning. I am Gina Pugliese, Director of Infection Control and Environmental Safety of the American Hospital Association (AHA). On behalf of AHA's nearly 5,500 institutional members and almost 48,000 individual members, we are pleased to have the opportunity to comment on the CDC's draft document: "Estimates of the risk of endemic transmission of HBV and HIV to patients by the percutaneous route during invasive surgical and dental procedures," and the implications of these risks.

The AHA recognizes the public concern regarding transmission of HIV and HBV and we support efforts to protect healthcare workers and patients against the transmission of these bloodborne pathogens. Toward that end, in 1987 we recommended that our member hospitals voluntarily implement universal precautions as recommended by the CDC because we believe that the adoption of universal precautions is the most effective means of reducing the risk of infection for hospital staff and patients. We recognize the CDC's important leadership role in assisting healthcare institutions, professional associations, and healthcare workers in the control of transmission of HIV, HBV and other bloodborne pathogens through its ongoing investigation, surveillance, education and coordination of efforts as demonstrated by the present meeting.

After a careful review of the available risk assessment data, the AHA does not believe a change in our current position is indicated at this time. Our present position states:

UNIVERSAL PRECAUTIONS

The AHA believes that the adoption of universal precautions is the most effective means of reducing the risk of infection for hospital staff and patients.[1]

Adherence to universal precautions . . . will minimize the risk of HBV and HIV infection and other bloodborne pathogen infections from hospital personnel to patients during all types of interactions, including invasive procedures.[2]

Hospital policies and practices should enforce the observation of universal precutions through effective monitoring of compliance, combined with counseling, education, retraining and, if necessary, disciplinary action for employees and medical staff members who fail to follow protective measures.[1]

MANAGEMENT OF HEPATITIS B AND HIV-INFECTED EMPLOYEES

HBV and HIV-infected employees do not need to be removed from patient care responsibilities if they are otherwise capable of performing their tasks . . . As with all other potentially impaired healthcare workers, decisions about whether symptomatic HBV or HIV-infected healthcare workers can adequately and safely perform their duties requires consideration on an individual basis. Factors to be considered in formulating institutional policies regarding personnel with HBV or HIV infection should include the functional health status of the employee, the nature and scope of the employee's patient care responsibilities, and the ability of the employee to perform his or her duties safely.[2]

Hospitals should establish a mechanism to evaluate the hospital employee to determine whether the employee known to be infected with HIV or HBV can adequately and safely perform patient care duties, including invasive procedures, and if indicated, to suggest changes in work assignments. Periodic reevaluation of the symptomatic infected employee should be provided.[2]

HIV TESTING

Routine testing of staff is not recommended. Moreover, such screening should not be substituted for rigorous adherence to universal precautions . . . Reliance on staff testing may undermine rigorous adherence to universal precautions.[1]

Providing patients with the HIV status of their caregivers and allowing them to decline the services of infected staff is as unacceptable as the parallel use by caregivers of patient HIV status to refuse to treat infected patients.[1]

MODIFICATIONS IN INVASIVE PROCEDURES

If there are acceptable modifications in invasive procedures that can further minimize the risk of exposure, ideally they should be incorporated into established practices for all patients in order to afford maximum protection of all patients and staff.[1]

MANAGEMENT OF EXPOSURE OF PATIENTS

If a patient experiences parenteral or mucous membrane exposures to blood or body fluids of a healthcare worker, the patient should be informed of the incident . . . and receive appropriate follow-up.[2]

UNIVERSAL PRECAUTIONS—DISINFECTION AND STERILIZATION

Instruments and other non-disposable medical devices that enter normally sterile tissue, the vascular system, or areas through which blood flows should be sterilized before reuse. Instruments or other non disposable medical devices that touch intact mucous membranes should be sterilized or receive high-level disinfection.[2]

INVASIVE PROCEDURE IS DEFINED AS:

"Surgical entry into tissues, body cavities, or organs, or repair of traumatic injuries in an operating or delivery room, emergency department, or outpatient setting, including both physicians and dentists offices; cardiac catheterization and angiographic procedures; vaginal or cesarean delivery or other invasive obstetric procedure where bleeding may occur; or manipulation, cutting or removal of any oral or perioral tissues, including tooth structure during which bleeding occurs or the potential for bleeding exists.[2]

The AHA would also like the CDC to consider the following recommendations when developing guidelines for the prevention of transmission of HBV, HIV, and other bloodborne pathogens to patients during invasive procedures:

Include a strong emphasis on the need for hepatitis B vaccination of all healthcare professionals that have exposure to blood, including those performing invasive procedures, with emphasis on vaccination in schools of medicine, dentistry, nursing, laboratory technology and other allied health professions before they have their first contact with blood.

Assign a high priority to additional research on assessment of risk of HIV and HBV from infected healthcare workers to patients during invasive procedures so that "actual" rather than "estimated" risks can be used in the development of guidelines to reduce risk.

Provide guidelines to assist clinicians and institutions in their "case-by-case" decision about whether an HBV or HIV-infected healthcare worker can adequately and safely perform his or her duties. Consider suggesting that the evaluation of the infected workers be patterned after the evaluation of other "impaired" healthcare workers.

Identify and recommend modifications in surgical or dental procedures that reduce the risk of exposure to both the patient and the healthcare worker, including surgical techniques and the use of specific engineering controls. Additional research and cooperative efforts with professional associations is needed to identify these modifications.

In closing, the AHA believes that any guidelines for reducing the risk of transmission of bloodborne pathogens in the healthcare setting should be based on sound scientific data and balance both the interest of the healthcare worker and the patient.

Again, we appreciate this opportunity to present AHA's views and recommendations. I will be happy to answer any questions.

FOOTNOTES

[1] AIDS/HIV Infection: Recommendations for Healthcare Practices and Public Policy—Report of the AHA's Special Committee on AIDS/HIV Infection Policy 1987-88.

[2] Management of HIV Infection in the Hospital—Recommendations of the AHA's Technical Panel on Infections Within Hospitals, 1988.

ASSOCIATION OF STATE AND
TERRITORIAL HEALTH OFFICIALS,
McLean, VA, July 8, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: We the undersigned organizations representing the chief public health agency officials and state legislatures throughout the 50 states, the District of Columbia and the U.S. Territories hereby come together to express our strong opposition to any legislation or amendment prescribing state laws that are prerequisites to receiving federal health funds.

Several amendments have recently been offered which would require that states receiving assistance under any federal health grant have in effect specific laws requiring disclosure of HIV serostatus between patients and their health care providers. First, such a requirement severely undermines the efforts of state and local public health officials to develop health policy and legislation within their jurisdiction which best addresses the distinct needs of those states and localities. We strongly believe that it is the explicit responsibility of state and local health officials, legislatures, and citizens to determine the laws most appropriate to govern the health of the residents of the states and localities. At least thirteen states have already written or passed legislation to address the extremely low risk of HIV transmission between health care professionals and patients.

Secondly, in defining treatment as "the performance of any medical diagnosis or procedure that involves a physical contact between the patient being treated and the physician or health professional administering the procedure," these amendments heighten irrational fears and misconceptions about the transmissibility of HIV. Medical experts and researchers have conclusively determined that HIV infection cannot be transmitted by the casual contacts included in so broad a definition of treatment. Further, we believe that the current debate, limited in fact to the minimal risks of transmission through invasive procedures, should remain within the purview of the Centers for Disease Control and other public health organizations, and that any associated legislation should be designed for states and localities by states and localities.

The undersigned organizations are interested in participating in the continuing dialogue on the issue, and welcome the opportunity to meet with you or your staff to discuss our views in more detail.

Sincerely,

JOHN C. LEWIN, M.D.,
President, Association of State and Territorial Health Officials.

JOHN E. ARRADONDO, M.D., M.P.H.,
President, U.S. Conference of Local Health Officers.

WILLIAM H. MCBEATH, M.D., M.P.H.,
Executive Director, American Public Health Association.

AMERICAN NURSES ASSOCIATION,
Kansas City, MO, July 5, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: I am writing to urge you to postpone action on any legislative proposals regarding mandatory disclosure of health care workers' HIV status. The American Nurses Association (ANA) understands the global extent, complexity and significance of the public health problem presented by the human immunodeficiency virus and AIDS. We believe that patients and health care workers have the right to protection against transmission of the HIV virus in all health care settings. A new ANA position reflects our long-standing concern both for the public health and for the safety of health care workers.

Last week the ANA House of Delegates debated and developed the attached position statement, reaffirming our commitment to quality patient care. The ANA position notes that HIV transmission is halted by strict adherence to universal precautions and infection control practices, as well as by intensive education of consumers and health care professionals. Mandatory testing and mandatory disclosure of HIV status will not prevent the transmission of HIV disease from patient to health care professional or from health care professional to patient.

The ANA statement suggests the development and broad dissemination of recommendations from a national consumer advisory body—recommendations which can translate infection control knowledge and skill to every person's home and work setting. We note that there are no cases identified of patients who contracted HIV disease from health care workers when those workers followed universal precautions. Patients should demand that nurses, physicians, dentists and other health care providers follow established infection control guidelines to prevent the spread of the virus that causes AIDS. Moreover, ANA supports annual inspections of hospitals, clinics and provider offices to ensure strict infection control procedures and training for health care workers to ensure that they understand universal precautions.

We understand that very soon you will be considerating legislative proposals designed to protect patients from the risk of HIV infection from health care workers. We are deeply concerned that these proposals would mandate states to require mandatory disclosure of HIV status by health care professionals and/or will mandate HIV testing of health care workers. ANA urges you to reject any such proposals.

We have heard from many of our 53 state and territorial nurses associations about their capability, authority and desire to design, implement and enforce their state-designed public health policy. State departments of health have had a long history of exercising those skills and in regulating public health activities in each state. Many state nurses associations report that their states are already in the process of developing policy for health care workers with HIV and AIDS.

There is a second primary reason why ANA urges you to delay action on the pending legislation which would require health care workers to have HIV testing and/or disclosure of results. The Centers for Disease Control (CDC) is due to release guidelines related to HIV infected health care workers. Since the CDC has a mission of developing public policy in public health, and since there has been public review and comment to CDC about the issues involved, the ANA believes it is wise to wait for these recommendations before taking legislative action.

Nurses are patient advocates who, since the early days of the HIV/AIDS epidemic in 1982, have been providing nursing care to people with AIDS and to people who are HIV-infected. Our patients' health and safety are paramount. We urge you to reject a quick legislative response to this complex and critical issue. Donna Richardson, R.N., J.D., our Director of Congressional and Agency Relations would welcome the opportunity to discuss this issue with you or your staff. She can be reached at 202/789-1800 ext. 42. We look forward to working with you on an issue of concern to all of us.

Sincerely,

LUCILLE A. JOEL,
ED.D., R.N., F.A.A.N.,
President.

U.S. CONFERENCE OF MAYORS,
Washington, DC, July 8, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senator, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the nation's mayors, I would like to express our concern regarding possible amendments requiring disclosure of HIV status. It is our understanding that Senators Robert Dole and Orrin Hatch may soon be offering amendments to S. 1241 or another vehicle which would (1) require health professionals who have knoweldge that they are infected with the HIV virus to notify patients of their status, and (2) require disclosure of knowingly infected HIV patients to their health care providers. The United States Conference of Mayors believes both of these amendments would be unwise public policy. We urge your assistance in assuring they are not adopted.

As you know, there is and will continue to be debate on the issues surrounding infected health care workers, a debate which has occurred within the United States Conference of Mayors, as well as within other governmental bodies and the public at large. After much discussion, most recently at our Annual Conference last month, our membership believes it is important to make public policy on AIDS based upon scientific evidence, as often the issues surrounding HIV are so emotionally charged as to lead to unsound policy. A debate should continue, but it should be one in which the actual risk of infection to patients is assessed along with an analysis of the benefits—if any—gained from requiring health professionals to notify patients of their HIV status.

The Centers for Disease Control has issued universal precautions for the protection of health care workers and others who may come into contact with HIV infected blood. Such guidance makes clear that, for their own best protection, health care workers should treat each patient as though he or she is infected. Establishment of disclosure laws may only serve to give a false sense of protection to health care workers in those cases where patients do not disclose, either because they do not know of their infection or they choose not to inform the health professional despite the disclosure law. To ensure safety, the health professional will still have to treat everyone as though he or she is infected, using the established universal precautions.

Currently, the Centers for Disease Control is revising HIV guidelines regarding invasive procedures. This is an appropriate area for concern and the appropriate arena to develop policy regarding medical protocol and procedures, given the scientific knowledge of transmission of the AIDS virus through infected blood.

The language contained in the proposed amendment would require disclosure for all knowingly HIV infected health professionals who provide treatment consisting of "any medical diagnosis or procedure that involves physical contact between the patient being treated and the physician or health professional administering the procedure." Such language strongly implies that HIV can be transmitted casually and could only result in yet another round of AIDS hysteria if states are to be forced to enact such laws.

A third area of concern for the Conference of Mayors is the manner in which states are coerced into adopting disclosure laws by holding hostage all federal health funds received by the state. The United States Conference of Mayors believes this coercement to be an infringement on states' rights. Beyond this, it is uniquely unfair to the citizens of the individual states to withhold funds needed for the public health until such time as state legislatures can "rubber stamp" legislation which they may not believe is in the best interest of their citizenry.

For these reasons, The United States Conference of Mayors is opposed to the amendments proposed by Senators Dole and Hatch regarding HIV disclosure. We urge your support in ensuring that public policy on such matters not be made hastily in the heat of emotion. If you or your staff should have any questions regarding our position on this or any other health-related matters, please do not hesitate to contact Richard D. Johnson of my staff at (202) 293-7330.

Thank you for your consideration.

Sincerely,
J. THOMAS COCHRAN,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, July 5, 1991.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The National Association of Counties has serious concerns about two amendments to the crime bill, S. 1241, that could severely limit the ability of county governments to deliver health care. The two amendments would require disclosure by both physicians and patients who are infected by HIV.

NACo policy supports the voluntary testing of individuals. Clear guidelines should be established by institutions on testing procedures and the use of the information.

NACo opposes the termination of all federal health money for those states which do not enact mandatory disclosure laws. Such an approach places the acutal providers of care at great risk of losing funding due to the decisions of state governments. Moreover, the policies and procedures for monitoring, regulating, testing and notification are functions best administered by local communities which know the unique circumstances of their area. A sweeping federal mandate will do more harm than good to the millions of families benefiting from federal health programs.

If you have any questions about our position, please call Tom Joseph, Associate Legislative Director for Health.

Sincerely,
EDWARD E. FERGUSON,
Acting Executive Director.

THE UNIVERSITY OF MICHIGAN,
Ann Arbor, MI, October 11, 1990.
Hon. EDWARD M. KENNEDY,
Hon. ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATORS KENNEDY AND HATCH: I am writing to voice my concern about recent proposals concerning mandatory policies for health care workers involved in invasive procedures. As a public health head and as a scientist, I want to underscore the importance of taking full advantage of scientific input in the process of crafting public health policy. I believe it would be unwise to supervene present on-going deliberations of the U.S. Public Health Service, since their studies currently in progress are directly germane to the issue of invasive procedure risk.

The extensive federal investment in HIV/AIDS research has paid off remarkably and has given us an excellent armamentarium of insights and techniques with which to assess risks and devise strategies. This in turn allows for fine-tuning of policies appropriate to those scientific findings.

Concerns that have arisen in the past few weeks about possible HIV transmission in the health care setting are currently the subject of intensive study, using the full resources of the Centers for Disease Control under the able leadership of Dr. William Roper. Their results and on-going surveillance will yield a firm basis for public health policy, and I know they are planning to update and revise policies and procedures as indicated by their findings.

I would like to urge that that be the way in which such policies are made. Since we are fortunate to live in an age when our health decisions can be guided by well-founded data and information, it would be particularly unfortunate were that process to be preempted by unwarranted over-reaction or unsubstantiated fear.

Sincerely yours,
JUNE E. OSBORN, M.D.,
Dean, Chairman, National Commission on AIDS.

STATEMENT OF THE AMERICAN ACADEMY OF PEDIATRICS BEFORE THE CENTERS FOR DISEASE CONTROL REGARDING HIV TESTING OF HEALTH CARE WORKERS

(By S. Kenneth Schonberg, M.D.)

The American Academy of Pediatrics is pleased to present our views to the Centers for Disease Control on guidelines regarding HIV-infected health care workers.

Decisions concerning the prevention and control of transmission of HIV should be based on long-standing public health principles and available data. Responsible public health officials have spent the better part of a decade quelling rumors and providing facts about the way in which this disease is acquired. Such educational efforts have resulted in policies throughout the country which enable persons with HIV infection to work, and HIV-infected children to attend school and day care and be placed in adoptive and foster care homes.

The American Academy of Pediatrics currently opposes mandatory, involuntary HIV testing of health care workers. The risk of acquiring HIV infection from a health care worker as a consequence of health care must be very low among the risks of serious complications, including death. Testing and continuous retesting, which would be necessary to establish zero risk, would violate the privacy and civil rights of the individuals tested and yield a very low rate of positives per individual tested, with extraordinary costs in dollars per case of HIV prevented.

Physicians have an obligation to protect their patients from iatrogenic harm. However, fears about acquiring HIV from a health care provider should be put in perspective with other risks of health care and costs of risk reduction.

HIV testing should be encouraged on a voluntary basis for all individuals who engage in high risk behaviors, or who have known exposure to HIV. All individuals who choose to be tested should receive counseling and education about prevention of viral transmission. Health care workers who choose to be tested should receive additional information about the risk of transmission while performing invasive procedures. Training in the use of techniques for reducing that risk should be provided.

Any requirement that pediatricians or other health care workers, especially those who do not perform invasive procedures, reveal their HIV seropositivity to patients or their families would not be in the best interest of public health as no risk has been demonstrated. Such revelation would most certainly result in anxiety disproportionate to the infinitesimal risk of acquiring the virus. Such anxiety could interfere with continuity of care for children as parents seek alternative physicians; result in delays in seeking necessary care; and, in some communities would limit access to care. These adverse effects upon public health would be created without demonstrable benefit to patients and families.

The Academy urges the CDC to address this issue in its usual deliberate fashion, relying on scientific evidence to develop guidelines specifically for health care workers. Reliable data are needed before making sweeping policy changes.

STATEMENT OF THE AMERICAN COLLEGE OF PHYSICIANS BEFORE THE CENTERS FOR DISEASE CONTROL, ATLANTA, GA, FEBRUARY 21-22, 1991

Officials of the CDC and meeting participants:

The American College of Physicians (ACP) appreciates this opportunity to comment on policy issues related to the risks of transmission of HIV to patients during invasive procedures. The College is a national medical organization representing approximately 70,000 physicians practicing internal medicine and its subspecialties, many of whom are on the front lines of caring for HIV-positive patients.

I am Ted Eickhoff, M.D., Director of Internal Medicine, Presbyterian/Saint Luke's Center for Health Sciences Education in Denver, Colorado and a practicing physician. I am also the principal author of the 1988 joint statement of the College and the Infectious Diseases Society of America on AIDS and HIV.

During a recent review of that paper, I was struck by how our statement anticipated many of the issues that have evolved more fully since 1988. In that paper, we recognized the "theoretical" possibility of HIV transmission from provider to patient and noted that it "would be expected to occur only rarely, if at all . . ." In 1991, there are no documented cases of transmission during surgery and only one case—involving a Florida dentist—of apparent transmission.

We made several statements based on what we knew at that time:

Neither routine nor mandatory testing of health care personnel is recommended.

The observance of universal precautions will serve to minimize the risk of transmission of HIV from providers to patients.

The same principle of confidentiality applies just as much to HIV-infected health care workers as to any other person.

HIV-infected physicians, if otherwise able to care for patients (for example, do not have evidence of cognitive impairment due to brain infection), present virtually no risk of HIV transmission to their patients.

The question before the College, as it is for many other organizations, is whether the scientific basis for such policies has changed or there are other factors that should be considered. The purpose of this meeting is twofold: to review the risk assessment data prepared by the CDC and to begin to address policy directions based on that information. It is our view that at this time there is not sufficient new scientific data to change our policy.

This does not mean that we are content with the status quo. We must recognize the very real and legitimate concerns of our patients and search for solutions that will withstand their intense scrutiny. We must offer approaches that are in the best interest of the public and recognize the wide range of different, individual patient concerns. There is no single patient point-of-view. There are patients whose primary concern is knowing the degree of risk involved in a procedure; others, especially those who are HIV-positive or are in high risk groups, caution that mandatory testing may be just one more disincentive for health care professionals to provide them with care.

In the interest of public health, we recommend that the CDC intensify its cooperative efforts with state health authorities and health care institutions to ensure thorough and timely investigation of possible transmissions of both HIV and HBV. There should be no doubt in the public's mind that we know, as far as is humanly possible, of all incidents of transmissions and how they occurred. If we learn that the risk is greater than the science now shows that it is, our policies related to disclosure of providers' HIV status to patients and restrictions on practice may need to be changed.

More information is needed on the relationship between risk of transmission and specific procedures. Can we determine a degree of risk associated with a certain procedure? If there are procedures that pose a higher degree of risk than others, consideration might then be given to practice restrictions (or disclosure) on HIV-positive practitioners performing those procedures. That evidence, however, is not available at this time.

Universal precautions must be aggressively enforced. While that responsibility rests ultimately with the Occupational Safety and Health Administration, individual practitioners and health care administrators must assume a large measure of the responsibility for insuring adherence to safety precautions. Even the most stringent testing policy cannot now eliminate the risk that exists during the window between infection and a HIV-positive test result. Violations of infection control policies must be met with more than reprimands. Restrictions on clinical privileges or other appropriate actions may need to be taken.

Finally, the College would suggest that health care institutions consider establishing internal committees to review policies on blood borne diseases and advise individual health care professionals on issues related to the conduct of their profession and their medical care. Health care professionals who engage in high risk behavior or who have other risk factors are encouraged to be tested and counseled. As is the case for any other individual, precautions must be taken to ensure confidentiality and provide the best possible medical care.

It is the College's view that we maintain the current policy favoring voluntary as opposed to mandatory testing for health care professionals and strict observance of universal precautions, while vigorously pursuing further research on the issues. It would be a disservice to the public to imply that certain policies—such as mandatory testing, or disclosure of HIV positivity by physicians who perform invasive procedures—would significantly reduce the risk of transmission from provider to patient.

THE ORGANIZATION FOR OBSTETRIC,
GYNECOLOGIC, & NEONATAL NURSES,
Washington, DC, July 10, 1991.

Hon. EDWARD KENNEDY,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: NAACOG, the professional specialty association representing more than 26,000 obstetric, gynecologic, and neonatal nurses, and health-care professionals, would like to take this opportunity to provide comments regarding S. 1241. An amendment that may be offered to S. 1241 would require States receiving assistance under any Federal health grant program to enact a law mandating health professionals and others infected with human immunodeficiency virus (HIV) to disclose such information.

NAACOG is opposed to the concepts of mandatory HIV testing and mandatory disclosure regarding HIV status for the following reasons:

Given the limitations of currently available methods of HIV testing, negative test results may be a source of false reassurance to health-care professionals and health-care consumers. Data indicate that an as yet undetermined length of time exists in which testing for the presence of HIV antibodies remains negative although infection is present and communicable.

Limited data are available that identify types of procedures and the corresponding risk of transmission from HIV infected health-care workers to patients as well as from HIV infected patients to health-care professionals. More research is needed regarding the transmission of blood-borne diseases in health-care settings and during the performance of invasive procedures.

NAACOG supports:

Voluntary HIV testing with appropriate counseling, maintenance of confidentiality, and freedom from discrimination based on HIV status.

Acceptance of professional responsibility by the HIV infected health-care workers and personal responsibility by the health-care consumer to voluntarily disclose such status.

The development of policies and guidelines that address transmission of HIV in health-care settings based on epidemiologic data from research on the transmission of blood-borne diseases and invasive procedures and sound infection control practice.

Compliance with universal precautions whenever exposure to blood and body fluids may occur.

Assessment of practice limitations of HIV infected health-care professionals on a case-by-case basis that adheres to standards set by the Americans for Disabilities Act.

The incidence of HIV positive women and newborns is increasing, NAACOG supports legislative efforts that facilitate research intended to evaluate various aspects of HIV including prognostic characteristics, optimal treatment modalities, and prevention techniques. If NAACOG can provide further assistance, please contact Ann Chen, RN, BSN, JD, Health Policy Analyst, Department of Practice and Legislation, (202) 863-2468.

Sincerely,

ANN L. ROPP, RN, MS,
President.

AMERICAN ASSOCIATION OF
NURSE ANESTHETISTS,
Park Ridge, IL, July 8, 1991.

Hon. EDWARD M. KENNEDY,
Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: As President of the American Association of Nurse Anesthetists (AANA), I am writing to request that Congress refrain from action on any legislative proposals which would require mandatory disclosure of health care workers' HIV status. As you may know, AANA represents more than 24,000 certified registered nurse anesthetists (CRNAs) nationwide.

CRNAs, like all health care professionals, are extremely concerned that every appropriate precaution be taken to ensure that both patients and health care workers are protected from transmission of the HIV. In fact, AANA is currently in the process of developing guidelines for HIV/AID prevention and management for CRNAs.

Currently, within health care settings, general infection control procedures have been developed and accepted as a means to minimize the risk of patient acquisition of infection from contact with contaminated materials and devices and of transmission of an infectious agent from health care workers to patients. Such procedures also protect workers from the risk of becoming infected.

Presently, the AANA strongly recommends that all CRNAs adhere rigorously to the principles of universal precautions. Furthermore, we believe that all health care facilities should regularly review health care professionals' adherence to barrier techniques, establish protocols to protect patients from HIV infected health care workers, and set forth disciplinary procedures for failure to practice universal precautions.

Mandatory testing or mandatory disclosure of the HIV, however, does nothing to guarantee the prevention of HIV transmission. Rather, mandatory testing is cost prohibitive, creates monitoring difficulties, and may lend a false sense of security which has been shown to lessen adherence to universal precautions.

AANA believes it would be inappropriate for Congress to impose mandatory testing or disclosure at this time. Traditionally, states have addressed public health issues such as reporting. Moreover, The Center for Disease Control (CDC) will be issuing guidelines in the very near future. AANA strongly encourages Congress to refrain from acting on testing or disclosure legislation pending the release of the CDC guidelines.

We also strongly encourage the creation of a national commission to examine the impact of HIV/AIDS on the health care delivery system as a whole. It is imperative that we explore the ramifications of HIV infection on our ability to recruit and retain health care professionals. Additionally, we must understand and address the potentially negative effects of testing on health care providers with respect to malpractice, disability, and other insurance protections.

We welcome the opportunity to discuss these issues in greater detail with you or your staff. If you have any questions, please feel free to contact the AANA Federal Government Affairs Director, Kathy Michels, at (202) 682-1267.

Sincerely,

DAVID R. FLETCHER, CRNA, MA,
President.

[From the New York Times, Jan. 3, 1990]

BRANDING DOCTORS WITH HIV

(By Bruce G. Gellin and David E. Rogers)

AIDS remains a dreadful, and to date, universally fatal infection. People are very afraid of AIDS—and they should be.

Science has vastly increased our knowledge of AIDS and given us exquisitely accurate tests with which to detect the presence of HIV infection. The wide use of the HIV antibody test not only assures us of a safe blood supply, but enables us to treat patients even before symptoms surface. However, because of the stigma so tenaciously associated with this infection, the HIV test has become a double-edged sword. Cruel discrimination rides on the back of the blade.

The possible transmission of HIV from one infected dentist to one of his patients, and the recent AIDS-related death of a Baltimore surgeon (who apparently was infected by one of his patients) has set in motion a wave of worry that threatens to result in new guidelines from the Centers for Disease Control. Health care providers—particularly doctors and dentists—would be tested for HIV infection. Those testing positive may be forced to limit patient care activities.

At first glance such a proposal seems reasonable. Our physician oath dictates that physicians should do no harm. Long and arduous training, certifying exams, licensing, hospital peer review and the like are all efforts to assure this. But for at least two reasons, screening all physicians for HIV infection will not necessarily accomplish this goal.

First, although the risk of possible transmission of HIV infection from a physician to a patient has always been acknowledged, nearly 10 years down the pike it has never been convincingly documented. The risk of such transmission is not zero but is too low to calculate. Thus a policy to screen health care providers would grossly distort this small risk and may actually emphasize it over and above other risks that health care professionals more commonly visit upon their patients.

Second, it will encourage physicians to shy away from another tenet of ethical medical practice stated clearly as policy since the 19th century: "When an epidemic prevails, a physician must continue his labors without regard to the risk of his own health." Alas, avoidance of the HIV infected is happening already.

Future physicians are selecting medical schools and training programs away from cities with the highest prevalence of HIV infection and there is evidence that some health professionals in those cities may already be pulling out. This proposed branding will hasten the crumbling of health care available to those in greatest need: those already HIV infected and the inner city poor who live in areas with the highest rates of HIV infection in the U.S.

The HIV test, which measures a person's antibody response to the virus, is among the most accurate in clinical medicine. Yet, it may take several months before it turns positive after the infection has taken root. While such test results are in limbo, should a surgeon who is cut during a procedure (once in every 40 cases) sitout until "certified infection-free",

The message to health professionals will be clear: "To continue to care for your patients, and to use your precious skills which required years of training to obtain, don't take care of the HIV infected, or those who your think might be." The negative consequences will far outweigh a doubtful reduction in risk. In a world that already seriously undervalues and trivializes service to others, this will compound the tragedy of AIDS.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. SIMON. Mr. President, this is a serious problem; no question about it. But to just arbitrarily, on a Thursday afternoon, without a single hearing, move ahead on this, just is not wise. We are dealing with lives of people here. Let us proceed with some caution. Let us proceed with some common sense on this.

For example, as I read this, and the Senator from Massachusetts perhaps has had more of a chance to look at this amendment than I have. Perhaps not. But as I read this—and I would be interested in the reaction of the Senator from Massachusetts, or other health care provider comes along, and there is an accident, and you try to save lives at an accident, that person could be subject to a fine of $10,000 and imprisoned up to not less than 10 years.

Do I read this amendment correctly?

Mr. KENNEDY. It would be a factual situation, as I understand. As I remember from when it was read, it talks about an emergency situation. A factual situation would determine whether that person would go to jail, such as whether there really was an emergency, or there was another doctor who was available. But it certainly makes any doctor think twice about whether there really was an emergency or whether that person could have gotten reasonable care at some hospital, because the Senator is quite correct that if that doctor was HIV positive, he or she would run the risk of the penalty.

The Senator knows that sound public health policy has to include universal precautions in a most comprehensive and complete way. That is basically what the Public Health Service is attempting to do, not some piecemeal approach that would do the test for HIV and claim every patient is safe.

They know they cannot be. They are not going to be necessarily safe. They just look for those individuals who may be HIV positive as I mentioned earlier, and are given this false sense of security. There have to be public health procedures that are comprehensive enough to provide the protections for all the American people, whatever they may be.

I do not know what the position of the Centers for Disease Control would be. Before we act on this we ought to find out. Maybe they will promulgate penalties or maybe they will have some kind of a different approach that we have not thought of.

But I think we as an institution are entitled to hear from them. They have pleaded with us, as the Secretary of HHS says, to wait and examine these guidelines first.

The Senator is quite correct in interpreting the amendment as being a factual situation, whether there was an emergency or whether there was not, and there is no question that this would certainly discourage individuals from being involved in saving an accident victim.

Mr. SIMON. In that kind of a situation, who knows what some court is going to rule on what is a medical emergency.

I would simply point out, Mr. President, no Member of the U.S. Senate has done more to fight for the health care and protecting the health of this Nation than Senator KENNEDY. When Senator KENNEDY gets up and says let us be careful as we proceed here, we ought to do that. We should not vote on the basis of hysteria. We ought to vote with some prudence when we come to something like this.

I do not know what the formal vote will be, whether there is going to be a question of whether this is a proper amendment, whether there is going to be a question of the ruling of the Chair, or how it is going to be phrased. But I would hope the Senate would say let us have hearings, let us know what we are doing when we deal in life and death matters.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. DURENBERGER. Mr. President, I ask unanimous consent that a Johnson fellow on my staff, Susan Barton Foote, be permitted access to the floor during the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from North Carolina to the bill, H.R. 2622.

Mr. DURENBERGER. Mr. President, I thank you very much.

I rise to oppose the Helms amendment. I am not quite sure what it is doing on this bill. I am going to rise to oppose it in any event.

As the current occupant of the Chair knows, the State of Minnesota for the last several weeks has been exposed to an awful lot of publicity involving physicians who have tested positive for AIDS and, in fact, we have been watching videotapes on our nightly television news of one of those physicians delivering babies and obviously everybody in the State of Minnesota who is now a consistent watcher of television news has some of the concerns expressed on this floor by our colleague from North Carolina. The reality is, I suppose, that people all over the country have been troubled by stories of what in effect is a handful of doctors who appear to have exposed their patients to the AIDS virus. It is a story we have been confronted with on an almost daily basis, and I must say, Mr.

President, in very highly emotional terms.

A physician who knowingly and recklessly exposes his patients to unnecessary risks is both irresponsible and immoral.

But it is irresponsible for us and for the rest of the institutions in our society it is also irresponsible to fan the flames of public fear without having the facts. A videotape made in the State of Minnesota on the nightly news of a physician delivering a baby is hardly a set of facts. I think the reality of the facts in this country is that one dentist in Florida and four or five patients may have been involved in the transfer of AIDS even though people at the National Institutes of Health will argue as to whether or not that is a reality.

In this atmosphere of fear and hysteria we in the Senate must offer our calm and collected judgment. And that means we must examine the facts. Dr. Michael Osterholm, the chief of the acute disease epidemiology section at the Minnesota Department of Health, and an advisor to the Centers for Disease Control, and probably the expert in America on these matters said, "We need to put the issues on the table in order to distinguish fact from emotion. Somewhere in between we'll find a reasonable policy."

What are the facts here? In the Minnesota situation, none of the hundreds of patients have tested positive for HIV. Although tens of thousands of health professionals may be infected, there is exactly, as I said, one known case of a health practitioner who is believed to have infected in this case a dental patient. On the other hand, there are over 40 documented cases of health care workers who have been infected through contact with patients.

Mr. President, is it reasonable to pass a criminal statute mandating that HIV-infected health workers disclose their illness to their patients and then have them disclose it to the world, if you will, because there is no confidentiality barrier, because of a tiny handful of health care workers that may have been in a position to appear to be irresponsible.

Last week, the AMA met in Chicago and considered this issue. At that time, they reaffirmed the policy of encouraging health professionals who perform invasive procedures to voluntarily determine their HIV status and/or act as if they are HIV positive in order to protect their patients from exposure. All health professionals are struggling to develop reasonable approaches to the risks of AIDS transmission for all—both health care workers and patients.

Mr. President, the Centers for Disease Control have developed a comprehensive set of universal precautions that do protect both physicians and their patients from the spread of AIDS. We expect that CDC will issue state-of-the-art guidelines by next week that will provide scientifically and ethically supportable procedures that physicians should follow and hospitals can enforce. We need to support the experts, and respect the facts, not succumb to hysteria.

Mr. President, the medical profession is honorable and ethical. Health professionals are in the business of healing patients, not the business of harming them.

We must find a cure for this terrible disease and we should focus our scarce resources in this direction. Until we do, we must keep our heads, respect the facts, and take all necessary precautions. As columnist Anna Quindlen has wisely noted, "Over the last decade, we have learned about safe sex because of the AID's epidemic. Now, until a cure is found, we will all learn about safe medicine."

Criminal statutes will not produce safe medicine. Careful scientific fact-finding, however, will do so.

We need and deserve safe medicine. We do not need or deserve more hysteria.

So, Mr. President, I ask my colleagues to think about the case that we have experienced in Minnesota and the case that you have read about. But also consider the fact that dealing with these kinds of situations requires more than a resolution from the U.S. Senate.

Mr. President, I yield the floor.

(Mr. LAUTENBERG assumed the chair.)

Mr. WELLSTONE. Mr. President, I would first of all like to thank the Senator from Massachusetts for his powerful eloquence, and I would like to thank the senior Senator from the State of Minnesota. His comments make me very proud to serve in the U.S. Senate with him.

Mr. President, I do not have any prepared remarks and everything I say I suppose is from my heart as well as my head. I am absolutely convinced the more time I spend in the U.S. Senate that leadership is not appealing to the fears and frustrations of people. There is not one Senator, Republican or Democrat, who is not horrified and does not feel the pain of Kimberly Bergalis and her family; it is so awful what they have gone through.

But, Mr. President, as the Senator from Minnesota, my Republican colleague, has said, leadership is calling on people to be their own best selves. And leadership is passing public policy that we know will make a difference and be helpful to people.

The Centers for Disease Control next week will come out with a whole series of rules and regulations, and God knows we need those. And, as the Senator from Minnesota said, we had a study in Minnesota that showed that all sorts of universal precautions need to be taken. Many doctors and surgeons do not wear gloves. They should. There should be a whole set of rules and regulations that will protect all of us.

But, Mr. President, this junior Senator from Minnesota would appeal to all of my colleagues, Democrats and Republicans alike: Do not make a decision without first examining all of the implications.

Mandatory testing—would it work? The Senator from Massachusetts said it could very well be counterproductive and have exactly the opposite consequences of what we want.

So let us not vote on the basis of hysteria. Let us vote when we have full hearings. Let us vote when the Centers for Disease Control has come out with its report.

Should we vote? You bet. But we are not going to be stampeded into a vote on the basis of appealing to fears of others Senators or people in the country. We need to frame sound public policy.

Finally, Mr. President, I have to say that I do not think it is at all helpful when we talk about this kind of tragic, tragic public policy, with consequences for peoples' lives so serious, to talk about "a homosexual lobby." That does not add to the debate. That does not add to the discussion. That does not lead to anything positive. That does not make us a better Senator. That does not make us a better country.

Mr. President, we will vote, but we should vote on the basis of careful deliberation and careful decision. That is the appeal that I make to my colleagues.

Mr. KENNEDY. Mr. President, I just want to add some facts to the current discussion so that we might put the nature of the health threat to the patients in this country in some perspective.

In February of this year, the Centers for Disease Control convened a conference about how to develop the best kind of protections and procedures for the patients of this country. It followed up on the tragic circumstances of Kimberly Bergalis which has been referenced here earlier this afternoon. There were some facts that were examined during the course of that meeting. And these are, I think, important so that we can put this whole debate and discussion into some perspective.

Over the period of the last 11 years there have only been five individuals who have been known to have contracted HIV as a result of contact with a medical professional. Only five in 11 years. All five of them were infected in the office of one dentist. That is it. That is it, five individuals. Same dentist.

So somehow we have this notion as this debate is going on that suddenly we are going to take the kinds of steps that are suggested by the Senator from North Carolina, and somehow the sheet is going to come down and all patients are going to be safe. More important is the fact that the CDC is going to promulgate recommendations and we are going to have a chance to examine them and base our policies on sound public health practice.

Well, what has been initially the conclusion of those that have been looking at and investigating the set of circumstances surrounding these five patients is the issue was one of contamination; that this dentist did not have the kind of appropriate procedures and technique for cleaning and sterilizing his medical equipment. That is the initial conclusion. And obviously he should have rigorously followed all universal precautions. This reinforces a critical point that the Centers for Disease Control is concerned about and interested in.

I do not know what the recommendations of CDC will be, but these are some of the recommendations from some of the leading medical societies and some of the leading public health personnel: that there must be stricter infection control procedures with health care personnel following universal precautions, wearing gloves and protective eyewear when appropriate; that there has to be safe and thorough procedures for the disposal of used needles and cleaning of equipment; and that there has to be enforcement of policies and procedures in health care institutions to ensure that these, among others, are going to actually be put into being.

Most of the public health organizations and associations believe that these approaches can provide the greatest degree of safety for the patients in this country.

As I mentioned, I do not believe that is going to be an all-inclusive list of recommendations. There clearly will be more. But I think when we are debating this we ought to put this whole matter in some perspective. Five individuals. We all know that is a matter of enormous tragedy for those individuals. If the Helms amendment could do something about those, Lord only knows all of us would be for it.

But the fact is, the tragedy of those individuals has to be, hopefully, eliminated. The circumstance which led to it has to be eliminated in the future, and that is what we ought to be about here this afternoon. Nothing in the Helms amendment is talking about any of these kinds of recommendations, where over 80 organizations made those recommendations to the Centers for Disease Control. Virtually none of those provisions are in the amendment of the Senator from North Carolina.

So that is why I feel so strongly that acceptance of this amendment is poor public health policy. According to those who have the responsibility for the public health of the people of this Nation, should it be accepted, it would be misleading the American people into believing that somehow they are going to have an added degree of protection that would relieve them of the concerns they have, concerns that may be more appropriately alienated with the promulgation of these regulations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, thoughtful Members of this body will disagree on this matter. There is genuine concern about whether health care providers should notify patients if they have AIDS. But in the debate on this subject, a number of Members who have spoken have seemed to imply that this amendment will require testing.

As I read through the amendment, and I have a copy of it right here, it is very clear that this amendment does not require testing. It says, quite simply, "knowing that he is infected, intentionally provides medical or dental treatment to another without notice."

So I think the important measure here to note is that there is no requirement of any kind for testing; that the provisions apply only in the case when the health care provider knows that he or she is infected. And what is required here is simply notification.

Sincere men and women will disagree. Some believe there is no obligation to notify a patient of the AIDS condition of that health care provider. Others, as I do, believe that that disclosure is appropriate. I do not think that the infection of a health care provider with AIDS is something that ought to be kept secret.

But regardless of how you feel on that core issue, I would be disappointed to see the debate on this point go forward with some Members under the misapprehension that this somehow involved mandatory testing. It does not in any way involve mandatory testing. It only places a requirement on a health care provider when that provider knows they are infected.

Mr. President, I yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. BROWN. I will be happy to yield to my distinguished colleague from the State of Massachusetts.

Mr. KENNEDY. Mr. President, as I understand, there is a penalty if you perform an invasive procedure knowing you have HIV. Am I correct?

Mr. BROWN. Failing to provide notice when you know.

Mr. KENNEDY. Does the Senator think when someone suspects they may have it, they will be encouraged to find out whether they do, or be discouraged?

Mr. BROWN. Mr. President, I think the Senator raised an excellent point. I must tell my colleague, my own reaction is if I suspect or people I know suspect they have a disease that could kill them, and possibly finding it out and getting treatment could be helpful or at least save the lives of others that are around them, they would have every reason in the world to get tested and get it pinned down.

Mr. KENNEDY. There is also the argument that if they find out they have HIV, they can go to jail for the last 10 years of their lives. I find it difficult to think that that, for someone who may or may not have HIV, this is going to be much of an incentive for someone to get tested. Certainly mandating testing, as we have seen in some communities around the country, has not encouraged people to go that way.

Voluntary testing has been much more successful in reaching those at risk.

Mr. BROWN. I believe I can relieve the distinguished Senator's concern on that score. As I read the amendment, if indeed people suspect they have the disease, indeed test themselves and find that they do have it, that does not in any way make them liable for any criminal conduct in the past. It is only when they provide medical care after they have come to learn that they have AIDS.

So the situation the distinguished Senator raises should not be of concern to Members. One is not liable; one is not violating this statute if he or she finds out after providing service that he or she has AIDS. It is only when people know that they have AIDS and then provide service without giving notice.

Mr. KENNEDY. All I would respond is if they suspect they have it, and they are practicing doctors, once they know, if they get a test, then they cannot practice anymore. If they suspect they may have it, but they are not quite sure, I cannot believe the fact that they will go to jail for 10 years is going to encourage them to go out and get tested.

It seems to me what they will do is say: I may or may not have it; I will keep operating, or do whatever I do until I feel so lousy that I just cannot do it anymore. That has been more typical of the public's reaction in the past when coercive or mandatory testing was pursued.

Has the Senator got much confidence in the testing for HIV at the present time?

Mr. BROWN. I believe the Senator raises an important point. Clearly, the level of testing, the accuracy of testing, is a valid area for concern. While the health care professionals advise us there is a high degree of reliability with regard to that, it is not perfect. I think that is a valid point for everyone to consider.

What I think is important in this bill is, though, that someone is liable for violating this statute only when they know they have it.

Mr. KENNEDY. I would agree it would be deplorable for an individual who knowingly has the virus to do the invasive kind of procedures unsafely. We do not differ on that.

The question is whether this particular amendment is going to provide greater security or safety for the patients of the country. It seems to me we ought to at least consider it. My objections to the amendment have been stated now.

It seems to me that to ask the Senate to act on this, without giving any consideration at all to the Centers for Disease Control regulations that will be promulgated on this, through which every Member in the Senate will have the opportunity to examine the results of months hearings, research and examination—we can either accept or reject come next week—to be asked to vote on it at 5:30 on Thursday I feel is not the way to make wise public health policy decisions. I thank the Senator.

Mr. BROWN. I might make just one observation. Certainly, the Centers for Disease Control can have some valuable input on this issue. But one of the things that they cannot do that this body can is pass a statute that requires health care providers to disclose that information under penalty of criminal law. They can come up with valid recommendations that will be helpful, and I have every confidence that they will come up with helpful recommendations. But they are not able to do what this body can do, and that is make it a crime to keep it secret when you have AIDS.

Mr. KENNEDY. I would thank the Senator for providing us with examples of people who have been tested and have found that they are HIV positive, and have voluntarily declared that. Voluntary disclosure is a goal we embrace, but I do not feel it is best achieved under threat of penalty.

Mr. BROWN. I will be happy to have information regarding that whole subject forwarded to the Senator. Certainly that is a valid question, and I will be happy to have information of that kind forwarded to him.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask that I be extended the same courtesies extended to the Senator from North Carolina and be notified if there are going to be any motions directed toward this particular amendment. To the extent this legislation can move forward, I have set my bid for the time. I would like to be protected from any motions and just be notified prior to any motion being made.

Mr. DOMENICI. Mr. President, let me respond. The chairman has already said to Senator HELMS that, if any motions were going to be forthcoming, he would protect him. I assume he would be willing to do the same for Senator KENNEDY. We will just proceed with the bill. I understand if we can get a time agreement on an amendment that is totally different, aside, and apart, we can set his aside and Senator HELMS' aside. We will notify the Senator.

Mr. KENNEDY. I appreciate that courtesy.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. I ask unanimous consent to be able to speak as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 1463 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. (Mr. DODD). The Senator from Arizona.

Mr. DECONCINI. Mr. President, if I can make an inquiry of the Chair: Is the pending business the Helms amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. Mr. President, I have discussed my proposed action with the Senator from North Carolina and he has no objection to setting his amendment aside, and that is also true of the Senator from Massachusetts. Before I ask that we set the amendment aside so we can do some noncontroversial amendments, I wish to indicate to the body that there are some outstanding amendments that we know of.

One is from the distinguished Chair, Mr. DODD.

TIME LIMITATION AGREEMENT

Mr. DECONCINI. Mr. President, Mr. Kohl also has an amendment, and on this amendment we have a time agreement. I ask unanimous consent that when the Senate proceeds to the Kohl amendment that it be in order to temporarily lay aside the pending committee amendment to consider the Kohl amendment with respect to increased IRS funding for enforcement, and when Senator KOHL is recognized for the purpose of offering that amendment, that the amendment be considered for 1 hour equally divided and controlled in the usual form, with no amendments to the amendment in order, and that that occur at or about 7 p.m. tonight.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, let me ask Senator DECONCINI: Under that unanimous-consent agreement you would set aside the pending Helms amendment?

Mr. DECONCINI. That is correct.

Mr. DOMENICI. Temporarily while we take up Kohl?

Mr. DECONCINI. Yes.

Mr. DOMENICI. We are going to do that this evening?

Mr. DECONCINI. Yes. And I cleared that with the Senator from North Carolina. I have some other amendments, also I am going to speak about these amendments before we get to the Kohl amendment.

Mr. DOMENICI. I have no objection.

Mr. DECONCINI. I thank my friend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. There are amendments by Senator SMITH, Senator BURNS, Senator GORTON and, of course, Senator HELMS has a second amendment.

Mr. President, I ask unanimous consent that we set aside the pending amendment for a period of time while we take up some noncontroversial amendments that the manager and the ranking member are prepared to accept. I have cleared this course of action with Senator HELMS and I understand Senator KENNEDY has no objections if we lay the amendment aside for this purpose.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me inquire of Senator DECONCINI. As I understand it, we will, if the Senator's unanimous-consent agreement is granted by the Senate, proceed to some noncontroversial amendments and then return to the pending business, and at 7 o'clock proceed to the Kohl amendment.

Mr. DECONCINI. The Senator is correct.

Mr. DOMENICI. Let me ask when the Senator listed a number of amendments that we were aware of by name of the sponsor there are some of those amendments that are noncontroversial and will be included in the amendments that the Senator is going to take up next; is that correct?

Mr. DECONCINI. If the Senator will yield, I think the Gorton amendment is the only one to be taken up.

Mr. DOMENICI. I will ask, would it be appropriate for the Senator to discuss for an additional moment the amendments that we are aware of and indicate what the Senator's desire is and what the leadership's desire is regarding this bill? Do I understand correctly that sometime this evening we wish to at least arrive at a list overall of the amendments that would be intended to be offered on this bill; is that correct?

Mr. DECONCINI. Yes, if the Senator will yield. My hope is that we can narrow the identified amendments down so we know which amendments remain. For instance, the amendment from the Senator from Connecticut I believe is going to be worked out and be noncontroversial. It is at that stage?

On Senator KOHL's, of course, we already have a unanimous consent agreement. We will have probably a rollcall vote on that.

On Senator SMITH's amendment, there is going to be no time agreement. That is likely to be a very controversial amendment.

On Senator BURNS' amendment, we are still waiting to hear from the authorizing committee, but I anticipate that it will be a controversial amendment and perhaps require a vote if the Senator wants to offer it.

Senator GORTON'S amendment I am almost sure has been cleared and will be perhaps by the time we finish these other noncontroversial amendments. And then there is a second Helms amendment which, of course, will be controversial.

Those are all the amendments I know of, not counting the one I am about to address that has been agreed to on both sides.

Mr. DOMENICI. I thank the chairman for his remarks. As I understand it, we very much would like Senators who have amendments to this bill to let us know. Obviously there are not very many that are germane to this. We are aware of two that are not; both Helms amendments. If we could find out sometime this evening from Senators if they have further ones, it will be helpful for us in conducting the business of the Senate.

I have no objection to the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DECONCINI. I thank my colleague and also emphasize that if Senators do have other amendments, we wish they would come to the floor and offer them. We wish to finish this bill and move on to conference. It is important. It is a must-pass bill, as has been said before.

Mr. President, I am going to send a series of amendments to the desk which have been cleared on both sides, and I will be asking that these amendments be considered en bloc. One amendment is on behalf of the Senator from Maine [Mr. MITCHELL] on reimbursement for protection of the President. One is on behalf of the Senator from Iowa [Mr. HARKIN] on a GSA problem with the skywalks in Des Moines. One amendment is on behalf of the Senator from New York [Mr. MOYNIHAN] on the Brooklyn courthouse in New York. Another is on behalf of the Senator from Maryland, Senator MIKULSKI, on the Bureau of Public Debt. The next is on behalf of Senator ROBB on a postal facility in Virginia. Then there are three amendments sponsored by myself and Senator DOMENICI regarding the Treasury Department. I believe there are a couple of other ones here as well.

There is also an amendment by Senator KASTEN that I understand has been cleared which directs GAO to conduct a study on small pension plan audits. I send those amendments to the desk and ask for their immediate consideration. I also have statements by Senators KASTEN, ROBB, and HARKIN, and I ask that those statements appear in the RECORD at the appropriate place.

UNANIMOUS-CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, at this time, I send to the desk these amendments en bloc and I ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have an amendment in behalf of Senator GORTON and a statement outlining and explaining it. I wonder if I could ask unanimous consent that it be considered to be one of the amendments offered by Senator DECONCINI and be considered as they are en bloc.

The PRESIDING OFFICER. Without objection it is so ordered.

The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Airzona [Mr. DECONCINI] proposes amendments en bloc numbered 736, 737, 738, 739, 740, 741, 742, 743, 744, and 745.

The amendments considered en bloc are as follows:

AMENDMENT NO. 736

(Purpose: Authorizes the Secret Service to use funds appropriated in fiscal year 1992 to reimburse entities in the State of Maine for Presidential protection activities undertaken in fiscal year 1991) On page 17, line 17, before the period, insert the following: ": *Provided further*, That fiscal year 1992 funds shall be reimbursements claimed in fiscal year 1991."

AMENDMENT NO. 737

On page 55, between lines 6 and 7, add the following new section:

SEC. 113. Notwithstanding any other provision of law, the General Services Administration shall enter into an agreement with the City of Des Moines, Iowa to pay expenses for one half of the operation, maintenance and repair of each skywalk bridge spanning city streets or alleys and connecting to the Federal Building at 210 Walnut Street in Des Moines, Iowa after the construction of each such skywalk and each year thereafter.

Mr. HARKIN. Mr. President, this amendment is straightforward. It provides that the General Services Administration should act in the same way as other owners of downtown buildings in regard to the Des Moines skywalk system. Des Moines has an extensive system of skywalks that allow pedestrians to walk from one building to another throughout most of the downtown area without having to face inclement weather. The skywalks are located at the second floor level.

The GSA is willing to connect the Federal building to the system. However, there is a problem. All of the building owners operate the skywalk system under an agreement providing for each owner to cover half of the cost of the skywalk which is attached to their building. If any owner gets a better deal, they are all entitled to the same benefit. That would cause considerable havoc.

The GSA says that they cannot, under law, pay for the portion of the cleaning, heating, and other operation costs of the skywalk over the city-owned streets. This amendment provides that they should cover all of those costs. I understand that GSA is not opposed to the amendment.

I thank Senator DECONCINI and Senator DOMENICI for working with me on this issue and for accepting the amendment.

AMENDMENT NO. 738

On page 36, between lines 12 and 13, add the following:

New York:

Brooklyn, U.S, Courthouse, $10,000,000.

AMENDMENT NO. 739

On page 78 of the bill, strike lines 5 through 11 and insert in lieu thereof, the following:

"(c)(1) Any individual referred to in subsection (b) who, within five years after the date of enactment of this Act, submits an application for employment in a position of employment in a department or agency of the Federal Government for which the individual is qualified shall be given preference over similarly qualified applicants for the position."

AMENDMENT NO. 740

(Purpose: To require a report from the United States Postal Service and the General Services Administration.

Insert at the appropriate place in the bill: "The U.S. Postal Service and the General Services Administration shall submit a report, by March 1, 1992, to the Committees on Appropriations of the U.S. House of Representatives and the United States Senate on the disposition of the U.S. Postal facility located in Harrisonburg, Virginia. Such report shall provide information on the cost of acquiring the facility, if the Postal Service decides to sell it, and the projected costs of any necessary renovation."

Mr. ROBB. Mr. President, this amendment concerns the Federal building in Harrisonburg, VA, which houses a Postal Service facility and the U.S. district court. I understand that the Postal Service would like to build a new facility in Harrisonburg and may already have let a contract for design and construction. On March 20, 1991, the Postal Service wrote to the General Services Administration stating that no decision on the sale or retention of the current Federal building would be made until October 1992.

This Federal building is an historic landmark and, according to the Administrative Office of the U.S. Courts, the U.S. district court would like to remain there. The court system would like for GSA to purchase and renovate the building.

Mr. President, my amendment would require a report from the Postal Service and GSA on disposition of the building. The report must also include information on the cost of acquiring the facility, if the Postal Service decides to sell it, and the projected costs of any necessary renovation. The report must be submitted by March 1, 1992.

Mr. President, I thank the managers of the bill for their thoughtful consideration of my amendment.

AMENDMENT NO. 741

On page 7, line 9, strike the semicolon.

On page 7, line 9, insert "for" after "and".

On page 14, line 5, strike "the".

On page 14, line 6, strike "the".

On page 15, line 10, insert a comma after "modernization".

On page 15, line 22, insert "the" after "upon".

On page 17, line 2, delete the comma.

On page 17, line 9, strike "to" and insert in lieu thereof "shall".

On page 24, line 25, strike the word "materials" after the word "to" and insert in lieu thereof "minerals".

On page 26, line 19, insert a comma after "rulings".

On page 30, strike "Commerce, State and Justice Departments" and insert in lieu thereof "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies".

On page 30, line 14, insert ", to remain available until expended" after "activities".

On page 31, line 16, insert a comma after "amounts".

On page 38, line 6, after "$569,251,000", strike "1".

On page 43, line 1, insert a comma after "Georgia".

On page 43, line 2, insert a comma after "Georgia" and after "Kansas".

On page 43, line 3, insert a comma after "Maine".

On page 43, line 6, insert a comma after "Nevada".

On page 43, line 8, insert a comma after "Carolina".

On page 43, line 9, insert a comma after "Tennessee".

On page 52, line 24, beginning with the word "The", strike all down through and including line 18 on page 53.

On page 58, line 16, strike "moneys" and insert in lieu thereof "funds".

On page 59, line 9, strike "$3,468,000" and insert in lieu thereof "$4,018,000".

On page 59, line 10, line type "$6,375,000" and insert immediately thereafter "$5,825,000" in italics.

On page 60, line 21, strike "Federal".

On page 60, line 23, strike "10,000" and insert in lieu thereof "1000".

On page 73, line 2, insert a comma after "Act".

On page 73, line 3, strike "the" after "for".

On page 76, line 12, strike the word "filing" and insert in lieu thereof "filling".

On page 76, line 23, strike "Act, or by any Act appropriating funds" and insert in lieu thereof "or any other Act".

On page 76, line 24, strike "that is".

On page 76, line 25, strike "may,".

On page 77, line 2, insert "may" after "1991,".

On page 77, line 8, strike "Parkerburg" and insert in lieu thereof, "Parkersburg".

On page 77, line 16, strike the accents on the word "resume".

On page 79, line 1, strike "fees" and insert in lieu thereof "fee".

On page 82, line 8, insert "not" after "may".

On page 82, line 9, strike "not".

On page 87, line 19, strike the first "Act".

On page 95, line 18, strike "Act".

On page 95, line 22, strike "in" and insert in lieu thereof "by".

On page 95, line 23, insert "to" after "and".

AMENDMENT NO. 742

On page 32, at the beginning of line 10, insert the following: "For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f), $288,000,000 to be deposited into said Fund."

On page 32, line 10, after the word "into", strike "the" and insert in lieu thereof, "said".

On page 32, line 10, beginning with the word "the" strike down to and including the comma on line 13.

On page 33, line 10, strike "$4,027,836,276" and insert in lieu thereof, "$4,315,836,276".

On page 44, line 11, strike "$4,027,836,276" and insert in lieu thereof, "$4,315,036,276".

On page 20, line 7, after the word "Provided" and before the comma, insert "further".

AMENDMENT NO. 743

On page 6, line 16, after the semicolon, insert the following: "for payment of per diem and/or subsistance allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty;".

On page 16, line 14, after the semicolon, insert the following: "for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty;".

On page 18, line 19, insert the following after the word "countries" and before the semicolon: "without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year".

On page 30, line 4, after the word "Service" insert the following: "for the hiring, equipping and training of an additional 32 full-time equivalent special agents and 22 full-time equivalent support and administrative positions".

Mr. CHAFEE. If I might have the attention of the distinguished manager of the bill, I would like to clarify one point in the bill with regard to the establishment of an Internal Revenue Service toll-free call answering site in Rhode Island. The House approved bill and the bill as reported to the Senate by the Appropriations Committee recommend an appropriation of $1,661,298,000 for the Department of the Treasury account entitled "Processing Tax Returns and Assistance." It is my understanding that the House Report (H. Rept. 102-109) expresses that body's intention that from the total appropriation for that account, $3,800,000 shall be made available for a toll-free call answering site in Rhode Island.

Mr. DECONCINI. That is correct.

Mr. CHAFEE. I would like to clarify with the distinguished manager that while a call answering site is not mentioned in the Senate report language, it is not the intention of the Senate to prohibit the use of funds in the aforementioned account for such a purpose.

Mr. DECONCINI. That is correct.

AMENDMENT NO. 744

(Purpose: To require the General Accounting Office [GAO] to conduct a study of the Internal Revenue Service's small defined benefit plan actuarial audit program and report to Congress within 45 days on the results thereof)

The General Accounting Office shall conduct a study of the manner in which the Internal Revenue Service's small defined benefit plan actuarial audit program is being conducted. Further, the General Accounting Office shall report to the Congress within 45 days on the results thereof.

IRS SMALL PENSION PLAN AUDIT PROGRAM

Mr. KASTEN. Mr. President, I have received numerous complaints, as have many other Members of Congress, concerning the small plan actuarial audit program currently being conducted by the Internal Revenue Service.

In late 1989, the Internal Revenue Service [IRS] initiated an audit program directed solely against small business sponsors of defined benefit plans. The basic tenents of this program were described in an internal memorandum to IRS field agents dated November 29, 1989, which provided that IRS agents were to challenge an interest rate assumptions below 8 percent and retirement age assumptions below age 65.

This approach retroactively reversed prior IRS guidance provided in the actuarial audit guidelines, which were published in 1984 and discussed at numerous pension practitioner meetings since that time.

The IRS has justified the targeting of its efforts against small companies by noting that small plans have higher per participant contributions than larger plans. Small plans have higher per participant contributions than large plans because small companies have a higher percentage of management and professional employees.

Furthermore, since small companies are often financially unable to establish a pension plan in their early years, they must make higher contributions once the plan is established to properly fund the retirement benefits.

It appears to me that the small plan audit program is an arbitrary program which unfairly punishes small employers who have established defined benefit plans. Not only is it affecting employers whose deductions are being disallowed, but it is sending a message to all small businesses to be wary of establishing a pension plan. This is clearly contrary to elemental fairness and to the goal of providing broader coverage under the private pension system.

On June 18, 1991, the IRS issued announcement 91-92, which stated that the Service would not apply penalties and excise taxes where taxpayers agree to the disallowances imposed under the small plan actuarial audit program. However, the IRS has in no way addressed the fundamental unfairness inherent in this program resulting from the arbitrary rejection of interest rate assumptions below 8 percent and retirement age assumptions below age 65.

In my view, the General Accounting Office [GAO] should conduct a study of the IRS Small Plan Actuarial Audit Program to provide the Congress with an objective analysis of this program, and to determine whether congressional action is necessary to constrain this program.

Consequently, I herewith respectfully submit an amendment to the Treasury appropriation bill which requires the GAO to undertake such a study and report its findings to the Congress within 45 days.

Mr. DECONCINI. Mr. President, I have received numerous complaints, as have many other Members of Congress, concerning the small plan actuarial audit program currently being conducted by the Internal Revenue Service. In late 1989, the Internal Revenue Service [IRS] initiated an audit program directed solely against the small business sponsors of defined benefit plans following a demonstration program it had conducted earlier in my home State of Arizona. The basic tenets of the program were described in an internal memorandum to IRS field agents dated November 29, 1989, which provided that IRS agents were to challenge any interest rate assumptions below 8 percent and retirement age assumptions below age 65. This approach retroactively reversed prior IRS guidance provided in the Actuarial Audit Guidelines, which were published in 1984 and discussed at numerous pension meetings since that time.

The IRS has justified the targeting of its efforts against small companies by noting that small plans have higher per participant contributions than larger plans. However, it seems only reasonable that small plans have higher per participant contributions than large plans because small companies have a higher percentage of management and professional employees. Further, since small companies are often financially unable to establish a pension plan in their early years, they must make higher contributions once the plan is established to properly fund the retirement benefits.

Mr. President, I have discussed this issue with IRS several times, asked questions in hearings, and I still question whether the small plan audit program is fair to small employers who have established defined benefit plans. The program is adversely affecting many employers whose deductions are being disallowed. In defense of IRS, I would have to agree that there has been considerable taxpayer abuse in this area. However, there is an issue here which clearly must be resolved. Is the IRS sending a message to all small businesses that they are going to be unfairly singled out? Such a message would be clearly contrary to elemental fairness and to the goal of providing broader coverage under the private pension system.

On June 18, 1991, the IRS issued announcement 91-92, which stated that the Service would not apply penalties and excise taxes where taxpayers agree to the disallowances imposed under the small plan actuarial audit program. However, it is alleged that the IRS has not satisfactorily addressed the questions of the fundamental fairness posed by an inflexible interest rate assumption of 8 percent and a retirement age assumption of age 65.

Mr. President, I believe these questions need to be given more attention. In my view, the General Accounting Office [GAO] should conduct a study of the IRS small plan actuarial audit program to provide the Congress with an objective analysis of this program, and to determine whether congressional action is necessary to constrain this program. Consequently, I wholeheartedly support the Kasten amendment which requires the GAO to undertake such a study and report its finding to the Congress.

It is the intent of this amendment that GAO shall conduct a thorough analysis of the impacts of the small business audit program upon smaller businesses and the reasonableness of the interest rate and retirement age assumptions. This amendment shall also provide responses to the following questions:

First, was any study made prior to the issuance of the November 29, 1989, memorandum to Internal Revenue Service [IRS] field agents prescribing the minimum 8 percent interest rate and minimum age 65 retirement age assumptions as to the percentage of small plans that would be affected by such standards?

Second, was any study made prior to the issuance of the November 29, 1989, memorandum as the percentage of large plans—those plans having more than 100 employees—that utilized interest rate assumptions below 8 percent and/or retirement age assumptions below age 65?

Third, did any consultation take place with the actuaries responsible for establishing the interest and retirement age assumptions in the Federal military and civilian retirement programs as to the assumptions used in such plans? If no consultation took place, was any consideration given to the assumption utilized?

Fourth, did any consultation take place with the President's Council of Economic Advisers as to their projections of future interest rates on long-term Treasury bonds? If no such consultation took place, was any consideration given to their projections?

Fifth, did any consultation take place in advance of the issuance of the November 29, 1989, memorandum as to the lack of consistency between the retirement age standard enunciated in that memorandum and the Pension Benefit Guaranty Corporation regulation on expected retirement age, signed by the Secretary of the Treasury? If no consultation took place, was any consideration given to this regulation? This regulation assumes that those eligible for a benefit will elect to receive it within a short period after eligibility, and that this tendency is strongest for individuals receiving a high level of benefits.

Sixth, the legislative history of ERISA includes the following discussion in the House Committee on Ways and Means concerning the selection of actuarial assumptions.

> Your committee recognizes that frequently there is a range of actuarial assumptions which may be appropriate for determining the costs of defined benefit pension plan, and the choice of the appropriate assumptions is very much a matter of judgment.

Is the approach adopted in the small plan actuarial audit program, and specifically in the November 29, 1989, memorandum consistent with the above-stated legislative intent?

Seventh, Lesson 5—Actuarial Update [from CPE Technical Topics for 1990, an EP:EO field agent training manual] states that:

> For purposes of the actuarial examination program, a (somewhat arbitrary) definition of reasonablness has been adopted: retirement ages of 65 or more are reasonable.

Is there an inconsistency between the above statement from this training manual and the Service's assertions that decisions under the small-plan actuarial audit program are being made on the basis of the "facts and circumstances" of each particular case?

Eighth, were any studies conducted by the IRS as to when the individuals eligible for a retirement benefit under a private pension plan before age 65 take such a benefit? If not, what was the basis for asserting that age 65 was the normal retirement age with respect to individuals eligible for a benefit at an earlier age? Does the age 65 retirement standard utilized under the small actuarial audit program unfairly impact upon employees of smaller businesses?

Ninth, the House report on ERISA states that:

> Unless the assumptions used are substantially unreasonable, it is contemplated that generally the Service will not require a change of assumptions to be made effective for years prior to the year in which the audit is made. (H.R. Rep. No. 93-779, 93d Congress, 2d Sess., 94) (February 5, 1974).

Under the small plan actuarial audit program have any interest rate or retirement age assumptions been adjusted by the Service only a prospective basis? If not, why not?

Tenth, has any recognition been given to the need to establish actuarial assumptions on a more conservative basis in small plans as against large plans because of the reduced margin for error referred to in the letter from the American Academy of Actuaries to Thomas Terry, Benefits Tax Counsel in the Office of Tax Policy, dated May 11, 1991.

Eleventh, in a letter to Congresswoman NANCY JOHNSON dated April 3, 1991, Assistant Commissioner, Employee Plans and Exempt Organizations John E. Burke stated that:

> Ten test cases have been selected by a Tax Court judge who has taken responsibility for deciding these issues and we expect the cases to come to trial later this year. We are confident that the positions we have taken are sound and we are eager to receive the court's findings.

Did the IRS attorneys seek delay in the trial of these cases until the summer of 1992 at a pretrial hearing before Judge Charles E. Clapp, the U.S. Tax Court Judge having responsibility for the actuarial audit cases?

Twelfth, on June 18, 1991, the IRS issued announcement 91-92 describing the Actuarial Resolutions Program, which provides that taxpayers who agree to the disallowances proposed by the Service may settle their tax liabilities without the imposition of certain penalty and excise taxes. This program commenced on July 1, 1991, and will close on March 31, 1992.

What was the basis for the decision to close this program on March 31, 1992, prior to the time that any Tax Court case decisions will be rendered? Does this termination date have the effect of pressuring taxpayers into accepting IRS disallowances based on the minimum 8 percent and age 65 standards?

Thirteenth, would it have been reasonable for enrolled actuaries to conclude from the publication of the Actuarial Audit Guidelines by the Internal Revenue Service in 1984, and the discussions thereof at numerous practitioner meetings by IRS representatives, that the reasonableness of interest-rate assumptions for plans with the appropriate experience to be subject to these guidelines would be determined by the standards described in the guidelines?

Fourteenth, Mr. Ira Cohen, then the Director of the IRS Employee Plans Technical and Actuarial Division, reportedly made the following comments at the 1986 enrolled actuaries meeting concerning the interest rate deemed reasonable by the IRS In plans lacking experience when the long-term Treasury bonds were yielding at least 12 percent:

> One approach would be to go to 12 percent. On the other hand, I indicated before that we do not want to be just totally superimposing judgment. We want to leave a range and on the guidelines we came up with a 4 percent range and I've explained how we came about that range. Therefore, if we allowed when there is experience a 4 percent variation, we subtracted the 4 percent from the 12 percent which is what the expectation [is] and came up with 8. And that is basically the approach we used dealing with the interest rate.

Would it have been reasonable for enrolled actuaries to conclude that interest assumptions for plans lacking experience—and thus not subject to the guidelines—which fell within the range of 4 percent of the long-term Treasury rate prevailing at the time the assumption was established would be deemed acceptable in view of the explicit comments of Mr. COHEN cited above?

Fifteenth, in how many of the cases under the small-plan actuarial audit program where disallowances have been based on a rejection of the interest rate assumption would that assumption have been acceptable if the interest rate standard described in the guidelines were applied to plans having the requisite experience and the interest rate standard described by Mr. COHEN—interest rate assumption reasonable if within 4 percent of prevailing long-term Treasury rate—were applied to plans lacking the requisite experience?

Sixteenth, Revenue Ruling 76-464 stated that a range of 5 percent to 6 percent was acceptable for preretirement interest rate assumptions for the funding of target benefit plans. Proposed Regulation 1.40(a)(4)-8(b)(4), issued on May 16, 1990, adjusted this range to 7½ percent to 8 percent effective on a prospective basis, beginning in 1991.

Why was the acceptable interest rate range for target benefit plans adjusted on a prospective basis, and the acceptable interest rate range for small defined benefit plans adjusted on a retroactive basis?

Mr. President, I again applaud the efforts of Senator KASTEN, ranking member of the Committee on Small Business, on the amendment. I would also like to thank the minority staff of the Small Business Committee, particularly John Carson, for all of their hard work. Members of Senator KASTEN'S staff have been working closely with Patty Lynch, my subcommittee clerk, and Tim Gearan of my personal staff, on this issue for several weeks. I would also like to acknowledge the efforts of dozens upon dozens of my constituents that were instrumental in educating me by letter and in person on the finer details of this complex issue. Lastly, I would also like to thank the staff of the Society of Pension Actuaries for their help on this amendment.

Mr. President, I urge the adoption of this amendment.

AMENDMENT NO. 745

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the United States Postal Service during fiscal year 1992 by this or any other act, nor any postal revenues available during such fiscal year, may be used by the United States Postal Service to execute or operate any contract for a major expansion of its current dedicated year-round national air networks for the purpose of transporting priority mail, except in an emergency or temporary service interruption, until the Postal Service provides, 180 days in advance of the proposed date of such expansion, a complete report to the Congress of its plan, including its impact on priority mail service, first class mail, and private industry. Additionally, the Postal Service shall report to Congress on a quarterly basis of any incremental expansion of the dedicated air network for priority mail."

Mr. GORTON. Mr. President, my amendment will remind the Postal Service that it is not a private enterprise and cannot act unilaterally without thought as to the consequences of its actions. My amendment will prevent the Postal Service from making important decisions which impact the taxpayers of this country in a vacuum, affecting anyone who uses its overnight and priority mail services, not to mention its private competitors.

This amendment will ensure that the Postal Service does not move forward to implement expanded air operations with respect to its priority mail. This amendment will require the Postal Service to report its plans and their potential impact on postal customers and private industry to Congress before implementing those plans.

The amendment will not, in and of itself, prohibit the Postal Service from expanding its air operations for priority mail. Nor will my amendment in any way affect the Postal Service's plan to purchase a new hub operation center for its overnight mail service. Without my amendment, however, Congress is likely to have no information and no ability to react to the Postal Service's plans until after it has become a fait accompli, even though those plans may profoundly affect our constituents and privately operated express services and the commercial airlines.

Mr. President, I believe that it is important for this body to understand two facts: the scope of the original plan; and why I believe Congress should still be concerned with them.

The Postal Service's original plan was to implement a $3 billion expansion of its air operations. According to the Postal Service, this expansion was necessary to allow the Service to improve priority mail's delivery range and quality of the service. The Postal Service has admitted that expanding its air operations would increase the cost per pound of delivering priority mail by 300 percent. The Postal Service asserted, however, that through this plan it could increase its market share significantly enough to earn an additional $1 billion over cost.

The Postal Service strategy raised two questions in my mind. First, because private express mail services cannot compete with priority mail head to head by law, should the Postal Service be allowed to increase its market share at the expense of the private sector? Second, has the Postal Service adequately addressed the full ramifications of its proposal?

The Postal Service insisted that it would not be competing with, nor stealing market share from, private enterprise. The increased market share will come, it claims, from small businesses and individuals who the Service believes aren't adequately served by private enterprise or the Service.

To the contrary, the Postal Service plan may well only shift customers from express mail where there is competition, to the cheaper and now more reliable priority mail, where there is not. Moreover, the Postal Service, without increased revenue to offset its higher costs, is likely to be forced to subsidize the space already paid for on its dedicated air operations by carrying first-class mail.

This very real possibility leads me to my second point, the public impacts of this proposal. First, even if every Postal Service objective is achieved, the removal of priority mail from the commercial airlines will cost those airlines $250 million per year. Of that there is no doubt.

Second, if the Postal Service's assumptions about market conditions turn out to be incorrect, its performance objectives will not be attained. The Postal Service, of course, will move first class mail to the unused space in its expanded air operations.

If this is so, the airlines will lose $500 million a year in revenue. Do you want a Government agency making a public-policy decision which may have the effect of removing $750 million a year from an industry, half of whose members are already in bankruptcy.

Mr. President, after a series of meetings with the Postal Service, culminating in a meeting with Postmaster General Frank, the Service has backed away from the proposal to immediately move its priority mail service on a dedicated air system. Now the Postal Service tells me that it will only move forward to buy a single hub operation. This hub operation will be initially dedicated to the processing of the Service's overnight mail. As I said before, my amendment is not in anyway intended to prohibit the Service from accomplishing this goal.

Nevertheless, my colleagues should understand that the Postal Service still has the authority, without my amendment, to move either unilaterally or incrementally toward expanding its air operations for priority mail. There will, no doubt, be consequences beyond which the Postal Service anticipates. My amendment ensures that Congress, and all Americans, will be fully informed before the Service moves forward with its plan.

I have worked with all the authorizing and appropriating committee staffs to assure that everyone understands the intent of my amendment.

I have received a great deal of encouragement and assistance from my colleagues on the appropriating and authorizing committees. I am happy that I could amend the language so that it was acceptable to all.

I urge my colleagues to adopt this language.

Mr. DECONCINI. Mr. President, Mr. Anthony Frank, the Postmaster General of the United States testified yesterday before the Federal Services, Post Office and Civil Service Subcommittee of the Senate Government Affairs Committee. At the hearing, Postmaster General Frank made it clear that the U.S. Postal Service has every intention to move forward with a plan for a dedicated daytime airfleet for priority mail.

Sources outside the USPS have estimated the costs of transporting priority mail on a dedicated fleet would rise from the current price paid to commercial airlines of $0.35 per pound to anywhere from $1.05 to $1.57 per pound. My understanding is that the USPS does not dispute these figures. Although we have not seen the USPS business plan to date, we have been led to believe they plan to offset these higher costs by capturing a larger share of the market. Based on the USPS's own past experience with their overnight express mail service these estimates could be overly optimistic. Profits related to the express mail product have declined as has the USPS' share of the overnight mail market share.

Mr. President, I am also concerned that the USPS will be unable to fully utilize the capacity of its proposed dedicated fleet exclusively with priority mail, and will be forced to either move first class and parcel post away from commercial airlines or pass the additional costs of the dedicated airfleet on to the American postal customer.

Today, commercial airlines transport over 750 million dollars' worth of mail for the USPS, making them one of the airlines largest customers. By all reports, including the USPS, the domestic airline industry is performing a satisfactory job at transporting the mail at what appears to be a bargain price. In addition, this industry appears eager to work with the USPS to improve mail delivery capabilities. I am skeptical of a plan that would take revenue away from our commercial airlines at a time when the industry has lost over $4 billion in 1990 and over $2 billion in the first quarter of 1991.

I would urge the USPS to document and disclose the specific problems it has experienced with the service provided by commercial airlines and work with the airlines to perfect their systems before embarking on a plan as fraught with risk and potential expense as a dedicated airfleet.

I applaud Senator GORTON for his special efforts concerning this amendment. I also would like to recognize the active participation of each and every Senator on the Appropriations Subcommittee on Treasury, Postal Service and General Government, and especially the contributions of the ranking member, Senator DOMENICI. I would also note that Senator MIKULSKI is a cosponsor of this amendment.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendments en bloc.

The amendments (Nos. 736 through 745, en bloc) were agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, we have no other amendments at this time. Again, as my colleague from New Mexico stated, we urge Senators to come to the floor and offer their amendments. There is no better time than 6:20 on a Thursday evening to come here before the Sun is down and get your amendment considered and be out of here early so you can go home for dinner, or whatever. So we urge Members to come to the floor.

And while the Senator from New Mexico and I wait here, I suggest the absence of a quorum.

Mr. DOMENICI. If the Senator will withhold that request, it really is the right time, because in Arizona it is only 3:20.

Mr. DECONCINI. That is right.

Mr. DOMENICI. So there is a lot of time if they will just come down and let us get this bill finished. We might even get it done before the Sun sets.

Mr. DECONCINI. It is very hot in Arizona, and it will be cool in here.

Mr. DOMENICI. We will move a little east and go to New Mexico, and it is only 2 hours different. And we will have some beautiful weather.

Before we proceed to call the quorum, let me again say to Senators on my side that I thank those who have called in and sent notes that they have no amendments or, if they had amendments, indicating that they had changed their plans because matters had been cleared up otherwise.

If there are others besides those that Senator DECONCINI has listed, I would appreciate it. I am trying to get this bill in a position so that, if we do not finish tonight, we would know what needs to be done next week aside from the Helms amendment. I think that would be something worthwhile for the Senate. If Senators can help in that regard, it would be appreciated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill ckerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order is S. 1241.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, we are going into what I believe is the third day of trying to get a vote. We have flipflopped, one bill to the other. There are meetings on how can we stop old HELMS. I just say in the final analysis, you are not going to do it because there is no hole to run to. I tried to offer it on the crime bill and the usual flak occurred, and I do not know the problem that the Senators are having.

Ninety-five percent of the American people agree with the pending amendment on which the yeas and nays have been ordered. I know of four or five Senators who spoke. They are the usual four or five, and I know why they speak and I know whom they represent from their past activities and relationships with various pressure groups.

Let me say again that I want to move the business of the Senate along. I have not held up the Senate. Those who do not want to vote on my amendment have held up this Senate. I heard the lecture by my distinguished friend from Maine and I do not have any wish to encourage any division. If he feels that I have violated comity, I apologize for that. But we can end all this, Mr. President, if we just go to a vote on one of these pieces of legislation. One of them.

I have qualified amendments on the crime bill. I have two amendments to the bill which was just taken down and I simply do not understand the problem. I just wanted to make a matter of record that however the leadership wants to do it, I will be satisfied with a vote on the two amendments and that is all there is to it. If I offended anybody about it, I am sorry about it. The leader has his responsibility, but I, as a Senator, have my responsibility. I am doing the best I can to perform that responsibility. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, it is my understanding that the Senator has been offered the opportunity for a vote on or in relation to his amendment next Thursday following 1 hour of debate at a certain time and that the Senator has refused that offer. So the RECORD will, of course, note the comments just made by the Senator from North Carolina. The RECORD should also note that the Senator from North Carolina was offered an opportunity to have a specific time certain for debate and vote on or in relation to his amendment. My understanding at least—I was not a party to the discussion—is that he has not accepted that offer.

Mr. HELMS. I had a telephone call—if the Senator will yield.

Mr. MITCHELL. Certainly.

Mr. HELMS. I had a telephone call regarding the situation. I have not had an offer made by a Senator. Certainly, the majority leader has not made that offer.

Mr. MITCHELL. My understanding is that through members of the Republican staff, this offer was communicated to the Senator from North Carolina earlier today.

Mr. HELMS. Well, about 10 minutes ago, I got a call in that regard and I came over here as quickly as I could.

Mr. MITCHELL. We do not have to quibble about whether it was 10 minutes ago.

Mr. HELMS. We are not quibbling. We are just getting the facts straight, Mr. President.

Mr. MITCHELL. Does the Senator accept the offer?

Mr. HELMS. Propound the offer and I will consider it.

Mr. MITCHELL. That is the offer. Have a vote on or in relation to your amendment following a time certain next Thursday, following 1 hour of debate on the amendment.

Mr. HELMS. I will make a counteroffer. Following 1 hour of debate this very evening, let us have a vote on or in relation to it. What is the difference? Why the delay of 6 days?

Mr. MITCHELL. The answer obviously——

Mr. HELMS. That is the whole point of what I am talking about, I say respectfully.

Mr. MITCHELL. I do not desire to attempt to negotiate with the Senator from North Carolina under any circumstances, certainly not in this forum. I think the RECORD should note that an offer has been made to have a vote at a time certain on or in relation to the Senator's amendment and he has refused that offer.

Mr. President I understand we are now on the crime bill and we will proceed on that bill. If the Senator chooses to proceed on this bill then, of course, that is his option, as it is the option and the right of every Senator.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I wonder if I might ask the majority leader, in the presence of the chairman of the subcommittee, Senator DECONCINI, who chairs the subcommittee that has the bill that was set aside under the regular order, I wonder if it would be appropriate if Senator DECONCINI and I were to ask our fellow Senators to get amendments to the Treasury-Postal appropriations bill to us maybe within an hour or so while we are still in tonight so that we can make a list of amendments and at least get a unanimous-consent agreement that there will be no other amendments if we ever return to the bill, or maybe I should say when we do.

Mr. MITCHELL. Mr. President, if I may respond, I believe that would be a very positive suggestion, and I encourage the managers, the distinguished Senators from Arizona and New Mexico, to proceed in that fashion and to attempt to get a list, not if, it is when, because we will return to the measure and we will complete action on it, so that we will have a specified number of amendments.

Mr. DECONCINI. Will the leader yield?

Mr. MITCHELL. Yes, certainly.

Mr. DECONCINI. May I ask the majority leader, and the Republican leader as well, if they would hotline a request as to the amendments which are still to be considered: There is the Kohl amendment with 1 hour of debate equally divided which has already been agreed to; the Dodd amendment which has no time limit but I think will be agreed to; the Smith amendment which will have no time limit and will probably be debated and require a vote; and the Burns amendment on which we do not have a time agreement. Those are all the amendments with the exception of the Helms amendment, the prior pending amendment and the second Helms amendment, which we will not deal with. If we could lock those amendments in with the appropriate procedure from our Cloakrooms, asking if there are any additional amendments, then I will ask unanimous consent that those amendments be all the amendments in order to be considered.

Mr. MITCHELL. Mr. President, I think that is an excellent idea. There may be other Senators who want to offer other amendments. They will have the opportunity now to convey that to the distinguished managers and hopefully in the relatively near future we could seek and obtain an agreement with the respect to the ultimate disposition of that measure.

Mr. DOMENICI. I wanted to note that the Republican leader was listening when Senator DECONCINI made the suggestion and he indicated in the affirmative, that we will see to it that Senators on our side are informed, perhaps, we will have an answer within the next 45 minutes, and I will convey it to Senator DECONCINI. I thank the Chair.

Mr. DECONCINI. I thank the leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, earlier in the day I announced that I would be offering three amendments in the course of this crime bill, as it has been called, after the noon period in which we had been requested not to offer any specific measures.

These measures, Mr. President, have been with the managers of the legislation for 2 weeks. They are modest but important matters. One is a large idea having to do with the banning of the manufacture and sale of certain rounds of ammunition, .25 and .32 caliber and 9 millimeter ammunition, to build on the record which the Senate made 5 years ago when we banned the manufacture and sale of armor-piercing rounds, known as cop killer bullets, which had been developed for other purposes but which were now, with the introduction of body armor, in use against police officers.

This ammunition was the one threat to police officers wearing body armor.

This proposal was initially opposed by the National Rifle Association, and other groups, but then with further inquiry the NRA learned, for example, that a very large portion of their membership are police officers who very much wanted this legislation.

The distinguished former President pro tempore, the Senator from South Carolina, joined in the effort, and the Congress enacted and President Reagan signed the first bill in our history that banned the import of a particular round of ammunition.

I make the point about the import because domestic manufacturers no longer made this particular ammunition, its only purpose being to attack police officers. And the Czechoslovaks were the principal suppliers.

That led, sir, to the reflection that guns do not kill people; bullets kill people. We have in our country an estimated 200 million guns in circulation. That, sir, is about a two-century supply of handguns.

I related this morning that as a young member of the U.S. Navy—it is almost 50 years ago—I was officer on deck, midwatch, down in the Caribbean one night. Just out of general interest a gunners mate and I took apart the .45 caliber sidearm which we wore in those days and found this automatic clip-loaded .45 in perfect condition. It had been made in the Springfield, MA, Armory in 1911. I suggested that probably some ensign is carrying it to this day.

We are going to phase out the .45's with the 9-millimeter Beretta's, but they will last well into the next century.

It happens, sir, that about a quarter of the rounds fired at police officers in New York City between 1975 and 1985 were .25 caliber or .32 caliber rounds according to a study by Cox newspapers. They come from your classic Saturday Night Special.

The weapons are not very effective. They are not very costly but they will serve the purpose of killing a police officer, or a bystander in a holdup. They are used disproportionately in crimes, the cause of murder and injury, and they have no use to the sportsmen; no use to the marksmen.

Their only use is as an aggressive weapon. And it was my thought that if we could ban the manufacture and sale of the bullets, we would reduce crime; not overnight, but in a matter of a very short time. The amount of ammunition manufactured rolls over about every 4 years, the best we can tell. We have very poor statistics. In 4 years' time—sooner in many cases—there would be no ammunition for these guns, and they would be useless.

The same should be thought about in terms of the 9 millimeter. As the Presiding Officer well knows, 9 millimeter is a new round in common use in the military and with police officers; it has a huge muzzle velocity and is used in semiautomatics and automatics.

In my city of New York, we have a situation where the police, all of a sudden, find themselves outgunned. They are on the street level with .38 sidearm revolvers; some carry automatics, concealed, as a second weapon. But on the rooftops there are young men with automatic 9 millimeter weapons that can discharge a 50-round clip in seconds. The day may come when we should be restricting 9 millimeters to only police officers.

I was going to offer this amendment, take it down, and hope that somewhere in the course of the next year, we will have another crime bill and there will be some thought to this strategy.

The young woman who was killed on North Capitol Street two nights ago may have been killed by a 9 millimeter round. Getting those rounds out of circulation in this city would not be that difficult. They are used up quickly; guns are not, but ammunition is. Absent that round, the gun is no good. A $1,000 chrome "piece," as they are called, is suddenly useless.

I was going to offer that, but I gather we cannot offer any amendments. I was going to take it down, also, and say: Can we not think of our present situation in the way epidemiologists think about public health emergencies, and to try to cut the vector. What is the easiest vector to find? You can break the cycle if you know. I suggest the easiest vector to break with respect to handguns are the bullets, which do the actual damage.

With that in mind, I had another amendment—again, it has been at the desk—which calls attention to a quite extraordinary fact, which is that the ability or the right to manufacture and to import ammunition in this country is given freely to just about anybody who wants it. The Bureau of Alcohol, Tobacco and Firearms will, for $30, give you a license to manufacture, and thereafter has no interest of any kind in what you do, asking no record of what you do.

Licensing began under the Gun Control Act of 1968.

There are thousands of licenses to manufacture and import ammunition in this country. No one keeps a record of what they do.

It takes about 30 years for a notion like this to make its way. But we have to pass the bill. We have outlawed teflon-coated cop killer bullets, and ought to ban these calibers as well.

I thought that we might ask the Secretary of the Treasury, in consultation with the National Academy of Sciences, to study this subject for us, and to think about it for us. The substance of my legislation was very simple.

Here in the District of Columbia, you can be almost certain that that young mother, dead in that drive-by shooting, was killed by a bullet.

We ought make a very simple measure.

I would also offer a third amendment, to condition the issuance of a Federal firearms license for dealers on evidence that the applicant has complied with State and local law. It is an amendment asked for by the Fraternal Order of Police, the U.S. Conference of Mayors, and New York City Police Commissioner Lee Brown, president of the International Association of Chiefs of Police.

They would like us to require the Federal Government simply to require a person who wants a Federal license to deal firearms to demonstrate that he has complied with the law in a jurisdiction where he does business.

That is not a very large requirement, Mr. President, not one at odds with reality. There are 245,000 federally licensed dealers. Here in Washington, DC, where selling firearms is illegal, the fact of the matter is that there are people selling guns out of back doors all over town, all over Detroit, all over Miami, in New York, and all over the United States.

In Ohio, a Federal licensee was shipping guns to the Irish Republican Army.

So, the Fraternal Order of Police writes to support this amendment. Lee Brown, president of the International Association of Chiefs of Police, writes to support this amendment. The U.S. Conference of Mayors writes to support this amendment which I find, because we are under cloture, I am not going to be able to offer. I could, and there would be a question of germaneness.

And under the order agreed to, we have agreed on this floor to prevent a measure that the police chiefs have asked for, the police have asked for, the mayors have asked for, that makes elemental common sense, costs nothing, deals with the bizarre fact that there are 245,000 federally licensed firearms dealers in this country.

Who are they? Where are they? What are they doing? I will tell you, a disporportionate number of them are selling guns to criminals.

We cannot do it because we are under cloture. I think if we had another death penalty, we could to it; would that not be right? Death penalties are germane.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. Would it be germane to propose there be a death penalty for getting a Federal license to sell guns in a jurisdiction where it was not legal to do so?

The PRESIDING OFFICER. The Chair would have to see the specific amendment that the Senator would offer before he could rule.

Mr. MOYNIHAN. Fine.

Mr. President, we ought to have an amendment: Punishment by death to get a Federal license before you get a State license. I think that would pass muster.

Let me describe, if I may, the other amendment I had offered which would require an importer or manufacturer of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco and Firearms, on the amount, the caliber, and the type of ammunition imported or manufactured.

We have no such information. We do not know whether a billion rounds are manufactured today, or 100 million rounds. These are large numbers, and the calibers vary. One round is a perfectly legitimate sportsman's round for a rifle. Others are used for marksmen firing in licensed competition. Others are used to murder mothers of three children on North Capitol Street.

There is something imbecile about our taking enormous interest in firearms and no interest whatever in the things they fire. That is just as wrong. This would ask Secretary of the Treasury, in consultation with the National Academy of Sciences, to study the regulation in criminal use of ammunition, and make recommendations for the efficacy of controlling ammunition as a mode of controlling crime.

Again, I am sorry to say I cannot offer this because we are under cloture, and germaneness appears to make it impossible.

One would, for example, like to see that in the FBI Uniform Crime Reports which are provided by local law enforcement agencies. When we record a murder or wounding, we never record the caliber or the type of ammunition used in the crime. You have no sense of the appearance of new weapons. Police give their sense of it, but you have no record of it.

Clearly we ought to do it. It would not be much to ask. You would start getting a data base. I have to say over and over again, the number of guns are constant. Ammunition is the variable.

The PRESIDING OFFICER. The Chair will advise the distinguished Senator fron New York that he has spoken beyond the 1 hour permitted in cloture, and further the Chair will advise the Senator from New York that under the cloture rule, an amendment must be previously filed before it can be considered and offered.

Mr. MOYNIHAN. I accept the Chair's point, which is properly taken. The death penalty amendment was not filed. But, sir, and I do not mean to speak any further, surely I have not spoken for 1 hour.

Mr. BYRD. Mr. President, I ask unanimous consent that I may give 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair. I have not spoken an hour, sir, and it does not require any more on my part except to say that I regret that in this long and arduous and difficult time, we have not found a few moments for consideration of these measures.

The President pro tempore has very generously suggested they might be offered on other matters that come to the floor. I will do that. And in any event, I had meant the amendment on the importation, manufacture and sale of .25, .32 caliber, and 9 millimeter rounds to be offered for purposes of introducing the subject, rather than having it resolved by vote at this time.

So, Mr. President, with thanks to the Presiding Officer for his great courtesy, and with regret that I cannot offer a penalty of death for getting a Federal license where you do not have a State license, in the confident judgment that would be germane, I yield the floor.

The PRESIDING OFFICER. The Chair advises the Senator from New York, for clarification, that the hour obtains cumulative from the previous speeches.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

Mr. DODD addressed the Chair.

Mr. MITCHELL. I withhold that.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I ask unanimous consent to be able to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, will the Senator withhold that request for a moment?

Mr. DODD. Yes, I certainly withhold.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I renew my unanimous-consent request that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The time consumed by the Senator from Connecticut will be charged against cloture.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD pertaining to the submission of Senate Concurrent Resolution 52 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

Mr. WELLSTONE addressed the chair.

The PRESIDING OFFICER. Does the Senator withhold the quorum call request?

Mr. BYRD. Not just now.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I rise to speak against the crime bill. This vote, when we vote, is a very difficult vote for me. It is perhaps the most difficult vote that I have cast since I have come to the Senate.

On the one hand, we have a crime bill with many important provisions; many provisions that I think we need if we are going to have real success in fighting crime in this country. We have a crime bill that has evolved through much debate and compromise and much of it is very solid, and it is an effective piece of legislation. I would like to commend both Senator BIDEN and Senator THURMOND—agree or disagree—for their leadership, and all the work they put into this bill.

What makes this vote so difficult is that this same crime bill, which has so many positive attributes, also contains provisions on habeas corpus and the death penalty that raise for me deep moral and constitutional questions. On key amendments throughout the debate on the crime bill I have had the opportunity to speak out on critical components, including the Racial Justice Act, against the death penalty, in favor of the Brady bill. I am proud and I am glad that I had that opportunity to speak on those amendments.

Now I wish, oh so much, that I had an opportunity to cast a final vote on the individual provisions of this bill separately. I wish I had the opportunity to do so because many of these provisions are exactly what we should be doing if we want to fight crime.

I support the Brady provisions which brought together, I think, people on both sides and combined a waiting period and implementation of instantaneous handgun checks. I think that is a step in the right direction.

I support aid to local law enforcement agencies. It is so important that we increase financial assistance to those men and women who are on the front lines, out in the neighborhoods, out in the streets fighting crime. And that is an essential part of this crime bill.

I support the Rural Crime and Drugs Act. I can tell you, Mr. President, as somebody who does not come from a metropolitan area, I am pleased to see this crime bill recognize that drugs and crime are not just an urban problem but a rural problem as well.

I support the designation of drug emergency assistance, just as I laud the crime bill for focusing on rural communities. I am gratified to see that the highest risk areas will receive the greatest assistance.

These are just a few of the provisions of this crime bill that I support. I support most of this bill because most of this bill represents real, not phony, solutions to the problem of crime in our communities. Unfortunately, however, I cannot in good conscience support the crime bill as a whole.

I know many of my colleagues can in good conscience support this legislation. I know that and I understand it, but I cannot. I cannot support this legislation for two very specific and compelling reasons that I mentioned earlier: Habeas Corpus and the death penalty.

On Wednesday, June 26, the U.S. Senate voted by a margin of 58 to 40 to adopt an amendment which dramatically changed how the crime bill deals with habeas corpus. No one denies that there is a need, and was a need, for habeas corpus reform. But the way the crime bill currently reads is not habeas reform, it is habeas repeal. If this crime bill passes with this habeas corpus provision, the Federal courts will have lost the power to remedy even shocking violations of the Bill of Rights. Under the habeas corpus provisions now in the crime bill, the Federal courts will be required to ignore claims even when those claims involve a clear injustice, as long as the State court has provided "a full and fair opportunity for litigation."

Let me put these new habeas corpus provisions into chilling terms that I think everybody in this Chamber can understand.

Leo Frank was a Jewish man who lived in Georgia in 1915. He was accused, convicted, and sentenced to die for killing a Christian woman in Atlanta. Leo Frank's trial in the Georgia State court was dominated by an anti-Semitic mob. Based on this fact Mr. Frank appealed his conviction to the Georgia Supreme Court which upheld the trial court. He then submitted a writ of habeas corpus with the U.S. Supreme Court, asking that his case be reviewed.

The U.S. Supreme Court refused to grant Leo Frank habeas corpus relief. A majority of the court decided that Leo Frank was not entitled to a hearing. Let me repeat that. A majority of the Supreme Court decided that Leo Frank was not entitled to a hearing because his case had already been appealed and had been ruled on by the Georgia Supreme Court. In essence, the U.S. Supreme Court refused to hear Mr. Frank's case, a case in which there had been a blatant violation of his constitutional rights, for no reason other than the State court had already granted him a hearing.

It was later established, after Leo Frank had been executed, that the mob had prevented an eyewitness to the murder from coming forward and establishing the fact that Mr. Frank was completely innocent. Leo Frank, an innocent man, a man whose life could have been saved and should have been saved, was executed because the Supreme Court refused to give him a hearing; refused because the State court had already ruled.

Eight years later after the Frank case, in the case of Moore versus Dempsey, the Supreme Court reversed itself and the Leo Frank precedent was struck down. In the Moore case it was decided that the Federal courts must be able to remedy unjust and unconstitutional State court habeas rulings.

This reversal in the Moore case did not save Leo Frank's life. It was too late. And now the U.S. Senate is close to returning to the standard established in the Leo Frank case. The Senate is about to turn the clock back 80 years, because the habeas corpus provisions in this crime bill might as well be called the Leo Frank provisions. And as much as I might support many of the provisions of this crime bill, I cannot turn my back on the legacy of Leo Frank. I cannot turn my back on the Bill of Rights, and I cannot support legislation that effectively repeals habeas corpus.

The other reason I cannot vote for this crime bill is the death penalty, and I know of no way to express my opposition to capital punishment other than by simply saying that the death penalty is wrong. It is wrong because it is immoral in principle and it is unfair and discriminatory in practice. It results in the death of innocent people. And there is absolutely no compelling reason why life imprisonment cannot be substituted for the death penalty.

The death penalty just does not make sense. It is nothing more than an illusory promise of more safety because there is absolutely no conclusive evidence that capital punishment acts as a deterrent.

I condemn the violence and the brutality that takes place on our streets and in our communities every day. But no matter how much anger I have—and I have it; and no matter how much grief I have—and I have it; I cannot accept the Government taking a life in the name of justice. The death penalty is not applied in a fair and just manner. To the contrary, it is biased, it is racist, and it is corrupt.

This point was clearly made in an article on the front pages of Wednesday's New York Times, which unequivocally reported on the predominance of racial bias in death penalty sentencing in Georgia, and Georgia is not alone. Many studies illustrate this, that the death penalty is racist and biased in its application. And all too often it is absolutely true that capital punishment is for those without the capital.

Mr. President, that is not justice. That is not America. And that is not something that should be part of any legislation that this Senate passes.

I do not like voting against this crime bill. It is a terribly difficult vote. But I promised myself I would vote what I believe in, and my vote against this crime bill is a personal conscience vote.

Mr. DOMENICI. Mr. President, this bill, S. 1241, contains the heart of the President's crime bill. When the Senate began consideration of S. 1241, it was a Democratic bill. Now it contains the heart of the President's bill plus several provisions of importance to Democrats and Republicans alike. The bill includes:

First, comprehensive Federal death penalty: Senator BIDEN and I worked together to arrive at a death penalty provision which is virtually identical to the death penalty contained in the President's crime bill. The Senate removed the so-called Racial Justice Act which would have eliminated the death penalty in every State. The bill will give Federal prosecutors their first comprehensive death penalty since 1972. In addition to authorizing the death penalty for over 40 murder-related offenses, it also authorizes the death penalty for major drug kingpins. As a result of Senator D'AMATO'S amendment, the arm of the Federal death penalty has been extended to virtually every murder committed with a firearm.

Second, habeas corpus reform: The Senate passed President Bush's habeas corpus reform proposal which is the toughest habeas reform ever to pass the Senate. This measure will put an end to the intolerable delay in carrying out death sentences. In the long run, this habeas reform will prove to be the most valuable crime fighting legislation the Senate passes since murderers will actually be executed. It will effectively eliminate unreasonable Federal judicial interference with State capital cases and put an end to the delaying tactics of death row inmates.

Third, aid to death penalty States: The Senate has ensured that for every Federal dollar given to anti-death-penalty litigation groups, an equal dollar will be given to the State litigators as well. Congress has, in the past, unilaterally funded capital resource centers whose only goal is to eliminate the death penalty in the States. Now, the State attorneys general will be given equal funding to balance the scales of justice.

Fourth, anti-terrorism provisions: Senator BIDEN essentially accepted the President's language on aviation and maritime terrorism.

Fifth, victims: The bill lifts the cap on the crime victims fund which helps crime victims recover financially. In addition, the bill contains Senator NICKLES language on mandatory restitution for crime victims. Both of these provisions, in addition to habeas reform, are strongly supported by victims' groups.

Sixth, tough penalties: The Senate passed tough mandatory minimum penalties for the use of a firearm in a violent crime.

Seventh, child abuse: Uniform reporting requirements were established to keep track of child molesters and abusers.

Eighth, additional law enforcement: This bill provides additional funding for State and local law enforcement. In addition, the bill increases authorizations for Federal law enforcement, with a special emphasis upon placing more agents in rural America.

Ninth, public corruption: The bill contains provisions which will enhance the Federal Government's authority to investigate and prosecute public corruption cases.

REGIONAL VIOLENT CRIME ASSISTANCE ACT

Mr. RIEGLE. Mr. President, the crime bill the Senate is considering contains a number of provisions to make our communities safer. Some provisions will have little effect; others greater. But perhaps the most important thing we are going to do here is send more Federal assistance to local police men and women, to the sheriffs, and to the State police. They desperately need it.

State and local law enforcement agencies are struggling to stop the avalanche of crime that is falling upon them. My amendment, adopted by the Senate last evening, targets greater Federal crime fighting assistance directly to the areas that need it the most.

Current Federal assistance to State and local law enforcement is not adequately targeted to high crime areas. Federal funding is largely based on population, even though violent crime rates and violent crime problems vary dramatically from city to city. This proposal supplements the resources of communities that have the greatest violent crime problems.

My amendment complements provisions in the crime bill that direct assistance to areas of particular need. The sections that address rural crime and drug-related crime, for example, promise to provide needed help in these areas and I support them.

The regional violent crimes areas amendment goes directly to help communities fight violent crime. It provides $50 million to be distributed by the Attorney General to the States for communities and regions that face violent crime problems requiring greater resources.

Violent crime has devastated urban areas in our country. Young men growing up in parts of some cities are more likely to die a violent death than they are to graduate from college.

Violence has driven people from our cities, often leaving the poorest and most vulnerable citizens to face the criminal devastation.

We cannot afford to leave our citizens in these circumstances.

Cities with high violent crime rates often have the most underfunded schools and health facilities. These cities are also the ones with the most limited tax bases from which to meet their pressing needs. In these communities, the choice between education and law enforcement, for example, is the most painful. Violent crime does not stop at the city limits. Suburban areas, small cities and towns have not been spared the ravages of violent crime.

Drug dealers and other criminals are moving their operations to towns outside large urban areas to avoid big city police departments. These areas often employ only a handful of law enforcement officers and are unable to control the wave of violent crime. Under this amendment, these communities could receive supplementary assistance.

My amendment also encourages police departments to work with neighboring police departments to fight their common problems. The Attorney General may give priority in awarding grants to regional and multijurisdictional partnerships that develop cooperative plans to reduce crime—to prevent criminals from hiding out and terrorizing communities that do not have the law enforcement resources to handle them.

Finally, funds under this program can be used in several ways. Grants could be awarded to improve law enforcement or to improve the criminal justice system in general. This allows communities to use the money in the most effective way to get criminals off the streets.

My proposal goes right to the heart of our violent crime problems; it is an important step in getting help to areas that need it the most. It promotes teamwork between police departments. And it allows law enforcement authorities to use this assistance in the way that best reduces violent crime.

I am pleased that it has been adopted by the Senate.

Mr. President, I suggest the absence of a quorum.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 323

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time proceed to the consideration of Calendar No. 125, S. 232, the gag rule bill, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I may proceed for 5 minutes or so as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUDGE CLARENCE THOMAS

Mr. DANFORTH. Mr. President, I regret to say that this afternoon the Congressional Black Caucus held a meeting in which it voted to oppose formally the nomination of Clarence Thomas to the U.S. Supreme Court. And it is my understanding that at that meeting it was further decided that the Congressional Black Caucus would attempt to mount a sort of political campaign throughout the country against the Thomas nomination. The effort would be made, as I understand it, to communicate with black political leaders throughout America and urge them to weigh in against the Thomas nomination.

I regret their decision for several reasons. One, because it was really a rush to judgment. No effort was made to find out the facts. It was even decided not even to try to review Judge Thomas' record before making the decision.

But there are a couple more reasons that cause me even more concern. The first is that I am concerned that we are seeing a rerun of what happened with the Bork proceedings. At that time there was an effort by opponents of Judge Bork to in effect go over the head of the Senate, particularly during the summer recess at that time, and to whip up various interest groups by creating the impression that Judge Bork was something of an ogre, a villain, and by so creating that impression frighten various groups to in turn weigh in with their Senators, and make appeals with their Senators particularly during the recess.

I do not think that confirmation proceedings should be conducted in that way. I do not believe that confirmation proceedings for the U.S. Supreme Court should be political campaigns designed to build blocs of interest groups to oppose a Supreme Court nominee. For that reason, I am very concerned about this development. I can see it coming all over again: The politicization of the confirmation process, as though it was a political campaign as though it was a campaign for President or the Senate.

Mr. President, there is another reason why I am particularly concerned, and this, to me, is the greatest reason why we should be aware of what I am afraid is going on. The worst threat to this country is nothing that happens abroad. The worst threat to this country, in the opinion of this Senator, is not the deficit and the budget, or anything relating to the economy. The worst threat to this country is divisiveness on the basis of race. That is the great threat to America.

The great challenge to America is how to hold our country together as one people, regardless of race; how to draw us together and hold us together. So the great threat is the politics of race. And it is a very attractive political tool. It has been used by Republicans; it has been used very recently by Republicans, and it has been advocated by Republicans: Let us play the race card.

But it is no less playing the race card for members of the Congressional Black Caucus to organize black politicians around the country to oppose a black judge who has been nominated for the Supreme Court on the basis that he does not have the right ideology. That is racial politics. That is divisive. And that is at least equally as dangerous as anything that is done with respect to the quota card.

The reason I have been trying to work on a civil rights compromise is to get race out of partisan politics and to get it into partisan politics, no matter what the source, is something that threatens the very fabric of this country.

Mr. President, I hope that Americans—white and black—all over America will say: We just do not want this to happen; we do not want it to happen in the context of the civil rights legislation; we do not want to have it happen in the context of the Thomas nomination. That is a thing of the past. That is a thing of the days of Theodore Bilbo and the Ku Klux Klan. That is not America of 1991.

The American people are going to be appealed to, apparently, as members of interest groups or racial groups, on the Thomas nomination. What Clarence Thomas stands for is that a person can be black, and he can think anything he wants and say anything he wants.

What Clarance Thomas said today when he was visiting one of the Senators was that he hoped that his nomination could further healing in this country along racial lines. We are going to have to ask ourselves whether we want healing, or whether we want more division; whether we want Americans to say "no" to this racial divisiveness, or whether we are going to fall for it yet again.

Whatever the decision, Mr. President, this Senator is going to do his best to point out what is happening in this debate. Let us have it all in the open—not just 40 phone calls; not just little letter-writing campaigns and an order to make people afraid of Clarence Thomas. Put it out in the open; call attention to it; put it in the spotlight of public attention, and let the American people respond.

I think the American people will say about Clarence Thomas: This is a decent person, and this is a qualified person, and this is the kind of person we want on the Supreme Court of the United States. And we are not going to be frightened and divided. We are going to support him, or we are going to oppose him on the basis of his human qualities or on the basis of his judicial policies, and not on the basis of some effort ripped up on the basis of race.

Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

DIVISIVENESS AND RACISM

Mr. SIMPSON. Mr. President, I hope many of us heard those remarks of the senior Senator from Missouri. He is a man, I think, that commands our deepest respect. He is an extraordinary man, a man who has served in so many capacities, who has given us a conscience on many issues that come before us.

You will remember that it was Senator DANFORTH and Senator PRYOR—and we send him our prayers and blessings, and hope that he heals completely—that began to talk of the quality of life in this place. They worked very hard.

Here is a man who is a lawyer and an Episcopal priest, and when he speaks about divisiveness and racism, we should listen. I think today's action by the Congressional Black Caucus regarding the nomination of Judge Clarence Thomas for the U.S. Supreme Court is the worst form of injustice. I guess it would even be the worst form of prejudice. When you use the dictionary word of prejudice, just try to keep racism out of the word when you think of it.

But the caucus has already now passed judgment on Judge Thomas, passed judgment on his qualifications, without the benefit of a Senate Judiciary Committee hearing and without examining his record in any way, except on the issue of racism. How curious; how appalling; how repugnant.

And so, indeed, the American people will not even know why the caucus has taken this precipitous action until sometime next week, when they will present to us some kind of trumped up charges against this outstanding individual. I think it is appalling.

I know many members of the Black Caucus. I intend to visit with them and ask them who did the arm-twisting on this one, and did not even allow Chairman JOE BIDEN and the ranking member, STROM THURMOND, to go forward—and we will go forward, I can assure you—with a hearing on the qualifications of one extraordinary human being, who is already serving on the Federal district bench, in the circuit court.

I concur fully with the remarks of my dear friend from Missouri. This is appalling conduct, very unbecoming, very divisive, and very unfortunate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 1467 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, what is the status,

The PRESIDING OFFICER. The Senate is considering S. 1241, the crime bill, which is not pending.

Mr. GORTON. I ask unanimous consent that I be allowed to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 1469 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2622

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be 1 hour for debate on the Helms amendment No. 734 to the Treasury-Postal appropriations bill to be equally divided between Senators KENNEDY and HELMS; that upon the use of yielding back of time the Senate, without any intervening action or debate, proceed to vote on the Helms amendment; that immediately upon the disposition of the Helms amendment No. 734, the Senate, without any intervening action or debate, proceed to vote on the committee amendment; that there be 1 hour for debate, equally divided in the usual form, on each of the following first-degree amendments to H.R. 2622, and that they be considered in the following order:

A Kennedy amendment that is AIDS related; a Dole amendment that is AIDS related; a Mitchell amendment that is AIDS related: a Helms amendment that is related to child pornography; that no other amendments or motions to recommit be in order prior to the disposition of these amendments other than those referred to in the succeeding agreement; that at the conclusion of yielding back of each of these amendments, the Senate, without any intervening action or debate, proceeded to vote on each amendment; that the pending committee amendment and the Helms Amendment No. 734 be laid aside until Thursday, July 18, at a time on that day to be determined by the majority leader after consultations with the Republican leader; and that the other Helms amendment and the Kennedy, Dole, and Mitchell amendment referred to in this agreement not be in order prior to Thursday, July 18.

The PRESIDING OFFICER. Is there objection, The Chair hears none, and it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes consideration of H.R. 2622, the Treasury-Postal Service appropriations bill on Monday, July 15, at 3:30 p.m., the only amendments remaining in order to the bill be the following first-degree amendments and those listed in the preceding agreement:

Two committee amendments, including the Helms perfecting amendment; a Kohl amendment regarding the IRS, which by previous consent will be considered under a 1-hour time limit; a Dodd amendment regarding locality pay; a Burns amendment regarding restrictions on first-class mail and postcards; a Bentsen amendment regarding the striking of section 104 and/or 102; a Smith amendment regarding the naval shipyard at Portsmouth, NH; and a managers' technical amendment; further, that the amendments be considered in the order listed, with the exception of the committee amendment with the Helms perfecting amendment; and that on Monday, if a Senator is not present and ready to offer his amendment upon disposition of the previous amendment, then that amendment is no longer in order; that no motion to recommit the bill be in order; and that on Monday no rollcall votes occur before 7 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

VIOLENT CRIME CONTROL ACT OF 1991

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President and Members of the Senate, we will now proceed to vote on final passage of the crime bill. Because of the lateness of the hour and the fact that several Senators are not currently in the Capitol, we will have to have a period of approximately 15 minutes or so before we begin that vote, and that will be the last vote this evening. We will then not be in session tomorrow.

We will return to session at 3 p.m. on Monday, returning to the Treasury-Postal appropriations bill at 3:30 on Monday. Under the agreement just reached, there will then be a series of amendments offered on Monday with votes on those amendments to occur on Monday evening with no vote to occur prior to 7 p.m.

I am advised by the managers that it is not possible to know at this time precisely how many will require rollcall votes, but at least two or three of them are likely to require rollcall votes. So Senators should be aware that we will proceed on the Treasury-Postal appropriations bill on Monday with votes to occur after 7 p.m.

We will then have completed all action on the Treasury-Postal appropriations bill other than the amendments relating to AIDS and child pornography which were the subject of the first agreement. Those will be disposed of on Thursday at a time on that date to be determined by the majority leader following consultation with the Republican leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the following be the only amendments in order to S. 1241, the crime bill: A Specter technical amendment related to the police corps, with a technical second-degree amendment; a Thurmond amendment striking title XXII on strike forces from the bill; a manager's amendment providing for prosecution funding; that these three amendments at the desk be considered read and adopted en bloc; that the motions to reconsider the adoption of these amendments be tabled; that no other amendments or motions to recommit be in order; that the time remaining on the bill be reduced to 12 minutes equally divided and controlled by Senators BIDEN and THURMOND; and that upon the expiration of this time, the Senate vote, without intervening action, on final passage of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL] proposes, amendments numbered 746, 747, 490, and 472, en bloc.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 746

On page 86, strike line 3 and all that follows through page 114, line 10, and insert the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liasions, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaurate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The Total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the casse of graudate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provisions set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties;

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participants must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing gradute study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction to the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) a participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police

Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 185. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SECTION 821. SHORT TITLE.

This Subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Subtitle".

SEC. 822. DEFINITIONS.

As used in this Subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this Subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this Subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of scholarships and student employment provided under this Subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this Subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this Subtitle and shall, in consultation with the Assistant Secretary of Postsecondary Education, issue rules to implement this Subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this Subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this Subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

SUBTITLE C—REPORTS

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

AMENDMENT NO. 747 TO AMENDMENT NO. 746

(Purpose: To reduce the amount of scholarship moneys provided to participants; to provide for individuals tranferring to a 4-year institution to participate in Police Corps; to ensure that the participants may receive a leave of absence for church missionary work; and for other purposes)

(1) On Page 6, line 12, replace "$10,000" with "$7,500"; on line 18, replace "$13,333" with "$10,000"; on line 21, replace "$40,000" with "$30,000".

(2) On Page 7, line 19, replace "$10,000" with "$7,500"; on line 25, replace "$13,333" with "$10,000"; on Page 8, line 3, replace "$40,000" with "$30,000".

(3) On Page 8, line 6, strike the period at the end of the sentence and insert the following:

", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses."

(4) On Page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On Page 14, strike lines 17–20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection"

(6) On Page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence."

(1) After Page 19, line 19, add the following new paragraph (d):

"(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participants' completing 4 years of service, and result in denial of educational assistance under section 812, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.".

Mr. LIEBERMAN. Mr. President, I am proud to join in supporting the Police Corps and Law Enforcement Training and Education Act of 1991. I firmly believe that establishing a National Police Corps Program modeled on the military's ROTC program, will greatly assist those who are on the frontlines fighting crime—our State and local police forces. Like the military's ROTC program, the national police corps should help police forces in attracting committed and qualified students from all walks of life who might not otherwise have considered law enforcement careers. The police corps graduates should provide welcome relief to our overburdened police forces.

The deterioration of personal security in America is very real and alarming. Our citizens rightfully expect to live in communities free of fear from criminal activity. The outcry for anticrime legislation that we are hearing from every segment of our society requires a reasoned but strong response. In 1988, reported crimes in the United States reached 14 million, four times the number in 1960. Even more disturbing, there were 1½ million violent crimes reported in 1988, five times the incidence in 1960. Violent crimes rose by 14 percent between 1980 and 1988 and that does not even reflect the full horror of criminal activity because, according to Justice Department estimates, more than half of most crimes are never reported to the police. While the number of crimes has drastically increased, the relative strength of our police has decreased. In 1951, in cities with populations over 50,000, there were more than three police officers for every reported violent crime. By 1988, there were more than three violent crimes for every police officer.

While I agree that it is important to understand the many social, economic and cultural factors behind the huge surge in crime, we must first organize programs that are directed at immediately putting down crime and putting criminals in jail. The Police Corps Program will help police departments across the country do just that. The fact of the matter is that at present our police are outmanned on the streets. At a time when violent crime is rising dramatically, the number of police officers assigned to patrol duty, those who are actually on the streets, has not kept pace. Eighty percent of police chiefs surveyed in a Justice Department study reported a desperate need for additional officers.

Our outnumbered police must make the most difficult decisions affecting the fundamental rights of citizens under the most trying circumstances. We need not only more officers, but we need to attract highly qualified young people to law enforcement. The police corps offers a way to recruit qualified students to join State and local police departments and provide them with the benefits of a college education. Police corps graduates are volunteering for a particularly difficult and dangerous form of public service. They will not be an elite corps performing administrative duties, but rather they will be deployed in patrol units where the need is greatest. All police officers, whether they are police corps participants or not, must be our very best qualified persons to help our society take back the streets.

I know that there are those who are skeptical of the Police Corps Program because they doubt that its participants will become proficient police officers in only 4 years of service. However, this program will attract many talented men and women to careers in police work who might not otherwise have entered the profession. Many of those who enter the program for scholarship assistance will no doubt remain in police forces longer than the 4-year commitment and some will likely opt for law enforcement careers.

I am particularly excited about the prospects of a police corps in my own State of Connecticut. I have supported efforts by leaders in public office in Connecticut to establish a Connecticut Police Corps. Recently legislation was enacted by the State senate to establish a task force to consider the establishment of a police corps at public institutions of higher education. By January 1, 1992, this task force will submit a report of its findings and recommendations. I know that Connecticut will be ready and eager to implement a National Police Corps Program.

Public service programs such as this promote a better understanding and appreciation of the work our police perform. We must realize that government alone cannot solve the problem of crime. A collective response from all segments of our society is required to restore the order and security that a civilized nation has a right to expect. Participation by those who serve in the police corps will help promote civic cooperation and will demonstrate to all citizens that crime fighting is a civic responsibility in which we all must play our part.

AMENDMENT NO. 490

Strike title XXII.

AMENDMENT NO. 472

At the appropriate place, insert the following new Section:

SEC. . FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §§3711 et seq.) is amended by adding the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to federal appropriation, in the same fiscal year."

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we have been on this crime bill now for several weeks, and I am glad that it has finally come to a conclusion.

This bill, S. 1241, contains the heart of the President's crime bill. When the Senate began consideration of S. 1241, it was a Democrat bill. Now it contains the heart of the President's bill plus several provisions of importance to Democrats and Republicans alike. Some troublesome provisions but are outweighed by the tough provisions in the bill. The bill includes:

First, comprehensive Federal death penalty. Senator BIDEN and I worked together to arrive at a death penalty provision which is virtually identical to the death penalty contained in the President's crime bill. The Senate removed the so-called Racial Justice Act which would have eliminated the death penalty in every State. The bill will give Federal prosecutors their first comprehensive death penalty since 1972. In addition to authorizing the death penalty for over 40 murder-related offenses, it also authorizes the death penalty for major drug kingpins. As a result of Senator D'AMATO's amendment, the arm of the Federal death penalty has been extended to virtually every murder committed with a firearm.

Second, habeas corpus reform. The Senate passed President Bush's habeas corpus reform proposal which is the toughest habeas reform ever to pass the Senate. This measure will put an end to the intolerable delay in carrying out death sentences. In the long run, this habeas reform will prove to be the most valuable crime fighting legislation the Senate has passed, since murderers will actually be executed. It will effectively eliminate unreasonable Federal judicial interference with State capital cases, and put an end to the delaying tactics of death row inmates.

Third, aid to death penalty States. The Senate has ensured that for every Federal dollar given to anti-death-penalty litigation groups, an equal dollar will be given to the State litigators and prosecutors as well. Congress has, in the past, unilaterally funded capital resource centers whose only goal is to eliminate the death penalty in the States. Now, the State attorneys general will be given equal funding to balance the scales of justice.

Fourth, antiterrorism provisions. Senator BIDEN essentially accepted the President's language on aviation and maritime terrorism.

Fifth, victims. The bill lifts the cap on the crime victims fund which helps crime victims recover financially. In addition, the bill contains Senator NICKLES language on mandatory restitution for crime victims. Both of these provisions, in addition to habeas reform, are strongly supported by victims' groups.

Sixth, tough penalties. The Senate passed tough mandatory minimum penalties for the use of a firearm in a violent crime.

Seventh, child abuse. Uniform reporting requirements were established to keep track of child molesters and abusers.

Eighth, additional law enforcement. This bill provides additional funding for State and local law enforcement. Furthermore, the bill increases authorizations for Federal law enforcement, with a special emphasis upon placing more agents in rural America.

Ninth, public corruption. The bill contains provisions which will enhance the Federal Government's authority to investigate and prosecute public corruption cases.

Mr. President, I think we have come up with a good crime bill, as a whole. As I said, there are some provisions that are not favorable, but the good ones outweigh the ones that are not favorable.

Mr. President, in closing I want to take this opportunity to express my deep appreciation to the majority leader, Senator MITCHELL; and the minority leader, the Republican leader, Senator DOLE, for the fine cooperation they gave us during the consideration of this bill.

I wish to express my appreciation to Senator BIDEN, from Delaware, the chairman of the committee, for the cooperation he has extended during the consideration of this bill.

I wish to thank especially Senator HATCH, Senator SIMPSON, and Senator GRAMM of Texas for the great help they rendered during the consideration of this bill. Many others helped, but time does not permit to recall all of them.

I would also like to thank the able Attorney General of the United States, Richard Thornburgh, for the work he did on this measure and the valued assistance his aides provided. Lee Rawls, the Assistant Attorney General, Kevin Holsglaw, Roger Pauley, Paul McNulty, and others were a great assistance.

I want to thank also, on the Republican staff, my staff, Manus Cooney, Terry Wooten, Thad Strom, and John Grady, who worked tirelessly, who were here day and night assisting, and who rendered magnificent service in the consideration of this bill.

I wish to express to Mark Disler, from Senator HATCH's staff; Darrell Panethiere, from Senator HATCH's staff; Mr. Warren Schaeffer, from Senator SIMPSON's staff; and Mr. Kerry Tymchuck, from Senator DOLE's staff that I appreciate the great work they did in consideration of this bill.

On the Democratic staff, we wish to express appreciation to Ron Klain, Jeff Peck, Victoria Nourse, and Chris Putala. All of these people have rendered an outstanding service, and are due much credit for the passage of this bill.

Finally, and most importantly, I would like to thank President Bush for his perseverence and unyielding dedication to achieving a tough comprehensive crime bill.

If this bill passes the House, it will be a great bill for the whole country. And we appreciate the consideration given by everybody in the Senate and the staffs in getting this bill passed.

Again, I have already thanked Senator BIDEN. I want to thank him again for working with us in the passage of this bill.

Mr. BIDEN. Mr. President, I thank the Senator.

FEDERAL FUNDING FOR STATE CAPITAL LITIGATORS

Mr. SPECTER. Mr. President, I am pleased that, under an agreement worked out by the managers of the bill, the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished ranking member, Senator THURMOND, my amendment, cosponsored by Senator THURMOND, Senator HEFLIN, and Senator SHELBY, to require the Bureau of Justice Assistance to provide grants equal to the Federal funding received by capital representation resource centers to State and local prosecutors to assist in the handling of capital cases in habeas corpus proceedings has been adopted by the Senate.

I believe that this amendment is an important one. Through their elected representatives, the people of 36 States have demonstrated that they support the death penalty. The death penalty must be constitutionally imposed if we are to retain it as a viable sanction. In order to ensure that the death penalty is imposed in accordance with the requirements of the Constitution, the Federal Government has been providing funding to capital representation resource centers in many of the States with the death penalty. These resource centers assist indigent defendants sentenced to death to bring habeas corpus petitions. This program, run through the Administrative Office of the United States Courts, is a critically important one.

It is important to grant Federal assistance to both sides in such important litigation. For example, in Pennsylvania a capital resource center is scheduled to open in fiscal year 1992 with a projected staff of eight. The Pennsylvania Attorney General's Office litigates death penalty cases on Federal collateral review with a staff of only two lawyers and one assistant. This inequity in resources, brought to my attention by Pennylvania Attorney General Ernest Preate, can place great strains on the State's representatives, who usually handle multiple capital cases, and can lead to an incomplete presentation of a case to a Federal court. This, in turn, restricts the court's ability to consider carefully and fully all aspects of a case. In the end, the system and all involved, including the defendant and the public, are losers. Providing Federal resources to enable prosecutors to employ more resources so as to make more effective presentations in Federal habeas cases will only benefit the system by enabling courts to make more fully informed and therefore better decisions.

My amendment merely authorizes the Bureau of Justice Assistance to provide funding to match what the Federal Government has been providing to resource centers. The funds would come from the Bureau's allotted funding. The amendment does not authorize any new money, and is therefore neutral in its overall effect on the Federal budget.

I wish to thank and compliment the distinguished managers of the bill for agreeing to this amendment, which has received the strong support of the National Association of Attorneys General and the Department of Justice.

Mr. BIDEN. Mr. President, I want to thank also my friend from South Carolina. He is a great fellow. I love him. It is amazing how he has turned the Biden bill into the President's bill. I find it fascinating, and I enjoy it. I do not care what we call it now, as long as we pass it.

I ask unanimous consent that a table here listing the major provisions of the Senate crime bill: Listing topic, and what was in the Bush crime bill, what is in the Biden crime bill, and what is now about to become law, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR PROVISIONS OF SENATE CRIME BILL

Topic	Biden	Bush	Senate bill
Brady bill	Includes modified Brady bill.	None	Includes modified Brady bill.
Assault weapons	Includes "DeConcini" ban.	None	Includes "DeConcini" ban.
Death penalty:			
No. of offenses.	51	46	51.
Mentally retarded.	No	Yes	No.
Indian sovereignty.	Yes	No	Yes.
Homicide only	Yes	No	No.
Aid to local law enforcement.	10,000 new officers.	No provision	10,000 new officers.
Exclusionary rule	Codifies current law.	Allows warrantless searches.	Codifies current law.
Prison/boot camps.	Yes	No	Yes.
Habeas corpus	Powell-type reform.	Drastic restriction.	Drastic restriction.

MAJOR PROVISIONS OF SENATE CRIME BILL—Continued

Topic	Biden	Bush	Senate bill
Police corps	Yes	No	Yes.
Alien terrorist removal.	No	Yes	No.
Rural crime plan	Yes	No	Yes.
Youth gang plan	Yes	No	Yes.
Drug emergency areas.	Yes	No	Yes.

Mr. KOHL. Mr. President, I rise in support of S. 1241, the Violent Crime Control Act. The Senate began consideration of this bill over 3 weeks ago. It has been a long and arduous effort, often extending deep into the night. At times final passage of this measure appeared unattainable. Yet, by persevering, addressing controversial issues, and maintaining a focus on passing a bill that confronts violent crime, I believe we have come up with a good bill. There are provisions I do not like about this bill—death penalty, mandatory minimum sentences, and others—but on balance, I believe it will help reduce violent crime. Therefore, I will vote for the bill.

It is important that this bill be put in perspective. In 1989 one violent crime was committed every 49 minutes in Wisconsin—one rape every 8 hours, 51 minutes; one robbery every 2 hours, 24 minutes; one aggravated assault every 1 hour 28 minutes. In 1990 there were 223 murders in my State—the largest number ever. These crimes strike at the very fabric of our society. Clearly, violent crime remains a threat to every citizen.

Mr. President, occasionally, during consideration of S. 1241, the Senate engaged in debate on superfluous matters—seeking political gains rather then producing legislation. It is unfortunate that we allowed politicking to interfere with the legislative process to the extent that it could have detracted from the accomplishments of this bill. We would do well to remember our obligation to our constituents and give politics a lower priority on future matters of similar magnitude, such as the civil rights bill.

The crime bill we are about to adopt has problems, but also many worthwhile provisions. The Brady compromise, developed with the assistance of Senators MITCHELL, METZENBAUM, myself, and others is a step in the right direction—toward a reasonable national gun policy. The bill also provides substantial funding to Federal State, and local law enforcement, the core of any effort to combat violent crime. Additionally, S. 1241 as amended, contains language reforming habeas corpus, codifying the good faith exception to the exclusionary rule, and strongly punishing violent gun and drug-related crimes.

Mr. President, although I do not agree with every provision, I believe this crime bill is, in total, a good effort, and I will vote in favor of final passage. In retrospect, the work of the floor managers has been herculean. I congratulate Senator BIDEN, Senator THURMOND, Senator DOLE, and Senator MITCHELL, whose patience and endurance are unparalled

Mr. WALLOP. Mr. President, the frustrations generated by not effectively addressing crime in this Nation now threaten to limit our liberties. In an honest struggle to deal with the problems plaguing our streets, we in the Senate have spent considerable time and effort trying to come up with a strong package that will actually deter crime.

All sorts of emotional and intellectual arguments have surfaced. But, Mr. President, any way I look at it, the bottom line remains the same. This crime bill contains a measure that limits and restricts a constitutional freedom that is an integral part of Wyoming's traditions and lifestyle—the right to keep and bear arms.

I am mindful today that Cheyenne Frontier Days—the rodeo "Daddy of 'Em All"—begins later this month in Cheyenne, WY. It is a rodeo tradition to kick off all Sunday rodeos with a recital of the "Cowboy's Prayer." The announcer will ask for a moment of silence before the prayer, part of which reads:

> Oh, Lord, I've never lived where churches grow. I've loved creation better as it stood that day you finished it so long ago and looked upon your work and called it good. Make me a partner of the wind and sun and I won't ask for a life that's soft or high. Let me be easy on the man that's down, let me be generous and kind to all. Make me as clean as the wind that blows behind the rains, and free as the hawk that circles down the breeze.

The recital of "A Cowboy's Prayer" is a glimpse of our traditional richness for those visting Frontier Days from distant places and it is the truth restated for those of us who have been fortunate enough to live the life.

Debate on this floor often turns to regional interests as expressed by westerners and easterners and it is so. Our western life—our values, traditions, and culture—are not the same as those of New Jersey, or New York, or Washington DC. Nor are our problems. It is for this reason that we so value and cherish State's rights. It is on the State level that much of our governance should occur.

The gun control provision in this bill is the product of many long hours. It is a well-intentioned compromise. But it is also an attempt to uniformly address problems that are not, in fact, uniform at all. No doubt, hard work and good faith have fashioned this gun control measure, which imposes a waiting period. But I believe that this provision is wrong for Wyoming.

I, like everyone, am greatly disturbed by the ever-increasing horrors of crime. Of course, there should not be a free flow of guns and weapons to criminals and impulse buyers with murder in their hearts. But if the purpose of a waiting period is to keep weapons from would-be murders, I don't believe it will work. We have no evidence that waiting periods deter criminals.

The Federal Government should not infringe on the personal rights and interests of law abiding citizens by making them wait for 7 days, or 5 days, or 2 days to go about their personal business. I did support Senator STEVENS' approach, one which this body rejected. His amendment would have provided for the instant identification of felons without chipping away at our personal liberties.

It is very distressing to see us dance around the second amendment as though it was written for another time and another people. When Congress first voted on the second amendment, it was clear that the amendment would protect the freedom of bearing private arms. The rights to that personal freedom have not diminished.

Mr. President, Congress cannot legislate good morals, good will, or good behavior in spite of our desire to deter crime. We already have gun control measures in place that appropriately limit personal use. The Government may and does restrict the types of arms that are owned. Artillery weapons, sawed-off shotguns, and others are banned—they are illegal. Registration and licensing requirements are also forms of gun control—highly appropriate and responsible as long as they don't infringe on second amendment rights. The Federal Government bans the ownership of guns by minors, felons, and the mentally impaired. The carrying of guns outside the home is limited and often banned.

What everyone really wants is the assurance that guns will not be placed in the hands of those who will abuse them. Unfortunately, Mr. President, this would be possible only in a perfect world.

Gun control measures take freedoms—they add bureaucratic restrictions and they will not control the actions of people who intend to do harm.

Regretfully, I must vote against this bill.

Mr. CHAFEE. Mr. President, I would like to take a few minutes to make a brief statement about the vote on S. 1241.

As my colleagues well know, I long have opposed the death penalty, and have stated my opinion on capital punishment before this body many times. I have worked with Colleagues in offering amendments that substitute the sentencing option of mandatory life imprisonment for that of the death penalty.

On this bill, I voted against each and every death penalty amendment offered, and supported an amendment by my colleague from Illinois to substitute mandatory life imprisonment for the death penalty. To my mind, we in this body have begun to apply the death penalty to everything except school truancy. That does not bode well, and I do not think it is wise. The death penalty is irreversible, studies show that it does not deter, and I believe it frequently turns criminal trials into Roman circuses.

But this year, as it was last year, a clear majority of the Senate has indicated by rollcall votes that they do not agree with my view.

This bill does contain two other provisions that I feel strongly—and positively—about: limitations on assault weapons, and a national 5-day waiting period for the purchase of handguns.

With pasage of this bill, the Senate will indicate its support for limiting nine kinds of assault weapons. Last year, on three separate occasions, this body voted to retain the assault weapons provisions of S. 1970. That was unprecedented. Yes, we have voted to ban undetectable plastic weapons, and yes, we have approved bans on new machine guns, but never have we approved limitations on military-style assault weapons. This bill is a major step forward in that respect.

We also had extensive debate on the so-called Brady bill, named after Jim and Sarah Brady who have worked so long and so tirelessly on this issue. I am pleased that the Senate voted down an amendment to replace the Brady bill with an instant check system. I am also pleased that the members in this body were able to work out a compromise that I believe will strengthen the original Brady measure. As I stated at the time, I would have preferred that a waiting period remain in place past the point when a check system is implemented. However, the Senate did vote to drop the provision on pre-exemption of State law, and that means States such as my own retain the ability to craft the laws as they see fit.

The law enforcement community wants these gun provisions and have lobbied long and hard for them. The Fraternal Order of Police, the National Association of Police Organizations, the International Brotherhood of Police Officers, the Federal Law Enforcement Officers Association, the International Association of Chiefs of Police, the Major Cities Chief Administrators, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, the Police Executive Research Forum, the Police Foundation, and the Police Management Association—all view these bans as crime control tools. Right now, they are waging war against criminals who are stocked with firepower worthy of Rambo. They need our help and we should give it.

I therefore will be supporting the overall omnibus crime bill. As I have said many times, I do not support the death penalty and, indeed, I also have serious concerns about other sections of the bill. But the Senate has spoken repeatedly, and it is clear I can do nothing—at least for now—to change its mind. The assault weapons ban and the waiting period are two provisions, however, that are major steps forward and are worth saving.

For that reason, I will support this bill.

Mr. HATFIELD. Mr. President, like many of my colleagues, I too have received the flood of letters and calls from my constituents asking me to put a stop to the spiraling crime rate in this country. The Senate has labored these past weeks to put into law measures with teeth, measures that will check this epidemic of crime. I am pleased with much of the progress that has been made.

Unfortunately, however, this bill still retains the expansive death penalty provisions that have been urged upon and accepted by this body on so many occasions. The death penalty is an outdated, ineffective, and embarrassing practice. I find it to be the most repugnant aspect of this legislation. Consequently, Mr. President, I find myself in the position of having to vote against S. 1241, the omnibus crime bill.

There are many provisions included in this legislation that I believe have merit. For example, the bill extablishes 3,000 new Federal law enforcement officer positions and includes significant antigang provisions. We have also expanded the list of federally regulated precursor chemicals. These chemicals are now used in the meth labs in Oregon and across this country to manufacture the methamphetamines that are killing our young people.

I am encouraged that this year's crime bill improves a prisoner's chances to be rehabilitated, a goal that I find to be quite worthy of the Senate's consideration. The bill promotes the Boot Camp Program and improves prisoner literacy, both ideas that I support. I want to also commend my colleague from New Mexico, Senator BINGAMAN, for including his life skills amendment as part of this legislation. This amendment will go far to develop in prisoners the skills they will need to successfully re-enter society upon their release.

Mr. President, one amendment that I cosponsored will increase the resources to fight rural crime, a part of this country that we know has not been spared in the continuing crime epidemic. An amendment that I introduced requries the Justice Department to establish a program designed to help locate wandering Alzheimer's patients.

Many positive aspects, Mr. President, but one fatal flaw. When it comes to my vote—on this legislation or any other—the death penalty is fatal. This bill contains, and significantly expands, the death penalty. I shall, therefore, oppose this legislation.

My longstanding belief in the sanctity of human life is well known to most of my colleagues. To me, all life is sacred. the public, and especially those of us in the Federal Government, should do everything in our power to preserve human life. We should not be in the business of demolishing life. The death penalty, especially when compared to mandatory life imprisonment, is a worthless practice that continues to embarrass the United States on a global scale.

USE IMMUNITY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator RUDMAN be added as a cosponsor to amendment No. 460, which is at the desk.

Mr. President, for several days I have been waiting to offer an amendment, cosponsored by my distinguished friend from New Hampshire, Senator RUDMAN, dealing with the issue of the proper scope of use immunity. Some courts have taken an extremely broad interpretation of the Federal use immunity statute, 18 U.S.C. 6002, which threatens effectively to convert use immunity back into transactional immunity. This would put Congress and prosecutors in the position of having to choose between obtaining a critical witness' testimony and the opportunity to prosecute that individual for crimes he or she may have committed.

Unfortunately, Senator RUDMAN and I will not have the opportunity to offer this amendment on this bill. My good friend from Utah, Senator HATCH, I know has concerns about this amendment that he believes needs more study. At this point, I would like to ask my good friend, the chairman of the Judiciary Committee, whether—after this amendment is introduced as a bill—we could get prompt hearings on this bill and the opportunity to have it considered by the appropriate Judiciary Committee's subcommittee?

Mr. BIDEN. I would be pleased to accommodate my good friends from Connecticut and New Hampshire by holding hearings in the Judiciary Committee on their amendment, and to give them the opportunity to have it considered within the committee.

Mr. SASSER. Mr. President, the Senate is to be commended for its passage of this crime bill, the Violent Crime Control Act of 1991.

Our Nation's cities are currently experiencing a crime wave the likes of which this country has not seen in years. Day after day on the news and in the newspapers we see the savage and mindless violence that is spawned largely by the drug trade.

Vicious criminals are destroying our communities, they are destroying our families, and they are destroying our youth. The huge profits to be made in the drug trade are simply warping the values of many people. Parents, and community and religious leaders are finding it impossible to steer our youth away from the glitter of the huge amounts of easy money available from the drug trade.

Mr. President, the way to stop crime is to catch and punish criminals. That is what our bill will do.

Our bill will also provide important new resources to our law enforcement agencies in their battle against crime. It increases funding for State and local law enforcement to $1 billion. The President's 1992 budget—unwisely I think—called for cuts in that funding. Unlike the President's bill, our bill provides funding for several thousand more police officers, FBI and DEA agents, and prosecutors.

I am particularly pleased that the bill contains the police corps proposal that Senator SPECTER and I introduced in the last Congress and which passed the Senate as part of last year's crime bill. Our legislation would establish a program similar to the Reserve Officers Training Corps. In return for scholarship assistance, a student would agree to serve 4 years in a State or local police force.

The police corps would provide our police increased manpower for foot patrols, for strike forces, and for working with community groups who wish to work with the police to break up criminal activity.

One of the greatest deterrents to crime is simply police presence on the streets and in our neighborhoods. It increases the risk factor for criminals. We need to increase the risk for the criminal so that if he commits a crime a patrolman will apprehend him, or a strike force will be operating on that block, or a citizen will promptly inform the police.

There is another benefit from our legislation that should not go unmentioned. Too few of our citizens understand the pressures and the dangers that our police officers face. When the graduates of the Police Corps Program complete their service they may go on to other careers.

However, they will know what it is to be a police officer. They will be able to share that knowledge with their neighbors. I firmly believe that this will increase respect and support for the brave men and women who put their lives on the line every day for all of us.

The bill also contains an important rural drug initiative. It provides $50 million to States like Tennessee to fight drugs in rural America and another $25 million for drug treatment and prevention in rural areas. It provides $1 million for training of officers from rural law jurisdictions. This section also creates a rural drug task force to coordinate antidrug efforts in rural America.

Those of us who represent large rural areas have been saying for some time that insufficient attention has been paid to the problems of rural drug enforcement. As drug enforcement has increased along the gulf coast in recent years, drug smugglers have moved inland.

For instance, my own State of Tennessee is easily within range of the aircraft commonly used by drug smugglers flying from South America. It contains many small, rural airports and airstrips that are particularly vulnerable to use by drug smugglers. Law enforcement officials in my State have identified several such airports which need additional surveillance.

State and local law enforcement agencies simply do not have the manpower to monitor these airports and airstrips on anything approaching a regular basis. The rural crime section of our bill will allow us to explore new ways to attack the special problems rural law enforcement agencies face.

So, Mr. President, I believe this bill contains important tools to improve our crime fighting efforts. I commend the chairman of the Judiciary Committee for bringing this bill to the floor. I urge our colleagues in the House to act expeditiously on this bill.

FUNDS FOR CAPITAL LITIGATION EFFORTS

Mr. HEFLIN. Mr. President, title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, lists 21 authorized program areas for which justice assistance grant funds may be used by the States. There is a need to authorize a 22d program area for which funds may be spent, and that is in the capital punishment area, particularly in post-conviction proceedings such as Federal habeas corpus.

Since 1988, Congress has appropriated, through the Administrative Office of Courts' budget, millions of dollars to fund capital representation resource centers which litigate against, recruit and organize litigation against, State death sentence judgments at the postconviction stage. These resource centers currently exist in 15 States and the Administrative Office of Courts estimates that they will exist in a total of 22 states by the end of fiscal year 1992. The Administrative Office of Courts has requested $13.4 million to fund these resource centers in fiscal year 1992. That money will fund a projected 230 employees, including attorneys, whose sole purpose is to litigate against State capital sentences being carried out. None of these staff or Federal moneys can be used to provide better defense at trial. It is all spent after the defendant is sentenced to death.

Of course, Mr. President, everyone agrees that those under sentence of death should receive competent and knowledgeble representation. However, it is important to note that congress has provided through separate provisions (in the Anti-Drug Abuse Act of 1988) for adequate compensation and expense reimbursement of attorneys appointed to represent State death sentence inmates in Federal habeas proceedings. The $13.4 million requested for capital resource centers in fiscal year 1992 is over and beyond that. Moreover, resources worth millions more are provided by large, civil law firms on a pro bono basis. As a result, the States in their efforts to have capital sentences upheld are badly outnumbered and outspent by the resources aligned against them. That is one of the principal reasons why State capital sentences are being delayed and obstructed through years of post-conviction litigation.

There are two possible solutions to this serious imbalance of resources. One is to delete the $13.4 million in funding for the resource centers. The other solution, and the one I favor is to provide evenhanded funding by authorizing the use of Justice assistance grant-money by the States in post-conviction capital punishment litigation. Such an authorization would permit the Justice Department to provide equal grant funds to the States where capital resource centers currently operate.

The vast majority of the American people support capital punishment as an available sentence option in aggravated murder cases. In light of that, Congress ought to at least be evenhanded in its supplemental funding of litigation involving capital punishment. It is unfair for Congress to tilt the scales against State capital sentences being carried out by providing millions of dollars to one side and not providing a penny to the other side. Under our adversary system, the capital punishment issue in each case is one that ought to be fought out in the courts, but the fight should be a fair one. Amending the Justice assistance grant provisions to authorize funding to offset the advantage that the anti-death-penalty side now has at the post-conviction stage would restore fairness and balance to the process. I urge that all members support this amendment.

THE DEATH PENALTY

Mr. LEVIN. Mr. President, in looking over the Biden-Thurmond dealth penalty amendment to this bill, a number of questions about the actual text come to mind, and I would appreciate if the chairman of the Judiciary Committee could clarify a few points.

In the discussion of mitigating factors, the amendment states that consideration shall also be given to "other factors in the defendant's backgound or character that mitigate against the imposition of the death sentence." May the defendant present evidence supporting other mitigating factors relating to the circumstances of the crime in addition to the ones specified in the statute?

Mr. BIDEN. Yes, the Constitution, as interpreted by the Supreme Court, so requires.

Mr. LEVIN. If the defendant can present evidence supporting other mitigating factors relating to the circumstances of the crime, can the defendant present evidence showing duress that is less than unusual and substantial? Can the defendant present evidence showing impaired capacity that is not significant? Can the defendant present evidence showing mental or emotional disturbance that is less than severe?

Mr. BIDEN. Yes, the Constitution, as interpreted by the Supreme Court, requires that the defendant be permitted to offer mitigating evidence. The bill does not purport to be exclusive on the question of mitigating factors.

Mr. LEVIN. With respect to the return of a finding concerning a sentence of death, it is clear in the amendment that the trier of fact, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence. Is that correct?

Mr. BIDEN. Yes.

Mr. LEVIN. With respect to aggravating factors, the jury "may consider whether any other aggravating factors exist? Can it consider any aggravating factors for which the Government has not given notice that it "proposes to prove as justifying a sentence of death?

Mr. BIDEN. No.

Mr. LEVIN. I thank the chairman of the committee for his time.

Mr. HARKIN. Mr. President, I rise in support of S. 1241, the Violent Crime Control Act of 1991. The Violent Crime Control Act will make a real impact on crime in our country by placing the emphasis where it is needed most: more and better law enforcement officers.

Violent crime, drug abuse, and drug trafficking plague rural America—not just our Nation's cities. That's the conclusion of a recent report of the Senate Judiciary Committee. It is a tragic reality faced daily by the people of Iowa and other rural States.

From 1989 to 1990, violent crime in Iowa increased by 6.5 percent, twice New York's rate. The report also found that 1 of every 10 hard core cocaine addicts live in rural areas in 1990.

The drug problem has reached epidemic proportions in rural America. This tragic conclusion echoes the findings of a GAO report on the rural drug crisis which Senators BAUCUS, PRYOR, and I commissioned last year.

In response to the GAO report and the Senate Judiciary Committee staff study, the violent crime bill tackles the problem of rural violent crime. The Rural Crime and Drug Control Act included in S. 1241 authorizes 350 more Drug Enforcement Agents for rural areas. I have worked for years to provide more DEA agents for Iowa, especially in the Sioux City area. The bill will also provide $50 million for State and local law enforcement grants in rural areas, and create rural drug enforcement task forces. These provisions will allow a coordinated effort to fight crime and drug abuse in rural America.

In contrast, the President's original crime initiative would have ignored the problem of rural violent crime and drug abuse. Unfortunately, the President's shortsightedness on rural crime is evident throughout his crime proposal.

The President says he's getting tough on criminals by imposing the death penalty and changing the rules for habeas corpus. That only makes it tough on the criminals already in jail. The way to get tough on criminals is to make sure we catch them in the first place. The Violent Crime Control Act will help achieve that, by providing resources to States to fight crime before it occurs. If the President had his way, we would actually reduce Federal assistance to States to fight crime. The President talks tough, but he does not match his rhetoric with the resources needed to fight crime.

Specifically, the Violent Crime Control Act authorizes $1 billion to aid States in fighting crime. Local law enforcement agencies—city police, county sheriffs, and State patrol officers—do most of the work in this country to stop violent crime and apprehend criminals. They are on the front lines of the war against crime, and they should get the funds they need to win the battle.

Unfortunately, the administration does not understand that. Instead of helping local law enforcement, the President's budget would slash $100 million from Federal assistance to local law enforcement.

The Violent Crime Control Act also provides incentives to bring in a new generation of dedicated law enforcement officers. Law enforcement is an increasing complex field, and we need to recruit highly qualified men and women for the job. The Violent Crime Control Act will establish a Police Corps to provide college scholarships to help students pursue law enforcement careers, modeled on the Reserve Officers Training Corps. This program will turn out professional police officers to fight crime into the next century.

The President's package does not include any provision to help recruit, train and retain new crime fighters.

Finally, the Violent Crime Control Act will fight crime by taking guns out of the hands of criminals. It incorporates two important provisions: A ban on the manufacture and assembly of domestic assault weapons, and a waiting period for handgun purchasers.

The President's bill would ban foreign-made assault weapons, but not domestic assault weapons. We need to get assault weapons out of the hands of drug dealers, whether they're made at home or abroad.

The waiting period provisions included in S. 1241 is an improvement on the original Brady bill, and incorporates some provisions of the Staggers amendment which failed in the other body. Some complained that the original Brady bill would not require the police to conduct a criminal records check. The final version of the Brady bill would require police to conduct a background check, and provide incentives to improve criminal records, a necessary first step to develop a nationwide instant check system.

The waiting period provisions would not affect gun buyers in Iowa, which already requires a 3-day background check. However, the waiting period in this bill provides a consistent, nationwide policy which will prevent felons from buying guns in States without a background check and bringing them to the State which do have checks.

I do not suggest that this is a perfect bill, or that I agree with all of its provisions. Both the President's bill and the Violent Crime Control Act would impose the death penalty on criminals under Federal law. I have long opposed the death penalty. I am disappointed that the Senate stripped the Racial Justice Act from the bill, which would have prevented the imposition of the death penalty in a racially discriminatory manner. A study by Prof. David Baldus of the University of Iowa of over 2,500 homicide cases in Georgia which controlled for 230 nonracial factors demonstrated that the death penalty is imposed 4.3 times as often on those who kill whites than those who kills blacks. We must ensure that racial bias plays no role in criminal sentencing, especially in the imposition of the death penalty.

I am also concerned about the impact on individual rights and liberties of the President's habeas corpus reform provisions included in the final bill. These provisions could have a profound impact on the rights of Americans.

However, on each of these objectionable provisions, the majority of the Senate has spoken. It is not an easy decision for me to vote in favor of a bill which would allow the death penalty, or reduce to protections against injustice for Americans. However, even with these provisions, I believe the benefits of this legislation outweigh the cost. The desperate need for better crime control in this country demands action now.

While I reservations about some of the provisions of the Violent Crime Control Act, Mr. President, I believe that it makes an important contribution to crime control. This bill is anticrime, and propolice.

Mr. PELL. Mr. President, today, after much deliberation and compromise, the Senate has finally reached agreement on the contents of the crime bill of 1991—a package of legislation designed to address the escalating levels of crime in this country.

The crime bill contains both desirable and undesirable features. Foremost among the positive positions are those relating to gun control. I believe that the compromise reached in this bill regarding the Brady bill providing for a 7-day waiting period and the provision for the future implementation of background checks is an important step forward in the effort to curb the violent crime caused by guns. I also point to the provisions banning assault weapons as further positive steps in this regard.

I am also pleased that this bill provides greater financial assistance to State and local police forces so that those brave souls on the frontlines will have the resources they need to fight the crime on their streets.

In addition, I am happy that this bill contains an amendment of mine which relates to the addition of felony drunk driving to the list of those crimes which are grounds for deportation for resident aliens. This substance of this amendment was first brought to my attention by the Mothers Against Drunk Driving and I am pleased that the Senate has acted to include this important crime provision in this crime package.

I am also pleased about what has been eliminated from the President's version of this bill including the narrowing of the exclusionary rule and the creation of a secret star chamber operating under unconstitutional procedures regarding the deportation of individuals accused of being alien terrorists. These were serious intrusions upon constitutionally protected liberties and I am happy to see that the Senate has seen fit to reject them.

There are, however, very serious deficiencies in the bill as well. I am most disturbed by the drastic expansion of the application of the death penalty. I personally am opposed to the death penalty. I recall that the last person to be executed in my home State of Rhode Island under the death penalty was later proved innocent. This bill provides for an unprecedented application of the Federal death penalty—more than 60 offenses, some of which do not even involve murder. I cannot help but be disturbed by this trend in capital punishment.

I am also distrubed by the virtual elimination of any meaningful recourse to individuals under the writ of habeas corpus. To retreat to a Supreme Court standard of 85 years ago seems unwise and dangerous. In addition, the elimination of the Racial Justice Act portions of the original bill is troubling in that without an effective writ of habeas corpus, racial discrimination in sentencing may not be addressed.

It is clear that this bill is not a perfect piece of legislation. Nevertheless, on balance, I believe that the pros outweigh the cons. The need for tougher law enforcement, the need for national gun control, and the need for Congress to send a stern message to those on the streets that crime will not pay are all addressed, albeit imperfectly, by this legislation. Accordingly, I choose to support its passage and look forward to seeing the results it produces in helping wage the war on crime in America.

Mr. GLENN. Mr. President, I rise today to express my support for S. 1241, the Violent Crime Control Act of 1991.

While I am not pleased with all of the amendments which are now included in the bill, I feel that the bill has a number of positive features. I am hopeful that the shortcomings can be improved in the conference committee.

Mr. President, I recognize that these are violent times in which we are living. The Cleveland Plain Dealer recently reported the death of an innocent bystander in a drive-by shooting. Just recently, a young mother was shot and killed after having been caught in the crossfire of gang violence while driving down a major thoroughfare in the Nation's Capital. This is a time when we need to get tough on crime.

S. 1241 is not a panacea. It will not cure America of all the crime which ails her. However, S. 1241 will help to fight crime in America. It will not be a final solution; we have to keep working on that.

This crime bill has a number of provisions which I feel will help curb the violence which has overtaken our streets and neighborhoods. To begin with, the bill authorizes $1 billion in aid to State and local law enforcement agencies for use in combating crime. I am not one who enjoys throwing Federal tax dollars around for frivilous uses, and if I did not feel this measure contained some effective provisions for fighting crime, I would oppose the measure just on the amount of money authorized.

However, the kinds of anticrime programs we need and the kind that are authorized in this bill warrant expenditure of public funds. For example, the bill authorizes more police officers to get the criminals off the streets, more prosecutors to bring them to justice, and more prisons in which to house them.

I might add here that the bill now includes an amendment I proposed which would direct the Bureau of Prisons to study the cost effectiveness of alternative methods of prison housing. Modular buildings and military-style housing such as Quonset huts would be effective. What I hope to achieve through this amendment is to provide ample prison housing for criminals who might otherwise receive lesser sentences, without breaking the backs of the taxpayers who have to pay for such housing.

While alternative housing might not be appropriate for maximum security inmates, I believe it will provide an excellent cost-effective housing alternative for minimum and medium security prisoners.

Mr. President, S. 1241 contains some much needed gun control amendments. One such amendment bans the manufacture and assembly of 14 domestic assault weapons which have as their only function that of killing people. I support this provision, and am pleased that it was not removed from the bill.

The bill also addresses the problem of handguns, imposing a 5-day waiting period before a person is allowed to purchase such a weapon. During that 5-day period, the local police force is required to conduct a background check to ensure the eligibility of the potential purchaser's right to purchase a handgun. Again, this provision will not end all deaths from handgun violence, but it's a start. If it saves just one life, then it is worth the effort.

S. 1241 provides $100 million to combat juvenile gangs and drug abuse among youths, and increases penalties for most serious offenses. Whether we like to face this somber fact or not, crime among youth is so rampant that more teenagers today are affected in some way by youth violence than are not. Youth in America have gone from fist fights to full-fledged shoot-outs with uzis. They have gone from smoking cigarettes to smoking crack. It is time that we take a stand in curbing youth violence and drug abuse.

As I said before, I am not pleased with all of the provisions of this bill. I am greatly concerned about the death penalty provisions authorized in the bill. I am even more concerned that the Racial Justice Act, which I have consistently supported, was eliminated from the bill.

Mr. President, I have been criticized for my stand against the death penalty, but I stand firmly by that position. It is not that I believe there is no crime which is so henious that the death penalty is warranted. I think to the contrary, that there are indeed crimes which are so henious, as well as murderers who are so incorrigible, that, as abhorrent as it is, perhaps the death penalty is the only solution.

In addition to my questions about the deterrent value, my concern with the death penalty, Mr. President, is the very real possibility of mistake. I have read statistics which state that, in this century in the United States, there have been more than 350 cases where innocent persons were convicted of capital or potentially capital offenses. In 139 of the cases, an innocent person was actually sentenced to death.

In 116 of those cases, the mistake was revealed; however, the mistake was not revealed until after years of waiting. Now, waiting on death's row, as we know, is generally accomplished by the accused filing successive petitions to the court for a writ of habeas corpus.

S. 1241, as amended, makes onerous changes in the writ of habeas corpus, by which a prisoner challenges the unlawfulness of his or her confinement. S. 1241, as written would have limited habeas corpus review to one petition. The bill, as amended however, effectively eliminates federal court review of alleged constitutional violations in State capital cases, stripping the federal courts of their power to protect individual rights.

In addition, reports have shown a history of racial disparity in capital sentencing. The death penalty has been shown to be racist and biased in its application. Given this, I cannot understand the reluctance of Congress to pass the Racial Justice Act which protects against racially discriminatory sentencing in capital crimes. I have serious concerns with a system which condones racism in the name of justice.

Moreover, S. 1241, as amended, federalizes all violent crimes involving the use of firearms, effectively imposing the death penalty in all gun-related homicides. If Congress is going to expand the categories of potentially capital crimes, then Congress must address the issue of racially discriminatory sentencing.

Mr. President, all of these concerns notwithstanding, I am prepared to vote for S. 1241 for the reasons which I have stated. I am hopeful that the ultimate implementation of this measure will have a positive impact in our battle against crime.

IN OPPOSITION TO CRIME BILL PASSAGE

Mr. CRANSTON. Mr. President, as much as anyone else I would like to support this crime bill in which the distinguished managers have invested so much time and energy. Some of the bill's accomplishments—the Drug Emergency Areas Act, the Mitchell-Dole gun control compromise, and increased funding for law enforcement, for example—would be valuable additions to our anti-crime efforts. The Drug Emergency Areas Act, similar to the high-intensity drug trafficking legislation I introduced last Congress, would provide money for supply and demand anti-drug efforts in cities of all sizes. The Mitchell-Dole gun compromise assists States in creating a computerized criminal history check for purchasers of handguns while allowing each State to retain or institute its own waiting period. And the increased enforcement funding would augment many of our existing anti-crime efforts as well as fund novel efforts such as the Police Corps.

Nonetheless, Mr. President, my longtime opposition to the death penalty and my astonishment at the gutting of the great writ habeas corpus compel me to oppose final passage of this bill. This crime bill, by increasing the number of offenses punishable by death and by weakening the means by which we force the States to adhere to the constitutional standards for the imposition of the death penalty, would increase the frequency and likelihood of executions and simultaneously decrease our certainty that constitutional errors were not made. By adopting these habeas reforms, the proponents have relegated constitutional errors to the realm of mere technicalities, despite the irrevocable nature of such errors. When lives are at stake, Mr. President, how can a constitutional error be a harmless error? The only accomplishment of this reform is to ensure that the poor, for whom the death penalty seems exclusively reserved and who so often receive incompetent trial level representation, will face a judicial system unable and unwilling to judge their cases fairly. If we remember that in capital cases the crucial question is often not whether the prisoner committed the offense charged but whether the death sentence is constitutionally imposed, this habeas reform reveals itself as even more lethal than the usual arbitrariness inherent in our death penalty process. With the Federal courts precluded from effective review of capital cases, we will have turned the maxim "justice is blind" on its head.

Mr. President, this crime bill will pass. I will vote against final passage. I am guided in my opposition by the belief that constitutional errors are never mere technicalities and that the great writ of habeas corpus is at the cornerstone of our democracy. I am guided by my belief that we cannot build our way out of crime with more prisons nor can we kill our way to a more peaceful society. The key to crime control—and we all know it—rests in stable families where children are raised with a stake in society and a vision of their inclusion in it. This crime bill, well-intentioned though it may be, purports to establish a tough stance but actually proceeds along the road of expediency. At its best it simply provides more of the same with marginal benefits. At its worst it's a step backward from fair play and justice. I urge my colleagues to oppose this bill.

Mr. GRASSLEY. Mr. President, I lend my support to this crime bill, but with reservations. The bill has some good features, but it has some that are not so good, in my view.

We were able to achieve some of the reforms the President has sought in his crime package. First, we improved the habeas corpus procedures. Currently, a State prisoner can relitigate virtually every aspect of his or her confinement, from pretrial through postconviction proceedings. And a State prisoner can mount an unlimited number of challenges. Especially in capital causes, the present habeas system undermines the effectiveness of the death penalty, both as a deterrent and an expression of the public's moral outrage concerning the most heinous crimes.

The habeas provision we have included in the bill makes significant changes. It limits the number of appeals to Federal court. It accords deference to the State courts and minimizes Federal interference with State proceedings. And, it allows recent Supreme Court decisions in the area of habeas to stand, clarifying the complex area of retroactivity.

Some of my colleagues argue that this habeas provision does nothing to curb crime, since it deals with procedures once the person is convicted and already in prison. But habeas reform is critical to our efforts to fight crime. Current habeas procedures drain the resources of our judiciary. Judges who must deal with the same cases repeatedly, cannot take up new cases, causing unnecessary delay. Court dockets are overcrowded with the same cases, time and again. It is time to recognize the fairness and finality of State court decisions. This habeas provision does just that.

Second, Mr. President, the bill strengthens capital punishment and allows for the enforcement and application of the death penalty. The death penalty expresses society's sense of justice—the most serious of crimes should receive the most serious of punishments. And, the provisions in this bill will allow for the imposition of the death penalty.

But this crime bill is not perfect. We could have done better. For example, we could have tightened the procedural loopholes created by the exclusionary rule. We did not go as far as we should have. We have codified a good-faith exception to the exclusionary rule in those cases where the police had a warrant they believed to be valid. But this is already the law of the land under the Supreme Court's 1984 decision in the Leon case. We needed to go further, as the President's bill provided, to allow the admission of evidence seized in good faith whether or not the police have a warrant.

And, Mr. President, I am not satisfied with the gun provision contained in this bill. During the debate on the so-called Brady bill I stated my views on this issue. A waiting period only penalizes law abiding citizens who want and have a right to own guns. Criminals do not buy their guns in stores; they will not be affected by this waiting period.

I have thought about my vote on this bill, and balancing all the provisions, I find the bill worth supporting on final passage. It contains some other provisions that are important, including my amendment allowing the introduction of a victim impact statement in a death penalty case. And it has some provisions aimed at rural crime, which may help my State of Iowa as we address the particular problems of rural crime.

We are not done with the crime issue. This bill will not solve all of our problems. But it makes some important starts.

The conference committee should not weaken this bill or I may vote against the conference report.

Mr. NICKLES. Mr. President, I rise today in support of the anticrime legislation currently before the Senate. I think the Senate has put together a good package with many effective anticrime provisions which will assist our police officers and other law enforcement officials in fighting crime on our streets. There are a couple of provisions I would have liked to have included in the bill which did not get included—for example, exclusionary rule reform. And, there are provisions in the bill which I do not support. But overall, I think this is a solid piece of legislation which will positively affect anticrime efforts and the criminal justice system.

Perhaps the most important provision included in this year's crime bill is the Crime Victims Restitution Act which I introduced as an amendment to last year's crime bill. The losses suffered by innocent crime victims are very real, yet it is rare that we hold a criminal fully accountable for the harm he has caused. This provision would require all persons convicted of Federal crimes to pay full restitution to their victims. This is a very tough but very important provision. It says that criminals will be held directly responsible for their actions and will pay for the harm they have caused their innocent victim. This amendment passed both the House and the Senate last year, but was dropped in conference. I am pleased the chairman of the Judiciary Committee has included my language in this year's bill.

Another important addition to this year's bill is the Grassley/Nickles victim impact statement amendment. All too often, victims of crime are lost in the shuffle of the judicial process. This amendment will ensure innocent victims a voice in the sentencing phase of their attacker's trial. I am pleased the Senate has recognized the importance of passing legislation to protect the rights and needs of crime victims.

I also strongly support habeas corpus reform. By allowing death row inmates to extend their stays on death row virtually indefinitely, the deterrent effect of that penalty is eroded. In Oklahoma, we have over 100 people on death row. Many of them have been there for a decade. Several of them have filed multiple Federal habeas appeals after appealing through the State judicial system. Last year in Oklahoma, the first death row inmate in 24 years was executed. Charles Troy Coleman entered death row in 1979 after killing a couple during a robbery—it took 11 years to carry out his sentence. Shortly after Coleman was sentenced to death, Roger Dale Stafford joined him on death row. Stafford had been convicted of nine counts of murder. Five of his victims were teenagers. He is still on death row and probably will not face execution until 1993.

Mr. President, this is not justice. This is delay. I am pleased the Senate acted in support of the President's habeas corpus reform provision. This provision, as offered by Senator HATCH and Senator THURMOND, will help ensure the appeals process cannot be dragged out endlessly.

Finally, I strongly support the restoration of the Federal death penalty and increasing minimum mandatory sentences for using a firearm during the commission of a crime. Studies have shown that swift and certain punishment is a true deterrent to crime. By establishing stiff penalties for violent crimes and streamlining the sentencing and appeals process, criminals will learn that they will be held accountable for their actions and they will be punished. Only in this way can we hope to stem the rapid increases in the Nation's crime rate.

As positive as these provisions are, there are a few glaring omissions in the crime bill we will be enacting this year. Of particular note is a provision included in the Thurmond crime bill, which I cosponsored. I supported the Thurmond bill because I firmly believe it was the tough anticrime and anticriminal bill this country needs. For example, the bill would have codified a "good faith" exception to the exclusionary rule. There are many impediments to efficient and effective law enforcement currently facing our Nation's police officers. It is essential that we allow police officers to do their jobs without handcuffing them. By not allowing this good faith evidence in court, criminals are getting let off the hook for criminal activity.

In my State of Oklahoma, there was a case which illustrates exactly what the Thurmond bill was trying to correct. After learning that a suspect they were watching was driving a car with a stolen license plate, three Oklahoma City police officers moved in to arrest the suspect. After securing the offender, the officers entered his hotel room to locate his companion. In the room, the officers discovered marijuana and drug paraphernalia in plain sight around the room. The officers opened a dresser drawer and found two closed bags containing $60,000 worth of cocaine.

This search and seizure was conducted without obtaining a search warrant, but the officers clearly acted in good faith. In fact, the district court judge ruled that the exclusionary rule would not apply against the cocaine evidence and he allowed it. Unfortunately, this ruling was overturned at the appeals court level.

The Thurmond language would have ensured that this type of good faith evidence would not be excluded from court. Had this language been in effect, this criminal would be serving time for possession of cocaine with intent to distribute. I think it is vital to include evidence like this in court proceedings and I supported the Thurmond amendment's effort to codify the good faith exception to the exclusionary rule. I am disappointed this amendment was rejected.

Mr. President, I am also disappointed the Senate rejected the Stevens amendment addressing gun control. The Stevens amendment would have phased in an instant check on handgun purchases over 2 years. I favor this provision over the 7-day waiting period included in the so-called Brady bill and over the compromise 5-day waiting period we passed before the recess. It has long been my contention that the only people who would be affected by waiting periods would be innocent gunowners. The Dole-Metzenbaum amendment creates a bureaucratic nightmare for States and the Department of Justice in attempting to set up a nationwide background check system.

While I am at least encouraged at the plan to work toward an instant background check across the Nation, I must still oppose this provision for the waiting period it imposes in the meantime. Mr. President, this waiting period will not affect criminals. Criminals do not buy firearms in stores—they buy them illegally on the streets. I think it is unfortunate to include gun control provisions which are so contentious and which have little affect on would-be criminals in this crime package.

Again, Mr. President, I support tough legislation which will ensure the efficient and effective implementation of justice. I am disappointed the Senate refused an attempt to increase the effectiveness of our Nation's law enforcement officer by codifying an exception to the exclusionary rule, but I applaud the positive changes made to ensure swift and certain punishment for criminals and increased rights and recognition for innocent victims.

Mr. DURENBERGER. Mr. President, I rise today to explain the reasons that I am voting against final passage of S. 1241, the Violent Crime Control Act of 1991.

It is difficult for a Member of this body to vote against a bill that, as its title indicates, is intended to control violent crime. Our constituents have expressed outrage at the growing problem of violent crime in America, and with good reason.

Nine days after the Persian Gulf War ended, our President challenged us to pass a crime bill within 100 days; 127 days have now passed since that challenge, and I had hoped that we could present the President and the American people with a bill that would fight crime as effectively as our brave men and women fought Saddam Hussein's forces in the Gulf. The bill that is before us unfortunately falls short of that goal.

We have debated several important and controversial issues on this bill. On the issue of gun control, we struggled to come up with a compromise on the Brady bill that will facilitate the development of a national criminal identification system that should make it more difficult for convicted felons and other dangerous individuals to obtain handguns through licensed gun dealers.

After days of debate, we adopted a bipartisan compromise that will create a 5-day waiting period before a handgun can be purchased. Although there was wide disagreement in this body on the usefulness of waiting periods, this Dole-Metzenbaum proposal was the best compromise we were able to reach that would move us toward the common goal of a national computerized instant background check.

I am pleased that the Senate adopted an amendment of mine to S. 1241 that was based on a freestanding bill I introduced earlier this year—legislation that I have named the Jacob Wetterling bill.

On October 22, 1989, in my home community of St. Joseph, MN, an 11-year-old boy named Jacob Wetterling was abducted by a masked man at gunpoint while returning home from a convenience store with his brother and a friend. Not a single word has been heard from Jacob or his abductor since that day, although we are all praying for the day that Jacob will return home to his family safely.

If local and State police had been aware of the presence of any convicted sex offenders in the area, it would have been of invaluable assistance during those first critical hours of investigation. My amendment would provide law enforcement officials with this tool, by requiring people who are convicted of a sexual offense against a child register a current address with State law enforcement officials, for 10 years after their release from prison.

My amendment was adopted by unanimous consent, and I am glad that this amendment was placed on a vehicle that seems to be destined for easy passage. I am certain that there are other provisions of this bill that will also have a positive impact on the problem of crime. But this bill falls short in one very important respect.

Mr. President, it has been said that for every complex problem there is a solution which is simple, direct, and wrong. On the matter of violent crime in America and in this bill, that solution is the death penalty. S. 1241 treats the death penalty as the panacea for deterring crime. As a matter of both personal conviction and public policy, I believe that is very wrong.

When we first began consideration of this bill, S. 1241 contained almost 50 crimes that would now be subject to a Federal death penalty. In a series of amendments, there have been so many expansions of the application of the death penalty that many of us have lost track of the total. In this bill, we have not simply established death penalty procedures for Federal crimes, but we have federalized gun-related homicides. We have established a death penalty in the District of Columbia. We have provided for a death penalty for being a drug kingpin, regardless of whether a murder is committed.

The death penalty is supported by the public to prevent murderers from reentering society. When the option of a life sentence without possibility for parole is mentioned, public support for the death penalty erodes. I voted for an amendment that would have substituted the death penalty provisions in S. 1241 with a life sentence without parole. Unfortunately, this proposal failed.

Mr. President, there is no empirical evidence that the death penalty is an effective deterrent to violent crime; in fact, studies by the American Sociological Review and the FBI have suggested the opposite. The execution of criminals also does not erase the pain and grief of victims' families.

The vast majority of the free world has rejected the death penalty, while the United States is in the company of the more intolerant and backward regimes of the world in its use of capital punishment. The United States' standing as a proponent of human rights around the world is undermined because we continue to impose the death penalty.

Violent criminals must be apprehended and punished. No matter how we choose to dress them up, the death penalty provisions in this bill are not about deterrence, they are about vengeance. That is an appetite which is unbecoming of a civilized nation and one which we will never be able to satisfy.

To represent to the American people that we have done something about crime on the basis of an expanded death penalty is simply untrue. Perhaps this is an occasion in which we need to be more honest with the American people than they want us to be.

For these reasons, Mr. President, I cannot in good conscience support S. 1241.

Mr. President, I doubt that the solution to violent crime in America will be found in either Chamber of this Congress. We have passed comprehensive crime packages in 1984, 1986, 1988, 1990, and we are trying again in 1991. The Congress can impose stricter penalties for crimes and throw greater resources toward prisons and local law enforcement. But that does not attack the root of the problem.

Our Nation must be willing to fight crime through education, and through addressing a variety of social and economic problems in our families and neighborhoods. Communities across this Nation have to watch out for their neighbors, and especially their neighbors' kids. We cannot legislate that sense of responsibility or community in this Chamber.

Mr. President, I will vote against the crime bill that is before us today. I will continue to be tough on crime and support State and local law enforcement. But I also intend to fight the conditions that perpetuate the cycle of violent crime, and I encourage my colleagues to do the same.

Mr. LEVIN. Mr. President, the war for safe streets and safe communities is raging in America and it is deadly. More Americans have died from guns in our communities in the last 10 years than died in the Korean and Vietnam wars combined. Last year, our Nation experienced more murders, rapes, and violent crimes than ever before. In Michigan alone, almost 1,000 people were murdered, 7,000 women raped, and more than 42,000 people assaulted.

It is not just an urban problem, it is a rural and suburban problem, a problem in every community. I have spent a lot of time with the police and sheriffs all over Michigan finding out what they need. They have told me we can win this war by providing them with effective laws and the tools to enforce them. That is the way to help prevent crimes and to make sure that when they occur, punishment is both swift and certain. That is how you start to spell relief for our communities.

We need to give our crime-fighting troops at home the same kind of support we gave our troops in the gulf. Local law enforcement have told us what they need: The resources to put them on the streets where they are needed, laws to punish criminals and ensure police are not outgunned, and enough prisons and boot camps to put criminals away.

Sentor BIDEN's Violent Crime Control Act provides local law enforcement with some of the financial support they need and deserve. It will put thousands more police officers on the streets.

President Bush, on the other hand, proposed cutting Federal assistance in his budget. At the same time that the President's requesting increases for Star Wars, he wants to cut out No. 1 weapon at home: Local law enforcement. That is not what the American people want and it is wrong.

Not only will the assistance provided by this bill help hire thousands more police and prosecutors, it will enable more law enforcement officers to reach out to children before they turn to crime and drugs. Through innovative programs such as DARE [Drug Abuse Resistance Education], police officers across the Nation have helped kids say "no" to drugs, and have helped build a healthy relationship between kids and police.

This legislation also builds upon a law we passed last year, which I sponsored along with Senator COATS, to provide assistance to State boot camp prisons, tough and intensive camps that provide a cost-effective alternative to traditional prisons. Michigan has been at the forefront of the boot camp movement.

The legislation before us would build on this success by providing for the conversion of closed military bases to boot camps that will accept both Federal and State prisoners. The bill includes an amendment I offered earlier to expand the number of individuals who would be eligible for boot camp and to give greater recognition to the experience of States like Michigtan who have years of experience in running boot camps. The bill would also create 10 new regional prisons to further ensure that criminals do not escape punishment because of lack of prison space.

The Biden crime bill also contains provisions to help stem the rising gun violence. Male teens in America are now more likely to die from a bullet than from a disease.

This bill would help change this. It would help get semi-automatic assault weapons out of the hands of criminals. It increases the penalties for firearms crimes, and it bans the nine assault weapons which are most often used to commit crimes and which have no sporting purpose. The police who have to face these weapons on our streets have asked for this law, and they deserve it. We cannot let criminals win an arms race with our local police.

This bill will also help keep handguns out of the hands of felons. It includes both a national waiting period for the purchase of handguns and mandatory criminal background checks for all gun buyers. It is a commonsense measure to keep criminals from buying handguns. In States with waiting periods, thousands of criminals have been prevented from buying handguns. Law enforcement have made it clear that it is not enough to have a law that prohibits criminals from buying handguns if they have no way of enforcing it. This legislation does just that by requiring a national waiting period until States can conduct instant criminal background checks.

Recently I got a letter from a constituent who told me that he was a gun dealer, NRA member, and sportsman, and that he supported the handgun and assault weapons bills. He told me to "be strong on the part of this legislation that deals with these crazy Rambo Street Sweepers! There is no purpose for these except to kill or intimidate people."

Police in Michigan and across the Nation have made it clear that if we want to do something about crime in our country, we have to pass a handgun waiting period, stop the proliferation of assault weapons, built boot camps, and provide local law enforcement the assistance they need. This bill does all this.

It also contains some provisions which we do not need and which I do not support. The bill's current habeas corpus provisions, as amended by Senator HATCH, assault the Bill of Rights, not crime.

The basic premise of habeas corpus review is simple. Federal courts are responsible for interpreting the Constitution and making sure that criminal trials in State courts conform to the Bill of Rights.

This bill attacks this premise. It would prevent Federal judges from reviewing a case even when the State court's decision was clearly wrong. And these are not just frivolous petitions—over the last decade, Federal courts granted habeas petitions in about 40 percent of the capital cases that they reviewed.

Supporters of these changes say that the status quo is insulting to the State courts, that the Federal courts are too crowded, that it takes too long to execute people. My response is that there are some things worth taking time and trouble over. Our constitutional rights are worth taking time and trouble over.

I am not saying there is no room for reform. There is, and Senator BIDEN's proposals would respresent a significant improvement over current practice. His proposal carefully balances fairness and finality. The Hatch provisions now in this bill exalt finality over fairness. They are more concerned with speed and efficiency than protecting people's rights.

This bill also greatly expands the number of crimes for which the death penalty can be imposed, including crimes in which no death has actually occurred. Since the imposition of the death penalty carries with it the possibility of uncorrectable mistakes being made in sentencing, the increase in the number of crimes for which the death penalty can be imposed spreads the net of irreversible error yet further.

In addition, the procedural protections accorded in this bill are weaker than those which were enacted in 1988 as part of the death penalty for drug kingpins. For example, that legislation provides that "the jury or the court, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall so be instructed."

This year's committee bill contained the same requirement that the jury be instructed that it is never required to impose a death penalty. However, the Biden-Thurmond amendment which was adopted on the Senate floor removed this requirement that the jury be so instructed. Why, I ask, if it is important enough to be clear in the statute itself about this role of the jury, is it not important enough for it to be required as part of the instructions to the jury? What purpose is served by keeping the jury uninformed about its full range of options?

I support a mandatory life sentence without the possibility of release for persons convicted of the most serious crimes. However, under this bill, for example, a terrorist murderer could receive a sentence less than life.

There is much good and much bad in this bill. I vote for it because I believe it will be improved by the House and in conference. If that prediction is erroneous, I could not support it on final passage of the conference report.

Mr. WOFFORD. Mr. President, I am glad that we will finally have the opportunity to vote on the crime bill. Our families deserve the protection that this legislation will give them, and our law enforcement officers deserve the extra financial support and legal muscle it will provide. I want to commend the distinguished floor managers for their tireless efforts. I know it has been a challenging effort and I am proud to have contributed to it.

As USA Today reported on Wednesday, a new national survey shows that the people of this country believe that environmental damage is the worst crime businesses can commit. And three out of four consumers said top executives should be held personally liable for environmental crimes. In Pennsylvania, concerns about damage to public health and safety run especially deep. And I want to thank my colleagues for voicing their support for my environmental audit amendment.

Polluting our natural environment—like drug violence on our streets—robs our children of their future. We ought to treat serious, long-term damage to the air we breathe, the water we drink and the land we live on just like other major crimes against society. Those who poison our children and pollute our environment ought to be in prison stripes, not pinstripes. So I look forward to working with you on the bill I plan to introduce to sharply increase the criminal penalties for those who do violence to our natural environment.

One part of this crime bill which I'm especially enthusiastic about is the added support for State and local police forces. These funds—more than double the amount allocated in fiscal year 1991—will help to expand a variety of innovative and practical anticrime programs in Pennsylvania, especially in the area of drugs and drug-related crime.

Our State has shown tremendous leadership in grassroots antidrug efforts. PENNFREE, Pennsylvania's comprehensive antidrug program, was established in 1989 to attack the drug crisis on every front. The program has provided record levels of State support for State police, local police, and prosecutors. It has revamped correctional and probation antidrug programs. And it has vastly expanded education and prevention, to break the cycle of crime and dependency that drugs spawn from generation to generation. This crime bill makes the Federal Government a full partner in supporting these efforts.

In Pennsylvania, families and neighborhoods have banded together to take back their streets. Last month, I marched with one group in Lancaster called DADDS [Demonstrate Against Drug Dealers] in one of their weekly antidrug marches. I know when many people in this Chamber and around this country think of a place like Lancaster, they think of rolling farmland and Amish buggies. But drugs and crime know no boundaries. The challenge is not only in blighted innercities, but also in well-to-do suburbs and quiet rural towns.

And in each of these communities, citizens groups are taking aggressive—and effective—steps to combat drugs: We have the Coalition Against Substance Abuse in Pittsburgh; STING Out Drugs, another Lancaster group; MANTUA Against Drugs and 60 other neighborhood groups like it in Philadelphia with whom I have stood in late-night vigils; local police-led groups in Williamsport; and antidrug groups organized by church congregations in York and Harrisburg. Groups like these, fueled by the power of active citizens, are leading the way toward the goal of a drug-free society. They are sending drug criminals a strong message, a message that says that the law-abiding families of our Nation will no longer be held hostage in their own homes by drug crime. They are ready to fight back.

These community groups, and others like them across the Nation, will draw new strength and new support from the "Safe Streets" provision in the crime bill. Its new investment in State and local law enforcement will give our police the resources to further galvanize the efforts of local groups working to stop crime in our streets and drugs in our communities. Our police are fighting a criminal epidemic of massive proportions. Too, often they are outgunned and out-manned. We owe them this support.

We all know that drugs are a principal factor in the record levels of crime our country suffers evey year. Pennsylvania, its citizens, and its law enforcement community have shown their commitment to fighting this deadly epidemic. Now, by passing this crime bill, we can show our States that we are willing to give them the resources that will let them meet the challenge squarely.

While we continue to find effective ways to fight crime in our streets, we also have to deter criminals by showing them that they will face harsh and certain punishment if they choose to commit crime. This provision is important because it expands Federal criminal jurisdiction to punish gun murderers. The availability of the death penalty as a sanction for these crimes will provide a deterrent to those who might otherwise kill with guns.

Clearly, more of a deterrent is necessary. Nineteen-ninety was the deadliest year in American history, There were over 23,000 murders in this country, an increase of almost 2,500 since 1988.

To put that level of violence in some perspective, consider that in the last 3 years more Americans have been murdered in our communities than were killed in the four wars combined—more than in the jungles of Vietnam, on the beaches of Grenada, the streets of Panama, and the sands of the Persian Gulf.

And the number of robberies, rapes, and assaults have climbed in each of the past 3 years to new all-time highs.

Franklin Roosevelt once spoke of "the four freedoms." One was the freedom from fear. A free society cannot exist where families are afraid in their own homes. The fear of crime eats away at the quality of life for families all across this country. The first thing our Government must do is to make sure our people are not afraid. To protect our children. To safeguard our streets. And to make our communities the kind of places where we can raise families and build lives filled with hope and opportunity instead of fear and violence.

This crime bill moves us another step toward that goal and I am proud to support it.

Mr. BRADLEY. Mr. President, I hope that later today the Senate will pass this important legislation. The bill now before us takes several important steps to reduce the incidence of crime in America. Tougher laws, expanded law enforcement, streamlined court proceedings. The bill also contains several important initiatives that I believe will help take a bite out of crime.

I am pleased that the legislation before us includes the provisions of the Drug Emergency Area Act. I am a cosponsor of this important legislation, which will provide $300 million in aid to areas particularly hard hit by drug abuse. The bill provides funding to localities for more police officers on the streets to cut the supply of drugs as well as more education and prevention programs in our schools and communities to reduce the demand for drugs.

Mr. President, this year, $80 million in Federal funding has been provided to expand law enforcement efforts in areas designated by the President as high intensity drug trafficking areas. The New York metropolitan area is one of the areas receiving extra support, which will be used for the purchase of sophisticated interdiction and detection equipment and devices as well as extra law enforcement efforts aimed at housing projects and drug gangs.

This legislation goes much further. Localities hardest hit by the drug problem need more than extra Federal agents and hardware. They need a larger police presence on the streets to protect their citizens—to discourage crimes from being committed. And they need more comprehensive drug education programs in their schools to help ensure that the future of our children is a safe and healthy one.

Some of the urban areas of New Jersey have been particularly hard hit by the drug problem. Under this legislation, these cities could receive extra Federal aid if the President declares that the area is in need of assistance due to the high level of drug trafficking, drug abuse, or drug-related violence. I fully expect that many New Jersey communities will benefit greatly by this new program.

Mr. President, a second important initiative included in this bill is the police corps. Every American, every parent, wants the same things for ourselves and our children. We want children to grow up in a neighborhood where they can expand their horizons, to learn and play and walk to the library. We want to be safe in our homes. We want our children to dream about the day when they grow up—not wondering about what they will do if they grow up.

Millions of Americans today do not have this security. Throughout this country there are neighborhoods where neighbors no longer set the tone of the neighborhood, because criminals do. Children have no expectation of safety and locks and bars cannot secure a home. Police officers are too few and neighbors worry about the retribution that criminals will exact if they cooperate with the police. We need to do all we can to restore the protections of civilized society to the hard-working citizens of these neighborhoods. Tougher laws will be no help unless we back them up with human reinforcements—dedicated police officers who belong to the communities they are assigned to patrol. Mr. President, the Police Corps amendment will establish this human wall of safety for America's neighborhoods and families.

Our police forces today, in relation to the amount of violent crime, are onetenth the size of 35 years ago. We need more police, which means that we have to bring in people who are willing to devote 4 years of their lives to keeping our streets safe. Four years when they are young and at their physical peak. Restoring safety to the streets of many American cities today will demand dedication as great as in time of war. If America had a war to fight, we would not say that only people willing to make a lifelong career of it could serve as soldiers. Likewise, we must draw on the millions of Americans who are willing to give a portion of their lives to the service of their communities by participating in the police corps.

We need more police, Mr. President, but we also need smarter police. Police work must be among the most prestigious and respected occupations in our society, because it is the most essential. For that reason, police work must not be an alternative to a college education, but an adjunct to a complete education. And like ROTC or other military programs, dedication to public service in the form of a stint in the police corps should be a way to pay for college.

Beyond more police and smarter police, Mr. President, we need police who belong to the neighborhoods they patrol. We need younger police who understand how a community can draw its youngest people into habitual lawbreaking. Many of the Americans most brutalized by crime are black, and live in largely black neighborhoods, but the police departments assigned to protect them are mostly white. The police corps would make a particular effort to recruit minorities, in order to ensure that the new police officers are more likely to be familiar with the neighborhoods they are trying to restore.

Most important, Mr. President, I believe there is a great wellspring of eagerness among the young people of our Nation to provide this kind of service to the Nation. Many students enterng college today have seen, in just a few years, the neighborhoods in which they played ball and biked and walked safely as first- and second-graders turn into combat zones that their younger brothers and sisters watch from behind barricaded doors and windows. Other students recognize that this is a universal problem, that America cannot live up to its promise as a nation if it cannot offer safety to children and strength to communities. That's why 40 percent of college students polled by the Department of Justice recently said that they would be eager to participate in the police corps.

The crime wave of recent years has led many cynics to proclaim a breakdown in civility in America. Rather, Mr. President, I believe, we are witnessing a resurgence of citizenship, a renewed dedication among younger Americans to give something back to this country. The police corps will allow us to draw on this renewed sense of citizenship to restore our troubled neighborhoods and ensure that the most modest of American dreams—a life free of violence and terror—is a reality in every city and hamlet in our land.

Mr. President, it is appropriate to recognize the efforts of an individual, Adam Walinsky, whose determination and persistance have seen to it that the police corps has gone from an idea into, hopefully, a reality. He has shown that one individual can certainly make a difference, and for that we are all grateful.

Last, Mr. President, I am pleased that the legislation before us expands the juvenile justice programs to confront a growing problem for many cities throughout the country—youth gangs. Specifically, this legislation expands on our initiatives in the 1988 drug bill to fund support and prevention programs for the young street gang members in order to give them viable alternatives to life on the streets. Expanding these programs will enable more communities to deal with gangs.

Membership in one of today's street gangs is a passport to a life of crime and violence and more and more, that violence is spilling over and engulfing innocent citizens. We all agree that we need solutions to deteriorating schools, a plodding welfare bureaucracy, miserly health care coverage, the lack of adequate and affordable housing. But we cannot begin to crack through the pervasive hopelessness such conditions breed unless we can keep intact the most basic of all social contracts a government must make with its citizens—the promise to provide secure, safe communities in which we and our children may grow, learn, and prosper.

To this end, we must provide legitimate alternatives to the seductive life of the street gang. For many poor urban youth, the street gang seems to offer the only available road to personal security and a sense of self-esteem and success. We cannot let that continue.

Mr. President, in 1988 when Congress approved the drug bill, it established the Community Youth Activity Program, which authorized funds for education, training, and recreation programs aimed at reaching at risk youth, including school dropouts and youth who are members of gangs or who may become involved with violent gangs. The program is funded at $20 million. New Jersey was awarded one of the first grants of the program. The New Jersey grant is aimed at reaching New Brunswick youth whose older siblings are involved with drugs, crime, and gangs. I have visited this program and can attest to the importance of programs such as this in reaching at risk youth. But one program in one city in New Jersey will not solve this problem. We need more resources targeted at youth gangs.

This expansion provides up to $100 million in funds specifically to support programs designed to reduce the number of juveniles involved in gang crime, to reduce juvenile involvement in drug-related crimes and to promote the involvement of juveniles in lawful activities, including in-school education and prevention programs and after-school programs. Part of the funds will be allocated to States based on their population, and part will be reserved for developing promising new approaches to stop youth involvement with gangs.

Mr. President, today's violent street gangs have become one of the greatest threats to the security and safety of some of our urban communities. And the threat is growing.

Today, Americans face a new moment in history. Many of our fellow citizens have no dreams for themselves or for their children. They live lives of numbing desperation born of abject poverty, a poverty of body and of spirit.

These Americans face a hopelessness whose crushing weight smothers the promise of a better life. Without the possibility of a better future, the American dream will end. And living in fear that some random act of violence may end their lives, who can seriously plan and work for a better future? To keep the promise of our founding, we must regain control over the forces that corrupt the foundation of opportunity within America. We must give our youth an opportunity beyond the gangs.

Mr. DODD. Mr. President, I rise in support of passage of S. 1241, the Violent Crime Control Act of 1991.

At the outset, I want to pay tribute to Senators BIDEN and THURMOND for their hard work on this legislation. The result of their diligent efforts is a bill that significantly advances our Nation's fight against crime, and will, I hope, ultimately be signed into law by the President. After the long hours of debate over the past several weeks, no one should doubt the time or the energy that the distinguished chairman and ranking member of the Judiciary Committee have expended shepherding this important measure through the Senate.

Mr. President, this bill includes many important provisions that will advance the war on crime:

It authorizes additional aid to State and local law enforcement agencies, and it increases the number of Federal law enforcement officers available to battle illicit narcotics and violent crime.

It will establish regional prisons to house drug-addicted State and Federal convicts, which will ease current prison overcrowding problems.

It includes a provision to convert unused military bases into boot camps for younger offenders.

Finally, it includes initiatives to control youth gangs and to assist areas with intransigent drug and crime problems.

I also firmly support the strong gun control provisions of this bill. In my home State of Connecticut, there were 1,229 shootings and 104 firearms-related deaths last year, and I know I share with my colleagues the desire to see an end to this carnage.

Mr. President, opponents of this measure have fought against it for several years. They argued that it was unconstitutional. They asserted that it would be ineffective at keeping firearms out of the hands of criminals and other people unfit to have them. They claimed that it amounted to nothing other than a burden on law abiding citizens.

In the interim we have seen Patrick Purdy's senseless rampage with a semiautomatic AK-47 in a Stockton schoolyard, and Joseph Wesbecker's deranged shootings at a Louisville newspaper plant. We have seen police officers killed by outlaws armed with semiautomatic assault weapons, while the officers themselves are armed only with their service revolvers, and we have seen the death of a 29-year-old mother of three, Marcia Williams, who was struck down by a stray bullet just 6 miles from where I am standing.

Mr. President, for all the tough talk on crime, we have a golden opportunity to make a real dent in it. This issue is not a partisan issue. It is a law and order issue. When law enforcement officers tell us that they are facing a new problem in the battle against criminals, we owe it to them to listen, and to help in any way we can to make their work easier and the odds for their and our survival better. The waiting period provision of this bill is a significant advance over current Federal law, and will help reduce the incidence of gun violence in this country.

Despite these improvements in our war against crime, I must admit that I have deep reservations about several sections of this bill. I am concerned that some of the amendments that were adopted during the consideration of this bill have the effect of trampling some of our most basic individual rights.

For example, during the course of debate on this bill, we approved habeas corpus provisions that would simply abolish the right of persons whose constitutional rights were violated in a State criminal trial from getting any hearing in Federal court under a writ of habeas corpus. All of the language considered in both last year's crime bill and this year's as well would have limited State prisoners to one timely appeal in Federal court, however, the language that we have adopted precludes even that one review in Federal court and would strip the Federal courts of their ability to protect individual rights. I believe we must always be extremely careful not to sacrifice constitutional protections as we wage our battle against crime.

Mr. President, while we must ensure that the rights of persons are protected from abuses in the criminal justice system, it is equally critical to limit abuse of the system by felons who wish only to delay the implementation of their death sentence just long enough to find some judge, somewhere, who will have a sympathetic ear or delay long enough for the Supreme Court to change the law in the interim.

Mr. President, the habeas corpus provisions of this bill do not strike the proper balance, the current habeas provisions restricting the right of appeal only to those issues not litigated previously is a signal we are dismantling the very essence of habeas corpus.

Habeas is designed to provide redress in those instances where there are miscarriages of justice. The habeas corpus provisions as currently included in the bill protect the few unscrupulous State court judges who would not overturn jury decisions in the lower court even in the cases where some detectable error is found.

Mr. President, habeas corpus is a serious matter and must not be given the cavalier treatment that it has been given in this bill. The ability to get an unjust conviction overturned hinges on the ability to have all issues in dispute heard by neutral and detached judges. The Senate's decision to ban petitioners from taking any matter already adjudicated at the State level to the Federal level can only be seen as codifying injustice and ensuring that minorities, the poor, and those who are the least well represented in this Nation will continue to suffer and die as a result of mistakes and abuses in the criminal justice system.

On a brighter note, I was pleased that the Senate voted to protect the right of all Americans to be secure at home and safe from unjustified intrusion of government into their lives. The reason that we have the exclusionary rule in the first place is to protect the average citizen against the tendency of government to overreach into our lives. The President's proposal, which was defeated, would have allowed the police to act first and justify later. I am pleased that we have erred on the side of protecting basic civil liberties.

In sum, many of the provisions of this bill are surely tough: We have increased the number of crimes for which an individual can get the death penalty. We have put more money in the hands of police. We have limited the right of convicted petitioners to habeas corpus review. We have done all this in the name of fighting crime.

What we have not done, however, and what I feel we must do, is to begin looking into the root causes of crime in this Nation. Poverty, poor education, and the feeling of hopelessness are among those root causes. I suggest that until we begin to deal with these issues, we can pass a tough crime bill every week but we will never get a handle on the problem of crime.

Mr. President, I support this bill because of the strong gun language in it. I believe that it represents a significant step forward in the fight against crime in this Nation. But I believe just as strongly that we must not make the mistake of forgetting the social problems that engender crime or of diminishing the constitutional liberties which are the greatest legacy we will leave to posterity.

Mr. SIMPSON. Mr. President, here we are—finally. Tonight we will vote on final passage of the 1991 crime bill. This is truly a historic moment. I think we have accomplished a great deal here in these past weeks.

There have been some contentious moments. There have also been moments of courageous compromise, accommodation, and cooperation.

I want to commend the floor managers. The distinguished chairman of the Judiciary Committee—as I have often said—has once again proven that he is, first and foremost, a fair man. He is fair and honorable and is motivated first by those traits—above pure partisanship. While certainly partisan on some matters, I know so first hand, but he is always fair and honorable.

I especially want to commend my dear and able friend and most distinguished colleague, our fine ranking member on the Judiciary Committee, Senator STROM THURMOND from South Carolina. We here in the Senate have always regarded our colleague as tenacious and unstinting in his drive to accomplish the goal he will reach here on the Senate floor tonight. Senator STROM THURMOND will—if he surely is not already—be recorded in the history books of the future as one of the greatest conservative leaders of our party and of this Nation and this body. The Senator from South Carolina has been the strongest driving force behind reform and the toughening of our criminal justice system since I came to this body 12½ years ago and throughout his career. Without his guidance and courage, we would not have accomplished most of the positive aspects of this bill.

It is important to note, Mr. President, that this crime bill meets most of the goals set by our fine President—George Bush. These goals were set for us slightly over 100 days ago when he made tough criminal law reform as one of our national priorities in the 102d Congress.

This legislation is not perfect—no legislation ever is. However, Mr. President, the American people should know that this particular legislation is, indeed, the best they could have hoped for. We have included in this legislation four of the five major goals the President of the United States asked for. In the view of many of us, there remains a good deal of work to be done on two significant parts of this bill: The exclusionary rule and the gun control provisions.

I am deeply troubled by these two sections of this legislation. I am troubled enough that I will vote against the measure. As a part of the leadership for the Republican Party in the Senate, and as a Member of this body who shares the strong views on habeas corpus reform and the death penalty that the distinguished Senator from South Carolina has worked so diligently on, I wanted to vote for it on final passage.

On the other hand, Mr. President, as a westerner and a lifelong Wyomingite and as a Senator committed to respecting the full sanctity and meaning of the bill of rights, I was extremely troubled by the gun control provisions in this bill. A 5-day waiting period with guarantees of an instant point of purchase background check in the near future is a giant improvement over the Brady bill that was part of the original legislation. That was a great stride towards protecting against even greater incursions on the second amendment. But it goes too far. It limits gun owners, legitimate gun owners, and that is wholly unacceptable to me.

Sadly, however, as with the ban on certain weapons that is also a part of this legislation, those of us who hold the second amendment as dear as any of the other provisions of the bill of rights were just simply outnumbered—we did not have the votes. The American people realize that point. Those votes are all on the record. But this is the democratic process—representative government—at its best and worst all at the same time. A majority of the Members elected to this body by the people of the United States have placed restrictions on the exercise of second amendment rights into this—otherwise—highly commendable bill. That was enough to tilt the balance for me. I will stick by my guns.

We fought the good fight and we lost on gun control.

Mr. President, during all of the debates on this issue over the past years I have tried to use humor and good judgment to make the point—to express in my own personal way—the way the people of Wyoming and the West feel about this very sensitive issue. I make no such comment here tonight. I have said it all before.

But, as I have also said, this is otherwise an excellent bill. We do get downright tough on criminals.

We have done something significant—historic, as the Attorney General and the President have said—on reforming the obscene abuse of the habeas corpus laws—those postconviction review procedures which have allowed axe-murderers and butchers to escape the punishment society has demanded of them.

So this is truly historic. This is, in total, an excellent crime bill that many can be proud of.

Mr. President, it is my sincere hope to be named a conferee when this bill comes back from the House and goes to conference committee. I will work very hard to see that we improve the bill in conference. I know it is too much to ask—pure pie in the sky—to expect the House to pass this bill without first weakening its most significant and effective provisions.

So I will look forward to conference and will hope to be a participant in that process to protect the highly commendable provisions of this legislation.

For too long now the law abiding citizens of the United States have been needlessly victimized by criminals. For too long now, the police forces of our country have been outgunned and understaffed. For too long now, criminals have been able to laugh off the death penalty, knowing they will die of old age before they are ever caught, tried, sentenced, and executed. No more.

This bill as it now stands will go a long way towards answering the demands of the American people to get tough on criminals—put them away—and restore safety to our streets and faith in our criminal justice system. Those are its merits. But the gun control provisions make it too strong a medicine for me. Althouth a heady brew it is—I cannot swallow that part of it and yet it could well be a healing potion for a society sickened by senseless crime.

Thank you, Mr. President, and once again, I would like to commend the distinguished managers of the bill and express my deep respect and appreciation for their hard work and leadership.

Mr. BYRD. Mr. President, early last year, a convicted felon with three outstanding warrants, went to a gunshop and purchased a TEC-9, a semiautomatic weapon. The noteworthy feature of this weapon is its rapid-fire capabilities. In a matter of seconds it can fire 32 9-millimeter rounds. On the evening of February 17, 1990, this felon—who should have been identified, arrested, and prevented from purchasing the weapon at the time of sale—coldbloodedly shot and killed a Broward County, FL, sheriff's deputy. The felon also severely injured the deputy's partner.

Another ex-convict, this one from Atlanta, GA, walked into a Georgia gunshop and purchased a number of weapons. Two of these weapons were used by the convict in October 1987 to shoot a police officer.

On March 29 of this year, a man adjudicated by a Virginia court to be a danger to himself and others, purchased two Colt .45 semiautomatic pistols, and six boxes of ammunition. Eleven days later this same man, who was prohibited by law from owning or possessing a firearm, was charged with the murder of a Philadelphia businessman and the wounding of two others in an intense shooting spree.

The patchwork of differing State and local laws contributed to each of these tragic circumstances. All of these criminals had one thing in common: they wounded and killed their victims with weapons that they were prohibited by law from possessing. In 1968, Congress adopted the Gun Control Act, which prohibits felons, fugitives, drug addicts, and the mentally ill from purchasing or possessing firearms. This act requires all purchasers who seek firearms from federally licensed dealers to sign a form declaring that they do not fall into a prohibited category.

But, as the families of the officers in Florida, Georgia, and the victims of the shooting spree in Philadelphia, and thousands of others know, it is very easy to circumvent the Gun Control Act. That law has no enforcement mechanism. Any prohibited purchaser can walk into a gunstore and buy a weapon. That person needs just two things to purchase a firearm—money and willingness to lie. A convicted felon can simply provide false information on the Federal firearms form and walk out with the guns. The gundealer is never the wiser. He has no way of knowing if Joe Smith is indeed Joe Smith. He has no way of knowing whether Joe Smith is an honest, decent man, or whether he is a convicted criminal.

According to Bureau of Justice statistics, handguns are involved, every year, in an average of 9,200 murders, 12,100 rapes, 210,000 robberies, and 407,600 assaults. While it is true that there is a thriving black-market in handguns, enabling many criminals and potential criminals to buy handguns illegally, many, many others buy them legally. I am pleased that the Senate, with the adoption of the Violent Crime Control Act of 1991, will move towards taking the steps necessary to enforce the Gun Control Act of 1968. The Dole-Metzenbaum-Mitchell compromise amendment that was adopted prior to the Fourth of July recess will make it more difficult for criminals to purchase weapons. It will establish a 5-business day waiting period prior to the purchase of a handgun in order to allow law enforcement officers to conduct a background check on potential purchasers. The compromise amendment will require that within 1 day of the proposed transfer, the gundealer must provide a copy of the purchaser's statement to the chief law-enforcement officer of the place where the purchaser resides. The statement, verified by some form of picture identification, must include the purchaser's name, address, date of birth, and the date the statement is made. Unless the chief law-enforcement officer, or his designee, notifies the gundealer that the sale would violate Federal, State, or local law, the sale may proceed 5 business days after the date the purchaser signs the statement.

An important feature of this compromise amendment allows handgun transfers to take place in fewer than 5 days if the chief law-enforcement officer, or his designee, notifies the dealer, prior to 5 days, that there is no information indicating that the purchase is prohibited. In order to encourage the transfer of the handgun in fewer than 5 business days and to speed up the flow of information about potential purchasers' criminal records, the Dole-Metzenbaum-Mitchell compromise amendment to the crime bill would provide grants to States to assist in developing or expanding computerized criminal record files. I believe that this provision is essential if any waiting period is to be effective. In many States today, criminal history searches must be done manually. That means that a person—or persons—have to hand-search through tens, hundreds, or even thousands of paper files. In my own State of West Virginia, there is no automation of criminal record files. The State and local law enforcement authorities simply have not had the funds even to start this process. They want it; they know it would be beneficial; they just do not have the money.

Why is it important to develop a national, computerized, criminal history, records system with all States participating? In today's increasingly mobile society, criminals are particularly transient. They move from place to place to avoid being caught. As they move, they often continue their criminal activities. How do we track these criminals down when there is no nationwide system with all States participating and sharing their crime records? More to the point, even if we had such a system of nationwide shared criminal records, how useful would it be if it were based solely on a name index? How many criminals use aliases? How many felons know that they can foil efforts to track them by obtaining false identifications? What we need—and do not yet have—is a nationwide system of shared criminal records based on positive identification—fingerprints, not just names.

Now, Mr. President, I know that there are people who claim that a waiting period will do nothing to stop a criminal from obtaining a weapon. Regardless of what laws Congress adopts, if a criminal wants a gun, a criminal is going to get a gun. I do not necessarily disagree. But the least we can do is make it as difficult as possible for a criminal to get a gun. Convicted felons laugh at the current system. They walk into a gunshop and purchase whatever weapon they want. They do not have to take any risk to get a weapon. All they have to do is provide false information on their firearms application. Does anyone really think that a criminal is concerned about whether he or she tells the truth on a Federal firearms application? Would someone who robs or kills care if he or she tells a lie?

Criminals who lie on their Federal firearms application today can easily circumvent the provisions of this compromise amendment—including the waiting period—by presenting false identification to the gun dealer. We will not be able to stop criminals from buying guns from licensed dealers unless we can identify them by their fingerprints. Names alone—and names attached to criminal files—are insufficient. We have to have positive identification, not just name identification, to help keep guns out of the hands of those who are already legally barred from purchasing them.

The transient nature of criminals, combined with their use of aliases and false identification, necessitates a national system that can positively identify criminals and match those identifications with accurate criminal history records. The easiest and most accurate method we currently have for positive identification is fingerprinting. Now there are new methods, such as DNA mapping, that are being used in some areas. But they are very expensive and their validity is still being tested. Fingerprinting is today's most widely used method for positive identification. Fingerprints are cheap, easy to obtain, and difficult to alter. The only problem with fingerprints is that they are taken on cards—pieces of paper—and in most areas, are not transferred onto computer files.

The Federal Bureau of Investigation has established a separate division, the Fingerprint Identification Division, whose sole responsibility is to determine positive identification and the prior criminal history of an individual. Early last year, however, it was brought to my attention that this division was close to complete collapse. I discovered that over 700,000 fingerprint cards and 2,000,000 criminal dispositions were not filed and not available for searches. Over 8.8 million criminal history files are backlogged, and 2.9 million criminal dispositions have not even been logged in. Today, it takes an average of 20 days—not 24 hours, not 7 days, but 20 days—to complete a positive identification search.

I found that this overwhelming backlog could be attributed to two things: rapid turnover of the Washington-area work force, and the lack of sufficient space to house the computers and other equipment necessary to upgrade and computerize a positive identification system.

The FBI's Fingerprint Identification Division annually experiences turnover rates that range from 15 to 30 percent. This high turnover rate is a result of the division's inability to retain a predominantly low-graded, clerical workforce in the District's high cost-of-living area.

Moreover, advances in technology have made the current paper-based system outmoded and insufficient to meet the essential needs of Federal, State and local law-enforcement authorities. The lack of adequate funds and space has made it impossible for the identification division to keep pace with advances in technology. Many States have far outdistanced the FBI by developing new automated fingerprint identification systems. Because there has been no leadership at the Federal level, these State systems have not been developed to be compatible with each other or with the FBI's files.

Recognizing the overwhelming need to revitalize the fingerprint identification division, the FBI, with my support, has undertaken a major effort to upgrade its already outmoded system.

In order to assist in the development of a national identification system, however, it is necessary to ensure that the essential State infrastructure is in place. The FBI hopes to complete its revitalization program by 1995. It is important, therefore, that the States develop their computerized criminal history files in conjunction with the FBI's identification division. It is imperative that we delay no longer. It is not feasible to have a new automated identification system in place in 1995 if the States are not linked to the Federal system. The Dole-Metzenbaum-Mitchell compromise language requires that the Attorney General expedite the revitalization of the Fingerprint Identification Division of the FBI. The compromise language will ensure that States are ready to participate in the national criminal record system.

Now, let's look at where the States are in developing computerized criminal history record systems. Twenty-two States already participate in the Interstate Identification Index, the triple-I, which is a computerized name index that contains the names and criminal records of convicted felons. But the system is not operating at optimal efficiency. For the participating States, an average of 52 percent of their files are available to the triple-I. Missouri and Pennsylvania each have 20 percent of their criminal history files available to the system. Colorado, on the other hand, has 100 percent of its files available to the system. Among the nonparticipating States, 22 plan to participate in the next 5 years. Of those States that do not currently participate, 17 cited the reason for nonparticipation, in a report compiled by the Bureau of Justice Statistics, as "insufficient resources to convert to a records system." In plain words, that means they would like to participate, but they just do not have the money.

Mr. President, undertaking the development and expansion of a national data system, with all States participating, is going to require a major commitment of resources. The Dole-Mitchell-Metzenbaum compromise language recognizes that need by authorizing $100 million in grants to the States to assist in the development of their computerized criminal history files. The bill provides that 50 percent of these funds will be allocated to the States based upon population. The remaining 50 percent will be distributed at the discretion of the Attorney General, with priority for funding to go to those States that have the lowest percent currency of case dispositions in computerized criminal history files.

Currently, there are three States—Maine, Mississippi, and West Virginia—

that have no computerized criminal history records systems in place. Except for these three States—West Virginia, Maine, and Mississippi—all of the other States currently have some sort of computerized system of criminal history records in place. These systems can be expanded upon as the States develop automated criminal history files in conjunction with the FBI's system. The startup costs, however, for the three States that currently have no computerized system will be vastly greater than for those States with some form of computerized system already in place. These three States not only deserve some assistance in bearing the costs of this new Federal system, they deserve, I believe, and I hope others will agree, the highest priority for Federal funding. I am pleased that the Dole-Metzenbaum-Mitchell compromise language provides that preference in funding will be given to those States that have the lowest percent currency of case dispositions in computerized criminal history files.

A computerized Federal-State system that links fingerprints and criminal history records is worth developing. It will work. It will enhance the law-enforcement community's ability to fight crime; it will help keep guns out of the hands of those who are legally barred from owning them.

An integrated State-Federal fingerprint/criminal records system will be of immeasurable benefit to the law-enforcement community. It will provide a means to check whether an applicant for a law-enforcement position has a prior criminal record, whether an arrested person is on parole or probation, or whether a suspect can be identified from latent fingerprints found at a crime scene.

The benefits of such a system will extend far beyond the law-enforcement community. Many applicants for employment or positions of trust—in schools, child care centers, banks, and security positons—are often required to submit fingerprints. However, under the current system it is often impossible to thoroughly check a candidate's background and qualifications for these sensitive positions. The development of a positive identification system will help to prevent child sex abusers from migrating across State lines and wreaking havoc on our children's lives. This system will make it easier for child care centers to avoid hiring convicted—or even arrested, but not convicted—child molesters. It will make it easier for banks to ensure they do not hire security officers who are convicted felons.

This technology could be made available to police officers in their patrol cars. It is possible that at some point in the future a police officer could pull a fugitive over for a routine traffic violation, and would be able to ascertain in a matter of minutes, simply by placing fingerprints into a scanner, that the felon was a wanted criminal.

This system will not be a detriment to law-abiding citizens. It will significantly help our society. This system will positively identify those who are not entitled—felons, drug abusers, the mentally incompetent—to purchase or own firearms. We are not talking about hunters; we are not talking about women purchasing a handgun for self-protection. We are talking about preventing criminals, mental incompetents, drug addicts, and convicted felons, from walking into a store and buying a handgun—a handgun that can be used to rob a law-abiding citizen in his own home; a handgun that can be used in the course of a rape; a handgun that can kill.

This system will work. Statistics already indicate that in those States that have some sort of background check and/or waiting period in place, thousands are prevented each year from purchasing a firearm. In California, for example, 2,182 handgun sales were prohibited in 1990. Indiana's 7-day waiting period stopped 939 prohibited persons from making handgun purchases in 1988. Maryland's 7-day waiting period stops about 4 percent of all handgun sales. In 1990, in Maryland, 1,300 people were prevented from illegally purchasing handguns. New Jersey has required a background check for handgun purchases for more than 20 years. According to the New Jersey State Police, more than 10,000 convicted felons have been caught trying to buy handguns during the last 20 years. Criminals do try to buy handguns from licensed dealers. This is not very smart. The Violent Crime Control Act of 1991 will help stop criminals from getting handguns.

This system will work. Currently our criminals are better armed than our law-enforcement officers. It is time to stop that. It is time to make it more difficult for criminals to obtain weapons, and make it harder for criminals to commit crimes using these weapons. It is time to get serious. We must fight crime on our Nation's street corners, not just talk about fighting crime. The time for talking has expired. Keeping weapons out of the hands of drug dealers, murderers, and cop killers is a step that we must take, and must take now. I urge my colleagues to join with me in supporting the final passage of the Violent Crime Control Act of 1991.

Mr. DOLE. Mr. President, it was back on March 11, when President Bush came to the House Chamber and challenged Congress to pass tough, anticrime legislation.

Tonight, with passage of this bill, the member of this body can say to the President that we may have missed the deadline by a few weeks, but the wait was worth it because tonight we have the opportunity to pass historic anticrime legislation.

Federal prosecutors have been fighting since 1972 for a comprehensive Federal death penalty. And with passage of this bill, they will have just that. The bill before us authorizes the death penalty for over 40 murder related offenses, for major drug kingpins, and thanks to Senator D'AMATO's vigilance, to virtually every murder committed with a firearm.

Over recent years, Americns have become increasingly disgusted with a court system that seemed to reward and welcome unreasonable delays in the carrying out of sentences.

The legislation before us tonight deals with this problem, as it includes the President's habeas reform proposal—the toughest habeas reform ever to pass the Senate.

The bill before us also contains major victories for victims rights organization. The bill lifts the cap on the crime victims fund, and in requires mandatory restitution for crime victims.

Is this bill perfect? Of course not. The President and many of us wanted to expand the exclusionary rule so that guilty criminals would not go free on technicalities.

The name of this game, however, is numbers. And, despite the outstanding efforts of Senator THURMOND, we simply didn't have the numbers to achieve this.

As we know, there are those who say that this is not a crime bill, it's a gun bill. Yes, this bill contains a waiting period for handgun purchases. But it's a waiting period that will be phased out as instant check systems are phased in.

I want to congratulate President Bush and Attorney General Thornburgh for their leadership in forging this legislation. Both the President and the Attorney General were clear from the beginning what they wanted in a crime bill, they held our feet to the fire, and, by and large, we delivered.

I spoke to the President yesterday, and can report that he strongly favors this legislation.

I also want to congratulate Senators BIDEN and THURMOND for their yeoman's work throughout these long weeks. Both of them won some votes and lost some votes during the consideration of the bill, but both never gave up trying to reach a tough final package.

But, most of all, Mr. President, I want to thank the Americna people. Year in and year out, law-abiding Americans have cried out for protection, they've cried out for safer streets and neighborhoods, they've cried out for a justice system which offers swift and final punishment to the guilty.

And, tonight, we can say that we have truly done what all of us were elected to. We have done the work of the people.

Mr. MITCHELL. Mr. President, I will vote for final passage of the bill before us because on balance, it is a valuable contribution to the effort to control violent crime in our society.

The Senate was successful in preserving against the threat of serious assault the fundamental strength of the fourth amendment to the Constitution—the amendment which, in America, prohibits police intrusion into the homes and workplaces of citizens without a warrant and without probable cause.

The so-called exclusionary rule is the subject of a great deal of extremely and misleading rhetoric, but it is the single most important deterrent against the abuse of fourth amendment rights. The bill before us preserves the essential elements of that rule and for this reason, it deserves our support.

The bill before us also provides for a rationally structured process by which the Nation can move toward keeping handguns out of the hands of convicted felons.

The gun provisions were controversial and the subject of long debate. But the final version of this provision in the bill before us takes the best of the various proposals that have been proposed. It provides for a waiting period while criminal record systems are not sufficiently automated to permit an instant telephone check, and it sets us clearly on the path to being able to create such a checking system within a defined time period.

Additionally, the measure funds important initiatives dealing with prison construction and boot camps, it includes the Police Corps Program, which will give inner-city youth for the first time a real opportunity to become part of the system of law-enforcement in this Nation, and which will also provide our cities an important additional resource for the law enforcement work that must be done.

Along with many good provisions, unfortunately, the bill contains some provisions I oppose.

I regret the weakening of the habeas corpus procedures beyond the point at which court efficiency warrants some streamlining. This part of the bill is wrong and unfortunate.

I deeply regret the inclusion of additional Federal death penalties. It has never been shown that the death penalty either deters crime or reduces the incidence of homicide. The Federal death penalty, in particular, is likely to apply to fewer than 10 homicide cases a year. In a nation where there are over 20,000 homicides of all kinds annually, it is foolish to suggest, as so many have done, that the addition of the death penalty for another 10 of these crimes is going to be a deterrent to anyone. This part of the bill is wrong and unwise.

So the bill does not reflect my judgment of what would be the best crime bill. But on balance, its good provisions outweigh the bad.

Violent crime is a continuing and serious problem in our Nation. The programs of help to local and State law enforcement officials give our States and cities real tools to begin the difficult task of securing safe streets and neighborhoods.

For that reason, the bill on balance deserves support, and I will vote for it.

Mr. BIDEN. Mr. President, today, the Senate votes on final passage on a cirme bill that has been 2 years in the making.

The bill we are passing today is the most sweeping anticrime bill in our history. While it contains some provisions which I believe are misguided—and many other provisions which have been oversold for their crime-fighting promise—it is a comprehensive package that can play an important role in making our streeets safer and our neighborhoods more secure.

The bill we are passing today is several hundreds of pages long. During its consideration, the Senate disposed of almost 100 amendments to it, adopting about 90 of these amendments. The bill we brought to the floor contained proposals drafted or coauthored by almost 30 Democratic Senators.

Now, as we near adoption of it, I want to step back and point out some of the major features in this bill. And as we review these, I am proud to say that with a few exceptions, the major provision of the Democratic crime bill remain intact, and many of the major provisions of the President's bill have been rejected by the Senate.

Let us start with the Brady bill, the handgun waiting period. This was a critical aspect of our Democratic bill—a provision drafted by Senators MITCHELL, KOHL, and GORE—to keep guns out of the hands of criminals.

Because while we agree with our Republican friends that criminals who use guns should be punished more stiffly, we also think we should try to stop gun murders before they happen. That's what the Brady bill is about, and that's why I am proud to have a modified version of it in this bill.

Second, the assault weapon ban. This bill contains Senator DECONCINI's ban on 14 types of killer assault weapons.

And again, this was a key difference with the President's bill. As his bill did, ours too increases the penalties for using such guns. But again, we want to prevent assault weapon massacres from happening in the first place—and not just console the families of victims of such crimes with stiff penalties for the criminals after the fact.

Next, the death penalty. I think that this is the most oversold part of this bill, because we all know that most of the Federal offenses covered by this bill are rare and are already punishable by mandatory life in jail.

Nonetheless, a majority of both Democrats and Republicans in the Senate favor the death penalty, so we have in here a compromise between our two bills.

Like our bill, this bill bans the execution of the retarded, and prevents a disproportionate impact of the bill on Native Americans; like the Republican bill, this bill—unconstitutionally in my view—authorizes the death penalty even in cases where no death results.

Next, local law enforcement. This bill provides an authorization for aid to enable local police agencies to boost their ranks by up to 10,000 new crimefighters—more police, more prosecutors for the true front lines of this fight. Again, a provision from our Democratic bill, and not the President's, included in this legislation as it will pass.

The same is true for our increased authorization for Federal law enforcement. Our bill also authorizes 2,800 new Federal crimefighters—1,000 FBI agents, 400 new DEA agents, 350 new prosecutors, and more. We need this help, and we need it urgently.

Next, the exclusionary rule. Our bill codified the Leon case, and maintain the law where it now stands. The President's bill authorized warrantless searches "in good faith," and permitted all guns seized—however seized—to be admitted. This bill contains our Democratic proposal, not the President's.

Regional drug prisons and boot camps. Our bill authorized 10 new regional prisons, to hold 8,000 drug offenders, and our bill included a boot camp provision based on amendments by Senators LEVIN, COATS, BENTSEN, and BOREN.

The President says he wants criminals off the streets, but unless we build new prisons, the threat of incarceration is just that—a threat, not a reality. The bill to be voted on today includes our provisons, from the Democratic crime bill.

Habeas corpus reform. Here, the bill now includes the habeas plan submitted by the President—a terrible proposal that does nothing to make the streets safer and much to increase the risk that innocent people will be executed. It is a horrible plan that I intend to work hard to modify in conference.

Next, the police corps. our bill adopts the Sasser-Specter-Graham compromise police corps plan. This, again, is another sound anticrime measure from our bill and not the President's.

Then we have the "alien terrorist removal act." This terribly misguided measure would have introduced secret trails, conducted with secret evidence, in secret proceedings to our courts, under the guise of national security. I am very pleased that this onerous provision from the Present's crime bill is not in the crime bill we are voting on tonight.

And finally, the bill the Senate is to vote on contains three provisions from our Democratic bill, not found in the President's bill:

First, rural crime initiatives. Our bill contains a comprehensive initiative, drafted by Senators BAUCUS and PRYOR, to fight rural crime, by providing more money, training, and help for rural police agencies.

Second, youth gang initiative. Our bill contains an innovative and tough new program to tackle the problem of juvenile gangs.

And third, drug emergency areas. Our bill contains the Biden-Specter-Kennedy Drug Emergency Areas Act, a plan to rush emergency aid to the areas hardest hit by drug crime.

These are the major provisions of this crime bill. Thought some come from the President's crime bill, the vast majority—and in my view, the most important provisions—come from our Democratic bill.

Mr. President, the crime bill we are going to vote on tonight is not perfect. Some parts of it are downright awful.

But the heart of it—sound firearms measures like the Brady and DeConcini bills; increases in police and prosecutors; rural crime, drug emergency, and antigang plans; the police corps; drug prisons and boot camps—these core items of this bill will help us fight crime, and will do so without any intrusion on Americans' constitutional rights.

So tonight, I urge my colleagues to support this crime bill. Let's take this first, important, and needed step toward ending the senseless killing and shooting in our cities and towns, and the plague of violent crime that our drug epidemic has caused.

Mr. President, now, as we near passage, I want to step back and again point out some of the major features of the bill. As we review these, I am proud to say that with a few exceptions, the major provisions of the Democratic crime bill now remain intact, and many of the major provisions of the President's bill have been soundly rejected by this body. A couple have been adopted by this body, particularly habeas corpus.

But I would like to start with the Brady bill, the handgun waiting period. This was a critical aspect of our bill, and the provision drafted by Senators MITCHELL, KOHL, and GORE to keep guns out of the hands of criminals.

Second, the assault weapons bill contains Senator DECONCINI's ban on 14 types of killer assault weapons.

Like our bill, the bill bans the execution of the retarded, and it prevents the disproportionate impact of the bill on Native Americans. And like the Republican bill, this bill unconstitutionally, in my view, authorizes the death penalty for even, in a few cases, where no death has resulted.

Next, in local law enforcement, this bill provides an authorization for aid to enable local police agencies to boost their ranks by up to 10,000 new crimefighters—more police, more prosecutors—for the true front-line fighters in this war against crime. And again, the provisions from our Democratic bill remain intact.

I remind everybody here, lest we get carried away, the President had absolutely no provision, zero provision, for additional police. None of this was in the President's bill.

Next, the exclusionary rule. Our bill codifies the Leon case and maintains the law where it now stands. We fortunately rejected resoundingly the President's proposal to expand the ability of police to engage in warrantless searches.

And the regional drug prisons and boot camps: In our bill, we authorize prisons to hold up to 8,000 new drug offenders. Our bill includes boot camp provisions based on the amendments by Senators LEVIN, COATS, BENTSEN, and BOREN.

Next, the police corps. Our bill adopts the Sasser-Specter-Graham compromise on police corps. This again is another sound anticrime measure. There are many other provisions.

But let me point out lastly that we have the Alien Terrorist Removal Act, which the President proposed. That has been stricken from this bill, and the rural crime initiatives, which we wanted very badly, are in this bill.

Mr. President, as I said, I thank, particularly, my democratic colleagues who cast some very difficult votes this time out and stayed with almost all, except one, essential provisions of the Biden bill. I want to thank them very much. I truly believe we have a sound, tough bill. No one would deny that this is an extremely tough bill.

Let me conclude by indicating what we all say, but I do not know whether people understand how much we managers of bills mean it and that is I want to thank Ron Klain, chief counsel of the Judiciary Committee; Jeff Peck, Victoria Nourse, and Chris Putala and Anne Rung of my staff, the majority staff, and Terry Wooten, and everyone on Senator THURMOND's staff, and also Senator HATCH's staff who worked so closely. But I particularly want to thank Terry and his immediate staff. It is a pleasure to work with them. There have been some pretty tense moments, and there were times in these last 11 days where it did not look as though we were likely to have a bill.

I also am being reminded to mention someone I need not be reminded to mention. Manus has been the man who really has been in the hot seat this whole time. He is the guy that has known the details of the bill and the guy who had to pull the final pieces together.

Manus, I thank you personally for your willingness to do all that you have done and, more importantly, for your ability.

Lastly, let me thank the two leaders, Senator DOLE and the majority leader, Senator MITCHELL, who have had to wade in here at appropriate times to make sure we had a bill.

That is enough thanking, except I see one other guy on the floor who I want to say, for the record, I am always happy when I find myself on his side because it enhances my prospects of winning four or fivefold, that is my friend from New Hampshire, Senator RUDMAN. I never like it when we are on opposite sides. It always diminishes my prospects for winning. I pay special tribute to him and Senator SPECTER, and others.

I suspect my time has about run, and I am prepared to yield.

Mr. DOLE. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. DOLE. I will make my statement after the vote, because I know a number of other Members have commitments. But I hope no one would object if we suggested that this bill be known as the Biden-Thurmond bill, and if there is no objection, I ask unanimous consent that it be known as the Biden-Thurmond bill.

Mr. BIDEN. Reserving the right to object, and I will not object. I would do anything Senator THURMOND wanted. I am delighted to call it that or anything else that Senator THURMOND would like to have it called, but I hope we will not have to go through any more Biden or Biden-Thurmond bills to finally get a crime bill, because this particular Senator is tired of doing this on a revolving door basis. It seems to me that once a year we do this and go through this exercise. So I hope this time the President will be satisfied, and the House will move, and that we will maybe take the politics of crime out of the upcoming election. I am not going to object at all. I am delighted for that to be called the Biden-Thurmond bill.

Mr. DOLE. Biden-Thurmond crime bill.

Mr. BIDEN. We can call it "the Biden-Thurmond crime bill that was brought about through a lot of pain and suffering." We can call it anything. Anything the Senator from South Carolina wants to do is fine by me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays are ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from New Jersey [Mr. BRADLEY] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. SPECTER], is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 26, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—71

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Brown
Bryan
Bumpers
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Heflin
Hollings
Inouye
Jeffords
Kassebaum
Kasten
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Mitchell
Nickles
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Thurmond
Warner
Wirth
Wofford

NAYS—26

Bond
Breaux
Burdick
Burns
Craig
Cranston
Durenberger
Garn
Hatch
Hatfield
Helms
Johnston
Kennedy
Leahy
McCain
Metzenbaum
Moynihan
Murkowski
Pressler
Simon
Simpson
Smith
Stevens
Symms
Wallop
Wellstone

NOT VOTING—3

Bradley
Pryor
Specter

So the bill (S. 1241), as amended, was passed.

(The text of S. 1241, as passed, will be printed in a future edition of the RECORD.)

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the short title of S. 1241 be the Biden-Thurmond Violent Crime Control Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations:

Calendar 235. Raoul Lord Carroll, to be President, Government National Mortgage Association;

Calendar 236. Constance B. Harriman, to be a member of the Board of Directors of the Export-Import Bank;

Calendar 237. Eugene Peters, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships;

Calendar 238. David W. Mullins, Jr., to be Vice Chairman of the Board of Governors of the Federal Reserve System;

Calendar 239. Maj. Gen. Alexander M. Sloan, to be Surgeon General, USAF; and

Calendar 240. Lt. Gen. James B. Davis, to be general.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the Record as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Raoul Lord Carroll, of the District of Columbia, to be President, Government National Mortgage Association.

EXPORT-IMPORT BANK OF THE UNITED STATES

Constance Bastine Harriman, of California, to be a member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1995.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Eugene Peters, of Pennsylvania, to be a member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1992.

FEDERAL RESERVE SYSTEM

David W. Mullins, Jr., of Arkansas, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 8036.

To be Surgeon General, USAF

To be lieutenant general

Maj. Gen. Alexander M. Sloan, [redacted] U.S. Air Force.

The following-named officer for appointment to the grade of general under the provisions of title 10, United States Code, section 601:

To be general

Lt. Gen. James B. Davis, [redacted] U.S. Air Force.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

TAX FAIRNESS

Mr. MACK. Mr. President, I am pleased to join my colleagues this morning to discuss tax fairness. We have just experienced a decade of dramatic changes in the Tax Code. Some of these changes were very good, but unfortunately, some were bad. The effects of those changes on the fairness of our tax system is, obviously, an important issue.

I don't believe, however, that the issue of tax fairness is a terribly complex one. The bottom line is that less taxes are fair, and more taxes are unfair.

There are, as we all know, a vocal group of liberal idealogs who have gained notoriety by claiming that the poor pay more taxes and the rich less taxes as a result of efforts to cut taxes. They use this as a reason for advocating tax hikes today. In their convoluted thinking, raising taxes is evidently desirable because everyone is then equally poor.

Mr. President, I have to admit I would be amused at this argument were it not that so many Members of Congress and the media seem to be taken by it. This veil of ignorance that seems to covering so many eyes has so far prevented absolutely legitimate and vitally important tax cuts—such as a reduction in the capital gains tax rate—from being implemented.

But instead of being amused, I am absolutely amazed that these tax-raising idealogs have any credibility whatsoever on economic matters. Mr. President, I am sure you remember that it was these same people—the ones who today clamor that higher taxes equates to more fairness—who were dead wrong about the economy during the 1980's.

We heard a constant drumbeat from them back then. Their message was that the economy was on the road to ruin. And it was the Republican tax cuts of the early 1980's that were to blame.

But let me just remind you, Mr. President, what happened. Those tax cuts, beginning with the Economic Recovery Tax Act of 1981, spawned a 92-month-long expansion—that is nearly 8 years—which is the longest peacetime expansion in U.S. history.

During that nearly 8 years, GNP grew an average of 4.2 percent per year. This means that the entire U.S. economy was an amazing one-third larger in 1990 than it was in 1982.

That fact alone ought to be enough to lead reasonable men and women to regard the claims of the tax-unfairness crowd with great skepticism. But let me identify three specific claims they made then which are so counterfactual that all doubts should grow into complete disregard. Those claims were the "competitiveness crisis", the "investment crunch," and the "deindustrialization depression."

Remember the "competitiveness crisis"? The United States was going to turn into a second-rate economic power because we could not compete with Japan, Germany, or any of the other industrialized countries.

According to this story, U.S. firms, could not match their international competitors in either price or quality, and so were increasingly unable to sell their goods abroad. Indeed, newspapers and magazines were filled with anecdotes revealing the incompetence of American business in internatioal trade.

But as a keen observer has so eloquently stated, "The plural of anecdote is data." And the data show that U.S. exports, after adjusting their value for inflation, nearly doubled since 1982.

Think about it, Mr. President, In 1982—a mere 9 years ago—we exported about half of what we do today. This is an utterly remarkable record, and one that definitely does not reflect a country that is descending into third world status. In fact, the U.S. share of exports by industrial countries—that is, the percent of total industrialized country exports represented by the United States—is at an all-time high. Our exports have boomed in relative as well as absolute terms. The U.S. share of total industrial employment of all 24 nations that make up the OECD increased, too.

What about the investment crunch? Supposedly, we were not investing enough, and our productivity was suffering. The truth is that we had remarkable increases in both investment in productive assets and manufacturing productivity.

Total private investment in real terms grew by a robust 71 percent during the 1980's expansion. This means that the Nation's capital stock was nearly three-quarters higher last year that it was in 1982. This is an astonishing increase in the economy's ability to support new jobs and produce wealth.

The result of this huge increase in investment was a boom in manufacturing productivity. The Bureau of Labor Statistics reported that manufacturing productivity rose at a 3.6 percent rate during the 1980's, nearly three times as fast as during the 1970's. By the end of the 1980's, an estimate by the Federal Reserve Board showed that factory productivity was 30 percent higher than the average productivity of 8 other industrialized nations, including Japan and Germany.

The 1980's expansion—this period of remarkable growth—saw many changes in the U.S. economy, but deindustrialization was not one of them. In fact, according to the Federal Reserve, manufacturing production nearly doubled. The Fed's index of manufacturing production—which represents the output of our Nation's factories—grew by 6.3 percent year to a total increase of 48.3 percent.

Factory production now accounts for 23.3 percent of U.S. GNP. This share was at an all-time low in 1982 but now is as high as it was during the 1960's. Remember that the 1960's era has always been considered the high-water mark for industrial activity.

Clearly, Mr. President, the liberal idealogs have been proven utterly wrong on economic policy. It is hard to find a record more misinformed and confused than theirs.

So it is not at all surprising to find that their claims with respect to tax fairness are way out in left field. Republican successes at cutting taxes have not resulted in a shifting of the burden from the rich to the poor. In fact, the reverse has happened.

According to a recent study by two former Treasury Department econometricans, Gary and Aldona Robbins:

> The Wealthiest taxpayers pay more taxes and a larger share of total taxes than they did a decade ago. The richest 1 percent of taxpayers paid 18 percent of all income taxes in 1981. But in 1988 (the latest available data), they paid 27 percent of all income taxes.

The poor are far better off as a result of the 1980's Republican tax cuts.

> About 4 million people no longer pay income taxes. Those who do pay less than half of what they would have paid under the 1980 tax law.

Does this mean our tax system is now completely fair, Of course not. But it is unfair because taxes are too high, not because they are too low.

Why are the liberal tax-raising idealogs so completely wrong? In a recent debate on the Senate floor, one Senator who has been taken in by all of this unfairness nonsense said "Fairness is in the eye of the beholder." Could it be that the eyes of those beholders are crossed?

LABOR-HHS-EDUCATION APPROPRIATIONS—H.R. 2707

Mr. RUDMAN. Mr. President, the fiscal year 1992 Labor-HHS-Education appropriations bill, H.R. 2707, as reported by the Appropriations Committee makes unacceptable cuts in the Low-Income Home Energy Assistance Program [LIHEAP].

The committee's recommendation for LIHEAP on the surface appears to provide $1,600,000,000. A closer look at the funding mechanisms indicates that only $855,000,000 will be available to States during the 1991-92 heating season. The committee recommendation delays the obligation of $455,000,000 to September 30, 1992, and provides that $300,000,000 of the total will be made available only after submission to Congress of a formal budget request by the President that includes an emergency designation under the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985. The Director of the Office of Management and Budget has made it clear that he will not recommend to the President that any of these funds be designated as an emergency.

Mr. President, the recommendation ignores the request for current services funding made by 11 members of this committee and 51 members of the Senate. The $855,000,000 available on October 1, 1991 is $680,625,000 less than the total amount available during the 1990-91 heating season and $755,235,000 less than the total fiscal year 1991 levels for this program, more than a 47-percent cut. By way of illustration, Mr. President, I would like to submit for the record the following table displaying cuts which States will face with an $855,000,000 energy assistance program:

Alabama	−$8,515,000
Arizona	−2,650,000
California	−29,383,000
Connecticut	−17,628,000
Forida	−10,115,000
Hawaii	−606,000
Illinois	−36,132,000
Iowa	−12,810,000
Kentucky	−10,855,000
Maine	−11,945,000
Massachusetts	−33,533,000
Minnesota	−28,151,000
Missouri	−15,975,000
Nebraska	−5,983,000
New Hampshire	−6,866,000
New Mexico	−3,678,000
North Carolina	−19,425,000
Ohio	−34,505,000
Oregon	−8,656,000
Rhode Island	−5,674,000
South Dakota	−5,148,000
Texas	−17,131,000
Vermont	−4,730,000
Washington	−13,990,000
Wisconsin	−26,461,000
Alaska	−$4,908,000
Arkansas	−5,468,000
Colorado	−9,688,000
Delaware	−3,093,000
Georgia	−8,255,000
Idaho	−4,137,000
Indiana	−18,621,000
Kansas	−5,595,000
Louisiana	−5,698,000
Maryland	−15,645,000
Michigan	−39,028,000
Mississippi	−6,097,000

Montana	−4,656,000
Nevada	−1,547,000
New Jersey	−33,666,000
New York	−106,371,000
North Dakota	−5,678,000
Oklahoma	−5,502,000
Pennsylvania	−49,135,000
South Carolina	−6,621,000
Tennessee	−9,818,000
Utah	−4,681,000
Virginia	−19,344,000
West Virginia	−5,945,000
Wyoming	−2,050,000

The committee's recommendation is dependent on States' abilities to operate LIHEAP programs on a reimbursable basis. However, the recommendation assumes that State governments will be able to provide the up-front monies necessary to operate reimbursable programs or that regulated utilities and fuel oil dealers will wait a full year to receive payment for this winter's energy supplies. In my view, these are unrealistic assumptions. Most States have completed their budgets for their fiscal year which begins on July 1. In addition, many State governments are facing their own budget crises and few utilities have rate structures which permit them to carry nonpaying customers for a full 12 months. It is far more likely that States will scale back their heating programs, cutting thousands of eligible households and clients from the rolls.

LIHEAP is safety net protection for our Nation's poor and elderly. Moreover, it is one of the only programs available to the newly poor. At last year's program level of $1,610,235,000 the program served less than one-quarter of all eligible households. In the last 14 months alone, the number of individuals eligible for LIHEAP assistance has increased by 2,000,000.

The loss of heating assistance in cold weather States poses life-threatening situations for our most vulnerable citizens—the elderly, children, and the handicapped. It is these populations that comprise a majority of current LIHEAP clients. More than half of all LIHEAP recipients have incomes below $6,000 and annual energy costs which exceed $900. An average LIHEAP household spends roughly 13 percent of its total income for home energy costs. By contrast, an average American household spends only 3.4 percent of its income for home energy.

When Federal LIHEAP benefits fail to meet energy requirements of the poor, serious human consequences occur. Two years ago in New Hampshire, a mother had her 18-month-old child removed from her home by State authorities because she could not provide adequate heat and electricity for the child. Similar human tragedies occurred elsewhere in the frost belt that same winter. The homeless shelter in Cedar Rapids, IA, housed 45 people who were without heat; 18 families in St. Louis, MO were temporarily reconnected to heating sources when the weather reached 16-degrees below zero and utilities offered a compassionate Christmas gift. These and other similar events occurred at a time when the LIHEAP appropriation exceeded $1,300,000,000.

Federal support for this program is at an all time low. At its inception in 1980, $1,600,000,000 was available for heating assistance, $1,200,000,000 in formula grants to the States for energy assistance and $400,000,000 for crisis assistance.

There are difficult choices which must be made in providing funding for the many critical programs in this bill. Virtually every program funded through the Departments of Labor, Health and Human Services, and Education provides some measure of assistance to our Nation's most needy and vulnerable citizens, but our priorities are misplaced when massive cuts in the baseline of this critical poverty program are approved.

It is difficult to challenge the merit of increases above the fiscal year 1991 levels for critical education programs such as chapter 1 which increased by $208,871,000, Eisenhower mathematics and science grants by $37,989,000, foreign language assistance $10,120,000, Head Start by $250,000,000, special education by $244,449,000, vocational and adult education by $77,773,000, and libraries by $6,849,000). However, a child cannot be expected to arrive at school prepared to learn if that child lives in a home with no heat. Similarly, providing an adequately and properly heated home during the cold winter months for our children and elderly citizens, is the one of the most critical preventive health measures we can provide.

The committee has identified preventive health issues as a priority and provided substantial increases for the health, research and services programs—increases such as $49,000,000 for community health centers, $50,000,000 for healthy start, $22,000,000 for homeless health care, $98,690,000 for the maternal and child health block grant, $68,612,000 for comprehensive AIDS treatment programs, $57,298,000 for the preventive health services block grant, $60,314,000 for immunization, $678,147,000 for the National Institutes of Health, and $137,000,000 for the Alcohol, Drug Abuse and Mental Health block grant. These programs understandably enjoy wide support and have had my support in the past. I would note, however, that these these same programs received similar increases last year. As worthy as they are, they provide little assistance to a child or an elderly person who freezes to death for lack of adequate shelter. We simply cannot continue to cut this program on an annual basis and expect that the basic human needs of warmth and shelter will continue to be met.

Our Nation's poor children and elderly citizens deserve better. Fifty-one members of the U.S. Senate have indicated that this critical poverty program should be funded at a current services level. At a minimum it deserves funding at a hard freeze. I am confident that the wishes of a majority of the U.S. Senate will prevail. Certainly, there is time for continued extended discussion before this bill is acted upon by the full Senate. The debate has already begun.

THE POWER OF PRICING

Mr. MOYNIHAN. Mr. President, on June 19 the Senate passed the Surface Transportation Efficiency Act of 1991 by a vote of 91 to 7. This signalled our intention to begin a new era of Federal transportation policy—the search for efficiency. This is clearly stated in the declaration of policy contained in this legislation:

> The principal purpose of federal highway assistance shall henceforth be to improve the efficiency of the existing surface transportation system.

To do this, we mean to rely on the ability of State and local governments to choose the solutions that best fit their problems. For some, this will mean previously untried solutions.

On July 9 the New York Times described just such an innovation. It has developed in response to congestion pricing. Drivers crossing the San Francisco/Oakland Bay Bridge have acquired the habit of stopping to pick up hitchhikers in Oakland before heading to work. This is in order to quality for the Bridge's high occupancy vehicle lanes.

If a car contains three or more persons, it can enter the HOV lane, proceed across the bridge at 50 miles per hour rather than 15 miles per hour, and avoid the one dollar toll. Congestion pricing has led people to do on their own what no law could ever force them to do—go out of their way to pick up hitchhikers on the way to work. The power of pricing!

Mr. President, I ask unanimous consent that the attached article appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 9, 1991]

OAKLAND JOURNAL: THUMBS UP FOR NEW WAY TO TRAVEL

(By Katherine Bishop)

OAKLAND, CA.—Like people everywhere who travel to a large city to work, commuters here often begin their days with traffic jams, shouted expletives and frayed nerves. But in a state known for innovative solutions, some have found a way to make lemonade from their lemon of a commute.

What they have created is a mass hitchhiking movement. People wanting to cross the Bay Bridge into San Francisco can line up under the MacArthur Freeway overpass at the northeastern tip of Lake Merritt and wait for drivers to pick them up. After each car has at least three people inside, the driver qualifies not only to use car-pool lanes but also to skip the $1 toll to cross the bridge during rush hours.

While anonymous passengers settle back to read their newspapers or just relax, their equally anonymous chauffeurs whisk them past lines of cars gridlocked at toll booths and metering lights. And drivers who might otherwise feel they were contributing to the traffic problem can argue that they have become part of the solution.

By all accounts it is a congenial one, especially considering the options. The number of private cars crossing the bridge on weekdays during morning rush hours, 6 A.M. to 10 A.M., has been rising steadily to about 40,000, nearly 3,000 more than can be moved across the bridge at a snail's pace. Each morning, 30,000 people jam into cars of the BART subway system to ride under the bay, and 6,000 brave wheezing diesel buses that have been known to break down at midspan and fill with smoke.

With the population of the two counties east of San Francisco Bay, Alameda and Contra Costa, swelling to more than two million in the last decade, getting to work virtually dares residents to be creative.

Dubbed "casual car pooling," what began as an informal system on a street corner has in the last few years gained an official wink of approval. City and state authorities have cooperated to designate a space for passengers and drivers to line up. And while a growing number of highways in this state and others have car-pool lanes for commuters, experts here say they know of no other example in which drivers employ such a system to use commuter lanes and to avoid tolls.

"I was surprised how fast it caught on," said Donald S. Larson, the scheduling manager for AC Transit, the East Bay bus system that has reduced its morning commuter fares, to $1.25 from $1.75, in an unsuccessful attempt to compete with the car pool. "Twenty years ago it would have been unexpected to see a young lady get into a car with two strange men."

Riders say they are not worried about getting into a car with strangers. "It's not hitchhiking; it's another form of commuting," said Lynn Daly, an executive secretary. "With this, you know exactly where everybody is going.

The Oakland Police Department said it knew of no complaints from either passengers or drivers.

Not that riders are without horror stories: female drivers zipping along, attention focused on rear-view mirrors as they apply mascara; male drivers trying to twist their neckties into Windsor knots while steering with their knees. And then there is the man known to passengers as the "totally sexist pig lawyer from Kansas City with the Rabbit convertible" who keeps up a steady stream of obnoxious comments about the anatomy of the women in other cars.

By all accounts, though, virtually all rides are smooth ones.

Drivers pull up and take the first two people in line, who have been waiting for no more than a few minutes. The riders simply get in and state their destination, usually the financial district.

Some passengers say they are picky about the kind of music or radio station they will listen to, since part of the etiquette is that the driver calls the tune. So the riders sometimes jockey their position in line to get a car that they think will most likely be tuned to a station they prefer. BMW's can often be counted on for National Public Radio, vans for M.C. Hammer, local hero and rap star. Others maneuver their place in line to get a ride in a large luxury car where they can snooze in leather seats for a 17-mile trip in 20 minutes from the Lake Merritt pickup point.

Some riders acknowledged they were reluctant to ride with certain car-driver combinations. With drug-related crime plaguing this city, such judgments can be based on racial and cultural stereotypes that can prove hurtful.

Harry McGee drives a gleaming black 1967 Oldsmobile Cultlass that is a rolling commercial for the automobile detailing shop where he works. But from the reaction of riders seeing a black man at the wheel of such a vehicle, with its gold and black tuck-and-diamond leather interior, Mr. McGee said he believed that many incorrectly conclude that he might be offering more than a smooth ride and tapes of 60's classics.

"A lot of people see this car and look in here and see a black face, they just walk on by," Mr. McGee said. "It does upset me, but I try not to let it bother me. When I drive my Volvo they just jump right in."

Drivers, too, report their share of unpleasant passengers, like the ones who got sick, wanted to smoke or refused to wear a seat belt, an act that can result in a traffic citation for the driver. And no one will give a second ride to the woman who spends the entire trip trying to convert the driver to what has been described as her somewhat unusual religious beliefs.

The general satisfaction with this car-pool system has caused it to spread to street corners in Oakland and near BART stations in the East Bay, attracting several thousand commuters. Those left unhappy with the hitchhiking are the operators of the bus and subway systems, which are losing thousands of dollars a day by being snubbed in the morning, only to be relied upon by the same people to bring them home in the evening, since there are no tolls or car poll lanes for the return trip.

Moreover, BART has noticed that many people drive to the nearest subway station, park in the lot at no charge, ride the subway one stop to make the parking technically legal, then get off and get in line for a casual car pool.

"They say they don't want to be crushed on the subway," said Sy Mouber, a spokesman for BART who is investigating the practice. "They say they'd rather ride in a fancy car."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,308th day that Terry Anderson has been held captive in Lebanon. As we debate the merits of various measures to control and reduce violent crime in the United States, we are acutely aware of the pain of the victims. I ask my colleagues at this moment to reflect on the plight of the Americans held hostage in Lebanon and their families. And to commit themselves as intently to efforts to free them.

FEDERAL BLUE-COLLAR PAY CAPS

Mr. PELL. Mr. President, I want to thank Senator MIKULSKI and Senator DECONCINI, for the inclusion of report language in H.R. 2622, the Treasury-Postal Service-General Government appropriation bill, directing the Office of Personnel Management [OPM] to examine problems in the Federal Wage System [FWS] and estimate the cost of a gradual phase out of the pay caps which have been placed on Federal blue-collar worker wages since 1979.

The intent of Congress in establishing the FWS was to compensate Federal blue-collar workers on a scale comparable to private sector wages in each of the 135 geographic wage areas across the country. The pay caps placed on FWS worker wages, however, have limited any increase in pay to the increase given to General Schedule workers. Clearly, the imposition of the pay cap has created a situation which is inconsistent with the original intent of Congress.

The result of the continuous application of these caps is that many Federal blue-collar employees are no longer receiving equitable compensation.

The inequity of the pay cap is reflected in the current wages for many FWS positions when compared with private sector wages for similar jobs. While employees in some areas have received full comparability adjustments to their pay, in my home State of Rhode Island for example, Federal blue-collar pay now lags on average 19 percent behind private sector wages for similar jobs. The discrepancy in wages in some States is even greater, reaching a high of 32 percent in the Richmond, VA, wage grade area. With pay lags as high as these, it is no wonder that many Federal blue-collar employees are demoralized. If we are not going to pay our blue-collar workers competitive rates, we cannot expect to have a strong, competitive work force.

The Federal Prevailing Rate Advisory Group, a joint labor-management group that advises OPM on policy matters concerning the operation of the FWS, has recommended that the pay caps be lifted. I have introduced legislation to give Federal blue-collar workers full adjustments to their pay based on the annual local wage survey of private industries in each wage grade area, effectively removing the pay cap on wages. This bill, S. 310, has been cosponsored by Senators MIKULSKI, HARKIN, KERRY, AKAKA, and DASCHLE.

While the appropriations legislation does not actually lift the cap on wages, it takes an important step foward in improving pay for Federal blue-collar workers by highlighting the problems in the wage grade system and indicating support for a gradual phaseout of the pay caps.

Again, I appreciate the hard work of Senator MIKULSKI on this issue and thank Senator DECONCINI for his cooperation.

NO FORCIBLE REPATRIATION OF BOAT PEOPLE FROM HONG KONG

Mr. PELL. Mr. President, I was concerned to learn that the Hong Kong authorities are planning to open discussions with the Government of Vietnam on the possibility of sending boat people back to that country to be held in special camps which would be established under international management. While we all recognize that the continuing flow of boat people causes a serious burden for the countries of the region, it is surely not too much to ask that there should be no forced repatriation of persons to a country from which they have fled.

This is what happened in December 1989 when some 51 Vietnamese were taken from camps in Hong Kong at night and returned to Vietnam. The outcry at that time, in this country, in England, where the action was sharply criticized in the House of Commons, and around the world, helped ensure that it was not repeated.

A recent article in the Wall Street Journal entitled "Boat People Lose Their Best Friend" noted that the United States has apparently changed its policy of opposing the involuntary return of boat people by giving its consent to Hong Kong's plan to negotiate for the holding centers in Vietnam. I have been assured that the administration continues to oppose forced repatriation, and I was gratified to receive a similar reassurance from the new U.N. High Commissioner for Refugees, Mrs. Sadako Ogata, when she met with the Foreign Relations Committee on June 25.

Because of my concern about this situation I have written to the Governor of Hong Kong urging that there be no forced repatriation, and recommending that screening for refugee status be further reviewed and strengthened with full participation by representatives of the UNHCR to assure that the human rights of boat people are protected.

I ask that the text of my letter to the Governor of Hong Kong and the June 17 Wall Street Journal article by Anne Wagley Gow be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 25, 1991.

Hon. SIR DAVID CLIVE WILSON,
Governor of Hong Kong, Victoria.

DEAR SIR DAVID: I am writing about the recent announcement that the United Kingdom and Hong Kong plan to hold discussions with Vietnam, with the participation of the United Nations High Commissioner for Refugees, with the air of establishing an internationally managed center in Vietnam for boat people determined not to be refugees who have not accepted voluntary return.

As you know from our past correspondence, I am deeply concerned that there should be no forcible repatriation, and very much hope that any discussions of this subject will bear in mind the need to assure the continued safety and welfare all Vietnamese returned to Vietnam.

The prospect of returning asylum-seekers to Vietnam, even with international protection, makes it especially important that screening procedures for refugee status are carried out as fairly and accurately as possible, with the active participation of the UNHCR, and with assured rights of review and appeal. Such screening may have to be repeated to assure that earlier determinations remain valid, before any are sent back to Vietnam.

I am giving a copy of this letter to Mrs. Sadako Ogata, the United Nations High Commissioner for Refugees, during her visit here this week so she will know the importance we attach to this subject and to the role of her organization. My appreciation in advance for your consideration of these concerns.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

[From the Wall Street Journal, June 17, 1991]

BOAT PEOPLE LOSE THEIR BEST FRIEND

(By Anne Wagley Gow)

America has traditionally been the Vietnamese boat people's staunchest ally. Not any more. Earlier this month it reversed its longstanding policy, and accepted the principle of sending boat people to holding camps in Vietnam, whether they want to go or not. The proposed camps would be run by an international agency such as the U.N. High Commissioner for Refugees.

The UNHCR already runs a voluntary repatriation program, which has resettled about 7,000 boat people in Vietnam since March 1989. And it has long urged Vietnamese to leave their country only under the Orderly Departure Program. Indeed, 57,000 Vietnamese emigrated through the ODP last year. The ODP, however, is no alternative for those who fear retribution from the authorities.

Take the case of Hoa, a former interpreter for the U.S. Army, who applied to emigrate under the ODP in early 1988. Shortly after he was given an ODP case number, local authorities crossed his name off the household registration list, thus denying him access to rationed staples and restricting his freedom of movement. He was forced to hide every few days when officials searched his home for illegal occupants. A non-person in his own country, Hoa decided to flee by boat instead of waiting for his ODP case to be determined.

The U.S. decision was welcomed here in Hong Kong, which is holding almost 60,000 boat people. The British colony has long tried to deter new arrivals by incarcerating the boat people in squalid and overcrowded detention centers. But the Vietnamese keep on coming. More than 10,000 have arrived in Hong Kong so far this year, compared with 6,598 for all of least year. Clearly, transferring people from Hong Kong camps to Vietnamese ones is no solution; it ignores the reasons people fled in the first place.

For two years I worked in Hong Kong's Whitehead Detention Center, population 24,000. I spoke with hundreds of Vietnamese desperate for help in obtaining refugee status. These people realize that only a small percentage will be granted refugee status and the chance to re-settle. Still, they prefer a bleak future in Hong Kong's detention centers to going back.

The boat people consider the refugee-screening process biased, cursory and a violation of internationally accepted judicial norms. Amnesty International and the Lawyers Committee for Human Rights agree. Asia Watch recently documented the cases of individuals who had been persecuted for their leadership in human rights activities in Vietnam, yet as boat people in Hong Kong had been denied refugee status.

The camps' screening questionnaire is concerned with only the applicant's immediate family, while the bio-data questionnaires used by Vietnamese authorities in applications for education and employment ask about family activities as far back as the French colonial period, before 1954. Discrimination in employment and education is still the norm for individuals whose parents or grandparents were associated with the French, or with the Americans. More severe penalties are confiscation of property, forced movement to New Economic Zones, as well as denial of household registration and identity cards.

Take the case of Nhuan, who was the leader of a Catholic community in a small village in northern Vietnam. The local authorities confiscated his prayer books and crucifixes. On Sept. 6, 1988, the village attempted to celebrate the pope's honoring of 117 Vietnamese Catholic martyrs, but public security officials broke up the ceremony and Nhuan went in to hiding. He fled to Hong Kong and does not want to return to Vietnam, where other Catholic leaders have been sentenced to 10-year prison terms for celebrating the same event. His claim to refugee status was denied:

The boat people's second concern is that they do not trust the UNHCR's assurances that they will return to Vietnam in safety if they accept voluntary resettlement. Illegal departure remains a crime in Vietnam; those who have dissented in the past, even if by escape, know they can never be fully reintegrated into a political structure that continues to view them with suspicion.

As one told me, "If I return to Vietnam I will be subject to special surveillance by the authorities. My record will carry the mention 'political suspect' because of my stay in Hong Kong. In my whole lifetime I, myself, as well as my children and grandchildren will not be allowed to take any important jobs with the government or simply to have an employment as any other citizen has."

There are alternatives to forced repatriation. First, the flaws in the refugee-status determination procedures can be addressed. (It is only fair to note that there have been improvements.) It's also possible to work for substantive changes within Vietnam, of which improvement in human rights should be a top priority; in the meantime, the U.S. and other countries can step up re-settlement.

The U.S., Britian and Hong Kong should not be playing with the lives of the Vietnamese boat people. Instead, they should be listening to what the boat people are saying by their unwillingness to return to their homeland.

SHOSHONE IRRIGATION PROJECT AMENDMENT

Mr. SIMPSON. Mr. President, I am pleased to join with my able friend and colleague, the senior Senator from Wyoming, MALCOLM WALLOP, in offering this amendment that is so very important to the people of Wyoming and my own hometown, Cody, WY.

Like its neighboring project, the Buffalo Bill Reservoir, this modest proposal is a model of effective State and Federal cooperation. The State and the Federal Government share equally in the costs associated with upgrading and modernizing the Shoshone Irrigation Project and all share in the economic benefits the upgrade will bring.

Mr. President, as I stated, this is a modest proposal. We are asking today for $1.2 million in Federal cost share appropriations. The State will provide its share. Eventually, the total cost of this project repair will be $50 million—shared equally between the State and Federal Government.

This will be a two-phased funding solution. First, a $15 million, 50/50 cost share under the Federal Government betterment and rehabilitation loan program—including this $1.2 million; second, this project will be included in the Pick Sloan Missouri Basin Program. Including the Shoshone Irrigation Project within the Pick Sloan Missouri Basin Program ensures that the Federal Government will realize a return on its investment in this rehabilitation and betterment project.

So, Mr. President, I thank my colleagues for their support. This is good for Wyoming and good for the Federal Government. I especially want to thank the floor managers, the able Senator from Louisiana [Mr. JOHNSTON] and my friend and colleague, the able Senator from Washington, Senator HATFIELD—their leadership and consideration is truly appreciated and they have my utmost respect.

IMPLEMENTATION AND IMPACT OF EMPLOYER SANCTIONS MESSAGE FROM THE PRESIDENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I transmit herewith the first and second annual reports on implementation and impact of employer sanctions. These reports are required by section 402 of the Immigration Reform and Control Act of 1986 (Public Law 99-603; 8 U.S.C. 1324a note).

GEORGE BUSH.

THE WHITE HOUSE, *July 11, 1991.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1536. A communication from the President of the United States, transmitting, pursuant to law, a report on the recission or deferral of certain budget authority; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-1537. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, an assessment by an organization outside of the Department of Defense of the staff requirements of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; to the Committee on Armed Services.

EC-1538. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to modify the physical examination requirement for members of the Ready Reserve of the armed forces; to the Committee on Armed Services.

EC-1539. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the status of multifamily housing within the control of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

EC-1540. A communication from the President of the Oversight Board, Resolution Trust Corporation, transmitting, pursuant to law, the annual report of the Oversight Board for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1541. A communication from the President of the Oversight Board, Resolution Trust Corporation, transmitting, pursuant to law, the annual report of the Oversight Board on the Resolution Trust Corporation for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1542. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on negotiations concerning offsets in military exports for fiscal year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1543. A communication from the Acting General Counsel of the Department of Transportation, transmitting, pursuant to law, the fiscal year 1992 budget requests of the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

EC-1544. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation to promote international cooperation and to reduce dolphin mortalities in the purse seine fishery in the eastern tropical Pacific Ocean by amending the mandatory trade embargo provisions of the Marine Mammal Protection Act; to the Committee on Commerce, Science, and Transportation.

EC-1545. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of a delay in rendering a decision in a certain case before the Commission; to the Committee on Commerce, Science, and Transportation.

EC-1546. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on railroad emissions; to the Committee on Environment and Public Works.

EC-1547. A communication from the Administrator of General Services, transmitting, pursuant to law a proposed prospectus for the lease of space at One Judiciary Square, 441 Fourth Street, N.W., Washington, D.C. for the Department of Justice; to the Committee on Environment and Public Works.

EC-1548. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, comments on the recommendations affecting physician payment under the Medicare program; to the Committee on Finance.

EC-1549. A communication from the Commissioner of Social Security, transmitting, pursuant to law, the 1991 annual report of the Social Security Administration; to the Committee on Finance.

EC-1550. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report of the Accountability Review Board on an incident in Bolivia; to the Committee on Foreign Relations.

EC-1551. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the 1989 costs of operating privately owned vehicles to government employees while on official business; to the Committee on Governmental Affairs.

EC-1552. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1990 report on the valuation of the United States Coast Guard Military Retirement System; to the Committee on Governmental Affairs.

EC-1553. A communication from the Director of the United States Office of Personnel Management, transmitting, pursuant to law, a draft of proposed legislation to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; to the Committee on Governmental Affairs.

EC-1554. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, the report on Management Decisions and Final Actions on Office of Inspector General Audit Recommendations, for the period ending March 31, 1991; to the Committee on Governmental Affairs.

EC-1555. A communication from the Vice Chairman of the Farm Credit Retirement Plan Pension Committee of the Federal Intermediate Credit Bank of Jackson, transmitting, pursuant to law, an annual pension plan report for the plan year ending December 31, 1990, for the Farm Credit Retirement Plan; to the Committee on Governmental Affairs.

EC-1556. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-50 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1557. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-51 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC-1558. A communication from the Attorney General of the United States, transmitting, pursuant to law, notification that the Justice Department will contest, or will refrain from defending a provision of the Competition in Contracting Act of 1984; to the Committee on the Judiciary.

EC-1559. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report to Congress which addresses the administration of the Employee Retirement Income Security Act during calendar year 1989; to the Committee on the Judiciary.

EC–1560. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the 1991 annual report on the financial status of the railroad unemployment insurance system; to the Committee on Labor and Human Resources.

EC–1561. A communication from the Director of National Drug Control Strategy, transmitting, pursuant to law, a draft of proposed legislation entitled "The Drug Treatment and Prevention Act of 1991"; to the Committee on Labor and Human Resources.

EC–1562. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, the report on Department of Defense procurement from Small and Other Business Firms for the period October 1990 through March 1991; to the Committee on Small Business.

EC–1563. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to enter into challenge cost-share agreements, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1564. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the Health Professional Scholarship Program operated by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

EC–1565. A communication from the Secretary of the Army, transmitting, pursuant to law, a report stating that the program acquisition unit cost and current procurement unit cost baselines have been exceeded by 25 percent or more for the Family of Medium Tactical Vehicles system; to the Committee on Armed Services.

EC–1566. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to repeal all references to the depleted uranium program relating to the National Defense Stockpile Program; to the Committee on Armed Services.

EC–1567. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to authorize the transfer by lease of four naval vessels to the Government of Greece; to the Committee on Armed Services.

EC–1568. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to amend sections 151 (a), 154, and 155 (a) of title 10, United States Code, to provide for designation of the Vice Chairman of the Chiefs of Staff as a full member of the Joint Chiefs of Staff, and to make conforming amendments; to the Committee on Armed Services.

EC–1569. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a statement to the United States Senate with respect to a transaction involving U.S. exports to the Kingdom of Thailand; to the Committee on Banking, Housing, and Urban Affairs.

EC–1570. A communication from the President of the Oversight Board of the Resolution Trust Corporation, transmitting, pursuant to law, notification of the inability to forward the GAO's audit of the financial statements of the Resolution Trust Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC–1571. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a Pay-As-You-Go Status Report; to the Committee on the Budget.

EC–1572. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to establish a new position at the Assistant Secretary level at the Department of Commerce; to the Committee on Commerce, Science, and Transportation.

EC–1573. A communication from the Secretary of Commerce, transmitting, pursuant to law, the 1991 update of the National Implementation Plan for the Modernization and Associated Restructuring of the National Weather Service; to the Committee on Commerce, Science, and Transportation.

EC–1574. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1575. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

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EC–1580. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1581. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Annual Energy Outlook, 1991"; to the Committee on Energy and Natural Resources.

EC–1582. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, the biennial report on continuing studies of the quality of water in the Colorado River Basin; to the Committee on Energy and Natural Resources.

EC–1583. A communication from the Secretary of Energy, transmitting, pursuant to law, the eighth annual revision of the comprehensive Ocean Thermal Technology Application and Market Development Plan for the Federal Ocean Thermal Energy Conversion Program; to the Committee on Energy and Natural Resources.

EC–1584. A communication from the Inspector General, Department of the Treasury, transmitting, pursuant to law, a report entitled "Review of Reimburseable Superfund Costs, Fiscal Year 1989"; to the Committee on Environment and Public Works.

EC–1585. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Toxic Chemicals: EPA's Toxic Release Inventory Is Useful But Can Be Improved"; to the Committee on Environment and Public Works.

EC–1586. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to revoke the withdrawal of certain land in Multnomah County, Oregon, to remove certain land from the Cibola and Havasu National Wildlife Refuges, and for other purposes; to the Committee on Environment and Public Works.

EC–1587. A communication from the Secretary of the Interior and the Secretary of Commerce, transmitting jointly, pursuant to law, the annual report on the activities of the Department of the Interior and the Department of Commerce with respect to the Emergency Striped Bass Research Study for calendar year 1989; to the Committee on Environment and Public Works.

EC–1588. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, a report entitled "Monitoring Changes in the Use of, Access to, and Appropriateness of Part B Medicare Services"; to the Committee on Finance.

EC–1589. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, the report of the Commission on physician payment under Medicaid; to the Committee on Finance.

EC–1590. A communication from the Secretary of State, transmitting, pursuant to law, notice that it is in the national interest not to deduct certain amounts under section 5 of the Fishermen's Protective Act; to the Committee on Foreign Relations.

EC–1591. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to July 3, 1991; to the Committee on Foreign Relations.

EC–1592. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during May 1991; to the Committee on Governmental Affairs.

EC–1593. A communication from the Benefits and Risk Manager of the Fourth District Farm Credit Institutions, transmitting, pursuant to law, the 1990 annual report for the Farm Credit Institutions in the Fourth District Amended Retirement Plan; to the Committee on Governmental Affairs.

EC-1594. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report entitled "Annual Report on Missing Children, 1990"; to the Committee on Judiciary.

EC-1595. A communication from the Counsel of the Pacific Tropical Botanical Garden, transmitting, pursuant to law, the annual audit report of the Pacific Tropical Botanical Garden for calendar year 1990; to the Committee on the Judiciary.

EC-1596. A communication from the Counsel to the National Council on Radiation Protection and Measurements, transmitting, pursuant to law, the annual audit report of the Council for calendar year 1990; to the Committee on the Judiciary.

EC-1597. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Refugee Resettlement Program for fiscal year 1990; to the Committee on the Judiciary.

EC-1598. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "The Condition of Bilingual Education in the Nation"; to the Committee on Labor and Human Resources.

EC-1599. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on implementation of the Age Discrimination Act of 1975; to the Committee on Labor and Human Resources.

EC-1600. A communication from the Chairman and Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the 18th actuarial valuation of the railroad retirement system; to the Committee on Labor and Human Resources.

EC-1601. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses, and for other purposes; to the Committee on Veterans' Affairs.

EC-1602. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

EC-1603. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans' Affairs.

EC-1604. A communication from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HARKIN, from the Committee on Appropriations, with amendments:

H.R. 2707. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–104).

By Mr. ADAMS, from the Committee on Appropriations, with amendments:

H.R. 2699. A bill making appropriations for the government of the District of Columbia and other activities chargable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–105).

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 2608. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–106).

By Ms. MIKULSKI, from the Committee on Appropriations, with amendments:

H.R. 2519. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–107).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERREY:

S. 1446. A bill to provide for an equitable and universal national health care program administered by the States, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. Mack, Mr. Bryan, Mr. Bond, and Mr. Shelby):

S. 1447. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. Bryan):

S. 1448. A bill to establish an Assistant Secretary for Administration of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAHAM (for himself, Mr. Mack, Mr. Bryan, Mr. Bond, and Mr. Shelby):

S. 1449. A bill to develop Federal Government performance standards and goals plans, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAHAM (for himself and Mr. Bryan):

S. 1450. A bill to establish the Office of Management and the Office of the Budget; to the Committee on Governmental Affairs.

By Mr. BIDEN (for himself and Mr. Roth):

S. 1451. A bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 1452. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on retail dealers in liquors and beer, and to limit the period during which such tax may be assessed; to the Committee on Finance.

By Mr. WIRTH (for himself, Mr. Danforth, Mr. Lautenberg, Mr. Akaka, Mr. Mack, Mr. Packwood, Mr. Specter, Mr. Bond and Mr. Cranston):

S. 1453. A bill to prohibit the awarding of U.S. Government contracts to foreign persons that comply with the Arab boycott of Israel; to the Committee on Governmental Affairs.

By Mr. SEYMOUR:

S. 1454. A bill to establish penalties for participation in illegal gang activity; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. Garn, Mr. Reid, Mr. Bryan, Mr. Craig, and Mr. Symms):

S. 1455. A bill entitled the "World Cup USA 1994 Commemorative Coin Act"; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH:

S. 1456. A bill to amend the Internal Revenue Code of 1986 to restore foreign tax credits for taxes paid or accrued to Angola; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. Grassley):

S. 1457. A bill to amend the Older Americans Act of 1965 to assist older individuals to avoid falling and to prevent incorrect medication and adverse drug reactions; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 1458. A bill to amend the Older Americans Act of 1965 to authorize services relating to the appointment and monitoring of guardians, and of representative payees, of older individuals; to the Committee on Labor and Human Resources.

S. 1459. A bill to amend the Older Americans Act of 1965 to provide supportive services to strengthen informal caregivers who assit older individuals in need of long-term care, to remain in private residences; to the Committee on Labor and Human Resources.

By Mr. BROWN (for himself and Mr. Wirth):

S. 1460. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior for the purpose of establishing a national wildlife refuge, to authorize the Secretary of the Interior to sell a portion of the property comprising the Rocky Mountain Arsenal for public or commercial uses, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN (for himself and Mr. Wofford):

S. 1461. A bill to amend the Federal Deposit Insurance Act to require States whose State-chartered financial institutions cause disproportionate Federal insurance losses due to inadequate State regulation, to pay an insurance premium as a condition of future deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HOLLINGS (for himself, Mr. Inouye, Mr. Stevens, and Mr. Bentsen):

S. 1462. A bill to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself, Mr. Lott, Mr. Johnston, Mr. Shelby, Mr. Craig, Mr. Inouye, Mr. Nickles, Mr. Packwood, Mr. Stevens, Mr. Murkowski, Mr. Simpson, Mr. Symms, Mr. Wallop, Mr. Hatch, Mr. Garn, Mr. Burns, Mr. Helms, Mr. Cochran, Mr. McConnell, and Mr. Bond):

S. 1463. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SANFORD (for himself and Mr. RIEGLE):

S. 1464. A bill to amend the Securities Exchange act of 1934 to enhance investor disclousure requirements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FOWLER:

S. 1465. A bill to amend the Egg Products Inspection Act to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect consumers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH:

S. 1466. A bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

By Mr. HEFLIN:

S. 1467. A bill to designate the U.S. Courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse.

By Mr. MOYNIHAN:

S. 1468. A bill to provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary; to the Committee on Finance.

By Mr. GORTON (for himself and Mr. WALLOP):

S. 1469. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 1470. A bill to alleviate burdens imposed upon educational agencies and institutions by the Family Educational Rights and Privacy Act of 1974 with respect to the maintenance of records by campus law enforcement units; to the Committee on Labor and Human Resources.

By Mr. ADAMS (for himself, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, and Mr. DECONCINI):

S. 1471. A bill to amend the Older Americans Act of 1965 to establish an elder rights program, and for other purposes; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. METZENBAUM, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. NICKLES, and Mr. D'AMATO):

S. Res. 153. Resolution to express the Senate's support for democratization in Yugoslavia; considered and agreed to.

By Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. LAUTENBERG):

S. Con. Res. 52. Concurrent resolution condemning resurgent anti-Semitism and ethnic intolerance in Romania; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERREY:

S. 1446. A bill to provide for an equitable and universal national health care program administered by the States, and for other purposes; to the Committee on Finance.

HEALTH USA ACT OF 1991

Mr. KERREY. Mr. President, on behalf of the people of the State of Nebraska, who guided this bill's development, I am pleased to introduce the Health USA Act of 1991.

Health USA comprehensively reforms the way our Nation finances health care. It controls soaring health care costs; extends coverage to every American; provides long-term care for our elderly; and unties health care coverage from employment, so that concerns over health benefits do not lock Americans out of productive jobs. And because Health USA budgets health care expenditures, reduces administrative costs, improves health care management, and encourages prevention, it achieves its goal without America spending a single penny more for health care.

In fact, under Health USA, the majority of America's families will pay less for health care than they do now. The average family in Nebraska will get better health coverage and save about $500. Over the next 5 years, Health USA will save America over $150 billion in health care expenditures—over $150 billion we can use to increase American productivity, competitiveness, and living standards.

Health USA is more than a health care reform. It is an essential building block for a strategy of economic expansion and opportunity. It is an equally essential building block for a humanitarian strategy. And in both economic and humanitarian terms, I believe it will improve life in America—for the Nation as a whole, for businesses, for families and individuals. It will lead us to take better care of our own health, better care of our children, and better care of our work force.

Health USA is not the Canadian model of health care, or the British model, or the German model. It is an American model. It builds on the best of American health care while it eliminates the worst. It maintains our high-quality, private-sector-based system of delivering care; but it replaces our system of financing, so that all Americans can be covered at less cost. Health USA preserves our freedom to choose among private doctors, hospitals, and health plans; but it eliminates excessive paperwork and administrative costs. It builds on America's advanced systems for managing care; but it gives greater incentive to invest in prevention, and reduces interference with the clinical decisions of health professionals. It keeps our current health system's high quality; but it encourages even more diversity in the marketplace by rewarding good outcomes, encouraging healthy lifestyles, and placing a premium on simplicity.

Health USA's financing is based upon two important American principles. The first is personal responsibility to do and pay what you can. The second is that the best public decisions are those made in the full sunlight of citizen visibility. Not only must all Americans pay something for their health care, but no able American can expect to be subsidized for long. The second principle ensures we will know how and why every one of our health care dollars is spent.

Mr. President, before I explain what Health USA does and why it is needed, I want to say a few words about how this bill was developed. Health USA is a proposal by, for, and about Nebraskans. Its goals and its approach are the product of over 100 meetings, across 2½ years, with over thousands of Nebraskans, in dozens of towns. Its philosophy reflects input from Omaha to Ogallala. Its substance incorporates suggestions from Nebraska's farmers and doctors; insurance executives and policyholders; medical school faculty and parents; hospital administrators and hospital patients; Democrats and Republicans; young and old.

The goal of this process has been to spark a dialog among Nebraskans over what kind of health care financing system we want. Until there is informed consensus among the people in our States, there can be no informed progress here in Washington. And on such an important issue, I thought it better for Nebraska to put its fingerprints on the Nation than the other way around.

If it works in Nebraska, I believe it will work for the Nation. And I am convinced Health USA will work in Nebraska. It will work for Nebraska's businesses and their employees, 75 percent of whom work in firms with fewer than 100 employees, by giving them affordable coverage, predictable costs, and certainty of payment. Health USA will work for Nebraska's rural areas, for it steers medical personnel and facilities to rural areas, and provides targeted tax relief to small employers, like farms and suppliers, who are the backbone of our rural economy. Health USA will work for Nebraska's innercity neighborhoods, like North Omaha, for it eliminates the financial barriers to prenatal care, immunizations, cancer screening, and other preventive procedures that can save lives and strengthen families. And Health USA will work for small towns and suburbs from the banks of the Missouri to the Nebraska sandhills, for it controls the explosion in health insurance rates that is lowering take-home pay and raising anxieties.

Since this bill came from the people of my State, I have told them I will not push it here in Washington in the usual ways until they feel comfortable with it. I will not actively seek cosponsors. Nor will I ask Washington's interest groups to come to my office with proposed modifications that might garner their support. Rather, my plan is to keep working with the people of Nebraska—to hear their reactions and consider their modifications—until I am confident Nebraskans understand and endorse the details of this proposal. For this is an unfinished policy: A progress report on a dialog that will continue for some time until the moment of reform arrives.

But Mr. President, make no mistake about it, the moment of reform will arrive. Indeed, in my judgment, it is already long overdue.

This morninig we read in the Washington Post an article that described the potential increased cost for the Medicaid program.

It is now estimated by the Secretary of the Department of Health and Human Services [DHHS] that we will spend $200 billion by the year 2000 for Medicaid, a huge increase over the $72 billion we currently spend. That is more than we currently spend on Medicare, Mr. President. And, as I have examined Medicaid, it is altogether too obvious to me why the costs of that program are growing so rapidly. The sad and tragic reason, Mr. President, is because increasing numbers of working Americans who are turning to a welfare program to obtain health care services, because it is the only available way for them to take care of their families.

Mr. President, when I talk about the need for reform, I am not talking about the way we deliver health care in America. Our delivery system—the quality of our personnel; the effectiveness of our hospitals; the sophistication of our technology—these are the envy of the world. Our system of delivering health care has enhanced the value of life for millions of Americans, including myself.

But our system of financing health care is a different story, Mr. President. Our system of financing health care is a train wreck in progress. Instead of excessive speed, the culprit here is excessive cost. Our method of financing health care is simply out of control. It is fragmented, cumbersome, inefficient, bureaucratic, limited in accountability, and it has given us the most out-of-control heatlh costs in the world. In 1970, our Nation spent approximately 7 percent of our gross national product [GNP] on health care. By 1990, it was over 12 percent—over $650 billion. Sometime this decade, quite possibly by 1995, health care spending will surpass 15 percent of GNP or over a trillion dollars. Mr. President, in 1970, we spent $40 billion on health care.

And if the national costs are not sufficient to alarm us, we only need to look at the cost to business. And if the increase in the cost of business, particularly to small business, is not sufficient to alarm you, look at the cost to the individuals and track the increases in health care costs to increases in the number of Americans turning to Medicaid for health coverage, track that increase in health care costs to our Nation's dismal infant mortality rate, track that increase in heatlh care costs to low American productivity, Mr. President, and I believe you will have a sufficient amount of urgency to allow us collectively to overcome our resistance to change. For U.S. businesses, health costs have nearly quadrupled as a percent of prayroll since the 1960's, and grown from less than 10 percent of businesses' pretax profits to over half of those profits today.

These increases are simply unsustainable. They conjure up the image of some malignancy, relentlessly feeding off the body of its host. Our system of financing medical care is already doing harm to those it is meant to heal, as its growing cost eats away at worker paychecks, retiree savings, public budget, entrepreneurial initiatives, and U.S. competitiveness. It is hurting our Nation. It is hurting our businesses. And it is hurting our people, who are increasingly driven into the rolls of Medicaid, the ranks of the underinsured, or the wrenching anxiety of wondering how long their coverage will be affordable and how much they can depend on it when illness strikes.

For the Nation, for business, for individuals—these cost increases are simply unsustainable. How can our Nation invest enough in schools and roads and other improvements to make our economy more productive when rising health care costs devour 25 percent of each year's gains in GNP? How can our businesses compete when health costs here are 127 percent higher than Japan's and 91 percent higher than Germany's? How can our workers compete when millions of them are blocked from taking more productive jobs due to considerations about their health insurance?

And how can our entrepreneurs prosper in this kind of environment? Before I entered public life I started and operated some restaurants and health clubs. For small business owners like myself, these runaway health care costs can mean a choice between continuing to provide our employees with health care coverage, or continuing to provide them with jobs. Increasingly, we cannot afford to do both. And that is simply an unacceptable choice.

It is even becoming an unacceptable choice for those who have energetically opposed reform. The Wall Street Journal recently reported that when the late Chairman of the Republican National Committee, Lee Atwater, was diagnosed as having a brain tumor, the RNC's insurance carrier told the party to drop Mr. Atwater's coverage, or else it would triple the RNC's rates. The RNC did what hundreds of other less well-connected businesses have had to do. They cared about Mr. Atwater, and so they continued his coverage but changed insurance companies. But the new firm's premiums were higher, and now the new party chair, who is opposed to the reform I am proposing, laments that some of their younger, less well-to-do staffers cannot afford coverage. Well, they are not alone.

The status quo is unacceptable. The status quo means we will watch our Nation's health care costs soar, and will agonize as coverage correspondingly decreases. Businesses will pass along rising costs in the form of higher deductibles, higher copayments, reduced coverage, or by simply dropping health care benefits altogether. Politicians will pass along higher health care costs in the form of cutbacks in Medicare benefits and restrictions on Medicaid eligibility. Hospitals will pass along rising costs by passing along patients—literally, by telling patients without insurance that they must take their illness or their child's injury or their pregnancy to some other hospital that can afford to provide charity care.

As a result, fewer Americans will have health care coverage. Already, over 33 million lack any coverage; about as many are underinsured. One in six Americans reports their coverage has been reduced over the past 2 years. Millions who are insured live with a gnawing anxiety their coverage may disappear when they need it most. And when coverage evaporates, too many Americans forego tests or treatment that could lead to better health and lower treatment costs. Our system of financing health care puts very little premium on prevention. As a result, we have too many infants in neonatal intensive care units at thousands of dollars a day who might be home if their mothers had access to inexpensive prenatal care. We have too many women with breast cancer who might have had a chance to live longer if they had been able to afford a mammogram.

Medicaid, a program originally created for the poor, is now the source of health care for 27 million Americans. We read this week of Dick Darman's SWAT team that he dispatched to find out why so many Americans are getting health care through their local welfare office. The answer is obvious to all of us who are elected to serve the people: rising costs are driving more and more Americans away from work and into the waiting arms of a Medicaid case worker.

Increasing health care costs have decreased health care coverage. And decreasing health care coverage have increased costs. It is a vicious, deadly, unnecessary circle. It diminishes the productivity of our people. It haunts families. It kills children. It shrinks our future.

Mr. President, I belive at the center of that circle is a third problem with our system of financing health care—a problem that links the rising costs and the diminishing levels of coverage. That third problem is the employment-based nature of our health care system. This is the real explanation for the train wreck. This is where the trains collide.

An employment-based system of financing health care requires hundreds of thousands of firms and insurers each to become experts on health care, to make decisions about benefit packages, to evaluate risk, to worry about costs and utilization, to process forms.

It means that the more than 20 million Americans who start a new job each year must wonder about whether their new firm offers health benefits and must wonder, as well, what will happen if their firm does not make it and they find themselves unemployed.

It means that the millions of Americans with pre-existing medical conditions must worry that no new firm or insurer will ever cover them, so they're locked into their job forever.

It means that new employees who get coverage must wade through stacks of forms and often risk weeks of no coverage while they wait for the new policy to take effect. It means that mothers on welfare often have an incentive to reject opportunities to work because it may mean losing the meager coverage she and her children receive under Medicaid.

Above all, an employment-based system of financing health care means we cannot control health care costs. It dilutes the incentives for any employer, insurer, or State to invest in prevention. It precludes our ability to decide how much of our national income we want to spend on health care, and it locks us into a two-tier system of care; one system for the employed and another for the poor, that guarantees degrading and inadequate care for some and cost shifting, risk skimming, and health care inflation for the rest.

Mr. President, in testimony given on June 18 at the House Committee on Government Operations, Dr. Katherine Swartz, a senior research associate at the Urban Institute, provided a very concise explanation of the perils of linking health care eligibility with employment. I recommend it to my colleagues who are struggling with this question and, Mr. President, I ask unanimous consent to include Dr. Swartz' statements at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. The three primary goals of Health USA are worth repeating, Mr. President. Cost control is the first, so we can free up billions of dollars for more productive purposes. The second is universal access, because such access is fair and essential to control health care costs. The third is to uncouple health care coverage from employment, to end job-lock, and increase the productivity of our workers and our economy.

Mr. President, I will not take up any more of the Senate's time explaining more of the details of how Health USA will work, the full details are in the bill itself.

Mr. President, the proposal's most fundamental feature is this. It finances the basic health care of all Americans and pays for that coverage with public funds which will replace most of our current health care insurance premiums and out-of-pocket health care expenses. This should not be seen as simply a new spending program. Indeed, as I have said, most Americans will pay less. It replaces health insurance premiums with payments to Federal and State health trust funds. It also replaces Medicare, Medicaid, and health programs for military personnel and civil servants.

But, Mr. President, Health USA is definitely not a free ride. The cost control mechanisms of Health USA are real, and they put upon the American people not only a new opportunity but a serious obligation to get involved in the discussion of how we are going to spend our resources and how we are going to allocate them. Politicians will not be provided with an incentive simply to say "yes" to every new request because people will see directly that every new request will add costs to their system, and every new cost will mean increased payments from them; payments, unfortunately, that are currently all too often disconnected from the American people.

It will increase costs on some businesses and individuals. But it will also decrease costs on many businesses and most individuals. It will highlight the responsibility each of us has to take care of our own health. It will require us to adjust to a new way of paying for health care, one that channels more health care spending through an institution—Government—about which we have well-founded reservations. But for most Americans this new way of paying will mean they pay less. And over time, it will be much less than what it will be if we continue with our current system of financing health care.

Health USA constitutes a declaration that the preferred way to control America's cost of health care is to do so directly. Direct budgeting allows Health USA to retain the best of our system while rejecting the worst. It rejects continued reliance on employment-based health benefits because such an approach cannot do enough to control costs. At the same time, it rejects the Canadian model of reform which would abolish private health insurance because that approach leaves too little room for competition, consumer choice, or creative and cost-saving management of care.

Let me briefly answer the key questions about the program I have heard from across Nebraska. The one that I hear the most often is how does this proposal control costs? I must say that I have heard of many proposals that assert they control health care costs. Usually the language is shaded just slightly. It will say this proposal has "mechanisms to control cost" or, it will "control costs of health care better."

Mr. President, Health USA will control costs because we will have the obligation to budget our health care spending. And every American can ask us if we are running for the Senate, can ask us if we are a candidate for the House of Representatives, can ask us if we are a candidate for President, or Governor, or for State legislatures: How much do you want to spend on health care? And we will be obligated to answer that question. Because we are obligated to answer the question we have the means to control health care costs.

There are several other ways that health care costs will be controlled under Health USA. There will be negotiated fee schedules and expenditure targets established for physicians. Hospitals will have budgets for patient care services. A process will be developed for capital budgets. Individuals will have cost-sharing obligations. Medical effectiveness research and the development of practice guidelines will be strongly supported. Administrative procedures will be simplified. And we will also stand at the plate and hit the ball of malpractice insurance, which must be addressed if we are going to get health care costs under control.

Mr. President, the second question is, Who is covered? Under Health USA, all Americans are covered for a comprehensive package of services including preventive and long-term care. Families and individuals will pay a $100 deductible, a small amount for each office visit, up to 20 percent of the cost of each procedure but no out-of-pocket expenses on preventive care, and in no case will a family face more than $2,000 a year for out-of-pocket costs.

The third question I hear is, How will Americans obtain their health care? Health care will continue to be provided as it is now, primarily through private hospitals, private physicians, and private health professionals who are affiliated with private health plans, such as fee-for-service programs, managed care programs, or health maintenance organizations [HMO's]. In each State, a wide variety of such plans will be operated by insurance companies, existing HMO's, or other private, public, or nonprofit organizations. Families and individuals will choose the plan from which they want to obtain their coverage. No plan may discriminate against any applicant for any reason. Every year there will be an open enrollment period when people may switch to a new plan.

The fourth question is, Who will administer the plan? A National Health Commission will be created and each year it will recommend to Congress the level of health care spending required to fund the federally prescribed package of benefits. Funds will be distributed to State health programs on a capitated basis, that is, so much per person, with adjustments for the factors of each State's population that most affect health care spending such as age, sex, geographic dispersion of the State's population, and other factors.

Each State will be required to fund a portion of the basic benefits package, and may also decide to offer additional benefits if they are willing to finance them. The State program will then pay each of the health plans approved in that State a set amount for each person they have enrolled, with that amount again adjusted for the age, sex, and other relevant risk factors of the plan's enrollees. Each State will have separate accounts for acute and long-term care services and for investment in capital, education, and prevention.

The fifth question is, How will health plans operate and compete? It will be a market competition, but under changed rules. Insurers in other health plans will no longer be able to compete by skimming the healthiest and least expensive people, since no plan can reject any applicant. Plans will not compete on a promise to pay. That promise will have been predetermined. Rather, plans will compete for enrollees on the basis of service and quality. Plans that boast the best record of health outcomes, the best service, and the best amenities will attract more enrollees and thus more money from the State. At the same time, these plans will be forced to control utilization, administrative costs, and marketing expenses in order to stay within their budgets and maximize their profit margin. Any plan that overrestricts the utilization or scrimps on quality will drive its subscribers to a competing plan. Every plan will have a direct financial interest in finding ways to keep its subscribers healthy. This healthy and health-producing tension will provide the competitive environment in which insurers and other health plans operate.

The sixth question is, how will providers be paid? Under Health USA, as I noted above, there will be separate systems of negotiated fee schedules and binding expenditure targets for physicians, and budgets for hospitals. These will enable us to control health care costs directly, decisively, and they will do much more. They will enable us to improve the work environment for health professionals who increasingly hear their clinical decisions questioned by a new industry of third-party cost managers whose mission is to slash utilization. Health USA moves us away from a reliance on these invisible scrutinizers, and instead trusts health professionals to make the best decisions about quality and utilization within their overall fee schedules and budgets. For citizens, the cost control provisions offer both an opportunity and an obligation to participate in a decision about how much our Nation should spend on health care.

Mr. President, America's annual health care spending will no longer be a shocking number handed to us by a DHHS statistician at the year's end. Rather, it will be a number we democratically decide before the year begins. Candidates for office will be asked that level of spending and services they propose and voters will be able to see if the budget matches the promise, something we simply cannot do now.

The seventh question is, what will Health USA do to improve the availability of health care in rural America and in other medically underserved areas? The proposal establishes a resource development fund which States may use to provide financial incentives to providers in rural areas or to develop alternative ways of providing service in such areas. The proposal will also encourage the training of health professionals to these areas through the National Health Service Corps program, and through the use of a resource based relative value scale which will support the many family and general practitioners who are often the mainstay of physician care in difficult-to-serve areas. The proposal will also support other health professionals, including nurses, physician assistants, and others, who are crucial to the delivery of quality care in all areas, particularly rural areas.

The eighth question is, how will all this be financed? I have proposed one package of revenues in order to form the basis for discussion. The financing package starts by shifting over all Federal revenues currently devoted to medicare, medicaid, CHAMPUS, and civil service health benefits. It then adds revenues from a number of sources, the largest of which is a new 5-percent payroll tax of which 4 percent is paid by employers and 1 percent is paid by employees. This source is supplemented by an expansion of the wage base for the FICA payroll tax; a new top bracket and rate for nonwage income on the personal income tax; an increase in the corporate income tax; an increase in excise taxes; and States will be required to provide about 13 percent for the first year's cost of the program. They will meet the obligation by using the revenues they currently use to finance their share of Medicaid, supplemented by other sources.

States face the same problem that we do with Medicaid, but they face that problem with a slightly different set of circumstances. They cannot pay for their growing costs of Medicaid with the sale of bonds. For States, Mr. President, the growing costs of Medicaid must be paid for directly with tax dollars. Medicaid, Mr. President, is taking a larger and larger bite out of State budgets and diverting funds available for other important State functions.

Finally, Mr. President, one of the questions that comes most often is, does this mean that we are going to have more and bigger Government? I am prepared to argue—although I will not argue at length this morning—based upon experience with the current health care system and based upon what I believe we can have with Health USA, that we will get less Government than we will have with the status quo. More important, Mr. President, we have the opportunity to make sure that it is better Government; that we have Government do those things that it can do well and make sure it does not do those things that it cannot do well. We have the opportunity to make sure that we not only have less Government, but that we have good Government.

What does this all add up to, Mr. President? That is a difficult question to answer. Estimating the impact of this kind of program is a mammoth task, and few groups in Amnerica are equipped to undertake it. One group so equipped is Lewin/ICF, one of the Nation's premier health care consulting firms. I contracted with Lewin/ICF to estimate the cost and distributional implications of my plan.

Lewin/ICF estimates, in all, if fully implemented in 1991, this proposal would drive national health expenditures down from an estimated $651.6 billion to around $640 billion, a savings of over $11 billion. We would save $11.2 billion in administrative costs by budgeting health care, and I inject again for emphasis, Mr. President, this is not a free lunch.

In order to get this $11 billion in saving, there needs to be real cost control mechanisms. The American people will have, as I said, not just an opportunity, but an obligation, to do something that is seriously needed for the economic health of the United States of America as we increasingly try to compete with other nations on this Earth. We would save $21.5 billion through better management of care. And the combined $32.7 billion in savings would enable us to expand coverage to all Americans, which will cost about $15 billion, and extend an additional $6 billion of long-term care to the elderly and disabled Americans.

After saving America $11 billion in 1991, the savings would grow over time. In 1992, the savings would be $20.1 billion; by 1995, the annual savings would be over $55 billion, Mr. President. In all, from 1991 to 1995, our Nation would save a little over $158.5 billion in national health costs compared to the way we now finance health care and over $700 billion during this decade.

I say again, Mr. President, that if we wanted to, we could save more than that. This gives us the opportunity to decide how much we will spend and how much we want to save. It would give us, again, the obligation to do so. No longer will we be able to say it is this person who is causing the problem, and have that person point the finger down the line at the next, and that person point the finger down the line at the next, before it comes all the way around the circle back to us.

By having our national health care spending flow through our Government, we can make it flow in a much more efficient, equitable, predictable, and accountable way. For that reason, Mr. President, Americans will spend less.

The analysis of Lewin/ICF also tells us what the impact will be on America's average family. In general, families who earn $50,000 or less will spend about the same or less on health care. The average family with an income of between $15,000 and $20,000 will save about $1,000 in the first year. Average families with incomes between $20,000 and $40,000 will save about $500. In all, an estimated 50.2 percent of all American families will pay less under the first year of Health USA than they would under our current system of financing health care.

Finally, Mr. President, the analysis shows that businesses that currently insure their employees will pay less on average. Total savings to such firms will exceed $3 billion annually, an average savings of $77 per employee. Further, these firms will no longer have to bear the cost of analyzing and administering health care plans. They will no longer have to bear the uncertainty of health care cost increases that currently hampers business planning. And the many firms who face a staggering burden from the cost of health benefits for their retirees will now have that burden eased.

Mr. President, I do not mean to suggest that everyone will benefit. In certain parts of our economy, Health USA will unleash winds of creative disruption. Most firms who have not been insuring their workers will pay more, but, Mr. President, they should. Most health insurers will operate in a marketplace with different rules, but they must. And Americans everywhere will be forced to confront hard questions about our Nation's health care spending. Mr. President, that is a question we literally cannot afford to ignore any longer.

To those firms and individuals who have experienced this creative disruption, I will say what President Bush said when he asked us to give him fast-track authority on his trade negotiations. We now compete in an international marketplace and if we are going to try to lower the barriers of trade for business, we must try to lower the barriers for workers so they will not be penalized when they need to learn the new skills required by new technology, when they move from one job to another as a consequence of those jobs. We must lower the barrier for human beings, Mr. President, by providing them a right, access to health care, unrestricted by the locus of their employment.

I will say to those who experience this creative disruption, to look beyond the immediate disruption, to take a long-term view. Put the long-term national interest ahead of your own short-term interests. That is precisely what Health USA is all about, the national interest. It is about much more than how we pay doctors and hospitals. Fundamentally, it is about the kind of nation and future we want. It is about the kind of lives we want for ourselves, for our parents and for our children. I think Health USA will improve our lives and our Nation and I want to conclude my remarks by talking about three ways it will do that.

First, Health USA will change the life of every Member of Congress, every Governor, every State legislator, everyone who ever runs for President, and make each of us more responsive. Right now, we have all the wrong incentives as health policymakers. When we vote on health care policy, we make decisions only about the poor, or the disabled, or the elderly; we have little fear that our decisions will govern the way we, our spouses, or our children consume health care. When budgets get tight, we cut Medicaid and Medicare, and tell our voters that we have saved them money. In fact, as we know full well, we have simply shifted the health costs of the elderly and poor and disabled onto paying consumers in less visible ways.

Health USA stops that shell game. When we make decisions about what services to cover, we will be making decisions about our own families. We will be making decisions about all of our constituents, whether they make $20,000 or $20 million. When we are pushed by taxpayers to reduce costs, there will be no more hidden cost shifts. We will have to go to all our voters and ask what services they want and what they are willing to pay. Our constituents will press us hard to find new ways to reduce national health costs. And we may suddenly see them develop new interest in seat belts, air bags, bicycle helments, nutrition, alcoholism programs, violence prevention, basic medical research, and other efforts that can reduce health spending as they improve our lives.

Second, Health USA will change the way we function as workers and business owners. It will simply get health care out of business' way. Firms won't have to become health care experts in order to evaluate the plans they offer or negotiate with insurers. They will not have to get into fire-fights with their workers over cuts in health benefits. They will not have to worry about whether their premium costs will go up 10 percent or 100 percent next year. They will not have to worry about whether they will lose their coverage if they bring on a worker who happens to have a history of heart trouble. They will not have to fear that their contract obligations to retirees are going to wreck their balance sheet. They can spend more time inventing, investing, and producing.

America's workers will also be freed to strive to the limits of their ability. No worker will be dissuaded from going back to acquire new skills because he would lose his health coverage. No worker will be blocked from taking a better job because the health benefits are inferior or because a pre-existing medical condition would preclude a change in insurers. And while workers may never welcome changes in technology or trade that could threaten their jobs, at least they will not have to live in fear that such job displacement could leave their families exposed to medical indigency. In short, I genuinely see an economy that will feel different. It will feel more flexible. It will feel less anxious. It will feel more productive. Above all, it will be more prosperous.

Finally, Health USA will change the way we think about our health and our lives. The way we finance health care is not the biggest determinant of our health or longevity; other things are: our behavior, our genes, our jobs, even luck. These do the most to measure our days and negotiate our contract with mortality. Yet the way we pay for our health care makes a difference.

It makes a difference if a young woman can get prenatal care from any obstetrician in town. It may not guarantee she will stay healthier during those 9 months, but it makes a difference.

It makes a difference if the only barrier between a child and his measles or polio vaccination is the trip to the doctor's office. It may not guarantee a healthier life, but it makes a difference.

It makes a difference if a factory closing does not wipe out a community's health care coverage along with their jobs. It cannot make such closings painless, but it makes a difference.

It makes a difference if older Americans do not have to fear that going into a mursing home might use up their children's life savings. It may not make aging easier; but it makes a difference.

It makes a difference if people understand that if their fellow citizens smoke cigarettes or consume excessive alcohol, then health costs will be higher and their taxes will go up. It may not guarantee society will change its values and rules; but it makes a difference.

"It makes a difference." Mr. President, how often in this Chamber can we say that with confidence? How often can we be sure that our efforts will improve the day to day lives of the vast majority of Americans? How often can we be certain that our actions will produce a better nation? Mr. President, on this proposal, I am very certain.

I am certain that if we do not fundamentally change our method of financing health care the trains will collide and the vast majority of our people will be caught in the middle. I am certain that if we don't adopt comprehensive reforms Americans will be increasingly dissatisfied with a health care system that costs them more and covers their needs less. I am certain that we can do better. I am certain America has arrived at a moment of challenge, and that Americans have the foresight and courage to rise to that challenge. I am certain that the people of Nebraska have helped me formulate a plan that can save us money, cover more Americans, improve our health, and make this a more productive nation. And I am certain, Mr. President, that the time to adopt it is at hand.

Mr. President, in my own life I had a moment when the Nation responded to my health care needs and, as a consequence of that response, I am personally aware of the change that it can make in your life to know with certainty that health care will be there for the rest of your life. In my case, my eligibility for health care occurred as a consequence of being disabled in the war in Vietnam.

Regardless of how the eligibility occurred, the eligibility is there, and it frees me, Mr. President, through the ups and downs in my life. It frees me, Mr. President, because I know that health care will be there.

I am not suggesting that the Government operate hospitals and hire the doctors as they do in my case. I know that such care sometimes is not as high quality as Americans want. I know that at times in that kind of care there are lines we have to wait in in order to get care. I am not suggesting that kind of care.

But, Mr. President and Members of this Senate, it works for me and it has liberated me and enabled me to live a life without fear that I will be denied health care when I need it the most. It is a generous Nation that responded to provide me with that care. It has not, Mr. President, produced a life of dependency upon my Government. Instead, it has produced a life of gratitude, of sincere gratefulness to a Nation that extended itself to help me when I needed it the most and when I was least likely to say thank you.

Not only do I stand and say thank you today, Mr. President, but I stand and say today let us do that for all Americans. Let us not make it a free lunch. Let us not make it so that we are disconnected from the responsibility to pay. But let us do it in a manner that liberates all of us from the fear of having health care not be there when we need it the most.

Mr. President, I ask unanimous consent that the text of the bill, the testimony of Dr. Swartz, the cost containment overview and a statement that outlines the overview of cost containment provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health USA Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and program goals.
Sec. 3. General definitions.

TITLE I—UNIVERSAL ELIGIBILITY AND ENROLLMENT

Sec. 101. Universal eligibility.
Sec. 102. Enrollment in approved plans.

TITLE II—BENEFITS AND PROVIDERS

Sec. 201. Covered health care services.
Sec. 202. Covered long-term care services.
Sec. 203. Provider standards.
Sec. 204. State approval of plans.

TITLE III—FINANCING

SUBTITLE A—BUDGET PROCESS

Sec. 301. National program budget.
Sec. 302. State program budgets.
Sec. 303. Payments to States.

SUBTITLE B—PAYMENTS TO APPROVED PLANS, PROVIDERS, AND CARE MANAGERS

Sec. 311. Payments to approved plans.
Sec. 312. Payments to providers under approved plans.
Sec. 313. Payments to institutional providers.
Sec. 314. Payments for practitioner services.
Sec. 315. Payments to care managers.

SUBTITLE C—SOURCES OF REVENUES

Sec. 331. Federal sources of revenues.
Sec. 332. State sources of revenues.
Sec. 333. Cost-sharing.
Sec. 334. National Health Care Trust Fund.

TITLE IV—ADMINISTRATION

Sec. 401. National Health Care Commission.
Sec. 402. State programs.
Sec. 403. State Commissions on Quality.
Sec. 404. Resource Enhancement Fund.

TITLE V—EFFECTIVE DATE; REPEALS; TRANSITION; RELATION TO ERISA.

Sec. 501. Effective date.
Sec. 502. Repeals.
Sec. 503. Transition.
Sec. 504. Relation to ERISA.

SEC. 2. FINDINGS AND PROGRAM GOALS.

(a) FINDINGS.—The Congress finds that—

(1) health care spending in the United States has grown at a rate that substantially exceeds the rise in the Nation's gross national product (GNP), and more specifically that—

(A) between 1965 and 1989, national health spending doubled, increasing from 5.9 to 11.6 percent of the GNP;

(B) national spending on health care has been increasing at a greater rate than the general cost-of-living index and the growth in the GNP for a number of years;

(C) in 1989, spending on health care was $604,000,000,000, an amount which exceeded the proportion of the GNP spent on health care by every other industrialized nation;

(D) the Nation's high relative expenditure on health care diminishes American incomes, productivity, and competitiveness in global trade;

(E) administrative, marketing, and liability costs are among those components of health care costs that have grown the fastest; and

(F) cost-shifting, the rising cost of insurance premiums, and declining coverage are leaving more Americans without access or without adequate access to important health services;

(2) a growing number of Americans are uninsured or inadequately insured to meet their health care needs, and more specifically that—

(A) all Americans have a right to at least a basic level of health care services that are continuously available and determined to be cost-effective;

(B) at least 33,000,000 Americans currently lack access to basic health services at any point in time; and

(C) it is estimated that during any 2-year period, approximately 25 percent of the nonelderly population of this Nation has neither health insurance nor public health care coverage for some period of time, and that an additional 13 percent of all Americans are underinsured for health care; and

(3) the growing costs of health care, coupled with declining access to services, represent a growing national problem, and more specifically that—

(A) despite growing expenditures on health care, health status indicators in the United States lag well behind those of other industrialized nations;

(B) studies indicate that persons who are uninsured or underinsured are less likely to receive adequate health care services;

(C) studies also find that insufficient access to health care services has a negative impact on health status and also increases health care expenditures in the longer term;

(D) the Nation's current system of financing health care is complex, confusing and frustrating to many Americans, including physicians and other providers of health care; and

(E) national expenditures on health care cannot continue to expand faster than inflation and the rate of national economic growth without endangering the country's domestic standard of living and international economic competitiveness.

(b) PROGRAM GOALS.—It is the policy of the Congress that the financing of the health care system of this Nation should reflect the following goals:

(1) The financing system should contain adequate measures to control health care

costs and expenditures with emphasis placed on the provision of appropriate and effective services.

(2) Administration of health care financing and methods of paying for health care services should be simplified and made more efficient.

(3) Access to an adequate level of effective and efficient health care services, including long-term care services, should be provided to all United States citizens and permanent residents to promote the health of the American people.

(4) To facilitate equitable access and meet cost control objectives, coverage should be provided in 1 universal health care financing program.

(5) To ensure universal and uninterrupted coverage of the population and to free employers from the administrative burden of providing coverage, health care coverage should be separated from employment.

(6) The population and professional providers should have the freedom of choice among a range of health care plans.

(7) To meet the broad health care needs of the population, it is necessary to establish an adequate system of financing comprehensive health care services that emphasizes the delivery of quality preventive, diagnostic, treatment, rehabilitative, and long-term care services.

(8) To improve the balance within the delivery system, greater emphasis should be given to primary and preventive care services.

(9) To further assure adequate access to health care services, the system should provide incentives for physicians and other health care professionals to locate and practice in rural and other medically underserved areas.

(10) To ensure that coverage is universal and that costs are equitably distributed, the financial burden for the program should be shared progressively, based on ability to pay.

(11) Revenues, from specifically dedicated and general taxes, should be sufficient to fund the Federal share of the program, including adequate reserves.

(12) The incidence and cost of professional liability, as they affect access to health care services and health care costs, should be addressed.

(13) Flexibility and responsiveness should be encouraged among State programs and local providers of health care services to provide quality, effective, and adequate care that recognizes local variations in medical needs and preferences.

(14) States should be encouraged to be innovative in the organization of health care services.

SEC. 3. GENERAL DEFINITIONS.

(a) IN GENERAL.—For purposes of this Act:

(1) The term "approved plan" means a public or private health services plan (whether offered by the State, an insurer, health maintenance organization, or other entity) which offers covered health care services or covered long-term care services, or both, approved under a State program under section 204.

(2) The term "Commission" means the National Health Care Commission established in section 401.

(3) The term "covered health care services" means those health care services specified in section 201.

(4) The term "covered long-term care services" means those long-term care services specified in section 202.

(5) The term "State program" means a State health care program approved under section 402.

(6) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(7) The term "Trust Fund" means the National Health Care Trust Fund established in section 334.

(b) OTHER DEFINITIONS.—Except as otherwise provided, the definitions contained in section 1861 of the Social Security Act (42 U.S.C. 1395x), as in effect on the day before the date of the enactment of this Act, shall apply in this Act.

TITLE I—UNIVERSAL ELIGIBILITY AND ENROLLMENT

SEC. 101. UNIVERSAL ELIGIBILITY.

(a) IN GENERAL.—Each individual who is a resident of the United States and is a citizen or national of the United States or lawful resident alien (as defined in subsection (c)) is eligible for covered health care services and covered long-term care services under the State program in the State in which the individual maintains a primary residence.

(b) TREATMENT OF CERTAIN NONIMMIGRANTS.—

(1) IN GENERAL.—The Commission may make eligible for covered health care services and covered long-term care services such classes of aliens admitted to the United States as nonimmigrants as the Commission may provide.

(2) CONSIDERATION.—In providing for eligibility under paragraph (1), the Commission shall consider reciprocity in health care and long-term care services offered to United States citizens who are nonimmigrants to other foreign states, and such other factors as the Commission determines to be appropriate.

(c) LAWFUL RESIDENT ALIEN DEFINED.—For purposes of this section, the term "lawful resident alien" means an alien lawfully admitted for permanent residence and any other alien lawfully residing permanently in the United States under color of law, including an alien with lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act (8 U.S.C. 1160, 1161, or 1255a).

SEC. 102. ENROLLMENT IN APPROVED PLANS.

(a) ENROLLMENT PROCESS.—

(1) IN GENERAL.—Each State program shall specify an understandable and readily available process for the enrollment in approved plans of eligible individuals residing in the State. Such enrollments may occur by mail, at offices of the State program and other locations, or by other methods approved by the State program.

(2) OPEN-ENROLLMENT PERIODS.—Each State program shall establish at least 1 open-enrollment period each calendar year for the enrollment of eligible individuals in any approved plan serving the residential area of such individuals to the extent such plan has the capacity to provide services.

(3) DISENROLLMENT PROCEDURES.—Each State program shall provide an individual an opportunity to change an approved plan—

(A) during any open-enrollment period,

(B) if such individual is eligible for covered long-term care services and such individual's present approved plan does not provide coverage for such services, or

(C) as a resolution of a grievance filed by such individual under procedures established under section 402(b)(7).

(4) DEFAULT ENROLLMENT.—In the case of an eligible individual who otherwise is not enrolled in an approved plan under any State program, such individual shall be covered by the State-operated approved plan in the State in which such individual maintains a primary residence. The State shall provide a process for enrollment of the individual at the time and place in which the individual first is provided (after the effective date of benefits under this Act) covered health care services or covered long-term care services in the State-operated approved plan.

(5) ISSUANCE OF HEALTH SERVICES CARD.—Upon enrollment in an approved plan, each eligible individual shall be issued a health services card that indicates the approved plan in which the individual is enrolled.

(b) TREATMENT OF MARRIED INDIVIDUALS.—A State may not require married individuals to enroll in the same approved plan.

(c) TREATMENT OF MINOR DEPENDENTS.—In the case of an unmarried individual under 18 years of age, enrollment in an approved plan shall be effected, in a manner specified under each State program in accordance with guidelines of the Commission, by a parent or guardian of the child. Except in such cases as the Commission may provide, such enrollment shall be in the approved plan in which the enrolling parent or guardian is enrolled.

TITLE II—BENEFITS AND PROVIDERS

SEC. 201. COVERED HEALTH CARE SERVICES.

(a) IN GENERAL.—The covered health care services provided under this Act by each approved plan are as follows:

(1) HOSPITAL CARE.—Inpatient and outpatient hospital care, including 24-hour a day emergency services.

(2) PHYSICIAN SERVICES AND OTHER PROFESSIONAL MEDICAL SERVICES.—Physician services and professional services of other health care professionals who are authorized to provide health care services under State law.

(3) TESTS.—Diagnostic and screening tests and procedures.

(4) PRESCRIPTION DRUGS.—Prescription drugs incidental to physician services and other professional medical services.

(5) PREVENTIVE HEALTH CARE SERVICES.—As defined by the Commission:

(A) Basic immunizations.

(B) Pre-natal and post-natal care (including home visitation services).

(C) Well-baby care (for infants under 1 year of age).

(D) Well-child care (including periodic physical examinations, hearing and vision screening, and developmental screening and examinations) for individuals under 18 years of age.

(E) Periodic screening mammography, Pap smears, and colorectal examinations and examinations for prostate cancer (according to guidelines adopted by the Commission on recommendations by the National Advisory Board established in section 401(j)).

(F) Family planning services.

(G) Health education and promotion services designed to prevent or minimize the effect of illness, disease, or medical condition.

(H) Such other health care services as are found to be effective in preventing or minimizing the effect of illness, disease, or medical condition.

(6) MENTAL HEALTH CARE SERVICES.—Diagnosis, evaluation, treatment, and crisis intervention for a mental illness, subject to an annual limitation of 45 inpatient days and 25 outpatient visits.

(7) DRUG AND ALCOHOL ABUSE TREATMENT PROGRAMS.—Drug and alcohol abuse treatment services provided under a treatment program approved by the State and through provider organizations that meet State qualification standards, subject to an annual lim-

itation of 45 inpatient days and 25 outpatient visits.

(8) HOSPICE CARE.—Hospice care for individuals certified to be terminally ill, including care-management services, provided by a hospice program approved by the State.

(9) POST-HOSPITAL SKILLED NURSING FACILITY SERVICES.—Post-hospital skilled nursing services and home health care services.

(10) OTHER MEDICAL AND HEALTH CARE SERVICES.—Other medical and health care services specified by the Commission, including the following:

(A) Services and supplies incidental to the provision of physician services.

(B) Hospital services incidental to physician services rendered to outpatients.

(C) Experimental treatments, as reviewed by the appropriate technical advisory committee (established in section 401(j)(8)(A)) and authorized by the Commission or a State program.

(D) Outpatient physical therapy services, outpatient speech pathology services, and outpatient occupational therapy services.

(E) Health care clinic services, including rural health care clinic services.

(F) Home dialysis supplies and equipment.

(G) Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests.

(H) Radiation (and related) therapy.

(I) Durable medical equipment used in the patient's home.

(J) Ambulance service, to the extent provided in regulation.

(K) Prosthetic devices which replace all or part of an internal body organ (including lens after cataract surgery), including replacements of such devices.

(L) Leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including necessary replacements.

(M) Hearing aids, upon a determination of a certified audiologist or physician that a hearing problem exists and is caused by a condition that can be corrected by use of a hearing aid.

(b) LIMITATIONS ON AMOUNT, DURATION, AND SCOPE.—

(1) NO LIMITS IN GENERAL.—Except as provided in this section and section 333, an approved plan may not limit the amount, duration, or scope of covered health care services.

(2) LIMITATIONS DETERMINED BY COMMISSION.—The Commission may limit, and may allow State programs to limit, the duration or scope of specific covered health care services if—

(A) such limitations are in accord with the prevailing medical practice guidelines,

(B) such limitations are necessary to allocate expenditures in a manner that will optimize improvements in the health and well being of the population, and

(C) adequate provisions are made to allow reasonable exceptions to such limitations.

(3) LIMITATIONS ON SERVICES PROVIDED OUTSIDE THE STATE.—Covered health care services shall not include items and services not provided within the State of the individual's residence, except for—

(A) emergency hospital care or physician services available in any other State or country while the individual is temporarily visiting such State or country,

(B) any item or service available from a provider in a neighboring State if—

(i) the provider is closer to the individual's residence than a provider in the State of the individual's residence, or

(ii) such State and the State of the individual's residence have established a reciprocal provision of care relationship, and

(C) emergency hospital care or physician services available in Canada or Mexico if the hospital or physician is closer to the individual's residence than a hospital or physician in the United States.

(4) COSMETIC SURGERY EXCLUDED.—Covered health care services shall not include cosmetic surgery, unless—

(A) required to correct a congenital anomaly,

(B) required to restore or correct a part of the body which has been altered as a result of accidental injury, disease, or surgery, or

(C) determined to be medically necessary by the State program.

(c) ADDITIONAL SERVICES.—Nothing in this section shall be construed as limiting the health care services that an approved plan may provide.

(d) NO DUPLICATE PRIVATE INSURANCE.—Private insurance for health care services may be sold in a State only for services not covered under the State program of such State.

(e) STATE-FINANCING OF SUPPLEMENTAL SERVICES.—There is no Federal financing available under this Act for health care services other than covered health care services.

SEC. 202. COVERED LONG-TERM CARE SERVICES.

(a) IN GENERAL.—The covered long-term care services provided under this Act by each approved plan (either as separate coverage or as part of the coverage for covered health care services) are institutional services, noninstitutional services, and respite care services for the health, social, and personal needs of individuals with limited self-care capabilities in order to promote the maximum functional independence of such individuals.

(b) INSTITUTIONAL SERVICES.—For purposes of subsection (a), institutional services are items and services provided to an individual while residing in a nursing facility meeting the minimum requirements established by the Commission and approved for operation by the State program. Such services are as follows:

(1) Nursing care provided by or under the supervision of a registered professional nurse.

(2) Bed and board in connection with the furnishing of supervised residential services.

(3) Physical, occupational, or speech therapy.

(4) Medical social services.

(5) Drugs, biologicals, supplies, appliances, and equipment as are ordinarily furnished for the care and treatment of inpatients.

(6) Other services necessary for the health of patients and generally provided by chronic nursing facilities.

(c) NONINSTITUTIONAL SERVICES.—For purposes of subsection (a), noninstitutional services are home and community-based care services provided to an individual to enable the individual to remain in such individual's place of residence within the community. Such services shall include the following:

(1) Homemaker services, including meals.

(2) Home health aide services.

(3) Heavy chores.

(4) Adult day health care, social day care or psychiatric day care.

(5) Home mobility aids and minor adaptions to the home that promote independence (railings, ramps, special toilets).

(6) Medical social work services.

(7) Community mental health services, therapy services, and nursing services.

(8) Physical, occupational or rehabilitative services to preserve and restore functional capability or prevent further deterioration.

(9) Transportation services to and from health and social services.

(10) Nutrition and dietary counseling provided by or under the supervision of a qualified dietitian.

(11) Other services as determined by the Commission and authorized by the care manager.

(d) RESPITE CARE SERVICES.—For purposes of subsection (a), respite care services are institutional or noninstitutional services to provide temporary relief to an individual's primary caregiver who is a relative or friend of such individual. Such services may not exceed 30 days or 720 hours per calendar year and are as follows:

(1) Companion, day care, and homemaker services.

(2) Training for informal caregivers.

(e) DETERMINATION OF NEED.—

(1) IN GENERAL.—Individual needs shall be determined by care managers through standardized assessments of the individual's abilities for self-care, including—

(A) medical examinations necessary to determine the level of medical care (if any) that is required, and

(B) environmental and psychosocial evaluations to determine the physical and mental abilities of the individual.

Such assessments shall be conducted pursuant to criteria established by the Commission (subject to modification by the State with approval by the Commission).

(2) TYPE OF SERVICES.—The assessment described in paragraph (1) shall include a determination by the care manager whether institutional services, noninstitutional services, or respite care services are required. Such determination shall be based on the following:

(A) INSTITUTIONAL SERVICES.—The individual's inability to perform at least 3 ADLs (of which 2 must be described in clauses (iii), (iv), or (v) of paragraph (4)(A)) or a similar level of disability due to cognitive impairment.

(B) NONINSTITUTIONAL SERVICES.—The individual's inability to perform at least 3 ADLs or 3 IADLs (without substantial assistance from another individual) or similar level of disability due to cognitive impairment.

(C) RESPITE CARE SERVICES.—The degree to which the individual, on a daily basis, is dependent on a primary caregiver who is living with or assisting the individual without monetary compensation and is providing assistance to the individual in at least 3 ADLs or IADLs or a similar level of disability due to cognitive impairment.

(3) PLAN OF CARE.—The care manager shall develop a plan of care for an individual in consultation with the individual, family members, or other informal caregivers, and based on the assessment described in paragraph (1). The individual shall be eligible for only those covered long-term services included in the plan of care.

(4) DEFINITIONS.—For purposes of this subsection—

(A) ADLS.—The term "ADLs" means activities of daily living, including such basic self-maintenance activities as (i) bathing, (ii) dressing, (iii) toileting, (iv) eating, (v) transferring from bed to chair, (vi) exiting outside, and (vii) walking.

(B) IADLS.—The term "IADLs" means instrumental activities of daily living, including such activities as (i) cooking, (ii) cleaning, (iii) shopping, (iv) taking medications, (v) doing laundry, (vi) making telephone calls, and (vii) managing money.

(f) CARE MANAGEMENT.—Covered long-term care services shall include coordination by the care manager of such services with the provision of covered health care services to enable an individual to remain safely in the least restrictive setting.

(g) REASSESSMENT.—Reassessment of the individual's needs shall be conducted by a care manager at appropriate intervals, but not less than annually in the case of an individual receiving institutional services and semiannually in the case of individual receiving noninstitutional or respite care services.

(h) LEAST RESTRICTIVE SETTING.—In providing covered long-term care services under an approved plan, a State program shall encourage and reimburse noninstitutional long-term care where appropriate, as determined by the assessment process, to allow individuals needing long-term care to remain safely in their homes to the maximum extent possible.

(i) ADDITIONAL SERVICES.—Nothing in this section shall be construed as limiting the long-term care services that an approved plan may provide.

(j) NO DUPLICATE PRIVATE INSURANCE.—Private insurance for long-term care services may be sold in a State only for services not covered under the State program of such State.

(k) STATE-FINANCING OF SUPPLEMENTAL SERVICES.—There is no Federal financing available under this Act for long-term care services other than covered long-term care services.

SEC. 203. PROVIDER STANDARDS.

(a) IN GENERAL.—The Commission shall prescribe rules similar to the rules provided in section 1866 of the Social Security Act (42 U.S.C. 1395cc), as in effect on the day before the date of the enactment of this Act, with respect to conditions of participation for health care providers in State programs.

(b) ADDITIONAL CONDITIONS FOR PROVISIONS OF CERTAIN SERVICES.—In the case of high-risk, high-cost, elective, or over-utilized items or services, specified by the Commission, for which payment may otherwise be made under this Act, the Commission, or State program, may restrict coverage of such items or services to a provider—

(1) that is certified by an appropriate specialty board in the relevant medical specialty, or

(2) that is adequately equipped and staffed (in accordance with regulations of the Commission) to furnish the items or services, or

(3) that is both.

(c) CARE MANAGEMENT SERVICES.—The Commission shall prescribe standards for care managers providing services with respect to covered long-term care services. Such standards shall be sufficiently flexible—

(1) to allow State programs to provide care management services or to contract with private nonprofit organizations or agencies to provide such services.

(2) to insure that such managers are independent of approved plans or other care providers.

(3) to allow individuals such as nurses, social workers, or other medical or social welfare professionals to be care managers, and

(4) to allow State programs to provide care managers with the responsibility for monitoring the adequacy and quality of care provided.

SEC. 204. STATE APPROVAL OF PLANS.

(a) IN GENERAL.—Each State program shall provide for the review and approval or disapproval of health services plans as approved plans in the State for purposes of this Act.

(b) REQUIREMENTS.—A State may not approve a health services plan as an approved plan under its State program unless the State finds that the plan—

(1) provides services at least equal to covered health care services or covered long-term care services, or both, for the capitation payment determined by the State program under section 311 and any copayments allowed under section 333,

(2) provides for services of an acceptable quality (as determined by the State program),

(3) provides for enrollment of eligible individuals in a manner consistent with section 102,

(4) does not discriminate in its enrollment and provision of benefits on the basis of race, ethnicity, religion, sex, marital status, type of occupation, disability or health condition, or other impermissible basis (as specified by the Commission),

(5) provides for simplified procedural requirements,

(6) provides for an approved orientation for new enrollees,

(7) provides for establishment of budgets and payments for services in a manner consistent with this Act,

(8) provides for payment of services rendered to enrollees of such plan by providers in another State or country as described in section 201(b)(3), at reimbursement rates established by such State or country,

(9) provides for economic operation and administration of the State program,

(10) provides for information and data systems as specified by the Commission and State program,

(11) provides for accountability, including an advisory committee of enrollees in such plan who have adequate access to information and data (including financial records) of such plan,

(12) establishes a responsive grievance procedure for the receipt and resolution of grievances concerning the enrollment of individuals and delivery of services under this Act, and

(13) meets such other requirements as the Commission may specify to insure against fraud and abuse under this Act.

(c) STATE-OPERATED APPROVED PLAN.—

(1) IN GENERAL.—Each State program shall establish at least 1 approved plan operated by the State program, that will meet the requirements of subsection (b), provide payment for experimental treatments as described in section 312(e)(3), and be available to any eligible resident of the State not enrolled in another approved plan.

(2) COST CONTAINMENT MEASURES.—

(A) IN GENERAL.—Each State-operated approved plan shall control costs in a manner that does not impede appropriate use of covered health care services and covered long-term care services and does not intrude on clinical decision making by health care providers who follow accepted standards of practice. The cost containment measures shall include—

(i) negotiated fee schedules,

(ii) negotiated expenditure targets or caps, and

(iii) certain specialty services directed to certain types of providers.

(B) ALTERNATIVE MEASURES.—If the cost containment measures described in subparagraph (A) are inadequate, the State-operated approved plan may institute any or all of the following measures:

(i) Cost-sharing for services (subject to the requirements of section 333).

(ii) Controls on utilization ordered by providers, including concurrent utilization review, pre-procedure certification, and other methods as necessary.

(3) WAIVER.—The State program may apply to the Commission for a waiver to contract with a private approved plan to fulfill the State's responsibilities for administration of the State-operated approved plan. Any contractor and contractual arrangement must fulfill the following criteria:

(A) The contractor must provide—

(i) payment for individuals enrolled in the plan,

(ii) payment for individuals not enrolled in any other approved plan, and

(iii) payment for experimental treatments for persons enrolled in any plan as described in section 312(e)(3).

(B) The State program and the contractor must demonstrate that the alternative arrangements would—

(i) be administratively as efficient as a State-operated approved plan, and

(ii) provide access to quality health services at least equal to a State-operated approved plan.

(d) LIMITED PLANS.—Notwithstanding subsection (b)(1), a State program may contract with and approve a health services plan which provides limited services (including either covered health care services or covered long-term care services) as part of a coordinated provision of full services in order to assure quality or convenience to a local population.

(e) WITHDRAWAL OF APPROVAL.—If a State determines that a health services plan that has been previously approved no longer meets the requirements of an approved plan, the State shall withdraw approval of the plan and shall provide a procedure whereby individuals enrolled in the plan may be enrolled in other approved plans.

TITLE III—FINANCING

Subtitle A—Budget Process

SEC. 301. NATIONAL PROGRAM BUDGET.

(a) IN GENERAL.—The Commission shall recommend to the Congress an annual fiscal year budget of expenditures which estimates the total expenditures to be made in such fiscal year by States and the Federal Government for covered health care services, covered long-term care services, and care management services under this Act (including administrative costs).

(b) NATIONAL AVERAGE PER CAPITA COSTS.—

(1) IN GENERAL.—At least 5 months before the beginning of the first fiscal year of the program under this Act, the Commission shall compute the national average per capita cost for each of the services described in subsection (a) using data from the national health accounts of the Office of National Cost Estimates of the Office of the Actuary of the Health Care Financing Administration, and other available data.

(2) ADJUSTMENTS FOR RISK GROUPS.—

(A) IN GENERAL.—The Commission shall develop an adjustment factor to the national average per capita costs computed under paragraph (1) for each risk group (as designated under subparagraph (B)) to reflect the national average per capita costs for that risk group.

(B) RISK GROUPS.—The Commission shall designate a series of risk groups, determined by age, sex, and other factors that represent distinct patterns of health care services and long-term care services utilization and costs.

(3) STATE ADJUSTMENTS TO NATIONAL AVERAGE PER CAPITA COSTS.—The Commission shall develop for each State a factor to adjust the national average per capita costs for each risk group to reflect—

(A) average labor and nonlabor costs that are necessary to produce the services described in subsection (a),

(B) any special social, environmental, or other condition affecting health status or the need for health care services or long-term care services,

(C) the geographic distribution of the State's population, particularly the proportion of the population residing in rural or medically underserved areas, and

(D) any other factor.

(c) STATE TOTAL EXPENDITURES.—The Commission shall compute for each State total projected expenditures for each of the services described in subsection (a) by multiplying the national average per capita costs of each risk group designated in subsection (b)(2)(B) by the State adjustment factors described in subsection (b)(3) by the number of persons in the State estimated by the Bureau of the Census to be resident members of each risk group.

(d) FEDERAL CONTRIBUTIONS.—The Commission shall recommend to the Congress the appropriate Federal contribution for each State. The Federal contribution shall be determined by subtracting the State share from 100 percent of the expenditures for such State (as described under subsection (c)), but in no event shall such Federal contribution be less than 82 percent nor more than 92 percent of such expenditures. The Federal contribution for all States shall equal 87 percent of the aggregate of such expenditures for all States. In determining each State share, the Commission shall recommend to the Congress a formula that considers a State's per capita income or other relevant economic indicators.

(e) SUBSEQUENT CALCULATIONS.—For each subsequent fiscal year, the Commission shall recompute under subsections (a), (b), (c), and (d) at least 5 months before the beginning of such fiscal year. In making such a recomputation, the Commission shall take into account—

(1) changes in medical technology, research evidence concerning the efficacy and safety of health care services and long-term care services, needs for health personnel, and professional practice, after reviewing recommendations of the National Advisory Board, and

(2) changes in the services described in subsection (a).

SEC. 302. STATE PROGRAM BUDGETS.

(a) IN GENERAL.—Each State program shall establish an annual fiscal year State program budget which provides for—

(1) the expenditures to be made under the State program in such fiscal year for covered health care services, covered long-term care services, and care management services under this Act (including prevention expenditures, capital costs, and administrative costs), and

(2) the revenues to meet such expenditures.

(b) COORDINATION.—Each State program budget shall be coordinated, in a manner specified by the Commission, with the national program budget established under section 301(a).

(c) STATE SHARE.—Each State program shall cover the State share of program costs through the use of tax revenues and copayments allowed under section 333.

(d) ANNUAL PUBLICATION.—The State shall provide for the publication annually of the most recent State program budget established under this section.

SEC. 303. PAYMENTS TO STATES.

(a) IN GENERAL.—Each State with an approved State program under section 402 of this Act is entitled to receive, from amounts in the Trust Fund, an amount equal to the product of (1) the average number of residents of the State, and (2) the annual Federal share of the average per capita costs for such State (computed under section 301).

(b) USE OF CARE FUNDS.—

(1) IN GENERAL.—All revenues (including State revenues) provided to finance a State program under this Act shall be deposited into a Care Fund for the State. Payments to approved plans and care managers shall be made from such Fund.

(2) SPECIAL ACCOUNTS.—Each State shall establish within its Care Fund special accounts, the amount of revenues deposited in each to be determined by the State program under the State program budget. The various special accounts shall include the following:

(A) PREVENTION ACCOUNT.—A Prevention Account shall be used for community-based disease prevention, health promotion, farm and occupational health and safety, or other programs and will be targeted to populations with particular health care needs. Programs should fund innovative, community-based programs and services that reduce or eliminate illness and disability or provide outreach to underserved populations, rather than funding medical or clinical services that are the responsibility of approved plans.

(B) CAPITAL ACCOUNT.—A Capital Account shall be used in designated local areas according to a formula based on (i) population size and geographic dispersion, (ii) population mix identified by factors used to establish risk-adjusted capitation payments, (iii) capital needs to ensure adequate access to general and specialty services and technologies and to ensure medical effectiveness, and (iv) other factors as determined by the State program. Funds in a Capital Account may also be used to support the development of approved plans by nonprofit and public agencies. Capital obligations in effect at the inception of the State program may be approved for assistance by the State program. The State program shall determine the procedures by which the capital funds will be distributed to local institutions and organizations. Each State is encouraged to make local planning processes involving health care providers and consumers a central part of the capital allocation procedures. Reimbursements to providers for covered health care services and covered long-term care services shall not include capital assistance.

(C) EDUCATION AND RESEARCH ACCOUNT.—An Education and Research Account shall be used to encourage and fund research and teaching activities in patient care settings. The State program shall designate funds to be allocated to major and minor teaching hospitals and other facilities for excess operating and capital costs associated with teaching and research activities. Each State is encouraged to use such funds to meet national, regional, and local health care needs, particularly training of health professionals to meet manpower needs.

Subtitle B—Payments to Approved Plans, Providers, and Care Managers

SEC. 311. PAYMENTS TO APPROVED PLANS.

(a) COMPUTATION OF ADJUSTED AVERAGE PER CAPITA COST.—Based on a methodology established by the Commission, each State program shall compute an adjusted average per capita cost for covered health care services and covered long-term care services under the program in the State for different classes of individuals. Such adjusted average per capita cost shall reflect the average per capita level of expenditures that the State estimates (based on actual experience or actuarial equivalent, with appropriate adjustments to assure actuarial equivalence) is required to provide for expenditures in the State for services (and related administrative costs) under the State program. Such adjusted average per capita cost shall be computed for individuals based on age, sex, regional cost differences, local areas with disproportionate low-income populations, and such other factors as will assure actuarial equivalence and otherwise provide for equitable distribution of funds to approved plans. The State program shall negotiate adjustment factors with the relevant health services associations and the approved plans in the State.

(b) PAYMENT TO PLANS.—

(1) IN GENERAL.—Each State program shall provide for payment to approved plans, for individuals enrolled under this Act, on a monthly basis in an amount equal to the adjusted average per capita cost computed under subsection (a) with respect to such individuals. The program may provide for retroactive adjustment in such payments to take into account any difference between the actual number (or composition) of individuals enrolled under the plan and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(2) STATE-OPERATED APPROVED PLANS.—

(A) IN GENERAL.—In determining the number of individuals estimated to be enrolled in the State-operated approved plan for purposes of paragraph (1), the State program shall include all individuals who maintain a primary residence in such State and have not enrolled in another approved plan in the State.

(B) ACCOUNTING OF PAYMENTS.—The State-operated approved plan shall maintain separate accounting of payments received on behalf of State residents not enrolled in any other approved plan and for experimental treatments.

(C) UNUSED PAYMENTS.—Any payments made to the State-operated approved plan for State residents not enrolled in any other approved plan or for experimental treatments, that are not used for these purposes, are to be returned to the State program at the end of the plan year.

SEC. 312. PAYMENTS TO PROVIDERS UNDER APPROVED PLANS.

(a) IN GENERAL.—Each State program shall provide for the payment of providers by approved plans in a manner consistent with this subtitle.

(b) MANDATORY ASSIGNMENT.—Each provider of services or other practitioner that receives funding under this Act agrees to accept the payment amount recognized under the State program for services covered under the program as payment in full for such services and may not impose any charges for such services other than those permitted with respect to such services under section 333.

(c) CONTINUUM OF CARE.—The Commission, in order to avoid fragmented care, shall develop financial incentives, in the payment methods provided under this subtitle, to promote a continuum of care.

(d) DIRECT PAYMENT FOR HEALTH PROFESSIONALS.—A State program shall require approved plans that pay for most health care services on a fee-for-service basis to provide for direct payment to physicians and other health care professionals who are authorized to provide health care services under State law.

(e) PAYMENTS BY STATE-OPERATED APPROVED PLANS.—A State-operated approved plan shall pay providers—

(1) for the care of all individuals enrolled in the such plan,

(2) for all eligible individuals in such State who do not enroll in any other approved plan, and

(3) for the costs of approved experimental treatments for all individuals who meet the criteria of treatment protocols, regardless of the approved plan in which such individuals are enrolled.

SEC. 313. PAYMENTS TO INSTITUTIONAL PROVIDERS.

(a) Direct Payment.—

(1) In general.—Except as provided in paragraph (2), payment for institutional care, including hospital services and nursing facility services, shall be made directly to each institution by each State program, or its State-operated plan, under an annual prospective budget negotiated with each institution and consistent with the State program budget under section 302.

(2) Exception for institutions owned by approved plans.—In the case of institutional care provided by an institution owned by an approved plan, payment for such care shall be made to the plan.

(b) Payments.—Payments shall be made periodically, based on the annual operating budget, or per diem or per admission, based on annual operating budget targets. Per admission or per diem costs which exceed such budget targets shall be reimbursed at marginal costs.

(c) Plan Charges.—Each approved plan shall be charged the full or partial costs for institutional care of plan enrollees based on the number of admissions or hospital days, multiplied by the average cost per admission or hospital day.

(d) Waivers.—The Commission may waive the requirement of subsection (a) in the case of a State, but only if the State demonstrates that the payment methodology used will not result in expenditures exceeding those provided under the State program budget.

SEC. 314. PAYMENTS FOR PRACTITIONER SERVICES.

(a) In General.—Except as otherwise provided in this section, payment for services by physicians and other individual health care personnel shall be based on payment schedules established by each State program. Such schedules—

(1) shall be established after negotiations with organizations representing physicians and such personnel,

(2) shall be based on a national relative value scale, developed by the Commission taking into account the relative value scale developed under section 1848 of the Social Security Act (42 U.S.C. 1395w–4), as in effect on the day before the date of the enactment of this Act,

(3) shall be in amounts consistent with the State program budget adopted under section 302 and with the expenditure targets defined by the State program for groupings of physicians and other individual health care personnel defined by specialization and geographic area (as determined by the State program),

(4) shall be multiplied by a factor to make total expenditures for services of physicians and other individual health care personnel consistent with expenditure targets determined in paragraph (3) for approved plans that pay such personnel based upon such schedules, and

(5) shall base future fee increases for each target group of physicians and individual health care personnel to the extent expenditures for such group are kept within the target for such group.

(b) Practice Profiles.—Each State program shall develop and provide individual practice profiles for physicians and other individual health care personnel, as well as comparison profiles for the average of the physicians or such personnel in each expenditure target group. Such profiles shall also be provided to each negotiating organization representing physicians and such personnel to help each organization aid its members in keeping expenditures in line with such targets.

(c) Alternative Payment Mechanisms.—Approved plans that pay physicians and other individual health care personnel by capitation methods, annual salary, or hourly payments are exempt from the fee schedules and expenditure targets adopted under subsection (a), as long as the amount of payments under such methodologies do not exceed, in the aggregate, the amount of payments that would otherwise be made under the methodology described in subsection (a).

(d) Payments by State-Operated Plans.—At least one State-operated plan in each State shall pay for services by physicians and other individual health care personnel under the methodology described in subsection (a).

SEC. 315. PAYMENTS TO CARE MANAGERS.

(a) In General.—Payment for care managers shall be made directly by each State program pursuant to payment schedules under an annual prospective budgeting system established by the State consistent with the State program budget established under section 302.

(b) Payment Schedules.—The payment schedules may be based on negotiations between the State program and care management agencies, capitation, or other methods.

(c) Mandatory Assignment.—Each care manager that receives funding under this Act agrees to accept the payment amount recognized under the State program for services covered under the program as payment in full for such services and may not impose any charges for such services.

Subtitle C—Sources of Revenues

SEC. 331. FEDERAL SOURCES OF REVENUES.

(a) Payroll Taxes.—

(1) Tax on employees.—Section 3101 of the Internal Revenue Code of 1986 (relating to rate of tax on employees) is amended by redesignating subsections (c) and (d) as subsections (d) and (e) and by inserting after subsection (b) the following new subsection:

"(c) Health USA Insurance.—

"(1) In general.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on the income of every individual a tax equal to 1 percent of the wages (as defined in section 3121(a)) received by such individual after December 31, 1992, with respect to employment (as defined in section 3121(b)).

"(2) Employer's election to pay employees' tax.—During any period in which there is in effect an election by an employer to pay the tax otherwise imposed under paragraph (1), wages received by or paid to an individual as an employee of such employer shall be exempt from the tax imposed by such paragraph.".

(2) Tax on employers.—Section 3111 of such Code (relating to rate of tax on employers) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Health USA Insurance.—In addition to the taxes imposed by the preceding subsections, there is hereby imposed on every employer an excise tax, with respect to having individuals in such employer's employ, equal to 4 percent (5 percent, if an election is in effect as described in section 3101(c)(2)) of the wages (as defined in section 3121(a)) paid by such employer in excess of $30,000 during each calendar year beginning after December 31, 1992, with respect to employment (as defined in section 3121(b)).".

(3) Tax on self-employment income.—

(A) In general.—Section 1401 of such Code (relating to rate of tax on self-employment income for hospital insurance) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Health USA Insurance.—In addition to the taxes imposed by the preceding subsections, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 5 percent of the amount of the self-employment income for such taxable year.".

(B) Conforming amendment.—Paragraph (2) of section 1402(b) of such Code (defining self-employment income) is amended by inserting "($30,000 with respect to the tax imposed under section 1401(c))" after "$400".

(4) Railroad retirement taxes.—Sections 3201(a), 3211(a), and 3221(a) of such Code (relating to tier 1 taxes) are each amended by striking "subsections (a) and (b)" each place it appears and inserting "subsections (a), (b), and (c)".

(5) Elimination of limit on wages or self-employment income subject to health USA insurance tax.—

(A) In general.—Subsection (x) of section 3121 of the Internal Revenue Code of 1986 (relating to applicable contribution base) is amended by adding at the end thereof the following new paragraph:

"(3) Health USA insurance.—For purposes of the taxes imposed by sections 3101(c) and 3111(c), the applicable contribution base for any calendar year is equal to the remuneration for employment paid to an individual for such calendar year.".

(B) Conforming amendments.—

(i) Subsection (k) of section 1402 of such Code (relating to applicable contribution base) is amended by adding at the end thereof the following new paragraph:

"(3) Health USA insurance.—For purposes of the tax imposed by section 1401(c), the applicable contribution base for any calendar year is equal to the individual's net earnings from self-employment for such calendar year.".

(ii) Clause (i) of section 3231(e)(2)(B) of such Code (relating to tier 1 taxes) is amended—

(I) by striking "subclause (II)" in subclause (I) and inserting "subclauses (II) and (III)", and

(II) by adding at the end thereof the following new subclause:

"(III) Health USA insurance.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(c), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(c), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(3) or 1401(k)(3) (as the case may be) for such calendar year.".

(iii) Subsection (c) of section 6413 of such Code is (relating to special refunds) is amended by adding at the end thereof the following new paragraph:

"(4) Separate application for health USA insurance taxes.—in applying this subsection with respect to—

"(A) the tax imposed by section 3101(c) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(c),

the applicable contribution base determined under section 3121(x)(3) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears.".

(iv) Sections 1401(b), 1402(k)(2), 3101(b), 3111(b), 3121(x)(2), 3231(e)(2)(B)(i)(II), and 6413(c)(3) of such Code are each amended by striking "HOSPITAL" each place it appears in the headings thereof and inserting "HEALTH CARE".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to remuneration paid after December 31, 1992, and with respect to earnings from self-employment attributable to taxable years beginning after such date.

(b) TOP MARGINAL INDIVIDUAL INCOME TAX RATE INCREASED TO 33 PERCENT.—

(1) IN GENERAL.—The tables in subsections (a), (b), (c), (d), and (e) of section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) are each amended by striking "31%" and inserting "33%" each place it appears.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(c) INDIVIDUAL TAX ON UNEARNED INCOME AND EMPLOYERS' MAINTENANCE OF EFFORT FOR RETIREES.—

(1) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new part:

"PART VIII—HEALTH CARE TAXES

"Sec. 59B. Individual health care tax.

"Sec. 59C. Employers health care tax.

"SEC. 59B. INDIVIDUAL HEALTH CARE TAX.

"In the case of an individual, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 2 percent of the portion of the adjusted gross income for the taxable year which is not attributable to earned income (as defined in section 911(d)(2)).

"SEC. 59C. EMPLOYERS HEALTH CARE TAX.

"(a) IN GENERAL.—In the case of an employer, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to 50 percent of the actuarially equivalent aggregate amount which would have been paid or incurred by the employer (or predecessor employer) during the taxable year for individual or family coverage of retired employees with respect to whom such employer had a contractual obligation on December 31, 1992, under group health plans (as defined in section 5000(b)(1)) in existence on such date.

"(b) TERMINATION.—This section shall not apply in any taxable year beginning after December 31, 2012.".

(2) CONFORMING AMENDMENT.—The table of parts of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Health care taxes.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(d) OASDI TAXABLE WAGE BASE INCREASED.—Section 230(c) of the Social Security Act (42 U.S.C. 430(c)) is amended by striking "beginning)—" and all that follows through "that subsection" and inserting "beginning) in 1993 shall be $125,000. For purposes of determining under subsection (b) of this section the 'contribution and benefit base' with respect to remuneration paid (and taxable years beginning in 1994 and subsequent years, the dollar amount specified in clause (2) of the preceding sentence shall be considered to have resulted from the application of such subsection (b) of this section and to be the amount determined under that subsection.".

(e) INCREASE IN PERCENTAGE OF SOCIAL SECURITY BENEFITS SUBJECT TO TAX.—

(1) IN GENERAL.—Subsections (a) and (b) of section 86 of the Internal Revenue Code of 1986 (relating to social security and tier 1 railroad retirement benefits) are each amended by striking "one-half" each place it appears and inserting "85 percent".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(f) TAX ON CORPORATE INCOME.—

(1) IN GENERAL.—Subsection (b) of section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by striking "34 percent" each place it appears and inserting "44 percent".

(2) CONFORMING AMENDMENTS.—

(A) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "56 percent".

(B) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "44 percent".

(C) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "44 percent".

(D) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by striking "34 percent" and inserting "44 percent".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1992.

(g) INCREASE IN TAX ON CIGARETTES.—

(1) RATE OF TAX.—Subsection (b) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigarettes) is amended—

(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (1) and inserting "$30.50 per thousand"; and

(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)" in paragraph (2) and inserting "$64.05 per thousand".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to articles removed after December 31, 1992.

(3) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1993, and held on such date for sale by any person, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $18.50 per thousand;

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $38.85 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1993, to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by subparagraph (A) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1993, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1993.

(C) CIGARETTE.—For purposes of this paragraph, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1986.

(D) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by subparagraph (A) shall not apply to cigarettes in retail stocks held on January 1, 1993, at the place where intended to be sold at retail.

(E) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(i) cigarettes—

(I) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1993, and

(II) which are entered into the customs territory of the United States on or after January 1, 1993, from a foreign trade zone, and

(i) cigarettes which—

(I) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1993, and

(II) are entered into the customs territory of the United States on or after January 1, 1993, from a foreign trade zone,

shall be subject to the tax imposed by subparagraph (A) and such cigarettes shall, for purposes of subparagraph (A), be treated as being held on January 1, 1993, for sale.

(h) INCREASE IN TAX ON DISTILLED SPIRITS.—

(1) IN GENERAL.—Section 5001(a) of the Internal Revenue Code of 1986 (relating to rate of tax on distilled spirits) is amended by striking "$13.50" each place it appears in paragraphs (1) and (3) and inserting "$50.00".

(2) TECHNICAL AMENDMENT.—Section 5010 of such Code (relating to credit for wine and flavors content) is amended by striking "$13.50" each place it appears in paragraphs (1)(A) and (2) and inserting "$50.00".

(3) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On any item subject to tax under section 5001 of the Internal Revenue Code of 1986 that is removed before January 1, 1993, and held after such date for sale by any person, there shall be imposed a tax equal to $36.50.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding an item to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed on any item by subparagraph (A) shall be treated as a tax imposed under section 5001 of the Internal Revenue Code of 1986 and shall be due and payable on February 13, 1993, in the same manner as the tax imposed under such section is payable with respect to such items removed on January 1, 1993.

(C) EXCEPTION FOR RETAILERS.—To the extent provided in regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, the tax imposed by subparagraph (A) shall not apply to items in retail stocks held after December 31, 1992, on the premises of a retail establishment where alcoholic beverages are sold for consumption on the premises only.

(D) TREATMENT OF ITEMS IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a), or any other provision of law, any item which is located in a foreign trade zone on January 1, 1993, shall be subject to the tax imposed by subparagraph (A) and shall be treated for purposes of this paragraph as held on such date for sale if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such item before such date pursuant to a request made under the first proviso of section 3(a) of such Act, or

(ii) such item is held on such date under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary of the Treasury or the Secretary's delegate, provisions similar to sections 5062 and 5064 of such Code shall apply to any item with respect to which tax is imposed by subparagraph (A) by reason of this subparagraph.

(E) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the excise taxes imposed under section 5001 of the Internal Revenue Code of 1986 shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply in respect of the taxes imposed by subparagraph (A).

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items removed after December 31, 1992.

(i) INCREASE IN OTHER EXCISE TAXES.—The Commission shall recommend to the Congress not later than January 1, 1993, increases in other excise taxes under the Internal Revenue Code of 1986 resulting in additional annual revenues of $5,000,000,000.

SEC. 332. STATE SOURCES OF REVENUES.

(a) IN GENERAL.—Each State shall be responsible for establishing a financing program for the implementation of the State program in the State. Such financing program may include—

(1) funds used to finance the State share of medicaid under title XIX of the Social Security Act as in effect on the date described in section 502 of this Act,

(2) 75 percent of State and local funding for public hospitals and other indigent care programs, and

(3) State funding from general revenues, earmarked taxes, payroll taxes, sales taxes, and such other measures consistent with this Act as the State may provide.

(b) START-UP FUNDS.—In order to assist each State in the development and implementation of the State program, each State is entitled to receive from the Trust Fund an amount equal to—

(1) $10,000,000, plus

(2) $1 for each individual of the State population in excess of 7,000,000.

(c) ON-GOING ENTITLEMENT.—Each State with a State program approved by the Commission is entitled to funding from the Commission in the amounts provided under section 303.

SEC. 333. COST-SHARING.

(a) IN GENERAL.—Except as provided in this section, a State program may not permit approved plans to impose cost-sharing for services under this Act.

(b) COST-SHARING FOR HEALTH CARE SERVICES AND NONINSTITUTIONAL LONG-TERM CARE SERVICES.—

(1) IN GENERAL.—

(A) ANNUAL DEDUCTIBLE.—A State program shall require an annual deductible with respect to covered health care services and noninstitutional services described in section 202(c) (including noninstitutional respite care services) equal to—

(i) $100 for each individual, and

(ii) $300 for a family consisting of more than 2 individuals.

(B) COPAYMENTS FOR PHYSICIAN VISITS.—A State program shall require a copayment of $5 be charged for the first physician visit for an illness.

(C) GENERAL COPAYMENTS.—A State program shall require copayments with respect to expenses incurred in a calendar year for services described in this paragraph at a rate not to exceed 20 percent, or its equivalent (including any $5 charge described in subparagraph (B)).

(2) OVERALL LIMIT ON COST-SHARING.—Cost-sharing described in paragraph (1) with respect to expenses incurred in any calendar year for services described in such paragraph may not exceed—

(A) $1,000 for a family consisting of 1 individual,

(B) $1,500 for a family consisting of 2 individuals, or

(C) $2,000 for a family consisting of more than 2 individuals.

(3) SERVICES EXCLUDED FROM COST-SHARING.—No cost-sharing may be imposed with respect to—

(A) preventive services described in section 201(a)(5),

(B) inpatient care, and

(C) other services as specified by the Commission.

(4) ACCESS FOR LOW-INCOME INDIVIDUALS.—The Commission shall establish rules and procedures to ensure that services described in paragraph (1) are available and affordable to low-income individuals. To the extent possible, such rules and procedures shall not be based on means testing or stigmatizing indicators.

(c) LIMIT ON COST-SHARING FOR INSTITUTIONAL LONG-TERM CARE SERVICES.—

(1) IN GENERAL.—Except as provided in paragraph (2), cost-sharing with respect to expenses incurred in any month for institutional services described in section 202(b)(1) may not exceed an amount equal to 80 percent of the individual's benefits under title II of the Social Security Act for such month.

(2) THREE-MONTH EXCLUSION.—No individual shall be liable for payment of any amount for the first 3 months of such institutional services during any period of continuous institutional care exceeding 3 months.

(d) PAYMENT AMOUNT IS PAYMENT IN FULL.—No individual shall be liable for payment of any amount for covered health care services or covered long-term care services furnished under this Act except as permitted in this section.

SEC. 334. NATIONAL HEALTH CARE TRUST FUND.

(a) TRUST FUND ESTABLISHED.—

(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the "National Health Care Trust Fund". The Trust Fund shall consist of such gifts and bequests as may be made and such amounts as may be deposited in, or appropriated to, such Trust Fund as provided in this Act.

(2) TRANSFER OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(A) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the taxes imposed under sections 59B, 59C, 1401(b), 1401(c), 3101(b), 3101(c), 3111(b), and 3111(c) of the Internal Revenue Code of 1986.

(B) ADDITIONAL REVENUES.—There are appropriated to the Trust Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by subsections (a)(4), (b), (d), (e), (f), (g), (h), and (i) of section 331 of this Act.

(C) TRANSFERS BASED ON ESTIMATES.—The amounts appropriated by subparagraphs (A) and (B) shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the taxes, specified in such subparagraphs, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the taxes specified in such subparagraphs.

(3) TRANSFER OF FUNDS.—All amounts, not otherwise obligated, that remain in the Federal Hospital Insurance Trust Fund and the Federal Supplemental Medical Insurance Trust Fund on the first day of the fiscal year described in section 501 shall be transferred to the Trust Fund.

(4) INCORPORATION OF TRUST FUND PROVISIONS.—The provisions of subsections (b) through (i) of section 1841 of the Social Security Act (42 U.S.C. 1395t), as in effect on the day before the date of the enactment of this Act, shall apply to the Trust Fund in the same manner as such provisions apply to the Federal Supplemental Medical Insurance Trust Fund, except that any reference to the Secretary of Health and Human Services or the Administrator of the Health Care Financing Administration shall be deemed a reference to the Commission.

(5) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Trust Fund such additional sums as may be required to make expenditures referred to in subsection (b), including amounts appropriated with respect to title XIX of the Social Security Act, section 1079 of title 10, United States Code (CHAMPUS), and chapter 89 of title 5, United States Code, as in effect on the day before the effective date of section 502 of this Act.

(b) EXPENDITURES.—

(1) TO STATES.—Payments in each calendar year to each State from the Trust Fund as determined under section 303 are hereby authorized and appropriated.

(2) ADMINISTRATIVE EXPENSES.—There are hereby authorized and appropriated such sums as are necessary for the administrative expenses of the Commission for each fiscal year, not to exceed 0.2 percent of the total payments made to the States for such fiscal year as determined under section 303.

(c) TRUST FUND OFF-BUDGET.—The receipts and disbursements of the Trust Fund and the taxes described in subsection (a)(2) shall not be included in the totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

TITLE IV—ADMINISTRATION

SEC. 401. NATIONAL HEALTH CARE COMMISSION.

(a) IN GENERAL.—There is hereby established within the Department of Health and Human Services a National Health Care Commission.

(b) APPOINTMENT AND TERMS OF MEMBERS.—The Commission shall be composed of—

(1) 8 individuals approved by the President, with the advice and consent of the Senate, and

(2) the Surgeon General of the United States.

Such individuals shall serve for a term of 5 years, except that the terms of individuals initially appointed shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(c) VACANCIES.—

(1) IN GENERAL.—The President shall fill any vacancy in the membership of the Commission in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(2) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(3) REAPPOINTMENT.—The President may reappoint an appointed member of the Commission for a second term in the same manner as the original appointment.

(d) PRESIDENT AND VICE PRESIDENT.—The Commission shall select a President and a Vice President from among the members of the Commission.

(e) COMPENSATION.—Members of the Commission, with the exception of the Surgeon General of the United States, shall be compensated at a level comparable to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

(f) STAFF.—The Commission shall employ such staff as the Commission may determine necessary.

(g) APPLICABILITY OF CIVIL SERVICE PROVISIONS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and be compensated without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual may receive pay less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule or more than the rate of basic pay payable for level IV of the Executive Schedule.

(h) DUTIES.—

(1) IN GENERAL.—The Commission is responsible for the overall administration of this Act, as well as the development of specific guidelines to permit States to carry out this Act.

(2) INNOVATION.—The Commission shall encourage the States to develop and experiment with innovative ways to improve the efficiency, effectiveness, and quality of State programs, including the development of models that promote the integration of covered health care services and covered long-term care services.

(3) MINIMUM STANDARDS.—

(A) IN GENERAL.—The Commission shall establish, evaluate, and update national minimum standards to assure the quality of services provided under this Act and to monitor efforts by State programs to assure the quality of such services.

(B) NATIONAL MINIMUM STANDARDS.—The national minimum standards under subparagraph (A) shall be established for institutional providers of services, physicians and other individual health care personnel, and organized delivery programs. Such standards shall include elements relating to—

(i) adequacy and quality of facilities,

(ii) training and competence of personnel,

(iii) comprehensiveness of service,

(iv) continuity of service,

(v) patient satisfaction (including waiting time and access to services), and

(vi) performance standards (including organization, facilities, and structure of services, and outcome in palliation, improvement of health, stabilization, cure, or rehabilitation).

(C) EXCHANGE OF INFORMATION.—The Commission shall provide for an exchange, at least annually, among State Commissions on Quality of information respecting quality assurance and cost containment.

(4) UNIFORM REPORTING.—The Commission shall establish uniform reporting requirements to ensure an adequate national data base regarding health personnel, services and finances of State programs, approved plans, and providers.

(5) TECHNOLOGY ASSESSMENT, EFFECTIVENESS RESEARCH, AND PRACTICE GUIDELINES.—The Commission shall, in close consultation with the Secretary of Health and Human Services, make recommendations (to be included in the report required by subsection (i)) related to—

(A) technological development and clinical treatment effectiveness;

(B) outcomes of drugs, devices, and clinical procedures;

(C) possible inclusion of new drugs and technological procedures as covered health care services and discontinuance of payment for inefficient procedures; and

(D) development and adoption of medical guidelines, including the improvement of outcomes in rural or other medically underserved areas.

(6) SERVICES TO MEDICALLY UNDERSERVED AREAS.—

(A) IN GENERAL.—In making programmatic recommendations (to be included in the report required by subsection (i)), the Commission shall consider national and regional needs for health professionals and health services, including special consideration of areas of medically underserved populations and the relative numbers of medical, nursing, and other specialists and health professionals providing services in such areas. Such recommendations should include economic, educational, or other incentives, such as bonuses, tax credits, scholarships, and loan repayment programs, to attract health personnel to such areas. The Commission will consider the role of and support of the programs of the Health Resources and Services Administration, including the National Health Service Corps program and other programs focusing on increasing the supply of health manpower, in its recommendations.

(B) REGIONAL AND STATE EFFORTS ENCOURAGED.—The Commission shall strongly encourage the further development of—

(i) college, university, or other State-based programs to train health professionals for work in rural or medically underserved areas of a State or region, such as the Rural Health Education Network (RHEN) program at the University of Nebraska's Medical Center and Nebraska State Offices of Rural Health, and

(ii) State and local grants and scholarships to encourage health care providers to work in medically underserved areas.

(C) ADDITIONAL APPROACHES.—The Commission shall also recommend methods to support research, demonstrations, and other innovative experiments with approaches to providing health services in medically underserved areas and improving the delivery and outcomes of care provided in rural or other medically underserved areas.

(7) ORGANIZED APPROACHES TO DELIVERY OF SERVICES.—The Commission shall sponsor efforts to encourage State programs to develop and expand organized approaches to the delivery of health care services, especially those that emphasize primary and preventive care and outreach to underserved groups. Such approaches may include fee-for-service health care plans, health maintenance organizations, local health departments, community health care centers, hospital-based and community-oriented team health care services, and neighborhood-hospital-home health care plans.

(8) MALPRACTICE AND LIABILITY REFORM.—The Commission shall recommend options (to be included in the report required by subsection (i)) for providing incentives or grants to States to establish alternative dispute resolution systems. Such recommendations may include no-fault, fault-based, or binding arbitration systems and may provide for funds for State-level demonstration programs for these types of systems. The Commission shall also make recommendations pertaining to various tort reforms including limitations on recovery of noneconomic damages, reducing awards by the amount of compensation from collateral sources, and limiting attorneys' contingency fees.

(i) REPORT.—

(1) INITIAL REPORT.—Not later than January 1, 1992, the Commission shall report to the Congress regarding the implementation of the program established under this Act, including any recommendations for further implementing legislation. Such recommendations shall include proposals for—

(A) the treatment or enrollment of veterans and families of veterans under the program,

(B) the coordination of the military medical system with the program,

(C) the transition from coverage by existing Federal health care programs for Federal employees and other specific segments of the population to coverage by the program established under this Act, and

(D) the use of existing Federal health care facilities.

(2) ANNUAL REPORTS.—Beginning January 1, 1993, the Commission shall annually report to Congress on the status of expenditures under this Act, long-range plans and goals for the organization and delivery of personal health services, progress in quality assurance, differences in the health status of the populations of the different States, necessary changes in the education of health personnel, and opportunities for improvements under this Act.

(j) NATIONAL ADVISORY BOARD.—

(1) APPOINTMENT.—The Commission shall provide for appointment of a National Advisory Board to advise the Commission on its activities.

(2) MEMBERSHIP.—Such Advisory Board shall consist of 15 members who are representatives of employers, unions, health care providers, health care insurers, consumer organizations, State programs, and public health professionals, as well as the general public. Such members shall serve for terms of 3 years, except that, in the initial appointment, 5 members shall be each appointed for terms of 1-year, 2-years, and 3-years.

(3) VACANCIES.—

(A) IN GENERAL.—The Commission shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(B) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(C) REAPPOINTMENT.—The Commission may reappoint an appointed member of the Board for a second term in the same manner as the original appointment.

(4) CHAIRPERSON AND VICE CHAIRPERSON.—The Board shall select a Chairperson and a Vice Chairperson from among the members of the Board.

(5) COMPENSATION.—All members of the Board and the committees established under paragraph (8) shall be reimbursed by the Commission for travel and per diem in lieu of subsistence expenses during the performance of duties of the Board in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) FACA NOT APPLICABLE.—The provisions of the Federal Advisory Committee Act shall not apply to the Board.

(7) DUTIES.—Such Advisory Board shall sponsor site visits and studies that are concerned with issues of access to health care services, utilization of health care services, consumer participation and satisfaction in the provision of health care services, education of health personnel, medical practice, medical technology, quality of approved plans, and malpractice liability.

(8) COMMITTEES.—The Board shall create such committees (composed of Commission members and others as appointed by the Chairperson) as necessary to enable the Board to meet its responsibilities and functions, including the following standing committees:

(A) TECHNICAL COMMITTEE.—A technical committee to evaluate medical technologies, education of health personnel, and medical practice and make recommendations to the Board regarding technology, education, medical practice, and other related issues.

(B) QUALITY OF CARE PLAN COMMITTEE.—A quality of care plan committee to assess the performance and quality standards for care plans in the States and the enforcement of those standards.

(C) MALPRACTICE AND LIABILITY COMMITTEE.—A malpractice and liability committee to assess and make recommendations on issues relating to professional liability and the resolution of malpractice claims.

SEC. 402. STATE PROGRAMS.

(a) SUBMISSION OF PROGRAMS.—

(1) IN GENERAL.—Each State shall submit to the Commission the State program in the State.

(2) REGIONAL PROGRAMS.—Any State may join with neighboring States to submit to the Commission a regional program in lieu of a State program.

(b) REVIEW AND APPROVAL OF PROGRAMS.—The Commission shall review programs submitted under subsection (a) and determine whether such programs meet the requirements for approval. The Commission shall not approve such a program unless it finds that the program provides, consistent with the provisions of this Act, for—

(1) adequate financing of covered health care services and covered long-term care services under the program through a Care Fund, including the annual submission of the State program budget to the Commission,

(2) freedom of choice of eligible individuals in the selection among approved plans,

(3) a system by which the State program shall provide all eligible individuals with standardized information about all approved plans in their areas to facilitate the enrollment process;

(4) effective cost containment measures and payment methodologies consistent with title III,

(5) a process for retroactively adjusting hospital payments to more closely reflect costs of operation during a calendar year,

(6) adequate administration, including the designation of a single State agency responsible for administration of the program and the establishment of a public advisory board (with board representation of interested parties),

(7) a system of uniform reporting requirements by approved plans;

(8) responsive quality assurance mechanisms (including the establishment of a State Commission on Quality),

(9) organization of a State procedure to determine capital needs and recommend allocation of capital to localities and institutions,

(10) an organized grievance procedure available to consumers through which complaints about the organization and administration of approved plans and services covered by the State program may be filed, heard, and resolved,

(11) a process for developing the State's annual health budget, cost containment measures, payment practices, quality assurance mechanisms, grievance procedures, and other relevant aspects of the State program, which process shall include regular and adequate opportunities in diverse geographical settings for the citizens of the State (or region) to have their opinions solicited and heard by the Commission, and

(12) the development of models that promote the integration of covered health care services and covered long-term care services.

Programs under paragraph (9) shall provide for appropriate plans to refinance institutional debt.

(c) OPERATIONAL STATUS.—A State program in a State shall not be considered operational unless it is approved under subsection (b).

(d) FAILURE OF APPROVAL.—

(1) IN GENERAL.—If the Commission finds that a State program submitted under subsection (a) does not meet the requirements for approval under subsection (b) or that a State program, previously approved, no longer meets such requirements, the Commission shall provide notice to the State of such failure and that unless corrective action is taken within a period of 90 days the sanctions described in paragraph (2) may be applied, effective 90 days after the end of such 90-day period.

(2) SANCTIONS.—The sanctions described in this paragraph are—

(A) censure,

(B) reductions in the amounts otherwise payable by the Federal Government under this Act to the State, but in no event shall such amount be reduced by more than 10 percent, and

(C) placing the State program in receivership under the jurisdiction of the Commission.

For purposes of subparagraph (B), no reduction shall result in the contraction of primary or essential care services.

SEC. 403. STATE COMMISSIONS ON QUALITY.

(a) IN GENERAL.—Each State program shall provide for an appointment of a State Commission on Quality to implement national minimum standards in each State. Members of such a Commission shall be appointed to serve for fixed (and staggered) terms and in a manner as to provide for representation of the viewpoints of relevant health professions, health institutions and programs, and the general public (including representation of various population groups in the public).

(b) MODIFICATION OF STANDARDS.—Each State Commission on Quality may, with the consent of the Commission, provide for the application of modified national minimum standards due to special conditions or opportunities in the State.

SEC. 404. RESOURCE ENHANCEMENT FUND.

(a) ESTABLISHMENT.—There is hereby established a Resource Enhancement Fund, to be administered by the Commission.

(b) PURPOSE.—The Fund shall be used by the Commission to augment the capability of any medically under-developed area to provide services under this Act, such as through the development of health clinics, and to strengthen such area's abilities to provide local services.

(c) FUNDING.—There are authorized to be appropriated for the Fund for fiscal year 1994, $1,000,000,000, and, for each fiscal year thereafter, amounts not exceeding 1 percent of the total payments made to the States under this Act in that fiscal year.

(d) GRANTS.—The Commission shall provide, upon application, for making amounts available in the Fund to States and localities.

TITLE V—EFFECTIVE DATE; REPEALS; TRANSITION; RELATION TO ERISA

SEC. 501. EFFECTIVE DATE.

The program established under this Act shall first apply to health care services and long-term care services furnished during the third fiscal year beginning after the date of the enactment of this Act.

SEC. 502. REPEALS.

(a) IN GENERAL.—Titles XVIII and XIX of the Social Security Act and chapter 89 of title 5, United States Code, are repealed.

(b) REPEAL OF CHAMPUS PROVISIONS.—

(1) AMENDMENTS TO CHAPTER 55 OF TITLE 10.—Sections 1079 through 1083, 1086, and 1097 through 1100 of title 10, United States Code, are repealed.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 55 of title 10, United States Code, is amended by striking out the items relating to the sections referred to in paragraph (1).

(3) CONFORMING AMENDMENTS.—Chapter 55 of title 10, United States Code, is amended as follows:

(A) DEFINITION.—Section 1072 is amended by striking out paragraph (4).

(B) REIMBURSEMENT OF THE DEPARTMENT OF VETERANS AFFAIRS.—Section 1104(b) is amended—

(i) in the subsection heading, by striking out **"from CHAMPUS funds"**; and

(ii) by striking out "from funds" and all that follows and inserting in lieu thereof "for medical care provided by the Department of Veterans Affairs pursuant to such agreement.".

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall take effect on the first day of the fiscal year described in section 501.

SEC. 503. TRANSITION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of 3 fiscal years beginning after the date of the enactment of this Act such sums as may be necessary to provide for financial assistance to States in the planning and development of State programs.

(b) REGULATIONS.—The Commission shall issue such regulations as are necessary to provide for a transition to the national health care program established under this Act from the programs repealed under section 502.

SEC. 504. RELATION TO ERISA.

The provisions of the Employee Retirement Income Security Act are superseded to the extent inconsistent with the requirements of this Act.

HEALTH USA ACT OF 1991—BILL SUMMARY

This bill calls for the creation of a universal, tax-funded national health system, administered by the states, to finance comprehensive health and long-term care services for all Americans.

TITLE I—UNIVERSAL ELIGIBILITY AND ENROLLMENT

All U.S. citizens are eligible for coverage under this Act in the state in which they maintain a primary residence.

Eligible persons will enroll in either a state-operated fee-for-service health plan or any of a number of private health plans operating in their area.[1] Private insurers and others, who meet the specified eligibility criteria for operating a plan, may participate in the program. Participating private plans may operate as fee-for-service, health maintenance organizations, preferred provider organizations or other types of systems. The state-operated fee-for-service health plan may be operated either by the state health program or contracted out by the state program to a private insurer or other entity.

States will specify an easily understood and available enrollment process for persons in their state. There will be at least one open enrollment period per year. States will also establish processes for disenrollment. If a person fails to enroll in any plan and is in need of medical care services, those services will be covered by the state-operated plan.

TITLE II—BENEFITS AND PROVIDERS

Benefits

All private and public health plans will provide coverage for medically effective and appropriate preventive, primary and specialty care services including diagnostic, treatment and rehabilitative services.

Covered health services include:

Inpatient and outpatient hospital care, including emergency services;

Physician services and services of other health professionals as authorized under state law;

Laboratory and diagnostic tests;

Preventive care services;

Prescription drugs;

Mental health and substance abuse services (limited to 45 inpatient days and 25 outpatient visits;

Nursing home (for persons with three ADLs[2]); and

Home health services, including respite care services (for persons with three or more ADLs).

Preventive care services include services such as basic immunizations, pre- and postnatal care services, well-baby and child care, periodic screening, Pap smears, colorectal examinations, health promotion and education and other preventive services as found effective in preventing or minimizing the effect of illness, disease or medical condition and adopted by the program. States may add other benefits but without Federal financial assistance.

Plans cannot limit the amount, duration or scope of covered health services. The Commission[3] or state programs, however, may limit services if such limits are in agreement with prevailing medical practice guidelines or necessary to allocate expenditures in such a way as to improve the health of the state's population.

Emergency hospital or physician services may be provided in another state or country while an individual is temporarily visiting that state or country. Services can also be provided in a neighboring state if the provider in that state is closer than a provider in the individual's state of residence. These services will be reimbursed at rates established by the other state or country. Experimental treatments, as reviewed and approved by the National Advisory Board and approved by a state program, will be covered by the state-operated health plan.

No private insurance may be sold for benefits that duplicate covered health services. Private health plans may, however, sell or provide without charge additional benefits beyond those included by the program. Federal financing will not be available for additional benefits offered by plans.

Covered long-term care benefits include both institutional and noninstitutional services, including respite care, for persons with three or more activities of daily living (ADLs). Care managers will assess individuals and develop a plan of care in consultation with the individual, family members or other informal caregivers. Certificate of need programs will be retained or established in all states to limit the growth in the supply of nursing home beds.

Health Plans

State programs would establish criteria for participation by private health plans. Plans must, at minimum, provide: services at least equal to those specified by the National Commission for the payment specified by the state program; services of an acceptable quality; enrollment and disenrollment of individuals; anti-discrimination assurances; establishment of budgets and for payment for services; payment for services provided outside the state; economic operation and administration of the plan; required information and data; responsive grievance procedures; and other requirements that the Commission may specify. Plans may not exclude anyone for any pre-existing health conditions.

Each state will establish and operate or contract for at least one plan meeting the above requirements and approved by the state health program. The state-operated plan will control health care costs through the negotiation of fee schedules; negotiation of expenditure targets or caps; and the direction of certain services to certain types of providers. Negotiations will occur between the state program and the appropriate representatives of health care providers. If these cost containment measures are not successful, the state-operated plan may employ cost-sharing for services or controls on utilization ordered by providers.

State programs may apply to the Commission for a waiver to contract with a private plan to operate the state-run health plan. If a state elects to contract out this function, the contracting plan must provide payment for those persons enrolled in the plan and state residents not enrolled in another plan and provide payment for experimental treatments. This plan must also demonstrate that it is as administratively efficient as a state-operated plan and provide access to quality health services at least equal to a state-operated plan.

If a private plan no longer meets the requirements of an approved plan, the state program may withdraw approval of the plan and provide a process by which enrollees in that plan may enroll in another plan.

TITLE III—FINANCING

Budget Process

National Program Budget

The Commission will recommend an annual fiscal year budget to the Congress. In developing this recommendation, the Commission will compute a national average per capita cost for the covered benefits to the eligible population. The cost would be adjusted to reflect differences in health and long-term care service utilization for each of a number of risk groups (i.e., age, sex, etc.). This adjusted amount would be paid to states based on the number of state residents in each risk group with additional adjustments made to reflect non-labor and labor costs in the state; special social, economic, geographic or other conditions that affect the cost of providing health services in the state; distribution of the state's population (i.e., the number of residents living in rural or medically underserved areas); and the per capita state income and poverty level. This cost would be adjusted annually to reflect changes in the state's population, covered benefits, medical technology, accepted medical practice, and other factors affecting the costs of medical services. The Commission will also recommend to the Congress the appropriate federal contribution to the states.

State Program Budgets

Each state will establish an annual fiscal year budget. This budget will include expenditures to be made by the state for covered health and long-term care services and revenues required to meet those expenditures. A Fund established at the state level will receive the federal portion of the state's expenditures and make payments to approved health plans.

Several special accounts will be established in each state with the amount deposited in the account determined by the state program. These accounts include:

Prevention account

For community-based disease prevention, health promotion, farm health and safety and other programs including those targeting populations with special health care needs.

Capital account

For capital-related expenditures, including general and specialty services and technologies, based on population, geographic dispersion, other factors affecting health service utilization in local areas. This capital account will be separate from funds for patient care services. Restrictions will be placed on the supply of nursing home beds.

Medical education

For costs associated with research and teaching activities in patient care settings. Funds will be designated to teaching hospitals and other facilities for costs associated with teaching and research. States are encouraged to use such funds to help meet national, regional, state and local health care needs, particularly training of health professionals.

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[1] "State program" refers to the state health care financing program operating under federal guidelines and with federal financial support. "Health plan" refers to any health plan that meets speified criteria for operation that operates in a state, or region of states, to provide the federally-required benefits in exchange for a prescribed capitation payment paid by the state program.

[2] ADL—"activities of daily living."

[3] A National Health Commission will be created within the US Department of Health and Human Services to administer the federal portion of the program.

Payments to Approved Plans, Providers

Payments to Approved Plans

The state program will pay a capitation payment to each private health plan operating in a state. This payment will be made monthly and must be accepted as payment in full, except for limited copayments, for covered services.

States will provide for payment to approved plans for persons enrolled in that plan on a monthly basis. Retroactive adjustments in such payments may be made to take into account any differences between the actual number of persons enrolled and the payment level. Payments to the state-operated plan will include an amount for all state residents who have not enrolled in another plan.

Payments to Noninstitutional Providers Under Approved Plans

State programs will establish fee schedules, based on a national relative value scale similar to that being implemented under the Medicare program. The state program and practitioner associations will negotiate the fee schedule as well as expenditure target levels for physician services. State programs will provide physicians with practice profiles and a comparison profile for the average of physicians in his or her target grouping. The negotiating body will also receive profiles. Other payment mechanisms may be employed (e.g., capitation, salary, hourly payments, etc.) as long as the amount of these payments does not exceed the amount that would be paid under the above methodology. Practitioner payments made under alternative methods will be exempt from fee schedules and expenditure targets. All payments to providers must be accepted as payment in full.

The state program will require that approved plans that pay for services on a fee-for-service basis provide for the direct payment to nurse practitioners, nurse midwives, physicians' assistants and other health professionals authorized to provide health services under State law while not under the direct supervision of a physician.

Payments to Institutional Providers

Payments for institutional services, including hospitals and nursing care facilities, will be made directly to each institution by the state program. Payments will be based on an annual prospective budget negotiated with each institution and consistent with the state health care budget. Approved plans will be charged the costs for institutional care provided to plan enrollees. States interested in developing alternative payment mechanisms may receive a waiver from the Commission if they demonstrate that the payment methodology will not result in expenditures exceeding those provided under the state program budget.

Payments to Care Managers

State programs will pay long-term care managers directly based on payment schedules negotiated between the state program and care management agencies. Payment to care managers will be accepted as payment in full.

Federal Sources of Revenues

Existing Sources of Health Care Funding

All current sources of funding for health care services will be applied to the program. These include the federal share of the Medicaid program, general revenues share of Medicare, Medicare HI payroll tax and funding for the CHAMPUS and civil service workers program.

New Sources of Health Care Funding

The following new sources of funding for health care will be applied: establish a new payroll tax of 5.0 percent of all payroll of which 4 percent is paid by employers and 1 percent is paid by employees; create a top marginal rate of 33 percent; make 85 percent of social security benefits taxable; place a two percent tax on non-wage income in Adjusted Gross Income (AGI); expand the OASDI tax base to $125,000 for workers only; increase the corporate income tax by ten percentage points; implement excise taxes on cigarettes, distilled spirits and others as recommended by the National Commission; require corporations with current health benefit commitments to retirees to pay an annual amount equal to 50 percent of these benefits for the next 20 years.

State Sources of Revenues

Existing Sources of Health Care Funding

States' funding for the program will include the current state share of Medicaid and maintenance of effort for state and local indigent care programs (75 percent of current funding).

New Sources of Health Care Funding

States will be responsible for establishing a financing program for the state program. Additional state funds may include state revenues, earmarked taxes, payroll or sales taxes—as determined by the state.

Cost-Sharing

Individuals' cost-sharing will include 20 percent coinsurance (or its equivalent) for covered services, including a $5 copayment for the first physician visit for an illness. A $100 deductible is also required. Limits on out-of-pocket cost-sharing are $1,000 for an individual; $1,500 for a family of two; or $2,000 for a family of three or more. Cost-sharing will not be required for preventive and hospital services. Low-income individuals will be protected from financial barriers. No cost-sharing is required for the first three months of nursing home care. After the initial 3 months, cost-sharing for nursing home services is 80 percent of Social Security benefits.

Trust Fund

A "National Health Care Trust Fund" is created within the U.S. Department of the Treasury. The program will be fully funded. Funds in this trust fund will be exempt from any general budget limitation imposed by statute on expenditures and net lending of the U.S. Government.

TITLE IV—ADMINISTRATION

National Health Care Commission

The Commission will be located within the Department of Health and Human Services (DHHS). It will consist of eight commissioners approved by the President with the advice and consent of the Senate. The Surgeon General of the U.S. Public Health Service will be included as a voting member of the Commission. Terms will be for five years and established in such a way as to stagger the terms. Individuals may be appointed for shorter terms. The Commission will select a chair and vice-chair from among their members.

The Commission will:

Develop specific guidelines to enable the states to carry out their programs;

Encourage states to develop and experiment with innovative methods of improving the quality, efficiency and effectiveness of state programs;

Establish, evaluate and update national minimum standards to assure the quality of services provided including adequacy and quality of facilites, training of personnel, etc.;

Establish uniform reporting requirements to ensure an adequate national data base on health personnel, services and finances of state programs, plans and providers;

Assess medical technology and develop practice guidelines for clinical effectiveness;

Consider and make recommendations regarding national and regional needs for health professionals and services with special consideration of rural and other medically underserved areas and populations. This consideration will include the number and specialties of health professionals in such areas and recommendations of economic, educational or other incentives and programs, such as the National Health Service Corps, that may be applied to attract health professionals to these areas;

Encourage the further development of university- or state-based programs to train health professionals for work in underserved areas; and

Recommend methods to support research, demonstrations and innovative approaches to providing health services in underserved areas and improving the delivery and outcomes of care provided in underserved areas.

The Commission will also assist state efforts to develop and expand organized approaches to the delivery of health services, especially those that emphasize primary or preventive care and outreach to underserved groups.

The Commission will also recommend options for providing incentives or grants to states to establish alternative dispute resolution systems for medical malpractice claims. Some recommendations may include fault-based or binding arbitration systems and may provide funds for state-level demonstration programs for these or other types of systems. The Commission will also make recommendations pertaining to various tort reforms including limitations on recovery of noneconomic damages, reducing awards by the amount of compensation from collateral sources and limiting attorney's contingency fees.

The Commission will also submit a report to Congress on the implementation of the program including transition to the program. Once the program is operational, the Commission will report annually to Congress on the goals and objectives of the program.

National Advisory Board

A National Advisory Board will be created to advise the Commission on activities relating to the program. This Board will consist of 15 members who represent consumers, employers, unions, health care providers, health care insurers, state government officials, public health professionals and others. Members will serve three year staggered terms.

The Board will create committees to study, hold public hearings and meetings and make recommendations to the Commission on issues such as the following:

Evaluation of medical technologies, education of medical personnel and medical practice; quality of care standards for health plans; and malpractice.

State Programs

States may join with neighboring states to act as a region in the administration of state programs.

States will submit an overview of their State program to the Commission. All state programs must meet basic requirements outlined by the Commission. These include the following:

Adequate financing of covered health and long-term care services;

Freedom of choice among approved plans for eligible state residents;

Effective cost containment features consistent with Title III of this act;

Adequate administration of the program including the establishment of a state public advisory board;

Responsive quality control mechanisms;

Procedure to determine capital needs and make recommendations for capital expenditures;

Organized grievance procedure available to consumers; and

Models to promote the integration of health and long-term care services.

If a state program does not meet the requirements for operation of a program, sanctions may be applied including censure and placing the state program in receivership under the jurisdiction of the Commission.

State Commissions on Quality

Each state program will provide for the appointment of a state Commission on Quality. This Commission will implement national minimum standards for quality. The Commission will be appointed to represent the viewpoints of relevant health professionals, health institutions and programs and the public.

Resource Development Fund

This fund will be developed by the National Commission to augment the capability of any medically underdeveloped or underserved area to provide health services under this program. This may include financial assistance for clinics or providers to practice in these areas. States may apply for funds from this Fund to address problems of underserved areas in their state.

TITLE V—EFFECTIVE DATE, REPEALS, TRANSITION, RELATION TO ERISA

Effective Date

The program will become effective during the third fiscal year beginning after the enactment of this Act.

Repeals

On the first effective date of this Act, Titles 18 and 19 of the Social Security Act (Medicare and Medicaid, respectively) will be repealed.

Transition

For each of the three fiscal years beginning after the date of the enactment of this Act such funds as necessary to help states plan and develop their state programs will be provided. The Commission will issue regulations as necessary for the development of the program.

Relation to ERISA

The provisions of the Employee Retirement Income Security Act (ERISA) that are inconsistent with this Act are superceded.

TESTIMONY BEFORE COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, JUNE 18, 1991

(By Katherine Swartz, Ph.D., Senior Research Associate, the Urban Institute)

Thank you for inviting me to comment on why I believe that expanding health insurance coverage in this country via employer "play or pay" rules is a bad idea. I have six major reasons for opposing the extension of health insurance via our current dependency on employer groups. In the interest of time this morning, I will discuss just the first three of these reasons and submit discussion of the other three reasons in my full written testimony.[1]

Over the past ten years, competition in the insurance industry has fragmented the insurance market. Workers in younger, healthier groups have significantly lower premiums than workers in older and/or less healthy groups. Small groups are particularly vulnerable to experience rating because the group is actually treated as a bunching of individual policies; one person with large medical expenses can cause the group premium to increase by large amounts in the following year. Small groups have been largely ineffective in joining together to obtain greater bargaining power with insurance companies. Thus, people who work for smaller firms, or firms with an older or less healthy work force, face much higher premiums than their counterparts in larger firms or in firms with younger or healthy workers. This fracturing of the insurance market does not spread the risk of large medical expenditures. Rather, the insurance companies are collecting enough in premiums to pay the predictable costs of each group plus retain a profit. While this is surely good business for insurance companies, we must recognize that the current reliance on employer-groups for health insurance encourages insurance companies to divide us all into predictable groups. Communal spreading of risk—the function of insurance.

While economists (such as myself) generally prefer systems that have incentives to encourage behavior in a person's own best interests, I think the current stress on competition within the insurance industry has altered our sense of what is a person's own best interest. The competition encourages a very myopic, present-time oriented definition of self-interest. We need to remember that if we are lucky, all of us will grow older and face increasing medical problems as we age, and if we are unlucky, we will die at a younger age of some no doubt expensive disease such as cancer. Viewed in this light, an individual has life-cycle interests—not just a focus on the current year. If we pay less in health insurance premiums when we are young, the piper will surely call the tune of higher premiums when we are older. Moreover, most of us have relatives, particularly older relatives, and neighbors of varying ages. A person's own interests are therefore surely intertwined with the medical costs faced by such relatives and neighbors. We need to remind ourselves that our own individual interests include the needs of others and the changing needs of ourselves over lifetimes. Risk sharing that encompasses a larger share of our society than just our workplace provides for these wider self-interests.

The second problem I see with relying on employer-groups as the primary vehicle for expanding health insurance is that it does not provide portability of health insurance from one job to another. As people age, they are increasingly likely to have medical conditions are well as preferences for continuing a relationship with a physician who has dealt with their medical history. Within the past two years, as the aggregate costs of AIDS and chronic diseases have risen, insurance companies have been able to get firms to agree that the policies will not cover preexisting medical conditions for new members of the employer-group. For people with cancer, diabetes, high blood pressure, and an increasing number of other chronic diseases and conditions, such policies make it virtually impossible to change jobs. These policies also cause thousands of families to live with the fear of losing their current jobs and access to health insurance. This is especially true in the current recessionary environment. If people feel locked into their current jobs, particularly as they age and their human capital reaches a peak, our economy suffers from lower productivity. When there is lower productivity in the country, we all suffer from having a smaller national pie to divide not only among ourselves but with future generations as well.

A third reason why requiring employers to provide health insurance is a bad idea is that it will impose an open-ended cost on employers. None of the taxes imposed on an employer's payroll (for example, FICA or unemployment insurance) by either the federal or state governments are open-ended. Contributions to pension funds are similarly confined to either a defined contribution or a known percentage of payroll. In the case of health insurance, however, mandates to employers would leave them exposed to increases in health care costs in general, and their own employees' expenditures for health care in particular—neither of which an employer can control. The fracturing of the insurance market that I discussed earlier will lead to otherwise identical employers in the same industry having different health insurance costs if one employer has one or two employees with high medical bills one year. Currently, health insurance benefits are the most expensive of the nonwage benefits paid to workers. In this situation, employers would be acting quite rationally if they opted to pay the tax penalty rather than providing health insurance in a pay or play situation. The tax penalty is at least defined. The outcome of the pay or play regulations might be that more workers would be without health insurance from their employers.

A fourth problem with relying on employer-provided health insurance is that it may cause enormous problems within families if every worker has to have health insurance coverage from his or her own employer. Insurance companies have their own procedures for how a person seeks reimbursement, along with different requirements for copayments and deductibles, and rules as to what types of benefits are covered. The paperwork burden for families dealing with more than one insurance plan could be awesome. Because the government is often sensitive to the paperwork burden it imposes on businesses, it is surprising that scant attention has been paid to the potential burden the pay or play plans could impose on families in America.

The potential burdens on families could be further exacerbated by rules assigning children to different employed parents' insurance plans. Some states already have procedures for assigning children born on even dates to one parent's policy and children born on odd dates to the other parent's policy in the case of dual coverage of the children. If the two parents' insurance policies covered different benefits or if the two policies involved different sets of physicians—which could happen if each parent belonged to a different HMO—then the possibility for efficient practice of family medicine is greatly diminished.

A fifth problem with requiring employers to provide health insurance to their employees is that many employers of the less skilled and younger workers are likely to argue that providing health insurance is in lieu of wage increases. Because workers with more education are already more likely to have health insurance than workers with less education, requiring firms to provide health insurance is likely to hurt the younger and less skilled workers than their older and more educated counterparts. In particular, it will cause real wages to decline further for workers who do not have health insurance now. The gap between high school graduates' wages and college graduates' wages will widen still further.

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[1] Opinions expressed are those of Dr. Swartz and should not be construed as representing opinions or policy of The Urban Institute or sponsors of The Urban Institute.

In addition, some workers who currently do not have health insurance will lose their jobs. How many people will lose employment is not clear. The effect of adding health insurance to the employment compensation package for people at or near the minimum wage is analagous to increasing the minimum wage. But adding health insurance on top of the April 1990 and April 1991 increases in the minimum wage raises the total "wage" increase beyond previous relative increases in the minimum wage. Because it is not clear how elastic the demand for labor is, we cannot forecast how many people will lose their jobs as a result of requiring employers to provide health insurance.

The sixth and last concern I have with building an expansion of health insurance coverage on the base of employer-groups revolves around implementation problems. Determining what types of employers and employees will be exempt from such plans is likely to be a free-for-all for lobbyists. If insurance companies are already raising the minimum size of a group below which they require medical underwriting, what is special about a firm with fewer than six employees? Enforcement of play or pay rules may also be quite difficult. Firms and employees in some industries already acquiesce to being paid in cash and off payroll books, thereby avoiding other taxes. We can only imagine how employer mandates to provide health insurance might exacerbate this situation.

I think it was Edmund Burke who said, "God is in the details," a phrase which public policy analysts have converted to. "The good is in the particulars." I firmly believe that we should be designing a health care system that has both universal coverage and a structure to contain costs. To do one without the other is clearly not realistic. We will not be able to constrain cost increases without a single-payer type of system that covers all Americans regardless of where and whether they work. Towards that end, we should be focusing our creative energies towards tackling the particulars—the nitty-gritty detail issues that transcend alternative methods of financing such a system—namely, budgeting that provides room for local control, reimbursement methods and streamlined claims mechanisms that do not encourage gaming of the system, and a definition of what constitutes adequate medical care for given medical conditions. The system's viability in the future will depend on providing for further tinkering and changing of the system as America's health care needs change. Thank you.

HEALTH USA ACT OF 1991—OVERVIEW OF COST CONTAINMENT PROVISIONS

The United States is spending a growing amount of its gross national product (GNP) on health care. Despite the imposition of cost containment measures throughout the 1980's, national health care spending has continued to increase faster than the GNP. In 1989, the United States spent $604 billion, or 11.6 percent of the GNP, on health care. Preliminary figures indicate that spending reached 12.2 percent of the GNP in 1990. The Congressional Budget Office (CBO) reports that health spending accounted for 14 percent of the federal budget in 1989 and predicts it will account for 19.5 percent of the budget by 1996. The Health Care Financing Administration (HCFA) estimates that health care spending will reach 15 percent of the GNP by the year 2000. National expenditures on health care cannot continue to steadily rise faster than inflation and the rate of national economic growth without endangering the nation's domestic standard of living and international competitiveness.

Health USA will control health care costs through a system of national and state-level budgeting and financial incentives on health care providers, plans and patients. The following outlines the major cost containment features of Health USA:

SINGLE PAYER SYSTEM

Health USA controls health care spending by establishing a system of budgets and financial incentives to efficiently provide quality health services. Health USA is a budgeted program, rather than an open-ended spending commitment.

Federal and State Levels: A "single payer" system is established at both the federal and state levels.[1] At the federal level, all health care funds, including current health care spending, flow through a dedicated health care trust fund. Funds are then distributed to states according to a formula. The formula is based on the average per capita cost of providing health services to the state's resident population taking into account age, sex, geographic distribution of the state's population, and other factors that affect patterns of health service utilization and cost of providing care. The amount received by the state is then placed into a state health care trust fund from which all health and long-term care services are paid in that state. Each state's health program pays participating health plans a risk-adjusted amount for individuals enrolled in their plan, negotiates fee schedules and expenditure targets for physician services, and negotiates budgets for hospitals.

Health Plans: Private and public health plans operating in states are responsible for providing all covered health services as specified by the National Commission. Each plan will be paid a ("capitation") payment for each person who enrolls in their plan. The plan must provide all covered health services required by each enrollee for the sum of the capitation payments and any allowed copayments. Plans may not charge additional premiums or other charges for these services.

As noted above, the capitation payment will be risk-adjusted to ensure that plans are reimbursed for the average costs of caring for their particular mix of enrollees. Provider reimbursement systems (described below) would provide plans with an effective method to operate within this system. These systems would also make health plans' costs relatively predictable. Fee-for-service health plans that find they cannot contain spending under this system, may use additional cost containment measures such as managed care or utilization review.

NEGOTIATED FEE SCHEDULES AND OPERATING BUDGETS

Physicians: Physician spending is controlled through state all payer systems.[2] Under this system, the state program would negotiate physician fee schedules and expenditure target levels. Fee-for-service physicians will be paid fees for each service, based on a resource based relative value scale similar to the new Medicare physician payment system. The state program will negotiate with the appropriate association(s) of physicians in the state an overall expenditure limit for physicians' services in that state and a "conversion factor" which will determine the actual dollars paid for each service in the fee schedule. If physicians' services in the year exceed the negotiated expenditure target, then the next year's rate increase (i.e., in the "conversion factor") would be lowered by that amount. Similar expenditure subtargets will be negotiated with groupings of physicians in subareas within the state. Differences not resolved in the negotiation process could be referred to a pre-established mediation or arbitration process within the state.

To assist physicians in staying within the negotiated expenditure targets, the state program may provide individual physicians with profiles of their own practice patterns. Additionally, those provider associations responsible for negotiating expenditure targets at each level may be sent profiles of physicians within their target area.

Hospitals—Patient Care: Hospital spending will be controlled by negotiating annual operating budgets with the state program along with structuring into the system financial incentives for cost control that would affect all hospitals and health plans. Health plans will be charged for the use of hospital services given by their enrollees; this will help control the demand for hospital services by giving health plans an incentive to work with physicians to reduce unnecessary hospitalizations by providing care in the most appropriate setting possible and seeking out less costly, more efficient hospitals that provide equivalent services.

CAPITAL BUDGETS

Hospitals—Capital: Capital spending will be separate from patient care spending for hospitals. Each state program will set aside a portion of its total revenues (level determined by the state) in a separate Capital Account. A process will be established and used in designated local areas according to a formula based on local population and the geographic dispersion of the population, population mix and risk factors of the population, capital needs of the area and other factors determined by the state program. Capital obligations in effect at the start of the program may be determined by the state program. Certificate of need programs will be retained or established in all states to limits the growth of nursing home beds. Removing payments for capital from capitation payments and patient-care reimbursements will permit greatly increased cost control and more effective allocation of resources to meet health care needs. Separating capital from operating revenues also is important to control the growth of the base on which some of the most expensive health care costs are generated.

COST-SHARING

Patients: Individuals will share in holding down health care spending. Cost-sharing will include 20 percent coinsurance (or its equivalent) for covered services, including a $5 copayment for the first physician visit for an illness. A $100 deductible is also required. Cost-sharing limits of $1000 for an individual; $1500 for a family of two; and $2000 for a family of three or more will be applied. Cost-sharing will not be required for preventive and hospital services. Low-income individuals will be protected from financial barriers. No cost-sharing is required for the first three months of nursing home care. After the initial 3 months, cost-sharing for nursing home services is 80% of Social Security benefits.

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[1] Under a "single payer" system, a single entity (in Health USA, the federal government) is the sole source of payment to state health programs. All federal funds are channeled through this entity.

[2] Under an all-payer system for physicians, physicians are paid by different payers but at the same negotiated rate.

EFFECTIVENESS RESEARCH AND PRACTICE GUIDELINES

Health USA will sponsor the further development of medical effectiveness research and the development of practice guidelines and treatment protocols. Medical effectiveness research will be used to further our understanding of what medical procedures and practices work, their costs and their appropriateness for different types of patients. Practice guidelines will be further developed to help translate knowledge about effective care into clinical practice. Development of these guidelines will be used to provide recommendations for physicians about the appropriate and effective use of medical services. Guidelines will be evaluated and revised as appropriate.

ADMINISTRATION

Health USA will reduce the administrative complexity and administrative costs of financing health care by reducing hospital and doctor billing costs, the costs of provider reimbursement by health plan and the state program, and by reducing the amount of resources that health plans spend on "underwriting" and marketing. The global budgeting and uniform payment system for hospitals will greatly reduce hospital billing costs. Hospitals will electronically bill the state program for each admission or inpatient day. Hospitals will no longer expend resources on collections or cost-shifting to multiple payers. The uniform billing and payment system for physician services will reduce both physician and health plan administrative costs. Administrative requirements on providers are required to be reduced to levels comparable to private insurers under the current system. This involves administrative reporting requirements to the federal government as opposed to requirements for claims.

The risk-adjusted payment for each person who enrolls in a plan and the requirement that plans take all persons who wish to enroll in their plan and other rules will both enable plans to operate under this system and reduce the resources that health plans now spend on evaluating individuals' risk. Plan marketing to the public also will be reduced because the State program will disseminate uniform comparative information about plans to potential enrollees, and because enrollment will be a simplified process.

MEDICAL MALPRACTICE

Health care costs associated with medical malpractice and the practice of unnecessary "defensive" medicine will also be reduced under Health USA. The National Commission will be directed to recommend options for providing incentives or grants to states to establish alternative dispute resolution systems. These systems may include fault-based or binding arbitration systems and may provide for funds for state-level demonstration programs for these types of systems. The Commission may also make recommendations regarding tort reforms, including limits on recovery of noneconomic damages, reducing awards by the amount of compensation from collateral sources, and limits on attorneys' contingency fees. The Commission may also recommend steps to reduce the incidence of malpractice, including the establishment of practice guidelines (see above), risk management programs for providers and insurers, and other steps to strengthen state medical licensing boards and disciplinary procedures.

Mr. EXON. Mr. President, I salute the talented leadership that my colleague from Nebraska, Senator BOB KERREY, has given to the whole pressing matter of health care delivery and its costs in the presentation that he has just made.

Senator KERREY had worked very long, very hard, very diligently holding hearings all across the State of Nebraska to get the input and advice from all affected parties, both providers and those who would receive benefits from a total revamp of the health care delivery system and how to best pay for such costs, which are tremendous.

I do not know, and I suspect that Senator KERREY does not know, whether or not the measure that he introduced today will ever become law. I suggest, though, that in 4, 5, or 6 years, or possibly sooner, Mr. President, the very thoughtful, the very bold, if you will, concept, ideas, and financing mechanism embodied in the Kerrey proposal will be looked back on as the incubator, if you will, of a very complete overhaul of the health care delivery system.

Senator KERREY, I emphasize once again, has not gone into this matter without a great deal of thought and consideration. He has developed a plan that this Senator does not agree with in every one of its details. In fact, I have some serious reservation about some of the concepts of the Kerrey plan. Nevertheless, I suggest that the suggestions being made today in the form of a specific bill by my colleague from Nebraska is going to go a long way in drawing, not only the attention of the Senate, but the attention of the House of Representatives, the attention of the Nation, if you will, and enhance the prospects of an early coming to terms with this matter that we all know has been swept under the rug for far too long.

Senator KERREY did not ask me nor did ask anyone else, to my knowledge, to be a cosponsor of his legislation. He presented this after a lot of hard work and a lot of thought to the concept. I notice in the newspapers that some Members in the other body have basically said that Senator KERREY'S bill is dead on arrival because of its costs. Well, Mr. President, that might well be the case, but the facts of the matter are the fainthearted are the ones who have never moved the United States of America forward in any concept. The dedicated leadership and thoughtfulness of my colleague from Nebraska and the boldness with which he has stepped out should be saluted by all of us. How many of us in this body, Mr. President, would dare come on the floor of the U.S. Senate and suggest such a departure from the health care delivery system that for all intents and purposes is on the verge of breaking down completely? How many of us would dare come on the floor of the U.S. Senate and as much as suggest an increase in taxes somewhere along the line to begin to remedy the health care system of the United States of America? I hope in the future that I can be working with my colleague, and I know that I will, and I hope that others will make some refinements, significant refinements, or otherwise, to his measure, which I salute him for introducing today.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BRYAN, Mr. BOND, and Mr. SHELBY):

S. 1447. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 1448. A bill to establish an Assistant Secretary for Administration of the Department of Housing and Urban Development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. BRYAN, Mr. BOND, and Mr. SHELBY):

S. 1449. A bill to develop Federal Government performance standards and goals plans, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRAHAM (for himself and Mr. BRYAN):

S. 1450. A bill to establish the Office of Management and the Office of the Budget; to the Committeee on Governmental Affairs.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REFORM LEGISLATION

Mr. GRAHAM. Mr. President, as we are well aware, the story of the Department of Housing and Urban Development during much of the 1980's was a tale of failed public policy.

Reports by the Department's inspector general, other audits, and investigations by several committees of Congress show that a program designed to provide funding for low-income housing became substantially abused by the politically well connected. Prominent people received substantial amounts of money as consultants not because of their housing expertise, but because they could influence HUD funding decisions.

HUD mismanaged programs either because it opposed the programs themselves, such as section 8 Moderate Rehabilitation, or because it lacked the capacity or leadership to operate them free from abuse. Unfortunately, the various parties responsible for oversight of the situation were all negligent, including HUD itself, the Office of Management and Budget, and Congress.

At a time when the Nation's problems with the homeless was growing, the agency interested with public policy was incompetent, corrupt, and disinterested.

We have paid a price—both in the misuse of public moneys and in lost public confidence in Government—for these failures.

From failure, however, can come learning.

It is my privilege today to share what has been learned by the HUD/Mod Rehab Investigation Subcommittee from 10 hearings and additional studies in 1990.

It was the goal of the subcommittee to uncover the lessons of this unfortunant period and to suggest remedies that will produce better results in the future.

We have distinguished our investigations from others on this subject by focusing less on the personalities involved and more on the institutions and processes of Government that broke down.

While others have concentrated on the "rats" who abused the program, we have looked at the "cheese" that made these programs susceptible to abuse in the first place.

The efforts of the subcommittee were not partisan. The problems at HUD have existed for a long time, and Congress must share part of the responsibility for not having uncovered them sooner.

Moreover, our committee benefited from the cooperation of all its members, including my fellow Floridian and ranking Republican CONNIE MACK. Senators SHELBY, BRYAN, and BOND also made valuable contributions to the work of the subcommittee.

Our subcommittee has developed constructive proposals in three areas:

First, streamlining low-income housing programs at HUD,

Second, tightening management practices at HUD and throughout government, and

Third, implementing performance standards and goals for Federal programs.

Few of our proposals are glamorous or even particularly newsworthy. But all of them are intended to ensure that we get full value for each taxpayer's dollar and to restore public confidence in Government institutions.

This group of 4 bills contains 13 legislative proposals from the 60 recommendations in our report on how HUD, OMB, and Congress can do our jobs better. The bills are being introduced separately to allow each of the subcommittee members to cosponsor as many of the bills as possible and to allow for efficient and timely committee action.

The recommendations address the issue of how our Government runs and the kinds of breakdowns that occur when an agency like HUD is not properly managed.

Government is like an automobile. No matter how well a car is built, it requires careful design and periodic inspection, maintenance, and fine tuning. If any of these ingredients are missing, its operation gradually deteriorates.

If nothing is done about the deterioration, the car eventually breaks down.

The sad truth is that HUD, and possibly the HUD's of the future, have frequently not had safety of operations designed into their programs. Furthermore, these programs have not been getting their regular inspections, maintenance, and fine tuning. Hence, we have seen the deterioration of many Government agencies and in the case of HUD a virtual breakdown.

The important jobs of congressional oversight and executive management have often been postponed with few immediately visible adverse effects. But such neglect ignores the old warning: "Pay me now or pay me later."

We can't go back and correct yesterday's problems at HUD, but we can most certainly take steps to avoid repeating these same problems tomorrow.

It's time to invest in the maintenance of HUD and other Federal agencies. It's time to enhance congressional oversight and executive management, so we don't have to go through another series of investigations about what went wrong.

HISTORY OF THE COMMITTEE

While the Senate was considering the HUD Reform Act, the Senate Banking Committee continued its investigation into problems and abuses at HUD. To do so, the Senate adopted a resolution creating the HUD/Mod Rehab Investigation Subcommittee to focus on topics that had either been inadequately addressed or needed to be further investigated to take into account events occurring subsequent to the Banking Committee's hearings.

During 1990, the subcommittee hired a staff headed by the President-Elect of the American Bar Association, Talbot D'Alemberte, and conducted 10 hearings. We heard from Secretary of Housing Kemp and numerous other current and past officials of HUD. Also appearing as witnesses were officials from OMB, the Justice Department, and the General Accounting Office; experts from universities and think tanks; and people from the private sector knowledgeable in the operations of HUD and the administration of housing programs.

The published Final Report and Recommendations of the subcommittee is in the possession of the Senate, and I will touch today on the highlights of our findings and proposals.

STREAMLINING LOW INCOME HOUSING PROGRAMS

Incentives to developers to provide low income housing come in many forms: Section 8 Moderate Rehabilitation funding, low income tax credits, Federal insurance programs, and allowance for fair market rents.

As these incentives became layered for individual projects, there was little supervision or coordination of them by the Government. As a result, there was only limited evaluation of the overall net effects.

In some instances, the combination of incentives provided for oversubsidization of housing. Out of these large profits came the money to pay political consultants for clout at HUD. In other words, the layering produced the cheese that attracted the rats.

On its own, the low income tax credit has provided an inadequate and unpredictable incentive. The tax credit available under section 42 of the Internal Revenue Code has become the principal Federal subsidy supporting the production of low income housing. Because credits have been extended year by year, long-term investments could not count on them beyond the next extension. This has made low income housing financing difficult and has caused problems in the administration of the tax credit.

The serious problems at HUD demonstrated the need for streamlining the incentives for low income housing. The goal should be to provide incentives that are "enough" but not "too much."

In 1989, Congress took an important step toward streamlining by requiring HUD and State housing finance agencies, respectively, to consider other financing for a project when awarding subsidies or low income housing tax credits.

In 1990, Congress extended the credit's authority until December 31, 1991, and further amended the program by modifying provisions. The two areas of modification, which partially address problems identified during the subcommittee's investigation, are in the area of compliance and in the layering of subsidies.

The 1990 Reconciliation Act requires the qualified allocation plans submitted by the State credit agencies to include a procedure for monitoring and reporting noncompliance to the Internal Revenue Service.

The Reconciliation Act also calls for a study by the Secretary of the Treasury and the inspector general of HUD on the combined use of the low income housing credit and section 8 Moderate Rehabilitation funds and the effectiveness of this combination in meeting the objectives of the tax credit.

The 1989 and 1990 legislation does not, however, resolve all the issues unturned during the investigation. The issues that require resolution and which are addressed in our proposed legislation include:

The need for a longer term extension of the authority for the low income housing tax credit to encourage greater investor interest and to provide predictability needed by the housing credit agencies to develop and maintain in-house capacity to perform the new duties assigned to them in 1989 and 1990;

The need for the housing credit agencies to make every effort to control the costs of expanded monitoring programs; and

The need to establish a uniform method of determining fees that are paid to project developer from project funds.

To address these remaining problems, our proposed legislation extends the tax credit authority through 1997. The bill also:

Authorizes the collection of a compliance monitoring fee; and

Includes in the process whereby the housing credit agency determines the amount of credit to be allocated to ensure project feasibility the developer fee and any direct or indirect benefits to the developer.

Although well intentioned as a tool to increase the pool of low income housing, the tax credit has been abused. Congress did not make clear when it originally enacted the tax credit which governmental entity was responsible for overseeing the implementation of the program and for minimizing the sometime over indulgent layering of housing subsidies.

Changes enacted in 1989 and 1990 show Congress' awareness that the State housing credit agencies would have to fill the oversight void. The provisions in this bill should add to the fine tuning required in 1989 and 1990.

Moreover, these provisions should help ensure that the low income housing tax credit achieves the policy objectives for which it was originally intended.

TIGHTENING MANAGEMENT PRACTICES

Increasing fraud or waste in any Government agency is usually a sign of poor management controls. So it was no surprise that the Committee's look into management efforts at HUD revealed serious internal control problems that had been lingering at the agency for years.

The committee also found that these problems persisted in part because top officials of the previous administration failed to identify and address these problems, even when such problems were brought to their attention.

Perhaps the most troubling example occurred in 1987, when HUD reported to the President and to Congress that the agency's financial controls were adequate. At the same time, HUD management knew that serious problems existed with HUD's accounting system, such as the fact that the accounting of the FHA fund did not comply with generally accepted accounting standards and the fund had been for the past 15 years deemed unauditable by the General Accounting Office.

Throughout the period between 1983 and 1988, the inspector general monitored HUD management efforts to identify and correct internal control problems. In addition to revealing that HUD management were conducting inadequate control reviews, the IG uncovered management problems that HUD Assistant Secretaries refused to identify. These problems included, among other things, serious control deficiencies with the HUD Coinsurance and section 8 Moderate Rehabilitation Programs.

Only through much heated debate did the inspector general persuade HUD management to identify most of these problems in an annual report to Congress and the President regarding the state of HUD internal management controls.

Today, the new HUD management has taken its job seriously, but longstanding internal control problems still plague HUD programs. Most prominent is the poor shape of HUD's financial systems, which cause management decisions to be made on the basis of outdated or incorrect financial information. In fact, GAO has revealed that inadequate financial controls are not unique to HUD. Shockingly, that agency cannot point to any Federal agency that can be considered a model of good management controls.

HUD's problems can also be traced to a deteriorating staffing situation during the 1980's.

The Department's staffing levels were reduced by 30 percent in the 5 years from 1981 to 1986. Numerous inspector general reports, a management study of HUD by the GAO, and an internal study done by the department itself highlighted the adverse consequences to HUD programs because of the inability to handle the cuts in staff.

These adverse effects included enormous backlogs and delays in HUD's review of loans and appraisals, superficial and deficient monitoring in many HUD programs, and little or no training of new, inexperienced staff. All studies discussed the severe consequences of financial risk to the agency as a result of losing an adequate number of staff to perform critical in-house functions and losing staff with important housing expertise.

Effects on HUD staff and program delivery were further exacerbated by the extensive and growing number of political appointees at HUD and their lack of housing experience. Over a third of HUD's Senior Executive Service are noncareer appointees.

As noted by the Volcker Commission, having a large number of political appointees at top levels in an agency can cause low morale and exodus by career staff, because their career advancement is cut short and their expertise is not used in critical policymaking positions. Political appointees can also be disruptive to day-to-day program delivery because of the short time in which they stay in their positions—a little over 2 years or less, in HUD's case.

While HUD managers are responsible for guiding the day-to-day operations of the agency, the Office of Management and Budget is responsible for overseeing and coordinating management efforts of HUD and all other Federal agencies. During the administration of Secretary Pierce, OMB oversight of HUD was, in the words of the current deputy director, essentially "moribund." OMB examiners were blind to the scandals of HUD during that time.

In short, OMB is a highly political agency which has been unable in its history to implement sustained management strategies free from political and budget-driven biases.

Gaps in congressional oversight are also an issue. Many believe that Congress failed to notice warning signals of serious problems at HUD in time to correct them before they resulted in what may become billions of dollars of loss. Noteworthy of these warnings were those reported by the inspector general in a number of semiannual reports and other audits of HUD programs, as well as many audits by the General Accounting Office which told of significant deficiencies at HUD that put millions of dollars at risk.

Meanwhile, HUD was being less than honest in fully admitting its weaknesses in its annual reports pursuant to the Federal Managers' Financial Integrity Act and less than cooperative with Congress.

During most of the 1980's, Congress conducted little oversight of HUD and toward the end of the 1980's, began to focus its attention not on oversight but on new housing legislation. Review of HUD reports must be made a more integral part of the oversight responsibility of our authorizing committees.

The management problems at HUD and other agencies can often seem intractable, but we believe that solutions are available. We believe the answer lies in strengthening and clarifying the role of the "watchdogs" in Federal agencies, reducing somewhat the number of political appointees in political positions, requiring stronger attention to management issues in the Federal executive, and providing for more regular oversight of agencies by congressional committees.

Our proposed legislation strengthens Federal "watchdogs" by requiring that all inspector general and GAO audits of Federal agencies state in the summary whether problems discussed by the audit are considered, in the opinion of the auditor, "material weaknesses" pursuant to the Federal Managers Financial Integrity Act.

In addition, all inspectors general would be required to investigate any meaningful allegations that agency managers have lied or made misrepresentations in the Integrity Act evaluations or in the subsequent final report and to report on their findings within 60 days after a formal allegation is made to them in writing.

Our legislation amends the Inspector General Act to clarify congressional intent regarding the use of the 7-day letter. This is a device created by Congress to ensure that inspectors general would quickly bring to the attention of agency management and Congress any flagrant abuse.

Unfortunately, we found that it has rarely been used at any agency and was never used by the HUD inspectors general, despite the existence of flagrant problems.

The overuse of political appointees needs to be addressed in at least two places. We recommend converting the position of assistant secretary for administration at HUD to a career, senior executive position. Second, we propose converting the Program Associate Director positions on the Office of Management and Budget to career positions.

Dwight Ink, president of the Institute of Public Administration, expressed his concern to the subcommittee about creeping patronage into civil service ranks. As Ink noted, the assistant secretary of administration at HUD provides a "focal point for departmentwide management leadership on behalf of the Secretary." Since becoming a political appointment, the position has lost its continuity and effectiveness.

It does not seem unreasonable to insist that the assistant secretary for administration, the only assistant secretary responsible exclusively for day-to-day administration at HUD, be an official who has experience within the department and who is not subject to the political turnstile. Eight other HUD assistant secretaries who oversee specific programs as well as many other positions would continue to be political appointees.

Our most far reaching and most debated recommendation is the creation of a separate Office of Management in the executive branch.

Former Bureau of Budget and OMB officials argued for separating out the management function. OMB and, indeed, the ranking Republican of the subcommittee oppose the split.

The majority concluded, however, that there were no indications that management would become a strong focus at OMB, that a separate agency would achieve this objective, and that we had not heard any alternative proposals that would correct the current neglect. For these reasons, our proposed legislation establishes a separate Office of Management.

As recommended by expert witnesses Harold Seidman and Alan Dean, the Office of Management would be staffed by persons expert in the organization and administration of Government agencies, would be given the resources to be effective, and would develop procedures for tracking agency management and identifying at an early stage breakdowns of the kind which have occurred at HUD.

Seidman and Dean stated:

> We also believe that the primary purpose of OMB oversight should be the prevention of inept or irresponsible administration through the systematic advancement of good management practices, not the belated locking of barn doors after grave shortcomings have come to public attention.

A new Office of Management can help structure new Federal agencies like the Resolution Trust Corporation and renovate those already in existence.

If we are going to strengthen management practices at HUD and other Federal agencies, we must also take steps to enhance oversight by Congress. Measures favored by the subcommittee include requiring congressional committees to hold hearings each year on the Financial Integrity Act report corresponding to each agency under its jurisdiction and designation by the Committee on Banking, Housing, and Urban Affairs of a staff person responsible for developing an oversight plan for the committee, collecting and analyzing GAO, IG, and agency reports, and conducting follow up on those reports.

I am optimistic that with these recommendations and others contained in the full report, we will be able to tighten management practices and thereby reduce the chances that the HUD scandals will be repeated there or elsewhere.

SETTING PERFORMANCE STANDARDS AND GOALS

The need for clarity regarding responsibility for oversight and intended objectives and standards kept sounding through the investigation by the subcommittee. Consequently, we wanted to determine some methods by which Congress and the executive branch could improve the implementation of programs.

In deciding the most effective ways for Congress to fulfill its oversight responsibilities, the subcommittee asked witnesses their views on the use of output or effectiveness indicators as means by which agencies and Congress could gauge the manner in which agencies carry out congressional intent. It became evident that there was a strong need for the clear articulation of congressional goals upon which program effectiveness can be measured.

The subcommittee also studied legislation introduced by Senator WILLIAM ROTH, the ranking minority member of the Senate Committee on Governmental affairs, which requires each agency to establish performance standards and goals for each expenditure in legislation which authorized or appropriated funds.

The bill I am introducing today, follows the initiatives proposed by Senator ROTH.

This bill requires each agency to establish a performance standards and goals plan. Not only will each department and agency be required to submit objective and quantifiable standards and goals, but they will have to evaluate their own performance and include estimates of the resources needed to carry out these responsibilities.

Congress will also be required, except in the case of a procedural waiver, to establish performance standards and goals. Authorizing and appropriating legislation will not be in order in the House of Representatives or the Senate unless the legislation specifies performance standards and goals.

This new requirement will better equip Congress and the administration to gauge how well programs are being implemented.

We have learned from the problems at HUD that when monetary and human resources are cut, the programs become vulnerable to corruption and greed. We must learn that for many programs there is a threshold of fund necessary to make the program worth its existence.

CONCLUSION

The problems at HUD resulted from weaknesses throughout the governmental system. Deficiencies were found in the guidance given by Congress, poor staffing and lack of coordination in the executive branch, managers who didn't manage, unchecked greed and corruption, plus poor oversight by Congress and the White House.

Consequently, it is not surprising that no single proposal will guarantee that we won't experience similar problems in the future. Repeated action on many fronts will be needed to ensure that program goals are being met and taxpayer dollars are being spent carefully.

Even if we pass every piece of legislation proposed by the subcommittee, the administration must take responsibility for providing sustained focus on management issues, and Congress must devote more attention to intelligent program design and to oversight.

If we take this comprehensive approach, we will not only streamline the low income housing program. We will also begin the process of improving the performance and earning increased credibility for all Federal programs.

By Mr. BIDEN (for himself and Mr. ROTH):

S. 1451. A bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights; to the Committee on Commerce, Science, and Transportation.

BENJAMIN FRANKLIN MEMORIAL FIRE SERVICE BILL OF RIGHTS ACT

• Mr. BIDEN. Mr. President, I am pleased to be joined by my colleague from Delaware, Senator ROTH, in introducing the Benjamin Franklin Memorial Fire Service Bill of Rights. This bill is similar to legislation approved by the Senate last year. It is my hope that the Senate will again act quickly on this important legislation.

More than 1 million men and women are part of the fire service community in our Nation. Over 80 percent of these firefighters risk life and limb for no pay as volunteers. And yet for years, career and voluntary fire companies across the Nation have had little to no support from the Federal level. In fact, until recently the attitude of some Federal agencies with responsibilities toward the fire service community was closer to hostility than support.

During the past few years, I have witnessed two developments in the fire service community. I remember 5 years ago when something called the Burton Report was floating around the executive branch. The report called for changes in the structure and operation of the National Fire Academy in Emmitsburg, MD. Many believed those changes would have gutted the fire training programs that are so important to the 32,000 fire companies in the United States. The fire service community was irate.

They fought the recommendations of the report. The report was never adopted. I was pleased to join firefighters in working to block adoption of the report's recommendations. I am not sure if the short battle over the Burton Report was the spark that led to a more active fire service community, but it was certainly an indication of things to come.

Now the Congressional Fire Services Caucus is the largest in Congress. The fire Academy has benefited from legislative changes that protect the academy's integrity and effectiveness, not threaten it. Last year's farm bill established a program to help rural fire companies obtain needed equipment. The changes are underway.

This bill is identical to H.R. 2448, introduced in the House by the originator of this proposal, Congressman CURT WELDON. In fact, I am introducing the Senate counterpart at the request of Congressman WELDON, who is a congressional leader on fire service issues and creator of the Congressional Fire Caucus.

The basic outline of the bill is quite simple. The bill authorizes the minting of commemorative coins, the proceeds from which will be distributed to support several fire education, training and scholarship programs and for the Benjamin Franklin National Memorial, honoring the founder of our Nation's first volunteer fire company.

No cost to the taxpaper is involved with this bill. All the funds for the fire programs will come from surcharges on the sale of the commemorative coins. The programs will provide a much-needed increase in resources to our Nation's fire services. I do not believe it is anything near the support they deserve, but the bill is a tremendous boost to the hundreds of thousands of volunteer and career fire companies in each of the states.

The Benjamin Franklin Memorial Fire Service Bill of Rights is another indication of the growing recognition that career and volunteer fire companies are receiving, recognition that I believe is long overdue.

Fire claims more than 6,000 victims and causes over $10 billion in property damage each year. Over 100 of the victims of fire were the men and women who were at the site to try to put out the fire. It is a hazardous business to be involved with. That is why the training is important and why I have supported efforts to improve the equipment rural and urban companies have to put out the flames.

Delaware has over 4,000 firefighters. Of the State's 60 fire companies, 58 are volunteer. But while so many of Delaware's firefighters contribute their time, other costs are incurred and are growing.

Each call response costs a fire company $1,500, with or without a fire. that means the thousands of fire companies across the nation each have to raise hundreds of thousands of dollars. Protective gear worn by firefighters can cost in excess of $2,000 per person. Replacing trucks and other heavy equipment easily clears $60,000 per vehicle.

And on top of rising expenses, firefighters have to deal with rising demands for their services. In Delaware in 1980, 15,000 emergency calls were made. By last year, that figure had almost tripled to 40,000. But the State's population has grown only 13 percent during that period.

In sum, we are seeing the ingredients for a looming disaster from coast to coast. Equipment, training, and other costs are rising, emergency calls are more frequent, and yet the fire service community is facing more and more difficulty raising the funds to maintain the level of service the public expects.

That is why the bill we are introducing today is so important. It certainly does not clear the many hurdles that lie ahead for thousands of fire companies, but it does increase efforts to address fire problems from a number of angles.

How does this bill help reduce fire's tragic annual legacy? The bill provides financial resources for six important programs related to firefighter health and safety, burn research, firefighter education and training, scholarships for fire science, engineering and related fields, scholarships for survivors of fallen firefighters and education programs for low-income areas that are especially hard hit by fires.

Each of these programs will be run by foundations established by fire service groups. All of the funds must go to the purposes of the foundations, not for overhead or administration. There are many worthy fire programs that, if we had unlimited resources, would be funded. Our goal should be to expand this effort as much as possible, not restrict it. As this bill moves through the legislative process, I will be open to suggestions on how we can support programs in addition to the six listed.

While Senator ROTH and I are pleased to introduce this bill, it is also with a note of sadness that we do so. In the last Congress, it was our late colleague, John Heinz, who introduced the firefighter bill of rights in the Senate, and who guided it through the legislative process on this side of Congress. The ultimate success of the bill I am introducing in the 102d Congress will be built largely on the fine work of Senator Heinz in the 101st.

I know from personal experience how important fire companies are to individuals and communities facing emergencies. And it must be recognized that tremendous gains have been made in saving lives from fire since the landmark report 18 years ago entitled "America Burning." But there is much more to be done. The firefighter bill of rights is an important step toward regaining the initiative on reducing deaths, injuries, and damage from fire. This legislation has the strong support of the fire service community, and I hope will have equally strong support among my colleagues.

I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1451

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Benjamin Franklin Memorial Fire Service Bill of Rights Act".

TITLE I—MINTING OF BENJAMIN FRANKLIN NATIONAL MEMORIAL COMMEMORATIVE COIN

SEC. 101. SHORT TITLE.

This title may be cited as the "Benjamin Franklin National Memorial Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") shall issue not more than 250,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of Benjamin Franklin's contributions to the advancement of science. On each five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1993" and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall be emblematic of Benjamin Franklin's contributions to the American Fire Service. On each one dollar coin there shall be a designation of the value of the coin, an inscription of the year "1993" and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stocks of silver held by the Secretary or from any other federally owned stocks of silver.

SEC. 104. DESIGN OF THE COINS.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Chairman of the Benjamin Franklin National Memorial at the Franklin Institute, the Chairman of the Congressional Fire Services Institute, and the Chairman of the Commission of Fine Arts.

SEC. 105. SALE OF THE COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales shall include a surcharge of $35 per coin for the five dollar coins and $7 per coin for the one dollar coins.

SEC. 106. ISSUANCE OF THE COINS.

(a) FIVE DOLLAR COINS.—The gold coins authorized by this title shall be issued in uncirculated and proof quality and shall be struck at no more than one facility of the United States Mint.

(b) ONE DOLLAR COINS.—The one dollar coins authorized under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular quality.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this title beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—No coins shall be minted under this title after December 31, 1993.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges described in section 105(d) which are received by the Secretary shall be promptly paid by the Secretary as follows:

(1) AMOUNTS PAID FOR THE BENJAMIN FRANKLIN NATIONAL MEMORIAL.—Subject to section 109, the Secretary shall pay to the Franklin Institute (custodian of the Benjamin Franklin National Memorial) 22 percent of the amount of such surcharges so received. Such amounts shall be used—

(A) to restore and renovate the Benjamin Franklin National Memorial (hereafter in this section referred to as the "Memorial");

(B) to construct or renovate areas adjacent to the Memorial relating to the various interests of Benjamin Franklin, such as science, education, and Government;

(C) for exhibits in the Memorial or in the adjoining areas of the Franklin Institute relating to the Memorial, Benjamin Franklin, or to science and education;

(D) for capital funds for construction of access, parking, and facilities related to the Memorial;

(E) for funds for the acquisition and preservation of artifacts relating to Benjamin Franklin; and

(F) to establish an endowment in an amount determined sufficient for the Memorial, in consultation with the Secretary of the Interior, to ensure the continued upkeep and maintenance of the Memorial.

(2) AMOUNTS PAID FOR OTHER PURPOSES.—The Secretary shall pay, of the amount of the surcharges so received—

(A) 13 percent to the Institute of Life Safety Technology and Emergency Management Education to provide grants to colleges and universities for fire training courses at no cost to participants (such Institute shall not require the use of specific course materials as a condition for the receipt of such grant by a college or university);

(B) 13 percent to the International Association of Fire Chiefs Foundation to award scholarships for college level courses in fire science, engineering, and related fields;

(C) 13 percent to the International Association of Fire Fighters Burn Foundation for burn injury research at hospital burn centers and other qualified medical research organizations;

(D) 13 percent to the National Fire Protection Associations' Learn Not To Burn Foundation to deliver public education programs and resources to low income residents in rural and urban communities which have high fire injury and death rates;

(E) 13 percent to the National Volunteer Fire Council Foundation to establish and maintain programs to promote the health and safety of all firefighters; and

(F) 13 percent to the National Association of State Fire Marshals to establish and maintain the "John Heinz Memorial Scholarship Fund" to provide educational scholarships to the children and surviving spouses of fallen firefighters and emergency medical personnel as qualified under the Public Safety Officers Benefit Program.

(b) NATIONAL ASSOCIATION OF STATE FIRE MARSHALS.—For purposes of the educational scholarships described in subsection (a)(2)(F), the Attorney General shall make a list of such children and surviving spouses available to the National Association of State Fire Marshals on a timely basis.

SEC. 109. AUDITS.

(a) FRANKLIN INSTITUTE.—As a condition for receiving the proceeds of the surcharges pursuant to section 108(a)(1), the Franklin Institute (custodian of the Benjamin Franklin National Memorial) shall allow the Comptroller General to examine such books, records, documents, and other data of the Memorial as may be related to the expenditure of amounts paid, and the management and expenditures of the endowment established, under paragraph (1)(F) of such section.

(b) INSTITUTE OF LIFE SAFETY TECHNOLOGY AND EMERGENCY MANAGEMENT EDUCATION, NATIONAL ASSOCIATION OF STATE FIRE MARSHALS, AND THE FOUR FIRE SERVICE FOUNDATIONS.—As a condition for receiving the proceeds of the surcharges pursuant to section 108(a)(2), the Institute of Life Safety Technology and Emergency Management Education, the National Association of State Fire Marshals, and the four fire service foundations described in subparagraphs (B), (C), (D), and (E) of section 108(a)(2) shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of amounts paid.

(c) ADMINISTRATIVE, OVERHEAD, OR OTHER EXPENSES PROHIBITED.—No funds received under section 108, and no interest accruing on any such funds, may be used for administrative purposes, overhead expenses, or for any other purpose not described in such section.

SEC. 110. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this title shall result in no net cost to the United States Government.

(b) PAYMENT FOR COINS.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

TITLE II—FIRE SERVICE BILL OF RIGHTS

SEC. 201. SHORT TITLE.

This title may be referred to as the "Fire Service Bill of Rights Act".

SEC. 202. FIRE SERVICE BILL OF RIGHTS.

Section 2 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Congress"; and

(2) by adding at the end the following:

"(b) FIRE SERVICE BILL OF RIGHTS.—

"(1) America's fire services should be acknowledged as our first responder to domestic emergencies.

"(2) Members of America's fire services deserve every protection from the dangers associated with emergency response.

"(3) Family members of those in the fire services should be provided for in the event of the service-connected loss or disability of any member of a fire service.

"(4) Members of fire services should be educated in the latest fire and life safety sciences, and should have access to ongoing training programs to be able to take full advantage of the latest information.

"(5) Fire services should be provided with state-of-the-art equipment and apparatus to handle all emergency situations.

"(6) America's fire services deserve to have access to up-to-date fire and life safety programs to enable them to protect the public with minimal risk to the safety of their members.

"(7) Responding fire services have a right to know the kind of danger presented by hazardous materials they face in all emergency responses.

"(8) Fire services should be fully informed of the threat of infectious diseases their members face during the course of life safety activities.

"(9) America's fire services have the right to expect that the American people will be full partners in the struggle to preserve life and property from the ravages of fire and other disasters.

"(10) The history of American fire services and the sacrifices their members have made to protect lives and property in communities across the Nation deserve to be commemorated and honored.

"(c) NO PRIVATE RIGHT OF ACTION.—Nothing in subsection (b) shall create any private right of action in any person under this or any other Act.".•

• Mr. ROTH. Mr. President, with the recent release of the Hollywood thriller, "Backdraft," the Nation's eye has come to focus on the members of our Nation's fire service, who daily put their lives in jeopardy for all of us. The attention is well deserved, but unfortunately, Mr. President, the worthy gaze a film may cast upon a certain profession is often times fleeting and short-lived. Public interest in the fire service may wane as the spotlight moves on to another fashionable topic. Meanwhile, the real firefighters the film so colorfully depicts will continue to respond at all hours, day and night, to the call of help so frequently put to them.

Consequently, today I am pleased to join Senator BIDEN in introducing the Benjamin Franklin Memorial Fire Service Bill of Rights Act, to help provide a small measure of lasting support and appreciation for members of America's fire service. This important legislation establishes a fire service bill of rights and programs designed to work in carrying out these rights so justly deserved by the Nation's dedicated firefighters and their families.

The bill authorizes the minting of two special coins in honor of Benjamin Franklin, the Nation's first fire chief. Proceeds from the sale of the coins will be used to fund new programs in recognition and support of the courageous members of America's fire service. A $5 gold coin and a $1 silver coin will be issued by the Secretary of the Treasury and sold with $35 and $7 surcharges applied to each, respectively.

The profit received from the sale of these coins will be distributed to benefit fire service related activities as follows: 22 percent to the Benjamin Franklin National Memorial, for general upkeep, restoration, and exhibits at the Franklin Institute in Philadelphia; 13 percent to the Institute of Life Safety Technology and Emergency Management Education to provide grants to colleges for fire training courses; 52 percent to be divided equally among four foundations established to increase and promote national fire safety awareness, and expand research for treatment in fields such as burn injuries; and 13 percent to the National Association of State Fire Marshals to establish the "John Heinz Memorial Scholarship Fund."

Mr. President, by calling for the minting of these coins and channeling the funds to programs that will work to execute the bill of rights created by this legislation, we honor a great American patriot, entrepreneur, author and a firefighter himself, Benjamin Franklin. But perhaps more importantly, we make possible a series of effective educational and research opportunities to further secure the safety of both the courageous firefighters and the public they serve. Minting a coin at no cost but great benefit to the American taxpayer is, I believe, very much in the spirit of the thrifty Mr. Franklin and an initiative he would surely applaud. Certainly another Pennsylvanian patriot, our late colleague, Senator John Heinz, felt as much when he introduced similar legislation last year praising Mr. Franklin as the "most widely known and respected American throughout the 18th century." Well, Mr. President, it is only fitting that the bill introduced today include a small tribute to our departed friend Senator Heinz, as well.

As I mentioned, a percentage of the funds received by the Treasury will be directed to the National Association of State Fire Marshals to create the "John Heinz Memorial Scholarship Fund." This will help provide educational scholarships to the children and surviving spouses of firefighters and emergency medical personnel killed in the line of duty. Likewise, the fund will ensure a lasting tribute to Senator Heinz, a true friend and champion of the fire services, by enabling those individuals who suffer the loss of a parent or spouse to pursue certain educational opportunities they otherwise might not have.

Mr. President, this bill cannot adequately spotlight the bravery and outstanding character of our Nation's firefighters, as a movie like "Backdraft" manages so effectively to do, but it does what a film cannot: that is to provide the opportunity to fulfill their right to every advantage possible in conducting the daily business of saving lives and protecting property.

Mr. President, the time has come for us to recognize the contributions and importance of our fire service, and declare their right to be accorded every benefit possible in their dangerous line of work. By directing the Treasury to price these coins so that no costs may accrue to the U.S. Government, this legislation honors two great American public servants, benefits our firefighters, and avoids transferring the cost to the American taxpayer. I urge my colleagues to lend their support to this measure and join Senator BIDEN and myself in working for its enactment.•

By Mr. BAUCUS:

S. 1452. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on retail sales in liquors and beer, and to limit the period during which such tax may be assessed; to the Committee on Finance.

SPECIAL OCCUPATIONAL TAX

• Mr. BAUCUS. Mr. President, I rise to introduce legislation that will correct an injustice in our Tax Code. This injustice concerns the collection of a special occupational tax, with penalty and interest, from thousands of small businesses whose owners, with justification, had no idea that such a tax existed.

The Bureau of Alcohol, Tobacco and Firearms [BATF] is currently attempting to collect from small businesses back, sometimes decades old, occupational taxes, as well as penalty and interest. These occupational taxes are imposed on retailers of alcoholic beverages, including grocery stores and restaurants. While this tax has existed for many years, prior to 1989 it was not considered cost effective to enforce collection. Because collection was not enforced many businesses had no knowledge that any liability existed.

Prior to 1989 the tax was only $54 per year. In 1987 the tax was raised to $250 and BATF was put in charge of collecting back taxes, with penalty and interest, without regard to any statute of limitations. Small businesses are therefore being billed large amounts for back taxes that they did not know existed and did not intentionally avoid.

My legislation would waive all taxes, interest, and penalties incurred prior to the change in the law and enforcement policy. The legislation would also lower the tax rate on retailers to $165 per year.

I ask that my colleagues join me in support of this legislation which will provide a more equitable tax to small business owners who currently are being penalized unfairly without prior notification that the tax existed.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION OF OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—Section 5121 of the Internal Revenue Code of 1986 (relating to imposition and rate of occupational tax on retail dealers) is amended by striking "$250" each place it appears and inserting "$165".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

SEC. 2. LIMITATION ON ASSESSMENT PERIOD FOR OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—In the case of any tax imposed by section 5121 of the Internal Revenue Code of 1986, with respect to any taxable period beginning before January 1, 1989—

(1) no assessment of any such tax may be made after the date of the enactment of this Act,

(2) if such tax was assessed after December 31, 1987, and on or before such date of enactment, such assessment shall be abated, and

(3) if such tax was collected after December 31, 1987, and on or before such date of enactment as an overpayment.

(b) DEFINITION.—For purposes of paragraphs (1) through (3) of subsection (a), the term "tax" includes any interest, addition to tax, additional amount, or assessable penalty with respect to the tax.●

By Mr. WIRTH: (for himself, Mr. ROCKEFELLER, Mr. LAUTENBERG, Mr. AKAKA, Mr. MACK, Mr. PACKWOOD, Mr. SPECTER, and Mr. BOND):

S. 1453. A bill to prohibit the awarding of United States Government contracts to foreign persons that comply with the Arab boycott of Israel; to the Committee on Governmental Affairs.

ENDING THE ARAB BOYCOTT OF ISRAEL

Mr. WIRTH. Mr. President, I rise today to introduce legislation aimed at tightening currently existing U.S. antiboycott laws. I am joined in this effort by Senators ROCKEFELLER, LAUTENBERG, AKAKA, MACK, PACKWOOD, SPECTER, and BOND.

Since 1948, the Arab nations have imposed a boycott and embargo against Israel. Any company in the world that has trade relations with Israel or investments in Israel is barred from doing any business whatsoever with any Arab country—save for Egypt since the signing of the Camp David accords.

The Arab primary and secondary boycotts have been a shackle on the Israeli economy. Here at home, the boycott has meant suffering and economic losses for any American company that trades with Israel, or has a relationship with another company that itself trades with Israel. In short, the secondary, Arab boycott has put American companies refusing to comply with it at a tremendous competitive disadvantage.

Recently, at a meeting of the Arab League, 400 additional United States companies were added to the blacklist of those that are barred from doing businesss in the Arab world due to their trade relations—direct or indirect—with Israel.

I ask unanimous consent to have printed in the RECORD a partial list of the recently blacklisted American companies.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTIAL LIST OF U.S. COMPANIES BLACKLISTED BY THE ARAB LEAGUE

Accent International, Inc., Delaware.
Acme Services and Container Co., Michigan.
AEL Industries Inc.
Aetna Life and Casualty.
Aerodynamics Industries, Inc.
Agfa Gavart, New York.
Albi Enterprises Inc.
Aldrich Chemical Co. Inc.
All State.
Ambrint Sugars Inc.
Amerex Fire International, Inc.
American Systes Cope Makers Inc.
American Electronics Laboratories of Pennsylvania.
American Express.
American Motors General.
American Motors Corporation.
American Products Company.
American Task Terminals Inc.
Amplica Inc., California.
April Music Inc., Connecticut.
AGA-Alusirisse of America Inc.
Aluswiss Metal Inc.
Apex-Automotive Warehouse.
Aqua Chem Inc.
Armstrong Machine Works.
Arrow Inter-American Incorporation.
AT&T.
Atlantic Products of New Jersey.
Avis.
Avon.
Award.
Barreto Peat Inc.
Basco Division.
Baxter Laboratories.
Bell Laboratories.
Bellows Gin.
Bellows Vodka.
Bell Telephone Laboratories.
Barkan Ellerman.
Bio Lab Inc.
Black Box.
Blackword Music Inc., Connecticut.
Blue Flame Gas Corp., Delaware.
B&M Oil Inc.
Briggs and Stratton Corp.
Bulova.
Bulova Watch Company.
Butler King.
Calverpeat Inc.
Carte Blanche.
Cannon Group Inc.
C.B.S. Record Ltd., New York.
C.B.S.
C.B.S./EVR. Inc., New York.
C.B.S. Holt Group.
C.B.S. Films Inc., California.
C&C Manufacturing.
C.D.C.
Centronics Data Computer.
Chanel Industries Gas Corp.
C.M. Maryland and Sons.
Chapman Services Ltd.
Chromailey American Corp.
Chrysler.
Clayson Harvesters Equipment.
Cluett Peabody and Company.
Clupak Inc.
Coca Cola.
Colgate Palmolive.
Collins Pipeline Co.
Colt Industries.
Colt Industries Operating Corp.
Compugraphic International Corp.
Comsat.
C. General Corp.
C. General Integrated-Systems Inc., Texas.
Concept Industries.
Concept International Sales.
Condec Corp.
Connecticut General.
Consolidated Control Corp.
Consolidated Diesel Electric.
Continental Grain.
Controls Corp.
Conval Corp.
Conval Internatinal Ltd.
Conval Ohio Inc.
Convers Rubber Company.
Consolidated Aluminum.
Cooper Lazer Sonics.
Creative Playthings Inc.
Crosley International Inc.
C./Telesystems Inc.
Currier-Smith Corp.
C. World System Division.
Data International Corp.
David Mikel Inc.
Data Limited.
Daval Industries.
D.C.M. Trading Corp.
Del Monte Corp.
Alaska Packers Association.
California Pretzel Co. Inc.
Calpak Properties Inc.
Banana Processors Inc.
Southern Stevedoring.
Distribution Systems.
Northwest Arkansas Truck & Equipment Inc.
Boise Truck & Equipment.
Dondo Fairchild General Freight Inc.
De Law Cather.
Dexter Corp.
Distribution Management.
Direct Oil Inc., Florida.
Dover.
Doric Corp.
Dubledee Diamond Corp.
Du-Pont.
Dwyer Instruments.
East Tennessee Natural Gas, Tennessee.
E.I. dupont de Nemours.
Eltra Corp.
Eltran.
Emerald Trading Corp.
Endico Potatoes Corp.
Energy Products Holding Inc.
Eschem.
Ersh Inc., New York.
Esl Incorporated.
Esmark Inc.
Estech Inc.
Estech Internatinal Corp.
Estech Investment Inc.
Export Agencies Corp.
Fairbanks.
Fenchurch Risk Managers.
Fidelity Mutual and Mutual Life.
Field & Co. Fruit Merchants Ltd.
Field & Stream Popular Gardening.
5152 Ground Floor.
Filbrelite Corp.
Fisher Controls Co.
Fisher International.
Fisher Service.
Fisher Mills.
Ford Motors.
Foster Grant Co. Inc.
Gabriel Industry Inc.
G.A.P. Corporation.
Garland Industries.
Garlock.
G.D. Searle & Co.
Gemprint.
General Electric Corp.
General Form Plastics Corp.

General Form Corp., New York.
General Motors Overseas.
General Refractories Company.
General Telephone Electronics.
Genesco Inc.
Gerber Products.
Gilbey's Gin.
Graphic Credit Corp.
Granny Goose Foods Inc.
Great Lakes Container Corp.
Grefco Export Corp.
Grefco International Inc.
Grove International.
G.N.X. Export Corp.
G.T.E. International Inc.
G.T.E. Credit Corp.
G.T.E. Sylvania Inc.
G.T.E. System Security Products.
G.T.M. Dandy.
Guinnes Past Aviation.
Guit Company Inc.
Gulf & Western Industries.
Hammond Valve Corp.
Handleman Industries Inc.
Hans Corporation.
Hartol Petroleum Corp.
Harry Winston Inc.
Health Co. of Michigan.
Helena Rubenstein Inc.
Helene Curtis Inc.
Henry C. Lytton & Co.
Heritage Company of Houston.
Hertz Corp.
Hayden Newport Chemical Corp.
Heyward-Robinson Co. Inc.
H.F. Staiger Co. Inc.
H.I.C. Inc.
Hilton Hotels.
H.M.W. Industries Inc.
Holt Rinehart & Winston.
Home Insurance Co.
Horizon Industries Inc.
H.T. Gathering Co.
Hughes Aircraft Co.
Hughes Aircraft Systems.
International Mineral and Chemical.
International Playtex Co.
J.B. Williams Corp.
Keystone Lighting Corp.
Levi Strauss.
Lincoln Electric.
Mattel Inc.
Medtronic Inc.
Milwaukee Die Casting, Inc.
Monroe Auto Equipment.
National Packing Co.
NCR.
Newport News Shipbuilding & Drydock Corp.
New York Yankees.
Oak Creek Trucking Co.
Palmolive U.S.
Paramount Picture Corp.
Tenneco Chemicals.

Mr. WIRTH. Mr. President, I would also note that these companies are well known to many of my colleagues, who I am sure share my own concern about the disadvantage the boycott imposes on their constituents.

At a time when our Government is aggressively pursuing a peace process in the Middle East, further expansion of the Arab boycott is pure poison. We should bend every effort to reverse the harmful and unjust economic isolation of Israel. If the State Department is serious about "confidence building measures" in the Middle East, they could start by putting the full weight of the U.S. Government behind the effort to dismantle the Arab League boycott.

As we are trying to bring Israel and Arab countries alike closer to negotiations, the continuation and expansion of the boycott is a serious obstacle to real progress in the peace process. Mr. President, it is with regret that I point out that several of our coalition partners in the Persian Gulf war are among the most ardent supporters of the Arab boycott.

The position of this body on the boycott has been unequivocal. Congress has enacted legislation to prohibit American companies from boycott compliance. The Export Administration Act of 1977 and the Tax Reform Act of 1978 included strict antiboycott legislation.

My bill would expand currently existing laws to prohibit U.S. Government contracts to foreign firms that comply with the Arab boycott. It would require foreign firms bidding for U.S. Government contracts to certify during the normal application procedure that they do not comply with the Arab boycott. After all, the very government that enforces antiboycott legislation for its own American companies should not be in the business of rewarding foreign companies that comply with the boycott by allowing them to receive government contracts.

This legislation closes a loophole in our laws by focusing attention on foreign companies that are interested in doing business with our Government. In doing so, it sends a strong message to foreign countries that the Arab boycott is not tolerated in the United States.

I cannot think of a more timely occasion for introducing this legislation. The members of the G–7 are meeting this weekend for their annual economic summit. Eighty-three Senators yesterday sent a letter to the President urging him to raise this issue with his G–7 partners. I ask unanimous consent that a copy of the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 10, 1991.

DEAR PRESIDENT BUSH: As you prepare for the annual G–7 meeting of major industrialized nations, we urge you to make the Arab League economic boycott a high priority on the U.S. agenda. We urge you to press our G–7 allies in the strongest terms possible to end their compliance with the boycott.

Since the early 1950's, the Arab League has maintained a secondary and tertiary boycott which targets companies that do business with Israel or companies that do business with other companies involved with an Israeli company. This offends the very principles of free and open international trade espoused by the G–7 nations last year in Houston.

While the U.S. has enacted strict laws which prohibit U.S. firms from complying with the boycott, our major trading partners have taken no such action. Accordingly, U.S. firms vying for contracts are put at a competitive disadvantage with foreign companies because of the boycott restrictions. We must implore our trading partners to examine their own policies toward the boycott, and urge them to pass legislation which prohibits private sector compliance.

America and the industrialized nations of the world fought to preserve the national sovereignty of Arab nations faced with Saddam Hussein's aggression. It is inconceivable that they will not trade with companies which have business relations with Israel.

The U.S. cannot unilaterally succeed in this endeavor. In order to effectively stifle the coercive effects of the Arab boycott, we need the cooperation of our allies. They too should have laws that prohibit their companies from complying with the Arab boycott of Israel. During the war, we witnessed just how powerful the world community can be when it is unified. This issue is no different. It requires cohesion. If the industrialized countries are unified in their approach, the Arab countries can be convinced to lift their boycott against businesses that do have economic relations with Israel.

It is imperative that the U.S. provide the leadership and the vision at the G–7 conference to accomplish this goal. We look forward to working with you on these issues.

Sincerely,

Frank R. Lautenberg, Timothy E. Wirth, Joseph I. Lieberman, John D. Rockefeller IV, Larry Pressler, Dan Coats, Dennis DeConcini, Connie Mack, Bob Packwood, Charles E. Grassley, Daniel K. Akaka, John McCain, Daniel K. Inouye, Thomas A. Daschle.

Brock Adams, Sam Nunn, John Seymour, Bennett J. Johnston, John Glenn, Alan J. Dixon, Tom Harkin, Donald W. Riegle, Jr., Wendell H. Ford, Claiborne Pell, Alfonse M. D'Amato, Arlen Specter, Bill Bradley, Don Nickles, Jesse Helms, John F. Kerry.

Bob Graham, Howard M. Metzenbaum, Terry Sanford, Daniel Patrick Moynihan, Larry Craig, Conrad Burns, Nancy Landon Kassebaum, Quentin N. Burdick, Herb Kohl, George J. Mitchell, Charles S. Robb, Christopher J. Dodd, Alan Cranston, William S. Cohen, Richard Bryan, Earnest F. Hollings.

Barbara A. Mikulski, Paul S. Sarbanes, Max Baucus, Paul Wellstone, Jim Sasser, Dale Bumpers, Kent Conrad, James Exon, Harry Reid, Paul Simon, Carl Levin, Lloyd Bentsen, Albert Gore, Joseph Biden, Jake Garn, Robert J. Kerrey.

Hank Brown, Ted Stevens, Warren B. Rudman, Christopher S. Bond, Robert Smith, Robert W. Kasten, Jr., Robert Dole, Edward M. Kennedy, Howell Heflin, Phil Gramm, Mitch McConnell, Pete V. Domenici, Slade Gorton, Dave Durenberger, John C. Danforth, Richard G. Lugar, Wyche Fowler, Jr., Harris Wofford, Richard Shelby, John Breaux, Orrin Hatch.

Mr. WIRTH. Mr. President, at a time when our Government is aggressively pursuing a peace process in the Middle East, further expansion of the Arab boycott is pure poison. We should ban every effort to reverse the harmful and unjust isolation of Israel. If the State Department is serious about confidence building measures in the Middle East, they can start by putting the full weight of the U.S. Government behind the efforts to dismantle the Arab league boycott. Yesterday 83 Members of the U.S. Senate signed a letter which I authored to the President asking him to raise this issue at the G-7 summit. It is important that we enlist the economic pressures not only of the United States but of the other major economic powers in the country to help move the Middle East away from this kind of economic confrontation and toward the sort of negotiation that we would all like to see. It is negotiation posture rather than a confrontation posture that I think all of us wish to see pursued post-Persian Gulf and post-Desert Storm. The opportunities are there, but unfortunately the recent actions by the Arab league appear to be dragging us in the opposite direction. I hope this legislation will head us in the right direction.

Mr. PACKWOOD. Mr. President, it is time to end the Arab League boycott of Israel and those companies who conduct business with Israel. The boycott of Israel continues to be a major obstacle for achieving peace in the region. American companies are unfairly penalized by the Arab boycott because U.S. law does not permit them to comply with the boycott. Foreign companies are not subject to similar restrictions and choose to comply with the boycott rather than lose business with the Arab world. In order to increase pressure on those foreign companies which comply with the Arab boycott, my colleagues and I are introducing a bill today which would require foreign companies who bid for U.S. Government contracts to certify they do not comply with the boycott of Israel.

Recently, the Arab League increased its list of American companies who do not comply with the boycott. A strong message is needed to inform the Arab League that it will not be business as usual after the Persian Gulf war. Recognition of Israel, the cessation of the constant state of belligerency against Israel, and the end of the Arab boycott are necessary and fundamental steps for the restoration of trade and the seeds of peace.

By Mr. SEYMOUR:

S. 1454. A bill to establish penalties for participation in illegal gang activity; to the Committee on the Judiciary.

PENALTIES AGAINST GANG VIOLENCE ACT

Mr. SEYMOUR. Mr. President, I rise today to introduce the Penalties Against Gang Violence Act of 1991—legislation that represents an additional chapter in my efforts to enlist the Federal Government to join forces with State and local government in their efforts to combat illegal gang activity.

For the past several months, Americans have lined the streets from Washington State to Washington, DC, waving to sons and daughters, fathers and mothers, neighbors and friends—the brave men and women of Operation Desert Storm. But each day, Americans in the south central section of Los Angeles stand on their neighborhood streets, but they stand in sadness, not in celebration. They stand to see friends and family as victims, not victors, of a different kind of war—a war in which a Los Angeles resident is more at risk of being a casualty than a member of the Armed Forces at the height of Desert Storm. The war I speak of is a gang war, its main combatants are known as Crips and Bloods, but they are Americans. And their victims are Americans.

Fueled primarily by drug trafficking, gang activity has brought destruction to parks, schools, and neighborhoods across my State of California. In the Los Angeles Country suburb of Compton, two students were seriously wounded, and two others were tragically killed on or near high schools as a result of gang activity this year. Indeed, in far too many Los Angeles high schools, gang violence is as common an event as a pep rally.

In my State capitol of Sacramento, Californians watched their TV's in horror as a youth gang opened fire on the hostages they were holding in an electronics store—just some of the thugs in a city reported to have more than 3,500 known gang members, some as young as 11 years old.

But violent gangs are not unique to California. Gang activity is a malignant tumor, a fatal cancer spreading across the United States. The California Department of Justice reported that from Dallas to Des Moines, from Phoenix, AZ, to Fayetteville, GA, the Crips and Bloods are infecting Main Street, U.S.A., with dangerous drugs and naked violence.

Combating this growing national epidemic requires national action. With the same resolve that Americans pledged to liberate Kuwait, we must work together to take back our schools, our parks, our streets. To win this war of mindless terror requires a coordinated effort from leaders of law enforcement, of communities, and of government.

That is why I joined with the distinguished senior Senator from Pennsylvania last month to introduced the Anti-Gang Violence Act of 1991, legislation to facilitate a united effort to combat gang violence.

This legislation enlists the Bureau of Alcohol, Tobacco and Firearms to work directly with State and local law enforcement to combat gang-related drug trafficking and violence, and strengthens Federal criminal penalties that will allow the Federal Government to make an effective strike against the spread of interstate gang violence.

But I believe that even further penalties are needed to strike at these ruthless gangs, and that is the purpose of the legislation I am introducing today. The Penalties Against Gang Violence Act effectively make participation in a gang that engages in criminal activity illegal. Anyone who takes action that helps a criminal gang can be put in prison for 3 years.

Anyone convicted of violating Federal law that is done to further criminal gang activity can face an additional 7 years in prison, and if that action results in serious bodily injury, the additional penalty can be as much as 12 years in prison.

If this legislation is enacted, you can bet that more of these gang thugs will be roaming the halls of Lompoc, rather than the streets of Los Angeles.

Taking on the toughest problems that we face on our streets requires the toughest response possible by all levels of government. And this legislation, as well as the Anti-Gang Violence Act, represent a tough and effective response by the Federal Government.

Several of my distinguished colleagues have also shown a strong interest in confronting gang violence. The senior Senator from Arizona [Mr. DECONCINI] has also offered an innovative antigang proposal that includes several of the provisions in the Anti-Gang Violence Act. It is my sincere hope that all of us will work together to send a comprehensive antigang bill to the President—one that includes tough penalties, law enforcement coordination programs, and community empowerment projects that help Americans take back their streets.

But, in all modesty, Mr. President, any comprehensive legislation we enact will not, by itself, be the solution to ending gang violence. It will not mean the end to Crips and Bloods—an end to the fear that forces families to hide in their very own homes.

The secret to victory in the streets of America can be found in the known secret to our victory in the desert valleys of Iraq: A resolve to restore liberty and justice—a spirit found deep within all law-abiding Americans. Those brave young men and women who we've saluted for this heroic victory in the desert are normal people: factory workers, bookkeepers, teachers, and clerks.

And we can best celebrate their victory in the desert by working together to achieve another heroic victory in the streets. By passing the Penalties Against Gang Violence Act, as well as other comprehensive antigang proposals, we will give Americans the tools to take back their streets and be the victors, not the victims of our fight against ruthless gangs.

By Mr. GRAHAM (for himself, Mr. GARN, Mr. REID, Mr. BRYAN, Mr. CRAIG, and Mr. SYMMS):

S. 1455. A bill entitled the "World Cup USA 1994 Commemorative Coin Act"; to the Committee on Banking, Housing, and Urban Affairs.

WORLD CUP USA 1994 COMMEMORATIVE COIN ACT

Mr. GRAHAM. Mr. President, I rise today to introduce a bill to authorize the minting of coins commemorating the 1994 World Cup Games, which will take place in the United States of America. I am pleased to have the distinguished and ranking member of the Banking Committee and several of my Senate colleagues joining me as original cosponsors.

The World Cup Games will provide our Nation with a tremendous source of pride and glory. The games have invigorated nations with a peacetime comradery for 60 years. In 1994, the United States can for the first time foster this feeling on our own playing fields. Not only is it the first time we will host the competition, but this is our first opportunity to participate in the event.

The magnitude and importance of the World Cup Games is unequaled in the sporting world. The World Cup is the largest single-sport spectacle in the world—only the Olympic Games compare in scope and international interest. For example, the most recent World Cup, held in Italy in 1990, was viewed by a cumulative worldwide television audience of over 26 billion. The championship game itself was watched by 1.3 billion viewers, the largest live audience in history. In comparison, Super Bowl XXIV had an audience of 110 million.

We are immensely fortunate to be the host of an event with such extensive appeal. It is now time to move from feeling gracious to feeling driven, driven to make World Cup USA 1994 an exciting showcase to the rest of the world.

The bill I am introducing today will authorize the minting of coins to commemorate World Cup USA 1994. This bill will create gold, silver, and clad coins to be minted by the U.S. Mint and sold to the public in commemoration of this historic event. The revenue from the sales of these coins will be used principally to support U.S. efforts to host the games, and at no net cost to the Government. Currently, 2 dozen communities from 21 States nationwide, including 3 in my home State of Florida, are vying to host a portion of this historic event. The coin sales will help ensure that state-of-the-art facilities are in place in the host communities. In addition, 10 percent of the revenue will go toward scholarships awarded by the U.S. Soccer Federation Foundation.

In 1994, when the World Cup Games come to America, we will witness the birth of a relationship between world-class soccer and American hospitality. Congress has the opportunity to do its part with passage of the World Cup USA 1994 Commemorative Coin Act. America has been very successful in hosting major international sporting events, with the 1984 Olympic Games and the Pan American Games as the most recent achievements. This legislation will send a message to an expected live audience of 20 to 30 billion viewers, and to the athletes, that our Government is behind this effort to bolster worldwide athletic competition.

I urge my colleagues to join me in support of this bill. In doing so, they will be expressing their support for the spirit of competition, for pride in America, and for this inaugural effort to bring world-class soccer to America.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "World Cup USA 1994 Commemorative Coin Act."

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of Title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of Title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of Title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation of the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(b) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the enactment of this Act. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 5. SALE OF COINS

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

SEC. 6. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this Act shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities.

(c) BUREAUS OF THE MINT.—Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provision of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Organizing Committee. Such amounts shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with ten percent of such funds to be made available through the United States Soccer Federation Foundation, Inc. for distribution to institutions providing scholastic scholarships to qualified students.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage

profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) No Net Cost.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the federal Government.

(b) Payment Assurances.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

By Mr. ROTH:

S. 1456. A bill to amend the Internal Revenue Code of 1986 to restore foreign tax credits for taxes paid or accrued to Angola; to the Committee on Finance.

FOREIGN TAX CREDIT FOR TAXES PAID TO ANGOLA

• Mr. ROTH. Mr. President, yesterday, I told my colleagues in the Senate that, if the President moved to raise United States economic sanctions on South Africa, I would support him. I also informed my colleagues that it was my firm opinion that the President should demonstrate an even-handed approach to the Southern African region by lifting United States sanction now in place on Angola. Shortly after I spoke, the President announced his decision to move on South Africa. No parallel initiative was announced for Angola and, consequently, today I am introducing legislation to regularize this Nation's economic relations with Angola.

Mr. President, in submitting this legislation, I am motivated only in part by concern for our diplomatic position in southern Africa. I am, quite frankly, more concerned by our balance of payments and the need to maintain the competitiveness of U.S. companies operating overseas. The Angolan economy may be devastated by civil war, but its potential is enormous, largely because of that nation's huge oil and mineral resources. United States companies are eager to expand their operations in Angola, but they are severely hampered by the fact that discriminatory United States legislation effectively subject them to double taxation.

As a result of this double taxation, Mr. President, United States companies are severely hampered as they seek to compete with those European companies who are aggressively pushing into Angola. I should point out to my colleagues, in passing, that the EC never imposed any sanctions on Angola and European companies are now snapping up huge off-shore oil drilling concessions which, quite frankly, I would like to see go to United States companies.

Quite frankly, Mr. President, these European companies seem to know something that the United States Government does not, namely, that Angola's long civil war is over. The National Government, the popular movement for the liberation of Angola, the so-called MPLA, the former client of the Soviet Union, has signed the peace accords for Angola with the United States-backed national union for the total independence of Angola-UNITA. The accords provide for an internationally monitored cease fire, the opening up of national political life and internationally supervised national elections.

Mr. President, when the IPLA and UNITA were at war, I was a strong supporter of U.S. assistance to UNITA and an opponent of the MPLA. But I recognize that the situation has changed radically, and requires changes in U.S. policy.

Moscow is no longer capable of, or interested in, supporting the MPLA. As I have already mentioned, the two warring parties have agreed to settle their differences by submitting themselves to the electoral process. Under these circumstances, what is the rationale for our refusing to trade with Angola as we do with virtually every other nation in the world? I do not pretend to know who will win Angola's national elections but, presumably, no victorious party will wish to inherit an economic desert. Angola needs investment and development now, and United States companies need unfettered access to Angola now before all the plums are snatched up by their European competitors.

Consequently, Mr. President, I truly hope that the Senate will move swiftly on this matter. Certainly, I shall look for every opportunity to press the matter via the amendment process.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOREIGN TAX CREDIT FOR TAXES PAID TO ANGOLA.

(a) In General.—Paragraph (2) of section 901(j) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new subparagraph:

"(D) Special rule for Angola.—Notwithstanding clauses (i) and (iii) of subparagraph (A), this subsection shall not apply to Angola, unless the Secretary of State certifies to the Secretary of the Treasury that the Peace Accords for Angola, signed at Lisbon on May 31, 1991, by the President of the People's Republic of Angola and the President of the National Union for the Total Independence of Angola, are not being implemented."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.•

By Mr. GLENN (for himself and Mr. GRASSLEY):

S. 1457. A bill to amend the Older Americans Act of 1965 to assist older individuals to avoid falling and to prevent incorrect medication and adverse drug reactions; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 1458. A bill to amend the Older Americans Act of 1965 to authorize services relating to the appointment and monitoring of guardians, and of representative payees, of older individuals; to the Committee on Labor and Human Resources.

S. 1459. A bill to amend the Older Americans Act of 1965 to provide supportive services to strengthen informal caregivers who assist older individuals in need of long-term care to remain in private residences; to the Committee on Labor and Human Resources.

LEGISLATION AMENDING THE OLDER AMERICANS ACT

• Mr. GLENN. Mr. President, I strongly support reauthorization of the Older Americans Act which offers many valuable services to our Nation's senior citizens. Since it was first enacted in 1965, the Older Americans Act has provided a wide array of programs to seniors in their communities, programs such as congregate and home-delivered meals, home health care, transportation, legal services, and employment. The intent of these programs is to keep people as independent as possible, thus enhancing their quality of life.

This year, Congress will once again reauthorize the Older Americans Act. As part of this process, I am introducing three bills to amend the Older Americans Act which emphasize issues of particular concern to me—preventive health services, guardianships, and assistance for family caregivers. These bills, which are summarized below, have been introduced in the House of Representatives by Congresswoman OLYMPIA SNOWE.

PREVENTIVE HEALTH SERVICES FOR OLDER AMERICANS AMENDMENTS OF 1991

Health problems of older persons can be prevented or postponed through healthy lifestyles. Increasingly we are learning of the benefits of health promotion and wellness efforts even if they are begun in our older years.

This bill would strengthen preventive health services under the Older Americans Act by emphasizing services to prevent older individuals from falling in their homes, which often leads to fractures for people with osteoporosis; nutrition counseling for osteoporosis and cardiovascular disease; and medication management screening and education to prevent incorrect medication and adverse drug reactions.

I am pleased that Senator GRASSLEY has joined me in introducing this bill.

OLDER AMERICANS GUARDIANSHIP ASSISTANCE AMENDMENTS OF 1991

Approximately 500,000 Americans are currently under guardianship. These people, who have been found by a court to be unable to manage their own affairs, must transfer their legal rights, possessions, and decision-making power to another person. Action is needed to solve problems and protect against abuses in our guardianship system.

This bill would require the long-term care ombudsman program to include protection of the welfare and rights of residents regarding the appointment and activities of guardians and representative payees; authorize legal assistance programs to represent wards, and older individuals who seek to become guardians, if other adequate representation is unavailable in guardianship proceedings; and would authorize services to provide information and training for individuals to become guardians and representative payees of older individuals.

CAREGIVERS SUPPORTIVE SERVICES AMENDMENTS OF 1991

Over 80 percent of all care for the frail elderly is provided by family members. Because of our aging population, there is a great need for inhome and community-based services, including respite for caregivers, to help those who are providing the bulk of personal care for the elderly.

This proposal authorizes supportive services to strengthen caregivers, such as training, access to support groups, respite care and information, and referral for other services.

Mr. President, I urge my colleagues to join me in reaffirming our support for the Older Americans Act and for its primary goal of providing services to maintain the dignity and promote the independence of senior citizens.

I request that the text of the bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventive Health Services for Older Americans Amendments of 1991".

SEC. 2. DEFINITION OF PREVENTIVE HEALTH SERVICES.

Section 363 of the Older Americans Act of 1965 (42 U.S.C. 3030o) is amended—

(1) in paragraph (3) by inserting "fall prevention and" after "programs on",

(2) in paragraph (4) by inserting "(with special emphasis on osteoporosis and cardiovascular diseases)" after "counseling",

(3) in paragraph (6) by striking "and" at the end,

(4) in paragraph (7) by striking the period at the end and inserting "; or" and

(5) by adding at the end the following:

"(8) medication management screening and education to prevent incorrect medication and adverse drug reactions.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by section 2 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

S. 1458

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans Guardianship Assistance Amendments of 1991".

SEC. 2. AMENDMENTS.

(a) DEFINITION.—Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(1) by redesignating paragraphs (14) through (21) as paragraphs (12) through (19), respectively, and

(2) by adding at the end the following:

"(20) The term 'representative payee' means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is by reason of a physical or mental incapacity unable to manage funds, any funds owed to such individual by such entity.".

(b) STATE PLAN.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended—

(1) in subparagraph (A)(i) by inserting before the semicolon the following: "(including the welfare and rights of such residents with respect to the appointment and activities of guardians and representative payees)", and

(2) in subparagraph (J)(iv)—

(A) in subclause (I) by striking "and" at the end,

(B) in subclause (II) by striking the period at the end and inserting "; and", and

(C) by adding at the end the following:

"(III) if a legal guardian refuses to give such permission and if a representative of the Office (with reasonable cause to believe that such guardian is not acting in the best interests of the resident for whom such guardian is appointed) obtains the approval of the State Long-Term Care Ombudsman, access to such records as is necessary to investigate a complaint.".

(c) SUPPORTIVE SERVICES.—Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (6)—

(A) by inserting "to older individuals" after "provide", and

(B) by striking "including" and all that follows through the semicolon, and inserting the following:

"including—

"(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage; and

"(B) representation of wards (or individuals allegedly incapacitated), and of older individuals who seek to become guardians, if other adequate representation is unavailable in guardianship proceedings;",

(2) in paragraph (18) by striking "or" at the end,

(3) by redesignating paragraph (19) as paragraph (20), and

(4) by inserting after paragraph (18) the following:

"(19) services designed to provide information and training for individuals to become guardians and representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianship; or ".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by section 2 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

S. 1459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caregivers Supportive Services Amendments of 1991".

SEC. 2. DEFINITION OF SUPPORTIVE SERVICES.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (18) by striking "or" at the end,

(2) by redesignating paragraph (19) as paragraph (20), and

(3) by inserting after paragraph (18) the following:

"(19) services, such as information and referral, respite care, training, and access to support groups, designed to strengthen family members and volunteers who assist older individuals in need of long-term care (particularly older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction), to remain in private residences.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by section 2 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.●

By Mr. LEVIN (for himself and Mr. WOFFORD):

S. 1461. A bill to amend the Federal Deposit Insurance Act to require States whose State chartered financial institutions cause disappropriate Federal insurance losses due to inadequate State regulation, to pay an insurance premium as a condition of future Federal deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSIT INSURANCE PROTECTION ACT

● Mr. LEVIN. Mr. President, I am today introducing a bill to encourage stronger State oversight of State-chartered financial institutions which are federally insured. It's hard to believe that in the wake of the billion-dollar S&L bailout, guaranteeing effective State oversight has been largely ignored, but it has and that is the issue addressed in this bill.

Strong State oversight of State-chartered institutions is essential to protect taxpayer dollars at risk through Federal deposit insurance. Just look at the facts—approximately 67 percent of the federally insured commercial banks are State-chartered. The same is true for about 35 percent of the S&L's and about 30 percent of the credit unions. Together, these State-chartered entities comprise over 14,000 federally insured institutions with over $1.5 trillion in assets.

The S&L disaster has caused the closure of hundreds of State-chartered S&L's which, as of September 1990, are responsible for $33 billion of the S&L bailout costs. And the bailout amount keeps climbing. If bank and credit union failures also continue, taxpayers could be saddled with tens of billions of dollars of more debt.

In the past few years, we have heard plenty about the importance and failings of Federal regulators whose job is to oversee federally insured financial institutions. GAO has told us that we need tougher examinations, earlier identification of problems, and quicker, no-nonsense intervention at troubled institutions. But what we haven't heard is a prescription for the same strong medicine to improve State oversight.

States play a crucial role in ensuring that financial institutions operate in a safe and sound manner. Federal bank regulators, for example, often rely on State examinations to flag problems in healthy banks. Federal S&L regulators may rely on State examinations for as long as 2 years for highly rated S&L's.

If a State fails to flag the problems in its healthy institutions, Federal regulators may be forced to pick up the pieces later, when the problems have worsened and, all too often, are more costly to cure. GAO has repeatedly emphasized the importance of early identification and intervention at troubled financial institutions, both to maximize the opportunity for corrections and to minimize the risk to taxpayers. Strong State oversight is an essential part of that early warning system.

Currently, the quality of State regulation varies from State to State. There are no mandatory Federal controls over State regulatory programs for financial institutions. Voluntary professional associations have certified only 21 State programs regulating banks and 5 State programs regulating credit unions. Not even a voluntary certification program exists for S&L's. And while most States use a standard examination for their credit unions, no standard examination exists for banks or S&L's.

Three recent examples illustrate the risks we face when State oversight of federally insured institutions is not as tough as it should be.

In the early 1980's, California-chartered S&L's experienced an explosion of growth at the same time as there were severe reductions in State regulation and oversight. According to a report by the California State Assembly entitled, "Mortgaging the Thrift Issue", February 1990, about half of the State-chartered S&L's switched to Federal charters in the early 1980's, to take advantage of the deregulation fever then sweeping Federal agencies. The report states that the loss of so many State-chartered S&L's caused a drop of more than 50 percent in the assessments these thrifts paid to the State regulatory authority, which in turn laid off more than half of its staff, including 60 examiners.

To stop the conversions to Federal charters, the report indicates that, in January 1983, California joined the deregulation game and loosened its restrictions on S&L investments. This strategy essentially halted new conversions, but failed to attract back most of the thrifts which had switched to Federal charters. Instead, the State was flooded with applications for new S&L's. The report states that the newly appointed State S&L commissioner approved 235 applications in about 13 months—compared to 46 approved in 1981 and 1982.

This action meant that the State was approving more new S&L's than it could oversee. The report indicates that, to keep up with the applications, State regulators, in 1983 and 1984, confined themselves to approving new charters and allowed Federal regulators to assume primary authority in examining existing State-chartered S&L's. It reports that State regulators even stopped receiving monthly loan register reports from the State-chartered S&L's, because they didn't have the resources to process the loan information. In an effort to halt the flood of new charter approvals, in 1985, the Federal Savings & Loan Insurance Corporation placed a moratorium on insurance for California State-chartered thrifts.

That course of State action was a recipe for disaster. The rapid approval of applications coupled with the sharp reduction of examination staff left the field wide open for abuse in California. And abuse there was, with some of the most flagrant examples we've seen in the whole sorry S&L saga.

But California is not the only State that engaged in lax oversight. A 1988 report prepared by the Texas Governor's task force on the Savings and Loan Industry reports that 95 percent of the State's problem financial institutions were State chartered. Together, as of September 1990, these institutions have caused 68 percent, or $22 billion, of the S&L bailout costs attributable to State-chartered thrifts.

As in California, during the 1980's, Texas not only deregulated its S&L's but also reduced its oversight functions. Texas was widely recognized among commentators for regulations which were among the most relaxed in the country at the time. The task force report indicates that, at the same time, State examination staff was cut, the number of examinations declined, and the State's supervision and examination capabilities remained weak due to such factors as inadequate funding, industry domination of the administrative process, and a poor selection for the State S&L commissioner.

Weak State regulation was particularly significant at the time, because, in 1983, Federal regulators were in a period of reorganization due to a decision to move the Federal Home Loan Bank's regional headquarters from Little Rock, AR, to Dallas. This move required the Federal office to rebuild its examination staff and operations at a time when S&L growth was rampant, deregulation had taken hold, and abuses had begun. The task force report estimates that 98 percent of the problems that now exist in Texas S&L's were created between 1982 and 1985, a period during which, it states, there was little cooperation between State and Federal regulators, and staffs were ill-equipped and unprepared to handle the consequences of Federal and State deregulatory actions. The report notes that Texas' relaxed regulatory atmosphere coincided with a staggering 186-percent growth rate in its federally insured, State-chartered thrifts.

Of course, it is the taxpayers throughout the country—not just Texans—that have been left holding the bag for that period of weak State oversight of federally insured S&L's in Texas.

A final example involves Rhode Island. In this instance, the deposit insurance disaster that hit the State has not yet reached the pockets of Federal taxpayers—although it still may—because a private entity was insuring the State's banks and credit unions.

In this example, State officials had explicit and early knowledge of the serious problems facing its banks and credit unions, but took little action in response. Reports prepared in 1985 and 1986 for the State attorney general and Governor—years before the disaster hit—predicted the collapse of the private deposit insurance system and cited rampant and unorthodox accounting [and] management practices at State-chartered financial institutions, including loose lending limits, poor investment standards, corrupt loan practices, and poor regulation.

Despite these reports, Rhode Island State officials essentially sat on their hands. One of the few tactics tried was to determine whether the State could pass the problems on to the Federal Government by replacing the private insurance with Federal deposit insurance. Luckily for the rest of us, that didn't happen.

In December 1990, rumors of embezzlement finally led to a run on the State's privately insured banks and credit unions. Rhode Island had to close 10 banks and 35 credit unions on a temporary or permanent basis to stop the panic. When it realized the predicted collapse had taken place and that a bailout was needed, in a February 1991 hearing before the Senate Banking Committee, Rhode Island's officials asked to help finance the State bailout. That request is still pending.

These three examples have common themes: they illustrate the importance of State-chartered institutions, the magnitude of the risk to Federal taxpayers, and the importance of State oversight. In each instance, through inaction or inadequate oversight, States contributed to the collapse of their institutions and the need for a Federal bailout.

Despite the obvious importance of the issue, strengthening State regulation of federally insured institutions has been largely forgotten in the debate over deposit insurance reform.

During the 1980's, fraudulent, abusive, or risky financial practices occurred right under the noses of State regulatory authorities. In some cases, the regulators were aware of the problems, in others they were not, but in every case, they apparently did not have enough of an incentive to get tough. We need to give them more of an incentive.

The Deposit Insurance Protection Act would directly address that issue—not by imposing mandatory Federal controls over State programs, but by providing a monetary incentive for strong State oversight—an insurance premium which a State would pay if its State-chartered institutions caused large Federal deposit insurance losses and if poor State regulation were a contributing factor.

This insurance premium would operate in a manner similar to car insurance. In most States, individuals with a poor driving record pay a higher insurance premium. Here, States with a record of disproportionate losses and poor State regulation would pay a premium for their State-chartered institutions to obtain Federal deposit insurance. This premium would not only increase equity within the program by requiring States with large losses to help pay for those losses, but also, it would create an incentive for States to police their banks and S&L's more carefully to prevent losses from occurring in the first place.

The bill would also impose a special, one-time premium on States whose S&L's have caused disproportionate Federal insurance losses in the S&L bailout. This premium would serve as a warning to all States to strengthen their regulatory programs. It would also ease the tax burden on States whose S&L's were problem free, by requiring States whose S&L's caused disproportionate losses to pay an added amount to help satisfy the billion-dollar S&L debts now facing American taxpayers.

Mr. President, as long as States play a crucial role in regulating federally insured, State-chartered institutions, it is our responsibility to encourage effective State oversight—both to promote the financial well-being of our country and to protect taxpayer dollars desperately needed for purposes other than bailouts of poorly run or fraudulent financial institutions. I hope my colleagues will join me in providing a greater incentive for stronger State oversight.

I ask unanimous consent that a summary of the bill's provisions and the text of the bill itself be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1461

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deposit Insurance Protection Act of 1991".

SEC. 2. DETERMINATION OF STATE PREMIUMS FOR FEDERAL DEPOSIT INSURANCE.

Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended by adding at the end the following new paragraph:

"(11) DETERMINATION OF STATE PREMIUMS FOR FEDERAL DEPOSIT INSURANCE.—

"(A) DETERMINATION OF STATE RESOLUTION COSTS AND DEPOSITS.—

"(i) STATE RESOLUTION COSTS.—Not later than 90 days after the end of each calendar year beginning with the end of calendar year 1994, the Corporation shall determine the aggregate of the amounts expended during the previous 3 years by the Savings Association Insurance Fund, Bank Insurance Fund, and National Credit Union Share Insurance Fund, in providing assistance for case resolutions and other assistance with respect to all State-chartered financial institutions, that—

"(I) were then insured by the Federal Deposit Insurance Corporation or National Credit Union Administration; or

"(II) were members of the Savings Association Insurance Fund, Bank Insurance Fund, or National Credit Union Share Insurance Fund.

The Corporation shall classify such expenditures according to the Fund that expended them during such period.

"(ii) STATE DEPOSITS.—Not later than 90 days after the end of each calendar year beginning with the end of calendar year 1994, the Corporation shall determine the aggregate of the amounts of the deposits in all such State-chartered financial institutions during such 3-year period. The Corporation shall classify such deposits according to the Fund that insured them during such period.

"(B) APPORTIONMENT OF STATE RESOLUTION COSTS AND DEPOSITS AMONG THE STATES.—After making the determinations required by subparagraph (A) for the 3-year period described in subparagraph (A), the Corporation shall apportion among the States the amounts so determined, according to the expenditures made and the deposits insured during such period with respect to the financial institutions described in subparagraph (A) located in each respective State. The Corporation shall classify, for each State, such expenditures and deposits according to the Fund that expended or insured them.

"(C) PREMIUMS REQUIRED FROM HIGH RISK STATES.—

"(i) PAYMENTS.—In separate transactions for each Fund, each high risk State shall pay to the Corporation an insurance premium in an amount equal to 25 percent of the product of—

"(I) the State's percentage share of state resolution costs, minus 2 times the State's percentage share of State deposits during the 3-year period; and

"(II) the expenditures determined by the Corporation under subparagraph (A)(i) with respect to such Fund.

"(ii) FUND DEPOSITS.—The Corporation shall deposit any such premiums in the Fund which made the relevant expenditures in providing assistance for case resolutions and other assistance with respect to the financial institutions located in such State.

"(D) HIGH RISK STATES.—A State is a high risk State for purposes of this paragraph if, with respect to a particular Fund—

"(i) the State's percentage share of State resolution costs during the 3-year period exceeds 2 times the State's percentage share of State deposits during such 3-year period, and

"(ii) the Corporation or National Credit Union Administration has determined with respect to the Fund it administers that inadequate State regulation of the State-chartered financial institutions in such State contributed to the amount of expenditures made by such Fund with respect to such financial institutions.

A State may be a high risk State with respect to one or more Funds.

"(E) STATE PERCENTAGE SHARE OF STATE RESOLUTION COSTS.—For purposes of this paragraph, the term 'State's percentage share of State resolution costs' means, with respect to a particular Fund—

"(i) the expenditures apportioned to the state under subparagraph (B); divided by

"(ii) the aggregate expenditures determined under subparagraph (A)(i).

"(F) STATE PERCENTAGE SHARE OF STATE DEPOSITS.—For purposes of this paragraph, the term 'State's percentage share of State deposits' means, with respect to a particular Fund—

"(i) the deposits apportioned to the State under subparagraph (B); divided by

"(ii) the aggregate deposits determined under subparagraph (A)(ii).

"(G) FUND.—For purposes of this paragraph, the term 'Fund' means the Savings Association Insurance Fund, Bank Insurance Fund, or National Credit Union Share Insurance Fund.

"(H) SPECIAL NON-RECURRING PREMIUM.—

"(i) IN GENERAL.—Not later than 90 days after January 1, 1994, the Corporation shall calculate a special, non-recurring insurance premium for the States which will take into account Federal resolution and assistance costs from 1988 until 1992, with respect to State-chartered savings associations.

"(ii) CALCULATION OF PREMIUM.—To calculate the premium described in clause (i), the Corporation shall—

"(I) determine the aggregate of the amounts expended during the 5-year period beginning on January 1, 1988, and ending on December 31, 1992, in providing assistance for case resolutions and other assistance with respect to all State-chartered savings associations during such period that were insured by the Federal Savings and Loan Insurance Corporation or that were members of the Savings Association Insurance Fund;

"(II) determine the aggregate of the amounts of insured deposits in all such State-chartered savings associations in 1980; and

"(III) apportion among the States the amounts to determined, according to the expenditures made during such 5-year period and the deposits insured during 1980, with respect to such savings associations located in each respective State.

"(iii) EXPENDITURES BY RTC, FSLIC RESOLUTION FUND, AND OTHER APPLICABLE AGENCIES TAKEN INTO ACCOUNT.—In making the determination under clause (ii)(I) of the amounts expended in providing assistance for case resolutions and other assistance with respect to institutions described in such clause, assistance provided by the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, the Resolution Trust Corporation, the Federal Home Loan Bank Board, any Federal home loan bank, and any other appropriate Federal agency shall be taken into account by the Corporation.

"(iv) PAYMENT OF SPECIAL PREMIUM.—Not later than December 31, 1994, each high risk State shall pay to the Corporation a special, nonrecurring insurance premium in an amount equal to 25 percent of the product of—

"(I) the State's percentage share of State resolution costs during such 5-year period, minus 2 times the State's percentage share of State deposits in 1980; and

"(II) the expenditures determined by the Corporation under clause (ii)(I) above.

"(v) HIGH RISK STATE.—For purposes of this subparagraph, a high risk State is any State described in subparagraph (D), except that the relevant period for determining the State's percentage share of State resolution costs shall be the 5-year period beginning on January 1, 1988, and ending on December 31, 1992, and the relevant period for determining the State's percentage share of State deposits shall be calendar year 1980.

"(vi) STATE'S PERCENTAGE SHARE.—For purposes of this subparagraph,

"(I) the term 'State's percentage share of State resolution costs' means the expenditure apportioned to the State under clause (ii)(III), divided by the aggregate expenditures determined under clause (ii)(I); and

"(II) the term 'State's percentage share of State deposits' means the deposits apportioned to the State under clause (ii)(III), divided by the aggregate deposits determined in clause (ii)(II).

"(vii) DEPOSITS INTO SAIF.—The Corporation shall deposit any such premiums in the Savings Association Insurance Fund, and the amount of such deposits shall be included in the total amount of deposits, if any, required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 to be deposited into such Fund by the Department of the Treasury.

"(I) PREMIUM PAYMENT TERMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the premium required of any State under subparagraph (C) shall be due at the end of the 6-month period beginning on the date the Corporation determines the apportionment to the State under subparagraph (B).

"(ii) MULTIYEAR AGREEMENTS.—A high risk State may enter into an agreement with the Corporation to pay a premium determined under subparagraph (C) or (H), with interest accruing in accordance with section 3717(a) of title 31, United States Code, for no longer than the 3-year period beginning on the date on which such premium would otherwise be due under clause (i), and such State shall be treated as meeting the requirements of this paragraph so long as such State is in compliance with the terms of such agreement.

"(J) TERMINATION OF INSURANCE IF STATE FAILS TO PAY REQUIRED PREMIUMS.—

"(i) IN GENERAL.—If any State fails to pay the premium required of such State under subparagraph (C) or (H) with respect to a particular Fund, the Corporation or National Credit Union Administration, whichever administers such Fund, shall terminate the corresponding deposit insurance for State-chartered financial institutions located in such State at the end of the 6-month period beginning on the date the premium was due under subparagraph (C) or (H).

"(ii) TRANSITION RULE.—Notwithstanding clause (i), after termination of the insured status of any financial institution under this paragraph, the insured deposits of each depositor in such institution on the date of such termination, minus all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of 2 years and the financial institution shall continue to pay assessments to the Corporation or National Credit Union Administration, as if the institution were an insured financial institution during such period.

"(K) NOTICE TO DEPOSITORS.—The Corporation or National Credit Union Administration shall require the financial institutions chartered by any State which fails to pay the premium required of such State under subparagraph (C) or (H) to the Fund administered by the Corporation or Administration to notify the depositors in such institutions that—

"(i) the deposits made in such institution before the end of the 6-month period described in subparagraph (J)(i) will continue to be federally insured during the 2-year period beginning at the end of such 6-month period; and

"(ii) the deposits made in such institution after the end of such 6-month period will not be federally insured.

"(L) RESTORATION OF INSURANCE.—If pursuant to this paragraph the Corporation or National Credit Union Administration terminates deposit insurance for State-chartered financial institutions in any State, such insurance may be restored by the Corporation or National Credit Union Administration only if—

"(i) such State has paid all of the premiums required of the State under this paragraph, with interest accruing in accordance with section 3717(a) of title 31, United States Code, and

"(ii) the Corporation or National Credit Union Administration determines that such State has taken measures to provide adequate State regulation of such State-chartered financial institutions located in such State.

"(M) COOPERATION.—The National Credit Union Administration, the Board of Governors of the Federal Reserve System, Department of Treasury, other Federal agencies and corporations, and the States shall cooperate with and provide information requested by the Corporation to carry out the purposes of this paragraph.".

SUMMARY OF DEPOSIT INSURANCE PROTECTION ACT OF 1991

The Deposit Insurance Protection Act of 1991 would amend the Federal Deposit Insurance Act to require sttaes to pay a federal insurance premium if, during the prior three-year period: (1) the state-chartered financial institutions in the state caused large federal insurance losses, and (2) the federal insuring agency found that "inadequate state regulation" of these institutions during that period "contributed" to those losses. In addition, the bill would require states to pay a special, one-time premium based on federal insurance losses from 1988 to 1992, due to the S&L bailout.

Purpose. The bill's goal is to enourage strong *state* oversight of *state-chartered* financial institutions which are *federally* insured. The incentive used is a monetary one—an insurance premium which the state itself must pay in the event of large losses and inadequate state action.

Coverage. The bill would apply to state-chartered banks, S&Ls and credit unions, if they are federally insured. The premiums would be based upon losses experienced by the three federal insurance funds for these institutions (the Bank Insurance Fund, Savings Associations Insurance Fund and National Credit Union Share Insurance Fund). A premium would be triggered if the Federal Deposit Insurance Corporation (FDIC) determined that a state's insured institutions caused disproportionate losses to a particular fund, using a formula that would require the losses to that fund to be more than twice as large as the deposits insured in that state by that fund. The FDIC or National Credit Union Administration (NCUA) would also have to find inadequate state regulation of its insured institutions.

States with large losses and inadequate regulation would become "high risk states" with respect to a particular fund and would become subject to an insurance premium. The amount of this premium would vary according to the losses caused by the state's institutions during the relevant three-year period. The state would pay the premium to the FDIC which, in turn, would deposit it into the federal insurance fund that incurred the losses.

Eligibility for Insurance. A state could choose not to pay a premium but, if it did so, its state-chartered institutions would become ineligible for the relevant federal deposit insurance. Terminated insurance could be restored only if the state paid the premium owed, and the FDIC or NCUA determined that the state had taken steps to provide adequate regulation of its state-chartered institutions.

Special Premiums. The bill would also impose a special, one-time premium on states whose S&Ls caused disproportionate insurance losses during the five-year period, 1988–1992, resulting in the S&L bailout costs now being paid by federal taxpayers. The amount of this one-time premium would be based upon the amount of losses caused by a particular state's S&Ls during the five-year period.

Comparison to 1990 Senate Bill. This bill differs from related legislation introduced in 1990 as S. 2885, the State Thrift Deposit Insurance Premium Act, in three major respects:

(1) *Coverage.* Last year's bill applied only to S&Ls; this bill applies to S&Ls, banks and credit unions.

(2) *Threshold Finding.* Last year's bill did not require a specific finding of inadequate state regulation to trigger a premium; this bill does.

(3) *Base Year.* Last year's bill used 1980 as a base years of determining which states pay premiums and for calculating the premium amounts; this bill relies upon progressive three-year periods instead of a base year for its calculations, except with respect to the one-time premium related to the S&L bailout.●

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. STEVENS, and Mr. BENTSEN):

S. 1462. A bill to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes; to the Committee on Commerce, Science, and Transportation.

AUTOMATED TELEPHONE CALL PROTECTION ACT OF 1991

Mr. HOLLINGS. Mr. President, today I am introducing the Automated Telephone Call Protection Act of 1991. This bill will ban computerized telephone calls to the home and so-called junk fax. Computerized calls are the scourge of modern civilization. They wake us up in the morning; they interrupt our dinner at night; they force the sick and elderly out of bed; they hound us until we want to rip the telephone right out of the wall.

The telephone is a basic necessity of life. You cannot get along in this country if you do not have a telephone in your home, However, owning a telephone does not give the world the right and privilege to assault the consumer with machine-generated telephone calls. These calls are a nuisance and an invasion of our privacy.

Believe it or not, these calls have their defenders. A few months ago, the Chairman of the FCC testified that this was an area where the market would regulate itself. If no one listens to these calls, he said, then telemarketers will stop making them. I know how the free market operates, and in this case it works to the detriment of 99 percent of Americans. Even if 1 percent of the American public actually listens to these calls, that is no justification for allowing these calls to ruin the lives of the rest of us.

Some may argue that there are first amendment problems with this bill. The bill I am introducing today falls well within the scope of the first amendment. The first amendment allows the government every right to place reasonable time, place and manner restrictions on speech when necessary to protect consumers from a nuisance and an invasion of their privacy.

This bill makes not distinction based on the content of the speech. It bans automated calls, regardless of whether they are used for commercial, political, or charitable purposes. The bill does not ban the message; it bans the means used to deliver that message—the computer voice.

Further, the bill does not ban all automated calls. Persons at work do not have the same expectation of privacy as persons at home; therefore, the bill only bans such calls to the home. In addition, if a person consents to receiving such calls, of course, that permission is granted. Finally, this bill does not prohibit the use of computerized calls to notify parents when the school closes early or for other government purposes. This bill is purely targeted at those calls that are the source of the tremendous amount of consumer complaints at the FCC and at the State commissions around the country—the telemarketing calls placed to the home.

The bill also prohibits unsolicited advertisements sent to fax machines, known as junk fax. Advertisements today are sent for cruises, home products, investments, and all kinds of products and services without the consent of the person receiving them. These unsolicited advertisements prevent the owners from using their own fax machines for business purposes. Even worse, these transmissions force the recipient to pay for the cost of the paper used to receive them. These junk fax advertisements can be a severe impediment to carrying out legitimate business practices and ought to be abolished.

The bill also contains protections for emergency telephones and cellular and paging systems from these automated calls. These prohibitions are essential to ensuring that the safety of lives and property are not put at risk by these machines. These computers often call and then do not hang up the line. In some cases, the computer will ramble on for a full minute or longer after the person called hangs up. This can prevent the person called from using the telephone at all, which is of special concern in emergency situations. As a result, the bill requires automated calls to disconnect the telephone within 5 seconds of the time the machine is notified that the called party has hung up the phone.

Mr. President, it is not often that Congress is required to step in to legislate against certain technologies. This is an unusual case, however, that requires congressional action. These calls are a nuisance and must be controlled. We have given the free market the chance to regulate itself, but it has not. These calls continue to proliferate beyond our control. The FCC will not do anything about these calls; the States have tried to regulate in this area but do not have authority over interstate calls. It is time Congress faced up to its responsibilities to protect the American consumer. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Automated Telephone Consumer Protection Act".

SEC. 2. RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 228. RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line.

"(3) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS.—It shall be unlawful for any person within the United States—

"(1) to make any call using any automatic telephone dialing system, telephone facsimile machine, or an artificial or prerecorded voice—

"(A) to any emergency telephone line of any hospital, medical physician or service office, health care facility, or fire protection or law enforcement agency; or

"(B) to any telephone number assigned to paging or cellular telephone service;

"(2) to initiate any telephone call to any residence using an artificial or prerecorded voice to deliver a message without the prior, express, written consent of the called party, unless the call is initiated by a public school or other governmental entity; or

"(3) to send an unsolicited advertisement by a facsimile machine.

"(c) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system (to make any telephone solicitation) in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send an unsolicited advertisement via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the advertisement, the date and time it is sent and an identification of the business sending the advertisement and the telephone number of the sending machine or of such business.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural standards for telephone facsimile machines to require that any such machine which—

"(A) is manufactured after 6 months after the date of enactment of this section, and

"(B) is used for the distribution of unsolicited advertising,

clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business sending the advertisement, and the telephone number of the sending machine or of such business. The Commission shall exempt from such standards, for 18 months after such date of enactment, telephone facsimile machines that do not have the capacity for automatic dialing and transmission and that are not capable of operation through an interface with a computer.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address or such business; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time the system receives notification that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(d) STATE LAW NOT PREEMPTED.—Nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits, either or both of the following:

"(1) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements; and

"(2) the use of automatic telephone dialing systems to transmit prerecorded telephone solicitations.

"(e) EFFECTIVE DATE OF REQUIREMENTS.—The requirements of subsection (b) shall take effect 30 days after the date of enactment of this section, and all other provisions of this section shall take effect upon such date of enactment.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "and 225" and inserting in lieu thereof ", 225, and 228".

By Mr. BREAUX (for himself, Mr. LOTT, Mr. JOHNSTON, Mr. SHELBY, Mr. CRAIG, Mr. INOUYE, Mr. NICKLES, Mr. PACKWOOD, Mr. STEVENS, Mr. MURKOWSKI, Mr. SIMPSON, Mr. SYMMS, Mr. WALLOP, Mr. HATCH, Mr. GARN, Mr. BURNS, Mr. HELMS, Mr. COCHRAN, Mr. MCCONNELL, and Mr. BOND):

S. 1463. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands in the United States, and for other purposes; to the Committee on Environment and Public Works.

COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT

Mr. BREAUX. Mr. President, I rise today to introduce the Comprehensive Wetlands Conservation and Management Act of 1991. Joining with me as original cosponsors are Senators JOHNSTON, LOTT, SHELBY, INOUYE, CRAIG, NICKLES, PACKWOOD, STEVENS, MARKOWSKI, SIMPSON, SYMMS, WALLOP, HATCH, GARN, BURNS, HELMS, MCCONNELL, and COCHRAN. This bill is identical to H.R. 1330, which was introduced in the House and currently has 150 cosponsors from 38 different States. In addition, the concepts of this bill are supported by over 90 organizations nationwide. I stress that this bill is only a starting point, its concepts of establishing a national wetlands regulatory program through a statutory definition of "wetlands," classification of wetlands by function of value, resolving the respective roles of the Federal agencies, and recognizing private property rights are all key concepts. However, the particulars in this bill will need to be further refined through the regulatory process. The important thing is that we have to start somewhere, we need to establish a national wetlands policy.

Mr. President, this Nation needs a national wetlands policy. As we all know, much has occurred in the last 2 years to raise the wetlands policy issue to a new level of public scrutiny. The Nation is becoming increasingly aware of the problem of wetlands loss; these areas are recognized as vital to the well being of the ecosystem as a whole. At the same time, severe conflicts are occurring with increasing frequency in the administration of the Federal Wetlands Regulatory Program.

While Federal agencies are cracking down on our constituents for dredging and filling wetlands, wetlands are being converted at a rapid rate by other—not regulated—means such as excavation, channelization, and drainage. Only yesterday, the EPA Administrator, Bill Reilly said that last year 290,000 acres of wetlands were converted, and less than 20 percent were permitted, because less than 20 percent were converted as a result of dredging and filling. This is not because of lack of enforcement, it is because section 404 was not intended to be a wetlands regulatory program. Beating on the Federal agencies for tougher enforcement of this program will not stop wetlands loss; the problem is with the statute. Section 404 of the Clean Water Act was not intended to be a wetlands regulatory program; if it had been, we would have regulated many activities that continue to cause the destruction of wetlands to this day. Congress can no longer keep its head in the sand while the courts and Federal agencies make piecemeal wetlands policy. The heightened frustration of our constituents and rapid wetlands loss demands that Congress take action. We need a national wetlands policy. Established not by unelected bureaucrats, but by the elected representatives of the people—the Congress.

There are several vital interests at issue here: the protection of the Nation's wetlands resource base; continued reasonable economic development—including the provision of infrastructure; and, the obligation in the law and policy of this country to observe private property rights. This bill identifies many key issues facing the regulated community and proposes some potential solutions. These recommendations provide the starting point for a reasoned debate on wetlands policy issues. This bill provides the vehicle—a starting point—for creating a more flexible, responsible, and less intrusive approach to wetlands protection; it challenges us to address the very difficult task of protecting wetlands and protecting property owners.

Important measures, which I supported, have been taken already to restore and enhance wetlands. The 1990 Farm Bill Amendments were passed to help reduce the major cause of wetlands loss in this country according to the OTA—conversion of wetlands to croplands. Legislation I authored last year provided funding for major restoration activities to address another critical problem—coastal erosion nationwide. The North American Wetlands Act also advanced the conservation effort by instituting a broad acquisition program to protect the Nation's highest value wetlands. The problems of loss and restoration, however, clearly are only part of the problem. Losses of future wetlands must be regulated, we must have in place a national wetlands policy.

Such a policy must be reasonable and it must be balanced. We have all heard wetlands permitting "horror stories." For example, the Louisiana Land & Exploration Co. experienced significant delays in obtaining permits for actions that were necessary to protect its wetlands from saltwater intrusion and other problems. The state of the science may not yet support a reliance on wetlands creation efforts, but when an individual like Melvin Domingue of St. Martin Parish, LA attempts to turn a dumpsite into a crawfish pond that also serves important wetlands values and functions, and is subsequently ordered to return the area to its original condition—a dumpsite—based on the "first strike, you're out" avoidance test of the section 404(b)(1) guideline's sequencing policy—it becomes apparent that a more balanced approach to wetlands regulation needs to be implemented.

In Testimony before the Environment and Public Works Committee's subcommittee on environmental protection on June 20, the distinguished senior Senator from Alaska gave several examples of the ridiculous decisions that result from current application of section 404 of the Clean Water Act. The American Farm Bureau Federation also suggested not only that overzealous implementation of section 404 caused waste and unnecessary delay, but also caused significant environmental destruction through efforts to avoid relatively minimal wetland loss. Stories like these abound throughout the country, many compelling ones as well as others that are refutable, indicating that the problems we hear about are not simply abnormalities. The need for fairness and a greater degree of certainty in the wetlands permitting process demands the attention of Congress.

One key concept is the definition of a wetland. Section 404 has developed a jurisdictional reach far more expansive than originally conceived by Congress. Many areas of minimal wetness or with temporary wetness have become subject to permitting requirements, including lands that are temporarily or unintentionally created as a result of adjacent development activity. Meanwhile, Congress' failure to expand the universe of activities subject to permitting requirements has tied the hands of regulatory agencies, forcing them to stand idly by when indisputably valuable wetland areas are made subject to channelization, excavation, and drainage. This state of affairs does not reflect effective wetlands policy guidance by this legislative body. We need to define wetlands in a manner that makes sense and that provides certainty to the regulated community. This bill suggests the requirement of clear evidence showing all three technical elements of a wetland: hydric soils, hydrophytic vegetation, and hydrology. A reasonable period of inundation at the surface would also provide sufficient advance notice to the public.

Another important area of concern is the dual role section 404 creates for the EPA and the Army Corps of Engineers in wetlands regulation. This arrangement has led to confusion, inordinate delays, and wasted resources; although the agencies continue their efforts to reconcile their differences, the current Corps/EPA framework remains a bureaucratic black box for applicants. Consolidating permit authority in one agency would solve this problem. Some argue that EPA should be in charge since it supports the "public interest." I submit that the regulated community is also the "public" and they believe that their view of the public interest is best served by regulatory authority given to the corps. Moreover, the EPA does not have steller record on wetlands protection. They do not even have an office in Louisiana, a State with 40 percent of the coastal Nation's wetlands.

Although I do not necessarily support a diminished role for the EPA—since EPA provides necessary input, along with both the Fish and Wildlife Service and the Soil Conservation Service—the fact remains that the corps has more field-personnel trained in wetlands regulation methods. Over 1,000 individuals are employed on the corps' regulatory staff today, and that amount will increase to 1,250 by the end of 1993. These regulators are not yet equipped to make the important and complex value decisions necessary for wetlands protection; what they need is clear policy guidance from Congress, not the threat of a veto by the EPA.

Categorization—or classification—of wetlands is another idea whose time has come; this is a particularly important component in any effort to construct a proper wetlands regulatory regime. It is clear to me that not all wetlands are created equal—a Superfund site that exhibits wetland characteristics simply does not have the same value as a pristine cyprus marsh. An undeveloped lot in a fully developed subdivision should not be regulated with the same strigency as a pristine marsh. Although opponents of the categorization provisions in this bill have decried the evil threat posed to our Nation's wetlands, EPA Administrator Reilly testified that "incorporating a more explicity form of wetlands categorization into the section 404 program is conceptually appealing. It could bring more consistency and predictability to the regulatory program. It could also serve as a means to provide more efficient protection of the Nation's most valuable wetlands."

This bill proposes three types of wetlands: highest value "type a" wetlands, were only an overriding public interest—possibly through application of the current EPA sequencing test—would justify a permit; lower priority "type B" wetlands, where permits are granted only when the protection of wetlands functions and values is adequately balanced under the proposed activities; and insignificant "type C" wetland areas, which do not require permits but can be subject to monitoring and notification requirements as a protective measure. Categorization of our national wetlands resources does not have to be preformed precisely as set forth in this bill, but must be adopted to strike the proper balance of protecting valuable wetlands while also protecting private property rights.

One final area of concern, though not exhaustive of wetlands regulatory issues, is compensation for landowners. The current program has, in many cases, effectively denied landowners the use of their lands without providing compensation. In mid-June during deliberations on the highway bill, the Senate adopted the Symms-Boren Private Property Rights Act by A 55-44 vote. Clearly, Congress has already spoken on the need to weigh the effects of Federal regulatory action on private property rights. This bill allows Federal acquisition of the highest value wetlands. Acquistion is not inevitable in all cases, since landowners would have the choice under this bill or retaining the land under type A classification, or transferring it to the Federal Government at fair market value. It is possible that incentives could be developed to encourage such practices.

Section 404 must not be ignored again this legislative session. We cannot let another opportunity to provide legislative guidance pass us by. The regulated community deserves no less than a vigorous debate on this important issue of wetlands conservation and management. This is only a starting point, the concepts are important, the particulars must be scrutinized and refined. I look forward to working with my colleagues to that end.

Let me conclude, Mr. President, by saying for the record that there is a national problem out there, and it really is the result of Congress never adopting any kind of a national regulatory program to take care of the activities that occur in the wetlands of this Nation.

Scientists have told us for many years now of the intricate and incredible value that wetlands have. But at the same time, the only legislation that we have on the books that deals with these very valuable lands located in all 50 States is a simple section of the Federal Water Pollution Control Act which was passed almost 20 years ago now that referred to what we do with dredge and fill activities and navigable waters. That one small section has been interpreted by regulators, by bureaucrats, and by various agencies of this Federal Government, as they have interpreted, in order to try and create a national wetlands management for planning regime. It was never intended to be that. Therefore, we find ourselves with enumerable problems today which have no solution because there, in fact, is no program or legislation to guide us.

So what we have are traditional decisions; some, I submit, are incorrect. We have regulatory rules and regulations and revisions and revisions and, yet, more revisions of those regulations, as the Federal bureaucracy tries to fit in a nice package something that was never intended to be a national wetlands management program.

So the problems are obvious. The reasons for those problems are clear.

I think we have an opportunity in this Congress to come forward with a national wetlands planning regime which will provide the guidance and the policy for the regulators. I think as a result of this effort we will have a program that is more balanced, that is more responsive to the needs of protecting these very valuable areas and at the same time recognizing the very legitimate private property rights that are now I think in many cases being trampled on because of the misapplication of a law that was never intended to do what some Federal agencies are trying to do today with those rules and regulations.

I look forward to hearings. I look forward to open debate. I point out again that the House has over 150 cosponsors of an indentical bill. We have a good number of cosponsors in the Senate. The time clearly to act in this national problem is now. This is the beginning of that action.

Mr. MURKOWSKI. Mr. President, I rise today to join with Senator BREAUX and my senior Senator from Alaska, Senator STEVENS, with regard to the introduction of the Comprensive Wetlands Conservation and Management Act of 1991.

Mr. President, Alaska does not have a wetlands loss problem. It should not be held, as it were, hostage to the wetlands problem of the lower 48. The situation currently in the United States, in the opinion of this Senator, is growing out of control. In many cases, management of our Nation's wetlands has become a disaster. Current attempts to regulate wetlands through section 404 of the Clean Water Act have been a complete failure. The existing system of wetlands protection cost private landowners the use of their lands, cost taxpayers millions of dollars in litigation, and slows economic growth in many parts of our Nation. What started out as a well-intended effort to protect the Nation's wetlands has turned into a bureaucratic nightmare that fails to protect many of those most valuable wetland resources from destruction while turning land that has been farmed for decades into so-called pristine waters of our Nation.

Mr. President, the time has come for Congress to overhaul the current wetlands protection system.

The legislation being introduced today replaces the current section 404 of the Federal Water Pollution Control Act with a new section 404. This new system provides for a concise and structured program for the identification and delineation of wetlands based upon their functions and values for regulatory purposes. The bill also balances the need for the effective and complete protection of the Nation's important wetlands with the needs for essential community growth and the constitutional rights of landowners.

Mr. President, this bill acknowledges that a wetlands protection program must protect the rights of private property owners. A large percentage of the wetlands in this Nation are privately owned and if the United States is going to protect a valuable wetland for the best interest of this Nation, than the United States must compensate the owner of that wetland for the taking of their property.

The proposed bill would also authorize and encourage States to establish mitigation banking programs. Such program would allow a credit to be provided on an acre-for-acre or value-for-value basis for Federal land in protective status, providing such States have converted less than 10 percent of their original wetlands. This will help preserve the wetlands that are of critical significance to the long-term conservation of specific ecosystems.

Furthermore, the new section 404 program recognizes that all wetlands are not of equal value, and therefore should not be treated the same. This bill divides wetlands into three categories. The most valuable class, high value wetlands, would be more strictly regulated than under current law. The middle class, wetlands which provide significant functions, including enhancement or protection of water quality of flood control, are treated similarly to current law, and the third class, wetlands which provide little or no wetland functions, are only partially regulated. These three categories classify wetlands based on their functions and values, allowing greater protection for high value wetlands, without placing a moratorium on the economic growth of this Nation.

Mr. President, the bill being introduced today addresses many of the problems with the current wetlands protection program. However, Alaska does not need the same wetlands protection as the lower 48. I remind my colleagues that wetlands loss is not a problem in Alaska. While million of acres of wetlands have been lost in the lower 48, Alaska has not participated in this wetlands loss.

Alaska currently contains 170 million acres of wetlands, an area larger than the States of California and Oregon combined. Alaska contains over half of the wetlands in the United States; in fact, Alaska has 65 million acres more wetlands than all the wetlands in the lower 48 combined. Wetlands cover over 45 percent of the surface of Alsaka, and on the North Slope 99 percent of the surface is wetland. Alaska is completely saturated with wetlands, yet the total amount of wetlands lost in Alaska is less than 0.1 percent. Compare this with the lower 48 where over 50 percent of the original wetlands have been lost.

Mr. President, Alaska does not have a wetlands loss problem and should not be held hostage to the wetlands probem in the lower 48.

Responsible wetlands regulations should be based on the extent and proportional loss of the resource in a State. A "No net loss of wetlands" policy in Alaska, if interpreted inflexibly by the Federal regulatory and land managing agencies, could bring economic development in my State to a complete stop.

The Alaska delegation has been working very closely with the Department of the Army [Corps], the Environmental Protection Agency [EPA], and the President's domestic policy to find an acceptable solution to the unique situation in Alaska. Alaska is truly the "last frontier" and should be protected; however, the current wetlands protection system is suffocating economic growth in my young State.

This complex and frustrating issue must be addressed. It is time for the Congress to act. While this legislation is not a final solution, I believe it shows vision and direction to a system desperately in need of repair.

Mr. President, I would like to congratulate my colleagues on the work they have done to date and encourage the Senate to continue moving forward with legislation that will provide for the proper management of our Nation's wetlands while addressing the unique situation in Alaska.

Mr. STEVENS. Mr. President, I want to congratulate my colleague for working with the Senator from Louisiana, Mr. BREAUX, on this legislation that we have just introduced. I have come to the floor to reinforce what Senator MURKOWSKI has said because of a conversation I had yesterday with one of our colleagues.

I was telling another Member of the Senate about the problem of Juneau school district's application to proceed with the construction of a new school and the fact that had been held up because Federal agencies would not approve it under the wetlands policy. The Senator implied that I was exaggerating the situation to say that section 404 was being interpreted in a way to prevent a local school district from proceeding with construction. He said correctly that section 404 deals with the filling of land and not necessarily with construction. But in Alaska, it has been applied to practically halt all new construction.

We have had the case of the St. Vincent DePaul Society's application to proceed with four units for the homeless. That was held up for almost three-quarters of a year by Federal agencies who had not and would not approve it because they said it was going to lead to the loss of wetlands, notwithstanding the fact it was in practically the center of Juneau surrounded by development. We now have a similar situation with regard to the Juneau school district's application.

But all over the State, even in terms of military developments, in terms of the application to proceed with the development of the over-the-horizon radar in the northern part of Alaska up in the tundra, that was held up.

One of the Federal agency employees actually had the audacity to suggest that the Department of Defense go to Oregon and acquire 20,000 acres and retire those 20,000 acres, put them back into wetlands, in order to have the privilege of temporarily—I emphasize that—temporarily using 500 acres in the tundra for national defense installation under the stipulation that when the national defense was completed, the use had been completed, the tundra would be returned to its natural contour. It was not a permanent use at all.

But the off-site mitigation concept involved now, in terms of the review by Federal agencies of applications to proceed under section 404, is stifling the public land States.

I have come over to tell the Senate that this bill that Senator BREAUX and Senator MURKOWSKI have introduced, and I have joined with them, deserves attention and I hope it will get early hearings. I want to serve notice on the Senate that the whole subject of section 404 and its renewal, which must be completed during the term of this Congress, is going to be a difficult one if this Senate does not address the question of how far the no-net-loss policy for wetlands is going to stifle the public lands States from their development.

Our State received a substantial land grant at the time we came into the Union because we were land poor. Our State has now acquired substantial land bases and we have withdrawn more lands for parks, for wildlife protection, for wilderness designation than any State in the Union. Yet, notwithstanding that, and the fact that we have only used one-tenth of 1 percent of our wetlands, we have been completely stifled, as I said, in terms of proceding to develop.

We actually had correspondence with some people who have been told that they cannot pave their driveways on their just plain old city lots without getting permission from a Federal agency.

Now this is ludicrous and it is time that it be adjusted and the Senate address this question.

Mr. SYMMS. Will the Senator yield to me?

Mr. STEVENS. Yes.

Mr. SYMMS. I applaud what the Senator is saying. We had a hearing on this subject in the environment and Public Works Committee yesterday. The point of view that the Senator from Alaska is projecting is badly needed in the Senate. This Senator stated the same basic position that the Senator did yesterday, and I join with him and Senator MURKOWSKI and Senator BREAUX and others in sponsoring this bill.

But we have a huge problem on our hands and basically, fundamentally, it is a private property issue in Alaska. Of course, it is not, but it is a blockage of development, it is land use planning by using section 404 and the wetlands to interfere with common sense progress.

I think that is all the Senator is asking for and that is all I am asking for. I thank him for his comments.

REVISION OF SECTION 404 OF THE CLEAN WATER ACT

Mr. CRAIG. Mr. President, I am very pleased that my colleague, Senator BREAUX, has taken the lead in sponsoring legislation badly needed to correct abuses which have arisen in the application of section 404 of the Clean Water Act.

The protection of critical wetlands is an important issue in the State of Louisiana, as it is in my home State of Idaho. I strongly favor protection of true wetlands which serve many purposes—habitat for varied forms of fish, wildlife, and plants; natural filters to preserve water quality; scenic and recreation resources appreciated by residents and visitors alike. High-quality wetlands add to our enjoyment of life in many ways, and Idaho is blessed by many fine examples.

However, I am deeply concerned that application of the current law not only does not protect the best of our wetlands, but that appropriations are being misspent in an attempt to regulate lands which are not wetlands and were never intended to fall under the purview of section 404. This expansion of definition, undertaken without benefit of formal rule-making, has caused many farmers, businessmen, and homeowners untold difficulty and expense to protect their rights in land which is not wetland. While the Federal agencies focus attention on these properties, high-quality wetlands remain unprotected.

My constituents have complained of numerous difficulties with section 404. A dispute arose when a permit was required for a long-established mine tailings pond suddenly declared to be a wetland. In another example, farm drainage ditches, dry for most of the year but wet in the winter, were deemed to be wetlands requiring a permit before repairs can be made. Homeowners have become ensnared from the simple act of improving the backyard. Not only is this attention by the Federal regulators misplaced, the permitting process can be interminable. One Idaho business has been waiting more than a year for a ruling on its permit request.

Private property rights are often ignored in this process. Landowners in increasing numbers are seeking legal redress when denied a permit for activities they wish to pursue. Two recent cases were decided in favor of private owners with damages of $3.6 million assessed against the Federal Government.

I find many reasons to lend my strong support to this bill. It sets a clear definition of high-value wetlands and focuses the attention of the agencies on these properties. It requires clear evidence of wet soils and wetlands vegetation. Private landowners are provided a reasonable process for compensation when their lands are classified as critical wetlands. In all cases, a speedy permitting process will be instituted.

Upon enactment of this bill, with its unity of purpose clearly aimed at protection of our outstanding wetlands nationwide, we can see our path clear to reach the President's goal of no net loss of wetlands.

Mr. NICKLES. Mr. President, today I join my colleague from Louisiana, Senator BREAUX, in the introduction of legislation to amending section 404 of the Clean Water Act to create a new, commonsense wetlands regulatory program. The Comprehensive Wetlands Conservation and Management Act is not an attempt to gut Federal wetlands protection programs. Like section 404, this bill prohibits the discharge of dredged or fill material into certain wetlands or the draining, channelization, or excavation of certain wetlands, without a permit from the Corps of Engineers.

Simply put, Federal wetlands protection programs are a bureaucratic, overly restrictive, mess. When the Clean Water Act was enacted in 1972, section 404 was created to regulate the deposit of fill material in waters of the United States. Over the years, bureaucrats and the courts have needlessly expanded this program's scope to the point that the corps now regulates anything meeting the distorted Federal definition of a wetland. The impact of this program's expansion has been felt in all areas of the country by farmers, foresters, realtors, State and local governments, and many others. The outcry from these individuals has been tremendous, and their message has been clear. Congress needs to reform wetlands programs.

I originally became involved in wetlands reform in the 101st Congress with the introduction of the Common Sense Agricultural Wetlands Act. My legislation was prompted by complaints from Oklahoma farmers and ranchers who became entangled in a bureaucratic nightmare in which they were forced to prove that they did not have wetlands on their property. Fortunately, the 1990 farm bill included some of the reforms I first proposed in the Common Sense Agricultural Wetlands Act of 1990. It has become apparent, however, that more reform is needed.

Mr. President, the Comprehensive Wetlands Conservation and Management Act goes straight to the heart of our wetlands problems by identifying and classifying wetlands by their intrinsic values. To do this, the bill establishes guidelines and time frames for the classification of wetlands into three types. These classifications may be appealed by landowners who disagree with the corps' findings.

TYPE "A" WETLANDS

Type "A" wetlands must consist of at least 10 contiguous acres that are of critical significance to the ecosystem they are a part of, and for which there is no overriding public interest in the use of, other than conservation. Type A wetlands are considered, for all practical intents, taken by the Government. Owners of type A wetlands have the option to seek compensation at fair market value and transfer title to the Government, or retain title and abide by the prohibitions established for type A wetlands. The landowner has 2 years to make this decision.

TYPE "B" WETLANDS

Type "B" wetlands must provide habitat for a significant population of avian, aquatic, or wetland dependent wildlife, or provide other significant wetlands functions such as the protection of water quality or natural flood control. Type B wetlands are regulated by the permitting process. Permits may be issued to conduct activities on type B wetlands if the ecosytem will not suffer a significant loss of wetlands functions. Rules are established to allow mitigation to be used in the consideration of wetlands permits. The Corps of Engineers is required to rule on an application for a wetlands permit within 6 months.

TYPE "C" WETLANDS

Type "C" wetlands are wetlands that serve limited or de minimis wetlands functions, are prior converted cropland, or are within industrial complexes, or other intensely developed areas. Type C wetlands are released from regulation. Activities may be undertaken without a permit.

Additionally, Mr. President, the Comprehensive Wetlands Conservation and Management Act identifies certain other activities which do not require a permit including: Normal farming, forestry, and aquaculture practices; minor drainage, maintenance of dikes, dams, water control structures, levees, breakwaters, causeways, and transportation structures; and construction or maintenance of farm or stock ponds or irrigation ditches.

To address another critical area of wetlands reform, the Comprehensive Wetlands Conservation and Management Act directs the development of a new Federal wetlands definition. The bill directs that under the new definition, no lands shall be declared wetlands unless clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soils are found to be present. Wetlands hydrology shall not be found unless water is found at the surface for at least 21 consecutive days during the growing season, with the growing season defined as the last frost in spring to first frost in fall. Additionally, wetlands incidentally created due to unintentional or temporary impacts of development activities, shall also not be delineated as wetlands.

Finally, Mr. President, the Comprehensive Wetlands Conservation and Management Act recognizes the need to investigate fully the status of our Nation's wetlands resources. Thus, the bill directs the U.S. Fish and Wildlife Service to identify and classify all the wetlands in the United States within 10 years after passage of the bill. During this inventory, public hearings are to be held in each county, parish, or borough of a State before completion of the identification and classification project in that area. After completion of the identification and classification project in each county, parish, and borough of a State, the resulting information is to be distributed publicly and be recorded on local property records.

Mr. President, I believe we can no longer avoid this issue and allow the bureaucrats and the courts to stifle economic development and progress in the name of wetlands conservation. In my State, the section 404 program was responsible for delaying a huge State highway project because of two wetlands areas of less than 15 acres. Even when Oklahoma officials committed to mitigate the wetland loss at more than three-to-one, the corps continued to delay this project, costing Oklahoma taxpayers thousands of dollars per day in increased construction interest costs.

The time has come for Congress to fully address the issue of wetlands regulation and develop a workable regulatory program that protects real, valuable wetlands while recognizing the rights of private property owners. As the Senate Environment and Public Works Committee begins work on the reauthorization of the Clean Water Act, I hope this bill will serve as the model for section 404 reform.

Mr. WALLOP. Mr. President, I am proud to join my friend from Louisiana in introducing this bill to establish a comprehensive program for conserving and managing wetlands. I feel strongly that Congress needs to put balance back into a program that too often has shown Americans just how inflexible and misguided the Federal Government can be.

With regard to wetlands conservation, businesses large and small, private property owners and States have been forced to carry the burden of achieving a goal which has never been clarified nor evenly distributed. Private property is taken without just compensation and State's are being frustrated in their efforts to provide citizens such basic services as water allocation and road construction because of restrictive regulations which attempt to achieve no net loss of wetlands. I am not critical of the concept, however, I am deeply concerned at what is taking place under the guise of a goal which has not yet been properly defined.

In particular I am concerned about the application of the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" which increased the amount of land identified as jurisdictional wetlands without allowing the regulated public any opportunity for comment or review. In addition, a MOA signed in February 1990 by the Corps of Engineers and EPA established inflexible sequencing provisions whereby disturbance of wetlands was to be avoided first of all, then minimized and lastly, mitigated. Both of these items have operated in a very restrictive manner.

It is time for Congress to address the issue of wetlands preservation in a comprehensive manner. The bill we are introducing today does just that. Importantly, it also establishes the proper balance between conservation of wetlands and respect for private property rights, with recognition of the need for economic growth and the provision of essential services.

I commend this bill to my colleagues and look forward to working toward solutions to the very real problems created by the law as it currently stands.

Mr. JOHNSTON. Mr. President, I am pleased to join my colleague from Louisiana in introducing the Comprehensive Wetlands Conservation and Management Act of 1991, which proposes a number of needed changes in the Federal regulation of wetlands.

The current regulatory scheme has evolved in large part through administrative and judicial interpretation, and it is past time that the legislative branch debates and decides the fundamental issues and choices involved in wetlands policy. This legislation lays these issues out clearly, and proposes a number of interesting ideas for addressing them. It faces squarely the issue of private property rights and proposes a system for compensating landowners whose land is considered so valuable that virtually all productive use of it is constrained. It faces squarely the issue of balancing environmental and economic development needs and proposes a system of classifying wetlands so that the most valuable are protected while allowing marginally valuable areas to be developed. It faces squarely the need for deciding who is in charge of the program, and proposes that the Corps of Engineers be given full authority.

In addition, this legislation calls for advance mapping of all lands in the country so that everyone will know in advance what is wetlands and proposes a system for recording this information on property records. This may be one of the most important proposals contained in this bill, and will help resolve many of the controversies which have arisen when property owners have discovered after the fact that certain restrictions apply to their property. Now, even when diligent efforts have been made to determine what regulations apply to a certain tract, information is not fully available. Many in good faith have proceeded with work, invested thousands of dollars, only to find later—and usually after a disgruntled neighbor has turned them in—that a Federal permit was needed. In some cases, projects have been halted altogether, causing a storm of protest in many areas of the country. If the rules are known in advance, however, and notice is recorded locally of restrictions, then the root cause of this protest—the belief that there has been no notice and that principles of fundamental fairness have not been applied—will be abated.

In the end, mapping and notice may well be what is needed to save our wetlands. The current system simply is not accomplishing this goal. We in Louisiana know this all too well as we watch some 60 square miles of valuable coastal wetlands disappear each year. The current system does not concentrate Federal efforts on these areas, or for that matter distinguish between valuable ecological systems and individual tracts which may be in the middle of highly developed areas and thus of marginal if any importance to the ecosystem. Mapping and classifying areas will help regulators have the basic information they need to focus on valuable areas and preserve the truly important areas we all recognize need to be preserved and restored.

This bill also provides incentives for voluntary mitigation efforts, and a way for private landowners to become better stewards of their property. In addition, it expands the number of activities in these areas subject to regulation that are destructive to wetlands but are not covered under the current 404 program. It, in short, proposes a comprehensive scheme for regulating wetlands and the flexibility we must have to balance public interest needs and to reconcile equitably public policy goals with private property rights. Particularly in view of the fact that 75 percent of the Nation's wetlands are in private ownership, we must balance and reconcile these interests. Otherwise, support for any regulation may well deteriorate placing many valuable and critical areas in jeopardy.

I hope the issues this bill raises will be debated fully and seriously. It is clear to me that we must give thoughtful consideration to these issues and develop a comprehensive approach if we are to preserve wetlands for future generations, and I look forward to working closely with my colleagues to develop such an approach in this Congress.

By Mr. SANFORD (for himself and Mr. RIEGLE):

S. 1464. A bill to amend the Securities Exchange Act of 1934 to enhance investor disclosure requirements; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES INVESTOR DISCLOSURE ACT

• Mr. SANFORD. Mr. President, I rise today to introduce a bill, the Securities Investor Disclosure Act of 1991, which I believe will provide much-needed consumer protection to potential securities investors.

The need for such legislation came to my attention after I became aware of the plight of a group of my constituents from Chapel Hill, NC. These individuals lost money after investing funds through a registered broker-dealer and sought the protection afforded to them by the Securities Investor Protection Corporation [SIPC].

In their attempts to receive SIPC claims, they have faced tremendous obstacles due to a number of technical interpretations of securities law. The purpose of this bill is to improve disclosure requirements for securities broker-dealers to ensure future investors will not face the same difficulties that my constituents have met.

As you may know, SIPC was created under the Securities Investment Protection Act [SIPA] of 1970 to provide customers of SIPC recourse when SIPC member broker-dealers folded due to insolvency or fraudulent behavior.

Since then, numerous court cases have arisen regarding who is eligible to receive protection through SIPC and what it takes to be considered a customer within the meaning of the Securities Investor Protection Act. Many investors, as in the case of my constituents in North Carolina, have truly believed that their transactions were insured by SIPC, and that they were customers of a SIPC-insured broker-dealer, only to find out they were really customers of an affiliate of the broker-dealer or had not made payments to the legal name of the broker-dealer.

Such individuals were denied insurance payments when their broker-dealer failed because of SIPC's interpretation of the definition of a customer as stated in section 78111(2) of the Securities Investor Protection Act. This interpretation is very narrow, including only those persons who make their investment checks directly payable to the broker-dealer or deliver cash funds that are actually deposited in the broker-dealer's account. This interpretation does not include those who clearly entrusted funds to a broker-dealer for the purchase of securities and made their checks payable to the broker himself or an affiliated company of the broker-dealer.

This strict interpretation has created confusion in the past, particularly when SIPC member broker-dealers have a similar name and share the same offices and personnel with a financial affiliate, a practice which is common among many smaller broker-dealers. Adding to the confusion is the fact that when many customers walk in a broker's door they immediately see a gold SIPC sticker on the door announcing $100,000 insurance coverage yet do not realize that much of the business done in that office is not covered by SIPC.

Herein lies the dilemma facing SIPC customers. SIPC member broker-dealers are permitted to sell products through non-SIPC insured affiliates or to offer products which are not covered by SIPC from the same office in which they carry on their insured business as a broker-dealer. Unbeknownst to the investor, these products are not insured under SIPC and thus the investor is not considered to be a customer of SIPC for insurance purposes.

I am submitting this legislation in hopes of avoiding such confusion in the future and believe it is quite straightforward. It simply amends the Securities and Exchange Act of 1934 to require the SEC to set forth standards for disclosure requirements of SIPC coverage. The bill would force broker-dealers and those affiliated with broker-dealers to disclose their current SIPC membership status and the extent of consumer protection provided for certain transactions under SIPA as well as identify transactions not protected under SIPA. Thus, an investor would be made aware when he or she is not considered a customer of SIPC as defined in the Securities Investor Protection Act.

I believe this bill will remedy the present problems and protect potential investors against unnecessary and unwarranted losses. This legislation requires no greater costs and places no greater strains on the SIPC insurance fund. It is a simple disclosure statute, and I urge my colleagues to support it.•

• Mr. RIEGLE. Mr. President, I am pleased to cosponsor the Securities Investor Disclosure Act of 1991 with my distinguished colleague from North Carolina, Senator SANFORD. This bill will ensure some needed reforms to increase consumer awareness about the present securities investment and protection system. Recent events have demonstrated that individual investors may not have the information that they need to make an informed decision when buying securities about the coverage provided them should their broker go bankrupt.

In 1970, the Congress created the Securities Investment Protection Corporation [SIPC] to promote confidence in U.S. securities markets by protecting the customers of registered securities broker-dealers that are unable to meet financial obligations to their clients.

It is important to understand what SIPC is and what it does. First, SIPC is not an insurance system against declines in the market value of securities. If the price of securities fall, SIPC has no role. What SIPC does do is protect customers of broker-dealers by protecting customer assets—cash and securities—held by the broker for the customer. In other words, if a broker-dealer is holding either cash or securities of customers at the time it fails and the broker-dealer has insufficient assets to return all customer cash and securities, SIPC will reimburse customers for cash up to $100,000 and total losses up to $500,000. I emphasize again, however, that SIPC does not protect securities customers from market losses. Further, not all assets purchased through a broker-dealer are covered under SIPC. The problem we are encountering is that these facts are not always explained to securities customers.

SIPC has performed its function efficiently for the past two decades and the present system for customer protection after a broker fails works well. However, customers are not sufficiently aware of what SIPC does and does not do.

The bill Senator SANFORD and I are introducing today directs the SEC to establish regulations requiring disclosures about SIPC at the start of a relationship between a securities customer and a broker-dealer. The disclosure will inform customers of whether or not the broker-dealer is a member of SIPC, and what sorts of products are and are not provided with SIPC coverage. Once they have this information customers can make informed decisions about future securities transactions. And then we can at least be assured that, no matter what the customer chooses to do, they are not operating under false or incomplete information.

Since the Securities and Exchange Act became law in 1934, the key to the success of this Nation's securities markets has largely been adherence to the concept of disclosure. Recent experience has demonstrated the continuing need to sharpen that focus. There is a wide gap between the complexity of the securities business and the sophisticated of the small individual investor. Unfortunately, there have been some unscrupulous securities brokers who have exploited this fact to their advantage. One recent case involved a broker setting up affiliate organizations that were not members of SIPC under the same roof and selling products that, to uninformed customers, appeared to be covered. The bill that I am cosponsoring today with Senator SANFORD will ensure that these and other customers continue to reap the benefit of the traditional basis for securities law: Consumer disclosure.•

By Mr. FOWLER:

S. 1465. A bill to amend the Egg Products Inspection Act to prescribe the temperature at which eggs are maintained in order to reduce the potential for harmful microbial growth to protect consumers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EGG PRODUCTS INSPECTION ACT AMENDMENTS

• Mr. FOWLER. Mr. President, I rise today to introduce the Egg Products Inspection Act Amendments of 1991.

This legislation will greatly strengthen and enhance the existing laws governing the handling and inspection of eggs destined for every breakfast table in America.

It is widely recognized that warm temperatures facilitate microbial growth on food products. By installing refrigeration equipment and carefully monitoring temperatures, egg handlers can greatly reduce the presence of potentially harmful bacteria. It is often exposure to these warm temperatures that leads to salmonellosis.

This legislation requires handlers to hold, at all times after packaging, every single shell egg destined to human consumption at an ambient temperature no greater than 45 degrees fahrenheit. The Secretary of Health and Human Services and the Secretary of Agriculture are both extended additional authority to enforce these provisions to ensure complete compliance by the industry.

Consumers have become increasingly concerned about the quality of the food that they eat. This legislation is a step in the right direction in addressing those concerns. I am particularly pleased that this proposal has been supported by the egg and poultry industry.

These new temperature provisions for egg handlers coupled with recent revisions by the Food and Drug Administration for eggs at the retail level will help provide consumers with safer and better quality eggs.•

By Mr. ROTH:

S. 1466. A bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

CONGRESSIONAL BUDGET OFFICE NEUTRALITY ACT

• Mr. ROTH. Mr. President, today I am introducing a bill to reform the Congressional Budget Office and make it nonpartisan. This legislation is identical to companion legislation offered in the House today for the same purpose. The purpose of the legislation is to insulate CBO from partisan pressure in order to improve its ability to perform its functions in a neutral and objective manner.

This legislation would also mandate full disclosure of CBO assumptions used to evaluate tax and spending measures and for other analytical work. In a democracy it is reasonable for Members of Congress and the public to know how the assumptions of congressional staff influence congressional decisionmaking. There is no reason to keep Congress and the public in the dark about CBO research products. For example, CBO failed to disclose a $375 billion error in CBO capital gains realizations even though this error had a bearing on highly controversial issues regarding family income, tax policy, and CBO scorekeeping.

My bill would establish a bipartisan oversight board with six Members from each House of Congress, evenly divided by party. This bipartisan board would authorize CBO research products and oversee their completion and release in a fair and unbiased fashion. The member board would also name an advisory council of outside experts to evaluate CBO research products for objectivity and quality.

Finally, my bill would require confirmation of the CBO director by both Houses of Congress. Given the size and importance of CBO to all Members of Congress, its Director should be confirmed by the Members of each House.

Mr. President, my bill would provide more sunlight in congressional decisionmaking, and move CBO in the direction of nonpartisanship. I would invite any interested Members to cosponsor this legislation.•

By Mr. HEFLIN:

S. 1467. A bill to designate the U.S. Courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr., United States Courthouse"; to the Committee on Environment and Public Works.

FRANK M. JOHNSON, JR. COURTHOUSE

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the distinguished U.S. Court of Appeals judge for the eleventh circuit, Frank M. Johnson, Jr., who recently announced his intention to assume senior status.

Judge Johnson was born in Winston County, AL, and attended public schools all of his life, graduating from the University of Alabama Law School in 1943. He married the lovely Ruth Jenkins in 1938, and 53 years later they remain devoted to each other. During World War II, Judge Johnson saw combat action in Normandy, France, and across into Germany where he was wounded twice on the field of battle and later was decorated for gallantry. He was discharged as a captain and returned to the general practice of law with the firm of Curtis, Maddox & Johnson in Jasper, AL, and in 1953 he was named the U.S. attorney for the Northern District of Alabama. In 1955, President Dwight D. Eisenhower appointed Frank Johnson to the U.S. District Court for the Middle District of Alabama where he served until 1979, at which time President Jimmy Carter nominated him to be a U.S. circuit judge for the fifth circuit. The fifth circuit subsequently became the eleventh circuit in 1981; Judge Johnson continues to serve as a U.S. Court of Appeals judge for the Eleventh Circuit and will until he reaches his 73d birthday this year.

Judge Johnson's career is one of entire devotion to the rule of law and justice. He has been very active, serving in a number of professional capacities within the judicial branch of the Federal Government. Judge Johnson's honors are almost too numerous to mention, but they include honorary doctorates of law from Notre Dame University, Princeton University, the University of Alabama, Boston University, Yale University, Tuskegee University, and Mercer University. Two biographies have been written about Judge Johnson: One entitled "Judge Frank M. Johnson, Jr.," by Robert F. Kennedy, Jr.; and "Judge Frank Johnson and Human Rights in Alabama," by Dr. Tinsley E. Yarbrough.

It is entirely fitting, in my judgment, to name the U.S. courthouse in Montgomery in honor of Frank M. Johnson, Jr., for numerous reasons. The genesis of the whole civil rights movement began in Montgomery, AL, and it was during that early period of Judge Johnson's tenure on the district bench in Montgomery that cases came before him in his second floor courtroom in the U.S. Courthouse. During his 24-year tenure on the district bench, Judge Johnson rendered decisions in such cases as Gomillion versus Lightfoot, U.S. versus U.S. Klans, Reynolds versus Sims, Lee versus Macon County Board of Education, Wyatt versus Aderholt, and Craig versus Alabama State University. These cases are landmarks in areas of the law in desegregation, voting rights, reapportionment, prisoner and mental health rights.

Judge Johnson's courtroom has been a living symbol of decency and fairness to all who come before his bench. It is from this courthouse that the term "rule of law" came to have true meaning; it is from this courthouse that the term "equal protection of the law" became a reality; and it is from this courthouse that the phrase "equal justice under law" was dispensed despite threats to his personal life. On June 11, 1974, Princeton University, in awarding Judge Johnson an honorary doctor of laws degree, said:

> In the heat of the long battle for civil rights, equal employment, and freedom of speech, his courtroom has been a sanctuary of integrity, fairness, and decency, where constitutional principle has guided difficult decisions. Neither fear nor prejudice, ignorance nor ignoble opposition can undermine his stern devotion to equal protection for all citizens under the law of the land.

I am sending to the desk of the clerk of the Senate a bill to name the U.S. Courthouse in Montgomery, AL, in honor of this distinguished U.S. Court of Appeals judge for the eleventh circuit, Frank M. Johnson, Jr. I ask unanimous consent that the bill appear in the CONGRESSIONAL RECORD following my remarks.

The Frank M. Johnson, Jr. United States Courthouse will continue to serve as a landmark symbol of freedom and hope for all who are struggling for fairness and justice. I urge my colleagues to join me in passing this important legislation honoring this distinguished jurist.

By Mr. MOYNIHAN:

S. 1468. A bill to provide for the termination of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary; to the Committee on Finance.

TERMINATION OF CERTAIN TRADE PROVISIONS

• Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill freeing the now free nations of Hungary and Czechoslavakia from the Jackson-Vanik conditions still applied to them for the purposes of MFN tariff treatment.

On June 1951, at the outbreak of the Korean war, Congress directed President Truman to suspend most-favored-nation trade status for all Communist countries except Yugoslavia. Exports from countries that do not receive MFN must face Smoot-Hawley tariffs.

During the subsequent 20 years, there was considerable debate about renewing MFN treatment for some Communist nations. Poland's MFN status was restored in 1960. Cuba's was revoked in 1962. During negotiations by the Nixon administration in 1972 to restore MFN for the Soviet Union, it became known that the Soviet Union had begun charging people wishing to emigrate "educational fees" of as much as $20,000 or $30,000—in addition to exit visas that already cost $1,200. In response, Senator JACKSON and 73 cosponsors offered an amendment to prohibit MFN treatment for any nonmarket economy country which denies or imposes undue burdens on the right of its citizens to emigrate.

Thus was born the Jackson-Vanik freedom of emigration provision. Eventually included as an amendment to the Trade Act of 1974, Jackson-Vanik has come to embody the connection made between U.S. trade policy and U.S. human rights policy. That is the issue that we now confront with China.

The bill I introduce today recognizes the profound nature of the change acheived by Hungary and Czechoslovakia. Both nations have undergone political and economic transformation. From totalitarian Communist dictatorships to free political systems. Though yet fragile, both nations have embraced free market principals, renouncing the centralized economies of a previous era. And both nations have accorded their citizens the right not only to emigrate, but even to travel freely, unimpeded by that greatest of symbols of the cold war, the Berlin Wall.

The bill would allow the President to remove the application of the Jackson-Vanik provision to Czechoslavakia, or the Czech and Slovak Republic as it is now called, and Hungary, thus extending to them without condition MFN treatment.

I urge my colleagues to join me in support of this most worthy initiative, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS AND PREPARATORY PRESIDENTIAL ACTION.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that the Czech and Slovak Federal Republic and the Republic of Hungary both have—

(1) dedicated themselves to respect for fundamental human rights;

(2) accorded to their citizens the right to emigrate and to travel freely;

(3) reversed over 40 years of communist dictatorship and embraced the establishment of political pluralism, free and fair elections, and multi-party political systems;

(4) introduced far-reaching economic reforms based on market-oriented principles and have decentralized economic decision making; and

(5) demonstrated a strong desire to build friendly relationships with the United States.

(b) PREPARATORY PRESIDENTIAL ACTION.—The Congress notes that the President in anticipation of the enactment of section 2, has directed the United States Trade Representative to negotiate with the Czech and Slovak Federal Republic and the Republic of Hungary, respectively, in order to—

(1) preserve the commitments of that country under the bilateral commercial agreement in effect between that country and the United States that are consistent with the General Agreement on Tariffs and Trade; and

(2) obtain other appropriate commitments.

SEC. 2. TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO CZECHOSLOVAKIA AND HUNGARY.

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(1) determine that such title should no longer apply to the Czech and Slovak Federal Republic or to the Republic of Hungary, or to both; and

(2) after making a determination under paragraph (1) with respect to a country, proclaim the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of that country.

(b) TERMINATION OF APPLICATION OF TITLE IV.—On and after the effective date of the extension under subsection (a)(2) of nondiscriminatory treatment to the products of a country, title IV of the Trade Act of 1974 shall cease to apply to that country.•

By Mr. GORTON (for himself and Mr. WALLOP):

S. 1469. A bill regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance.

CHINESE DEMOCRACY AND HUMAN RIGHTS ACT

Mr. GORTON. Mr. President, in the past 3 years, the world has witnessed extraordinary upheaval as the people of nation after nation rose up to throw off the deadening shackles of communism, embracing democracy in its stead. For decades, our foreign policy consciously was designed to achieve precisely this objective. It has been deeply gratifying to have played a role in these wondrous and dramatic transformations.

With these triumphs comes a new era; our single overarching goal of discrediting communism has been largely reached. Our task now is infinitely more difficult. In defining policies to support the continued growth of democracy, and to further its spread to other nations, each country must be considered individually. What will work in Poland may not work in the Soviet Union. What is effective in Nicaragua has no relevance to Hungary.

But perhaps nowhere is the challenge more difficult than in the People's Republic of China. I have spoken before of the poignancy of what remains to be done there. I have spoken of unarmed protesters and tanks, of youth and the "Gang of Elders," of defiance crushed by tyranny. Our task in China is to allow the dormant seeds of democracy to survive the harsh winter of repression and to await the day when they may sprout once again.

To deal with those who direct that repression is repugnant to all who embrace liberty, Mr. President. But in this instance, they represent the sole means of ensuring that spring finally will arrive for the dreamers of democracy in China. If we proceed with deliberation and considered caution, the snows of winter may give way to a delayed, but not defeated, spring.

The Senate soon will undertake to reexamine this nation's relationship with the People's Republic of China. The very foundation upon which that relationship rests was severely damaged by the carnage which occurred in and around Tiananmen Square on June 3 and 4, 1989. Friendship has been replaced by mistrust, hope replaced by apprehension, protest silenced by repression.

Mr. President, I introduce today on behalf of myself and Senator WALLOP, the Chinese Democracy and Human Rights Act of 1991. This bill addresses some of the thorniest and most emotional issues facing this Congress, due in part to the President's deep personal interest in maintaining good relations with China where he once served as envoy. Whether and under what conditions to extend most-favored-nation [MFN] trade status to China are issues with no easy solutions.

I applaud Senator BAUCUS for raising in a recent letter to the President a number of extremely valid concerns confronting the United States and China. The Senator from Montana also suggested administrative actions that this Nation could take, including opposing multilateral loans to China, increasing various negotiation efforts and supporting Taiwan's admission to the GATT. I could not be in more full agreement.

I encourage the administration to address each of those concerns directly and completely. MFN status should not be immediately terminated, and I will resist attempts to do so, whether they be overt or disguised. Revoking MFN would do little except to punish China for its past misdeeds, and cause significant hardships to American businesses and farmers, Hong Kong and the most progressive sectors of China. These are not among the objectives of this Senator.

Where the Senator from Montana and I differ, however, is whether or not it is appropriate to use MFN as both a carrot and a stick. I submit that it is.

In the 2 years since the massacre in and around Tiananmen Square, China has taken few positive steps. And those taken were blatant attempts to influence crucial decisions pending in the United States. Last year, for instance, 211 wrongfully detained political prisoners were released shortly before the President announced his decision to extend China's MFN status for another year. There was a similar release of prisoners and the ending of formal martial law in Beijing at precisely the time when Congress was debating legislation regarding the Chinese students.

Many of the outwardly positive steps taken by China were followed by the imposition of additional restrictive actions. Martial law was replaced by onerous legislation effectively outlawing many of the fundamental freedoms supposedly guaranteed by the Chinese Constitution. The Government detained groups of dissidents as others were being released. As the second anniversary of the June 4 massacre approached, Chinese and foreign journalists found themselves subject to increasing harrassment as they attempted to report the truth.

This Senator does not believe that Congress should stand idly by and do nothing. Through our inaction, we implicitly demonstrate our willingness to overlook even the most heinous acts of a government that is willing to turn its guns on peaceful protesters. Were that an isolated incident, I might be able to attribute it to a gross misjudgment. However, the systematic and calculated series of events in China obviously designed to quell dissent in every quarter has convinced me otherwise.

I have solicited and considered the diverse views of businesses, groups and individual constituents from the State of Washington, as well as those of a number of national organizations and colleagues in both Chambers of Congress. I even sought to discuss this matter with officials from the People's Republic of China, but failed to receive any response.

After long and deliberate thought, I have drafted a bill that I and the bill's cosponsors believe represents a balanced approach between the two extremes. It would not restrict unconditional extension of MFN trade status for China for the current year. It would encourage China, however, to make demonstrable progress in a number of areas by providing additional conditions that must be met if China's MFN status is to be extended in 1992. These conditions are firm, yet reasonable to China to meet within this time frame despite its pronounced intransigence during the past 2 years.

This bill requires that China account for, and release, citizens who were imprisoned because of their prodemocracy activities. It also requires China to live up to its promises to not export to the United States goods made with convict labor, and to adhere to the joint declaration on Hong Kong entered into with the United Kingdom. Finally, China must not transfer ballistic missile weaponry to either Syria, Iran or Pakistan.

The bill also requires China to make significant progress on human rights, convict labor, trade, intellectual property rights protection, and military and nuclear weapons control. China's track record on those matters is far from exemplary, and sudden or dramatic progress is unlikely absent a significant shift in China's aging leadership. By using MFN both as a carrot and a stick, this Senator believes that China under its current leadership may be prodded in the right direction.

China has threatened, consistently and often, that relations will be damaged if MFN is withdrawn or even conditioned. The administration warns that passage of any legislation would be an intolerable slap in the face of an intensely proud country such as China, and would drive it away to sulk.

To be perfectly honest, I have little doubt that China would carry out its promises and react to whatever this body does that is inconsistent with China's demands. After all, China has promised to do so, and will lose face if it did not. The severity and duration of China's reaction would depend solely on what is in its best interests. It is to China's political advantage to play the offended lover, confident that its suitor will come groveling back to pitch woo once again.

In the view of this Senator, Congress and this Nation should not continue to kow-tow to the threats of aging tyrants who soon will pass from the scene leaving nothing but their legacy. Our bilateral relationship is extremely valuable to China. Earlier this year, China dispatched a buying mission to this country to spend millions of dollars for products that it may not need at this time. This week, China contracted to pay an American public relations firm as much as $1 million over the next 6 months to maintain ties with this country.

China's future does not lie in communism and isolationism, but rather in democratic reform and improved ties with the West. The seeds of democracy have been sowed throughout China, where some have taken root and others lay dormant. Congress should act to hasten the day when democracy will begin to blossom as it has in Eastern Europe and even the Soviet Union. I urge my colleagues to pass this vital legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1469

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chinese Democracy and Human Rights Act of 1991".

SEC. 2. REQUIREMENTS FOR GRANTING MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may not recommend the extension of a waiver in 1992 under subsection section 402(d) of the Trade Act of 1974 for the People's Republic of China, unless the President reports in the document required to be submitted by section 402(c) of such Act the following findings:

(1) The People's Republic of China has, with respect to the violent repression of dissent in and around Tiananmen Square on June 3 and 4, 1989—

(A) accounted for citizens who were detained, accused, or sentenced as a result of nonviolent expression of their political beliefs; and

(B) released citizens who were imprisoned after such detention, accusation, or sentencing.

(2) The People's Republic of China has made significant progress in—

(A) preventing gross violations of internationally recognized human rights, particularly in Tibet;

(B) ending religious persecution, particularly in Tibet, and releasing leaders and members of all religions groups detained, incarcerated, or under house arrest as a result of the expression of their religious beliefs;

(C) removing restrictions, particularly in Tibet, on freedom of the press and on broadcasts by the Voice of America, and ceasing acts of intimidation and harassment of Chinese and foreign journalists;

(D) terminating surveillance and acts of intimidation and harassment of Chinese citizens living in China because of their prodemocracy activities, including the return and renewal of passports confiscated by authorities;

(E) terminating surveillance and acts of intimidation and harassment of Chinese citizens living outside of China, particularly those in the United States, because of their prodemocracy activities, including the return and renewal of passports confiscated by authorities;

(F) ensuring access of international human rights monitoring groups to prisoners, trials, and places of detention;

(G) ensuring freedom from torture and from inhumane prison conditions;

(H) terminating prohibitions on peaceful assembly and demonstration imposed after June 3, 1989;

(I) removing obstacles to study, travel or emigrate abroad for students and other citizens;

(J) permitting international humanitarian and intergovernmental organizations to inspect labor camps, prisons and other facilities to assess medical care, food and working conditions, and to determine whether political detainees are producing items for export;

(K) lowering tariff and nontariff administrative controls that restrict foreign firms' access to the domestic market of the People's Republic of China;

(L) providing adequate protection of United States intellectual property rights, in particular, computer software; and

(M) ceasing proliferation of ballistic missiles and exportation of nuclear weapons technology.

(3) The People's Republic of China is adhering to the Joint Declaration on Hong Kong that was entered into with the United Kingdom.

(4) The People's Republic of China is not exporting to the United States goods which are, in whole or in significant part, the product of forced labor.

(5) The People's Republic of China is not transferring to Syria or Iran ballistic missiles or misssile launchers for the weapon system known as the M-9 or the M-11, and is not transferring to Pakistan ballistic missiles or missile launchers for the weapon system known as the M-9 or ballistic missiles for the weapon system known as the M-11.

(b) DEFINITIONS.—For the purposes of subsection (a)—

(1) The term "acts of intimidation and harassment" means actions taken by the Government of the People's Republic of China that are intended to deter or interfere with, or to be in retaliation for, the nonviolent expression of political beliefs by Chinese citizens within the United States.

(2) The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(3) The term "gross violations of internationally recognized human rights" includes, but is not limited to, torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(4) The term "significant progress" means the implementation and faithful execution of measures that will henceforth lead substantially to the achievement of the objectives identified in subparagraphs (A) through (M) of subsection (a)(2).

(5) The term "forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

SEC. 3. REPORT BY THE PRESIDENT.

In addition to the findings required by section 2, if the President recommends in 1992 that the waiver authority referred to in section 101 be extended to the People's Republic of China, the President shall include in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, a report on the extent to which the Government of the People's Republic of China has made between June 1991 and June 1992 in meeting the requirements of section 2(a).

SEC. 4. CULTURAL AND EDUCATIONAL EXCHANGE PROGRAMS.

(a) FINDINGS.—Congress finds that the interests of both the United States and the People's Republic of China would best be served by the free flow of ideas and information between citizens of our two nations.

(b) SENSE OF THE CONGRESS.—It is that sense of the Congress that the continuation and expansion of cultural and educational exchange programs linking our two nations should be encouraged, particularly in the fields of governance, law, and social sciences.

By Mr. HATCH:

S. 1470. A bill to alleviate burdens imposed upon educational agencies and institutions by the Family Educational Rights and Privacy Act of 1974 with respect to the maintenance of records by campus law enforcement units; to the Committee on Labor and Human Resources.

MAINTENANCE OF CERTAIN EDUCATIONAL RECORDS

Mr. HATCH. Mr. President, today I am introducing a bill on behalf of the Bush administration that amends the Buckley amendment. This bill would exempt from the definition of educational records any record maintained by a law enforcement unit that was created by that unit for a law enforcement purpose. The bill would neither require nor prohibit the release of such records, but would allow the choice to be made in light of local law and policy.

This amendment will result in better protection for our students by clearly outlining which records are educational records and should be subject to the Buckley amendment protections, and which records should be available to the public so that appropriate campus crime statistics can be maintained. I urge your support of this bill.

By Mr. ADAMS (for himself, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, and Mr. DECONCINI):

S. 1471. A bill to amend the Older Americans Act of 1965 to establish an Elder Rights Program, and for other purposes; to the Committee on Labor and Human Resources.

VULNERABLE ELDERS' RIGHTS PROTECTION AMENDMENTS

Mr. ADAMS. Mr. President, I rise with great pleasure today to introduce the Vulnerable Elders' Rights Protection Amendments of 1991. This legislation will establish a new title VII in the Older Americans Act [OAA] that will focus and strengthen activities that protect and defend those older citizens whose rights and well-being are at serious risk.

As chairman of the Labor and Human Resources Committee Subcommittee on Aging, it is my responsibility to reauthorize the OAA this year. I intend to include this legislation in my OAA reauthorization amendments that will be marked up next week in the Labor Committee. The new title created by the Vulnerable Elders' Rights Protection Amendments is a very important part of this reauthorization.

I am honored to be joined in introducing this bill by my good friends and esteemed colleagues, Senators KENNEDY, DODD, DECONCINI, and HARKIN. I am also pleased to say that a companion measure is being introduced in the House of Representatives ROYBAL, DOWNEY, OAKAR, and WYDEN. Each of these Senators and Representatives has demonstrated over many years their deep commitment to improving and protecting the rights of the Nation's elderly.

Over the past 6 months I have conducted six hearings concerning the reauthorization of the OAA and have heard from many organizations and individuals about the importance of the act and improvements that should be made in it. One of the most consistent themes that has been raised during this process is the need to emphasize and strengthen those parts of the OAA that are directed at the most vulnerable among our elderly citizens.

In fact, at my first OAA hearing in January, I heard poignant and compelling testimony about the importance of key OAA programs that assist seniors in asserting and maintaining their rights. These include the Long-Term Care Ombudsman Program that investigates complaints of nursing home and board and care facility residents, legal assistance offices to address the legal problems of seniors, and the newly funded elder abuse prevention efforts.

One witness at that hearing, Mrs. Betsy Follensbee, told me of the help that a Vermont ombudsman and the Vermont Senior Citizens Law Center gave in dealing with the serious problems of her brother, a nursing home resident. After they resolved the problems she said "My brother's care since that time has been constantly watched and helped by the long-term care ombudsman."

At that same hearing, the remarkable Dr. Arthur Flemming, former Chairman of the U.S. Civil Rights Commission and U.S. Commissioner on Aging, said:

> A strong advocacy program is a must if the rhetoric of the "Declaration of Objectives for Older Americans" as set forth in title I of the Older Americans Act and the rhetoric of the titles designed to carry out the declaration is to be translated into reality for a maximum number of the older persons of our nation.

Dr. Flemming concluded by saying:

> I hope that this committee will start us down the road that will bring together the pieces of our present advocacy program into a new section, and will then strengthen the various components of the program.

Mr. President, we have gone down that road over the past 6 months and I am proud to say that my legislation will do what Dr. Flemming advocated—it brings together and strengthens the pieces in the OAA.

This legislation is timely and appropriate to the fiscal circumstances we find ourselves in. We are not in a position to create new programs requiring substantial funds. Nor is it appropriate to heap more demands upon the already strained resources of the Older Americans Act and other programs essential to the health, safety, and well-being of seniors.

What we can do, however, is protect the existing rights and benefits they need and are now entitled to. And, we can strengthen those programs intended to advocate for vulnerable elders. This is necessary whether it pertains to the rights of those living in nursing homes, those who are victims of abuse or exploitation, those who are denied benefits they rightfully are entitled to, or those who are sold insurance policies they do not need or cannot afford.

Last month, Families USA issued an important report showing that millions of low-income elderly and disabled individuals are not having their Medicare out-of-pocket costs—premiums, deductibles, and copayments—paid as Congress intended in establishing the Qualified Medicare Beneficiary [QMB] Program. Instead, they are paying out of their own pockets amounts that can be more than one-sixth of the annual income of an older person now living in poverty. Moreover, it is estimated that less than half of older individuals eligible for food stamps or Medicaid are covered by these programs. We are failing these needy and vulnerable citizens.

We need to do a much better job of turning our Government's promises into realities. My legislation will help do that in a number of ways. Mr. President, I will take just a few moments to briefly describe the legislation.

Under my bill, each State's OAA funded aging agency will establish a plan—an elder rights plan—to describe how they will protect and improve the rights of older persons in their State, and specifically describe how they will carry out the programs authorized under the new title.

The Long-Term Care Ombudsman Program would be moved from title III of the act to the new title and would be strengthened at the Federal, State, and local levels. This would include a National Ombudsman Center.

The act's elder abuse, neglect, and exploitation prevention provisions would also be placed in the new title and strengthened. States would be given much more discretion in the administration of this program and a National Ombudsman Resource Center would be established.

In addition to establishing an elder rights plan, State's would be authorized to provide for periodic assessments of the status of elder rights in their States, including the unmet need for assistance in resolving legal-related problems of older persons. States would also do more to promote the development of alternative methods for providing legal assistance and resolving seniors' problems.

The program authorized in 1987 to conduct outreach to identify seniors who may be eligible for, but who are not receiving, benefits under certain public benefit programs, such as supplemental security income [SSI], would be shifted to the new title in a new Outreach, Counseling, and Assistance Program. Under this expanded program, States would be authorized to provide counseling and assistance to seniors to help them to resolve problems in public benefit and private insurance programs, including Medigap and life insurance—areas in which far too many seniors are victimized.

Finally, two demonstration programs would be authorized: one to demonstrate cooperative efforts between State ombudsman programs, legal assistance agencies, and protection and advocacy systems would be reauthorized; and a new demonstration would be authorized for ombudsman services to assist tenants of publically assisted housing in solving their problems.

Mr. President, for the most part, this legislation consolidates and improves upon existing programs in the act. The new title provides a consistent and coherent structure for those services directed at protecting the rights of, and advocating for, vulnerable seniors. I urge my colleagues to join me in supporting this legislation now and when it is incorporated into our Older Americans Act reauthorization amendments.

I ask unanimous consent that a copy of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Vulnerable Elders' Rights Protection Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. References.

TITLE I—ELDER RIGHTS SERVICES

Subtitle A—Administration Programs

Sec. 101. Establishment of Office on Long-Term Care Ombudsman Programs.
Sec. 102. Establishment of National Ombudsman Resource Center.
Sec. 103. Establishment of National Center on Elder Abuse.
Sec. 104. Reports by Commissioner.

Subtitle B—State and Community Programs

Sec. 111. Existing State and community programs.
Sec. 112. Vulnerable elder rights protection activities.
Sec. 113. Ombudsman programs.
Sec. 114. Programs for prevention of abuse, neglect, and exploitation.
Sec. 115. State elder rights and legal assistance development programs.
Sec. 116. Outreach, counseling, and assistance programs.
Sec. 117. Technical and conforming amendments.

Subtitle C—Demonstration Programs

Sec. 121. Long-Term Care Ombudsman Demonstration Projects.
Sec. 122. Housing ombudsman demonstration program.

TITLE II—DEFINITIONS

Sec. 201. Definitions.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Effective dates; application of amendments.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a need to consolidate and expand State responsibility for the develop-

ment, coordination, and management of statewide programs and services directed toward ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights; and

(2) recent program reports and current research and demonstration findings indicate that—

(A) the incidence of elder abuse in domestic settings is estimated at approximately 1,500,000 cases per year;

(B) only one out of eight cases of elder abuse comes to the attention of State elder abuse reporting systems;

(C) half of the complaints received by the State long-term care ombudsman program relate to abuse of residents of long-term care facilities;

(D) approximately 2,000,000 older individuals reside in an estimated 90,000 long-term care facilities;

(E) older individuals residing in long-term care facilities are among the most frail and most vulnerable elderly persons in the United States;

(F) the advocacy services of the State long-term care ombudsman program, in conjunction with the services of legal assistance providers, are essential to protecting and enhancing the rights of residents of long-term care facilities;

(G) more than persons in any other age group, older individuals rely on public benefit programs and services to meet income, housing, and health and supportive services needs;

(H) benefits and protections for older individuals have expanded under Federal laws such as—

(i) the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

(ii) the Military Retirement Reform Act of 1986 (Public Law 99-348; 100 Stat. 682);

(iii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

(v) sections 1819 and 1919 of the Social Security Act, regarding nursing home reform (42 U.S.C. 1395i-3 and 1396r);

(vi) section 1924 of the Social Security Act, regarding spousal impoverishment (42 U.S.C. 1395r-5);

(vii) the Cranston-Gonzales National Affordable Housing Act of 1990 (Public Law 101-625; 104 Stat. 4079); and

(viii) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(I) a wide range of State legislative action has occurred in the area of elder rights, including legislative action regarding guardianship reform, insurance regulation, consumer protection, and the development of procedures for surrogate decisionmaking and advanced directives;

(J) the Federal laws described in subparagraph (H) and the State laws resulting from the legislative action described in subparagraph (I) are complex and constitute a difficult challenge for older individuals who wish to take advantage of the benefits the laws provide;

(K) the appropriate utilization of public benefit programs requires consumer knowledge of entitlements and skill in understanding complex Federal, State, and local laws and regulations;

(L) there is growing evidence of the need to provide outreach, counseling, and assistance to older individuals on—

(i) the public benefits to which they are entitled, including benefits under—

(I) the supplemental security income, medicare, and medicaid programs established under the Social Security Act (42 U.S.C. 1381 et seq., 1395 et seq., and 1396 et seq.);

(II) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); and

(III) the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.); and

(ii) the options available to the persons for public and private insurance, including health, long-term care, and life insurance, and retirement benefits;

(M) it is estimated that only half of older individuals eligible for benefits under the supplemental security income program are currently enrolled;

(N) it is estimated that only half of older individuals eligible for food stamps receive assistance; and

(O) it is estimated that less than half of older individuals eligible for benefits under the medicaid program are currently enrolled.

(b) PURPOSES.—The purposes of this Act are to—

(1) assist States in securing and maintaining for older individuals dignity, security, privacy, the exercise of individual initiative, access to resources and benefits to which the individuals are entitled by law, and protection from abuse, neglect, and exploitation;

(2) require States to undertake a comprehensive approach in developing and maintaining elder rights programs;

(3) authorize States to undertake State level activities in support of programs that—

(A) are administered by State agencies, area agencies on aging, other public agencies, nonprofit agencies and organizations, and volunteers; and

(B) focus on securing and protecting the rights and benefits of older individuals;

(4) require States to administer elder rights programs and services authorized by this Act in a comprehensive and coordinated manner;

(5) require States to give priority to protecting the rights of, and securing and maintaining benefits and services for, older individuals with the greatest economic or social need;

(6) authorize States—

(A) to plan and develop programs and systems of individual representation, investigation, advocacy, protection, counseling, and assistance, for older individuals; and

(B) to coordinate and administer State and local activities for the protection and representation of older individuals, including—

(i) activities for prevention of, and protection against, abuse, neglect, and exploitation;

(ii) legal assistance;

(iii) long-term care services;

(iv) ombudsman activities;

(v) benefits counseling and assistance; and

(vi) other such outreach activities;

(7) require the State agency to submit annually to the Commissioner on Aging and to other appropriate State agencies a report of elder rights activities and issues, including an analysis of data regarding elder rights based on—

(A) reports of abuse, neglect, or exploitation;

(B) complaints regarding long-term care;

(C) reports of consumer fraud and abuse;

(D) reports of requests for and the provision of emergency protective services;

(E) reports of legal assistance and advocacy required to provide protection; and

(F) reports regarding the failure of older individuals to secure benefits for which the persons are eligible; and

(8) require the State agency to provide public information, education and training, and technical assistance to older individuals, family members of older individuals, and service providers, regarding—

(A) the rights of older individuals;

(B) the means available to secure and protect the rights; and

(C) ways of assisting older individuals in making informed choices.

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

TITLE I—ELDER RIGHTS SERVICES

Subtitle A—Administration Programs

SEC. 101. ESTABLISHMENT OF OFFICE ON LONG-TERM CARE OMBUDSMAN PROGRAMS.

Section 201 (42 U.S.C. 3011) is amended by adding at the end the following new subsection:

"(d)(1) As used in this subsection:

"(A) The term 'Associate Commissioner' means the Associate Commissioner for Ombudsman Services.

"(B) The term 'eligible individual' means an individual, if—

"(i) the individual does not have, and in the preceding 2-year period did not have, a conflict of interest; and

"(ii) no member of the immediate family of the individual has, or in the preceding 2-year period had, a conflict of interest.

"(C) The term 'Office' means the Office on Long-Term Care Ombudsman Programs.

"(2) There is established in the Administration an Office on Long-Term Care Ombudsman Programs.

"(3)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Services appointed by the Commissioner from among eligible individuals who have—

"(i) training in, or knowledge regarding—

"(I) gerontology, long-term care, health care, or social service programs that are relevant to meeting the needs of residents of long-term care facilities;

"(II) legal systems, the delivery of legal assistance, community services, and organizations that are involved in activities relating to long-term care;

"(III) program management skills and complaint and dispute resolution techniques, including skills and techniques relating to investigation, negotiation, and mediation; and

"(IV) long-term care advocacy; and

"(ii) technical or professional level experience with residents of long-term care facilities.

"(B) No person shall be appointed Associate Commissioner if—

"(i) the person has been employed within the previous 2 years by—

"(I) a long-term care facility;

"(II) a corporation that owned or operated a long-term care facility; or

"(III) an association of long-term care facilities; or

"(ii) the person or any member of the immediate family of the person has a conflict of interest.

"(4) The Associate Commissioner shall—

"(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments and agencies of the Federal Government, regarding all Federal policies affecting the individuals;

"(B) review and make recommendations to the Commissioner regarding—

"(i) the approval of the provisions in State plans submitted under section 307(a) or section 705 that relate to State long-term care ombudsman programs; and

"(ii) the adequacy of State budgets and policies relating to the programs;

"(C) after consultation with State Long-Term Care Ombudsmen and the State agency, make recommendations to the Commissioner regarding—

"(i) policies designed to assist State Long-Term Care Ombudsmen; and

"(ii) methods to periodically monitor and evaluate the operation of State long-term care ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities, and of other similar adult care homes;

"(D) keep the Commissioner and the Secretary fully and currently informed about—

"(i) problems relating to State long-term care ombudsmen programs; and

"(ii) the necessity for, and the progress toward, solving the problems;

"(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, administrative regulations, and other policies, regarding the operation of State long-term care ombudsman programs;

"(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State long-term care ombudsman programs;

"(G) supervise the activities carried out under the authority of the Administration that relate to State long-term care ombudsman programs; and

"(H) make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center established under section 202(a)(21).".

SEC. 102. ESTABLISHMENT OF NATIONAL OMBUDSMAN RESOURCE CENTER.

Section 202(a) (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (19) by striking "and" at the end;

(2) in paragraph (20) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(21)(A) establish a National Ombudsman Resource Center and, by grant or contract, operate such center to assist State Long-Term Care Ombudsmen and the representatives of the Ombudsmen in carrying out State long-term care ombudsman programs effectively under section 307(a)(12) and section 712 by—

"(i) providing technical assistance, training, and other means of assistance;

"(ii) analyzing laws, regulations, policies, and actions with respect to which comments made under section 712(a)(3)(G)(i) are submitted to the center; and

"(iii) providing assistance in recruiting and retaining volunteers for State long-term care ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs; and

"(B) make available to the Center not less than the amount of resources made available to the Center for fiscal year 1991.".

SEC. 103. ESTABLISHMENT OF NATIONAL CENTER ON ELDER ABUSE.

Section 202 (42 U.S.C. 3012) is amended by adding at the end the following new subsection:

"(d)(1) The Commissioner shall establish and operate a National Center on Elder Abuse.

"(2) In operating the Center, the Commissioner shall—

"(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

"(B) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

"(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(3)(A) The Commissioner may carry out paragraph (2) either directly or through a grant or contract.

"(B) The Commissioner shall issue criteria for programs receiving funding through a grant or contract under this subsection.

"(C) The Commissioner shall establish research priorities for making grants or contracts to carry out paragraph (2)(E) and, not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

"(4) The Commissioner shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Center for fiscal year 1991.".

SEC. 104. REPORTS BY COMMISSIONER.

(a) DEADLINE.—Section 207(b)(1) (42 U.S.C. 3018(b)(1)) is amended by striking "January 15" and inserting "March 1".

(b) STUDY OF EFFECTIVENESS OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.—Not later than July 1, 1993, the Commissioner on Aging shall, in consultation with State agencies and State Long-Term Care Ombudsmen, directly, or by grant or contract, conduct a study, and submit a report to the committees specified in section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)), analyzing separately with respect to each State—

(1) the availability of services, and the unmet need for services, under the State long-term care ombudsman programs in effect under section 307(a)(12) (42 U.S.C. 3028(a)(12)) and section 712 of such Act (as added by section 113 of this Act), to residents of long-term care facilities;

(2) the effectiveness of the program in providing the services to the residents, including residents of board and care facilities, and of other similar adult care homes;

(3) the adequacy of Federal and other resources available to carry out the program on a statewide basis in each State;

(4) compliance and barriers to such compliance of the States in carrying out the programs;

(5) any actual and potential conflicts of interest in the administration and operation of the programs; and

(6) the need for and feasibility of providing ombudsman services to older individuals utilizing noninstitutional long-term care and other health care services, by analyzing and assessing current State agency practices in programs in which the Ombudsmen provide services to individuals in settings in addition to long-term care facilities, taking into account variations in—

(A) settings where services are provided;

(B) the types of clients served; and

(C) the types of complaints and problems handled.

Subtitle B—State and Community Programs

SEC. 111. EXISTING STATE AND COMMUNITY PROGRAMS.

(a) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (42 U.S.C. 3023(a)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) ALLOTMENTS.—Section 304(d)(1)(B) (42 U.S.C. 3024(d)(1)(B)) is amended to read as follows:

"(B) such amount as the State agency determines to be adequate for conducting an effective long-term care ombudsman program under section 307(a)(12) shall be available for paying up to 85 percent of the cost of conducting the program under this title;".

(3) AREA PLANS.—Section 306(a)(10) (42 U.S.C. 3026(a)(10) is amended to read as follows:

"(10) provide assurances that the area agency on aging, in carrying out the long-term care ombudsman program under section 307(a)(12), will expend not less than the total amount of Federal funds expended by the agency in fiscal year 1991 in carrying out such a program under this title.".

(4) STATE PLANS.—Section 307(a) (42 U.S.C. 3027(a)) is amended—

(A) by striking paragraph (12) and inserting the following new paragraph:

"(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a long-term care ombudsman program in accordance with section 712 and this part.";

(B) by striking paragraph (21) and inserting the following new paragraph:

"(21) The plan shall provide assurances that the State agency, in carrying out the long-term care ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title."; and

(C) by striking paragraph (30) and inserting the following new paragraph:

"(30) The plan shall provide assurances that the State has submitted, or will submit, a State plan under section 705.".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—

(1) REPEAL.—Title III (42 U.S.C. 3021 et seq.) is amended by repealing part G.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 303 (42 U.S.C. 3023) is amended—

(A) by striking subsection (g); and

(B) by redesignating subsection (h) as subsection (g).

(3) STATE PLANS.—Section 307(a)(16) (42 U.S.C. 3027(a)(16)) is amended by striking ", if funds are not appropriated under section 303(g) for a fiscal year, provide that" and inserting "provide".

SEC. 112. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

The Act (42 U.S.C. 3001 et seq.) is amended by adding at the end the following new title:

"TITLE VII—GRANTS TO STATES FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

"Part A—General Provisions

"SEC. 701. ESTABLISHMENT.

"The Commissioner, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the Federal share of carrying out the elder rights activities described in parts B through E.

"SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

"(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out part B, $20,000,000 for fiscal year 1992, $21,000,000 for fiscal year 1993, $22,050,000 for fiscal year 1994, and $23,150,000 for fiscal year 1995.

"(b) PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 1992, $10,500,000 for fiscal year 1993, $11,020,000 for fiscal year 1994, and $11,570,000 for fiscal year 1995.

"(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out part D, $10,000,000 for fiscal year 1992, $10,500,000 for fiscal year 1993, $11,020,000 for fiscal year 1994, and $11,570,000 for fiscal year 1995.

"(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out part E, $15,000,000 for fiscal year 1992, $15,750,000 for fiscal year 1993, $16,540,000 for fiscal year 1994, and $17,360,000 for fiscal year 1995.

"SEC. 703. ALLOTMENT.

"(a) IN GENERAL.—

"(1) POPULATION.—In carrying out the program described in section 701, the Commissioner shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population age 60 and older in the State bears to the population age 60 and older in all States.

"(2) MINIMUM ALLOTMENTS.—

"(A) IN GENERAL.—After making the initial allotments described in paragraph (1), the Commissioner shall adjust the allotments in accordance with subparagraphs (B) and (C).

"(B) GENERAL MINIMUM ALLOTMENTS.—

"(i) MINIMUM ALLOTMENT FOR STATES.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

"(ii) MINIMUM ALLOTMENT FOR TERRITORIES.—Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

"(C) MINIMUM ALLOTMENTS FOR OMBUDSMAN AND ELDER ABUSE PROGRAMS.—

"(i) OMBUDSMAN PROGRAM.—No State shall be allotted, from the funds appropriated under section 702(a), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out the State long-term care ombudsman program under title III.

"(ii) ELDER ABUSE PROGRAMS.—No State shall be allotted, from the funds appropriated under section 702(b), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out programs with respect to the prevention of abuse, neglect, and exploitation of older individuals under title III.

"(D) DEFINITION.—For the purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(b) REALLOTMENT.—

"(1) IN GENERAL.—If the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Commissioner shall make the amount available to a State that the Commissioner determines will be able to use the amount for carrying out the purpose.

"(2) AVAILABILITY.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this title, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

"(c) WITHHOLDING.—If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 705, the Commissioner shall withhold the allotment of funds to the State. The Commissioner shall disburse the funds withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of the State submitting an approved plan under section 705, which includes an agreement that any such payment shall be matched, in the proportion determined under subsection (d) for the State, by funds or in-kind resources from non-Federal sources.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of carrying out the elder rights activities described in parts B through E is 85 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the costs shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

"SEC. 704. ORGANIZATION.

"In order for a State to be eligible to receive allotments under this title—

"(1) the State shall demonstrate eligibility under section 305;

"(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

"(3) any area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

"SEC. 705. STATE PLAN.

"(a) ELIGIBILITY.—In order to be eligible to receive allotments under this title, a State shall submit a State plan to the Commissioner, at such time, in such manner, and containing such information as the Commissioner may require. At a minimum, the State plan shall contain—

"(1) an assurance that the State will establish programs under parts B, C, D, and E in accordance with the requirements of this title;

"(2) an assurance that the State will hold public hearings to obtain the views of older individuals and other interested parties regarding programs carried out under this title;

"(3) an assurance that the State has submitted, or will submit, a State plan in accordance with section 307;

"(4) an assurance that the State will use funds made available under this title in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this title, to carry out the elder rights activities described in parts B through E;

"(5) an assurance that the State agrees to pay, with non-Federal funds, 15 percent of the cost of the carrying out each part of this title; and

"(6) an assurance that the State will place no restrictions, other than the requirements specified in section 712(a)(5)(C), on the eligibility of agencies or organizations for designation as local ombudsman entities under section 712(a)(5).

"(b) APPROVAL.—The Commissioner shall approve any State plan that the Commissioner finds fulfills the requirements of subsection (a).

"(c) NOTICE AND OPPORTUNITY FOR HEARING.—The Commissioner shall not make a final determination disapproving any State plan, or any modification of the plan, or make a final determination that a State is ineligible under section 704, without first affording the State reasonable notice and opportunity for a hearing.

"(d) NONELIGIBILITY OR NONCOMPLIANCE.—

"(1) FINDING.—The Commissioner shall take the action described in paragraph (2) if the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

"(A) the State is not eligible under section 704;

"(B) the State plan has been so changed that the plan no longer complies substantially with the provisions of subsection (a); or

"(C) in the administration of the plan there is a failure to comply substantially with a provision of subsection (a).

"(2) WITHHOLDING AND LIMITATION.—If the Commissioner makes the finding described in paragraph (1) with respect to a State agency, the Commissioner shall notify the State agency, and shall—

"(A) withhold further payments to the State from the allotments of the State under section 703; or

"(B) in the discretion of the Commissioner, limit further payments to the State to projects under or portions of the State plan not affected by the ineligibility or noncompliance, until the Commissioner is satisfied that the State will no longer be ineligible or fail to comply.

"(3) DISBURSEMENT.—The Commissioner shall, in accordance with regulations prescribed by the Commissioner, disburse funds withheld or limited under paragraph (2) directly to any public or nonprofit private organization or agency or political subdivision of the State that submits an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 703(d).

"(e) APPEAL.—

"(1) FILING.—

"(A) IN GENERAL.—A State that is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with the court not later than 30 days after the final action. A copy of the petition shall be transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for the purpose.

"(B) Record.—On receipt of the petition, the Commissioner shall file in the court the record of the proceedings on which the action of the Commissioner is based, as provided in section 2112 of title 28, United States Code.

"(2) Procedure.—

"(A) Remedy.—On the filing of a petition under paragraph (1), the court described in paragraph (1) shall have jurisdiction to affirm the action of the Commissioner or to set the action aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Commissioner may modify or set aside the order of the Commissioner.

"(B) Scope of review.—The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence. If the court remands the case, the Commissioner shall, within 30 days, file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(C) Finality.—The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) Stay.—The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the action of the Commissioner.

"(f) Privilege.—Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

"SEC. 706. ADMINISTRATION.

"(a) Agreements.—In carrying out the elder rights activities described in parts B through E, a State agency may, either directly or through a contract or agreement, enter into agreements with public or private nonprofit agencies or organizations, such as—

"(1) other State agencies;

"(2) county governments;

"(3) area agencies on aging;

"(4) universities and colleges; and

"(5) other statewide or local nonprofit service providers or volunteer organizations.

"(b) Technical Assistance.—

"(1) Other agencies.—In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of such agencies and departments of the Federal Government as may be appropriate.

"(2) Commissioner.—The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to programs established under this title and to individuals designated under the programs to be representatives of the programs.

"SEC. 707. AUDITS.

"(a) Access.—The Commissioner and the Comptroller General of the United States and any of the duly authorized representatives of the Commissioner or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"(b) Limitation.—State agencies and area agencies on aging shall not request information or data from providers that is not pertinent to services furnished in accordance with this title or a payment made for the services.".

SEC. 113. OMBUDSMAN PROGRAMS.

Title VII (as added by section 112 of this Act) is amended by adding at the end the following new part:

"Part B—Ombudsman Programs

"SEC. 711. DEFINITIONS.

"As used in this part:

"(1) Office.—The term 'Office' means the office established in section 712(b)(1)(A).

"(2) Ombudsman.—The term 'Ombudsman' means the individual described in section 712(b)(2).

"(3) Program.—The term 'program' means the State long-term care ombudsman program established in section 712(b)(1)(B).

"(4) Representative.—The term 'representative' includes an employee or volunteer who represents an entity designated under section 712(a)(5) and who is individually designated by the Ombudsman.

"SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

"(a) Establishment.—

"(1) In general.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section—

"(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

"(B) carry out through the Office a State long-term care ombudsman program.

"(2) Ombudsman.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals described in section 201(d)(3).

"(3) Functions.—The Ombudsman shall serve on a full-time basis, and shall, directly or through representatives of the Office—

"(A) identify, investigate, and resolve complaints that—

"(i) are made by, or on behalf of, older individuals who are residents of long-term care facilities; and

"(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents, of—

"(I) providers, or representatives of providers, of long-term care services;

"(II) public agencies; or

"(III) health and social service agencies;

"(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

"(C) inform the residents about means of obtaining services described in subparagraphs (A) and (B);

"(D) ensure that the residents have regular and timely access to the services provided through the Office and that residents and complainants receive timely responses to complaints from representatives of the Office;

"(E) represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

"(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

"(ii) recommend any changes in such laws, regulations, policies and actions that the Office determines to be appropriate; and

"(iii) facilitate public comment on the laws, regulations, policies, and actions;

"(H)(i) provide for training representatives of the Office;

"(ii) promote the development of citizen organizations, to participate in the program; and

"(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents of long-term care facilities; and

"(I) carry out such other activities as the Commissioner determines to be appropriate.

"(4) Contracts and arrangements.—

"(A) In general.—Except as provided in subparagraph (B), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or other appropriate private nonprofit organization.

"(B) Licensing and certification organizations; associations.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

"(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

"(ii) an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals).

"(5) Designation of area or local ombudsman entities and representatives.—

"(A) Designation.—In carrying out the duties of the Office, the Ombudsman may designate an entity as an area or local ombudsman entity, and may designate an employee or volunteer to represent the entity.

"(B) Duties.—An individual so designated shall, in accordance with the policies and provisions established by the Office and the State agency—

"(i) provide services to protect the health, safety, welfare and rights of residents of long-term care facilities;

"(ii) ensure that residents of long-term care facilities in the service areas of the entity have regular, timely access to representatives of the ombudsman program and timely responses to complaints and requests for assistance;

"(iii) identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of the residents;

"(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents of long-term care facilities; and

"(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

"(vi) support the development of resident and family councils; and

"(vii) carry out other activities that the Ombudsman determines to be appropriate.

"(C) ELIGIBILITY FOR DESIGNATION.—Area or local entities eligible to be designated as ombudsman entities, and persons eligible to be designated as representatives, shall—

"(i) have demonstrated capability to carry out the responsibilities of the Office;

"(ii) be free of conflicts of interest;

"(iii) in the case of the entities, be public or private not-for-profit entities; and

"(iv) meet such additional requirements as the Ombudsman may specify.

"(b) PROCEDURES FOR ACCESS.—

"(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

"(A) immediate access to long-term care facilities and the residents of the facilities;

"(B) appropriate access to review the medical and social records of a resident, if—

"(i) the representative has the permission of a resident, or the legal representative of a resident; or

"(ii) a resident is unable to consent to the review and has no legal representative;

"(C) access to administrative records of long-term care facilities; and

"(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

"(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

"(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

"(1) collect and analyze data relating to complaints and conditions in long-term care facilities or to residents of the facilities for the purpose of identifying and resolving significant problems; and

"(2) submit the data, on a regular basis, to—

"(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

"(B) other State and Federal agencies that the Ombudsman determines to be appropriate; and

"(C) the Commissioner.

"(d) DISCLOSURE.—

"(1) IN GENERAL.—The State agency shall establish procedures for the disclosure of files, and of records described in subsection (b)(1), that are maintained by the program.

"(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

"(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

"(B) prohibit the disclosure of the identity of any complainant or resident of a long-term care facility with respect to whom the State agency maintains such files or records unless—

"(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

"(ii) in a case in which the complainant or resident is mentally competent and unable to provide written consent due to physical infirmity or other extreme circumstance—

"(I) the complainant or resident gives consent orally; and

"(II) the consent is documented contemporaneously in a writing made by a representative of the Office and reported in writing to the State agency as soon as practicable; or

"(iii) the disclosure is required by court order.

"(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and provider entities.

"(f) CONFLICT OF INTEREST.—The State agency shall—

"(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

"(2) ensure that no officer, employee, or other representative of the Office, or member of the immediate family of the officer, employee, or other representative of the Office, is subject to a conflict of interest; and

"(3) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), including such mechanisms as—

"(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

"(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

"(g) LEGAL COUNSEL.—The State agency shall ensure that—

"(1)(A) adequate legal counsel is available to—

"(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents of long-term care facilities; and

"(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

"(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened in connection with the performance of the official duties of the Ombudsman or such a representative; and

"(2) the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

"(h) ADMINISTRATION.—The State agency shall require the Office to—

"(1) prepare an annual report—

"(A) describing the activities carried out by the Office in the year for which the report is prepared;

"(B) containing and analyzing the data collected under subsection (c);

"(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents of long-term care facilities;

"(D) containing recommendations for—

"(i) improving quality of the care and life of the residents; and

"(ii) protecting the health, safety, welfare, and rights of the residents;

"(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care homes; and

"(ii) identifying barriers that prevent the optimal operation of the program; and

"(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of the residents, to protect the health, safety, welfare, and rights of the residents, and to remove the barriers;

"(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of the residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

"(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

"(i) the problems and concerns of older individuals residing in long-term care facilities; and

"(ii) recommendations related to the problems and concerns; and

"(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

"(4) establish procedures for the training of the representatives of the Office including unpaid volunteers, that—

"(A) specify a minimum number of hours of initial training;

"(B) specify the content of the training, including training relating to—

"(i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

"(ii) investigative techniques; and

"(iii) such other matters as the State determines to be appropriate; and

"(C) specify an annual number of hours of in-service training for all designated representatives;

"(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

"(A) has received the training required under subsection (h)(4); and

"(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office.

"(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

"(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and

"(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance services provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means; and

"(8) include any area or local ombudsman entity designated by the Ombudsman under subsection (a)(5) as a subdivision of the Office.

"(i) LIABILITY.—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(j) NONINTERFERENCE.—The State shall—

"(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

"(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

"(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

"SEC. 713. REGULATIONS.

"The Commissioner shall issue and periodically update regulations respecting conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f).".

SEC. 114. PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.

(a) PURPOSE.—The purpose of this section is to assist States in the design, development, and coordination of comprehensive services to prevent, treat, and remedy elder abuse, neglect, and exploitation.

(b) PROGRAMS.—Title VII (as added by section 112, and amended by section 113, of this Act) is amended by adding at the end the following new part:

"Part C—Programs for Prevention of Abuse, Neglect, and Exploitation

"SEC. 721. PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.

"(a) ESTABLISHMENT.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section, develop and enhance programs for the prevention of abuse, neglect, and exploitation of older individuals.

"(b) USE OF ALLOTMENTS.—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation, including—

"(1) providing for public education and outreach to identify and prevent abuse, neglect, and exploitation of older individuals;

"(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program;

"(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

"(4) conducting analysis of State information concerning elder abuse, neglect, and exploitation and identifying unmet service or intervention needs;

"(5) conducting training for individuals, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

"(6) providing technical assistance to programs that provide or have the potential to provide services for victims of abuse, neglect, and exploitation and for family members of the victims;

"(7) conducting special and on-going training, for individuals involved in serving victims of abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined to be a State agency to be appropriate; and

"(8) developing an elder abuse, neglect, and exploitation system—

"(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

"(B) under which a State agency—

"(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

"(ii) on a finding of abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited elder;

"(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

"(i) such administrative procedures;

"(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

"(iii) such training procedures;

"(iv) such institutional and other facilities (public and private); and

"(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

"(D) that preserves the confidentiality of records in order to protect the rights of elders;

"(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

"(F) that enables an elder to participate in decisions regarding the welfare of the elder, and makes the least restrictive alternatives available to an elder who is abused, neglected, or exploited; and

"(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

"(i) the problems of elder abuse, neglect, and exploitation;

"(ii) the facilities; and

"(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

"(c) APPROACH.—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

"(d) COORDINATION.—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

"(1) adult protective service programs;

"(2) the long-term care ombudsman program established in part B;

"(3) protection and advocacy programs;

"(4) facility and other long-term care provider licensure and certification programs;

"(5) medicaid fraud and abuse services;

"(6) victim assistance programs; and

"(7) consumer protection and law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals.

"(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

"(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

"(2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and making a referral described in subsection (b)(8)(B)(ii), shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; and

"(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirements described in paragraph (2).".

SEC. 115. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAMS.

Title VII (as added by section 112, and amended by sections 113 and 114(b), of this Act) is further amended by adding at the end the following new part:

"Part D—State Elder Rights and Legal Assistance Development Program

"SEC. 731. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section, establish a program to provide leadership for expanding the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights system.

"(2) FOCUS.—In carrying out the program established under this part, the State agency shall coordinate the providers in the State that assist older individuals in—

"(A) understanding the rights of the individuals;

"(B) exercising choice;

"(C) benefiting from services and opportunities promised by law;

"(D) maintaining rights consistent with the capacity of the individuals; and

"(E) solving disputes using the most efficient and appropriate methods for representation and assistance.

"(b) FUNCTIONS.—In carrying out this part, the State agency shall—

"(1) establish a focal point for elder rights policy review, analysis, and advocacy at the State level, including such issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decisionmaking, protective services, public benefits, and dispute resolutions;

"(2) provide a State legal assistance developer and other personnel sufficient to ensure—

"(A) State leadership in securing and maintaining legal rights of older individuals;

"(B) capacity for coordinating the provision of legal assistance; and

"(C) capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate;

"(3)(A) develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals; and

"(B) provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the individuals with greatest economic and social need (with particular attention to low-income minority individuals);

"(4) provide consultation to, and ensure, the coordination of activities with the legal assistance services provided under title III, services provided by the Legal Service Corporation, and services provided under parts B, C, and E, as well as other State or Federal programs administered at the State and local levels that address the legal assistance needs of older individuals;

"(5) provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

"(6) promote the development of, and provide technical assistance concerning, pro bono legal assistance programs, State and local bar committees on aging, legal hot lines, alternative dispute resolution, aging law curricula in law schools and other appropriate educational institutions, and other methods to expand access by older individuals to legal assistance and other advocacy and elder rights services;

"(7) provide for periodic assessments of the status of elder rights in the State, including analysis—

"(A) of the unmet need for assistance in resolving legal problems and benefits-related problems, methods for expanding advocacy services, the status of substitute decisionmaking systems and services (including systems and services regarding guardianship, representative payee, and substitute decisionmaking for health care), access to courts and the justice system, and the implementation of civil rights and age discrimination law in the State; and

"(B) of problems and unmet needs identified in programs established under title III and other programs; and

"(8) develop working agreements with—

"(A) State entities, including the consumer protection agency, the court system, the attorney general, the State equal employment opportunity commission, and other appropriate State agencies and entities; and

"(B) Federal entities, including the Social Security Administration and the Veterans' Administration, and other appropriate entities, for the purpose of identifying elder rights services provided by the entities, and coordinating services with programs established under title III and parts B, C, and E of the title.".

SEC. 116. OUTREACH, COUNSELING, AND ASSISTANCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to provide outreach, counseling, and assistance in order to assist older individuals in obtaining benefits under—

(1) public and private health insurance, long-term care insurance, and life insurance programs; and

(2) public benefit programs to which the individuals are entitled, including benefits under the supplemental security income, medicaid, medicare, food stamp, and low-income home energy assistance programs.

(b) PROGRAM.—Title VII (as added by section 112, and amended by sections 113, 114(b), and 115, of this Act) is amended by adding at the end the following new part:

"Part E—Outreach, Counseling, and Assistance Program

"SEC. 741. STATE OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFIT PROGRAMS.

"(a) DEFINITIONS.—As used in this section:

"(1) INSURANCE PROGRAM.—The term 'insurance program' means—

"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

"(C) another public or private insurance program.

"(2) PUBLIC BENEFIT PROGRAM.—The term 'public benefit program' means—

"(A) the medicaid program established under title XIX of the Social Security Act;

"(B) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(C) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(D) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(E) with respect to a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), the medicare program described in title XVIII of the Social Security Act; or

"(F) another public benefit program.

"(3) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

"(4) STATE INSURANCE ASSISTANCE PROGRAM.—The term 'insurance assistance program' means the program established under subsection (b)(1).

"(5) STATE PUBLIC BENEFIT ASSISTANCE PROGRAM.—The term 'public benefit assistance program' means the program established under subsection (b)(2).

"(b) ESTABLISHMENT.—In order to receive an allotment under section 703, a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish—

"(1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining benefits under an insurance program; and

"(2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, benefits under a public benefit program, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act.

"(c) INSURANCE AND PUBLIC BENEFITS PROGRAMS.—The State agency shall—

"(1) in carrying out a State insurance assistance program—

"(A) provide information and counseling to assist older individuals—

"(i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act;

"(ii) in comparing medicare supplemental policies and in filing claims and obtaining benefits under such policies;

"(iii) in comparing long-term care insurance policies and in filing claims and obtaining benefits under such policies;

"(iv) in comparing other types of health insurance policies not described in clause (iii) and in filing claims and obtaining benefits under such policies;

"(v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies; and

"(vi) in comparing other forms of insurance policies not described in clause (v) and in filing claims and obtaining benefits under such policies as determined necessary; and

"(B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health and other forms of insurance and public benefits programs;

"(C) ensure that services provided under the program will be coordinated with programs established under parts B, C, and D of this title, and under title III;

"(D) provide for adequate and trained staff (including volunteers) necessary to carry out the program;

"(E) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) will not be subject to a conflict of interest in providing services under the program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance and public benefits programs;

"(G) provide for the coordination of information on insurance programs between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, health or other insurance; and

"(2) in carrying out a State public benefits assistance program—

"(A) carry out activities to identify older individuals with the greatest economic need who may be eligible for, but who are not receiving, benefits or assistance under a public benefits program;

"(B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits;

"(C) assist older individuals in applying for such assistance and such benefits;

"(D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government regarding the problems of older individuals related to public benefit programs;

"(E) comply with the requirements specified in subparagraphs (C) through (E) of paragraph (1) with respect to the State public benefits assistance program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits programs;

"(G) provide for the coordination of information on public benefits programs between the staff of departments and agencies of the State government and the staff (including volunteers) of the State public benefits assistance program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, benefits under a public benefits program.

"(d) ADMINISTRATION.—The State agency may operate the State insurance and State public benefits assistance programs directly, in cooperation with other State agencies, or under an agreement with a statewide nonprofit organization, area agency on aging, or another public, or nonprofit agency or organization.

"(e) MAINTENANCE OF EFFORT.—Any funds appropriated for the activities under this part shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local insurance or public benefits program.

"(f) COORDINATION.—A State that receives an allotment under section 703 and receives a grant under section 4360 of the Omnibus Reconciliation Act of 1990 (42 U.S.C. 1395b-4) to provide services in accordance with the section shall coordinate the services with activities provided by the State agency through the programs described in paragraphs (1) and (2) of subsection (b).".

SEC. 117. TECHNICAL AND CONFORMING AMENDMENTS.

(a) OMBUDSMAN PROGRAM.—

(1) SOCIAL SECURITY ACT.—

(A) Section 1819 of the Social Security Act (42 U.S.C. 1395i-3) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(B) Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(2) OLDER AMERICANS ACT OF 1965.—

(A) Section 207(b) (42 U.S.C 3018(b)) is amended—

(i) in paragraph (1)(A), by striking "by section 307(a)(12)(C)" and inserting "under titles III and VII in accordance with section 712(c)"; and

(ii) in paragraph (3)—

(I) by striking "by section 307(a)(12)(H)(i)" and inserting "under titles III and VII in accordance with section 712(h)(1)"; and

(II) by striking subparagraph (E) and inserting the following new subparagraph:

"(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).".

(B) Section 301(c) (42 U.S.C. 3021(c)) is amended by striking "section 307(a)(12), and to individuals designated under such section" and inserting "under section 307(a)(12) in accordance with section 712, and to individuals designated under section 712".

(C) Section 304 (42 U.S.C. 3024) is amended—

(i) in subsection (a)(3), by striking "303(a)(3)" and inserting "303(a)(2)"; and

(ii) in subsection (d)(1), by striking "303(a)(3)" each place the term appears and inserting "303(a)(2)".

(D) Section 307(a)(31)(A) (42 U.S.C. 3027(a)(31)(A)) is amended by striking "303(a)(3)" and inserting "303(a)(2)".

(E) Section 351(4) (42 U.S.C. 3030l(4)) is amended by striking "under section 307(a)(12)" and inserting "under titles III and VII in accordance with section 712".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—

(1) Section 303 (42 U.S.C. 3023) is amended—

(A) in subsections (a)(2), (e), and (f), by striking "subsection (h)" and inserting "subsection (g)"; and

(B) in subsection (g), (as redesignated by section 111(b)(2)(B) of this Act), by striking "parts E, F, and G" and inserting "parts E and F".

(2) Section 307(a)(31)(D) (42 U.S.C. 3027(a)(31)(D)) is amended by striking "section 307(a)(31)(B)" and inserting "subparagraph (B)".

(3) Section 321(15) (42 U.S.C. 3030d(15)) is amended by striking "clause (16) of section 307(a)" and inserting "part C of title VII".

(4) Section 431(b) (42 U.S.C. 3037(b)) is amended by striking "parts E, F, and G" and inserting "parts E and F".

Subtitle C—Demonstration Programs

SEC. 121. LONG-TERM CARE OMBUDSMAN DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—Section 427(a) (42 U.S.C. 3035f(a)) is amended by inserting ", legal assistance agencies," after "ombudsman program".

(b) REAUTHORIZATION.—Section 431(a)(2) (42 U.S.C. 3037(a)(2)) is amended—

(1) in the first sentence, by striking "$1,000,000 for fiscal year 1989" and inserting "$1,000,000 for fiscal year 1993"; and

(2) in the second sentence, by striking "fiscal year 1990" and inserting "fiscal year 1994".

SEC. 122. HOUSING OMBUDSMAN DEMONSTRATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) older individuals who live in, or are attempting to become residents of, publicly assisted housing experience a range of problems related to the housing situations, the condition of homes, and the economic status of the individuals;

(2) problems that older individuals experience in relation to Federal and other public housing programs include—

(A) legal and nonlegal issues;

(B) housing quality issues;

(C) security and suitability problems; and

(D) issues related to regulations of the Department of Housing and Urban Affairs and the Farmers Home Administration;

(3) participants and nonparticipants in Federal and other public housing programs have concerns regarding specific program information, processes, procedures, and requirements of housing programs;

(4) the problems and issues that older individuals face are not currently being addressed in a systematic and comprehensive manner;

(5) interest groups and senior citizen service organizations offer a variety of services, but do not necessarily focus on housing problems;

(6) there is a need for a mechanism to assist older individuals in resolving the problems, and protecting the rights, safety, and welfare of the individuals;

(7) the long-term care ombudsman programs established under the Older Americans Act of 1965 have exhibited great success in protecting the rights and welfare of nursing home residents through work on complaint resolution and advocacy; and

(8) an approach similar to the approach used under the long-term care ombudsman programs could be used to address the housing problems that older individuals experience.

(b) PURPOSES.—The purposes of this section are—

(1) to ensure the quality and accessibility of publicly assisted housing programs for older individuals;

(2) to assist older individuals seeking Federal, State, and local assistance in the housing area in receiving timely and accurate information and fair treatment regarding public housing programs and related eligibility requirements;

(3) to enable older individuals to remain in publicly assisted homes and live independently for as long as possible;

(4) to enable older individuals to obtain and maintain affordable and suitable housing that addresses the special needs of the individuals; and

(5) to protect older individuals participating in Federal and other publicly assisted housing programs from abuse, neglect, exploitation, or other illegal treatment in publicly assisted housing programs.

(c) DEMONSTRATION PROGRAM.—Title IV (42 U.S.C. 3030aa et seq.) is amended—

(1) by redesignating part C as part D;

(2) by inserting after section 426 the following:

"PART C—ELDER RIGHTS PROTECTION DEMONSTRATION PROJECTS"; AND

(3) in part C (as designated by paragraph (2) of this subsection), by adding at the end the following new section:

"SEC. 429. HOUSING OMBUDSMAN DEMONSTRATION PROGRAM.

"(a) GRANTS.—The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

"(b) USE OF GRANTS.—An eligible agency shall use a grant awarded under subsection (a) to—

"(1) establish a housing ombudsman program that provides information, advice, and advocacy services including—

"(A) direct assistance, or referral to services, to resolve complaints or problems;

"(B) provision of information regarding available housing programs, eligibility, requirements, and application processes;

"(C) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

"(D) advocacy related to promoting—

"(i) the rights of the older individuals who are residents in publicly assisted housing programs; and

"(ii) the quality and suitability of housing in the programs; and

"(E) assistance with problems related to—

"(i) threats of eviction or eviction notices;

"(ii) older buildings;

"(iii) functional impairments as the impairments relate to housing;

"(iv) discrimination;

"(v) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

"(vi) disability issues;

"(vii) intimidation, harassment, or arbitrary management rules;

"(viii) grievance procedures;

"(ix) certification and recertification related to programs of the Department of Housing and Urban Development and the Farmers Home Administration; and

"(x) issues related to transfer from one project or program to another; and

"(2) provide the services described in paragraph (1) through—

"(A) professional and volunteer staff to older individuals who are—

"(i) participating in federally assisted and other publicly assisted housing programs; or

"(ii) seeking Federal, State, and local housing programs; and

"(B)(i) the long-term care ombudsman program under section 307(a)(12) or section 712;

"(ii) a legal services or assistance organization or through an organization that provides both legal and other social services;

"(iii) a public or not-for-profit social services agency; or

"(iv) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.

"(c) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (a) to agencies in varied geographic settings.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(1) an assurance that the agency will conduct appropriate training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program; and

"(2) an acceptable plan to involve in the demonstration program the Department of Housing and Urban Development, the Farmers Home Administration, any entity described in subsection (b)(3) through which the agency intends to provide services, and other agencies involved in publicly assisted housing programs.

"(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

"(1) State agencies;

"(2) area agencies on aging, applying in conjunction with State agencies; and

"(3) other appropriate nonprofit entities, including providers of services under the State long-term ombudsman program and the elder rights and legal assistance development program described in parts B and D of title VII, respectively.

"(f) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

"(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

"(B) submit a report containing the evaluation to the appropriate committees of Congress.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) (42 U.S.C. 3037(a)) is amended—

(1) in paragraph (1), by striking "the provisions of this title (other than sections 427 and 428)" and inserting "sections 420 through 426 of this title"; and

(2) by adding at the end the following new paragraph:

"(4) There are authorized to be appropriated to carry out section 429, $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the subsequent fiscal years.".

TITLE II—DEFINITIONS

SEC. 201. DEFINITIONS.

(a) DEFINITIONS.—Section 102 (42 U.S.C. 3002) is amended by adding at the end the following new paragraphs:

"(13) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by an individual, including a caretaker, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(14) The term 'Administration' means the Administration on Aging.

"(15) The term 'aging network' means—

"(A) the network of agencies established in section 305, including the Administration, State agencies, and area agencies on aging; and

"(B) persons that—

"(i) are providers of direct services to older individuals; and

"(ii) receive funding under this Act.

"(16) The term 'area agency on aging' means an agency designated under section 305(a)(2)(A) by a State agency.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'conflict of interest' means—

"(A) a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

"(B) an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a provider of a long-term care service;

"(C) employment by, or participation in the management of, a long-term care facility; or

"(D) the receipt, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

"(19) The term 'elder abuse' means abuse of an older individual.

"(20) The term 'exploitation' means the illegal or improper act or process of an individual, including a caretaker, using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(21) The term 'focal point' means a facility established to encourage the maximum collocation and coordination of services for older individuals.

"(22) The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.

"(23) The term 'greatest social need' means the need caused by noneconomic factors, which include—

"(A) physical and mental disabilities;

"(B) language barriers; and

"(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

"(i) restricts the ability of an individual to perform normal daily tasks; or

"(ii) threatens the capacity of the individual to live independently.

"(24) The term 'information and assistance service' means a service for older individuals that—

"(A) provides the individuals with current information on all opportunities and services available to the individuals within their communities, including information relating to assistive technology;

"(B) assesses the problems and capacities of the individuals;

"(C) links the individuals to the opportunities and services that are available;

"(D) ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

"(E) serves the entire community of older individuals, particularly individuals with the greatest social and economic need.

"(25) The term 'legal assistance'—

"(A) means legal advice and representation by an attorney to older individuals with economic or social needs; and

"(B) includes—

"(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney; and

"(ii) counseling or representation by a nonlawyer where permitted by law.

"(26) The term 'long-term care facility' means—

"(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

"(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

"(C) any institution regulated by a State in accordance with section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)) for purposes of sections 307(a)(12) and 712; and

"(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

"(27) The term 'neglect' means—

"(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

"(B) the failure of a caretaker to provide the goods or services.

"(28) The term 'older individual' means any individual who is 60 years of age or older.

"(29) The term 'physical harm' means bodily pain, injury, impairment, or disease.

"(30) The term 'planning and service area' means an area specified by a State agency under section 305(a)(1)(E).

"(31) The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(32) The term 'State agency' means the State agency designated by a State under section 305(a)(1).

"(33) The term 'unit of general purpose local government' means—

"(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

"(B) an Indian tribal organization.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 102(2), 201(c)(1), 211, 301(b)(1), 402(a), 411(b), 503(a), and 505(a) (42 U.S.C. 3002(2), 3011(c)(1), 3020b, 3021(b)(1), 3030bb(a), 3031(b), 3056a(a), and 3056c(a)) are amended by striking "Administration on Aging" and inserting "Administration".

(2) Section 201(a) (42 U.S.C. 3011(a)) is amended in the first sentence by striking—

(A) "(hereinafter in this Act referred to as the 'Administration')"; and

(B) "(hereinafter in this Act referred to as the 'Commissioner')";

(3) Section 302 (42 U.S.C. 3022) is amended—

(A) by striking paragraphs (2) through (7), (9), (11), and (14) through (21);

(B) by redesignating paragraph (8) as paragraph (2); and

(C) by redesignating paragraph (10) as paragraph (3).

(4) Section 307(a)(31)(A)(i) (42 U.S.C. 3027(a)(31)(A)(i)) is amended by striking "(as defined in section 302(20))".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any plan that is—

(1)(A) an area plan submitted under section 306(a) of the Older Americans Act of 1965; or

(B) a State plan submitted under section 307(a) of such Act; and

(2) approved for any fiscal year beginning before the date of the enactment of this Act.

Mr. DECONCINI. Mr. President, I am pleased to join my distinguished colleague, Senator ADAMS, in support of the Vulnerable Elders' Rights Protection Amendments of 1991 which is being introduced today. This important legislation would create a new title VII in the Older Americans Act in order to strengthen and protect the rights of older Americans and assist them in making independent decisions and leading independent lives. Senator ADAMS has done a masterful job in improving and expanding what is already a landmark piece of legislation—the watershed Older Americans Act. Specifically, the legislation introduced today seeks to protect the rights of residents in long-term care facilities; to meet the legal assistance needs of the elderly; and to ensure full access to resources and benefits to which older individuals are entitled under the law.

At a time when the number of elder abuse cases in America is soaring, this legislation would also establish a coordinated national approach to protecting older individuals from abuse, neglect, and exploitation. These provisions, in large part, are based on legislation which I introduced earlier this year in the Senate and which Representative MARY ROSE OAKAR introduced in the House of Representatives. I am most pleased that Senator ADAMS has included them in his comprehensive bill.

As best we know today, an estimated 1.5 million older Americans are abused every year. This is a dramatic increase from a decade ago—a 50 percent rise in the last 10 years. What this means is that one out of every 20 older Americans is abused each year, most by sons and daughters and many at the hands of nursing home caregivers or con artists. The abuse can range from theft of a Social Security check to violent physical abuse, including rape and murder.

In Massachusetts, a 20-year-old man was convicted of the first-degree murder of his grandmother. He had repeatedly beaten her over the head with a decanter and stabbed her with a knitting needle. After the murder, the grandson stole his dead grandmother's car and jewelry. Today he is serving a life sentence in State prison.

In Texas, a 68-year-old woman was found by social workers tied to her wheelchair with electrical cords and sheets. She had been beaten by her daughter, who had also allowed her own 8-year-old daughter to whip her grandmother. The cases go on and on. And the one indisputable conclusion they all reach is this: In a country that is second to none, senior citizens should not—they must not—live out their golden years in situations such as these. As Claude Pepper has stated, elder abuse is indeed "a national disgrace."

Tragically, most cases of elder abuse go unreported. Ten years ago one out of every five cases of elder abuse was reported; today only one out of every eight cases is, even though many States have mandatory reporting laws.

The problem is compounded by the fact that Congress and the States are spending less money on adult protective services at a time when elder abuse cases are skyrocketing. Since 1980, the Social Services Block Grant—the principal tool we have for protective services—has been cut by one-third. Faced with a cut in Federal assistance and hard-pressed by their own tight budgets, States, on average, are spending 40 percent less on adult protective services than they did a decade ago. According to information compiled by the U.S. House of Representatives Select Committee on Aging, States spent about $45 per child resident for Child Protective Services in 1989. These same States spent only $3 on average for elder abuse victims in that same year.

Among its provisions, the Vulnerable Elders' Rights Protection Amendments would enlarge and improve the existing elder abuse prevention program initially authorized in the 1987 amendments to the Older Americans Act. It would create a National Center on Elder Abuse under the auspices of the Administration on Aging within the Department of Health and Human Services. The Center would compile, publish, and disseminate a summary of recent research on elder abuse; develop an information clearinghouse on all programs showing promise of success in addressing the problem; and conduct demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation. In addition, the act would authorize grants to the States to build on existing elder abuse programs or to develop new programs for the prevention and treatment of elder abuse, neglect, and exploitation.

Mr. President, I commend Senator ADAMS for all the time and thought and effort which he put into this legislation. This measure is vitally needed protection for the rights of older Americans. It is, above all, an investment in human dignity and self-fulfillment. I encourage my colleagues to join me in supporting this important legislation.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MOYNIHAN, the names of the Senator from Idaho [Mr. SYMMS], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 39

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 140

At the request of Mr. WIRTH, the names of the Senator from Florida [Mr. MACK] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 401

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 447

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 477, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 752

At the request of Mr. CHAFEE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 752, a bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent.

S. 773

At the request of Mr. CHAFEE, the name of the Senator from South Dakota [Mr. DASHLE] was added as a cosponsor of S. 773, a bill to amend title XIX of the Social Security Act to create a new part under such title to provide access to services for medically underserved populations not currently served by federally qualified health centers, by providing funds for a new program to allow federally qualified health centers and other qualifying entities to expand such centers' and entities' capacity and to develop additional centers.

S. 785

At the request of Mr. BURNS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 785, a bill to establish a commission to study existing laws and procedures relating to mining, other than coal mining, and in particular the effects of existing laws and procedures relating to location and disposition of minerals on public lands of the United States and their effect on the policy statement set forth in the Mining and Minerals Policy Act of 1970, and for other purposes.

S. 846

At the request of Mr. GLENN, his name was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 884

At the request of Mr. PACKWOOD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large scale drift net fishing.

S. 921

At the request of Mr. DOLE, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 921, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mine coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the the Flag.

S. 1100

At the request of Mr. KERRY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program

S. 1240

At the request of Mr. CHAFEE, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Florida [Mr. GRAHAM], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 1240, a bill to amend title XIX of the Social Security Act to provide criteria for making determinations of denial of payment to States under such act.

S. 1363

At the request of Mr. PACKWOOD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1363, a bill to ensure the stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes.

S. 1378

At the request of Mr. DIXON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1378, a bill to amend the Arms Export Control Act to delay the approval of arms sales, exports, and licensing agreements unless the corresponding memorandum of understanding, before entry into force, has been transmitted to the Congress.

S. 1423

At the request of Mr. DODD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

SENATE JOINT RESOLUTION 74

At the request of Mr. LIBERMAN, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Georgia [Mr. FOWLER], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. BURDICK], and the Senator from Colorado [Mr. BROWN] were added as cosponsors of Senate Joint Resolution 138, a joint resolution to designate October 1991, as "National Lock-In-Safety Month."

SENATE JOINT RESOLUTION 143

At the request of Mr. RIEGLE, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to designate the week of August 4 through August 10, 1991, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. INOUYE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 161, a joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American war veterans in the District of Columbia or its environs, and for other purposes.

SENATE JOINT RESOLUTION 165

At the request of Mr. CRANSTON, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters.

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

AMENDMENT NO. 460

At the request of Mr. LIEBERMAN, the name of the Senator from New Hampshire [Mr. RUDMAN] was added as a cosponsor of amendment No. 460 intended to be proposed to S. 1241, a bill to control and reduce violent crime.

SENATE CONCURRENT RESOLUTION 52—CONDEMNING RESURGENT ANTI-SEMITISM AND ETHNIC INTOLERENCE IN ROMANIA

Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 52

Whereas in December 1989, after decades of harsh repression by successive Communist regimes in Romania, a violent uprising overthrew the brutal dictatorship of Nicolae Ceausescu;

Whereas this historic event has opened the way for the people of Romania to join the other nations of Central and Eastern Europe in establishing a free and democratic political system and a free market economy;

Whereas a reunited Europe, meaning a harmonious community of free and friendly nations, must be established on the basis of full respect for human rights, including the rights of minorities, and a rejection of anti-Semitism and other forms of ethnic and religious intolerance;

Whereas the newly gained freedom in Romania has allowed the formation of new social and political organizations, and the establishment of new publications free of direct government control;

Whereas this freedom has also given rise to a revival of extremist organizations and publications promulgating national chauvinism, ethnic hatred, and anti-Semitism;

Whereas Romania's parliament, instead of condemning these developments, itself paid tribute recently to the extreme nationalist Ion Antonescu who was responsible for the murder of approximately 250,000 Romanian Jews and was executed as a war criminal;

Whereas the Nobel Peace laureate author and humanist Elie Wiesel recently visited Romania, the country of his birth, to observe and report on these dangerous anti-Semitic trends;

Whereas even the recent solemn commemoration of the 50th anniversary of the mass murder of Romania's Jews by the Antonescu government was marred by an anti-Semitic provocation against Professor Wiesel; and

Whereas the government of Romania has not challenged and condemned these organizations and their activities directly and forthrightly: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurrently), That the Congress—

(1) condemns the resurgence of organized anti-Semitism, and ethnic animosity in Romania, including the existence of extremist organizations and publications dedicated to such repugnant ideas;

(2) calls on the Government of Romania unambiguously to condemn those organizations promulgating anti-Semitism and animosity toward ethnic Hungarians, Gypsies, and other minorities;

(3) calls on the Government of Romania to use every lawful means to curb these repugnant organizations and their activities and to strengthen the forces of tolerance and pluralism existing in Romanian society;

(4) calls on the Government of Romania to ensure full respect for internationally recognized human rights, including the rights of minorities; and

(5) calls on the President of the United States to ensure that progress by the Government of Romania in combating anti-Semitism and in protecting the rights and safety of its ethnic minorities shall be a significant factor in determining levels of assistance to Romania.

• Mr. DODD. Mr. President, together with my colleagues, Senators LIEBERMAN, LAUTENBERG, and WELLSTONE, I am introducing a Senate concurrent resolution in response to increasing and rather disquieting signs of a resurgence of anti-Semitism and other forms of bigotry and intolerance in Romania.

The recent liberation of the nations and central and eastern Europe have filled us with joy and expectations of a brighter, freer, more prosperous future for those long-suffering peoples.

It was also obvious, however, that four decades of communism had left a painful legacy in these countries, not only in a mismanaged economy, but also in the minds of some of the people who were unaccustomed not only to the advantages of freedom, but also to the responsibilities that must come with freedom.

The country of Romania seems to have had much greater difficulties in getting a stable transition process on track than most other countries of the former Warsaw Pact. Romania's revolution was much more violent, and violence or the threat of it unfortunately has remained part of Romanian political life ever since.

It was the rampage of Government-incited thugs, recruited from among miners a year ago, that received the widest publicity in the western press. Months before, however, shortly after the December 1989 uprising, there was a bloody street pogrom against ethnic Hungarians in a Transylvanian town. The Government is also incapable or unwilling to curb the more and more frequent cases of organized violence against the country's gypsy population.

Recently, another ugly face of extremism is gaining ground in that country, anti-Semitism. Several recent incidents show that anti-Semitic organizations and publications can operate almost unchallenged in Romania.

For calling attention to this latest appearance of the worst social aberration of this century, we are all indebted to the great humanist and teacher, Elie Wiesel. Elie recently visited Romania, the country of his birth, to personally investigate and verify these disturbing developments, and report to the American people. What he found deeply disturbed him and every one of us.

Even the solemn commemoration of the 50th anniversary of the first mass murder of Jews by the Romanian Army and police was not sacred to the forces of anti-Semitism. Elie Wiesel's eulogy was rudely interrupted by anti-Semitic taunts in the east Romanian town of Iasi just 9 days ago.

As of yet, no violence occurred against Jewish targets. This may be in part due to the fact that the Jewish community has by now been reduced to a mere 18,000 souls. It is hard for me to imagine what may drive a depraved mind that regards this group of mostly elderly people as a threat or challenge. We must remember however, that Hitler did not start with violence either, and what he advocated, did not make much sense either. Still, he succeeded in poisoning a whole generation.

Mr. President, this resolution speaks for itself. It is meant to be a warning to the Government of Romania to be much more firm and resolute in facing the forces of evil in that society. It is also a call to the Romanian people to cleanse the public life of the country of these elements.

Anti-Semities, chauvinists, ethnic hatemongers, are enemies not only of the targeted minorities, but also of the peace, the future, the development of the Romanian people itself. I hope most of them realize that the transition to a modern, free, pluralistic society and a functioning free market economy is difficult enough without the rampage of those who are spreading hatred to further divide the citizens of that country. I hope once this resolution passes, our words will be heard.

Mr. President, I want to commend Professor Elie Wiesel for this latest service in his continuing mission for a better, healthier human society.

I ask unanimous consent that three relevant newspaper articles and one editorial be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 19, 1991]

RISING VERBAL ATTACKS SHAKE ROMANIA'S JEWS

(By Henry Kamm)

BUCHAREST, ROMANIA.—In late April, on the eve of the 45th anniversary of his execution as a war criminal, Marshal Ion Antonescu, the dictator who led his country in joining Hilter's invasion of the Soviet Union, was honored by the Romanian Parliament as it rose in a minute of silent tribute. The dictator ordered pogroms and deportations to death camps that took the lives of at least 250,000 Jews.

The homage was the most formal action in a rising of nationalist and anti-Semitic propaganda that has caused deep apprehension among the 18,000 Jews remaining in Romania and other minorities, but it provoked no significant internal opposition.

The campaign so far is limited to verbal attacks, and no violence against Jews has been reported. But Jewish fears are heightened because the verbal attacks appear not only in the far-right press but also in mainstream newspapers, and because the authorities have taken no action despite a call by President Ion Iliescu for enforcement of a law against the publication of incitement to ethnic hatred.

No one opposed the parliamentary motion honoring Antonescu, offered by an obscure member of the Assembly from the governing National Salvation Front. only a handful of deputies representing the ethnic Hungarian minority refused to join in the tribute.

PRESS NEARLY UNANIMOUS

Mr. Iliescu has condemned Antonescu's rule, and the Government of Prime Minister Petre Roman has denounced the resurgence of anti-Semitism. But in the weeks before and after the anniversary on May 1, virtually all newspapers and weeklies, including those that support the Government, published articles praising Antonescu as a great patriot, denouncing the Soviet Union for ordering his execution and condemning King Michael for not pardoning him.

"It has become a cult," said Smaranda Enache, a leading member of the Civic Alliance, an organization of political liberals that opposes the Antonescu revival but has taken no stand against Parliament's action.

When questioned about it at a news conference last week, Mr. Iliescu dissociated himself from the tributes and condemned Antonescu's rule. But only two newspapers reported that, and both condemned the President's stand.

Romanians and foreign diplomats credited Mr. Iliescu with exceptional political courage in taking a stand against the broadening stream of assertive nationalism. They view that sentiment—with its permutations of anti-Russian, anti-Hungarian, anti-Jewish, and generally anti-foreign themes—as the only ideology shared by the dozens of political groupings in this dispirited nation of 23 million, which overthrew President Nicolae Ceausescu's Communist dictatorship in December 1989.

SPECULATION ABOUT MOTIVES

Jews and other Romanians, as well as foreign diplomats, venture various guesses at the motivation for the growing anti-Semitism. Most cite the general rise of nationalism, of which slander against Jews is a classical component in this region. Some believe that the Prime Minister, whose father was a Jew, is an implicit target. Others note that Jews, as well as ethnic Hungarians, were prominent among the early Communists, whom Moscow installed in power in 1944.

Chief Rabbi Moses Rosen, who has received many threats, said he believed that the campaign might be an attempt to discredit ceremonies July 1 and 2 to commemorate the 50th anniversary of a mass killing of Romanian Jews. President Iliescu has said he will attend the unveiling of a monument in the courtyard of the Bucharest Synagogue.

But a majority of those questioned considered the outbreak one more irrationality in a country suffering from profound economic, social and political malaise, against which the disunited leadership has found few positive policies and only minimal foreign support.

"Anti-Semitism was there right at the beginning of the revolution," Florin Bican of the Writers Union said, referring to the revolt against the Ceausescu Government. "On the day before Christmas '89, right after Ceausescu fell, I already heard one young primitive say to another, 'We have to get rid of the Yids next.'"

Bogdan Baltazar, the Government spokesman, has issued two strong condemnations of anti-Semitism, as well as a formal Government statement denouncing it. But he said in an interview that none had aroused significant press interest.

The main standard-bearer of extreme nationalism, based on the idea of ethnically "pure" Romanians, is Romania Mare, the country's largest weekly, with a circulation of 500,000. Its principal editors are Eugen Barbu and Corneliu Vadim Tudor, two of the most aggressive propagandists of the Ceausescu days, and Mircea Musat, chief censor of history in the old regime.

COMPLAINTS ABOUT 'KEY JOBS'

In a discussion of "the Jewish problem," Mr. Tudor wrote in April that he had nothing against Jews as long as they "leave this country alone." But he said that they held too many "key jobs," and that Parliament and the Government were "full of Jews." In a later issue, Mr. Tudor also demanded the expulsion of all gypsies.

Mr. Baltazar said he doubted that there were any Jews in Mr. Roman's Government. The Prime Minister is the son of a Jewish-born atheist father and a Roman Catholic mother, who had him baptized. Mr. Roman has taken the precaution of having his baptismal certificate published in Azi, the governing front's daily.

A smaller weekly, Europa, devotes itself almost single-mindedly to anti-Semitic themes. The articles of its publisher, Ilie Neacsu, are studded with citations from classics of French, English and German anti-Semitic literature.

Although the Government has condemned Europa's anti-Semitism, photographs of two of its principal ministers were featured on an April front page over facsimiles of letters they had sent to Mr. Neacsu thanking him for contributing 10 percent of the weekly profits to the Defense and Interior Ministries. They were the Defense Minister, Col. Gen. Victor Stanculescu, who has since then been named Industries Minister, and Interior Minister Doru Viorel Ursu. Their gratitude was not repudiated by the Prime Minister.

[From the New York Times, July 3, 1991]

ANTI-SEMITIC TAUNT AT WIESEL TALK IN ROMANIA

(By Henry Kamm)

IASI, Romania, July 2—An anti-Semitic incident marred the commemoration today of the program staged here by the Romanian Army and police that took the lives of about 8,000 Jews half a century ago.

A middle-aged, well-dressed woman provoked pandemonium in the packed Municipal Theater by repeatedly shouting "Lies!" and interrupting a speech in which Elie Wiesel, the Nobel Prize-winning author, eulogized the victims and delivered a warning about renascent anti-semitism.

As he tried to speak, the woman rose from a front row seat to shout: "It's a lie! The Jews didn't die. We won't allow Romanians to be insulted by foreigners in their own country."

Shouts against the woman rose from throughout the turn-of-the-century hall, whose audience included many of the 900 Jews remaining in the city that before World War II counted 40,000 Jews in a population of 90,000. But in the row behind her and from the back of the auditorium, sympathizers asked for her to be given the floor.

While Chief Rabbi Moses Rosen, who presided, went white with anger and in a trembling voice, denounced her as a "fascist provocateur," plainclothesmen hustled the woman away. The police did not identify her.

Mr. Wiesel continued, deploring the action of the Chamber of Deputies last April, which rose in a minute of silent tribute to the memory of Marshal Ion Antonescu, the dictator executed as a war criminal who allied Romania with Germany and ordered the deportation and killing of the Jews.

Mayor Emil Alexandrescu, a member of the governing National Salvation Front, followed Mr. Wiesel out of the hall apologizing and saying that the heckler did not represent the "real sentiments of Romanians."

Mr. Wiesel, as well as Richard Schifter, Assistant Secretary of State for Humanitarian Affairs, used the two days in Romania commemorating the 400,000 Romanian Jews who were killed by Germans, Romanians and Hungarians in World War II, to meet with President Ion Iliescu and Prime Minister Petre Roman. They expressed the concern of the United States and of American Jews over the existence of rabid nationalistic and anti-Semitic writing in parts of the press and the Government's failure to act. Today, there are believed to be fewer than 20,000 Jews in Romania.

Both men met separately with each of the Romanian leaders in Bucharest. Mr. Roman assured Mr. Wiesel of the Government's intention to seek punishment for newspapers that violate Romania's laws against preaching hatred of ethnic groups. Mr. Iliescu said the most offensive weeklies had agreed to stop publication of anti-Semitic articles. He did not specify how such assurances were obtained.

The Prime Minister expressed disappointment that Romanian intellectuals had not reacted vigorously against the wave on anti-Semitism. He agreed with an account by Mr. Wiesel of meetings with writers and other intellectuals who told the American that they lived in fear of militant, anti-intellectual forces that intimidate them with threats and character assassination.

Asked to identify the sources of the generalized atmosphere of fear, Prime Minister Roman replied that many Romanians were afraid of what may be a "network" of former members of the secret police, as well as of the Communist bureaucracy.

The campaign to rid Romania of Jews went into high gear with the outbreak of war against the Soviet Union on June 22, 1941. The Iasi pogrom gave the starting signal. In this city, near the Soviet border, Jewish men were accused of having signaled from the ground to Soviet warplanes. They were rounded up in the courtyard of police headquarters, and machine guns opened fire. Many who survived were bayoneted to death.

Thousands were jammed into freight cars, which for several days traveled back and forth without water or food in intense summer heat. When the cars stopped occasionally, those who had died were pushed out. Many went mad. After several days, most of those still alive were shot.

The rest of the Jewish population, was driven into labor camps from which few returned.

[The Washington Post, July 5, 1991]

JEWS MEETING IN ROMANIA CITE NEW ANTISEMITISM

CHIEF RABBI DENOUNCES NATIONALIST PRESS

(By Marce Champion)

BUCHAREST, ROMANIA—World Jewish leaders, here to commemorate the 400,000 Romanian Jews killed during World War II, warned this week that they see increased antisemitism in this country.

The 50th anniversary of the Holocaust in Romania, whose rulers sided with Nazi Germany for most of the war, has drawn Jewish leaders from the United States, Israel and Britain. But what might have been the ritual unveiling of a monument to the dead was given new urgency because of recent antisemitic articles in nationalist newspapers here.

"After reading these articles, I must tell you that I was shocked," said Elie Wiesel, the Nobel Peace Prize-winning chronicler of the Holocaust. Wiesel was born in Romania and deported to the Nazis' Auschwitz camp in Poland at age 15. He said the articles were as inflammatory as fascist pamphlets of the late 1930s and early 1940s.

One article, by a former submarine commander, Capt. Nicolae Radu, claims that Israel plans to turn Romania into a Jewish colony; that Jews are plotting with the International Monetary Fund to turn Romanians into "street sweepers"; that Jews control the Romanian government, and that they brought communism to Romania.

Wiesel warned Romania's government that its efforts to gain international acceptance and aid will be unsuccessful "until these antisemites are shamed into silence."

The articles and the lack of response to them in the rest of the press led Romania's chief rabbi, Moses Rosen, to threaten last week to build an "air bridge" to Tel Aviv to evacuate the 18,000 Jews living in Romania, which had a prewar Jewish population of 800,000. In the ceremonies this week, he attacked efforts to rehabilitate Romania's wartime pro-Nazi dictator, Ion Antonescu, in which three cities have renamed streets after him. "Now we must walk on streets named after our killer!" Rosen cried.

Although Rosen has received threats since denouncing the antisemitic articles, there have been no reports of hate crimes against Jews here.

Romania's nationalist newspapers have published articles expressing nostalgia for the late Communist dictator Nicolae Ceausescu and attacking Hungarians, Jews and Gypsies. Romania has almost 2 million ethnic Hungarian citizens and nearly as many Gypsies. In five villages, Gypsy settlements have been burned, but the Gypsies are viewed as too poorly organized to fight back and have few supporters abroad.

Carved into the walls of the Holocaust memorial unveiled here Monday were dates and figures referring to pogroms, deportations and massacres that Rosen has published in a new book. They suggest that Antonescu ordered the deaths of more than 250,000 Jews.

During the Ceausescu regime, Romanians were taught that most Romanian Jews were killed by Hungarian troops in Transylvania while Antonescu saved $400,000 by refusing to hand them over to Nazi Germany.

[From the New York Times, July 5, 1991]

ROMANIA'S DIRTY SECRETS

Romania once had a flourishing community of 750,000 Jews. Only 18,000 remain. Hundreds of thousands were slaughtered during World War II; others fled Communist rule afterward. For nearly 50 years, Communist governments concealed the horrifying facts about Romanian complicity in Nazi massacres. Yet even now, as the truth struggles to the surface, those who speak it are vilified and Romania's ex-Communist leaders seen immobilized, even as a gutter press spews new hatred against all minorities—Jews, ethnic Hungarians and gypsies.

In what should have been a redemptive gesture, Romania dedicated a memorial in Bucharest this week to the 400,000 Jews who fell victim to "German, Romanian and Hungarian Fascists." Sadly, this was followed by the ugly taunting of Elie Wiesel, a Nobel laureate who survived the pogroms in Transylvania. And it was preceded by the Romanian Parliament's rehabilitation of Ion Antonescu, ally of the Nazis, who initiated the mass killings.

Executed as a war criminal in 1946, Marshal Antonescu is now acclaimed as a martyr whose death was ordered by Soviet victors. Martyr? As leader of the Iron Guard dictatorship in 1940, Antonescu instituted anti-Jewish laws more severe than those in Germany. When Romania entered the war in 1941, his regime embarked upon a program of massacres and deportations of unparalleled ferocity. As Hannah Arendt writes in "Eichmann in Jerusalem":

Deportation Romanian style consisted of herding 5,000 people into freight cars and letting them die there of suffocation while the train traveled through the countryside without plan or aim for days on end; a favorite follow-up to these killings was to expose the corpses in Jewish butcher shops.

The savagery moderated as the military tide turned against Hitler. Instead of killing Jews, the Antonescu regime began selling them. Miss Arendt writes: "Romanians became the most fervent advocates of Jewish emigration—at $1,300 a head. This is how Romania became one of the few outlets for emigration to Palestine during the war." Later, in the Ceausescu era, the same blood trade resumed, with an additional twist: the commerce was extended to ethnic Germans.

The Ceausescus are gone but these dirty secrets are scarcely known to the Romanian people. Their ex-Communist leaders only murmur disapproval as Antonescu's memory is feted; journalists who once touted Ceausescu swell a chauvinist clamor for an ethnically "pure" Romania. Only the truth can liberate Romania from its totalitarian past. The tesk of telling it has scarcely begun.●

SENATE RESOLUTION 153—EXPRESSING SUPPORT FOR DEMOCRATIZATION IN YUGOSLAVIA

Mr. DOLE (for himself, Mr. METZENBAUM, Mr. PELL, Mr. HELMS, Mr. PRESSLER, Mr. NICKLES, and Mr. D'AMATO) submitted the following resolution; which was considered and agreed to:

S. RES. 153

Whereas in 1990 the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia elected non-communist governments committed to democracy and free market economics;

Whereas in 1990 the republics of Montenegro and Serbia elected communist governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia and thereby denied representation to the collective presidency of Yugoslavia;

Whereas the leaders of Slovenia and Croatia and the other Yugoslav republics have been engaged in negotiations on the future structure of Yugoslavia since October, 1990;

Whereas these negotiations have not included representatives from the provinces of Kopsova and Vojvodina;

Whereas on June 25, 1991, the republics of Croatia and Slovenia declared their independence;

Whereas the Yugoslav Army responded to these declarations by mobilizing and deploying tanks and troops in Slovenia, Croatia and Kosova;

Whereas the unwillingness of the Yugoslav central government and the military authorities to negotiate with the democratically elected leadership of Slovenia and Croatia has led to unnecessary bloodshed;

Whereas there have been numerous reports of deaths of civilians, policemen, militiamen and soldiers, as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia, and as a result of repression against the Albanian population in Kosova: Now, therefore, be it

Resolved, That—

(1) The Senate supports the principles of democratization and self-determination for the six republics and two provinces of Yugoslavia;

(2) The Senate urges that the United States use its leadership to ensure that concerns regarding the restoration of political stability in Yugoslavia will not preclude the chief objective of promoting and securing democracy and self-determination.

(3) The Senate condemns the use of force by the Yugoslav authorities against civilians;

(4) The Senate urges the peaceful resolution of political differences in Yugoslavia and the inclusion of Kosova and Vojvodina in that process;

(5) The Senate calls on the Yugoslav Army to refrain from obstructing the functioning of the democratic governments of Slovenia and Croatia and calls on the government of Serbia to cease from using force against the Albanian population of Kosova;

(6) The Senate calls for free and fair elections to be held in the provinces of Kosova and Vojvodina.

(7) The Senate urges the President to explore means of increasing direct diplomatic, political and economic ties with the democratic governments of the republics of Croatia and Slovenia;

(8) The Senate urges the State Department to expand direct contacts with the leaders of the democratic opposition of Kosova and Vojvodina;

(9) The Senate recommends that the administration shape its foreign assistance, trade and technical assistance programs to support the republics of Croatia and Slovenia and the other democratic republics in Yugoslavia, and to encourage democracy in the rest of Yugoslavia.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICES, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATION ACT, FISCAL YEAR 1992

DECONCINI (AND OTHERS) AMENDMENT NO. 732

Mr. DECONCINI (for himself, Mr. DOMENICI, Mr. JOHNSTON, and Mr. BOND) proposed an amendment to the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

At the end of the committee amendment, insert the following:

": *Provided,* That the last sentence of section 2401(c) of title 39, United States Code, is amended to read as follows:

"In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall (i) include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume; and (ii) calculate the sums requested in respect of mail under former sections 4452(b) and 4452(c) of this title as though all such mail consisted of letter shaped pieces, as such pieces are defined in the then effective classification and rate schedules."

": *Provided further,* That section 3626(a)(2) of title 39, United States Code, is amended to read as follows:

"(2) Rates of postage for a class of mail or kind of mailer referred to in paragraph (1) of this subsection shall be established in accordance with the requirement that the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service) shall be borne by such class of mail or kind of mailer, as the case may be; *Provided, however,* That with respect to mail under former sections 4452(b) and 4452(c) of this title the preceding limitation shall apply only to rates of postage for letter shaped pieces, as such pieces are defined in the associated classification and rate schedules."

": *Provided further,* That section 3626(i)(2) is amended by adding at the beginning of the first sentence thereof the phrase, "Subject to the requirements of section 2401(c) of this title and paragraph (a)(2) of this section with respect to mail under former sections 4452(b) and 4452(c) of this title,"

": *Provided further,* That second-class in-county preferred mail shall continue at the rates in effect on the date of enactment of this Act during fiscal year 1992: *Provided further,* That third-class non-profit mail rates in effect on the date of enactment of this Act, with the exception of pieces other than letter shape, shall not increase during fiscal year 1992 as a result of this appropriation and the United States Postal Service Board of Governors are instructed to reconcile any fiscal year 1992 funding shortfall as a result of this appropriation against future year appropriations requests: *Provided further,* That notwithstanding the provisions of sections 3624(c) and 3641(a) of title 39, United States Code, the Postal Service, in any proceeding it initiates under section 3622(a) of title 39, United States Code, for the sole purpose of increasing rates for third-class nonprofit mail other than letter shape, may place temporary rate changes into effect, as provided in the last sentence of section 3641(a) of title 39, upon such date as it may determine but in no case, less than 20 days following the filing of its request with the Postal Rate Commission."

SMITH AMENDMENT NO. 733

(Ordered to lie on the table.)

Mr. SMITH submitted an amendment intended to be proposed by him to the bill H.R. 2622, supra, as follows:

At the appropriate place, add the following:

"No funds appropriated pursuant to the provisions of this Act may be used for the purpose of authorizing or enforcing any agreement under section 5517 of title 5, United States Code, with respect to any employee of the United States with a regular place of employment at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire."

HELMS (AND OTHERS) AMENDMENT NO. 734

Mr. HELMS (for himself, Mr. THURMOND, and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the end of the committee amendment on page 59, line 8, add the following: ", hire of passenger motor vehicles: $3,468,000; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General."

Title 18, United States Code, is amended by adding at the appropriate place the following new section:

SEC. . DELIBERATE TRANSMISSION OF THE AIDS VIRUS

"(a) Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he is infected with the Human Immunodeficiency Virus, intentionally provides medical or dental treatment to another person, without prior notification to such person of such infection, shall be fined not more than $10,000, or imprisoned not less than ten years, or both.

"(b) The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'treatment' means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure.".

GORTON AMENDMENT NO. 735

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill H.R. 2622, supra, as follows:

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the United States Postal Service during fiscal year 1992 by this or any other act, nor any postal revenues available during such fiscal year, may be used by the United States Postal Service to execute or operate any contract for a major expansion of its current dedicated year-round national air networks for the purpose of transporting priority mail, except in an emergency or temporary interruption, until the Postal Service provides, 180 days in advance of the proposed date of such expansion, a complete report to the Congress of its plan, including its impact on priority mail service, first class mail, and private industry. Additionally, the Postal Service shall report to Congress on a quarterly basis of any incremental expansion of the dedicated air network for priority mail."

MITCHELL AMENDMENT NO. 736

Mr. DECONCINI (for Mr. MITCHELL) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 17, line 17, before the period, insert the following: ": *Provided further*, That fiscal year 1992 funds shall be available for any Presidential protection assistance reimbursements claimed in fiscal year 1991."

HARKIN AMENDMENT NO. 737

Mr. DECONCINI (for Mr. HARKIN) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 55, between lines 6 and 7, add the following new section:

SEC. 113. Notwithstanding any other provision of law, the General Services Administration shall enter into an agreement with the City of Des Moines, Iowa to pay expenses for one half of the operation, maintenance and repair of each skywalk bridge spanning city streets or alleys and connecting to the Federal Building at 210 Walnut Street in Des Moines, Iowa after the construction of each such skywalk and each year thereafter.

MOYNIHAN AMENDMENT NO. 738

Mr. DECONCINI (for Mr. MOYNIHAN) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 36, between lines 12 and 13, add the following:

New York:

Brooklyn, U.S. Courthouse, $10,000,000

MILKULSKI AMENDMENT NO. 739

Mr. DECONCINI (for Ms. MIKULSKI) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 78 of the bill, strike lines 5 through 11 and insert in lieu thereof, the following:

"(c)(1) Any individual referred to in subsection (b) who, within five years after the date of enactment of this Act, submits an application for employment in a position of employment in a department or agency of the Federal Government for which the individual is qualified shall be given preference over similarly qualified applicants for the position."

ROBB AMENDMENT NO. 740

Mr. DECONCINI (for Mr. ROBB) proposed an amendment to the bill H.R. 2622, supra, as follows:

Insert at the appropriate place in the bill:

"The U.S. Postal Service and the General Services Administration shall submit a report, by March 1, 1992, to the Committees on Appropriations of the U.S. House of Representatives and the United States Senate on the disposition of the U.S. Postal facility located in Harrisonburg, Virginia. Such report shall provide information on the cost of acquiring the facility, if the Postal Service decides to sell it, and the projected costs of any necessary renovation."

DECONCINI AMENDMENT NO. 741

Mr. DECONCINI proposed an amendment to the bill H.R. 2622, supra; as follows:

On page 7, line 9, strike the semi-colon.

On page 7, line 9, insert "for" after "and".

On page 14, line 5, strike "the".

On page 14, line 6, strike "the".

On page 15, line 10, insert a comma after "modernization".

On page 15, line 22, insert "the" after "upon".

On page 17, line 2, delete the comma.

On page 17, line 9, strike "to" and insert in lieu thereof "shall".

On page 24, line 25, strike the word "materials" after the word "to" and insert in lieu thereof "minerals".

On page 26, line 19, insert a comma after "rulings".

On page 30, strike "Commerce, State and Justice Departments" and insert in lieu thereof "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies".

On page 30, line 14, insert ", to remain available until expended" after "activities".

On page 31, line 16, insert a comma after "amounts".

On page 38, line 6, after "$569,251,000", strike "1".

On page 43, line 1, insert a comma after "Georgia".

On page 43, line 2, insert a comma after "Georgia" and after "Kansas".

On page 43, line 3, insert a comma after "Maine".

On page 43, line 6, insert a comma after "Nevada".

On page 43, line 8, insert a comma after "Carolina".

On page 43, line 9, insert a comma after "Tennessee".

On page 52, line 24, beginning with the word "The", strike all down through and including line 18 on page 53.

On page 58, line 16, strike "moneys" and insert in lieu thereof "funds".

On page 59, line 9, strike "$3,468,000" and insert in lieu thereof "$4,018,000".

On page 59, line 10, line type "$6,375,000" and insert immediately thereafter "$5,825,000" in italics.

On page 60, line 21, strike "Federal".

On page 60, line 23, strike "10,000" and insert in lieu thereof "10000".

On page 73, line 2, insert a comma after "Act".

On page 73, line 3, strike "the" after "for".

On page 76, line 12, strike the word "filing" and insert in lieu thereof "filling".

On page 76, line 23, strike "Act, or by any Act appropriating funds" and insert in lieu thereof "or any other Act".

On page 76, line 24, strike "that is".

On page 76, line 25, strike "may,".

On page 77, line 2, insert "may" after "1991,".

On page 77, line 8, strike "Parkerburg" and insert in lieu thereof, "Parkersburg".

On page 77, line 16, strike the accents on the word "resume".

On page 79, line 1, strike "fees" and insert in lieu thereof "fee".

On page 82, line 8, insert "not" after "may".

On page 82, line 9, strike "not".

On page 87, line 19, strike the first "Act".

On page 95, line 18, strike "Act".

On page 95, line 22, strike "in" and insert in lieu thereof "by".

On page 95, line 23, insert "to" after "and".

DECONCINI (AND DOMENICI) AMENDMENT NO. 742

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra; an follows:

On page 32, at the beginning of line 10, insert the following:

"For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services act of 1949, as amended (40 U.S.C. 490(f), $288,000,000 to be deposited into said Fund."

On page 32, line 10, after the word "into", strike "the" and insert in lieu thereof, "said"

On page 32, beginning with line 11, strike down to and including the comma on line 13.

On page 33, line 10, strike "$4,027,836,276" and insert in lieu thereof, $4,315,836,276"

On page 44, line 11, strike "$4,027,836,276" and insert in lieu thereof, "$4,315,036,276"

On page 20, line 7, after the word "Provided" and before the comma, insert "further"

DECONCINI (AND DOMENICI) AMENDMENT NO. 743

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 6, line 16, after the semi-colon, insert the following: "for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty;"

On page 16, line 14, after the semi-colon, insert the following: "for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty;"

On page 18, line 19, insert the following after the word "countries" and before the semi-colon: "without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year"

On page 30, line 4, after the word "Service" insert the following: "for the hiring, equipping and training of an additional 32 full-time equivalent special agents and 22 full-time equivalent support and administrative positions"

KASTEN AMENDMENT NO. 744

Mr. DECONCINI (for Mr. KASTEN) proposed an amendment to the bill H.R. 2622, supra, as follows:

The General Accounting Office shall conduct a study of the manner in which the Internal Revenue Service's small defined benefit plan actuarial audit program is being conducted. Further, the General Accounting Office shall report to the Congress within 45 days on the results thereof.

GORTON AND MIKULSKI AMENDMENT NO. 745

Mr. DECONCINI (for Mr. GORTON, for himself and Ms. MIKULSKI) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the United States Postal Service during fiscal year 1992 by this or any other act, nor any postal revenues available during such fiscal year, may be used by the United States Postal Service to execute or operate any contract for a major expansion of its current dedicated year-round national air networks for the purpose of transporting priority mail, except in an emergency or temporary service interruption, until the Postal Service provides, 180 days in advance of the proposed date of such expansion, a complete report to the Congress of its plan, including its impact on priority mail service, first class mail, and private industry. Additionally, the Postal Service shall report to Congress on a quarterly basis of any incremental expansion of the dedicated air network for priority mail."

SPECTER (AND KENNEDY) AMENDMENT NO. 746

Mr. MITCHELL (for Mr. SPECTER, for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1241, supra, as follows:

On page 86, strike line 3 and all that follows through page 114, line 10, and insert the following:

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liasions, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaurate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program" approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the casse of graudate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provisions set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties;

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participants must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing gradute study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction to the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1)(E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) Leave of Absence.—(1) a participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) Admission of Applicants.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) In General.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) Training Sessions.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) Further Training.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) Course of Training.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) Evaluation of Participants.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) Stipend.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 185. SERVICE OBLIGATION.

(a) Swearing In.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) Rights and Responsibilities.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) Discipline.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SECTION 821. SHORT TITLE.

This Subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Subtitle".

SEC. 822. DEFINITIONS.

As used in this Subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this Subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this Subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) USE OF ALLOTMENT.—

(1) IN GENERAL—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) EMPLOYMENT.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.—

(1) PAYMENTS—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) FEDERAL SHARE.—The Federal share shall not exceed 60 percent.

(3) NON-FEDERAL SHARE—The non-Federal share of the cost of scholarships and student employment provided under this Subtitle shall be supplied from sources other than the Federal Government.

(c) LEAD AGENCY.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this Subtitle.

(d) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the programs conducted pursuant to this Subtitle and shall, in consultation with the Assistant Secretary of Postsecondary Education, issue rules to implement this Subtitle.

(e) ADMINISTRATIVE EXPENSES.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) SPECIAL RULE—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this Subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) SUPPLEMENTATION OF FUNDING.—Funds received under this Subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) SCHOLARSHIPS.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) INELIGIBILITY FOR STUDENT EMPLOYMENT.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) PRIORITY.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

SUBTITLE C—REPORTS

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

SPECTER (AND KENNEDY) AMENDMENT NO. 747

Mr. MITCHELL (for Mr. SPECTER, for himself and Mr. KENNEDY) proposed an amendment to amendment No. 746 proposed by Mr. SPECTER (and Mr. KENNEDY) to the bill S. 1241, supra, as follows:

(1) On page 6, line 12, replace "$10,000" with "$7,500"; on line 18, replace "$13,333" with "$10,000"; on line 21, replace "$40,000 with $30,000".

(2) On page 7, line 198, replace "$10,000" with "$7,500"; on line 25, replace "$13,333" with "$10,000"; on Page 8, line 3, replace "$40,000" with "$30,000".

(3) On page 8, line 6, strike the period at the end of the sentence and insert the following:

", except that

"(1) scholarships may be used for graduate and professional study, and

"(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.".

(4) On page 10, line 16, strike "in this section." and insert in lieu thereof "in this section for any course of study in any accredited institution of higher education."

(5) On page 14, strike lines 17–20 and insert the following in lieu thereof: "efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection".

(6) On page 15, line 24, insert the following new subparagraph (3):

"(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.".

(7) After page 19, line 19, add the following new paragraph (d):

"(d) LAY-OFFS.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.".

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Thursday, July 18, 1991, beginning at 10 a.m., in 485 Russell Senate Office Building on S. 291, San Carlos Apache water rights; S. 1350, Zuni River Watershed Act of 1991; S. 668, consolidated environmental grants; S. 362, Mowa Band of Choctaw Indians Recognition Act; S. 45, Jena Band of Choctaw Indians Recognition Act; and S. 374, Aroostook Band of Micmacs Settlement Act; to be followed immediately by a hearing on S. 1287, Tribal Self-Governance Demonstration Project Act.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a joint oversight hearing with the Senate Committee on Labor and Human Resources, Subcommittee on Employment and Productivity, on July 25, 1991, beginning at 2 p.m., in 485 Russell Senate Office Building on employment on Indian reservations.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 25, 1991, beginning at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on several bills pending before the subcommittee. The bills are:

S. 621/H.R. 543, to establish the Manzanar National Historic Site in the State of California, and for other purposes;

S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area, California;

S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes;

S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history; and

H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact David Brooks of the subcommittee staff at (202) 224–9863.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on August 1, 1991, beginning at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on a measure currently pending before the subcommittee. The bill is: S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and Lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such land, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica

Rosenberg or Tom Williams of the subcommittee staff at (202) 224-7933.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 23, 1991, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two measures pending before the subcommittee. The bills are:

S. 140, to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; and

S. 927, to provide for a transfer of lands between the U.S. Forest Service and Eagle and Pitkin Counties in Colorado.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 3264 Dirksen Senate Office Building, Washington, DC 20510.

For further information regarding the hearing, please contact Erica Rosenberg of the subcommittee staff at (202) 224-7933.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BINGAMAN. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Mineral Resources Development and Production Subcommittee of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 1187, legislation to amend the Stock Raising Homestead Act, and S. 1179, the Geologic Mapping Act of 1991.

The hearing is scheduled for Tuesday, July 30, 1991, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, Attention: Lisa Vehmas.

For further information, please contact Lisa Vehmas of the committee staff at 202/224-7555.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 2 p.m., to hold a hearing on the nomination of Fernando J. Gaitan, Jr., to be U.S. district judge for the western district of Missouri, Clyde H. Hamilton, to be U.S. circuit judge for the fourth circuit and Morton A. Brody, to be U.S. district judge for the district of Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 10 a.m., to hold a hearing on the reauthorization of the Refugee Act resettlement provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GENERAL SERVICES, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on General Services, Federalism and the District of Columbia of the Governmental Affairs Committee be authorized to meet on Thursday, July 11, at 10:00 a.m., for a hearing on the subject: Meeting the District's financial challenge.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 11, 1991 at 9:00 a.m., in executive session, for markup of the Department of Defense authorization bill for fiscal years 1992-1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, July 11, 1991 at 10:00 a.m., to conduct a hearing on legislative proposals to ensure the safety and soundness of Government-sponsored enterprises.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 9:30 a.m. for a joint hearing with the Subcommittee on Labor Management of the House Committee on Education and Labor, on "Library and Information Services for Literacy, Productivity and Democracy."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 11, at 2:00 p.m. to receive a closed briefing on Cyprus negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN, AND WATER PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, July 11, beginning at 10:00 a.m., to conduct a hearing on S. 1278, a bill to amend the National Environmental Policy Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 11, at 10 a.m., to hold a hearing on the Conventional Forces in Europe [CFE] Treaty. Secretary of State Baker will be our witness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MEDICARE AND LONGTERM CARE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on July 11, 1991, at 2 p.m. to hold a hearing on Medicare hospital capital payment policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 11, 1991, at 2:45 p.m. to hold a closed meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HARRY AND LARRY JONES

• Mr. McCONNELL. Mr. President, I rise today to commend two businessmen because of their contributions to the Louisville community.

We have all been scolded by mother or father because we bought that trendy pair of Levis, or a sporty pair of black and white saddle shoes. Mother accused you of trying to "keep up with the Joneses." In this instance, though, the Joneses are a fine example; and their story, most will agree, is inspiring.

Harry and Larry Jones were among the obscure partners who joined former Gov. John Y. Brown, Jr., when he attempted to rescue Louisville's old Durkee Foods plant and save jobs. But by 1982, the Jones brothers had begun quietly building a collection of their own companies, companies they expect will do $220 million in business this year. The base of these companies is Jones Plastic and Engineering Co., among the largest independent injection molders in the country.

The Joneses are also still a part of the venture Brown promoted, which started as Louisville Edible Oil Products, Inc., and now inclues three companies: Golden Foods, Golden Brands, and kentuckiana Tank Wash. The companies refine, package, and transport vegetable oils, and sanitize oil tanks. Business for Harry, Larry, and their father, Earl C. Jones, also includes their status as the largest investors in the Old Kentucky Real Estate Investment Trust.

What makes this story even more unique is the fact that Larry and Harry are twins, and do everything in tandem. They took the same courses in college, have the same handicap in golf, and share the title of executive vice president at Jones Plastics.

Harry and Larry went to New York and New England after graduating from the University of Kentucky. Once they noticed that there were no plastic molders but that there were plastic users in Kentucky, they spent several vacations looking for a plastic product they could make and found one, whiskey caps.

The Joneses expanded their product line and "specialize in everything that is too difficult for the competitors," Larry Jones said. Plastics technology magazine's April issue included the company in a list of World Class Injection Molders, calling it equal to "the best in the world in terms of quality, technology, productivity, and service."

Harry Jones said the brothers expect vegetable oils to become more important in transportation and industry as environmentalists call for replacing petroleum products.

The Joneses already anticipate expansion with the demand.

Mr. President, I rise today to insert this article in the RECORD, to recognize two outstanding men in the business sector in hope that their story may serve as an example to aspiring individuals in our country.

The article follows:

[From the Louisville Courier-Journal, May 19, 1991]

TWINS MOLD BUSINESS EMPIRE OUT OF PLASTIC

(By Joe Ward)

To some people, Harry and Larry Jones were among the more obscure partners when then-Gov. John Y. Brown Jr. mounted his much-publicized 1982 effort to rescue Louisville's old Durkee Foods plant and save jobs.

Brown himself—who ultimately decided against joining the venture, to avoid a conflict of interest—was not only governor, but also well known as the man who turned Kentucky Fried Chicken into a national chain.

He had interested such other friends as the late Frank Metts—who had high visibility from a moderately controversial hitch as state secretary of transportation—and Paul Hornung, the "Golden Boy" of Green Bay Packer professional football fame.

But the Joneses weren't totally unknown, at least to middle-aged Kentuckians and perhaps sports trivialists.

They had seen limelight as "1A" and "1B," Paul "Bear" Bryant's one-two punch at left and right halfback on the University of Kentucky football team that beat Oklahoma in the Sugar Bowl, in 1951.

And by 1982 they had been for a number of years quietly building, with partners, a collection of companies that they expect to do $220 million worth of business this year.

Their base is Jones Plastic and Engineering Co., which has its headquarters and two plants in Jeffersontown's Bluegrass Industrial Park, another plant in Leitchfield, Ky., and a fourth plant in Frankfort. The company is among the 10 largest independent injection molders in the country.

The Joneses still are part of the venture Brown promoted, which started out as Louisville Edible Oil Products Inc., and now includes three companies—Golden Foods, Golden Brands and Kentuckiana Tank Wash. They refine, package and transport vegetable oils, and sanitize oil tanks.

The Joneses also joined with Metts, Hornung and other investors in Schmutz International B.V., which makes printing equipment, foil slitters and machine tools. It has its operations in Holland.

With their father, Earl C. Jones, Harry and Larry Jones are the largest investors in the Old Kentucky Real Estate Investment Trust, where Hornung, the Metts estate and others also are partners. The trust owns the old Levy Brothers building at Third and Market streets, the old Sears building on Shelbyville Road, and some apartment buildings and other properties.

All the companies are profitable, the Joneses say, though they won't release figures. The plastics firm is "very profitable," Harry Jones said. Schmutz has been affected by the recession but is "doing O.K.," and the real estate firm is "holding its own."

The Joneses—Who are called Harry and Larry by virtually everyone who deals with them, though their proper names are Dennis Harry and Robert Larry—are identical twins, now 60.

They have done virtually everything in tandem.

They took the same courses in college and the same job out of college. Each retains the title of executive vice president at Jones Plastic because neither wants to have a title higher than the other.

"It's almost freaky," said Hornung, who played baseball with them when they all were boys. Hornung noted that Harry and Larry have about the same handicap in golf—"a 7 or 8"—and they even have three sons apiece, almost exactly paralled in age. "One would have a boy, and the other would have a boy." Hornung said, "It's the damnedest thing I ever saw."

Earl Jones, father of the twins, said it's always been that way. Though they argue a lot, he said, his sons "usually end up with the same thoughts." You can even "start a conversation with one and pick it up with the other, and just go on with it," he said.

The elder Jones, 80, a retired businessman, said his boys "were always kids anybody would have been proud of." They respected their elders and took care of one another, and they were very ambitious, working hard at their paper routes and at athletics.

When they were very young, Earl Jones recalled, Harry and Larry often stayed with maternal grandmother, the late Leola Allen—"a good, honest, religious woman" who "taught them the basics, principles most real young kids don't get."

They shone in athletics in junior high, played football three years for coach Butch Charmoli at DuPont Manual High School, and won athletic scholarships to the University of Kentucky. They lettered three years there, too—in football baseball and track—and did well academically.

At one point, Earl Jones said, their pursuit of civil engineering degrees conflicted briefly with football. They asked permission to be late for practice one semester because of an afternoon lab class, their father said, but Bryant told them they probably wouldn't make the team if they weren't on time.

So they got business degrees instead. Then they stayed on a couple of extra years and got engineering degrees, too.

"We knew it wouldn't take much longer, and it was free." Larry Jones said. Bryant had arranged for their scholarships to continue, and they helped both him and his successor, Blanton Collier, with coaching chores when their playing days were over.

During the period Larry almost succeeded in recruiting Hornung, who was four years younger, for UK football. "But he was Catholic," Larry said, and couldn't resist the call from Notre Dame.

They met John Y. Brown at UK, when he was in law school. "We played a lot of poker together, at the football house," Brown said. "You can tell a lot about somebody by playing poker with them."

Brown said he wanted to go into business with them even then. "They had goals and were highly disciplined, and were well-prepared for an opportunity when it came." he said.

Harry and Larry went to Phillips Chemical Co., where they worked for three years, ultimately in New York and New England, selling ingredients for plastics manufacturing. One thing they noticed was that they weren't selling any in Kentucky. "We found out it was virgin territory down here—no molders but some users," Harry Jones said.

They spent several vacations in Kentucky looking for a plastic product they could make, and found one—whiskey caps.

Big glass companies such as Ball Brothers and Owens Illinois were selling caps to large and small distillers in those days, Larry Jones said, and he and his brother were able to pick off such small customers as Jim Beam and Heaven Hill.

"We were right here, so we could beat the big guys on freight," he said. "Also, we weren't big enough to mold a minimum order for Seagrams, so we were too small to hurt anybody."

Plus, he said, it was 1961 and their names were still recognizable in Kentucky. "A lot of people wanted to help us."

They raised $55,000 by bringing in their father, along with A. A. Nelson—Larry's father-in-law—and Dr. Ben Reid, a family friend. They borrowed another $50,000 from Liberty National Bank.

At first there were four employees—Harry and his wife, Nancy, and Larry and his wife, Charlotte, nicknamed "Skeet." "We had a playpen at the office for the six boys," Larry said.

"They worked like dogs," Earl Jones said.

They expanded their product line to include fishing tackle boxes, tool boxes and seat-belt housings, grew out of their original site into the industrial park, and then out of there.

Early on they sold 40 percent of the company's stock to Stratton & Terstegge, a hardware company, for $80,000, which enabled them to buy a machine that doubled the business. They bought the stock back later for "$1.5 million or $1.6 million." Larry Jones said, Harry and Larry Jones now own about 70 percent of the stock.

They expanded out of the main plant and across the street in 1980 to start Rev-A-Shelf, a wholly owned subsidiary that assembles kitchen cabinets and accessories. They opened the Leitchfield plant in 1987, and bought the Frankfort operation from General Electric Co. last fall.

Four of the six young Joneses are now vice presidents in the company. One of the others operates a nursery company, and the other works for a company in Akron, Ohio.

The Louisville, Leitchfield and Frankfort plants all do custom injection molding work, about 40 percent of it for General Electric's Appliance Park, and much of it in molds designed by Jones engineers. Other customers include IBM and Rubbermaid.

Larry Jones said the company shoots for the hard work, the technically difficult. "We specialize in everything that we hope is too difficult for our competitors," he said. "We want our customers to say, 'We've got to give the business to the Joneses because they're the only ones who can do it.' "

Outsiders give them credit for some success toward that goal, Plastics Technology magazine's April issue included the company in a list of "World Class Injection Molders," declaring it equal to "the best in the world in terms of quality, technology, productivity and service."

Their purchase of the GE plant in Frankfort—on terms they will not disclose—was preceded by a "value-added supplier" contract, "five to eight years long," with the appliance maker.

John Rice, GE's general manager of Material Resources Operations for Appliances, said GE has began forming such "partnerships" with its suppliers, entering longer-term agreements that relieves the suppliers of the need to beat the bushes for customers on a yearly, or more frequent, basis.

"What Jones does for GE is work hard at providing us a competitive advantage—in price, quality, delivery and technical support," he said.

Rather than giving Jones the exact parameters of a part it needs, for example, GE can just describe the need, and Jones engineers can design the part and decide how to make it, often saving on waste and time.

"In 1991 alone they've submitted ideas for cost reduction worth several million dollars," Rice said "They're an important part of our success today, and will be in the future."

The Jones companies deal with unions at their Jeffersontown plants and at Golden Foods and Golden Brands. They get along "reasonably well," Larry Jones said, though both operations have had strikes.

"I've found the Joneses fair to deal with," said Norman Hug, president of Teamsters Local 89. "Like anyone else, they want to get everything they can for their money."

Employees of the vegetable oil firms, who are represented by Firemen & Oilers Local 320, went to court over strike violence from the company side when Frank Metts was running the companies. But business representative Ron Ashton said the relationship has improved considerably. Metts died last summer.

The Joneses say their growth has come with few problems, the one significant one a brief period when chemicals were hard to get during the 1973 embargo by Arab oil producers.

They plan to keep on growing, building small plants like the 20-press Leitchfield operation in other small towns, as they need them. They hope to move into new areas—pharmaceutical plastics and new plastic compounds among them—and expect that to mean an expansion of the Frankfort plant as well.

Harry Jones said the brothers expect vegetable oils to become more important in transportation and industry for environmental reasons, replacing petroleum products, and they expect to expand with demand. Golden Foods and Golden Brands will have $100 million in sales this year, and the plastics firm, $110 million, they said.

And the Joneses say they have no retirement plans. They're healthy, they said, and their parents are healthy. The four sons who are in the business are involved in the decision making, though, and succession, when it's necessary, shouldn't be a problem, they said.•

TRIBUTE TO RODNEY CLINE CAREW

• Mr. DURENBERGER. Mr. President, on Tuesday, January 8, 1991, Rodney Cline Carew became the 22d player elected to the Baseball Hall of Fame in his first year of eligibility. His 401 votes were the most received during this round of voting and Rod Carew now joins Babe Ruth, Henry Aaron, and Ty Cobb in Cooperstown. I congratulate him on his achievements.

Although Rod finished his career as a California Angel, he spent 14 years as a Minnesota Twin. I am proud to say it will be a Twins cap he will be wearing on his Hall of Fame plaque.

Rod's pursuit began in 1964 at age 14 when Minnesota scout Herb Stein signed him to a contract to play class A ball. He was promoted to the majors three seasons later and capped off his inaugural season by being named Rookie of the Year. In addition, Rod won his first batting title and stole home a record-tying seven time during the 1969 season.

A skillful infielder at second base, Rod also was an outstanding hitter, scientifically changing his stance from pitcher to pitcher and pitch to pitch. Former manager Gene Mauch said that "nobody did what Rod did any better." If Rod Carew showed promise during his first three seasons in the big leagues, it was only a preview of things to come.

From the 1971 through 1978 seasons, Carew batted above .300 for 8 straight years, winning six batting titles. He led the league in hits three times, triples twice, and in runs once. In his best year, 1977, Carew hit .388, had 14 home runs, 100 RBI's, 239 hits, and 128 runs, and thus awarded league MVP honors for his efforts.

Carew finished his 19-year career in 1985 with a .328 lifetime batting average. He batted .300 or better in 15 consecutive seasons, was named to 18 All-Star teams, and stole 353 bases. Rod is 1 of only 16 players with 3,000 or more hits and, ironically enough, Rod collected his 3,000th hit in 1985 off Frank Viola who was then a Twins pitcher.

During the recent All-Star game in Toronto, Rod was named Honorary Captain of the American League squad and baseball fans were once again treated to the sight of Rod Carew in a baseball uniform.

On July 21, Rod, Gaylord Perry, and Ferguson Jenkins will be formally inducted into the Hall of Fame in Cooperstown, NY.

Mr. President, again I congratulate these men on their outstanding accomplishments and for the fine examples which they have provided for generations to come.•

THE COMMERCIAL BANKING INDUSTRY

• Mr. McCAIN. Mr. President, I would like to take this opportunity to bring attention to a serious problem facing our Nation today. It is the financial condition of our commercial banking industry.

Many Arizonans have contacted me about the health of our commercial banks. Specifically, they wonder if we are heading toward another S&L-type bailout for the commercial banking industry. I must tell them that I, too, am seriously concerned.

The situation appears to be worsening. In the past 3 years, nearly 600 banks have failed at a cost of $15.7 billion. The Federal Deposit Insurance Corporation [FDIC] estimates that as many as 230 banks could fail in the next 2 years.

There have also been many reports, including one from the General Accounting Office [GAO], which questions the present solvency of the Bank Insurance Fund [BIF] and its ability to meet future obligations.

Furthermore, the conditions present in the commercial banking industry seem to be similar to those conditions that have required a massive and ongoing bailout of the savings and loan industry.

I am aware that commercial banks are better capitalized than S&L's were;

that commercial banks are not as exposed to junk bond losses; and that commercial banks are subjected to more rigorous regulation and supervision.

Notwithstanding these differences, it appears that mounting commercial bank failures may deplete the BIF, thus prompting another taxpayer-financed bailout.

Mr. President, I think our present situation can be aptly illustrated by a poem by Robert Frost, "The Road Not Taken." It goes like this:

I shall be telling this with a sigh
  Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
  I took the one less traveled by
And that has made all the difference.

The history of the savings and loan debacle encompasses many Congresses.

Too often, Congress has gotten lost in the woods, and taken the road more traveled. This road is the road to a taxpayer bailout. This is the road we must not travel.

Mr. President, I earnestly implore my colleagues to make a difference and move soon to reform our banking laws so we can prevent another massive taxpayer-financed bailout.

By acting promptly and judiciously, somewhere ages and ages hence, future Americans will laud our foresight and reap the benefits of our diligence.•

COMMEMORATING 100TH BIRTHDAY OF THE IMMIGRATION AND NATURALIZATION SERVICE

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the Immigration and Naturalization Service on its 100th birthday, July 12, 1991. The Service and its employees have a long tradition of providing assistance to the many men, women, and children who want to come to our country to begin new lives.

As a Senator from the great State of Vermont, I have a strong admiration for the dedicated INS employees working in my State. The Eastern Service Center and the INS offices located in Vermont have provided invaluable assistance to me over the years. I have turned to them countless times in the course of my service in Congress. I have found the men and women of the INS to be extremely knowledgeable and helpful to me, my staff, and the many Vermonters with immigration concerns.

I am pleased to have this opportunity to recognize the Immigration and Naturalization Service on its centennial and publicly acknowledge the exemplary service of its Vermont employees. I look forward to working with the INS for many years to come.•

TRIBUTE TO CEDARS MEMORIAL CENTER AND MEDICAL PARTNERS

• Mr. GRAHAM. Mr. President, today I commend the Cedars Medical Center and the Medical Partners organization who were recently named an Exemplary Dade Partner by the Dade County Public Schools.

Nominated by Miami Edison Senior High School, Cedars Medical Center received the award which recognizes outstanding efforts made to motivate and encourage students while promoting self-esteem particularly for those at risk of dropping out.

Developed by the Dade County public schools, Dade Partners is a program that matches schools with over 1,300 outside organizations, local businesses, individuals, and corporations.

This year, Cedars Medical Center and Dade Partners provided more than 30 separate events and activities for partner schools. These programs affect hundreds of students and address the most pressing issues in our schools today—dropout prevention, career preparation, and financial aide.

I commend Cedars Medical Center and the Medical Partners organization for their outstanding contribution to society and education.•

COMMENDING MRS. SHALLEY JONES

• Mr. GRAHAM. Mr. President, I rise today to commend an outstanding Floridian, Shalley Jones, of Miami.

Mrs. Jones is the president of the National Association of Urban Bankers and is a dedicated community activist.

Raised in South Dade, Mrs. Jones learned the hard way about the problems of low-income housing. She uses her background to help the local communities by working with various organizations including the Miami-Dade Neigborhood Housing Services, Inc., and Metro-Miami Action Plan.

In addition to her commitment to community involvement, Mrs. Jones is a wife, a mother of two, and a banker. She was the first vice president/CRA compliance officer at Chase Federal Bank in Kendall. By combining her knowledge of the banking industry with the needs of local housing, she revitalizes declining low-income neighborhoods.

Mrs. Jones graduated from the University of Miami and received a master's degree in management from Florida International University. She started a temporary job as a bank teller until she enrolled in the management program at Flagler Federal Savings & Loan Association.

Her enthusiasm and her commitment to her community have distinguished her as an outstanding individual, and she is an inspiration to all.

It is my pleasure to commend Shalley Jones and her many accomplishments.•

EXPRESSING THE SENATE'S SUPPORT FOR DEMOCRATIZATION IN YUGOSLAVIA

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 153, a resolution to express support for Yugoslavia submitted earlier today by Senators DOLE, METZENBAUM PELL, HELMS, PRESSLER, NICKLES, and D'AMATO.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 153) to express the Senate's support for democratization in Yugoslavia.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, I am pleased to cosponsor this resolution regarding Yugoslavia submitted by Senator METZENBAUM. Two weeks ago, the Senate adopted a resolution that Senator DOLE and I submitted condemning the Yugoslav Army's violent response to the declarations of independence by Croatia and Slovenia. I believe that at this juncture, it is appropriate for the Senate to speak out once again on the Yugoslav situation.

I welcome the EC-brokered accord on Yugoslavia, including the cease-fire in Slovenia, and I am thankful that it is holding. But troubled times are ahead, and it behooves us to have the foresight to develop a proactive, reasonable policy toward Yugoslavia that is true to our democratic principles. I believe that the resolution before us makes appropriate recommendations on how the administration might shape such a policy.

Last week, for the first time, the administration took a small step away from its longstanding policy of promoting both national unity and democracy in Yugoslavia. I commend the administration for taking that step because in recent months, U.S. policy had seemed to emphasize national unity over democracy. I hope that last week's statements signal a recognition that unity at all costs is not the answer for Yugoslavia.

I also hope that the administration will pay more attention to the actions of Serbia, which in large part, contributed to the current situation. Serbia's obstruction of the constitutional rotation of the Federal Presidency, its opposition to a looser federation, and repression of the Albanian population in Kosova encouraged Croatia and Slovenia to take steps to disassociate themselves from Serbia and the Yugoslav federation. The United States administration has had too little to say about Serbia's actions, and has focused mainly on Slovenian and Croatian secession. I remain concerned that United States insistence on unity and its near silence about Serbian actions may have given the Yugoslav Army and Serbian leaders the false impression that the United States would look the other way in response to use of force against the breakaway Republics.

To avoid any further misunderstandings, I believe that the administration should state unequivocally that it will support independence for Slovenia and Croatia if Yugoslavia's renegade army does not keep its commitment to cease aggression and if Serbia does not agree to negotiations on a looser Yugoslav federation.

Finally, Mr. President, as I told Secretary Baker during a Senate Foreign Relations Committee hearing this morning, I believe that the United States should press Serbia on the issue of Kosova. In this regard, I would make particular note of the language in the resolution calling upon the Serbian Government to cease from using force against the Albanian population of Kosova and for the administration to expand contacts with the leaders of the democratic opposition of the provinces of Kosova and Vojvodina. I believe that the Senate should demonstrate its unequivocal support for democratization and self-determination in all of Yugoslavia, and accordingly, I urge that my colleagues support this measure.

Mr. DOLE. Mr. President, I understand that this resolution has been cleared on both sides. I am pleased to cosponsor this resolution with Senators METZENBAUM, PELL, HELMS, PRESSLER, and NICKLES.

Yugoslavia is undergoing a dramatic transformation—and the struggle for democracy has, to our great concern, provoked a violent reaction from the Communist hardliners that still exist and hold power in Yugoslavia.

Mr. President, a few weeks back, the United States policy response to events in Yugoslavia, such as the Croatian and Slovenian declarations of independence, was unfortunately rather murky. However, I am pleased to see that the administration has now clarified its policy in support of the democratic republics of Yugoslavia and against the use of force.

Mr. President, this resolution is an attempt to support that effort—to put the U.S. Senate squarely on the side of democracy and the principle of self-determination. With the adoption of this resolution there should be no doubt where we stand.

In addition to addressing the events of recent weeks in Slovenia and Croatia, this resolution takes note of the ongoing repression in the Province of Kosova, and calls on the hardline Government of Serbia to cease using force against the 2 million Albanians who live there.

Mr. President, the Communists have lost in Yugoslavia, but they refuse to accept this reality; they are using force in a desperate, last-ditch attempt to hold onto power and privilege. But, I am confident that the Communist hardliners will not succeed; the people of Yugoslavia want freedom and democracy and they will not give up, even if confronted by the brutal and violent tactics we first witnessed in Kosova and most recently saw in Slovenia and Croatia.

Mr. President, I urge my colleagues to approve this resolution—this vote is a vote for freedom and democracy.

Mr. METZENBAUM. Mr. President, I am happy to join the distinguished Republican leader in authoring this resolution on the situation in Yugoslavia.

The Yugoslav Central Government and central military authorities have created a crisis atmosphere. Their refusal to negotiate with the elected leadership of Slovenia, Croatia, and other Yugoslav republics led to the terrible violence suffered by Yugoslavians over the past several weeks. If the Central Government continues to reject the principles of self-determination and democracy for its constituent Republics, violence will erupt once again.

Mr. President, representatives of the European Community have brokered a cease-fire, and a framework for talks to take place over the next 3 months. But talks have actually been going on since autumn of 1990. Negotiation cannot become an end unto itself. There must be compromise from the Central Government, otherwise, the cycle of violence will errupt once again.

The United States needs to take a more vocal role in encouraging a constructive attitude from the Central Government. We must also do more to support the spirit of independence, and the courage that has welled up among Slovenes, Croatians, and other culturally independent peoples of Yugoslavia.

Mr. President, I look forward to unanimous adoption of this important resolution by the Senate. I pray for peace and progress toward democracy in Yugoslavia.

Mr. NICKLES. Mr. President, as we are all aware, just over 2 weeks ago, on June 25, Slovenia and Croatia, two of the constituent Republics of Yugoslavia, declared their independence. Both Republics have democratic Governments, elected in 1990, and had been trying for sometime to find a workable, confederal arrangement with the other four Republics. Unfortunately, both the Federal Government and the Government of the largest Republic, Serbia, remain under Communist control.

Immediately after the Slovenes and Croats declared independence, the Federal army moved in to suppress them. Sharp fighting broke out in Slovenia during the last week of June; dozens of people were killed. In a major upset, the Slovenes gave the world a stirring lesson in standing up for freedom, as the Yugoslav Army—despite a huge advantage in manpower, airpower, and armor—was defeated by Slovene citizen-soldiers. For the past few days, a shaky truce has existed between the Slovenes and the Federal Government.

Meanwhile, the level of violence has escalated in Croatia. For months now, there has been sporadic fighting between Croatian police and armed Serbian civilians, whom most observers believe are being supplied by the Communist government of the Serbian Republic. Numerous people have been killed. Unlike Slovenia, which is ethnically homogeneous, Croatia has a sizable Serbian minority. In the past, especially during World War II, there was horrendous violence between the two groups. It is widely feared that Croat/Serbian violence could erupt as a full-scale war between the two republics. In fact, there is good reason to believe that the Communist leadership of Serbia, under its dictatorial leader, Slobodan Milosevic, may be trying to provoke further violence as a means to attract nationalistic support.

The danger of interethnic violence has often been stressed in Yugoslavia. Based on the region's history, its danger is real. But awareness of that reality should not blind us to two other facts that deserve priority consideration. The first is the negative influence of Communists—in the Federal Government, in the army, and in the Serbian Government—that has so far blocked a peaceful resolution. The second is the interconnected issue of democracy, human rights, and self-determination.

First, the Communist problem. There should be no mistaking where the blame lies for the current violence. The Communist Milosevic Government has refused every attempt on the part of the Croats and Slovenes to negotiate a solution. In fact, as we remember, in mid-May, Milosevic blocked the accession of Croatia's Stipe Mesic to the chairmanship of Yugoslavia's eight-man collective presidency—effectively paralyzing a key mechanism for working out inter-Republic disputes. Blocking Mesic was a major element in convincing Croatia and Slovenia that they had no choice but to declare their independence—although even then, the Slovenes and Croats emphasized their continued willingness to talk about future confederation. Instead, they were met with tanks and helicopters, sent against them by Communists controlling the army.

Second, democracy. I would like to draw my colleagues' attention to an excellent essay by Ambassador Jeane Kirkpatrick, from the Washington Post of July 8. Ambassador Kirkpatrick reviews the policy of Western governments toward Yugoslavia, and explains why the United States must be at the forefront of the quest for freedom in

Yugoslavia, and around the world. She writes:

> The reason that Americans and their government should prefer self-determination over territorial integrity as a political value is that self-determination is a part of government by consent. Government by consent is a right of persons. Territorial integrity is an attribute of states.
>
> The principle involved in the secession of Slovenia and Croatia is self-government. * * *
>
> It is important that the U.S. government have its priorities straight. And the only priority acceptable to American principles and interests in these cases is the priority of freedom.

In this connection, Mr. President, I want to remind my colleagues that the issue of freedom and human rights in Yugoslavia involves not only Croatia and Slovenia but the ethnic Albanians in Kosovo Province, who have been the target of massive human rights violations at the hands of Serbian Republic police. As I witnessed in Kosovo not too long ago, in the company of the distinguished Republican leader, who has taken a leading role on this issue, the Serbian police routinely use massive and brutal force against any mainfestation of Albanians national sentiment in Kosovo. These violations are well known and have been amply documented by the State Department and by such groups as Helsinki Watch and Amnesty International. A May 24, 1991, statement of administration policy sent to me by Secretary of State Baker includes a succinct review of the human rights problem in Kosovo, and I bring it to my colleagues's attention.

In closing Mr. President, I think we should all be clear on one fact: America stands for freedom, human rights, and self-determination. I think all of my colleagues join me in hoping that these principles will guide United States policy, and that the goals of Yugoslavia's peoples can be achieved peacefully. The end of Communist domination of both the Federal Government and the Serbian Government would be a major step to a peaceful and equitable outcome. The United States and other interested democratic countries should do everything possible to show our disapproval of the Federal army's violent actions, and to to put pressure on the Communist leadership.

Mr. President, I strongly support the resolution on Yugoslavia and I hope that the entire Senate will join in sending a strong signal to the people of Yugoslavia.

I ask unanimous consent the Washington Post article and the statement of policy be be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post July 8, 1991]

THE PRIORITY OF FREEDOM

(By Jeane Kirkpatrick)

The U.S. government was not the only democracy that found it necessary to rethink and retract its early position on the Yugoslav conflict. Early in the developing crisis, the European Community and most of its member states, including the United Kingdom and France, made declarations that gave priority to national unity and territorial integrity over self-determination for the Yugoslav republics. Only Austria and Germany, which have had the closest historical association with Croats and Slovenes, expressed from the start sympathy with the aspirations of the people who were threatening secession.

Although American officials were not alone in attempting to help hold Yugoslavia together, no government was more concerned than the U.S. Department of State with the possible effects of the collapse of central authority in Yugoslavia. Public and semi-public comments, official and semi-official remarks predicted dire consequences if Yugoslavia were permitted to succumb to nationalist passions and separatist tendencies. Officials spoke on background about "blood baths" and "chaos" that might accompany secession.

Secretary of State James Baker traveled to Belgrade and came out strongly in favor of the "unity and territorial integrity" of Yugoslavia. He also warned that the "instability and the breakup of Yugoslavia could have some very tragic consequences, not only [there], but more broadly in Europe."

While spokesmen for the European Community reflected aloud that Yugoslavia was the business of the EC and not of the United States, they took the same position. Like Baker, they warned that no diplomatic recognition would be forthcoming should Slovenia and Croatia secede. Like Baker, they warned that economic as well as political development would be endangered by separation.

Europeans and Americans alike reacted as if preservation of the Yugoslav state's sovereignty and territory was the central political value. Like European governments, the Bush administration then seemed shocked when Yugoslavia's central government used force to crush the rebellion against the authority others had attributed to it.

The reactions changed once force was introduced, and Austrian Chancellor Franz Vranitzky remarked: "I don't want to name names, but anyone who still talks of the need to maintain the territorial integrity of Yugoslavia fails to see that the problem is now quite different."

The State Department was not long behind the British, French and the rest of the EC in making it clear that use of force by the Yugoslav central government was also not acceptable.

As Americans prepared to celebrate the Fourth of July, State Department spokeswoman Margaret Tutwiler was affirming that the U.S. government supported the "national aspirations of the Yugoslav people" and that, in the U.S. view, it is "up to the Yugoslavian people themselves to determine their future, their internal, their external borders."

Of course, Americans have powerful reasons to be the first to understand that "in the course of human events" it may become "necessary for one people to dissolve the political bonds which have connected them with another." Americans have special reason to understand that it is the right of the people to alter [their government] or to abolish it, and to institute a new government." We wrote it into our Declaration of Independence.

The reason that Americans and their government should prefer self-determination over territorial integrity as a political value is that self-determination is part of government by consent. Government by consent is a right of persons. Territorial integrity is an attribute of states.

The principle involved in the secession of Slovenia and Croatia is self-government. The legitimate interest of the United States and the European governments in this question is maintainning peace. It is not in the borders of Yugoslavia per se.

The point must be emphasized because, on several occasions in recent months, the U.S. government has given or appeared to give priority to the preservation of states and their "territorial integrity."

In Iraq, when the unexpected cease-fire was imposed, U.S. government spokesmen explained that the decision resulting in part from a desire to preserve "the territorial integrity" of Iraq in order to avoid creating a vacuum of power. The risks of "chaos" were judged to be greater than the risks of genocide.

Again in Ethiopia, the U.S. government intervened to prevent establishment of an independent Eritrea and to preserve the "territorial integrity" of Ethiopia.

But, of course, it is not for the U.S. government to preserve structures established by monarchs and dictators. It is for people themselves to make decisions about their governments.

Obviously, many more such problems are already on the horizon—in the Baltics in Georgia, throughout the Soviet Union.

In addressing these problems, it is important that the U.S. government have its priorities straight. And the only priority acceptable to American principles and interests in these cases is the priority of freedom.

The United States was founded by people who risked order for freedom. The American Civil War confirmed those priorities and those principles. U.S. foreign policy in 1991 should do no less.

STATEMENT OF U.S. POLICY MAY 24, 1991

We assess the violations of human rights by Serbian authorities in Kosovo Province as extremely grave. There is a deteriorating cycle of action and reaction in the context of a fundamental political conflict between Serbs and ethnic Albanians. Basing its claim to Kosovo primarily on historical grounds, Serbia is seeking to reestablish its control over Kosovo through repressive means which clearly violate CSCE principles. The majority ethnic Albanian population in Kosovo bases its claim to autonomy within the province of ethnic grounds, and, in the face of Serbian repression, has escalated its demands since mid-1990 to insist on republican status separate from Serbia.

In the province of Kosovo, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians. This violence included the use of excessive force by the police to disperse peaceful demonstrators, including random and at times unprovoked shooting by the police, resulting in at least 30 deaths and hundreds of injured.

Human rights abuses by the Serbian authorities against the majority Albanian population in Kosovo have continued thus far in 1991. Albanians are arrested, beaten, and otherwise harassed for attempting to exercise basic human rights, such as freedom of speech and assembly. Principal provincial government organs remain shut down and most government functions have been taken over by Serbs appointed from Belgrade. Albanian media organs remain closed, persons attempting to bring in Albanian language publications printed outside Kosovo are sometimes harassed. Many Albanian-language schools in Kosovo have been closed because of a refusal by teachers and pupils to use a new curriculum imposed by Serbia, and Serbian administrators almost completely dominate the Pristina University Rectorate and some individual faculties, and many ethnic Albanian professors have been fired or driven out.

The ability of ethnic Albanians in Kosovo to pursue their interests through the political process has been further curtailed by the Serbian government's abolition of the Presidency and Executive Council of Kosovo Province and by its replacement of Kosovo Province's representative on the federal Presidency.

Meanwhile, official Serbian arguments that Serbian policies in Kosovo are directed only against ethnic Albanian separatism from Serbia (and potentially from Yugoslavia to join neighboring Albania) have become to some extent a self-fulfilling prophecy: ethnic Albanias and their leaders in Kosovo have grown increasingly insistent on achieving a Republic separate from Serbia, and have boycotted opportunities, like the Serbian elections in December 1990, to participate in the Serbian political process.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 153) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas in 1990 the republics of Bosnia-Hercegovina, Croatia, Macedonia and Slovenia elected non-communist governments committed to democracy and free market economics;

Whereas in 1990 the republics of Montenegro and Serbia elected communists governments;

Whereas in 1990 the provinces of Kosova and Vojvodina were stripped of their autonomous status by the government of the Republic of Serbia and thereby denied representation to the collective presidency of Yugoslavia;

Whereas the leaders of Slovenia and Croatia and the other Yugoslav republics have been engaged in negotiations on the future structure of Yugoslavia since October, 1990;

Whereas these negotiations have not included representatives from the provinces of Kosova and Vojvodina;

Whereas on June 25, 1991, the republics of Croatia and Slovenia declared their independence;

Whereas the Yugoslav Army responded to these declarations by mobilizing and deploying tanks and troops in Slovenia, Croatia and Kosova;

Whereas the unwillingness of the Yugoslav central government and the military authorities to negotiate with the democratically elected leadership of Slovenia and Croatia has led to unnecessary bloodshed;

Whereas there have been numerous reports of deaths of civilians, policemen, militiamen and soldiers as a result of fighting between Yugoslav Army forces and militia forces of the republics of Slovenia and Croatia, and as a result of repression against the Albanian population in Dosova; Now, therefore, be it

Resolved, That—

(1) The Senate supports the principles of democratization and self-determination for the six republics and two provinces of Yugoslavia;

(2) The Senate urges that the United States use its leadership to ensure that concerns regarding the restoration of political stability in Yugoslavia will not preclude the chief objective of promoting and securing democracy and self-determination.

(3) The Senate condemns the use of force by the Yugoslav authorities against civilians;

(4) The Senate urges the peaceful resolution of political differences in Yugoslavia and the inclusion of Kosova and Vojvodina in that process;

(5) The Senate calls on the Yugoslav Army to refrain from obstructing the functioning of the democratic governments of Slovenia and Croatia and calls on the government of Serbia to cease from using force against the Albanian population of Kosova;

(6) The Senate calls for free and fair elections to be held in the provinces of Kosova and Vojvodina.

(7) The Senate urges the President to explore means of increasing direct diplomatic, political and economic ties with the democratic governments of the republics of Croatia and Slovenia;

(8) The Senate urges the State Department to expand direct contacts with the leaders of the democratic opposition of Kosova and Vojvodina;

(9) The Senate recommends that the administration shape its foreign assistance, trade and technical assistance programs to support the republics of Croatia and Slovenia and the other democratic republics in Yugoslavia, and to encourage democracy in the rest of Yugoslavia.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DECLARING IT THE POLICY OF THE UNITED STATES THAT THERE SHOULD BE A RENEWED AND SUSTAINED COMMITMENT TO ADULT EDUCATION

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Joint Resolution 279, a joint resolution to recognize the importance of Federal aid for educating adults, just received from the House; that the joint resolution be deemed read a third time and passed, that the motion to reconsider passage of the resolution be laid upon the table; and that the preamble be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 279) was deemed read the third time, and passed.

The preamble was agreed to.

ORDERS FOR MONDAY, JULY 15, 1991

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 3 p.m., Monday, July 15; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 3:30 p.m., with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JULY 15, 1991, AT 3 P.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 3 p.m., Monday, July 15.

There being no objection, the Senate, at 10:04 p.m., recessed until Monday, July 15, at 3 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 11, 1991:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RAOUL LORD CARROLL, OF THE DISTRICT OF COLUMBIA, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.

EXPORT-IMPORT BANK OF THE UNITED STATES

CONSTANCE BASTINE HARRIMAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 1995.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

EUGENE PETERS, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1992.

FEDERAL RESERVE SYSTEM

DAVID W. MULLINS, JR., OF ARKANSAS, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 8036.

To be surgeon general, USAF

To be lieutenant general

MAJ. GEN. ALEXANDER M. SLOAN, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. JAMES B. DAVIS, [redacted] U.S. AIR FORCE.

EXTENSIONS OF REMARKS

THE 100TH ANNIVERSARY OF THE HOLY TRINITY UNITED CHURCH

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to the Holy Trinity Baptist Church of Philadelphia, PA on its 100th anniversary.

In the spring of 1891, 65 members of the Shiloh Baptist Church in Philadelphia organized a new church and gave it the name Holy Trinity Baptist Church. The founding members called upon Rev. R.W. Christian to serve as the first pastor of the church. In the fall of 1892, the congregation moved from its temporary meeting place at Kater Hall to its present site. There the congregation built a chapel and, in 1901, purchased its first pipe organ.

Under the administration of its second pastor, Rev. Taliaferrio, Holy Trinity Baptist Church was reconciled with its mother church, Shiloh Baptist Church. Holy Trinity Baptist Church was then recognized as an established Baptist church by the denominational authorities.

Rev. W.F. "Pop" Graham sheparded the church from 1911 until 1932. Rev. Graham, who was born into slavery in Mississippi, was a great pastor and community leader. He was succeeded by Rev. Charles Roy Jones in 1935.

In 1962, the Holy Trinity Baptist Church selected Rev. Cecil Dubois Gallup as its fifth and current pastor. Among the many accomplishments of Rev. Gallup's pastorate have been the formation of the Holy Trinity Enterprises, Inc., which purchased and rehabilitated more than 22 middle-income housing units in the surrounding neighborhood, the completion of two major capital fund drives and the establishment of a transportation service for church members.

In honor of its good work and in celebration of its 100th anniversary, I would like to extend my warmest congratulations to the Holy Trinity Baptist Church.

TRIBUTE TO PROF. CHARLES GABRIELLE

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. JAMES. Mr. Speaker, the Military Order of World Wars recently awarded its prestigious Patrick Henry Award for Patriotic Achievement to the noted composer Prof. Charles Gabrielle, a resident of Palm Coast, FL.

Professor Gabrielle is an internationally renowned composer of patriotic music. His "Christopher Columbus Suite" is the official music of the Christopher Columbus Quincentenary Jubilee. His other compositions include "Lilia Craig Overture" and "Concertino for Clarinet."

The Professor is an intensely loyal American who professes his love for our Nation through patriotic music. Professor Gabrielle has honored America with a number of patriotic compositions including "Armed Forces Medley"; "Vietnam Veterans March"; and "John Paul Jones March."

His most recent composition, "John Paul Jones March," is performed by the U.S. Navy Band and community bands. The musical tribute to the famed American naval hero is unique in that it can also be performed by high school bands—offering both a musical and historical lesson to the youth of our Nation.

Mr. Speaker, I ask that my colleagues join me in honoring a great composer and a great American, Prof. Charles Gabrielle.

A TRIBUTE TO HANDS IN ACTION—AN ORGANIZATION DEDICATED TO PREVENT CHILD ABUSE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, 1,200 cases of child abuse are reported in Dade County every month. Only a quarter of these cases go to trial. This does not include those incidents not even accounted for. Too often there are no shelters available for these young victims of abuse and they are then either returned to the surroundings in which they were abused, placed in minimally supervised foster care or housed at Jackson Memorial Hospital following their medical release.

Hands in Action/Manos en Accion is a nonprofit organization in south Florida whose main purpose is to "Stop the pain of child abuse." Since its establishment in 1987, the organization has yet to issue one paycheck to any board member. All the people who work for the organization are strictly volunteers. Any money raised by the organization is used in some way to help benefit child abuse victims.

Hands in Action plans to build a $2.5 million facility to accommodate 96 abused, abandoned, and neglected children. In addition, 8 attached cottages, each built to shelter 12 children will be equipped with bedrooms, bathrooms, laundry facility, kitchenettes, dining, and social areas. Protected outside recreation fields will also be furnished. Every attempt will be made to establish a reassuring, home like atmosphere and avoid institutionalization. Metropolitan Dade County is producing a 50-year lease with a $1 per year fee on an 8.5-acre site.

When the facility is finished, the Children's Center will be transferred to the CHS, Children's Home Society of Florida. Established in 1902, it is the oldest and most important league in Florida devoted solely to the well-being of children.

I would like to give special recognition to the board of directors of Hands in Action. These include: Carmen Portela, Maria V. Gonzalez, Alina Cepero, Elena Rosado, Elsie Plasencia, Carmen Corpion, Elida Fine, Rosa Perez, Sylka Naranjo, Gloria Fernandez-Justiniani, Deborah Davis, Maria Cardenas, Roymi Eguaras, Regina Fernandez-Cacicedo, Louisa Ferrero, James Fine, Haydee Garcia-Rios, Odalys Mon, Ada Monserrat, Miriam Novo, Jacqueline Perez, Rick Rodriguez-Pina, Jorge Rouco, Belen Saborido, Silvia Seoanes-Levison, Rita Suarez, Lynette Muraurieta, Mark Swanson, Annie Betancourt, Mercy Diaz-Miranda, Judge William Gladstone, Dr. David Perez-Ginart, Maria Zorrilla, and Fran Yacovone.

THE STRENGTH OF THE RECOVERY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 10, 1991, into the CONGRESSIONAL RECORD.

THE STRENGTH OF THE RECOVERY

The recession which began last July appears to be coming to an end. Modest upturns in housing starts, industrial production, business payrolls, consumer confidence, and the index of leading indicators are all signs that the economy may be turning around. Yet the general view in Washington is that growth after the recession will be sluggish and the burst of activity that came immediately after the other post-World War II recessions will not happen this time.

MAGNITUDE OF RECESSION

When this recession is finally over, it will probably be considered about average for the post-war period. Its 11-month duration to date puts it right in the middle of the 9 post-war recessions, and its real GNP decline of 2.1% is only slightly less than the 2.3% average. Since last July businesses have cut almost 1.5 million workers from the payrolls, roughly the same as the other recessions lasting as long.

The impact of the recession has been uneven, with the Northeast and California suffering the biggest job losses. The hardest-hit industry has been construction, where 1 out of every 10 jobs has been lost. Even service sector and government jobs have declined. At some time during the past year one-fifth of U.S. households had at least one family member unemployed.

OUTLOOK FOR RECOVERY

While many Americans are anticipating a rapid recovery as we come out of the reces-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sion, the strong opinion of experts is there will not be robust growth, but more like a long, steady slog. In other post-war recoveries, the economy has typically grown 4-6% in the first year. While some economists are predicting fairly strong growth, driven largely by sectors that fell furthest in the recession, such as housing, autos, and consumer durables, few expect it to approach the post-war average. Most experts look for annual growth rates in the 2.5-3% range.

They cite a number of reasons for a sub-standard recovery. For consumers, the biggest problem is the debt incurred during the 1980s buying spree. This debt burden, plus declining real incomes, falling home prices in many parts of the country, and the need by many families to save for college expenses and retirement, means that many households will be spending more conservatively. Consumers will not be able to fuel a strong recovery as they did from 1982 to 1990.

The credit crunch and high interest rates are also hurting. Businesses are having difficulty obtaining credit to fund new factories or to buy new equipment as many banks, hurt by bad loans from the 1980s, are tightening up lending. High interest rates on credit cards and personal loans will restrain consumer spending. Mortgage rates are also higher than they should be. And in many cities from coast to coast, a glut of office buildings and shopping centers will depress commercial construction for years to come.

A major bright spot during this recession has been the boom in exports for many U.S. industries. But exports will probably not be as positive a factor in the year ahead. A slowdown in economic growth in many of our trading partners—including recessions in Canada, the United Kingdom, and Australia—and a recent rise in the value of the dollar mean that demand for U.S. goods abroad will probably cool off.

Government spending will not provide much help either. The President and the Congress have adopted a hands-off approach to this recession. They are sticking to the budget deal they made last fall and are avoiding stimulative tax cuts or anti-recession spending bills. Budget actions at the state and local level—new taxes, spending cuts, layoffs—will have an unusually negative impact on an economy trying to come out of recession.

There are some bright spots, especially the end of the war in the Persian Gulf, which brought down oil prices and raised consumer confidence. Businesses have also worked off most of their excess inventories; when sales start to rise, businesses will have to increase production and jobs. But most economists do not think these factors are enough to propel the economy to rapid economic growth and strong job creation.

POLICY STEPS

What can be done to strengthen the recovery? First, the Federal Reserve should lower interest rates further. That will spur business investment and consumer spending on big-ticket items. The Fed's caution is apparently to prevent inflation from becoming a problem. But with oil prices down, home prices falling, more than 8 million workers unemployed, and consumer prices now rising at a 1.8% annual rate, inflation should not be the Fed's main concern.

Second, the Congress and the President can speed and strengthen the economic recovery. They should help the jobless until they get back to work. Each month hundreds of thousands of jobless workers exhaust their unemployment benefits. Some of the $8 billion surplus in the Unemployment Insurance trust fund should be used to extend benefits until the job market picks up. The federal government should also get back on a schedule of deficit reduction once the recession ends. Less federal borrowing will help reduce interest rates and channel more of the nation's savings into other economic uses.

For the longer run, governments at all levels should invest more. More and better infrastructure—roads, bridges, water and sewer systems, mass transit, airports, harbors—can help make private industry more productive. So can more government attention to research and development and to upgrading our schools. The increase in investment will pay off in the long run through a more productive economy and higher incomes.

CONCLUSION

We need to have a little patience. A recovery is not going to perform miracles. It will not instantly solve every social problem, revive all the depressed regions in the country, or even save badly managed companies. It will gradually reduce unemployment, restore corporate profits, and ease the fiscal squeeze on state and local governments.

My concern is that the nation seems to be in a long-term malaise and that can only be solved with vigorous economic growth. Yet we have been doing poorly in several areas—capital accumulation, investment, research and development, technology transfer, education—that ought to be a major part of a long-term U.S. economic policy. We should not be satisfied with a sluggish economy when this country badly needs vigorous growth.

HEALTH SERVICE ACCESS AND IMPROVEMENT ACT

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. McDERMOTT. Mr. Speaker, I have introduced H.R. 2877, the Health Service Access and Improvement Act, to help bring needed basic services to our inner cities and rural areas and to help health professionals to serve the public where the need is greatest.

In our health care system works well for people who have good insurance and live in areas with plenty of doctors. We have more sophisticated medical technology and highly trained specialists than any other Nation. Yet millions of Americans have inadequate access even to the basic, primary care that saves lives and dollars by preventing disease—prenatal care, immunization, hypertension screening, mammography, preventive dentistry, and other services.

A major reason for this disparity is the fact that America is the world's only industrial democracy without universal health insurance coverage. This is a national disgrace which this Congress and the administration must address. But even if every American had coverage, there would still be major gaps in access to service.

Overall, this country has enough physicians to meet its needs. But we have serious shortages in nursing and serious problems with the distribution of health professionals. Too many medical school graduates go into highly specialized practice, and too few into fields like family medicine, internal medicine, obstetrics-gynecology, and pediatrics. Additionally, many rural areas have too few people to support even a single physician or clinic, and many urban areas have too few people with adequate insurance to support the network of providers they need.

One reason for these shortages is the high cost of professional education. Unlike other developed countries, we expect most health care professionals to pay for their own training. While student loans are often available, they must be repaid with interest, and educational costs are so high that this repayment can be a serious drain even on a young doctor's income.

The pressure of student loan repayment is one reason so few medical graduates go into primary care—a decline from 39 to 23 percent in the last 10 years. Four out of five medical students graduate with indebtedness averaging $46,000; 1 in 20 owes over $100,000. Debts are even greater for minority graduates. Medical student indebtedness has more than doubled in the past decade. Often these debts are piled on top of amounts already owed for undergraduate education. Lending agencies consider repayment of a $50,000 debt impossible at an annual income of $39,000, yet resident stipends at teaching hospitals this year average $32,000 even 5 years after graduation. Although the dollar amounts are smaller, nurses and physicians' assistants face similar repayment problems.

Congress recognized this problem of indebtedness years ago in establishing the National Health Service Corps, which provides scholarship aid and student loan repayment for health professionals who agree to provide primary care in underserved areas. Just last year, after many years of neglect, the corps was reauthorized and expanded.

But the National Health Service Corps can do only as much as its appropriation levels permit. The domestic expenditure limits we have adopted for the next few years will prevent this program from meeting its full potential. That is why I have introduced the Health Service Access and Improvement Act. It is designed to encourage through the tax system the kind of public service in health care that the corps encourages through direct subsidies.

The act permits a physician, dentist, certified nurse practitioner, certified nurse midwife, or physician's assistant to deduct from his or her taxable income the principal and interest payments on a student loan for professional education. In order to qualify for this deduction, the professional must agree to provide primary care in an underserved area for at least 4 years. The act also allows medical school graduates to complete their postgraduate training before starting to repay their student loans, instead of requiring them to begin repayment after 2 years.

This legislation should help increase the supply of trained providers of primary health care in our underserved rural and urban areas. It is no substitute for the National Health Service Corps, student financial aid, community health centers, and other programs aimed at improving access to primary care. It is certainly no substitute for universal health coverage. But I believe it can make an important difference in the career choices of health professionals, a difference that will be reflected in the future health of our people.

H.R. 2877: SUMMARY OF PROVISIONS

Section 1. Short title: Health Service Access and Improvement Act.

Section 2. Provides for deductibility from taxable income of up to $10,000 of annual principal and interest payments on debt for professional education of physicians, dentists, certified nurse practitioners, certified nurse midwives, and physicians' assistants who obtain at least 75% of their gross income from primary health services performed for a medically underserved group under an agreement with Secretary of Health and Human Services. Agreement must be to perform such service for at least four years; tax deductibility is limited to seven years of services under agreement. Defined "medically underserved groups" as those included in health professional shortage areas under the National Health Service Corps Act, Medicaid patients, jail and prison inmates, and patients of community and migrant health centers, McKinney Act services to the homeless, public housing residents, federaly qualified health centers, Title X family planning clinics, Department of Veterans Affairs facilities, Indian Health Service funded facilities, and states mental hospitals. Provides for recapture of taxes if the taxpayer defaults on the agreement. Takes effect in 1993 taxable year.

Section 3. Extends the period of deferment on repayment of guaranteed and federally insured "Stafford" and "Perkins" loans from the current two years until the completion of accredited internship or residency programs.

H.R. 2877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Service Access and Improvement Act".

SEC. 2. DEDUCTION FOR INTEREST AND PRINCIPAL PAYMENTS UNDER CERTAIN EDUCATION LOANS BY INDIVIDUALS PERFORMING CERTAIN SERVICES.

(a) GENERAL RULE.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. MEDICAL OR DENTAL EDUCATION LOAN REPAYMENTS BY CERTAIN INDIVIDUALS.

"(a) GENERAL RULE.—In the case of an individual performing qualified services for any month during the taxable year, there shall be allowed as a deduction an amount equal to the interest and principal payments made by such individual during such taxable year under a qualified health education loan of such individual.

"(b) LIMITATONS.—

"(1) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year shall not exceed $10,000.

"(2) SPECIAL RULE WHERE SERVICES PERFORMED FOR PART OF YEAR.—If an individual performs qualified services for 1 or more months in the taxable year but not for all months in such year, the limitation of paragraph (1) shall be the amount determined by multiplying $10,000 by a fraction—

"(A) the numerator of which is the number of months in the taxable year for which the individual performed such services, and

"(B) the denominator of which is 12.

"(3) JOINT RETURNS.—In the case of a joint return, the limitations of this subsection shall be applied separately with respect to each spouse.

"(c) QUALIFIED HEALTH EDUCATION LOAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified health education loan' means any indebtedness incurred to pay qualified educational expenses which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred.

"(2) QUALIFIED EDUCATIONAL EXPENSES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified educational expenses' means qualified tuition and related expenses of the taxpayer for attendance as a candidate for a degree as a qualified health professional at an educational institution described in section 170(b)(1)(A)(ii).

"(B) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b)(2); except that such term shall include reasonable living expenses while away from home.

"(d) QUALIFIED SERVICES.—For purposes of this section—

"(1) IN GENERAL.—Any individual shall be treated as performing qualified services for any month if such individual is a qualified health professional and if—

"(A) at least 75 percent of such individual's gross income for such month from the performance of services as a qualified health professional is attributable to primary health services which are—

"(i) performed for individuals who are members of a medically underserved group, and

"(ii) performed pursuant to a qualified agreement, and

"(B) such professional has not received any scholarship under the National Health Service Corps Scholarship Program or a loan repayment under the National Health Service Corps Loan Repayment Program (or any pedecessor of such Programs).

"(2) PRIMARY HEALTH SERVICES.—The term 'primary health services' means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health.

"(3) QUALIFIED AGREEMENT.—The term 'qualified agreement' means any agreement with the Secretary of Health and Human Services to provide professional health services to a medically underserved group specified in such agreement if—

"(A) such agreement contains the conditions described in subparagraphs (A) and (B) of section 338D(b)(1) of the Public Health Service Act,

"(B) such agreement has a term of at least 4 years but not more than 7 years, and

"(C) such agreement contains such other provisions as such Secretary may determine to be appropriate to carry out the purposes of this section.

Such an agreement shall permit the individual to change the medically underserved group to whom the individual is providing services if such change is approved by the Secretary of Health and Human Services.

"(4) QUALIFIED HEALTH PROFESSIONAL.—The term 'qualified health professional' means any physician, dentist, certified nurse midwife, certified nurse practitioner, or physician assistant.

"(e) MEDICALLY UNDERSERVED GROUP.—

"(1) IN GENERAL.—For purposes of this section, the term 'medically underserved group' means—

"(A) residents of rural areas, members of rural or urban population groups, or patients of rural or urban medical facilities, that are designated under section 332 of the Public Health Service Act as health professional shortage areas,

"(B) patients who are eligible for services under title XIX of the Social Security Act,

"(C) patients of any facility described in paragraph (2), and

"(D) inmates of any penal institution operated by the Federal Government or by any State or local government.

"(2) RELEVANT FACILITIES.—The facility referred to in paragraph (1)(C) is any facility that—

"(A) provides health or mental health services with funds provided under section 329 of the Public Health Service Act (relating to migrant health centers), section 330 of such Act (relating to community health centers), section 340 of such Act (relating to homeless individuals), section 340A of such Act (relating to residents of public housing), or section 1001 of such Act (relating to family planning),

"(B) is a federally qualified health center, as defined in section 1905(l)(2)(B) of the Social Security Act,

"(C) is a health care facility of the Department of Veterans Affairs,

"(D) provides health or mental health services with funds provided by or through the Indian Health Service, or provided under the Act of November 2, 1921 (commonly known as the Snyder Act), or

"(E) is a State mental hospital.

"(f) RECAPTURE.—

"(1) IN GENERAL.—If during any taxable year an individual ceases to perform services as required in any qualified agreement—

"(A) no deduction shall be allowed under this section to such individual for such taxable year, and

"(B) such individual's tax under this chapter for such taxable year shall be increased by the recapture amount determined under paragraph (2).

"(2) RECAPTURE AMOUNT.—For purposes of paragraph (1), the recapture amount is an amount equal to the sum of—

"(A) the aggregate increase in the taxpayer's liability for tax under this chapter for all prior taxable years which would have resulted if no deduction had been allowed under this section, plus

"(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply if the cessation is on account of—

"(i) the death of the individual,

"(ii) the individual's inability to perform services by reason of any physical or mental condition, or

"(iii) any furlough, reduction-in-force, or other circumstance not within the control of the individual.

"(B) MEMBERS OF RESERVES.—If an individual who is a member of a reserve component of the Armed Forces is called to active duty while performing services pursuant to a qualified agreement, such individual shall be treated as continuing to perform qualified services pursuant to such agreement while on active duty pursuant to such call. The preceding sentence shall apply only if such professional commences to perform qualified services pursuant to such agreement upon completion of such active duty.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be taken into account in determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"(5) LIABILITY FOR RECAPTURE MAY NOT BE DISCHARGED.—An individual's liability for any increase in tax under paragraph (1) may not be discharged in any proceeding under title 11, United States Code.

"(g) COORDINATION WITH SECTION 163(h).—No deduction shall be allowed under this section for any interest otherwise allowable as a deduction under this chapter, and nothing in section 163(h) shall be construed to disallow any deduction under this section."

"(b) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 220 and inserting the following:

"Sec. 220. Medical or dental education loan repayments by certain individuals.

"Sec. 221. Cross references."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 3. EXTENSION OF STUDENT LOAN DEFERMENTS.

"(a) STAFFORD LOANS.—

"(1) GSL LOANS.—Section 428(b)(1)(M)(vii) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended by inserting before the semicolon at the end thereof the following: ", except that the two-year limitation of this clause shall not apply in the case of a borrower serving in an accredited internship or residency program".

"(2) FISL LOANS.—Section 427(a)(2)(C)(vii) of such Act (20 U.S.C. 1077(a)(2)(C)(vii)) is amended by inserting before the semicolon at the end thereof the following: ", except that the two-year limitation of this clause shall not apply in the case of a borrower serving in an accredited internship of residency program".

"(b) PERKINS LOANS.—Section 464(c)(2)(A)(vi) of such Act (20 U.S.C. 1087dd(c)(2)A)(vi), is amended by inserting before the semicolon at the end thereof the following: ", except that the two-year limitation of this clause shall not apply in the case of a borrower serving in an accredited internship or residency program".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of enactment of this Act with respect to loans made under the Higher Education Act of 1965 before, on, or after that date.

THE 110TH ANNIVERSARY OF THE COOKMAN UNITED METHODIST CHURCH

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to pay tribute to the Cookman United Methodist Church of Philadelphia, PA, on its 110th anniversary.

Cookman United Methodist Church was founded in 1877. At that time, its five members were organized under the North Broad Street Mission with the Reverend John W. Sayers serving as pastor. As they searched for land to build a church for their growing congregation, they worshipped in a temporary meeting place at Addison Hall. On June 20, 1881, the congregation purchased the land on which the church stands today. There they built a chapel and changed the name of the congregation to the Cookman United Methodist Episcopal Church after Alfred Cookman, a prominent pastor of the day.

In June 1988, Cookman became a part of the newly formed North Central Ministry, a cooperative ministry including Cookman, Seventh Street, Memorial Temple, Zoar, and Mount Zion Churches.

Today, Cookman United Methodist Church has 85 members. Its programming includes an active Sunday school, youth groups, basketball programs, policemen's breakfasts, bible study groups, three choirs, United Methodist Women, several committees, and an administrative council. The building provides space for Head Start, a senior citizens' center, a dance class, adult education, and literacy programs.

Through its affiliation with the North Central Ministry and through its full schedule of programs. the Cookman United Methodist Church is truly a pillar of its community, giving guidance and assistance to its neighbors.

In honor of its good work and in celebration of its 110th anniversary, I would like to extend my warmest congratulations to the Cookman United Methodist Church.

TAYLOR HIGH SCHOOL TOPS AT FFA COMPETITION

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. JAMES. Mr. Speaker, I rise today to honor the talented students of the Future Farmers of America chapter at Taylor High School in Pierson, FL.

Under the direction of its committed and hard working adviser, Jana Register, Taylor's FFA chapter earned 35 awards at a recent State competition in Orlando.

According to the DeLand Sun-News, nine students were honored individually for various projects, and two students were State winners. I would like to take this opportunity to honor the winning students and list their awards.

Denise North, agri-science student of the year.

Tara French, agriculture processing.

Shane Cowart, floriculture and placement in agriculture production.

Skeeter Beatty, placement in agriculture and State winner for floriculture.

Ronnie Peterson, floriculture.

Chris Willis, diversified livestock production.

Amy Mew, swine production, and feeder steer awards.

Tom Cowart, swine production.

Austin Yelvington, feeder steer production.

MEDICAL COVERAGE VERSUS COST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. ANDERSON. Mr. Speaker, America's health care system is facing conflicting goals that threaten to tear it apart. On one hand, there is the desire to provide universal health care for the 37 million uninsured in our country. On the other hand, both Federal and State governments, faced with limited resources, must emphasize controlling skyrocketing health care costs. It is estimated that Medicaid costs alone will reach $200 billion by 1996. Can these two goals be met so that we can provide health care to all Americans without bankrupting local and State governments? The current health care debate has too often focused on an ideal system rather than confronting these conflicting demands. To this point, only the State of Oregon has made the tough choices necessary to solve their health care problems. Oregon's proposal would overhaul the Medicaid program and provide all its citizens with health care coverage. This proposal is sure to make Oregon a testing ground for future health care reform.

Medicaid is a State and federally financed health care program whose eligibility is linked to federally assisted welfare programs, such as Aid to Families With Dependent Children [AFDC] and Supplemental Security Income [SSI]. Furthermore, all pregnant women with incomes up to 133 percent of poverty, and all children up to the age of 6 whose family's income is up to 133 percent of poverty, are also covered by Medicaid. Even with these provisions, only 50 percent of those who live below poverty are covered by the Medicaid program.

Oregon's health care system had left 450,000 people in the State uninsured, and there was a growing consensus that their system needed reform. A State commission was formed to recommend improvements in the Medicaid system. The commission realized that, although basic health care coverage for those below poverty was the goal, the State's budget would not allow universal care to be obtained through increased spending. Their conclusion was that for everyone in the State to have health care coverage, care would have to be rationed.

The tough choices came when determining which procedures would or would not be covered in the new system. A list of 709 procedures, ranked in order of importance, was established. In preparing this list, preventive care and treatment for curable diseases took precedence over expensive medical procedures. For this reason, mammograms will be covered by the new statewide insurance plan, although they were not covered by Medicaid. Of the 709 procedures, the State could provide coverage for 587.

Rationing care in this manner has been criticized as being both inadequate and inhumane. The commission also recognized that their proposal is not ideal. However, they felt it was preferable to allowing 450,000 people to remain uninsured. There will certainly be difficult moments on the individual level when people are denied treatment. On the other hand, denying one person expensive treatment for a terminal illness may allow 10 women to receive mammograms, or 10 babies to be fully immunized. Choosing between these cases is difficult, but necessary in order to reform our health care system and maximize the value of health care spending.

Critics of this proposal point out that Oregon is providing universal access at the expense of those who already have little to give, namely poor women and children. This could be a reflection of the small political power base that these groups have rather than the best method to improve the Medicaid system. The proposal, though, comes to grips with the fact that health care resources are limited. Our Nation's health care debate must be centered on this principle if we are to accomplish real reform of the current system. If nothing else, Oregon's health-care proposal reminds us that tough choices lie ahead.

MORE R&D MONEY NEEDED

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. OWENS of Utah. Mr. Speaker, today we consider three pieces of legislation critical to maintaining America's competitive edge—NSF authorization, the High Performance Computing Act, and the American Technology Preeminence Act. I welcome these initiatives, but believe that far more must be done.

America's competitive position in the global economy stands at a critical juncture. For the past decade, the rule has been to shoot for the quick fix, rather than the long-term investment in our human and capital resources. The Reagan and Bush administrations have taken our standing in the global economy for granted, and left our technological leadership by the wayside. The spending policies of the 1980's have left America the world's largest debtor nation. instead of investment in R&D, capital and human resources, the catalysts of economic growth became junk bonds, leveraged buy-outs and unnecessary defense spending. As a result, the quality of American goods and the productivity of our work force are no longer the world's best.

This body has taken the first steps toward remedying the mistakes of the eighties. In this year's budget, we have taken at least a minor step toward giving education the priority it deserves. Funding for civilian R&D is beginning to recover from the unwarranted cuts it received in the 1980's. The value of job training programs is finally receiving recognition. And legislation such as that we consider today will lead us further in the right direction.

For the National Science Foundation, we authorize 20 percent more funds than last year. With the High-Performance Computing Act, we add a long overdue degree of coordination between the six agencies conducting R&D relating to high-performance computing systems. And the American Technology Preeminence Act will assist American industry in carrying successful research into the marketplace. These initiatives are long overdue, and I am pleased to support them.

But we must keep in perspective how little we invest in civilian R&D—today, we authorize a total of just under $3.5 billion to enhance our competitive position in the world. Yet earlier this year, the House voted to appropriate over $37 billion to support the R&D activities of the Department of Defense alone, and we are asked to support another $2.5 billion for Defense-related R&D in the Department of Energy.

Our overwhelming success in the Persian Gulf conflict attests to the need for our military to utilize the best available technology. Yet look at other areas of research. Cancer kills a greater number of Americans than Saddam Hussein ever could. This year we appropriated only $8.5 billion for the NIH, of that, only $2 billion for cancer research. We will spend only $166 million on solar and renewable energy R&D this year, only $277 on conservation. And last month, we appropriated only $2.7 billion for the National Science Foundation.

The global marketplace will continue to become more integrated and fiercely competitive, and I welcome today's initiatives. But we spend a far lower percentage of GNP on civilian R&D than do our Western trading partners. And we must encourage the private sector to become more involved. In Japan, industry provides 69 percent of total R&D funds. American industry provides only 51 percent, and defense contracting accounts for nearly one-third of that.

The course we choose at the beginning of this last decade in this century will shape America's role in the next. I urge my colleagues to support the legislation before us today. But let us keep in perspective how much further we have to go.

FOREIGN FIRMS AND THE ARAB BOYCOTT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. GEJDENSON. Mr. Speaker, I am introducing legislation today to prohibit the awarding of Government contracts to foreign firms that comply with the Arab boycott of Israel. A foreign firm bidding for a contract would have to certify that it does not comply with the boycott. The department or agency awarding a contract would have to determine that a foreign firm does not honor the boycott.

The Arab boycott was imposed in 1948 against Israel and any individual or company which trades or invests in Israel. The boycott isolates Israel and greatly weakens its economy. The boycott is the equivalent of economic warfare against Israel, costing over $500 million annually in lost commerce.

United States firms who invest in or export to Israel are also at a competitive disadvantage because of the boycott. Just recently over 400 U.S. firms were added to the Arab blacklist. Although U.S. law prohibits compliance with the boycott, most other nations do not have similar laws. There is simply no justification for the Government to do business with a foreign firm that would be in violation of U.S. law if it was headquartered in this country.

It is an outrage that our Arab partners in the war against Iraq continue to impose a boycott against Israel and United States firms that do business with Israel. The United States put its soldiers on the line to protect the sovereignty of the Arab nations and Israel showed patience and restraint during the war. The very businesses that are being discriminated against may well be the same firms that were making products used in the war against Iraq.

The President must, in the aftermath of the war with Iraq, create an international consensus to end the boycott. This legislation will give him additional leverage to use in achieving that objective. In 1990, over $7 billion was awarded to foreign firms for defense contracts, a large pool of money that should be examined to see whether or not the firms involved comply with the boycott.

An end to the boycott would open trade and investment opportunities to U.S. firms. It would represent an important breakthrough in the Middle East peace process.

I urge my colleagues to support this legislation.

WITHDRAWAL OF SOVIET TROOPS FROM HUNGARY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. HORTON. Mr. Speaker, I would like to call my colleagues' attention today to the recent, long-awaited withdrawal of Soviet troops from Hungary. As you know, I have been actively involved in efforts to achieve Hungarian sovereignty throughout my years in Congress. The Hungarian Freedom Fighters' Federation has diligently worked toward liberation since the 1956 Hungarian Revolution, and I have consistently supported their activities.

I would like to extend my sincere congratulations to the Hungarian people. On June 30, 1991, officials of the Hungarian Freedom Fighters' Federation; Istvan B. Gereban, copresident; Dr. Andras Pogany, president; and Ilona Maria Gyorik, secretary general; released the following statement regarding Hungary's recent liberation. In the hope of fulfilling the remaining dreams of the Hungarian people, I insert the statement in today's RECORD.

STATEMENT OF HUNGARIAN FREEDOM FIGHTERS' FEDERATION

Today the last goal of the 1956 Hungarian Revolution has been fulfilled. With the withdrawal of Soviet troops and war material from its territory, Hungary regained its sovereignty. Now, with freedom and independence accomplished, the people of Hungary alone assume full responsibility for shaping the future of their country and their own lives.

In this solemn moment of history we pray that the leaders of our native land possess the statesmanship and inspiration to address the overwhelming tasks before them. They must pave the way for prosperity, provide the opportunity for the pursuit of happiness and heal the Hungarian soul wounded by a half century of oppression by foreign ideologies. Separate, but an equally important issue is the need to integrate Hungary with the Euro-Atlantic community thereby invigorating Hungary's economic well being and ensuring its renewed sovereignty.

The nation's unity in purpose is vital in obtaining these goals. The Hungarian Freedom Fighters Federation is hopeful that the spirit of 1956 will fill the minds and hearts of Hungarians providing the will and skill to rebuild the nation to what it always aspired, a nation of common spirit, principles, commitments and cultural tradition, not of blood, birth or creed.

As we celebrate the final victory of our Revolution we pay respect to the memory to those who sacrificed their lives in the struggle for freedom in 1956. We express our gratitude to our friends and supporters in the United States who stood with us in the past 35 years in our plight and pray with them that our common achievement, a liberated, free, sovereign Hungary, will forever survive.

CARL SCHAFFER NAMED PRESIDENTIAL "POINT OF LIGHT"

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. JAMES. Mr. Speaker, I ask that my colleagues join me in congratulating the President's 492d "Point of Light," Mr. Carl Schaffer of Palm Coast, FL.

A retired salesman, Carl writes regularly for the local newspaper, the Flagler Palm Coast News-Tribune, and is an active member of the Flagler Palm Coast Kiwanis Club.

But, it's Carl's work as a volunteer for Hospice of Volusia and Flagler Counties—a support group for terminally ill patients and their families—that caught the President's eye.

Despite his own complicated medical problems, which cause him to undergo dialysis four times a day, Carl has helped more than 40 terminally ill patients. Often, the people he's trying to help have just a few days left to live. But no matter how desperate the situation, Carl is there to help. His calling is to make those final days as worry-free and comfortable as possible.

Carl is on call 24 hours a day, 7 days a week. He's there to listen when patients and their families need him; he's there to offer encouragement and kindness; he's there to run errands or do laundry.

In short, he's a friend. A caring friend.

Carl has firsthand knowledge of how important local hospice programs are to terminally ill patients and their families. In 1989, Carl's wife, Betty, died from cancer. With the help of hospice, Carl cared for his wife at home.

Mr. Speaker, I believe that two comments by Carl in a recent newspaper article sum up this humble man's courage and commitment to his neighbors and friends.

"I have heard people who retire here say, 'There is nothing to do.' There is plenty to do. If possible, get involved in something," Carl said.

He then said, "Since Betty died, this has kept me busy. It doesn't keep my mind completely occupied, but I feel if someone out there is in need of help, we should help. My only regret about this whole thing is Betty isn't here to share it with me. But, maybe she is—who knows?"

Mr. Speaker, please join me in both congratulating and thanking Carl Schaffer for his determination and hard work. We need more like him.

CONGRATULATIONS TO RHODE ISLAND'S SOLID WASTE MANAGEMENT CORP. AND THE RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to congratulate Rhode Island's Solid Waste Management Corp. and the Rhode Island Department of Environmental Management for their efforts in earning one of only nine national awards given by the Environmental Protection Agency to honor achievements in recycling. Out of a field of 200 nominees from all over the country, Rhode Island was the only New England winner.

Rhode Island's outstanding recycling program certainly deserves recognition. Designed and implemented 5 years ago, Rhode Island's program is the Nation's first statewide mandatory recycling law. The program has made great strides toward reducing waste levels both at the source and in the waste stream.

The statistics are very impressive. Commercial waste in landfills in Rhode Island has decreased by 24 percent since July 1989, and today almost 15 percent of Rhode Island's residential waste stream is recycled.

The program's source reduction methods have been very successful as well. The methane gas recovered from landfills is used to heat 18,000 homes. And the 2-year-old materials recycling facility is one of the most technically advanced in the country.

Rhode Island should be proud of its demonstrated national leadership in recycling. I encourage other communities across the Nation to look to the Rhode Island model as a base for further efforts to insure a better environment into the future.

YEAR 1891: A SAD DAY FOR NEW ORLEANS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. ENGEL. Mr. Speaker, in March of this year I brought to the attention of my colleagues an issue of great importance, the 100th anniversary of a sad day in civil injustice. On March 14, 1891 in the city of New Orleans, there was a brutal murder and lynching of 11 people of Italian descent.

Since I last brought this matter to your attention, many people have expressed interest in this important issue. I would like to thank all of the people who have played a part in bringing this issue of discrimination to the forefront so it will not be forgotten.

I would especially like to thank Joseph Maselli, president of the American-Italian Renaissance Foundation, who has done exceptional work in securing the validity of this episode. Through the years the facts have sometimes been distorted but Joe Maselli has made sure that the truth would not be overlooked. He has published articles on this subject and has provided accurate information allowing us a careful examination in racial and ethnic discrimination.

Mr. Speaker, as I have stated before, throughout history people have been discriminated against because of their race, religion, color, and political beliefs. By creating an awareness of this episode and seeing the dangers of prejudice, discrimination, and the failure of justice, all Americans will benefit.

Following is a descriptive article provided by Mr. Maselli published in the Italian-American Digest outlining the events that took place on this tragic day in history:

On October 15, 1890, Police Superintendent David C. Hennessey was gunned down by unknown assailants, purportedly identified only as "Dagoes." On the basis of this vague evidence heard by only one man who did not testify during the trial, authorities indiscriminately arrested nineteen Italian Americans. Of the nine brought to trial, none was convicted, yet a violent mob was allowed to storm the jail and shoot, beat to death or otherwise slaughter eleven innocent men.

During the past five years, at least fifty articles, books and various publications have been written on the subject. In most of these attempts to describe the 1890 killing, the facts have been grossly distorted. The consensus of writers have concluded that the New Orleans killing was the beginning of the Mafia in the United States. It is our intention to not only disagree with this, but to reveal who actually killed the chief.

Information: David C. Hennessey, Superintendent of Police, was shot by alleged assassins at midnight of October 15, 1890. His friend, Captain William J. Connors, who found him said he whispered "the dagoes did it." J.C. Roe, a policeman assigned to guard Hennessey's house tried to shoot at the attackers but his revolver jammed—so he ran.

Question: Chief Hennessey died about nine o'clock the next morning, nine hours after he was shot during which he was awake and lucid much of the time. Hennessey said "I'm not going to die—I'm going to get over this. Those people can't kill me." Why didn't he tell reporters, police or friends who shot him?

Conclusion: Chief Hennessey at no time told who shot him because he either did not know or he recognized the assassins as individuals related to Chief of Aids Thomas Devereaux.

Information: The Hennesseys made headlines in October 1881. Mike was charged by Thomas Devereaux, chief of aids, (detectives) with conduct unbecoming an officer. Mike, while drunk had assaulted a man in a house of ill repute. Mike and his cousin, David, went gunning for Devereaux, and on October 13 found him in the brokerage office of John W. Fairfax, where David walked up behind the chief, put a pistol to his head and pulled the trigger. Fatally wounded, Devereaux got off one last shot wounding Mike. The Hennessey cousins were charged with murder, but were acquitted. Mike moved to Galveston, then to Houston, where he was shot to death on September 29, 1886. There were reports that the killer had been sent from New Orleans.

Question: Why was Mike Hennessey killed?

Conclusion: Revenge for the killing of Chief Thomas Devereaux was the motive behind the killing of the Hennessey cousin.

Information: David C. Hennessey, after the trial, joined Farrells' Harbor Protection Police as a private policeman until Mayor Joseph Shakespeare appointed him superintendent.

Why Major Hearsey, publisher of *Daily States* was extrolling the virtues of David Hennessey from October 1890 to April 1891, he must have forgotten two editorials he had written about a decade earlier after the Devereaux shooting. "The fact is patent that neither of the two murderers nor their victims were proper men to hold any position on the police much less the responsible positions they did hold, said one. "The Hennessey's are desperate men and no one can read the story of yesterday's terrible tragedy, conflicting as the reports are, without a conviction that Dave Hennessey is a murderer." "We are astounded that a jury in a Christian and enlightened country would return such a verdict as 'not guilty' in this case," said the other. All the facts proved, beyond question, "that this was a deliberate and bloody assassination."

Question: When David C. Hennessey was killed, only one man claimed "the Dagoes did it"—his friend, William J. Connors, Captain of Boylan Protective Police, a private agency.

Conclusion: Revenge for the killing of Chief Thomas Devereaux was the motive—not the Italians, New Orleans had over a fifty year history of this type of crime.

Information: The combination of chicanery and terrorization called "practical politics" was introduced into New Orleans during the elections of 1842 and 1844. By 1848 the politicians began to use newly arrived immigrants as repeaters and in other forms of illegal voting. After this almost every political campaign in New Orleans was marked with violence. The independent or opposition voter who attempted to register his preference at the polls was threatened. He could expect no aid from the police, for they not only failed to restrain the hoodlums, but often assisted in their acts of terrorization.

EXAMPLES

1854: Policeman Mochlen was stabbed to death while leading a gang of rowdies in an attack on a reform leader.

1854: Chief of Police Steve O'Leary was shot while trying to eject reformers from his office.

1856: Polling places seized by armed men. "Election was disgraced by violence and bloodshed." "Most of the outrages committed by Americans during the 'degeneration' were directed against aliens and citizens of foreign birth." This fact was seldom mentioned in the newspapers.

1858: Crime became so bad, vigilante committees took over. Prostitution, gambling, bars, saloons and every other type of illegal activities flourished due to the police pay off system.

October 29, 1874: Louisiana Governor William P. Kellogg waged a gun battle on Canal Street with a man who was to become publisher of the Times Democract, Edward, A. Burke.

October 11, 1881: Chief of Aids, Thomas Devereaux, killed by David C. Hennessey and his cousin, Mike Hennessey, both New Orleans policemen.

December 14, 1883: Three men were killed and eight wounded in a gun battle among rival politicians which included Sheriff Brewster, Tax Collector Houston and other prominent individuals.

January 12, 1885: Tax Collector James D. Houston, shot to death.

1885: Commissioner of Police Patrick Mealey had two employees who were charged with a stabbing.

1885: Captain A.H. Murphy was killed by policemen John Murphy and Patrick Ford at the bequest of Ford's brother, Thomas, who had been selected by the machine as the next mayor of New Orleans.

January 1, 1888: Patrick Mealey—murdered by special policemen Louis Clare and John Gibson.

Question: Did you notice there were no Italians involved in any of these terrible crimes?

Conclusion: The facts are obvious. The control of the lucrative rackets and other profitable enterprises were the plums for the winners—who cared about the average citizens especially the immigrants? But when a scapegoat was needed, the Italians made an easy target since they could not speak the language, and had difficulty defending themselves. The control of the city could be accomplished and the blame for lawlessness diverted to the Italians.

Information: The public attitude towards Italians on October 18, 1890 was very poor when Mayor Joseph Shakespeare appointed a committee of fifty to aid the police. Shakespeare ordered, "Arrest every Italian you run across. The Grand Jury indicted nineteen Italians, ten as murderers and nine as accessories to the crime.

Ten charged with murder; Peter Natali, Antonio Scaffidi, Charles Triana, Antonio Bagnetto, Manuel Politz (Polizzi), Antonio Marchesi, Pietro Monasterio, Bastian Incardona, Salvador Sunzeri, Loretto Comitez. Nine as accessories before the fact: Asperi Marchesi (fourteen years old), Joseph P. Macheca, James Caruso, Charles Matranga, Rocco Gerachi, Charles Patorno, Frank Romero, John Caruso, Charles Pietza. The Prosecutor was District Attorney Charles H. Luzenberg. On February 16, 1891 nine of the accused were brought to trial before Judge Baker. The defense lawyers were Thomas J. Semmes and Lionel Adams, former district attorney. For some strange reason neither J.C. Roe nor Captain William J. Connors testified during the trial. As the trial wore on it became apparent that the state's case, led by prosecutor Luzenberg, was strictly circumstantial, therefore Judge Baker acquitted two and abandoned the case against one. On March 12, the jury received the case after the four weeks trial and on the 13th acquitted three more and could not reach a decision on the remaining three. Results—nine men cleared out of the nine men brought to trial but the completely innocent men were brought back to Parish Prison because they still faced a conspiracy charge.

On March 14, so-called leading citizens sent out the following notice: "All good citizens are invited to attend a mass meeting on Saturday, March 14 at 10 A.M. at Clay Statue to take steps to remedy the failure of justice in the Hennessey case. Come prepared for action." Then, a mob led by William S. Parkerson and John C. Wickliffe, walked to Parish Prison armed and ready to kill eleven men; seven were shot down in the prison yard and two were shot in the 'dog house.'

Politz and Antonio Bagnetto were hanged on New Orleans streets. These "leading citizens" were responsible for the largest number of innocent men lynched in our country's history. No investigation of the lynching was ever made and yet history will show that the Italian American economic growth suffered for years. On the other hand, the killers all prospered during this same period. Killed by Vigilantes: Antonio Bagnetto, jury acquitted; Antonio Marchesi, jury acquitted; Joseph Macheca, jury acquitted; Manuel Politz, jury dismissed—could not reach a decision; Antonio Scaffidi, jury dismissed—could not reach a decision; Pietro Monasterio, jury dismissed—could not reach a decision. No Trial—Frank Romero, Loretto Comitez, James Caruso, Charles Triana, Rocco Gerachi.

Question: What was the real reason behind these prominent people taking the law into their own hands?

Conclusion: The control of the waterfront and shipping industry was at stake. Evil and corruption had lived side by side in New Orleans for over 80 years. The real criminals were afraid that hardworking, industrious, honest citizens would begin to influence the majority of the public.

"Nearly nine decades later, the question of whether the accused Sicilians really killed Hennessey still has not been answered. They could have done it, but the prosecution did not prove in their trial that they were guilty. A grand jury tried to find incriminating evidence against the twelve men who served and were forced to take cover in unsupported generalities while it was endeavoring mightily to justify the tragic denouncement.

HIGHER EDUCATION FIELD HEARING IN NORTH CAROLINA

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. PRICE. Mr. Speaker, on June 28 in Raleigh, NC, the House Education and Labor's Subcommittee on Postsecondary Education, at my request, held a hearing on the reauthorization of the Higher Education Act. Our distinguished colleagues, TOM SAWYER, TIM ROEMER, and TIM VALENTINE participated in the hearing. I am particularly appreciative of TOM SAWYER'S help; he chaired the hearing and added much to it with his insightful comments and questions. I am also grateful to Chairman BILL FORD. Although he could not attend the hearing, he was crucial to its convening, and I appreciate his help and that of his staff.

The hearing focused on a matter of critical importance to this country: The reauthorization of the Higher Education Act. Most of the witnesses discussed the tremendous problems low- and moderate-income people face in financing a college education and what the Federal Government can do through title IV of this act, "Student Assistance," to help deserving families and their children. But we also received valuable testimony about other titles of this act: Title VIII, "Cooperative Education"; title II, "Academic Library and Information Technology Enhancement"; and title VI, the "International Education Programs." In all, the hearing helped underscore for me the importance this act has to thousands of students and their families.

The first panel was composed of representatives of community colleges and public universities. On this panel, we heard from Dr.

Larry Monteith, chancellor of North Carolina State University [NCSU]; Mr. Robert W. Scott, president of the North Carolina System of Community Colleges; Dr. Tyronza Richmond, chancellor of North Carolina Central University; Dr. Bruce Howell, president of the Wake Technical Community College; and Dr. Douglass Hunt, special assistant to the chancellor of the University of North Carolina at Chapel Hill [UNC–CH].

From this panel, we heard about the need to simplify the process for obtaining financial aid and to increase student access to grant moneys. Many of the witnesses on this panel and other panels highlighted the dramatic shift in Federal aid from grants to loans that has taken place in the 1980's, leaving our students with heavy debt and reducing their career options. In the mid-1970's, 76 percent of Federal aid was in the form of grants, 20 percent in loans. By 1987–88, 67 percent of the aid was in the form of loans, 29 percent in the form of grants. All the panelists agreed restoring some balance between grants and loans was of the utmost priority in this reauthorization.

Title II, especially section C, was also cited as critical for area universities. Through this program designed to strengthen library resources, Duke, UNC–CH, and NCSU, have been able to develop a system to share bibliographic information electronically. Students on all three campuses can access materials from what is in essence a combined library, second in size only to Harvard. This network has also led to significant savings for these universities, since certain duplications in the holdings of these libraries can be eliminated.

I was also grateful to see the support from all the panels for my bill, H.R. 394, restoring the tax deductibility of student loan interest and the full tax-exempt status for scholarships and fellowships. Although this bill is not within the purview of the House Education and Labor Committee, it clearly is relevant to student aid policy and of great importance to thousands of families straining to meet education costs.

The second panel focused on private colleges and universities. This panel was composed of Mr. John Henley, president of the N.C. Association of Independent Colleges and Universities; Dr. John Burness, senior vice president of public affairs at Duke University; Dr. Prezell Robinson, president of St. Augustine's College; Dr. Clauston Jenkins, president of St. Mary's College; Dr. Allen Page, dean of undergraduate education of Meredith College; Dr. Talbert Shaw, president of Shaw University; and Dr. James B. Hemby, Jr., president of Barton College.

There were many interesting insights presented by this panel. With regard to student assistance, Dr. Burness presented evidence that roughly 25 percent of the annual increase in tuition at private universities during the 1980's may be attributable to institutions filling the financial gap caused by the Federal Government's shift away from grants to loans. There is indeed, then, a vicious cycle with regard to student financial aid, with the unwillingness to provide an adequate amount of aid leading to even more aid being needed.

President Robinson's testimony detailed a dropout rate of 75 percent among undergraduate students at his college between their freshman and senior years. He attributed much of this decrease to financial aid problems for students. This provides further evidence of the insufficiency of President Bush's proposal which would cause 400,000 more students from low- and moderate-income families to lose Pell grants.

The increasing importance of nontraditional students to these universities was also discussed. For example, at Shaw University, 40 percent of the students are now nontraditional students; at Meredith College the figure has also risen rapidly. These students face different problems than those faced by a high school graduate moving straight into a 4-year program. Many nontraditional students have children and this raises questions of child care, transportation, and other factors that affect student performance. These demographic changes must be taken into account during the reauthorization of the Higher Education Act.

Presidents Jenkins and Hemby were particularly helpful in suggesting how student aid programs could be made more accountable and how scarce Federal dollars could be spent more effectively. Our Nation's budget deficit makes this willingness to set clear priorities a necessity during the reauthorization process.

The third panel focused directly on the student aid program. The subcommittee heard from Mr. Matthew Heyd, student body president at UNC–CH; Ms. Hasoni Andrews, a student at NCSU; Mr. James A. Belvin, Jr., director of financial aid at Duke University; Mr. Larry K. Garrison, director of financial aid at Western Piedmont College; Ms. Sherri Avent from the office of student aid at St. Augustine's College; Ms. Eleanor Morris, director of financial aid at UNC–CH; and Mr. Steven Hitchner, director of ECPI Computer Institute.

If anyone doubts the importance of the student assistance programs, I would suggest that they read Hasoni Andrews' testimony. It was moving to me and everyone else in attendance to hear this student's story. She has taken the investment our country has made in her education and made the most of it.

It was also instructive to hear the discussion between Mr. Belvin and Ms. Morris on the proposal to allow certain institutions to make Stafford loans directly to students without third party participation by lenders and guarantee agencies. Ms. Morris argued for the proposal, because in her opinion, it would reduce the cost and complexity of the program. Mr. Belvin argued against it, citing the administrative burden for the university and the potential impact on the Federal Treasury. He also suggested that there were better changes that could be made to the loan program including a limit on third party profits.

Finally, we discussed briefly another shift in student financial assistance in the 1980's: The proportion of loans and grants going to for-profit proprietary schools. The increases are dramatic, the percentage of Stafford loans going to proprietary schools increasing from 6.1 percent in fiscal year 1980 to 30 percent in fiscal year 1988 and the proportion of Pell grants going from 12 to 24 percent. This shift is an area of great concern because while many of these schools address legitimate training needs, some subsist on Federal loan moneys to an unhealthy degree and have high default rates. This raises serious questions about the optimal mix of aid recipients and the need for accountability in aid programs. I know the House Education and Labor Committee will pay close attention to this issue.

The final panel focused on an issue too often neglected in this country; international education. Witnesses for this panel were Dr. Frank Hart, acting provost for NCSU; Dr. Crauford D. Goodwin, professor in the department of economics at Duke; and Dr. Donald J. Raleigh, office of international relations at UNC–CH.

A number of issues were covered by this panel. It was stressed that the whole campus needs to get involved with international education. Too often, area studies still have 50 or 60 people in the whole college involved, with little impact on or knowledge passed to the rest of the campus.

The panel also highlighted that we have much to gain from interaction with other countries. We can learn from the research being done in other countries, and this is especially important at a time when we are falling behind in basic industries. Giving our researchers the skills to work and learn in foreign labs is of critical importance. As Dr. Goodwin put so convincingly in his statement,

> In areas of pure theoretical physics, and areas of applied technology like highway building, electronic chip and automobile design or agriculture, we can no longer count on innovation originating only here. Nor can we count on new ideas from abroad always arriving conventiently in English and in the public domain. The ideas may be imbedded in Korean or Czechoslovakian working papers and may never leave a corporate or government laboratory. It is necessary now increasingly for scientists and engineers in our country to establish close personal collaborations overseas in order simply to gain access to innovation and remain on the frontiers of their fields.

In all, it was a productive hearing. I urge my colleagues to study the transcript of these hearings. I believe that the day we spent in Raleigh can provide valuable guidance as we attempt to keep the doors of educational opportunity open and enhance the contribution of higher education to our Nation's strength.

COMPARING TAX SYSTEMS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 3, 1991, into the CONGRESSIONAL RECORD.

COMPARING TAX SYSTEMS

While public anger over taxes has lessened since the late 1970s when tax revolts swept the nation, many Americans still believe they are overtaxed. Taxes always seem to be going up on what we earn, what we buy, and what we own. To put the U.S. tax system into perspective, it may be helpful to compare it to what is done in other countries.

OVERALL TAX BURDENS

It may come as a surprise to many, but Americans pay less in overall taxes than people in any other major industrial country. Annual government receipts from federal, state, local; and payroll taxes last year in the U.S. totalled 32.6% of gross domestic product (GDP). By contrast, the tax burden was 35% of GDP in Japan, 39% in Britain, 42% in Germany, and 48% in France. The tax leader was Sweden, where taxes continue to exceed half of the country's domestic output.

Over the past two decades U.S. taxes have basically remained around 30-32% of GDP. Yet over the same period taxes in many other countries moved up quickly. Taxes among the twelve nations of the European Community increased from an average of 31% of GDP in 1970 to more than 40% last year. Japan, whose taxes were around 20% of GDP in 1970, has had the sharpest rise. Since 1987 the U.S. has replaced Japan as the industrialized country with the smallest overall tax burden.

In the U.S. about two thirds of the taxes collected are federal (primarily income taxes and social security payroll taxes) and one third are state and local taxes (primarily sales and property taxes). This is roughly similar to the breakdown elsewhere, though in some countries, especially the Scandinavian countries, a larger share of taxes is collected below the federal level.

SOURCES OF TAX REVENUE

The major industrial countries rely primarily on three sources for the vast majority of their tax revenues: taxes on personal income, social security taxes, and consumption taxes such as sales taxes. Corporate income taxes and property taxes generally play less prominent roles. Yet there are still significant differences in emphasis. Germany and France receive most of their revenue through social security taxes. Canada and Sweden rely primarily on personal income taxes. Contrary to popular perceptions, Japan puts a much higher emphasis on corporate income taxes than other countries. For example, Japan gets almost three times more of its revenue from corporate income taxes than the U.S. does. The United States relies primarily on personal income taxes as its main source of revenue, with social security taxes a close second.

The biggest difference between the U.S. tax system and those of other countries is their much greater reliance on consumption taxes. In the U.S., federal excise taxes on gasoline, alcohol, and tobacco plus state and local sales taxes account for 15% of our total revenue. Consumption taxes in other countries typically account for twice that. A widely used consumption tax overseas, especially in Europe, is the value-added tax (VAT). It is a sales tax collected from companies at each stage of the production of goods and services. The adoption of a VAT by Japan in 1989 leaves the U.S. as one of the few major economies without one.

OTHER COMPARISONS

The U.S. has the lowest personal income tax rate of the major industrial countries. The maximum personal tax rate for upper-income Americans has dropped from 70% in 1981 to 31% today. The top personal rate in Germany is 53%, while in Japan it is 50%. The U.S. has one of the lowest top corporate tax rates, now 34%. Only a handful of countries have top corporate rates lower than 40%. Many countries are following the lead of the U.S. in lowering tax rates in order to reduce the distorting effects of the tax code on decisionmaking and to reduce the use of tax shelters.

Although many Americans find our income tax system incomprehensible, it is less convoluted than those in many other countries, especially after passage of the 1986 Tax Reform Act. Japan's system for taxing capital gains, for example, is extremely complicated.

One measure of tax fairness is progressivity—the extent to which wealthier people shoulder proportionately more of the tax burden. The U.S. tax system is considered to be slightly progressive overall. Many European systems are generally considered to be more progressive.

Various provisions in the U.S. income tax code differ significantly from those of other countries. Our largest tax deduction, for home mortgages, is more generous than in other countries. For example, Canada has no mortgage interest deduction and homeowners in the United Kingdom can deduct interest on only the first $57,000 of their mortgages, compared to $1 million in the U.S. Although the tax treatment of capital gains differs widely, they are generally taxed more heavily in the U.S. than in Japan and Germany. Unlike the U.S., many countries tax employer-paid fringe benefits such as medical insurance, and most take steps to avoid our practice of taxing dividends twice, both at the corporate level and in the hands of the shareholders.

CONCLUSION

Although Americans pay less in taxes than their counterparts overseas, that does not mean the U.S. should raise taxes. The average American claims, with considerable justification, that taxes should not be increased until current tax dollars are used more efficiently and effectively. But it does mean that arguments to the effect that modest increases in U.S. taxes will undermine American competitiveness may at times be overstated. This is increasingly recognized abroad. As other countries compare their level of taxation to ours, they are skeptical when we say we cannot raise taxes to narrow our budget deficit or to pay for programs to meet important needs at home and abroad.

And as for the overall structure of our tax system, while it certainly has flaws, it is increasingly being modelled by other countries. Few U.S. tax experts would trade our system for any other.

THE AMERICAN JOBS AND MANUFACTURING PRESERVATION ACT OF 1991

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today Congressman OBEY of Wisconsin and I are introducing the American Jobs and Manufacturing Preservation Act of 1991 to remove perverse Federal tax incentives that encourage U.S. companies to shut down manufacturing plants and other operations in the United States and to supply the U.S. market from abroad.

Over the past decade, thousands of U.S. workers have lost jobs with companies that have relocated their plants abroad only to manufacture similar, if not identical, products for sale in the U.S. market. Domestic businesses that have remained to manufacture goods for sale in the U.S. market can't compete with multinational companies who generally enjoy the lucrative benefit of U.S. tax deferral on its foreign subsidiary's income until it makes a dividend payment to the U.S. parent company.

Specifically, our bill removes the tax deferral that exists for certain income arising from runaway manufacturing plants controlled by a U.S. parent corporation. Identical legislation was passed by the House of Representatives in 1987, but was dropped in conference with the Senate.

In my judgment, it's patently unfair that our tax laws continue to shortchange both American workers and producers. We ought to reconsider a Federal Tax Code that pays our best and strongest companies to locate overseas. In 1987, the Joint Tax Committee estimated the tax deferral benefit provided to U.S. companies that locate overseas, but manufacture for sale in the U.S. market, to be about $600 million over 3 years. It's no wonder U.S. companies go abroad to produce goods for U.S. consumption when we offer tax deferral that makes it more advantageous for them to operate abroad. This is especially true when foreign countries entice them with low tax rates or labor costs.

In this respect, the Federal Tax Code's deferral provisions fly in exactly the opposite direction of the incentives we ought to be providing. We ought to encourage more companies to invest in the strength of this country, the American worker, by repealing these incentives for moving abroad. Yet, current tax policy helps to accelerate the exodus of domestic plants and jobs to foreign countries.

This legislation pulls the plug on misguided U.S. tax deferral provisions by imposing U.S. taxes currently on the income that arises from a U.S. controlled plant that manufactures and sells a product to be used or consumed in the United States. The legislation does not prevent U.S. firms from being competitive with foreign firms that produce goods for foreign markets. But, we just think that it's unfair that American workers, who've been the backbone of our Nation's economy, are losing thousands of jobs every year as companies shutdown U.S. operations to seek greater profits by supplying the U.S. market from overseas.

It's time that Congress acted to protect the American worker and American economy from the greed of many companies who would dislocate thousands of workers in America in search for greater profits abroad. At a minimum, we must stop participating in the outmigration of American businesses by refusing to pick up the tab for the move. I urge my colleagues to cosponsor this legislation to help protect America's economic future.

A detailed explanation of the bill follows:

The bill imposes current tax on U.S. shareholders of a controlled foreign corporation to the extent of the corporation's "imported property income." The bill also addes a new separate foreign tax credit limitation for imported property income, whether earned by a controlled foreign corporation or directly by a U.S. taxpayer.

Imported property income means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with manufacturing, producing, growing, or extracting imported property; the sale, exchange, or other disposition of imported property; or the lease, rental or licensing of imported property. Imported property income does not include any foreign oil and gas extraction income or an foreign oil-related income.

The bill defines "imported property" as property which is imported into the United States by the controlled foreign corporation or a related person. It also includes any property imported into the United States by an unrelated person if, when the property was sold to the unrelated person by the controlled foreign corporation (or a related person), it reasonable to expect that the property would be imported into the United States or that the property would be used as a component in other property which would be imported into the U.S. The Treasury Department would provide guidance concerning whether it is reasonable to expect that property sold to an unrelated person will be imported into the United States. Imported property does not include any property which is imported into the United States and which, before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the U.S., or is used by the CFC or a related person as a component of other property which is sold, leased, or rented.

The term "import" means entering into, or withdrawal from the warehouse, for consumption or use. The term "import" for this purpose generally includes licensing or any grant to use marketing or manufacturing intangibles in the United States. For example, assume that a CFC produces a film in a foreign country. The CFC licenses that film to unrelated U.S. persons for viewing in the United States. Assume that the royalty payment is not subject to Subpart F under current tax law because it's derived in the conduct of an active trade or business and it is received from a person other than a related person. Under the bill, the income of the CFC that is attributable to the royalty is subject to current tax under Subpart F as imported property income; for foreign tax credit purposes, that subpart F inclusion is U.S. source income.

The term "import" doesn't include foreign currency, securities, or other financial instruments.

Under the look-through rules of the foreign tax credit limitation, interest, rents, and royalties from a CFC in which the recipient (or in certain cases, a related party) is a 10 percent owner are to be treated as imported property income to the extent properly allocable to imported property income of the CFC. Thus, foreign taxes imposed on other income could not offset U.S. tax on this income.

In the case of income that would both foreign base company sales income and imported property income, that income is to be treated as imported property income.

In the application of subpart F to imported property income, various exceptions obtain. For example, assume that a CFC derives imported property income that's taxed by a foreign country at an effective rate greater than 90 percent of the maximum U.S. rate, and its U.S shareholders elects the high tax kickout (section 954(b)(4)) from subpart F treatment. Subsequently, distributed dividends from the CFC will be treated as imported property income on a pro rata basis.

These provisions apply to taxable years for CFCs beginning after December 1991 and to U.S. shareholders within which such taxable years of such CFCs ends. In the case of imported property income earned by a U.S. person directly, the amendments apply to taxable years beginning after December 1991.

THE FHA ENERGY EFFICIENCY INCENTIVES ACT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. TORRICELLI. Mr. Speaker, most of the attention in the debate over national energy policy has centered primarily on macro issues such as whether to open the Arctic National Wildlife Refuge and sensitive coastal areas to exploration and leasing, and whether and how to promote greater use of nuclear power. What has received less attention are the broad range of policies that should be implemented as part of a comprehensive strategy to promote energy conservation and the use of renewable forms of energy. Many of these policies involve giving people incentives to reduce the amount of energy they use, and they can be easily and inexpensively implemented by the Federal Government.

Today I am introducing legislation that would lead to substantial energy conservation simply by making a minor change in an important Federal program. This legislation, which is entitled the "FHA Energy Efficiency Incentives Act of 1991," would give a boost to a program currently underway in the Federal Housing Administration [FHA] that allows better income-to-loan ratios on FHA-backed mortgages to homeowners who purchase newly constructed energy efficient homes. FHA started this policy on its own, but they commit no funds to the program. As a result, FHA's local offices, mortgage bankers, and real estate agents barely are aware of its existence. My legislation would give the program a legislative mandate by codifying the FHA policy and extending it to existing homes in which energy conservation improvements have been made, or in which the mortgagor commits to making such improvements.

The FHA currently insures over 700,000 mortages, which amounts to 5.6 percent of the Nation's housing units. In addition, residential sector energy use accounts for 21 percent of our overall energy use. Hence, any serious effort to conserve energy must include the residential sector, and it makes common sense to use one of our foremost mortgage assistance programs to provide energy efficiency incentives to homeowners.

Specifically, the FHA Energy Efficiency Incentives Act would do the following:

Mandate FHA to allow those whose homes meet certain energy efficiency qualifications to take on larger monthly mortgage payments. Currently, FHA sets a maximum allowable mortgage-to-income ratio for prospective mortgagors. The rationale is that those who live in energy efficient homes pay less money per month for energy, and can therefore afford larger mortgage payments.

Direct HUD to come up with energy efficiency standards for homes to determine who qualifies under the act.

Set aside $1 million initially, and then $250,000 per year, to require FHA to come up with booklets and other informational devices to encourage homeowners to take advantage of the program and to educate mortgage bankers and real estate agents about the program.

Require lenders to give written notice of the program to all potential mortgagees.

Require FHA to report to Congress annually on the results of the program.

The Electric Power Research Institute recently estimated that efficiency measures installed in the residential sector could cut energy consumption by the year 2000 by 289 to 484 billion kilowatt-hours. If just half of the homes using FHA-backed mortgages took advantage of the FHA incentives, we could realistically expect to save between 3,000 and 5,000 megawatts per year, roughly the equivalent of three to five nuclear power plants.

My legislation has the added benefit of providing relief to first-time homebuyers. In the first quarter of 1990, over 80 percent of all first-time homebuyers relied on FHA mortgages. The inflated price of homes, especially in the Northeast, is a major impediment to buying a home, as down-payment costs can be exorbitant. The main attraction of an FHA-backed mortgage is that it requires a smaller down payment, which allows low-income residents to afford more expensive homes. My legislation would accomplish the same goal by allowing higher monthly mortgage payments. In effect, lower income residents would qualify for more expensive homes if those homes are energy efficient.

The FHA Energy Efficiency Incentives Act provides a simple mechanism for saving energy and making expensive homes more affordable, and I urge the support of my colleagues for this sensible and significant measure. I also wish to submit the following letter of support for this legislation from the Solar Energy Industries Association, with whom I worked closely in preparing this legislation.

SOLAR ENERGY INDUSTRIES ASSOCIATION,
Washington, DC, July 9, 1991.

Hon. ROBERT G. TORRICELLI,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE TORRICELLI: The Solar Energy Industries Association (SEIA), the national trade organization of the photovoltaic and solar thermal manufacturers and component suppliers, strongly supports your initiative to require FHA financing to notify homeowners of the potential for solar water heating as well as other "high value" conservation applications in enabling them to better qualify for financing.

While FHA has supported the concept of solar and energy efficiency as a way to lower the maintenance costs of housing and therefore open more disposable income for the mortgage, FHA has not been aggressive in promoting solar and energy efficiency applications as a tool for housing affordability.

The U.S. solar industry applauds your efforts. While the U.S. has solar water heating in 1.2 million buildings nationwide, the City of Tokyo alone has 1.5 million buildings with solar water heating. If the U.S. is to maintain competitive in world markets, we must increase the penetration of solar energy in the United States. Solar water heating already displaces 1,366 megawatts of electricity and has the potential to easily save that amount twenty fold. Solar systems are now nationally certified by the non-profit Solar Rating & Certification Corporation (SRCC) in both the manufacturing and installation.

Thank you for not letting the lessons of the Iraqi War slip away. The United States continues to import over half our energy and these imports constitute one of the single largest components of our national trade deficit.

Sincerely,

SCOTT SKLAR,
Executive Director.

THE ACCESS TO LIFE-SAVING THERAPIES ACT

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. CAMPBELL of California. Mr. Speaker, FDA has traditionally focused on the danger of approving a harmful or useless drug; at the same time it has ignored the risk of delaying approval of a drug with distinctive benefits. The reasons for this unbalanced approach are easy to understand: Persons hurt by a bad drug know it and complain to the media and Congress, while those denied the benefits of a valuable, unapproved drug seldom realize what they have lost.

Consider the history of misoprostol, the first drug to prevent gastric ulcers, an illness that kills 10,000 to 20,000 people each year. Misoprostol was approved in a relatively quick 9½ months—FDA typcially takes 2 to 12 years to approve most new drugs; FDA heralded misoprostol as 94 percent effective. The question arises: How many lives were lost while it was being reviewed? Using the above figures, we can estimate that 8,000 to 15,000 lives were lost during FDA's review period. Furthermore, by the time the drug was approved in the United States, it was already available in 43 countries, in some of them 3 years earlier.

All who have worked with bureaucracy know it can be a frustrating experience. But this type of bureaucracy is literally deadly. The problem extends far beyond gastric ulcers to Alzheimer's, AIDS, heart disease, cancer, and other diseases. Recently, FDA denied approval to THA, a drug for Alzheimer's that has helped many people in clinical trials. Sadly, because FDA is not completely satisfied with the efficacy of THA, many who might benefit from it are prevented from doing so. Two drugs for AIDS, ddI and ddC, have shown great promise, and AIDS victims are desperately seeking access to them. Again, although ddI and ddC have passed FDA's toxicity tests, FDA still puts off approval while it deliberates whether or not the drugs are completely effective.

Today, I am introducing the Access to Life-Saving Therapies Act, which would allow individuals who have been diagnosed as having a life-threatening or seriously debilitating illness to gain access to drugs and biologics once they have passed FDA's toxicity tests. Patients would be required to sign a disclosure that fully explains the experimental nature of the drug. Those individuals who wish to use only drugs that have passed all the FDA's tests could do so; but those desperately sick people who wish to adopt a higher degree of responsibility and risk could do so, as well.

Mr. Speaker, AIDS and its opportunistic infections have made the need for expedited approval critical. Many experts believe that we already have in the pipeline drugs that in wide and combined use can make HIV disease a manageable illness. The chief obstacle to making those drugs available to everyone is a rigid standard of efficacy which requires waiting for certain proof when we already have credible evidence that efficacy is probable. During the time spent assembling proof of efficacy for new AIDS drugs like ddI, ddC, and d4T, drugs which experts now agree are probably effective, tens of thousands of lives and billions of health care dollars will be tragically and unnecessarily lost.

In developing this bill, I have worked with grassroots disease organizations, doctors groups, pharmaceutical companies, and economists. My bill is endorsed by the Cancer Patients Action Alliance, the Association of American Physicians and Surgeons, the PATH Foundation—an AIDS research organization—economist Milton Freidman, Citizens for a Sound Economy Chairman James Miller, and the Life Extension Foundation. A number of other groups have expressed support for the goal of expediting drug approval and have pledged to work with me on this issue in the coming months.

In conclusion, Mr. Speaker, this bill is both pragmatic and compassionate: Pragmatic because it will contain health care costs, which we all know is vital; compassionate because it offers greater hope to those individuals and families who desperately seek new medical therapies. I urge the speedy passage of the Access to Life-Saving Therapies Act.

IMPROVE COAL EFFICIENCY, PROTECT ENERGY AND ENVIRONMENTAL SECURITY

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. BRUCE. Mr. Speaker, as Congress develops a responsible domestic energy security policy, it is important that we protect energy and environmental security here, and develop methods we can export to help other countries do the same abroad. The Clean Coal Technology Efficiency Improvement Act of 1991, which I am introducing today along with a number of my colleagues, helps accomplish that mandate.

While most Americans believe that crude oil is the world's most abundant fossil fuel, it is coal which actually holds that distinction. In the United States, coal accounts for approximately 90 percent of all recoverable reserves of fossil fuels, making coal use a necessary component of any domestic energy security plan. Coal use helps protect the Nation's energy security.

Unfortunately, only 33 percent of the energy contained in coal currently leaves power plants as electricity in the United States. In the Middle East, Africa, Eastern Europe, and China, efficiency levels often drop well below 25 percent. With global electricity needs expected to increase by 70 percent in the next two decades, the efficient use of coal must be a national and global priority.

While global warming theories are still speculative, the ability to use our resources more efficiently provides us with the readiness to continue using our most abundant domestic fuel, and with a critical global warming insurance policy. Efficent clean coal use helps protect the Nation's environmental security.

While unilateral efforts to combat global warming would be ineffective, it is possible that worldwide agreements could be reached which require reductions in greenhouse gases. Goals without the tools to accomplish them would be meaningless, however. The Clean Coal Technology Efficiency Improvement Act adds two rounds to the Nation's $2.5 billion investment in clean coal use to focus almost entirely on efficiency improvements.

The bill establishes a Clean Coal Technology Export Coordinating Council charged with aiding in the export of efficient clean coal technologies developed in the United States. In addition, it authorizes a Clean Coal and Renewable Energy Technology Transfer Program to encourage the use of U.S.-developed clean coal and renewable energy projects in other countries. Exports of efficient clean coal technologies help foreign governments protect their energy and environmental security, while providing jobs at home.

The Clean Coal Technology Efficiency Improvement Act makes sense for the economy and the environment. It is worthy of strong support.

CONGRATULATIONS TO THE CENTRALIA ORPHANS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. POSHARD. Mr. Speaker, I rise today to pay special tribute to the winningest basketball team in the Nation. The Centralia High School Orphans have a long and prestigious career in southern Illinois. Since the tipoff of the first Orphans game in 1906, the team has compiled 1,668 career victories, more than any high school or college in the Nation.

Although the Orphans freshman season in 1906–7 consisted of only four games, it would be the start of what was to become a southern Illinois basketball dynasty. In 1915 this powerhouse team was coached by the legendary Arthur Trout. He called the plays for the Orphans until 1951. During his time on the bench he led the Orphans to 809 victories, including State championships in 1918, 1922, and 1942. It was also during the era of Coach Trout that the Orphans had their most victorious season. In 1941 the Orphans won 44 games while losing only two. Unfortunately they were shot down during their bid for the State championship.

The Orphan pride at C.H.S. is truly something to behold. The community support that is given to the young men who have played for the Orphans is unprecedented. An Orphan fan is like no other; "Orfans" are among the most dedicated and innovative anyone has ever seen. Orfans are not only the cheerleaders or the students who sit in what is fondly known as the Orphanage but the parents, the townspeople, and the C.H.S. faculty all get caught up in orphanmania.

Throughout the years the Orphans have dedicated their efforts to the pursuit of excellence. The only way to achieve perfection is through dedication and the Orphans have always persisted in the endeavor to be true champions.

A fine coach, Bob Bogle, is now pacing the sidelines for the Orphans. He and the team are determined to improve upon their historic achievements. I have no doubt that they will realize this goal and continue to make opponents fearful of meeting in the center jump circle.

These exceptional young people are a shining example for all to follow and I am proud to be able to represent them in Congress.

25TH ANNIVERSARY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. RAHALL. Mr. Speaker, I rise in order to commemorate the 25th anniversary of Metropolitan Archbishop Philip Saliba as primate of the Antiochian Orthodox Christian Archidiocese of North America.

In August 1966, Archbishop Philip was elected to shepherd the Antiochian Archdiocese and since then, he has time and time again, exhibited visionary leadership.

Philip Saliba was born into a traditional Orthodox Christian family in Abou Mizan, Lebanon in June 1931. Following a traditional education, at the age of 14, he was accepted into the Balamand Orthodox Seminary in Tripoli, Lebanon, and later graduated from the Orthodox secondary school and Assiyeh Orthodox College in Damascus, Syria. In 1949, at the tender age of 18, he was ordained as a deacon and assigned to the Antiochian Orthodox spiritual leader, Patriarch Alexander III. In September, 1953, Deacon Philip enrolled at the Kelham Theological School in Nottinghamshire, England, and in September 1954, he began theological studies at the University of London.

Philip Saliba's experiences during these still-impressionable years made a profound impact in shaping what became Philip's priorities as a priest and then as prelate: The need to cultivate and ensure integrity among the church hierarchy, the strengthening of orthodox theological training focusing on the importance of orthodox youth education, and providing security for the clergy and their families.

In 1956 Philip arrived in the United States to study at Holy Cross Orthodox Seminary in Brookline, MA, and was subsequently assigned to St. George Orthodox Church in Detroit, MI. On March 1, 1959, Philip Saliba was ordained an orthodox priest receiving his first pastoral assignment at St. George Church in Cleveland, OH. As the years progressed, Father Philip continued to study orthodoxy earning a masters in divinity studies from S. Vladimir's Seminary in Crestwood, NY in June 1965.

In 1966, after the death of the Archbishop of the Antiochian Archdiocese, Father Philip was nominated and then elected to fulfill this distinguished post. The new 35-year-old archbishop was now able to embark upon the objectives—theological, humanitarian, and administrative—that had always driven him to serve both the church and those around him.

In his 25 years as Archbishop, Philip Saliba's numerous accomplishments reflect the priorities he had established for himself so long ago. His Eminence achieved the first measure of orthodox unity in the United States by merging his Antiochian Archdiocese with the only other Antiochian jurisdiction in the United States. In the early 1970's, Archbishop Philip organized and established the first archdiocese-wide woman's organization, and appointed the first woman to the archdiocese board of trustees.

In 1975, Archbishop Philip founded the philanthropic organization, the Order of St. Ignatius of Antioch, whose membership now exceeds 1,000 members and has donated over $5 million to the archdiocese and humanitarian projects around the world. In addition, the Food for Hungry People Program, instituted in 1975, has donated over $1 million to needy organizations and individuals the world over, without regard to race, creed, or nationality. In 1978, the archbishop directed the purchase and subsequent development of the 300-acre Antiochian Village, a summer camp and educational center in Ligonier, PA.

Archbishop Philip has been very involved in the search for peace in Lebanon and the Middle East in general. The archbishop constantly meets with other Christians, Jews, and Moslems seeking formulae for political solutions to these most difficult questions. Archbishop Philip has met with Presidents Reagan and Bush, State Department officials and leaders of other countries, among others in hopes of seeking the way of a peaceful solution.

Archbishop Philip's arduous work has been awarded with many commendations and medals, among which are the Order of Cedars from the Lebanese Government and the Cross of Lebanon from the Lebanese Antiochian Archdiocese. He has been bestowed with honorary doctorates from his alma maters, Wayne State University and the S. Vladimir's Seminary. As impressive as each of these are, his most cherished honor was receiving the "Liberty Award" presented to him by Mayor Edward Koch of New York City in conjunction with the 100th anniversary of the Statue of Liberty; Archbishop Philip was one of only a few Americans to receive this honor.

On the eve of Archbishop Philip Saliba's 25th anniversary as primate of the Antiochian Orthodox Christian Archdiocese of North America, I congratulate him for his work as a theologian and humanitarian and as a fine example to all who choose and are proud to be Americans.

TRIBUTE TO JOHN J. WELLMAN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity today to pay tribute to John H. Wellman of Ashland, KY., who died May 27 at King's Daughters' Medical Center in Ashland at the age of 77.

John Wellman has a long and distinguished career as an employee of the Kentucky National Guard for 39 years. He was a life member of the Enlisted Association of National Guard of Kentucky, and served as a member of the U.S. Army during World War II. In fact, his son Adj. Gen. Billy G. Wellman is a past commander of the Kentucky National Guard.

John Wellman was a pillar in his community, serving as a member of the Poage Masonic Lodge 325; El Hasa Shrine; Apperson Chapter 81, R.A.M.; Everett Council 65, R.&S.M.; Ashland Commandry 28; and and Knights Templar.

In addition to his lovely wife, Hazel Justice Wellman, John Wellman is survived by three sons. Billy G. Wellman of Lawrenceburg, KY.; Charles J. Wellman of Flatwoods, KY; and Donald R. Wellman of Melbourne, FL.

My wife Carol and I extend to the family of John Wellman, a highly admired eastern Kentuckian, our sympathy.

THANKS TO JIM BACKLIN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. SOLOMON. Mr. Speaker, a few weeks ago this Nation had the honor and privilege of recognizing all those young men and women who served in the military during the Persian Gulf war. The national victory parade in Washington, DC, was the largest military event honoring the Armed Forces since World War II and it was a great success.

But I would just like to take a moment to personally thank a Hill staffer, James P. Backlin, with the Republican Study Committee, for his behind-the-scenes work on the victory parade. All too often we forget to mention those people who aren't in the spotlight, but are very much deserving of our appreciation.

This West Point graduate and Vietnam war veteran had a vision that he shared with me way back in February, a vision for a national event that would celebrate the return of our soldiers who risked their lives in the Persian Gulf for the United States of America, and an event that, at the same time, might heal some of the wounds from the Vietnam and Korean wars by providing recognition for their efforts.

Jim was a vital force in organizing bipartisan congressional efforts to see this vision become a reality. As a result, 800,000 people from the Washington metropolitan area were able to participate in a very special weekend. We were able to thank our gulf war heroes and enjoy the national excitement that comes from a great victory such as that experienced by America in the Persian Gulf.

Thank you Jim, for your vision and hard work. It was appreciated.

EVOLVING POLISH ECONOMY

HON. MARCY KAPTUR

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 11, 1991

Ms. KAPTUR. Mr. Speaker, in April, I was able to travel with a delegation from Toledo, OH to Poznan, Poland, the sister city to Toledo. During our visit, I observed the evolving Polish economy. I put these thoughts on paper to the U.S. Ambassador to Poland, the Honorable Thomas Simons, and received a detailed reply to my impressions. I thought my letter to Ambassador Simons and his subsequent reply would be of interest to my colleagues.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 26, 1991.

Hon. THOMAS SIMONS,
U.S. Ambassador, American Embassy—Warsaw, New York, NY.

MY DEAR MR. AMBASSADOR AND YOUR CAPABLE AND GRACIOUS WIFE PEGGY: Please let me first extend my sincere appreciation for the extraordinary hospitality and diplomatic efforts you extended, along with Peggy and the Embassy staff, to accommodate the visit of our large delegation from Toledo, Ohio. I hope you and your staff will feel welcome in my Washington office on any of your subsequent visits back to the States.

Know also that Poznan Principal Officer Christian Kennedy and Public Affairs Officer Tom Carmichael arranged a fine itinerary for us and met fully all our requests. I consider it fortunate to have two such capable diplomats working with us in Poznan on this endeavor. I also wish to report back to you on my impressions of the evolving Polish state economy, especially as we observed it in the Poznan/Wielkopolskiego region. Though my observations certainly cannot compare to those of your staff who experience it daily, nonetheless you may find these comments useful.

SISTER CITIES RELATIONSHIP

Officially, our delegation—with great pomp—signed a Toledo-Poznan Sister City relationship on April 4 in the Poznan City Hall. President (Mayor) Wojciech Kaczmarek signed on behalf of Poznan. Our intention is now to develop this relationship far beyond a "goblet to goblet" exchange. The Mayor of Poznan as well as Executive Committee member Andrzej Porawski, are scheduled to visit the U.S. for the first time this summer. We intend to augment their visit with as much technical training in various areas as we become aware of through the Poznan Consulate working along with Sister Cities International.

The range of initial requests to our community in Ohio were diverse and quite substantial. Our community is now in the process of developing an agreement with Poznan by mid-summer that formalizes the broad array of possible co-ventures, including high school and university exchanges, technical and economic assistance, municipal internships, business, religious and cultural proposals that were suggested in dozens of meetings. We will work with the Poznan Consulate and Sister Cities International to identify achievable projects. When Sister Cities may not be an appropriate funding source to carry out the designated project, our community will identify other avenues to accomplish the outlined tasks.

To name just a very few of the requests—joint venture investments in several businesses, including the Antoninek Glass Factory and, of course, a wide array of proposals for helping Polish agriculture and food processing in the northwest region; the Chief of Police of Poznan has asked for police training exchanges; the Director of the Poznan Museum wishes to plan an exhibition of Polish modernists at the Toledo Museum of Art; journalists requested practical training through radio and television exchanges. Agriculture remains a key priority for the Poznan region and for us stateside, as food processing and agriculture are Ohio's biggest businesses. I have asked the Consulate to help us prioritize and outline the Poznan region's requests by mid-year. Mr. Andrew Golebiowski from Sister Cities International will assist in these efforts. Again, we are very lucky to have someone of his caliber on the team.

I would also like to bring to your attention the fact that several U.S. cities now have Sister City relationships with Polish communities. For those relationships that are truly "active," and can bear fruit, I would like to recommend that on your next visit to Washington you might jointly brief the respective Members of Congress from those communities over breakfast. You could suggest additional, direct ways our communities might be able to cooperate and more fully impact the Polish situation. Perhaps including the Polish Ambassador to the U.S. in the meeting might be useful. I would certainly welcome such an opportunity and know other Members of Congress who would as well.

ECONOMY: ONE, TRADE LAWS AND PRIVATIZATION

This was my fourth visit to Poland over a period of 15 years. I was favorably struck by the number of new, privatized shops and houses that are popping up like mushrooms everywhere. The goods are diverse and abundant, but of course too high-priced for most Poles. The contrast between a small, growing wealthy class and everyone else was apparent.

I also developed an uneasy concern that Poland is being glutted by a wave of imports, many times snuffing out nascent Polish businesses that have not yet had a chance to "get off the ground." Example: I purchased a brightly packaged box of apricot juice: origin—Debrecen, Hungary. There is no reason why such a product should not be manufactured in Poland. I became increasingly concerned about Poland's likely external trade deficit. As I travelled around, I wondered whether trade laws in Poland are being developed in conjunction with the economic reforms to help give the local market some short-term breathing space in key industries. The process of transforming inefficient industries to productive ones is one with which even the U.S. has grappled. For example, just a few years ago, a well-known U.S. motorcycle manufacturer was granted a five-year hiatus from import competition to allow the firm to modernize to meet global competition. Without this carefully managed trade approach, the U.S. would have no remaining domestic manufacturing capability in motorcycles.

Another example: I visited a formerly productive greenhouse operation in the Poznan region where the entrepreneurial owner is closing down his operation for a number of reasons—old technology, rising costs of coal (30% increase in 1990), and changing tax law. He is converting his productive operation to a wholesale outlet for foreign imports! The Danes and other north European agricultural exporters are literally wiping him out of business before he can catch up. He simply can not catch up to the West, as fast as it can overtake him. I really wondered what would be left of Poland in five years if Polish domestic firms are not given the chance to develop. It broke my heart to see agricultural potential—so vital for Poland's future—being wiped out. In fact, what I saw too often was the potential for real wealth development in Poland being stifled while wholesaling, retailing and services were the net result of market opening that disadvantaged Poland and advantaged more developed economies. My question: Is careful thought being given to the positive impact carefully tailored and managed trade laws could have on the Polish privatization process that is evolving?

FOREIGN INVESTMENT

I was not totally surprised, but still disappointed, to hear that foreign investment in Poland now totals 1/10 of that which has occurred in Hungary, even though Poland's population is five times greater. We were told few U.S. businesses have travelled through the Poznan region. In fact, it was estimated overall that perhaps one dozen U.S. investments—joint ventures or otherwise—were currently in the pipeline for all of Poland. I took the time to discuss this situation with many experts and received the following suggestions:

First, I was told the Polish Embassy in the U.S. has no active commercial attache to assist U.S. companies. Commercial activities are being handled through trading companies, in New York and elsewhere, I guess. In fact, I was told some of the holdovers at the Embassy are from previous regimes. This remains a concern to business people.

Second, further, there is no list of potential Polish investments that might be attractive to U.S. firms "shopping around" for Polish partners. Such a list must be assembled to simplify transactions with U.S. businesses. A good source to assemble such information certainly includes all the Western accounting firms now doing business at the Marriott: Paine Webber, Deloitte & Touche, Price Waterhouse, Ernst & Young, Coopers & Lybrand. All have been combing Poland, establishing value of assets, etc. and working with some U.S. businesses. The Polish government needs to access the information these firms are amassing and use it to encourage U.S. joint ventures. Further, it needs to present this information on investment prospects more easily and systematically to interested Western investors. Poland should also develop ways to target its U.S. business outreach outside New York and restructure its commercial operations at the Polish Embassy in Washington, D.C.

On the U.S. side, I also noted there were few commercial officers at the U.S. Warsaw Embassy and, of course, none in Poznan, the most entrepreneurial region of Poland.

BANKING

Because of my long-standing interest in banking, I concentrated on this aspect of Poland's economy during my visit. Let me state my opinions are based on having met with the following institutions: Citibank, Wielkopolskiego Bank Kredytowego (former state bank; perhaps $1 billion assets); Market Bank (Polish Episcopate, small tradesmen and Polish American Enterprise Fund, $2 million assets); Gospodarazy Bank Wielkopolski (emerging bank for cooperatives, no asset estimate); Krakowskie Towarzystwo Bankowe (working with Polish American Enterprise Fund, no asset estimate). All we met agreed the Polish debt forgiveness will help lure Western investment.

At the regional level, I found progress has been made in establishing the basic banking structure that is emerging. But there are also enormous needs—almost overwhelming—for training in all aspects of doing business with the West. As an aside, unless Citibank is willing to become the new national Bank of Poland—and I don't think it should—certain clear distinctions in Polish banking law must be drawn between various banks' purposes early on.

I did not have the opportunity to meet with the Minister of Finance on this issue but I hold several concerns. It did not appear to me that a "Polish banking structure" exists. Clear definition does not exist between financial services that various institutions will provide. Of course, the U.S. has a banking structure that some now criticize as being too segmented. However, I found major efforts being expended in the Poznan region in creating parallel banking structures that might perform similar functions. For example, both the WBK and GB appear to be aiming to serve agricultural needs. Though WBK has the capital and the desire to do so, it didn't appear to me the Bank had any concept of agricultural lending as distinct from other commercial transactions. The GB is attempting to work with the French Agricole banks and had just signed an agreement with the French for technical assistance during the week of our visit. However, French agriculture is so heavily subsidized, and its interest lies in directly selling French processing equipment to the Polish. I am concerned about the implications of this partnership for Poland. Poland's agriculture, if it is to survive, could be competing with the Common Market and adding to its surplus woes. The problem of overproduction in West European agriculture is well known; is it possible Western Europe will blunt Poland's ability to become self-sufficient? At a minimum, Poland should be able to serve its own domestic market.

All banks we talked with seem to be establishing "training academies," including Citibank. WBK has purchased a former palace for its training center and it perceives itself as a potential training center for all of Poland. WBK will be travelling to Evanston, Illinois in May–June to participate in a foreign banking training session at Northwestern University. Market Bank is training lenders inside 56 former state banks in conjunction with the Polish American Enterprise Fund, South Shore Bank in Chicago and Depaul University in Chicago. GB is working with Co-Bank of Denver, Colorado, but seemed relatively unfamiliar with the agricultural banking structures and cooperative systems for agriculture various nations have instituted. In short, there may be duplication here as well as no clarity between various banks' purposes.

Moreover, the basic laws in Poland appear not to operate according to a "commercial code" that is considered "normal" for doing business with the West. I understand there are 20,000 lawyers in Poland, many of whom need to be retrained to conduct business with the West. The American Bar Association is working in Hungary and Czechoslovakia but not in Poland. I wonder why? Legal exchanges need to be increased to teach basic banking law and business law, property law, patent and copyright, insurance, arbitration, commercial code and contracts. Paris, Bonn and London use the same basic commercial contracts. So should Poland.

AGRICULTURE

Our group met with high level faculty at the Poznan Agricultural University. We also visited several farms. It became clear, the Poles need more definition regarding the technical assistance and investment they seek in agriculture. For example, it was suggested by the faculty that potato chip technology was desirable for that region. However, the Ohio State University expert travelling with our delegation informed me that Poland's potatoes are too soft for potato chip processing.

Therefore, I would appreciate from the Embassy—perhaps with cooperation of the U.S. Department of Agriculture specialist I met during our visit—any briefing papers you could provide me which would better define the specific agricultural needs in the region. We discussed with Poznan University a range of possibilities: grain research (rye, wheat, barley (low rainfall conditions)); potato processing, including for animal feed; rape seed production; maize for animal feed; milk processing; sugar beet processing; alfalfa adaptable to mechanization; sweet clover as a potential crop; sileage alternatives; dairy cattle feeding and milk collection system; livestock and meat production; drainage systems for rainfall; greenhouse technologies; and institution of a cooperative extension service.

Any guidance the USDA expert could provide on areas in which we might concentrate our efforts would be appreciated. We will tailor our university efforts and farmer to farmer exchanges accordingly.

Thank you for your attention and your service.

Sincerely,

MARCY KAPTUR,
Member of Congress.

EMBASSY OF THE UNITED
STATES OF AMERICA,
Warsaw, Poland, June 10, 1991.

DEAR MS. KAPTUR: Thank you for your extremely thoughtful and informative letter of April 26.

I greatly appreciated the chance to get your reflections and insights based on your recent visit here. As you have observed, Poland faces a massive and difficult task transforming from a centrally planned to a market economy. The success of Poland's unprecedented experiment is crucial to our policy in Central and Eastern Europe. We are convinced that Poland is on the right path, and we are attempting to do whatever we can to support its bold efforts.

SISTER CITIES RELATIONSHIP

I fully agree that the Sister Cities Program offers an exceptional tool for promoting both friendship and commerce. I have very high hopes for the Toledo-Poznan relationship. We will be calling on you if we need any assistance in helping to make it work. I would also very much like to take you up on your offer to brief members of Congress from communities with Sister City relationships when I am next in Washington. I will try to let you know possible dates for such a meeting well in advance of any future trips.

As you know, some of the relationships are more successful than others. We are working hard to add new linkings, and to revive those that have become inactive. In addition to Poznan-Toledo, the programs that we are aware of at present are: Chicago-Warsaw; Cleveland-Gdansk; Portsmouth, New Hampshire-Gdansk; Rochester-Krakow; Buffalo-Rzeszow; Philadelphia-Torun; Fort Wayne-Plock; State of Maryland-Lodz; Anderson Valley, California-Skierniewice; Grand Rapids-Kielce; Tempe-Lublin; Charlotte-Wroclaw; St. Louis-Szczecin; Brooklyn, N.Y.-Gdynia; Milwaukee-Bialystok; and State of New Hampshire-Gdansk Voivodship.

FOREIGN INVESTMENT

Encouraging the U.S. private sector to invest in Poland is certainly among our highest priorities. Many American companies are understandably cautious given the somewhat unpredictable economic and political situation, but we are doing all in our power to convince them, and we note that a number of important businesses have recently taken the leap:

Coca Cola broke ground in April for the first of eight plants (total investment $50 million) it will construct in Poland.

Levi Strauss has started work in Plock on its $25 million project to renovate a factory to produce jeans.

R.J. Reynolds has initiated work on a new tobacco processing facility. Already 200 Polish employees have been hired.

A joint venture has been signed between the American construction firms Epstein Engineering and Golub, and the National Bank of Poland for a $100 million banking and financial center in Warsaw.

The new American Chamber of Commerce here has already signed up more than 70 members.

The long-awaited new foreign investment bill has been submitted to the Sejm and is expected to be deliberated this month. It will simplify the investment process and remove government permits for most deals. Also, the Business and Economic Treaty, which President Bush and former Prime Minister Mazowiecki signed in March 1990, is still unratified in Poland. We are working on that problem, but Polish ratification may take more time. We hope adoption of the new law and treaty will provide a renewed impetus for foreign investment.

On the subject of business promotion here, you may have read about Vice President Quayle's visit here and the dedication of the American Cultural/Business Center in Warsaw on June 5. The facility will be completed in 6–8 months and will double the available facilities for visiting U.S. businessmen.

In the area of U.S. exports, just this week contracts were signed with AT&T and McDonnell-Douglas. AT&T will provide $100 million in telecommunications equipment and network management systems to the Polish Post, Telephone and Telegraph Corporation. McDonnell-Douglas will supply LOT Polish Airlines with eight MD–80 series medium-range aircraft in a deal estimated to be worth about $350 million.

TRADE POLICY

You also remarked on the apperance of a "glut of imports," especially food and consumer goods, during your visit. Certainly the availability of all kinds of goods—domestic and foreign—has been one of the most visible features of Poland's economic transformation. The government has come under pressure to raise tariffs—which were largely suspended since last year as an anti-inflation and anti-monopoly measure—to protect farmers and domestic industry. The government raised tariffs on some 30 agricultural products in early May after farmers protested against alleged "dumping" of EC agricultural products. An entirely new tariff schedule is planned for introduction later this year which should provide for an average level of tariffs of 10 percent. The May zloty devaluation (14 percent) will also cut into the import surge, but it is clear that many new private import businesses will continue to import as much as they can sell.

While the desire for "transitional" protection of industry is understandable, the success of the reform will require import competition for a number of reasons. Closing off the domestic market would impede Poland's ability to develop a competitive industrial structure, which is the ultimate goal of current efforts.

Helping Polish industry to compete can best be managed by assuring opportunities for Polish producers to sell their goods on the world market. In Poland's association agreement negotiations with the EC, the government has pressed the EC on the need to open its market—and quickly—to Polish products. We have supported the Poles on this issue and will continue to work with them to search for ways to increase Poland's exports both to the U.S. as well as the EC and other markets. In May, an interagency team visited Warsaw, under the President's "Trade Enhancement Initiative" for Central and Eastern Europe, to assess Poland's export prospects and to propose concrete measures for expanding access to our market and the EC.

BANKING

Your reflections on the banking sector were also of great interest to me. Further development and reform of the financial sector is absolutely essential to Poland's transition. The government has begun work, with support from the IMF and World Bank, on a comprehensive overhaul of the banking law which it hopes to complete later this year. As an interim step, the government has already submitted to the Sejm a bill of amendments, which attempt to strengthen oversight of the banking system and to clarify procedures for bank privatization. The Ministry of Finance recently transformed Poland's nine state-owned commercial banks into joint stock companies (the first step towards privatization), and hopes to privatize two banks by the end of this year. At the end of 1990, there were already 63 banks licensed as financial institutions, of which 22 were privately owned. Six licenses have been issued for banks with foreign participation. I cut the ribbon at the opening of the first of these—the American Bank in Poland—several weeks ago; its share-holders include Bankers Trust, Time Warner, Inc., Morrison Knudsen, and the Polish-American Resources Corporation. So, it appears this sector is changing and developing, if not always at the speed that we would wish. We are looking at ways we might assist by placing a U.S. adviser on banking at the Ministry of Finance, and possibly also seconding an adviser to work with one of the state commercial banks that is slated for eventual privatization.

AGRICULTURE

Regarding Agriculture, I am pleased to enclose a copy of our Agricultural Office's most recent Situation and Outlook Report which should give your staff a good basic understanding of the state of Polish agriculture. The Embassy Agricultural Office specializes in providing marketing information to USDA and in assisting U.S. firms seeking to export agricultural products to Poland. It is not in a position to evaluate the specific sectoral needs raised in your letter, except in a very general way. Recently, however, USDA has begun to take an active role in assisting Polish Agriculture. A former Agricultural Research Service (ARS) scientist, Dr. James Smith, has been here since early March evaluating Polish agricultural research facilities and programs, and is expected to report his findings to Washington in late June. He can be reached through USDA's EE-USSR Secretariat (tel. 382-0368). Next week (June 10), ten veteran U.S. county extension agents are scheduled to arrive in Warsaw. In teams of two they will spend six months in each of five district extension offices. One is Leszno, just south of Poznan. Their experience should begin to give us a good notion as to what type of assistance and investment would be most beneficial to Polish agriculture. Certainly, development of the marketing system and modernization of virtually the entire food processing sector, though outside the realm of "production" agriculture, would be of major value.

Thank you again for your valuable comments.

With highest regards.

Sincerely,

THOMAS W. SIMONS, Jr.,
Ambassador.

WHAT THE BILL OF RIGHTS MEANS TO ME

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. CRANE. Mr. Speaker, this year we are celebrating the 200th anniversary of the adoption of the first 10 amendments to our Constitution, commonly known as the Bill of Rights, which define the rights and freedoms that are guaranteed to every American citizen.

In recognition of this important document, the members of the Signal Hill Chapter of the Daughters of the American Revolution in Barrington, IL, chose the Bill of Rights as this year's theme for their annual essay contest on American history. The winner, Laura L. Long, an eighth grade student at Barrington Middle School, wrote a very effective essay on "What the Bill of Rights Means to Me." In her essay, Laura clearly demonstrates her understanding of the important role that the Bill of Rights plays in her everyday life.

I urge my colleagues to read Laura's testament to American freedom.

1991 TOPIC: "WHAT THE BILL OF RIGHTS MEANS TO ME"

(By Laura Lynn Long)

I stared at the dingy prison wall. Detained . . . the word echoed in my mind. Everything was unfamiliar—unreal. I was in prison. I was not told why. I did not know where my family was or when I would be released. The only thing that seemed real was the solid stone wall.

The earlier events seemed incredible . . . unbelievable. I remembered the angry faces of the officers—the destructive search of our hotel room. It was strange; they did not have a warrant for the search. Even stranger was that they did not accuse me of any crime. I was told that I was under "suspicion."

I was frustrated and confused. It was not fair. I was supposed to be protected against these things. I was an American citizen, and my rights were being infringed.

It was then that the horrid thought struck me. The rights that I had been born with and had so taken for granted were gone now. I was completely powerless against the cruel government that now held me prisoner. I was trapped. I was cold and alone, and the icy stillness of the cell walls stared blankly back at me.

This could not be real. It seemed like a plot from a movie; the heroine, a victim of a prejudiced dictative government, struggles to gain the rights and freedoms that all people, regardless of race, age or gender, deserve. I had seen news stories in the paper of the tortured protesters in foreign countries, battling for justice. The problem which had not long ago seemed so distant had become a harsh, terrifying reality for me.

As I stared around at my bleak surroundings, I prayed for my release with the thought of "if only" heavy on my mind. If only I had never come here. If only I were at home safe and warm in my own room. If only I had realized what I had before it was yanked out of my grasp. If only . . .

The cold of the prison cell seemed to seep slowly and steadily through me. Gloomily, I stuffed my hands into my pockets. In the bottom folds of the smooth denim, I found a crumpled and tattered sheet of paper. Upon opening it, I was met with the words "Bill of Rights: Quiz 1" written in bold print. A single tear crept over my face as I saw the "A" written in red below my name, for I knew I had received that grade for memorizing names and dates, not for the realization and understanding of the value of this portion of the Constitution.

I gave my attention to the small checkmark at the bottom of the page. The question next to it read, "What three men refused to sign the original constitution because it lacked a Bill of Rights?"

I smiled wryly as the answer came to me—Edmund Randolph, George Mason, and Eldridge Gerry. I knew that I had not thought of these as people who had contributed to building this young and struggling nation into a strong, more unified state, but as more words to commit to memory.

I studied the long columns of questions, not only remembering the answers, but relating the important events and accomplishments of early America to how I lived. I read the ten amendments that make up the Bill of Rights and wondered why I had not realized how important they were before. If it were not for the Bill of Rights, I would not be permitted to attend the church of my choice, or read any type of political criticism in the newspaper or anywhere else. If there was not a Bill of Rights, I would not be protected against a sudden unwarranted search of my property, and if convicted of a crime, I would be forced to testify against myself under oath. As I sat on the concrete floor in my small prison room, it was hard to believe that I could have taken my liberty so much for granted.

I felt so frustrated that I had just now become aware of how lucky I was to be an American and to enjoy the freedoms guaranteed to me by the Bill of Rights. Angrily, I crumpled the test into a diminutive wad and tossed it heavily to the ground.

Suddenly, the dim-lighted room seemed to shrink, and the stone walls were drawn closer and closer together. The gray that surrounded me became an indistinguishable blur.

I bolted upright. The family room was silent except for the faint ticking of the clock and the monotonous drone of the television. Realizing that my terrifying experience was only a dream, I stretched and yawned. The clock struck two A.M. Almost simultaneously, the television station began sign-off. The network insignia appeared as "The Star-Spangled Banner" played in the background.

While the anthem sounded, I reminded myself that I should not wait until my rights were taken away to recognize how fortunate I am to live in this country. I reached into my pocket and pulled out the test paper. It was only then that I believed I truly understood the meaning of the words of the song.

The anthem neared the end. As "the land of the free, and the home of the brave" resounded throughout the room, it was clear to me. My freedoms were a gift, a birthright, insured in large part by the first ten amendments to the Constitution. I will be brave in spirit and steadfast in resolve: The Bill of Rights . . . as a proud American I will understand it, protect it, and pass it on. Whatever it takes, I will pass it on.

CULTURAL FESTIVAL OF INDIA

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. ZIMMER. Mr. Speaker, the Cultural Festival of India, a cultural celebration of national significance, will take place in my home State this weekend. For decades New Jersey has welcomed wave upon wave of new Americans to our country—first through the famous Ellis Island, and now through Newark International Airport.

And so, as residents of the Garden State, we are proud to host the Cultural Festival of India. The festival will be the largest celebration of Indian heritage ever held in the United States. Nearly 1 million visitors will experience all the wonders of this culture which is relatively new to our shores.

Since 1989, thousands of volunteers and nearly 100 cultural and religious organizations from India and across America have been preparing for this celebration. One of America's newest and most vital immigrant populations will showcase its traditional foods, music, arts, and entertainment for all to experience in the heart of New Jersey.

With every new wave of immigrants on our shores, the United States becomes a richer nation. Mr. Speaker, I personally encourage every descendant of immigrant ancestors to join me in celebrating this addition to our melting pot.

PLAYING BOTH SIDES OF THE FENCE

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. PEASE. Mr. Speaker, has campaign spending gotten completely out of control? Not only are candidates spending more and more money and time on their campaigns, but political action committees [PAC's] are now routinely hedging their bets by contributing to more than one candidate in a single race.

Mr. Speaker, I would like to bring to your attention the following excellent editorial which appeared in Roll Call this week.

I am pleased that Roll Call has pointed out this fundamental oddity in the current system of political giving. Too often, political action committees, in what people outside the beltway must surely see as cynical maneuvering, literally play both sides of the fence in an election by making campaign contributions to opposing candidates in a single race. What is going on here? Are the views and the opinions of individual contributors to PAC's so unimportant that it matters not what candidate a PAC contributes to, just that the PAC has made the contribution and thus bought the access?

Mr. Speaker, I have been and continue to be an active participant in the campaign finance reform debate. In my own bill, H.R. 389, I have included a provision that would make it illegal for PAC's to contribute to more than one candidate in a single election.

Tell me, is there a better place for campaign finance reform to start than with the elimination of this very obvious example of influence-buying?

The text of the editorial follows:

WHEN PAC'S GIVE MONEY TO BOTH CANDIDATES

While we have long opposed efforts to curtail the right of political action committees to contribute to Congressional candidates, we'll admit to being totally exasperated by one PAC practice: giving to both contenders in an election. If you give money to a Republican and a Democrat slugging it out in a close race, it's quite obvious that the main purpose of your donation is not to support a candidate's views. The purpose is to buy influence—or, to put it in a more genteel fashion, as Tom Baker of the Home Builders' PAC did in an interview with Roll Call last week: "We try to make friends up there." Baker's organization, the PAC of the National Association of Home Builders, gave a total of $49,300 to both candidates in eight of the 15 races that were won by challengers last year according to a study by Public Citizen, a consumer advocacy group affiliated with Ralph Nader.

In those eight cases, the Home Builders' PAC gave money to the incumbent during the race and the winning challenger afterward. Even worse, 70 PACs in the 15 races that Public Citizen studied gave to both candidates before Election Day. Talk about covering your bets! If a PAC really believes that both candidates in a race are equally qualified (or equally favorable to its cause), then logic would dictate that it give to neither. Why waste the money?

"Double-giving" illustrates that the noble sentiments expressed by some PAC officials—that they're merely supporting the "kind of people we want to see in Washington"—are often cynical rhetoric. No wonder PAC's have such a lousy reputation. PAC officials say that they're misunderstood; that PAC's enable a lot of little people to participate in the political process; that companies, industries, interest groups, and unions should have a way to express their preferences with money as well as votes; and that the PAC system of reporting provides excellent dislcosure. All absolutely true. But if Congress really does go ahead and ban PACs, these same officials will have to bear part of the blame. Covering your bets by giving to both candidates is a lousy way to do political business.

RADIO FREE CHINA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. PORTER. Mr. Speaker, a free market of ideas and information is essential for the development and sustenance of democracy, whether in the United States or in China. The Chinese people cannot be isolated from an open flow and exchange of information if democracy is to flourish in the country.

In February of this year I introduced H.R. 1156 to establish Radio Free China to broadcast uncensored news to the Chinese people. Representative BENTLEY introduced a similar bill to establish surrogate broadcasting to other countries in Southeast Asia. In May, the House report on the fiscal year 1992 State Department authorization bill recognized the need for surrogate broadcasting to countries in Asia, where many basic freedoms, including access to information, are being denied.

Radio Free China would function more as a local radio station than as an official voice of the United States. Besides local news, the station would provide political discussion, cultural affairs, and reports on democratic movements elsewhere in the world.

I urge Members to cosponsor H.R. 1156, which, by establishing Radio Free China, clearly signals the active commitment of the United States to encourage democratic development in China.

INTRODUCING OF THE COMMUNITY RIGHT TO KNOW MORE ACT OF 1991

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

In 1984, few people had ever heard of methylisocyanate. That is until a Union Carbide plant released tons of the toxic material into the air in Bhopal, India—poisoning tens of thousands of people, many fatally. In the aftermath of this tragedy, I argued that our communities should not be kept in the dark about the toxic chemicals in the air we breath, the water we drink and the playground where our kids play.

I introduced community right to know legislation along with my colleague Bob Edgar. The amendment was straight forward. It required manufacturers to report to EPA on their emissions of toxic chemicals. And it required EPA to compile this information into an annual national survey of chemical emissions and to make the survey available to the public.

Our argument was straightforward too: Americans have a fundamental right to know what poisons are being released into their communities. I thought this was common sense.

My opponents said it was radical. They said it would cost money, cost jobs, and cost U.S. competitiveness. They said it was unworkable, unfair, un-American. They said it would confuse—even harm—communities by giving them meaningless and unnecessary statistics.

We hotly debated right to know. The Reagan-Bush administration fought it. The chemical companies fought it. And even 211 of my own colleagues fought it. In the end, it won by a single vote on this floor.

And my opponents were dead wrong.

The right to know law has proven to be one of the most significant actions taken by Congress on the environment in the 1980's. It ushered in a new era of environmental protection by empowering workers and concerned citizens. It changed environmental protection from simply end-of-the-pipeline pollution controls to a system that simulates pollution prevention and less use of toxic chemicals overall. And it has proven to American companies that they can achieve environmental protection as a profit.

Now there are rare reviews for community right to know. The administration touts it. Wall Street embraces it, and industry reports it is saving millions of dollars because of it.

Just last month, EPA Administrator Bill Reilly said community right to know is fast becoming one of the most powerful tools we have to reduce toxic emissions. In just the second year of reporting, EPA found that chemical companies have reduced their toxic emission by 1.3 billion pounds—or 18 percent. However, EPA also found that America's chemical manufacturers are forcing the Nation to live with over 6 billion pounds of toxic emissions including 400 million pounds of carcinogens. That's more than 25 pounds for every man, woman, and child in America.

While those numbers frighten and anger us, the knowledge has empowered us. They have put pressure on big polluters to do more than just meet minimum pollution control standards. In California's Silicon Valley, 2,000 angry protestors marched on an IBM plant after community right to know data singled out the facility as the State's worst emitter of ozone-destroying CFC's. IBM now plans to eliminate CFC's by 1993. And in my own State of Minnesota, Northfield citizens used community right to know to discover that Sheldahl Corp. was spewing dangerous methylene chloride into the air. Thanks to community action, Sheldahl plans to cut emissions 90 percent by 1993.

Armed with right to know information, EPA is now asking 600 of America's worst polluters to reduce their most dangerous emissions by half. And faced with increasingly public awareness, many companies are reviewing production processes on their own to see where they can cut chemical use and emissions. Many companies are finding to their surprise that it pays to reduce pollution at the source. They can cut costs, curb emissions, and make operations more efficient. They save raw material costs, processing costs, disposal costs, cleanup costs, and liability costs. In short, they can achieve environmental protection at a profit. And gain a competitive edge.

This June 11 Wall Street Journal article proves just that. It reports that a Texas Du Pont plant, which makes plastics and paints and spews out a staggering 110 million pounds of toxics annually, will slash its emissions 75 percent by cutting chemical use and save $1 million a year. Likewise, Dow, Monsanto, Arco, and my own State of Minnesota's 3–M are all finding they can profit by cutting toxic chemcial use and emissions sharply I would like to request this article be inserted in the RECORD following my remarks.

There are very few two-fers in life. But community right to know is proving to be both proenvironment and probusiness.

Knowledge is power. And money. But we need to know more. The General Accounting Office reported last week that critical information gaps remain. Today's community right to know law covers only the tip of the toxic iceberg. It is estimated that some 400 billion pounds of toxic emissions still go unreported each year, or more than 95 percent of all chemical emissions, Yes 95 percent.

How can this be? It is because right to know is limited in three fundamental ways: EPA inaction, reporting loopholes, and lack of information on chemical use as well as chemical emissions.

For example, Federal facilities shoot nearly 5 billion pounds of toxic and radioactive wastes into the environment—without having to report a drop. In some States, such as Maine, Uncle Sam is the single largest polluter.

Emissions of mercury from electric utility plants are estimated to be almost eight times greater than total mercury emissions from all sources now covered. And mercury from municipal incinerators is three times as much as all sources now covered. Yet both electric utilities and incinerators are exempt from public reporting.

The mining industry creates some 134 billion pounds of toxic waste annually, about as much as all other industries combined. Nearly 15 billion pounds are from deadly cyanide generated by gold mining. No public report.

Water treatment plants emit five times more chloroform into the air than the chemical plants that manufacture chloroform. No public report.

Oil and gas wells emit 1,700 times as much barium, 450 times as much arsenic, 97 times as much benzene, 33 times as much toluene, 7.5 times as much chromium, and 3 times as much lead as that of all manufacturing industries combined. No public report.

On and on and on its goes. Food production; airplane maintenance; photograph development; auto repair; construction; dry cleaning. Even the hazardous waste treatment industry. No public report.

Congress gave EPA the authority to extend reporting requriements to include additional facilities. But we are now in the program's fifth year and EPA has declined to identify even one additional polluter.

Congress also gave EPA the authority to identify additional toxic chemicals. But EPA has added only 16 new chemicals—most under pressure from citizen petitions. And the agency has eliminated six chemicals from the list in response to industry requests, and is considering proposals to cut nine more.

To date, many of our most notorious pollutants are not regulated by right to know, including, dioxin, furans, DDT, and CFC's. In fact, the public is still in the dark on over 500 chemicals recognized as toxic by EPA under other environmental laws including: 5 extremely toxic substances and 43 ozone-depleting chemicals listed under the Clean Air Act; 40 Clean Water Act prority pollutants; 16 Safe Drinking Water Act toxics; 200 chemicals identified as known or probable human carcinogens; 69 pesticides requiring special review; and 90 reproductive toxins.

Right to know is also limited by a serious administrative loophole in the existing law. Currently a company does not need to report on emissions that are recycled outside of its facility. And because recycling and waste treatment firms are also exempt, this allows a company to ship millions of pounds of toxic wastes offsite without ever informing the public.

Finally, right to know is limited by lack of information on chemical use as well as emissions. A firm focused only on limiting emissions may solve one problem only to exacerbate another, for example by shifting chemicals out of wastes into the workplace, or into its products. Release data alone cannot tell the whole story about the large amounts of chemicals that pass through our lives and communities each day—as they are handled in the factory, emitted from products in our homes, or spilled on our highways.

In fact, many experts think that the dangers from these sources may be even greater than from chemical releases, for example:

EPA estimates that 288 persons have died and nearly 11,000 injured from chemical transportation accidents—mostly from sulfuric acid, chlorine, ammonia, and hydrochloric acid. But no public report is needed.

Tens of millions of workers are routinely exposed to toxic chemicals in the workplace, with EPA attributing 250 cancers each year in workers exposed to just four chemicals—formaldehyde, tetrachlorethylene, asbestos and methylene chloride. No public report.

And recent EPA studies indicate that for many people, their annual exposure to toxic chemicals from consumer products and buildings materials found in their homes and offices is orders of magnitude higher than from outdoor exposures. These chemicals include formaldehyde, styrene, methylene chloride, and hundreds of others.

From emergency workers and firefighters—to handlers and shippers—to our very own kids, the American public is exposed each day to a vast array of toxic chemicals for which no information is available.

Additional data on actual chemical use will help prevent this toxic shall game. It will do this by encouraging firms to reduce overall use of toxic chemicals—not just their waste streams. Only by focusing on the beginning of the pipeline can firms discover how to adjust production processes, switch to safer chemicals, or change their products to reduce toxic use.

We have passed a good many laws to control the spread of toxic wastes into the environment. Laws that require scrubbers on factory smokestacks. Laws that require catalytic converters on our cars. And laws that require workers to wear respirators. But ultimately the source of all toxics problems is the creation and use of toxic chemicals in the first place.

Some States have awakened to the need for a fundamental shift from pollution control to pollution prevention. In 1989, Illinois, Massachusetts, and Oregon passed the Nation's first toxic use reduction laws. Now, more than a dozen States, including my own State of Minnesota, have enacted laws which promote toxics use reduction, and bills are pending in New Jersey, California, and other states.

Now Congress should take a leadership role. The time for strengthening the law has come. The Community Right to Know More Act of 1991 broadens the existing law in four ways:

It expands public reporting of toxic chemical releases to bring in a new universe of facilities, including Federal facilities, regardless of which SIC code they fall under, as long as they have more than 10 employees and manufacture more than 25,000 pounds of toxic chemicals annually, or otherwise use 10,000 pounds annually.

It expands the list of chemicals that must be reported to included those already found to be hazardous under other environmental laws, such as the Clean Air Act and the Safe Drinking Water Act.

It requires companies to report, for the first time, not only the dangerous chemicals they release, but also what toxics they use and produce. It would also require industries to develop plans to cut their use of toxic materials.

Finally, the bill expands and improves waste reporting requirements under the Resource Conservation and Recovery Act, makes those requirements uniform across the Nation, closes reporting loopholes, and gives the public greater access to right to know information.

In 1985, I argued that the public has a fundamental right to know about the toxic chemicals in the air we breathe, the water we drink, and the playgrounds where our kids play. Some called this idea radical. I called it common sense. Now I say communities have a right to know more. This idea is still sensible. I hope all of my colleagues will join me in this important effort.

CLEAN WATER ACTION, ENVIRONMENTAL ACTION, ENVIRONMENTAL DEFENSE FUND, FRIENDS OF THE EARTH, GREENPEACE, IZAAK WALTON LEAGUE OF AMERICA, LEAGUE OF WOMEN VOTERS, NATIONAL AUDUBON SOCIETY, NATURAL RESOURCES DEFENSE COUNCIL, OMB WATCH, SIERRA CLUB, UNITED METHODIST CHURCH, BOARD OF CHURCH AND SOCIETY, U.S. PUBLIC INTEREST RESEARCH GROUP,

July 11, 1991.

DEAR REPRESENTATIVE: The undersigned organizations urge you to co-sponsor the Community Right to Know More Act of 1991, introduced by Representative Gerry Sikorski.

The Community Right to Know More Act of 1991 would amend the Resource Conservation and Recovery Act (RCRA). It expands public reporting on toxic chemical production, use and releases, requires companies to develop plans and goals for reducing toxic chemical use, and closes loopholes in the current RCRA waste stream reporting.

The 1986 Emergency Planning and Community Right to Know Act (EPCRA or Title III of Superfund) requires industries to publicly report on toxic chemicals released into the environment each year. This reporting, listed in the Toxics Release Inventory (TRI), has provided communities with vital information on chemicals released into their neighborhoods. It has also spurred some industries to reduce their use of toxic chemicals.

Unfortunately, only a limited number of chemicals and facilities are covered by TRI; only an estimated 5 percent of the toxic releases into the environment are reported. In addition, the law fails to provide the public with any information on toxic chemicals produced and used by these same companies.

Representative Sikorski's Community Right to Know More Act of 1991 expands the Toxic Release Inventory to include chemicals already found to be hazardous under other environmental laws. The bill expands the list of covered facilities beyond the manufacturing sector and closes loopholes in the existing reporting system. The Community Right to Know More Act of 1991 also requires industries to develop plans and goals for reducing their toxic chemical use.

Toxics use reduction is an essential element of our effort to significantly reduce the 500 million tons of toxic waste produced in the United States each year. If companies reduce their use of toxic cehmicals, they will also reduce their generation of hazardous wastes. Rather than continually trying to choose between a variety of unsafe hazardous waste disposal technologies, we should encourage industries to reduce the hazardous wastes they generate in the first place.

The Community Right to Know More Act of 1991 will link the data collected on toxic chemical use and releases with the existing RCRA waste stream reporting by requiring waste generators to provide information on the estimated hazardous chemical concentrations in waste streams. It will also improve public access to the RCRA waste stream data.

For all of these reasons we strongly encourage you to co-sponsor and support the Community Right to Know More Act of 1991. Thank you.

Sincerely,

Carolyn Hartmann, U.S. Public Interest Research Group; Deborah A. Sheiman, Natural Resources Defense Council; Lois Epstein Kevin Mills, Environmental Defense Fund; Machant Wentworth, Izaak Walton League of America; Rick Hind, Greenpeace Action; Thom White Wolf Fassett, United Methodist Church, Board of Church and Society.

Melinda Taylor, National Audubon Society; David Gardiner, Sierra Club; Velma Smith, Friends of the Earth; Joe Schwartz, Environmental Action; Kenneth A. Brown; Clean Water Action; Virginia DeSimone, League of Women Voters; Alair MacLean, OMB Watch.

[From the Wall Street Journal, June 11, 1991]

Chemical Firms Find That It Pays To Reduce Pollution at Source—By Altering Processes To Yield Less Waste. They Make Production More Efficient—Down Reuses a Toxic Solvent

(By Scott McMurray)

The chemical industry's record on the environmental has been a sorry one. Despite tougher regulation and pressure from the public interest groups, it still account for nearly half of all the toxic pollution produced in the U.S.

Yet lately, a new force has been driving the industry to clean up its act: economics.

In a major shift, chemical companies are viewing waste not as an unavoidable result of the manufacturing process, but as a measure of its efficiency. The more unusable byproducts a process creates, the less efficient it is—and the more economic incentive there is for making it better.

That's what Du Pont Co. discovered at its Beaumont, Texas, plant, which makes products for plastics and paint. For years, the facility had been spewing out a staggering 110 million pounds of waste annually. Du Pont engineers argued that reducing the pollution would be too expensive.

NOT WASTE AFTER ALL

But when they took a second look last year, they found just the opposite was true. By adjusting the production process to use less of one raw material, they were able to slash the plant's waste by two-thirds. Yields went up and costs went down. The savings: $1 million a year.

"When I heard about it, I just said: 'That's amazing,'" says Edgar Woolard, Du Pont's chairman and chief executive officer. He says the company now even sees waste reduction as a way to achieve a competitive advantage.

Environmentalists heartily support this view. Slashing toxic waste production "is very similar to energy conservation in the 1970s: There is a potential for massive savings," says David Roe, a lawyer with the Environmental Defense Fund.

The entire chemical industry, says Environmental Protection Agency administrator William Reilly, is "getting religion" about the benefits of cutting wastes.

Other industries, from semiconductor makers in Silicon Valley to metal processing companies across the Rust Belt, are also beginning to focus on toxic waste reduction as a way to cut costs, curb pollution and make operations more efficient. But it's the chemical industry that has the most to gain from waste reduction savings simply because it churns out so much.

According to the EPA, in 1989, the last year for which figures are available, the industry produced nearly half of the 5.7 billion pounds of toxins generated nationwide and tracked by the EPA. Chemical company officials say that, since then, the proportion has stayed roughly the same, though the total amount of toxins released in the country is believed to have declined. Some environmentalists have argued, however, that the EPA significantly understates the total amount of toxins discharged into the environment.

A BIGGER PICTURE

Richard Mahoney, Monsanto Co.'s chairman and chief executive officer, estimates that there is $125 million worth of material that currently isn't recovered from the waste that leaves the company's plants. What's more, other costs associated with waste are rising. They include processing, disposal and cleanup, not to mention lawsuits and government fines when those jobs don't get done right.

Dow Chemical Co., for instance, recently spent $30 million building a waste incinerator and dump to handle toxic materials at its plant site in Midland, Mich. And, earlier this year, Monsanto paid the state of Massachusetts $1 million to settle claims that its Everett, Mass., plant didn't report certain waste-water discharges. It paid another $192,000 to a trust fund that supports the cleanup of Boston harbor. Last year, it forked over $27 million to clean other sites. At year end, it had an accrued liability of $120 million on its balance sheet to cover certain future cleanup costs.

Chemical companies, however, might have made substantial cuts in toxic emissions sooner had they recognized some of the potential economic advantages, such as lower materials costs. "One of the differences is that we're now putting some of our best people into this area," says Robert Luft, Du Pont's senior vice president, chemicals.

"When you do that, you can start making some fast progress."

THE LEGACY OF BHOPAL

In the past, chemical companies used to focus merely on complying with federal and state pollution laws for specific chemicals or plants. They didn't pay much attention to the aggregate amount of waste they produced each year, or the future liability it represented. Waste disposal costs were low, and the typical approach to pollution often was the dilution solution: Dilute wastes in massive amounts of air up a smokestack or water out the end of a sewer pipe. More-permanent solutions were unattractive. They almost always involved adding equipment, which meant higher costs, and, thus, intense corporate resistance.

That began to change after the deaths of more than 3,800 people in Bhopal, India, following the release of a cloud of toxic gas at a Union Carbide Corp. subsidiary in 1984. The disaster led to U.S. legislation in 1986 directing the EPA to compile and publicize a survey of toxic emissions, which put pressure on big polluters to do more than just meet minimum government standards.

In the process, companies began to discover economic advantages, as well. Some came from increasing production efficiency, while others came from finding other uses for some of the byproducts. Along the way, companies began to conclude that pollution was a sign of a bad manufacturing system. "When you make a lot of waste you know you don't have control of your operation," says Mr. Woolard, Du Pont's chairman.

Dow Chemical has been applying the same philosophy to its operations. For example, it estimates that, by recycling a toxic solvent used to make its Verdict herbicide, it is now saving about $3 million a year, and halving the amount of solvent going out the door as waste.

At its Plaquemine facility near Baton Rouge, La., Dow spent $15 million on waste reduction projects last year that it says have already saved $18 million in toxic waste disposal and raw material costs. The company promotes these projects internally with the acronym WRAP: Waste Reduction Always Pays.

Monsanto says that its nylon fibers plant in Pensacola, Fla., has cut its toxic air emissions by about 90% since 1987, and saved a few million dollars a year in raw materials expense. The plant is capturing a toxic solvent in a mineral-oil bath before it escapes up a smokestack. It then recycles the solvent back into the production process. The mineral oil isn't wasted either: It is returned to the plant, where it captures more solvent.

CAPTURING A CARCINOGEN

Monsanto says it's Sauget, Ill., plant, across the Mississippi River from company headquarters outside St. Louis, cut its air and water emissions of PDCB, a carcinogenic chemical used in making mothballs, by 90%, or one million pounds. The company cooled the plant's waste vapor and captured the crystallized chemical for reuse before it was emitted. Loading the product directly into tank cars under sealed conditions cut vapor emissions even further.

In some cases, the industry is constructing new plants that incorporate the latest waste reduction technology. A new Du Pont herbicide plant, near Dunkirk, France, is expected to produce 90% less pollution than an existing facility. Among other things, it will distill and recycle solvents.

In other cases, chemical companies are tying together production processes at different plant sites to cut waste and save on raw material costs. Last fall, a Du Pont plant in Mobile, Ala., that makes herbicides and insecticides began tapping into the waste stream leaving the plant, pulling out solvents and titanium byproduct that it used to incinerate. The solvents get recycled into the plant's own operations, while the titanium is treated and shipped to a Du Pont plant in DeLisle, Miss., where it is used to make paint pigments. By integrating production this way, the Mobile plant cut its annual toxic emissions by about 25 million pounds, nearly 20%

GETTING ALONG

Besides cutting costs, these waste reduction programs help companies earn public good will, as well as meet demands from regulators and environmentalists. Arco Chemical Co. is using several waste reduction processes to meet the stiff environmental standards that apply to the expansion of its Channelview, Texas, propylene oxide plant just east of Houston. The Arco Chemical plant, where 17 workers died in an explosion last July, is an area of back-to-back oil and chemical plants that parallels the ship channel leading to the Gulf of Mexico.

"Roll down your car window and the aroma will knock you over," is how George Smith, of the Sierra Club's Houston chapter, describes the area.

The environmental group feared Arco Chemical's plant expansion would fill the air with an excessive amount of benzene, so it threatened to put the plan through a lengthy public hearing process. In response, Arco Chemical agreed to install a distillation process to recover benzene from liquid waste at the plant. The process keeps much of the benzene from reaching the plant's water treatment unit, where it could partially evaporate into the air before decomposing.

As it turns out, the added cost of the distillation process is largely offset by savings from the benzene that's recycled, says John Evans, environmental superintendent for the plant. And when all waste processes are in place, including catalytic converters that break down hydrocarbons before they go up the smokestack, the expanded facility will emit substantially fewer toxic chemicals than the original plant, even though production will have increased 200%, Mr. Evans says.

Environmentalists say the chemical industry still has a long way to go before it gets unqualified praise. But chemical companies contend that both regulators and the public will continue to see a substantial reduction in their output of toxic wastes. Monsanto, Dow and Du Pont all say their emissions have declined by between 30% and 50% in the past four years. They add that the numbers will continue to drop in the years ahead. The EPA is providing additional incentive: Last month, the agency proposed extending the deadline for required pollution controls at plant sites if companies speed up voluntary cuts in their emissions.

Even though some of the short-term costs for the new waste reduction programs have been high—more than $200 million a year at the largest chemical companies—Monsanto's Mr. Mahoney says it is money well spent. "Our initiative and commitments to environmental protection will, over the long term, make us more efficient, more cost effective and more competitive," he predicts.

THE TOXIC TOP 10 U.S. COMPANIES RANKED BY THE AMOUNT OF TOXIC WASTE PRODUCED BY THEIR VARIOUS FACILITIES [1]

Company	Facilities	Toxic waste (in millions of pounds)
Du Pont	85	348.40
Monsanto	33	293.83
American Cyanamid	29	202.09
BP America	18	123.66
Remco Group	2	119.08
3M	51	106.04
Vulcan Materials	2	93.15
General Motors	133	87.87
Eastman Kodak	23	79.48
Phelps Dodge	19	77.42

[1] 1989 figures (latest available).

Source: Environmental Protection Agency.

MFN STATUS IN CHINA'S AND OUR BEST INTEREST

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. WEBER. Mr. Speaker, the debate over extending most-favored-nation status to China isn't a referendum on China's human rights record. No one in this body would try to defend the actions of the Chinese leadership. The question is how we can best influence China, and what actions are ineffective or counterproductive.

The fact is, MFN status serves our interests as well as China's, and it works better as a carrot than as a stick. Our future economic growth is tied to free and open international trade, including the huge developing market of China. In addition, extending—not denying—MFN status is our best chance to influence the Chinese leadership. Promoting trade with China strengthens those parts of society most committed to both economic and political reform.

Disapproving MFN holds little hope of changing China's actions. The aging Chinese leadership is so committed to maintaining control, and the leverage of MFN status is so limited, that our action would have little effect. Just as Saddam Hussein weathered the effects of sanctions while his people suffered, so, too, would the Chinese Government endure the impact of MFN removal as the Chinese people suffer the consequences.

A strong trading relationship, however, can begin to establish a more liberalized economy in China, which in turn will lead to political change. In southern China, the region that is the chief beneficiary of foreign trade, a fledgling entrepreneurial sector has begun to flourish, supporting more moderate political forces as well.

Promoting economic liberalization will inevitably weaken a totalitarian political structure. Through continued trade ties with China, we have the best opportunity to affect its centralized economy and the political machine that depends on it.

We also should not ignore the impact of denying MFN status on our own economy, particularly the agricultural sector. Last year, the United States exported $814 million in agricultural products to China. Minnesota shipped $1.4 million in food products and $1.3 million to Hong Kong. Imposing trade barriers will certainly lead to retaliation against our leading exports to China: Agricultural commodities. China will simply turn to other willing sellers.

In addition, we need to consider the damage this action would have on the outpost of capitalism, Hong Kong, and its effect on our trade and business. Much of our trade with China goes through Hong Kong, and it will suffer greatly if China loses MFN status. In 1990, United States exports to China totaled nearly $5 billion, almost all funneled through Hong Kong. Half of the 252 American regional business headquarters located in Hong Kong are engaged in trading activities with China. U.S. investment of over $6 billion accounts for almost one-quarter of foreign direct investment in Hong Kong. An American Chamber of Commerce survey indicated that 70 percent of member firms in Hong Kong would be adversely affected by withdrawal of MFN status.

No one doubts the need for internal reform within China. Yet, we need to act in a way that is effective and will support our own interests. By disapproving MFN status, we reduce our ability to influence economic and political reform and deprive our country of the benefits of international trade.

JAPANESE BURDENSHARING AND WORLD HUNGER

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. BEREUTER. Mr. Speaker, today this Member, together with 19 other Members, has introduced a concurrent resolution expressing the sense of Congress about a way that the Government of Japan could make a substantial contribution for the benefit of the world's hungry people while also improving its trade balance and trade relations with the United States.

The Japanese Government has grown to be the world's largest foreign-aid donor overall, larger even than the United States. With over 750 million people worldwide still living in debilitating hunger and malnutrition, there is a substantial role that the Japanese Government could play through its aid program to address the specific need for food for hungry people too poor or displaced to provide for their own needs. Up to now, commodities have played a very minor role in Japanese aid. The United States has been addressing this need for many years as the largest food aid donor for international hunger relief and development. Over $40 billion in donations and concessional sales of food have taken place through the U.S. Food for Peace Program since 1954. This historic commitment by the United States will continue, and it now needs to be joined by substantial commitments to hunger from the Japanese Government if there is to be concrete progress toward the achievable goal of eliminating hunger and serious malnutrition in the world by the year 2000.

Through this resolution we are encouraging a cooperative approach between United States agriculture and Japanese financing that can help achieve that goal. We encourage the Japanese to look to the United States as a principal source of supply for food aid donations to private voluntary organizations and the World Food Program. Such purchases could contribute significantly to reducing bilateral trade tensions and the United States trade deficit with Japan, which partly derives from highly unfortunate trade restrictions on agricultural imports into Japan, which should be eliminated speedily.

Food aid, as always, needs to be carefully managed to avoid potential negative effects on commercial sales and on local agricultural production. The resolution includes suggested safeguards against these problems.

Japan's use of its foreign assistance funds for the purchases of United States agricultural commodities and products would improve United States-Japanese trade relation, increase United States agricultural exports, increase farm income, lower the United States trade deficit, and most importantly, help feed millions of hungry people around the world.

Mr. Speaker, this Member encourages all our colleagues to join us as cosponsors of this resolution.

H. CON. RES.—

Whereas 750,000,000 people worldwide, more than three times the population of the United States, suffer from moderate to severe malnutrition and do not consume enough calories to perform sustained manual labor;

Whereas 9,240 people, mostly children under the age of five, die every day from hunger-related causes and others suffer brain damage due to malnutrition;

Whereas medical research documents that full economic productivity by adults and full mental development of young children both require adequate nutrition;

Whereas permanent impairment of body or mind due to chronic or temporary hunger contributes to a cycle of lowered economic productivity in which millions of individuals and families are incapable of generating sufficient income to escape from the cycle of hunger and lack of productivity;

Whereas adequate nutrition and other health measures have resulted in lowering rates of infant mortality below 50 per 1,000 during the twentieth century in countries containing over 50 percent of the world's population, and it is technically feasible to achieve such a reduction worldwide by the year 2000 through elimination of persistent hunger and other health measures;

Whereas sufficient food can be produced on a global basis to adequately feed the population of the world, to prevent brain damage due to malnutrition, and to eliminate lack of economic productivity due to hunger.

Whereas such food supplies must come from production both in the countries which are net exporters of agricultural commodities and products and also from increased food production in food-deficit countries in the developing world;

Whereas development assistance in the form of food can be productively used to alleviate hunger and malnutrition among impoverished people and also as a resource to promote improvements in local agriculture, health, sanitation, education, environmental sustainability and basic infrastructure;

Whereas private voluntary groups, other nongovernmental organizations, and international organizations have experience in the design and successful administration of projects using food assistance for development-related projects and for emergency relief;

Whereas the United States has demonstrated a sustained commitment to making food available for development and relief purposes through the Public Law 480 Food for Peace and other food donation programs, totaling $41,000,000,000 in gross value between 1954 and 1988;

Whereas the policy of the United States has been to encourage cooperation among the bilateral aid programs of various donor governments and international organizations such as the World Food Programme in pursuit of hunger alleviation and related developmental goals;

Whereas the Japanese commitment to double its official development assistance from $25,000,000,000 between 1983 and 1987 to $50,000,000,000 between 1988 and 1992 and to provide a larger proportion of its aid programs as grants will make Japan the largest net bilateral development assistance donor;

Whereas it is in the interest of both the United States and Japan to promote hunger alleviation, sustainable economic growth and political democracies in developing nations;

Whereas Japan has barriers to the importation of certain United States agricultural commodities and products, such as rice;

Whereas there has been a lack of progress on negotiating reduced barriers to many United States commodities which would be highly competitive in an open Japanese market;

Whereas it is also in the interest of both the United States and Japan to reduce bilateral trade tensions between the two nations, particularly in the area of agricultural trade; and

Whereas the United States' agricultural production capabilities and Japan's financial capabilities are complementary factors that must be coordinated for dramatic global progress to be made in reducing preventable deaths from hunger-related causes during the next decade: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President should direct the Secretary of Agriculture, the Secretary of State, and the Administrator of the Agency for International Development to encourage the Government of Japan to use a portion of its increased foreign assistance funds to significantly increase the availability of international food aid supplies through bilateral or multilateral channels to meet the needs of the world's hungry people;

(2) Japanese aid resources could be channeled to finance, directly or indirectly, long-term contracts to purchase and deliver commodities from the United States and developing country agricultural producers as donations to nongovernmental or international organizations for use in hunger alleviation projects with developmental results;

(3) during the duration of any such long-term contractual agreement, such purchases of food and agricultural commodities and products produced in the United States which are purchased by the Government of Japan for donation and delivery to international hunger relief programs should be considered as the equivalent of increased importation into Japan of the same quantities of such product for the purposes of United States Trade Law in cases where this would be of advantage to Japan;

(4) during the time period of any such Japanese purchases from the United States, the value of United States Government purchases of the same commodities for use in food aid programs under Public Law 480 should be maintained at no less than fiscal year 1990 levels; and

(5) the commodities purchased under this program should be donated to organizations equipped to ensure that the food will be available only to projects that meet the following criteria:

(A) The use of the food will either be positive or neutral in its impact on the incomes of local agricultural producers and on incentives for production in the recipient nation.

(B) The food will be targeted for use in improving the nutritional status of impoverished and malnourished people.

(C) To the maximum extent possible, the food will be used in such programs as food-for-work, school feeding, or other programs resulting in improved smallholder agricultural productivity, health, sanitation, environmental sustainability, education or basic infrastructure as well as improved nutrition.

Allowance should also be made for the monetization of up to 25 percent of the food donated for any particular project, subject to the three conditions listed above.

TRIBUTE TO CIVITAN CLUBS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. SMITH of New Jersey. Mr. Speaker, the war on drugs can only be won with the active support of our citizens. While the Federal Government can and must do much in this effort, it will also require the commitment of thousands of local groups and individuals. I would like to take this opportunity to honor an organization which has been working to stop drug abuse in my home district in Trenton, NJ.

The Civitan Clubs of Trenton, Hamilton, and Colonial Valley have been working with the Trenton Police Department as part of "Operation Drug Stop", a program which has had a beneficial effect in fighting drugs in Trenton. This program provides a hotline for the reporting of drug crimes. "Operation Drug Stop" concentrated on involving members of the community to fight back against drug dealers. As Mr. Joseph Czillich, one of the leaders in the Trenton Civitan Club has said, "* * * [we] must have a total commitment of students, parents, and all of society who do not want to be enslaved by the drug lords."

Mr. Speaker, I would like to take this opportunity to insert into the RECORD the following column written by Mr. Czillich. Members may share it with leaders in their own communities and give them insight regarding this type of grassroots antidrug project.

The article follows:

THAT WAR ON DRUGS IS REAL—AND IT'S HERE!

(By A. Joseph Czillich)

Today, many people suffer from the Ostrich Syndrome. If they do not see, hear or feel it, it does not exist. Too many people are apathetic and complacent. Why get involved?

It isn't my problem. We don't have drugs in the schools my children attend. We don't have drugs in our community. My children don't use drugs or alcohol. Why should I care what happens in Trenton or other communities? It is easy to shut your eyes and mind to what is happening around you—or is it?

Our country has not had enemy soldiers walking our streets since the War of 1812. Since that war, we have not had the fear of foreign troops on our soil. We have not had the dread of night-and-day bombing, the yellowish glare of flares dropping from the skies, the scream and wail of falling bombs.

When we were at war over many years, we could still walk the streets. We had sufficient food. We had the luxury of not seeing the wounded and dead strewn in the fields and in the streets. Yes, we were blessed. However, that is now coming to an end.

We are at war. Everywhere you see and hear that phrase—"war on drugs." It is true there is a war—war caused by drugs, and its ally, alcohol. We have had the slogan, "Say 'no' to drugs," popularized by First Lady Nancy Reagan. It is a catchy phrase.

If meant and practiced, it would be the beginning of the end of the drug and alcohol problem. The slogan is on T-shirts, banners, buttons, emblems and badges for all to see. It is so popular that on a recent raid in the city of Trenton on a crack house, three youngsters were wearing sweatshirts emblazoned with the anti-drug slogan.

The war on drugs was not thrust upon the schools and the communities of this nation. It was not a sudden sneak attack as the Japanese attack on Dec. 7, 1941. This insidious war on drugs began many years ago.

In 1969 when Carmen Armenti was mayor of Trenton, Chief Lanahan appointed Lt. Carl Worob and Lt. George "Puggy" Malone as Trenton Police Department members to the Operation Crime Stop Committee sponsored by the Civitan Club of Trenton, an international service club.

This community involvement partnership continues today. Operation Crime Stop was initiated to make the community aware of crime problems, to fight crime in the streets and to curtail the rising use and popularity of narcotics which was the principal cause in the rising crime rate.

The Trenton magazine, published by the Trenton Chamber of Commerce, carried in the August 1970 issue, an article: "Civitan's Crime Stop Is Working." It stated, "The City Council commended the Trenton Civitans in a special resolution. The Superior Officers Association of the Trenton Police Department voiced their appreciation in a resolution: '* * * this program is symbolic of the reciprocal benefits derived from mutual cooperation of law enforcement officers and the general citizenry.'"

The article further noted: "Narcotics arrests as a direct result of Operation Crime Stop. . . 67 with 40 cases under investigation." The alert was sounded that narcotics were a problem.

This very same project, war on drugs, is continued with the same goals and partners. The efforts of the police and the Civitans to alert the public to the dangers of drug and alcohol use and abuse were not heeded in 1969 any more than they were in 1985. Then, as now, the committee concentrated on education and awareness. It stressed community involvement. Speakers, programs, literature, etc. were available in 1969 as they are today.

In 1969, we were told that we were overreacting and we were alarmists. We were told that organizations did not want to hear too much about drugs. This was something that prevailed in depressed areas among the minorities.

Today, we are being asked for more information about drugs and alcohol. Panic has hit the suburbs as well as the inner city. It is now a universal problem which is found in every walk of life, without restriction.

The immediate cry is that we need more police. We need more federal and state money. We need changes in the laws to make them tough on the pushers. We need tough judges who are not afraid to issue tougher sentences.

The battle cry, war on drugs, is now so popular that every candidate for office knows that he or she cannot have any opposition to their staunch stand on fighting drugs. The candidates tell us how bad it is. They talk about the evils of drugs. However, no real solution is offered.

We have hundreds upon hundreds of officeholders, bureaucrats, etc. who are so very gifted with rhetoric and so full of words that they do more harm than good. They very seldom put their money where their mouths are. They talk without saying anything of value.

Millions of dollars allocated to fight drugs are destined to filter through committees, established offices of bureaucrats, high-priced executives and staffs and through the maze of federal, state and municipal governments. By the time it gets to the front where the real war is fought, there isn't any money remaining.

So now that the money so generously appropriated is not available to hire more police, to provide better equipment, to help communications, it falls back on—guess who? The people in the community again face the same problem that the politicians vowed to solve.

So who is going to fight the war against drugs? The ordinary citizen—the same person who pays the bill and who suffers the wounds. The generals, like the politicians, are back at headquarters.

How then do we fight this war? The ordinary student is no match for the street-wise drug-pusher. The people in the communities are no match for the hardened, greedy and sometimes murderous senior pushers. So how do we fight? We certainly cannot take up arms. That is against the law. Besides, the pushers have the best weapons that money can buy.

During World War II, we found that when a country was overrun by a superior enemy, the only way to fight back was to harass the enemy wherever he was located. This guerrilla warfare took its toll of the enemy. Harass our enemy, the pusher, and we will begin his demise. Fight the pusher by helping the police.

Since drugs are a commodity, it is subject to an economic principle of supply and demand. If there is a demand for a product, the supply will be made available; that is what we call business. Take away the demand and the business fails, since there isn't the money to pay the bills or show a profit.

Now we are back to the drawing board. How do we put the pushers out of business? Answer. We reduce and stop the demand. Now that you have stopped laughing—start thinking. How do we reduce and stop the demand?

The answer is known to all of us. It is education, knowledge, awareness and involvement.

Our schools are mandated to have 10 hours of substance abuse education a year. It isn't enough, but it is better than none at all. Our schools are making a valiant effort to do the job in all forms of education, including drug and alcohol use and abuse. However, all education needs help. It needs concerned parents to help carry the load. The schools and churches are not able to do the work that is needed to be effective. They need help. They need your help.

We are in an all-out war. This is a war that will not be won in a short time. If it is to be won at all, it must have a total commitment of students, parents and all of society who do not want to be enslaved by the drug lords.

Involvement does not mean that we take up guns, knives and clubs and go out in the streets. It means that everyone fights the battles with knowledge and being part of the guerrilla force that will harass the pushers wherever they operate.

The future of your children is in your hands. You love them. Protect them by being a caring parent—a concerned parent.

For starters, teach your child about drugs. Don't depend on the schools to do the teaching that you should be doing. There are a great many sources of drug and alcohol information. Call 989-DRUG and we will get this information to you.

Setting an example is vital to the success in fighting drug and alcohol use and abuse. Your child will scoff at you if you tell him or her to avoid drugs and alcohol when you yourself are using and abusing.

In September 1987, the Mayor's Task Force appointed by Mayor's Authur Holland held a series of public hearings to give Trenton residents as opportunity to tell what is happening in their communities. On March 29, results were made public. Less than a hundred "concerned citizens" attended that public meeting.

Those who attended, and those who received second-hand information, did not want to hear why arrests were not made immediately after the police were notified of an incident. Less were interested in the judicial process that is required before the offenders could be brought to court. Most were not pleased with the sentences that were given.

Some of the criticism made of the meeting may have been justified. When people are living with the stench of drug and alcohol problems, they want immediate and positive action—not rhetoric.

The report prepared by the Task Force should be in every home. It should be read and read again. After reading the report and digesting the contents, you will have a better understanding of the problems on the other side of the fence.

Here are some recommendations of the Task Force:

Start a Crime Watch is any neighborhood or housing project that does not have one (drug locations mentioned at the hearings are in areas where there is no Crime Watch).

Form a neighborhood unit of the Council of Civic Associations. There is strength in numbers.

Call the Operation Drug Stop (sponsored by the Civitan clubs of Trenton, Hamilton Township and Colonial Valley) when you have crime and drug information. Be specific—give full names, description, time, place, type of drug, and anything else you feel will help the police.

Get speakers, pamphlets and other aids for meetings of organizations or any group of concerned citizens, from the high school, Civitan clubs, the Mercer County Council on Alcoholism or any of the treatment agencies.

Help the high school, churches, organizations and the Drug Task Force provide more wholesome recreation in Trenton for all ages.

Seek help for drug abusers and drug addicts through the Mercer County Council on Alcoholism, the Mercer County Division of Alcohol and Drug Abuse or through the treatment agencies.

What has happened is only the start. More will be done with more involvement of concerned citizens. At this time, if you see any crime or drug activity, call Operation Drug Stop, (609) 989-DRUG or (609) 989-3974. This covers Trenton and surrounding areas. The Drug Summit report can be received by calling (609) 989-6703 or (609) 989-3030.

RULE CHANGE BRINGS VICTORY TO MARIETTA TENNIS TEAM

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. DARDEN. Mr. Speaker, once again Marietta, GA has emerged victorious over Cheraw, SC, in the annual Chinaberry Cup tennis tournament. This prestigious competition held on April 20, at Litchfield Racquet Club, near Pawley's Island, SC, is now in its 12th year. Under the rules of the tournament, each side fields 5 teams to compete at various levels. In past years, the winner has been determined by simply adding the number of winning matches by each team.

This year, however, Marietta's coach, A.D. Little, negotiated a key rules change with Cheraw's coach Malloy Evans. Under their agreement, the overall winner would be determined solely by the outcome of the match between the best team from each city.

That decision by Cheraw cost them the championshp. While Cheraw won a majority of the lesser matches, Marietta's No. 1 team of Jon Burk and Dan Norris humiliated Cheraw's No. 1 team of Frank Andrews and Frank Exum and therefor won the tournament.

The Marietta team deserves to be recognized for their great effort and success at retaining their championship title. They are as follows:

A.D. Little, coach; Dr. Dan Norris; Ron King; Dr. Clem Doxey; Wallace M. Montgomery, Jr.; Jon R. Burke; Ronald H. Francis; Paul (Matty) T. McCabe; Donald R. Shamblin; John Elliott; and Buddy Darden.

To our friends from Cheraw: Best wishes in your training for next year.

The following departed with the losing team from Cheraw:

Malloy Evans, coach; Glenn (Bud) Anderson; Fred Craft; M.B. Godbold; Ted Thompson; Frank Andrews; Dr. Teddy Coggeshall; Dr. Walter Crosby; Jackie Furr; and Frank Exum.

ON THE NOMINATION OF CLARENCE THOMAS TO THE SUPREME COURT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. Speaker, President Bush in nominating Clarence Thomas for the Supreme Court grossly distorted the fact when he proclaimed Mr. Thomas the most qualified person for the position. But what's new about Mr. Bush taking excessive liberty with political speech?

And Mr. Speaker, Judge Clarence Thomas' track record in citing history and historical events is not much better. In 1987 Mr. Thomas wrote to the San Diego Union newspaper attacking Justice Thurgood Marshall for stating that blacks should not celebrate the bicentennial of the Constitution nor should they revere the Founding Fathers because they sanctioned slavery.

Mr. Thomas, the nominee for the highest judicial post in our Nation and the one being vacated by Mr. Marshall, sternly attacked the Supreme Court Justice. He wrote that Mr. Marshall's criticism was insulting and flawed by concentrating on the issue of slavery, an anomaly. Then Mr. Thomas decided to become an interpreter of black history by stating that "Justice Marshall's understanding of blacks and the Constitution stands in stark contrast to that of notable Americans from Frederick Douglass and Abraham Lincoln to Martin Luther King."

Mr. Speaker, let me state that Mr. Thomas is no more capable of interpreting history than he is of interpreting the Constitution, especially the Bill of Rights. It is apparent that Mr. Thomas needs to revisit the "nuns" for a refresher course if he thinks Frederick Douglass and Martin Luther King would disagree with Justice Marshall's feelings about celebrating the bicentennial. I will cite for Mr. Thomas' edification precisely what Frederick Douglass had to say about the Founding Fathers and slavery. I hope Mr. Thomas and those who are promoting his nomination will read carefully the following speech delivered by Mr. Douglass on the Fourth of July 1852 to an audience in Rochester, NY. The emphases are mine for the purpose of alerting Mr. Thomas to must reading.

FREDERICK DOUGLASS' FOURTH OF JULY SPEECH 1852

Fellow Citizens: Pardon me, and allow me to ask, why am I called upon to speak here today? WHAT HAVE I OR THOSE I REPRESENT TO DO WITH YOUR NATIONAL INDEPENDENCE? Are the great principles of political freedom and of natural justice, embodied in that Declaration of Independence, extended to us? And am I, therefore, called upon to bring our humble offering to the national altar, and to confess the benefits resulting from your independence to us?

Would to God, both for yours sakes and ours, that an affirmative answer could be truthfully returned to these questions. Then would my task be light, and my burden easy and delightful. For who is there so cold that a nation's sympathy could not warn him? Who so obdurate and dead to the claims of gratitude, that would not thankfully acknowledge such priceless benefits? Who so stolid and selfish that would not give voice to swell the halleluiahs of a nation's jubilee, when the claims of servitude had been torn from his limbs? I am not that man * * *

I am not included within the pale of this glorious anniversary! Your high independence only reveals the immeasurable distance beween us. The blessings in which you this day rejoice are not enjoyed in common. The rich inheritance of justice, liberty, prosperity, and independence bequeathed by your fathers is shared by you, not by me. The sunlight that brought life and healing to you has brought stripes and death to me. THIS FOURTH OF JULY IS YOURS, NOT MINE. YOU MAY REJOICE, I MUST MOURN. To drag a man in fetters into the grand illuminated temple of liberty, and call upon him to join you in joyous anthems, were inhuman mockery and sacrilegious irony. Do you mean, citizens, to mock me, by asking me to speak today? * * *

> Fellow citizens, about your national tumultuous joy, I hear the mournful wail of millions, whose chains, heavy and grievous yesterday, are today rendered more intolerable by the jubilant shouts that reach them. If I do forget, if I do not remember those bleeding children of sorrow this day, "may my right hand forget her cunning, and may my tongue cleave to the roof of my mouth!" To forget them, to pass lightly over their wrongs, and to chime in with the popular theme, would be TREASON MOST SCANDALOUS AND SHOCKING, and would make me a reproach before God and the world. My subject, then, fellow citizens, is "American slavery." I shall see this day and its popular characteristics from the slave's point of view. Standing here, identified with the American bondman, making his wrongs mine, I do not hesitate to declare, with all my soul, that the character and conduct of this nation never looked blacker to me than on this Fourth of July. Whether we turn to the declarations of the past, or to the professions of the present, the conduct of the nation seems equally hideous and revolting. AMERICA IS FALSE TO THE PAST, FALSE TO THE PRESENT, AND SOLEMNLY BINDS herself to be false to the future. Standing with God and the crushed and bleeding slave on this occasion, I will, in the name of humanity, which is outraged, in the name of liberty, which is fettered, in the name of the Constitution and the Bible, which are disregarded and trampled upon, dare to call in question and to denounce, with all the emphasis I can command, everything that serves to perpetuate slavery the great sin and shame of America! "I will not equivocate; I will not excuse"; I will use the severest language I can command, and yet not one word shall escape me that any man, whose judgement is not blinded by prejudice, or who is not at heart a slave-holder, shall not confess to be right and just * * *
>
> * * * What to the American slave is your Fourth of July? I answer, a day that reveals to him more than all other days of the year, the gross injustice and cruelty to which he is the constant victim. To him your celebration is a sham; your boasted liberty an unholy license; your national greatness, swelling vanity; your sounds of rejoicing are empty and heartless; your denunciation tyrants, brass-fronted impudence; your shouts of liberty and equality, hollow mockery; your prayers and hymns, your sermons and thanksgiving, with all your religious parade and solemnity, are to him mere bombast, fraud, deception, impiety, and hyprocrisy—a thin veil to cover up crimes which would disgrace a nation of savages. There is not a nation of the earth guilty of practices more shocking and bloody than are the people of these United States at this very hour * * * lay your facts by the side of the every-day practices of this nation, and you will say with me that, for revolting barbarity and shameless hyprocrisy, America reigns without a rival.

Mr. Speaker, I dare Mr. Bush and Mr. Thomas to read what Frederick Douglass thought of the Founding Fathers and slavery. It might lift the blinders from their eyes.

IN RECOGNITION OF THE FLORIDA-ISRAEL INSTITUTE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to recognize the Florida-Israel Institute, an international linkage organization established by the Florida legislature and jointly administered by Broward Community College and Florida Atlantic University. The institute represents the State university system and the division of community colleges. Its goal is to enhance cultural, educational, research, and economic exchanges between Israel and Florida. The Florida-Israel Institute contributes to the community in many ways; however, one of its most valuable programs in MEDAX.

MEDAX is essentially a medical exhibition that allows any country in Europe and any State to exhibit and demonstrate new techniques, and showcase improved technology and equipment. MEDAX, which is held every 2 years, is based in Jerusalem and has an important function that makes this exhibition extremely valuable to all those involved. This program offers the Israeli market an opportunity to see new products from Europe. In effect, MEDAX services as a bridge between the technology of the United States and Europe. This sharing of knowledge obviously benefits both the United States and the countries of Europe, as it offers them a chance to discuss techniques, and export their new technology.

MEDAX is also greatly beneficial to the Florida economy, as it specifically allows Florida to penetrate the Israeli market. Previous MEDAX conventions have shown their worth by creating numerous partnerships between American and Israeli companies. At the "MEDAX of 1989," many companies showed their willingness to participate in the exhibition as over 20,000 people attended from 30 countries to view the various American and European exhibits.

Another important program the Florida-Israel Institute is conducting is a Student Tuition Exemption Program. This program grants Israeli students, whether they are undergraduate or graduate students, tuition exemptions. Students are eligible as long as they receive favorable recommendations from their teachers, and they have relatively high academic merit. During the 1990–91 school year, this program enabled eight community college and eight university students to pay their resident Florida tuition fees. This exemption program is indeed a helpful service to Israeli students in need.

I wish to recognize and thank Dr. Benjamin Popper, Dr. Efraim Ben-Zadok, Amber Zentis, Daniel Cantor, Dr. Lance deHaven-Smith, Susan Gilbert, Morton A Goldberg, Dr. William Greene, Dr. Willis Holocombe, the Honorable Moshe Liba, the Honorable Norman Ostrau, Dr. Henry Pevsner, Joel Reinstein, David Rush, Adina P. Simmons, Tom Slattery, Bruce Starling, and Herb Swarzman for their tremendous work on the Florida-Israel Institute.

Mr. Speaker, I would like to reemphasize that the Florida-Israel Institute, acting as a bridge between societies and is an establishment that has proven its worth through its actions. May they have continued success and happiness in the years ahead.

NATIONAL MUSHROOM MONTH

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1991

Mr. SCHULZE. Mr. Speaker, I rise today to introduce a resolution designating September 1991 as "National Mushroom Month."

Last year, the United States produced over 720 million pounds of high quality, delicious mushrooms. This important food is a valuable and tasty part of the human diet, containing only 14 calories per serving and 99 percent fat free.

My congressional district produces 25 percent of the Nation's mushrooms and is the second largest industry generating over $230 million per year. Mushroom production also benefits the environment by efficiently recycling tons of agricultural products.

As more and more Americans are becoming health conscious, the mushroom's versatility can play a larger role in our diet. You can slice'em, dice'em, stuff'em, saute'em, and serve'em with any meal. I urge my colleagues to eat mushrooms with every meal and cosponsor National Mushroom Month.

HOUSE OF REPRESENTATIVES—*Monday, July 15, 1991*

The House met at 12 noon and was called to order by the Speaker pro tempore (Mr. BONIOR).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 15, 1991.

I hereby designate the Honorable DAVID E. BONIOR to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for the warmth and support we can experience when we know the love of those near and dear to us. For families and friends and for all those for whom we care, we express our joy and our appreciation. And just as we think of ourselves, we remember others who are separated from those they love. We specially recall in this our prayer the hostages and their families as we think about the anxiety and separation they face each day. May Your blessing that is with us in all the moments of life surround them and keep them this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida [Mr. HUTTO] please come forward and lead the House in the Pledge of Allegiance.

Mr. HUTTO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. McCathran, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

APPOINTMENT AS MEMBER OF NATIONAL COUNCIL ON EDUCATION STANDARDS AND TESTING

The SPEAKER pro tempore. Pursuant to the provisions of section 406(a) of Public Law 102-62, the Chair announces the Speaker's appointment of Ms. Eva L. Baker of Sherman Oaks, CA, to the National Council of Education Standards and Testing on the part of the House.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 11, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:00 p.m. on Thursday, July 11, 1991 and said to contain a message from the President, whereby he transmits the First and Second Reports on Employee Sanctions.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

IMPLEMENTATION AND IMPACT OF EMPLOYER SANCTIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Judiciary and the Committee on Education and Labor:

(For message see proceedings of the Senate of Thursday, July 11, 1991, at page 18085.)

THE PSYCHOLOGY OF RECYCLING

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, from its inception, my office, both here in Washington and back home in Kentucky, has cooperated with the recycling program in which we in the office separate our newspapers and aluminum and plastic bottles and glass bottles. I am proud to say that my community, my district in Louisville, Jefferson County, has instituted and is implementing a voluntary program of recycling at the curbside in which we place our material for recycling out front and it is separated and collected.

I am also pleased to note that while we will, as a community, move toward a garbage-to-steam program for getting rid of our garbage, that program is not incompatible with curbside recycling.

In the last analysis, Mr. Speaker, the success in recycling is a matter of psychology. To the extent that we can psychologically reach the point of guilt, if one wants to call it that, at throwing material away which can be recycled, then I think we will have a successful program. I have already noted in my own situation and that of my family that there is a little bit of guilt now if we tend to throw something away that we could save.

So I think, Mr. Speaker, we are on the verge of a nationwide program that will save our planet much of the degradation which it has experienced in the recent past.

PEOPLE OF BURMA SUFFER TYRANNICAL GOVERNMENT

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the people of Burma continue to languish under one of the world's worst tyrannies. They are murdering their people. They are hunting down their opposition. They torture innocent citizens who do nothing more than speak up, as is every citizen's right to do, in complaining about government policies.

This military dictatorship in Burma is selling off the resources of the Na-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

tion, robbing future generations of Burmese their rightful legacy, the gems, the oil, and most importantly, the beautiful rain forests of Burma are being destroyed and being sold off to foreign exploiters for a quick profit for this gangster regime in Rangoon.

This is indeed the quintessential gangster regime of the world. We as the people of the United States, as freedom-loving Americans, should be unmistakably on the side of democracy and reform in Burma and against this horrible oppressive tyranny.

We should make sure that the United States stands for economic, political, and military isolation of this gangster regime. The regime in Burma should be made the pariah among all free nations and decent people. We should, instead of cooperating with the Burmese regime on areas like drug interdiction and drug enforcement, we should instead be seeking to install and to support the democratic reformers in Burma who will be on the side of decent people because we can trust that they will indeed be trying to stamp out the drug menace that flows from the triangle in the northern part of Burma.

Today, Mr. Speaker, let us not forget those people who languish under tyranny in Burma. Let us always be on the side of democratic reform and let the people of Burma know that they are not alone and they are not forgotten.

PHILIPPINE MILITARY BASES

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the Pentagon is closing domestic military bases and reducing its active and civilian work force. Within this context, it's becoming difficult to justify sinking billions of dollars into a blackhole that could literally go up in smoke and ash at anytime. The eruptions of Mount Pinatubo have clouded the already uncertain issue of our military bases in the Philippines since previous negotiations with the Filipino Government, which asked for unreasonably high payments to renew the leases for Clark Air Base and Subic Bay Naval Base, failed to reach a settlement. Now, with the volcanic damage so extensive, I believe it's time for the United States to begin contemplating other options. There's no doubt about the strategic power projection value of the Philippines. But in these times of scarce resources, we have to ask ourselves if it's in our best interest to keep the bases open or move them elsewhere. The attitude of the Filipino Government and the cost to repair our bases could mean that we need another location as a place to project American security interests and influence in that region of the world. Clearly, now is the time to consider other possibilities.

☐ 1210

INTRODUCTION OF LEGISLATION ESTABLISHING COLORADO METROPOLITAN WILDLIFE REFUGE

(Mr. ALLARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLARD. Mr. Speaker, today I have introduced an important piece of legislation for the State of Colorado and for the Federal Government.

Today I have introduced legislation which will establish the Colorado Metropolitan National Wildlife Refuge. This legislation proposes to create a National Wildlife Refuge at the site of the Rocky Mountain Arsenal.

As many of my colleagues may know, this is a Superfund cleanup site. Due to years of toxic waste and chemical waste disposal at the arsenal, small portions of this site are considered to be among the most polluted spots on earth. Yet, on most of this 27 square mile site there is a thriving, unique wildlife system. More than 130 different species of wildlife are found here, including the winter nesting grounds for several pairs of bald eagles.

What I and many other members of the Colorado delegation propose is to make the very best of a bad situation. We propose to mitigate the environmental damage done these many years at the Rocky Mountain Arsenal by protecting and showcasing the ample wildlife that exists at the site.

The Rocky Mountain Arsenal can become symbolic of how we can proactively offset the negativism associated with a Superfund site. The Rocky Mountain Arsenal can become the largest and perhaps only urban wildlife refuge.

The legislation Congress is considering proposes to convert some 16,500 acres of the existing arsenal, 95 percent, and converting its use to a wildlife refuge; allowing for habitat for eagles, burrowing owls, prairie dogs, coyotes, migratory water fowl, and many other species of fish and wildlife.

We have the chance to do something special for an area that has, and will, suffer from the stigma associated with our former ignorance of proper chemical disposal techniques. Together we have the chance to change the negative image and create a "pearl on the prairie."

By establishing a wildlife refuge next to a metropolitan area we will create an educational emphasis both on wildlife and our environment. It will become, as it already has, a prime educational and research tool for us to teach visitors about the natural habitat on the Great Plains and its ecological evolution.

We will also be able to teach something else. Unfortunately, but perhaps most importantly, we will also be able to teach the consequences of man's ability to negatively impact the environment. The evidence of the contamination and subsequent cleanup will never be erased and will serve as a reminder to all who visit this wildlife refuge of what once was and can be again if we do not use our knowledge and foresight.

There are many people who deserve credit for this proposal. All more so than me, who was simply fortunate to be the vehicle by which this proposal is delivered for your consideration. I cannot begin to thank all those who helped in making this legislation possible. But in advance of the first hearing on this proposal I would especially like to thank the other members of the Colorado delegation who are helping further this proposal. The commitment and cooperation of Congresswoman SCHROEDER and Congressmen HEFLEY, SCHAEFER, and CAMPBELL is deeply appreciated.

I am also happy to report that the same bill is being introduced in the Senate, and will be jointly sponsored by Senators BROWN and WIRTH.

In summary, I am extremely excited about this particular piece of legislation. It has strong local support. It has the support of the Colorado delegation, it has the support of many citizens of the State of Colorado.

I hope and believe that it will earn the support of Congress as well.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 16, 1991.

OSCAR GARCIA RIVERA POST OFFICE BUILDING

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2014) to designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building."

The Clerk read as follows:

H.R. 2014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF UNITED STATES POST OFFICE BUILDING LOCATED AT 153 EAST 110TH STREET, NEW YORK, NEW YORK.

The United States Post Office Building located at 153 East 110th Street, New York, New York, is designated as the "Oscar Garcia Rivera Post Office Building". Any reference to such building in any law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Oscar Garcia Rivera Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2014 will designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building."

There are a few of us here today who might remember the unexpected difficulties we experienced in the 100th Congress after we passed a similar bill, which was introduced by former Congressman Garcia. This bill was derailed by an unrelated amendment in the other body. I want to thank my colleague from New York [Mr. SERRANO] for pursuing this very worthwhile matter.

Oscar Garcia Rivera carved a place in history as the first Puerto Rican elected to public office in the continental United States. As a representative in the New York State Legislature from Harlem, NY, Mr. Rivera quickly gained the reputation as a Latino civil rights activist, and was instrumental in the passage of the New York antidiscrimination legislation which prohibited discrimination on the basis of national origin, race, or creed, against persons who applied for State jobs.

It seems quite appropriate to honor Mr. Rivera by naming a post office after him in the district where he first started as a labor organizer with the U.S. postal clerks union. He will be remembered for having spent a successful career fighting for and protecting the rights of the underprivileged and minorities in the State of New York.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 2014 to designate a postal facility in New York, NY, as the Oscar Garcia Rivera Post Office Building. I am pleased that my good friend, a member of the New York delegation, the gentleman from New York [Mr. SERRANO], has introduced this measure to pay tribute to Oscar Garcia Rivera, a dedicated public servant.

Mr. Rivera was elected to the New York State Assembly in 1937 and became the first Puerto Rican elected in the United States.

Mr. Rivera was also a successful union organizer and practiced law in New York until 1967. Oscar Garcia Rivera was an outstanding individual who championed many issues long before they were politically popular and, I might add, in the early 1930's was an active organizer for the Postal Clerks Union.

I urge my colleagues to support this designation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Speaker, I rise today to urge my colleagues' support of H.R. 2014, a bill that would designate the U.S. Post Office Building located at 153 East 110th Street, New York, NY, as the "Oscar Garcia Rivera Post Office Building."

Mr. Oscar Garcia Rivera, Esquire, was elected assemblyman in the State of New York by the 14th District, at that time Harlem, on March 7, 1937.

Born in Mayaguez, PR, November 6, 1900, Oscar Garcia Rivera was raised on a coffee plantation. After graduation from high school, Garcia came to the mainland and began working part time in a factory in Brooklyn, while he continued to take courses to reach his goal of becoming a lawyer. He applied for a job at the U.S. Postal Service, obtained high recommendations, and was assigned to the post office in city hall. He quickly became very involved in union issues, and later encouraged the establishment of the Association of Puerto Rican and Hispanic Employees within the U.S. Postal Service.

Garcia Rivera attended law school at St. John's University, and he graduated in 1930. Dedicated and committed to the struggles of pioneer Puerto Ricans and Hispanics in East Harlem, he announced publicly in 1937 that he would seek a seat in the New York State Assembly.

In March of the same year, he made history by becoming the first Puerto Rican elected to public office in the continental United States. He won reelection the following year and continued in this post until 1940.

During the short time that he served in the assembly, Oscar Garcia Rivera initiated legislation that offered valuable and lasting contributions to his Puerto Rican community, the labor movement, and to the working class. He introduced a bill guaranteeing safeguards against unemployment; this revolutionary piece of legislation was enacted into law in February of 1939. Garcia Rivera defended minimum wage laws, fought for regulated hours of labor, worked to establish tariff agreements, and most importantly, he was committeed to protecting the rights of manual laborers and encouraged workers to organize themselves into active unions. He also supported the campaign which established a law which punished lynching throughout the United States.

The anniversary of Oscar Garcia Rivera's election as the first Puerto Rican who attained a public office marks a proud moment in our history. Despite his brief career as assemblyman, Oscar Garcia Rivera became a great leader in his community, creating a role model for young people, and establishing hope for his people that they could achieve their dreams in the United States. His actions transformed the Puerto Rican community, and improved working conditions in the State of New York.

Mr. Speaker, I believe the passage of this bill and the dedication of this building to this great leader would serve as an inspiration to the future generations of Puerto Rican and Hispanic leaders in New York, and throughout the United States. Please join me in strong support of H.R. 2014.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 2014.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CARL O. HYDE GENERAL MAIL FACILITY

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2347) to redesignate the Midland General Mail Facility in Midland, TX, as the "Carl O. Hyde General Mail Facility," as amended.

The Clerk read as follows:

H.R. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION OF MAIL FACILITY.

(a) IN GENERAL.—The Midland General Mail Facility, located at 10000 Sloan Field Boulevard, in Midland, Texas, is redesignated as the "Carl O. Hyde General Mail Facility".

(b) REFERENCES.—Any reference in a law, rule, map, document, record, or other paper of the United States to the Midland General Mail Facility in Midland, Texas, is deemed to be a reference to the "Carl O. Hyde General Mail Facility".

SEC. 2. AMENDMENT TO TITLE 5, UNITED STATES CODE.

Section 5307 of title 5, United States Code, is amended—

(1) by redesignating subsection (a) as subsection (a)(1);

(2) in subsection (a)(1) (as so redesignated) by striking "cause to the" and inserting "cause the";

(3) by inserting after subsection (a)(1) (as so redesignated) the following:

"(2) This section shall not apply to any payment under—

"(A) subchapter III or VII of chapter 55 or section 5596;

"(B) chapter 57 (other than section 5753, 5754, or 5755); or

"(C) chapter 59 (other than section 5925, 5928, 5941(a)(2), or 5948)."; and

(4) in subsection (b) by striking paragraph (3).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I ask for your support for H.R. 2347, a bill to redesignate the Midland General Mail Facility in Midland, TX, in honor of a distinguished 46-year employee of the U.S. Postal Service, Carl O. Hyde.

Many of you might remember back to the 101st Congress when this House passed a similar bill, introduced by our colleague from Texas [Mr. SMITH]. The Senate added some unrelated amendments to the House-passed version and that bill was not enacted.

During Mr. Hyde's service with the Postal Service he oversaw the construction and maintenance requirements for 63 postal facilities. One of his last projects in his 46-year tenure with the U.S. Postal Service was to oversee the construction of the new Midland General Mail Facility, the postal facility the Midland community would now like to bear his name.

Section 2 of the bill amends section 5307 of title 5, United States Code, which was enacted last year as part of the Federal Employees Pay Comparability Act of 1990. This amendment, suggested by the Office of Personnel Management, merely clarifies the types of payments that are subject to the aggregate limitation on compensation payable to a Federal employee during any calendar year. As a general rule, reimbursements for necessary expenses are not subject to the aggregate limitation.

□ 1220

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 2347 to designate a postal facility in Midland, TX, as the Carl O. Hyde General Mail Facility.

This legislation was introduced by the gentleman from Texas, Mr. LAMAR SMITH, and will designate the General Mail Facility in Midland, TX, for a dedicated and respected former postal employee, Carl O. Hyde.

Carl Hyde served as an employee of the Postal Service for 46 years. I am informed that this change is supported by the Midland City Council, the chamber of commerce, and many of Mr. Hyde's friends and coworkers in Midland, TX.

As a senior postal operations specialist, he oversaw the construction and maintenance requirements for 63 west Texas post offices. One of the last projects that he worked on is the one we are renaming here today. I believe it is a fitting tribute to Carl O. Hyde for his years of service.

The second part of this bill is the amendment which includes technical changes to the Federal Employee Pay Comparability Act of 1990 and is supported by the Office of Personnel Management. The amendment is necessary as a number of agencies in the executive branch have interpreted the pay cap of executive level 1 as applying to nonemployee pay items such as expenses, allowances, travel, and other necessary reimbursement items. This amendment merely indicates congressional intent that these items should not be considered when determining whether an employee's salary exceeds the applicable pay cap.

I urge the adoption of H.R. 2347.

Mr. MCCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 2347, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to redesignate the Midland General Mail Facility in Midland, TX, as the 'Carl O. Hyde General Mail Facility,' and for other purposes."

A motion to reconsider was laid on the table.

JOHN RICHARD HAYDEL POST OFFICE

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 998) to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, LA, as the John Richard Haydel Post Office, as amended.

The Clerk read as follows:

H.R. 998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service (as determined by the Postmaster General) shall be known and designated as the "John Richard Haydel Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the John Richard Haydel Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from Louisiana [Mr. HOLLOWAY], for bringing this matter to our attention.

Mr. Haydel began his service with the U.S. Postal Service in 1934, at the age of 18, and 6 short years later worked his way up to become the postmaster of the Vacherie postal facility in Vacherie, LA.

During his 47 years with the Postal Service, Mr. Haydel was credited with the renovation and building of three post offices and was presented the superior accomplishment award for his contribution to outstanding economy, efficiency, and improved service in the Postal Service.

I think my colleagues would agree that after 47 years of dedicated service to the Postal Service, a fitting tribute to a valued employee would be for the new post office in the community, where Mr. Haydel spent so many dedicated years, to bear his name.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 998, to redesignate a postal facility in Vacherie, LA, as the John Richard Haydel Post Office.

This legislation was introduced by the gentleman from Louisiana [Mr. HOLLOWAY]. H.R. 998 would designate a post office in Vacherie, LA, as the John Richard Haydel Post Office.

Mr. Haydel began employment with the Postal Service at the age of 18. In 1961 Mr. Haydel was selected to serve as a postmaster counselor for the Dallas region, which included Texas and Louisiana. In 1967 Mr. Haydel received the superior accomplishment award in recognition for notable performance contributing to outstanding economy, efficiency, and improved services.

Mr. Haydel also served his country in the Navy during World War II. He was honored with many awards during his services including the American Campaign Medal.

Mr. Haydel retired from the Postal Service in 1981 following 47 years of service. I urge the adoption of this legislation as a tribute to John Richard Haydel, his family, and the citizens of Vacherie, LA.

Mr. MCCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 998, as amended.

The question was taken, and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the building in Vacherie, LA, which houses the primary operations of the United States Postal Service as the 'John Richard Haydel Post Office Building'."

A motion to reconsider was laid on the table.

CLIFFORD G. WATTS POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 157) to name the Post Office building located at 200 3d Street, SW., in Taylorsville, NC, as the "Clifford G. Watts Post Office," as amended.

The Clerk read as follows:

H.R. 157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Post Office building located at 200 3d Street, S.W., in Taylorsville, North Carolina, shall be known and designated as the "Clifford G. Watts Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Post Office building referred to in section 1 shall be deemed to be a reference to the "Clifford G. Watts Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 157, a bill to name the post office building located at 200 3d Street SW., in Taylorsville, NC, as the "Clifford G. Watts Post Office."

Mr. Watts served 17 years as postmaster of the Taylorsville, NC, postal facility until his death in 1978.

"The chewing gum man," as he was commonly referred to by local children in the community, spent most of his life in the Taylorsville area. He is remembered as a member of the first football team at Taylorsville High School, deacon of the First Baptist Church, and manager of his family's department store. The distinguished sponsor of this bill, Mr. NEAL, along with the town of Taylorsville which he represents, would now like to honor this cherished friend by naming the new postal facility in Taylorsville, NC, after Mr. Watts.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 157, to designate the post office in Taylorsville, NC, as the "Clifford G. Watts Post Office."

Mr. Watts served as postmaster in Taylorsville for 18 years until his death in 1978 and was an active member of his community. He was a veteran of World War II, a deacon in the First Baptist Church, a member of the American Legion, the VFW, Rotary Club, and the Chamber of Commerce.

I urge my colleagues to support the passage of this measure.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 157, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended to read: "A bill to name the post office building located at 200 3d Street SW., in Taylorsville, NC, as the 'Clifford G. Watts Post Office Building'."

A motion to reconsider was laid on the table.

ZORA LEAH S. THOMAS POST OFFICE

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 158) to designate the facility of the U.S. Postal Service located on Highway 64 East in Hiddenite, NC, as the "Zora Leah S. Thomas Post Office," as amended.

The Clerk read as follows:

H.R. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service (as designated by the Postmaster General) shall be known and designated as the "Zora Leah S. Thomas Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the Zora Leah S. Thomas Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague, the gentleman from North Carolina [Mr. NEAL] for bringing this matter to our attention.

Mrs. Thomas was born on August 15, 1907, on a farm just north of Hiddenite, NC, into a family with a long history of service with the U.S. Post Office.

At the age of 28, she left her career in education and started working as a clerk for the post office. Two short years later she succeeded her father as postmaster for the Hiddenite Post Office, a position she would hold for the next 42 years.

The town of Hiddenite remembers Mrs. Thomas as a community leader and life-long public servant and would like to pay tribute to her by having the postal facility located on Highway 64 east in Hiddenite, NC, bear her name. I urge my colleagues to support this bill.

□ 1230

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of this legislation. The bill would designate the post office in Hiddenite, NC, as the "Zora Leah S. Thomas Post Office."

Mrs. Thomas served as postmaster in Hiddenite for 42 years, succeeding her father in that position in 1935. She retired as postmaster in 1977. A lifelong resident of the community she was a valued and active citizen.

Mrs. Thomas passed away in 1990 and I believe that this designation is fitting to recognize her extraordinary 42 years of service to the Postal Service and the people of North Carolina.

I urge my colleagues to support passage of H.R. 158, and I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 158, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the building in Hiddenite, NC, which houses the primary operations of the United States Postal Service as the 'Zora Leah S. Thomas Post Office Building'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2014, H.R. 157, H.R. 158, H.R. 2347, and H.R. 998, the bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

INDIANA DUNES NATIONAL LAKESHORE ACCESS AND ENHANCEMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1216) to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indiana Dunes National Lakeshore Access and Enhancement Act."

SEC. 2. BOUNDARIES.

The first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u), is amended by striking out "October 1986, and numbered 626-80,033-B" and inserting in lieu thereof "March 1991, and numbered 80,039".

SEC. 3. CRESCENT DUNE.

Section 12 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-12), is amended to read as follows:

"SEC. 12. The Secretary is authorized to acquire the area on the map referred to in the first section of this Act as area III-B.".

SEC. 4. STUDIES AND PLANS.

Section 2 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-1), is amended by adding the following new subsection at the end thereof:

"(c)(1) Within 2 years following the date of enactment of this section, the Secretary shall complete a study of the Deep River Corridor. The area to be studied shall include (A) the segment from the abandoned Chesapeake and Ohio Railroad right-of-way south of the existing Deep River County Park to the confluence of Deep River, (B) that portion of the Little Calumet River from Lake Michigan west to Martin Luther King Drive in Gary, Indiana, and (C) the Lake George Segment of the Deep River Corridor, including an area known as the Hobart Prairie Grove on the northwest side of Lake George. The study shall include an inventory of the area's natural, cultural and recreational values and features; recommendations for the provisions of public access for the purposes of fishing, canoeing, hiking and other public activities; and recommendations regarding the State, local, or Federal agencies or jurisdictions recommended to administer these lands.

"(2) The Secretary shall submit the results of the studies prepared under this subsection to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.".

SEC. 5. COOPERATIVE AGREEMENT.

The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u and following), is amended by adding the following new section after section 25:

"SEC. 26. COOPERATIVE AGREEMENT.

"In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement with the city of Gary, Indiana, pursuant to which the Secretary may provide technical assistance in interpretation, planning, and resource management for programs and developments in the city of Gary's Marquette Park and Lake Street Beach.".

SEC. 6. GREENBELT.

Section 18 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-18), is amended—

(1) by inserting "(a)" after SEC. 18."; and

(2) by adding at the end the following:

"(b) The Secretary shall enter into a memorandum of agreement with Northern Indiana Public Service Company (hereafter in this section referred to as NIPSCO) which shall provide for the following with respect to the area referred to as Unit II-A on the map referenced in the first section of this Act:

"(1) NIPSCO will provide the National Park Service with access through the Greenbelt and across the dike for purposes of a public hiking trail.

"(2) The National Park Service shall continue to have rights of assessment, resource management, and interpretation of the Greenbelt area.

"(3) NIPSCO will continue to preserve the Greenbelt in its natural state. If NIPSCO utilizes the Greenbelt temporarily for projects involving pollution mitigation or construction on its adjacent facilities, it will continue to restore the utilized area to its natural state.

"(4) NIPSCO will notify the National Park Service, the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate if NIPSCO proposes a different use for this property. No changes in the use of the property will take place for three years following such notification.".

SEC. 7. IMPROVED PROPERTY; RETENTION OF RIGHTS.

(a) ADDITIONAL AREAS.—The table in section 4 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-3), is amended to read as follows:

"Property Within Boundaries of Map	Construction Began Before
Dated March 1990, #80,038A.	March 1, 1991
Dated October 1986, #626-80,033-B.	February 1, 1986
Dated December 1980, #626-91014.	January 1, 1981
Dated September 1976, #626-91007.	February 1, 1973
Dated September 1966, #LNPNE-1008-ID.	January 4, 1965.".

(b) RETENTION OF RIGHTS.—Section 5(a) of such Act (16 U.S.C. 460u-5) is amended—

(1) in paragraph (2)(B), by striking "subparagraph (A)" and inserting "subparagraph (A)(ii)"; and

(2) by adding at the end the following:

"(3)(A) In the case of improved property included within the boundaries of the lakeshore after March 1, 1991, which was not included within such boundaries before that date, any individual who is an owner of record of such property as of that date may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to exceed March 1, 2020, or

"(ii) A term ending at the death of such owner or of the owner's spouse, whichever occurs last.

The owner or owners shall elect the term to be reserved.

"(B) The provisions of subparagraph (A)(ii) shall apply only to improved property owned by an individual who (i) was an owner of record of the property as of March 1, 1991, (ii) had attained the age of majority as of that date, and (iii) makes a bona fide written offer not later than July 1, 1994, to sell such property to the Secretary.".

(c) CLERICAL AMENDMENT.—Section 5(a)(1) of such Act is amended by striking the period after "626-91014" and inserting a comma.

SEC. 8. VISITOR CENTER.

In order to commemorate the vision, dedication, and work of Dorothy Buell in saving the Indiana Dunes, the National Park Service visitor center at the Indiana Dunes National Lakeshore is hereby designated as the "Dorothy Buell Memorial Visitor Center".

SEC. 9. UNIT VII-D

The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u and following), is amended by adding the following new section after section 26:

"SEC. 27. UNIT I-M AND VII-D.

"(a) UNIT I-M.—Before acquiring lands or interests in lands in Unit I-M (as designated on the map referred to in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to State Road 49 and reconstruction and relocation of the interchange with State Road 49 and U.S. 20 so that the acquisition by the Secretary of lands or interests in lands in Unit I-M will not interfere with planned improvements to such interchange and State Road 49 in the area.

"(b) UNIT VII-D.—Before acquiring lands or interests in lands in Unit VII-D (as designated on the map referred to in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to Old Hobart Road and reconstruction and relocation of the intersection of Old Hobart Road and State Road 51 so that the acquisition by the Secretary of lands or interests in lands in Unit VII-D will not interfere with planned improvements to such interchange and Old Hobart Road in the area.".

SEC. 10. ROAD RIGHTS-OF-WAY.

The Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u and following), is amended by adding at the end the following new section:

"SEC. 25. (a) Within 180 days after the date of enactment of this section, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying road rights-of-way within the boundaries of the lakeshore that have been abandoned and could be relinquished to the National Park Service, as well as any actions taken to date to effectuate the relinquishment of such rights-of-way and a summary of any impediments there may be to each relinquishment. The Secretary shall take such action as he deems necessary to notify Federal, State, and local transportation authorities of road rights-of-way so identified.

"(b) The Secretary is authorized to reimburse the appropriate political subdivision for reasonable administrative costs associated with vacating each road right-of-way within the boundaries of the lakeshore.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-9), is amended—

(1) by inserting "(a)" after "SEC. 9.";

(2) by striking so much of the first sentence as precedes the proviso and inserting "There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in lands and for development:"; and

(3) by striking the last sentence and inserting:

"(b) Except as otherwise provided in subsection (a), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1216, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1216, introduced by Representative PETER VISCLOSKY, is a bill to expand the boundaries of Indiana Dunes National Lakeshore.

First proposed as a national park 75 years ago, Indiana Dunes National Lakeshore was authorized by Congress in 1966 and established in 1972. The lakeshore contains approximately 12,800 acres and includes 15 miles of shoreline along Lake Michigan. Extensive sand beaches, dunes, marshes, woodlands, and prairie vegetation are found in the National Lakeshore. This unique national area is located just 35 miles east of Chicago in the middle of one of our Nation's most populated and industrialized areas. Because of the park's close proximity to major population centers, the lakeshore is visited extensively, with nearly 2 million people visiting the park last year.

H.R. 1216 would add 10 parcels totaling 1,034 acres to the existing Indiana Dunes National Lakeshore in order to enhance park resources, improve access and promote efficient management while minimizing potential conflicts with adjacent landowners. It would also authorize several cooperative agreements and a study on lands related to the National Lakeshore. It is a scaled back version of legislation which passed the House of Representatives last year.

The Subcommittee on National Parks and Public Lands held a hearing on H.R. 1216 and on a related measure in late May. At this hearing, the subcommittee received extensive testimony on present and past management and resource protection issues associated with Indiana Dunes National Lakeshore. At the hearing and subcommittee markup, concerns were raised about the need for protection of the Salt Creek corridor, a stream which flows into the lakeshore. Although H.R. 1216 does not contain provisions relating to the Salt Creek corridor, the committee report does state the importance of the corridor to the dunes ecosystem and the expectation that the stream can and should be protected by local efforts.

During consideration of the bill, the Interior Committee adopted an amendment which makes several technical changes to the bill. These changes were developed in consultation with the author of the bill and the administration and reflect changes sought by the administration.

H.R. 1216 is a meritorious bill which represents what every measure ever enacted relating to Indiana Dunes has represented: Compromise. Undoubtedly this bill contains too much for some and too little for others. On the whole, it is a balanced bill which adds some significant parcels to the lakeshore while being mindful of needs and concerns of landowners of the area. I urge the passage of the bill as amended.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 1216, a bill to expand Indiana Dunes National Lakeshore along the southern shore of Lake Michigan. I know that the gentleman from Indiana has worked long and hard on this measure and attempted to bring a responsible measure to the floor, but the measure we have before us today is not one which deserves the support of this body.

Indiana Dunes National Lakeshore was one of the first urban park areas designated as a unit of the National Park System. Overall this is a good concept and one which I support. A major problem at this park is the unplanned park expansion which has resulted in a very disjointed and difficult to manage park area. Twenty-five years ago, Congress passed a measure to ensure that persons from the northern Indiana area would have public access to the beach and that the shoreline would be preserved. Originally, the American public was told that Indiana Dunes National Lakeshore would be an 8,000-acre park consisting of lands along the Lake Michigan shoreline which would cost about $28 million.

Due to the continual pressure of local environmental groups, the park has grown into a 13,000-acre park and cost the taxpayer over $70 million. Along the way, over 700 private homes have been taken. The park now consist of isolated tracts of land as far as 10 miles from the lakeshore.

As can be expected, this continual threat of park expansion, evidenced by the introduction of Indiana Dunes expansion bills in 7 of the last 10 Congresses, has deeply divided local persons into fierce park protagonists and antagonists. The bill before us only exacerbates that situation and continues the controversy. The measure contains many tracts of land owned by the environmental groups who are the main supporters of this bill. We heard testimony at our hearing how these groups intend to recycle their profits from Federal acquisition of their lands to acquire other lands for future addition to the park. In one case, one of these groups acquired a tract for about $2,000 which they later sold to the Federal Government for over $100,000.

If the bill before us really lived up to its title of providing for increased access to the lakeshore, it would deserve support from Members of this body. Beach access is a major problem which needs to be addressed by the NPS [National Park System]. However, only 2 of the 11 tracts in this bill are related to beach access. The rest are isolated tracts which are unrelated to the primary purposes for which the area was established, have limited resource values or little or no visitor use potential.

I would just like to illustrate my concerns by describing one of the more costly and unnecessary acquisitions proposed in this bill. The Inland Manor tract consists of about 95 relatively low cost housing units which are proposed for acquisition at a total cost of $4.5 million. This area has no known resource value, no visitor development potential, and is strongly opposed by the administration. Proponents of this provision state that these houses should be acquired because they will be an island of development within the park and that their existing septic systems are polluting park resources.

However, this park, like all other NPS urban parks, already has a number of islands of development, including everything from housing areas to steel mills. I don't believe we should purchase these steel mills just because they are impacting the park.

It is time to set aside the piecemeal approach which has characterized expansion proposals for Indiana Dunes. We need a comprehensive and final solution to boundary and management problems faced by this park. This bill is destined to lead to future legislative proposals for expansion at Indiana Dunes. Congressional micromanagement will not be successful in resolution of these difficult boundary issues, Congress must instead depend on locally developed solutions.

Mr. Speaker, because this bill will result in millions of dollars of unnecessary park acquisitions for an area which is clearly unable to manage all the lands and visitors it has today, I urge my colleagues to oppose this bill.

□ 1240

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana, Mr. PETER VISCLOSKY, a gentleman who has worked very hard on this matter for the last 4 years.

Mr. VISCLOSKY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I must take this opportunity to thank Chairman MILLER, Subcommittee Chairman VENTO and the other members of the Committee on Interior for their assistance with H.R. 1216. Many of the issues addressed in the legislation have not been without controversy and, as a result, have occupied much of their time over the past several years. I also extend my gratitude to both Richard Healy and Sandy Scott of the Subcommittee on National Parks and Public Lands staff for their invaluable assistance and advice, as well as Diane Newberg of my staff.

H.R. 1216, the Indiana Dunes National Lakeshore Access and Enhancement Act, will recapture over 1,030 acres of Indiana's dunelands for the people of the United States of America. The legislation, much smaller in scope than a similar bill passed by the House of Representatives in the last Congress, strikes a delicate balance between differing local interests and the needs of the National Park Service and the American public.

I began to formulate this legislation in December 1988 due to my concern about the growing demands placed on the Indiana Dunes National Lakeshore. Park visitorship grew from 264,000 in 1977 to nearly 1.9 million in 1990. The National Park Service reports that, to date, 1991 visitation figures suggest that more than 2 million people will come to enjoy the national lakeshore this year. All signs indicate that this growth trend will not subside. As visitor demand grows, internal and external challenges on the park also grow—these challenges must be met. The Indiana Dunes National Lakeshore Access and Enhancement Act addresses many of these challenges.

Throughout the process of drafting this bill, I have been in constant contact with community leaders, concerned individuals and property owners as well as local environmental groups. I am pleased that most of the controversy surrounding the legislation has dissipated as a result of compromise on the part of all involved. I believe that we bring to the floor today, the best possible bill for the Indiana Dunes National Lakeshore.

In a State where only 3 percent of all land is in public ownership, very little land is available for outdoor recreation. We must take great care of public lands we have. The Indiana Dunes National Lakeshore Access and Enhancement Act does just that. It offers visitors new opportunities and provides the park with additional room to maneuver. Now is the time to accept the challenges faced by this national park. For as the national lakeshore has improved the lives of park visitors and local residents, so too must we continue to improve the lakeshore.

I would like to take this opportunity to briefly describe the various parcels and provisions of the bill and state my reasoning behind their inclusion.

The lakeview facility parking addition: This 1 acre parcel along the northeast side of Broadway will allow for a small scale parking lot to alleviate pressure at the park's lakeview facility. The Federal Government invested over $500,000 in this beautiful facility on Lake Michigan's lakefront. The facility is underutilized, however, because of inadequate parking. It is a shame that this asset is unavailable to the public. The 1 acre addition would allow for 40 new spaces to accommodate visitors—without overloading the facility.

As an aside, I do not support inclusion of this parcel for use as a sewage treatment plant, nor do I support the construction of a septic system on the land. I have included it in my bill with the understanding that the National Park Service has no intention of putting either on the site.

The old University of Chicago property: Strategically located, these 13 acres will be advantageous to the lakeshore for purposes of both preservation and increasing options for connecting the east and west units of the park. In his testimony before the Subcommittee on National Parks and Public Lands on May 28, 1991, James Ridenour, Director of the National Park Service, described this parcel as "a critical link in the trail route now being planned * * * to facilitate the connection of the east and west units of the National Lakeshore."

The State Road 49 green corridor: This stretch of roadway is often referred to as the most frequently used entrance and exist to the State and national parks. In an effort to maintain the attractive and natural status of this entrance, a 33-acre corridor surrounding the area is designated in the legislation. In recent years, the corridor has been threatened by development. Development proposals have ranged from a hotel to a "mini-Mayo" medical clinic with lodging for patient's families. While current zoning boards have not supported these proposals, I am extremely concerned that future boards may not be able to resist the pressures to develop the corridor.

Language regarding this plat allows the State to enhance and upgrade the antiquated interchange of State Road 49 and U.S. 20.

The Cohen property: This parcel abuts the entrance to the national lakeshore's heavily visited west beach. The lands, which are currently vacant, are slated for multifamily residential development. Acquisition would serve both to enhance road and trail access to west beach as well as protect the values of the existing lakeshore setting.

Inland Manor/Woodlake Dune Savannah: The western portion of this parcel contains a residential community of approximately 90 homes—several of which are abandoned. The area's high water table has contributed to sanitation problems associated with poor drainage. The eastern portion of the unit, known as the Woodlake Dunes, is a phenomenal natural area containing a mixture of wooded stabilized dunes, open savannah and extensive wetlands of considerable resource value. The Woodlake Dune Savannah is of significant natural value and would constitute a worthy addition to the lakeshore.

The Fadell Dune: This elongated parcel on the north side of U.S. Highway 20 contains five species of special vegetation, three of which are listed by the State of Indiana as rare and two of which are considered threatened. While the dune has been degraded by illegal use of three wheel all terrain vehicles, it is expected to regenerate over a short time. Furthermore, the dune has been zoned for sandmining, which is planned if it is not procured by the national lakeshore.

Located along the general management plan's preferred west unit access route, the flat eastern end of the Fadell parcel could easily be used for satellite parking for west beach—where parking is inadequate during the summer months.

Gaylord Butterfly Prairie: Providing a habitat unlike any other in either the national lakeshore or the Indiana State park system, this 173-acre dry sand prairie is home to several unusual plants and rare butterflies. The little blue stem and Indiana grasses, blazing stars, and sweet fern provide food for several butterflies found at no other location in Indiana. While the Gaylord Butterfly parcel is proposed for inclusion in the national lakeshore, in the future, the parcel will be transferred to Indiana's Department of Natural Resources.

The Calumet Prairie: 140 acres of this 173 acre plat are currently managed by the Indiana Department of Natural Resources. It contains a high quality example of wet sand prairie, unlike any found within the lakeshore's current boundaries. The prairie provides a habitat for several rare plant and animal species. In addition, the significant stretch of the Little Calumet riverbank within the parcel will be a great asset to the national lakeshore. This addition will provide many recreational opportunities, including fishing and canoeing.

The Hobart Prairie Grove: This is a high quality natural area adjacent to Lake George along Deep River. It is composed of a tallgrass savannah—an open hickory woodland with many prairie plants—a habitat that is nearly extinct today. The parcel is home to many rare plant species and extensive wetlands.

The legislation also contains several studies and cooperative agreements as well as directives for the treatment of homeowners affected by the bill. I would like to take this opportunity to explain the remaining provisions of the legislation.

Homeowner provisions: Section VII of the legislation provides two options for those homeowners whose lands are placed within the lakeshore after February 1, 1991. The first option would permit the homeowner to enter into a 29-year leaseback agreement with the National Park Service to retain noncommercial use of their home through the year 2020.

The second option would allow the homeowner to enter into a "life estate" agreement with the National Park Service to retain the noncommercial use of their home until both the primary owner and his or her spouse die.

Crescent Dune: Section III of the bill will remove all restrictions in the existing law which prevent the National Park Service from acquiring this 33-acre parcel. Crescent Dune is one of the few remaining areas of undeveloped shoreline. It is currently slated for development of an exclusive 200 unit townhouse development. To lose this rare parcel, which is already located within the authorized boundary of the national lakeshore, to development would be a tragedy.

Studies: Section IV of the legislation directs the National Park Service to perform two studies. The first study, of the Deep River corridor, would focus on the river corridor's recreational and natural values. The study will provide specific recommendations for improving public access, fishing, canoeing, and hiking within the corridor. It is to be completed within 2 years and will recommend the most appropriate governmental agency or agencies to administer these areas—with an emphasis on local government. The study does not authorize any acquisition by the Federal Government.

The second study, found in section X, mandates that the national lakeshore inventory abandoned roadways located within the park's boundaries. These roadways have been causing problems for some time. In terms of preservation, the unused roads spoil the natural characteristics of the landscape. However, they also pose management problems. Young people have been found drinking on the secluded roadways which are difficult to monitor. Illegal dumping has also been a problem. This provision would authorize the Park Service to study the problems associated with abandoned roads and recommended solutions.

Under existing law, the Federal Government cannot purchase publicly owned roadways. This deters local governments from reverting the right-of-way to the park. As written, section X would permit the National Park Service to reimburse the affected local government for the cost of transferring the rights-of-way of abandoned roads located within the boundaries of the national lakeshore.

Cooperative agreement—Gary's Marquette Park: Section V of H.R. 1216 would permit the Park Service and the city of Gary to enter into a cooperative agreement to improve Gary's Marquette Park. The proposed agreement would allow the Park Service to provide Gary with technical assistance for park improvements. The national lakeshore will benefit from the agreement because Marquette Park is designed to handle much larger crowds than the national lakeshore's nearby west beach. West beach often suffers from over crowding during the summer months. Through the proposed agreement, Gary's lakefront usage can be better coordinated with the national lakeshore.

NIPSCO greenbelt: Section VI of the legislation would require the Northern Indiana Public Service Co. [NIPSCO] to maintain the natural state of the existing greenbelt which serves as a buffer zone between the park and the powerplant. This provision would call upon NIPSCO to warn Congress 3 years prior to changing any characteristics of the property. Furthermore, NISPCO would continue to allow the National Park Service to manage the natural resources of the land. Trails within the greenbelt that are now open to visitors are to remain open.,

Dorothy Buell Visitor Center: In commemoration and celebration of Dorothy Buell, founder and first president of the Save the Dunes Council, section VIII of H.R. 1216 would rename the lakeshore's visitor center in her honor. Ms. Buell dedicated her life to preserving the natural beauty of Indiana's lakeshore. She worked diligently for years to ensure that the Indiana dunes were protected and played a crucial role in the national lakeshore's establishment in 1966.

Roadway improvements: Section IX permits the Indiana Department of Transportation to make roadway improvements affecting the Calumet Prairie and the 49 corridor.

Authorization of appropriations: The legislation would authorize "such sums as are necessary" to carry out its directives. Annual funding would still be subject to strict scrutiny by relevant Appropriations Committees.

In conclusion, I reiterate the need for increased public access to the Indiana Dunes National Lakeshore. Approximately 8 million people live within easy commuting distance of the park. The national lakeshore provides them, and many national visitors, with greatly needed beaches, picnic areas, trails for biking and hiking, seasonal festivals and educational facilities.

The Indiana Dunes National Lakeshore Access and Enhancement Act represents the best policy for this national park. I urge my colleagues to support H.R. 1216. For, as the national lakeshore has improved the lives of its many visitors, so too must we continue to improve the national lakeshore.

H.R. 1216 represents the best policy for the national park, and I would urge its adoption.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is one of the most extensively used national park units in the system. That, as I said, is an important consideration.

It was late in development, there was a 75-year history in which it was proposed for development. So, clearly, it is not everything that everyone would want to make it and it is really, I think, the subject of a great deal of compromise.

But nevertheless, it does and has been recognized as being nationally significant and having the various characteristics that are associated with national lakeshores.

It is a very important recreational resource, not just for the people of northern Indiana but for people in the Midwest, especially in the Chicago region. In fact, the leading advocates of this at various times have been the Senators. Senator PAUL DOUGLAS from Illinois is one, so this is part of his work. I do not know who else should get credit for it, but I do know that I have heard his name associated with it so often that his name springs to mind whenever we look at it.

Insofar as the additions to this park in this measure before us, I have reviewed those recommendations from the administration. Frankly, out of the 11 recommendations for additions here, they support 8 of them. They sort of support the ninth, and then there are two that they do not favor. One, of course, is the parking area to provide access. They did not favor that, and inasmuch as the gentleman from Wyoming I note stated his concern about the access question, a very important question; they did not support the type of solution proposed here, as a solution.

The other one the gentleman mentioned, of course, is the Inland Manor, which has some 90 homes. They do support the Woodland Dune Savannah. With that added, the 90 homes become completely surrounded by National Park Service land.

Not only that, but these 90 homes are a willing-seller/willing-buyer basis. The majority of the residents in that area strongly support this because they are in really what is the marsh or water area. The homes are older; they have been there for a long time.

So I would be happy to point out on the map to the gentleman how it is completely surrounded by that.

Most of these homes, all of them are contiguous to the national seashore. There are several large areas which are not. The administration was strongly supportive because based on professional study and judgment of the Park Service, these were key areas that add to the enhancement and enjoyment of the public which uses this particular resource.

So I want the gentleman to understand that the chairman, the members of the committee—and I know the gentleman works very hard on the committee—but there may be just a few points here I would like to emphasize on why we did what we did. It did not take, and I do not take these issues lightly, as the gentleman must be aware now from his service with me on the subcommittee. I would just say the gentleman's summary comment—and I would be happy to the gentleman because I know that he has yielded back his time—was to the effect that with the additional units, of course, comes the sort of stretching of resources beyond where they should be stretched. In fact, I think the director of the Park Service has taken to referring to this as the "thinning of the blood" of the Park Service.

While I would just say to the gentleman from Wyoming and to the director of the Park Service and others that might get that notion that if we had taken that advice initially when it was offered in 1916, we would have approximately some 70 units in the National Park System today, we would have about 70 units. The gentleman knows we have in excess of 350 to 360 units by the time we get done with this congressional year and perhaps many more beyond that.

That is simply, I think, a recognition to some extent of the expanded mission of the Park Service in terms of its preservation of cultural resources and some of the resources that were demanded by the Department of Defense, monuments, memorials, and many additions to the new parks, some of which I have had a hand in working on.

The national lakeshore concept was not even in place in 1916.

So I would just suggest that as we grow as a population and look to the reduced numbers of recreational natural resources preservation and conservation that takes place in our Nation, it becomes fitting, I think, to address the question of expansion of the Park System because there is de facto areas that exist in the great State of Wyoming that the gentleman hails from and in my great State of Minnesota that are, frankly, under siege, they are disappearing. I think we have to look at which properly can be cared for and placed in the mission of the National Park Service because of the natural qualities that justify their preservation for recreational resources, cultural resources, that the Park Service is so eminently and, I think, ideally suited to execute.

The thining of the blood, the lack of too many resources, you know, anemia, the lack of sufficient blood can come from a lot of different factors. It can come from a lack of food, that is the dollars that we put in the system.

I think during the decades of the seventies and eighties we have denied the proper care, the proper resources to the National Park Service to carry out their mission.

□ 1250

It can come from a lack of direction in terms of how we care for the professionals in the Park Service, given the authority to do their job.

All I am pointing out to the gentleman is we certainly need to be mindful, was we add units, to also add resources and let the professionals do the job that we expect them to carry out written into law.

But I just think that to begin to terminate, to say that the Park System is filled out, I know that the administration, while they kindly give us these recommendations against or for things, and in this case clearly they are in favor of this particular measure on a broad basis, they are in favor of this measure, as I have indicated, not perfectly.

I mean, we do think in Congress that from time to time that we have something to add to this system, as I know my colleague, the gentleman from Indiana [Mr. VISCLOSKY] has worked mightly hard on this bill.

So, I think we have a responsibility to show some direction in terms of policy, but I would just point out further that the administration, even in all its concerns about expanding the system and the effect of that, has any number of proposals before the subcommittee in which they are asking for expansion, asking for resources, asking for dollars, and that apparently is what we will do. We will do it when we think it is appropriate.

For instance, they have a recommendation for the Forest Service to add, and we passed it in this session; I hope it passed the Senate, a thousand miles of wild and scenic river in the upper Peninsula of Michigan. I think that was a very significant action, and I am proud that the Forest Service and administration supported that type of designation, although in a different agency. They have any number of proposals to add studies and other work, and we are going to act on those things on professional basis and a nonpartisan basis.

So, I would hope that we would look at that. We can always look to where we may have differences where something is not in our area or district, and of course we fight often about differences in policy. But I would hope we would recognize and try to do the best we can, but not, I think, to terminate. I do not think the answer is putting the Park Service out of business because of these particular issues.

So, I hope that we would respond.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO].

Mr. Speaker, certainly I recognize, and I think most everyone else in this Congress recognizes, the work that the chairman of the subcommittee has done with regard to parks and scenic rivers, and I congratulate him. No one is a more effective advocate for that point of view than the chairman, and I appreciate that, and most everyone would agree with his observations, I think, and his theology with respect to these kinds of issues, the expansion of opportunities for recreation.

However, Mr. Speaker, there are some facts of life. One of them is the administration. The Park Service has indicated they are nearly $400 million short this year in operating funds.

I happen to live next to a park, and I do not know that my park is not the only park in the world, but it is the Yellowstone Park, and I can tell the gentleman from Minnesota [Mr. VENTO] that it is desparately in need of some funds for things as basic as highways, and how one is going to get there.

I spoke with someone yesterday in Wyoming who had recently been to Poland, and he thought the Polish roads were better than those in Yellowstone Park. Well, that is a reality of life.

The theology of doing more and more parks is a great one, and I appreciate that. But there is indeed some realism involved here, and one of them is dollars, and one of them is that it does take upkeep to keep these parks going, particularly the ones visited heavily.

The fact of the matter is that the Dunes Park is a disjointed venture. It is one that, when one looks at the map, they find pieces that are way out that have nothing to do with access to the lake.

So, those are the kinds of tough choices I think this Congress needs to make, and it is clear that we all urge to have projects in our own area, and I understand that, and that is how advocacy is part of this business. But we have to have also a certain amount of judgment in where we spend the dough we have, and I am suggesting to the gentleman from Minnesota [Mr. VENTO] that there are places that perhaps could be developed and be more effective then the one that is here.

But let me tell the gentleman from Minnesota [Mr. VENTO] that I appreciate very much what he is saying. I certainly agree with it in general, and I appreciate his efforts. I also disagree with him on this particular issue.

Mr. VENTO. Mr. Speaker, the gentleman from Wyoming [Mr. THOMAS] is a key member of the committee, and he obviously provides a lot of good, positive, critical thinking in terms of this.

I just want to point out that, as the gentleman knows, Wyoming, Montana, and the other Western States of Yellowstone; obviously it is a great resource for all Americans, and it was really the first park that was established even before the park system was set up, and I appreciate what he is saying. We want to work with him and others to make sure the Park Service has adequate resources so it can address roads. I know road construction is important, but this is to the people of northern Indiana in the Midwest, this is one of their parks. This is their Yellowstone. This is the Yellowstone that the people from Chicago maybe have a chance to get over there and get introduced to that great concept and recreate.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. I was just going to say that a week ago I happened to be—well, I did not happen to be there. I went specifically for the 100th birthday of the Forest Service, which, of course, is a similar kind of thing, and it was a wonderful experience, and I say to the gentleman from Minnesota [Mr. VENTO] that we have all gained a great deal from the thoughtfulness that took place. Wyoming had the first park, Wyoming also had the first forest reserve, Wyoming has the first monument, and so we are particular—we also have 50 percent of our State in Federal ownership, as the gentleman knows.

So, we do have to find some ways in which, I think, to transfer some of these resources so that they will be most useful to the most people and the most effective use of our bucks, so I thank the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman from Wyoming [Mr. THOMAS] for his insight and for attending those important events in Wyoming.

Wyoming got in very early in the process. Indiana continues to try to improve its resources and its park, and I commend the gentleman from Indiana [Mr. VISCLOSKY] for doing so, and the Park Service for by and large supporting this measure before us, and I would ask my colleagues to do the same.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1216, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND THE REPUBLIC OF HUNGARY CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–114)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement for Cooperation Between the United States of America and the Republic of Hungary Concerning Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the signed text of this proposed agreement, signed in Vienna, Austria, on June 10, 1991, by representatives of the United States of America and the Republic of Hungary. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991.*

PROPOSED AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–113)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement Between the Government of the United States of America and the Government of the Czech and Slovak Federal Republic on Cooperation in Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the signed text of this proposed amendment, signed in Vienna, Austria, on June 13, 1991, by representatives of the United States of America and the Czech and Slovak Federal Republic. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991.*

BILL TO DIRECT MILITARY ASSISTANCE IN ENFORCEMENT AGAINST ILLEGAL HIGH SEAS DRIFT NETTING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. UNSOELD] is recognized for 5 minutes.

Mrs. UNSOELD. Mr. Speaker, we have just received astounding evidence of the lengths to which drift-net pirates will go to pilfer United States and Soviet fish. Some 50 Taiwanese drift-net vessels have sailed for forbidden areas of the North Pacific, lied about their whereabouts, and snared enough salmon and steelhead to reap a $750,000 profit per boat trip, about $37.5 million in profit for the fleet.

□ 1300

Mr. Speaker, I am herewith attaching a translation from news stories:

For the fishermen who have watched a glut of salmon drastically drive down the world market price, let's hope so, but the fact is that the Taiwanese government seems to have no control over a group of fishermen that is making a mockery out of our current enforcement efforts! And Taiwanese officials don't deny it! The existence of these pirates is why we need more observers—not fewer, as our own negotiations requested.

For more than a year President Bush has had the authority to place sanctions on Taiwan. For more than a year, the administration has been sitting on its hands, watching the destruction of our marine environment and our economic base continue unabated. We have no excuse for not sanctioning Taiwan now. We have no excuse for not giving our Navy and our military the chance to assist the one—yes, one—high-endurance Coast Guard cutter that is responsible for enforcement of the vast North Pacific.

While our fishermen watch a glut of salmon drive down prices and while Northwest lawmakers fight the administration tooth and nail to get funding for hatcheries, Taiwanese drift-net pirates make a mockery out of our enforcement efforts, their own government, and the United States negotiators who actually suggested we could get by with fewer observers this year than we had a year ago.

I am introducing a bill to give our Coast Guard some military assistance in combatting these drift-net pirates, and I am hoping this administration will realize the time for sanctions, action, and a ban on this destructive fishing practice is now.

Mr. Speaker, getting our military involved in drift-net enforcement is not some luxury; it is a necessity.

TRANSLATED SUMMARIES OF TAIWANESE NEWSPAPER STORIES DETAILING DRIFT-NET PIRACY ON THE HIGH SEAS (OBTAINED BY THE AMERICAN INSTITUTE OF TAIWAN)

(United Daily News, Kaohsiung edition, by Tsao Min-Chi, "Fifty Taiwan Driftnet Fishing Boats Operate in Off-Limits Areas to Make More Money"—July 2, 1991.)

Local fisheries businessmen pointed out that some fifty Taiwan driftnet fishing vessels have sailed for the North Pacific and operated in areas where fishing is forbidden in order to make more money this year. Some fishing boats have returned to Taiwan with salmon and trout on board. Fresh salmon can even be bought in the markets of Kaohsiung.

Reportedly, in view of the global ban on driftnetting in July 1992, fishermen belonging to the same group plan to make a great deal of money first and have ordered their driftnet fishing boats to catch salmon and trout in the North Pacific off-limits areas. These 50 fishing boats, the highest number ever, applied to operate in the Indian Ocean and have lied about their operating locations since they sailed for the North Pacific in an attempt to evade the control and examination of the fisheries administration.

Because the U.S. Coast Guard would usually appear east of the fishing-forbidden areas, the Taiwan fishing boats tried to keep themselves operating in the west side near Soviet waters. The Soviet Navy reportedly has taken the drastic actions (sic) of detaining these fishing boats. It has been confirmed that three local fishing boats were detained and one of them has been released.

Local fishermen said a fishing vessel can earn a net value of NTD20 million (approximately $750,000) from one trip catching salmon and trout. No wonder local fishermen take such risks.

Most of the salmon caught by these fishing boats was sold to canneries in Thailand, and some of it was taken back and sold in Taiwan. Reportedly, several days ago, some fishing boats unloaded salmon caught in the North Pacific at Kaohsiung's Chin Cheng Fishing Harbor, but the government did not know about it.

(United Daily News, Kaohsiung edition, July 2.)

Kaohsiung Fisheries Administration Director Huang Sheng-wei said yesterday that it is unfortunate that some local fishing boats have been illegally catching salmon and trout with driftnets. It is a shame to hear that some local fishing boats even flew mainland (Peoples Republic of China) flags when catching salmon and trout, Huang added.

According to Huang, the government has repeatedly demanded that the fishermen abide by fisheries regulation and not illegally catch salmon and trout. The three major countries which use driftnets, Taiwan, Korea and Japan, have also tried to collect information and improve their driftnets in order to prove that such devices are not walls of death. But the illegal acts of some fishermen have totally ruined the efforts of the three countries' scientists.

Huang noted that the government originally hoped we could still retain the right to catch squid with driftnets next year. But the illegal conduct of our fishing boats have (sic) made this impossible. Owners of the offending driftnet vessels ought to be held responsible for this, Huang said.

AUTOMOBILE INDUSTRY RECOVERY IS KEY TO ECONOMIC REBOUND

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the auto industry plays an important role in our economy. As of 1987, nearly 12.7 million American workers were employed in motor vehicle and related industries. This figure represents nearly 15 percent of total U.S. employment. A significant sector, with significant influence on our economy.

Before 1987, personal interest on car loans was fully deductible on individual income taxes. The Tax Reform Act of 1986 phased out the deductibility of consumer interest on car loans and removed an incentive for consumers to take out a loan to finance a car purchase. Although it was designed to accomplish certain savings rate objectives, a side effect has been the subsequent collapse of the automobile industry.

Cars have become more expensive for the consumer. Automobile companies have experienced far fewer sales. From 1982 to 1986, automobile sales grew 41.8 percent. From 1987 to 1990 automobile sales grew only 9.2 percent.

Fewer sales have hurt auto company profits and decreased tax revenues for the Federal Government. From 1984 to 1986 automobile manufacturers made an average of $7.1 billion in taxable income. From 1987 to 1989, directly after the Tax Reform Act, their taxable income had dropped to an average of $1.4 billion. In 1991, first quarter losses for the big three of General Motors, Ford, and Chrysler were $2.75 billion.

Although actual tax figures for automobile companies are closely guarded secrets, a simple illustration using approximate figures shows how the Government has lost money after the tax change in 1986. General Motors, for instance, had domestic sales of $5.2 billion in 1985. With the Federal Government's corporate tax rate of 46 percent, such sales result in $2.4 billion in tax revenue for the Government. In 1987, the year after the tax change, GM had domestic sales of $2.5 billion. Taxed at the 46-percent rate, such sales result in $1.2 billion in tax revenue for the Government, a decrease of $1.2 billion for the Government. Last year, GM lost some $6.5 billion in domestic sales. The Government is not expected to get much tax revenue from such a loss.

The trend is clear. After the change in consumer interest deductibility, auto sales dropped sharply and Government tax revenues showed a similar decline.

As we all know, the economy runs in cycles, and these cycles are consumer driven. If a consumer buys a car, a chain reaction begins that affects many individuals and corporations. The car dealer receives money to support his family, pay his taxes, maintain his dealership, purchases necessities, and pay his employees. His dealership, purchase necessities, and pay his employees. His employees have money to support their families, pay their taxes, purchase necessities and so on. A great deal of economic activity is generated from a single purchase. Along the way jobs are created and many people benefit.

By effectively reducing the ability of consumers to buy a car, this chain reaction has broken down, negatively impacting millions of Americans. Clearly we are now in a recession. In 1989, when consumer spending on new cars dropped by $100 billion, not only were the 12.7 million American workers in the motor vehicle industry affected, but so was the rest of the economy. Over 108,000 automobile workers lost their jobs in 1 week in March of this year. One thousand automobile dealerships closed in the past year. The effect is not only felt on the families of the workers, but on the local grocery store, convenience store, retail store, and so on. The community loses and the American standard of living drops.

Mr. Speaker, because of the importance of the automobile sector in our economy, the car industry must improve if our economy is to rebound. By restoring the consumer deductibility of personal interest on car loans, we will increase automobile purchases and start the chain reaction back in the proper direction.

The increased economic activity will increase Government revenues because of gains in consumer and corporate taxes from sales, profits, and property. As the automobile companies recover, they will rehire their laid off workers. Greater employment will increase Government revenues by decreasing Government expenditures to unemployment compensation recipients.

Therefore, today I am introducing a bill which will correct the entire situation. My bill will amend the Internal Revenue Code of 1986 to restore the deduction of personal interest on consumer car loans. It will provide the impetus necessary to get the economy moving again. Mr. Speaker, with this bill, the economy will improve.

LEGISLATION NEEDED TO REVERSE UNREASONABLE DRUG PRICE HIKES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 30 minutes.

Mr. MONTGOMERY. Mr. Speaker, in October of 1990, Congress passed and the President signed into law the Omnibus Budget Reconciliation Act of 1990 [OBRA 90]. Section 4401 of that act, reimbursement for prescribed drugs, established as of January 1, 1991, a mechanism aimed at providing State Medicaid programs with the same discounts for prescription drugs as negotiated by other purchasers. This provision was an outgrowth of legislation proposed earlier in the session to control skyrocketing Medicaid pharmaceutical expenditures. The law requires that manufacturers either discount the drug to the Medicaid buyer by a stated percentage or be required to match the best price, that is, lowest price, on the market. The legislation was anticipated to save the Federal Government $3.4 billion over the next 5 years.

IMPACT ON VA

The effect of this law, however, has been harsh. Since the law did not anchor the best prices it hoped to transport to Medicaid, pharmaceutical manufacturers moved defensively to increase those prices. While Medicaid has not benefited to the extent intended, other Federal programs have been hurt. The Department of Veterans Affairs [VA] has taken the deepest hits. This is ironic and tragic since VA had been among the most successful and innovative in negotiating low costs with pharmaceutical manufacturers. The approximately $700 million VA spent on pharmaceuticals in fiscal year 1990 is indicative of its stature in the market as the largest single purchaser of certain pharmaceuticals. As such, VA traditionally has used the leverage of high volume buying and centralized negotiating to obtain the lowest or among the lowest prices in the marketplace.

VA uses several different avenues to procure and distribute pharmaceuticals to its medical centers. The first, the depot system, is primarily for high-use pharmaceuticals. When VA chooses products for depot purchase and distribution, it negotiates a price, guaranteeing a nationwide purchase volume, and the product is delivered to VA-owned and operated depot sites. From there, VA is responsibile for distribution to VA medical centers. The second, single award contracts, are contracts entered into by VA and a manufacturer, for the manufacturer to become VA's single supplier of an extensively used pharmaceutical product. In this way, VA, using the competitive bidding process, is able to obtain dramatically lowered prices for selected pharmaceutical products. A third avenue by which VA medical centers purchase pharmaceuticals is through the Federal supply schedule [FSS]. This is a published price list of all drugs available to VA medical centers from manufacturers, as negotiated by VA authorities. In addition to VA, the Department of Defense [DOD], Public Health Service, and Indian Health Service all have authority to purchase through FSS contracts and regularly do so, since the negotiated prices have been significantly lower than are available elsewhere. In addition to VA's purchases in excess of $300 million of its pharmaceutical products through the FSS contracts annually, sales of FSS pharmaceuticals to DOD total approximately $225 million annually. Last, for select drugs not available to them through any of the usual sources, VA medical centers are permitted to purchase items on the open market. As would be expected, the cost of purchasing low volumes on the open market is significantly higher than purchasing through one of VA's prenegotiated avenues.

Some of the VA-negotiated prices—those associated with their depot distribution system and with their single award contracts—are exempted from the best price formula to which Medicaid rebates are tied. However, VA-negotiated prices published on the Federal supply schedule, which represent nearly 50 percent of VA's annual pharmaceutical procurement volume, are subject to the best price formula and thus have been a target for industry price hikes.

Once OBRA was enacted, drug manufacturers imposed sweeping price increases on an array of FSS pharmaceuticals which, prior to OBRA, VA had procured at substantial discounts based on high volume. These price hikes to VA, DOD and other Federal entities, which amount to cost shifting, have resulted in sudden, unbudgeted increases in those Department's pharmaceutical costs. Despite a temporary grace period for VA in which some manufacturers voluntarily maintained last year's prices for the first quarter of 1991, the FSS contract pharmaceutical prices that VA, DOD, and other Federal agencies are reportedly now paying average an unprecedented 40 percent more this year than last. While inflation in drug prices has historically been high and could account for some 8 percent of these price increases, it is inescapable that the enactment of OBRA has been the primary catalyst to the shocking price increases VA is facing.

EFFORTS TO RESOLVE THE PROBLEM ADMINISTRATIVELY

Efforts to resolve the dilemma VA is facing have not borne fruit. By way of example, early this year, the Committee on Veterans' Affairs wrote to the Secretary of the Department of Health and Human Services asking that he exercise his authority to exclude FSS from the definitions of best price in writing the regulations for the new law. The Secretary responded, in essence, that under the Department's reading of the law, he lacked authority to do so. The committee also appealed to the Office of Management and Budget [OMB], predicting the sweeping price increases. In so writing, the committee assumed that surely OMB would not support, nor was it Congress' intent to attempt to achieve, Medicaid savings at the expense of VA, DOD, and other Federal agencies. OMB's response, 4 months later offered no solution.

NEED FOR LEGISLATION

OBRA 90 was clearly not intended to penalize VA for its success in the pharmaceutical marketplace. An unforeseen effect of OBRA, however, has been a dramatic increase in costs for pharmaceuticals to Federal agencies, primarily VA and DOD. It is apparent that industry is engaged in cost shifting in a deliberate attempt to maintain its profit margins. It is doing so at the expense of its Federal customers, and thus at the expense of the taxpayers. VA can convert some of its drug purchases from the FSS system to other avenues and avoid extraordinary price increases. But in many cases, VA will have no alternative but to absorb the higher prices being passed along by pharmaceutical manufacturers. In light of the OBRA-stimulated FSS price hikes which VA has sustained to date and cannot escape, the Department has projected that it will incur unavoidable, significant cost increases.

How will VA absorb those increased costs? It is important to appreciate that the VA's appropriation for fiscal year 1991 could not conceivably have foreseen the impact of a law passed in October 1990. Further, the President's budget for fiscal year 1992 did not take OBRA into account and did not provide for any increase in drug costs beyond the 6.1 percent inflation factor. In the absence of a supplemental appropriation for fiscal year 1991, and appropriations substantially above the President's request for fiscal year 1992, VA will simply have to absorb those costs.

The House Veterans' Affairs Committee's March 1991 report to the Committee on the Budget detailed graphically the significance of imposing new costs onto the VA health care system. A decade-long pattern has seen VA hospitals absorb cost increases and new program obligations in the face of virtually straight-lined health care budgets. The result has been a decline in service to the veteran—in the form of ever-thinner staff to patient ratios, increased waiting times for needed treatment, delays or denials of care, and inability to replace needed medical equipment or hire needed clinicians. In that connection, we identified shortcomings in the President's fiscal year 1992 budget request. Despite an apparently meaningful increase, that budget—after adjusting for illusory OMB manufactured savings—would only have covered fixed costs, and left an already strained system with no relief. As we warned in March, however, that budget's failure to anticipate the impact of OBRA meant that veterans would suffer still further cuts in service by virtue of the drug price increases which industry had already signaled lay ahead. The appropriations process offers no assurance that Congress will add sufficient moneys to the amount requested by the President for VA medical care to offset these drug price hikes as well as other unfunded, but unavoidable costs.

Congress, in enacting OBRA, anticipated the possibility of such price increases, and specifically provided a mechanism to monitor price changes and warn it accordingly. Thus, the law calls on the Comptroller General to report annually by not later than May 1, on changes in prices charged by manufacturers for prescription drugs to the Department of Veterans Affairs, other Federal programs, and others.

Apparently, the Comptroller General has not yet met the law's reporting requirement. At my request, members of Committee staff initiated a meeting with General Accounting Office [GAO] staff to ascertain what progress they were making. GAO has been looking into the subject. I was disturbed to learn, however, that despite growing and widespread evidence that VA had been experiencing substantial pharmaceutical price increases, GAO officials appear to be taking a studied show me attitude. The job may be too big for the staff GAO has assigned to it. But I am concerned that this staff seems too ready to dismiss the issue, because it can't find the smoking gun or because its methodology has obscured it.

VA has been conducting a cost impact analysis of its own, and has shared cost data with GAO. While the Department continues to enlarge its data collection and refine its analysis, it has become increasingly clear that pharmaceutical manufacturers are circumventing OBRA and hiking VA prices. VA and other Federal providers—and thus the taxpayer—have unquestionably been hit by dramatically higher costs for critically needed medications.

VA officials have advised us that the Department is creating a complete, automated data base for all FSS drugs. That data base will include pre- and post-OBRA prices, as well as drugs which are no longer available through a contract and which VA may therefore have to purchase on the open market. It is our understanding that VA has conducted a preliminary cost analysis based on the data it has already compiled. VA reportedly analyzed some 158 of the approximately 1,500 pharmaceutical inventory items routinely used by its pharmacies. Considering just this limited list, which represents only about 10 percent of the items VA uses routinely, VA's Chief Medical Director reportedly found that the cost impact from pre- to post-OBRA already exceeds $46 million. These cost increases—far more substantial than can be attributed to any reasonable inflation factor—have been experienced both in products purchased from FSS contract or open market sources, as well as in proprietary drug items available through VA depots. VA has yet to measure the total impact of manufacturer's effectively eliminating products from the Federal supply schedule since OBRA's enactment. On an item by item basis, those losses from the FSS have caused VA to sustain price increases ranging from 20 percent to 800 percent.

Whether or not the pharmaceutical industry's response to OBRA is as high as the $150 million figure which one VA official projected earlier this year, or higher, its impact has been felt, and will be felt with increasing force in the months ahead. One loses sight of the significance of these dollar figures in a system as large as the VA's. It is more telling ultimately to gauge that impact at the level of the individual facility and its patients. By way of example, our committee became aware this week of pharmacy budget shortfalls at one of VA's medical centers. Specifically, the director advised that the pharmacy budget will not be sufficient to meet the demands of our patients for the remainder of this fiscal year. Among the reasons cited was the response of pharmaceutical manufacturers to OBRA. The result? The hospital wrote to its patients to advise them that until the budget for medications becomes adequate it would no longer fill prescriptions for certain medications and diagnostic supplies. Right now the problem is most acute at hospitals which have limited inventory capacity. But it will become increasingly acute throughout the VA system.

SUMMARY OF THE BILL

It is apparent, therefore, that legislation is needed. We must reverse the unintended, but nonetheless pernicious effects of loopholes in OBRA. We must undo the effects of industry gaming and related efforts to circumvent that law. And we must establish a mechanism to restore the bargaining position VA had achieved and to reinstate a level playing field on which VA can negotiate appropriate discounts.

I am introducing a bill today which will achieve those goals. This legislation has several elements. Its major provisions would: Exclude all Federal prices from the calculations of best price, thereby eliminating a loophole which had the effect of encouraging manufacturers to escalate Federal prices; and expand the current law—which requires that manufacturers must enter into rebate agreements in order to participate in the Medicaid program—to require that manufacturers must also agree to provide drugs to VA through the Federal supply schedule and its drug depot system at pre-OBRA prices adjusted by an inflation factor, or pursuant to renegotiated contracts.

Some may question the need to roll back prices. They may urge that simply exempting Federal prices from the best price benchmark will solve the problem. Such thinking is at best naive. It ignores recent history and it ignores economics. Earlier this year, drug companies dramatically raised Federal prices not only of drugs which are subject to best price calculation but VA depot prices as well, which OBRA specifically excludes from best price. Clearly, an exemption from the definition of best price alone is no solution. While the existence of a comprehensive exemption for Federal providers might in some instances have removed what was a stimulus for companies to raise prices, creating an exemption now, without more, provides no economic incentive for companies to lower prices.

Given the need to roll back prices, is this a price-fixing bill? No more so than OBRA is! OBRA has the effect of distorting the market and passing artificially increased drug costs on to the taxpayer through drastically higher prices to VA. This bill would set up a mechanism to stimulate even-handed contract negotiations between VA and pharmaceutical manufacturers. Manufacturers would be freed from being penalized economically for providing reasonable contract prices to the Federal Government. The bill would create the incentive for negotiations by requiring that, in the absence of a renegotiated contract, prices for drugs which had been procured through the Federal supply schedule or through VA's drug depot system—and including drugs which manufacturers had deleted from the Federal supply schedule in anticipation of, or after OBRA's enactment—would be rolled back to pre-OBRA levels and adjusted by an inflation factor on a quarterly basis, beginning on April 1, 1991.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 5 minutes, on July 16, 17, and 18.

Mr. EDWARDS of Oklahoma, for 60 minutes, on July 16.

Mr. BOEHNER, for 60 minutes, on July 16.

Mr. GUNDERSON, for 60 minutes, on July 16.

Mr. BALLENGER, for 60 minutes, on July 16.

(The following Members (at the request of Mr. VISCLOSKY) to revise and extend their remarks and include extraneous material:)

Mrs. UNSOELD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. BROOMFIELD.

Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. VISCLOSKY) and to include extraneous matter:)

Mr. LAROCCO.

Mr. HOYER.

Mr. SERRANO.

Mr. ASPIN.

Mr. TORRES.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ROYBAL.

Mr. DOWNEY.

Mr. EDWARDS of California.

Mr. BONIOR in two instances.

ADJOURNMENT

Mrs. UNSOELD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 3 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 16, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1714. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to enter into challenge cost-share agreement, and for other purposes; to the Committee on Agriculture.

1715. A letter from the Secretary of Agriculture transmitting a draft of proposed legislation to amend the Rural Electrification Act of 1936; to the Committee on Agriculture.

1716. A letter from the Assistant Secretary (Acquisition), Department of the Air Force, transmitting notification of the plan to study the conversion to contract performance the Strategic Air Command's Education Services Centers at various installations, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

1717. A letter from the Deputy Secretary of Defense transmitting the combined annual report on standardization of equipment with NATO members and cooperative research and development projects with allied countries, pursuant to 10 U.S.C. 2457(d)(1); to the Committee on Armed Services.

1718. A letter from the Secretary of Energy transmitting a report on plans for a program to relocate the operations of the Rocky Flats Plant at Golden, CO, pursuant to Public Law 102-25, Section 804(b) (105 Stat. 122); to the Committee on Armed Services.

1719. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize revisions to current legislation that will improve the acquisition reporting process for major defense acquisition programs; to the Committee on Armed Services.

1720. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to increase the age at which a member of the Senior Reserve Officers' Training Corps receiving financial assistance may be appointed as a commissioned officer if the member is enrolled in a baccalaureate nursing program; to the Committee on Armed Services.

1721. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on the tied-aid and partially untied-aid credits offers by the Bank, pursuant to Public Law 99-472, section 19 (100 Stat. 1207); to the Committee on Banking, Finance and Urban Affairs.

1722. A letter from the Secretary of Housing and Urban Development transmitting the report of the Advisory Commission on Regulatory Barriers to Affordable Housing entitled, "'Not In My Back Yard': Removing Barriers to Affordable Housing"; to the Committee on Banking, Finance and Urban Affairs.

1723. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-52, "District of Columbia Income and Franchise Tax Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1724. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-53, "Redistricting Procedures Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1725. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-54, "Public Assistance Act of 1982 Budget Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1726. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-55, "Day Care Policy Budget Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1727. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-56, "District of Columbia Public School Nurse Assignment Budget Conformity Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1728. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-57, "District of Columbia Motor Vehicle Services Fees Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1729. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-58, "Cigarette Tax Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1730. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-59, "District of Columbia Election Code of 1955 Amendment Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1731. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-60, District of Columbia Housing Bonus Repealer Act of 1991," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1732. A letter from the Chairman, Council of the District of Columbia, transmitting copies of D.C. Act 9-61, "District of Columbia Gross Receipts and Toll Telecommunications Service Tax Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1733. A letter from the District of Columbia Board of Elections and Ethics, transmitting notifications that on July 12, 1991, Albert Gallmon, Jr., the proponent, submitted a referendum petition for filing with the District of Columbia Board of Elections and Ethics; to the Committee on the District of Columbia.

1734. A letter from the Secretary of Health and Human Services, transmitting the 11th annual report on the implementation of the Age Discrimination Act of 1975 by departments and agencies which administer programs of Federal financial assistance, pursuant to 42 U.S.C. 6106a(b); to the Committee on Education and Labor.

1735. A letter from the Secretary of Education, transmitting a draft of proposed legislation to alleviate burdens imposed upon educational agencies and institutions by the Family Education Rights and Privacy Act of 1974 with respect to the maintenances of records by campus law enforcement units; to the Committee on Education and Labor.

1736. A letter from the Secretary, Department of Transportation, transmitting a report regarding the implementation of the "Imported Vehicle Safety Compliance Act of 1988," pursuant to 15 U.S.C. 1397 note; to the Committee on Energy and Commerce.

1737. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Robert S. Strauss, of Texas, to be Ambassador to the Union of Soviet Socialist Republics, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1738. A letter from the Administrator, General Services Administration, transmitting the first report on the utilization and donation of Federal personal property for fiscal years 1988, 1989, and 1990, pursuant to 40 U.S.C. 484(o)(2); to the Committee on Government Operations.

1739. A letter from the Deputy Associate Director for the Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1740. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1741. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting a copy of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1742. A letter from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting the Department's notice on leasing systems for the western Gulf of Mexico, sale 135, scheduled to be held in August 1991, pursuant to 43 U.S.C. 1337(a)(8); to the Committee on Interior and Insular Affairs.

1743. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting a biennial report on the quality of water in the Colorado River Basin, pursuant to 43 U.S.C. 1596; to the Committee on Interior and Insular Affairs.

1744. A letter from the Administrator, Small Business Administration, transmitting the annual report for fiscal year 1990, pursuant to 15 U.S.C. 639(b); to the Committee on Small Business.

1745. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses; and for other purposes; to the Committee on Veterans' Affairs.

1746. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans' Affairs.

1747. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years; and for other purposes; to the Committee on Veterans' Affairs.

1748. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve the Health Professional Scholarship Program operated by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

1749. A letter from the Acting Chairman, International Trade Commission, transmitting the 42d report for 1990 on the operation of trade agreements program, pursuant to 19 U.S.C. 2213(a); to the Committee on Ways and Means.

1750. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; jointly, to the Committees on Veterans' Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 2031. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide for equal treatment of telephone and electric cooperative welfare plans for the purposes of preemption; with an amendment (Rept. 102–150). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1216. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes; with amendments (Rept. 102–151). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 12, 1991]

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

H.R. 2130. The Committee on Interior and Insular Affairs discharged from further consideration of H.R. 2130.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALLARD (for himself, Mrs. SCHROEDER, Mr. HEFLEY, Mr. SCHAEFER, and Mr. CAMPBELL of Colorado):

H.R. 2883. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior for the purpose of establishing a national wildlife refuge, to authorize the Secretary of the Interior to sell a portion of the property comprising the Rocky Mountain Arsenal for public or commerical uses, and for other purposes; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. ANNUNZIO:

H.R. 2884. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on automobile loans; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 2885. A bill to permit the District of Columbia to issue general obligation bonds to finance the accumulated operating deficit of the general fund of the District; to the Committee on the District of Columbia.

H.R. 2886. A bill to permit the Mayor of the District of Columbia to carry out reductions to the budgets of independent agencies of the District of Columbia; to the Committee on the District of Columbia.

H.R. 2887. A bill to permit the District of Columbia to carry out a separation program for employees of the District government; to the Committee on the District of Columbia.

By Mr. DOOLEY:

H.R. 2888. A bill to modify the flood control project for the Success Reservoir, Tule River, Tulare County, CA, to authorize the Secretary of the Army to enlarge the Success Reservior, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DORGAN of North Dakota (for himself and Mr. OBEY):

H.R. 2889. A bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States; to the Committee on Ways and Means.

By Mr. MONTGOMERY (for himself, Mr. STUMP, and Mr. HAMMERSCHMIDT):

H.R. 2890. A bill to establish limits on the prices of drugs procured by the Department of Veterans Affairs, and for other purposes; jointly, to the Committees on Veterans' Affairs and Energy and Commerce.

By Mr. TORRICELLI:

H.R. 2891. A bill to establish national centers for plastics recycling research and development and to establish a national clearinghouse on plastics recycling; to the Committee on Science, Space, and Technology.

By Mr. SOLOMON:

H.R. 2892. A bill to amend the Immigration and Nationality Act with respect to the exclusion and departure of aliens engaged in terrorist activities; to the Committee on the Judiciary.

By Mr. RAHALL:

H.J. Res. 299. Joint resolution designating the week beginning September 2, 1991, as "Buy American Week"; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. LANTOS, and Mr. GEJDENSON):

H. Con. Res. 181. Concurrent resolution condemning resurgent anti-Semitism and ethnic intolerance in Romania; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

226. By the SPEAKER: Memorials of the General Assembly of the State of New Jersey, relative to the 50th Armored Division of the Army National Guard; to the Committee on Armed Services.

227. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to autism; to the Committee on Energy and Commerce.

228. Also memorial of the Legislature of the Territory of the Virgin Islands, relative to section 16 of the Virgin Islands Revised Organic Act of 1954 relating to the Confirmation of Heads of Executive Departments; to the Committee on Interior and Insular Affairs.

229. Also, memorial of the Senate of the State of Illinois, relative to disabled veterans; to the Committee on Post Office and Civil Service.

230. Also, memorial of the Assembly of the State of New York, relative to veterans' benefits; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 500: Mr. GILLMOR.

H.R. 552: Mr. WYLIE.

H.R. 582: Mr. MONTGOMERY.

H.R. 872: Mr. CARPER, Mr. CHAPMAN, Mr. DUNCAN, and Ms. HORN.

H.R. 917: Mr. ANDREWS of New Jersey, Mr. ESPY, Mr. LEWIS of Georgia, Mr. HAYES of Louisiana, Mrs. BYRON, Ms. WATERS, Mr. SOLARZ, Mr. HUNTER, Mr. GEREN of Texas, Mr. GILLMOR, Mr. WALSH, Mr. NUSSLE, Mr. BURTON of Indiana, Mr. EMERSON, Mr. ORTON, Mrs. COLLINS of Michigan, Mr. TANNER, Mr. JEFFERSON, Mr. ZELIFF, and Mr. LAUGHLIN.

H.R. 1155: Mr. DE LUGO, Mr. FALEOMAVAEGA, Mr. TAYLOR of North Carolina, and Mr. WOLF.

H.R. 1277: Mr. HOCHBRUECKNER, Mr. OWENS of Utah, Mr. CONYERS, and Mr. SWETT.

H.R. 1405: Ms. NORTON, Mrs. BOXER, Mr. ROE, and Mr. HANSEN.

H.R. 1515: Mr. MAZZOLI, Mr. SAWYER, Mr. SKEEN, Mr. HENRY, Mr. KOSTMAYER, and Mr. ROE.

H.R. 1531: Mr. DOOLITTLE, Mr. BATEMAN, Mrs. MINK, Mr. BILIRAKIS, Mr. MCDADE, Mr. BURTON of Indiana, and Mr. AUCOIN.

H.R. 1539: Mr. SANGMEISTER, Mr. AUCOIN, Mr. ABERCROMBIE, Ms. SLAUGHTER of New York, Mr. JOHNSON of South Dakota, and Mr. FAWELL.

H.R. 1584: Mr. MARLENEE.

H.R. 1774: Mr. JOHNSON of South Dakota.

H.R. 1820: Ms. NORTON.

H.R. 2037: Ms. MOLINARI, Mr. HOBSON, Mr. DYMALLY, and Mr. ANTHONY.

H.R. 2081: Mr. FUSTER.

H.R. 2141: Mr. OWENS of Utah, Mr. KLUG, Mr. DELLUMS, Mr. LANCASTER, Mr. LIPINSKI, Mr. SKAGGS, Mr. JOHNSON of South Dakota, Mr. CAMPBELL of Colorado, and Mr. DARDEN.

H.R. 2254: Mr. TORRES, Mr. MATSUI, Mr. ARMEY, Mr. OWENS of Utah, Mr. BILBRAY, Mr. SAXTON, and Mr. GOODLING.

H.R. 2336: Mr. FROST, Ms. DELAURO, Mr. ZELIFF, Mr. WALSH, and Mr. PETERSON of Minnesota.

H.R. 2530: Mr. SCHEUER, Mr. OWENS of New York, Mr. WASHINGTON, Mr. ABERCROMBIE, Mr. TRAFICANT, Ms. NORTON, and Mr. SAVAGE.

H.R. 2579: Mr. FAZIO.

H.R. 2603: Mr. HOCHBRUECKNER.

H.R. 2672: Mr. WOLF, Mr. ANNUNZIO, Mr. SAXTON, Mr. TRAFICANT, Mr. STUMP, Mr. BEREUTER, Mr. IRELAND, Mrs. BYRON, Mr. HEFLEY, Mr. ROGERS, Mr. INHOFE, Mr. MCCRERY, Mr. RAVENEL, Mr. ARMEY, Mr. GOSS, Mr. SHUSTER, Mrs. BENTLEY, Mr. CRAMER, Mrs. COLLINS of Michigan, Mr. DOOLITTLE, Mr. WALSH, Mr. MCNULTY, Mr. DICKINSON and Mr. SOLOMON.

H.R. 2818: Mr. EARLY.

H.J. Res. 83: Mr. FIELDS, Mr. SAXTON, Mr. LIPINSKI, Mr. GORDON, Mr. LENT, Mr. MCGRATH, Mr. COMBEST, Mr. HASTERT, Mr. ROEMER, Mr. SANTORUM, and Mr. CAMP.

H.J. Res. 217: Mr. MCMILLEN of Maryland, Mr. COX of California, Mrs. BENTLEY, Mr. GEREN of Texas, Mr. GINGRICH, Mr. HUNTER, Ms. PELOSI, Mr. MCCRERY, Mr. WEISS, Mr. MORRISON, Mr. VISCLOSKY, Mr. BUSTAMANTE, Mr. ANDERSON, Mr. THOMAS of Wyoming, Mr. ROWLAND, Mr. ZELIFF, Mr. HALL of Texas, Mr. RITTER, Mrs. COLLINS of Illinois, Mr. PANETTA, Mr. HUBBARD, Mr. CHAPMAN, and Mr. ACKERMAN.

H.J. Res. 253: Mr. CLEMENT, Mr. MCMILLEN of Maryland, Mr. HORTON, Mr. LIPINSKI, Mr. ASPIN, Mr. EMERSON, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. TOWNS, Mr. HAMILTON, Mr. ROBERTS, Mr. SPRATT, Mr. TRAFICANT, Mr. WALSH, Mr. TALLON, Mr. WAXMAN, Mrs. UNSOELD, Mr. NATCHER, Mr. FROST, Mr. SPENCE, Mr. HAYES of Illinois, Mr. SLATTERY, Mr. SMITH of Florida, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mrs. MORELLA, Mr. JONES of North Carolina, Mr. ROE, Mr. DELLUMS, Mr. DE LUGO, Mr. KLECZKA, Mr. GORDON, and Mr. SERRANO.

H.J. Res. 257: Mr. BATEMAN, Mr. BENNETT, Mr. CALLAHAN, Mr. CARPER, Mr. DWYER of New Jersey, Mr. GILLMOR, Mr. HARRIS, Mr. HOYER, Mr. INHOFE, Mr. JOHNSON of South Dakota, Mr. JACOBS, Mrs. JOHNSON of Connecticut, Mr. LENT, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MCGRATH, Mr. MILLER of Washington, Mr. MOAKLEY, Mr. MRAZEK, Mr. MYERS of Indiana, Mr. RAHALL, Mr. SAVAGE, Mr. TANNER, Mr. UPTON, Mr. WAXMAN, and Mr. WOLF.

H.J. Res. 274: Mr. BROWDER.

H.J. Res. 285: Mr. KASICH, Mr. FIELDS, Mr. RIGGS, Mr. HERGER, and Mr. DOOLITTLE.

H.J. Res. 294: Mr. ERDREICH, Mr. FROST, and Mr. HORTON.

H. Con. Res. 163: Mr. JONTZ, Mr. ANDERSON, Mr. DEFAZIO, Mr. MCNULTY, and Mr. TOWNS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

102. The SPEAKER presented a petition of the City Council, Lakewood, OH, relative to the Violence Against Women Act of 1991; which was referred to the Committee on the Judiciary.

SENATE—*Monday, July 15, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 3 p.m., on the expiration of the recess, and was called to order by the Honorable PAUL SIMON, a Senator from the State of Illinois.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The Lord God hath given me the tongue of the learned, that I should know how to speak a word in season to him that is weary * * *— Isaiah 50:4.

Lord God in Heaven, these are difficult days in the Senate. There is not enough time, there is too much business, there are too many angles to every issue, and there are too many to please. But we are committed to make democracy work and democracy is neither simple nor efficient and does not work in a hurry. In the words of one, "the hurrier we go, the behinder we get."

Gracious Father in Heaven, help the Senators in their frustration to remember that they represent a political system "of people, by people, for people"; and there are as many differences as there are people. Help them to be patient with themselves, with each other, and with the system. Grant them grace to control their tongues that they will not say that which later they will wish they had not said. Lead them through these days to a productive and profitable legislative session.

In His name, who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD]

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 15, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing rules of the senate, I hereby appoint the Honorable PAUL SIMON, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SIMON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 3:30 p.m., with Senators permitted to speak therein.

The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

SADDAM HUSSEIN AND THE BOMB

Mr. LIEBERMAN. Mr. President, as the leaders of the industrialized nations begin their meetings today, we have had some encouraging news about cooperation among our allies regarding how to deal with the continuing problem of Saddam Hussein. It appears that France and Britain are ready to join with us in military action against Iraq, if Saddam violates the cease-fire agreement, and embarks anew on an effort to acquire weapons of mass destruction.

In recent weeks, we have learned a lot of disturbing news about Saddam's nuclear potential. The people of the world have reason to ask themselves, "How long before Saddam Hussein has a nuclear bomb?"

It was not so many months ago, Mr. President, that some voices expressed doubt that Saddam posed a serious nuclear threat to the world. Before the gulf war, some said the administration's claim about Saddam and nuclear power was a red herring, a diversion designed to win support for a war against Iraq.

For example, one expert said last November that the administration's claims about Iraq's nuclear potential were exaggerated. Another former Government official dismissed fears of Saddam's bomb, saying they were politically motivated. "We are dealing with a threat down the road," he said.

Well, we now know, from the lips of Saddam himself, that he is considerably further down that road than even the pessimists believed; if anything, the administration might even have underestimated Saddam's ability to produce fuel for nuclear weapons.

It now appears that Iraq was pursuing a three-track approach to accumulate weapons-grade uranium, including a primitive but indigenous effort involving calutrons. And no one should be fooled by the term "primitive": Consider the devastation wrought by the primitive bomb that destroyed Hiroshima.

One report indicates that Iraq was intent on building 20 to 40 nuclear weapons, an arsenal capable of annihilating millions of people in the Middle East and throughout the world.

The gulf war, frankly, set back that effort. But it did not end it. If American intelligence sources could be unaware of such a major weapons project, involving hundreds of technicians and large machinery, one must wonder what else we may be missing, even now. That is what is truly alarming. Where there is a will, there is usually a way. And in Saddam Hussein, we have an enemy who still—even after millions of pounds of bombs rained down on his head—possesses the will to become a nuclear power. Perhaps, now that he is deprived of so much of his million-man army; perhaps, now that he no longer possesses the world's fourth strongest force; perhaps his will to possess the bomb is even greater than it was before the gulf war. Of course, it may even prove more facile for him to build the bomb than rebuild the army.

It is also likely that Saddam will continue to hide his chemical and biological facilities, and may begin anew to build those weapons of mass destruction. He has also attempted to hide the missiles with which such weapons can be delivered to their targets.

And so, Mr. President, I fear that, if Saddam Hussein is not removed from power in Iraq, we will one day see death and destruction from chemical or biological weapons originating from Iraq, or even mushroom clouds rising over the horizon in the Middle East, or elsewhere in the world. A nuclear conflagration, radioactive fallout, all the horrors associated with atomic war.

I have no special knowledge, no privileged information that tells me how and when Saddam will produce a nuclear bomb. But I do have an understanding of this man and what kind of international criminal he is.

It is my understanding of Saddam that led me to conclude we must use force to eject his forces from Kuwait.

It is my understanding of Saddam that led me to urge the President to do more to protect the Kurds and the Shi'ites after the war was over.

It is my understanding of Saddam that leads me today to say we must

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

achieve our goal of deposing Saddam Hussein from power in Iraq and—I hope—bring him to justice before an international war crimes tribunal to face charges for his crimes against humanity, the environment, and our civilized world.

If the President decides that it is necessary to order air strikes against Saddam's military machine because of his continued violation of the ceasefire agreement, I will certainly support that decision, as I am confident will an overwhelming majority of the Members of Congress.

But I fear that all the smart bombs in our arsenal will not be able to destroy every shred of Saddam's nuclear potential. As President Bush said recently, he can hide much of this kind of equipment in attics, in the desert, in ordinary buildings, hidden from the view of our intelligence resources, and protected from the power of our Air Force.

No number of bombs will ever be able to destroy Saddam's will, his desire to be a nuclear power, to dominate the gulf region, to threaten the fabric of international law and peace in the world.

Mr. President, the final chapter of the gulf war has yet to be written. The revelations about Saddam's nuclear potential should impel us toward his ultimate defeat. For it is not just the people of Iraq who will suffer at the hand of Saddam, if he fullfills his dream of nuclear power. Saddam, with the bomb, makes Kurds of us all.

Given that fact, we must do everything in our power to keep the attention of the world on Saddam Hussein. We must not give him an inch. President Reagan once said of the Soviets, "Trust, but verify." With Saddam, we must not even trust. We must keep increasing the pressure, turning the screws on his rule.

Toward that end, I support any and every effort by the President to isolate Saddam, to destroy his ability to fight, to end his rule.

We are entering an era when radical villains, armed with weapons of mass destruction, can emerge as primary threats to the security of the American people. Saddam Hussein may, unfortunately, represent a harbinger of the future.

It is important that we make him an example of how we will respond to such threats. All the more important that we bring down Saddam, before he acts to bring the bomb down on anyone.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The President pro tempore is recognized.

Mr. BYRD. I thank the Chair.

(The remarks of Mr. BYRD pertaining to the introduction of Senate Joint Resolution 177 and Senate Joint Resolution 178 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

NOMINATION OF JUDGE CLARENCE THOMAS

Mr. HATCH. Mr. President, I am concerned that a subterranean campaign of innuendoes, distortions, half-truths, selective commentary, and erroneous anecdotes is being revved up to tear down Judge Clarence Thomas.

Let me address a couple of matters that have drawn some comment to set the record straight.

Some in the news media and others have drawn attention to criticisms Judge Thomas has made of some in the civil rights movement. This one-sided recitation of some of the judge's remarks left such an unfair impression of his views of the civil rights movement that he felt constrained to praise that movement during one of his courtesy calls last week. Let no one think that this is belated praise designed to answer current critics. Indeed, Judge Thomas has, over the years, had plenty of praise for the civil rights movement.

In an October 23, 1982, speech before the Maryland Conference of the NAACP, as the then newly installed Chairman of the EEOC, here is part of what Judge Thomas said:

> I would like to talk with you about why I believe that you are the group that can truly make a difference for blacks in this country, what I think the challenges will be in the future, and what we are doing at the Federal level to address the problems of discrimination. * * * The pervasive problem of racial discrimination and prejudice has defied short-term solution. The struggle against discrimination is more a marathon than short sprint. Political parties have come and gone, leaving behind them the failures of their quick fixes. Promises have been made and broken. But one group, the NAACP, has remained steadfast in the fight against this awful social cancer called racial discrimination.
>
> The NAACP has a history of which we can all be proud. From its inception in 1909 until today, the work this organization has done in the area of civil rights is unmatched by any other such group. At each turn in the development of blacks in this country, the NAACP has been there to meet the many challenges. * * *

Mr. President, I note that the judge has often acknowledged the significant role of the civil rights movement and how he, personally, has benefited from it.

In volume 21 of Integrated Education, in 1983, the judge wrote, "Many of us have walked through doors opened by the civil rights leaders, now you must see that others do the same." In a January 18, 1983, speech at the Wharton School of Business in Philadelphia, Judge Thomas said:

> As a child growing up in the rural South during the 1950's, I felt the pain of racial discrimination. I will never forget that pain. Coming of age in the 1960's, I also experienced the progress brought about as a result of the civil rights movement. Without that movement, and the laws it inspired, I am certain that I would not be here tonight.

In an October 21, 1982, speech at the Third Annual Metropolitan Washington Board of Trade, EEO Conference, Judge Thomas described himself as "a beneficiary of the civil rights movement."

In an April 7, 1984, speech at the Yale Law School Black Law Students Association Conference, Judge Thomas noted that the freedom movement of black Americans was not a sudden development, but "had been like a flame smoldering in the brush, igniting here, catching there, burning for a long, long time before someone had finally shouted 'Fire!'"

He asked, in effect, who was responsible for this. The judge then went through a litany of people and events that helped fan the flames of freedom. He asked, in part, whether it was—

> * * * The founders of the NAACP * * * or the surge of pride which black folks felt as they huddled around their ghetto radios to hear Joe Louis preaching equality with his fists, or hear Jesse Owens humbling Hitler with his feet?
>
> Was it A. Philip Randolph, mobilizing 100,000 blacks ready to march on Washington in 1941—and FDR hurriedly signing Executive Order 8802 banning discrimination in war industries and apprenticeship programs?
>
> Or the 99th Pursuit Squadron, trained in segregated units at Tuskegee, flying like demons in the death struggle high over Italy?
>
> Was it Rosa Parks who said "No" she wouldn't move; and Daisy Banks who said "Yes," black children would go to Central High School?
>
> Or the three men who had been the black man's embodiment of blitzkrieg—the most phenomenal legal brains ever combined in one century for the onslaught against injustice—Charles Houston, William Hastie, Thurgood Marshall?
>
> Or a group of students who said, "We've had enough. I mean, what's so sacred about a sandwich, Jack?"
>
> Or men named Warren, Frankfurter, Black, Douglas who read the Bill of Rights and believed?

Mr. President, I realize it may seem more newsworthy to report the judge's remarks only when they have been critical of the traditional civil rights leadership. Realize his critics, who object to his expressed views against reverse discrimination, wish to make him look ungrateful. But it is a false portrait—a caricature—being drawn. These remarks I have quoted are readily available and I hope they will be given their fair dues.

Next, it has been widely reported that in 1983, Judge Thomas had some words of praise for minister Louis Farrakhan. The initial radio reports I heard pretty much left it at that, a deft piece of guilt by association. The reference to Farrakhan in the two speeches in question were apparently drafted by others and may not even have been delivered, according to our colleague, Senator DANFORTH. Here is what Judge Thomas may have said in one or two speeches in 1983:

> In the words of Minister Louis Farrakhan of the Nation of Islam—a man I have admired for more than a decade: "And so, I say to you, whether America overcomes or not, we the poor, we the oppressed, we the blacks, we the Hispanics, we the disinherited, we the rejected and most despised, we will overcome and then together we will be able to say in the words of Dr. Martin Luther King: Free at last, free at last, thank God Almighty, we have united and made freedom a reality at last."

Thus, the judge was expressing agreement with a self-help philosophy. This was in 1983, before minister Farrakhan's anti-Semitic views became well known during the 1984 Presidential campaign. Those who closely track such matters may have been aware of Farrakhan's earlier anti-Semitic remarks, but most people were not aware of them.

I have known Judge Thomas for some 10 years. I have spoken with others who have known him, including Jewish friends of his and mine. There is not a prejudiced bone in the man's body. Any suggestion by anyone—by anyone—that the judge harbored any prejudicial views about Jews is simply and emphatically untrue.

Judge Thomas issued a statement July 12 in which he said:

> I cannot leave standing any suggestion that I am antisemitic. I am and have always been unalterably and adamantly opposed to antisemitism and bigotry of any kind, including by Louis Farrakhan. I repudiate the antisemitism of Lousis Farrakhan or anyone else. While I support the concept of economic self-help, I have never supported or tolerated bigotry of any kind.

Indeed, Mr. President, in reviewing some of the judge's earlier public remarks, I came across an item from the January 26, 1987, Daily Labor Report. I will quote an entire paragraph of the judge's remarks, which include a reference to Jews, so that the full context is understood:

> People have assigned a lot of different motives to what I do, but it's really simple. I don't see how any race policy other than neutrality can be good. I can see absolutely no benefit from them. Segregation was wrong. Apartheid [is] wrong. The policies toward Jews in the Soviet Union are wrong. It used to be the morally good thing to say you're not bigoted against anybody. Now, it's like I'm not in favor of black if I'm not bigoted against anybody. If I'm not for preferences, then I'm against blacks. But I'm not for prefernces for whites either. I just think everybody should be treated fairly. That's it.

I was pleased to read the fairminded comments of Kenneth Stern, described in the July 13, 1991, Washington Post as "as specialist on antisemitism and extremism at the American Jewish Committee." The Post wrote that Mr. Stern "said that Thomas' statement about Farrakhan came," and now I am quoting Mr. Stern in the Post, "before Farrakhan was generally known to be a rabid antisemite. * * * Somebody who was not following Farrakahan very closely might not have known that about him."

The Post story continues:

> Stern said the American Jewish Committee did not have a problem with Thomas' speech because, "Farrakhan has also said other things that Thomas might have been referring to and Farrakhan's antisemitism was not that generally well-reported" at that time.

Rabbi Marvin Hier, dean of the Simon Wiesenthal Center, a Jewish human rights group based in Los Angeles, was quoted in the New York Times on July 13, 1991, as saying:

> We accept Judge Thomas at his word, that he has never been antisemitic and repudiates Louis Farrakhan.

Anti-Semitism has no place in our public or private lives. Judge Thomas has always agreed with that position.

Finally, some reports have had it that Judge Thomas, in an earlier job in Missouri in the mid-1970's, had a Confederate flag in his office. This has touched off a small amount of speculation. Some of it has been small-minded psychobabble. Indeed, one critic, perhaps facetiously, cited this alleged fact for the proposition that Judge Thomas "has appropriated the values and philosophy of those responsible for the vertical relationship of white over black, rich over poor," if you can believe that one, Mr. President. [Haywood Burns, July 9, 1991, New York Times]. Others have guessed that hoisting the Stars and Bars was just another contrary way for the judge to express his well-known independence.

Mr. President, Judge Thomas mentioned this report to me in our visit Thursday. He said he had spoken with some of his colleagues from the period in question. I can now report to the Senate and the American people: Apparently, the flag in Judge Thomas' office was the flag of his home State of Georgia.

I realize this startling revelation may touch off a new round of incisive commentary and analysis of the judge's psyche. Did he also have an American flag in his office? If not, why not? Does the display of the Georgia State flag, a Deep South State, evince a devotion to the doctrine of States rights? I cannot wait to read the next round of speculation to find out. I suspect, however, that it simply reflected the judge's pride in his home State.

Mr. President, nominations of Supreme Court Justices are always interesting. They always create a lot of heat. They always create a lot of interest. But fair is fair. I believe it is time to start treating Clarence Thomas as the decent, honorable man of integrity that he really is.

Mr. President, I have known him for a little over 10 years. I know the man. I know what kind of a person he is. I know where he is coming from. I know that this man does not have a prejudiced bone in his body. I know he is not on the far right or the far left. Therefore, he is not going to please either of the extremes. But I can tell you that he is going to please an awful lot of people, to the left of center from time to time and to the right of center from time to time, if given the chance to serve on the Supreme Court. I believe he will be given that chance.

Mr. President, I hope we will all be fair to Judge Thomas and give him every opportunity we can. I hope the media will be fair to him and not cite things out of context. And I hope that the media and commentators will tell the Judge Thomas full story—and treat him with the dignity he deserves and treat his nomination with the dignity it deserves.

I yield the floor.

TRIBUTE TO FRANK PASQUALE III

Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today to bring to the attention of my colleagues a significant accomplishment of one of my young constituents, Frank Pasquale III. Frank, a student at Paradise Valley High School, is the winner of the sixth annual national Citizen Bee competition conducted by the Close Up Foundation. The Citizen Bee national final is a 2-day competition which puts high school students through grueling written and oral exams on current world events, American history, geography, government, and economics.

In total, more than 140,000 students from 3,700 high schools throughout 45 States, the District of Columbia, Guam, and the Department of Defense Dependent Schools competed this year. One hundred and nine other students joined Frank in Washington for the national final answering questions that would baffle even most Members of Congress. Mr. President, I would like to offer congratulations to each of the finalists for this dedication to the countless hours of study and preparation which this competition demands. I will ask unanimous consent that the list of all of the finalists to be printed at the end of my statement.

At a time when our focus is on the troubled spots in our Nation's educational system, it is refreshing to bring to your attention the work of the Close Up Foundation's Citizen Bee competition which has been successful in getting students excited about civic education. The Citizen Bee combines the talents and hard work of the student participants with the encouragement and dedication of their teachers, parents, and community sponsors. I would like to express my gratitude to those parents who have taken an active role in their children's education, as well as the dedicated teachers. I would also like to recognize the commitment of the local, State, and national sponsors who helped make this educational opportunity possible, particularly the Burger King Corp., the Milken Family Foundation, American Honda Foundation, KPMG Peat Marwick, and Kraft General Foods, and the Arizona sponsors—Arizona Department of Education, Arizona Study for Law-Related Studies, Arizona Council for the Social Studies, Northern Arizona University, and the Paradise Valley Public Schools.

Please join me in expressing congratulations to Frank Pasquale III. He and his parents should be very proud of his outstanding accomplishment. I know my colleagues join me in wishing him and the other Citizen Bee finalists continued success in their educational and civic pursuits. They are our hope for the future.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

CITIZEN BEE NATIONAL FINALISTS

Alabama: Sam Spencer, Auburn; Terry W. Jenks, Sylacauga; Mary A. Mitchem, Montgomery.

Alaska: John Fish, Fairbanks; Diane Bagley, Soldotna.

Arizona: Frank Pasquale III, Phoenix; Mike Garrabrants, Glendale.

Arkansas: Rocky Tsai, Fayetteville; Christopher Brazell, Pine Bluffs.

California: Steve Kapper, Hayward; Everett Chun, San Gabriel; Tri M. Nguyen, Santa Ana; Maureen Wan, Los Angeles.

Colorado: Fred Thomas, Littleton; Jonathon Leggett, Littleton.

Delaware: Joseph Rachinsky, Claymont; Eric Pusey, Dover.

Department of Defense Dependents Schools: Micah Cheatham, Kaiserslautern, Germany.

District of Columbia: Randall A. Fine.

Florida: Christopher Handr, Jacksonville; Kerry Van Voorhis, Tampa; James Wynne, Daytona Beach.

Georgia: John W. Reynolds, Stone Mountain; James E. Cox, Augusta.

Guam: MariAntonette Sablan, Barrigada.

Hawaii: Ryan Oyama, Honolulu; Margaret Britsch, Kahuku.

Idaho: Isaac Eddington, Blackfoot; C. Everett Lilya, Blackfoot.

Illinois: Christopher Perez, Chicago; Margaret Mueller, Belleville.

Indiana: Ethan Sharp, Evansville.

Iowa: Nathan Smith, Mt. Ayr; Ryan Roenfeld, Glenwood; Philip Oliver, Anamosa.

Kansas: Matthew J. Strong, Towanda; Jennifer I. Gassman, Grainfield.

Kentucky: Paul W. Puckett, Winchester; Rebbeca M. Boggs, Louisville.

Louisiana: Johnny Calcagno, New Orleans; John Ranken, Baton Rouge.

Maine: Chris Strand, South Portland; Curt Cheslog, Limestone.

Maryland: Narayanan Kannappan, Greenbelt; Vishnumohan Jejjala, Frederick.

Massachusetts: Johnny G. Su, Northborough; Seth L. Theriault, Lexington.

Michigan: Ati Tislerics, Redford; Joseph Patt, Birmingham; Joseph Ligon, Almont; Brian Burtt, Sparta.

Minnesota: B.J. Priester, St. Paul; Mike Lammers, Albert Lea; Dana Bacon, Staples.

Mississippi: Phillandas T. Thompson, Oxford; Thomas D. Goodwin, Brandon.

Missouri: Tim Boyles, Holden; Jeffrey T. Wilson, Jefferson City.

Nebraska: Jeffrey T. Shafer, Exeter; Matt Kessinger, Laurel.

Nevada: Dan Edwards, Carson City; Mike Nakamoto, Reno.

New Hampshire: Corin Meehan, Dover; Travis Blais, Manchester.

New Mexico: Paul A. Jones II, Clovis; Matthew Chrisman, Lordsburg.

New York: John Van DeWeert, Dryden; Andrew D. Hopkins, Penfield; Jeremy I. Senderowicz, Cedarhurst; Steven L. Gilbert, Rushford.

North Carolina: Justin D. Jones, Rockingham; Cosmos N. George II, Warrenton, William J. Lucas, Chapel Hill.

North Dakota: Carlton F.W. Larson, Dickinson; Max M. Schanzenback, Jamestown.

Ohio: Matthew Shepard, Tiffin; Brett H. Baker, Hanoverton; Christopher Marshall, Cincinnati; Robert Hemp, Sidney; Harry Marks Murry IV, Westerville.

Oklahoma: Nathanial Hobbs, Norman; Jay Porter, Oklahoma City; Michael Cress, Choctaw; Jessica Robinson, Fort Gibson.

Oregon: James Bettles, Chiloquin; Shreeyash Palshikar, Portland.

Pennsylvania: Faisal Chaudhry, Stroudsburg; Meredith A. Fritz, Denver; William L. Tressler, Sunbury.

Rhode Island: Brain Blais, Woonsocket; Anthony Marciano, Providence.

South Dakota: Lisa Wiesler, Miller; Shawn Jacob, Beresford.

Tennessee: Benjamin Sanders, Memphis; Robert Quillin II, Knoxville.

Texas: Chris Kratovil, Irving; Gil Zilkha, Pflugerville; Ashish Acharya, Ft. Worth; Anand Patel, San Antonio.

Utah: Jeremy C. Pope, Provo; Christopher G. Bown, Midvale.

Vermont: David Katz, Bennington; William Kuehn, Fair Haven.

Virginia: Erik Meyer, Lynchburg; George Smaragdis, Arlington.

Washington: Tyler Mickey, Wenatchee; Andrew Schwebke, Puyallup.

Wisconsin: Christopher Miles, Milwaukee; Andy Lamping, Wales.

Wyoming: Katherine Peterson, Pine Bluffs; Laurie Lewis, Rock Springs.

RECYCLYING—REVERSE VENDING MACHINE

Mr. HATFIELD. Mr. President, I come to the floor today to make my colleagues aware of an important recycling demonstration that is being conducted in the Senate Dirksen basement cafeteria. The demonstration involves a device called a reverse vending machine. This machine accepts empty aluminum beverage containers from consumers. Instead of throwing a recyclable container in the trash can, a consumer can deposit it in a reverse vending machine, where it will be crushed and stored until it is picked up for recycling. Many of my colleagues, and certainly many staff members, have noticed this machine. In fact, Mr. President, according to my information, those of us who work here have deposited over 4,800 aluminum cans in this can-crushing machine during the few weeks that it has been in service.

An estimated 7,000 containers were sold during the same period.

To translate, over 4,800 cans avoided the Senate trash bins and avoided our teeming landfills because of this demonstration project. That is a return rate of nearly 70 percent.

According to a recent GAO report, beverage containers account for 4.1 percent of the waste stream. Mr. President, this additional 4.1 percent is simply unnecessary. It represents 4.1 percent that we know we can recycle. We know that we can siphon off this portion of the river of waste that is rapidly filling our landfills.

Like many of my colleagues, I too am alarmed by the EPA's recent prediction that 80 percent of this Nation's landfills will fill up and close within the next 20 years. If we can somehow stop heaping this additional 4.1 percent of easily recyclable material onto the trash heap, we will have taken an important first step toward addressing our solid waste crisis.

Senators PACKWOOD, JEFFORDS, and I recently introduced legislation that would establish national recycling standard of 70 percent for beverage containers. Our legislation, which is numbered Senate bill 1318, mandates this standard and gives States incentives to establish their own beverage container deposit programs. These programs have worked extremely well in the 10 States that now have them in place, including Oregon.

Mr. President, not too many weeks ago, during our debate on the Surface Transportation Act, this body repeatedly reaffirmed the importance of maintaining and improving this Nation's transportation infrastructure. Recycling programs are not less dependent upon the quality of the recycling infrastructure in place to support them. I hope as the Senate begins to more actively focus on the topic of reuse and recycling, that the importance of a recycling infrastructure will be given serious attention.

Reverse vending machines of the sort we have on display in the Dirksen cafeteria could play an important role in this recycling infrastructure. These machines increase the efficiency and decrease the handling costs of container deposit programs.

Because I know that many of my colleagues are as interested in recycling as I am, I have come to the floor today to insert into the RECORD an article that recently appeared in the Washington Post that discusses the merits of the reverse vending machine. I hope my colleagues will review this article and will take time to become better acquainted with the machine while it is here.

Mr. President, I ask unanimous consent that the article be inserted in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

TURNING CANS INTO COLD CASH

(By Martha M. Hamilton)

They are vending machines with a difference. Instead of dispensing junk, they take it back.

The reverse vending machines manufactured by Environmental Products Corp. of Fairfax accept aluminum cans, glass or plastic bottles, and they dispense vouchers for money.

They are showing up in a number of places—locally only in the Dirksen Senate Office Building, and in the 10 states that have some type of container deposit legislation.

But the outcome of lobbying on renewal of the federal Resource Conservation and Recovery Act may determine how truly widespread the use of Evipco's reverse vending machines and similar products becomes.

The company has about 4,000 machines operating in states with bottle bills. "We took back more than 1 billion containers last year," said Bruce H. DeWoolfson, the company's president and chairman. "That's a little more than 1 percent of the beverage containers sold. One percent isn't a big number, but 1 billion is."

DeWoolfson, who founded the business in 1979 and who specialized in logistics, distribution, equipment maintenance and materials reclamation in the Marine Corps until he resigned in 1982, is the inventor of the can-crushing machine. The latest version has evolved in a more sophisticated recycling center that shreds aluminum, which results in 20 pounds to a cubic foot versus 7 pounds when the cans were only crushed. Other Evipco vending machines separate different types of plastics and shred them, or separate clear from colored glass and crush it. The materials can be stored in tanks and picked up by vacuum trucks that deliver them to recyclers.

After dropping a can or bottle into the machine, the consumer is offered supermarket coupons in addition to vouchers for cash. By pushing another button, the consumer may opt to donate the cash to the "charity of the week" and get a voucher to use for an income tax deduction instead.

The cash vouchers can be redeemed at food stores. The amount the consumer is paid for each bottle or can depends on the local deposit law; in this area it's 5 cents.

It is economics, not the elegance of the devices, that will dictate the development of the market for reverse vending. "We've pretty well exploited our existing market," said DeWoolfson, noting that the only bottle-bill state the company hasn't yet penetrated is Michigan. No new "bottle bills" requiring consumer deposits on containers have been passed since 1983, although the California legislature adopted a hybrid approach in 1987.

Absent a change in the federal law that would either require beverage container deposits or mandate recycling in a way that would encourage the states to adopt such laws, "our growth prospects are rather limited," DeWoolfson said.

Voluntary recycling and even municipal programs that require residents to separate recyclable materials simply don't produce a large enough and reliable enough stream of materials to make the economics of reverse vending and recycling work, he said.

A coalition of environmental groups supports federal legislation to expand beverage container deposit programs and measures that would increase the use of recycled materials. "That would certainly widen the market by orders of magnitude for the Evipco vending machines," said Allen Hershkowitz, a solid waste expert with the National Resources Defense Council, an environmental group. "What they are doing is in the environmental interest, and we want to see it developed," he said.

However, a powerful coalition of manufacturers and local and state officials are opposed to such measures. Giant Food Inc. spokesman Barry Scher said local curb-side collection and programs that require commercial recycling offer a better opportunity for recovering more material.

Scher said he has visited Evipco several times to look at the equipment, but Giant is no longer considering acquiring such machines. "There are a number of companies in the U.S. that make reverse vending machines. . . . They have probably the Cadillac of reverse vending machines."

Notwithstanding the uncertain outlook for federal mandates for recycling, Evipco is moving forward. Last year, the company made a consolidated profit of $528,000 on revenue of $33 million, DeWoolfson said. This year, he anticipates revenue of $38 million to $40 million. Depending on the market for public offerings, the company may go public either this summer or next. The company is owned by about 250 investors, including former National Bank of Washington chairman Luther Hodges and Coleman Raphael, former chairman of Atlantic Research Corp. and dean of George Mason University's business school.

The company has 250 employees nationally, including 70 in the Washington area.

DeWoolfson is optimistic that public policy eventually will create the market for his product. "Society's insistence on achieving certain levels of recovery of certain types of materials is going to drive the adoption of deposit laws," he said. "Because they work."

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

Mr. COCHRAN. Mr. President, while many recent changes in the U.S.S.R. are encouraging, the world should not forget that many Soviet citizens are still denied basic human freedoms. This is particularly true of many Jews, who suffer discrimination in housing, education, and employment, and are often denied permission to emigrate to live in another country. We must continue to call attention to the plight of these people and to press for greater religious tolerance, freedom of travel, and fundamental human rights.

The Congressional Call to Conscience Vigil is an annual opportunity for Members of Congress to speak out on the denial of basic freedoms to Soviet Jews. Since 1978, Members participating in the vigil have made statements for the RECORD to heighten public awareness of cases of special need. I rise in this year's Call to Conscience to bring to the attention of the Senate the case of the Pisarevsky family of Leningrad.

Evgeny Pisarevsky and his wife Irina were both born in 1945, and their son Vladimir was born in 1969. Evgeny is a computer engineer who until 1978 was employed in a classified occupation. After waiting 10 years, his wife Irina and their son Vladimir applied for permission to emigrate in 1988 but were refused. Vladimir's application to emigrate independently was also rejected. In protest, Irina joined a group called Jewish Women Against Refusal and participated in a 3-day hunger strike in March 1989, to mark International Women's Day.

In August 1989, Vladimir was given permission to emigrate, but in October he was told his parents could not go with him until 1995. He then used his exit visa and left for Rome en route to the United States, leaving behind not only his parents, but also his fiancee, Inna Nemtchinsky, who had hoped to emigrate with him. Vladimir now lives in New York.

In December 1989, yet another Pisarevsky request to emigrate was refused. In November 1990, while visiting Vladimir in New York on a tourist visa, Irina heard from Evgeny that his former employer, Impulse Scientific Production Association, on orders from the Ministry of Defense, had once again refused to lift his secrecy classification, a rating used repeatedly by authorities to keep him from leaving the U.S.S.R.

Mr. President, Evgeny and Irina Pisarevsky are still waiting for the opportunity to pursue their lives outside the Soviet Union. We want them to know—and we want the Soviet Government to know—that we are concerned about the Pisarevskys and others who suffer denial of basic human rights. We call their case to the conscience of free men and women everywhere, and we urge our Government to continue to seek effective means to persuade Soviet authorities to relent in this situation and in similar cases.

CONTROLLING THE TRANSFER OF ARMS TO COUNTRIES THAT THREATEN WORLD PEACE

Mr. McCAIN. Mr. President, while the United Nations continues to spar with Saddam Hussein over the extent of Iraq's nuclear capability, the proliferation of arms to other countries who would threaten world peace goes on unabated. The traffic in nuclear, biological, chemical, and particularly conventional technology and weapons flourishes in spite of various arms control initiatives and the end to the cold war.

Third, World and developing countries are assaulted by arms merchants from both the East and West. The arms races between countries such as Pakistan and India, and by regional terrorists such as Libya and Iraq threaten the peace of their neighbors, and have a growing potential to drag the United States into costly conflicts. Where we once feared merchants of death, we must now fear merchants of mass destruction.

I am hopeful that the various arms control agreements now being negotiated will reduce the pace of the arms races and the proliferation of weapons of mass destruction. These agreements and common sense may even halt the arms race and proliferation in some countries. Perhaps the regimes that have already violated the letter or spirt of so many arms control agreements in the past will not treat them as scraps of paper in the future.

Hope, however, is not enough, nor are the international agreements currently under discussion. Important as multilateral efforts are, past experience has shown that they must be backed with strong unilateral action. Unless the United States uses its political and economic power, even far better arms control agreements than the world is currently contemplating would lack the teeth to check the actions of many buyers and sellers. We have a national responsibility to take an active role in making the world a safer place.

During the last few years we have tried to exercise this role with a wide range of actions by the Bush administration and Congress. Some have been successful, particularly in regard to the proliferation of long-range missiles. Others affecting nuclear, chemical, and biological weapons have not. There have been a long series of legislative efforts which have failed to produce either an integrated or coherent approach to arms control. Worse, in many areas there is no effective legislation at all.

By introducting Senate bill S. 309 I have taken steps to both place the United States in a leadership role in the area of controlling the transfer of arms to countries that threaten world peace, and provide a single bill that contains all the critical elements of arms control. I have also proposed legislation targeted toward the buyers and sellers of mass destruction rather than all nations without regard for their actions and intentions.

While I recognize the right of all nations to defend themselves, I believe the interests of this country and our friends in the world community mandate that we attempt to limit arms proliferation to countries with agendas hostile to our interests. S. 309 includes compelling considerations, which both buying and selling individuals and nations would have to weigh very carefully before transferring weapons or technology.

In support of my arms control initiative and S. 309 in particular, I have asked the Congressional Research Service to conduct and analysis and comparison of U.S. laws, treaty commitments, and policies regarding arms control and proliferation and the impact which would result from related legislation currently before Congress.

I believe that this report provides dramatic and important evidence of the need for the approach to arms control that I advoacte in S. 309. I believe it is a warning about the inadequacy of existing and contemplated arms control agreements, the risks inherent in a piecemeal approach, and the cost of further legislative delay.

I ask unanimous consent that the excellent CRS report "Weapons Nonproliferation Policy and Legislation" dated July 3, 1991, be inserted at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

WEAPONS NONPROLIFERATION POLICY AND LEGISLATION

(Foreign Affairs and National Defense Division, July 3, 1991)

SUMMARY

Members of Congress have introduced more than thirty legislative proposals in reaction to dangerous trends in international armaments—the proliferation in the Third World of nuclear, biological, and chemical weapons and technology; missiles; conventional weapons; and dual-use equipment and technology. Some bills focus on a single issue or a single country while other bills would establish controls on the spread of most types of weapons, equipment, and related technology throughout the world or throughout the Middle East. This report summarizes the basic provisions of existing laws, policy, and legislative proposals to help the reader make comparisons among them.

NOTE

This report is based on the Congressional Research Service response to a request by Senator John McCain for an analysis and comparison of U.S. laws, treaty commitments, and policies regarding the proliferation of advanced weapons systems and the effect on these laws, commitments, and policies by legislation currently before Congress. The report is made available for general congressional use with the Senator's permission.

Robert Shuey served as overall project coordinator. Robert Shuey, Zachary Davis, Steve Bowman, Theodor Galdi, Kirk Campbell, and Kemper Vest of the Foreign Affairs and National Defense Division wrote the summaries. Terrence Lisbeth gathered information on the status of legislation and prepared the report for publication. The authors appreciate the constructive comments of Larry Nowels, Foreign Affairs and National Defense Division; Raymond Celada, Senior Specialist in American Public Law; and Glennon Harrison, Economics Division, Congressional Research Service.

The authors welcome your suggestions of additional bills, or additional provisions of these bills, for inclusion in a later edition of this report (phone 707-5050).

INTRODUCTION

More than 30 bills have been introduced in the 102nd Congress that would affect U.S. laws or policies regarding international proliferation of weapons and related goods and technology. The bills vary widely in their coverage of proliferation issues and their approach to the issues. Some bills address one particular type of weapon or technology or restrict exports to a particular country. One bill focuses on nuclear nonproliferation; other bills focus on arms transfers to Jordan, South Africa, or El Salvador; and some bills would impose sanctions on China partly because of its activities in spreading weapons. A few bills address a broad spectrum of proliferation issues and would affect U.S. policies toward several vehicles of proliferation control. They would establish penalties for individuals or countries that transfer weapons irresponsibly and would support the establishment of international regimes to control proliferation and to promote arms control in the Third World. These bill have been introduced in response to dangerous trends in international armaments and the apparent need for strong new policies to reverse these trends.

Sophisticated weapons are becoming standard equipment in armed forces throughout the world. Many of the complex, expensive, and very lethal weapon systems that had been the exclusive property of the major military and industrial powers are now in the inventories of Third World nations. In some cases, these advanced weapons have contributed to regional instability and have increased the death and destruction when hostilities have occurred. In the aftermath of the Persian Gulf War, many world leaders have proposed that limits be placed on chemical, biological, nuclear, missile, and advanced conventional weapons proliferation and on transfers of dual-use goods and technology.

The proliferation of *nuclear weapons* is the greatest concern. The number of declared nuclear powers has grown slowly since World War II and is still limited to the five permanent members of the United Nations Security Council (United States, Soviet Union, Great Britain, France, and China). But four other countries probably have a nuclear weapon capability (India, Israel, Pakistan, and South Africa) and several others are considered capable of developing nuclear weapons in the next several years if they choose to (Argentina, Brazil, Iran, North Korea, South Korea, and Taiwan). The Nuclear Non-Proliferation Treaty, supported by the International Atomic Energy Agency, regional nuclear treaties, and informal nuclear supplier guidelines, has helped marshall the cooperation of 100 nations that have ratified the Treaty. In 1995, the Parties to the Treaty will convene a conference to decide whether the Treaty shall continue in force indefinitely or shall be extended for an additional fixed period or periods. In addition, the United States has advocated several nuclear control proposals for the Middle East: a ban on the production and aquisition of weapons-usable nuclear material; the creation of a nuclear weapons-free zone; placement of all nuclear facilities under IAEA safeguards; and accession to all states in the region to the NPT.

Iraq and Syria have reportedly developed offensive *biological weapons* and five or more other countries are progressing toward the development of biological weapons. According to the Director of Naval Intelligence, "entire regions could be rendered uninhabitable for years." through the use of biological agents. The 1972 Biological and Toxin Weapons Convention bans the development, production, stockpiling, possession, and transfer of these weapons. The U.S. Government has recently imposed export controls on certain biological weapons-related dual-use materials and is encouraging all 20 Australia Group countries—countries that pledged to constrain dangerous biological and chemical exports—to do likewise.

Fourteen Third World countries have offensive *chemical weapons*, and ten other countries are trying to develop them. Most of these countries are located in regions of political and military tension: the Middle East, South Asia, Southeast Asia, and Northeast Asia. Iraq used chemical weapons against Iranian troops and against Iraqi Kurds. Some analysts see the use of chemical weapons as a weapon of terror against civilian populations as the most ominous CW threat. The 1925 Geneva Protocol prohibits the use of chemical weapons in war, but many countries (including the United States) reserved the right to retaliate with chemical weapons if attacked with them. The United States works with the Australia Group to restrict exports of chemicals that can be used to produce chemical weapons and is working with other countries on completion of a Global Chemical Weapons Convention to ban such weapons. The President recently announced U.S. willingness to destroy all American chemical weapons if other countries destroyed theirs.

Twenty-five countries now have surface-to-surface *ballistic missiles*, and 12 of those countries are in the Middle East or Asia. Nine countries, of which six are in the Middle East and Asia, have produced missiles, and another eight countries in the Third World have missile development programs. Missiles add to regional instability by enabling a country to attack distant foreign cities with explosive warheads or, perhaps, nuclear, biological, or chemical warheads. The United States is one of the sixteen countries to adopt the export constraints of the Missile Technology Control Regime. The U.S. Government has also called for a ban on acquisition, production, and testing of missiles in the Middle East with a view to the ultimate elimination of missiles from the region.

The transfer of *advanced conventional weapons* has also contributed to regional instability. Over the last two decades, countries in the Middle East imported well over $200 billion worth of arms and military equipment. Iraq was able to build the world's sixth largest armed force and equip it with some of the best weapon systems of the industrial powers.

Several countries in the Middle East, Asia, Africa, and South America produce their own tanks, artillery, armored vehicles, ships, and light aircraft. Communist and non-Communist countries have competed to sell advanced aircraft, guided munitions, electronic equipment, and most other types of military armaments. The only multinational regime to control exports of conventional weaponry is CoCom (the Coordinating Committee on Multilateral Export Controls), which was designed to prevent transfers of critical goods to Communist countries from the Western Industrial countries. The U.S. Government has one of the most extensive national systems for controlling arms transfers. It publishes detailed information on military exports and has recently endorsed proposals from U.N. groups and European countries to establish a U.N. registry of all international arms transfers. Congress is considering several proposals to establish wider multilateral controls, or even a moratorium on arms exports to the Middle East.

The purpose of this report is to describe existing U.S. laws, policies, and international agreements regarding weapons proliferation and to describe how proposed legislation would effect them. The report is organized in six chapters that cover nonproliferation of (1) nuclear weapons, (2) chemical weapons, (3) biological weapons, (4) missiles, (5) conventional weapons, and (6) dual-use goods and technology. Each chapter describes existing laws, treaties and international agreements, policies, and proposed legislation. Existing laws and proposed legislation are discussed in terms of nine basic types of provisions:

(1) Eligibility requirements for receiving U.S. exports/transfers;

(2) Prohibitions/restrictions on the export of particular items;

(3) Countries/companies/individuals that are subject to restrictions/requirements and countries that are not subject;

(4) Relation to treaties, international agreements, or regimes;

(5) Congressional review provisions;

(6) Reporting/consultation requirements;

(7) Enforcement measures to include criminal penalties, economic sanctions, or denial of benefits;

(8) Responsibilities of agencies (by law or Presidential delegation); and

(9) Waiver provisions (to restrictions/prohibitions or to congressional review).

Some of the shorter or more narrowly focused bills are summarized in a brief paragraph rather than in terms of the nine points. The description of existing laws are printed in normal roman type; *the descriptions of proposed legislation are printed in italics*. The descriptions of proposed bills are repeated in each chapter, as appropriate, so that the discussions of each type of proliferation (e.g., nuclear, chemical, etc.) will stand alone.

The following *List of Proposed Legislation Regarding Weapons Nonproliferation* shows which areas of nonproliferation are addressed by each bill and the page number in this report that discusses the relevant provisions. Following that list is a brief report on the *Status of Legislation* at the date of publication.

LIST OF PROPOSED LEGISLATION REGARDING WEAPONS PROLIFERATION

[With references to pages at which they are described]

Bill	Nuc.	Chem.	Bio.	Miss.	Conv.	Dual[1]
LEGISLATION INTRODUCED IN THE HOUSE OF REPRESENTATIVES						
H. Con. Res. 75 Rinaldo, Missiles				75		
H. Con. Res. 93 Bonior, Middle East	28	48	61	75	86	
H. Con. Res. 97 Torricelli, Iraqi Reactor	28					
H.J. Res. 256 Hall, Transfer Restraint					86	
H.R. 88 Engel, Ulster					87	
H.R. 669 Rinaldo, Transfer Controls	28	48	61	76	87	119
H.R. 729 Gejdenson, Export-Import Bank					87	
H.R. 830 Stark, NNPA91	30					
H.R. 868 Hunter, Transfer Controls	30	48	62	76	87	120
H.R. 1111 Dellums, Apartheid	30					
H.R. 1282 Whitten, Desert Storm					87	
H.R. 1317 Anderson, Jordan					88	
H.R. 1343 Levine, Middle East		49	62	76	88	120
H.R. 1346 McDermott, El Salvador					89	
H.R. 1428 Smith, Desert Storm					89	
H.R. 1611 Hughes, Jordan					90	
H.R. 1635 Moody, Export-Import Bank					91	
H.R. 1708 Schumer, Israel					91	
H.R. 2175 Kleczka, Export Import Bank					92	
H.R. 2315 Berman, Middle East	33	49	62	77	92	
H.R. 2318 Gejdenson, Terrorism						121
H.R. 2456 Green, Israel					92	
H.R. 2508 Fascell, Foreign Aid	33	49			92	
H.R. 2621 Obey, Aid Approp	34				97	
H.R. 2755 Markey, Nuclear Exports	34					
LEGISLATION INTRODUCED IN THE SENATE						
S. 156 Mitchell, IMET					97	
S. 236 Moynihan, Cold War					97	
S. 306 Dodd, Export-Import Bank					98	
S. 309 McCain, Transfer Controls	37	49	62	77	98	122
S. 320 Riegle, Export Act	39	51	64	79		124
S. 552 Cranston, IMET					100	
S. 573 Cranston, Human Rights in War					100	
S. 601 Adams, El Salvador					102	
S. 766 Moynihan, Spoils					102	
S. 776 Kennedy, Cambodia					103	
S. 1020 Helms, PRC/MFN	39			80	104	
S. 1046 Biden, Middle East	39	54	67	80	103	
S. 1084 Mitchell, PRC/MFN	41	55	68	81	105	
S. 1128 Glenn, Nuclear Controls	41					
S. 1196 Adams, Israel					106	
S. 1433 Pell, State Dept./M.E.					106	

[1] Nuclear Nonproliferation, Chemical Nonproliferation, Missile Nonproliferation, Conventional Arms Transfers, and Dual-Use Commodities and Technology Export Legislation and Policy.

Status of Proposed Legislation

H. Con. Res. 75 (Rinaldo)

Would express the sense of Congress that the President should convene the Missile Technology Control Regime members to strengthen the accord and should invite the Soviet Union, China, and all other countries to join the agreement. Referred to the House Foreign Affairs Committee on Feb. 26, 1991.

H. Con. Res. 93 (Bonior)

Would express the sense of Congress that the President should seek negotiations to achieve a Middle East arms control agreement, security arrangement, and other ends. Referred to the House Foreign Affairs Committee on Mar. 7, 1991.

H. Con. Res. 97 (Torricelli)

Would express the sense of Congress that the 1981 Israeli attack against the Iraqi nuclear reactor at Osirak was legitimate and justifiable. Referred to the House Committee on Foreign Affairs on Mar. 12, 1991.

H.J. Res. 256 (Hall)

Would resolve that the United States should restrain arms sales to developing countries; the U.N. Security Council permanent members should negotiate arms transfers controls; the United States should discuss a control regime with supplier and recipient nations; and the United States should promote incentives to encourage cooperation in controlling arms transfers. Referred to House Foreign Affairs Committee on May 15, 1991.

H.R. 88 (Engel)

Would prohibit arms transfers to British security forces in Northern Ireland. Referred to House Committee on Foreign Affairs on Jan. 3, 1991.

H.R. 669 (Rinaldo)

A bill to control the transfer of arms to countries that threaten world peace. Referred to House Committees on Agriculture; Banking, Finance, and Urban Affairs; Foreign Affairs; and Ways and Means on Jan. 28, 1991. (See S. 309.)

H.R. 729 (Gejdenson)

A bill to amend the Export Administration Amendments Act of 1985 to assist in the export of certain U.S. defense articles and services. Referred to House Committees on Banking, Finance, and Urban Affairs; and Foreign Affairs on Jan. 30, 1991.

H.R. 830 (Stark)

Provides for the imposition of economic sanctions against foreign persons who have violated U.S. and international standards for nuclear transfers. Referred to Committee on Ways and Means on Feb. 5, 1991.

H.R. 868 (Hunter)

Would control the transfer of arms to countries that threaten world peace. Referred to House Committees on Agriculture; Banking, Financing, and Urban Affairs; Foreign Affairs; and Ways and Means on Feb. 6, 1991. (See S. 309.)

H.R. 1111 (Dellums)

Would prohibit all nuclear trade with South Africa and certain other activities with respect to South Africa. Referred to House Committees on Armed Services; Banking, Financing, and Urban Affairs; Foreign Affairs; Energy and Commerce; Interior and Insular Affairs; Rules; and Ways and Means on Feb. 26, 1991.

H.R. 1282 P.L. 102-28 (Whitten) Supplemental Appropriation for Desert Shield/Desert Storm

Includes a prohibition on the transfer of U.S. equipment and captured equipment to a foreign country until he notifies Congress and Congress approves a bill or resolution authorizing the transfer. Reported by the House Appropriations Committee (H. Rept. 102-10) on Mar. 5, 1991; passed the House on Mar. 7 by yea-nay vote of 380-19; received in the Senate and referred to the Committee on Appropriations Mar. 12; reported with amendments (S. Rept. 102-23) Mar. 14; passed the Senate by yea-nay vote of 98-1 on Mar. 19; conference report (H. Rept. 102-30) Mar. 22; House agreed to conference report Mar. 22; Senate agreed to conference report Mar. 22; enacted as P.L. 102-28 on Apr. 10, 1991.

H.R. 1317 (Anderson)

Would restrict economic and military assistance to Jordan. Referred to Committees on Foreign Affairs; Agriculture; Banking, Finance, and Urban Affairs; Intelligence; and Ways and Means on Mar. 7, 1991.

H.R. 1343 (Levine)

Would restrict the transfer of sophisticated weaponry to the Middle East through the actions of an international commission. Referred to Committee on Foreign Affairs on Mar. 7, 1991.

H.R. 1346 (McDermott)

Would withhold U.S. military assistance from El Salvador. Referred to House Committees on Foreign Affairs and Intelligence on Mar. 7, 1991.

H.R. 1428 (Smith of Florida)

Would govern the transfer of military equipment used or captured in Operation Desert Storm. Referred to Committee on Foreign Affairs on Mar. 13, 1991.

H.R. 1611 (Hughes)

Would terminate U.S. Foreign assistance to Jordan. Referred to Committees on Foreign Affairs; Agriculture; Banking, Finance, and Urban Affairs; Intelligence; and Ways and Means on Mar. 22, 1991.

H.R. 1635 (Moody)

Would expand the prohibition against financing of the export of defense articles and services by the Ex-Im Bank. Referred to House Committees on Banking, Finance, and Urban Affairs; and Foreign Affairs on Mar. 22, 1991.

H.R. 1708 (Schumer)

Would prohibit arms transfers to any country that is in a state of war with Israel. Referred to Committee on Foreign Affairs on Apr. 10, 1991.

H.R. 2175 (Kleczka)

Would amend the Export-Import Bank Act of 1945 to limit the Bank's financing of sales of defense articles and services. Referred to House Committee on Banking, Finance, and Urban Affairs on May 1, 1991.

H.R. 2315 (Berman)

Would provide for the establishment of an international arms suppliers regime to limit arms transfers to the Middle East. Referred to the House Committee on Foreign Affairs on May 14, 1991. (See S. 1046.)

H.R. 2318 (Gejdenson)

Would amend the Export Administration Act of 1979 to treat Iran, Iraq, Libya, and Syria as terrorist countries for three years. Referred to the House Foreign Affairs Committee on May 14, 1991.

H.R. 2456 (Green)

Would prohibit U.S. arms sales to any country that boycotts Israel. Referred to House Foreign Affairs Committee on May 23, 1991. (See S. 1196.)

H.R. 2508 (Fascell) International Cooperation Act of 1991

Would rewrite the Foreign Assistance Act of 1961, amend the Arms Export Control Act and redesignate it the Defense Trade and Export Control Act, and authorize funds for foreign assistance for FY 1992 and 1993. It would impose a moratorium on U.S. arms transfers to the Middle East and prohibit security assistance to countries that have an offensive chemical weapons program and have not supported the CW convention. Referred to the House Committee on Foreign Affairs on June 3, 1991; reported on June 4 (H.Rept. 102-96); debated and amended on the House floor June 11, 12, 13, 19, and 20; passed House amended by recorded vote of 274-138 on June 20, 1991; received in the Senate and referred to the Committee on Foreign Relations on June 28, 1991.

H.R. 2621 (Obey) Foreign Operations Appropriations for FY 1992

Would establish a moratorium on arms sales to the Middle East and Persian Gulf region. Prohibits aid to several countries and bans Export-Import Bank support of arms sales. Reported by the House Committee on Appropriations (H. Rept. 102-108) on June 12, 1991; passed House as amended by a 310 to 102 vote on June 19, 1991; received in the Senate and referred to the Senate Appropriations Committee on June 24, 1991.

H.R. 2755 (Markey)

Would amend the Atomic Energy Act of 1954 to restrict exports of nuclear items to non-nuclear weapons countries. Referred to House Foreign Affairs on June 25, 1991.

S. 156 (Mitchell)

Would reform the International Military Education and Training program to empower civilians in the management of foreign military forces. Referred to the Senate Committee on Foreign Relations on Jan. 14, 1991.

S. 236 (Moynihan)

Would repeal certain Cold War legislation and broaden certain prohibitions on arms transfers. Referred to the Senate Committee on Intelligence on Jan. 17, 1991.

S. 306 (Dodd)

Would amend the Export-Import Bank Act of 1945 to allow the Bank to guaranty certain arms export loans. Referred to the Senate Committee on Banking on Jan. 30, 1991.

S. 309 (McCain)

Would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. Referred to Committee on Foreign Relations on Jan. 31, 1991. (See also H.R. 669 and H.R. 868).

S. 320 (Riegle)

Would reauthorize the Export Administration Act of 1979, add restrictions on the export of chemical and biological warfare related goods or technology, and require the imposition of sanctions against persons who assist in the proliferation of chemical or biological weapons. Introduced and placed on legislative calendar on Jan. 31, 1991; Senate passed S. 320, amended, by voice vote on Feb. 20, 1991; sent to the House and referred to Committees on Foreign Affairs and Judiciary on Feb. 26, 1991.

S. 552 (Cranston)

Would amend the Foreign Assistance Act of 1961, including provisions for the International Military Education and Training Program to increase the control of foreign military forces by civilians. Referred to the Senate Committee on Foreign Relations on Mar. 5, 1991.

S. 573 (Cranston)

Would amend the Foreign Assistance Act of 1961 to condition U.S. security assistance on a country's compliance with fundamental guarantees of international humanitarian law applicable in armed conflict. Referred to the Committee on Foreign Relations on Mar. 6, 1991.

S. 601 (Adams)

Would withhold military assistance for El Salvador subject to certain conditions. Referred to the Committee on Foreign Relations on Mar. 7, 1991.

S. 766 (Moynihan)

Would control U.S. transfers of spoils of war. Referred to the Committee on Foreign Relations on Mar. 21, 1991.

S. 776 (Kennedy)

Would prohibit assistance to combat forces seeking to overthrow the Government of Cambodia. Referred to the Committee on Foreign Relations on Mar. 22, 1991.

S. 1020 (Helms)

Would permit MFN for China only if it met certain conditions, including compliance with certain proliferation standards. Referred to the Committee on Finance on May 9, 1991.

S. 1046 (Biden)

To provide for the establishment of an international arms suppliers regime to limit the transfer of arms to nations in the Middle East. Referred to the Committee on Foreign Relations on May 14, 1991.

S. 1084 (Mitchell)

Would deny MFN treatment for China until the President certifies it has demonstrated participation in efforts to control weapons proliferation. Referred to the Committee on Finance on May 16, 1991.

S. 1196 (Adams)

Would prohibit U.S. arms sales to any country that boycotts Israel. Referred to the Committee on Foreign Relations on May 24, 1991, 1991. (See also H.R. 2456.)

NUCLEAR NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Zachary Davis, Analysis in Environment and Natural Resources Policy, Environment and Natural Resources Policy Division)

A. Introduction

In 1962, President Kennedy warned of the possibility that by the 1970s the United

States could "face a world in which fifteen or twenty or twenty-five nations may have [nuclear] weapons." In 1991, there are five declared nuclear weapons states (United States, Soviet Union, Great Britain, France, China) and four nations reported to possess some undeclared nuclear weapons capability (India, Israel, Pakistan, South Africa). To prevent the further spread of nuclear weapons, the United States has taken the lead in developing and preserving the international nuclear nonproliferation regime.

The nuclear nonproliferation regime is organized on the foundation provided by the Nuclear Non-Proliferation Treaty (NPT), and is supported by an international organization, the International Atomic Energy Agency (IAEA), dedicated to servicing the regime with verification mechanisms and offering positive incentives for nations to comply with the terms of the Treaty. An array of other treaties—Latin America Nuclear Weapons Free Zone, South Pacific Nuclear Weapons Free Zone, Convention on the Physical Protection of Nuclear Materials—and other informal agreements such as the multilateral Nuclear Suppliers Guidelines also support the regime. A legacy of Presidential policies and strong bipartisan congressional support for nuclear nonproliferation policy defines the U.S. commitment to the regime.

The principal pieces of U.S. nonproliferation legislation are: the Atomic Energy Act of 1954, the Nuclear Non-Proliferation Act of 1978, and key amendments to the Foreign Assistance Act of 1961. Exports of nuclear goods or technology with nuclear applications are controlled by the Department of Commerce under the authority of the Export Administration Act. A detailed analysis of legislation and policy for the control of dual-use commodities appears in chapter six of this report. This section examines the basic provisions of U.S. nuclear nonproliferation laws, their relationship to international treaties and agreements, the status of U.S. nuclear nonproliferation policy, and the effects that proposed legislation may have on existing laws and policy.

B. U.S. Nuclear Nonproliferation Laws

The three main pillars of the statutory component of U.S. nuclear nonproliferation policy are the Atomic Energy Act of 1954, the Nuclear Non-Proliferation Act of 1978, and key amendments to the Foreign Assistance Act of 1961. The Export Administration Act authorizes the Department of Commerce to regulate dual-use nuclear exports. Two additional laws with key provisions described here are: Agreement for Nuclear cooperation between the United States and China, Joint Resolution Approving the Proposed Agreement for Nuclear Cooperation; and Comprehensive Anti-Apartheid Act of 1986.

Atomic Energy Act of 1954, as Amended (AEA)

The Atomic Energy Act of 1954 established legal authority for the commercial and military development of nuclear energy and directed the President to establish regulatory guidelines for all such activities. The Act created the Atomic Energy Commission, which was responsible for all aspects of nuclear energy until its duties were divided between the Nuclear Regulatory Commission and the Department of Energy in 1974. A major purpose of the Act was to establish control on the export of nuclear materials, goods, information, and technology.

1. Eligibility Requirements for Exports

The AEA authorizes the Government to cooperate with any nation or group of nations pursuant to the terms of a formal agreement for cooperation. Bilateral agreements for cooperation are required for all military and civilian transfers of nuclear materials and technology from the United States. Agreements for cooperation stipulate that non-nuclear weapons states must accept IAEA safeguards on all peaceful nuclear activities within their territory. Other conditions for cooperation include: guarantees that no nuclear materials or technology transferred from the United States will be retransferred without prior consent of the United States; guarantees that nuclear materials and technology will be returned if the terms of an agreement are broken; guarantees that adequate physical security and storage facilities will be provided; guarantees that no nuclear materials of U.S. origin will be enriched or reprocessed without prior consent of the United States [section 123].

2. Export Prohibitions/Restrictions

Export licenses are required for transfers of nuclear materials and technology. The issuance of export licenses is contingent on the fulfillment of certain criteria by recipient nations. These criteria include: acceptance of full-scope IAEA safeguards on all exported nuclear material and technology; assurance that no exported material, facilities, or technology will be used for research, development, or manufacture of a nuclear explosive device; provision of adequate physical security and storage facilities; no retransfer of any nuclear materials, facilities, or technology without prior approval of the United States; no reprocessing or alteration of nuclear materials without prior consent of the United States; acceptance of IAEA safeguards on all peaceful nuclear activities within the territory or jurisdiction of the recipient state [section 127 and section 128].

Transfers of nuclear materials, components, or restricted information to nuclear weapon states are conducted under the authority granted in section 91.

Except as provided in section 91, it is unlawful for any person to transfer or receive in interstate or foreign commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon [section 92].

3. Countries/Companies/Individuals Subject to Restrictions

All transfers of nuclear materials, facilities, components, and technology must be conducted under the authority of an agreement for cooperation with the appropriate export licenses. Nuclear transfers to non-nuclear weapon states may not be used for any military purpose (section 123). The AEA authorizes the Department of State to negotiate agreements for cooperation with any nation or group of nations. The term "group of nations" refers to the European Atomic Energy Community (Euratom), which cooperates with the United States under the provisions of the Euratom Cooperation Act of 1958.

4. Relation of Treaties/Agreements

The acceptance of IAEA safeguards is a condition of agreement for nuclear cooperation with the United States, and a criteria for issuing U.S. export licenses. The mission, purposes, and authority of the IAEA are contained in the Agency's Statute, which entered into force in 1957. Congress established conditions for U.S. membership in the International Atomic Energy Agency Participation Act of 1957. IAEA safeguards are defined in Article III(2) of the Nuclear Non-Proliferation Treaty, which entered into force in 1970.

The violation or abrogation by a country of a safeguard agreement with the IAEA is grounds for terminating that country's agreement for nuclear cooperation with the United States.

The President may also suspend an agreement for cooperation with any nation or group of nations which has not ratified the Convention on Physical Security of Nuclear Material, which entered into force in 1987.

Two informal multilateral groups were formed in the 1970s to reinforce the international standards for nuclear commerce contained in the 1954 AEA. The Zangger Committee and the London Nuclear Suppliers Group established voluntary export guidelines to regulate transfers of nuclear materials, facilities, and technology from the more technologically advanced nuclear supplier nations to recipient nations.[1] As a voluntary association, no formal administrative structure exists to coordinate the separate nuclear trade policies of the member states. The guidelines are voluntary and lack enforcement mechanisms. The London Nuclear Supplies Group met in March 1991 for the first time since 1978.

5. Congressional Review

All proposed agreements for cooperation and subsequent agreements must be submitted to the Congress for a period of 90 days of continuous session. During the first 30 days, the President is required to consult with the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs regarding the consistency of the agreement with the requirements of section 123. Thereafter a joint resolution may be introduced and Congress has 60 additional days of continuous session in which to hold hearings and act on the resolution. The resolution is required to say that the Congress [does or does not] favor the proposed agreement for cooperation (section 123, section 130).

If the President determines that an agreement meets all of the statutory requirements, it automatically takes effect after the 90-day review. However, the Congress can disapprove a Presidential approval by a joint resolution of disapproval, assuming it can override a Presidential veto. (The proviso in section 123(d) for a joint resolution was modified in 1985 in connection with the Supreme Court decision that legislative vetoes by passage of concurrent resolutions were unconstitutional.) If the President waives any requirement of the Act, the agreement can take effect only if both Houses pass a resolution of approval.

6. Reporting/Consultation Requirements

Proposed agreements for cooperation must be approved by the appropriate congressional committees.

The President must submit a determination to the Congress if he decides to continue an agreement for cooperation after the agreement has been violated [section 129].

The AEA instructs the Secretaries of Energy, Defense, and State, and the Chairman of the Nuclear Regulatory Commission to keep the Congress "fully and currently informed." Any Government agency must furnish information requested by the Congress.

The ACDA must prepare an unclassified report which assesses whether the proposed agreement is consistent with the export criteria in section 123. The ACDA report shall accompany the proposed agreement when it is submitted to the President for approval, and when the agreement is sent to the Congress.

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[1] The members of the Zangger Committee are Australia, Canada, Czechoslovakia, Denmark, Finland, Germany, Greece, Hungary, Italy, Japan, Luxembourg, the Netherlands, Norway, Poland, Sweden, Switzerland, the United Kingdom, the United States, and the Soviet Union. The members of the London Club are Belgium, Canada, Czechoslovakia, France, Germany, Italy, Japan, the Netherlands, Poland, Sweden, Switzerland, the United States, the United Kingdom, and the Soviet Union.

Prior to entering into an agreement for retransfer of more than 500 grams of plutonium, the Secretary of Energy must report to the Senate Committee on Foreign Relations and the House Foreign Affairs Committee stating the reasons for the agreement [section 131].

The transmission of restricted information pursuant to an agreement for cooperation requires the Nuclear Regulatory Commission (NRC) to report to Congress on the nature of the information to be exchanged (section 147). The Secretary of Energy is also required to prepare quarterly reports to be made available "to any interested person" regarding procedures for disclosing restricted information.

Before issuing validated export licenses, the NRC must first submit export license applications for review by the Department of State.

Proposed exports of nuclear materials must be approved by the Secretary of Defense to assure that adequate provisions for physical security are in place [section 133].

7. Enforcement

Nuclear cooperation agreements can be suspended if a country violates the terms of the agreement, or engages in certain activities prohibited by U.S. and/or international laws. Actions which can trigger a cutoff of cooperation with non-nuclear weapons states are: detonation of a nuclear explosive device; termination or violation of an IAEA safeguards agreement; activities which have direct significance for the manufacture or acquisition of a nuclear explosive device. Actions which can trigger a suspension of nuclear cooperation with nuclear weapons states are: violation of an agreement for cooperation with the United States; assisting, encouraging, inducing a non-nuclear weapons state to engage in activities having direct significance for the manufacture or acquisition of a nuclear explosive device; entering into an agreement to transfer reprocessing equipment to any non-nuclear weapon state, except in connection with an agreement to which the United States subscribes.

8. Agency Responsibilities

Agreements for cooperation are negotiated by the Department of State, with the assistance and concurrence of the Department of Energy, NRC, and ACDA. Agreements for cooperation involving military applications pursuant to section 91 are implemented by the Secretary of Defense.

The Secretary of Energy is responsible for establishing procedures for coordinating inter-agency consultations regarding exports and agreements (section 57 and section 131). These rules and procedures are published in the *Federal Register* (June 7, 1978, p. 25326, and May 16, 1984, p. 20780). As part of the President's Enhanced Proliferation Control Initiative, revised procedures intended to expedite the inter-agency review process for nuclear export licenses were announced on February 19, 1991. (*Federal Register*, February 19, 1991, p. 6701).

Export licenses for nuclear materials and commodities are issued by the NRC, pending review by the Secretary of State and consultations with the Departments of Defense, Commerce, Energy, and ACDA. Applications for export licenses for "dual-use" items which could be used in the development or manufacture of nuclear explosive devices are processed by the Department of Commerce, which maintains a list of such dual-use commodities. Applications for export licenses for nuclear commodities on the Commerce Department list are referred to the inter-agency Subgroup on Nuclear Export Coordination (SNEC), which reviews the application and recommends to the Department of Commerce whether the application should be granted or denied.

9. Waiver

The President may waive restrictions on nuclear agreements and exports if he determines that such restriction and requirements would be prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security (section 123, section 126, section 128).

Foreign Assistance Act of 1961 As Amended (FAA)

Questions about the future of U.S. economic and military aid to Pakistan in light of that country's progress towards the development of nuclear weapons prompted Congress to attach key amendments to the FAA. Congress intended the amendments (sections 669 and 670) to dissuade recipients of U.S. aid from acquiring the wherewithal to produce weapon grade uranium and plutonium. The amendments did not penalize non-nuclear weapon states that acquire the equipment and technology from their own resources, or had imported it before 1976.

By the late 1970s, Pakistan had acquired nuclear enrichment facilities, primarily from China, which would make it ineligible for U.S. foreign assistance because of the prohibition in section 669. The Carter, Reagan, and Bush Administrations and many members of Congress thought it was important to continue providing aid to Pakistan because of its role in support of Afghan refugees and guerrillas. Those administrations exercised their authority to waive cutoff of aid required by sections 669 and 670. In 1985, Congress passed the Pressler amendment [section 620E(e)), which conditioned aid to Pakistan on a written Presidential determination to the Congress that "Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device." Eventually, the President stopped making such certifications, and aid was terminated in late 1990.

1. Eligibility Requirements for Exports

Sections 669 and 670, known as the Glenn-Symington amendments, require the President to cut military and economic assistance to countries that receive or supply the wherewithal for enriching uranium or for reprocessing spent nuclear fuel to extract plutonium (unless all such nuclear facilities and materials are placed under IAEA safeguards), that receive or transfer a nuclear explosive device, or that detonate a nuclear explosive device. President Carter invoked section 669 when he cut aid to Pakistan in 1979.

In 1985, Representative Solarz added a new restriction to section 670 providing for the cutoff of aid to any country which illegally exports, or attempts to export illegally, nuclear equipment that would contribute significantly to the ability of a country to construct a nuclear device.

2. Export Prohibitions/Restrictions

Restrictions apply only to U.S. military and economic aid.

3. Countries/Companies/Individuals Subject to Restrictions

The United States can terminate military and economic assistance to any nation found to be violating these statutes. The certification requirement in section 620E made possible the waiver of restrictions under sections 669 and 670 for Pakistan, but placed additional conditions on U.S. economic and military aid to Pakistan.

4. Relation of Treaties/Agreements

Acceptance of IAEA safeguards on all peaceful nuclear materials and facilities is required for continued U.S. aid.

5. Congressional Review

Congress retained the authority in sections 669 and 670 to terminate or restrict aid provided pursuant to a Presidential waiver of the cutoff. If, within 30 calendar days after receiving a Presidential certification in connection with a waiver of restrictions, the Congress adopts a concurrent resolution disapproving the assistance pursuant to the certification, the certification shall cease to be effective and all assistance furnished under the authority of that certification shall be ceased. However, such legislative vetoes by passage of a concurrent resolution are probably unconstitutional in view of the 1985 Supreme Court ruling in the case of *Immigration and Naturalization Service v. Chadha*.

Presidents Reagan and Bush supplied determinations under the Pressler amendment [sections 620E(e)] in each year from 1985 to 1989 despite Pakistan's continued progress towards the development of nuclear weapons. In his 1989 determination, President Bush expressed doubts about Pakistan's unsafeguarded nuclear program. The President did not submit determination for FY 1991, and U.S. aid to Pakistan was subsequently cutoff.

6. Reporting/Consultation Requirements

To waive the cutoff of aid contained in section 669 of the FAA, the President must certify to the Congress that: (A) the termination of such aid would have a serious adverse effect on vital U.S. interests; (B) he has received reliable assurance that the country will not acquire or develop nuclear weapons or assist other nations in doing so [section 669(b)(1)].

To waive the cutoff of aid contained in section 670 the President must issue a determination that a cutoff would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security [section 670(B)(2)(1)].

7. Enforcement

Termination of U.S. economic and military assistance is to be used.

8. Agency Responsibilities

None were specified.

9. Waiver

The President has had the authority to waive the cutoff of aid contingent on his providing to the Congress the required determination that the termination of aid would harm the national interest. Congress authorized the President to waive the cutoff of aid to Pakistan in response to the Soviet invasion of Afghanistan. However, the President's authority to waive the cutoff of aid to Pakistan expired April 1, 1991.

The Nuclear Non-Proliferation Act of 1978 (NNPA)

With a view to reinforcing positive and negative incentives for international cooperation with U.S. nonproliferation policy, the NNPA was intended to assert U.S. leadership and control over the international nuclear fuel cycle. The NNPA sought to strengthen the U.S. role as a reliable supplier of nuclear technology and nuclear fuels as a means of controlling the spread of uranium enrichment and plutonium reprocessing facilities throughout the world. The Act awarded the requirements for nuclear cooperation with the United States originally contained in the AEA of 1954.

1. Eligibility Requirements for Exports

Participation in U.S. supported international nuclear fuel supply services is available only to non-nuclear weapon states which accept IAEA safeguards on all peaceful nuclear activities, do not manufacture or acquire a nuclear explosive device, do not establish new enrichment or reprocessing facilities, and place all existing facilities under international auspices and inspection [section 104(d)].

2. Export Prohibitions/Restrictions

No nuclear materials and equipment and no sensitive nuclear technology are to be transferred to the jurisdiction of any other nation unless the recipient agrees to conditions on the uses of such materials and technology, including the acceptance of IAEA safeguards on all peaceful nuclear activities.

3. Countries/Companies/Individuals Subject to Restrictions

All nations engaging in nuclear commerce with the United States must comply with NNPA, and AEA of 1954 conditions for nuclear cooperation [section 403].

4. Relation of Treaties/Agreements

The NNPA was enacted to support and strengthen the NPT, and to further institutionalize the IAEA safeguards and inspection system as an integral part of international nuclear commerce (section 201). Top priority for receiving U.S. energy resource development assistance is designated for nations which have signed the NPT.

5. Congressional Review

Consistent with the requirements of the AEA of 1954, the President may not enter into agreements for nuclear cooperation without first submitting such proposed agreements to the Congress for approval [section 104(f)].

6. Reporting/Consultation Requirements

The NNPA contains extensive reporting and consultation requirements.

The President is directed by section 601 to submit an annual report to the Congress on the Government's efforts to prevent nuclear proliferation. The comprehensive report is to include descriptions of progress made towards negotiating multilateral export controls, support for IAEA safeguards, encouraging adherence to the NPT, and discouraging nuclear exports to non-nuclear weapon states that have not signed the NPT. Additional requirements for reporting on nuclear terrorism were added by the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986.

The NRC and the Department of Energy are also required to submit annual reports to the Congress including detailed analysis of potential proliferation problems associated with new enrichment and reprocessing technologies (section 602). The Departments of State, Defense, Commerce, Energy, and ACDA are directed to keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the House Committee on Foreign Affairs "fully and currently informed" regarding the implementation of the Act and activities of foreign nations which are of significance from a proliferation standpoint [section 602(c)]. Semi-annual classified briefings are offered to the ranking members of the committees by the Department of State.

The Secretary of Defense is entitled to have full assess to all information regarding proliferation held by the Secretary of State and the Secretary of Energy [section 602(f)].

7. Enforcement

The President is directed to ensure that the benefits of participating in the international nuclear fuel cycle are available to non-nuclear weapon states only if such states accept IAEA safeguards on all peaceful nuclear activities, and do not manufacture or otherwise acquire any nuclear explosive device [section 104(d)]. Provisions for enforcing bilateral agreements for nuclear cooperation are described in the Atomic Energy Act of 1954 as amended.

8. Agency Responsibilities

The NRC is authorized to publish regulations to faciliate implementation of the Act, including procedures for inter-agency consultations between the Departments of State, Commerce, Energy, Defense, NRC, and ACDA (section 309). The President is directed to publish procedures regarding the control by the Department of Commerce over all dual-use nuclear export items, other than those nuclear commodities licensed by the NRC, which could be used to make nuclear explosive devices. Such dual-use items are controlled by the Commerce Department under the authority granted in the EAA of 1979. (See Dual-Use section, pages 93, 99.) These regulations were revised in connection with President Bush's Enhanced Proliferation Control Initiative in February 1991. The new regulations were intended to improve and expedite inter-agency review proceses for nuclear export licenses. (*Federal Register*, February 19, 1991, p. 6701)

9. Waiver

None were added to existing Presidential authority under the AEA of 1954.

Agreement for Nuclear Cooperation Between the United States and China, Joint Resolution Approving the Proposed Agreement for Nuclear Cooperation

In 1985, the Reagan Administration concluded an agreement for nuclear cooperation with the People's Republic of China. This resolution established guidelines and conditions for such cooperation.

1. Eligibility Requirements for Exports

The agreement permits, but does not require, U.S. nuclear cooperation with and transfers of nuclear materials and technology to China.

2. Export Prohibitions/Restrictions

The agreement requires Presidential certification that China has accepted verification of all U.S. exported commodities to assure they are used for peaceful purposes only, and that China is not violating section 129 of the AEA of 1954, which places restrictions on exports to nations that assist or encourage non-nuclear weapon states to acquire nuclear weapons.

3. Countries/Companies/Individuals Subject to Restrictions

People's Republic of China.

4. Relation of Treaties/Agreements

China is not a party to the NPT, does not allow IAEA safeguards on all of its peaceful nuclear activities, and is not a member of the Nuclear Suppliers Group. Chinese officials have stated their country's intention to abide by international standards of nuclear trade and commerce. However, numerous reports indicate that China's nuclear exports have often failed to satisfy the basic requirements for safeguarding international nuclear transfers. The disclosure in March 1991 of a secret Chinese sale of a reactor to Algeria renewed concerns about China's nuclear export policies.

The AEA and the NNPA require full-scope IAEA safeguards on all peaceful nuclear activities in non-nuclear weapon states. However, since China is a nuclear weapon state, IAEA safeguards are not required under U.S. law.

5. Congressional Review

No nuclear export license may be issued until 30 days of continuous session after the President has made the required certifications to the Congress.

6. Reporting/Consultation Requirements

The President must certify to Congress that adequate verification measures are in place to provide assurance that U.S.-supplied nuclear materials or goods have not been diverted for military purposes, and that China has provided additional information about its nonproliferation policies and is not in violation of section 129 of the AEA of 1954. The President must also submit to Congress a report detailing the history and current developments in Chinese nonproliferation policy.

An additonal reporting requirement was added in 1989 after the suppression of Chinese students in Tiananmen Square directing the President to certify that China "has provided clear and unequivocal assurances to the U.S. that it is not assisting and will not assist any non-nuclear weapons state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices."

The President has not supplied the Congress with the certifications required for issuing nuclear export licenses for transfers of materials, or goods to China.

7. Enforcement

Cutoff of nuclear cooperation with the United States is to be used.

8. Agency Responsibilities

None were specified beyond responsibilities for nuclear exports in AEA of 1954 and NNPA.

9. Waiver

None were specified.

Comprehensive Anti-Apartheid Act of 1986, as Amended

The United States has an agreement for nuclear cooperation with South Africa which will expire in 2007. However, the United States restricted nuclear exports to South Africa in 1979 because it would not accept IAEA safeguards on all of its nuclear activities. Some minor U.S. exports not requiring full-scope safeguards continued until Congress passed the Comprehensive Anti-Apartheid Act of 1986. The Act imposed a range of sanctions against South Africa, including expanded restrictions on nuclear trade.

1. Eligibility Requirements for Exports

Restrictions on nuclear exports can be lifted if South Africa signs the NPT or accepts full-scope IAEA safeguards on all of its nuclear facilities [section 307(4)].

2. Export Prohibitions/Restrictions

The Act imposes a range of sanctions against South Africa. Section 309 bans the import into the United States of South African uranium ore, uranium oxide, coal, or textile. Section 309 does not, however, specify uranium hexafluoride. Consequently, uranium hexafluoride can be imported into the United States from South Africa (*Federal Register*, March 10, 1987, 7274).

The Nuclear Regulatory Commission shall not issue any license for the export to South Africa of production or utilization facilities, any source or special nuclear material or sensitive nuclear technology, or any component parts, items, or substances identified pursuant to section 109(b) of the AEA of 1954 as significant from the standpoint of making nuclear explosives.

The Secretary of Commerce shall not issue any license for the export to South Africa of any goods or technology which have ben determined, pursuant to section 309(c) of the NNPA, to be of significance for nuclear explosive purposes. This prohibition applies to goods judged by the President to be likely to be diverted to a South African production or utilization facility.

The Secretary of Energy shall not, under section 57(b) of the AEA of 1954, authorize any person to engage, directly or indirectly, in the production of special nuclear material in South Africa.

No goods, technology, source or special nuclear material, facilities, components, items, or substances shall be approved by the NRC or an executive branch agency for retransfer to South Africa.

Prohibitions may be altered if the Secretary of State certifies that South Africa has signed the NPT or accepts IAEA safeguards on all its peaceful nuclear activities.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions include exports to, and imports from, South Africa.

4. Relation of Treaties/Agreements

Section 307 states that prohibitions on nuclear trade can be lifted if South Africa signs the NPT or agrees to accept IAEA safeguards on all its peaceful nuclear activities.

5. Congressional Review

Congress may, through a joint resolution, disapprove a Presidential determination to suspend or modify sanctions [section 311(b)(3) and section 601].

6. Reporting/Consultation Requirements

The President must submit determinations to allow particular prohibited nuclear exports to go forward for national security reasons to the Speaker of the House and the chairman of the Committee on Foreign Relations of the Senate at least 60 days in advance of such exports [section 307(c)].

Additional reports are required in connection with sanctions on other goods and transactions.

7. Enforcement

In addition to economic sanctions, any person that violates the provisions of the Act, or any regulations, license, or order issued to carry out the Act, shall be subject to a civil penalty of $50,000. Any person, other than an individual, who willfully violates the provisions of the Act shall be fined not more than $1,000,000. Any individual who willfully violates the provisions of the Act shall be fined not more than $50,000 or imprisoned not more than 10 years, or both. Whenever a person commits a violation, persons connected with the violation, including employers and employees, may be fined not more than $10,000 or imprisoned not more than 5 years, or both (section 603).

Additional penalties are available in connection with non-nuclear violations.

8. Agency Responsibilities

The NRC and the Departments of Commerce and Energy are directed not to allow transfers of goods under their jurisdiction.

9. Waiver

The President may waive prohibitions on nuclear exports if he determines that to apply the prohibitions would be seriously prejudicial to the achievement of United States nonproliferation objectives or would otherwise jeopardize the common defense and security of the United States. Such a determination must be submitted to the Speaker of the House and the chairman of the Committee on Foreign Relations at least 60 days before the export is carried out.

Sanctions do not preclude nuclear exports necessary for humanitarian purposes or participation in IAEA reactor safety programs.

The President may lift sanctions on nuclear trade if South Africa signs the NPT or accepts IAEA safeguards on all its peaceful nuclear activities.

C. Treaties, International Agreements, and Regimes

The United States has played a leading role in developing the interconnected web of treaties, multilateral and bilateral agreements, laws, and policies that are collectively described as the nuclear nonproliferation regime. To a large extent, U.S. Laws and policies pioneered emerging norms of international behavior which today guide most international nuclear affairs.

President Eisenhower's 1953 Atoms for Peace proposal provided the foundation on which the IAEA was founded in 1957. The IAEA is a U.N.-affiliated international organization which serves in the dual capacity as a facilitator for the transfer of peaceful nuclear technology to developing nations, and as the primary verification mechanism for the NPT. The dual nature of the IAEA's mission provides both positive and negative incentives for achieving nonproliferation objectives. The coupling of positive incentives with the IAEA's verification and safeguards mechanisms is viewed by many analysts as vital for the success of the regime. Some nonproliferation analysts have recommended expanding the IAEA's verification capabilities to provide greater assurances regarding the nuclear programs of certain states. However, the Agency has been forced to operate with a zero-growth budget for the past 6 years, and thus lacks sufficient resources or authority to expand the scope of its operations.

Unilateral U.S. laws and policies have also been on the forefront of efforts to establish multilateral export controls on international transfers of nuclear materials and technology. The Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978 set important precedents for safeguarding international nuclear trade and commerce. The informal multilateral Zangger Committee and Nuclear Suppliers Group were established in the 1970s to reinforce and assist in the implementation of restrictions on nuclear transfers included in the NPT. The two voluntary groups seek to harmonize the separate nuclear export control policies of the major nuclear suppliers. The 1987 Convention on the Physical Protection of Nuclear Material also codifies international legal norms for safeguarding nuclear commerce.

Although the United States no longer wields the same level of economic and technological superiority that it did during the genesis of the nuclear nonproliferation regime, U.S. policy towards critical proliferation issues will strongly influence the direction of global responses to the spread of nuclear weapons.

D. Nuclear Nonproliferation Policy

The Bush Administration has expanded the definition of proliferation to include nuclear, chemical and biological weapons, and missiles. Oversight of these proliferation problems has been consolidated in the office of Reginald Bartholomew, Undersecretary of State for Security Assistance, Science, and Technology. Ambassador Richard T. Kennedy retains special responsibility for nuclear proliferation, including IAEA affairs. In connection with the Administration's Enhanced Proliferation Control Initiative, new regulations intended to streamline the complex and sometimes inconsistent implementation of export controls were announced on February 19, 1991. In adjusting U.S. export control policies to the post-Cold War environment, the Bush Administration has sought to improve coordination between the Departments of State, Defense, Commerce, Energy, NRC, and ACDA, especially in the administration of export controls on nuclear commodities and other dual-use goods.[2] The apparent relaxation of certain U.S. and CoCom regulations, however, has raised concerns about the removal of existing restrictions on exports of sensitive dual-use technologies to nations with active nuclear weapons programs.

Other critical issues before the President and the Congress include:

(1) U.S. aid to Pakistan;

(2) U.S. policy towards nations engaging in illegal or suspicious nuclear activities;

(3) Vote on extension of the NPT at the Fifth NPT Review Conference in 1995;

(4) Linkage between progress in "vertical" and "horizontal" proliferation;

(5) Linkage between the nuclear nonproliferation regime and the regimes created to control the spread of chemical and biological weapons and missiles; and

(6) Support for the IAEA and its inspections and safeguards system.

E. Proposed Legislation on Nuclear Nonproliferation

Several bills being considered by the Congress seek to address various aspects of nuclear nonproliferation policy.

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H. Con. Res. 97 (Torricelli)

This concurrent resolution would express the sense of the Congress that the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense, and that the United States should seek the repeal of U.N. Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade of embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

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[2] See Glennon Harrison and George Holliday, *Export Controls*, CRS issue Brief 87122 and, *Finding Common Ground: US Export Controls in a Changed Global Environment* (Washington: National Academy of Sciences, 1991).

H.R. 830, The Nuclear Non-Proliferation Enforcement Act of 1991 (Stark)

The bill would provide for the imposition of economic sanctions against foreign "proliferation profiteers" who violate U.S. and international standards for nuclear transfers.

1. Eligibility Requirements for Exports

The bill would not change eligibility for U.S. assistance, but would cut off trade with foreign companies or entities found to be violating U.S. and international laws regarding nuclear trade and commerce.

2. Export Prohibitions/Restrictions

The bill includes no prohibition or restriction on U.S. exports. Sanctions would prohibit for a period of at least 2 years the entry into the customs territory of the United States of any article that is the growth, product, or manufacture of a foreign person or entity whom the President has determined has violated U.S. nonproliferation laws.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions would apply to any foreign person, company, country, or entity determined by the President to have violated U.S. nuclear nonproliferation laws.

4. Relation to Treaties/Agreements

Sanctions would be applied to foreign persons who supply nuclear goods or technology to any foreign country which has not ratified the Treaty on the Non-Proliferation of Nuclear weapons and concluded an agreement with the IAEA for the application of IAEA safeguards on all nuclear facilities, and to any country which has violated a safeguards agreement with the IAEA.

The term "non-nuclear weapon state" is given the same definition as in the NPT.

5. Congressional Review

None.

6. Reporting/Consultation Requirements

The president would be required to determine at least once each year which, if any, foreign persons have violated the Act. Such determinations are to be published in the Federal Register.

The President would be authorized to issue advisory opinions to persons regarding actions that may make them eligible for sanctions.

The President would be required to notify the Congress in not less than 20 working days before issuing waivers of sanctions. The report must include explanations of the rationale and circumstance which led to the waiver.

Any United States person would be able to file a petition requesting an investigation to determine whether sanctions are warranted in a particular case. Upon receipt of such a petition, the President must determine whether to conduct an investigation and notify the petitioner of his decision. The decision shall be published in the Federal Register within 20 days. The petitioner may appeal the President's decision in U.S. district court.

7. Enforcement

The bill would prohibit for a period of at least 2 years of imports to the United States of any article that is the growth, product, or manufacture of any foreign person determined by the President to have violated the provisions of the Act. The definition of foreign person includes corporations, business associations, and government entities.

8. Agency Responsibilities

None stated.

9. Waiver

The President may waive sanctions pursuant to a determination that to do so is essential to the security of the United States.

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309 below.)

H.R. 1111, Anti-Apartheid Act Amendments of 1991 (Dellums)

In 1988, proponents of South African sanctions introduced amendments to the Comprehensive Anti-Apartheid Act of 1986. These amendments passed the House, but were not enacted. Similar amendments were introduced in the 101st Congress by Representative Dellums (H.R. 21) and Senator Simon (S. 507). Representative Dellums introduced H.R. 1111 in February 1991. The bill closely resembles previous efforts to amend the 1986 Act.

1. Eligibility Requirements for Exports

Sanctions against nuclear trade could no longer be lifted by the President if South Africa were to sign the NPT or accepts IAEA safeguards.

The amendments would strengthen sanctions in the existing law by imposing trade and investment sanctions and closing loopholes in the 1986 Act.

2. Export Prohibitions/Restrictions

Section 105 of the Act would amend section 307 of the Comprehensive Anti-Apartheid Act of 1986 to cut off any residual U.S. nuclear trade with South Africa. Section 201 would amend section 301 of the Comprehensive Anti-Apartheid Act to extend the ban on imports of South African uranium to include uranium hexafluoride that has been manufactured from South African uranium.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions would apply to exports to and imports from South Africa. Certain sanctions would not apply to businesses wholly owned and controlled by South Africans who are economically and politically disadvantaged by apartheid.

4. Relations of Treaties/Agreements

Signing the NPT or accepting IAEA safeguards would no longer be sufficient to allow the President to lift prohibitions on nuclear transfers.

5. Congressional Review

Joint resolutions to disapprove the President's intention to suspend or modify certain import and export restrictions on South African goods would be referred jointly to the House Committee on Foreign Affairs and the House Committee on Ways and Means. Existing law requires such joint resolutions to be referred to the Speaker of the House and the Senate Foreign Relations Committee.

6. Reporting/Consultation Requirements

New reporting requirements would include a requirement for the President or his designee to confer with the governments of the African "frontline" states regarding the implementation of appropriate measures to prevent the circumvention by South Africa of import restrictions on South African products.

A comprehensive report to the Congress would be submitted annually by the coordinator of South African sanctions, a new position in the Department of State that would be established by the bill.

7. Enforcement

With a view to expanding and strengthening sanctions in the existing law, H.R. 1111 would cut off any residual U.S. nuclear assistance to South Africa by providing that: "Notwithstanding any other provision of law, the Secretary of Energy shall not, under section 57(b)(2) of the AEA of 1954, authorize any person to engage directly or indirectly, in the production of special nuclear material in South Africa." In addition, section 201 would amend section 301 of the 1986 Act to extend the ban on imports of South African uranium to include "uranium hexafluoride that has been manufactured from South African uranium or uranium oxide."

Penalties under the Act would be amended so that any person, other than an individual, that knowingly violates the provisions of the Act, or any regulation, license, or order issued to carry out the Act shall be fined in accordance with title 18, United States Code. Any individual who willfully violates the Act shall be imprisoned not more than 10 years, fined in accordance with title 18 of the United States Code, or both. Any individual who knowingly violates the provisions of the Act shall be imprisoned not more than 5 years, fined in accordance with title 18 of the United States Code, or both. Any individual who violates section 302(d)(1) or any regulations issued to carry out that section shall be fined in accordance with title 18, U.S. Code.

The amendments would also include new penalties against foreign persons who take commercial advantage of sanctions imposed by the Act. The President could impose one or both of the following penalties: Limit the importation into the U.S. of any product or service of the foreign person; restrict the foreign person from contracting with the U.S. Government.

8. Agency Responsibilities

New sections would be added to the 1986 Act providing for the establishment within the Department of State of a coordinator of South Africa sanctions (section 607). The coordinator would assist the Department of Commerce and Treasury and the appropriate intelligence agencies in carrying out the provisions of the Act.

Section 608 would establish an interagency coordinating committee on South Africa, composed of the Secretaries of State (who would also be the chairperson), Treasury, Defense, Commerce, Agriculture, the Attorney General, the U.S. Trade Representative, and such other heads of executive agencies with functions under the Act as the President considers appropriate.

9. Waiver

Prohibitions would not apply to the import of "any strategic mineral with respect to which the President certifies to the Congress for purposes of this Act that the quantities of such mineral which are essential for the economy, public health, or defense of the United States are not available from alternative reliable suppliers. . . ."

Section 402 of the Act would be amended to allow the President to waive sanctions against violators of United Nations sanctions if the violators have entered into a cooperative agreement with the United States to bring about the dismantling of apartheid [section 401]. The President may revoke the waiver in consideration of evidence that the agreement is not being adequately enforced.

H.R. 2315 (Berman)

The bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 would require that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together, these two reports would include somewhat different material than the single report required under S. 1046. (See S. 1046, below.)

H.R. 2508 Foreign Assistance Act Amendments (Fascell)

This legislation would amend the Foreign Assistance Act of 1961 to establish more effective *assistance programs and eliminate obsolete and inconsistent provisions. Earlier legislation (H.R. 1792), introduced on behalf of the President, would have eliminated key provisions of the FAA relating to nuclear proliferation. An attempt to eliminate section 620E of the FAA (the Pressler amendment), which requires the President to certify to the Congress that Pakistan does not possess a nuclear explosive device as a condition for continued U.S. aid, was defeated (Congressional Record, June 12, 1991, 14401). However, an amendment was passed to extend the certification requirements for Pakistan to include India (Congressional Record, June 13, 1991, 14710). The version of the bill passed by the House would leave other existing provisions of the Act relating to nuclear proliferation intact.*

H.R. 2621, Appropriations for Foreign Operations, Export Financing, and Related Programs for the Fiscal Year Ending September 30, 1992 (Obey)

Under Title IV of the appropriations bill, no funds made available through the Export-Import Bank may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear weapon state (as defined by the NPT) that is eligible to receive U.S. economic or military assistance. The certification requirement for aid to Pakistan contained in Section 620E of the Foreign Assistance Act of 1961, the Pressler amendment, would be extended from April 1, 1991, to April 1, 1993. In calling for a moratorium on U.S. arms transfers, section 589 of the appropriations bill directs the President to submit reports to the Senate Foreign Relations Committee and the House Foreign Affairs and Appropriations Committees on a U.S. plan for establishing a multilateral regime to restrict transfers of conventional and unconventional arms to the Middle East, and on specific methods of implementing such a plan. The President is directed to seek negotiations for the purpose of convening an international conference on establishing the multilateral arms control regime. The bill also appropriates $27,500,000 for the IAEA.

H.R. 2755, The Nuclear Proliferation Prevention Act of 1991 (Markey)

If enacted, the bill would amend the Atomic Energy Act of 1954 to expand restrictions on nuclear exports to include dual-use commodities and would ban exports of highly enriched uranium for use in civilian nuclear reactors. The bill calls on the President to conduct negotiations to strengthen multilateral export controls on nuclear items, and would impose trade sanctions against violators of U.S. and/or international proliferation controls.

1. Eligibility Requirements for Exports

The bill would require enactment of a formal agreement for nuclear cooperation with the U.S. pursuant to the terms of the AEA as amended by the NNPA as a condition for all nuclear exports, including exports of dual-use items controlled under the Export Administration Act.

2. Export Prohibitions/Restrictions

Nuclear materials, facilities, components, and technology would be exported only to nuclear weapons-states that maintain full-scope IAEA safeguards on all peaceful nuclear activities and non-nuclear-weapon states that maintain full-scope IAEA safeguards on all nuclear activities. Exports of weapons-usable enriched uranium would be sharply curtailed. The bill urges the President to undertake negotiations with those nations that participate in the Nuclear Suppliers Group to expand and harmonize multilateral restrictions on nuclear exports.

3. Countries/Companies/Individuals Subject to Restrictions

Only states which maintain full-scope IAEA safeguards and which have negotiated a formal agreement for nuclear cooperation under the provisions of the AEA of 1954, as amended by the NNPA, would be eligible to receive nuclear exports from the United States.

Sanctions would apply to any foreign or U.S. person who the President has determined has violated U.S. or international nuclear non-proliferation laws or agreements.

Sanctions would not apply to exports and transfers authorized by the laws of a nation participating in the Nuclear Suppliers Group and adhering to all NSG suppliers guidelines.

Persons who request an advisory opinion from the United States Government regarding activities that may make them subject to sanctions will not be subject to sanctions if they act in good faith in accordance with such an advisory opinion.

4. Relation to Treaties/Agreements

The bill would urge the President to undertake negotiations with the members of the Nuclear Suppliers Group to establish a list of facilities, materials, equipment, and technology of significance for nuclear explosive purposes which may not be transferred to any non-nuclear facilities. The President should negotiate also to prohibit exports of greater than 20 percent enriched uranium, to terminate exports and retransfers of items which could be of significance for nuclear explosive purposes to states which are determined to pose significant threats to regional or global peace and security.

The bill would amend the NNPA to include measures aimed at improving the effectiveness of the International Atomic Energy Agency. The measure directs U.S. officials to negotiate with other nations and the IAEA Board of Governors to require the IAEA to make public documents and reports on IAEA safeguards agreements with individual member states and the results of IAEA inspections. The United States would also seek to improve IAEA access within nuclear facilities capable of producing, processing, or fabricating weapons-usable nuclear materials, to facilitate the exercise of the right of IAEA to conduct special inspections of such facilities, to apply IAEA safeguards to tritium and natural uranium concentrate, and to expand the scope of safeguards on heavy water. The bill calls on the United States to provide the IAEA with additional funds, technical assistance, and political support.

5. Congressional Review

No requirement is stated.

6. Reporting/Consultation Requirements

The President would be required to notify Congress of his intention to impose sanctions not later than 15 days before imposing sanctions, together with his reasons for the choice of particular sanctions.

The President would be required to report to the Speaker of the House and the President of the Senate within 6 months and annually thereafter on negotiations to improve the effectiveness of the IAEA.

7. Enforcement

Sanctions required in the bill would terminate for a period of not less than 2 years all U.S. nuclear exports, retransfers, and authorizations for persons, firms, or nations determined by the President to be violating U.S. nuclear non-proliferation laws or international nuclear non-proliferation agreements. Imports into the United States would also be prohibited for a period of not less than 2 years.

8. Agency Responsibilities

Dual-use nuclear-related exports controlled by the Secretary of Commerce under the authority of the NNPA and the EAA would become subject to the tougher export restrictions contained in the bill.

The Nuclear Regulatory Commission would be required to cease issuing licenses for exports of uranium enriched to greater than 20 percent U-235, except for use in reactors which the NRC determines cannot be converted to use low-enriched uranium.

Upon request, agencies may, in consultation with the Secretary of State and the Secretary of Defense, issue advisory opinions to persons that would be subject to sanctions.

9. Waiver

None is stated.

S. 309, The Non-Proliferation and Arms Transfer Control Act (McCain)

If enacted, S. 309 would not significantly alter the basic conditions for nuclear cooperation with the United States. However, the bill would call for a cutoff of most forms of trade with nations identified by the President as having acquired or used weapons of mass destruction—including nuclear weapons—or transferred illegally goods or technology that could be used to produce nuclear weapons. Penalties and sanctions would apply to both suppliers and recipients of such goods and technology. Penalties include a cutoff of U.S. economic and military aid, denial of most favored nation status, trade sanctions against countries, companies, and individuals, and forfeiture of property and assets.

1. Eligibility Requirements for Exports

The bill would prohibit most forms of trade and commerce with nations identified by the President as threats to world peace.

2. Export Prohibitions/Restrictions

No goods or technology could be exported from the United States to any country that has acquired weapons of mass destruction, including nuclear weapons, "at levels that threaten world or regional peace or the security of the United States, its allies, or other nonbelligerent countries." Exports would also be banned to "any country that threatens to use armed force to carry out an act of aggression against any other country or to use a weapon of mass destruction against such country," and to "any country that has transferred any good or technology, including any dual-use item or technology, that may be used to produce or transfer conventional arms or any weapon of mass destruction" to any country identified by the President as a threat to world peace.

3. Countries/Companies/Individuals Subject to Restrictions

The bill does not identify those who are subject to restrictions. Sanctions and penalties may be directed against nations identified by the President as threats to world peace, and "against those countries, companies, and national entities that transfer such military equipment and technology that assist in building up the military capabilities of other countries that threaten world peace, including their capability to manufacture and deliver weapons of mass destruction."

4. Relation to Treaties/Agreements

No relationship is stated.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit to Congress a list identifying countries of concern based on criteria described in the bill. The report shall describe relevant transfers of military and dual-use goods to each country on the list, the governments and persons involved in such transfers, steps taken to enforce the Act, the success *of those efforts, sanctions and penalties imposed, and steps taken to persuade other countries to cooperate with the United States to hold the activities in question.*

The President may notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

The President shall publish the U.S. Munitions List and a consolidated list of dual-use items subject to export controls not more than 30 days after the enactment of the Act.

Presidential determinations that a U.S. or foreign person has violated the provisions of the Act shall be published in not more than 7 days.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report. No product or technology could be imported into the United States from a country named on the list.

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government could not enter into contracts with violators and could not transfer technology to violators, and would have to deny security clearances to violators. Any property owned by violators within the United States would be forfeited to the U.S. Government, with certain exceptions.

8. Agency Responsibilities

None is stated.

9. Waiver

The President could waive prohibitions on exports, imports, and assistance if he determines and notifies Congress that to do so would be in the national security interests of the United States. However, nondiscriminatory trade treatment could not be extended or restored to a country on the President's list.

Certain penalties would not apply if the President certifies that the violator could not know or prevent the violation. Also penalties do not apply to contracts entered into before a country was named on the President's list of countries of concern.

S. 320, Omnibus Export Amendment Act of 1991 (Riegle)

Subtitle B of the Act contains specific sanctions against Iraq, including prohibitions on NRC export licenses for transfers of nuclear material, facilities, components, and technologies to Iraq. The Act would restrict NRC and DOE authorities under the Atomic Energy Act of 1954.

S. 1020 (Helms)

This bill would amend Title IV of the Trade Act of 1974, thereby making non-discriminatory (most favored-nation) trade with the People's Republic of China conditional on Presidential certification to the Congress that the PRC has met certain criteria. These criteria would include the PRC's becoming a party to the 1968 Nuclear Non-Proliferation Treaty; adopting the principles of the Missile Technology Control Regime; ceasing to export goods produced by forced labor; releasing all political prisoners; beginning to negotiate a peaceful resolution of the Tibetan conflict; ceasing to provide support for the Khmer Rouge; and adhering to international human rights standards.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments and "halt the flow of unconventional arms, including nuclear weapons and technologies necessary to produce or assemble such arms, to all nations in the Middle East."

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish a multilateral arms suppliers regime, and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relation Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East. The International Atomic Energy Agency and CoCom are cited as models for the types of multilateral control mechanisms which could be incorporated into the proposed new regime.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of transfers of conventional and unconventional weapons to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

S. 1128, The Omnibus Nuclear Proliferation Control Act of 1991 (Glenn)

If enacted, S. 1128 would expand the scope of penalties available to the President to be imposed on U.S. and foreign companies and individuals that traffic in equipment or technology related to nuclear weapons. The bill would amend 7 existing U.S. laws for the purpose of denying such firms and individuals access to American markets and U.S. Government contracts. Countries found by the President to be violating international nuclear nonproliferation treaty commitments could be excluded from receiving economic and military assistance from the United States, and from receiving assistance from international financial institutions in which the United States participates.

1. Eligibility Requirements for Exports

The bill would not change the existing conditions and criteria for negotiating nuclear cooperation agreements and for controlling nuclear exports, which are contained in the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978. The bill could, however, exclude certain countries, firms, and individuals from trade and commerce with the United States.

2. Export Prohibitions/Restrictions

The Arms Export Control Act would be amended to ensure that nations receiving U.S. arms are in full compliance with their international nuclear nonproliferation treaty commitments, and that they have not willfully aided or abetted the international proliferation of nuclear explosive devices.

Sanctions would include a ban on imports into the United States of products produced by any foreign person or any parent, subsidiary, affiliate, or successor entity that the President has determined is trafficking in goods or technology that would assist any group or country to acquire a nuclear explosive device.

3. Countries/Companies/Individuals Subject to Restrictions

Sanctions could be imposed on U.S. and foreign firms and individuals determined by the President to be trafficking in goods or technology that would assist a nation or group to acquire nuclear weapons.

Nations that receive assistance from international financial institutions in which the United States participates would be subject to restrictions against using such assistance directly or indirectly to acquire unsafeguarded nuclear material or to develop stockpiles, or use any nuclear explosive device.

4. Relation to Treaties/Agreements

Recipients of U.S. arms transfers would be required to be in full compliance with their nuclear nonproliferation treaty commitments.

United States executive directors of international financial institutions would be instructed to oppose direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear materials or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear weapon state. U.S. executive directors would be required to determine if recipient countries are seeking to acquire unsafeguarded nuclear material, are seeking to acquire a nuclear explosive device, or have not signed the Nuclear Non-Proliferation Treaty.

The term "non-nuclear weapon state" is defined by Article IX(3) of the Nuclear Non-Proliferation Treaty.

The term "IAEA safeguards" means the safeguards set forth in agreements between a country and the International Atomic Energy Agency.

The term "unsafeguarded nuclear material" means special nuclear material which is held in violation of, or not subject to, IAEA safeguards.

5. Congressional Review

The President would be required to notify the Congress not less than 20 days before exercising his authority to waive sanctions. Such notification would include a report fully articulating the rationale and the circumstances which led the President to exercise the waiver authority. The President would also be required to determine and certify to the Congress his intention to delay the imposition of sanctions for 180 days pending consultations with foreign governments regarding actions to terminate and punish actions prohibited by the Act. The President could delay the imposition of sanctions for an additional 90 days if he determines and certifies to Congress that the foreign government is in the process of taking corrective action.

To terminate sanctions, the President would be required to determine and certify to Congress that the actions for which the sanctions were originally imposed have ceased, and the President has reason to believe that they will not continue in the future.

6. Reporting/Consultation Requirements

The President would be required to submit an annual report to Congress assessing the compliance by other nations with their nuclear nonproliferation commitments.

The Secretary of State would be required to submit a comprehensive report assessing the effectiveness of past U.S. diplomatic demarches issued to advance nonproliferation objectives.

Not later than 90 days after making a determination to enact sanctions, the President would be required to submit a report on the status of consultations with the appropriate government to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House.

7. Enforcement

Sanctions on foreign persons would include a ban on procurement contracts with the United States Government and a ban on imports into the United States of products produced by any foreign person or any parent, subsidiary, affiliate, or successor entity that the President has determined is trafficking in goods or technology that would assist any group or country to acquire a nuclear explosive device.

Sanctions against U.S. persons would include a ban on procurement contracts with the United States Government.

Sanctions would be imposed for at least 12 months and would be lifted only if the President determines and certifies to Congress that reliable information indicates that the actions that triggered the sanctions have ceased, and will not recur in the future.

Nations determined by the President to be trafficking in goods or technology that would assist any group or country to acquire a nuclear explosive device could also be denied arms transfers under the Arms Export Control Act and financial benefits under the Export-Import Bank Act of 1945. These sanctions are in addition to other sanctions that may be imposed for the same activities under any other provision of law.

The Secretary of State would be authorized to offer rewards for information relating to illicit acquisitions of unsafeguarded nuclear material or nuclear explosive devices.

If enacted, the bill would expand the President's authority under the International Emergency Economic Powers Act to impose a broader variety of economic sanctions against nuclear proliferators.

8. Agency Responsibilities

The bill directs the Secretary of the Treasury to instruct the U.S. executive directors of international financial institutions described in section 701(a) of the International Financial Institutions Act to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear weapon state.

The Arms Control and Disarmament Act would be amended to direct the General Advisory Committee of the Arms Control and Disarmament Agency to provide to the President advice on measures to reduce, control, or halt the spread of nuclear weapons.

9. Waiver

The President would have the authority to waive any sanction after a period of 12 months. Sanctions would not apply to cases involving U.S. imports of essential defense-related commodities, to goods covered by contracts predating enactment of the law, to information and products essential to U.S. production, and to medical and humanitarian items.

The bill would amend the Foreign Assistance Act of 1961 to establish time limitations and waivers of penalties against countries that traffic in nuclear reprocessing technology.

CHEMICAL NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Steven R. Bowman, Analyst in National Defense, Foreign Affairs and National Defense Division)

A. Introduction

It has never been U.S. policy to permit export of chemical munitions. The manufacture of all chemical munitions in Government-controlled facilities has made control over their transfer relatively simple. In recent years, U.S. chemical weapons (CW) nonproliferation efforts have expanded to control the export of lethal chemical and warfare agents, their precursors, and technology that could assist other nations in manufacturing finished CW munitions.[3]

B. U.S. Chemical Nonproliferation Laws

The Department of State, under authority of the Arms Export Control Act (AECA), regulates the transfer of "chemical agents having military application." As most new CW nonproliferation efforts are focusing on controlling exports of precursor chemicals and production equipment, the Export Administration Act (EAA) and its implementing regulations provide legal authority for the control of such dual-use items. The legal authority to control exports under the Export Administration Act of 1979 (EAA) expired on September 30, 1990. In November 1990, President Bush pocket-vetoed a bill to extend the EAA which contained mandatory sanctions in cases of chemical and biological weapons proliferation. Using the International Emergency Economic Powers Act, President, Bush indefinitely extended his authority to control exports.

The following section concentrates on the export restrictions that apply specifically to chemicals and related technology, over and above those applied to arms exports in general. (See Appendix I at the end of this chapter for specific controlled chemicals and equipment.)

1. Eligibility Requirements for Exports

There are no special statutory eligibility requirements for the export of CW-related goods and technology.

2. Export Prohibitions/Restrictions

There is no statutory prohibition of exporting CW-related goods or technology. The AECA and EAA regulations, however, require validated export licenses for: (1) chemical warfare agents on the Munitions Control List; (2) precursor chemicals on the Commodity Control List, if destined for firms in non-Australia Group countries, and (3) CW-related equipment and technology on the Commodity Control List, if destined for certain specified countries. (See country listings below.) It is current U.S. policy to deny all export license applications which the Department of Commerce determines would make a "material contribution to the design, development, production, stockpiling, or use of chemical weapons."[4] It should be noted that no export license or Government notification is required for the export of precursor chemicals or CW-related equipment and technology to firms located in Australia Group countries.[5]

Recent amendment of the Export Administration Regulations also prohibits U.S. nationals from participating in or assisting the development or production of chemical weapons in or by the countries listed below.[6]

3. Countries/Companies/Individuals Subject to Restrictions

In accordance with recently revised Export Administration Regulations, countries for whom validated licenses are required to export CW-related goods are: Afghanistan, Brahrain, Cambodia, Cuba, Egypt, India, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Myanmar (Burma), North Korea, Oman, Pakistan, Qatar, Romania, Saudi Arabia, South Africa, Soviet Union, Syria, Taiwan, United Arab Emirates, Vietnam, and Yemen.[7]

4. Relation to Treaties/Agreements

U.S. laws governing the export of CW-related goods are independent of international treaties and agreements.

5. Congressional Review

Under the AECA, Congress may veto the export of chemical warfare agents through a joint resolution of disapproval within 30 days of Presidential certification of the transfer. However, Presidential certification to Congress is only required for transfers of $14 million or more. Other transfers of CW-related goods are not subject to congressional review.

6. Reporting/Consultation Requirements

Transfers of CW-related goods are subject to the same reporting requirements as those of other commodities controlled by the AECA and EAA.

7. Enforcement

Violation of the AECA or EAA may be punished by criminal and civil penalties with fines up to $1 million and ten year imprisonment.

8. Agency Responsibilities

The Secretary of Commerce grants export licenses for CW-related goods and technology, in consultation with the Secretaries of Defense and State. The U.S. Customs Service and Federal Bureau of Investigation are responsible for domestic enforcement of the AECA and EAA.

9. Waiver

Presidential waiver authority under the AECA and EAA is the same for CW-related goods and technology as other controlled commodities.

C. Treaties, International Agreements, and Regimes

International cooperation to control CW-related commerce is centered in the Australia Group, an informal association of supplier nations which have agreed upon a list of chemicals whose export to non-member nations should be controlled. The United States is currently encouraging Australia Group members to expand their export controls to include dual-use equipment and technology. Each member nation imposes its export controls voluntarily, and their stringency varies. The 1925 Geneva Protocol, often thought to ban chemical weapons entirely, actually only prohibits their use in war.[8] The multilateral Chemical Weapons Convention currently under negotiation in Geneva would ban the production, stockpiling, tranfer, and use of all chemical weapons. (See CRS Issue Brief IB89042, Chemical Weapons: U.S. Production, Destruction, and Arms Control Negotiations.)

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[3] Most CW agents, such as nerve agents or vesicants, have no peaceful applications. However, some hydrogen cyanide for example, do. In addition, some chemicals, such as organophosphorus pesticides, are chemically very similar to modern CW agents. Moreover, a range of chemicals that can be combined to produce CX agents (so-called "precursor" chemicals) have a variety of legitimate uses.

[4] U.S. Government. Federal Register. Vol 56, No. 49. March 13, 1991. p. 10760.

[5] The Australia Group comprises Australia, Austria, Belgium, Canada, Denmark, Germany, France, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, Turkey, and the United States. It is so named because Australia first encouraged its formation, and it meetings are held in the Australian embassy in Paris.

[6] U.S. Government. Federal Register. Vol. 56, No. 49, March 13, 1991. p. 10765. See Section C for a brief discussion.

[7] U.S. Government. Federal Register. Vol. 56, No. 49. March 13, 1991. p. 10760.

D. U.S. Chemical Nonproliferation Policy

The Administration is seeking to impede chemical weapons proliferation without diminishing U.S. competitiveness in legitimate international chemical commerce. License applications for exports of CW-rleated commodities to countries that are not members of the Australia Group and that are not actively working to stem CW proliferation will be routinely denied licenses. At the same time, the Administration is applying diplomatic presure to have all Australia Group members tighten their export regulations, thereby placing their chemical industries under restrictions similar to those now governing U.S. firms.

E. Proposed Legislation on Chemical Nonproliferation

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309, below.)

H.R. 1343 (Levine)

This bill would restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weapons and ballistic missile technology and address other areas pertinent to limiting arms sales or transfers. The bill would instruct the President to enter discussions with other governments concerning the establishment of a commission to pursue these purposes. (See Missile Nonproliferation chapter for a more detailed treatment of H.R. 1343.)

H.R. 2315 (Berman)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 would require that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together, these two reports would include somewhat different material than the single report required under S. 1046. (See S. 1046, below.)

H.R. 2508 (Fascell) International Cooperation Act of 1991

The bill would prohibit U.S. security assistance to any country that has an offensive chemical weapons program and has not supported the Chemical Weapons Convention being negotiated in Geneva.

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements

The bill would prohibit U.S. exports of any goods or technology to counties that the President has reported as having taken certain threatening or aggressive actions.

2. Export Prohibitions/Restrictions

No goods or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any goods or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated, although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the Presdient would be required to submit to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country. [The bill lists these sanctions as prohibitions, separate from enforcement measures.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government could not enter into contracts with violators of the Act, could not transfer technology to violators, and would have to deny security clearances to violators. The United States would be able to vest all right, title and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance would not apply to a country, except that nondiscriminatory trade treatment may not be so extended.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/Companies Subject to Restrictions.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

This bill would reauthorize the Export Administration Act of 1979, and provide for other purposes.

The following section deals only with the provisions of Title IV of this bill, Chemical and Biological Weapons Proliferation, which amends both the AECA and EAA. This title is also known as the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

1. Eligibility Requirements

This bill would require the Secretary of Commerce to grant export licenses on the basis on the "reliability" of an applicant to prevent the diversion of controlled goods or technology to unauthorized use or consignee.

2. Export Prohibitions/Restrictions

A validated license would be required for the export of CW-related goods or technology to any country that does not have an arrangement with the United States for the control of such items.

3. Countries/Companies/Individuals Subject to Restrictions

No specific countries would be subject to restriction, except those noted that do not have an arrangement with the United States to control CW-related items. These countries would be designated "countries of concern." Foreign persons who knowingly assist a "country of concern" to export from the U.S. or any other country controlled CW-related goods would be subject to restrictions and sanctions described under Enforcement below.

4. Relation to Treaties/Agreements

The bill would encourage the Australia Group to become more formal in its arrangements through establishing: (1) a "harmonized" list of export control rules and regulations; (2) diplomatic liaison officers to the Group; (3) information-exchange channels of suspected proliferants, and; (4) a denial list of firms and individuals who violate export controls.

5. Congressional Review

None is stated.

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[8] Many signatories to the Geneva Convention, including the United States, ratified it reserving the right to retaliate with chemical weapons if attacked with them. This weakens the Convention's ban, making it, in effect, a "no first use" agreement.

6. Reporting/Consulting Requirements

The Secretary of Commerce would be directed to maintain a list of goods and technology that would directly and substantially assist a foreign government or group to develop, produce, stockpile, or use chemical weapons whose licensing would be effective in barring such capability.

If the President determines that a foreign person has assisted in CW proliferation, he would be urged to consult with the foreign government of jurisdiction concerning the imposition of sanctions, and required to report the status of such consultations to Congress within 90 days.

The Chairman of the Senate Committee on Foreign Relations or the Chairman of the House Committee on Foreign Affairs could request the President to consider whether a foreign government has used chemical weapons in violation of international law or against its own nationals. Within 60 days of such a request, the President would be required to provide a written report on the information held by the executive branch pertinent to this request.

Within 90 days of the enactment of this Act, the President would be required to submit to Congress a report which would include: (1) a description of actions taken to carry out this title (Title IV); (2) a description of current efforts of foreign nations to acquire a CW capability and an assessment of potential success in doing so; (3) a description of the use and preparation for use of chemical weapons by foreign nations and subnational groups; (4) a description of the extent to which foreign nations have knowingly assisted third countries or subnational groups to acquire a CW capability.

If the executive branch receives persuasive information that a foreign nation has made substantial preparation to use or has used chemical weapons in violation of international law or against it own nationals, the President would be required to determine the validity of the accusation within 60 days and report the determination to Congress. If the President determines the accusation is accurate, he would be required to specify to Congress what sanctions are to be imposed. Within 30 days of this determination, the President would be required to certify to Congress that the foreign nation is no longer using chemical weapons, has provided reliable assurances it will not in the future, and will allow on-site inspections. If such certification is not possible, the President would be required to consult with Congress and impose an additional sanction. (See Enforcement.)

7. Enforcement

Foreign persons who knowingly and materially assist a country that, according to Presidential determination, has since January 1, 1980, used chemical weapons in violation of international law or against its own nationals, or had made preparations to do so, or has repeatedly provided support for international terrorism, would be subject to the following sanctions: (1) denial of U.S. Government contracts for goods or services; (2) denial of the importation of any products into the United States.

The President would not be required to apply sanctions in the case of: (1) procurement of defense articles or services under existing contracts for which their is no reasonable alternative supplier or which are subject to defense coproduction agreements; or (2) existing contracts for spare parts, component parts, routine servicing and maintenance, information or technology essential to U.S. products, or medical and humanitarian items.

If the President determines that a nation has used chemical weapons in violation of international law or against its own nationals, the President would be required to impose at least six of the following sanctions: (1) termination of foreign assistance, except urgent humanitarian assistance, food, or other agricultural products; (2) termination of arms sales and United States Munitions List export licenses; (3) termination of arms sales financing; (4) U.S. Government opposition to any loan or financial or technical assistance by international financial institutions; (5) denial of U.S. credit or financial assistance; (6) prohibition of any loan or credit from U.S. banks, except for those to buy food or other agricultural products; (7) prohibition of exports of security-sensitive goods and technology; (8) prohibition of all exports, except food and other agricultural commodities; (9) unspecified restrictions on imports; (10) downgrading or suspending diplomatic relations; (11) termination of national air carrier landing rights.

In addition to the provision of Title IV, section 606 of the Act would amend the U.S. Code by defining as an act of international terrorism the production, transport, or use of biological or chemical weapons which kill, maim, or injure U.S. nationals abroad. Persons who commit the acts would thereby become subject to criminal and civil penalties.

8. Agency Responsibilities

The bill would not amend U.S. Government agency responsibilities.

9. Waiver

Twelve months after the imposition of sanctions, the President could waive them if he determines and certifies to Congress that it is important to the national security interests of the United States.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies that the Administration has tried to establish an arms suppliers regime, and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relation to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

Appendix I. Controlled Chemical Weapons Precursor Chemicals

Ammonium hydrogen fluoride.
Arsenic trichloride.
Benzylic acid.
2-Chloroethanol.
Diethyl ethylphosphonate.
Diethyl methylphosphonite.
Diethyl-N,N-dimethylphosphoroamidate.
Diethyl phosphite.
N,N-Diethylethanolamine.
N,N-Diisopropyl-.beta.-aminoethanethiol.
N,N-Diisopropyl-.beta.-aminoethanol.
N,N-Diisopropyl-.beta.-aminoethyl chloride.
Diisopropylamine.
Dimethyl ethylphosphonate.
Dimethyl methylphosphonate.
Dimethyl phosphite.
Dimethylamine.
Dimethylamine hydrochloride.
O-Ethyl-2-diisopropylaminoethyl methylphosphonite (QL).
Ethylphosphonous dichloride.
Ethylphosphonous difluoride.
Ethylphosphonyl dichloride.
Ethylphosphonyl difluoride.
Hydrogen fluoride.
3-Hydroxyl-1-methylpiperidine.
Methyl benzilate.
Methylphosphonous dichloride.
Methylphosphonous difluoride.
Methylphosphonyl dichloride.
Methylphosphonyl difluoride.
Phosphorus oxychloride.
Phosphorous pentachloride.
Phosphorous pentasulfide.
Pinacolone.
Pinacolyl alcohol.
Potassium cyanide.
Potassium fluoride.
Potassium hydrogen fluoride.
3-Quinuclidinol.
3-Quinuclidinone.
Sodium bifluoride.
Sodium cyanide.
Sodium fluoride.
Sodium sulfide.
Thiodyglycol.
Thionyl chloride.
Triethanolamine.
Triethyl phosphite.
Trimethyl phosphite.

Controlled Chemical Weapons-Related Equipment

1. Chemical processing equipment lined with nickel or constructed of a nickel alloy.
2. Vapor leakproof pumps or valves.
3. Thermometers of other chemical processing sensors encased in nickel.
4. Filling equipment enclosed in an environmental barrier or having a nickel-lined nozzle.
5. Specifically designed incinerators for chemical precursors, chemical warfare agents, or organophosphorus compounds.

6. Toxic gas monitoring systems.

7. Monitoring systems for the detection of anticholinesterase (nerve agent) activity.

BIOLOGICAL NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Steven R. Bowman, Analyst in National Defense, Foreign Affairs and National Defense Division)

A. Introduction

The United States destroyed its stockpile of biological weapons in accordance with the 1972 Biological and Toxin Weapons Convention. The U.S. Government maintains small amounts of potential biological warfare agents for defensive research purposes (e.g., vaccine development, testing protective clothing). Many commodities that could conceivably be diverted to biological weapons development have a variety of legitimate research applications. Recently, the Administration tightened export controls on a very extensive list of biological agents (viruses, protozoa, bacteria, and fungi) and some equipment that could be useful in developing biological weapons. (The types of such equipment are listed at Appendix II at the end of this chapter.)

B. U.S. Biological Nonproliferation Laws

The Arms Export Control Act (AECA) regulates the transfer of defense articles, including "biological agents having military application." New BW nonproliferation efforts expand export controls to a much larger range of biological agents than those historically considered for military application. Consequently, the Export Administration Act (EAA) and its implementing regulations have been used to provide additional controls for items that are primarily used for civilian purposes but have applications in biological warfare. The legal authority to control exports under the Export Administration Act of 1979 (EAA) expired on September 30, 1990. In November 1990, President Bush pocket-vetoed a bill to extend the EAA which contained mandatory sanctions in cases of chemical and biological weapons proliferation. Using the International Emergency Economic Powers Act, President Bush indefinitely extended his authority to control exports. In addition, Title 18 U.S. Code, Chapter 10 provides criminal penalties for the development, production, stockpiling, transfer, or possession of any biological agent, toxin, or delivery system for use as a weapon.

1. Eligibility Requirements for Exports

There are no special statutory eligibility requirements for the export of BW-related dual-use goods and technology.

2. Export Prohibitions/Restrictions

The transfer of biological weapons is statutorily prohibited. There is no statutory prohibition of export BW-related dual-use goods or technology. The AECA and the EAA regulations, however, require validated export licenses for: (1) biological warfare agents on the Munitions Control List; (2) biological agents on the Commodity Control List, except those destined for Canada; and (3) BW-related equipment and technology on the Commodity Control List, if destined for certain specified countries. (See country listings below.) It is current U.S. policy to deny all export license applications which the Department of Commerce determines would make a "material contribution to the design, development, production, stockpiling, or use of biological weapons."[8]

3. Countries/Companies/Individuals Subject to Restrictions

In accordance with recently revised Export Administration Regulations, validated licenses are required to export any controlled biological agents to any country, except Canada. Export licenses are required to export BW-related equipment to: Afghanistan, Bahrain, Cambodia, Cuba, Egypt, India, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Syria, United Arab Emirates, Vietnam, and Yemen.[9]

4. Relation to Treaties/Agreements

Title 18, U.S. Code, Chapter 10 (Biological Weapons Anti-Terrorism Act of 1989) implements the 1972 Biological and Toxin Weapons Convention.

5. Congressional Review

The export of biological warfare agents is statutorily prohibited, and transfers of BW-related dual-use goods are not subject to congressional review.

6. Reporting/Consultation Requirements

Transfers of BW-related dual-use goods are subject to the same reporting requirements as those of other commodities controlled by the AECA and EAA.

7. Enforcement

Violation of the AECA or EAA may be punished by criminal and civil penalties with fines up to $1 million and ten year imprisonment. Title 18 U.S.C., Chapter 10 (Biological Weapons Anti-Terrorism Act of 1989) provides criminal penalties of fines (amount unspecified) and/or life imprisonment.

8. Agency Responsibilities

The Secretary of Commerce grants export licenses for BW-related dual-use goods and technology, in consultation with the Secretaries of Defense and State.

The U.S. Customs Service and Federal Bureau of Investigation are responsible for domestic enforcement.

9. Waiver

Presidential waiver authority under the AECA and EAA is the same for BW-related goods and technology as other controlled commodities. Title 18 U.S.C., Chapter 10 provides no waiver authority.

C. Treaties, International Agreements, and Regimes

The United States is an initial signatory of the 1972 Biological and Toxin Weapons Convention, which bans the development, production, stockpiling, possession, and transfer of these weapons. Small amounts of biological warfare agents and toxins may be retained under the Convention for defense research purposes only.

D. U.S. Biological Nonproliferation Policy

The Administration is seeking to impede biological weapons proliferation without handicapping legitimate research. Its policy is based upon enforcement of the Biological Weapons Convention, both domestically and overseas. Recently Administration officials have begun to encourage Australia Group member nations, all of whom are Convention signatories, to tighten their export controls on BW-related dual-use materials.

E. Proposed Legislation on Biological Proliferation

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309, below.)

H.R. 1343 (Levine)

This bill would restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weapons and ballistic missile technology, and address other areas pertinent to limiting areas sales or transfers. The bill would instruct the President to enter discussions with other governments concerning the establishment of a commission to pursue these purposes. (See Missile Nonproliferation chapter for a more detailed treatment of H.R. 1343.)

H.R. 2315 (Berman)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 would require that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together, these two reports would include somewhat different material than the single report required under S. 1046. (See S. 1046, below.)

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit U.S. exports of any good or technology to countries that the President has reported as having taken certain threatening or aggressive actions.

2. Export-Prohibitions/Restrictions

No good or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances in the case of a contract entered into before the country was determined to be of concern.

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[8] U.S. Government. Federal Register. Vol. 56, No. 49. March 13, 1991. p. 10760.

[9] U.S. Government. Federal Register. Vol. 56, No. 49. March 13, 1991. p. 10760.

4. Relation to Treaties/Agreements

No relationship is stated although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit a report to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country. [The bill lists these sanctions as prohibitions, separate from enforcement measures.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government is required not to enter contracts with violators of the Act, shall not transfer technology to violators, and shall deny security clearances to violators. The United States shall vest all right, title, and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance would not apply to a country, except that nondiscriminatory trade treatment may not be so extended.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/companies subject to Restrictions.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

The bill would reauthorize the Export Administration Act of 1979, and provide for other purposes.

The following section deals only with the provisions of Title IV of this bill, Chemical and Biological Weapons Proliferation, which amends both the AECA and EAA. This title is also known as the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991.

1. Eligibility Requirements for Exports

This bill would require the Secretary of Commerce to grant export licenses on the basis of the "reliability of an applicant to prevent the diversion of controlled goods or technology to unauthorized use or consignee.

2. Export Prohibitions/Restrictions

A validated license would be required for the export of BW-related goods or technology to any country that does not have an arrangement with the United States for the control of such items.

3. Countries/Companies/Individuals Subject to Restrictions

No specific countries would be subject to restriction, except those noted that do not have an arrangement with the United States to control BW-related items. These countries would be designated "countries of concern." Foreign persons who knowingly assist a "country of concern" to export from the U.S. or any other country controlled BW-related goods would be subject to restrictions and sanctions described under Enforcement below.

4. Relation to Treaties/Agreements

The bill would encourage the Australia Group to become more formal in its arrangements through establishing: (1) a "harmonized" list of export control rules and regulations; (2) diplomatic liaison officers to the Group; (3) information-exchange channels of suspected proliferants, and; (4) a denial list of firms and individuals who violate export controls.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

The Secretary of Commerce would be directed to maintain a list of goods and technology that would directly and substantially assist a foreign government or group to develop, produce, stockpile, or use biological weapons whose licensing would be effective in barring such capability.

If the President determines that a foreign person has assisted in BW proliferation, he would be urged to consult with the foreign government of jurisdiction concerning the imposition of sanctions, and is required to report the status of such consultations to Congress within 90 days.

The Chairman of the Senate Committee on Foreign Relations or the Chairman of the House Committee on Foreign Affairs could request the President to consider whether a foreign government has used biological weapons in violation of international law or against its own nationals. Within 60 days of such a request, the President would be required to provide a written report on the information held by the executive branch pertinent to this request.

Within 90 days of the enactment of this Act, the President would be required to submit to Congress a report which would include: (1) a description of actions taken to carry out this title (Title IV); (2) a description of current efforts of foreign nations to acquire a BW capability and an assessment of potential success in doing so; (3) a description of the use and preparation for use of biological weapons by foreign nations and subnational groups; (4) a description of the extent to which foreign nations have knowingly assisted third countries or subnational groups to acquire a BW capability.

If the executive branch receives persuasive informaiton that a foreign nation has made substantial preparation to use or has used biological weapons in violation of international law or against its own nationals, the President would be required to determine the validity of the accusation within 60 days and report the determination to Congress. If the President determines the accusation is accurate, he would be required to specify to Congress what sanctions are to be imposed. Within 30 days of this determination, the President would be required to certify to Congress that the foreign nation is no longer using biological weapons, has provided reliable assurances it will not in the future, and will allow on-site inspections. If such certification is not possible, the President would be required to consult with Congress and impose an additional sanction. (See Enforcement.)

7. Enforcement

Foreign persons who knowingly and materially assist a country that, according to Presidential determination, has since January 1, 1980, used biological weapons in violation of international law or against its own nationals, or has made preparations to do so, or has repeatedly provided support for international terrorism, would be subject to the following sanctions: (1) denial of U.S. Government contracts for goods or services; (2) denial of the importation of any products into the United States.

The President would not be required to apply sanctions in the case of: (1) procurement of defense articles or services under existing contracts for which there is no reasonable alternative supplier or which are subject to defense coproduction agreements; or (2) existing contracts for spare parts, component parts, routine servicing and maintenance, information or technology essential to U.S. projects, or medical and humanitarian items.

If the President determines that a nation has used biological weapons in violation of international law or against its own nationals, the President would be required to impose at least six of the following sanctions: (1) termination of foreign assistance, except urgent humanitarian assistance, food, or other agricultural products; (2) termination of arms sales and United States Munitions List export licenses; (3) termination of arms sales financing; (4) U.S. Government opposition to any loan or financial assistance by international financial institutions; (5) denial of U.S. credit or financial assistance; (6) prohibition of any loan or credit from U.S. banks, except for those to buy food or other agricultural products; (7) prohibition of exports of security-sensitive goods and technology; (8) prohibition of all exports, except food and other agricultural commodities; (9) unspecified restrictions on imports; (10) downgrading or suspending diplomatic relations; (11) termination of national air carrier landing rights.

In addition to the provision of Title IV, section 606 of the Act would amend the U.S. Code by defining as an act of international terrorism the production, transport, or use of biological or chemical weapons which kill, maim, or injure U.S. nationals abroad. Persons who commit the acts would thereby become subject to criminal and civil penalties.

8. Agency Responsibilities

The bill would not amend U.S. Government agency responsibilities.

9. Waiver

Twelve months after the imposition of sanctions, the President could waive them if he determines and certifies to Congress that it is important to the national security interests of the United States.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish an arms suppliers regime, and *submits to Congress a report on the U.S. plan to establish such a regime.*

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States would be required to seek to expand the regime to other regions as appropriate.

4. Relation to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

Appendix II. Controlled Biological Weapons-Related Equipment

1. Biological and toxin agent detection systems
2. Biohazard containment equipment
3. Equipment for the microencapsulation of microorganisms
4. Media for the growth of microorganisms in quantities greater than 100 kilograms

MISSILE NONPROLIFERATION LEGISLATION AND POLICY

(Prepared by Robert D. Shuey, Kirk Campbell, and Kemper Vest, Foreign Affairs and National Defense Division)

A. Introduction

Exports of missiles and related goods and technology have long been regulated under the authority of the Arms Export Control Act, for Munitions List items, or the Export Administration Act of 1979 and its predecessors, for items not on the Munitions List. In April 1987, the United States and six other countries announced the Missile Technology Control Regime, a set of common guidelines for regulating missiles technology exports. In 1990 Congress approved legislation that set U.S. policy regarding missile nonproliferation and amended the Arms Export Control Act and the expired Export Administration Act of 1979. These amendments included penalties to be imposed against persons who inappropriately export missile technology.

B. U.S. missile nonproliferation laws

The Arms Export Control Act (AECA) and the Export Administration Act of 1979 (EAA) are the primary laws regulating the transfer of missiles and missile technology. These laws require licenses for the export from the United States of certain missiles, components, or technology specified in the annexes of the Missile Technology Control Regime (MTCR) and require the imposition of sanctions against persons who export such items. The authority of the EAA has expired but its provisions have been extended under executive order. It is U.S. policy, and the policy expressed in the MTCR, that facilities to produce missiles capable of carrying a 500 kilogram payload 300 kilometers may not be exported; that exports of such missiles themselves will generally be denied; and that restraint will be exercised on the export of other materials, equipment, and technology involved in missile production.

1. Eligibility Requirements for Exports

Neither the AECA nor the EAA specifies any country as being eligible to receive missile exports. Section 3(a) of the AECA states that the United States Government can sell or lease defense articles or defense services to a country or international organization only if the President finds that transfers to that country or organization will strengthen U.S. security and promote world peace. The country or organization must agree not to retransfer the item or to use it for purposes other than those intended without the consent of the President, and to maintain the security of the item.

Section 505 of the FAA specifies additional agreements that must be made by a country to be eligible to receive defense articles or services under the Military Assistance Program, but that vehicle is no longer used—grants are now provided by Foreign Military Financing under the AECA.

2. Export Prohibitions/Restrictions

The AECA (Chapter 7) establishes penalties for U.S. and foreign persons and companies that export certain missiles and missile technologies. The EAA, as amended in 1990, requires a license for U.S. exports of dual-use missiles items or exports of any goods or technology that the exporter knows are destined for a missile project in a country that is not an MTCR adherent. Such licenses are generally to be denied, and sanctions are to be imposed on U.S. and foreign persons who make such exports without proper authorization. Numerous provisions of existing law contain contingent prohibitions or restrictions on arms transfers to countries (or persons) that violate human rights, support international terrorism, engage in nuclear proliferation activities, produce or traffick narcotics, assist Iraq's rocket, chemical, biological, or nuclear weapons capability, or violate the terms of an arms transfer agreement. Major sales may not be completed until they are reviewed by Congress.

3. Countries/Companies/Individuals Subject to Restrictions

The AECA requires State Department to supervise and direct all governmental arms transfers and to license commercial arms transfers to any country. Chapter 7 specifically requires licenses for U.S. exports of missile items and technology. Under the EAA, exports of missile due-use technology to any country must be licensed, and exports of any good or technology to missile facilities in countries that are not adherents to the MTCR must be licensed. The two acts mandate sanctions against U.S. persons who improperly export missile goods or dual-use items to any country, and against foreign persons who export, without proper authority, missile items or dual-use items that contribute to the missile program of a country that is not an MTCR adherent. The AECA, Foreign Assistance Act of 1961, and Foreign Operations Appropriations Act, 1991 (P.L. 101-513) place numerous contingent restrictions on arms transfers and security assistance and on assistance programs to particular countries. See the section on Conventional Arms Transfers.

4. Relation to Treaties/Agreements

The AECA and EAA as amended in 1990 link U.S. missile export controls to the informal Missile Technology Control Regime and impose sanctions against those who violate the policy guidelines stated in that regime.

5. Congressional Review

The AECA [section 36(b)] requires the President to submit a certification to Congress before issuing a letter of offer to sell $14 million or more of major defense equipment, $50 million or more of any defense articles or services, or $200 million or more design and construction services. Congress can block such a transfer by passing a joint resolution of disapproval within 30 calendar days or, for NATO members, Japan, Australia, and New Zealand, within 15 days. A similar certification requirement, congressional review, and legislative veto apply to commercial arms transfers [section 36(c)].

6. Reporting/Consultation Requirements

The AECA and other laws relating to arms transfers include over 50 reporting requirements, not including reports on specific countries, reprogramming of assistance, human rights, terrorism, nuclear proliferation, or narcotics. (See the Conventional Arms Transfer section for further discussion.)

Section 72 of the AECA requires the President to certify to Congress that a particular product or service is essential to U.S. national security and that it can be supplied only from a particular U.S. supplier in order to waive sanctions that would otherwise be imposed on the supplier. Section 73 requires the President to notify Congress if he waives sanctions against a foreign person because he has determined it is essentail to U.S. national security, and requires a separate Presidential certification, similar to that in section 72, to justify waiving sanctions against foreign sole-source suppliers.

Section 11B of the EAA was amended in 1990, requiring the President to make certifications to Congress similar to those in Chapter 7 of the AECA if he waives sanctions against U.S. and foreign suppliers.

Section 1704 of the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510) requires the President to submit to Congress a report on missile proliferation every six months. The report includes information on missile and aircraft development programs, assistance provided to missile and NBC capable aircraft programs, diplomatic counter measures, and analysis of control regimes, recent transfers, and U.S. policy.

7. Enforcement

Persons who violate the AECA are subject to criminal and civil penalties with fines up to $1 million and imprisonment up to ten years. Chapter 7 imposes sanctions against individuals who improperly export missile equipment or technology. U.S. and foreign persons who improperly export category II missile equipment or technology (components, test and production equipment, and materials) will be denied U.S. Government contracts and export licenses relating to missiles. U.S. and foreign persons who improperly export category I missile equipment or technology (entire missiles or major components) will be denied all U.S. Government contracts and permission to export any munitions list item. Those who violate the EAA are subject to fines of $50,000 and five years imprisonment, and willful violators are subject to $1,000,000 fines and 10 years imprisonment. Section 11 of the EAA established sanctions against those who improperly export missile equipment and technology that would deny export licenses for missile equipment and technology to those who improperly transfer category II items, and would deny licenses for all export to those who improperly transferred category I items.

8. Agency Responsibilities

May of the policy determinations set forth in the AECA and the function of administering controls of commercial arms transfers have been delegated to the Secretary of State by executive order. The administration of the Foreign Military Sales program has generally been delegated to the Secretary of Defense. These officials are to consult with the Secretary of the Treasury, the Director of the Arms Control and Disarmament Agency, and the Director of the Office of Management and Budget on specified functions. Chapter 7 AECA directs the Secretary of State to regulate exports of missile equipment and technology in consultation with the Secretary of Defense and other appropriate departments and agencies and to establish a system for sharing information with the intelligence community. Section 6 of the EAA calls on the Secretary of State in consultation with the Secretaries of Commerce and Defense to conduct international negotiations regarding missile proliferation. The section also requires the Secretary of Commerce in consultation with the Secretaries of State and Defense and the head of other appropriate departments to establish and maintain a system to control exports of dual-use goods and technology related to missiles. Such licenses for exports to a country of concern can be approved only 20 days after consultation with State and Defense. The Secretary of State shall maintain a list of countries of concern. The President will resolve differences between Commerce and Defense on the approval or disapproval of such licenses.

Commerce Department refers export license applications for items that could contribute to a missile development project to the Missile Technology Export Control (MTEC) group. This interagency group is chaired by the Department of State and includes representatives from the Departments of Commerce and Defense, ACDA, NASA, and intelligence agencies. It discusses proposed export cases and advises Commerce on licensing decisions. If the group disagrees, it refers the issue to the Policy Coordinating Committee on Nonproliferation.

9. Waiver

The AECA [section 36(b)(1) and 36(c)(2)] allows the President to waive the congressional review requirements for FMS transfers and commercial sales if he certifies that an emergency exists that requires the proposed sale in the national security interests of the United States. Section 614(a) of the Foreign Assistance Act of 1961 authorizes the President to furnish assistance under the AECA without regard to other provisions of law if he certifies to Congress that it is important to the security interests of the United States and to transfer arms if it is vital to U.S. national security.

Chapter 7 AECA allows the President to waive sanctions against persons who improperly export missile goods and technology if he certifies to the Congress that the product or service is essential to the national security interest of the United States and that it is not available from other suppliers. The President may also waive sanctions against a foreign person if he determines the waiver is essential to U.S. national security and notifies Congress 20 days before issuing the waiver.

C. Treaties, International Agreements, and Regimes

The Missile Technology Control Regime (MTCR) was formed in 1987 by the Group of Seven Western economic powers and has expanded to 16 countries that have adopted common guidelines to govern exports of missiles, components, materials, equipment, and technology. The regime is voluntary with no mechanism for verification or enforcement. The Soviet Union has not joined the group but has agreed to observe the guidelines. China has refused to adopt the guidelines.

D. U.S. Missile Nonproliferation Policy

U.S. Government policy is to prohibit exports of missiles, components, and dual-use equipment and technology described in the MTCR to any country of concern, and to encourage other countries to adopt similar restraints.

E. Proposed Legislation on Missile Nonproliferation

In the 102nd Congress, 11 bills have been introduced that would affect existing law regarding missile nonproliferation.

H. Con. Res. 75 (Rinaldo)

Would express the sense of Congress that the President should work to strengthen the Missile Technology Control Regime, expand it to cover other deliver systems for weapons of mass destruction, and invite the Soviet Union, China, and other countries to join the regime.

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) a U.S. guaranty of Israel's security.

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309 below.)

H.R. 1343 (Levine)

This bill would: restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weaons and ballistic missile technology, and address other areas pertinent to limiting arms sales or transfers. It would instruct the President to discuss with other governments the establishment of a commission to pursue these purposes.

1. Eligibility Requirements for Exports

Not addressed.

2. Export Prohibitions/Restrictions

Supplier nation commission would coordinate with the Australia Group and the members of the Missile Technology Control Regime to enhance controls on the proliferation of chemical and biological weapons, and ballistic missile technology [section 3(c)(3)].

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions apply to "the Middle East."

4. Relation of Treaties/Agreements

Commission would be modeled after the Coordinating Committee for Multilateral Export Controls (CoCom) and the Nuclear Suppliers Group [section 3(a)] and would coordinate its activities with the Australia Group and members of the Missile Technology Control Regime [section 3(c)(3)].

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

Not addressed.

7. Enforcement

Commission is authorized to adopt "mechanisms to safeguard against the circumvention of the arms sales restrictions by member countries and other arms suppliers" [sec. 3(c)(4)(a)].

8. Agency Responsibilities

The President is required to enter into discussion for the purpose of creating the commission referred to above within 90 days after enactment of this act [section 3(a)].

9. Waiver

Not addressed.

H.R. 2315 (Berman)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 requires that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together these two reports will include somewhat different material than the single report required under S. 1046. (See S. 1046 below.)

S. 309 (McCain)

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit transfers to countries that threaten world peace. See Export Prohibitions and Enforcement.

2. Export Prohibitions/Restrictions

No good or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine who would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated, although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit a report to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country.

[The bill lists these sanctions as prohibitions, separate from its section on enforcement.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government is required not to enter contracts with violators of the Act, not to transfer technology to violators, and to deny security clearances to violators. The United States is required to vest all right, title, and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities.

None is stated.

9. Waiver.

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance would not apply to a country, except that nondiscriminatory trade treatment would not be so extended.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/companies subject to Restrictions.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

This bill would reestablish in law nearly all the provisions regarding missile nonproliferation that were added to the EAA by P.L. 101-510, National Defense Authorization for F.Y. 1991, November 5, 1990. S. 320 would exclude subsection 6(l)(4) "Consultation with Other Departments, which required the Secretary of Commerce to consult with the Secretary of Defense for 20 days before issuing an export license for missile related items. Also excluded is the provision allowing the Secretary of Defense to disagree with the determination by Commerce to issue a license and to submit the disagreement to the President for resolution.

S. 1020 (Helms)

The bill would amend Title IV of the Trade Act of 1974, thereby making non-discriminatory (most favored-nation) trade with the People's Republic of China conditional on Presidential certification to the Congress that the PRC has met certain criteria. These criteria would include the PRC's becoming a party to the 1968 Nuclear Non-Proliferation Treaty, adopting the principles of the Missile Technology Control Regime; ceasing to export goods produced by forced labor; releasing all political prisoners; beginning to negotiate a peaceful resolution of the Tibetan conflict; ceasing to provide support for the Khmer Rouge; and adhering to international human rights standards.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. The bill is nearly identical to H.R. 2315.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish an arms suppliers regime, and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relation to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. Plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

CONVENTIONAL ARMS TRANSFERS LEGISLATION AND POLICY

(Prepared by Robert D. Shuey, Kemper Vest, and Kirk Campbell, Foreign Affairs and National Defense Division)

A. Introduction

U.S. arms exports are governed primarily by the Arms Export Control Act. U.S. policy is to allow, or even support, transfers that benefit U.S. foreign or security policies and to block transfers that do not. The only international arms transfer controls are exercised by CoCom to prevent the export of weapons to Communist countries.

B. U.S. Conventional Arms Transfers Laws

The Arms Export Control Act (AECA) is the primary law regulating the transfer of U.S. defense goods and defense services. It authorizes the U.S. Government to transfer arms to other governments and to regulate arms transfers by private U.S. parties. The Foreign Assistance Act of 1961 (FAA), several foreign assistance authorization and appropriation acts, defense authorization acts, and the Export-Import Bank Act of 1945 also contain provisions relating to arms transfers.

1. Eligibility Requirements for Exports

Section 3(a) of the AECA states that the United States Government can sell or lease defense articles or defense services to a country or international organization only if the President finds that transfers to that country or organization will strengthen U.S. security and promote world peace. The country or organization must agree not to retransfer the item or to use it for purposes other than those intended without the consent of the President, and to maintain the security of the item.

Section 505 of the FAA specifies additional agreements that must be made by a country to be eligible to receive defense articles or services under the Military Assistance Program, but that vehicle is no longer used—grants are now provided by Foreign Military Financing under the AECA.

2. Export Prohibitions/Restrictions

The AECA prohibits U.S. persons and companies from exporting certain missiles and missile technologies, but does not prohibit transfers of any other specific weapons. The foreign operations appropriations act for 1971 (P.L. 101-513) restricts the transfer of depleted uranium antitank shells (section 553) and stinger missiles (section 568). It also includes several country-specific restrictions (see below). Numerous provisions of existing law contain contingent prohibitions or restrictions on arms transfers to countries (or persons) that violate human rights, support international terrorisim, engage in nuclear proliferation activities, export certain missiles or missile technology, produce or traffick narcotics, assist Iraq's rocket, chemical, biological, or nuclear weapons capability, or violate the terms of an arms transfer agreement. Major sales may not be completed until they are reviewed by Congress.

Section 32 of the AECA and provisions of the Export-Import Bank Act of 1945, as amended, prohibit the use of Export-Import

Bank credits to finance the sale of defense articles and defense services to developing countries.

3. Countries/Companies/Individuals Subject to Restrictions

The AECA requires State Department to supervise and direct all governmental arms transfers and to license commercial arms transfers to any country. The Foreign Operations Appropriations Act (P.L 101-513) restricts security assistance programs for Guatemala, Haiti, Zaire, Sudan, Liberia, and Somalia [Title III]; prohibits the use of funds appropriated therein to assist directly or indirectly Angola, Cambodia, Cuba, Iraq, Libya, Vietnam, Iran, Syria [sections 512 and 545], Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia except through notification procedures [section 541]; Afghanistan [section 565]; Kenya [section 593]; and Yugoslavia [section 599(A)]; limits aid to El Salvador [section 597]; and prohibits all exports to Iraq [section 586(C)].

4. Relation to Treaties/Agreements

U.S. laws do not appear to have an effect on international treaties, multilateral agreements, or regimes concerning the transfer of conventional arms.

5. Congressional Review

The AECA [section 36(b)] requires the President to submit a certification to Congress before issuing a letter of offer to sell $14 million or more of major defense equipment, $50 million or more of any defense articles or services, or $200 million or more of design and construction services. Congress can block such transfer by passing a joint resolution of disapproval within 30 calendar days or, for NATO members, Japan, Australia, and New Zealand, within 15 days. A similar certification requirement, congressional review, and legislative veto apply to commercial arms transfers [section 36(c)].

6. Reporting/Consultation Requirements

The AECA and other laws relating to arms transfers include over 50 reporting requirements, not including reports on specific countries, reprogramming of assistance, human rights, terrorism, nuclear proliferation, or narcotics, Four of the key reports are required by sections 25(a), 28, 36(a), and 36(b) of the AECA. Section 25(a) requires a detailed annual report estimating likely sales during the coming year to each foreign country, the impact of the sales, and other data. Section 28 requires a quarterly list of each estimate of price and availability provided by the U.S. Government and foreign requests for letters of offer for the sale of defense equipment or services. Section 36(a) requires a quarterly report listing all letters of offer to sell any major defense equipment for $1 million or more and other data. Section 36(b) requires a certification of each major sale before the letter of offer is delivered to a foreign country (described in paragraph 5 above).

7. Enforcement

Persons who violate the AECA are subject to criminal and civil penalties with fines up to $1 million and imprisonment up to ten years. See the section on missiles for a description of sanctions against those who export certain missiles and related technology.

8. Agency Responsibilities

Many of the policy determinations set forth in the AECA and the function of administering controls of commercial arms transfers have been delegated to the Secretary of State by executive order. The administration of the Foreign Military Sales program has generally been delegated to the Secretary of Defense. These officials are to consult with the Secretary of the Treasury, the Director of the Arms Control and Disarmament Agency, and the Director of the Office of Management and Budget on specified functions.

9. Waiver

The AECA [section 36(b)(1) and 36(c)(2)] allows the President to waive the congressional review requirements for FMS transfers and commercial sales if he certifies that an emergency exists that requires the proposed sale in the national security interests of the United States. Section 614(a) of the Foreign Assistance Act of 1961 authorizes the President to furnish assistance under the AECA without regard to other provisions of law if he certifies to Congress that it is important to the security interests of the United States and to transfers arms if it is vital to U.S. national security.

C. Treaties, International Agreements, and Regimes

There are no treaties governing transfers of conventional arms. By informal agreement, the Coordinating Committee on Multilateral Export Controls (CoCom) was established to oversee exports from member states to Communist countries. The members of CoCom are Australia, Japan, and the members of NATO, except Iceland. CoCom monitors exports of items on three lists: an International Munitions list, a Nuclear list, and a list of dual-use industrial goods. The international munitions list is similar to the U.S. Munitions list that is used by State Department to monitor U.S. arms exports. See the section on missiles for a discussion of the Missile Technology Control Regime.

D. U.S. Conventional Arms Transfers Policy

Defense trade remains primarily a foreign policy/national security function, but the Administration is also concerned with the need to improve the ability of U.S. defense industry to compete overseas. Arms transfers are generally approved or denied on a case-by-case basis under guidelines that are frequently unpublished. Officials in the Administration have reportedly been debating arms transfer policy as some parties wish to expand defense exports to support U.S. allies and U.S. industries, while others wish to place tighter controls on arms transfers now that the Cold War is over and the military power of Iraq has been greatly reduced.

It is the policy of the Export-Import Bank to deny the use of credits to finance the sale of defense articles and services to *any* foreign country although the law prohibits only financing sales to developing countries. The Administration, however, submitted to Congress in early 1991 legislation that would establish a $1 billion pilot program permitting the ExIm Bank to guarantee defense loans for NATO members, Japan, Australia and Israel. Other countries could become eligible upon Presidential certification.

E. Proposed Legislation on U.S. Conventional Arms Transfers

Over 30 bills have been introduced in the 102nd Congress that would make changes in existing laws concerning arms transfers.

H. Con. Res. 93 (Bonior)

This resolution would express the sense of Congress that the President should seek negotiations to achieve (1) a Middle East arms control agreement, (2) a regional security agreement, (3) a regional economic development program, (4) the creation of a Palestinian homeland, and (5) U.S. guaranty of Israel's security.

H.J. Res. 256 (Hall)

Would resolve that the United States should restrain arms sales to developing countries; the U.N. Security Council permanent members should negotiate arms transfers controls; the United States should discuss a control regime with supplier and recipient nations; and the United States should promote incentives to encourage cooperation in controlling arms transfers.

H.R. 88 (Engel)

Prohibits arms transfers to or for the Royal Ulster Constabulary or the Ulster Defense Regiment

H.R. 669 (Rinaldo)

This bill would control the transfer of arms to contries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see S. 309, below).

H.R. 729 (Gejdenson)

Would amend the Export Administration Amendments Act of 1985 to permit the Export-Import Bank to use its authority to finance sales of defense articles and services to any country that is a member of the North Atlantic Treaty Organization, Japan, Israel, Australia, or New Zealand. Such financing would be directed to be competitive with the terms and conditions of countries that compete with U.S. exporters.

H.R. 868 (Hunter)

Nearly identical to S. 309 and H.R. 669. One difference is that H.R. 868 would include U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance." (See S. 309, below.)

H.R. 1282 P.L. 102-28 (Whitten) Supplemental Appropriations for Desert Shield/Desert Storm for FY 1991

Would prohibit the President from transferring to a foreign government any U.S. equipment or equipment captured in Iraq until he notifies Congress of the proposed transfer, and Congress enacts a bill or joint resolution authorizing the transfer.

H.R. 1317 (Anderson)

Would restrict United States economic and military assistance to Jordan. United States assistance to Jordan would be suspended and Jordan would be denied most-favored-nation trade treatment, unless the President makes a determination and notifies the Congress that waiving this restriction is in the national interest of the United States.

H.R. 1343 (Levine)

This bill would restrict the sale or transfer of sophisticated combat weaponry and technology to the Middle East, enhance peace and stability through the maintenance of a balance of power among major military powers in the region, coordinate with other international arms control regimes enhanced controls on the proliferation of chemical and biological weapons and ballistic missile technology, and address other areas pertinent to limiting arms sales or transfers.

1. Eligibility Requirements for Exports

Not addressed.

2. Export Prohibitions/Restrictions

Supplier nation commission [section 3(c)] would negotiate restrictions on the sale or transfer of sophisticated combat weaponry and the technology of conventional arms production.

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions apply to "the Middle East" [section 3(c)].

4. Relation to Treaties/Agreements

Commission would be modeled after the Coordinating Committee for Multilateral Export Controls (CoCom) and the Nuclear Suppliers Group [section 3(a)] and would coordinate its activities with the Australia Group and members of the Missile Technology Control Regime [section 3(c)3]

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

Not addressed.

7. Enforcement

Commission is authorized to adopt "mechanisms to safeguard against the circumvention of the arms sales restrictions by member countries and other arms suppliers" [section 3(c)4(A)].

8. Agency Responsibilities

The President is required to enter into discussions for the purpose of creating the commission referred to above within 90 days after the enactment of this act [section 3(a)].

9. Waiver

Not addressed.

H.R. 1346 (McDermott)

This bill would conditionally withhold United States military assistance to El Salvador. No United States military assistance would be allocated for El Salvador unless the President determines and reports in writing to the Congress that certain conditions are met and the Congress enacts a joint resolution authorizing assistance. The prohibitions and conditions on U.S. military assistance to El Salvador spelled out in S. 601 are virtually identical.

H.R. 1428 (Smith of Florida)

This bill would govern the transfer of military equipment captured during Operation Desert Storm and United States military equipment used during Operation Desert Shield and Operation Desert Storm.

1. Eligibility Requirements for Exports

Military equipment captured during Operation Desert Storm and U.S. military equipment used during Operation Desert Shield and Operation Desert Storm may be transferred to foreign government only to the extent authorized by applicable United States law.

2. Export Prohibitions/Restrictions

Restrictions of other laws apply.

3. Countries/Companies/Individuals Subject to Restrictions

Military equipment captured during Operation Desert Storm may not be transferred to a country whose government has repeatedly provided support for acts of international terrorism. Other provisions apply to all parties.

4. Relation to Treaties/Agreements

Not addressed.

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

The President must report to the Congress, within 30 days after the date of enactment of this Act, on any military equipment captured during Operation Desert Storm that was transferred to another foreign country during the period beginning on February 27, 1991, and ending on the date of enactment of this Act.

7. Enforcement

Not addressed.

8. Agency Responsibilities

Not addressed.

9. Waiver

Not addressed.

H.R. 1611 (Hughes)

Would terminate United States foreign assistance to Jordan. A moratorium would be placed on further aid to Jordan and Jordan would be denied most-favored-nation trade treatment, until such time as the Congress is convinced that Jordan will act as a responsible nation and will not provide aid and comfort to the enemies of the United States.

H.R. 1635 (Moody)

Would amend the Export-Import Bank Act of 1945 to prohibit the Bank from using any of its funds or borrowing authority to extend credit for the sale of defense articles or services to any country.

H.R. 1708 (Schumer)

This bill would prohibit arms transfers to any country that is in a state of war with Israel and has not accorded formal recognition to the sovereignty of Israel.

1. Eligibility Requirements for Exports

The country must not be in a state of war with Israel and must have accorded formal recognition to the sovereignty of Israel to be eligible to receive U.S. defense articles or services [section 1(b)1–2].

2. Export Prohibitions/Restrictions

Defense articles, defense services, and design and construction services could not be sold or otherwise transferred [section 1(a)1].

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions would apply to Bahrain, Yemen, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, and the United Arab Emirates [section 1(c)].

4. Relation of Treaties/Agreements

This is not addressed.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to make certain certifications to Congress in order to remove restrictions [section 1(b)].

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

H.R. 2175 (Kleczka)

Would amend the Export-Import Bank Act of 1945 to prohibit Bank activity in a credit sale of defense articles and services, unless the President determines that the sale is necessary to protect the United States from a direct threat or if the sale is related to anti-narcotic efforts.

H.R. 2315 (Berman)

This bill provides for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. It is nearly identical to S. 1046. One difference is that H.R. 2315 requires that the President present two separate reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives. Together these two reports will include somewhat different material than the single report required under S.1046.

H.R. 2456 (Green)

Would prohibit government-to-government and commercial arms sales to any country that is participating in or cooperating with the economic boycott of Israel.

H.R. 2508 (Fascell) International Cooperation Act of 1991

This bill would amend the Foreign Assistance Act of 1961 (FAA) to write the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, would amend the Arms Export Control Act and redesignate that Act as the Defense Trade and Export Control Act, and would authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993.

The bill would amend the FAA by rewriting Title II (Military Assistance, Related Assistance, and Military Sales) to include chapters on Policy, Foreign Military Financing Program, Transfers of Excess Defense Articles, Overseas Management of Assistance and Sales Programs, International Military Education and Training, Peacekeeping Operations, Stockpiling, International Terrorism, and Other Provisions.

1. Eligibility Requirements for Exports

The bill would include basically the same requirements that exist in FAA for MAP and AECA for FMS. By combining the Foreign Military Sales credit program with the Military Assistance Program under the new Foreign Military Financing Program (FMFP), the bill would eliminate two former eligibility requirements under MAP: that the recipient country must agree to permit continuous observation and review of transferred defense articles and services by the U.S. Government, and that it will return such articles and services to the U.S. Government when they are no longer needed for the purpose for which furnished (FAA sections 505(a)(3) and (4)). However, the House Foreign Affairs Committee report (H. Rept. 102–96) states, "Foreign countries must permit, as the President may require, observation and review at any time by representatives of the U.S. Government with respect to the use of such defense articles and services." The bill also specifies eligibility requirements for the transfer of excess defense articles under the FAA.

The bill would repeal section 35 AECA that made a country ineligible for government arms sales if the President finds that a less developed country is diverting development or food assistance or its own resources to unnecessary military expenditures.

2. Export Prohibitions/Restrictions

Section 242 would establish new guidelines for U.S. arms transfers to the Middle East and Persian Gulf region, impose an indefinite unilateral moratorium on new transfers, authorize the President to provide replacement equipment on a one-for-one basis, and authorize the President to lift the moratorium if another major supplier country sells major defense equipment to the region. The moratorium would not apply to any transfer that is a necessary emergency response to sustained hostilities in the region or imminent threat thereof.

The bill would prohibit the use of funds to facilitate the sale of depleted uranium antitank shells, such as the M–833, to countries other than NATO and major non-NATO allies unless the President determines the prohibition is not in U.S. national security interest. A similar provision was first included in the Foreign Assistance Appropriations Act, 1987.

Equipment captured from Iraq by U.S. forces could be transferred to another Middle East country only in accordance with normal notification procedures. The bill would also prohibit U.S. security assistance to any country that has an offensive chemical weapons program and has not supported the Chemical Weapons Convention being negotiated in Geneva.

3. Countries/Companies/Individuals Subject to Restrictions

The bill would create a new section (6201) consolidating restrictions that make countries ineligible for foreign assistance, including assistance under the Foreign Military Financing Program. The following categories of countries or projects are ineligible: (1) Communist countries, as designated by the President; (2) Human rights violators; (3) Countries that have expropriated U.S.

property; (4) Those whose government is deposed by military coup; (5) Nuclear proliferators (further described in nuclear chapter of this report); (6) Projects that compete with U.S. exports; and (7) Countries that export lethal equipment to countries that support international terrorism.

The bill would continue the prohibition against assistance and arms transfers to Pakistan unless the President certifies that Pakistan does not possess a nuclear explosive device, extend until September 30, 1993, the President's authority to make this certification and waive the prohibition, and apply the same provision to India.

Specific restrictions would be placed on military aircraft transfers to countries in Latin America, and military assistance to Guatemala, Nicaragua, Haiti, Suriname, Bolivia, Columbia, Peru, Chile, Jordon, Lebanon, Syria, Kuwait, Burma, Khmer Rouge in Cambodia, Fiji, China, Sri Lanka, Kenya, Malawi, Somalia, Sudan, and Zaire.

4. Relation to Treaties/Agreements

No changes made.

5. Congressional Review

The bill would increase the dollar thresholds that trigger the requirement for the executive branch to notify Congress of proposed arms sales, leases, construction services, and third country transfers and submit the proposals to congressional review. The threshold for actions involving major defense equipment would be increased from $14 million to $18 million; thresholds for defense articles and defense services would be raised from $50 million to 75 million; thresholds for design and construction services would be raised from $200 million to $300 million.

The bill also establishes standard congressional review procedures for the six types of transaction: third-country transfers of items provided on a government-to-government bases, third-country transfers of items provided on a commercial basis, government-to-government arms sales, commercial arms sales, commercial arms manufacturing agreements, and government-to-government leases. In each case, there would be a 15-day prior congressional review and possible disapproval by joint resolution for transfers to NATO members, Australia, and Japan, and a 30-day review and possible disapproved by joint resolution for transfers to other eligible countries. Review periods for transfers to New Zealand vary depending on the type of transaction.

A new section 31 DTECA provides for sanctions against foreign parties or countries that violate third-party transfer restrictions in coproduction agreements. The sanctions can be triggered by a Presidential determination or by a joint resolution.

6. Reporting/Consultation Requirements

Dollar thresholds for certain notifications would be raised (see Congressional Review section above.)

In notifications of proposed government-to-govenment arms sales and commercial arms, sales, the Administration would be required to describe the extent to which comparable kinds and amounts of such goods or services are available to the proposed recipients from other countries.

In the annual report on arms sales required by section 25 of the AECA (DTECA), the Administration would be required to include an analysis of the economic benefits or disadvantages to the United States of military sales and licensed commercial sales during the previous year.

The quarterly report required by section 36(a) AECA (DTECA) would require additional information on all coproduction agreements.

A new section 31 DTECA would require the President to report promptly to Congress on the receipt of information that a violation of an agreement regarding the third-party transfer of coproduced articles or related technology may have occurred.

The bill would repeal several reporting provisions that are deemed obsolete or inconsistent.

Section 242 would require the President to report to Congress on the U.S. plan to establish a multilateral arms transfer control regime for the Middle East, and a second report on the feasibility of an arms transfer and control regime among nations in the Middle East and Persian Gulf. It would also require an annual report to Congress describing arms transfers to the region and assessing the military balance of power in the region.

7. Enforcement

A new section 31 DTECA would provide for sanctions against foreign parties or countries that violate third-party transfer restrictions in coproduction agreements (including manufacturing license agreements). The sanctions could be triggered by a Presidential determination or by a joint resolution. For a substantial violation, all authority or license of the foreign party to coproduce defense articles would be suspended and new licenses under section 38 may not be issued.

The bill would amend section 38 of the ATECA to require that any person convicted or debarred for violating rules or regulations under section 38 (commercial licensing) or section 39 (agent fees and other payments) be barred from contracts involving FMFP for one year. Such convicted persons would forfeit to the United States any interest in or rights in defense articles or tangible items that were the subject of or used in the violation of arms export rules or regulations. Conviction for the violation of certain other laws "should" also be grounds for disapproving a commercial arms export license. The bill also would add national security and foreign policy considerations to be taken into account when exempting certain license applications from disapproval because of such violations.

8. Agency Responsibilities

No changes.

9. Waiver

The authority for the President to waive a prohibition on security assistance to Pakistan is continued to September 30, 1993.

10. Other

To enhance U.S. competitiveness, the bill would amend section 21(e) and 43(b) to exempt non-recurring costs to the U.S. Government for research and development of non-major defense equipment on both government and commercial sales of such items to the extent provided for in appropriations acts.

H.R. 2621 (Obey) Appropriations for Foreign Operations, FY 1992

This bill includes a moratorium on arms transfers to the Middle East and Persian Gulf Region that is nearly identical to the moratorium that is provided for in H.R. 2508 (amending the Foreign Assistance Act of 1961, see above).

The bill would allow aid to Jordan, only if the President certifies that Jordan is taking steps to advance the peace process, is complying with U.N. sanctions, and that it is in U.S. interest to provide such aid.

S. 156 (Mitchell)

This bill would affect the international military education and training (IMET) program through the allocation of funds under chapter 5 of part II of the Foreign Assistance Act (FAA) of 1961. The purpose of S. 156 would be to revise and reform IMET so as to provide support for emerging democracies and the civilian control of military establishments. S. 156 would authorize the expenditure of no less than 10 percent of the total funds appropriated through FAA for developing, initiating, conducting, and evaluating courses and other programs for training foreign civilian officials in managing and administering military establishments and budgets, and for training foreign military and civilian officials in creating and maintaining effective military judicial systems and military codes of conduct, including the observance of internationally recognized human rights [section 3(a)].

S. 156 would also stipulate that "nation-building" training funds be made available (other than map making) only in those countries in which no civilian agency or individual could reasonably be expected to carry out such activities and in which a freely elected head of government has requested such "nation-building" training. It would also require that all IMET trainees receive instruction specifically designed to promote universal adherence to the universal military responsibilities of protecting civilians and prisoners from harm and intimidation, reporting all human rights abuses by military forces to the proper authorities, and accepting the authority of elected civilian officials [section 3(b)-3(c)].

S. 236 (Moynihan)

Would repeal certain Cold War legislation and broaden certain prohibitions on arms transfers. Among other things, this bill would require that whenever any law refers to its section 401 and prohibits U.S. assistance to a foreign entity, then all forms of assistance including arms sales would be prohibited.

S. 306 (Dodd)

This bill would amend the Export-Import Bank Act of 1945 to permit the Export-Import Bank to use its guarantee authority to finance sales of defense articles and services to any country that is a member of NATO, Japan, Israel, Australia, or New Zealand. Such financing is directed to be comparable with the terms and conditions of countries that compete with U.S. exporters.

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit U.S. exports of any good or technology to countries that the President has reported as having taken certain threatening or aggressive actions.

2. Export Prohibitions/Restrictions

No good or technology could be exported from the United States to any country that (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E)."

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Actions defined in prohibitions determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of a contract entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated although the bill defines the term Missile Technology Control Regime.

5. Congressional Review

None is stated.

6. Repeating/Consultation Requirements

By January 15 of each year, the President would be required to submit a report to Congress identifying countries of concern according to six categories listed under export prohibitions. The report would also describe defense transfers to each of those countries, the governments and persons who have made the transfers, steps taken to enforce the Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President could determine and notify Congress that it is in the national security interests of the United States not to apply certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the U.S. Munitions List and a consolidated list of dual-use items to be controlled.

The President would be required to publish determinations that a U.S. or foreign person has violated the Act.

7. Enforcement

No goods or technology could be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's report, and no product or technology could be imported into the United States from such country. [The bill lists these sanctions as prohibitions, separate from its section on enforcement measures.]

In addition to penalties under the AECA and the EAA of 1979, the U.S. Government shall not enter contracts with violators of the Act, shall not transfer technology to violators, and shall deny security clearances to violators. The United States shall vest all right, title, and interest in any property of violators within the United States with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, prohibitions on exports, imports, and assistance will not apply to a country, except that nondiscriminatory trade treatment may not be so extended.

Certain penalties shall not apply if the President certifies that the violator could not know of or prevent the violation. See also the contract sanctity provision under Countries/companies subject to Restrictions.

S. 552 (Cranston)

This bill would affect the international military education and training (IMET) program through the allocation of funds under chapter 5 of part II of the Foreign Assistance Act (FAA) of 1961. The purpose of S. 552 would be to amend the FAA to provide support for emerging democracies and civilian control of military and security establishments in Central and Eastern Europe. The relevant section of the legislation is section 3 which would deal with the allocation of IMET funds and the content of IMET instruction. Not less than 20 percent of the funds made available each fiscal year through FAA would be available to train military personnel and a representative range of civilian political leaders and their staffs from the countries of Eastern and Central Europe [section 3(a)]. All IMET trainees would receive instruction designed to promote adherence to the universal military responsibilities of protecting civilians and prisoners from harm and intimidation, reporting human rights abuses to the proper authorities, and accepting the authority of elected civilian officials [section 3b].

S. 573 (Cranston)

This bill would amend the Foreign Assistance Act of 1961 to condition the availability of security assistance for a foreign country on that country's compliance with fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

1. Eligibility Requirements for Exports

None is specified.

2. Export Prohibitions/Restrictions

Would restrict the export of any defense articles or defense services.

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically included or excluded from restrictions. Foreign assistance would not be provided to any country the government of which consistently violates fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

4. Relations to Treaties/Agreements

The phrase "fundamental guarantees of international humanitarian law applicable in situations of armed conflict" refers to guarantees contained in the four Geneva Conventions of 1949 and to other guarantees applicable to armed conflicts "as are recognized by customary international law."

5. Congressional Review

If Congress requests a statement from the Secretary of State pertaining to a certain country's observance of the fundamental guarantees of international humanitarian law applicable in situations of armed conflict and the statement is not transmitted within thirty days after the request is made, no foreign assistance could be delivered to that country until the statement is transmitted.

6. Reporting/Consultation Requirements

The President may certify in writing that extraordinary circumstances exist warranting provision of foreign assistance to a country.

As part of the presentation for foreign assistance programs proposals, the Secretary of State would be required to transmit to the Congress an annual report regarding the observance of and respect for fundamental guarantees of international humanitarian law applicable in situations of armed conflict in each country proposed as a recipient of foreign assistance.

At the request of the Senate or the House of Representatives, or at the request of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the Secretary of State would be required to transmit within 30 days a statement with respect to the country designated and its observance of fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

Funds could be made available and allocated for foreign assistance after the President has reported to the Congress. The report would include the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of significant improvements in the country's record regarding fundamental guarantees of international humanitarian law applicable in situations of armed conflict.

7. Enforcement

No foreign assistance would be made to any country violating fundamental guarantees of international humanitarian law applicable in situations of armed conflict until they are certified by the President. No foreign assistance would be provided to any country that refuses to provide the U.S. Government satisfactory assurances that its officer training covers human rights, or whose armed forces violate such guarantees during war.

8. Agency Responsibilities

None is stated.

9. Waiver

The President may provide assistance to violating countries if he certifies to Congress that extraordinary circumstances exist warranting provision of such assistance. The President may waive the prohibition against providing foreign assistance to any country that refuses to provide satisfactory assurances or violates such assurances, if he determines and reports to Congress that the national security interest of the United States requires such a waiver.

S. 601 (Adams)

This bill would conditionally withhold United States military assistance to El Salvador. No United States military assistance would be allocated for El Salvador unless the President determines and reports in writing to the Congress that certain conditions are met and the Congress enacts a joint resolution authorizing assistance. The prohibitions and conditions on U.S. military assistance to El Salvador spelled out in H.R. 1346 are virtually identical.

S. 766 (Moynihan)

The purpose of this bill is to govern the transfer of spoils of war to foreign governments, groups, and persons.

1. Eligibility Requirements for Exports

Spoils of war held by the United States may be transferred to any other party to the same extent and in the same manner that similar property owned by the United States may be transferred [section 2(a), 2(b)].

2. Export Prohibitions/Restrictions

Only as noted in 1 above.

3. Countries/Companies/Individuals Subject to Restrictions

Restrictions would apply to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism [section 3].

4. Relation to Treaties/Agreements

This is not addressed.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

President would be required to submit, within 30 days after enactment of this act, a report to the appropriate congressional committees which describes any spoils of war obtained during Desert Shield/Storm that were transferred to any party before the enactment of this action [section 4.] Appropriate congressional committees are defined as Senate Foreign Relations Committee and House Foreign Affairs Committee [section 5].

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver.

This is not addressed.

S. 776 (Kennedy)

No assistance of any kind, including excess military equipment or supplies, would be provided to any group or individual engaged in the use of force against the current Government of Cambodia.

S. 1020 (Helms)

This bill would amend Title IV of the Trade Act of 1974, thereby making non-discriminatory (most favored-nation) trade with the People's Republic of China conditional on Presidential certification to the Congress that the PRC has met certain criteria. These criteria would include the PRC's becoming a party to the 1968 Nuclear-Proliferation Treaty; adopting the principles of the Missile Technology Control Regime; ceasing to export goods produced by forced labor; releasing all political prisoners; beginning to negotiate a peaceful resolution of the Tibetan conflict, ceasing to provide support for the Khmer Rouge; and adhering to internatinal human rights standards.

S. 1046 Arms Suppliers Regime Act of 1991 (Biden)

This bill would provide for the establishment of an international arms suppliers regime to limit the transfer of armaments to nations in the Middle East. This bill is nearly identical to H.R. 2315.

1. Eligibility Requirements for Exports

The bill would not specify new eligibility requirements, but would call for the establishment of a multilateral regime that would be encouraged to examine the feasibility of various controls and procedures.

2. Export Prohibitions/Restrictions

The United States would not be permitted to sell or to license the sale of defense articles or services to any nation in the Middle East until the President certifies the Administration has tried to establish an arms suppliers regime; and submits to Congress a report on the U.S. plan to establish such a regime.

3. Countries/Companies/Individuals Subject to Restrictions

The new regime would control arms transfers to the Middle East, but the United States should seek to expand the regime to other regions as appropriate.

4. Relations to Treaties/Agreements

The United States would be urged to propose that all members of the new regime adopt the limitations or guidelines of the Enhanced Proliferation Control Initiative, the MTCR, the Australia Group, the Nuclear Suppliers Group, and other controls to halt the flow of unconventional weapons to the Middle East.

5. Congressional Review

This is not addressed.

6. Reporting/Consultation Requirements

The President would be required to report to Congress a U.S. plan for establishing a multilateral regime to restrict transfers of advanced conventional and unconventional weapons to the Middle East.

The President would be required to submit to Congress a report by October 1 each year providing detailed information and analysis of arms transfers to the Middle East and analyzing the feasibility of several arms control options.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

This is not addressed.

S. 1084 (Mitchell)

This bill would deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment under title IV of the Trade Act of 1974 until such time as the President certifies that all of the stated conditions have been met. These criteria would require, along with other conditions, that the Government of the People's Republic of China demonstrate its good faith participation in international efforts to control the proliferation of sophisticated military weapons and chemical, biological, and nuclear technologies.

S. 1196 (Adams)

This bill would prohibit government-to-government and commercial arms sales to any country that is participating in or cooperating with the economic boycott of Israel.

S. 1433 (Pell) Foreign Relations Authorization Act, FY 1992 and 1993

The bill would establish U.S. policy for arms exports to the Middle East and would prohibit U.S. arms transfers to the region 60 days after the President reports to Congress assessments of the regional threat, appropriate types of equipment to transfer, the feasibility of regional security arrangements, and the willingness of supplier nations to restrict conventional arms transfers.

The bill would also require that U.S. spoils of war could be transferred to another country only to the extent and in the same manner that similar U.S. property may be transferred.

DUAL-USE COMMODITIES AND TECHNOLOGY EXPORT LEGISLATION AND POLICY

(Prepared by Theodor Galdi, Specialist in International Political Economy, Foreign Affairs and National Defense Division)

A. Introduction

Dual-use items are commodities, processes, or technologies designed primarily for civilian purposes but which can be used to help design, fabricate or improve weapons, munitions or military operations. Examples of dual-use items or technologies are very high speed computers, electronic components needed to initiate or control nuclear reactions, and entire plants or processes which are designed to produce chemical products such as pesticides but, if modified, could produce chemical warfare agents. The laws and mechanisms to control the exports of conventional, chemical and biological weapons, nuclear equipment, material and technology, and missile technology are discussed in other chapters of this report.

The *legal* basis for controlling dual-use items is the Export Administration Act of 1979. Using the provisions of the Act, dual-use exports can be controlled for national security, foreign policy, or short supply reasons. Primary *administrative* responsibility for the licensing of dual-use exports belongs to the Department of Commerce. The resoluton of dual-use *policy* involves the Departments of Commerce, State, Energy and Defense, NASA, the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission, and the intelligence community. *Enforcement* of export controls is the responsibility of the Commerce Department and the U.S. Customs Service.

The legal authority to control exports under the Export Administration Act of 1979 (EAA) expired on September 30, 1990. In November 1990, President Bush pocket-vetoed a bill to extend the EAA which contained mandatory sanctions in cases of chemical and biological weapons proliferation. Using the International Emergency Economic Powers Act, President Bush indefinitely extended his authority to control exports.

In this session of Congress, the Senate passed S. 320, its version of the Export Administration Act extension, on February 20, 1991. The House Foreign Affairs Committee had not reported an export control extension by June 28, 1991.

The primary international organization (group) for coordinating control of dual-use exports is CoCom, the Coordinating Committee for Multilateral Export Controls. Formed in 1949 to control trade with Communist countries, CoCom now consists of Japan and Australia and all members of NATO except Iceland. CoCom operates on the basis of consensus, and functions without the existence of a treaty or specific international legal authorization.

Current dual-use export control policy is in a state of flux. Until the recent past, the primary goal of export control policy through CoCom was to limit the export of dual-use items or processes to Communist countries. Improvements in U.S.-Soviet relations, the replacement of Communist regimes in Eastern Europe, and the increased threat of the development and use of weapons of mass destruction by non-Communist countries all served to place into question existing policy. As a result of these changes in the international environment, the Bush Administration undertook a major reassessment of U.S. export control policy in early 1990. In May 1990, the U.S. representative to CoCom announced a major liberalization and restructuring of the CoCom process. Though major changes were announced in most of the CoCom control categories, final details concerning a few commodity categories still remain unresolved.

The terms of Executive Order 12735, used by President Bush to extend his authority to control exports following the expiration of the Export Administration Act, and the Enhanced Proliferation Control Initiative, announced in December 1990, include efforts to limit the spread of chemical, biological, and nuclear weapons, and missile technology. In addition, separate Titles in S. 320, the Omnibus Export Amendments Act of 1991, deal specifically with chemical, biological and missile proliferation.

B. U.S. Dual-Use Export Control Laws

The Export Administration Act of 1979 provides the guidelines for controlling the exports of dual-use commodities, processes, and technologies or data inherent in them.

The Export Administration Act allows the President to control exports for three reasons: National Security, Foreign Policy, and Short Supply. The language in Section 5 of the Act—which authorizes national security controls—is very broad. In accordance with the provisions of that section, the President may prohibit or curtail the export of *any* goods or technology subject to the jurisdiction of the United States . . . which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States." (Emphasis added.) Section 6 of the Act allows the President to limit the export of any goods or technology "to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations." Section 7 of the Act authorizes controls on commodities in short supply.

At the present time, only Western Red Cedar and domestically produced crude oil are subject to short-supply restrictions. However, it should be noted that in the years immediately after World War II, the *primary* focus of U.S. export controls was on short-supply commodities. But, except for the Nixon embargo of U.S. soybeans in 1973, and a long-running but relatively unimportant debate on exports of North Slope oil to Japan, short supply concerns have not played a major role in the export administration debate since the mid-1950's. The primary focus of that debate has been on national security and foreign policy controls.

1. Eligibility Requirements for Exports

No general eligibility requirements exist in the Act; however, see section 3 below for country requirements.

2. Export Prohibitions/Restrictions

The broad latitude given by the language "prohibit or curtail the export of any goods or technology" in sections 5 and 6 of the Act has been noted above. The language in section 5(d)—Militarily Critical Technologies—is similarly general. However section 5(d)(1) does admonish the Secretary of Commerce to work with the Secretary of Defense to insure that export controls imposed under section 5 are *limited to* militarily critical goods and technologies and the mechanisms through which such goods and technologies might be effectively transferred.

In addition to these general references in the Act, a few specific commodities or technologies are identified for special attention. After setting out language lifting restrictions on exports to CoCom countries, section 5(a)(4)(B) allows the Secretary of Commerce to require permission for persons in CoCom countries to *reexport supercomputers*, goods or technology for certain sensitive *nuclear* uses, and *listening devices* for oral or wire communications.

Section 6(k) of the Act requires validated licenses for any exports of *crime control instruments*, except for exports to NATO countries, Japan, Australia and New Zealand.

The Short Supply Section (Section 7) of the Act prohibits the export of *unprocessed Western red cedar* and domestically produced *crude oil* except under certain specified circumstances.

While not in the Export Administration Act—but based on the Act—special treatment for other specific commodities is set out in Part 776 of the *Export Control Regulations* which comprise Title 15, Code of Federal Regulations, Parts 730–799. These commodities include *computers, machine tools and numerical controls, robots, and robot controllers, and equipment used for developing missiles capable of delivering nuclear weapons.* In addition, a separate part 778 sets out the *Export Nuclear Controls* implemented by the Department of Commerce. Items of direct nuclear use are controlled by the Nuclear Regulatory Commission. (See the first section of this report for a discussion of "Nuclear Nonproliferation Legislation and Policy.")

Specific language adding controls on exports of *missile technology* and also *chemical and biological warfare* equipment to part of section 6 of the Export Administration Act was included in the Omnibus Export Amendments Act of 1990 (H.R. 4653). This Act was pocket-vetoed by President Bush in November 1990, because of his concern over the mandatory nature of chemical warfare sanctions contained in the bill. Language incorporating *only* the missile technology control provisions was then included in the National Defense Authorization Act of 1991 (P.L. 101-510).

However, because the act amended by the National Defense Authorization Act—the Export Administration Act of 1979—had already expired, and its extension pocket-vetoed by President Bush, the exact status of the missile technology control requirements is currently unclear. More detail on these issues appears in the sections of this report dealing with controls on missile and chemical and biological weapons proliferation. and

A major—and continuing—issue in the operation of the export control program since the beginning has been the question of *foreign availability*. American producers and exports have argued that it made no sense to forbid them to export commodities that were available in sufficient quantities from other countries and not subject to CoCom restrictions. The Export Administration Act contains separate provisions on foreign availability to sections 4, 5, and 6. The longest provision is in section 5(f)—applicable to national security controls and establishes an elaborate mechanism for determining foreign availability including the establishment of an Office of Foreign Availability. Section 6—authorizing foreign policy controls—refers to the foreign availability procedures in section 5(f), and in subsection 6(h)(3) appears to require the Secretary of Commerce to remove items from the commodity list if, within six months of imposing or expanding controls, he finds foreign governments in limiting the exports of those commodities. However, section 4(c) states the President shall not impose export controls for foreign policy or national security reasons after he has determined that *there is* sufficient foreign availability to render the controls ineffective "unless the President determines that evidence presented to him demonstrating that the absence of such controls would prove detrimental to the foreign policy or national security of the United States." The same language is in three subsections of section 5(f). Thus, notwithstanding or profit of foreign availability, the President may impose, or continue to impose export controls.

3. Countries/Companies/Individuals Subject to Restrictions.

In enforcing national security export controls, section 5(b) of the Export Administration Act requires the President to establish as a list of controlled countries those set out in section 620(f) of the Foreign Assistance Act.[10] The President is given the authority under section 5(b)(1) to add or remove countries from the list of controlled destinations depending upon whether the country would—or would not—act detrimentally to the national security of the United States. In determining whether a country was to be added to or removed from the list of controlled countries, the President was to take into account a number of criteria:

The extent to which the country's policies were adverse to the national security interests of the United States,

The Communist or non-Communist status of the country,

The present and potential relationship of the country with the United States,

The present and potential relationship of the country with countries friendly or hostile to the United States, and

The nuclear weapons capability and the compliance record of the country with respect to multilateral nuclear weapons agreements.

Exports to CoCom countries receive expedited treatment. According to section 10(o) of the Act, a request for an *individuals validated license* to a CoCom country will become affective unless the Secretary of Commerce takes specific steps to deny it, and notifies the applicant. Exports of *less sophisticated* technology to CoCom countries requires no authority or permission from the Secretary of Commerce. According to section 5(a)(4), added in 1988, *reexports* to CoCom countries can take place without license except in the cases of reexports of supercomputers, nuclear technology, and listening devices noted above.

Section *5(k) countries* are non-CoCom countries that have negotiated with the United States and have agreed to implement export control regimes comparable to those maintained by CoCom countries. Exports to these 5(K) countries are to receive the same treatment as those to CoCom members.[11]

Section 5(b)(2)(C)—added to the Export Administration Act in 1988—requires the Secretary of Commerce to compile a list of *countries implementing effective export control systems* in accordance with principles agreed to in CoCom. These countries are eligible to receive preferential treatment under U.S. exports control law.

In carrying out foreign policy export controls under section 6, the Secretary of Commerce has the authority to require a license for the export of goods to *countries supporting international terrorism* after the Secretary of State has determined that the government of the country has repeatedly provided support for acts of international terrorism and that the export of the goods or technology in question could make a significant contribution to the military potential—including logistics—of the country or could enhance the ability of the country to support acts of international terrorism. As of September 1, 1990, the Secretary of State had designated Cuba, North Korea, Libya, Syria, Iran, and Iraq as countries supporting international terrorism.

Section 6(n) of the Act authorizes continuation of those foreign policy export controls against *South Africa* that were in effect in 1982. According to the 1991 Foreign Policy Report of the Secretary of Commerce, the controls were extended through fiscal year 1991 in order to demonstrate continued opposition to the apartheid polices of the South African Government. Additional, specific, controls over U.S. exports to South Africa were included in the Comprehensive Anti-Apartheid Act of 1986 which is also enforced by the Department of Commerce.

4. Relation of Treaties/Agreements

There is no international treaty or formal agreement for controlling exports of dual-use commodities. CoCom, the primary body for regulating East-West trade has no separate legal identity. It is a multilateral organization for coordinating the *national* export control policies of the various countries which are CoCom members. CoCom's Industrial List identifies dual-use goods and technologies that could significantly enhance the military capabilities of Communist armed forces. CoCom also maintains a Nuclear List and an International Munitions List. It is up to the various CoCom member countries to pass—and enforce—adequate laws and regulations to control exports of such items. The recent disclosures of dual-use commodity exports to Iraq by many countries, especially Germany and the United Kingdom, indicates that the existing arrangements are not designed to address proliferation concerns in non-Communist countries.

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[10] Section 620(f) states that no assistance may be provided under the Foreign Assistance Act to Communist countries. As of January 1991, the phrase "Communist countries" was defined to include Czechoslovakia, North Korea Estonia, East Germany, Hungary, Latvia, Lithuania, Outer Mongolia, Albania, Bulgaria, People's Republic of China, Poland, Cuba, Yugoslavia, Romania, Vietnam, Tibet, and the Soviet Union. However, as allowed by the provisions of Section 620(f)(2), *for the purposes of the Foreign Assistance Act*, Presidential waivers have been made for Tibet and the People's Republic of China (1985), Yugoslavia (1986), Poland and Hungary (1989), Czechoslovakia (1990), and East Germany (1990). H.R. 2187, introduced by Mr. Solomon on May 1, 1991, proposes that Section 620(f) be amended to remove Bulgaria, Czechoslovakia, Estonia, Hungary, Lithuania, Latvia, Outer Mongolia, Poland, and Yugoslavia from the list, and to add Afghanistan, Angola and Ethiopia. H.R. 2505, as passed by the House, repeals section 620(f) and requires the President to establish and publish a list of communist countries.

[11] Currently, these are Austria, Finland, Ireland, and Switzerland.

Because of uncertainty over the comprehensiveness of the national export control policies of other CoCom members, provisions placed in section 5(b)(2) of the Export Administration Act in 1988 set out five conditions that CoCom countries were to meet to implement effective export control systems. If the Secretary of Commerce found that the countries were meeting these conditions, he could dispense with most licensing requirements for exports to that country.

5. Congressional Review

Section 6(o) of the Act requires the President to determine that it is necessary to impose foreign policy export controls *without* meeting the requirements of the following subsections: (c) consulting with industry, (d) consulting with other countries (e) making reasonable efforts to pursue alternative means to accomplish the purpose of the sanctions, (g) excluding controls on exports of medicine, medical supplies, and certain food exports, (h) imposing controls on goods with foreign availability, and (m) imposing controls which would have the effect of canceling contracts already concluded. This determination would then be reported to Congress, and the imposition of the controls would become law only after Congress passed a joint resolution approving of the controls.

6. Reporting/Consultation Requirements

There are numerous provisions requiring reports to and/or consultation *with Congress* throughout the Export Administration Act. Other provisions in the Act require consultation among *executive branch* agencies and with *foreign governments* in specific instances. There are at least 15 reporting and 20 consultation requirements set out in the Act. Most of the consultation requirements apply to the executive branch.

There are two "mandatory" requirements for consultation with Congress in the law. Section 6(f) allows the President to impose, expand, or extend *foreign policy* export controls *only* after consultation with Congress. This requirement has not acted as a significant limitation on Presidential behavior. The second appears in section 11A—Multilateral Export Control Violations. Section 11A was passed following the diversion to the Soviet Union by Toshiba and Konigsberg of multi-axis submarine propeller machine technology. The section requires the President to levy sanctions against a foreign firm or person if he determines that the firm has violated a CoCom national security export restriction and that the violation resulted in the substantial improvement in Soviet and East Bloc capabilities in the following areas: submarine or anti-submarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, and communications and intelligence, or other critical technologies. Section 11A(j) requires the President to report to and consult with Congress on the nature of the export control violation by the foreign firm or person and the actions that he proposes to take to rectify the situation. This provision has not been used to date.

Finally, in Section 11(c) there is what could be termed an administrative requirement for consultation with Congress in instances when the President suspends an order that would have revoked the authority of an American individual or firm to export under the Act. In that instance, the House Foreign Affairs Committee and the Senate Banking Committee have to be consulted.

The reporting requirements in the Act are of two types: those to be made before or at the time specific steps are taken, and reports on the status of the export administration program. The main "status" report is the annual report required by section 14 of the Act. The annual report is to provide detailed information on 20 different types of actions. Among these are: a discussion of administrative procedures and licensing activities under the act; the results of various reviews of the status under the act of certain commodities including those on the militarily critical technologies list, and of negotiations with certain countries on export control issues; determinations of foreign availability and removal of export controls because of those determinations; assessments of the effectiveness of foreign policy export controls; the status of U.S. anti-Arab boycott efforts; and a review of violations and enforcement activities. A separate report required by section 10(n) tracks the status of export licensing applications.

The most important report required to be made preceding or accompanying steps taken under the Act is that under section 6(f). This report has to be submitted to Congress before the President imposes, expands, or extends foreign policy export controls. The report is to describe the purpose of the controls, the reasons for the controls, the consultations with U.S. industry and foreign countries, alternative means for accomplishing the same goal, and the availability from other countries of goods or technology subject to the proposed controls. As with the consultations required by this section, past reports submitted according to section 6(f) have been incomplete or perfunctory. Other one-time reports must accompany short supply control requests; notify Congress of changes in the status of countries identified as supporting international terrorism; and give Congress an explanation of the delays in issuing export licenses due to CoCom reviews.

7. Enforcement

There are two focuses in dealing with violators of the Export Administration Act: domestic "persons" (which includes firms and individuals) and, as of 1988, foreign persons.

Individuals who knowingly violate any provision of the act, or any regulation, order, or license issued under the Act can be fined not more than five times the value of the exports involved or $50,000, whichever is greater, or imprisoned not more than five years.

Section 11(b)—Willful Violations—sets out more stringent penalties for individuals and firms who willfully violate the act with the knowledge that the exports are intended to go to a controlled country or to a country with foreign policy controls. These penalties include fines against firms of not more than five times the value of the exports or $1,000,000, whichever is greater, and fines against individuals not more than $250,000, or imprisonment not more than 10 years, or both. Other parts of section 11(b) provide the same level fines, but not more than five years imprisonment for willful evasion of the Act.

Under the authority of section 11(c) of the Act the Secretary of Commerce can impose *civil penalties* of $10,000 for each violation of the Act or any regulation, order or license issued under the Act. He may also levy a civil penalty of $100,000 for each violation of the Act involving national security controls or controls on defense articles and services under section 38 of the Arms Export Control Act.

Section 11(g) mandates the *forfeiture* of any benefits from an export transaction which resulted in punishment under sections 11 (a) and (b).

Finally, the Act allows the Secretary of Commerce to *revoke the right to export* for up to 10 years of anyone convicted of a violation of the Act. The Secretary also has the power to issue Temporary Denial Orders which forbid an export which he believes will result in an imminent violation of the Act. Temporary denial orders can be issued for 180 days and renewed for 180 day periods if the Secretary justifies the renewal in writing.

Congress amended the Export Administration Act after the Toshiba-Konigsberg diversion in an attempt to reach *foreign firms or individuals* that violated the export control regulations of any CoCom country. According to section 11A, after the President had determined that the export control violation resulted in a substantial enhancement of Soviet and East Bloc capabilities in certain technical areas, he could prohibit contracting or procurement by the U.S. Government from the foreign violator, and/or prohibit the importation into the United States of all products produced by the firm or individual. These sanctions could be imposed for not less than two nor more than five years. Several exceptions and exclcusions are set out in the Act.

Section 11A(i)—never applied—allows the President to seek *compensation* from the foreign firm that violated the export control regulations in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and its allies needed to counteract the effect of the technological advance achieved by the Soviet Union as a result of the export control violation. Section 11A(k) allows the U.S. Attorney General to seek *damages* in U.S. Federal Court against the foreign violator. The law states that the total amount of the damage award "shall not exceed the amount of the net loss to the national security."

8. Agency Responsibilities

The Commerce Department is the organization primarily responsible for *administering* the dual-use export control system. In addition, the Department of State is responsible for licensing items on the *Munitions List*, and the Nuclear Regulatory Commission (NRC) is responsible for licensing exports of *nuclear materials and commodities*. Other chapters of this report deal with the duties of the State Department and the NRC.

All dual-use *license* processing is undertaken by the Commerce Department. The Act sets out the types of licenses that can be required in section 4 and devotes all of section 10 to procedures for processing licenses. While section 10 (a)(2) states that it is the intent of Congress that an export licensing determination be made "to the maximum extent possible" by the Secretary of Commerce without referral of the application to any other department or agency of the Government, section 10(g) authorizes the Secretary of Defense to review any export of goods and technology to any country to which goods are controlled for national security purposes. If the Secretary of Defense determines that the potential export will be detrimental to U.S. national security, he is authorized to recommend to the President disapproval of the export.

Section 4 of the Export Administration Act (General Provisions) gives authority for making decisions on which commodities to place on the *control list* and their level of sophistication, in the first instance, to the Secretary of Commerce. According to the law, all goods and technology on the control list are to be reviewed for continuation by the Secretary of Commerce at least once each year.

Similar language exists in section 5(c)(1) assigning primary responsibility to the Secretary of Commerce for compiling a list of the commodities controlled under the national security controls section of the Act. However, secion 5(c)(2) gives the Secretary of Defense and the heads of other departments and agencies the responsibilties to identify goods and technology to be included in the list. In the event of a disagreement between the Secretary of Defense and the Secretary of Commerce, the Secretary of Defense may refer the issue to the President for resolution. The Secretary of Defense is authorized under section 5(d)(2) to compile a list of militarily critical technologies which are not possessed by or available to controlled countries. The Militarily Critical Technologies List is supposed to be integrated with the control list "with all deliberate speed." Disagreements between the Secretaries of Defense and Commerce over which items are to be integrated into the control list are supposed to be resolved by the President. The Secretary of Defense is to establish a procedure for reviewing the goods and technologies on the Militarily Critical Technologies List for the purpose of removing goods and technologies that are no longer militarily critical.

Primary responsibility for *enforcement* of the Export Administration Act is divided between the Department of Commerce and the Customs Service in the Treasury Department. As part of the licensing process, the Bureau of Export Administration in the Commerce Department compiles lists of acceptable—and unacceptable—domestic and foreign firms. According to section 12 of the Act, the focus of Commerce Department inquiries should be in the United States. Officials of the Commerce Department can deny licenses on the basis of earlier violations or indications of current intentions to violate the Act. The Customs Service examines actual commodity shipments and also compiles lists of violators on the basis of earlier infractions or intelligence data indicating a potential current diversion. To prevent excessive agency conflict, the focus of Customs Service investigations is to be at U.S. ports of entry and overseas. The Department of Justice is responsible for bringing criminal prosecutions for violations of the act, while the Commerce Department has the authority to levy civil penalties and to suspend the right to export.

The primary responsibilities of the Department of State under the Export Administration Act are to conduct *negotiations with other countries* regarding their cooperation in restricting exports, to *consult* with the Departments of Commerce and Defense and other U.S. Government agencies, and to make *determinations* in certain instances.

In discharging his responsibility for negotiations, according to section 5(k), the Secretary of State is obliged to consult with the Secretaries of Commerce and Defense and other agencies appropriate for the negotiations. The State Department is the conduit through which CoCom negotiations take place.

Decisions of the Secretary of Commerce under section 6(k) of the Act concerning the description of items to be placed on the list of crime control and detection instruments and concerning exports of those commodities to any country have to be made with the concurrence of the Secretary of State.

The Secretary of State has the primary responsibility for determining which countries qualify as supporting international terrorism for the purposes of section 6(j) of the Act.

Finally, section 6(a)(5) gives the Secretary of State the right to *review* any export license to a country that has foreign policy export controls levied against it.

The Secretary of Commerce and the Commissioner of Customs, in consultation with the Director of the Federal Bureau of Investigation, have the responsibility to provide advice and technical assistance for exporters to develop *security systems* to prevent violations or evasions of export controls.

9. Waiver

The Export Administration Act, which expired in September 1990, contained no explicit waiver provisions. Amendments adding specific controls on missile proliferation to the Export Administration Act—which contained waiver language—are not discussed here. Section 9 of the Act does allow foreign importers of U.S. goods that become subject to export controls to petition for hardship relief from the controls.

Section 11A of the Act deals with sanctions against foreign firms or individuals. Section 11A(d)—Exclusion—states that the President "shall not apply sanctions under this section to a foreign firm if he determined that the firm did not knowingly violate the export control regulations and the government of the foreign country had in operation an export control system compatible with CoCom principles. The language of section 11A(d) does not allow the President to make a determination and then waive the sanction, rather it states that he will impose no sanction under certain circumstances.

The closest to a true waiver in the Export Administration Act is the President's *foreign availability override* authority discussed above in section 2 on Export Prohibitions and Restrictions.

C. Treaties, International Agreements, and Regimes

The principal international organization for coordinating control of dual-use exports is CoCom, the Coordinating Committee for Multilateral Export Controls. CoCom was created in 1949 as an informal forum associated with NATO to control trade with Communist countries, and now consists of Japan and Australia and all members of NATO except Iceland. CoCom meets in Paris to help resolve the technical and administrative questions which arise from the operations of export control systems. Examples of these issues are the types and sophistication of technology to be placed on the CoCom control list and how export documents can be created that will allow the shipment to be tracked to its destination. CoCom operates on the basis of consensus.

Since there is no international treaty establishing a single administrative body for controlling exports, the operations and structure of the export control regime of each country is left up to that country to create and operate. Section 5(b)(2)(C) of the Export Administration Act sets out the CoCom principles that are to act as a guideline for the effective implementation of an export control regime. U.S. objectives in CoCom are set out in section 5(i) of the Act and section 10(h) discusses U.S. administrative procedures for export licensing requests that are submitted to CoCom for review.

D. U.S. Dual-Use Export Policy

Current dual-use export control policy is in a state of flux. Until the recent past, the goal of export control policy through CoCom was to limit the export of dual-use items or processes to Communist countries.[12] Improvements in U.S.-Soviet relations, the replacement of Communist regimes in Eastern Europe, and the increased threat of the development and use of weapons of mass destruction by non-Communist countries, have all served to place into question existing policy.

As a result of these changes in the international environment, the Bush Administration undertook a major reassessment of U.S. export control policy in early 1990. In May 1990, the U.S. representatives to CoCom announced a major liberalization and restructuring of the CoComm process. Though major changes were announced in most of the CoCom control categories, final details concerning a few commodity categories still remain unresolved. As of the end of May 1991, major decontrols were to be implemented on all exports to the Soviet Union except for fiber optic communication technology and certain high-end computer technology.

The terms of Executive Order 12735, used by President Bush to extend his authority to control exports following the expiration of the Export Administration Act, and the Enhanced Proliferation Control Initiative, announced in December 1990, are both efforts to limit the spread of chemical, biological, and nuclear weapons, and missile technology, using some authority from the Export Administration Act.

The long-standing conflict between the Department of Commerce and the Customs Service over enforcement responsibilities seems to have subsided for the present. Each organization has partisans in Congress favoring an expansion of its authority to counter the supposed weaknesses of the other organization in enforcement matters.

The continuing conflicts between the Commerce Department and the Department of Defense over which areas of technology should be covered—and to what extent—continue, but this conflict appears to be inherent in the differing responsibilities of the two departments. Recent news reports have discussed disagreements between the Department of State—which wanted to *continue* exporting to Iraq prior to the invasion of Kuwait—and the Undersecretary of Commerce for Export Administration who wanted to limit them. This disagreement is unusual since, in the past the Commerce Department has favored using export controls for foreign policy purposes.

Finally, the actions of Congress reflect two themes: to liberalize greatly the current export control system, carrying out maximum decontrol through CoCom and increasing U.S. exports; and expanding the focus of controls to third countries capable of obtaining or producing weapons of mass destruction.

E. Proposed Legislation on Dual-Use Export Controls

This section deals with legislative proposals that would affect *the dual-use* provisions of the Export Administration Act. Legislative proposals limiting missile, chemical, and biological proliferation—some of which are contained in amendments to the Export Administration Act—are discussed in other parts of this report.

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[12] For more details on current policy, see: U.S. Library of Congress. Congressional Research Service. Export Controls. Issue Brief 91-064. By Glennon Harrison and George Holiday. Updated Regularly; and U.S. National Academy of Sciences. Finding Common Ground: U.S. Export Controls in a Changed Global Environment. Washington. National Academy of Sciences Press. 1991.

H.R. 669 (Rinaldo)

The purpose of this bill is to control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo. It is identical to S. 309 and nearly identical to H.R. 868 (see below).

H.R. 868 (Hunter)

Nearly identical to H.R. 669 and S. 309 (see below). One difference is that H.R. 868 includes U.S. military assistance and certain activities authorized by the National Security Act of 1947, the Central Intelligence Agency Act of 1949, or E.O. 12333 in its definition of "United States economic assistance."

H.R. 1343 (Levine) Middle East Post-War Stability and Arms Restraint Act of 1991

The purpose of this bill is to: restrict the sale or transfer of sophisticated combat weaponry and the technology of conventional arms production to the Middle East, to enhance the peace and stability in that region by seeking to maintain a balance of power among the majority military powers in the region, to coordinate with other international arms control regimes to enhance controls on the proliferation of chemical and biological weapons and ballistic missile technology, and to limit the sale or transfer of arms by adopting mechanisms to safeguard against arms control circumvention.

1. Eligibility Requirements for Exports

Not addressed.

2. Export Prohibitions/Restrictions

A commission consisting of the major arms suppliers to the Middle East would be created to negotiate restrictions on the sale or transfer of sophisticated combat weaponry and the technology of conventional arms production.

3. Countries/Companies/Individuals Subject to Restrictions

Countries in the "Middle East" (not defined in the bill).

4. Relation of Treaties/Agreements

The Commission would be modeled after the Coordinating Committee for Multilateral Export Controls (CoCom) and the Nuclear Suppliers Group and would coordinate its activities with those of the Australia Group (for chemical weapons) and the Missile Technology Control Regime.

5. Congressional Review

Not addressed.

6. Reporting/Consultation Requirements

Not addressed.

7. Enforcement

The commission is authorized to adopt "mechanisms to safeguard against the circumvention of the arms sales restrictions negotiated by member countries and other suppliers."

8. Agency Responsibilities

The President is required to enter into discussions for the purpose of creating the commission within 90 days after the enactment of this bill.

9. Waiver

Not addressed.

H.R. 2318 (Gejdenson)

This bill would amend section 6(j) of the Export Administration Act to designate for a three-year period Iran, Iraq, Libya, and Syria as having governments that have repeatedly provided support for international terrorism.

1. Eligibility Requirements for Exports

This is not addressed.

2. Export Prohibitions/Restrictions

The bill would change the current definition of goods subject to controls to prohibit the export or sales of any goods or technology subject to controls under section 5—National Security—of the Export Administration Act, and any defense articles and services sold or licensed under the Arms Export Control Act.

3. Countries/Companies/Individuals Subject to Restrictions

H.R. 2318 would add a new paragraph to section 6(j) of the Export Administration Act. The new paragraph 5 specifically designates for a three-year period, Iran, Iraq, Libya, and Syria as countries with governments that have repeatedly provided support for international terrorism.

4. Relations to Treaties/Agreements

This is not addressed.

5. Congressional Review

This is not addressed.

6. Reporting-Consultation Requirements

Unless an earlier recission has been made under the terms of section 6(j)(4) of the Export Administration Act, the President is required to report to Congress no later than 2 years and 6 months after the enactment of the bill on the activities of the governments of Iran, Iraq, Libya, and Syria in support of international terrorism.

7. Enforcement

This is not addressed.

8. Agency Responsibilities

This is not addressed.

9. Waiver

The terms of section 6(j)(4)—which allow the President to rescind the designation of government as supporting international terrorism, but only after submitting a detailed report and certification on the satisfactory behavior of the designated government—would remain unchanged.

S. 309 (McCain) Non-Proliferation and Arms Transfer Control Act

The bill would control the transfer of arms to countries that threaten world peace. The provisions of this bill are identical to those of H.R. 669 (Rinaldo) and nearly identical to those of H.R. 868 (Hunter).

1. Eligibility Requirements for Exports

The bill would prohibit U.S. exports of any good or technology to countries that the President has reported as having taken six threatening or aggressive actions listed in the next section.

2. Export Prohibitions/Restrictions

No good or technology would be exported from the United States to any country that meets any one of six criteria: (A) has acquired weapons that threaten peace, (B) has used armed force in aggression against another country, (C) has threatened to use armed force in aggression, (D) supports terrorism, (E) is subject to a U.N. or U.S. embargo or is determined to threaten world peace, or (F) has transferred any good or technology including dual-use items or technology "that may be used to produce or transfer conventional arms or any weapons of mass destruction" to any country identified by the President under subparagraphs (A), (B), (C), (D), or (E) above.

3. Countries/Companies/Individuals Subject to Restrictions

No countries would be specifically covered by restrictions. Actions defined in the prohibitions section determine which countries would be subject to sanctions. Sanctions and penalties would not apply, under certain circumstances, in the case of contracts entered into before the country was determined to be of concern.

4. Relation to Treaties/Agreements

No relationship is stated.

5. Congressional Review

None.

6. Reporting/Consultation Requirements

By January 15 of each year, the President would be required to submit to Congress a report identifying countries of concern which fall into any of the six categories listed above under export prohibitions. The report would also describe defense transfers to each of these countries, the governments and persons who have made the transfers, the steps taken since the previous year to enforce this Act, sanctions imposed, and U.S. efforts to persuade countries not to export certain goods and technology to countries of concern.

The President may determine and notify Congress that it is in the national security interests of the United States to waive the application of certain prohibitions.

Thirty days after enactment of the act, the President would be required to publish the texts of the U.S. Munitions List and a consolidated list of dual-use items to be controlled under the Export Administration Act.

Presidential determinations that a U.S. or foreign person has violated this Act would be required to be published no later than 7 days after they have been made.

7. Enforcement

No goods or technology would be exported, no military or economic assistance provided, and no nondiscriminatory trade treatment extended to a country listed in the President's January 15 report, and no product or technology would be imported into the United States from such a country.

In addition to penalties under the Arms Export Control Act and the Export Administration Act of 1979, the U.S. Government is required not to enter contracts with violators of the Act, not to transfer technology to violators, and to deny security clearances to violators.

Any property owned by violators within the United States would be forfeited to the United States Government, with certain exceptions.

8. Agency Responsibilities

None is specified.

9. Waiver

If the President determines and notifies Congress that it is in the national security interests of the United States, he could waive prohibitions on exports, imports, and assistance to a country, but could not waive removal of nondiscriminatory (MFN) trade treatment.

Certain penalties would not apply if the President certifies that the violator could not know of or prevent the violation. Also penalties do not apply to contracts entered into before a country was named on the President's list of countries of concern.

S. 320 (Riegle) Omnibus Export Amendments Act of 1991

S. 320, the Omnibus Export Amendments Act of 1991, would reauthorize the Export Administration Act of 1979. It passed the Senate in February of 1991 and has been referred to the House for action. This bill—containing most of the same language as the bill pocket-vetoed by the President in October 1990—would add specific language to the Export Administration Act on chemical biological and missile technology proliferation controls, and would modify many portions of the Act dealing with the control of dual-use exports.

1. Eligibility Requirements for Exports

No specific changes to current law would be made.

2. Export Prohibitions/Restrictions

Three sections of S. 320 would affect specific commodities. Section 105(b) states that not later *than 6 months after the date of enactment of the Export Administration Act amendments, the Secretary of Commerce would be required to publish in the Federal Register a performance-based indexing to insure that the definition of a supercomputer and the controls and security safeguard procedures on supercomputer exports and reexports would be commensurate with technological advances in the supercomputer industry. For non-Communist countries signatory to the Non-Proliferation Treaty, no security safeguards would be required for any supercomputer with a peak speed less than 25 percent of the two most powerful supercomputers available in the United States.*

Section 108 would attempt to coordinate and rationalize the U.S. and CoCom control lists. According to this provision: (a) Within three months after the passage of the bill, no item may be on the U.S. Control List and the U.S. Munitions List at the same time, (b) items on the CoCom International Munitions List would be subject to control by the United States through the Arms Export Control Act, not the Export Administration Act, (c) items that do not appear on the International Munitions List would be subject to control through the Export Administration Act, not the Arms Export Control Act. Exceptions allowing items not on the International Munitions List to be controlled by the Arms Export Control Act could be allowed, but only after the President: determined that national security required the item to be controlled under the Arms Export Control Act; proposed to CoCom that the item be added to the International Munitions List; and submitted a report to Congress describing the item and the reasons for the step. Other parts of section 108 would describe the process for creating new, separate lists, and the roles of the Secretaries of State and Commerce in compiling the lists.

The intent of the new section 109 would be to liberalize controls on telecommunications equipment to countries "of a lesser strategic threat" (defined below) and to accord telecommunications exports to those countries CoCom's least restrictive control procedure. As part of this process, Section 109 states that the United States should propose to CoCom that exports of computer network software and related equipment for civilian use be accorded the same licensing treatment as that permitted for the computer systems exported for interconnection to such networks, and should be treated in accordance with the new telecommunications controls.

3. Countries/Companies/Individual Subject to Restrictions

Several major changes are proposed relating to the overall focus of the export control program and also regarding specific countries.

Section 103 would establish as a general principle that, after December 31, 1991, there would be no controls on exports to CoCom or 5(k) countries. The Secretary of Commerce could continue to require licenses for exports to unreliable end-users, certain reexports to non-CoCom or 5(k) countries of supercomputers, certain nuclear technology, and listening devices, and in accordance with multilateral control arrangements unanimously agreed to by CoCom. The Secretary of Commerce would also be given the authority to require a license to export to any country that is engaging in a pattern and practice of noncompliance with CoCom principles.

Designed to deal with the changed status of Poland, Hungary and Czechoslovakia, S. 320 would attempt to recognize countries representing a lesser strategic threat. According to the bill, the list of controlled countries under section 5(b)(1) should be revised to recognize those which represented a lesser strategic threat and which: (a) implemented an effective export control system, including effective penalties, (b) created technology security arrangements, and (c) terminated intelligence cooperation with controlled countries which resulted in illegal acquisition and diversion of controlled technology, when the Secretary of Commerce determined that the countries had carried out these steps, the Secretary of State would propose to CoCom more favorable treatment for exports to those countries. If these countries carried out all of the above steps and, in addition, reduced its offensive military capabilities, and phased out their participation in the Warsaw Pact, the President would be required to seek CoCom agreement to remove the countries from the controlled list and to treat them as a free world or cooperating country destination.

Section 107 would attempt to codify the general East-West Decontrol decisions made at the June 1990 High Level CoCom meeting by requiring the Secretary of Commerce to issue regulations fully implementing the decisions taken there relating to the removal of controls, increased national discretion and favorable consideration of export licenses, and higher levels of technical sophistication for exports.

The bill would require the Secretary of Commerce to conduct a study on the goods and technology available from newly industrialized countries (NICs) to determine if the goods and technology are of such sophistication that they warrant multilateral export controls. If he determines that controls are warranted, the Secretary of State would be required to propose negotiations to obtain the NIC's participation in CoCom. Another section of the bill directs the Secretary of Commerce to restrict or terminate the 5(k) status of any country that does not maintain export restrictions comparable in practice to those of CoCom.

In terms of the focus of the Export Administration Act, one of the most important changes is proposed by section 120 of the Senate bill. A new section 10(r)—Countries of Concern Regarding Proliferation and Regional Stability—would be added to the Act. A determination to approve any export license application to these countries dealing with possible missile, chemical and biological weapons proliferation by the Secretary of Commerce would be required only after consulting with the Secretaries of State and Defense. Iran, Iraq, Syria, Libya as well as any other countries identified as having repeatedly supported international terrorism would be specifically identified as countries of concern. All countries of concern would be maintained by the Secretary of Commerce on a classified list. Procedures would be spelled out in the provision for appeals to the President over disagreements among the Secretaries of State, Commerce, and Defense. This section is significant because of the widening of the focus of the Act from East-West controls to more general controls based on the behavior of specific countries.

Another provision of the bill would extend the applicability of section 11A—the Toshiba-Konigsberg Sanctions—to 5(k) countries and the new category of countries of lesser strategic threat.

The People's Republic of China was the subject of three specific parts of the bill. In section 125, Congress states that the Chinese had, in the past, received special treatment through CoCom, but because of its human rights record, should no longer do so. Accordingly, the new section 5(b)(4)(A) would direct the U.S. representative to CoCom to oppose preferential treatment for the People's Republic of China compared to the treatment of other controlled countries in the Core List revisions arising from the June 1990 high level CoCom agreements. A new section 6(q)—Proliferation Concerns Regarding the People's Republic of China—stated that requests for authority or permission to export to China goods or technology controlled pursuant to multilateral arrangements to control chemical weapons and missile proliferation, should be denied in the absence of adequate assurances regarding appropriate end-use and non-transfer of goods or technology to a country or project of concern. Section 126 would forbid the export from the United States of any satellite intended to be launched from a Chinese launch vehicle. A waiver of the application of this provision would be allowed in certain instances.

The bill contains two statements of a sense of Congress concerning the Soviet Union. The first indicates that no exports to the Soviet Union which might be allowed by the changes in the law should be allowed unless the President certified to Congress that the Soviet Union had entered into negotiations with Lithuania for the purpose of allowing self determination. The second indicates that no liberalizations would take place if the Soviet Union took steps to restrict the emigration of Soviet Jews.

4. Relation of Treaties/Agreements

See chapter of this report concerning chemical weapons proliferation.

5. Congressional Review

None is stated.

6. Reporting/Consultation Requirements

Several of the provisions discussed above contained reporting requirements.

As required by the provision concerning the requirements for a supercomputer performance rating system, the Secretary of Commerce would be required to publish in the Federal Register the performance-based index system he develops within six months of the passage of the Act. Two weeks before the publication of this standard, the Secretary would be required to submit to the House Foreign Affairs Committee and the Senate Banking Committee a text of the report, summary of the views of the technical advisory committees on what the performance-based system should contain, and how the draft takes those views into consideration.

The Secretary of Commerce would be required to submit a report to the House Foreign Affairs Committee, and the Sente Banking Committee no later than March 1, 1991, describing the status of implementation of the June 1990 CoCom agreement. This report would include a description of the status of: construction of the Core List; the special procedures for countries representing a lesser strategic threat; procedures concerning national discretion and favorable consideration; implementation of the CoCom license-free zone; and how the new standards will affect the military capabilities and technology acquisition efforts of the controlled countries.

In carrying out the rationalization and coordination of the U.S. and CoCom control lists, within three months of the passage of the bill, the Secretaries of Commerce and State would publish final versions of the Control List and the United States Munitions List. The Secretary of State would also be required to publish a separate list of those items remaining subject to the Arms Export Control Act that are not on the International Munitions List.

The President would be required by section 109 of the bill to prepare a study on the national security implications of the transfer of telecommunications equipment and technology under the Export Administration Act. Not later than a year after the passage of the bill, the President would be required to report to the Speaker of the House and the Senate Banking committee on the results of the study.

Within six months after the enactment of the bill, the Secretary of Commerce would be required to report to Congress on his review of whether the goods and technology available from newly industrializing countries are of such sophistication that they warrant multilateral export controls.

Section 119 would require the Secretary of Commerce to publish the full texts of the CoCom *control lists within three months of the passage of the bill.*

CLARENCE THOMAS AND THE LIBERAL "LYNCH MOB"

Mr. DOLE. Mr. President, although it's been just 2 weeks since President Bush first nominated Judge Clarence Thomas to the Supreme Court, the liberal lynch mob is already forming outside the Judiciary Committee hearing room.

As Alan Keyes points out in today's Washington Times, Judge Thomas' nomination has "aroused the nastier instincts" of some of his liberal critics, who cannot figure out how a black man in America can be both a Republican and a conservative.

I suspect that much of the liberal criticism directed at Judge Thomas stems not from a close analysis of his record, but from pure, unadulterated self-interest.

For the past 25 years, the civil rights leadership in this country has operated like a public utility monopoly. The liberal leadership packages the correct civil rights message and the liberal media glowingly reports this message to America—uncritically and without dissenting votes.

Those in black America who don't buy into the message are shunned into silence.

So, Mr. President, it is no wonder that Judge Thomas—with his independent thinking and intellectual integrity—is a threat to the self-proclaimed keepers of civil rights orthodoxy.

Ad homine attacks—such as the cheap shot by columnist Carl Rowan, who absurdly compares Judge Thomas with the bigot David Duke—are the first warning signs of an orthodoxy coming to the painful realization that it does not have a monopoly on the truth.

Mr. President, I ask unanimous consent that the article by Mr. Keyes be printed in the RECORD immediately after my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 15, 1991]

"OUTING" BIGOTS WHO LURK ON THE LEFT

(By Alan Keyes)

Besides provoking a flurry of interest in black conservatives, the Clarence Thomas nomination has apparently aroused the nastier instincts of some of his supposedly liberal critics.

Take, for example, the outburst by black columnist and TV commentator Carl Rowan: "If they had put David Duke on, I wouldn't scream as much because they would look at David Duke for what he is. If you gave Clarence Thomas a little flour on his face, you'd think you had David Duke talking."

Apparently, if we put a little flour on his face, Judge Thomas might have some hope of getting a fair hearing from political bigots. Since he's black, fairness need not apply.

Mr. Rowan has always been a champion practitioner of the vicious racial intimidation through which some black leaders have tried to keep the black community in the grip of political and intellectual totalitarianism. Disagree with them and you're instantly excommunicated from the black race, accused of being a "white-thinking black," an "Oreo cookie" or, at the very least, a foot-shuffling Uncle Tom.

Mr. Rowan's knee-jerk bigotry comes as no surprise to me. In 1988, when the Maryland Republican Party nominated me for the U.S. Senate, he wrote a column dismissing my candidacy as a "token" because I was black. He didn't interview me. He didn't look at my background or experience in government. He looked only at my skin color and boldly prejudged the situation.

As it turned out, nearly 40 percent of Maryland's voters disagreed with him, a showing that equaled or exceeded that of the Republican candidates in the two preceding Senate races.

This is, of course, precisely the kind of prejudice the great champions of the civil rights struggle fought against. Yet people like Mr. Rowan routinely practice it, while lambasting others for betraying the civil rights cause.

Why are petty, close-minded bigots allowed to call themselves "liberals"? Until it was hijacked by these covert totalitarians the word liberal implied a generous, fair-minded approach to issues. It implied a willingness to give all sides a hearing. Now it refers to intellectual fascists who deem themselves the good guys and say their way is the only way.

Another clear example of this bigotry has emerged in "know-nothing" anti-Catholic slurs and innuendo against Judge Thomas by advocates of abortion. Though the political archetype of contemporary liberal idealism, John Kennedy, was himself a practicing Catholic, these virulent, single-issue ideologues feel justified in stirring up the corrosive venom of religious bigotry in their zeal to take Judge Thomas apart. Yet the Catholics who now sit on the court were confirmed without such scurrilous attacks.

Since Judge Thomas is black, the pro-abortion zealots think it's safe to show their religious bigotry in ways they wouldn't dream of doing if he were white.

Contemporary liberals always have suffered from an undercurrent of condescending bigotry. That's why the liberal stereotypes of the "victims" of society correspond so closely to the old racist sterotypes that victimized blacks in the first place.

Today, when they say "helpless," do they still mean "lazy"? Today, when they say "disadvantaged," do they still mean "inferior"? Today, when they say "underclass," don't they still mean second-class citizens?

As victims, blacks still are placed conveniently to be looked down upon. If a black person dares to look them in the eye, to think for himself, to claim with pride a role in his own achievements, they rush to stomp him down, just as racist mobs in the old South took it upon themselves to deal peremptorily with what they called "uppity" blacks.

Clarence Thomas is such a person and the lynch mob is forming. Some blacks like Carl Rowan are helping to knot the rope. Others like Benjamin Hooks are hesitating, sensing, I think, the trap laid out before them. Somewhere in their hearts they know that even though the ideologues say they're "Borking" a conservative, in reality they're just lynching another black.

PROCEDURES ON HABEAS CORPUS

Mr. SPECTER. Mr. President, during the course of the consideration of the crime bill, there was extensive consideration given to procedures on habeas corpus. In a colloquy with the distinguished chairman of the Judiciary Committee, Senator BIDEN, there was a discussion about the need for holding hearings to reform habeas corpus procedures. By letter dated May 22, 1991, vice dean and professor of law, James S. Liebman from the School of Law of Columbia University in the city of New York wrote with some interesting and worthwhile ideas on reforming habeas corpus procedures. I ask unanimous consent that this letter be printed in the RECORD so that it may be reviewed in advance of the Judiciary Committee hearings on habeas corpus to be held in the future.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COLUMBIA UNIVERSITY IN
THE CITY OF NEW YORK,
New York, NY, May 22, 1991.

Re: Capital Habeas Corpus Reform.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: On May 7, 1991, American Bar Association President John Curtin and I testified before the Senate Judiciary Committee on the subject of habeas corpus reform. I was struck during the hearing by the thoughtfulness of your effort to get free of the rhetoric coming from both sides in the debate and to come up with a genuine solution to the problem of death penalty habeas corpus review. Speaking now only for myself, as a law professor and student of habeas corpus, I thought that it might be helpful—and I hope not too presumptuous—to provide my thoughts directly to you. I do so in particular because I believe that your proposal (S. 19) is very much on target in theory and general approach.

Habeas corpus is a very complex procedure right now, largely due to the procedural default and nonretroactivity (Teague) doctrines. In the usual, noncapital case, that complexity speeds up the process in the sense that it deters many prisoners, acting without counsel, from filing. As a result, the per capita rate at which prisoners file habeas corpus petitions has dropped to less than one third of the habeas corpus filing rate at its peak in 1970 (and is still dropping). As you seemed to suggest during the hearings, the habeas corpus system works well enough in *noncapital* cases and does not now need the radical surgery that the Administration has proposed.

Capital cases are different. In those cases, complexity slows down the process because the lawyers representing capital petitioners can handle, and even take advantage of, the complexities in the process. The insight into this problem that you reflected at the hearing is that neigher "side" in the debate is making a genuine effort to solve the problem of complexity—and thus delay—in capital cases. The reason is simple. Both sides in the debate profit from complexity. Defense lawyers favor complexity because they often can take advantage of it to keep their cases going. On the other hand, states attorneys favor the existing complexities because, by creating procedural obstacles, to habeas corpus relief, those complexities (for example, the procedural default and nonretroactivity doctrines) enable states attorneys to win more of their cases on the basis of technicalities that trump constitutional violations. Put bluntly, complexity buys capital prisoner time while giving states attorneys a higher success rate.

The problem is that, while the lawyers on both sides gain from the complexity of the capital habeas corpus process, the public and the federal courts lose. As you alone seemed to recognize at the hearing, the solution is to make the process both fairer *and* less complex. Congress will have to craft a solution in its own, however, because neither side in the debate has much incentive to craft a workable solution itself.

In my view, your general approach to habeas reform is on target—to make the process fairer by providing more adequate counsel and resources at the trial and appellate level, and to make the system faster by setting time limits and dispensing with procedural complexity (which you propose to do by jettisoning state post-conviction proceedings). Below, I outline a similar but modified method of implementing your general approach. The one major problem I see with your bill is the method it uses to reduce procedural complexity—dispensing with state post-conviction proceedings. For the reasons set out below, I think that state post-conviction proceedings acutually contribute in significant (and even constitutionally protected) ways to creating a full and fair record based upon which federal courts can swiftly adjudicate capital habeas corpus petitions. Getting rid of state post-conviction proceedings accordingly will simply shift procedural burdens—mainly, hearings and other fact-determining procedures—from the state to the federal courts. Doing so may well end up increasing the criticism of habeas corpus and many also make unworkable the strict time limits that you want to impose on federal judges.

As laid out below, a surer way to get rid of procedural complexities in federal habeas corpus proceedings is to modify the procedural default and nonretroactivity (Teague) doctrines in ways that enable federal courts to address and decide the merits of constitutional claims immediately and expeditiously. As matters now stand, federal courts often devote 50–75 percent of their adjudicative efforts resolving collateral procedural questions that arise under those three doctrines. Limiting those three doctrines and insisting that federal judges reach and quickly decide the merits of swiftly filed habeas corpus petitions is the surest way, in my view, to implement your basic approach to habeas corpus reform.

More specifically, I think the following 10-part proposal would go a long way towards implementing your creative and well-conceived general approach to habeas corpus reform, although it deviates from S. 19 in some respects:

1. The level of legal representation at trial should be improved. Sections 2261 and 2266 of your bill take appropriate steps in this direction.

2. The filing of federal habeas corpus petitions should be subject to a strict time period or statute of limitations (say, 120 days). Below, I discuss the question of when that period should begin running. (See item 10.) But for the recent *McCleskey* decision, the 60-day period in Section 2263 of your bill might have seemed reasonable. *McCleskey*, however, puts an overwhelming investigative burden on habeas corpus counsel that requires some additional time.

3. Upon filing a federal habeas corpus petition, the state should have only a short time period (7 or 14 days) to file the answer provided for in existing Rule 5 of the Rules Governing § 2254 cases.

4. In that answer, the state's attorney should be required to elect between two procedures: a special procedure for capital cases, or the existing procedure. If the state elects the special procedure, a set of stringent time limits should kick in. In return, the state's attorney would give up the following procedural complications that now take up most of the courts' time in capital habeas corpus proceedings: (a) procedural default; and (b) nonretroactivity (Teague). The state's attorney would retain the defenses that can be adjudicated quickly and easily on the basis of the record: (a) waiver; (b) *Stone* v. *Powell* (removing 4th Amendment claims from habeas corpus); (c) the defenses in 28 U.S.C. § 2254(d); (d) restrictions on successive petitions (beefed up, as discussed in item 9 below); and (e) failure to meet time limits.) If the state's attorney does not elect the special, expedited process, the state would not get the benefit of the new *post*-filing time limits, although the state still would benefit from the new *pre*-filing time limit in point 2 above.[1] This step is critical because it, alone, will strip enough procedural complexity out of the habeas corpus process to speed up the process in a real and substantial way. This step also will make the process more fair because, by removing complex and distracting procedural obstacles, it will assure that judicial relief is available when constitutional violations are proved. State's attorneys will oppose this provision, but their basis for doing so—that it will cause them to lose more of their cases—amounts to an argument that violations of fundamental constitutional law in the process of deciding who lives and who dies should be ignored on procedural grounds even when doing so actually slows down the process. Moreover, providing better counsel at trials will help assure that there are fewer violations to cure in post-trial proceedings.

5. If the state's attorney elects the special, expedited process in the answer (and only if so), the petitioner then would only have a short period (7 or 14 days) in which to file a "case plan." That "case plan" would inform the district court about what needs to be done in the case, and on what schedule, within the time limits set by statute, those procedures may be completed. If the petitioner feels that a hearing is necessary, he should be required, with particularity, to explain why.

6. If the state's attorney elects the special, expedited process in the answer, a set of stringent time periods like those in Section 2268 of your bill would kick in. Those time periods would be longer (say 180 days) or shorter (say 120 days) depending upon whether the petitioner convinces the district court that an evidentiary hearing is required. This feature is necessary to avoid a constitutional challenge to your bill on grounds that it deprives litigants of a meaningful opportunity for an evidentiary hearing. There is extensive case law saying that the denial of a hearing on factual issues critical to the adjudication of constitutional questions is itself unconstitutional. There is a simple solution: provide explicitly for a hearing in those (few, probably) cases in which the petitioner can establish the need for a hearing; but limit the time available for the hearing to, say, 60 additional days. In many or most cases, section 2254(d) in the existing statute gives judges a clearly constitutional reason for denying an evidentiary hearing based on the state record. The extra 60-day period, then, would be the exception, not the rule. The "rule" would be that proceedings would occur within the time limits set for cases that do *not* require a hearing. Although the defense side will oppose these strict time limits, the sting can be taken out of their criticism by an extension provision for exceptional cases, and by stripping out of the process some of the existing procedural obstacles to relief.

7. By ruling on the petitioner's request for a hearing (in cases in which the state elects the expedited procedure), the court will determine which set of time limits will govern the case—the set of time limits without the extra 60 days (typically), or the set of limits *with* the extra period. The case would then proceed on whatever schedule is set.

8. The strict time limits on appellate and certiorari proceedings in your bill also would be invoked by the state's attorney's election of the expedited process.

9. The state's election also would give the State the benefit of a truncated successive petition process. I don't think the successive-petition proposal in Section 2262 of your bill will achieve this goal. In a real sense, that provision adds a step—the initial application to the Court of Appeals. This added step is very much like the "certificate of probable cause" requirement that Congress added to habeas corpus proceedings early in the century to speed up cases. Regrettably, that reform had precisely the opposite effect of complicating and slowing down the system. I fear that your successive petition procedure will have the same effect. Moreover, I've read virtually every successive-petition in the federal courts during the last five years and my strong impressions are these: (a) very few successive petitions are currently winning in any court; (b) the tiny proportion that are winning are doing so in the courts of appeals, not the district court. This latter impression leads me to fear that your proposal could backfire. An easier step, consistent with the Court's recent McKleskey decision, would simply be to require district courts to deny successive petitions within some short period (7 days), unless the petitioner's papers establish that the claim being raised is one that the petitioner, with due diligence, could not have raised at an earlier time. This approach would permit successive petitions only in the very rare "horror"-case situations that the defense side always speaks about—the situation, for example, in which the prosecutor withheld evidence showing that the defendant is innocent.

10. The only remaining question is when the initial time-period noted in point 2 above should begin to run. My view on this question is that the time for filing the federal petition should be tolled during sate post-conviction proceedings that the petitioner diligently pursues (not including a certiorari petition to the United States Supreme Court). I know that this runs counter to Section 2263 of your bill, but I think any other approach will raise serious constitutional problems. Twenty-five years ago, the Court (in *Case* v.

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[1] By the way, Congress could decide to *Impose* these conditions on the State, rather than giving the States a choice. I'm all for doing that: States' attorneys should not be absolved of their contribution to the slowness of the process. I frame the proposal in terms of an election, however, to make the proposal consistent with the opt-in feature of section 2261 of your bill and because the States probably would prefer to choose, rather than being forced into, the expedited process.

Nebraska) came very close to holding that the States are constitutionaly required to provide post-conviction remedies to prisoners. (The case was mooted, but views were expressed in concurring opinions.) See also an earlier case, Ex Parte Hull. Whether or not States must provide post-conviction procedures, if they do so, there is a serious constitutional objection to forcing petitioners to forego one right (the state remedy) as the price of activating the other right (habeas corpus). Moreover, many state's attorneys—including the state's attorney on the ABA Habeas Corpus Task Force—strongly oppose cutting state postconviction courts out of the process. The reason is that, if no state court hearing has been held, a federal hearing is statutorily and constitutionally required (see point 6 above). On the other hand, if a state court hearing is held, that hearing and the state judge's findings preempt any federal court hearing and federal court findings. See 28 U.S.C. §2254(d). As a result, under your approach, postconviction petitioners invariably will opt for federal habeas corpus instead of state postconviction, thus depriving the States of the benefit of state hearings and findings and subjecting them to federal hearings and findings. The removal of the procedural complexities discussed in point 4 above will achieve the necessary streamlining without risking the constitutional problems and potentially counterproductive effects of jettisoning state postconviction. Finally, and most importantly, if Congress sets stringent time limits for federal habeas corpus, then you can bet that state legislatures almost certainly will set similar time limits on state postconviction proceedings. I make this confident prediction based upon a study of 30 years of congressional innovations in habeas corpus procedures, all of which were mimicked by state legislators within a few years after Congress acted. Simply by time-limiting habeas corpus procedures, therefore, Congress can initiate a process that soon will similarly time-limit and speed up state postconviction procedures.

I hope these thoughts are of some use to you in developing a reasoned, fair, and expeditious habeas corpus reform proposal. I would be happy to provide any clarifications or other information that might be of service.

Again, let me express my great admiration for your efforts to pierce through the rhetoric that surrounds this difficult issue and to propose a lasting and meaningful solution.

Sincerely,

JAMES S. LIEBMAN,
Vice Dean and Professor of Law.

Mr. BYRD. I move that the Senate concur in the House amendments.

The motion was agreed to.

NATIONAL LITERACY ACT OF 1991

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 751.

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 3 to the bill (H.R. 751) entitled "An Act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.".

Resolved, That the House agree to the amendment of the Senate numbered 1 to the aforesaid bill, with the following amendment:

In lieu of the matter inserted by said amendment, insert:

TITLE VI—LITERACY FOR INCARCERATED INDIVIDUALS

SEC. 601. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration or system-wide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of testing that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a system-wide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in subsection (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section, the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid bill, with the following amendment:

Strike out "67" and all that follows, and insert: "57, line 7, strike "$60,000,000" and insert: "$100,000,000".

Mr. BYRD. Mr. President, I move that the Senate concur in the amendments of the House.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The hour of 3:30 having arrived, morning business is closed.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS FISCAL YEAR 1992

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 2622. which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Helms/Thurmond amendment No. 734 (to committee amendment beginning on page 59 line 7), to make it a Federal crime for a doctor, dentist or other health care professional who has AIDs and knows it to perform invasive medical procedures without informing the patient.

The ACTING PRESIDENT pro tempore. Under the previous order, amendment No. 734 to the committee amendment on page 59, line 7, is laid aside until Thursday. The pending question is the remaining committee amendment on page 59, lines 13 and 14.

Is there further debate on the committee amendment?

UNANIMOUS-CONSENT AGREEMENT

Mr. DECONCINI. Mr. President, I ask unanimous consent that the committee amendment be laid aside in accordance with the unanimous consent agreement. I believe the only amendments in order to H.R. 2622, the Treasury Appropriations Act, are the Helms amendments and other amendments in relation to those amendments on which votes will occur on Thursday, July 18; a Kohl amendment taking money from Customs drug interdiction and putting those funds into the IRS for tax audits, for which there is a 1-hour time agreement which is to be equally divided; a Dodd amendment on locality pay for Federal law enforcement officials; a Burns amendment on postcard mail sent to Members of Congress for lobbying purposes; and a Smith amendment on Federal collection of State taxes at a shipyard in Portsmouth, NH.

I think the first amendment according to that order is the amendment from the Senator from Wisconsin [Mr. KOHL].

I yield the floor.

Mr. KOHL. Mr. President, I wish to send an amendment to the desk.

The ACTING PRESIDENT pro tempore. Will the Senator suspend?

Mr. DECONCINI. Mr. President, if the Senator will yield, I ask unanimous consent that none of this time apply toward the Senator's debate on either side. Because the amendments of the Senator from North Carolina [Mr. HELMS] has been taken care of under the unanimous consent agreement, I urge the adoption of the pending committee amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the committee amendment is adopted.

The committee amendment on page 59, lines 13 and 14 was agreed to.

Mr. DECONCINI. I thank the Chair very much. Before I yield to the Senator from Wisconsin, I do want to give the ranking member an opportunity to speak.

Mr. DOMENICI. Just to table a motion to reconsider.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. DOMINICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

AMENDMENT NO. 748

(Purpose: To increase appropriations for Internal Revenue Service tax law enforcement and reduce appropriations for Custom Service operation and maintenance)

Mr. KOHL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL], for himself, Mr. NUNN, and Mr. GLENN, proposes an amendment numbered 748.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 23, strike out "$176,932,000" and insert in lieu thereof "$128,432,000".

On page 14, line 3, strike out "$3,582,485,000" and insert in lieu thereof $3,612,124,000".

Mr. KOHL. I yield myself such time as I may consume.

Mr. President, the amendment I am offering today will partially restore the funds cut from the IRS enforcement account. Specifically, it provides an additional $30 million to that account to partially restore it to the levels requested by the administration and approved by the House.

Now I know the IRS is far from popular, but I think this amendment will be because it will increase the ability of the IRS to go after the bad guys, the people who owe but do not pay their taxes, and there are a lot of bad guys.

These bad guys are not the average, middle income Americans who pay their taxes every year. They pay them on time and they pay every dime they owe, and if they do not the IRS knows about it because the IRS has developed systems that check on most taxpayers.

But in hearings before the Governmental Affairs Committee, it was determined that annually over $100 billion is owed to the Government but not paid because it is never reported. We also found that $64 billion in uncollected taxes is sitting in an account called accounts receivable. These taxes are owed, and they have been assessed, but they have never been collected.

These billions are not owed by the average family or the middle-income earner. These billions are mainly owed by high income individuals—people earning over $100,000—and large corporations—those with assets over $10 million.

IRS Commissioner Goldberg has testified that the money we seek to restore with this amendment will be used to go after those high income people and corporations who are not paying the taxes they owe.

To the overhelming number of American taxpayers, it is most upsetting to be paying their fair share of taxes while others do not.

I said this last year, and I stand here again saying it. We are going to work to see that the IRS has the resources to go after these high income tax evaders.

We started to do that last year. At last year's budget summit, the negotiators agreed to fund an IRS initiative to increase the number of revenue agents. Those negotiators rightly realized that if we are to reduce the $100 billion tax gap, and reduce the $64 billion in accounts receivable, the IRS will need more agents. In the 1991 budget, the administration and Congress agreed to provide $176 million as the first part of a 3-year initiative. And for fiscal year 1992, the administration followed through by funding the second part of the initiative in its budget submission. Unfortunately, Congress is on the verge of reneging on this pact, and allowing this initiative to languish: The bill before us drastically reduces the amount allocated by the administration for year 2 of this IRS tax collection initiative, while also cutting back on the funding needed to continue the 1st year's initiative.

In fact, this bill cuts so severely into the tax law enforcement funds that the IRS will have to lay off over 70 revenue agents.

Those 70 agents have 1 year of training. They know how to do the job we are asking them to do. Yet we are telling the IRS to let them go. And if they are let go, we also are going to let go of the over $200 million that the IRS says they are expected to collect in the next 5 years.

Now, I certainly understand the budgetary constraints facing the Appropriations Committee this year. All the subcommittees are under considerable pressure to hold the line on spending, as well as they should be. And this subcommittee has $1.3 billion less to work with than it had last year. That makes things pretty tough—and the committee and Chairman DECONCINI have done a very good job of dealing with those problems. But in this one area, I can not accept their decision. It doesn't make sense to cut funding for a program which is guaranteed to raise revenues for years and years to come.

We have done that in the past and we have paid for it. Over the past 10 years, the number of tax returns has increased by 50 percent, but the number of auditors has not kept pace. This bill makes that ratio even worse. My amendment is not about increasing staffing for the IRS, it is about adequately staffing the IRS so it can operate at a level of efficiency approximating what we had a decade ago. We are not talking about progress—we are talking about keeping pace. And by keeping pace, we can get a little ahead of the curve and collect more of the $100 billion that people owe.

Mr. President, I think the evidence in support of funding this IRS program is clear and convincing. But under the budget constraints we face, it is not enough to justify the need for additional funding. You also have to take the funds from somewhere else. And that is not so easy.

As I have said, Senator DECONCINI faced a most difficult task—and for the most part he and his committee have done an excellent job of allocating those scarce resources.

In cutting IRS funding I believe they made a mistake. Fortunately, I think they made another mistake—one which will give us the funds to restore the IRS funding. And that mistake was to add—add—$55 million more than the President requested and $67 million more than the House appropriated for the Customs Department Air Interdiction Program.

This program is designed to help us deal with the flow of illegal drugs coming into our country. That is a terribly important goal. But $55 to $67 million is a significant increase above the President's request and the House allocation. So we ought to take a careful look at that money and see if it is going to do as much as we hope it will or as much as we know that a restoration of IRS funding will.

Let us take a look at the evidence. The money in this bill which our amendment would cut is supposed to go primarily for the purchase of a fourth P-3 [AEW] aircraft and for additional helicopters—none of which were requested by the President and none of which are included in the House bill. What do we know about the justification for those addons?

According to OMB, we know that:

> the $10 million for additional helicopters * * * cannot be justified on programmatic grounds. As indicated in the O&M aircraft standardization study Customs provided to the Congress this year, a new helicopter and fixed wing aircraft acquisition program would eventually cost about $140 million and save less than one million annually.

Not a very cost-effective use of scarce dollars.

And what about the P-3 [AEW]? Again according to OMB it isn't a very effective investment.

> The air drug smuggling threat appears to have diminished. The 1992 drug strategy reflects a shift of emphasis to investigations, treatment and prevention and does not call for additional P-3 procurements. Finally, P-3 AEW aircraft sorties produce fewer drugs seizures at higher costs than other methods of drug interdiction such as cargo container inspections.

Again, not a very cost-effective use of scarce dollars.

Let me make it clear that I am not saying that the air interdiction effort ought to be abandoned. Senator DECONCINI virtually created the air interdiction effort and he has every reason to be proud of its success. And it has been a success. In fact, I think it has been such a success—at current levels of funding—that it has already, as OMB suggests, forced the air drug smuggling threat to have diminished.

We are, I suggest, reaching a point of diminishing returns for the P-3 AEW Program. We can invest more in it—but that does not mean we will get more drugs off the street as a result. Compare that to the IRS where we can be sure that we will get more income—a lot more income—for a relatively modest investment.

I am particularly distressed at having to tamper with the work of my colleague because it should not be necessary. The amendment I propose today makes money. According to the Office of Management and Budget, it will raise almost $500 million over the next 5 years. That is a threefold return on investment.

Because of our convoluted budget rules, the chairman of the subcommittee that has to fund the IRS does not get credit for that phenomenal return. So why should the Senator from Arizona—or the Congress—put money into tax enforcement when the payoff goes into the totally separate revenue account?

The way the budget process is set up today, there is more incentive for Congress to increase taxes than there is for us to go after the huge pool of uncollected taxes out there. More bluntly, the present system pushes us toward using new taxes to take more money from the honest taxpayer—and away from collecting old taxes from the big money tax cheats. I certainly hope that this Congress takes a close look at the destructive incentive system we set up, and the bad decisions we are forced to make, by our nonsensical budget process rules.

Let me conclude, Mr. President, by making it clear that this amendment is not about whether you are for the war on drugs or for collecting uncollected taxes. It is about the best way to spend Federal dollars. I say we ought to spend them to capture some of that $100 billion in taxes owed, right now, to the U.S. Government. If we collect that money, we'll have additional resources to pour into drug interdiction and drug treatment. And, we'll have that money without having to raise taxes on the already overburdened, honest American taxpayer.

Mr. President, I yield the floor and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I yield myself 10 minutes on the time of the manager of the bill.

I rise in strong opposition to the amendment offered by the Senator from Wisconsin, my friend HERB KOHL Let me say I know his intent here is to do everything he can to be sure that every American pays their fair share of taxes and I respect him immensely for this.

If adopted, however, this amendment would result in a serious setback to the Nation's war on drugs.

I want all of my colleagues to make no mistake about it—this amendment is antidrug enforcement and prointrusion on this Nation's taxpayers.

Simply stated, the Kohl amendment would take all of the increases the committee provided, $48.5 million out of a very small account of $176 million, to the Customs Service drug air and marine interdiction account, and give those funds to the Internal Revenue Service, which has a budget of $6.7 billion, to increase audits on the Nation's taxpayers. It would gut the Customs air and marine account by virtually one-third and seriously jeopardize the continued effectiveness of national and international efforts to keep cocaine and other illegal drugs from entering the United States.

What the Senator from Wisconsin seeks to do is increase fundings for IRS examinations and audits of taxpayers by $29.6 million above the amount provided by the committee. He states that his amendment will reduce the backlog of the IRS accounts receivables inventory and generate increased revenues for the Federal Government. Mr. President, the fact is that the committee rejected the IRS requested increase of $45.0 million for the very purpose the Senator from Wisconsin proposes to restore for fiscal year 1992 because:

First, in the past, it has been demonstrated that the IRS projected revenue yield from these initiatives has not been realized for many reasons, one being that the IRS shifts funds from revenue compliance into other activities. For the current fiscal year, the committee provided the IRS with an increase of $191 million for a revenue compliance initiative that was supposed to yield an additional $537 million in revenues. Of the $191 million provided, the IRS expects to expend only $134 million on revenue compliance. Because of the IRS history with these initiatives, for fiscal year 1992, the Congressional Budget Office refused to score any increased revenue from the new exams and audits the IRS proposed to fund from this initiative.

Second, the increase the committee has recommended for the IRS total 9.4 percent above the fiscal year 1991 enacted level, an amount which is 5.2 percent above the rate of inflation or $570 million above the current year funding level. Mr. President, this is a very large increase for the IRS at a time when the Congress is operating under very restrictive spending caps for domestic discretionary programs.

Third, the committee bill includes funds for the second-year implementation of the fiscal year 1991 revenue compliance initiative to the tune of $172 million. We took this action not because we think the revenues will be realized, but we did so to comply with the provisions of the 1991 Omnibus Budget Reconciliation Act which assumed these revenues.

Fourth, the funding provided to the IRS for fiscal year 1992 meets the Service's highest priorities. It funds the modernization of the Nation's antiquated tax systems to enable IRS to develop revenue accounting systems which are reliable and efficient; it funds all mandatory pay, other labor, postage, printing of tax forms, and increased workload costs so that refund checks can be sent to taxpayers on time, so that taxpayers can get quick and accurate responses to their tax questions, and so that IRS can continue the programs already underway to cope with the accounts receivables inventory and tax collection from those individuals who attempt to evade the tax laws.

Fifth, in addition, the committee retained the provision in the House bill sponsored by Congressman GEPHARDT which requires IRS to transfer any increases in the information reporting program, estimated to be $13 million in fiscal year 1992, from correspondence audits into audits on high income, high asset taxpayers, and

Sixth, the committee bill includes a $28 million increase for the IRS to hire, train and equip an additional 200 special agents and support personnel for tax fraud investigations so that IRS can investigate money laundering and other criminal activities carried out by drug traffickers. These funds were not requested by the President, they were added by the committee to the Office of National Drug Control Policy's special forfeiture fund.

Mr. President, the Senator from Wisconsin would have you believe that IRS audits of the highest income earners would significantly increase if his amendment is adopted. The fact is that IRS is already auditing a larger percentage of taxpayers in the high income category. According to the IRS, of the approximately 62 million returns filed for income under $25,000, the audit coverage is 2.38 percent; for the estimated 10 million returns filed for income of $50,000 to $100,000, the audit coverage is 6.51 percent; and for the estimated 2.2 million returns for income of $100,000 and over, the audit rate is 12.81 percent. In addition, even if the committee had funded the IRS compliance initiative for fiscal year 1992 in its entirety, $46 million, IRS estimated it would have had a minimal impact on the audit coverage or 0.001 percent. The reason for this is that it takes more time to complete more complex audits. What is more, during the time the IRS is hiring individuals to conduct these audits, IRS has to take trained and experienced revenue agents away from existing accounts to train the new hires. This results in an immediate loss of revenue.

Last year when the Treasury bill was on the floor, we were confronted with a similar amendment offered by the Senator from Ohio [Mr. GLENN]. At that time, we argued about the amount of the accounts receivable inventory. For the record, I want this body to know again, that the $100-billion figure that is being bandied about is deceptive. The fact is that IRS itself admits that this amount could be overstated by as much as 40 to 60 percent due to inaccurate account balances, duplicate receivables, and uncollectible accounts which the IRS will never be able to recover due to bankruptcies and other facors. The best thing we can do for the IRS is give it the funds it needs to get its fiscal house in order and develop tax systems which can give the Service more reliable information on taxpayer accounts so that back taxes can be collected before it is too late. That is exactly what we have done in the bill pending before this body. The bill contains $427 million for tax systems modernization, an amount which reflects an increase of $167 million above the amount provided in fiscal year 1991.

Now, let me tell you the reverse effect this amendment will have on this Nations' drug interdiction efforts. The Senator's amendment would reduce the U.S. Customs Service's air and marine interdiction programs by $48.5 million. The U.S. Customs Service has lead jurisdiction for air drug interdiction and has had that role since 1988. For those of you who do not know what that role involves, I would like to briefly describe it. It means that the Customs Service has the lead role at the Federal level for stopping illegal drugs from entering the United States, thereby keeping drugs from infiltrating U.S. communities and reducing the availability of cocaine, marijuana, heroin and other drugs for use in the United States. Customs accomplishes this role through a series of programs, the most sophisticated and successful of which are the air and marine interdiction programs. Through a system of advanced but economical aircraft and vessels equipped with radar and forward-looking infrared devices, the Customs Service is able to identify aircraft and boats, normally general aviation aircraft and pleasure boats, destined for the U.S. from drug source countries. Through surveillance, detection, monitoring, and interdiction, the Customs Service identifies and monitors clandestine landing strips, targets suspect aircraft and boats, to track and apprehend narcotics traffickers before their illicit drugs can penetrate U.S. borders.

Customs has had a great deal of success with this program. The air program alone in fiscal year 1990 is directly responsible for the seizure of approximately 100,000 pounds of cocaine, 40,000 pounds of which were seized outside U.S. borders with the help of the P-3 surveillance aircraft. So far this fiscal year, the program has been responsible for the seizure of 50,000 pounds of cocaine. The success of this air interdiction program is to the point where it is predominately responsible for the antidrug efforts initiated by the Office of National Drug Control policy in Central and South America under the so-called Andean initiative. Key to this initiative are the Customs P-3 aircraft with Airborne early warning radar systems which have a range of 300 to 400 miles and can detect and track low-flying aircraft. The P-3 AEW aircraft operate at a cost cheaper than any other drug surveillance aircraft being used today: It costs the Customs Service about $3,500 per flight hour to operate and maintain the P-3 AEW while the Department of Defense AWACS aircraft cost between $7,000 and $8,000 per flight hour. The Customs air programs' sole mission is drug interdiction—as a result, it does not have to worry about competing or conflicting priorities as does the Department of Defense. During Operation Desert Storm when DOD mobilized virtually all of its assets to fight the war in the Persian Gulf, there would have been no drug interdiction outside United States borders had it not been for the United States Customs Service. DOD pulled all of its AWACS aircraft out of drug interdiction to the south and Customs was the only agency conducting drug survelliance the interdiction missions in the region.

Customs is singularly responsibile for the cooperative program which is currently underway in Mexico. Customs Commissioner Carol Hallett personally intervened with the Government of Mexico and despite years of rejections from the Mexicans, was given permission to fly Customs P-3 aircraft in Mexican airspace with Mexican northern border response force personnel on board to detect illegal drug aircraft entering Mexico from Colombia and offloading drugs for transport overland to the United States through the United States-Mexico border. Since the beginning of this year, this joint United States-Mexico program has been responsible for the seizure of 40,000 pounds of cocaine which may have made its way into the United States if not for this unique cooperative law enforcement program. In addition, because of the success of the P-3 program as demonstrated to leaders in other Central and South American countries, Customs presently has authority to overfly the countries of Panama, Belize, Colombia, Guatemala, and others in Central and South America to target drug aircraft and help those countries' law enforcement personnel interdict shipments of drugs into their countries. Stopping drugs shipments outside the United States reduces the amount of drugs which are entering the United States.

Mr. President, because Customs is a civilian agency, it is able to formulate agreements with law enforcement agencies in drug-source countries which the military would be hard-pressed to achieve due to national security and sovereignty reasons.

Customs currently has two P-3 AEW aircraft and another is presently under modification for delivery sometime in late 1992. To properly carry out its drug interdiction mission, it requires at least four and probably six to implement the changing strategies to the south. General Joulwan, the commander in chief of SOUTHCOM stationed at Howard Air Force Base in Panama City, Panama, is one of the most ardent supporters of the Customs P-3 Program. General Joulwan is responsible for the deployment of U.S. aircraft and vessels for drug interdiction purposes in this region as well as the training of foreign military and law enforcement personnel in host countries. I have discussed with General Joulwan the missions being conducted in Central and South America by the Customs P-3 Program and he tells me he will take all of the P-3's he can get because the program is so successful he cannot keep up with all of the requests he is getting for drug interdiction assistance from host nations in the region. These aircraft are presently flying in tandem with P-3 slicks—P-3's without the rotodomes—and on average are flying 120 hours per month. Customs is literally flying the wings off these aircraft and requires more so that gaps are not left when the aircraft have to be taken down for preventive or scheduled maintenance.

The amendment sponsored by the Senator from Wisconsin would eliminate all funding for a fourth P-3 AEW for the Customs Service. If adopted, it would send a signal to drug-producing nations that the United States is not serious about this so-called war on drugs, instead that our priority is on auditing the income of well-meaning law-abiding taxpayers in the United States. I say to my colleagues, this is a misguided priority and one which will send the wrong message to drug-source nations who are trying their best to cooperate with U.S. antidrug efforts. This drug war has not been won and despite rhetoric to the contrary that the supply in the United States is declining, that is not what I hear when I talk with Customs, DEA, Border Patrol or FBI agents who are on the front lines. They say they are doing their best to keep one step ahead of the drug traffickers but they cannot make a serious dent in this war without a concentrated effort from all sides. There is increasing evidence that heroin use is on the rise. Interdiction is just one part of the strategy, but is just as important to reducing drug use in this country as is drug treatment and education. You cannot win a war where so much money is at stake for so many without a comprehensive multifaceted strategy. According to the 1991 national drug control strategy:

> * * * To fight drugs successfully we must, as a nation, exert pressure on all parts of this problem simultaneously. * * * No single tactic, by itself, is sufficient.

The drug strategy goes on to state that—

> The notion that funds be evenly divided between supply reduction and demand reduction * * * ignores the fact that much of our interdiction effort occurs offshore, on the high seas, or in international airspace, and requires the use of expensive assets, including ships, aircraft, and sophisticated air, sea, and land-based radar systems.

I agree with those statements. If you simply devote resources to one area, it creates a hole somewhere else. Interdiction is a deterrent—the only way you can really measure its effectiveness is by monitoring the changing behavior of the narcotraffickers. You make them spend more time and money trying to outsmart interdiction enforcement efforts so it becomes unprofitable.

Also at stake in this amendment is funding for replacement of vessels for the U.S. Customs Service Marine Interdiction Program. In the Caribbean Basin, the number of boats, freighters and other sea-borne vessels being used to bring drugs into the United States continues to grow. Yet, 72 percent of the Customs Service's marine fleet has outlived its useful life and is in need of replacement. These old vessels are also expensive to operate and maintain. As we attempt to respond to the changing behavior patterns of drug traffickers, the Federal agencies responsible for interdicting narcotics must be given the tools they need to keep narcotraffickers on the defensive. Customs has not received any funds for replacement of marine interdiction assets since 1986. Since that time, the strategy has dramatically changed as have the tactics of the drug traffickers. For example, there are new hotspots in the Caribbean. Puerto Rico and the Virgin Islands have become serious threats as drug-transit areas. Aircraft are air-dropping drugs onto pleasure boats near these two territories which are destined for the United States. Freighters from Central and South American countries are arriving at U.S. ports with drugs hidden in compartments and underneath ship hulls. Drug enforcement agencies must respond to changing patterns and cannot do so if they are being outrun and outmaneuvered because they do not have the proper equipment to respond to the changing drug patterns.

Lastly, Mr. President, the Southwest border continues to be the No. 1 transit area for the cocaine coming into the United States. All intelligence reports that I have seen indicate that this trend is continuing and drug traffickers are using every means available to escape law enforcement efforts. The 2,000-mile stretch along the United States-Mexico border is one of the most difficult to patrol. Wide open spaces between ports of entry have made it virtually impossible for the Border Patrol and other Federal, State, and local law enforcement officers to apprehend drug traffickers. To make this job a little easier, the Customs Service is providing helicopter support to Federal, State, and local law enforcement operations on the Southwest borders. The UH-60 Blackhawk helicopters which the Customs Service currently uses are not adaptable to undercover operations and are designed for apprehension, not support operations. The committee bill includes $10 million for the purchase of smaller utility helicopters equipped with FLIR radar to provide support to law enforcement investigations and other operations on the Southwest border. These helicopters will permit Customs to provide interception support in urban as well as remote desert areas at a cost which is much lower than that to operate the Blackhawks or DOD Hueys. The amendment offered by the Senator from Wisconsin will eliminate funding for this very modest but critical drug support activity.

Mr. President, in closing, I want to repeat again to my colleagues who may be listening in their offices, the amendment offered by the Senator from Wisconsin will have a crippling effect on the Nation's drug war at a time when we should be doing everything we can to interfere with the flow of drugs and make drug trafficking more expensive and risky to those who seek to profit from it. The threat is still there and the traffickers are becoming more sophisticated. Results from recent investigations suggest that the traffickers have graduated from single and twin engine aircraft and are now using turboprop aircraft and jets to transport their drugs into the United States and other markets in convoys. We have got to give our drug enforcement agencies the tools they need to shift gears and outsmart the traffickers. The Congress must demonstrate that it is serious about this war on drugs and that it is not just talk. The committee bill contains small increases for drug enforcement—much less than they need to do the job. The amendment offered by the Senator from Wisconsin will serve as a serious blow to the continued assault on drug traffickers. On the other hand, it will have little or no effect on reducing IRS accounts receivables but send a message to this Nation's taxpayers that the Congress would rather spend money chasing them for back taxes than chasing drug traffickers.

Mr. President, it seems ironic to me that after many weeks of debate on a crime bill to establish tougher penalties for criminals, that we should be faced with an amendment immediately following those weeks of debate to roll back enforcement efforts which protect American citizens from the dangerous influence of illegal drugs.

I urge my colleagues to oppose this amendment.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Wisconsin.

Mr. KOHL. I yield 5 minutes to the Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized for up to 5 minutes.

Mr. NUNN. Mr. President, I rise in support of Senator KOHL's amendment to H.R. 2622.

In my opinion, for the reasons outlined below, I believe that the more than $50 million in budget authority that Senator KOHL's amendment restores to IRS, can be put to better use in supporting increased IRS enforcement and collection efforts than for its present purpose of supporting additional equipment purchases—including one P-3 [AEW] aircraft and two helicopters—for the Customs Service air interdiction program.

The amendment is consistent with recent hearings held by the Permanent Subcommittee on Investigations, which I chair. In the mid- and later 1980's, the subcommittee held a series of hearings that demonstrated emphatically that Federal drug interdiction efforts are among the most expensive and least effective means for reducing the amount of illegal drugs entering our country. We have heard from a vast array of witnesses—including law enforcement officials, drug treatment and education experts, and leaders of the military's anti-drug effort—who question the wisdom and ultimate productivity of continued increases in interdiction efforts. For example, in our hearing 2 years ago, the bottom line of the testimony presented by the General Accounting Office [GAO] was that "air interdiction programs are very costly and have limited capabilities."

Similarly, hearings the permanent subcommittee held in April of this year disclosed significant problems in the area of IRS' collection of corporate income taxes. The subcommittee heard testimony that IRS can no longer effectively assure that our Nation's largest corporations voluntarily comply with the tax code and that as a result hundreds of millions of dollars are not being collected. The record suggests that among reasons for IRS' failure to adequately carry out its responsibilities in this regard is insufficient staff and other resources. Indeed, Commissioner Goldberg testified that IRS has $100 billion on the books that is not being collected, and that he believes that any additional moneys appropriated by Congress in this regard would result in a 10 to 1 return on each dollar invested.

The action by the Treasury, Postal Service, and General Government Subcommittee to reduce the IRS budget and give those funds to the Customs Service is opposed by OMB and the administration. A July 11, 1991, "Statement of Administration Policy," urges the Senate to adopt a budget consistent with the 1992 National Drug Control Strategy, which proposes a shift away from interdiction programs. The statement emphasizes that, in its 1992 National Drug Control Strategy, the Administration specifically did not request funds for the additional interdiction assets called for in the Appropriations Committee bill.

In addition, the administration believes that the $50 million reduction in IRS' budget would result in enforcement revenue losses of almost $900 million over a 5-year period. The policy statement also notes that the Appropriations Committee action undercuts one of the administration's key efforts to control the growth of delinquent IRS accounts receivable—identified by OMB as one of the Federal Government's high-risk areas. Moreover, according to the administration, loss of these funds will severely hamper IRS' ability to perform examinations of corporate and other high-income taxpayers.

In conclusion, Senator KOHL's amendment constitutes a wiser and more productive use of Federal budget outlays. It contains the promise of a substantial return on the dollars invested and makes it more likely that all American taxpayers—individual as well as corporate—will be paying their fair share of taxes owed. I have long supported the importance of strong IRS enforcement efforts, particularly in tracking illegal narcotics profits, going back as far as my amendment to the Tax Equity and Fiscal Responsibility Act of 1982—and believe that Senator KOHL's amendment, in supporting IRS efforts in those and other critical areas, will result in greater overall benefits than the present Appropriations Committee language.

I thank my friend from Wisconsin. I congratulate him on this amendment and I hope our colleagues will support this amendment.

I understand the position of the Senator from Arizona. I know he has been very diligent in working to improve our interdiction efforts. We have, indeed, improved those interdiction efforts. I have spent an awful lot of time on this myself. One of the things we have done in the defense authorization bill is to make available for drug interdiction, large quantities of DOD equipment and also a huge amount of Department of Defense effort in terms of fighting drugs and particularly interdiction.

I do now know the number of P-3 aircraft we have, but we have a lot of P-3 aircraft in the military. It seems to me rather than spending scarce resources now, to shift money into customs way above what the administration requested, we would be better served to see if any parts of the DOD inventory could be utilized better than they are now, although it is my understanding they already are doing a considerable amount in this effort.

Unfortunately, even though I favor our interdiction efforts and have supported them and will continue to do so, they are almost at the bottom of the list in terms of effectiveness in terms of drug enforcement. I think there are a lot of other ways that should have higher priority.

I do think we ought to continue interdiction efforts. We ought to emphasize them where we can, but I do not believe we ought to start another Air Force in the Customs Service when we have a huge number of inventoried aircraft in the Department of Defense and when the Soviet submarine threat is receding. These P-3's are for the purpose of ASW. We certainly do not have the submarine activity around our shores that we did have and that means to me we simply can take aircraft that are already in the Department of Defense and utilize them for this purpose.

I agree with the thrust of the Senator in shifting this money to the Internal Revenue Service. We had a hearing in the last several months, indicating the Internal Revenue Service is not collecting anything like the corporate income tax that they have, in terms of effectiveness, in past years. It is very apparent that they have some significant room for improvement in this respect.

The record suggests that among the reasons the IRS fails to adequately carry out its responsibilities in this regard is because of insufficient staff and other resources. So, if we really want to do something about improving the tax collection, I think this would be a good place to spend the money.

I might add on that I think one of the most effective ways we can fight the kingpins and the drug traffic is to increase the capability of the Internal Revenue Service.

When you get an aircraft coming into this country you are not getting the people who put the big money in their pockets. But when you go after them with IRS resources, you are going after the people who put the big money in their pockets.

For all these reasons, I urge the support of the Kohl amendment, and I hope my colleagues would agree.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I yield whatever time the Senator from New Mexico requires.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. How much time does the Senator from Arizona have?

The ACTING PRESIDENT pro tempore. The Senator from Arizona has 18 minutes and 35 seconds.

Mr. DOMENICI. I yield myself 8 minutes. Would the Chair please advise me when I have used 8 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I do not believe the Senate ought to adopt this amendment. Let me tell you why.

First of all, the Internal Revenue Service, believe it or not, has been faring fairly well, last year and the year before, and more so this year in the bill that is before us.

I will talk in a minute about the really great things that are going on there, not the least of which is to put more money into increased compliance, the old-fashioned compliance. The IRS Commissioner now says, if you want to make sure we make some real headway on compliance—that is making more people pay what they owe—the answer is not to put more into audits, but make sure that the total tax system is modernized so that the Internal Revenue Service has up-to-date computers and everything else to do its job. That is how you are going to get compliance down to a reasonable level someday, someplace, sometime.

Having said that, the administration for all of IRS asked for $622 million in new money, over and above the fiscal 1991 level. That is a 10.2-percent increase.

In a year with extremely tough budgets, when we have a bill before us that does a lot of things for the American people, about half the discretionary money goes for the Internal Revenue Service. We increased the Internal Revenue Service 9.4 percent; a $572 million increase.

If you look at what they wanted by way of increased items, let me go down the list and make sure everyone understands that we do not need to take any money out of the Customs Service to put it in the IRS.

You have a couple Senators, the Senator from Arizona and the Senator from New Mexico, who understand that the Internal Revenue Service is very important to the future of this country. So we fund it to the very best of the ability of this Appropriations Subcommittee, and we have been doing that. We are never reluctant to say the first responsibility is to fund the IRS in this bill. We have done it.

We gave the IRS the $172 million in compliance money as agreed to last year to bring in more revenue. Mr. President, frankly, the Internal Revenue Service and the administration have not—and I repeat, have not—proved that they are entitled to additional money of that type because of two things. They have not used what we gave them before for that purpose. They always shaved it and did not use it all. Second, they have never proved that the revenues which come in when you give them new money are what they had predicted.

So what did we do? We said, nonetheless, we will give them what was agreed to in the budget summit agreement. If anyone wants to dig up last year's Budget Reconciliation Act specifying IRS resource compliance funding for the 5 years, they will find that in this year, in order to meet the tax receipt goal, we were supposed to give IRS $172 million. We have. They wanted more. Even though last year we gave them more, and they did not use it for that, nonetheless, we gave them $172 million as we were to do for fiscal year 1992.

Let me explain to my colleagues specifically how we arrived at the IRS funding recommendation. The administration's request included the following increases above fiscal year 1991, offset by $141 million in nonrecurring costs and savings:

A $450.5 million increase to fund base requirements and maintain current programs;

A $161.8 million increase for tax systems modernization;

A $93.7 million increase for other information systems requirements;

An $11.2 million increase to strengthen IRS's internal audit and financial management systems; and

A $45.9 million increase for new IRS compliance initiatives.

Obviously, funding IRS's base requirements and maintaining current programs was the first priority. This funding is needed to address mandatory costs and inflationary items required to support base staffing levels. This increase covers such things as personnel benefit costs and the January 1992 pay raise, increases in postage and supply costs, and the additional cost of workload increases resulting from tax return filing growth, et cetera.

It also includes the fiscal year 1992 cost of prior-year revenue enforcement initiatives, including the second year of funding associated with the $191 million fiscal year 1991 IRS resource compliance initiatives required to achieve the increase in revenues assumed in the bipartisan budget deficit reduction agreement of last year.

The next priority in our view, and one of the highest priorities in this bill, is the fiscal year investment requested for IRS' tax systems modernization effort.

IRS is currently working off of a computer network which was put into place in the late 1950's. IRS has essentially been using the same computer and telecommunications systems design for more than 25 years. This system can no longer handle the scope and size of our Nation's tax processing functions. IRS spends millions each year processing paper, reworking errors, maintaining outdated equipment, and patching its systems together.

This capital investment over the next year is mandatory or we risk total breakdown of our existing system of tax administration.

Tax systems modernization will reduce taxpayer burdens and produce cost savings in the long term. It will give IRS personnel ready electronic access to return and account information, increase information security, and lower tax administration costs. It will improve taxpayer service functions.

I might add that many of my colleagues have expressed concern about the backlog of accounts receivable. I would just say to my colleagues that the Commissioner of the IRS in speaking to this problem last year testified that all efforts to improve the way we deal with the accounts receivables occur against the backdrop of our need to invest in the long-term health of our tax system. IRS is currently handicapped by outmoded computer systems. It cannot identify and track the sources and aging of its accounts receivables. We are trying to turn this situation around by investing in tax systems modernization. We fund that at the full request level.

We also approved the requested increase for IRS information systems requirements. This investment is required to maintain and upgrade IRS' existing systems in order to keep them functioning while we make the transition to tax systems modernization. If not, we risk potential disruptions in the filing season, processing delays for taxpayers, as well as IRS's capability to make timely deposits of tax receipts, issue refunds, and conduct effective and timely enforcement actions.

Given all this, the subcommittee recommended the following reductions in the administration's budget request—it deleted the $45.9 million requested to undertake new compliance initiatives over and above those begun last year; it reduced the requested increase for administration and management by $2.85 million; and it held the fiscal year 1992 funding for the fiscal year 1991 resource compliance initiatives to the $172 million level assumed in the Omnibus Budget Reconciliation Act of 1990, $4 million below the requested amount.

I must tell my colleagues that we worked with the IRS in putting this funding recommendation together. If IRS cannot have the full amount requested, it is in agreement with this subcommittee that the proposed new compliance initiatives take lowest priority.

In other words, we did not fund the requested new IRS revenue compliance initiatives only because these were the subcommittee's lowest priorities. The Commissioner of the Internal Revenue Service, I say to my good friend from Wisconsin, said that if you are going to fund things, fund all these that we requested and the matter that is of least importance in this entire agenda is the additional increase for new IRS compliance initiatives.

So we gave them everything they wanted, including money for a new tax system. We gave them a huge increase to maintain current base programs, which includes many new personnel, at much higher wages. Believe it or not, for the first time in years the Internal Revenue Service is getting the very best talent in America signing up, wanting to work for it again. They were able to raise wages, and they are receiving the best lawyers, the best CPA's, and the best accountants. IRS could not attract qualified personnel before. It is costing some money and we gave them the money to pay for that.

I am not going to go through those individual items any further. I am merely going to say that from this subcommittee's standpoint—and we take testimony on all of this—frankly, the Senator from Arizona is absolutely right. We should not take this money out of Customs.

We have heard so much about engaging ourselves in a war on drugs, and we are trying in this subcommittee, where we have some part of that war, to fund that war. Indeed, the new P-3 AEW and other interdiction assets that we are funding are less than Customs has justified it could use. So we do not want to conduct yet less of a war on drugs than we were able to in this bill by taking money out of the Customs Service.

The Customs Marine Program has been stripped to the bare bones. Currently, 72 percent of the Customs vessel fleet is beyond its expected useful life. The current vessels are maintenance intensive and are becoming safety risks. The funding recommended by the committee represents the first year of a 3-year replacement program.

For the air program, the committee has recommended the remaining funds required for the Customs Service to procure its fourth P-3 AEW drug surveillance aircraft and three additional support helicopters.

Customs' need for additional support helicopters to support its interdiction mission on the southwest border is greater than what we could afford. Too often, because of lack of a sufficient number of helicopters and scheduled maintenance requirements on existing aircraft, needed support aircraft are unavailable.

Threat assessments indicate that more than 50 percent of the illegal drugs entering the United States are coming over the southwest border from Mexico. Drug traffic has shifted to the ground between ports as a result of Customs air interdiction efforts. The Customs mission has expanded to supporting Federal, State, and local enforcement efforts between the ports. Additional helicopters are required in the Customs fleet to support this mission.

The Customs P-3 AEW aircraft have proven to be vital components of our Nation's war on drugs. We have been working toward fulfilling Customs need for four of these aircraft over the last years to meet its operational requirements. Last year, we were only able to provide the downpayment on the fourth aircraft. This bill recommends the remaining funds required.

The Director of the Office of National Drug Control Policy recently directed that DOD transfer to Customs the airframe required for the fourth P-3 AEW. The funding in this bill will cover the conversion costs for this aircraft.

Customs' P-3 AEW aircraft, which have been specifically designed for the mission of drug surveillance, are already making a significant contribution to our Nation's interdiction efforts in the South American source countries.

Customs is working in cooperation with DOD to support counternarcotics activities with the Andean initiative countries and other drug source nations. These aircraft are being successfully utilized to track aircraft between production and processing areas, to identify and monitor clandestine airstrips and illegal drug processing sites, and to provide valuable intelligence information to host drug source countries to enhance their enforcement operations and disrupt cartel operations.

DOD is doing a lot. However, Customs is the only civilian agency with the necessary expertise to conduct air interdiction activities beyond the borders of the United States. As such, it often can fulfill a mission the military cannot in the international arena.

Have I used my 8 minutes, Mr. President?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from New Mexico has a minute-and-a-half remaining.

Mr. DOMENICI. Customs P-3 AEW aircraft have increased our ability to detect, track, and interdict aircraft with loads of narcotics destined for the United States. However, the threat continues. The United States remains a primary target for those in the business of producing, transporting, and distributing illegal narcotics. Aircraft continue to be the most quick and efficient means for delivering this contraband.

Delaying the acquisition of the fourth Customs P-3 another year will not only increase its cost to the Government to detect and monitor drug smuggling activities along our Nation's borders and in international transit zones.

I am going to summarize again. I am not one, and I am sure a lot of Senators join me in this, to give the Internal Revenue Service an inordinate amount of money. In fact, there were times when we underfunded the IRS. In fact, my friend from Wisconsin may have alluded to the difference between enforcement and personnel capability today versus 6 or 12 years ago. But in the last 3 or 4 years, and in particular last year and this year, we are making tremendous strides in putting the Internal Revenue Service back where it ought to be. They ought not to have a lot of extra agents to run around and harass Americans, but they ought to have adequate personnel levels to collect what is due the American Government as taxes from the American people, individual and corporate.

I am personally convinced, having worked on this, that this subcommittee this year is doing right. The mere fact that we have not given the IRS every single thing they want is truly irrelevant. We are giving them a $572 million increase in a time of tight budgets—9.4 percent above the current funding level. There are not very many accounts of this Government getting that much of an increase.

Frankly, the argument that we are not giving them exactly the amount they want for compliance and new tax collection and investigating more returns because they will make more money for us, I have grown weary of defending them on that account. In fact, we are giving them the $172 million which is what we agreed to in the Budget Reconciliation Act of last year and we ought not have to cut any other account to give them more.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. Mr. President, Senator GLENN is on his way to make a statement, but I would like to make a couple comments until he gets here.

It is a fact that money has been allocated, $572 million, to the IRS for the purpose of system modernization. There has not been an allocation for the purpose of seeing to it that the program which was put in place a year ago to add more agents, to see to it that we collected uncollected taxes from high-income American taxpayers and large corporations, is pursued with vigor, dynamism, and success.

The IRS has said that if this program, which was instituted last year, which we are talking about gutting today, is left in place, the additional amount of taxes collected over a 5-year period will be $500 million.

Now, it is also a fact, and the Senator from New Mexico and the Senator from Arizona know well, that the number of people who are audited today versus a decade and 2 decades ago has gone way down in our country. It has gone down from well over 2 percent of all of those who file tax returns to 1 percent. Would anybody argue that there is a correlation between that decrease in audits which has taken place because of the fact we have fewer people working in that part of the IRS and the vast increase in the amount of uncollected taxes that exists today in our country.

This amendment is aimed directly at seeing to it that we collect a greater share of uncollected taxes that we are not collecting. It undermines the confidence of our American tax system for Americans to see, to the extent they do, that high-income Americans and large corporations of considerable assets are not paying their taxes and getting away with it. This undermines confidence in our system, our system of Government, our system of tax collection.

It seems to me that when you can increase the amount of confidence that people have in our tax system and at the same time collect more tax dollars, it is a win-win situation. This is not an investment which is intended to pay off 10 years, or 20 years, or 30 years from today. This is an investment which is intended to pay off next year. Assurances come from the IRS that this investment will pay off. So why is it that we need to gut this part of the IRS allocation? It seems to me this is not a smart thing for us to be doing.

Mr. President, I suggest the absence of a quorum.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. If the Senator will withhold, the Chair recognizes the Senator from Arizona.

Mr. DECONCINI. Mr. President, the distinguished chairman of the Armed Services Committee spoke in favor of the amendment and he is correct that the DOD does provide a lot of support for drug interdiction. He deserves a great deal of credit for his leadership in this area and the Senator from Georgia. It so happens the P-3 aircraft we are talking about will come from the Department of Defense just as the past P-3's have come from the Department of Defense.

But somebody has to retrofit the aircraft so they can be used to survey low flying aircraft and track drug planes. That costs some $30-plus million per plane. So who does it? The Customs Service does it, not DOD. We are not building an air force. We are building some strategic airplanes that are much more cost effective than the DOD AWACS. During the Persian Gulf war if we had relied on the AWACS and the military to provide drug surveillance along the border, we would have had zero surveillance because DOD took all their aircraft to the gulf. And yet the P-3 was the only defense we had along our borders in addition to the aerostat balloons.

Even if full funding for the 1992 compliance initiative was fully funded, the increase in audit coverage would only increase 0.001 percent because of the complexity of the cases.

The Senator from Wisconsin wants to go after those high income taxpayers. I do, too. That is exactly what the IRS does. That is what the Commissioner has been able to convince this committee. Of the 62 billion returns filed for income under $25,000 a year, the audit coverage rate is 2.38 percent. For the 10 million returns filed for income of $50,000 to $100,000, the audit coverage is 6.51 percent. And for the 2.2 million returns for income of $100,000 and above, the audit rate is 12.81 percent.

So the audit coverage is more than double on high income taxpayers, and rightfully so. The Senator is correct. I support him. We should devote more time and resources to those taxpayers. We are doing just that. The funds are included in the bill to accomplish just that.

Mr. DOMENICI. Mr. President, I just want to tell my friend from Wisconsin that I would normally agree with him. Frankly, however, the Congressional Budget Office has looked at this new proposal regarding field audits and additional collections staff which the administration maintains would score a batch of new revenues. CBO, in its analysis of the President's fiscal year 1992 budget, indicated that neither it nor the Joint Tax Committee will not credit these proposed new initiatives with any revenue gain above baseline levels either in fiscal year 1992 or over a 5-year period. CBO indicates it has seen this over and over again, and experience says it should not score because there is no assurance that it will produce any new revenues.

I ask unanimous consent that the appropriate section from the CBO report be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Excerpt from CBO Analysis of the President's FY 1992 Budget (March 1991)

OTHER REVENUE PROPOSALS

The Administration proposes to increase the number of staff positions for Internal Revenue Service enforcement (IRS). In addition, an early budget proposal to extend special tax treatment to participants in Operations Desert Shield and Desert Storm has already been put in place through executive and legislative action.

PROPOSAL TO INCREASE FUNDING FOR INTERNAL REVENUE SERVICE ENFORCEMENT PROCEDURES

In addition to the pay-as-you-go revenue proposals, the President's budget proposes an increase in IRS enforcement funding and credits the initiative with revenue gains, above baseline levels, of $35 million in 1992 and $708 million over the 1992–1996 period. Because of problems in carrying out past proposals and generating net revenue gains, CBO does not credit the proposal with revenue gains (see Table III–8).

TABLE III–8.—CBO/JCT AND ADMINISTRATION ESTIMATES OF THE PROPOSED INTERNAL REVENUE SERVICE INITIATIVE

[By fiscal year, in billions of dollars]

Proposal	1992	1993	1994	1995	1996
Increase Enforcement Funding CBO/JCT	0	0	0	0	0
Administration	([1])	.1	.2	.2	.2

[1] Revenue increase of less than $50 million

Note.—The cost of the initiative, estimated at approximately $0.2 billion over the 1992–1996 period, is not included in the revenue estimate.

Sources: Congressional Budget Office; Office of Management and Budget.

The initiative contains two components: an increase of 94 positions in the examination staff to increase the number of field audits, and an increase of 671 positions in the collections staff to reduce the backlog of delinquent accounts ("accounts receivable"). Although the Administration has provided details of the components of the estimated revenue gain resulting from the staff increase, these details are not based on historical evidence documenting how similar initiatives were put in place or what additional revenues were collected.

The General Accounting Office (GAO) published three reports in 1990 addressing implementation and revenue effects of like IRS initiatives.[1] These reports document problems with implementation and analyze shortcomings in data on IRS enforcement initiatives and in estimating methodology. Based on these reports, CBO concludes that revenue gains above baseline levels cannot be relied on and does not credit the proposal with revenue gains.

Mr. DOMENICI. Mr. President, for the fiscal year 1991 resource compliance initiatives the Senator from New Mexico went personally last year to the chairman of the Appropriations Committee and asked for the $191 million required, that it be sent to this subcommittee with a line item on it to be used only for IRS compliance initiatives. Because we informed the chairman of what it would do, we got it. We put it in the appropriations bill.

I might say to the Senate, after all that work, the Treasury Department did not use it for that. They used only $134 million instead of the $191 million provided. Instead of getting revenues of $6.457 billion over the next five years, they will only get $6.189 billion. I ask unanimous consent that IRS's table showing the original and unmixed compliance initiatives be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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[1] General Accounting Office, "Tax Administration: IRS' Improved Estimates of Tax Examination Yield Need to be Refined" (GAO/GGD-90-119, September 5, 1990); GAO, "Tax Administration: IRS Needs More Reliable Information on Enforcement Revenues" (GAO/GGD-90-85, June 20, 1990); GAO, "Tax Administration: Potential Audit Revenues Lost While Training New Revenue Agents" (GAO/GGD-90-77, April 6, 1990).

FISCAL YEAR 1991 COMPLIANCE INITIATIVES

[Dollar amounts in millions]

	FTE	Fical year 1991 budget authority	Total collection fiscal year 1991–95
Original compliance initiatives:			
Collect additional taxes owed	1,050	$55.5	$1,608.4
Exam field audit	1,176	77.1	1,081.7
Exam service center	640	27.3	1,037.0
Exam contract training	0	7.5	517.6
Exam claim audit	146	7.9	712.1
Returns processing dependent social security number monitoring	84	2.9	339.2
Returns processing mortgage interest monitoring	14	0.5	143.6
Returns processing noncustodial parent dependent monitoring	366	12.3	1,018.1
Collection tax delinquent inventory	....	....	....
Total	3,476	191.0	6,457.7
Remixed compliance initiatives:			
Collect additional taxes owed	798	42.2	1,113.6
Exam field audit	892	58.9	818.8
Exam service center	....	....	....
Exam contract training	....	5.7	492.0
Exam claim audit	111	6.0	675.5
Returns processing dependent social security number monitoring	64	2.2	257.3
Returns processing mortgage interest monitoring	11	0.4	64.1
Returns processing noncustodial parent dependent monitoring	....	....	....
Collection tax delinquent inventory	360	18.7	2,767.7
Total	2,236	134.1	6,189.0

Mr. DOMENICI. Mr. President, so they will not get the increase that they expected.

I do not believe we will get any revenue increase with the additional new compliance initiatives requested. I do not think they need to do this. I do not think we have shortchanged them one bit. I do not think the war on drugs ought to be cut $48 million in budget for that transaction. I hope the Senate does not do it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise to support the proposal by the distinguished Senator from Wisconsin. I know there are arguments, as the Senator from New Mexico brought up, about scoring and the agreements under the economic summit and so on. But I am far more concerned about the proper expenditure of taxpayer dollars than anything else.

We worked for a number of years, particularly on the Governmental Affairs Committee, to get IRS authorizations up and to work with the Appropriations Committee to try to get appropriations out there for the Internal Revenue Service. The rough rule of thumb that has been used through the years—and even if you can argue as to its validity—it still is an impressive figure—is that for every dollar spent for new IRS agents, you get back about 5 to 1.

Even if that is debatable under some of the studies, as has been pointed out here, it may go as low as 3 to 1. That is still a pretty good investment, I think, of Government dollars.

The point that the distinguished chairman of the Armed Services Committee made a few moments ago here—Senator NUNN, is that with the changes in the world situation and with the changes in our requirements for patrol aircraft we are already assigning more patrol aircraft to the Customs Service for use along our borders that we previously used at sea and for other types of military patrolling.

So it is not that we are cutting back on or doing with less surveillance of our borders. In fact, that is being increased.

So to put more money into that function where we already have existing aircraft that are going to be used for that purpose, it does not seem necessarily to be the best way to go.

In fact we can do it cheaper with Government aircraft that we already have in the armed services which are being reassigned for that purpose and do without this additional funding which was going into separate funding of aircraft.

The Senator from New Mexico makes the point that we are upgrading in the IRS, and we are. We are doing a great job on that. We fought for funding for that for a number of years to finally bring the IRS into the modern days of computer, keeping up with the accounts and crosschecking of accounts and doing a far better job than we have been able to do up to now. And the modernization program that they have under way runs something like 8 to 10 years down the road before the whole thing will be complete. That is being funded. It is proceeding along. We cannot just throw more money at it and expect to get a lot of advantage from that. But it is proceeding. It was a long, difficult task getting money for computerization modernization in the IRS, but it is proceeding.

In this interim period, however, what is to happen in this 5- to 8-year period before that modernization of computers really comes on line and begins to be really effective?

Well, there is only one answer you can come up with. In this interim period, we need more IRS agents. Even if it is debatable as to whether they gain 5 to 1, or 3 to 1, or 2 to 1, that is a pretty good advantage, I would think. We can move some money that is not needed in customs because we are already putting more patrol aircraft out of the military on to our borders. We are already doing that. We can better use the taxpayer money in the IRS to gain more advantage for our budget. It just seems to me to be common sense that is the direction we would move.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Wisconsin, Mr. KOHL. This amendment would add $30 million for the Internal Revenue Service, principally for improved collections operations. Faced with a tax gap in the neighborhood of $100 billion, we have every reason to make this investment.

Last year, as part of the 1990 budget agreement, the IRS received funding for a revenue initiative. A total of 2,300 new enforcement personnel have been hired, and many are close to the completion of their training. The administration's budget request sought to fully maintain this effort, and launch some modest additional initiatives in the areas of collections, examinations, criminal investigations, bankruptcy cases, and retirement plans.

While I know that my colleagues on the Appropriations Committee had to operate under a very tight budget constraint in crafting the bill before us, it is regrettable, in my view, that the committee decided to cut the funding for enforcement by $50 million. At a minimum, we should sustain the investment in improved compliance that is now underway. As my colleague from Wisconsin has pointed out, it takes time to train new enforcement agents, and many of those hired last year are just becoming productive. As I understand it, $4 million of the amount sought by Senator KOHL's amendment is needed to retain about 70 of these recent hires; if they are laid off, as envisioned under the committee bill, we lose the benefit of their training and about $200 million of additional revenue that they would have collected over the next 5 years. Altogether, this amendment is estimated to generate nearly $700 million of additional revenue—not bad for an investment of $30 million.

As my colleagues know, I have consistently advocated a comprehensive, multiyear effort to improve enforcement and taxpayer services at the IRS. The big issues, to me, are how effectively and how fairly we are generating the revenues required to operate the Federal Government. Massive Federal budget deficits should force us to be rigorous, to set priorities, and to make hard choices on expenditures. But at the same time, the country must have fair tax laws and an equitable system for enforcing them, to make sure that everyone pays a fair share.

Disturbing new evidence that we do not have such a system came to light this spring in a front page story in the Wall Street Journal entitled "Taxing Disparity: IRS Excels at Tracking the Average Wage Earner, But Not the Wealthy." Its main point was this: while working and middle-income people pay what they owe, largely because of tax withholding and the ability of IRS computers to match billions of information documents to tax returns, upper-income individuals and corporations are slipping beyond the reach of an inadequate, overloaded enforcement system. The more complicated tax returns of high-income individuals and large businesses require the attention of highly trained personnel rather than computers, and the IRS simply doesn't have the people to get the job done.

As these charts show, the chance of being audited has declined dramatically since the mid-1960's. For individual taxpayers, the audit rate dropped from over 5 percent in 1964 to less than 2 percent in the early 1970's. After rebounding in the late 1970's, the rate continued to fall during the 1980's; by 1990, this rate was down to 0.8 percent.

For corporations, audits covered 13.5 percent—or one out of every seven corporate returns—in 1964; by the early 1970's, this rate had fallen to below 8 percent. After rising back toward 10 percent in the second half of the 1970's, the corporate audit rate plummeted throughout the 1980's, to reach a low of 2 percent in 1989. In 1990, the IRS was able to bring the corporate audit rate back up to 2.59 percent, but—by historical standards—this fraction remains extremely low.

Turning to the total audit rate which includes categories like partnerships, estates, fiduciaries, as well as individual and corporate taxpayers, the trend is much the same from a rate of 5.24 percent in 1964, the total audit rate fell below 2 percent in the early 1970's. Total audit coverage rose to about 2.5 percent in the late 1970's, but then declined again in the 1980's until the rate reached a low of 0.84 percent last year.

Mr. President, allowing these trends to go unchecked could completely undermine our system of voluntary compliance. Already, we face a substantial—and growing—tax gap: as this next chart shows, there is currently about $100 billion that taxpayers legally owe under existing law but do not voluntarily pay. Under current estimates, the tax gap is expected to grow to $114 billion by 1992 if nothing is done about it.

Mr. President, I served as tax commissioner in North Dakota for 6 years prior to my election to the Senate in 1986. I am extremely concerned that the conditions described by the Wall Street Journal article—showing how our tax laws are unevenly enforced—will lead people to cheat. While the average taxpayer cannot get away with it—computers will spot the discrepancies after matching amounts reported on W-2 and 1099 forms against what is on the tax return, higher income taxpayers with more complex finances could easily be tempted to cut corners.

According to a study by the General Accounting Office, the IRS is not able to investigate half of the taxpayers with incomes above $100,000 who haven't filed tax returns. These are nonfilers that the agency knows about; but simply does not have the resources to track down and collect what is owed. Taken together with the audit trends, report like these send a terrible signal to potential tax evaders: The chances of getting caught are slim.

We should be sending a very different message. We should strive for a system that encourages improvements in compliance—rather than one that breeds cynicism. Honest taxpayers who pay what they owe deserve to know that the law will be enforced fairly, and that all taxpayers in all tax brackets will pay their fair shares. According to a study by the California Institute of Technology, the IRS would have collected an additional $47 billion of revenue in 1985 if the audit rates from the mid-1970's had been maintained.

The committee retained a provision approved by the House which requires that some of the revenues generated by the document-matching program be used to audit high-income returns. The amendment before us complements this effort by committing additional resources for collections, focusing on the returns of individuals with incomes above $100,000 and corporations with incomes above $10 million. IRS accounts receivable in 1990 were $72.2 billion—almost triple the level they were in 1983. With this amendment, we are saying we want to halt this trend, and stop letting these huge sums continue to slip through the cracks of our enforcement system year after year.

Since coming to the Senate, I have pushed for a multiyear fair share initiative to upgrade the resources of the IRS in all major divisions. The increased funding would be used to hire additional examiners, collections personnel, and attorneys. The general aims would be to improve audit coverage, reduce very high levels of accounts receivable, and resolve disputed cases more promptly.

My proposal would also provide greater funding for computer modernization, to hasten the agency's transition to a state-of-the-art system. And significant new resources would be devoted to taxpayer service, including training, equipment, and supplies that employees need to provide prompt, courteous, and accurate assistance.

Over time, investing in this kind of comprehensive program to improve tax compliance will produce substantial revenue—well in excess of the amounts spent. In North Dakota, we implemented a fair share program which generated $14 of additional tax revenue for every $1 invested. I am certain that a Federal program, if properly implemented, would yield equally impressive returns.

Former Commissioners of the IRS have advised me that the agency could absorb 4,000 to 5,000 additional enforcement positions for each of the next several years. If we want to correct the problems and inequities described by the Wall Street Journal story, we must be willing to make this kind of investment.

Mr. President, the problems of tax fairness and tax compliance are very tightly linked. We cannot claim that existing law is fair if wealthy individuals and large profitable corporations can avoid paying what they owe. And it is fiscally irresponsible to allow the Federal tax gap to keep on growing, when there are prudent investments we can make to reverse such trends. The amendment before us is certainly a step in the right direction. I urge my colleagues to join me in supporting it.

I ask unanimous consent that the Wall Street Journal article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 15, 1991]

Taxing Disparity: IRS Excels at Tracking the Average Earner, But Not the Wealthy

(By Paul Duke, Jr.)

WASHINGTON.—As many of you rush to finish your tax returns today, consider this:

For the vast middle class, the Internal Revenue Service has become a more effective collector than ever before, deploying computers to make sure the average family pays nearly every penny of its taxes. But for wealthier people and corporations—especially foreign corporations—the IRS is increasingly a paper tiger.

The 1980s produced a momentous but little-noticed change in the way the IRS goes about its business. A blizzard of "information returns" filed to the agency by employers and businesses has enabled the giant IRS computers to keep track of nearly every facet of the average wage-earner's tax affairs. But at the same time, the agency's ability to track the more complex taxes of rich people and companies has severely declined: The paper trail doesn't begin to cover their financial ventures. Personal audits are still in the IRS's most important enforcement tool for monitoring these tax returns, but a decade of tight budgets has left the agency with nowhere near enough people to do a thorough job.

Equal Treatment?

"There are really several different tax systems," says Paul Posner, a top IRS-watcher for the General Accounting Office, Congress's watchdog agency. "For the wage earners the IRS has so much information it can almost do their taxes. But with corporations and high-income people the picture is not so bright. The IRS is playing catch-up."

Even IRS Commissioner Fred Goldberg Jr. admits there is a problem—one, he says, the agency is now trying to correct. Enforcement efforts since 1980 "have fallen woefully behind in dealing with large corporations, partnerships, and upper income, self-employed individuals," he says.

Kimberly Scott is one of millions ensnared by the IRS's new efficiency in dealing with the less-well-to-do. As a college student in Connecticut in 1987, she held several part-time jobs but didn't file a tax return, thinking she was exempt, she says. Last year, the IRS's computers used the information in its files to compile a tax return for her, and the agency billed her for $125 in back taxes and another $125 in penalties and interest.

Technical Knockout

The IRS was far less efficient, however, when it came to Don Elbaum, a former high-flying boxing promoter in Atlantic City. Beginning in 1983, Mr. Elbaum stopped filing tax returns. But it was seven years later before the Justice Department caught up with him. The agency claimed he hid $570,000 in income from 1983 to 1985 alone. Mr. Elbaum is now serving a jail sentence for his transgression.

Mr. Elbaum was one of the unlucky ones who got caught. A recent study by the General Accounting Office found the IRS isn't investigating nearly half the people it pinpoints with incomes over $100,000 who failed to file tax returns. The reason: a paucity of agents. Notably, when some of those non-filers filed a return in later years claiming a refund, the IRS sent off checks to 11% of them.

Another report, which will be released by the GAO this week, will show that corporations are also getting an easier ride. The very biggest companies in the U.S. still are audited virtually every year. But, in the broader picture, only 2.5 companies out of every hundred is subject to an IRS audit, down from 6.5 a decade ago. According to the new report, big corporations are appealing 80% of the extra tax that the IRS claims in its audits, and the government is losing 75% of those appeals.

It Pays To Be Complex

In contrast, the GAO found that the tax agency used its computers to compile a tax bill for every person it discovered with an income under $100,000 who failed to file a return. And in that lower income group, anyone who later filed for a refund didn't get it until the IRS had subtracted the amount of taxes previously assessed.

The IRS says it can explain the disparity. Individuals earning over $100,000 and big corporations, the agency says, tend to have complex tax matters that require the personal attention of agents, and there simply aren't enough agents to go around. People with lower incomes, on the other hand, are more easily evaluated by the tax collector's computer: They tend to get their income from wages and simple interest, much of which is reported separately to the IRS on W-2 and 1099 forms. The IRS will get more than 1 billion W-2s and 1099s this year and its computers will spit out 4.7 million notices telling people their tax returns don't account for all the information on these forms. The agency figures it now gets so much information that its computers could work up standard tax returns for about 40% of the country's taxpayers—particularly middle-income wage-earners with simple returns.

To be sure, plenty of less well-to-do-people can still easily escape the IRS. Cab drivers, independent contractors, self-employed people and others still receive much of their income in a way that is never reported to the IRS. "Compliance by waiters and waitresses is terrible," says IRS Commissioner Goldberg. "It's isn't only rich people" who are outside the clutches of the tax paper trail.

Wealthy people of course, can also get snagged by the IRS computer when their tax returns, for instance, fail to account for payments that have already been reported to the IRS. Interest and stock dividends, which go disproportionately to high-income people, are now automatically reported to the IRS. The agency thus knows when a filer doesn't own up to the income.

Still, while the IRS does receive reports on stock sales, it can't figure the taxable capital gains on such sales, which account for a large part of the incomes of many wealthy people. The IRS also receives extensive information on partnership income, but the forms are so complicated that it hasn't been able to use its computers to check the forms against tax returns. The resources simply weren't there to manually enter all the information into the system. The IRS says, however, that it will have the means to check partnership income this year.

Lawrence Gibbs, IRS, commissioner from 1986 to 1989, says it's important for the IRS to focus on compliance among average taxpayers because they pay most of the country's taxes. "If you ever get massive noncompliance at the low- and middle-income levels it's a disaster," he says.

But other tax experts say the focus on the middle class seems unfair in a society with the tradition of progressive taxation. Perceived unfairness, in turn, could lead more people to cheat on their taxes, they insist.

The IRS's problems with corporate tax returns, meanwhile, stem in large part from the growing globalization of business, which has created issues of mind-numbing complexity for the tax collector. Indeed, many of the biggest tax cases the IRS is now battling in tax court involve accounting tactics that foreign companies have used to shift profits overseas and thus drive down their U.S. tax liability. In 1987, the agency settled two of these so-called transfer pricing cases against Toyota and Nissan for a reported total of $600 million, according to the Japanese press. It has claimed $66 million in back taxes, interest and penalties from Fujitsu and an undisclosed sum from Yamaha. Both Fujitsu and Yamaha are challenging the IRS's claims.

Some experts estimate foreign companies could be ducking nearly $30 billion or more a year in taxes. "The government is losing money by the ton," says James Wheeler, a professor at the University of Michigan business school and an IRS consultant on transfer pricing.

U.S. multinationals are being charged with evading the IRS as well. Just a few days ago, the tax court began hearings in the IRS's nearly $7 billion tax claim against EXXON, EXXON says it doesn't owe any back taxes.

Given the low corporate audit rates, there are undoubtedly countless other companies that never catch the IRS's attention. "With limited resources, the IRS can't fight every battle," says Susan Long, director of Syracuse University's Center for Tax Studies.

At the same time, the percentage of taxpayers audited in person by the IRS is nosediving. The decline in audit rates for high income individuals is especially striking: the IRS now audits only 1.8% of all individuals with incomes over $50,000, down sharply from 7.8% a decade earlier.

In the academic world, there is considerable debate over whether the decline in audits has spurred cheating and noncompliance. Some experts believe it has cost the government big sums. Michael Graetz, deputy assistant Treasury secretary for tax policy, estimated that the IRS could have collected an extra $15.6 billion from individuals alone in 1986 if audits had held steady at mid-1970s levels.

"The very aggressive types are thinking 'let's spin the audit lottery wheel,'" says Thomas Ochsenschlager, a tax partner with the accounting firm Grant Thornton. "When the audit rate was 4% or 5% the word filtered around that the chances of getting audited weren't that great. Now it's less than 1%."

The IRS has looked for ways other than audits to assure compliance. The 1986 tax revision helped to some degree by wiping out tens of thousands of complicated tax shelters. And partly to compensate for the drop in audits, the government jacked up the penalties it assesses, making it all the more painful for tax cheats who are caught. Total IRS penalties on individuals rose to $6 billion in 1988 from $1 billion in 1978, and penalties charged to corporations rose to $118 million from $18 million.

Moreover, when the IRS does catch wealthy people who haven't paid up, it can be merciless: Ask country-singing star Willie Nelson, whose Dripping Springs, Texas, ranch was auctioned by the IRS in January to pay part of what the agency says was a $16.7 million tax bill.

For corporations, especially large independent contractors, Rep. Doug Barnard, a Georgia Democrat who heads a subcommittee that oversees the IRS, advocates a business documents program that would give the IRS a paper trail of payments to these concerns. Until that happens, he says, "it looks like we are willing to accept the word of corporations but not individuals." At the very least, Rep. Barnard says, the IRS should be evaluating the information it already receives on interest payments to businesses, as it does for individuals. Others, including the Treasury's Mr. Graetz, however, think a business information program would create lots of paperwork for little gain.

And that would burden an already overburdened IRS. When the IRS takes on a giant case like its $7 billion claim against EXXON, its resources can be quickly sapped. Already, the agency has assigned 35 lawyers, paralegals and other personnel from its litigation division of 2,200 to the case. And that's just one of 50,000 cases the IRS is currently handling in tax court. Fully 80 of those cases involve claims averaging more than $200 million.

Mr. Goldberg is committed to trying to right some of the imbalance in the IRS's compliance efforts, and he has won praise from Congress for resisting a recent effort by the Office of Management and Budget to pour more resources into audits of low- and middle-income taxpayers. He has promised to investigate every one of the wealthy nonfilers. And he has succeeded in bringing some audit rates—particularly for corporations—up slightly in the past year. But even he says it will take five years to get audits to a level he feels is adequate. Other tax experts suspect it will take far longer.

Mr. KOHL addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, in my judgment, if we do not pass this amendment, fewer tax evaders will be caught and more people will be tempted to cheat. The more we let people off the hook on taxes they owe, the more we will have to go somewhere else to get the funds to pay for Federal activities or to reduce the deficit.

I am opposed to any more tax increases on the hard working men and women of our country, especially when I know that multimillion-dollar corporations are not paying the money that they already owe.

My amendment is antitax increase, antideficit, and profairness. I believe it is a policy that all Senators can support.

Mr. GLENN. Mr. President, I have indicated my support for Senator KOHL's amendment. It would restore $27.7 million to the IRS tax law enforcement account.

In addition to the remarks I made a few moments ago, I would like to add these: Last year, Mr. President, I came to the Senate floor with a similar amendment to restore to the IRS $55.5 million needed to hire 1,050 additional IRS collection personnel. This amendment was necessitated by the failure of the IRS over the past decade to keep up with the staggering increase in unpaid taxes owed by individuals, corporate, and other deadbeat taxpayers; that is what they are.

I add that there is nothing that makes people any unhappier about April 15 every year than to think they are paying their taxes, and they read accounts in the paper about how many other people are getting away with not paying theirs.

Last year I reported that since fiscal year 1983, the total inventory of taxes assessed but not collected by the IRS had jumped from $26 billion to over $60 billion. That is money out there that is owed the Government but is not collected, because we do not have the people to do it. On top of that was the approximately $30 billion in unpaid taxes, interest, and penalties, which IRS has written off as currently not collectable.

As of June 1990, with interest and penalties accruing each day, the total rose to somewhere around $96 billion that the IRS said was owed to the Government but which had not been paid by over 10 million delinquent taxpayers.

Because my amendment to last year's Treasury, Postal appropriations bill contained no budgetary offset, it failed on a vote to waive the Budget Act. However, during the long, drawn-out negotiations culminating in the budget summit agreement of last fall, the issue was ultimately resolved in favor of fully funding the President's fiscal 1991 request for IRS, including the needed additional 1,050 IRS collection personnel.

Unfortunately, as we make decisions about funding for fiscal 1992, we find the situation concerning IRS collections has not improved much at all. As the amount of uncollected taxes creeps up to $100 billion, the GAO testified recently before the Governmental Affairs Committee that the IRS may only collect about one-third of that amount during the 10-year statute of limitations period if the IRS continues its current strategy for collecting those moneys.

Last year we also moved to take action to extend that period from 6 to 10 years, where the statute of limitations would not run out.

Clearly what is needed here is more revenue officers to do the job. That is what Senator KOHL's amendment would do.

So I support air interdiction efforts to fight the drug problem; I have all along and still do, including assignment of more military aircraft, now that we do not need them for these other purposes.

I also believe that the issue before us today deserves a higher priority than just another P-3 aircraft, which the administration has not requested.

So I think we are better off spending the taxpayers' money trying to collect some of these back taxes assessed, but not collected. And we can assign more of our military aircraft for some of these border protection purposes. So I urge my colleagues to vote in favor of this amendment.

I thank my colleage from Wisconsin.

The PRESIDING OFFICER. Who yields time?

Mr. KOHL. Mr. President, have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. The Chair advises the Senator the yeas and nays have not been ordered.

Mr. KOHL. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona has 5 minutes and 11 seconds remaining.

Mr. DECONCINI. Mr. President, I think a couple of things need to be pointed out. The Senator from Ohio offered an amendment last year on this same subject without any offsets, and we had this same discussion last year.

The Senator from Wisconsin talks in this amendment about adding more revenue agents to go after taxpayers in the higher income bracket. We have added money for 200 new agents to go after people who launder drug money and conduct other criminal and fraudulent activities. Those funds are already in the bill.

Yes, I want to get taxpayers who are not paying their fair share. But over 12 percent of the above $100,000 annual income taxpayers are being audited. Maybe that is not enough, but that is twice what it is for $50,000 annual income taxpayers being audited to date.

I do not know about the Senator from Wisconsin, but I am sick and tired of IRS agents coming in and knocking on the door of innocent taxpayers and telling them, "I am from the IRS, I am here to help you." That is what they do. And they help you. They cost you hundreds of thousands of dollars in delay and the cost of auditors and attorneys to fight them I am sick and tired of it.

We have care of the areas that are necessary to go after those individuals who are committing fraud and illegal activities without paying income tax.

The Federal Government has a commitment to this war on drugs, and the Congress has been a partner in it and has literally led the charge.

The Department of Defense plays a major role. As I said before the P-3 airframes come from the Department of Defense. But the equipment that comes over from the Department of Defense, particularly the P-3 airplane, does not come with any money to retrofit it so it can be used along the border and in Central and South America to detect the aircraft carrying illegal drugs flying in from Mexico and other South American countries.

Mr. President, I hope that at the proper time we will move to table this amendment and that we will table it. I wish we had more money, but we are $300 million in outlays below the current services level in our allocation for this bill. We cannot fund everything. We added $570 million to the IRS. What more does anybody expect, when nobody gets full funding on almost anything they try to accomplish?

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, how much times does Senator DECONCINI have?

The PRESIDING OFFICER. Two minutes and 34 seconds.

Mr. DECONCINI. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say that I am very, very pleased that a number of Senators came to the floor today to talk about the plight of the IRS. I really did not think we had very many people around, including Senators, who worry about the IRS.

When this subcommittee started worrying about them 3 or 4 years ago, I do not remember getting very much support as we began to dramatically increase the IRS's budget.

Let me tell my fellow Senators that I will not take a back seat tor anyone in terms of giving the IRS money they need to carry out the laws of this land. There are so many needs in this bill that we have not paid for, simply because we gave the Internal Revenue Service a 9.4-percent funding increase. If you look at the budget for domestic accounts, we are a little under inflation for this year, for everything, from education to water and sewer grants, to highway programs; just slightly over a 4-percent increase. This got a 9.4-percent increase on a huge base of over $6 billion. It got a $572 million increase above the current year.

I repeat: For enforcement, enhanced revenue compliance initiatives of last year, $172 million is in this bill to continue those. It is in there because that is what we agreed to when we put together the 5-year deficit reduction agreement. And, as I said, the Senator from New Mexico has done more than anyone else to get that money each year for the Internal Revenue Service.

And frankly, I told the IRS if they did not spend the $191 million we got for them last year, we would not be able to sustain that kind of money.

They did not spend it. They spent $134 million. Enhanced recovery, a 5-to-1 return, whatever is being talked about here, spend a dollar, get five back—when we are in a deficit, you would think the maximum would be spent. We have put the $172 million in to continue the initiatives of last year, the agreed-upon amount. We are not going to lose any revenues under this bill if we do not rob the war on drugs to pay for the IRS. I do not think we ought to.

The marine vessels that we are paying for that would be cut are almost in a shambles for lack of maintenance, and that is what the Customs has to use. We increased that a measly $4.5 million. It will go with this amendment. I think we ought to leave the bill alone.

Mr. DECONCINI. Mr. President, I think we have spent a lot of time here, 3 weeks plus the week of recess, that we were on the crime bill chasing the criminals, and that is what this bill does as it is before us now. If we take money away from chasing the criminals and put it into chasing taxpayers, I do not think that is a fair trade nor good national policy for this country.

We need to go after the criminals that are money laundering, the criminals that are committing fraud against the Federal Government, and the taxpayer who is high income, high asset, and not paying his/her fair share. This bill does that already. The funds are included to permit the IRS to do its proper job, and I hope our colleagues will not agree to the Kohl amendment.

Mr. D'AMATO. Mr. President, I rise today to oppose, along with Senators DECONCINI and DOMINICI, the Kohl amendment which seeks to shift funding from the Customs Service to the Internal Revenue Service.

The Kohl amendment would strike the $31 million earmarked for the Customs Service acquistion of a P-3 airborne early warning aircraft [AEW] and shift the moneys to the IRS tax enforcement personnel account.

By taking away funding designed to enhance the Customs air interdiction account, the Kohl amendment would have a detrimental impact on the Customs defense-in-depth drug interdiction strategy that is integral to the Andean initiative and to the overall national drug control strategy.

Aircraft such as the P-3 can detect, using long-range 360-degree surveillance radars, the slow, low-flying aircraft commonly used by drug traffickers to evade ground-based radars.

Early detection and classification of suspect aircraft increase the opportunity for interdiction and Customs officials view the P-3 AEW, with its long operating range and high endurance, as the ideal surveillance aircaft to support this strategy. Further, the P-3, AEW supplements fixed detection assets along the Southwest U.S. border and increases mobile detection capability significantly.

The deployment by the Customs Service of this surveillance aircraft deep into the Caribbean basin and off the coast of South America is an important element of the overall drug air interdiction strategy.

In fiscal year 1990, the current inventory of P-3's devoted 3,440 flying hours to drug missions and were respnsible for the seizure of over 50,000 pounds of cocaine. Some of the most significant law enforcement seizures in recent times are directly attributable to Customs P-3 missions. This includes a seizure on October 14, 1990, of 22,273 pounds of cocaine south of the U.S. border.

The air interdiction strategy calls for a minimum of three P-3 aircraft to be flying at any given time. In order to have an optimum effect, a fourth P-3 is necessary so that at least one aircraft can be in maintenance with the other three flying important missions. Without the acquisition of a fourth aircraft, Customs Service will be significantly hampered from meeting mission requirement on a consistent basis.

Mr. President, I urge my colleagues to oppose the Kohl amendment.

The PRESIDING OFFICER. All time allocated for debate on this amendment has expired.

Mr. DECONCINI. Mr. President, I move at this time to table the Kohl amendment, and I ask for the yeas and nays. The vote will be held at 7 o'clock, of course.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote on the motion to table this amendment will occur at 7 p.m. this evening.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, under the unanimous consent agreement, I think the next amendment is that of the Senator from Connecticut [Mr. DODD].

Mr. President, as I was saying, the next amendment, I think, is from the Senator from Connecticut [Mr. DODD]. I ask unanimous consent that Mr. LIEBERMAN, his colleague, may offer that amendment in behalf of both Senators from Connecticut.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 749

(Purpose: To give the President the power to make certain specified law enforcement locality pay adjustments, and for other purposes)

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. DODD, Mr. CRANSTON, Mr. SEYMOUR, Mr. BRADLEY, and Mr. LAUTENBERG, proposes an amendment numbered 749.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 404 of the Federal Employees Pay Comparability Act of 1990 is amended by adding at the end thereof the following new subsection:

"(d) The President, upon the recommendation of a law enforcement agency head, may authorize special pay adjustments under this section to law enforcement officers whose post of duty is located within the geographic proximity of the Los Angeles-Anaheim-Riverside, CA, Consolidated Metropolitan Statistical Area or the New York-Northern New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan Statistical Area, if the agency head determines that such an adjustment is needed to address serious pay inequities for law enforcement officers of the agency. An adjustment authorized by this subsection shall not exceed the maximum rate established for the respective area set forth in this section."

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank the managers of the bill. Senator DODD has unavoidably been detained, and I offer this on his behalf and my own.

Mr. President, I am very much pleased to join with my good friend and senior colleague from Connecticut, Senator DODD—along with Senators CRANSTON, SEYMOUR, BRADLEY, and LAUTENBURG—in offering this amendment to the Treasury-Postal appropriations bill. I also want to thank the distinguished managers of the bill, the Senators from Arizona and New Mexico, and Senators GLENN, STEVENS, and ROTH, for allowing this amendment to be introduced and adopted without opposition.

This amendment addresses an awkward administrative problem created by the special pay adjustment provisions of Federal Law Enforcement Pay Reform Act of 1990. Section 404 of that act awarded statutorily defined special adjustments to eight specific geographic areas. These special pay adjustments will begin on January 1, 1992.

One of the areas that received a special pay adjustment of 16 percent was the New York-New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan

Statistical Area. In Connecticut, this includes Fairfield County, but unfortunately not New Haven or Hartford Counties.

The difficulty for agencies, such as the FBI, is they are not organized according to the statistical area boundaries that are described in the law. The FBI, for instance, has a Connecticut district office in New Haven and covers the entire State; it is the headquarters for the entire State. That district office is a scant 10 miles from the New York Consolidated Metropolitan Statistical Area boundary, with satellite offices of the FBI around the State, including one within the CSMA boundary in Fairfield County.

We have this anomalous situation that developed that officers stationed in Fairfield County in the branch office will be making 16 percent more than agents in the rest of the State, and as a result, the FBI is already finding it difficult to move officers, as the Director wants to do, from Fairfield County to other parts of the State as needed.

This amendment will bring about a commonsense solution in the two areas the FBI has mentioned to us nationally as the most pressing examples of this particular problem. One is the one I described in Connecticut, and the other is in the Los Angeles, CA, area. In these two areas, the President will have the discretion, pursuant to this amendment, to award special pay adjustments to agents stationed in geographic proximity to the New York and Los Angeles consolidated metropolitan statistical areas. The President also has the discretion to determine exactly the amount of the pay adjustment needed.

Mr. President, the term geographic proximity is meant to be a flexible concept. It is not our intent that this be limited to metropolitan statistical areas or consolidated metropolitan statistical areas contiguous to the New York or Los Angeles areas.

In Connecticut, for example, the Hartford CMSA does not border the New York CMSA. But for administrative convenience, the President may wish to grant special pay adjustments to all FBI agents in the Connecticut District Office, which would include agents who are stationed in Hartford.

This amendment is intended to give the President the authority to make such an adjustment, should he deem it necessary. It is certainly our hope in presenting this amendment that once given the authority to make these discretionary special pay adjustments under section 404, the President will promptly respond to Federal law enforcement officials in Connecticut, and I believe in California and nationally, and authorize the appropriate special pay adjustment for those parts of Connecticut outside the New York Consolidated Metropolitan Statistical Area.

Once again, I am pleased to offer this amendment, along with my senior colleague, Senator DODD, who has worked very hard to advance it. It will at least give the administration the statutory discretionary authority it needs to address a very difficult—and I think fundamentally unfair—administrative problem that law enforcement pay reform has inadvertently created in Connecticut and in California.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, the amendment I am offering today with Senators LIEBERMAN, CRANSTON, and SEYMOUR will give the President the discretion to make special pay adjustments to law enforcement officers stationed close to the New York and Los Angeles metropolitan areas.

As my colleagues will recall, last year's Federal Employees Pay Comparability Act, which was enacted as part of the 1991 Treasury-Postal Service Appropriations Act, made significant and much-needed changes in the way we pay Federal employees. It recognized that if we are to attract high-caliber individuals to Government service, we need to pay them competitive salaries.

Unfortunately, while last year's law gave the administration discretion in some cases to make interim locality payments for general schedule Federal employees, it authorized no similar flexibility with respect to Federal law enforcement officers.

The problem here is that the boundaries of metropolitan statistical areas do not always coincide with the divisional boundaries of Federal law enforcement agencies. In once case in Connecticut, for example, two FBI agents live next door to each other and both work at the direction of the FBI's Connecticut division chief in New Haven. One works in Bridgeport, within the New York CMSA, and therefore will receive a special pay adjustment starting next January, but the other works in New Haven, which is just outside of the New York CMSA, and therefore will not receive the special pay adjustment. Similar problems occur in California, and as my colleagues might imagine, these disparities have a devastating effect on morale at affected agencies.

Authorizing the President to make special pay adjustments for Federal law enforcement officers in cases in which agency heads deem it necessary to address serious pay inequities is an enormous step forward in solving this problem. The amendment does not require the President to make these adjustments, but it is certainly my hope that he will do so after listening to the concerns of the officers in the field and of agency heads seeking to maintain operational flexibility.

I think this amendment improves the fairness of the pay system for Federal law enforcement officers. I would like to thank the distinguished managers of this bill, Senators DECONCINI and DOMENICI, for their willingness to consider this amendment, and I am also very grateful for the kindness and generosity of Senators GLENN, ROTH, and STEVENS, in permitting us to move forward with this amendment today.

Mr. President, let me think my colleague from Connecticut for explaining what this amendment does and what it is intended to do. I will not elaborate any further.

I thank the Senator from Arizona, Senator DECONCINI; as well as the Senator from Delaware, Senator ROTH; Senator STEVENS; Senator DOMENICI; and Senator GLENN and others for their cooperation and help in trying to deal with this situation as described by Senator LIEBERMAN. We have been at this for a year or so trying to come up with a solution here. This does allow for discretion.

I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there further debate?

Mr. DECONCINI. Mr. President, the amendment offered by the two Senators from Connecticut is a good amendment. It does bring some sense into OPM pay raise procedures from the bill we passed last year.

I compliment the Senators from Connecticut for looking after some very needed pay differentials for Federal law enforcement officials who live in different types of economic environments. and I am prepared to accept the amendment on the majority side.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, we on this side concur that it is a good amendment. It is my understanding that Senator STEVENS and Senator ROTH, who are familiar with this, have agreed to it. It is technically an authorizing matter, but it has to be fixed now, according to Senator DODD, in order to do some good in his State. I am willing to accept it on our side and to try to carry it through conference.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 749) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AID AND MOSCOW'S MILITARY

Mr. SIMON. Mr. President, I am going to bring up several very brief items. One is a column on the op-ed piece of today's Washington Post by our colleague, Senator SAM NUNN. It is about the whole question of aid to the Soviet Union, whether or not we should be providing it and that whole thing. It is as solid and thoughtful a piece as you would expect Senator SAM NUNN to do. He is that kind of a Senator.

It mentions a number of things in the article. One is that "Internal chaos in a country possessing some 20,000 nuclear weapons and consisting of diverse ethnic groups spread across 13 time zones is in no nation's interest." He also says that any kind of "aid beyond essential humanitarian assistance must be considered on basic reform of the Soviet economy." He also says that they clearly have to show that they are shifting from their weapons investment to recognizing they have to right their economy. It is as good a summary of the situation that we face vis-a-vis the Soviet Union as I have read anywhere.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AID AND MOSCOW'S MILITARY

(By Sam Nunn)

During World War II, our policy framework for U.S.-Soviet relations was clear: military alliance with the Soviet Union against Hitler's aggression. In the Cold War period, it was equally clear: containment of Soviet expansionism by a determined Western alliance.

We need to design a policy framework that will serve our national interests equally well in the new historical setting of the 1990s. I believe the new framework should feature measured cooperation with the Soviet Union to assist its transition from Communist domination to pluralism and democracy.

The framework should have two basic parts: one multilateral, the other bilateral. The entire international community will benefit if the Soviet Union becomes a nonthreatening member of the world community. Internal chaos in a country possessing some 20,000 nuclear weapons and consisting of diverse ethnic groups spread across 13 time zones is in no nation's interest. The international community, therefore, should be prepared to help the Soviet Union develop a market economy, join the international economic system and move toward democracy and greater respect for human rights.

Cooperation with the Soviet Union to these ends should be measured to ensure that it serves our interests as well as those of the Soviet people. The United States cannot afford to waste money on ill-conceived assistance efforts. Substantial amounts of direct aid to today's Soviet Union, for example, would be like throwing money into a cosmic black hole. Unless the Soviet leadership and Soviet people undertake basic economic reforms thus far lacking—including private ownership, realistic pricing, currency convertibility and a market system—large-scale Western economic aid could be totally wasted.

It follows that any aid beyond essential humanitarian assistance must be conditioned on basic reform of the Soviet economy. The process will be painful for the Soviet people. For example, state subsidies for food, housing, education and transportation will have to be cut severely. The Soviet people and their leaders will have to reach agreement on how this is to be accomplished. Western conditions should reinforce but not supplant this process. They should be instituted and administered on a multinational basis by such organizations as the International Monetary Fund and the World Bank. The United States should not impose or be perceived as imposing onerous conditions on the Soviet Union in return for large amounts of aid.

The international community must give top priority to economic reform in Eastern Europe. The most compelling example for the leadership and people of the Soviet Union will be the economic future of Eastern European countries—above all Poland, Czechoslovakia and Hungary. We must help them to succeed.

The bilateral part of the framework should continue our focus on arms control, but I believe the centerpiece should be U.S. cooperation with Soviet efforts to convert military production of civilian uses. Military conversion is pivotal to the success of Soviet economic reform in a country that spends close to one-quarter of its GNP on defense.

The Soviet economy as it exists today was built by Stalin in the form of a rigid pyramid. The military-industrial complex occupies the top one-quarter or so and receives the best human and material resources to the severe detriment of the nonmilitary sectors occupying the bottom three-quarters. With the Soviet economy on the verge of breakdown, the Stalinist pyramid must be upended.

Soviet military conversion is clearly in our national interest. Measured cooperation with the U.S.S.R. on conversion can reduce Soviet military production capabilities. It can expose this traditionally bellicose, closed sector of Soviet society to the thinking and experience of American counterparts in the public and private sectors.

One aspect of conversion presenting an opportunity for close U.S.-Soviet cooperation is the cleanup of nuclear, chemical and other wastes that plague both countries. After years of military confrontation, the two superpowers should work together to eliminate the massive physical contamination caused by the Cold War.

Our assistance on conversion must take place in the context of verifiable overall reduction of Soviet military capabilities and must reinforce rather than impede the growing economic and political sovereignty of the republics vis a vis the central government.

If pursued wisely, the two parts of this policy framework can work together to accelerate the desired transition of the Soviet Union. They can help shape the Soviet defense establishment so that it is proportionate to the country's legitimate requirements. This would be a truly historic transformation that would benefit the Soviet people and the cause of world peace.

INDEPENDENT OIL PRODUCERS

Mr. SIMON. Mr. President, I rise today on a matter that I know is of interest to the Senator from Arizona, Senator DECONCINI. I rise today to address an increasingly troubling situation in the oil industry, one that will have serious impact on consumers.

There is growing evidence to suggest that the major oil companies are selling motor fuel to their own affiliated service stations at wholesale or below wholesale prices, undercutting and squeezing the wholesalers who purchase oil from the major oil companies and supply the independent service stations. This means that service stations affiliated with the major oil companies are obtaining motor fuel—and selling it—sometimes at prices below those charged to the independent service stations.

This is a disturbing trend for several reasons.

First, it means that one set of consumers will pay higher gasoline prices than others. Most smaller cities and virtually all rural areas are served by small business sellers who supply service stations. These "jobbers" do not get the same preferential rates provided by the major oil companies to their own service stations. This means that consumers in smaller cities and rural areas will be paying higher prices for gasoline, and will be, in effect, subsidizing cheaper gasoline prices for consumers who can buy gasoline from service stations owned and operated by the major oil companies.

Second, this practice is forcing the independent petroleum marketers out of business. Both wholesalers and retailers are perishing. The Wall Street Journal on March 20 reported that petroleum marketers led the small business community in bankruptcies with an astounding 78.9-percent increase over last year. The July 8 issue of Oil Week quotes a survey showing that gasoline wholesaler net income dropped 73 percent during the first quarter of 1991 with 51 percent showing a net loss.

I would say, that is in distinct contrast to the major oil companies who are the big producers, who have shown huge profit increases.

The decline of the independent marketers could seriously hurt the availability of gasoline in smaller cities and rural areas. It could lead to reduced availability and higher prices for consumers in these areas.

Also, if the independent marketers are forced out and the majors gain even more control over sale and distribution of motor fuel, we may see increased monopoly exercised by the big oil companies. Once they have greater control over the market they will not be checked by competition with the independents. They will be free to control price and availability without any competitive market discipline. This, Mr. President, is not in the long-run interests of consumers anywhere.

Finally, this practice by the majors seems to violate the intent of the antitrust laws. Current antitrust law, the Robinson-Patman Act, bars price discrimination on sales of goods of like grade and quality to competing customers. Unfortunately, the letter of the law does not define as a sale a transfer from a major oil company to an owned and operated retail service station. The law does not apply to sales to consumers because the law does not treat consumers as competitors. In other words, a transfer from a major oil company to its own service station is not considered a sale by the Robinson-Patman Act.

Mr. President, this problem can be fixed by a simple change in the Robinson-Patman Act making clear that the antitrust law does apply to internal transfers of motor fuel by refiners to integrated retail outlets. Such a change would ensure that the major oil companies could not unfairly force the independent oil wholesalers out of business, could not force rural and small city consumers to subsidize cheaper motor fuel for consumers in big cities, and could not use this pricing method to increase their power over the motor fuel industry.

I plan to explore legislation in this area in the near future.

LITERACY

Mr. SIMON. Mr. President, some weeks ago I spoke in Omaha, NE, at a literacy dinner. I am pleased that just earlier this afternoon I happened to be presiding over the final conference effort—it was not a formal conference—but the final effort between the House and the Senate on the Literacy Act, which was worked out and passed and will be on its way to the President in a matter of days, and I have every reason to believe the President is going to sign it.

I spoke at this dinner in Omaha, NE, and a man named Robert Kabourek, a 38-year-old mechanic, got up and told about learning how to read and what it has meant in his life. It was such a moving statement I asked him to send me a copy of it.

Mr. President, I ask unanimous consent to have it printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Good evening. My name is Bob Kabourek, I am a 38-year-old mechanic and a high school graduate. Six years ago, I couldn't read.

Our family was middle class and lived in a nice neighborhood, When I was in the second grade, my dad died. Mom was having problems dealing with the death of her husband, and my older brother was just starting high school.

Dad had been a teacher before the war and taught in a one-room schoolhouse in rural Nebraska. During World War II, one of his duties was to teach soldiers how to read and to write. If Dad had lived, I believe he would have recognized my learning problems.

In grade school and junior high I was the big kid and the class clown, I got into fights and just didn't care about school. I spent most of my time in the principal's office; in junior high I held the record for the most detentions in one day—36 hours.

In high school, the kids I sat next to would help me. We filled out file cards on the first day of the school year. The kids next to me would each take a card and fill them out for me. When I wrote a report, I copied it out of the Word Book Encyclopedia and misspelled words to make it look like I wrote it. In speech, I would talk about subjects I knew and write an outline later. I held hands with a girl in biology, and she wrote all my reports.

When I left home and rented an apartment, I paid cash for everything—utilities, rent, food. I didn't have a checking account. I drove to each office, sometimes it took me all day to pay bills. If I needed a check I gave the cash to a friend who then wrote a check for me.

In 1976, I set up a service shop for a forklift dealer. I talked to customers, then somehow did all the paperwork and sent it back to the main office.

I have been a forklift mechanic since 1973. I could understand and figure out schematics and wiring diagrams, but couldn't read the troubleshooting diagnostics for them. I used trial and error and my mechanical skills to figure out problems.

I like to make things run. When you work with things instead of people, it's easier to hide a reading problem.

In 1981, I married and had a son. My wife's reading skills were limited, but they were still better than mine. She used my disabilities against me and took away what little self-confidence I had in myself. We were divorced a year after my son was born.

In 1984, I met a woman who would later become my wife. As we were going together, it became more and more difficult to hide my reading problem. Diane was a college graduate and had lots of books. I was afraid if she found out that I couldn't read I would lose her. Diane read the newspaper every day and was always pointing out articles she thought I would be interested in. I would put her off and when she asked about them, I would give her some excuse why I didn't get to it.

Eventually she figured it out, and asked me about it. I told her I couldn't read. Her reaction was to ask me if I have ever wanted to read. When I said yes, she was there to support me when I finally decided to get help.

My boy was about three at the time. I saw the ad about a man trying to read to his little girl and realized I would have the same problem. That was the ad for the Omaha Literacy Council. When I told Diane, she called the next day and arranged a tutor.

I was lucky that my tutor was Beverly DiMauro. She lived a block away and I walked to her house once a week for my lessons. It surprised me how little I actually knew. I always printed but realized I didn't even know how to write lower case letters.

This time I wanted to learn. The positive reinforcement from Beverly made the time I spent learning to read enjoyable, not the struggle it had been in school. I felt good about what I was doing. Each time I came home, I would tell Diane all the things I had learned. There were even a few things she learned from me!

After a year and a half, we completed all four books. My work is much easier. I can read manuals and testing procedures, and I understand what they are talking about. My work goes smoother because the manuals explain the procedures I only guessed at before. I have changed employers to move to a company where there is a chance for advancement. I now have the skills and the knowledge I need to move to a more demanding position.

I am not the same person I was six years ago. My new skills have given me the confidence to do things I never would have done. Last year my wife and I became the race directors for the Omaha Literacy Run and Walk. We had two months to organize a race. We started out not knowing anything about organizing a race and ended up having a member of a running club suggest we do it professionally.

The Omaha Literacy Council has given me something, I couldn't buy at any price and I will never be able to repay them.

Thank you.

TELEVISION PROGRAM IMPROVEMENT

Mr. SIMON. Mr. President, finally I would like to have something else printed in the RECORD. This is the result of something the Congress has done that could have great impact on the lives of a great many Americans.

We passed, I am pleased to say unanimously, out of this body and it became law, an exemption to the antitrust laws that permits the televison networks to get together to establish standards on violence. The evidence is just overwhelming that violence on television is a factor in violence on our society. The National Institute of Mental Health has twice given us warning on this. The American Academy of Pediatrics has notified us on this, as have the American Psychiatric Association and American Psychological Association and others.

Anyway, we passed the bill. The President signed it. The National Association of Broadcasters have sent me a letter in which they indicated they have had I believe it is three meetings on this subject. They have adopted a statement. It is a general statement.

My hope is they may get a little more specific in terms of standards. The cable industry was invited to those meetings. They declined, although the cable industry is having some separate meetings.

I would like to have printed in the RECORD the letter sent to me by Edward O. Fritts, president and CEO of the National Association of Broadcasters, as well as the statement they have adopted. I think it is a positive thing. It is not a headline-producing thing, but it is a step forward, I think, to protect the American public a little more than we are now being protected.

Mr. President, I ask unanimous consent to have this printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF BROADCASTERS,
EDWARD O. FRITTS, PRESIDENT & CEO,
Washington, DC. 1991.
HON. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: I wanted to apprise you of the results of a television industry meeting on your Television Program Improvement Act of 1990, which NAB hosted this morning. You have asked NAB to take a leadership role in coordinating the television industry's response to the passage of this law, and to be kept informed of our activities in that regard.

Although this was the third such meeting on the law hosted by NAB, it was the first to which we invited television industry representatives who were not broadcasters. I have attached a list of the attendees. You can see that television broadcasters were well represented. The four principal television networks and their affiliate organizations were in attendance, as was the independent television community. The Motion Picture Association of America also attended. Unfortunately, the National Cable Television Association declined to attend, as did other representatives of the cable industry.

Much of this meeting involved a discussion of the Statement of Principles adopted by NAB's Board of Directors in June, 1990. This Statement reflects the Board's sense of how radio and television broadcasters throughout the nation strive to present programming of the highest quality to their local communities pursuant to standards of excellence and responsibility. This Statement, in addition to addressing depictions of violence, also covers children's programming, drug and substance abuse, and sexually-oriented material. I have attached a copy of this Statement for your review.

The participants at today's meeting felt that it was appropriate to distribute this Statement more widely. The broadcaster representatives will distribute the Statement to their respective groups. MPAA has offered to send this Statement to its member companies, as well as to other elements of the television production community with which it has ties. This Statement also will be sent to those members of the industry who were invited, but could not attend. We hope to gain a better understanding of whether this Statement reflects a constituency broader than that of NAB's Board of Directors, or whether it stimulates further discussion within the television industry.

I will be happy to keep you informed of NAB's activities on the Television Violence Act.

Sincerely,

EDWARD O. FRITTS.

LIST OF ATTENDEES TO THE TELEVISION PROGRAM IMPROVEMENT ACT OF 1990 MEETING HELD AT THE NATIONAL ASSOCIATION OF BROADCASTERS—JULY 2, 1991

Mr. Edward O. Fritts, President, National Association of Broadcasters.

Wade Hargrove, Esq., ABC Affiliates, Raleigh, NC.

Greg Schmidt, Esq., CBS Affiliates, Washington, DC.

Werner Hartenberger, Esq., NBC Affiliates, Washington, DC.

Mr. David Donovan, Vice President, INTV, Washington, DC.

Ms. Molly Pauker, Vice President/Corporate and Legal Affairs, Fox Television Stations, Washington, DC.

Mr. Matt Gerson, Vice President, MPAA, Washington, DC.

Mr. Robert Hynes, Vice President, NBC, Washington, DC.

Mr. Martin D. Franks, Vice President, CBS, Washington, DC.

Mr. Gene Cowen, Consultant, CapCities/ABC, Washington, DC.

STATEMENT OF PRINCIPLES OF RADIO AND TELEVISION BROADCASTING

(Issued by the Board of Directors of the National Association of Broadcasters)

PREFACE

The following Statement of Principles of radio and television broadcasting is being adopted by the Board of Directors of the National Association of Broadcasters on behalf of the Association and the commercial radio and television stations it represents.

America's free over-the-air radio and television broadcasters have a long and proud tradition of universal, local broadcast service to the American people. These broadcasters, large and small, representing diverse localities and perspectives, have strived to present programming of the highest quality to their local communities pursuant to standards of excellence and responsibility. They have done so and continue to do so out of respect for their status as daily guests in the homes and lives of a majority of Americans and with a sense of pride in their profession, in their product and in their public service.

The Board issues this statement of principles to record and reflect what it believes to be the generally-accepted standards of America's radio and television broadcasters. The Board feels that such a statement will be particularly useful at this time, given public concern about certain serious societal problems, notably violence and drug abuse.

The Board believes that broadcasters will continue to earn public trust and confidence by following the same principles that have served them well for so long. Many broadcasters now have written standards of their own. All have their own programming policies. NAB would hope that all broadcasters would set down in writing their general programming principles and policies, as the Board hereby sets down the following principles.

PRINCIPLES CONCERNING PROGRAM CONTENT

Responsibly Exercised Artistic Freedom

The challenge to the broadcaster often is to determine how suitably to present the complexities of human behavior without compromising or reducing the range of subject matter, artistic expression or dramatic presentation desired by the broadcaster and its audience. For television and for radio, this requires exceptional awareness of considerations peculiar to each medium and of the composition and preferences of particular communities and audiences.

Each broadcaster should exercise responsible and careful judgment in the selection of material for broadcast. At the same time each broadcast licensee must be vigilant in exercising and defending its rights to program according to its own judgments and to the programing choices of its audiences. This often may include the presentation of sensitive or controversial material.

In selecting program subjects and themes of particular sensitivity, great care should be paid to treatment and presentation, so as to avoid presentations purely for the purpose of sensationalism or to appeal to prurient interests or morbid curiosity.

In scheduling programs of particular sensitivity, broadcasters should take account of the composition and the listening or viewing habits of their specific audiences. Scheduling generally should consider audience expectations and composition in various time periods.

Responsibility In Children's Programming

Programs designed primarily for children should take into account the range of interests and needs of children from informational material to a wide variety of entertainment material. Children's programs should attempt to contribute to the sound, balanced development of children and to help them achieve a sense of the world at large.

SPECIAL PROGRAM PRINCIPLES

1. Violence.

Violence, physical or psychological, should only be portrayed in a responsible manner and should not be used exploitatively. Where consistent with the creative intent, programs involving violence should present the consequences of violence to its victims and perpetrators.

Presentation of the details of violence should avoid the excessive, the gratuitous and the instructional.

The use of violence for its own sake and the detailed dwelling upon brutality or physical agony, by sight or by sound, should be avoided.

Particular care should be exercised where children are involved in the depiction of violent behavior.

2. Drugs and Substance Abuse.

The use of illegal drugs or other substance abuse should not be encouraged or shown as socially desirable.

Portrayal of drug or substance abuse should be reasonably related to plot, theme or character development. Where consistent with the creative intent, the adverse consequences of drug or substance abuse should be depicted.

Glamorization of drug use and substance abuse should be avoided.

3. Sexually Oriented Material.

In evaluating programming dealing with human sexuality, broadcasters should consider the composition and expectations of the audience likely to be viewing or listening to their stations and/or to a particular program, the context in which sensitive material is presented and its scheduling.

Creativity and diversity in programming that deals with human sexuality should be encouraged. Programming that purely panders to prurient or morbid interests should be avoided.

Where significant child audiences can be expected, particular care should be exercised when addressing sexual themes.

Obscenity is not constitutionally-protected speech and is at all times unacceptable for broadcast.

All programming decisions should take into account current federal requirements limiting the broadcast of indecent matter.

Endnote

This statement of principles is of necessity general and advisory rather than specific and restrictive. There will be no interpretation or enforcement of these principles by NAB or others. They are not intended to establish new criteria for programming decisions, but rather to reflect generally-accepted practices of America's radio and television programmers. They similarly are not in any way intended to inhibit creativity in or programming of controversial, diverse or sensitive subjects.

Specific standards and their application and interpretation remain within the sole discretion of the individual television or radio licensee. Both NAB and the stations it represents respect and defend the individual broadcaster's First Amendment rights to select and present programming according to its individual assessment of the desires and expectations of its audiences and of the public interest.

Mr. SIMON. Mr. President, if no Senator seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will call the roll.

The bill clerk proceed to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

AMENDMENT NO. 750

Mr. DOMENICI. Mr. President, Senator CONRAD BURNS had a reservation in the unanimous-consent agreement to offer the next amendment. In his behalf, I am going to offer an amendment. I am just going to quickly read it, send to to the desk, and then reserve whatever time I might have.

I understand the distinguished Senator from Arizona is trying to find out whether there is going to be formal opposition from the authorizing committee.

Essentially this amendment says:

Organizations preparing preprinted materials fitting the United States Postal Service's description of "postcare", which are intended for mailing to a Member of Congress in order to influence the Member's position on a legislative matter or any other matter relating to his or her official duties as a Member, shall display their name, acrynom and/or logo on the preprinted postcards.

That is essentially is the amendment of Senator BURNS.

Mr. President, on behalf of Mr. BURNS, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BURNS, proposes an amendment numbered 750.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . POLITICAL MAILING DISCLOSURE AMENDMENT

"Organizations preparing preprinted materials fitting the United States Postal Service's description of 'postcard', which are intended for mailing to a Member of Congress in order to influence the Member's position on a legislative matter or any other matter relating to his or her official duties as a Member, shall display their name, acrynom and/or logo on the preprinted postcards."

Mr. DOMENICI. Mr. President, I reserve whatever time Senator BURNS has, and I yield the floor to Senator DECONCINI.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I talked to the chairman of the Governmental Affairs Committee, Senator GLENN, earlier today about this amendment. He indicated to me he did not think he would oppose it. I am trying to reach him now. I understand he is in a hearing with staff.

I hope the Senator is listening and we can get him to send a note to the floor as to whether or not he wants to come over and debate this amendment. I got the clear indication talking to him earlier he was not going to debate it. He did not think the world of it. I hope we hear from him shortly.

As I understand it, Mr. President, the amendment offered by Senator BURNS will require preprinted postcards mailed to Members of Congress as part of a grassroots lobbying campaign to identify the organization which is behind the communication. That is the potential effect of this measure. Of course, we could always question one side or the other. From experience, I know I get a lot of mail—we all do—and we do not know where it comes from. I think there is some benefit to having identification on the mail.

I think the only problem here is, as the Senator from New Mexico pointed out, on other amendments, that it is legislation clearly that the authorizing committees should handle. I do not know a lot about the problem. But since Senator BURNS is not here to argue the case, I quite frankly would be prepared to take the amendment and go to conference to give us time to find out a little bit more about it and see whether or not we want to retain the amendment in conference and do our best to keep it.

But with that, I am going to put in a quorum call for just a couple minutes, and then I am prepared to take the amendment.

Mr. DOMENICI. I wonder if the Senator will reserve on that. I wonder if we might just set the agenda. As I understand it, the distinguished Senator from Texas [Mr. BENTSEN] does not intend to call up his amendment; is that correct?

Mr. DECONCINI. That is what I have been advised.

Mr. DOMENICI. I wonder, if the Senator will advise the Chair of that, then he will not be ruled out of order; that rather, it would be withdrawn by the Chair because the distinguished Senator does not intend to offer it.

Mr. DECONCINI. Yes; I have been advised by the Democratic Policy Committee staff and the cloakroom staff that the Senator from Texas is not going to call up the reservations he has on any of these amendments.

Mr. DOMENICI. Then I understand that, once we know the disposition of the pending amendment, there is only one remaining amendment.

Mr. DECONCINI. The Senator from New Mexico is correct, and that is the amendment of the Senator from New Hampshire.

Mr. DOMENICI. I assume the opposition to the amendment of the junior Senator from New Hampshire comes from the majority leader; is that correct?

Mr. DECONCINI. I think that is fair to say.

Mr. DOMENICI. I hope he is aware of that.

Mr. DECONCINI. If the Senator will yield, we could set aside the Burns amendment for a few minutes and let the Senator from New Hampshire offer his amendment.

Mr. DOMENICI. Does the Senator from New Hampshire desire to wait awhile while we try to dispose of the Burns amendment, or does he want us to set it aside and start the debate?

Mr. SMITH. I will be happy to wait.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I have had an opportunity to talk to the chairman of the Governmental Affairs Committee, Senator GLENN, and he has some problems and some reservations about this amendment. However, he, quite frankly, is not prepared to debate it today. I indicated to him that I would welcome hearings on this matter in his committee before we conference the bill. Senator GLENN also plans to send a letter to myself and the ranking member on this subject. In the meantime, I am prepared to accept the amendment.

Mr. BURNS. Mr. President, I want to thank Senators DECONCINI and DOMENICI for accepting my amendment. I want to take a few minutes to describe that amendment for the RECORD.

Mr. President, Federal laws currently exist requiring disclosure of activities by political action committees and lobbying organizations aimed at influencing the positions of Members of Congress, that is, the Federal Regulation of Lobbying Act of 1946.

Each year, Senators and Representatives receive hundreds of thousands of prepared postcards, seeking to influence Members' positions on a wide variety of issues that span the political spectrum.

My amendment adds a disclosure requirement to these preprinted postcards. It is a truth-in-lobbying requirement.

By far, the majority of these postcards do not identify the organization which has prepared the postcard and which seek to influence Members' positions.

Oftentimes, the postcard is specific to a particular concern in a Member's State or district.

It is important for Senate and House Members to know which organization is seeking influence on matters before Congress, especially matters having a strong impact in their districts.

For the furtherance of good government, Members of Congress must be as fully informed as possible.

To make a fully informed decision, a decision in the best interest of the people he or she represents, a Member must be able to discern if the prepared postcards are part of a grassroots effort or if the prepared postcards are astroturf—nongrass—a part of a larger, nationally oriented campaign. This amendment will help a Member gauge the out-of-State influence on a particular concern and determine the grassrootsishness of the effort.

We all appreciate it when a concerned citizen takes the time and effort to share his or her opinions. Their input—no matter how expressed—is important to every Member. I just believe it is also important for Members to know where the lobbying campaign originated so that we can all more effectively respond and address the concerns of our fellow citizens.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 750) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, the next order of business, if I am correct, is the amendment by the Senator from New Hampshire [Mr. SMITH].

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. I yield the floor.

The PRESIDING OFFICER. The Chair has been informed by the manager that Senator BENTSEN has chosen not to offer his amendment under the agreement.

The Senator from New Hampshire is recognized.

AMENDMENT NO. 733

Mr. SMITH. Mr. President I call up amendment No. 733 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from New Hampshire [Mr. SMITH], proposes an amendment numbered 733.
>
> At the appropriate place, add the following:
>
> "No funds appropriated pursuant to the provisions of this Act may be used for the purpose of authorizing or enforcing any agreement under section 5517 of title 5, United States Code, with respect to any employee of the United States with a regular place of employment at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire."

Mr. SMITH. Mr. President, it is interesting that the statement refers to the Portsmouth Naval Shipyard at Portsmouth, NH. For the information of my colleagues, section 5517 specifically authorizes the Secretary of the Treasury to enter into agreements with States concerning the withholding of State income taxes with respect to Federal employees within those States who work within those States.

At present, the Federal Government is withholding Maine State income tax from the Federal paychecks of over 4,000 New Hampshire workers at the Portsmouth Naval Shipyard. The shipyard actually sets on Seavey's Island in the middle of the Portsmouth Harbor between New Hampshire and Maine.

Regarding withholding State income taxes, it says under the agreement that I just referred to, in section 5517:

> The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the States withholding statute in the case of employees of the agencies who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made.

"Within the State with which the agreement is made."

In May of this year, I took to the floor of the Senate to explain the current controversy surrounding this whole issue of where the shipyard is located, whether it is in Maine or whether it is in New Hampshire. In short, Mr. President, it is very unclear as to whether or not it is in Maine, and it seems to me very overwhelming evidence can be shown that in fact it is in New Hampshire.

I would like to briefly discuss some of that evidence—although this is not the time, nor do I want to take the time, to debate the controversy as to whether or not this shipyard is in Maine or New Hampshire. That is for another time, perhaps the Supreme Court, or some other time at the discretion of my colleagues where we might debate it. That is not the purpose today of my amendment.

The purpose of the amendment today, I might also add, is not to repeal a tax at this time. It is simply to stop the withholding of a tax because of the fact that this boundaryline is in dispute. Let me briefly explain why it is in dispute just for historical perspective to help some who may be undecided as to what to do on this amendment.

By the way, I spent 2 years of research on this issue, compiled the data over the past 2 years using all kinds of records, deeds, and historical documents at the Federal, State, and local level. And what I found was, first, that the original grant and charter from King Charles of England to Capt. John Mason for setting up the province of New Hampshire includes all islets and islands in the Piscataqua River. The charter is dated August 19, 1635. Seavey's Island, where the Portsmouth Naval Shipyard sits, is in the middle of the Piscataqua River. So the charter from King Charles to John Mason, who was the founder of New Hampshire, clearly said all islands and islets in the Piscataqua River. The province of Maine charter from the King does not include any islands in the Piscataqua River or any jurisdiction over any portions of the river. Those two documents are both very, very clear. They are a matter of historical record.

Second, the original dwellers on the island in the harbor were New Hampshire residents who came over on Captain Mason's ship from England to settle in the province of New Hampshire. Many of the names are very well recognized. Dr. Regnald Fernald, the first doctor to settle in New Hampshire, and his sons, Thomas and William, as well as Mr. Thomas Withers.

Third, New Hampshire, as my colleague from Massachusetts, Senator KENNEDY, reminded me when I spoke, was once part of Massachusetts when Maine was still a separate province. So during this period, the river of Piscataqua was entirely under the jurisdiction of Massachusetts, not Maine. Portsmouth, as established, comprised the Piscataqua and Strawberry Banke, Kittery, and York County is established consistent with that portion of lands beyond the River Piscataqua northerly.

York, of course, and Kittery are Maine towns on the northern side of Piscataqua River.

Early deed records confirm that crooked line, that portion of the Piscataqua River that runs to the north of the island, has always been considered part of the river, and is still a navigable channel today, in 1991.

The entire early deed history, to Clark Island—another island that is part of the Navy shipyard—is recorded in New Hampshire. The entire deed history of Clark Island, a portion of the Portsmouth Naval Shipyard, is in New Hampshire; recorded in New Hampshire. In several of the early deeds, probate records and depositions for other parts of the Seavey's Island complex and Badger's Island are recorded and attested to by the New Hampshire Commissioners and Recorders of Deeds.

Two hundred and fifty years ago, in 1740, the King of England decided that the boundary between New Hampshire and Maine would pass up through the mouth of the harbor and so on up the "middle of the river." However, boundary records clearly show that the boundary around the islands in the middle of the river has never been laid out. After the 1740 decision, New Hampshire increased its use of the islands in the harbor which today comprise the Navy yard.

So what you had was a boundary agreement in 1740, imposed on New Hampshire and Maine by the King, and then we began to see the use of these islands by the State of New Hampshire which clearly shows what the intent of that agreement was.

During the War of Independence through the colonial period which followed, and into the 1800's, New Hampshire built and maintained ports on the islands in the harbor, including Seavey's Island, and Badger's Island, again part of the naval shipyard which were recognized as part of the State of New Hampshire.

Badger's Island belonged to Gov. John Langdon, Governor of New Hampshire. The Governor, council and legislature of New Hampshire passed official acts to fortify the entire harbor and regulate all shipping coming into Portsmouth harbor.

Mr. President, Portsmouth, NH, has always been recognized the world over as the birthplace of the American Navy. And when you have a naval ship being built or launched or taken care of or maintained, it is usually done at a shipyard, and that was done in Portsmouth, NH. All shipbuilding in Portsmouth, for the United States, was conducted on the island in the harbor, mainly Badger's Island, a part of the Portsmouth Naval Shipyard.

The U.S. Navy Yard, at Portsmouth was established in the year 1800 because of Portsmouth's reputation for shipbuilding. The Federal Government records the purchase of the island—I emphasize the Federal Government—in 1800 records the purchase of the island in the harbor as ground purchased at Portsmouth, NH.

The citizens of New Hampshire, Portsmouth, presented petitions to the Navy and Congress for improvements at their Navy yards during the 1800's. All improvements in the Navy yard in 1800 to the late 1900's are the result of involvement and support of the New Hampshire congressional delegation and the State of New Hampshire. There was never any involvement by the State of Maine, as the shipyard was considered always by the Federal Government and anybody else to be in the State of New Hampshire. Maps of both Maine and New Hampshire, dating back to the 1700's, show the Navy yard as part of New Hampshire.

I want to repeat that. There are Maine maps, drawn by Maine mapmakers, who list the Portsmouth Naval Shipyard as being part of the State of New Hampshire.

Old histories, publications, newspapers all say the navy yard was part of Portsmouth, NH. Federal Government records for nearly 200 years have always listed the shipyard as New Hampshire, not Maine. It includes appropriation measures in the Congress, documents at the shipyard. Also, up until last month, New Hampshire was a State for 35 years that established, paid, and administered Federal unemployment compensation programs for people who got laid off at the shipyard, including people who reside in Maine. So, New Hampshire pays the unemployment compensation, even though some maintained the yard belongs in Maine.

The New Hampshire State Port Authority continues to exercise jurisdiction over Portsmouth Harbor, and the State of New Hampshire is currently paying $4.7 million for dredging projects in the northern channel adjacent to Badger's Island. New Hampshire, not Maine, has always been involved with dredging in the harbor since 1878.

The boundary where the shipyard was located was not laid out by the Supreme Court in the 1976 ocean fishing dispute, as some are going to say. Nor does the 1976 consent decree by New Hampshire and Maine prevent litigation to settle the boundary involving the shipyard and Badger's Island. The navy yard, Badger's Island, and the harbor of Portsmouth, NH, comprise a proud part of New Hampshire's heritage spanning more than 300 years. Indeed, our State seal, the State seal of New Hampshire, show the U.S.S. *Raleigh* being launched at Portsmouth Naval Shipyards.

Surely our Founding Fathers would not place a Maine property on the State seal of the State of New Hampshire. The whole argument that somehow Maine has a hold or talons into our shipyard is preposterous. There is very little if any documentation to substantiate it.

As a matter of fact, Mr. President, there is a very interesting statement. I do not see the distinguished majority leader on the floor just yet but I am sure he will be coming here. It was very interesting. Mr. MITCHELL on July 11, 1991, asked for unanimous consent to put it the RECORD the discussion of this amendment today. Here is what he said.

> A Smith amendment regarding the Naval Shipyard at Portsmouth, NH.

That was the majority leader from the State of Maine, indicating my amendment regarding this naval shipyard at Portsmouth, NH. It is because that is where it has always been. That is what it has always been called. So the majority leader was simply stating a fact.

The American law division of the Library of Congress has concluded that there are several historical areas of ambiguity regarding this line. The question we have before us with my amendment is, when there is ambiguity as to where the line is located, and the statute clearly says that you can withhold a tax when it is within the State boundary, is it fair to continue to withhold these taxes when there is ambiguity? I maintain it is not. The American law division also concluded that the issue of the location of the shipyard has never been settled by the Supreme Court of the United States, despite some claims to the contrary.

The infamous lobster dispute concerned a decision in 1976 over lobster fishing rights between the two States. There was some argument there as to where the line should be as far as lobster fishing between the two States, and the line was drawn. But it was clearly drawn up to a point and stopped in the middle of the Piscataqua River, long before it got to the area of contention here, the Portsmouth Naval Shipyard.

Let me read from the Congressional Research Service, Library of Congress, a memorandum to me from the American law division. I would like to quote one paragraph from that document. This is regarding this so-called lobster dispute.

> The 1976 litigation between the two States, New Hampshire and Maine, focused on the meaning of the middle of the river, for purposes of determining the lateral marine boundary. Although the court articulated with care where the line began, at the coast, and how it proceeded with respect to certain marine islands, it did not make similar detailed determinations with respect to the progress of the line as it moved up the river.
>
> Therefore, how to locate the line up river, given the fact that there is a large island in the middle of the mouth of the river and various islands up river from it, appears to be a question beyond the scope of the consent degree of the court in the previous litigation—i.e. the 1976 lobster dispute. Though the rule to be applied may be settled, the application of the rule to particular instances of ambiguity may await future litigation.

That is the point. There will be future litigation. This matter most likely will go to the Supreme Court. It is contested and therefore this tax should not be withheld from the workers who are now working for the Federal Government at the Portsmouth Naval Shipyard who are residents of New Hampshire.

The attorney general of New Hampshire also concluded that there is no evidence that the boundary where the shipyard is has ever been definitively established. Additionally, the State of New Hampshire passed legislation urging that this dispute involving the shipyard be resolved.

Mr. President, here is where we are. We have requested of the State of Maine that we have an interstate compact. I had legislation to that effect.

However, there has been no response from Maine. They did not wish to sit down and discuss this via, I believe, the most amicable route, which is an interstate commerce pact.

The second option is the Supreme Court of the United States, which is most likely where we will go unless Maine chooses to sit down and work this out amicably, and as I have suggested to them and as our State has suggested to them, bring your evidence. Bring your evidence and sit down and we will discuss this.

But there are innocent people caught in the web of this dispute, Mr. President. That is why I am present on the floor or the Senate right now. There are innocent people caught in the web, 4,000 innocent people, and in some cases their spouses. It is not fair for the Federal Government to continue to assist one State, Maine, in collecting State income taxes from New Hampshire workers at the shipyard until the dispute is settled.

So what we have here is the Federal Government taking sides in a dispute. That is unfair. There are a number of other very interesting things about this issue that are unfair.

I appeal to my colleagues to pay close attention because it is a tax fairness issue, not a boundary line dispute. It is a tax fairness issue. We know there is a boundary line dispute. That is obvious. I have just made that very clear in my remarks. There is a dispute.

The question you have to decide today when you vote is, Is it fair that we take sides in this dispute or should we step aside and let this thing be resolved? And then if it turns out that the shipyard is in the State of Maine, withhold the taxes; you have a perfect right to do it. If it turns out it is in New Hampshire, you cannot withhold taxes. But let us not take sides in the meantime, while this is being discussed. That is what my amendment proposes.

Let us discuss these 4,000 people. These are men and women who go to work every day. They are labor union people, my friends on the Democratic side, most of them. They are not rich fat-cat Republicans. They are hardworking men and women, blue collar workers who go to work every day for the Federal Government and do one heck of a job on ship repairs, submarine repairs, and other matters associated with the Portsmouth Naval Shipyard.

The State of Maine withholds $8.8 million a year out of their paychecks, and we do not even have it established that this shipyard is in their State. That is simply wrong. That is the issue before us today. Do you agree that this should be done or do you not?

Now, I am not asking, nor am I commenting, on whether or not we should repeal the tax. I feel we should repeal the tax. That is not the issue before you today. You are not repealing a tax with this amendment. You are simply stating on the record in the Senate that this tax cannot be withheld involuntarily from these paychecks of people who live in New Hampshire and work in a shipyard which is in dispute as to its location. That is the issue. Two thousand two hundred dollars per worker, $8.8 million. This is an average, $2,200 per worker, $8.8 million per year into the Maine Treasury from New Hampshire citizens who are simply working in a shipyard that has always been considered to be in New Hampshire but Maine says it might be in their State. The Federal Government had no business whatsoever being involved in this dispute and withholding these taxes.

I lived this personally, as one of my female employees a few years ago, when I was then a U.S. Congressman representing the district of the Portsmouth Naval Shipyard, she worked for me, and her husband worked at the shipyard. Her income, under another portion of this tax called the spousal tax, was factored into the equation. The tax tables were worked out so that both of those incomes were used to compute the tax, and so not only income that was earned allegedly in Maine but also income that was clearly in New Hampshire was put into the equation. So that Maine imposed a tax on the rate that applies to the joint income of the two people, which is wrong, clearly. That is just another dimension. So in essence, if a woman makes $25,000 a year working somewhere in New Hampshire, and her husband works at the shipyard and makes $25,000 a year, then the tax rate is based on the $50,000 income, not the $25,000. That is wrong.

Mr. President, I am pleased to say that the Department of Treasury by letter dated September 26, 1990, has expressed no objection to this amendment. At that time it was legislation that I had before the Senate. That legislation is this amendment. They have no objection to this legislation. Additionally, the Department of Justice by letter dated October 22, 1990 has made it clear that it never gave direction to the Navy to impose and collect Maine income taxes at the Portsmouth Naval Shipyard.

So let me recap. Justice never gave direction to the Navy to withhold the tax. Treasury has no objection to us suspending the withholding. I ask unanimous consent the two documents be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY
Washington, September 26, 1990.
Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, DC

DEAR MR. CHAIRMAN, This is in reply to your request for the views of this Department on H.R. 4946, introduced by Representative Robert C. Smith, "To amend section 5517 of title 5, United States Code, to prohibit the mandatory withholding of State income taxes by a Federal agency in the case of employees whose regular place of employment is located within a disputed area."

Section 5517 of title 5, United States Code, authorizes the Secretary of the Treasury to enter into agreements with States concerning the withholding of State income taxes with respect to Federal employees. Under an agreement with Maine, Maine income taxes are withheld from Federal employees at the Portsmouth Naval Shipyard. There is a dispute between Maine and New Hampshire concerning the State in which the Shipyard is legally located. H.R. 4946 would preclude any section 5517 agreement from applying when the location of the Federal facility is in dispute.

During our review of H.R. 4946, Representative Smith provided the Department with revised draft legislation (copy enclosed), which would suspend the agreement with Maine with respect to employees at the Shipyard. Although the Department has serious reservations with the broad approach taken by H.R. 4946, the revised draft legislation is narrowly drafted to address only the dispute concerning the Shipyard. As such, we view the revised draft legislation to be in the nature of a private relief bill. The Department has no objections to the approach taken by the revised draft legislation and defers to the Congress on whether it is appropriate to suspend application of the agreement with Maine with respect to Federal employees at the Shipyard.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report.

Sincerely,
JEANNE S. ARCHIBALD,
Acting General Counsel.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC., October 22, 1990.
Hon. ROBERT C. SMITH,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SMITH: This is in response to your letters of September 10 and 19, 1990, concerning the Department of the Navy's withholding of Maine income taxes with respect to the wages paid to residents of the state of New Hampshire who work at the Portsmouth Naval Shipyard.

By letters dated March 16, 1982 and August 6, 1990, the Navy expressed its position that pursuant to federal laws, a 1977 agreement between the Secretary of the Treasury and the state of Maine, and directions of the Attorney General, it is obligated to withhold Maine state income taxes at the Portsmouth Naval Shipyard.

A search of our records indicates that the views of the Department of Justice were expressed by letter dated April 14, 1981. It should be noted that these views concerned the jurisdiction of Maine to tax income earned on federal property within the state of Maine. This department did not express an opinion or give direction that specifically concerned the imposition and collection of

> Maine state income taxes at the Portsmouth Naval Shipyard. A copy of our letter is enclosed.
>
> We also note that the Buck Act (4 U.S.C. 106) and the federal government's withholding authority (5 U.S.C. 5517) apply only to the extent an employee's place of federal employment is "within the State." The withholding agreement between the Secretary of the Treasury and the state of Maine likewise encompasses the same wording provided by the statute.
>
> The New Hampshire/Maine dispute over the Portsmouth Naval Shipyard necessarily involves interpretation of the term "within the State" inasmuch as the tax withholding practice is concerned. If this facility is not within the political jurisdiction of the state of Maine, as you have suggested, then the Navy should reexamine its withholding practice.
>
> Determination of the political jurisdiction is resolvable either through an original action filed in the United States Supreme Court or through an interstate compact approved by Congress. The Department of Justice would take no position on the merits of such a resolution and would advise the Navy to abide by that resolution. Indeed, we note that the Department of the Treasury, by letter dated September 26, 1990, has expressed no objection to legislation suspending application of the agreement with Maine with respect to federal employees at the facility.
>
> Please let me know if you have any questions concerning our views.
>
> Sincerely,
>
> W. LEE RAWLS,
> *Assistant Attorney General.*

Mr. SMITH. Let me quote briefly from the U.S. Department of Justice in a letter to me dated October 22, 1990.

> This Department did not express an opinion or give direction that specifically concerned the imposition and collection of Maine State income taxes at the Portsmouth naval shipyard.

They simply never gave such direction. This is the Department of Justice speaking, not Senator SMITH. This is the Department of Justice of the United States of America.

The Department of the Treasury in a letter dated September 26, 1990, signed by Jeanne Archibald, acting general counsel, said:

> The Department has no objection to the approach taken by the revised draft legislation and defers to the Congress on whether it is appropriate to suspend application of the agreement with Maine and respect to the Federal employees at the shipyard.

It defers to the Congress. That is why I am here. They said we have to settle whether or not we want to suspend the withholding.

That is why I am here. That is why I am asking for your support for this amendment. It is the right thing to do.

Some of my colleagues are going to have a tough decision. I know the majority leader represents the State of Maine, but the right thing to do is to suspend this tax until it is resolved. If it is resolved in favor of the State of Maine, they can withhold their taxes.

(Mr. KERREY assumed the chair.)

Mr. SMITH. Mr. President, I want to make it clear that I am not here to debate the merits of the shipyard. If some take the floor and wish to do that, I would be happy to engage them in debate. But I have tried to point out the historical background of this withholding up to the point where we are now. It is up to the Supreme Court or the two States to work it out in an interstate compact.

As I mentioned before, Maine is reluctant to engage us in an interstate compact, or even to discuss one, which is going to force us through our attorney general in the State of New Hampshire to take this matter to the Supreme Court, which we will do.

I again want to repeat that I do not think this is the time to debate the whole issue of the boundary line, only to point out that it is in dispute.

Mr. President, this is, frankly, a noncontroversial amendment. You have the letter from the Justice Department and the letter from the Treasury Department, both indicating in one way or another that it ought to be before the Congress. If we want to suspend the withholding of the tax, then we have the power do it right here today.

Mr. President, that is the purpose of this amendment.

That essentially concludes my comments for the moment on this matter. I ask for the adoption of the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COHEN. Mr. President, the Senator from New Hampshire says this is not a controversial amendment. Indeed, nothing could be further from the truth. If ever there were a case in which this type of legislation ought not to be considered on an appropriations bill, today is the day.

This is, indeed, controversial because it involves taxes. That is something that is really controversial in New Hampshire. New Hampshire, to say the least, is composed of hard-working people—I concede that to my friend from New Hamsphire—and contentious lot. Certainly, the granite State symbolizes the people of New Hampshire.

This matter at issue in this amendment has been a contention for literally hundreds of years, and was resolved back in 1740 by King George II with respect to setting the boundary lines. The interpretation of the location of certain points along that boundary line has been a matter of dispute since 1740.

So, for the Senator from New Hampshire to suggest this is simply a little amendment which is noncontroversial could not be further from the truth itself.

Mr. President, I would describe this amendment as almost violating the rule against perpetuities where, for the lawyers who might be in the Chamber or who are listening, interest must vest within lives and being plus 21 years. The matter of the boundary between Maine and New Hampshire has been going on for literally hundreds of years and was finally resolved, notwithstanding what the Senator from New Hampshire said, dating back in 1976 with the Supreme Court decision. At that time the dispute arose over lobsters. We nearly had a lobster war between New Hamsphire and Maine because in Maine we tend to have stricter conservation laws pertaining to lobster. They have different sizes in New Hampshire. It was a very serious, contentious issue.

Finally, the two States got together. They had an agreement. They made certain stipulations as to facts. They had a consent decree that went before the Supreme Court. It is interesting to note that after that consent decree was entered, and the agreement was entered, New Hampshire did not like the results. They did not like what happened when the Special Master starting specifically referring to those points of the map itself.

For the Senator to come in and say that all we want to do is have Congress take this issue is inappropriate. The appropriate thing to do would be to have hearings on the Senator's amendment. There have been no hearings on the legislation, not a word of testimony, no new evidence introduced, and we come here at this hour on an appropriations bill to say we simply want to open this matter up to congressional intervention.

The appropriate way to do this is to have a hearing and to introduce the evidence that the Senator from New Hampshire finds so persuasive that would overturn or extend the Supreme Court decision of 1976.

Second—and the Senator is correct in this point—they can go to court. My question is, if New Hampshire has disputed the 1976 ruling of the Supreme Court, why have they not gone to court since that time? Why have they not filed a suit between those years and now and had the issue relitigated before the Supreme Court?

I cannot answer for the Senator from New Hampshire, but if they propose to do so, I would welcome it if they file their lawsuit and once again litigate this boundary dispute—not come before the Senate in the final hours of deliberation upon this appropriations bill and say we would like to have Congress intervene and force Maine to engage in a compact negotiation with the State of New Hampshire.

The right thing to do is not to accept the Senator's amendment. The right thing to do is reject it. The right thing to do is to say that we should have hearings on this particular proposal of the Senator from New Hampshire. If we do not have hearings, the right thing to do is to file a suit and send it through the Federal court system, all the way up to the Supreme Court, so once again the Supreme Court can reaffirm its earlier decision and resolve the issue in favor of Maine.

There may be 4,000 people in New Hampshire who work at that shipyard. I daresay there are as many people working there from Maine. They, just like the New Hampshirites are hard-working, dedicated people who put out a wonderful product in behalf of the people of this country. They, too, are human beings. They, too, have to pay taxes to the State of Maine.

There is one thing that we know that New Hampshire people do not like to do, and that is pay taxes. They have a license plate that is quite familiar to us. It says "Live Free or Die." That is what license plate says. They also mean live free of taxes or die politically, as our colleague from Kansas found out during the last Presidential race.

But on this particular case, these New Hampshire people happen to be working in the State of Maine, as defined in those boundaries of the Supreme Court decision. And as such, they are required to pay Maine taxes. As such, the Federal employer, consistent with the policy followed in many other instances, is withholding the State taxes that are due to the State of Maine.

The Senator from New Hampshire may find that to be unfair in his judgment. I would say there are two ways to try and relieve this situation:

First, hold hearings on the Senator's proposal. Let us take testimony on his amendment. Let us see whether the Supreme Court was in error. Let us see whether or not there is additional evidence.

By the way, regarding the citation of the Library of Congress, the Library of Congress did not say they should go back to Congress. It says:

> Whatever the course of the main channel of navigation, and whatever were the earlier acts of sovereignty that New Hampshire might have exercised over the islands that later comprise of Portsmouth Naval Shipyard, the Court—

It did not say "Congress." It says the "Court"—

> might also probe more recent actions of the two states.

Let me suggest to my friend from New Hampshire that the reason Maine is not eager to be forced into negotiating some kind of a compromise or compact with New Hampshire is, No. 1, it believes that after years, decades, hundreds of years, the issue has in fact been resolved once and for all by the Supreme Court.

Interestingly enough, the advocates in that particular decision involved our colleague from New Hampshire, Senator RUDMAN, and David Souter, now Justice David Souter. They argued that the Master and Special Master in his findings were in error. The Supreme Court overruled their particular objections and affirmed the findings of the Special Master.

So let us not come in here, 15 years later and say, "Well, they made a mistake back in the Supreme Court." The answer is go to the Court or go to Congress in an appropriate fashion, not with an amendment on an appropriations bill, but rather after there has been full and fair and complete debate within the congressional system.

The Senator from New Hampshire has indicated there is not time to argue this dispute about boundaries and this forum. I agree.

So the appropriate thing to do is defer this, to defeat this, and to send it to a committee where we can have the kind of hearings that such an issue warrants. Barring that, if there are no hearings set, then I would recommend that the State of New Hampshire file its lawsuit against the State of Maine and relitigate this issue before the Supreme Court.

The letters from the Justice Department and Treasury Department do not support the Senator's amendment. They, basically, do not endorse Maine policy, and they do not impose Maine policy. They simply say leave it up to Congress.

Well, leave it up to Congress in the appropriate fashion. Make sure that there are full and fair hearings, and a body of evidence that can be presented to the Senate before taking this kind of action.

Mr. President, at the appropriate time, I intend to move to table the amendment of the Senator from New Hampshire. But at this point, I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, in response to my distinguished colleague from Maine, first of all, as the issue of hearings, I would agree, were we to agree to go with the interstate compact concepts so we could get this information out regarding the disputed boundary line. But that is not the issue before us. The issue before us is withholding tax, withholding an income tax, when in fact the location of the site where the taxes are withheld is in dispute. That is the issue.

This is not legislation on an appropriations bill. I cleared this with the Senate Parliamentarian. The Senate Parliamentarian has assured me it is not legislation on appropriation. The amendment specifically says no funds appropriated pursuant to the provisions of this act may be used for the purpose of authorizing or enforcing this agreement. That is what the amendment states. So it is not legislation on appropriation.

Also, I want to point out again that the issue here—in the 1977 Supreme Court decision, the famous lobster case, lobster dispute—the distinguished Senator has not read his history very carefully, nor has he read the case very carefully, because the 1976 litigation between the two States focused on an area that was not the area that we are contending with today. It was on the lateral marine boundary, deep in the mouth of the harbor, where the lobster fishing dispute was dealt with, and there is a map accompanying that decision, which was not a Supreme Court decision. It was settled out by consent decree.

In that decision there is a map, and the map clearly shows that the line stops somewhere in that lateral marine boundary, far away from the area, the Piscataqua River, that is in contention.

The truth of the matter is that this 1976 or 1977 Supreme Court decision did not resolve this disputed area at all. It clearly resolved the area of dispute regarding the lobster fishing, and it stopped, and the line is specified on the map accompanying that decree.

So the 1976 litigation, repeating, from a document which was provided by the Congressional Research Service on April 5, when I asked for an interpretation—and that is all it is—of that decision says:

> The 1976 litigation between the two States focused on the meeting of the middle of the river for the purpose of determining the lateral marine boundary. Although the Court articulated with care where the line began at the coast and how it proceeded with respect to certain marine islands, it did not make similar detailed determinations with respect to the progress of the line as it moved up the river.

This area, again, as the Senator from Maine, [Mr. COHEN], suggested, is an area that we could get into a hearing or in a Supreme Court decision or someplace in the courts. That is correct. The issue, though, before the Congress today is, is it fair to withhold taxes; is it fair for the State of Maine to withhold taxes from New Hampshire workers when this area is in dispute?

We do not have an income tax in the State of New Hampshire, I am pleased to say, and, therefore, we do not retaliate against the State of Maine. We could, if we had an income tax, and I am certainly not going to propose one; I am not in favor of one. So the point is, if we wanted to retaliate by putting a tax on, that could be done, although we have no interest in doing any such thing.

The point is, what do we do now while this matter is in the process of being resolved? That is the issue before us today—not the boundary line dispute.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I hope all the Senators will understand what is at stake in this amendment, because while it may appear to be a controversy involving just Maine and New Hampshire, adoption of this amendment threatens the right of every State to enjoy and exercise its rights under the Constitution, free of this type of unwarranted effort.

Mr. President, under Federal law, there is a procedure for the Secretary of the Treasury to reach agreement with States providing for the withholding of State income taxes in connection with Federal civilian employees. The amendment now pending would prohibit the Treasury Department from withholding any taxes in the case of employees of this shipyard.

Because the shipyard is located in Maine, the State of Maine collects nonresident income taxes from those individuals who worked at the shipyard. Therfore, all persons who work at the shipyard, but who do not live in Maine, are subject to withholding of that income tax.

This affects only those at the shipyard, because it deals with a law dealing only with Federal civilian employees. But as the Senator from New Hampshire knows, every resident of New Hampshire who works in Maine is subject to the Maine income tax. That is true of every State in this country. Every State which has an income tax imposes that tax upon all persons who earn their income within that State, regardless of the place of residence of the person.

The amendment before us is based upon an alleged dispute between the States of Maine and New Hampshire as to the location of their boundary. If such a dispute existed, this appropriations bill is not the proper place to try to settle that dispute. But in fact there is no dispute as to the boundary. This is an alleged dispute by one side which did not like the results of a court case in which they engaged.

This could better be characterized as a "sour grapes" amendment, or a "sore loser" amendment. There is no dispute about the boundary between Maine and New Hampshire; that was settled 251 years ago and confirmed by an agreement between the States of Maine and New Hampshire, and finalized by the Supreme Court of the United States in 1975, which entered the settlement reached between the two States as the proper location and method of determining the boundary.

That was the ruling of the Supreme Court of the United States, and that is where the matter rests today. I repeat: No matter how many times the Senator from New Hampshire gets up and says there is a dispute over the boundary, that does not create a dispute. This is a table before me. If I call it a horse, it does not become a horse, no matter how many times I repeat the allegation.

Of course, there are some who are unhappy with the outcome by which the boundary dispute was settled, and this amendment before us is based on that unhappiness. It would again, prevent the Federal Government, as an employer, from withholding Maine State income taxes from the salaries of Federal employees working in the State of Maine, and at a shipyard which is located in Maine.

Leaving aside the unfounded contention that there is a boundary dispute between the two States—and there is no such dispute—this amendment does not even seek to resolve that dispute. Instead, what it does is ask the Senate to declare one side of the argument victorious and directs the Federal Government to act accordingly even though that side lost in the Supreme Court.

This dispute is between those who want to live in New Hampshire, work in Maine, and not be subjected to Maine income taxes. But that is the law all over this country. If you live in one State and work in another, you pay taxes in the State in which you work. If that State imposes an income tax, you pay taxes on that portion of your income that is earned where you work. Maine has a State income tax system; New Hampshire does not. Everyone who works in Maine has to pay that tax, no matter where they live. The same is true in every other State in this country.

Mr. President, this amendment would not even be considered if the people involved were engaged in private employment. It does not make it valid because the employer is the Federal Government.

I ask Senators to think about this: If States can dictate the tax policies that must follow their residents, wherever their residents work, even outside of their State, think of the fiscal chaos that would result in this country. If every State could say its residents cannot be subject to a tax in another State, even if they work in the other State, think of the chaos that will result.

I want to repeat; the facts are simple. Allegations have been made repeatedly, political allegations by politicians in New Hampshire, that new evidence will be found to alter the boundary between Maine and New Hampshire. No such evidence has come to light. None of the existing facts and agreements have been altered. The boundary under the law is the boundary as it was confirmed by the agreement between the States and entered by the Supreme Court in 1975. Nothing has changed that reality.

This amendment, this amendment, is based on the unfounded allegation that someday, somehow, maybe someone will find some evidence, and that will alter the boundary. It is based on a series of suppositions, each of which is entirely without merit and which in the aggregate are completely without merit.

And it proceeds from these suppositions that are without merit to the very concrete prohibition on the ability of the Federal Government to implement its agreement with Maine, the same agreement it has with every other State where a similar situation exists.

Mr. President, this amendment has no factual basis. This amendment has no moral basis. This amendment has no logical basis. This amendment has no legal basis. Its only basis is political within New Hampshire. There is no boundary dispute between New Hampshire and Maine. That has been settled, legally, finally, and permanently. The only place where a so-called boundary dispute exists is in the minds of a few New Hampshire residents who do not like the results of the final settlement of the boundary.

And I repeat: Every single Senator should consider what he or she is doing when he or she votes on this amendment. If a Senator from a neighboring State can, by merely alleging the existence of a boundary dispute, no matter how devoid of merit, no matter how devoid of substance, if by making an unfounded allegation, a Senator can persuade the Senate to deny to another State its rights under the Constitution and the laws of this country, then no State is safe from this kind of political effort.

So this does not just involve New Hampshire and Maine; this involves every State. And any Senator who votes for this amendment should recognize that he or she may be establishing a precedent which can come back to haunt them, because it could subject his or her State to having its rights undermined by a similar effort by a Senator from a neighboring State.

This amendment does not have merit, and I wish to conclude by reading from the Supreme Court's decision in 1975, and this is from that decision, 426 United States—page 370—Supreme Court.

> New Hampshire and Maine are not here adjusting the boundary between them. The boundary was fixed over 2 centuries ago by the 1740 decree, and the consent decree is directed simply to locating precisely this already existing boundary.
>
> Accordingly, neither State can be viewed as enhancing its power in any sense that threatens the supremacy of the Federal Government. The boundary defined by the proposed decree takes effect not as an allegation of territory, but as a definition of the true and ancient boundary.

The U.S. Supreme Court, 1975.

Mr. President, I will join my colleague from Maine when he moves to table this amendment, and I urge all Senators to join us in tabling this amendment. Not only is it without merit, but here is a tax matter, never having been presented to the Finance Committee, never having had a hearing, coming before the Senate in an effort to persuade Senators to join in this effort.

Every Senator ought to ask himself if they vote for this, their State may be subjected to the same type of effort. We ought not to be passing tax laws without even submitting them through the regular legislative process. We ought not to be passing tax laws without having come kind of examination by the committee of jurisdiction. We ought not to be passing tax laws that are so devoid of merit as is this proposal.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, some response to the distinguished majority leader. This is a rather contentious issue between the two States, and I have tried to point out in my remarks that the issue, as contentious as it is, regarding the boundary line is not the issue before us today.

I would certainly agree, as I stated before, that appropriately the issue should be dealt with in the courts or through some hearings. But to say that the argument for this tax issue has no merit, is not factual, and is indeed not moral, is simply incorrect. It is very simply incorrect.

It is a good legal argument to make, I guess a somewhat intimidating legal argument, to use comments like that to try to intimidate one in a court situation, perhaps a plaintiff or defendant intimidating one or the other in a court of law. But this is not the situation before us at all.

Again, the law that the distinguished majority leader referred to says very clearly, as the majority leader knows and understands full well, that this means that this tax—nobody is arguing whether or not a tax can be assessed when one State's worker works in the other State. That is not the issue at all. It is whether or not the tax can be assessed in a place of Federal employment that is not within the bounds of the State.

Now, if you say it is, and it is in Maine, and you agree that it is, then you can take sides and you can vote against the amendment. I am not trying to take sides. I am simply saying that this tax now is being withheld. It is being withheld from New Hampshire workers, even though this issue is being contested.

And to say that there is no record of this being contested is also wrong. The New Hampshire Legislature, in May of this year, voted formally on the record that the Attorney General proceed to resolve this matter.

The attorney general from the State of Maine and the attorney general from the State of New Hampshire met last year and discussed this matter. The subject of an interstate compact was discussed. It was not resolved, nor was it agreed to. But it was discussed as to how we might proceed on this matter.

Indeed, as of this moment, the attorney general of the State of New Hampshire has this matter before him and has been directed by his legislature and the Governor to move this matter wherever it takes, whether it is the court, the Supreme Court, or an interstate compact.

Again, referring back—and this is very important. I want to take very strong issue to the statement by the majority leader regarding one State should be threatened or feel threatened because of the fact that we could simply arbitrarily say that we are going to claim a piece of land in another State and therefore stop the withholding.

It is hardly arbitrary when you have had 350 years of contention, and it has never been resolved. What is arbitrary about that? It has been going on for 350 years. There is a long history of contention on this issue.

And both Senators from Maine know full well that in 1975, 1976, or 1977—there seems to be some difference of opinion as to when that litigation was. But that litigation—again I repeat—dealt with a lateral marine boundary. The mouth of the harbor is one place, and the lobster fishing in that harbor, and then you move up the river. It did not deal with the upper part of the river.

In order to clarify that and make certain that everybody understood it did not deal with it, they drew a map and they put a line on the map that indicated where this lobster dispute would stop, desist. They drew it and put it on the map to show it. So, the matter was not resolved.

I happen to believe that the yard is in New Hampshire, I am sure the Senator from Maine believes it is in Maine. That is not the issue before us today. The issue before us today is again, do you want to take sides and say that Maine could continue to withhold this tax while this matter is being resolved? That is the issue before us today.

And another issue regarding taxes is the spousal tax, a particularly onerous side tax that is added into this $8 million-plus factor. Is it fair if you are working at a shipyard, even if it is in Maine—even if it is in Maine—and you live in New Hampshire, is it fair that your wife's income, earned in New Hampshire, should be placed in the tax table and computed on Maine's tax table?

Is that fair? If you think that is fair, then vote against my amendment.

That is not fair. Not a nickel of that spousal income was earned in the State of Maine. As a matter of fact, we are encouraging people in some cases to file separately to avoid it when in fact it is much more beneficial to them to file jointly at the Federal level. You cannot file a Federal joint return separately in the State of New Hampshire. You cannot do that. That is unfair and it puts a lot of hard-working families who do not make one heck of a lot of money in a tough situation to have to pay those taxes, and it is plain wrong. That is the issue before us, not the boundary line, but the issue of taxes, unfair taxes.

All I am asking you to do today with this amendment is to decide whether or not the State of Maine should withhold these taxes, not whether or not we should repeal them, withhold them involuntarily on the part of these people until this matter is resolved. That is the real issue before us.

Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I think it is clear from the debate that this is a complex issue. It has been a contentious issue. The Senator from Maine, Senator MITCHELL, and myself believe the issue was resolved finally back in 1976. I would just quote:

> The consent decree therefore proposes a wholly permissible final resolution of the controversy both as to the facts and law.

Final resolution of the controversy. So since 1976 the Supreme Court has said it had been final, and now the Senator from New Hampshire comes in an says it is a matter of dispute and, therefore, let us open it up on the floor of the Senate.

There are two or three options: First, the Senator from New Hampshire can and should go to a congressional committee or, second, go to court. But do not bring a matter of this complexity up on this bill.

Mr. President, I now move to table the amendment of the Senator from New Hampshire and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote ordered on the motion to table the Kohl amendment No. 748 occur today at 7 p.m. and further that, upon disposition of the Kohl amendment, the Senate proceed to vote without intervening action or debate on the Cohen motion to table the Smith amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. The time for the two leaders has been reserved. The Republican leader is recognized.

HIV-INFECTED HEALTH CARE WORKERS DISCLOSURE

Mr. DOLE. Mr. President, the Centers for Disease Control has today published guidelines for health care workers who are infected with the HIV virus. I thank them for their efforts to address this challenging issue.

Included in these guidelines are provisions which recommend the use of universal precautions, such as sterilization of equipment and the careful handling and disposal of needles and other sharp instruments; and which advise health care workers who perform exposure-prone procedures to know their HIV status.

If these workers test positive, then the guidelines suggest they should refrain from performing exposure-prone procedures, until they seek the advice of an expert review panel. If, in fact, they are permitted to continue to do such exposure-prone procedures, CDC then recommends that they notify prospective patients before performing such procedures.

As thorough and far-reaching as these guidelines are, there is still no legal duty for the States to comply with them.

Therefore, Senator HATCH and I will be proposing an amendment which, in effect, will mandate compliance. Under our amendment, States that do not incorporate the requirements into their licensure laws will be prevented from receiving public health grant funds from the Federal Government.

This issue is not an easy one for any of us. Admittedly, we do not know all there is to know about this deadly virus, and I acknowledge that we have to proceed very carefully .

Our amendment does just that. It is not some sort of witch hunt, nor an over reaction. We are simply asking the States to follow the guidelines which have been recommended by the Centers on Disease Control.

AIDS is a national tragedy. This Senator has supported increased funding for AIDS research in the past, and I will continue to do so. All of us here in this Chamber pray for the day when a cure is discovered.

Until that day, however, all of us have a responsibility to take reasonable actions to prevent the spread of AIDS.

Mr. President, I ask unanimous consent that the amendment—I am not going to propose the amendment now—that I have described which will be proposed by myself, Senator HATCH, and probably others on Thursday to the bill now pending be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. —

(Purpose: To require States to adopt the recommendations of the Centers for Disease Control concerning the transmission of the HIV virus by health care professionals to patients.)

At the appropriate place, insert the following new section:

SEC. . (a) Notwithstanding any other provision of law, a State shall, not later than 1 year after the date of enactment of this Act, enact legislation to adopt the guidelines issued by the Centers for Disease Control concerning recommendations for preventing the transmission, by health care professionals, of the human immunodeficiency virus and the hepatitis B virus to patients during exposure-prone invasion procedures. Such legislation shall apply to health professionals practicing within the State and shall incorporate such recommendations into the health professional licensing laws of the State.

(b) Except as provided in subsection (c), if a State does not enact the legislation required under subsection (a) within the 1-year period described in such subsection, such State shall be ineligible to receive assistance under the Public Health Service Act (42 U.S.C. 301 et seq.) until such legislation is enacted.

(c) The Secretary of Health and Human Services shall extend the time period described in subsection (a) for a State, if the State legislature of such State meets on a biennial basis and has not met within the 1-year period beginning on the date of enactment of this Act.

THE 75TH ANNIVERSARY OF THE BOEING CO.

Mr. DOLE. Mr. President, today, is Boeing's 75th anniversary, a remarkable success story in which Kansas has proudly played a major role.

While the Seattle-based aerospace giant became famous for its unrivaled production of commercial aircraft, it is Boeing's Wichita plant that led the way when it came time to roll out America's airborne arsenal of democracy. The superb Wichita work force has built more than 15,000 aircraft during the past 50 years, many of them directly responsible for defeating the forces of tyranny around the globe. For most of the 20th century, the worst letter in the alphabet for America's enemies has been the letter B—as in B-17, B-29, and B-52.

When America went to war in 1941, most of our young pilots learned to fly in B-1 plane trainers built in Wichita.

Later, these same pilots would be taking off from airbases in every corner of the world, flying the famous Boeing bombers that helped win the war in Europe and the Pacific. By the end of World War II, Wichita was cranking out more than four bombers a day, setting sky-high standards for production efficiency.

But the end of the war did not signal the end of Wichita's frontline defense role. By the early 1950's, there were disturbing new challenges—Korea, the cold war, and the growing Soviet threat. The men and women on Boeing's production line in Wichita responded by tooling up to build the B-47 bomber, America's first strategic jet bomber. Two years later, it launched a historic new project, the B-52, the mighty backbone of our airborne strategic deterrent—then, and now.

When America had to go to war in the Persian Gulf, the good work at Wichita's Boeing plant again paid big dividends, as the B-52 and the KC-135 tanker became real heavyweights in the smashing allied victory over Saddam Hussein's vaunted military machine.

The KC-135, thanks to an ambitious 5-year modernization program in Wichita, became the Middle Eastern backbone for history's greatest display of airpower, keeping our fighters in the air, and in Saddam's face, 24 hours a day.

Meanwhile, there has been plenty of topnotch commercial jetliner work also going on in the air capital. In fact, Boeing of Wichita recently completed work on a very special 747—it is called Air Force One.

Kansas is proud of its status as headquarters to America's aircraft industry, and the thousands of highly skilled workers who get the job done day after day—year after year—building everything from private planes to high technology bombers.

In both peace and war, Boeing and Kansas have been a winning combination. On Boeing's 75th anniversary, I know all my colleagues join me today in saying thanks for a job well done—keep flying high.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that I may proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DECISION NOT TO ADJUST THE 1990 CENSUS

Mr. AKAKA. Mr. President, today the administration has turned its back on more than 5 million Americans, most of whom are minorities, many of whom are poor, disadvantaged, and even homeless.

I am referring to today's decision by Secretary of Commerce Robert Mosbacher to allow our country to go forward with an inaccurate 1990 census. The postenumeration survey for the census shows that approximately 5 million Americans were not counted. Most of them are blacks, Hispanics, Asian-Pacific islanders, and native Americans.

Sadly, the administration has chosen to ignore these Americans by deciding not to adjust the 1990 census.

Once again, the administration is turning its back on minorities. Minorities make up 25 percent of the total U.S. population. Yet, Mr. President, they comprise almost 60 percent of those not counted in the 1990 census. Today, the administration had the opportunity to rectify this inequity. It chose not to.

In the eyes of the administration, these people do not exist. I am not surprised. For 10 years, two administrations have been turning back the clock on civil rights and ignoring our Nation's neediest. This is one more example of this distressing tendency.

When it comes to the census, many things are at stake, including the readjustment of congressional, State, and local districts. But for most of those who were not counted, the most important function of the census is that it helps direct vital Federal resources in an equitable fashion, especially to the neediest members of our population.

As a result of the postenumeration survey, we know that the census missed 5 million Americans. We know that minorities were disproportionately undercounted. And today, we have found out that they will be shortchanged by the administration.

Mr. President, to allow the census to go uncorrected undermines the very purpose of our national population count. That is why I have cosponsored legislation introduced by the senior Senator from New York [Mr. MOYNIHAN] that would mandate an adjustment to the census. His enlightened legislation gives me a glimmer of hope that we can overturn the administration's decision.

And speaking of hope, Mr. President, I want to point out one person in the administration who has been the lone Point of Light in this census storm cloud. I want to praise Barbara Bryant, the Director of the Bureau of the Census.

As the person closest to both the census and the postenumeration survey, she has courageously disagreed with the administration's decision to scrap the postenumeration survey. Barbara Bryant has displayed both integrity and courage by urging that these 5 million Americans be counted.

To the Secretary of Commerce and others in the administration, there may only be 248 million Americans, but to Barbara Bryant and many of us in Congress and in minority and urban communities throughout our Nation, there are more than 253 million Americans.

So, while most of the administration will continue to pretend that this segment of our population does not exist, it will be up to us in Congress to address their needs.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

AMENDMENT NO. 748

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table the Kohl amendment No. 748. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Iowa [Mr. HARKIN], and the Senator from West Virginia [Mr. ROCKEFELLER], are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Oklahoma [Mr. NICKLES], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 78, nays 16, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—78

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Ford
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Murkowski
Packwood
Pressler
Reid
Riegle
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—16

Akaka
Conrad
Dixon
Exon
Fowler
Glenn
Gore
Kohl
Metzenbaum
Moynihan
Nunn
Pell
Robb
Simon
Wellstone
Wirth

NOT VOTING—6

Biden
D'Amato
Harkin
Nickles
Pryor
Rockefeller

So the motion to table the amendment (No. 748) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 733

The PRESIDING OFFICER. Under the previous order, the question is on a motion to table the Smith amendment No. 733. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Iowa [Mr. HARKIN], and the Senator from West Virginia [Mr. ROCKEFELLER], are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO] and the Senator from Oklahoma [Mr. NICKLES], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 22, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—72

Adams
Akaka
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—22

Bond
Brown
Burns
Coats
Cochran
Craig
Dole
Garn
Gramm
Grassley
Hatch
Helms
Kasten
Lott
Mack
Pressler
Roth
Rudman
Simpson
Smith
Symms
Wallop

NOT VOTING—6

Biden
D'Amato
Harkin
Nickles
Pryor
Rockefeller

So the motion to table the amendment (No. 733) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agree to.

AMENDMENT NO. 751

Mr. DECONCINI. Mr. President, in accordance with the unanimous-consent agreement, I send a technical amendment to the desk on behalf of the Senator from New Mexico and myself and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. DOMENICI, proposes an amendment numbered 751.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 10, strike the first sum named and insert in lieu thereof, "$4,037,836,276".

On page 44, line 10, in lieu of the sum inserted, insert the following "$4,037,836,276".

Mr. DECONCINI. Mr. President, this only changes some numbers in the GSA account that were brought to our attention. It is purely a technical amendment. I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 751) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, in accordance with the unanimous-consent agreement that we are operating under on the Treasury-Postal bill, I ask unanimous consent that the managers' further technical amendments, if there be any, next in order on the list of amendments, be in order on Thursday following the Helms amendment with respect to child pornography.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I rise in support of the committee amendment to the Secret Service portion of title I of the bill. That language would extend last year's appropriation for protection of the President at his summer White House to include that portion of Pease Air Force Base, NH, through which the President regularly travels on his trips to Kennebunkport.

Mr. President, earlier this year, I wrote the Secret Service, asking for a legal opinion on the question of whether last year's appropriation for local protection of the President might extend to these New Hampshire facilities. I ask unanimous consent that the text of my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 25, 1991.

Hon. JOHN R. SIMPSON,
Director, Secret Service, Washington, DC.

DEAR MR. SIMPSON: The Treasury-Postal Appropriations Act for fiscal year 1991, Public Law 101-509, sets aside $300,000 for "the protection of one nongovernmental property designated by the President of the United States under the provisions of section 12 of the Presidential Protection Assistance Act of 1976 * * *"

It is my understanding that this language has been interpreted to provide funds not only for the jurisdiction of Kennebunkport, but also other jurisdictions such as Kennebunk whose proximity to the summer White House places additional demands on their law enforcement facilities.

I would like to call your attention to the fact that the communities of Portsmouth, Newington, and Rockingham County, New Hampshire, face similar law enforcement demands because they contain landing facilities for virtually every presidential visit to the summer White House. Furthermore, unlike Kennebunkport, these New Hampshire jurisdictions enjoy none of the financial benefits which come from having the President's residence within their jurisdictions.

As a result, I am writing to request that you investigate whether Portsmouth, Newington, and Rockingham County could qualify for assistance under Public Law 101-509. While I understand your fear of opening a "Pandora's Box," I would point out the President uses the law enforcement resources of our jurisdictions virtually every time he travels to Kennebunkport. Therefore, all of the legal and factual rationales for providing funds for Kennebunk and neighboring communities would seem to apply with equal force in our case. No other communities are taxed in quite the same way.

I appreciate your careful attention to this request and look forward to cooperating with you in trying to reach an acceptable resolution in this case.

With warm regards,

BOB SMITH,
U.S. Senator.

Mr. SMITH. Mr. President, on June 14, 1991, John R. Simpson, Director of the Secret Service, wrote me a letter expressing the opinion that Newington, NH, and other New Hampshire jurisdictions would not be entitled to funding under last year's language. Pursuant to this letter, it had been my intention to offer an amendment to the Treasury-Postal appropriations bill, clarifying congressional intent with respect to appropriate uses of this set-aside. This procedure would have allowed the Senate to debate the issue.

My senior colleague on the Appropriations Committee, Senator RUDMAN, has obviated the necessity for my amendment by adding language in committee which would allow Newington and other New Hampshire jurisdictions to be reimbursed for expenditures made in protecting the President. I commend Senator RUDMAN for his work in connection with this issue, and lend my strong support to his efforts.

And so, Mr. President, I lend my wholehearted support to the Secret Service language contained in the committee amendment, and I urge the adoption of the amendment.

Mr. LEVIN. Mr. President, I would like to ask a question of the bill manager, the chairman of the Subcommittee on Treasury, Postal Service, General Government.

As the chairman knows, traffic at the United States-Canada border has nearly doubled in the past 5 years. The United States-Canada Free-Trade Agreement, and a recent increase in the Canadian sales tax, in particular have contributed to this dramatic increase in traffic at the border.

Unfortunately, the Customs Service staffing has not come close to keeping pace. Staff levels have remained constant while traffic has almost doubled. Not surprisingly, border crossings in Michigan are plagued with chronic delays. Truck delays alone at the Blue Water and Ambassador Bridges in Michigan cost over $11 million last year. A recent study jointly commissioned by the Michigan Department of Transportation and the Ontario Ministry of Transportation concluded that insufficient Customs Service staff was one of the principal causes of delays at the St. Clair and Detroit Rivers border crossings.

On May 8, the entire Michigan delegation sent a letter to Commissioner Hallett asking her to address these staffing shortages which are costing the State so dearly in delays and lost sales and have diminished our ability to attract new businesses to the State. To date, we have not received a response from the Commissioner.

As a result, the House appropriations bill provides eight additional Customs Service positions at the Blue Water Bridge.

My question to my colleague is whether he will consider the House language in conference and will make every effort to relieve the shortage at other Michigan-Ontario bording crossings.

Mr. DECONCINI. I appreciate knowing of the need along the Michigan-Ontario border and will look into it and do what I can in conference to address this matter.

Mr. LEVIN. I thank my colleague for his help.

Ms. MIKULSKI. Mr. President, as a member of the Treasury Appropriations Subcommittee, I want to extend special thanks and congratulations to the chairman of the subcommittee, Senator DECONCINI, and the ranking minority member, Senator DOMENICI, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget.

LAW ENFORCEMENT

As always, Chairman DECONCINI has recognized in this bill the importance of our Treasury law enforcement agencies: Bureau of Alcohol, Tobacco and Firearms, Customs Service and Secret Service. This bill gives these agencies the resource they will need to continue protecting the public against drug lords, gun runners, counterfeiters, and other dangerous criminals. And we need their protection today more than ever.

BALTIMORE-WASHINGTON FEDERAL PAY

During fiscal year 1991, the President granted geographic pay adjustments to Federal employees in the New York, San Francisco and Los Angeles areas. However, I am concerned that there are considerable pay disparities in other areas of the country as well, including the Baltimore-Washington area.

I have included report language with this bill which instructs the Director of the Office of Personnel Management to consider the problems facing other high-cost areas of the country. The report language also instructs the Director of OPM to recommend to President Bush that he grant additional pay increases in the high-cost areas.

Mr. President, I want to take this opportunity today to urge President Bush to recognize the tough day-to-day realities faced by Federal employees in the Baltimore-Washington area. An April, 1991 GAO report indicated disparities between Federal pay and private sector pay of 20 percent in the Washington, DC area and 18.5 percent in the Baltimore, MD area.

But while Federal employees earn less here on average than their counterparts in the private sector, they don't pay less for housing, groceries, tuition, or medical care. Instead, they just dig a little deeper and squeeze a little harder.

These employees turn the H.R. this and S. Res. that that we adopt here in the Senate into action that makes a real difference in people's everyday lives. They do research on life-threatening diseases. They make sure the Social Security checks get out on time. They give us advance warning of hurricanes and other natural disasters. And during Operation Desert Storm, they made sure our troops had the bullets and bandages they needed to get the job done.

I'd like to see to it that these dedicated public servants make a fair and decent living for themselves and their families. I strongly believe that the Baltimore-Washington area is qualified to receive the pay increase and sincerely hope the President will use the authority provided him in last year's pay reform law, and provide these employees with a pay increase in 1992.

WAGE GRADE EMPLOYEES

Although the Federal Employees Pay Comparability Act of 1990 will benefit a great many Federal employees when it is fully in place beginning in 1994, one significant group of Federal employees do not benefit from this law—Federal wage grade employees. These are the craftspeople and tradespeople who work for the Federal Government. Sometimes they're called blue-collar employees. They're carpenters, painters, electricians and plumbers. They're necessary to the functioning of the Government; we can't do without them.

That's why I included additional report language in the Treasury appropriations bill directing the OPM to study a phaseout of the pay disparity between Federal wage grade employees and their counterparts in the private sector.

BUREAU OF THE PUBLIC DEBT

I also won language in this bill that requires the Treasury Department to help find jobs in other bureaus of the Treasury or other Federal agencies for Bureau of Public Debt employees who do not wish to relocate to West Virginia. I want these employees to know that they can count on me to continue working with my colleagues in the Senate and House, and with the Treasury Department, to make sure that no Bureau employee who does not want to relocate to West Virginia is left without a Federal Government job.

NONPROFIT MAIL

With this bill, the Senate also takes action to protect nonprofit organizations against a steep increase in postage rates. On June 26, I spoke out on behalf of nonprofit organizations in our subcommittee's markup. Nonprofit organizations provide valuable service to the country and play a vital role in our society. I support the longstanding Federal policy which allows these organizations to mail at reduced rates and spend their money helping people, not buying stamps. We need to make sure that America's "thousand points of light" don't have a power failure.

Mr. President, I want to thank Senators DECONCINI and DOMENICI once more for their generosity to me and their willingness to include these important items with this appropriations bill. I urge my colleagues to support the bill, and I yield the floor.

SOURCE TAX

Mr. REID. Mr. President, I have for some time now been fighting against an assault on the fixed incomes of a special group of senior citizens in Nevada, and across the Nation. Certain States in our country tax the retirement pensions of people who do not live within their bounds. For example, someone who worked in California and retired in Nevada must pay taxes on pensions drawn in the State where they spent their working years, rather than the State where they reside—providing their State of residence has an income tax. I know retirees who pay taxes to States regardless of the fact that they do not have the right to vote in that State, and do not benefit from the State services provided there. To prohibit this unfair tax I have offered legislation to prevent States from taxing the pension or retirement income of nonresidents.

I want to point out, however, that my interest in the prohibition of source taxation of retirement income is entirely different from the matter being discussed today. I oppose the source taxation of those on fixed incomes—retired senior citizens. Taxing working people in the States where they earn their wages is not the same thing. These people are willingly working in the States by which they are being taxed. They are using the services of that State on a regular basis and their income is not fixed, as is the case of retired people.

MORNING BUSINESS

Mr. DECONCINI. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,312th day that Terry Anderson has been held captive in Lebanon.

HIV-INFECTED HEALTH CARE WORKERS DISCLOSURE

Mr. HATCH. Mr. President, I applaud the Centers for Disease Control for their publication today of guidelines to prevent the transmission of HIV by health-care workers. I appreciate the work of Dr. Bill Roper, Dr. Jim Mason, and Secretary Sullivan for putting out important guidelines, which I believe help both patients and practitioners.

Specifically, these guidelines encourage health-care workers to adopt certain universal precautions to protect patients and workers from the possible spread of the HIV virus. In addition, these guidelines require health-care workers who test positive for HIV to either refrain from performing exposure-prone procedures or notify prospective patients before performing such procedures.

While these are only guidelines, Senator DOLE and I are anxious to ensure these recommendations are adopted. There are now many examples—too many—of patients being infected with the HIV virus by health professionals who knew they were HIV positive. We know of over 6,000 health professionals, including 700 physicians and 1,350 nurses, who are infected. We do not know how many of them have voluntarily informed their patients of their HIV status. We can only pray that more patients have not been unwittingly infected.

The American people support health-care professionals disclosing this information to their patients. Over 90 percent of our citizens support mandatory disclosure by nurses, physicians, and dentists who are infected with HIV. I believe, as CDC does, that the disclosure must occur when procedures are performed which puts the patient at risk of exposure.

I join Senator DOLE in supporting an amendment to enforce these guidelines. The Dole-Hatch amendment will require each State, as a condition of receipt of Federal public health service funds, to adopt these guidelines in their State licensing laws. We give the States time to adopt them. We give citizens and health care professionals the protection of these guidelines.

I applaud HHS for their actions today and I urge my colleagues to support this amendment. I ask unanimous consent that a summary of the amendment and the text of the guidelines be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE DOLE-HATCH AIDS AMENDMENT

The Dole-Hatch amendment would require that all States adopt the Centers for Disease Control's "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures." These guidelines offer universal precautions for all health-care workers to follow to protect patients and workers from the possible spread of the HIV virus. In addition, these guidelines require health-care workers who test positive for HIV to either refrain from performing exposure-prone procedures or notify prospective patients before performing such procedures.

Under the amendment, States will be required to incorporate these guidelines as part of their State licensing laws. If they do not, States will lose public health service funding.

[Centers for Disease Control, Morbidity and Mortality Weekly Report, July 12, 1991]

RECOMMENDATIONS FOR PREVENTING TRANSMISSION OF HUMAN IMMUNODEFICIENCY VIRUS AND HEPATITIS B VIRUS TO PATIENTS DURING EXPOSURE-PRONE INVASIVE PROCEDURES

[Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, GA]

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(This document has been developed by the Centers for Disease Control (CDC) to update recommendations for prevention of transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV) in the health-care setting. Current data suggest that the risk for such transmission from a health-care worker (HCW) to a patient during an invasive procedure is small; a precise assessment of the risk is not yet available. This document contains recommendations to provide guidance for prevention of HIV and HBV transmission during those invasive procedures that are considered exposure-prone.)

INTRODUCTION

Recommendations have been made by the Centers for Disease Control (CDC) for the prevention of transmission of the human immunodeficiency virus (HIV) and the hepatitis B virus (HBV) in health-care settings (1–6). These recommendations emphasize adherence to universal precautions that require that blood and other specified body fluids of all patients be handled as if they contain blood-borne pathogens (1,2).

Previous guidelines contained precautions to be used during invasive procedures (defined in Appendix) and recommendations for the management of HIV- and HBV-infected health-care workers (HCWs) (1). These guidelines did not include specific recommendations on testing HCWs for HIV or HBV infection, and they did not provide guidance on which invasive procedures may represent increased risk to the patient.

The recommendations outlined in this document are based on the following considerations:

Infected HCWs who adhere to universal precautions and who do not perform invasive procedures pose no risk for transmitting HIV or HBV to patients.

Infected HCWs who adhere to universal precautions and who perform certain exposure-prone procedures (see page 4) pose a small risk for transmitting HBV to patients.

HIV is transmitted much less readily than HBV.

In the interim, until further data are available, additional precautions are prudent to prevent HIV and HBV transmission during procedures that have been linked to HCW-to-patient HBV transmission or that are considered exposure-prone.

BACKGROUND

Infection-Control Practices

Previous recommendations have specified that infection-control programs should incorporate principles of universal precautions (i.e., appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments) and should maintain these precautions rigorously in all health-care settings (1,2,5). Proper application of these principles will assist in minimizing the risk of transmission of HIV or HBV from patient to HCW, HCW to patient, or patient to patient.

As part of standard infection-control practice, instruments and other reusable equipment used in performing invasive procedures should be appropriately disinfected and sterilized as follows (7):

Equipment and devices that enter the patient's vascular system or other normally sterile areas of the body should be sterilized before being used for each patient.

Equipment and devices that touch intact mucous membranes but do not penetrate the patient's body surfaces should be sterilized when possible or undergo high-level disinfection if they cannot be sterilized before being used for each patient.

Equipment and devices that do not touch the patient or that only touch intact skin of the patient need only be cleaned with a detergent or as indicated by the manufacturer.

Compliance with universal precautions and recommendations for disinfection and sterilization of medical devices should be scrupulously monitored in all health-care settings (1,7,8). Training of HCWs in proper infection-control technique should begin in professional and vocational schools and continue as an ongoing process. Institutions should provide all HCWs with appropriate inservice education regarding infection control and safety and should establish procedures for monitoring compliance with infection-control policies.

All HCWs who might be exposed to blood in an occupational setting should receive heptatitis B vaccine, preferably during their period of professional training and before any occupational exposures could occur (8,9).

Transmission of HBV During Invasive Procedures

Since the introduction of serologic testing for HBV infection in the early 1970s, there have been published reports of 20 clusters in which a total of over 300 patients were infested with HBV in association with treatment by an HBV-infected HCW. In 12 of these clusters, the implicated HCW did not routinely wear gloves; several HCWs also had skin lesions that may have facilitated HBV transmission (10–22). These 12 clusters included nine linked to dentists or oral surgeons and one cluster each linked to a general practitioner, an inhalation therapist, and a cardiopulmonary-bypass-pump technician. The clusters associated with the inhalation therapist and the cardiopulmonary-bypass-pump technician—and some of the other 10 clusters—could possibly have been prevented if current recommendations on universal precautions, including glove use, had been in effect. In the remaining eight clusters, transmission occurred despite glove use by the HCWs; five clusters were linked to obstetricians or gynecologists, and three were linked to cardiovascular surgeons (6, 22–28). In addition, recent unpublished reports strongly suggest HBV transmission from three surgeons to patients in 1989 and 1990 during colorectal (CDC, unpublished data), abdominal, and cardiothoracic surgery (29).

Seven of the HCW's who were linked to published clusters in the United States were allowed to perform invasive procedures following modification of invasive techniques (e.g., double gloving and restriction of certain high-risk procedures) (6, 11, 13, 15, 16, 24). For five HCWs, no further transmission to patients was observed. In two instances involving an obstetrician/gynecologist and an oral surgeon, HBV was transmitting to patients after techniques were modified (6, 12).

Review of the 20 published studies indicated that a combination of risk factors accounted for transmission of HBV from HCWs to patients. Of the HCWs whose hepatitis B e antigen (HBeAg) status was determined (17 to 20), all were HBeAg postive. The presence of HBeAg in serum is associated with higher levels of circulating virus and therefore with greater infectivity of hepatitis-B-surface-antigen (HBsAg)-positive individuals; the risk of HBV transmission to an HCW after a percutaneous exposure to HBeAg-positive blood is approximately 30% (30–32). In addition, each report indicated that the potential existed for contamination of surgical wounds or traumatized tissue, either from a major break in standard infection-control practices (e.g., not wearing gloves during invasive procedures) or from unintentional injury to the infected HCW during invasive procedure (e.g., needle sticks incurred while manipulating needles without being able to see them during suturing).

Most reported clusters in the United States occurred before awareness increased of the risks of transmission of blood-borne pathogens in health-care settings and before emphasis was placed on the use of universal precautions and hepatitis B vaccine among HCWs. The limited number of reports of HBV transmission from HCWs to patients in recent years may reflect the adoption of universal precautions and increased use of HBV vaccine. However, the limited number of recent reports does not preclude the occurrence of undetected or unreported small clusters or individual instances of transmission; routine use of gloves does not prevent most injuries caused by sharp instruments and does not eliminate the potential for exposure of a patient to an HCW's blood and transmission of HBV (6, 22–29).

Transmission of HIV During Invasive Procedures

The risk of HIV transmission to an HCW after percutaneous exposure to HIV-infected blood is considerably lower than the risk of HBV transmission after percutaneous exposure to HBeAG-positive blood (0.3% verus approximately 30%) (33–35). Thus, the risk of transmission of HIV from an infected HCW to a patient during an invasive procedure is likely to be proportionately lower than the risk of HBV transmission from an HBeAg-positive HCW to a patient during the same procedure. As with HBV, the relative infectivity of HIV probably varies among individuals and over time for a single individual. Unlike HBV infection, however, there is currently no readily available laboratory test for increased HIV unfectivity.

Investigation of a cluster of HIV infections among patients in the practice of one dentist with acquired immunodeficiency syndrome (AIDS) strongly suggested that HIV was transmitted to five of the approximately 850 patients evaluated through June 1991 (36–38). The investigation indicates that HIV transmission occurred during dental care, although the precise mechanisms of transmission have not been determined. In two other studies, when patients cared for by a general surgeon and a surgical resident who had AIDS were tested, all patients tested, 75 and 62, respectively, were negative for HIV infection (39, 40). In a fourth study, 143 patients who had been treated by a dental student with HIV infection and were later tested were all negative for HIV infection (41). In another investigation, HIV antibody testing was offered to all patients whose surgical procedures had been performed by a general surgeon within 7 years before the surgeon's diagnosis of AIDS; the data at which the surgeon became infected with HIV is unknown (42). Of 1,340 surgical patients contacted, 616 (46%) were tested for HIV. One patient, a known intravenous drug user, was HIV positive when tested but may already have been infected at the time of surgery. HIV test results for the 615 other surgical patients were negative (95% confidence interval for risk of transmission per operation=0.0%-0.5%).

The limited number of participants and the differences in procedures associated with these five investigations limit the ability to generalize from them and to define precisely the risk of HIV transmission from HIV-infested HCWs to patients. A precise estimate of the risk of HIV transmission from infected HCWs to patients can be determined only after careful evaluation of a substantially larger number of patients whose exposure-prone procedures have been performed by HIV-infected HCWs.

Exposure-Prone Procedures

Despite adherence to the principles of universal precaution, certain invasive surgical and dental procedures have been implicated in the transmission of HBV from infected HCWs to patients, and should be considered exposure-prone. Reported examples include certain oral, cardiothoracic, colorectal (CDC, unpublished data), and obstetric/gynecologic procedures (6, 12, 22–29).

Certain other invasive procedures should also be considered exposure-prone. In a prospective study CDC conducted in four hospitals, one or more percutaneous injuries occurred among surgical personnel during 96 (6.9%) of 1,382 operative procedures on the general surgery, gynecology, orthopedic, cardiac, and trauma services (43). Percutaneous exposure of the patient to the HCW's blood may have occurred when the sharp object causing the injury recontacted the patient's open wound in 28 (32%) of the 88 observed injuries to surgeons (range among surgical specialties=8%-57%; range among hospitals=24%-42%).

Characteristics of exposure-prone procedures include digital palpation of a needle tip in a body cavity or the simultaneous presence of the HCW's fingers and a needle or other sharp instrument or object in a poorly visualized or high confined anatomic site. Performance of exposure-prone procedures presents a recognized risk of percutaneous injury to the HCW, and-if such an injury occurs—the HCW's blood is likely to contact the patient's body cavity, subcutaneous tissues, and/or mucous membranes.

Experience with HBV indicates that invasive procedures that do not have the above characteristics would be expected to pose substantially lower risk, if any, of transmission of HIV and other blood-borne pathogens from an infected HCW to patients.

RECOMMENDATIONS

Investigations of HIV and HBV transmission from HCWs to patients indicate that, when HCWs adhere to recommended infection-control procedures, the risk of transmitting HBV from an infected HCW to a patient is small, and the risk of transmitting HIV is likely to be even smaller. However, the likelihood of exposure of the patient to an HCW's blood is greater for certain procedures designated as exposure-prone. To minimize the risk of HIV or HBV transmission, the following measures are recommended:

All HCWs should adhere to universal precautions, including the appropriate use of hand washing, protective barriers, and care in the use and disposal of needles and other sharp instruments. HCWs who have exudative lesions or weeping dermatitis should refrain from all direct patient care and from handling patient-care equipment and devices used in peforming invasive procedures until the condition resolves. HCWs should also comply with current guidelines for disinfection and sterilization of reusable devices used in invasive procedures.

Currently available data provide no basis for recommendations to restrict the practice of HCWs infected with HIV or HBV who perform invasive procedures not identified as exposure-prone, provided the infected HCWs practice recommended surgical or dental technique and comply with universal precautions and current recommendations for sterilization/disinfection.

Exposure-prone procedures should be identified by medical/surgical/dental organizations and institutions at which the procedures are performed.

HCWs who perform exposure-prone procedures should know their HIV antibody status. HCWs who perform exposure-prone procedures and who do not have serologic evidence of immunity to HBV from vaccination or from previous infection should know their HBsAg status and, if that is positive, should also know their HBeAg status.

HCWs who are infected with HIV or HBV (and are HBeAg positive) should not perform exposure-prone procedures unless they have sought counsel from an expert review panel and been advised under what circumstances, if any, they may continue to perform these procedures.[1] Such circumstances would include notifying prospective patients of the HCW's seropositivity before they undergo exposure-prone invasive procedures.

Mandatory testing of HCWs for HIV antibody, HBsAg, or HBeAg is not recommended. The current assessment of the risk that infected HCWs will transmit HIV or HBV to patients during exposure-prone procedures does not support the diversion of resources that would be required to implement mandatory testing programs. Compliance by HCWs with recommendations can be increased through education, training, and appropriate confidentiality safeguards.

HCWS WHOSE PRACTICES ARE MODIFIED BECAUSE OF HIV OR HBV STATUS

HCWs whose practices are modified because of their HIV or HBV infection status should, whenever possible, be provided opportunities to continue appropriate patient-care activities. Career counseling and job retraining should be encouraged to promote the continued use of the HCW's talents, knowledge, and skills. HCWs whose practices are modified because of HBV infection should be reevaluated periodically to determine whether their HBeAg status changes due to resolution of infection or as a result of treatment (44).

NOTIFICATION OF PATIENTS AND FOLLOW-UP STUDIES

The public health benefit of notification of patients who have had exposure-prone procedures performed by HCWs infected with HIV or positive for HBeAg should be considered on a case-by-case basis, taking into consideration an assessment of specific risks, confidentiality issues, and available resources. Carefully designed and implemented follow-up studies are necessary to determine more precisely the risk of transmission during such procedures. Decisions regarding notification and follow-up studies should be made in consultation with state and local public health officials.

ADDITIONAL NEEDS

Clearer definition of the nature, frequency, and circumstances of blood contact between patients and HCWs during invasive procedures.

Development and evaluation of new devices, protective barriers, and techniques that may prevent such blood contact without adversely affecting the quality of patient care.

More information on the potential for HIV and HBV transmission through contaminated instruments.

Improvements in sterilization and disinfection techniques for certain reusable equipment and devices.

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[1] The review panel should include experts who represent a balanced perspective. Such experts might include all of the following: a) the HCW's personal physician(s), b) an infectious disease specialist with expertise in the epidemiology of HIV and HBV transmission, c) a health professional with expertise in the procedures performed by the HCW, and d) state or local public health official(s). If the HCW's practice is institutionally based, the expert review panel might also include a member of the infection-control committee, preferably a hospital epidemiologist. HCWs who perform exposure-prone procedures outside the hospital/institutional setting should seek advice from appropriate state and local public health officials regarding the review process. Panels must recognize the importance of confidentiality and the privacy right of infected HCWs.

Identification of factors that may influence the likelihood of HIV or HBV transmission after exposure to HIV- or HBV-infected blood.

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APPENDIX

Definition of Invasive Procedure

An invasive procedure as defined as "surgical entry into tissues, cavities, or organs or repair of major traumatic injuries" associated with any of the following: "1) an operating or delivery room, emergency department, or outpatient setting, including both physicians' and dentists' offices; 2) cardiac catheterization and angiographic procedures; 3) a vaginal or cesarean delivery of other invasive obstetric procedure during which bleeding may occur; or 4) the manipulation, cutting, or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists."

Reprinted from: Centers for Disease Control. Recommendation for prevention of HIV transmission in health-care settings. MMWR 1987; 36 (suppl. no. 2S):6S–7S.

THE INTERNATIONAL COMMUNITY MUST SPEAK OUT AGAINST REPRESSION IN KOSOVA

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues an article by Peter Maass regarding the Yugoslav province of Kosova that appeared in this morning's Washington Post. During the last several weeks, much attention has been focused on Croatia and Slovenia, the two Yugoslav republics that have declared their independence from the federation, as well as on ethnic tension between Serbs and Croats throughout Yugoslavia.

Mr. Maass correctly points out, however, that a Serbian-sponsored crackdown is also occurring in another part of Yugoslavia, in Kosova, where ethnic Albanians comprise 90 percent of the population. He chronicles the most recent Serbian action to repress the Albanians—by denying them access to the university—and reminds us that "the moves come at the end of a decade-long crackdown in which more than 80 ethnic Albanians have been killed and 11,000 sentenced to jail terms."

I would also note that the article mentions that the Democratic Union of Kosova, the largest Albanian political parties "says that it wants to avoid mass protests that could be crushed by Serbian armed forces. Party leaders are seeking international pressure on Serbia to ease the repression and prevent a potential disaster for their people." Moreover, Radio Free Europe reports that last week, Foreign Minister Kapllani of Albania expressed his concern about the situation in Kosova, saying that repression against Albanians there must become an international issue.

Mr. President, I believe that we should heed the pleas of the democratic forces in Kosova and of Mr. Kapllani by unequivocally condemning Serbian actions against the Albanian people. The issue of Kosova must be part of all internal and international discussions and negotiations on the issue of Yugoslavia's future.

I ask unanimous consent that the entire Washington Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 15, 1991]

SERBIANS PRESSING ETHNIC ALBANIANS IN UNEASY KOSOVO

(By Peter Mass)

PRISTINA, YUGOSLAVIA.—Serbia, the dominant republic of the Yugoslav federation, is bolstering a crackdown on ethic Alabanians in Kosova by sending more security forces into the volatile province and excluding students and professors from the main university here, according to Serbian officials.

Although Croatia and Slovenia have captured international attention, Kosovo is also an ethnic hotbed of anti-Serbian sentiment and could become a second front if fullfledged combat occurs in the northern republics. Ethnic Albanians here are just as determined as the Croats and Slovenes to find a way out of Serbian-dominated Yugoslavia, but they are far weaker, politically and militarily.

Serbia's moves appeared to be aimed at stemming secessionist pressures in a province where the vast majority clearly is dissatisfied with the status quo.

Zivorad Igic, a senior official of the ruling Socialist Party of Serbia, said additional forces and police have entered Kosovo since the independence declarations by Croatia and Slovenia last month, although he would not say how many or from what units.

Armed patrols and roadblocks have increased, becoming as prevalent as stop signs and traffic lights, according to ethnic Albanians here in Kosovo.

[In Croatia, the Associated Press reported from Zagreb, the republic's militia and Serbian militants battled Sunday in clashes that left at least two dead and many wounded in the Banija region, about 30 miles south of the Croatian capital.

[The violence came after the federal government, Croatia and Slovenia gave final approval for unarmed European Community observers to monitor a truce between the national army and the militias of the two secessionist republics.]

The situation here in Kosovo became more tense—and drew fury from neighboring Albania—with the annoucement by Serbian authorities that freshmen enrollment at the University of Kosovo will be cut by more than two-thirds to 3,000. Half of those places will be reserved for Serbo-Croat speakers, even though about 90 percent of Kosovo's 2 million people are ethnic Albanians who speak Albanian.

Albanians here say the Serbians aim to force them out of the university now, eventually, out of Kosovo. Until now, the university was the heart of what remained of Kosovo's Albanian culture and freedom during an era that the locals view as military occupation. It was also the place that Serbian officials pointed to when they told human rights investigators that ethnic Albanians were not being repressed.

"It is the center of our culture and spirit," said Jusuf Buxhovi, a leading politician and historian.

At the end of June, Serbia's government in Belgrade took direct control of the university and replaced its rector with a non-Albanian, who has begun firing Albanian professors. According to Gazmend Pula, an Albanian engineering science professor and member of the Yugoslav Helsinki Watch Committee, about 30 of the university's most prominent Albanian professors were fired last week, and more dismissals are expected.

Serbian officials announced that the university's name is to be changed, and they say it probably will be named after St. Sava, a Serb. It is a gesture that Albanians view as an intentional insult, an act of what one professor calls "Serbian triumphalism." Some Albanian-language books are said to have been removed from the library shelves.

"Tensions have been running very high and will be even higher in September." said Pula, referring to the start of the school year. "If this trend continues, it won't be long until things explode into an open conflict."

Igic, the Serbian socialist, said the changes are part of a "rationalization" program aimed at bringing the university closer into the Serbian educational system. Asked if the shifts amount to a stepped-up Serbianization of Kosovo, he replied, "Absolutely."

The moves come at the end of a decade-long crackdown in which more than 80 ethnic Albanians have been killed and 11,000 sentenced to jail terms, according to Helsinki Watch, a human rights group. A Special Circumstances Law passed by the Serbian Assembly in June 1990 created an undeclared state of emergency, according to a Helsinki Watch report, and led to the disbandment of the Kosovo legislature a few days later.

In practical terms, that meant the end of Kosovo's autonomous status within the Serbian republic. Serbians now run the local government, the police force and virtually all key factories and businesses, according to Serbians and Albanians. More than 70,000 ethnic Albanians have been fired from their jobs, said Pula of Helsinki Watch.

The roots of the Kosovo conflict extend far into the past, which is the direction many Yugoslavs look at when discussing modern problems. Serbians regard Kosovo as their historical heartland, the seat of a great medieval kingdom that Serbian children learn about in grade school. Even though Albanians have lived here for centuries, and few Serbs now call it home, Kosovo is portrayed as inseparable from Serbia.

"Everybody is free to leave but nobody is going to take an inch of Serbian land," said Igic.

Because Serbia's Slavic grip is tightening rather than loosening, the Albanians are looking for a way out. Local leaders say public opinion has swung firmly behind the idea of secession from Yugoslavia to unite with Albania, which is no longer Stalinist.

The Democratic Union of Kosovo, the largest Albanian political party, says it wants to avoid mass protests that could be crushed by Serbian armed forces. Party leaders are seeking international pressure on Serbia to ease the repression and prevent a potential disaster for their people.

The crackdown has raised new tensions between Serbia and Albania, which borders on Kosovo. The Albanian government has accused Serbia of planning genocide. This month Albania sent protest letters to the European Community, the permanent members of the U.N. Security Council and to the 35-nation Conference on Security and Cooperation in Europe.

The Serbian government responded a few days ago by accusing Albania of trying to provoke an armed conflict and capture Kosovo, saying minorities in Serbia enjoy freedoms unparalleled anywhere else in the world. Serbian authorities also accused Albania of beefing up its border forces and starting an exchange of rifle fire with Yugoslav soldiers early last week.

Albanian leaders in Pristina say they will look to Albania for political and military support if, as they fear, Serbian or federal troops initiate violent hostilities.

"We will wait for our chance," said Avni Spahiu, foreign editor of the Albanian-language newspaper Rilindja, which was closed last year by Serbia along with Kosovo's Albanian-language broadcasting. "We are for dialogue and a peaceful solution. But in the end, if this terror continues, we will have to defend ourselves."

ASHA JAINI

Mr. CRANSTON. Mr. President, it is with great sadness that I rise today to pay tribute to a young woman, Asha Jaini, who served on my staff. Asha Jaini died in a tragic accident earlier this month.

The Senate and the Nation are greatly served by the many talented and creative young people who come to Washington to work on public policy issues. We are immeasurably enriched by their contributions and commitment to public service. Asha Jaini was one of those talented young people.

Everyone who worked with Asha and whose life she touched knew that she was a very special person. Asha's parents immigrated to the United States from their native India in order to give Asha and her brother the opportunities and future that America offers. They ultimately settled in California. Her brother became a physician who now practices in northern California. Asha graduated from the University of California at Berkeley in 1980 with a degree in social welfare and went on the earn a law degree from American University in 1984.

Blessed with the talent and ability to succeed at anything, Asha chose a life dedicated to public service, chose to express her concern for people and issues of social justice by working for the welfare of those less fortunate.

Prior to joining my staff in 1989, Asha worked with the Neighborhood Legal Services Program in the District of Columbia and with Montana Legal Services Association, serving as an attorney/adviser to tribal court personnel on the Northern Cheyenne and Crow Indian Reservations and working with other low-income clients in Montana.

Her work continued in this spirit when she joined my staff in 1989, serving as my legislative assistant for human services issues, refugee and immigration reform, and finally, health care issues. In her free time, she helped found the Congressional Asian Pacific American Staffers Association and the Conference on Asian Pacific American Leadership.

Mr. President, Asha left my staff earlier this year to return to California to accept a position in the San Francisco city attorney's office. At the time of her death, she was preparing to take the California bar examination. She remained in close contact with my staff, and we all expected Asha to continue her commitment to public service.

Asha Jaini was 32 years old. She was a grifted, talented person. We will miss her greatly. Our hearts go out to her family and loved ones.

A memorial service for Asha will be held on Wednesday evening, from 6 to 7 p.m. in the Mansfield Room of the Capitol, S207. It is open to all Senate staff and friends who worked with Asha.

STOP SENDING ARMS TO THE GULF

Mr. CRANSTON. Mr. President, if we are serious about arms control, we must recongnize that long-awaited United States-Soviet arms reduction agreements are not enough. The rapid-fire proliferation of conventional and nonconventional weapons poses a serious threat the global stability.

I am particularly concerned that the administration is shepherding a multilateral effort to restrain the flow of arms to the Middle East at the same time it is selling hundreds of millions of dollars worth of lethal equipment to that region.

Who are we kidding here? There is little hope that other major suppliers will heed our advice on Middle East arms sales if we continue to arm the region ourselves.

A distinguished group of Senators has joined me in urging the President to hold off on the latest proposed sale of Apache helicopters and Hellfire missiles to the United Arab Emirates on the grounds that our efforts to create an arms control regime for the region are merely empty gestures if we proceed.

Our letter urges that Mr. Bush withold issuance of a letter of offer to the UAE until he has made a good-faith effort to secure the agreement of other suppliers not to make such a sale to the UAE and other regional states.

This arms sale to the UAE is particularly galling. I am deeply troubled by recent reports about the connection between the UAE and the Bank of Credit and Commerce and International, a shady international drug-money laundering operation. The principal shareholder of the notorious BCCI is UAE President Sheik Zayad bin Sultan al-Nahayan.

Can we be certain that money bilked from thousands of BCCI depositors who have been bankrupted by the bank is not now being used to pay for these weapons? Before this sale goes any further the administration should make a determination as to whether drug profits accruing to the Sheik or the UAE are being used to finance the sale.

The official deadline for expedited consideration of a resolution of disapproval on the UAE arms sale may have passed, but momentum in the Senate against arms sales to the region.

Thirty senators have cosponsored a resolution of disapproval that I have introduced on the sale of Apache helicopters and Hellfire missiles, and many others have indicated their opposition to the sale. Only inaction in the House precluded our taking up the resolution of disapproval here in the Senate.

I know there are bigger sales down the road and I urge the administration to defer proposing these transfers of sophisticated weaponry to the Middle East, a region already top-heavy with the instruments of death.

Mr. President, on behalf of this coalition of Senators who want to put a stop to the international arms race once and for all, I am putting the administration on notice. These arms sales must not fly.

I ask unanimous consent that a copy of this letter to President Bush be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 15, 1991.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As you may be aware, joint resolutions of disapproval have been introduced in both the Senate and the House of Representatives to prohibit the sale proposed by the administration to the United Arab Emirates of 20 Apache attack helicopters, 620 Hellfire missiles and related equipment, support, and services.

Regardless of whether Congress acts on this, this remains a serious problem that, we believe, needs to be addressed immediately.

We recognize that some would agree with the administration that there is a defensible military purpose for this equipment, given the vulnerability of and threats to the United Arab Emirates' oil platforms in the Gulf. Moreover, we understand that the Emirates supported the forward-deployments in the war zone, created bases to facilitate U.S. deployments, volunteered other locations, and were among the first to pay their Desert Storm financial obligation, including $500 million to the United Kingdom and $2 billion to Egypt and Turkey.

We note, however, that the equipment proposed for transfer is the most sophisticated and lethal of its type in the United States arsenal, and it is precisely the kind of equipment the 22 nations involved in the CFE process thought it imperative to limit and control in the European theater. A number of experts believe, in the aftermath of the Gulf war, that prospects for stability and movement toward a lasting peace in the region could be enhanced if there could be a major suppliers agreement not to transfer the most sophisticated and lethal weapons systems into the region.

We commend your own initiative to bring about serious efforts by the major suppliers to foster a Middle East arms restraint regime. Frankly, we are concerned that this proposed sale and others now being contemplated by the administration could doom the suppliers effort to failure before it has a chance to demonstrate any prospects for success. Certainly, major arms sales now by the United States and other allies in a new competition would make suppliers conferences to control arms but empty gestures.

Accordingly, we urge, first, that you withhold issuance of a letter of offer to the United Arab Emirates until the United States has made a good-faith effort to secure the agreement of other suppliers not to make such a sale to the United Arab Emirates and other regional states.

Second, we urge that you direct the Departments of State and Defense to work with the United Arab Emirates to identify other, non-escalatory means of ensuring satisfactory defenses.

Finally, we urge that you defer proposing sales of highly sophisticated and capable weapons systems that could destabilize the balance in the region and provoke arms escalation until you have ascertained how much success you can expect in your negotiation with other major arms suppliers.

Sincerely,

Alan Cranston, Paul S. Sarbanes, Paul Simon, Christopher J. Dodd, Brock Adams, Claiborne Pell, James M. Jeffords, Harris Wofford, Charles E. Grassley, Daniel K. Akaka.

Jeff Bingaman, Kent Conrad, Thomas A. Daschle, Tom Harkin, Howard M. Metzenbaum, Arlen Specter, Frank R. Lautenberg, Dale Bumpers, Alfonse M. D'Amato, Bob Graham, Edward M. Kennedy, Barbara A. Mikulski, Paul Wellstone.

VIOLENT CRIME CONTROL ACT

The text of S. 1241, the Violent Crime Control Act, as passed by the Senate on July 11, 1991, is as follows:

S. 1241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Biden-Thurmond Violent Crime Control Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—SAFER STREETS AND NEIGHBORHOODS

Sec. 101. Short title.
Sec. 102. Grants to State and local agencies.
Sec. 103. Continuation of Federal-State funding formula.
Sec. 104. Grants for multi-jurisdictional drug task forces.

TITLE II—DEATH PENALTY

Sec. 201. Short title.
Sec. 202. Constitutional procedures for the imposition of the sentence of death.
Sec. 203. Specific offenses for which death penalty is authorized.
Sec. 204. Applicability to Uniform Code of Military Justice.
Sec. 205. Death penalty for murder by a Federal prisoner.
Sec. 206. Death penalty for civil rights murders.
Sec. 207. Murder involving firearm.
Sec. 208. Drug-related homicides in the District of Columbia.

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT

Sec. 301. Death penalty for the murder of Federal law enforcement officials.
Sec. 302. Death penalty for the murder of State officials assisting Federal law enforcement officials.

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

Sec. 401. Short title.
Sec. 402. Death penalty for drug kingpins.

TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS

Subtitle A—Aviation Terrorism

Sec. 501. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
Sec. 502. Amendment to Federal Aviation Act.
Sec. 503. Preventing acts of terrorism against civilian aviation.

Subtitle B—Maritime Terrorism

Sec. 511. Short title for subtitle B.
Sec. 512. Findings.
Sec. 513. Statement of purpose.
Sec. 514. Offenses of violence against maritime navigation or fixed platforms.
Sec. 515. Clerical amendments.
Sec. 516. Effective dates.
Sec. 517. Territorial sea extending to twelve miles included in special maritime and territorial jurisdiction.
Sec. 518. Assimilated crimes in extended territorial sea.
Sec. 519. Jurisdiction over crimes against United States nationals on certain foreign ships.

Subtitle C—Terrorism Offenses and Sanctions

Sec. 521. Torture.
Sec. 522. Weapons of mass destruction.
Sec. 523. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 524. Penalties for international terrorist acts.
Sec. 525. Terrorist Death Penalty Act.

Subtitle D—Preventing Domestic and International Terrorist Acts

PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS

Sec. 531. Providing material support to terrorists.
Sec. 532. Forfeiture of assets used to support terrorists.

PART II—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS

Sec. 541. Short title.
Sec. 542. Alien witness cooperation.
Sec. 543. Conforming amendment.

Subtitle E—Preventing Economic Terrorism

Sec. 551. Counterfeiting United States currency abroad.
Sec. 552. Economic terrorism task force.

Subtitle F—Authorizations To Expand Counterterrorist Operations by Federal Agencies

Sec. 561. Authorizations of appropriations.

TITLE VI—DRIVE-BY SHOOTING ACT

Sec. 601. Short title.
Sec. 602. New offense for the indiscriminate use of weapons to further drug conspiracies.

TITLE VII—ASSAULT WEAPONS

Sec. 701. Short title.
Sec. 702. Unlawful acts.
Sec. 703. Definitions.
Sec. 704. Secretary to recommend designation as assault weapon.
Sec. 705. Enhanced penalties.
Sec. 706. Disability.
Sec. 707. Study by Attorney General.
Sec. 708. Penalties for improper transfer, stealing firearms, or smuggling an assault weapon in drug-related offense.
Sec. 709. Sunset provision.

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

Sec. 801. Short title.
Sec. 802. Purposes.
Sec. 803. Establishment of Office of the Police Corps and Law Enforcement Education.
Sec. 804. Designation of lead agency and submission of State plan.

Subtitle A—Police Corps Program

Sec. 811. Definitions.
Sec. 812. Scholarship assistance.
Sec. 813. Selection of participants.
Sec. 814. Police corps training.
Sec. 815. Service obligation.
Sec. 816. State plan requirements.
Sec. 817. Authorization of appropriations.

Subtitle B—Law Enforcement Scholarship Program

Sec. 821. Short title.
Sec. 822. Definitions.
Sec. 823. Allotment.
Sec. 824. Program established.
Sec. 825. Scholarships.
Sec. 826. Eligibility.
Sec. 827. State application.
Sec. 828. Local application.
Sec. 829. Scholarship agreement.
Sec. 830. Authorization of appropriations.

Subtitle C—Reports

Sec. 831. Reports to Congress.

TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991

Sec. 901. Short title.
Sec. 902. Rights of law enforcement officers.

TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES

Sec. 1001. Short title.
Sec. 1002. Authorization for Federal law enforcement agencies.
Sec. 1003. Authorization of funds for construction of a United States Attorneys' Office in Philadelphia, Pennsylvania.
Sec. 1004. Court to be held at Lancaster.

TITLE XI—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 1101. Short title.
Sec. 1102. Period of limitation.
Sec. 1103. Appeal.
Sec. 1104. Amendment to Rules of Appellate Procedure.
Sec. 1105. Section 2254 amendments.
Sec. 1106. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 1111. Short title for Subtitle B.
Sec. 1112. Death penalty litigation procedures.

TITLE XII—PUNISHMENT OF GUN CRIMINALS

Sec. 1201. Short title.

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Sec. 1213. Mandatory prison terms for use, possession, or carrying of a firearm or destructive device during a State crime of violence or State drug trafficking crime.

Subtitle B—Firearms and Related Amendments

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Sec. 1223. Smuggling firearms in aid of drug trafficking.
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Sec. 1226. Increased penalty for knowingly making false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 1227. Statute of limitations for certain gangster weapon offenses.
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Sec. 1229. Summary destruction of explosives subject to forfeiture.
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Sec. 1233. Possession of stolen firearms.
Sec. 1234. Using a firearm in the commission of counterfeiting or forgery.
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Sec. 1236. Possession of stolen firearms and explosives.
Sec. 1237. Receipt of firearms by nonresident.
Sec. 1238. Firearms and explosives conspiracy.
Sec. 1239. Theft of firearms or explosives from licensee.
Sec. 1240. Disposing of explosives to prohibited persons.
Sec. 1241. Clarification of "burglary" under the armed career criminal statute.
Sec. 1242. Clarification of penalty enhancement.

TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS

Sec. 1301. Regional prisons.

TITLE XIV—BOOT CAMPS

Sec. 1401. Boot camps.

Sec. 1402. Use of prefabricated modular housing.

TITLE XV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

Sec. 1501. Strengthening Federal penalties.

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Subtitle C—Juvenile Penalties

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Sec. 1522. Serious drug offenses by juveniles as Armed Career Criminal Act predicates.

TITLE XVI—RURAL CRIME AND DRUG CONTROL ACT

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Sec. 1602. Rural drug enforcement task forces.
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Subtitle C—Rural Drug Prevention and Treatment

Sec. 1621. Rural substance abuse treatment and education grants.
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Subtitle D—Rural Land Recovery Act

Sec. 1631. Director of rural land recovery.
Sec. 1632. Prosecution of clandestine laboratory operators.

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

Sec. 1641. Drug free truck stops and safety rest areas.

TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

Sec. 1701. Short title.
Sec. 1702. Drug emergency areas.

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

Sec. 1801. Short title.
Sec. 1802. State laws applied in areas of Federal jurisdiction.
Sec. 1803. Common carriers.
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Sec. 1902. Purpose.
Sec. 1903. Responsibilities of the Commission.
Sec. 1904. Commission members.
Sec. 1905. Administrative provisions.
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TITLE XXIV—FEDERAL PRISONER DRUG TESTING

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TITLE XXV—MAXIMUM PENALTY INCREASES FOR VIOLENT CRIMES

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Sec. 2502. Increased maximum penalty for manslaughter.
Sec. 2503. Increased maximum penalties for civil rights violations.
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Sec. 2505. Increased penalty for conspiracy to commit murder for hire.
Sec. 2506. Repealing surcharge on equitable sharing cases.
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Sec. 4656. Drug paraphernalia amendment.
Sec. 4657. Correction of resentencing sanction for revocation of probation for possession of a controlled substance.
Sec. 4658. Conforming amendments concerning marihuana.
Sec. 4659. Conforming amendment adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles.
Sec. 4660. Clarification of narcotic or other dangerous drugs under the RICO Statute.
Sec. 4661. Conforming amendments to recidivist penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act.
Sec. 4662. Elimination of outmoded language relating to parole.
Sec. 4663. Conforming amendment to provision punishing a second offense of distributing drugs to a minor.

TITLE XLVII—EXPLOITATION OF ALIENS

Sec. 4701. Short title.
Sec. 4702. Exploitation of aliens.
Sec. 4703. Criminal alien identification and removal fund.

TITLE XLVIII—PUBLIC CORRUPTION

Sec. 4801. Short title.
Sec. 4802. Offense.
Sec. 4803. Technical and conforming amendments.
Sec. 4804. Interstate commerce.
Sec. 4805. Narcotics-related public corruption.

TITLE XLIX—GENERAL PROVISIONS

Sec. 4901. Disclosure of records of arrests by campus police.
Sec. 4902. Penalties for drug dealing in public housing authority facilities.
Sec. 4903. Report on battered women's syndrome.
Sec. 4904. Drug paraphernalia.
Sec. 4905. Imposing criminal sanctions for violation of software copyright.
Sec. 4906. Advertisements of controlled substances.
Sec. 4907. Limitation on use of Federal funds for administrative costs.
Sec. 4908. Crimes Against Children Registration Act.
Sec. 4909. Computer Abuse Amendments Act of 1991.
Sec. 4910. Improvement of criminal justice records.
Sec. 4911. Definition of serious drug offense.
Sec. 4912. Consumer Protection Against Credit Card Fraud Act of 1991.
Sec. 4913. Wiretaps.
Sec. 4914. Thefts of major art works.
Sec. 4915. Balance in the criminal justice system.
Sec. 4916. Racial and ethnic bias study grants.
Sec. 4917. Use of unobligated funds from Customs Forfeiture Fund.
Sec. 4918. Award of attorney's fees for employees of Department of Justice.
Sec. 4919. Aliens convicted of felony drunk driving.
Sec. 4920. Prisoner's place of imprisonment.
Sec. 4921. Department of Justice Community Substance Abuse Prevention Act of 1991.
Sec. 4922. Regional violent crime assistance.
Sec. 4923. Funding for death penalty prosecutions.
Sec. 4924. Audit requirement for State and local law enforcement agencies receiving Federal asset forfeiture funds.

TITLE I—SAFER STREETS AND NEIGHBORHOODS

SEC. 101. SHORT TITLE.

This title may be cited as the "Safer Streets and Neighborhoods Act of 1991".

SEC. 102. GRANTS TO STATE AND LOCAL AGENCIES.

Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1992 and such sums as may be necessary in fiscal years 1993 and 1994 to carry out the programs under parts D and E of this title.".

SEC. 103. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162) and section 601 of the Crime Control Act of 1990 (Public Law 101-647), is amended by striking "1991" and inserting "1992".

SEC. 104. GRANTS FOR MULTI-JURISDICTIONAL DRUG TASK FORCES.

Section 504(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(f)), is amended to delete the first word and insert the following: "Except for grants awarded to State and local governments for the purpose of participating in multi-jurisdictional drug task forces, no".

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§ 3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background or character that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection shall include factors concerning the effect of the offense on the victim and the victim's family, and shall be based on a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, describes the necessary course of treatment for the victim and the victim's family, and contains any other information related to the impact of the offense on the victim and the victim's family that the court may require. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist,

the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) Decision and Disposition.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for and raised on appeal,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) In General.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) Pregnant Woman.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) Mental Capacity.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability; lacks the mantal capacity to understand the death penalty and why it was imposed on that person.

"§ 3597. Use of State facilities

"(a) In General.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) Excuse of an Employee on Moral or Religious Grounds.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

"§ 3598. Special provisions for Indian country.

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) Amendment of Chapter Analysis.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence .... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) Conforming Changes in Title 18.—Title 18, United States Code, is amended as follows:

(1) Aircrafts and motor vehicles.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) Espionage.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) Explosive materials.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) Murder.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) Kidnapping.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) Nonmailable injurious articles.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) Presidential assassinations.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) Wrecking trains.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) Bank robbery.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) Hostage taking.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) Racketeering.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than

$50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 207. MURDER INVOLVING FIREARM.

Chapter 51 of title 18, United States Code, as amended by this Act, is further amended—

(a) by adding at the end thereof the following section:

"§ . Murder involving firearm

"(a) OFFENSE.—Whoever has been found guilty of causing, through the use of a firearm, as defined in section 921 of this title, the death of another person, intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or through the intentional infliction of serious bodily injury, shall be punished by death or imprisoned for any term of years or for life. Whenever the government seeks a sentence of death under this section, the procedures set forth in title 18, chapter 228 shall apply.

"(b) JURISDICTION.—There is Federal jurisdiction over an offense under this section if—

"(1) the conduct of the offender occurred in the course of an offense against the United States; or

"(2) a firearm involved in the offense has moved at any time in interstate or foreign commerce.

"(c) INTENT OF CONGRESS.—It is the intent of Congress that this subsection shall be used to supplement but not supplant the efforts of State and local prosecutors in prosecuting murders involving firearms that have moved in interstate or foreign commerce that could be prosecuted under State law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a State or local prosecutor has in prosecuting the defendant under State law. This subsection shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.".

(b) By amending the section analysis to add:

" . Murder involving firearm.".

SEC. 208. DRUG-RELATED HOMICIDES IN THE DISTRICT OF COLUMBIA.

(a) It shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.

(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence, or may be sentenced to death.

(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT

SEC. 301. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 302. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

"§ 1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it, shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1119. Killing persons aiding Federal investigations.".

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Death Penalty for Drug Kingpins Act of 1991".

SEC. 402. DEATH PENALTY FOR DRUG KINGPINS.

Title 18, chapter 228, section 3591 of the United States Code (as created by this Act), is further amended by—

(a) striking the "(3)" before the words "any other offense for which" and inserting a "(6)";

(b) inserting after the words "death of the President; or", the following:

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (6), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or"; and

(c) at the end of section 3592, title 18, United States Code, add the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3)-(6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.".

TITLE V—PREVENTION AND PUNISHMENT OF TERRORIST ACTS

Subtitle A—Aviation Terrorism

SEC. 501. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States, or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 502. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) redesignating paragraph (4) as paragraph (3).

SEC. 503. PREVENTING ACTS OF TERRORISM AGAINST CIVILIAN AVIATION.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 37. Violations of Federal aviation security regulations

"Whoever willfully violates a security regulation under part 107 or 108 of title 14, Code of Federal Regulations (relating to airport and airline security) shall be fined under this title or imprisoned for not more than one year, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"37. Violation of Federal aviation security regulations.

Subtitle B—Maritime Terrorism

SEC. 511. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Act for the Prevention and Punishment of Violence Against Maritime Navigation and Fixed Platforms".

SEC. 512. FINDINGS.

The Congress finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of maritime navigation;

(2) the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which accompanies the aforementioned Convention, requires that each contracting State to the Protocol establish its jurisdiction over certain offenses affecting the safety of fixed platforms;

(3) such offenses place innocent lives and property in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations;

(4) on December 27, 1988, the President of the United States issued Proclamation 5928 proclaiming that the territorial sea of the United States henceforth extended to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(5) on November 5, 1989, the Senate gave its advice and consent to ratification of the Convention and its Protocol.

SEC. 513. STATEMENT OF PURPOSE.

The purpose of this subtitle is to—

(1) implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

(2) clarify Federal criminal jurisdiction over the territorial sea of the United States; and

(3) establish Federal criminal jurisdiction over certain acts committed by or against a national of the United States while upon a foreign vessel during a voyage having a scheduled departure from or arrival in the United States.

SEC. 514. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do any act prohibited under paragraphs (1)-(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) As used in this section, the term—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft: *Provided*, That the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)-(5),

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 515. CLERICAL AMENDMENTS.

The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 516. EFFECTIVE DATES.

Section 514 of this subtitle shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 517. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 518. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by—

(1) inserting after "title" in subsection (a) the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District"; and

(2) inserting at the end thereof the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 519. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

Subtitle C—Terrorism Offenses and Sanctions

SEC. 521. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture .... 2340.".

SEC. 522. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of weapons of mass destruction.".

SEC. 523. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), striking "(c)" and inserting "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 524. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2331 of title 18, United States Code, as amended by subtitle A of this title, is further amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "twenty"; and

(B) in paragraph (3) by striking "three" and inserting "ten".

(2) in subsection (c) by striking "five" and inserting "ten".

SEC. 525. TERRORIST DEATH PENALTY ACT.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

Subtitle D—Preventing Domestic and International Terrorist Acts

PART I—ATTACKING THE INFRASTRUCTURE OF TERRORIST ORGANIZATIONS

SEC. 531. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

SEC. 532. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Chapter 46 of title 18, United States Code, is amended—

(1) in section 981(a)(1) by inserting at the end thereof the following:

"(F) Any property, real or personal—

"(i) used or intended for use for; or

"(ii) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses."; and

(2) in section 982(a) by inserting at the end thereof the following:

"(5) Any property, real or personal—

"(A) used or intended for use for; or

"(B) constituting or derived from,

the gross profits or other proceeds obtained from a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing offenses.".

PART II—COOPERATION OF WITNESSES IN TERRORIST INVESTIGATIONS

SEC. 541. SHORT TITLE.

This part may be cited as the "Alien Witness Cooperation Act of 1991".

SEC. 542. ALIEN WITNESS COOPERATION.

Chapter 224 of title 18, United States Code, is amended by—

(1) redesignating section 3528 as 3529;

(2) adding at the end of section 3529, as redesignated, the following new paragraph:

"As used in section 3528, the terms 'alien' and 'United States' shall have the same meanings given to them in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)."; and

(3) inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide such alien with appropriate immigration visas and allow such alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provisions of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of two years. Upon a showing that the alien is still being provided protection, or such protection remains available to the alien in accordance with provisions of this chapter, or such alien is still cooperating with the government, and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions, unless the Attorney General determines, pursuant to regulations which shall be prescribed by him, that granting permanent residence status to such alien is necessary in the interests of justice, and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any one fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.".

SEC. 543. CONFORMING AMENDMENT.

The analysis for chapter 224 of title 18, United States Code, is amended by—

(1) redesignating the item for section 3528 as section 3529; and

(2) adding after the item for section 3527 the following:

"3528. Aliens; waiver of admission requirements.".

Subtitle E—Preventing Economic Terrorism

SEC. 551. COUNTERFEITING UNITED STATES CURRENCY ABROAD.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by adding before section 471 the following new section:

"§ 470. Counterfeit acts committed outside the United States

"Whoever, outside the United States, engages in the act of—

"(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

"(2) making, dealing, or possessing any plate, stone, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 471, 473, or 474 of this title if committed within the United States, shall be fined under this title, imprisoned for not more than 15 years, or both.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 25 of title 18, United States Code, is amended by adding before section 471 the following:

"471. Counterfeit acts committed outside the United States.".

(c) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item for chapter 25 and inserting the following:

"25. Counterfeiting and forgery .... 470".

SEC. 552. ECONOMIC TERRORISM TASK FORCE.

(a) ESTABLISHMENT AND PURPOSE.—There is established an Economic Terrorism Task Force to—

(1) assess the threat of terrorist actions directed against the United States economy, including actions directed against the United States government and actions against United States business interests;

(2) assess the adequacy of existing policies and procedures designed to prevent terrorist actions directed against the United States economy; and

(3) recommend administrative and legislative actions to prevent terrorist actions directed against the United States economy.

(b) MEMBERSHIP.—The Economic Terrorism Task Force shall be chaired by the Secretary of State, or his designee, and consist of the following members:

(1) the Director of Central Intelligence;

(2) the Director of the Federal Bureau of Investigation;

(3) the Director of the United States Secret Service;

(4) the Administrator of the Federal Aviation Administration;

(5) the Chairman of the Board of Governors of the Federal Reserve;

(6) the Under Secretary of the Treasury for Finance; and

(7) such other members of the Departments of Defense, Justice, State, Treasury, or any other agency of the United States government, as the Secretary of State may designate.

(c) ADMINISTRATIVE PROVISIONS.—The provisions of the Federal Advisory Committee Act shall not apply with respect to the Economic Terrorism Task Force.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the chairman of the Economic Terrorism Task Force shall submit a report to the President and the Congress detailing the findings and recommendations of the task force. If the report of the task force is classified, an unclassified version shall be prepared for public distribution.

Subtitle F—Authorizations To Expand Counterterrorist Operations by Federal Agencies

SEC. 561. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated in each of the fiscal years 1992, 1993 and 1994, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000; and

(7) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

TITLE VI—DRIVE-BY SHOOTING ACT

SEC. 601. SHORT TITLE.

This title may be cited as the "Drive-By Shooting Prevention Act of 1991".

SEC. 602. NEW OFFENSE FOR THE INDISCRIMINATE USE OF WEAPONS TO FURTHER DRUG CONSPIRACIES.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Drive-by shooting

"(a) OFFENSE AND PENALTIES.—

"(1) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, causes grave risk to any human life shall be punished by a term of no more than 25 years, or by fine as provided under this title, or both.

"(2) Whoever, in furtherance or to escape detection of a major drug offense listed in subsection (b) and, with the intent to intimidate, harass, injure, or maim, fires a weapon into a group of two or more persons and who, in the course of such conduct, kills any person shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both: or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.

"(b) MAJOR DRUG OFFENSE DEFINED.—A major drug offense within the meaning of subsection (a) is one of the following:

"(1) a continuing criminal enterprise, punishable under section 403(c) of the Controlled Substances Act (21 U.S.C. 848(c));

"(2) a conspiracy to distribute controlled substances punishable under section 406 of the Controlled Substances Act (21 U.S.C. 846) or punishable under section 1013 of the Controlled Substances Import and Export Control Act (21 U.S.C. 963); or

"(3) an offense involving major quantities of drugs and punishable under section

401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) or section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Drive-by shooting.".

TITLE VII—ASSAULT WEAPONS

SEC. 701. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1991".

SEC. 702. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(s)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such an assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(t)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this subsection, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 703. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(29) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models),

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR, and FNC,

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 704. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON.

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.".

SEC. 705. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 706. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 707. STUDY BY ATTORNEY GENERAL.

(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

(b) REPORT.—No later than 30 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 708. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARMS, OR SMUGGLING AN ASSAULT WEAPON IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined not more than $1,000 (in accordance with section 3571(e) of this title), imprisoned for not more than 6 months, or both.".

SEC. 709. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for section 707, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for section 707, shall be repealed.

TITLE VIII—POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. 801. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. 802. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. 803. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. 804. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section 816; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section 826.

Subtitle A—Police Corps Program

SEC. 811. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree, including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section 813;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 816.

SEC. 812. SCHOLARSHIP ASSISTANCE.

(a) Scholarships Authorized.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $7,500; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $30,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) Reimbursement Authorized.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $7,500; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $10,000.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $30,000.

(c) Use of Scholarship.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education, except that—

(1) scholarships may be used for graduate and professional study, and

(2) where a participant has enrolled in the program upon or after transfer to a four-year institution of higher education, the Director may reimburse the participant for the participant's prior educational expenses.

(d) Agreement.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section 814, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 814; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) Dependent Child.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section for any course of study in any accredited institution of higher education. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) Gross Income.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 814.

(g) Application.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) Definition.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 813. SELECTION OF PARTICIPANTS.

(a) In General.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) Selection Criteria and Qualifications.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 815(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 815, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 815, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) Recruitment of Minorities.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of all racial, ethnic or gender groups. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) Enrollment of Applicant.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) Leave of Absence.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) A participant who requests a leave of absence from educational study or training for a period not to exceed 30 months to serve on an official church mission may be granted such leave of absence.

(f) Admission of Applicants.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. 814. POLICE CORPS TRAINING.

(a) In General.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) Training Sessions.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) Further Training.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 816 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) Course of Training.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) Evaluation of Participants.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) Stipend.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. 815. SERVICE OBLIGATION.

(a) Swearing In.—Upon satisfactory completion of the participant's course of education and training program established in section 814 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) Rights and Responsibilities.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) Discipline.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

(d) Lay-offs.—If the police force of which the participant is a member lays off the participant such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 812, the Director may permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section 812(d)(1)(C) shall not apply.

SEC. 816. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 813;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since July 10, 1991; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 817. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $100,000,000 for each of fiscal years 1992 and 1993, and $200,000,000 for each of fiscal years 1994, 1995, and 1996.

Subtitle B—Law Enforcement Scholarship Program

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Scholarships and Recruitment Act".

SEC. 822. DEFINITIONS.

As used in this subtitle—

(1) the term "Director" means the Director of the Bureau of Justice Assistance;

(2) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree;

including the cost of tuition, fees, books, supplies, and related expenses;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 823. ALLOTMENT.

From amounts appropriated pursuant to the authority of section 11, the Director shall allot—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State compared to the number of law enforcement officers in all States; and

(2) 20 percent of such funds to States on the basis of the shortage of law enforcement personnel and the need for assistance under this subtitle in the State compared to the shortage of law enforcement personnel and the need for assistance under this subtitle in all States.

SEC. 824. PROGRAM ESTABLISHED.

(a) Use of Allotment.—

(1) In general.—Each State receiving an allotment pursuant to section 823 shall use such allotment to pay the Federal share of the costs of—

(A) awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education; and

(B) providing—

(i) full-time employment in summer; or

(ii) part-time (not to exceed 20 hours per week) employment during a period not to exceed one year.

(2) Employment.—The employment described in subparagraph (B) of paragraph (1) shall be provided by State and local law enforcement agencies for students who are juniors or seniors in high school or are enrolled in an accredited institution of higher education and who demonstrate an interest in undertaking a career in law enforcement. Such employment shall not be in a law enforcement position. Such employment shall consist of performing meaningful tasks that inform such students of the nature of the tasks performed by law enforcement agencies.

(b) Payments; Federal Share; Non-Federal Share.—

(1) Payments.—The Secretary shall pay to each State receiving an allotment under section 823 the Federal share of the cost of the activities described in the application submitted pursuant to section 827.

(2) Federal share.—The Federal share shall not exceed 60 percent.

(3) Non-federal share.—The non-Federal share of the cost of scholarships and student employment provided under this subtitle shall be supplied from sources other than the Federal Government.

(c) Lead Agency.—Each State receiving an allotment under section 823 shall designate an appropriate State agency to serve as the lead agency to conduct a scholarship program, a student employment program, or both in the State in accordance with this subtitle.

(d) Responsibilities of Director.—The Director shall be responsible for the administration of the programs conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, issue rules to implement this subtitle.

(e) Administrative Expenses.—Each State receiving an allotment under section 823 may reserve not more than 8 percent of such allotment for administrative expenses.

(f) Special Rule.—Each State receiving an allotment under section 823 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(g) Supplementation of Funding.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. 825. SCHOLARSHIPS.

(a) Period of Award.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) Use of Scholarships.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. 826. ELIGIBILITY.

(a) Scholarships.—An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for the 2-year period immediately preceding the date on which assistance is sought.

(b) Ineligibility for Student Employment.—An individual who has been employed as a law enforcement officer is ineligible to participate in a student employment program carried out under this subtitle.

SEC. 827. STATE APPLICATION.

Each State desiring an allotment under section 823 shall submit an application to the Director at such time, in such manner, and accompanied by such information as the Director may reasonably require. Each such application shall—

(1) describe the scholarship program and the student employment program for which assistance under this subtitle is sought;

(2) contain assurances that the lead agency will work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out this subtitle;

(3) contain assurances that the State will advertise the scholarship assistance and student employment it will provide under this subtitle and that the State will use such programs to enhance recruitment efforts;

(4) contain assurances that the State will screen and select law enforcement personnel for participation in the scholarship program under this subtitle;

(5) contain assurances that under such student employment program the State will screen and select, for participation in such program, students who have an interest in undertaking a career in law enforcement;

(6) contain assurances that under such scholarship program the State will make scholarship payments to institutions of higher education on behalf of individuals receiving scholarships under this subtitle;

(7) with respect to such student employment program, identify—

(A) the employment tasks students will be assigned to perform;

(B) the compensation students will be paid to perform such tasks; and

(C) the training students will receive as part of their participation in such program;

(8) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel; and

(9) contain assurances that the State will promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in institutions of higher education.

SEC. 828. LOCAL APPLICATION.

(a) In General.—Each individual who desires a scholarship or employment under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which a scholarship is sought, or the location and duration of employment sought, as appropriate.

(b) Priority.—In awarding scholarships and providing student employment under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State;

(2) pursuing an undergraduate degree; and

(3) not receiving financial assistance under the Higher Education Act of 1965.

SEC. 829. SCHOLARSHIP AGREEMENT.

(a) In General.—Each individual who receives a scholarship under this subtitle shall enter into an agreement with the Director.

(b) Contents.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual will work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay the entire scholarship awarded under this subtitle in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of such agreement are not complied with unless the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—

(1) IN GENERAL.— Except as provided in paragraph (2), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which funds are received under such scholarship.

(2) SPECIAL RULE.—For purposes of satisfying the requirement specified in paragraph (1), each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 830. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out this subtitle.

(b) USES OF FUNDS.—Of the funds appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be available to provide scholarships described in section 824(a)(1)(A); and

(2) 25 percent shall be available to provide employment described in sections 824(a)(1)(B) and 824(a)(2).

Subtitle C—Reports

SEC. 831. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

TITLE IX—POLICE OFFICERS' BILL OF RIGHTS ACT OF 1991

SEC. 901. SHORT TITLE.

This title may be cited as the "Police Officers' Bill of Rights Act of 1991".

SEC. 902. RIGHTS OF LAW ENFORCEMENT OFFICERS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end thereof the following new section:

"RIGHTS OF LAW ENFORCEMENT OFFICERS

"SEC. 819. (a) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation or is subjected to questioning for any reason, other than in connection with an investigation or action described in subsection (g), under circumstances that could lead to disciplinary action, the following minimum standards shall apply:

"(1) Questioning of the law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

"(2) Questioning of the law enforcement officer shall take place at the offices of those conducting the investigation or the place where such law enforcement officer reports for duty unless the officer consents in writing to being questioned elsewhere.

"(3) The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

"(4) During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

"(5) The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

"(6) Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

"(7) No threat against, harassment of, or promise or reward (except an officer of immunity from prosecution) to any law enforcement officer shall be made in connection with an investigation to induce the answering of any question.

"(8) All questioning of any law enforcement officer in connection with the investigation shall be recorded in full in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

"(9) The law enforcement officer under investigation shall be entitled to the presence of counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

"(10) At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

"(11) A law enforcement officer who brought before a disciplinary hearing shall be provided access to all transcripts, records, written statements, written reports and analyses and video tapes pertinent to the case that—

"(A) contain exculpatory information;

"(B) are intended to support any disciplinary action; or

"(C) are to be introduced in the disciplinary hearing.

"(b) OPPORTUNITY FOR A HEARING.—(1) Except in a case of summary punishment or emergency suspension described in subsection (c), if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the officer is entitled to a hearing on the issues by a hearing officer or board.

"(2)(A) Subject to subparagraph (B), a State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

"(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least one law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

"(3) A penalty greater than that which was recommended by the trial board cannot be imposed upon the officer.

"(c) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—(1) This section does not preclude a State from providing for summary punishment or emergency suspension for misconduct by a law enforcement officer.

"(2) An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer.

"(d) NOTICE OF DISCIPLINARY ACTION.—When disciplinary action is to be taken against a law enforcement officer, the officer shall be notified of the action and the reasons therefor a reasonable time before the action takes effect.

"(e) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

"(f) OTHER REMEDIES NOT IMPAIRED.—(1) Nothing in this section shall be construed to impair any other legal remedy that a law enforcement officer has with respect to any rights under this section.

"(2) A law enforcement officer may waive any of the rights guaranteed by this section.

"(g) APPLICATION OF SECTION.—This section does not apply in the case of—

"(1) an investigation of criminal conduct by a law enforcement officer; or

"(2) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment-related performance.

"(h) DEFINITIONS.—For the purposes of this section—

"(1) the term 'disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct;

"(2) the term 'emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that the action is in the best interests of the public;

"(3) the term 'summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in disciplinary action;

"(4) the term 'law enforcement agency' means a public agency charged by law with the duty to investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes; and

"(5) the term 'law enforcement officer' means a full-time police officer, sheriff, or correctional officer of a law enforcement agency.

"(i) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer unless the officer has had an opportunity to review and comment in writing on the adverse material.

"(j) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless

"(1) the information is necessary in investigating a violation of any Federal, State, or local law, rule, or regulation with respect to the performance of official duties; or

"(2) such disclosure is required by Federal, State, or local law.

"(k) ENFORCEMENT OF PROTECTIONS FOR LAW ENFORCEMENT OFFICERS.—(1) A State shall have not more than 2 legislative sessions to enact a Law Enforcement Officers' Bill of Rights that provides rights for law enforcement officers that are substantially similar to the rights afforded under this section.

"(2) After the expiration of the time limit described in paragraph (1), a law enforcement officer shall have a cause of action in State court for the recovery of pecuniary and other damages and full reinstatement against a law enforcement agency that materially violates the rights afforded by this section.

"(3) The sovereign immunity of a State shall not apply in the case of a violation of the rights afforded by this section.

"(l) STATES' RIGHTS.—This section does not preempt State law or collective bargaining agreements or discussions during the collective bargaining process that provide rights for law enforcement officers that are substantially similar to the rights afforded by this section.".

TITLE X—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1001. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1991".

SEC. 1002. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, $345,500,000 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include:

(A) not to exceed $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas;

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of state and local overtime, equipment and personnel costs; and

(C) not to exceed $5,000,000 to hire, equip and train not less than 50 special agents and necessary support personnel to investigate violations of the Controlled Substances Act relating to anabolic steroids.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train and equip no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $20,000,000, to hire, train and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses;

(5) For the United States Marshals Service, $10,000,000;

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs;

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title; and

(8) For Federal defender services, $12,000,000 for the defense of persons prosecuted for drug trafficking and related crimes.

SEC. 1003. AUTHORIZATION OF FUNDS FOR CONSTRUCTION OF A UNITED STATES ATTORNEYS' OFFICE IN PHILADELPHIA, PENNSYLVANIA.

There is hereby authorized to be appropriated $35,000,000 to remain available until expended, to plan, acquire a site, design, construct, buildout, equip, and prepare for use an office building to house the United States Attorneys Office in Philadelphia, Pennsylvania, notwithstanding any other provision of law: *Provided*, That the site is at or in close physical proximity to the site selected for the construction of the Philadelphia Metropolitan Detention Center: *Provided further*, That the site selected for the Philadelphia United States Attorneys Office shall be approved by the Attorney General and notification submitted to the Congress as required by law.

SEC. 1004. COURT TO BE HELD AT LANCASTER.

Section 118 of title 28, United States Code, is amended in subsection (a) by inserting "Lancaster," immediately before "Reading".

TITLE XI—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 1101. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 1102. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 1103. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 1104. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 1105. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United State Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 1106. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 1111. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991".

SEC. 1112. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of such application unless a responsive pleading is required in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) The Administrative Office of United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

TITLE XII—PUNISHMENT OF GUN CRIMINALS

SEC. 1201. SHORT TITLE.

This title may be cited as the "Gun Criminals Punishment Act of 1991".

Subtitle A—Increased Penalties for Gun Offenses

SEC. 1211. DEATH PENALTY FOR GUN MURDERS.

Section 924(c) of title 18, United States Code, is amended by—

(1) inserting "(A)" after "(1)";

(2) designating the second sentence as subparagraph (B);

(3) designating the third and fourth sentences as subparagraph (D); and

(4) inserting before subparagraph (D) the following:

"(C) Whoever violates the terms of subparagraph (A) and discharges a firearm that kills another person, shall, if the killing—

"(A) is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, fined under this title, or both; or

"(B) is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title, imprisoned for any term of years or for life, or both.".

SEC. 1212. INCREASED PENALTIES FOR VIOLENT GUN CRIMES.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking subparagraph (A) and inserting the following:

"(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) discharges, uses, carries, or otherwise possesses a firearm shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 5 to 10 years;

"(ii) discharges, uses, carries, or otherwise possesses a firearm that is an assault weapon, short-barreled rifle, or short-barreled shotgun, shall, in addition to the penalties already provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for a term from 10 to 15 years; or

"(iii) discharges, uses, carries, or otherwise possesses a firearm that is a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, shall be sentenced to imprisonment for 30 years."; and

(2) striking subparagraph (B), as designated by section 1211 of this Act, and inserting the following:

"(B) In the case of a second conviction under this subsection, such person shall be sentenced to imprisonment for 20 years and, if the firearm is an assault weapon, a short-barreled rifle, a short-barreled shotgun, a machinegun, a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment.".

(b) SENTENCING GUIDELINES FOR NEW PENALTIES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission, shall promulgate guidelines or amend existing guidelines to provide for a sentencing enhancement in accord with the provisions of subsection (c)(1) of section 924 of title 18, United States Code.

SEC. 1213. MANDATORY PRISON TERMS FOR USE, POSSESSION, OR CARRYING OF A FIREARM OR DESTRUCTIVE DEVICE DURING A STATE CRIME OF VIOLENCE OR STATE DRUG TRAFFICKING CRIME.

Section 924(c) of title 18 of the United States Code is amended by adding the following:

"(4)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of any State—

"(i) knowingly possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) knowingly possesses a firearm that is a machinegun or destructive device, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this paragraph, a person shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this paragraph, a person shall be sentenced to life imprisonment without release. Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this paragraph, nor shall the term of imprisonment imposed under this paragraph run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this paragraph shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) Except in the case of a person who engaged in or participated in criminal conduct that gave rise to the occasion for the person's use of a firearm, this paragraph has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).

"(D) For purposes of this paragraph, the term 'drug trafficking crime' means any crime punishable by imprisonment for more than one year involving the manufacture, distribution, possession, cultivation, sale, or transfer of a controlled substance, controlled substance analogue, immediate precursor, or listed chemical (as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or an attempt or conspiracy to commit such a crime.

"(E) For purposes of this paragraph the term 'crime of violence' means an offense that is punishable by imprisonment for more than one year and—

"(i) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

"(ii) that by its nature, involves substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"(F) In accordance with section 927, it is the intent of Congress that this paragraph shall be used to supplement but not supplant the efforts of State and local prosecutors in prosecuting crimes of violence and drug trafficking crimes that could be prosecuted under State law. It is also the intent of Congress that the Attorney General shall give due deference to the interest that a State or local prosecutor has in prosecuting the defendant under State law. This subparagraph shall not create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor does it place any limitations on otherwise lawful prerogatives of the Department of Justice.

"(G) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if a firearm involved in the offense has moved at any time in interstate or foreign commerce.".

Subtitle B—Firearms and Related Amendments

SEC. 1221. POSSESSION OF AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) POSSESSION OF EXPLOSIVES.—Section 844(h) of title 18, United States Code, is amended by—

(1) striking "carries an explosive during" and inserting "uses, carries, or otherwise possesses an explosive during"; and

(2) striking "used or carried" and inserting "used, carried, or possessed".

(b) PENALTY.—Section 844(h) of title 18, United States Code, is amended by striking "ten years" and inserting "twenty years".

SEC. 1222. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 1223. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3);

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 1224. THEFT OF FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof:

"(j) whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, or fined under this title, or both.".

SEC. 1225. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 1226. INCREASED PENALTY FOR KNOWINGLY MAKING FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 1227. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be six years" and inserting in lieu thereof "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be six years".

SEC. 1228. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 1229. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 1230. SUMMARY FORFEITURE OF UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.

Section 5872 of title 26, United States Code, is amended by redesignating subsection (a) as subsection (a)(1) and by adding paragraphs (2) and (3) to read as follows:

"(2) UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.—Notwithstanding the provisions of paragraph (1), the provisions of sections 7323 and 7325 shall not apply to any firearm which is not registered in the National Firearms Registration and Transfer Record pursuant to section 5841. No property rights shall exist in any such unregistered firearm and it shall be summarily forfeited to the United States.

"(3) RIGHTS OF INNOCENT OWNERS.—Within one year after the summary forfeiture made pursuant to paragraph (2) the owner of, including any person having an interest in, the property seized may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) such property has not been involved or used in a violation of law; or

"(B) any unlawful involvement or use of such property had been without the claimant's consent, knowledge, or willful blindness,

the Secretary shall make an allowance to such claimant not exceeding the value of the property so forfeited.".

SEC. 1231. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 (26 U.S.C. 5872(b)), is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) If the firearm has not been disposed of pursuant to paragraphs (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 1232. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 1233. POSSESSION OF STOLEN FIREARMS.

Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "receive,".

SEC. 1234. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 1235. MANDATORY PENALTY FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Section 924(a)(2) of title 18, United States Code, is amended by inserting a comma before "or both" and by inserting before the period at the end thereof the following: ", and if the violation is a violation of subsection (g)(1) of section 922 by a person who has a previous conviction for a violent felony or a serious drug offense as defined in subsection (e)(2) of this section, a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years.".

SEC. 1236. POSSESSION OF STOLEN FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "conceal";

(b) EXPLOSIVES.—Section 842(h) of title 18, United States Code, is amended by inserting "possess," before "conceal".

SEC. 1237. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end thereof;

(2) in paragraph (8) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 1238. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 1239. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 1240. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting in lieu thereof "person".

SEC. 1241. CLARIFICATION OF "BURGLARY" UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended by adding at the end thereof the following:

"(D) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

SEC. 1242. CLARIFICATION OF PENALTY ENHANCEMENT.

Section 924(c)(1)(D) of title 18, United States Code, is amended by striking "convicted of a violation of" and inserting "sentenced pursuant to".

TITLE XIII—PRISON FOR VIOLENT DRUG OFFENDERS

SEC. 1301. REGIONAL PRISONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The total population of Federal, State, and local prisons and jails increased by 84 percent between 1980 and 1988 and currently numbers more than 900,000 people.

(2) More than 60 percent of all prisoners have a history of drug abuse or are regularly using drugs while in prison, but only 11 percent of State prison inmates and 7 percent of Federal prisoners are enrolled in drug treatment programs. Hundreds of thousands of prisoners are not receiving needed drug treatment while incarcerated, and the number of such persons is increasing rapidly.

(3) Drug-abusing prisoners are highly likely to return to crime upon release, but the recidivism rate is much lower for those who successfully complete treatment programs. Providing drug treatment to prisoners during incarceration therefore provides an opportunity to break the cycle of recidivism, reducing the crime rate and future prison overcrowding.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the fiscal year ending September 30, 1992, the following amounts:

(1) $600,000,000 for the construction of 10 regional prisons; and

(2) $100,000,000 for the operation of such regional prisons for one year.

Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

(c) LOCATION AND POPULATION.—The regional prisons authorized by this section shall be located in places chosen by the Director of the Bureau of Prisons, after consulting with the Director of National Drug Control Policy, not less than 6 months after the effective date of this section. Each such facility shall be used to accommodate a population consisting of State and Federal prisoners in proportions of 20 percent Federal and 80 percent State.

(d) ELIGIBILITY OF PRISONERS.—The regional prisons authorized by this section shall be used to incarcerate State and Federal prisoners who have release dates of not more than 2 years from the date of assignment to the prison and who have been found to have substance abuse problems requiring long-term treatment.

(e) STATE RESPONSIBILITIES.—(1) The States shall select prisoners for assignment to the regional prisons who, in addition to satisfying eligibility criteria otherwise specified in this section, have long-term drug abuse problems and serious criminal histories. Selection of such persons is necessary for the regional prison program to have the maximum impact on the crime rate and future prison overcrowding, since such persons are the ones most likely to commit new crimes following release. Prisoners selected for assignment to a regional prison must agree to the assignment.

(2) Any State seeking to refer a State prisoner to a regional prison shall submit to the Director of the Bureau of Prisons (referred to as the "Director") an aftercare plan setting forth the provisions that the State will make for the continued treatment of the prisoner in a therapeutic community following release. The aftercare plan shall also contain provisions for vocational job training where appropriate.

(3) The State referring the prisoner to the regional prison (referred to as the "sending State") shall reimburse the Bureau of Prisons for the full cost of the incarceration and treatment of the prisoner, except that if the prisoner successfully completes the treatment program, the Director shall return to the sending State 25 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare treatment required by paragraph (2).

(f) POWERS OF THE DIRECTOR.—(1) The Director shall have the exclusive right to determine whether or not a State or Federal prisoner satisfies the eligibility requirements of this section, and whether the prisoner is to be accepted into the regional prison program. The Director shall have the right to make this determination after the staff of the regional prison has had an opportunity to interview the prisoner in person.

(2) The Director shall have the exclusive right to determine if a prisoner in the regional treatment program is complying with all of the conditions and requirements of the program. The Director shall have the authority to return any prisoner not complying with the conditions and requirements of the program to the sending State at any time. The Director shall notify the sending State whenever such prisoner is returned that the prisoner has not successfully completed the treatment program.

TITLE XIV—BOOT CAMPS

SEC. 1401. BOOT CAMPS.

(a) IN GENERAL.—Not later than 1 year after the effective date of this section, the Attorney General shall establish within the Bureau of Prisons 10 military-style boot camp prisons (referred to in this title as "boot camps"). The boot camps will be located on closed military installations on sites to be chosen by the Director of the Bureau of Prisons, after consultation with the Director of National Drug Control Policy, and will provide a highly regimented schedule of strict discipline, physical training, work, drill, and ceremony characteristic of military basic training as well as remedial education and treatment for substance abuse.

(b) CAPACITY.—Each boot camp shall be designed to accommodate between 200 and 300 inmates for periods of not less than 90 days and not greater than 120 days. Not more than 20 percent of the inmates shall be Federal prisoners. The remaining inmates shall be State prisoners who are accepted for participation in the boot camp program pursuant to subsection (d).

(c) FEDERAL PRISONERS.—Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) BOOT CAMP PRISON AS A SENTENCING ALTERNATIVE.—(1) The court, in imposing sentence in the circumstances described in paragraph (2), may designate the defendant as eligible for placement in a boot camp prison. The Bureau of Prisons shall determine whether a defendant so designated will be assigned to a boot camp prison.

"(2) A defendant may be designated as eligible for placement in boot camp prison if—

"(A) the defendant—

"(i) is under 25 years of age;

"(ii) has no prior conviction for which he or she has served more than 10 days incarceration; and

"(iii) has been convicted of an offense involving a controlled substance punishable under the Controlled Substances Act or the Controlled Substances Export and Import Act, or any other offense if the defendant, at the time of arrest or at any time thereafter, tested positive for the presence of a controlled substance in his or her blood or urine; and

"(B) the sentencing court finds that the defendant's total offense level under the Federal sentencing guidelines is level 15 or less.

"(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate to any other correctional facility in the Federal prison system.

"(4) Successful completion of assignment to a boot camp shall constitute satisfaction of any period of active incarceration, but shall not affect any aspect of a sentence relating to a fine, restitution, or supervised release.".

(d) STATE PRISONERS.—(1) The head of a State corrections department or the head's designee may apply for boot camp placement for any person who has been convicted of a criminal offense in that State, or who anticipates entering a plea of guilty of such offense, but who has not yet been sentenced. Such application shall be made to the Bureau of Prisons and shall be in the form designated by the Director of the Bureau of Prisons and shall contain a statement certified by the head of the State corrections department or the head's designee that at the time of sentencing the applicant is likely to be eligible for assignment to a boot camp pursuant to paragraph (2). The Bureau of Prisons shall respond to such applications within 30 days so that the sentencing court is aware of the result of the application at the time of sentencing. In responding to such applications, the Bureau of Prisons shall determine, on the basis of the availability of space, whether a defendant who becomes eligible for assignment to a boot camp prison at the time of sentencing will be so assigned.

(2) A person convicted of a State criminal offense shall be eligible for assignment to a boot camp if he or she—

(A) is under 25 years of age;

(B) has no prior conviction for which he or she has served more than 10 days incarceration;

(C) has been sentenced to a term of imprisonment that will be satisfied under the law of the sentencing State if the defendant successfully completes a term of not less than 90 days nor more than 120 days in a boot camp;

(D) has been designated by the sentencing court as eligible for assignment to a boot camp; and

(E) has been convicted of an offense involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or any other offense if the defendant is eligible for assignment to a boot camp under State law.

(3) If the Director of the Bureau of Prisons finds that an inmate placed in a boot camp prison pursuant to this subsection has willfully refused to comply with the conditions of confinement in the boot camp, the Director may transfer the inmate back to the jurisdiction of the State sentencing court.

(4) Any State referring a prisoner to a boot camp shall reimburse the Bureau of Prisons for the full cost of the incarceration of the prisoner, except that if the prisoner successfully completes the boot camp program, the Bureau of Prisons shall return for the State 20 percent of the amount paid for that prisoner. The total amount returned to each State under this paragraph in each fiscal year shall be used by that State to provide the aftercare supervision and services required by paragraph (e).

(e) POST-RELEASE SUPERVISION.—(1) Any State seeking to refer a State prisoner to a boot camp prison shall submit to the Director of the Bureau of Prisons an aftercare plan setting forth the provisions that the State will make for the continued supervision of the prisoner following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(2) The Bureau of Prisons shall develop an aftercare plan setting forth the privisions that will be made for the continued supervision of Federal prisoners following release. The aftercare plan shall also contain provisions for educational and vocational training and drug or other counseling and treatment where appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $150,000,000 for fiscal year 1992, available until expended, of which not more than $12,500,000 shall be used to convert each closed military base to a boot camp prison and not more than $2,500,000 shall be used to operate each boot camp for one fiscal year. Such amounts shall be in addition to any other amounts authorized to be appropriated to the Bureau of Prisons.

SEC. 1402. USE OF PREFABRICATED MODULAR HOUSING.

Not later than 120 days after the date of enactment of this Act, and at least 60 days prior to the completion of planning or award of a contract for the acquisition or construction of facilities for any light or medium security prison, the Bureau of Prisons shall prepare and submit to Congress a report that—

(1) assesses the feasibility and cost-effectiveness of using prefabricated modular units such as Quonset huts for permanent or temporary housing and other facilities in light, medium, and maximum security prisons;

(2) describes the types of facilities for which the use of such units is feasible and cost-effective and identifies plans by the Bureau to use such units at particular prisons; and

(3) describes the types of facilities for which the use of such units is considered not to be feasible or cost-effective and identifies plans for particular prisons for which the use of such units either has not been considered or has been rejected for the reason that their use would not be feasible or cost-effective or for any other reason.

TITLE XV—YOUTH VIOLENCE ACT

Subtitle A—Increasing Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 1501. STRENGTHENING FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 859) is amended as follows:

(1) at the end of subsection (b) by adding the following:

"(c) Notwithstanding any other provision of law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to violate any provision of this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces, a person under 18 years of age to assist in avoiding detection or apprehension for any offense of this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, or fine, or both, up to triple that authorized by section 841(b) of this title.";

(2) in subsection (c) by—

(A) striking "(c)" and inserting in lieu thereof "(d)";

(B) inserting "or (c)" after "imposed under subsection (b)"; and

(C) inserting "or (c)" after "convicted under subsection (b)";

(3) in subsection (d) by striking "(d)" and inserting in lieu thereof "(e)".

Subtitle B—Antigang Grants

SEC. 1511. GRANT PROGRAM.

The Juvenile Justice and Delinquency Prevention Act of 1974 is amended in part B by—

(1) inserting after the heading for such part the following:

"Subpart I—General Grant Programs";

and

(2) adding at the end thereof a new subpart II, as follows:

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective programs including education, prevention, treatment and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

"(2) the use and sale of illegal drugs by juveniles.

"(b) The grants made under this section can be used for any of the following specific purposes:

"(1) To reduce the participation of juveniles in drug related crimes (including drug trafficking and drug use), particularly in and around elementary and secondary schools;

"(2) To reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles;

"(3) To develop within the juvenile justice system, including the juvenile corrections system, new and innovative means to address the problems of juveniles convicted of serious, drug-related and gang-related offenses;

"(4) To reduce juvenile drug and gang-related activity in public housing projects;

"(5) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to identify drug-dependent or gang-involved juvenile offenders and to provide appropriate counseling and treatment to such offenders;

"(6) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic or artistic enrichment that also teach that drug and gang involvement are wrong;

"(7) To facilitate Federal and State cooperation with local school officials to develop education, prevention and treatment programs for juveniles who are likely to participate in the drug trafficking, drug use or gang-related activities;

"(8) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls and boys clubs, scout troops, and little leagues;

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system; with the highest possible priority to providing drug abuse treatment to drug-dependent pregnant juveniles and drug-dependent juvenile mothers; and

"(10) To provide education and treatment programs for youth exposed to severe violence in their homes, schools or neighborhoods.

"(11) To establish sports mentoring and coaching programs in which athletes serve as role models for youth to teach that athletics provide a positive alternative to drug and gang involvement.

"(c) Of the funds made available to each State under this section (Formula Grants) 50 per centum of the funds made available to each State in any fiscal year shall be used for juvenile drug supply reduction programs and 50 per centum shall be used for juvenile drug demand reduction programs.

"SPECIAL EMPHASIS DRUG DEMAND REDUCTION AND ENFORCEMENT GRANTS

"SEC. 232. (a) The purpose of this section is to provide additional Federal assistance and support to identify promising new juvenile drug demand reduction and enforcement programs, to replicate and demonstrate these programs to serve as national, regional or local models that could be used, in whole or in part, by other public and private juvenile justice programs, and to provide technical assistance and training to public or private organizations to implement similar programs. In making grants under this section, the Administrator shall give priority to programs aimed at juvenile involvement in organized gang- and drug-related activities, including supply and demand reduction programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231. The Administrator shall have final authority over all funds awarded under this subchapter.

"(c) Of the total amount appropriated for this subchapter, 20 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 232(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs or projects.

"SPECIAL INTERNATIONAL PORTS OF ENTRY JUVENILE CRIME AND DRUG DEMAND REDUCTION GRANTS

"SEC. 233. (a) The purpose of this section is—

"(1) to provide additional Federal assistance and support to promising new programs that specifically and effectively address the unique crime and drug and alcohol related challenges faced by juveniles living at or near International Ports of Entry and in other international border communities, including rural localities;

"(2) to replicate and demonstrate these programs to serve as models that could be used, in whole or in part, in other similarly situated communities; and

"(3) to provide technical assistance and training to public or private organizations to implement similar programs.

"(b) The Administrator is authorized to make grants to, or enter into contracts with, public or private non-profit agencies, institutions, or organizations or individuals to carry out any purpose authorized in section 231, if the beneficiaries of the grantee's program are juveniles living at or near International Port of Entry or in other international border communities, including rural localities. The Administrator shall have final authority over all funds awarded under this section.

"(c) Of the total amount appropriated for this subchapter, 5 per centum shall be reserved and set aside for this section in a special discretionary fund for use by the Administrator to carry out the purposes specified in section 231 as described in section 233(a). Grants made under this section may be made for amounts up to 100 per centum of the costs of the programs.

"AUTHORIZATION

"Sec. 234. There is authorized to be appropriated $100,000,000 in fiscal year 1992 and such sums as may be necessary in fiscal year 1993 to carry out the purposes of this subpart.

"ALLOCATION OF FUND

"Sec. 235. Of the total amounts appropriated under this subpart in any fiscal year the amount remaining after setting aside the amounts required to be reserved to carry out section 232 (Discretionary Grants) shall be allocated as follows:

"(1) $400,000 shall be allocated to each of the participating States;

"(2) Of the total funds remaining after the allocation under paragraph (a), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles of such State bears to the population of juveniles of all the States.

"APPLICATION

"Sec. 236. (a) Each State applying for grants under section 231 (Formula Grants) and each public or private entity applying for grants under section 232 (Discretionary Grants) shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) To the extent practical, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the applications required under part I (general juvenile justice formula grant) and part C (special emphasis prevention and treatment grants), including the procedures relating to competition.

"(c) In addition to the requirements prescribed in subsection (b), each State application submitted under section 231 shall include a detailed description of how the funds made available shall be coordinated with Federal assistance provided in parts B and C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 and by the Bureau of Justice Assistance under the Drug Control and System Improvement Grant program.

"REVIEW AND APPROVAL OF APPLICATIONS

"Sec. 237. The procedures and time limits imposed on the Federal and State Governments under sections 505 and 508, respectively, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 relating to the review of applications and distribution of Federal funds shall apply to the review of applications and distribution of funds under this subpart.".

SEC. 1512. CONFORMING AMENDMENTS.

(a) Title II.—Section 291 of title II of the Juvenile Justice Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(other than part D)";

(B) and by striking paragraph (2) in its entirety; and

(2) in subsection (b) by striking "(other than part D)".

(b) Part D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 is hereby repealed.

(c) Part E.—Part E of title II of such Act is redesignated as part D.

Subtitle C—Juvenile Penalties

SEC. 1521. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) Designation of Undesignated Paragraphs.—Section 5032 of title 18, United States Code, is amended by designating undesignated paragraphs one through eleven as subsections (a) through (k), respectively.

(b) Jurisdiction Over Certain Firearms Offenses.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) Adult Status of Juveniles Who Commit Firearms Offenses.—Section 5032(d) of title 18, United States Code, is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) Factors for Transferring a Juvenile to Adult Status.—Section 5032(e) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavioral problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

SEC. 1522. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) Act of Juvenile Delinquency.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) Serious Drug Offense.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

TITLE XVI—RURAL CRIME AND DRUG CONTROL ACT

Subtitle A—Fighting Drug Trafficking in Rural Areas

SEC. 1601. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) Authorization of Appropriations.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) Amendment to Base Allocation.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 1602. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) Establishment.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) Task Force Membership.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 1603. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 1604. RURAL DRUG ENFORCEMENT TRAINING.

(a) Specialized Training for Rural Officers.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) Authorization of Appropriations.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993 and 1994 to carry out the purposes of subsection (a) of this section.

Subtitle B—Increasing Penalties for Certain Drug Trafficking Offenses

SEC. 1611. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 1612. STRENGTHENING FEDERAL PENALTIES.

(a) Large Amount.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

Subtitle C—Rural Drug Prevention and Treatment

SEC. 1621. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (hereafter referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992 and 1993.".

SEC. 1622. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period; and

(3) by adding at the end thereof the following new paragraphs—

"(5) to gather information pertaining to rural drug abuse treatment and education projects funded by the Alcohol, Drug Abuse, and Mental Health Administration, as well as other such projects operating throughout the United States; and

"(6) to disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested individuals.".

Subtitle D—Rural Land Recovery Act

SEC. 1631. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 1502(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities outlined under this subtitle.

SEC. 1632. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) IN GENERAL.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) LAW SUITS.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health related damages caused by the operators in their manufacture of illicit substances.

Subtitle E—Drug Free Truck Stops and Safety Rest Areas

SEC. 1641. DRUG FREE TRUCK STOPS AND SAFETY REST AREAS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) by at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' means a roadside facility with parking facilities for the rest or other needs of motorists; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSSREFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking the item relating to section 409, the following new item:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines described in paragraph (1), as promulgated or amended under this subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to this subsection is subject to not more than one such enhancement.

TITLE XVII—DRUG EMERGENCY AREAS ACT OF 1991

SEC. 1701. SHORT TITLE.

This title may be cited as the "Drug Emergency Areas Act of 1991".

SEC. 1702. DRUG EMERGENCY AREAS.

Subsection (c) of section 1005 of the National Narcotics Leadership Act of 1988 is amended to read as follows:

"(c) DECLARATION OF DRUG EMERGENCY AREAS.—

"(1) PRESIDENTIAL DECLARATION.—(A) In the event that a major drug-related emergency exists throughout a State or a part of a State, the President may, in consultation with the Director and other appropriate officials, declare such State or part of a State to be a drug emergency area and may take any and all necessary actions authorized by this subsection or otherwise authorized by law.

"(B) For the purposes of this subsection, the term 'major drug-related emergency' means any occasion or instance in which drug trafficking, drug abuse, or drug-related violence reaches such levels, as determined by the President, that Federal assistance is needed to supplement State and local efforts and capabilities to save lives, and to protect property and public health and safety.

"(2) PROCEDURE FOR DECLARATION.—(A) All requests for a declaration by the President designating an area to be a drug emergency area shall be made, in writing, by the Governor or chief executive officer of any affected State or local government, respectively, and shall be forwarded to the President through the Director in such form as the Director may by regulation require. One or more cities, counties, or States may submit a joint request for designation as a drug emergency area under this subsection.

"(B) Any request made under clause (A) of this paragraph shall be based on a written finding that the major drug-related emergency is of such severity and magnitude that effective response to save lives, and to protect property and public health and safety, that Federal assistance is necessary.

"(C) The President shall not limit declarations made under this subsection to highly-populated centers of drug trafficking, drug use or drug-related violence, but shall also consider applications from governments of less populated areas where the magnitude and severity of such activities is beyond the capability of the State or local government to respond.

"(D) As part of a request for a declaration by the President under this subsection, and as a prerequisite to Federal drug emergency assistance under this subsection, the Governor(s) or chief executive officer(s) shall—

"(i) take appropriate response action under State or local law and furnish such information on the nature and amount of State and local resources which have been or will be committed to alleviating the major drug-related emergency;

"(ii) certify that State and local government obligations and expenditures will comply with all applicable cost-sharing requirements of this subsection; and

"(iii) submit a detailed plan outlining the State and/or local government's short- and long-term plans to respond to the major drug-related emergency, specifying the types and levels of Federal assistance requested, and including explicit goals (where possible quantitative goals) and timetables and shall specify how Federal assistance provided under this subsection is intended to achieve such goals.

"(E) The Director shall review any request submitted pursuant to this subsection and forward the application, along with a recommendation to the President on whether to approve or disapprove the application, within 30 days after receiving such application. Based on the application and the recommendation of the Director, the President may declare an area to be a drug emergency area under this subsection.

"(3) FEDERAL MONETARY ASSISTANCE.—(A) The President is authorized to make grants to State or local governments of up to, in the aggregate for any single major drug-related emergency, $50,000,000.

"(B) The Federal share of assistance under this section shall not be greater than 75 percent of the costs necessary to implement the short- and long-term plan outlined in paragraph (2)(D)(iii).

"(C) Federal assistance under this subsection shall not be provided to a drug disaster area for more than 1 year. In any case where Federal assistance is provided under this Act, the Governor(s) or chief executive officer(s) may apply to the President, through the Director, for an extension of assistance beyond 1 year. The President, based on the recommendation of the Director, may extend the provision of Federal assistance for not more than an additional 180 days.

"(D) Any State or local government receiving Federal assistance under this subsection shall balance the allocation of such assistance evenly between drug supply reduction and drug demand reduction efforts, unless State or local conditions dictate otherwise.

"(4) NONMONETARY ASSISTANCE.—In addition to the assistance provided under paragraph (3), the President may—

"(A) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts; and

"(B) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

"(5) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the enactment of this subsection, the Director shall issue regulations to implement this subsection, including such regulations as may be necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

"(6) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State or local government under this subsection, including an evaluation of the effectiveness of such assistance based on the goals contained in the application for assistance.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year 1992, 1993, 1994, 1995, and 1996, $300,000,000 to carry out the purposes of this subsection.".

TITLE XVIII—DRUNK DRIVING CHILD PROTECTION ACT

SEC. 1801. SHORT TITLE.

This title may be cited as the "Drunk Driving Child Protection Act of 1991".

SEC. 1802. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

SEC. 1803. COMMON CARRIERS.

Section 342 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following new subsection:

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1804. SENSE OF CONGRESS CONCERNING CHILD CUSTODY AND VISITATION RIGHTS.

It is the sense of the Congress that in determining child custody and visitation rights, the courts should take into consideration the history of drunk driving that any person involved in the determination may have.

TITLE XIX—COMMISSION ON CRIME AND VIOLENCE

SEC. 1901. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "National Commission on Crime and Violence in America". The Commission shall be composed of 22 members, appointed as follows:

(1) 6 persons by the President;

(2) 8 persons by the Speaker of the House of Representatives, two of whom shall be appointed on the recommendation of the minority leader; and

(3) 8 persons by the President pro tempore of the Senate, six of whom shall be appointed on the recommendation of the Majority Leader of the Senate and two of whom shall be appointed on the recommendation of the Minority Leader of the Senate.

SEC. 1902. PURPOSE.

The purposes of the Commission are as follows:

(1) To develop a comprehensive and effective crime control plan which will serve as a "blueprint" for action in the 1990s. The report shall include an estimated cost for implementing any recommendations made by the commission.

(2) To bring attention to successful models and programs in crime prevention and crime control.

(3) To reach out beyond the traditional criminal justice community for ideas when developing the comprehensive crime control plan.

(4) To recommend improvements in the coordination of local, State, Federal, and international border crime control efforts.

(5) To make a comprehensive study of the economic and social factors leading to or contributing to crime and specific proposals for legislative and administrative actions to reduce crime and the elements that contribute to it.

SEC. 1903. RESPONSIBILITIES OF THE COMMISSION.

The commission shall be responsible for the following:

(1) Reviewing the effectiveness of traditional criminal justice approaches in preventing and controlling crime and violence.

(2) Examining the impact that changes to state and Federal law have had in controlling crime and violence.

(3) Examining the impact of changes in Federal immigration laws and policies and increased development and growth along United States international borders on crime and violence in the United States, particularly among our Nation's youth.

(4) Examining the problem of youth gangs and provide recommendations as to how to reduce youth involvement in violent crime.

(5) Examining the extent to which assault weapons and high power firearms have contributed to violence and murder in America.

(6) Convening field hearings in various regions of the country to receive testimony from a cross section of criminal justice professionals, business leaders, elected officials, medical doctors, and other citizens that wish to participate.

(7) Review all segments of our criminal justice system, including the law enforcement, prosecution, defense, judicial, corrections components in developing the crime control plan.

SEC. 1904. COMMISSION MEMBERS.

(a) CHAIRPERSON.—The President shall designate a chairperson from among the members of the Commission.

(b) COMPOSITION OF MEMBERSHIP.—The Commission members will represent a cross-section of professions that include law enforcement, prosecution, criminal defense, judges, corrections, education, medicine, business, religion, military, welfare and social services, sports, entertainment, victims of crime, and elected officials from State, local and Federal Government that equally represent both political parties.

SEC. 1905. ADMINISTRATIVE PROVISIONS.

(a) FEDERAL AGENCY SUPPORT.—All Federal agencies shall provide such support and assistance as may be necessary for the Commission to carry out its functions.

(b) EXECUTIVE DIRECTOR AND STAFF.—The President is authorized to appoint and compensate an executive director. Subject to such regulations as the Commission may prescribe, staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive services and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(c) DETAILED FEDERAL EMPLOYEES.—Upon the request of the chairperson, the heads of executive and military departments are authorized to detail employees to work with the executive director without regard to the provisions of section 3341 of title 5, United States Code.

(d) TEMPORARY AND INTERMITTENT EMPLOYEES.—Subject to rules prescribed by the commission, the chairperson may procure temporary and intermittent services under section 3108(b) of title 5, United States Code, but at a rate of base pay not to exceed the annual rate of base pay for GS-18 of the General Schedule.

SEC. 1906. REPORT.

The Commission shall submit a final report to the President and the Congress not later than one year after the appointment of the Chairperson. The report shall include the findings and recommendations of the Commission as well as proposals for any legislative action necessary to implement such recommendations.

SEC. 1907. TERMINATION.

The Commission shall terminate 30 days after submitting the report required under section 1806.

TITLE XX—PROTECTION OF CRIME VICTIMS

SEC. 2001. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1991".

SEC. 2002. AVAILABILITY OF FUNDS.

Section 1402 of the Victims of Crime Act of 1984, as amended, is amended—

(a) by striking subsection (c) and redesignating (d), (e), (f) and (g) as subsections (c), (d), (e), and (f), respective; and

(b) by adding a new subsection (c) to read as follows:

"(c) Availability of funds for expenditure; grant program percentages

"(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation.

"(2) The Fund shall be available as follows:

"(A) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(B) Of the first $100,000,000 deposited in the Fund in a particular fiscal year—

"(i) 49.5 percent shall be available for grants under section 10602 of this title;

"(ii) 45 percent shall be available for grants under section 10603(a) of this title;

"(iii) 1 percent shall be available for grants under section 10603(c) of this title; and

"(iv) 4.5 percent shall be available for grants as provided in section 10603a of this title.

"(C) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 10603a of this title.

"(D) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 10603(a) of this title.

"(E) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under subparagraphs (A) through (D) shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 10602 of this title;

"(ii) 47.5 percent shall be available for grants under section 10603(a) of this title; and

"(iii) 5 percent shall be available for grants under section 10603(c)(1)(B) of this title.".

SEC. 2003. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

TITLE XXI—CRACK HOUSE EVICTION ACT

SEC. 2101. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end thereof the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 2102. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking.

TITLE XXII—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SECTION 2201. SHORT TITLE.

This title may be cited as the "National Commission to Support Law Enforcement Act".

SEC. 2202. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review

twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 2203. ESTABLISHMENT.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this title as the "Commission").

SEC. 2204. DUTIES.

(a) IN GENERAL. —The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 2205. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from national law enforcement organizations representing law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 2206. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 2207. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 2208. REPORT.

Not later than the expiration of the eighteen-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 2209. TERMINATION.

The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under section 2208.

SEC. 2210. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (Public Law 101-647; 104 Stat. 4918) and title II, section 211 B of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (Public Law 101-515; 104 Stat. 2122) is repealed.

TITLE XXIII—EXCLUSIONARY RULE

SEC. 2301. SEARCHES AND SEIZURES PURSUANT TO AN INVALID WARRANT.

(a) IN GENERAL.—Chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Evidence obtained by invalid warrant

"Evidence which is obtained as a result of search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the Fourth Amendment to the Constitution of the United States, if the search or seizure was carried out in reasonable reliance on a warrant issued by a detached and neutral magistrate ultimately found to be invalid, unless—

"(1) the judicial officer in issuing the warrant was materially misled by information in an affidavit that the affiant knew was false or would have known was false except for his reckless disregard of the truth;

"(2) the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant;

"(3) the warrant was based on an affidavit so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable; or

"(4) the warrant is so facially deficient that the executing officers could not reasonably presume it to be valid.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 109 of title 18, United States Code, is amended by adding at the end thereof the following:

"2237. Evidence obtained by invalid warrant.".

TITLE XXIV—FEDERAL PRISONER DRUG TESTING

SEC. 2401. FEDERAL PRISONER DRUG TESTING.

(a) SHORT TITLE.—This title may be cited as the "Federal Prisoner Drug Testing Act of 1991".

(b) CONDITIONS OF PROBATION.—Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking "and" after the semicolon;

(2) in paragraph (3), by striking the period and inserting "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of release on probation and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance."; and

(4) by adding at the end thereof the following: "The results of a drug test administered in accordance with paragraph (4) shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test administered in accordance with paragraph (4). ".

(c) CONDITIONS ON SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to a drug test within 15 days of release on supervised release and at least 2 periodic drug tests thereafter (as determined by the court) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The court shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

(d) CONDITIONS OF PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to release and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. The results of a drug test administered in accordance with the provisions of the preceding sentence shall be subject to confirmation only if the results are positive, the defendant is subject to possible imprisonment for such failure, and either the defendant denies the accuracy of such test or there is some other reason to question the results of the test. A drug test confirmation shall be a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Courts after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy. The Commission shall consider the availability of appropriate substance abuse treatment programs when considering any action against a defendant who fails a drug test.".

SEC. 2402. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case under section 404 involving simple possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release, to be served consecutively to any other sentence imposed for the simple possession itself.

"(B) In a case under this section involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution or intended distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release, to be served consecutively to any other sentence imposed for the possession with intent to distribute or the distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

TITLE XXV—MAXIMUM PENALTY INCREASES FOR VIOLENT CRIMES

SEC. 2501. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and in all other cases," after "shall";

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended by—

(1) striking "not more than $5,000" and inserting "under this title";

(2) inserting ", or inflicts bodily injury," after "weapon"; and

(3) striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c) by—

(A) striking "of not more than $1,000" and inserting "under this title"; and

(B) striking "five" and inserting "ten"; and

(2) in subsection (e) by—

(A) striking "of not more than $300" and inserting "under this title"; and

(B) striking "three" and inserting "six".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended by—

(1) striking "not more than $5,000," and inserting "under this title,";

(2) inserting "the assault involved in the use of a dangerous weapon, or" after "if";

(3) striking "not more than $10,000" and inserting "under this title"; and

(4) striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended by—

(1) striking "not more than $10,000," both places it appears and inserting "under this title,";

(2) striking "not more than $5,000," and inserting "under this title,"; and

(3) inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 2502. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b) by—

(A) inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "six".

SEC. 2503. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results";

(3) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(4) by inserting ", or both" after "life".

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended by—

(1) striking "more more than $1,000" an inserting "under this title" ;

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or" after "death results"; and

(4) striking "shall be subject to imprisonment" and inserting "imprisoned"; and

(5) inserting ", or both" after "life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by—

(1) striking "not more than $1,000" and inserting "under this title";

(2) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) striking "not more than $10,000" and inserting "under this title";

(4) inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(5) striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(6) inserting ", or both" after "life".

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1), by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2), by—

(A) striking "serious"; and

(B) inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) in the caption by striking "bodily injury; death;";

(2) by striking "not more than $1,000," and inserting "under this title";

(3) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(4) by striking "not more than $10,000," and inserting "under this title";

(5) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results";

(6) by striking "subject to imprisonment" and inserting "fined under this title or imprisoned"; and

(7) by inserting ", or both" after "life".

SEC. 2504. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 2505. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 2506. REPEALING SURCHARGE ON EQUITABLE SHARING CASES.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 2507. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

SEC. 2508. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 418, 419, or 420 after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 418, 419, or 420 or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to not less than a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

SEC. 2509. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 418 of the Controlled Substances Act (21 U.S.C. 859) is amended—

(1) in subsection (a) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by inserting after the second sentence "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection in a case involving distribution to a person under eighteen years of age shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 2510. INCREASED PENALTIES.

Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate section 1324(a) of title 8, United States Code, shall be assigned not less than offense level 25 under section 2L1.1 of the United States Sentencing Guidelines if any of the following factors exist—

(1) if the offense involved five or more aliens in a single scheme or otherwise; or

(2) if the offense involved other criminal activity including, but not limited to, violations of the Controlled Substances Act, prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, illegal gang activities, kidnapping or ramsom demands, fraudulent documents, or extortion; or

(3) if the offense involves smuggling of persons under the age of 18 years for purposes of illegal adoption, or sexual or commercial exploitation; or

(4) if the offense involves the smuggling of known or suspected terrorists or persons involved in organized crime; or

(5) if the offense involves dangerous or inhumane treatment of the persons smuggled; or

(6) if death or serious bodily harm occurs to persons smuggled, increase by 3.

Otherwise, the base offense level shall be 13, except for an offense as described in section 1324(a)(2)(A) of title 8, United States Code.

TITLE XXVI—OBSTRUCTION OF JUSTICE

SEC. 2601. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 2602. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

TITLE XXVII—FELON FIREARM PURCHASE PREVENTION

SEC. 2701. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NONLICENSEE.

(a) INTERIM PROVISION.—Section 922 of title 18, United States Code, as amended by section 702 of this Act, is amended by adding at the end the following new subsection:

"(u)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of The Biden-Thurmond Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identification of the transferee by examining the identification document presented; and

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(ii)(I) 5 business days (as defined by days in which State offices are open) have elapsed from the date the transferee furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

"(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

"(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

"(C)(i) the transferee has presented to the transferor a permit that—

"(I) allows the transferee to possess a handgun; and

"(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

"(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

"(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law, except that this subparagraph shall not apply to a State that, on the date of certification pursuant to section 2702(d) of The Biden-Thurmond Violent Crime Control Act of 1991, is not in compliance with the timetable established pursuant to section 2702(c) of such Act;

"(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because of the inability of the transferor to communicate with the chief law enforcement officer because of the remote location and absence of telecommunications facilities in the remote location of the licensed premises.

"(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether the transferee has a criminal record or whether there is any other legal impediment to the transferee's receiving a handgun, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

"(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

"(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

"(B) a statement that transferee—

"(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

"(ii) is not a fugitive from justice;

"(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

"(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

"(v) is not an alien who is illegally or unlawfully in the United States;

"(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

"(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

"(C) the date the statement is made; and

"(D) notice that the transferee intends to obtain a handgun from the transferor.

"(4) The chief law enforcement officer of the place of residence of a prospective transferee of a handgun, at the request of a person who alleges the person requires access to a handgun because of a threat to the life of the person or a member of the household of the person, shall immediately meet with the person and forthwith sign a written statement described in paragraph (1)(B) unless the officer has clear and convincing evidence that no threat was made to the life of the person or any member of the household of the person.

"(5) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall immediately communicate all information the transferor has about the transfer and the transferee to—

"(A) the chief law enforcement officer of the place of business of the transferor; and

"(B) the chief law enforcement officer of the place of residence of the transferee.

"(6) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

"(7)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction.

"(B)(i) Unless the chief law enforcement officer to whom notice is provided under paragraph (1)(A)(i)(III) determines that a transaction would violate Federal, State, or local law, the officer shall, within 5 days after the date the transferee made such statement, destroy the statement and any record containing information derived from such statement.

"(ii) Information conveyed to a chief law enforcement officer under paragraph (1)(A)(i)(III)—

"(I) shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

"(II) shall not be used for any purpose other than to carry out this subsection.

"(8) A chief law enforcement officer shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section.

"(9) For purposes of this subsection, the term 'chief law enforcement officer' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

"(10) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers and to the public.".

(b) PERMANENT PROVISION.—Section 922 of title 18, United States Code, as amended by subsection (a), is amended by adding at the end the following new subsection:

"(v)(1) Beginning on the date that the Attorney General certifies that the national instant criminal background check system is in compliance with section 2702(d)(1) of The Biden-Thurmond Violent Crime Control Act of 1991 (except as provided in paragraphs (2) and (3) of section 2702(d) of such Act), a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm from the business inventory of the licensee to any other person who is not such a licensee, unless—

"(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 2703 of The Biden-Thurmond Violent Crime Control Act of 1991; and

"(B) the system notifies the licensee that the system has not located any record that demonstrates that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section.

"(2) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

"(A) such other person presents to the licensee a valid permit or license, issued by the State or political subdivision thereof in which the transfer is to occur, that authorizes such other person to purchase, possess, or carry a firearm;

"(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

"(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because of the inability of the transferor to communicate with the national instant criminal background check system because of the remote location and absence of telecommunications facilities in the remote location of the licensed premises.

"(3) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n), and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

"(4) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n), the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under this section, and may impose on the licensee a civil fine of not more than $5,000.

"(5) A State employee, or a political subdivision of a State or employee thereof, responsible for providing information to the national instant criminal background check system shall not be liable in an action at law for damages for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section.".

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "(2) or (3)"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates section 922 (u) or (v) shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.".

SEC. 2702. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—The Attorney General of the United States shall establish a national instant criminal background check system that any licensee may contact for information on whether receipt of a firearm by a prospective transferee thereof would violate section 922 (g) or (n) of title 18, United States Code.

(b) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(c) PROVISION OF STATE CRIMINAL RECORDS TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(A) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems will communicate with the national system;

(B) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an online capacity basis to the national system;

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State achieve, by the end of 5 years after the date of enactment of this Act, at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years and continue to maintain such a system.

(d) NATIONAL SYSTEM CERTIFICATION.—(1) On or after the date that is 30 months after the date of enactment of this Act, the Attorney General shall certify that—

(A) the national system has acheived at least 80 percent currency of case dispositions in computerized criminal history files for all cases in which there has been an entry of activity within the last 5 years on a national average basis; and

(B) the States are in compliance with the timetable established pursuant to subsection (c).

(2) If on the date of certification in paragraph (1), a State that is not in compliance with the timetable established pursuant to subsection (c), the provision of section 922(u) of title 18, United States Code, as added by section 2701, shall remain in effect in such State. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with its timetable after the date of certification in paragraph (1) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(3) Six years after the date of enactment of this Act, the Attorney General shall certify whether or not a State is in compliance with subsection (c)(2) and if the State is not in compliance, the provisions of section 922(u) of title 18, United States Code, shall be in effect. The Attorney General shall certify if a State subject to the provisions of section 922(u) under the preceding sentence achieves compliance with the standards in subsection (c)(2) and section 922(u) of title 18, United States Code, as added by section 2701, shall not apply to such State.

(e) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee of the existence and purpose of the system and the means to be used to contact the system.

(f) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate section 922(g) or (n) of title 18, United States Code as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate section 922(g) or (n) of title 18, United States Code, the transferee may request the Attorney General to provide such other person with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The transferee may submit to the Attorney General information that to correct, clarify, or supplement records of the system with respect to the transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to such the transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITIONS RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof maintained by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons prohibited by section 922(g) or (n) of title 18, United States Code, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term "licensee" means a licensed importer, licensed manufacturer, or licensed dealer under section 923 of title 18, United States Code.

(2) OTHER TERMS.—The terms "firearm", "licensed importer", "licensed manufacturer", and "licensed dealer" have the meanings stated in section 921(a) (3), (9), (10), and (11), respectively, of title 18, United States Code.

SEC. 2703. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) IMPROVEMENTS IN STATE RECORDS.—

(1) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(A) in paragraph (2) by striking "and" after the semicolon;

(B) in paragraph (3) by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 3 of The Biden-Thurmond Violent Crime Control Act of 1991 with the Attorney General for the purpose of implementing The Biden-Thurmond Violent Crime Control Act of 1991.".

(2) ADDITIONAL FUNDING.—

(A) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(i) for the creation of a computerized criminal history record system or improvement of an existing system;

(ii) to improve accessibility to the national instant criminal background system; and

(iii) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subparagraph (A) a total of $100,000,000 for fiscal year 1992 and all fiscal years thereafter.

(b) WITHHOLDING STATE FUNDS.—Effective on the date of enactment of this Act the Attorney General may reduce by up to 50 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for such State under section 2702(c).

(c) WITHHOLDING OF DEPARTMENT OF JUSTICE FUNDS.—If the Attorney General does not certify the national instant criminal background check system pursuant to section 2702(d)(1) by—

(1) 30 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 30 months after the date of enactment of this Act shall be reduced by 5 percent on a monthly basis; and

(2) 42 months after the date of enactment of this Act the general administrative funds appropriated to the Department of Justice for the fiscal beginning in the calendar year that is 42 months after the date of enactment of this Act shall be reduced by 10 percent on a monthly basis.

TITLE XXVIII—BAIL POSTING REPORTING

SEC. 2801. SHORT TITLE.

This title may be cited as the "Illegal Drug Profits Act of 1991".

SEC. 2802. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000, and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of subsection (a), the term "criminal offense" means—

(1) any Federal criminal offense involving a controlled substance,

(2) racketeering (as defined in section 1951, 1952, or 1955 of title 18, United States Code),

(3) money laundering (as defined in section 1956 or 1957 of title 18, United States Code), or

(4) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney, and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations as are necessary within 90 days of the enactment of this title.

(e) EFFECTIVE DATE.—This section shall become effective 60 days after the date of the promulgation of regulations under subsection (c).

TITLE XXIX—MOTOR VEHICLE THEFT PREVENTION

SEC. 2901. MOTOR VEHICLE THEFT PREVENTION ACT.

(a) SHORT TITLE.—This section may be cited as the "Motor Vehicle Theft Prevention Act".

(b) MOTOR VEHICLE THEFT PREVENTION PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 160. Motor vehicle theft prevention program

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Attorney General shall develop, in cooperation with States and localities, a national voluntary motor vehicle theft prevention program (in this section referred to as the 'program') under which—

"(1) the owner of a motor vehicle may voluntarily sign a consent form with a participating State or locality in which the motor vehicle owner—

"(A) states that the vehicle is not normally operated under certain specified conditions; and

"(B) agrees to—

"(i) display program decals or devices on the owner's vehicle; and

"(ii) permit law enforcement officials in any State or locality to stop the motor vehicle and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner, if the vehicle is being operated under the specified conditions;

"(2) participating States and localities authorize law enforcement officials in the State or locality to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner; and

"(3) Federal law enforcement officials are authorized to stop motor vehicles displaying program decals or devices under specified conditions and take reasonable steps to determine whether the vehicle is being operated by or with the permission of the owner.

"(b) UNIFORM DECAL OR DEVICE DESIGNS.—

"(1) IN GENERAL.—The motor vehicle theft prevention program developed pursuant to this section shall include a uniform design or designs for decals or other devices to be displayed by motor vehicles participating in the program.

"(2) TYPE OF DESIGN.—The uniform design shall—

"(A) be highly visible; and

"(B) explicitly state that the motor vehicle to which it is affixed may be stopped under the specified conditions without additional grounds for establishing a reasonable suspicion that the vehicle is being operated unlawfully.

"(c) VOLUNTARY CONSENT FORM.—The voluntary consent form used to enroll in the program shall—

"(1) clearly state that participation in the program is voluntary;

"(2) clearly explain that participation in the program means that, if the participating vehicle is being operated under the specified conditions, law enforcement officials may stop the vehicle and take reasonable steps to determine whether it is being operated by or with the consent of the owner, even if the law enforcement officials have no other basis for believing that the vehicle is being operated unlawfully;

"(3) include an express statement that the vehicle is not normally operated under the specified conditions and that the operation of the vehicle under those conditions would provide sufficient grounds for a prudent law enforcement officer to reasonably believe that the vehicle was not being operated by or with the consent of the owner; and

"(4) include any additional information that the Attorney General may reasonably require.

"(d) Specified Conditions Under Which Stops May Be Authorized.—

"(1) In general.—The Attorney General shall promulgate rules establishing the conditions under which participating motor vehicles may be authorized to be stopped under this section. These conditions may include—

"(A) the operation of the vehicle during certain hours of the day; or

"(B) the operation of the vehicle under other circumstances or by such individuals that would provide a sufficient basis for establishing a reasonable suspicion that the vehicle was not being operated by the owner, or with the consent of the owner.

"(2) More than one set of conditions.—The Attorney General may establish more than one set of conditions under which participating motor vehicles may be stopped. If more than one set of conditions is established, a separate consent form and a separate design for program decals or devices shall be established for each set of conditions. The Attorney General may choose to satisfy the requirement of a separate design for program decals or devices under this paragraph by the use of a design color that is clearly distinguishable from other design colors.

"(3) No new conditions without consent.—After the program has begun, the conditions under which a vehicle may be stopped if affixed with a certain decal or device design may not be expanded without the consent of the owner.

"(4) Limited participation by States and localities.—A State or locality need not authorize the stopping of motor vehicles under all sets of conditions specified under the program in order to participate in the program.

"(e) Motor Vehicles for Hire.—

"(1) Notification to lessees.—Any person who is in the business of renting or leasing motor vehicles and who rents or leases a motor vehicle on which a program decal or device is affixed shall, prior to transferring possession of the vehicle, notify the person to whom the motor vehicle is rented or leased about the program.

"(2) Type of notice.—The notice required by this subsection shall—

"(A) be in writing;

"(B) be in a prominent format to be determined by the Attorney General; and

"(C) explain the possibility that if the motor vehicle is operated under the specified conditions, the vehicle may be stopped by law enforcement officials even if the officials have no other basis for believing that the vehicle is being operated unlawfully.

"(3) Fine for failure to provide notice.—Failure to provide proper notice under this subsection shall be punishable by a fine not to exceed $5,000.

"(f) Participating State or Locality.—A State or locality may participate in the program by filing an agreement to comply with the terms and conditions of the program with the Attorney General.

"(g) Notification of Police.—As a condition of participating in the program, a State or locality must agree to take reasonable steps to ensure that law enforcement officials throughout the State or locality are familiar with the program, and with the conditions under which motor vehicles may be stopped under the program.

"(h) Regulations.—The Attorney General shall promulgate regulations to implement this section.

"(i) Authorization of Appropriations.—There are authorized such sums as are necessary to carry out this section.".

(2) Amendment to chapter analysis.—The analysis for chapter 1 of title 23, United States Code, is amended by adding after the item for section 159 the following:

"160. Motor vehicle theft prevention program.".

(c) Altering or Removing Motor Vehicle Identification Numbers.—

(1) Basic offense.—Subsection (a) of section 511 of title 18, United States Code, is amended to read as follows:

"(a) Whoever knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle, or motor vehicle part, or a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, shall be fined not more than $10,000 or imprisoned not more than five years, or both.".

(2) Excepted persons.—Paragraph (2) of section 511 of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in subparagraph (B);

(B) striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) adding at the end thereof the following:

"(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

"(i) the owner or his authorized agent;

"(ii) applicable State or local law; or

"(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.".

(3) Definition.—Section 511 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) For purposes of subsection (a) of this section, the term 'tampers with' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.".

(4) Unauthorized application of a decal or device.—

(A) In general.—Chapter 25 of title 18, United States Code, is amended by adding after section 511 the following new section:

"§ 511A. Unauthorized application of theft prevention decal or device

"(a) Whoever affixes to a motor vehicle a theft prevention decal or other device, or a replica thereof, unless authorized to do so pursuant to the Motor Vehicle Theft Prevention Act, shall be punished by a fine not to exceed $1,000.

"(b) For purposes of this section, the term 'theft prevention decal or device' means a decal or other device designed in accordance with a uniform design for such devices developed pursuant to the Motor Vehicle Theft Prevention Act.".

(B) Chapter analysis.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding immediately after the item for section 511 the following:

"511A. Unauthorized application of theft prevention decal or device.".

TITLE XXX—MISSING ALZHEIMER'S DISEASE PATIENTS

SEC. 3001. MISSING ALZHEIMER'S DISEASE PATIENT ALERT PROGRAM.

(a) Grant.—The Attorney General shall award a grant to an eligible organization to assist the organization in paying for the costs of planning, designing, establishing, and operating a Missing Alzheimer's Disease Patient Alert Program, which shall be a locally based, proactive program to protect and locate missing patients with Alzheimer's disease and related dementias.

(b) Application.—To be eligible to receive a grant under subsection (a), an organization shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may require, including, at a minimum, an assurance that the organization will obtain and use assistance from private nonprofit organizations to support the program.

(c) Eligible Organization.—The Attorney General shall award the grant described in subsection (a) to a national voluntary organization that has a direct link to patients, and families of patients, with Alzheimer's disease and related dementias.

(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years 1992, 1993, and 1994.

TITLE XXXI—PRECURSOR CHEMICALS

SEC. 3101. SHORT TITLE.

This title may be cited as "The Chemical Control and Environmental Responsibility Act of 1991".

SEC. 3102. DEFINITION AMENDMENTS.

(a) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and by inserting in lieu thereof "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and by inserting in lieu thereof "list I chemical" and by striking "critical to the creation" and by inserting in lieu thereof "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting in lieu thereof "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and by inserting in lieu thereof ", which is not a list I chemical, that is used";

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and by inserting in lieu thereof "list I chemical or a list II chemical" in both places it appears.

(b) Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in paragraph (a)(1)(A) by striking "precursor chemical" and inserting in lieu thereof "list I chemical";

(2) in paragraph (a)(1)(B) by striking "an essential chemical" and inserting in lieu thereof "a list II chemical";

(3) in paragraph (c)(2)(D) by striking "precursor chemical" and inserting in lieu thereof "chemical control".

(c) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before the word "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting in lieu thereof "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.";

(3) in paragraph (39)(A) by striking "or exportation" and inserting in lieu thereof ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific

listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semi-colon and inserting in lieu thereof "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may be regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semi-colon and inserting in lieu thereof "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

(7) by adding a new paragraph as follows:

"(42) the terms 'broker' or 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing a buyer, seller and/or transporter together.".

SEC. 3103. REGISTRATION REQUIREMENT.

(a) Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting in lieu thereof "and to the registration and control of regulated persons and of regulated transactions.".

(b) Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" in each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) maintenance of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance with applicable Federal, State and local law;

"(3) prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) past experience in the manufacture and distribution of chemicals; and

"(5) such other factors as may be relevant to and consistent with the public health and safety.".

(d) Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" in each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in the Heading by adding the phrase "or to import or export a list I chemical";

(2) by redesignating subsection (c) as (c)(1) and by adding a new subsection (c)(2) as follows:

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (5) of section 823(h) shall be considered.";

(3) in paragraph (d)(3) by inserting "or list I chemical or chemicals," after "substances,";

(4) in paragraph (d)(6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(5) in subsection (e) by striking "and" and by inserting after "827" ", and 830";

(6) in subsections (f), (g) and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(3) by adding the following new subsection:

"(9) who is a regulated person to distribute, import or export a list I chemical without the registration required by this title.".

SEC. 3104. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(B) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended by designating the opening paragraph "(b)(1)", by redesignating paragraphs (1), (2), (3) and (4) as (i), (ii), (iii) and (iv) respectively, by changing the references to these paragraphs in the text which follows them to reflect these new designations and by adding the following new subsection:

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by him.".

SEC. 3105. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import/Export Act (21 U.S.C. 971) is amended by adding the follow new subsection:

"(e) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical which is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, record keeping, and other requirements placed upon exporters of listed chemicals by this subchapter and by subchapter I of this chapter.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended in its entirety to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

"(1) imports or exports listed chemical with intent to manufacture a controlled substance in violation of this chapter; or

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported; or

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

shall be fined in accordance wth title 18, or imprisoned not more than 10 years, or both.".

SEC. 3106. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding the following new subsection:

"(d)(1) The Attorney General may by regulation require that the 15 day advance notice requirement of subsection (a) of this section apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as "regular customers" if he finds that such action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party;

"(2) The Attorney General may by regulation waive the 15 day advance notice requirement for exports of specific listed chemicals to specified countries if he determines that such advance notice is not required for effective chemical control. If such advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15 day advance notice requirement for the importation of specific listed chemicals if he determines that such requirement is not necessary for effective chemical control. If such advance notice requirement is waived, importers of such listed chemicals shall be required to either submit reports of individual importations or to submit periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) (as amended by section 3105 above) is amended by—

(1) inserting "or" after the semicolon at the end of paragraph (4); and

(2) adding a new paragraph (5) as follows:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 971(d) (1) or (2) of this title by misrepresenting either the actual country of final destination of the listed chemical and/or the actual listed chemical being imported or exported;".

SEC. 3107. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking the following chemicals:

"(O) D-lysergic acid.

"(U) N-ethylephedrine.

"(W) N-ethylpseudoephedrine.";

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraph (X) as (U), respectively;

(3) by adding the following chemicals:

"(V) benzaldehyde."

"(W) nitroethane.";

(4) by redesignating subparagraph (Y) as (X); and

(5) by striking "(M) through (X)" in the text of redesignated subparagraph (X) and inserting in lieu thereof "(M) through (U)".

SEC. 3108. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended in its entirety to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended:

(1) in subsection (b)(1) by striking "regular supplier of the regulated person." and inserting in lieu thereof "to an importation by a regular importer.";

(2) in subsection (b)(2) by striking "a customer or supplier of a regulated person" and inserting in lieu thereof "a customer of a regulated person or to an importer" and by striking "regular supplier" and inserting in lieu thereof "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting in lieu thereof "regular importer".

SEC. 3109. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended in its entirety to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from such registration under section 822(d) of this title or by regulation of the Attorney General), or a regulated person as defined in section 802(38) of this title, may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such activity are maintained.".

SEC. 3110. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) (as amended by section 3102 above) is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 3111. MANAGEMENT OF LISTED CHEMICALS.

(a) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921-6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property; and

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 3112. TECHNICAL AMENDMENT TO THE "CRIME CONTROL ACT OF 1990".

Section 2004 of the "Crime Control Act of 1990" (Public Law 101-647) is amended as it amends section 510(f) of the Controlled Substances Act (21 U.S.C. 881(f)) by striking "this title" and inserting in lieu thereof "this subchapter".

SEC. 3113. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Chapter 117 of title 42, United States Code, is amended by adding the following section to subchapter II:

"§11138. Disclosure of information to the Attorney General

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 11134(b) of this title) under this subchapter or section 1396r-2 of this title will be provided to the Attorney General. The Secretary will transmit to the Attorney General such information which the Attorney General may designate or request which will assist the Drug Enforcement Administration in the enforcement of title 21, sections 801, and the following, and will transmit such information related to health care providers which the Attorney General may designate or request which will assist the Federal Bureau of Investigation in the enforcement of title 18 and title 21, chapter 7 and chapter 9, subchapter V.".

SEC. 3114. REGULATIONS AND EFFECTIVE DATE.

The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this title. Except as otherwise noted, this title will become effective 120 days after enactment.

TITLE XXXII—MURDER OF UNITED STATES NATIONALS

SEC. 3201. SHORT TITLE.

This title may be cited as the "Murder of United States Nationals Act of 1991".

SEC. 3202. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§1118. Foreign murder of United States nationals

"(a) Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113 of this title.

"(b) No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) In the course of the enforcement of this section and notwithstanding any other provision of law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) CONFORMING AMENDMENT.—Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1118".

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Foreign Murder of United States Nationals.".

SEC. 3203. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "The provisions of this chapter"; and

(2) adding at the end thereof the following new subsections:

"(b) the provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies, in writing, that—

"(1) evidence has been presented by the foreign government which indicates that had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

"(2) the offenses charged are not of a political nature.

"(c) As used in this section, the term 'national of the United States' shall have the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

TITLE XXXIII—TELEMARKETING AND CONSUMER FRAUD AND ABUSE

SEC. 3301. SHORT TITLE.

This title may be cited as the "Telemarketing and Consumer Fraud and Abuse Prevention Act".

SEC. 3302. DEFINITIONS.

As used in this title, the term—

(1) "attorney general" means the chief legal officer of a State;

(2) "Commission" means the Federal Trade Commission;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States;

(4) "telemarketing" means a plan, program, or campaign which is conducted to induce purchases of goods or services by significant use of one or more telephones and which has involved interstate telephone calls; the term does not include other use of a telephone in connection with business or personal transactions, nor does the term include the solicitation of sales through the mailing of a catalog which—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustrations;

(D) is issued not less frequently than once a year; and

(E) is at least the third catalog satisfying the requirements of subparagraphs (A) through (D) that has been issued by the seller within the last five years,

where the seller does not place calls to customers but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation; and

(5) "credit card laundering" means—

(A) the act or practice by a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of transferring to another person to be presented to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(B) the act or practice by a person acting on behalf of a person engaged in telemarketing (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of causing or arranging for a third person to present to a member of a credit card system or the member's agent, for payment, one or more evidences or records of transactions involving goods or services offered by telemarketing and paid for by credit card;

(C) the act or practice by a person (other than an act or practice permitted in a valid agreement with a member of a credit card system or the member's agent) of knowingly presenting to a member of a credit card system or the member's agent, for payment, one or more evidences or records received from another person of transactions involving goods or services offered by telemarketing and paid for by credit card; or

(D) such other acts or practices defined in the rules of the Commission as credit card laundering.

SEC. 3303. TELEMARKETING RULES.

(a) RULES ON TELEMARKETING ACTIVITIES.—The Commission shall prescribe rules regarding telemarketing activities. In prescribing such rules, the Commission shall consider the inclusion of—

(1) a requirement that goods or services offered by telemarketing be shipped or provided within a specified period and that if the goods or services are not shipped or provided within such period a refund be required;

(2) authority for a person who orders a good or service telemarketing to cancel the order within a specified period;

(3) restrictions on the hours of the day when unsolicited telephone calls can be made to consumers;

(4) a prohibition of telemarketing generated by computers on equipment that does not permit the individual called to terminate the telephone call; and

(5) recordkeeping requirements.

(b) PROHIBITION OF FRAUDULENT TELEMARKETING ACTS OR PRACTICES.—The Commission also shall prescribe rules prohibiting fraudulent telemarketing acts or practices and shall include in such rules a definition of the term "fraudulent telemarketing acts or practices". Credit card laundering shall be a fraudulent telemarketing act or practice.

(c) DEADLINE; ADMINISTRATIVE PROCEDURE.—The Commission shall prescribe the rules under subsections (a) and (b) of this section within 180 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(d) TREATMENT OF RULE VIOLATIONS.—Any violation of any rule prescribed under subsection (a) or (b) of this section shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices (subject to any remedy or penalty applicable to any violation thereof).

(e) EFFECT ON STATE LAW.—The rules promulgated under this section shall not be construed as preempting State law.

SEC. 3304. ACTIONS BY STATE ATTORNEYS GENERAL.

(a) AUTHORITY OF STATES.—Whenever the attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title, the State may bring a civil action on behalf of its residents to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) COURT JURISDICTION.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(c) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (1) to intervene in the action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(d) VENUE; SERVICE OF PROCESS.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(e) EFFECT ON STATE POWERS OF ATTORNEYS GENERAL.—For purposes of bringing any civil action under this section, nothing in this title shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(f) EFFECT ON ACTIONS UNDER STATE STATUTE.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(g) CIVIL ACTION BY COMMISSION.—Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

SEC. 3305. ACTIONS BROUGHT BY PRIVATE PERSONS.

(a) DEFINITION.—As used in this section, the term "person adversely affected by telemarketing" means—

(1) any person who has incurred loss or damage in connection with telemarketing and who actually purchased goods or services through telemarketing, or paid or is obligated to pay for goods or services purchased through telemarketing;

(2) any financial institution that has incurred loss or damage in connection with telemarketing; or

(3) any member organization comprised of financial institution members, or any parent organization of such member organization, if one or more of the financial institution members is eligible to bring a civil action under this subsection.

Such term does not include a governmental entity.

(b) PRIVATE RIGHT OF ACTION.—(1) Any person adversely affected by any pattern or practice of telemarketing which violates any rule, regulation, or order of the Commission under this title may, within 3 years after discovery of the violation, bring a civil action against a person who has engaged or is engaging in such pattern or practice of telemarketing if the amount in controversy exceeds the sum or value of $50,000 in actual damages for each person adversely affected by such telemarketing. Such an action may be brought to enjoin such telemarketing, to enforce compliance with any rule, regulation, or order of the Commission under this title, to obtain damages, or to obtain such further and other relief as the court may deem appropriate.

(2) The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this section to enforce any liability or duty created by any rule, regulation, or order of the Commission under this title, or to obtain damages or other relief with respect thereto. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or order affording like relief, commanding the defendant to comply with the provisions of any rule, regulation, or order of the Commission under this title, including the requirement that the defendant take such action as is necessary to remove the danger of violation or of any such rule, regulation, or order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

(3) The plaintiff shall serve prior written notice of the action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the person shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

(4) Whenever the Commission has instituted a civil action for violation of any rule prescribed under this title, no person may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(5) Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the telemarketing occurred or is occurring and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(c) AWARD OF COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (b), may award costs of suit and reasonable fees for attorneys and expert witnesses to the prevailing party.

(d) RIGHTS UNDER STATUTE OR COMMON LAW.—Nothing in this section shall restrict any right which any person may have under any statute or common law.

SEC. 3306. VENUE.

Subsections (a) and (b) of section 13 of the Federal Trade Commission Act (15 U.S.C 53) are each amended by adding at the end thereof the following: "Whenever it appears to the court that the interests of justice require that any other person, partnership, or corporation should be a party in such suit, the court may cause such person, partnership, or corporation to be summoned without regard to whether they reside or transact business in the district in which the suit is brought, and to that end process may be served wherever the person, partnership, or corporation may be found.".

SEC. 3307. SUBPOENA.

(a) PHYSICAL EVIDENCE DEFINED.—Section 20(a) of the Federal Trade Commission Act (15 U.S.C. 57b-1(a)) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting immediately after paragraph (6) the following new paragraph:

"(7) The term 'physical evidence' means any object or device, including any medical device, food product, drug, nutritional product, cosmetic product, or audio or video recording.".

(b) ISSUANCE OF DEMAND.—Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(1)) is amended—

(1) by inserting "physical evidence or" immediately after "any" the second time it appears;

(2) by inserting "to produce such physical evidence for inspection," immediately before "to produce";

(3) by inserting "physical evidence," immediately after "concerning"; and

(4) by inserting "evidence," immediately before "material, answers,".

(c) CONTENTS OF DEMAND.—Section 20(c)(3) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(3)) is amended—

(1) by inserting "physical evidence or" immediately before "documentary material";

(2) in subparagraph (A)—

(A) by inserting "physical evidence or" immediately before "documentary"; and

(B) by inserting "evidence or" immediately after "permit such";

(3) in subparagraph (B), by inserting "evidence or" immediately before "material"; and

(4) in subparagrph (C), by inserting "evidence or" immediately before "material".

(d) PRODUCTION OF EVIDENCE IN RESPONSE TO DEMAND.—Section 20(c)(10) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)(10)) is amended by inserting "physical evidence or" immediately before "documentary material" each place it appears.

SEC. 3308. FALSE ADVERTISEMENTS CONCERNING SERVICES.

Section 12(a) of the Federal Trade Commission Act (15 U.S.C. 52(a)) is amended by inserting "services," immediately after "devices," each place it appears.

SEC. 3309. CLEARINGHOUSE.

The Commission shall establish a clearinghouse for inquiries made to Federal agencies concerning telemarketing. The clearinghouse will provide information (other than information which may not be disclosed under section 552(b) of title 5, United States Code, or under regulations prescribed by the Commission to implement sections 552(b) of title 5, United States Code) to anyone making inquiries respecting persons engaged in telemarketing or direct such inquiries to the appropriate Federal or State agency.

SEC. 3310. FINANCIAL DATA.

Section 1109(a)(3) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3409(a)(3)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) by striking "or" at the end of subparagraph (D); and

(3) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) dissipation, removal, or destruction of assets that are subject to forfeiture, seizure, redress, or restitution under any law of the United States by reason of having been obtained in violation of law; or".

SEC. 3311. CRIMINAL CONTEMPT AUTHORITY.

Section 16(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) is amended—

(1) in subparagraph (A) by striking "civil" the first place it appears and inserting in lieu thereof "Federal court"; and

(2) by adding at the end the following: "The Commission may bring a criminal contempt action for violations of orders obtained in cases brought under section 13(b) of this Act in the same manner as civil penalty and other Federal court actions to which this subsection applies. Such cases may be initiated by the Commission on its own complaint, or pursuant to its acceptance of an appointment by a court to assist it in enforcing such orders pursuant to Rule 42(b) of the Federal Rules of Criminal Procedure.".

SEC. 3312. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) ENFORCEMENT.—Except as otherwise provided in sections 3304 and 3305 of this title, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) APPLICABILITY OF FTCA.—The Commission shall prevent any person from violating a rule, regulation, or order of the Commission under this title in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such a rule, regulation, or order shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(c) EXEMPTION.—(1) No provision of this title shall apply to any person exempt from the jurisdiction of the Commission under section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)), and nothing in this title shall be construed to vest the Commission, or the attorney general of any State or any person, with jurisdiction or authority over any person not otherwise subject to the jurisdiction or authority of the Commission.

(2)(A) No provision of this title shall apply—

(i) to a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or investment company in connection with the offer, sale, or purchase of any security, or to an issuer in connection with the offer, sale, or purchase of any security which that issuer has issued, or to any investment adviser providing investment advice relating to any security; or

(ii) to the solicitation, acceptance, confirmation, or execution of orders for the entry into, purchase of, or sale of any contract, account, agreement, or transaction subject to the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.) by a person registered under the Commodity Exchange Act in order to engage in such activity, including as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker, or floor trader, or as a person associated with any such person.

(B) For purposes of subparagraph (A)(i)—

(1) the terms "broker", "dealer", "municipal securities dealer", "government securities broker", and "government securities dealer" have the meanings given them in section 3(a)(4), (5), (30), (43), and (44), respectively, of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5), (30), (43), and (44));

(2) the term "investment adviser" has the meaning given it in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11));

(3) the term "investment company" has the meaning given it in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a));

(4) the term "issuer" has the meaning given it in section 2(4) of the Securities Act of 1933 (15 U.S.C. 77b(4)); and

(5) the term "security" has the meaning given to it in section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)), section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)), and section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)).

SEC. 3313. LIFE CARE HOME STUDY.

(a) STUDY.—The Federal Trade Commission shall conduct a study of unfair or deceptive acts or practices in the life care home industry, including acts or practices engaged in by life care homes. Within 24 months after the date of enactment of this Act, the Commission shall report the findings and conclusions of the study to Congress. The Commission shall indicate in its report whether it intends to initiate a trade regulation rulemaking under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices in the life care home industry and the reasons for such determination.

(b) DEFINITIONS.—For purposes of subsection (a), the term—

(1) "life care home" includes the facility or facilities occupied, or planned to be occupied, by residents or prospective residents where a provider undertakes to provide living accommodations and services pursuant to a life care contract, regardless of whether such facilities are operated on a profit or nonprofit basis; and

(2) "life care contract" includes a contract between a resident and a provider to provide the resident, for the duration of such resident's life, living accommodations and related services in a life care home, including nursing care services, medical services, and other health-related services, which is conditioned upon the transfer of an entrance fee to the provider and which may be further conditioned upon the payment of periodic service fees.

SEC. 3314. SUNSET.

The provisions of sections 3303, 3304, and 3305 shall cease to have force and effect on and after the date that is five years following the date of enactment of this Act.

TITLE XXXIV—SENTENCING

SEC. 3401. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 3402. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal" and inserting "unlawfully possess".

SEC. 3403. REVOCATION OF PROBATION.

(a) Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 3404. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal" and inserting "unlawfully possess";

(2) in subsection (e)—

(A) by striking "person" wherever such term appears in such subsection and inserting "defendant"; and

(B) by striking paragraph (3) and inserting the following:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

"(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

"(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statue for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

TITLE XXXV—CRIMINAL EXPLOITATION OF MINORS CONTROL

SEC. 3501. SHORT TITLE.

This title may be cited as the "Criminal Exploitation of Minors Control Act".

SEC. 3502. FINDINGS.

The Congress finds that—

(1) children are our most important and yet most fragile human resource;

(2) too many young people are induced or forced into performing criminal acts by adults;

(3) the greatest effort must be taken to eliminate crime in our neighborhoods and our schools;

(4) an equal resolve must be taken to punish individuals who attempt to use America's youth as pawns in their criminal enterprises; and

(5) adequate penalties can be implemented to eradicate the exploitation of minors to commit offenses.

SEC. 3503. INDUCEMENT OF MINOR TO COMMIT AN OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 21. Inducement of minor to commit an offense

"(a) IN GENERAL.—Except to the extent that a greater minimum sentence is provided by other law, a person 18 years of age or older who, in any voluntary manner, solicits, counsels, encourages, commands, intimidates, or procures any minor with the intent that the minor shall commit an offense against the United States shall be imprisoned not less than 3 and not more than 10 years, to be served consecutively with any other sentences that are imposed.

"(b) LIMITATION.—If the case of an offense under subsection (a) involving a minor who is 16 years of age or older at the time of the offense, subsection (a) shall apply only when the offender is at least 5 years older than the minor at the time the offense is committed.

"(c) SENTENCING.—In imposing a sentence under subsection (a), the court shall consider as a circumstance in aggravation the severity of the offense sought by the adult.

"(d) DEFINITION.—For the purposes of this section the term 'minor' means a person less than 18 years of age.".

(b) TECHNICAL AMENDMENT.—The table of chapters for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Inducement of minor to commit an offense.".

TITLE XXXVI—CHILD ABUSER REGISTRATION

SEC. 3601. SHORT TITLE.

This title may be cited as the "National Child Abuser Registration Act of 1991".

SEC. 3602. DEFINITIONS.

For the purposes of this title—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities; and

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 3603. FINDINGS.

The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

SEC. 3604. PURPOSES.

The purposes of this title are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

SEC. 3605. REPORTING BY THE STATES.

(a) IN GENERAL.—A State which reports the convictions of named individuals to the Federal Bureau of Investigation shall include all convictions for child abuse as defined by this title.

(b) GUIDELINES.—The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this title.

SEC. 3606. COMPLIANCE AND FUNDING.

(a) STATE COMPLIANCE.—Each State shall have 3 years from the date of enactment of this title in which to implement the provisions of section 3605.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of subsection (a) 3 years after the date of enactment of this title shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with subsection (a).

TITLE XXXVII—FINANCIAL INSTITUTION FRAUD PROSECUTIONS

SEC. 3701. SHORT TITLE.

This title may be cited as the "Financial Institutions Fraud Prosecution Act of 1991".

SEC. 3702. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

SEC. 3703. FEDERAL CREDIT UNION ACT AMENDMENTS.

Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

SEC. 3704. CRIME CONTROL ACT AMENDMENT.

Section 2546 of the Crime Control Act of 1990 (Public Law 101–647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

TITLE XXXVIII—INSURANCE CONSUMER PROTECTION

SEC. 3801. SHORT TITLE.

This title may be cited as the "Insurance Consumer Protection Act".

SEC. 3802. UNLAWFUL ACTIVITIES BY OR AFFECTING PERSONS ENGAGED IN THE BUSINESS OF INSURANCE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1033. Crimes by or affecting persons engaged in the business of insurance

"(a) Whoever, in connection with reports or documents presented to a State insurance regulatory official or agency, or an agent or examiner duly appointed by such agency or official, by any person engaged in the business of insurance whose activities affect interstate commerce, knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the actions of a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned for not more than thirty years, or both.

"(b) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, any person engaged in the business of insurance whose activities affect interstate commerce, embezzles, abstracts, purloins, or willfully misappropriates any of the moneys, funds, premiums, credits, or other property of such person shall be fined not more than $1,000,000 or imprisoned not more than thirty years or both; but if the amount or value embezzled, abstracted, purloined, or misappropriated does not exceed $100, such penalty shall be a fine of not more than $1,000 or imprisonment of not more than one year, or both.

"(c) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with any person engaged in the business of insurance whose activities affect interstate commerce, makes any false entry in any book, report, or statement of such person with intent to injure or defraud such person, or any other company, any other body politic or corporate, or any individual person, or to deceive any officer, employee, or agent of such person, or any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of such person, shall be fined not more than $1,000,000 or imprisoned not more than thirty years, or both.

"(d) Whoever, by threats or force, or by any threatening letter or communication corruptly influences, obstructs, or impedes, or endeavors to corruptly influence, obstruct, or impede, the due and proper administration of the law under which any proceeding is pending before a State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of a person engaged in the business of insurance, shall be fined not more than $250,000 or imprisoned not more than ten years, or both.

"(e)(1) Except with the written consent of the authorized official of a State insurance regulatory agency, which consent specifically refers to this subsection—

"(A) any person who has been convicted of an offense under this section, upon such conviction becoming final, may not participate directly or indirectly in the business of insurance; and

"(B) a person engaged in the business of insurance may not permit such participation.

"(2) Whoever knowingly violates paragraph (1) shall be fined not more than $1,000,000 for each day of such violation or imprisoned not more than five years, or both.

"(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which the provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the provisions of this section.

"(g) The term 'business of insurance' has the meaning of that term under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.).".

(b) CONFORMING AMENDMENT.—The analysis of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1032 the following new item:

"1033. Crimes by or affecting persons engaged in the business of insurance.".

SEC. 3803. MISCELLANEOUS AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TAMPERING WITH STATE INSURANCE REGULATORY PROCEEDINGS.—Section 1515(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by adding "or" at the end of subparagraph (C); and

(3) by adding at the end the following new subparagraph:

"(D) a proceeding before any State insurance regulatory official or agency, or any agent or examiner duly appointed to examine the affairs of any person engaged in the business of insurance;".

(b) LIMITATIONS.—(1) Section 3293 of title 18, United States Code, is amended by inserting "1033," immediately after "1014,".

(2) The amendment made by this subsection shall apply to an offense committed before the date of enactment of this Act, if the statute of limitations applicable to that offense under chapter 213 of title 18, United States Code, has not run as of such date.

(c) OBSTRUCTION OF CRIMINAL INVESTIGATIONS.—Section 1510 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Whoever, acting as or being an officer, director, agent, or employee of, or connected in any capacity with, a person engaged in the business of insurance notifies, with intent to obstruct a judicial proceeding directly or indirectly, any other person about the existence or contents of a subpoena for records of that person engaged in the business of insurance, or information that has been furnished to a Federal grand jury in response to that subpoena, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(2) As used in this subsection, the term 'subpoena for records' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033.".

(d) CRIMINAL FORFEITURE.—Section 982(a)(2) of title 18, United States Code, is amended by inserting "or section 1033, affecting a person engaged in the business of insurance," immediately after "financial institution,".

TITLE XXXIX—RURAL CRIME PREVENTION STRATEGY

SEC. 3901. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group as convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 3902. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this title is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 3903. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this title as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the com-

munity in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this title.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 3904. PILOT PROGRAMS.

(a) IN GENERAL.—The Director is authorized to make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 3905. FUNDING.

There are authorized to be appropriated $5,000,000 to carry out the national assessment and pilot programs required by this title.

TITLE XL—VIOLENT FELONIES AGAINST THE ELDERLY

SEC. 4001. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) IN GENERAL.—Chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3581. Mandatory sentence for felony against individual of age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(5) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against individual of age sixty-five or over.".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

(2) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(A) by adding at the end of the first paragraph in paragraph (1) the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(B) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed".

(3) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "In General." and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".

TITLE XLI—INTERNATIONAL PARENTAL CHILD KIDNAPPING

SEC. 4101. OFFENSE.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—(1) Chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1204. International parental child kidnapping

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'child' means an individual under the age of sixteen at the time the offense occurred;

"(2) the term 'person' means a parent, putative parent, or family member related to the child victim by blood or marriage;

"(3) the term 'lawful custodian' means—

"(A) an individual or individuals granted legal custody or entitled to physical possession of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married to each other, the father's paternity has not been established by a court of law, and no other individual has been granted custody of the child by a court of law;

"(b) Any person who—

"(1) intentionally removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States—

"(A) without the consent of the individual who has been granted sole custody, care, possession, or guardianship of the child;

"(B) for more than 90 days without consent of the other joint custodial parent;

"(C) in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State, or the United States;

"(D) without the consent of the mother or lawful custodian of the child if the parents have never been married to each other and the father has never established paternity in a court of law;

"(E) during the pendency of a judicial proceeding affecting marriage, custody, or paternity, but prior to the issuance of a temporary or final order determining custody;

"(F) when the child was taken with physical force or the threat of physical force; or

"(G) if the parents of such child are or have been married to each other, or have never been married to each other, but paternity has been established by a court of law, and there has been no court order of custody, and conceals the child for fifteen days outside the jurisdiction of the United States, and fails to make reasonable attempts within the fifteen-day period to notify the other parent of the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(2) being a parent of the child, instructs another person to remove, conceal, or detain the child when that act when committed by the instructing parent would be a violation of this section; or

"(3) removes a child from or conceals or detains a child outside the territorial jurisdiction of the United States, for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law,

shall be guilty of child kidnapping and shall be fined in accordance with this title or imprisoned not more than three years, or both.

"(d) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act and was in effect at the time of the offense;

"(2) the defendant was fleeing an incidence or pattern of domestic violence;

"(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

"(e) There is criminal jurisdiction over conduct prohibited by this section if any court in the United States has or could have jurisdiction to determine custody of the child subject to the prohibited conduct pursuant to the Uniform Child Custody Jurisdiction Act.".

(2) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child kidnapping.".

(b) INCREASED PENALTY.—Section 994 of title 28, United States Code, is amended by—

(1) redesignating subsections (o), (p), (q), (r), (s), (t), (u), (v), (w), and (x) as subsections (p), (q), (r), (s), (t), (u), (v), (w), (x), and (y), respectively; and

(2) inserting after subsection (n) the following new subsection:

"(o) The Commission shall ensure that the guidelines reflect the appropriateness of imposing a greater sentence than would otherwise be imposed for an offense under section 1204 of title 18, United States Code, if—

"(1) the defendant abused or neglected the kidnapped child during the removal, concealing, or detaining of the child or placed or caused the child to be placed in the care of another individual who abused or neglected the child;

"(2) the defendant inflicted or threatened to inflict physical harm on the child or on a parent or lawful custodian of the child with the intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) the defendant demanded payment in exchange for return of the kidnapped child or demanded that the defendant be relieved of the financial or legal obligation to support the child in exchange for return of the child; or

"(4) the defendant committed the offense while armed with a deadly weapon or the removal of the child resulted in serious bodily injury to another individual.".

SEC. 4102. EFFECT OF PRIOR REMOVAL.

If a child was removed from the territorial jurisdiction of the United States prior to the date of enactment of this Act, charges under section 1204 of title 18, United States Code, as added by section 4101, may be brought only in cases involving the concealing or detaining of the child in violation of a court order that was in effect at the time of the child's removal from the territorial jurisdiction of the United States.

SEC. 4103. RELATION TO THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL PARENTAL CHILD ABDUCTION.

(a) RULE OF CONSTRUCTION.—None of the provisions of this title or amendments made by this title shall be construed to detract from the provisions of the Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that, inasmuch as use of the procedures under the Hague Convention on the Civil Aspects of International Parental Child Abduction has resulted in the return of many children, those procedures, in circumstances in which they are applicable, should be the option of first choice for a parent who seeks the return of a child who has been removed from the parent.

SEC. 4104. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING AND EDUCATIONAL PROGRAMS.

There is authorized to be appropriated $250,000 to conduct national, regional, and State training and education programs on criminal and civil aspects of international and interstate parental child abduction under the State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.).

TITLE XLII—UNITED STATES MARSHALS ASSOCIATION

SEC. 4201. SHORT TITLE.

This title may be cited as the "United States Marshals Association Establishment Act".

SEC. 4202. ESTABLISHMENT AND PURPOSE OF ASSOCIATION.

(a) ESTABLISHMENT.—There is established the United States Marshals Association (hereinafter in this title referred to as the "Association"). The Association is a charitable and nonprofit corporation and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Association are—

(1) to elevate and strengthen public knowledge of law enforcement in general, and the United States Marshals Service in particular;

(2) to promote the exchange of information among private and public institutions and individuals about law enforcement and justice systems issues;

(3) to organize symposia, studies, and research in carrying out paragraphs (1) and (2);

(4) to study the history of law enforcement;

(5) to produce, sell, and distribute educational materials on law enforcement and justice systems issues;

(6) to accept and administer private gifts or property for the benefit of, or in connection with, the activities and services of the United States Marshals Service; and

(7) to promote law enforcement.

SEC. 4203. BOARD OF DIRECTORS OF THE ASSOCIATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Association shall have a governing Board of Directors (hereinafter referred to in this title as the "Board"), which shall consist of not less than 3 nor more than 20 Directors, each of whom shall be a United States citizen and be knowledgeable or experienced in law enforcement matters. The Director of the United States Marshals Service shall be a nonvoting member of the Board, ex officio. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—

(1) INITIAL APPOINTMENT.—The Directors of the Board first appointed shall be appointed by the United States Marshals Association, a non-profit corporation in existence before the enactment of this Act, which is organized under the laws of the State of Virginia.

(2) SUBSEQUENT APPOINTMENT.—The Directors of the Board appointed after the appointment of Directors under paragraph (1) shall be appointed in the manner provided in the bylaws of the Association.

(3) ADVICE OF DIRECTOR.—Any Director of the Board may be appointed with the advice of the Director of the United States Marshals Service (hereinafter referred to in this title as the "Director").

(4) TERMS.—The Directors of the Board shall be appointed for terms of 4 years. A vacancy on the Board shall be filled in the manner in which the original appointment was made. No individual may serve for more than 2 consecutive terms as a Director of the Board.

(c) CHAIR.—The chair of the Board shall be elected by the Board from its members to a 2-year term.

(d) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the chair at least twice each year. If a Director of the Board misses 3 consecutive regularly scheduled meetings, that individual may be removed from the Board as provided in the bylaws of the Association, and that vacancy may be filled in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Association.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Association by—

(A) appointing officers and employees;

(B) adopting a constitution and bylaws consistent with the purposes of the Association and the provisions of this title; and

(C) carrying out such other actions as may be necessary to carry out this title.

(2) The following limitations apply with respect to the appointment of officers and employees of the Association:

(A) Officers and employees may not be appointed until the Association has sufficient funds to pay them for their services. Officers and employees of the Association shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum rate of pay payable under section 5376 of title 5, United States Code, for a position classified above grade GS-15 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the Secretary of the Board who—

(i) shall serve, at the direction of the Board, as its chief operating officer, and

(ii) shall be knowledgeable and experienced in matters relating to law enforcement.

(h) Advisory Council.—The chair of the Board may appoint an Advisory Council of up to 15 members to advise the Association on its activities under this title. Members of the Advisory Council have no vote in matters before the Association.

SEC. 4204. MEMBERSHIP.

(a) Eligibility.—Eligibility for membership in the Association shall be limited to persons and organizations demonstrating support of the stated purpose, goals, and functions of the Association. Categories of membership shall be as follows:

(1) Regular member, which shall be limited to individuals actively or formerly employed in the United States Marshals Service.

(2) Associate member, which shall be limited to individuals who are qualified by training or experience in Federal, State, local, or foreign law enforcement.

(3) Honorary member, which shall be limited to individuals who have an outstanding record of service in the public or private sector.

(4) Corporate member, which shall be limited to nongovernmental public, private, or nonprofit organizations which support the purposes of the United States Marshals Association.

(5) Sponsoring member, which shall be limited to Federal or State government entities.

(b) Application.—Persons may apply or be nominated for membership in the Association. Any such application shall be made in writing on the form provided by the Association.

(c) Sponsorship.—Applicants or nominees for membership in any category except that of sponsoring member must be proposed by a regular member. Acceptance of applicants or nominees for membership shall be determined by a majority vote of the Board.

(d) Dues for Members.—Membership dues shall be established by the Board. Dues must accompany a prospective member's application. No dues shall be required in the case of honorary members or sponsoring members.

(e) Voting.—A member may vote in matters for which the vote of the Association is required, and may serve on the Board.

(f) Suspension or Expulsion of Members.—A member may be suspended or expelled for nonpayment of dues in arrears for at least 60 days, for good cause, or for other reasons by a vote of two-thirds of the Board in accordance with procedures prescribed in Robert's Rules of Order. No member who has been suspended or expelled from the Association may be readmitted to membership for a period of 1 year, and readmission thereafter shall require the consent of two-thirds of the Board.

SEC. 4205. RIGHTS AND OBLIGATIONS OF THE ASSOCIATION.

(a) In General.—The Association—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Virginia or such other place as may be determined by the Board; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Association.

The service of process upon the agent required under paragraph (4), or the mailing of such process to the business address of such agent, shall be deemed to be service upon the Association.

(b) Seal.—The Association may use the seal, insignia, or badge of the United States Marshals Service, and other materials unique to the United States Marshals Service, only with the express written permission of the Director.

(c) Powers.—To carry out its purposes under section 4202, the Association shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Virginia or wherever else the Association is incorporated. The Association shall have the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to borrow money and issue bonds, debentures, or other debt instruments;

(5) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(6) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(7) to do any and all acts necessary and proper to carry out the purposes of the Association.

A gift, devise, or bequest may be accepted by the Association even though it is encumbered, restricted, or subject to the beneficial interests of private persons if any current or future interest therein is for the benefit of the Association.

SEC. 4206. ADMINISTRATIVE SERVICES AND SUPPORT.

The Director may provide personnel, facilities, and other administrative services to the Association, including reimbursement of expenses under section 4203, not to exceed the then current Federal Government per diem rates, for a period of up to 5 years from the date of the enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.

SEC. 4207. VOLUNTEER STATUS.

The Director may, notwithstanding section 1342 of title 31, United States Code, accept voluntary services of the Association in the performance of the functions of the Association under this title.

SEC. 4208. RESTRICTIONS.

(a) Financial Interests.—No part of the income or assets of the Association shall inure to any member or officer of the Association or Director of the Board or be distributed to any such person. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers or the Association or reimbursement for actual necessary expenses in amounts approved by the Board.

(b) Prohibition on Loans.—The Association shall not make any loan to any Director of the Board or to any officer or employee of the Association.

(c) Prohibition on Stock.—The Association shall have no power to issue any shares of stock or to declare or pay any dividends.

SEC. 4209. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) Audits.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (Public Law 88-504, 36 U.S.C. 1101 through 1103), the Association shall be treated as a private corporation established under Federal law.

(b) Report.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) Relief With Respect to Certain Association Acts or Failure To Act.—If the Association—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its purposes set forth in section 4202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General of the United States may petition the appropriate court for such equitable relief as may be necessary or appropriate.

SEC. 4210. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Association, nor shall the full faith and credit of the United States extend to any obligation of the Association.

SEC. 4211. NONDISCRIMINATION.

(a) Employment Practices.—Notwithstanding section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)) or section 101(5)(B) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(5)(B)), the Association and any agent of the Association shall be considered an employer for purposes of title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act of 1990 if the Association is engaged in an industry affecting commerce and meets the minimum employee requirements set forth in those Acts.

(b) Membership Practices.—

(1) Prohibited practices.—It shall be unlawful for the Association, on the basis of the race, color, religion, sex, national origin, age, or disability, of an individual, to—

(A) fail or refuse to accept the individual into membership;

(B) expel the individual from membership;

(C) suspend the membership of the individual; or

(D) discriminate against the individual with respect to any of the benefits or obligations of membership.

(2) Enforcement.—

(A) Right of action.—Any person may bring a civil action to enforce paragraph (1) in any appropriate United States district court. Any such action may be dismissed for just cause.

(B) Injunctive relief.—In any civil action brought under this paragraph, the court may grant as relief any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

SEC. 4212. ACQUISITION OF ASSETS AND LIABILITIES OF EXISTING ASSOCIATION.

The Association may acquire the assets of the United States Marshals Association, a nonprofit organization organized under the laws of the State of Virginia before the enactment of this Act.

SEC. 4213. AMENDMENT AND REPEAL.

The Congress expressly reserves the right to repeal or amend this title at any time.

TITLE XLIII—LITERACY EDUCATION FOR STATE PRISONERS

SEC. 4301. MANDATORY LITERACY PROGRAM.

(a) ESTABLISHMENT.—The chief correctional officer of each State correctional system may establish a demonstration, or systemwide functional literacy program.

(b) PROGRAM REQUIREMENTS.—(1) To qualify for funding under subsection (d), each functional literacy program shall—

(A) to the extent possible, make use of advanced technologies; and

(B) include—

(i) a requirement that each person incarcerated in the system, jail, or detention center who is not functionally literate, except a person described in paragraph (2), shall participate in the program until the person—

(I) achieves functional literacy or in the case of an individual with a disability, achieves a level of functional literacy commensurate with his or her ability;

(II) is granted parole;

(III) completes his or her sentence; or

(IV) is released pursuant to court order;

(ii) a prohibition on granting parole to any person described in clause (i) who refuses to participate in the program, unless the State parole board determines that the prohibition should be waived in a particular case; and

(iii) adequate opportunities for appropriate education services and the screening and testing of all inmates for functional literacy and disabilities affecting functional literacy, including learning disabilities, upon arrival in the system or at the jail or detention center.

(2) The requirement of paragraph (1)(B) shall not apply to a person who—

(A) is serving a life sentence without possibility of parole;

(B) is terminally ill; or

(C) is under a sentence of death.

(c) ANNUAL REPORT.—(1) Within 90 days after the close of the first calendar year in which a literacy program authorized by subsection (a) is placed in operation, and annually for each of the 4 years thereafter, the chief correction officer of each State correctional system shall submit a report to the Attorney General with respect to its literacy program.

(2) A report under paragraph (1) shall disclose—

(A) the number of persons who were tested for eligibility during the preceding year;

(B) the number of persons who were eligible for the literacy program during the preceding year;

(C) the number of persons who participated in the literacy program during the preceding year;

(D) the names and types of tests that were used to determine functional literacy and the names and types of tests that were used to determine disabilities affecting functional literacy;

(E) the average number of hours of instruction that were provided per week and the average number per student during the preceding year;

(F) sample data on achievement of participants in the program, including the number of participants who achieved functional literacy;

(G) data on all direct and indirect costs of the program; and

(H) a plan for implementing a systemwide mandatory functional literacy program, as required by subsection (b), and, if appropriate, information on progress toward such a program.

(d) COMPLIANCE GRANTS.—(1) The Attorney General shall make grants to State correctional agencies who elect to establish a program described in paragraph (a) for the purpose of assisting in carrying out the programs, developing the plans, and submitting the reports required by this section.

(2) A State corrections agency is eligible to receive a grant under this subsection if the agency agrees to provide to the Attorney General—

(A) such data as the Attorney General may request concerning the cost and feasibility of operating the mandatory functional literacy programs required by subsections (a) and (b); and

(B) a detailed plan outlining the methods by which the requirements of subsections (a) and (b) will be met, including specific goals and timetables.

(3) There are authorized to be appropriated for purposes of carrying out this section $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $25,000,000 for fiscal year 1995.

(e) DEFINITION.—For the purposes of this section the term "functional literacy" means at least an eighth grade equivalence in reading on a nationally recognized standardized test.

(f) LIFE SKILLS TRAINING GRANTS.—(1) The Attorney General is authorized to make grants to State and local correctional agencies to assist them in establishing and operating programs designed to reduce recidivism through the development and improvement of life skills necessary for re-integration into society.

(2) To be eligible to receive a grant under this subsection, a State or local correctional agency shall—

(A) submit an application to the Attorney General or his designee at such time, in such manner, and containing such information as the Attorney General shall require; and

(B) agree to report annually to the Attorney General on the participation rate, cost, and effectiveness of the program and any other aspect of the program upon which the Attorney General may request information.

(3) In awarding grants under this section, the Attorney General shall give priority to programs that have the greatest potential for innovation, effectiveness, and replication in other systems, jails, and detention centers.

(4) Grants awarded under this subsection shall be for a period not to exceed 3 years, except that the Attorney General may establish a procedure for renewal of the grants under paragraph (1).

(5) For the purposes of this section the term "life skills" shall include, but not be limited to, self-development, communication skills, job and financial skills development, education, inter-personal and family relationships, and stress and anger management.

TITLE XLIV—DRUG SUPPLY REDUCTION

Subtitle A—Interdiction Systems Improvements

SEC. 4401. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Order To Land and To Bring To Act of 1991".

SEC. 4402. SANCTIONS FOR FAILURE TO LAND OR TO BRING TO.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Order to land or bring to

"(a)(1) In the enforcement of the laws of the United States relating to controlled substances, as that term is defined in the Controlled Substances Act, or relating to money laundering (sections 1956–57 of this title), it shall be unlawful for the pilot, operator, or person in charge of any aircraft which has crossed the border of the United States, or any aircraft subject to the jurisdiction of the United States operating outside the United States, to refuse to obey the order of an authorized Federal law enforcement officer to land.

"(2) The Administrator of the Federal Aviation Administration and the Commissioner of Customs, upon consultation with the Attorney General, shall prescribe regulations governing the means by which an order to land may be communicated to the pilot, operator, or person in charge of an aircraft by Federal law enforcement officers.

"(3) This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.

"(b) It is unlawful for any master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States to fail to bring to that vessel on being ordered to do so by a Federal law enforcement officer authorized to issue such an order.

"(c) Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under this section may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

"(d) For purposes of this section—

"(1) a 'vessel of the United States' or a 'vessel subject to the jurisdiction of the United States' has the meaning set forth in the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) an aircraft 'subject to the jurisdiction of the United States' includes—

"(A) an aircraft located over the United States or the customs waters of the United States;

"(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

"(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation where the nation of registry has consented or waived objection to the enforcement of United States law by the United States;

"(3) the term 'bring to' means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

"(4) 'Federal law enforcement officer' has the meaning set forth in section 115 of this title.

"(e) A person who intentionally violates the provisions of this section shall be subject to—

"(1) imprisonment for not more than two years; and

"(2) a fine as provided in this title.

"(f) Any vessel or aircraft that is used in a violation of this section may be seized and forfeited. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. Any vessel or aircraft that is used in a violation of this section is also liable in rem for any fine or civil penalty imposed under this section.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"2237. Order to land or to bring to.".

SEC. 4403. FAA REVOCATION AUTHORITY.

(a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by adding at the end the following:

"(3)(A) The registration of an aircraft shall be immediately revoked upon the failure of the operator of an aircraft to follow the order of a Federal law enforcement officer to land an aircraft as provided in section 2237 of title 18 of the United States Code. The Administrator shall notify forthwith the owner of the aircraft that the owner of the aircraft no longer holds United States registration for that aircraft.

"(B) The Administrator shall establish procedures for the owner of the aircraft to show cause—

"(i) why the registration was not revoked, as a matter of law, by operation of subparagraph (A) of this subsection (3); or

"(ii) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subparagraph (A), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subparagraph (A).".

(b) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(e)) is amended by adding at the end the following new subsection (d):

"(d)(1) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that (A) such person, while acting as the operator of an aircraft, failed to follow the order of a law enforcement officer to land the aircraft as provided in section 2237 of title 18 of the United States Code, and (B) that such person knew or had reason to know that he had been ordered to land the aircraft.

"(2) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, the provisions of paragraph (1) of this subsection shall not apply.

"(3) The provisions of subsection (c)(3) of this section shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.".

SEC. 4404. COAST GUARD AIR INTERDICTION AUTHORITY.

(a) AIR INTERDICTION AUTHORITY.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 96. Air interdiction authority

"The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States over the high seas and waters over which the United States has jurisdiction. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 5 of such title is amended by adding at the end the following:

"96. Air interdiction authority.".

SEC. 4405. COAST GUARD CIVIL PENALTY PROVISIONS.

(a) CIVIL PENALTY.—Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"SEC. 667. CIVIL PENALTY FOR FAILURE TO COMPLY WITH A LAWFUL BOARDING OR ORDER TO LAND.—

"(a) The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who intentionally fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $25,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(b) The master, operator, or person in charge of a vessel or the pilot or operator of an aircraft who negligently fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is liable to the United States Government for a civil penalty of not more than $5,000, which may be assessed by the Secretary after notice and opportunity to be heard.

"(c) Any vessel or aircraft used in violation of section 2237 of title 18, United States Code, or section 96 of title 14, United States Code, is also liable in rem for the criminal or civil penalty assessed under this section.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 666 the following:

"667. Civil penalty for failure to comply with a lawful boarding or order to land.".

SEC. 4406. CUSTOMS ORDERS.

Section 581 of the Tariff Act of 1930, as amended (19 U.S.C. 1581) is further amended by adding a paragraph (i) to read as follows:

"(i) As used in this section, the term "authorized place" includes—

"(1) with respect to a vehicle, any location in a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches;

"(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18 of the United States Code, any location outside of the United States, including a foreign country at which United States Customs Officers are permitted to conduct inspections, examinations, or searches.".

SEC. 4407. CUSTOMS CIVIL PENALTY PROVISIONS.

(a) The Tariff Act of 1930, as amended, is further amended by adding a new section 591 (19 U.S.C. 1591) as follows:

"§ 591. Civil penalty for failure to obey an order to land or to bring to

"(a) The pilot or operator of an aircraft who intentionally fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $25,000 which may be assessed by the appropriate customs officer.

"(b) The pilot or operator of an aircraft who negligently fails to comply with an order of an officer of the customs relating to the landing of an aircraft in violation of section 1581 of this title, or of section 2237 of title 18 of the United States Code, is subject to a civil penalty of not more than $5,000, which may be assessed by the appropriate customs officer.".

Subtitle B—New Coast Guard Authorities

SEC. 4411. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Coast Guard Assistance Act of 1991".

SEC. 4412. INFORMATION EXCHANGE AND ASSISTANCE.

Section 142 of title 14, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the text, the words "and international organizations" after "with foreign governments", and the words "maritime law enforcement, maritime environmental protection, and" after "matters dealing with"; and

(2) by adding a new subsection "(b)" as follows:

"(b) The Coast Guard may, when so requested by the Secretary of State, utilize its personnel and facilities to assist any foreign government or international organization to perform any activity for which such personnel and facilities are especially qualified.".

SEC. 4413. ASSISTANCE TO FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

(a) IN GENERAL.—Section 149 of title 14, United States Code is amended to read as follows:

"§ 149. Assistance to foreign governments and international organizations

"The President may upon application from the foreign governments or international organizations concerned, and whenever in his discretion the public interest renders such a course advisable, utilize officers and enlisted members of the Coast Guard to assist foreign governments or international organizations in matters concerning which the Coast Guard may be of assistance. Utilization of members may include the detail of such members. Arrangements may be made by the Secretary with countries to which such officers and enlisted members are detailed to perform functions under this section, for reimbursement to the United States or other sharing of the cost of performing such functions. While so detailed, such officers and enlisted members shall receive the pay and allowances to which they are entitled in the Coast Guard and shall be allowed the same credit for all service while so detailed, as if serving with the Coast Guard.".

(b) CONFORMING AMENDMENT.—The analysis at the beginning of chapter 7 of title 14, United States Code, is amended by replacing the wording following "149" with: "Assistance to foreign governments and international organizations.".

SEC. 4414. AMENDMENT TO THE MANSFIELD AMENDMENT TO PERMIT MARITIME LAW ENFORCEMENT OPERATIONS IN ARCHIPELAGIC WATERS

Section 2291(c)(4) of title 22, United States Code, is amended by inserting the words ", and archipelagic waters" after the words "territorial sea".

TITLE XLV—ENVIRONMENTAL COMPLIANCE

SEC. 4501. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 33 the following new chapter:

"CHAPTER 34—ENVIRONMENTAL COMPLIANCE

"731. Environmental compliance audit.
"732. Definition.

"§ 731. Environmental compliance audit

"(a) IN GENERAL.—A court of the United States—

"(1) shall, when sentencing an organization for an environmental offense that is a felony; and

"(2) may, when sentencing an organization for a misdemeanor environmental offense, require that the organization pay for an environmental compliance audit.

"(b) APPOINTMENT OF INDEPENDENT EXPERT.—The court shall appoint an independent expert—

"(1) with no prior involvement in the management of the organization sentenced to conduct an environmental compliance audit under this section; and

"(2) who has demonstrated abilities to properly conduct such audits.

"(c) CONTENTS OF COMPLIANCE AUDIT.—(1) An environmental compliance audit shall—

"(A) identify all causes of and factors relating to the offense; and

"(B) recommend specific measures that should be taken to prevent a recurrence of those causes and factors and avoid potential environmental offenses.

"(2) An environmental compliance audit shall not recommend measures under paragraph (1)(B) that would require the violation of an environmental statute, regulation, or permit.

"(d) COURT-ORDERED IMPLEMENTATION OF COMPLIANCE AUDIT.—The court shall order the defendant to implement the appropriate recommendations of the environmental compliance audit.

"(e) ADDITIONAL STANDING TO RAISE FAILURE TO IMPLEMENT COMPLIANCE AUDIT.—(1) The prosecutor, auditor, any governmental agency, or any private individual may present evidence to the court that a defendant has failed to comply with the court order under subsection (d).

"(2) When evidence of failure to comply with the court order under subsection (d) is presented pursuant to paragraph (1), the court shall consider all relevant evidence and, if the court determines that the defendant has not fully complied with the court order, order appropriate sanctions.

"§ 732. Definition

"For the purposes of this chapter, the term 'environmental offense' means a criminal violation of—

"(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

"(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly known as the Clean Water Act);

"(3) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(4) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(5) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

"(6) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(7) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.) (commonly known as the Safe Drinking Water Act); and

"(8) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 33 the following new item:

"34. Environmental compliance .... 731".

Title XLVI—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 4601. SHORT TITLE.

This Act may be cited as the "Miscellaneous Criminal Law Improvements Act of 1991".

Subtitle A—Sentencing and Magistrates Amendments

SEC. 4611. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 4612. AUTHORIZATION OF PROBATION FOR PETTY OFFENSES IN CERTAIN CASES.

Section 3561(a)(3) of title 18, United States Code, is amended by adding at the end: "However, this paragraph does not preclude the imposition of a sentence to a term of probation for a petty offense if the defendant has been sentenced to a term of imprisonment at the same time for another such offense.".

SEC. 4613. TRIAL BY A MAGISTRATE IN PETTY OFFENSE CASES.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (b) by adding "other than a petty offense" after "misdemeanor"; and

(2) in subsection (g) by amending the first sentence to read as follows: "The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.".

SEC. 4614. CONFORMING AUTHORITY FOR MAGISTRATES TO REVOKE SUPERVISED RELEASE IN ADDITION TO PROBATION IN MISDEMEANOR CASES IN WHICH THE MAGISTRATE IMPOSED SENTENCE.

Section 3401(d) of title 18, United States Code, is amended by adding at the end the following: "A magistrate judge who has sentenced a person to a term of supervised release shall also have power to revoke or modify the term or conditions of such supervised release.".

SEC. 4615. AVAILABILITY OF SUPERVISED RELEASE FOR JUVENILE OFFENDERS.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "place him on probation, or commit him to official detention" and inserting in lieu thereof "place the juvenile on probation, or commit the juvenile to official detention (including the possibility of a term of supervised release)" and by striking "subsection (d)" and inserting in lieu thereof "subsection (e)"; and

(2) by redesignating subsection (d) as subsection (e) and adding a new subsection (d), as follows:

"(d) The term for which supervised release may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than eighteen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that would be authorized by section 3583(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between eighteen and twenty-one years old—

"(A) who if convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

"(B) if any other case beyond the lesser of—

"(i) three years; or

"(ii) the maximum term of imprisonment that would be authorized if the juvenile had been tried and convicted as an adult.".

Subtitle B—White Collar Crime Amendments

SEC. 4621. RECEIVING THE PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) Whoever receives, possesses, conceals, or disposes of any money or other property which has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.".

SEC. 4622. RECEIVING THE PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 880. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than one year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than three years, fined under this title, or both."; and

(2) in the table of sections, by adding at the end thereof the following item:

"880. Receiving the proceeds of extortion.".

(b) Section 1202 of title 18, United States Code, is amended—

(1) by designating the existing matter as subsection "(a)"; and

(2) by adding the following new subsections:

"(b) Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than one year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than ten years, fined under this title, or both.

"(c) For purposes of this section, the term 'State' has the meaning set forth in section 245(d) of this title.".

SEC. 4623. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code or" before "the Antitrust Civil Process Act".

SEC. 4624. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 4625. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'savings and loan association' means (1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation, and (2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) which is operating under the laws of the United States.".

SEC. 4626. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666 of this title.".

Subtitle C—Miscellaneous Amendments

SEC. 4631. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) In General.—Chapter 211 of title 18, United States Code, is amended by inserting:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4(b) or (4)(c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) or (c));

may be in the District of Columbia or in any other district authorized by law.".

(b) Clerical Amendment.—The item relating to section 3239 in the table of sections at the beginning of chapter 211 of title 18, United States Code, is amended to read as follows:

"3239. Optional venue for espionage and related offense.".

SEC. 4632. DEFINITION OF LIVESTOCK.

Section 2311 of title 18, United States Code, is amended by inserting after the second paragraph relating to the definition of "cattle" the following: "Livestock means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, goats, fowl, sheep, and cattle, or the carcasses thereof;".

SEC. 4633. LEADERSHIP ROLE IN CRIME AS FACTOR FOR TRANSFERRING A JUVENILE TO ADULT STATUS.

Section 5032 of title 18, United States Code, is amended in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factor shall not preclude such a transfer.".

Subtitle D—Technical Amendments

SEC. 4641. CORRECTIONS OF ERRONEOUS CROSS-REFERENCES AND MISDESIGNATIONS.

(1) Section 1791(b) of title 18, United States Code, is amended by striking "(c)" wherever it appears and inserting in lieu thereof "(d)";

(2) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting in lieu thereof "section 422 of the Controlled Substances Act (21 U.S.C. 863)";

(3) Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting in lieu thereof "section 3127(2)(A)";

(4) Section 666(d) of title 18, United States Code, is amended by redesignating the fourth paragraph relating to the definition of the term "State" as paragraph (5).

(5) Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,";

(6) Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting in lieu thereof "subsection (c)(1)";

(7)(A) Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)"; (B) section 924(e) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a seq.)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(8) Section 2596(d) of the Crime Control Act of 1990 is amended, effective retroactively to the date of enactment of such Act, by striking "951(c)(1)" and inserting in lieu thereof "951(c)(2)"; and

(9) Section 1031 of title 18, United States Code, is amended by redesignating subsection (g) as enacted by Public Law 101–123 as subsection (h).

SEC. 4642. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212, by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations";

(2) in section 213, by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709, by repealing the seventh and thirteenth paragraphs;

(4) in section 711, by repealing the second paragraph;

(5) by repealing section 754 and amending the table of sections for chapter 35 accordingly;

(6) in sections 657 and 1006, by striking "Reconstruction Finance Corporation,", and by striking "Farmers' Home Corporation,";

(7) in section 658, by striking "Farmers' Home Corporation,";

(8) in section 1013, by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1014, by striking "Reconstruction Finance Corporation," by striking "Farmers' Home Corporation," and by striking the second comma following the words "Federal Reserve Act";

(10) in section 1160, by striking "white person" and inserting in lieu thereof "non-Indian";

(11) in section 1698, by repealing the second paragraph;

(12) by repealing sections 1904 and 1908 and amending the table of sections for chapter 93 accordingly;

(13) in section 1909, by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(14) by repealing sections 2157 and 2391 and amending the table of sections for chapters 105 and 115 accordingly;

(15) in section 2257 by repealing subsections (f) and (g) that were enacted by Public Law 100–690;

(16) in section 3113, by repealing the third paragraph; and

(17) in section 3281, by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 4643. ELIMINATION OF REDUNDANT PENALTY PROVISION IN 18 U.S.C. 1116.

Section 1116(a) of title 18, United States Code, is amended by striking ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

SEC. 4644. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting in lieu thereof "(b)(5)".

SEC. 4645. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 151, by striking "mean" and inserting in lieu thereof "means";

(2) in section 513(c)(4), by striking "association or persons" and inserting in lieu thereof "association of persons";

(3) in section 1014, by striking the comma following a comma after "Act";

(4) in section 1956(e), by striking "Evironmental" and inserting in lieu thereof "Environmental";

(5) in section 3125, by striking the quotation marks in paragraph (a)(2), and by striking "provider for" and inserting in lieu thereof "provider of" in subsection (d); and

(6) in section 3731, by striking "order of a district courts" and inserting in lieu thereof "order of a district court" in the second undesignated paragraph.

SEC. 4646. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in", and by deleting "such inhabitant" and inserting in lieu thereof "such person".

Subtitle E—Miscellaneous Provisions

SEC. 4651. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) Knowledge Requirement for Stolen or Counterfeit Property.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term 'official representation' means any representation made by a federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 4652. ENHANCEMENT OF PENALTIES FOR DRUG TRAFFICKING IN PRISONS.

Section 1791 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting before "Any" the following new sentence: "Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance.";

(2) in subsection (d)(1)(A), by inserting after "a firearm or destructive device" the words "or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection";

(3) in subsection (d)(1)(B), by inserting before "ammunition," the following: "marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection,";

(4) in subsection (d)(1)(C), by inserting "methamphetamine, its salts, isomers, and salts of its isomers," after "a narcotic drug,";

(5) in subsection (d)(1)(D), by inserting "(A), (B), or" before "(C)"; and

(6) in subsection (b), by striking "(c)" each place it appears and inserting in lieu thereof "(d)".

SEC. 4653. SEIZURE OF VEHICLES WITH CONCEALED COMPARTMENTS.

(a) Section 3 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1703) is amended—

(1) by amending the title of such section to read as follows:

"SEC. 1703. SEIZURE AND FORFEITURE OF VESSELS, VEHICLES AND OTHER CONVEYANCES";

(2) by amending the title of subsection (a) to read as follows:

"(a) VESSELS, VEHICLES AND OTHER CONVEYANCES SUBJECT TO SEIZURE AND FORFEITURE";

(3) by amending the title of subsection (b) to read as follows:

"(b) VESSELS, VEHICLES AND OTHER CONVEYANCES, DEFINED";

(4) by inserting ", vehicle, or other conveyance" after the word "vessel" everywhere it appears in the text of subsections (a) and (b); and

(5) by amending subsection (c) to read as follows:

"(c) ACTS CONSTITUTING PRIMA FACIE EVIDENCE OF VESSEL, VEHICLE OR OTHER CONVEYANCE ENGAGED IN SMUGGLING.—For the purposes of this section, prima facie evidence that a vessel, vehicle, or other conveyance is being, or has been, or is attempting to be employed in smuggling or to defraud the revenue of the United States shall be—

"(1) in the case of a vessel, the fact that a vessel has become subject to pursuit as provided in section 1581 of title 17, United States Code, or is a hovering vessel, or that a vessel fails, at any place within the customs waters of the United States or within a customs-enforcement area, to display lights as required by law.

"(2) in the case of a vehicle or other conveyance, the fact that a vehicle or other conveyance has any compartment or equipment that is built or fitted out for smuggling.".

(b) The table of sections for chapter 5 of title 19, United States Code, is amended by striking the items relating to section 1703 and inserting in lieu thereof the following:

"1703. Seizure and forfeiture of vessels, vehicles and other conveyances.

"(a) Vessels, vehicle and other conveyances subject to seizure and forfeiture.

"(b) Vessels, vehicles and other conveyances, defined.

"(c) Acts constituting prima facie evidence of vessel, vehicle or other conveyance engaged in smuggling.".

SEC. 4654. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 4655. UNDERCOVER OPERATIONS—CHURNING.

Section 7601(c)(3) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by deleting the current language, and replacing it with the following:

"(3) EFFECTIVE DATE—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1994.".

SEC. 4656. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding the following new subsection (g):

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief, including injunctions, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 4657. CORRECTION OF RESENTENCING SANCTION FOR REVOCATION OF PROBATION FOR POSSESSION OF A CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended by striking "sentence the defendant to not less than one-third of the original sentence" and inserting in lieu thereof "resentence the defendant under subchapter A to a sentence that includes a term of imprisonment".

SEC. 4658. CONFORMING AMENDMENTS CONCERNING MARIHUANA.

(a) Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants".

SEC. 4659. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Sections 5038 (d) and (f) of title 18, United States Code, are each amended by striking "or an offense described in sections 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b) (1), (2), or (3)),".

SEC. 4660. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance or listed chemical, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 4661. CONFORMING AMENDMENTS TO RECIDIVIST PENALTY PROVISIONS OF THE CONTROLLED SUBSTANCES ACT AND THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

(1) Sections 401(b)(1) (B), (C), and (D) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (B), (C), and (D)) and sections 1010(b) (1), (2), and (3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1), (2), and (3)) are each amended in the sentence or sentences beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting in lieu thereof "a prior conviction for a felony drug offense has become final";

(2) Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final" and inserting in lieu thereof "one or more prior convictions of such person for a felony for a felony drug offense have become final".

(3) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For purposes of this subparagraph, the term 'felony drug offense' means";

(4) Section 401 of the Controlled Substances Act (21 U.S.C. 841) and section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) are each amended by adding a new subsection (c), as follows:

"(c) For purposes of this title, the term 'felony drug offense' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances."; and

SEC. 4662. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Sections 401(b)(1) (A) and (B) of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A) and (B)) are each amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) Sections 1010(b) (1) and (2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b) (1) and (2)) are each amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) Section 419(c) of the Controlled Substances Act (21 U.S.C. 860(c)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "; parole" in the heading of such section and by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

SEC. 4663. CONFORMING AMENDMENT TO PROVISION PUNISHING A SECOND OFFENSE OF DISTRIBUTING DRUGS TO A MINOR.

Section 418(b) of the Controlled Substances Act (21 U.S.C. 859(b)) is amended by striking "one year" and inserting in lieu thereof "three years".

TITLE XLVII—EXPLOITATION OF ALIENS

SEC. 4701. SHORT TITLE.

This title may be cited as the "Exploitation of Aliens Act of 1991".

SEC. 4702. EXPLOITATION OF ALIENS.

(a) INDUCEMENT OF ALIENS.—A person who is 18 years of age or older who voluntarily solicits, counsels, encourages, commands, intimidates, or procures any alien with the intent that the alien commit an aggregated felony, as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(b) COMMISSION OF CRIME BY ALIEN.—An alien who is induced by another person to commit and subsequently commits an aggravated felony, as defined in section 101(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), shall be subject to a civil fine of not more than $100,000.

(c) CONSIDERATIONS.—In imposing a fine under subsection (a) or (b), the court shall consider the severity of the offense sought or committed by the offender as a circumstance in aggravation.

(d) ENFORCEMENT.—(1) A proceeding for assessment of a civil fine under subsection (a) or (b) may be brought in a civil action before a United States district court.

(2) A person affected by a final order under this subsection may, not later than 45 days after the date on which the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(3)(A) If a person found in violation of subsection (a) or (b) fails to comply with a final order issued by a circuit court or administrative law judge, the Attorney General may bring a civil action to seek compliance with the order in any appropriate district court of the United States.

(B) In a civil action under subparagraph (A), the validity and appropriateness of the final order shall not be subject to review.

SEC. 4703. CRIMINAL ALIEN IDENTIFICATION AND REMOVAL FUND.

(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States the Criminal Alien Identification and Removal Fund (referred to as the "Fund").

(2) All fines collected pursuant to section 4702 shall be covered into the Fund and shall be used for the purposes of this section.

(b) DISTRIBUTION OF MONIES IN THE FUND.—(1) Ninety percent of the monies covered into in the fund in any fiscal year may be used by the Attorney General—

(A) to assist the Immigration and Naturalization Service to identify, investigate, apprehend, detain, and deport aliens who have committed an aggravated felony, and

(B) to fund any of the 20 additional immigration judge positions authorized by section 512 of the Immigration Act of 1990 which have not been funded.

(2) Ten percent of the monies covered into the fund in any fiscal year may be distributed in the form of grants to the States by the Attorney General for the purposes of—

(A) assisting the States in implementing section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11));

(B) expanding section 503(a)(11) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(11)) to identify aliens—

(i) as they are processed for admission into State prisons; and

(ii) when they enter probation programs.

(c) TECHNICAL AMENDMENT.—Section 280(b)(1) of the Immigration and Nationality Act is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

TITLE XLVIII—PUBLIC CORRUPTION

SEC. 4801. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1991".

SEC. 4802. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 226. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official' and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 4803. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Table of Sections.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"226. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) Interruption of Communications.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 4804. INTERSTATE COMMERCE.

(a) In General.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) Conforming Amendments.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 4805. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) In General.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) Conforming Amendments.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),".

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) Chapter Analysis.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following:

"220. Narcotics and public corruption.".

TITLE XLIX—GENERAL PROVISIONS

SEC. 4901. DISCLOSURE OF RECORDS OF ARRESTS BY CAMPUS POLICE.

Section 438(a)(4)(b)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records of a law enforcement unit of an educational agency or institution that are required by State law to be made available to the public;".

SEC. 4902. PENALTIES FOR DRUG DEALING IN PUBLIC HOUSING AUTHORITY FACILITIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 819) is amended—

(1) in subsection (a) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within"; and

(2) in subsection (b) by striking "playground, or within" and inserting "playground, or housing facility owned by a public housing authority, or within".

SEC. 4903. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) Report.—Not less than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Health and Human Services shall transmit to the Congress a report on the medical and psychological basis of "battered women's syndrome" and on the extent to which evidence of the syndrome has been held to be admissible as evidence of guilt or as a defense in a criminal trial.

(b) Components of the Report.—The report described in subsection (a) shall include—

(1) medical and psychological testimony on the validity of battered women's syndrome as a psychological condition;

(2) a compilation of State and Federal court cases that have admitted evidence of battered women's syndrome as evidence of guilt as a defense in criminal trials; and

(3) an assessment by State and Federal judges, prosecutors, and defense attorneys on the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 4904. DRUG PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C 863(d)) is amended to read as follows:

"(d) The term 'drug paraphernalia' means any equipment, product, or material of any kind that is intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, weighing, testing, analyzing, packaging, repackaging, storing, containing, planting, propagating, cultivating, growing, harvesting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this title, including—

"(1) kits designed for use or intended for use in planting, propagating, cultivating, growing, or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

"(2) kits designed for use or intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

"(3) isomerization devices designed or intended for use in increasing the potency of any species of plant that is a controlled substance;

"(4) testing equipment designed or intended for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances;

"(5) scales and balances designed for use in weighing or measuring controlled substances;

"(6) containers and other objects designed or intended for use in storing or concealing controlled substances;

"(7) hypodermic syringes, needles, and other objects designed or intended for use in parenterally injecting controlled substances into the human body; and

"(8) objects intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, crack cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as—

"(A) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

"(B) water pipes;

"(C) carburetion tubes and devices;

"(D) smoking and carburetion masks;

"(E) roach clips: meaning objects used to holding burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

"(F) miniature spoons with level capacities of one-tenth cubic centimeter or less;

"(G) champer pipes;

"(H) carburetor pipes;

"(I) electric pipes;

"(J) air-driven pipes;

"(K) chillums;

"(L) bongs;

"(M) ice pipes or chillers;

"(N) wired or extra-width cigarette papers; and

"(O) cocaine freebase kits.".

SEC. 4905. IMPOSING CRIMINAL SANCTIONS FOR VIOLATION OF SOFTWARE COPYRIGHT.

(a) CRIMINAL INFRINGEMENT.—Section 2319(b)(1) of title 18, United States Code, is amended—

(1) in paragraph (B) by striking "or" after the semicolon;

(2) redesignating paragraph (C) as paragraph (D);

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of at least 50 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); or";

(4) in new paragraph (D) by striking "or" after "recording,"; and

(5) in new paragraph (D) by adding ", or a computer program", before the semicolon.

(b) PENALTIES.—Section 2319(b)(2) of title 18, United States Code, is amended—

(1) in paragraph (A) by striking "or" after the semicolon;

(2) in paragraph (B) by striking "and" at the end thereof and inserting "or"; and

(3) by adding after paragraph (B) the following:

"(C) involves the reproduction or distribution, during any 180-day period, of more than 10 but less than 49 copies infringing the copyright in one or more computer programs (including any tape, disk, or other medium embodying such programs); and".

(c) DEFINITIONS.—Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "and" after the semicolon;

(2) in paragraph (2) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following:

"(3) the term 'computer program' has the same meaning as set forth in section 101 of title 17, United States Code.".

SEC. 4906. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by inserting a new subsection (c) as follows:

"(c) It shall be unlawful for any person to knowingly print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term 'advertisement' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.";

(2) by redesignating subsections (c) and (d) as (d) and (e) respectively.

SEC. 4907. LIMITATION ON USE OF FEDERAL FUNDS FOR ADMINISTRATIVE COSTS.

(a) FIVE PERCENT LIMITATION.—(1) No more than 5 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of the provision of and the amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The provision and amendment to which this subsection applies are—

(A) the provision for returning funds to the States in section 1301(e)(3); and

(B) section 1005(c) (3) and (7) of the National Narcotics Leadership Act of 1988, as amended by section 1702.

(b) TEN PERCENT LIMITATION.—(1) No more than 10 percent of any Federal funds received by a State or local government or agency or a private entity by virtue of an amendment made by this Act described in paragraph (2) shall be used to pay administrative costs of the activity for which the funds are intended.

(2) The amendments to which this subsection applies are—

(A) sections 231(c), 233, and 234 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 1511; and

(B) the authorization of appropriations in section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 1601.

SEC. 4908. CRIMES AGAINST CHILDREN REGISTRATION ACT.

(a) SHORT TITLE.—This section may be cited as the "Crimes Against Children Registration Act".

(b) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—

(A) STATE GUIDELINES.—The Attorney General shall establish a State program and guidelines requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, parole, or being placed on supervised release.

(B) DEFINITION.—For purposes of this section, the term "criminal offense against a victim who is a minor" includes—

(i) kidnapping of a minor, except by a noncustodial parent;

(ii) false imprisonment of a minor, except by a noncustodial parent;

(iii) criminal sexual conduct toward a minor;

(iv) solicitation of minors to engage in sexual conduct;

(v) use of minors in a sexual performance; or

(vi) solicitation of minors to practice prostitution.

(2) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(A) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(i) inform the person of the duty to register;

(ii) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(iii) obtain a fingerprint card and photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(iv) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(B) TRANSFER OF INFORMATION TO STATE AND THE NCIC.—The officer shall, within 3 days after receipt of information under subparagraph (A), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the State law enforcement system and National Crime Information Center computer networks and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside.

(C) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the persons shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(D) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(3) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, parole, or supervised release.

(4) PENALTY.—A person required to register under this section who violates any requirement of a State program established by this section shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months imprisonment.

(5) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes, including confidential background checks by child care services providers.

(c) STATE COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this section in which to implement the provisions of this section.

(2) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with the provisions of this section 3 years after the date of enactment of this section shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

SEC. 4909. COMPUTER ABUSE AMENDMENTS ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1991".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(a)(5) of title 18, United States Code.".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

SEC. 4910. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the incorporation of the remaining State criminal history records into the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the National Crime Information Computer; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

SEC. 4911. DEFINITION OF SERIOUS DRUG OFFENSE.

Section 924(e)(2)(A) of title 18, United States Code, is amended by—

(1) adding "or" at the end of clause (ii); and

(2) adding at the end thereof the following new clause:

"(iii) an offense under State law which, if it had been prosecuted as a violation of the Controlled Substances Act as that Act provided at the time of the offense, would have been punishable by a maximum term of ten years or more;".

SEC. 4912. CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

(b) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions, with one or more access devices issued to another person or persons, to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

(c) TECHNICAL AMENDMENTS.—Section 1029 of title 18, United States Code, as amended by subsection (b), is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution or other entity that is a member of a credit card system, including an entity, whether it is affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 4913. WIRETAPS.

(a) Section 2511(1) of title 18 is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by inserting "or" after the semicolon at the end of paragraph (d); and

(3) by adding the following new paragraph:

"(e)(i) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e), 2516, and 2518 of this subchapter, (ii) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, (iii) having obtained or received the information in connection with a criminal investigation, (iv) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation;".

(b) Section 2515 of title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 4914. THEFTS OF MAJOR ART WORKS.

(a) OFFENSE.—Chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 668. Theft of a major art work

"(a) Whoever steals or obtains by fraud any object of cultural heritage held in a museum shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(b) A museum which exhibits to the public or holds in storage any stolen object of cultural heritage knowing such object is stolen shall be fined under this title, imprisoned not more than the maximum term of imprisonment for a class C felony, or both.

"(c) Notwithstanding section 3282 of this title, the statute of limitations for an offense under this section shall be 20 years.

"(d) The property of a person convicted of an offense under this section shall be subject to criminal forfeiture under section 982 of this title.

"(e) For purposes of this section—

"(1) The term 'museum' means an organized and permanent institution, essentially educational or aesthetic in purpose with professional staff, which owns and utilizes tangible objects, cares for them, and exhibits them to the public on some regularly scheduled period.

"(2) The term 'stolen object of cultural heritage' means a stolen object reported to law enforcement authorities as stolen and registered with the International Foundation for Art Research, Smith International Adjustors, or any equivalent registry.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 31 of title 18, United States Code, is amended by adding at the end thereof the following:

"668. Theft of a major art work.".

SEC. 4915. BALANCE IN THE CRIMINAL JUSTICE SYSTEM.

(a) The Congress finds that—

(1) an adequately supported Federal judiciary is essential to the enforcement of law and order in the United States, and

(2) section 331 of title 28 provides in pertinent part that the Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation, and

(3) in 1990, in response to the recommendations of the Judicial Conference for additional judgeships, Congress enacted legislation creating 85 additional judgeships with an effective date of December 1, 1990, and

(4) only one of these vacancies has been filled, and

(5) during the current administration, it has taken an average of 502 days from the time a judgeship becomes vacant until such vacancy is filled, and

(6) the enactment of legislation providing additional funding for the investigation and prosecution facets of the criminal justice system has a direct and positive impact on the needs and workload of the Judiciary, which is already severely overloaded with criminal cases, and

(7) recommendations by the Judicial Conference for the filling of judicial vacancies are currently made on the basis of historical data alone, and

(8) the General Accounting Office, pursuant to the 1988 Anti-Drug Abuse Act, has developed a computer model that measures the potential effect of fiscal increases on one or more parts of the criminal justice system on the Judiciary, and

(9) the General Accounting Office has established that an increase in the resources allocated to the investigative and prosecutorial parts of the criminal justice system, brings about an increase in the number of criminal cases filed, which in turn adds to the need for additional judgeships, and

(10) the allocation of resources to portions of the Federal criminal justice system other than the Judiciary contributes to the need for additional judgeships that cannot be anticipated by the use of historical data alone, and

(11) the use of historical data alone, because of its inability to project the need for additional judgeships attributable to the increase in criminal caseload adds to the delay in meeting the needs of the Judiciary.

(b) It is the sense of the Senate that the Judicial Conference should be encouraged to make its recommendations to Congress for additional judgeships utilizing historical data and a workload estimate model designed to anticipate an increase in criminal filings resulting from increased funding in one or more components of the Federal criminal justice system, and to take into account the time expended in the appointive and confirmation process.

SEC. 4916. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

SEC. 4917. USE OF UNOBLIGATED FUNDS FROM CUSTOMS FORFEITURE FUND.

Section 613A(f)(3) of the Tariff Act of 1930 (19 U.S.C. 1613b(f)(3)) is amended by striking "in excess of" and all that follows through the period and inserting "remaining in the Fund shall be utilized as follows:

"(i) The first $15,000,000 shall remain in the Fund.

"(ii) The next $30,000,000 shall be transferred to the Department of Health and Human Services and expended for drug treatment through grant programs set forth in titles V or XIX of the Public Health Services Act.

"(iii) Any remaining money shall be deposited into the general fund of the Treasury of the United States.".

SEC. 4918. AWARD OF ATTORNEY'S FEES FOR EMPLOYEES OF DEPARTMENT OF JUSTICE.

In section 519, of title 28, United States Code, designate the current matter as subsection "(a)" and add the following:

"(b) AWARD OF FEES.—

"(1) CURRENT EMPLOYEES.—Upon the application of any current employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for reasonable attorney's fees incurred by that employee as a result of such investigation.

"(2) FORMER EMPLOYEES.—Upon the application of any former employee of the Department of Justice who was the subject of a criminal or disciplinary investigation instituted on or after the date of enactment of this Act by the Department of Justice, which investigation related to such employee's discharge of his or her official duties, and which investigation resulted in neither disciplinary action nor criminal indictment against such employee, the Attorney General shall award reimbursement for those reasonable attorney's fees incurred by that former employee as a result of such investigation.

"(3) EVALUATION OF AWARD.—The Attorney General may make an inquiry into the reasonableness of the sum requested. In making such inquiry the Attorney General shall consider:

"(A) the sufficiency of the documentation accompanying the request;

"(B) the need or justification for the underlying item;

"(C) the reasonableness of the sum requested in light of the nature of the investigation; and

"(D) current rates for legal services in the community in which the investigation took place.".

SEC. 4919. ALIENS CONVICTED OF FELONY DRUNK DRIVING.

Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended—

(1) by striking out "or" at the end of paragraph (20);

(2) by striking out the period at the end of paragraph (21) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(22) is convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance arising in connection with a fatal traffic accident or traffic accident resulting in serious bodily injury to an innocent party.".

SEC. 4920. PRISONER'S PLACE OF IMPRISONMENT.

Paragraph (b) of section 3621 of title 18, United States Code, is amended by inserting after subsection (5) the following: "However, the bureau may not consider the social or economic status of the prisoner in designating the place of the prisoner's imprisonment.".

SEC. 4921. DEPARTMENT OF JUSTICE COMMUNITY SUBSTANCE ABUSE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Department of Justice Community Substance Abuse Prevention Act of 1991".

(b) COMMUNITY PARTNERSHIPS.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"Subpart 4—Community Coalitions on Substance Abuse

"GRANTS TO COMBAT SUBSTANCE ABUSE

"SEC. 531. (a) DEFINITION.—As used in this section, the term 'eligible coalition' means an association, consisting of at least seven organizations, agencies, and individuals that are concerned about preventing substance abuse, that shall include—

"(1) public and private organizations and agencies that represent law enforcement, schools, health and social service agencies, and community-based organizations; and

"(2) representatives of 3 of the following groups: the clergy, academia, business, parents, youth, the media, civic and fraternal groups, or other nongovernmental interested parties.

"(b) GRANT PROGRAM.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall make grants to eligible coalitions in order to—

"(1) plan and implement comprehensive long-term strategies for substance abuse prevention;

"(2) develop a detailed assessment of existing substance abuse prevention programs and activities to determine community resources and to identify major gaps and barriers in such programs and activities;

"(3) identify and solicit funding sources to enable such programs and activities to become self-sustaining;

"(4) develop a consensus regarding the priorities of a community concerning substance abuse;

"(5) develop a plan to implement such priorities; and

"(6) coordinate substance abuse services and activities, including prevention activities in the schools or communities and substance abuse treatment programs.

"(c) COMMUNITY PARTICIPATION.—In developing and implementing a substance abuse prevention program, a coalition receiving funds under subsection (b) shall—

"(1) emphasize and encourage substantial voluntary participation in the community, especially among individuals involved with youth such as teachers, coaches, parents, and clergy; and

"(2) emphasize and encourage the involvement of businesses, civic groups, and other community organizations and members.

"(d) APPLICATION.—An eligible coalition shall submit an application to the Attorney General and the appropriate State agency in order to receive a grant under this section. Such application shall—

"(1) describe and, to the extent possible, document the nature and extent of the substance abuse problem, emphasizing who is at risk and specifying which groups of individuals should be targeted for prevention and intervention;

"(2) describe the activities needing financial assistance;

"(3) identify participating agencies, organizations, and individuals;

"(4) identify the agency, organization, or individual that has responsibility for leading the coalition, and provide assurances that such agency, organization or individual has previous substance abuse prevention experience;

"(5) describe a mechanism to evaluate the success of the coalition in developing and carrying out the substance abuse prevention plan referred to in subsection (b)(5) and to report on such plan to the Attorney General on an annual basis; and

"(6) contain such additional information and assurances as the Attorney General and the appropriate State agency may prescribe.

"(e) PRIORITY.—In awarding grants under this section, the Attorney General and the appropriate State agency shall give priority to a community that—

"(1) provides evidence of significant substance abuse;

"(2) proposes a comprehensive and multifaceted approach to eliminating substance abuse;

"(3) encourages the involvement of businesses and community leaders in substance abuse prevention activities;

"(4) demonstrates a commitment and a high priority for preventing substance abuse; and

"(5) demonstrates support from the community and State and local agencies for efforts to eliminate substance abuse.

"(f) REVIEW.—Each coalition receiving money pursuant to the provisions of this section shall submit an annual report to the Attorney General, and the appropriate State agency, evaluating the effectiveness of the plan described in subsection (b)(5) and containing such additional information as the Attorney General, or the appropriate State agency, may prescribe. The Attorney General, in conjunction with the Director of the Bureau of Justice Assistance, and the appropriate State agency, shall submit an annual review to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives. Such review shall—

"(1) evaluate the grant program established in this section to determine its effectiveness;

"(2) implement necessary changes to the program that can be done by the Attorney General; and

"(3) recommend any statutory changes that are necessary.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.".

(c) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end thereof the following:

"SUBPART 4—COMMUNITY COALITION ON SUBSTANCE ABUSE

"Sec. 531. Grants to combat substance abuse.".

SEC. 4922. REGIONAL VIOLENT CRIME ASSISTANCE.

(a) AUTHORIZATION OF GRANTS.—The Attorney General, in consultation with the Director of National Drug Control Policy, may make a grant to a State for the purposes of—

(1) implementing a plan to enhance law enforcement and criminal justice systems in a region of the State that suffers from high rates of violent crime or faces particular violent crime problems that warrant Federal assistance; and

(2) developing and implementing multijurisdictional strategies to respond to and prevent violent crime in such a region.

(b) CONSIDERATIONS IN AWARDING GRANTS.—(1) In awarding grants under subsection (a), the Attorney General may give priority to—

(A) States that develop and implement plans to assist law enforcement and criminal justice authorities in or near jurisdictions with high rates of violent crime or particular violent crime problems; and

(B) States that propose to develop a multijurisdictional or regional approach to respond to or prevent violent crime.

(2) The Attorney General shall not limit grants under subsection (a) to highly populated centers of violent crime, but shall give due consideration to applications from less populated regions where the magnitude and severity of violent crime warrants Federal assistance.

(3) The Attorney General shall not limit grants under subsection (a) to the enhancement of law enforcement capabilities, but shall give due consideration to applications that propose to use funds for the improvement of the criminal justice system in general.

(c) AMOUNT OF GRANTS.—(1) The amount of a grant that may be made with respect to an application relating to any region of a State described in subsection (a) shall not exceed $10,000,000.

(2) The Federal share of assistance under subsection (a) shall not be greater than 75 percent of the costs necessary to implement a plan or develop and implement a strategy relating to a region described in subsection (a).

(d) NONMONETARY ASSISTANCE.—In order to assist a State in dealing with crime problems in a region described in subsection (a), the Attorney General may—

(1) direct any Federal agency, with or without reimbursement, to utilize its au-

thorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local law enforcement efforts; and

(2) provide technical and advisory assistance, including communications support and law enforcement-related intelligence information.

(e) ISSUANCE OF IMPLEMENTING REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall issue regulations to implement this section, including such regulations as are necessary relating to applications for Federal assistance and the provision of Federal monetary and nonmonetary assistance.

(f) AUDIT BY COMPTROLLER GENERAL.—The Comptroller General shall conduct an audit of any Federal assistance (both monetary and nonmonetary) of an amount greater than $100,000 provided to a State under this subsection relating to a region described in subsection (a), including an evaluation of the effectiveness of the assistance in achieving the goals stated in the application for assistance.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 4923. FUNDING FOR DEATH PENALTY PROSECUTIONS.

Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding the following new section:

"SEC. 515. Notwithstanding any other provision of this subpart, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

SEC. 4924. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS.

(a) Section 524(c)(7) of title 28, United States Code, as amended by section 6072 of the Anti-Drug Abuse Act of 1988, is hereby amended by striking the existing language and inserting in lieu thereof the following:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) Section 524(c)(6)(C) of title 28, United States Code, is hereby amended by adding at the end thereof the following new sentence: "The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).".

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF HUNGARY ON PEACEFUL USES OF NUCLEAR ENERGY MESSAGE FROM THE PRESIDENT—PM—62

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement for Cooperation Between the United States of America and the Republic of Hungary Concerning Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the signed text of this proposed agreement, signed in Vienna, Austria, on June 10, 1991, by representatives of the United States of America and the Republic of Hungary. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session period provided for in section 123d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991*.

PROPOSED AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENT OF THE CZECH AND SLOVAK REPUBLIC ON THE PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

On April 16, 1991, I transmitted to the Congress the unsigned text of a proposed Agreement Between the Government of the United States of America and the Government of the Czech and Slovak Federal Republic on Cooperation in Peaceful Uses of Nuclear Energy, along with copies of other documents relating to that agreement.

I am pleased now to submit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the signed text of this proposed agreement, signed in Vienna, Austria, on June 13, 1991, by representatives of the United States of America and the Czech and Slovak Federal Republic. I also submit copies of my written approval, authorization, and determination concerning the agreement; the memorandum of the Director of the Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement; and the joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views.

The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided for in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a. of that Act. I urge that the Congress give this proposed agreement favorable consideration.

GEORGE BUSH.

THE WHITE HOUSE, *July 15, 1991*.

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks announced that the House agrees to the amendment of the Senate numbered 3, to the bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs; and that the House agrees to the amendments of the Senate numbered 1 and 2 to the bill, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 656. An act to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing;

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes;

H.R. 2282. An act to amend the National Science Foundation Authorization Act of 1988, and for other purposes;

H.J. Res. 23. Joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week";

H.J. Res. 130. Joint resolution to designate January 1, 1992, as "National Ellis Island Day"; and

H.J. Res. 263. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 656. An act to provide for a coordinated Federal research program to ensure continued United States leadership in high-performance computing; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 23. Joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week"; to the Committee on the Judiciary.

H.J. Res. 130. Joint resolution to designate January 1, 1992, as "National Ellis Island Day"; to the Committee on the Judiciary.

Pursuant to the order of the Senate of March 3, 1988, the following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2282. An act to amend the National Science Foundation Authorization Act of 1988, and for other purposes; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2212. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

H.J. Res. 263. Joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1605. A communication from the Administrator of General Services, transmitting, pursuant to law, the first report of personal property programs; to the Committee on Governmental Affairs.

EC-1606. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Act of August 30, 1890 and the Act of March 4, 1907 to eliminate the provisions for permanent annual appropriations to support land grant university instruction in the food and agricultural sciences; to the Committee on Appropriations.

EC-1607. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on the transfer of certain funds; to the Committee on Appropriations.

EC-1608. A communication from the Assistant Secretary of the Air Force (Acquisition), tramsmitting, pursuant to law, notice of proposed study of certain functions at various locations for conversion to performance by contract; to the Committee on Armed Services.

EC-1609. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to increase the age at which a member of the Senior Reserve Officers' Training Corps receiving financial assistance may be appointed as a commissioned officer if the member is enrolled in a baccalaureate nursing program; to the Committee on Armed Services.

EC-1610. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 2352 of title 10, United States Code, to allow research and development contracts to be for a term of not more than ten years, and to authorize the Secretary of Defense to approve up to two additional performance periods, each for not more than five years, when found to be in the best interests of the Government; to the Committee on Armed Services.

EC-1611. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize revisions to current legislation that will improve the acquisition reporting process for major defense acquisition programs; to the Committee on Armed Services.

EC-1612. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to establish a Department of Defense Laboratory Revitalization Demonstration Program for the purpose of improving management, efficiency, and overall effectiveness of DoD laboratories and centers; to the Committee on Armed Services.

EC-1613. A communication from the General Council of the Department of Defense, transmitting a draft of proposed legislation to authorize the President to transfer defense articles to member countries of the North Atlantic Treaty Organization in accord with the Treaty on Conventional Armed Forces in Europe, and for other purposes; to the Committee on Armed Services.

EC-1614. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on a baseline deviation notice from the Navy on the T45TS program and the intention to review the program; to the Committee on Armed Services.

EC-1615. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual reports of the Federal National Mortgage Association and the Federal Home Loan Mortgage Association for calendar year 1990; to the Committee on Banking, Housing, and Urban Affairs.

EC-1616. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, notice on leasing system for the Western Gulf of Mexico, Sale 135, scheduled to be held in August 1991; to the Committee on Energy and Natural Resources.

EC-1617. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Defense Waste Cleanup Technology Program for fiscal year 1990; to the Committee on Environment and Public Works.

EC-1618. A communication from the Chairman of the Physician Payment Review Commission, transmitting, pursuant to law, a report entitled "Monitoring Access: Report to Congress"; to the Committee on Finance.

EC-1619. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on assistance related to international terrorism provided by the United States Government to foreign countries; to the Committee on Foreign Relations.

EC-1620. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-52 adopted by the Counil on June 18, 1991; to the Committee on Governmental Affairs.

EC-1621. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-53 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1622. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-54 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1623. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-55 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1624. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-56 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1625. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-57 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1626. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-58 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1627. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-59 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1628. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-60 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1629. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-61 adopted by the Council on June 18, 1991; to the Committee on Governmental Affairs.

EC-1630. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on credit management and debt collection; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-170. A concurrent resolution adopted by the Legislature of the State of Delaware; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE CONCURRENT RESOLUTION NO. 42

"Whereas, the strength and vitality of this country's financial system has depended in large part on separate state and federal regulation of this country's financial institutions; and

"Whereas, the dual banking system has fostered creativity and innovation at the state level which has often led to the development of banking products, services and laws which benefit citizens nationwide; and

"Whereas, state legislatures and state banking regulators are best able to evaluate and respond to the needs and characteristics of local markets, businesses and communities; and

"Whereas, in recognition of the primacy of state legislatures and state banking regulators with respect to the regulation of state chartered financial institutions, federal law has historically been drafted and interpreted so as not to intrude upon the regulatory authority of state legislatures and state banking regulators; and

"Whereas, the State of Delaware has been, and continues to be, a leader in instituting banking laws and policies which have had a positive national impact, carefully utilizing it's authority to regulate and to grant powers to state chartered banks; and

"Whereas, the citizens, industries and businesses of the State of Delaware and the entire nation benefit from the dynamics of the dual banking system and its unique complementary system of state and national banks and regulators, which is similar to our system of government; and

"Whereas, there are congressional proposals under consideration which would hinder the dual banking system and would limit these benefits.

"Now, therefore:

"Be it resolved by the House of Representative and the Senate of the 136th general assembly of the State of Delaware that we hereby affirm continued support and commitment to a strong and viable dual banking system.

"Be it further resolved that the Delaware State Senate and House of Representatives of the 136th General Assembly of the State of Delaware pause in deliberations to express its strong opposition to any proposals which would eliminate or weaken the dual banking system.

"Be it further resolved that the Delaware State Senate and House of Representatives of the 136th General Assembly of the State of Delaware urge Delaware's Congressional Delegation, and the Congress as a whole, to prevent or defeat any such proposals.

"Be it further resolved that certified copies of this Resolution be transmitted to the Delaware Secretary of State, to the President and Secretary of the United States Senate, to the Speaker and the Clerk of the United States House of Representatives, to each member of this state's delegation to the Congress and to the Secretary of the Treasury."

POM-171. A resolution adopted by the Senate of the State of Alaska; to the Committee on Energy and Natural Resources:

"SENATE RESOLUTION 7

"Be it resolved by the Senate:

"Whereas the federal government is and will continue to be the largest landowner in the State of Alaska; and

"Whereas 165,400,000 acres of federal parks, preserves, wildlife refuges, wilderness, and other federal land in Alaska are closed to all forms of economic development, including mineral exploration and mining; and

"Whereas 49,600,000 acres of federal land in Alaska are still open to mineral exploration and mining; and

"Whereas a healthy mining industry can provide new jobs in many remote parts of Alaska, jobs that are well-paying, year-around, and skilled; and

"Whereas the existing federal mining law system has served our nation well since it was first enacted in 1872; and

"Whereas the existing federal mining law system has been amended more than 50 times to accommodate changing conditions; and

"Whereas mining must already comply with numerous state and federal laws concerning water and air quality, reclamation, land management, health and safety; and

"Whereas if individuals and companies risk their time and money in search of economic mineral deposits, they must have a reasonable assurance that they will be able to mine the minerals they find;

"Be it resolved that the Senate supports the existing federal mining law system; and

"Further resolved that the Senate urges the United States Congress to continue to support the existing federal mining law system."

POM-172. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION NO. 74

"Whereas, production of oil and gas within Louisiana and from areas on the Outer Continental Shelf adjacent to Louisiana is an essential part of the nation's energy supply and, as highlighted by the recent Persian Gulf War, is an essential element of the nation's security structure; and

"Whereas, much of Louisiana's non-oil and gas related industry is made up of large energy-consuming industries attracted to Louisiana because of its proximity to such large hydrocarbon reserves; and

"Whereas, Louisiana has been subjected to federal energy policies relative to oil and gas from the federal Outer Continental Shelf which do not provide sufficiently for the operation of free market economics and which tend to ignore Louisiana's supply needs, or, at best, relegate those needs to an inferior national position; and

"Whereas, such a condition requires the various aspects of federal energy policy to be coordinated with the energy policy and needs of Louisiana.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to coordinate the following aspects of federal energy policy with the policy and needs of Louisiana in order to provide:

"(1) That residential and industrial consumers in Louisiana have access to natural gas from the Outer Continental Shelf because of Louisiana's status as a net consumer of in-state produced natural gas.

"(2) That the Louisiana congressional delegation be encouraged to support federal funding in the form of coastal impact assistance to offset the adverse impacts of Outer Continental Shelf mineral leasing, exploration, and production activities.

"(3) That federal energy conservation tax credits for energy conservation measures which avoid environmental impacts and imported energy costs to the nation be restored.

"(4) That the federal government provide tax incentives to encourage exploration and development of oil and gas prospects including the following: maintaining the intangible drilling cost deduction; repealing the 'transfer rule' that prohibits a new owner from taking the percentage depletion allowance once the well has been sold; providing tax credits for expenses associated with new exploration and maintaining marginal wells; setting a minimum tax exclusion that would allow the percentage depletion allowance to be taken for up to one hundred percent of the net income from the property; and allowing the expensing of geological costs.

"(5) That, recognizing the global warming trend, the federal government encourage stricter worldwide air emission standards for the use or consumption of energy.

"(6) That federal energy efficiency standards be set or strengthened for buildings, automobiles, lighting and industrial processes.

"(7) That the federal energy research and development budget be reviewed for equity of funding among oil, natural gas, coal, conservation and long-term energy prospects like geopressure/geothermal reserves.

"(8) That the Louisiana Congressional delegation continue to work with the governor to capture an increased share of federal Louisiana congressional energy research and development monies for Louisiana.

"(9) That Louisiana and other domestic producers be assured access to new markets for their natural gas, for instance by assuring Gulf Coast interconnects to any new gas pipeline projects serving the Northeast, and that regulatory review of projects involving Louisiana and other domestic energy resources be expedited.

"(10) That electric utilities continue to be encouraged to sell their underutilized capacity to utilities in other states.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-173. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

SENATE CONCURRENT RESOLUTION NO. 75

"Whereas, the Corps of Engineers must perform maintenance dredging to the many federal navigation channels that lace Louisiana's wetlands; and

"Whereas, the Corps has in several instances, used dredged material from the maintenance of navigation channels to create marsh, but the amount used is negligible compared to the considerable amount of material dredged annually; and

"Whereas, such spoil material could be used in wetland creation or bank stabilization, either of which would serve to partially offset wetland damages that continue to accrue as a result of channel maintenance; and

"Whereas, the United States Environmental Protection Agency has significant oversight in the selection of these dumping sites chosen by the Corps of Engineers; and

"Whereas, under the federal consistency provisions of the Coastal Zone Management Act, federal activities must be consistent with the approved state coastal management program.

"Therefore, be it resolved that the Legislature of Louisiana memorializes Congress to require the United States Army Corps of Engineers and the Environmental Protection Agency to jointly adopt and implement a plan for the beneficial use of all dredged material for the purpose of creating and enhancing vegetated wetlands.

"Be it further resolved that the Legislature of Louisiana memorializes Congress to require the Corps of Engineers to include all additional costs associated with the creation and enhancement of vegetated wetlands in their annual budget for maintenance dredging.

"Be it further resolved that the Legislature of Louisiana memorializes Congress to appropriate the necessary funds for this purpose.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-174. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION NO. 76

"Whereas, a national environmental disaster continues to occur in Louisiana as our coastline countinues to recede; and

"Whereas, the problems in Louisiana are unique in that eighty percent of wetland loss in the continental United States is occurring in Louisiana, although that state contains just forty percent of the nation's wetlands; and

"Whereas, wetland resources play a vital role in the environmental and economic health of the nation, and therefore, providing adequate protection and management of the resources are essential; and

"Whereas, Louisiana's wetlands serve multiple ecological and natural functions, and the loss and deterioration of these coastal wetlands results in the loss and deterioration of fish and wildlife habitat which supports extensive and diverse fish and wildlife population, including several threatened and endangered species; and

"Whereas, the development of oil and gas reserves to supply the energy needs of the nation have contributed to wetland loss as canals were cut across marshes to lay the pipelines that transport our continental shelf oil and gas to other states; and

"Whereas, the United States Army Corps of Engineers constructed navigation channels for interstate commerce which has caused destruction to our coastal vegetated wetlands by allowing saltwater intrusion; and

"Whereas, the nation's wetlands resource base has suffered significant degradation, resulting in the need for more effective and evenhanded regulatory programs to limit such loss and provide for restoration and enhancement of the resource base; and

"Whereas, the federal permit program establish under Section 404 of the Federal Water Pollution Control Act was not originally conceived as a wetlands regulatory program and is currently insufficient to assure that the nation's wetlands resource base will be conserved and managed in a fair and environmentally sound manner; and

"Whereas, variations in wetland values or functions should be taken into account in determining the character and extent of regulation of activities occurring in wetland areas.

"Therefore, be it resolved that the Legislature of Louisiana memorializes Congress to enact legislation establishing a clear national wetlands policy and comprehensive federal wetland regulatory program to:

"(1) Asset federal regulatory jurisdiction over a broad category of specifically identified activities that result in the degradation or loss of higher value wetlands;

"(2) Account for variations in wetlands values or functions in determining the character and extent of regulation of activities occurring in wetlands areas;

"(3) Provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

"(4) Encourage conservation of resources on an ecosystem basis to the fullest extent practicable; and

"(5) Balance public and private interests in determining the conditions under which economic activity in wetlands areas may occur.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-175. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION NO. 77

"Whereas, Louisiana's wetlands are indeed the national treasure to which they are so commonly referred and their continued deterioration will cause federal, state, and local investments to be jeopardized; and

"Whereas, the health and survival of Louisiana's coastal marshland and its matchless natural resources play an important role in the economic health of the nation with its oil and gas resources, commercial and recreational fisheries resources, hunting, trapping, and recreational coastal pursuits; and

"Whereas, areas of open water continue to form due to the levee construction along the main channel of the Mississippi River and major tributaries; and

"Whereas, these levees were constructed to control flooding and facilitate navigation; and

"Whereas, while the construction of major navigation channels has provided tremendous economic benefits to the nation and to Louisiana, the lack of a broader multipurpose perspective has led to water quality and vegetated wetland deterioration; and

"Whereas, the traditional, narrow focus of water development projects on navigation and flood control must be expanded.

"Therefore, be it resolved that the Legislature of Louisiana memorializes Congress to expand the current mission of federal agencies, particularly the Corps of Engineers, by adding protection, enhancement, and creation of vegetated wetlands to the current missions of navigation and flood control, with the new mission receiving equal status.

"Be it further resolved that a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-176. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works:

"HOUSE JOINT RESOLUTION 91-1042

"Whereas, Colorado is a member delegate of the Multistate Highway Transportation Agreement, which recognizes the need for a strong federal highway trust fund; and

"Whereas, High quality highways and airports are critical to manufacturers who produce and transport products and to the ability of states and communities to attract new industry and sustain economic growth; and

"Whereas, Colorado industries, including agriculture, tourism, service, and manufacturing, depend on safe, efficient transportation of people and goods; and

"Whereas, There is a growing and concentrated national demand for programs to serve the country's highway and airway transportation needs through the year 2020; and

"Whereas, Large scale rehabilitation, repair, and capacity improvements are ongoing necessities of the national highway and airway systems; and

"Whereas, An increase investment in transportation is essential if we are to maintain our current system and expand the network to meet growing needs; and

"Whereas, Federal highway trust funds historically have been supported by federal taxes on motor fuels utilized by highway users; and

"Whereas, A buildup of the highway trust fund has occurred because obligation ceilings, which limit the amounts that states may commit each year to transportation projects, are imposed by the appropriations process; and

"Whereas, In all recent federal-aid highway acts, the Congress of the United States has been required to include provisions for extending the highway trust fund and the taxes which fund it; and

"Whereas, In recent years, aviation and highway trust funds have been diverted to reduce the federal deficit; and

"Whereas, The removal of the airport and airway trust fund from the federal unified budget would provide approximately eight billion dollars for modernization of airports and other improvements in the nation's aviation system; and

"Whereas, The removal of the highway trust fund from the federal unified trust fund would provide more than ten billion dollars for transportation, and, based on current allocation formulas, Colorado's share of these vitally needed funds would be one hundred forty-two million dollars; and

"Whereas, The current federal-aid highway program expires on September 31, 1991; and

"Whereas, Current national policy makes no provision for continuing the federal-aid highway program in the future; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the Colorado General Assembly hereby urges members of the United States Congress to enact in a timely manner new long-range transportation funding legislation that is fair and equitable to all states and that preserves the integrity of the highway trust fund.

"(2) That the President of the United States and the Congress of the United States are urged to make permanent the highway trust fund and the airport and airway trust fund and the user fees accruing to them to ensure that reliable funding sources are available for constructing, rehabilitating, and otherwise improving the highways, bridges, and airports which are so essential to the vigor of the state of Colorado and the national economy.

"(3) That the President of the United States and the Congress of the United States are urged to protect the highway trust fund and the airport and airway trust fund from predatory proposals to divert users' revenues to programs unrelated to the transportation purposes for which the funds were established.

"(4) That the Congress of the United States is urged to remove the highway trust fund and the airport and airway trust fund from the federal unified budget, release sequestered transportation funds, and remove forever the specter of using dedicated highway or airway funds available for the nation's infrastructure, for which such funds were collected and intended.

"Be it further resolved, That copies of this Resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Colorado Congressional Delegation."

POM-177. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 83

"Whereas, approximately $600 million in local sales taxes and $2.4 billion in state sales taxes go uncollected each year as a result of the United States Supreme Court's decision in *Bellas Hess* v. *Illinois Department of Revenue;* and

"Whereas, if federal legislation authorizes states and local governments to collect sales taxes from interstate sales transactions is enacted, the estimated tax revenues for the state of Louisiana are $30.7 million for the state and $24.9 million for local governments within the state; and

"Whereas, passage of such legislation is of vital concern to local governments in Louisiana due to the loss of federal revenue sharing and budget cuts at the state level; and

"Whereas, Louisiana retailers are at a distinct competitive disadvantage regarding the out-of-state retailers' exemption from the payment of state and local taxes.

"Therefore, be it resolved that the Legislature of Louisiana hereby memorializes the Congress of the United States to enact legislation authorizing states and local governments to collect sales taxes on interstate sales transactions.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation."

POM-178. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION NO. 13

"Whereas, the provisions of 42 U.S.C. 415 for determining the primary insurance amount of a person receiving social security were amended in 1977 by P.L. 95-216; and

"Whereas, that amendment resulted in disparate benefits according to when a person initially becomes eligible for benefits; and

"Whereas, persons who were born during the years 1917 to 1926, inclusive, and who are commonly referred to as "notch babies", receive lower benefits than persons who were born before that time; and

"Whereas, the payment of benefits under the social security system is not based on need or other considerations related to welfare, but on a program of insurance based on contributions by a person and his employer; and

"Whereas, the discrimination between persons receiving benefits it totally inequitable and contrary to the principles of justice and fairness; and

"Whereas, the Social Security Trust Fund has adequate reserves to eliminate this gross inequity.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to eliminate inequities in the payment of social security benefits to persons based on the year in which they initially become eligible for such benefits.

"Be it further resolved that the Legislature of Louisiana requests that these inequities be eliminated without reducing the benefits of persons who were born before 1917.

"Be it further resolved that a copy of this Resolution shall be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the Louisiana congressional delegation."

POM-179. A resolution adopted by the Council of the County of Kauai, Hawaii supporting the exclusion from social security withholding any earnings by election officials on election days; to the Committee on Finance.

POM-180. A joint resolution adopted by the Legislature of the State of Nevada; to the Select Committee on Indian Affairs.

"ASSEMBLY JOINT RESOLUTION NO. 30

"Whereas, The Supreme Court of the United States in *Duro* v. *Reina* has reversed 200 years of the exercise by Indian tribes of criminal misdemeanor jurisdiction over all Indians residing on their reservations by ruling that tribes only retain such powers over Indians who are on the official tribal roll; and

"Whereas, This ruling displays a lack of understanding of the reality, history and demographics of Indian reservations, including the fact that there are tens of thousands of Indians living on reservations who are not on official tribal rolls; and

"Whereas, Often a nonenrolled Indian has lived on a reservation all of his life, married an enrolled Indian with whom he has children and may even own land and property on the reservation; and

"Whereas, A nonenrolled Indian is eligible for all programs that any Indian would be eligible for and is essentially given all the benefits of membership in the tribe including preference for employment; and

"Whereas, For the purposes of law enforcement, tribes have never distinguished between enrolled and nonenrolled Indians; and

"Whereas, The Supreme Court's ruling has created an entire class of people over whom neither the federal, state or tribal governments have jurisdiction for misdemeanor crimes, thereby creating a potential for serious lawlessness; and

"Whereas, The State of Nevada does not have the funding available to hire the many extra police, investigators, prosecutors and judges or to build the jails that would be necessary to prosecute misdemeanor crimes by Indians within the boundaries of Indian reservations and may not be able to assert successfully jurisdiction even if the money was available; and

"Whereas, The nontaxable status of reservation trust lands combined with the relative poverty of most Indian people do not offer any opportunity to raise the additional revenue that would be required to assume responsibility for such a large job if jurisdiction were established; and

"Whereas, The Supreme Court indicated that it is the responsibility of Congress to address any void in jurisdiction that may result from this ruling; now, therefore, be it

"Resolved by the Assembly and Senate of the State of Nevada, Jointly, That the members of the 66th session of the Nevada Legislature commend the Congress of the United States for passing section 8077 (b) and (c) of Public Law 101-511, signed by the President on November 5, 1990, which temporarily affirmed that tribes do retain criminal misdemeanor jurisdiction over all Indians on Indian reservations and hereby urges the Congress of the United States to make this provision permanent law; and be it further

"Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"Resolved, That this resolution becomes effective upon passage and approval.

POM-181. A resolution adopted by the Tahoe Regional Planning Agency urging adoption of amendments to the Tahoe Regional Planning Compact; to the Committee on the Judiciary.

POM-182. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION NO. 96

"Whereas, Christopher Columbus, who was scientific by nature and trusting to divine inspiration, did devote his life to exploration and discovery; and

"Whereas, although faced with the universal position of the scientific, ecclesiastical, and ruling authorities of his time that the world was flat, Christopher Columbus did with infinite patience and dedication recognize, assimilate, and publish valid and useful information as to the true condition of the earth; and

"Whereas, by recognition and acceptance of this theory, Christopher Columbus did ardently set his life's goal and formulated a plan to uncover and establish the expanse and configuration of our planet; and

"Whereas, Christopher Columbus resolutely and convincingly petitioned the Spanish nation to appropriate and commit the required resources necessary to accomplish his goal of proving his theory; and

"Whereas, after undertaking his plan of exploration Christopher Columbus was beset by numerous incidents of intrigue and mutiny, limited by crude equipment, challenged by angry and uncharted seas, confronted often by fear and greed in the hearts of his crew, and aware of his own doubts and misgivings; and

"Whereas, by patiently and devotedly following his course and by giving firm and courageous leadership to his men, Christopher Columbus did discover American territory on October 12, 1492.

"Therefore, be it resolved that the Legislature of Louisiana does hereby recognize the many accomplishments of Christopher Columbus, particularly his discovery of the New World.

"Be it further resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to adopt a resolution naming and forever recognizing Christopher Columbus as a citizen of the United States of America.

"Be it further resolved that copies of this Resolution be transmitted to the speaker of the United States House of Representatives, the president of the United States Senate, and all members of the Congressional delegation from Louisiana."

POM–183. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Rules and Administration:

"HOUSE CONCURRENT RESOLUTION NO. 183

"Whereas, the freedom we enjoy as United States citizens is guarded by the men and women in the armed forces and should not be taken for granted; and

"Whereas, in the recent history of our country we have been involved in conflicts which have required the deployment of the armed forces, and these conflicts have resulted in more than 88,000 American service personnel remaining prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas, the United States Senate Foreign Relations Committee released an interim report that concluded that American service personnel were held in Southeast Asia after the end of the Viet Nam conflict; and

"Whereas, on April 12, 1973, the United States Department of Defense publicly stated that there was "no evidence" of live American POW's in Southeast Asia; and

"Whereas, the public statement was given nine days after Pathet Lao leaders declared on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas, no POW's held by the Laotian government and military forces were ever released; and

"Whereas, there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of "unresolved" and "discrepancy" cases; and

"Whereas, in October 1990, the United States Senate Foreign Relations Committee released an "Interim Report on the Southeast Asian POW/MIA Issue" that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was "no evidence" of live POW's, and that information available to the United States government does not rule out the probability that United States citizens are still being held in Southeast Asia; and

"Whereas, the Senate interim report states that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members, or was "misinterpreted or manipulated" in government files; and

"Whereas, the POW/MIA truth bill would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Viet Nam Conflict; and

"Whereas, this bill would censor the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these many years.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to appoint a select committee to assist the United States Senate Foreign Relations Committee in obtaining information in government files, to begin immediate committee hearings to consider enacting the POW/MIA truth bill, and to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia.

"Be it further resolved that the legislature does provide that a copy of this Resolution be transmitted to the secretary of state, the president and secretary of the United States Senate, the speaker and chief clerk of the United States House of Representatives, and each member of the Louisiana congressional delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 749. A bill to rename and expand the boundaries of the Mound City Group National Monument in Ohio (Rept. No. 102–108).

By Mr. CRANSTON, from the Committee on Veterans Affairs, with amendments:

H.R. 153. A bill to make technical amendments to the Veterans' Judicial Review Act.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN (by request):

S. 1472. A bill to extend and amend programs under the Older Americans Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WARNER:

S. 1473. A bill entitled the "Materials Recycling Enhancement Act of 1991"; to the Committee on Environment and Public Works.

By Mr. REID:

S. 1474. A bill to provide Federal Government guarantees of investments of State and local government pensions funds for construction of magnetic levitation transportation facilities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. METZENBAUM, and Mr. ADAMS):

S. 1475. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BYRD (for himself, Mr. DIXON, Mr. FORD, Mr. BOREN, Mr. SHELBY, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 177. A joint resolution prohibiting the proposed sale to the Republic of Korea of F–16C/D aircraft and other specified defense articles and defense service, pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Mr. BYRD (for himself, Mr. DIXON, Mr. FORD, Mr. SHELBY, Mr. BOREN, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 178. A joint resolution prohibiting the proposed export to the Republic of Korea of certain technical data and equipment related to the sale of F–16C/D aircraft, pursuant to section 36(c) of such Act; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN (by request):

S. 1472. A bill to extend and amend programs under the Older Americans Act, and for other purposes; to the Committee on Labor and Human Resources.

OLDER AMERICANS ACT AMENDMENTS OF 1991

Mr. COCHRAN. Mr. President, I am pleased today to introduce, at the request of the Administration, the Older Americans Act Amendments of 1991, to reauthorize programs that help meet some of the most important day-to-day needs of older Americans.

The Older Americans Act, which is the major vehicle for the organization and delivery of social and nutritional services to the elderly, was last reauthorized in the 100th Congress. On Wednesday, July 17, the Committee on Labor and Human Resources is scheduled to consider and markup legislation to reauthorize the Act for another 4 years.

Mr. President, in order that all Senators may be informed of the Administration's proposal for reauthorization of the Older Americans Act, I request that the transmittal letter from Secretary Sullivan, a section-by-section analysis, and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) This Act may be cited as the "Older Americans Act Amendments of 1991".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965, unless otherwise specifically stated.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL COUNCIL ON AGING.

Section 204(g) (42 U.S.C. 3015(g)) is amended by striking out all that follows "this section" and inserting instead "$181,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994.".

SEC. 3. BIENNIAL PUBLICATION OF GOALS.

Section 205(d) (42 U.S.C. 3016(d)) is amended—

(1) by striking out "each fiscal year" and inserting instead "each odd-numbered fiscal year"; and

(2) by striking out "in the first fiscal year" and inserting instead "in the first two fiscal years".

SEC. 4. SCOPE OF STATE GRANT PROGRAM.

(a) PURPOSE.—Section 301(a) (42 U.S.C. 3031(a)) is amended to read as follows:

"SEC. 301. (a) It is the purpose of this title to encourage and assist States and local communities, acting through State and area agencies—

"(1) to develop and operate comprehensive and coordinated systems to serve older individuals, in order to secure and maintain, to the maximum extent feasible, older individuals' independence, dignity, and participation in the community, with particular emphasis on meeting the service needs of those individuals at greatest risk of losing their independence; and

"(2) to secure and support the participation in such comprehensive and coordinated systems of all sectors of the community, including—

"(A) organizations and entities participating as providers of services pursuant to agreements under State and area plans;

"(B) relatives, volunteers, and other individuals and entities providing care and services to older individuals, including those providing care and services in informal and uncompensated arrangements; and

"(C) businesses, community groups, fraternal organizations, State and local government agencies, and other entities, with particular emphasis on outreach to those entities that have not previously been active participants in the network of entities seeking to meet needs of older individuals.".

(b) DEFINITION OF COMPREHENSIVE AND COORDINATED SYSTEM.—Section 302(1) (42 U.S.C. 3022(1)) is amended to read as follows:

"(1) The term 'comprehensive and coordinated system' means a system designed to enable older individuals to obtain all necessary care and services in order to maintain, to the maximum extent feasible, their independence, dignity, and participation in the community, through activities including—

"(A) informing older individuals of the availability, and facilitating their use, of services provided by any public or private entity, including services (such as medical or educational services) not available under this title;

"(B) making the most efficient use of funds available under this title for nutrition services, supportive services and senior centers, and for other activities, by methods including avoidance of duplication of activities being carried out with other resources, and obtaining additional cash and in-kind support for activities under this title; and

"(C) ensuring, to the maximum extent feasible, the availability within the geographic area served by the system of all services needed by older individuals, through methods including cooperation and coordination with entities providing such services, outreach to entities in the public and private sectors that have unrealized potential for meeting service needs of older individuals, and providing encouragement and assistance to individuals and entities providing care and services to older individuals on a voluntary basis.".

SEC. 5. DEFINITION OF POVERTY LINE.

Section 302 (42 U.S.C. 3022) is amended—

(1) in paragraph (2), by striking out "poverty levels" and inserting instead "poverty line"; and

(2) by adding at the end the following new paragraph:

"(22) The term 'poverty line' means the official poverty line as defined by the Office of Management and Budget.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING; REPEAL OF UNIMPLEMENTED AUTHORITIES AND RESTRICTIONS.

(a) AUTHORIZATIONS.—(1) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a)(1) (42 U.S.C. 3023(a)(1)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $290,818,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994".

(2) OMBUDSMAN SERVICES.—Section 303(a)(2) (42 U.S.C. 3023(a)(2)) is amended to read as follows:

"(2) There are authorized to be appropriated $2,439,525 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994, to supplement other funds available under this title to carry out section 307(a)(12).".

(3) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) (42 U.S.C. 3023(b)(1)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $361,083,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994".

(4) HOME-DELIVERED NUTRITION SERVICES.—Section 303(b)(2) (42 U.S.C. 3023(b)(2)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $87,831,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994".

(5) IN-HOME SERVICES FOR FRAIL ELDERLY.—Section 303(d) (42 U.S.C. 3023(d)) is amended by striking out "There are authorized" and all that follows through "fiscal year 1991" and inserting instead "There are authorized to be appropriated $6,831,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994,".

(6) ELDER ABUSE SERVICES.—Section 303(g) (42 U.S.C. 3023(g)) is amended by striking out all that precedes "to carry out" and inserting instead "There are authorized to be appropriated $2,927,475 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994,".

(b) REPEALS.—(1) OUTREACH ACTIVITIES.—(A) Section 306(a)(6) (42 U.S.C. 3026(a)(6)) is amended—

(i) by inserting "and" at the end of subparagraph (N);

(ii) by striking out "; and" at the end of subparagraph (O) and inserting a semicolon instead; and

(iii) by striking out subparagraph (P).

(B) Section 307(a)(20) (42 U.S.C. 3027(a)(20)) is amended in subparagraph (A) by striking out "and 306(a)(6)(P)".

(C) Section 307(a)(31) (42 U.S.C. 3027(a)(31)) is repealed.

(D) Section 303(a)(3) (42 U.S.C. 3023(a)(3)) is repealed.

(2) SPECIAL NEEDS.—(A) Part E of title III (42 U.S.C. 303(l) is repealed.

(B) Section 303(e) (42 U.S.C. 3023(e)) is repealed.

(3) PREVENTIVE HEALTH SERVICES.—(A) part F of title III (42 U.S.C. 3030m) is repealed.

(B) Section 303(f) (42 U.S.C. 3023(f)) is repealed.

(4) RESTRICTIONS ON APPROPRIATIONS.—Section 303(h) (42 U.S.C. 3023(h)) is repealed.

(c) CONFORMING AMENDMENTS.—(1) Part G of title III and section 371 (42 U.S.C. 3030p) are respectively redesignated part E of title III and section 351.

(2) Section 306(a) (42 U.S.C. 3026(a)) is amended.—

(A) by inserting "and" at the end of paragraph (7);

(B) by striking out the semicolon at the end of paragraph (8) and inserting a period instead; and

(C) by striking out paragraphs (9) and (10).

(3) Section 307(a)(30) (42 U.S.C. 3027(a)(30)) is repealed.

(4) Section 304(d)(1) (42 U.S.C. 3024(d)(1)) is amended in subparagraphs (B) and (C) by striking out "(excluding any amount attributable to funds appropriated under section 303(a)(3)".

(5) Section 303(g) (42 U.S.C. 3023(g)) is redesignated as subsection (e), and is amended by striking out "part G" and inserting instead "part E".

SEC. 7. STATE DISTRIBUTION FORMULA; PROVIDER AGREEMENTS.

(a) STATE DISTRIBUTION FORMULA.—(1) Section 305(a)(2)(C) (42 U.S.C. 3025(a)(2)(C)) is amended to read as follows:

"(C) in consultation with area agencies, in accordance with guidelines issued by the Commissioner, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—

"(i) the geographical distribution of individuals aged 60 and older in the State, and

"(ii) the distribution among planning and service areas of such individuals in greatest economic or social need, with particular attention to low-income minority individuals;".

(2) Section 305(a)(2)(D) (42 U.S.C. 3025(a)(2)(D)) is amended by striking out "review and comment" and inserting instead "approval".

(3) The amendments made by this subsection shall be effective, with respect to a State, with respect to State fiscal years beginning after the first day of the thirteenth month beginning after enactment of this Act.

(b) PROVIDER AGREEMENTS WITH AREA AGENCIES.—Section 306(a)(5)(ii)(II) (42 U.S.C. 3026(a)(5)(A)(ii)(II) is amended by striking out "attempt to" and inserting instead "to the maximum extent feasible,".

SEC. 8. STATE MATCHING FUNDS FOR OMBUDSMAN PROGRAM.

Section 304(d)(1)(B) (42 U.S.C. 3024(d)(1)(B)), as amended by section 6(c)(4), is further amended by striking out all that follows "determines" and inserting instead "shall be available for paying such percentage as the State agency determines, but not more than 85 percent, of the cost of conducting an effective ombudsman program under section 307(a)(12);".

SEC. 9. STATE OPTION TO CHARGE FEES FOR SERVICES.

(a) IN GENERAL.—Section 307(a) (42 U.S.C. 3027(a)), as previously amended by subsections (b)(1)(C) and (c)(3) of section 6, is further amended by adding at the end the following new paragraph:

"(30) The plan shall (if the State agency elects to permit or require providers of nutrition services or supportive services to charge fees for all or part of the cost of such services, based on ability to pay) specify the services for which fees may or must be charged, and specify the fee schedule or methodology for setting each such fee, but the plan shall not permit fees to be charged to individuals with incomes below 200 percent of the poverty line (as defined in section 302(22)).".

(b) CONFORMING AMENDMENT.—Section 307(a)(13) (42 U.S.C. 3027(a)(13)), is amended in subparagraph (C)(i) by inserting "where charges for meals are not permitted or required pursuant to paragraph (30)," before "each project will permit".

SEC. 10. SAFEGUARDS ON ELDER ABUSE SERVICES.

Section 307(a)(16) (42 U.S.C. 3027(a)(16)), is amended—

(1) in the matter preceding subparagraph (A), to read as follows:

"(16) The plan shall contain assurances, with respect to any services provided under the plan for the prevention of abuse of older individuals, that—"; and

(2) in subparagraph (A), by striking out "the plan contains assurances that".

SEC. 11. DISASTER RELIEF REIMBURSEMENTS.

Section 310 (42 U.S.C. 3030) is amended—

(1) in subsections (a)(2) and (b)(1), by striking out "5 percent" and inserting instead "3 percent"; and

(2) in subsections (a)(2), and (b)(1), and (b)(2), by striking out "section 422" and inserting instead "section 431.

SEC. 12. AUTHORITY FOR TRAINING, RESEARCH, AND DEMONSTRATIONS.

(a) CAPTION.—The caption of title IV is amended to read "TITLE IV—DISCRETIONARY TRAINING, RESEARCH, AND DEMONSTRATION PROJECTS AND PROGRAMS".

(b) GRANTS AND CONTRACTS.—(1) IN GENERAL.—Section 411 (42 U.S.C. 3031) is amended to read as follows:

"SEC. 411. The Commissioner may make grants and enter into contracts to achieve the purposes of this part.".

(2) CONFORMING AMENDMENT.—Section 412 (42 U.S.C. 3032) is repealed.

(c) RESEARCH AND DEVELOPMENT PROJECTS.—Section 421 (42 U.S.C. 3035) is amended to read as follows:

"SEC. 421. The Commissioner may make grants to or enter into contracts with any public or private agency, organization, or institution to support research and development related to the purposes of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for the purposes of exchange of information and other activities related to this title.".

(d) DEMONSTRATION PROJECTS.—Section 422 (42 U.S.C. 3035a) is amended to read as follows:

"SEC. 422. The Commissioner, after consultation with the State agency, may make grants to or enter into contracts with any public or private agency or organization within a State for part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects to demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of older individuals.".

(e) CONFORMING AMENDMENTS.—(1) Sections 423, 424, 426, 427, and 428 (42 U.S.C. 3035b, 3035c, 3035e, 3035f, and 3035g) are repealed.

(2) Section 425 (42 U.S.C. 3035d) is redesignated as section 423.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS FOR TRAINING, RESEARCH, AND DEMONSTRATIONS: TRANSFER OF FUNDS.

(a) CONSOLIDATED AUTHORIZATION.—(1) IN GENERAL.—Section 431(a) (42 U.S.C. 3037(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out the provisions of this title $25,941,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994.".

(2) CONFORMING AMENDMENT.—Section 413 (42 U.S.C. 3037) is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(b) TRANSFER OF FUNDS TO OTHER FEDERAL ENTITIES.—Section 431(b) (42 U.S.C. 3037(b)), as redesignated by subsection (a), is amended—

(1) by striking out paragraph (1); and

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2).

SEC. 14. AUTHORIZATION AND ALLOCATION OF APPROPRIATIONS FOR NATIVE AMERICANS AND NATIVE HAWAIIANS.

(a) CAPTION.—Section 633 (42 U.S.C. 3057n) is amended in the caption by adding at the end "; ALLOCATION".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 633(a) (42 U.S.C. 3057n(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title (other than section 615) $14,639,000 for fiscal year 1992, and such sums as may be necessary for each of fiscal years 1993 and 1994.".

(c) ALLOCATION TO PROGRAMS.—Section 633(b) (42 U.S.C. 3057n(b)) is amended—

(1) in paragraph (2), in the matter preceding subparagraph (A), by striking out "then—" and inserting instead "then (subject to paragraph (3))—";

(2) in paragraph (2), in the matter following subparagraph (B), by striking out all that follows "may not exceed" and inserting instead "$1,505,000."; and

(3) by adding at the end the following new paragraph:

"(3)(A) If the amount appropriated under subsection (a) for a fiscal year does not exceed the amount appropriated to carry out this title in the preceding fiscal year, then the amount available to carry out part B shall bear the same proportion to the total amount appropriated under this title as the amount available to carry out part B in such preceding fiscal year bore to the total amount appropriated under this title for such preceding fiscal year.

"(B) If the amount appropriated under subsection (a) for a fiscal year exceeds the amount appropriated to carry out this title in the preceding fiscal year, then the amount available to carry out part A shall not be less than the amount available to carry out part A from the appropriation for such preceding fiscal year.".

SEC. 15. TECHNICAL AMENDMENTS.

(a) CROSS-REFERENCE.—Section 102 (42 U.S.C. 3002) is amended by adding at the end the following new sentence: "For definitions of terms for purposes of titles III and V of this Act, see sections 302 and 507.".

(b) CORRECTION OF PARAGRAPH NUMBERING.—Paragraphs (14) through (21) of section 302 (42 U.S.C. 3002) are redesignated, respectively, as paragraphs (12) through (19).

(c) REPEAL OF OBSOLETE PROVISION.—(1) IN GENERAL.—Section 307 (42 U.S.C. 3027) is amended by striking out subsection (f) and redesignating subsection (g) as subsection (f).

(2) CONFORMING AMENDMENT.—Section 304(d)(1)(C) (42 U.S.C. 3024(d)(1)(C)) is amended by striking out "under section 307(f)".

(d) RELOCATION OF ILLOGICALLY LOCATED MATERIAL.—(1)(A) Section 308(b)(4) (42 U.S.C. 3028(b)(4)) is amended by striking out "section 303(b) (1) and (2)" and inserting instead "paragraphs (1) and (2) of subsection (b)".

(B) Section 308(b)(5) (42 U.S.C. 3028(b)(5)) is amended in subparagraphs (A) and (B) by striking out "of section 303" each place it appears.

(2) Paragraphs (4) and (5) of section 308(b) (42 U.S.C. 3028(b)) are relocated and redesignated as paragraphs (1) and (2) of a new subsection (g) at the end of section 303 (42 U.S.C. 3023).

(e) CORRECTION OF REFERENCE.—Section 310(a)(1) (42 U.S.C. 3030(a)(1)) is amended by inserting "Robert T. Stafford" before "Disaster Relief".

(f) CORRECTION OF PRINTER'S ERROR.—Subsections (c) and (d) of section 614 (42 U.S.C. 3057e) are each amended by striking out "Commission" and inserting instead "Commissioner".

(g) RELOCATION OF REQUIREMENT FOR TASK FORCE ON INDIANS.—(1) Section 134(d) of the Older Americans Act Amendments of 1987 (P.L. 100-175) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(B) by striking out "Commissioner on Aging" and inserting instead "Commissioner".

(2) Such section 134(d), as so amended, is relocated and redesignated as paragraph (4) of section 201(c) (42 U.S.C. 3011(c)).

SEC. 16. EFFECTIVE DATE.

Except as otherwise specifically provided, the amendments made by this Act shall be effective with respect to calendar quarters beginning on or after October 1, 1991.

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, May 20, 1991.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill, the "Older Americans Act Amendments of 1991". The provisions of the bill are described in detail in the enclosed section-by-section summary.

The draft bill would extend for three years, through FY 1994, authorizations of appropriations for current programs under the Older Americans Act of 1965 (the Act), would repeal unfunded authority for other programs, and would make other amendments.

The bill would authorize appropriations for the Federal Council on the Aging under title II of the Act; for State social services, nutrition services, and senior centers under title III; for training, research, and discretionary programs under title IV; and for Native American grant programs under title VI. Of the authorities added by the 1987 amendments to the Act for appropriations earmarked for certain State activities, the bill would extend the authorities for long term care ombudsman services, in-home services to the frail elderly, and elder abuse prevention, and would repeal authorities (which have never been funded) for outreach, special needs, and preventive health services.

The bill includes amendments to title III to emphasize the importance of involving all types of public and private agencies, organizations, and institutions as active participants in the development of comprehensive and coordinated systems of eldercare services. The amendments stress, as well, the essential contributions which family members and other caregivers make to comprehensive systems of eldercare which are developed to meet the needs of all older persons, particularly those who are at risk of losing their independence. By eldercare, we mean all forms of caregiving provided to, or on behalf of, older persons, particularly older persons at risk of losing their independence, by relatives or other caregivers, and by public or private agencies, organizations, and institutions.

The bill would make amendments intended to ensure that a fair share of title III State grant funds is used for services to low-income minority elderly. These individuals have significant economic and social problems that make it particularly important for the Department and the States to improve the provision of services to them. Low-income minority elderly have higher rates of mortality and disability and tend to be in poorer health than the general elderly population. For these and other reasons, they tend to have greater service needs than the general population, and at the same time to face greater barriers to services.

The bill would require States to take into account geographic distribution of low-income minority individuals in developing their formulas for intrastate distribution of title III funds, and to obtain the Commissioner's approval of the formulas; and would require service providers to serve, to the maximum extent feasible, low-income minority elderly at least proportionally to their share of the area's elderly population.

The draft bill would also authorize States to permit or require providers of services under title III to charge fees, based on ability to pay. The choice of fee structure or rate-setting method would be left to the discretion of the States, but no fees would be permitted for individuals with incomes below 200 percent of the poverty line. By enabling service providers to recover a portion of its costs from those elderly most able to pay for them, this amendment would permit providers to make services available to a larger number of elderly with greater need.

The draft bill would amend title IV of the Act (relating to training, research, and discretionary projects and programs) to make the descriptions of these authorities simpler and more general, and to repeal most conditions on and priorities for funding.

The bill would also make minor and technical amendments.

We urge that the Congress give the draft bill its prompt and favorable consideration.

The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

LOUIS W. SULLIVAN, M.D.

SECTION-BY-SECTION SUMMARY OF THE OLDER AMERICANS ACT AMENDMENTS OF 1991

Sec. 2. Authorization of appropriations for Federal Council on Aging.

Section 2 of the draft bill would amend section 204(g) of the Older Americans Act of 1965 (the Act) to authorize appropriations of $181,000 for fiscal year 1992 and such sums as necessary for fiscal years 1993 and 1994.

Sec. 3. Biennial publication of goals.

Section 3 would amend section 205(d) of the Act to require the Commissioner to issue on a biennial rather than an annual basis a statement of proposed goals to be achieved by implementing the Act.

Sec. 4. Scope of State grant program.

Section 4(a) would amend section 301(a) of the Act to clarify that the purposes of the title III State grant program include encouraging and assisting States and local communities to secure and support the participation of all sectors of the community in comprehensive and coordinated systems meeting the service needs of older individuals.

Section 4(b) would amend the definition of the term "comprehensive and coordinated system" at section 302(1) of the Act to clarify that the activities appropriate to such a system include a wide range of activities designed to enable older individuals to receive all necessary care and services, including provision of title III services, outreach to older individuals and public and private sector entities, and coordination of service delivery.

Sec. 5. Definition of poverty line.

Section 5 would add to section 302 of the Act a new paragraph (22), defining "poverty line" for purposes of title III as the official poverty line as defined by the Office of Management and Budget. (For proposed statutory application of the poverty line, see section 9 of the bill.)

Sec. 6. Authorization of appropriations for grants for State and community programs on aging; repeal of unimplemented authorities and restrictions.

Section 6(a) would extend authorizations of appropriations for certain activities under the State grant program under title III of the Act.

Section 6(a)(1) would amend section 303(a)(1) of the Act to authorize appropriations of $290,818,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for supportive services and senior centers.

Section 6(a)(2) would amend section 303(a)(2) of the Act to authorize appropriations of $2,439,525 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for the long-term care ombudsman program. This amendment would also eliminate the provision conditioning this appropriation authority on a 5 percent increase in total appropriations under certain other authorities in the Act, and would clarify that appropriations under this provision would supplement rather than substitute for other title III funds available for ombudsman services.

Section 6(a)(3) would amend section 303(b)(1) of the Act to authorize appropriations of $361,083,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for congregate nutrition services.

Section 6(a)(4) would amend section 303(b)(2) of the Act to authorize appropriations of $87,831,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for home-delivered nutrition services.

Section 6(a)(5) would amend section 303(d) of the Act to authorize appropriations of $6,831,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for in-home services for frail older individuals.

Section 6(a)(6) would amend section 303(g) of the Act to authorize appropriations of $2,927,475 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994, for elder abuse programs. This amendment would also eliminate the provision conditioning this appropriation authority on a 5 percent increase in total appropriations under certain other authorities in the Act.

Section 6(b) would repeal certain provisions enacted by P.L. 100-175, the 1987 amendments to the Act, including authorities for some programs which have never been funded, and restrictions on earmarked appropriations for new or expanded activities.

Section 6(b)(1) would repeal requirements under section 306(a)(6)(P) of the Act, and appropriation authority under section 303(a)(6), for outreach to older individuals concerning eligibility for supplemental security income (SSI), Medicaid, and Food Stamps.

Section 6(b)(2) would repeal authority under part E of the Act, and appropriation authority under section 303(e), for services designed to satisfy special needs of older individuals.

Section 6(b)(3) would repeal authority under part F of the Act, and appropriation authority under section 303(f), for preventive health services for older individuals.

Section 6(b)(4) would repeal section 303(h) of the Act, which permits earmarked appropriations for outreach, ombudsman, special needs, preventive health, and elder abuse prevention services only if appropriations under the Act (without regard to these earmarks or to funds for certain other activities) exceed 105 percent of the prior year's appropriations.

Section 6(c) would make conforming amendments.

Sec. 7. State distribution formula; provider agreements.

Section 7(a) would amend section 305(a)(2)(C) of the Act, which contains the requirements with respect to the State agency's development of a formula for distribution within the State of grant funds received under the Act. The State agency would be required to develop the formula in consultation with area agencies, to take into account in that formula the distribution of low-income minority elderly in the State, and to submit the formula to the Commissioner on Aging for approval (instead of merely for review and comment, as under current law). This amendment would apply with respect to State fiscal years beginning more than one year after enactment.

Section 7(b) would amend section 306(a)(5) of the Act to require provider agreements with area agencies to require providers to serve low-income minority elderly at least proportionally to their share of the area's elderly population "to the maximum extent feasible", rather to "attempt to" provide such services, as under current law.

Sec. 8. State matching funds for ombudsman program.

Section 8 would amend section 304(d)(1)(B) of the Act to specify that States must provide 15 percent matching of Federal funding for long term care ombudsman activities under the State plan (the matching share required for all other State service activities).

Sec. 9. State options to charge fees for services.

Section 9 would add to section 307(a) of the Act a new paragraph (30), authorizing States, at their option, to permit or require providers of nutrition services or supportive services to charge fees for such services, based on ability to pay. No fees would be permitted for individuals with incomes below 200 percent of the poverty line. States electing this option would be required to specify in their

State plans fee schedules or fee-setting methodologies.

Sec. 10. Safeguards on elder abuse services.

Section 10 would amend to section 307(a)(16) of the Act to require the State plan to contain assurances concerning safe-guards with respect to elder abuse prevention services provided under the plan, regardless of the funding source for these servies; it would also eliminate confusing language concerning these assurances.

Sec. 11. Disaster relief reimbursements.

Section 11 would amend section 310 of the Act to revise the obsolete formula for determining the amount of the disaster relief set-aside. (The current formula sets aside 5 percent of the appropriation for section 422 of the Act, but the law no longer provides for an earmarked appropriation for section 422.) The proposed set-aside for disaster relief or 3 percent of the total appropriation for title IV of the Act would yield approximately the same share of title IV funds as did the 5 percent set-aside from the former earmarked appropriation for section 422.

Sec. 12. Authority for training, research, and demonstrations.

Section 12 would amend title IV of the Act to simplify and broaden the authorities for education and training and for research, demonstrations, and other activities. All authority to conduct or fund specific activities under this title would be made discretionary rather than mandatory, and most conditions on and priorities for funding (including barriers to funding for-profit entities) would be repealed.

Sec. 13. Authorization of appropriations for training, research, and demonstrations; transfer of funds.

Section 13(a) would amend section 431 of the Act to provide a single, consolidated authorization of appropriations for title IV activities. Appropriations would be authorized of $25,941,000 for fiscal year 1992, and such sums as necessary for fiscal years 1993 and 1994.

Section 13(b) would amend section 431 to repeal the prohibition on transfer of funds appropriated under title IV to any office or other authority of the Federal Government not directly responsible to the Commissioner.

Sec. 14. Authorization and allocation of appropriations for Native Americans and Native Hawaiians.

Section 14 would amend section 633 of the Act to authorize appropriations of $14,639,000 for FY 1992, and such sums as necessary for FYs 1993 and 1994, to carry out the grant programs for older Native Americans under title VI.

This section would also modify the allocation formula for title VI appropriations to ensure that—

(1) if funds available for title VI do not exceed those available for the preceding fiscal year, the Indian program under part A and the Native Hawaiian program under part B will each receive the same proportionate share of the appropriation as of the prior year's appropriation, and

(2) if funds available exceed those for the preceding fiscal year, the amount available for part A will not be less than the amount available for that program for the preceding fiscal year.

(Under current law, when there is a reduction or little or no increase in the title VI appropriation over that for the preceding fiscal year, if the appropriation nevertheless exceeds that for FY 1987, funds for the original Older Indians grant program must be reduced in order to make available a guaranteed minimum amount of funding to the Native Hawaiians program enacted by P.L. 100–175. The current ceiling of $1,505,000 on Native Hawaiian funding would be retained through FY 1994.)

Sec. 15. Technical amendments.

Section 15 would make technical amendments.

Sec. 16. Effective date.

Section 16 would make the provisions of the bill efffective with respect to calendar quarters beginning on or after October 1, 1991, except as other wise specificaly provided.

By Mr. WARNER:

S. 1473. A bill entitled the "Materials Recycling Enhancement Act of 1991"; to the Committee on Environment and Public Works.

MATERIALS RECYCLING ENHANCEMENT ACT OF 1991

Mr. WARNER. Mr. President, I rise today to introduce legislation to provide sound alternatives to current practices of managing solid wastes.

Mr. President, every year this country disposes of more than 180 million tons of municipal solid waste, nearly 4 pounds for every American, and hundreds of millions of tons of industrial wastes. Faced with landfill closings and local opposition to siting new landfills, Americans are beginning to realize that we are running out of safe places to dispose of this waste and should recover and recycle materials that otherwise would be discarded.

Mr. President, we must take advantage of recycling to the fullest extent possible to address this problem. It is not a new phenomenon, but an established business. More than 90 million tons of paper, metal, glass, plastics, and textiles is recycled each year, not including materials that are generated by and reused within manufacturing. There are markets available to those who will seek them out but more must be done to sustain and enhance these markets.

Recycling offers benefits of achieving conservation and reducing our reliance on natural resources. Last year, for example, Americans recycled some 1.93 billion pounds of aluminum from the Nation's solid waste stream and thus conserved 95 percent of the energy needed to make new aluminum cans from raw ore. Despite these successes however, the Environmental Protection Agency reports that Americans recover only 13 percent of materials from the solid waste stream.

Nearly 40 States have recycling laws. Some of these laws mandate specific recycling goals and bans on specific products. Virginia requires each municipality to recycle 10 percent of its trash by the end of 1991, 15 percent by 1993 and 25 percent by the end of 1995. Most jurisdictions in Virginia use a mix of voluntary and mandated programs to meet those goals.

One of the barriers to enhanced recycling is our own inability to establish a national policy and definition for recycling. While the principal law on the subject has a good title, the Resource Conservation and Recovery Act, its actual provisions have little to do with either conservation or recovery.

Disposal and recycling are treated as comparable processes under the current solid waste statutory and regulatory regime. As a result, legislation and regulations designed to address disposal also have an effect on recycling and vice-versa. Because we have no explicit policy and definition on recycling we have no control over who is and who is not a recycler. Some who engage in waste disposal and treatment can claim the title of recycler, even though they do not engage in that activity.

Mr. President, the safe disposal of hazardous and solid wastes is critically important to human health. But we cannot allow justifiable concern about disposal to continually, inadvertently, block safe recycling.

To encourage greater recycling, I am introducing legislation today to define and regulate recycling and to provide incentives that will create a demand for goods and products made from recycled materials. This bill reinforces S. 241, a bill I introduced on January 22, requiring States to promote and develop recyling markets as part of their State solid waste management plans. Evidence presented before the Senate Subcommittee on Environmental Protection last month overwhelmingly emphasized the importance of incentives to stabilize recycling markets with a minimum of Government interference.

My bill, the Materials Recyling Enhancement Act of 1991, creates a statutory distinction between materials diverted from solid waste for recycling and managing such materials as a waste. This is necessary to encourage recyling, based on what is being accomplished. Those who are engaged in the collection, transportation and processing of recycled materials, or who are legitimate recyclers using recyclable materials to manufacture products for commerical use, will be encouraged and aided by this legislation.

Those who seek to avoid solid waste regulation by calling themselves recyclers when in truth they are storing and treating solid and hazardous waste will get no comfort from this proposal. These entities will be required to justify their activities to EPA and States. If they cannot, these "recyclers" will be subject to subtitle C or D of RCRA.

Recyling must be regulated differently than waste to break the disposal cycle. Activities that involve recycling of aluminum cans, glass bottles, plastic milk containers and cardboard boxes for example, do not justify the need for regulation as a waste.

The legislation I propose today gives EPA the authority to establish and regulate recycling activities by setting minimum national standards. Recyclers must apply for a class permit that provides reasonable controls to ensure the recycling activity is conducted in a safe manner. All class permits will address minimum Federal standards affecting storage, recordkeeping, manifests and contingency plans. Evidence of financial reponsibility may apply to specific types of recycling activities to further assure safe and responsible recycling.

Class permits will apply to similar recycling activities engaged in by the same or different owner, and at different locations. This includes specific types of businesses within an industry. Site-specific requirements may also be required by State and local governments depending on the location of the recycling facility.

My bill recognizes that recycling activities are a local and State responsibility. States would seek authorization from EPA to administer and enforce a recycling program that meets minimum Federal standards while codifying existing State recycling requirements. My bill also recognizes a State's right to apply more stringent requirements than provided for in the Federal recycling program.

State recycling programs would not be interrupted pending the issuance of Federal recycling program standards. Persons engaged in recycling activities on the effective date of my bill would continue to be regulated under existing local and State authorities and standards until States adopt national recycling standards. Facilities constructed or modified after this date, must comply with State law and any minimum Federal recycling standards. This construction requirement is intended to encourage capital investment in recycling facilities and avoid an involuntary moratorium on construction pending the issuance of federal recycling standards.

Those recyclers requiring a permit would notify EPA and the State of their activities. Requiring these recyclers to provide notice will allow EPA to determine the degree and distribution of recycling activities without interfering with the safe collection and processing of these materials.

Recyclers engaged in the collection, receipt or processing of scrap metal, paper products, plastics, glass and textiles, the collection or receipt of tires or industrial reuse of secondary materials generated on-site by their production facility, would not need a recycling permit. These activities occur safely today under current Federal regulations.

Anyone seeking a loophole in the recycling requirements will be sorely disappointed. EPA and the States would have equal authority to revoke a recycler's status under this regime and compel regulation of their activities under the appropriate RCRA requirements for solid or hazardous waste management.

Mr. President, this bill does not simply provide for more Government regulation. It also creates several nonregulatory incentives to enhance recycling practices and break the disposal cycle.

State and local governments may establish permit processing fees that favor recycling facilities over solid waste disposal facilities. A study of more than 200 U.S. cities found that 39 percent charge no direct fees at all for garbage service, giving consumers little incentive to conserve on their waste production.

The Department of Commerce has expanded authority to promote recycling and resource recovery activities through an on-going program of market development and information exchange, setting national specifications for the use of recycled and recovered materials, demonstrating the effectiveness of recycled products and recycling technologies and in providing technical assistance to local, State and Federal governments on the use of recycled and recovered materials in construction. These are essential to assuring recycling succeeds as a viable alternative to waste disposal and investment occurs in the recycling infrastructure.

Markets depend on the availability and reliability of recycling technologies and facilities. In this regard, EPA is authorized to promote the development and testing of recycling technologies and processes. EPA is also authorized to establish guidelines for use by local and State governments in resolving disputes over siting recycling facilities. Community participation in selecting, evaluating and siting recycling facilities will assure the success of recycling activities.

The Federal Government can also have a significant and direct effect on the development of markets by purchasing products containing recycled materials and establishing recycling programs. Under my bill, the General Services Administration would list products on the Federal Product Schedule that are made with recycled materials. A price preference of up to 10 percent over the cost of similar products made without recycled materials is authorized to assure Federal demand for recycled products.

A benefit of Federal participation in recycling is the authority for each Federal agency to retain the profits from selling recyclable materials. It is my hope that such profits be directed to enhancing the recycling program and other initiatives that result in waste reduction.

In designing a recycling program, information regarding the location of markets for the recyclables is critical. Under my bill, GSA, in consultation with the EPA and the Department of Commerce, would also develop guidelines to assist Federal agencies in identifying and selecting legitimate recyclers. This together with EPA authority to maintain a clearinghouse of information on recycling activities will assist the public and private sector in establishing and maintaining effective recycling programs.

Finally, consumer education is integral to stabilizing recycling markets. Collection of recyclables alone will not lead to waste reduction. Manufacturers and consumers must demonstrate a commitment to recycling by producing and buying products made with recycled materials.

Under my bill, the Federal Trade Commission is authorized to regulate uniform labeling rules for products and packaging with a recycled content and to identify these products with a nationally recognized recycling seal. This is necessary in the face of many different advertising and labeling claims that suggest a product is recyclable but in fact is not made with recycled materials. Also, the recycled composition of similar products is not uniformly defined by manufacturers.

Such information is misleading and confusing to the consumer. Uniformity in labeling, that identifies the recyled components and their percentages in a product and packaging, will greatly assist consumers in making purchasing decisions and inform them as to the differences in environmental marketing claims. A national recycling seal will serve to identify products made with recycled content. Manufacturers will also benefit from labeling and seal requirements in advertising their contribution to recycling and waste reduction.

Recycling programs will not eliminate the need for some land disposal of solid wastes. However, recycling must be made competitive with the traditional means of waste management, which relies principally on the disposal of recyclable materials as a solid waste. The markets for recyclables will grow as the industry expands the use of products made from these materials and the public, as the consumer, is educated about the benefits of recycled products.

Mr. President, we have a unique opportunity to give meaning to the words resource conservation and recovery. We can do it by creating a specific subtitle within RCRA geared to recycling materials and by creating a demand for the use of products made from recycled materials. That is exactly what my legislation proposes to do. I look forward to addressing this as a member of the Senate Committee on Environment and Public Works through the RCRA reauthorization process this year.

Mr. President, I ask unanimous consent that the full text of the bill as introduced be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Materials Recycling Enhancement Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) recycling of materials not only reduces the volume or quantity of material that ultimately becomes waste, but also prevents pollution, reduces energy consumption, and conserves irreplaceable resources;

(2) there is a need to encourage greater recycling in light of more than 160 million tons of industrial solid waste recycled and 180 million tons of municipal solid waste generated each year in the United States;

(3) increased use of products made with recycled content is essential to successful recycling;

(4) the stimulation of demand for goods containing recycled material is required in order to promote an increase in the volume or quantity of materials recycled;

(5) it is more likely that high volumes of material will be diverted from the waste stream for recycling if the mechanisms established by law to encourage recycling rely on market mechanisms rather than regulatory command and control; and

(6) it is necessary to create a statutory and regulatory distinction between materials destined for recycling, and materials destined for disposal as solid waste, in order to ensure that private sector recycling will succeed.

TITLE I—AMENDMENTS TO SOLID WASTE DISPOSAL ACT

SEC. 101. OBJECTIVES AND NATIONAL POLICY.

(a) OBJECTIVES.—Section 1003(a)(6) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)(6)) is amended to read as follows:

"(6) minimizing the generation of solid waste and hazardous waste, requiring disposal by emphasizing materials recycling and materials reuse;".

(b) NATIONAL POLICY.—Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended to read as follows:

"(b) NATIONAL POLICY.—(1) The Congress declares it to be the national policy of the United States that—

"(A) the volume, quantity, and toxicity of solid and hazardous waste shall be reduced or eliminated to the maximum extent practicable; and

"(B) waste that is nevertheless generated shall be managed to minimize the present and future risk to human health and the environment.

"(2) The Congress further declares it to be the national policy to—

"(A) develop sufficient solid waste management capacity in each State;

"(B) promote the use of management methods that provide materials and energy recovery benefits;

"(C) recognize and promote the environmental, economic, employment, trade, and strategic benefits of recycling materials instead of managing such materials as a solid waste;

"(D) promote the recycling of such materials consistent with the protection of human health and the environment;

"(E) provide that, to the maximum extent possible, such recycling activities be accomplished by market-based economic mechanisms and incentives; and

"(F) develop a recycling program that encourages the development of new and innovative recycling technologies and processes.".

SEC. 102. DEFINITIONS.

(a) AMENDMENT.—Section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) is amended by inserting immediately before the period at the end thereof a comma and the following: "or materials used for recycling".

(b) ADDITIONAL DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end thereof the following new paragraphs:

"(41) The terms 'recycle' and 'recycling' mean any activity or process by which materials are diverted from becoming part of the solid waste stream and utilized in manufacturing any usable product for commercial purposes. Such term does not include combustion of such materials solely for purposes of volume, quantity, or toxicity reduction, but does include combustion of materials as a substitute for fuel in a manufacturing process, or to supply energy to a manufacturing process.

"(42) The term 'recycled materials' means materials that have been diverted from becoming part of the solid waste stream as the result of recycling.

"(43) The term 'hazardous recycled materials' means materials that have been diverted from becoming part of the solid waste stream as the result of recycling and that would have been considered as hazardous waste (as identified pursuant to section 3001) if such materials were discarded rather than recycled. Such term does not include any material that is excluded from identification as a hazardous waste pursuant to section 3001 and the regulations promulgated pursuant to such section.

"(44) The term 'scrap metal' means bits and pieces of metal parts (including bars, turnings, rods, sheets, and wire) or metal pieces that may be combined together with bolts or soldering (including radiators, scrap automobiles, and railroad box cars) that can be recycled when worn or superfluous. Such term does not include vehicle batteries.

"(45) The term 'secondary material' means a material produced incident to an industrial or manufacturing process that—

"(A) is spent, contaminated, used, or no longer usable without further processing;

"(B) can be used as a feed material in an industrial or manufacturing process; or

"(C) is returned to the original process or processes by which the material was generated for recycling.".

SEC. 103. APPLICABILITY OF MATERIALS RECYCLING PROGRAMS TO FEDERAL AGENCIES.

(a) MATERIALS RECYCLING.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6001 et seq.) is amended by adding at the end thereof the following new section:

"MATERIALS RECYCLING

"SEC. 6005. (a) MATERIALS RECYCLING.—(1) The head of each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be required to promote and establish programs to reduce the volume or quantity and toxicity of solid waste requiring disposal including programs for separating paper products, plastic, ferrous and non-ferrous metals, and glass and making such materials available for commercial purposes, such as by recycling, or otherwise.

"(2) The head of each such department, agency, or instrumentality shall encourage procurement of products made from recycled materials. Federal agencies shall procure such products, except in any case where—

"(A) the contractor certifies that the product is not available, or is only available at a cost of 10 percent greater than for virgin material, or

"(B) the product does not meet technical specifications established by the Federal agency procuring the product.

"(3) Procurement contracts may require persons, including local or State governments or other Federal entities, to use products made from recycled materials in the performance of the contract. Any such contract may specify those aspects of contract performance that can be fulfilled with recycled materials.

"(b) PROCEEDS FROM SALE.—Any moneys received by any such department, agency, or instrumentality pursuant to subsection (a) may be retained by it and used in carrying out its functions. Such moneys may be retained by the activity directly responsible for the recycling program.".

(b) FEDERAL PROCUREMENT.—Section 6002(c)(1)(C) of such subtitle (42 U.S.C. 6962(c)(1)(C)) is amended by inserting immediately after the first period the following sentence: "A price is unreasonable if it exceeds by 10 percent or more the price of the alternative item.".

(c) RECYCLED.—Section 6002(d)(1)(A) of such subtitle (42 U.S.C. 6962(d)(1)(A)) is amended by inserting "recycled and" immediately before "recovered".

(d) RECYCLED.—Section 6002(d)(2) of such subtitle (42 U.S.C. 6962(d)(2)) is amended by inserting "recycled and" immediately before "recovered".

(e) PROCUREMENT.—Section 6002(f) of such subtitle (42 U.S.C. 6962(f)) is amended to read as follows:

"(f) PROCUREMENT OF SERVICES.—A procuring agency shall, to the maximum extent practicable, manage or arrange for the procurement of items made from recycled materials and of solid waste management services in a manner which maximizes recycling of materials and minimizes the land disposal of solid waste.".

SEC. 104. AMENDMENT TO SOLID WASTE DISPOSAL ACT.

The Solid Waste Disposal Act is amended by adding at the end thereof the following new subtitle:

"SUBTITLE K—MATERIALS RECYCLING

"MANAGEMENT

"SEC. 12001. (a) IN GENERAL.—Not later than 18 months after the the date of the enactment of the Materials Recycling Enhancement Act of 1991, the Administrator shall, by regulation, establish a program to establish and enforce minimum national standards for the management of activities involving the recycling of materials. In establishing the program under this section, the Administrator shall, after an opportunity for public hearings and, after consultation with the heads of appropriate Federal and State agencies, not later than 18 months after the date of the enactment of the Materials Recycling Enhancement Act of 1991, promulgate regulations establishing minimum national standards for the management of activities involving the recycling of materials (including activities involving hazardous recycled materials). Such regulations and standards shall be reviewed from time to time, but not less frequently than every 3 years, and revised as may be appropriate. The regulations and standards shall—

"(1) allow for class permits for specific types of recycling collection or processing activities, including specific types of businesses within an industry;

"(2) distinguish between requirements appropriate for facilities in existence before the date of the promulgation of such regulations and for facilities which with respect to which the construction commences on or after such date;

"(3) specify technical standards for storing materials entering or exiting processes for recycling where such standards are not commonly defined by voluntary consensus standards setting organizations, such as the American Society of Testing and Materials and the American National Standards Institute or by any relevant trade association that the Administrator determines to have an appropriate level of expertise;

"(4) take into account the fact that the value of materials in the recycling process fluctuates subject to market conditions and that such fluctuations could interfere with the expectation for marketing the end product; and

"(5) include requirements with respect to—

"(A) storage of all recycling materials received by the facility or generated by the facility through manufacturing processes;

"(B) maintaining records of all recycling materials described in subparagraph (A) and the manner in which such materials are recycled;

"(C) use of a manifest system to assure that materials designated for recycling arrive at such recycling facility (other than a facility on the premises where the material is generated);

"(D) contingency plans for effective action to minimize unanticipated damage from fires, explosions, or any unplanned sudden or non-sudden release into the environment from the recycling activities under this subtitle; and

"(E) financial responsibility (in any case where the Administrator determines that with respect to a specific type of recycling activity, including any activity described in paragraph (1) of this subsection, such requirements are necessary to carry out the purposes of this subtitle);

"(6) exempt from regulation under the program under this subtitle—

"(A) persons collecting or receiving materials, such as scrap metal, paper products, plastics, glass, textiles, and tires from commercial establishments, institutions, or municipal sources, for the purpose of transferring such materials to a recycling processing facility;

"(B) persons engaged in any of the recycling activities associated with—

"(i) municipal source separation facilities;

"(ii) municipal curbside collection operations;

"(iii) secondary glass, plastic, scrap metal, paper products, and textile recycling or processing facilities;

"(iv) industries that reuse, in a production process, secondary materials generated from another production process by the facility at which the secondary materials were generated; and

"(v) composting facilities for yard waste;

"(C) persons composting farm waste, generated on-site, for personal use as a soil amendment or conditioner or other related agricultural purposes; and

"(D) the owner or operator of a facility engaged in the storage and transportation of materials within the purview of subparagraph (A), including loading docks, parking areas, storage areas, public or private recycling drop-off centers, and similar recycling collection centers, and areas where such materials are collected or held during the normal course of transportation for recycling.

"(b) EXEMPTION FROM FEDERAL PROGRAM ON THE BASIS OF EQUALLY STRINGENT PROGRAM.—Any State that has in effect and is enforcing a program for the management of activities involving the recycling of materials may make application to the Administrator pursuant to section 12004 requesting that such State be exempted from the application of the provisions of this subtitle relating to the Federal program for the management of activities involving the recycling of materials established under this section. If the Administrator determines, on the basis of such application, that the State program—

(1) is at least as stringent as the Federal program provided for by this subtitle;

(2) complies with the requirements set forth in this section and any other related requirements in this subtitle,

the Administrator shall exempt such State from participation in the Federal program under this section for such period as the State program is in effect and adequately enforced. In the event that the Administrator withdraws authorization of the State program pursuant to section 12004(c), all provisions of this section relating to the enforcement of the Federal program, and any other related provisions of this subtitle shall, at such time as the Administrator shall determine, be applicable to such State.

"RECYCLING PERMITS

"SEC. 12002. (a) PERMIT REQUIREMENTS, PROHIBITION.—(1) Not later than 18 months after the date of enactment of the Materials Recycling Enhancement Act of 1991, the Administrator shall promulgate regulations to require that each person owning or operating a recycling facility—

(A) in existence on or before the date of promulgation of the regulations under section 12001(a); or

(B) with respect to which the construction commences after the date of promulgation of such regulations,

to obtain a permit pursuant to this section (except as otherwise provided in section 12001(a)).

"(2) The construction of any facility which commences on or after the date of promulgation of the regulations described in section 12001(a), or modifications to facilities in existence on or before such date, to recycle materials is prohibited except in accordance with State law and with minimum standards prescribed under section 12001(a).

"(b) INTERIM STATUS.—(1) Any person who, on or before the date of the enactment of this subtitle, is engaged in recycling materials, or who has made application to a State for its approval to recycle materials in accordance with a State program and has met the requirements of section 12006(a)(1) shall be treated as having been issued a recycling permit pursuant to this subtitle—

"(A) until such time as an application is filed in accordance with a State program; or

"(B) in the case where an application has been filed, until such time as final administrative disposition of such application is made,

unless the permitting authority shows that final administrative disposition of such application has not been made because of the failure of the applicant to furnish information reasonably required or requested in order to process the application.

"(2) This subsection shall not apply to any facility that has been previously denied a permit for recycling activities under a State law, or if authority to operate the facility has been previously terminated.

"(c) FEES.—Regulations issued pursuant to this subtitle shall encourage States and other entities imposing a fee or fees for permits or other services pursuant to this subtitle to establish such fee or fees in a manner so as to encourage recycling of materials.

"(d) FINANCIAL RESPONSIBILITY.—(1) The Administrator shall issue regulations for financial responsibility (as described in section 12001(a)(5)(E)) for permits issued under any State permit program adopted pursuant to this subtitle by any one, or by any combination of, the following:

"(A) Insurance.

"(B) Guarantee.

"(C) Surety bond.

"(D) Letter of credit.

"(E) Qualification as a self-insurer.

"(2) In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility to carry out the purposes of this subtitle.

"TRANSPORTATION OF MATERIALS FOR RECYCLING

"SEC. 12003. (a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Materials Recycling Enhancement Act of 1991, the Administrator, in consultation with the Secretary of Transportation and the Governor of each State, shall, after providing opportunity for public hearings promulgate regulations that—

"(1) establish standards under this subtitle for generators and transporters of materials for recycling to ensure that such materials (including any material that is hazardous material regulated pursuant to part 172 of title 49 of the Code of Federal Regulations, as in effect on the day before the date of the enactment of the Materials Recycling Enhancement Act of 1991) are transported to a designated recycling facility; and

"(2) ensure compliance with the manifest system described in section 12001(a)(5)(C).

"(b) CERTIFICATION REQUIREMENT.—The regulations described in subsection (a) shall, at a minimum, require the owner or operator of a facility designated in a manifest under the manifest system described in section 12001(a)(5)(C) to provide written certification of the receipt of the materials for recycling described in paragraph (1).

"STATE RECYCLING PROGRAM

"SEC. 12004. (a) AUTHORIZATION OF STATE RECYCLING PROGRAM.—(1) At any time after standards, guidelines, and regulations under section 12001 have been promulgated, the Governor of any State that seeks to administer and enforce a recycling program under this subtitle shall, after consultation with interested parties and local governments, submit to the Administrator for approval a full and complete description of the recycling program the Governor proposes to administer and enforce under State law, or under an interstate compact or agreement approved by Congress as part of the State Solid Waste Management Plan under sections 4003 and 4006. In addition, such State shall submit a statement from the Attorney General of the State (or the equivalent State official), or from the chief legal officer of any authority or other entity having the authority to act in the case of an interstate compact or agreement, that the laws of such State, or the interstate compact or agreement, as the case may be, provide adequate authority, personnel and funding to carry out the described program. Within 3 months following submission of the State recycling program under this subsection, the Administrator shall approve such program unless—

"(A) he determines that the authority, personnel and funding are not adequate; or

"(B) he determines that the State permit program does not meet the requirements of this subtitle or does not conform to the guidelines and regulations issued under this subtitle.

"(2) If the Administrator fails to approve a proposed recycling program described in paragraph (1), he shall notify the Governor of the State of any revisions or modifications necessary to conform to the requirements, guidelines, or regulations under this subtitle.

"(b) INTERIM AUTHORIZATION.—(1) Any State that has in existence a recycling program pursuant to State law prior to the promulgation of the regulations under section 12001 shall submit to the Administrator, within 90 days following the date of the enactment of this subtitle, evidence of such program. Upon submission of such evidence, the State shall be deemed to have authorization to carry out such program under this subtitle until the State is granted or denied final approval under subsection (a) of this section.

"(c) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after a public hearing that a State is not administering a program approved under this subtitle in accordance with requirements of this subtitle, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed 90 days, the Administrator shall withdraw approval of such program. The Administrator shall not withdraw approval of any such program unless he shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

"(d) EFFECT OF STATE PROGRAM.—Nothing in this subtitle shall be construed as limiting the authority of a State to establish requirements for recycling that are more stringent than those imposed under this subtitle.

"(e) FEDERAL ENFORCEMENT.—Nothing in this section shall be construed to limit the authority of the Administrator to take enforcement action pursuant to section 12005 of this subtitle.

"ENFORCEMENT

"SEC. 12005. (a) INSPECTION AUTHORITY.—Any State having an authorized recycling program under this subtitle, and the Administrator, shall have authority to inspect, at any reasonable time, any facility or the records of any facility, regulated under such program.

"(b) COMPLIANCE ORDERS.—Whenever a State having a recycling program authorized under this subtitle, or the Administrator, on the basis of any information, determines that any person is in violation of, or has violated any requirement of, such State program or this subtitle, the State or the Administrator may issue an order to suspend or revoke the recycling activities of such person authorized under such program, including any permit.

"(c) CIVIL PENALTIES.—If a violator fails to comply with the order of a State that has a recycling program authorized under this subtitle, or the Administrator, such State or the Administrator may assess a civil penalty in an amount not to exceed $10,000 for each violation, and an amount of not more than $25,000 for each day thereafter of continued noncompliance with the order.

"(d) PUBLIC HEARING.—Any order issued under this section shall become final unless, no later than 30 days after the order is served, the person or persons named therein request a public hearing. Upon such request, the State or the Administrator, as the case may be, shall promptly hold a public hearing. In connection with any such hearing, the State or the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"PRELIMINARY NOTIFICATION; EFFECTIVE DATE OF REGULATIONS

"SEC. 12006.—(a) PRELIMINARY NOTIFICATION.—(1) Not later than 120 days after the date of the enactment of the Materials Recycling Enhancement Act of 1991, any person owning or operating a recycling facility or storing, transporting or producing materials for recycling purposes shall file with the State and the Administrator a notice stating the location and general description of such facility and the type of recycling materials handled by such person.

"(2) Any person described in section 12001(a)(6) shall not be subject to the requirements of paragraph (1).

"(b) EFFECTIVE DATE OF REGULATIONS.—Regulations promulgated under this subtitle shall become effective on the date that is 6 months after the date of their promulgation, except that the Administrator may, in promulgating such regulations, provide for a shorter period as the effective date of such regulation, or may provide for an immediate effective date for—

"(1) a regulation with which the Administrator finds the regulated community does not require 6 months within which to comply with such regulation;

"(2) a regulation that responds to an emergency situation; or

"(3) a regulation that the Administrator determines should have an earlier effective date because of a good and sufficient cause.

"DISPUTE RESOLUTION

"SEC. 12007. The Administrator shall issue guidelines to establish dispute resolution procedures, through nonbinding arbitration or other methods, for use by States in resolving disputes regarding the siting of recycling and solid waste management facilities under this Act that otherwise remain unsettled at a local level.

"CONFIDENTIAL INFORMATION

"SEC. 12008. In carrying out the provisions of this subtitle, the Administrator shall ensure that confidential information provided by industry to the Administrator or to a State and that is identified by the industry as confidential may not be disseminated by the Administrator or by the State without the express consent of the party who furnished the information. For the purposes of this subtitle, the confidential information described in this section shall be exempted from disclosure under Federal and State freedom of information laws.

"FEDERAL ASSISTANCE

"SEC. 12009. (a) IN GENERAL.—Upon request, the Administrator shall provide technical assistance to State and local governments and to other entities of the Federal Government—

"(1) to establish waste reduction and recycling programs; and

"(2) to encourage partnerships with the private sector and universities to incorporate research efforts and university expertise.

"(b) FUNDING.—Such technical assistance shall be provided without charge to any State or local government or to any other entity of the Federal Government.

"RECYCLING INFORMATION CLEARINGHOUSE

"SEC. 12010. The Administrator shall establish a program to provide, upon request, technical information on waste reduction alternatives and strategies to State and local governments, entities of the Federal Government, and to businesses and citizens. Such information shall include the technical capabilities and comparative costs and risks of different management methods and techniques for recycling and solid waste.

"RESEARCH DEVELOPMENT AND DEMONSTRATION

"SEC. 12011. The Administrator shall promote the research, development, and demonstration of new, experimental, and commercial techniques, processes, or technologies to improve the recycling of materials and the use of such materials in manufacturing a usable product for commercial purposes.

"AUTHORIZATION

"SEC. 12012. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.".

SEC. 105. FUNCTIONS OF THE SECRETARY OF COMMERCE.

(a) DEVELOPMENT OF SPECIFICATIONS.—Section 5002 of the Solid Waste Disposal Act (42 U.S.C. 6952) is amended to read as follows:

"DEVELOPMENT OF SPECIFICATIONS FOR MATERIALS FOR RECYCLING PURPOSES

"SEC. 5002. (a) GUIDELINES.—(1)(A) Not later than 18 months after the date of enactment of the Materials Recycling enhancement Act of 1991, the Secretary of Commerce (hereafter in this section referred to as the 'Secretary'), acting through the Director of the National Institute of Standards and Technology, shall establish a program to develop and promulgate guidelines for specifications for the classification of materials diverted from solid waste for recycling and resource recovery. The Secretary shall develop and establish such program in consultation with the heads of—

"(i) national standards-setting organizations that set standards for recycling and resource recovery; and

"(ii) appropriate Federal and State agencies.

"(B) Upon the promulgation of the guidelines described in subparagraph (A), the Secretary shall also, to the extent feasible, provide such information as may be necessary to assist Federal agencies with the procurement of items containing recycled and recovered materials.

"(2) Before, on, and after the date of publication of the guidelines under paragraph (1), the Secretary shall cooperate with the national standards setting organizations described in clause (i) of such paragraph, and, as may be necessary, encourage the publication and updating of standards for recycled and recovered materials and for the use of recycled and recovered materials in industrial, commercial, and governmental uses.

"(3) In establishing and carrying out the program described in this section, the Secretary shall—

"(A) promote and encourage the use of materials which may be recycled or recovered;

"(B) promote the development of domestic and international markets for materials which are recycled or recovered;

"(C) provide, upon request, technical assistance to State and local governments and to other entities of the Federal Government with respect to specifications for the use of recycled materials in all types of structures, including—

"(i) residential and commercial buildings;

"(ii) roads;

"(iii) bridges; and

"(iv) highways,

in developing code administration, compliance, and enforcement mechanisms that permit the use of items made from materials which have been recycled or recovered.

"(4)(A) In establishing guidelines under subsection (a)(1), the Secretary, in cooperation of the heads of other Federal agencies, shall establish a program to demonstrate the use of recycled products and recycling technologies at Federal facilities that are not readily available in commerce, but are available for the purposes of commercial demonstration.

"(B) In establishing such program, the Secretary may allow for participation in demonstration projects by State and local governments and representatives of the private sector.

"(C) Upon completion of a demonstration project conducted pursuant to this paragraph, the Secretary shall prepare a report containing the findings of the Secretary with respect to the demonstration project. The Secretary shall publish the report in the Federal Register and submit a copy of the report to the Administrator.

"(5) At any time after the date of enactment of the Materials Recycling Enhancement Act of 1991, any person may petition the Secretary to promulgate additional guidelines under this subsection. Before promulgating any additional guidelines under this subsection, the Secretary shall solicit public comments in the Federal Register and consider any such comments.

"(6) Not less than 2 years after the date of the promulgation of the guidelines described in subsection (a)(1), and not less than every 2 years thereafter, the Administrator shall review the guidelines, and issue such additional guidelines as are necessary to make appropriate revisions that meet the requirements of this subsection.".

(b) MARKET INFORMATION.—Section 5003 of the Solid Waste Disposal Act (42 U.S.C. 6953) is amended to read as follows:

"DEVELOPMENT OF MARKETS FOR RECYCLED AND RECOVERED MATERIALS

"SEC. 5003. (a) IN GENERAL.—The Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall, within 18 months after the date of enactment of the Materials Recycling Enhancement Act of 1991, take such action as may be necessary to promote, in this Nation and in other countries, the exchange of materials which may be recycled or recovered or products made from recycled materials.

"(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Commerce shall establish a program—

"(1) to identify the geographical location of sources of recycled and recovered materials, and the cost of such materials;

"(2) to identify economic and technical barriers to the use of recycled and recovered materials;

"(3) to encourage the development of new uses for recycled and recovered materials; and

"(4) to provide information relating to the purposes of the program described in paragraphs (1) through (3) to State and local governments and other entities of the Federal Government, industries and commercial businesses, upon request.

"(c) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

SEC. 106. GENERAL SERVICES ADMINISTRATION.

(a) AMENDMENT TO SOLID WASTE DISPOSAL ACT.—Section 6002(i) of the Solid Waste Disposal Act (42 U.S.C. 6962(i)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) Not later than 12 months after the date of enactment of the Materials Recycling Enhancement Act of 1991, the Administrator of General Services, in consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, shall identify manufacturers of products made from materials that have been recycled on the Federal Product Schedule and provide such manufacturers with assistance to encourage the inclusion of their products on such schedule. Such listing shall not occur to the exclusion of or discriminate against products made from virgin materials.

"(B) Not later than 12 months after the date of the enactment of the Materials Recycling Enhancement Act of 1991, the Administrator of General Services, in consultation with the Secretary of Commerce, acting through the Director of the National Institute for Standards and Technologies, shall issue Federal procurement guidelines for products made from materials which have been recycled.

"(C) The Administrator of General Services shall consult with the Administrator of the Environmental Protection Agency and Secretary of Commerce in developing appropriate guidelines, procedures, and methods for use by Federal agencies in selecting recycling contractors that will carry out the purposes of the Materials Recycling Enhancement Act of 1991 in a cost-effective manner and assist in implementing the recycling requirements of such amendments.

"(D) There are authorized to be appropriated to the Administrator of General Services such sums as may be necessary to carry out the purposes of this paragraph.".

(b) AMENDMENTS TO SOLID WASTE DISPOSAL ACT.—Section 6002(e) of the Solid Waste Disposal Act (42 U.S.C. 6962(e)) is amended as follows:

(1) In the first sentence, strike "The Administrator, after consultation with the Administrator of General Services" and insert "The Administrator of General Services, after consultation with the Administrator of the Environmental Protection Agency".

(2) In the third and fourth sentences, strike "Administrator" each place it appears and insert "Administrator of General Services".

SEC. 107. TABLE OF CONTENTS.

The table of contents of the Solid Waste Disposal Act is amended as follows:

(1) At the end of subtitle F, add the following:

"Sec. 6005. Materials reduction and recycling.".

(2) At the end of the table of contents add the following:

"Subtitle K—Materials Recycling

"Sec. 12001. Management.
"Sec. 12002. Recycling permits.
"Sec. 12003. Transportation of materials for recycling.
"Sec. 12004. State recycling program.
"Sec. 12005. Enforcement.
"Sec. 12006. Preliminary notification, effective date of regulations.
"Sec. 12007. Dispute resolution.
"Sec. 12008. Confidential information.
"Sec. 12009. Federal assistance.
"Sec. 12010. Recycling information clearinghouse.
"Sec. 12011. Research development and demonstration.
"Sec. 12012. Authorization.

TITLE II—FEDERAL TRADE COMMISSION

SEC. 201. FEDERAL TRADE COMMISSION.

(a) FEDERAL TRADE COMMISSION.—The Chairman of the Federal Trade Commission, in consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency shall, within 1 year following the date of the enactment of this Act, prescribe (under the authority granted to the Federal Trade Commission under the Fair Packaging and Labeling Act 15 U.S.C. 1451 et seq.) uniform labeling rules describing the content of products made from materials which have been recycled. A copy of such rules shall be published in the Federal Register.

(b) RECYCLING SEAL.— In promulgating the regulations described in subsection (a), the Federal Trade Commission shall design a national seal for use on products made from materials which have been recycled for use by companies in marketing their products and to assist consumers in making purchasing decisions.

(c) FEES.—The Federal Trade Commission may charge a fee for licensing a seal pursuant to subsection (b).

(d) EFFECTIVE DATE.—The regulations promulgated under this section shall become effective not later than 1 year after the date of promulgation of such regulations.

By Mr. HARKIN (for himself, Mr. DURENBERGER, Mr. KENNEDY, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. METZENBAUM, and Mr. ADAMS):

S. 1475. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such act, and for other purposes; to the Committee on Labor and Human Resources.

PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS AMENDMENTS ACT

• Mr. HARKIN. Mr. President, I am pleased to introduce today, along with Mr. DURENBERGER, Mr. KENNEDY, Mr. DOLE, Mr. SIMON, Mr. JEFFORDS, Mr. METZENBAUM, and Mr. ADAMS legislation reauthorizing and extending for 4 years the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [PAMII].

While the funding authorized under the PAMII Act is small compared to other legislation concerning persons with disabilities, the assistance made available is of critical importance in assisting States establish and operate protection and advocacy systems [P&A systems] for individuals with mental illness.

Under the PAMII Act, the P&A systems' mission includes protecting and advocating for the rights of individuals with mental illness and investigating incidents of abuse and neglect of individuals with mental illness who are residents or inpatients in facilities rendering care or treatment or who are involuntarily confined in municipal detention facilities for reasons other than serving a sentence resulting from convictions for criminal offenses.

In addition, the Act authorizes the system to pursue administrative, legal, and other appropriate remedies on behalf of an individual who was mentally ill with respect to matters arising within 90 days after the client's discharge from a residential facility rendering care or treatment.

The entity operating the system is the same entity that operates the P&A system for persons with developmental disabilities under the Developmental Disabilities Assistance and Bill of Rights Act. Each system is required to establish a governing authority and an advisory board of which at least 50 percent must be individuals who have received or are receiving mental health services or family members of such individuals. The P&A system is required to maintain the confidentiality or patient records to which it gains access.

The original PAMII legislation was sponsored by Senator Weicker and signed into law on May 23, 1986—Public Law 99-319. In 1988, I sponsored the bill reauthorizing and extending the PAMII Act for an additional 3 years—Public Law 100-509.

Currently, there are 56 P&A systems, 1 in each of the 50 States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Forty-five of the P&A systems are private not-for-profit organizations; the remainder are located within State agencies or special departments which are independent of those providing mental health treatment or services.

According to the most recent data available, the PAMII systems handled almost 22,000 cases in 1990, an increase of 126 percent over 1987, the first full year of operations. The fiscal year 1991 appropriation for the program was $15.6 million.

The bill which I am introducing today is the result of extensive input from various groups interested in the reauthorization of the PAMII Act. All of the following groups endorse the bill: National Alliance for the Mentally Ill [NAMI], National Association of Private Residential Facilities, the American Psychiatric Association, the National Association of State Mental Health Directors, the National Mental Health Association, the Mental Health Law Project, and the National Association of Protection and Advocacy Systems.

The bill reaffirms the thrust of the PAMII Act and includes several amendments that clarify and strengthen the ability of the systems to carry out their responsibilities.

The bill includes several provisions recognizing the role played by individuals who received or are receiving mental health services and family members of such individuals. First, the bill adds a new finding recognizing the role played by families in advocating for people with mental illness. Second, the bill changes the percentage representation on the advisory council from 50 to 60 percent for individuals who received or are receiving mental health services or family members of such individuals. The bill also specifies that the chair of the advisory council, who has an automatic seat on the governing board, must be an individual who received or is receiving mental health services or a family member of such an individual.

Third, the bill adds a provision clarifying that the term "members who broadly represent or are knowledgeable about the needs of the clients served by the system" includes individuals who have received or are receiving mental health services and family members of such individuals.

Fourth, the bill specifies that PAMII staff must be trained to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members.

The bill also states that the above obligation regarding trained staff may be satisfied through the provision of training by individuals who have received or are receiving mental health services and family members of such individuals.

The bill also clarifies certain key provisions in the PAMII Act. The bill defines the term "facilities" to include hospitals, nursing homes, community facilities for individuals with mental illness, board and care facilities, homeless shelters, and jails and prisons.

In addition, the bill includes language authorizing the use of PAMII funds for representation of individuals with mental illness residing in Federal facilities.

Further, the bill includes language concerning access to records that was included in the recent reauthorization of the Protection and Advocacy program under the Developmental Disabilities Assistance and Bill of Rights Act. A modification to the policy on monitoring was included to clarify its intent.

The bill sets the authorization at $19.5 million for fiscal year 1992 and such sums for each of fiscal years 1993 through 1995.

The bill also directs the Secretary to issue regulations within 6 months from the date of enactment.

Finally, the bill updates the terminology used in the legislation to be "people first."●

● Mr. DURENBERGER. Mr. President, I rise to join with my colleague from Iowa, Mr. HARKIN, to introduce the Protection and Advocacy for the Mentally Ill Amendments of 1991.

In 1984, my predecessor, Senator Lowell Weicker, on the Subcommittee on Disability Policy commissioned an investigation of the situation of institutionalized mentally disabled persons. The report resulting from this investigation documented grave and dangerous conditions in several States and institutions around the country. The report concluded that:

> Abuse and neglect of society's most vulnerable citizens must stop. Care and treatment must be provided in an atmosphere of dignity and respect. And those to whom this care is entrusted must be held fully accountable.

Mr. President, the product of this report was the Protection and Advocacy for Mentally Ill Individuals Act [PAMII] which provides a program of protection and advocacy for the rights of people with significant mental illness or emotional impairment who reside in facilities providing care and treatment. In testimony before the Labor and Human Resources Committee this year, we heard how PAMII is beginning to fulfill its purpose. In 1990, PAMII agencies handled over 22,000 cases, an increase of 126 percent over 1987, the first full year of operation.

The committee's review of this program showed that significant changes were not needed to the PAMII Program during this reauthorization. Concerns were raised, however, that family members are often ignored or disregarded by PAMII advocates and administrators. The bill we are introducing today acknowledges that the involvement of family members is crucial to the successful care and treatment of individuals with mental illness and to the successful implementation of the PAMII Act. The bill amends the findings section to recognize the important role family members play in the care and advocacy of mentally ill individuals. In addition, the bill changes the membership on the advisory council that must be individuals who have received or are receiving mental health services or family members of such individuals from 50 percent to 60 percent and specifies that the council chair must be one or the other.

A recent GAO report reviewed the coverage of inmates in correctional facilities under PAMII. The GAO report pointed out that inmates of correctional facilities may be eligible for PAMII services under two provisions of the Act: First, a special provision that allows representation of unsentenced individuals in municipal jails; and second, a general provision covering mentally ill individuals in a "facility rendering care or treatment." The report also upheld the legality of a 1987 HHS Office of General Counsel ruling that Federal correctional and noncorrectional facilities are not covered by the act.

The bill we are introducing today takes several steps to address the findings of the GAO report. First, it amends the bill to include the policy governing Federal facilities that the Senate included in Senate Report No. 100-454 which allowed an eligible system to use its allotment under the bill to provide representation to individuals with mental illness in Federal facilities who request representation by the eligible system. In addition the bill clarifies that prisons may be considered eligible facilities if such prison meets the care and treatment qualification under the act.

Similar eligibility questions were raised over the coverage of homeless shelters and board and care facilities. And the bill makes corresponding clarifications for these facilities. That such facilities providing care and treatment would be eligible under the act.

The bill clarifies the confusion over the issue of probable cause in determining access to records. However, it retains current restrictions on P&A's from going in and monitoring institutions which doesn't result from a complaint or other evidence.

Mr. President, the protection and advocacy system has proven successful in protecting the rights of some of our most vulnerable citizens. In addition, it has proven to be a valuable service in helping to keep the system more accountable. I urge your support of this legislation.●

By Mr. BYRD (for himself, Mr. DIXON, Mr. FORD, Mr. BOREN, Mr. SHELBY, Mr. D'AMATO, and Mr. SIMON):

S.J. Res. 177. Joint resolution prohibiting the proposed sale to the Republic of Korea of F-16C/D aircraft and other specified defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

S.J. Res. 178. Joint resolution prohibiting the proposed export to the Republic of Korea of certain technical data and equipment related to the sale of F-16C/D aircraft, pursuant to section 36(c) of such act; to the Committee on Foreign Relations.

PROHIBITING CERTAIN PROPOSED MILITARY SALES

Mr. BYRD. Mr. President, on April 10 of this year, President Bush signed H.R. 1282, the Operation Desert Shield/Desert Storm supplemental appropriations bill, 1991. Section 109 of that act reads as follows:

> None of the funds appropriated or otherwise made available by this Act or any other provision of law shall be available for sales, credits, or guarantees for defense articles or defense services under the Arms Export Control Act to any country that has made a commitment to contribute resources to defray any of the costs of Operation Desert Storm and that has not fulfilled its commitment.

During Senate consideration of the Desert Storm supplemental, many Senators, myself included, expressed concern about the large amount of outstanding pledges from our allies. At that time, the United States had received less than half of the total pledge of $54.5 billion, and, as a result, we were forced to appropriate $15 billion of U.S. taxpayers' money as a bridge loan or working capital account. The Congress agreed to do this with the assurance that these countries would pay their full commitments promptly.

The administration witnesses that testified before the Appropriations Committee may have believed that these countries would pay without much delay, but I was not quite so certain and thought it would be prudent to include some insurance in the supplemental. That was the purpose of section 109. All of the countries that had made commitments are nations that buy military hardware from the United States on a cash basis. The idea was that, if a country had the cash to purchase expensive new weapons, it certainly could pay its debt to the United States. There was also the fear that, because of the thankfully quick resolution of the gulf war, countries would be tempted to put their pledge to the United States at the end of the line. It seems that this fear was justified, and that is exactly what has happened. We are now 3 months past the March 31 deadline that the administration set for payment of allied commitments, and we are still over $10 billion short.

Section 109 was included in the supplemental to give the President additional leverage with which to encourage our allies to ante up. Unfortunately, the President has chosen not to use this leverage and appears to have a different interpretation of this provision. This language seemed clear to me at the time, and it remains clear. The executive branch is prohibited from processing any request for a sale of defense articles or services until a country has fulfilled its promise of support to the United States in relation to Operation Desert Storm. There is no provision for payment schedules, and there is no provision for renegotiation or reduction of the commitment. These countries are required to pay what they pledged, period. On June 20, I wrote the President explaining the intent of section 109 and expressing my hope that all countries would fulfill their obligations soon.

Despite this direct prohibition against any sale, the President this week sent up formal notification of the proposed sale of F-16 fighter planes to the Republic of Korea. As of today, Korea still owes the United States $179 million of its $385 million commitment to offset the cost of Desert Storm. This is the smallest percentage paid of any of the nations that made pledges. Quite obviously, Korea has not fulfilled its commitment as required by Public Law 102-28. Consequently, Senator DIXON and I, along with Senators FORD, D'AMATO, and SHELBY, are introducing two resolutions of disapproval of this sale. The first deals with the Government to Government sale and the second with the commercial aspects of the deal. Since they fall under two different sections of the Arms Export Control Act, it is necessary to separate the two aspects of the sale in order to ensure consideration under expedited procedures.

It is my sincere hope that we will collect all of the outstanding pledges, but, until that happens, I will continue to oppose any sale to a delinquent country. And if the law is going to be winked at, or overlooked, or to go unobserved in relation to one country, then we will have set the example under which other countries could expect to be treated the same way.

I ask unanimous consent that my letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 20, 1991.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am concerned that some confusion may exist as to the meaning of certain sections of P.L. 102-28, the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991."

Section 109 of this Act prohibits the use of funds for arms sales "to any country that has made a commitment to contribute resources to defray any of the costs of Operation Desert Storm and that has not fulfilled its commitment." It has been brought to my attention that, despite the clarity of Section 109, arms sales to countries such as Saudi Arabia, with an outstanding balance of $5.246 billion, and Korea, which has paid only 42 percent of its pledge, continue to be processed by the Departments of Defense and State.

When the Senate considered your request for Supplemental Appropriations for Operation Desert Shield/Desert Storm, Director Darman of the Office of Management and Budget expressed his belief to the Senate Appropriations Committee that these countries were requested to pay their pledges by March 31st, or April 15th at the very latest. Since we are now more than two months past that deadline with more than twenty percent of the pledges still outstanding, I was dismayed to learn from Secretary Baker's testimony before two separate Appropriations subcommittees that all of the countries are meeting their "payment schedules." Evidently, countries adhering to a "payment schedule" have been incorrectly classified as having fulfilled their commitment as called for by Section 109.

It is my sincere hope that the four countries that have not fulfilled their obligations to the United States will do so soon, and I am hopeful that, until they have, you will ensure compliance with Section 109.

I also respectfully call your attention to Section 107 of P.L. 102-28. This provision requires Congressional approval, through the normal notification procedures, of any transfer to a foreign government of U.S. military equipment that was transported to the Middle East as a part of Operation Desert Shield/Desert Storm. I understand that there is increasing pressure to transfer a portion of this equipment to some of our allies in the region. As provided in Section 107, the Appropriations Committee will thoroughly review any proposed transfer.

With warm regards, I am

Sincerely,

ROBERT C. BYRD,
Chairman.

KOREAN FIGHTER PROGRAM

Mr. DIXON. Mr. President, I am pleased to join the distinguished senior Senator from West Virginia, Senator BYRD, in introducing a resolution of disapproval with respect to the F-16 Korean Fighter Program.

Just last year, after the Korean Government announced that it had decided to purchase 120 F/A-18's, our Government entered into a memorandum of understanding to permit the sale. But suddenly, in March of this year, the Korean Government changed its mind and announced that it was ending the F/A-18 Program. Instead, the Koreans announced they were going to purchase F-16's.

There is no doubt that Korea should buy the F-16 outright; this sale should be entirely off-the-shelf. We have over 35,000 troops in Korea, a large trade deficit with their government, and we have had problems with licensing agreements with that country in the past.

Mr. President, just recently the Office of Technology Assessment pointed out in its report on the global arms trade that the United States has transferred defense technology on 12 major weapons systems to South Korea. The report further points out that "The long-term strategy of the Korean Government is to draw United States defense companies into cooperative production and R&D relationships so that Korean firms can learn from their more advanced partners." In the case of the F-16 coproduction with Korea, I am very concerned about the amount of technology being transferred to the Koreans. It is neither in the United States' national security or economic interests to create major additional sources of high technology armaments which are based on our technology.

I am also concerned that the Koreans have not cleared their Desert Shield/Storm account; a $179 million pledge is outstanding to the United States. As the senior Senator of West Virginia pointed out, there is a congressional prohibition against any arms sales to a country which has not fulfilled its Desert Shield/Storm obligations. This deal should not go forward unless the problems I have outlined are resolved to the full satisfaction of the Senate.

Thank you, Mr. President.

Mr. BYRD. Mr. President, I send the two joint resolutions to the desk.

The ACTING PRESIDENT pro tempore. They will be received and appropriately referred, and the Chair will take the privilege as a Member of the Senate to be added as a cosponsor.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator from Illinois [Mr. SIMON] be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Chair. I yield the floor.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 28, a bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 349

At the request of Mr. BUMPERS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such Act, and for other purposes.

S. 447

At the request of Mr. THURMOND, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Incorporated.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 499

At the request of Mr. LUGAR, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 499, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 539

At the request of Mr. INOUYE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 539, a bill to amend title 23, United States Code, relating to motor carrier transportation.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the names of the Senator from South Dakota [Mr. DASCHLE], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 729

At the request of Mr. BURDICK, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 729, a bill to assist small communities in construction of facilities for the protection of the environmental and human health.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one dollar coins.

S. 846

At the request of Mr. CONRAD, his name was added as a cosponsor of S. 846, a bill to amend title XIX of the Social Security Act to establish Federal standards for long-term care insurance policies.

S. 878

At the request of Mr. DODD, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 878, a bill to assist in implementing the plan of action adopted by the World Summit for Children, and for other purposes.

S. 902

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S.

902, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the medicaid program.

S. 904

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 904, a bill to provide for the establishment of a children's vaccine initiative, and for other purposes.

S. 905

At the request of Mr. BRADLEY, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 905, a bill to amend title XIX of the Social Security Act to improve the childhood immunization rate by providing for coverage of additional vaccines under the medicaid program and for enhanced Federal payment to States for vaccines administered to children under such program, and for other purposes.

S. 914

At the request of Mr. GLENN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 924

At the request of Mr. KENNEDY, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 924, a bill to amend the Public Health Service Act to establish a program of categorical grants to the States for comprehensive mental health services for children with serious emotional disturbance, and for other purposes.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge Allegiance to the Flag.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1127

At the request of Mr. BRYAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1127, a bill to direct the heads of the departments and agencies of Federal Government to make available to the public information relating to members of the Armed Forces of the United States who are officially considered to be prisoners of war, missing in action (body not returned) by reason of certain wars of the United States.

S. 1135

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1135, a bill to provide financial assistance to eligible local educational agencies to improve urban and rural education, and for other purposes.

S. 1147

At the request of Mr. LIEBERMAN, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1147, a bill to require that the United States Government hold certain discussions and report to Congress with respect to the secondary and tertiary boycotts of Israel by Arab nations.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

S. 1176

At the request of Mr. DECONCINI, the names of the Senator from Illinois [Mr. SIMON] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1176, a bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1245

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1270

At the request of Mr. MCCAIN, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning U.S. personnel classified as prisoners of war or missing in action.

S. 1301

At the request of Mr. CRAIG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1301, a bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes.

S. 1327

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1327, a bill to provide for a coordinated Federal program that will enhance the national security and economic competitiveness of the United States by ensuring continued U.S. technological leadership in the development and application of national critical technologies, and for other purposes.

S. 1328

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1328, a bill to enhance the national security and economic competitiveness of the United States by providing for increased Federal Government support for the development and deployment of advanced manufacturing technology and the training of manufacturing managers and engineers, and for other purposes.

S. 1329

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1329, a bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes.

S. 1330

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1330, a bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes.

S. 1367

At the request of Mr. MITCHELL, the names of the Senator from Michigan [Mr. LEVIN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1367, a bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met.

S. 1377

At the request of Mr. REID, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1377, a bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes.

S. 1381

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1381, a bill to amend chapter 71 of title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with disability compensation.

S. 1410

At the request of Mr. PRESSLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1410, a bill relating to the rights of consumers in connection with telephone advertising.

S. 1441

At the request of Mr. COCHRAN, the names of the Senator from Kentucky [Mr. FORD], the Senator from Michigan [Mr. RIEGLE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1441, a bill to provide disaster assistance to agricultural producers, and for other purposes.

S. 1466

At the request of Mr. ROTH, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 1466, a bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office.

SENATE JOINT RESOLUTION 38

At the request of Mr. THURMOND, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Joint Resolution 38, a joint resolution to recognize the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge.

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 139

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Joint Resolution 139, a joint resolution to designate October 1991, as "National Lock-In-Safety Month."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Jersey [Mr. BRADLEY], the Senator from Ohio [Mr. GLENN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

SENATE CONCURRRENT RESOLUTION 35

At the request of Mr. GLENN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

SENATE RESOLUTION 141

At the request of Mr. WIRTH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 141, a resolution expressing the sense of the Congress that the United States should implement promptly the recommendations the National Academy of Sciences issued in its report, "Policy Implications of Greenhouse Warming."

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND RELATED AGENCIES APPROPRIATION ACT, FISCAL YEAR 1992

KOHL (AND OTHERS) AMENDMENT NO. 748

Mr. KOHL (for himself, Mr. NUNN, and Mr. GLENN) proposed an amendment to the bill (H.R. 2622) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

On page 10, line 23, strike out "$176,932,000" and insert in lieu thereof "$128,432,000".

On page 14, line 3, strike out "$3,582,485,000" and insert in lieu thereof "$3,612,124,000".

DODD (AND OTHERS) AMENDMENT NO. 749

Mr. LIEBERMAN (for Mr. DODD, for himself, Mr. LIEBERMAN, Mr. CRANSTON, Mr. SEYMOUR Mr. BRADLEY, and Mr. LAUTENBERG) proposed an amendment to the bill H.R. 2622, supra, as follows:

Section 404 of the Federal Employees Pay Comparability Act of 1990 is amended by adding at the end thereof the following new subsection:

"(d) The President, upon the recommendation of a law enforcement agency head, may authorize special pay adjustments under this section to law enforcement officers whose post of duty is located within the geographic proximity of the Los Angeles-Anaheim-Riverside CA Consolidated Metropolitan Statistical Area or the New York-Northern New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan Statistical Area, if the agency head determines that such an adjustment is needed to address serious pay inequities for law enforcement officers of the agency. An adjustment authorized by this subsection shall not exceed the maximum rate established for the respective area set forth in this section."

BURNS AMENDMENT NO. 750

Mr. DOMENICI (for Mr. BURNS) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . POLITICAL MAILING DISCLOSURE AMENDMENT

"Organizations preparing preprinted materials fitting the United States Postal Service's description of 'postcard', which are intended for mailing to a Member of Congress in order to influence the Member's position on a legislative matter or any other matter relating to his or her official duties as a Member, shall display their name, acrynom and/or logo on the preprinted postcards."

DECONCINI (AND DOMENICI) AMENDMENT NO. 751

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill H.R. 2622, supra, as follows:

On page 33, line 10, strike the first sum named and insert in lieu thereof, "$4,037,836,276".

On page 44, line 10, in lieu of the sum inserted, insert the following: "$4,037,836,276".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing to consider the merits and small business impact of the various enterprise zone proposals introduced in the 102d Congress. The hearing will be cochaired by Senators LIEBERMAN and KASTEN and will take place on Monday, July 22, 1991, at 9:30 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Ken Glueck of Senator LIBERMAN'S staff at 224–4041 or John Carson of the Small Business Committee at 224–5175.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing entitled "Efforts to Combat Fraud and Abuse in the Insurance Industry: Part III."

This hearing will take place on Friday, July 19, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanor Hill of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Monday, July 15, at 9:30 a.m., for a hearing on the subject: terrorism—inter-agency conflicts in combating international terrorism.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHAMPION OF HUMAN RIGHTS IN CHINA JOINS UNIVERSITY OF ARIZONA PHYSICS DEPARTMENT FACULTY

• Mr. DECONCINI. Mr. President, 2 years ago, Mr. Fang Li-zhi, his wife, Li Shuxian, and their son took refuge in the U.S. Embassy in Beijing after being blamed for having "incited and organized" the June 1989 Tiananmen Square massacre. Our Embassy gave them sanctuary, despite Chinese Government warrants for their arrest for "counterrevolutionary insurrection," charges punishable by life imprisonment or death. After 13 months, their government finally allowed them to leave China in an effort to save face and improve ties with the West.

Mr. Fang, the Sakahrov of China, is a reknowned astrophysicist and widely published cosmologist. He was courted by approximately 30 universities in the United States and Europe. I am very proud to announce that Mr. Fang has accepted a position as a professor of physics at the University of Arizona in Tucson and that he will begin in January 1992. According to Mr. Fang, "Astrophysics is a traditional field of research in the Tucson area, and the University of Arizona is one of the best places in America to do astrophysics." His affiliation with the University of Arizona will no doubt enhance and bring great excitement to the physics department of this already distinguished university faculty.

Mr. President, Mr. Fang's leadership and courage in the face of the atrocities and human rights abuses against the Chinese people are to be highly commended. The persecution of Mr. Fang and his family and their bravery in resisting the steely grip of the Chinese Government only strengthen my conviction that extending most-favored-nation status to China is an insult to those who fought for democracy in Tiananmen and a blot on the human rights record of the United States.

Yesterday, the House voted overwhelmingly to place tough, achievable conditions on any future extension of MFN to China. Nevertheless, I think we should immediately terminate China's MFN status and I again urge my colleagues to cosponsor S. 1167, to join as well with the distinguished majority leader who has sponsored legislation placing conditions on any extension of MFN status for China. We can only morally extend MFN status when the Chinese Government has demonstrated through concrete actions its respect for civil liberties, human rights and human lives of the citizens of the People's Republic of China. In the 2 years since the disastrous massacre in Tiananmen Square, China has not only not progressed in meeting its obligations to the world and its own people, but it has indeed digressed. The blood may have been washed from Tiananmen Square, but the unwarranted attack by the People's Republic of China on those seeking democracy can never be erased from our collective memory.

Mr. President, I further ask that the newspaper article announcing Mr. Fang's acceptance of a position at the University of Arizona be included in the RECORD.

The article follows:

[From the Tucson Daily Star, July 6, 1991]

CHINESE DISSIDENT JOINS UA FACULTY

(By Jim Erickson)

Astrophysicist Fang Lizhi, the Chinese dissident who spent 13 months in the U.S. Embassy in Beijing after being blamed for the June 1989 Tiananmen Square massacre, has joined the UA physics department faculty.

Fang accepted a position as University of Arizona professor of physics on Tuesday, said department chairman Peter Carruthers. But due to commitments at the Institute for Advanced Study in Princeton, N.J., he won't be in Tucson until January.

Some 30 U.S. and European universities courted Fang, 55 a cosmologist who has published 21 books and more than 130 research papers.

"In terms of name recognition, I don't think anyone on campus comes close," Carruthers said yesterday.

"This is a big boost not just to the physics department, but to the entire university," he said.

Fang visited Tucson in February and toured astronomical observatories at Kitt Peak and Mount Hopkins.

Reached yesterday at his home in Princeton, Fang said the vitality of the Tucson area's astronomical research programs appealed to him.

"Astrophysics is a traditional field of research in the Tucson area, and the University of Arizona is one of the best places in America to do astrophysics," he said.

Fang will be paid $75,000 a year as a UA physics professor, Carruthers said.

In 1989, a few days after government troops killed hundreds of unarmed pro-democracy demonstrators in Tiananmen Square, authorities accused Fang and other leading dissidents of having "incited and organized this counterrevolutionary insurrection."

The dissidents were ordered to turn themselves in. But Fang, his wife, Li Shuxian, and their son, Fang Ke, took refuge in the U.S. Embassy.

The Chinese government responded by issuing warrants for the arrest of Fang and Li for alleged treasonous counterrevolutionary activities punishable by life imprisonment or death.

Fang and Li remained in the embassy for 13 months, until the government allowed them to leave the country in an effort to improve ties with the West. Fang took a temporary position at Cambridge University in England before going to Princeton.

Fang is well-known among Chinese students, and his stature could help the University of Arizona attract more Chinese students.

"He is certainly well-known among Chinese students, and not just because of his politics, but because of his scientific contributions as well," said Wing Y. Tam, assistant professor of phsyics at the UA.

"Certainly this will bring excitement to students already here, and students from mainland China may look forward to moving here as well," Tam said.

UA astrophysicist Adam Burrows said Fang will add a new dimension to the physics department's theoretical astrophysics contingent.

"He'll also bring some further international flavor to the department and contribute to the recruitment of some of the best astrophysicists in the world," said Burrows, an associate professor of physics.

Carruthers has made 14 faculty appointments since taking over the UA physics department in late 1986. The physics faculty now has four theoretical astrophysicists: Fang, Burrows, David Arnett and Fulvio Melia, who came to the UA from Northwestern University last month.

"In that field there really aren't many big university groups, and ours will now be one of the larger, more dynamic groups in the world," Carruthers said.●

SALUTE TO DELCO ELECTRONICS

● Mr. KASTEN. Mr. President, I rise today to bring to the attention of this body the outstanding efforts of Delco Electronics of Oak Creek, WI, for its work on behalf of small and small-disadvantaged businesses.

Delco Electronics is receiving the category A award, the highest rating the Small Business Administration can bestow on a large business for its contracting efforts on behalf of small and small-disadvantaged businesses. Category A status signifies that a firm has clearly demonstrated and is providing small firms with the maximum, practical opportunity to participate in its purchasing activities.

Delco Electronics' Oak Creek Division is the first Wisconsin firm to receive this award and 1 of only 22 in the Nation.

During the past 5 years, Delco has more than doubled the amount of subcontracting it does with small firms. Delco has developed a plan and has been aggressively seeking small businesses to participate in its subcontracting program.

Mr. President, I am very proud of Delco and what it is doing for small businesses in Wisconsin. Delco's subcontracting is helping small businesses grow and create jobs for Wisconsin workers.

In closing, Mr. President, I want to recognize the employees of Delco for their strong commitment to American small businesses and the owners and employees of the small businesses Delco subcontracts with. They are all working hard to produce good products to keep our country strong into the next century and beyond.●

A TRIBUTE TO THE U.S. OLYMPIC FESTIVAL

● Mr. SEYMOUR. Mr. President, last Friday, the Olympic flame returned to the city of Los Angeles, CA, as America's best amateur athletes gathered for the opening ceremonies of the U.S. Olympic Festival—another stop on a road that will take many of these talented young Americans to Olympic glory in Barcelona, Spain. For the next 2 weeks, the city of Los Angeles will become a city of athletes for what has become the premier multisport event for America's Olympic hopefuls.

Every 4 years, the citizens of the civilized world gather around radios and televisions to listen to and witness the world's best athletes as they meet in Olympic competition. Americans, in spirit, travel with our athletes who represent the red, white, and blue. These athletes carry with them our pride, and our hope in their success. And overnight, their triumphs become the stories of legend, and their names become synonymous with the words hero and heroine.

But the road to Olympic glory is no overnight success story. These young athletes must make tremendous sacrifices, and dedicate countless hours in training to find within themselves that which makes them champions. Fortunately, the continued superior performance of our young athletes is due in large measure to the superior support of the United States Olympic Committee. The USOC represents nearly a century of organized commitment to America's young athletes, helping them become the champions of tomorrow.

Consistent with that commitment, the USOC began the National Sports Festival in 1978. Now known as the U.S. Olympic Festival, it brings together 3,000 of our finest athletes to compete in more than 35 events. For 2 weeks each non-Olympic summer, young athletes demand the most from their minds and muscles, striving for the ultimate honor of marching behind old glory as a member of the U.S. Olympic team.

The U.S. Olympic Festival has served as a launching pad for even greater glory for America's past Olympians. Mary Lou Retton, Bart Conner, Greg Louganis—they are just a few of the Olympic legends who were first introduced to our Nation at past Olympic Festivals.

But America's athletes are not the only ones who benefit from the U.S. Olympic festival. In city after city, the U.S. Olympic Festival reawakens Americans to the thrill of either taking part in or supporting athletic competition. Even after the festivals end, the sites of athletic glory become the sites for the next generation of athletic heroes.

For the next 2 weeks, America's eyes are turned to the west—not because of a major corporate transaction or a world premiere movie, but because Los Angeles is once again the site of another world-class athletic event. Twice, Los Angeles has been the finishing line for Olympic quests. This year, as host of the U.S. Olympic Festival, it is the starting block.

I join with Mayor Tom Bradley, Gov. Pete Wilson, President George Bush, and former President Ronald Reagan in tribute to the United States Olympic Committee for their continued first-rate support of America's athletes. And for the thousands of athletes who gather today in Los Angeles, may your success pave a road to glory and gold in Barcelona.●

THE 25TH ANNIVERSARY OF METROPOLITAN ARCHBISHOP PHILIP SALIBA

● Mr. BRADLEY. Mr. President, I rise in order to commemorate the 25th anniversary of Metropolitan Archbishop Philip Saliba as primate of the Antiochian Orthodox Christian Archdiocese of North America. On August 5, 1966, Archbishop Philip was elected to shepherd the Antiochian Archdiocese and since he has, time and time again, exhibited visionary leadership.

Philip Saliba was born into a traditional Orthodox Christian family in Abou Mizan in June 1931. Following a traditional education, at the age of 14, he was accepted into the Balamand Orthodox Seminary in Tripoli, Lebanon, and later graduated from the Orthodox Secondary School and Assiyeh Orthodox College in Damascus, Syria. In 1949, at the tender age of 18, he was ordained as deacon and assigned to the Antiochian Orthodox spiritual leader, Patriarch Alexander III. In 1952, he was appointed to teach in the department of Arabic language and literature at the Balamand Seminary. In September, 1953, Deacon Philip enrolled at the Kelham Theological School in Nottinghamshire, England, and in September 1954 began theological studies at the University of London.

Philip Saliba's experiences during these still-impressionable years made a profound impact in shaping what became Philip's priorities as a priest and then as prelate: the need to cultivate and ensure integrity among the church hierarchy, the strengthening of Orthodox theological training and a focus on the importance of Orthodox youth education, and providing security for clergy and their families. In 1956, Philip arrived in the United States to study at Holy Cross Orthodox Seminary in Brookline, MA, and was subsequently assigned to St. George Orthodox Church in Detroit, MI and began studying history at Wayne State University, receiving his B.A. in January 1959. On March 1, 1959, Philip Saliba was ordained an Orthodox priest and received his first pastoral assignment at St. George Church in Cleveland, OH. Father Philip continued to study Orthodoxy as the years progressed and earned a masters in divinity studies from St. Vladmir's Seminary in Crestwood, NY, in June 1965.

In 1966, Antony Bashir, archbishop of the Antiochian Archdiocese at the time, died and Father Philip was nominated and later elected in August 1966, to succeed him. The new 35-year-old archbishop was now able to embark upon the objectives—theological, humanitarian and administrative—that had always driven him to serve both the church and those around him.

In his 25 years as an archbishop, Philip Saliba has accomplished a great deal, reflecting the priorities he established for himself so long ago. In the early 1970's, Archbishop Philip organized and established the first archdiocese-wide woman's organization, and appointed the first woman to the archdiocese board of trustees. In 1975, Archbishop Philip achieved the first measure of Orthodox unity in the United States by merging his Antiochian Archdiocese with the only other Antiochian jurisdiction in the United States. Also, in 1975, Archbishop Philip founded the philanthropic organization, the Order of St. Ignatius of Antioch, whose membership now exceeds 1,000 members and has donated over $5 million to the archdiocese and humanitarian projects around the world.

In addition, the Food for Hungry People Program, instituted in 1975, has donated over $1 million to needy organizations and individuals the world over, without regard to race, creed, or nationality. In 1978, the archbishop directed the purchase and subsequent development of the 300-acre Antiochian Village in Ligonier, PA. Archbishop Philip has been very involved in the search for peace in Lebanon and the Middle East in general. The archbishop constantly meets with other Christians, Jews, and Moslems seeking formulae for political solutions to these most difficult questions. Archbishop has met with Presidents Reagan and Bush, State Department officials and leaders of other countries seeking the way of peace.

Archbishop Philip has been awarded many commendations and medals; among them are the Order of Cedars from the Lebanese Government and the Cross of Lebanon from the Lebananese Antiochian Archdiocese. He has been bestowed with honorary doctorates from his alma maters, Wayne State University and the St. Vladmir's Seminary. As impressive as each of these are, his most cherished honor was receiving conjunction with the 100th anniversary of the Statute of Liberty; Archbishop Philip was one of only a few Americans to receive this honor.

On the eve of Archbishop Philip's 25th anniversary as primate of the Antiochian Orthodox Christian Diocese of North America, I congratulate him for his work as a theologian and humanitarian and as a fine example to all who choose and are proud to be Americans.●

CARL KARCHER ENTERPRISES: 50 YEARS OF SERVING THE PUBLIC

● Mr. SEYMOUR. Mr. President, I rise to extend best wishes to Carl Karcher Enterprises on its 50th anniversary, which will be celebrated on July 17. In 1941, Carl Karcher bought a hotdog cart with $311 mortgaged against his Plymouth and $15 cash. Today he directs the California-based corporation that operates, franchises, or licenses almost 600 Carl's Jr. restaurants.

Carl and Margaret Karcher have been serving the public for 50 years, not only in their restaurants, but in the company's commitment to community service. Over the decades, the company has supported the Special Olympics, the United Way, the American Red Cross, the Orange County Boy Scouts, the Center for Hospitality Management, the Los Angeles Sheriff's Department Substance Abuse and Narcotics Education [SANE] Program, the Drug Abuse Resistance Education [DARE] Program, the Cystic Fibrosis Foundation, the Children's Miracle Network, and litter cleanup events in communities throughout the West.

One of Karcher Enterprises programs to which I would direct a special commendation is the Carl's Jr. Adopt-a-School Program. Launched in 1987, this program exemplifies the corporate involvement in education that we have adopted as one of our national education goals. Through the program, Carl's Jr. offers incentives for achievement in education, holds fund raisers, and donates a percentage of sales to help support their adopted schools' fundraising goals.

Carl's Jr. has provided jobs for tens of thousands of Californians over the years. The Karcher family, and the entire Carl's Jr. family, epitomizes the business success, and exemplary corporate citizenship that makes our country's free enterprise system great.

Please join me in wishing Carl and Margaret a happy 50th anniversary.●

S. 1220, NATIONAL ENERGY SECURITY ACT OF 1991

● Mr. SHELBY. Mr. President, one of the greatest tasks facing Congress today is the passage of legislation enacting a comprehensive energy policy. Such legislation is needed to secure our Nation's future.

In the last 5 years, oil imports have gone up 73 percent, while domestic production has gone down 20 percent. We now import 50 percent of our oil. Although we have had warning signals in the past, the war in the Persian Gulf has made us painfully aware that we must not delay in taking steps to reduce our dependence on foreign oil. The need for a sound energy policy has never been more apparent than it is today.

To be successful in reducing our dependence on foreign oil, an effective national energy policy must cover a broad range of energy issues. S. 1220, reported by the Committee on Energy and Natural Resources on June 5, 1991, is the most comprehensive energy policy legislation ever considered by Congress. I encourage Members to glance at the 16 titles of the bill to appreciate the comprehensiveness of this legislation. This legislation addresses energy efficiency and energy production, conventional energy and alternative energy, renewable energy and nuclear energy.

S. 1220 includes provisions, to name just a few, on electric vehicles; hydropower; industrial, commercial and residential energy efficiency; domestic production; alternative fuels, used oil; nuclear reactor licensing; natural gas; coal technology; and Public Utility Holding Company Act reform.

I believe that the Senate should move quickly to begin debate on this important bill. Legislation of this nature is inherently controversial. Compromises will be required from all sides. Difficult as it may be, we must rise to meet the challenge. Our citizens need from this Congress a comprehensive national energy policy.

With this in mind, I am confident that differences can be resolved in ways that will lead us to passage of a consensus-based, economically and environmentally sound national energy policy.●

COMMENDING DR. JAMES HAYES

● Mr. GORE. Mr. President, I rise today in honor of the 90th birthday of a truly great Tennessean, Dr. James Theodore Hayes.

Dr. Jimmy, as he is affectionately known to his many friends, was born on August 14, 1901, in Maury County, TN. He has made significant contributions to this community. Through hard work and dedication he worked his way through school and earned his medical degree in 1928. He practiced medicine for half a century in Nashville, and was regarded as one of the finest and most caring physicians in the region. Currently he serves as president of the Spring Hill Cemetery, where he keeps a full schedule, and he still has time for his many civic, charitable, and political works.

Throughout his life, Dr. Jimmy has set an example of service to his fellow men and women. He devoted his life to the practice of medicine, volunteered for service in World War II, and served in many civic, charitable, and fraternal organizations. Perhaps he is best known as the teacher of the Hayes Sunday School Class, which he has taught since 1939 at City Road Methodist Church In Madison.

Dr. Jimmy Hayes has been a friend and counselor to thousands of people, including his patients, neighbors, and many prominent political and civic leaders. Today I wish to recognize this outstanding Tennessean's life and many accomplishments. I wish Dr. Jimmy a very happy birthday.●

KENNEDY HIGH SCHOOL ORCHESTRA TO MAKE MUSICAL HISTORY

● Mr. SEYMOUR. Mr. President, I rise to extend the best wishes of the U.S. Senate to the John F. Kennedy High School Orchestra as it departs for Vienna to participate in the 20th Annual International Youth and Music Festival. This is the first time the Sacramento City Unified School District has been represented in the festival, to which only 19 groups from the United States and Canada were invited to attend.

This festival will mark the end of a musical mystery when the orchestra will give a world premiere performance of selections from 18 "lost manuscripts" by Mozart, Schubert, Hayden, and other composers.

The University of California, Berkeley, recently returned the missing manuscripts to the Benedictine Monastery of Kremsmeunster, from which they disappeared during World War II. How the works came from Germany to California remains unclear, but the Berkeley Library, when contacted by a musical archivist from the monastery who discovered the works listed among the university's music library holdings, gladly restored the manuscripts to their original home.

The Austrian Government has graciously invited the Kennedy Orchestra to perform the works, which have never been published and never before performed.

I ask the Senate to join me in recognizing this moment in musical history and in celebrating the cultural bond between California's capital city and the capital city of Austria.●

ORDERS FOR TOMORROW

Mr. DECONCINI. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., Tuesday, July 16; that following the prayer, the Journal of the proceedings be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein; that during morning business Senator LIEBERMAN be recognized for up to 5 minutes and Senator JOHNSTON be recognized for up to 20 minutes; further, that on Tuesday, July 16, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. DECONCINI. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:30 a.m. tomorrow, the 16th of July.

There being no objection, the Senate, at 7:50 p.m., recessed until Tuesday, July 16, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 15, 1991:

DEPARTMENT OF STATE

JILL E. KENT, OF THE DISTRICT OF COLUMBIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE. (NEW POSITION.)

DEPARTMENT OF EDUCATION

DONALD A. LAIDLAW, OF NEW YORK, TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION, VICE THOMAS E. ANFINSON.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

FOR A TERM EXPIRING SEPTEMBER 30, 1991: MARJORIE ARSHT, OF TEXAS, VICE ROBERT H. MATTSON, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 30, 1993: KENNETH H. BASTIAN, JR., OF TEXAS, VICE J. WADE GILLEY, TERM EXPIRED.

FOR A TERM EXPIRING SEPTEMBER 30, 1994: MARJORIE ARSHAT, OF TEXAS. (REAPPOINTMENT.)

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. HARRY E. SOYSTER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. JOHN M. SHALIKASHVILI [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. ALONZO E. SHORT, JR. [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF ARMY RESERVE, UNITED STATES ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 3038:

To be chief of Army Reserve, U.S. Army

MAJ. GEN. ROGER W. SANDLER [redacted] U.S. ARMY RESERVE.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ROBERT F. MILLIGAN [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. MATTHEW T. COOPER [redacted] USMC.

THE FOLLOWING NAMED ASTRONAUT OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

KENNETH D. CAMERON [redacted]

EXTENSIONS OF REMARKS

CAPTIVE NATIONS WEEK

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. BROOMFIELD. Mr. Speaker, I am pleased once again to join my colleagues in observing the anniversary of Captive Nations Week.

It has been more than three decades since we first started speaking out on the plight of the captive nations in 1959, the year that Congress passed and President Eisenhower signed Public Law 86–90, the Captive Nations Week Resolution.

There have been many dark moments in the years since then, years when it looked as if the dark night of prison camps, thought control, rigid economic planning, and religious persecution would settle over the whole world.

As it turned out, there was nothing inevitable about a victory of communism, particularly when it was being fought so tenaciously by dedicated people like Lev Dobriansky and others who have never let us forget the fate of those nations which have been forced into captivity by the Soviet Government.

While there are signs of hope, this is no time to ease up. Many of the nations within the Soviet Union are still captive, and even in 1991 citizens of those nations are still being shot and killed by Soviet soldiers.

Above all, the people of the Baltics, for example, know from their own history that it is one thing to gain independence, and another thing to maintain it.

I recently spoke with the new Russian President, Boris Yeltsin. He made it quite clear that he would be perfectly willing to support independence for those nations now within the Soviet Union.

That is the type of thinking that America should support through political pressure as well as economic assistance. When the day comes that the captive nations regain their independence, and the people of the captive nations regain their freedom, we want to ensure that they have the means to enjoy real independence in every sense of the term.

IDAHO WILDERNESS NEGOTIATIONS

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. LAROCCO. Mr. Speaker, I call my colleagues' attention to an article published in the July 11 edition of the Wall Street Journal which describes efforts underway in Idaho to negotiate an historic wilderness agreement. The article captures the spirit of cooperation and tenacity required of the parties to the negotiations. I salute their efforts and stand ready to carry forward their made-in-Idaho agreement.

The article follows:

IDAHO WILDERNESS NEGOTIATIONS

(By Dennis Farney)

Four years ago, Idaho's two most powerful politicians went into a room and locked the interest groups out. Then, like philosopher kings, they set out to resolve their state's least-resolvable issue: wilderness.

It was a grand effort—that failed just as grandly. The sweeping compromise wrought by Democratic Gov. Cecil Andrus and then-GOP Sen. James McClure managed to upset environmentalists and antienvironmentalists alike. Ultimately, it upset its authors themselves, who fell to arguing in public. Congress buried it without ceremony.

Lately, in an intriguing switch, Idaho interest groups have gone inside the room and locked the politicians out. They just might succeed where the politicians failed establishing a national model in the process.

Idaho has turned to professional mediation to try to sort out the future of one-sixth of the state: nine million acres of roadless forest and mountains. The effort, an initiative of the state Legislative, has been called the most ambitious mediation attempt ever in a land-use dispute.

"Never before in the history of the nation has mediation on such a grand scale been attempted," observes John Osborn of Spokane, Wash., editor of the environmental newsletter Transitions. At stake, he notes, is "the largest collection of forested wild lands of any state in the lower 48," (The land has long been owned by the U.S. Forest Service; the question is what uses to put it to.)

RILED-UP RANCHERS

The interest groups haggling over this green empire make for a combustible mix: environmentalists and loggers, backpackers and hard-rock miners, ranchers and off-road-vehicle enthusiasts. Opposition from ranchers could yet derail the process, at least in central Idaho. A Sun Valley session last April packed the room with so many riled-up ranchers that mediators finally asked everybody to go home. When the interest groups have met behind closed doors, as is more typical, they've drawn charges that they're as elitist as Messrs. Andrus and McClure ever were.

As all this suggests, the mediation process is inherently fragile. First, the bargainers must agree among themselves. Then, they must sell that agreement to constituents who may well be more militant than they are. Then, the agreement must hold up under public scrutiny. Finally, it must pass Congress, which has the last say on wilderness legislation.

Still, mediation has a shot at success. Idaho's bipartisan congressional delegation supports it as a way out of a wilderness war now well into its third decade. More concretely, environmentalists and timber interests have made good progress toward their first tentative agreement, which would divide up 1.5 million roadless acres in northern Idaho. Something strange has happened there: Each side has been pleasantly surprised by the reasonableness of the other.

"I'm discovering the timber industry is more responsive to our needs than I ever thought," says Richard Johnson, the Northwest representative of the Sierra Club. "And they're discovering that I'm more sensitive to their needs than they thought."

"Shoot, we've been fighting so long we're almost friends," says Joe Hinson of the Intermountain Forest Industry Association.

FRIVOLOUS LAWSUITS

The complex agreement emerging in northern Idaho's Clearwater and Nez Perce national forests could give environmentalists 1½ to two times as much wilderness there as did the old Andrus-McClure compromise. In return environmentalists would give industry far more certainty that it can log and manage nonwilderness areas without frivolous lawsuits.

It's a risk for each side. But the reality is that under the national Wilderness Act of 1964, each state must make such decisions sooner or later. This gives Idaho's mediators leverage to keep things moving. Says Ty Tice of the nonprofit Mediation Institute: "Our job is to function as an agent of reality and a prophet of doom. We say, 'If you don't resolve this yourselves, guys, it's going to get resolved for you.'"

He means resolution by an impatient Congress, which is coming to view such things as the Northwest's ancient forests and Idaho's wilderness as national concerns too important to be held hostage by parochial regional interests. Industry groups, especially, have reason to fear that an urban-dominated Congress could someday ride roughshod over Idaho's four-member delegation.

"It would be kind of like watching your own brain surgery," worries the forest industry's Mr. Hinson.

Actually, brain surgery is a good analogy for the intricate negotiation process unfolding now. Details count for more than they would in far-off Washington. Environmentalists bargain for specific trout streams. Ranchers balk at wilderness designation for traditional grazing areas. The timber industry knows the location of each sawmill and tries to protect its future. The mining industry wants roads to staked-out claims: "I can't mine with a pick and a burro," says Jack Lyman, executive director of the Idaho Mining Association.

DAMAGING PRECEDENTS

But even as they wrestle with details, negotiators try to avoid settling damaging precedents. "We could get more land in some cases, but at the expense of trading away a big precedent for national policy," says the Sierra Club's Mr. Johnson.

Progress may come harder outside northern Idaho, where the negotiations touch a greater number of interest groups, including the skeptical ranchers. And selling agreements to the rank and file may prove toughest of all. "What we're talking about is zoning the forest," says Michael Medberry, public-lands director for the Idaho Conservation League. "But this process is the only game in town. We've got to do business with each other."

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Gov. Andrus and former Sen. McClure came to grief attempting to wrap up everything in one all-encompassing package. (It included 1.4 million acres of new wilderness statewide.) Some negotiators would prefer to avoid an all-or-nothing approach this time around. "There are some places that may be just too controversial," says Wilderness Society Regional Director Craig Gehrke. Better, he thinks, to come back to them later.

But at a minimum, the private, feet-up-on-the-table talks already have created a new level of understanding among interest-group leaders more accustomed to strident rhetorical battles. "By its very nature, mediation leads to a higher level of creativity," says Mr. Johnson.

He adds: "I have greater respect for politicians now."

Untamed Territory

[In million acres]

Size of Idaho	53
Existing wilderness	4
Roadless area under consideration as additional wilderness	9

PREMATURE WITHDRAWAL OF SOUTH AFRICA SANCTIONS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. EDWARDS of California. Mr. Speaker, those of us who have always been ardent supporters of racial equality in South Africa are very troubled by the President's recent decision to lift sanctions. The reality of apartheid is still very much intact.

Mr. Speaker, throughout his tenure in the House of Representatives, our colleague, RON DELLUMS, has been a leader in the fight to secure equality for all South Africans. I commend to you an article printed in the Washington Post on July 11, 1991, by Mr. DELLUMS in response to the President Bush's actions.

The article follows:

BUSH'S RATIONALIZATION VS. REALITY IN SOUTH AFRICA

(Ronald V. Dellums)

In lifting economic sanctions against the apartheid regime of South Africa, President Bush and his advisers commend President F.W. de Klerk's "technical compliance" with all but one of the six conditions established by Congress in 1986 (passed overwhelmingly in both houses over a presidential veto) for pressuring Pretoria to end its obscene system of racial and social injustice.

But a close examination of current realities demonstrates that the administration appears to have selectively interpreted the facts to rationalize its decision to reward the de Klerk regime for its limited initiatives indismantling the apartheid system. It has ignored the spirit of congressional legislative intent while relying on the most narrow interpretation possible of the letter of the legislation.

The executive and legislative branches must speak with a unified voice during the painful transition to a nonracial democracy to expedite the process and to preserve its integrity. Our unyielding commitment must be to ensuring a nonracial democracy that guarantees full participation for all in the political process, including the fundamental rights to free speech, the vote, full eligibility to run for any office in the land, and equal opportunities in education and employment, housing and health care.

Despite the president's protestations to the contrary, these are some of the harsh realities concerning the de Klerk regime's limited compliance or noncompliance with the conditions established by Congress:

Nelson Mandela has been freed from prison, but he and 23 million other black South Africans are still deprived of full citizenship, voting rights, equal economic opportunity and true justice in the land of their birth.

The de Klerk regime has also failed to comply with the April 30 deadline and process established in the Pretoria Minute for the release of all political prisoners (more than 1,000 are still detained) and the return of political exiles. There is still no joint mechanism in place for the resolution of these issues nor any formal agreement regarding the proper definition of "political prisoner."

The 1986 state of emergency was repealed last October, but the regime can still declare "unrest areas" within which it exercises virtually unbridled power. By this April there were nine "unrest areas." Other laws still on the books, such as the Internal Security Act of 1952, permit detention without trial, prevent contact with family or lawyers for those detained and provide for banishment of dissidents to remote areas without due process.

Political opposition parties have been "unbanned" but not given the freedom, economic means or media access to compete openly for support in a nonracial, one-person, one-vote political process that must be the essence of any viable democracy. There is no provision for blacks to vote or run for political office on equal terms with whites.

The Group Areas Act of 1966 and four prior land restriction laws have been repealed, theoretically allowing people of all races to live wherever they choose. But a new law, the Abolition of Racially Based Land Measures Act, maintains the status quo in white residential areas by prohibiting any changes in existing "norms and standards." The repeal of the Land Acts allows blacks to purchase land almost anywhere in the country for the first time in almost 80 years—but it does not return land or compensate nearly 4 million blacks who were forcibly removed from their property when these laws were in effect.

The Population Registration Act has been repealed. It ends the practice of classifying all newborn South Africans by race, but it does not eliminate race classification rolls, which, among other restrictions, allows the regime to keep school segregated.

There have been talks about talks, but no formal process has yet been established for "good faith negotiations with truly representative members of the black majority without preconditions." Good faith negotiations can only begin when blacks are fully empowered to participate as equals, all their political exiles are allowed safe return and they are free to elect their own leaders. The de Klerk regime cannot be both a participant in and referee of this process without causing grave damage to the integrity of the process itself.

Despite the president's claims to the contrary, given the facts cited above, the de Klerk regime has not "made substantial progress toward dismantling the system of apartheid and establishing a nonracial democracy."

In my judgment, keeping sanctions in place would have been beneficial for both de Klerk and Mandela. Each needs sanctions as political leverage aginst the more radical elements in his constituency, and both need sanctions as a psychic weapons to ward off the threat of increased violence on all sides. They are a viable, nonviolent alternative that has helped compel the de Klerk regime to "do the right thing" in its preliminary steps toward eradication of apartheid.

The evolution of a bipartisan, bicameral and dual-branch application of sanctions against South Africa has been a major landmark in recent U.S. foreign policy. Its cessation at this juncture could have tragic results, both there and here. In the months ahead we must maintain moral and political solidarity with those who seek a nonviolent termination of apartheid and the establishment of a truly nonracial, democratic society in South Africa.

NEW BUDGET PROCESS—1990 URBAN SUMMIT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, at the recently completed Urban Summit of the U.S. Conference of Mayors, the delegates passed a resolution calling for a return to comprehensive budgeting by the Congress and the administration and for the removal of the separate spending caps and the barriers between the separate spending categories. I would like to share this resolution with my colleagues and commend the mayors for this eminently sensible proposal.

NEW BUDGET PROCESS—1990 URBAN SUMMIT

Whereas, the budget process as amended last year eliminates the possibility of shifting funds from unnecessary defense programs or foreign aid programs to domestic programs until at least 1994; and

Whereas, all three domestic discretionary categories are capped to allow increases only to accommodate inflation or to allow increases if offset by an equal decrease in another program within the same category; and

Whereas, entitlement programs can be increased if the increase is driven by economic factors, e.g., increased unemployment would drive up the unemployment insurance program, or if the increase is paid for by a tax increase but tax increases cannot be used to offset increases in any of the three discretionary categories, now, therefore, be it

Resolved, that The U.S. Conference of Mayors supports removal of caps on and barriers between discretionary spending categories; and; be it further

Resolved, that the Congress and the Administration should review the budget in a comprehensive manner and not have their budgetary discretion limited except by programs explicitly designated as trust fund programs financed from a dedicated revenue source; and be it further

Resolved, that the Congress traditionally has found revenue sources when the will is present, e.g., S&L bailout, and therefore no budget procedure should be an impediment to reinvestment in our cities.

RECOGNIZE CROATIAN AND SLOVENIAN INDEPENDENCE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. LIPINSKI. Mr. Speaker, I rise to express my support for the Republics of Slovenia and Croatia in their struggle for independence from Yugoslavia. These republics, particularly Slovenia, have been engaged in a defensive battle against the Serbian-dominated Yugoslav Army which is seeking to crush their independence aspirations. Thankfully, after 2 weeks of fighting and dozens of dead, the situation has reached an uneasy calm. Slovenian leaders agreed yesterday to a cease-fire and joined Croatia in suspending its independence declaration for 3 months. During this time, it is hoped that Slovenia and Croatia will resolve their differences with Serbia during negotiations to begin next month.

Considering longstanding Western efforts to promote freedom and democracy in Eastern Europe, I was surprised and disappointed at the chilly reaction of the world community to Slovenia's and Croatia's actions. The republics have been widely criticized for making independence moves quickly, unilaterally, and at the expense of a negotiated settlement. Not one nation recognized the republics as independent states.

I would like to point out to the American and European critics that the steps toward independence were not taken lightly, but represented the culmination of months of negotiations, political maneuvering and bloodshed. Serbia's hard-line leaders tried to undermine Croatia's and Slovenia's economic and political reforms in their pursuit of central-rule from Belgrade, the capital of Yugoslavia and not coincidentally the capital of Serbia. While Croatia and Slovenia sought a Yugoslavia comprised of loosely confederated sovereign republics, Serbian ambition made this impossible.

The dispute began more than a year ago with the election of Western-oriented reformers in both Croatia and Slovenia and Communists in Serbia. The war of words that began after those elections escalated 3 months ago into bloody clashes between Croatian police and Serbian separatists which claimed dozens of lives. These battles represented an irreversible turn for the worse in relations among the conflicting republics, heated by Croatia's bitter allegations that the Serbian Government was supplying arms to the separatists.

The Serbian leadership has repeatedly demonstrated its disdain for democratic principles and the rights of the smaller republics. In May, Serbia and its allies blocked the rotation of the Federal Presidency to Croatia. This was in direct defiance of Yugoslavia's Constitution, which mandates a yearly rotation of the Presidency to a leader from each republic, and was, in the words of the Slovenian Republic's President, a camouflaged coup d'etat. The dispute over the Presidency was only recently settled when Serbia bowed to international pressure and allowed Croat Stipe Mesic to take the seat. Even so, the Yugoslav Army acted independently of his authority as commander-in-chief in its attacks on Slovenia and Croatia.

Mr. Speaker, in light of Serbian heavy-handedness and widespread congressional support for independence in the Baltics, I cannot understand the opposition to independence from Yugoslavia. This double-standard cannot be justified. America has a long history of supporting democracy over communism, and we should not miss a historic opportunity by abandoning this policy. I prefer an independent Croatia and independent Slovenia with democratic governments and market economies to a Communist Yugoslavia dominated by Serbia.

We should praise Croatia and Slovenia for their unwillingness to sit idly by while their freedoms are crushed by Serbia, not lecture them. To abandon them at this hour sends the wrong message to democratic movements everywhere. With a 90-percent vote, the peoples of Slovenia and Croatia chose democratically to seek independence from Yugoslavia. Their resolve deserves ours, and we must now recognize the Croatian and Slovenian nations.

THE LIFTING OF SANCTIONS FROM SOUTH AFRICA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. SERRANO. Mr. Speaker, I believe that it is totally inappropriate to lift sanctions from South Africa. The most respected and revered right to be earned by an individual is the right to vote. That privilege is still not available to the majority of South Africans.

My understanding of the Comprehensive Anti-Apartheid Act requires the total dismantling of apartheid, and the establishment of a nonracial, democratic government in order for sanctions to be terminated. Integrated beaches and interracial marriages are not an adequate substitute for the right to own land, form and participate fully in the political process, and the right to vote.

Sanctions have worked because of the diligent struggle of the South African people and the constant pressure of international sanctions that forced the apartheid regime to reevaluate their policy of apartheid.

The backbone of a democratic nation, is the concept of one man one vote which has not been recognized or established by the South African Government. President de Klerk need not be rewarded for deinstitutionalizing slavery.

EXTENDING LIFE, ENHANCING LIFE—A NATIONAL RESEARCH AGENDA ON AGING

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. DOWNEY. Mr. Speaker, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am happy to share the announcement of an exciting report released on June 12, 1991 by the Institute of Medicine of the National Academy of Sciences which calls research the best hope to improve the older person's quality of life.

This report, entitled, "Extending Life/Enhancing Life," which is being disseminated by the Alliance for Aging Research, makes 15 separate research recommendations in the five key areas of basic biomedical research; clinical research; behavioral and social research; health services delivery research; and biomedical ethics. These research recommendations contain priorities in areas such as Alzheimer's disease; functional impairment and disability; changes in population dynamics; long-term care and continuity of care; medications and older person; mental health services; dilemmas involving life sustaining treatment and participation of older persons in research.

In 1988, the Institute of Medicine convened a committee of 18 national authorities on health care to develop these priorities on age-related research for the next 20 years, and to identify the resources necessary to carry out the new research agenda. Aided by over 120 scientists, advocates, experts in biomedical ethics, and other health and aging leaders, the Institute of Medicine calls for an annual spending level of $913 million for aging research plus a one-time expenditure of $110 million for construction of new facilities. Currently, according to the Institute of Medicine, Federal expenditures for age-related research estimate $601 million. This recommendation is consistent with the report of the Pepper Commission which called for spending $1 billion on research to reduce or eliminate the need for long-term care.

The report, citing the challenges to the health care system being brought about by the aging population of this country, notes the urgent need to respond as the age group most vulnerable to disability and dementia, those over age 85, is growing six times faster than the rest of the population. The cost for caring for this population will more than double unless the causes of disability can be identified and controlled. The report emphasizes illnesses and conditions which lead to late-life disability, and notes that of the 10 leading causes of death among older people, only 2—heart disease and diabetes—are listed among the 10 leading chronic geriatric conditions.

The release of this report is timely as Congress prepares to vote on the reauthorization of the Older Americans Act this fall. The Older Americans Act contains authority for research and training programs, and for too long, these particular programs have received inadequate funding.

In September 1990, the Subcommittee on Human Services held a hearing whose purpose it was to gauge how the Older Americans Act has met its goal to expand the Nation's knowledge and understanding of aging, through research, training, and demonstration programs. Results of the hearing indicated that for over two decades no specific attention has been given to this goal, and inadequate appropriations have had a serious impact on research efforts.

While the fiscal year 1992 appropriations for aging research under the Older Americans Act do not show any major increase over last year, I am happy that the results of the Institute of Medicine report give a special focus to research priorities that need to be concentrated on to improve the quality of life for our older Americans. It is my hope that the recommendations from the report will be a catalyst for increased attention in this area, and perhaps will be addressed by the administration at the 1993 White House Conference on Aging. I urge my colleagues to read this report.

ELDERS' RIGHTS AMENDMENTS OF 1991

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. ROYBAL. Mr. Speaker, one of every nine elderly Americans or 3 million people aged 65 and over are housed in our Nation's 300,000 nursing homes, board and care facilities, and mental institutions. Two decades of hearings and research by the House Select Committee on Aging and its Subcommittee on Health and Long-term Care reveal that abuses—ranging from the denial of the right to make basic personal choices to horrid instances of physical and sexual abuse and neglect, sometimes resulting in death—are frequent occurrences nationwide.

Aging Committee research has also revealed that, in many States, the only active and effective advocate for elderly residents of institutions are State long-term care ombudsmen authorized under title III of the Older Americans Act. This program, however, is woefully underfunded by the Federal Government, and its work in some instances is administratively hampered in the States.

Elder abuse, neglect, and exploitation of elders living in the community is also rampant. After extensive national surveys and review of the literature, the committee found that this shocking type of abuse, often perpetrated in the home by family members, guardians, and other caretakers, touched the lives of 1 million seniors annually. Efforts to address this kind of abuse by State adult protective service programs have proved inadequate; the committee found that we need a Federal response similar to that which has proved so effective in reducing child abuse.

Last week I, along with my colleagues, the Honorable Mary Rose Oakar, the Honorable Ron Wyden, and the Honorable Thomas Downey, introduced H.R. 2864, the Vulnerable Elders' Rights Amendments of 1991, which will respond to the concerns raised above. This bill is a companion bill to S. 1471 offered by my distinguished Senate colleague, the Honorable Brock Adams, chairman of the Senate Committee on Labor and Human Resources's Subcommittee on Aging; it would create a new title of the Older Americans Act consolidating and strengthening the advocacy and protection programs of the act. This new title would include new provisions identical to those in H.R. 2780, the National Older Americans Advocacy and Protection Amendments of 1991, which my colleagues—the Honorable Matthew Martinez, the Honorable Mary Rose Oakar, the Honorable Ron Wyden, the Honorable Thomas Downey, and the Honorable Dale Kildee—and I recently introduced, but adds a new program of insurance and public benefits counseling, an expanded role for the State legal services developer, and a housing ombudsman demonstration program.

Both of these pieces of legislation represent a bold step forward in quality, authority, and availability of ombudsman services for long-term care facility residents, and address the evergrowing problems of elder abuse, neglect, and exploitation in both institutions and in the community.

In this year in which there is little money for expanding programs for the Older Americans Act, we can at least do a better job of advocating for older Americans and protecting them from abuse. By placing the advocacy and protection programs of the Older Americans Act in a separate title as called for by H.R. 2864, we can draw these programs together in one place in the act, provide a consistent focus and new emphasis on protecting our most vulnerable citizens, and provide more effective advocacy, protection, and counseling services for older Americans.

The new title mandated by H.R. 2864 would take the advocacy and protection programs that are now in title III of the act, strengthen them, and place them in a new title VII. These are programs that are statewide in character and significantly involve various State agencies. These advocacy and protection programs must be coordinated at the State level and need vigorous leadership by the State departments on aging and the State long-term ombudsmen.

Both H.R. 2864 and H.R. 2780 would strengthen the Federal role in providing national leadership to the long-term care ombudsman program, increase the effectiveness of long-term care ombudsman activities, provide for greater autonomy and protection from conflicts of interest, and mandate better coverage of board and care residents to provide a consistent and timely response to serious problems affecting their rights and welfare.

To enhance the ability of long-term care ombudsmen to protect the rights of residents of board and care homes, these bills call upon the National Academy of Sciences, through the Institute of Medicine [IOM], to establish a National Commission on Board and Care Facility Quality similar to the IOM commission that recommended the current Federal regulatory structure for nursing homes. Composed of consumers and providers as well as other experts, the Commission would make recommendations to the Congress concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

Both bills would create a National Center on Elder Abuse and provide grants for elder abuse prevention and treatment services in the community as well as in institutions.

H.R. 2864 would create an insurance and public benefits counseling and outreach service to ensure that seniors are not being exploited by unscrupulous private insurance agents and are getting the public benefits to which they are entitled. It would expand the role of the State legal services developer under the Older Americans Act to ensure greater access to legal services for seniors. A housing ombudsman demonstration program would be created to assist older persons who have complaints related to problems in publicly assisted housing.

I urge my colleagues on both sides of the aisle to join me in supporting both of these bills that would protect the residents of long-term care facilities and prevent the abuse, neglect, and exploitation of older Americans.

INTRODUCTION OF LEGISLATION AUTHORIZING THE RAISING OF SUCCESS DAM

HON. CALVIN DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. DOOLEY. Mr. Speaker, today I have introduced legislation that would authorize a construction project to raise by 10 feet Success Dam near Porterville, CA.

The main reason for this project in my district in central California would be to provide additional flood control on the Tule River. An increase in the capacity of Success Lake would allow further flood protection to the city of Porterville, which lies approximately 6 miles below the dam, and other areas of Tulare and Kings counties.

A secondary reason for the project would be to increase storage of water for irrigation of crops in this farm-rich region. In addition, the increased capacity of the lake would enhance recreational activities in the area.

Construction of the project would be contingent upon the favorable completion of a feasibility study now underway by the Army Corps of Engineers.

Estimates have put the total cost of the project at approximately $18 million, which would be shared by Federal, State, and local entities.

The project would increase the capacity of Success Lake by modifying an emergency spillway at Success Dam and building an earthquake-resistant rock berm on the upstream face of the dam.

Success Dam was constructed more than 30 years ago on the Tule River primarily to provide for flood control. Longtime residents of the Porterville area tell harrowing tales of the times the Tule would spill its banks after even moderate precipitation.

Success Dam greatly reduced the threat of flood, and in the process it captured water used for irrigated farming and for recreation.

Continuing heavy development over the years in the Tule River floodplain has increased the possibility that a serious flood now would cause much more damage than any floods before.

Raising the Success spillway, as authorized by this legislation, would provide the needed extra flood protection.

As a secondary benefit, the increased capacity would provide an efficient means of storing more water for use by farmers downstream. However, irrigation water storage would by available only after the additional storage had been used in full for flood control.

Any increase in capacity also would benefit the thousands of people who use the lake for fishing, boating, and other forms of recreation.

Mr. Speaker, I look forward to hearings on this legislation, and I encourage my colleagues to support it.

MOSCOW HUMAN RIGHTS MEETING COUNTDOWN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. HOYER. Mr. Speaker, on September 10, less than 2 months from now, the 35 signatory states of the Conference on Security and Cooperation in Europe [CSCE] will gather in Moscow for the third of three meetings of the Conference on the Human Dimension [CDH]. Previous meetings, held in Paris in 1989 and Copenhagen in 1990, have addressed issues relating to human rights and humanitarian cooperation in the participating states with far-reaching results both in terms of implementation and new commitments. It is the hope of the Commission on Security and Cooperation in Europe—the Helsinki Commission—that the Moscow meeting will continue that success. In that regard, in my capacity as chairman of the Commission, I plan to lead a congressional delegation to Moscow for the opening of the CDH meeting.

A critical factor in the success of the Moscow meeting will be the openness and access afforded to representatives of nongovernmental organizations [NGO's]. Throughout the Helsinki process, NGO's have played a critical role in bringing human rights issues to the attention of the Commission, the Congress, the executive branch, indeed the American public.

The Helsinki Commission anticipates that a large number of HGO's will be present in Moscow and we hope that Soviet authorities will facilitate their entry into the Soviet Union and to the conference in the spirit of CSCE tradition. Senator DECONCINI, the cochairman of the Helsinki Commission, and I have written to the Soviet Deputy Minister of Foreign Affairs, Vladimir Petrovsky, who will also serve as executive secretary of the Moscow meeting, urging him to accommodate the needs of the nongovernmental organizations in a manner consistent with previous CSCE meetings.

However, Mr. Speaker, with less than 2 months to go before the meeting, we have been alerted to a number of situations in which individuals seeking visas to travel to the Soviet Union have been either denied permission by Soviet authorities or are being given a bureaucratic run around by those who process visa applications. These examples are of concern to the Commission.

Mr. Victor Nakas, a leader in the Lithuanian-American community was informed by the consulate in Washington that his visa was denied. His invitation to travel to Lithuania was extended by the Lithuanian Supreme Council and had the support of Lithuanian President Landsbergis. However, upon investigation it was discovered that the KGB in Vilnius had his name on a blacklist of individuals guilty of anti-Soviet agitation and propaganda and opposing Lithuania's accedence to President Gorbachev's all-union treaty.

Three staff members of the Union of Councils for Soviet Jews have attempted to obtain visas to travel to the Soviet Union to work with their Moscow affiliate—the Bureau for Emigration, Human Rights and the Rule of Law—only to have to postpone plane and hotel reservations because of snags in the processing of their visas.

Dr. John Genys, a professor at the University of Maryland has received a Fulbright scholarship to teach genetics at the University of Vilnius. For no apparent reason, Dr. Genys has been denied a visa—an action which calls into question the spirit of the Fulbright program.

Mr. Speaker, in 1980 the Soviet Union hosted the summer Olympics and the Government was able to process tens of thousands of visas in a short period to time. I believe that the upcoming human rights meeting will attract a significant number of individuals interested in attending the proceedings and any parallel activities that will be taking place.

As we head into the Moscow meeting, I plan to speak out on several issues which we at the Helsinki Commission believe are important to ensure the success of the meeting. I encourage the Soviet Government to review the procedures for issuing visas for nongovernmental organizations and their representatives who will play a major role in the success of this meeting and urge them to issue visas freely and expeditiously to the above individuals.

A TRIBUTE TO HARRY CHAPIN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. ACKERMAN. Mr. Speaker, tomorrow marks the 10th anniversary of the death of our friend Harry Chapin, who was not only a gifted song-writer and performer, but a truly compassionate human being. Harry Chapin, through his ardent and arduous efforts, personally involved Members of Congress and raised consciousness about hunger long before it became a popular issue.

As someone who has long heeded Harry's message and advocated help to the world's hungry, I owe a personal debt to Harry Chapin, who brought this problem to the forefront of the national agenda through his eloquent voice. In 1975, Harry cofounded the World Hunger Year [WHY], an organization devoted to the dream of a hunger-free America and ultimately of a hunger-free world. World Hunger Year [WHY] has continued its mission to enlighten the public about the dimensions of domestic and international hunger, including poverty and homelessness. WHY's accomplishments include creating: The New York City Food and Hunger Hotline, Long Island Cares, the Center for Food Action in New Jersey, the Hunger Concert Education Program, and Hungerthon, an annual 24-hour radiothon held to raise awareness about hunger in America.

Harry Chapin sold millions of records, wrote and starred in a Broadway play, won an Academy Award nomination for his documentary film and published a book of poems. Yet all of these diverse artistic accomplishments are overshadowed by his great humanitarian deeds, which have left a lasting impression. Harry conceived and lobbied for a Presidential Commission on World Hunger, a dream he lived to see enacted in 1978. After the commission was established, Harry was the only member to attend every meeting. Harry Chapin posthumously received the Congressional Gold Medal in 1987, earning the recognition for his numerous accomplishments.

WHY will be celebrating the vision and goals of its cofounder Harry Chapin July 16, in a special benefit at the Hard Rock Cafe. Several of my colleagues in the Congress are joining me in hosting this event, in tribute to the memory of the great humanitarian, Harry Chapin.

When Harry Chapin left us so prematurely, dozens of my colleagues in Congress gave eloquent tribute to him from the floor of both the House and Senate, praising his legacy and great deeds. Harry Chapin has served as a continuing inspiration to all of us who work to end hunger, in the United States, and abroad. The repercussions of his actions are still felt as the Nation grapples with hunger issues each day. I ask my colleagues, on the 10th anniversary of his death, to again recognize the passionate and laudable humanitarian, Harry Chapin. My request has an almost foregone conclusion—it is inevitable that one recognize the efforts of Harry Chapin. The mark that he has left on the national agenda has not faded since his death, 10 years ago tomorrow.

TRIBUTE TO SGT. MAJ. RICHARD D. KELLY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. SCHEUER. Mr. Speaker, I rise today to pay tribute to Sgt. Maj. Richard D. Kelly, who has served faithfully and honorably in the Marine Corps since 1968.

Not long after his enlistment, he was posted to Viet Nam where for 14 months he was assigned to the Fourth Combined Action Group. His unit's mission was to work side by side with the villagers of Long Qhuan and Lin Yin, improving the quality of village life. By night, he and his fellow Marines protected their area of operation against infiltration by the Viet Cong and units of the North Vietnamese Army.

Sergeant Major Kelly reenlisted in 1972 and since then, has contributed distinguished service to the Marines in a myriad of capacities. He worked with recruits on Parris Island improving their shooting skills. He was a primary marksmanship instructor and was selected to be a member of the 16 man unit that developed the formal marksmanship program for recruit training with the M16 rifle.

After a year's duty as a platoon sergeant on Okinawa, he volunteered for assignment as drill instructor at Parris Island. This duty culminated in his promotion to Staff Sergeant and his designation as series chief drill instructor. After serving as Navy ROTC from February 1977 to July 1979 at Louisville, KY, he was assigned as gunnery sergeant with Company, L, Third Battalion, 8th Marines. In October 1981, while on deployment in the Mediterranean, he was given the rank of first sergeant and transferred to Company K. In June 1982, after completing his tour, he was transferred to New York as the first sergeant of Instructor Staff Communication Company. As as result of his efforts with the Long Island Community (Huntington), he was awarded the Navy Commendation Medal.

In 1985, Sergeant Major Kelly was promoted to the rank he presently enjoys. He served in that capacity with Company L of the Third Battaltion, Second Marines, while the battalion was deployed to Korea. In June 1986, he became the battalion sergeant major and look the battalion through two cold weather deployments. Presently, he once again serves in the New York area as battalion inspector instructor sergeant major for the Sixth Communication Battalion located at Fort Schuyler, Bronx, NY where he recently helped in activating and training 450 reservists for Desert Storm duty and where he has shown his interest in the community by organizing a Toys For Tots Program in which 4,500 gifts were distributed to needy children.

Among the awards Sergeant Major Kelly wears upon his chest are the Navy Commendation Medal, the Combat Action Ribbon, the Navy Unit Commendation, the Good Conduct Medal (6th Award), the Marine Expeditonary Medal, the National Defense Service Medal (2nd award), the Vietnam Service Medal, the Sea Service Deployment Ribbion (2nd award), the Navy Arctic Service Ribbon, The Republic of Vietnam Civic Actions Unit Citation, the Republic of Vietnam Cross of Gallantry, and the Republic of Vietnam Campaign Medal.

Sergeant Major Kelly has been a Marine to emulate. He surely deserves this tribute, and I ask that my colleagues join me in saluting him and extending our best wishes to him and his family.

TRIBUTE TO COL. RAOUL H. ALCALÁ

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. ASPIN. Mr. Speaker, I rise today to pay tribute to Colonel Raoul Henri Alcalá, United States Army, on his retirement after 29 years of dedicated service to this Nation. Over the past 3 decades, he has served with distinction in peace and war in the finest tradition of the American soldier-statesman.

Colonel Alcalá was commissioned as an armor officer upon his graduation from West Point in 1962. He has served with and commanded armored cavalry units in Germany, Vietnam, and the United States. A superb tactician, he demonstrated his mastery of military art during the first of his two combat tours in the Republic of Vietnam. Operating out of a fire support base north of Saigon in command of A Troop, 3d Squadron 5th Cavalry—129 soldiers, six M48 tanks, and 20 armored personnel carriers—Colonel Alcalá rallied his soldiers throughout the night of March 20, 1967 to repulse repeated attacks by the 273d Viet Cong Regiment. This battle, the Battle of Ap Bau Bang II, is chronicled by John Pimlott in Vietnam: The Decisive Battles, as one of the decisive battles of the Vietnam war. For his actions under the intense enemy assault that night, Colonel Alcalá was awarded the Silver Star, the Nation's third highest award for valor.

One of the Army's premier strategists, Colonel Alcalá holds a graduate degree in international relations and a doctorate in political science from Yale University. He has served as an assistant professor of international relations and political science at the United States Military Academy. Throughout his career he combined these strong academic credentials with a keen intellect and a broad understanding of the national policy process to make significant contributions in the areas of international security policy, military doctrine, and national military strategy.

He has performed outstanding service for his Nation from a number of critical positions within the Government. As a White House Fellow, he served as a special assistant on Energy Matters to the President's National Security advisor. As a plans officer on the staff of the U.S. Mission to NATO, he served at NATO Headquarters during the deployment of the Pershing II missiles to Europe—the demonstration of NATO unity and resolve that may well have turned the tide of the cold war.

More recently, as the Chief of the Concepts, Doctrine, and Force Policy Division under the Army's Deputy Chief of Staff for Operations and Plans and as the Chief of the Training and Doctrine Command Commanding General's Planning Group, Colonel Alcalá has been the driving force behind the development and refinement of the Army's AirLand Battle Doctrine. This service was invaluable to the revitalization of the Army throughout the decade of the 1980's and in shaping the victorious Army of Just Cause and Desert Storm.

As the leader of the Army Chief of Staff's Assessments and Initiatives Group, Colonel Alcalá has been the most trusted advisor to the Army Chief of Staff for the past four years. Throughout the difficult processes of reformulating national military strategy and planning the reduction and reshaping of the Army, he has played a crucial role in designing approaches to preserve the quality and readiness of the finest Army in the history of this Nation. Largely through Colonel Alcalá's efforts, the Army has led the Department of Defense in adapting to the fundamental changes in strategy and force structure made possible by the conclusion of the cold war.

Strategist, trusted advisor, mentor, warrior, Colonel Roy Alcalá epitomizes the principles of professional competence, selfless service, and uncompromising commitment that we demand of our military leaders. Colonel Alcalá I salute you today for your outstanding service to our Nation. I wish you, your wife, Wilma, and your son, Roy, the best of luck as you begin a new career.

A TRIBUTE TO THE GREENPOINT LITTLE LEAGUE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. SOLARZ. Mr. Speaker, I take great pleasure in rising today to pay tribute to the Greenpoint Little League on the occasion of its 40th anniversary and Alumni Reunion Day.

In 1951 the first games were played, and now, 40 years later, with 37 teams, the Greenpoint Little League strongly continues to make its contribution to the community. The league affords the children the opportunity to play ball, be part of a team, experience the thrill of victory and the agony of defeat, and learn what sportsmanship is all about. Furthermore, the league draws together businesses which sponsor teams, residents, volunteers, fundraisers, and executive committees. By teaching the fundamentals of baseball and sportsmanship to our youth, the league has been effective in drawing together the community and providing the cornerstone for atmosphere and goodwill.

Frank Crowley, the current Little League president, is ably assisted by several volunteers. One such volunteer is Michael Glus. Mr. Glus, over the past 25 years, has served as coach and manager, and with his team won the Minor World Series in 1968. Mr. Glus, currently in community relations, has significantly contributed to the program by obtaining equipment and organizing field trips. Over the many years, powerful bonds of friendship hae been formed both among the players themselves, and between the players and Mr. Glus.

I am truly proud to congratulate the Greenpoint Little League on its 40th anniversary, and the wonderful people who make it work and to wish them continued success in their contribution to the community and, more importantly, to our children.

TRIBUTE TO JOHN BELL LAND

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity today to pay tribute to John Bell (J.B.) Land of Lancaster, KY, who died April 4, 1991, at Good Samaritan Hospital in Lexington, KY, at the age of 71.

J.B. Land was a man who was well known and respected by the people of Garrard County, KY. He was born in the Buckeye community of Garrard County in 1919, and was a lifelong resident of the county. He was a self-employed income tax practitioner for 46 years. In addition, he was a licensed real estate agent and worked as a crop insurance adjuster for a number of years.

Perhaps J.B. Land was best known for his contribution to his community. He was an active member of the Lancaster Baptist Church where he served as church treasurer, a member of the board of deacons, and a Sunday school teacher. He was also a member of the Rotary International and had served as president, vice president and secretary of the Lancaster Rotary Club.

J.B. Land is survived by his lovely wife Margaret Duncan Land of Lancaster; three sons, James Earl Land of Dayton, OH, and John Richmond Land and David Lee Land, both of Lancaster; six grandchildren and four great grandchildren. He was preceded in death by his first wife, Ethyl Ray Land, who died of cancer in 1954.

My wife Carol and I extend our sincere sympathy to the family of John Bell Land of Lancaster.

IN RECOGNITION OF VOLUNTEERS OF AMERICA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Ms. ROS-LEHTINEN, Mr. Speaker, I would like to pay tribute to the Hialeah-based chapter of Volunteers of America. This chapter shares with many Americans a faith in the volunteer spirit and the ability and willingness of local communities to respond to social problems with effective solid solutions. In Hialeah, Volunteers of America currently operates many housing projects for the elderly. These include: Hialeah Residents, Puerta del Sol, Sweetwater Towers, and Las Palmas Plaza. Also, in Miami there are three other projects in operation.

Volunteers of America, one of this Nation's largest human service organizations, has been helping others for 95 years. At the end of the 19th century, the United States experienced an influx of thousands of immigrants in search of a better life. Cities soon became crowded and living and working conditions were deplorable. It was in this challenging setting in 1887 that young Ballington and Maud Booth arrived in New York City. Volunteers of America stated that they liked the new republic that lacked the rigid class distinctions of 19th century England and they quickly became naturalized citizens. However, they could not ignore the conditions and the degradation to people that existed and consequently dedicated their lives to helping Americans in need. Gradually, social programs evolved to supplement the evangelic work.

Maud Booth organized the Volunteer Prison League which was directly responsible for the elimination of the striped uniforms, the ball and chain, the silent system, and harsh discipline. Other social reforms soon followed.

Throughout its history, Volunteers of America has adhered to the principles of its founders. The original mission is still very much alive; and, the constant development and reevaluation of goals assures the continued growth of the organization in its service to the Nation.

Only through the dedication of people like Lucy Lasanta and Maria Zayas, and all the members of organizations like Volunteers of America and its board of directors can the struggle of life be made easier.

IN SUPPORT OF MOST-FAVORED-NATION TRADE STATUS FOR CHINA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. FIELDS. Mr. Speaker, I rise in strong support of unconditionally renewing most-favored-nation trading status for China.

All Americans share the same concern for, and commitment to, human rights in China; likewise, we agree on the need to promote democratic reform in that country. Where we disagree, however, is on how best to achieve those worthy objectives.

Those who argue against continued MFN status for China claim that denying it trade privileges is the most effective way of bringing about democratic reform in that country. They seem to believe that MFN status is some unique reward the United States grants a select group of its trading partners. But the fact is that the United States currently accords 181 of its trading partners MFN status.

The President has wisely chosen to separate economic considerations from political considerations in the case of China. I support that distinction, because I fear that revoking China's MFN designation based on its political behavior would set a very dangerous precedent. Doing so would force the United States to assess the behavior of the other 180 countries to which we have granted MFN status.

I have heard it said that China must be punished because of its alleged failure to enforce copyright, patent, and trademark protection. If that is the case, the United States should address those failures through targeted trade policies that will get the attention of the Chinese leadership. Trade problems demand trade solutions. Similarly, concerns about the Chinese Government's failure to accord its people basic human rights should be addressed through political channels. The fact of the matter is that there is nothing in the history of United States-imposed economic sanctions to suggest that the threat of withdrawing MFN status will lead to a reversal of the political policies of the Chinese Government.

Mr. Speaker, the bottom line is that revoking China's MFN status would hurt the very people the United States ought to be trying to help. Withdrawing MFN would seriously damage United States foreign policy interests, would limit our contacts with China, would weaken the forces pushing for reform, and would hurt American businesses and consumers. Withdrawing MFN also would severely damage the export industries in China's southern provinces, where free market reforms and more democratic policies actually are succeeding.

I would ask my colleagues to remember, before they vote, that any interruption of trade between the United States and China will hurt American businesses and consumers. Raising tariffs on Chinese products could provoke retaliation from the Chinese Government. A United States-Sino trade war would endanger more than $5 billion in American exports, as well as adversely affect more than $4 billion which has been invested by United States firms in China. And our domestic companies would be at a severe disadvantage if China were forced to turn to other countries to meet its growing commercial and consumer needs. And don't forget that American consumers—the men and women in your congressional districts and in mine—will pay substantially higher prices for Chinese-made clothing, footwear, toys, tools, and electronics.

Mr. Speaker, I'll end as I started: All Americans want to see greater democratic reforms in China. We all want the Chinese Government to respect the human rights of the Chinese people. We hope that China will adopt our commitment to reduce nuclear proliferation and our commitment to free and fair trade. But these concerns, these issues, have no place in the MFN debate. They can be, and should be, dealt with through more appropriate and existing mechanisms. Let's not lose sight of what we're really trying to accomplish here: Devising a policy that has the best chance to influence positive change in China. I believe that revoking China's MFN status is not that policy.

HONORING THE 50TH ANNIVERSARY OF THE UNITED AEROSPACE WORKERS, LOCAL 887

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. TORRES. Mr. Speaker, I rise today to call my colleagues' attention to the fact that on July 15, 1991, the United Aerospace Workers Local No. 887 will observe the 50th anniversary of their charter. Local No. 887 received its charter in 1941 from the United Automobile Workers of America, and has maintained an active and vibrant labor movement ever since. On July 21, 1991, Local No. 887 members and their families and friends will celebrate this occasion with a 50th anniversary Jubilee.

For half of a century, Local No. 887 has been a vital and progressive force of leadership in this country. From 1941 through 1945 the defense industry in the United States grew at an astonishing rate and Local No. 887 members were there to ensure that finished products were of superior quality. Planes like the P–51, Mustang, and the B–25 bomber built by Local No. 887 membership, helped secure United States supremacy in the skies above Germany during World War II.

United Aerospace Workers came through again during the Korean conflict with the manufacturing of jet-propelled fighter aircraft—the F–86 Sabrejet and the F–100 Super-Sabrejet.

And yet again, Local No. 887 members were on the cutting edge of technology following the Korean war as our Nation competed in the race for space. From advanced rocketry, to engines and vehicles, United Aerospace Workers helped forge the great advancements in space technology our Nation is responsible for from the late 1950's to the present. Some of the great technological advancements include the production of the Appollo Lunar Module and of course the Space Shuttle Program. In addition, UAW members helped in the creation of many rocket engine systems and satellites currently in use.

Mr. Speaker, Union Local No. 887 has been, and continues to be a leader in the advancement of aerospace research and development. UAW Local No. 887 is a dynamic and progressive organization representing workers in many different crafts and trades. I take great pride in wishing them a happy 50th birthday and ask my colleagues to join me in commending United Aerospace Workers Local No. 887 for their dedication, determination, and solidarity over the years and wishing them many more successful and prosperous times in the future.

BOEING CO. CELEBRATES ITS 75TH ANNIVERSARY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 15, 1991

Mr. FOLEY. Mr. Speaker, I would like to take note today of the 75th anniversary of the Boeing Co. which began on July 15, 1916. I would like to extend my heartfelt thanks to all of the employees of the Boeing Co. for making possible this unique industrial and technological organization.

It gives me pride that the Boeing Co. was founded in the State of Washington and has grown to be the dominant industry in our State—and the world's foremost leader in civil aviation.

The Boeing name is known the world over to be synonymous with manufacturing excellence. The company's distinguished history has been marked by major contributions to the defense of our country, to the world's commercial air transportation systems, and to the exploration of space. These magnificent achievements can be attributed to its employees—the men and women of Boeing—and to the generations of employees before them who were dedicated to excellence.

Their pride, vision, and high standards show in Boeing's products the world over. That is why it is with great pleasure that I congratulate each of them on this historical occasion and commend them for their individual contributions to a true American success story.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 16, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 17

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on non-point sources of pollution.

SD-406

Governmental Affairs

To hold hearings to examine Department of Defense management inventory.

SD-342

10:00 a.m.

Budget

To hold hearings on the Office of Management and Budget's mid-session review.

SD-608

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 734, to prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act with respect to certain submerged lands off the State of Florida, and S. 736, to revise the Outer Continental Shelf Lands Act to revise the environmental standards under which Outer Continental Shelf leases or permits shall be cancelled.

SD-366

Foreign Relations

African Affairs Subcommittee

To hold hearings to review the report on the African-American Summit held in Abidjan, West Africa.

SD-419

Judiciary

Patents, Copyrights and Trademarks Subcommittee

Business meeting, to mark up S. 474, to prohibit sports gambling under State law, S. 654, to revise Federal patent law to provide for the patentability of certain processes along with a machine, manufacture, or composition of matter with which they are associated, and S. 758 and S. 759, bills to provide that neither the States, their officers, nor their instrumentalities are immune from trademark infringement liability, and to provide the same remedies for trademark infringement against State entities as are available against any private entity.

SD-226

Select on Intelligence

Closed business meeting, to resume markup of proposed legislation authorizing funds for fiscal year 1992 for intelligence matters.

SH-219

JULY 18

9:30 a.m.

Energy and Natural Resources

To hold hearings on the nomination of William Happer, of New Jersey, to be Director of the Office of Energy Research, Department of Energy.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on coastal protection, clean lakes, and the Great Lakes and Mexico border areas.

SD-406

Governmental Affairs

Government Information and Regulation Subcommittee

To hold hearings on government-sponsored enterprises.

SD-342

Labor and Human Resources

Employment and Productivity Subcommittee

To hold hearings to examine the future role of women in the workplace.

SD-430

10:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Select on Indian Affairs

Business meeting, to mark up S. 291, San Carlos Apache Water Rights Act, S. 668, Consolidated Environmental Grants, S. 362, Mowa Band of Choctaw Indians Recognition Act, S. 45, Jena Band of Choctaw Indians Recognition Act, and S. 374, Aroostook Band of Micmacs Settlement Act; to be followed by hearing on S. 1287, Tribal Self-Governance Demonstration Project Act.

SR-485

2:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on S. 1081, to revise and authorize funds for programs of the Federal Water Pollution Control Act, focusing on compliance and enforcement, and State certification of Federal projects.

SD-406

Foreign Relations

To hold hearings on the Protocol amending the Extradition Treaty between the U.S. and Canada (Treaty Doc. 101-17), Amendments to the 1928 Convention concerning International Expositions (Treaty Doc. 101-15), the Protocol amending the Convention on International Civil Aviation (Treaty Doc. 101-14), and the Convention Providing a Uniform Law on the Form of an International Will (Treaty Doc. 99-29).

SD-419

3:00 p.m.

Energy and Natural Resources

To hold hearings on S. 1018, to establish and measure the Nation's progress toward greater energy security.

SD-366

3:30 p.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on proposed legislation authorizing funds for the Federal Maritime Commission.

SR-253

JULY 19

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

Judiciary

To hold hearings on the nominations of Andrew J. Kleinfeld, of Alaska, to be United States Circuit Judge for the Ninth Circuit, Benson Everett Legg, to be United States District Judge for the District of Maryland, Dee V. Benson, to be United States District Judge for the District of Utah, and Donald L. Graham, to be United States District Judge for the Southern District of Florida.

SD-226

10:00 a.m.

Finance

Medicare and Long-Term Care Subcommittee

To resume hearings on the Health Care Administration's proposal to institute a prospective payment system for inpatient hospital capital costs under the Medicare program.

SD-215

Foreign Relations

To hold hearings on the nomination of Charles G. Untermeyer, of Texas, to be an Associate Director of the U.S. Information Agency.

SD-419

JULY 22

9:30 a.m.

Small Business

To hold hearings to examine the small business impact of proposed enterprise zone legislation, including S. 1032, to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments.

SR-428A

JULY 23

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.

SR-253

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 140, to increase Federal payments in lieu of taxes to units of general local government for entitlement land, and S. 927, to provide for a transfer of lands between the U.S. Forest Service and Eagle and Pitkin Counties in Colorado.

SD-366

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

10:00 a.m.

Environment and Public Works

To hold hearings on S. 481, to authorize a two-phase program of research and development to produce water of a certain quality from saline or biologically impaired waters.

SD-124

2:00 p.m.

Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 23 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD-366

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1410, to protect the rights of consumers from unsolicited telephone marketing calls, and S. 1462, to revise the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes.

SR-253

Special on Aging

To hold hearings to examine the treatment of low-income Medicare beneficiaries.

SH-216

Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B-318 Rayburn Building

10:00 a.m.

Foreign Relations

To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), and the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Treaty Doc. 102-7).

SD-419

JULY 25

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 621 and H.R. 543, to establish the Manzanar National Historic Site in California, S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area in California, S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history, and H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn.

SD-366

Rules and Administration

To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.

SR-301

10:30 a.m.

Rules and Administration

To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.

SR-301

2:00 p.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.

SR-485

Select on Indian Affairs

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.

SR-485

JULY 29

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on oversight of the Government Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.

SD-406

JULY 30

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.

SD-366

2:30 p.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 1179, to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants, and S. 1187, to revise the Stock Raising Homestead Act to provide certain procedures for entry onto the Stock Raising Homestead Act lands.

SD-366

JULY 31

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Commerce.

SR-253

Finance

To resume hearings on S. 612, to encourage savings and investment through individual retirement accounts (IRAs) in an effort to stimulate economic growth for Americans and the nation.

SD-215

AUGUST 1

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1156, to provide for the protection and management of certain areas on public domain lands managed by the Forest Service in the States of California, Oregon, and Washington.

SD-366

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on a proposed Department of Transportation headquarters, and the relationship between the Judiciary and the Government Services Administration for the provision of space for the Courts.

SD-406

HOUSE OF REPRESENTATIVES—*Tuesday, July 16, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, for an attitude of humility and courtesy as we meet and work with people who also have been created by the power of Your hand and who share with us the gifts of life and love. May not the scourge of arrogance or any undue pride rise in our own hearts so that we think more highly than we ought to think of our place or our work. Deliver us, O God, from any haughtiness that corrupts the human spirit and give us instead a spirit of gratefulness and appreciation for the gifts that other people bring to our lives. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Maryland [Mr. GILCHREST] will please come forward and lead the House in the Pledge of Allegiance.

Mr. GILCHREST led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 1 and 2 to the bill (H.R. 751) "An act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively in their work and in their lives, and to strengthen and coordinate adult literacy programs."

COMMUNICATION FROM THE REPUBLICAN LEADER

The SPEAKER laid before the House the following communication from the Honorable ROBERT MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 10, 1991.

Hon. THOMAS S. FOLEY,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to Sec. 406(a)(5) of Public Law 102-62. I hereby appoint the following as a member of the National Council on Education Standards and Testing:

Dr. Sally B. Pancrazio, Professor and Chair, Department of Educational Administration and Foundations, Illinois State University, Normal, Illinois 61761.

Sincerely,

BOB MICHEL,
Republican Leader.

THE 1990 CENSUS UNDERCOUNT

(Mr. MCNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCNULTY. Mr. Speaker, I just came from a hearing of the Census Subcommittee, on which I serve, where I listened to the testimony of Commerce Secretary Mosbacher regarding his decision not to adjust the figures for the 1990 census. He did this despite the fact that the census department has certified that 5.3 million people were missed in the count. This means that the Commerce Secretary is saying we missed 5 million Americans in this census, but we are going to do nothing about it.

This is bad news for all of the urban centers of this country, like the State of New York which I represent, and it means that in the years ahead these areas will lose literally billions of dollars in Federal aid.

The only redeeming part of the testimony today, in my view, Mr. Speaker, was the Secretary's response to a question from me about the possibility of looking at these figures a little bit more closely. Then, if we reach a new data base 2 or 3 years down the line, we will use adjusted figures for the balance of the decade. The Secretary if committed to doing this, and I hope that he will move forward with this procedure with all due dispatch for the sake of fairness for all of the people of this country.

THE FACTS ON BANK REFORM

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. ANNUNZIO. Mr. Speaker, I was disappointed to read Treasury Secretary Brady's recent comments on bank reform. On June 17, Brady told reporters that:

> If we have a good, strong, comprehensive banking bill plus a reasonable economy, then I think we've got a running shot at not having any taxpayer bailout.

This statement is highly misleading. The administration's proposal to expand bank powers will have little, if any, effect on the FDIC's condition in the foreseeable future.

In 1990, troubled bank assets increased 74 percent to an all-time high of $409 billion—an amount 57 times greater than the $7.1 billion currently in FDIC. No legislation can make billions of dollars in bad bank loans disappear into thin air.

Nor will expanded bank powers restore the health of the 440 banks that FDIC predicts are likely to fail, because the administration's bill prohibits undercapitalized banks from engaging in these new activities.

Even if all these wonderful things were possible, the effective date for these provisions is January 1993. FDIC predicts that it may have an $11 billion deficit by that time, so the cow would already be out of the barn.

As the bank reform debate continues, let's hope that it is based on an objective analysis of the facts.

THE FACTS ABOUT TAX BREAKS FOR THE WEALTHY

(Mr. PEASE asked and was given permission to address the House for 1 minute.)

Mr. PEASE. Mr. Speaker, my Republican colleagues took to the floor last week to defend tax breaks for the wealthy. But they forgot a few key facts.

Fact: Over the last 15 years, the average adjusted pretax income of the wealthiest 1 percent of U.S. taxpayers increased 113 percent. The pretax income for the lowest fifth decreased 10 percent.

Even more disturbing, the posttax income of the wealthiest 1 percent increased 134 percent. The lowest fifth's posttax income decreased by the same 10 percent.

In other words, the tax breaks provided by the Reagan and Bush administrations performed exactly as expected. They increased the income of the wealthy.

My Republican colleagues argue that a rising tide lifts all boats. But in fact, if you're not on their yacht—and low- and middle-income families clearly aren't—a rising tide may simply drown you.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CENSUS UNDERCOUNT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, why did the Bush administration not address the census figures to account for an undercount of 5.3 million people? Was it science; was it demographics; was it tradition? No, it was pure 1992 Presidential politics, pure politics.

Mr. Speaker, we have 5.3 million individuals who do not count, who have been washed away. Many are poor, minorities, live in cities, they are individuals most in need of Government services. Cities and States are going to have to take care of these 5 million individuals.

Mr. Speaker, it is important that we count for political representation. It is important that we count every American for the purposes of Government assistance, and it is important once again that we not make decisions in a political vacuum.

TAX BREAKS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, a couple of minutes ago the gentleman from Ohio suggested that high taxes are good for the economy, and that we ought to go back to the Carter era of taxing the economy in ways that produce more revenue for the Government.

The fact is that the gentleman from Ohio is wrong on his statistics.

During the 1980's all classes of Americans did in fact have rising income, including the poor. That differs from the Carter era. From 1977 through to 1980, the fact is the poor actually had their income dropped during that period of time as a result of Carter administration tax policies.

During the 1980's, the poor saw their income go up by almost 6 percent. It is true that that is not as much of a rise as took place in the other income categories, but the rising tide did in fact lift all boats. That is exactly the kind of economic growth that we need to get out of the present recession.

If we would go back to the kinds of policies that the Carter administration gave to us, we would in fact once again have inflation, recession, depression, and joblessness across the country. I do not think the American people want to go in that direction. What they want to do is have the kind of policies that will lower taxes and thereby increase growth.

NO AID FOR GORBACHEV

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, there is a meeting going on in London with the seven most powerful leaders of the free world. Joining them today, however, will be Mr. Gorbachev.

Mr. Gorbachev is not an elected leader of his country, unlike the seven leaders who he will be meeting. Mr. Gorbachev has his hands out.

Let me put Mr. Gorbachev and anyone else on notice, if anyone comes to this body and expects that we are going to take billions of dollars out of the pockets of the American people and transfer them to Gorbachev's Communist regime, they are going to get a big thumbs down. We should not be providing any aid to an unelected Communist regime in Moscow.

If the United States provides any aid for anyone, we should be aiding the democratic reformers in the republic, those people who have been elected, those people who are trying to reform their system from the bottom up. We cannot use American taxpayer dollars and put them right down the dark hole of communism. Instead, we should be helping those who are trying to promote democracy in what is now the Soviet Union.

CENSUS UNDERCOUNT

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, Secretary of Commerce Mosbacher's decision of yesterday not to statistically adjust the 1990 census to include the admitted 5 million people in America not counted in that census is disrespectful, it is disdainful, and it is unfair.

It is disrespectful to those 5 million people, including 80,000 people in Kentucky, 20,000 in Jefferson County, and 11,000 in the city of Louisville who were not counted.

It is disdainful because 7 out of the 9 members of his panel of experts, including the Director of the Census, Dr. Barbara Bryant, urged the Secretary to adjust the census for the undercount, but he failed to do that. That is certainly disdainful to reject that advice.

And it is unfair. It is unfair to the minorities—African Americans, for example, are undercounted by almost 5 percent, and to nonminorities as well.

I hope that the Commonwealth of Kentucky and other States adversely affected by the Secretary's decision will go to court and have that decision reversed. It is very unfair.

EMOTIONAL SMEARS AGAINST CLARENCE THOMAS

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the emotional smears against President Bush's Supreme Court nominee, Clarence Thomas, should offend all Americans. Vicious character assassination is the last refuge of a desperate leftwing minority.

The essence of their assault against Clarence Thomas is pure character assassination of the most vicious kind. The fewer facts they have, the more vicious and personal is their attack.

Clarence Thomas's hardworking rise to national prominence, despite poverty, despite segregation, and despite a wide range of problems deserves respect and dignity rather than this kind of vicious assault.

WORKPLACE FAIRNESS BILL

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, a decade of corporate greed in the 1980's produced a generation of corporate profiteers that found every means possible to make a buck. When they discovered a forgotten loophole that would allow them to permanently replace striking workers, they used it every chance they got.

Tomorrow, the House will vote on the workplace fairness bill—legislation to close the loophole and protect hardworking Americans when they take a stand for their families.

To the Frank Lorenzo's of the world, this legislation says that it isn't right to run up corporate profits by raiding the piggybanks of your union employees. And it isn't right to fire them when they use one of the only tools they have to protect what they have worked for—the right to strike.

This bill will not let union members run roughshod over the corporate boardroom. It simply restores their historic right to challenge management decisions that threaten their future.

Mr. Speaker, I urge the entire Congress to support H.R. 5.

WORKPLACE FAIRNESS ACT

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I rise to address the Workplace Fairness Act, H.R. 5, and to address two arguments that have been raised against it.

The first is that the act would upset the delicate balance that today exists between labor and management; and second, that the current system prevents employees from destroying businesses by making excessive demands, an argument put forth in today's New York Times by David Westphal.

Taking the latter first, nothing could be sillier. As Chairman BILL FORD wrote on March 5:

> Employees have no more interest in seeing their jobs destroyed by a business's failure than they do in losing their jobs to permanent replacements.

What about this whole question of balance, the balance that may have existed before Ronald Reagan fired the PATCO employees when the average weekly earnings were $274; or after replacement workers were hired in 1985 by TWA and Continental and the real wage fell to $271; or in 1987 when International Paper hired permanent replacement workers and the wage declined to $269; or in 1989 where the real wage stood at $264.

The true balance is to maintain the right of those who want to collective bargain to be on an equal footing with their managers.

NO AID FOR THE SOVIET UNION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, no aid for the Soviet Union. The United States and the Western world are under no obligation to assist the Soviet Union so long as Mr. Gorbachev clings to the Communist Party as his base of support.

The problem is very simple. There is no such thing as reformed communism. This week's edition of Newsweek Magazine makes the case very clear. They say, "After 5 years of talk, the Soviet economy remains a government-owned and -operated failure that cannot make good use of its own money, let alone that of foreigners." And let alone that of hard-earned American taxpayer dollars.

No aid to the Soviet Union.

□ 1220

H.R. 5 IS ALL ABOUT THE RIGHT TO STRIKE

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, H.R. 5, the Workplace Fairness Act, which will be on our calendar tomorrow, is not merely a technical adjustment. H.R. 5 is a clear reestablishment of the right to strike. Workers in America have assumed that they had the right to strike because the labor relations law prohibits the firing of workers on strike.

But there is a provision in the bill, a provision that was set forth by the Supreme Court, which says: You can be permamently replaced. Well, any fool can understand that to be replaced is the same as being fired. This is a cynical technicality. It was upheld by a Supreme Court decision. It meant that in his back pocket every management negotiator, every boss carried a machinegun around, "You can be permanently replaced."

That was a threat held over the workers' heads. It was not used until recently. But it has been used very effectively to wipe out unions, bust unions that represent thousands of employees. And it will be used again whenever it is possible for management to use it.

Lech Walesa, from Poland, came into this House. He was not the President of Poland at that time. He was the leader of the Solidarity Movement.

When he came, he was cheered. And the same Lech Walesa got the right to strike from a totalitarian Communist government. He put into that right-to-strike law a provision which said, "We cannot be permanently replaced." He understood that to be permanently replaced is to wipe out the right to strike.

H.R. 5, which will be on our calendar tomorrow, is all about the right to strike, and I urge every Member to vote for that law.

STRIKER REPLACEMENT BILL

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, when I studied labor law in the fifties, there was little consideration of how the National Labor Relations Act treated the replacement of workers exercising their right to strike. The purposes of the NLRA were to guarantee workers a democratic choice and to promote management-labor harmony. Permanent replacement of strikers was a rarity, so the dictum in the Supreme Court decision in McKay Radio about permanent replacement of workers by employers was a footnote in our discussions.

The same was true in the sixties when I practiced labor law, and then when I served in the Michigan State Senate, as we rewrote the State's counterpart to the NLRA.

Suddenly, in the 1980's, what was a footnote in judicial theory erupted into a major source of controversy. Permanent replacement of strikers was embraced by an increasing number of companies, encouraged by the example set by the Federal Government.

The result, rather than labor-management peace, has been warfare. Left on the battlefield have been broken lives and dreams of thousands of workers and, as it turned out, often broken companies.

H.R. 5 is an attempt to restore to the NLRA its historic purpose—the promotion of democracy, equity, and stability. For those who challenge H.R. 5, let them come up with a better idea. Clearly, the answer is not simply to allow the 1990's to witness a repeat of the 1980's.

I rise in support of H.R. 5.

NEW DEFICIT FIGURE SHOWS BUDGET SUMMIT FAILED

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, the administration yesterday revised the estimated deficit for fiscal year 1992 to $348 billion, or nearly $70 billion over the deficit estimated for next year by the budget summit agreement. Clearly, if the goal of last year's budget summit was to reduce the deficit, it has been a spectacular failure.

Some may blame the recession for the new deficit figures, but the proper blame belongs with out-of-control Federal spending, which last year's budget agreement did nothing to solve.

Congress was practicing nothing short of voodoo economics when it sought to reduce the deficit by increasing spending $1.83 for every $1 in new taxes. Those of us who opposed last year's budget fiasco were correct. New taxes only feed further Federal overspending and make our deficit even worse.

NEXT YEAR'S DEFICIT SHOULD REALLY BE $420 BILLION

(Mr. DORGAN of North Dakota asked and was given permission to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, today's newspaper tells us that the Bush administration has now raised its estimate of the next year's Federal deficit by nearly $70 billion to $348 billion, the largest in history by far.

But to get the deficit estimate down to $348 billion, they have to misuse $70 billion in Social Security trust funds. If you remove this year's Social Security surplus which you must because you cannot honestly count that, then you have a deficit this year of nearly $420 billion. That is a billion and a quarter dollars a day, 7 days a week, every day, all year; nearly half a trillion dollars in this year of Federal deficits.

Meanwhile, the President is in England visiting with other Western leaders about providing financial aid to the Soviets, a country that still spends approximately $300 billion on defense, asking a country anticipating nearly one-half trillion dollars in deficits to see if we cannot please help.

Mr. President, it is time to park Air Force One, stop traveling, come back and take care of things here at home. This fiscal policy is dangerous and reckless, and all of us need to join hands to decide how we put this country back on track now—not tomorrow.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

WE SHOULD DEBATE THE QUALIFICATIONS OF THE SUPREME COURT NOMINEE

(Mr. WASHINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WASHINGTON. Mr. Speaker, the Supreme Court of the United States is the most important of the three branches of Government, and the Founding Fathers saw to that.

Members of Congress may come and go, Presidents may come and go, but only the Supreme Court has positions for life.

It seems to me, then, as the gentleman from Georgia [Mr. GINGRICH] addressed, it should not be an emotional debate, it should be on logic, it should be on intellect, it should be on the merits.

For that reason, after the close of business tomorrow, I invite any Member of Congress who desires to do so to come to the well and join with me in the 1-hour time I have set aside for special orders so that we can talk about how this man thinks; that is what is important, not what color his skin is but how he thinks.

The Black Caucus opposed him, obviously not based on his color but upon his reasoning or lack of it and his intelligence. Let us discuss the 50 times he has testified before congressional committees; let us discuss the opinions he has written as a member of the Court of Appeals; let us discuss law review articles that he has written. And when you do and when the American people do, they will do as I have done, and that is to vigorously oppose him.

He would be a great justice in 1891, but no good in 1991.

BOAT MANUFACTURING INDUSTRY HURT BY EXCISE TAX

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, the American boat manufacturing industry is hurting. Sales are down significantly, and an estimated 19,000 skilled American workers will lose their jobs this year.

Why will these workers soon be collecting an unemployment check instead of a paycheck? Largely because of the 10-percent excise tax on boats.

Congress passed this destructive tax last year, even though no experts were consulted, nor were hearings held to gauge the effect of this tax. Now that we know that this tax is counterproductive, it is high time that we repealed it.

Mr. Speaker, this issue is not about tax fairness, or making the rich guy pay more taxes, or even supply side economics. It is about American jobs, pure and simple. People who can afford boats can wait out this destructive tax; the 19,000 productive American workers who will lose their jobs cannot. I urge my colleagues to repeal this onerous tax by joining the 131 cosponsors of my bill, H.R. 951, the Boating Industry Jobs Preservation Act of 1991.

THE LARGEST DEFICIT IN U.S. HISTORY

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, there is more bad news from the White House for American taxpayers. New reports indicate that next year's budget deficit will be $350 billion—by far and away the largest in U.S. history.

Over the last 10 years, our Government has negligently piled deficit upon deficit, saddling trillions of dollars of debt on the backs of our children. And what do we have to show for these deficits? Are our roads and rails in good shape? No, they are crumbling more and more every day. Are our children receiving the education they need to drive a 21st century economy? Hardly. Dropout rates and illiteracy are sky high. Are our citizens receiving the health care they need to be productive workers? Do not bet on it—36 million Americans have no insurance coverage at all. And are our industries maintaining their technological preeminence? Once again, no; the number of areas in which we are technologically superior has dropped by a third in the last 10 years.

The fact is, Mr. Speaker, that these deficits are a tribute to a decade of tax cuts for the rich and sugar daddy defense spending for our European and Asian allies. It is time for the White House to get serious about putting this country back on track. Not by preaching the false gospels of no new taxes and racial tension. But by forcing our allies to pay more for their own defense, and by requiring the wealthiest Americans to pay their fair share of taxes, and by investing in the infrastructure and the people of this great country.

GREEN LIGHT PROGRAM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, there is a light at the end of our energy troubles, and in Florida that light is burning very efficiently.

Once again the Sunshine State is taking a lead role in resource conservation by joining the Environmental Protection Agency's Green Lights Program, a public-private partnership that could save enough energy to power 50,000 homes a year.

Under this voluntary and market-based plan, the Florida government would convert 60 million square feet of facilities to energy-efficient lighting, saving Florida about $15 million each year.

It makes good sense for the environment and our pocketbooks. On top of reducing pollution equivalent to the emissions of 42 million cars, the Green Lights Program could save the United States $20 billion a year in energy costs.

Our former colleague, Claudine Schneider, championed the crusade by installing energy-efficient lighting in her congressional office and encouraging the rest of Congress to do the same. Now, I hope her spark extends to governments and businesses throughout the country so that in the future our energy needs are not left in the dark.

□ 1230

NOW IS THE TIME

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I rise today to express my full support for a legislative solution to the notch inequity that affects more than 190,000 retired Alabamians. For many notch babies, the disparity is unreasonable and unfair. It is very difficult to justify the differences between benefits of two classes of beneficiaries. If a person is born between 1917 and 1926, their Social Security check is lower than that of their older peers. For some seniors, this average loss of $600 per year can be enormously important. It may mean the difference between nutritious foods and medicine to ensure good health.

I believe that we need to address this issue in a fair and reasonable manner. More than 218 Members of the House have already agreed to sponsor one of the four bills designed to remedy the situation. Although I am a cosponsor of House Resolution 917, I would be supportive of any legislation that would increase benefits for those persons born after 1917.

I realize that any solution would be costly. For this reason, I am open to suggestions to draft solutions that would phase in increases for notch babies. I would not support any measure that would jeopardize the solvency of the Social Security trust fund. It may be necessary to forgo retroactive payments. However, I am certain that most senior citizens will appreciate our concerted efforts to make the formula more fair.

Mr. Speaker, the notch problem will not go away. We need to face the choices necessary to write a new bill to help our seniors. This problem has been in Congress for too long and now is the time to correct it.

INTRODUCTION OF RESOLUTION SUPPORTING DEMOCRATIC RESOLUTION OF POLITICAL DIFFERENCES IN YUGOSLAVIA

(Mr. SANGMEISTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANGMEISTER. Mr. Speaker, today, along with a number of my colleagues from both sides of the aisle, I have introduced a resolution opposing the use of force in Yugoslavia and supporting the peaceful and democratic resolution of political differences in that country. With the increased willingness by the Yugoslav Central Government to use military force against Slovenia and Croatia in the past few weeks, I believe this is a particularly timely resolution and deserves immediate consideration. The resolution urges the United States policy toward Yugoslavia to be based on support for democracy, peaceful resolution of disputes, respect for human rights, establishment of a market economy, and the peaceful pursuit of the national aspirations of the peoples of Yugoslavia.

Mr. Speaker, can the United States do any less for the people of Yugoslavia? These are people that have suffered under a Communist, authoritarian government, ruled from Belgrade, for over four decades and is currently dominated by the Yugoslav military.

Yugoslavia consists of nations that do not even want to remain in the Union such as Croatia and Slovenia. In 1990, these two nations held free, open, multiparty elections resulting in parliamentary governments. On June 25 of this year, the Democratic Republics of Croatia and Slovenia declared their independence. Since that day, the Yugoslav Government has deployed troops and tanks to Slovenia, Croatia, and Kosova which has led to conflicts resulting in numerous deaths and extensive property damage.

In 1989, the world witnessed the dramatic movement toward democracy and away from communism in Eastern Europe and the Soviet Union. The United States and Western Europe, rather than remaining silent, actively encouraged and promoted the ideals of freedom and democracy to the people of this region. Should the United States remain silent on the question of freedom and democracy in Yugoslavia? I say no. I say the United States should speak loudly and clearly so the Yugoslav Government unequivocally understands our position.

Mr. Speaker, some would argue that we should not say or do anything because this would upset the stability of the region. Where have these people been for the last 2 years? Real stability is constructed on the firm foundation of democracy and human rights. A person crushed under the rock of authoritarianism might be described as existing in a stable condition. Of course, this type of stability the world can do without.

I applaud President Bush and the European Community for recently invoking an arms embargo against the Yugoslav Government. I call upon the President and the State Department to continue to convey to the Yugoslav Government that their behavior is totally unacceptable.

Finally, I ask my colleagues to join me in the struggle for freedom and democracy in Yugoslavia by cosponsoring the resolution I have introduced today.

INTRODUCTION OF BILL DEMANDING REPARATIONS TO FAMILIES TO KAL 007 VICTIMS

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, as Mikhail Gorbachev flirts with the leaders of the Western democracies in London and waves his tin cup under our noses, we should keep in mind some unsettled scores that ought to be addressed before the Soviet Union is welcomed as a member of the family at our table.

Mr. Speaker, in 1983, 269 civilians aboard Korean Airlines flight 007 were killed in cold blood when a Soviet fighter pilot shot down this commercial plane over Sakhalin Island. Eight years later an unusual series of 17 articles appearing in the Soviet newspaper Izvestia has brought to light the truth about the shootdown. We now know that for these 8 years the Soviet Government has been lying.

Mr. Speaker, thanks to extensive research conducted by Izvestia we now learn that, despite their protestations to the contrary, the Soviet interceptors did not try to establish radio contact with the Korean Boeing, the civilian airliner was not flying without lights or flashes, and tracer rounds were not used to warn the pilot of KAL 007 before it was destroyed by air-to-air missiles.

Mr. Speaker, before asking the leading industrial democracies to lend support to his regime, Gorbachev and the Soviet Union should apologize to the families of the innocent victims aboard KAL 007. I will soon introduce a bill demanding that the Kremlin pay reparations to the families of the KAL 007 victims. I hope that each of my colleagues will join me in supporting this bill before we even consider subsidizing the Kremlin.

CHANGING THE RULES WHEN THE GAME IS OVER NOT FAIR, NOR LEGAL

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, several Members of the House this morning have taken the floor to decry the decision of the Secretary of Commerce to use the real census figures and not some arbitrary and unscientific count. Well, my colleagues, we all knew what the stakes were, and, after the taxpayers have spent some $2.5 million, we find out some States did not do an adequate job. We all knew that an accurate census would provide for our State additional Federal aid. We all knew that an accurate census would provide the number of Congress men and women who represent our States, and States like Wisconsin and many others, a very superior job. In fact, the State I represent, Wisconsin, added their own taxpayers' dollars to not only advertise, but to make sure the citizens knew how important the census was and to encourage them to respond to the surveys that census takers were taking.

Now, Mr. Speaker, those States who did a sloppy job want us to change the rules when the game is over. They want an extra inning now. They want another quarter. They want us to go into overtime. Mr. Speaker and Members, that is simply not fair, nor legal.

HOW NOW DO WE DEFINE "PROGRESS"?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in 1961, the Hanover Bank merged with Manufacturers Trust. It was called progress. Today Manufacturers Hanover has merged with Chemical Bank. It is being called progress.

Members of the House, how now do we define "progress"? It appears to me that banks are now robbing from Peter to pay Paul and calling it mergers and progress.

I have two questions for the House. No. 1, whatever happened to grand larceny; and, No. 2, what is next? Mutual of Frankfort? How about the First National Tokyo Bank of New York?

Mr. Speaker, I say, "Somebody try and explain that to the 8,000 workers from Manufacturers Hanover, unless you listen to the census, and they tell us it's only 1,500 workers."

Think about it.

MORE BAD NEWS FOR THE BUDGET

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, the President has sent us the mid-session review of the budget, and it is rather depressing reading. Despite last year's budget reduction effort, which included spending caps and revenue increases, our budget deficit continues to climb. OMB is now projecting a deficit of $282 billion for 1991 and $348 billion for 1992.

Now, Mr. Speaker, I remember speaking here on the House floor in 1985 in support of the Gramm-Rudman-Hollings Deficit Reduction Act. This bill was designed to give us a balanced budget by 1991. Well, here it is, 1991, and our deficit is greater today than it was when we passed Gramm-Rudman.

Now I am disappointed in the bad news which has been delivered on the deficit here today, but it is important, my colleagues, that we not give up, that we strengthen our resolve, and at least 218 Members of Congress are going to have to consistently make the hard decisions about which programs truly deserve funds. We can begin by passing the balanced budget amendment which will be on the floor in just a few weeks.

AVOIDING POLITICAL DOG FIGHTS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, why did Secretary of Commerce Mosbacher rule that there ought not be an adjustment to the census? Politics.

Why did the White House call up some members of the supposedly nonpartisan expert panel and urge them to come out against adjustments? Politics.

Why is it that a Republican administration does not want counted people in the inner cities, minorities, immigrants, and others who tend to vote Democratic? Politics.

My colleagues, whatever integrity the census had was ruined by Secretary Mosbacher's decision yesterday, and we need a change. For that reason today Senator MOYNIHAN and myself are introducing legislation that would set up a nonpartisan committee to reexamine the way we count and to determine the most accurate, fair, nonpartisan, and nonpolitical way of counting all the millions of people who are in America.

□ 1240

Mr. Speaker, we must avoid the same political dogfights that have plagued the census in 1990 when we do it again in the year 2000. The legislation that Senator MOYNIHAN and I have introduced will set a roadmark for whatever party occupies the White House in the year 2000 to set up a fair, nonpartisan, and nonpolitical census.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken at the end of legislative business today.

RURAL TELEPHONE COOPERATIVE ASSOCIATIONS ERISA AMENDMENTS ACT OF 1991

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2031) to amend title I of the Employee Retirement Income Security Act of 1974 to provide for equal treatment of telephone and electric cooperative welfare plans for the purposes of preemption, as amended.

The Clerk read as follows:

H.R. 2031

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Telephone Cooperative Associations ERISA Amendments Act of 1991".

SEC. 2. EQUAL TREATMENT OF TELEPHONE AND ELECTRIC COOPERATIVE WELFARE PLANS FOR PURPOSES OF PREEMPTION.

Section 3(40) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)) is amended—

(1) in subparagraph (A)(i), by striking "or" at the end;

(2) in subparagraph (A)(ii), by striking "cooperative." and inserting "cooperative, or";

(3) by adding at the end of subparagraph (A) the following new clause:

"(iii) by a rural telephone cooperative association.";

(4) in subparagraph (B)(iii), by striking "and" at the end;

(5) in subparagraph (B)(iv)(II), by striking "subclause (I)." and inserting "subclause (I), and"; and

(6) by adding at the end of subparagraph (B) the following new clause:

"(v) the term 'rural telephone cooperative association' means an organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1986 which is exempt from tax under section 501(a) of such Code and at least 80 percent of the members of which are organizations engaged primarily in providing telephone service to rural areas of the United States on a mutual, cooperative, or other basis.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2031, the Rural Telephone Cooperative Associations ERISA Amendments Act of 1991, is a simple bipartisan bill to clarify the status of health plans sponsored by rural telephone cooperatives under the Employee Retirement Income Security Act of 1974 [ERISA]. By passing this bill we will be treating health plans sponsored by rural telephone cooperatives the same way we treat health plans sponsored by rural electric cooperatives.

On June 20, 1991, the Subcommittee on Labor-Management Relations, which I chair, approved the bill by unanimous voice vote. On June 25, 1991, the Education and Labor Committee approved the bill, also by unanimous voice vote.

The House has previously approved this amendment to ERISA in H.R. 3299, the 1989 budget reconciliation proposal. In addition, the Committee on Education and Labor approved it as part of a broader bipartisan ERISA bill, H.R. 4845, in 1988.

This year, I introduced the provision as a separate bill so that it could be moved quickly and independently. I want to thank the ranking member of the subcommittee, Mrs. ROUKEMA, and the ranking member of the full committee, Mr. GOODLING, for their cooperation and support in bringing H.R. 2031 to the floor.

Access to affordable health care is a major problem today for far too many Americans. Rural telephone cooperatives have provided a necessary source of health insurance coverage for many employees of small employers in my home State of Montana and throughout the country. By clarifying that these plans are subject to ERISA, and not to State laws, H.R. 2031 will assure that the long history of efficient health care delivery by rural telephone cooperative associations will continue without disruption. I urge your support.

Mr. Speaker, I reserve the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with my colleague, Mr. WILLIAMS, in urging passage of H.R. 2031 under suspension of the rules. The bill was reported without objection and is revenue neutral.

In technical terms, the bill removes the employee welfare benefit plans of the rural telephone cooperatives from the definition of multiple employer welfare arrangement [or MEWA] under ERISA [the Employee Retirement Income Security Act of 1974]. These so-called MEWA's are arrangements to which more than one employer contributes in order to provide either insured or self-insured health or other welfare plan benefits. Simply, the legislation will exempt the rural telephone health and welfare plans from State regulation. Although straightforward in effect, the bill involves an important element of the ERISA framework. This feature, the preemption of State law under ERISA section 514 is one which has become the basis for a series of cases in the Federal courts spanning a number of issues.

As particular problems involving preemption have arisen in the past, the Congress has sought to resolve the conflicts between State and Federal law by means of clarifying legislation. For example, when irresolvable conflicts between ERISA preemption and State domestic relations law caused inequities for individuals and great burdens for ERISA plans, the Congress remedied the situation under the Retirement Equity Act of 1984 by creating the qualified domestic relations order concept.

In another instance, an amendment to ERISA preemption in 1983 sponsored by our former colleagues, Representatives John Erlenborn and Philip Burton, sought to remedy a growing problem involving multiple employer health trusts, then known as "MET"s." The provisions of H.R. 2031 revisit the 1983 amendment by restoring Federal preemption for the rural telephone health and welfare plans. I have joined my colleague, Representative Thomas E. Petri, in sponsoring legislation which addresses the broader issues regarding the adequate regulation and funding of other multiple employer health plans.

My colleagues are aware that this issue and other problems involving ERISA preemption are deserving of further study, and I look forward to the examination by our committee of the complex questions involved.

Mr. Speaker, the administration has no objection to this bill. I have no objection to the motion and move its adoption.

Mr. PETRI. Mr. Speaker, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to my colleague, the gentleman from Wisconsin.

Mr. PETRI. Mr. Speaker, I would like to take this opportunity to commend my colleague, Mr. Williams, for taking up this important issue affecting the welfare of the employees of the rural telephone cooperatives.

Although H.R. 2031 is noncontroversial, I must point out that the problem H.R. 2031 addresses, in fact, extends beyond just the multiple employer health and welfare plans maintained by the rural telephone cooperatives. There are problems relating to the solvency of multiple employer health and welfare arrangements—known as MEWA's—which have collapsed, leaving behind unpaid medical claims. On the other hand, there are solvent and well-run multiple employer health plans of longstanding duration, such as the rural telephone cooperative plans, whose very existence is threatened by the state of the current law. On June 26, 1991, I introduced legislation, H.R. 2773, the Multiple Employer Health Benefits Protection Act of 1991, to establish solvency standards for such arrangements providing necessary health benefits.

I express my appreciation to my colleague that this dual problem is recognized and take note of the statement in the report on H.R. 2031 that approval of this bill is only the first step in a broader reexamination by the committee of MEWA-related issues. I look forward to working closely with all my colleagues in furthering appropriate legislation to address these problems in a timely fashion during the 102d Congress.

Mrs. ROUKEMA. Mr. Speaker, I yield such time as he may consume to my distinguished colleague, the gentleman from Pennsylvania [Mr. Goodling], the ranking member of the full committee.

Mr. GOODLING. Mr. Speaker, I support the motion that has been made to expedite passage of H.R. 2031 under suspension of the rules. This legislation does not appear to be controversial, and no objections were raised during our committee markup on June 25, 1991. The Congressional Budget Office has determined that the provisions of the bill will have no effect on the Federal budget. Also, the Education and Labor Committee included the identical measure in its reconciliation instructions in 1989.

I should point out that the effect of this amendment will be to exempt the rural telephone plans from State regulation. Since the enactment of the Erlenborn/Burton ERISA preemption amendments in 1983, the States have had clear, although limited, authority to regulate these so-called MEWA's—multiple employer welfare arrangements. However, I am told that it has only been in the last several years that some States have accelerated their enforcement activity in this area. The complaint that we hear now is that the States, in their newly inspired enthusiasm to regulate MEWA's as insurance companies, may be threatening the very existence of multiple employer health and other plans like those maintained by the rural telephone cooperative and other associations. This is an issue Congress will have to address as well.

The restoration of ERISA preemption for the rural telephone cooperatives does not set new precedent, since the multiple employer plans of the National Rural Electric Cooperative Association already benefit from the same exception. Therefore, I support passage of H.R. 2031.

□ 1250

Mrs. ROUKEMA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNulty). The question is on the motion offered by the gentleman from Montana [Mr. Williams] that the House suspend the rules and pass the bill, H.R. 2031, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2031, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

AMERICAN TECHNOLOGY PREEMINENCE ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 192, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1989.

The Chair designates the gentleman from Georgia [Mr. Ray] as Chairman of the Committee of the Whole, and requests the gentleman from Montana [Mr. Williams] to assume the chair temporarily.

□ 1253

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1989) to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes, with Mr. Williams (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. Valentine] will be recognized for 30 minutes, and the gentleman from Florida [Mr. Lewis] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Valentine].

Mr. VALENTINE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1989, the American Technology Preeminence Act of 1991. This bill represents the end product of over 2 years of hard work by the Committee on Science, Space, and Technology. Much of the work was done in the last Congress, when an earlier version of this bill passed the House of Representatives.

At this time I would like to acknowledge the leadership of Chairman BROWN in bringing this legislation to the House floor and I would also like to acknowledge the efforts of our ranking Republican members, Mr. WALKER of Pennsylvania, at the full committee level, and Mr. LEWIS of Florida, at the subcommittee level.

I would also like to thank Mr. DINGELL of Michigan for his cooperation in moving this legislation forward. At the proper time I intend to offer en bloc amendments to the bill to address the jurisdictional concerns of the House Committee on Energy and Commerce and policy concerns expressed by the Office of Science and Technology Policy and the Department of Commerce.

The recent council on competitiveness report, "Gaining New Ground: Technology Priorities for America's Future," reflects the strong conviction of leading American private-sector executives—

> That unless the Nation acts immediately to promote its position in critical generic technologies, U.S. technological competitiveness will erode further, with disastrous consequences for American jobs, economic growth and national security.

Mr. Chairman, the American Technology Preeminence Act addresses just those issues, and I believe this legislation can have a significant positive impact on the future of the American economy. Let me describe some of the provisions contained in this important legislation:

First, it provides increased funding for the key competitiveness programs of the Department of Commerce, including the Advanced Technology Program, which was created to help American companies meet the challenge of foreign technology initiatives. In this program, the emphasis is on the development of generic technologies which will lead to American-made commercial technologies. If adequately funded, I believe the Advanced Technology Program could have a substantial positive impact on the competitiveness of U.S.-based manufacturers.

Second, the bill sets up a bipartisan national commission on reducing capital costs for emerging technology. This will bring together some of our Nation's best minds to grapple with the problem that U.S. industry must pay more for its capital than its foreign competition does.

Third, it creates a commission within the President's Office of Science and Technology Policy to examine ways to advance U.S.-based high technology through changes in Government procurement requirements and activities. If only a fraction of the billions we spend annually on Federal procurement can be used for purchases of new innovative American high technology products and services, our economy could benefit immensely.

Fourth, it establishes a high resolution information systems board to bring together industry and Government leaders to foster and monitor the development of a U.S. high resolution information systems industry. This family of technology may prove to be the most important technology worldwide in the next century. If we are to gain our fair share of this market, we must act now.

Fifth, it provides needed additional resources for the National Institute of Standards and Technology [NIST], our Nation's premier measurement laboratory, which enjoys the unique status of being the only Federal laboratory with an explicit mission to promote industrial competitiveness.

Other provisions of the bill include the extension of the National Advisory Committee on Semiconductors; amendments to the Stevenson-Wydler act to encourage the transfer of technology from our national laboratories to the private sector; and the authorization of studies to address technology policy issues.

Mr. Chairman, the American Technology Preeminence Act is a step in the right direction—it helps to lay the foundation for a much-needed partnership between industry and Government. It deserves your strong support.

I include a letter from the gentleman from Michigan [Mr. CONYERS] concerning the Buy America provisions.

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, July 11, 1991.

Hon. JOHN CONYERS, Jr.,
Chairman, Committee on Government Operations, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter dated July 10, 1991, expressing concerns about the "Buy America" provisions in H.R. 1989, the American Technology Preeminence Act of 1991, and H.R. 2282, the National Science Foundation Authorization Act Amendments of 1991. In particular, your letter raises a number of points concerning the possible conflict of these provisions with existing "Buy America" laws and international trade agreements.

In adopting these provisions, the Committee did not intend to contravene current law. I therefore appreciate that you have brought these specific problems to the attention of the Committee. I share your concerns and will work to conform these provisions to existing law as the bill moves forward. Given your Committee's expertise and jurisdiction in this area, I will work closely with you to take care of the concerns you have raised. Since H.R. 1989 and H.R. 2282 are scheduled to be on the House Floor today, however, such changes would need to take place in a conference with the Senate.

I hope that this is a satisfactory resolution of these issues at this point, and I look forward to working with you to resolve the issues you have raised.

Sincerely,

GEORGE E. BROWN, Jr.,
Chairman.

COMMITTEE ON GOVERNMENT
OPERATIONS,
Washington, DC, July 10, 1991.

Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my opposition to section 111, the Buy American provisions, of H.R. 1989. These Buy American provisions in H.R. 1989 will undermine current Buy American laws and the conditions and circumstances for their application. I also request that the Committee on Science and Technology refrain from including any Buy American provisions in H.R. 2282 for the same reasons.

The Committee on Government Operations has jurisdiction over legislation on reciprocal trade agreements involving procurement from foreign countries by U.S. government agencies, and the application of Buy American restrictions under these agreements. Existing laws set forth the level of U.S. restrictions on procurement from foreign sources and the conditions and circumstances for their application. The proposed Buy American provisions in H.R. 1989 would establish new criteria and sanctions that may supersede existing laws and could have a major impact on reciprocal trade agreement obligations.

Subsection (a) of section 111 requires restrictions on contract awards to any foreign firm whose government practices procurement discrimination against U.S. goods and services. This provision undercuts Procurement Code enforcement by failing to differentiate between signatory and non-signatory countries as required by the GATT. Section 111 is also a piecemeal attempt at Buy American enforcement because it creates separate sets of criteria and sanctions for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce.

Section 111(a) takes away important negotiating authority that the President has under current Buy American law to compel foreign governments to open their markets. Under section 305(e) of the Trade Agreements Act of 1979, as amended, and Article VII:4 of the Government Procurement Code, once a country is identified as discriminatory, consultations are initiated between our government and the offending government to resolve the dispute before the consideration of sanctions. Our Committee supports this consultation requirement. Implementing sanctions without first entering into negotiations could trigger retaliatory steps by our trading partners which would cost opportunities both for U.S. firms and U.S. jobs.

In addition, current Buy American law gives the President a range of sanctions that can be carefully calibrated to best compel foreign countries to open up their procurement markets to U.S. firms. Section 111 (a) is inflexible because it contains only one sanction, that no contracts be awarded for the procurement of items produced or manufactured in a foreign country whose government discriminates against U.S. firms. This sanction could also trigger retaliatory actions which are in fact harmful to U.S. businesses.

Subsection (b) of section 111 prohibits any person from receiving a contract or subcontract from the National Science Foundation who has fraudulently affixed a "Made in America" label to any product sold or shipped to the United States. This provision is unnecessary since currently if anyone commits an act of fraud, including false statement to the government, they can be suspended and debarred under the Federal Acquistion Regulation. However, by mandating ineligibility, thus eliminating any discretion on the part of the National Science Foundation to apply suspension and debarment procedures, this new provision may raise serious questions of Constitutional due process.

Subsection (c) of section 111 can undermine U.S. suppliers all of whom generally receive favorable consideration over foreign contractors under current Buy American law. Current Buy American law gives a preference to domestic goods. Domestic goods are defined as those goods that derive at least 50 percent of their value from articles, materials, or supplies mined, grown, produced or manufactured in the United States. A manufactured product is considered domestic if the final two manufacturing steps have taken place in the United States.

Subsection (c) changes current law by providing preferences based on the nationality of the *firm*, rather than the *country of origin* of the product. This turns the Buy American Act on its head. Under Section 111 (c) a U.S. firm which manufactures and assembles an entire product overseas with foreign technology and jobs would actually get favorable consideration. On the other hand a foreign firm which manufactures and assembles the entire product here in the U.S., which employs U.S. workers and U.S. technology, would not get that consideration.

Finally, this provision undermines the protection provided by the Buy American Act to small businesses and depressed labor areas which currently receive a 12 percent price differential in non-defense procurement. The new provision shrinks that differential to 6 percent.

In closing, let me again stress my concern on this matter. This is a complex area of law. The proposed section, while well intentioned, is not in keeping with the goals we all share.

Thank you for your consideration of this request.

Sincerely,

JOHN CONYERS, Jr.,
Chairman.

☐ 1300

Mr. Chairman, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us, H.R. 1989, the American Technology Preeminence Act, will assist the United States in its drive to become more competitive in the world marketplace.

This bill is very similar to legislation that passed the House late last year. Unfortunately, the other body did not act on the legislation before the session ended.

H.R. 1989 funds the Department of Commerce's Technology Administration and the National Institute of Standards and Technology, including the Advanced Technology Program. The bill had bipartisan support in both subcommittee and full committee.

Funding levels in the bill are $289.7 million for fiscal year 1992 and $347.5 million for fiscal year 1993.

This is less than 2 percent, or $35 million, above the President's request. This is relatively consistent with the administration's goal of doubling the NIST budget within 5 years.

The increases over the President's request are almost entirely in the Advance Technology Program. The ATP was created by legislation in 1988 to assist private enterprise in developing and marketing new technologies.

This is an area in which it is extremely important for our Nation to stress if we are to truly be competitive. Other countries, most notably Japan, have programs of this nature.

Since I believe that we should create a uniquely American system, not one that mirrors Japan's, I am pleased that the ATP Program provides generic support without picking winners and losers.

The April 1991 Office of Science and Technology Policy report entitled "National Critical Technologies" concluded that the key to future U.S. competitiveness involves a fundamental change in the way U.S. industry competes in the marketplace.

H.R. 1989 also contains funding for other long neglected programs to enhance U.S. manufacturing technology, determine scientifically effective ways of preventing fires in airplanes, and continue the Malcolm Baldrige Quality Award Program.

To conclude, H.R. 1989 could not have reached the floor without the leadership and support of committee Chairman BROWN and ranking member WALKER. I also want to congratulate the subcommittee Chairman Mr. VALENTINE for his hard work and guidance on this legislation.

I also want to commend the work of committee staff including Jim Turner and Mike Rodemeyer for the majority and Chris Wydler and Dr. Jim Greene of the minority. I especially want to thank Gloria Dunderman for her excellent work on this and other subcommittee projects.

Mr. Chairman, this legislation is a good first step in correcting many of our Nation's competitiveness ills; so I urge my colleagues to support H.R. 1989, the American Technology Preeminence Act.

Mr. Chairman, I reserve the balance of my time.

Mr. VALENTINE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN], the distinguished chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. Mr. Chairman, I rise today in support of H.R. 1989, the American Technology Preeminence Act of 1991.

This bill, which authorizes appropriations for the Department of Commerce's technology programs, is designed to help American companies meet the challenge of competing in a global market, and represents a major competitiveness initiative.

I want to congratulate Mr. VALENTINE of North Carolina, the chairman of the Technology and Competitiveness Subcommittee for his leadership in bringing this important legislation to the floor. I also want to thank our ranking Republican members, Mr. WALKER of Pennsylvania at the full committee level and Mr. LEWIS of Florida at the subcommittee level for their efforts in drafting this legislation. Chairman DINGELL of the House Energy and Commerce Committee is also to be commended for his cooperation in moving this legislation forward in accordance with an agreement reached to address jurisdictional concerns expressed by the Energy and Commerce Committee.

I think we are all aware that the United States has suffered a steady decline in the leadership it once enjoyed as a superior technological and industrial power in the world. While this Nation still leads the world in science, we have learned that the fruits of our scientific preeminence do not automatically translate into the new products and new industrial processes that keep us a modern, prosperous nation.

The American Technological Preeminence Act is a broad-based piece of legislation aimed at redirecting Federal high-tech efforts toward industrial and commercial needs. The bill has three major purposes: First, to make legislative changes which advance American competitiveness; second, to pave the way for changes in areas such as cost of capital and government high technology procurement; and third, to strengthen the Technology Administration of the Department of Commerce to provide for more effective Government participation in the solution to maintaining U.S. preeminence in technology.

The committee is convinced that a comprehensive national technology policy, with primary responsibility in the private sector for commercial development, is urgently needed. We must ensure an economic environment which can support the costly process of bringing promising new technologies to the marketplace. The solutions to American competitiveness extend far beyond appropriate funding levels for government research and development.

This bill is an important step in the right direction. It provides increased funding for key competitiveness programs in the Department of Commerce, including the Advanced Technology Program which would aid joint ventures of American-based manufacturers who wish to join together for research of mutual interest. Similar programs have contributed to Japanese manufacturing success and receive billions of dollars in Europe. Industry response to this program has been overwhelming—of over 250 proposals received from American companies in fiscal year 1990, only 10 could be funded. Each unfunded research proposal represents a lost opportunity for strengthening U.S. commercial technology competitiveness.

Mr. Chairman, the Scientific and Technological Programs authorized in the American Technology Preeminence Act are essential to this country's economic progress. I urge my colleagues to support this important legislation.

Mr. LEWIS of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER], the ranking Republican.

Mr. WALKER. Mr. Chairman, as one of those who originally helped draft this legislation, I am glad the House is again moving this emerging-technology commercialization legislation.

In fact, it is kind of interesting to note that the bill is H.R. 1989. This bill was originally drafted back in 1989, and it has had a rather difficult gestation period since, and this will be the third year in a row that we will be seeking seemingly elusive agreement.

This bill, with one notable exception, is virtually identical to a bipartisan agreement reached at the very end of the 101st Congress. Consistent with that House and Senate agreement, this bill sets the authorization for the advanced-technology program at $90 million with a grant payback required.

This will responsibly expand the newly initiated effort to rescue the marginal cost of capital for developing new technologies by leveraging the majority funding of even more competitively selected, industry-led joint ventures.

H.R. 1989 also authorizes the National Institute of Standards and Technologies Core Research Program to fully support the President's competitive initiatives in such areas as superconductivity, advanced materials, chemical quality control, and fiber optics.

The gentlewoman from Maryland [Mrs. MORELLA] will officially establish the importance of these intramural lab activities with a committee amendment emphasizing their funding priority.

Perhaps most importantly a blue-ribbon national capital cost commission chaired by the Vice President with three members appointed by the President and the House and the Senate is established to make legislative and tax recommendations to Congress within 1 year to address what witness after witness told our committee is the root cause of slipping American competitiveness.

In the spirit and with the encouragement of various Members during the consideration by the Committee on Rules, I will be seeking congressional endorsement of a blueprint for a comprehensive national policy for the commercialization of emerging technologies.

□ 1310

If Members are truly concerned about U.S. industrial competitiveness, they should go on record in support of this procompetitiveness policy. It addresses the fundamental barriers and burdens to American firms' success in competing in a world market; namely, cost of capital; and legal and regulatory uncertainty.

Today, this House has a real opportunity to reestablish the program priorities for technology R&D, but we must move it through both Houses quickly. The one way we will accomplish that is with consensus, based on our original agreement and with the administration's support. The addition of a new loan program, whereby taxpayer resources would be used to subsidize individual companies' commercialization of specific products, threatens to break the unified front we have finally achieved. This provision, added at full committee at the last minute on an extremely controversial 15-to-13 vote, without benefit of any hearings or previous discussion, would cause President Bush to veto this bill.

I want to quote from the administration's position as reported to the minority side earlier today. The President says:

> In particular, the administration strongly objects to the technology commercialization loan program which would inappropriately channel Government funds away from R&D technology goals, to underwrite a particular product development project.

In other words, what we will do with that $10 million provision in this bill is assure that the technology program will get vetoed when it reaches the White House, something I think that all members who want to move this kind of legislation forward, want to avoid.

I hope we will not do something that will give Members that kind of a problem. Instead, in an effort to save the bill, I will offer an amendment to simply strike the offending language, and call on all Members who truly want this legislation, to support what I hope would be a constructive effort.

Mr. BROWN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. BROWN. Mr. Chairman, I appreciate the gentleman yielding. I take this time in order to acknowledge the factuality of what the gentleman has just stated, and to thank him for the contribution he has made for bringing the legislation up to the present point.

As the gentleman said, we have worked on this for the past 2 or 3 years. We have overcome a number of problems for bipartisan cooperation on the matter. I think we are at the verge where the legislation can go forward, with bipartisan support, I hope, and be signed by the President.

The reference the gentleman makes to the loan program is a section which was added in the full committee, offered by our colleague and our friend, the gentleman from California [Mr. MINETA], and was actually an effort to save money in the sense that it took $10 million from the grant program which was authorized in the bill at $100 million, and converted that into a loan program, which means that instead of not having any recovery to the Government, there is a possibility that a good portion of that $10 million would be repaid, and that it would, in effect, stretch the potential for this $100 million that is included in the bill.

Now, I recognize the point that the gentleman makes that this is a finely balanced piece of legislation, and that in effect, this constitutes a new program. That, in a sense, it may cross a boundary which would make it unacceptable to the administration. I would hope that that is not the case. But as I have told the gentleman, I do not propose to sacrifice the bill over an issue of that sort.

I would just like to postpone the decision on whether we have to do that until some later point in which we may be able to persuade the administration that this is truly a meritorious addition.

We have discussed this, and I am sure the gentleman understands my position as I understand his position. The main purpose of my remarks is not to emphasize the differences, but the high degree of agreement which we have been able to reach in connection with this legislation, and my fervent hope this will not be disturbed by the minor differences that do exist.

Mr. WALKER. Mr. Chairman, reclaiming my time, the gentleman is accurate in what he says about the large degree of agreement which is within this particular bill, and it is this one provision which is troublesome.

I must tell the gentleman that it is not going to be a minor matter at any point. The administration has told me in no uncertain terms that this will bring about a veto. In fact, they used some of the strongest terms I have ever heard used talking about a bill coming out of our subcommittee, to describe this language as unacceptable. And in fact, have been in touch with the minority leader and numerous other people on our side, telling them that this bill is totally unacceptable with that language in it.

Therefore, I think that the administration is firmly committed to the idea that if we retain this language it will be an unacceptable bill. This is what I would hope to try to correct.

I would simply say to the gentleman that the one point I would disagree with him a little bit on, is on the question of whether or not this is a cost-saving measure. I understand that the gentleman from California viewed it that way, that he was moving money out of a grant program into a loan program. However, that ignores the fact that the grant program envisioned in this bill also had payback provisions on it. We would hope that we are going to get some fairly significant commercialized technology coming out of this, which will allow a grant pay back. Therefore, that the amount of cost savings, if any, may be at best, questionable.

I think that the real issue here is whether or not we want to go from research on generic technologies, to specific loans for specific projects. It is that question that the administration is really concerned about, and has indicated that they would not find acceptable in any form.

Mr. BROWN. If the gentleman will continue to yield, I am willing to be corrected with regard to the cost-saving element. I do not think it is absolutely clear as to what the economics of a loan versus a grant program might be, and I do not want to belabor the point.

I accept in good faith the gentleman's statement about the attitude of the administration. I have seen their letter. It is a rather strong expression, and certainly the gentleman's communications with the administration are far better than mine. Therefore, I have every reason to assume he is correct in reflecting their point of view.

Mr. VALENTINE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. THORNTON], a member of our subcommittee and the full committee.

Mr. THORNTON. Mr. Chairman, first let me congratulate the chairman of our committee Mr. BROWN and the chairman of the subcommittee Mr. VALENTINE, as well as the ranking minority members for their efforts in bringing this legislation forward. It is timely and it is important.

I rise in strong support of the legislation. The Technology Administration serves as a focal point for U.S. science and technology policy, and could function as a catalyst and facilitator to improve American industry's international competitiveness.

The Under Secretary of Commerce and Technology, who heads the Technology Administration, is in the best position to facilitate the application and commercialization of innovative technologies. In addition, the Assistant Secretary for Technology Policy should be given strong institutional support in her efforts to emphasize technology transfer and to promote strategic partnerships and manufacturing consortia.

The United States has been losing its competitive edge in several areas of high technology, and our technological infrastructure has slipped badly in several important fields. I have called for a Marshall plan for America to develop strategies for ourselves as appropriate for our needs, as those we employed with such success in rebuilding Europe after World War II. Encouraging and facilitating manufacturing within our own borders, rather than exporting technology abroad, should be part of such a strategy.

We in Congress are making some progress in recognizing the complexity of the issues that are involved in developing and implementing a coordinated comprehensive and strategic process to allow the United States to regain our technology dominance.

□ 1320

However, such an initiative is also going to depend on the support of the administration, the States, and the private sector, as well as congressional effort to meet the challenges and opportunities we now face.

We need an administrative forum for discussing, articulating, and developing those appropriate policies to promote long-term international competitiveness, and this bill encourages the Technology Administration to serve as that focal point and to act as a facilitator to improve American industry's international competitiveness.

Mr. Chairman, again I congratulate the chairman of the committee and the chairman of the subcommittee for bringing this fine legislation forward, and ask my colleagues to join in supporting its passage.

Mr. LEWIS of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT], a member of the committee.

Mr. BOEHLERT. Mr. Chairman, as the colloquy earlier between the chairman of the full committee and the ranking minority member indicated, much of the debate on this bill today will revolve around one particular provision—a new loan program—a provision that, reluctantly I must oppose. But before we get caught up in that issue I want to point to the many strong points of this bill, which reflects 3 years of arduous negotiation.

The bill recognizes the continuing importance—indeed the increasing importance—of the National Institute of Standards and Technology, the only Federal laboratory dedicated to improving the competitiveness of American industry. The bill gives attention to both the laboratory's internal programs, which continue to be the heart of its work, and to the new external programs, which could do so much to promote technology transfer and industrial innovation.

My pet program, of course, is the Boehlert-Rockefeller Technology Extension Program, which needs to be expanded if we are to bring our smaller manufacturers into the 21st century. I'm pleased that the package of technology bills recently introduced in the other body recognizes the capacity of technology extension to reach a wide range of companies and to tailor advice to their particular needs.

We should not let one controversial provision of this bill obscure the importance of the overall enterprise it is supporting. NIST is a vital part of the Nation's competitiveness strategy.

Mr. MARKEY. Mr. Chairman, I rise in support of H.R. 1989, the American Technology Preeminence Act, and in particular the Technology Commercialization Loan Program included in the bill.

Mr. Chairman, since the moment Alexander Graham Bell uttered the words "Watson, come here," the United States has been the world leader in cutting edge technologies.

For more than 100 years we have dominated the telecommunications industry Bell launched with his first phone call. For more than half a century, we have dominated the consumer electronics industry. Americans invented the television, the VCR, and the computer. And, not surprisingly, our standards of living rose dramatically during this period of unprecedented innovation.

Now we face a very different future. Foreign competition has pushed U.S. companies out of the consumer electronics market. Our once proud lead in telecommunications is threatened by Japan, Germany, and others. And, as a nation, we seem unable to keep up with the dizzying pace of technological change in the computer industry.

As a result, our budget deficit continues to grow, our trade deficit persists, our financial system teeters on the edge of disaster, and many Americans face a declining standard of living.

As a nation, we face an enormous challenge in meeting the growing international competition. One of our unique strengths in meeting that challenge is our entrepreneurial spirit; our ability to spawn new ideas, new products, and new companies that keep us on the cutting edge of technology.

Recent studies have estimated that small business people create 80 percent of the new jobs in this country and, according to a National Science Foundation report, small companies are 6 times more likely than large companies to create new products.

But small companies, particularly technology companies, face a growing capital shortage. The troubled banking system has created a capital crunch across the country and particularly in the Northeast, one of the Nation's most important technology breeding grounds.

Venture capital, once a key source of start-up funds, fell from $4.2 billion before the stock market crash of 1987 to $2.6 billion in 1989 and have never fully recovered. Venture-backed IPO's drooped 66 percent in 1988 and have continued to lag behind pre-crash levels.

American companies that do find financing face capital costs 4 times those of Japanese companies and almost twice what German companies pay.

The loan program included in this bill will allow National Institute for Standards and

Technology to use $10 million of its appropriation to cover potential losses that the program might incur. This is a small price to pay for the hundreds of millions of dollars of investment that could be unleashed into the private sector.

I congratulate Mr. MINETA for offering the amendment in committee that established this loan program and I urge my colleagues to support it. This program will not, in of itself, cure our technology problems or our cost of capital problems. But it will help jump-start our technology industries and will give hundreds of promising young technology companies that capital they need to survive and prosper.

Mr. MINETA. Mr. Chairman, I rise today in support of H.R. 1989, the American Technology Preeminence Act of 1991. I congratulate my colleagues, Chairman BROWN and Chairman VALENTINE, and Mr. WALKER and Mr. LEWIS on the minority side for their hard work on this important legislation.

Mr. Chairman, our world is changing from one of military confrontation to one of increasing economic competition.

If the United States is to meet that challenge and get a jump on the 21st century, we can't be complacent.

We must make technological leadership a national priority in the 1990's.

The American Technology Preeminence Act will help us to achieve this goal.

Today, the average lifetime of high-technology products is only 18 months.

Tomorrow that lifespan may be shorter still.

That is why we must put an end to the public policy mentality that equates computer chips with potato chips.

Our national priorities demand common sense at the very least.

There are some in Congress who oppose any legislation that approaches industrial policy.

Unfortunately, these Members fail to realize that Government does not have to pick winners and losers to help our high technology businesses, nor should Washington pick winners and losers. But, the Federal Government does have a responsibility to create an atmosphere that will allow our businesses to remain competitive.

The American Technology Preeminence Act must be part of that atmosphere.

The American Technology Preeminence Act will support American industrial competition throughout the world. The act makes it clear that in the 1990's there are certain strategic technologies that are vital to the economic success of every American industry.

Enhanced support for the Advanced Technology Program will provide the help needed by small- and medium-sized companies vital to the infrastructure of the U.S. electronics industry.

Mr. Chairman, small companies are our laboratories for the new technologies our Nation will need in the future.

But today, these same small companies face the greatest barriers in terms of the resource access needed to bring their ideas to the marketplace and then to commercialize their innovations.

Mr. Chairman, The United States must think more strategically about how our businesses will remain competitive into the next century. We do this by encouraging the growth of small strategic businesses.

For every $1 million spent on research and development, small firms produce 6 times more new products than larger companies.

Mr. Chairman, one section of the bill in particular is critical in this regard. It will address the problem of a lack of patient, low cost capital available to U.S. high technology companies. This section, the Technology Commercialization Loan Program, will help these companies overcome tremendous barriers they face currently.

The Technology Commercialization Loan Program will authorize the Secretary of Commerce, through NIST, to provide loans to U.S. companies to promote the development and commercialization of advanced technologies.

The Technology Commercialization Loan Program will be similar to loan programs in other agencies, and will help support U.S. businesses in the increasingly competitive world market.

Mr. Chairman, funding levels included in the act for NIST's technology programs are modest in comparison to government investment in strategic technologies by our competitors. And yet, the funding levels are essential to reassure private industry that the Federal Government recognizes and supports these industries.

In short, Mr. Chairman, the American Technology Preeminence Act includes many basic initiatives of a comprehensive technology policy that will help American firms compete.

America's competitiveness and economic strength will depend on the ability of our government to create the conditions that will ensure the leadership position of the United States.

This legislation outlines the kinds of measures that are necessary to help American businesses do what they do best—compete and win.

Again, I support this important legislation and I urge its passage.

Mr. FEIGHAN. Mr. Chairman, I rise in strong support of H.R. 1989: the American Technology Preeminence Act of 1991. This is a key piece of legislation designed to enhance our ability to compete at home and abroad and to continue the U.S. role as a world leader in the development of cutting edge technologies.

I am pleased to see the continuation and expansion of our commitment to regional manufacturing technology centers. In my hometown of Cleveland, OH, we have seen the success of this program over the last 2 years. Working through the Cuyahoga Community College, the Great Lakes Manufacturing Technology Center works with hundreds of small companies to analyze their needs and match them to technologies for short-term solutions and long-term strategies. It also serves as the point of access to national level technologies and expertise, bringing that information from the lab to the shop floor.

This program is the only Federal Technology Transfer Program targeted at this critical segment of the U.S. economy. Because it works on a matching grant basis, the program ensures the leveraging of each Federal dollar we spend while continuing a successful partnership between government and the private sector. The centers are investments that pay for themselves in terms of economic growth, job creation, and development of advanced technologies.

Mr. Chairman, this morning the Bush administration announced the largest Federal deficit in our Nation's history—a stunning $348.3 billion. Given the Gulf war and the continued hemorrhaging caused by the savings and loan crisis, it's clear that these deficits are going to continue unless and until we can dramatically improve our Nation's economic performance. And that will only happen if we have the foresight to invest now in developing technologies that assist small businesses—the most dynamic part of our economy. That's what the Manufacturing Technology Center Program is all about and I am pleased to see Congress reaffirm its commitment to this program by passing the American Technology Preeminence Act.

Mr. ROEMER. Mr. Chairman, I rise today in strong support of the American Technology Preeminence Act, and express my strong admiration for the subcommittee chairman, Mr. VALENTINE, the chairman, Mr. BROWN, and the ranking Republican members of the subcommittee and full committee, Mr. LEWIS and Mr. WALKER, for the exceptional job they did in crafting this bill in order to bring it to the floor today.

Mr. Chairman, the United States is, and must remain the undisputed world leader in technological research and development.

This legislation thoughtfully continues and builds upon our government's commitment to advancing R&D for our industries, and assures continued successes in precommercial technologies by removing much of the financial risk.

Mr. Chairman, I urge passage of this bill as part of satisfying our obligation toward improving our country's future and competitive posture overseas.

Mr. SHARP. Mr. Chairman, I strongly support H.R. 1989, the American Technology Preeminence Act of 1991, a bill which will help American businesses and their employees meet the challenge of a very competitive world.

American businessmen who are in the front lines facing sophisticated competitors from Japan, Germany, Brazil, and other countries know that the flow of advanced technical information, technologies, and processes can mean the difference between winning the race or dropping out. The work going on today at the National Institute of Standards and Technology [NIST] in their cooperative technology programs will help determine how competitive our country is tomorrow.

This bill contains one modest but extremely important provision—the Technology Commercialization Loan Program—which sets up a $10 million bank to make reduced interest loans to commercialize advance technologies. Companies that are now eligible for the Commerce Department's Advanced Technology Program, where firms with nascent technologies compete for matching assistance to defray research and development costs, would under the loan program be eligible for low-interest funds to commercialize those advanced technologies and bring them into the marketplace.

The technology commercialization loan provision thus responds to a problem that many analysts have identified: our commercialization gap. Americans consistently conceive and develop some of the most fantastic technologies in the world, but our system often fails to translate those new developments into commercial successes before our foreign competitors do. This modest program, with safeguards to ensure repayment of loans, is a needed experiment to see if we can close our commercialization gap.

One debate on this provision really comes down to a difficult question: What kind of Nation do we want the United States to be in this decade and the new century which follows? Will we fail to aggressively pursue advanced technologies, and thus by default compete only with the low-wage/low-skill Malaysias and Mexicos of the world? Or, drawing on our creative strengths and learning from the experiences of others, will the United States forge a limited partnership between industry, researchers, and government policymakers to compete head-on with the Germanys and Japans? The answer to this question will determine our economic futures and the very character of our country.

Those opposing the technology commercialization loan provision argue that the United States can continue to rely exclusively on the wisdom of investment bankers and venture capitalists to devine our Nation's future technological development. They argue that governments are not suited to picking winners and losers. They point to the failures of command socialist economies and large-scale industrial policies in western Europe, where unwise and often massive government interventions in the market have skewed investment decisions and distorted trade. Even now, European subsidies to favored producers are creating a hemorrhage of deficit spending without producing cost-effective results.

We can learn from their mistakes, and need not repeat their errors here. Those who support the technology commercialization loan provision argue that the world is rapidly changing, and so must we if we are to compete and to win. They believe that government researchers and engineers, when in a responsive and responsible partnership with private sector business and academic communities, can produce a better outcome than the market alone can engender.

The success of the Advanced Technology Program has shown that such a partnership can flourish in the United States. Those administering the Advanced Technology Program are not practical bureaucrats without business experience or ivory tower academics with unrealistic views of the world. ATP matching technology grants are determined by some of our best engineers, scientists, and analysts who are in constant communication with private-sector industry groups and leaders in American business. They also carefully study the foreign competition. The same kind of in-touch expertise can be extended to the administration of the Technology Commercialization Loan program.

We must remember that determining ultimate winners and losers in advanced technology requires robust, head-on competition, not government handouts or industrial directives. The authors of the Technology Commercialization Loan provision have struck a careful balance: the size of the program is modest; it will be administered by people with hands-on experience; it provides loans, not handouts; and tough debt collection provisions are included for those few who might be tempted to default on the taxpayers. After the hundreds of billions of dollars taxpayers continue to cough up for the follies of the S&L crooks, to oppose a wise investment of $10 million to assist the commercialization of advanced technology just doesn't make sense.

America has returned to the recognition that advanced manufacturing jobs drive a nation's economy—including the welfare of those employed in the service sector. For if a nation cannot produce advanced goods to enjoy here and to sell abroad, it cannot create wealth—for this and future generations. The education, technology transfer, and regional and State technology programs advanced by this bill will assure that the wealth of technical knowledge flows to American businesses instead of gathering dust on a researcher's bookshelf.

H.R. 1989 seeks to apply a real-world balance to the theoretical promise of the market's efficiency with the reality of global competition. I strongly support its passage, and hope that further negotiations with the Senate, the administration, and the private sector yields a bill that truly makes American technology and manufacturing preeminent on global markets.

Mr. WOLPE. Mr. Chairman, I rise in strong support of the American Technology Preeminence Act. I want to commend Chairman BROWN, Chairman VALENTINE and Mr. WALKER for all the effort in again bringing this legislation before the House.

Mr. Chairman, for the past 2 years we have witnessed startling changes around the world that present enormous opportunities for a growing world economy. It is indeed a rare occasion when we can, at one time, assist emerging Third World democracies, enhance American competitiveness and expand economic growth. But that is exactly what the bill before us would accomplish. Therefore, it is incumbent upon Congress to move expeditiously to enact this bill that would forge a partnership with industry to create such opportunities.

I believe we have developed a comprehensive competitiveness package which accomplishes the dual purposes of strengthening our traditional research programs and, at the same time, creating the advanced technology program to speed commercialization of emerging civilian technologies.

In particular, I am pleased that this bill includes a provision that I first offered last Congress on behalf of Mr. DYMALLY and myself to create a pilot program to assist other countries in the development of international standards.

This is a low-cost, high-impact method of export promotion. This proposal to spend no more than $250,000 annually to match private spending is exactly the kind of competitive, good export promotion bargain that we should be supporting.

Based upon congressional interest in this project, last year the National Institute for Standards and Technology [NIST] began a pilot program with Saudi Arabia. In this one case, we are talking about a significant amount of trade: The U.S. exports exceeded $6 billion in 1989 alone.

Other major exporting countries of Europe and Asia have recognized the trade value with the Saudis and are investing heavily in export promotion through standard-setting. These countries have been increasing their share of the Saudi market while the United States share has been declining.

However, we believe we can reverse this trend with our standards-assistance program. In fact, in just 1 year, out of 250 draft standards offered by the United States, over 100 U.S. draft standards have been incorporated verbatim into the Saudi code.

This provision is a low-cost, but high-yield countermeasure. It would be extremely shortsighted, particularly at a time of such huge trade deficits and when U.S. economic growth depends so heavily on increasing exports, to allow the alternative of letting hundreds of millions of dollars in potential U.S. exports go down the drain.

Mr. Chairman, I strongly urge my colleagues to support the American Technology Preeminence Act.

Mr. LEWIS of Florida. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. VALENTINE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute printed in the reported bill is considered as an original bill for the purpose of amendment and each title is considered as read.

It shall be in order to consider amendments en bloc, by and if offered by the gentleman from North Carolina [Mr. VALENTINE] or his designee. Said amendments en bloc shall be considered as read, may amend portions of the committee amendment in the nature of a substitute not yet read for amendment and shall not be subject to a demand for a division of the question.

It shall be in order to consider amendments en bloc, by and if offered by the gentleman from Pennsylvania [Mr. WALKER], or his designee. Said amendments en bloc shall be considered as read, may amend portions of the committee amendment in the nature of a substitute not yet read for amendment and shall not be subject to a demand for a division of the question.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Technology Preeminence Act of 1991".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of *new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.*

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1991.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), to carry out the activities of the Under Secretary for Technology (hereafter in this Act referred to as the "Under Secretary") and the Assistant Secretary for Technology Policy, $6,500,000 for fiscal year 1991, which shall be available for the following line items:

(1) Office of the Under Secretary, $1,300,000.

(2) Technology Policy, $2,700,000.

(3) Japanese Technical Literature, $1,000,000.

(4) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(5) National Technical Information Service, $500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(b) FISCAL YEAR 1992.—There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1992, which shall be available for the following line items:

(1) Office of the Under Secretary, $2,0000,000.

(2) Technology Policy, $4,000,000.

(3) Japanese Technical Literature, $1,500,000.

(4) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(5) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(c) OPERATING COSTS.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) REPORT AND CERTIFICATION TO CONGRESS.—Within 90 days after the date of enactment of this Act, the Secretary of Commerce shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD–024–0–001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan for the National Technical Information Service which includes detailed profit and loss analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

(e) TECHNICAL AMENDMENT.—Section 5422(a) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4603a(a)) and section 273(c)(4) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(c)(4)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

SEC. 104. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) FISCAL YEAR 1991.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the National Institute of Standards and Technology (hereafter in this Act referred to as the "Institute"), $166,228,000 for fiscal year 1991, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $21,273,000.

(B) Manufacturing Engineering, $8,266,000.

(C) Chemical Science and Technology, $18,617,000.

(D) Physics, $25,552,000.

(E) Materials Science and Engineering, $26,495,000.

(F) Building and Fire Research, $9,821,000.

(G) Computer Systems, $11,819,000.

(H) Applied Mathematics and Scientific Computing, $5,847,000.

(I) Technology Assistance, $8,978,000.

(J) Research Support Activities, $29,590,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $150,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $1,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,223,000 are authorized only for the technical competence fund.

(b) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $210,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $33,700,000.

(B) Manufacturing Engineering, $13,500,000.

(C) Chemical Science and Technology, $22,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $30,000,000.

(F) Building and Fire Research, $12,300,000.

(G) Computer Systems, $16,000,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $11,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of nonenergy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $2,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,565,000 are authorized only for the technical competence fund.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a)(1) and among the line items listed in subsection (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a)(1) or subsection (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1448) and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal year 1992.

(e) PILOT PROGRAM.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying out a pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note). The purpose of the pilot program is to assist a country or countries that have requested assistance from the United States in the development of comprehensive industrial standards by providing the continuous presence of United States personnel on-site for a period of 2 or more years to provide such assistance and by providing, as necessary, additional technical support from within the Institute. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

(f) CONSTRUCTION OF FACILITIES.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

(g) FIRE AND BUILDING PROGRAMS.—The fire research and building technology programs of the Institute shall be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1991, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

(h) AIRCRAFT FIRE RESEARCH.—(1) The Secretary, acting through the Director of the Institute, and the Administrator of the Federal Aviation Administration shall jointly prepare a plan for a research program to develop the fire technology and materials necessary for the development of an all fire resistant aircraft cabin interior. Such plan shall include funding requirements, a brief description of the necessary research projects, and a schedule for completion of each such research project, and shall be submitted to the Congress within 1 year after the date of enactment of this Act.

(2) Subject to the availability of appropriations, the Secretary, acting through the Director of the Institute, and the Administrator of the Federal Aviation Administration shall jointly carry out the research program described in the plan prepared under paragraph (1).

(i) EDUCATIONAL PROGRAMS.—(1) Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–1)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the National Institute of Standards and Technology Act (15 U.S.C. 278g) is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this paragraph shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1991.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 278l, and 278n), $117,000,000 for fiscal year 1991, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $15,000,000.

(2) State Technology Extension Program (carried out under section 5121(d) of the Omnibus Trade and Competitiveness Act of 1988), $2,000,000.

(3) Advanced Technology Program, $100,000,000.

(b) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 278l, and 278n), and to carry out section 106 of this Act, $127,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $90,000,000.

(4) Subsidy for technology commercialization loans under section 106 of this Act, $10,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through the merit review processes required by the National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.).

(d) AMENDMENTS TO EXTENSION PROGRAM.—Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note) is amended by striking paragraph (5).

(e) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

SEC. 106. TECHNOLOGY COMMERCIALIZATION LOANS.

The Secretary, acting through the Director of the Institute, may make loans, to the extent provided in section 504(b) of the Congressional Budget Act of 1974, to small and medium size businesses eligible for assistance under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n). Loans under this section may be made to support research and development on, and the demonstration of the commercial feasibility of, advanced technologies and products in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies. Loans under this section shall be made at an interest rate equal to the Government borrowing rate plus an insurance surcharge of up to 2 percent.

SEC. 107. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1991 and 1992 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 108. METRIC AMENDMENT.

(a) The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a)(2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "mass";

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of the SI metric system as the primary system for measuring quantity" after "panel of that label"; and

(4) in section 4(a)(3)(A)—

(A) by striking "containing" and inserting in lieu thereof "that also displays the avoirdupois system of measure, and that contains" in clause (i);

(B) by inserting "that also displays the avoirdupois system of measure" after "random package" in clause (ii);

(C) by inserting "that also displays the avoirdupois system of measure" after "linear measure" in clause (iii); and

(D) by inserting "that also displays the avoirdupois system of measure" after "measure of area" in clause (iv).

(b) This section shall take effect 2 years after the date of enactment of this Act.

SEC. 109. TRANSFER OF FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION.

(a) TRANSFER.—The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), and information regarding training technology and other federally owned or originated technologies. The Secretary of Commerce shall issue regulations within one year after the date of enactment of this Act outlining procedures for the ongoing transfer of such information to the National Technical Information Service.

(b) ANNUAL REPORT TO CONGRESS.—As part of the annual report required under section 212(f)(3) of the National Technical Information Act of 1988, the Secretary of Commerce shall report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public. Such report shall include—

(1) an evaluation of the comprehensiveness of transfers of information by each Federal executive department or agency under subsection (a);

(2) a description of the use of Federal scientific and technical information;

(3) plans for improving public access to Federal scientific and technical information; and

(4) recommendations for legislation necessary to improve public access to Federal scientific and technical information.

SEC. 110. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 111. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, as identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of the title 48, Code of Federal Regulations.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection—

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

AMENDMENTS EN BLOC OFFERED BY MR. VALENTINE

Mr. VALENTINE. Mr. Chairman, I offer amendments en bloc, which are in order under the rule.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. VALENTINE:

Page 5, line 2, insert "or equivalently experienced accountant" after "certified public accountant".

Page 9, line 22, insert "This subsection shall not limit the authority of the Institute to accept funds appropriated to any other Federal agency or to perform work for others." after "fiscal year 1992.".

Page 15, line 18, insert "weight or" before "mass".

Page 15, line 20, insert "weights or" before "masses".

Page 24, lines 17 and 18, amend paragraph (2) to read as follows:

(2) in subsection (b)(2)—

(A) by inserting "provide grants to and" before "enter into contracts"; and

(B) by striking ", and with independent research organizations";

Page 26, line 21, insert "is incorporated in the United States and" after "that the company".

Page 30, line 4, strike "transmit, receive, display, process, record,".

Page 31, line 24, insert "and" after "results of such venture;".

Page 32, line 4, strike "; and" and insert in lieu thereof a period.

Page 32, strike lines 5 through 7.

Page 33, after line 11, insert the following new subsection;

(a) Section 11(e)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 1310(e)(2)) is amended by inserting "senior" after "Consortium and a".

Page 33, strike lines 12 through 23 and insert in lieu thereof the folowing:

Page 33, strike lines 12 through 23 and insert in lieu, thereof the following:

(b) Section 11(e)(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 1310(e)(6)) is amended by adding at the end of the following: "Such report shall include an annual independent audit of the financial statements of the Consortium, conducted in accordance with generally accepted accounting principles.".

(c) Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 1310(e)(7)(B)(ii) is amended by striking "or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

Page 34, line 1, strike "(b)" and insert in lieu thereof "(d)".

Page 37, line 14, strike "what ways to" and insert in lieu thereof "what ways do".

Page 41, lines 1 through 5, strike ", including such factors" and all that follows through "licensing practices".

Page 43, strike lines 18 through 20 and insert in lieu thereof the following:

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committees on Science, Space, and Technology and on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(e) LIMITATION ON FUNCTIONS.—Nothing in this section or any other provision of this Act shall be construed—

(1) to authorize the Board to investigate or provide advice or guidance with respect to standards or other regulations or policies related to the transmission, delivery, or receipt of broadcast television or cable television signals subject to regulation by the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) to limit, modify, or affect in any manner the authorities, functions, or responsibilities of the Federal Communications Commission or the National Telecommunications and Information Administration.

Page 44, line 21, strike "(e)" and insert in lieu thereof "(f)".

Page 44, lines 6 through 9, strike "monitor and report annually to Congress on each major science and technology project in which more than one country is participating and" and insert in lieu thereof "identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant,".

Page 45, line 20, insert "and" after "of the United States;".

Page 45, line 25, strike "; and" and insert in lieu thereof a period.

Page 46, strike lines 1 through 5.

Page 46, line 14, insert "and" after "most recent report;".

Page 46, line 16, strike "; and" and insert in lieu thereof a period.

Page 46, strike lines 17 through 20.

Page 56, lines 3 and 4, strike "without further appropriation" and insert in lieu thereof ", to the extent provided in advance in appropriations Acts,".

Page 57, line 1, through page 59, line 25, strike section 508.

Page 60, line 1, redesignate section 509 as section 508.

Page 61, line 19, redesignate section 510 as section 509.

Page 62, line 16, redesignate section 511 as section 510.

Mr. VALENTINE. Mr. Chairman, this package of amendments is primarily made up of suggestions from the Committee on Energy and Commerce, the White House Office of Science and Technology Policy, the Department of Commerce, and other executive branch representatives. Most of the amendments are technical, conforming, or clarifying in nature.

The amendments requested by the Committee on Energy and Commerce clarify that the National Institute of Standards and Technology may continue its longstanding policy of performing work for other agencies through the mechanism of transferred funds, and make clear that the bill's provisions, including those dealing with high resolution information systems, are not intended to impede the work of the Federal Communications Commission and of the National Telecommunications and Information Administration.

At the request of the White House Office of Science and Technology Policy, section 502 is amended to specify that the report to Congress on major science and technology projects need only include projects for which the United States is not a participant. Also, section 508, related to functions of the Federal Coordinating Council for Science, Engineering, and Technology, is deleted and will be considered during hearings to be held by the Science, Space, and Technology Committee in September.

Other amendments include clarifying language related to the Advanced Technology Program and accountability language related to technology transfer activities of the Federal Laboratory Consortium. Mr. Chairman, at this point I would like to submit for the RECORD a more detailed explanation of the amendments:

JUSTIFICATION OF THE ATP AMENDMENTS

This package of amendments is primarily made up of suggestions from the Committee on Energy and Commerce, the White House Office of Science and Technology Policy, the U.S. Department of Commerce, and other executive branch representatives. Most of the amendments are technical, conforming, or clarifying in nature.

Page 5, line 2. At the request of the Department of Commerce, the requirement that the Chief Financial Officer of the National Technical Information Service be a "certified public accountant" is changed to read "certified public accountant or equivalently experience accountant". NTIS found in its search for a chief financial officer that the most qualified individual available to them was in fact not a CPA. This amendment makes that individual eligible for that job.

Page 9, line 21. This is a clarifying amendment which makes clear that the National Institute of Standards and Technology may continue its long-standing policy of doing work for others. The clarification is made at the request of the Committee on Energy and Commerce.

Page 15, line 18 and 20. This change makes clear that packages can be labelled either in terms of mass or weight. While mass is the scientifically correct term, the term more common to the general public is weight so the change is made to avoid consumer confusion.

Page 24, line 17. This change is clarifying in nature. The Advanced Technology Program was established to help with the commercialization of generic technology by business. This amendment makes it clear that the beneficiaries of individual grants and contracts under this program are to be companies.

Page 26, line 21. This amendment makes clear that all companies receiving assistance under the Advanced Technology Program are to be incorporated in the United States even if they have a parent company abroad. This change reflects the intent of the original provision.

Page 30, line 4. At the request of the Committee on Energy and Commerce, a standardized definition of high resolution information systems is used throughout the Act. There were slight differences between the two definitions appearing in the bill as reported.

Page 32, lines 4 and 5 through 7. This is a technical amendment removing the definition of the term "foreign-owned company" which no longer appears in the bill.

Page 33, line 11. This change makes clear that all representatives to the Federal Laboratory Consortium, including those appointed by agency heads are to be senior level representatives of their organizations.

Page 33, line 12. This section requires an annual independent audit of the books of the Federal Laboratory Consortium (FLC) and requires that a complete financial statement be submitted as part of the FLC's annual report, relying where possible and appropriate on other independent auditors. This section also extends the set-aside that funds activities of the Consortium through fiscal year 1996 rather than making it permanent.

Page 37, line 14. This amendment corrects a typographical error.

Page 41, line 1. This change, made at the request of the Committee on Energy and Commerce, eliminates specific reference to regulation, licensing, and other matters from the range of information to be collected by the High Resolution Information Systems Board. No limits, however, are placed on the ability of the board to collect and analyze information which it considers relevant to its work.

Page 43, line 18. These changes specify which committees of the Congress are to receive the report of the High Resolution Systems Advisory Board. They also make clear that the bill does not limit the authority of the Federal Communications Commission or the National Telecommunications and Information Administration.

Page 44, line 6. This change, made at the request of the White House Office of Science and Technology Policy, specifies that the report to Congress on major science and technology projects only needs to include projects for which the United States is not a participant.

Page 46, lines 1 through 5 and lines 17 through 20. This amendment deletes the requirement of the Secretary of Commerce to develop a ten-year plan to ensure the growth of identified critical industries to the U.S. economy and to recommend measures to ensure their successful development.

Page 56, line 3. This change makes clear that National Quality Performance Trust Fund is subject to appropriations.

Page 57, line 1. The section on functions of the Federal Coordinating Council for Science, Engineering, and Technology is dropped at the request of the White House Office of Science and Technology Policy. The section will be considered during upcoming hearings of the Committee on Science, Space, and Technology.

Mr. Chairman, I offer these amendments in the spirit of bipartisan cooperation to move this important legislation forward and I urge my colleagues' acceptance of them.

Mr. LEWIS of Florida. Mr. Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Florida.

Mr. LEWIS of Florida. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, we have reviewed the amendments on this side and have no objection to them. We support the amendments.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a consensus committee amendment to improve the bill. I just wanted to make a couple of points about it.

First of all, I agree it is technical in nature in many cases. That, of course, is something that cleans up the bill, but it does address some of the administration's concerns, and because we have some differences over one provision of the bill, I do want to make clear that this does help us move the bill along and get it approved by the administration.

Most notably, it strikes the requirement that the Secretary of Commerce develop a 10-year public and private plan to ensure growth in certain special industries. The administration strongly objected to that particular provision. They regard it as centralized economic planning. That would have gotten us in the way of getting this bill approved, so striking it in this particular consensus amendment is indeed a major help.

It also drops language revising the functions of the White House Federal Coordinating Council of Science, Engineering, and Technology, which could infringe upon the Presidential prerogatives to delegate authority and manage the affairs of the executive branch, as currently drafted. That again is an administration concern which this amendment deals with.

And even though the OMB does not find H.R. 1989 in violation of the pay-go amendment requirement of the budget agreement, this amendment will guarantee that the new National Quality Council offered by the gentleman from Pennsylvania [Mr. RITTER] will not result in any direct spending to increase the deficit by requiring private donations on which the Council will be operated have to be appropriated.

Finally, it clarifies most definitely, the advance R&D program is a program for industrial R&D only. The committee amendment was drafted with the minority's full participation. We are very happy to lend it our support.

□ 1330

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from North Carolina [Mr. VALENTINE].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MRS. MORELLA

Mrs. MORELLA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MORELLA: Page 12, after line 20, insert the following new subsection:

(j) CORE PROGRAM FUNDING.—It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

Mrs. MORELLA. Mr. Chairman, I appreciate the chairman of our subcommittee commenting on the fact that I was coming to offer an amendment.

Mr. Chairman, I rise to offer an amendment indicating the sense of Congress that the core intramural programs of NIST should share fully in any funding increases provided to the Institute. I would like to thank the gentleman from California, Chairman BROWN, the gentleman from Pennsylvania [Mr. WALKER], the gentleman from North Carolina [Mr. VALENTINE], and the gentleman from Florida [Mr. LEWIS], for their support of this amendment and for their very strong support for this bill.

Mr. Chairman, the heart of all NIST programs is the core research developed in the intramural area. This core research is directed toward enhancing our Nation's competitiveness both nationally and internationally. The authorizing committee concluded in its report that not only are the intramural programs extremely valuable, but also that their funding levels must be sufficient to allow NIST to fulfill its goals. This amendment underscores the importance of the core intramural programs to NIST's mission.

The importance of this amendment was underscored by several witnesses at our subcommittee hearings. For examples:

Dr. Robert White, Under Secretary of Commerce for Technology noted that—

> NIST's intramural laboratory programs grew in real terms by less than 10 percent over the past 15 years, while R&D spending by industry increased by 82 percent and the U.S. Government's overall R&D spending grew by 57 percent.

Dr. John Lyons, Director of NIST, stated that:

> The intramural [programs] * * * are designed to strengthen NIST research programs in support of U.S. industry in economically important areas such as electronics, advanced materials, computers, communications, industrial chemical technology and manufacturing, and in selected areas of public health, safety, and the environment.

Dr. John McTague, vice president of Ford Motor Co., cited NIST intramural research programs as a crown jewel on which industry justifiably relies. He stated that:

> The first priority * * * should be to support in-house research and services at a level substantially higher than it has been supported in past years.

Joseph O'Grady, president of the American Society for Testing and Materials stated:

> [Our] work would be materially hurt without the participation of the almost 250 scientists and engineers at the Institute in the

work of our technical committees and without the basic research, reference materials, and advanced measurement techniques which NIST has developed and shares with us.

I urge all my colleagues to support this amendment.

Mr. BROWN. Mr. Chairman, will the gentlewoman yield to me?

Mrs. MORELLA. I yield to the distinguished chairman, the gentleman from California.

Mr. BROWN. I thank the gentlewoman for yielding to me.

Mr. Chairman, I rise primarily to reemphasize or to add additional emphasis to the point that the gentlewoman from Maryland has made. Earlier, before the gentlewoman came to the floor, I indicated that I had been out to NIST this morning to review the current status of some of the work that they are doing, and from a strictly parochial point of view the gentlewoman should be extremely proud of this operation, which I think is almost a crown jewel as far as her own district is concerned.

Again, the Director of the Institute pointed out that the core programs of the Institute are the real backbone of the operation there and they represent less than half of the total operation. Yet it is this half which lends credibility to their entire program. Over half of the funding for the Institute comes from either the private sector or other agencies of Government. They come to the National Institute of Standards and Technology because they recognize that they have world-class programs there which are not duplicated anywhere else.

So, the Department of Defense, instead of creating their own program to do a particular kind of research, goes to the National Institute of Standards and Technology, or a General Motors, or other major corporation would come there for the same purpose.

They will only do that as long as they feel confident that those core programs are indeed world class, that they represent the finest research that can be accomplished anywhere in the world. And the gentlewoman points out that all too frequently over the past years we have taken these programs for granted, we have added additional burdens to the Institute without providing additional funds, which may tend to weaken or water down the support for these ongoing programs. We need to recognize that that would be a tragedy if we were to allow those programs to decline in their level of excellence.

So I appreciate the gentlewoman pointing that out. The gentlewoman certainly has my continued support for keeping those core programs adequately funded.

Mrs. MORELLA. I thank the chairman of the full committee for his comments.

I did hear that the chairman went, indeed did go out to NIST today and that he did have Congressman SMITH with him too, the gentleman who chairs the subcommittee of the Committee on Appropriations dealing with this.

I wanted to also thank this committee, the Committee on Science, Space, and Technology, and its leadership, and other Members of Congress who supported the exhibit recently that NIST put on in our committee room.

It was, in effect, kind of a microcosm of the macrocosm in terms of the competitive edge that NIST gives us.

Mr. VALENTINE. Mr. Chairman, will the gentlewoman yield to me?

Mrs. MORELLA. Mr. Chairman, I yield to the chairman of the subcommittee, the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. I thank the gentlewoman for yielding to me.

Mr. Chairman, let me say that we find merit in the amendment offered by the gentlewoman from Maryland, and we accept it.

Let me say also we thank her for the contribution which she continues to make to the workings of the subcommittee and the full committee.

I would like to ask the gentlewoman if she showed the gentleman from California, Chairman BROWN, the wonderful herd of deer that are on the grounds of NIST?

Mrs. MORELLA. Mr. Chairman, I do not know whether or not our chairman did have the opportunity to see the flora and fauna that are out on the campus of NIST. But if he did not, we will have a special excursion for that purpose.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield?

The CHAIRMAN. The time of the gentlewoman from Maryland [Mrs. MORELLA] has expired.

(On request of Mr. WALKER and by unanimous consent, Mrs. MORELLA was allowed to proceed for 2 additional minutes.)

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentlewoman for yielding.

Mr. Chairman, I want to congratulate the gentlewoman for her amendment. I think it is an excellent amendment. It really deals with the mission of the National Institute of Standards and Technology going back to 1901. And as you well know, President Bush requested about a 22-percent increase in these core programs for this fiscal year, about $30 million for a variety of generic competitive initatives, superconductivity and other things.

That is what we are trying to get at, making certain that that priority is kept within this.

Unfortunately, the Committee on Appropriations actually cut the Core Research Program below even a freeze level for 1992, which in my mind jeopardizes the very foundation on which technology progress can be made.

After all, it is NIST that arranges the basic building blocks for scientific understanding into a common and controlled technical language that allows technological compatibility and operability.

So I think the amendment of the gentlewoman from Maryland is right on target. It is something that we really do need to do to assure that these core programs remain as a priority of NIST, and I congratulate the gentlewoman.

☐ 1340

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. WALKER] for his leadership in this whole concept.

Mr. Chairman, I yield back the balance of my time.

Mr. LEWIS of Florida. Mr. Chairman, I rise in support of the amendment of the gentlewoman from Maryland [Mrs. MORELLA].

Mr. Chairman, I would like to congratulate the gentlewoman from Maryland for her amendment, and I have reviewed, and Members on my side have reviewed, and we find it consistent with the report language adopted by the Committee on Science, Space, and Technology. We all recognize that there should be growth in NIST, in the core programs, and we have to point out very strongly that we have got to have the basic science before we can get into advanced technology. I believe that the gentlewoman's amendment does just this and adds a strength to this bill that should be applied to it in order to make it from a good bill to an excellent bill.

So, Mr. Chairman, I do support the amendment of the gentlewoman from Maryland [Mrs. MORELLA] very strongly and ask my colleagues to support it as well.

Mr. RITTER. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Maryland [Mrs. MORELLA].

Mr. Chairman, I want to commend the gentlewoman from Maryland [Mrs. MORELLA] for her leadership on these issues related to America's technological competitiveness and how to make the National Institute of Standards and Technology a more viable force in this great struggle that we are engaged in. I endorse her language supporting NIST, America's flagship laboratory in applying our science and technology in the marketplace. I think she does a great service to strengthen the internal structure and programs of the National Institute of Standards and Technology.

Mr. Chairman, I also rise in support of H.R. 1989, the American Technology Preeminence Act of 1991. I commend the Science, Space, and Technology Committee chairman and ranking republican member, Mr. BROWN and Mr. WALKER, and the subcommittee chairman and ranking republican, Mr. LEWIS, for their hard work in developing this bill.

This bill reflects an emerging consensus in Congress and the administration behind a stronger Federal effort in technologies and industries critical to our Nation's future. Companies in the trenches of the global economic battle fight every day with well-financed. Government-supported competitors overseas, and our Nation needs the technology policy initiatives contained in this bill.

H.R. 1989 provides support for the Technology Administration and the core and extramural programs of the National Institute of Standards and Technology [NIST]. Over the years, NIST's Core Program at its flagship laboratories has been an invaluable ally in helping American industry become more competitive.

As the primary Federal agency concerned with manufacturing, NIST has helped spur an American manufacturing renaissance that has brought quality products and processes to the world. Continued support for this effort is vital. Manufacturing is the crown jewel of a modern industrial society, and we neglect it at our peril.

Last month, I received a letter from the vice president of a firm that manufactures electronic equipment. He said, "I believe that if we lose our ability to manufacture our technology, we will lose that technology." There is a lot that goes into manufacturing our technology, but with support from NIST, American companies can continue to regain the high ground in manufacturing.

The bill promotes the growth of the Advanced Technology Program [ATP]. As one of the founders of the Advanced Technology Program, I believe it has an important role to play in bringing the private sector and the Federal Government together to address difficult, risky issues in high technology. Even at the funding level contemplated by this bill, the ATP would still be a modest effort compared to the cooperative activities of our competitors.

The ATP has just gotten off the ground, with the first awards this spring going to companies working in areas such as semiconductor technology, solid-state lasers, and advanced manufacturing technology for flat panel displays, to name a few. This work will be similar to that which I and the two distinguished Members from California, Mr. BROWN and Mr. MINETA, had in mind with our subcommittee amendment on high-definition systems.

The bill contains provisions designed to address generic competitiveness problems. It establishes a national quality council, to coordinate efforts to promote quality in America, and creates a high-resolution information systems board. It also would create a commission to examine the impact of the high cost of capital on American companies.

I support the idea of a capital cost commission. Today, there is actually a disincentive for companies to work on problems that may take years of effort and substantial financial resources. Without lower cost capital, promising ideas will literally wither on the vine.

(By unanimous consent, Mr. RITTER was allowed to proceed for 2 additional minutes.)

Mr. RITTER. While not within the confines of this bill, we also need to reduce the crushing burden of litigation on American competitiveness. We need to modernize the antitrust system and allow American companies to make products together, if desirable. We need to reorient a sizable portion of the $70 billion plus Federal R&D economy. We need to tune it more to the needs of the marketplace and less to the politics of the U.S. Congress and the momentum of the past in Federal agencies.

Finally, we need to move the technology that is already developed off the shelf and into the marketplace so that companies and workers can make use of it. There is so much technology out there to be deployed that is not being deployed. Before we conduct new research and development and develop new technology, we need to more fully utilize technology that sits on the shelf. Perhaps NIST through some of its programs can help American manufacturers take fuller advantage of this technology.

Mr. Chairman, this bill may not address all of these critical issues, but it is certainly a significant component of the total Federal effort to advance technology into the marketplace in America. Stimulating precommercial research and development in our critical technologies is a sound investment in our future economic well-being. That is what NIST is all about, and I urge my colleagues to give their full support to H.R. 1989.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland [Mrs. MORELLA].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman. I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. WALKER: Page 13, lines 18 and 19, strike "and to carry out section 106 of this Act, $127,500,000" and insert in lieu thereof "$117,500,000".

Page 14, lines 1 and 2, strike paragraph (4).

Page 14, line 17, through page 15, line 5, strike section 106 and redesignate subsequent sections in title I accordingly.

□ 1350

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is the amendment that I talked about in my opening remarks. This bill faces a certain veto if this particular provision that I am seeking to strike remains within the bill.

This is the main competitiveness legislation of the House for this year. It would be a shame for us to have it move all the way through the process, only to incur a veto. It seems to me that if we are going to make certain that this legislation survives, it demands a bipartisan consensus to move the bill through both Houses quickly. We are certainly trying to do that here in this House.

We did not get to this bill until the very end of the last Congress, and as a result we lost our opportunity to get the legislation finished because we let it go until the last minute. I do not want to see that happen again. Hopefully we can avoid doing that. But then we also have to have the agreement of the administration to get it enacted, and this is something that we have failed to get for the 2 previous years. The administration has been uncomfortable with sections of the bill, and that has resulted in our inability to move it forward.

That is unfortunate because H.R. 1989, the bill that we have before us, is really a pretty good bill. It is based upon a bipartisan agreement between the House and the Senate that was reached at the very end of the 101st Congress, and I think that that is a bipartisan consensus that this administration can ultimately sign into. However, the loan provision that this amendment seeks to strike was never a part of that bipartisan consensus agreement. It was added in the full committee on a very close vote, a vote of 15 to 13. It was not a subject of any of this year's committee hearings, and it was not proposed until the markup itself in the full committee.

The new loans would have the American taxpayer fund individual companies' commercializations of specific products. This in the view of the administration and in the view of this Member smacks very definitely of industrial policy by beginning to have Government picking winners and losers in the marketplace through selective subsidies. That is exactly the kind of thing we are trying to avoid as we look toward an advanced technology program. Government is not a very good repository of all wisdom about the marketplace, nor is it a very good repository of all wisdom about technology. To have us picking winners and losers makes very little sense and in fact would retard our ability to really work on advanced technology.

Why? Because Congress, among other institutions in the Government, is among the most reactionary institutions going. We are subject to only doing that which has a policy consensus built around it. Political consensuses grow up over a period of years. They do not usually involve the most advanced of technology programs. The very highest high technology programs have little or no consensus about them in their initial days, so they have no political platform on which to move forward. This kind of picking of winners and losers would ensure that we are always picking things that are part-way behind the curve. That just makes no sense if this Nation is to really be competitive in high technology for the future. Furthermore, civilian emerging technology development is already supported through the technology program established by Congress in 1988 and which is now in its second year of operation. Today the ATP funds industry-led efforts to solve generic precommercial R&D problems that are industrywide or even of national concern.

But the new loan authority which would require added new bureaucracy and added new regulations and a loan default fund to cover a default rate estimated by OMB to be as high as 80 percent will all but kill the just-started advanced technology program by drawing away precious scarce resources in personnel in focus.

Here is just an example of the regulations that would be needed for the loan program. Now, by the time somebody gets through all of this, the chances are that we could not get the program done anyhow. This is a set of OMB regulations for a similar kind of loan program. It is exactly the kind of thing that gets us away from having a movement on advanced technology.

The other thing that I think we need to understand is that the advanced technology program is funded at the present time under the appropriations bills at about $47 million for this year. If we pass this new loan program at a $10 million rate, does that mean that that $10 million is going to come out of the advanced technology program that is now operating, lowering it from $47 million down to $37 million? Again, that gets in the way of doing precisely what we want to do. We are not going to get $100 million or $190 million. This is $10 million that is going to come out of whatever the appropriated level is for the program. That at the present time is $47 million, which means we could bring that down to a figure as low as $37 million, getting in the way of what Congress wanted to do.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. LEWIS of Florida, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, H.R. 1989 is $93 million over the President's fiscal year request for the Department of Commerce's Technology Administration of approximately $254 million. That is already a 16-percent increase. Simply dropping the loan provision will have the effect of at least reducing that budget overrun by $10 million, and also, as I say, it will assure that when the real application takes place, it does not come out of the hide of the advanced technology program that is already in operation.

I have had a discussion previously with the gentleman from California [Mr. BROWN], the chairman of the committee, on the floor about this provision. I know he shares my concern that we do not want to do something that is going to jeopardize the overall bill.

Mr. Chairman, I offer the amendment in that spirit, in hopes that we can strike the section now and ensure that we have a bill that ultimately will be signed.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. RITTER, and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Chairman, I want to first commend the gentleman from California [Mr. MINETA] for his efforts here. The gentleman from California is in the forefront of seeking to assure that emerging high tech industries have access to the patient capital they need to grow. So that the principle behind his amendment is quite commendable. It is a good principle.

The problem is that NIST is not really organized to operate a loan program. It is a flagship Federal R&D laboratory. It is not really structured to be in the venture capital business or the investment banking business. It is not in a position to make informed decision about a variety of new and particularly risky ventures with respect to lending and borrowing. NIST has neither the people nor the inclination.

We have the gentleman from California [Mr. MINETA] seeking to address the need for patient capital, but the means is not appropriate. And, as the gentleman from Pennsylvania says, under the terms of the 1990 Budget Reconciliation Act, it is likely that these funds will come directly out of the new moneys that we have worked so hard to secure for the advanced technology program.

Still, I would hope that there is enough support for the underlying need that the gentleman from California is attempting to address in his amendment. I hope that we can go forward with some kind of capital gains tax reduction, some kind of differential between capital gains and normal income that spurs long-term versus short-term investment. Perhaps a sliding scale capital gains exclusion that increases over time is viable.

Mr. Chairman, I have talked to a lot of Democrats who are interested in the competitiveness issue, the gentleman from California certainly being one of them. There is certainly consensus in this House for doing something to reduce the cost of capital.

□ 1400

However, for NIST people to try to make these high-risk decisions is asking too much. They are not qualified. They will tell you they are not qualified. What's more, in order to reduce the risk of the loans, they may not be able to lend the available funds to high-risk ventures. They may have to lend it to more low-risk ventures which would be contrary to the very nature of the gentleman's efforts.

So, with that, and with great respect for the gentleman from California and what he is trying to do, I would respectfully urge that the Walker amendment be supported.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. MINETA was allowed to proceed for 10 minutes.)

The CHAIRMAN. The gentleman from California [Mr. MINETA] is recognized for 10 minutes.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, American high technology research and development has been the model that all other nations have sought to emulate since the end of the Second World War. However, in recent years, foreign competition has gained strength in moving high-tech from the lab to the marketplace. I am proud to rise today in support of the technology commercialization loan fund, which will help to rejuvenate American technology preeminence. My sincerest thanks to Chairman VALENTINE and my friend and colleague NORM MINETA for leading the effort to include this provision.

Low-cost, long-term loans to small- and medium-sized companies are an extremely efficient way to maximize limited governmental and corporate resources. The commercialization loan fund is a relatively small program that has potential many times its size. It will ameliorate the critical shortage of affordable capital that has inhibited the ability of American firms to get their products to the consumer.

The loan fund is a gesture of faith in American know-how, demonstrating the Government's well-founded belief that American high-tech firms can succeed, bolstering consumer confidence and adding fuel to the economy.

This program will provide the National Institute of Standards and Technology with a wider range of tools to strengthen American advanced technology. I urge my colleagues to take advantage of this opportunity to promote development and commercialization by opposing the Walker amendment.

Mr. MINETA. Mr. Chairman, reclaiming my time, I thank the gentleman from California [Mr. EDWARDS] for this strong support.

Mr. Chairman, I rise today in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] to strike from the American Technology Preeminence Act a very important provision—the Technology Commercialization Loan Program.

Mr. Chairman, as established by Congress under the leadership of the Science, Space, and Technology Committee, the National Institute of Standards and Technology [NIST] was given the specific mission to "facilitate the more rapid commercialization" of advanced technologies.

The Technology Commercialization Loan Program, which this amendment would strike, would strengthen NIST's ability to carry out that important mission. This program would allow the National Institute of Standards and Technology to make loans to support research and development on, and the demonstration of commercial feasibility of, certain advanced technologies and products.

Mr. Chairman, NIST currently is authorized to provide various types of technical and financial assistance to U.S. companies, including providing research grants through the Advanced Technology Program. But at the present time, NIST does not have a program designed to promote the actual commercialization of advanced technology research results.

This is a crucial issue.

U.S. companies face tremendous barriers in trying to commercialize the results of their research and development efforts.

Capital markets are often unwilling to risk investing in projects for which no commercial viability has yet been established, and capital costs in the United States can be prohibitively high, especially for small- and medium-sized business in high technology industries. In many cases, capital funds may not be available at all, especially for small companies.

Mr. Chairman, too often we have watched the fruits of U.S. R&D efforts langush unused, only to be translated into products by our competitors overseas.

Accordingly, Mr. Chairman, I believe that authorizing NIST to offer technology commercialization loans to U.S. companies would be an important and needed addition to NIST's capabilities:

It will help U.S. companies move ideas from the lab to the marketplace;

It will be an innovative way to address the problem of a lack of patient, low-cost capital available to U.S. high technology companies;

It will help the small- and medium-sized companies that are the chief source of high technology innovation in the United States;

It will be an effective way to maximize the use of scarce Government resources—giving taxpayers more bang for their buck;

It will help prevent the loss of U.S. technologies to foreign competitors; and

It will give NIST and the Commerce Department greater flexibility in working with U.S. industry to improve high technology competitiveness.

Specifically, Mr. Chairman, the Technology Commercialization Loan Program will authorize NIST to provide long-term, low-cost loans to small- and medium-sized U.S. companies for the purpose of developing and commercializing advanced technologies in areas such as electronics, advanced materials, or biotechnology.

Unfortunately, the gentleman from Pennsylvania is opposed to this legislation, which is consistent with the administration's policy of supporting ideology over substance.

Very simply, Mr. Chairman, this program is good for small business.

Mr. Chairman, NIST is authorized to "facilitate the more rapid commercialization" of advanced technologies as part of its charter. The Technology Commercialization Loan Program offers another tool that would be available to accomplish that mission.

Furthermore, the President has supported similar legislation in the past.

The 1990 farm bill was amended to include a technology commercialization loan program that was much more ambitious than the program included in this bill. And, not only did the President support and sign that bill, but he evidently liked it so much that he asked the author of that amendment, Representative Madigan, to join his cabinet as the new Secretary of Agriculture.

I don't understand why we can authorize these kinds of programs for the Department of Agriculture, with the strong support of conservatives, and be proud because we are supporting the family farm, and then turn around and scream "creeping socialism" and "industrial policy" when it comes to the Department of Commerce.

Why do our high technology industries get treated like second class citizens?

Mr. Chairman, the Technology Commercialization Loan Program will not actually fund the products of private industry as the gentleman from Pennsylvania would have you believe. The program will simply provide loans to demonstrate the commercial feasibility of advanced technologies.

Finally, Mr. Chairman, I will address the costs of the Technology Commercialization Loan Program.

This is a pay-as-you-go program.

NIST would be authorized to provide only the amount of loans that could be supported by that subsidy, relative to OMB estimates of expected loan default rates.

This loan program is fully consistent with the credit reforms which Congress enacted last year, and is similar to programs in other agencies that are intended to foster technology commercialization.

Mr. Chairman, the Technology Commercialization Loan Program is an innovative and effective way to strengthen NIST's ability to carry out its mission of working with U.S. high technology industries to facilitate commercialization of technologies. The loan program will allow us to gain the maximum impact from limited Government resources.

The high technology industries that this program will support employ more workers than the automobile and steel industries combined, and represent our largest area of employment growth.

Industry understands this, which is why the list of industries that support the program reads like a who's who of the high technology companies that are so vital to our economy.

Mr. Chairman, this program has the support of the American Electronics Association, the National Center for Manufacturing Sciences, the Semiconductor Industry Association, Semiconductor Equipment and Materials International [SEMI], the Aerospace Industries Association, the National Coalition for Advanced Manufacturing, the AFL–CIO, the Council on Superconductivity, and the Association of Biotechnology Companies, among others.

What these industries understand clearly is that for companies in the United States to maintain their competitive lead, they need assistance to ensure that the products of their research and development are retained by the United States. Without this kind of support, the technologies are more likely to be licensed or sold to our foreign competitors, The Technology Commercialization Loan Program will support commercializing new products and will retain the associated economic benefits in the United States.

I urge my colleagues to support the program and to vote against this amendment.

□ 1410

Mr. HENRY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Walker amendment. I have great regard and respect for the gentleman from California [Mr. MINETA].

In fact, the gentleman will perhaps recall that as we were debating his amendment in committee, I was racing over to cast my vote in support of his amendment.

Let me explain to the gentleman from California [Mr. MINETA], why I do so. There is so much that is important in this bill and so much has happened in this committee this year with the rather extraordinary cooperation, and I mean that in the best of terms, among the gentleman from California [Mr. BROWN], the gentleman from Pennsylvania [Mr. WALKER], the subcommittee chairman, Mr. VALENTINE, and the ranking Republican on the subcommittee, Mr. LEWIS from Florida. There has really been an extraordinary effort of addressing each and every issue before this committee on the merit.

We have had little, if any, partisanship on this committee. In fact, as the gentleman from California [Mr. MINETA] knows, the vote on this particular aspect, the technology transfer loan program, did not really bear much of a partisan characteristic. There were Republicans for and against his amendment and Democrats for and against his amendment. So it was very, very close in terms of the way in which both the parties divided on the issue.

My instincts in terms of public policy are still resting very closely with the gentleman from California [Mr. MINETA]. I personally am not concerned about inadvertently finding ourselves in some premature and inadequately discussed slippage in some kind of national industrial policy. That is not my concern with it, in any broad kind of highly charged and imaginary ideology.

In fact, it has been this committee which over and over again has not only come to the rescue of the old Bureau of Standards, now NIST, but expanded its role in both cases in the previous administration, when some of its core research programs were under threat. It was this committee on a bipartisan basis that came to the rescue.

It was also this committee on a bipartisan basis in the previous Congress that expanded the NIST mission and got it directly involved in technology transfer.

As Members will recall, our key researchers and executives over at NIST, with the Bureau of Standards at the time, were very concerned that in so doing, we would threaten their fundamental research mission. We made very, very clear that that was not our intent. We were trying to strengthen their fundamental research as well as get us into the technology transfer area.

Once again, now, now with the support of the administration, we have tremendous infrastructure increases for the fundamental role of NIST as well as strong administration support for enhanced NIST missions, strong administration support for some of those new roles we have given to it in applied manufacturing and research technology and manufacturing technology transfer.

It is just this one little item—this $10 million item—which stands in the way of the possibility of a veto of this entire bill of all the improvements that we have put into this bill on a bipartisan basis, that stands at risk. I, for one, am not wanting to put myself in a situation, or this Congress in a situation of seeing so much that has been gained with the bipartisan leadership of this committee, including the distinguished gentleman from Califorinia [Mr. MINETA], and on this item again reminding him that I supported his effort in committee.

If I had my way, I would continue to support him on the floor at this point in time except that I am afraid that we are putting too much of a value to this country at risk.

We need to signal very clearly to our university research centers, to our industry where we are increasing the compacts and ties between applied technology transfer and the NIST role, that we are moving forward in a sure and firm basis and not risk the possibility that this gets tied up over a veto, that we do not get an authorization bill through that continues to move us through.

As the gentleman well knows, there is a kind of some hidden scenarios here that could very well needlessly politicize the entire bill, drag the bill down with it. For that reason and that reason alone, I support the gentleman from Pennsylvania in his effort to strike this very unfortunately contentious issue from the bill so in fact we will save the bill from any risk of loss due to a veto or inability to resolve this as the year continues.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, to me, if I might just mention the threat of a veto, it seems to me in this instance it is not only premature but it also seems to me that the message that came from the administration relative to the technology commercialization loan program also spoke to the amendment offered by the gentleman from Pennsylvania as it related to his program as to why, if that was not revised, why they would feel compelled to also veto the bill, but why this one then gets signaled out for deletion in this en bloc amendment and not dropping of the amendment as offered by the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

(By unanimous consent, Mr. HENRY was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I am not certain what the gentleman is talking about in terms of some program of mine that they also threaten to veto. I have the administration's veto statement in front of me. The veto statement is very definitely oriented toward this particular loan provision. I have talked exclusively with the administration on this. It is this one provision which could cause a massive problem for the bill.

I also would like, if the gentleman would continue to yield, to point out something about the farm program to which the gentleman from California [Mr. MINETA] referred in the committee and then also referred to on the floor today as being similar to his program. We have done some research into that particular commercialization program in Public Law 101-624, and it is a substantially different program.

For example, it is a program that gives money to, and I am quoting from the bill, "to institutions of higher education, nonprofit organizations, cooperatives," and then secondarily to business concerns.

This is not something which went into business. It also had some fairly stringent criteria in it, none of which exists in our bill.

For example, one had to show adequate private financing was not available but that some public and private matching funds could be received. One had to be able to show that the company has invested a significant amount of its own money in the project. One had to be able to show that the product will be commercially viable without continued Federal funding and to show support from the private sector financial community, private businesses, State and local governments and educational institutions.

Now, none of those criteria exists in the loan program that we are discussing on the floor today. It is substantially different both in concept and in content from that which the gentleman from California is offering and that which was in the farm bill.

I would suggest the comparison made by the gentleman does not hold water when one looks at the exact detail.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has again expired.

(On request of Mr. LEWIS of Florida, and by unanimous consent, Mr. HENRY was allowed to proceed for 2 additional minutes.)

Mr. HENRY. Mr. Chairman, I will not take 2 minutes. I simply would use the opportunity to say there is so much in this bill that we have worked on together, I would hate to see Members spoil the comity we have had in the committee in substantially improving technology transfer and technology transfer from engineering or engineering emphasis from pure research. To let this kind of comity devolve in terms of references to abstract ideologies is not going to help the committee and is not going to help the Congress face this issue.

I would be glad to work with the gentleman from California [Mr. MINETA] in addressing some of the concerns the gentleman from Pennsylvania [Mr. WALKER] and the administration have raised in conjunction. But I hope we would all be careful and cautious as we characterize the argument.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, the only thing I was referring to with regard to the veto message is the statement of July 9 from the Office of Management and Budget in which they do talk about recommending a veto. In particular it says, "strongly object to the technology commercialization loan program, the administration also strongly opposes enactment of H.R. 1989 unless it is amended to," and then it talks about certain sections deleting, deleting, deleting.

□ 1420

It then talks about revising the advanced-technology program as offered by the Walker provision. That is the only thing I was referring to.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, I want to make the point that the administration has assured me through the Office of Management and Budget that if this particular provision is deleted from the bill and the bill remains substantially the same without that provision, the bill will be signed. Otherwise, it will not be signed.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of Mr. WALKER's amendment. The language he seeks to strike represents a major departure in national policy that would spell doom for this bill.

The bill before us is H.R. 1989, and that's an appropriate bill number, because 1989 was the year this bill was first introduced—and the year it should have been passed. Instead, we had to spend the past 2 years bickering over minor points, browbeating the administration into recognizing the need for Federal support of industrial R&D, and watching the Senate block the bill because of unrelated disputes—to name just a few of the impediments. The progress of this bill has been a tale of frustration.

Now, when all these items have finally been resolved, when a consensus has been reached on funding precompetitive research, we suddenly include a provision that could land this bill once more on the ash heap of history. I simply cannot understand why anyone would vote to retain language that would, in a single stroke, undo more than 2 years of arduous negotiation.

The provisions of H.R. 1989 are too important, have been worked on for too long, to sacrifice for a questionable loan program that would require the Federal Government to gauge the potential success of specific products.

Let's give the Advanced Technology Program [ATP] some time to work and be tested before we go veering off into some new untried policy arena. The loan program is more likely to hinder than to help the fledgling ATP. Let's see if we can do something to make private lenders more open to thinking about new technology before we turn the Federal Government into a commercial bank.

If you support the work of NIST, if you believe in the need for Government funding for civilian research, you should vote for this amendment. A vote against the Walker amendment is quite simply a vote to kill this bill. Vetoing this bill is no idle threat. Let's not snatch defeat from the jaws of victory. Support the Walker amendment.

Having said all of the above and speaking out today, as I am, in support of the Walker amendment, let me acknowledge that the gentleman from California [Mr. MINETA] has a good idea, a very good idea, one that I think needs to be further explored. We have not had the benefit in subcommittee or the full committee of any hearings on this, and so I would be more than willing to work with my colleague, my distinguished friend from California, as we proceed with this, because I think he has an idea that needs to be further examined. But for the moment, I would strongly recommend that we support the Walker amendment.

Mr. BROWN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the excellent debate on this amendment has clearly laid out for the Members to consider the pros and cons, and the point that I would like to make in addition to expressing my own support for the amendment which I supported also in the committee is that all of the Members here on both sides of the aisle are expressing a concern mainly for the progress of this bill as a whole. Their objection to the amendment stems more from the fact that they feel that it might endanger the ultimate enactment of the bill rather than from any matter of high principle with regard to the amendment itself.

I recognize that for philosophical and other reasons there are some who feel that this loan provision is not desirable, but even here, they are expressing the view that it would cause the President to veto the bill rather than the matter of principle.

I happen to be in the position of having worked with Mr. Madigan in developing the language in the farm bill which has been referred to here, and the gentleman from Pennsylvania [Mr. WALKER] is correct that that language both went further in some ways and was more restrictive in other ways than the language that we have before us in the proposal of the gentleman from California [Mr. MINETA]. Nevertheless, however, the principle is essentially the same.

Mr. Madigan proposed, and he was not alone in this, because the proposal had been advanced by Members on both sides of the aisle in the Committee on Agriculture, that agriculture as an industry needed assistance in developing new approaches to the marketing of agricultural commodities, that we needed to develop new use for old products. We needed to make better whiskey out of corn or whatever the appropriate technology might be to better utilize the cornucopia of agricultural resources produced in this country.

The language in the farm bill is an effort to encourage both the research and the commercialization of these kinds of technologies to better utilize a great resource of this country.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the gentleman fairly characterizes it. He will, I think though, agree with me that the purpose, as stated in the amendment at that time, was kind of the reverse of what we are doing here. It was to get it to lower government subsidies, because government was the purchaser of the agriculture products, so it was an attempt to reduce government subsidies of agriculture rather than, as in this case, to increase the subsidization of new commercial products.

Mr. BROWN. There is no question but what the gentleman is correct. We were concerned with the problem of huge agricultural surpluses and how to use those for the benefit of the country. But, again, I do not think that that makes a compelling argument that the principles are not similar here.

I am very much concerned that perhaps we are moving too rapidly into this area. I do not want to burden NIST with the administration of a new program, a loan program, but we have not hesitated to do this in other areas, and in connection with other programs, and I felt that this was a modest step which we would be justified in taking, and if it turned out to be useful, and I think that most people in industry, as the gnetleman from California [Mr. MINETA] indicated, felt that it would be useful, that it could be continued. If it proved to be subject to some of the problems that other loan programs have had, and we have made some mistakes in loan programs, and I freely admit it, well, we would be able to learn from that experience and not go further.

On balance, I have felt that this was a useful initiative, one that deserves support, and that I would like to carry it forward as far as we could in connection with this legislation.

I have said again and again that I do not want to sacrifice this bill for the benefit of an initiative of this sort, but I would like the opportunity to work with the administration and see if we can have a meeting of the minds with regard to this and explore it a little further than I have been able to do.

For this reason, I urge that the amendment by the gentleman from Pennsylvania not be adopted.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a lot of talk today about practice-versus-principles approaches to this legislation.

Today, we are talking about a loan program which the committee added to this bill and which the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] will eliminate.

The practical nature of this, in terms of practicality, is that this loan program threatens to kill everything else in the legislation. That point has already been made, and I support many of the aspects of this legislation and intend to vote for it.

But obviously this loan program is controversial, and, practically speaking, it will threaten the rest of the legislation, so we should talk about the principle for a moment.

The principle, in terms of the purpose of this loan program, is laudable. It is to encourage industry to pursue R&D activities that will enhance our international competitiveness.

□ 1430

That is the purpose of this loan program. My hat is off to the gentleman from California [Mr. MINETA]. He is a fine person. I love to work with him. However, I disagree with him on this particular position.

In fact, we have worked together on many areas within the committee to save the taxpayer money, but we are coming from different approaches. We can talk about this in terms of principle, that sometimes the people on this side of the aisle are coming at problems in a different way from people on that side of the aisle.

Adding a loan program to NIST would add an incredible bureaucratic burden to this agency, which NIST frankly does not want to shoulder.

I disagree with the use of the loan program in order to achieve what the gentleman from California [Mr. MINETA] would like to achieve, and that is greater competitiveness and greater R&D in American technological industries. If we want to encourage American industry to do R&D, then what we really ought to do is, instead, help them with capital, not through a Government loan, but by lowering the capital gains tax, and by instead of trying to tax money away from business and then give it back to selected businesses, we should make sure that American businesses that are providing jobs for our people, and indeed carrying the torch of American competitiveness, that these businesses have the capital in the first place, rather than permit the Government to select which companies will and which companies will not have that capital available.

Some people place their faith in government, and I understand that. I do not place my faith in government. I think it is much better for the Government to provide the circumstances in the private sector for private individuals to succeed, and then get out of the way, rather than trying to pick winners and losers. I think with that method, we are going to be a much more competitive Nation.

I understand those people are coming at this from a different approach, and they are very well motivated. They are concerned about America. They are concerned about America's competitive position. But at the same time, they are supporting what I consider to be legislation and policies which actually detract from that purpose.

How many of those who support this legislation are also supportive of lowering the capital gains? To me, that is what the dichotomy is. Does a person believe in lowering the capital gains and leaving that money with American business, or does the person believe in taxing it away? From my side of the aisle, or at least from this particular gentleman, I believe it would be much better for America to let American business keep that money in the first place. In fact, when we are talking about the Japanese, we face this major competitive challenge, but people from the other side of the aisle quite often come to our own industries and treat them as if they are an enemy, as if they are milk cows to be milked, and then they wonder why our industries are not competitive with the Japanese, who treat their companies and their competitive industries as if they are precious jewels, or as if they are parts of the society that should be nurtured.

We cannot regulate and tax American business out of competitiveness, and then turn around and offer them a minor loan program with the money that they have already taxed away from them, and then suggest we are in favor of American competitiveness. That is just not the way it works. We are in a global marketplace today, and as long as the majority Members of this body hold to a selectivist approach, and I hate to add, a more restrictive approach on American business, a more regulated approach, a more high-tax approach to American business, American business will not be competitive, and no amount of small programs added on this bill or any other piece of legislation is going to bring American competitiveness back.

That is the principle we are talking about.

(On request of Mr. MINETA and by unanimous consent, Mr. ROHRABACHER was allowed to proceed for 1 additional minute.)

Mr. ROHRABACHER. That is the principle which we are talking about, and which honest people can disagree.

In terms of the practicality argument, I think it is made very well today. Everything good in this piece of legislation is being threatened by the fact that we are forcing a loan program on which is very controversial.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I am happy to yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I appreciate the gentleman's statements that he has set forth. Again, I think that there is not going to be a single answer to all the kinds of issues that are facing industry.

I happen to have supported the capital gains tax reduction and voted accordingly, because I think we have to have, in our old kit bag, a number of different things. This, to me, is just another quiver as far as a number of things that we have going, that we have to keep trying, that there is not going to be just one answer. There is not going to be one arrow in the quiver, but it is going to be a number of things that we have to keep trying.

To me, lowering the capital gains rate is one of those things. To me, the Commercialization Loan Program is another.

Mr. ROHRABACHER. Reclaiming my time, I applaud my colleague for his support of lowering the capital gains tax. If we had more support like that, we would not need this loan program.

Mr. VALENTINE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

Last week, Mr. Chairman, the Council on Competitiveness released its competitiveness index, a report that assesses the economic performance of the United States compared to that of the other G–7 nations over a 20-year timeframe. The G–7 countries are the United States, as we of course know, as well as Canada, Japan, France, the United Kingdom, Italy, and Germany.

Using four key indicators to measure economic strength including investment, productivity, trade, and standard of living, this report concluded that we are keeping pace with our peers.

The results are as follows: The standard of living, the United States standard of living in 1990 showed its first real decline in 8 years; in contrast to the average Japanese, was almost 80 percent more prosperous than in 1971. Trade in 1990, Germany was the world's No. 1 manufactured goods exporter, with $368 billion in current dollars; the United States was No. 2, with $287 billion; and Japan was $282 billion, despite a work force of approximately half of the work force in the United States.

In productivity, the U.S. marketing production growth was brisk in the 1980's, but other G-7 productivity growth was even stronger. Investment since 1987, the United States has invested less in plant and equipment, as a share of real GNP than any other G-7 country, and on, and on.

The demand for Federal help is great and extensive. Let me say, Mr. Chairman, that there are no Members on the other side of the aisle than the gentlemen who have stood here in this Chamber and expressed themselves in support of the amendment offered by the gentleman from Pennsylvania [Mr. WALKER]. I compliment these Members, Mr. Chairman, because I believe that they have succeeded, almost succeeded, in making a batch of chicken feathers into chicken salad.

Now, we are here in a very unusual situation based on my 8½ years in this institution. We have a basket of Federal money to pass out. We have Federal dollars taken from taxpayers all over the country, and they are divided by this legislation into two categories. The great part of it are grants, which we will never recover, and a small part of it are loans, which we have some hope of recovering. We have on the other side of the aisle colleagues saying they are opposed to loans, where we might recover the taxpayers' money, with interest, that they do not want that. They want to just get it all in grants.

Now, I find that an unusual set of circumstances, given the protestations of my distinguished colleague who just left the well, as to conservatism, and what is best for the taxpayer, and what is best for American business. I suggest to Members that if the President of the United States wants to assume the responsibility of vetoing this vast constructive piece of legislation—crafted over the years—seeking to deal with the competitiveness problem in this United States, if he wants to do that because of the difference between $87 million in loans and $8 million in another grant program, then he will assume great responsibilities.

□ 1440

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. VALENTINE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I must say, Mr. Chairman, that I am a little confused by the gentleman's argument with regard to the grants and the loans.

Is the gentleman contending that these loans are to be used for the same things that the grants are going to be used for?

Mr. VALENTINE. They will be used, as I understand it, for the broad overall purpose of shoring up the competitive conditions of this country.

Mr. WALKER. Well, Mr. Chairman, if the gentleman will yield further, what we are talking about, though, is grants which are to be used for emerging technologies in their developmental stages and so on. Those grants are in that avenue.

The commercialization loans the gentleman from California has before us are entirely different kinds of things. What they do is take already developed technologies in the advanced field and give loans for specific things to then be moved forward into commercialization.

So the gentleman's argument only holds up if the gentleman will tell me that he believes the loans are going to be used in the same way that the grants are, and I do not think there is anything in the bill to indicate that they are going to be used in the same manner.

I would also point out to the gentleman that since he cited some studies, I want to cite one to him, that these particular commercialization loans are shown by one study to have an 80-percent default rate.

Mr. VALENTINE. Mr. Chairman, I thought the gentleman was going to ask a question. I did not know he was going to get into another speech. If there is a question in there, I will try to answer it.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. VALENTINE was allowed to proceed for 1 additional minute.)

Mr. VALENTINE. I simply meant to suggest, Mr. Chairman, that we have a sum of money, in the limited supply of the taxpayers, to use to try to develop and rehone the competitive situation of this country.

I have not suggested that it was all to be used a certain way or another way.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Pennsylvania.

Mr. Chairman, I am a former member of this Science Committee and take great pride in its development over the years, and particularly salute Chairman BROWN for his work.

I am also a member of the Ways and Means Committee, where we have tried to advance the research and development tax credit. The R&D tax credit costs roughly $1.5 billion per year, but it is terribly important to this country to keep us competitive.

I also favor, very much, the capital gains reduction and have taken my lumps this last session because of my advocacy of capital gains reduction, but I think it is important.

Now, in reference to this particular amendment, I think it is well documented that while the United States remains a leader in inventing new technologies, it lags behind other nations in capturing the market for the manufacture and sale of products generated by these innovations.

In consumer electronic markets, such as VCR's, this country had the idea, but failed to master the manufacturing process needed to win the markets.

Presently we run the same risk of following the same path in high-definition television.

Now, it is nice to be first in inventing things, but we must recognize that manufacturing products is also a key to good jobs for our workers and a rising standard of living.

As a matter of policy, this country must adopt a comprehensive approach to enhancing America's already excellent high-technology capabilities.

The gentleman from North Carolina has a hearing next week on this same subject in order to keep us competitive in the electronic industries, and he is to be commended for advancing that; but we need this kind of bill, particularly for small businesses.

This particular loan program I think is a well-targeted solution to this problem. It makes long-term patient capital available to those companies at a rate lower than the market. With the cost of capital higher in the United States than in Japan, this is an outstanding feature of this program, and this program leverages a relatively small amount of Government help into substantial assistance to industry.

Now, there is no question but that much more than this is needed to be done to help the American high-technology industry. We all recognize this.

I support a permanent R&D tax credit. I support reductions in the capital gains tax rate, but to believe that we need a more comprehensive policy does not lessen the need for a technology commercialization loan program. The program is not an unwarranted intrusion into the market, nor does it seek to pick winners or losers. Instead, it is a way to help companies who have already won the innovation race, but need some capital in winning the race to gain market share.

Now, Mr. Chairman, this is an amendment that would eliminate the loan program and take it out of the bill. It represents only $10 million.

I find it extremely difficult to believe that the administration is going to veto this measure if that provision is kept in.

I have the feeling that that so-called threat must have come from a bunch of ideologues down at OMB. I cannot believe that it is a serious administration veto threat because of a loan program.

You may want to say we are picking winners or losers. My friends, we ought to be wanting to pick winners. We ought to be willing to help them instead of kicking them in the shins.

This loan program is a relatively small program. It is important. At least it gives to small business the hope that there is a place to go to get a loan.

Now, you can argue all day, what is the difference between a grant with a payback provision and a loan program of this kind. You can argue all day long, and I do not think the average citizen is going to quite understand what you are talking about, because it is six of one and half a dozen of the other; but this amendment would take out the possibility of making low interest rate loans to small businesses. I cannot believe that is a serious threat by this administration. If it is, I think we ought to exploit it and pursue it much further.

I would hope, that as the gentleman from California [Mr. BROWN] suggests, that we keep this provision in here, and if we need to change the wording to develop a better approach, let us do that. But to knock it out of this bill now is an unthinkable act to me.

So I would suggest that we not adopt the Walker amendment, keep this loan program in there and work out the differences so that we do not give to small businesses the message that we are not going to help them. We ought to be trying to help our small businesses.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. WALKER, and by unanimous consent, Mr. PICKLE was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman from California was very nice to read off a list of all the special interests in the country that are interested in his approach. It was interesting to me that none of the ones he read had anything to do with small business. They were all the big major manufacturers in the country, like the aerospace industry, the electronics industry, all people who have substantial earnings.

It is not small business that this loan program will go to. These people understand very well that it is big business that is going to come in and take advantage of this, but I thank the gentleman for his remarks.

Mr. PICKLE. Mr. Chairman, this gentleman is speaking with reference to small business. This gentleman believes that is the intent of this legislation.

I do not think $10 million is going to interest AT&T or IBM one iota. It will interest small business, and that is, I think, the intent of the legislation.

Mr. Chairman. I oppose the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] which will strike the Technology Commercialization Loan Program in H.R. 1989, which provides loans to small- and medium-sized businesses so that they can commercialize their innovations.

By now it is well documented that while the United States remains a leader in inventing new technologies, it lags behind other nations in capturing the market for the manufacture and sale of products generated by these innovations. In consumer electronic markets such as VCR's, this country has had the idea, but failed to master the manufacturing processes needed to win the market. Presently we run the risk of following the same path in high-definition television. While it is nice to be first in inventing things, we must recognize that manufacturing products is the key to good jobs for our workers and a rising standard of living.

As a matter of policy, this country must adopt a comprehensive approach to enhancing America's already excellent high-technology capabilities. H.R. 1989's loan program is a good approach to enabling American companies to bring their inventions to market.

As many Members know, small- and medium-sized high-technology companies are an important source of innovation in the advanced technology sector. But the smaller technology companies often lack the capital, or the ability to raise the capital, necessary to invest in the manufacturing technology needed to produce their innovations.

The technology commercialization loan fund is a well-targeted solution to this problem. It makes long-term patient capital available to these companies at a rate lower than the market. With the cost of capital higher in the United States than in Japan, this is an outstanding feature of this program. And this program leverages a relatively small amount of Government help into substantial assistance to industry. Finally, this loan program is fully consistent with the credit reforms passed in last year's budget agreement.

There is no question that much more than this needs to be done to help the American high-technology industry. I support a permanent research and experimentation tax credit and some reduction in long-term capital gains to help U.S. competitiveness. But to believe that we need a more comprehensive policy does not lessen the need for the Technology Commercialization Loan Program. The program is not an unwarranted intrusion into the market, nor does it seek to pick winners or losers. Instead it is a way to help companies who have already won the innovation race, but need some help in winning the race to gain market share.

I urge my colleagues to defeat the amendment and instead vote to do something for America's competitiveness and standard of living.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, if I could respond to the gentleman from Pennsylvania, if you look at the membership of the American Electronics Association, there are many, many small start-up companies that are in there. The Silicone Valley that I have the privilege of representing a portion of has the largest chapter, the Silicone Valley Chapter of the American Electronics Association, and they are small businesses.

Mr. PICKLE. Mr. Chairman, I thank the gentleman.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Walker amendment.

Mr. Chairman, the gentleman was talking about competition with Japan and VCR's being developed, commercialized by the Japanese.

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I think we all recognize there needs to be some competitive spirit and some competitive cooperation between the private sector and Government in this particular area. But we also, I think, have to recognize the mind-set of the long-term investment, that if we had the ability or the mind-set for the long-term investment of VCR and the environment that the Government can give to enhance an industry to have that long-term investment, we would have captured the VCR market. The Japanese have an investment that is conducive toward that. The Japanese also have a long-term plan that goes on into eternity.

So I think there is a spirit there that we are all trying to cooperate to enhance the quality of the environment conducive toward long-term investment in technology in this country.

Mr. Chairman, today we are faced with what I view as a very important decision in terms of our future policy regarding commercial technology.

In a nutshell, today we have to decide whether to authorize the National Institute of Standards and Technology or else move into an area of possible industrial policy.

The authorization might well create a program whereby the Government decides which technologies will succeed and which ones will fail, which technologies are worth funding and which technologies are not.

We will provide advantage to certain businesses and certain technologies and thus impose our vision of what the market should be upon American business.

Admittedly, in the grand scale of things, a $10 million loan program probably will not make a great deal of difference. I do not rule out the possibility that it might do a little bit of good in the short term.

The main problem with this provision is that it sets a precedent for the Government, and, by extension, Congress trying to replace supply and demand in determining industrial policy.

The strength of the market has always been its plurality. The market objectively judges ideas on the success of their application. Government policy, on the other hand, has a history of being arbitrary, subjective, and narrow. I do not argue that Government has no role in the realm of technology development, I believe the advanced technologies program would provide excellent R&D support for our industrial base without actually determining which technologies should and should not succeed. The Walker amendment enhances the role of Government in developing generic and precompetitive technologies in a fair and objective way.

Many argue that the market has not succeeded in providing the technology commercialization necessary to keep American business competitive and that Government needs to take steps to help the private sector. I agree. And for that reason I support changing provisions of our Tax Code which are obviously hostile to research and development. Note the VCR in the late 1950's and early 1960's.

We should permanently extend research and devleopment tax credit so that we no longer punish companies who do not rely on the Government for research and development. We should reduce the capital gains tax and thus stimulate investment in emerging technologies.

I think we should begin to accommodate at this time joint ventures between the Government and the private sector. We should explore better ways in how to do that.

Mr. Chairman, absent the industrial policy provisions of this bill, we are looking at an excellent authorization. The core programs of NIST are an invaluable resource to American industry and the advanced technologies program is an emerging success story that we must continue to pursue. However, the technology commercialization loans provision is a dangerous precedent to set and a major flaw in this bill.

Mr. Chairman, I urge my colleagues to join me in supporting the Walker amendment.

Mr. ZIMMER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Walker amendment because America needs this technology bill signed into law. The only sticking point in this entire bill is a very small loan program. Members from both sides of the aisle agree on every other aspect. The bill stands as a testament to the hard work and bipartisan dedication of the leaders of the committee and subcommittee.

If we allow this loan program to stay in the bill, the President will veto the entire measure. If we remove it, America will have a much-needed piece of legislation that will aid the development of crucial technologies which will in turn help drive our economy during this decade and into the coming century.

By voting "no" and leaving the program in the bill, Members undermine all the efforts to bring a good bill before the House. To vote "no" on the Walker amendment is to turn our backs on America's technology needs. To vote "no" is to give a major advantage to our trade competitors.

We all know that America is in a race for its economic existence, and it is clear that the race is not getting easier. Members have legitimate differences of opinion on which economic measures will keep American industry competitive and thriving. Those differences have been debated on this floor—and they will be discussed again.

But this bill encompasses what is not a matter of contention. It is what we all agree will work. So I would ask why should Members want to jeopardize the bill that best represents what everyone in the United States agrees we must do?

Why play political football games with good public policy? Let us pass a good bill today; not sign its death warrant. There is time to debate the merits of the loan program, but that time is not today.

We must pass the Walker amendment in order to bring into reality the remarkable progress and the remarkable bipartisan agreement that has been shown to date on this matter.

Mr. GEPHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the committee for its work on H.R. 1989, the American Technology Preeminence Act. I believe this bill will help our country develop capabilities in a variety of advanced technologies and commercialization of those technologies in the future. These areas are and will continue to be a matter of economic survival for U.S. companies and their workers.

Every program contained in this bill is important and, if properly implemented and administered by the White House on the basis of reality and not ideology, will benefit U.S. economic and national security.

At this time, I would like to discuss one proposal which I have worked on with Congressmen NORM MINETA and ED MARKEY—the Technology Commercialization Loan Fund. We began working on this concept about 2 years ago, and I want to publicly congratulate NORM for having ensured this fund won the necessary support from Science Committee members and U.S. industry.

The loan fund will allow our Government to leverage efficiently limited U.S. Federal resources to push American companies in the area where competition is the most fierce—product development. For too long, we have failed to compete with our trading partners in the area of commercializing technologies, especially those that have been developed using the talents of U.S. workers and the strengths of Government-funded R&D programs. The "invented, but not made in America" phenomena must be stopped if American advanced technology industries are to exist and be able to serve U.S. defense and national security needs in the future.

The loan fund will help us achieve maximum returns on Government investments in commercialization of technology. It will also help us ensure that technology developed in U.S. labs will reach the U.S. marketplace first as a result of the efforts of U.S. workers, not workers of foreign companies or governments which have purchased valuable U.S. high technology companies and our vital technologies. Finally, this tool will help our country to address the high cost of capital in this country which has hindered U.S. companies, especially small- and medium-sized ones, from being able to finance technology commercialization efforts themselves.

In closing, I would like to again commend the Science Committee for its work on H.R. 1989. The Technology Commercialization Loan Fund is one measure which can help us realistically finance the challenges of global competition and the strategies of our trading partners, and provide jobs and a rising standard of living for the American people.

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Mr. GINGRICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think that this particular amendment allows the House to truly decide whether it is learning any of the lessons of Eastern Europe. Here we have a genuine concern. How can America regain preeminence in technology? And yet what do our friends suggest? Another Government program, more Government administrators. I am not sure it is possible for us to bureaucratically work our way toward technology, and it seems to me that everything we are trying to say to Mr. Gorbachev, who is about to visit in London, is not to have this kind of a centralized bureaucracy. Everything we are saying to Mr. Havel about Czechoslovakia, Mr. Walesa about what is happening in Poland, is not to have this kind of a centralized bureaucracy, and in fact, when Mr. Yeltsin came and visited us recently, he said proudly that he has learned a lesson, and he is trying to dismantle this kind of a bureaucracy.

Mr. Chairman, we have here a long program which would give some companies specific market advantage. It would inevitably become politicized, and we are right back into the Texas savings and loan kind of problems. The long program forces a very short term of reference when in fact what we really need in technology is a long-term commitment. The long program would in fact provide more overhead by the Government, more bureaucrats, more red tape, more administrative costs, and I cannot imagine a better test vote on whether Americans have learned any lessons from the collapse of the Soviet empire.

Is there anything to be learned by the fact that we are telling them, "Go the market system, have a tax program that encourages work, and incentive, and investment. Have a system where you are shaping behavior by how you structure the arena, but don't have a big central command bureaucracy trying to do things."?

Mr. Chairman, it seems to me this amendment allows us to go back to where we ought to be, to have an advance technology program that is new, that has promise, and not to have it start competing with itself by undermining it with the kind of bureaucracy which would do what? It would, first of all, develop around the country its own collection of pet projects. They would then each develop a relationship with a Senator and a House Member. They would then come to the Committee on Appropriations to get a little special extra money, and what would we find within 3 years? That we had invented a bureaucracy that had as its primary goal its own self-perpetuation, and, while we might not have any more technology, we would have a heck of a lot more paperwork.

Mr. Chairman, I think this a perfect test vote. I hope that every Member of the House would decide that Boris Yeltsin, that Popov, the mayor of Moscow, is right and that Walesa and Havel are right, and I hope that they will join in voting "yes" on this amendment in order to apply the lessons of Eastern Europe and the lessons of the Soviet Union directly to America. Let us not create another bureaucracy.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 246, not voting 15, as follows:

[Roll No. 206]

AYES—172

Allard
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Bateman
Bennett
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Horton
Houghton
Hubbard
Hunter
Hyde
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Murphy
Myers
Neal (NC)
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOES—246

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bentley
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—15

Barton
Early
Gray
Hatcher
Holloway
Hopkins
Inhofe
Levine (CA)
Manton
Matsui
Owens (UT)
Weiss
Williams
Wilson
Yatron

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Mr. ABERCROMBIE and Mr. HUGHES changed their vote from "aye" to "no."

Mr. HORTON and Mr. CARR changed their vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relative to Japan and Europe, in many important emerging technologies and risks losing much of the $350 billion United States market and $1 trillion world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no single company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attains a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) in subsection (b)(1)(B), by inserting "through grants, cooperative agreements, or contracts" after "in such joint ventures";

(2) in subsection (b)(2), by inserting "provide grants to and" before "enter into contracts";

(3) by amendment subsection (d)(2) to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.";

(4) in subsection (d)(3), by striking "cooperative agreement" both places it appears and inserting in lieu thereof "award";

(5) by amending subsection (d)(7) to read as follows:

"(7) Each agreement with any business or joint venture that receives an award under this section shall specify a test, as mutually agreed to by the Secretary and the recipient, for determining whether the venture or project shall be deemed to have been a commercial success and providing that in such event there will be appropriate recoupment to the Federal Government. Such recoupment shall not exceed the principal amount, with reasonable interest, of any monetary awards provided to such recipient under the Program. The Secretary shall issue regulations establishing guidelines for agreement provisions stating the circumstances under which a venture or project will be found to be a commercial success and the general procedures and terms for recoupment in such cases.";

(6) by adding at the end of subsection (d) the following new paragraphs:

"(10) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(11) Grants, contracts, and cooperative agreements under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(12)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.";

(7) by amending subsection (e) to read as follows:

"(e) The Secretary may, 30 days after notice to Congress, suspend a company or joint venture from receiving continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(10), and that it is in the national interest of the United States to do so."; and

(8) by inserting after subsection (e) the following new subsections:

"(f) When reviewing private sector requests for Department of Commerce assistance to proposed joint ventures, and when monitoring the progress of assisted joint ventures, the Secretary shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary is authorized to work with the Secretary of Defense and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for and value of joint ventures in specific technical fields, to evaluate any joint ventures requesting the Secretary's assistance, or to monitor the progress of any joint venture which receives Federal funds pursuant to the authorizations contained in this section, the Secretary, the Under Secretary, and the Director may organize and seek advice from such industry advisory committees as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) As used in this section—

"(1) the term 'high-resolution information systems' means equipment and techniques required to create, transmit, receive, display, process, record, store, recover, and play back high-resolution images and accompanying sound;

"(2) the term 'advanced manufacturing technology' means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial processes;

"(3) the term 'advanced materials' means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

"(4) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture;

"(5) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States; and

"(6) the term 'foreign-owned company' means a company other than a United States-owned company.".

(d) EFFECTIVE DATE.—The amendments in subsection (c) shall take effect immediately upon enactment; however, the amendments shall not apply to applications submitted in response to the Federal Register Invitation for Proposals dated July 24, 1990, or awards or other assistance granted pursuant to that notice.

(e) MANAGEMENT COSTS.—Section 2 of the National Institute of Standards and Technology Act (15 U.S.C. 272) is amended by adding at the end thereof the following new subsection—

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under sections 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT.—The Secretary of Commerce shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), including any activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

(a) Section 11(e)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)) is amended—

(1) in subparagraph (A), by striking "a fiscal year referred to in subparagraph (B)(ii)" and inserting in lieu thereof "any fiscal year"; and

(2) by amending subparagraph (B) to read as follows:

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000.".

(b) Section 11(e)(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(8)) is repealed.

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. RESEARCH EQUIPMENT.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended by adding at the end the following new subsection:

"(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.".

SEC. 304. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 305. QUALITY IMPROVEMENT.

The Secretary is authorized to use appropriated funds to cover the costs of salaries and associated benefits of the employees who administer the Malcolm Baldridge National Quality Award program to the extent such funds are needed in addition to the funds specified under section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)).

SEC. 306. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;"

The CHAIRMAN. Are there any amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

SEC. 401. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the "Commission"), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

(b) ISSUES.—The function of the Commission shall be to address the following issues:

(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

(5) In what ways to Government regulations influence the cost of capital in the United States?

(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce new technologies?

(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those faced by the Nation's principal trading partners?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) 3 individuals appointed by the President, one of whom shall be the Vice President and shall chair the Commission.

(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commissions shall require the approval of three-quarters of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 504 of this Act.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 40, after line 7, insert the following new title:

TITLE V—COMPREHENSIVE NATIONAL POLICY FOR COMMERCIALIZATION OF EMERGING TECHNOLOGIES

SEC. 501. COMPREHENSIVE NATIONAL POLICY FOR COMMERCIALIZATION OF EMERGING TECHNOLOGIES.

It is the sense of the Congress that in order to improve the competitiveness of United States industry—

(1) the research and experimentation tax credit should be raised to 25 percent and made permanent;

(2) the capital gains tax should be reduced to levels comparable to that of our major trading partners; and

(3) the National Cooperative Research Act of 1984 should be extended to include joint production ventures.

Redesignate existing titles V and VI as titles VI and VII, and redesignate the sections in such titles accordingly.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Chairman, I raise the point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I raise the point of order that the amendment is not germane to the bill under consideration.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. The point of order comes too late.

The CHAIRMAN. Does the gentleman reserve his point of order? Does the gentleman wish to make the point of order?

Mr. ROSTENKOWSKI. Mr. Chairman, I intended to make a point of order against the gentleman's amendment.

Mr. WALKER. Mr. Chairman, the point of order comes too late. Business has taken place in the House that would preclude the point of order from being made.

Mr. ROSTENKOWSKI. Mr. Chairman, I was seeking recognition. I was on my feet. I reserved the point of order.

The CHAIRMAN. The Chair will state to the gentleman from Pennsylvania the point of order is timely. Debate has not yet begun on the amendment.

Mr. WALKER. Mr. Chairman, I asked unanimous consent to revise and extend my remarks, which means that debate had in fact begun and the unanimous consent was agreed to, which means that the point of order does not come timely.

The CHAIRMAN. No order of the Committee has been entered on that manner. The point of order has been reserved. The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI] on the point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, I raise the point of order that the amendment is not germane to the bill under consideration.

Mr. Chairman, the amendment seeks to express the sense of the Congress that certain legislative action should be taken to improve the competitiveness. While this is a goal which we all share, the amendment is not within the jurisdiction of the Committee on Science, Space, and Technology, the committee from which the bill has been reported.

Under previous rulings of the Chair, most recently August 1, 1990, the Chair has determined that the jurisdiction of the various committees is relevant in determining the germaneness of amendments. This amendment clearly violates the test of germaneness, and I urge the Chair to sustain my point of order.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. WALKER] desire to be heard on the point of order?

Mr. WALKER. Mr. Chairman, I do wish to be heard on the point of order.

This is an amendment that was specifically suggested at the Rules Committee should be offered on the floor. Members of the Rules Committee pointed out that the competitiveness of the United States was dependent upon tax policy and a number of things that were not addressed in this bill. So this amendment is being offered based upon testimony at the Rules Committee where the Rules Committee, some members of it specifically suggested that such an amendment would be entirely appropriate on the floor.

Second, Mr. Chairman, I would refer Members to the content of the bill before us. In title II of the bill, it says that:

> It is in the national interest of the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology.

That is precisely what this amendment speaks to. It speaks to a permanent research and development tax credit at 25 percent, reduced capital gains rate in line with the rate of our major trading partners, which is language which is specifically in the bill that relates to language that is being adopted in my amendment.

Third, my amendment also goes to the question of antitrust reform also covered in language in the bill. The bill in title II, section 201, says "Joint ventures are a particularly effective and appropriate way to pool resources," and then goes on.

Once again, that speaks to the antitrust portion of the bill. So this amendment does in fact relate to language which is within the bill, and it is a sense-of-the-Congress resolution. It has no effect of law and so, therefore, does not get into the area of the Committee on Ways and Means. It simply expresses a sense of the Congress that when looking at other competitiveness types of issues, these issues also have to be considered.

Given the nature of the bill, that this is germane to the language in the bill before us, as well as the expressed intent of the Committee on Rules that has such an amendment on the floor, I would ask that the Chairman rule in favor of this particular amendment being allowed to be offered.

The CHAIRMAN. Is there any other Member that desires to be heard on the point of order?

Mr. PICKLE. Mr. Chairman, I rise to speak in favor of the point of order.

Mr. PICKLE. Mr. Chairman, the chairman of the Committee on Ways and Means is exactly right on this point of order. Whether it is a sense of the Congress or whether it is in opposition to a specific amendment, this jurisdiction clearly lies in the Committee on Ways and Means.

The gentleman from Pennsylvania [Mr. WALKER], however, in my judgment is exactly right in principle. I think these provisions ought to be enacted into law and in the Committee on Ways and Means I would be willing to support the amendment if we could reach an agreement with the chairman of the committee. I presume that he would favor this kind of approach or something akin to it because we need to make permanent the research and development aspect of the ways and means.

We need to do something about lowering capital gains. We need to do something about putting venture capital into these consortiums and joint ventures. So the gentleman from Pennsylvania is exactly right in principle, and I support him. And if this was the time and place, I would speak further about them.

Under the circumstances, though, the gentleman from Illinois [Mr. ROSTENKOWSKI] is saying that this is not the jurisdiction of this committee, and he is right. I would hope that we could reach agreement with the gentleman about whether we make these R&D's permanent, whether we can adjust the capital gains appropriately, whether we can put joint venture in these consortiums. It needs to be done.

This is not the place to do it. I commend the gentleman from Pennsylvania for trying to establish this, but I do not think it is in jurisdiction to do it in this matter. We can do it later in Ways and Means, and I hope it is done.

The CHAIRMAN. Is there further discussion on the point of order?

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, the rule under which we are debating this bill gives me specific authority to offer amendments. Does that rule apply to this particular discussion of the gentleman's motion?

The CHAIRMAN. The Chair is going to answer in two parts. First, the pending amendment is not an en bloc amendment needing the assistance of the rule. Second, the rule does not waive any points of order in any event.

Mr. WALKER. Mr. Chairman, under the rule it is in order to consider en bloc amendments offered by Mr. WALKER. The Chair is correct, however, that it does not waive points of order against the amendment. I thank the Chairman.

The CHAIRMAN (Mr. RAY). Is there further discussion or argument on the point of order? If not, the Chair is prepared to rule.

The gentleman from Illinois makes the point of order that the amendment offered by the gentleman from Pennsylvania is not germane to the bill.

The bill authorizes appropriations for the National Institute of Standards and Technology and for the Technology Administration of the Department of Commerce. It also addresses several legal authorities and directs various studies on the general subject to Federal research and technology policy.

The amendment offered by the gentleman from Pennsylvania proposes to add to the bill an expression of the sense of Congress concerning the income tax credit for research expenditures, the income tax rate for capital gains, and the antitrust treatment of certain research ventures.

The bill confines itself to the research and development jurisdiction of the Committee on Science, Space, and Technology. The three topics addressed in the amendment, although they may be conceptually related to the general subject of scientific research, all involve matters outside the jurisdiction of the Committee on Science, Space, and Technology. The tax matters fall within the jurisdiction of the Committee on Ways and Means. The antitrust matter falls within the jurisdiction of the Committee on the Judiciary.

The Chair is guided by precedent. On August 1, 1990, the Committee on the Whole was considering a bill addressing public housing and community development by provisions within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. A Member offered an amendment expressing the sense of Congress on matters of tax policy. A point of order that the amendment was not germane to the bill was sustained. Even to the extent that the amendment addressed the same general subject as the bill, it did so by an unrelated method within the jurisdiction of another committee.

Similarly, in the present case, to the pending bill addressing Federal research and technology policy by provisions within the jurisdiction of the Committee on Science, Space, and Technology, an amendment expressing the sense of Congress on matters of tax and antitrust policy is not germane.

The point of order is therefore sustained.

□ 1540

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am obviously disappointed that the amendment that I offered in good faith on sense of the Congress on such topics as research and development, tax credits, reducing capital gains taxes, and antitrust reform was not permitted to be offered in the House and not permitted to be considered by the House. It was a sense of Congress aimed at trying to make us understand what is really necessary if we are going to get investment in advanced technology in this country.

This is not BOB WALKER saying that. It is, in fact, the testimony of witness after witness, after witness, after witness who came before our committee. These people said, "It is fine, whatever you people want to do; if you can come up with a few million dollars that would help us, that obviously helps a little bit, but the fact is what we need, what we have to have is the kind of policies, particularly tax policies, that make us competitive with the rest of the world."

The gentleman from North Carolina earlier in this debate cited the report that talked about competitiveness with the other G–7 countries. He made the point that in terms of exporting technology one nation led the way: Germany. Germany has a zero capital gains tax rate. It has a lot to do with their ability to be a nation committed to advanced technology development.

Japan has a 5-percent capital gains tax rate. It has a lot to do with their ability to be competitive in the world and to export their technologies.

Most nations of the world encourage research and development with some kind of tax treatment. We ought to in this country, and yet we do not, and yet when it comes to the House actually considering that issue, we are prevented from doing so on a point of order.

I find that very disappointing, because the testimony in our committee, the testimony across the board, is that that is what this country has to do.

You know, picayune little programs of $10 million for loans and so on which we just approved here a couple of minutes ago will do nothing, nothing to really advance the technology of this country.

Technology is a massive enterprise that has to be developed across the board. Policies that will allow us to do that kind of development are what we have to have, and those policies will not be advanced by the bills that we have before us today unless they are done in an overall policy climate which is favorable.

We are not going to be able to debate that issue on the floor today because there has been an objection based upon jurisdictional disputes within the Congress. The American people must find it awfully odd that we know what to do, and yet the Congress cannot even debate the issue. It is sad and disappointing.

I would hope that perhaps in the future the gentleman from Texas will be right, that the Committee on Ways and Means will come to the floor with some bills that will move us in the right direction.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had not intended to speak, but in light of the fact that the point of order was already lodged and upheld, in light of the comments of the previous speaker, I do think that a couple of minutes ought to be spent on the points raised by the gentleman from Pennsylvania.

I think this House has an obligation to listen to any Member, but I do not think that we have an obligation to take seriously the economic arguments of the people who brought us to the fiscally ruinous policies that we are operating under in the first place. The fact is that we were promised that if we bought the magic elixir of supply-side economics 10 years ago that somehow we would see a great increase in economic growth, and we would also see the magic of a balanced budget.

The fact is that the Congress listened to the arguments made by people such as the gentleman from Pennsylvania and we are now paying the price. The result of the Congress taking the advice of the gentleman from Pennsylvania and others has been that in the 1980's we have had a wonderful ride for the high rollers in this society. The income of the richest 1 percent has almost doubled from $300,000 to $550,000, but at the same time the purchasing power of the average worker in this society has declined by over $1,000.

In 1960, the after-tax income of the chief executive officer of a nonbank corporation in this country was approximately 12 times as large as the salary of the average person who worked in that company. Today that same chief executive officer on average is earning more than 72 times as much as the average worker in that same plant.

If the richest 1 percent of people in this society had had their taxes keep pace with their income in the 1980's, the deficit would be $75 billion lower today than it is, and yet we are told by the gentleman from Pennsylvania that it is somehow a fiscal outrage that we were not allowed to vote on an amendment.

Mr. Chairman, the point I am making is that in spite of the gravy train that the very wealthiest people in our society have been on the last 10 years, we are told that the answer to that is to provide yet another tax break that will primarily benefit the rich. Very frankly, I think that is what separates the two parties, the Democrats from the Republicans on the other side of the aisle.

I can hardly believe that, in light of all that has happened in the last decade to give incredible largesse to the very wealthiest people in this society, that we are not being told this afternoon by the gentleman from Pennsylvania that we ought to provide yet another tax break for the very wealthy through a capital gains tax cut.

Mr. Chairman, I would point out that if you want to be consistent, let us not just take a look at the capital gains rates. Let us also take a look at the individual income tax rates country by country.

You will see then that Germany has a highest tax rate of 53 percent, and you will see that Japan has a tax rate for the highest bracket of 50 percent. The United States is much lower.

I doubt very much that the gentleman from Pennsylvania wants us to follow Germany and Japan when it comes to those tax brackets, and yet he is suggesting that we be selective in following what our economic competitors do.

□ 1550

I think that if we want to provide a tax break, that what we ought to do is provide a tax break to middle class Americans. We ought to be supporting the Downey, Obey, Miller bill. We ought not to be wasting even 5 minutes considering the kind of capital gains tax nonsense that the gentleman from Pennsylvania is suggesting is the answer to all of our problems.

It seems to me if we really do want to make some progress in providing tax cuts to people who need it, we will move to the Downey bill and pass that this year. That is, let's be real rather than go through another one of these phony Alice-in-Wonderland promises about what capital gains will do for the working people of this country, which is a big fat nothing.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to say a few words in recognition of the exceptional work of the National Institute of Standards and Technology [NIST]. NIST is our Nation's oldest laboratory and the only laboratory explicitly mandated to assist U.S. industry in becoming more competitive internationally. It is truly a world-class center for scientific and engineering research.

However, a few years ago, NIST was restricted in its performance because of its key positions in the highly competitive scientific and technical labor market were left vacant. In response to NIST's difficulty in recruiting and retaining top-notch scientists, Congress authorized a 5-year alternative personnel management system demonstration project.

This demonstration project has been an unqualified success. By utilizing this pay-banding concept, NIST managers can now hire outstanding personnel and retain their own highly qualified scientists and engineers by compensating them competitively.

As a result, NIST now has direct hiring authority; it rewards performance; it provides incentives; it has a simplified position classification system; it provides for employee peer review; it implements a competitive rating system; it is able to offer flexible entry level salaries; and it can now use paid advertising to attract candidates. Collectively, these attributes of the demonstration project have become integral to recruiting and retaining the best candidates, while narrowing the salary gap between NIST and the private sector.

We are all justifiably proud of NIST's work. We depend on it for our competitiveness, commerce, transfer of technology, and modernization of manufacturing processes. It also serves as a central clearinghouse for technological programs. We should all have an interest in keeping this Institute top notch and strong.

The personnel demonstration project sunsets at the end of 1992. I believe that we must be vigilant and not let it expire. Should the authority of the demonstration project lapse, it will take time for NIST to reconfigure their pay system, thereby slowing down the momentum it has achieved through the implementation of the demonstration project.

Though the Office of Personnel Management has the authority to extend demonstration projects for a short term, Congress has, in the past, extended these projects by legislation. When the time becomes appropriate, Mr. Chairman, I urge this body to extend, or make permanent, the NIST alternative personnel management system.

The CHAIRMAN. Are there any other amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—STUDIES AND REPORTS

SEC. 501. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to as the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information systems industries.

(b) DEFINITION.—As used in this title, the term "high-resolution information systems" means the equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound.

(c) FUNCTIONS.—The board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitiveness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(d) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board—

(i) 5 members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with 1 member also representing labor;

(ii) 3 members from the private nonmanufacturing sector, including 1 representative from the transmission delivery systems sector and 2 representatives drawn from such areas as the software industry, the entertainment industry, and the investment community; and

(iii) 1 member from academia.

At least 1 member appointed under this subparagraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit to the President and Congress a report of its activities once every year after its establishment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991 and 1992.

SEC. 502. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

"Sec. 209. The Director shall monitor and report annually to Congress on each major science and technology project in which more than one country is participating and which has a total estimated cost greater than $1,000,000,000.".

SEC. 503. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

SEC. 504. CRITICAL INDUSTRIES.

(a) IDENTIFICATION OF INDUSTRIES AND DEVELOPMENT OF PLAN.—The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States;

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories, in each of the critical industries identified under paragraph (1); and

(3) develop a 10-year plan outlining the major public and private efforts, including research and development, needed to ensure the growth and stability of each critical industry identified under paragraph (1).

(b) INITIAL REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of enactment of this Act on the actions taken under subsection (a).

(c) ANNUAL UPDATES.—The Secretary shall annually submit to the Congress an update of the report submitted under subsection (b). Each such update shall—

(1) describe the status of each identified critical industry, including the advances and declines occurring since the most recent report;

(2) identify any industries that should be added to the list of critical industries; and

(3) recommend measures, including research and development, necessary to ensure the continued successful development of each identified critical industry.

SEC. 505. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) 4 members who are eminent in advanced technology businesses representing manufacturing and services industries, including at least 1 member representing labor;

(B) 3 members who are eminent in the fields of technology and international economic development; and

(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1991, and 1992, and 1993.

SEC. 506. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authoritative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) FUNDING.—The Director of the National Technical Information Service may retain and

use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses through the end of fiscal year 1992.

(c) ELECTRONIC FORMAT.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

SEC. 507. NATIONAL QUALITY COUNCIL.

(a) ESTABLISHMENT AND FUNCTIONS.—There is established a National Quality Council (hereafter in this section referred to as the "Council"). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in Quality performance, and to encourage the adoption and institution of Quality performance methods by all corporations, government agencies, and other organizations; and

(4) to conduct an annual White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) MEMBERSHIP.—The Council shall consist of not less than 17 nor more than 20 members, appointed by the President of the United States by and with the advice and consent of the Senate. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in post-secondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) One representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) TERMS.—The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) shall be 2 years, except that when making the initial appointments under such paragraphs; the President shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) CHAIRMAN AND VICE CHAIRMAN.—The President shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) EXECUTIVE DIRECTOR AND EMPLOYEES.—The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) FUNDING.—There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council without further appropriation for the purpose of carrying out the functions of the Council under this Act.

(g) CONTRIBUTIONS.—The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) ANNUAL REPORT.—The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

SEC. 508. FUNCTIONS OF FEDERAL COORDINATING COUNCIL FOR SCIENCE, ENGINEERING, AND TECHNOLOGY.

(a) INTERAGENCY RESEARCH PLANS.—Section 102(a)(6) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6602(a)(6)) is amended to read as follows:

"(6) The development and implementation of long-range, interagency research plans to support policy decisions regarding identified national and international concerns, and of which a sustained and coordinated commitment to improving scientific understanding or technology will be required.".

(b) COUNCIL.—Section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"MEMBERSHIP AND FUNCTIONS OF COUNCIL

"SEC. 401. (a) The Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this Act referred to as the 'Council') shall be composed of the Director, who shall be Chairman of the Council, and 1 representative of each of the Federal departments and agencies which the President shall designate. Each such representative shall be an official of policy rank appointed by the head of the Federal department or agency designated.

"(b) The Council shall consider problems and developments in the fields of science, engineering, and technology and related activities affecting more than 1 Federal agency, and shall recommend policies and other measures designed to—

"(1) provide more effective planning and administration of Federal scientific, engineering, and technological programs;

"(2) identify research needs, including areas requiring additional emphasis;

"(3) achieve more effect utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication; and

"(4) further international cooperation in science, engineering, and technology.

"(c) The Council may be assigned responsibility for developing long-range and coordinated plans for scientific and technical research which involve the participation of more than 2 Federal agencies. Such plans shall—

"(1) identify research approaches and priorities which most effectively advance scientific understanding and provide a basis of policy decisions;

"(2) provide for effective cooperation and coordination of research among Federal agencies; and

"(3) encourage domestic and, as appropriate, international cooperation among government, industry, and university scientists.

"(d) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman of the Council.

"(e) For the purpose of carrying out the provisions of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

"(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

"(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the scope of authority of the Council.

"(f) For the purpose of developing interagency plans, conducting studies, and making reports as directed by the Chairman, standing committees and working groups of the Council may be established.".

(c) CONFORMING AMENDMENT.—Section 207(a)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(a)(1)) is amended by striking "established under title IV".

SEC. 509. STUDY OF TESTING AND CERTIFICATION.

(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements.

(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 510. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly discuss the feasibility and advisability of using the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in other Federal departments and agencies which fund research and development.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 511. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

The CHAIRMAN. Are there any amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI—LEAD EXPOSURE HAZARDS

SEC. 601. FINDINGS.

The Congress finds that—

(1) lead is a naturally occurring element which has been used in a variety of industrial applications including radiation shields, storage batteries, paint, and gasoline;

(2) 1 in 6 United States children are victims of lead poisoning, according to the Agency for Toxic Substances and Disease Registry;

(3) lead poses a significant environmental health problem since adverse effects have been conclusively demonstrated at relatively low exposures;

(4) lead exposures to children under age 7 are of greatest concern because of its association with significant neurotoxic effects, including reduction in intelligence, attention span deficits, and reading and learning disabilities;

(5) a primary cause of childhood lead poisoning is lead-based paint and dust in homes;

(6) past efforts to abate lead-based paint have relied on methods which endangered workers and often resulted in more available lead dust for the occupants; and

(7) improving methods for testing and abating lead-based paint offers a highly cost effective means of reducing exposures and thus preventing childhood lead poisoning.

SEC. 602. LABORATORY ANALYSIS STANDARDIZATION.

The National Institute of Standards and Technology shall, within 18 months after the date of enactment of this Act, recommend to the Administrator of the Environmental Protection Agency technical criteria and implement a voluntary accreditation program with respect to laboratory analysis of lead in paint films, soil, and dust. Funds required for implementing such a voluntary accreditation program shall be provided to the National Institute of Standards and Technology by the Administrator of the Environmental Protection Agency. Funds received through fees and other charges for accreditation services under such program may be used by the National Institute of Standards and Technology for operating costs of the program.

SEC. 603. DETECTION TECHNOLOGY STANDARDIZATION.

Subject to the availability of funds, the National Institute of Standards and Technology shall, within 2 years after the date of enactment of this Act, recommend to the Administrator of the Environmental Protection Agency protocols, criteria, reference materials, and minimum performance standards to be used in the evaluation of emerging products and techniques for detecting lead in paint films and dust, including x-ray fluorescent devices, on-site chemical spot testers, and laboratory methods, and to ensure reliable, accurate, and effective lead detection technologies.

SEC. 604. STANDARDIZATION OF ABATEMENT PRODUCTS.

Subject to the availability of funds, the National Institute of Standards and Technology shall recommend to the Administrator of the Environmental Protection Agency performance criteria and standards for lead paint encapsulants and for strippers within 2 years after the date of enactment of this Act.

The CHAIRMAN. The question is on the committee amendment in the nature of the substitute as amended.

The committee amendment in the nature of a substitute as amended was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose and the Speaker pro tempore (Mr. McNULTY) having assumed the chair, Mr. RAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1989) to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes, pursuant to House Resolution 192, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALKER. Yes, I am, Mr. Speaker, in its present form.

Mr. DOWNEY. Pending the reading of the motion, I make a point of order against the motion.

The SPEAKER pro tempore. The Clerk will first report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill (H.R. 1989) to the Committee on Ways and Means with instructions to give consideration to improving the competitiveness of United States industry by (1) raising the research and experimentation tax credit to 25 percent and making it permanent; and (2) reducing the capital gains tax to levels comparable to that of our major trading partners.

POINT OF ORDER

Mr. DOWNEY. Mr. Speaker, I make a point of order against the motion.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. DOWNEY. The point of order is the same as that of the chairman of the Committee on Ways and Means which was made prior to the gentleman's amendment which was offered just a few moments ago, that this is a motion to instruct another committee of a committee on Congress on substantive activity and has no place in this particular legislation.

The motion has to be germane to the legislation. It is not.

Mr. WALKER. Mr. Speaker, I wish to be heard on the point of order.

This particular motion is entirely different from what transpired in the House just before this.

First of all, the gentleman from Illinois previously raised a question of whether or not the bill was germane to his committee, or applied to his committee. This particular motion specifically recommits the bill to his committee, so that the committee of his committee's jurisdiction is completely without merit in this particular question.

Beyond that, the bill itself is very, very broad in its coverage of the issues involved. If the Chair will look at page 36 of the bill, he will find a National Commission on Reducing Capital Costs for Emerging Technology. That very broad application of policies includes the very things that are contained within this particular amendment.

So there is a very, very broad mandate within the bill that goes well into the issues that are addressed by the gentleman from Pennsylvania in his motion to recommit.

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So this particular motion is germane.

Beyond that, this particular motion to recommit asks the Ways and Means Committee to give consideration to improving the competitiveness posture; so therefore it constitutes an action that simply asks the Ways and Means Committee to look at these issues which are entirely within the scope of the bill that we are considering.

So therefore, Mr. Speaker, I would submit that this motion to recommit is both germane and does speak to the question previously raised about the jurisdictional dispute of the Ways and Means Committee.

Mr. VALENTINE. Mr. Chairman, I rise to oppose the motion.

Mr. Chairman, I will be brief. I think about everything that needs to be said about this issue has been said.

Mr. Speaker, we have had a long and spirited debate on the question. We recognize the fact that the gentleman from Pennsylvania seeks to have the body on this occasion record itself on the question of whether to tax the American people in a certain way or not to.

I am going to suggest to the Chair in support of the point of order of the gentleman from New York [Mr. DOWNEY] which has been made that the gentleman seeks to re-refer the legislation to a committee in which it has not been. We suggest if it is to go the Ways and Means Committee, this is not the method for it. It would be improper for the motion to recommit to place a bill in a committee from whence it did not come to the floor.

Mr. Speaker, we oppose the motion and support the gentleman's point of order.

The SPEAKER pro tempore (Mr. MCNULTY). The Chair is prepared to rule. To a bill addressing Federal research and technology policy by provisions within the jurisdiction of the Committee on Science, Space, and Technology, an amendment in a motion to recommit addressing matters of tax and antitrust policy is not germane.

Therefore, the point of order is sustained.

The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VALENTINE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 296, nays 122, not voting 15, as follows:

[Roll No. 207]

YEAS—296

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Riggs
Ritter
Roe
Roemer
Rogers
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Wise
Wolf
Wolpe
Wyden
Yates
Young (AK)

NAYS—122

Allard
Archer
Armey
Baker
Ballenger
Barrett
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Clinger
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Houghton
Hunter
Hyde
Ireland
Jacobs
James
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Penny
Petri
Porter
Quillen
Regula
Rhodes
Rinaldo
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shuster
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Abercrombie
Barton
Dixon
Early
Gray
Holloway
Hopkins
Inhofe
Manton
Matsui
Rose
Weiss
Williams
Wilson
Yatron

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Mr. GILCHREST changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to revise and extend their remarks, and to include extraneous matter, on H.R. 1989, the bill just passed.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL MIDNIGHT MONDAY, JULY 29, 1991, TO FILE VOLUME II OF ITS REPORT ON H.R. 6, DEPOSIT INSURANCE AND REGULATORY REFORM ACT OF 1991, AND THAT THE REPORT BE FILED IN TWO VOLUMES

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to file the report to accompany H.R. 6 in two volumes, and that the committee have until midnight on July 29, 1991, to file volume II.

Mr. Speaker, I have consulted with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WYLIE. Reserving the right to object, Mr. Speaker, I do not intend to object, but I would ask the gentleman from Texas [Mr. GONZALEZ] to explain for the RECORD why we are filing the report in two volumes.

Mr. GONZALEZ. Mr. Speaker, as the gentleman knows, under our procedures we have to have what is known as a Ramseyer right. That is the legislative counsel annotating, reconciling and the like, technical amendments.

We are advised by the legislative counsel this will be a matter of at least 10 to 12 days, almost 2 weeks, and the other fact is that we also need a CBO statement to accompany the bill.

Mr. Speaker, in no way does this obstruct the filing of the bill known as H.R. 6.

Mr. WYLIE. I further reserve the right to object, Mr. Speaker, for the RECORD.

This will be determined as the filing date for the report for purposes of determining time within which it was referred to the Committee on Energy and Commerce?

Mr. GONZALEZ. The gentleman is correct.

Mr. WYLIE. In addition, as I understand it from what the gentleman from Texas [Mr. GONZALEZ] just said, the Ramseyer report is not available, and the CBO cost estimate is not available at this time, so volume II will contain the Ramseyer and the CBO estimate, and it does not separate H.R. 6 into two parts.

Mr. GONZALEZ. No; it will be the same, Mr. Speaker. It is one and the same bill.

Mr. WYLIE. With that explanation, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

KOREAN WAR VETERANS REMEMBRANCE WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged for further consideration of the joint resolution (H.J. Res. 255) designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so simply to yield to my friend and colleague, the gentleman from Illinois [Mr. SANGMEISTER], who is the chief sponsor of this resolution.

Mr. SANGMEISTER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Illinois.

Mr. SANGMEISTER. Mr. Speaker, I would like to thank the gentleman from Ohio, Representative SAWYER, chairman of the Subcommittee on Census and Population and the ranking minority member, Representative RIDGE, for bringing this legislation to the floor. In addition, I would like to thank the majority of our colleagues who have joined me as cosponsors of House Joint Resolution 255 as well as Senator JOHN WARNER for his efforts in the Senate. I would also like to highlight the efforts of the Korean War Veterans Association, in particular Blaine Friedlander and John Kenney. Their generous help made this legislation possible.

Mr. Speaker, July 27, 1991, marks the 38th anniversary of the truce that ended active combat in the Korean war. It was also on this day that the 38th parallel was established as the line of demarcation between democracy and communism. These are truly historic events in our history and this resolution calls much deserved attention to the fearless men and women who fought and died in this often overlooked conflict.

As 1 of more than 30 Members of the House who served in the Armed Forces during the Korean war, I find it especially tragic that many refer to this conflict as America's forgotten war. Those who served and their families have not forgotten the sacrifices made in defense of democracy. Certainly, our Nation should never forget those who fought and died on foreign soil. These soldiers stood up not only for the United States but for the universal concept of freedom.

At a time when veterans of Operation Desert Storm are returning to grand victory celebrations and fanfare, I am reminded of a time when the courageous service of our returning soldiers was not acknowledged with such enthusiasm. The recognition of those who served in the snowclad mountains of Korea is long overdue. Their pain and scarifice must be recognized.

I would like to share some facts with the American people about the Korean war—America's so-called forgotten war.

Many are awed by the fact President Bush assembled a coalition of 34 nations to stand against the aggression of Saddam Hussein. However, this was not the first time such a force was assembled. The Communist invasion of South Korea prompted formation of a 22 nation U.N. military command—with the United States as the executive authority. This was the first time such a command had ever been used; 5.7 million American service men and women were involved; 8,177 Americans were listed as missing or prisoners of war, and 328 prisoners of war are still unaccounted for; 103,284 Americans were wounded; 54,246 Americans died in the war—including 33,629 battle deaths; and in all, more than 1 million lives were lost as a result of the conflict.

Mr. Speaker, these statistics about the Korean war are sobering and tragic. It is a shame many Americans do not know these facts and are unaware of the sacrifices made at such places as Pork Chop Hill, the Inchon Landing, and the frozen and blood-stained Chosin Reservoir.

I introduced this resolution in an effort to draw attention to the efforts of our brave men and women in Korea—efforts that were not in vain. The Korean war left an enormous legacy that has changed the very course of the world. It encouraged the United States to draw lines against Communist subversion—saving the southern half of the Korean Peninsula from Communist despotism and putting it on the road toward prosperity. Today, South Korea is a democracy with an economy that, in Asia, rivals Japan.

In many ways, the Korean war set the stage for the dramatic changes we see in the Soviet Union and Eastern Europe today. The Berlin Wall did not crumble on its own—it was inspired by the courage of American soldiers. Let's not take these changes for granted.

So, it is with great pride that I rise today to present this legislation for consideration by the House of Representatives. Be it resolved that the week of July 21 to July 27, 1991, is designated as "Korean War Veterans Remembrance Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this week with appropriate ceremonies and activities and to urge the executive departments and agencies of the United States and interested organizations, groups, and individuals to fly the flag of the United States at half staff on July 27, 1991, in honor of the Americans who died as a result of service in the Korean war. With House Joint Resolution 255, this Congress is saying thank you to the men and women who had the courage and determination to fight on foreign soil for the ideals of freedom and democracy. These ideals have withstood the test of time, and now so will the legacy of the soldiers of the Korean war.

□ 1630

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I just want to thank the sponsor of this resolution, who is a proud veteran himself, No. 1, for his willingness to get the equivalent 218 cosponsors, which I do not think was a very difficult task, given the nature of the commemorative, but, more importantly, again bringing to the attention of the American people during the time of the glow surrounding the military accomplishments in the gulf the fact that 40 years ago, under the auspices of the United Nations, we on another occasion sent men and women in harm's way. We lost 55,000 soldiers, sailors, airmen, and marines over there. We sent over 5 million to that peninsula, and as the gentleman also pointed out, we should not forget that we still have 8,000 POW-MIA's from that conflict as well.

So anything we can do to remind our colleagues, as well as the people of this country, of the heroism and sacrifice and courage of those men and women who served under the banner of the United Nations 40 years ago is certainly worthy of our support. This bill or this resolution is worthy of our support.

Mr. GILMAN. Mr. Speaker, it is with great pride that I rise in support of House Joint Resolution 255 in order to designate the week beginning July 21, 1991, as Korean War Veterans Remembrance Week. I commend the sponsor of this resolution, the gentleman from Illinois [Mr. SANGMEISTER], and the Post Office and Civil Service Committee, for bringing this matter to the attention of the Congress.

Mr. Chairman, 6 months ago this Nation marveled at the bravery and valor of the young men and women who fought in Operation Desert Storm. The entire Nation remembers them, and has joined together to welcome them back with open arms. Forty years ago, their parents and grandparents did the same thing. They traveled half way around the world, to the far off land of Korea, to protect freedom and democracy from a real, viable threat, just as real as the threat of Saddam Hussein. These men and women were just as brave, and gave just as much to their country.

Today we stand to honor these Korean war veterans. Mr. Chairman, I invite my colleagues to join us in saluting all those who have given so much for all of us. They deserve our undying thanks and reverence. Whether one approves of a war or not, there is not one who does not regard with awe those who are willing to make the supreme sacrifice for their country, be it in the Iraqi desert or on the Korean shores. Accordingly, I urge my colleagues to join in passing this important and just resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 255

Whereas July 27, 1991, is the 38th anniversary of the cease-fire agreement which ended the active combat of the Korean War;

Whereas in June, 1950, prompt action by the United States to add its armed forces to those of the Republic of Korea helped to counter an invasion by North Korea of the Republic of Korea;

Whereas in addition to the United States and the Republic of Korea, 20 other nations provided military contingents to serve under the United Nations banner, marking the first time in history that countries under United Nations command repelled a flagrant attack in order to preserve the liberty of another country;

Whereas after 3 years of active hostilities, the territorial integrity of the Republic of Korea was restored and the freedom and independence of its people assured;

Whereas over 5,700,000 American servicemen and servicewomen were directly or indirectly involved in the Korean War;

Whereas American casualties during the Korean War were 54,246 dead (of which 33,629 were battle deaths), 103,284 wounded, 8,177 listed as missing in action or prisoners of war (of which 329 prisoners of war are still unaccounted for);

Whereas, although the Korean War has become known as "The Forgotten War", the United States should never forget the ultimate sacrifice made by those who fought and died in Korea for the noble and just cause of freedom;

Whereas the establishment of a Korean War Veterans Memorial in the Nation's Capital has been authorized to recognize and honor the service and the sacrifice of those who participated in the Korean War (Public Law 99-572);

Whereas the Secretary of the Treasury is required to mint a silver dollar coin in commemoration of the 38th anniversary of the end of the Korean War and in honor of those who served (section 5112 note of title 31, United States Code);

Whereas increasing numbers of veterans of the Korean War are setting aside July 27, the anniversary date of the cease-fire which ended the active combat of that war, as a special day to remember those with whom they served and to honor those who made the supreme sacrifice in a war to preserve the ideals of freedom and independence for people they had never known; and

Whereas on this significant anniversary of the cease-fire which began the longest military armistice in modern history, it is right and appropriate to recognize, honor, and remember the service and sacrifice of those who endured the rigors of combat and the extremes of a hostile climate under the most trying conditions and still prevailed to preserve the independence of a free nation; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 21, 1991, is designated as the "Korean War Veterans Remembrance Week", and the President is authorized and requested—

(1) to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, and

(2) to urge the Executive departments and agencies, interested organizations, groups, and individuals to fly the flag of the United States at half-staff on July 27, 1991, in honor of those Americans who died as a result of their service in Korea.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO FILE ITS REPORT ON H.R. 6, DEPOSIT INSURANCE AND REGULATORY REFORM ACT OF 1991 IN TWO VOLUMES, VOLUME I TO BE FILED BY MIDNIGHT TONIGHT AND VOLUME II BY MIDNIGHT JULY 29, 1991

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to file its report to accompany H.R. 6 in two volumes, and that the committee may have until midnight tonight to file volume I and until midnight on July 29, 1991, to file volume II.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr WYLIE. Mr. Speaker, again reserving the right to object, do I understand that this is the same request that the gentleman from Texas just put before the House a little while ago and to which the gentleman from New York [Mr. SOLOMON] objected?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I just want to say that we have some of these procedural problems worked out, and certainly have no objection to this unanimous-consent request.

Mr. WYLIE. Mr. Speaker, I am glad to hear that.

Mr. Speaker, I have no objection to the request, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL SENIOR CITIZENS DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Civil Service and Post Office be discharged from further consideration of the joint resoluition (H.J. Res. 181) designating the third Sunday of August 1991 as "National Senior Citizens Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to my colleague, the gentleman from Florida [Mr. SMITH], the sponsor of this resolution.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding, and

I want to thank him and the chairman of the subcommittee for bringing this resolution to the floor in a timely fashion. I thank them for their continuing devoting to the seniors of this country.

Mr. Speaker, thank you for allowing me this opportunity to speak about my resolution, House Joint Resolution 181. This resolution designates August 18, 1991, as National Senior Citizens Day, to acknowledge America's senior citizens and their contributions to our Nation.

This country's seniors are a wealth of knowledge and history. Since many are no longer working and have retired far away from their families, our seniors are not always surrounded by people who may learn from and appreciate their accomplishments. These people are living history, unending sources of warmth, ideas, and experience. Today, we acknowledge their experiences.

Our senior citizen population is growing. In 1989, 21 percent of the population consisted of citizens aged between 55 and 65, while 12 percent were over the age of 65. During the last two decades the elderly population grew twice as fast as the rest of the population. This phenomenon is due to a number of factors, including advanced medical technology and the coming of age of the post World War II baby boomers.

Mothers are recognized on Mother's Day and fathers receive their credit on Father's Day; now we will let the mothers and fathers of our Nation know we recognize and appreciate the contributions they have made to our society.

Mr. Speaker, let me just say to my colleagues that I have one of the most elderly districts in the United States. Almost 25 percent of my district is on Social Security. It is easy for us to forget that Social Security recipients are not just Social Security numbers. They are people who have worked for many, many years, raising families, raising the future of this country, contributing to not only their community then but their community now, with the assuredness that this country will remain as great as it has been.

The seniors of today went through the Depression, fought the Second World War, and lived through all the vagaries of the fifties, the sixties, the seventies, and even the eighties. These people today are people from whom we can learn a great deal. These are people who have truly made this country what it is, people who have been responsible for the growth of democracy and freedom around the world, and, frankly, they deserve a day to be honored as individuals and not just as people whom we see but do not talk to.

□ 1640

This is something very important to them, and I appreciate the chairman and ranking member and this House being fully supportive of National Senior Citizens Day.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for his sponsorship of this measure.

Mr. GILMAN. Mr. Speaker, I rise in support of House Joint Resolution 181, designating the third Sunday of August 1991, as "National Senior Citizens Day." I wish to commend the gentleman from Florida [Mr. SMITH] for introducing this resolution.

Older Americans make up 12 percent of our population. The number of senior citizens in our society is growing twice as fast as the rest of the population. Advancements in health care have resulted in increasingly longer and more productive lifespans for our Nation's citizens.

Our senior citizens contribute significantly to our society through their knowledge and experience, as well as through their energy and enthusiasm. They deserve our respect and merit this special recognition.

Mr. Speaker, I have been a proud supporter of legislation aiding our Nation's seniors, and I am pleased to be able to once again recognize the special contributions which our seniors make to our society. Accordingly, I urge my colleagues to support this legislation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. JEFFERSON). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 181

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third Sunday of August of 1991 is designated as "National Senior Citizens Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 255 and House Joint Resolution 181, the joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COUNTRY MUSIC MONTH

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CLEMENT. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing a uniquely American form of music—country music, and to join me in an effort to officially proclaim the month of October as "Country Music Month."

Country music is part of our history and heritage.

Country music's popularity is at an all-time high.

And, country music contributes more than $700 million each year to our national economy.

More than 2,500 radio stations broadcast country music to more than 28 million listeners each day.

This October marks the 27th annual observance of Country Music Month.

The last 2 years my colleagues have joined me in adopting resolutions declaring the month of October as "Country Music Month," resolutions which became public law.

Today 101 of my colleagues join me as original cosponsors of a similar resolution.

I respectfully ask my colleagues to join me in saluting a form of American music that has played an integral role in our Nation's history, accompanied the growth of the United States—a form of music that embodies the spirit of America.

Mr. Speaker, I include for the RECORD a copy of my joint resolution to designate the month of October 1991 as Country Music Month, along with a list of cosponsors, as follows:

H.J. RES. ___

Whereas country music derives its roots from the folk songs of our Nation's workers, captures the spirit of our religious hymns, reflects the sorrow and joy of our traditional ballads, and echoes the drive and soulfulness of rhythm and blues;

Whereas country music has played an integral part in our Nation's history, accompanying the growth of the United States and reflecting the ethnic and cultural diversity of our people;

Whereas country music embodies the spirit of America and the deep and genuine feelings individuals experience throughout their lives;

Whereas the distinctively American refrains of country music have been performed for audiences throughout the world, striking a chord deep within the hearts and souls of its fans; and

Whereas the month of October 1991 marks the twenty-seventh annual observance of Country Music Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1991 be designated as "Country Music Month" and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

COSPONSORS FOR COUNTRY MUSIC MONTH

Cooper, Jim; Duncan, John; Ford, Harold; Gordon, Bart; Lloyd, Marilyn; Sundquist, Don; Tanner, John; Quillen, Jimmy; Alexander, Bill; Anthony, Beryl; Barnard, Doug, Jr.; Barton, Joe; Bentley, Helen; Bevill, Tom; Bilirakis, Michael; Blaz, Ben; Bliley, Thomas, Jr.; Brewster, Bill K.; Brooks, Jack; Browder, Glen; Bunning, Jim; Bustamante, Albert; Callahan, Sonny; Chandler, Rod; Coble, Howard; Condit, Gary; Costello, Jerry; Cramer, Bud; Darden, Buddy; Derrick, Butler; Dwyer, Bernard; Emerson, Bill; Engel, Eliot; Espy, Mike; Frost, Martin; Gilchrest, Wayne; Gonzales, Henry; Guarini, Frank; Harris, Claude; Hatcher, Charles; Hayes, James; Hochbreuchner, George J.; Hutton, Earl; Jacobs, Andy; Jontz, Jim; Kanjorski, Paul E.; Kasich, John; Kildee, Dale; Kolter, Joe; Lantos, Tom; Lehman, William; Lent, Norman; Levin, Sander; Lewis, Jerry; Lipinski, William; Long, Jill; Mavroules, Nicholas; McCloskey, Frank; McCrery, Jim; McDermott, Jim; McMillan, Tom; McNulty, Michael; Montgomery, Sonny; Moran, James; Morrison, Sid; Murphy, Austin; Murtha, John; Natcher, William; Neal, Richard; Nichols, Dick; Norton, Eleanor Holmes; Oakar, Mary Rose; Patterson, Elizabeth; Paxson, Bill; Payne, L.F.; Payne, Donald; Perkins, Carl; Pickett, Owen; Poshard, Glenn; Pursell, Carl; Rahall, Nick; Ravenel, Arthur, Jr.; Roberts, Pat; Roe, Robert; Rowland, J. Roy; Roybal, Ed; Sanders, Bernard; Savage, Gus; Schultz, Richard; Serrano, Jose; Skelton, Ike; Slattery, Jim; Smith, Larry; Spence, Floyd; Tallon, Robin; Tauzin, William; Taylor, Gene; Townes, Edolphus; Trafficant, James; Whitten, Jamie; and Wolf, Frank.

ORDER OF BUSINESS

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that the special orders granted today to the gentleman from California [Mr. LEWIS] and the gentleman from North Carolina [Mr. BALLENGER] be reversed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

LEGISLATION TO COMBAT VIOLENCE AND DRUG-RELATED CRIMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. GALLEGLY] is recognized for 5 minutes.

Mr. GALLEGLY. Mr. Speaker, I am pleased to introduce today three bills which will provide Federal law enforcement officers with powerful new weapons in their war against drugs and violent crime.

My first bill would add to the Federal criminal code a new provision aimed at curbing the indiscriminate use of weapons involved in drive-by shootings in the furtherance of illegal drug conspiracies. The Drive-by Shooting Prevention Act of 1991 would make it a Federal crime for someone who, in the course of committing a major drug offense, intentionally fires a weapon into a group of persons, killing or endangering the life of an innocent bystander. The death penalty or imprisonment for any term of years up to and including life is authorized for the murder of a drive-by shooting victim.

Recently a constituent of mine, Carolyn Jamelkowski of Camarillo, wrote a letter to the editor of the Ventura Star Free Press about the war on drugs and criminal gangs that rages in the streets of America. She also wrote to me and to President Bush earnestly seeking our assistance in the fight against increasingly pervasive drive-by shootings. In her letter she asks why we can send our brave young men and women to combat aggression overseas, as we have done successfully in the Persian Gulf, but we cannot protect ourselves and our innocent families from violence at the hands of gangs and drug criminals in the streets of our own communities at home. She speaks with eloquence, passion, and understanding, for Mrs. Jamelkowski's son was the tragic, innocent victim of a drive-by shooting as he walked home from work one night.

Mr. Speaker, I will submit the full text of Mrs. Jamelkowski's letter to the Star Free Press for the RECORD.

Unfortunately nothing can be done to restore the life of this young man to the Jamelkowski family, but I am confident that if the provisions of my bill are adopted or included as part of the crime legislation which I hope will soon be considered by this House, we shall soon see an end to such senseless drug-related gang violence in our streets and the tragic killings of innocent citizens as a result of drive-by shootings.

My second bill would mandate longer prison sentences for those criminals who sell illegal substances to minors or who use minors in their drug trafficking activities. Under the Juveniles in Drug Crime Prevention Act of 1991, any adult who is arrested and convicted of selling drugs to juveniles or of utilizing a juvenile to peddle drugs to other minors will serve a mandatory minimum sentence of 10 years in prison, without parole.

This will serve as a stiff warning to drug dealers that if they sell drugs to kids or employ kids in their illegal activities, they can expect to serve a long prison sentence, without any hope of probation or a suspended sentence; and if they come out of prison and engage in such crimes again, they will be locked up for life. Such a measure should help to safeguard children from the entrapment of using drugs or inducements to engage in drug dealing offered by adult traffickers and criminal kingpins.

My third bill, the Three-Time Loser Drug Act of 1991, would mandate life imprisonment without release for drug traffickers or violent criminals who are convicted of a third offense. Unfortunately the 3- and 4-time and 10-time loser is too often allowed to walk the streets of our cities, free to commit additional crimes. We have too much violent and drug-related crime in this country because we have too much crime without punishment and too many criminals who go unpunished in America.

According to a recent study conducted by Dr. Morgan Reynolds for the National Center for Policy Analysis, of criminal arrests, indictments, convictions, sentencing and sentences actually served, based on data of crimes over a period of almost 40 years in the United States, a person who commits murder can expect to serve only 2.3 years in prison on the average; someone who commits burglary can expect to serve just 17.7 days; and for car theft he or she can expect 4.2 days behind bars. It is little wonder that criminals repeat their offenses, realizing that they can do so without severe or lengthy penalties!

This bill will serve notice on such repeat criminals that they can expect to serve a mandatory life sentence in prison without parole if they are convicted of any combination of a violent crime or a drug felony as little as three times. If enacted, this legislation should result in a dramatically reduced rate of recidivism. And I suspect we would hear much less frequently of those criminals who are let out of prison after a short sentence committing another drug-related or violent crime within a short time if the Three-Time Loser Act were the law today.

Mr. Speaker, I wish to point out to my colleagues that all three of these bills were approved by the Senate and included as provisions in S. 1241, the Violent Crime Control Act of 1991, which passed in that body earlier this month. I hope that these proposals will also be incorporated in the omnibus anticrime legislation which the House will take up shortly.

[From the Ventura Star Free Press]

"WAR STILL RAGES—ON AMERICAN STREETS"

To the EDITOR:

I am writing President Bush to ask for his help in the fight against gang drive-by shootings.

We have a war going on in this country that keeps getting bigger by the day. People are being killed by these gangs whenever they see fit to go out shooting. Innocent children, women and our sons are victims, even though they haven't hurt gang members or even know them—it doesn't matter to gangs.

Many of the gangs have a requirement that to belong you first have to go out and kill someone—anyone, it doesn't matter. You might be asking how I know. Well, I am a mother whose son was killed in a drive-by shooting as he walked home from work one night three months ago.

I know I am only one voice, but I've decided to ask President Bush, our senators, members of congress and newspapers across our nation to petition the people of the United States to help put a stop to this war in our streets.

We sent our boys to the Gulf and they did a wonderful job, but some of those boys have come home only to be shot and killed in their own country. We ask, "What are we doing to protect our own people?"

This war has to stop. We are not safe in our own streets. How can we as a nation tell other countries we are against aggression when in our own country we don't have the laws that will deter crime?

That is why I am asking our leaders to lead us once again into battle against invaders who are killing our people. Please, pass tough laws, such as providing for an automatic death penalty for someone convicted of a drive-by shooting.

Only then—maybe—will our streets be safe once more and the mothers across this nation can stop crying as they sit by the grave of a loved one lamenting, "I know not why".

CAROLYN JAMELKOWSKI.

INTRODUCTION OF NEW ENGLAND GROUNDFISH RESTORATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes.

Mr. STUDDS. Mr. Speaker, I am today introducing legislation to require Federal fishery managers to develop and implement a plan to double the stocks of New England groundfish within 5 years.

The bill is based on the simple principle that if we're going to continue to have a billion dollar fishing industry in New England, we're going to need fish. We cannot stand by and watch cod and flounder and haddock—the bread and butter species of Georges Bank—become the nautical equivalents of the dodo bird and the passenger pigeon.

Over the past decade and a half, the boom in fishing activity caused by enactment of the Magnuson Fishery Conservation and Management Act has generated thousands of jobs and billions in revenue for New England ports such as New Bedford, Gloucester, and Portland. Unfortunately, this increased activity has also placed enormous stress on the fishery resources of the northwest Atlantic. As a result, stocks of major groundfish species have declined to half the levels of a decade ago. Georges Bank, the most productive fishing grounds in the world, is being taken over by dogfish and skate and other less valuable fish. Unless this trend is reversed, both the fisheries and the fishing industry will suffer irremediable harm.

I realize that the introduction of this bill is an extraordinary step, but it has been made necessary by an extraordinary situation. The New England groundfish fishery is simply too valuable to lose. It is essential that we reduce fishing effort long enough and dramatically enough to allow groundfish stocks to regain their health. The New England Regional Fisheries Management Council has worked very hard to accomplish this goal and some progress has been made. But the council needs new and stronger tools if it is going to complete the job, and the new bill will provide those tools.

It is important to recognize that this new legislation is fully consistent with the major goal of the Magnuson Act, which is conservation. The bill is intended simply to guarantee that this goal is achieved in the case of the New England groundfish fishery.

Under the bill, the council would be given 9 months to develop and implement a plan to double the spawning biomass of groundfish in the Georges Bank area within 5 years. If the council fails to act, the Secretary of Commerce is required to take similar action within 90 days.

In addition, the council is required to vote within 60 days on a proposal to declare a moratorium on new entrants into the groundfish fishery. If approved, the vote would trigger a system for buying out some existing fishing vessels for the purpose of reducing the amount of fishing effort on Georges Bank. The system would be financed by requiring New England groundfish fishermen to pay the Federal tax of 15 cents per gallon on diesel fuel, a tax from which they are currently exempt. It is estimated that revenues from this tax will be approximately $10 million a year.

Revenues generated by payment of the tax would also be used to finance a new program of loans and grants to spur the development of fisheries for underutilized species of fish like squid, mackerel, and hake. The Commerce Department estimates that far greater quantities of these species could be harvested without damaging those stocks, thereby generating new sources of income for New England fishermen while recovery efforts for the major groundfish stocks are underway.

Other provisions of the bill would provide for the emergency closure of the groundfish fishery in certain areas if that is necessary to achieve conservation goals; strengthen fisheries law enforcement through cooperative Federal-State agreements; require the start of negotiations with Canada to improve the conservation of transboundary fish stocks; and provide for retraining of fishermen and fish processing plant workers who are unemployed or dislocated as a result of reduced fishing opportunities for New England groundfish.

This legislation is intended to build on the amendments approved to the Magnuson Act a year ago. Those amendments, which I offered, will strengthen the enforcement of fisheries management plans and set the stage for the negotiations with Canada for cooperation in managing shared groundfish stocks. It is also critical that Congress maintain pressure for improved environmental protections along the New England coast. For this reason, I will continue to oppose oil drilling in Georges Bank; I will insist on the careful monitoring of any discharges in Massachusetts Bay resulting from the Boston Harbor cleanup; and I will work to enact the additional protections against coastal pollution that are included in my bill, Operation Coastal Shield.

After the English explorer John Cabot first crossed Georges Bank almost five centuries ago, it was reported that he found there a "sea swarming with fish, which can be taken not only in the net but in baskets let down with a stone."

If John Cabot were alive today, he would not recognize Georges Bank. Instead of a sea swarming with majestic cod, he would find dogfish. Instead of flounder, he would find skates. Instead of a fisherman's dream, he would find a nightmare.

I do not believe that Congress, the administration, the affected States, the public, or the fishing industry want to stand by while more and more fishermen spend more and more of their time chasing fewer and fewer fish around the sea. That is a recipe for disaster and a prescription for the death of an industry. The medicine prescribed in the legislation I am introducing today is not pleasant and it will not go down easy. It will require further sacrifices on the part of an industry that cannot afford to sacrifice. But the fact is that the price of inaction would be higher still.

Although I have consulted informally with many fishermen, scientists, and management officials in developing this legislation, the process of more formal hearings and consultations is still ahead. There are many elements of this proposal that are likely to be controversial and I will welcome any comments or recommendations that may be forthcoming. It is inevitable that changes will be made before the bill becomes law. I am, however, dead serious about the goal of this legislation. I will not support any amendment that would detract substantially from the objective of rebuilding the groundfish stocks of Georges Bank and doing so as quickly and as surely as we possibly can.

SUMMARY—NEW ENGLAND GROUNDFISH RESTORATION ACT OF 1991

PURPOSES

To meet the objectives of the MFCMA by ensuring the long-term stability of the New England groundfish fishery;

To require the development and implementation of a plan to double the spawning biomass of groundfish in the Georges Bank area within five years;

To require a vote within 60 days on a moratorium on new entrants into the New England groundfish fishery;

To reduce fishing effort in the New England fisheries by authorizing a fishing vessel buyback program, funded by revenues from diesel fuel taxes on commercial fishing vessels;

To strengthen fisheries law enforcement by utilizing the marine enforcement agencies of the New England coastal states;

To initiate negotiations with Canada to improve conservation of shared fishery resources;

To establish a program for the development of underutilized species of fish; and

To provide for the retraining of fishermen and fish processing plant workers who are unemployed or dislocated as a result of reduced fishing opportunities for New England groundfish.

TITLE I GROUNDFISH RESTORATION PROGRAM

Sec. 101—Amendment to the Northeast Multispecies Fishery Management Plan.

The New England Fishery Management Council (Council) is required to prepare, within 9 months, an amendment to the groundfish management plan that includes conservation and management measures designed to double the size of the groundfish stocks within 5 years.

If the Council fails to prepare such an amendment, the Secretary is required to do so no later than 1 year after the date of enactment.

In preparing the amendment, the Council is required to include a list of civil penalties and mandatory fishing permit sanctions for fishermen who violate the conservation rules.

The Council and the Secretary are also encouraged to include in the amendment:

Fishing effort controls, such as a moratorium or limited access;

Species-specific quotas and trip limits;

Bag limits, fishing seasons and conservation measures for recreational fishermen;

Emergency procedures for quickly closing (within 5 days) fishing grounds where fish are spawning or where there is an abundance of small fish; and

Data collection system.

Moratorium

No later than 60 days after the date of enactment, the Council is required to vote on whether or not to impose a 5-year moratorium on the issuance of new federal groundfish permits. The moratorium may only be lifted before 5 years if the goals of the amendment (doubling the size of the stocks) are achieved. If the Council enacts a moratorium at this time, a vessel buyout program is authorized. If the Council fails to enact a moratorium at this time, the Secretary or the Council may do so at a later time (under existing law), but the vessel buyout program would not go into effect. As is the case under current law, the Secretary may establish a moratorium, but only with approval by a majority of the Council. A moratorium does not preclude the issuance of a new permit for a replacement vessel of no greater fishing capacity or for a small part-time vessel (small boat exemption).

Sec. 102.—Vessel Purchase Program.

If a moratorium is established by the Council within the 60-day period, this section authorizes the Secretary of Commerce to purchase vessels permitted in the groundfish fishery in order to reduce the number of fishing vessels in that fishery. An advisory panel of industry experts will assist the Secretary in reviewing the terms and conditions of any proposed vessel purchase. Proceeding from the sale of the vessels will go back into the fund to pay for additional purchases. The program ceases upon the expiration of a moratorium.

Sec. 103—Enforcement.

This section requires the Secretary of Commerce through the National Marine Fisheries Service to enter into cooperative law enforcement agreements with the New England states to enforce the groundfish plan. States would be eligible for reimbursement of costs incurred in the detection and prosecution of violations.

Sec. 104.—Sea Sampler.

Section 104 authorizes the Secretary of Commerce to establish a voluntary observer program for the purpose of collecting statistically reliable information necessary for the conservation and management of the groundfish fishery.

Sec. 105.—U.S.-Canada Fishery Management Agreement.

Under this section the Secretary of State, working with the Secretary of Commerce, is authorized and encouraged to initiate negotiations with Canada. The purpose of these negotiations would be to enter into a bilateral agreement for the conservation and management of fisheries of mutual concern, particularly transboundary groundfish stocks. The agreement must provide for timely and periodic exchanges of scientific information, establish procedures for the identification of conservation measures that would benefit both countries and identify procedures for the implementation of those measures.

A consultative committee consisting of representatives from the New England Council, state officials and fishing industry representatives is established to assist the Secretary of State in the development of the agreement.

Sec. 106.—Development of Underutilized Species.

This section requires the Secretary of Commerce to initiate an aggressive program for the development of underutilized species. It authorizes the Secretary to provide financial assistance to fishermen and fish processors to make these fisheries economically viable. This section also directs the Secretary to make Saltonstall-Kennedy grants available to those projects that promote the development of underutilized species. Finally, this section requires the Secretary to seek the assistance of other federal agencies in the development of these fisheries, particularly assistance from the Secretary of Agriculture in making underutilized species eligible for Foreign Agricultural Service programs (Food for Peace Programs).

Sec. 107.—National Fisheries Research Plan.

Under this section the Secretary of Commerce is required to identify the research needs in the national research plan for the restoration of New England groundfish.

Sec. 108.—Appropriations.

This section specifies that of the total amount authorized for the implementation of the MFCMA, $3,000,000 is specifically authorized to carry out this Act. There is no overall increase in the level of authorization in the MFCMA.

TITLE II FEDERAL LOANS AND FUEL TAXES

Sec. 201.—Loan Guarantees.

This section prohibits the issuance of any loan guarantee under the Title XI Loan Guarantee program that is inconsistent with the 5-year rebuilding program of the Northeast Fishery Management Plan. The Secretary is also encouraged to make loan guarantees to fishing vessels and fishery facilities that would promote the development of underutilized fish species in New England.

Sec. 202.—Diesel Fuel Taxes on Commercial Fishing Vessels.

If a moratorium goes into effect for the New England groundfish fishery, as a result of a vote by the Council within the 60-day period, this section repeals the exemption from diesel fuel taxes for fuel used in commercial fishing vessels permitted to participate in that fishery. Currently commercial fishing vessels are exempt from the $.15 per gallon federal highway tax. The exemption would be reinstated upon the expiration of the moratorium.

Under this section, the revenues generated from the fuels tax (approximately $10-$15 million) would be deposited in the Sport Fish Restoration Account. The use of these funds is restricted. Up to 80% may be used to finance the vessel buyback program, with up to 20% being used for the new groundfish state enforcement agreements, the voluntary sea sampler program and the development of underutilized species. Because the Sport Fish Restoration Account has a permanent appropriation, it is expected that all the diesel fuel taxes would be available to the Secretary of Commerce (similar to the Wallop-Breaux program).

Sec. 203.—Withdrawals from Capital Construction Funds.

This section expands the uses of funds deposited by fishermen in federal Capital Construction Funds by allowing withdrawals for groundfish fishermen to pay for fishing vessel maintenance, insurance, interest and principal payments if they are forced to stop fishing for a period of time for conservation reasons.

TITLE III—FISHERIES EMPLOYMENT ASSISTANCE

Sec. 301.—Job Training Partnership Act.

This section establishes a specific training assistance program for fishermen and fish processing plant workers that are dislocated or unemployed as a result of federal conservation and management regulations. This program is similar to that authorized by the Congress for workers that become unemployed as a result of compliance with the Clean Air Act. In addition to providing training and relocation assistance, this program would provide needs-related payments (stipends) for those involved in retraining.

H.R. 2788 NEEDED TO PROTECT HEALTH CARE WORKERS AND PATIENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Speaker, today as we meet, there is a young lady on her deathbed in Florida by the name of Kimberly Bergalis, age 23. Her plight and tragedy has taken the attention of the Nation, and for good reason. Considering the AIDS epidemic has caused 179,000-plus people to be reported to CDC as suffering from that fatal disease, who are going to die, it is a major public health problem in America.

Most of the people in this country who think about the issue of AIDS say to themselves, "Well, I don't use intravenous drugs, I don't engage in homosexual acts or behave promiscuously; therefore, it is not my problem."

Kimberly Bergalis did not do any of these things. All she did was visit her dentist. She and four other people in that community are believed to have contracted the virus for AIDS, HIV, from having visited the dentist by the name of Dr. Acer. Now they are going to die.

Since most of us visit a dentist or visit a doctor in our lifetime, that is all the more reason for us to say today this is everybody's problem.

The records of the CDC make clear that today 6,436 health care workers are infected with HIV. That is to say they are infected with AIDS. The projection is that about 40,000 health care workers are infected with HIV.

A computer model drafted by CDC says that 128 patients across this land are in the similar status of Kimberly Bergalis. It is believed by this same computer model that 1,248 dentists in the country are infected with HIV, and 336 surgeons.

We are uncertain as to the extent to which these carriers of this fatal disease have infected patients across this land, but the CDC model says that there are 128 patients who are in the same status of Kimberly Bergalis.

What can or should be done to protect the health of the American people, so that when we go to visit our dentist or doctor we will have the assurance that we are not going to be infected with a fatal disease?

Since 1987, the American Medical Association has had some voluntary guidelines in effect which say that at the voluntary option of a doctor or dentist or somebody else in the health care system, they can be tested for HIV or hepatitis-B, and if they are positive, then they should not engage in invasive procedures without the consent of the patient.

The tragedy is, those voluntary guidelines have not worked to protect the health of the American public.

Dr. Sanford Kuvin has observed that failed voluntarism will result in the death of Kimberly Bergalis, as well as any of these other patients who were infected by having gone to their dentist, Dr. Acer.

As a result of this, I have introduced H.R. 2788. It is a very simple bill that will just say all physicians in America and other persons in the health care system will be tested for HIV and hepatitis-B, and if they are found to be positive on either, they would be required to refrain from engaging in invasive procedures until they obtained the written consent of their patients. I think that is a very reasonable measure.

On the other side of the coin, it would also protect the rights of the health care workers themselves by saying that before they treat a patient, if the patient that comes to them for treatment is believed to be or perhaps is infected with either one of those diseases, that they, the health care worker, can require that their patient be tested to determine their status.

The health care worker has just as much right to know the status of the patient they are dealing with as does the right of we as patients when we go into the health care system to know the status of the health care worker that is taking care of us.

It is not unreasonable to suggest in the case of this epidemic in America that the civil rights of the uninfected should take precedence over the civil rights of the affected.

Tragically for all of us, this has not been the performance of the American Medical Association, nor has it been the performance of the U.S. Public Health Service. Tragically for all of us, these two institutions that are responsible for protecting the health of the American people have said the civil rights on the infected take precedence over the civil rights of the uninfected.

That is not public health; that is not medicine. That is politics, and it has got to stop in this country.

I would suggest that the way to get that done is for this House and the Senate to adopt H.R. 2788, so that when we Americans go in to our dentist or our doctor, we have some assurance that we are not going to contract a fatal disease and die.

To the people who gather statistics, one Kimberly Bergalis may be insignificant. But to those of us who care about the health of the American people, that one death that is coming is a tragedy for this country, and we should avert it for other people and not have it happen to other people in this country.

□ 1650

LEGISLATION PROMOTING ENERGY EFFICIENCY FOR THE FEDERAL GOVERNMENT

The SPEAKER pro tempore (Mr. JEFFERSON). Under the previous order of the House, the gentleman from Ohio [Mr. ECKART] is recognized for 5 minutes.

Mr. ECKART. Mr. Speaker, today I rise to introduce comprehensive legislation promoting energy efficiency for the Federal Government and Federal procurement of alternative fuel vehicles.

The Federal Government is the largest energy consumer in the Nation. We spent close to $8.7 billion on energy in 1989, managing our own facilities, and $4 billion subsidizing the energy expenses of low-income housing. A recent Office of Technology Assessment [OTA] report found that the Federal Government could save $900 million per year in utilities alone if cost-effective, commercially available energy conservation measures were implemented in Federal buildings.

The Federal Government currently owns and leases over 500,000 buildings. These energy changes are relatively simple—such as using higher efficiency lights and equipment, to the improved maintenance of heating, ventilation, and air-conditioning systems [HVAC], with no sacrifice to comfort or productivity.

The legislation which I am introducing today is a companion measure to legislation which was introduced in the other body by Senator JOHN GLENN on May 9, 1991. The Government Energy Efficiency Act of 1991 contains two titles: Title I deals with Federal agency energy efficiency and management, and title II deals with the procurement of Federal vehicles which utilize alternative fuels.

By enacting this legislation, the Federal Government will not only cut spending but also serve as a demonstration for the private sector. The OTA report points to the Federal Government's broad experience using electricity, natural gas, petroleum products, and other energy sources in housing, office buildings, hospitals, transport, and numerous other facilities and operations.

From lighting to heating, ventilation, and air-conditioning equipment to automobiles, the Federal Government has the opportunity to set a good example on the cost and performace of energy efficient technologies for those private sector managers uncertain of the risks associated with implementing energy efficient technologies in their own facilities.

Why aren't energy efficient technologies a part of Government planning now? The simple reason, as identified by OTA, is that energy efficiency is not central to most agencies' missions and has received a relatively low priority. Reflecting this low priority, there is a shortage of trained personnel and a scarcity of the capital needed to make even short-term investments.

The legislation I am introducing, along with Representatives SYNAR and ZIMMER, does the following: Title I establishes standards by which Federal agency spending on energy costs, efficiency, and conservation will be monitored. This title also requires that the Federal Government, through the General Services Administration [GSA], identify energy efficient products and services and promote their procurement. Additionally, this section authorizes the placement of trained, certified energy engineers in the Government's most wasteful buildings. And it sets up an incentives program to reward Federal agencies and employees who implement conservation and efficiency improvements in buildings that result in substantial savings.

Title II sets criteria for the procurement of alternative fuel vehicles for the Federal fleet and provides increased funding for their purchase. To date, GSA has purchased 115 alternative fuel vehicles.

According to OTA, improving energy efficiency has several benefits, both for the Government and the Nation as a whole. Inefficient use of energy needlessly exacerbates reliance on imports of oil from foreign sources, contributes to local and global environmental concerns such as a smog and climate change, and consumes capital and operating expenditures which could be better invested elsewhere.

As the Congress considers proposals to craft a national energy strategy, this bill should serve to expedite a plan with which we can all live.

RECOGNITION OF THE CUNA FOUNDATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise today to celebrate the 10-year anniversary of the CUNA Foundation, and commend it for the outstanding work the foundation has done in those 10 years.

The CUNA Foundation was established in 1980 as a public foundation dedicated to promoting credit union development and to advancing the credit union philosophy of people helping people. Credit unions give those people who might otherwise go without financial assistance a place to save and borrow. Just as importantly, credit unions are a place of education where members may receive the financial counseling necessary for them to take advantage of opportunities to change their situation. Over the past 10 years, the CUNA Foundation has provided over $2 million in grants to assist credit unions around the world to grow and further their mission.

A wonderful example of the CUNA Foundation's work may be seen in its assistance to the Central Appalachian People's Federal Credit Union in Berea, KY, one of the poorest regions of our country. With the foundation's assistance, Central Appalachian People's Federal Credit Union has been able to provide financial counseling and assistance to people who otherwise would have been forced to turn to loan sharks for credit.

The results have been stunning: New houses have sprung up and small businesses have developed. The CUNA Foundation has helped the people of Berea, KY, build their community.

The CUNA Foundation has been active not only in the United States, but around the world. It has promoted the development of market economies in Poland and in China by aiding the establishment of credit unions in those countries. The foundation has supported the growth of the Cape Credit League, in Capetown, South Africa, whose democratic, community-based credit unions are a source of independence and stability for those most deprived by the political system in South Africa. It has provided disaster relief to credit unions in Jamaica, in Fiji, and elsewhere, to help these organizations meet the tremendous needs of their membership. The foundation has also given scholarships for financial study to students around the world, from St. Louis, MO, to Nuku'alofa, Tonga.

I take great pride in recognizing the achievements of the CUNA Foundation, and applaud its efforts to promote community solutions to financial problems. May its next 10 years be as productive as its first decade.

DISCOURAGING DEFICIT NUMBERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, yesterday the administration presented its annual mid-session review of the budget. It's a discouraging report. The fiscal year 1992 deficit estimate has grown by more than $67 billion. And combined deficits for fiscal years 1991 through 1996 have risen by a whopping $292 billion.

The growth in the fiscal year 1992 deficit can be explained in part by shifts in spending from fiscal year 1991 and by estimating errors. Congressional action, however, is not adding to higher deficits. As Director Darman stated in his letter to the Speaker, last year's budget agreement is working.

But even with fiscal policy under control, the predicted 1992 deficit is a record $348 billion. Excluding Social Security, it's $418 billion. This country continues to face serious economic problems. The savings and loan debacle is responsible for $118 billion of the deficit, the recession for another $63 billion. Interest payments on the national debt are robbing $200 billion from our economy.

Now that the economy has hit bottom, the administration would like us to believe that the future is all rosy. But this report shows that the economy and the American people are in for some difficult times.

INTRODUCTION OF GOVERNMENT-SPONSORED HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, today I introduce the Government-sponsored Housing Enerprises Financial Safety and Soundness Act of 1991 (H.R. 2900). This legislation will reform the regulatory structure and capital position of the Federal National Mortgage Association—Fannie Mae—and the Federal Home Loan Mortgage Corporation—Freddie Mac. It will also make certain changes in the regulatory structure for the Federal Home Loan Bank System. I am happy that I am joined in the introduction of this legislation by two distinguished colleagues, the ranking minority member of the Subcommittee on Housing and Community Development, Mrs. MARGE ROUKEMA, and the ranking minority member of the Committee on Banking, Finance and Urban Affairs, Mr. CHALMERS P. WYLIE.

The savings and loan crisis and the large losses incurred by the Federal Government to resolve the crisis, raises concerns about the scope of other potential liabilities of the United States, including the liabilities of Fannie Mae, Freddie Mac, and the banks. These entities are privately owned federally chartered enterprises established to meet certain credit needs. Together they have more than $800 billion in mortgage-related liabilities.

While these entities have not explicit backing by the Federal Government, the public perception that should one of these entities fail, the Federal Government would step in and bail out its investors required us to ensure that the risk that these entities would require a Government bailout is minimal.

This legislation seeks to reform the regulatory structure for Fannie and Freddie in a manner that will assure that this risk remain small. I will not go into detail about the legislation at this point. I plan to place a section-by-section explanation of the legislation in the RECORD later. However, I do want to highlight some important provisions in the bill.

First, this legislation follows the Department of Treasury recommendation and provides for a financial safety and soundness regulator in the Department of Housing and Urban Development. This regulator would be responsible for ensuring that Fannie Mae and Freddie Mac remain financially safe and sound by setting and enforcing capital standards for these enterprises.

Second, the regulation updates the capital requirements for Fannie, Mae and Freddie Mac. The current requirement does not take into account the extensive off-balance sheet liabilities of the enterprises. Risk-based capital levels for Fannie and Freddie will be determined through the application of stress tests, the parameters of which are defined in the bill.

Third, the bill will define Fannie's and Freddie's role in providing low- and moderate-income housing by adding definitions for low-income housing—80 percent of median income—and moderate income housing—100 percent of median income—and by requiring that Fannie Mae and Freddie Mac each annually devote an amount equal to 20 percent of their prior year dividends to a program to provide low-income rental housing.

Finally, the bill would limit the compensation that may be provided to the executives of Fannie and Freddie.

The subcommittee will be considering this bill next week and I anticipate that the full committee will act on the bill before the August recess.

THE BILL FOR THE CONSUMER ECONOMY IS COMING DUE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY of Maryland. Mr. Speaker, as a member of the Budget Committee for several years, I have been making speeches about the deficit—tying it to the loss of manufacturing in this country and blaming much of that on the commitment of this Government to free trade instead of fair trade.

Adam Smith economists, and they are legion in the Government and in the universities, accuse me of not understanding the new economic religion—they even label me a protectionist—that worst of all epithets—in these times.

I have had no problem facing them down—standing them off—I took a constitutional oath to protect this country from all threats. I have no idea who employs the economists, but it is very clear to me that the Congress should work for the American people.

At times it has been very difficult debating with the theorists—and the apologists for the consumer driven free market economy, because their spiel is cloaked in jargon and their econometrics models work on pure theory and, all too frequently, on impure statistics. It is tantamount to a layperson arguing religion with the College of Cardinals. The representatives of the people should be representing current conditions, not what one wishes conditions to be.

Mr. Speaker, current economic conditions are grave, despite the optimistic predictions of Government economists.

A headline in the Wall Street Journal on July 10—"Living Standard Declined in U.S. in '90, Study Finds."

On July 9, the Journal reported "Citicorp Says Job-Cut Plan May Hit 17,000."

The New York Times of July 8 reported—"Part-Time Hirings Bring Deep Change in U.S. Workplaces; 40-Hour Week Is Eroded As Companies Reduce Costs; Many Workers Can't Find Full Hours or Benefits."

Another headline for the same newspaper stated: "City's Layoffs of Thousands Begin Today—New York Seeks to End 2 Budget Gaps by July." The story reports that 6,000 to 9,000 New York City employees will be laid off by the end of the month.

These are a few of the financial headlines of 3 days last week played out against a backdrop of 21 States struggling to come to grips with major budget deficits. The estimated shortfall in those States is $35 billion. Some experts predict that State and local taxes and budget cuts beginning last week will total $50 billion—about 1 percent of the country's gross national product.

For the life of me, I cannot figure out why—obviously—these statistics do not make it into the econometrics models used by the universities and the economic consultants. Also, I find it difficult to understand the lack of comprehension of cause and effect in these peoples' minds.

A city, a State, a country lives off tax receipts. It's simple, I know, but true. The headlines point to the reason for the tax problems in the Nation—part-time jobs without benefits replacing full-time benefit-laden manufacturing jobs—causing a drop in the standard of living in comparison with every other leading manufacturing nation in the world.

As a matter of fact, according to a Council on Competitiveness report, the United States standard of living—over the last 18 years—has grown only 33 percent—while Japan's has grown 80 percent. I do not think it is reaching to suggest that that has been the cost—to the United States—of the loss of the consumer electronics industry to Japan, among others. Right now we face a continuing loss in auto parts—the Japanese are dumping—and electronic display screens—the Japanese are dumping—and automobiles—the Japanese are stockpiling against the predicted economic recovery.

And even though the evidence is there—States facing bankruptcy conditions, living standards falling, Japan—once again—attacking more markets with predatory practices—we are to do nothing to protect ourselves from these attacks, because it goes against a 200-year-old economic theory.

I am reminded of an old quote, "Those whom the gods would destroy, they first make mad."

We were told by these economic theorists back in the 1980's not to worry about losing the smokestack industries, because they would be replaced by a service economy. The banks are leaders in that service economy and you all know how well they are doing. Citicorp has already laid off 7,000 and now the projection is that they will lay off another 17,000.

Advertising agencies, newspapers, and the networks are also discharging workers.

I have questioned many of the supporters of a service economy about whom they would serve when there were no wealth-producing industries left—because, after all, services are parasitical. Somebody has to produce something with value added to it to create wealth and all of the signals in this economy—including the report on the standard of living going down—is a major loss of wealth.

The answer I get from these economists—when I point out this obvious need for production—is that I do not understand economic theory. My retort is that economists obviously do not understand basic math.

When I make speeches on this issue, frequently I am asked what we can do to turn the economy around. Is there some new legislation which can be written to stop this erosion. Of course there is. But, more than that, there is legislation in place which, if used, could begin to brook the outflow of wealth and technology.

Antidumping laws should be stringently enforced. Antimonopoly laws should be stringently enforced. Had they been at the time of the Columbia Pictures sale, Sony would not have been allowed to buy the film maker-distributor. Buy America laws at DOD should be stringently enforced and also expanded.

In this area—defense—new legislation is needed. The growth of joint ventures and licensing of weapons systems production abroad in the last decade is truly staggering. Production of the second generation of the Patriot missile is going to Germany—Raytheon in Massachusetts will be closing out its production line in 1992.

Production of the FSX fighter plane will be licensed to Korea. Remember the battle over just sharing production with the Japanese on this a couple of years ago? There seems to be little fight left over handing over the know-how of outright manufacturing to Korea.

Are we ignoring 21 States on the ropes? Are we not paying attention? The Mexico Free-Trade Agreement may come to this Congress before we go home. At latest count, there are 2,200 United States plants in Mexico. Imagine what it would mean to those 21 States were those companies to come back home, on average, 110 plants per State.

Think how much worse it will be if the Mexican Free-Trade Agreement goes into effect and 2,200 more plants and then 2,200 more are transplanted to Mexico.

We are all aware of the competition among the States just to persuade one foreign plant to relocate. The Governors are pitted against each other to see which State will allow the most tax forgiveness to the transplant. There are some tragic tales of small communities where the State has given up so much in taxes that the villages have been pushed to the wall to supply the necessary support services for the new venture with no power left to tax its profits or use of land.

The Congress has the power to get those plants back from Mexico. All we have to do is change the tax law penalizing profits made offshore, instead of encouraging foreign investment—as we do now. And, certainly, we need not encourage more plants to move down there by opening up the economic borders with a new free-trade pact.

Cause and effect? Of the 21 States in trouble, 14 of them are easily identified with the loss of manufacturing to free trade—Maine and North Carolina—shoes and textiles—California, microelectronics and defense—New Jersey, New York, Ohio, Pennsylvania, Maryland, Indiana, Massachusetts—heavy industry, shipping, textiles, electrical consumer products—and poor Massachusetts, quick to reach out to microelectronics to replace its old industrial base, now has been laid low a second time by the targeting of that industry by Southeast Asia.

Remember, however, protection is a bad word.

If you would know how bad it has become, the once great industrial State of Pennsylvania—of steel and coal, glass and electrical products, furniture making and textiles, auto parts and machine tools—the State that during the Second World War—industrially—outproduced every other State in the Union—now reports on its GNP, that the first industry in the State is agriculture, the second is tourism. Sounds like a third world country, or a colony.

In May, our Economic Development Subcommittee saw firsthand the effects of this change in the town of Aliquippa where LTV had operated the largest integrated steel mill in the world. Before that mill was closed, the town had 26,000 people—with 16,000 working in the mill.

The population is now 13,750 and much of the downtown is boarded up—the streets unsafe at any time of the day. It is little different in appearance from a village seen on the television screens nightly in Yugoslavia—where the people have fled in front of the armies moving in.

I propose that Aliquippa is more shocking than the outright war situation in Central Europe. One can defend against real bullets. One can fight back in a declared war. One can counterattack an identified enemy. People pull together when foreign uniforms invade the home territory.

Poor little Aliquippa. Its enemies never showed their faces inside the city limits. Its destroyers wore no uniforms, nor have they ever openly declared war. The people who attacked Aliquippa wear business suits and live in Washington, New York, Tokyo, and Taipai. They are in the governments and boardrooms of Brussels, Paris, and Geneva.

A survey showed that out of every 14 families in Aliquippa, only 1 has a family member employed full time with benefits.

It is a shocking story, the tale of what happened to Aliquippa, and we are told by the pure of economic theory that Aliquippa deserved no protection all the while the European Community was pouring a billion a year into protecting its steel industry and the nations of Southeast Asia were not only subsidizing their industries but targeting our markets with tons of small products—nails and industrial fasteners, chains, and rods—and among the fasteners, many were counterfeits.

My economic adversaries chide all of us protectionists with not wanting to recognize the emergence of a global economy, the existence of a global village; poppycock. If we protectionists have our heads in the sand, then, by their actions, the European Community and the protectionist nation of Japan do not recognize the global economy either.

No nation, except this one, has allowed the foreign inroads into their economy as this one has. Not one. Every nation absolutely proscribes the purchase of its cultural resources, its banks, its brokerage houses by any other foreign nation.

In the high rolling days of the big oil money coming out of the Middle East looking for investments, the Swiss—realizing the dangers of too much of a good thing—put a cap on deposits from each nation and above a certain amount rather than paying interest on the deposits charged interest recognizing the tremendous liability of reinvesting huge sums in a volatile economic time.

Protectionist? You bet you.

Every nation in the world is protectionist except this one.

There is indeed a global village, but we are the only Nation on the street which leaves its doors open, its treasure unprotected. As these free traders extol the virtues of interdependence, as they boast about our need to go abroad for component parts of even our missiles in the Middle East war, Japan is pursuing a very different policy.

If one examines the needs of that island nation—and she is far from being self-sufficient—a pattern is developing of Japanese acquisitions which would make her totally independent. Systematically, from the outright purchase of oil fields in the Middle East to the buying of beef ranches and packinghouses, citrus groves and fishing fleets, nonferrous metals companies and vegetable farms, Japan is moving to own the source of all of its needed imports.

If the rest of us—the trading partners—are going merrily into the global village down the road of GATT and the Uruguay rounds, the evidence is that Japan is planning to be the only nation on the street with a moat around it.

For heaven's sake, just look at what they are doing. The touted shrinkage in the trade deficit between our two nations is illusionary. The vast majority of export growth to Japan over the last couple of years has been onshore Japanese assembly or manufacturing transplants shipping products back to the parent corporations. Japanese ranches, farms, and orchards shipping back to the home market. And of course, the Japanese-owned entertainment giants—MCA and Columbia shipping films and TV shows back to Japan. The trade deficit may be looking a little better, but the current accounts balance—the transfer of real wealth—the repatriation of profits—will soon begin to look like a raid on Fort Knox—which in truth it is.

Observe the model that is uniquely Japanese. When the flood of Japanese tourists showed up in Washington, Japan began buying hotels. Japanese Airlines is flying into Dulles. The Japanese are building a huge university/hotel/shopping center complex on Route 7 in Virginia within 6 or 7 miles of Dulles. If the pattern is followed, as it was in Guam quite a few years ago, Japanese tourists will pay for their whole trip—their entire stay in the United States—before they depart from Japan.

They are given coupons, in exchange for yen, to spend in the United States—and, you guessed it—Japanese-owned stores, restaurants, and hotels.

Once in the United States, they will stay only in Japanese-owned facilities, travel only on Japanese-owned buses, et cetera. You get the picture. The Japanese tourist will leave very little money behind in the United States, unlike the hordes of foreign tourists from other nations whose expenditures help us with our balance of payments deficits.

Lest we forget—living in the global village—our position, our power will depend upon our wealth. Japan's repatriation of every yen is evidence of a recognition that wealth equals power and she has moved very quickly—for a nation—to consolidate her wealth and her power. The CIA study, "Japan 2000," reports that she is spending $700 million per year to influence politics and public opinion in this country. Considering the fate of the study—it has been criticized and disparaged, especially by the media—one has to believe that the money has been well spent.

Economic theory is just what it says—theory. The worth of any theory is how accurate it proves to be in application. We are the only Nation in history—with the exception of Russia back in the 1830's—which has ever tried pure Adam Smith, pure comparative advantage economics.

I believe the evidence is coming in that it is not working, that it is destroying our economy, that we cannot give up our industrial base on the assumption that a service economy will replace it. Recognizing that we cannot close our borders, that we are in an economic situation right now where any precipitous action could cause severe consequences, I urge that we discuss possible other directions in policy which would not only preserve our remaining manufacturing sectors, but encourage expansion and investment in new technologies which would then be protected from foreign exploitation.

Time is short. The hour is late, but not too late if we commit ourselves. I urge that commitment.

□ 1710

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5, WORKPLACE FAIRNESS ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–152) on the resolution (H. Res. 195) providing for the consideration of the bill (H.R. 5) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1776, U.S. COAST GUARD AUTHORIZATION FOR FISCAL YEAR 1776

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–153) on the resolution (H. Res. 196) providing for the consideration of the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard budget, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1096, BUREAU OF LAND MANAGEMENT AUTHORIZATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–154) on the resolution (H. Res. 197) providing for the consideration of the bill (H.R. 1096) to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1720

H.R. 5, IS IT FAIR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. BALLENGER] is recognized for 60 minutes.

Mr. BALLENGER. Mr. Speaker, as the Rules Committee just ruled, H.R. 5 is coming up tomorrow. There is going to be quite a bit of debate on it and we are going to have a special order to see if we cannot explain a little bit about what is going to happen tomorrow.

First of all, let me give a little background on H.R. 5, so that the viewers can understand what we are talking about.

For over 50 years, labor laws have drawn distinctions between workers who are forced to walk off their jobs due to an employer's unfair labor practice, and workers who voluntarily strike for higher wages or better benefits or improving working conditions. The former is called an unfair labor practice dispute. The latter is an economic strike.

The law balances the legal and economic rights of strikers and employers differently, depending on the nature of the labor dispute. There are sound economic and labor policies underlying these distinctions and much in the way of case law and also Supreme Court rulings.

In an unfair labor practice strike, one which is driven by the employer's illegal conduct, including his refusal to bargain in good faith with a certified union representative, returning strikers are entitled automatically to reinstatement following the strike. Any replacement workers hired are only temporary and must be let go to make room for the returning strikers.

In an economic strike, one where workers demand higher pay, for example, returning strikers are not entitled to automatic reinstatement. They are entitled, however, to preferential rehire to the same or substantially equivalent jobs as vacancies occur.

Replacement workers who are willing to work for wages or benefits rejected by the strikers may be given permanent positions. Current labor policy is designed to prevent every garden variety of economic demand from triggering a strike or from unions having unrestricted economic leverage during bargaining and strikes.

Where union members voluntarily walk away from $38,000 a year job in Maine or a $98,000 a year job as a pilot or a $200,000 a year job as a professional football player, they know there is a substantial risk that other workers might find such pay to be acceptable. If the unions miscalculate, if their economic demands are unreasonable, they should not be accorded the same right to automatic reinstatement as if they were protesting an employer's unfair labor practice.

The strike bill, H.R. 5, would remove the distinction between an unfair labor practice dispute and an economic strike.

In H.R. 5, an employer's inability or unwillingness to accede to a union's economic bargaining demand, no matter how unreasonable, would be treated the same as if the employer had committed an unfair labor practice. Workers who strike for economic reasons, no matter how outrageous, would be assured of returning to work any time they chose to.

Mr. Speaker, this produces a risk-free strike, and risk-free economic strikes are bad public policy.

Mr. Speaker, I yield to the gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Speaker, I thank the gentleman for yielding to me. I think we are indebted to the gentleman from North Carolina for outlining the matters that we face as we address H.R. 5. I would like to take a moment this evening to talk about H.R. 5's devastating effect on the small business community of this Nation.

Mr. Speaker, it is easy to pay lipservice to the small business community. But lipservice is not what our Nation's entrepreneurs want or need to survive.

Lipservice will not ensure that new jobs are available to young men and women who are just entering the work force.

Lipservice will not keep smaller firms from going under in needless and duplicative paperwork and other regulatory requirements.

And lipservice will not generate positive, productive relationships between small business owners and their employees.

However, my colleagues, lipservice is all small businesses can expect from the supporters of H.R. 5.

Our Nation's 20 million smaller firms want to know how this bill, H.R. 5, came to be called the Workplace Fairness Act.

There is certainly nothing fair about stripping small employers of their rights to keep their doors open when workers walk off the job for more money, or better benefits, or other economic reasons.

There is nothing fair about giving union employees special status under the law that nonunion employees don't enjoy.

In fact, by legislating this unequal treatment, we in Congress will be handing union leaders the organizing tool of their dreams.

"Join the union, and if you go on strike, your job will be guaranteed. Don't join, and you can be permanently replaced." This is the message union organizers will be able to deliver to hundreds of thousands of small, nonunion workers.

The impact will be to destroy the good working relationships and high morale currently enjoyed by the vast majority of small business employers and their employees.

The claim that H.R. 5 protects small businesses by exempting nonunion firms is just plain wrong. It is lipservice, plain and simple. In reality, the bill has devastating implications for small employers.

Supporters of H.R. 5 have been running ads on local radio stations featuring union employees who have been permanently replaced.

"My company wanted to cut my health care benefits," a female employee declares in one of these ads. "I had to take a stand. But when I went on strike to protect the benefits my family needs, I was permanently replaced."

The point of the ad, I suppose, is that H.R. 5 will protect workers and their families from unreasonable, uncaring business tycoons who want to convert dollars spent on employee health-care benefits into cheap corporate profits.

But you and I know that, while this may make great advertising copy, it doesn't realistically portray the problems employers and employees are having in finding affordable health care coverage.

This ad is just one aspect of an emotionally charged and misleading campaign to garner support for a bill that big labor bosses are dying to see become law.

It's no secret that the cost of health insurance is skyrocketing. And smaller firms are by far the hardest hit in the health care crunch.

Many employers have seen their health care costs double or triple in recent years. Still other small companies have been rejected outright for renewal of their policies.

These small employers want very much to provide coverage for their employees. In fact, they rely on that very same coverage to protect themselves and their families.

Faced with huge premium increases in recent years, many small employers have no choice but to ask employees to share some portion of the increased cost of coverage.

If H.R. 5 becomes law, employees of a small union firm that asks its employees to pay even some small portion of those health insurance premiums would not be able to permanently replace workers who chose to strike rather than assume any share of the increased cost of the insurance.

In this situation, an employer would have no choice but to give in to employee demands no matter how unreasonable they might be.

A small business cannot keep its doors open without workers. There is no cadre of midlevel managers who can step in to replace the striking workers until the dispute can be settled. Temporary workers are expensive to hire and difficult to find. They require more training, are less efficient and are injured more frequently than permanent workers.

It would only be a matter of days before a small firm would have to close its doors—perhaps forever.

My colleagues, I ask you: What is fair about that?

The current system provides incentive to both employer and employee to work out disagreements.

There is risk to the worker in deciding to strike and possibly being replaced;

There is risk to the employer in not giving in to union demands and not having workers to perform tasks that are essential to bringing a product to market.

But, if H.R. 5 becomes law, employees will have no incentive to come to the negotiating table to discuss economic issues. Small employers will, in effect, be held hostage to union demands for better benefits or higher pay—no matter how unreasonable those demands may be.

Now, let us go back to the woman in the radio ad. Let us assume that H.R. 5 becomes the law of the land.

In this new scenario, union leaders convince this woman—and most of her coworkers—to strike, rather than assume a small portion of the cost of health care coverage for themselves and their families.

After all, they argue, what have you got to lose by going on strike? Your jobs are guaranteed by H.R. 5. You cannot be permanently replaced.

Now, in this scenario, the company employing these striking workers does its best to stay open during the strike.

But cash is already tight for this business—a condition that led to the request that the employees contribute some share of skyrocketing insurance costs to start with.

The business owner knows that he cannot operate for more than a few days without replacing the striking workers. And union demands are growing with each new day.

Let us say that the owner agrees to the union's demands—even though he knows his company cannot afford it. It is the only alternative he has to closing his doors right then and there.

But the union has demanded more than the business is capable of paying for. It is losing money and having difficulty paying its bills.

Six months later, the owner decides that he simply cannot make ends meet. He is forced to close his doors forever.

He, and his 50 employees, are now out of work. Because they chose to go on strike rather than pay a modest portion of the cost of their health insurance, these workers now have no income and no insurance at all.

Under this scenario, exactly what have we accomplished by granting workers the power to force small employers to agree to unreasonable economic demands or go out of business, as H.R. 5 would do?

Are the 50 employees in this hypothetical business better off unemployed and without any health care coverage than they would have been had they agreed to pay a tiny portion of the cost of that coverage? Certainly not.

Is the community the business served better off having been deprived of the products and the tax base that business provided? No.

Only the union leaders, who got to flex their muscle at the expense of 50 jobs and a viable small business, come out ahead.

My colleagues, supporters of H.R. 5 want to fix a system that shows little sign of being in need of repair.

More important, the fix they propose could be devastating to our Nation's smaller firms—the backbone of our economy and our communities.

And if they succeed, the union bosses' gain will be the country's loss.

Small businesses generate more than 57 percent of all new jobs in the United States.

They set the standard for the rest of the world in terms of creativity, innovation, and entrepreneurial spirit.

H.R. 5 is a direct threat to this vital sector of our economy.

My colleagues, do not be misled by claims that H.R. 5 won't affect small business.

Do not be duped into handing union bosses the organizing tool of their dreams under the guise of small business protection.

And do not settle for lip service when it comes to the fate of our Nation's smaller firms. Vote against H.R. 5.

Remember, it is easy to say that you are for small business. But it is how you vote that really counts.

□ 1730

Mr. Speaker, I yield back to the gentleman and thank him for taking this special order.

Mr. BALLENGER. We thank the gentleman from Florida for his comments.

Mr. Speaker, I will now yield to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding to me.

You know, earlier today the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], met with the press and, in talking about the bill which they, for some strange reason, call a Workplace Fairness Act, which is not fair in any way, Mr. GEPHARDT made a statement that the bill, H.R. 5, which he is supporting, does not protect employees who resort to violence during a job action.

Mr. Speaker, I would like to ask the gentleman, though I was in the committee when the gentleman attempted to provide that protection, would the gentleman tell me if that is true.

Mr. BALLENGER. If the gentleman will yield, that was an amendment I tried to pass both in subcommittee and in committee, and the Democratic majority voted it down. So it is not in the bill.

Mr. EDWARDS of Oklahoma. So the fact is at this point if H.R. 5 is adopted, a worker who goes out on strike because he wants more money and resorts to violence during the strike, nonetheless has to be rehired, he cannot be permanently replaced, is that correct?

Mr. BALLENGER. That is correct.

If I may, Mr. Speaker, another amendment that we had in committee that we tried to put in it was the secret ballot, the fact that you had to have a secret ballot. All we asked for was a majority of the strikers to be able to call for the strike, and this is not too substantial an effort because the United Auto Workers for years have had a secret ballot and demanded two-thirds of their voting members to authorize a strike. They voted that amendment down too.

Mr. EDWARDS of Oklahoma. Let me ask the gentleman another question: One of the things that has concerned me in looking at this bill is the suggestion that what will happen is that either an employer will have to give in to the demands of the employees who have chosen to go out on strike, or close down. But is it not true that there are some employers who do not have that option, who cannot close down?

For example, a hospital, an employer who operates a hospital cannot close down without depriving the people in that community of the needed health care. It also seems to me, therefore, that since he has to keep operating, he is in a box because he has to go out and hire people who are very skilled, nurses, nurses' assistants, technicians, and to get people of that skill level, of that educational level to come into the hospital and take a job knowing that as soon as the strike is settled they are going to be out of work, they are going to be bumped, is just not very likely to happen. Does that not mean that the employer, the hospital operator, will be under a very definite pressure to give in to the demands, increasing the wage costs in an industry that already is very labor-intensive in cost and thereby driving up health-care costs, not only the costs to the hospital—and hospitals are operating under a tight profit margin anyway—but driving up health-care costs?

Mr. BALLENGER. That is very definitely true. We have another gentleman who happens to be from Illinois who offered an amendment in committee asking them to except health and safety situations, and again the majority killed that amendment.

Mr. EDWARDS of Oklahoma. So the gentleman is saying that in committee—and this is being rhetorical, because I was there too, but even though I was on the committee, I have a hard time believing this actually happened—you had an amendment to say that a person would lose the right to be protected from being replaced if he committed a violent act? And that was turned down. The gentleman from Illinois [Mr. FAWELL] had an amendment to try to provide that you could replace the worker if it was to keep a hospital operating to take care of patients, and that was turned down as well, right?

Mr. BALLENGER. Yes.

Mr. EDWARDS of Oklahoma. And this is the Fairness Act, they call it?

Mr. BALLENGER. Right.

Mr. EDWARDS of Oklahoma. Let me make one final observation, and before that I compliment the gentleman for taking the time for this special order.

But I would observe this: The world is changing very rapidly and in many ways providing us in the United States with a tremendous economic challenge; not only the Japanese, who have done such a superb job, to our detriment, of expanding economically, but the Europeans, who are forming a new united Europe, a much stronger competitor economically than the United States.

□ 1740

Mr. Speaker, it seems to me, and perhaps the gentleman will want to comment on this as well, it seems to me that, if we do something like this, we are calling this strike-breeder legislation because, if we remove the incentives for settling the strike, we actually increase the chance that there will be more strikes. Does this not make us less competitive with the Europeans, the Japanese, and others at a time when people all over the United States are saying we have to do things to make ourselves more competitive? Does this not take us in the opposite direction and probably lead to lost jobs for that reason as well?

Mr. BALLENGER. Mr. Speaker, the sad part about it is in trying to explain this in committee I said:

> You know the basic thing that you're doing here is you're making strikes with no penalty clause involved in this. You can strike at any time you want to, for any purpose, economic or unfair labor practices strike, but you can strike, run up your costs, and all you're going to do is move jobs to Taiwan. You're going to move jobs to Mexico and make jobs less and less available in this country because of this.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would ask the gentleman from North Carolina [Mr. BALLENGER] one other opinion, if I may, because I respect the gentleman's knowledge in this area.

I am going to be, as my colleagues can tell, voting against H.R. 5. I think it is a bad bill.

Mr. Speaker, it is also my belief from studying this issue that the current labor law provides the balance that is required to keep our workplace competitive, and, therefore, changing the law would be a mistake, and, if the gentleman agrees with that, that would mean that we should both vote against H.R. 5 and vote against the substitutes which are being offered.

Mr. Speaker, there are two substitutes that are also going to be put before the Members, and my inclination, I would say to the gentleman from North Carolina [Mr. BALLENGER], is to vote against the substitutes as well. I wonder if the gentleman has an opinion on that.

Mr. BALLENGER. I would say, Mr. Speaker, that basically the substitutes are there; one, for kind of a picture book effect to allow some people that want to say they voted somewhat closer to the union stance. It is there for them to do in a somewhat cowardly fashion, I would say, but these substitutes themselves do not do anything good for the American economy or good for the American worker, and I think that is the major thing we need to worry about.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BALLENGER] very much.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BALLENGER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I just want to clarify that point about the substitutes because I think it is very, very important that most Members are not for the substitutes, and I think the votes will reflect that.

However, Mr. Speaker, I just got a notice in my office this afternoon about the Goodling substitute which, it seems to me, no one supports, no outside groups support. It is opposed by the AFL-CIO, the UAW, the Steelworkers, the Flight Attendants, Air Line Pilots, and the list goes on. Almost every union is opposed to the Goodling substitute, and then, going to the people one would think would support the Goodling substitute, the National Jewish Community Relations Council, the U.S. Chamber, the National Association of Manufacturers, the National Frederation of Independent Businesses, the National Association of Home Builders, the Grocers, the Business Rountable, and it goes on and on; all these business groups are opposed to the Goodling substitute.

Mr. BALLENGER. Again, Mr. Speaker, the gentleman was not in committee, but I was, and it was offered in subcommittee. The amendment was offered in subcommittee, the substitute, and was voted down unanimously. Both Democrats and Republicans voted against it, and it was offered in full committee and was voted down unanimously.

Mr. DELAY. So, Mr. Speaker, if the gentleman will yield, I think the logical position, if Members think that they are going to cover themselves by voting for the Goodling substitute, they are making nobody happy. No one will be happy if they vote for the substitute.

Mr. BALLENGER. Mr. Speaker, I agree with the gentleman from Texas [Mr. DELAY] completely.

Now, Mr. Speaker, I would like to yield to the gentleman from Kansas [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BALLENGER] very much.

Mr. Speaker, I just want to add my voice to the gentleman from Texas [Mr. DELAY], the gentleman from Oklahoma [Mr. EDWARDS], and here is one from Kansas to just say I am rising to state my opposition also to H.R. 5, the striker replacement bill.

Mr. Speaker, I think it is important that we get a kind of consensus of opinion about this. This is at a time when U.S. competitiveness internationally is not rising, but it is falling. I believe this is just the wrong direction to be heading.

I want the gentleman to know that I understand and I appreciate the tremendous contributions that men and women, working men and women, make to the State of Kansas and to the United States of America. Nowhere was the superiority of U.S. workmanship more evident than in the recent gulf war where U.S.-manufactured equipment and resources consistently outperformed those of our foreign competitors. American workers should really be proud of the part they played.

However, Mr. Speaker, I do believe, as the gentleman from Texas [Mr. DELAY], my colleague, just stated, American workers should have the right to strike. Strikes and the threats of strikes have been used for many years as a strong bargaining chip in labor negotiations. But I also believe the right to strike and the power it wields are adequately provided for in current labor law.

Therefore, Mr. Speaker, I do not favor amending it, and I am in complete opposition to H.R. 5, and I appreciate this opportunity.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman from Kansas [Mr. NICHOLS] and would like to yield now to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BALLENGER] for yielding. I certainly commend him for the leadership he has exhibited in regard to this troublesome legislation.

Mr. Speaker, I lament the fact that tomorrow, when we debate the bill, apparently we are not going to have much time to be able to do so, and so a number of us are here this evening to support the gentleman from North Carolina and to simply say that we wish there was an open rule on this bill so that we could try all the various amendments and have a full debate. But, as it turns out, I guess I may have 2 or 3 minutes tomorrow to supposedly, as the gentleman knows, spill my guts, so to speak, as we try to express the reasons why we think this H.R. 5 is not a very good bill.

The points that I have tried to stress as I have talked to people about it is that what we do have here is a very delicate balance and in basically two instances because this bill, although I have not seen the latest redraft, as I understand has been drafted after the Committee on Rules has met, I think I know those provisions, but I hope I can get a draft of the bill before we debate tomorrow. But basically the legislation still creates two new unfair labor practices, and, if we do not like something, we can just try to pass a law and call it a crime or make it illegal, and that is really what the proponents of this bill are doing.

Mr. Speaker, there is a delicate balance between unions and employers in regard to the right to strike, which unions, of course, have every right to champion, and that is a right under the National Labor Relations Act. But at the same time, there is a right under the National Labor Relations Act for employers to have a defense, and they can in the very last resort. They can simply come in and say that we, in regard to an economic strike, we think the damages to our company are going to be so great that we cannot accept them, and, therefore, we are going to exercise the right to hire permanent replacement workers, and what this bill does, it seems to me, and I know the gentleman from North Carolina [Mr. BALLENGER] agrees wholeheartedly, but perhaps the people of the Nation do not know, or any of those who might be listening in or any of our colleagues who might be listening in, is that it simply obliterates, by calling it an unfair labor practice for an employer to hire permanent replacement workers, it obliterates the employer's most meaningful bargaining chip, the right to use permanent replacement workers, and a right that, by the way, has been unquestioned since the Wagner Act was passed in 1935.

Mr. Speaker, I cannot quite understand why this suddenly has been brought up at this point as though there is something new and novel about it, and it ought to be branded as an unfair labor practice.

I think the moral though that one can get out of this is that, if there is no right of an employer, and this is in regard only to union strikes, not to strike in the nonunion area, to be able to hire permanent replacement workers, the message really is: "Join the union and stay loyal to the union, and you'll be in a better position." So, it is a type of an organizational tool.

Then, secondly, there is something that has been overlooked, and that is the second establishment of a new unfair labor practice which is in regard to another right that all workers, and this really is a balance of equities, I think, between all workers whether they are union workers or whether they are nonunion, and, by the way, in private industry right now 88 percent of all workers are nonunion. A lot of people do not understand this.

□ 1750

Therefore, when some of our esteemed labor leaders, for whom I have a lot of respect, when they said we represent all the working people of America, I could not help but chime in by saying no, you have your part to play and it is a very important part that you play, but 88 percent of the workers of America have chosen not to join labor unions. That is very important, and that is a right that is safeguarded in the National Labor Relations Act. In fact, there is an express statement in section 7 that says that any member of a labor union, any worker in private enterprise, has the right to exercise a right not to strike. And what is ofttimes overlooked by a number of commentators when they refer to this legislation is the fact that if you exercise the right not to strike, you stick with the employer for any number of reasons, you might just plain need the money to support your family, you might not agree with the idea of a strike taking place, any number of reasons, under this bill there is the right of the returning strikers to be able to bump the nonstrikers and crossovers who have elected also the right not to strike, and to assume a position back with the employer. Those people, the nonstrikers, the crossovers, as I understand this bill, can be bumped by any of the returning strikers after the strike.

As it is right now, as I understand the law, we bend over backwards to make very sure that all of the returning strikers have the right to be reinstated in any vacancies that occur.

Mr. BALLENGER. If the gentleman will yield on that specific point, Illinois is not a right-to-work State. But North Carolina, South Carolina, Texas, there are 21 States in this country that have elected under section 14(b) of the NLRB that prohibits collective bargaining agreements from requiring union membership as a condition of employment. So specifically what I am speaking about is that right not to strike when a union calls for a strike and you do not want to strike, you are not a member of the union; they go out, they come back, and you have been there from the beginning, then you get bumped in case of any problems because you stuck around. So what it does, as far as we are concerned, those of us who represent States that have a right-to-work law, it does away with our right-to-work law.

Mr. FAWELL. It certainly goes in the opposite direction.

Mr. BALLENGER. I would say to any southerner, as these are mostly Southern States, who has the tendency to believe this is a wonderful bill and does not recognize what it does to their right-to-work laws in their own home States, they are going to find a lot of heat in their own home States when they get back.

Mr. DELAY. Mr. Speaker, will the gentleman yield on that point?

Mr. BALLENGER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I want to expand on what the gentleman from Illinois was saying. He is making a powerful point here, because the gentleman in the well, who is from North Carolina and for whom I have the greatest respect, is one of the more active Members of this House on many different issues, not just this one, and many of the rest of us who have questioned the reason for H.R. 5 have been accused as being antilabor. I think the point the gentleman from Illinois makes is so very poignant to the fact that we are not antilabor. We are not even antiunion. But H.R. 5 is a prounion bill, it is not a prolabor bill, because it removes, in my estimation, and I think the gentleman from Illinois just laid it out, it removes the ability for a working person to choose what they want to do, what they want to belong to, what action they take if there is a strike proposal laid on the table. They may choose not to strike.

So what we are saying is that there is a delicate balance here, and we do not want unions to have so much power that they can force the working man and woman into belonging to the union or lose their job. That is why we are so prolabor by taking the stance that we are taking, because we believe in the right to choose and the right to choose whether you want to or do not want to strike, and not be forced under a twist in the law and the actual practice of that law into having to join a union if you do not choose to join a union, in order to be able to take advantage of these benefits. And they are really not benefits. You may be pushed into situations, and I can see situations. In fact, I have a list of situations here where there was just frivolous strikes for no reason whatsoever, but one may have to participate in order to hang onto their job, and I see no reason for that.

Mr. FAWELL. The gentleman makes some excellent points. A lot of these provisions, of course, are fairly arcane.

But when we realize that the returning striker who has the right to be reinstated in any vacancy that exists immediately after the strike, including in future vacancies, that he is first in line, so the court decisions have bent over backward to try to make it as easy as possible on those who have, so to speak, gambled on the strike so that they can come back and be reinstated. After a strike, there are often fewer jobs available. The point I wanted to make is that we are now not just reinstating returning strikers to vacancies, we are making believe there is a vacancy when there is a nonstriker who is holding that job, or a crossover person who came, who left the strike and came back to the employer, and they are being bumped.

When we talk about the delicate balance, the courts have never ever said that you have a right to bump, to remove a nonstriker from the position he holds, because when he makes that decision not to strike, if you say that upon having made it he can later be bumped at the end of the strike, what you have done is, you have destroyed his right to exercise the right not to strike. You have done away with it, and the right not to strike is of parallel importance to the right to strike. Both are guaranteed under the National Labor Standards Act. Both have to coexist. There is a healthy tension between the two, and the courts have never gone to the extent of saying that it is illegal or an unfair labor practice or a preference, for instance, when the employer retains those people who have stuck with him and exercised their right not to strike.

This is a very difficult thing to get across on the floor when we have 2 or 3 minutes, and I am sure we are not going to have too much of a chance to talk about it tomorrow, not as much as we have tonight. But I did want to really stress that point, because it is so often overlooked.

Mr. BALLENGER. If I may, everybody wonders, with all of these horrible things that have happened since 1980 when Mr. Reagan fired the PATCO people. Our Democrat friends, the sponsors of this bill, have not been willing to say out in front of everybody that that PATCO strike was against the law. They were breaking the law when they struck, and that does not compare to anything.

One of the real issues we have heard over and over again is International Paper Co.'s strike in Maine where they brought in replacement workers, and this is working under the old law, they brought in 1,000 workers to replace the workers that were there, but due to the advantage that these replaced workers had, over a period of time now 1,000 workers were replaced, and 800 of those workers are now working back at the International Paper Co. So the law itself is working the way it is, and I realize it is not perfect. But if we go back statistically, and I do not have the exact numbers on numbers of replacements for strikers before 1980, but it was substantially greater than it has been since 1980, and I think the GAO did a study that showed that something like 17 percent of strikes had replacement workers in them, and 4 percent of the 17 percent, anyhow it comes statistically to where only 4 percent of the workers that struck in this country in the 2-year period actually lost their job completely.

☐ 1800

The problem is not the monstrous thing that everybody says. What has happened is the unions have lost strength. They have lost numbers. They are down to representing 12 percent of the people, and they are losing every year more and more. This is a last gasp effort on the part of unions to be able to develop strength.

Mr. FAWELL. If the gentleman would yield just one bit more, there was a discussion with the gentleman from Oklahoma and the gentleman from Texas about the health care situation. It is true, I did present an amendment in committee that really did not even ask that health care institutions be exempted from the provisions of the National Labor Relations Act. All that I asked for in the amendment was the fact that when there is a situation where one can point to a public health and safety problem, then you would have a right to file a lawsuit in the Federal courts in order to bring this to the attention of the courts, so the court would be able to proscribe, or I should say eliminate the proscription, against hiring permanent replacement workers.

I did not even ask for an exemption. I simply said where you have a situation such as with a hospital or health care institution where you cannot simply close down on a day's notice or an hour's notice, and where the lives of people are in jeopardy if you had a sudden strike and could not hire permanent replacement workers, that under those circumstances you can bring it to the attention of the court, and the court can exercise its discretion as to whether or not you should have additional time in order to be able to function, or whether or not the idea that you cannot use permanent replacement workers would be eliminated.

I was denied that right to even have that kind of an amendment. So when there is that kind of arbitrary reaction to what I feel is commonsense amendments, it is a sad spectacle.

Mr. BALLENGER. I thank the gentleman, and yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman, my good friend from North Carolina, for yielding.

I must say again the gentleman from North Carolina [Mr. BALLENGER], has worked hard on this issue, as he does on all other issues he chooses to take on. But the gentleman from North Carolina has spent, I would guess to say, almost every waking hour for the last 4 or 5 months working on this issue, when no one else seemed to want to work on it. The citizens of North Carolina can be proud of the gentleman from North Carolina, in that he is protecting their interests. Not only those in business interests, and protecting the delicate balance of free enterprise in this country, but protecting workers' interests, something that we have pointed out here today.

I want to return just very briefly to something I think is very important, and I think the Nation is being misled on, not only by the media, but by the proponents of H.R. 5, in crying for the need of this legislation at this particular time.

The gentleman from Illinois and others have pointed out that in 1935 we passed the National Labor Relations Act, which recognizes two kinds of strikes: the unfair labor practice and the economic strikes.

What people do not understand is that the act, the Labor Relations Act of 1935, does not permit employers hiring permanent replacements if the strike is over the employer's unfair labor practices. So today you cannot replace employees because of unfair labor practices.

For instance, the company may refuse to bargain. If there is not good faith on the side of the company, he cannot replace employees.

But the act does permit companies, employer companies, to hire permanent replacements, if that strike is over purely economic issues. That is the most important part about this delicate balance.

Labor relations are a very delicate balance. Under our system of capitalism, if you unbalance that delicate balance, then you throw the whole system out of whack. Our system is based upon the principle that individuals have to be responsible for the actions that they take, that there are reactions to the actions that they take, and they have to be ready to accept those responsibilities for those actions, and because of the pressure of accepting those responsibilities, make sure that they think very clearly and thoroughly about the actions they are about to take.

If we removed the threat, if there is one, of replacing strikers from unions, unions—as has been said here on the floor—will automatically strike, for whatever reason, at any time they want to, wildcat strikes, coming and going.

If they are upset with the boss and they cannot get rid of him, they will strike to get rid of the boss.

There have been numerous cases, and I could cite them. We could have strikes on trivial matters, such as turkeys at Thanksgiving, not getting turkeys at Thanksgiving, or the price of coffee in the cafeteria, or whether a door in the workplace should remain open or closed. These are actual cases of working-condition strikes, that the unions understand the strikers cannot be replaced.

But if we do it because they want higher wages, or they want better benefits, which cost the company money, the company has no choice but to succumb to the demands of the union. Because he knows he is going on strike, that they can strike for whatever time they choose, and either put the company out of business or bring him to his knees, to where he has to capitulate.

There is no pressure on the union to think very thoroughly about what they are about to undertake. If you remove that pressure, then the only logical thing that will happen are strikes and trivial strikes, for whatever reason.

You can carry that to the logical conclusion, that as the gentleman from Illinois has so eloquently pointed out, that workers will have to join the union in order to participate. Right-to-work States will be no more. Strikes will be forever. Companies will be put out of business, and the ultimate result of companies being put out of business is that people lose their jobs.

I cite an example after deregulation of trucking in 1980, which I totally support. Those regulated companies that chose not to participate in the free market system that was brought to the trucking industry went out of business. Yet the Teamsters Union struck against these companies, because the companies had to participate in a market, and they had to negotiate their benefits and wage scales. The Teamsters decided not to participate in that, or struck against these companies that were having a hard time competing in an unregulated market.

I was on the Committee on Public Works at the time when the Teamsters came before us telling us how bad the deregulation was and how many companies were out of business.

I asked the question, and I did something that we should never do, I asked a question before I knew the answer.

I asked the Teamster representative how many of these companies that he claimed went bankrupt were union companies that the unions refused to negotiate with?

Every one of them, was his answer. They would rather put the people out of work than to give in.

The union bosses, their jobs depend on what they are able to deliver. You remove the pressure of losing your job if you go on strike, the possibility of it.

Mr. BALLENGER. Mr. Speaker, if the gentleman would yield, I would like to say I think we all recognize tomorrow when the vote comes, that more than likely a majority will vote in favor of this bill.

Let me just say that the unions have done everything they can. They have threatened anybody that does not vote for this bill that they will work against them, that they will refuse to give them any more money, and that basically I really think it is a last gasp thing.

But when that vote comes up, I would just like to compare a poll that we have done with what is going to happen in the vote tomorrow. We will lose, but we will not lose in large enough numbers. We will sustain the President's veto.

Let me just quickly go over three or four polls here. The first one, this is done by Penn-Schoen, 1,002 people, a very worthwhile poll. This is the public talking, as compared to Congress. The first question is, "Do you think that unions in our country are too powerful, have just the right amount of power, or are not powerful enough?"

This right here shows the top one is too powerful, next is just the right amount. Seventy-three percent of the public thinks that unions have just the right amount of power.

Next is, "Some people say we need Congress more to protect labor unions. Other people say unions have sufficient safeguards and Congress does not need to pass more legislation. Which comes closer to your view?"

This is 1,000 people. Twenty-eight percent say they need Congress to do more, and enough is 64 percent.

In other words, the public think that Congress has done enough for them already.

One more, if I can get it down here. "If unions have the right to strike, should companies be permitted to operate during a strike using replacement workers?"

Sixty-three percent of the public said yes, that they should allow that.

And again, once the strike is ended in which replacement employees have been hired, should these replacements be fired? No, they should not be, 54 percent say no.

Let me just go through these rapidly. Fifty-four percent say no. Some organizations like hospitals must continue to provide services even if the employees go on strike. If public safety is at stake, should a judge have the power to stop a strike? Eighty-four percent said yes.

And finally, right now a union can represent employees without a majority of them choosing the union in secret ballot election. Should secret ballot election be required to determine whether a union can represent the employees or not? Seventy-nine percent of the people said yes.

This is the public speaking out in a way that Congress should react to it. But Congress instead is going to go the other way.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. BALLENGER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, the gentleman is so right in that the American people do not support this kind of legislation. I think a lot of the American people understand it greatly.

The gentleman also has pointed out, No. 1, that the American people do not support this kind of unbalancing of our labor laws, and the gentleman has so rightly pointed out that we all really know what this is all about. This is to force people to join unions because there is no, as I stated earlier, there is no empirical evidence to state that this is a problem.

In fact, a 1991 General Accounting Office report, this year, prepared at the request of the legislation's principal sponsor, found that in 1985 and in 1989, only 4 percent, 4 percent of the striking employees were replaced by permanent replacements and those figures did not take into account strikers who were reinstated after the conclusion of the strike.

There is no horrible situation out there where businesses are forcing people out of the workplace and out of their jobs because they strike. What this is, and we all know what it is, is this is a reorganization bill to force workers into joining unions so that they cannot have a choice in how they make their money to raise their families.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman from Texas [Mr. DELAY]. I yield to the other gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman from North Carolina [Mr. BALLENGER] for yielding to me. The gentleman is a very astute student of labor-management relations on the basis of his own long-time experiences as an entrepreneur and employer.

Let me, if I may, just take a couple of minutes. One of the arguments that we will hear on the floor tomorrow and one of my favorite arguments from the left, particularly the left wing of American politics, it is kind of a cliche that they trail out every time they get some little item, is the politics of greed wrapped in the language of love that they would like to foist on the American people.

This latest argument that we hear, and we will hear again tomorrow, is that every civilized and industrialized nation in the world except South Africa and the United States has this legislation. That may or may not be true, and who would understand enough about trivia to challenge it. But let us take a look at that proposition.

It boils down to, aside from the indictment that we are, unless we buy into this or that latest cockamamie idea that they are putting forward to somebody's special interest advantage, we are going to be as deplorable a nation as South Africa.

What they do not point out is that labor law in every nation is taken as a whole, that one cannot take one item of labor law in isolation from other items of labor law.

It is true that, for example, in the Netherlands and in Germany and in Britain, they have legislation that is much akin to the striker replacement legislation that we have before the Congress tomorrow.

At the same time, given that extension of monopoly power granted to the monopsony sellers of labor or services called the unions in those countries, they have struck a balance of power by way of constraints against abusive use of that power.

An example is in the Netherlands. There is provided under law broad judicial authority to enjoin strikes. Now, what do Members think would be the response of the AFL/CIO or the liberal majority on the Committee on Education and Labor if we were to suggest that we provide for our courts broad authority to enjoin strikes?

In Germany, a strike is considered illegal if picketers use intimidation as a tactic. Intimidation.

I had in my office just not too many months ago a gentleman, if one can believe this, that had been shot in the leg through the door of a truck, an armor-piercing bullet shot at him by a striker had pierced the door of the truck and struck his leg. I mean broken the bone. It was a terrible thing. But in Germany that would not be tolerated.

In fact, in Germany if you intimidated a person trying to go to work, it would not be tolerated.

In Britain, I might mention by the way when I tried to get an amendment to this bill in committee that would affirm existing law, which prohibits employers from being required to reemploy a convicted, a person convicted of violence in a strike, it was voted down in committee. It was shouted down in committee in the most violent possible fashion.

Mr. BALLENGER. Our majority leader on the other side announced in his speech today, speaking about H.R. 5, that this bill has that in there. But the gentleman and I were there at the time that that amendment got killed.

Mr. ARMEY. It was killed, absolutely. It was the least antiviolent reaction to an effort to reduce violence in the workplace that I have seen in the legislative circles in some time.

Britain, incidentally, requires a secret ballot strike vote before a strike. Germany prohibits strikes that are severe enough to grievously wound a company. And as we know, the hiring of replacement workers, temporary or permanent, most often temporary, does not take place generally except in the last death throes of a company struggling under a strike trying to find a way to keep the doors open.

And Britain allows employees engaging in an illegal strike to be sued.

Now, what I am saying is, yes, these other civilized industrial nations have given an extension of monopoly power to the unions by virtue of legislation that is similar to the striker replacement bill, but they have to counterbalance against that excessive leverage in the process of other options for the courts or for the employers for other restrictions and limitations on the activities of strikers that would not be acceptable to the same people who are advocating this legislation.

Let me, if I may, take an additional moment or two. The fact of the matter is today that roughly 12 percent of the American working men and women in the private sector employment of this country have opted to join a union. What has happened and what we saw dramatically happen, and for those who studied these things in the 1960's, as I did, was in the 1960's the unions, who grew so greedy and over-extended their bargaining positions so far that they caused the shutdown of several plants, particularly in the steel industry, and workers became disenchanted with union leaders. And in increasing numbers workers became disinclined to vote to organize or to continue to unionize. And what has happened is the unions have fallen on tough times.

They have frankly centered here in Washington. There is something that I call institutional Potomac fever. Every Member of Congress who ever goes from his home in Texas or North Carolina is warned and pleaded with by his constituents, "Do not go up there in Washington, get inside the beltway and get Potomac fever and start working only for the people in Washington".

□ 1820

We all guard against that, but there is institutional Potomac fever, too, and the AFL–CIO and their affiliate members with their big plush office buildings here in Washington have a classic case of that.

This labor legislation was written on behalf of the labor organizers to assuage their frustration for their inability to convince rank-and-file working men and women in this country to voluntarily join the unions, so their membership rolls are declining, their ability to arbitrarily tax their members and use that member's money for political purposes that are defined by people here in the District of Columbia in disregard to the whims and the wishes and the preferences of the people out toiling in the machines of this country, paying their dues, is being diminished. Their power is waning.

They have come to those people in Congress, the liberal majority in the Democratic Party that have been their greatest beneficiaries of their largesse of the working men and women's resources and said, "You must carry through the halls of Congress on our behalf legislation that will make it more possible for us to more easily convince people they must join unions so that we can have more resources." This is not a bill that helps the working men and women of this country.

Eighty-eight percent of the private-sector working men and women in this country have said in very clear and definite tones, "We prefer to put our confidence in ourselves and our working relationship with management. We prefer not to join a union."

Mr. BALLENGER. I did not do one more thing on the polls, but there was a poll in question of people saying, "Why do you not want to join a union where you work? Are you afraid of the employer's reaction? Do you not like a union? Are you antiunion? Do you not think a union would help or protect my interests? Not relevant to my job?" These are the questions they asked.

This is the answer that people gave. First of all, a very small group were afraid to join. Ten percent were antiunion. Nineteen percent said it would not help them if they joined a union. Twenty-seven percent said it was not even relevant to the job they were on. Eight percent said there were better ways of doing the whole thing. Twenty-five percent said there were other reasons that they did not join.

In other words, every legitimate excuse you can think of was not to join the union.

Mr. DELAY. If the gentleman will yield further, so the obvious reaction of the unions, because they cannot entice these working men and women to join their unions, is to create havoc among our labor force by forcing strikes, and the purpose of our labor laws, as we all know, is to encourage industrial peace. We have gotten that kind of peace, and workers have not seen diminishing wages or benefits over the last few years.

In fact, the Labor Department points out that in 1988 there were 187 major work stoppages, strikes and lockouts, involving 1,000 or more workers. The number declined to under 100 in 1982, and a record low of 40, 40, was hit in 1980. Last year there were only 44 major work stoppages involving strikes or lockouts of companies involving 1,000 or more workers. So workers are gaining their benefits. They are getting the higher wages. The incomes are going up. There is peace in our industrial base.

Yet, the unions are declining, and they understand that, and they want to increase that disruption in the industry today so that they can gain more members.

I might just say, in adding to the comments of the gentleman from Texas about forcing people to join unions and paying dues, the unions, by the way, oppose those bills that have been introduced in efforts to disclose how they spend that money. They do not even want to disclose how they spend dues that are forced upon workers and the rank-and-file members.

FMLN MUST RENOUNCE ASSASSINATION

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, all of us in the Congress were outraged at the news last week that two members of a social service organization in El Salvador were brutally tortured and one murdered. Suspicion has understandably been cast on the rightwing in El Salvador as being responsible for this despicable act.

But the extreme right in El Salvador has no monopoly on murder and destruction in that country.

I rise today to condemn the recent FMLN slaying of Salvadoran Army Capt. Carlos Alfredo Lopez—which took place on June 17. The captain was killed not in the heat of some battle but off-duty and in civilian clothes. He was killed in front of his home and leaves behind a wife and two little daughters.

Mr. Speaker, in my view there is simply no excuse for this type of behavior. No grounds of ideology or difference of political belief justifies cold blooded murder. And what is more astounding to me is that the FMLN proudly claimed credit for this atrocity—at a time when its leaders claim to want more understanding from the international community.

This type of action undermines the peace talks and encourages extremists on both sides to initiate similar actions.

Mr. Speaker, the negotiations between the Salvadoran Government and the opposition FMLN are continuing—due in large part to the steadfast efforts of the United Nations mediator Alvaro de Soto.

These negotiations are clearly at a delicate stage and it is important that both sides make every effort to advance the talks and refrain from actions designed to disrupt them.

The FMLN claims to honor justice and desire peace. So today I say to the FMLN prove that you mean what you say—renounce assassination and prosecute the murderers among you just as you challenge the military to prosecute its own killers.

BANKING INDUSTRY FACING SEVERE DIFFICULTIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 60 minutes.

Mr. LEACH. Mr. Speaker, I am rising today to address several aspects of the seminal banking legislation which is likely to be brought to the floor shortly before or after the August recess.

When the House Banking Committee began considering the administration's legislative package, the Financial Institutions Safety and Consumer Choice Act of 1991, I viewed the legislation as a much-needed opportunity for Congress to improve prudential standards in the banking industry. If the bill, as reported out of committee 2 weeks ago, were to become law, however, it is my view that the Nation's banking system will be less safe and sound, and the taxpayer put at a great risk. Accordingly, despite my respect for the advocates of comprehensive banking reform, I felt compelled to vote against the Banking Committee's final legislative package. It is my hope that as this bill works its way through this House, improvements can be made in order that Congress will not make the same mistakes it did with the thrift industry.

As my colleagues understand, the banking industry is facing severe difficulties. Since 1980 more than 1,250 banks have failed or received Federal assistance. The Federal Deposit Insurance Corporation's bank insurance fund is at an historically low level and its Chairman and the General Accounting Office [GAO] have indicated that unless Congress acts it will become insolvent in the near future. Many of the Nation's largest banks are reeling from imprudential loans to developing countries, to takeover artists, and to speculators in commercial real estate. According to reports from the GAO and committee hearings, Federal bank regulators have been woefully inadequate in their supervision and oversight of these larger institutions.

The bill approved by the committee does address a number of these problems. First, the troubled FDIC would be permitted to borrow up to $30 billion from the Treasury, with the borrowings to be paid back by the banking industry, not the taxpayer.

Second, regulators would be given additional supervisory powers in order to better protect the deposit insurance funds. In many cases regulators would be required to impose sanctions if undercapitalized banks fail to remedy their financial situation, requiring them to raise capital, dismiss officers and directors, and suspend dividends.

Third, the likelihood of bank runs and depositor losses like those recently seen in Rhode Island and those which occurred in the last decade in Ohio and Maryland would be greatly diminished by a provision I added which would require all depository institutions to have Federal deposit insurance and thus standardized governmental oversight.

In the final measure, however, crucial provisions in this bill would jeopardize rather than promote stability and efficiency in our financial markets. Of utmost concern to this Member are those provisions which allow commercial enterprises like Exxon, IBM, and Sony to control U.S. banks, the failure of the committee to mandate higher capital standards for federally insured institutions, and the lack of deposit insurance reforms.

MIXING OF BANKING AND COMMERCE

It may be proper for the administration to have proposed that Federal banking laws—Glass-Steagall—be reformed in such a manner as to allow commercial banks to compete more equitably with investment banks. It may also have been prudent for it to have suggested greater discretion in interstate borrowing and lending—modification of the Douglas amendment and McFadden Act—in recognition of changes wrought in the marketplace by revolutions in communications and the sanctioning of interstate banking by 7 of the 50 State legislatures.

But it was improper, imprudent—indeed, impudent—for the administration to propose and the committee in its markup to accept breaching the legal walls that have historically separated commerce and banking.

What is at stake in the internal combusting of commerce and banking is economic democracy, the question of whether the voice of small businesses and ordinary citizens will be heard in a world of financial conglomeration.

There is simply no issue which jeopardizes the principles of Jeffersonian and Jacksonian democracy more than allowing mammoth commercial enterprises to control banks. Such a conglomeration of economic power would have the effect of concentrating monetary and credit allocation decisions in the very largest multinational corporations, including those headquartered in Tokyo and Frankfurt.

If this radical departure from law and custom is adopted, the Federal safety net will be extended beyond the banking system, with deposit insurance potentially applied to broader reaches of the economy. The market economy will be even more contaminated with taxpayer guarantees. After the S&L debacle it would seem that a prudential Congress would want to limit and isolate the role of such guarantees, not exponentially expand them.

Instead of a too-big-to-fail doctrine, Congress and the American people would be confronted with a much too big to fail challenge to the economy. If banking concerns such as Bank of New England had been allowed to merge with First Executive Life and be controlled by commercial enterprises carrying prestigious names like Eastern Airlines, Chrysler, or Time-Warner, bailouts could take on mega proportions and become the yearly norm rather than generational aberration.

Proponents of merging commerce and banking argue that this change is needed in order to assist in the recapitalization of the banking industry. Yet it is uncertain why commercial companies with excess capital would want to invest in an industry hallmarked by overcapacity. Ironically, those corporations most interested in controlling large banks are sophisticated leveraging artists. In fact, if large commercial enterprises are given access to Federal deposit insurance, they may well find it advantageous to expand their financial activities sui generis in newly established entities, leaving existing weak institutions more vulnerable, susceptible to larger taxpayer bailouts.

Of particular concern to this Member were attempts in committee to broaden the insurance activities of the largest banks. The next great wrench in the financial community is likely to come from the insurance industry. There is simply no case to be made that the public is underserved or that there is lack of competition in insurance. Granting insurance underwriting powers to large banks and letting them market interstate could cause a bad situation to become worse in the insurance industry with the prospect of public bailouts or policyholder defaults looming ominously.

It is understandable that the administration, as reflected in its legislative proposal on banking, has panicked about the condition of the larger banks. It, however, would be a mistake to so tilt the economy to benefit a few institutions that the public as well as competing financial institutions would suffer. The irony that the biggest rewards would go to those who made the biggest mistakes, that the propelling influence of big banks today is their weakness rather than their strength, should not be lost on this Congress.

In the 1980's, regulators and Congress allowed commercial enterprises and real estate developers to own S&L's in order to provide much-needed capital to a struggling industry. As evidenced by the half-trillion-dollar taxpayer bailout, this decision provided little capital and only exacerbated the thrift industry's problems. S&L purchasers, such as Charles Keating, did not choose to recapitalize the thrift industry but instead, used S&L's as private piggy banks, taking advantage of the low-cost funds associated with insured deposits to fund risky commercial ventures.

Similar abuses could too easily plague the banking industry if Congress allows commercial enterprises to own banks.

Commercial firms in difficulty or lacking significant capital resources will have every incentive to take advantage of the banks they own. Management of these firms could easily be lured to literally bet the bank on risky ventures, poor credit customers, or interest rate speculation. As we learned from the S&L industry, the existence of deposit insurance allows financial institution managers to socialize losses, but privatize profit. In a circumstance where heads, the bank wins—tails, the taxpayer loses, society is vulnerable to the foolish, the dishonest, or simply the unlucky.

It is a myth to assume conflicts of interest can be avoided when banks expand activities beyond basic lending functions. In times of stress—that is, when needed most—firewalls not only do not work, they become conduits of economic electricity. Macroeconomic strains or microeconomic misjudgments can too easily cause firewalls to become walls of fire: sources of contagion rather than prophylaxis.

In advancing legislation that would have the effect of propelling consolidation in banking, the administration and many outside observers expressed concern that there is no U.S. bank in the top 20 and note that 7 of the top 10 banks in total assets are Japanese. Proponents of the radical elements of this bill appear to want to have our banking system ape the Japanese, whose banks are allowed close associations with commercial entities.

Size, however, is no measure of quality. Japanese banks are bigger because there are fewer. In America, we have more than 12,000 banking institutions and generally speaking, as measured by capital ratios, strength is in inverse proportion to size. What matters is not how big individual institutions are, but how strong the banking system is. In America, 90-plus percent of her banks are solid, and even the larger institutions undergoing stress are not handicaped in relation to their foreign competition because of lack of size.

Efforts in the past decade, particularly in California, by Japanese banks to increase market share at the expense of loan quality and institution profitability underscore why the Japanese system should not be a prototype for the U.S. banking system. After all it is the United States, not Japan, which has the most advanced capital markets in the world. Collateralized obligations, secondary markets, electronic processing have all drastically changed U.S. financial markets. It has, in fact, been these changes which have contributed to the decline in the competitive position of the larger U.S. banks. Such advancements have not fully hit the Japanese capital markets, because the Japanese Government has protected its banks not only from foreign competition, but from new technological developments.

Like the United States, Japan separates investment and commercial banking. Unlike the United States, its Government protects individual institutions as well as industries themselves. The hegemonic features of the Japanese economy are antipathetic to traditional American economic and political beliefs. The American heritage is that governmental intervention in the market system should be to ensure competition, not protect oligopolistic Keiretsus.

As an aside, Mr. Speaker, the full House should know that the bill as reported by the Banking Committee provides preferential treatment to foreign banks doing business in the United States. In rejecting Treasury's call for equal treatment, the committee stipulated that Japanese banks in California and Swiss banks in New York not have to set up holding companies to affiliate with securities firms—a requirement imposed on United States banks.

Incredulously, at a time when foreign banks control more than 21 percent of the U.S. banking market and when American financial firms are being discriminated against abroad, the Banking Committee approved giving foreign entities a competitive advantage in U.S. markets over American firms. It refused to adopt a holding company approach which analysts suggest would precipitate a several billion dollar capital infusion in the American banking industry.

Rather than tearing down the wall between banking and commerce, Congress should be closing the holes which have been pilloried in this wall. Given that thrifts are becoming more like banks, and that the new privileged commercial enterprises who were authorized to purchase thrifts in the 1980's had the gall to seek, successfully, legislative approval to convert their thrift charters to bank charters, perhaps the vagaries of legislative and regulatory change ought to be brought home to the big as well as small, and for the sake of consistency and justice, all commercial enterprises that own federally insured entities be required, on an orderly basis, to divest.

It is interesting to note who is supporting the breaching of commerce and banking. It is not your local hardward store, your community banker, or the nearby farmer. Small business groups, farm organizations and the Independent Bankers Association are all supporting its deletion from the bill. Furthermore, the General Accounting Office, the Congressional Budget Office, the Federal Reserve, including its distinguished past Chairman Paul Volcker, and the New York Fed President E. Gerald Corrigan are all against the initiative.

On the other hand, supporting this proposal is a handful of the largest moneyed interests in America: Ford, Sears, American Express, John Hancock, Merrill Lynch, and Citicorp.

At the risk of presumption, I can't believe there is a single segment of the American public which believes that America would be better off if Ford invests its scarce resources in thrifts rather than in improving and modernizing its auto manufacturing plants, if Sears leverages its increasingly scarce resources in the financial services industry rather than in updating its merchandizing operations. Or that Westinghouse should be devoting resources to intermediary financing rather than investing in research and development in the strategically important field of electronics?

Mischievously, the committee was not content with merely breaking the barrier between Banking and Commerce as was proposed by the administration. It went further and exempted certain large multinational corporations from the diversified holding company safeguards. For instance, Sears would be able to convert its thrifts into national banks but still not come under the prudential guidelines of the Bank Holding Company Act. In other words, its institutions would have all the perks and commercial lending powers of national banks with none of the restrictions. A more prudential Congress might suggest that if a commercial enterprise were authorized to own a bank, at a minimum its full corporate resources ought to be on the line, before the taxpayer, in the event of insolvency.

There is no compelling reason to combine commerce and banking. It is a prescription that turns upside down the nature of the American free enterprise system. Keeping commerce and industry apart is a strength not a weakness of our system. Accordingly, as Republicans with a small "d" democratic bias on economic rights issues, I would hope Congress would reject this aspect of the administration's approach to banking reform.

To precipitate such a massive concentration of economic resources increases exposure of the taxpayer and plays havoc with the American way of life. It should be checked before it becomes irreversible.

A Federal safety net designed to protect the retirement of small savers should not be expanded to ensure the pecuniary dreams of the moguls of American commerce.

HIGHER CAPITAL STANDARDS

The other principal concern I have with the committee mark is the inadequacy of the capital standards established. If adequately safeguarded, I do not oppose giving bank holding companies the right to engage in investment banking or the right to expand interstate, but such new rights should only be reserved for those banks with adequate capital. Giving new powers to depository institutions with inadequate capital didn't rescue the thrift industry and is unlikely to help the banking industry.

It is imprudent and unfair to allow large money center banks with little capital to expand geographically and compete against higher capitalized community banks. As the GAO noted in its recent report:

> While we believe it is reasonable for Congress to consider phasing out the [interstate] restrictions which remain, this should only be done when the necessary actions have been taken to make sure that expanded interstate banking activities neither place FDIC at greater risk nor subject smaller, healthy banks to unfair competition.

Unfortunately, both amendments I offered to ensure fair competition and strengthen capital requirements failed in committee deliberation by one vote. The first would have required commercial banks making out of State purchases to have at least 8 percent capital—6 percent tier one—the second would have required commercial banks to have at least 6 percent tier one capital before being granted investment bank powers. Given the fact that virtually every financial entity that has purchased a securities firm in the last two decades has lost substantial sums of money and given the fact that over the same time period the further loans were made from the geographic locus of the main bank or thrift office the larger the loss ratio, the case would appear incontestable that new powers and rights to expand geographically demand greater attention to the invested capital portion of any institution taking on such powers.

It is the judgment of this member that the failure by the Banking Committee to insist on higher capital requirements as a prerequisite for banks being authorized new powers and allowed to expand geographically means that there will be less capital in the banking system, not more, jeopardizing the safety and soundness of America's banks and the pocketbooks of America's taxpayers. It doesn't take a rocket scientist to figure out that when banks buy other banks for cash—as NCNB is proffering C&S/Sovran—capital is eroded from the industry; and when a larger, less well capitalized bank takes over a better capitalized community bank in a stock exchange, the larger bank's intent is likely to be to leverage its newly garnered capital through asset growth to its, not the community bank's standards.

In this regard, three aspects of the thrift regulatory failure would appear particularly relevant to commercial banking today: First, inadequate capital ratios allowed S&L's to overleverage depositor resources; second, imprudent accounting practices masked the depth of industry problems; and third, regulators failed to understand the speculative impact of new powers granted the industry, particularly those related to direct investments and junk bonds.

The distinction between thrift and more rigorous bank regulation has come to be widely understood. Less understood are the different regulator standards that have developed over the past several decades between big and small banks.

Historically, it was believed big banks needed less regulation as they had more diverse assets and more sophisticated management. It now appears money center banks are in difficulty because of regulatory indifference to capital ratios, because of phony bookkeeping, and because the competitive framework has changed to the marked disadvantage of larger banking institutions. Here three competitive difficulties facing big banks cannot be ducked.

First, regional banks and in many cases smaller banks can provide all the essential services money center banks can; in fact, banks in rural communities have more rights to provide more financial services, such as insurance, than money center institutions.

Second, large banks which traditionally do business with large corporations have found that these corporations no longer rely on bank borrowings but can raise money by selling commercial paper and other debt instruments. In many cases, they have better credit ratings than the banks they used to borrow from.

Third, investment banks as well as foreign commercial banks have come to compete for the same big business clients, particularly in New York and California. As finance becomes more homogenized and trade more internationalized larger banks have confronted competition from abroad, some of which appears to have bought market access at a loss to themselves and, in effect, to any competitor which sought on price grounds to fight for business.

Accordingly, money center banks in the 1970's looked for governmental business as a salvation arguing that sovereign guarantees provided ironclad risk avoidance. Believing that it would be much more difficult to attach Brazil than Iowa farmland, and believing asset growth in banking was being skewed to the weaker, albeit larger, banks, and to foreign rather than domestic customers, I introduced legislation calling on the Federal Reserve, in concert with other central banks, to develop stronger capital ratios for larger banks and/or impose reserve requirements on international lending obligations. Such an approach was eventually developed, although in a fledgling fashion, with the Basel accord.

In hearings held on the legislation I introduced in 1978 to impose on a global basis more prudential standards for international lending, representatives from money center banks objected strenuously to greater regulatory oversight. Representatives of Citicorp, Morgan Guaranty, Chase Manhattan, and Bank of America, backed up by Carter's Treasury and Fed, assured Congress that their banks had sound foreign asset portfolios and that diversification of lending implied no need for capital standards equivalent to those required of smaller banks.

The experience of the last several decades would seem to indicate that if it weren't for the thrift debacle, more glaring attention would be focused today on the greatest banking mistake since the 1930's. Despite warning signs, growth at all cost, follow the leader banking produced a doubling in LDC lending from 1979–82. Subsequently, money center banks have battled to stay solvent, employing dubious bookkeeping and de facto regulatory forbearance to maintain their banking charters.

One of the principal impulses to imprudent LDC lending was the temptation to recycle petrodollars, to put off to future generations the societal cost of higher oil prices. Hopefully, an analogous impulse won't lead to similar imprudence in the coming decades.

Today's real estate problems are symptomatic of larger macroeconomic problems in the U.S. economy. They are also symptomatic of the difficulty large banks have in knowing their customers as well as their balance sheets. As the Trump episode would seem to indicate, it appears smaller banks have much better comprehension of the human dimension of entrepreneurship and much more prudential standards when it comes to requiring collateral and responsible leveraging ratios for small loans than big banks have with their commercial real estate customers.

At issue in money center banking are the leveraging ratios and capital positions of institutions which carry deposit insurance as well as the judgment of overeducated, underexperienced MBA's who seemed to have collectively concluded that neither foreign potentates nor domestic billionaires-on-the-make needed to put anything except their or their country's name down as collateral.

Many in Government seem to think some big banks may be too big to fail, but no bank should be too big to regulate. Given the importance of the confidence factor in banking as well as the overleveraging that exists in the economy, it would appear that the larger banks need more capital. Just as the traditional small bank requires its customers to put up more capital when business weakens, it is imperative that regulators require commercial banks, no matter how big, to put up more capital when their business weakens.

Here it should be stressed that there is no substitute for raising capital the old fashioned way, through earnings or the sale of stock. Preferred-debt instruments may serve as an extra cushion between the taxpayer and the insolvency value of a failed institution, but preferred debt is more expensive than the cost of deposits, which implies that institutional earnings may be weakened in direct proportion to holdings of preferred debt. From a governmental perspective—that is, the taxpayers—it is clear that banks need more real capital and that, despite the implications for shareholder dilution, and for below book value equity offerings, money center banks should sell more stock rather than buy more loans.

It should be understood, financial regulation dictates or tilts economic growth in the world. As S&L lending has shown if one State has weaker regulation than another State, deposit growth is spurred in the State with weaker oversight. Likewise, in banking, in foreign loans can be more leveraged than domestic, lending is spurred abroad rather than at home. As the LDC debt overhang has taught us, the imposition of comparable standards yesterday would have meant savings for our financial institutions and overall economy today. It also would have meant that the macroeconomic judgments that went into America's proimport, antiexport trade policies of the mideighties might have been different.

I raise all of this in the context of the need for responsible regulation in banking, regulation that is evenhanded, regulation that applies to large as well as small banks, thrifts as well as commercial banks, foreign as well as domestic institutions.

The problems in the savings and loan industry are unlikely to be matched in commercial banking, but serious strains may be placed on the insurance fund if regulators do not continue to press for more prudential leveraging ratios and more careful judgments on lending standards.

Capital ratios that are appropriate for average times, for an industry with an understood purpose and understood profit centers, may not be sufficient for unaverage times, for an industry without a clear mission, without clear profit centers. If LDC lending looks bleak, if real estate values weaken, particularly in New York and California, if the economy turns down and inflation resurfaces, the case for a stronger capital cushion quantumly increases.

In addition, from a competitive perspective, it cannot be emphasized enough that the only restraint on institutional growth in the banking system is capital ratios. If a larger institution is allowed to function at a low level of capital, with forbearance accounting, there is nothing to stop it from using federally insured deposit dollars to swallow up smaller institutions or establish subsidiaries to steal deposits from community-based institutions.

Because of the brazen fact that no large New York bank can pass an Iowa bank exam, the case for higher capital ratios is compelling. While my efforts in this direction didn't succeed in committee, I was able to get majority support—after being defeated in subcommittee—for an amendment prohibiting the establishment of what I have termed "deposit production offices."

If geographic restrictions are swept aside in banking, I am concerned that deposit-intensive states will become beacons for sophisticated institutions to establish de novo branches with little interest in serving the area in which such branches might be located.

I can well visualize a large institution from an urban area setting up a glitzy office in a city like Des Moines and siphoning off deposits without making any loans, or renting an empty building on the town square in a rural county seat like Mt. Pleasant or Audubon, and sending deposits to Wall Street or across the ocean.

My amendment which the committee adopted would require regulators to look carefully at the branch of every out-of-State institution which makes loans less than half the loan-to-deposit ratio of community-based institutions in that particular State or market area. In order to ensure that banks taking advantage of new powers under this bill meet the credit needs of the communities in which they operate, regulators would be empowered to insist on lending as well as deposit-taking activity or close such a branch.

DEPOSIT INSURANCE REFORMS

The committee's reluctance to support any reductions in deposit insurance coverage was disappointing. As presently crafted, the committee has approved a deposit insurance reform bill without any deposit insurance reform.

I know many community bankers, consumer groups, and labor organizations were concerned with Treasury's modest package of reforms, including limits on how depositors could aggregate accounts and the denial of coverage for brokered deposits and certain retirement accounts. In retrospect, it is impressive how minimalist Treasury proposals to shave back taxpayer liabilities were, especially given the more radical suggestions rampant in academia and journalistic circles. Treasury, for instance, did not touch the $100,000 account figure, and, in fact, authorized two such insured accounts per individual, per institution. The defeat of Treasury's approach represents a victory for bankers which, however, may prove pyrrhic, for it opens the door for those who seek deposit insurance reform to note that nothing has been done in this bill and that therefore either the approach allowing one account per individual using social security numbers as a basis or one paring accounts back from $100,000 or both should be put on the table.

In my view, the most prudential guarantee of a solvent deposit insurance system is the maintenance of sound capital ratios. Invested capital not only provides a cushion between an institution's balance sheet and the taxpayer, but also keeps lending and investment decisions grounded in disciplined market principles. Sound capital ratios coupled with responsible regulation and reasonable insurance premiums define a system where attention to levels of insurance coverage are of no great significance to the taxpayer because the industry can handle problems that arise. But in a circumstance where the deposit insurance fund is insolvent, where adequate capital is not mandated, where America's largest banks have fallen victim to growth hubris, it is irresponsible for a representative of the taxpayers not to be concerned for paring back the Federal safety net.

Some argued that cutting deposit insurance coverage would encourage large depositors to leave smaller banks and put their funds in too big to fail institutions. While the bill as presently crafted does not repudiate the too-big-to-fail doctrine, it does weaken it substantially. Under the bill, the FDIC would be prohibited from covering uninsured deposits, including foreign ones, and the Federal Reserve is restricted in lending to grossly undercollateralized banks. Yet the concerns of community bankers remain. Accordingly, in an effort to right the competitive balance, I offered a compromise amendment on deposit insurance coverage which would have applied Treasury's proposal to limit insured coverage to two $100,000 accounts only to undercapitalized institutions—that is, those institutions under 6 percent real capital and 8 percent total capital—while keeping current coverage rules for well capitalized institutions.

Abuses of the Federal deposit insurance have come most from those institutions which are undercapitalized. They are the big users of brokered CD's, the offerors of exorbitant rates. Their abuses have weakened the entire banking system. As one community banker lamented, his cost of funds is set by his dumbest competitor. Unfortunately, the approach I suggested which would have allowed a well capitalized community bank more insurance coverage than an undercapitalized money center institution was defeated in committee markup, as was my amendment to increase bank leverage ratios from 3 percent to 6 percent. Banks retain the incentive to grow to whatever limits capricious regulators will allow.

SUMMARY

In summary, Mr. Speaker, I urge this body to examine closely the banking bill reported by the committee and when it comes to the floor to consider prudential amendments to increase capital standards and restrain the melding of commerce and banking. I am most respectful of the Treasury Department's intentions in crafting the original bill, but I cannot support the legislative product that resulted. It is a recipe for economic calamity, one which could overshadow the savings and loan debacle.

It is simply not good enough to regulators and Congress to espouse the virtues of higher capital standards, then allow weakly capitalized institutions new and risky powers and asset growth.

In enacting banking legislation, Congress should not be swayed by the desire to ensure the profitability of given kinds of financial institutions or to help certain big U.S. banks regain top-20 status. Instead, legislation should be enacted which provides for a safe and sound banking system, one which facilitates economic growth and protects small depositors. Taxpayers should not again be put on the line for the financial wilding of a privileged few.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MATSUI (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. LEACH, for 60 minutes, on July 16.

Mr. GRANDY, for 60 minutes, on July 22.

Mr. GALLEGLEY, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

Mr. DANNEMEYER, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. WASHINGTON, for 5 minutes today, and for 60 minutes on July 17.

Mr. STUDDS, for 5 minutes, today.

Mr. ECKART, for 5 minutes, today.

Mr. ANDREWS of New Jersey, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ABERCROMBIE, for 60 minutes, on July 18.

Mr. PEASE, for 5 minutes each day, on July 22, 23, 24, 25, and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. YOUNG of Alaska.

Mr. MOORHEAD.

Mr. BROOMFIELD.

Mr. SOLOMON in two instances.

Mr. GEKAS.

Mr. ARCHER.

Mr. RIDGE.

Mr. KLUG.

Mr. COBLE.

Mr. GREEN.

Mr. LAGOMARSINO in two instances.

Mr. GILMAN.

Mr. SCHAEFER.

Mr. WYLIE.

Mr. HYDE.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. LEHMAN of Florida.

Mr. SWETT.

Mr. FAZIO.

Mr. PEASE in two instances.

Mr. ROE.

Mr. KOSTMAYER.

Mr. DYMALLY.

Ms. NORTON.

Mr. FASCELL.

Mr. MAZZOLI in two instances.

Mr. SOLARZ.

Mr. PANETTA.

Mr. DARDEN.

Mr. RAHALL.

Mr. MINETA.

Mr. LANTOS in two instances.

Mr. BONIOR in three instances.

Mr. EVANS.

Mr. MATSUI.

Mr. ACKERMAN.

Mr. HOCHBRUECKNER.

Mr. CONYERS.

Mr. JOHNSON of South Dakota.

Mr. HUBBARD.

Mr. MOODY.

Mr. JACOBS in two instances.

Mr. SMITH of Florida.

Mr. MCMILLEN of Maryland.

□ 1900

ADJOURNMENT

Mr. MOAKLEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore (Mr. JEFFERSON). The question is on the motion offered by the gentleman from Massachusetts [Mr. MOAKLEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 186, nays 75, not voting 172, as follows:

[Roll No. 208]

YEAS—186

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Atkins
Bacchus
Beilenson
Bennett
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Browder
Brown
Bruce
Bustamante
Byron
Camp
Cardin
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (MI)
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
de la Garza
DeFazio
DeLauro
Derrick
Dingell
Donnelly
Dooley
Duncan
Durbin
Early
Eckart
Edwards (TX)
Engel
English
Fascell
Fazio
Foglietta
Ford (MI)
Ford (TN)
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Grandy
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Levin (MI)
Levine (CA)
Lloyd
Long
Lowey (NY)
Luken
Mazzoli
McCloskey
McCrery
McDermott
McEwen
McGrath
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Nagle
Natcher
Nichols
Oakar
Obey
Olin
Ortiz
Orton
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Ray
Roe
Roemer
Rostenkowski
Rowland
Russo
Sangmeister
Sarpalius
Schulze
Schumer
Serrano
Sikorski
Skaggs
Slaughter (VA)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Stallings
Stenholm
Stokes
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Unsoeld
Waxman
Wise
Wolpe
Wyden
Zeliff

NAYS—75

Allard
Barton
Bateman
Bentley
Bereuter
Bilirakis
Boehner
Burton
Callahan
Campbell (CA)
Chandler
Crane
DeLay
Dreier
Edwards (OK)
Ewing
Fawell
Franks (CT)
Gallegly
Gallo
Gillmor
Gilman
Gingrich
Goss
Green
Gunderson
Hammerschmidt
Hastert
Herger
Hobson
Hunter
Ireland
James

Johnson (CT)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lowery (CA)
Marlenee
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Myers
Nussle
Ramstad
Regula
Rhodes
Riggs
Ritter
Ros-Lehtinen
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shays
Shuster
Smith (OR)
Smith (TX)
Spence
Stearns
Stump
Sundquist
Thomas (WY)
Upton
Visclosky
Walker
Walsh
Weldon
Wylie

NOT VOTING—172

Abercrombie
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Baker
Ballenger
Barnard
Barrett
Berman
Bliley
Brooks
Broomfield
Bryant
Bunning
Campbell (CO)
Carper
Clay
Coble
Coleman (MO)
Collins (IL)
Combest
Conyers
Coughlin
Dannemeyer
Darden
Davis
Dellums
Dickinson
Dicks
Dixon
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dwyer
Dymally
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Feighan
Fields
Fish
Flake
Frank (MA)
Frost
Gaydos
Gekas
Gibbons
Gilchrest
Glickman
Goodling
Gradison
Gray
Hall (OH)
Hancock
Hansen
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Holloway
Hopkins
Horton
Huckaby
Hutto
Hyde
Inhofe
Jenkins
Kennedy
Kleczka
Kolter
Lehman (CA)
Lehman (FL)
Lent
Lewis (GA)
Lightfoot
Lipinski
Livingston
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
McCandless
McCollum
McCurdy
McDade
McHugh
Michel
Molinari
Mollohan
Moorhead
Murphy
Murtha
Neal (MA)
Neal (NC)
Nowak
Oberstar
Olver
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Paxon
Pease
Petri
Porter
Pursell
Rangel
Ravenel
Reed
Richardson
Ridge
Rinaldo
Roberts
Rogers
Rohrabacher
Rose
Roth
Roukema
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Sharp
Shaw
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Solomon
Staggers
Stark
Studds
Synar
Thomas (CA)
Torres
Traxler
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Washington
Waters
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wolf
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

☐ 1900

Mr. ALEXANDER changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Accordingly (at 7 o'clock and 31 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 17, 1991, at 10 a.m.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during roll call vote No. 208. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 208—yea on Mr. MOAKLEY'S motion to adjourn.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1751. A letter from the Secretary of Health and Human Services, transmitting a report entitled, "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures"; to the Committee on Energy and Commerce.

1752. A letter from the Secretary, Commodity Futures Trading Commission, transmitting a copy of "New Systems Report" describing an addition to the Commission's systems of records: CFTC-32; to the Committee on Government Operations.

1753. A letter from the Plan Administrator, Eighth Farm Credit District Employee Benefit Trust, transmitting the annual report for the Eighth Farm Credit District savings plan for the year ended December 31, 1990; to the Committee on Government Operations.

1754. A letter from the Vice President, Farm Credit Bank of Texas, transmitting the Farm Credit Bank of Texas pension plan for the year ended December 31, 1990; to the Committee on Government Operations.

1755. A letter from the Assistant Attorney General, Department of Justice, transmitting a report entitled, "Searching for Answers Annual Evaluation Report on Drugs and Crime: 1990"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOAKLEY: Committee on Rules. House Resolution 195. Resolution providing for the consideration of H.R. 5, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes (Rept. 102-152). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 196. Resolution providing for the consideration of H.R. 1776, a bill to authorize for fiscal year 1992 the U.S. Coast Guard budget (Rept. 102-153. Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 197. Resolution providing for the consideration of H.R. 1096, a bill to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes (Rept. 102-154). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DE LA GARZA (for himself and Mr. COLEMAN of Missouri):

H.R. 2893. A bill to extend to 1991 crops the disaster assistance provisions of the Food, Agriculture, Conservation, and Trade Act of 1990; to the Committee on Agriculture.

By Mr. GILMAN:

H.R. 2894. A bill to amend title 5, United States Code, to establish a program of public service scholarships, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. LAUGHLIN:

H.R. 2895. A bill to require the Secretary to make a preliminary announcement of the acreage reduction program; to the Committee on Agriculture.

By Mr. ATKINS:

H.R. 2896. A bill to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BLAZ:

H.R. 2897. A bill relating to the tariff treatment of certain sweaters assembled in Guam; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. HORTON, Mr. ACKERMAN, Mr. HUGHES, Mr. MFUME, Mr. PETERSON of Minnesota, Mr. YATES, Mr. RAHALL, Ms. DeLAURO, Mr. PAYNE of New Jersey, Mr. ENGLISH, Mr. CARDIN, Mr. CONDIT, Mr. MORAN, Mrs. MINK, Ms. NORTON, Mr. WISE, Mr. FLAKE, Mr. McGRATH, Mr. THORNTON, Mr. ERDREICH, Mr. COX of Illinois, Mr. BARNARD, Mrs. COLLINS of Illinois, Mr. KLECZKA, Mr. FRANK of Massachusetts, Mr. TOWNS, Mr. BONIOR, Mr. LaFALCE, Mr. NOWAK, Mrs. BOXER, Mr. McNULTY, Mr. RANGEL, Mr. WEISS, Mr. CLINGER, Mr. McCANDLESS, Mr. SHAYS, Mr. HOBSON, Mr. LEWIS of Florida, Mr. MARTIN, Mr. HASTERT, Mrs. BENTLEY, Ms. ROS-LEHTINEN, Mr. MACHTLEY, Mr. QUILLEN, and Mr. EMERSON):

H.R. 2898. A bill to clarify that the expenses of administering the Old Age, Survivors and Disability Insurance Programs are not included in the budget of the U.S. Government, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. EVANS (for himself, Mr. HAYES of Illinois, Mr. SAVAGE, Mr. RUSSO, Mr. SANGMEISTER, Mr. LIPINSKI, Mr. HYDE, Mrs. COLLINS of Michigan, Mr. ROSTENKOWSKI, Mr. YATES, Mr. PORTER, Mr. ANNUNZIO, Mr. FAWELL, Mr. COX of Illinois, Mr. BRUCE, Mr. DURBIN, Mr. COSTELLO, and Mr. POSHARD):

H.R. 2899. A bill to amend title 28, United States Code, to authorize the Secretary of Veterans Affairs to conduct a 5-year pilot program to demonstrate the advantages of providing veterans in nursing homes with treatment and services to maintain or reactivate living function in those veterans; to the Committee on Veterans' Affairs.

By Mr. GONZALEZ (for himself, Mr. WYLIE, and Mrs. ROUKEMA):

H.R. 2900. A bill to improve supervision and regulation with respect to the financial safety and soundness of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FASCELL (for himself, Mr. BROOMFIELD (both by request), and Mr. HAMILTON):

H.R. 2901. A bill to authorize the transfer by lease of 4 vessels to the Government of Greece; to the Committee on Foreign Affairs.

By Mr. GALLEGLY:

H.R. 2902. A bill to provide Federal penalties for drive-by shootings; to the Committee on the Judiciary.

H.R. 2903. A bill to protect the public safety by imposing minimum, mandatory prison sentences for drug crimes involving minors; jointly, to the Committees on Energy and Commerce and the Judiciary.

H.R. 2904. A bill to mandate life imprisonment without a release for drug traffickers or violent criminals convicted for a third offense; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. MCMILLEN of Maryland (for himself and Mr. DAVIS):

H.R. 2905. A bill to delay the effectiveness of penalties for failure to comply with section 2110(b) of title 46, United States Code, relating to fees and charges for recreational vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. MOODY:

H.R. 2906. A bill to amend the Internal Revenue Code of 1986 to permit deferred compensation plans of State and local governments and tax-exempt organizations to make certain distributions, and for other purposes; to the Committee on Ways and Means.

By Mr. MOORHEAD:

H.R. 2907. A bill to amend the Immigration and Nationality Act to authorize the Immigration and Naturalization Service to accept volunteer services; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 2908. A bill to amend title XVIII of the Social Security Act to require the Secretary of Health and Human Services to reimburse Medicare beneficiaries who are entitled to status as qualified Medicare beneficiaries under the Medicaid Program for Medicare cost-sharing incurred by the beneficiaries that was not paid for under a State plan for medical assistance under title XIX of such act; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. RIDGE (for himself, Mr. FLAKE, Mr. WYLIE, Mr. COX of Illinois, Mr. MORAN, Mr. RIGGS, and Mr. ORTON):

H.R. 2909. A bill to provide an incentive system for banks and thrifts to extend credit, take deposits, and to locate in distressed neighborhoods, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RITTER (for himself, Mr. BROWN, Mr. GINGRICH, Mr. MCCURDY, Mr. WALKER, Ms. KAPTUR, Mr. HUNTER, Mr. TORRICELLI, Mr. KOLBE, Mr. ARMEY, Mr. GRANDY, Mr. OXLEY, and Mr. HOUGHTON):

H.R. 2910. A bill to repeal the authority of the Securities and Exchange Commission to require quarterly reports; to the Committee on Energy and Commerce.

By Mr. SCHUMER:

H.R. 2911. A bill to establish the U.S. Census Commission; to the Committee on Post Office and Civil Service.

By Mr. WILLIAMS:

H.R. 2912. A bill to improve the recruitment of classroom teachers, and for other purposes; to the Committee on Education and Labor.

By Mr. ARCHER (for himself, Mr. VANDER JAGT, Mr. GRADISON, Mr. GIBBONS, Mr. SHAYS, Mr. LEWIS of Georgia, Mr. RAY, Mr. COBLE, Mr. ROBERTS, and Mr. RHODES):

H.R. 2913. A bill to provide for equality of State taxation of domestic and foreign corporations; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. CARDIN (for himself, Mr. MFUME, Mr. MCMILLEN of Maryland, Mrs. MORELLA, and Ms. NORTON):

H.R. 2914. A bill to establish programs for evaluation, research and development, and construction of a magnetic levitation transportation system between Baltimore, MD, and Washington, DC; jointly, to the Committees on Science, Space, and Technology, Public Works and Transportation, and Energy and Commerce.

By Mr. DELAY (for himself, Mr. ARCHER, Mr. ARMEY, Mr. BAKER, Mr. BALLENGER, Mr. BARTON of Texas, Mr. BATEMAN, Mr. BEREUTER, Mr. BLILEY, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. COBLE, Mr. COMBEST, Mr. COX of California, Mr. DANNEMEYER, Mr. DICKINSON, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. DUNCAN, Mr. EMERSON, Mr. GALLEGLY, Mr. GINGRICH, Mr. GOSS, Mr. HANCOCK, Mr. HANSEN, Mr. HERGER, Mr. INHOFE, Mr. KOLBE, Mr. KYL, Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. LIVINGSTON, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCMILLAN of North Carolina, Mr. NICHOLS, Mr. PACKARD, Mr. ROHRABACHER, Mr. SCHAEFER, Mr. SLAUGHTER of Virginia, Mr. SMITH of Texas, Mr. STUMP, and Mrs. VUCANOVICH):

H.R. 2915. A bill to restore certain political rights to workers; to the Committee on House Administration.

By Mr. ECKART (for himself, Mr. SYNAR, and Mr. ZIMMER):

H.R. 2916. A bill to provide for a Governmentwide comprehensive energy management plan for Federal agencies; jointly, to the Committees on Government Operations and Energy and Commerce.

By Mr. ORTIZ:

H.R. 2917. A bill to establish a Wetlands Research and Policy Center at the Port of Brownsville, TX, and for other purposes; jointly, to the Committees on Science, Space, and Technology, Public Works and Transportation, Merchant Marine and Fisheries, Education and Labor, and Foreign Affairs.

By Mr. RIDGE (for himself, Mr. HOUGHTON, Ms. SNOWE, and Mr. REGULA):

H.R. 2918. A bill entitled the "Collective Bargaining Protection Act"; to the Committee on Education and Labor.

By Mr. STUDDS:

H.R. 2919. A bill to amend the Magnuson Fishery Conservation and Management Act to provide for the restoration of New England stocks of groundfish, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Ways and Means, and Education and Labor.

By Mrs. UNSOELD (for herself, Mr. YOUNG of Alaska, Mr. AUCOIN, Mr. MCDERMOTT, Mr. MILLER of Washington, Mr. DEFAZIO, Mr. DICKS, Mr. SWIFT, Mr. MORRISON, Mr. STALLINGS, Mr. WILLIAMS, and Mr. LAROCCO):

H.R. 2920. A bill to direct the Secretary of the department in which the Coast Guard is operating and the Secretary of Defense to enter into an agreement under the Magnuson Fishery Conservation and Management Act authorizing the Coast Guard to utilize the resources of the Department of Defense in enforcing large-scale driftnet fishing regulations; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. YOUNG of Alaska (for himself, Mrs. UNSOELD, and Mr. MILLER of Washington):

H.R. 2921. A bill to amend the Fishermen's Protective Act of 1967; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. LEHMAN of Florida:

H.J. Res. 300. Joint resolution designating the month of May 1992 as "National Trauma Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. PALLONE (for himself, Mr. WILSON, Mr. ANNUNZIO, Mr. FISH, Mr. MCNULTY, Mr. HORTON, Mr. SAVAGE, Mr. LIPINSKI, Mr. OWENS of Utah, Mr. DELLUMS, Mr. TORRICELLI, Mr. BILBRAY, Mr. TOWNS, Mrs. LLOYD, Mr. SCHEUER, Mr. MACHTLEY, Mr. MRAZEK, Mr. DEFAZIO, Mr. DORNAN of California, Mr. GALLEGLY, Mr. GALLO, Mr. MCCLOSKEY, Mr. ENGEL, Mr. DONNELLY, Mr. ACKERMAN, Mr. GUARINI, Mr. STARK, Mr. ROE, Mr. ROYBAL, Mrs. MINK, Mr. LANTOS, Mr. FUSTER, Mr. BUSTAMANTE, Ms. KAPTUR, Mr. WOLPE, Mr. HUGHES, Mr. MINETA, Mr. WHEAT, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. PAYNE of New Jersey, Ms. NORTON, Mr. TANNER, Mr. MARTINEZ, Mr. NEAL of Massachusetts, Mr. CLEMENT, Mr. MAVROULES, Mr. RAVENEL, Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. MILLER of Washington, Mrs. UNSOELD, Mr. DIXON, Mr. GORDON, Mr. ABERCROMBIE, Mr. FROST, Mr. FOGLIETTA, Mr. BENNETT, and Mr. LEWIS of Georgia):

H.J. Res. 301. Joint resolution to designate the week beginning June 7, 1992, as "Animal Rights Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. PORTER:

H.J. Res. 302. Joint resolution expressing the sense of the Congress that the United States should assume a leadership role in the international negotiations on a World Forests Convention and a Framework Convention on Climate Change; jointly, to the Committee on Foreign Affairs and Agriculture.

By Mr. PRICE (for himself, Mr. SCHUMER, Mr. FISH, and Mr. HUGHES):

H.J. Res. 303. Joint resolution to designate October 1991, as "Crime Prevention Month"; to the Committee on Post Office and Civil Service.

By Mr. SABO:

H.J. Res. 304. Joint resolution to proclaim Leif Ericson as an honorary citizen of the United States; to the Committee on the Judiciary.

By Mr. ENGEL:

H. Con. Res. 182. Concurrent resolution expressing the sense of the Congress that the Postmaster General should issue a postage stamp commemorating the veterans of the U.S. Armed Forces who served during a period of armed conflict; jointly, to the Committees on Post Office and Civil Service and Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 142: Mr. ZIMMER.

H.R. 200: Mr. BOEHNER, Mr. SARPALIUS, and Mrs. VUCANOVICH.

H.R. 258: Mrs. LOWEY of New York and Mr. WALSH.

H.R. 300: Mr. SWETT and Mr. CHAPMAN.

H.R. 303: Mr. MCEWEN.

H.R. 318: Mrs. Lowey of New York, Mr. Smith of New Jersey, and Mr. Slattery.

H.R. 328: Mr. Price.

H.R. 444: Mr. Burton of Indiana, Mr. Dornan of California, Mr. Hunter, Mr. Hyde, Mr. Kolbe, Mr. Lent, Mr. McCollum, Mr. Michel, Mr. Oxley, Mr. Petri, Mr. Rohrabacher, Mr. Solomon, Mr. Sundquist, Mr. Vander Jagt, and Mr. Weber.

H.R. 461: Mr. Glickman, Mr. Swett, Mr. Rinaldo, Mr. Espy, and Mr. Dorgan of North Dakota.

H.R. 467: Mr. Shaw, Mr. Bacchus, Mr. Gallo, Mr. Thomas of Georgia, Mr. Feighan, and Mr. Cunningham.

H.R. 571: Mr. Smith of New Jersey.

H.R. 643: Mr. Riggs, Mr. Oxley, and Mr. Smith of Oregon.

H.R. 722: Mr. Rowland and Mr. Studds.

H.R. 723: Mr. Rowland and Mr. Studds.

H.R. 736: Mr. Fish.

H.R. 786: Mr. Vento, Mr. McEwen, and Mrs. Boxer.

H.R. 854: Mr. Johnson of South Dakota.

H.R. 870: Mrs. Collins of Illinois.

H.R. 871: Mrs. Collins of Illinios.

H.R. 951: Mr. Slaughter of Virginia, Mr. Pursell, Mr. Dooley, Mr. Ballenger, Mr. Hancock, Mr. Gekas, Mrs. Kennelly, Ms. Ros-Lehtinen, Mr. Emerson, Mr. Fascell, Mr. Inhofe, Mr. McCollum, Mr. Darden, and Mr. Hutto.

H.R. 962: Mr. Borski.

H.R. 967: Mr. Ewing.

H.R. 978: Ms. Slaughter of New York, Mr. Roe, Mr. Martin, and Mr. Roybal.

H.R. 994: Mr. Swift, Mr. Mineta, and Mr. Reed.

H.R. 997: Mr. Sanders.

H.R. 1049: Mr. Schiff, Mr. McCandless, and Mr. Gingrich.

H.R. 1077: Mr. Zeliff, Mrs. Roukema, and Mr. Kolter.

H.R. 1124: Mr. Condit.

H.R. 1156: Mrs. Meyers of Kansas.

H.R. 1179: Ms. Norton, Mrs. Meyers of Kansas, Mr. Anderson, Mr. McDermott, Mrs.Collins of Michigan, Mr. Olin, Mr. Serrano, Mr. Panetta, Mr. Price, Mr. Hughes, Mr. Coleman of Texas, and Mr. Engel.

H.R. 1197: Mr. AuCoin, Mr. Gilman, and Mr. Spratt.

H.R. 1218: Mr. Dicks, Mr. AuCoin, Ms. DeLauro, Mr. Alexander, and Mr. Mollohan.

H.R. 1226: Mr. Smith of Florida.

H.R. 1288: Mr. Coleman of Texas.

H.R. 1300: Mr. Swift.

H.R. 1304: Mr. Jones of Georgia, Mr. Reed, and Mr. Paxon.

H.R. 1343: Mrs. Lowey of New York.

H.R. 1384: Mr. Perkins, Mr. Frost, Mr. Espy, and Mr. Machtley.

H.R. 1414: Mr. Wolf.

H.R. 1417: Mr. Chandler.

H.R. 1424: Mr. Jones of Georgia, Mr. Martinez, Mr. Glickman, Mr. Mazzoli, Mr. Gilman, Mr. Costello, Mr. Brown, Mr. Chapman, Ms. Norton, Mr. Neal of Massachusetts, Mr. Lipinski, and Mr. Hoyer.

H.R. 1427: Mr. Hyde, Mr. Sensenbrenner, Mr. Burton of Indiana, Mr. Lewis of Florida, and Mr. Dornan of California.

H.R. 1429: Mr. Allard.

H.R. 1467: Ms. Slaughter of New York, Mr. Jontz, Mr. Downey, and Mrs. Roukema.

H.R. 1473: Mr. Valentine and Mr. Fawell.

H.R. 1483: Mr. Jones of North Carolina.

H.R. 1490: Mrs. Bentley, Mr. Poshard, Mr. Tallon, and Mr. Sarpalius.

H.R. 1495: Mr. Staggers, Mr. Skeen, Mr. Kildee, Mr. Pickett, Mr. Frost, Mr. Rahall, Mr. Rhodes, Mr. LaRocco, Mr. Levine of California, and Mr. Bereuter.

H.R. 1502: Ms. Oakar, Mr. Weiss, Mrs. Patterson, Mr. Anderson, and Mr. Matsui.

H.R. 1523: Mr. Solomon, Mr. Kyl, and Mr. Schumer.

H.R. 1527: Mr. Solomon, Mr. Erdreich, and Mr. Pease.

H.R. 1539: Mr. Bennett, Mr. Mfume, Mr. Dorgan of North Dakota, Mr. Savage, and Mr. Traficant.

H.R. 1557: Mr. Horton, Mr. Moody, Mr. Zeliff, Mr. Jenkins, Mrs. Lowey of New York, Mr. Weiss, Mr. Goodling, and Mr. Fields.

H.R. 1601: Mr. Jontz.

H.R. 1603: Mr. Gejdenson, Mrs. Schroeder, and Mr. Traficant.

H.R. 1608: Mr. Hall of Ohio, Mr. Penny, Ms. Kaptur, Ms. Norton, Mr. Jefferson, Mr. Klug, Mr. Ford of Tennessee, Mr. Moody, Mr. Rangel, Mr. Jontz, Mrs. Schroeder, Mr. McCloskey, Mr. Fazio, Mr. Roybal, Mr. Dellums, Mr. Weiss, Mr. Torres, Mr. Ackerman, Mr. Espy, Mr. Jones of Georgia, Mrs. Boxer, Mr. Petri, Mr. Synar, Mrs. Unsoeld, Mrs. Roukema, Mr. Sikorski, Mr. Swift, Mrs. Lowey of New York, and Mr. Kostmayer.

H.R. 1618: Mr. Kennedy, Mr. Stump, Mr. Livingston, Mr. Bacchus, Ms. Slaughter of New York, Ms. Norton, Mr. Swett, Mr. Neal of North Carolina, Mr. Rhodes, Mr. Boehlert, Ms. DeLauro, Mr. Wolf, Mr. Andrews of New Jersey, Mr. Reed, Mr. Pickett, Mr. McCrery, Mr. Dickinson, Mr. Camp, Mr. Studds, Mr. Perkins, Mr. Rahall, Mr. Quillen, and Mr. Sikorski.

H.R. 1652: Mr. Sharp and Mr. Berman.

H.R. 1678: Mr. Smith of New Jersey.

H.R. 1706: Mr. Kolbe, Mr. Scheuer, Mr. Owens of New York, Mr. Hoagland, and Mr. Walsh.

H.R. 1718: Mr. Neal of North Carolina and Mr. Andrews of New Jersey.

H.R. 1730: Mr. Miller of Washington, Mr. Cardin, Mr. Moody, Mr. Bunning, Mr. Wise, Mr. Ritter, and Mr. Fawell.

H.R. 1733: Mr. Sawyer, Mr. Skaggs, Mr. Burton of Indiana, Mr. Martin, Mr. Hammerschmidt, Mr. Smith of Florida, Mr. Studds, Mr. Thomas of Wyoming, Mr. Ramstad, Mr. Fascell, Mr. Ford of Michigan, Mr. Livingston, Mr. Lehman of Florida, Mr. Peterson of Minnesota, and Mr. Kildee.

H.R. 1856: Mr. Dwyer of New Jersey, Mr. Peterson of Florida, Mr. Conyers, Mr. Smith of Florida, Mr. Hyde, Mr. Hughes, Mr. Santorum, Mr. de Lugo, Mr. Bustamante, Ms. Norton, Mr. Fawell, Mr. Frost, and Mrs. Byron.

H.R. 1883: Mr. Traficant.

H.R. 1885: Mr. Panetta.

H.R. 2018: Mr. Espy and Ms. DeLauro.

H.R. 2019: Mr. Espy, Ms. DeLauro, and Mr. Bereuter.

H.R. 2020: Mr. Espy and Ms. DeLauro.

H.R. 2021: Mr. Espy and Ms. DeLauro.

H.R. 2022: Mr. Espy and Ms. DeLauro.

H.R. 2023: Mr. Espy and Ms. DeLauro.

H.R. 2024: Mr. Espy.

H.R. 2025: Mr. Espy and Ms. DeLauro.

H.R. 2026: Mr. Espy and Ms. DeLauro.

H.R. 2076: Mr. Frost, Mr. Dwyer of New Jersey, Mr. McGrath, Mr. Oberstar, Mr. Miller of California, Mr. Flake, Mr. Gonzalez, and Mr. Hall of Ohio.

H.R. 2115: Mr. Payne of Virginia.

H.R. 2233: Mr. Volkmer, Mr. AuCoin, Mr. Brewster, Mr. Weber, Mr. Espy, and Mr. Neal of North Carolina.

H.R. 2237: Mr. Brewster, Mr. Espy, Mr. Neal of North Carolina, and Mr. Weber.

H.R. 2243: Mr. Flake and Mr. Rangel.

H.R. 2258: Mr. Andrews of Maine, Mr. Dicks, Mr. Ford of Tennessee, Mr. Mazzoli, Ms. Slaughter of New York, and Mr. Taylor of North Carolina.

H.R. 2305: Mr. Roe and Mr. Kolter.

H.R. 2330: Mr. Regula.

H.R. 2333: Mr. Inhofe, Mr. Johnson of South Dakota, Mr. Thomas of Georgia, and Mr. Doolittle.

H.R. 2380: Mr. Johnson of South Dakota.

H.R. 2391: Mr. Towns.

H.R. 2392: Mr. Towns.

H.R. 2407: Mr. Gonzalez, Mr. Matsui, Mr. Gunderson, Mr. Boucher, Mr. Taylor of Mississippi, Mr. Mfume, Mr. Weldon, Mr. Gilman, Mr. Boehner, Mr. Nichols, Mr. Sensenbrenner, Mr. Pickett, Mr. Gekas, Mr. Goodling, Mr. Herger, Mr. LaRocco, Mr. Yatron, Mr. Abercrombie, Mr. Richardson, Ms. DeLauro, Mr. Shuster, Mr. Lagomarsino, Mr. Clinger, Mr. Roemer, Mr. Oxley, Mr. Rhodes, and Mr. Hyde.

H.R. 2419: Mr. Young of Alaska.

H.R. 2448: Mr. DeLay, Mr. Dymally, Mr. Gilchrest, Mr. Gillmor, Mr. Hutto, Mr. McMillen of Maryland, Mr. Mrazek, Mr. Owens of Utah, Mr. Roth, Mr. Swett, Mr. Herger, Mr. Dicks, Mr. Natcher, Mr. Houghton, Mr. Bennett, Mr. Ortiz, Mr. Miller of Washington, Mr. Dorgan of North Dakota, Mr. Goodling, Mr. Combest, Mr. Cox of California, Mr. Smith of Florida, Mr. Luken, Mr. McCurdy, Mr. Moran, Mr. Oxley, Mr. Myers of Indiana, Mr. Sensenbrenner, and Mr. Ray.

H.R. 2452: Mr. Hughes and Mrs. Lloyd.

H.R. 2464: Mr. Thomas of Wyoming, Mr. Lowery of California, Mr. Neal of Massachusetts, and Mr. DeFazio.

H.R. 2504: Mr. Martinez, Mr. Roe, Mr. Frost, Mr. Hughes, and Ms. Kaptur.

H.R. 2534: Mr. Jacobs, Mr. Neal of Massachusetts, Mr. Eckart, Mr. Frank of Massachusetts, Mr. Ritter, Ms. Norton, Mr. Kildee, Mrs. Byron, Mr. Frost, Mr. Borski, Mr. Hertel, Mr. Jones of North Carolina, and Mr. Lancaster.

H.R. 2542: Mrs. Boxer, Mr. Carr, Mr. Zeliff, and Mr. Mfume.

H.R. 2553: Mr. Klug, Mr. Smith of Texas, and Mr. Mfume.

H.R. 2561: Mr. Edwards of California, Mr. Jontz, Mr. Roe, Mr. Brown, Ms. DeLauro, and Mr. DeFazio.

H.R. 2566: Mr. Roth, Mr. McCurdy, Mr. Obey, Mr. Fazio, Mr. Aspin, Mr. Hefner, Mr. Herger, Mr. Coleman of Texas, Mr. Sharp, Mr. Duncan, Mr. Kleczka, Mr. Payne of Virginia, Mr. Visclosky, Mr. Taylor of North Carolina, Mr. Moody, Mr. Stump, Mr. Gunderson, Mr. Thornton, Mr. Jones of North Carolina, Mr. Lehman of Florida, Mr. Gillmor, Mr. Pickett, Mr. Washington, Mr. Ortiz, Mr. Edwards of Oklahoma, Mr. Valentine, Mr. Rohrabacher, and Mr. DeLay.

H.R. 2568: Mr. Dymally, Mr. Evans, Mr. Towns, and Mr. Frost.

H.R. 2584: Mrs. Lowey of New York.

H.R. 2603: Mr. Towns.

H.R. 2604: Mr. McEwen, Mr. Jacobs, and Mr. Ballenger.

H.R. 2635: Mr. Chandler and Mr. Smith of Oregon.

H.R. 2643: Mr. Dannemeyer, Mr. Duncan, Mr. Goss, Mrs. Johnson of Connecticut, Mr. Kyl, Mr. Petri, Mr. Ray, and Mr. Santorum.

H.R. 2651: Mrs. Johnson of Connecticut, Mr. Serrano, and Ms. Slaughter of New York.

H.R. 2679: Mr. Ritter.

H.R. 2687: Mr. Dornan of California.

H.R. 2750: Mr. Kostmayer, Mr. Sabo, Mr. McCloskey, Mr. Nagle, Mr. Kolter, Mr. Stenholm, Mr. Fascell, Mr. Mineta, and Mr. Towns.

H.R. 2755: Mr. Johnson of South Dakota, Mr. Hochbrueckner, and Mr. Towns.

H.R. 2759: Mr. ENGEL.

H.R. 2773: Mrs. ROUKEMA and Mr. OXLEY.

H.R. 2778: Mr. HORTON, Ms. SLAUGHTER of New York, Mr. LANCASTER, Mr. TOWNS, Mr. MCNULTY, Mr. GUARINI, Mr. FROST, Mr. HOCHBRUECKNER, and Mr. OWENS of Utah.

H.R. 2779: Ms. PELOSI, Mr. MFUME, and Mr. MAZZOLI.

H.R. 2781: Ms. PELOSI and Mr. MFUME.

H.R. 2788: Mr. FAWELL, Mr. DELAY, Mr. ARMEY, and Mr. HERGER.

H.R. 2801: Mr. WHEAT, Mr. MCMILLEN of Maryland, Mrs. SCHROEDER, Mr. KENNEDY, Mr. KYL, Mr. SWETT, Mr. OXLEY, Mr. MARKEY, Mr. PORTER, Mr. CRANE, Mr. HUBBARD, Mr. WALSH, Mr. PACKARD, Mr. MOORHEAD, Mr. LEACH, Mr. RICHARDSON, Mr. SKEEN, Mr. VANDER JAGT, Mr. SENSENBRENNER, Mr. DORNAN of California, Mr. COBLE, Mr. HUNTER, Mr. CUNNINGHAM, Mr. HASTERT, Mr. GOSS, Mr. OBERSTAR, Mr. FAZIO, Mr. RIGGS, Mr. STEARNS, Mr. MATSUI, Mr. HOAGLAND, Mr. BURTON of Indiana, Mr. DREIER of California, Mr. ANDERSON, Mr. DURBIN, Mr. MOAKLEY, Mr. LOWERY of California, Mr. PANETTA, Mr. PENNY, Mr. BARTON of Texas, Mr. DANNEMEYER, Mr. MCCOLLUM, Mr. GONZALEZ, Mr. BARNARD, Ms. OAKAR, Mr. FLAKE, Mr. KLECZKA, Mr. LAFALCE, Mr. WEISS, Mr. ACKERMAN, Mr. ERDREICH, Mr. VENTO, Mr. LUKEN, Mr. FROST, Mr. GILCHRIST, Mr. CARDIN, Mr. MFUME, Mr. DONNELLY, Ms. PELOSI, Mr. ATKINS, Mr. BOEHLERT, Mr. DIXON, Mr. MYERS of Indiana, Mr. CAMPBELL of California, Mr. HYDE, Mr. OLVER, Mr. BRYANT, Mr. SLATTERY, Mr. BROOMFIELD, Mrs. MEYERS of Kansas, Mr. HOCHBRUECKNER, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. CLEMENT, Mr. FALEOMAVAEGA, Mr. MAZZOLI, Mr. LEHMAN of Florida, Mr. THOMAS of Georgia, Mrs. BYRON, Mr. SMITH of Oregon, Mr. ABERCROMBIE, Mr. BENNETT, Mr. RAVENEL, Mr. ALLARD, Mrs. BENTLEY, Mr. BACCHUS, Mr. JOHNSON of South Dakota, Mr. COOPER, Mr. IRELAND, Mr. BILIRAKIS, Ms. KAPTUR, Mr. STUMP, Mr. TRAFICANT, Mr. VALENTINE, Mr. COLEMAN of Missouri, Mr. COSTELLO, Mr. DICKS, Mr. GRAY, Mr. BUSTAMANTE, Mr. TRAXLER, Mr. NICHOLS, Mr. MINETA, Mr. KOSTMAYER, Mr. BERMAN, Mr. KOLBE, Mr. JEFFERSON, Mr. KASICH, Mr. LEWIS of Georgia, Mr. HORTON, Mr. LIPINSKI, Mr. MARTINEZ, Mr. EDWARDS of California, Mrs. MORELLA, Mr. CAMPBELL of Colorado, Mrs. VUCANOVICH, Mr. LEVINE of California, Ms. WATERS, Mr. HUGHES, Mr. DUNCAN, Mr. PRICE, Mr. DELLUMS, Mr. ROBERTS, Ms. SLAUGHTER of New York, Mr. ROYBAL, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. QUILLEN, Mr. RAMSTAD, Mr. MAVROULES, Mr. RHODES, Mr. GILLMOR, Ms. MOLINARI, Mr. PAXON, Mr. JAMES, Mr. HANCOCK, Mr. COMBEST, Mr. SAXTON, Mr. GALLO, Mr. ZIMMER, Mr. MILLER of Ohio, Mr. WOLF, Mr. DELAY, Mr. GEREN of Texas, Mr. BOEHNER, Mr. KLUG, Mr. SANTORUM, Mr. BUNNING, Mr. HEFLEY, Ms. ROS-LEHTINEN, Mr. GINGRICH, Mr. MCGRATH, Mr. EDWARDS of Oklahoma, Mr. MICHEL, Mr. ROE, Mr. PALLONE, Mr. SUNDQUIST, Mr. DEFAZIO, Mr. BILBRAY, Mr. STALLINGS, Mr. SISISKY, Mr. SHAW, Mr. MURPHY, Mrs. MINK, Mr. TAUZIN, Mr. SCHEUER, Mrs. LLOYD, Mr. LENT, Mr. SPENCE, Mr. DOOLITTLE, Mr. OWENS of Utah, Mr. YOUNG of Alaska, Ms. HORN, Mr. RAY, Mr. HAYES of Louisiana, Mr. JONES of North Carolina, Mr. PERKINS, Mr. FISH, Mr. MCDERMOTT, Mrs. UNSOELD, Mrs. PATTERSON, Mr. DARDEN, Mr. CAMP, Mr. DYMALLY, Mr. YATRON, Mr. POSHARD, Mr. LEVIN of Michigan, Mr. KOLTER, Mr. COLEMAN of Texas, Mr. MORAN, Mr. MANTON, Mr. WYDEN, Mr. BLAZ, Mr. LAGOMARSINO, Mr. VOLKMER, Ms. NORTON, Mr. AUCOIN, Mr. KANJORSKI, Mr. MOODY, Ms. DELAURO, Mr. BEILENSON, Mr. BROWN, Mr. WISE, Mr. HOBSON, Mrs. BOXER, Mr. HANSEN, Mr. BLILEY, Mr. SMITH of New Jersey, Mr. JENKINS, Mr. ZELIFF, Mr. MCEWEN, Mr. ESPY, Mr. LIVINGSTON, Mr. HOYER, Mr. TOWNS, Mr. GIBBONS, Mr. SANDERS and Mr. WASHINGTON.

H.R. 2830: Mr. RAY, Mr. GLICKMAN, Mr. ZIMMER, and Mr. KOLTER.

H.R. 2831: Mr. HOLLOWAY.

H.R. 2835: Mr. FRANK of Massachusetts, Mr. RAMSTAD, and Mr. BERMAN.

H.R. 2863: Mr. RIGGS.

H.R. 2871: Mrs. LLOYD, Mr. HASTERT, Mr. TOWNS, and Mr. APPLEGATE.

H.R. 2885: Ms. NORTON.

H.R. 2886: Ms. NORTON.

H.R. 2887: Ms. NORTON.

H.J. Res. 67: Mr. VISCLOSKY, Mr. SAVAGE, Mr. TRAFICANT, Mr. COSTELLO, Mr. HAYES of Louisiana, Mrs. BENTLEY, Mr. SCHIFF, Mr. ORTIZ, Mr. SKAGGS, Mr. SMITH of Florida, Mr. ANDERSON, Mr. BLILEY, Mr. SLATTERY, Mr. PERKINS, and Mr. MFUME.

H.J. Res. 102: Mr. SLATTERY, Mr. MCCLOSKEY, Mr. HALL of Texas, Mrs. MEYERS of Kansas, Mr. LEHMAN of California, Mr. WYLIE, Mr. GREEN of New York, Mr. JOHNSON of South Dakota, Mrs. LLOYD, Ms. LONG, Mr. MARKEY, Mr. MURPHY, Mr. ROYBAL, Mr. OWENS of Utah, Mr. FAWELL, Mr. RAMSTAD, Mr. MINETA, Mr. OXLEY, Mr. ASPIN, Mr. PAYNE of Virginia, Mrs. BOXER, Mr. VOLKMER, Mr. APPLEGATE, Mr. GUNDERSON, Mr. JEFFERSON, Mrs. VUCANOVICH, Mr. STUMP, Mr. TAYLOR of Mississippi, Mrs. MINK, Mr. SCHUMER, and Mr. SOLOMON.

H.J. Res. 180: Mr. ALEXANDER, Mr. DOOLITTLE, Mr. HUNTER, Mr. KANJORSKI, Mr. KOSTMAYER, Mr. LEWIS of California, Mr. MURPHY, and Mr. NUSSLE.

H.J. Res. 189: Mr. MCEWEN, Mr. MRAZEK, Mr. GILCHREST, Mr. NUSSLE, and Mrs. VUCANOVICH.

H.J. Res. 196: Mr. KENNEDY, Mr. ASPIN, Mr. LEVINE of California, Mr. NATCHER, Mr. LUKEN, Mr. TORRES, and Mr. BILIRAKIS.

H.J. Res. 212: Ms. NORTON, Mr. LANTOS, Mr. LENT, Mr. CARPER, Mr. OWENS of Utah, Mr. QUILLEN, Mr. GORDON, Mr. JONTZ, Mr. EVANS, Mr. CAMP, Mr. FROST, Mr. LAGOMARSINO, Mr. GILLMOR, Mr. VANDER JAGT, Ms. SLAUGHTER of New York, Mr. HAMMERSCHMIDT, Mr. ROE, Mr. LANCASTER, Mr. COYNE, Mr. FOGLIETTA, Mr. ROYBAL, Mr. FRANK of Massachusetts, Mr. JOHNSON of South Dakota, Mr. BONIOR, Mr. LIPINSKI, Mr. WHEAT, Mrs. JOHNSON of Connecticut, and Mr. EMERSON.

H.J. Res. 217: Mr. FORD of Tennessee, Mr. WASHINGTON, Mr. GONZALEZ, Mrs. LOWEY of New York, Mr. STALLINGS, and Mr. KOLTER.

H.J. Res. 227: Mr. DYMALLY, Mr. JONES of North Carolina, Mr. HAMMERSCHMIDT, Mr. ROSTENKOWSKI, Mr. BLILEY, Mr. WYDEN, Mr. SABO, Ms. PELOSI, Mr. SISISKY, Mr. COYNE, Mrs. JOHNSON of Connecticut, Mr. HUBBARD, Mr. ESPY, Mr. PRICE, Mr. MCHUGH, Mr. TOWNS, Mr. MCMILLEN of Maryland, Mr. MATSUI, Mr. MOAKLEY, Mr. MURPHY, Mr. PERKINS, Mr. ROTH, Mr. TALLON, Mr. CHANDLER, Mr. DELLUMS, Mr. FAWELL, Mr. FAZIO, Ms. LONG, Mr. FOGLIETTA, Mr. HALL of Texas, Mr. HYDE, Mr. HUTTO, Mr. KILDEE, Mr. LEVIN of Michigan, Ms. NORTON, Mr. BEVILL, and Mr. ANDERSON.

H.J. Res. 240: Mr. LAGOMARSINO, Mr. HUTTO, Mr. BALLENGER, Mr. CRANE, Mr. BLILEY, Mr. HANCOCK, Mr. GRANDY, Mr. COMBEST, Mr. STENHOLM, Mr. HOLLOWAY, Mr. SUNDQUIST, Mr. BURTON of Indiana, Mr. STEARNS, Mrs. BENTLEY, Mr. KASICH, Mr. UPTON, Mr. SCHAEFER, Mr. OXLEY, Mr. BILIRAKIS, Mr. LENT, Mr. VANDER JAGT, Mr. HUBBARD, Mr. DREIER of California, Mr. HERGER, Mr. SHUSTER, Mr. WALKER, Mr. HAMMERSCHMIDT, Mr. BARTON of Texas, Mr. GOSS, Mr. CALLAHAN, and Mr. HEFLEY.

H.J. Res. 252: Mr. EVANS, Mr. SMITH of New Jersey, Mr. BENNETT, Mr. MCDADE, Mr. MANTON, Mr. FORD of Tennessee, Mr. HOYER, Mr. THOMAS of Georgia, Mr. JOHNSON of South Dakota, Mr. LEWIS of California, Mr. SISISKY, Mr. KENNEDY, Mr. ROE, Mr. LEACH, Mr. HAMMERSCHMIDT, Mrs. UNSOELD, Mr. COX of California, Mr. JONES of Georgia, Mr. MARKEY, Mr. HEFNER, Mr. DARDEN, Mr. BILIRAKIS, Mr. BROOMFIELD, Mr. SAWYER, Mr. REED, Mr. PAYNE of Virginia, Mr. GALLEGLY, Mr. HALL of Ohio, Mr. MCNULTY, Mr. SOLOMON, Mr. WAXMAN, Mr. FAZIO, Mr. CHANDLER, Mrs. BYRON, Mr. JENKINS, Mr. SHUSTER, Mr. FOGLIETTA, Mr. MAZZOLI, Mr. ZELIFF, Mr. KANJORSKI, Mr. QUILLEN, Mr. CALLAHAN, Mrs. BOXER, Mr. SLATTERY, Mr. BROOKS, Mr. RINALDO, Mr. ROHRABACHER, Mr. IRELAND, Mr. LEWIS of Florida, Mr. KLECZKA, Mr. DIXON, Mr. BUSTAMANTE, Mr. WEISS, Ms. OAKAR, Mr. CARDIN, Mr. BILBRAY, Mr. COUGHLIN, Mr. BORSKI, Mr. BROWN, Mr. JONES of North Carolina, Mr. DELLUMS, Mr. MOORHEAD, Ms. COLLINS of Michigan, Mr. GUNDERSON, Mr. LUKEN, Mr. RAVENEL, Mr. MATSUI, Mr. MURPHY, Mr. OWENS of New York, Mr. WEBER, Mr. YATRON, Mr. SPRATT, Mr. FRANKS of Connecticut, Mr. TAUZIN, Mr. TRAXLER, Mr. SWETT, Mr. DOOLITTLE, Mr. MARTIN, Mr. SMITH of Florida, Mr. DUNCAN, Mr. STUDDS, Mr. COYNE, Mrs. MEYERS of Kansas, Ms. PELOSI, Mr. KASICH, Mr. THOMAS of California, Mr. SKEEN, and Mr. ECKART.

H.J. Res. 255: Mr. PURSELL, Mr. KILDEE, Mrs. BENTLEY, Mr. BENNETT, Mr. ENGEL, Mr. HAYES of Illinois, Mr. BRUCE, Mr. RUSSO, Mr. PENNY, Mr. STUMP, Mr. ROGERS, Mrs. LOWEY of New York, Mr. PALLONE, Mr. ROSE, Mrs. COLLINS of Illinois, Mr. FISH, Mr. OBEY, Mrs. KENNELLY, Mr. KASICH, Mr. HERTEL, Mr. MANTON, Mr. PORTER, Mr. CALLAHAN, Mr. CLINGER, Mr. ANDREWS of Maine, Mr. AUCOIN, Mr. BAKER, Mr. WILSON, Mr. BILBRAY, Mr. BORSKI, Mr. SCHEUER, Mr. SANDERS, Mr. VISCLOSKY, Mr. WHITTEN, Mr. FUSTER, Mr. MACHTLEY, Mr. DE LA GARZA, Mr. SMITH of Iowa, Mr. BEILENSON, Mr. JACOBS, Mr. DWYER of New Jersey, Mr. DOWNEY, Mr. JOHNSTON of Florida, Mr. RINALDO, Mr. BARNARD, Mr. WASHINGTON, Mr. SERRANO, Mr. MAZZOLI, Mr. COUGHLIN, Mr. GINGRICH, Mr. PARKER, and Mr. SAWYER.

H.J. Res. 274: Mr. HARRIS, Ms. NORTON, Mr. STUMP and Mr. VANDER JAGT.

H.J. Res. 284: Mrs. MORELLA, Mr. MATSUI, Mr. LEHMAN of Florida, Mr. CLEMENT, Mr. HEFNER, and Mr. TOWNS.

H.J. Res. 287: Mr. HAMILTON, Ms. PELOSI, Mr. BROOMFIELD, Mr. PICKETT, Mr. BLILEY, Mr. STALLINGS, Mr. SHAYS, Mr. COOPER, Mr. MOLLOHAN, Mr. SUNDQUIST, Mr. OBERSTAR, Mr. ROTH, and Mr. THOMAS of Georgia.

H.J. Res. 293: Ms. SLAUGHTER of New York, Mr. JOHNSON of South Dakota, Mr. STAGGERS, Mr. TALLON, Mr. JONES of North Carolina, Mr. CAMP, Mr. GRANDY, Mr. STALLINGS, Mr. ASPIN, Mr. TOWNS, Mr. BILIRAKIS, and Mrs. UNSOELD.

H. Con. Res. 28: Mr. UPTON.

H. Con. Res. 50: Ms. ROS-LEHTINEN and Mr. ENGEL.

H. Con. Res. 105: Mr. ZIMMER, Mr. NEAL of North Carolina, and Mr. COX of California.

H. Con. Res. 118: Mr. ENGEL and Mr. ASPIN.

H. Con. Res. 145: Mr. LANTOS, Mr. WILLIAMS, Mrs. LOWEY of New York, Mr. JONES of Georgia, Mr. JEFFERSON, Mr. BERMAN, and Mr. ANDREWS of Maine.

H. Con. Res. 146: Mr. NEAL of North Carolina and Mr. HERGER.

H. Con. Res. 160: Mr. STARK and Mr. WASHINGTON.

H. Con. Res. 166: Mrs. JOHNSON of Connecticut and Mr. SERRANO.

H. Con. Res. 168: Mr. Johnston of Florida, Mr. Hochbrueckner, Mr. Swift, Mr. Broomfield, Mr. Smith of New Jersey, Mr. Lantos, and Mr. Eckart.

H. Con. Res. 171: Mr. Studds, Mr. Berman, Mr. Weiss, Ms. Ros-Lehtinen, Mr. Matsui, Mr. Dixon, Mr. Wolpe, Mr. Burton of Indiana, and Mr. Sikorski.

H. Res. 107: Mr. Riggs, Mr. Lagomarsino, Mrs. Lowey of New York, and Mr. Zeliff.

H. Res. 108: Mr. Penny, Mr. Riggs, Mr. Saxton, Mr. Zimmer, and Mr. Klug.

H. Res. 116: Mr. Evans, Mr. Bustamante, and Mr. Jones of Georgia.

H. Res. 130: Mr. AuCoin, Mrs. Morella, and Mr. Mfume.

H. Res. 140: Mr. Spratt.

H. Res. 164: Ms. Pelosi.

SENATE—*Tuesday, July 16, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass, or a tinkling cymbal.—I Cor. 13:1.

Eternal God, giver of life, for whom the greatest commandment is love, help us to understand the meaning of this word which has been so diminished and cheapened in our culture. Help us to see that it is the greatest word in the Bible next to the name of God, Himself. May we realize that it is not a sentimental attitude, but a matter of character, of thoughtfulness, of respect, of caring and concern and commitment to another.

Gracious Father in Heaven, this is a time for love. We need each other. We need each other's support. We need each other's strength. As pressure increases in this session, where volumes of words are spoken, remind us often that words may be shallow and empty, like "a noisy gong or a clanging cymbal." Help us to pour love into our words that they may have meaning and substance and be persuasive. Give us love for one another, love that dissolves pride and frustration and anger and bitterness.

In His name, who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 16, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate majority leader.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning there will be a period for morning business not to extend beyond 10 a.m., during which Senators will be permitted to speak. During this period for morning business, Senator LIEBERMAN is to be recognized for up to 5 minutes and Senator JOHNSTON is to be recognized for up to 20 minutes.

Pursuant to a previous order granting to me the authority to proceed to Calendar item No. 125, S. 323, the gag rule repeal bill, it is my intention to exercise that authority at 10 a.m. today. Therefore, the Senate will begin consideration of that measure at 10 a.m.

From 12:30 p.m. until 2:15 p.m., the Senate will stand in recess to accommodate the respective party conferences.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Without objection, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business.

The Chair recognizes the Senator from Louisiana [Mr. JOHNSTON] for up to 20 minutes.

Mr. JOHNSTON. Mr. President, I yield myself 10 minutes at this time.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. JOHNSTON. Mr. President, on May 23, 1991, the Senate Committee on Energy and Natural Resources ordered reported the most comprehensive energy policy legislation ever presented to the Senate. This legislation is S. 1220, the National Energy Security Act of 1991. It enjoyed broad-based, bipartisan support on the committee, with a 17-to-3 vote in favor of reporting the measure.

The time is long overdue for a comprehensive, balanced energy policy for our Nation. S. 1220 presents an opportunity for the Senate to make such a policy a reality. It is my hope that the Senate will soon turn to consideration of this important bill.

Mr. President, I believe that there is a serious lack of knowledge about this significant legislation. I hope over the course of the next few days to provide information to my colleagues about what this bill does and does not do. I also hope to set the record straight regarding certain misconceptions about the legislation. In this regard, I ask unanimous consent that a letter from Secretary Watkins and a letter from Mr. Phillip Berry and Mr. Michael Fischer of the Sierra Club be printed in the RECORD following my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

S. 1220—A BALANCED BILL

Mr. JOHNSTON. Mr. President, we have strived to make S. 1220 a balanced bill. To describe it as solely a production-sided measure is, I believe, grossly inaccurate. S. 1220 includes all the necessary elements of a national energy policy: Energy efficiency as well as energy production; conventional energy and alternative energy; and renewable energy and nuclear energy.

Those that call this a production bill ignore the extensive provisions that it contains on energy efficiency, including provisions to encourage greater efficiency by the industrial, commercial, and residential sectors, by the Federal Government, and by electric utilities. They also ignore the provisions to encourage the reuse of used oil, and the sections of the bill devoted to energy assistance to State, local, insular, and tribal governments.

As an aside, Mr. President, it was curious to me that one of my staffers not too long ago went to a symposium of environmentalists who had a discussion about various things that could be done and should be done on the so-called soft path. With virtually every item that came up, my staffer was able to say—either state openly or by sending notes—yes, that is in our bill, S. 1220.

I ask those who are on the environmental side of the ledger to take a look at S. 1220 because it is, in fact, an environmental wish list of those things that ought to be done.

Those that oppose this legislation as production-oriented overlook the significant provisions to encourage the development and deployment of renewable energy resources in the United States and in lesser developed countries. Included in these measures are those addressing the commercialization of biofuels, geothermal, wind, fuel cells, and utility-scale photovoltaics technologies. Also included is the expansion of the interagency working group charged with promoting the export of renewable energy technologies to also include energy efficiency products and technologies.

Those arguing that this is merely an energy production bill do not mention the extensive alternative fuel fleets provisions, the program to develop the use of electric and electric hybrid vehicles, as well as the mass transit and training provisions contained in the legislation. Likewise, the bill contains measures that establish a replacement and alternative fuels program, require the Secretary of Transportation to set new corporate average fuel economy [CAFE] standards, and provide for the scrappage of old motor vehicles.

And finally, those that would lead my colleagues to view this as only an energy production bill do not point out the many important provisions to encourage research, development, deployment, and commercialization of a broad range of energy resources, from renewable energy and energy efficiency to natural gas, coal, and fusion.

Simply stated, S. 1220 is much, much more than an energy production bill. It is a comprehensive package that contains many significant energy efficiency and renewable energy provisions, and it will serve as the basis for a balanced national energy policy.

S. 1220 AND THE ADMINISTRATION'S BILL

A second misconception regarding the bill is that it is, in essence, the administration's proposal. In fact, the Energy Committee bill was introduced a full month before the administration bill, and the two pieces of legislation are far from being the same. That is not to say that the bills do not address some of the same issues. Both would open the Coastal Plain of the Arctic National Wildlife Refuge to competitive oil and gas leasing. Both address natural gas regulatory reform, nuclear licensing reform, and reform of the Public Utility Holding Company Act, although the specific provisions differ.

It is on the subjects of energy efficiency, renewable energy and transportation that the bills are most markedly different. S. 1220 contains over 25 provisions in the efficiency and renewables area that do not appear in the administration's proposal. In fact, in the important area of appliance efficiency, the administration's bill not only fails to expand the program, but explicitly precludes standards for lighting systems and a broad range of commercial products. Further, the administration bill does not address the CAFE issue, while S. 1220 requires the Secretary of Transportation to set new CAFE standards.

S. 1220 contains several provisions on coal, coal technology, and electricity that are absent from the administration's bill. Indeed, the word "coal" is not mentioned on even one of the 165 pages of the administration's bill. The administration's proposal would amend the Nuclear Waste Policy Act, would abolish the Federal Energy Regulatory Commission, would deregulate oil pipelines, and would provide for the leasing of the Elk Hills Naval Petroleum Reserve. S. 1220 does not.

Certainly, the administration's bill set forth an approach that would be taken to energy policy. Admiral Watkins and his staff are to be commended for their initiative in developing the administration's national energy strategy and for their recognition of the importance of having an energy policy for our Nation. However, S. 1220 represents a far more comprehensive and balanced measure to address our Nation's energy needs than that proposed by the administration.

S. 1220

I believe that the misconceptions regarding S. 1220 stem from a lack of familiarity with the contents of the bill. For the information of my colleagues, I provide a brief summary of major components of the bill, and ask unanimous consent that it be included in the RECORD following my statement.

CAFE AMENDMENT

Mr. President, in addition, this morning I am introducing an amendment pertaining to CAFE. I ask unanimous consent that my statement, the text of the amendment and the section-by-section analysis be printed in the RECORD following my remarks.

Mr. President, I firmly believe that changes in the CAFE law must be made in order to decrease our dependence on imported oil. For this reason, I offered a tough, yet reasonable, alternative to the bill language in committee. I intend to offer this amendment again when the full Senate considers the bill.

The Johnston CAFE amendment would require the following standards for the automobile fleet as a whole: 30.2 miles per gallon in 1996; 34.0 miles per gallon in 2001; and 37.0 miles per gallon in 2006. This compares with the current standard of 27.5 miles per gallon. The standards in the Johnston amendment were developed in consultation with OTA and its contractor, Mr. K.G. Duleep, arguably the Nation's foremost expert in this area.

The Johnston amendment stands in contrast to S. 279, the legislation offered by my friend, Senator BRYAN. The hearing record developed before the Energy Committee clearly establishes that S. 279 would set unrealistic CAFE standards, at least some 2 to 3 miles per gallon above what OTA says would be a realistic goal.

Setting overzealous CAFE standards is a step that we cannot afford to take. Doing so would jeopardize the survival of the American automobile industry, strike a devastating blow to our economy, and cost thousands of jobs.

CONCLUSION

Clearly S. 1220 has some provisions that will be highly controversial. Key among these are oil exploration, development, and production on the Coastal Plain of the Arctic National Wildlife Refuge, amendments to the CAFE law, and nuclear licensing reform.

But to confect a meaningful energy policy, we must face up to these difficult issues. The legislation we pass must cover the spectrum of energy concerns. No one energy initiative is capable of freeing us from dependence on imported oil.

Undoubtedly, when S. 1220 is brought to the floor, we will have vigorous debate and difficult votes on how to achieve an appropriate balance in our national energy policy. We ask that Members participate in this discourse, but we also ask that they support this package, even though they may disagree with elements of it.

The need for a sound policy to address the difficult issues posed in the energy arena has never been more apparent than it is today. Action will require initiative, risk, and perseverance. Surely the Persian Gulf war should give us the resolve needed to establish and implement a national energy policy. Three energy crises within a period of 18 years are enough. It is now time to act.

For the information of my colleagues, I ask unanimous consent that a brief summary of the major components of the bill be printed in the RECORD following my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

THE SECRETARY OF ENERGY,
Washington, DC, June 28, 1991.

Mr. PHILLIP BERRY,
President, Sierra Club, Washington, DC.

DEAR MR. BERRY: The comprehensive energy legislation recently approved by the Energy and Natural Resources Committee of the Senate does not merit the attack launched by the Sierra Club in its June 21, 1991, campaign letter to Senators. The bill, S. 1220, resulted from intensive analysis and debate by twenty Senators representing a broad cross section of political views. Seventeen of those twenty Senators voted for this legislation as a balanced approach to meeting our energy and environmental challenges.

Framing the current energy debate in the inflammatory language you have chosen will produce neither a sensible energy policy nor increased environmental protection. Reasonable people may well reach different answers in matters as important and complex as energy issues, but those who wish to be a part of the energy policy debate have an obligation to illuminate and clarify the issues rather than to misinform.

Your letter claims that S. 1220 "weakens laws designed to prevent construction of unsafe reactors." That is simply not true. Nothing in S. 1220 would allow unsafe nuclear reactors to be built or licensed. What S. 1220 would do is provide for more effective public participation in the nuclear licensing process by providing the public with more complete information about nuclear plant design and operation up front, before the plant is built.

Your letter also claims that S. 1220 opens a major loophole in the Clean Air Act "which will worsen acid rain". The bill's "WEPCO" provisions do not affect the cap placed on sulfur dioxide emissions by the Clean Air Act Amendments of 1990, and cannot, therefore, worsen acid rain. The provisions in S. 1220 will encourage utilities to complete environmentally beneficial pollution control projects, including switching to cleaner-burning fuels.

S. 1220 does not, as you claim, override the Clean Water Act, NEPA, or the Endangered Species Act. What the legislation does is to demand greater coordination and discipline on the part of the Federal agencies that administer these statutes. Such discipline will benefit consumers, the economy and the environment.

One of the most outlandish of all the claims made in your letter is that S. 1220 "eliminates state regulation of the utility industry." Reform of the Public Utility Holding Company Act, as contained within S. 1220, will do no such thing, as any state regulatory will tell you. Indeed, by fostering broader competition in electricity generation, PUHCA reform will encourage use of innovative technologies, including renewable technologies.

Finally, S. 1220 would not "destroy" the Nation's "premier wilderness areas—the Arctic National Wildlife Refuge, . . . and other fragile coastal areas." First, with respect to "other coastal areas," the legislation actually would place the coasts of California and New Jersey off limits to oil and gas leasing until after the year 2000. The Administration does not support those provisions because they would extend the already significant offshore leasing deferrals announced by the President in June 1990. Secondly, the Committee's vote to allow leasing and development of a small portion of the coastal plain of ANWR does not "destroy" anything except the myths that have been propounded by those opposed to ANWR development.

In the 1980 legislation that expanded the Arctic National Wildlife Refuge from 9 million to 19 million acres, Congress specifically avoided designating a portion of the coastal plain as a wilderness area. It directed instead that the Department of Interior (DOI) study the option of opening a part of the coastal plain to oil and gas exploration. DOI reported to Congress in 1987, in the so-called 1002 Report, that resource development should be allowed on the non-wilderness section of the plain, under strict environmental safeguards. The Fish and Wildlife Service at DOI has conducted over 200 studies of the impact of possible energy development on the biology and ecology of the coastal plain, and has concluded that this development will not jeopardize the coastal plain environment, so long as strict environmental safeguards of the sort required by S. 1220 are maintained.

An objective analysis of S. 1220 would not support the conclusions expressed in your letter of 21 June 1991. We trust you will reconsider your blanket condemnation of this legislation and instead work with Congress to improve those provisions which constitute specific and reasoned concerns for you and for your members.

This Congress has the best opportunity in more than a decade to enact comprehensive energy legislation that enhances our energy security, improves environmental quality, protects consumers, and promotes a healthy economy. Let us debate the important issues inherent in this legislation on the merits.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

SIERRA CLUB,
Washington, DC, June 21, 1991.

DEAR SENATOR: The Energy and Natural Resources Committee has approved the Johnston-Wallop comprehensive energy bill, S. 1220. This bill is an environmental disaster, and we urge you to oppose it. We specifically urge that you vote against a motion to invoke cloture in order to sustain a filibuster against S. 1220.

At a time when the American public is demanding more environmental protection, the Johnston-Wallop energy strategy weakens virtually every major national environmental law and policy. S. 1220:

Weakens laws designed to prevent the construction of unsafe nuclear power plants;

Opens a major loophole in the Clean Air Act which will worsen acid rain and urban smog;

Overrides the Clean Water Act, the National Environmental Policy Act, and the Endangered Species Act;

Weakens hazardous waste disposal requirements of the Solid Waste Disposal Act;

Eliminates state regulation of the utility industry and makes it even more difficult for safe renewable energy sources to enter the power grid;

Destroys one of the nation's premier wilderness areas—the Arctic National Wildlife Refuge, and threatens other fragile coastal areas.

Moreover, the Energy Committee specifically rejected measures which would have reduced our dependence on oil and protected the environment at the same time. The Johnston-Wallop bill does nothing to improve the efficiency of our automobiles, which account for almost half of our oil consumption.

The Johnston-Wallop bill is not an energy policy. It is a wish list of environmentally destructive changes which the oil, nuclear, and coal industries have sought for years. We urge you to defeat it.

Sincerely yours,

PHILLIP BERRY,
President.
MICHAEL FISCHER,
Executive Director.

EXHIBIT 2

SUMMARY OF KEY PROVISIONS IN S. 120, THE NATIONAL ENERGY SECURITY ACT OF 1991

TRANSPORTATION AND ALTERNATIVE FUELS

CAFE.—Our Nation's transportation sector uses 63 percent of the oil consumed in the United States. Several provisions in S. 1220 are intended to address this situation.

Title III of the bill pertains to CAFE. It directs the Secretary of Transportation to adopt new CAFE standards based on specific assumptions. The Johnston CAFE amendment, which was offered in committee and which will again be offered when the full Senate considers the bill, would require the following standards for the automobile fleet as a whole: 30.2 MPG in 1996; 34.0 MPG in 2001; and 37.0 MPG in 2006. This compares with the current standard of 27.5 MPG. The standards in the Johnston amendment were developed in consultation with OTA and its contractor, Mr. K.G. Duleep, arguably the Nation's foremost expert in this area.

Car Scrappage Programs.—S. 1220 would quadruple the amount of the fees to be collected from automobile manufacturers who fail to comply with the CAFE standards. Under the bill, these fees may be appropriated to fund State programs designed to take pre-1980 cars off the road. This should result in both environmental and fuel economy benefits.

Alternative Fuel Fleets.—S. 1220 contains an extensive alternative fuels fleets program, covering Federal, State and private fleets. The program requires that a specified percentage of replacement vehicles purchased be alternative fuel vehicles according to a set schedule. The program applies to all Federal fleets, and to State, municipal, and private fleet operators with 50 vehicles or more and at least one fleet of 20 or more vehicles in a metropolitan statistical area with a 1980 Census population of 250,000 or more. Certain exemptions are specified for military vehicles, emergency vehicles, and the like.

Electric and Electric-Hybrid Vehicle Program.—The bill contains an electric vehicle and electric-hybrid vehicle research, development and demonstration program and authorizes the Secretary to issue guidelines and funding for State and local infrastructure development programs for these vehicles.

Alternative Fuels.—The legislation directs the Secretary of Energy to establish a program to promote the development and use of domestically produced replacement and alternative fuels. The Secretary is required to make demand estimates for such fuels and to seek voluntary supply commitments from fuel providers sufficient to meet demand. The bill gives the Secretary standby authority to prepare, in the event of a shortage, a plan to require providers of the fuel to make adequate domestic supplies available to the public. The plan is to lay before Congress for sixty days before it is implemented.

RENEWABLE ENERGY AND ENERGY EFFICIENCY

Renewable Energy.—S. 1220 includes several important measures to encourage the development and deployment of renewable energy resources in the United States and on an international scale in lesser-developed countries. These provisions include joint ventures for the demonstration of renewable energy technologies such as biofuels, geothermal, wind, fuel cells and utility-scale photovoltaics, as well as expansion of the interagency working group that promotes the export of renewable energy and energy efficiency products and technologies. In addition, S. 1220 contains a provision granting authority to the Department of Energy to "buy-down" or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries.

Energy Efficiency.—S. 1220 contains extensive provisions on energy efficiency. Included among these are measures to improve energy efficiency in the industrial, commercial, and residential sectors, to improve Federal energy management, and to increase energy efficiency in the utility sector.

The legislation contains provisions to strengthen Federal and State building energy efficiency standards; to encourage the establishment of uniform residential energy efficiency ratings; to promote energy efficient mortgages; to upgrade manufactured housing energy efficiency standards; to improve efficiency in energy-intensive industries; to require the development of energy efficiency labeling for windows and window systems, lamps and luminaries, and for certain commercial and industrial equipment; and to establish energy efficiency standards for certain commercial air conditioning and heating equipment and for showerheads.

With respect to Federal energy management, Federal agencies are required to install certain energy efficiency improvements. The bill establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities.

The bill also directs the General Services Administration (GSA) to identify the energy cost-effectiveness of items listed in the GSA product schedule, and directs the Administrator of the GSA to consider fuel efficiency when purchasing government vehicles. Finally, this legislation authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy, and it contains provisions authorizing the demonstration of new energy efficiency technologies by Federal agencies.

Perhaps most significantly, S. 1220 would promote aggressive energy efficiency programs by utilities by requiring State commissions to consider allowing utilities to make as much profit from their energy conservation programs as they make from their power production investments. S. 1220 further promotes energy efficiency by requiring State commissions to consider requiring utilities to engage in integrated resource planning (IRP), and it directs certain Federal power marketing agencies and the Tennessee Valley Authority to use IRP.

S. 1220 provides an incentive to the States to promote efficiency by establishing a grant program to provide financial assistance to State commissions to cover costs associated with the consideration and development of IRP.

S. 1220 contains a provision amending the Energy Policy and Conservation Act to promote the collection, refining, re-refining, and reprocessing of the 10 million barrels of used lubricating oil that is currently dumped into the Nation's soil and water. Used oil can be reprocessed into fuel and other petroleum products through market incentives and the removal of legal disincentives.

Finally, the bill also contains a subtitle including several provisions designed to assist State, local, insular and Tribal governments in promoting energy efficiency and renewable energy.

ANWR

S. 1220 authorizes a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge, Alaska (ANWR). The bill requires the Secretary of the Interior to implement such a program (through regulations and lease stipulations) so as to result in no significant adverse effect on fish and wildlife, their habitat, or the environment of the refuge, and to require the application of the best commercially available technology for oil and gas exploration, development and production.

The legislation provides that the Federal share (50 percent) of any revenues from ANWR is deposited in a special fund in the Treasury—the Energy Security Fund—to be used, subject to appropriation, by the Secretary of Energy to fund energy-related programs and projects designated to enhance the Nation's energy security and reduce reliance on imported oil.

NUCLEAR

S. 1220 directs the Secretary to carry out an advanced nuclear reactor research, development, and demonstration program that will lead to commercialization of advanced reactor technologies after 1995. The program is to include both advanced light water reactor technology and other advanced reactor technologies.

S. 1220 also addresses the issue of nuclear reactor licensing. Basically, the bill codifies reforms in the licensing process implemented by the Nuclear Regulatory Commission (NRC) two years ago. The NRC's statutory authority to institute those reforms is now being contested in court. Accordingly the bill amends the Atomic Energy Act to clarify the NRC's authority to adopt those changes. In addition, the bill gives the NRC additional direction on the timing and procedures to be used in licensing hearings held after the plant has been built and is ready to go into operation. While serving to prevent licensing hearings from being used to delay operation of plants the NRC has determined to be safe, the bill preserves opportunities for the public to raise significant safety concerns, for the courts to review NRC licensing decisions, and for the NRC to exercise its safety responsibilities.

S. 1220 also contains provisions already passed by the Senate six times which would establish the United States Enrichment Corporation for purposes of taking over the uranium enrichment enterprise operated by DOE.

NATURAL GAS

The legislation contains provisions streamlining certain natural gas regulatory requirements in order to facilitate the delivery of natural gas in the marketplace. In addition to these regulatory provisions, S. 1220 contains provisions that are designed to facilitate greater use of natural gas. This is particularly significant because natural gas is a clean-burning fuel which can make a major contribution in displacing imported oil. To encourage this, the bill would expedite pipeline construction by providing a range of regulatory options. It would also remove regulatory obstacles to the greater use of natural gas as an automotive fuel. The bill provides for a single consolidated NEPA review of pipeline project certification, eliminating duplicative paperwork without reducing environmental analysis and consideration.

RESEARCH, DEVELOPMENT, DEMONSTRATION AND COMMERCIALIZATION

The legislation contains research, development, demonstration and commercialization provisions including those addressing natural gas, high efficiency heat engines, oil shale, renewable energy, energy efficiency, fusion, and advanced oil recovery, and contains a section directing the Secretary of Energy to promote math and science education for low-income and first generation college students.

PUHCA

S. 1220 reforms the Public Utility Holding Company Act (PUHCA) with a goal of facilitating competition in the generation of electricity. It does so in a way that preserves the structure of the Act and includes appropriate consumer protections.

The bill allows for the creation of exempt wholesale generators (EWGs): corporate entities who are engaged exclusively in the business of wholesale electric generation and who are completely exempt from corporate organizational restrictions under PUHCA. Entities who are currently subject to PUHCA (registered utility holding companies and exempt utility holding companies) and entities who are not currently subject to PUHCA (non-utilities and non-holding company utilities) are permitted to own EWGs without limitation.

ADDITIONAL PROVISIONS

Hydropower.—The bill improves Federal Power Act regulation. As in the natural gas title, the bill provides for a single consolidated NEPA review of project licensing, eliminating redundant paperwork without reducing environmental scrutiny. Under S. 1220, subject to certain conditions and certifications by the Governors, States are generally allowed to take over licensing of hydroelectric projects having a capacity of 5 megawatts or less. The bill also directs the Secretary of the Interior to study and implement water use conservation measures at Federal irrigation projects for purposes of increasing hydropower production, making more efficient use of project power, and providing more water for fish, wildlife, and instream values.

Outer Continental Shelf.—S. 1220 provides impact aid to coastal States and communities affected by OCS leasing and development in the amount of 37.5 percent of "new" OCS revenues. The legislation imposes a moratorium on all preleasing and leasing activity offshore California and New Jersey under the Outer Continental Shelf Lands Act until the year 2000.

Coal, Coal Technology, and Electricity.—S. 1220 contains research and development provisions relating to a variety of coal technologies, including advanced coal-based technologies, the non-fuel use of coal, coal refining, underground coal gasification, and coal-fired locomotives. Several of these technologies are aimed at improving the utilization and combustion of coal in an environmentally sound way. The bill establishes a Clean Coal Technology Export Coordinating Council to facilitate and expand the export and use of clean coal technologies, with a priority for lesser-developed countries. The bill also contains other provisions addressing coal and electricity.

Strategy Petroleum Reserve.—S. 1220 directs the President to enlarge the SPR to one billion barrels as rapidly as possible and authorizes the creation of a 10 million barrel Defense Petroleum Inventory.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Kentucky [Mr. FORD].

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. FORD. Mr. President, I thank my friend and chairman of the Energy and Natural Resources Committee.

Mr. President, I would like to associate myself with the remarks of my colleagues about the importance of bringing up S. 1220 for consideration by the full Senate. S. 1220 is the comprehensive energy legislation reported by the Committee on Energy and Natural Resources.

Many people have confused S. 1220 with the administration's national energy strategy. Let me say at the outset that S. 1220 is quite different from that of the administration. S. 1220 has taken some bold steps in the area of energy conservation and efficiency. S. 1220 has taken bold steps in the area of alternative fuels. S. 1220 includes research and development initiatives on a wide variety of promising energy technologies. None of these provisions are contained in the administration's legislation.

It is critical that the Senate consider S. 1220 in a timely fashion. S. 1220 was reported by the Energy Committee after 15 hearings and 13 markups. There are important issues to be considered in S. 1220, and the legislation deserves a full debate in the Senate. That is how the Senate operates. The rules of the Senate provide the opportunity for full debate of all issues.

Some people have suggested that the Senate should delay consideration of S. 1220. Others have suggested that the Senate should not consider S. 1220 at all. That would be unwise. And it would be contrary to how the Senate operates.

Our Nation has operated for too long without a comprehensive energy policy. That has not been for lack of effort. Hundreds of bills have been introduced over the years to deal with energy issues. But it is not easy to reach a political consensus on energy issues. So we have dealt with some of the easier issues. All too often, the harder issues have been set-aside.

But the facts are quite simple. We are too dependent on foreign oil. Our efforts to conserve are not sufficient. And we do not use our homegrown resources as well as we should.

The chairman of the Energy Committee should be commended for his effort in bringing together the members of the committee to develop a comprehensive bill. As a result of that effort, S. 1220 addresses the entire range of energy issues.

S. 1220 is the result of compromise. It is not a perfect piece of legislation. But it is a bill that deserves consideration by the full Senate.

To be sure, I am not completely satisfied with every provision of S. 1220. I voted against the automobile fuel efficiency provisions of S. 1220. I also voted against drilling in the Arctic National Wildlife Refuge. I do not believe that drilling in ANWAR is necessary to decrease our dependence on foreign oil. Bujt these provisions were part of the compromise. And I supported the compromise. That is what compromise is all about.

There are other important provisions of this bill that make it worthy of support. I have mentioned some of these already: Bold measures in energy conservation and efficiency; bold steps in development of alternative transportation fuels; and research and development on promising energy technologies.

I would also like to talk briefly about two other provisions of S. 1220 that are very important to my home State of Kentucky. During the committee's consideration of S. 1220, we adopted provisions to ensure that coal is available as clean source of energy well into the future. The key to the continued use of coal is to develop the technology to make it both clean and economical. We have enough coal reserves to meet our projected needs for more than 200 years. It makes absolutely no sense to ignore this home-grown resource. But we must develop the technology to make it cleaner. And we must do that economically. S. 1220 will set in motion the programs to achieve these goals.

Another critical provision of S. 1220 is title X, which deals with uranium enrichment. Title X is identical to legislation passed by the Senate in May. It is nearly identical to legislation passed by the Senate five times before that. Title X would transfer the Nation's uranium enrichment enterprise from the Department of Energy to a new Government corporation. This provision is needed if the enrichment enterprise is to remain profitable over the long-term. It is critical if the Federal Government is to remain in the enrichment business.

I cannot overstate the importance of the enrichment enterprise. It is a $1.5 billion per year business. It keeps a billion dollars of American ratepayers' money here at home. It brings another half billion dollars per year of foreign money into America. It makes the fuel that generates nearly 20 percent of our electricity.

But we must enact these provisions into law in order to keep this business viable. The enterprise now operates in a tangle of bureaucratic red tape as if it is a monopoly—except that it isn't a monopoly, and it hasn't been a monopoly for 20 years. The provisions of title X will setup a government corporation to run this business like a business. Title X will allow the enterprise to compete in the international marketplace—and surive.

The consequences of this business failing are serious. We would become dependent on foreign suppliers. Our balance of payments would suffer. Perhaps more importantly, we would not have the billions of dollars needed to dismantle and clean up the existing enrichment plants.

The revenues from the enrichment enterprise will provide a steady source of income that will pay for these cleanup costs. If the business is healthy, the costs of cleanup will come from revenues. If the business fails, the costs of cleanup will have to come out of the taxpayers' pockets.

My colleagues have all heard me talk about this before. Indeed, the Senate has passed this legislation time and time again. Each time, the House has failed to act. Inclusion of these provisions in S. 1220 may be our best hope for action by the House. Passage of comprehensive energy legislation containing these provisions will bring this issue into conference with the House. This is good reason to act on S. 1220.

As I said at the outset, S. 1220 is not perfect. But it is comprehensive, and it is worthy of the Senate's consideration.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Kentucky. I yield myself an additional 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes 25 seconds remaining.

NATIONAL ENERGY STRATEGY

Mr. JOHNSTON. Mr. President, over the next few days certain of my colleagues will speak about the national energy strategy, that is, the National Energy Security Act, which has been confused, indeed, with the administration's national energy strategy. There are, in fact, many common areas with which we both deal, but our bill is much, much more, and we want the Members of the Senate, in advance of consideration of that bill, to understand the comprehensive nature of the bill and the balanced nature of the bill so that people, particularly in the environmental community, will learn to understand what we have in this bill, because there has never been a comprehensive bill on the so-called soft path involving energy efficiency, alternate fuels, and conservation. There has never been a bill submitted this comprehensive and this effective.

Mr. President, I see the distinguished Senator from New Mexico in the Chamber at this time. Before I use all of my time, I would like to yield to him the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico. There are 5 minutes 57 seconds remaining.

THE IMPORTANCE OF NATIONAL ENERGY POLICY LEGISLATION

Mr. BINGAMAN. Mr. President, I appreciate very much the time that the Senator from Louisiana, the chairman of the Energy Committee, has yielded to me. I rise to join him and others in emphasizing the importance of enacting national energy policy legislation during this Congress. I think our past attempts at forging an energy policy have been characterized by crisis policymaking. There are many instances in the last decade or so that we can cite to reach that conclusion. Unfortunately, each time when the crisis of the day went away and the country got sidetracked on other issues, our commitment to deal with our energy problems also went away.

Obviously, this is not good policy for our country. The citizens of our Nation deserve better, expect better of us. I do think that the events in the Persian Gulf highlighted the need to get back on this issue and to seriously deal with it; specifically, to deal with the growing reliance on foreign oil. There is a consensus in the country that we need greater energy security, we have gone from importing less than 30 percent of our oil in the early 1980's to something around 50 percent by 1990, and there is no reason to expect that market forces will reverse this growing reliance on foreign oil.

In fact, just to the contrary. The evidence that the Office of Technology Assessment has given us and the evidence that all of the experts before the Energy Committee presented indicates that absent some changes in our Federal policy, our dependence on foreign oil will increase very substantially over the rest of this decade.

Mr. President, I strongly believe the Nation needs to enact long-term, comprehensive energy legislation. The energy policy that we need to adopt must be well-rounded. It must be balanced. The goals must be clear. We must make a commitment to pursue the policy long enough to see some results.

S. 1220, the National Energy Security Act of 1991, on which the Senator from Louisiana is the prime sponsor and which I have cosponsored, legislation as reported by the Energy Committee, attempts in a very conscientious way to provide that comprehensive approach. There are some important elements of our energy policy which, in my view, are not adequately addressed in S. 1220, but we have reached the point where those issues can really only be dealt with by the full Senate.

S. 1220 does contain many measures that are constructive and will be helpful to the country. The bill includes provisions ranging from energy efficiency to improved coal technologies, from electricity to research and development, and from hydroelectric power to enhanced oil recovery.

I am particularly pleased that S. 1220 would mandate a far-reaching alternative fuel fleets program affecting Federal, State, municipal and private fleets, a move which I think is crucial if we are to reduce this dependence on foreign oil in the future.

In addition, the bill contains initiatives designed to facilitate the delivery of natural gas and to encourage greater use of natural gas. I am convinced that natural gas, which is abundant, efficient and clean burning, will play an ever-increasing role in addressing the environmental concerns which we all share and in reducing our reliance on imported oil.

Mr. President, I strongly support the initiatives contained in S. 1220 which would enhance the development and use of renewable energy resources as well. The bill contains some important provisions related to the use of photovoltaics, biofuels, wind fuel cells and geothermal technologies.

Portions of S. 1220 remain very controversial and certainly I do not personally support every single aspect of the legislation as it would come to the Senate floor. However, I strongly believe that a full debate in the Senate will move this country closer to adoption of a national energy policy.

Mr. President, I look forward to that debate and to the Senate's consideration of S. 1220. Again, I commend the Senator from Louisiana for the leadership he is providing to the country and to the Senate in this important area.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana has a minute remaining.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

COMMEMORATING FIRST BAPTIST CHURCH OF TUSCUMBIA, AL

Mr. HEFLIN. Mr. President, I rise today in recognition of the great First Baptist Church of Tuscumbia, AL, my hometown. This pillar of Christian faith has stood firm in God's service for 125 years. Many souls have been saved, and lives have been changed, by the ministry of this strong church.

On Sunday, July 21, 1991, First Baptist Church is celebrating its 125th anniversary with ceremonies commemorating the event. It is my desire to bring the church all of the recognition it deserves for its committed and consistent service to God and man.

Pastor Otis B. Smith, Jr., is providing the excellent leadership which any church needs to fulfill its mission of winning souls to Christ. His faith and wisdom is a blessing to all members of his church. From its origin in 1866 under the guidance of Elder W.E. Northcross, to its status today as a cornerstone of faith in the Christian community, First Baptist Church remains a beacon of light to many people.

The success of the church is demonstration of the difference that committed and faithful people can make in a world in need of hope. Psalm 127:1 says, "Except the Lord build the house, they labor in vain that build it; except the Lord keep the city, the watchman waketh but in vain." There is no question that the lord built this house. Jesus said that you will know them by the way they love each other. First Baptist Church is a house built on the foundation of God's love. The fruit of its labor is proof of this.

I am honored to be able to speak in behalf of the church and its milestone event. Its years of dedicated service is most worthy of recognition. I wish Pastor Smith, and all of his flock, continued success as they press on toward the mark of the high calling of Christ Jesus. I know that they will be blessed as they persevere in God's service, and many more lives will be saved through the ministry of First Baptist Church.

MISTY DANIELS PRESENTS SIOUX GIFTS TO PRESIDENT ON VISIT TO MOUNT RUSHMORE

Mr. PRESSLER. Mr. President, during President Bush's recent visit to Mount Rushmore to formally dedicate our Shrine of Democracy, he met with Misty Daniels. Misty, an enrolled member of the Oglala Sioux Tribe, is the only Operation Desert Storm widow from South Dakota.

Misty has a special place in all of our hearts. Her husband, Army Spec. Michael David Daniels, was killed on February 20, 1991, while on a reconnaissance mission in Iraq. I commend President Bush for taking the time to meet privately with Misty to express his personal appreciation for her late husband's sacrifices for his country and the cause of freedom.

Misty's mother, Olivia Felder, wrote to me in late May to advise me of her daughter's interest in presenting President Bush with Sioux gifts to honor him for his leadership as Commander in Chief. Upon receipt of her letter, I contacted White House officials on Misty's behalf to urge that the necessary arrangements be made to allow her to present President Bush with traditional Sioux gifts during his visit to the Black Hills of South Dakota.

I am pleased that Misty Daniels was able to meet President Bush and am happy to have played a small role in this matter. I ask that a Rapid City Journal article on Misty's visit with President Bush, as well as the correspondence from her mother, be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rapid City (SD) Journal July 6, 1991]

EMOTIONAL BUSH MEETS WIDOW OF GULF WAR GI

(By Paulette Tobin)

President Bush had tears in his eyes as he thanked Misty Daniels for the sacrifice of her husband, Michael, who died Feb. 20 in a helicopter crash during the Persian Gulf war.

"He looked at me and said, 'How are you doing?' " said Daniels, who met with President and Mrs. Bush at Mount Rushmore, National Memorial before the July 3 dedication ceremony.

"It was very emotional," said Daniels, 20. "I just told him it was a very great honor for me to have been there, and he said it was a great honor to have met me. Then Mrs. Bush gave me a hug and she pushed my hair off my eyes and said I was a very brave woman.

Daniels, an enrolled member of the Oglala Sioux Tribe, was selected by the tribe to present gifts to the president to honor him and to welcome him to the Black Hills, said Daniels' mother, Olivia Gonzalez Felder.

Daniels, who was dressed in a traditional Indian ribbon dress, leggings, moccasins and other regalia, had about a minute with President and Mrs Bush. She also wore in her hair the eagle feather she was given during a Lakota memorial ceremony in Rapid City in March to honor those killed in the Persian Gulf war.

From the tribe, Daniels gave the president a tribal flag and a letter fom Tribal President Harold Salway. In the letter, Salway thanked the president for his leadership during the Persian Gulf war and told how proud the tribe was of the Oglala men and women in the armed forces. He encouraged the president to seek an accounting of the 2,300 POW/MIAs of the Vietnam War.

"I also wish to bring to your attention the Black Hills Claim," Salway wrote to the president. "Many of the economic and social ills that face the Sioux people today can be directly attributed to the loss of the Black Hills and other lands to the United States government."

Daniels also gave the Bushes presents from her family, including two medallions and a star quilt depicting an eagle sitting on a peace pipe.

Daniels, who plans to begin college in California later this summer, currently lives with her mother in Rapid City. This weekend she and her family have a special guest-Arricca Reichle, 24, of Savannah, Ga., whose husband, Hal Hooper Reichle, died in the helicopter crash with Michael Daniels.

Arricca Reichle said she and Daniels had met before their husband went overseas. Now, bonded.

"The pain never leaves," Misty Daniels said of her husband's death. "It is so hard to wake up in the mornings and realize you are not dreaming. It actually did happen."

RAPID CITY, SD, *May 24, 1991*.

LARRY L. PRESSLER,
U.S. Senator,
Rapid City, SD.

DEAR SENATOR PRESSLER: I am writing to you to request your assistance in a matter regarding the upcoming 50th Anniversary of Mt. Rushmore National Monument, to be held on July 4, 1991.

It is my understanding that President Bush will be honoring the attendees with his presence at this celebration. As an enrolled member of the Oglala Sioux Tribe, I wish to request on behalf of my daughter, Misty Daniels, that your assistance be given in efforts to make arrangements for a presentation of gifts to the President to honor him. As you are probably aware, it is our tradition to make such presentations to honorees at these types of events.

My daughter, Misty Lea Daniels is the only Operation Desert Storm widow in the state of South Dakota. Her husband, Army Specialist Michael David Daniels was killed in action in the Republic of Iraq while on a reconaissance mission on February 20, 1991. He was 20 years old. Misty is also 20 years of age.

Enclosed is a copy of a letter I have written to President Bush regarding this request.

Any assistance you can offer in expediting a reply to this request would be most gratefully appreciated.

Sincerely,

OLIVIA M. FELDER.

RAPID CITY, SD, *May 24, 1991*.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR MR. PRESIDENT: My son-in-law, Army Specialist Michael David Daniels, was one of the two soldiers who died when their OH/58 Kiowa Scout helicopter crashed while on a reconaissance mission in the Republic of Iraq on February 20, 1991 during Operation Desert Storm.

I wish to respectfully express my deep gratitude to you and Mrs. Bush for your letter of sympathy and your kind words of comfort in your letter to my daughter, Misty Lea Daniels. This has been one of the most difficult experiences in my life, as a mother; for the first time in my life, there is no way I can "fix" my child's situation. It will take a long time for us all to recover from our loss of Michael. We are immensely proud of the role he played in the liberation of Kuwait and in our great country's position as leader in this most recent fight for world peace. He is our own personal hero.

Mr. President, I would also like to express our appreciation and pride in you for your tremendous performance as our country's Commander-in-Chief. We realize that this was no easy task, to make the decisions you had to make during this war. We want you to know that every decision you made, we stood firmly behind. We are proud to have you as our President and have grown to greatly love and respect you as a human being.

We understand you will be attending the 50th Anniversary Celebration of Mt. Rushmore National Monument to be held here in the Black Hills on July 4, 1991. As enrolled members of the Oglala Sioux Indian Tribe, we wish to honor you at this celebration. Traditionally, an honoring ceremony includes a presentation of traditional gifts to an Honoree. Mr. President, I respectfully request permission for my daughter, Misty Daniels, to be allowed to make this presentation to you at this event. We believe, as the only Desert Storm widow in the state of South Dakota, that she deserves the honor of making such a presentation to you.

Misty would be dressed in full traditional Sioux regalia. We understand there are regulations involved, and individuals in the chain of command who also must be consulted, before this permission can be granted. However, I felt it appropriate for me, as her mother, to ask you, the designated Honoree, personally.

Thank you for your time, and I hope to hear from you soon, since the event is rapidly approaching.

In closing, I can only add, "God bless you, Mr. President. You, too, are our hero."

Respectfully,

OLIVIA FELDER.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, June 13, 1991.

Mr. FRED MCCLURE,
Director, Office of Congressional Liaison, the White House, Washington, DC.

DEAR FRED: Enclosed is a copy of correspondence I recently received from Olivia M. Felder of Rapid City, South Dakota, regarding her daughter's interest in presenting President Bush with some traditional Sioux gifts during the fiftieth anniversary activities at Mount Rushmore this summer.

As the enclosed correspondence indicates, Mrs. Felder's daughter, Misty Daniels, is the only Operation Desert Storm widow from the State of South Dakota. Sioux Indians traditionally honor an individual by presenting the honoree with traditional Sioux gifts. Her daughter wishes to honor President Bush in this manner.

During the consideration of President Bush's schedule for July 4th, I respectfully request that every consideration be given to the request of Mrs. Felder's daughter. If President Bush is unable to attend the July 4th ceremonies at Mount Rushmore, I would appreciate it if the White House would consider making other arrangements to allow Mrs. Daniels to present President Bush with the traditional Sioux gifts.

Thank you for your time and consideration of this matter. I look forward to hearing from you in the near future.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE WHITE HOUSE,
Washington, DC, June 25, 1991.

Hon. LARRY PRESSLER,
U.S. Senate, Washington, DC.

DEAR LARRY: Thank you for your recent letter with which you enclosed correspondence from your constituent, Mrs. Olivia Felder of Rapid City, South Dakota, expressing her daughter's interest in presenting traditional Sioux gifts to the President at the Mount Rushmore celebration.

We appreciate being advised of Mrs. Daniels' interest in presenting these gifts to the President. In an effort to be of assistance, I have shared your letter with the appropriate White House officials for their prompt review and consideration.

Thank you again for your interest in writing.

With best regards,

Sincerely,

FREDERICK D. MCCLURE,
Assistant to the President for Legislative Affairs.

[From the Rapid City Journal, July 12, 1991]

MISTY DANIELS WAS HONORED

On July 3, 1991, my daughter Misty Daniels met with President and Mrs. Bush at Mount Rushmore. Misty is the only Persian Gulf War widow from South Dakota, and our family is very appreciative of the fact that the president took the time to meet with Misty and receive the gifts and honors our family wished to bestow on him.

We would like to thank all persons who helped arrange the meeting, especially Senator Larry Pressler.

Also, your July 6 article contains an error. Misty wasn't selected by the Oglala Sioux Tribe to present gifts. All gifts were furnished by the Daniels/Felder/Gonzales families to honor the president for his leadership in the Persian Gulf War.

We thought it would be a good idea if our tribe also participated. We asked OST president Harold Salway if the tribe would like Misty to present a tribal flag and welcoming letter to the president. President Salway agreed. The tribe furnished the flag.

OLIVIA FELDER.

RAPID CITY.

THREE EGYPTIAN CHRISTIANS RELEASED FROM PRISON

Mr. HELMS. Mr. President, during the past several months, a number of other Senators and I have conveyed our concern to the Government of Egypt regarding the arrest and imprisonment of three Egyptian Christians. I am pleased to report that I have been informed by Egypt's fine Ambassador to the United States, His Excellency Abdel Raouf El Reedy, that all three men were released from prison this past Saturday, and are now home with their families.

The release of these men was not an easy decision for the Egyptian Government. Extremist factions in Egypt, as elsewhere in the Middle East, are a constant threat to peace and stability in the region. I am aware of the difficulties facing President Mubarak in dealing with these factions and I applaud his sense of fairness on an issue of great concern to many Americans across the country.

President Mubarak has shown courageous leadership through his support of efforts to promote peace. One of the most highly praised of his actions was Egypt's enormous contribution to the allied effort to liberate Kuwait.

Mr. President, in September and October of last year, Moustafa Mohammad Said al-Sharkawi, Mohammad Hussein Ahmed Mohammad Selam, and Hassan Mohammad Ismail Mohammad were arrested and imprisoned. The precise nature of the charges against them is not clear to Western observers, but apparently they amount to an indictment for proselytizing for Christianity.

It is difficult for Westerners to understand why a country which believes in freedom of religion would choose to make proselytizing a crime. Freedom of religion is a fundamental human right which includes the freedom to express, to hear, and to accept religious beliefs, as well as the right to exercise and develop such beliefs openly and peacefully. Of course, in the context of Islamic countries these actions may be—and, in this instance, were—understood differently.

At hearings in December, the Egyptian courts directed that the men be released on grounds of lack of evidence. However, the Ministry of Interior resisted this action and the men remained in prison until Saturday.

Mr. President, when the facts of the cases came to my attention, I along with others urged the Government of Egypt to look into the issue and to safeguard the constitutional rights of all Egyptians to freedom of religion. Among those on the forefront of this effort were Senators LUGAR, DURENBERGER, and NICKLES who actively sought the release of these men in a spirit of friendship with Egypt.

Once again, Mr. President, I express my deep appreciation to President Mubarak, Ambassador El Reedy, and many others in the Egyptian Government who have exhibited a sense of fairness on a highly sensitive but important issue to many of us in this body.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,313th day that Terry Anderson has been held captive in Lebanon.

TIME TO BAN BULLETS

Mr. MOYNIHAN. Mr. President, I rise today to note the needless passing of another life due to a bullet. Specifically, a 9-millimeter bullet fired from a semiautomatic handgun by a 12-year-old, killing his 10-year-old cousin Michael Miller.

Yesterday, the same day young Michael Miller died in Arlington, VA, a 9-year-old in the Bronx fired a 9-millimeter out an open window of his home. The bullet narrowly missed a clerical worker across the street. Police found the gun holding 20 more bullets in its clip.

Children killing other children has become commonplace in our cities. Since March, a child has been shot and killed in New York City at a rate of about one a day, many times caught in crossfire. Last summer nine children under age 14 were killed by random gunfire or stray bullets. During the first half of 1990, there were 158 handgun assaults on children. This year the numbers will probably be higher.

Last week this Chamber passed S. 1241, establishing for the first time a national waiting period for the purchase of a handgun and banning certain assault weapons. I support those measures. But I also believe we ought look for additional ways to reduce the violence in our streets.

On January 14, I introduced S. 51, a bill to ban the importation, manufacture, and transfer of .25 caliber, .32 caliber and 9-millimeter ammunition. The .25 and .32 are common calibers for Saturday night specials, small and concealable weapons that are a favorite choice of street criminals. The 9-millimeter is used in semiautomatic weapons, which can fire dozens of rounds in seconds and are commonly used by drug dealers. These weapons have no hunting purpose.

If we are serious about reducing crime—if we are concerned about children killing children—ammunition to these guns ought be banned. After all, guns don't kill people; bullets do.

We all like solving a problem, eliminating it altogether. Crime is one problem not emenable to a complete solution. A waiting period would reduce the number of dangerous individuals with access to guns, but not cut off the supply like a spigot. A ban on assault weapons would eliminate some of the deadliest guns, but leave others available. Likewise, a ban on .25 caliber, .32 caliber, and 9-millimeter ammunition would not eliminate street crimes, but it would reduce them. And every Michael Miller we can save is worth the effort.

I urge my colleagues to cosponsor S. 51, the Violent Crime Prevention Act of 1991, and ask unanimous consent that articles from the Washington Post and New York Times be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 16, 1991]

VA. YOUTH, 12, FATALLY SHOOTS COUSIN

(By Stephanie Griffith)

A 12-year-old Arlington youth shot and killed his 10-year-old cousin Sunday night, and police are investigating the circumstances of the shooting.

Police said yestereday that they found the body of the 10-year-old, who had been shot once in the head with a semiautomatic handgun, lying in the hallway of the basement apartment where the 12-year-old lives with his mother and two younger sisters.

Investigators said the youth's mother had left the children in the care of a 13-year-old babysitter when the shooting occurred about 10:30 p.m. in the 1100 block of S. 18th Street.

Police declined to release the identities of either child pending further investigation of the incident. However, sources identified the victim as Michael Miller, who lived out of town and was visiting the family of the 12-year-old.

"The matter is under investigation," said Arlington Commonwealth's Attorney Helen F. Fahey. "No decision has been made as of yet as to whether or not there will be any charges."

Police officials said the 12-year-old is at home with his mother and that a social worker from the Department of Human Services has been assigned to help with the trauma of the shooting.

A neighbor and family friend, who asked not to be identified, said the babysitter and the 12-year-old ran over to her home to ask for assistance after the shooting.

"It was accidental," said the neighbor, who was the first adult on the scene. "They were playing with a gun. The clip was in it so he thought it wasn't loaded."

By the time she arrived at the apartment, the neighbor said, the 10-year-old was unconscious and bleeding profusely, "I prayed over him," said the woman, whose three children are occasional playmates of the 12-year-old. "I prayed to God that he wouldn't die. I tried to take his pulse but I was pulsing so hard, I couldn't tell if it was my own pulse or his," she said as her eyes filled with tears.

The 10-year-old was taken by helicopter to Children's Hospital in Washington, where he died at 11:37 p.m. Sunday, according to a hospital spokeswoman.

The shooting occurred in the sedate Aurora Hills neighborhood in South Arlington, a close-knit, middle-class community with tree-lined streets and wood-frame houses.

Kay DeMarr, 37, whose children frequently played with the 12-year-old, described the youth as quiet and shy.

"He's the kind of kid who, if you said you did a terrible thing, he'd be devastated," DeMarr said. "He spends a lot of time in the Rec [Recreation Center] and a lot of time with the babysitter."

DeMarr described the 12-year-old as "a good kid. They're both good kids. It was a tragic accident."

The neighbor who came to the aid of the 12-year-old after the shooting said fascination with firearms has become common among children in the neighborhood.

"Part of it started when the [Persian Gulf] war broke out. All the kids around here are very interested in weapons," she said. "When my kids come with me to BEST [general merchandise store], they always go straight to the gun rack."

[From the New York Times, July 16, 1991]

Boy, 9, Charged After Shooting At Bronx Office—Child Learned Gunplay While Watching TV

(By John T. McQuiston)

A 9-year-old boy shoved a fully loaded ammunition clip into a heavy 9-millimeter gun he found in his Bronx apartment yesterday, pointed it out the window and fired at a nearby office building, narrowly missing a clerical worker, the police said.

The boy, who later told the police he had learned how to load the gun by watching television, fired only one shot at the building at 150 Willow Avenue, in the Mott Haven section. When the police recovered the gun, they found 20 more bullets in the clip and one in the gun's firing chamber.

The single shot nicked a window frame in the office building, passed by a worker's head and then went through a metal cabinet and became embedded in a wall, the police said.

When officers from the 40th Precinct arrived at the office building to investigate the shooting, they looked across the way and noticed the boy peering from an open window on the second floor a a three-family house at 745 East 136th Street.

Officer Andrew McInnis, a police spokesman, said the boy told the police that he had found the gun, a six pound Cobray automatic, in a bedroom where it had been left by a man who had been living with his aunt. Officer McInnis said the police were seeking the man for questioning.

When the boy, who was home alone, put the clip in the gun and squeezed the trigger, "he was just playing," Sgt. John O'Malley of the 40th Precinct told The Associated Press. "He's a kid. He's 9 years old. He's scared."

After he fired the shot, the boy removed the clip from the gun, but unknowingly left one bullet in the gun's chamber.

He could have killed himself," Sergeant O'Malley said.

Officer McInnis said the boy lived in the three-family house with his grandmother, Maria Garcia. He said the boy was charged as a juvenile delinquent and had been referred to Family Court.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is closed.

TITLE X PREGNANCY COUNSELING ACT

Mr. MITCHELL. Mr. President, pursuant to a previous order granting me the authority to proceed to Calendar No. 125, S. 323, the gag rule repeal bill, and the following consultation with the Republican leader, I now exercise my right to call up the bill.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

AMENDMENT NO. 753

(Purpose: To ensure that certain information, nondirective counseling or referral services regarding pregnancies is available under programs receiving assistance under title X of the Public Health Service Act and to clarify the circumstances under which such information, nondirective counseling or referral services must be provided)

Mr. CHAFEE. Mr. President, I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 753.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

"(a) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that pregnant women receiving services from projects funded under this title are provided with information and nondirective counseling services, and referral services upon request, concerning all legal and medical options regarding their pregnancies. Women requesting information or nondirective counseling under this section regarding the options for the management of an unintended pregancy shall be provided with nondirective counseling, and referral on request, concerning alternative courses of action that may include—

"(1) prenatal care and delivery; and

"(2) infant care, foster care, or adopotion services; and

"(3) prgnancy termination.

If, in the case of a woman requesting such information and nondirective counseling, an ectopic pregnancy or other immediate threat to the women's health is suspected, such woman must be referred for immediate diagnosis and therapy.

"(b) EXEMPTION FOR RELIGIOUS BELIEFS OR MORAL CONVICTIONS.—

"(1) IN GENERAL.—No project, or individual employed or associated with such project, may decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), except where the provision of such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the project or individual.

"(2) FACILITIES AND PERSONNEL.—A project that, as provided for in paragraph (1), declines to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), may not be required to—

"(A) make its facilities available for the provision of such information, nondirective counseling or referral services; or

"(B) provide any personnel for the provision of such information, nondirective counseling or referral services.

"(c) REQUIREMENT OF REFERRAL.—If a project or individual is exempt pursuant to subseciton (b) from the requirement of providing information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), such project or individual shall advise the patient of that fact and refer such patient to another individual within the same project, or if another such individual is unavailable, to another project, that provides such information, nondirective counseling or referral services.

"(d) PROHIBITION AGAINST DISCRIMINATION.—A project receiving assistance under this title after the date of enactment of this section shall not—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel; or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel;

because such physician or other health care personnel has provided information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2), or (3) of subsection (a) or refused to provide such information, nondirective counseling or referral services on the grounds that such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the physician or health care personnel, or because of the religious beliefs or moral convictions of the physician or health care personnel with respect to such information, nondirective counseling or referral services.

"(e) NONTERMINATION OF GRANT.—No project may be denied funding, or be terminated, under this title based on the decision of such project to provide or decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a). The burden of proof shall be on the entity or official making the determination to deny funding or terminate the project to demonstrate that such denial or termination is not based on the decision by such project to provide or decline to provide such information, nondirective counseling or referral services.

"(f) ACCESSIBILITY OF SERVICE.—A grantee under this title shall ensure that information, nondirective counseling or referral services on each of the subjects described in paragraphs (1), (2) or (3) of subsection (a) is available at an adequate number of projects assisted by such grantee under the grant within the geographic area served, or otherwise provide access to such information, nondirective counseling or referral services at another entity within the grantee's geographic area which will provide such services under the same financial eligibility criteria as projects assisted under this title.

"(g) DEFINITION.—For purposes of this section, the term 'project' means an entity that provides family planning services with funds received under this title under a negotiated, written agreement with a grantee.".

Mr. CHAFEE. Mr. President, the legislation before us today is called the Title X Pregnancy Counseling Act of 1991.

When I originally introduced S. 323, it required that title X funded clinics provide complete information to pregnant women, upon request, on all legal and medical options for the management of the pregnancy. That language was similar to an amendment I proposed last year and which passed by a vote of 62 to 36. Some of my colleagues raised concerns that this legislation would require individuals and projects to talk about pregnancy termination against their will. In response to these concerns, I have modified S. 323 and the modification is before us today in the nature of a substitute. This substitute legislation simply allows federally funded health clinics to provide pregnant women with complete information about their options when asked for such information. You may ask why we have such a bill before us. We all assume that this is standard procedure, that doctors provide their patients with all potential treatments and medical options available, even if the doctor would not choose certain treatments for himself.

In fact, Mr. President, this is the standard procedure for those of us who can afford a private physician. But for the millions of women in American who do not have enough money to pay for health care services, there is a new and different standard. Those low-income women will only receive information which is censored by the Government. The Government has determined it has this right because the Government is paying for those services. And the Supreme Court agrees, stating in its opinion that the woman is left "with the same choices as if the Government had chosen not to fund family planning services at all." In light of the fact that the goal of the title X program was to expand, not limit access to reproductive health care services, it seems that the Court is out of step with Congress' intent.

Let us review the history of this issue. Title X of the Public Health Service was enacted in 1970 with a stated goal of providing a broad range of acceptable and effective family planning methods and services for women who otherwise have little or no access to such services. Title X authorizes project grants for public and private nonprofit organizations for the provision of family planning services to all who want and need such services, with priority given to low-income persons. The title X program serves nearly 5 million women every year and is the only Federal program targeted specifically to family planning.

Since its enactment in 1970, title X has been prohibited from using its funds to pay for pregnancy termination services. It has been certified by the HHS and by the General Accounting Office that this prohibition is being adhered to, that title X funds are not being used to pay for pregnancy termination. My legislation would not change this provision in any way.

For the first 18 years of the program's operation, the policy with respect to pregnancy counseling was to inform women, at their request, of all legal and medical options for the management of an unintended pregnancy. Guidelines issued by HHS in 1981 provided very clear direction on this issue. They read as follows:

> Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended pregnancy are to be given non-directive counseling on the following alternative courses of action, and referral upon request:
>
> Prenatal care and delivery; Infant care, foster care or adoption; and pregnancy termination.

So, for 18 years, this is how the program worked. A poor pregnant woman would come in to a title X clinic, she would ask what her options were and the doctor or counselor in the clinic would provide her with nondirective information about all her legal and medical options. What does nondirective mean? It means that they would not advocate for one option over another. They would give the woman her options and let her make her own decision about what is right for her particular situation. Standard medical procedure.

In 1988, HHS decided that this policy should be reversed because some people do not agree with pregnancy termination, even though it is a legal option in our country. HHS issued new regulations that prohibit clinics receiving title X funds from providing such nondirective counseling on pregnancy termination. Instead, a woman with an unintended pregnancy who visits a clinic that receives title X funds is to be referred only for prenatal care. And if she asks about pregnancy termination she is to be told that "the project does not consider pregnancy termination an appropriate method of family planning and therefore does not counsel or refer for pregnancy termination." The doctor is then to tell the patient that they can help her obtain prenatal care and social services, give her a list of providers "that promote the welfare of the mother and the unborn child" and send her on her way.

This is not nondirective counseling. This is forcing a woman to choose one particular option because some people do not agree with the other legal and medical options. And what do we do about the incident I recently heard: A poor woman found herself pregnant with triplets in rural Georgia. She was a drug user and had several other children and recently discovered that she was infected with the AIDS virus. When she went to receive care in rural Georgia, she was sent to Grady Memorial Hospital in Atlanta, a recipient of title X funds. She was told that because the Supreme Court had just upheld these regulations, they were afraid to provide her with any counseling, and sent her on her way. It seems to me, Mr. President, that the least we could do for this woman is tell her what her options are.

When these regulations went into effect in March of 1988, lawsuits against HHS were filed in Federal district courts in Colorado, Massachusetts, and New York. Judges in the Colorado and Massachusetts cases found the rules to be unconstitutional and issued injunctions protecting plaintiffs across the country. However, the regulations were upheld in the New York Second Circuit. As a result of this split, the Supreme Court agreed to hear arguments on the case. In a 5-4 decision, the Supreme Court held that congressional intent with respect to this issue is ambiguous, and thus upheld the regulations.

Last year, in a 62-36 vote, the Senate voted against the regulations when I offered my original bill in the form of an amendment to the title X reauthorization bill. Unfortunately, the Senate failed to take action on the underlying bill before we adjourned last year. Nevertheless, it seems to me that this vote was a strong indication of Congress' intent. But, clearly, we must act again, and now is the time for that action.

Mr. President, these regulations are bad policy for a number of reasons. First, they conflict with the professional ethics of major medical organizations, including the American Medical Association and the American College of Obstetricians and Gynecologists, which insist on the patient's right to full information. The AMA's policy states that a "physician should counsel his or her patient on the full range of medical treatment options appropriate for a given medical condition. We believe each patient is entitled to full and fair disclosure of all relevant information and that such disclosure is essential for the patient to make an informed decision."

On June 13, 21 national medical and nursing organizations held a press conference here in Washington calling for the administration to rescind these regulations. The AMA has remained neutral on the issue of abortion rights. Yet in a July 15 letter to me, the AMA stated that they support the substitute before us today because "it will ensure that physicians are free to counsel their patients on the full range of medical information and options, and that patients are able to exercise their right to make informed health care decisions. The amendment is essential to preserve the integrity of the physician/patient relationship."

Mr. President, I ask that the full text of this letter and the list of the medical organizations opposed to the gag rule be printed in the CONGRESSIONAL RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 15, 1991.

Re Amendment to S. 323.

Hon. JOHN H. CHAFEE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: The American Medical Association (AMA) strongly supports your continuing efforts to overturn the Title X "gag rule," and prevent unwarranted government interference in the physician/patient relationship within the federal family planning program.

The amendment in the nature of a substitute that you will offer to S. 323 will ensure that physicians are free to counsel their patients on the full range of medical information and options, and that patients are able to exercise their right to make informed health care decisions. The amendment is essential to preserve the integrity of the physician/patient relationship.

The AMA commends you for your leadership in this vital matter.

Sincerely,

JAMES S. TODD, MD.

Mr. CHAFEE. Second, the regulations are ill-conceived because they create a two-tiered system of health care where low-income women receive more limited information and care than women who can afford private medical services. What these regulations do is say to wealthy women, you go in this line because there you can pay for all the information you need. But you poor women, you go over in another line. You have no money, therefore, the Government will help you. But, because the Government is paying, we will decide what you can and cannot know about your legal and medical options.

Now some people may say this is fair. After all, if the Government is paying for these services, the Government has a right to decide what those services should include. The Supreme Court went even a step further, stating in its majority opinion that the "constraints on such a woman's ability to enjoy the full range of constitutionally protected freedom of choice are the product not of government restrictions, but of her indigency." And what does this mean, Mr. President? It means that it's not the Government's fault that these women don't get quality medical care. It is their own fault because they are poor.

In response to this harsh and mean-spirited statement, Mr. President, I would say that, while some may believe that the Government has no obligation to improve the welfare of its citizens, it certainly should not be a party to making matters worse. These regulations do make matters worse.

Third, the regulations place title X projects in the untenable position of having to choose between keeping their funds and complying with the Government's regulations, or foregoing the funds and being unable to provide services to the millions of low-income women who need them. Further, while title X funds often comprise a relatively small percentage of a clinic's total revenues, the regulations prohibit family planning counselors and physicians from discussing pregnancy termination as a legal and medical option with all of the clinic's patients, even those who are paying for their services.

In Rhode Island, for example, Thundermist Community Health Center receives approximately $27,000 in title X funds. The total number of family planning patients served annually at Thundermist Health Center is 1,600. Of those 1,600 patients, only 216 are subsidized by title X. Nevertheless, the new regulations would force Thundermist to refrain from providing information regarding all legal and medical options to all 1,600 patients, even though 86 percent are non-title X patients.

Fourth, the regulations place health care professionals at risk for medical malpractice. Physicians have already been held liable for failing to provide complete information to a patient about his or her medical condition and medical options. Imposing the so-called gag rule would undoubtedly foster unnecessary litigation.

For all of these reasons, I have introduced regulation to overturn these regulations, and this is the measure before us today. Some of my colleagues have expressed concerns about this bill, mainly that S. 323 as introduced would require clinics to counsel on pregnancy termination. As a result, I have revised this language, and it is before us today in the nature of a substitute to my original bill. This new bill allows, rather than directs, title X funded clinics to counsel on all legal and medical options, including pregnancy termination. If a clinic, or an individual in a clinic, for moral or religious reasons does not wish to counsel on one particular option, they will not be required to do so. But the patient must be informed of this fact and referred to another provider which will give her complete options counseling.

My bill will ensure that the Department of Health and Human Services under this administration cannot revoke funding to organizations solely for the reason that they provide complete pregnancy options counseling, including pregnancy termination. And it will ensure that the Department of Health and Human Services under a future administration will not revoke funding because a project may want to provide counseling just for natural family planning. It is a balanced and fair compromise.

Finally, Mr. President, let me say that this is not about abortion rights. That is already an established legal right in our country that is protected by the Constitution. This is an issue about health care. The question before us is not whether you support abortion rights. The question is whether you believe that low-income women are entitled to the same quality of care as women who can afford private care. I believe the answer is "yes."

If I might, I would like to submit a list of those medical and nursing organizations opposed to the gag rule.

Mr. President, I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDICAL AND NURSING ORGANIZATIONS OPPOSED TO THE GAG RULE

Ambulatory Pediatric Association.
American Academy of Family Physicians.
American Academy of Nurse Practitioners.
American Academy of Pediatrics.
American College of Nurse Midwives.
The American College of Obstetricians and Gynecologists.
American Fertility Society.
American Medical Women's Association.
American Nurses Association.
American Public Health Association.
American Psychiatric Association.
Association of Professors of Gynecology and Obstetrics.
Association of Reproductive Health Professionals.
Council on Resident Education in Obstetrics and Gynecology.
NAACOG: The Organization of Obstetric, Gynecologic & Neonatal Nurses.
National Association of Community Health Centers.
National Association of Neonatal Nurses.
National Association of Nurse Practitioners in Reproductive Health.
National Conference of Gerontological Nurse Practitioners.
National Organization of Nurse Practitioner Faculties.
Society for Adolescent Medicine.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

PRIVILEGE OF THE FLOOR—S. 323

Mr. KENNEDY. Mr. President, I ask unanimous consent that during the consideration of S. 323, the Title X Pregnancy Counseling Act, Emily Vantassel, a Georgetown women's law and public policy fellow on my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I support S. 323, the Title X Pregnancy Counseling Act of 1991, sponsored by Senator CHAFEE and many other Senators on both sides of the aisle.

The legislation will overturn the controversial Reagan administration gag rule regulations under title X that deny certain basic information about abortion to low-income women.

If these regulations are enforced, patients who go to a federally funded facility will be unfairly denied full information about their health care.

In addition, if these regulations are enforced, doctors and medical personnel across the country will also be denied the right to practice medicine according to their professional standards.

That issue is at the heart of this debate, and it is why the regulations are called the gag rule. The Federal Government is trying to tell doctors and other health professionals what they can and cannot say to their patients.

In effect, if we permit these regulations to stand, Congress will be practicing medicine without a license.

Since its enactment in 1970, title X has prohibited the use of Federal family planning funds for abortion.

Abortion is not the issue here. Free speech is. Congress agreed that Federal funds should not be used to perform abortions. But Congress never intended to gag physicians or stop them from talking about abortion.

It is the height of hypocrisy for the Bush administration to force doctors to violate their hippocratic oath.

Congress also never intended to deny pregnant women information about the entire range of choices they face, including their constitutional right to abortion.

The current regulations are a blatant attempt to impose the administration's own ideology on the 5 million American women who receive title X services—and to prevent doctors from providing competent advice on their patients' health care needs.

The gag rule regulations were issued in 1988. They were immediately challenged in court, and their enforcement has been suspended ever since.

Last month, the Supreme Court upheld the regulations by a 5-4 decision in Rust versus Sullivan. That ruling, however, barely touched the merits of the regulations.

It merely said that the Congress, of course, is free to revise them or repeal them.

In his eloquent dissent, Justice Blackmun summarized the damaging impact of the Rust decision on first amendment freedoms. As he wrote:

> The majority professes to leave undisturbed the free speech protections upon which our society has come to rely, but one must wonder what force the first amendment retains if it is read to countenance the deliberate manipulation by the Government of the dialogue between a woman and her physician.

The gag rule regulations deny women the right to receive the information they need in order to make informed decisions about their health, their lives and their families.

The relationship between a doctor and a patient should be protected from intervention by the Government. Patients deserve to have full confidence that the information they receive is based on the professional judgment of their doctor, not the political opinion of their Congressman. The gag rule violates that basic trust.

Major medical organizations such as the American Medical Association, the American College of Obstetricians and Gynecologists, the American Nurses Association, and leading public health schools across the country have expressed their opposition to these regulations.

And for excellent reasons.

Physicians must be free to treat patients as they see fit, in accordance with their professional standards and without interference from politicians. Yet these regulations would deny them the basic right to practice their profession as they see fit.

For years, Congress has worked to provide access for low-income Americans to adequate health care. These regulations are a flagrant attempt to undo some of that progress.

What we are creating with these regulations is a two-tiered health care system, in which low-income women receive information that has been approved by the Government—while women with the means to obtain private care are able to get complete information without restrictions.

Finally, time is of the essence. Within the next month, title X grantees will be faced with an unconscionable decision.

They can accept Federal funds and restrict the information they give out. Or they can give up the Federal funds and cut back on their overall services.

For many of the 5 million low-income women who receive health care from hospitals and clinics, title X is their sole source of care. Poverty has handed them but one choice—to accept the medical care they receive from the title X facility, or obtain no medical care at all.

Title X has a proud history as one of the most successful and cost-effective health care programs ever enacted. It saves $4.40 for every $1 spent.

Since it was enacted, it has saved billions of dollars that would otherwise have been spent on medical care, welfare, and other social services.

By protecting the integrity of title X, we protect the right of American women to receive the information they need to make informed decisions about their health care and their future. We protect the fundamental right of American physicians to practice their profession, free of Government intrusion. And we protect the Bill of Rights. I urge the Senate to repeal the gag rule regulations.

Mr. ADAMS. Mr. President, I rise today to voice my strong support for S. 323, Senator CHAFEE's bill, and the substitute which has been offered this morning as an amendment, in order to overturn the regulations issued by the Reagan administration in 1988 to prohibit family planning counselors from discussing abortion with women who request information about terminating an unwanted pregnancy.

Last month, for reasons that have much to do with antiabortion ideology and nothing to do with reality, the Supreme Court upheld an odious gag rule. This gag rule has everything to do with the issue of free speech and proper medical practice and nothing to do with whether or not one may or may not believe in abortion or choice. When the Supreme Court handed down the Rust decision, I was outraged. I am still outraged, Mr. President, because it is clear that women can no longer count on the highest court of the land to protect their rights, to give them full and fair information. That is a basic right, a basic bit of human decency to which anyone in a civilized country should expect that someone in a profession, someone who is a friend, someone who is not an enemy will give you full and fair information and tell you the truth.

Any woman receiving services in a title X clinic, whether she pays or not, will be denied full information. Even if she is paying for this, Mr. President, she will be denied full information on her medical options from her doctor.

Family planning counselors, under the gag rule of these regulations, which we are trying to overturn and which we will overturn today, are prohibited from telling a woman about abortion or referring her to another medical facility where abortion information or services are provided. If she is pregnant and asks about abortion, the doctor is permitted only one response under these regulation, and that response is this facility does not consider abortion an appropriate method of family planning. That is what the doctor says.

No one on our side has ever said abortion was a method of family planning. No doctor who testified ever stated that abortion was a method of family planning. They are not telling people that you go out and get pregnant and I will give you an abortion. That has never been done. That is not the point. That is why I am hopeful that this bill will pass overwhelmingly. I am hopeful that it will almost be unanimous because a facility under these regulations we are trying to overturn must state that abortion is not an appropriate method for the woman at all, even if the woman is a victim of rape or incest. They provide no information, no counseling on abortion. It is true even if the pregnancy may be life threatening, and that is what happens, Mr. President. That is what we are talking about in these cases.

These clinics treat an enormous number of women and come in asking for advice and find that they are pregnant, and at that point, their medical information under the gag rule is cut off. What a tragic occurrence. This is just words; this is not the performance of any abortion. This is to tell a person under the free speech clause of the Constitution and under the ethics of the medical profession what the woman's options are so that she may choose.

What a dreadful thing for a society to not tell people the full truth. It is almost like Orwell, and it is even worse if you direct that person, that woman who is standing before you, into something that is not sound medical practice.

This is true even if the woman is paying for the medical services, though I want to stress that many, many of the young women particularly and from minorities in particular who appear in these clinics, that is the only place they get any advice.

Mr. President, title X is one of our most effective health prevention programs. It is a good program for health reasons, for the prevention of sickness or unwanted pregnancies or injury to a woman. The gag rule makes a mockery of that. By upholding the regulations, the Court, without a moment's hesitation, relegated poor women to a second-rate health care with the snapping of their fingers. This was not necessary because, for the last 20 years, low-income women across this country have received essential medical care they just otherwise could not get.

Almost 5 million women a year receive services, counseling and otherwise. These women are typically young and poor. Eighty percent have incomes below 150 percent of poverty. For these women, the title X funded clinic was the only source of family planning services they got during the year. It should come as no surprise then that for many women, family planning clinics are not only critical resources for contraceptive information and services, but they are their only entry point for very basic health care services.

The question today is quite simple: Are we ready to tell the women of this country if they are poor or have no access to health care services, other than a title X clinic, they will receive by law selective or limited health care services that are legal and are available to women who can afford them or who pay for them? Are we going to let doctors tell women the truth or are we going to force them to violate their ethical and legal obligations as physicians to provide full information?

I ask my colleagues, as a law professor asked the Labor Committee to do at a recent hearing on medical implications of the gag rule to poor women, imagine this set of regulations and restrictions in any other medical or professional context. Can you imagine a cancer counseling program that forbade counselors to tell their patients about the option of chemotherapy or radiation, or a legal srvices lawyer who is prohibited from telling his or her client about the option of divorce or of separation?

Mr. President, I cannot, because the principle of nondirective, neutral counseling is so central to our tradition in this country, both to the professions and to simply good practice among decent people. It governs all professions: doctors, lawyers, mediators, insurance brokers, even real estate salesmen.

For the last 20 years, this principle has been the defining element of the family planning program. Family planning counselors are required by their professional creed as well as by Government guidelines, to provide full information to the person they are counseling and not—I stress the word "not"—to direct them in any particular manner. This is the way it should be. The Chafee bill would simply codify the principle of nondirective options and nondirective counseling in the statue for title X family planning services.

The chorus of organizations against these regulations is strong and impressive. Thirty-six State governments have said do not do what the Supreme Court has done with these regulations. Seventy-eight national organizations, including major medical organizations such as the American College of Physicians, the American Academy of Pediatrics, the American Public Health Association, the American Medical Association, the American College of Obstetricians and gynecologists, and all 25 schools of public health are opposed to the gag rule. These groups are opposed to the gag rule because these regulations represent an unprecedented and unacceptable Government interference and regulation of good medical practice.

The American College of Physicians said it best when they wrote the President earlier this month: "These regulations contravene ethical medical practice * * * compromise a patient's legal right to give informed consent," and "imperil the health of American women."

Let us heed the advice of the medical community and the women of this country and overturn the gag rule once and for all. I urge my colleagues to vote in favor of the Chafee bill and the substitute that he has offered and to reject all other weakening amendments.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I thank the distinguished Senator from Washington for his helpful remarks.

Mr. President, yesterday in Minnesota at a family planning clinic in Minneapolis there was an extraordinary gathering of physicians and health care professionals from all around the State, from northern Minnesota, from southern Minnesota, representing so many different views on so many different subjects, but not on the subject they came to discuss. On this subject we stood united. We stood united in opposition to a law that must fall, the so-called gag rule. Some were divided on the issue of abortion, but they stood united in opposition to the gag rule. They stood united on the issue of communication between physicians and patients.

Mr. President, the fact that these medical professions from all over the State, from so many different backgrounds, came together in this remarkable assembly in Minneapolis yesterday is testament to the gravity and the consequence of the issue that we face today in the Senate. They came from the Minnesota Medical Association; they came from the Minnesota Nurses Association; they came from Planned Parenthood; they came from the Zumbro Valley Medical Society; they came from the University of Minnesota; they came from the Bethesda Family Physicians in St. Paul; and they came from the Women's Health Center in Duluth.

This was a union of concerned medical professions acting not out of their economic self-interest but instead staking out a powerful ethical stand on behalf of their patients, on behalf of their women patients.

They spoke of the ethical precepts from which the foundation of conscientious medicine is formed. They said that withholding information from patients was comparable to lying, and they said that they would refuse to lie to their patients.

They said that they were offended that physicians were asked to be an agent or tool for someone's political agenda. They said that it was unconscionable to tell physicians to fail to give patients full information. They said this rule would promote a lack of confidence in the medical profession. They wondered, if we let this rule stand, what next.

They read a statement from the board of the Minnesota Medical Association. First, the board of the Minnesota Medical Association indicated its support of the following position of the American Medical Association. Mr. President, I quote:

> The American Medical Association does not view abortion as a method of family planning. However, the regulations upheld by the United States Supreme Court have impact beyond planning prior to pregnancy. The regulations prohibit a physician from counseling a pregnant woman even in situations where the pregnancy presents health risks, often very serious risks, and termination of the pregnancy is medically indicated. Some of those indications in which pregnancy presents health risks include cancer, diabetes, severe cardiac conditions, and AIDS. To this extent, the American Medical Association objects to the regulations both from an ethical and a liability standpoint.

The Minnesota Medical Association went further stating, Mr. President:

> The Minnesota Medical Association strongly believes that in the interests of excellent medical care, a physician should be free to provide the patient all information needed for the patient to receive the most

medically appropriate care and therefore urges its members to take action to overturn any rules or legislation that restricts free speech and communication between the physician and the patient.

Mr. President, let us be clear about this issue and about this debate in personal terms. Let us consider the impact of the gag rule on the women, often young women, young girls who seek counseling.

Many of the women who seek medical advice in title X clinics are below the poverty level. Many of them are frightened. Many of them are in crisis. Many of them are pregnant because of an act of violence or force. These women come to the only place they know to go to get advice. The gag rule tells physicians and counselors to deceive these women when they are the most vulnerable, the most desperate, and the most needy of aid and counseling.

For women in crisis, the gag rule tells our medical physicians to conceal the truth. The gag rule tells our doctors to provide inadequate and incomplete medical advice, to violate all standards, all standards of medical ethics.

The rule violates a woman's fundamental right to self-determination and, worse yet, the effect of this gag rule is targeted on the poor and the most vulnerable and the most helpless women in our society.

Mr. President, it should be pointed out to everyone in this gallery and to the people in our country that title X is the only Federal program targeted specifically to family planning. It was designed to serve low-income women, and the gag rule creates a double standard for medical care. For women who can afford private medical care, they go in to see their doctors and they receive full information. Women who cannot afford private medical care are given something less than the truth. That is what this gag rule does. It gives women without the income something less than the truth. It forces doctors not to provide women with the medical truth.

Mr. President, this gag rule further segregates our society by class and by income. Mr. President, this gag rule does not create a gentler and a kinder society. This gag rule creates a meaner and a more divided society, and that is not the direction that we want to go in.

The gag rule denies poor women the truth. The gag rule denies poor women full information. The gag rule denies women the right to make informed choices about the most personal decision that a woman would ever have to make in her life.

Mr. President, we cannot allow this rule to stand. We cannot allow the recent Supreme Court decision Rust versus Sullivan to stand. We must act swiftly and we must act decisively to enact this bill and to overturn the gag rule.

TITLE X PREGNANCY COUNSELING ACT OF 1991

Mr. PACKWOOD. Mr. President, I rise as a cosponsor of the Pregnancy Counseling Act of 1991, along with Senator CHAFEE and numerous others, both Republican and Democrat.

With this legislation we offer the Senate the opportunity to reaffirm its rejection of the title X gag rule, which denies women who rely on title X clinics for health care their right to receive full and uncensored information about all of their available medical alternatives.

Title X was enacted by Congress in 1970, for the commendable purpose of providing family planning services, primarily to low-income women. It has been tremendously successful, providing millions of women not only with reproductive health services, but in many instances with basic care in areas where no other provider was available.

For 18 years, until 1988, health care professionals in title X programs were able to provide the quality and type of counseling which is not only a patient's basic right, but which organizations such as the American Medical Association state in their guidelines that physicians should give. Prior to 1988, women diagnosed as pregnant in title X clinics were offered information and referrals on all their options including: First, carrying the pregnancy to term; second, keeping the child, adoption, and third, terminating the pregnancy. That policy was codified in the original Health and Human Servcies guidelines for title X.

Then in 1988, after Congress rejected numerous attempts to bring down or significantly weaken title X, Health and Human Services implemented new regulations that would hamstring medical professionals providing title X services. Although title X funds have always been prohibited from being used to pay for abortions, and have never been so used, Health and Human Services' new rules explicitly forbid doctors, nurses, or any other employee in a title X clinic from providing information, counseling, or referrals concerning abortion to women. In fact, these rules do not allow such communication even if the woman asks. These regulations came to be known with good reason as the gag rule.

As the Senate debates the legislation before us, there may be attempts to argue that these are not gag rules at all, and that it is permissible for a provider under the regulations to discuss abortion. Let me say that I understand why the proponents of these regulations dislike the term gag rule, because it graphically describes the censorship with which we are dealing here. But there is no doubt that the regulations proscribe communication about abortion. Let me quote from the Federal Register of February 2, 1988, which contains the final draft of the rules:

> 42 CFR (Code of Federal Regulations), section 59.8: Prohibition on Counseling and Referral for Abortion Services * * * (a)(1) A title X project may not provide counseling concerning the use of abortion as a method of family planning or provide referral for abortion as a method of family planning * * *.

And then examples are provided in the rules as to how a clinic should handle inquiries about abortion:

> A pregnant woman requests information on abortion and asks the title X project to refer her to an abortion provider. The project commissioner tells her that the project does not consider abortion an appropriate method of family planning and therefore does not counsel or refer for abortion. The counselor further tells the client that the project can help her to obtain prenatal care and necessary social services, and provides her with a list of such providers, from which the client may choose. Such actions are consistent with (the rule).

If that example does not describe censorship of information about abortion, I don't know what would. So please don't be misled in this debate today about what the gag rules do: They do prevent medical personnel from giving abortion information, and it is important to note that no exception is made if the woman is a self-paying patient who just happens to obtain her health care from a provider who also receives title X funds. So we are not talking about only low-income women here.

Mr. President, these gag rules are a travesty, allowing the Federal Government to intervene in an unwarranted and unprecedented way in the physician-patient relationship. Courts have found that doctors who fail to share medical information with patients commit malpractice. The American Medical Association guidelines direct physicians to give complete information. Health and Human Services, the Federal agency charged with the health and well-being of Americans, should be loathe to tie the hands of medical providers in this way.

The gag rules were successfully challenged in Federal courts in Colorado and Massachusetts, but upheld in New York. Because of this split in the courts, the Supreme Court agreed to review the matter in a consolidated appeal, Rust versus Sullivan. On May 23, 1991, the Court upheld the regulations. I, for one, was surprised by the Court's ruling. There are many legal issues on which the Court has developed a fine body of law. Unfortunately, the whole area dealing with the right to choose has not, in the recent past, been one of them. I am in great disagreement with the ruling in Rust. I believe the Court overlooked or avoided critical legal issues. Notwithstanding the very serious effect these regulations have on patient rights and physicians' ethical duties, the first amendment implications alone are sufficient reason to override them. The chill these prohibitions place on communication between medical provider and patient is devastating.

In spite of what many of us see as its failure to address the critical constitutional issues in Rust, the Court was definite about one thing: Congress must act to make it clear that we do not intend that medical practioners' speech rights be violated, or that participants in a federally funded health care program be given less than complete medical information. Fortunately, this should not be a difficult issue for the Senate. It is not an issue of first impression for us. On September 25, 1990, we voted 62 to 36 for Senator CHAFEE's amendment to the title X reauthorization bill to overturn the gag rule.

The legislation which we offer today, like the amendment which the Senate passed last year, would restore the situation to what it was for nearly 20 years prior to 1988. Medical professionals in title X clinics would be free to provide the same quality of service to women that other medical providers do: Information and referrals on abortion for those women who want such information. Our legislation would have no effect whatsoever on the prohibition against title X clinics providing abortions. Government funding of abortion is a separate issue, and this legislation does not address it.

In addition to overturning the gag rule, the legislation which we offer today does one important additional thing: It clarifies that title X clinics and medical personnel having a moral or religious objection to abortion are not obligated to provide information on it. They need only refer the woman seeking information to another clinic or another health care person within the same clinic who would provide the information. This is an important codification of current practice, and by spelling it out in this legislation we ensure protection for the rights of title X clinics and their personnel.

Mr. President, what is at stake today as we consider the title X Pregnancy Counseling Act is the integrity of the physician-patient relationship and the first amendment rights of medical professionals. I ask for my colleagues' support of this very important legislation.

Mr. President, it is important that we understand what we face here. This is not a constitutional issue. This is not the Supreme Court interpreting the Constitution one way or the other and prohibiting Congress from enacting unless we want to amend the Constitution. Although a bit later in my remarks I will make an analogy to another constitutional right where I find the Court has gone in a different direction.

This is barely even a statutory issue because from 1970 to 1988 under the statute as it now exists family planning clinics were allowed to advise patients whether or not they wanted to choose an abortion, and could give them their normal advise on their constitutional right to have an abortion.

Then in 1988 the regulations under the statute were changed. The statute was not changed. I think Congress fully understood what we intended, what we thought, and we lived under it for 18 years. That was the family planning clinic could say to a woman, you can carry the baby to term, put it up for adoption, or you can carry the baby to term, and keep it. You have the right to abortion. Here are your alternatives.

We thought that is what the law meant because if we did not think that is what it meant we would change it.

In 1988, in the latter days of President Reagan, the administration changed the regulations under the statute and said that statute permits us to order any family planning clinic that has Federal money not to mention the word abortion. My initial thought was this is clearly unconstitutional. You have a constitutional right to an abortion.

For the Federal Government to say we are going to compel you, family planning clinic, not to advise somebody about their constitutional liberties, I would have thought this Court would have struck down as unconstitutional. But they did not.

It does lead to some interesting other possibilities. Statutorily could we say to a medical school that receives Federal money, and they all do, you may not teach about abortion? We are about a constitutional issue here. Would we have the power to say it? Under this Court's interpretation I fear we might have that power.

And the medical schools, who knows what they might do? They receive a lot of money from the Federal Government. They might take Talleyrand's advice—do the king's work, if you take king's money.

But we would be laughed out of this body, out of Congress, and laughed at all over this country if we tried to pass a law, or if the administration tried to issue a regulation, that says medical schools because they receive Federal money may not teach about abortion. We would be regarded as ridiculous. Does teaching about abortion lead to the possibility that some doctors might perform abortions? Of course it does. So we put that aside and say we would never touch that.

I want to come back to this constitutional argument. You have a constitutional right to an abortion. The Court has not yet overturned Roe versus Wade. I hope they never do. I live in the fear of the day they do because this country will see a division worse than Vietnam if it happens. But they have not yet. Yet, the Court has said that even though you have a constitutional right, you have no constitutional right to know about it.

What if we were to carry that a bit further? You have a constitutional right when you are arrested to remain silent under the Miranda case of almost 30 years ago now, and you see that on television series all the time now. The police arrest somebody, and the police reads the suspect his or her rights. You have a constitutional right not to incriminate yourself, and if the police officer does not advise you of that right you will probably go free as a criminal defendant.

But here is what bothers me about this Court's decision in this case. For the first time in the history of this country they are putting constitutional rights on a different scale of priority.

We have never done that. We have always said in the 200-year history of this Supreme Court that a constitutional right was a constitutional right, and freedom of the press was a constitutional right. And the right against self-incrimination was a constitutional right. And the right to attend a school that was not segregated was a constitutional right. And the right to have all legislative districts equally apportioned was a constitutional right. And the right to have an abortion was a constitutional right.

Never before in the history of the Court have they said that some rights have greater priorities than others. Therefore, here is what I fear. In their mind they are thinking, yes, I know the theory of the equality of constitutional rights but somehow the right to choose does not quite rise to the same dignity as the others. And therefore we can circumscribe that. Therefore we can say to any family planning clinic in this country that gets Federal money, you are prohibited from advising a patient about their constitutional right. And the Supreme Court says that is OK. It is not OK to deny them the right to know they are entitled to remain silent, to have counsel. That would be unconstitutional. But it is OK to say they cannot be told about this.

I hope, Mr. President, that this body, when we vote on this, passes the overturning of the Supreme Court opinion by such a large margin that we are in the position to override a veto if it comes to that. I hope it does not.

But, if necessary, I hope we are prepared to override the veto. But my greater fear is not whether or not we overturn the Court—we will have the votes here to do it. My greater fear is what that Court decision portends for the constitutional right to choose—whether or not you want to have an abortion. If the Court overturns that right, Mr. President, then we are in for a long, bitter struggle in this Senate and in the House of Representatives and in this country. It is a battle I do not wish upon this country. But if it comes, I will be prepared to be in the forefront of leading that battle to make sure we give back that right to choose if the Court ever takes it away.

I thank the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Utah [Mr. HATCH].

Mr. HATCH. Mr. President, we have heard a lot of eloquent statements on why people need to be counseled on abortion. We have heard a lot of eloquent statements on why family planning clinics, not abortion clinics but family planning clinics, should permit doctors, nurses, secretaries, and other personnel—some with absolutely no medical experience—to counsel a young woman to have an abortion. We have heard now far-flung and esoteric these rights should be. The fact of the matter is that family planning clinics were never set up for the purpose of referring for abortion, conducting abortions, performing abortions, or for telling young women or any woman that this is a preferred order of choice.

I wish to read the statement of the administration policy on this very bill, the substitute of the distinguished Senator from Rhode Island. This comes from the Executive Office of the President of the United States:

> S. 323 would require the use of title X family planning dollars for counseling on, and referral for, abortion. In addition, by negating current regulations, it would continue the practice of minors being counseled and referred for abortions without parental consent.

Keep that in mind. That is an important point. By this bill and the amendment thereto of the distinguished Senator from Rhode Island, you can counsel any young woman, no matter what her age, to have an abortion without parental consent. Later today, we are going to have a parental-consent amendment brought up by the distinguished Senator from Indiana, and I guarantee you there will be a second-degree amendment to it that will make it useless because those who were so adamant about abortion are equally adamant that a young woman should not have the consent of her parents.

I think the administration makes a good point here.

And then they go on to say:

> Under current regulations, pregnant women who seek services from title X funded projects are appropriately referred for counseling to qualified providers.

If they want an abortion, there is no question they can be referred to somebody who can give them advice.

In addition, the administration policy goes on to say:

> All committee-sponsored versions of S. 323 that we have received contain other very significant defects. The committee-passed bill will require all title X projects to counsel women regarding abortion, even if the project or project employee has religious or moral objections to abortion.

I have to admit we have moved on from there with this substitute bill. But, it is a good point regarding the underlying bill. We will see what the substitute does.

The administration goes on and says:

> This is impossible to reconcile with the legislation sponsor's stated free speech concerns. A proposed committee substitute seeks to cure this defect, but in so doing, creates a problem in the opposite direction. It would permit a title X project or project employee only to counsel abortion.

In other words, the very thing they are complaining about, the substitute that they now want to pass, will permit that family planning clinic counsel or, even somebody who does not have a medical background, to counsel only for an abortion.

Continuing on:

> * * * rather than also presenting other options in a neutral manner, if presenting the additional options neutrally were contrary to the project's or project employee's religious or moral views, although the project or project employee would be required to refer a pregnant woman to another provider concerning the options not counseled.
>
> In a June 4, 1991, letter to Majority Leader Mitchell and Republican Leader Dole, the President stated that he would veto any legislation that weakens current law or existing regulations for abortion-related activities. His intention is to ensure that no Federal funds are used to support abortion.

That is the President's sole intention—to prohibit Federal funds from being used to support abortion.

> If S. 323 is presented to the President in its current form, he will veto it.
>
> The Administration is not in any respect seeking to impose a so-called "gag rule." The Administration remains committed to the protection of free speech. As the Supreme Court noted in upholding the regulations, "[T]he title X program regulation do not significantly impinge upon the doctor/patient relationship. Nothing in them requires a doctor to represent as his own any opinion that he does not in fact hold."
>
> The Administration seeks to ensure the integrity of title X as a pre-pregnancy family planning program and also ensure that women who are pregnant are referred to providers that can assure continuity of care. Accordingly, the Administration urges that S. 323 be so amended. The President will accept a bill only if it is consistent with the above principles.

I think the President has made it pretty clear: Family planning is not for the purpose of having abortions, counseling for abortions, or providing for abortions, or supporting abortions. It never has been. The language has always been clear on that. But this bill, as amended by the distinguished Senator from Rhode Island, will do exactly that.

You might add that the section 1008, which is the section that they are amending—I just put this chart up here—says "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

There is a very good reason for that because the majority of people, the vast majority of people, in this country do not want abortion used as a family planning device, and I will make that case a little bit later.

Mr. President, it is difficult for me to recall an issue that has been more distorted than raised by the pending bill. The question posed by the bill is this: What should be the role of abortion in the title X family planning program?

We have been told in advertisements using full pages in many of our Nation's newspapers that it is about something else. There has been alleged that this is about free speech, about pregnant women—both versions are not true. This bill is about one and only one thing; writing abortion into the law that governs family planning programs created under title X of the Public Health Service Act.

Abortion, of course, is a more difficult product to make palatable than motherhood or free speech, and I do not blame the advertising agencies that develop these lines of argument. They did right by their clients. They ignored the tough issues and they switched the subject.

Here in the U.S. Senate we should have a higher standard of proof and not neglect the facts.

Let me then review the two most significant fallacies that have misled too many who have received tendentious view of the facts.

The first is that title X has something to do with pregnant women.

The second is that regulations promulgated back in 1988 amount to a gag rule impeding free speech.

Mr. President, title X is a preventive program. The purpose is to serving women who are not pregnant. It offers services to help those who seek to prevent pregnancy and those who seek to become pregnant. Most frequently, it serves to link women with a method of contraception, women who are not pregnant.

Let me restate that, women who are pregnant not only do not need these services, but to provide them would be malpractice. There is a significant difference between women who are pregnant and those who are not, we all know that. This is normally not a difficult proposition to prove. But advocates of the current legislation before the Senate seem not to make that distinction. The idea that a title X planning program should deliver preventive services is not new nor is it novel. It is the essential idea behind this program.

Look at the conference report on the original legislation passed in 1970:

> It is, and has been the intent of both Houses that the funds authorized under this legislation be used only to support preventive family planning services. * * *

That is pretty clear.

The purpose of title X is not to perform abortions, not to refer for abortions, not to teach about abortions, or not to tout abortions. Pregnant women do not need the preventive service offered by title X. We have $144 million for this program. And, frankly, it should be used for the purpose that it was set out to be used for. Saying that pregnant women need title X services is like saying that when torrential rains come, and the river rises and floods its banks, the first thing to do is hire a civil engineer to build a dam upstream. Of course not. The first thing to do is to take care of the river that is reaching flood stage, threatening human life and property. Designs for a dam upstream will provide protection against the next flood, but they do nothing for the emergency now at hand.

The current rules governing the title X program take the same approach. Once a woman is pregnant she needs something title X cannot provide. Infertility services, contraceptive services are all pointless for confronting the situation. She needs to be elsewhere. She needs to be counseled on what to do now that she is pregnant. Title X is not set up to do that. That has never been its purpose.

It has been said the rules S. 323 seeks to change would lead to malpractice. They would if they took a strict and uncaring approach to pregnant women who sought services from a title X clinic or were found to be pregnant once they arrived at a title X clinic. Even though a pregnant woman is no longer eligible for the services a title X clinic provides, the rule creates a duty to refer that woman to a provider who can serve the needs of that woman. The current rules, the rules that the bill before us seeks to change, say:

> [O]nce a client served by a title X project is diagnosed as pregnant, she must be referred for appropriate prenatal and/or social services by furnishing a list of available providers that promote the welfare of mother and unborn child.

Arguing that title X should serve pregnant women requires subverting the purpose and intent of the program, turning it into something that it is not and should not be. Broadening title X into a program that offers a broad spectrum of contraceptive services and a little prenatal care would be bad health policy. It would disrupt the process of prenatal care, having the process start at a title X clinic and then continue elsewhere.

More importantly, much more importantly, it would bring the question of abortion into the title X program. The pending bill would require title X grantees to provide or refer for counseling on abortion. It has been said that the bill seeks to overturn a gag rule. It would instead put into place a gag rule, a rule requires nondirective counseling—if there can be such a thing.

What of the claim that requiring referral would interrupt the continuity of care received by a pregnant woman? That is a problem, not with the regulations that S. 323 seeks to overturn, but with title X itself. Title X does not provide care from conception to birth. Somewhere in that sequence an arbitrary distinction must be made, and a referral must be made to some other provider. Where should that line be drawn? The 1988 regulations draw that line in a way that the question of abortion does not enter into the title X program. The bill before us does the opposite. It makes abortion an integral part of what title X projects do.

Much has been made of the examples published as part of the current regulations relating to counseling and referral for abortion. These examples help grantees understand what the rule requires, and I will discuss them later in my remarks. The loudest voices in objection to the current rule claim those examples amount to a gag rule. What would happen if S. 323 became law? New regulations, with new examples would be published to define what is and what is not nondirective counseling. If you believe the current regulations amount to a gag, then S. 323 just puts the gag in a new place. We will see new examples in the regulations, showing what is in bounds and what is out of bounds. So for those Senators worried about a gag rule, S. 323 will not solve that problem.

In fact, the idea that the 1988 regulations imposed a gag rule is a fallacy. This fallacy was well and ably disposed of by the Supreme Court in its opinion upholding the regulations. Rejecting the argument that speech is being mandated, the Court's opinion says:

> [T]he title X program regulations do not significantly impinge upon the doctor-patient relationship. Nothing in them requires a doctor to represent as his own any opinion that he does not in fact hold.

That, of course, is not the impression that one would have if one's only source of information came from those who were opposed to the regulations. The version that comes from those opposed to the regulations, suggests that the Government will be printing up cards for doctors to read to pregnant women.

Looking at the current regulation, one sees no set of words in the regulations required to be said or not to be said. The regulation is set out and then followed by a series of examples. Those who want to see the regulation as a gag rule believe that the examples are the regulations. They are not. They are examples. Just as the distinction between pregnant and nonpregnant women seems to have escaped some who oppose this rule, so has the distinction between example and requirement.

One of the examples says:

> A pregnant woman requests information on abortion and asks the title X project to refer her to an abortion provider. The project counselor tells her that the project does not consider abortion an appropriate method of family planning and therefore does not counsel or refer for abortion.

The rule, again, relates to what happens when pregnant women wind up at a clinic meant to serve another class of women, those who want to avoid becoming pregnant or who are seeking to become pregnant.

The example is not a script. The Department of Health and Human Services is not going to print up 3 by 5 cards with the example printed on it and tell clinics, "You must use this language and no other." It is an example. There are many ways to accomplish the same purpose. That purpose is to make clear to a pregnant woman that title X defines its services as ending at conception and that the services that follow, beginning with counseling, are available elsewhere.

A nurse or other counselor to whom the question of "Where do I find an abortion provider?" is asked could come back with many different responses to convey the message that the woman is looking for services not provided by title X. One could respond, "The project does not serve pregnant women. What you need is a provider who does serve pregnant women. Here is a list, set up an appointment with a provider on that list, and raise this question with that provider." Or another response would be, "We provide preconception services. You have conceived a child. None of the services we provide would be of use to you. You need to see a provider who can offer services that are of use to you."

In 1988, Planned Parenthood performed 111,189 abortions. In 1988 alone. And they referred another 100,248 young women for abortion. In other words, Planned Parenthood was responsible for approximately 13 percent of all abortions in our society that year.

The regulations S. 323 seeks to overturn say nothing about the counseling a pregnant woman will receive when she seeks care after being referred to a title X clinic. A pregnant woman will not be referred to a provider principally in the business of providing abortions, but as to whether the provider will include abortion in the range of options presented, whether the provider will try to convince a woman that abortion is the best route for her.

Mr. President, the choice before the Senate is straightforward. We can keep abortion out of the title X family planning program, or we can require that abortion have a place in this program. Keeping abortion out of title X requires my opposition to S. 323. The issue is whether we are going to provide Federal funds for abortion for the first time since the Supreme Court ruled on this issue.

There is a lot of fact and fiction surrounding these regulations. These regulations, some say, intrude upon the doctor-patient relationship. Some have said earlier in the day that this impinges upon the ethics of the medical profession. The doctor-patient relationship can only be formed by a physician and a patient, not with a nurse practitioner, and nurse practitioners comprise 80 percent of the visits in the program. Title X is a limited medical program, providing certain reproductive health care until conception. So the doctor-patient relationship in a title X program is not an all-encompassing one. The doctor or clinician is always free to state that giving advice about abortion is simply beyond the scope of the program. Furthermore, the limited services of a title X project do not allow for a physician to conclusively determine the medical need for an abortion.

Title X's services are best suited to make medical referrals to determine further care.

Finally, extensive medical analysis is beyond the professional and legal competence of nurse practitioners, who have not been trained in the physiology of pregnancy or the performance of abortion. Yet, 80 percent of all of those counselors are nurses or nurse practitioners.

Another allegation that is made, or another fiction, I would have to call it, is that they say these regulations will cause a surge of malpractice suits against physicians.

Let us think about that. The regs are currently in effect in five States, or parts of States, Texas, Kentucky, South Dakota, Iowa, and Nevada, and all the U.S. territories. There has never been a malpractice case based on the regs where they are in effect and no indication of any problem in this regard.

Another fiction: That these regulations were developed without any basis of complaint or bad practice in family planning clinics. That is not true. These regulations, No. 1, were developed to provide clear and operational guidance to grantees on how to preserve the distinction between family planning programs and abortion as a method of birth control.

No. 2, in the years preceding the issuance of the regs, both the HHS inspector general and the General Accounting Office urged the Department to give more specific and formal direction to projects about the relation between abortion and family planning. Their reports found confusion in the clinics and variances in program practices, which included requiring clients to preselect how they would deal with their pregnancy before a pregnancy test was even administered, provision of and witnessing execution of abortion consent forms, and counseling solely on abortion.

Another fiction, that options counseling is nondirective and neutral in content. Public comment received by HHS on the regs demonstrated the problems inherent in nondirective counseling, and lend weight to concerns raised by the OIG audit and the GAO report. Many comments argued that the practice of nondirective counseling was the subject of widespread abuse with many providers foregoing any balanced discussion of options in favor of pressuring women, especially teenagers, into obtaining abortions. Numerous comments were received from women who said they were never presented with any favorable or neutral information on any other option than abortion. A typical complaint was that the counseling they had received was one-sided with the fetus dehumanized as a "lump of tissue" or as "fetal tissue" or "uterine contents," and with no information presented about gestational characteristics and stage of development. One woman wrote:

> I've experienced the one-sidedness of * * *'s "counseling" and have seen the consciences of friends shattered by what they now know was the wrong choice. Too many people are literally encouraged to use abortion as a birth control device because of its availability.

She then mentioned this family planning clinic again and says:

> * * * has never discussed the alternative side with anyone I know. I don't feel guilty or presumptive calling their efforts exploitive.

Another woman wrote:

> These clinics do not provide adequate information to pregnant women. There is no "choice" involved in regard to abortion. It is the only solution offered. I know this from experience, and I have spoken to many women who have shared that experience.

Another fiction: The options counseling that the regulations would prohibit presents information to women about dealing with the pregnancies.

What are the facts? Family planning clinics have large caseloads and are not suited to the time needs of clients in discussing life situations as well as a problem pregnancy that can cause an immediate crisis in a teenager or adult. Because of the caseload demands and bias toward abortion as a solution to problem pregnancies, clinic staff have presented the positive results of a pregnancy test to a woman and then directly counseled her on abortion, seeking a quick resolution and a decision, almost an instantaneous decision, from her.

Clinics, because they do not provide prenatal care, do not routinely perform the tests to determine the gestational stage of the fetus nor do they counsel women on this. In addition to seeking a quick decision from the client, the clinics have been reported to have even made telephone appointments for clients' abortions.

One woman wrote:

> If I had been given proper information as to the development of my 12-week-old child, and if I had been presented with options to abortion rather than just abortion given by the clinic, I would have had my baby.

Another woman wrote:

> I had an abortion at the age of 16 years with the full encouragement of a family planning clinic in (blank), California. They even called and made my first appointment with the doctor who would perform my abortion. There was no encouragement to consider adoption or to keep my baby. They helped me to get rid of my baby as quickly as possible.

We need to understand the facts. Abortion is not and should not ever be a method of family planning.

In that regard, I would like to call to the attention of my colleagues, a poll that was taken by the Wirthlin group in 1991, this year. This is a nationwide poll, and this is what the question was: "Do you personally favor or oppose using abortion as a method of birth control?"

Strongly favor, 8 percent of our society. We all know the accuracy of his polls. We know he was the pollster for President Reagan. We also know he is the pollster for others all over this country. He is considered one of the most accurate pollsters in all of American history. The response to that question, only 8 percent believe that abortion should be used as a method of birth control; 7 percent somewhat favor abortion as a method of birth control.

Somewhat opposed are 14 percent; strongly opposed, 69 percent, for a total, if you combine these two together, of 83 percent, versus 15 percent. Of course, 2 percent do not know and 1 percent refused.

Let me just show my colleagues another poll, just so they realize this fully and completely. This is another Wirthlin poll.

The question was: "Do you favor or oppose offering abortions as a method of birth control in taxpayer-funded family planning programs?" That is the real issue here. The real issue is not that you are depriving these women of these funds. They can be told. If they are in danger, there is no question they have to be told. The fact of the matter is all the regulations say is that we do not want family planning clinics funded by the Federal Government counseling on abortion. We do not want Federal funds to be used for abortion purposes or for counseling on abortion. That is the issue here.

So this is a very legitimate question: "Do you favor or oppose offering abortions as a method of birth control in taxpayer-funded family planning programs?" Strongly favor, 10 percent. There are 10 percent who strongly favor what they are trying to do here today with this bill on this floor. Somewhat favor, 10 percent, for a total of 20 percent. Twenty percent of our fellow citizens in this country either strongly or somewhat favor having abortion as a method of birth control and taxpayer-funded family planning programs. They would use taxpayer funds for that, 20 percent.

Look what the opposition is, and this is an accurate poll: 12 percent somewhat oppose that. They do not want taxpayer funding to be used to support abortion as a method of birth control. Somewhat opposed are 12 percent, and strongly opposed, 65 percent; a total of 77 percent versus 20 percent. Three percent do not know; 1 percent refused to answer.

This is not the simple little issue that it is being made into.

Let me just show another chart that I think is very interesting, and it is on the issue of abortion itself, because a lot of people think the proabortion people are strongly in command of this country. By the way, the source of this poll is the Gallup organization. This was released February 28, 1981. How Americans Identify Themselves on Abortion: 3 percent do not know; 17 percent are strongly prochoice; 16 percent are moderately pro-choice, for a total of 33 percent. Twenty-three percent are neutral. They do not go either way on this issue. But strongly prolife are 26 percent; moderately prolife, according to the Gallup Poll—and no one would accuse George Gallup or his company's polls of being biased, certainly not on the side of the prolife people—strongly prolife are 26 percent, 16 percent moderately prolife. Forty percent of the people in this country are either strongly or moderately prolife and do not like abortion; 33 percent are strongly or moderately proabortion; 3 percent do not know; 23 percent do not know one way or the other.

Mr. President, I go back to this Gallup Poll. What we are talking about is using a Federal Government program, $144 million, to sponsor abortion and to use taxpayer moneys, $144 million to do that when there is a clear-cut concern on the part of at least 40 percent of our society, and, I suspect, a pretty good percentage of that 23 percent who are neutral on it would agree with those 40 percent; I certainly think at least 10 percent. But 50-50, 50 percent of the people in this country do not want their taxpayer funds used to counsel for, tout abortion, or force abortion on young women without giving them all the options. And, this particular amendment, with its substitute, assuming that it is enacted, will actually require exactly that.

I think it is time for us to look at this a little more carefully and realize that is the issue. It is not an issue of whether we are giving free choice or not. It is an issue that we are imposing something at taxpayer expense upon 50 percent of the people in this society, frankly, upon 100 percent of the people in this society when there is a great opposition to it, and there is reason for that opposition.

Mr. President, cleaning up the wreckage in the Persian Gulf war has gotten to be an easier job than cleaning up the Federal Government's family planning program otherwise known as title X. The Senate is taking up this matter today through a smoke screen of misinformation thicker and more pernicious than the petroleum haze that hangs over the ravaged oilfields of Kuwait.

I support family planning; I am well known for supporting family planning. I would do anything I could to prevent all these unwanted pregnancies in our country and certainly reduce the number of unwanted abortions in our society. Some of us have tried for years to build a wall between family planning and abortion and have thus tried to keep the title X programs out of the controversy, certainly out of the abortion controversy. We have tried to separate family planning from abortion as the founders of the title X program insisted they should be separated when the program was begun back in 1970.

One of those early advocates of the program, by the way, was a young Congressman by the name of George Bush. This is the same George Bush who is now accused in scurrilous political attacks, of trying to destroy family planning assistance for the poor. Time and again, we have tried to help title X by directing its resources to those who need them most and by making grantees observe the wall of separation between family planning services and abortion. Time and again, certain grantees have fought back with national advertising campaigns that could have turned Pinochio's nose into a redwood tree. Now they are at it again.

One organization—and, by the way, this is supposedly a nonprofit, nonpolitical organization—has pledged to spend as much as $5 million on a blitzkrieg lobbying blitz to overturn President Bush's reform regulations. That seems like a pretty heavy expenditure to me for a supposedly nonpolitical outfit. However, bad public policy sometimes makes terrific financial success and sense. That is the reason for the full page ads featuring a gap. Here is one of the ads by Planned Parenthood Association: A pregnant woman needs her doctor's advice, not the Government's opinion. What they do not tell you is that only 20 percent of these clinics actually have a doctor in them to give the advice. The advice is given by people who are not medically trained other than nurse practitioners, and they do not have the medical training to give a woman all of her options and choices that really she ought to have. It is really a fallacious ad. Five million bucks is being spent on this type of advertising. I cannot blame the advertisers. They, of course, like selling almost anything. They are exaggerating, distorting, and not telling the truth. Title X clients are not going to be able to have their doctor's advice in the vast majority of these cases. They are going to have people dedicated to abortion tell them to have an abortion without giving them all of the options, and that is what is involved here. They are going to do it at taxpayers' expense, and that is what is involved here.

It is the reason for these types of posters at bus stops in more affluent areas of Washington, DC. It is the reason for the mail and the phone campaigns targeting various Members of the Senate and of the House. There is a lot of money at stake here, and it is the public's money, $144 million of it. In reality, it is a lot more than that.

This is precisely the reason abortion crept into title X in the first place. The issue is how we spend taxpayers' dollars. And, I contend it should not be for abortion. We should not be spending those dollars for abortion. Title X grantees were never granted that right, never by the statute itself. This is not a question of free speech and medical ethics. It is a question of use of public funds for advocating, promoting, or performing abortion. And when the issue is presented that way, as to whether or not the taxpayers should pay for those activities, we have all seen what it means. They say no. Seventy-seven percent of the American people say, no, we do not favor the use of American taxpayers' dollars for abortion, for abortion counseling, for abortion referrals, and for the performing of abortions. It is resoundingly taxpayer opinion, resoundingly against what they are trying to do here today. No wonder the abortion lobby has gone to such great lengths and have spent so much money to blur this simple issue. They have dredged up more red herrings than the Soviet fishing fleet. When you look at the ads, it makes you wonder what kind of world we are living in. 1984 is past. Maybe it is something worse than 1984. Their immediate campaign has been directed toward this very moment when the Senate is taking up legislation to overturn the very regulation that might finally restore a broad consensus of support for title X; that is, that no taxpayer moneys should be used to promote, advocate, or fund abortion as a method of family planning. That is what the language is: "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

Let us make it clear. None of the taxpayer funds is what it means. You can spend whatever you want of your own money. If you want to raise money on the side and foster abortion and provide abortions. You can do whatever you want to with regard to abortions. Nobody is arguing against that. We are arguing against the use of taxpayer funds when at least 50 percent of the taxpayers in this country do not want abortion at all, except to save the life of a mother or in cases of rape or incest.

Mr. ADAMS. Will the Senator yield on that point?

Mr. HATCH. Sure.

Mr. ADAMS. I am concerned that the Senator is indicating that there has been an encouragement of abortion. It is my information that the General Accounting Office, the inspector general, the last three secretaries of HHS or their deputies have in the last decade argued before Congress they found no evidence that title X funds have been used for abortions or to advise clients to have abortions.

We have testimony before the committee, which I am certain that the Senator will remember, by Dr. Nita Nelson, who was the head of the American College of Obstetricians, which said clearly,

> If a patient comes to my clinic and says I would like to have a method of birth control, I can say there is a pill, there is an IUD, there are condoms, withdrawal, abstinence. All those methods are available. They provide some element of family planning or contraception.
>
> I don't tell her go out and have unprotected intercourse and if you get pregnant I will give you an abortion. That would be offering abortion as a family planning method. This just is not done.

We had testimony of a young woman from Seattle who indicated the same thing, this type of information—this is not abortion as a method of family planning issue. This is simply whether or not someone can be told their options.

I would ask my very respected and good friend this: Suppose we turned this around and had the Chinese system and said the only thing they could be told if they went into one of these family planning clinics was that they should have an abortion. Now, that would be a terrible thing and yet that would be giving half of the advice, be giving half of the counseling, and giving the choice in only one direction.

Mr. HATCH. If the Senator will yield.

Mr. ADAMS. Certainly. It is the Senator's time.

I do not think we want that. We want full medical advice and full counseling. That is why we call this a gag rule. We are not advocating family planning by abortion. I do not know anybody who has or is. I am concerned that the Senator feels that is the issue in this bill. Indeed, it is not.

Mr. HATCH. If I could answer the Senator's questions, first of all, the new substitute here says "may" counsel on abortion and that means only. The other substitute had counseling on everything, the original underlying bill.

Mr. ADAMS. This still does. The "may" is for the use of conscience. The bill still says "shall inform."

Mr. HATCH. That is right. If a person has a conscience that is only for abortion—and I have to tell you that in a lot of these family planning clinics, the people who run them do, and that person will talk only about abortion—they do not have to give the other options. If you read that carefully, that is what it means.

Second, to answer the Senator's first question, the first question was, as I understand it, that nobody in the Federal Government has said they are actually using these family planning clinics for abortion.

Mr. ADAMS. For abortion or counseling for abortion. These are Republican secretaries, the Office of Inspectors General and the General Accounting Office. Nobody has found any of these title X funds have been used for abortions or to advise clients.

Mr. HATCH. That is not true. As a matter of fact, I will refer the Senator to a draft of a proposed report entitled, "Restrictions on Abortion and Lobbying Activities and Family Planning Programs Need Clarification."

This is not supposed to be a draft except for official use, but it was prepared by the staff of the U.S. General Accounting Office. Under the cover Summary Report by the Comptroller General of the United States:

> GAO found that some title X family planning grant recipients may not be adhering to Federal restrictions on abortion-related and lobbying activities but found no evidence that title X funds have been used to pay for abortions or to advise clients to have abortions.
>
> The Department of Health and Human Services needs to provide clear guidance in formal policies regarding the restrictions and abortion-related activities. Even if this is done, however, title X recipients will still be allowed to carry out abortion activities, not with title X funds but as part of their overall activities.
>
> Because of the sensitivity of the abortion issue and the concern over how Federal family planning funds may be used, the Congress may want to provide further guidance to HHS on the intent of the abortion restriction in the title X family planning program. HHS needs to provide recipients clear and consistent guidance on the types of activities proscribed by Federal lobbying laws and regulations.

Mr. ADAMS. That states, does it not, right at the beginning that there has been no evidence that this has been done? I would like to have the Senator's answer.

Mr. HATCH. If I could have the floor back.

The PRESIDING OFFICER. The Chair reminds the Senators that the Senator from Utah has the floor and Senators direct questions through the Chair.

Mr. HATCH. I would like to retain my right to the floor until I finish my statement. Let me finish.

It states GAO found that some family planning grant recipients may not be adhering.

I have to say the final report that came out from the Comptroller General says, "Some family planning grant recipients' practices raise questions as to whether they comply with restrictions on abortion-related activities." They do say, "But there was no evidence that title X funds had been used to pay for abortions."

Now, let us just be honest about it. Almost all of these family planning clinics are not solely funded by the Federal Government, but without Federal Government funds they probably would not last. So they can hide behind the fact, as the Comptroller General does here, that they attribute the moneys that are used for abortion counseling and abortion and family planning clinics all over America, they attribute those moneys to private donations, but there is no way of showing that.

I have to submit even further that the Federal Government in supplying moneys that help them to stay in existence; the very fact that they are helped to stay in existence makes it very clear that those funds have gone so they can continue to provide abortion as a part of family planning services.

Now, let us just go one more step. I said earlier according to the Planned Parenthood Service Report of 1988, their own report—this is Planned Parenthood. This is a family planning outfit. They get a lot of donations from private citizens all over this country who donate, thinking that this is a family planning approach. But they also get 30 percent of that $144 million without which, I submit, they would have a rough time staying in business, or a rougher time, put it that way. But according to their own Planned Parenthood Service Report of 1988, they performed 111,189 abortions that year. In some cases, if not all, they were performed right on Planned Parenthood premises. Of that number, 111,189 abortions in 1988, 12,230 of them were performed on girls ages 17 years old or less.

Tell me that they do not tell them get an abortion and do it with Federal funding.

Mr. ADAMS. If the Senator will yield.

Mr. HATCH. If the Senator will just hold off for a minute or 2, I want to make these points. In that same year, 1988, Planned Parenthood referred 100,248 women for abortions.

Tell me that Federal funds are not being used. They can say well, we segregate them, but they do not. The fact is that they are used, and they are used in violation of law. That is why they want this particular bill today, so they can continue to advise not only these young girls less than 17 years of age but women of all ages to have abortions as the first order of choice.

That is pathetic. That is in disregard of the fact that 77 percent of the American people versus 20 percent do not favor offering abortions as a method of birth control in taxpayer funded family planning programs, and that 83 percent of American people oppose using abortion as a method of birth control compared to 15 percent. These are the real issues.

In 1988, according to Planned Parenthood's report, and the other statistics that are brought in—I have said for a long time we have around 2 million abortions in this country, one of the most permissive countries in the world—Planned Parenthood was responsible for approximately 13 percent of the total number of those abortions.

This is a family planning outfit, Planned Parenthood of America.

Mr. ADAMS. If the Senator will yield on that point, the point of the reality of America is that 82 percent of the births among these girls that come in, the vast majority of teenagers are sexually active before they arrive, despite efforts to provide them with contraceptives, or even prevent pregnancy, and more than 82 percent of the pregnancies are unintended.

What occurs is you have people arriving at these clinics for the first time and they are in a status of pregnancy. So something has to be done.

With regard to the issue of whether or not there are ads—here is the Washington Post this morning, and that is not a pro choice ad. And with regard to the Harris Poll, 78 percent of Americans want Congress to pass a bill permitting full discussion of abortion in federally financed birth control clinics. Nobody is advocating that there be birth control by abortion which is the argument of the Senator.

Mr. HATCH. I will take back the floor. Those people in the Harris Poll believe that because they believe that a physician is giving that information they believe that physicians are telling these women what to do, not nurse practitioners and secretaries sitting at a front desk. And, that is what is happening in 80 percent of the cases.

Another thing that they point out—these polls show that, and I think they are accurate, whether it is Harris or anybody else they will come up to the same conclusion—is that the vast majority of people in this society do not want our taxpayer dollars used to foster, promote abortion, and to perform abortion.

Sure those figures are going to be high when people are led to believe by the questions of Mr. Harris that they are getting physician advice.

Mr. ADAMS. No.

Mr. HATCH. That is what it says.

Mr. ADAMS. The issue is whether or not they should be given advice under this gag rule.

Mr. HATCH. Yes, by physicians.

If I can have the floor back, Mr. President, I will be happy to listen to the distinguished Senator when he wants to talk. I want to finish this so Senator DURENBERGER can lay down his amendment before lunch.

Mr. President, I have to say that the people who were polled thought physicians were giving this advice. I think if they were asked if physicians were giving only advice for abortion would they abort? The answer is clearly "no".

But it is easy to see I can word a question—that should physicians give advice, total advice—assuming that all the advice given of family planning clinics is by physicians. But, only about 20 percent of the people who receive advice in title X clinics are getting it from physicians, in most of those cases from pro abortion physicians.

Today we are discussing S. 323 or some variety of it. This bill in whatever form its proponents offer will weave abortion into the very fabric of title X. Title X funds family planning services for low-income women.

I support family planning. It might seem like a minor step to allow grantees to refer for abortion, but consider what is meant by referral within title X guidelines. Referral means establishing far more arrangements with the referral agency, having written referral and followup procedures, making arrangements for transferring client information to the subsequent provider, in this case the abortion clinic, and documenting that recommended referral appointments are made within an appropriate period of time, and documenting that those appointments are actually kept.

Are the advocates of this legislation really comfortable with all of that? Do they really want title X personnel that deeply involved in the grisly aftermath of abortion referral? I do not see how.

The practical effect of S. 323 in whatever form it is before us is within the context of existing title X guidelines. I ask the proponents of this bill to consider this requirement from those guidelines. It says this:

> When family planning clients are referred for services, projects have a responsibility to assure that clients obtain the appropriate services and the referred clients should be contacted to assure that the services are obtained.

Let us be clear about what that means. The title X nurse or doctor, or receptionist in some cases, who "counsels and refers" for abortion will have to follow up to make sure that the woman or girl gets the abortion.

In practical terms this means a phone call like the following:

> Hello, Ms. Jones? Last week we gave you the phone number of the Midtown Abortion Clinic. Did you make your appointment? Did they schedule the procedure? Have you gone in for your suction, or D and C, or your saline solution? We are sorry to have to call you about this at home, because we certainly do not want your parents to find out, but under the law once we refer you for something we have to check to make sure our clients obtain the appropriate services.

That is the law. That ghastly conversation would have to become commonplace if this bill ever becomes law.

The worst of it is even if one favors abortion rights the potential for abuse in this legislation is horrendous. It offers nothing by way of protecting women and girls who seek title X services.

Abortion after all is not a minor medical matter. It does stop a beating heart. It is intended to.

But it can also have a serious and tragic effect upon the mother's life, health, and emotions. Why would anyone want to foster these possibilities within the family planning program?

By way of comparison consider the protection mandated by Federal law for a woman considering sterilization.

If a woman comes in and requests sterilization, then you have to do the following. You have to ensure she is not pressured or hurried into that procedure. She must be at least 21 years of age. I just mentioned over 12,000 abortions of girls 17 years of age or younger in the Planned Parenthood clinics.

No. 1, she has to be 21 years of age.

No. 2, she cannot be pressured or hurried into that procedure.

No. 3, she has to wait 30 days before going through with the procedure. She has a time period.

No. 4, her physician, not some ill-defined counselor, must certify—a physician, a real live honest-to-goodness physician—that she is mentally competent and not under the influence of alcohol or drugs. A real physician has to do that.

No. 5, she has to acknowledge by signature that she has received a federally approved consent form.

No. 6, she has to be informed of the risks of sterilization, including information about the types of anesthetics.

No. 7, she must be given an interpreter if there is any doubt about her ability to understand the information in English.

No. 8, all State and local laws for obtaining consent, apart from spousal consent, has to be followed.

Sterilization of course is irreversible. That is why such standards really are required. Sterilization is irreversible. So is abortion.

So is abortion. Whether it is a 14-year-old girl or a 30-year-old woman, it is irreversible. It is final. That is what we are talking about here, whether taxpayer dollars should be used for this.

Whatever the method used, a tiny heartbeat stops. A life ends. And a woman or girl will have to live with that all the days of her life. That, precisely that, is what this bill imposes and insinuates in title X.

We all know that abortion is a right in this society. Any family planning clinic that refuses to take Federal dollars can do whatever it wants to about abortion, and a lot of them do. But most of them have their hands out for Federal dollars. When they do, there is some responsibility to do what the taxpayers believe in. And 83 percent do not believe that abortion should be used as a birth control device or a family planning device.

This bill imposes that and insinuates it into title X. Title X was enacted to end abortion by providing women with alternatives. Now we are concluding with abortion as a family planning alternative. Keep that in mind.

This legislation when it passes, if we do not sustain the veto, will become a family planning alternative. I really do not believe the American people want that.

They may want abortion, but not at taxpayers' expense, But they certainly, if they understand this issue, do not want it as part of the Federal family planning services.

The taxpayer is going to pay for it if this legislation passes. They are going to pay for abortion as a method of family planning. I submit that abortion does not belong in the title X program. It is as out of place in our Nation's family planning laws or programs as the viper in the aviary.

Let us maintain these regulations, or at least some regulation that makes sense and will keep our federally funded programs from becoming abortion bills. I think it is plain to say that I think it is time we look at the issue the way it should be looked at and not listen to all these fictions that are offered as justification for what is going on here.

I oppose S. 323, and I urge my colleagues to do the same.

I yield the floor.

Mr. JEFFORDS. Mr. President, I listened to a very excellent and passioned speech by the Senator from Utah, and I understand his feelings. I think we all do. This is one of the most controversial and deeply emotional subjects that any of us ever discuss on this floor. But I think it is important to try and focus back on what the real problems and issues are here.

First of all, there is no disagreement as to what the present law passed in 1970 says, nor is there anything in this amendment that would change the thrust of that law which specifically prohibited the utilization of funds with regard to abortion or terminating pregnancies. But the question is as to whether or not that 18 years of interpretation which did allow in family planning clinics the ability to allow a person, a woman, to be advised of her constitutional rights should be cause for the termination of funds in the family planning clinic.

We are not dealing here with statutory problems. At least at this point, with Roe versus Wade, a woman has the right to an abortion at least during the first trimester. The question then is as to what was the intent of Congress with respect to the statement by a physician at the request of a woman as to what her rights were that termination of a pregnancy is allowable and then to give information as to where that option might be found.

We have a perfect right in this body to correct what the administration did in their interpretation of that with the regulations of 1988. And that is what we seek to do here, to put into the law what was anticipated or believed to be the proper interpretation for some 18 years.

The Senator from Utah made a great deal of certain polls that were taken. And I would not disagree with those polls. I would have voted with the majority, as he pointed out, that abortion should not be used as a method of birth control. The interpretation of any citizen who answers that was obvious, that you would not tell your child or a woman, do not worry about using contraceptives because you can just get an abortion. And that is the way that was interpreted. It is pretty clear.

Let us talk about the reality of the situation which we are involved with here and why we are here. It has been pointed out that a large number of young women who become pregnant are teenagers. I know that is certainly the case in Vermont—and it is no different from the rest of the country—that a large number of young women who become pregnant are teenagers.

More importantly than that, family planning has become really the only way that a low-income person can receive medical advice. We do not have the kind of programs that are necessary to provide preventive health or any kind of treatment or health or advice to low-income people unless they happen to be under an insurance program or health program. In our State, for instance, almost all, 80-some odd percent, of the below or low-income people, 27 percent of those that receive advice and help in our family planning clinics are teenagers. They are the ones that we are largely referring to here. Other people above those kinds of income limitations can seek their advice and get it from medical professionals and medical help. We are talking about the right of those women who find themselves in the difficult situation of pregnancy who really only have one option and that is to go to the family planning clinics and get the information that was allowed up until 1988.

Let us talk about reality here. There were a lot of discussions about the overall problems and the number of pregnancies and abortions will solve these problems. But let us talk about a real situation, the kind that a doctor is faced with. They are not easy ones.

A 15-year-old comes into your office and she says to you, "I find that I am pregnant, and I do not want the child. In fact, it was only under extreme circumstances that I become pregnant. I did not want to become pregnant. What are my options? What can I do? Is there any way that I can avoid having this child?"

And the doctor has to say "I am sorry. I cannot tell you about that. Let us talk about adoption. Let us talk about carrying it to term. But, I am sorry, as far as we are concerned here, those are the only options you have."

Or make that situation just a little bit worse. She comes in and she says, "I was raped. I do not want this child. I do not know the father." And yet the response has to be the same, according to the interpretation by the regulations and the Supreme Court.

All we seek here is to give what would be commonsense advice, at least to give the child a real situation, one who would be made available to the options that were available, including the termination of pregnancy. That is all we seek here.

These are the kinds of situations that you have to deal with in real life. They are not easy ones.

It is true also of someone who comes in and says, "My gosh, I did not want to but we made love 3 or 4 nights ago, and I want to know what I can do now."

And the physician says, "I am sorry, but since the odds are you probably already had conception, I cannot disclose to you any options which might be available otherwise. So we have to talk in terms of adoption or carrying the baby to term."

The same could be true of any of a number of other circumstances where all of us would say, my gosh, under those circumstances at least that child ought to be allowed to have a constitutional right to have expressed to her options and not be made to endure what comes from having to carry a baby to term by someone she does not know or someone she does not want to be the father of her child or whatever other circumstances you can imagine.

Those are the real situations we are dealing with here. We can talk all we want about the philosophical aspects and the problems that are involved. But we are only talking here about the constitutional right of a child or a woman to be advised of all the options that she has to take herself out of a situation of pregnancy for which she, by something out of her own control or because of other circumstances, has become pregnant and does not want to carry the baby to term, simply to restore what was available to young people in this country and to women in this country up until the so-called gag rule was incorporated in the year 1988.

It is no violation of constitutional principles. It is nothing more than doing what Congress has to do, and that is to correctly outline what was the intent of Congress at the time this bill was passed and so interpreted for 18 years, and that is family planning.

Mr. President, I hope we will concentrate on the real circumstances and issues here of especially the poor women that seek advice under these circumstances and not get carried away with very, very emotional and poignant arguments that are really not relevant to the kind of circumstances we are here to deal with today.

Mr. President, I yield the floor.

AMENDMENT NO. 754 TO AMENDMENT NO. 753

(Purpose: To provide for a substitute amendment)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 754 to amendment No. 753.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 1 of the amendment, strike out line 3 and all that follows through the end of the amendment, and insert in lieu thereof the following:

SECTION 1. REQUIREMENT FOR MEDICAL REFERRALS OF PREGNANT INDIVIDUALS BY FAMILY PLANNING PROJECTS RECEIVING TITLE X FUNDING.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. REFERRALS OF PREGNANT INDIVIDUALS FOR MEDICAL CARE.

"(a) REQUIREMENT.—Except as provided in subsection (b), entities receiving financial assistance under this title (whether by grant or contract) shall be required to refer individuals who are pregnant for appropriate prenatal medical care, by furnishing such individuals with a list of available health care providers. Such list may include available prenatal care providers who perform abortions, but shall not include providers whose principal business is the provision of abortions.

"(b) EMERGENCY CARE.—In cases in which a pregnant individual is determined to need emergency medical care, an entity receiving financial assistance under this title shall only be required to refer the individual immediately to an appropriate provider of emergency medical services."

Mr. DURENBERGER. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is my understanding that the Senator would be prepared to enter into a time agreement of some 90 minutes evenly divided. It is the request of the leadership that we begin the debate at this time and then run the time after the luncheon if that was agreeable and that there would be no second-degree amendment in order.

The PRESIDING OFFICER. Is there objection?

Mr. DURENBERGER. Mr. President, the nature of the amendment is a first-degree amendment to the substitute amendment by our colleague from Rhode Island. It has been discussed among both of the managers and Senators with other amendments. It is agreeable to this Senator that on my amendment there be 90 minutes, as I understand it, equally divided, and that the 90 minutes commence after the Senate reconvenes this afternoon.

Mr. KENNEDY. I think the leadership would just as soon have the debate commence at the present time. We are here to debate. I see the Senator from Rhode Island and others here to debate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. HATCH. Will the Senator from Minnesota yield for just a procedural question or comment? Will the Senator yield?

Mr. DURENBERGER. Yes. I will yield to my colleague.

Mr. HATCH. I have been informed we are trying to get the hour and a half approved and there is one other person who has to be checked with. We hope we can. And we hope there will be no objection to an hour and a half time agreement. I suggest we do that immediately following lunch so the Senator can lay it down and talk about it.

Mr. KENNEDY. Will my colleague yield?

Mr. DURENBERGER. Mr. President, I will yield to my colleague.

Mr. KENNEDY. Mr. President, just for purposes of the organization of the legislation, I want to ask unanimous consent at this time that at whatever time the Senate disposes of the Durenberger amendment, that there be no second-degree amendment in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The agreement is ordered with respect to no second-degree amendment at such time as agreement is reached on the debate on the amendment of the Senator from Minnesota.

The Senator from Rhode Island.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. DURENBERGER. I will be pleased to yield to my colleague.

Mr. CHAFEE. It is my understanding we are going to have 90 minutes equally divided. It is further my understanding the leadership would like to get started.

We have 20 minutes before we break, if we break at 12:45, something like that. I, for one, would just as soon get started, if the Senator from Minnesota would like to go ahead and present his amendnment and discuss it.

The PRESIDING OFFICER. The Chair understands the minority manager has expressed a desire to wait for one more Senator and has not given consent to the 90 minutes at this point.

Mr. KENNEDY. If the Senator will yield further?

Mr. DURENBERGER. I will yield further.

Mr. KENNEDY. I would have a gentlemen's understanding with the Senator from Minnesota if there are going to be other amendments we will make that request for the time after—I imagine after the luncheon break. But I would hope I am speaking, too, for Senator CHAFEE himself, indicating we would not need more than at least half of that time.

The PRESIDING OFFICER. The Chair would advise the distinguished manager of the bill there is a recess currently scheduled for 12:30 under the previous order.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate the fact the President has clarified the matter of the recess. One of the reasons I had suggested the 90 minutes commence afterward is just for the continuity of explaining my amendment to all Senators. It would certainly be preferable for me to begin this discussion, this explanation, after the recess rather than at this point.

I also ask unanimous consent that my colleague from Utah, Senator HATCH, be added as a cosponsor to my amendment.

The PRESIDING OFFICER. Without objecion, it is so ordered.

Mr. KENNEDY. Mr. President, just for the benefit of the Members, it is at least our hope we can move the debate and discussion on, in the course of the legislation. It is our hope, after the conclusion of the debate on the amendment of the Senator from Minnesota, that we would move toward the consideration of the amendment of the Senator from Mississippi [Mr. COCHRAN] who has also indicated a willingness to enter into a time limitation.

I know the Senator from Indiana has an important amendment and although we cannot structure this in any particular way under the rules of the Senate without having unanimous-consent agreement, and we are not prepared to offer that at this time, maybe the majority leader will do so after the break, but we hope we would be able to consider that amendment or any other amendment that is related to that particular subject following the disposition of the Cochran amendment, just to give Senators some idea of the way we are going to be attempting to proceed.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I believe we can enter into that time agreement of an hour and a half.

I ask unanimous consent that we enter into that time agreement that was stated earlier, an hour and a half equally divided with no second-degree amendments.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Could we withhold that for one moment?

The PRESIDING OFFICER. It is the understanding of the Chair the Senator has asked unanimous consent for an agreement for 1½ hours, equally divided, and no second-degree amendment?

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be 90 minutes equally divided and controlled for the debate on the pending amendment; that no other amendments or motions be in order prior to the disposition of the Durenberger amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I further ask unanimous consent the time starting on the Durenberger amendment be at 2:25 and that at the opening of the Senate at 2:15 Senator DANFORTH be recognized for a time not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, finally, I want to clarify, on the issue of the motions included in the consent request, they do not include motions to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:15 P.M.

Mr. KENNEDY. Mr. President, according to the previous order I move the Senate stand in recess until the hour of 2:15.

The motion was agreed to and, at 12:27 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BRYAN].

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri [Mr. DANFORTH] is recognized for a period not to exceed 10 minutes.

CLARENCE THOMAS AT THE EEOC

Mr. DANFORTH. Mr. President, I am sure that in the next 2 months much attention will be focused on Clarence Thomas' chairmanship of the EEOC. Because Judge Thomas spent 8 years in that office, his stewardship deserves careful attention. Surely, each of us should take the time to learn about the Thomas era at the EEOC. What kind of chairman was he? What was the Commission like before he took office, and what is it like today? What do its employees say about his chairmanship, and what does his tenure at the EEOC tell us about Clarence Thomas as a person?

In order to learn the answers to these questions, I decided to find out for myself. I went to the EEOC headquarters, met with people who had worked with Clarence Thomas, walked the corridors and formed a clear impression of Clarence Thomas, the Chairman. Today, I would like to share my observations with the Senate, and to suggest that other interested Senators do what I did—go to the EEOC headquarters and see for yourselves.

While at the headquarters, I had the opportunity to speak with a wide variety of individuals. They were male and female, black, white, and Hispanic, able bodied and visibly disabled. Most held managerial or professional responsibilities. One was a maintenance man in green overalls. One was a driver for the Commission. They shared a common commitment to the mission of their agency: To ensure equal employment opportunities for all Americans. All had worked with Clarence Thomas. Some had served at the Commission years before the beginning of the Thomas era.

The clear message of those I visited was that Clarence Thomas had transformed the EEOC from the dregs of the Federal bureaucracy to an efficiently operating agency which was effectively performing the duties Congress had assigned to it. The present Chairman, Evan Kemp, said that until Clarence Thomas took over, the agency was generally considered to be, in his word, a "joke," and that Thomas had transformed it into a first-class agency, equal to two others where he had worked, the Internal Revenue Service and the Securities and Exchange Commission.

This observation was shared by others at the Commission. A white male attorney who has been with the EEOC since 1974, told me that Clarence Thomas "brought us from an also ran agency to the first tier." He said that in the old days, management of the Commission was not always held accountable. He added that in the Thomas regime, "When I made hard decisions, judgments were made on the merits. Politics did not enter in." A woman, with the Commission since 1979 said, "Today, people respect the EEOC. * * * (Thomas) worked very hard to improve the quality of the staff."

A black woman told me that under Clarence Thomas, "Computers started appearing all over the agency." She said that on days when employees had to work until 2 a.m., Clarence Thomas would be there.

The financial management system of the Commission before the Thomas regime was described as "a mess" before Clarence Thomas arrived. Clarence Thomas cleaned up the mess, according to a black female manager.

One of the most telling statements was made by a 51-year-old white male manager who had been with the EEOC for 21 years. He described himself as "a liberal, life-long Democrat who had never voted for a Republican in my life." He said, "Clarence Thomas brought the agency into the modern age. At the time he came, we couldn't tell you what cases we had. He put in place a tracking system. We increased the number of cases, and reduced the time for them. I never had interference with how I handled cases. He made us proud to work here."

I specifically inquired about age discrimination that had lapsed because the statute of limitations had run. I was told that these cases amounted to about 0.2 to 0.3 of 1 percent of the case load, that they never would have been discovered but for the computer program installed by Chairman Thomas, and that when Mr. Thomas heard that age discriminations cases had lapsed, he "saw red." One employee said that, "the suggestion that the lapse was intended has no basis in fact."

A blind attorney, with the EEOC, who now heads the litigation program, said, "I feel personally offended at the unfounded criticism" of Chairman Thomas.

The esprit de corps of the agency was described by an attorney with the Commission, a black woman recruited by Chairman Thomas in 1985. "He told me he wanted to move the agency forward, to attract really good people. He had the highest integrity. He had a high tolerance for disagreement."

Even more illuminating than accounts of the Thomas management of EEOC were the statements made about the personal qualities of the Chairman. Several employees said that the Chairman was personally involved in making the Commission's new headquarters building accessible to the disabled. One person said that Clarence Thomas learned enough sign language so that he could encourage the hearing impaired. Another said that when her son was injured in a football accident, the Chairman came to her office to find out how he was doing, and gave her the name of his own physician. He later "kept coming down" to inquire about his condition.

A long-term black employee who had worked for Martin Luther King said that Chairman Thomas would bring young employees to see her, and would say, "Willie, tell them about Dr. King."

When I asked about the charges some have made that Clarence Thomas has lost sight of his own experience with segregation, and that he lacked feeling for those who came after him, a black maintenance man expressed his feelings most eloquently, and without words. He simply looked at me. Then slowly, deliberately, he turned both thumbs down.

A number of employees of the EEOC thought it important to describe Clarence Thomas' last day as Commission Chairman. They told of hundreds of employees standing in the lobby in tears to say goodbye. When he walked out the door, one middle-aged woman followed him outside, tears streaming down her face.

The headquarters building of the EEOC has since been named the Clarence Thomas Building. A plaque honoring him is fixed to the lobby wall, its words composed, not by the members of the Commission, but by the employees:

> Clarence Thomas, Chairman of the U.S. Equal Employment Opportunity Commission, May 17, 1982—March, 1990, is honored here by the Commission and its employees with this expression of our respect and profound appreciation for his dedicated leadership exemplified by his personal integrity and unwavering commitment to freedom, justice, equality of opportunity and to the highest standards of Government service.

TITLE X—PREGNANCY COUNSELING ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous agreement, the pending amendment is amendment No. 754, offered by the senior Senator from Minnesota [Mr. DURENBERGER], subject to a 90-minute time agreement, controlled in the usual form.

The Senator from Minnesota [Mr. DURENBERGER] is recognized.

Mr. DURENBERGER. Mr. President, the Chair has stated the pending business, and for those of our colleagues who may not have been here when I proposed the amendment, it is an amendment to a substitute proposed earlier in the day by my colleague from Rhode Island, Senator CHAFEE.

We have a unanimous-consent agreement to confine the debate to 90 minutes, 45 of which I will not take, but at least I will begin to explain the purpose of this amendment. But I will do it, Mr. President, in the context of family planning.

I thought it appropriate that before we get into the emotional details of this debate—and whether debate is emotional or not, the issue certainly is—it is important to address some very basic facts and history about what the title X program is. We need to understand what we are dealing with before we decide how it should work.

Title X is a section of the Public Health Service Act, and that ought to tell us something right there. Title X is part of a national effort in this country at promoting and improving public health.

There can be no more central concern for government or for individuals than the health of its citizens, and yet we struggle each year here to find adequate resources for public health. I have been part of that struggle, as have Senator KENNEDY and Senator HATCH in the Labor Committee and Senators HARKIN and SPECTER, the leaders on the Appropriations Committee.

The full name for title X is the Population Research and Voluntary Family Planning Program. The purpose of the program is to provide information and contraceptives to people in order to prevent unwanted pregnancies.

I suppose at one point in time, before I reached this Chamber, that basic purpose was a controversial purpose. But to the vast majority of Americans today Government helping young women to avoid a pregnancy they do not desire and are unprepared for is a good idea and it is tax money well spent.

Title X today provides grants to about 4,000 family planning sites around America. They serve about 4 million women, most of whom are lower income. The core services which these facilities provide are the following: Contraceptive information, contraceptive services, gynecological examinations including basic lab and screening tests such as for cervical cancer, sexually transmitted disease detection, natural family planning instruction, infertility services, and pregnancy testing.

Given the alarming statistics we see about lack of access to health services among lower income women, title X fills an important hole in our public health system. Medicaid, the maternal and child health block grant, and social services block grant, as well as State and locally provided funds, augment this effort. But as the Infant Mortality Commission, the Pepper Commission, and many other studies have shown, many Americans are falling though the cracks.

In part due to various controversies which have become attached to the program, funding today is $18 million less than it was in 1981. When you put that in constant dollars, that is a 50-percent reduction in our Federal commitment to family planning and all of the related services I have just listed.

I ask, Mr. President, is there any person on this floor who believes that family planning is less important today than it was a decade ago? We ought to be spending twice as much, not half as much, on family planning.

Millions of women who need these kinds of services are simply not getting them because there just is not enough to go around. For every 1 woman served, there are probably 10 unserved. And what happens to them? Many of them end up delivering low-birth-weight children, populating our neonatal intensive care units in hospitals all over America. Some of them have short, painful, but expensive lives which devastate their parents and burden the community. To my mind, Mr. President, an equally tragic event, many of those unwanted pregnancies end in abortion.

Mr. President, title X is a vitally important program. It deserves greater support than it gets around here. It deserves far more funding than it receives around here. That is my objective in offering the amendment before us, to find a way to steer title X around all of the controversies which have surrounded it ever since I came to this Chamber. And the way we can do that is to agree to a compromise between the extreme positions in this debate.

I propose that we split the difference between what the Supreme Court erroneously said the title X regulations meant in the Rust decision and what the groups supporting the Chafee bill say they should mean. It is an effort to make title X the best public health bill that it can be. Then we can win bipartisan support for family planning and press on to get the funding it deserves.

The purpose of this amendment is simple: To get pregnant women as quickly as possible into the setting where they can get the best and most comprehensive advice possible. My amendment ensures that women who discover they are pregnant at title X family planning clinics are immediately referred to experts for prenatal care, experts for counseling concerning their options.

The Chafee amendment has no such guarantee. To the contrary, under the Chafee substitute, we can be sure that many women will get pregnancy advice from people who are not qualified to give it.

Unfortunately, the heated rhetoric surrounding the program has often obscured the common purpose we all share: That women receive quality health care. I hope this amendment will serve to lower the volume of the rhetoric of the debate and turn our attention to where it belongs, to ensure that we facilitate continuity of health care when a woman is pregnant. For at that point, there are two patients, a mother and her child.

Mr. President, we need to focus on the limited scope of the Title X Program. Let us be clear. It is not a full service health care program. It is a preventive preconception program. Services in the program include preconceptional counsel, education, and general reproductive health care. In essence, once a women is diagnosed as pregnant, she does not belong in the Title X Program anymore.

When a person's general practitioner discovers a serious condition, they normally refer the patient to a specialist who is more competent to treat the condition. That is exactly what my amendment proposes: When a title X facility has a client or a walk-in client who is pregnant, they must refer that woman to a facility that is expert in treating pregnancies. Preventing pregnancy and dealing with it are two different things, and title X should reflect that fact.

In this regard, it is critically important to understand one simple fact. In approximately 80 percent of the visits to a title X clinic, the woman will not be seen by a physician. She will be seen by a health professional trained in conception and venereal diseases. These are people not equipped to counsel for, diagnose, or treat postconceptional problems. To receive these kinds of services, the woman must leave the program and receive care from a prenatal provider in the same community.

I have often heard proponents of JOHN CHAFEE's amendment say these decisions should be made between a woman and her doctor. That, Mr. President, is the purpose of this amendment: To get women out of an environment where only 20 percent of them will be seen by a doctor and into medical facilities where their pregnancy can be dealt with competently by physicians who specialize in obstetrics and prenatal care.

Assessing the health implications of pregnancy is an extremely complex area which requires medical personnel trained in obstetrical care.

This is the way the program is supposed to work now. I did not invent the idea of medical referrals. I have visited family planning clinics in my State in the aftermath of the Rust decision, and they tell me things are now quite different. They believe that the referral is under a shadow, and they are very uncertain about what activities, on the discovery of a pregnancy, are permissible and which are not. This amendment clarifies this situation for every professional in every title X clinic in America, in answer to some of the exaggerated claims of the dire impact of the regulations as they now stand.

Under this substitute, the pregnant woman would be given the information she needs. Once she is diagnosed as pregnant, she will be referred for prenatal care by providing her a list of health care providers. On this list can be such providers as hospitals, community health centers, and maternal and child health programs and private physicians.

She may then look at the list and ask questions such as: Which one is the closest? Do you know which one has the lowest prices? Which ones accept Medicaid? Or: I have a family history of diabetes. Which of these programs has experience with high-risk pregnancy?

Under this substitute, the clinic can then supply the woman with the valuable information in helping her make her choice. Until she makes the choice of the referral, they also have to provide her with all the important, appropriate information that goes with her pregnancy.

I want to emphasize the following point. This referral list that she is given may include prenatal providers, prenatal counselors which refer for abortion. It may include prenatal counselors which actually perform abortions, as many hospitals and private physicians do.

The only providers who are excluded from the list are those whose principal business is the provision of abortion or abortion clinics. But if they provide prenatal counseling services, they will be on the list and they will be the appropriate referral in that community.

However, if a woman enters a title X clinic and suffers from a medical emergency, this clinic is required to refer her immediately for emergency health care services, even if the outcome is abortion.

An important feature of this substitute is that it facilitates a women exploring all of her options concerning pregnancy and exploring them with personnel who are trained in the full range of obstetrical care.

At the referral, the woman can discuss and receive counseling on abortion. And, of course, there she can also receive the counseling and the care for her health and the health of her child. These are all services that are simply beyond the scope of the title X program. I believe that it is time we recognize this fact, and that we tone down the rhetoric and face the facts about the limitations of this program.

I hope, Mr. President, that this substitute offers a common ground for my colleagues who share my concerns about promoting women's health, who share my concerns about reducing the tragic rate of infant mortality in this country. Rather than focusing on a divisive debate about abortion, we ought to be showing the way to improve maternal and children's health. And I fervently believe that my amendment serves that objective.

It simply says that if you are pregnant, we want you to seek help from medical professionals who are specifically trained in the area of prenatal care. The title X program is not the place for that type of care, but here is where you can find it.

For those who think that the Durenberger referral amendment created referrals, let me tell you that the business of title X clinics is making these referrals. The Planned Parenthood of Minnesota, thank the Lord, provides a tremendous title X service in our State, routinely provides referrals to people who discover they are pregnant. They have a booklet entitled "Pregnancy-Related Community Resources." It includes social services, pregnancy continuation services, counseling, adoption, and related services of one kind or another.

This booklet, under my amendment, will have one change in it. There will not be a section entitled "Pregnancy Termination." But for the agencies that are listed under "Pregnancy Termination," like the Planned Parenthood of Minnesota, Highland Clinic, in St. Paul, which is a prenatal counseling service, it is perfectly appropriate to make a reference to Planned Parenthood of Minnesota, Highland Clinic, for prenatal services. At that service, there may be an abortion referral, and there may be an abortion performed. But not until the woman has all of the options, not just one of the options, that may come if you adopt the Chafee amendment.

The Midwest Health Center performs abortions in Minneapolis. It also provides prenatal counseling services. It counsels people on carrying their children to term, as well. That is all this amendment is designed to do: Make sure that you get all the options, not just one.

In conclusion, I believe it is essential that somehow we penetrate the fog of this debate and present the facts about family planning.

The fact is that once a woman is diagnosed as pregnant, as an expectant mother, this program cannot give her the counseling and the care she needs. She must have prenatal care. My amendment gives her the information she needs. In short, it makes good public health sense. To put this in personal terms, a young woman receives a pregnancy test in a title X clinic; it comes back positive. She is probably in a crisis state, and she needs counseling. It is our obligation to see that she gets it. It is our further obligation that she gets it from those most qualified to give it, and that she get all of the options.

We do not have an obligation to guarantee the right of the title X health worker to provide selective counseling to a newly pregnant young woman or teenager on what they should choose. The amendment is not a gag rule. It is the rule that states that pregnant women get counseling from those best trained to give it, and that in that setting, not in a pregnancy prevention setting, they get all their options.

Mr. President, the Senate has a choice: Continue the fractious debate, which weighs down this vital public health program, which provides fewer dollars today by 50 percent than it provided 10 years ago for one of the most important public health services in America; or seek a middle ground which deals with this contentious issue by directing pregnant women to settings where they will get the best care available.

As a supporter of the title X program and an advocate for public health, I urge my colleagues to reject the emotional appeals on both sides, and take the logical middle course offered by this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes. I know that the Senator from New Mexico and others intend to speak.

I mention at this point that I have difficulty listening to the explanation of my friend and colleague from Minnesota, to read the particular description of his amendment; because the way I understand it—and I wrote these words down—he talks about counseling and talks about getting all of the options. I refer our colleagues to just a review of the language on page 2:

> "(a) REQUIREMENT.—Except as provided in subsection (b), entities receiving financial assistance under this title (whether by grant or contract) shall be required to refer individuals who are pregnant for appropriate prenatal medical care, by furnishing such individuals with a list of available health care providers.

There is no mention in here about counseling. That is an extremely important aspect of the Chafee amendment. We will have more of a chance to get into the amendment. This is of great interest. I thought we had an argument in favor of the Chafee amendment when he was talking about counseling and the range of options. I reread this amendment closely, and we will have a chance, perhaps during the course of the debate, to review at least that observation in greater detail. I did indicate that the Senator from New Mexico had a willingness to yield at the time on the general issue of the Chafee substitute. I will be glad to yield 6 minutes to the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank the Senator from Massachusetts for yielding me time to speak on the issue. I am a strong supporter of the Chafee amendment and the underlying bill. I commend the Senator from Rhode Island, Senator ADAMS, and Senator KENNEDY for their leadership on this issue.

Mr. President, for 20 years the title X family planning program has provided low-income women and teenage girls with essential medical care. This is care to which they otherwise might not have had access. One of the program's major objectives has been to provide pregnant women and teens with nondirective counseling, and to give them all of the information that they need to make an informed choice between parenting, adoption, and pregnancy termination.

Since its inception, however, the scope of the program has been expanded to meet the ever-increasing health care demands of the recipients. As a result, title X clinics now provide their clients with screening tests for cancer, tests for AIDS, high blood pressure, and diabetes. They treat infections and sexually transmitted diseases. These clinics do—and they should continue to—provide clients with comprehensive health care.

Mr. President, regrettably, Chief Justice Rehnquist, in writing the majority decision in Rust versus Sullivan, failed to recognize this fact when he justified an extension of the gag rule on the grounds that the regulation does not "significantly impinge upon the doctor-patient relationship," referring to that relationship between title X recipients, who should not, in his words, expect to receive "comprehensive medical care." This reasoning, in my view, is a shallow attempt to rationalize the Court's decision to suppress free speech and to deny underprivileged women equal access to information that will enable them to make responsible decisions about their health care options.

Mr. President, I am disturbed by the Court's presumption that the Federal Government has the right to withhold information from women and teens regarding their own health and reproduction. I believe Congress should reject the Court's attempt to legitimize a two-tier health care system, one for wealthy women and one for impoverished women and teenage girls.

Mr. President, I am not a physician, and like most of my colleagues, I have not had any medical training, but I believe that if we do not reject this decision of the Supreme Court in Rust, we will see the effectiveness of these family planning clinics severely undermined. If the legislation fails and the gag rule remains in effect, I do not think we are going to be able to attract health care professionals that we need, whether they are physicians, or nurse practitioners, or nurses, to work in these clinics and to maintain them as viable institutions.

I think of my own situation as an attorney, and the career that I began a little over 20 years ago in the New Mexico Attorney General's Office. Mr. President, I analogize this issue somewhat to a situation where an attorney applies for a position in the public defender's office, for example—and I did not apply for such a position, but I might well have. A young attorney goes in to work in a public defender's office, and he is advised that he can have a job, but there is a regulation in the Department of Justice that says that you can defend people, but in giving them advice, you need to be sure that you do not advise them of their right against self-incrimination, because the Justice Department has made a decision that although that is a constitutional right—just like the right to have an abortion is in our country—the Justice Department has decided that we no longer believe of informing people of that particular right. We believe, instead, that a majority of the people in the country who are accused of crimes ought to confess to those crimes, and we ought not to use taxpayer dollars to inform them they have a right not to confess. If something like that were explained to me or any young attorney applying for a job, I am certain they would refuse to work in that circumstance.

This may be an unusual analogy, but from my perspective as a lawyer, the Supreme Court's decision in Rust could be interpreted to extend beyond this issue before us today and to allow that Department, in that case the Justice Department, to restrict the use of public funds in public defender's offices from being used to inform clients of some of their constitutional rights.

This is a terribly dangerous precedent to set, and, in my view, it should not be allowed to stand.

Unfortunately, the Supreme Court decision in Rust shows a real lack of understanding of basic rights within our country. I hope my colleagues will see this issue more clearly and will vote to pass this legislation.

In closing, I would simply add that we have a long tradition in this country and in our system of jurisprudence of maintaining a particular relationship between the attorney and the client and between the physician and the patient, and the Government has had the good sense to stay out of that relationship. The Government has allowed those professionals to give advice as they saw fit. We need to protect that. In my view, unless we do so, federally funded family planning clinics around the country will not be effective because health care providers simply will not agree to work in those. I believe this would be a tragic and unjustifiable consequence for thousands of low-income women and teenage girls around the country.

Mr. President, for that reason I hope to reject the amendment offered and support the Chafee amendment and the underlying bill. Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair inquires who yields time.

Mr. KENNEDY. I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. CHAFEE. Mr. President, first I say about this amendment, and any time we have an amendment on health care matters from the senior Senator from Minnesota, it deserves our attention because I do not think anybody in this Senate has worked harder on health care matters than Senator DURENBERGER. When he presents an amendment, obviously it comes as a result of deep concern and care as evidenced by the past record he has achieved in this Senate.

Therefore, I look at this amendment extremely carefully and find some points that I would differ with my colleague on. First, I think it would be a mistake to call this amendment a compromise. This amendment is indeed the administration's amendment. What it does is it takes the present regulations that are in effect now and codifies them.

Mr. President, I particularly would refer to the section that the distinguished Senator from Massachusetts was referring to and that is section 1010(a). Before going into detail on that I would just like to say, why are we here? Why are we all debating this? What caused all this to come about?

This came about because the rules of the game, if you would, the rules under which we were proceeding that remained in effect throughout the Reagan years from 1981 to 1988, were very clear and those rules were changed. The rules under 8 years of President Reagan and, mind you, no one ever called President Reagan soft on termination of pregnancy, the rules were explicit. What they said is printed right out in regulations: That when a woman went to a title X clinic, that woman was given the following advice.

Counseling, and if she asked for her options she was to be given the following options: Option 1 was prenatal care, carry the baby to term, and keep it. Second, was carry the baby to term and put it out for either foster care or adoption. And, third, termination of pregnancy. That was required, written right in the regulations, and that is the way life operated in the title X clinics for 7 plus years.

In 1988, over in HHS they changed the rules and they said no, they cannot give the woman her options, that that was wrong. They could not give her the third option of termination of pregnancy.

The Senate of the United States, by a vote of 62 to 36, stated that they felt that was just plain wrong. That was a gag rule. If she could afford it and could go to a doctor she would get her options. Indeed, if she did not get her options that doctor was guilty of malpractice. But, if she went to a title X clinic, because the Government was paying part of it, she could not get her options. We felt that was just plain wrong and that is why we are here today.

I would refer now to section 1010. As I understood the presentation by the distinguished Senator from Minnesota, he said that she is told her options. But if you look at the language, you will see—and I will just read this—that she comes in and—"* * *shall be required to refer individuals who are pregnant for appropriate prenatal medical care by furnishing such individuals a list of available health care providers."

OK. No argument there.

"Such list may include available prenatal providers who perform abortions." "May." But it is not "shall." In other words, she is not given her full range of options. And nowhere, I believe, unless the Senator will correct me and if I am wrong I would be very glad to know it. Maybe I would not be so glad to know it, but I would be informed anyway that she is given her range of options, but, no, she is not. So I just do not think that is fair. I do not think that meets the problem of why we are here. We are here trying to see that she receives nondirective counseling.

The second point I wish to make about what I find to be a major flaw in the amendment is that in the title X clinic she is not given any counseling. In effect she is given a list. You are now determined to be pregnant, and you go down the street to A, B, or C hospital, such and such clinic, and there you will be taken care of.

Mr. President, that, I feel, would be a very, very serious mistake. What kind of women are we dealing with? We are dealing with, in most cases, young women, by definition low-income women. We are dealing with those who are distressd and upset. They discover they are pregnant; they just do not know what to do. Mr. President, all too often these are women who are not within the health care system.

We in this Chamber were brought up that when something is wrong our parents said go to the doctor, and they called up, and we went to the doctor, and everything was taken care of.

We are dealing with a segment of our population who do not have access to doctors, who cannot afford it, who are not in the habit of going to doctors, and statistics very clearly show that a shocking percentage of our pregnant population do not go see a doctor until the third trimester, if indeed they go then. These are women who are not in the system.

I believe very, very strongly that when they have taken the trouble to come to this title X clinic, that is an effort on their part, that we should at least give them some counseling. Outline their options, yes, that is part of it, but not the principal part. We want that. That has to be a part of it. But there is more than that. It is at this occasion, that the counselor says, look, do not smoke, do not drink, take care of yourself. There are certain things you should and should not do. It is not complicated. It does not take a gynecologist or a trained specialist in MD. It can be a nurse practitioner; it can be the counselor who is there who knows these requirements that a pregnant woman should follow.

But under the Durenberger amendment, unfortunately, such is not true. The woman is sent out, she goes elsewhere, and the danger is that then she will be lost to the medical health care system. I certainly know that is not the intention of the distinguished Senator from Minnesota who, as I say, has a long interest in this matter. But that is what is going to, unfortunately, occur.

I come from a very urban State. I come from a State where, through our health department, not only when I was Governor but continued since, every effort is made to bring these low-income women into the health care system and, of course, especially if they are pregnant. But we are not successful. We have a very high percentage of our population of which English is not their first language and that group is particularly difficult to bring into the system.

So when somebody makes the effort to come, we want to make sure we give them every possible assistance we can and not give them a list and send them out the door, down the street, and it is not just down the street, it is several blocks, several miles, frequently.

And I might also say this, Mr. President. This is the very group that does not have access. Let us say they qualify for Medicaid—and, by the way, to qualify for Medicaid, they have to go through a whole series of hoops. They have to go down to the office, they have to state their financial condition, they have to state whether AFDC or whatever the program is, and they do not then have a doctor right there to take care of them. That is what we are talking about, this whole lack of access in the American health care system.

Every doctor will not take Medicaid patients. Indeed, if they find one that will, there is a wait. You might think, "Go to a community health center." Community health centers do not have to take everybody that comes in the door and, bingo, everybody can be taken care of. There are waits and delays and lines. So the person you can advise and counsel about taking care of herself during her pregnancy does not get the information the next day, even if they are attentive enough to follow up.

What I am afraid of is that, indeed, this is the very kind of person that will drop through the cracks in our medical care system and will not show up again until maybe the third trimester.

So, Mr. President, I find great flaws within the amendment. As much as I respect the author, I find great flaws with the amendment as presented by the distinguished Senator from Minnesota.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. DIXON). Twenty-five minutes thirty-seven seconds.

Mr. KENNEDY. Mr. President, I yield myself 8 minutes.

Mr. President, I think there is very little argument, certainly from me and I would imagine from the other Members of the Senate, in stressing and emphasizing and encouraging good prenatal care for those that want to bring their child to term. And we have made some progress in that area in the very recent years. We have made it in the Medicaid program in the last few years. We have developed comprehensive child development programs which are to go back and treat children from early pregnancy all the way, actually, up to kindergarten, recognizing the enormous importance of quality health care, prenatal care.

But as the Senator from Rhode Island has pointed out, what we are effectively doing is the codification of the administration's recommendations in 1988.

Mr. President, I want to add a point to what the Senator from Rhode Island has mentioned with regard to nurse practitioners, because there were comments that were made earlier in the course of the debate, not by the Senator from Minnesota but from others, sort of demeaning these various medical professionals that are serving in these various clinics, and that is a real disservice.

The types of nurse practitioners that operate or that work under physicians' supervision, which is the case for these various clinics, one, have an additional year of academic training and then 2 years postacademic training before they are effectively certified to work in these various clinics. And the interesting view is that in examining the quality work of these nurse practitioners, it has been determined that they have, by and large, much more effective communication skills with the kind of individuals that come into the family planning clinic. I think it is probably understandable and probably quite obvious. But that has been one of the very important evaluations that have been made of the various clinics to date. And it is important because there were comments made earlier about the qualifications of these nurse practitioners and I think it is important to correct the record.

Finally, Mr. President, we are, once again, as has been pointed out, really talking about what is an illusion and continues to be an illusion no matter how many times some of our friends and colleagues say that it is not an illusion, it is a reality.

I heard earlier in the course of the day that what we are really talking about here are Federal funds that will be used for the performance of abortion. I think Senator CHAFEE and others who have supported his position with regard to the gag rule have clarified what their position is and what the public policy question is before the Senate. But these charges, these allegations have been made at other times in this body and in other forums.

I think it is important, Mr. President, to look back at other times, even after the promulgation of the regulations in 1981 when my friend and colleague from Utah and former colleague from Alabama, Senator Denton, requested GAO to look into whether these clinics were mixing and commingling the funds that were being provided under title X and with other private funds or wherever the funds may be raised that were going to be in support of abortion.

The GAO Comptroller General's report is very clear—and I would include the appropriate parts in the RECORD.

Mr. President, I ask unanimous consent that the GAO report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Report by the Comptroller General of the United States, Sept. 2, 1982]

RESTRICTIONS ON ABORTION AND LOBBYING ACTIVITIES IN FAMILY PLANNING PROGRAMS NEED CLARIFICATION

Some family planning grant recipients' practices raised questions as to whether they comply with restrictions on abortion-related activities, but there was no evidence that title X funds had been used to pay for abortions or to advise clients to have abortions. The Department of Health and Human Services (HHS) needs to set forth clear guidance on the scope of abortion restrictions in its title X program regulations and guidelines.

Even if this is done, title X recipients would still be allowed to carry out abortion activities—not with title X funds, but as a part of their overall activities by organizationally separating the title X family planning program. The Congress may want to clarify its intent if it does not want title X funds to go to organizations providing abortions.

Lobbying by recipients was generally not paid with title X program funds and therefore not subject to Federal lobbying restrictions. However, recipients incurred some expenses that raised questions as to adherence with Federal lobbying restrictions. HHS needs to make its guidance in this area more specific and consistent.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate.
Hon. JEREMIAH DENTON,
Chairman, Subcommittee on Aging, Family and Human Services, Committee on Labor and Human Resources, U.S. Senate.

In accordance with your September 8, 1981, request we have reviewed the family planning program authorized by title X of the Public Health Service Act to determine whether title X funds have been used to finance lobbying activities or to support abortion-related activities.

Comments were obtained only from the Department of Health and Human Services and not from individual grant recipients included in our review. In accordance with our policy, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies to the Secretary of Health and Human Services; the Director, Office of Management and Budget; other interested congressional Committees and Subcommittees; the grant recipients included in the review; and other interested parties.

CHARLES A. BOWSHER,
Comptroller General of the United States.

DIGEST

Title X of the Public Health Service Act authorizes the Department of Health and Human Services (HHS) to make grants for a broad range of family planning services. Recipients of title X funds, however, are restricted from using program funds for abortions or certain abortion-related activities and for lobbying.

At the request of the Chairman of the Senate Committee on Labor and Human Resources and the Senate Subcommittee on Aging, Family and Human Services, GAO reviewed the activities of selected title X grantees operating family planning clinics to determine whether title X funds were being used for such activities.

CLARIFICATION OF ABORTION RESTRICTIONS NEEDED

GAO found no evidence that title X funds had been used for abortions or to advise clients to have abortions. Since, 1971, HHS has held that the restrictions of section 1008 prohibiting the use of title X funds "* * * in programs where abortion is a method of family planning" are applicable to only that part of a recipient's operation supported by title X. HHS' interpretation of section 1008 allows title X recipients to use non-title X funds to carry out abortion-related activities which would not be allowed as part of the title X program, so long as the abortion activities are separated from the title X family planning services.

Thus, HHS' policy allows title X recipients to use organizational techniques to insulate the title X program from abortion activities prohibited by section 1108 and thereby not jeopardize their eligibility for title X funds. Because the distinction between the recipients' title X and other activities may not be easily recognized, the public can get the impression that Federal funds are being improperly used for abortion activities.

About 74 organizations receiving title X funds perform abortions at clinics located with family planning programs. Under HHS' policy, these agencies can organize family planning and abortion activities into separate programs and still comply with the HHS interpretation of section 1008.

Congressional guidance may be needed if the Congress does not want title X to go to organizations providing abortions.

FAMILY PLANNING CLINICS NEED FORMAL GUIDANCE ON ABORTION-RELATED MATTERS

HHS has traditionally held that section 1008 not only prohibits abortion as a method of family planning, but also prohibits activities which encourage, promote, or advocate abortion. These policies evolved from a series of HHS' legal opinions, but have never been set forth in regulations or guidelines—HHS' formal mechanisms through which policy is provided to grant recipients. In addition, the legal opinions do not always reach clinics and sometimes "draw a fine line" between allowable and unallowable activities, thereby failing to provide clear guidance on abortion-related matters.

GAO reviewed the activities of 14 family planning clinics to determine whether title X funds were being used for abortion-related activities. Although only six clinics had received copies of the legal opinions, clinic staff who counsel title X clients generally said they were aware of HHS' abortion policy restrictions, and GAO found no indications that any women were advised or encouraged to have abortions. However, GAO found variations in clinic practices, some of which GAO believes are questionable in light of HHS' interpretation of section 1008. These include:

Counseling practices which do not present alternatives to abortion.

Abortion referral practices which may go beyond HHS' referral policy.

Using educational materials which present barrier methods of contraception with early abortion in care of failure as a method of family planning.

TITLE X RECIPIENTS NEED MORE SPECIFIC GUIDANCE ON LOBBYING

Using title X program funds for lobbying—attempting to influence legislation or appropriations pending before the Congress—is restricted by Federal appropriations laws, HHS' regulations and instructions, and the Office of Management and Budget's (OMB's) guidance. However, neither HHS nor OMB has specifically identified activities that constitute lobbying. Also, Federal guidance setting forth restrictions on dues paid to organizations that lobby is inconsistent between public and other non-profit title X recipients.

All seven title X recipients reviewed for lobbying had incurred expenses that, in GAO's opinion, raised questions as to adherence with Federal restrictions. Two recipients lobbied, but GAO could not determine from their records whether program funds were used. Most lobbying expenditures of the other five recipients did not involve program funds and were therefore not subject to Federal restrictions. However, of these five, all used programs funds to pay dues to organizations that lobby; and two used small amounts of program funds to lobby at the Federal and/or State level.

While Federal cost principles clearly prohibit public organizations from using program funds for dues to organizations that do substantial lobbying, the cost principles for other nonprofit organizations are silent on this restriction. Nonetheless, such expenditures could be questioned in light of the restriction in HHS' appropriation law that the funds cannot be used to pay the salaries or expenses of any grantee, contractor, or their agent to engage in any activity designed to influence legislation pending before the Congress.

Two recipients used small amounts of program funds to attend conference during which lobbying took place and to correspond with members and/or staff of the Congress to advocate for or against pending legislation. One recipient displayed a poster at a title X clinic that urged clients to write the Congress to defeat pending legislation banning abortion. While any use of program funds in this lobbying effort was indirect, HHS holds that title X recipients are not to advocate abortions or promote a favorable attitude toward abortion.

HHS has recognized the need to establish more specific guidance on lobbying and the payment of dues to lobbying organizations. In this regard, HHS has initiated action to amend the cost principles for grantee organizations.

RECOMMENDATIONS TO THE SECRETARY OF HHS

Pending revision of Federal cost principles, GAO recommends that the Secretary provide interm guidance to title X recipients on activities that constitute lobbying and are therefore unallowable as program expenditures.

GAO also recommends that the Secretary establish clear operational guidance by incorporating into the title X program regulations and guidelines HHS' position on the scope of the abortion restriction in section 1008.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Even if the abortion-related recommendation to the Secretary is implemented, title X recipients would still be allowed to carry out abortion activities—not with title X funds, but as a part of their overall activities by organizationally separating the family planning program from those activities.

Because of the sensitivity of the abortion issue and the concern over how Federal family planning funds can be used, the Congress may want to provide guidance to HHS to clarify the intent of section 1008.

AGENCY COMMENTS

HHS agreed with GAO's recommendations. HHS plans to incorporate in its title X guideline an explanation of its position on the implementation of section 1008 and to publish proposed regulations defining lobbying activities by title X and other grant recipients that are unallowable. GAO obtained comments only from HHS.

CHAPTER 1—INTRODUCTION

In a September 8, 1981, letter, the Chairmen of the Senate Committee on Labor and Human Resources and the Senate Subcommittee on Aging, Family and Human Services requested that we review selected aspects of the title X family planning program concerning compliance with prohibitions in Federal statutes governing abortion-related activities and lobbying. (See app. I.) Our review focused on the Department of Health and Human Services' (HHS') policies and practices for implementing and monitoring compliance with those Federal laws and the practices at selected title X recipients.

Background

The Family Planning Services and Population Research Act of 1970 (Public Law 91-572) added title X to the Public Health Service Act. Project grants with public and private nonprofit organizations, operating voluntary family planning projects and clinics, are the major component of the title X program.

The 1970 Act established within HHS' Public Health Service an Office of Population Affairs to be directed by a Deputy Assistant Secretary. The act intended that the Deputy Assistant Secretary would administer all of the HHS programs related to family planning and population research and coordinate all domestic and international family planning activities administered by the Federal Government. In practice, however, family planning programs are administered by HHS' component agencies and the Deputy Assistant Secretary coordinates efforts.

The Office for Family Planning within HHS' Bureau of Community Health Services has overall responsibility for the title X program. The Bureau sets policy, issues guidance, and allocates funds for services to HHS' regional offices, which are responsible for the day-to-day administration of the Federal title X family planning program.

HHS' regional offices directly fund some organizations which provide family planning services, but most title X funds are awarded to intermediate organizations which distribute grant funds to delegate agencies that operate clinics. The intermediate organizations are responsible for administering the grant and for overseeing the activities of their delegate agencies. For example, Genesee Region Family Planning Program, Inc., in New York is an intermediate organization which funds seven delegate agencies that operate several clinics. It is responsible to HHS for the overall grant administration and, in turn, holds its delegate agencies responsible for proper administration of their respective subgrants.

Since 1970 HHS has provided over $1 billion for project grants for family planning services under title X. In fiscal year 1982, $124.2 million was appropriated for title X activities of which $120.9 million was for family planning project grants. HHS awarded title X funds for family planning services to 223 direct grantees which funded 943 delegate agencies operating about 4,200 clinics. The type and number of grantees were as follows:

Types and number of title X grantees

[As of Apr. 1, 1981]

Public:	
State health departments	36
County health departments	33
City health departments	7
Trust territory health departments	6
Subtotal	82
Other nonprofit:	
Coordinating councils	90
Planned parenthood affiliates	31
Hospitals	12
Universities	8
Subtotal	141
Total	223

Family planning services provided by these grantees typically include:

Physical examinations.

Laboratory tests.

Education and counseling concerning reproductive health and methods of birth control.

Prescribing and distributing contraceptives.

Sterilization.

Pregnancy tests.

Pregnancy counseling.

Infertility services.

Special services for teenagers.

Most clients of title X-supported clinics are not pregnant and generally receive only physical examinations, education on contraceptive methods, and services related to birth control. In 1978, the latest year for which national data were available, about 162,000 of the 1,466,000 women (or 11 percent) making their first visit to family planning clinics received pregnancy tests.

Statutory restrictions on abortion-related activities and lobbying

Activities related to abortions and lobbying are restricted by Federal laws. Section 1008 of title X states that "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." Restrictions on lobbying primarily stem from provisions in several annual appropriations acts that provide that no appropriated funds shall be used by grantees to influence legislation pending before the Congress.

Objectives, scope, and methodology

Abortion-Related Activities

We reviewed HHS' program regulations and guidelines and other policy guidance implementing section 1008. We reviewed the grant awards and administration procedures followed in 6 of HHS' 10 regions. At each region, we interviewed program officials and examined grant documents to see how section 1008 was interpreted and implemented. These 6 regions administer grants totaling $98 million (or about 80 percent) of the title X funds.

To test for compliance with the HHS policies, we reviewed the activities of 14 family planning clinics in California, Kentucky, Massachusetts, Maryland, Ohio, Texas, Vermont, and the District of Columbia. (See app. II.)

At the 14 clinics, we reviewed local policies and practices; interviewed staff responsible for counseling, education, and referral activities; ascertained the guidance furnished by HHS to title X recipients; and reviewed a limited number of client records selected randomly. In total we examined 474 records of pregnant clients to verify clinic counseling and referral practices. We do not consider this test to be representative of all title X clinics and the results should not be projected. We did not contact clients to obtain their views on the counseling provided because of concern about breaching client confidentiality.

We judgmentally selected the 14 clinics to provide for (1) geographic distribution of locations nationwide, (2) different types and sizes of title X recipients, and (3) rural and urban clinic settings. In selecting these locations, we avoided the title X recipients who were included in recently completed or ongoing audits by HHS' Inspector General.

In addition, to ascertain how title X recipients that also provide abortions as part of their overall operations comply with HHS guidance, we conducted limited audit work at certain other title X clinics that provide family planning services and abortions. These clinics were located in California, Ohio, and New York.

The demographic data requested on clients who are pregnant when they first seek services in title X clinics are not collected by HHS' data systems, and comparative analysis of clients referred for abortions and educational materials used in public and private clinics could not be made. We did not undertake statistical tests to obtain the data because of the length of time that would have been required.

On February 22, 1982, HHS issued proposed regulations which would, among other things, require notification of the parents of unemancipated minors provided prescription methods of birth control. These proposed regulations are intended to implement section 931(b)(1) of the Omnibus Budget Reconciliation Act of 1981. At the time of our review these regulations had not been finalized.

Lobbying Activities

Our review of title X recipients' lobbying activities focused on (1) identifying Federal laws, regulations, instructions, and other guidance applicable to lobbying by recipients and (2) determining whether recipients used Federal funds for lobbying. To ascertain whether grant recipients had sold or donated mailing lists to political candidates or organizations we held discussions with and reviewed the records of seven recipients. We found no indication that this practice occurred. In addition, we identified no Federal laws or regulations which prohibit this practice by grant recipients where it is not precluded in applicable grant documents.

We interviewed officials in HHS' Office of the Assistant Secretary for Management and Budget; Public Health Service's Office of Population Affairs, Bureau of Community Health Services, and Office for Family Planning; regional offices; and selected title X recipients to identify Federal lobbying restrictions and guidance provided to recipients. In addition, we interviewed (1) officials of the Office of Management and Budget (OMB) to identify existing and/or proposed lobbying restrictions in OMB circulars and (2) representatives of the Internal Revenue Service to discuss lobbying restrictions imposed on nonprofit, tax-exempt organizations.

Our review included work at seven nonprofit title X recipients in California, New Jersey, New York, and the District of Columbia. (See app. II.) We visited five grantees—three coordinating councils and two Planned Parenthood organizations—and two other Planned Parenthood organizations operating as delegates of two of the coordinating councils. All received title X grants or subgrants for $125,000 or more. The five grantees included in our audit received about $8.4 million of title X funds during their most recent budget period. These grantees and delegate agencies were selected judgmentally considering, among other things, their size, and avoiding duplicating locations included in recent audits by HHS' Inspector General. Planned Parenthood organizations were included because the requestors asked questions specifically about such organizations. Coordinating councils—nonprofit recipients covered by the same OMB circulars as Planned Parenthood organizations—were included so that a range of family planning organizations was represented. The largest delegate agency of two coordinating councils was also reviewed. The organizations reviewed are not statistically representative of title X grant recipients.

At the recipient level we interviewed the executive director, financial director, board members, and other representatives to ascertain whether they lobbied and whether title X program funds were used. We reviewed grant applications and budgets, financial expenditure reports, and audit reports and traced selected expenditures to source documents to ascertain whether they were related to lobbying activities. We also reviewed correspondence files, board minutes, and annual reports to the Internal Revenue Service to identify potential lobbying activities.

Our audit approach varied somewhat for each grant recipient because they had different accounting systems, received grants covering different periods, and were organized differently. In all cases, however, we reviewed selected expenditures made during January to June 1981, the period when the Congress was considering incorporating the title X program into a block grant, and during which time several bills were being considered in the Congress to limit the availability of abortions. We believe lobbying, if it occurred, would most likely have occurred during this period.

Our review did not include work at Planned Parenthood Federation of America because (1) according to HHS officials, the Federation did not receive title X funds during the period covered by our review and (2) as agreed with the requestors' offices, the results of our work on lobbying activities at the seven grant recipients did not indicate that further work was warranted.

Comments were obtained only from HHS and not from individual grant recipients included in our review.

As agreed with the requestors' offices, no work was done to determine how the effectiveness of the program can be evaluated because the title X program was being considered for inclusion as part of a block grant.

Our review was conducted in accordance with the Comptroller General's "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions."

CHAPTER 2—CONGRESSIONAL CLARIFICATION OF ABORTION RESTRICTIONS IS NEEDED

HHS' policy allows title X recipients to use organizational techniques to insulate the title X family planning program activities from abortion activities prohibited by section 1008, thereby not jeopardizing their eligibility for title X funds. That policy, established in 1971, stems from HHS' position that the restrictions of section 1008, prohibiting the use of title X funds "* * * in programs where abortion is a method of family planning" are only applicable to that part of the recipient's activities supported with title X funds. HHS' interpretation has created the impression, in some instances, that federally funded title X family planning clinics are engaging in prohibited activities.

In view of the sensitivity of the abortion issue and concern over how Federal family planning funds may be used, the Congress may want to clarify the intent of section 1008.

Organizational arrangements used by some family planning clinics

HHS estimates that about 74 organizations (46 hospitals, 21 Planned Parenthood affiliates, 4 other nonprofit organizations, and 3 public health departments) receiving title X funds also perform abortions at clinics colocated with family planning programs.[1] While such organizations are expected to maintain physically separate family planning and abortion programs and separate records to account for each program, they are allowed to share facilities and staffs and to prorate common expenses. The examples below describe the organizational arrangements used by two title X recipients which enable them to provide both abortion and family planning services while still complying with HHS' policy.

Example 1

HHS has funded a nonprofit family planning organization located in Columbus, Ohio, since 1971. In 1978, the organization established a separate but controlled corporation for the sole purpose of providing first trimester abortions. The title X recipient has effective control of the corporation through interlocking trustees and the exclusive right and power to nominate and elect trustees.

The abortion and family planning clinics operate simultaneously on Wednesdays and Fridays in the same three-story building, with nothing on the exterior of the building indicating the existence of two separate operations. The abortion clinic leases space on the second floor from the title X recipient, and the family planning clinic occupies the third floor. Under an informal agreement, the abortion clinic pays the title X recipient a management fee for services of the executive director and financial manager. Two other employees of the family planning clinic also work for the abortion clinic. The family planning clinic refers clients to the abortion clinic, but separate medical charts and patient accounts are established and maintained.

According to the executive director, the title X recipient established the separate corporation in order to avoid the appearance of violating restrictions imposed by section 1008. The abortion clinic performs about 1,000 abortions per year.

Example 2

HHS has funded a nonprofit organization in New York City which operates both abortion and family planning clinics. This title X recipient operates the abortion clinics under the same corporate organization, but separates the programs by scheduling clients at different times. At its Brooklyn clinic, for example, the scheduling was as follows:

	Abortion clinic hours	Family planning and abortion postoperative hours
Tuesday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.
Wednesday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.
Thursday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.
Friday	None	11 a.m. to 7 p.m.
Saturday	8:30 to 10 a.m.	10:30 a.m. to 5 p.m.

Both the family planning and abortion clinics are staffed by the same personnel, and the medical director for the family planning program generally performs the abortions for the clinic as well. The clinic director said that the abortion and family planning clinics' schedules did not overlap and that clients were not commingled.

The expenses of the clinic operations are maintained in separate accounts. All direct costs are charged specifically to family planning, abortions, or laboratory services as appropriate and indirect costs are prorated. Unlike the operation in the Ohio example, separate medical charts and patient accounts are not maintained, and all abortion clients are counted as family planning clients in the HHS reporting system. In 1980 the Brooklyn clinic served 4,462 contraceptive clients and performed 2,341 abortions.[2]

Basis for HHS' policy

HHS' policy which permits funding organizations which operate abortion clinics outside the title X program is based on its assessment of the legislative intent. According to HHS' General Counsel, the most significant expression of that intent is contained in the Conference Report accompanying the Senate bill which eventually became Public Law 91-572. The Conference Report contained the following statement:

"It is, and has been, the intent of both Houses that the funds authorized under this legislation are used to support *preventive* family planning services, population research, infertility services and other related medical, informational, and educational activities. The conferees have adopted the language contained in Section 1008, which prohibits the use of such funds for abortion, in order to make clear this intent. *The legislation does not and is not intended to interfere with or limit programs conducted in accordance with State or local laws and regulations which are supported by funds other than those authorized under this legislation.*"[3] *(italic added.)*

In addition, HHS considers the statement on the floor of the House by the sponsor of section 1008 to be another major source of congressional intent:

"Mr. Speaker, I support the legislation before this body. I set forth in my extended remarks the reasons why I offered the amendment which prohibited abortion as a method of family planning * * *"

* * * * *

"With the 'prohibition of abortion' the committee members clearly intended that *abortion is not to be encouraged or promoted in any way* through this legislation."

* * * * *

"Programs which include abortion as a method of family planning are not eligible for funds allocated through this Act."[4] (italic added.)

Based on these expressions of the congressional intent, HHS has adopted the view that section 1008 prohibits (1) the provision of abortion as a method of family planning and (2) activities that promote or encourage the use of abortion as a method of family planning—but only when included in "programs" funded by title X.

Implementation of HHS' policy position at the local level can leave the impression that title X funds have been improperly used when recipients also operate abortion clinics. For example, HHS region V received a letter alleging that the abortion clinic operated by the Ohio organization discussed in example #1, "* * * invites the abuse of public funds in terms of channeling federal monies into the operation of an abortion clinic * * *." The individual was advised by HHS regional officials:

"* * * that to persons not intimately familiar with a given situation, the operation of an abortion facility at the same site as a federally sponsored family planning clinic brings to mind the possibility of inappropriate sharing of resources and undue influences on family planning services * * *."

Thus, the HHS policy permits title X recipients to organize so as to conduct abortion activities under a separate "program" without jeopardizing their eligibility for title X funds.

Matters for consideration by the Congress

HHS' interpretation of section 1008 allows title X recipients to use non-title X program funds to carry out abortion-related activities which would not be allowed as part of the title X program, so long as the abortion activities are organizationally separated from the title X family planning services.

Because of the sensitivity of the abortion issue and the concern over how Federal family planning funds may be used, the Congress may want to provide guidance to HHS to clarify the intent of section 1008 if it does not want title X funds to go to organizations providing abortions.

CHAPTER 3—FAMILY PLANNING CLINICS NEED FORMAL GUIDANCE ON ABORTION-RELATED MATTERS

We found no evidence that women had been advised by title X grantees to have abortions or that title X funds were used to pay for abortions. However, some title X recipients' practices raised questions as to whether they comply with certain title X restrictions on abortion-related activities.

The questions stem from the fact that HHS has not issued formal policy guidance interpreting section 1008. Instead, HHS has relied on a series of legal opinions that often "draw a fine line" between allowable and unallowable activities and these opinions have not always been communicated to all title X recipients.

HHS' interpretation of section 1008

Since early 1971, HHS has taken the position that section 1008 prohibits activities that encourage, promote, or advocate abortion, as well as the use of abortion as a method of family planning, if they are carried out as part of the program supported with title X funds. These policy positions, based on the internal HHS General Counsel opinions, have not been formalized and incorporated into program regulations and/or guidelines.

Based on HHS' legal opinions, the following types of activities related to abortions are allowable under title X programs. Recipients may—provide information about abortion services; provide the name, address, and telephone number of abortion providers; collect statistical data and information regarding abortion; inspect facilities to determine their suitability to provide abortion services; and pay dues to organizations that advocate the availability of abortion services.

Recipients may not—provide counseling that encourages a person to obtain an abortion; provide transportation to an abortion center or provider; provide proabortion speakers to debate the issues in public forums; advocate the need and suitability of abortion service in the community; produce or show movies that tend to encourage or promote a favorable attitude toward abortion; provide abortion as a suitable backup method of family planning; make specific appointments or referrals for an abortion unless medical conditions warrant; bring legal action to liberalize abortion-related statutes; and pressure local governing bodies to change restrictive abortion policies.

HHS' General Counsel has also concluded that, when title X recipients conduct abortion activities which would not be permissible if they were part of the grant-supported program, the recipient must ensure that the title X—supported program is separate and distinguishable from the abortion activities.

This position is contained in the following excerpt from an HHS legal opinion.[5]

"It is recognized that in some situations, the abortion element in a program of family planning services may bulk so large and be so intimately related to all aspects of the program as to make it difficult, if not impossible to separate the eligible and non-eligible items of cost. In such a case, we think a grant for the project would be legally questionable.

"In other words, a mere technical allocation of funds, attributing Federal dollars to non-abortion activities and other dollars to abortion activities, in what is otherwise a discrete project for providing abortion services, would not, in our opinion, be a legally supportable avoidance of the section 1008 prohibition.

"In our opinion, the activities (abortion and non-abortion) must be so separated as to constitute separate programs (projects). As we have already indicated, our conclusion does not require separate grantees or even a separate health facility. However, neither do we think that separate booking [sic] entries alone will satisfy the spirit of the law."

Over the years a fine line between allowable and unallowable activities has evolved as illustrated by the following examples:

Recipients may use title X funds to pay the cost of inspecting abortion facilities to see that they meet national Planned Parenthood Federation of America standards, but may not make an appointment for or direct clients to those facilities.

Title X funds may be used to pay dues to organizations that advocate the provision of abortion as a backup for contraceptive failure, but may not be used to advocate the need for and suitability of abortion in the community.

Title X funds may not be used to pay transportation costs for women to go to abortion clinics, but recipients may provide or arrange such services under that part of their operation not supported with title X funds. Similarly, the recipients may, under their separate programs, make loans to women to pay for abortions.

HHS' program regulations and guidelines do not reflect its policy on abortion restrictions

The position that section 1008 not only prohibits abortion as a method of family planning, but also prohibits activities which promote or encourage a favorable attitude toward abortion as part of the title X program has not been incorporated into HHS' regulations or guidelines. In contrast, HHS relies on its program regulations[6] and guidelines to provide guidance on other major policies to title X recipients. In effect, HHS' regulations that spell out overall policy and implement provisions of the law and corresponding program guidelines that elaborate on the law and regulations in operational terms do not contain the specific policy guidance concerning section 1008 needed by title X recipients.

We could not determine from discussions with HHS' officials the reasons why HHS elected to exclude from its regulations and guidelines its position on the scope of prohibitions in section 1008. HHS' regulations (dated June 1980) and its prior regulations simply state that title X projects shall not "* * * provide abortion as a method of family planning." The policy that section 1008 also prohibits activities which promote, encourage, or advocate abortion are not mentioned in HHS' regulations. Also, the HHS program guidelines for family planning services refer to the title X program regulations with no elaboration on the meaning of section 1008.

HHS, however, has periodically issued memorandums to its regional program administrators containing Office of General Counsel interpretations of section 1008. Five or six regions we visited had transmitted this information to grantees, but only 3 of the 10 grantees passed it on to their delegate agencies and clinics. Of 14 clinics visited, only 6 had received HHS' legal interpretations of section 1008.

While this process made HHS' policy available to some title X clinics, the policy was nevertheless not included in the regulations and guidelines that grantees are required to follow as a condition of their grants. For example, the title X grantee in Los Angeles, according to its executive director, has received no written guidance from HHS on interpreting section 1008. This grantee, one of the largest nationally, had 26 delegate agencies that operated 94 clinics.

Some counseling and referral practices may not be appropriate

Under the HHS program guidelines, pregnant women should be offered information and counseling regarding their pregnancy. The guidelines state that individuals requesting information on options for managing an unintended pregnancy are to be given nondirective counseling[7] on the options available and referred upon request, including being referred to abortion providers. At the clinics reviewed, the number of pregnant clients coming to clinics for their first visit represented between 5 and 69 percent of the clientele.

At 10 of the the 14 clinics visited, counseling was available through the title X-supported programs. At the four other clinics, one did not provide any counseling and the other three provided counseling, but not as part of their title X programs. Officials at all clinics which provided counseling indicated that they provided only nondirective counseling in accordance with HHS guidelines. Referral practices varied from clinic to clinic, and some clinics did not comply with HHS' policy position. We did not find any evidence, however, that pregnant women were advised to have abortions.[8]

Counseling Practices

Typically, counseling of pregnant women occurred after clients received tests that confirmed their pregnancy. When the pregnancy was desired, clients were generally advised to seek prenatal care and given referrals if needed. If a woman indicated the pregnancy was unintended or not wanted, counseling was generally provided. Officials at the 13 clinics offering counseling said that nondirective counseling was available on the following options: Prenatal care and delivery; infant care, foster care, or adoption; pregnancy termination.

The pregnancy counseling provided by clinics varied as shown below:

Seven clinics counseled clients, but only on the option they decided to pursue.

Four clinics counseled clients on all options when the client expressed that the pregnancy was unintended or she was unsure of what to do.

Two clinics counseled all pregnant women on all options available to them.

One of the 13 clinics offered followup counseling to clients referred for abortions, although officials at all clinics said postabortion counseling was available if requested by the clients.

According to HHS' headquarters officials, all options do not have to be discussed, but they believe it is "professionally incumbent" upon the counselors to discuss other options with women who say they are only interested in abortions. When a woman is interested in continuing her pregnancy, HHS' officials said that abortion should not be discussed.

Eleven of the clinics required their counseling staffs to take training and/or participate in an appropriate orientation course covering problem pregnancy counseling and referral policies. The academic background of the staff providing counseling varied. Registered nurses and nurse practitioners often provided the counseling to pregnant clients. At some clinics, counselors had advance degrees in the fields of psychology or social work, and at other clinics the counselors had no formal credentials or degrees in areas related to counseling. Typically, the counselors had not received formal training in counseling pregnant women, but at most clinics counselors had some formal or in-service training in related areas, such as crisis counseling.

We were advised by clinic officials that the topic of abortion and counseling often came up spontaneously during in-service training and other courses. Clinic officials said they always emphasized a nondirective and unbiased approach to counseling pregnant women. Interviews with several counselors showed that they were aware of restrictions against encouraging or advising clients to have abortions.

Questionable Counseling Practices

Seven clinics did not provide counseling on all options available to pregnant women. At one clinic, women were required to complete paperwork before their pregnancy tests and preselect how they intended to deal with their pregnancy. If they chose to continue the pregnancy, they were counseled on that option. If they checked abortion, they were counseled only on that choice. Six other clinics, which did not require prepregnancy test decisions, did not routinely counsel women on other alternatives if they had decided on abortion. Based on the HHS guidelines which recommend that all options be discussed with clients deciding on abortion and HHS' officials views that it is "professionally incumbent" to discuss all options, these practices are questionable.

Referral Process

When clients are counseled and choose to terminate their pregnancies, referrals may be made to abortion providers. The extent to which clinic personnel can assist clients in making abortion arrangements is limited, according to HHS' interpretation of section 1008. HHS' referral policy, however, is not clearly stated in the program regulations or guidelines and certain abortion referral practices by title X recipients raise questions as to whether they go beyond the "mere referral" HHS maintains is permitted under the law.

Title X regulations require that each project provide clients with medical services related to family planning and make referrals to other medical facilities when medically indicated. Therefore, if continuing a pregnancy would endanger the mother's life, a referral to a provider who might recommend or provide an abortion would be medically indicated. However, the regulations are silent on the referral process for abortions in other instances.

Since 1971, HHS has relied on legal opinions that applied the concept of "mere referral" to the restriction imposed by section 1008. Under this concept, title X program funds may not be used to make an appointment for a woman, to provide transportation, or to take other affirmative action to secure an abortion.

The title X program guidelines, issued in 1981, provided that women needing services, which are beyond the ability of the clinic to provide, should be referred to other providers for care. This provision, however, as it relates to abortion referrals, does not reflect the "mere referral" concept traditionally held by HHS. Although HHS' officials advised us that the "mere referral" concept has been agency policy on abortion referral, they did not explain why this policy had not been included in program regulations or guidelines.

We reviewed several clients' charts to determine, among other things, the referral outcomes at the clinics visited. The results of our review cannot be projected, but provide a limited perspective on referral outcomes at these particular clinics. The results are shown on the next page.

Some Clinic Practices May Go Beyond "Mere Referral"

Referral practices varied, but most clinics provided some type of information on the sources of abortion services to clients desiring to terminate pregnancies. By applying HHS's policy, we identified the following practices that could be construed to go beyond the "mere referral" policy:

Four clinics provided clients brochures prepared by abortion clinics. Some of the HHS regional staff were not sure this practice was acceptable, while others felt it was reasonable and within the spirit of HHS' policy.

At two clinics, clients seeking abortions were allowed to use the telephone to make appointments for abortions. HHS' officials were not sure this practice was within the spirit of the HHS policy because it went beyond the concept of providing information with no further affirmative action.

SUMMARY OF REFERRALS MADE BY TITLE X RECIPIENTS

Clinic type	Estimated pregnant women[1]	Records reviewed and age of clients			Type referrals made					
		19 and under	20 and over	Total	Prenatal	Adoption	Abortion[2]	Multiple[2]	None	Not indicated
Public:										
City/county	14	8	6	14	8	......	......	......	......	6
County	25	10	3	13	4	2	2	......	......	5
Do	348	4	46	50	48	......	1	......	......	1
Do	899	18	32	50	27	......	10	1	3	9
Other nonprofit:										
Planned parenthood	402	11	39	50	15	......	15	12	1	7
Do	25	11	14	25	1	......	1	1	......	22
Do	592	22	28	50	13	1	5	......	......	31
Do	50	20	30	50	14	......	26	......	......	10
Do	551	24	26	50	24	......	21	2	......	3
Do	(3)	10	12	22	1	......	19	1	1	......
University	220	22	28	50	25	1	......	......	......	24
Do	(4)	......	......	......	......	......	......	......	......	......
Do	(5)	......	......	......	......	......	......	......	......	......
Private	53	9	41	50	42	......	......	1	3	4
Total	3,179	[6] 169	305	474	222	4	100	18	8	122

[1] Information concerning marital status, race, and previous abortion history was not maintained or was incomplete.

[2] In some instances women received referral for both abortions and prenatal care.

[3] No estimate available.

[4] Clinic did not offer pregnancy counseling.

[5] No client files reviewed—clinic did not have current contract with title X grantee.

[6] In total 116 clients were 18 years old or younger.

At one clinic, appointments for abortions were made for clients who did not speak English. (The HHS Inspector General identified two other instances of counselors making abortion appointments for clients.)

At one clinic, the title X recipient provided women loans for abortions from nonprogram funds; however, administrative costs associated with the referral and loans were charged to title X program costs. (A similar observation was noted by HHS' Inspector General.)

The Office of the Inspector General also identified that several title X clinics in Indiana provided and witnessed the signing of consent forms required by an abortion clinic. This practice is prohibited by section 1008, according to HHS. Since it could be considered promoting abortion. The title X grantee indicated that the consent form was completed only after women had decided to have an abortion and that the practice simply faciliated the abortion decision and did not encourage or promote abortion. HHS regional officials ordered the practice stopped as part of the title X program, and the recipient told us it had passed the instructions to its delegates.

Some educational materials used in title X clinics may be improper

Five clinics routinely offered educational materials to family planning clients that presented abortion as a backup if a contraceptive method failed. Other clinics, however, did not use educational material referring to abortion since they felt it could be construed as encouraging or promoting a favorable attitude toward abortion. Examples of educational material included:

One clinic used a film about birth control methods and sterilization that included a section that presented abortion as a legal alternative in the event of an unwanted pregnancy. This film was shown to all clients entering the large Texas clinic for family planning services. At our request, HHS's regional officials watched the film and concluded the film did not encourage abortion as a method of family planning, but could be construed to be encouraging a favorable attitude about abortions.

Four of the 14 clinics provided or made available to all clients entering the family planning program handout material that discussed abortion. Typically, handout materials listed various birth control methods with the barrier method and early abortion in the event of a failure as an alternative method. According to an HHS General Counsel opinion, section 1008 prohibits the use of abortion as a backup method of family planning and therefore cannot be offered.

Monitoring for compliance with section 1008 is limited

HHS' officials responsible for monitoring the title X program have generally not taken inspection trips solely to check for compliance with section 1008, but they claimed to have looked at compliance with all program guidelines and requirements in instances where onsite inspections have been conducted. In the absence of HHS' regulations and guidelines that elaborate national policy established by section 1008, efforts to closely monitor compliance are difficult.

Officials at four HHS regions said that travel budget cuts and lack of personnel have prevented regular monitoring trips to all grantees. One official advised us that the high visibility of the abortion issue tends to surface possible gross violations and reduce the need for regular surveillance of grantee activities.

HHS' policy requires that all allegations of violations of section 1008 be investigated by a team composed of personnel familiar with all aspects of the title X program and overall HHS' grant administration. We were advised that only one investigation has been made. In this case, the title X recipient was alleged to be: encouraging or promoting abortion by administering a petition calling for liberalized abortion law; providing literature that promoted a favorable attitude about abortion in a common waiting room for family planning and abortion clients; and facilitating abortions by negotiating reduced fees and making arrangements for abortions.

HHS' investigation found that the title X recipient carried out the alleged activities, but could not determine if they were a part of the title X-funded program. The grantee was advised to remove the petitions and abortion materials from the waiting room and to set up a bookkeeping system to keep costs separated. The investigation concluded the practices were minor and technical in nature and did not warrant further action.

Until 1981, HHS' Office of the Inspector General had not made a programwide review of compliance with section 1008. In 1981 the Inspector General reviewed 32 title X grantees, focusing on lobbying and abortion activities. The Inspector General review has been completed and reports on individual recipients have been issued. In addition to the practices discussed on page 18, at one grantee the Inspector General questioned about $400 for malpractice insurance for an abortion clinic charged to the program funded, in part, by title X.

Conclusions

Since 1971, HHS has held that the abortion prohibition went beyond the literal reading of section 1008 and also prohibited activities which promoted or encouraged abortions. However, HHS has neither clarified its policy nor used its regulations and guidelines to communicate to title X recipients its position on section 1008. As a result, a degree of uncertainty exists and some grantees' practices may go beyond what, in HHS' opinion, is permissible under section 1008.

Recommendation to the Secretary of HHS

We recommend that the Secretary establish clear operational guidance by incorporating into the title X program regulations and guidelines HHS' position on the scope of the restriction in section 1008.

In doing so, we recommend that the Secretary consider the grantee practices discussed in this report and in the Inspector General's reports with a view toward providing as explicit guidance as possible on the activities that are and are not allowed.

Agency comments

HHS concurred with our recommendation. The Secretary plans to direct the Assistant Secretary for Health to include in title X program guidelines an explanation of the Department's position on the implementation of section 1008. (See app. III.)

CHAPTER 4—TITLE X RECIPIENTS NEED MORE SPECIFIC GUIDANCE ON LOBBYING

Most of the title X recipients reviewed for lobbying were involved in some types of lobbying activities. Generally, these activities were not paid for with appropriated funds or charged to the title X program and were therefore not subject to Federal lobbying restrictions. However, some title X recipients used program funds to pay dues to organizations that lobby—a questionable expenditure in light of current legislative restrictions and HHS' policies. In addition, some recipients spent small amounts of title X program funds for lobbying.

The current OMB and HHS guidance regarding the use of program funds for the payment of dues is inconsistent, and guidance on lobbying does not specifically identify the types of activities that constitute lobbying and are therefore unallowable as title X program expenditures.

Federal restrictions on lobbying

Federal law prohibits grant recipients from using Federal funds to lobby the Congress—that is, to engage in activities designed to influence legislation or appropriations pending before the Congress. Under HHS' policy, lobbying costs are not normally allowable program expenses. However, HHS has not issued specific guidance which identifies activities that constitute lobbying.

Legislative Restrictions

The use of appropriated funds, including title X funds, to lobby the Congress is prohibited by Federal appropriations legislation. Since the early 1950s, an annual appropriation act restriction has prohibited the use of Federal funds by all executive agencies, departments, and government corporations for "grass roots" lobbying the Congress—appeals addressed to the public to contact the Congress to influence pending legislation.[9] Also, since fiscal year 1974, HHS, in its own annual appropriations legislation, has been prohibited from using appropriated funds for publicity and propaganda to support or defeat legislation pending before the Congress, except when officials are presenting views to the Congress that affect HHS' activities and policies. The scope of these restrictions was expanded by HHS' fiscal year 1979 appropriations act which prohibits HHS' grant and contract recipients from using HHS' appropriations for lobbying the Congress as follows:

"No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient or agent acting for such recipient to engage in any activity designed to influence legislation or appropriations pending before the Congress."

These restrictions in Federal appropriations legislation apply only to lobbying the Congress.

Administrative Restrictions

HHS' and OMB's guidance implementing Federal lobbying restrictions are inconsistent and lack specificity.

HHS' guidance generally prohibits the payment of any lobbying costs with program funds, which includes not only title X grant funds, but also non-Federal funds used by recipients to meet their grant matching shares and income generated as a result of the grant. This guidance applies to the use of program funds not only for lobbying at the Federal level, but also at the State and local levels. The prohibition was set forth in an HHS Grants Administration Manual Circular issued May 25, 1979, which stated that the costs of lobbying expenditures are normally unallowable because they do not benefit the work performed under the grant.

HHS' regulations require title X grant recipients to follow applicable OMB guidance in the administration of their grants. According to the OMB circular setting forth cost principles that must be followed by State and local government grant recipients, program funds can be used to pay dues to civic, business, technical, and professional organizations but ony if such organizations do not devote a substantial part of their activities to lobbying. However, this restriction is not included in OMB's circulars setting forth cost principles for universities and nonprofit organizations nor HHS' cost principles for hospital grant recipients—both of which simply provide that dues are an allowable program expense, without distinguishing between organizations that lobby and those that do not. As a result, nonprofit recipients do not have the same lobbying restrictions on dues as public recipients.

Most importantly, neither HHS' nor OMB's principles specifically identify activities that constitute lobbying and that are therefore unallowable as program charges.

Lobbying by title X recipients

All seven title X recipients reviewed for lobbying had incurred expenses that, in our opinion, raised questions as to adherence with Federal restrictions. Two recipients lobbied, but we could not determine from their records whether program funds were used. Most lobbying expenditures of the other five recipients did not involve program funds and were therefore not subject to Federal restrictions. However, of these five all used program funds to pay dues to organizations that lobby; and two used small amounts of program funds to lobby at the Federal and/or State level.

Dues Paid to Organizations That Lobby

Six recipients, including five who clearly used program funds, paid dues to organizations that lobby at the Federal level. The recipients' program expenditures for such dues ranged from $25 to over $27,000 during the period covered by our review, and the combined expenditures of the five recipients was about $42,000. Although the payment of dues by nonprofit organizations is an allowable program expense, the use of program funds to pay dues to organizations that lobby substantially for or against pending legislation that affects the grant program is questionable in light of current legislative prohibitions against using appropriated funds for lobbying and HHS' policy that generally prohibits program expenses for lobbying.

We discussed the payment of dues to organizations that lobby with three recipients. Officials of two recipients said dues to professional organizations should be allowable because such organizations provide many needed services. One executive director told us that he did not think the payment of dues to lobbying organizations is currently prohibited by HHS and that it should not be. However, to ensure the allowability of expenditures for dues to an organization that lobbied at the State level, he noted, in his letter transmitting payment, that his dues should be used for educational purposes. The executive director of the third recipient, rather than having a firm position, sought guidance as to whether he should stop paying dues with program funds.

Program Funds Used for Lobbying Activities

Two recipients spent program funds for lobbying at either the Federal or the State level. Lobbying at the Federal level is prohibited by Federal law and administrative policy. Lobbying at the State level generally is prohibited by administrative policy only. As shown below, the title X program expenditures associated with lobbying activities were small and, in some cases, indirect.

At the Federal level:

Two recipients spent program funds for transportation, lodging, and other expenses associated with attending conferences in Washington, DC, during which officials visited Members of Congress and/or their staff and lobbied against pending legislation to incorporate title X into a block grant. About $200 was spent for this activity.

One recipient incurred undetermined costs associated with writing the Congress to lobby against pending legislation. The costs involved salaries and expenses related to preparing and distributing the correspondence.

One recipient displayed a poster and distributed post cards at a title X clinic encouraging clients to write their congressional representatives to urge them to vote "pro choice" on pending legislation. Costs associated with this activity were too obscure to calculate. However, HHS holds that title X recipients are not to advocate abortions or even foster a favorable attitude toward abortions.

At the State level:

One recipient incurred costs for attending a conference that involved lobbying at the State level. About $113 was spent on this activity.

One recipient provided space for about 6 weeks in a title X clinic to an organization involved in lobbying at the State level and, as a result, program funds were indirectly involved.

Recipients did not agree with our observations that the costs of these activities were unallowable program expenditures because they were associated with lobbying. For example, one executive director said he thought that meeting and corresponding with Members of Congress was more an educational activity than a lobbying activity. He told us that he had not received clear guidance explaining activities which constitute lobbying. Another executive director disagreed that displaying the poster was an improper activity because (1) Federal funds were not used to print it and (2) it was more an advertisement than a lobbying effort.

HHS' efforts to clarify lobbying guidance

HHS has recognized the need to clarify guidance provided recipients on lobbying and has begun taking corrective measures. In response to inquiries about the possible misuse of Federal funds for lobbying, the Secretary of HHS asked the Assistant Secretary for Management and Budget to identify ways to reduce possible abuse. In June 1981, the Assistant Secretary suggested several steps that could be taken, including (1) making grant recipients aware of applicable restrictions, (2) increasing monitoring, and (3) identifying clearly activities considered unallowable.

In October 1981, HHS recommended that OMB review its cost principles to clearly set forth unallowable lobbying activities and to prohibit all recipients, including nonprofit organizations, from using program funds for dues to organizations that devote a substantial part of their activity to lobbying. HHS believes that lobbying restrictions should be set forth on a Government-wide basis and, therefore, guidance for nonprofit grantees should be issued through OMB. However, we were told that, if OMB does not revise its cost principles, HHS will issue restrictions on lobbying as part of its policy guidance. In late June 1982, OMB officials told us no final determination had been made on how its cost principles will be changed to reflect lobbying restrictions.

Conclusions

Clear Federal guidance is needed both to insure that title X program funds are not used for lobbying and to preclude unnecessary controversy over whether grantees are violating Federal restrictions. The move to revise and make more specific the cost principles applicable to all Federal grantees is the appropriate mechanism to achieve these ends. Until this is done, however, HHS should provide title X grantees interim guidance concerning the activities that constitute lobbying and are therefore unallowable as program expenditures.

Recommendation to the Secretary of HHS

Pending revision of Federal cost principles, we recommend that the Secretary provide interim guidance to title X recipients on activities that constitute lobbying and are unallowable as title X program expenditures.

Agency comments

HHS concurred with our recommendation. In the near future, HHS plans to issue proposed regulations defining lobbying activities that are unallowable in its programs, including title X programs. (See app. III.)

APPENDIX I

U.S. SENATE, COMMITTEE ON LABOR
AND HUMAN RESOURCES,
Washington, DC, September 8, 1981.

Mr. GREGORY J. AHART,
Director, Human Resources Division, General Accounting Office, Washington, DC.

DEAR MR. AHART: As you know, the Title X Family Planning program has not been consolidated into a block grant as proposed by the President but has been reauthorized as a categorical program for another three years. The Committee on Labor and Human Resources and its Subcommittee on Aging, Family and Human Services are very much interested in the operation of this program and plans for extensive oversight of the program.

During the last several months, Committee staff have been discussing three areas of interest regarding the Title X program with your representatives. These areas are (1) use of Title X funds for political lobbying, (2) use of Title X funds for abortion or abortion referrals, and (3) the overall effectiveness of the program. We understand that you have done some preliminary audit work in the first two of these areas. Now that the budget reconciliation process has been completed, we have identified several specific concerns in each of these three areas.

Following are several questions of interest to use in these areas. To the extent data are available, we would like to have information on all Title X grantees. In cases where national data are not available, we would like you to select a sample of grantees or clinics, including, as appropriate, coordinating councils, health departments, and planned parenthood affiliates. We understand you have already reported on political activities of some community action agencies, a number of which are Title X grantees.

USE OF TITLE X FUNDS FOR POLITICAL ACTIVITIES

1. What Federal laws and regulations or instructions or guidance issued by Federal agencies pertain to lobbying activities by Title X grantees and clinics?

2. Is there any evidence that Planned Parenthood Federation of America, or its affiliates has either donated or sold at minimal costs mailing lists to political candidates or organizations? Is there evidence that this represents a violation of Federal laws or regulations?

3. What types of political lobbyists activities are Title X grantees or clinics carrying out, are Title X funds used, and are any of these activities prohibited by Federal laws, regulations, or instructions?

Activities in question include such actions as advertising, direct mailings, voter registration, telephone canvassing or "hotlines", or payment of dues to lobbying organizations.

4. Is there any evidence that Planned Parenthood Federation of America used Title X funds or any other federal funds for political lobbying activity during 1980 or 1981? Are dues collected from Title X funds affiliate organizations considered "Federal funds" for purposes of lobbying prohibitions? Is there any evidence that grantees are able to increase their political activities using funds "freed" by the presence of federal funds?

USE OF TITLE X FUNDS FOR ABORTIONS OR ABORTION REFERRALS

1. What activities has HHS identified as allowable or unallowable relative to section 1008 and how has HHS informed Title X recipients of these? What guidance or instructions has HHS issued to Title X grantees for abortion referrals?

2. How does HHS monitor Title X recipients for compliance with section 1008 and what enforcement actions has HHS taken relative to section 1008 during the last few years? Do HHS' monitoring actions appear adequate to detect compliance with section 1008? How many organizations receiving Title X funds perform abortions either at the same location where Title X activities are provided or at separate locations?

3. How many Title X recipients has HHS found to be using Title X funds for abortions or abortion related services, including referrals? Have you or HHS identified any Title X recipients performing menstrual extractions without performing pregnancy tests which may, in fact, be abortions?

4. In testifying before this Committee in March 1981, you indicated that one Title X grantee—Planned Parenthood of New York City—may not have been in compliance with section 1008 restrictions and that you would be referring this matter to HHS' Inspector General for further evaluation. When did you make this referral and what actions has HHS taken?

5. What steps do Title X clinics that perform abortions or make abortion referrals take to comply with section 1008? Do such organizations account for abortions and abortion referrals separately?

6. To the extent information is readily available or ascertainable—

How many clients are pregnant when they first seek services at typical Title X clinics? How many of these clients are 19 or under?

What are the marital status, age, and race of the above clients who seek or receive pregnancy counseling?

Of the Title X clinic clients who seek or receive pregnancy counseling, how many are referred for abortions?

How many clients referred for abortions have had a previous abortion? Please break down by age and marital status.

7. Is there any evidence that clinic counseling is structured or presented to favor abortions over other alternatives?

8. What internal guidance or instructions on abortion referrals have Title X grantees developed and given to their personnel?

9. What training have Title X clinic counselors received regarding problem pregnancy counseling, including abortion referral?

10. What educational materials about abortion are offered by Title X funded clinics?

11. What process typically leads to an abortion referral in Title X funded clinics?

12. Do any substantive differences exist in the proportion of clients referred for abortion or in educational materials used regarding abortion between public and private Title X grantees?

13. Are clients referred for abortion by Title X clinics offered follow-up counseling?

14. What steps have HHS and Title X grantees and clinics taken to implement section 931(b)(1) of the Omnibus Budget Reconciliation Act of 1981? This section requires Title X grantees and contractors to encourage family participation in project operations.

EFFECTIVENESS OF TITLE X PROGRAM

As you know, many claims have been made by Title X program components of the program's effectiveness in preventing unwanted pregnancy. In fact, proponents have recently stated that the Title X program saves over $2.00 for every $1.00 spent. Yet, with regard to adolescents, illegitimacy rates, abortion rates, and incidents of premarital sexual activity continue to increase dramatically. There are several ways effectiveness might be gauged. These should include encouraging involvement of parents and other family members when working with adolescents, and supporting local community standards with regard to these issues. We recognize that an in-depth evaluation of the effectiveness of the Title X program could be very costly and time-consuming. However, we would like GAO to determine how the effectiveness of the program could be evaluated, either comprehensively in one study or in phases. Proper attention should be given to the cost-benefit ratio claimed by proponents and to other outcomes of the use of Title X funds with which society must contend. After you have completed such an assessment, we would like to discuss the best approach for conducting the evaluation.

If, during the course of your work, you should need further guidance or information, please contact either Dr. Craig Peery on the Staff of the Labor and Human Resources Committee or the Staff Director of the Aging, Family and Human Services Subcommittee, Miss Cynthia Hilton. Thank you for your cooperation.

Sincerely,

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources.
JEREMIAH DENTON,
Chairman, Subcommittee on Aging, Family and Human Services.

APPENDIX II

ORGANIZATIONS REVIEWED

	Type of recipient	Scope of activities reviewed	
		Abortion related activities	Lobbying
REGION I— BOSTON, MA			
Action for Boston Community Development, Inc.	Grantee	X	
East Boston Neighborhood Health Center.	Clinic	X	
Vermont State Department of Health.	Grantee	X	
Planned Parenthood Association of Vermont, Inc.	Delegate	X	
Burlington Center.	Clinic	X	
REGION II—NEW YORK, NY			
Planned Parenthood of New York City, Inc.[1]	Grantee		
Boro Hall Center, Brooklyn[1].	Grantee		
Genesee Region Family Planning Program, Inc., Rochester, NY.	Grantee		X
Planned Parenthood of Rochester and Monroe County, Inc.	Delegate		X
New Jersey Family Planning League, Inc., Mountainside, NJ.	Grantee		X
Planned Parenthood-Essex County, Newark, NJ.	Delegate		X
REGION III—PHILADELPHIA, PA			
Planned Parenthood Association of Metropolitan Washington, DC, Inc.	Grantee	X	X
Parklands Clinic, Washington, DC.	Clinic	X	
State of Maryland Department of Health and Mental hygiene.	Grantee	X	

ORGANIZATIONS REVIEWED—Continued

	Type of recipient	Scope of activities reviewed	
		Abortion related activities	Lobbying
Baltimore City Health Department Western Center for Maternal and Infant Care, Baltimore, MD.	Clinic	X	
REGION IV—ATLANTA, GA			
Kentucky Department for Human Resources.	Grantee	X	
Louisville Area Family Planning Council Inc.	Delegate	X	
Department of Public Health, Louisville and Jefferson County.	Clinic	X	
University of Louisville, School of Medicine, Department of Obstetrics and Gynecology.	Clinic	X	
Planned Parenthood of Louisville, Inc.	Clinic	X	
REGION V—CHICAGO, IL			
Ohio Department of Health.	Grantee	X	
Tuscorawas County General Health District.	Clinic	X	
Planned Parenthood of Southeastern Ohio, Inc.	Delegate	X	
Athens, OH, Clinic.	Clinic	X	
Planned Parenthod Association of Cincinnati, OH.[2]	Clinic	X	
Planned Parenthood of Central Ohio, Inc., Columbus, OH.[2]	Grantee	X	
REGION VI—DALLAS, TX			
Greater Dallas Family Planning Project.	Grantee	X	
Maple Plaza Clinic	Clinic	X	
Planned Parenthood Center of San Antonio, Inc.	Grantee	X	
Downtown Clinic	Clinic	X	
REGION IX—SAN FRANCISCO, CA			
Los Angeles Regional Family Planning Council, Inc.	Grantee	X	X
Los Angeles County Department of Health Services.	Delegate	X	
Hollywood-Wilshire Health Center.	Clinic	X	
Planned Parenthood World Population, Los Angeles.[2]	Delegate		
Sherman Oaks Clinic.[2]	Clinic	X	
Orange County Health Department Human Services Agency, Santa Ana, CA.	Grantee	X	
East Region Clinic	Clinic	X	
Planned Parenthood Association of Orange County.	Delegate	X	
Santa Ana Clinic	Clinic	X	
Planned Parenthood of Santa Barbara, Inc.	Grantee		X

[1] Limited review of abortion activities initiated based on previous audit work.

[2] Limited Review of Abortion activities as a followup to an audit by HHS' Inspector General.

APPENDIX III

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Washington, DC, September 13, 1982.

Mr. GREGORY J. AHART,
Director, Human Resources Division, General Accounting Office, Washington, DC.

DEAR MR. AHART: The Secretary asked that I respond to your request for our comments on your draft of a proposed report "Restrictions on Abortion and Lobbying Activities in Family Planning Programs Need Clarification." The enclosed comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

We appreciate the opportunity to comment on this draft report before its publication.

Sincerely yours,
BRIAN MITCHELL,
(For Richard P. Kusserow,
Inspector General).

COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES ON THE GENERAL ACCOUNTING OFFICES'S DRAFT REPORT "RESTRICTIONS ON ABORTION AND LOBBYING ACTIVITIES IN FAMILY PLANNING PROGRAMS NEED CLARIFICATION," DATED AUGUST 13, 1982

GAO RECOMMENDATION

We recommend that the Secretary establish clear operational guidance by incorporating into the title X program regulations and guidelines, HHS' position on the scope of the restriction in section 1008.

In doing so, we recommend that the Secretary consider the grantee practices discussed in this report and in the Inspector General's reports with a view toward providing as explicit guidance as possible on the activities that are and are not allowed.

DEPARTMENT COMMENT

The Secretary will direct the Assistant Secretary for Health to include in title X program guidelines an explanation of the Department's position on implementation of section 1008.

GAO RECOMMENDATION

Pending revision of Federal cost principles, we recommend that the Secretary provide interim guidance to title X recipients on activities that constitute lobbying and are unallowable as title X program expenditures.

DEPARTMENT COMMENT

In the near future, HHS expects to issue a notice of proposed rulemaking to define lobbying activities that are unallowable in various HHS programs, including title X. These regulations will provide guidance to title X recipients.

FOOTNOTES

[1] Information was not available on the number of family planning clinics that provided abortions at separate locations.

[2] Because questions were raised during a previous GAO review as to whether certain practices at this clinic were in conformity with HHS' interpretation of section 1008, GAO sent a letter of inquiry to HHS. Using information obtained during an audit by the Inspector General, HHS' Office of General Counsel reviewed the concerns raised in our letter and concluded no violations of section 1008 were indicated at the clinic.

[3] Conference Report, H. Rep. No. 91-1667, December 3, 1970, pages 8 and 9.

[4] 116 Cong. Rec. 37375 (1970).

[5] Memorandum GC (Mangel) to DASPA (Hellman), "Abortions as a Method of Family Planning—Section 1008 of the Public Health Service Act," April 20, 1971, DF#38B.

[6] 42 C.F.R. Part 59.

[7] Nondirective counseling is the provision of information on all available options without promoting, advocating, or encouraging one option over another.

[8] None of the clinics reviewed provided or referred any client for menstrual extraction procedures.

[9] Initially this antilobbying appropriation restriction was contained in the Independent Offices Appropriation Act; however, in recent years, it has been included in the annual Treasury, Postal Services, and General Government Appropriation Act.

[10] This restriction was not applicable for title X recipients until 1980 because title X appropriations were not included in HHS' fiscal year 1979 appropriations, but rather in a separate Continuing Resolution.

[11] In some situations, expenses associated with lobbying at the State and local levels would be allowable program charges, such as when grantees' programs include an advocacy function.

[12] OMB Circular A-87.

[13] OMB Circulars A-21 and A-122.

[14] HHS issues cost principles for hospitals, not OMB. See 45 CFR Part 74.

Mr. KENNEDY. In September 1982, GAO found no evidence that title X funds have been used for abortions or to advise clients to have abortions.

And that is what we are talking about here in this particular amendment—not that we are going to be funding, not that they are going to be recommending but that information, the totality of which has been accepted by the obstetricians and the pediatricians as part of their whole ethical mandate of treating pregnant women, will be realized in these settings.

Later in 1983, the former Secretary of HEW, Margaret Heckler, testified before the Health Committee and made exactly the same conclusions.

I would like to say that as a result of the GAO report and the questions raised therein, there have been 32 inspector general audits, to either confirm or deny the basic premise of the GAO. In the inspector general audits we have learned in general the prohibition against abortion was well known at the level of family planning clinics, and it was being honored.

So that has been the record in spite of those that say if you take the Chafee amendment you are really starting down that road to effectively funding all of those that come on into these family planning clinics and, of course, that is not the case.

The allegations and charges were made way back at the development of the family planning program. They have been made in the early eighties. They have been made again quite frequently during the debate on family planning last year, and that just does not happen to be the case. There is no authoritative information that would do so.

So, Mr. President, what effectively is being attempted here is to go back to exactly what the standards of the American College of Obstetricians and Gynecologists state in their ethical standards, the kinds of information, nondirectional information, that ought to be available in these clinics, and it is all stated here in the ACOG standards at page 62 in the event of unwarranted pregnancy, the physician should counsel the patient about her options: continuing the pregnancy to term and keeping the infant; continuing the pregnancy to term and offering infant care or legal adoption; or termination of pregnancy.

And the fact is that what this whole public policy issue is is whether we are going to go back to what are the ethical standards which have been accepted by the previous administration had been altered and changed in 1988 and been ruled on by the Supreme Court, are we going back to what has been stated in the regulations where the stated standards which are the ethical standards that have been adopted by the pediatricians and the obstetricians in terms of information, nondirectional information.

I believe that anything that does not move us in that direction misses the mark. And the amendment of my good friend and colleague from Minnesota effectively fails to move us back to that position. And as valued as it is in terms of trying to give additional attention to prenatal care, which I think many of us would support—not here—this is a different public policy issue and question and I would hope that the amendment would not be accepted.

The PRESIDING OFFICER. There are 17 minutes and 36 seconds remaining to the Senator.

Who yields time?

Mr. KENNEDY. I would be glad to yield 5 minutes to the junior Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minesota is recognized for 5 minutes.

Mr. WELLSTONE. Mr. President, first of all, let me join the distinguished Senators from Massachusetts and Rhode Island in their comments about the senior Senator from Minnesota. So many times I find myself in agreement with the senior Senator from Minnesota. I have such respect for all he has done in the health care field and other fields as well. But I do rise to speak in opposition to the Durenberger amendment.

I believe this amendment essentially codifies the gag rule. I do not think the amendment is compromise. I think it is codification. You can call the amendment by another name and you can use different language in the drafting, but when you get right down to the effect of this amendment, what it is is a gag rule.

Under this amendment, and I think we should be clear about this, medical professionals at title X clinics are prohibited from directly counseling pregnant women as to what their medical and legal options are and this amendment, therefore, raises all of the questions that I spoke about when I spoke earlier this morning.

The first amendment issues—we are still telling a doctor he or she cannot provide a patient with a full range of advice and information. It also raises all the same problems about two-tier medicine.

Women who have the income and see their private doctors can go in and receive full information. Under this amendment, a woman who goes into a title X clinic cannot receive that information at that clinic. Instead, what happens with this amendment is when a pregnant woman comes to a title X clinic she is given a piece of paper, a list of providers for referral, and she is shown to the door.

Let me be clear about this. A young woman comes to a title X clinic; under this amendment she is shown to a door. A poor woman, vulnerable, comes to a title X clinic under this amendment; she is shown to a door. A young woman comes to a title X clinic, in crisis, under stress, under this amendment; she is shown to a door.

Young women, poor women, and most vulnerable women, in crisis, under stress, come to a title X clinic and under this amendment they are shown to the door.

For all of these reasons I am sad to say this amendment is, again, in effect, a gag rule. It is unacceptable and I hope my colleagues will oppose it.

The PRESIDING OFFICER. The Senator from Minnesota yields the floor and returns his time.

Who yields time?

The distinguished senior Senator from Minnesota.

Mr. DURENBERGER. Mr. President, how much time do I have?

The PRESIDING OFFICER. The senior Senator from Minnesota has 26 minutes and 26 seconds.

Mr. DURENBERGER. Mr. President, I rise first to thank my colleagues who oppose my amendment for their valuable opinion of some of the other things I do around here in the health-care area. I particularly single out my colleague from Rhode Island, with whom I have worked so closely on the Finance Committee for the last 13 years, doing maternal and child health and doing an awful lot of these issues. He certainly is a leader in community health work, in his Medicare, or "Americare" program. And our colleague, chairman of the Labor Committee, does not have to take second place to anybody in this Chamber for his commitment to health policy and public health.

I also appreciate the very generous comments of my colleague from Minnesota.

But I must respond to a couple of the characterizations. I guess the best place to start is with the argument that this is not the middle ground and that this amendment merely codifies the administration position.

I am tempted to ask my colleagues whether or not they have read the administration regulations and the Rust decision as well, and suggest to them that maybe the same thing occurred in their lives as occurred in mine. That is, I did not pay all that much attention to the administration regulations until I got the Rust decision.

I think the reality just may be that the Bush administration rules were closer to the middle ground than any of my colleagues may give them credit for being.

In the implementation of the 1981 guidelines in some title X clinics, counseling resulted in referrals to abortion clinics. These were not direct referrals. These were not people saying "I want you to go from here to XYZ clinic." But the nature of the advice that is provided people in a clinic where pregnancy prevention is the professional charge may or may not be the kind of independent counseling you want on prenatal health care.

Again, under the 1981 guidelines, just to confirm what was said about the changes, under the 1981 guidelines there seems to me no question in various studies that came out in the middle 1980's that a lot of people were going from the title X clinics to have abortions performed.

Was it because they were not being given a list, and shown the door? No. They were being given a list and they were being shown the door. And also a long list of services in the community, a long list of telephone numbers, some advice on how to contact these people, what kind of folks are involved in prenatal counseling. And, at least in the case of Planned Parenthood of Minnesota, a substantial part of the page on pregnancy termination.

If you are a woman in crisis, if you are in panic—one doctor I spoke to in Minnesota likened this to discovering you have cancer. He may well be right. Yet, if there were a magic cure for cancers, and it was called pregnancy termination—would some women not take it? And how do any of us know that the full range of options, and discussions of all of the pluses and all of the minuses and all of the goods and all of the not-so-goods that we now know about—either in carrying the child to term or in termination—were carried out at a clinic whose professionals—and they are all good people—are in the business of pregnancy prevention, not pregnancy counseling?

So, I do not know. I find it hard to believe that the Bush administration took a huge right turn on this particular issue.

I suspect that the Rust decision has characterized a lot of our thinking on this particular issue. And I told my colleagues I do not like the Rust decision. I can feel it from every doctor and health care professional I have met since that decision: This is the first step in the Government telling you what you can do. But I do not think that comes from the guidelines—excuse me—that does not come from the proposed regulations. They have been characterized as a gag. They are not.

I must say also they are not very acceptable to many people in the anti-abortion movement. When I was in

Minnesota, on several occasions I sat with some of my friends, attorneys and others, people who have been around a long time, and I said what do you suppose should happen when someone goes into a title X clinic, finds out they are pregnant, and they are referred to—in the case of good old St. Paul, MN—they are referred to Meadowbrook Women's Clinic, 6490 Excelsior Boulevard, St. Louis Park, MN? Everybody knows they do abortions, the Meadowbrook Clinic. They also do prenatal counseling. They do both.

Well my prolife, antiabortion friends said: Well, you cannot send them there.

I said what are you going to do? Are you going to make these nurse practictioners and social workers and people in a title X clinic responsible for going around this community, going to Face To Face in St. Paul, MN, on East 7th Street; to Health Start at the St. Paul Ramsey Medical Center, to the MOD medical clinic, to the North End Health Center, and find out exactly what is going on in all of these places? In a specific case? No, you are not. Every person's case is different.

I suggest the reason the administration came to the middle ground on this issue is because, under the previous guidelines, women were not getting all of the options in some title X clinics.

My colleague from Rhode Island says we are taking the counseling out of the title X clinic, and he is right. That is the middle ground. That is trying to find the solution to the problem. If they get counseling in a title X clinic, and one of those counseling says here is how you can get your pregnancy termination, they probably are not going to go see anybody else in the communitty, even though you have 4 or 5 pages of other people in this community you can see. Someone has suggested, in the course of the argument, that by putting these people on the streets, it is advice, the same kind of advice that hopefully Planned Parenthood and other title X clinics have been giving people, that takes it from one health care service in the community to another.

We are talking about hurdles; hurdles to get over in the Medicaid Program, hurdles to get over in the community health program. That is not an argument, I say to my colleague. That problem exists for poor people in this country, regardless, and I credit my colleague from Rhode Island for trying to do something about that. But not in family planning.

So, Mr. President, hard as it may be to prove to anybody on the floor of the Senate, it may well be that those regulations—not the Rust decision, but those regulations—were an effort to find a middle ground; were an honest effort to find some way to get the abortion issue out of family planning, because if we do not do that, we have big problems in this country.

I know that it is a hard sell. I have seen all the ads. I cannot imagine the amount of money going into newspapers in this country that ought to be going into poor women and helping them, giving them the advice they need, giving them the services they need.

I wish it were different. I wish this issue were not being debated here. They do not want to spend the money on these ads. I wish they did not have to. I wish this was not that kind of an issue, but we cannot wish it away. We can always try, I must say, as I have done.

I want to thank all of the people in my State of Minnesota, the hard-working professionals who are in title X clinics, who probably do not agree with my position on this, who work day and night to help poor, young women in my community, and I want to thank them for the part they have played in my education.

I must say, in response to the comments made by my colleagues, this is the middle ground. This is the middle ground. We are not getting anywhere financing title X under the old regulations. Maybe these will get us there. Maybe this amendment, which pulls those old regulations to the middle—it is not an easy amendment for people in the prolife or antiabortion movement to support because they know that a lot of these prenatal counseling services are also going to be providing abortion.

So it is not easy for a lot of people to support an amendment like this. But I must say, it is an honest effort to find more services, more resources for more services for more women in America.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The senior Senator from Minnesota yields the floor. He has 16 minutes 35 seconds remaining. The opponents have 15 minutes 3 seconds.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think we are prepared to move to a resolution of this issue, if the Senator from Minnesota is prepared.

The PRESIDING OFFICER. Do all sides yield back their time?

Mr. DURENBERGER. Mr. President, I am not sure that I can or should at this particular point in time. I have some information that my colleague, the ranking member of the committee, wanted to speak on the issue.

Mr. KENNEDY. Why do we not suggest the absence of a quorum, the time to be charged to both sides?

I suggest the absence of a quorum.

The PRESIDING OFFICER. The time will be charged equally to both sides.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I yield 5 minutes of my time to my colleague from Mississippi, the senior Senator, Senator COCHRAN.

The PRESIDING OFFICER. The senior Senator from Mississippi is recognized for 5 minutes.

Mr. COCHRAN. I thank my friend from Minnesota for yielding me the time.

Mr. President, I am rising to advise the Senate that once the Durenberger amendment is disposed of, assuming that it is not agreed to by the Senate, I will offer an amendment that seeks to address in a more narrow way the issue of the gag rule, so-called, that was an issue in the case of Rust versus Sullivan before the Supreme Court.

I might say, too, that I intend to vote for the Durenberger amendment because I think it is a step toward directing the attention of the Senate to the specific issues that were brought to the attention of the Court in that appeal.

Just to refresh the memory of the Senate about how that came to be the subject of a markup in the Labor Committee on June 6 of this year, on May 23, the Supreme Court handed down its decision in the case of Rust versus Sullivan. It was an appeal from the Second Circuit Court of Appeals, and the Supreme Court attempted to resolve the dispute that had arisen between two circuits, two circuits having ruled that the administration's regulations implementing the title X law, as passed in 1970, were unconstitutional because they deprived those seeking counsel and those providing counsel of certain constitutional rights under the first and fifth amendments.

So the committee, having had a bill before it on the subject of title X and requiring abortion counseling to be made available by health providers under title X in grantee clinics, called up that bill in a markup session, in executive session, on June 6. We quickly, without any preparation in terms of hearings on trying to gauge the effect of the Supreme Court's decision, were called upon to vote out, report out favorably or not, S. 323, a bill that had previously been introduced by the distinguished Senator from Rhode Island.

So after some discussion, the bill was reported out. I joined four other Senators in voting against reporting out the bill that day because I was concerned that instead of reversing a gag rule or doing something about a gag rule that had been interpreted as having been sanctioned by the U.S. Supreme Court, we were being asked to approve a bill that was a gag rule in reverse.

So I am very disturbed about the fact that we now are having to vote on, not the bill that was reported from the committee, but a greatly lengthened bill, a much more complicated bill that seeks to write additional regulations under title X in the form of law, statutory law.

So I hope that the Senate will look at the Durenberger amendment and recognize that it is an effort to codify what we may see approved by the Senate as portions of the previous regulations that were at issue in Rust versus Sullivan.

But insofar as the gag rule is concerned, Mr. President, I intend to offer an amendment that seeks to meet that issue head on, frankly, and to say, in effect, that the Government does not have any business imposing itself into conversations between health professionals and those seeking counsel at health clinics, even though they get their funds from title X.

So the Senate will be on notice about the amendment that I will seek to offer after the Durenberger amendment is considered and disposed of, I ask unanimous consent that a copy of the sheet describing that amendment and the content of the amendment be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE COCHRAN AMENDMENT KEEPS THE GOVERNMENT OUT OF A HEALTH PROFESSIONAL'S CONVERSATION WITH A PATIENT

The amendment is a clear and uncomplicated statement of policy.

It does not limit speech—it allows a health professional to provide information, upon request, on legal medical options available to the patient.

It does not mandate speech—it does not require that certain statements be made in a conversation between a health professional and a patient.

It makes clear the Congressional intent that federal funds are not to be used to encourage or promote abortion.

Cochran amendment:

"Notwithstanding any other provision of law, no health professional in any project receiving funds under Title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding pregnancy.

"Nothing in this or any other act shall be construed to allow projects receiving funds from the Federal Government to encourage or promote abortion."

Mr. COCHRAN. I thank the Chair. I thank my friend from Minnesota.

The PRESIDING OFFICER. The Senator from Mississippi yields the floor. There remain 10 minutes, 32 seconds on the part of the proponents, 14 minutes, 6 seconds on the part of opponents.

The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I intend to conclude with just a minute or two of remarks, and then I am informed that no one else intends to speak on the amendment.

There are probably two points that I might try to clarify, one being that as soon as someone tests positive for pregnancy in a title X clinic, they are shown a door, shown a list, whatever the case may be, and I have to say that was my first impression of the Rust decision, too, that you got a list and then if anybody breathed the word abortion, you got a magic sentence. That was it, this cold fish kind of deal. I think that scared a lot of people. That turns out not to be true.

If the woman is found to be pregnant in a title X funded clinic, there will be a list, the list that I have shown my colleagues here today. Every good title X clinic in America—and I think they probably are, all 4,000 of them—maintains those kinds of lists that I have shared with my colleagues here today. And the social worker will talk through with the person involved what their options may be and discuss a variety of these options.

The word "abortion" is not an anathema word in a title X clinic, but from the time this act was passed in 1970, abortion has not been considered a method of family planning. Advice or referral on abortion is inappropriate in a title X clinic. In fact, if this amendment were passed and regulations amended to conform to this amendment, it would not be permitted. But other advice that a woman needs in that situation on discovery of the fact that she is pregnant and help in getting them to one of these community facilities is most appropriate, and none of these wonderful nurse practitioners, nurse social workers—80 percent of the people that staff these clinics—would be doing their jobs if they were not providing that kind of information to these new moms before they are referring them to the prenatal clinic.

Mr. President, it has been erroneously charged also that barring title X personnel from providing abortion counseling discriminates against poor women. The amendment that I am proposing would guarantee that the poor woman receives the counseling that she needs from a trained medical professional, from a medical professional in many cases trained in obstetrics. Who would counsel her in a title X facility under a Chafee amendment? Would she receive counseling from obstetricians? Would she receive counseling from a professional trained in postconception medical problems? Not likely. Not likely.

So I believe that if you want to ensure a poor pregnant woman receives the very best counseling and medical care, you want that person referred in the case of our community and our capital community, St. Paul, MN, referred to this wide variety of experts. I have talked about some of them: the St. Paul Ramsey Medical Center, Lutheran Social Service, Meadowbrook Women's Clinic, Midwest Health Center, Seton Center, West Side Health Center, MOD Clinic, North End Health Center, Health Start, Face to Face, Planned Parenthood-Ford Parkway. That is where you want people to get their care.

Mr. President, I am pleased at this point to yield 3 minutes to my colleague from Indiana.

The PRESIDING OFFICER. The Senator from Minnesota has 6 minutes. He yields 3 to the Senator from Indiana.

Mr. COATS. I thank my friend for yielding.

As I understand it in discussions with the Senator from Minnesota, he has what I think all of us would concede is a very legitimate concern about pregnant women entering a title X facility and not receiving help or counseling that they may need relative to how best to take care of the child that they are carrying.

The point has been made, and I think over and over and made well by the Senator from Utah and the Senator from Minnesota, the Senator from Mississippi, and others, that the title X Program was designed and established to prevent unwanted pregnancies from occurring, that through counseling, dispensing contraceptive devices, and a number of other methods for young women who did not want children but who were otherwise engaged in sexual activity, we would encourage and give them help in preventing unwanted pregnancies.

The question arose, if a pregnancy did occur, then what was the responsibility of the title X agency? Because the question of terminating a pregnancy after it occurred was not considered by many of us who hold to the position that life is valuable and ought to be protected and ought to have the right to exist and to live, terminating that pregnancy was not what Congress initially intended, nor what the taxpayers intended when they said go ahead and use our money for preventing pregnancy. Because occasions do arise when pregnant women show up at title X clinics or counseling clinics, the Senator from Minnesota is saying those people need to have available to them the counseling necessary to give them a balanced picture of what options they have.

The concern of the Senator from Minnesota is mine and many others here, that the balanced picture will not be given, that the advice and counseling will simply be biased toward abortion. What he is saying is that it is important they be given the counsel and advice, it is important that these women know that there are a number of options available to them, that they be given advice and counsel on how to take care of that baby in its prenatal state.

The PRESIDING OFFICER. I regret to advise the Senator from Indiana his 3 minutes are up.

Mr. COATS. One more minute.

Mr. DURENBERGER. I will be pleased to yield 2 minutes to my colleagues from Indiana.

The PRESIDING OFFICER. The Senator then has 1 minute remaining.

Mr. COATS. One minute.

Mr. DURENGERGER. Mr. President, I would prefer yielding 2 minutes to the Senator from Indiana.

Mr. COATS. So Senator DURENBERGER is simply saying we have a real concern that these women receive help for their baby, and we are willing to provide them with a list of facilities or information to which we can refer them. But what we are concerned about is that they will be presented with only one option or they will be induced or biased toward only one option, that is, terminating the pregnancy.

So I think the amendment is eminently reasonable. I think it explains what it is title X is all about, what it is various administrations have tried to do to ensure that the initial purpose of Congress and the wishes of Congress as expressed in many, many different forms, many, many different times and that the wishes of the vast majority of taxpayers is carried out in a responsible, reasonable way which reaches out to women who find themselves pregnant with an unwanted pregnancy but need to know what options they have.

So I commend the Senator for his amendment and trust the Senate will support it.

I yield back the remainder of the time yielded to me.

The PRESIDING OFFICER. The Senator from Minnesota has 1 minute 25 seconds.

Mr. DURENBERGER. Mr. President, I express my apprection to the Senators from Indiana and Mississippi for their kind support. I am prepared to yield back my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, there has been a good deal of explanation of what is in various amendments and what is taking place in the various clinics. The fact is the Chafee substitute goes back to what the condition in those clinics was from 1981 to 1988.

There is no evidence that has been presented here that those guidelines which were nondirected in nature that complied with the ethical standards of the pediatricians and the obstetricians were abused in any way. There is no evidence. There is opinion that they might have been. But when we come right back to asking GAO or the IG to do a study, there is no evidence.

Mr. President, this amendment of the Senator from Minnesota is preferring some aspects of those guidelines over others. If we are interested in returning to the 1981–88 guidelines, the vote should be no with regard to this amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I yield myself another minute for the purpose of asking for a unanimous-consent request. I ask unanimous consent that following disposition of the Durenberger amendment, Senator COCHRAN be recognized to offer an amendment on which there be 2 hours equally divided in the usual form and no second degrees be in order to the Cochran amendment.

I further ask unanimous consent that, following the conclusion or yielding back of the time, the Senate proceed to the vote on or in relation to the Cochran amendment.

I further ask unanimous consent that following the disposition of the Cochran amendment, Senator COATS be recognized to offer an amendment regarding parental notification.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, on the second part of that, I am not in the position to agree. I am representing this side now.

Mr. COCHRAN. Mr. President, if the Senator will yield, we have checked on this side of the aisle and there is no objection to the unanimous-consent request.

Mr. CHAFEE. On the Coats amendment?

Mr. COCHRAN. On this unanimous-consent request that was cited. There is no objection.

Mr. CHAFEE. Could you read the last part.

Mr. KENNEDY. Following the disposition of the Cochran amendment, Senator COATS be recognized to offer an amendment regarding parental notification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. I am glad to yield back the remainder of the time.

Mr. DURENBERGER. I yield back the remainder of the time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, No. 754. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 35, nays 64, as follows:

YEAS—35

Boren
Breaux
Burns
Coats
Cochran
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gramm
Grassley
Hatch
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Smith
Symms
Thurmond
Wallop

NAYS—64

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Brown
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Hatfield
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Warner
Wellstone
Wirth
Wofford

NOT VOTING—1

Pryor

So, the amendment (No. 754) was rejected.

Mr. CHAFEE. Madam President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi may proceed.

Mr. COCHRAN. Madam President, before proceeding to send my amendment to the desk, I ask unanimous consent to be permitted to yield to the distinguished Senator from Pennsylvania and ask that he may be permitted to speak out of order for such time as he may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania may proceed.

Mr. SPECTER. I thank my distinguished colleague from Mississippi.

FRANK RIZZO

Mr. SPECTER. Madam President, I have sought leave to speak out of turn to inform my colleagues of the untimely death of former Mayor Frank Rizzo of the city of Philadelphia. Earlier today, this afternoon, former Mayor Rizzo suffered a massive heart attack and regretfully passed away.

It is a moment of sadness for the city of Philadelphia, for our State, really for our country, and for me personally. Former Mayor Rizzo was a good friend of mine, with our association dating back to the late 1950's when he was a police captain in Center City Philadelphia and I was assistant district attorney. In those days he was known as the person who can. He was a dominate personality, a very colorful personality, very much dedicated to public service. He rose through the ranks of the Philadelphia Police Department, having very little formal education, leaving high school in the 11th grade. He rose to the position of police commissioner of Philadelphia where he was an outstanding, an outstanding law enforcement officer. For many years I worked with him as district attorney while he was police commissioner and when the major cities of the United States had very dark and troubled days, in the summers of 1967, 1968, 1969, when Newark, Pittsburgh, Detroit, and other major cities had enormous problems. The city of Philadelphia was relatively tranquil.

He then took on the duties of mayor of Philadelphia, elected in 1971 and served two terms. He was a unique political personality, shifting parties, which is not too common in our society—Ronald Reagan did it; John Connally did it; I did it; others have done it—and then ran as a Republican for the office of mayor in 1987, and again in the primary in 1991, when he defeated the organization in a very, very close primary vote, and was now a candidate for mayor for the election this year.

I saw him most recently on Friday night, when there was an antidrug march that went through Philadelphia, the corner of 52d and Spruce. He and I and my wife, Councilwoman Joan Specter, and others marched against drugs.

His passing is untimely. I send my regrets and my sympathy to his family. I know my colleagues will join in that. But he was really an outstanding public servant, and I thought that these comments ought to be made on the floor of the Senate to extend my voice of recognition of his really dedicated work for the city of Philadelphia, which he dedicated his life to, the city which he loved so dearly.

Again, I thank my colleague from Mississippi, and I yield the floor.

TITLE X PREGNANCY COUNSELING ACT OF 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 755 TO AMENDMENT NO. 753

(Purpose: To clarify that no health professional is prohibited from providing information concerning any legal option regarding pregnancy)

Mr. COCHRAN. Madam President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 755 to amendment No. 753.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. CLARIFICATION REGARDING THE PROVISION OF INFORMATION CONCERNING PREGNANCY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health professional providing services in any project receiving assistance under title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding an unintended pregnancy.

(b) CONSTRUCTION.—Nothing in this or any other Act shall be construed to permit projects receiving assistance from the Federal Government to encourage or promote abortion as a method of family planning.

Mr. COCHRAN. Madam President, this amendment seeks to address the issue of the gag rule head on, and to say clearly and unequivocally that the Government has no business interfering in a counseling session between a health professional and the patient.

This amendment does not limit speech. It allows a health professional to provide information upon request on legal medical options available to the patient. It does not mandate speech. It does not require that certain statements be made in a conversation between a health professional and a patient. It does make clear congressional intent that Federal funds are not to be used to encourage or promote abortion. The specific language of the amendment is very short, two paragraphs:

> Notwithstanding any other provision of law, no health professional providing services in any project receiving assistance under title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding an unintended pregnancy.
>
> Nothing in this or any other act shall be construed to permit projects receiving assistance from the Federal Government to encourage or promote abortion as a method of family planning.

And that is it. That is the amendment.

The reason I think it is appropriate to approve this amendment as a substitute for the bill as it would be amended by the Senator from Rhode Island is that the amendment before the Senate, of the Senator from Rhode Island, seeks to rewrite the regulations. It goes beyond dealing with the issue of the so-called gag rule that many say has been sanctioned by the U.S. Supreme Court in its decision of Rust versus Sullivan.

When we met as a committee to look at the bill, S. 323, it was one page long. It was very short. It was a one-sentence effort, in effect, to deal with what had long been a concern of many of the proabortion or abortion activists or abortion rights groups. Not only did it try to deal with the regulations that had been the subject of some controversy in implementing title X in 1988, but it specifically mandated that counselors would provide information to women seeking information at title X clinics on three subjects. It requires those three subjects to be discussed: Prenatal care and delivery; infant care, foster care, or adoption services; and pregnancy termination.

Well, I made the mistake, as we were in the markup on June 6, of reading the bill. I was there to vote for the bill, to send a clear signal that Congress did not mean to impose a gag on all health professionals who were provided information and counseling services in title X family planning clinics. That was my intent before I got to the meeting, because I was seriously concerned that the regulation writers had gone too far, if that was the true result of their action.

Two courts of appeal circuits have ruled that the regulations were an unlawful, unconstitutional infringement of freedom of speech. The second circuit, on the other hand, decided the regulations did not abridge the freedom of speech or the equal protection of the law clause of the Constitution, and further, that it was within the power of the administration, under the language of title X of the Public Health Service Act of 1970, to prescribe the use of the funds in a limited fashion, as they had done.

For instance, if you are going to use family planning clinic funds to do something other than help provide counseling on how to avoid unwanted pregnancies and related issues, then Congress has the power to prohibit that additional and extra statutory use of the funds, and the administration has a right and a power to restrict the use of the funds by regulation. And that is what the 1988 regulations proposed to do.

So I looked at the law and said, Wait a minute. We are not dealing with removing the gag here; we are putting the gag rule in reverse. We are requiring by law, if we report this out favorably, health care counselors in title X clinics to say certain things, to provide specific information, whether they have moral convictions against providing that kind of information or not. Specifically, they must provide abortion counseling, by law, as required by this law.

So I expressed that concern, and some of the members of the committee seemed impressed with the concerns I had, and asked—I think it was the distinguished Senator from Illinois [Mr.

SIMON] who asked me at the time, if we made it "may" provide these counseling services instead of "shall," would the Senator be able to vote for the bill.

I said something like, I would be hard pressed to find a reason not to vote for it if we changed that. But I was convinced that this bill would mandate by law health professionals to give certain information to patients in clinics, whether it was against their consciences, religious convictions, or professional theories or views, or otherwise, and I thought that was inappropriate. So I voted against reporting out the bill in that form.

And I was convinced the committee was going to make changes to make it acceptable. But do you know what happened? Instead of changing "shall" to "may," the distinguished Senator from Rhode Island has enlarged a one-sentence bill to a four- or five-page bill that is now before the Senate as an amendment to S. 323.

I strongly urge the Senate to adopt the amendment that I have just offered as an alternative, and here are some of the reasons. Not only does this carry forward the mandate that abortion counseling be provided, it goes further, to codify in statute regulation-type language to prohibit the termination of grantee's funds if the administration decided that it was abusing its authority and providing an unauthorized counseling service related to abortion or was providing abortion services referral inconsistent with Federal regulations.

My amendment prohibits the denial of funds to a potential grantee if that is the sole reason for the denial. And it imposes upon the Government the burden of proving motive for such denials.

I hope that Senate hears that. We have heard some discussions of the civil rights bill pending before the Congress and how it imposes new burdens on employers to prove that they have not been discriminating against an employee if that employee alleges discrimination. One of the objections to the bill, is that it puts the burden of negative proof on the employer. The employer is put in a position, under some interpretations of that bill, as having to prove that he is not discriminating, and, if he cannot offer proof, then the plaintiff wins.

Plaintiff does not have to prove anything. And that is what we are seeing extended to this amendment, Madam President, there is a requirement that if one alleges that a grantee is ineligible for funds under title X because of an infringement of a regulation relating to abortion services or abortion counseling, it is the Government which must prove to the contrary.

So, if I am a grantee potentially applying for funds under title X and have had a history of providing abortion services and the Government denies me funds, I am going to file suit. I am going to allege that the Government has denied me title X funds for a family planning clinic because of my past history of providing abortion services. The Government may say, no; I am not providing funds under this application because I do not like your looks. That will not do. The applicant will prevail in that case, as I read this amendment, and require the Government to make those funds available. And any grantee currently in business now under title X is going to stay in business in perpetuity by alleging that the denial of his continuation would be because of some infringement of a regulation relating to abortion counseling or abortion services.

This is an inappropriate inclusion in this amendment. We are supposed to be dealing with the issue of freedom of speech and whether health professionals can engage freely in a discussion of legal options with users of family clinics who may come to a physician or health care provider and say, what do I do, I am pregnant?

In my view, Madam President, we ought clearly to say that, as a matter of policy, that health care professional is free to discuss the abortion option. Since it is a legal option, that professional is free to discuss the medical ramifications of carrying that child to term, other options that may be available, such as adoption, prenatal care that may be indicated because of the medical condition of the person seeking counseling, a wide range of medical information that is very important to the life of the mother, the life of the prospective child, and generally discharges the responsibility of that health care professional under his or her oath and conscience and training and understanding of the facts as he or she sees them at that time.

I am hoping we can make it very clear that we do not want to interfere in that free exchange of information between the physician and the patient, or the health professional and the patient, under those circumstances. That is what the Cochran amendment seeks to address head on. And that is all it addresses. I voted for the previous amendment, but I have to admit that those who said it was an effort to codify regulation language were correct. It was an effort to do that. The Chafee amendment is an effort to do that in a different way. One would have suited the National Right to Life coalition and the administration. The other would suit the National Abortion Rights Action League and the National Organization of Women.

Mine does not suit either one of them because it does not go far enough to slant the regulations to prefer their interest that is at issue. The Cochran amendment seeks to address the issue that we were told we were addressing when we took up this bill after the Supreme Court ruled in Rust versus Sullivan, and that was to remove the gag that some said had been put on health professionals in their dealings with their patients in the family clinics who were beneficiaries of title X funds. That is what this amendment does. It seeks to do that and that alone.

Let me put one other issue in perspective. Some say since it does not write the regulations or rewrite the regulations, it leaves that to the administration, and how are we to know what they are going to do? Well, one thing seems clear to me. The administration has received a very clear signal from the other body already that the regulations as written need to be modified. The House has voted by an overwhelming majority to deny funds to the administration to implement or enforce the regulations as they currently stand under section 1008 of title X of the Public Health Service Act.

The Senate Committee on Appropriations, on which this Senator serves, has already met in subcommittee, and not one Senator voiced any objection to that House language in the bill. Not one Senator offered an amendment to strike that language. In the full Committee on Appropriations we completed our action last week on that bill. Not one Senator said one word critical of the House language in the Senate bill. So I assume the Senate is going to agree to the language brought over from the House which prohibits the administration from using any of its funds in that legislation to promulgate, carry out, enforce, administer the regulations as written.

So what I am suggesting to the Senate is that between now and October 1, the beginning of the next fiscal year, when that bill appropriating funds for Labor-HHS takes effect, that we have an interim solution, that we send a message clearly and unequivocally that we do not condone gagging professionals in these clinics. If they are asked for information, whether it is about legal, medical options available in this setting, they are free to give the information based on the facts, their understanding of the situation, and their training and background as health professionals. I think that is all we ought to do right now.

The administration, if it seeks to use any funds appropriated by the Labor-HHS appropriations bill, is going to have to modify the regulations to suit the intent of Congress as most recently expressed in that vote on the House floor and in the acquiescence of the Senate to the inclusion of that language in the bill.

If the Senate elects to adopt an amendment when that bill comes to the floor, we may have to debate it again. But this is temporary, as title X is going to be reauthorized, or the committee is going to be asked to meet to consider reauthorization language later this year, I was told.

And so we are in sort of an emergency kind of session. On June 6, we were quickly called into executive session to deal with this on the Labor Committee. Now we are on the floor dealing with it a few weeks later, but only one small part of title X.

I am hoping the Senate will not fall prey to the temptation to rewrite the regulations for the administration and slant them one way or the other, either for the abortion rights groups or for the others whose amendment was supported, which was offered by the Senator from Minnesota.

I am suggesting a different course for the Senate, Madam President, and that is simply to, first of all, make it clear that we do not condone the imposition of any gag rule; that physicians and other health professionals ought to be free to give advice and information upon request in these family planning clinics. At the same time we say clearly that there shall be no promotion or encouragement of abortion in that context. That goes back to the language of the original 1970 act. And here it is again, it is repeated and, I hope, it has renewed impact among those who accept and use these funds and under the terms of the law and regulations as they now stand.

Let me make one other comment, and then I will yield the floor. To give another example of why I object so strenuously to the Chafee bill as it is written—not the intent or the motivation, but the bill as it is written and purported to be amended—there is a provision right at the end that says even if you do not have to provide abortion counseling, if your moral convictions will be abused or infringed, if there is no other facility in the geographical area providing abortion counseling services, you must establish one with the funds that you receive as a grantee.

So how can you meet that mandate, too, I ask the Senate, and still say we are restricting this legislative effort to redress the impact of Rust versus Sullivan? This amendment is clearly an effort to go far beyond the issue of freedom of speech. It will not only create grantees in perpetuity under title X, but will also mandate certain kinds of counseling and certain kinds of services that may not be consistent with the moral convictions or other views of those accepting funds under title X.

So I hope the Senate will look at the amendment very carefully before agreeing to this and realize that it is much more than it may purport to be at first blush.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. I yield time to the Senator from Kansas on our time.

Mrs. KASSEBAUM. Madam President, I appreciate the Senator from Washington yielding. I would like to ask a couple questions of the Senator from Mississippi.

Mr. ADAMS. I yield 5 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I would like to ask the Senator from Mississippi a couple of questions. Does not this amendment, the Cochran amendment, really take us back to the situation prior to the Supreme Court decision in Rush versus Sullivan? At that point, the Supreme Court said that when Federal moneys are used, then indeed there should be the opportunity to delineate, in some form or another parameters regarding how that money is to be used. At some point, someone has to determine the parameters of how the money will be used. Is the Senator from Mississippi suggesting that this is not the role of the Congress but it should be the role of the agency?

Mr. COCHRAN. Madam President, if the Senator will yield, I am suggesting that it is more appropriate for the Senate to act as a maker of law rather than regulation. We should make clear that the law contains a clear statement of policy, reflects the sentiment of the Senate, of the Congress. It is up to the executive branch to write the details of the regulations that carry out the laws as passed by Congress.

And so part of my objection to the Chafee amendment that is pending is that it seeks to rewrite the regulations. I think that is inappropriate. It is much more appropriate for the Senate to be on record stating what it thinks the policy should be on this issue.

Mrs. KASSEBAUM. Madam President, I suggest that it appears to me that what those of us who have been supporting the Chafee amendment are trying to do is to say what the policy is, and to delineate how we believe the Congress should respond. Then it can be voted up or down based on that policy and delineation.

There are many who believe that Congress tends to micromanage far too much. I just suggest we have tended to do that when talking about foreign aid, and I can even remember a time when we talked about what colors the shutters should be on the Embassy in Paris. The farm bill has lent itself to micromanagement, as I am sure the distinguished Senator, Senator COCHRAN, a member of the Agriculture Committee, will agree.

I can agree and understand what the Senator from Mississippi [Mr. COCHRAN] is attempting to do. But I also feel that we have been called upon at this time to step forward and be more specific about what we feel the title X funds should be used for in the broadest sense of the term and what areas should be covered in the counseling and referral done by title X clinics.

For that reason, Madam President, I really feel that the Cochran amendment will simply take us back to where we were earlier and that then we will go through this process again, with the Department of Health and Human Services developing regulations which we feel are not wise and Congress back deciding what to do once more. That appears to me to be the reason we need to take a step forward and clearly define the congressional intent. I yield the floor.

Mr. ADAMS. Madam President, I am going to yield in a moment to the Senator from Rhode Island. I simply want to state that I oppose the amendment offered by Senator COCHRAN. I understand that it is good-hearted, and was glad to hear him mention that he knew that the prior amendment would simply codify what happened in 1988.

I think what the Senator from Kansas just said is very true. What we have been called upon as a Congress to do is to restore the situation that existed, in fact, from 1970 when this law was passed, from 1981 on when the regulations defining this law were passed, which was that people coming in with a problem of pregnancy and asking for information in the title X clinic should be given full, fair information from the health professionals and the parties there.

I am very concerned about technical parts of the Cochran amendment, which I will discuss later, which is that the only information they could be given would be regarding legal options, and that is not the problem of the young, particularly a minority woman who is there for the first time and does not know just all that has happened to her. She needs medical information and she needs a full range of medical information, which is what the Congress is trying to undo, the Supreme Court's statement that they could not get it. That is the gag that went in.

It is a shame that it did and that we have to be here to correct that. I am one who, just like the Senator from Kansas, believes we should not micromanage. We have to correct a wrong that has been done. The amendment of the Senator from Rhode Island does this very well.

At this point, I yield to the Senator from Rhode Island such time as he may require. Then I want to yield to the Senator from Illinois and the Senator from Hawaii.

Mr. CHAFEE. Could I just say this to the manager? First, I want to thank the distinguished Senator from Kansas for her very preceptive comments and thank her and commend her. Second, I notice the Senator from Hawaii has been here and ready to go. I will be glad to defer to him if he wants to go ahead.

Mr. ADAMS. I thank the Senator. I yield 5 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today in strong support of S. 323, legislation which would allow federally funded family planning clinics to continue to provide pregnant women with full information and counseling about all legal and medical options, including abortion.

I share a deep concern with many of my Hawaii constituents over the recent Supreme Court ruling in Rust versus Sullivan which upheld the gag rule barring title X funded family planning clinics from providing abortion counseling and referrals. Over 12,000 women in Hawaii would bear the brunt of this Court decision.

Not only does this ruling restrict free speech—it also violates medical ethics and professional guidelines of major medical organizations including the American Medical Association, the American College of Obstetricians and Gynecologists, and the American Academy of Pediatricians by preventing health care providers from fully carrying out their professional responsibilities. Even if a woman requests information about abortion or believes it is medically necessary, a health care professional is prevented from counseling her about the availability of that option.

Title X clinics serve primarily low-income women. The Supreme Court ruling sets up a two-class health care system: Affluent women will have open to them a complete range of choices, while poor women will receive skewed information and options sharply narrowed by funding limitations. The restrictions would harm the poorest and most vulnerable communities.

As an original cosponsor of S. 323, which overturns Rust versus Sullivan, I am encouraged that nearly half of the Senate has signed on to the bill. It is also noteworthy that the Labor, Health and Human Services, and Education appropriations bill just approved by the House and the version reported out of the Senate Appropriations Committee last week contain provisions reversing the gag rule.

Under S. 323, doctors and other health care providers in title X funded clinics would provide nondirective counseling and referral upon request to pregnant women on options for pregnancy management. These options may include prenatal care and delivery; infant care, foster care, or adoption; and pregnancy termination.

A title X clinic or its employees may elect not to provide information, counseling or referral services on any one of the options because of religious or moral beliefs as long as the patient is advised of that fact and is referred to another project providing such information and counseling.

Mr. President, we must not deny some women crucial information they need to make a responsible choice about a very personal and complex decision. We must not put physicians, health care professionals and clinics in the untenable position of either having to deny services or risk running afoul of regulations if the gag rule remains in place.

I urge all my Senate colleagues to pass S. 323 with the Chafee substitute without further weakening amendments. I ask unanimous consent that a statement of the Hawaii Reproductive Rights Coalition, a group of more than 30 local community organizations, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HAWAII REPRODUCTIVE RIGHTS COALITION CALLS FOR OVERTURN OF "GAG RULE"

Today more than 30 local community organizations called on the Congress to pass legislation quickly to restore a woman's right to receive full and honest information on reproductive choices.

This right, the Hawaii Reproductive Rights Coalition declared, was taken away when the U.S. Supreme Court, in a 5-4 decision, upheld the Administration's regulations that would ban such counseling in family planning clinics receiving federal funds. Today's press conference featured a 17-minute videotape produced by the Chicago Planned Parenthood that depicted a counseling session both before and after the implementation of the gag rule.

Arguing that the government's regulation banning counseling on abortion will make it impossible for women to make truly informed decisions about their health, Vanessa Chong, executive director of the ACLU of Hawaii and co-chair of the Coalition, said "creating a blackout on speech, as the government has done, forces physicians to violate their code of ethics. In the meantime, the restrictions would harm the poorest and most vulnerable communities.

This view was emphasized by Cheryl Vasconcellos, executive director of Planned Parenthood of Hawaii and Coalition co-chair, who said "the gag rule strikes at the heart of the confidential relationship between the doctor and patient and substitutes government-backed ideology for ethical medical care."

It was pointed out that compelling doctors to provide incomplete information could expose them to malpractice suits and the loss of their licenses. In fact, in late June, the American Medical Association adopted a resolution at its annual convention that "condemns strongly any interference by the government or other third parties that cause a physician to compromise his or her medical judgment as to what information is in the best interest of the patient, and to affirm the right of physicians to use their medical judgment always for the best interest of the patient."

Members of the Coalition are participating in the national "Emergency Campaign to Overturn the Gag Rule," which is urging Congress and President Bush to support legislation (HB392, SB323 & HB2707) that will nullify the rule. All four of Hawaii's representatives are co-sponsors of the legislation. The Coalition is lobbying both Hawaii's congressional and local legislative leaders and also is urging its members and the community at large to do the same. A two-thirds majority vote in both the House and Senate would be required to override a threatened presidential veto. However, HB2707 passed the House 353-73 (88.2%) with many conservatives supporting the measure. It awaits action on the Senate floor. "Each day we are getting closer and closer to obtaining the two-thirds needed, so it is critical to continue lobbying your congressional representatives and urging them to recruit the support of their colleagues," the Coalition co-chairs said.

Today's press conference is part of a national "Day of Action." Delegations across the country representing more than 200 organizations will be meeting with their congressional representatives over the next ten days in Washington, D.C., in a special lobbying effort on the pending legislation.

The Coalition will be meeting later this month to further coordinate its local strategies around this issue. The Coalition also will continue its mobilization efforts in the local community on reproductive rights in general.

REPRODUCTIVE RIGHTS COALITION

Co-Chairs: Vanessa Y. Chong, American Civil Liberties Union of Hawaii; Cheryl Vasconcellos, Planned Parenthood of Hawaii.

American Association of University Women, Hawaii State Chapter.

American Civil Liberties Union of Hawaii.

American College of Obstetricians & Gynecologists—Hawaii.

Americans for Democratic Action—Hawaii.

American Friends Service Committee—Hawaii.

Catholics for Free Choice.

Committee on Welfare Concerns.

Filipinos for Affirmative Action.

Hawaii Alliance.

Hawaii Black Women's Coalition.

Hawaii Commission on the Status of Women.

Hawaii Federation of Business and Professional Women.

Hawaii Healthy Mothers, Health Babies Coalition.

Hawaii Medical Association.

Hawaii Now.

Hawaii Nurses Association.

Hawaii Public Health Association.

Hawaii State Primary Care.

Hawaii Women Lawyers.

Hawaii Women Lawyers Foundation.

Hawaii Women's Political Caucus.

Hilo Bay Family Plannming Clinic.

Honolulu County Committee on the Status of Women.

Humanists Hawaii.

Kalihi-Palama Health Clinic.

League of Women Voters of Honolulu.

National Abortion Rights Action League, Hawaii.

National Association of Social Workers.

Planned Parenthood of Hawaii.

Pro-Choice PAC.

Refuse & Resist.

Single Parents Advocacy Network.

Sisterhood Temple Emanu-El.

University of Hawaii Pro-Choice Action Group.

University of Hawaii Professional Assembly.

University of Hawaii Women's Center.

University of Hawaii Women's Faculty Caucus.

Division of Church & Society United Methodist Church, Hawaii Distict.

Windward American Association of University Women.

Women's Studies Program—University of Hawaii.

YWCA—Hawaii.

Mr. AKAKA. I yield back my time.

Mr. ADAMS. Madam President, I yield 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, let me first say to my colleague from Mississippi that the Chafee amendment has moved an appreciable distance in the direction that the Senator from Mississippi called for in committee, and but for the Senator calling for it, I do not think we would have the kind of protections for people who have some scruples about certain things that legally do happen in our society.

I do not think the spirit of the Cochran amendment is that far from the Chafee amendment with the exception that the Senator has these two words in here, "upon request," which I think is not helpful in terms of what a physician can do.

I would like to just take the remaining 2 minutes, if I have 2 minutes, to speak on the bill itself.

I think it is extremely important that we reverse Ruse versus Sullivan, and it goes far beyond the abortion issue. We are talking about freedom of speech. If the Federal Government can through regulation, because a physician receives Federal funds, tell that physician what he or she can say to a patient, if that can happen in a planning clinic, then it can happen through Medicare. Then the Federal Government can say to libraries, because you receive Federal funds, there are certain books you cannot have in this library. We can say to universities there are certain things you cannot teach.

I think there is a very fundamental freedom of speech issue here, and my hope is that the Senate will resoundingly pass the bill offered by our colleague from Rhode Island. I think it is clearly in the national interest. It is in the interest of the fundamental principle of freedom of speech that we all espouse.

Mr. ADAMS. Madam President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator has about 46 minutes. The Senator from Mississippi has about 39 minutes.

Mr. ADAMS. I yield such time as he may consume to the Senator from Rhode Island.

Mr. CHAFEE. I thank the distinguished floor manager. If the Chair will let me know at the conclusion of 10 minutes, I would appreciate it.

Madam President, I think it is once again very important that we go back to why we are here. We are here because a situation that had existed for many years, was radically changed. The situation that had existed for many years was that under the regulations that were in effect from 1981 to 1988 under the Reagan administration, a counselor, physician or whoever the individual may be in the clinic was required upon request to give to the requesting woman her three options, her options of carrying the baby to term and keeping it, the option of carrying the baby to term and putting it up for adoption or foster care, and the third option the termination of pregnancy. Those were the regulations, and it was not an option on behalf of the counselor. It was mandated. It was required.

Life went along serenely until a group in HHS decided they did not like that and they wanted to change those regulations. And so what happened then was the so-called gag rule.

Bear in mind who we are talking about. A title X patient or client is a low-income woman by the very definition. She is frequently young. She is, upon discovering she is pregnant, disturbed and wondering what she can do. And so she asks the question to the counselor—it may be a nurse practitioner or it may be a physician—"What are my options?"

She is entitled to her options. She always had that answer. There was no beating around the bush. She had the answer. But in came these regulations, the gag rule, and if she asked, the nurse practitioner or whoever it was was forbidden to give her the last option. Oh, yes, you can tell her that she could carry the baby to term and have it, or carry the baby to term and put it out for foster care or adoption but not the third one. And furthermore, they were not even directed to tell her that they were not giving her her full options.

Now, you might say, oh, everybody knows about the option of termination of pregnancy. Well, that just plain is not so. Certainly for the women in this condition, the reason she asks the question is she wants an answer.

The problem with the Cochran amendment is that again it does not guarantee she gets her answer. If you read the Cochran amendment, it says that the individual, let us say the nurse practitioner, shall not be prohibited from providing upon request the information.

I will not debate over what he means by legal option. He is not prohibited, no. But he is not also required. So again she is left up in the air.

Under the Cochran amendment, it is perfectly all right, written right into law, that he does not have to give her the full answer if he does not want to.

Furthermore, you say it is micromanaging to write in what happens. Well, is it micromanaging to say that if the individual or doctor does not give her full options at least he ought to tell her? She asks. Mind you, it is upon request, even in the Cochran language, "provide upon request." The woman goes to the trouble of asking: What are my options? Under the Cochran amendment, he could give her option 1, he could give her option 2 and stop. Furthermore, he does not say, "Well, Miss, I am not giving you everything. There are others. But you can go elsewhere for those."

Why is the Chafee amendment so long? The Chafee amendment is so long in trying to accommodate the distinguished senior Senator from Mississippi, because he raised what we thought was a rather sensible problem. What he said is suppose you have some doctor who, in a clinic, has through deep moral convictions the belief that he does not and is unable to give her the final option, the termination of pregnancy; what do you do then? It might be a Catholic hospital. Let us say it is Holy Redeemer Hospital. We kind of thought that made sense. Mind you, the Senator voted against us when I brought this up in the other form last fall. He voted against it in committee. So I thought, well, he is an important player, leader in the Senate; let us do what we can to accommodate him. That required four pages.

Let me just say there is something that we have all discovered around this Senate; that the enemy of fairness is frequently simplicity. There is a great attraction to the word "simplicity," make it simple. But frequently, in writing statutes, simplicity is the enemy of fairness and nowhere is it more important than in our Tax Code. Example: Make the Tax Code simple; tax everybody the same. Somebody has 12 children over here, somebody has one child here. Do not make any difference. Keep it simple. Tax them all the same.

One over here is taking care of a wife in a hospital with Alzheimer's, or a nursing home, and the other has no dependents; tax them the same. That is simplicity.

Once you start writing the code to take care of the medical situation, take care of the catastrophic loss, take care of the large family, that is when things become complicated.

So when the distinguished Senator talks about the charms of his amendment because it is five pages and it is being micromanaging, I would call to his attention the fact that we tried to take care of this very situation that he brought up.

Let us go back now to the Catholic hospital. We provided here—by the way, these are frequently title X clinics in a Catholic hospital. A woman goes in, she asks the doctor: What are my options? We provide in here that he does not have to give her the full options because in his particular situation—or a female doctor—they have moral convictions or religious beliefs that would prevent them from mentioning termination of pregnancy.

So we cover that. But by covering it, it lengthens the bill. Does that take care of the woman who has asked a question? No, it does not. She has not received her full answer.

So we require that that physician can fail to give her her full options but he does say to her "Because of my situation, my beliefs, I am not outlining to you the full options that exist but if you go to so-and-so you can get your options." So we take care of that.

Then the Senator says what do we do about the situation where that is the only facility within the immediate geographic area. What happens to her? She is in Woonsocket, RI, and the nearest place is 50 miles away. Is that fair to her? No. We put a provision in that if they are going to fund one of these projects where she cannot get her full option that at least she can be told they will have another place not too far away, accessible, where we provide she can get her full answer. Is she entitled to that? I think she is.

I will not spend time with each of the other objections that the Senator raised. He objected principally, as I pointed out, to the length of it. But you have to take care of these provisions.

For example, do we not want to take care of that individual within the clinic who does not give the full options because of the religious belief? Suppose we have an administration come in that is extremely pro choice. They say we are not going to fund that clinic where they will not give the full options and, furthermore, if we do fund it, make sure that doctor gets fired because he has these religious beliefs that prevents the full listing of the option.

So we provided a provision to protect that individual from being fired for that particular reason. Is that ridiculous? I do not think so.

But does it take some words? Yes. It does take some words. Is it unfair? Is it a distortion? Is it micromanaging?

Let us look at the present situation. We have to realize that running that Department of HHS right now are individuals who we can say in the most benign statement are pro active. They feel very, very strongly in their beliefs that no one should have information dealing with termination of pregnancy, and they are going out of their way to achieve it.

So we provide in here that they cannot suddenly remove title X funds from every clinic in the United States that provides for the three options and restrict them only to those selected entities where the woman would not receive her options. So we provided that language that the Senator objected to.

I am not quarreling with what the Senator says. He is going a long ways when he says it is entitlement or there is no way of removing the grant. We say it cannot be removed for that particular purpose.

Can it be removed because they are sloppy, they do not keep records, the place is unclean, or because the statistics clearly show they slant their advice one way or another? Sure. But they cannot remove it because of providing or not providing particular advice concerning termination of pregnancy.

So, Madam President, if the charge is that it takes some words to accomplish everything we did, to accomplish namely what was an attempt to please the Senator, I must say he is a hard man to please. We went out of our way, but we did not make it. But I am glad we tried.

As the distinguished Senator from Illinois said, it was a good point. I think we should take care of those who are in religious hospitals, for example. That is what we have done.

So I hope that not only will we receive support for my measure as to the substitute, but also that we will reject the amendment by the distinguished Senator from Mississippi.

Mr. ADAMS. Does the Senator from Mississippi wish to yield time to anyone on his side? I wanted to yield to the occupant of the chair in a moment.

Mr. COCHRAN. Madam President, I will respond by saying that there will be another statement or two made on this side of the issue before we yield back our time.

The Senator may proceed, if he would like to, to take the chair and yield to the distinguished Senator from Maryland.

Mr. ADAMS. I am going to do that. I will, at this point, yield 5 minutes to the Senator from Maryland.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, thank you for not only yielding, but for taking the chair so that I might speak.

Mr. President, I rise in opposition to the Cochran amendment and on behalf of the Chafee amendment. I want to thank my colleague from Rhode Island for his most enlightened, well-thought-through substitute that I think vastly improves the legislation pending. I think it accomplished several objectives that we wish to.

No. 1, it will overturn the Supreme Court decision that really constitutes what we now call the "gag rule." I think it is important that we overturn that Supreme Court decision, because I think the Supreme Court decision intrudes on the doctor-patient relationship.

The doctor-patient relationship within our society has always had a special, sacrosanct, and inviolate status. That status was this: What occurred between a doctor and a patient was viewed with the utmost privacy and confidentiality, and a doctor-patient relationship was based on mutual trust.

The patient knew that the doctor had taken the Hippocratic Oath and subscribed to ethical standards and competency in medical practice. The patient, therefore, knew that when she or he sought the doctor's advice, they would get the best medical advice, and there would be no intrusion in that advice to be given; that there would be no government mandate, no government intervention that would in any way bar, impede, or derail the free flow of information that must occur between a doctor and a patient.

What we have here is a Supreme Court decision and a prior legislative framework that would forbid a doctor to give this information—crucial information, crucial to making an informed choice, and in some cases even life-saving information—on the matter of pregnancy.

If I were a member of the American Medical Association, I would be on the barricades about this Supreme Court decision. In my mind, this is the first step of who knows what future intrusion into the medical practice. I think the AMA and the Congress of the United States should be absolutely up in arms on this.

In the course of debate on access to health care—a whole other topic—I have been approached by physicians who have voiced very clearly their opposition to the concept of managed care. They say that will bring bureaucracy into the doctor-patient relationship.

Well, Mr. President, we have talked about managed care in a cost-containment framework. But this gag rule is ultimately an intrusion—and managed care—into the doctor-patient relationship. If ever there was a single action that managed care in this society, this is it. This is the ultimate cameo of managed care.

I bring to my colleagues' attention that where government intrudes in these matters, repugnant practices occur. We have the example where Government intrusion mandates abortion as family planning, whether it is for sterilization, or possibly even coerced abortions.

We saw forced family planning or family counseling in Romania. In Romania, they had, under Ceausescu, a childbearing quota bill. Every woman who reached the age of 13, or puberty, had to participate in a government program to have at least five children. Up until that time, she had to go and be examined to make sure she was not using birth control, so she could produce for the Ceausescu government a lot of little Communists. Well, that was repugnant.

So that is what happens when government intrudes, and that is why I state I do not believe in the managed care of family planning. That is why I am going to vote for the legislation and the Chafee substitute.

I understand that the Cochran amendment is indeed well intended, but the consequences are negative. They have been said quite articulately by my colleague from Kansas. And what she says, this will put us back exactly where we are.

The Chafee substitute takes into consideration religious and bona fide objections by anyone. The Chafee substitute takes into consideration, in a very clear and unequivocal way, those people who have a conscientious objection to giving abortion information. It protects the Catholic hospital; it protects those, whatever their religious convictions, who give that advice, and enables them to excuse themselves on that grounds.

That reflects a pluralistic society. It protects the person who has a religious or moral objection, but at the same time, it does not have a government barricade against giving the information to those who want to give it, as well as those who want to receive it and need to receive it.

So, Mr. President, when my name is called, I am going to vote against the Cochran amendment. It does not accomplish a purpose. I am going to vote for the Chafee substitute, and I am going to vote to make sure that doctors can talk to their patients without the intrusion and heavy hand of government.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ADAMS. Mr. President, we have one more speaker, who we understand is on his way—Senator ROBB—to address the Senate.

How much time is remaining on each side?

The PRESIDING OFFICER (Mr. ROCKEFELLER). Twenty-five minutes exactly, and 39½ minutes on the other side.

Mr. ADAMS. Twenty-five minutes on our side and 39 minutes on the other side?

The PRESIDING OFFICER. That is correct.

Mr. ADAMS. Mr. President, I yield myself such time as I may consume.

Mr. President, I have in front of me the letter that came in on July 15 from the American College of Obstetricians and Gynecologists. It goes really directly to this amendment.

I want to read one paragraph from it, and then I will put the entire letter in the RECORD.

This paragraph states as follows:

> When patients seek care from health professionals, they trust that they will receive complete and unbiased counseling. Complete disclosure is essential for patients to exercise their right to make informed health care decisions—legally referred to as the right to make "informed consent." By prohibiting health professionals from disclosing fully the treatment options for unwanted pregnancies, the gag rule abridges the patients' right to informed consent.

Further quoting:

> Perhaps the most disturbing consequence of the gag rule is its implication that when government pays for health care, government becomes the censor of the medical information that can be provided to the patient. Allowing the government to define by edict the bounds of permissible medical disclosure reflects a society in which health professionals are instruments of the government and patient needs are secondary to political ideology. In Title X and all health contexts, physicians and health professionals must be free to provide all the information that sound medical practice requires.

Mr. President, I ask unanimous consent that the entire letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN COLLEGE OF
OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, July 15, 1991.

Hon. BROCK ADAMS,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR ADAMS: The undersigned medical and nursing organizations urged your support for a substitute to be offered by Senator JOHN CHAFEE when S. 323, the Title X Pregnancy Counseling Act of 1991 is considered by the full Senate.

The substitute would nullify the 1988 Health and Human Services gag rule, which prohibits health professionals who work in facilities receiving title X family planning funds from disclosing all medically relevant information to patients about management of unwanted pregnancies. The substitute would also exempt individuals working in title X clinics and clinics themselves from providing information about all options if this information is contrary to the religious beliefs or moral convictions of the individual.

By censoring communications in this manner, the gag rule grossly interferes with the health professional/patient relationship, forces health professionals to violate their legal and ethical disclosure obligations, threatens harm to patients' health, and deprives patients of their right to make informed health care decisions.

When patients seek care from health professionals, they trust that they will receive complete and unbiased counseling. Complete disclosure is essential for patients to exercise their right to make informed health care decisions—legally referred to as the right to make informed consent. By prohibiting health professionals from disclosing fully the treatment options for unwanted pregnancies, the gag rule abridges the patients' right to informed consent.

The gag rule simultaneously forces health professionals to violate their legal and ethical duties to provide complete and objective counseling about treatment options, health risks, and appropriate follow-up and referrals. Professionals who adhere to the gag rule and deliver only the censored message will therefore be subject to medical liability actions. Putting health professionals in the untenable position of choosing between violating the gag rule or their duties to their patients will cause the professionals to abandon the title X program.

The gag rule threatens the health of our patients. When title X patients who seek nondirective counseling about treatment options for unintended pregnancies are turned away, they receive lesser health care than the health care that more fortunate women can afford.

Perhaps the most disturbing consequences of the gag rule is its implication that when government pays for health care, government becomes the censor of the medical information that can be provided to the patient. Allowing the government to define by edict the bounds of permissible medical disclosure reflects a society in which health professionals are instruments of the government and patient needs are secondary to political ideology. In title X and all health contexts, physicians and health professionals must be free to provide all the information that sound medical practice requires.

For the foregoing reasons, the undersigned medical and nursing organizations strongly urge your support of the Chafee substitute that would nullify the gag rule.

Sincerely,

American Academy of Nurse Practitioners, American Academy of Pediatrics, American College of Nurse Midwives, American College of Obstetricians and Gynecologists, American College of Physicians, American College of Preventive Medicine, American Fertility Society.

American Group Practice Association, American Medical Association, American Medical Women's Association, American Nurses' Association, American Psychiatric Association, American Public Health Association, Association of Reproductive Health Professionals.

NAACOG: The Organization for Obstetric, Gynecologic, and Neonatal Nurses, National Association of Community Health Centers, National Association of Neonatal Nurses, National Association of Nurse Practitioners in Reproductive Health, National Conference of Gerontological Nurses, National Medical Association, National Organization of Nurse Practitioner Faculties.

Mr. ADAMS. Mr. President, I have quoted these two paragraphs because they go to the amendment that has been offered in good faith by my very good friend from Mississippi. The problem with the amendment is the one mentioned by the Senator from Rhode Island. We have to look at the reality of the situation that we face here.

I will give you the reality, for example, of one young woman calling on the Planned Parenthood clinic in Seattle, which happens to be a very good one. It is run by Miss Lee Minto, has been for many, many years, and they do not attempt to counsel people to have abortions at all. But what they do in that clinic is to carry out what is stated so well by the American College of Obstetricians and Gynecologists, and that is when they are faced, as they are by one person in five that comes into that clinic, with a young woman with an unwanted pregnancy, not understanding what all may have happened or what could happen or what her options might be, they have a requirement really ethically as well as morally and legally, as set forth in the letter and as set forth so well in the amendment by the Senator from Rhode Island, to give complete and honest medical advice, or if they cannot and are not going to give such advice, to be certain that the person before then knows they are not getting that advice and that they are referred to where they can get full medical advice.

We just simply cannot have in this country, and it is not meant to be, that somebody who holds themselves out to be a professional, whether it is a lawyer or a doctor or an accountant, that a person comes in, and because of the superior training of another person in another field, they come for advice and they come for information, and as happens in one case out of five in this particular type of situation, there is a far different and more serious problem than the person coming in knew existed. It is as though you go to a doctor for a regular checkup and the doctor says, we are concerned that you may have cancer or that you may have another type of disease. The doctor, just as in this case, is required to give the patient full information or, if the doctor does not have that information or, as has been provided by the Senator from Rhode Island at the request of others, has some conscientious reason for saying, well, maybe there is a treatment for cancer in Canada, but I do not believe in it and I do not think I should talk about it, they have to say that what they know that might be helpful is available someplace else.

This is not just a legal option, as is stated in the amendment of my good friend from Mississippi; this is a relationship that is real life. And I have been in those clinics, just as I know the occupant of the chair has and the other Members of this Senate, and the people coming into these clinics are people who are in some of the most vulnerable conditions of their entire life, and we as a Congress and the Supreme Court, operating on a law that we have previously passed, should not be placing regulations or guidelines that prevent that person from getting complete information. And as I said in my earlier remarks today on another amendment and as was mentioned by the Senator from Rhode Island, we could have a very different kind of government here. We could have a government that would say you must have a child, or a government that would say you cannot have a child. We do not have that kind of government. And we should not have that kind of a gag placed on people to produce that kind of a government. That young woman appearing there is entitled to fairness and decency from the people who are there, which is a full range of options, and then she can made her choice or she can go elsewhere to get additional information if that is necessary.

So I hope this amendment will be defeated and that the amendment of the Senator from Rhode Island will be adopted in its present form. If is well thought out. It goes back to the practices that were followed successfully and well since 1970 under the law, since 1981 under the guidelines, and it was only in 1988 when an ideology was thrust upon these guidelines that then the Supreme Court passed and put a stamp of approval on that ideology that says, no, you can just advise on certain parts and not even tell the person that you are not giving them full advice. That is a monstrous situation, and we can correct it.

I think the Senate today will correct that. We will be the better for it. The Nation will be the better for it. And particularly those who are helpless, and those who require that this society treat them with fairness will receive that fairness regardless of whether they have money, but because they are human people with significant problems who need to be treated fairly.

So, unless the Senator from Rhode Island is here or the Senator from Massachusetts wishes to make a speech.

Mr. KENNEDY. He wishes to speak.

Mr. ADAMS. I am sorry. Senator ROBB has arrived, and I will yield to the Senator from Rhode Island. The Senator from Virginia [Mr. ROBB] is to be recognized for 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ROBB. Mr. President, I thank you and I thank my colleague from Washington.

Mr. President, I rise today in support of S. 323, the Title X Pregnancy Counseling Act of 1991, and to oppose regulations promulgated in 1988 by the Department of Health and Human Services that have become commonly known as the gag rule.

These regulations prohibit health care professionals working in facilities receiving title X funding from offering pregnant women non-directive counseling and referral services on pregnancy termination. These regulations do not ban all counseling and referral services in title X clinics. Information on prenatal care, foster care, and adoption services can—and should—continue to be provided. Only information on pregnancy termination—even though it is a lawful medical option—is forbidden under the gag rule.

The gag rule makes ignorance America's public policy. It implies that the way to serve people is to keep them in the dark. It treats grownups as if they can't be trusted to make their own decisions. And the gag rule seems to put Big Brother into the examining room, right between the health care provider and the patient.

I believe that American women can be trusted to make their own decisions. But without full information, responsible decisions become impossible.

Earlier in this debate, our colleague from New Mexico, Senator BINGAMAN, made an analogy between mandating a doctor/patient dialog in title X clinics and prohibiting a public defender—whose salary is also paid by the public—from advising an indigent client of his or her fifth amendment protection against self-incrimination.

But this analogy can go even farther. If Government funds can be used to curtail the advice given by professionals, public defenders can be told not to advise their clients that they may plead innocent. Social workers can be directed to withhold information about the existence of food stamps, or public assistance. And teacher can be ordered to leave the theory of evolution out of their lesson plans.

I believe that America cannot, in any circumstance, support ignorance over information. Our country was not built on repression of information or limiting choices. A Government which puts ideology before people will not endure. Nor should it.

That, Mr. President, is why I was an original cosponsor of legislation introduced last year to reverse these regulations, and that is why I am an original cosponsor of S. 323.

Another component of this debate, Mr. President, which causes me great concern, is the socio-economic disparity between those affected by the gag rule and those completely untouched by this debate. The Government sponsors health care services for needy Americans because we realize that everyone deserves access to medical care. But the gag rule says there are two classes of care in our country. If you are rich, you go to a private doctor and get the best medical advice he or she can give. And if you are not as well off, you go to a public clinic and get only that advice which the Government says you can have. How can we contemplate taking choices away from individuals who have so few to begin with?

If a Member of this body walked into a doctor's office seeking medical information and was denied a complete list of options, we would be outraged. And we should be outraged. But as legislators, we cannot allow an entire class of women in this Nation to be subjected to a standard of medical assistance we ourselves would find unacceptable. The inalienable rights of individuals guarantee all Americans equal opportunity. Some will, inevitably, be able to afford better care than others. But I believe that a person's wealth should never affect their treatment by Government. It should never limit the information a person is given. To declare some subjects out of bounds on ideological grounds is a very dangerous precedent.

I am also cosponsor of this bill because of its importance to my own State of Virginia. The Commonwealth's entire allocation of title X funding—$2½ million in fiscal year 1991—is sent not to private clinics, but directly to our State Department of Health. This year, the Virginia Department of Health, combining title X with various other State and Federal revenue sources, provided $17 million in family planning assistance to 165 of the Commonwealth's 168 state-operated public health clinics. Last year, 82,760 low-income Virginians received family planning assistance through funding administered by the State public health clinics.

I do not advocate abortion as a method of family planning, Mr. President. Neither does this bill. But this debate is not about our views on abortion; it is about information. It is about the need for health care professionals to be able to deliver their advice without fear of Government retribution. It is about whether this administration or any administration can dictate individual beliefs.

It is, simply, about whether America will be ruled by ignorance or enlightenment, cruelty or compassion. I urge my colleagues to support America's right to know.

Mr. President, I thank the Chair and I thank the Senator from Washington. I yield back any time remaining.

Mr. ADAMS. Mr. President, I yield 3 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 323. I wish to commend the Senator from Rhode Island for sponsoring this legislation.

I particularly want to note the fact that we are seeing a bipartisan effort in working to overturn the 1988 Department of Health and Human Services regulations which were recently upheld by the Rust versus Sullivan decision of the Supreme Court. The fact that it is a bipartisan effort tells you something about the value of eliminating the so-called gag rule.

I joined Senator CHAFEE and other Senators as original cosponsors in introducing this legislation and I would urge the Senate to approve S. 323, which overturns regulations that forbid federally funded clinics from even discussing the option of abortion with women.

These regulations have been in place since their adoption in 1988 by President Reagan's Department of Health and Human Services. Then, for the first time, our Government explicitly prohibited clinics from even discussing reproductive options with women seeking family planning services.

Now, with the Supreme Court's decision, clinics have until August of 1991 to choose between serving their clients and losing Federal funding. That is in some cases a Hobson's choice—between abiding by the gag rule and cutting back significantly, perhaps even closing off totally, the services offered.

Mr. President, the Congress passed the Family Planning Services and Population Research Act in 1970, to provide, among other things, family planning information to women. The essence of family planning, Mr. President, is for doctors and health care workers to provide information to women who come to their clinics, including information about reproductive choices. In 1988, however, the Reagan administration sought to gag doctors and health care workers by prohibiting the discussion of reproductive options for women. This is inconsistent with the basic premise of family planning. Family planning is designed to provide women with options and information—not to hide them from them.

Denying women full information about their reproductive choices is also a violation of the rights and privileges of a doctor-patient relationship.

I do not believe the Government should regulate the discussion of legal options that women may have during family planning and reproductive counseling.

Mr. President, whether or not a woman considers abortion as an option during pregnancy is a personal decision based on an individual's moral and religious views, medical needs, and ability to take on the responsibilities of parenthood. I do not believe that Government should intrude on such personal decisions. It should not intrude by blocking those decisions directly. Nor should it try to block those decisions indirectly, by denying information, and by promoting ignorance.

Government should not look over the transom and under the doors of Americans to monitor what patients may ask, and what doctors and counselors may say about lawful medical procedures. To deny information to women that affects their health or their range of options is disturbing.

Mr. President, information is power—in this case, the power of women to make some of the most important and intensely personal decisions in their lives. The gag rule is meant to block the flow of information. The gag rule is meant to take power away from women. The gag rule is meant to legislate ignorance. What a sad, sad thing for a free society to do.

The right thing—the just thing—to do is to prohibit implementation of the gag rule and restore the rights of American women to informed counseling, to know what their options are and to permit them to make these most painful and sensitive decisions based on full information and open and free discussion with their doctors.

So, Mr. President, I think that the action taken here is going to send a message across this country that says you do not have to be well off to have access to information about reproductive choices.

So I commend the manager, the Senator from Washington, and hope that we will take swift action on approving S. 323, and get this behind us once and for all.

I yield the floor.

Mr. ADAMS. Mr. President, I have no further requests for time. Does the Senator have further requests for time?

Mr. COCHRAN. Mr. President, we do have one request for time and I will take some time to sum up, so we should be wrapping up debate on this side within a very few minutes.

Mr. President, it has been interesting to hear the comments made by those speaking in support of S. 323, the committee bill, pointing out that one of the reasons for urging its approval by the Senate is to ensure that the Government does not tell physicians or health care professionals what they must say in a counseling situation at a health care clinic.

Well, if that is their purpose and motivation they should vote against the Chafee amendment, because the Chafee amendment mandates speech. It requires counseling on termination of pregnancy.

If you want to get around the gag rule you could vote for the Cochran amendment. It specifically prohibits the Government from interfering in conversations between the patient and the medical professional. That is what we are seeking to address. That is why the Labor Committee met on June 6 after the Supreme Court handed down its ruling on May 23. That was the whole purpose for getting this bill to the floor, or some bill, to make sure that that was understood by the administration and by the agency administering this program.

What we have seen develop is a gag rule in reverse, requiring that certain statements be made by professionals in this situation, but going further and guaranteeing the continuation of grants; going further and requiring the availability of abortion counseling services and referral services in certain geographic areas where they may not now be available, and these must be made available by grantees under title X.

Mr. President, we are seeing the extinction of the law and new regulations written under the Chafee amendment. So I hope the Senate will adopt the alternative and adopt the Cochran amendment.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point, an editorial entitled "Let the Clinics Be Clinics," in support of the approach that I am suggesting, that appeared in the Los Angeles Daily News on June 9.

[From the Los Angeles Daily News, June 9, 1991]

LET THE CLINICS BE CLINICS

The U.S. Supreme Court had at least a plausible legal argument on its side last month when it upheld a federal regulation barring employees of clinics receiving federal funds from suggesting the abortion option to patients. But that doesn't make the regulation itself any less objectionable.

This is a nation of laws and, whether everyone likes it or not, those laws make abortion legal. If clinics are to carry out their responsibility to counsel patients, they have to be able to tell them the full story about their options. As Sen. Thad Cochran, R-Miss., said last Thursday, "It disturbs me that under this regulation a physician would not be fully able to respond to a question put to him." (This from a conservative who is generally anti-abortion).

So Congress needs to set matters straight and revise the law on which the 1988 rule was based. On Thursday, the Senate Labor and Human Resources Committee took a step in that direction when it approved a bill by Sen. John Chafee, R-R.I., that would lift the gag order. The House is considering a similar measure.

But the bill first must be rewritten to avoid the appearance that it is promoting abortion by requiring physicians to mention it. That, as Cochran noted, would be "a gag rule in reverse."

In its present version, the bill says, "Women requesting * * * information regarding options for management of an unintended pregnancy shall be provided with nondirective counseling and referral on request concerning alternative courses of action that shall include prenatal care and delivery; infant care, foster care, or adoption services; and pregnancy termination." That language not only dictates medical advice unnecessarily but also will drive potential supporters; such as Cochran, away.

Asked if he might vote for the measure if the word shall is changed to may, Cochran said, "I would have a hard time figuring how to vote against it." The change could indeed make the difference between a bare majority for the bill and a two-thirds edge, and it will need those extra votes. President Bush has pledged to veto it.

This change of wording would not get in the way of the bill's legitimate purpose: To leave the nature of medical counseling to the doctors' discretion. It would be consistent with the strongest argument against the abortion gag rule—that the federal government should refrain from dictating what a doctor says when a patient asks, "What are my choices?"

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the distinguished Republican leader of the Senate, Mr. DOLE.

Mr. DOLE. Mr. President, I will just take 1 or 2 minutes and I hope we can then vote on the Cochran amendment. I hope it is agreed to.

I just want to make a couple of points because this has been a very sensitive issue. It is a very controversial issue. We met this morning, people on different sides, with different amendments, to see if there was any way to reconcile the difference. We could not find any way. Maybe there is. Maybe it will develop later on.

But I think one thing we should make clear is this debate is not about Federal funding of abortions, and it is not about the value of parental care, or family planning. It is a debate over what information should be provided to those who seek care from title X clinics.

This Senator has a long and consistent history of opposing Federal funding of abortions. Consistent with that point of view, the Senator from Kansas does not believe federally funded clinics should in any way encourage or promote abortions. However, in my view, that does not argue against the ability of the clinic to provide full counseling and referral services to those who seek care.

As Senator COCHRAN has stated, his amendment does not limit nor does it direct speech. It allows physicians and others in the clinic to answer the questions of the women seeking advice in a manner they feel to be appropriate as long as the advice is nondirective, neutral.

We all know one of the most important things we can do for pregnant women is to get them into the health care delivery system as quickly as possible. When they come to the title X clinic the last thing in the world we want to do is send them away without answering their questions. Senator COCHRAN's amendment allows health professionals to meet their professional responsibility and help the patients secure the information they need to make their own decision.

Title X clinics have as their primary responsibility counseling with respect to family planning. This should continue to be their focus. Others are better able to fully respond to the needs of women who are pregnant and are seeking prenatal care, adoption services, or information on terminating a pregnancy. I believe women seeking care should be appropriately referred. I also believe that this amendment, the amendment by the distinguished Senator from Mississippi [Mr. COCHRAN] lets that happen without influencing the results.

I know the Senator from Rhode Island has worked with the Senator from Mississippi. They did not quite come together. But it seems to me that the Cochran approach is one that could be embraced by nearly every Senator, and I hope his amendment will be agreed to.

Mr. ADAMS. Does the Senator from Rhode Island wish to speak?

Mr. CHAFEE. Mr. President, if I might, I know my colleague is about to yield his time, so before he does that, if I might take a couple minutes to respond to my distinguished colleague, the Republican leader, and point out in the Cochran amendment it does not have anything about referral and it does not have anything about ensuring that the woman receives her full list of options. They may give her the list of options but it is not required. Nor is it required in the absence thereof that she be referred where she can get that full list. That is the problem with the Cochran amendment.

I thank the Chair.

Mr. ADAMS. We are prepared to yield back the remainder of our time.

Mr. COCHRAN. Mr. President, if there is no further request for time on the other side, I am prepared to yield back the remainder of our time, and I do yield back the remainder of our time.

Mr. ADAMS. We have no further request for time and we yield back the remainder of our time.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Mississippi.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 14, nays 85, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—14

Bond
Boren
Cochran
Conrad
D'Amato
Danforth
Dole
Domenici
Kasten
Lott
Lugar
Pressler
Thurmond
Wallop

NAYS—85

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cohen
Craig
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Warner
Wellstone
Wirth
Wofford

NOT VOTING—1

Pryor

So the amendment (No. 755), to amendment No. 753, was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, I rise to offer strong support for the Chafee substitute amendment to S. 323, the title X pregnancy counseling bill. I am proud to be a cosponsor of this extremely important piece of legislation, which would overturn the Department of Health and Human Services' gag rule. This certainly is an appropriate name for these pernicious administration regulations: The regulations put a gag on medical professionals, prohibiting them from providing full information for the women they counsel in title X clinics. These regulations put medical providers in an untenable situation. It requires them by law to provide political propaganda about what the administration chooses to promote, rather than comprehensive information about their patients' medical and legal options. Yet if medical professionals follow these regulations, it places them in violation of medical codes of ethics and forces them to forfeit their first amendment rights to free speech.

In my opinion, the nature of the doctor-patient relationship requires complete disclosure of information regarding options for treatment of a given medical condition. Obviously, Chief Justice Rehnquist and a narrow majority of the Supreme Court do not agree with this. In his majority opinion in the Rust versus Sullivan case, the Chief Justice wrote:

> Nor is the doctor-patient relationship established by the title X program sufficiently all-encompassing so as to justify an expectation of comprehensive medical advice.

I emphatically disagree. We do not go to our doctors to obtain the political opinions of the occupants of the White House or the Congress. We go to our doctors to obtain complete and sound medical advice so that we can decide—personally, in consultation with our families and our medical providers—what medical services to obtain.

The administration regulations that the Chafee bill would overturn are pernicious not only because they violate free speech and the doctor-patient relationship in an intolerable manner. The regulations also further exacerbate the problems of a health care system already skewed to the benefit of the wealthy at the expense of the poor. Women who go to title X clinics for their health services are primarily low-income women, often young, often minorities. They are women who have limited access to health care. Under the gag rule, these women—young, poor, minority, uninsured—would not have only limited access to the benefits of our health care system; they would no longer even have a right to complete information about their health care options. We must not create a two-tiered health care system, which requires that physicians treat patients differently depending on their financial status, where poor women cannot even be informed about their medical and legal options. Under the gag rule, this outrageous, discriminatory practice would be required by Government order.

If we are to be a Congress that stands up for the ethical delivery of health care to all, whether rich or poor; if we are to be a Congress that stands up for the first amendment and the right to free speech; if we are to be a Congress that stands up for the privacy of a patient-doctor relationship, we must act now to overturn the administration's gag rule. I urge all my colleagues to vote in favor of the Chafee amendment to S. 323.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

AMENDMENT NO. 756

(Purpose: To require entities receiving grants under title X of the Public Health Service Act provide for parental notification in the case of minor patients who request an abortion)

Mr. COATS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 756.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new section:

SEC. . PARENTAL NOTIFICATION REGARDING ABORTION.

Section 1004 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary may not make a grant under this section unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

"(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provided to the parent, except that notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dwelling house or usual place of abode (as defined by rule 4 of the Federal Rules of Civil Procedure for the United States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

"(2) The physician with principal responsibility for making the decision to perform the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent her death and there is insufficient time to provide the required notice.

"(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by the applicable State law, provided that in any such case the physician notifies the authorities specified by such State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

"(4) The entity complies with an applicable State or local law that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.".

AMENDMENT NO. 757 TO AMENDMENT NO. 756

(Purpose: To require entities receiving grants under title X of the Public Health Service Act provide for parental notice or consent in the case of minor patients who request an abortion)

Mr. MITCHELL. Mr. President, in behalf of Senator CHAFEE, Senator COHEN, Senator KASSEBAUM, and myself, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM, proposes an amendment numbered 757 to amendment No. 756.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word and insert the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection)

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph

(3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated from that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologists, social worker, physician's assistant, nurse practitioners, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 16 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interests of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

Mr. MITCHELL. Mr. President, I would like to speak for a few minutes in support of the amendment.

Mr. President, I believe that the amendment proposed by my friend, the distinguished Senator from Indiana, would best be considered on other legislation. The bill before us concerns only one issue, and that is the issue of the regulations which dictate to health care professionals what kind of information they can give to their patients in the setting of a family planning clinic that receives Federal funds.

The amendment offered by the distinguished Senator from Indiana, by contrast, concerns the performance of abortion services. The bill does not deal with the performance of abortion services.

The lengthy statements made throughout this debate about abortion notwithstanding, nothing in the Chafee bill encourages, permits, or promotes performance of a single abortion.

All that the Chafee bill would do is to restore to the physicians and other health care professionals in family planning clinics the right to practice medical care in accordance with the ethical requirements of their profession.

I need not repeat the lengthy lists of medical practitioners who have protested the effect of these regulations. The Senator from Rhode Island made it clear this morning that the entire medical community is united in opposition to these regulations.

That is what this debate is about.

The efforts to inject the question of minors and abortions into the debate is an attempt to create a red herring and to distract attention from the fact that the regulations which President Bush is upholding are entirely indefensible.

Those who oppose abortion have repeatedly made the claim that Americans do not favor abortion as a method of family planning. But in America, abortion is not a method of family planning and never has been.

Abortion is no one's first choice; rather, it is an unavoidable and tragic decision that some women feel forced to make for themselves.

The opposition has tried to make this a debate over the desirability of abortion. But that is irrelevant. No one in the Senate thinks abortion is desirable. No woman believes that. It is not an issue.

What is at issue is whether we should permit the Department of Health and Human Services or any other Government agency to dictate to the health care providers of this country how they can practice their profession.

That is what is at issue.

The interjection of the question of parental consent to a minor's abortion is nothing but an effort to move the debate away from that reality and steer it into an area where it is hoped that emotionally charged rhetoric can sway votes.

The amendment that Senator CHAFEE, Senator COHEN, Senator KASTEN, Senator KASSEBAUM and myself offer is not designed to make an emotional appeal. It is simply a more carefully and rationally crafted alternative to the proposal by the Senator from Indiana.

It takes the experience of States where such laws are on the books. It would provide for parental consent where that consent is forthcoming—in the vast majority of cases, by the way. It would permit the consent of another responsible adult—a grandparent, an adult sibling or an uncle or aunt, where the parents are not present.

It would permit the attending physician to give parents or guardians 48 hours notice in advance of performing an abortion.

It would permit a licensed health care professional or an ordained clergyman or woman to make the determination, if it is appropriate, that a minor's interests would be harmed by notification of parents, and that a minor is nonetheless mature enough to make the decision for herself.

And it would provide for a judicial bypass procedure, where a minor could, if necessary, apply to a competent court for permission to make the decision for herself.

The issue of parental notification and consent is one on which all agree: Ideally, no minor should make a decision about a pregnancy without consulting her parents or other adults. That is the ideal situation. But, unfortunately, not every situation is ideal. Minors from dysfunctional families become pregnant. Minor girls in some families are victims of incest. Girls in some families are subjected to physical and sexual abuse. Parents may be neglectful or thoughtless. Parents may be absent because of divorce. Parents may be substance abusers.

It is a tragic fact. It is a reality that every social service agency in our Nation can document some families where such circumstances exist.

Everyone here knows that passing a law will not by itself make a violent family into a caring, supportive one. All the speeches in the world about the importance of a girl communicating with her parents are not going to change an abusive parent into a loving one, and are not going to correct the wrongs of incenstuous parents.

The amendment we propose simply recognizes that real world realty. It is based on common sense and on something that I believe the other amendment does not address, the best interests of the girl concerned.

I urge Senators who wish to return to the debate over the gag rule regulations to vote for this alternative. It is a moderate, a reasonable, a responsible way to ensure adult involvement in a minor's abortion decision, a goal we all can support.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

Mr. COATS. Mr. President, I would like to respond in two ways to the situation that is currently at hand: first, to explain what it is that the Coats parental notification first-degree amendment does and does not do; and then, second, to respond to the majority leader's second-degree amendment and what it does and does not do.

First of all, Members need to know that the parental notification amendment is what it says it is. It is not a parental consent amendment. It is a parental notification amendment. The bill requires that if an entity under title X performs abortions on minors 17 years of age or under, in order to continue to receive or to receive in the first place funds under this law, they will agree to provide notice to one parent of that minor that an abortion has been requested and that it will be performed within 48 hours after the notification by that one parent is received.

The legitimate question is raised that parental consent, perhaps in some instances, may cause a young girl faced with an unwanted pregnancy to engage in a perhaps unsafe abortion procedure or to forego an abortion or make a wrong decision. Because those concerns were raised, and while I personally do not ncessarily share that view, it is important to recognize that the amendment before us only deals with notification. It only deals with notification of one parent in recognition of the fact that families do not always consist of both husband and wife, that divorce often has taken place, and these families are dysfunctional. And therefore, notification of both parents is sometimes very, very difficult.

It is also important to note that the Coats amendment provides an exception for this notification. If a medical emergency exists which threatens the life of the girl that is requesting the abortion, and also if the girl requesting the abortion reports that she is the victim of incest, child abuse, or neglect, therefore, the doctor receiving the request for the abortion need not inform the parent of the request. Obviously, we are trying to avoid a situation in which the doctor or the medical provider is reporting or notifying the very parent that perhaps has engaged in the abuse, or the neglect, or has been engaged in the incest.

These are very important exceptions, and they are exceptions designed to address those exceptions that the majority leader spoke about when he offered his second-degree amendment.

The question before us is, for a child which is, by law, considered a minor, unemancipated minor, whether that parent has a right to know whether or not their daughter has requested a medical procedure that, in many instances, could be dangerous, could adversely affect her health. The question is whether a parent has the right to be aware of the fact that their daughter has found herself in a very difficult circumstance and, perhaps can provide some guidance or some direction.

Whether or not you believe that abortion is a viable alternative at that point, I do not really understand the basis for objecting to a parent knowing the situation. That parent might want to ensure that if an abortion is to be performed, it is performed by competent medical personnel. They might want to counsel their daughter that while this certainly is not the news the parent wanted to hear, in recognition of the reality of the situation, it would be wise to find the very best medical assistance available, that the daughter need not cross the State line and find a back alley, but there are safer alternatives available.

So the argument that it is dangerous to the young pregnant girl to even notify one parent, I find difficult to accept. The majority leader indicated in his presentation of the second-degree amendment that consent sometimes was difficult to obtain. It is important, again, to point out that this is not a parental consent amendment. This is a parental notification amendment.

The minority leader indicated that a minor's interest might be harmed by notice to a parent. I would suggest that a minor's interest might be harmed by failure to notify a parent. You have a young girl who is scared to death because she is unmarried and is pregnant, she has an unwanted pregnancy and does not know what to do.

What we are saying here, by not giving the parent notice of that tragic fact, is that some counselor, some social worker, some person operating in a clinic that may or may not be a doctor—and in most cases is not a medical doctor, and in many cases does not have medical training—is better qualified to advise that young, scared girl than that girl's parents; that they hold that young woman's interest, who they never knew 5 minutes before they walked in the door, more precious than the biological parent holds that interest.

I know there are exceptions to the proposition that parents have their children's best interests at heart, more so than a stranger or more so than someone else. We may hear today on this floor of that exception. But this body should not legislate because of an exception. It should look at what generally is the case.

I would guess that every parent in this body, all 100 of us who have had the privilege of having children, would find it very difficult to stand here and say that someone that has known my daughter for 5 minutes, that operates a clinic, that provides counseling on pregnancy prevention, is more interested in my daughter's welfare than I am or than anyone else here. Is there a parent in this body that could legitimately say that the interest in their daughter's pregnancy is better understood and better counseled and better advised than what a parent can give?

I think that would be a rare, rare, exception. I think it would be a tragic mistake to deny parents the notification that their daughter is in serious trouble. I would want to know, and I think everybody would want to know.

It is interesting; about 2½ years ago, I received a notice, while I was sitting in committee, to call the public high school here in northern Virginia, where my daughter was a student, that she was trying to reach me. So I slipped out and went to the phone booth and called the school. They said, "Let me connect you with the health clinic." The nurse at the school health clinic answered the phone and said, "Your daughter wants to talk to you."

I envisioned all kinds of things, as any parent does. You always get those calls, and they say call your children, and right away your heart jumps three beats, and you wonder what in the world is going on.

My daughter got on the phone and said, "I have a terrible headache, and I have been trying to reach you for 1½ hours." For some reason—because the call did not get through, or I did not get the notice, or I was in a different committee hearing, or running back and forth for votes, and her mother happened to be out for that period of time—she was not able to reach either one of us. She said, "I have a terrible headache." I said, "Why do you not take an aspirin?" She said, "I would like to, but I do not have one with me." I said, "Well, ask the nurse for one." She said, "The nurse cannot give me one without your consent."

I asked to speak to the nurse, and she said, "Senator COATS, your daughter is here complaining of a headache. I asked her to lie down."

I said, "Could she not have an aspirin?"

She said, "Well, I cannot give her an aspirin without your consent."

So I gave the nurse my consent to give my daughter an aspirin for her headache.

I find it not only ironic but almost disingenuous that my daughter cannot get an aspirin for a headache without my consent, but that somehow it is OK to let her have an abortion without even notifying me that she is going to have an abortion.

My notification amendment does not prevent anyone from having an abortion. No young girl intent on having a legal abortion in the United States is prevented from having an abortion by adoption of the Coats amendment.

All it does is give notification to one parent that their daughter has requested a medical procedure which may threaten her life. In fact, we are not asking them to put that language in. All they have to do is send a written notice saying your daughter has requested an abortion, but in a medical procedure that may threaten her life, that may damage her health for a lifetime, that puts her at risk physically, that may inflict psychological damage—it has already been inflicted, but it may exacerbate that damage, that may have far-reaching psychological implications.

You cannot even advise one parent to give that parent the opportunity to come by the daughter's side and say, "Let us think this through. Let us talk this out. I know you are scared. What has happened here? Let us look at the available options."

What the second-degree amendment offered by the majority leader does is say we cannot trust the parents to have the best interest of their children in mind. We cannot take the chance that there might be one parent that will react in a way in which it will cause this young girl to do something that perhaps she should not do. And because we cannot take one chance that there might be one exception, therefore, we are going to deny every parent in this country the opportunity to be notified if their child is in serious trouble.

Is there a parent in this body that would not want to know if their kids are sick or hurt or in an accident or about to undergo a medical procedure, or facing the trauma of an unwanted pregnancy? I would want to know. I would think every parent would want to know.

The question will come up, what about the amendment offered by the majority leader? After all, is that not reasonable? In fact, is it not even more restrictive than the amendment of the Senator from Indiana, because, after all, it requires written consent?

I had trouble following the majority leader's argument who in one sentence indicated that this was a desirable amendment because it required consent but in another said that consent might put the minor child at risk.

But, nevertheless, let me examine that amendment and point out some things.

First of all, the amendment while it appears to be a parental consent or parental notification amendment depending in one sense, it is both; you need to know that it applies to girls 15 and under, not 18 and under. I am not sure.

Mr. KENNEDY. Mr. President, will the Senator yield on that point?

Mr. COATS. I am happy to yield.

Mr. KENNEDY. I think the majority leader's amendment has been altered to change that.

Mr. COATS. I appreciate the Senator from Massachusetts telling me that. I assume it has been altered and changed to 18?

Mr. KENNEDY. Yes.

Mr. COATS. All right.

The majority leader's amendment includes a number of exceptions which, when taken together, nullifies the consent or nullifies the notification requirements, and let me point those out.

In the first instance, it says that the consent must be provided by the minor herself. And if I can get the amendment in front of me here, I want to make sure I do not misread it. I had the original amendment. Apparently it has been changed.

It says that "No entity that receives a grant under this section shall provide an abortion for an unemancipated minor under the age of 18," as has been changed in this amendment, "unless the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;"

I take it that the adult family member would be anyone 18 or over. Therefore, if the minor were 13, pregnant, and wanted an abortion, consent by the minor and her 18-year-old sister would be sufficient, or a 19-year-old brother.

Second, it says that "The attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion," which paragraphs quotes 48-hour notice, and "the minor has received the information and counseling required under paragraph (2).

It goes on to say, however, and these restrictions in a sense just obviate the whole initial premise of the requirement of consent and notification because it goes on to say that the attending physician has the opportunity to override that requirement for consent. By allowing the attending physician, which is in most instances here is the person who will be providing the abortion, to OK an abortion without parental involvement, we are putting the abortion provider in the position of really having everything to gain and nothing to lose by certifying the consent.

The exceptions go on to say that if "the attending physician has determined that the minor is mature enough and competent to provide consent"—and I would question whether an unemancipated minor is in a position to have the full range of judgment necessary without parental advice to be competent enough or mature enough to provide that consent—or it says if "the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor," then these notice requirements and consent requirements do not have to be provided.

In other words, the person that is going to provide the abortion is able to sit down with the minor requesting the abortion and say, you know, I need your consent and I need the consent of one parent or family member, and it is sufficient if your older sister can provide this consent. That is all I need. Or if you do not want to do that, all I really need is to look at you and conclude in this initial interview—I have never known you before—but in this initial interview all I need to do is conclude you are pretty mature for your age, I think you are competent to make this decision without your parents knowing about it, or all you really have to do is tell me that by notifying or getting consent from your parent it is going to put you at risk of physical or emotional abuse or even if you do not want to do that, all you have to do, as the person providing the abortion, is to conclude that it is really not in your best interest to tell your parents.

I would suggest to my colleagues that that pretty much wipes out the idea that what has been propounded by the majority leader is an adequate substitute for parental notification or parental consent.

I think we all know exactly what is going to happen. There is not going to be any parental notification or is not going to be any parental consent, because the person providing the abortion is going to say you want an abortion. There are a couple things we have to do here. You have a sister that can give consent, a brother that can give consent. That will take care of it. Or all you have to do is tell me that if I notify your parents or seek their consent that it might cause some emotional problems between you and your parents. Or if you do not want to do that, if I conclude that it is in your best interest not to tell your parents, all I have to do is check this box and we will go ahead with the abortion.

I wish to read into the RECORD a statement which I have just received from the Office of General Counsel of the Department of Health and Human Services.

It says:

> The Office of the General Counsel of the U.S. Department of H.H.S. has reviewed subsection (d)(I)(C)(iii) of the proposed Mitchell Amendment concerning parental notification to S. 323 (bottom of page 2). It is the Office of the General Counsel view that the amendment as a practical matter eliminates any requirement that a physician notify the parents of a minor contemplating an abortion.

The requirement that a minor be "mature enough and competent to provide consent" is effectively already a precondition to an abortion in all, or almost all, States. A doctor who performs an abortion without having made such a determination would almost certainly be civilly, if not criminally, liable under the laws of most, if not all, States. Accordingly, it is our view that physicians performing abortions on minors inevitably would certify as to the maturity and competence of the patients on a routine basis.

In the unlikely event that a physician felt a need for an alternative basis for failing to provide notification, the standardless delegation to the physician to determine whether notification would be "in the best interest of the minor" would also provide a basis for routinely failing to engage in notification. Delegation of determinations concerning consent to the physician seeking consent also raises substantial due process issues.

Mr. President, with all due respect to the majority leader, the second-degree amendment that he has offered is not a substitute for parental notification or consent. It is a six-page procedure which gives the person providing the abortion a reason not to provide parental notification or consent. It is a procedure designed to prevent notification of a parent that their child is about to undergo a very serious medical procedure that can have profound medical and psychological consequences for that minor. It is a procedure whereby a vote for parental notification on the amendment that I have offered can either be avoided or explained away without really dealing with the question of parental notification or parental consent.

Now, I understand that the legislation which we are dealing with here today in some points of view does not directly deal with the issue of abortion. But it does, and we all know that it does. We all know that abortions are provided by clinics that are under the umbrella of title X, that efforts are made to separate Federal funds from non-Federal funds in terms of provisions for those abortions. But we all know that this fight is over whether or not taxpayer dollars should go to entities that are engaged in postpregnancy counseling which include pregnancy termination through abortion.

We are at some future point going to, I hope, have a very protected and serious debate in this body and in this Nation about life, the meaning of life, protection of life, the role of the State in protecting life, when life begins. That debate is necessary. I think it probably will be precipitated by Supreme Court decisions in the future.

I wish this body would take up that issue and debate it now because it is as serious an issue as this Nation has ever faced. It is as fundamental an issue as this Nation has ever faced.

We have been tinkering on the edges of how to use taxpayer funds and what notifications and regulations and rules will affect a certain segment of our society without really getting to the fundamental issue.

But I would suggest that this parental notification amendment that I have offered is not irrelevant to this process; that it is very critical to provide a parent the opportunity to know that his or her child is in serious trouble, that they need the counsel and advice of a parent.

I would be outraged if I found out that my child was in serious trouble but some social worker, some person I had never heard of and had never known my child, had made a determination that it was in her best interest that she undergo a serious medical procedure without me knowing about it, without me having the right as a parent to counsel that child, question that child, to direct that child, to help that child in whatever ultimate decision was finally made.

Let me summarize by saying the Coats amendment does not prevent any minor from having an abortion. The Coats amendment does not require any parent to give consent to an abortion.

The Coats amendment provides an exception for any minor that reports that they are the victim of incest, they are a victim of child abuse, or they are the victim of child neglect. The Coats amendment provides an exception for any medical emergency where a 48-hour notice would put that child at risk. And the Coats amendment only requires notification for one parent to avoid the problem of notifying both parents.

I think it is a reasonable amendment. I do not understand what the basis for objecting to this amendment is. I do not understand why this is a problem.

There may be a rare exception out there where a parent does not care about the child, where a parent concludes that the social worker who has known the child for 3 minutes or 5 minutes or 10 minutes has that child's interests closer to their heart than a parent does. There may be that exception somewhere. We may hear about it on this floor. I do not think anyone in this body can stand and say that is the case for them. And I think very, very few people in this country, very very few parents would ever stand and say, "Don't tell me that some stranger has the interests of my child closer to their heart than I do as a parent."

Mr. WELLSTONE. Mr. President, I rise to speak in opposition to the Coats amendment.

In an ideal world, a young woman would turn to her parents in a time of need, in a time of distress, in a time of crisis.

In an ideal world, a parent or an adult would be involved in the lives, and in the life decisions, of their children.

In an ideal world, we would not be in this Chamber debating this amendment. Because in an ideal world, in an ideal family, a young woman would consult with her parents on a decision of this magnitude.

Mr. President, this is not an ideal world. And those of us fortunate enough to be in this Chamber tonight—we privileged few, we privileged males, in vast majority—may find it hard to put ourselves in the real world of young, poor women in crisis.

The Coats amendment puts far too onerous a burden on these young women. Indeed, this amendment puts an impossible burden on young women.

And the burden falls most heavily, most cruelly, on the most vulnerable women.

In the real world, many young women who come to title X clinics for counseling come from abusive families and from families in crisis.

In the real world, many young women who come to title X clinics for counseling risk physical or emotional abuse if a parent is notified of her pregnancy.

In the real world, many young women would effectively lose the option of abortion under the Coats amendment.

Mr. President, we need a real world solution to an all too real problem.

Mr. COATS. Mr. President, I guess we are not under a time agreement. I yield the floor.

AMENDMENT NO. 757, AS MODIFIED

Mr. MITCHELL. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the first word and insert the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(c) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(c) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such from to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interest of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

AMENDMENT NO. 756

Mr. PACKWOOD. Mr. President, will the Senator from Indiana yield for a question?

Mr. COATS. Yes, Mr. President. If I have the floor, I will be happy to yield.

Mr. PACKWOOD. The Senator does not have the floor. I have the floor. But I was wondering if he would respond to me even though I have the floor.

The Senator did not touch on section 4 of his amendment. Do I take it that is a States-rights provision? Basically, if the State has acted, then the Federal law would not take effect?

Mr. COATS. That is correct. Section 4 says that if a State or local law requires one or both parents to provide the notification for consent, that this does not preempt that. And it also indicates the judicial bypass procedures the State has adopted or uses.

Mr. PACKWOOD. As I read it, as a matter of fact, it does not matter whether the State has the bypass or not. If they have acted, they are grandfathered.

Mr. COATS. That is correct.

Mr. PACKWOOD. What about if the State has acted in the negative and they have deliberately chosen to not have a parental notification law?

Mr. COATS. Well, in that instance, under this amendment, that State or that entity providing the abortion would then be required to provide the notification.

Mr. PACKWOOD. I thank the Senator from Indiana very much.

I would oppose his amendment in any event, but he puts my State in a terrible bind. We had on the ballot last year a parental notification measure and we voted it down.

We voted it down. We made a decision. We did not want it. My State has made a decision, probably made a tougher decision than most States have had in the legislature. We had it on the ballot. We had a ding-dong, knock-down, drag-out battle on the subject, and voted it down.

Now, along comes the Federal Government and says: The heck with Oregon; we do not care what your people want. We are going to cram this down your throat because you did not decide to have it. Had we decided to have it, then we are grandfathered. But because we decided in the greatest exercise of democracy we have in this country, public voting, that we did not want to have it, we are not going to be grandfathered. It is an anomalous situation.

But I will go further than that, because I do not want to mislead the Senator from Indiana. I would oppose his amendment in any event. There is no other Federal law that requires parental consent for any other medical procedure, with one exception. You cannot be sterilized in a Federal facility unless you are 21. I guess that is an age requirement of some kind.

Under Medicaid, we allow whatever the States may have for notification or no notification in terms of medical procedures. In some States it is 15; in some States it is 13; in some States it is 18; in some States, a parent has to be notified for some things and not for others. And we would not think of interfering in that. We say the State knows best.

Then, irony of ironies, however, when we come to this, and this is where I find conservatism and liberalism has gone topsy-turvy on its head, the normal conservative position would be that Government ought to stay out of our lives, and the normal prochoice position ought to be a conservative position, which ought to be that Government would not bother you.

But second, a normal position for conservatives would be: We will defer to States rights, and where the State has made a decision, we will say, fine; the State knows better than the Federal Government what your people want. We will defer to that decision.

Here we have an amendment that, first, stands normal Federal intervention on its head and reverses normal liberal-conservative positions, and says the Federal Government is going to intervene, and not only that, we are going to intervene in only one way. You talk about a car that has no reverse gear, this is it.

If your State wants to pass a parental notification law, you will be grandfathered and exempt from this Federal law. But if your State wants to vote on it and vote it down, tough luck; you will get this kind of parental notification law. What kind of equity is that?

I find the amendment of the Senator from Maine and his fellow Senator, Senator COHEN, and Senator KASSEBAUM, a very adequate amendment. I would, frankly, prefer we had no parental notification in this at all. I voted against parental notification twice in the last Congress. But if we have to have some kind of parental notification amendment, I would much prefer that of the Senator from Maine and his cosponsors to that of the Senator from Indiana, which singles out my State, that has consciously voted on this.

I will emphasize again, this was not a low-level, little-noticed battle because we had on the ballot last year not only parental notification, we had legalized abortion on the ballot. Straight out, no abortions except for the life of the woman.

So, if you think this was not a discussed issue in Oregon in November of 1990, you are wrong.

But because we chose to exercise our State's sovereign right to say "no", we are now going to be overruled. So I would encourage everybody to vote against the amendment of the Senator from Indiana, and to vote initially for the amendment of the Senator from Maine and his cosponsors.

But frankly, I wish we did not have any amendment at all on this and we just left it to the States, as we do in every other medical procedure. We do not compel the States to have parental notification or parental consent or parental anything else. We say if you are a State and you think a minor, at age 15, is capable of making a decision at 15, fine. If another says 18, fine. If another says 19, fine. And States vary. But not when it comes to this subject.

In this case, we are going to say: We do not care what the State's wisedom is; we do not care what the States rights are. In this particular area, and only this particular area, we are going to cram down the throats of the States something they may want or may not want. But we do not care.

I do not think that is good Federal policy. I hope we would, therefore, defeat the amendment of the Senator from Indiana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, if that notification had passed then Utah would be very happy, because we have very tough laws with regard to parental consent with regard to family planning issues, and I think a lot of other States might be happy, too.

But the fact of the matter is, I think the true position is not a conservative or liberal position. The true position is, are we going to be for what the family needs are or are we going to be for what the Government needs are? And we might push a little bit further: Does the Government have a need to tell a family that they should not have any understanding of what is happening to their child, to their young daughter? Is that what we are doing here?

If we do not adopt an amendment similar to or the same as the Coats amendment, we are saying to parents, you will never be notified whenever your daughter needs you the most. I have three daughters and seven granddaughters. I want my colleagues to know that I would like to know, not because I want to go and give them a rough time about it; I want to know so I can go counsel them and help them through their difficulties.

The question is, are we going to be concerned about parents? Or are we concerned about Government making these decisions? Mr. President, the decision to abort a fetus is one I believe nobody takes lightly, not even the most proabortion Senator in the Senate. It is not an easy task to consider all the far-reaching implications of abortion. One must, therefore, consider whether a minor is capable of reaching an informed decision on her own.

While undoubtedly there is a whole wide range of capability among minors, recent studies suggest that most minors are less capable than adults of making a reasoned decision regarding abortion.

Good decisionmaking involves, first, seeking an understanding of multiple perspectives; second, considering the potential costs and benefits of all reasonable alternatives; third, identifying future solutions and goals; fourth, considering the consequences—these are parental concerns, too—and fifth, not procrastinating.

Using these criteria, evidence shows that adults—and older adolescents, who are in effect adults—have the wisdom of years to apply toward these difficult decisions.

Mr. President, I suggest that requiring parental notification when a minor seeks an abortion helps the pregnant minor in reaching a decision that is best for her when all alternatives and consequences have been considered.

Let us consider some basic facts about parental consent laws and minors' abortions. Nearly half of all adolescent girls age 17 and under acknowledge that neither parent is informed of their decision to abort their pregnancy—more than half.

While recent research data on this subject is scant, the 1990 Alan Guttmacher Institute report, "Abortion and Women's Health; a Turning Point for America," which relied on a 1980 study based on self-reporting—which if anything would tend to overestimate parental involvement—said that teenagers account for between one-third and one-half of all abortions done in the United States. Roughly half of them are among girls age 17 and under. Thus, while no firm figures are available, it seems clear that tens of thousands of minors obtain abortions done in the United States, roughly half of them young girls age 17 and under.

Despite substantial disagreement among Americans over certain aspects of the abortion issue, polling data have regularly shown that the American people support parental notice and/or consent laws for abortion by overwhelming margins. This consistent response has held up over time despite all the variations in the way the question has been phrased.

Moreover, the level of public support could be expected to run even higher if the polls distinguished parents, the interests of whose families are directly at stake, from nonparents. Clearly, the parental position draws considerable support from individuals who are not currently parenting or who may never parent.

As Senator LAUTENBERG and others have pointed out, however, despite the decline in the U.S. birth rate and the tendency of Americans of both sexes to marry later and divorce sooner, over 90 percent of all American women still marry at some point in their lives; 92.5 percent of all women age 40 to 49 in 1988 were married, and roughly six of every seven women will have children.

It could be hypothesized that the common experience of parenthood or its future likelihood apparently entails the enduring intuition of parent prerogatives.

The public opinion data in this regard are really impressive. I am quoting the New York Times CBS poll in June 1990. That poll said that 76 percent favor notification of both parents when the child is under 18. Seventy-six percent of Americans favor the notificaton of both parents when the child is under 18. An additional 8 percent would favor notifying at least one parent. That is according to the Gallup 1990 Poll done for Americans United for Life.

How much involvement should parents have? Regarding the decision of a minor, under 18 years old, whether to have an abortion or not—69.4 percent agree that parents should have a great deal or a moderate amount of say; 13.4 percent say they should have a little. Only 14 percent, one in seven, say none at all. That is according to the Wirthlin Group Poll taken in November 1989. Eighty-four percent of those polled believe that a woman under the age of 18 should either have the consent of a parent or have to notify her parents prior to having an abortion.

Americans favor parental consent for abortion by a 69 percent to 26 percent margin nationally according to the Command Research October 1989 Poll. So, Americans favor parental consent for abortion by 69 to 23 percent, over 65 percent for every region of the country, 63 percent in the Northeast.

In a New York Times poll in 1989, 83 percent of our people support mandatory notification of at least one parent. That is the Ohio poll at the University of Cincinnati, September 1989. In that poll, they asked: Do you favor a State law requiring the consent of at least one parent before a girl under 18 years of age could have an abortion? And 75.7 percent said yes, only 20.3 percent said no. Those who did not know were 4 percent.

Two-thirds, 67 percent of the public favors notification of parents when a woman under 18 seeks an abortion, 29 percent oppose according to a Gallup Poll, 4 percent are undecided.

What are we talking about? The amendment of the majority leader, which has amended the Coats amendment, does not require notification or consent of either parent or guardian before performing an abortion on a girl age 18 or under. Even though the distinguished Senator from Maine and Senator KENNEDY, from Massachusetts, appear to require parental involvement in every instance, in every instance the abortionist himself or herself can waive the notification. In every instance, if the attending physician, has determined that, first, the minor is mature enough and competent enough to provide consent, or, second, the involvement of the parent or guardian of the minor is otherwise not in the best interest of the minor, then parental notification can be waived.

I have to tell you, there will never be a case where parents will be involved if this amendment is agreed to. Never. We have dealt with these problems for years. We have dealt with the abortionists for years, and I have to tell you the people who perform abortions are just not going to tell the parents. They are going to find how to apply those two loopholes in every case. There may be a modest exception here and there, but I doubt it. I have not seen it, and I do not think we will see it. That amendment's reference to parental involvement is cosmetic. In every case, the abortionist can give the teenage girl an abortion in secret.

Recognize this amendment for what it is. It is an abortionist's consent bill; that is what it is. If we vote for the amendment of the distinguished majority leader and the Senator from Massachusetts, the Senator from Kansas, the Senator from Maine, then we are voting for an abortionist consent bill.

The Coats amendment provides real notification of parents of teenage girls who are to undergo an abortion. If you are for the right of parents to be notified before a daughter undergoes abortion, a decision which involves lifelong implications, I think we have to reject this second degree amendment.

Remember how many abortions, almost a third, are done to young girls 17 years of age or younger without any parental consent. As a matter of fact, 80 percent of those who come through Planned Parenthood facilities are only in contact with someone less than a licensed physician. Only 20 percent have a physician advising them, and in most of those cases it is an abortionist physician. I hate to say this, but I think you have to have a certain amount of toughness and hardness to make your living solely from abortion. I am sure there have to be exceptions, and I will certainly allow for that, but I have to say it would be very tough, to do that as the only way to make a living.

But I have taken some time to look up just what is involved medically. Just take the Merck Manual, which is a synthesis. Just a summary of what is involved in an induced abortion. This 17-year-old or younger girl is supposed to figure all this out herself, supposed to be mature enough to take care of this for herself. The Merck Manual says:

> INDUCED ABORTION
>
> Throughout history, women have used abortion to terminate unwanted pregnancies. Its legal status worldwide varies from complete prohibition to elective procedures on request.

In the United States, it is elective procedures on request.

> About two-thirds of the women in the world have legal abortion available; about one-twelfth of all women are in countries with strictly enforced abortion prohibitions. In the United States, abortion is permitted on request.* * *

It goes on and on. It talks about various abortions. It says:

> The number of reported abortions in the USA has progressively increased, especially since 1974, when the laws were liberalized. In 1963, the rate of abortions was 0.13/1000 women in childbearing years (15 to 44); in 1980, the rate was 29.3/1000; therefore, ≅ 3% of women aged 15 to 44 have abortions in a year. The ratio of abortions to live births increased more markedly, from 13/1000 in 1963 to 362/1000 in 1980. Abortion is one of the most common surgical procedures in the USA; > 1.5 million abortions were reported in 1980. About 30% were done on women under age 20; 35% were 20 to 24, and the remaining 35% were 25 or older; 25% of the women were married. In 1980, > 90% of abortions were in the first trimester (12 wk or less); with > 50% of these at 8 wk of less. About 96% were performed by curettage, 2.2% by saline instillation, 0.5% by prostaglandin instillation, and < 1.5% by other methods, including major surgical procedures.
>
> Abortion methods currently used are (1) instrumental evacuation through the vagina; (2) medical induction, with stimulation of uterine contractions; and (3) uterine surgery (hysterotomy or hysterectomy). The procedure varies with the length of gestation. "Weeks of gestation" are calculated from the last menstrual period with the assumption that ovulation occurred at about day 14 of the cycle. Instrumental evacuation is used in 96% of abortions. In pregnancies < 12 wk, curettage is virtually the only procedure used. Suction curettage at 4 to 6 wk of gestation (sometimes called "menstrual extraction," a term from earlier days when sensitive early pregnancy tests were not readily available), requires little or no dilatation of the cervix. The curet most commonly used is a small, flexible cannula (4, 5, or 6 mm in diameter); rigid, 6-mm plastic curets are also used, as well as metal endometrial aspiration biopsy curets. The cannula, attached to a vacuum source (usually a machine suction pump, but hand pumps and occasionally vacuum syringes are also used) is inserted through the cervix. The uterine cavity is gently and thoroughly curetted. Failure to terminate the pregnancy occurs more frequently in these early weeks than later.

This is what this little 14-year-old girl, for example, is supposed to understand. It goes on and into much more detail. It goes on for pages of what a doctor has to understand and how difficult this particular process really is.

Mr. President, I do not want to take too much more time. I know our colleagues are tired. I know we are all tired. We are all tired of this issue.

It is the toughest issue there is in the Senate and House of Representatives, but all too often we treat it somewhat in disdain. We treat it as though we can continue to go on without telling parents about what is happening to their children.

I hate to say this, but I really believe that there is no question that most Senators in this body believe that the parents out there really are concerned about their kids. They are not going to beat up the daughter because she has made a mistake. There are some who will, there is no question.

There are some who are not worthy of being called parents. But the vast majority of our parents in this society are concerned about their kids. They want to be part of their lives. They want to be part of some of these very monumental and serious decisions.

Most parents would take that daughter in their arms and hug her, care for her, and help her. Most parents I think would stand by her and be with her. They would not want her to have an abortion. Some maybe would. At least she would get the best possible advice that those particular parents could offer.

Now, Senator COATS is offering an amendment to require organizations who receive title X funds to notify one parent prior to performing an abortion on a girl age 17 or younger. That seems reasonable to anybody. He even allows a couple of exceptions where the one parent does not have to be notified. One, in the case of medical emergency. That makes sense. And two, in cases in which the girl is a victim of or at risk of sexual abuse or child abuse. That makes sense. Or three, in any State that already has in effect a law requiring parental notice or parental consent for abortion. Those three exceptions I think make sense.

The substitute of the majority leader and those who are cosponsors is made to appear to be a parental notification amendment that applies to girls age 18 and younger. However, the substitute is not a parental consent amendment but an abortionist consent amendment.

The amendment does not require parental involvement in any case. In every case the amendment provides the following alternatives to the notification or consent of a parent. If the attending physician has determined that, one, the minor is mature enough and competent enough to provide consent—and, as I mentioned, I think you will find that in almost every case—or two, the involvement of the parent or guardian of the minor is otherwise not in the best interest of the minor.

Come on, we have abortionist doctors giving advice. Tell me they are not going to always find that one or two of those exceptions will always apply.

In other words, the amendment confers on the abortionist doctor himself or herself complete, unreviewable discretion to waive parental consent in every case. The amendment gives the abortionist absolutely untrammeled authority to perform an abortion in secret any time he alone believes that it is in the minor's "best interest."

The other provisions of the amendment which may appear at first blush to require parental notification or parental consent in some case are in fact consumed by the open-ended alternatives provided in paragraph 8 of the amendment. It is never even necessary for an abortionist to determine that a minor may be subject to physical or emotional abuse in order to waive parental involvement. The only requirement is that the abortionist believes it is in the best interest of the girl age 18 or under to receive a secret abortion.

Come on, what are we doing? The real issue tonight is the role of the family versus the role of the Government in making decisions about their children. I voted for the family. I am going to vote for Senator COATS' amendment. I hope everybody else will do so as well.

In all honesty, it is not a conservative or liberal issue; it is not a States rights issue. It is a family issue. And it is an important family issue. It is one that we ought to pass. It is one that makes sense. It is one that I think will help families and children.

Are we going to give parents the opportunity to be involved with their children, their problems, and their crises in life? Or, is it just a governmental role to take over these important responsibilities from the parent. I just do not think Government has that role except in those situations that are covered by the Coats amendment.

I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield to the majority leader.

Mr. MITCHELL. I have had discussions with the distinguished Senator from Indiana, the distinguished Senator from Massachusetts, and others, and I will now propound a unanimous-consent agreement that I hope will permit us to vote on this matter shortly, and the purpose of which is to provide a vote not only on the pending amendment, which I offered, but to provide Senator COATS with a vote on his amendment, which he wishes to have. It will provide that I will withdraw my amendments, that Senator COATS' amendment would then be laid aside, that I will then resubmit my amendment as an amendment in the first degree, and that there will be 6 minutes of debate on both amendments, following which there will be a vote on my amendment and a vote on the Coats amendment. That is the purpose of this, which I am about to propound and I now propound.

Mr. President, I ask unanimous consent that I be permitted to withdraw my amendment, that the Coats amendment be laid aside, and that I then be permitted to resubmit my amendment as an amendment in the first degree; that there then be 6 minutes for debate remaining on the Coats amendment No. 756 and the Mitchell and others amendment equally divided and controlled in the usual form; that no amendments to the amendments be in order, or any language which may be stricken; that no motion to recommit be in order during the pendency of these amendments; that when the time is used or yielded back, the Senate proceed to vote without intervening action or debate on the Mitchell amendment; that upon the disposition of the Mitchell amendment, the Senate without any intervening action or debate proceed to vote on the Coats amendment No. 756.

Mr. COATS. Mr. President, reserving the right to object, and I will not object, I say to the majority leader as someone who has urged him in the interest of family to expedite procedures around here, I appreciate the majority leader's offer to do just that. I am more than willing to accept the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The pending amendment is withdrawn.

AMENDMENT NO. 758 TO AMENDMENT NO. 753

(Purpose: To require entities receiving grants under title X of the Public Health Service Act to provide for parental notice or consent in the case of minor patients who request an abortion)

Mr. MITCHELL. Mr. President, I resubmit my amendment as an amendment in the first degree.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM, proposes an amendment numbered 758 to amendment No. 753.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Chafee amendment add the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagaph (A); and

"(ii) sets forth the reason, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interests of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

Mr. MITCHELL. In accordance with the agreement, I ask unanimous consent that the Coats amendment be laid aside and that the Senate proceed to debate and vote on the Mitchell and then the Coats amendment as stated in the agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the 3 minutes which under the agreement are under the control of proponents of my amendment to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I appreciate the majority leader yielding back to me 3 minutes and I will be very brief. I would like to offer a few comments as a mother and a grandmother, because this is a subject with which I have great compassion and great sensitivity. Not to get into necessarily the question of abortion but on parental notification, I believe that Senator COATS has drafted a very thoughtful amendment.

I have cosponsored the Mitchell amendment but there is much to recommend in the language that Senator COATS has put forward. I know he has done it trying to meet the concerns of some, like myself, who have feared that drawing an amendment such as this too narrowly, there could be some tragic consequences.

We would all like to think that a family situation is such that a young girl would feel comfortable notifying parents that indeed she wished to have an abortion. There are unfortunately, Mr. President, dysfunctional families in which this would be an extremely difficult situation and potentially could cause real violence.

I realize that in the Coats amendment that it waives this requirement in the cases of incest, child abuse, or child neglect but one might not be aware that actually abuse exists at that given time. I think that sometimes these things are not known.

One of the reasons I am a cosponsor of the Mitchell amendment is that I think we should err on the side of making sure there is protection for that one exception where perhaps there could be a tragedy ensued by the language that we have tried to construct here. I think there must be the possibility to have judicial bypass. This is one of the reasons I am a cosponsor, feel strongly about it, and I equally feel strongly that it is important to involve the family where that is possible. But, in this instance, I believe we have to allow for the ability to adjust to those cases where it would not be possible.

I yield what time I might have left.

The PRESIDING OFFICER. Who yields time?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I yield myself 3 minutes remaining to me under the unanimous-consent agreement.

The PRESIDING OFFICER. The Senator may proceed.

Mr. COATS. Mr. President, let me just in summary here remind our colleagues of what we are doing. We have two alternatives before us: the Coats amendment provides a requirement that if an entity under title X receives Federal funds and performs abortions, it must provide notice to one parent. The notification requirement has some exceptions: if it is a medical emergency; if incest, child abuse or child neglect is involved, notice need not be given.

For those who feel it is a minor's right to obtain a legal abortion in this country, this does not prevent anyone from receiving that abortion. What it does do is give one of the parents of that child notice that their daughter is in a very difficult situation and allows that parent then in whatever way they deem appropriate to come to the aid of that child. Make no mistake about it.

The first amendment we will be voting on, offered by the distinguished majority leader, provides so many exceptions to the notice and consent requirement that it totally obviates that requirement. If you want to give one parent notice that your child has requested an abortion, you need to vote for the Coats amendment. A vote for the first amendment we will be voting on will not provide that notification in most instances because of the many exceptions that are involved.

If you feel it is appropriate to be notified as a parent that your child is in serious, serious trouble, vote for the Coats amendment which will be the second vote before us.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The leader has 30 seconds remaining.

Mr. MITCHELL. Mr. President, I will just conclude the debate by saying that however well-intentioned the Coats amendment, it simply does not take into account the reality of the dysfunctional families, families where incest has occurred, families where physical and sexual abuse occurs, families where parents are absent. We deplore those circumstances. We wish they did not exist. But they do.

The choice between us is between an amendment that deals with the reality which confronts Americans today or with some idealized situation which is wholly unrelated to the reality and really represents an effort to sink this bill. That is the choice we have.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. COATS. Mr. President, I ask for the yeas and nays on the Coats amendment that immediately follows if that is the correct procedure at this point.

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays requested by the Senator from Maine?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays requested by the Senator from Indiana?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Indiana has 1 minute remaining.

Mr. COATS. Mr. President, I will use just a portion of that time in response to the majority leader's closing to indicate to my colleagues that in the case of incest, in the case of child abuse, in the case of child neglect, however that is broadly defined, notice need not be given.

So the statement that the Coats amendment does not deal with the reality of child abuse or child neglect, medical emergency is not the fact under the Coats amendment. We do provide for an exception for that.

Mr. President, I yield the remainder of my time.

Mr. CRANSTON. Mr. President, I want to make my position clear on the issue of passing any Federal legislation aimed at limiting access of pregnant minors to safe, legal abortions.

I believe that these proposals, although often well-intended, are not good public policy. They are not likely to result in more effective communication between teenagers and their parents, but rather they are likely to drive desperate teenagers into the back alleys for illegal abortions. Most teenagers seeking abortions already have the consent and support of their parents. The young women who do not are usually those in the most dire straits, victims of abuse or neglect or incest.

Having said that, I nonetheless intend to vote for the Mitchell-Cohen substitute because it provides a number of reasonable options. Equally important, I recognize that last year the Senate refused to table an amendment virtually identical to the amendment offered by the Senator from Indiana. Enactment of the Coats amendment, which provides no judicial or other bypass for the teenager who has good reasons for not notifying her parents would be a disaster. The Coats amendment not only prohibits title X projects from providing abortion services to minors in most cases without notification to a parent, it forbids an entity which receives title X funds from making its facilities available for abortion services for all minors, not just those served in the title X project. In other words, a university hospital which runs a title X clinic could not make its operating rooms available for such minors.

The Mitchell-Cohen amendment combines the best elements of statutes recently enacted in Maine and Maryland.

It requires 48 hours prior notification to one parent or guardian of an unemancipated minor under the age of 18 unless the minor has either obtained consent from a parent or guardian or an adult family member such as a grandparent, aunt or uncle, or older sibling, received comprehensive counseling on the options available and the advisability of consulting with a parent and been determined by the attending physician to be mature enough to make the decision independently or that the abortion is in her best interest, or be granted an order allowing her to consent to the abortion independently.

The ability to get consent from another adult family member is derived from the Maine statute. South Carolina also permits consent by a grandparent. The so-called physician bypass provision, which allows a minor to have an abortion without the consent or notification of a parent if the physician determines the minor, after counseling, is mature enough to make the decision independently, or the abortion is in her best interest, is taken from the Maryland statute. These two provisions provide the flexibility that is essential to ensure that no minor is denied access to a safe, legal abortion or forced to walk through an insurmountable bureaucratic maze.

The amendment also provides that it will not take effect in any State whose law already provides for the conditions under which a minor could receive an abortion or where the provisions would conflict with the provisions of the State constitution. The latter provision would be directly applicable to my State where the State constitution has a privacy provision broader than the Federal constitution. Parental consent legislation has been struck down in California as violating the State constitution, *American Academy of Pediatrics* v. *Van de Kamp*, 214 Cal App. 3d 831 (1989). The right of a State not to impose additional conditions upon minor's access to abortion or to devise its own scheme, such as the mandatory counseling utilized in Connecticut and Wisconsin is thus protected in the Mitchell-Cohen amendment.

The amendment also provides that it will not take effect in any State which fails to enact a judicial bypass procedure which complies with the requirements laid down by the Supreme Court in *Bellotti* v. *Baird*, 443 U.S. 622 (1979). That decision and subsequent decisions have made it clear that a state may not require parental consent or notification in every instance, whether or not in the pregnant minor's best interest, without affording her an opportunity to receive an independent judicial determination that she is mature enough to consent or that an abortion would be in her best interest.

For these reasons, Mr. President, although I would prefer that Congress not enact Federal legislation in this complex and complicated area, I intend to vote for the Mitchell-Cohen substitute and against the Coats amendment.

Mr. ADAMS. Mr. President, I am a strong supporter of a woman's right to choose to have an abortion. That right doesn't begin when a woman is 18 years old; it doesn't begin when she's 19 years old. That right begins when a woman has an unintended pregnancy.

Any requirement that a pregnant minor obtain a parent's consent or notification for an abortion is riddled with problems. What about incest? What about the girl whose mother's boyfriend is the father of her baby? What about date rape that results in pregnancy? These are real situations, that we know happen. Should these young women have to ask a parent to consent to an unintended pregnancy? That is a ridiculous requirement.

It is just as ludicrous to assume that by requiring a parent's consent, or parental notification, that we are promoting family communication. This is not an issue many families talk about. That's part of the reason unintended teenage pregnancy rates are so high. Talking to a parent about sex and contraception after conception is not better family communication.

I have always opposed parental notification. It's unrealistic, it's unworkable, and it is just plain wrong. But a parental notification statute that does not provide a young woman any alternative is unconscionable—not to mention unconstitutional. The Supreme Court in Bellotti said that a pregnant minor must have the option of going to the court to obtain an abortion. The Mitchell amendment at least provides judicial bypass. The best situation would be a variety of options for minors seeking abortions that are in their best interests.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment (No. 758) offered by the Senator from Maine, Mr. MITCHELL.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—54

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Cranston
Daschle
Dodd
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Warner
Wellstone
Wirth
Wofford

NAYS—45

Bond
Boren
Breaux
Brown
Burns
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Rudman
Seymour
Smith
Symms
Thurmond
Wallop

NOT VOTING—1

Pryor

So, the amendment (No. 758) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 756

Mr. KENNEDY. Mr. President, I oppose this amendment. It provides for parental notification for a minor seeking an abortion with no judicial bypass.

Current law prevents the use of title X money for abortion services. S. 323 does not affect that prohibition in any way. Therefore, the amendment that has been proposed is neither germane or relevant to the pending bill.

I welcome debate on amendments that address the issue of the gag rule. But to spend time on issues such as parental notification for abortion when the underlying bill does not even change existing policy on abortion is not a useful debate.

I also oppose this amendment because it would impose significant and unwise restrictions on the right of a young woman to obtain an abortion and is probably unconstitutional. I urge my colleagues to reject it.

The issue here is not whether teenagers faced with an unwanted pregnancy would benefit from adult guidance as they consider the appropriate course of action. Of course, young women should have the counsel of responsible adults while making an important health care decision. And I know that each of my colleagues would want to be the person to advise their own teenage daughter if such an unfortunate situation as an unwanted pregnancy were to occur.

In loving, stable homes, parental notification prior to a teenager having an abortion will generally happen without interference from the government. We know that 55 percent of teenagers under 18 who have had abortions say that at least one of their parents knew of their decision to have an abortion. The younger a teenager is at the time she seeks abortion sevices, the more likely it is that a parent knows.

Three-fourths of abortion patients that are 15 years old or younger say that they have told at least one parent. Fifty-four percent of older patients inform their parents—even without a legal mandate to do so.

Establishing a Federal requirement of parental notification prior to a teenager receiving medical services related to abortion would be a serious mistake for several reasons.

First, it would treat abortion differently from other similar medical treatment for minors. For example, most States permit minors to consent to medical care on their own in emergencies. Exceptions to parental consent requirements also are generally made for pregnancy-related care and other sensitive services.

Second, parental notification poses serious risks in dysfunctional families. For example, in Minnesota, whose two-parent notification without a judicial bypass law was found unconstitutional by the Supreme Court, the reason teenagers cited for fearing to tell their parents included parents physical or psychiatric illness, parents' drug or alcohol abuse, and the probability of verbal, physical, or sexual abuse.

The Federal district court that examined the effects of Minnesota's parental notification statute, which had been in effect for 5 years, determined:

> Notification of the minor's pregnancy and abortion decision can provoke violence, even where the parents are divorced or separated.

Third, experience shows that most teenagers who feel they cannot involve their parents in an abortion decision manage to obtain confidential abortion services. But evasion of parental notification requirements results in delays that can greatly increase both the health risks and costs to the teenager.

For example, in the first 8 months after Massachusetts adopted a parental consent requirement, the number of teenagers who left the State for an abortion increased by 300 percent. This travel delayed abortions by as much as nearly 6 weeks, thereby increasing health risks to teenagers. In addition, a teenager who travels far from her community for an abortion will be far from the abortion facility with its specially trained personnel, should complications develop.

The problems with communication and trust within a family that will prevent a teenager from voluntarily confiding in a parent about an unwanted pregnancy cannot be solved by a Federal mandate. Experience shows that the best interest of our teenagers who are faced with an unwanted pregnancy are served, not by forcing them to go underground at a very difficult time, but by providing a mature, concerned adult who will assist them in deciding whether to involve a parent, and in the absence of parental involvement, can help the teenager to decide a course of action in her best interest.

This substitute amendment is a reasonable and constitutional alternative to the underlying amendment. It recognizes situations where a young woman cannot notify her parents such as in the case of parental abuse, incest, or in dysfunctional families.

This amendment sets up two alternative systems to ensure that all minors receive the adult guidance that they need. It requires that one parent or guardian be notified. However, it also establishes alternative physician and judicial bypass procedures when notification to parents is not possible.

Under the physician bypass procedure, a physician would be required to certify that the minor receives information and counseling and that she has given her consent to the procedure. The information and counseling that the minor receives would be provided by a professional medical person. The professional who would provide the information and counseling could be a well-trained, qualified individual such as a physician, psychiatrist, psychologist, social worker, professional nurse, or a member of the clergy.

Under the amendment, the minor would be required to receive detailed information and counseling on the alternative choices available for managing the pregnancy including prenatal care, adoption, and pregnancy termination. The woman would also be counseled on involving her parents or guardians in the decisionmaking process.

The second alternative procedure would be a judicial bypass. This would enable a minor, whose family life prevents her from informing her parents, to seek a waiver of the notification requirement in State court. This is a common and reasonable approach adopted by many States.

The Supreme Court has ruled that, where two parent notification is required, some form of bypass procedure must be established in order to be constitutional. In fact, 27 States have adopted either a judicial or physician bypass method.

This substitute amendment is modeled after two State laws—Maryland and Maine. Both of these States have been satisfied that their parental notification laws strike a balance that ensures that the minor is making an important medical decision with adult supervision.

This amendment would not preempt any State parental notification law. Currently, 36 States have parental notification laws. My colleagues should know that support for this amendment will not affect the laws their own States have adopted in any way.

I support this amendment because it places the priority in the right place—on the needs of the young woman. The decision she makes may well affect her entire future. It is critical that she receive the proper information and counseling to make a well-informed decision.

I urge my colleagues to support the second-degree amendment.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment of the Senator from Indiana [Mr. COATS].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—52

Bond
Boren
Breaux
Brown
Burns
Byrd
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kassebaum
Kasten
Kohl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Reid
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—47

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Bryan
Bumpers
Burdick
Chafee
Cohen
Cranston
Daschle
Dodd
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—1

Pryor

So the amendment (No. 756) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I have discussed the pending situation with the managers and with the distinguished Republican leader. The only amendments of which the managers are aware, in terms of the substance of the amendments, are amendments by Senator NICKLES, which I understand will be accepted, and by Senator HATCH, which is in the process of being worked out and will be accepted. There may be other amendments by the Senator from North Carolina but I am unaware of either the number or substance of those amendments.

So I would like to inquire of the distinguished Republican leader, whether or not we can proceed?

Mr. DOLE. If the majority leader will yield, there are three Helms amendments; a Nickles amendment, which I understand will be accepted; a Hatch amendment, which would be accepted. I have a notation of a Danforth amendment which I was not aware of.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there are two amendments which I understand the managers will accept and they will remain to accept those amendments. We are unable to be in a position to complete action on the bill this evening. Accordingly, there will be no further rollcall votes this evening. There will be rollcall votes during the day and in the evening tomorrow. I thank my colleagues.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 759

(Purpose: To require that Title X projects remain physically and financially separate from clinics that perform abortions and for other purposes)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 759.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

"SEC. . Nothing in this Act shall be construed to invalidate, nullify or amend regulations published at 42 CFR 59.9 and 59.10."

Mr. NICKLES. Mr. President, the amendment I have today deals with the regulations we have been discussing on the floor all day. First, let me be very clear. My amendment is a straightforward one and one that my colleagues should support, whatever their position on abortion counseling and referral may be.

My amendment does not restrict title X grantees from counseling about abortion or making abortion referrals. Instead, it makes it clear that abortion clinics, facilities whose principal business is abortion, may not receive title X funds.

It would also allow HHS to enforce its regulations today, but many may not recognize that they do not concern abortion counseling alone.

The regulation, 42 CFR 59, does three things. It says that title X projects must, one, and this is 59.8, prohibits counseling and referring for abortion; requires that when a women's pregnancy is confirmed, a project must provide a list of available referral agencies that provide prenatal and social services. Referrals may be made to an agency which provides abortion services in addition to its prenatal services if abortion is not its principal business.

Mr. President, my amendment does not touch section 59.8. What my amendment states is that it reaffirms section 59.9 and section 59.10. My language says that both section 59.9 and 59.10 are restated. We are not going to undermine those two regulations which are very good regulations, proposed and promulgated by the administration in February of 1988; 59.9 establishes requirements for physical and financial separation of title X programs from abortion activities. Each grantee will be reviewed on a case-by-case basis to ensure compliance.

Section 59.10 prohibits title X projects from encouraging, promoting, or advocating abortion as a method to increase the availability of abortion, providing speakers to promote abortion, or paying dues to an organization largely devoted to the promotion of abortion.

Mr. President, I think those two regulations have the support of this body. I certainly do not want to see them undermined by this legislation. My language states that nothing in this act be construed to invalidate, nullify, or amend regulations published at 42 CFR 59.9 and 59.10.

Mr. President, last week, the Appropriations Committee approved the fiscal year 1992 Labor-HHS-Education appropriation bill. Section 514 of this bill prohibits the Secretary from enforcing regulations published at 42 C.F.R. 59.8.

This amendment would prohibit the Secretary from enforcing its ban on abortion counseling and referral. But it would permit him to continue to bar abortion clinics from getting title X funds—59.9—and to prohibit grantees from lobbying on abortion—59.10.

If S. 323 were adopted with my amendment, it would have the same effect as adoption of section 514 of the Labor-HHS Appropriations Act.

My amendment would not uphold the regulation in its entirety.

Instead, it would clarify that the intent of S. 323 is to overturn the administration's rule on abortion counseling and referral, but that would not overturn other portions of the regulation.

Mr. President, if my amendment is adopted, HHS could require title X projects be organized so that they are physically and financially separate from the performance of abortions. This separation, the regulation says, would have to go beyond mere bookkeeping. Hospitals that provide a full range of services in addition to abortion could receive title X funds; abortion clinics could not.

If my amendment is adopted HHS could prohibit title X projects from lobbying for the passage of legislation concerning abortion.

Mr. President, my amendment clarifies that S. 323 does what its sponsors intend for it to do, and nothing more.

If the intent of the bill's supporters is to permit abortion counseling and referral, then my amendment does not interfere with that intent.

All my amendment does is to bar title X assistance for abortion clinics and for abortion advocacy.

Mr. President, I ask unanimous consent to print in the RECORD sections 59.9 and section 59.10.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

§59.9 Maintenance of program integrity.

A Title X project must be organized so that it is physically and financially separate, as determined in accordance with the review established in this section, from activities which are prohibited under section 1008 of the Act and §59.8 and §59.10 of these regulations from inclusion in the Title X program. In order to be physically and financially separate, a Title X project must have an objective integrity and independence from prohibited activities. Mere bookkeeping separation of Title X funds from other monies is not sufficient. The Secretary will determine whether such objective integrity and independence exist based on a review of facts and circumstances. Factors relevant to this determination shall include (but are not limited to):

(a) The existence of separate accounting records;

(b) The degree of separation from facilities (e.g., treatment, consultation, examination, and waiting rooms) in which prohibited activities occur and the extent of such prohibited activities;

(c) The existence of separate personnel;

(d) The extent to which signs and other forms of identification of the Title X project are present and signs and material promoting abortion are absent.

EFFECTIVE DATE NOTE: At 53 FR 2922, Feb. 2, 1988, the Department of Health and Human Services promulgated rules revising the requirements for compliance by grantees and applicants for grants, codified at §§59.7–59.10 and various technical and conforming amendments were made to other sections of pre-existing regulations. Since the promulgation of this rule, four suits have been filed in various court jurisdictions. Consequently, the regulations are currently effective with respect to certain organizations and not with respect to others.

Users of this volume with questions as to whether these regulations are in effect with regard to them are encouraged to consult the Director of the Office of Family Planning, Public Health Service, Department of Health and Human Services (202) 245–0153. PHS published a document providing notice of these court actions in the Federal Register at a 53 FR 49320, Dec. 7, 1988.

§59.10 Prohibition on activities that encourage, promote or advocate abortion.

(a) A Title X project may not encourage, promote or advocate abortion as a method of family planning. This requirement prohibits actions to assist women to obtain abortions or increase the availability or accessibility of abortion for family planning purposes. Prohibited actions include the use of Title X project funds for the following:

(1) Lobbying for the passage of legislation to increase in any way the availability of abortion as a method of family planning;

(2) Providing speakers to promote the use of abortion as a method of family planning;

(3) Paying dues to any group that as a significant part of its activities advocates abortion as a method of family planning;

(4) Using legal action to make abortion available in any way as a method of family planning; and

(5) Developing or disseminating in any way materials (including printed matter and audiovisual materials) advocating abortion as a method of family planning.

(b) *Examples.* (1) Clients at a Title X project are given brochures advertising an abortion clinic. Provision of the brochure violates subparagraph (a) of this section.

(2) A Title X project makes an appointment for a pregnant client with an abortion clinic. The Title X project has violated paragraph (a) of this section.

(3) A Title X project pays dues to a state association which, among other activities, lobbies at state and local levels for the passage of legislation to protect and expand the legal availability of abortion as a method of family planning. The association spends a significant amount of its annual budget on such activity. Payment of dues to the association violates paragraph (a)(3) of this section.

(4) An organization conducts a number of activities, including operating a Title X project. The organization uses non-project funds to pay dues to an association which, among other activities, engages in lobbying to protect and expand the legal availability of abortion as a method of family planning. The association spends a significant amount of its annual budget on such activity. Payment of dues to the association by the organization does not violate paragraph (a)(3) of this section.

(5) An organization that operates a Title X project engages in lobbying to increase the legal availability of abortion as a method of family planning. The project itself engages in no such activities and the facilities and funds of the project are kept separate from prohibited activities. The project is not in violation of paragraph (a)(1) of this section.

(6) Employees of a Title X project write their legislative representatives in support of legislation seeking to expand the legal availability of abortion, using no project funds to do so. The Title X project has not violated paragraph (a)(1) of this section.

(7) On her own time and at her own expense, a Title X project employee speaks before a legislative body in support of abortion as a method of family planning. The Title X project has not violated paragraph (a) of this section.

[53 FR 2945, Feb. 2, 1988]

EFFECTIVE DATE NOTE: At 53 FR 2922, Feb. 2, 1988, the Department of Health and Human Services promulgated rules revising the requirements for compliance by grantees and applicants for grants, codified at §§59.7–59.10 and various technical and conforming amendments were made to other sections of pre-existing regulations. Since the promulgation of this rule, four suits have been filed in various court jurisdictions. Consequently, the regulations are currently effective with respect to certain organizations and not with respect to others.

Users of this volume with questions as to whether these regulations are in effect with regard to them are encouraged to consult the Director of the Office of Family Planning, Public Health Service, Department of Health and Human Services (202) 245–0153. PHS published a document providing notice of these court actions in the FEDERAL REGISTER at 53 FR 49320, Dec. 7, 1988.

Mr. KENNEDY. Mr. President, I urge that the Senate accept this amendment. It relates to two aspects of the Court decision which were not included in the Chafee amendment, one is on collocation, the separation of functions between the informational aspects of the Chafee amendment and the locations where there should be, if that is the judgment and decision, termination of pregnancy, and also the continued prohibition against lobbying.

Those are completely consistent with, as I understand, both Senator CHAFEE, myself, and the others who have been in support of the Chafee amendment. I hope that this language would be accepted because I think if there is any doubt in any Member's mind, this would certainly clarify it, clarify it in terms of the public policy question.

Mr. HATCH. Mr. President, on the minority side, we will accept this amendment as well.

The PRESIDING OFFICER. Is there further discussion or debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 759) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 760 TO AMENDMENT NO. 753

(Purpose: To provide for the collection and maintenance of statistics concerning information, counseling and referral services provided by projects receiving assistance under title X of the Public Health Service Act)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 760 to amendment No. 753.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, after line 4, add the following new subsection:

(h) PROVISION OF STATISTICS.—A project receiving assistance under title X of the Public Health Service Act shall maintain statistics concerning the pregnant women to whom such project has provided information, counseling or referral under subsection (a). Such project shall, on a quarterly basis, prepare and submit to the Secretary of Health and Human Services a report containing the sta-

> tistics maintained by the project under this subsection for the quarter for which such report is submitted. The Secretary shall ensure that no records are maintained by such project which include the names of individual women and the referrals requested by such women.

Mr. HATCH. Mr. President, I rise to offer an amendment to S. 323 which would require that all title X grantees offer a quarterly report to the Secretary of Health and Human Services on which options each of their clients are referred to under this new regulation.

S. 323 requires a counselor to offer nondirective counseling to a woman on all of her legal and medical options including prenatal care, adoption, and pregnancy termination. My amendment would allow us to see how many clients are choosing abortions; how many choose to adopt; and, how many decide to go for prenatal care. Taxpayers have a right to know how their money is being spent. Some title X grantees have told us that they don't believe abortion is a method of family planning. Let us collect data on what type of options women will choose.

By requiring that clients report their choices, we can ensure that this counseling is truly nondirective. We have testimony, plus other documented evidence, that some grantees do cousel for one option over another. If we in Congress find that abortion is the preferred option, we may need to take additional steps.

The public comments received by the Department of Health and Human Services when the regulations were first proposed gave credibility to these concerns. Many comments argued that the practice of nondirective counseling had been the subject of widespread abuse, with many providers foregoing any balanced discussion of options in favor of pressuring women, especially teenagers, into obtaining abortions.

Many victims wrote in saying that they were never presented with any favorable or neutral information on any option except abortion. Typically, they described situations where the counseling they had received was one-sided, with the fetus dehumanized as a "lump of tissue," "fetal tissue," or "uterine contents." There was no information presented as to gestational characteristics and stage of development.

And, those commenters stated that they had experienced severe and long lasting regret over the decision to abort for they had not ever received adequate counseling at the time they made their decision to abort as to the remorse and guilt they may feel later.

Mr. President, let me quote from one of the women who wrote to the Department regarding her experience in a federally funded family planning clinic:

> These clinics do not provide adequate information to pregnant women. There is no "choice" involved in regard to abortion. It is the only solution offered. I know this from experience and have spoken to many women who have shared that experience.

This type of experience should not happen in a publicly supported program. Taxpayers have trusted us to use their money to help poor women learn the responsibilities of parenthood and how to protect themselves from unwanted pregnancies. Abortion is not part of that equation.

Mr. President, I know that we all agree that Federal family planning programs need to be responsible and truly give women all of their options. No entity has a stronger mandate to do so then the Government.

Let us collect the statistics on what option pregnant women choose. I appreciate my colleagues accepting this amendment.

Mr. KENNEDY. Mr. President, this is an acceptable amendment. It provides for additional kinds of information for the Senate in terms of what paths are being followed and still preserves the confidentiality aspect of which we believe is extremely important. It will provide additional information.

I feel that we ought to go ahead and accept the amendment.

Mr. HATCH. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion?

If not, the question is on agreeing to the amendment.

The amendment (No. 760) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I rise today in support of S. 323, a bill introduced by the Senator from Rhode Island [Mr. CHAFEE] on January 31, 1991, and reported out by the Committee on Labor and Human Resources on June 6, 1991. I am proud to be an original cosponsor of this bill which would overturn regulations generated by the Reagan administration in 1988 and upheld by the Supreme Court on May 23, 1991, in the case Rust versus Sullivan. These regulations prohibit counselors and health care professionals employed at title X funded clinics from discussing abortion as an option when providing counseling to their pregnant patients. In the wake of the Supreme Court decision, it is imperative that we move to overturn the gag rule in order to preserve Americans' fundamental rights to freedom of speech and freedom of choice.

Mr. President, as one of the original sponsors of title X when it was enacted in 1970, I can say unequivocally it was never intended by the authors to allow an antichoice administration to put a gag on the mouth of the health care professionals who work in title X programs. It was intended to give low-income women the same reproductive choice options that are available to women who have the financial resources to pay for family planning services.

Mr. President, the original guidelines of the Public Health Service Act of 1970 provided that:

> Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended pregnancy are to be given nondirective counseling on the following courses of action, and referral upon request: Prenatal care and delivery, infant care, foster care or adoption and pregnancy termination.

Several studies confirmed that employees of title X clinics functioned appropriately under these guidelines by simply providing information and referral for abortion services only when requested by their patients. Under the new regulations, however, these professionals are forbidden from providing any information regarding the option of abortion even for patients who ask for such information.

By restricting what a health care provider can say, these regulations create serious ethical problems for the doctors involved. If a woman who has a serious health problem becomes pregnant and visits one of these title X clinics she should be informed of all of her options for her own safety. It would be difficult for a doctor to ignore a patient's general health when counseling her about an unwanted pregnancy. The gag rule makes it impossible for a physician to provide each patient with all the information which may be pertinent to her health. Doctors are also faced with the possibility of malpractice suits if dangerous or deadly complications arise in cases of pregnant women with serious health problems. The scenario setup by these regulations is a grim one. No doctor should have to compromise his or her professional position or risk a malpractice suit in order to satisfy government regulations which violate our freedom of speech.

These regulations undermine the very premise upon which title X is based. Title X was created to provide quality family planning services for low-income women. Many of these clinics rely on Federal funds to supplement State and private funds to operate their clinics. The gag rule, by restricting what employees can say, has caused many clinics to pledge to give up Federal funds in order to provide information to women who request it. This denial of Federal funding would cause a reduction in the quantity and quality of family planning services and other health services that these clinics provide. The result will most certainly be more unintended pregnancies and ultimately more abortions—a result no one wants.

This problem is especially relevant in my State of California where roughly

$12 million goes to clinics as part of title X. Clinics in California will be forced to choose between State and Federal laws, because State law requires that clinics accepting State funding must discuss abortion as an option. The gag rule prevents counseling on abortion as an option, so California clinics which receive both title X and State funds would be forced to forgo either State funds or title X funds. The number of women in California affected by these regulations is astounding: an estimated 100,000 California women would not be served if either Federal or State funds were unavailable.

Government regulations which deny health care professionals the right to provide patients full and accurate information about all alternative courses of treatment and the risks and benefits of each option are inconsistent with the promotion of good medical practice and deny women dependent upon title X programs the full information they need to make an informed choice. Now more than ever we need to make an informed choice. Now more than ever we must move to overturn the gag rule. The health and welfare of American women has been jeopardized by these regulations. As evidenced by the Rust versus Sullivan decision, women in this country can no longer look to the Supreme Court to protect their fundamental rights. They can and should look to Congress to overturn the gag rule and ensure their access to all the information available to them.

Mr. GORTON. Mr. President, occasionally, this body is given the opportunity to define better the proper role of the Federal Government in the lives of American citizens. S. 323 is such an occasion. While reasonable persons may disagree on issues of federally supported family planning services, the gag rule is an improper, unreasonable, and dangerous intrusion into the health profession by the Federal Government.

Although S. 323, the Title X Pregnancy Counseling Act, was introduced last January, it is of recent significance because it would overturn the May 23, 1991, U.S. Supreme Court ruling in Rust versus Sullivan. In that decision, the Court upheld 1988 HHS regulations which prohibited federally funded family planning clinics from providing information to pregnant women on abortion. HHS responded by allowing title X centers 60 days to comply with the regulations.

S. 323 would prevent HHS from enforcing its 1988 regulations and require HHS to return to its pre-1988 policy of full disclosure of all legal and medical options. More specifically, when requested by the woman, a clinic would provide information "with nondirective counseling, and referral on request, about alternative courses of action that shall include: First, prenatal care and delivery; second, infant care, foster care, or adoption services; and third, pregnancy termination."

Of the three options, I consider the last the least acceptable and most tragic. I would personally like to see adoption consistently preferred to abortion. That is why I introduced S. 1215, the Adoption Assistance and Maternal Certificates Act, with Senator NUNN and why I cosponsored S. 1301, the Omnibus Adoption Act of 1991 sponsored by Senator CRAIG.

The issue at hand with S. 323, however, is not which option the Federal Government should favor. Mr. President, the issue is whether the U.S. Government should prohibit federally supported health care professionals from discussing an option protected by the law and the Constitution. As long as abortion remains a legal option at certain times during pregnancy, health care professionals should not be prevented from discussing it with their patients. Despite my strong preference for adoption as a solution, I must respect and protect the professional duty of health care providers to disclose fully, in a nondirective fashion, the legal and medical options to a woman requesting information.

Mr. President, I understand the concerns of taxpayers who do not wish their tax money to go to abortion counseling. However, I must also act on behalf of those taxpayers who are concerned that Government editing of health care advice is fundamentally intrusive and dangerous. The best Government-supported health counseling is one that consistently and fully discloses all legal and medical options when requested.

I therefore urge my colleagues to vote for S. 323.

Mr. DODD. Mr. President. I am an original cosponsor of the Title X Pregnancy Counseling Act and I rise today to urge its prompt passage. I will explain my support for this legislation, but frankly, I fail to see why this issue needs to be debated at all.

The Department of Health and Human Services has ruled that health professionals receiving title X funds are prohibited from mentioning to their patients a certain legally permitted, medically established alternative. The public has appropriately labeled this stipulation the gag rule. And that about sums it up. Doctors and nurses would be restrained from providing a woman with complete information about all her pregnancy related options.

Should this ruling stand, it would encourage a radical, outrageous departure from the ethics governing medical counseling. In order to receive Federal funding, physicians would have to compromise their judgment and arbitrarily restrict their advice. This gag rule, in effect, promotes professional malpractice.

My colleagues, I am sure, will delineate the other undesirable results of this administrative decree: Two classes of medical care would exist—private, unimpeded health care for those who can afford it, and gag ruled, title X care for the poor. Many clinics would likely forgo title X funds and family planning services for the poor would consequently decrease.

The debate, however, is not whether medical counseling should be censored. No responsible, thinking adult could possibly condone it.

Mr. President, there are people who would like to make this into a debate over abortion—which as everyone knows, is permitted in the United States. Many disagree with it and seek to legislatively prohibit it—which is their right. But the antiabortion forces are also waging legal warfare. But as happens in war, there are many unintended casualties—collateral damage in current parlance. In this instance, the casualties are health professionals who try to provide balanced medical counseling and indigent patients whose only source of family planning is through title X program. Unfortunately, the forces of antiabortion show little concern.

Senator CHAFEE's bill would repair the sizable collateral damage wrought by their tactics. It restores fairness and common sense to title X by codifying the rights of patients to receive comprehensive, complete, and nondirective medical counseling. I encourage my colleagues in the Senate, as the Members of the House have done—to demonstrate their resounding support for this legislation. The abortion debate, meanwhile, should remain a debate over its legality. But while abortion is legally permissible, and unless its legality is overruled, we should not infringe upon the rights of people to know about it.

Mr. LIEBERMAN. Mr. President, I rise today in support of S. 323 which will ensure that family planning clinics are able to provide women with complete information and referrals on their reproductive options. The so-called gag rule bars health care workers from providing women with information on all their medical options. The gag not only improperly limits health care workers' ability to provide medical information, it also discriminates against those women whose only access to health care is through publicly funded clinics.

Women with access to private doctors receive information about all their reproductive options, but under the gag rule poor women can learn only about those the government deems appropriate. The majority opinion in Rust versus Sullivan states, "Nor is the doctor-patient relationship established by the title X program sufficiently all-encompassing so as to justify an expectation on the part of the patient of comprehensive medical advice." In fact, comprehensive medical advice is exactly what a woman expects when she enters a title X funded clinic. For a woman with no health insurance and no private doctor, a visit to this clinic may be the only health care she receives. The fact that the woman is coming to a publicly funded clinic does not mean that she should receive limited advice.

The gag rule also raises serious questions about whether the government can use its financial control over much of the medical care system to place restrictions on how doctors and health care professionals practice medicine. It opens the door to political censorship of medical advice.

Enactment of S. 323 will ensure that all women have access to information about all their options, including prenatal care and delivery, infant care, foster care and adoption, and pregnancy termination. Enactment of S. 323 will not mean that any woman will be coerced to choose a particular option, just that she will have the information she needs to make her own decision.

I look forward to working with my colleagues for the passage of S. 323 as quickly as possible.

Mr. BURDICK. Mr. President, I am proud to be a cosponsor of S. 323 to make sure that clients at federally funded family planning clinics are fully informed of all their legal and medical options.

Title X of the Public Health Service Act offers family planning services to millions of low-income women, averting thousands of unintended pregnancies. Clients at title X clinics deserve the same information that is available to women who see doctors in private practice. I see the gag rule as yet another attempt of the Government to make it almost impossible for a poor woman to get a legal abortion.

My State has strict antiabortion laws which require parental and/or spousal consent. A new informed consent law that is being challenged in the courts mandates a 24-hour delay while the woman reviews certain information. This is especially onerous in a State which does not have a single doctor performing abortions and just one clinic where a woman can receive a legal abortion on certain days of the week.

Women travel to that clinic in Fargo from across the State, as well as from Minnesota, Saskatchewan, and Manitoba. Jane Bovard of the Women's Health Organization faces regular pickets and other harassment from abortion foes, but she continues to offer this service. If family planning counselors and other health professionals in the area could not tell a pregnant client about her clinic, even upon request, women with unintended pregnancies could take matters into their own hands, with tragic results.

Our Government should not block a poor woman from consulting with her doctor and making her own decision about a legal abortion early in a pregnancy. I will vote against all amendments to weaken this legislation.

Mr. LEVIN. Mr. President, I rise today in support of S. 323, a bill to ensure that physicians at title X family planning clinics be permitted to inform women of all their legal medical options.

Enacted in 1970, title X of the Public Health Service Act provides funds for nearly 4,000 public and private nonprofit family planning programs. These agencies offer a wide variety of health care services for women, including gynecological examinations, breast and cervical cancer screening, pregnancy tests and counseling, contraception advice, and infertility programs. Many of these sites also provide prenatal care and maternity services. For many women, these services are their only form of health care.

For the past 20 years, title X clinics have proven remarkably successful. These facilities provide health and family planning services to more than 4.1 million women each year, nearly 1 in 4 American women. Studies show that millions of unintended pregnancies have been averted because of these programs, almost one-half of which were likely to have resulted in abortions. By providing confidential and safe contraception services, title X clinics have been effective in reducing the number of unplanned pregnancies.

in 1988, however, the quality and effectiveness of these programs were threatened when the Department of Health and Human Services, under the Reagan administration, implemented regulations which prohibit title X clinics from providing clients with any information about pregnancy termination. Title 10 Programs have always been prohibited from using Federal funds to perform abortions. The 1988 regulations, however, went one step further and prohibited clinics from providing any information about pregnancy termination, even if the woman requests such information.

These restrictive regulations took effect in March 1988 and were immediately subject to law suits and public debate. On May 23, 1991, in the decision of Rust versus Sullivan, the Supreme Court upheld the HHS regulations by a 5-to-4 decision.

Recent polls show that a majority of the American people strongly disagree with the HHS regulations and the Supreme Court decision, and believe that the 1988 gag rule forces censorship on the Nation's health care system. These polls further indicate wide support for legislation which would codify previous guidelines governing title X and maintain congressional intent, that title X recipients be allowed to receive complete counseling concerning all legal, medical options.

It is imperative that the title 10 Pregnancy Counseling Act be enacted for several reasons. Most importantly, the 1988 gag rule denies women seeking title X services complete information in order to make responsible, intentional decisions about their pregnancies. Before the gag rule, title X clinics were able to offer complete, nondirective counseling which included all possible legal options available to pregnant women. In order to make an informed choice, women have a right to know the options, not just those that the President deems acceptable.

The 1988 regulations severely impede the relationship between patients and their physicians. The Government does not have the right to stand in the middle of this relationship or dictate the nature of this exchange. Violations of patient-doctor relationship threaten the quality of health care available to all people. Health care and the first amendment both run the risk of being put on the critical list.

For these reasons and many others, I offer my support to S. 323.

AMENDMENT NO. 755

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for voting against the Cochran substitute amendment to the Chafee substitute to S. 323, the Pregnancy Counseling Act.

Earlier in this debate, I offered an amendment that would have removed pregnancy counseling from the setting of a federally subsidized title X family planning clinic. My amendment would have ensured that pregnant woman would be referred to a prenatal care setting where they could learn all of their medical options concerning pregnancy.

The Cochran amendment, and the Chafee amendment underlying it, would continue the practice of counseling pregnant women in the setting of a title X family planning clinic. That is simply outside the intended scope of title X, which is to provide preconception counseling and services only. Once a woman is pregnant, she requires specialized services that are not within the purview of the title X Program.

Mr. President, in this Senator's view, it just makes good medical sense that a pregnant woman be referred from a title X setting to a specialist in the area of treating pregnancy. Women who are pregnant should receive complete and comprehensive pregnancy options counseling from obstetrical care providers outside of a title X facility.

I deeply respect the good intentions of my friends and colleagues Senator COCHRAN and Senator CHAFEE in this debate. But I believe that bogging down the much-needed and underfunded title X family planning programs with the controversies surrounding pregnancy counseling will erode the chances title X has for broad bipartisan support in this Congress.

For the sake of giving title X the support and funding it deserves as a key component of a healthier America, I encourage my colleagues to vote against the Cochran amendment, as well as the underlying Chafee substitute.

Mr. WOFFORD. Mr. President, soon we will vote on final passage of S. 323, the Title X Pregnancy Counseling Act of 1991.

I believe strongly that abortion should not be treated as a method of family planning akin to abstinence or to the use of contraceptives. I also believe that the Federal Government has no business interfering with the trust and candor our society has long considered fundamental to doctor-patient and other professional-client relationships.

Tomorrow we will decide what types of information title X family planning programs can give to women who confront unwanted pregnancies. After listening carefully to the debate, I have concluded that the Chafee substitute to S. 323 is the proposal that best addresses my concerns on this difficult and important issue.

The Chafee substitute protects health professionals who oppose abortion from ever having to counsel a woman on abortion or ever having to refer a woman to an abortion provider. It protects the women who come to title X clinics trusting that if they ask for information on all legal options, they will get it. And it protects the doctors whose professional standards call for them to be free to discuss all legal options with their patients.

But the so-called gag rule is not the only issue we address today. In voting for this bill, we also send a signal that while we oppose the notion that the Federal Government should dictate State laws on parental involvement, we know how crucial family involvement can be to a young woman who faces a decision on abortion.

In Pennsylvania, we have a law that requires a pregnant teen who thinks she should have an abortion to talk it over with a parent and get his or her consent. If the teen will not or cannot talk with either of her parents, the only way she can get an abortion is to go to court and convince a judge that she is mature enough to make the decision for herself or that the abortion is in her best interests.

I believe that under almost any circumstances pregnant teens should consult with at least one of their parents. Providing guidance and understanding support in difficult times is a big part of what families are about. Unfortunately, not all families succeed at that task, and we must show special concern to the young women who come from such troubled families.

That is why I support laws such as the one we have in Pennsylvania: laws which insist upon parental involvement in most cases, but give young women from families that are abusive, neglectful—or worse—somewhere else to turn for help. And that is why I voted this evening to oppose the amendment offered by my colleague from Indiana, Senator COATS. However much I agree with the aims of Senator COATS' amendment, I could not support a proposal that has neither an exception for rape nor a means of judicial bypass.

The Mitchell amendment does not suffer from this flaw. Carefully crafted so as not to interfere with existing State laws on parental consent and notification, the Mitchell proposal strongly encourages family involvement in abortion decisions in all States, yet provides adequate judicial bypass. The Mitchell amendment, moreover, does not supersede the Pennsylvania law which calls for the consent of a parent or a judicial order.

Mr. KENNEDY. Mr. President, it is my undertanding that the only remaining amendments are the Helms amendments.

Mr. HATCH. Mr. President, also there is a possible Dole-Hatch amendment, but I doubt that that will occur. But we at least put our colleagues on notice that there could possibly be one other in addition to the Helms three amendments.

Mr. KENNEDY. That is the state of where we are, Mr. President. As I understand it, the Senator from North Carolina is not prepared to offer those amendments this evening.

So as far as this Senator is concerned, as much as we would like to continue the dialog and discussion with my friend and colleague from Utah, I think we will permit the Senate to go on to further business if that is agreeable with the Senator from Utah.

Mr. HATCH. That is agreeable, Mr. President.

Mr. KENNEDY. Mr. President, it is my understanding we will have no further action on this legislation this evening and we will await the leadership call to continue to, hopefully, a very early conclusion of the legislation.

I thank my colleagues from Utah and all Members for their cooperation and attention to the matters debated today.

Mr. HATCH. Mr. President, I thank my colleague and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NATIONAL MOTOR VOTER BILL

Mr. FORD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may move to the consideration of Calendar No. 89, S. 250, the national motor voter bill at any time, nothwithstanding provisions of rule XXII.

The PRESIDING OFFICER. Is there objection?

Mr. GORTON. I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. FORD. Mr. President, I move that the Senate proceed to the consideration of Calendar 89, S. 250, and I now send a cloture petition to the desk.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

Wendell Ford, Jeff Bingaman, Daniel K. Akaka, Max Baucus, Timothy E. Wirth, J.R. Biden, Jr., George Mitchell, Richard Bryan, Bob Kerrey, Joseph Lieberman, Pat Leahy, Brock Adams, Daniel K. Inouye, Bill Bradley, John F. Kerry, Frank Lautenberg.

Mr. FORD. Mr. President, I now withdraw the motion.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. CAROL IANNONE

Mr. D'AMATO. Mr. President, I am proud to stand here to day in support of a constituent who personifies the very best of America. She is Dr. Carol Iannone, the President's nominee for service on the National Council on the Humanities. She is from a working-class Italian-American family, born and raised in the Italian section of East Harlem, and the first in her family to receive a college education.

But Dr. Iannone did not stop there.

She went on to receive two advanced degrees in order to dedicate her life to the humanities. Over nearly the last 20 years, she has devoted herself to teaching students about the expanded perspective good literature can bring. She has in turn made the humanities accessible to the general public through her very lucid and thoughtful assessment of contemporary culture in public journals.

In that context, I must express my surprise to hear concern that Dr. Iannone is not qualified and that she could not be approved for service on the Council. This is a woman with three degrees, nearly 20 years of teaching experience, a lengthy list of articles published in well-known journals, not to mention honors in teaching and widespread endorsements from some of the most prominent intellectuals today.

Let the record be clear. There can be no question about Dr. Iannone's qualifications. She is superbly qualified to provide advice on the various academic and public concerns which come before the National Endowment for the Humanities.

What is really at issue here is that Dr. Iannone has dared to go on record as opposed to some of the trends in the academic community today. She has been willing to state publicly that intolerance has found a home on the American campus, and that scholarship has too often reduced itself to a political agenda that ignores quality and merit.

I rue the day when we make it impossible for persons in the academy, in newspapers, or even before the Senate to speak out, to criticize, and to disagree. You and I may not always agree with what Dr. Iannone says. But that is not what is as issue here today.

What is at issue is the very freedom to speak out and to engage in that wide-ranging intellectual discourse that has made our universities and our country the envy of the world.

I urge my colleagues on the Labor and Human Resources Committee to vote for a fine human being and outstanding critic and to give Dr. Iannone their support.

Mr. President, I ask unanimous consent that several newspaper editorials concerning Carol Iannone's nomination be printed in their entirety at the conclusion of my remarks.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the New York Post]

CAROL IANNONE'S ORDEAL

In early July, the Senate Labor and Human Resources Committee will take a vote of historic significance. Oddly, given the committee's general purview, the issue at hand isn't a sweeping piece of collective-bargaining legislation or anything of that sort.

Still, the vote will turn on a central American value—freedom of expression.

As often happens in the American national experience, this issue presents itself in a relatively benign form. National Endowment for the Humanities (NEH) Chairwoman Lynne Cheney has nominated NYU Professor Carol Iannone to one of the 26 slots on the NEH's advisory council.

As a literary critic and a leader of the National Association of Scholars, Iannone has played a key role in fighting the "political correctness" movement now entrenched on many of the nation's campuses. She has written on a range of literary topics—with a breadth that puts most narrowly focused literary professors to shame. And Iannone has often bucked the tide, manifesting a veritable allergy to conventional wisdom.

Demonstrating striking intellectual courage—witness the opposition to her appointment—Professor Iannone has mocked feminist scholarship and has even noted a growing tendency to award literary prizes on the basis of race and ethnicity rather than achievement.

To venture the suggestion that, say, Pulitzer Prizes have become a mode of reparations isn't a path to peer-group popularity. And, in fact, Iannone has enraged the highly politicized Modern Language Association and other left-liberal groups.

Iannone has been slandered (always anonymously) as a "racist." And it's been suggested that she lacks sufficiently "distinguished" academic credentials.

The former charge is hurled with such frequency these days—against everyone and anyone—that it's almost devoid of meaning. As for her level of distinction, the quality of a scholar's work will always remain a somewhat subjective proposition. But literary criticism need not be an entirely impenetrable realm.

What if the senators on the Labor and Human Resources Committee actually took out half an hour to read Iannone's essay on the Brett Easton Ellis affair in the current issue of Commentary magazine before they voted? What if they then compared this piece to anything written by any officer of the Modern Language Association in the past five years? We'd guess they'd likely conclude that Carol Iannone is plenty "distinguished"—both in general, and especially for the post to which she's been nominated.

The bottom-line point here is that none of the senators need share Carol Iannone's sometimes provocative views. (Much of her work, it should be noted, betrays a decidedly mainstream sensibility.) They need only endorse her right to hold them—in the face of the the insidious campaign, informed by smear and innuendo, that's been waged against her.

[From the Rochester (NY) Daily Record, June 10, 1991]

ATTACKS ON MS. IANNONE BADLY NEED AIRING

(By Ray Herman)

Although the issue isn't likely to fill the streets with protesters, the case of Carol Iannone is significant all the same. It badly needs the disinfectant of sunshine and exposure.

For those of you who are into serious modern literature, you know that Iannone, a literature professor at New York University's Gallatin Division, has produced an abundant and respected body of literary criticism over the last decade.

But even if you couldn't pick Iannone out of a police line-up, it doesn't matter. The threshold point is that she is a true scholar with a doctorate who teaches at a major American university.

Under ordinary circumstances, Iannone's recent nomination to serve on the National Council on the Humanities would be a little-noticed, pro-forma exercise.

However, the nomination to the council, which advises the National Endowment for the Humanities on grant-giving, has triggered a full-blown piranha-feed reminiscent of the successful mugging of conservative scholar Robert Bork who was nominated a few years back to serve on the U.S. Supreme court.

The attacks on Iannone have the same odor. Her nomination may suffer the death of 1,000 cuts.

But what, pray tell, are Iannone's sins and transgressions? Why are elitist noses out of joint on this one? Why are all the accusations, objections and "concerned" letters being directed to the Senate Labor and Human Resources Committee which must pass on the nomination? Why is an ideological lynch mob forming?

Well, for one thing, Iannone has had the impudence to serve as an active member of the National Association of Scholars, an organization which repeatedly has pointed to the rise of intellectual intolerance by liberals which is now sweeping American campuses.

According to liberal "Politically Correct" dogma, students, faculty and administrators must project the "right" views of race, sexism and other categories of victimology even while white males must be projected as history's primary force of oppression.

The chief victim of the "Politically Correct" is, of course, academic freedom.

Iannone also has criticized "literature by quota," noting in a recent "Commentary" magazine piece that there has been a growing tendency to award literary prizes on the basis of race and gender rather than literary merit, further observing that the five finalists for this year's National Book Award happened to be a perfect "Rainbow Coalition."

Although she has praised the works of such fine black writers as Ralph Ellison and Nigerian novelist Chinua Achebe, Iannone was branded with the all-purpose "racist" charge recently when she drew attention to the fact that Toni Morrison won a Pulitzer Prize after a group of black writers demanded one for her.

She also observed that the three awards given to Alice Walker's "The Color Purple" "seemed less a recognition of literary achievement than some official act of reparation."

It's already stunningly obvious that the elitists who man the ramparts in the nation's universities, foundations and lobbying groups feel that Iannone may be placed in a position to strike too close to their thrones of power.

On Iannone's comment about the black writers demanding a Pulitzer for Toni Morrison, Joe Conarroe, president of the Guggenheim Foundation, tagged the comment as "arrogant, inflammatory nonsense."

Phyllis Franklin, executive director of the Modern Language Assn., says the racist accusations directed at Iannone "raise good questions."

And the People for the American Way, which helped sink Bork, also has weighed in with anti-Iannone commentary.

Even if Iannone survives the smears and slander and wins the appointment, it's useful to wonder what her ordeal (and many others like it) does to intellectual freedom and debate in terms of quieting others.

Her biggest sin seems to be treating minorities and others as equals by talking to and about them as one would talk to and about everyone else.

[From the New York Post, May 22, 1991]

LITERATURE'S PC COPS AT WORK

Carol Iannone is a literature professor at New York University's Gallatin Division. During the 1980s, she emerged as one of the nation's more prolific and penetrating literary critics.

She has also played a leadership role in the National Association of Scholars, an organization which was one of the first to warn of the rise of intellectual intolerance now sweeping over the nation's universities.

One target of Iannone's criticism has been feminist scholarship—a field to which she devoted her doctoral dissertation. But she has also created a stir by criticizing "Literature by Quota"—as she described it in a recent essay published in Commentary magazine.

There Iannone argued against what she terms a growing tendency to award literary prizes on the basis of race and gender rather than literary merit—noting that the five finalists for this year's National Book Award just happened to make up a perfect "Rainbow Coalition."

Iannone also recalled that Toni Morrison won a Pulitzer Prize after a group of black writers took the unprecedented step of demanding one for her, and that the three awards given to Alice Walker's "The Color Purple" "seemed less a recognition of literary achievement than some official act of reparation."

We happen to think that Carol Iannone's judgment on these matters is pretty sound. But even if we didn't, it wouldn't be all that relevant to the matter at hand.

Iannone has been nominated for a seat on the National Council of Humanities—a board which advises the National Endowment for the Humanities on grant-giving.

Under normal circumstances the appointment of a woman with a doctorate who teaches at a major university and has produced an extensive and respected body of literary criticism would be virtually pro forma.

But because Iannone has published articles which some of the reigning dogmatists of liberal academia have found politically incorrect, she is facing a large, well-orchestrated effort to undermine her appointment.

The highly politicized Modern Language Association has raised questions about Iannone's qualifications, and People for the American Way—a liberal group whose interest in the field of literary criticism has not previously been evident—has asked the Senate to "carefully review" the nomination.

"It's clear enough what is going on here: Various liberal groups are trying to chill discussion about a number of issues in the country by imposing a standard of "political correctness."

If, like Iannone, you ridicule feminist scholarship, or think that Morrison isn't all that she's cracked up to be, they'll punish you by trying to prevent you from getting a job, or making sure you can't sit on a government board, or insinuate that you are—here's a potent slur—a "racist."

Even if the PC crowd doesn't win all its battles, it is managing to disseminate an element of doubt and fear in the minds of serious writers, forcing them to wonder which phrase, or which idea, might be taken up by the PCers, twisted around, and used as a weapon.

We have no doubt that Carol Iannone would survive very well without serving on the National Council of the Humanities.

But we fear for the intellectual life of this country should the odious orthodoxy Iannone's critics are seeking to promote by denying her this seat succeed.

[From the Washington Post, May 20, 1991]

DISPUTE IN THE HUMANITIES

Carol Iannone is a faculty member at New York University who has made a reputation as a slash-and-burn critic less of literature than of certain aspects of modern literary scholarship and criticism. A particular target has been feminist criticism. She has written that what used to be a feminist insurgency in college English faculties has become an "ascendancy" with an essentially political or social agenda such that a fundamental gulf exists between "feminist critics and those who care about protecting the conditions necessary for creating and appreciating great literature."

In similar fashion she has recently complained that what she regards as inferior books have been given undeserved national awards for political reasons, including simply that their authors were black. She gave as one example Alice Walker's 1983 novel "The Color Purple," writing that "inasmuch as even positive critics took ample note of [its] many stylistic and aesthetic flaws," the honors bestowed upon it "seemed less a recognition of literary achievement than some official act of reparation."

Now Carol Iannone has been nominated by the Bush administration to a seat on the National Council on the Humanities. The nomination has turned out to be as much an act of provocation as her work. The Modern Language Association, the professional association of college teachers of English and other modern languages, and several other academic and literary groups have asked the Senate to vote it down. They say that their objections have to do not with the nominee's politics or views of their profession but with her record of scholarly achievement, which they call too thin. Much of her work has been journalistic (particularly in the magazine Commentary) rather than scholarly. "Dr. Iannone's record is not without merit; it is simply without distinction," the MLA's executive director has said.

Other critics, however, have said her views are indeed an issue; at least one has branded her racist. Defenders say meanwhile that the MLA's position is elitist and a smoke screen for an effort to enforce the academy's current sense of political correctness while exacting political revenge. The fight over political correctness is serious. There is indeed (as all too often) an element of lock step and intolerance in the academic world. But this is a nomination that has been raised to a level of symbolic importance it does not deserve.

It's foolish to pretend that Miss Iannone's (political) views on the politicization of her profession aren't central to this dispute. It is mainly those views for which she is known and on the basis of which she was nominated. They may not be to everybody's liking and may on many points be wrong, but they are well within the zone of what is or ought to be permissible discourse; it greatly distorts the debate to call them or her racist (and her supporters—this is how far it has come—point in her defense to other occasions on which she has praised the works of black authors).

The humanities council is advisory only. Its 26 members (not all scholars) meet four times a year, mainly to pass on the more than 2,000 grants made annually by the National Endowment for the Humanities. The council rarely challenges the prior recommendations of outside review panels or the NEH staff, and in any case it is the NEH chairman who has the final say. Miss Iannone is altogether qualified to serve, and nothing she has written disqualifies her. The Senate is being asked to decide something more than her qualifications, and it should decline.

[From the Washington Post, July 8, 1991]

HERESY HUNT: THE CHARACTER ASSASSINATION OF CAROL IANNONE

(By Nat Hentoff)

Having learned a lot about politically correct posses during the McCarthy years, I remain particularly interested in attempts—from the right or the left—to punish heresy by character assassination. One of the most repellent such attacks I've seen for a long time is being directed against Carol Iannone, who has been nominated for a six-year term on the advisory council for the National Endowment for the Humanities.

The Senate Labor and Human Resources Committee decides these matters, and the vote, scheduled for July 17, is too close to call. Some of the senators are troubled by the charges against her of racism and anti-feminism.

Among those opposed to her are such gatekeepers of the new literary orthodoxy in the academy as the executive council of the Modern Language Association and the American Council of Learned Societies.

As if this weren't enough, Garry Wills, in his syndicated column, has called Iannone "a bigot" on the basis of a single article by her. Also, Joel Conarroe, president of the John Simon Guggenheim Memorial Foundation, says in the Philadelphia Inquirer, that she "could be described as a racist." (He cites the same one article).

Conarroe later told me that what he had actually said was: "She has put herself in a position of being called a racist." The first quote was a little less slippery.

There is also the accusation that Carol Iannone's academic qualifications are much too slight for so august a council. It's as if her three college degrees—including a PhD in English Literature from the State University at New York in Stony Brook—had come to her from some mail order outfit.

Not mentioned by the opposition is that at the Gallatin Division of New York University, where she is head of freshman studies, Iannone teaches non-traditional students: older people going back to school after a long time and students with families who also work while going to college. This dread "conservative"—labeled as such with the same mean spirit that liberals used to be labeled fellow travelers—is a working populist.

But her qualifications do not really matter to her accusers. Iannone is under siege because her opponents do not like her views. Her "racist" article, for instance, was "Literature by Quota" in Commentary (yes, Commentary). What she actually wrote was that some of the black writers who have been winning some of the biggest literary prizes are being honored "less than [as] a recognition of literary achievement than [as] some official act of reparation."

The formidable black literary and music critic, Stanley Crouch, an Oxford University Press author, has said much the same thing. Does that make him a self-hating "Negro"? In the same Commentary article, Iannone is even less enthusiastic about a novel by Joyce Carol Oates. Does that make Iannone anti-white?

William Raspberry has made the point that when the word "racist" is used loosely and irresponsibly, it loses its moral force. Joel Conarroe and Garry Wills, in attacking Iannone as a "racist," have indeed helped strip the word of its value.

As for Iannone being anti-feminist, a good many feminists agree with her that when feminist scholarship is manipulated for political ends, the scholarship becomes corrupted. Iannone quotes a 1986 resolution passed by the Coordinating Committee of Women in the Historical Profession and the Conference Group in Women's History:

"We believe as feminist scholars we have a responsibility not to allow our scholarship to be used against the interests of women struggling for equity in our society."

No wonder the politically correct mandarins in the academy are working so hard to discredit this women who does not belong to any of the usual herds of independent minds.

The most surprising member of the opposition is the writers' organization, PEN, which helps politically incorrect writers in trouble all over the world. Now PEN is among those hunting down Iannone because of her disrespect for orthodoxy.

If Carol Iannone had been a regular contributor to the Nation or the Village Voice, with a couple of degrees from an obscure and undistinguished school, her present critics would have been silent. But if the real Iannone is sent down because of her views, this Senate action will have told other independent professors down the line to censor themselves henceforth if they aspire to official recognition.

I hope the senators in charge of Iannone's fate, particularly the liberals among them, will read some of her essays before becoming mechanical parts of this posse.

[From the Wall Street Journal, May 23, 1991]

RALLY ROUND THE GIBBET

The battle over the effort to block the appointment of conservative scholar and traditionalist Carol Iannone to the National Council on the Humanities grows uglier—and more predictable. Her main antagonist so far has been the Modern Language Association. Carol Iannone's writings criticize the current emphasis in literary analysis on race, gender and in particular "feminist" ideology—all of which are now the lifeblood of the MLA and its various humanities satellites. For what now constitutes their world the stakes are high.

The objections, accusations, "concerned" letters and other testimonials against the candidate now pouring in to the relevant Senate committee offices have a familiar tone—the building roar of an ideological mob. Senator Pell, in his assigned role, has effectively stalled the nomination.

Among other groups in no position to know anything about the candidate's qualifications, the People for the American Way—whose brigades also saw action in the campaign against Robert Bork—has now weighed in against Ms. Iannone, with doubts about "her ability to be fair-minded."

The latest, most vocal recruit to the anti-Iannone campaign is Joel Conarroe, president of the Guggenheim Foundation. In charges recently splashed all over the Style section of the Washington Post, Mr. Conarroe accused Ms. Iannone of following in the footsteps of the anti-Semitic scholar Paul de Man.

The Guggenheim president argues rather excitedly that Ms. Iannone's appointment would be an embarrassment "to all of us who care passionately about the humanities." He attacks Ms. Iannone for having written that black writers demanded and obtained the Pulitzer Prize for Tom Morrison's novel "Beloved"—a comment Mr. Conarroe calls "arrogant, inflammatory nonsense." Carol Iannone's adversaries have conveniently neglected to mention the event to which her Pulitzer comment referred—the fact that just such a demand, signed by a group of black writers, actually appeared in the New York Times.

In the effort to paint the candidate as being inveterately hostile to all black writers, opponents of the Iannone nomination also neglect to mention that she has praised Toni Morrison's other works, and that she has been unstinting in her praise of Ralph Ellison and Nigerian novelist Chinua Achebe. We confess that none of this much surprises us since it is by now clear that in the world of the politically correct a fact is the most irrelevant of commodities.

The executive director of the Modern Language Association, Phyllis Franklin, who has been leading the fight against the nominee on behalf of the MLA's executive council, has all along denied any concern over Ms. Iannone's political views, while assuring all and sundry that the only pertinent issue is the candidate's alleged lack of publishing credentials. Now that the smear campaign has spun into high gear, Ms. Franklin appears to have decided that the accusations of racism now being made against Ms. Iannone "raise good questions."

Carol Iannone has become a target of this sort of slander because she has refused to condescend to black artists with any of the forms of genteel racism practiced today among the literary set. It is an attitude of intellectual honesty that scholars of the humanities would do well to emulate. Senator Kennedy and fellow members of the Labor and Human Resources Committee who will pass on her nomination have an opportunity here. By accepting that nomination they also will be casting a vote against the unhibited destruction of name and reputation that now passes for political activism in so many quarters.

[From the Wall Street Journal, June 14, 1991]

PUBLISH AND PERISH

We note the latest turn in the ideological and partisan struggle over the Carol Iannone nomination to the Humanities Endowment's advisory council. Endowment Chairman Lynne Cheney took the nominee up to the Senate temple yesterday so the men could hear for themselves the woman described as insufficiently academic, as academia is defined by current standards in the organized humanities. The new turn is the report that Ms. Iannone has provided her critics with "more ammunition" by the publication of an article in the March issue of Commentary titled "Literature by Quota." We thought it was mainly in the pre-Gorbachev Soviet Union where a writer's willingness to publish her opinions under her own name provided "more ammunition" for state authorities. But this is the post-Bork era, and in various redoubts of Congress and a few other circles, published opinions are cause for professional exile.

[From the Washington Post, July 15, 1991]

BRIDGING ACADEME AND AMERICAN LIFE

(By Lynne Cheney)

As Richard Cohen points out ["Iannone: a Political Choice," op-ed, July 9], the nomination of Carol Iannone to the National Council of the Humanities has called forth an astonishing amount of ink and vituperation. The passions being expended are out of scale for a position on a part-time advisory council. The partisan divisiveness of the debate is also out-of-date, given that one of the most notable aspects of cultural life today is growing agreement among thoughtful people across the political spectrum on matters central to American intellectual life.

Take the question of what constitutes a proper academic career. Carol Iannone's opponents argue that her résumé is insufficiently distinguished to merit her confirmation to the NEH Council, and they specifically point to her having written for publications like Commentary that appeal to a general readership rather than for academic journals that are aimed at small, highly specialized audiences. Ten years ago, or even five, such a charge might have drawn sage nods throughout the academic world, but no longer. Today some of the country's most eminent scholars are endorsing Iannone's nomination: Columbia University's Jacques Barzun, the University of Chicago's Edward Shils, classics scholar and Yale dean Donald Kagan, and Northwestern University's Joseph Epstein. These academics and the many others who support Iannone praise the lucid, well-argued essays she writes for journals that are widely read.

In recent years there has been a growing realization of how isolated the academic world has become from the rest of society and how both are poorer as a result: The academy loses its grounding in the larger culture, and society as a whole loses the rich understandings that can come from the knowledge of scholars. To overcome the split between the two cultures, scholars are needed who do what Carol Iannone does: write clearly and thoughtfully about intellectual issues for nonacademic audiences.

In his newest work, "Scholarship Reconsidered," Ernest Boyer argues at length for an expanded notion of scholarly life—one that includes writing for the public—and this idea has been embraced across the political spectrum. Russel Jacoby, a critic from the left, makes the point eloquently in his 1987 work, "The Last Intellectuals." Distinguished historian Gertrude Himmelfarb, a conservative, applies it specifically to Carol Iannone, writing to the Senate that "She would bring to the [NEH] council precisely what is now most urgently needed: the ability to bridge the gap between the academy and the literate public."

Another aspect of the Iannone nomination that should allow people to ovecome partisanship has to do with her freedom to express her opinions. Her ideas are very traditional. She thinks that scholarship ought to try to rise above politics, for example. Often her views run against the grain of fashionable thinking on our campuses, but as The Post has noted [editorial, May 20], "They are well within the zone of what is or ought to be permissible discourse." Nevertheless, just as there have been efforts on our campuses to limit free expression in the name of harmony, so too there have been suggestions that the opinions of NEH, council members ought to fall within a certain range—one that would exclude Carol Iannone.

Fortunately, the idea that the academic world should become party to narrowing the range of permitted expression in our society is being challenged both by conservative critics like Dinesh D'Souza and by scholars such as James David Barber, a former president of Amnesty International and Eugene Genovese, an historian who writes from a Marxist perspective. Free speech is a cause that is uniting people from across the political spectrum, and almost daily there is a new and vigorous defense of it. Yale President Benno Schmidt warns that "on many campuses; freedom of thought is in danger." Harvard's David Riesman denounced a "closed-mindedness" in which "everybody is supposed to go along with the so-called virtuous position." Historian C. Vann Woodward calls upon scholars to "rally to the defense of free speech." Columnist and ACLU veteran Nat Hentoff writes specifically of Carol Iannone and warns of the chilling effect of free speech if she should be rejected by the Senate for her independent views.

Indeed, the single most important movement in the cultural world today may well be the growing alliance of thoughful people from the left and right. They are coming together to urge an expansive vision of the scholarly life and to defend the right of scholars like Carol Iannone to express themselves freely. It is earnestly to be hoped that members of the Senate's Labor and Human Resources Committee can similarly unite—and confirm Dr. Iannone to the National Council on the Humanities.

EXECUTIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 190, Nancy Patricia Dorn, to be Assistant Secretary of the Army.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Nancy Patricia Dorn, of Texas, to be an Assistant Secretary of the Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 157. An act to name the Post Office building located at 200 3rd Street, S.W., in Taylorsville, North Carolina, as the "Clifford G. Watts Post Office Building";

H.R. 158. An act to designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building";

H.R. 998. An act to designate the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service as the "John Richard Haydel Post Office Building";

H.R. 1216. An act to modify the boundaries of the Indiana Dunes National Lakeshore and for other purposes;

H.R. 2014. An act to designate the United States Post Office Building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building"; and

H.R. 2347. An act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility", and for other purposes.

The message also announced that pursuant to the provisions of section 406(a) of Public Law 102-62, the Speaker appointed from private life Ms. Eva L. Baker of Sherman Oaks, CA, to the National Council on Education Standards and Testing on the part of the House.

The message further announced that pursuant to the provisions of section 406(a)(5) of Public Law 102-62, the minority leader appoints Dr. Sally B. Pancrazio from private life as a member of the National Council on Education Standards and Testing on the part of the House.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 157. An act to name the Post Office building located at 200 3rd Street, S.W., in Taylorsville, North Carolina, as the "Clifford G. Watts Post Office Building"; to the Committee on Governmental Affairs.

H.R. 158. An act to designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building"; to the Committee on Governmental Affairs.

H.R. 1216. An act to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2014. An act to designate the United States Post Office Building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building"; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1283. A bill to authorize extensions of time limitations in certain FERC-issued Licenses (Rept. No. 102-109).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 992. A bill to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 15, June 3, June 24, and July 8, 1991, at the end of the Senate proceedings.)

*In the Air Force Reserve there are 20 appointments to the grade of major general (list begins with Earl A. Aler, Jr.) (Reference No. 327).

**In the Air Force Reserve there is 1 appointment to the grade of lieutenant colonel (Aurora T. Maldonaldo) (Reference No. 344).

**In the Air Force Reserve there are 5 appointments to the grade of lieutenant colonel (list begins with Norman Arends) (Reference No. 345).

**In the Air Force Reserve there are 27 promotions to the grade of lieutenant colonel (list begins with John W. Anderson) (Reference No. 346).

*In the Air Force there is 1 promotion to the grade of major (Rosa L. Sandwellweiss) (Reference No. 347).

*In the Air Force Reserve there are 58 promotions to the grade of colonel (list begins with Richard M. Anders) (Reference No. 380).

*General John W. Foss, USA to be placed on the retired list in the grade of general (Reference No. 412).

*Lieutenant General Joseph P. Hoar, USMC to be general (Reference No. 416).

*Lieutenant General Ernest T. Cook, Jr., USMC to be placed on the retired list in the grade of lieutenant general (Reference No. 417).

*Major General Royal N. Moore, Jr., USMC to be lieutenant general (Reference No. 420).

*Lieutenant General Thurman D. Rodgers, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 435).

**In the Army there are 11 promotions to the grade of colonel and below (list begins with Dennis J. Fringeli) (Reference No. 426).

*General H. Norman Schwarzkopf, USA to be placed on the retired list in the grade of general (Reference No. 445).

*Major General Henry C. Stackpole III, USMC to be lieutenant general (Reference No. 447).

*Lieutenant General James R. Hall, Jr., USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 458).

**In the Air Force there are 21 appointments to the grade of colonel and below (list begins with Frank E. Carpenter) (Reference No. 460).

**In the Air Force Reserve there are 37 promotions to the grade of lieutenant colonel (list begins with Reese R. Armstrong) (Reference No. 461).

**In the Army Reserve there are 27 promotions to the grade of colonel and below (list begins with Maynard K. Bean) (Reference No. 462).

**In the Navy and Naval Reserve there are 39 appointments to the grade of commander and below (list begins with James M. Castleberry) (Reference No. 463).

Total: 255.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DANFORTH (for himself, Mr. Bond, Mrs. Kassebaum, Mr. Grassley, Mr. Mack, Mr. Cochran, Mr. Nunn, Mr. Akaka, Mr. Gore, Mr. Coats, Mr. Fowler, Mr. Harkin, Mr. Hollings, Mr. Sanford, Mr. Adams, Mr. Shelby, Mr. Breaux, Mr. Johnston, Mr. Bentsen, and Mr. D'Amato):

S. 1476. A bill to recognize the organization known as the Shepherd's Centers of America, Incorporated; to the Committee on the Judiciary.

By Mr. LEAHY (for Mr. Pryor (for himself, Mr. Adams and Mr. Leahy)):

S. 1477. A bill to amend the Older Americans Act of 1965 to improve nutrition services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KASTEN:

S. 1478. A bill to provide reasonable price enhancement to milk producers, greater milk price stability, and minimum income protection to milk producers, to establish certain minimum standards regarding milk solids, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INOUYE (for himself, Mr. Grassley, Mr. Dole, Mr. Burdick, Mr. Akaka, Mr. Harkin, Mr. DeConcini, Mr. Conrad, Mr. Kerrey, Mr. Hatfield, Mr. Simpson, Mr. Craig, and Mr. Cochran):

S. 1479. A bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 1480. A bill to establish the United States Census Commission; to the Committee on Governmental Affairs.

By Mr. CONRAD:

S. 1481. A bill to amend the Older Americans Act of 1965 to establish separate long-term care ombudsman and transportation programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WALLOP (for himself and Mr. Simpson):

S.J. Res. 179. A bill to designate the week beginning August 25, 1991, as "National Parks Week"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mrs. Kassebaum):

S.J. Res. 180. A joint resolution designating December 1 through 7, 1991, as "Geography Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself and Mr. Stevens):

S. Res. 154. A resolution relating to the purchase of calendars; considered and agreed to.

By Mr. SPECTER (for himself, Mr. Murkowski, Mr. Hollings, Mr. Breaux, Mr. Craig, Mr. Akaka, Mr. Ford, Mr. McCain, Mr. Cohen, Mr. Dixon, Mr. Inouye, Ms. Mikulski, Mr. Coats, Mr. Cochran, Mr. Brown, Mr. Shelby, Mr. Bradley, Mr. Gorton, Mr. Conrad, Mr. Sarbanes, Mr. Metzenbaum, Mr. Packwood, Mr. Lieberman, Mr. Simon, Mr. Symms, Mr. Pressler, Mr. Rockefeller, Mr. Smith, Mr. Reid, Mr. Johnston, Mr. Seymour, Mr. Robb, Mr. Mack, Mr. Nickles, Mr. Lott, Mr. Wallop, Mr. D'Amato, Mr. DeConcini, Mr. Grassley, Mr. Dodd, Mr. Gramm, Mr. Riegle, Mr. Hatch, Mr. Wofford, Mr. Lautenberg, Mr. Burdick, Mr. Graham, Mr. Heflin, Mr. Gore, Mr. Levin, Mr. Daschle, Mr. Helms, Mr. Sasser, and Mr. Adams):

S. Con. Res. 53. A concurrent resolution expressing the sense of the Congress that the 1981 Israeli preemptive strike against Iraqi nuclear reactor at Osirak was legitimate and justifiable exercise of self-defense, and that the United States should seek the repeal of United Nations Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike; to the Committee on Foreign Relations.

By Mr. DODD (for himself, Mr. Wellstone, Mr. Simon, Mr. Cranston, Mr. Pell, Mr. Jeffords, and Mr. Kennedy):

S. Con. Res. 54. A concurrent resolution expressing the sense of the Congress regarding the provision of medical and humanitarian assistance to Iraqi families and children in greatest need; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DANFORTH (for himself, Mr. Bond, Mrs. Kassebaum, Mr. Grassley, Mr. Mack, Mr. Cochran, Mr. Nunn, Mr. Akaka, Mr. Gore, Mr. Coats, Mr. Fowler, Mr. Harkin, Mr. Hollings, Mr. Sanford, Mr. Adams, Mr. Shelby, Mr. Breaux, Mr. Johnston, Mr. Bentsen, and Mr. D'Amato):

S. 1476. A bill to recognize the organization known as the Shepherd's Centers of America, Incorporated; to the Committee on the Judiciary.

SHEPHERD'S CENTERS OF AMERICA, INCORPORATED

Mr. DANFORTH. Mr. President, I am introducing legislation to grant a Federal charter to the Shepherd's Centers of America [SCA]. The Shepherd's Center of America is a national association of not-for-profit centers which provide a wide range of activities to encourage older Americans to enhance their knowledge, share their talents with others, and remain active in their communities.

More Americans than ever before are reaching old age. Over 28 million are now 65 years or older and by the year 2000 this number will increase significantly. This growing elderly population will demand that we look for new and innovative approaches to encourage active participation of older Americans in our society. Shepherd's Centers are responding to these challenges.

The mission of Shepherd's Centers is to improve the quality of life for older people. Shepherd's Centers enable frail people to continue living in their own homes and apartments. They help people adopt healthy lifestyles, use the health care system appropriately, and find peer support for chronic illness. They offer opportunities for lifelong learning, personal growth, and responsible citizenry. And they promote the building of strong and lasting friendships that buffer the challenges and losses of the later years.

To carry out this mission, Shepherd's Centers enable older people to use their wealth of life experience in leadership and volunteer roles. Volunteers are delivering hot meals, providing respite care to families caring for older parents, taking homebound elders to the grocery store and doctor, as well as directing a variety of programs that enrich the later years.

The Shepherd's Center model of older adults helping older adults represents a vital response to the unprecedented growth of the older population. It has proven cost effective and highly sensitive to the needs of older adults. Shepherd's Centers are not-for-profit organizations funded totally by their communities. They are essential to bridge the gap between community needs and the professional care system.

Today, this innovative volunteer movement is at an exciting threshold. This model, which began in Kansas City, MO, in 1972 has been replicated in 96 communities in 26 States. A Federal charter would provide the Shepherd's Center of America greater visibility and increase its thrust nationwide.

By Mr. LEAHY (for Mr. Pryor, for himself, Mr. Adams, and Mr. Leahy):

S. 1477. A bill to amend the Older Americans Act of 1965 to improve nutrition services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SENIOR NUTRITION ACT OF 1991

Mr. LEAHY. Mr. President, on behalf of Senator Pryor, I am pleased to introduce the Senior Nutrition Act of 1991. As chairman of the Senate Special

Committee on Aging, Senator PRYOR has demonstrated his deep commitment to ensuring the well-being of the senior citizens of this country. Nowhere has this commitment been more evident than in the area of health and nutrition. Senator PRYOR has worked closely with the Senate Agriculture, Nutrition, and Forestry Committee in developing this legislation, and I am honored to cosponsor the Senior Nutrition Act.

On February 15, 1991, the Senate Special Committee on Aging and the Senate Agriculture, Nutrition, and Forestry Committee held a joint legislative workshop with a wide variety of experts on elderly nutrition. This workshop provided valuable recommendations, many of which are embodied in the Senior Nutrition Act.

Older Americans with limited resources are often hit very hard by financial crises, and often, their nutrition health suffers. The effect of malnutrition on the elderly is a significant factor in the rising health care costs in this country.

Although low-income elderly do participate in a variety of Federal nutrition programs, many do not take advantage of these resources. The 1990 "Elderly Programs Study," issued by the U.S. Department of Agriculture, concludes that major USDA food assistance programs are reaching only about half of the eligible low-income elderly.

Funding shortages threaten food programs that serve hundreds of thousands of older Americans suffering from nutrition-related health problems. Right now, we have to choose between cutting corners on nutrition and cutting needy people from the program. Our bill stops this intolerable choice.

The Senior Nutrition Act takes critical steps to improve the quality of eldrly nutrition. It makes an annual inflation adjustment of the USDA elderly meals reimbursement rate for the first time in 4 years, thus enabling programs to provide higher quality foods. The bill also establishes an elderly nutrition task force to set minimum standards for meals funded by the Older Americans Act, requires senior nutrition projects to comply with "Dietary Guidelines for Americans," and contains important provisions on nutrition education and technical assistance.

I wish to thank Senator PRYOR for his leadership on this issue, and I look forward to continuing to work with him and the Special Committee on Aging as we address the special nutritional problems of the low-income elderly.

Mr. President, I ask unanimous consent that the bill, letters of support, and a letter from Senator PRYOR, asking me to introduce this bill be printed in the RECORD at the appropriate place.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Nutrition Act of 1991".

SEC. 2. GENERAL NUTRITION SERVICES PROVISIONS.

Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—General Nutrition Service Provisions

"SEC. 339. DIETARY PROFESSIONALS.

"(a) IN GENERAL.—The Commissioner shall ensure that the Administration shall employ at least one individual as a National Dietary Professional on a full-time basis.

"(b) QUALIFICATIONS.—The National Dietary Professional shall—

"(1) have experience in nutrition services and dietary services; and

"(2)(A) be a registered dietitian;

"(B) be a credentialed nutrition professional; or

"(C) have education and training that is substantially equivalent to the education and training for a registered dietitian or a credentialed nutrition professional.

"(c) DUTIES.—

"(1) NATIONAL DIETARY PROFESSIONAL.—The National Dietary Professional shall be responsible for the administration of the congregate and home delivered nutrition services programs described in subparts 1 and 2, respectively, and shall have duties that include—

"(A) designing, implementing, and evaluating nutrition programs;

"(B) developing guidelines for nutrition providers concerning safety, sanitary handling of food, equipment, preparation, and food storage;

"(C) disseminating information to nutrition service providers about nutrition advancements and developments;

"(D) promoting coordination between nutrition service providers and community based organizations serving older individuals;

"(E) developing guidelines on cost containment;

"(F) defining a long range role for the nutrition services in community based care systems;

"(G) developing model menus and other appropriate materials for serving special needs populations and meeting cultural meal preferences; and

"(H) providing technical assistance to the regional offices of the Administration with respect to each duty described in subparagraphs (A) through (G).

"(2) REGIONAL OFFICES.—The regional offices of the Administration shall be responsible for disseminating, and providing technical assistance regarding, the guidelines and information described in subparagraphs (B), (C), and (E) of paragraph (1) to State agencies, area agencies on aging designated under section 305(a)(2)(A), and persons that provide nutrition services under this part.

"SEC. 339A. MINIMUM CRITERIA AND GUIDELINES FOR NUTRITION SERVICES.

"(a) TASK FORCE.—

"(1) IN GENERAL.—The Commissioner shall establish a task force to develop recommendations for minimum criteria and guidelines of efficiency and quality for furnishing congregate and home delivered nutrition services, as described in subparts 1 and 2, respectively.

"(2) COMPOSITION OF TASK FORCE.—The task force shall be composed of members appointed by the Commissioner from among individuals nominated by the Secretary of Agriculture, the American Dietetic Association, the National Association of Nutrition and Aging Service Programs, the National Association of Meal Programs, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, and other appropriate organizations.

"(3) REPORT.—Not later than January 1, 1993, the task force shall submit a report to the Commissioner containing the recommendations described in paragraph (1).

"(b) REGULATIONS.—

"(1) IN GENERAL.—Not later than June 30, 1993, the Commissioner, in consultation with the Secretary of Agriculture, shall promulgate regulations establishing minimum criteria and guidelines for furnishing the congregate and home delivered nutrition services described in subparts 1 and 2.

"(2) BASIS.—The regulations shall reflect, to the extent determined appropriate by the Commissioner, the recommendations described in subsection (a)(1).

"SEC. 339B. NUTRITION EDUCATION.

"The Commissioner and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 307(a)(13)(J).".

SEC. 3. DIETARY GUIDELINES.

(a) CONGREGATE NUTRITION SERVICES.—Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—

(1) by inserting "(a)" after the section designation;

(2) in subsection (a) (as designated by paragraph (1) of this subsection), by striking ", each of which" and all that follows through "National Research Council"; and

(3) by adding at the end the following new subsection:

"(b) An agency that establishes and operates a nutrition project under subsection (a) shall ensure that the meals provided through the project—

"(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

"(2) provide a 5-day time-averaged intake of—

"(A) 33⅓ percent of the daily recommended dietary allowances, as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the project serves one meal each day;

"(B) 66⅔ percent of the allowances, if the project serves two meals each day; and

"(C) 100 percent of the allowances, if the project serves three meals each day.".

(b) HOME DELIVERED NUTRITION SERVICES.—Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended—

(1) by inserting "(a)" after the section designation;

(2) in paragraph (1) of subsection (a) (as designated by paragraph (1) of this subsection), by striking ", each of which" and all that follows through "National Research Council"; and

(3) by adding at the end the following new subsection:

"(b) An agency that establishes and operates a nutrition project under subsection (a) shall ensure that the meals provided through the project—

"(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

"(2) provide a 5-day time-averaged intake of—

"(A) 33⅓ percent of the daily recommended dietary allowances, as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences;

"(B) 66⅔ percent of the allowances, if the project serves 2 meals each day; and

"(C) 100 percent of the allowances, if the project serves 3 meals each day.".

SEC. 4. NUTRITION EDUCATION AND SANITARY HANDLING OF MEALS.

Section 307(a)(13) (42 U.S.C. 3027(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (H);

(2) by striking the period at the end of subparagraph (I) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(J) each nutrition project shall provide nutrition education on at least a quarterly basis to participants in the congregate and home delivered nutrition services programs described in subparts 1 and 2, respectively; and

"(K) each project must comply with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older person.".

SEC. 5. AVAILABILITY OF SURPLUS COMMODITIES.

Section 311 (42 U.S.C. 3030a) is amended—

(1) in the first sentence of subsection (a)(4), by striking "shall maintain" and all that follows through "1991", and inserting "shall maintain a level of assistance of 56.76 cents per meal, which shall be adjusted on an annual basis on October 1 of each year to the nearest one-fourth cent, in accordance with changes in the series for food away from home, of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor, for the 12-month period ending on July 1 of the preceding year"; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "$151,000,000" and all that follows through "1991" and inserting "$220,000,000 for fiscal year 1992, $235,000,000 for fiscal year 1993, $250,000,000 for fiscal year 1994, and $265,000,000 for fiscal year 1995"; and

(B) in paragraph (2)—

(i) by striking "(2) In" and inserting "(2)(A) Except as provided in subparagraph (B), in"; and

(ii) by adding at the end the following new subparagraph:

"(B) To the extent feasible, the cents per meal level described in subparagraph (A) shall not be reduced below 56.76 cents per meal in any fiscal year.".

U.S. SENATE,
Washington, DC, July 16, 1991.

Hon. PATRICK LEAHY,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you very much for offering to introduce on my behalf the "Senior Nutrition Act of 1991". As I am continuing my recovery from a recent heart attack, I am unable to be in Washington to introduce the bill at this time. It is a special honor for me that my proposed modifications of Older Americans Act (OAA) feeding programs will be introduced by a colleague whose record of unflagging commitment to federal nutrition programs serving the needy is second to none.

I am also honored to learn that our colleague Senator Adams, Chairman of the Aging Subcommittee of the Senate Labor and Human Resources Committee, is an original cosponsor of "The Senior Nutrition Act of 1991". As you know, Senator Adams has shown extraordinary leadership during this year's OAA reauthorization process and has proposed significant changes in the Act that will promote the dignity and independence of all senior citizens.

On February 15, 1991, the Senate Special Committee on Aging and the Senate Agriculture, Nutrition, and Forestry Committee held a joint legislative workshop examining, in part, issues surrounding reauthorization of congregate and home-delivered nutrition services under the OAA. The workshop brought together a wide variety of individuals, including academics; federal, state and local government officials; members of the Aging Network; nutrition providers; representatives of national aging organizations; and nutrition professionals, among others. Workshop participants engaged in a lively and constructive discussion regarding elderly nutrition and submitted numerous recommendations for improvement of OAA services.

Based upon many of these workshop recommendations, I drafted "The Senior Nutrition Act of 1991" which, if enacted, will (1) support and expand congregate and home-delivered nutrition services for elderly Americans and (2) improve the quality, safety, and wholesomeness of meals served by OAA-supported nutrition programs.

Specifically, my bill contains the following provisions:

Makes an annual adjustment for inflation of the U.S.D.A. per-meal reimbursement rate of 56.76 cents, which has been frozen at that level for past four years.

Requires the appointment of a National Dietary Professional (who must be a registered dietician or person with a similar educational background) within the Washington office of the Administration on Aging AoA) and directs regional offices of AoA to provide technical assistance regarding nutrition services to state units on aging, area agencies on aging, and nutrition providers.

Directs AoA and the Secretary of Agriculture to establish a task force (which will include representatives of major national nutrition organizations) to develop minimum standards for the storage, handling, and preparation of meals funded under the OAA.

Requires each OAA-funded feeding program to provide nutrition education on at least a quarterly basis.

Requires senior nutrition projects to comply with the Dietary Guidelines for Americans.

Grants elderly nutrition projects greater flexibility in meeting the requirement that all meals supply ⅓ of the recommended daily allowances of nutrients (RDAs).

Assures that all senior nutrition programs comply with applicable state and local health and safety regulations.

I am also pleased to learn that several major aging and nutrition organizations support my proposal, including the National Association of Nutrition and Aging Services Programs, National Association of Meal Programs, National Association of State Units on Aging, National Association of Area Agencies on Aging, American Dietetic Association, National Council of Senior Citizens, and Families, U.S.A. You will find attached correspondence from some of these organizations.

Mr. Chairman, assuring an adequate and nutritious diet for our nation's elderly is a goal that all Americans share. Unfortunately, many vulnerable elders have health problems and limited financial resources which could place them at nutritional risk. It has been estimated that 83% of the elderly who are unable to perform three or more activities of daily living have incomes at or below 200% of the poverty line.

OAA nutrition services have proven effective in enhancing the nutritional status of senior participants. As noted in a 1990 U.S.D.A study of elderly nutrition programs, "[t]he dietary intake of several critical nutrients is greater for [OAA] meal program participants than for nonparticipants."

Moreover, OAA programs primarily serve vulnerable, low-income elders. For example, according to data gathered by AoA, in 1988, 51% of all persons utilizing congregate sites and 59% of those receiving home-delivered meals had incomes below the poverty line. A recent study conducted by the National Association of Nutrition and Aging Service Programs (NANASP) found that 40.2% of home-delivered meal recipients and 26.0% of congregate site participants were 80+ years old, the fastest growing and often most vulnerable segment of the senior population.

Despite the acute need for expanded OAA nutrition services, I continue to receive disturbing reports that many senior meal programs across the country are closing their doors and/or maintaining long waiting lists for home-delivered meals. A recent survey of 273 NANASP members found that 20.5% of the respondent projects had closed at least one congregate meal site in 1990 and that 20.1% intended to shut down one or more sites in 1991. Twenty-two percent of the respondents indicated their intent to reduce the number of home-delivered meals they will provide this year, and 47.3% reported maintaining waiting list for their home-delivered meals programs.

I believe "The Senior Nutrition Act of 1991" is a significant proposal which will bolster federal support for elderly nutrition projects and improve the quality and safety of meals served by OAA-funded agencies. Mr. Chairman, thank you again for your courtesy in introducing this important measure on my behalf.

Sincerely,

DAVID PRYOR.

FAMILIES UNITED FOR SENIOR ACTION,
Washington, DC, July 15, 1991.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: I am very pleased to have the opportunity to provide the full support of Families USA for your legislation, the Senior Nutrition Act of 1991.

Your bill will make substantial improvements in nutritional programs operated for the elderly under the Older Americans Act, one of the most important of which is to index the USDA commodity entitlement to the rate of inflation. Other provisions in your bill will help improve the quality and nutritional value of the meals provided under this important program.

Thank you again for your leadership and your constructive approach to these longstanding problems. My staff and I look forward to working with you toward speedy enactment of this thoughtful proposal.

Sincerely,

RONALD F. POLLACK,
Executive Director.

NATIONAL ASSOCIATION OF NUTRITION AND AGING SERVICES PROGRAMS,
Grand Rapids, MI, July 16, 1991.

Hon. DAVID PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRYOR: The National Association of Nutrition and Aging Services Programs (NANASP) fully endorses the "Senior Nutrition Act of 1991" as introduced by your office.

Such an act recognizes the vital role that nutrition services play within the Older Americans Act, and in the lives of millions of older adults each and every day.

The "Senior Nutrition Act of 1991" will make substantive improvements in the quality and availability of services nationwide. It demonstrates insight to the needs of the elderly and those programs they depend on for help in maintaining their independence and dignity.

NANASP applauds your efforts on behalf of our nations elderly and extends its full cooperation to you in helping to build a comprehensive system of services to meet the needs of a growing elderly population.

Very Truly Yours,

JOHN P. WREN,
President.

NATIONAL ASSOCIATION OF MEAL PROGRAMS,
Washington, DC, July 15, 1991.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: The National Association of Meal Programs appreciates your leadership in drafting the Senior Nutrition Act of 1991. We have reviewed the draft legislation and it has our wholehearted support.

Please let us know how we can assist you in moving the legislation forward.

Sincerely,

GAIL H. MARTIN,
Executive Director.

By Mr. KASTEN:

S. 1478. A bill to provide reasonable price enhancement to milk producers, greater milk price stability, and minimum income protection to milk producers, to establish certain minimum standards regarding milk solids, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DAIRY FAMILY FARM RESCUE ACT

• Mr. KASTEN. Mr. President, I rise today to introduce legislation that I believe will help restore some market stability so desperately needed by America's dairy farmers.

As I have repeated over and over again on this floor, family farmers in the dairy community are going bankrupt daily. It is estimated that in Wisconsin alone some 4,000 farmers will go out of business this year, if we do not act immediately to bring some reform to dairy farmers.

It is estimated that one business is lost for every seven farmers that go bankrupt. I hope that my colleagues understand that dairy reform has a major impact on the entire economic stability of rural America.

Mr. President, it is essential that the inside the beltway corps heed the advice and wisdom of those who know best about the commodity they produce for millions of Americans—the dairy farmers themselves.

Four farmers from my State of Wisconsin recently completed an extraordinary effort to help me develop legislation that will provide reasonable price increases to dairy family farmers, greater milk price stability, and minimum income protection.

Mr. President, let me explain some of the major components of my bill. My bill will raise the milk price support level from $10.10 to $12.63 through the remainder of 1991. The price support level is based on the average cost of production as reported by the Department of Agriculture.

If, after 1991, the price farmers receive for their milk is below the price of producing that milk for 4 consecutive months, the Secretary shall raise the price support level to a rate that is equal to the cost of production of milk.

If the Secretary increases the support level and subsequently determines that the average price farmers receive for their milk is at least 15 percent above the cost of production for 4 consecutive months, the Secretary could decrease the price support level.

A two-tier price program will only be used in times of surplus milk. When the two-tier price program is in effect, a producer would receive two prices for milk. One price will be received for the full market price for that portion of milk needed to meet consumer needs. A separate, much lower price will be paid to farmers marketing milk in excess of consumer needs, to discourage farmers from overproduction.

Finally, my bill will increase the total solids standards in milk. Raising the solids will increase the protein, calcium, and other nutritional components in milk to the standards used by California for the past 25 years. Several important reports have been issued that recommend increased consumption of foods high in calcium, as part of a healthy diet for adolescents and young adults, and to help decrease the risk of osteoporosis. Osteoporosis afflicts 24 million Americans, half of which are women over 45 years of age.

Mr. President, raising the solids standards in milk will save the government money by reducing the government surplus.

My bill treats all farmers across the country equally. Many other bills I have seen exempt certain regions from two-price systems. Regional discrimination will bring more problems to the dairy program.

In fact, a 1988 GAO report on milk marketing orders stated, and I quote, "the Federal milk marketing order system has contributed to the national milk surplus and benefited producers in some regions of the country at the expense of others. The justifications for Federal marketing order pricing policies are outdated because dairy market conditions have changed." Mr. President, you can easily see that regional discrimination will do nothing but create a nightmare to the reform process.

I believe my bill represents sound policy and will be successful in controlling surpluses and government costs. I hope my colleagues will join with me in cosponsoring this bill.•

By Mr. INOUYE (for himself, Mr. GRASSLEY, Mr. DOLE, Mr. BURDICK, Mr. AKAKA, Mr. HARKIN, Mr. DECONCINI, Mr. CONRAD, Mr. KERREY, Mr. HATFIELD, Mr. SIMPSON, Mr. CRAIG, and Mr. COCHRAN):

S. 1479. A bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes; to the Committee on Labor and Human Resources.

REAUTHORIZATION OF CERTAIN RURAL HEALTH PROGRAMS

• Mr. INOUYE. Mr. President, I am pleased to join my colleagues Senator GRASSLEY, Senator BURDICK, Senator DOLE, Senator AKAKA, Senator HARKIN, Senator HATFIELD, Senator SIMPSON, Senator KERREY, Senator CONRAD, Senator DECONCINI, Senator CRAIG, and Senator COCHRAN, in introducing legislation to amend the Public Health Service Act to reauthorize certain rural health programs and to provide for the establishment of model programs in behavioral health, and for other purposes.

This legislation will continue funding for innovative interdisciplinary projects with creative designs to train health care practitioners such as nurses, psychologists, and social workers. The new training programs would incorporate education and research with the actual delivery of health care services in rural areas.

The recently published report from the Office of Technology Assessment states that the basic health indicators show rural residents have overall lower mortality rates than urban counterparts, but that rural residents have higher infant mortality rates, higher rates of chronic disease, and a striking 40 percent higher rate of deaths which result from accidents. In the mental health arena, alcohol dependence is significantly higher among rural residents than urban residents, and rural teens report more drinking and driving than urban residents.

This bill provides the differing health care disciplines the unique opportunity to join forces in designing model programs that can make a tremendous impact on the entire rural community in the areas of health promotion, disease prevention, and environmental safety consciousness.

I ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RURAL HEALTH PROGRAMS AND MODEL PROGRAMS IN BEHAVIORAL HEALTH.

Section 799A of the Public Service Act (42 U.S.C. 295j) is amended—

(1) in subsection (b)(1), to read as follows:

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to—

"(A) fund interdisciplinary training projects designed to—

"(i) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(ii) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(iii) deliver health care services to individuals residing in rural areas;

"(iv) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(v) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners; or

"(B) fund the operation of model programs that are designed to—

"(i) conduct interdisciplinary research, including research into the social and psychological processes involved in health-related decisionmaking, the perception of assessments of risk, and health risk reduction; and

"(ii) deliver health care promotion and disease prevention services to individuals residing in rural areas.";

(2) in subsection (c), to read as follows:

"(c) ELIGIBLE APPLICANTS—Applicants eligible to obtain funds under subsection (a) shall include local health departments, public and nonprofit organizations (including organizations such as cooperative extension services) and public or nonprofit colleges (including community colleges), universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, physical therapy, and allied health professions, if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.";

(3) in subsection (d)—

(A) in paragraph (3)—

(i) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(ii) by striking "(3) REQUIREMENTS.—Applications submitted under this subsection shall—" and inserting the following:

"(3) REQUIREMENTS.—

"(A) INTERDISCIPLINARY TRAINING PROJECTS.—Applications submitted under this subsection to carry out the interdisciplinary training projects described in subsection (b)(1)(A) shall—"; and

(iii) by adding at the end the following new subparagraph:

"(B) MODEL PROGRAMS.—Applications submitted under this subsection to establish or operate the programs described in subsection (b)(1)(B) shall—

"(i) be jointly submitted by applicants representing at least two disciplines; and

"(ii) contain a design of model programs for rural populations, with a focus on illness prevention and health promotion, which may include programs in areas such as:

"(I) Rehabilitation.

'(II) Health concerns of minorities or economically disadvantaged individuals.

"(III) Environmental health.

"(IV) Women's health.

"(V) Infant, prenatal, and developmental care.

"(VI) Adolescent health.

"(VII) The process of health-care seeking, decisionmaking, and compliance behavior.

"(VIII) Developmental life span perspective.

"(IX) Rural occupational health and safety.

"(X) Another area determined to be appropriate by the Secretary."; and

(B) by adding at the end the following new paragraph:

"(4) PRIORITY.—In determining whether to provide assistance under this section to an applicant, the Secretary shall give priority to applicants desiring to continue interdisciplinary training projects described in subsection (b)(1)(A) that were funded under this section not later than the date of the enactment of this paragrams.

(4) in subsection (g), insert ", and the Pacific Basin" before the period; and

(5) in subsection (h), to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $10,000,000 for fiscal year 1992, of which $2,000,000 shall be available to carry out subsection (b)(1)(B);

"(2) $15,000,000 for fiscal year 1993, of which $3,000,000 shall be available to carry out subsection (b)(1)(B); and

"(3) $15,000,000 for fiscal year 1994, of which $4,000,000 shall be available to carry out subsection (b)(1)(B).".•

• Mr. GRASSLEY. Mr. President I am joining with Senators INOUYE, BURDICK, DOLE, AKAKA, HARKIN, HATFIELD, SIMPSON, KERREY, CONRAD, DECONCINI, CRAIG and COCHRAN to introduce legislation to reauthorize what I believe is an innovative and valuable rural health program.

This legislation would continue a program designed to address a number of health care problems characteristic of rural communities.

It tries to get at the shortage of health care personnel in rural communities by stimulating, through grants, long-term collaborative relationships between teaching institutions and health care providers in rural communities.

It would do this by making the establishment of such a relationship a condition of participating in the program. The idea is that if beginning health care workers actually practice in a rural community with established practitioners not only will they be providing health care for the term of the grant, but they could also decide to stay in that community or to practice in some other rural community.

Our legislation also tries to get at some of the special health problems more prevalent in rural areas than in urban areas. It is well known, for instance, that there are more accidents in rural areas than in urban areas, and that the death rates in rural areas from accidents are considerably higher than in urban areas. This reflects the fact that agriculture is one of our most dangerous occupations. There can also be different environmental health problems in rural areas than in urban areas. For instance, in my own State of Iowa much concern has been generated in recent years about ground water pollution from chemicals used in agriculture, and the possible health threats it presents.

In any case, the program which would be reauthorized by this legislation places a strong emphasis on health care promotion and disease prevention services to individuals residing in rural communities. It also emphasizes the importance of focusing on rural occupational health and safety and environmental health concerns.

Finally, the program established by the legislation will give priority to projects emphasizing innovative ways of providing health care in rural areas, where it is often more difficult to provide health care because of the distances individuals must go to reach health care providers or facilities. These include projects which demonstrate innovative methods to provide access to cost-effective comprehensive health care in rural areas and projects to use innovative methods to train rural health practitioners.

The amounts authorized for this program are $10 million for fiscal year 1992, $15 million for fiscal year 1993, and $15 million for fiscal year 1994.

I just want to add for the record that this program was originally developed by Senator INOUYE with the assistance of Senator BURDICK and myself during the 100th Congress, and became part of Public Law 100-607.•

By Mr. MOYNIHAN:

S. 1480. A bill to establish the U.S. Census Commission; to the Committee on Governmental Affairs.

U.S. CENSUS COMMISSION ESTABLISHMENT ACT

• Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that would establish a much needed body, a 14-member panel that would explore the question of adjusting the census. We have heard about serious problems in the 1990 enumeration, and the disproportionate undercount of minorities remains intractable. There are statistical methods to correct the count. Yet there are knowledgeable people on both sides of this controversy, some of whom say we do not have the statistical prowess to get a better count than we get with the traditional headcount.

The controversy is heated, and it will undoutedly be more so next time. The statistical methods will be more refined, the Census Bureau's enumeration techniques will be better, and the economic stakes will be higher.

Preparations have already begun for the 2000 census. The time to begin to resolve the question of adjustment is now. We must not again find ourselves with the Secretary of Commerce deciding half a year after the new appointment is announced whether or not he will change it. We must not have a disclaimer on all the new data that it may not be final. Whatever changes are made in the enumeration process must be planned for well in advance. So this year, Mr. President, we must establish an independent, nonpartisan panel to take a thorough look at the outcome of the 1990 census and ways to improve the next one.

The Commission I propose would have six members appointed by the President, four by the Speaker of the House, and four by the Senate majority leader. No member could be a Government employee or official. The specific duties of the commission would be to study the methods of enumeration used in the 1990 census, whether and how the results of the 1990 count should be adjusted, alternative methods of enumeration that could be used, and ways to reduce the disproportionate undercount of minorities.

The question of adjustment is back in the courts. It should be settled here, rather then there. To do that we will need sound advice, for this is no easy subject. The U.S. Census Commission could give such advice, and would do so within a year. Then we would know better what should be done to improve this vital enumeration of all Americans.

With the subject still fresh in our minds, I encourage my colleagues to cosponsor this bill. It will help us make the choices that must be made if we are to have a better count next time than we got in this one.•

By Mr. CONRAD:

S. 1481. A bill to amend the Older Americans Act of 1965 to establish spearate long-term care ombudsman and transportation programs, and for other purposes; to the Committee on Labor and Human Resources.

RURAL OLDER AMERICANS ACT AMENDMENTS

• Mr. CONRAD. Mr. President, today I rise to introduce the Rural Older Americans Act Amendments of 1991. For a variety of reasons, rural senior citizens are not fully participating in programs authorized by the Older Americans Act. My bill guarantees a fair share of these opportunities to rural seniors, and also makes important changes in the act which are not specific to rural areas.

Mr. President, rural America has traditionally been underserved by many Federal programs. The Older Americans Act is no exception. According to a recent report from the Federal Commission on Aging, the total per capita Federal expenditures for rural areas is $9.04, while nonrural areas receive $19.18. This year, when the reauthorization of the Older Americans Act will come before us, we should move to address this inequity—which will only compound the hardships of rural seniors as their numbers continue to increase.

The Older Americans Act authorizes supportive and nutrition services that touch the daily lives of thousands of seniors throughout the country. The law also works to protect elder rights and is an indispensable source of employment for thousands of older Americans all across the country.

My bill consists of a series of proposals, including demonstration programs and substantive change to the act itself. Major provisions address fundamental needs and concerns of elderly citizens: Health, housing, transportation, nutrition, and elder rights.

Title I of the Rural Older Americans Act Amendments of 1991 raises the status of the Long-Term Care Ombudsman Program by identifying it in a new title. The Ombudsman Program helps ensure that those who reside in long-term care facilities receive proper medical treatment and services. Allegations of conditions that may jeopardize the health, safety, welfare, or rights of the residents must be swiftly investigated and resolved. In the new title, we aim to heighten awareness of the functions and duties of the Long-Term Care Ombudsman Program. The new title also deals with the prevention of abuse, neglect, and exploitation of older adults. And finally, elder rights and legal assistance development programs and outreach and counseling programs are addressed in this newly created title.

Other provisions of my bill address rural transportation needs. A recent study by the Community Transportation Association of America found that while elderly people comprise 14 percent of the population, 38 percent of all rural transit riders are elderly. The study also showed that over one-half of the Nation's rural residents live in areas with no federally assisted public transit services. High transportation costs in rural areas have led to the discontinuation of import services, and additional services are in danger of being eliminated. Mr. President, a majority of senior citizens depend on public transportation to shop for food, clothes, and other necessities. We have a duty to make sure that reliable public transportation for rural older Americans exists.

One of the most critical needs for older adults is access to health care facilities. Title II of my bill would set up three demonstration projects coordinating health care and transportation services. These projects will provide older adults, including those with disabilities, with access to health care facilities and other supportive services.

Turning to housing, a recent national survey found that 33 percent of rural area agencies on aging did not make adult day care available, compared to only 1.5 percent of area agencies in urban areas. The survery also found 18 percent of those rural agencies had no respite care, compared to only 3 percent in urban areas. That is a shocking disparity, Mr. President. I have seen, in my own State, senior citizens who require some degree of living assistance being forced to leave their homes and families and relocate, sometimes hundreds of miles, to areas that have proper facilities. Many of these people do not need the full services offered by these facilities, and with some assistance could live quite well at home.

Mr. President, it is wrong that our seniors do not have more options. It is wrong that grandmothers and grandfathers are forced to move great distances from their children and their grandchildren to have access to elder adult care facilities. Title III of my amendments authorizes up to 10 demonstration projects to be coordinated between the Commissioner of the Administration on Aging and the Secretary of HUD. These projects will study the various methods of improving housing options for older adults. The demonstration projects, half of which would be located in rural areas, will study such options as congregate housing with supportive services, adult foster care services, and home sharing services.

Title IV of my bill aims to encourage better nutrition. Many seniors have special dietary needs arising from health conditions, religious requirements, or ethnic backgrounds. Congregate nutrition services are designed to meet these special dietary needs. But they can only serve those older individuals whose needs are known. My bill fills this gap by encouraging health care providers to identify the special dietary needs of their elderly patients and coordinate with providers of nutrition services to ensure that these needs are met.

Mr. President, all of these amendments to the Older Americans Act aim to improve the well-being of elderly people in rural areas. They will benefit seniors from Washington State to Rhode Island and every State in between. I look forward to working with Senator ADAMS and others on the Aging Subcommittee as the Older Americans Act reauthorization moves forward.

Mr. President, I ask unanimous consent that the full text of the bill I am introducing today, along with a summary be printed in the RECORD following my statement.

I thank the Chair, and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rural Older Americans Act Amendments of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References.
Sec. 3. General definitions.

TITLE I—ELDER RIGHTS SERVICES

Subtitle A—Administration Programs

Sec. 101. Establishment of Office on Long-Term Care Ombudsman Programs.
Sec. 102. Establishment of National Ombudsman Resource Center.
Sec. 103. Establishment of National Center on Elder Abuse.
Sec. 104. Reports by Commissioner.

Subtitle B—State and Community Programs

Sec. 111. Existing State and community programs.
Sec. 112. Vulnerable elder rights protection activities.
Sec. 113. Ombudsman programs.
Sec. 114. Programs for prevention of abuse, neglect, and exploitation.
Sec. 115. State elder rights and legal assistance development programs.
Sec. 116. Outreach, counseling, and assistance programs.
Sec. 117. Technical and conforming amendments.

Subtitle C—Demonstration Programs

Sec. 121. Long-Term Care Ombudsman Demonstration Projects.
Sec. 122. Housing ombudsman demonstration program.

TITLE II—HEALTH CARE AND TRANSPORTATION

Sec. 201. Coordinated services demonstration projects.

TITLE III—HOUSING OPTIONS FOR OLDER INDIVIDUALS

Sec. 301. Study and demonstration project.

TITLE IV—HEALTH CARE AND NUTRITION

Sec. 401. Nutrition services in hospitals.
Sec. 402. Transfer payments to supportive services and nutrition services.

TITLE V—COORDINATION BETWEEN AREA AGENCIES ON AGING AND COMMUNITY ACTION AGENCIES

Sec. 501. Community action agencies.

TITLE VI—NATIVE AMERICANS

Sec. 601. Disqualification of area agencies on aging.
Sec. 602. Indian health data base.
Sec. 603. Maintenance of services.

TITLE VII—RURAL OLDER INDIVIDUALS

Sec. 701. Definition.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

SEC. 3. GENERAL DEFINITIONS.

(a) DEFINITIONS.—Section 102 (42 U.S.C. 3002) is amended by adding at the end the following new paragraphs:

"(13) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm or pain or mental anguish; or

"(B) deprivation by an individual, including a caretaker, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(14) The term 'Administration' means the Administration on Aging.

"(15) The term 'aging network' means—

"(A) the network of agencies established in section 305, including the Administration, State agencies, and area agencies on aging; and

"(B) persons that—

"(i) are providers of direct services to older individuals; and

"(ii) receive funding under this Act.

"(16) The term 'area agency on aging' means an agency designated under section 305(a)(2)(A) by a State agency.

"(17) The term 'caretaker' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, as a result of family relationship, or by order of a court of competent jurisdiction.

"(18) The term 'conflict of interest' means—

"(A) a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

"(B) an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a provider of a long-term care service;

"(C) employment by, or participation in the management of, a long-term care facility; or

"(D) the receipt, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

"(19) The term 'elder abuse' means abuse of an older individual.

"(20) The term 'exploitation' means the illegal or improper act or process of an individual, including a caretaker, using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(21) The term 'focal point' means a facility established to encourage the maximum collocation and coordination of services for older individuals.

"(22) The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.

"(23) The term 'greatest social need' means the need caused by noneconomic factors, which include—

"(A) physical and mental disabilities;

"(B) language barriers; and

"(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

"(i) restricts the ability of an individual to perform normal daily tasks; or

"(ii) threatens the capacity of the individual to live independently.

"(24) The term 'information and assistance service' means a service for older individuals that—

"(A) provides the individuals with current information on all opportunities and services available to the individuals within their communities, including information relating to assistive technology;

"(B) assesses the problems and capacities of the individuals;

"(C) links the individuals to the opportunities and services that are available;

"(D) ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

"(E) serves the entire community of older individuals, particularly individuals with the greatest social and economic need.

"(25) The term 'legal assistance'—

"(A) means legal advice and representation by an attorney to older individuals with economic or social needs; and

"(B) includes—

"(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney; and

"(ii) counseling or representation by a nonlawyer where permitted by law.

"(26) The term 'long-term care facility' means—

"(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

"(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

"(C) any institution regulated by a State in accordance with section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)) for purposes of sections 307(a)(12) and 712; and

"(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

"(27) The term 'neglect' means—

"(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

"(B) the failure of a caretaker to provide the goods or services.

"(28) The term 'older individual' means any individual who is 60 years of age or older.

"(29) The term 'physical harm' means bodily pain, injury, impairment, or disease.

"(30) The term 'planning and service area' means an area specified by a State agency under section 305(a)(1)(E).

"(31) The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and revised annually by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(32) The term 'State agency' means the State agency designated by a State under section 305(a)(1).

"(33) The term 'unit of general purpose local government' means—

"(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

"(B) an Indian tribal organization.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 102(2), 201(c)(1), 211, 301(b)(1), 402(a), 411(b), 503(a), and 505(a) (42 U.S.C. 3002(2), 3011(c)(1), 3020b, 3021(b)(1), 3030bb(a), 3031(b), 3056a(a), and 3056c(a)) are amended by striking "Administration on Aging" and inserting "Administration".

(2) Section 201(a) (42 U.S.C. 3011(a)) is amended in the first sentence by striking—

(A) "(hereinafter in this Act referred to as the 'Administration')"; and

(B) "(hereinafter in this Act referred to as the 'Commissioner')";

(3) Section 302 (42 U.S.C. 3022) is amended—

(A) by striking paragraphs (2) through (7), (9), (11), and (14) through (21);

(B) by redesignating paragraph (8) as paragraph (2); and

(C) by redesignating paragraph (10) as paragraph (3).

(4) Section 307(a)(31)(A)(i) (42 U.S.C. 3027(a)(31)(A)(i)) is amended by striking "(as defined in section 302(20))".

TITLE I—LONG-TERM CARE OMBUDSMAN

Subtitle A—Administration Programs

SEC. 101. ESTABLISHMENT OF OFFICE ON LONG-TERM CARE OMBUDSMAN PROGRAMS.

Section 201 (42 U.S.C. 3011) is amended by adding at the end the following new subsection:

"(d)(1) As used in this subsection:

"(A) The term 'Associate Commissioner' means the Associate Commissioner for Ombudsman Services.

"(B) The term 'eligible individual' means an individual, if—

"(i) the individual does not have, and in the preceding 2-year period did not have, a conflict of interest; and

"(ii) no member of the immediate family of the individual has, or in the preceding 2-year period had, a conflict of interest.

"(C) The term 'Office' means the Office on Long-Term Care Ombudsman Programs.

"(2) There is established in the Administration an Office on Long-Term Care Ombudsman Programs.

"(3)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Services appointed by the Commissioner from among eligible individuals who have—

"(i) training in, or knowledge regarding—

"(I) gerontology, long-term care, health care, or social service programs that are relevant to meeting the needs of residents of long-term care facilities;

"(II) legal systems, the delivery of legal assistance, community services, and organizations that are involved in activities relating to long-term care;

"(III) program management skills and complaint and dispute resolution techniques, including skills and techniques relating to investigation, negotiation, and mediation; and

"(IV) long-term care advocacy; and

"(ii) technical or professional level experience with residents of long-term care facilities.

"(B) No person shall be appointed Associate Commissioner if—

"(i) the person has been employed within the previous 2 years by—

"(I) a long-term care facility;

"(II) a corporation that owned or operated a long-term care facility; or

"(III) an association of long-term care facilities; or

"(ii) the person or any member of the immediate family of the person has a conflict of interest.

"(4) The Associate Commissioner shall—

"(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments and agencies of the Federal Government, regarding all Federal policies affecting the individuals;

"(B) review and make recommendations to the Commissioner regarding—

"(i) the approval of the provisions in State plans submitted under section 307(a) or section 705 that relate to State long-term care ombudsman programs; and

"(ii) the adequacy of State budgets and policies relating to the programs;

"(C) after consultation with State Long-Term Care Ombudsmen and the State agency, make recommendations to the Commissioner regarding—

"(i) policies designed to assist State Long-Term Care Ombudsmen; and

"(ii) methods to periodically monitor and evaluate the operation of State long-term care ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities, and of other similar adult care homes;

"(D) keep the Commissioner and the Secretary fully and currently informed about—

"(i) problems relating to State long-term care ombudsmen programs; and

"(ii) the necessity for, and the progress toward, solving the problems;

"(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, administrative regulations, and other policies, regarding the operation of State long-term care ombudsman programs;

"(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State long-term care ombudsman programs;

"(G) supervise the activities carried out under the authority of the Administration that relate to State long-term care ombudsman programs; and

"(H) make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center established under section 202(a)(21).".

SEC. 102. ESTABLISHMENT OF NATIONAL OMBUDSMAN RESOURCE CENTER.

Section 202(a) (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (19) by striking "and" at the end;

(2) in paragraph (20) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(21)(A) establish a National Ombudsman Resource Center and, by grant or contract, operate such center to assist State Long-Term Care Ombudsmen and the representatives of the Ombudsmen in carrying out State long-term care ombudsman programs effectively under section 307(a)(12) and section 712 by—

"(i) providing technical assistance, training, and other means of assistance;

"(ii) analyzing laws, regulations, policies, and actions with respect to which comments made under section 712(a)(3)(G)(i) are submitted to the center; and

"(iii) providing assistance in recruiting and retaining volunteers for State long-term care ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs; and

"(B) make available to the Center not less than the amount of resources made available to the Center for fiscal year 1991.".

SEC. 103. ESTABLISHMENT OF NATIONAL CENTER ON ELDER ABUSE.

Section 202 (42 U.S.C. 3012) is amended by adding at the end the following new subsection:

"(d)(1) The Commissioner shall establish and operate a National Center on Elder Abuse.

"(2) In operating the Center, the Commissioner shall—

"(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

"(B) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

"(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(3)(A) The Commissioner may carry out paragraph (2) either directly or through a grant or contract.

"(B) The Commissioner shall issue criteria for programs receiving funding through a grant or contract under this subsection.

"(C) The Commissioner shall establish research priorities for making grants or contracts to carry out paragraph (2)(E) and, not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

"(4) The Commissioner shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Center for fiscal year 1991.".

SEC. 104. REPORTS BY COMMISSIONER.

(a) DEADLINE.—Section 207(b)(1) (42 U.S.C. 3018(b)(1)) is amended by striking "January 15" and inserting "March 1".

(b) STUDY OF EFFECTIVENESS OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.—Not later than July 1, 1993, the Commissioner on Aging shall, in consultation with State agencies and State Long-Term Care Ombudsmen, directly, or by grant or contract, conduct a study, and submit a report to the committees specified in section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)), analyzing separately with respect to each State—

(1) the availability of services, and the unmet need for services, under the State long-term care ombudsman programs in effect under section 307(a)(12) (42 U.S.C. 3028(a)(12)) and section 712 of such Act (as added by section 113 of this Act), to residents of long-term care facilities;

(2) the effectiveness of the program in providing the services to the residents, including residents of board and care facilities, and of other similar adult care homes;

(3) the adequacy of Federal and other resources available to carry out the program on a statewide basis in each State;

(4) compliance and barriers to such compliance of the States in carrying out the programs;

(5) any actual and potential conflicts of interest in the administration and operation of the programs; and

(6) the need for and feasibility of providing ombudsman services to older individuals utilizing noninstitutional long-term care and other health care services, by analyzing and assessing current State agency practices in programs in which the Ombudsmen provide services to individuals in settings in addition to long-term care facilities, taking into account variations in—

(A) settings where services are provided;

(B) the types of clients served; and

(C) the types of complaints and problems handled.

Subtitle B—State and Community Programs

SEC. 111. EXISTING STATE AND COMMUNITY PROGRAMS.

(a) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (42 U.S.C. 3023(a)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(2) ALLOTMENTS.—Section 304(d)(1)(B) (42 U.S.C. 3024(d)(1)(B)) is amended to read as follows:

"(B) such amount as the State agency determines to be adequate for conducting an effective long-term care ombudsman program under section 307(a)(12) shall be available for paying up to 85 percent of the cost of conducting the program under this title;".

(3) AREA PLANS.—Section 306(a)(10) (42 U.S.C. 3026(a)(10) is amended to read as follows:

"(10) provide assurances that the area agency on aging, in carrying out the long-term care ombudsman program under section 307(a)(12), will expend not less than the total amount of Federal funds expended by the agency in fiscal year 1991 in carrying out such a program under this title.".

(4) STATE PLANS.—Section 307(a) (42 U.S.C. 3027(a)) is amended—

(A) by striking paragraph (12) and inserting the following new paragraph:

"(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a long-term care ombudsman program in accordance with section 712 and this part.";

(B) by striking paragraph (21) and inserting the following new paragraph:

"(21) The plan shall provide assurances that the State agency, in carrying out the long-term care ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title."; and

(C) by striking paragraph (30) and inserting the following new paragraph:

"(30) The plan shall provide assurances that the State has submitted, or will submit, a State plan under section 705.".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—

(1) REPEAL.—Title III (42 U.S.C. 3021 et seq.) is amended by repealing part G.

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 303 (42 U.S.C. 3023) is amended—

(A) by striking subsection (g); and

(B) by redesignating subsection (h) as subsection (g).

(3) STATE PLANS.—Section 307(a)(16) (42 U.S.C. 3027(a)(16)) is amended by striking ", if funds are not appropriated under section 303(g) for a fiscal year, provide that" and inserting "provide".

SEC. 112. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

The Act (42 U.S.C. 3001 et seq.) is amended by adding at the end the following new title:

"TITLE VII—GRANTS TO STATES FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

"Part A—General Provisions

"SEC. 701. ESTABLISHMENT.

"The Commissioner, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the Federal share of carrying out the elder rights activities described in parts B through E.

"SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

"(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out part B, $20,000,000 for fiscal year 1992, $21,000,000 for fiscal year 1993, $22,050,000 for fiscal year 1994, and $23,150,000 for fiscal year 1995.

"(b) PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.—There are authorized to be appropriated to carry out part C, $10,000,000 for fiscal year 1992, $10,500,000 for fiscal year 1993, $11,020,000 for fiscal year 1994, and $11,570,000 for fiscal year 1995.

"(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out part D, $10,000,000 for fiscal year 1992, $10,500,000 for fiscal year 1993, $11,020,000 for fiscal year 1994, and $11,570,000 for fiscal year 1995.

"(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out part E, $15,000,000 for fiscal year 1992, $15,750,000 for fiscal year 1993, $16,540,000 for fiscal year 1994, and $17,360,000 for fiscal year 1995.

"SEC. 703. ALLOTMENT.

"(a) IN GENERAL.—

"(1) POPULATION.—In carrying out the program described in section 701, the Commissioner shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population age 60 and older in the State bears to the population age 60 and older in all States.

"(2) MINIMUM ALLOTMENTS.—

"(A) IN GENERAL.—After making the initial allotments described in paragraph (1), the Commissioner shall adjust the allotments in accordance with subparagraphs (B) and (C).

"(B) GENERAL MINIMUM ALLOTMENTS.—

"(i) MINIMUM ALLOTMENT FOR STATES.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

"(ii) MINIMUM ALLOTMENT FOR TERRITORIES.—Guam, the Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

"(C) MINIMUM ALLOTMENTS FOR OMBUDSMAN AND ELDER ABUSE PROGRAMS.—

"(i) OMBUDSMAN PROGRAM.—No State shall be allotted, from the funds appropriated under section 702(a), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out the State long-term care ombudsman program under title III.

"(ii) ELDER ABUSE PROGRAMS.—No State shall be allotted, from the funds appropriated under section 702(b), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out programs with respect to the prevention of abuse, neglect, and exploitation of older individuals under title III.

"(D) DEFINITION.—For the purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(b) REALLOTMENT.—

"(1) IN GENERAL.—If the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Commissioner shall make the amount available to a State that the Commissioner determines will be able to use the amount for carrying out the purpose.

"(2) AVAILABILITY.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this title, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

"(c) WITHHOLDING.—If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 705, the Commissioner shall withhold the allotment of funds to the State. The Commissioner shall disburse the funds withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of the State submitting an approved plan under section 705, which includes an agreement that any such payment shall be matched, in the proportion determined under subsection (d) for the State, by funds or in-kind resources from non-Federal sources.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of carrying out the elder rights activities described in parts B through E is 85 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the costs shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

"SEC. 704. ORGANIZATION.

"In order for a State to be eligible to receive allotments under this title—

"(1) the State shall demonstrate eligibility under section 305;

"(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

"(3) any area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

"SEC. 705. STATE PLAN.

"(a) ELIGIBILITY.—In order to be eligible to receive allotments under this title, a State shall submit a State plan to the Commissioner, at such time, in such manner, and containing such information as the Commissioner may require. At a minimum, the State plan shall contain—

"(1) an assurance that the State will establish programs under parts B, C, D, and E in accordance with the requirements of this title;

"(2) an assurance that the State will hold public hearings to obtain the views of older individuals and other interested parties regarding programs carried out under this title;

"(3) an assurance that the State has submitted, or will submit, a State plan in accordance with section 307;

"(4) an assurance that the State will use funds made available under this title in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this title, to carry out the elder rights activities described in parts B through E;

"(5) an assurance that the State agrees to pay, with non-Federal funds, 15 percent of the cost of the carrying out each part of this title; and

"(6) an assurance that the State will place no restrictions, other than the requirements specified in section 712(a)(5)(C), on the eligibility of agencies or organizations for designation as local ombudsman entities under section 712(a)(5).

"(b) APPROVAL.—The Commissioner shall approve any State plan that the Commissioner finds fulfills the requirements of subsection (a).

"(c) NOTICE AND OPPORTUNITY FOR HEARING.—The Commissioner shall not make a final determination disapproving any State plan, or any modification of the plan, or make a final determination that a State is ineligible under section 704, without first affording the State reasonable notice and opportunity for a hearing.

"(d) NONELIGIBILITY OR NONCOMPLIANCE.—

"(1) FINDING.—The Commissioner shall take the action described in paragraph (2) if the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

"(A) the State is not eligible under section 704;

"(B) the State plan has been so changed that the plan no longer complies substantially with the provisions of subsection (a); or

"(C) in the administration of the plan there is a failure to comply substantially with a provision of subsection (a).

"(2) WITHHOLDING AND LIMITATION.—If the Commissioner makes the finding described in paragraph (1) with respect to a State agency, the Commissioner shall notify the State agency, and shall—

"(A) withhold further payments to the State from the allotments of the State under section 703; or

"(B) in the discretion of the Commissioner, limit further payments to the State to projects under or portions of the State plan not affected by the ineligibility or noncompliance, until the Commissioner is satisfied that the State will no longer be ineligible or fail to comply.

"(3) DISBURSEMENT.—The Commissioner shall, in accordance with regulations prescribed by the Commissioner, disburse funds withheld or limited under paragraph (2) directly to any public or nonprofit private organization or agency or political subdivision of the State that submits an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 703(d).

"(e) APPEAL.—

"(1) FILING.—

"(A) IN GENERAL.—A State that is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with the court not later than 30 days after the final action. A copy of the petition shall be transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for the purpose.

"(B) RECORD.—On receipt of the petition, the Commissioner shall file in the court the record of the proceedings on which the action of the Commissioner is based, as provided in section 2112 of title 28, United States Code.

"(2) PROCEDURE.—

"(A) REMEDY.—On the filing of a petition under paragraph (1), the court described in paragraph (1) shall have jurisdiction to affirm the action of the Commissioner or to set the action aside, in whole or in part, temporarily or permanently. Until the filing of the record, the Commissioner may modify or set aside the order of the Commissioner.

"(B) SCOPE OF REVIEW.—The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence. If the court remands the case, the Commissioner shall, within 30 days, file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(C) FINALITY.—The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) STAY.—The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the action of the Commissioner.

"(f) PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

"SEC. 706. ADMINISTRATION.

"(a) AGREEMENTS.—In carrying out the elder rights activities described in parts B through E, a State agency may, either directly or through a contract or agreement, enter into agreements with public or private nonprofit agencies or organizations, such as—

"(1) other State agencies;

"(2) county governments;

"(3) area agencies on aging;

"(4) universities and colleges; and

"(5) other statewide or local nonprofit service providers or volunteer organizations.

"(b) TECHNICAL ASSISTANCE.—

"(1) OTHER AGENCIES.—In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of such agencies and departments of the Federal Government as may be appropriate.

"(2) COMMISSIONER.—The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to programs established under this title and to individuals designated under the programs to be representatives of the programs.

"SEC. 707. AUDITS.

"(a) ACCESS.—The Commissioner and the Comptroller General of the United States and any of the duly authorized representatives of the Commissioner or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

"(b) LIMITATION.—State agencies and area agencies on aging shall not request information or data from providers that is not pertinent to services furnished in accordance with this title or a payment made for the services.".

SEC. 113. OMBUDSMAN PROGRAMS.

Title VII (as added by section 112 of this Act) is amended by adding at the end the following new part:

"Part B—Ombudsman Programs

"SEC. 711. DEFINITIONS.

"As used in this part:

"(1) OFFICE.—The term 'Office' means the office established in section 712(b)(1)(A).

"(2) OMBUDSMAN.—The term 'Ombudsman' means the individual described in section 712(b)(2).

"(3) PROGRAM.—The term 'program' means the State long-term care ombudsman program established in section 712(b)(1)(B).

"(4) REPRESENTATIVE.—The term 'representative' includes an employee or volunteer who represents an entity designated under section 712(a)(5) and who is individually designated by the Ombudsman.

"SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section—

"(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

"(B) carry out through the Office a State long-term care ombudsman program.

"(2) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals described in section 201(d)(3).

"(3) FUNCTIONS.—The Ombudsman shall serve on a full-time basis, and shall, directly or through representatives of the Office—

"(A) identify, investigate, and resolve complaints that—

"(i) are made by, or on behalf of, older individuals who are residents of long-term care facilities; and

"(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents, of—

"(I) providers, or representatives of providers, of long-term care services;

"(II) public agencies; or

"(III) health and social service agencies;

"(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

"(C) inform the residents about means of obtaining services described in subparagraphs (A) and (B);

"(D) ensure that the residents have regular and timely access to the services provided through the Office and that residents and complainants receive timely responses to complaints from representatives of the Office;

"(E) represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

"(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

"(ii) recommend any changes in such laws, regulations, policies and actions that the Office determines to be appropriate; and

"(iii) facilitate public comment on the laws, regulations, policies, and actions;

"(H)(i) provide for training representatives of the Office;

"(ii) promote the development of citizen organizations, to participate in the program; and

"(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents of long-term care facilities; and

"(I) carry out such other activities as the Commissioner determines to be appropriate.

"(4) CONTRACTS AND ARRANGEMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or other appropriate private nonprofit organization.

"(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

"(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

"(ii) an association (or an affiliate of such an association) of long-term care facilities (including any other residential facility for older individuals).

"(5) DESIGNATION OF AREA OR LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

"(A) DESIGNATION.—In carrying out the duties of the Office, the Ombudsman may designate an entity as an area or local ombudsman entity, and may designate an employee or volunteer to represent the entity.

"(B) DUTIES.—An individual so designated shall, in accordance with the policies and provisions established by the Office and the State agency—

"(i) provide services to protect the health, safety, welfare and rights of residents of long-term care facilities;

"(ii) ensure that residents of long-term care facilities in the service areas of the entity have regular, timely access to representatives of the ombudsman program and timely responses to complaints and requests for assistance;

"(iii) identify, investigate, and resolve complaints made by or on behalf of residents of long-term care facilities that relate to action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of the residents;

"(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents of long-term care facilities; and

"(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

"(vi) support the development of resident and family councils; and

"(vii) carry out other activities that the Ombudsman determines to be appropriate.

"(C) ELIGIBILITY FOR DESIGNATION.—Area or local entities eligible to be designated as ombudsman entities, and persons eligible to be designated as representatives, shall—

"(i) have demonstrated capability to carry out the responsibilities of the Office;

"(ii) be free of conflicts of interest;

"(iii) in the case of the entities, be public or private not-for-profit entities; and

"(iv) meet such additional requirements as the Ombudsman may specify.

"(b) PROCEDURES FOR ACCESS.—

"(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

"(A) immediate access to long-term care facilities and the residents of the facilities;

"(B) appropriate access to review the medical and social records of a resident, if—

"(i) the representative has the permission of a resident, or the legal representative of a resident; or

"(ii) a resident is unable to consent to the review and has no legal representative;

"(C) access to administrative records of long-term care facilities; and

"(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

"(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

"(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

"(1) collect and analyze data relating to complaints and conditions in long-term care facilities or to residents of the facilities for the purpose of identifying and resolving significant problems; and

"(2) submit the data, on a regular basis, to—

"(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

"(B) other State and Federal agencies that the Ombudsman determines to be appropriate; and

"(C) the Commissioner.

"(d) DISCLOSURE.—

"(1) IN GENERAL.—The State agency shall establish procedures for the disclosure of files, and of records described in subsection (b)(1), that are maintained by the program.

"(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

"(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

"(B) prohibit the disclosure of the identity of any complainant or resident of a long-term care facility with respect to whom the State agency maintains such files or records unless—

"(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

"(ii) in a case in which the complainant or resident is mentally competent and unable to provide written consent due to physical infirmity or other extreme circumstance—

"(I) the complainant or resident gives consent orally; and

"(II) the consent is documented contemporaneously in a writing made by a representative of the Office and reported in writing to the State agency as soon as practicable; or

"(iii) the disclosure is required by court order.

"(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and provider entities.

"(f) CONFLICT OF INTEREST.—The State agency shall—

"(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

"(2) ensure that no officer, employee, or other representative of the Office, or member of the immediate family of the officer, employee, or other representative of the Office, is subject to a conflict of interest; and

"(3) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), including such mechanisms as—

"(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

"(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

"(g) LEGAL COUNSEL.—The State agency shall ensure that—

"(1)(A) adequate legal counsel is available to—

"(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents of long-term care facilities; and

"(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

"(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened in connection with the performance of the official duties of the Ombudsman or such a representative; and

"(2) the Office has the ability to pursue administrative, legal, and other appropriate remedies on behalf of residents of long-term care facilities.

"(h) ADMINISTRATION.—The State agency shall require the Office to—

"(1) prepare an annual report—

"(A) describing the activities carried out by the Office in the year for which the report is prepared;

"(B) containing and analyzing the data collected under subsection (c);

"(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents of long-term care facilities;

"(D) containing recommendations for—

"(i) improving quality of the care and life of the residents; and

"(ii) protecting the health, safety, welfare, and rights of the residents;

"(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care homes; and

"(ii) identifying barriers that prevent the optimal operation of the program; and

"(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of the residents, to protect the health, safety, welfare, and rights of the residents, and to remove the barriers;

"(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of the residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

"(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

"(i) the problems and concerns of older individuals residing in long-term care facilities; and

"(ii) recommendations related to the problems and concerns; and

"(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

"(4) establish procedures for the training of the representatives of the Office including unpaid volunteers, that—

"(A) specify a minimum number of hours of initial training;

"(B) specify the content of the training, including training relating to—

"(i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

"(ii) investigative techniques; and

"(iii) such other matters as the State determines to be appropriate; and

"(C) specify an annual number of hours of in-service training for all designated representatives;

"(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

"(A) has received the training required under subsection (h)(4); and

"(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

"(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

"(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and

"(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance services provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means; and

"(8) include any area or local ombudsman entity designated by the Ombudsman under subsection (a)(5) as a subdivision of the Office.

"(i) LIABILITY.—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(j) NONINTERFERENCE.—The State shall—

"(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

"(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

"(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

"SEC. 713. REGULATIONS.

"The Commissioner shall issue and periodically update regulations respecting conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f).".

SEC. 114. PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.

(a) PURPOSE.—The purpose of this section is to assist States in the design, development, and coordination of comprehensive services to prevent, treat, and remedy elder abuse, neglect, and exploitation.

(b) PROGRAMS.—Title VII (as added by section 112, and amended by section 113, of this Act) is amended by adding at the end the following new part:

"Part C—Programs for Prevention of Abuse, Neglect, and Exploitation

"SEC. 721. PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION OF OLDER INDIVIDUALS.

"(a) ESTABLISHMENT.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section, develop and enhance programs for the prevention of abuse, neglect, and exploitation of older individuals.

"(b) USE OF ALLOTMENTS.—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation, including—

"(1) providing for public education and outreach to identify and prevent abuse, neglect, and exploitation of older individuals;

"(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program;

"(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

"(4) conducting analysis of State information concerning elder abuse, neglect, and exploitation and identifying unmet service or intervention needs;

"(5) conducting training for individuals, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

"(6) providing technical assistance to programs that provide or have the potential to provide services for victims of abuse, neglect, and exploitation and for family members of the victims;

"(7) conducting special and on-going training, for individuals involved in serving victims of abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined by a State agency to be appropriate; and

"(8) developing an elder abuse, neglect, and exploitation system—

"(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

"(B) under which a State agency—

"(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

"(ii) on a finding of abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited elder;

"(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

"(i) such administrative procedures;

"(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

"(iii) such training procedures;

"(iv) such institutional and other facilities (public and private); and

"(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

"(D) that preserves the confidentiality of records in order to protect the rights of elders;

"(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

"(F) that enables an elder to participate in decisions regarding the welfare of the elder, and makes the least restrictive alternatives available to an elder who is abused, neglected, or exploited; and

"(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

"(i) the problems of elder abuse, neglect, and exploitation;

"(ii) the facilities; and

"(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

"(c) APPROACH.—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

"(d) COORDINATION.—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

"(1) adult protective service programs;

"(2) the long-term care ombudsman program established in part B;

"(3) protection and advocacy programs;

"(4) facility and other long-term care provider licensure and certification programs;

"(5) medicaid fraud and abuse services;

"(6) victim assistance programs; and

"(7) consumer protection and law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals.

"(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

"(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

"(2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and making a referral described in subsection (b)(8)(B)(ii), shall remain confidential unless—

"(A) all parties to such complaint or report consent in writing to the release of such information; or

"(B) the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; and

"(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirements described in paragraph (2).".

SEC. 115. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAMS.

Title VII (as added by section 112, and amended by sections 113 and 114(b), of this Act) is further amended by adding at the end the following new part:

"Part D—State Elder Rights and Legal Assistance Development Program

"SEC. 731. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703, a State agency shall, in accordance with this section, establish a program to provide leadership for expanding the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights system.

"(2) FOCUS.—In carrying out the program established under this part, the State agency shall coordinate the providers in the State that assist older individuals in—

"(A) understanding the rights of the individuals;

"(B) exercising choice;

"(C) benefiting from services and opportunities promised by law;

"(D) maintaining rights consistent with the capacity of the individuals; and

"(E) solving disputes using the most efficient and appropriate methods for representation and assistance.

"(b) FUNCTIONS.—In carrying out this part, the State agency shall—

"(1) establish a focal point for elder rights policy review, analysis, and advocacy at the State level, including such issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decisionmaking, protective services, public benefits, and dispute resolutions;

"(2) provide a State legal assistance developer and other personnel sufficient to ensure—

"(A) State leadership in securing and maintaining legal rights of older individuals;

"(B) capacity for coordinating the provision of legal assistance; and

"(C) capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate;

"(3)(A) develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals; and

"(B) provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the individuals with greatest economic and social need (with particular attention to low-income minority individuals);

"(4) provide consultation to, and ensure, the coordination of activities with the legal assistance services provided under title III, services provided by the Legal Service Corporation, and services provided under parts B, C, and E, as well as other State or Federal programs administered at the State and local levels that address the legal assistance needs of older individuals;

"(5) provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

"(6) promote the development of, and provide technical assistance concerning, pro bono legal assistance programs, State and local bar committees on aging, legal hot lines, alternative dispute resolution, aging law curricula in law schools and other appropriate educational institutions, and other methods to expand access by older individuals to legal assistance and other advocacy and elder rights services;

"(7) provide for periodic assessments of the status of elder rights in the State, including analysis—

"(A) of the unmet need for assistance in resolving legal problems and benefits-related problems, methods for expanding advocacy services, the status of substitute decisionmaking systems and services (including systems and services regarding guardianship, representative payee, and substitute decisionmaking for health care), access to courts and the justice system, and the implementation of civil rights and age discrimination law in the State; and

"(B) of problems and unmet needs identified in programs established under title III and other programs; and

"(8) develop working agreements with—

"(A) State entities, including the consumer protection agency, the court system, the attorney general, the State equal employment opportunity commission, and other appropriate State agencies and entities; and

"(B) Federal entities, including the Social Security Administration and the Veterans' Administration, and other appropriate entities, for the purpose of identifying elder rights services provided by the entities, and coordinating services with programs established under title III and parts B, C, and E of the title.".

SEC. 116. OUTREACH, COUNSELING, AND ASSISTANCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to provide outreach, counseling, and assistance in order to assist older individuals in obtaining benefits under—

(1) public and private health insurance, long-term care insurance, and life insurance programs; and

(2) public benefit programs to which the individuals are entitled, including benefits under the supplemental security income, medicaid, medicare, food stamp, and low-income home energy assistance programs.

(b) PROGRAM.—Title VII (as added by section 112, and amended by sections 113, 114(b), and 115, of this Act) is amended by adding at the end the following new part:

"Part E—Outreach, Counseling, and Assistance Program

"SEC. 741. STATE OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFIT PROGRAMS.

"(a) DEFINITIONS.—As used in this section:

"(1) INSURANCE PROGRAM.—The term 'insurance program' means—

"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); or

"(C) another public or private insurance program.

"(2) PUBLIC BENEFIT PROGRAM.—The term 'public benefit program' means—

"(A) the medicaid program established under title XIX of the Social Security Act;

"(B) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(C) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(D) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(E) with respect to a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), the medicare program described in title XVIII of the Social Security Act; or

"(F) another public benefit program.

"(3) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

"(4) STATE INSURANCE ASSISTANCE PROGRAM.—The term 'insurance assistance program' means the program established under subsection (b)(1).

"(5) STATE PUBLIC BENEFIT ASSISTANCE PROGRAM.—The term 'public benefit assistance program' means the program established under subsection (b)(2).

"(b) ESTABLISHMENT.—In order to receive an allotment under section 703, a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish—

"(1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining benefits under an insurance program; and

"(2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, benefits under a public benefit program, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act.

"(c) INSURANCE AND PUBLIC BENEFITS PROGRAMS.—The State agency shall—

"(1) in carrying out a State insurance assistance program—

"(A) provide information and counseling to assist older individuals—

"(i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act;

"(ii) in comparing medicare supplemental policies and in filing claims and obtaining benefits under such policies;

"(iii) in comparing long-term care insurance policies and in filing claims and obtaining benefits under such policies;

"(iv) in comparing other types of health insurance policies not described in clause (iii) and in filing claims and obtaining benefits under such policies;

"(v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies; and

"(vi) in comparing other forms of insurance policies not described in clause (v) and in filing claims and obtaining benefits under such policies as determined necessary; and

"(B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health and other forms of insurance and public benefits programs;

"(C) ensure that services provided under the program will be coordinated with programs established under parts B, C, and D of this title, and under title III;

"(D) provide for adequate and trained staff (including volunteers) necessary to carry out the program;

"(E) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) will not be subject to a conflict of interest in providing services under the program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance and public benefits programs;

"(G) provide for the coordination of information on insurance programs between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, health or other insurance; and

"(2) in carrying out a State public benefits assistance program—

"(A) carry out activities to identify older individuals with the greatest economic need who may be eligible for, but who are not receiving, benefits or assistance under a public benefits program;

"(B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such assistance and such benefits;

"(C) assist older individuals in applying for such assistance and such benefits;

"(D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government regarding the problems of older individuals related to public benefit programs;

"(E) comply with the requirements specified in subparagraphs (C) through (E) of paragraph (1) with respect to the State public benefits assistance program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits programs;

"(G) provide for the coordination of information on public benefits programs between the staff of departments and agencies of the State government and the staff (including volunteers) of the State public benefits assistance program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, benefits under a public benefits program.

"(d) ADMINISTRATION.—The State agency may operate the State insurance and State public benefits assistance programs directly, in cooperation with other State agencies, or under an agreement with a statewide nonprofit organization, area agency on aging, or another public, or nonprofit agency or organization.

"(e) MAINTENANCE OF EFFORT.—Any funds appropriated for the activities under this part shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local insurance or public benefits program.

"(f) COORDINATION.—A State that receives an allotment under section 703 and receives a grant under section 4360 of the Omnibus Reconciliation Act of 1990 (42 U.S.C. 1395b-4) to provide services in accordance with the section shall coordinate the services with activities provided by the State agency through the programs described in paragraphs (1) and (2) of subsection (b).".

SEC. 117. TECHNICAL AND CONFORMING AMENDMENTS.

(a) OMBUDSMAN PROGRAM.—

(1) SOCIAL SECURITY ACT.—

(A) Section 1819 of the Social Security Act (42 U.S.C. 1395i-3) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(B) Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(2) OLDER AMERICANS ACT OF 1965.—

(A) Section 207(b) (42 U.S.C 3018(b)) is amended—

(i) in paragraph (1)(A), by striking "by section 307(a)(12)(C)" and inserting "under titles III and VII in accordance with section 712(c)"; and

(ii) in paragraph (3)—

(I) by striking "by section 307(a)(12)(H)(i)" and inserting "under titles III and VII in accordance with section 712(h)(1)"; and

(II) by striking subparagraph (E) and inserting the following new subparagraph:

"(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).".

(B) Section 301(c) (42 U.S.C. 3021(c)) is amended by striking "section 307(a)(12), and to individuals designated under such section" and inserting "under section 307(a)(12) in accordance with section 712, and to individuals designated under section 712".

(C) Section 304 (42 U.S.C. 3024) is amended—

(i) in subsection (a)(3), by striking "303(a)(3)" and inserting "303(a)(2)"; and

(ii) in subsection (d)(1), by striking "303(a)(3)" each place the term appears and inserting "303(a)(2)".

(D) Section 307(a)(31)(A) (42 U.S.C. 3027(a)(31)(A)) is amended by striking "303(a)(3)" and inserting "303(a)(2)".

(E) Section 351(4) (42 U.S.C. 30301(4)) is amended by striking "under section 307(a)(12)" and inserting "under titles III and VII in accordance with section 712".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—

(1) Section 303 (42 U.S.C. 3023) is amended—

(A) in subsections (a)(2), (e), and (f), by striking "subsection (h)" and inserting "subsection (g)"; and

(B) in subsection (g), (as redesignated by section 111(b)(2)(B) of this Act), by striking "parts E, F, and G" and inserting "parts E and F".

(2) Section 307(a)(31)(D) (42 U.S.C. 3027(a)(31)(D)) is amended by striking "section 307(a)(31)(B)" and inserting "subparagraph (B)".

(3) Section 321(15) (42 U.S.C. 3030d(15)) is amended by striking "clause (16) of section 307(a)" and inserting "part C of title VII".

(4) Section 431(b) (42 U.S.C. 3037(b)) is amended by striking "parts E, F, and G" and inserting "parts E and F".

Subtitle C—Demonstration Programs

SEC. 121. LONG-TERM CARE OMBUDSMAN DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—Section 427(a) (42 U.S.C. 3035f(a)) is amended by inserting ", legal assistance agencies," after "ombudsman program".

(b) REAUTHORIZATION.—Section 431(a)(2) (42 U.S.C. 3037(a)(2)) is amended—

(1) in the first sentence, by striking "$1,000,000 for fiscal year 1989" and inserting "$1,000,000 for fiscal year 1993"; and

(2) in the second sentence, by striking "fiscal year 1990" and inserting "fiscal year 1994".

SEC. 122. HOUSING OMBUDSMAN DEMONSTRATION PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) older individuals who live in, or are attempting to become residents of, publicly assisted housing experience a range of problems related to the housing situations, the condition of homes, and the economic status of the individuals;

(2) problems that older individuals experience in relation to Federal and other public housing programs include—

(A) legal and nonlegal issues;

(B) housing quality issues;

(C) security and suitability problems; and

(D) issues related to regulations of the Department of Housing and Urban Affairs and the Farmers Home Administration;

(3) participants and nonparticipants in Federal and other public housing programs have concerns regarding specific program information, processes, procedures, and requirements of housing programs;

(4) the problems and issues that older individuals face are not currently being addressed in a systematic and comprehensive manner;

(5) interest groups and senior citizen service organizations offer a variety of services, but do not necessarily focus on housing problems;

(6) there is a need for a mechanism to assist older individuals in resolving the problems, and protecting the rights, safety, and welfare of the individuals;

(7) the long-term care ombudsman programs established under the Older Americans Act of 1965 have exhibited great success in protecting the rights and welfare of nursing home residents through work on complaint resolution and advocacy; and

(8) an approach similar to the approach used under the long-term care ombudsman programs could be used to address the housing problems that older individuals experience.

(b) PURPOSES.—The purposes of this section are—

(1) to ensure the quality and accessibility of publicly assisted housing programs for older individuals;

(2) to assist older individuals seeking Federal, State, and local assistance in the housing area in receiving timely and accurate information and fair treatment regarding public housing programs and related eligibility requirements;

(3) to enable older individuals to remain in publicly assisted homes and live independently for as long as possible;

(4) to enable older individuals to obtain and maintain affordable and suitable housing that addresses the special needs of the individuals; and

(5) to protect older individuals participating in Federal and other publicly assisted housing programs from abuse, neglect, exploitation, or other illegal treatment in publicly assisted housing programs.

(c) DEMONSTRATION PROGRAM.—Title IV (42 U.S.C. 3030aa et seq.) is amended—

(1) by redesignating part C as part D;

(2) by inserting after section 426 the following:

"PART C—ELDER RIGHTS PROTECTION DEMONSTRATION PROJECTS"; and

(3) in part C (as designated by paragraph (2) of this subsection), by adding at the end the following new section:

"SEC. 429. HOUSING OMBUDSMAN DEMONSTRATION PROGRAM.

"(a) GRANTS.—The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

"(b) USE OF GRANTS.—An eligible agency shall use a grant awarded under subsection (a) to—

"(1) establish a housing ombudsman program that provides information, advice, and advocacy services including—

"(A) direct assistance, or referral to services, to resolve complaints or problems;

"(B) provision of information regarding available housing programs, eligibility, requirements, and application processes;

"(C) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

"(D) advocacy related to promoting—

"(i) the rights of the older individuals who are residents in publicly assisted housing programs; and

"(ii) the quality and suitability of housing in the programs; and

"(E) assistance with problems related to—

"(i) threats of eviction or eviction notices;

"(ii) older buildings;

"(iii) functional impairments as the impairments relate to housing;

"(iv) discrimination;

"(v) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

"(vi) disability issues;

"(vii) intimidation, harassment, or arbitrary management rules;

"(viii) grievance procedures;

"(ix) certification and recertification related to programs of the Department of Housing and Urban Development and the Farmers Home Administration; and

"(x) issues related to transfer from one project or program to another; and

"(2) provide the services described in paragraph (1) through—

"(A) professional and volunteer staff to older individuals who are—

"(i) participating in federally assisted and other publicly assisted housing programs; or

"(ii) seeking Federal, State, and local housing programs; and

"(B)(i) the long-term care ombudsman program under section 307(a)(12) or section 712;

"(ii) a legal services or assistance organization or through an organization that provides both legal and other social services;

"(iii) a public or not-for-profit social services agency; or

"(iv) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.

"(c) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (a) to agencies in varied geographic settings.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(1) an assurance that the agency will conduct appropriate training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program; and

"(2) an acceptable plan to involve in the demonstration program the Department of Housing and Urban Development, the Farmers Home Administration, any entity described in subsection (b)(3) through which the agency intends to provide services, and other agencies involved in publicly assisted housing programs.

"(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

"(1) State agencies;

"(2) area agencies on aging, applying in conjunction with State agencies; and

"(3) other appropriate nonprofit entities, including providers of services under the State long-term ombudsman program and the elder rights and legal assistance development program described in parts B and D of title VII, respectively.

"(f) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

"(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

"(B) submit a report containing the evaluation to the appropriate committees of Congress.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 431(a) (42 U.S.C. 3037(a)) is amended—

(1) in paragraph (1), by striking "the provisions of this title (other than sections 427 and 428)" and inserting "sections 420 through 426 of this title"; and

(2) by adding at the end the following new paragraph:

"(4) There are authorized to be appropriated to carry out section 429, $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the subsequent fiscal years.".

TITLE II—HEALTH CARE AND TRANSPORTATION

SEC. 201. COORDINATED SERVICES DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by section 122(c)) is further amended by adding at the end the following new section:

"SEC. 426A. COORDINATED SERVICES DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HEALTH CARE PROVIDER.—The term 'health care provider' means a facility, entity, organization, or individual who receives payment under a program under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq. or 1396 et seq.).

"(2) SUPPORTIVE SERVICE.—The term 'supportive service' means—

"(A) a supportive service described in section 321(a);

"(B) a service provided through a program established under section 321(b), regarding senior centers; and

"(C) a nutrition service provided through a program established under part C.

"(3) TRANSPORTATION SERVICE.—The term 'transportation service' means a service involving transportation of older individuals, provided by a public or private entity that transports, or is equipped to transport, individuals in the normal course of the business of the entity, including an entity such as a school district or public transportation authority.

"(b) ESTABLISHMENT.—The Commissioner shall establish three demonstration projects to encourage providers of health care, supportive services, and transportation services to coordinate services to older individuals. The Commissioner shall award grants to eligible agencies to pay for the costs of carrying out the projects.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible agency shall use a grant awarded under subsection (b) to establish programs in local communities in which the providers described in subsection (b) coordinate services to older individuals, including programs in which the providers coordinate services to ensure that older individuals have access, through use of vehicles accessible to persons with disabilities, to health care providers, particularly providers that allocate time specifically for patients who are older individuals.

"(2) DURATION.—A grant awarded under subsection (b) may be used for a period of 3 years.

"(d) AWARD OF GRANTS.—

"(1) RURAL STATES AND COMMUNITIES.—In awarding grants under subsection (b), the Commissioner shall award—

"(A) one grant to each of two States with populations of less than 1,000,000; and

"(B) one grant to a State for a program serving a community or region with a population of less than 1,000,000.

"(2) DISTRIBUTION.—In awarding the grants described in paragraph (1), the Commissioner shall award not more than one grant to any State.

"(e) APPLICATION.—To be eligible to receive a grant under this section, an agency shall submit an application at such time, in such manner, and containing such information as the Commissioner may prescribe.

"(f) ELIGIBLE AGENCY.—Agencies eligible to receive grants under this section include State and local public agencies that meet such requirements as the Commission may prescribe.

"(g) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Commissioner shall establish procedures for evaluating, and shall evaluate, the demonstration projects established under this section.

"(2) ANNUAL REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207—

"(A) the evaluation described in paragraph (1); and

"(B) any recommendations for administrative or legislative reform.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by section 122(d)) is further amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 426A, such sums as may be necessary for each of the fiscal years 1992 and 1993."; and

(2) in subsection (b), by striking "this title (other than sections 427 and 428)" and inserting "sections 401 through 426".

TITLE III—HOUSING OPTIONS FOR OLDER INDIVIDUALS

SEC. 301. STUDY AND DEMONSTRATION PROJECT.

(a) HOUSING OPTION STUDY AND DEMONSTRATION PROJECT.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by sections 122(c) and 201(a) of this Act) is further amended by adding at the end the following new section:

"SEC. 426B. HOUSING OPTION STUDY AND DEMONSTRATION PROJECT.

"(a) STUDY.—

"(1) IN GENERAL.—The Commissioner, acting in conjunction with the Secretary of Housing and Urban Development, shall conduct a study of various methods of increasing the housing options that—

"(A) are available to rural older adults; and

"(B) provide greater independence than nursing homes.

"(2) SUBJECTS.—In conducting the study described in paragraph (1), the Commissioner shall in particular study the feasibility of increasing the availability of—

"(A) congregate housing with supportive services;

"(B) adult foster care services;

"(C) home sharing programs;

"(D) elder cottage housing opportunity programs;

"(E) in-home services; and

"(F) rural housing.

"(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commissioner shall prepare and submit to the appropriate committees of Congress a report containing—

"(1) the findings of the Commissioner resulting from the study described in subsection (a) and any demonstration project conducted under subsection (c); and

"(2) any recommendations for legislative or administrative reform.

"(c) DEMONSTRATION PROJECTS.—

"(1) ESTABLISHMENT.—The Commissioner may establish not more than 10 demonstration projects to assess housing options for older individuals. The Commissioner may award grants to eligible entities to pay for the costs of carrying out the projects.

"(2) USE OF FUNDS.—An eligible entity shall use the grant awarded under paragraph (1) to assist the Commissioner in conducting the study described in subsection (a) and in preparing the report described in subsection (b).

"(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall award not less than 50 percent of the grants to entities for projects conducted in rural areas.

"(4) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application at such time, in such manner, and containing such information as the Commissioner may require.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by sections 122(d) and 201(b) of this Act) is further amended by adding at the end the following new paragraph:

"(6) There are authorized to be appropriated to carry out section 426B, such sums as may be necessary for each of the fiscal years 1992 through 1995.".

TITLE IV—HEALTH CARE AND NUTRITION

SEC. 401. NUTRITION SERVICES IN HOSPITALS.

Section 307(a)(13) (42 U.S.C. 3027(a)(13)) is amended—

(1) by striking "and" at the end of subparagraph (H);

(2) by striking the period at the end of subparagraph (I) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(J) providers of nutrition services under this title shall, to the extent feasible, coordinate with hospitals, physicians, and other relevant health care providers to establish projects to—

"(i) provide special menus, in accordance with subparagraph (G), to older individuals who have been determined by a hospital, physician, or other relevant health care provider to have special dietary or nutritional needs and request such menus;

"(ii) in providing these special menus, give special consideration to serving older individuals who must receive the meals at their homes; and

"(iii) in providing the menus to the patients, maintain the confidentiality of hospital records of the patients.".

SEC. 402. TRANSFER PAYMENTS TO SUPPORTIVE SERVICES AND NUTRITION SERVICES.

Section 308(b)(5)(B) (42 U.S.C. 3028(b)(5)(B)) is amended—

(1) by inserting "(i)" after the subparagraph designation; and

(2) by adding at the end the following new clause:

"(ii) In making a transfer under subparagraph (A), a State shall not adversely affect nutrition programs under part C.".

TITLE V—COORDINATION BETWEEN AREA AGENCIES ON AGING AND COMMUNITY ACTION AGENCIES

SEC. 501. COMMUNITY ACTION AGENCIES.

(a) FORMULA.—Section 305(a)(2)(C) (42 U.S.C. 3025(a)(2)(C)) is amended by inserting "with the greatest economic need" after "60 and older".

(b) AREA PLANS.—Section 306(a) (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (3), by inserting "or community action agencies" after "multipurpose senior centers";

(2) in paragraph (6)—

(A) in subparagraph (F), by inserting "and which may include representatives of community action agencies," after "general public,";

(B) in subparagraph (O), by striking "and" at the end;

(C) in subparagraph (P), by adding "and" at the end; and

(D) by adding at the end the following new subparagraph:

"(Q) coordinate the provision of services under this title with community action agencies;".

(c) STATE PLANS.—Section 307(a)(13)(H) (42 U.S.C. 3027(a)(13)(H)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding "and (iii) are multipurpose providers;" after "non-Federal sources;".

(d) OUTREACH DEMONSTRATION PROJECTS.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by sections 122(c), 201(a), and 301(a)) is further amended by adding at the end the following new section:

"SEC. 426C. OUTREACH DEMONSTRATION PROJECTS.

"(a) DEFINITION.—As used in this title, the term 'health care provider' has the meaning given the term in section 426A(a)(1).

"(b) ESTABLISHMENT.—The Commissioner shall establish demonstration projects to assist outreach programs. The Commissioner shall award grants to eligible agencies to pay for the costs of carrying out the projects.

"(c) USE OF FUNDS.—An agency shall use a grant awarded under subsection (b) to establish programs that identify individuals eligible for assistance under this Act, with an emphasis on older individuals who—

"(1) have the greatest economic need;

"(2) are residing in rural areas; and

"(3) are low-income or minority individuals.

"(d) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (b) in accordance with such criteria as the Commissioner may determine to be appropriate.

"(e) APPLICATION.—To be eligible to receive a grant under this section, an agency shall submit an application at such time, in such manner, and containing such information as the Commissioner may prescribe.

"(f) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under subsection (b) shall include community action agencies.

"(g) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Commissioner shall establish procedures for evaluating, and shall evaluate, the demonstration projects established under this section.

"(2) ANNUAL REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207—

"(A) the evaluation described in paragraph (1); and

"(B) any recommendations for administrative or legislative reform.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by sections 122(d), 201(b), and 301(b)) is further amended by adding at the end the following new paragraph:

"(7) There are authorized to be appropriated to carry out section 426C, such sums as may be necessary for each of the fiscal years 1992 through 1995.".

TITLE VI—NATIVE AMERICANS

SEC. 601. DISQUALIFICATION OF AREA AGENCIES ON AGING.

Title III (42 U.S.C. 3021 et seq.) is amended by adding at the end the following new section:

"SEC. 314. DISQUALIFICATION OF AREA AGENCIES ON AGING.

"(a) REVIEW.—On receipt of a complaint regarding an area agency on aging, the Commissioner shall review the effectiveness of the agencies in meeting the requirements of this title, including requirements that the agency—

"(1) target services provided under this title to individuals with the greatest economic need and minority individuals, including Indians; and

"(2) encourage the participation of individuals with the greatest economic need and minority individuals, including Indians, in programs established under this title.

"(b) NOTIFICATION.—If the Commissioner determines, on the basis of the review described in subsection (a), that an area agency on aging has failed to meet a requirement of this title, the Commissioner shall notify the area agency on aging and the State agency that designated the area agency on aging, and shall provide the area agency with an opportunity for a hearing.

"(c) DISQUALIFICATION.—Not earlier than 30 days after the date the Commissioner provides notification under subsection (b), and after providing an opportunity for a hearing, if the Commissioner determines that the area agency on aging has not met the requirement described in subsection (b), the Commissioner shall disqualify the area agency on aging from receiving allotments or providing services under this title, and shall notify the area agency on aging and the State agency.

"(d) REALLOCATION.—

"(1) IN GENERAL.—On receiving notification that the Commissioner has disqualified an area agency on aging under subsection (c), the State agency that designated the area agency on aging may allocate to other area agencies on aging within the State, payments that the disqualified agency would have received. All such payments allocated to other area agencies on aging shall be used only to provide services to the area the disqualified agency would have served.

"(2) ALTERNATE SERVICE PROVIDER.—If the Commission disqualifies an area agency on aging under subsection (c), the State may designate an alternate service provider, including an Indian tribe, community action agency, or a different area agency on aging, to carry out the activities of the disqualified agency.".

SEC. 602. INDIAN HEALTH DATA BASE.

(a) DATA BASE.—Part B of title IV (42 U.S.C. 3034 et seq.) (as amended by sections 122(c), 201(a), 301(a), and 501(d)) is further amended by adding at the end the following new section:

"SEC. 426D. INDIAN HEALTH DATA BASE.

"(a) ESTABLISHMENT.—The Director of the National Institute on Aging shall make grants or enter into contracts with eligible entities to establish and operate a National Indian Health Data Base.

"(b) INFORMATION.—In operating the Data Base described in subsection (a), the eligible entity shall compile, maintain, and update information regarding—

"(1) Indian elder abuse;

"(2) Indian in-home care;

"(3) Indian health problems; and

"(4) other problems unique to Indian communities.

"(c) DISCLOSURE.—In operating the Data Base described in subsection (a), the eligible entity may disclose from the Data Base—

"(1) aggregate information about the health and related characteristics of Indians; and

"(2) any information described in subsection (a), with the prior written consent of the individual with respect to whom the information is maintained.

"(d) ELIGIBLE ENTITIES.—Entities eligible to receive a grant or enter into a contract under subsection (a) shall be institutions of higher learning that have conducted assessments of the characteristics and health status of Native American older individuals for the Administration on Aging.

"(e) REGULATIONS.—The Director of the National Institute on Aging shall promulgate such regulations as the Director may determine to be appropriate for the establishment and operation of the Data Base described in subsection (a), including regulations to maintain the confidentiality of information maintained in the Data Base, consistent with subsection (c).

"(f) ADMINISTRATION.—In making a grant or entering into a contract under subsection (a), and establishing regulations under subsection (e), the Director of the National Institute on Aging shall act in conjunction with the Directors of the National Institutes of Health and the National Institute of Mental Health.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 431 of the Act (42 U.S.C. 3037) (as amended by sections 122(d), 201(b), 301(b), and 501(e)) is further amended by adding at the end the following new paragraph:

"(8) There are authorized to be appropriated to carry out section 426D, such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 603. MAINTENANCE OF SERVICES.

(a) APPLICATION REQUIREMENT.—

(1) INDIAN PROGRAM.—Section 614(a) (42 U.S.C. 3057e(a)) is amended—

(A) by striking "and" at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(12) provide a satisfactory assurance that the tribal organization will consistently serve at least 50 individuals who are 60 years of age or older.".

(2) NATIVE HAWAIIAN PROGRAM.—Section 624(a) (42 U.S.C. 3057j(a)) is amended—

(A) by striking "and" at the end of paragraph (9);

(B) by striking the period at the end of paragraph (10) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(11) provide a satisfactory assurance that the organization will consistently serve at least 50 individuals who are 60 years of age or older.".

(b) REPORT.—Section 624 (42 U.S.C. 3057j) is amended by adding at the end the following new subsection:

"(e)(1) Not later than 6 months after the date an organization receives a grant under this part, the organization shall submit to the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, a report that demonstrates that the organization is consistently serving at least 50 individuals who are 60 years of age or older.

"(2) On receiving the report described in paragraph (1) from an organization, the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall determine whether the organization is consistently serving the individuals described in paragraph (1). If, after providing notice and an opportunity for a hearing to the organization, the Associate Commissioner determines that the organization is not consistently serving the individuals, the Associate Commissioner may—

"(A) deny further grants to the organization under this part; and

"(B) take such action as may be necessary to recover grant funds received by the organization under this title for a period in which the organization was not consistently serving the individuals.".

(c) HOLD HARMLESS.—Section 632 (42 U.S.C. 3057m) is amended—

(1) by inserting "(a)" before "Payments"; and

(2) by adding at the end the following new subsection:

"(b) For fiscal year 1992 and each of the subsequent fiscal years, the Commissioner shall make available—

"(1) to organizations who received a grant to carry out the activities described in part A during fiscal year 1991 a total amount at least equal to the total amount made available to the persons to carry out the activities during fiscal year 1991; and

"(2) to organizations who received a grant to carry out the activities described in part B during fiscal year 1991 a total amount at least equal to the total amount made available to the organizations to carry out the activities during fiscal year 1991.".

TITLE VII—RURAL OLDER INDIVIDUALS

SEC. 701. DEFINITION.

(a) IN GENERAL.—Section 102 (42 U.S.C. 3002) (as amended by section 3 of this Act) is further amended by adding at the end the following new paragraph:

"(34) The term 'rural older individual' means an older individual who resides in any place with a population of less than 2,500.".

(b) PROGRAMS.—

(1) REPORTS.—Section 207(a)(4) (42 U.S.C 3018(a)(4)) is amended by inserting "low-income rural older individuals," after "minority individuals,".

(2) ORGANIZATION.—Section 305(a) (42 U.S.C. 3025(a)) is amended—

(A) by striking "low-income minority individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(B) in paragraph (2)(C), by inserting ", and of rural older individuals," after "60 and older".

(3) AREA PLANS.—Section 306(a) (42 U.S.C. 3026(a)) is amended—

(A) in paragraph (1), by striking "low-income minority individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(B) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking "low-income minority individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals";

(II) by striking "low-income minority older individuals" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(III) in clause (iii)(II), by striking "such minority older individuals" and inserting "such individuals"; and

(ii) in subparagraph (B), by striking "rural elderly" and inserting "rural older individuals".

(4) STATE PLANS.—Section 307 (42 U.S.C. 3027) is amended—

(A) in subsection (a)—

(i) in paragraph (3)(B), by striking "older individuals residing in rural areas" and inserting "rural older individuals";

(ii) in paragraph (8), by striking "low-income minority individuals" and inserting "low-income minority, and low-income rural, older individuals";

(iii) in paragraph (23)—

(I) in subparagraph (A), by striking "low-income minority older individuals" and inserting "low-income minority, and low-income rural, older individuals"; and

(II) in subparagraph (B), by striking "such minority older individuals" and inserting "such individuals"; and

(iv) in paragraphs (24) and (29), by striking "older individuals who reside in rural areas" each place the term appears and inserting "low-income minority, and low-income rural, older individuals"; and

(B) in subsection (b)(2)—

(i) by striking "older individuals residing in rural areas" and inserting "rural older individuals"; and

(ii) by striking "older individuals residing in such rural areas" and inserting "rural older individuals".

(5) DEMONSTRATION PROJECTS.—Section 422 (42 U.S.C. 3035a) is amended by striking "the rural elderly" each place the term appears and inserting "rural older individuals".

(6) EQUITABLE DISTRIBUTION OF ASSISTANCE.—Section 506(c) (42 U.S.C. 3056d(c)) is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) As used in this subsection, the term "rural area" means a place with a population of less than 2,500.".

SECTION-BY-SECTION DESCRIPTION OF THE AMENDMENTS

TITLE I (LONG TERM CARE OMBUDSMAN)

This title will create a new Title VII for the Long Term Care Ombudsman (LTCO) program. The Ombudsman program helps ensure that those who reside in long term care facilities receive proper medical treatment and services. Allegations of conditions that may jeopardize the health, safety, welfare or rights of the residents must be swiftly investigated and resolved. The amendment will stress the prevention of abuse, neglect and exploitation of older adults. Title VII also addresses elder rights and legal assistance programs and outreach, counseling, and assistance programs for the elderly.

TITLE II (HEALTH CARE AND TRANSPORTATION)

This title will set up 3 demonstration projects coordinating Health Care and Transportation services. These projects will provide the needed access for older adults to health care facilities (doctor visits) and other supportive services (congregate meal centers) by coordinating the use of public transportation and school buses. Some of these vehicles may require modifications to accommodate disabled individuals.

TITLE III (HOUSING OPTIONS FOR OLDER INDIVIDUALS)

This title will authorize a coordinated study of up to 10 demonstration projects, between the Commissioner of the Administration on Aging and the Secretary of HUD, on various methods of increasing the housing options for older individuals, particularly those in rural areas. While many older individuals do not need the degree of care provided in a skilled nursing home, they do require some assistance. Possible alternatives for these individuals include congregate housing with supportive services, adult foster care services, home sharing programs and in-home services.

TITLE IV (HEALTH CARE AND NUTRITION)

This title encourages nutrition providers and health care (hospitals) providers to establish projects to supply special menus for older individuals under care. Many older adults have special dietary needs arising from health conditions, religious requirements, or ethnic backgrounds. Congregate nutrition services are designed to meet these special dietary needs. The bill encourages health care providers to indentify the special dietary needs of their elderly patients and coordinate with providers of nutrition services to ensure that these needs are met.

TITLE V (COORDINATION BETWEEN AREA AGENCIES ON AGING AND COMMUNITY ACTION AGENCIES)

First, this title identifies Community Action Agencies (CAAs) as alternative resource centers for providing services to older adults. Second, this title will establish demonstration projects to assist outreach projects, targeting special groups. The demonstration projects will be used to establish programs that identify individuals eligible for assistance under the OAA, particularly low income and rural elderly. Many of these groups do not receive full services from Area Agencies. The CAA's strength is ensuring that all older adults, particularly those with low incomes, are identified and that services are available and provided.

TITLE VI (INDIANS)

This title seeks to hold Area Agencies accountable for providing adequate service to Indian tribes. It also authorizes a plan to develop a data base to quantify the needs and concerns of Indian tribes. First, Area Agencies that do not provide adequate service to Native American tribes can be disqualified and their funding reallocated. This should ensure that these tribes are receiving proper and adequate services. Second, information regarding Indian tribes is minimal. The data base will help identify the basic needs and concerns of older Native Americans. Areas to be included in the data base study are Indian elder abuse, Indian in-home care and Indian health problems.

TITLE VII (RURAL OLDER INDIVIDUALS)

This title defines a new term, "rural older individual", for the Act. The term is added to all areas of the Act wherever a "special group", such as low income minorities, is designated. Throughout Title III, "special groups" are singled out to receive particular attention when state plans and area plans are made. The addition of rural older adults to this group will ensure they are recognized during the planning and organization of services for older adults.•

By Mr. WALLOP (for himself and Mr. SIMPSON):

S.J. Res. 179. Joint resolution to designate the week beginning August 25, 1991, as "National Parks Week;" to the Committee on the Judiciary.

NATIONAL PARKS WEEK

• Mr. WALLOP. Mr. President, in 1872, the first national park in the world was established in the Yellowstone area of, what was then, the territory of Wyoming. Since no civilian agency existed to manage it, Yellowstone National Park was placed under the jurisdiction of the U.S. Army. In the succeeding years, as more parks were established in various places, a need was realized for a special organization to properly manage and administer these areas of superlative natural beauty and cultural significance.

That special organization, created by the Act of August 25, 1916, is the National Park Service. In this, its 75th anniversary year, the National Park Service and its employees enjoy unexcelled public confidence and support.

The "national park idea" has spread around the world and includes outstanding examples of international cooperation in the management of parks, sharing of information and technology, and preservation and interpretation of outstanding examples of the world's natural and cultural heritage. Public visitation to the national parks has increased to millions per year and the attraction of national parks and monuments to foreign visitors is increasingly apparent.

The concept of a national park has so entranced humanity that the park idea was described by Lord James Bryce, British Ambassador to the United States from 1907 to 1913, in a speech to the American Civic Association in November 1912 as the best idea America ever had. In this, the 75th anniversary year of the National Park Service, it is only fitting that the Senators from the State where it all began, should introduce a joint resolution to recognize the contributions that national parks, and the people who have dedicated their lives to them, have made. I take great pleasure, on behalf of the citizens of this Nation, and the world, to offer this resolution to designate the week of August 25, 1991, as "National Parks Week."•

By Mr. BRADLEY (for himself and Mrs. KASSEBAUM):

S.J. Res. 180. Joint resolution designating December 1 through 7, 1991, as "Geography Awareness Week;" to the Committee on the Judiciary.

GEOGRAPHY AWARENESS WEEK

• Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Kansas, Senator KASSEBAUM, to introduce a resolution to declare the week of December 1 through December 7, 1991, as "Geography Awareness Week."

Mr. President, 4 years ago, I introduced the first Geography Awareness Week resolution, because I saw alarming reports of geographic illiteracy in our Nation. Surveys found that our Nation's students had at best a distorted understanding of our world and at worst were totally ignorant of the most basic geography. A survey by the Asbury Park Press in one part of New Jersey found that on the average, 12th graders could identify only 41 percent of the States. In Dallas, 25 percent of the high school students could not name Mexico as the country that bordered the United States to the south. In Boston, 39 percent of the surveyed students could not name the six New England States.

Mr. President, since Congress first took note of the problem by establishing Geography Awareness Week, we have started to confront the problem of geographic illiteracy. Many schools have reintroduced geography as part of their curriculum. But much needs to be done to revitalize and expand the role of geography in the public consciousness.

I sponsored the first statewide geography bee in New Jersey 4 years ago. Over 600 eighth graders from all over the State competed. Robin Cadwallender, a 13-year-old eighth grader from Hopatcong, NJ, won that competition. Now, we have a national geography bee—modeled after that first New Jersey bee—which is in its second year. All 50 States are involved in the competition, run much like the national spelling bee.

In addition, for the past 4 years, I have challenged elementary school classes to develop outstanding geography class projects. The response has been phenomenal. In fact, thousands of students from literally hundreds of schools in New Jersey participated in the program. I gave one school an outstanding achievement award, and 10 schools special recognition awards for their efforts. I am proud of all the students and teachers who have participated.

I believe that national attention must be focused on the importance of world geography in preparing our young people for the future of an increasingly interdependent and interconnected world. Knowledge of geography offers necessary perspectives and information for understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world.

Yet even with this critical need to know, a majority of American students today still receive no significant exposure to geography in school. This is illustrated by one Gallup poll which ranked Americans in the bottom third in an international test of geographic knowledge, with those aged 18 to 24 ranking last. Less than half of these young people could find Central America on a map; only one in three could locate Vietnam; and three-quarters could not find the Persian Gulf. Clearly, continued ignorance, such as this, places the United States at a distinct disadvantage in matters of business, politics, and the environment.

That's why I am introducing this legislation—to focus national attention on the essential role that knowledge of world geography plays in our lives. It is my hope that this will be just one step in a revitalization of the study of geography. All of our citizens should have access to the sort of education which will help them appreciate both the great beauty and diversity of this Nation and its place in the world.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to join Senator BRADLEY again this year in introducing a joint resolution designating the week of December 1 through 7, 1991, as "National Geography Awareness Week." The recent war in the Persian Gulf illustrated how important knowledge of geography is in times of international crisis. Without that information many individuals, including policy makers, would have found it difficult to follow even the daily news reports of the events in the region.

The commemoration of "National Geography Awareness Week" has provided students and teachers across the United States with an opportunity to focus on the improvement of geographic literacy. For the fifth year, public officials, schools, businesses, and communities will have the chance to participate in special events and activities promoting the Nation's geography awareness.

Currently, students in the United States receive a limited exposure to geography in their curricula. A study released by the National Geographic Society indicated that prior to the Persian Gulf war only 25 percent of Americans surveyed were able to locate the Persian Gulf on a map. It is a shame to think that a war is an educational tool in teaching geography. Clearly, unless renewed emphasis is placed on geography, the United States will remain at a distinct disadvantage in international business and politics.

"National Geography Awareness Week" will once again strengthen public awareness of the importance of improving geographic literacy in our educational system and our communities. I urge our colleagues to join with Senator BRADLEY and me in supporting this joint resolution.●

ADDITIONAL COSPONSORS

S. 140

At the request of Mr. WIRTH, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 447

At the request of Mr. THURMOND, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 447, a bill to recognize the organization known as the Retired Enlisted Association, Inc.

S. 518

At the request of Mr. GRAHAM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 518, a bill to amend title XVIII of the Social Security Act to expedite the payment of claims under such title by increasing the level of interest paid on late payments to providers under such title, and for other purposes.

S. 533

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 533, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 581

At the request of Mr. BOREN, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. PELL], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the outer continental shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 860

At the request of Mr. DOLE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 860, a bill to support democracy and self-determination in the Baltic States and the republics within the Soviet Union.

S. 878

At the request of Mr. DODD, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 985

At the request of Mrs. KASSEBAUM, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

At the request of Mr. GORTON, his name was added as a cosponsor of S. 985, supra.

S. 1063

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1063, a bill to provide education loans to students entering the teaching profession and to provide incentives for students to pursue teaching careers in areas of national significance.

S. 1112

At the request of Mr. HOLLINGS, the names of the Senator from Florida [Mr.

GRAHAM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1112, a bill to establish a commission to advise the President on proposals for national commemorative events.

S. 1226

At the request of Mr. JEFFORDS, the names of the Senator from Utah [Mr. GARN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1261

At the request of Mr. DOLE, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1364

At the request of Mr. PRYOR, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1383

At the request of Mr. MCCAIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1383, a bill to amend title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by members and former members of the uniformed services and their dependents who are entitled to retired or retainer pay and who are otherwise ineligible for such payment by reason of their entitlement to benefits under title XVIII of the Social Security Act because of a disability, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1441

At the request of Mr. COCHRAN, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1441, a bill to provide disaster assistance to agricultural producers, and for other purposes.

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Arkansas [Mr. PRYOR], the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. SHELBY], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the names of the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. AKAKA], the Senator from South Carolina [Mr. THURMOND], the Senator from Arizona [Mr. MCCAIN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from New Hampshire [Mr. SMITH], the Senator from Florida [Mr. MACK], the Senator from Utah [Mr. GARN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. DIXON], the Senator from Arizona [Mr. DECONCINI], the Senator from New Jersey [Mr. BRADLEY], the Senator from Virginia [Mr. ROBB], the Senator from Indiana [Mr. COATS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Georgia [Mr. FOWLER], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KERRY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Wisconsin [Mr. KOHL], the Senator from Nevada [Mr. REID], the Senator from Tennessee [Mr. SASSER], the Senator from Michigan [Mr. RIEGLE], the Senator from North Dakota [Mr. BURDICK], the Senator from Maryland [Ms. MIKULSKI], the Senator from Missouri [Mr. BOND], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. MOYNIHAN], the Senator from Florida [Mr. GRAHAM], the Senator from Massachusetts [Mr. KENNEDY], the Senator from South Dakota [Mr. DASCHLE], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. DODD, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution condemning resurgent anti-Semitism and ethnic intolerance in Romania.

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

SENATE CONCURRENT RESOLUTION 53—REGARDING ISRAEL'S 1981 STRIKE AGAINST IRAQ'S NUCLEAR REACTOR

Mr. SPECTER (for himself, Mr. MURKOWSKI, Mr. HOLLINGS, Mr. BREAUX, Mr. CRAIG, Mr. AKAKA, Mr. FORD, Mr. MCCAIN, Mr. COHEN, Mr. DIXON, Mr. INOUYE, Ms. MIKULSKI, Mr. COATS, Mr. COCHRAN, Mr. BROWN, Mr. SHELBY, Mr. BRADLEY, Mr. GORTON, Mr. CONRAD, Mr. SARBANES, Mr. METZENBAUM, Mr. PACKWOOD, Mr. LIEBERMAN, Mr. SIMON, Mr. SYMMS, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. SMITH, Mr. REID, Mr. JOHNSTON, Mr. SEYMOUR, Mr. ROBB, Mr. MACK, Mr. NICKLES, Mr. LOTT, Mr. WALLOP, Mr. D'AMATO, Mr. DECONCINI, Mr. GRASSLEY, Mr. DODD, Mr. GRAMM, Mr. RIEGLE, Mr. HATCH, Mr. WOFFORD, Mr. LAUTENBERG, Mr. BURDICK, Mr. GRAHAM, Mr. HEFLIN, Mr. GORE, Mr. LEVIN, Mr. DASCHLE, Mr. HELMS, Mr. SASSER, and Mr. ADAMS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 53

Whereas on June 7, 1981, the Israeli air force launched a preemptive strike against the Iraqi nuclear reactor at Osirak;

Whereas on June 19, 1981, the United Nations Security Council adopted Resolution 487 which condemned that Israeli preemptive strike;

Whereas in the years following that Israeli preemptive strike, Iraq demonstrated an ability and willingness to use weapons of mass destruction, as evidenced by chemical weapons attacks against both Iranian military forces and Kurdish Iraqi citizens;

Whereas in 1990, Iraqi President Hussein threatened to use weapons of mass destruction against both neighboring Arab countries and Israel;

Whereas in August 1990, Iraq invaded and occupied Kuwait, demonstrating a continuing policy of aggression;

Whereas Israel showed great restraint in not responding to Iraq's unprovoked missile attacks on innocent Israeli civilians which occurred repeatedly from January 1991 through February 1991;

Whereas Israel's preemptive strike on the nuclear reactor at Osirak may have saved the lives of U.S. service men and women deployed in the Persian Gulf region after Iraq's invasion of Kuwait in August 1990; and

Whereas there is no evidence that the Israeli preemptive strike against the Iraqi nuclear reactor at Osirak delayed efforts to resolve the Arab-Israeli conflict: Now, therefore, be it

Resolved by the United States Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense which also reduced the threat of Iraqi nuclear aggression against countries bordering Iraq; and

(2) the United States should seek the repeal of United Nations Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike.

Mr. SPECTER. Mr. President, as we pay tribute to the actions of our coalition military forces in defeating the Iraqi threat, it is important to reflect on how different the outcome might have been if President Saddam Hussein had possessed the capability to use nuclear weapons in the Persian Gulf. Thankfully, the Israeli Air Force on June 7, 1981 eliminated that capability and removed a scenario for a nuclear Armageddon in the Middle East by destroying Iraq's Osirak nuclear reactor.

The daring Israeli preemptive strike against the Iraqi nuclear reactor was a legitimate and justifiable exercise of self-defense. Unfortunately, at the time, many in the world community did not see it that way and a hostile United Nations voted to strongly condemn Israel for making that strike—U.N. Security Resolution 487. In response to world criticism, then Prime Minister Menachem Begin defended Israel's mission, "Israel has nothing to apologize for. Ours is a just cause, we stand by it, and it will triumph."

If Israel had not destroyed Iraq's reactor, there is a very strong probability that President Saddam Hussein would have had nuclear weapons in hand by August 2, 1990. The destruction of the Osirak reactor may have delayed that development by 10 years. At the time of the Iraqi invasion of Kuwait, many experts claimed that Iraq was within 1 to 3 years of developing and producing nuclear weapons and recently, U.N. nuclear inspectors confirmed Iraq's short-term capability to produce a crude bomb. Military strategists were very aware that Iraq already possessed a delivery capability via its jet bombers and short-range surface-to-surface missiles and was working on an accelerated weapons program to develop a medium-range missile that could carry an unconventional warhead weighing up to 1,100 pounds. There was little doubt that the Iraqi nuclear threat was ominous and growing.

There can no longer be any doubt on the dangerousness of Iraq's intentions. The wanton Scud attacks against Israel showed Iraq's ruthlessness and their willingness to inflict death and destruction against innocent civilians.

The lesson of history is that the threats from armed dictators should not be taken lightly and the transfer of nuclear-related technology needs to be tightly controlled. The complicity of Western countries in supplying Iraq with chemical, biological, and nuclear-related technologies cannot be excused. We cannot afford to let despotic regimes get close to developing a nuclear capability and create situations where the survival of countries like Israel and other nations are threatened.

But it is not only Israel that is threatened by unchecked proliferation of weapons of mass destruction, it is the entire world. The United States and our allies in the gulf should be especially thankful to Israel that we did not have to confront a nuclear-armed Iraq. Had our forces had to contend with that contingency, it is doubtful that Kuwait would have ever been liberated unless America was willing to risk a significant portion of her Naval fleet and loss of hundreds of thousands of American lives. That is a frightening scenario that could have become a reality.

Mr. President, I believe that the time is now right for the United States Congress to address the issue of Israel's preemptive strike in its proper moral and historical context. Accordingly, this sense of Senate resolution seeks to encourage the United Nations, including the countries that served in the alliance against Iraq, to join the United States in repealing U.N. Resolution 487, which condemned Israel for an act of self-defense that reduced the threat of Iraqi nuclear aggression against other nations in the region.

SENATE CONCURRENT RESOLUTION 54—RELATIVE TO MEDICAL AND HUMANITARIAN ASSISTANCE TO IRAQ

Mr. DODD (for himself, Mr. WELLSTONE, Mr. SIMON, Mr. CRANSTON, Mr. PELL, Mr. JEFFORDS, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. RES. 54

Whereas medical teams from the United States, including a team of doctors from Harvard University and a team of doctors from the Arab-American Medical Association, have reported conditions in Iraq to be a "public health catastrophe";

Whereas widespread and severe acute malnutrition of children currently exist in Iraq due to acute shortages of food and infant formula that, if not relieved, could become a nationwide famine;

Whereas cholera, dysentery, typhoid, and gastroenteritis have reached epidemic proportions, and the incidence of all forms of water-borne diseases will increase during the summer months;

Whereas the Iraqi health care system is operating at a fraction of its former capacity;

Whereas basic infrastructure necessary to meet public health needs—water purification, sewage treatment, and electrical power—has been substantially reduced;

Whereas the United Nations appealed to the world community for $400 million for emergency humanitarian assistance in Iraq, including assistance for the refugees on the border of Iraq and Turkey, of which less than 50 percent has been provided;

Whereas an estimate that $3.75 billion of foreign-held Iraqi state assets remain frozen, of which an estimated 40 percent is in United States banks; and

Whereas the condition of Iraqi children is an international humanitarian concern that must be addressed immediately: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United Nations donor nations, including the United States, should fulfill their pledges made to the United Nations in response to its appeal for $400 million for emergency humanitarian assistance in Iraq, including assistance for the refugees; and

(2) the United States and other countries should immediately transfer a portion of Iraq's frozen state assets necessary to help meet the medical and humanitarian needs of Iraqi families and children in greatest need exclusively to the United Nations system, especially to its humanitarian and development assistance agencies, and to the International Committee of the Red Cross and other internationally recognized humanitarian relief organizations.

Mr. DODD. Mr. President, I rise today with Senator WELLSTONE, and Senator SIMON, and Senator CRANSTON, to introduce a resolution that would facilitate the provision of humanitarian and medical assistance to suffering children and families in Iraq.

We have just emerged from a successful campaign against Saddam Hussein and his evil, oppressive government. While it is absolutely critical that the United States continue implementing the explicit goals agreed upon by members of the international community in the United Nations cease fire resolution, we can not forget the unfortunate and unintended consequences of war. Just as Iraq must meet its obligations to the United Nations and to rebuilding its country, members of the international community must ease the suffering of the innocent children and families of Iraq.

For those innocent victims of Saddam Hussein's brutal regime, the present situation inside Iraq is grim. Last month, doctors from Harvard University and the Arab-American Medical Association visited this ravaged country and found what can only be described as a public health catastrophe. The Persian Gulf war has left Iraq without an infrastructure and without the capacity to deliver the bare essentials of food, clean water, electric power, sewage treatment, and even minimal health care to the majority of its 18 million citizens.

The consequences of this destruction are far-reaching and severe. Today, the country of Iraq is barely functional. Less than 30 percent of Iraq's pre-war electrical generating capacity is available. What capacity is left is sporadically located throughout Iraq, and is riddled with interruptions of service. Because the country no longer has a functioning electrical grid, thousands of temporary generators are used for the purification and pumping of water and for the disposal of sewage. Still, many Iraqis must rely on highly polluted rivers for drinking water, bathing, and the disposal of untreated sewage.

Malnutrition among the Iraqi people, particularly children, is pervasive and widespread due to the acute shortages of food and infant formula. Before the imposition of U.N. sanctions on August 6, 1990, over 70 percent of Iraq's basic foodstuffs were imported. Currently the severe shortages of basic commodities have driven the prices of food out of control. It is reported that food prices now average 1,000 percent higher than food prices 1 year ago. Even the most basic foodstuffs needed for survival are now priced out of reach for many Iraqi families.

The price of a single can of infant formula has catapulted from $1.00 to $50.00. While poor families receive 3 cans of infant formula from the Government per month at the $1.00 price, an infant requires at least 10 cans of formula per month to meet proper nutritional requirements and healthy development.

It is clear that Iraqi children are wasting away, suffering from stunted growth and malnutrition. It is estimated that 170,000 Iraqi children under age 5 may die in the next year, 100,000 of them will be infants.

The deplorable conditions inside Iraq are also causing disease to spread rapidly throughout the country. Cholera, dysentery, typhoid, and gastroenteritis have all reached epidemic proportions and the presence of water-borne diseases are increasing because of the intense desert heat. Iraqi hospitals, overrun with patients, face severe shortages of antibiotics and other life-sustaining drugs, dehydration fluids, and diagnostic lab equipment. These conditions are compounded by constant interruptions of electrical power and inadequate waste disposal.

Later this week, the United Nations will issue a report with findings similar to those of the Harvard and Arab-American teams. The U.N. report will reach the same conclusion—children and families inside Iraq urgently need vital medical care, food, and clean water, and electric power in order to survive.

As chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism and as a member of the Foreign Relations Committee, I see no choice but to encourage international assistance to the innocent children and families of Iraq. These people urgently need large scale humanitarian and medical assistance to reduce alarmingly high infant and child mortality rates. Foodstuffs, infant formula, and the restoration of basic medical supplies and care is also critical.

Put simply, this resolution recognizes the immediacy of this tragic situation and calls on donor nations around the world, including the United States, to meet the outstanding appeal issued by the United Nations. If met, this outstanding appeal would deliver $400 million in relief funds to Iraqi families and children. It is tragic that since the beginning of this emerging crisis, U.N. agencies have been forced to beg for funds for the project that will save the lives of children.

This resolution also calls for the United States and other countries to transfer frozen State assets to the U.N. system, and to internationally recognized humanitarian relief organizations, especially the International Committee of the Red Cross.

Mr. President, while the United States continues to press for full implementation of the U.N. ceasefire resolutions, all members of the international community must not forget the innocent and unintended victims of the Persian Gulf war. The United States and countries throughout the world can and should meet the pledge they have made to the United Nation's outstanding appeal to provide suffering Iraqi citizens with food and medical supplies. Children are dying and can't afford to wait.

Mr. WELLSTONE. Mr. President, I rise today to offer a resolution with Senator DODD and several others of my colleagues, which responds to the human tragedy unfolding daily in Iraq. I am pleased to be a member of the Subcommittee on Children and Families, chaired by Senator DODD. Our shared concerns have motivated our efforts to find a means of alleviating the horrible suffering of the children and families of Iraq.

In America, the Persian Gulf war is long over. But in Iraqi hospitals and homes, it is still being fought against epidemic disease and starvation. When the world community imposed economic sanctions against Iraq, it did not intend for them to cause prolonged, profound suffering among the people of Iraq. How many times did President Bush state that our problem was not with the Iraqi people, but with its political leadership. Certainly our quarrel was not with babies and children. Yet that is who has suffered most and continues to suffer most.

A top-level U.N. mission sent to Iraq to assess that country's civilian needs returned over the weekend. The team found that without massive imports of food, medicine and essential supplies, the country is headed for "a major catastrophe." The U.S. envoy, Prince Sadruddin Aga Khan, reported to the U.N. Secretary General the team's strong recommendation to ease sanctions in order to make funds available for these essential imports.

The findings of the U.S. team, included in a report scheduled to be released later this week, are further corroboration of findings of other recent investigations. A medical team from Harvard that visited Iraq in April estimated that 170,000 children under the age of five will die in the coming year from the delayed effects of the gulf war. The Harvard team, and others, say these projections are conservative.

The youth of Iraq is perishing daily as most of the world stands by unable or unwilling to respond. The immediate cause of death in most cases is water-borne infectious diseases in combination with severe malnutrition. The prevalence of acute malnutrition is so high that a nationwide famine is quickly becoming a likelihood if food shortages are not relieved.

Until the imposition of U.N. sanctions, Iraq imported over 70 percent of basic foodstuffs. Currently, shortages exist in all of the basic commodities needed for everyday survival. Supplies of baby milk are particularly scarce. Those food supplies that are available are priced out of reach for most Iraqi families. Due to the shortages, food prices now average 1,000 percent higher than prices a year ago.

Safe drinking water also is in dangerously short supply, especially outside of the major cities. When allied bombing destroyed the national electrical grid in January, water treatment plants throughout the country ceased to function. Iraqi civilians turned to polluted rivers for drinking, bathing and disposal of sewage. Today, less than 30 percent of Iraq's pre-war electrical generating capacity is available. What this has meant for Iraq's children is epidemic conditions of water-borne diseases such as cholera, typhoid, and dysentery.

The U.N. team has recommended two formulas for easing the sanctions—allowing Iraq to sell oil or unfreezing its assets abroad. At least $3.75 billion of Iraqi State assets is frozen in foreign banks, of which about 40 percent is in American banks. If private assets are included, the total is closer to $5 billion. Last May, Iraq requested permission to export $900 million worth of oil to raise funds for the importation of food, medicine and equipment for reconstruction. The Security Council has not acted on Iraq's request.

Whichever method is used to make available large sums of money, says Prince Aga Khan, it should not be too complex or too bureaucratic. The Iraqi Government's recent lack of candor concerning the existence of nuclear weapons production facilities has rightfully reinforced the world community's unwillingness to place any trust in the Government. Given this, I believe that Iraq's frozen State assets represent the most readily available source of funds and the most readily managed funds by U.N. officials.

The resolution we are introducing today calls on our Government and others to immediately transfer to the United Nations that portion of Iraq's frozen State assets necessary to help meet the medical and humanitarian needs of Iraq's families and children in greatest need. A similar resolution has already been introduced in the House of Representatives by Congressman TIM PENNY from my State of Minnesota.

I believe that the United States and other countries should also begin devising the procedures for allowing the exportation of Iraqi oil to raise funds for emergency needs. Effective means must be established to monitor the importation and distribution of goods and services to ensure that they are reaching Iraq's needy civilian population.

Our resolution also asks the U.N. donor nations, including the United States, to fulfill their pledges made to the United Nations in response to its earlier appeal. From the beginning of this crisis, the United Nations has had to beg for resources. The United Nations issued a revised appeal for $400 million for humanitarian assistance in Iraq, including assistance for the refugees. Less than half of this total has been received. The international relief agencies on the ground immediately should receive international resources necessary to provide to the most needy such essentials as baby milk, wheat, sugar, rice, and cooking oil.

I urge my colleagues to join Senator DODD, Senator SIMON, Senator CRANSTON, and myself and our House colleagues in this effort to respond to a calamitous situation in Iraq. The Persian Gulf war continues to claim victims—innocent families and children. Immediate action is required if the world is to protect these innocent victims.

SENATE RESOLUTION 154—RELATIVE TO THE PURCHASE OF CALENDARS

Mr. FORD (for himself and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 154

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $74,880 for the purchase of 104,000 "We The People" 1992 historical calendars. The calendars shall be distributed as prescribed by the committee.

AMENDMENTS SUBMITTED

NATIONAL ENERGY SECURITY ACT OF 1991

JOHNSTON (AND CONRAD) AMENDMENT NO. 752

(Ordered to lie on the table.)

Mr. JOHNSTON (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill (S. 1220) to reduce the Nation's dependence on imported oil, to provide for the energy security of the Nation, and for other purposes, as follows:

Strike all of title III and insert the following:

TITLE III—CORPORATE AVERAGE FUEL ECONOMY

SEC. 3101. SHORT TITLE.—This subtitle may be cited as the "Motor Vehicle Fuel Efficiency Act of 1991".

SEC. 3102. DEFINITIONS.—Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended by adding at the end the following new paragraphs:

"(15) The term 'light truck' means an automobile other than a passenger automobile.

"(16) The term 'vehicle class' means (i) all passenger automobiles; or (ii) all light trucks.".

SEC. 3103. AVERAGE FUEL ECONOMY STANDARDS FOR PASSENGER AUTOMOBILES.—Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)) is amended by striking subsection (a) and inserting the following:

"(a)(1) Except as otherwise provided in subsection (c) or (f), the average fuel economy for passenger automobiles manufactured by any manufacturer in any model year after model year 1991 shall not be less than the number of miles per gallon established for such model year under the following table:

"Average fuel economy standard

"Model year	
"1992 through 1995	27.5 miles per gallon.
"1996 through 2000	Determined by the Secretary under paragraph (2)(A).
"2001 through 2005	Determined by the Secretary under paragraph (2)(B).
"2006 and thereafter	Determined by the Secretary under paragraph (2)(C).

"(2) Not later than 18 months after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall prescribe, by rule, for each manufacturer of passenger automobiles, an average fuel economy standard for passenger automobiles manufactured by such manufacturer in—

"(A) model years 1996 through 2000;

"(B) model years 2001 through 2005;

"(C) model year 2006 and thereafter.

"(3)(A) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2)(A), (B), or (C) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).

"(B) Notwithstanding subparagraph (A), the standard prescribed for any manufacturer under paragraph (2)(A), (B), or (C) shall not be:

"(i) lower than 27.5 miles per gallon or higher than 40 miles per gallon for model years 1996 through 2000;

"(ii) lower than 28.5 miles per gallon or higher than 42 miles per gallon for model years 2001 through 2005; or

"(iii) lower than 30 miles per gallon or higher than 45 miles per gallon for model year 2006 and thereafter.".

SEC. 3104. AVERAGE FUEL ECONOMY STANDARDS FOR LIGHT TRUCKS.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (b) and inserting the following:

"(b)(1) The Secretary shall, by rule, prescribe average fuel economy standards for light trucks which are manufactured by any manufacturer in each model year before model year 1996. Such standards shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level which such manufacturers are able to achieve in each model year to which this subsection applies. Any standard applicable to a model year under this subsection shall be prescribed at least 18 months prior to the beginning of such model year.

"(2) Not later than 18 months after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall prescribe, by rule, for each manufacturer of light trucks, an average fuel economy standard for light trucks manufactured by such manufacturer in—

"(A) model years 1996 through 2000;

"(B) model years 2001 through 2005;

"(C) model year 2006 and thereafter.

"(3)(A) The average fuel economy standard prescribed by the Secretary for any manufacturer under paragraph (2)(A), (B), or (C) shall be set at a level which the Secretary determines is the maximum feasible average fuel economy level for such manufacturer as determined under subsection (d).

"(B) Notwithstanding subparagraph (A), the standard prescribed for any manufacturer under paragraph (2)(A), (B), or (C) shall not be:

"(i) lower than 20 miles per gallon or higher than 30 miles per gallon for model years 1996 through 2000;

"(ii) lower than 22 miles per gallon or higher than 32 miles per gallon for model years 2001 through 2005; or

"(iii) lower than 24 miles per gallon or higher than 35 miles per gallon for model year 2006 and thereafter.".

SEC. 3105. EXEMPTIONS FOR MANUFACTURERS OF LIMITED NUMBERS OF PASSENGER AUTOMOBILES.—Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)) is amended by inserting "for any model year prior to model year 1966" immediately before the period at the end of the first sentence.

SEC. 3106. CALCULATION OF AVERAGE FUEL ECONOMY STANDARDS FOR INDIVIDUAL MANUFACTURERS.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (d) and inserting the following:

"(d) (1) The Secretary shall determine the maximum feasible average fuel economy achievable for passenger automobiles or light trucks manufactured by any manufacturer (i) during model years 1996 through 2000; (ii) during model years 2001 through 2005; and (iii) during model year 2006 and thereafter by—

"(A) determining, in accordance with subsection (e), the maximum feasible average fuel economy (in miles per gallon) of all automobiles of such vehicle class manufactured by all manufacturers during such period assuming the use of maximum practical achievable technology;

"(B) calculating the percentage increase in the average fuel economy of all automobiles of such vehicle class that the maximum feasible average fuel economy determined in paragraph (1) represents compared to the average fuel economy of all automobiles of such vehicle class manufactured in model year 1990 as determined in accordance with section 503; and

"(C) increasing the average fuel economy of automobiles of such vehicle class manufactured by such manufacturer in model year 1990 by the greater of:

"(i) the percentage increase calculated in accordance with paragraph (1)(B); or

"(ii) the following percentage increase for the applicable period:

"(I) for model years 1996 through 2000, 7.5 percent for passenger automobiles and 5.9 percent for light trucks;

"(II) for model years 2001 through 2005, 20.9 percent for passenger automobiles and 15.8 percent for light trucks;

"(III) for model year 2006 and thereafter, 31.8 percent for passenger automobiles and 28.0 percent for light trucks.

"(2) Except as provided in subsection (a)(3)(B) or (b)(3)(B), the Secretary shall apply the same percentage increase to all manufacturers of automobiles of such vehicle class.

"(3) Notwithstanding paragraph (1)(C), upon the application of any manufacturer, the Secretary may adjust the model year 1990 average fuel economy of a vehicle class manufactured by such manufacturer used to calculate such manufacturer's maximum feasible average fuel economy under this subsection if—

"(A) necessary to remove any artificial competitive advantage among manufacturers that otherwise would result; and

"(B) the adjustment would not reduce the overall fuel economy of all manufacturers under this part.

"(4)(A) With respect to the manufacturer of automobiles in any vehicle class which did not manufacture automobiles in such vehicle class in model year 1990, the maximum feasible average fuel economy level of such vehicle class for model years 1996 through 2000, model years 2001 through 2005, and model year 2006 and thereafter shall be equal to the greater of:

"(I) the maximum feasible average fuel economy of all automobiles of such vehicle class manufactured by all manufacturers during such period under paragraph (1)(A); or

"(II) such higher level as the Secretary determines the manufacturer is capable of achieving after considering the factors set forth in subsection (e).

"(B) Notwithstanding subparagraph (A)(II), no manufacturer of automobiles in any vehicle class which did not manufacture automobiles in such vehicle class in model year 1990 shall be assigned a maximum feasible average fuel economy level greater than the highest maximum feasible average fuel economy level assigned to a manufacturer under paragraph (1).".

SEC. 3107. DETERMINATION OF MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—Section 502 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002) is amended further by striking subsection (e) and inserting the following:

"(e)(1) For purposes of this section, in determining maximum feasible average fuel economy, the Secretary shall consider—

"(A) technological feasibility;

"(B) economic practicability;

"(C) the effect of other Federal motor vehicle standards on fuel economy; and

"(D) the need of the Nation to conserve energy.

"(2) For purpose of determining maximum feasible average fuel economy under subsection (d), the Secretary shall assume use of the maximum practical achievable fuel-saving technology. In evaluating maximum practical achievable technology, the Secretary shall assume that, taken as a whole, the population of automobiles of each vehicle class manufactured by all manufacturers during the appropriate model year—

"(A) uses all economically practicable fuel-saving technologies that are capable of being commercialized by the first model year of the appropriate period, considering—

"(i) the time at which improved or new technologies could be introduced and the rates at which they might penetrate the market under existing industrial capabilities; and

"(ii) any technical financial, regulatory, organizational, and marketing limitations to deploying improved or new technologies by the first model year of such period;

"(B) attains the same performance level as automobiles manufactured in model year 1990, taken as a whole; and

"(C) reflects the same size mix and interior volume as automobiles of the same vehicle class manufactured in model year 1990, taken as a whole.

"(3) In evaluating the effect of other Federal motor vehicle standards on fuel economy for purposes of subsection (d), the Secretary shall assume that each vehicle meets all applicable emission standards and automobile safety standards in effect by the first model year of the appropriate period.

"(4)(A) Not later than 5 years before the beginning of model years 2001 and 2006, the Secretary shall conduct a rulemaking proceeding to reevaluate the Secretary's determinations of the maximum feasible average fuel econmy of passenger automobiles and of light trucks under paragraph (1)(A). The Secretary shall reevaluate determinations with respect to model years 2001 through 2006 5 years before the beginning of model year 2001, and determinations with respect to model year 2006 and again 5 years before the beginning of model year 2006.

"(B) Based upon such reevaluation, the Secretary may increase or decrease the percentage increase calculated under paragraph (1)(B), and may amend, in accordance with subsection (f), any standard set under subsection (a), (b), or (c).

"(C) Notwithstanding subsection (d)(1)(C)(ii), the Secretary may, by rule, reduce the minimum percentage increases specified in such subsection by an amount that would reduce average fuel economy in any vehicle class by no more than:

"(I) 1 miles per gallon for model years 1996 through 2000;

"(II) 2 miles per gallon for model years 2001 through 2005; and

"(III) 3 miles per gallon for model years 2006 and thereafter.

"(5) For purposes of this subsection, the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

SEC. 3108. AMENDMENT OF STANDARDS.—Section 502(f) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(f) is amended—

(1) by striking "subsection (a)(3)" and inserting "subsection (a)" each place it appears;

(2) by striking "meets the requirements of subsection (a)(3), (b), or (c), as the case may be" and inserting "is set at a level the Secretary determines is the maximum feasible average fuel economy level which the manufacturer to which it applies is able to achieve"; and

(3) by striking "if required by paragraph (4) of subsection (a)," in paragraph (2)(B).

SEC. 3109. PROCEEDINGS.—Section 502(h) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(h)) is amended by striking "Proceedings under subsection (a)(4) or (d)" and inserting "Any proceeding to promulgate or amend a rule under this section".

SEC. 3110. CREDIT TRADING.—(a) CARRYING BACK CREDITS.—Section 502(1)(1)(B)(i)b of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(1)(B)(i) is amended by striking "three" and inserting "five".

(b) CARRYING FORWARD CREDITS.—Section 502(1)(1)(B)(ii) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(1)(B)(ii) is amended to read as follows:

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer—

"(I) for any three consecutive model years immediately exceeds such applicable average fuel economy standard with respect to credits earned for exceeding average fuel economy standards for model years prior to 1996; and

"(II) until used with respect to credits earned for exceeding average fuel economy standards for model years 1996 and thereafter.".

(c) CREDITS FOR LIGHT TRUCKS.—Section 502(1)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(2)) is amended—

(1) by striking "automobiles which are not passenger automobiles" and inserting "light trucks"; and

(2) by striking "claims of automobiles" and inserting "light trucks".

(d) CONFORMING AMENDMENTS.—Section 502(1)(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(3)) is amended—

(1) by striking "civil penalty" and "penalty" each place either appears and inserting "fee"; and

(2) by striking "508" and inserting "507".

(e) TRANSFERRING CREDITS.—Section 502(1) of the Motor Vehicle Informatioln and Cost Savings Act (15 U.S.C. 2002(1)) is amended by striking paragraph (4) and inserting the following three paragraphs:

(4) Credits under this subsection may be transferred among manufacturers and among vehicle classes of a manufacturer in accordance with rules issued by the Secretary under paragraph (5).

"(5) NOTWITHSTANDING PARAGRAPH (4)—

"(A) no credit earned by a manufacturer under paragraph (1) with respect to either passenger automobiles or light trucks which are not domestically manufactured by such manufacturer shall be available to be taken into account with respect to the average fuel economy of passenger automobiles or light trucks which are domestically manufactured by such manufacturer; and

"(B) no credit acquired from another manufacturer under paragraph (4) with respect to either passenger automobiles or light trucks which are not domestically manufactured by such manufacturer shall be available to be taken into account with respect to the average fuel economy of passenger automobiles or light trucks which are domestically manufactured by the acquiring manufacturer.

"(6)(A) The Secretary may prescribe rules for purposes of carrying out the provisions of this subsection.

"(B) Not later than twenty-four months after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall issue rules implementing the credit trading system authorized by paragraph (4). Such rules shall ensure that the transfer of credits does not reduce the average fuel economy of all manufacturers that would result in the absence of such transfers.".

Sec. 3111. Calculation of Fuel Economy for Light Trucks.—Section 503(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(2)) is amended by adding before the period the following: "that are based upon the method required by this section for calculation of average fuel economy of passenger automobiles".

Sec. 3112. Airbag Credit for Small Passenger Automobiles.—(a) Airbag Credit.—Section 503(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)) is amended—

(1) in paragraph (1) by inserting ", subject to paragraph (4)," immediately before "be calculated"; and

(2) by adding at the end the following new paragraph:

"(4)(A) If a manufacturer manufactures small passenger automobiles which comply with Federal Motor Vehicle Safety Standard Number 208 by means of airbags for the driver seating position only or for both the driver and front seat outboard seating positions, average fuel economy for purposes of section 502(a) and (c) shall be calculated as provided under subsection (a)(1), except that in the calculation of the sum of terms under subsection (a)(1)(B) the term applicable to any model type of small passenger automobile for which there are automobiles so equipped with airbags shall be determined by adding—

"(i) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for the driver seating position only, by 105 percent of the fuel economy measured for such model type,

"(ii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are equipped with airbags for both the driver and outboard front seating positions, by 110 percent of the fuel economy measured for such model type, and

"(iii) the fraction that is created by dividing the number of small passenger automobiles of such model type that are not so equipped, by the fuel economy measured for such model type.

"(B) For purposes of this paragraph, the term 'small passenger automobile' means a passenger automobile (i) with a wheel base of less than 100 inches, or with a curb weight of 2,750 pounds or less, and (ii) whose measured fuel economy is at least 35 miles per gallon.".

(b) Conforming Amendment.—Section 502(e) of the Motor Vehicle Information and Costs Savings Act (15 U.S.C. 2002(e)) as amended by section 3107 of this Act is amended further by adding at the end the following new paragraph:

"(5) In determining maximum feasible average fuel economy, the Secretary shall not consider the alternative calculation for airbag-equipped passenger automobiles under section 503(a)(4).".

Sec. 3113. Explanatory Booklet Distributed by Secretary of Energy.—(a) Minimum Number of Copies Distributed.—Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new sentence: "During the 12-month period beginning on the first day of the first month after the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to 100 booklets as are reasonably requested by dealers from time to time.".

(b) Technical Amendments.—(1) Section 506(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended further by striking "Administrator of the Federal Energy Administration" and inserting "Secretary of Energy".

(2) Section 506(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended by striking "Federal Energy Administrator" and inserting "Secretary of Energy".

Sec. 3114. Excessive Fuel Consumption Fee.—The Motor Vehicle Information and Cost Savings Act is amended by striking section 507 (15 U.S.C. 2007) and inserting the following:

"EXCESSIVE FUEL CONSUMPTION FEE

"Sec. 507. (a) If the Secretary determines, on the record after opportunity for agency hearing, that any manufacturer has failed to meet the applicable average fuel economy standards established under section 502(a), (b), or (c), the Secretary shall assess the manufacturer an excessive fuel consumption fee in an amount determined under section 508.

"(b) The amount of the fee shall be assessed by the Secretary by written notice.

"(c)(1) Not later than 30 days after a determination by the Secretary under subsection (a) that a manufacturer has failed to meet any applicable average fuel economy standard under section 502, such manufacturer may apply to the Federal Trade Commission for a certification under this subsection. If the manufacturer shows and the Federal Trade Commission determines that reduction of the fee which the Secretary shall otherwise assess is necessary to prevent a substantial lessening of competition in that segment of the automobile industry subject to the standard with respect to which such fee is assessed, the Commission shall so certify. The certification shall specify the maximum amount that such fee may be reduced. To the maximum extent practicable, the Commission shall render a decision with respect to an application under this subsection not later than 90 days after the application is filed with the Commission. A proceeding under this subsection shall not have the effect of delaying the manufacturer's liability under this section for a fee for more than 90 days after such application is filed, but any payment made before a decision of the Commission under this subsection becomes final shall be paid to the court in which the fee is collected, and shall (except as otherwise provided in paragraph (2) be held by such court, until 90 days after such decision becomes final (at which time it shall be paid into the general fund of the Treasury).

"(2) Whenever a fee has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (1), and the Secretary subsequently determines to reduce such fee pursuant to section 508(c), the Secretary shall direct the court to remit the appropriate amount of the fee to such manufacturer.

"(d)(1) Any manufacturer assessed a fee under this section may obtain review of a determination (i) of the Secretary to assess such fee or (ii) of the Federal Trade Commission under subsection (c) in the United States Court of Appeals for the District of Columbia Circuit, or for any circuit wherein the manufacturer resides or has his principal place of business. Such review may be obtained by filing a notice of appeal in such court within 30 days after the date of such determination, and by simultaneously sending a copy of such notice by certified mail to the Secretary or the Federal Trade Commission, as the case may be. The Secretary or the Commission, as the case may be, shall promptly file in such court a certified copy of the record upon which such determination was made. Any such determination shall be reviewed in accordance with chapter 7 of title 5, United States Code.

"(2) If any manufacturer fails to pay a fee after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Attorney General shall recover the amount for which the manufacturer is liable in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order assessing the fee shall not be subject to review.

"(e) A claim of the United States for a fee assessed against a manufacturer under this section shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer which arises from an extension of credit before the date on which the judgment in any collection action under this section becomes final (without regard to subsection (d)).".

Sec. 3115. Amount of the Excessive Fuel Consumption Fee.—Subsections (a), (b), (c), and (d) of section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)–(d)) are amended to read:

"AMOUNT OF THE EXCESSIVE FUEL CONSUMPTION FEE

"Sec. 508. (a)(1) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to passenger automobiles manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 502(a) or (c), multiplied by the number of passenger automobiles manufactured by such manufacturer during such model year, reduced by (ii) credits available under section 502(1) for such model year.

"(2) The Secretary shall determine the amount of the excessive fuel consumption fee to be assessed under section 507 with respect to light trucks manufactured in any model year by multiplying the base fee provided in subsection (b) by (i) the number of tenths of a mile per gallon by which the applicable average fuel economy standard exceeds the average fuel economy of the light trucks manufactured by such manufacturer during such model year, multiplied by the number of light trucks to which such standard applies manufactured by such manufacturer during such model year, reduced by (ii) credits available under section 502(1) for such model year.

"(b) For purposes of calculating the amount of any civil penalty under this section, the amount of the base fee shall be—

"For model years:
"Prior to 1993 .... $5.00

"For model years:

"1993	$10.00
"1996	$20.00
"1997 and thereafter	The amount of the fee applicable in the prior model year as adjusted in accordance with the annual implicit price deflator for the gross national product during such model year.

"(c) The Secretary shall have the discretion to reduce the amount of the fee calculated under this section only to the extent—

"(1) necessary to prevent the insolvency or bankruptcy of the manufacturer,

"(2) such manufacturer shows that its failure to meet the standards of section 502 resulted from an act of God, a strike, or a fire, or

"(3) the Federal Trade Commission has certified that reduction of such fee is necessary to prevent a substantial lessening of competition, as determined under section 507(c).

"(d)(1)(A) The Secretary shall, by rule in accordance with the provisions of this subsection and subsection (e), substitute a higher amount for the amount of the base fee which would be used to calculate the fee under subsection (a) in the absence of such rule, if the Secretary finds that—

"(i) the additional amount of the fee which may be imposed under such rule will result in, or substantially further, substantial energy conservation for automobiles in future model years for which such higher fee may be imposed; and

"(ii) subject to subparagraph (B), such additional amount of fee will not result in substantial deleterious impacts on the economy of the United States or any State or region of any State.

"(B) Any findings under subparagraph (A)(ii) may be made only if the Secretary finds that it is likely that—

"(i) such additional amount of fee will not cause a significant increase in unemployment in any State or region thereof;

"(ii) such additional amount will not adversely affect competition; and

"(iii) such additional amount will not cause a significant increase in automobile imports.

"(2) Any rule under paragraph (1) may not provide that the amount per tenth of a mile per gallon used to calculate the fee under subsection (a) be less than the base fee or more than twice the base fee provided by subsection (b).".

SEC. 3116. ESTABLISHMENT OF THE EXCESSIVE RULE CONSUMPTION FUND.—Section 508 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008) is amended further by adding at the end the following new subsection:

"(f)(1) There is hereby established in the Treasury of the United States a separate fund, to be known as the Excessive Fuel Consumption Fund. The fund shall consist of all fees collected by the Secretary under this section.

"(2) Subject to appropriation, the Secretary of Energy may make expenditures from the Fund for purposes of—

"(A) providing financial assistance to the States in accordance with section 514; and

"(B) funding other energy conservation programs, to the extent that the amount available in the Fund exceeds the amount needed under subparagraph (A).

"(3) The Secretary of the Treasury shall hold the Fund and, after consulting with the Secretary of Transportation and the Secretary of Energy, shall report annually to the Congress on the financial condition and operations of the Fund during the preceding fiscal year. The budget of the Fund shall be included in the Budget of the United States Government."

SEC. 3117. REPORTS TO CONGRESS.—Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end the following two new subsections:

"(d) Within 18 months after enactment of the Motor Vehicle Ruel Efficiency Act of 1991, the Secretary shall prepare and submit to the Congress and the President a report on the extent to which manufacturers may attempt to defeat the purpose of this title by entering into business arrangements whose sole purpose is to manufacture or market automobiles that are less fuel efficient than otherwise required by section 502. Such report shall include consideration of mergers and the manufacture of vehicles and components by one manufacturer for sale under the name of a different manufacturer. Such report shall also include recommendations for legislative and administrative measures to prevent such arrangements from defeating the purpose of this title.

"(e) Within 18 months after enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary shall prepare and submit to the Congress and the President a report on an alternative method of regulating fuel economy that would base fuel economy standards on automobile characteristics such as size class, exterior size, interior volume, weight, performance, or other characteristics deemed appropriate by the Secretary. The Secretary shall assess in the report the extent to which such a method of regulating fuel economy is likely to achieve overall fuel economy improvement, to promote safety advances, to treat all manufacturers equitably, to be technologically feasible; and to facilitate consumer awareness of fuel economy.

SEC. 3118. SCRAPPAGE OF OLDER VEHICLES.—The Motor Vehicle Information and Cost Savings Act is amended further by adding at the end of thereof the following new section:

"SCRAPPAGE OF OLDER VEHICLES

"SEC. 514. (a) The Secretary of Energy shall provide financial assistance to State programs encouraging the voluntary removal from use and the marketplace pre-1980 model year automobiles.

"(b)(1) Within 180 days after the enactment of the Motor Vehicle Fuel Efficiency Act of 1991, the Secretary of Energy, after consulting with the EPA Administrator, shall adopt rules necessary to review and approve State programs that qualify for financial assistance under subsection (a).

"(2) Any rules adopted by the Secretary of Energy under paragraph (1) shall require that to qualify for federal assistance under subsection (a) at least 50 percent of the cost of the program be paid for from State or private funds.

"(c) The Secretary of Energy is authorized, subject to appropriation, to make expenditures from the Excessive Fuel Consumption Fund for purposes of this section.".

SEC. 3119. TECHNICAL AND CONFORMING AMENDMENTS.—(a) DESIGNATION OF THE EPA ADMINISTRATOR.—Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1) is amended by striking "Environmental Protection Agency" and inserting "EPA".

(b) ELIMINATION OF THE SECRETARY'S ADJUSTMENT AUTHORITY.—Section 502(1)(1)(B) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(1)(B)) is amended by striking "any adjustment under subsection (d) or".

(c) DESIGNATION OF THE ENERGY AND COMMERCE COMMITTEE.—Section 503(b)(3)(D)(ii)(II) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(D)(ii)(II)) is amended by striking "Interstate and Foreign Commerce" and inserting "Energy and Commerce".

(d) LEGISLATIVE VETO.—Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004(a)) is amended by striking "(or in the case of an amendment submitted to each House of the Congress under section 502(a)(4), at any time prior to sixty days after the expiration of the sixty-day period specified in section 502(a)(5))".

(e) ALTERNATIVE FUEL CREDIT.—Section 513(g)(2)(B) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013(g)(2)(B)) is amended by striking "502(a)(4) and (f)" and inserting "502(f)".

Mr. JOHNSTON. Mr. President, I submit an amendment that Senator CONRAD and I intend to propose to S. 1220, the National Energy Security Act of 1991, and ask that it be printed and lie on the table.

Mr. President, this amendment relates to corporate average fuel economy [CAFE] standard for automobile fuel efficiency. Under current law, the average fuel economy of all of the passenger cars made by each automaker must be at least 27.5 miles per gallon. The average fuel economy of all of the light trucks made by each automaker must be at least 20.2 miles per gallon.

Most Senators will agree that the automakers can and should do better. Most Senators will also agree that any comprehensive energy legislation approved by this body should contain measures to ensure that fuel economy improves. We differ, however, over just how much improvement is possible and how hard Congress should push the automakers.

With the amendment I submit today, the Senate will have before it three alternative approaches for increasing auto fuel economy.

The first is found in title III of S. 1220, the bill reported by the Committee on Energy and Natural Resources. It directs the Secretary of Transportation to determine the maximum feasible fuel economy the auto industry is capable of achieving, and then to set individual CAFE standards for each automaker based on the industry maximum. S. 1220 provides clear guidelines the Secretary must follow in determining what is the maximum feasible fuel economy the industry is capable of achieving, but, in the end, the determination is left to the Secretary. S. 1220 takes a reasonable and responsible approach, but, in light of the administration's hostility to any increase in CAFE standards, many Senators believe it leaves too much discretion to the Secretary of Transportation.

The second approach is found in S. 279, Senator BRYAN's bill, which was reported by the Committee on Commerce, Science, and Transportation. S. 279 mandates that each automaker increase the fuel efficiency of its cars and trucks by 20 percent by 1996 and by 40 percent by 2001 compared to its 1988 fuel economy ratings. S. 279 gives Senators the illusion of achieving quantifiable improvement in fuel economy, but it sets requirements without regard to what is technologically feasible or economically practical.

I do not wish to belabor this point today. I have already explained at some length in my additional views in the committee report on S. 1220 (S. Rept. 102-72) why the CAFE standards in S. 279 are unrealistic and unworkable. I will have more to say on this in the weeks ahead as the Senate takes up S. 279. Suffice it to say today that the hearing record built by the Committee on Energy and Natural Resources clearly shows the standards in S. 279 to be insupportable.

That brings us to the third approach, which is embodied in the amendment I submit today. It stands on the middle ground between the first two approaches. Like S. 279 and unlike S. 1220, the amendment sets minimum improvement requirements in the bill itself, rather than leaving them to the discretion of the Secretary of Transportation. Like S. 1220 and unlike S. 279, it anchors future CAFE standards on what is technologically feasible and what is economically practical.

The touchstone of the amendment is that the CAFE requirements it sets are based on objective, professional analysis. They were not picked because they looked tough on the auto industry. They were derived by committee staff with the assistance of the Nation's leading experts in this field, based upon reasonable criteria and assumptions about the nature of the auto fleet.

It is not my intent to go through the analysis we used to derive these numbers today. It is already fully explained in my additional views, which can be found on pages 366 through 408 of the report of the Committee on Energy and Natural Resources on S. 1220 (S. Rept. 102-72). I urge all Senators to read that explanation in preparation for the debate on CAFE standards.

Mr. President, this amendment is not new. I offered it twice in the Committee on Energy and Natural Resources. Twice a coalition of committee members who thought it went too far and committee members who thought it did not go far enough voted it down.

I intend to offer the amendment when the Senate takes up S. 1220 for the simple reason that it takes the most responsible approach toward raising CAFE standards. I am confident that once the Senate has had an opportunity to debate the issue fully, a majority of Senators will see that and support the amendment.

Mr. President, I firmly believe that the changes in the CAFE law must be made in order to decrease our dependence on imported oil. For this reason, I offer a tough, yet reasonable, alternative to the bill language, that is to the language contained in S. 1220. I intend to offer this amendment again when the full Senate considers the bill.

The Johnston CAFE amendment, which is being offered along with Senator KENT CONRAD of North Dakota, would require the following standards for the automobile fleet as a whole: 30.2 miles per gallon in 1996; 34 miles per gallon in 2001, and 37 miles per gallon in 2006. This compares with the current standard of 27.5 miles per gallon. The standards in the Johnston-Conrad amendment were developed in consultation with the Office of Technology Assessment and its contractor, Mr. K.G. Duleep, arguably the Nation's foremost expert in this field.

Mr. President, I ask unanimous consent that a section-by-section analysis of title III of S. 1220 as it would be amended by my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF TITLE III OF S. 1220 AS AMENDED BY JOHNSTON (AND CONRAD) AMENDMENT NO. 752

Section 3101. This section provides that Title III may be cited as the "Motor Vehicle Fuel Efficiency Act of 1991."

Section 3102. This section adds definitions of "light truck" and "vehicle class" to the definition section of the Motor Vehicle Information and Cost Savings Act (the "MVICSA") (15 U.S.C. 2001). "Light trucks" is used in place of the term "automobiles which are not passenger automobiles" used in section 502(b) and elsewhere in the existing MVICSA and is defined to mean the same thing. The term encompasses pick-up trucks, mini-vans, and jeeps. "Vehicle class" is defined to mean either all passenger automobiles or all light trucks.

Section 3103. This section amends section 502(a) of the MVICSA, which sets average fuel economy ("CAFE") standards for passenger automobiles. Section 3103 amends section 502(a) as follows:

New section 502(a)(1) omits existing standards for model years 1978 through 1991, preserves existing standards for model years 1992 through 1995, and adds new ones for model years 1996 through 2000, 2001 through 2005, and 2006 and thereafter. The new standards are to be determined in accordance with new section 502(a)(2).

New section 502(a)(2) requires the Secretary of Transportation (the "Secretary") to set individual CAFE standards for each manufacturer for model years 1996 through 2000, 2001 through 2005, and 2006 and thereafter by rule within 18 months after the date of enactment. Subsection (a)(2) of the current MVICSA, which requires the Secretary to prepare reports related to meeting the 1985 model year CAFE standard, is deleted as obsolete.

New section 502(a)(3)(A) requires the Secretary to set CAFE standards under section 502(a) at the "maximum feasible" level, which is determined under new subsection (d) (as amended by section 3106).

New section 502(a)(3)(B) prescribes minimum and maximum miles-per-gallon standards for each period. Any CAFE standard established by the Secretary for any manufacturer under section 502(a) must fall within the range prescribed by section 502(a)(3)(B).

Subsections 502 (a)(4) and (a)(5) of the existing MVICSA are deleted as unnecessary in light of new subsection (a)(3). (Subsection (a)(4) authorized the Secretary to set CAFE standards for the 1985 model year and thereafter at the maximum feasible level, notwithstanding the 27.5 miles-per-gallon level prescribed by existing law. Subsection (a)(5) prescribed the time in which Congress could veto the Secretary's new standards.)

Section 3104. This section amends section 502(b) of the existing MVICSA, which directs the Secretary to set CAFE standards for light trucks. Section 3104 amends section 502(b) as follows:

New section 502(b)(1) retains the Secretary's authority under existing subsection (b) to set maximum feasible CAFE standards for light trucks, but provides that the Secretary may exercise the existing authority only through model year 1995.

New section 502(b)(2) requires the Secretary to set individual CAFE standards for each manufacturer's light trucks for model years 1996 through 2000, 2001 through 2005, and 2006 and thereafter by rule within 18 months after the date of enactment.

New section 502(b)(3)(A) requires the Secretary to set CAFE standards under section 502(b) at the "maximum feasible" level, which is determined under new subsection (d) (as amended by section 3106).

New section 502(b)(3)(B) prescribes minimum and maximum miles-per-gallon standards for each period. Any CAFE standard established by the Secretary for any manufacturer under subsection 502(b) must fall within the range prescribed by section 502(b)(3)(B).

Section 3105. This section amends section 502(c) of the existing MVICSA. Section 502(c) now authorizes the Secretary to prescribe CAFE standards that are less stringent than those set in the statute for any manufacturer of less than 10,000 passenger automobiles that is unable to meet the statutory standard. Section 3105 permits the Secretary to use this authority only through model year 1995.

Section 3106. This section strikes section 502(d) of the existing MVICSA. Section 502(d) authorized the Secretary to amend CAFE standards for model years 1978, 1979, and 1980, and thus is obsolete. In its place, section 3106 adds a new section 502(d) that sets forth how the Secretary is to calculate the new CAFE standards that are called for in the new sections 502(a)(2) and 502(b)(2).

New section 502(d)(1) prescribes a method of calculating CAFE standards for individual manufacturers that requires each manufacturer to increase its average fuel economy by the same percentage of its current (1990 model year) CAFE level. Subsection (d)(1) does this by directing the Secretary to calculate the new CAFE standards for each manufacturer by:

(A) Determining the maximum feasible CAFE level for the entire vehicle class under new section 502(e);

(B) Dividing the maximum feasible CAFE level for the vehicle class (determined under section 502(d)(1)(A)) by the average fuel economy of vehicles of that class manufactured in model year 1990 (determined under section 503 of the existing MVICSA); and

(C) Multiplying either the quotient from section 502(d)(1)(B) or the minimum percentage increase prescribed by section 502(d)(1)(C)(ii), whichever is greater, by the average fuel economy of automobiles manufactured by each manufacturer in model year 1990 (determined under section 503).

New section 502(d)(2) allows the Secretary to apply different percentage increases (i.e., the quotient determined under subsection (d)(1)(B)) to different vehicle classes, but requires the Secretary to use the same percentage increase for each manufacturer of vehicles within the same class.

New section 502(d)(3) authorizes the Secretary to adjust a manufacturer's model year 1990 fuel economy level used to calculate the new CAFE standards (the manufacturer's "baseline") if necessary to remove artificial competitive advantages among manufacturers, provided that the adjustment does not reduce the overall fuel economy of all manufacturers collectively.

New section 502(d)(4) permits the Secretary to determine a CAFE standard for a manufacturer's vehicle class that was not made in model year 1990 (a so-called "new entrant"). The standard must be at least equal to the maximum feasible fuel economy of the industry as a whole for that class, but can be no higher than the highest CAFE standard of a manufacturer that did produce vehicles of the class in model year 1990.

Section 3107. This section amends section 502(e) of the MVICSA. The current section 502(e) authorizes the Secretary to consider technological feasibility, economic practicability, the effect of other Federal standards on fuel economy, and the need to save energy in determining maximum feasible CAFE levels. Section 3107 preserves these considerations, but redesignates the first sentence of the existing subsection (e) as (e)(1) and the second sentence, which was added by Public Law 100-494 in 1988, as (e)(5). Section 3107 also adds three new paragraphs as follows:

New section 502(e)(2) requires the Secretary, in determining what constitutes "maximum feasible" fuel economy under new section 502(d) to assume manufacturers will use the "maximum practical achievable" fuel-saving technology. Subsection (e)(2) defines the concept of "maximum practical achievable" fuel-saving technology in terms of—

(A) The use of all economically practicable fuel-saving technologies that are capable of being commercialized by the first model year of the appropriate period;

(B) Maintaining the performance levels achieved in model year 1990; and

(C) Maintaining the size mix and interior volume of the 1990 model year.

New section 502(e)(3) also requires the Secretary, in determining what constitutes "maximum feasible" fuel economy to assume that all vehicles will meet applicable emission requirements and applicable safety standards.

New section 502(e)(4)(A) require the Secretary to reevaluate "maximum feasible" fuel economy determinations for model years 2001 through 2005 five years before the standards go into effect and for model year 2006 and thereafter both five and ten years before they go into effect.

New section 502(e)(4)(B) authorizes the Secretary to raise or lower the minimum percentage increases otherwise required and to amend, in accordance with section 502(f) any CAFE standard set under section 502 (a), (b), or (c).

New section 502(e)(4)(C) limits the Secretary's authority under section 502(e)(4)(B) to decrease a minimum percentage increase required by section 502(d)(1)(C)(ii) to: one mile per gallon for model years 1996 through 2000; two miles per gallon for model years 2001 through 2005; and three miles per gallon in for model years 2006 and thereafter.

Section 3108. This section makes conforming amendments to section 502(f) of the existing MVICSA. Section 502(f) permits the Secretary to change CAFE standards so long as the new standard requires manufacturers to meet the maximum feasible CAFE level.

Section 3109. This section makes a conforming amendment to section 502(h) of the existing MVICSA. Section 502(h) specifies that informal hearing procedures under the Administrative Procedure Act apply to proceedings to set or change CAFE standards under the MVICSA.

Section 3110. This section amends section 502(l) of the MVICSA to allow for credit trading. The current section 502(l) awards credits to manufacturers whose fuel economy exceeds the applicable CAFE standard. The amount of credits is equal to the number of tenths of a mile per gallon by which the manufacturer's average fuel economy (as measured by section 503) exceeds the applicable CAFE standard, multiplied by the total number of vehicles of the applicable class manufactured by the manufacturer during the applicable model year. Under current law, these credits can then be used to offset the manufacturer's failure to meet applicable CAFE standards in prior or subsequent years up to three years before or up to three years after the credit is earned.

Subsection 3110(a). This subsection amends section 502(l)(1)(B)(i) to extend from three to five years the time a manufacturer has to "pay back" credits borrowed to meet CAFE standards one year in anticipation of exceeding CAFE standards in a later year.

Subsection 3110(b). This subsection amends section 502(l)(1)(B)(ii) to provide that credits earned in model year 1996 and thereafter can be used indefinitely (instead of for just three years) to offset future failures to meet applicable standards.

Subsection 3110(c). This subsection makes conforming amendments to section 502(l)(2) to substitute the term "light trucks" for "automobiles which are not passenger automobiles."

Subsection 3110(d). This subsection makes conforming amendments to section 502(l)(3) to substitute references to the excessive fuel consumption fee for the current civil penalty.

Subsection 3110(e). This subsection redesignates section 502(l)(4), which authorizes the Secretary to prescribe rules implementing the credit system, as new section 502(l)(6)(A) and adds new sections 502(l)(4), (5), and (6)(B).

New section 502(l)(4) authorizes manufacturers to trade credits awarded under section 502(l).

New section 502(l)(5) imposes certain restrictions on such trades. The new section 502(l)(5) forbids use of credits earned with respect to vehicles produced abroad to meet CAFE requirements applicable to vehicles produced domestically.

New section 502(l)(6), in addition to preserving the Secretary's existing rulemaking authority, directs the Secretary to issue rules implementing the credit trading system. Section 502(l)(6)(B) provides that the credit system may not be used to reduce overall fuel economy.

Section 3111. This section clarifies how average fuel economy for light trucks is to be calculated. Existing section 503(a)(2) provides merely that the Secretary is to calculate light truck average fuel economy according to rules adopted by the Environmental Protection Agency. Section 3111 requires that these rules be based on the method prescribed in section 503(a)(1) for calculating average fuel economy for passenger automobiles.

Section 3112. This section amends current section 503(a) to provide a credit for manufacturers who install airbags in small passenger automobiles. Small passenger automobiles are defined as cars with: (i) either a wheelbase of less than 100 inches or a curb weight of 2,750 pounds or less; and (ii) a measured fuel economy of at least 35 miles per gallon.

Subsection 3112(a). This subsection increases the fuel economy rating of small passenger automobiles equipped with a driver-side airbag by five percent and that of small passenger automobiles equipped with both driver-side and passenger-side airbags by ten percent for purposes of calculating average fuel economy under existing section 503.

Subsection 3112(b). This subsection provides that, for purposes of calculating the maximum feasible CAFE levels under section 502(e), the Secretary may not take into consideration the credit manufacturers can receive under section 3112(a) for installing airbags in small cars.

Section 3113. This section amends section 506(b) of the existing MVICSA. Section 506(b) now requires the Environmental Protection Agency to prepare, and the Department of Energy to distribute, each model year, a booklet on fuel economy.

Subsection 3113(a). This subsection requires the Department of Energy to distribute at least 100 copies, and as many more as may reasonably be requested, to every automobile dealer each year.

Subsection 3113(b). This subsection changes references to the "Federal Energy Administrator" in current law to the "Secretary of Energy."

Section 3114. This section provides financial incentives for meeting CAFE standards. Under section 507 of the existing MVICSA, failure to meet CAFE standards is unlawful and punishable by imposition of a civil penalty under existing section 508. Section 3114 strikes existing section 507 and, in its place, authorizes the Secretary to levy an "excessive fuel consumption fee" on manufacturers who fail to meet applicable CAFE standards. Section 3114 amends section 507 as follows:

New section 507(a) authorizes the Secretary to levy the excessive fuel consumption fee on manufacturers who fail to meet applicable CAFE standards in amounts provided by section 508 (as amended by section 3115).

New section 507(b) provides that the amount of the fee is to be assessed by written notice.

New section 507(c)(1) gives any manufacturer assessed a fee the right to request the Federal Trade Commission to review the effect of the fee on competition in the automobile industry. Subsection (c)(1) is intended to preserve with respect to imposition of the excessive fuel consumption fee the same rights a manufacturer now has with respect to the imposition of a civil penalty under current section 508(b)(4).

New section 507(c)(2) provides for repayment of all or part of any fee collected from a manufacturer while the Federal Trade Commission is reviewing the imposition of such fee if, upon completion of the Commission's review, the Secretary decides to reduce or eliminate the fee. Subsection (c)(2) is intended to preserve with respect to the imposition of the excessive fuel consumption fee the procedure for remitting civil penalties under current section 508(b)(5).

New section 507(d)(1) provides for judicial review of any fee assessed under subsection (a) or any Federal Trade Commission decision under subsection (c) in the United States Court of Appeals for the District of Columbia Circuit. Subsection (d)(1) is intended to provide the same right of judicial review of decisions resulting in the imposition of the excessive fuel consumption fee that current section 508(c)(1) now provides for civil penalties.

New section 507(d)(2) authorizes the Justice Department to file suit in United States district court to recover any excessive fuel consumption fee if the manufacturer otherwise fails to pay it. The new subsection (d)(2) is intended to provide the same procedure for the collection of the excessive fuel consumption fee that current section 508(c)(2) now affords for collection of civil penalties.

New section 507(e) gives claims for excessive fuel consumption fees the same priority in bankruptcy proceedings that claims for civil penalties now possess under current section 508(b)(6).

Section 3115. This section strikes the first four subsections (but not subsection (e)) of the existing civil penalty provision, section 508. In their place, section 3115 adds four new subsections that set forth how the excessive fuel consumption fee is to be calculated.

New section 508(a) establishes the amount of the fee for failure to meet applicable CAFE standards. Paragraph (1) applies to fees for failing to meet passenger car CAFE standards. Paragraph (2) applies to fees for failing to meet light truck CAFE standards. Both provide that the amount of the fee is determined by multiplying the following three numbers:

The number of tenths of a mile-per-gallon by which the manufacturer has failed to meet the applicable CAFE standard;

The number of vehicles in the applicable vehicle class manufactured by the manufacturer during the applicable model year; and

The amount of the base fee provided in the new subsection (b).

The resulting figure may be reduced by any credits the manufacturer has.

New section 508(b) sets out the amount of the base fee used to calculate the excessive fuel consumption fee under subsection (a). Initially, the base fee is five dollars, which is the amount of the base civil penalty under existing section 508(b)(1). The base fee doubles to ten dollars in model year 1993 and it doubles again to twenty dollars in model year 1996. In each model year thereafter, the amount of the fee is adjusted to reflect inflation.

New section 508(c) gives the Secretary power to reduce the amount of the fee if—

Necessary to prevent insolvency or bankruptcy of the manufacturer;

Failures to meet the standard was beyond the manufacturer's control; or

The Federal Trade Commission certifies (under section 507(c), as amended by section 3114) that the fee would result in substantial harm to competition in the automobile industry.

The Secretary's authority to reduce fees under the new subsection (c) is coextensive with the Secretary's current authority to reduce civil penalties under the existing section 508(b)(3).

New section 508(d) gives the Secretary power to increase the amount of the base fee, up to twice the amount provided in new subsection (b), provided that any such increase will further energy conservation and will not substantially harm the economy of the nation or of any state or region. The Secretary's authority to increase fees under new subsection (d) is coextensive with the Secretary's current authority to increase civil penalties under existing section 508(d). Any increase under this subsection must be accomplished through a rulemaking.

The legislation preserves existing section 508(e), which provides procedures for public notice, comment, and hearings on, and for judicial review of, any rule under subsection (d).

Section 3116. This section adds a new subsection (f) to section 508 of the MVICSA.

New section 508(f)(1) establishes a separate fund in the Treasury, in which the excessive fuel consumption fees collected under the new section will be deposited.

New section 508(f)(2) authorizes the Secretary of Energy, subject to appropriations, to use the funds deposited in the special fund to finance older vehicle scrappage programs under section 3117. To the extent money is available beyond what is needed for scrappage programs, it can be used to fund other energy conservation programs.

New section 508(f)(3) directs the Secretary of the Treasury to manage the fund, and to report to Congress on its status annually.

Section 3117. This section adds two new subsections to section 512 of the existing MVICSA to require the Secretary to prepare two reports.

New section 512(d) requires the Secretary to prepare a report on the extent to which manufacturers may attempt to defeat new CAFE requirements by entering into artificial business arrangements (known as "gaming").

New section 512(e) requires the Secretary to prepare a report on an alternative method of regulating fuel economy that would base fuel economy standards in size class, exterior size, interior volume, weight, performance, or other characteristics.

Section 3118. This section adds a new section 514 to the MVICSA.

New section 514(a) authorizes the Secretary of Energy to provide financial assistance to state programs designed to retire pre-1980 automobiles. This section is intended to remove the least energy efficient vehicles from use.

New section 514(b)(1) directs the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, to adopt rules necessary to review and approve state programs qualifying for assistance under section 514(a). Paragraph (2) requires that, to receive Federal assistance under this section, at least half of the cost of any programs must be paid from state or private funds.

New section 514(c) authorizes the Secretary of Energy to use funds appropriated from the Excessive Fuel Consumption Fund established under section 508(f) (as amended by section 3116) for scrappage programs under this section.

Section 3119. This section makes technical and conforming changes to the MVICSA.

TITLE X PREGNANCY COUNSELING ACT

CHAFEE AMENDMENT NO. 753

Mr. CHAFEE proposed an amendment to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

"(a) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that pregnant women receiving services from projects funded under this title are provided with information and nondirective counseling services, and referral services upon request, concerning all legal and medical options regarding their pregnancies. Women requesting information or nondirective counseling under this section regarding the options for the management of an unintended pregnancy shall be provided with nondirective counseling, and referral on request, concerning alternative courses of action that may include—

"(1) prenatal care and delivery; and

"(2) infant care, foster care, or adoption services; and

"(3) pregnancy termination.

If, in the case of a woman requesting such information and nondirective counseling, an ectopic pregnancy or other immediate threat to the women's health is suspected, such woman must be referred for immediate diagnosis and therapy.

"(b) EXEMPTION FOR RELIGIOUS BELIEFS OR MORAL CONVICTIONS.—

"(1) IN GENERAL.—No project, or individual employed or associated with such project, may decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), except where the provision of such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the project or individual.

"(2) FACILITIES AND PERSONNEL.—A project that, as provided for in paragraph (1), declines to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), may not be required to—

"(A) make its facilities available for the provision of such information, nondirective counseling or referral services; or

"(B) provide any personnel for the provision of such information, nondirective counseling or referral services.

"(c) REQUIREMENT OF REFERRAL.—If a project or individual is exempt pursuant to subsection (b) from the requirement of providing information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), such project or individual shall advise the patient of that fact and refer such patient to another individual within the same project, or if another such individual is unavailable, to another project, that provides such information, nondirective counseling or referral services.

"(d) PROHIBITION AGAINST DISCRIMINATION.—A project receiving assistance under this title after the date of enactment of this section shall not—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel; or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel;

because such physician or other health care personnel has provided information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2), or (3) of subsection (a) or refused to provide such information, nondirective counseling or referral services on the grounds that such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the physician or health care personnel, or because of the religious beliefs or moral convictions of the physician or health care personnel with respect to such information, nondirective counseling or referral services.

"(e) NONTERMINATION OF GRANT.—No project may be denied funding, or be terminated, under this title based on the decision of such project to provide or decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a). The burden of proof shall be on the entity or official making the determination to deny funding or terminate the project to demonstrate that such denial or termination is not based on the decision by such project to provide or decline to provide such information, nondirective counseling or referral services.

"(f) ACCESSIBILITY OF SERVICE.—A grantee under this title shall ensure that information, nondirective counseling or referral services on each of the subjects described in paragraphs (1), (2) or (3) of subsection (a) is available at an adequate number of projects assisted by such grantee under the grant within the geographic area served, or otherwise provide access to such information, nondirective counseling or referral services at another entity within the grantee's geographic area which will provide such services under the same financial eligibility criteria as projects assisted under this title.

"(g) DEFINITION.—For purposes of this section, the term 'project' means an entity that provides family planning services with funds received under this title under a negotiated, written agreement with a grantee.".

DURENBERGER AMENDMENT NO. 754

Mr. DURENBERGER proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

On page 1 of the amendment, strike out line 3 and all that follows through the end of the amendment, and insert in lieu thereof the following:

SECTION 1. REQUIREMENT FOR MEDICAL REFERRALS OF PREGNANT INDIVIDUALS BY FAMILY PLANNING PROJECTS RECEIVING TITLE X FUNDING.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. REFERRALS OF PREGNANT INDIVIDUALS FOR MEDICAL CARE.

"(a) REQUIREMENT.—Except as provided in subsection (b), entities receiving financial assistance under this title (whether by grant or contract) shall be required to refer individuals who are pregnant for appropriate prenatal medical care, by furnishing such individuals with a list of available health care providers. Such list may include available prenatal care providers who perform abortions, but shall not include providers whose principal business is the provision of abortions.

"(b) EMERGENCY CARE.—In cases in which a pregnant individual is determined to need emergency medical care, an entity receiving financial assistance under this title shall only be required to refer the individual immediately to an appropriate provider of emergency medical services.".

COCHRAN AMENDMENT NO. 755

Mr. COCHRAN proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. CLARIFICATION REGARDING THE PROVISION OF INFORMATION CONCERNING PREGNANCY.

(a) IN GENERAL.—Notwithstanding any other provision of law, no health professional providing services in any project receiving assistance under title X of the Public Health Service Act shall be prohibited by the Secretary of Health and Human Services from providing, upon request, information concerning any legal option regarding an unintended pregnancy.

(b) CONSTRUCTION.—Nothing in this or any other Act shall be construed to permit projects receiving assistance from the Federal Government to encourage or promote abortion as a method of family planning.

COATS AMENDMENT NO. 756

Mr. COATS proposed an amendment to the bill S. 323, supra, as follows:

At the end of the amendment, add the following new section:

SEC. . PARENTAL NOTIFICATION REGARDING ABORTION.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary may not make a grant under this section unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

"(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provided to the parent, except that notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dwelling house or usual place of abode (as defined by rule 4 of the Federal Rules of Civil Procedure for the United States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

"(2) The physician with principal responsibility for making the decision to perform the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent her death and there is insufficient time to provide the required notice.

"(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by the applicable State law, provided that in any such case the physician notifies the authorities specified by such State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

"(4) The entity complies with an applicable State or local law that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.".

MITCHELL (AND OTHERS) AMENDMENT NO. 757

Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM) proposed an amendment, which was subsequently modified, to amendment No. 756 proposed by Mr. COATS to the bill S. 232, supra, as follows:

Strike all after the first word and insert the following:

——. ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interest of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

MITCHELL (AND OTHERS) AMENDMENT NO. 758

Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. COHEN, and Mrs. KASSEBAUM) proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

At the end of the Chafee amendment add the following:

SEC. . ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expendited judicial procedures that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interest of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

NICKLES AMENDMENT NO. 759

Mr. NICKLES proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

At the appropriate place, add the following new section:

"SEC. . Nothing in this Act shall be construed to invalidate, nullify or amend regulations published at 42 CFR 59.9 and 59.10."

HATCH AMENDMENT NO. 760

Mr. HATCH proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill S. 323, supra, as follows:

On page 6, after line 4, add the following new subsection:

(h) PROVISION OF STATISTICS.—A project receiving assistance under title X of the Public Health Service Act shall maintain statistics concerning the referrals of pregnant women to whom such project has provided information, counseling or referral under subsection (a). Such project shall, on a quarterly basis, prepare and submit to the Secretary of Health and Human Services a report containing the statistics maintained by the project under this subsection for the quarter for which such report is submitted. The Secretary shall ensure that no records are maintained by such project which include the names of individual women and the referrals requested by such women.

PEACE AND DEVELOPMENT IN THE HORN OF AFRICA

PELL AMENDMENT NO. 761

Mr. FORD (for Mr. PELL) proposed an amendment to the bill (S. 985) to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region, as follows:

On page 12, line 10, strike the "." and insert the following: "subject to amounts provided in advance in an Appropriations Act."

IMPROVEMENTS IN THE OPERATION OF THE UNITED STATES COURT OF VETERANS APPEALS

CRANSTON AMENDMENT NO. 762

Mr. FORD (for Mr. CRANSTON) proposed an amendment to the bill (H.R. 153) to amend title 38, United States Code, to make miscellaneous administrative and technical improvements in the operation of the United States Court of Veterans Appeals, and for other purposes, as follows:

On page 6, between lines 11 and 12, insert the following new section:

SEC. 7. ACCEPTANCE OF VOLUNTARY SERVICES AND GIFTS BY THE UNITED STATES COURT OF VETERANS APPEALS.

Section 7281 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(i) The Court may accept and utilize voluntary services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.".

On page 6, line 12, strike out "7" and insert in lieu thereof "8".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Tuesday, July 16, 1991, at 11 a.m., on the subject: Review and evaluation of Secretary Mosbacher's decision on the 1990 census adjustment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, July 16, 1991, at 9:30 a.m. The committee will hold a full committee hearing to receive the Holloway-Werner Report, an independent review of the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 16, 1991, at 7 p.m. to hold a closed meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 16, 1991, at 9:30 a.m., on reauthorization and oversight of the Rail Safety Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 16, 1991, at 2:30 p.m. on S. 1166, S. 471, and 900 numbers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, July 16, 1991, at 4 p.m. to complete markup on the fiscal years 1992–93 Department of Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FORD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on readjustment problems of Persian Gulf war veterans and their families at 10 a.m. on Tuesday, July 16, 1991, in SH–216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 16, at 9:30 a.m., to hold a hearing on the Conventional Forces in Europe [CFE] Treaty, Treaty Doc. 102–8. Secretary Cheney and General Powell will be our witnesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH, AND DEVELOPMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, July 16, beginning at 2:30 p.m., to conduct a hearing on legislation to reauthorize the Environmental Protection Agency's Research and Development Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be authorized to meet during the session of the Senate on July 16, 1991, at 10 a.m. to hold a hearing on the taxation of limited partnership rollups.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, July 16, 1991, at 9:30 a.m., to hold a hearing on oversight of legislative and executive lobbying disclosure.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, July 16, 1991, at 9 a.m., for a hearing on "Access to Higher Education: Increasing Pell Grants and Widening Opportunities."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 16, at 2:30 p.m., to hold a nomination hearing on Robert Strauss to be Ambassador to the Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PEOPLES BANK CELEBRATES 100 YEARS OF SERVICE

• Mr. LUGAR. Mr. President, I rise today to commend Peoples Bank for 100 years of service to the citizens of Indianapolis, IN. In 1891, Felix T. McWhirter founded Peoples Bank with a philosophy of customer service and a commitment to strength and security. That tradition has continued down through the years from Felix McWhirter to his great, great grandson and Peoples Bank's current president, William "Mac" McWhirter.

For a century, Peoples Bank has remained customer-centered. Through local ownership and family involvement, the bank has maintained its philosophy of conservative banking practices to ensure the safety of its depositors, while implementing current innovations in the banking industry. Peoples Bank has a heart for service—to its clients and its community. Peoples maintains the traditions that have been a hallmark in the Indianapolis financial arena for so long.

I congratulate Peoples Bank and the McWhirter family for their continued commitment to Indianapolis, as they begin their second century of leadership in the community.•

ONE CHINA GETS MFN, THE OTHER DESERVES GATT

• Mr. SIMON. Mr. President, Arthur Waldron, an author who deals with the subject of China, had a column in the Wall Street Journal some weeks ago that said "The major powers should move to upgrade their relations with Taipei. They should support Taipei's entrance into the General Agreement on Tariffs and Trade. They should involve Taipei in international economic and security consultations."

The column was written some weeks ago but makes as much sense today as it did when it first appeared.

I urge my colleagues to read the Arthur Waldron column, and I ask that it be printed in the RECORD at this point.

The column follows:

[From the Wall Street Journal, May 29, 1991]

ONE CHINA GETS MFN, THE OTHER DESERVES GATT

(By Arthur Waldron)

Earlier this month a young lawyer from Taiwan named C.V. Chen met in Beijing with the elderly Chinese Vice Premier Wu Xueqian. It was an unprecedented encounter, signaling changes in the relationship between Taipei and Beijing that may prove as important for Asia as the end of the Berlin Wall was for Europe.

Mr. Chen and 13 colleagues represented a new body called the Straits Exchange Foundation that Taipei has created to deal "unofficially" with Beijing, just as its Coordination Council for North American Affairs deals "unofficially" with Washington. For Taipei, this is a promising move.

It is essential that the U.S. watch these developments closely and do all it can to foster their peaceful progress. For the possibility of conflict in the Taiwan Strait remains real, and could even increase if the cautious reconciliation between Taipei and Beijing fails. That reconciliation will proceed more smoothly if both China and Taiwan are full-fledged members of the international community. President Bush's decision this week to extend, with restrictions, China's most favored nation trading status is important in furthering that end. What is now needed are steps to end Taiwan's isolation.

That Taipei cannot handle its key relationships with Washington and Beijing through regular diplomatic channels is a measure of just how severe its diplomatic setbacks have been over the past 20 years, as nation after nation has derecognized it. Mr. Chen's visit, however, suggests that this process of marginalization is being reversed. The envoy from Taipei represents a government whose leverage and confidence are increasing. The government of his Chinese host is watching its once formidable international clout dwindle.

From this changing balance of power comes both promise and risk. The promise is that Taiwan—wealthy, militarily strong and increasingly democratic—will find the confidence to compromise with China. The risk is that the government of the People's Republic, beleaguered at home and increasingly ignored internationally, will be unwilling to accept Taiwan's best offer, and instead try for the whole cake.

The risk is intensified by the fact that competition between Taiwan and the mainland is not just between governments, but between two kinds of Chinese societies. The meeting between C.V. Chen and Wu Xueqian suggests how much the psychological equation between the two Chinas has shifted. On the vexing issue of whether Beijing is the "central" government and Taipei a "local" one, Mr. Chen said the issue is not one of territorial size or population but of system. The choice, he said, has to be made by the Chinese people.

A decade ago most observers would have argued that the Chinese people had already made their choice—communism. But the democracy movement of 1989 showed that is not the case, and the Tiananmen massacre showed how far the Chinese government was willing to go to hold on to power. Talks between Taiwan and China present a diplomatic version of the same set of issues.

Policy toward Taiwan (and also Hong Kong) is a bone of contention in internal Chinese politics. For hard-liners, the incorporation of both territories into the People's Republic on Beijing's terms is part of the oldtime religion of communism. Hence increasing intervention in Hong Kong's affairs and the unwillingness to drop the threat of force against Taiwan. For reformers, Taiwan (and Hong Kong) are sources of capital, ideas and leverage. The reformers welcome contacts, in the hope that they will push the mainland forward, and are not particular about points concerning the status of governments, flags, etc. that regularly hang up negotiations.

The strength of this second group in China is cause for long-term optimism. But as long as it is stalemated by hard-liners, no decisive breakthrough in Taiwan-China negotiations is likely. The longer the situation remains unresolved, however, the greater the risk that things will go sour.

Thus there is a danger that frustration in negotiations will strengthen extremists on both sides of the strait in ways that could lead to confrontation. It is not hard to evision nightmare scenarios. Suppose that Beijing, troubled by unrest at home, decided that some saber-rattling (say, a blockade) to "liberate" Taiwan was just the patriotic tonic China needed? Or that elections in Taiwan produced a government that gave up on China and decided instead to declare the island independent? Under such circumstances Beijing has promised to respond with force.

No such scenario offers much comfort. Unlike Iraq, China is a nuclear power; unlike Kuwait, Taiwan can resist. The U.S. and Japan would become involved.

These are not pleasant prospects, and enough people understand them well enough that they will probably be avoided. But they serve to remind us that what happens between China and Taiwan is not simply an Asian curiosity: It is something in which the world has a stake.

Is there anything constructive the world powers can do? The key variable is internal politics on both sides of the Taiwan Strait, and in each case the threat comes from extreme or uncompromising positions. China is difficult to influence, but at a minimum we must strive to maintain contacts and confidence—such as MFN status. In Taiwan, the danger is that a Taiwan isolated from the world community and unable to be Chinese except on Beijing's terms will opt for independence.

Avoiding this means bringing Taiwan back into the world community. The major powers should move to upgrade their relations with Taipei. They should support Taipei's entrance into the General Agreement on Tariffs and Trade. They should involve Taipei in international economic and security consultations.

China is hostile to this approach. So are hard-liners in Taiwan. But it's the only way to strengthen the moderates on both sides and help the world avoid some very real perils.•

MALAISE AMERICANA

• Mr. HOLLINGS. Mr. President, recently I received an interesting analysis from Donald Bedell addressing the decline in the American standard of living. Mr. Bedell confronts the increase in plant closings, worker layoffs, and the slump in family incomes, as compared to the steady rise in the consumer price index. He claims that even with the problems facing our economy, many citizens are remaining indifferent to the negative results. He also gives his reasons for the international trade deficit. I would like to share this study with my colleagues by asking that the text of Mr. Bedell's report be printed in the RECORD.

The report follows:

MALAISE AMERICANA OR WHEN DOES AMERICA GET PAID OFF FOR ITS INCREASED INTERNATIONAL TRADE?

President Carter was roundly criticized and ridiculed in the late 1970s when he observed that a shroud of malaise had fallen on Americans. The meaning of the word itself, a vague sense of debility or mental ill-being or of cynicism and despair, was difficult to explain in universally acceptable terms. Perhaps he believed that Americans were frustrated and worried about the nations' economic course. He must have been concerned that Americans seemed indifferent to the gradual decline in their own productivity standard of living. Surely he had in mind the lethargic ambivalence of citizens to focus on crime, drug and education crises.

No qualitative measurement is likely for such an imprecise word. But, President Carter was more perceptive than many critics because economic indicators even then were beginning to offer what has now become compelling evidence that something in the nation's will to excel has been missing for two decades.

Its more than coincidence that one manifestation of the "malady" would be that labor productivity began a competitive slide in 1972 and has "declined relative to that of other Summit 7 countries," up to 1986, the latest year for which comparable data are available, according to the Council on Competitiveness in Washington. Not surprisingly, recent economic literature increasingly relates productivity decline to a slowdown in standard of living improvements.

Very clear evidence of emerging but subtle uncertainty about the future on the part of growing numbers of citizens began more than 20 years ago. The signal was the start of a drop in average weekly manufacturing earnings in real terms which began in the mid-1970s as reported by the Labor Department. The slide has continued through 1988 with an average annual loss of 1.25% in 1977 dollars. The intrusive drum beat of plant closings and worker layoffs, combined with the withering of once proud communities added a further element of despair across major economic and demographic segments of America.

The increasing role of women in the work place is correctly hailed as an expression of their desire to seek personal identity and recognition. No one seriously believes, however, that economic need was not a significant factor in the rise of the two income family.

In the face of these real and psychological depressants Americans were faced with a steady rise in the Consumer Price Index. For example, for each of the 15 years between 1975 and 1989 disposable per capita personal income fell behind the Consumer Price Index (CPI) by 5.5 percent in current dollars! For example, in the same period, average manufacturing weekly income rose about 8 percent per year in current dollars while the CPI rose by 18.4 percent per year.

Added to these somber events, there appeared across the land during this period a proliferation of newspaper, television and radio reports that family incomes in major segments of the nation were declining. In 1987 the Labor Department confirmed, in a disturbing socio-economic study, that the core of middle class households in America, those between $20,000 and $60,000 of annual income, has shrunk in the 13 years ending in 1987 from 53 percent to 49 percent. More ominous was its prediction that the drop will become 38 percent by 1995 in 1977 dollars if present social and economic relationships continue on its present course.

A second part of the Labor Department's study contains a projection that households under $20,000 of annual income are expected to increase to 50 percent of the population by 1995 from just 39 percent in 1975.

None of these fundamentally negative results has so far caused popular panic. Dr. Herbert Stein of the American Enterprise Institute wrote in 1983 that Americans were simply satisfied with lowered expectations. The London Economist in 1990 commented that Americans were not rebellious because the stagnation of living standard growth takes many disguised forms, and because there appeared to be no obvious cure for change. The Federal Reserve Bank of Kansas City found in 1990 that achieving a 1 percent to 1.5 percent annual growth in the next two decades was merely a possibility, based on its capital stock theory.

As the most convincing and cogent universal measurement of national living standards world-wide is the Gross Domestic Product (GDP) numbers. The Council on Competitiveness compares American standard of living with citizens of the other "Summit 7" countries on that basis. Their analysis clearly marks a shrinking of that level since 1972, and wound up in 1989 with just an 8 percent margin over the average of all other Summit 7 countries as compared to a 22 percent margin in 1972. Germany's performance in 1989 exceeded that of the U.S. by 7 percent and was 14 percent above that of the Summit 7's average.

There appears now to be a developing concensus that it is the standard of living of its citizens in a modern commercial nation that constitutes the "ultimate goal of a productive economy," as shown recently by the Council on Competitiveness in Washington, D.C. It is the "profit" or "loss" citizens receive for their performance in manufacturing and services industries beyond mere sustenance. So far as benefits for Americans is concerned the growth of international trade in the past 20 years has been a "loss".

While a growing number of economists and politicians tend to agree this nation's standard of living is in decline or stagnating, the causes are not well understood. Dr. Stein's lowered expectation theory and President Carter's "malaise" concept, may well reflect a deep sense of frustration by middle and low income American families. The growing complexities of daily life in America and the overwhelming confusion caused by so many conflicting economic solutions, suggests that most Americans are not yet economically hurt enough to become politically aroused.

The twin federal and international trade debts are frequently linked as the underlying causes for the nation's post World War II period economic and social problems or symtomatic of them. But, each flow from quite different factors. Domestic deficits resulted from the cost of increased social programs inadequately funded, the Korea and especially the Viet Nam conflicts, and raging inflation in the 1970s. This economic trauma deserves separate analysis because any relationship with trade deficits is tenuous at best. Yet, the sheer magnitude of the debt and the plethora of conflicting fiscal solutions may well have caused frustration, despair and malaise to the heartiest of citizens.

International trade deficits, on the other hand, have arisen from five spearate serious miscalculations by America's leadership about the coldly brutal nature of international trade that existed for a thousand years or more.

First, American leadership concluded that, after two successfully waged world wars in a short 25 year period, it was time once again to re-establish a "new order" for international politics and trade. Out of this resolve appeared the United Nations and the General Agreement on Tariffs and Trade (GATT.) Both assumed, that aggressive nationalism around the world had ceased or could be overcome. But as William Safire wrote those who believe nationalism was a wave of the past would surely be flattened by it. Evidence grows that adverserial commercial relationships among individual nations and among the three major trading blocs, are more contentious than ever.

Second was preoccupation by most macroeconomists and academicians with discreetly selected passages of Adam Smith's "Wealth of Nations," that seemed to promote a so-called "free trade" theory of trade policy. Together with the more recently coined "free market forces" slogan, a new era of prosperity would surely appear. Macroeconomists were wrong again, and the U.S. standard of living declined.

Third was faith in the adoption of a tired slogan that a rising tide of international trade would bring forth trade surpluses. Instead it brought deficits to America.

Fourth included the adoption of a brand new floating international exchange rate theory in 1973 that would redress all excessive trade imbalances among nations. That idea has failed.

Fifth, was the U.S. leadership conviction that trading partners would adopt America's singularly unique 200 year tradition of legal equity and fairness and provide commensurate and reciprocal access to imports from America. No more fatuous and macho an expectation would be difficult to project, and the fact is that most trading partners have ignored it.

In terms of providing an ever increasing standard of living for Americans, adoption of these concepts and policies has been, by any measure, an unmitigated disaster. Pursuit of these policies has significantly contributed to bringing America to a devastating financial crisis which the leadership is increasingly unwilling to tackle. How serious an economic and psychological jam are Americans caught up in?

The U.S. became the world's largest debtor nation in all history, in 1985, with a record $3 trillion of public debt and with $600 billion of external debt at the end of 1989. That number is calculated to increase at an annual rate of some $260 billion. More than 50 percent of the total was contributed by a continuing international trade deficit.

The build-up to deficits is unparalleled in world history. In 1973, for example, imports and exports were in balance. After just 12 years, 1985, the annual trade deficit had soared to $150 billion. Nothing in recorded international commercial history has matched the speed and volume of U.S. manufactured goods imports during this period, their dollar value and the breadth of products involved in this monumental turnaround.

In the period between 1972 and 1987 total U.S. trade rose from $105 billion to $660 billion but the deficit grew from equilibrium to

$152 billion in 1987. By 1989 the U.S. was the world's largest exporter at $365 billion and the world's largest importer at $494 billion. What happened? Another $130 billion dollar deficit! Question. Why do some economists consider this performance a great achievement in view of the fact that Germany was a very close second with just 25 percent of U.S. population?

From the Commerce Department's macroeconomic analysis, it could be assumed that, because industrial production remains at 23 percent GNP, the nation is in great industrial shape!

However, those macroeconomic percentages for Commerce Department's "manufactured goods" category disguise the true nature of the impacted individual product sector. The stark fact is that foreign companies, with the help of their governments, took dead aim at all principal U.S. mass market and high value added manufacturing sectors beginning in the early 1960s. What they sought was significant penetration to provide a solid foundation for their own economies and they achieved extraordinary results. Those sectors include consumer goods, high tech, electronics, capital goods including electrical machinery and power generating equipment, autos and auto parts, steel, machine tools, metal mining and processing equipment, business machines, and scientific equipment. By 1980 the trade balance had already grown to a cumulative deficit of $105 billion.

In just four more years, 1981 through 1984, just four sectors of critical value-added industrial sectors increased the balance of trade deficit by $95 billion annually! Specifically, the U.S. trade surplus in capital goods dropped from $43 billion to $15 billion and the high technology sector dropped $20 billion, from $27 billion to just $7 billion. In the same period, the auto and auto parts sector's deficit increased by $23 billion and the consumer goods sector rose by $24 billion. This massive and unequalled product penetration of the core of a modern industrial economy caused a broad and agonizing re-adjustment of domestic industry accompanied by substantial unemployment and distress to thousands of communities across the country.

No American need doubt that recovering nations of the world took dead aim on the vast American market beginning in the late 1950s. Nor should anyone doubt that penetration by foreign companies in large measure was achieved by pursuing both centuries old brutal caveat emptor policies and highly developed guerilla tactics supported by a wide variety of subsidies by foreign governments. They were all part of a calculated nationalistic campaign designed to achieve the results already described.

Macroeconomists in the U.S. during the past 25 years typically explained foreign subsidies as acceptable policy provided they resulted in cheaper import product prices. Also acceptable doctrine was that irreparable harm to the cause of international trade would result if U.S. retaliated against subsidies that produced an unlevel playing field.

However, in an infrequently quoted section in Book IV, Chapter II of his "Wealth of Nations," to me, Smith showed considerable commercial insight when he wrote that there are "two cases in which it will generally be advantageous to lay some burden upon foreign, for the encouragement of domestic industry." One case provides the foundation for establishing a "level playing field" when a foreign country subsidizes domestic companies at the expense of the importing country's producers. Smith further observed that "There may be good policy in retaliations . . ., when there is a probability that they will procure the repeal of the high duties or prohibitions complained of."

So far as Adam Smith is personally concerned, he was not a businessman, but rather a brilliant academic, whose career emphasized positions as Professor of Logic and Moral Philosophy at Glasgow University. Only after he wrote "The Wealth of Nations" in 1776 did he have direct commercial experience as Commissioner of Customs for England for 10 years. Of more than passing interest, no nation of the world translated his general free trade ideas into any policy apparatus. Retrieval of his speculations at the start of the 1930 Great Depression 150 years later, therefore, may have resulted from an absence of credible explanations for the world-wide financial disaster. Any cause and effect relation between trade policy and the 1929 financial collapse is extremely tenuous, and none has been established.

It goes without saying that all Americans long for the sort of behaviour a kinder and gentler nation can bestow and are pleased with the ring of "free market forces" phrase. But, it's a tough unforgiving international commercial world supported by the extensive resources of individual nations that confronts U.S. policy makers. After 25 years of tough international competition, it is no longer sound policy to rely heavily on the "free market forces" slogan to achieve debt reduction. Again, Adam Smith offers advice about too much reliance on private enterprise with the words that a businessman "generally, indeed, neither intends to promote the public interest, nor know how much he is promoting it," and further on confesses that "I have never known much good done by those who affected to trade for the public good."

Despite the historically aggressive nationalistic policies of the world's trading nations, and the devastating impact U.S. trading partners have had on its economy, a 20-year debate has been raging in the U.S. over whether it should adopt a national "industrial policy," or "managed trade," to compete head to head.

The preponderance of evidence supports the proposition that America has been managing its trade for 200 years by adopting a wide variety of disparate policies, some legal and some administrative. Such policies include, for example, the toughest anti-trust laws in the world, trade statutes based exclusively on unique U.S. laws and customs unshared by other nations, indifference to providing incentives to domestic exporters to compete with foreign producers, and, desultory enforcement of statutes designed to pry open foreign markets.

None, however, was ever put in place as part of a consistent or coherent trade program designed to deal promptly with the impact on domestic producers caused by great influxes of imported products. U.S. international trade "policy" was directed solely at domestic considerations and were not competitive with trade policies of its trading partners.

The preponderance of evidence also establishes that, in terms of standard of living benefits to America, continued pursuit of current policies is no longer credible. Just as a corporate sales policy is expanded in expectation of a profit it can measure, so must a nation commit itself to a profit for its citizens that all can measure. There exists no forecast for a time certain that measures the "payout" to Americans. Perhaps no such forecast can be made until all pockets of cheap labor are eliminated around the entire globe, or, when it is no longer possible to discover or invent "natural or acquired advantages of one country over another" according to Adam Smith. Under that scenario, America may be doomed to decades of a lowering of expectations and a continuing decline in the general standard of living.

Of the two obvious courses open to American political leadership, one is a continuation of the current 20 year old policy which is based on the expectation that expansion of trade volume alone would reduce trade debt and improve the nation's standard of living.

A second option is adoption by the Congress and the President of a new strategic course which modifies consistent macroeconomic miscalculations. Its principal goal will be to develop a national trade negotiation strategy with government participation as a balance wheel reflecting a will to extract from increased trade the restoration of enough wealth producing value-added basic manufacturing capacity to enable the U.S. to reduce its trade debt in the planned near term time period.

In a world of swift economic change, why should we not boldly and publicly project trade oriented national economic targets for the nation, together with a full disclosure of the leadership's geopolitical objectives, by the end of the century? The bottom line of such a program must be much more than a mere forecast of still increasing international trade. It must be a detailed projection of measurably improved living standards for all Americans.

DONALD W. BEDELL.

GREENWICH, CT.•

BOAT PEOPLE: POLICY BASED ON PASSION

• Mr. SIMON. Mr. President, recently the Hong Kong Legislative Council passed a resolution urging the British Government to "formulate an effective and practicable strategy to curb the influx of Vietnamese boat people and expedite the repatriation of all nonrefugee Vietnamese boat people stranded in the territory."

I would underscore the final point; that they are asking the United States "to take appropriate action to facilitate the improvement of the Vietnamese economy which is the root cause of the boat people problem." It is hard to argue with the logic of that.

I'm grateful to the Honorable Mrs. Rita Fan, a member of the Legislative Council of Hong Kong, for sending me a copy of that resolution.

I applaud the leadership of some of our colleagues in this field, particularly Senator FRANK MURKOWSKI, Senator BOB KERREY, Senator JOHN MCCAIN, Senator ALAN CRANSTON, and Senator JOHN KERRY.

I hope we can come up with constructive answers that will help on the POW/MIA issue; that will provide a lift to the economy of Vietnam, as well as give the people of that country greater freedom; and provide a more rational foreign policy for the United States.

Foreign policy should be dictated by the national interest and not the national passion. In Vietnam, our policy has been dictated by the national passion.

I ask that the Hong Kong Legislative Council's resolution be printed in the RECORD at this point.

The resolution follows:

THE VIETNAMESE BOAT PEOPLE PROBLEM IN HONG KONG: NEED FOR AN URGENT SOLUTION

INTRODUCTION

Hong Kong is facing another massive influx of Vietnamese boat people (VBPs). Over 9,700 have arrived this year, bringing the total VBP population in Hong Kong to over 52,000. At present, 97% of clandestine departures from Vietnam head for Hong Kong averaging hundreds a day. Hong Kong simply cannot carry this burden single-handedly any longer.

BACKGROUND

Since 1979, Hong Kong has practised a policy of first asylum and has never turned away a single Vietnamese boat.

Up to 1988, all Vietnamese landing in Hong Kong were given refugee status automatically. Resettlement countries considered the majority of arrivals not to be refugees and started their own screening in the early 1980s. Consequently, more and more Vietnamese were stranded in Hong Kong.

This forced Hong Kong to adopt a screening policy in June 1988 to ensure the resettlement of refugees. The move was intended to prompt resettlement countries to clear the backlog of refugees stranded in Hong Kong.

The screening process is monitored by the United Nations High Commissioner for Refugees (UNHCR). Those found to be refugees are housed in open refugee camps pending resettlement; those found to be non-refugees and are therefore illegal immigrants are accommodated in detention centres pending repatriation to Vietnam.

COMPREHENSIVE PLAN OF ACTION

In June 1989, 75 countries attended the International Conference in Geneva. They agreed on a Comprehensive Plan of Action which consisted of 4 elements:—

1. First asylum;
2. Screening;
3. Resettlement of Refugees;
4. Repatriation of Non-Refugees.

1, 2 and 3 were implemented but efforts to implement 4 in full failed. Hong Kong is now left with over 17,000 screened-outs (i.e. non-refugees) who will never be accepted by resettlement countries. Over 35,000 VBPs await screening.

Since March 1989, around 7,000 VBPs returned to Vietnam under the voluntary repatriation programme but over 49,000 arrived and over 4,900 were born. The voluntary programme is no solution.

EXPLOSIVE LOCAL SITUATION

Repatriation of illegal immigrants is an internationally accepted practice. All illegal immigrants from China, once caught, are repatriated automatically. In 1990, some 30,000 were returned. Over 80% of VBPs are not refugees. They are economic migrants leaving their country for better economic opportunities. Yet they are automatically admitted.

The disparity in treatment for illegal immigrants from China compared to the Vietnamese is deeply resented by the Hong Kong residents, many of whom have been waiting for years for their wives, children or parents to join them from China.

So far, Hong Kong has spent billions of dollars on VBPs, not to mention other facilities and services, such as hospitals, accommodation and manpower resources, which are much needed by the local community. At the same time, Hong Kong cannot see any genuine efforts by the international community in addressing the problem. Our people feel aggrieved by international criticisms of camp conditions when many of our own people have to put up with a very poor living environment. Our people do care about the world around them and have financially contributed towards overseas natural disasters and justified needs. Our growing frustration, caused by the lack of understanding and cooperation internationally in resolving the problem, is fast approaching explosive proportions.

URGENT SOLUTION NEEDED

The objection of the United States to the return of non-refugees back to Vietnam has left Hong Kong with no choice but to keep them in detention centres.

The international community, in particular the United States and Vietnam can help to solve this human tragedy by agreeing to the automatic return of non-refugees, thus putting an end to their futile waiting. Camp life is not pleasant for the VBPs and the effect on children is even worse. Overcrowding, violence and crimes in camps have created serious management problems and posed danger to the VBPs as well as the staff who looked after them.

The increasing number of daily arrivals coupled with the lack of ways of returning the stranded non-refugees have aroused strong calls from the frustrated Hong Kong public to scrap the first asylum policy. Unless an urgent solution is found, Hong Kong may be compelled to abandon the first asylum policy to preserve stability.

The VBP problem is a foreign affairs issue. Hong Kong looks to the British Government to:

Formulate an effective and practicable strategy to curb the influx of Vietnamese Boat People and expedite the repatriation of all non-refugee Vietnamese boat people stranded in the territory;

Contribute to the expenses incurred resulting from the Vietnamese boat people in Hong Kong and encourage other countries such as the United States to make similar contributions; and

Press the United States to take appropriate action to facilitate the improvement of the Vietnamese economy which is the root cause of the boat people problem.•

ARIZONA RECYCLING HOTLINE

• Mr. DECONCINI. Mr. President, as you know Arizona is a State that possesses unique beauty and precious natural resources. The citizens of this great State are deeply committed to maintaining these qualities for the generations of Arizonans yet to come.

This is why I take great pride in joining Mayor Paul Johnson, Arizona Clean and Beautiful, Phoenix Clean and Beautiful, Arizona Global Re-Leaf, and Forestry for Phoenix in supporting the Arizona Recycling Hotline. Arizona currently needs the essential services of an environmental clearinghouse to centralize information about the myriad of public and private environmental activities, programs, and educational projects.

I am convinced that the only viable way to provide state-of-the-art response to environmental challenges is through a public-private partnership. This is why I am supporting the Arizona Recycling Hotline. It will coordinate and dispense environmental information from different government agencies, private enterprise, nonprofit organizations, community calendars, and other resources. With a touch of the phone, any Arizonan will be able to immediately access information regarding recycling and other environmental services that is both accurate and timely. The Arizona Recycling Hotline will provide this service free of charge without taxpayer funding.

I am pleased to support this exciting new service and ask that my colleagues join me in commending this innovative endeavor. I urge Arizonans to utilize its services as another important step we can take to improve the state of the environment in which we live.•

THE "LESSONS" OF WAR

• Mr. SIMON. Mr. President, former U.S. Ambassador Ulric Haynes, Jr., who played a key role as our ambassador to Algeria in getting the hostages released from Iran, recently had an article in the Kent Quarterly titled, "The 'Lessons' of War."

It is a remarkably fine article loaded with common sense. He suggests these basic principles:

> Get to know your adversary and what motivates him culturally, politically, historically, economically, and geographically;
>
> Do not sell arms to oppressive, totalitarian regimes for reasons of short-term expediency and discourage others from selling;
>
> Apply our Human Rights policy to friend and foe alike without compromising for any reason;
>
> Resort to and exhaust the process of negotiations and U.N. collective action before threatening and escalating to armed conflict;
>
> Use patience and self-restraint in negotiating and avoid, if at all possible, hampering our ability to adjust to an adversary's response by imposing deadlines and/or nonnegotiable demands;
>
> Recognize that there is still a role for secret diplomacy to minimize or eliminate the tendency of negotiating parties to posture publicly for their constituencies;
>
> Pay special attention to ensuring that the media understand and report the nature of the international crisis and the reasons for our country's position;
>
> Adhere to international laws and conventions and urge others to do the same; similarly, respect the ruling of the International Court of Justice in The Hague and urge others to do the same.
>
> If we measure U.S. involvement in past and present crises against the standard of the above lessons, I cannot help wondering whether there ever would have been a gulf crisis.

He calls for much more attention to foreign languages in our schools. My colleagues have heard me talk about that a great deal, and I shall continue to do so.

For example, he says:

> On a recent trip to Australia and New Zealand, I was encouraged to see that Japanese

and Chinese language study is now routinely offered in their urban public schools. Can we match that? Not to do so is to educate a generation of students unable to function effectively in the environment of cultural diversity which increasingly characterizes our shrinking globe and our country.

It also calls for a little greater sensitivity and attention to the history of all areas of the world and to minorities within our country:

Our children should at least be made aware that many of the young men and women serving in our Armed Forces in the gulf enlisted in order to learn a trade, escape unemployment, or finance their higher education. They should know that, similarly, while black Americans constitute only about 12 percent of our population, they made up 24.6 percent of our troops in the gulf. Regardless of what motivated young Americans to join our Volunteer Armed Forces, no one doubts their loyalty and determination to win the war.

I ask that his full statement be printed in the RECORD at this point.

The statement follows:

THE "LESSONS" OF WAR

(Ulric Haynes, Jr.)

Wherever you stand with respect to the Gulf War, there is no escaping our common concern for what comes after. Recognizing that what does come after the Gulf War is sure to be a challenge which our children will face, I am prompted to share my thoughts about what I think we should be doing to prepare them. In sharing these thoughts, it is my hope to stimulate the reader's own thinking, not to reassure or to encourage complacency.

The headline of a short news item in the New York Post of January 21, date-lined Jerusalem, caught my eye. It read, "U.S. Envoy Isn't Playing Kosher." The gist of the item was local Israeli newspaper reports that a senior level American diplomat had gotten off to a rocky start with his Israeli hosts by making a big issue over the fact that he could not get bacon with the eggs he ordered from room service at the Jerusalem Hilton Hotel. The Israeli press said that, in spite of the explanation that major Israeli hotels do not serve pork because it is not kosher, the diplomat did not seem to understand the problem and kept insisting on having bacon.

It strikes me that, if this incident represents the level of cross-cultural sensitivity of our country's leadership, it is no wonder that we are at war with Iraq and that most Muslims around the world (including the populations of Arab countries that are members of our coalition) are anti-American with regard to our involvement in the Gulf crisis.

From the start of this crisis, I have wondered whether our decision-makers in Washington understand and have taken into consideration the mind-set of a Saddam Hussein, not to mention that of the Arabs supposedly friendly to us or even the Soviets and the Western Europeans who make up our coalition. Differing views on the peace initiatives and the solutions to the Arab-Israeli crisis lead me to question whether we and our allies are on the same wave-length.

The need to climb into the skin of your adversary in order to resolve an international crisis was very apparent to the American negotiators for the release of the hostages in Iran ten years ago. Our deputy Secretary of State and chief hostage negotiator at that time was Warren Christopher who recognized from the outset that Iranians do not act like Americans. As a participant in those negotiations in their final stage, I learned much from Warren Christopher that could have guided our policy formulation and response in the current Gulf crisis.

Let me share with you, in capsule form, some of what I learned:

Get to know your adversary and what motivates him culturally, politically, historically, economically, and geographically;

Do not sell arms to oppressive, totalitarian regimes for reasons of short-term expediency (and discourage others from selling);

Apply our Human Rights policy to friend and foe alike without compromising for any reason;

Resort to and exhaust the process of negotiations and UN collective action before threatening and escalating to armed conflict;

Use patience and self-restraint in negotiating and avoid, if at all possible, hampering our ability to adjust to an adversary's response by imposing deadlines and/or non-negotiable demands;

Recognize that there is still a role for "secret diplomacy" to minimize or eliminate the tendency of negotiating parties to posture publicly for their constituencies;

Pay special attention to ensuring that the media understand and report the nature of the international crisis and the reasons for our country's position;

Adhere to international laws and conventions and urge others to do the same; similarly, respect the ruling of the International Court of Justice in the Hague and urge others to do the same.

If we measure U.S. involvement in past and present crises against the standard of the above lessons, I cannot help wondering whether there ever would have been a Gulf crisis.

However, it is a bit late to be fretting over what we could have done to prevent the warfare in the Gulf region. Nevertheless, one thing is certain: now that the U.S. and its coalition have defeated Iraq and liberated Kuwait, we face the new challenge of "winning" the peace, rebuilding the destroyed infra-structure, and figuring out what to do with a defeated Iraq. Both individually and collectively, coping with these long-term challenges will be a task with which our children who are currently in college and secondary school will have to deal. And, while we can do nothing now to correct the mistakes that got us into a war, there is no excuse for our doing nothing to prepare the generation behind us to deal effectively with the consequences of that war, consequences that will be with us domestically and internationally for some time to come.

Whenever there is an international crisis, it amazes me that the rest of the world knows the U.S.A. so much better than we know them. One frequent indicator of this phenomenon is so common on our TV newscasts that many of us do not even notice it or realize its significance. I refer to our news teams' interviews with the man on the street in Rumania or the Iraqi Foreign Minister, or the Chinese ambassador, or the King of Jordan. All of these news-worthy public figures speak our language and can handle an interview in English with ease whether on "Face the Nation" or in response to a TV reporter's roving microphone. Of course, some of these people have been privileged to study in the U.S.A. Still others have come to know our language through our ubiquitous television programming, the classroom, and our literature.

On the other hand, precious few Americans—even well-educated Americans—can handle themselves in French, German, Italian, or Russian, not to mention Rumanian, Arabic, or Chinese. With Spanish already the de facto second language of our country, we even risk not being able to communicate with the most rapidly growing segment of our own population—Hispanics.

Studying and communicating in another person's language permits one to climb into his skin and understand what makes him tick. I can think of no American president or secretary of state in my lifetime who has been fluent in a foreign language except for Henry Kissinger whose mother tongue is German. Indeed, many of our ambassadors—especially those who are political appointees—are not fluent in the language of the major capitals to which they are posted. The situation is so bad that, during the final days of the Iran hostage negotiations, our State Department could not find a bi-lingual secretary in English/French to assign to our negotiating team, much less in English/Arabic or English/Farsi (the other languages in which negotiations were conducted).

It is apparent then that the study of modern foreign languages is a matter of highest priority if we are to prepare our sons and daughters to cope with the legacy of the Gulf War and the other international crises they will inherit from us. Is it really too much to require three years of one foreign language and two years of another as a condition of graduation? Shouldn't we start the study of foreign languages in elementary school? On a recent trip to Australia and New Zealand, I was encouraged to see that Japanese and Chinese language study is now routinely offered in their urban public schools. Can we match that? Not to do so is to educate a generation of students unable to function effectively in the environment of cultural diversity which increasingly characterizes our shrinking globe and our country.

The curriculum at our public and private secondary schools should be broadened to prepare our children to cope with diversity and also teach them the values and social concerns that ought to be the underpinnings of their own American way of life, especially tolerance of and respect for differences. Similarly, what is so sacrosanct about the present nine-month duration of the school year? Would it not represent a more optimum use of school plant and facility to extend the school year by at least another month to accommodate the increase in secondary school course work necessary to prepare our offspring to deal with such further challenges as the legacy of the Gulf War?

With the defeat of Iraq by the combined armed forces of the U.S. and her coalition allies, I predict a scenario that will involve a significant U.S. and coalition military presence (probably designated a UN Peace-keeping Mission) in Iraq and Kuwait for years to come. A coalition-backed government will be installed in Iraq with doubtful popular support. Simultaneously, an active popular underground movement supported by Palestinians and Islamic fundamentalists from within and outside Iraq will successfully destabilize Iraq and the entire Middle East. If this scenario is correct, our children will surely be called upon to play a role in the restoration of peace and maintenance of the postwar balance of power that we would like to see in the region.

Additional language study by itself is not sufficient preparation for our youngsters. They should be taught geography, non-Eurocentric world history, comparative religion and ethics, basic economics and political science, beginning anthropology, as well as enough mathematics and science to understand how advances in technology can be used to provide a better life for us all. At least one course each year should be devoted to studying a current national or international problem the solution to which depends on the student's ability to draw on and apply all of their academic disciplines. Unfortunately, the problems of life do not come at us labelled "history," "algebra," "social studies," or "chemistry." They come at us as "problems," and it is up to us to break the problems down into elements with which our academic and other experiences equip us to deal. What better place to learn this synergistic approach to problem-solving than in the classroom.

In this connection, using the Gulf crisis as a possible current problem to be studied, students should be encouraged to use French, Spanish, German, and other newspapers and periodicals in the original languages as part of their research material on national attitudes toward the crisis. With the deliberate Iraqi crude oil spill and burning of Kuwaiti oil wells in mind, a portion of a course dealing with the Gulf War might be devoted to the impact on the Gulf and world environment of intensive warfare in the region, not to mention the threat to discovered and yet undiscovered antiquities in what was ancient Mesopotamia, Babylon, Nineveh, and Abraham's home in Ur.

Attention should be paid to the social, economic, and commercial consequences of warfare and the troubled peace that will follow. Most important, serious discussion of the ethical, religious, and legal considerations in the Gulf War should take place.

Our children should at least be made aware that many of the young men and women serving in our armed forces in the Gulf enlisted in order to learn a trade, escape unemployment, or finance their higher education. They should know that, similarly, while black Americans constitute only about 12% of our population, they made up 24.6% of our troops in the Gulf. Regardless of what motivated young Americans to join our volunteer armed forces, no one doubts their loyalty and determination to win the war.

What should concern us is what we have to offer these young heroes and heroines upon their victorious return. If they return to more unemployment, increasingly costly higher education, poor housing, expensive health care, and the same old "myths" of equality of opportunity, we can be sure that the environment in which our students will mature will be one of social disruption. Are we preparing our children to cope?

As students at a church-affiliated school, Kent students should know that clerics in our country (including those of our own Episcopal denomination) and abroad are currently engaged in the same lively discussion of whether our involvement in the Gulf is a "just war" that so concerned St. Augustine in the fifth century AD. Then too, what better way to wrestle with and understand the moral and ethical values we so often take for granted than to engage students in the classroom discussion of what John Cardinal O'Connor meant when he said in a recent sermon that ". . . peace is not simply the absence of war." They should be encouraged to discuss both sides of the recent overwhelming decision by the congregation of the Riverside Church in New York City for that church to serve as a sanctuary for conscientious objectors who did not wish to serve with our armed forces in the Gulf.

The classrooms should serve as laboratories where history is dissected and its relationship to current events understood. In this connection, a segment of the history curriculum should be devoted to the study of the Ottoman Empire of which Iraq and the rest of the Middle East was a part until nearly the second decade of this century, an empire that at one time stretched as far as the gates of Vienna. Such study would put European and American history, with which our students are familiar, in better perspective and would go a long way toward explaining what is happening in the Middle East and Iraq today.

Listening to CBS News on my car radio on Sunday, January 28, I heard that our own Immigration and Naturalization Services (INS) has prepared a detention camp in Oakdale, Louisiana, to accommodate up to 5,000 Arabs in America suspected of being terrorists. This, coupled with the FBI interrogations of hundreds of Arab-Americans, places us on the brink of yet another national disgrace similar to the internment of Japanese-Americans some fifty years ago. Detention centers, internment camps, concentration camps, and Indian reservations are all part of the same breed of enforced segregation that incites the hatred of those ethnic groups "detained" in such places for all those responsible for putting them there. If the history curriculum in our secondary schools fails to deal with such issues, then we can be sure that our children will condone or participate in the painful, often destructive process of history repeating itself.

However, it is also not desirable to create a cadre of broad-minded young "textbook" experts. Coincidental with the change in curriculum, our children should be exposed to the practical, hands-on difficulties involved in arriving at peaceful, effective solutions to the world's problems. I can think of no better way to do this than to encourage their participation in international student exchange programs and community service in nearby low-income, underprivileged communities. This would help them to appreciate both the domestic and international challenges they face and their interrelationship.

The goal of such changes in the way we educate our children would be to equip them to do a better job in preventing crises like that in the Gulf than past generations did in creating them. In short, may our children never go to the Jerusalem Hilton Hotel and ask for bacon!

(Ambassador Ulric Haynes, Jr., is the father of Greg Haynes '93. He is the former American Ambassador to Algeria (1977–81), served on the staff of the National Security Council in the Johnson administration, and has held senior level positions in higher education and the private sector. He is currently senior vice president of Drake Beam Morin, Inc.)•

CENSUS ADJUSTMENT

• Mr. SASSER. Mr. President, once again the Census Bureau and the Department of Commerce have chosen the political low road in providing a fair and accurate count of this Nation's population. In announcing his decision against adjusting the 1990 census for undercounts, the Secretary of Commerce has, in effect, said to cities, towns, and counties throughout this Nation that the Administration has once again chosen to turn a deaf ear to their needs. The Secretary's failure to adjust the 1990 census for undercounts is a cruel and blatant slap in the face to those persons most in need of Federal assistance, namely minorities, the poor, the elderly, and children. Given the widespread, documented errors in the 1990 census count, the actual undercount ranging from 5 to 10 million, the Secretary's failure to adjust those numbers is an arrogant affront to the very principle upon which this Nation was founded, namely, that, in America, everyone counts.

Once again the Census Bureau and the Department of Commerce have chosen to make the issue of a statistical adjustment of the 1990 census a political football. Citing a lack of unanimity within the statistical community on the issue of adjustment, and the potential disruption of the political process, the Census Bureau and the Department of Commerce continue to play politics with the lives of this Nation's neediest citizens. An adjustment of the 1990 census for undercounts would have been a welcome ray of hope to this Nation's neediest citizens. Instead, the failure to adjust the 1990 census will, in effect, push these over 5 million "invisible" citizens further into the darkest recesses of poverty, despair, and neglect. While refusing to adjust the 1990 census for undercounts may well serve a limited short-term agenda, the long term consequences of a failure to adjust will be far more costly and detrimental to the Nation as a whole.

Much of the debate on the issue of adjustment focused on the category of winners and losers among the individual States and the various localities. A rational decision to adjust based solely on the scientific evidence might have altered the decade-long animosity and divisiveness that has accompanied the census adjustment debate. Instead, legislative and legal actions will no doubt continue.

Mr. President, the decision against adjustment will not only affect the 1990 census, but also go a long way toward undermining the integrity of future census efforts. Assurances that more accurate numbers will be forthcoming in future census efforts will not erase the memory that the 1990 census is the first census to be less accurate than the one before. Promises of future census effort reforms will do little to bridge the widening differential undercount rate. Having spent enormous portions of their own limited resources to ensure the accuracy of the 1990 census count, States, and localities have little or no incentive to look ahead to the year 2000 census or any other census. In the category of winners and losers, the Nation as a whole becomes the biggest loser in the 1990 census process.

America loses because a flawed and inaccurate census will provide a dangerously false count of this Nation's poor citizens. An inaccurate census will lend the false impression that the number of poor citizens throughout this Nation is on the decline. While efforts to break the cycle of poverty continue, ignoring the fact that the number of poor citizens is on the rise is not the answer. An undercount of this Nation's poor can only exacerbate the problems of poverty, hunger, and homelessness.

The fact remains, Mr. President, that the incidence of poverty is on the rise. In addition, to those persons traditionally identified as poor, there is a rising category of new poor among working families with children. Undercounting the 1990 census will, in the long term, further erode the structure and stability of the family unit.

In 1989, 31.5 million people, or 12.8 percent of the Nation's population was officially identified as poor. During the Great Society years of the 1960's, the incidence of poverty was cut nearly in half from 22.4 percent to 12.1 percent. This trend of abated poverty, however, was markedly reversed between 1979 and 1983 when the poverty rate rose dramatically to 15.2 percent.

A recent study indicated that in 1991, more families, 4.4 million, are on welfare than at any other time, many for the first time. In addition, experts estimate that there are another one million families eligible for Aid For Families With Dependent Children [AFDC] who currently are not receiving such payments. Currently, 23.1 million Americans receive food stamps. And, there are an additional 4 million needy persons eligible for food stamps that currently do not receive them. In short, one in six families receive some form of public assistance, such as welfare, Medicaid, and free lunch.

The flawed results of the 1990 census will only make worse the numbers of poor persons in America. We can ill afford to write off poverty in America as generational chains that simply need to be broken. Undercounting the 1990 census will not change the fact that the numbers of new poor are on the rise. It will not change the fact that many of these new poor are working families. An inaccurate census will not alter the fact that limited Federal, State, and local resources must, nonetheless, reach these "invisible" Americans, many of whom are the victims of the recession, rising unemployment, and cutbacks in government programs.

A flawed and inaccurate 1990 census will also push many Americans into the invisible sector of homelessness.

Homelessness continues to be both an escalating national problem and a disgrace. As part of the 1990 census process, the U.S. Census Bureau estimated the number of homeless persons in shelters and on streets to be 228,621. Other experts, however, estimate the number of homeless persons in America to be between one-quarter and 5 million persons.

Homelessness affects all segments of society, most alarmingly the family unit. More and more, those joining the "invisible" ranks of the homeless are families with children and the working poor. Failure to recognize and address the increased incidence of poverty and homelessness among families with dependent children will eventually take a hard toll upon the Nation as a whole.

Mr. President, the Secretary's failure to adjust the census for undercounts flies in the face of overwhelming documented evidence of errors and omissions in the 1990 census. For the moment, it appears that political expediency has once again tipped the administration's scales against adjusting the 1990 census for undercounts. Unfortunately, those least able to bear the weight of that decision, namely minorities, the poor, the elderly and children, will once again pay a disproportionate share of the cost.•

MS. ROSA JACKSON LUMPKIN'S 115TH BIRTHDAY

• Mr. D'AMATO. Mr. President, imagine meeting someone who witnessed the beginning of flight, the first record player, the dawn of telephones and televisions, the start and end of the Spanish-American and First World Wars, the first motion pictures, the last Indian war, the assassination of President McKinley, and income without taxes.

A life of 115 years is not something that's celebrated every day—it gives me great pleasure to wish Ms. Rosa Lumpkin a very happy 115th birthday.

Ms. Lumpkin was born the youngest daughter of former slaves in Flint, GA. When she was 3 years old, her parents recorded her July 17, 1876, birthdate. Unofficially she is 118 years old.

Rosa spent most of her adult life in Moultrie, GA with her husband Dona Lumpkin, their children, and many grandchildren. In 1962, after her husband's death, she moved to Buffalo, NY, where she devotedly volunteered at hospitals and shelters in her community. Still sharp and witty, Rosa continues to entertain and educate those around her.

It is rare that one person could possess such a wealth of history and experience. I hope you will all join me in saluting Rosa, a fine American, and in wishing her a very happy 115th birthday.•

REASONABLE THOUGHTS ON STAR WARS

• Mr. SIMON. Mr. President, as we move closer to consideration of the fiscal year 1992 Defense authorization bill, I commend to my colleagues an article on the strategic defense initiative [SDI] by John Pike and Christopher Bolkcom. Their article clearly presents the present strategic realities, and discusses the costs and problems of a space-based system. I urge my colleagues to take the time to read this article, and I ask that it be printed in the RECORD.

[From the San Francisco Examiner, May 6, 1991]

REINCARNATED STAR WARS IS STILL A TURKEY

(By John Pike and Christopher Bolkcom)

The Strategic Defense Initiative has become a system that won't work in search of a threat that doesn't exist.

In late 1990, the initiative was fundamentally reoriented. Instead of protecting missile silos from a Soviet first strike or cities against a nuclear attack, the defense initiative metamorphosed into the Global Protection Against Limited Strikes system—also known as GPALS. This reorientation was a response to both the political opportunities presented by the Persian Gulf war, and congressional budget reductions in light of the receding Soviet threat and seven years of fruitless labor on the original Strategic Defense Initiative.

The global protection system is intended to defend against tactical and theater missile threats as well as up to 200 strategic missile warheads launched at the United States, including missile attacks that result from accidental or unauthorized launchers, from the Soviet Union or some third country.

While the administration estimates that global protection system will cost $41 billion, the cost growth of projects of similar complexity, such as the space station, suggest that GPALS would probably cost more than $150 billion.

There are two fundamental problems with this new orientation for ballistic missile defense. The first is that it won't work. In order to increase the chances of interception of Scuds in the Persian Gulf, the Army launched four Patriots against each 1950s era conventionally armed missiles.

The global protection system, in contrast, must exhibit a 100 percent interception rate against 1990s nuclear-armed weapons that can kill millions if they slip through. The system would also have to defend against hundreds of warheads and perhaps thousands of decoys simultaneously.

Furthermore, GPALS will have to defend against countermeasures such as depressed trajectory attacks and warheads that separate from the missile body.

The second problem with GPALS is that it isn't needed. Apart from tactical missiles, which can be dealt with by Patriot, the other threats that are the supposed rationale for the global protection system are nonexistent or so unrealistic that they don't justify spending $40 billion to $150 billion. All could be addressed more efficiently, more directly and less expensively by other means.

If a terrorist state did decide to nuke New York City, shipping the device inside a bale of marijuana, which seems to penetrate U.S. bordars effortlessly, would be a more reliable and less expensive delivery system than a ballistic missile.

India and Brazil have both been developing ballistic missiles for over a decade. Neither has produced a reliable intercontinental ballistic missile. There is no reason to believe that other developing nations could do better. If some developing country embarked on a program that threatened the United States there would be more than ample time to deploy a system to counter the threat.

A handful of ground-based interceptors, such as the recently tested ERIS interceptor, would be adequate. This could be deployed in a fraction of the time and at a fraction of the cost of a global protection system. Increased cooperation with allies to curb the proliferation of sensitive technologies would blunt the threat of third-country attacks much more effectively than the global system.

While a mechanical failure could result in the accidental launch of a nuclear missile at the United States, this is without historical precedent. Closer scrutiny of this non-problem and perhaps more redundancy in safeguards would be the appropriate response.

While GPALS advocates say that unauthorized launch is a threat to the United States, chairman of the Joint Chiefs of Staff Gen. Colin Powell testified that "they (the Soviets), have very good control over their systems, and they treat them with the same care that we do."

And although a Soviet civil war is cause for concern, the direct threat to the United States is minuscule.

There is no need for the global protection system save political expediency. Spending $150 billion on a system that isn't needed and won't work is a bad idea.

John Pike is director of the Space Policy Project of the Federation of American Scientists, Christopher Bolkcom is a project consultant.)•

HORN OF AFRICA RECOVERY AND FOOD SECURITY ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 134, S. 985, regarding the Horn of Africa.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 985) to assure the people of the Horn of Africa the right to food and other basic necessities of life and to promote peace and development in the region.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill? There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Horn of Africa Recovery and Food Security Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (comprised of the countries of Ethiopia, Somalia **[**and**]** Sudan, *and Djibouti*) is a region that is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as by gross human rights violations, political repression, environmental destruction, and the breakdown of essential services.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and international community. Relief officials now estimate that another 15-20,000,000 people are threatened by starvation as civil war and drought continue to ravage the region.

(3) Governments in Ethiopia, Sudan, and Somalia as well as some armed opposition groups, *have been and continue to be* **[**are**]** guilty of gross human rights violations, including bombing civilians, torture, arbitrary killings and detention, exploiting hunger to achieve political aims, and suppressing basic political rights—all of which further erode food security in the countries.

(4) Aid policies have failed in large part because of political and economic insecurity which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate aid should promote real food security which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent a chronic dependency upon food aid.

(6) The reversal of the Cold War affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the Horn of Africa.

(7) The United States must fashion a foreign policy toward the Horn of Africa which promotes conflict resolution and seeks to cooperate with other major donors and the United Nations to develop an emergency relief plan which meets the food security and other basic human needs that arise as long as civil strife and famine afflict the region; to promote immediately cease fires, secure relief corridors, and an end to these conflicts; to provide creative development aid which attacks the root causes of famine and war and assists these nations on the path to long-term food security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace; and to support a grassroots approach which aids the poor majority. The programs also need to target aid to assist the poor majority more effectively.

SEC. 3. STATEMENT OF POLICY CONCERNING UNITED STATES POLICY IN THE HORN OF AFRICA.

It shall be the policy of the United States to engage in active diplomacy to assist in bringing about stability in the region through promoting negotiated political settlements that encourage orderly transition, increased food security, development of democratic institutions, and recognition of human rights, as follows:

(1) In Ethiopia, the President should use active diplomacy to encourage a negotiated end of the conflict *and the formation of a broad-based democratic government* in an effort to preserve humanitarian channels.

(2) In Sudan, the President should—

(A) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(B) encourage active participation of the entire international community to meet the emergency relief needs of Sudan; and

(C) take steps to achieve a permanent peace.

(3) In Somalia, the President should use active diplomacy to urge all parties of the conflict to negotiate an orderly transition that promotes stability and will allow the operation of an emergency humanitarian relief program, to the maximum extent.

SEC. 4. THE HORN OF AFRICA PEACE INITIATIVE.

(a) POLICY IN SUPPORT OF POLITICAL PARTICIPATION.—It is the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute effectively to equitable economic development, and to local, national, and regional peace initiatives;

(2) to promote the goal that all citizens may enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary and representative governmental institutions regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions working in government-controlled or opposition-controlled territories that have the capacity or potential to advance development programs, or to carry out relief, which routinely includes rehabilitation activities.

(b) CONSULTATIONS.—The President shall undertake immediate consultations with the Soviet Union and other nations, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations in order to bring about negotiated settlements of the wars in the region.

(c) MECHANISMS.—To best achieve the policy under subsection (a), it is the sense of the Congress that the President should—

(1) direct the United States representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflict;

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease fires.

(2) play an active and ongoing role in other fora, including the Organization for African Unity (OAU), in pressing for negotiated settlements to such wars; and

(3) support and participate in regional and international peace consultations that include broad representation from the nations and factions concerned.

SEC. 5. THE HORN OF AFRICA RELIEF AND REHABILITATION AND FOOD SECURITY PROGRAM.

(a) STATEMENT OF POLICY CONCERNING UNITED STATES RELIEF AND REHABILITATION AID.—It shall be the policy of the United States in promoting equitable distribution of relief and rehabilitation aid in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction, to continue supplies to the civilian population located in the territory of the opposing faction;

(2) to provide relief and rehabilitation in order to promote self-reliance;

(3) to assure that relief shall be provided on the basis of need without regard to political affiliation, geographic location, or the ethnic or religious identity, of the recipient;

(4) to redouble its efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population; and

(5) to commit sufficient Food for Peace and Office of Foreign Disaster Assistance resources to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources.

(b) POLICY IN SUPPORT OF TARGETING ASSISTANCE TO AID THE POOR MAJORITY.—

(1) Wherever possible, United States development assistance in the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists). United States Government aid institutions should seek to (A) build upon the capabilities and experiences of United States, international and private and voluntary indigenous organizations active in local grassroots relief, rehabilitation and development efforts; (B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and (C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) Whenever possible, sustainable development and food security in the Horn of Africa can be enhanced through the active participation of indigenous private and voluntary organizations as well as international private and voluntary organizations and international organizations with demonstrated ability to work as partners with local nongovernmental organizations and a commitment to promote local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) Current legislative provisions that restrict or prohibit United States foreign assistance to the governments of Ethiopia, Somalia, and Sudan should be retained until concrete steps toward peace, political pluralism, and human rights are achieved. Meanwhile, programs of development assistance should be promoted by supporting United States, indigenous, and international private and voluntary organizations working in the afflicted countries.

(c) INTERNATIONAL DISASTER ASSISTANCE.—Chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292-2292p) is amended by adding at the end thereof the following new section:

"SEC. 415. HORN OF AFRICA EMERGENCY ASSISTANCE.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide emergency assistance for relief and rehabilitation in the Horn of Africa. Such assistance should include forms of relief and rehabilitation projects to benefit the affected, including disease prevention and health care projects; and when possible, small-scale agricultural projects, food protection and preservation projects; the rehabilitation of schools and the general education system; and, the inland transport and storage of emergency food assistance, including the provision of trucks and other such measures.

"(b) USE OF FUNDS.—

"(1) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—The utilization of United States, international, and indigenous private and voluntary organizations (PVOs) prudent to carry out the provisions of this section is urged.

"(2) EMERGENCY HEALTH PROJECTS.—The maximum inclusion of health projects, including efforts to rehabilitate the primary health care systems in the Horn of Africa prudent to carry out the provisions of this section is urged.

"(3) EDUCATION REHABILITATION PROJECTS.—The maximum inclusion of school and general education system rehabilitation projects, including efforts to support the teaching of displaced children, prudent to carry out the provisions of this section is urged, where security [permits] permits, and the President determines to be appropriate.

"(4) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount made available for the purposes of this section, not to exceed two percent shall be transferred to the "Operating Expenses of the Agency for International Development" account and used for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian assistance for the Horn of Africa.

"(5) AVAILABILITY OF FUNDS.—Amounts under this section are authorized to remain available until expended.

"(6) TRANSFER OF FUNDS.—The President is authorized to transfer such funds as are necessary from unobligated Economic Support Funds and military assistance to carry out provisions in this section.".

AMENDMENT NO. 761

Mr. FORD. On behalf of Senator PELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. PELL, proposes an amendment numbered 761.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12 line 10 strike the "." and insert the following: "subject to amounts provided in advance in an Appropriations Act."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 761) was agreed to.

ADDITIONAL COSPONSOR

Mr. GORTON. Will the distinguished manager add this Senator as a cosponsor to the bill?

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished Senator from Washington be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments, as amended.

The committee amendments as amended, were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Horn of Africa Recovery and Food Security Act of 1991".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (comprised of the countries of Ethiopia, Somalia, Sudan, and Djibouti) is a region that is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as by gross human rights violations, political repression, environmental destruction, and the breakdown of essential services.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and international community. Relief officials now estimate that another 15-20,000,000 people are threatened by starvation as civil war and drought continue to ravage the region.

(3) Governments in Ethiopia, Sudan, and Somalia as well as some armed opposition groups, have been and continue to be guilty of gross human rights violations, including bombing civilians, torture, arbitrary killings and detention, exploiting hunger to achieve political aims, and suppressing basic political rights—all of which further erode food security in the countries.

(4) Aid policies have failed in large part because of political and economic insecurity which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate aid should promote real food security which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent a chronic dependency upon food aid.

(6) The reversal of the Cold War affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the Horn of Africa.

(7) The United States must fashion a foreign policy toward the Horn of Africa which promotes conflict resolution and seeks to cooperate with other major donors and the United Nations to develop an emergency relief plan which meets the food security and other basic human needs that arise as long as civil strife and famine afflict the region; to promote immediately cease fires, secure relief corridors, and an end to these conflicts; to provide creative development aid which attacks the root causes of famine and war and assists these nations on the path to long-term food security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace; and to support a grassroots approach which aids the poor majority. The programs also need to target aid to assist the poor majority more effectively.

SEC. 3. STATEMENT OF POLICY CONCERNING UNITED STATES POLICY IN THE HORN OF AFRICA.

It shall be the policy of the United States to engage in active diplomacy to assist in bringing about stability in the region through promoting negotiated political settlements that encourage orderly transition, increased food security, development of democratic institutions, and recognition of human rights, as follows:

(1) In Ethiopia, the President should use active diplomacy to encourage a negotiated end of the conflict and the formation of a broad-based democratic government in an effort to preserve humanitarian channels.

(2) In Sudan, the President should—

(A) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(B) encourage active participation of the entire international community to meet the emergency relief needs of Sudan; and

(C) take steps to achieve a permanent peace.

(3) In Somalia, the President should use active diplomacy to urge all parties of the conflict to negotiate an orderly transition that promotes stability and will allow the operation of an emergency humanitarian relief program, to the maximum extent.

SEC. 4. THE HORN OF AFRICA PEACE INITIATIVE.

(a) POLICY IN SUPPORT OF POLITICAL PARTICIPATION.—It is the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute effectively to equitable economic development, and to local, national, and regional peace initiatives;

(2) to promote the goal that all citizens may enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary and representative governmental institutions regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions working in government-controlled or opposition-controlled territories that have the capacity or potential to advance development programs, or to carry out relief, which routinely includes rehabilitation activities.

(b) CONSULTATIONS.—The President shall undertake immediate consultations with the Soviet Union and other nations, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations in order to bring about negotiated settlements of the wars in the region.

(c) MECHANISMS.—To best achieve the policy under subsection (a), it is the sense of the Congress that the President should—

(1) direct the United States representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflict;

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease fires.

(2) play an active and ongoing role in other fora, including the Organization for African Unity (OAU), in pressing for negotiated settlements to such wars; and

(3) support and participate in regional and international peace consultations that include broad representation from the nations and factions concerned.

SEC. 5. THE HORN OF AFRICA RELIEF AND REHABILITATION AND FOOD SECURITY PROGRAM.

(a) STATEMENT OF POLICY CONCERNING UNITED STATES RELIEF AND REHABILITATION AID.—It shall be the policy of the United States in promoting equitable distribution of relief and rehabilitation aid in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction, to continue supplies to the civilian population located in the territory of the opposing faction;

(2) to provide relief and rehabilitation in order to promote self-reliance;

(3) to assure that relief shall be provided on the basis of need without regard to political affiliation, geographic location, or the ethnic or religious identity, of the recipient;

(4) to redouble its efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population; and

(5) to commit sufficient Food for Peace and Office of Foreign Disaster Assistance resources to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources.

(b) POLICY IN SUPPORT OF TARGETING ASSISTANCE TO AID THE POOR MAJORITY.—

(1) Wherever possible, United States development assistance in the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists). United States Government aid institutions should seek to (A) build upon the capabilities and experiences of United States, international and private and voluntary indigenous organizations active in local grassroots relief, rehabilitation and development efforts; (B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and (C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) Whenever possible, sustainable development and food security in the Horn of Africa can be enhanced through the active participation of indigenous private and voluntary organizations as well as international private and voluntary organizations and international organizations with demonstrated ability to work as partners with local nongovernmental organizations and a commitment to promote local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) Current legislative provisions that restrict or prohibit United States foreign assistance to the governments of Ethiopia, Somalia, and Sudan should be retained until concrete steps toward peace, political pluralism, and human rights are achieved. Meanwhile, programs of development assistance should be promoted by supporting United States, indigenous, and international private and voluntary organizations working in the afflicted countries.

(c) INTERNATIONAL DISASTER ASSISTANCE.—Chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292-2292p) is amended by adding at the end thereof the following new section:

"SEC. 415. HORN OF AFRICA EMERGENCY ASSISTANCE.

"(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide emergency assistance for relief and rehabilitation in the Horn of Africa. Such assistance should include forms of relief and rehabilitation projects to benefit the affected, including disease prevention and health care projects; and when possible, small-scale agricultural projects, food protection and preservation projects; the rehabilitation of schools and the general education system; and, the inland transport and storage of emergency food assistance, including the provision of trucks and other such measures.

"(b) USE OF FUNDS.—

"(1) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—The utilization of United States, international, and indigenous private and voluntary organizations (PVOs) prudent to carry out the provisions of this section is urged.

"(2) EMERGENCY HEALTH PROJECTS.—The maximum inclusion of health projects, including efforts to rehabilitate the primary health care systems in the Horn of Africa prudent to carry out the provisions of this section is urged.

"(3) EDUCATION REHABILITATION PROJECTS.—The maximum inclusion of school and general education system rehabilitation projects, including efforts to support the teaching of displaced children, prudent to carry out the provisions of this section is urged, where security permits, and the President determines to be appropriate.

"(4) MANAGEMENT SUPPORT ACTIVITIES.—Of the amount made available for the purposes of this section, not to exceed two percent shall be transferred to the "Operating Expenses of the Agency for International Development" account and used for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian assistance for the Horn of Africa.

"(5) AVAILABILITY OF FUNDS.—Amounts under this section are authorized to remain available until expended.

"(6) TRANSFER OF FUNDS.—The President is authorized to transfer such funds as are necessary from unobligated Economic Support Funds and military assistance to carry out provisions in this section subject to amounts provided in advance in an Appropriations Act.".

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMPROVEMENTS IN THE OPERATION OF THE COURT OF VETERANS APPEALS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 157, H.R. 153, regarding the Court of Veterans Appeals.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 153) to amend title 38, United States Code, to make miscellaneous administrative and technical improvements in the operation of the United States Court of Veterans Appeals, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 762

(Purpose: To provide for the Court to accept and utilize certain gifts and bequests)

Mr. FORD. Mr. President, on behalf of Senator CRANSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. CRANSTON, proposes an amendment numbered 762.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, between lines 11 and 12, insert the following new section:

SEC. 7. ACCEPTANCE OF VOLUNTARY SERVICES AND GIFTS BY THE UNITED STATES COURT OF VETERANS APPEALS.

Section 7281 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(i) The Court may accept and utilize services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.".

On page 6, line 12, strike out "7" and insert in lieu thereof "8".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 762) was agreed to.

Mr. CRANSTON. Mr. President, as Chairman of the Committee on Veterans' Affairs, I urge my colleagues to give their unanimous approval to H.R. 153 as ordered reported by the Veterans' Affairs Committee on June 6, 1991, as it would be amended by a committee modification that will be offered in a moment. The majority of provisions contained in this bill were formally requested by the Court of Veterans Appeals Chief Judge Frank Q. Nebeker so as to ensure that the court and its judges are provided with similar authority and held to similar standards as other Federal appellate courts.

Mr. President, this legislation originally passed the House on February 20, 1991. The Committee on Veterans' Affairs amended the bill during a committee meeting on June 6, 1991. The final version, with the amendment I will offer, reflects a compromise agreement that the Senate and House Committees on Veterans' Affairs have reached on certain bills, amendments, and provisions relating to the court that were considered by the two Veterans' Affairs Committees, but not enacted during the 101st Congress. As my colleagues will recall, the Senate was unable to consider and act upon these measures at the end of the last Congress due to objections raised over certian unrelated veterans legislation.

Mr. President, rather than go into detail now on the bill, I will briefly summarize the provisions of H.R. 153 and my amendment and then place in the RECORD a detailed explanatory statement developed by the two Veterans' Affairs Committees.

Mr. President, the provisions in this bill would:

First, delete a provision which requires the court to include in its decisions a statement of its legal conclusions and determinations as to its factual determinations.

Second, authorize the chief judge of the court to convene annually a judicial conference.

Third, make applicable to the court the provisions of title 28, United States Code, relating to procedures for filing complaints with respect to the conduct of judges and the disqualification of judges.

Fourth, allow judges of the court to participate in the thrift savings plan.

Fifth, authorize the distribution of the CONGRESSIONAL RECORD to the court.

Sixth, make certain other technical amendments to the law which established the court, Public Law 100-687, the Judicial Review Act.

Seventh, under the provision in the committee modification, which is derived from S. 1050, legislation I introduced on May 14 at the request of Chief Judge Nebeker, would allow the court to accept volunteer services—which would allow the court to establish an unpaid intern program for law students—and to accept gifts, such as books and works of art.

Mr. President, I ask unanimous consent that the explanatory statement on the provisions in H.R. 153 as amended that was developed by the two Veterans' Affairs Committee be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON H.R. 153, RELATING TO THE UNITED STATES COURT OF VETERANS APPEALS

H.R. 153 as passed by the House on February 20, 1991, and as amended by the Senate Committee on Veterans' Affairs during a Committee meeting on June 6, 1991, and further amended during Senate consideration, reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain measures containing provisions relating to the United States Court of Veterans Appeals that were considered, or proposed to be offered, in the Senate and the House of Representatives during the 101st Congress but were not enacted. Those measures are H.R. 4557, which the House passed on May 1, 1990; H.R. 5657, which the House passed on May 1, 1990; S. 2100, which the Senate Committee on Veterans' Affairs reported on July 19, 1990, but which did not receive Senate consideration prior to the end of the 101st Congress; and amendments that the Chairman of the Senate Committee was prepared (on behalf of the Senate Committee) to offer to H.R. 5657 in October 1990, but which were not offered because the Senate was unable to consider that bill prior to the end of the 101st Congress.

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanatory statement on H.R. 153. Differences between the provisions contained in H.R. 153 as amended by the Senate (hereinafter referred to as the "Compromise agreement") and the related provisions in the House-passed versions of H.R. 4557, H.R. 5657, S. 2100 as reported by the Senate, and the proposed amendments to S. 2100 are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical and clarifying changes.

PROCEDURES FOR DECISIONS OF THE COURT OF VETERANS APPEALS

Current law: Under section 7267(b) of title 38, the Court of Veterans Appeals is required to include in each of its decisions a statement of its conclusions of law and determinations as to factual matters.

Section 7267(d)(1) of title 38 provides that, in the case of a decision by a single judge of the Court, the decision of the judge becomes the decision of the Court unless, before the expiration of the 30-day period beginning on the date of the decision of the judge, the Court directs that the decision of the single judge is not part of the record. Section 7267(d)(2) provides that, in the case of a proceeding determined by a panel of the Court, the decision of the panel becomes the decision of the Court unless, before the expiration of the 30-day period beginning on the date of the panel's decision, the Court directs that the decision be reviewed by an extended panel of the Court (or the Court en banc), in which case the decision of the panel initially deciding the case is not part of the record.

House bill: Section 2 of H.R. 5657 would have repealed subsections (b) and (d) of section 7267.

Senate bill: No provision.

Compromise agreement: Section 1 follows the House bill.

JUDICIAL CONFERENCE

Current law: There is no authority under current law for the Chief Judge of the Court of Veterans Appeals to convene a judicial conference. Under section 331 of title 28, the Chief Justice of the United States is required to summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a judicial conference.

House bill: Section 3 would amend title 38 so as to authorize the Chief Judge of the Court of Veterans Appeals to summon the judges of the Court to an annual judicial conference for the purpose of considering the business of the Court and recommending means of improving the Court's jurisdiction. The Court would be required to provide by its rules for representation at the conference by persons admitted to practice before the Court and by other persons active in the legal profession.

Senate bill: No provision.

Compromise agreement: Section 2 follows the House bill.

JUDICIAL DISCIPLINE

Current law: Section 372(c) of title 28 sets forth the procedures to be followed when a complaint alleging conduct "prejudicial to the effective and expeditious administration of the business of the courts" or inability to discharge the duties of office due to mental or physical disability is filed against a federal circuit, district, or bankruptcy judge, or a magistrate.

Upon completion of an investigation of a complaint, a written report is filed with the judicial council of the circuit concerned. Upon receipt of such a report, the judicial council is authorized to conduct additional investigation and to take action to assure the effective and expeditious administration of the business of the courts within the circuit. A judicial council may also refer a matter to the Judicial Conference of the United States for consideration and appropriate action. Section 372(c) also provides the opportunity for a complainant or a judge or magistrate aggrieved by a decision of the chief judge or of a judicial council to petition the judicial council or the Judicial Conference, respectively, for review.

Section 372(c)(17) requires that the United States Claims Court, the Court of International Trade, and the Court of Appeals for the Federal Circuit prescribe rules consistent with the provisions of section 372(c) establishing procedures for the filing of complaints with respect to the conduct of judges of those courts and for the investigation and resolution of such complaints.

House bill: No provision.

Senate bill: No provision.

Compromise agreement: Section 3 would amend section 7253 of title 38 to require the Court of Veterans Appeals to prescribe rules, consistent with the provisions of section 372(c) of title 28, establishing procedures for the filing of complaints with respect to the conduct of any judge of the Court and would grant the Court the same powers with respect to the disciplining of judges of the Court as are granted to a judicial council under section 372(c) with respect to judges of a court covered by that section.

The Committees expect that the judges of the Court would constitute the judicial council for the Court.

RECUSAL OF JUDGES

Current law: Section 455 of title 28, which applies to judges of the U.S. Courts of Appeals, U.S. district courts, the Court of International Trade and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior, sets forth the circumstances under which judges must disqualify themselves from participating in particular cases.

House bill: No provision.

Senate bill: Section 705 of S. 2100 would have made applicable to the Court of Veterans Appeals the provisions of section 455 of title 28.

Compromise agreement: Section 4 follows the Senate bill.

PARTICIPATION OF JUDGES IN THE THRIFT SAVINGS PLAN

Current law: No provision in current law authorizes judges of the Court of Veterans Appeals to participate in the Thrift Savings Fund.

House bill: No provision.

Senate provision: Section 6 of the proposed amendment to H.R. 5657 would have amended chapter 84 of title 5 so as to authorize judges of the Court of Veterans Appeals to elect to contribute to the Thrift Savings Fund. Judges would be authorized to contribute to the Fund not more than five percent of their basic pay, and would be required to make an election to contribute to the Fund within 60 days after the date of enactment of this provision.

Compromise agreement: Section 5 follows the Senate amendment.

DISTRIBUTION OF THE CONGRESSIONAL RECORD TO THE COURT OF VETERANS APPEALS

Current law: Section 906 of title 44 provides for the distribution of gratuitous copies of the CONGRESSIONAL RECORD to certain offices and individuals, including, among others, virtually all Federal judges and court libraries other than those of the Court of Veterans Appeals.

House bill: No provision.

Senate provision: Section 7 of the proposed Senate amendment to H.R. 5657 would have amended section 906 of title 44 to require the distribution of copies of the CONGRESSIONAL RECORD to the judges of the Court of Veterans Appeals and to the library of the Court.

Compromise agreement: Section 6 follows the Senate amendment.

ACCEPTANCE OF VOLUNTARY SERVICES AND GIFTS

Current law: Public Law 100-687, the Veterans' Judicial Review Act, does not provide the Court of Veterans Appeals with statutory authority for the acceptance of voluntary services or gifts. However, section 604(a)(17) of title 28, grants to Article III courts authority to accept such services and gifts of personal property.

House bill: No provision.

Senate provision: Section 1 of S. 1050, as introduced on May 14, 1991, at the request of the Chief Judge of the Court of Veterans Appeals, would amend section 7281 of title 38 to allow the Court to accept voluntary services and gifts and bequests.

Compromise agreement: Section 7 contains the Senate provision.

Mr. SPECTER. Mr. President, I am pleased to support passage of H.R. 153, as amended by the Committee on Veterans' Affairs, which would make miscellaneous administrative and technical improvements in the operation of the U.S. Court of Veterans Appeals.

The Court of Veterans Appeals is a Federal court created by Congress in 1988 with exclusive jurisdiction to review appeals of claims for veterans' benefits which have been denied by the Board of Veterans Appeals, an administrative tribunal within the Department of Veterans Affairs. The legislation which created this court—Public Law 100-687—was a compromise in which the Congress took justifiable pride. As one who consistently championed external review of VA's benefits decisions, I think it altogether fitting that both bodies were able to come together to assure that veterans get a fair review of BVA decisions without burdening the Federal district courts. I look forward to studying the developing jurisprudence of the new court.

H.R. 153, Mr. President, would accomplish the following:

First, eliminate the current 30-day delay in the effective date of COVA decisions;

Second, authorize the chief judge of the court to annually summon the judges of such court to a judicial conference in order to consider business of the court and to improve the administration of justice within the court's jurisdiction;

Third, direct the court to prescribe rules which establish procedures for the filing, investigation, and ruling of complaints with respect to the conduct of any COVA judge;

Fourth, apply current Federal rules concerning the disqualification of justices, judges, or magistrates to COVA;

Fifth, permit COVA judges to contribute to the thrift savings fund, limited to 5 percent of the amount of the judge's basic pay;

Sixth, require the CONGRESSIONAL RECORD to be distributed to the COVA; and

Seventh, make discretionary—currently mandatory—the return by the court of books, records, and diagrams submitted to the court as part of an administrative determination.

As passed by the House, Mr. President, H.R. 153 contained a provision which would have raised the salaries of the associate judges of COVA, currently set at the level of a U.S. district court judge, currently $125,100 per year, to that of a court of appeals judge, currently $132,700 per year. However, by a bipartisan vote of 8 to 3, the Committee on Veterans' Affairs, at its markup on June 6, voted to delete this provision. We noted that, since the court was established in 1988, the salaries of associate judges had risen from $89,500 to $125,100. We noted also the limited jurisdiction of COVA when compared to a U.S. district court or to a U.S. court of appeals. I strongly supported this amendment in markup, and will strongly support it in any conference with the House.

These provisions are necessary for COVA to maintain its status as the court of last resort for veterans' claims. Together with the amendment to which I have already spoken, I believe this is a worthwhile piece of legislation and urge my colleagues to support it.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 153), as amended, was passed.

AUTHORIZING THE PURCHASE OF CALENDARS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 154, a resolution authorizing purchase of calendars, submitted today by Senators FORD and STEVENS.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 154) relating to the purchase of calendars.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 154) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from Washington [Mr. GORTON] be recognized for up to 15 minutes and that at the conclusion of Senator GORTON's remarks the Senate stand in recess as under the order until 9:30 a.m., Wednesday, July 17.

The PRESIDING OFFICER. Without objection, it is so ordered.

ECONOMIC REFORM OF THE SOVIET UNION

Mr. GORTON. Mr. President, tomorrow President Gorbachev will join the leaders of the G-7 nations, to plead for immediate Western assistance—in the range of $10 to $12 billion—to help implement the latest of his programs for the economic reform of the Soviet Union. He hopes that these billions will stabilize the Soviet economy and assist in making the ruble a convertible currency.

President Gorbachev's plea should be denied—very politely, but, still, firmly.

A term lead by Harvard professor Graham Allison and Gorbachev's confidant Yuri Yavlinsky has drafted a plan for the wide-ranging economic restructuring of the Soviet Union conditioned upon substantial financial aid from the G-7 nations. President Gorbachev is unwilling to accept a scheme of such breadth—or even aid—conditioned upon its implementation.

Still, in this country and in Europe, a number of cautious conservatives have been tempted by the Allison-Yavlinsky plan, if it will include, in addition, dismantling a substantial portion of the Soviet military.

Finally, political columnist Charles Krauthammer proposes such assistance, but only to elected governments in the Soviet Union or its Republics, based on the belief that a freely elected political establishment will both reduce the military and adopt the free market as a matter of course.

The fallacy of each of these proposals lies in the belief that the reform of the Soviet Government and economy can be imposed, or even substantially influenced, from the outside. I am convinced, to the contrary, that the desire for reform and restructuring must come from within, just as did the original impetus toward glasnost and perestroika. It must arise from the widespread conviction in the Soviet Union that the entire Communist system is a bankrupt fraud, and that, for the people of the Soviet Union to lead decent lives, its political and economic institutions must be rebuilt from the ground up, and that this must be done even in the face of yawning indifference from the rest of the world.

Only then, will success be possible. And, equally important from our perspective, only then will the West be free from the inevitable hostility, unrest, and blame that will arise as the Soviet economy continues to decline in the opening stages of reform. If a significant part of the people or the political apparatus in the Soviet Union can attribute these inevitably dark days to conditions imposed from the outside world, a successful revolution will be impossible.

Before a total restructuring takes root, financial aid from the West will only help the Soviet establishment to mask its real condition, to continue to avoid the inevitable debate between guns and butter, military priorities, and civilian production.

I must confess a deep pessimism with respect to the proposition that Mikhail Gorbachev can, indeed, lead the final and most important steps in a true revolution. In every liberated country in Eastern Europe, the drive for democracy and a free economy has come from outside the Communist Party and has been successful only when the apparatchiks have lost positions of power in the state. Granted that the Communist system of governance in those nations was imposed from outside, and lasted for 30 years fewer than it has in the Soviet Union, it is still more likely than not that the final stages of the Soviet revolution will be led by someone more distant from the levers of power in preglasnost days than Mikhail Gorbachev. Gorbachev may be the Soviet Union's Moses, given the privilege of seeing the Promised Land, but it is unlikely that he will lead his people across the Jordan.

For now, if aid can be provided to the reforming countries on the other side of what formerly was the Iron Curtain, it should be directed to those emerging nations of central Europe—Poland, Czechoslovakia, and Hungary—that have already made the difficult choices and that have already swept their former Communist governments into the dust bin of history. Perhaps such aid will be appropriate for the Soviet Union, or for some of its constituent parts, at a later time—when its revolution has advanced as far, and when it has reduced drastically its military establishment, freed those Republics under its oppression, and has created a real political democracy. Then, perhaps, but not now.

THE BOEING CO.

Mr. GORTON. Mr. President, yesterday marked the 75th anniversary of the Boeing Co. On July 15, 1916, the Boeing Co. was founded in the State of Washington; 37 years later, in 1953, the people of Washington witnessed the flight of Boeing's first 707 prototype, the Dash 80. Today, Boeing leads the aviation industry with its work on the V-22 Osprey, the F-22 fighter, the 777, and the light helicopter. Boeing's ability to stay ahead of the high-technology curve plus its commitment to quality, initiative, and hard work, makes Boeing one of the most respected aviation industries worldwide.

America can thank the Boeing Co. for providing us with a strong national defense, a superb air transportation system, and a leading space exploration program. America's Armed Forces in the Persian Gulf relied on technologies produced by Boeing. The E-3 AWAC Sentry identified enemy aircraft and jammed enemy radar. The KC-135 refueled the entire air fleet, allowing it to perform historically successful mission. After the war, the C-135 flew food and clothing to the Kurdish refugees, and just recently it rescued thousands of families from the eruption of Mt. Pinatubo.

The Boeing Co.'s development of the 747 has made Boeing a household name. Its initiative in civilian transportation makes for a smaller world, while its work on the shuttle carrier and space station, opens our world to the surrounding universe.

The employees of Boeing have made this company what it is today. Along with its contributions throughout the world, the Boeing Co. enjoys a long history of local community support and corporate citizenship. Those citizens have consistently contributed to the livelihood of the communities in which they live. I applaud their support of cultural and educational programs throughout my State, and thank them for lending to the quality of life shared by thousands of Washington State citizens.

For 75 years, the Boeing Co. has added to the economic vitality of the State of Washington and the United States. I congratulate the Boeing Co. for its leadership in the aviation industry, and thank the employees of Boeing for their continued dedication to quality and excellence.

Mr. President, I yield the floor.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 9:30 a.m., Wednesday, July 17; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there then be a period for morning business not to extend beyond 10:15 a.m. with Senators permitted to speak therein, and that Senator JOHNSTON be recognized for up to 20 minutes, that Senator DODD be recognized for up to 10 minutes; and that at 10:15 a.m., the Senate resume consideration of S. 323.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until Wednesday, July 17, at 9:30 a.m.

Thereupon, the Senate, at 8:36 p.m., recessed until Wednesday, July 17, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 16, 1991:

DEPARTMENT OF VETERANS AFFAIRS

SYLVIA CHAVEZ LONG, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (CONGRESSIONAL AFFAIRS), VICE EDWARD G. LEWIS, RESIGNED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

NORMAN KELINSON, OF IOWA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1995, VICE FRANK GANNON, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. FREDERICK M. FRANKS, JR. [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. MICHAEL F. SPIGELMIRE [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. WAYNE A. DOWNING [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. PETER A. KIND [redacted] U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING NAMED ASTRONAUT OF THE AIR FORCE FOR PERMANENT APPOINTMENT TO THE GRADE OF COLONEL UNDER ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

LT. COL. LLOYD B. HAMMOND, JR. [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. LEO L. ACCURSI, [redacted] 4/6/91
MAJ. RICHARD W. ASH, [redacted] 4/14/91
MAJ. GARRY G. BUKSA, [redacted] 4/14/91
MAJ. BRINTON R. BURBIDGE, [redacted] 3/9/91
MAJ. JERRY DAILEY, [redacted] 4/1/91
MAJ. HERBERT M. HARRINGTON, JR. [redacted] 4/24/91
MAJ. ALTON A. JONES, [redacted] 4/19/91
MAJ. CARL J. KOCH, [redacted] 4/6/91
MAJ. DARRYL L. MARSHALL, [redacted] 4/10/91
MAJ. PATRICK M. ORORKE, [redacted] 3/29/91
MAJ. ROY H. PANSEY, [redacted] 4/23/91
MAJ. DON E. REYNOLDS, [redacted] /17/91
MAJ. ROBERT K. ROBBINS, [redacted] 4/7/91
MAJ. THOMAS D. SANNE, [redacted] 4/7/91
MAJ. JERED H. VANENGEN, [redacted] 4/5/91

MEDICAL CORPS

To be lieutenant colonel

MAJ. WILLIAN A. BAKER, [redacted] 4/6/91
MAJ. RAYMOND BRUNO, [redacted] 3/2/91

DENTAL CORPS

To be lieutenant colonel

MAJ. ROBERT M. CRAIG, JR. [redacted] 4/26/91

THE FOLLOWING CADETS, U.S. MILITARY ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 541 AND 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

ERIC F. HOLT [redacted]
MARK E. ROSE [redacted]

THE FOLLOWING MIDSHIPMEN, U.S. NAVAL ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 541 AND 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECERTARY OF THE AIR FORCE.

JAMES R. FISHER [redacted]
ANDREW J. GEBARA [redacted]
PARTICK C. MEAGHER, JR [redacted]
DANIEL J. ORCUTT [redacted]
GARY L. SCHAAP [redacted]
JEFFREY R. STUTZ [redacted]

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

CHRISTOPHER P. AZZANO [redacted]
JAMES E. BIGGS [redacted]
SHAWN E. BRAKE [redacted]
FRANCES M. CARDACI [redacted]
LEE A. CHAVEZ, [redacted]
MICHAEL A. CLARK [redacted]
LAURA A. DISTELDORF [redacted]
JOHN P. GRAULTY [redacted]
JEFFREY L. HARLAN [redacted]
MATTHEW A. HOTCHKISS [redacted]
VICTOR H. MORA [redacted]
STEPHEN R. OLDS [redacted]
WILLIAM C. PATTERSON [redacted]
MICHAEL G. PEPPER [redacted]
KENNY J. PETERSON [redacted]
JEFFREY G. RAETZ [redacted]
DEBRA K. ROSE [redacted]
MARK C. SEE [redacted]
CHARLES C. TAYLOR [redacted]
DAVID A. WIESNER [redacted]

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE U.S. OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, U.S.C. SECTIONS 593(A); AND 3385:

ARMY PROMOTION LIST

To be colonel

LOUIS A. CABRERA [redacted]
DANIEL L. CREW [redacted]
PETER HOLMBERG [redacted]
ROBERT F. MALLOW [redacted]
CARL R. LUNDEN [redacted]

ARMY DENTAL CORPS

To be colonel

RAY R. SCOTT, JR. [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

JOSEPH G. BLUME, JR. [redacted]
ROGER B. BURROWS [redacted]
RAYMOND O. CONNOR [redacted]
THOMAS J. DUGDALE, JR. [redacted]
DANIEL E. DURR [redacted]
DANIEL D. ECKERT [redacted]
THOMAS J. EMERY [redacted]
DAVID S. GAUNTLETT [redacted]
GEORGE H. GUNTER [redacted]
HAL F. HARRINGTON [redacted]
ARTHUR A. JACKSON [redacted]
RAYMOND R. JUNG [redacted]
RONALD B. KALKOFEN [redacted]
HENRY W. KNOCH [redacted]
DALE L. LIEBENTHAL, [redacted]
MICHAEL A. MARTIN [redacted]
DENNIS K. MINER [redacted]
ROBERT J. MOORE [redacted]
JOHN V. PATTERSON [redacted]
CHARLES C. PRICE [redacted]
WILLIAM R. RADFORD [redacted]
VINCENT P. REEFER [redacted]
RICHARD T. SCHNELL [redacted]
JAMES P. SEWELL [redacted]
JAMES R. SHOEMAKER, [redacted]
FREDERICK C. SPRENG [redacted]
WAYNE A. TANNER [redacted]
SAMUEL R. VARNELL [redacted]
ALAN J. WALKER [redacted]

MEDICAL CORPS

To be Lieutenant Colonel

MICHAEL S. MCINTOSH [redacted]
LEO F. ROGERS [redacted]

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH A SINGLE ASTERISK IS NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

JUDGE ADVOCATE GENERAL'S CORPS

To be Lieutenant Colonel

ROBERT M. READE [redacted]

CHAPLAIN

To be Lieutenant Colonel

CHARLES H. MORRISON, II [redacted]

ARMY NURSE CORPS

To be Lieutenant Colonel

*MARY E. GALVIN [redacted]

IN THE NAVY

THE FOLLOWING AIR FORCE CADETS TO BE PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 541:

JAY R. FROHNE
TODD A. KINROSS
KEVIN J. RAYMOND

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVES OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 593, 8366 AND 8372, TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE OF 7 MARCH 1991, AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF SEVEN YEARS OF PROMOTION SERVICE AND TWENTY-ONE YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) OF TITLE 10.

CHAPLAIN CORPS

To be lieutenant colonel

ROGER L. BACON [redacted]
BRUCE R. BETKER [redacted]
MARK H. HALL [redacted]
WALTER M. HARRIS [redacted]
LELAN D. MCREYNOLDS, [redacted]
ROBERT D. PARLOTZ [redacted]
VINCENT J. RIGDON [redacted]
WILLIAM G. RUPRACHT, [redacted]
RICHARD D. TERO [redacted]
MANTON L. TRACY, JR [redacted]
CHARLES B. URNICK [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

ROBERT L. ALLEY [redacted]
THOMAS W. ATZBERGER [redacted]
JOHN P. BACOT, JR [redacted]
BYRON E. BARNETT [redacted]
JOHN BARTUS [redacted]
JAMES B. BECHTEL [redacted]
CARL R. BEHRENS [redacted]
ROBERT K. BOST [redacted]

DANIEL F. BOUCHARD [redacted]
GLEN L. BOWER [redacted]
WILLIAM O. BRESNICK [redacted]
BRADFORD L. BUCHANAN [redacted]
PHILIP D. BURROUGHS [redacted]
JAMES R. CLIFTON [redacted]
PATRICK F. CORBIN [redacted]
GREGORY T. CORTESE [redacted]
WINFREE M. COURTNEY [redacted]
BARRY M. DENNIS [redacted]
FREEMAN B. DUNCAN [redacted]
JOSEPH EPISCOPO [redacted]
MILTON L. ETTER [redacted]
ROBERT D. FOGEL [redacted]
CLIFTON M. HASEGAWA [redacted]
BRUCE E. HAWLEY [redacted]
RICHARD D. HIPPLE [redacted]
MICHAEL A. JORDAN [redacted]
JOHN N. KULAS [redacted]
JAMES W. LESSIS [redacted]
DAVID M. LETA [redacted]
ROBERT L. MCGRATH [redacted]
RICHARD J. MIGLIACCIO [redacted]
GUNNAR C. MYRBECK [redacted]
JOHN S. ODOM, JR [redacted]
FRANCIS W. PEDROTTY [redacted]
HOWARD R. PEPPEL [redacted]
PETE L. RAMIREZ [redacted]
LUIS E. RIVERA [redacted]
JAMES R. SMITH, J [redacted]
STEPHEN R. SMITH [redacted]
THEODORE J. SOLOMON, I [redacted]
JOHN T. SOMA [redacted]
JEFFREY L. SPRINK [redacted]
JOSEPH SWERDZEWSKI [redacted]
RICHARD L. THORGREN [redacted]
PHILIP J. TYLER [redacted]
JOHN S. VENTO [redacted]
DANIEL J. WACKER [redacted]
LARRY F. WHITHAM [redacted]
ROBERT E. WILLIAMS, JR [redacted]
JOHN L. WITTENBORN [redacted]
BRIAN L. WOOLDRIDGE [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be lieutenant colonel

RODERICK M. ADAMS [redacted]
RICHARD H. AGOSTA [redacted]
DAVID A. AIKEN [redacted]
ROBERT E. ALEXANDER [redacted]
WILLIAM P. ALLEN [redacted]
EDWIN K. ARMITAGE [redacted]
GREGORY D. AYRES [redacted]
GLENN D. BAKER [redacted]
SAMUEL D. BOTTARO [redacted]
DONALD W. BOUCHER [redacted]
LEE W. BRIGGS [redacted]
JOHN H. BROWN [redacted]
BRUCE W. BURNEY [redacted]
DAVID C. BURNS [redacted]
PATRICK H. BURNS [redacted]
JOSEPH W. BUTLER [redacted]
FRED J. BYROD [redacted]
LYLE W. CARLSON [redacted]
LOUIS P. CHIASSON [redacted]
EDWARD J. CIBA [redacted]
LARRY J. CLARK [redacted]
ANDREW B. CORNELL [redacted]
EDWARD O. CRANDELL [redacted]
MELINDA E. DEFFER [redacted]
CARROLL R. *. DOTSON [redacted]
JEFFREY DRIFMEYER [redacted]
MICHAEL S. EDWARDS [redacted]
ROBERT R. ENG [redacted]
LEIGH S. *. FAIRCHILI [redacted]
JACK C. FARRIS [redacted]
MICHAEL J. FEELEY [redacted]
RANDELL G. FLOOD [redacted]
MICHAEL D. GARRETT [redacted]
PAUL E. GILLETTE [redacted]
ROBERT W. GOMBESKI [redacted]
HARRY R. GOOD [redacted]
DENNIS P. GOODES [redacted]
STANLEY D. HARMER [redacted]
JOSEPH M. *. HARMON [redacted]
RENE A. HEIDENHEIM [redacted]
GERALD J. *. HENSLEY [redacted]
MICHAEL C. *. HICKS [redacted]
WESLEY S. HOHL [redacted]
DAVID A. HSIEH [redacted]
JAMES J. JEROME [redacted]
MONTIE S. JOHNSON [redacted]
MICHAEL B. KELLEY [redacted]
GLORIA *. KITSOPOULOS [redacted]
TERRY A. *. KLEIN [redacted]
KATHRYN H. KNUDSON [redacted]
MICHAEL P. KOCHEL [redacted]
JOHN R. LATCH [redacted]
JOHN C. LEVESQUE [redacted]
RICHARD R. *. LEVINE [redacted]
REBECCA J. MACKOY [redacted]
TIMOTHY MCCARTHY, I [redacted]
DAVID B. MCCRADY [redacted]
MICHAEL J. *. MCCREERY [redacted]
ROBERT C. *. MESSNER [redacted]
DAVID D. MILLER [redacted]
TERRY R. MINTON [redacted]
PAUL B. MOURITSEN [redacted]
ROBERT J. MYERS [redacted]
VINCENT M. *. ODONNELL [redacted]
GERALD A. *. OGDEN [redacted]
DONALD A. *. OHARE [redacted]
TERRY L. OWENS [redacted]
CARY J. PAYNE [redacted]
RANDY PERRY [redacted]
LESLIE J. PETERS [redacted]
KOTU K. PHULL [redacted]
EDWARD R. PONATOSKI [redacted]
BILLY R. PORTER [redacted]
JOHN B. *. POWELL [redacted]
RICHARD W. PROUTY [redacted]
RONNIE L. *. RAHM [redacted]
TERRY M. *. RAUCH [redacted]
EDWARD W. RAWLS [redacted]
DANIEL D. REMUND [redacted]
DANNY G. RICHARDSON [redacted]
KELLEY C. ROBERSON [redacted]
RENE J. *. ROBICHAUX [redacted]
ROBERT C. ROBINSON [redacted]
DAVID O. ROCKWELL, [redacted]
HILUARD G. ROGERS [redacted]
JAMES A. ROMANO [redacted]
RONALD M. *. ROSENBERG [redacted]
KURT A. *. SANFTLEBEN [redacted]
THOMAS P. SAXEN, [redacted]
THOMAS J. SCHMITT [redacted]
LEON C. SCOTT [redacted]
GLENN C. SIMPSON [redacted]
DAVID A. *. SMART [redacted]
MICHAEL C. SPRADLIN [redacted]
ETHAN J. STANSBURY [redacted]
PHILLIP W. SWINNEY [redacted]
BRUCE F. SYLVIA [redacted]
JOHN D. THOMAS [redacted]
J. H. *. THORNBURGH [redacted]
JEFFREY TOMLINSON [redacted]
MICHAEL TORSTRICK [redacted]
CLARENCE D. VESELY [redacted]
MICHAEL E. WALKER [redacted]
JOSEP WANERSDORFER [redacted]
JOHN C. WEISER [redacted]
MICHAEL D. WHEELER [redacted]
ROGER S. *. WHITEAKER [redacted]
LARRY W. WILD [redacted]
DAVID W. WILLIAMS [redacted]
JOHN E. WILSON [redacted]
ERIC J. YOSHIHASHI [redacted]

VETERINARY CORPS

To be lieutenant colonel

DAVID E. HOPSON [redacted]
ROBERT E. *. HUNT [redacted]
GERALD B. *. JENNINGS [redacted]
CHARLES KELSEY, JR [redacted]
JAMES G. MACMILLAN [redacted]
DENVER D. *. MARLOW [redacted]
MIKE D. MCGUIRE [redacted]
GEORGE E. MOORE [redacted]
LYNN E. NORMAN [redacted]
THOMAS N. POOL [redacted]
ROBERT R. SMITH [redacted]
RICHARD R. *. STOTTS [redacted]
DEWAYNE G. TAYLOR [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

CAROLYN S. *. ADKINS [redacted]
LINDA C. ALLEN [redacted]
CRAIG E. ANDERSON [redacted]
WILLIAM T. AVANT [redacted]
LYNN A. BALDVINS, [redacted]
CATHERINE B. BEATTY [redacted]
WYNON BICESTEPHENS [redacted]
JOHN H. BOND, JR [redacted]
SANDRA L. *. BRUNKEN [redacted]
KERRY A. *. BYERS, [redacted]
KATHLEEN M. CARVILL [redacted]
ANNE M. CAYLOR [redacted]
PATRICIA CEFALY [redacted]
DENISE L. CHANDLER [redacted]
SERGIO J. CHOY [redacted]
CHRISTINE E. *. COBB [redacted]
MARTHA L. CROSWELL [redacted]
DONNA M. *. DAVIS [redacted]
NANCY N. *. DAVIS [redacted]
SUSAN I. *. DAZE [redacted]
ELAINE M. DECESARE [redacted]
LOIS J. DICKINSON [redacted]
CYNTHIA A. DODD [redacted]
MARCIA M. DYER [redacted]
JOAN P. *. EITZEN [redacted]
MICHAEL S. *. EVANS [redacted]
CHARLES T. EWALD [redacted]
PRINCESS L. *. FACEN [redacted]
RITA L. *. FERGUSON [redacted]
WILLIAM E. FINNEY [redacted]
LARK A. FORD [redacted]
MELISSA A. FORSYTHE [redacted]
GRACE O. *. FRANKLIN [redacted]
WANDA A. FUSCHINO [redacted]
CAROL A. GERSON [redacted]
BARBARA GSCHEIDLE [redacted]
JOHN R. HAGAN [redacted]
ANN E. HALLIDAY [redacted]
ROY A. HARRIS [redacted]
SHEILA A. *. HARRIS [redacted]
PATRICIA A. *. HARVEY [redacted]
FAY E. *. HATTER [redacted]
GINGER K. *. HAYES [redacted]
KAREN T. HAYSLETT [redacted]
SUZANNE J. HIGGINS, [redacted]
PAMELA J. HILDRETH [redacted]
SHIRLEY D. *. HILL [redacted]
JOSEPH F. HINES [redacted]
PAMELA A. HOAGLUND [redacted]
BARBARA A. *. JACKSON [redacted]
CATHY J. *. JOHNSON [redacted]
JEANNETT KARNOFSKY [redacted]
TAMI L. KEPHART [redacted]
DEANNE M. KILIAN [redacted]
JOANN P. *. LAWING [redacted]
JOHN V. LEWIS [redacted]
YVONNE F. LOPEZ [redacted]
SARALORRA *. MARSHALL [redacted]
SUSAN N. MARTIN [redacted]
FREDRICK L. *. MASTERS [redacted]
ROBERT J. MELE [redacted]
RORY C. MILLER [redacted]
MARYANN MONTEITH [redacted]
BONNIE L. *. MORELAND [redacted]
GLENDA *. MOUNTCASTLE [redacted]
EILEEN M. *. MUNN [redacted]
NICOLE B. *. NATER [redacted]
REA M. *. NUPPENAU [redacted]
TERRY L. PABST [redacted]
CAROL J. PIERCE [redacted]
SHIRLEY T. PINCKNEY [redacted]
BERYL K. PIXLEY [redacted]
SUSAN D. PLUMLEY [redacted]
SHARON S. PRINKEY [redacted]
TERRY R. ROACH [redacted]
DENNIS L. ROBBINS [redacted]
CATHERINE K. *. ROCCO [redacted]
JUAN SANDOVAL [redacted]
MIG SANTIAGORIVERA [redacted]
PATRICIA SAULSBERY [redacted]
CATHERINE SCHEMPP [redacted]
NATALIE M. SHRIVER [redacted]
KATHLEEN L. SIMPSON [redacted]
CHRISTIE A. SMITH [redacted]
SAMUEL C. SORBELLO [redacted]
JEAN M. *. STASH [redacted]
SUSAN M. *. STEINFELD [redacted]
CHARLES K. STETZ, [redacted]
ELIZABETH SUDDUTH [redacted]
MICHAEL J. SUTTER [redacted]
ANTOINETT TRAFFORD [redacted]
GREGORY C. WALSH, [redacted]
JAMES R. WEBER [redacted]
KATHY J. WEISHEIT [redacted]
JUANITA H. *. WINFREE [redacted]
YVONNE B. WRIGHT [redacted]
WILLIAM J. *. WYCKOFF [redacted]
DONALD B. ZAMORA [redacted]

MEDICAL CORPS

To be major

JEFFREY R. *. ABRAMS [redacted]
LYNE B. *. AIGNER, [redacted]
EVELYN *. ALBA [redacted]
JOHN P. *. ALBANO [redacted]
JAMES K. *. ALLEN, I [redacted]
THOMAS W. *. ALLEN [redacted]
RUBEN J. *. ALVERO [redacted]
STEVEN L. *. ANDERSEN [redacted]
DAVID R. *. ANDERSON [redacted]
MILLER M. *. ARMSTRONG [redacted]
ANDREW *. ARTENSTEIN [redacted]
NOEL S. *. BAKER [redacted]
SHARON L. *. BALL [redacted]
JOSEPH D. *. BARKER [redacted]
DEBORAH W. *. BARNES [redacted]
CHRISTOPH *. BARTLETT [redacted]
DAVID G. *. BATES [redacted]
MICHAEL A. *. BATTISTA [redacted]
FRANK A. *. BAUER [redacted]
ERNA D. *. BAUTINA [redacted]
CECIL W. *. BEAN, [redacted]
JEFFREY A. *. BECKER [redacted]
RICHARD T. *. BEITZ [redacted]
BRENDA K. BELL [redacted]
GORDON A. *. BELL [redacted]
DAVID A. *. BELYEA [redacted]
JOHN M. *. BENNETT [redacted]
STEVEN R. *. BERANEK [redacted]
RENEE M. BERNIER [redacted]
WAYNE J. *. BERRY [redacted]
ELIZAB *. BETTENCOURT, [redacted]
KATHRYN L. *. BILELLO [redacted]
RICHARD H. *. BIRDSONG [redacted]
LISA A. *. BLACK [redacted]
BENJE H. *. BOEDEKER [redacted]
MARK W. *. BONNER, [redacted]
ALAN C. *. BOUDOUSQUIE [redacted]
DAVID J. BOWER [redacted]
KENT L. BRADLEY [redacted]
DAVID J. *. BRADSHAW [redacted]
BENNY E. *. BRANDVOLD [redacted]
VANCE J. *. BRAY [redacted]
ALBERT V. BRITO [redacted]
JOHN B. *. BROWNING [redacted]
RANDY L. *. BUCKNER [redacted]
PETER C. *. BUETOW [redacted]

DAVID H. *. BURCHENAL [redacted]
BRIAN J. *. BURKE [redacted]
PATRICIA E. *. BURKE [redacted]
TIMOTHY A. *. BURKE [redacted]
BRETT C. *. BUTLER [redacted]
CHARLES L. *. BUTTZ [redacted]
RAMON L. *. CABALLERO [redacted]
PATRICK A. *. CAMBIER [redacted]
ANDREW M. *. CAMEROTA [redacted]
GLENN C. *. CAMPBELL [redacted]
LEOPOLDO C. *. CANCIO [redacted]
ANTHONY J. *. CARBONE [redacted]
JAY W. *. CARLSON, [redacted]
MICHAEL A. *. CAROME, [redacted]
CLYDE T. *. CARPENTER [redacted]
STANLEY H. *. CARR [redacted]
BRAD A. *. CASE [redacted]
THOMAS J. *. CASEY [redacted]
REBECCA C. *. CAVAZOS [redacted]
ANITA I. *. CHANG [redacted]
ERIC Y. *. CHUNG [redacted]
DAVID A. *. CIOCHETTY [redacted]
DAVID W. *. COCKERILL [redacted]
ROBERT A. *. COE, [redacted]
STEPHEN C. *. COLEMAN, [redacted]
HERMAN E. *. COLLIER [redacted]
EDGAR *. COLON [redacted]
PATRICK D. *. CONABOY [redacted]
TERESA L. *. CONRAD [redacted]
PHILIP C. *. CORCORAN [redacted]
JOSEPH P. *. CRAVERO [redacted]
JOHN J. *. CROKE, [redacted]
DAVID C. *. CROSLEY [redacted]
BARBARA A. *. CROTHERS [redacted]
DARRYL D. CUDA [redacted]
SUZANNE E. CUDA [redacted]
MICHAEL E. CULLITON [redacted]
DANIEL W. *. CUOZZO [redacted]
CHRISTOPHER *. DANBY [redacted]
BETH E. *. DAVIS [redacted]
DARWIN L. *. DAVIS [redacted]
DIRK R. *. DAVIS [redacted]
JOHN D. *. DAVIS [redacted]
SUSANNE *. DAYE [redacted]
DON A. *. DEARMIT [redacted]
PHILIP A. *. DEFFER [redacted]
PERALES R. *. DELVALLE [redacted]
BRIAN D. *. DEMBY [redacted]
MICHAEL L. *. DILLARD [redacted]
TIMOTHY *. DILLINGHAM [redacted]
RONALD C. *. DORMAN [redacted]
MARK E. *. DOROGY [redacted]
DOUGLAS W. *. DOTHAGER [redacted]
WILLIAM C. *. DOUKAS [redacted]
WILLIAM R. *. DREWRY [redacted]
BRADFORD D. DRURY, [redacted]
MATTHEW E. *. DUBAN [redacted]
PATRICK E. *. DUFFY [redacted]
ALBERT B. DUNCAN [redacted]
SUSAN G. DUNLOW [redacted]
DENNIS P. EASTMAN [redacted]
BRIAN W. *. EBERTS [redacted]
TERRY L. ENG [redacted]
TONY Y. ENG [redacted]
CHARLES C. *. ENGEL [redacted]
MARK J. *. ENZLER [redacted]
JOHN W. *. ESCOLAS [redacted]
STEVEN E. *. FARRELL [redacted]
GARY P. *. FAZIO [redacted]
ALBERT G. *. FEDALE [redacted]
JAMES R. *. FICKE [redacted]
SUSAN L. FRASER [redacted]
IVONNE E. *. GALARZA [redacted]
JAY P. *. GAUCHER, [redacted]
GARY D. *. GAZENSKI [redacted]
JOHN R. *. GELINAS [redacted]
JUSTINE M. *. GELINES [redacted]
ROGER K. GEORGE [redacted]
ANDREW T. *. GERGELY [redacted]
GEORGE N. GIACOPPE [redacted]
ENRICO *. GIANGERUSO [redacted]
DAVID L. GILLESPIE [redacted]
VIRGIL L. *. GRAHAM [redacted]
CHRIS J. *. GRAMMAR [redacted]
MICHAEL R. *. GREEN [redacted]
BRUCE K. *. GREENBERG [redacted]
STEPHEN C. *. GROO [redacted]
JEFFREY M. *. GROSSMAN [redacted]
JOYCE C. *. GULLE [redacted]
VINITA *. GUPTA, [redacted]
DAVID K. *. GUSTAVISON [redacted]
LOUIS M. *. GUZZI [redacted]
MICHAEL F. *. HAGGERTY [redacted]
STEVEN C. *. HAHN [redacted]
MICHAEL E. *. HALLIGAN [redacted]
ELAINE L. *. HAMILTON [redacted]
JAMES E. *. HANCOCK [redacted]
MARK O. *. HANSEN [redacted]
BURNETT *. HANSON [redacted]
BART J. *. HARMON [redacted]
GARY M. HARRELL [redacted]
MA *. HARTNETTGOODMAN [redacted]
RICHARD T. *. HATCH [redacted]
RICHARD B. *. HECKER [redacted]
HOWARD *. HEIDENBERG [redacted]
THOMAS D. *. HEIDEWALD [redacted]
PAUL J. *. HERZWURM [redacted]
STEVEN P. HESS [redacted]
HUGH *. HETHERINGTON [redacted]
KAREN A. *. HICKS [redacted]
STEVEN E. *. HILL [redacted]
JEFFREY *. HINES [redacted]
CHARLES L. *. HINTON [redacted]
RODNEY *. HOLLIFIELD [redacted]
RICHARD S. *. HOLMAN [redacted]
JOHN J. HORAN [redacted]
LARRY E. *. HOWARD, [redacted]
KATHRYN S. *. HOWELLS [redacted]
JAMES E. *. HUBBARD [redacted]
MARK C. *. HUDSON, [redacted]
BRIAN J. *. HUGHES [redacted]
GREGORY B. HUGHES [redacted]
HAROLD W. *. HUGHES, [redacted]
AMY K. *. HUNTER, [redacted]
CARLA R. *. IAVARONE [redacted]
KATHLEEN *. INGWERSEN [redacted]
DEAN A. *. INOUYE, [redacted]
THOMAS W. *. IRVINE [redacted]
JOHN S. *. JACKSON [redacted]
RAYMOND K. *. JARMAN [redacted]
BARBARA L. *. JENNINGS [redacted]
CHARLES *. JENNISSEN [redacted]
RONALD D. JOHNSON [redacted]
MIROSLAWA W. *. JONES [redacted]
WILLIAM *. JORGENSEN [redacted]
DONALD R. *. JOYCE [redacted]
ARTHUR G. *. KANE [redacted]
KENT A. *. KARREN [redacted]
THOMAS *. KEPCZYK [redacted]
KENT E. *. KESTER [redacted]
SANDRA J. *. KHOURY [redacted]
LAUREL L. *. KIETZMAN [redacted]
DONALD G. *. KIM, [redacted]
BARRY W. *. KING, [redacted]
DAVID B. *. KIRKLE [redacted]
KURT *. KLEINSCHMIDT [redacted]
PETER E. *. KNOTT [redacted]
BRENDA F. *. KODAMA [redacted]
KAREN A. KOSKI [redacted]
GEORGINA D. *. KRIZSA, [redacted]
THADDEUS *. KROLICKI [redacted]
ROBERT A. *. KUPCHA [redacted]
RICHARD A. *. KURNOT [redacted]
LAWRENCE A. *. LABBATE [redacted]
DEBORAH A. LABEAU [redacted]
WILLIAM L. *. LASSWELL [redacted]
STEVEN P. *. LAWRENCE [redacted]
ELIZABETH A. *. LEAHY [redacted]
MARK S. *. LEBOVITS [redacted]
DAVID T. *. LEE [redacted]
MARK W. LEE [redacted]
ROBERT J. LENGYEL, [redacted]
MARTHA K. *. LENHART [redacted]
KRAIG S. *. LERUD [redacted]
DONALD J. *. LEWIS [redacted]
ALLEN K. *. LIEBERMAN [redacted]
GEOFFREY S. *. LING [redacted]
ROBERT J. *. LODATO [redacted]
JAMES B. *. LONG [redacted]
JOSEPH B. *. LONG [redacted]
JEFFREY L. LONGACRE [redacted]
RAYMOND A. *. LOPEZ [redacted]
EDWARD B. LUCCI, [redacted]
CELESTE A. *. LUJAN [redacted]
JANET D. *. LYONS [redacted]
EILEEN M. *. MAHONEY [redacted]
KAREN M. *. MAHONEY, [redacted]
RACHEL I. *. MANDEL [redacted]
MARK C. *. MARIA [redacted]
CHRIS J. *. MARINO [redacted]
GLENN R. *. MARKENSON [redacted]
JOHN B. *. MARSHALL [redacted]
JAMES P. *. MARTIN [redacted]
STEVEN L. *. MARTIN [redacted]
ALBERT J. MARTINS [redacted]
MARY P. *. MAY, [redacted]
HOLMAN P. *. MCADAMS, [redacted]
DANIEL M. *. MCCALLUM, [redacted]
UNA D. *. MCCANN, [redacted]
BRIAN F. *. MCCRARY [redacted]
GORDON R. *. MCDEVITT [redacted]
WILLIAM T. *. MCGRAIL [redacted]
RICHARD M. MCKNIGHT [redacted]
SCOTT D. MCLEAN, [redacted]
WILLIAM A. *. MCLEOD [redacted]
PAUL G. *. MEADE [redacted]
JOAN Y. *. MEEK [redacted]
ALLEN J. *. MEGLIN [redacted]
WILLIAM L. *. MELCHER [redacted]
FRED A. *. MERRILL [redacted]
CHRISTINE *. MESSMANN [redacted]
JAMES I. *. MEYER [redacted]
RUSSELL B. *. MIDKIFF [redacted]
DAVID W. *. MILLER [redacted]
FLETCHER F. *. MILLER [redacted]
WILLIAM *. MILUSZUSKY [redacted]
DAVID B. *. MISNER [redacted]
SHARON S. *. MITCHELL [redacted]
ALLAN J. *. MOEDE [redacted]
DONALD G. *. MONDRAGON, [redacted]
MICHAEL J. MOONEY [redacted]
PAUL M. *. MOORE [redacted]
ROBERT K. *. MOORE [redacted]
RALPH W. *. MORALES [redacted]
TER *. MORALESRAMOS [redacted]
KEVIN J. *. MORK, [redacted]
TIMOTHY A. *. MOSES [redacted]
RONDLE M. *. MOUBRY, [redacted]
MICHAEL J. MROCHEK [redacted]
PAUL T. *. MURPHY, [redacted]
LINDA *. MURRAY, [redacted]
JAMES F. *. NEWCITY [redacted]
HAROLD B. *. NIMS [redacted]
SIMONE *. NOMIZU [redacted]
WILLIAM *. NOVAKOSKI, [redacted]
PAUL T. *. OCONNOR [redacted]
BRIAN P. *. ODONNELL [redacted]
BARBARA L. *. ONEILL, [redacted]
THOMAS D. *. OSTRONIC [redacted]
STEPHEN R. *. PALMER [redacted]
SUSAN L. *. PARKS [redacted]
CATHY J. *. PARSELLS [redacted]
MARK D. *. PEACOCK, [redacted]
BRENDA J. *. PEAK [redacted]
ANITA M. PEDERSEN [redacted]
ROBERT C. PEDERSEN [redacted]
CAREY L. *. PENROD [redacted]
RANDOLPH *. PETERSON [redacted]
DAWKINS T. *. PHILLIPS [redacted]
JOSEPH P. *. PINEAU [redacted]
JAMES A. POLO [redacted]
KATHLEEN B. *. POLO [redacted]
JEFFREY *. POMERANTZ [redacted]
SCOTT G. *. POSTELL [redacted]
DOUGLAS A. *. PRAGER [redacted]
ANN R. *. PRICE [redacted]
JEFFREY G. PRIEST [redacted]
RALPH A. *. PRIMELO [redacted]
SAMUEL G. *. PUTNAM [redacted]
REGINA M. *. RAAB [redacted]
BENNETT L. *. RADFORD [redacted]
MICHAEL A. *. RANDOLPH, [redacted]
THOMAS C. *. REALS [redacted]
JAMES M. *. REBIK [redacted]
LEONARD G. *. RENFER [redacted]
ANTONIO *. REYES, [redacted]
DAVID A. *. RINALDI [redacted]
ELSPETH C. *. RITCHIE [redacted]
MARK E. *. ROBSON, [redacted]
KEVIN G. *. RODGERS, [redacted]
AND *. RODRIGUEZMUNOZ, [redacted]
MARK A. *. ROSENBERG, [redacted]
RICHARD E. *. ROSIN [redacted]
ROBERT T. *. RUIZ [redacted]
PETER D. *. RUMM [redacted]
GUY P. RUNKLE [redacted]
RAMZI W. *. SAAD, [redacted]
BETH M. *. SANDMAN, [redacted]
LESTER M. SANDMAN [redacted]
MICHAEL A. *. SAWYER, [redacted]
ALOK C. *. SAXENA, [redacted]
EDWARD B. *. SCHMIDT, [redacted]
LAWRENC *. SCHOELKOPF [redacted]
RAYMOND A. *. SCHWAB, [redacted]
RONALD E. *. SCHWARTZ [redacted]
JOHN P. *. SCHWEGMANN [redacted]
LESLIE B. *. SCORZA [redacted]
BRIAN G. *. SCOTT, [redacted]
CHARLES L. *. SCOTT [redacted]
ARIE T. *. SCRIBBICK [redacted]
FRANK W. SCRIBBICK [redacted]
CLARK L. *. SEARLE [redacted]
GAIL L. *. SEIKEN [redacted]
RAYMOND K. *. SEILER [redacted]
TIFFANY L. *. SERGI [redacted]
DEAN J. *. SHANLEY [redacted]
JANE *. SHENGUNTHER [redacted]
LUKE H. *. SHORT [redacted]
ADOLFO *. SILVA [redacted]
IRWIN B. *. SIMON [redacted]
MARK T. SISSON [redacted]
KARL V. *. SITZ [redacted]
KENTON L. *. SIZEMORE [redacted]
CLIFTON S. *. SLADE [redacted]
JAMES B. SMITH [redacted]
MARK A. *. SMITH [redacted]
SAHBRENNAH W. *. SMITH [redacted]
WALLACE B. *. SMITH [redacted]
WILLIAM E. *. SMITH [redacted]
GREGORY *. SNODGRASS [redacted]
FRANK C. *. SNYDER [redacted]
MICHAEL J. *. SNYDER [redacted]
CARL W. *. SOFLEY [redacted]
ROBERT A. *. SOLOMON [redacted]
DON P. SPEERS [redacted]
NICHOLAS *. SPELLMAN [redacted]
PAUL M. *. SPEZIA [redacted]
ROBERT S. *. SPRAGUE [redacted]
RICHARD S. STACK [redacted]
JAMES P. *. STANNARD [redacted]
WILLIAM K. *. STATZ [redacted]
EMIL A. *. STEIN [redacted]
GREGORY I. STONE [redacted]
JAMES W. *. STUTTS [redacted]
ROBERT E. *. SUTER [redacted]
RONALD SUTHERLAND, [redacted]
JULIUS *. SZIGETI, II [redacted]
JOHN C. *. TALBOT [redacted]
DONALD *. TALLACKSON, [redacted]
GILBERT R. *. TEAGUE [redacted]
DAVID C. *. TELLER [redacted]
HARRY T. *. TEMPLE [redacted]
JAMES B. *. THRASHER [redacted]
STEVEN M. *. TIERNAN [redacted]
BRUCE C. *. TIERNEY [redacted]
SHARON M. *. TOMASKI, [redacted]
PETER G. *. TOROK [redacted]
ANDREW W. *. TORRANCE, [redacted]
ESTELA *. TORRES, I [redacted]
MICHAEL T. *. TRAVIS [redacted]
LEONARD E. *. TROUT [redacted]
JOHN L. *. TROUTNER [redacted]
JEFFREY L. *. TURCOT [redacted]
KEVIN C. *. TURNER, [redacted]
BARBARA L. *. TYLKA [redacted]
STEVEN R. *. VALLANCE [redacted]

CHARLES D. *. VARELA [redacted]
PAULA S. VOGEL [redacted]
DAVID J. *. WADDELL [redacted]
DOUGLAS A. *. WALDREP [redacted]
JOHN C. *. WALKER [redacted]
ELIZABETH *. WALLACE [redacted]
WILLIAM T. *. WALTON [redacted]
EDWARD J. *. WALZ [redacted]
GERALD D. *. WAREHAM [redacted]
ROCHELLE WASSERMAN [redacted]
ROBERT W. *. WATERMAN [redacted]
PETER V. *. WEBER [redacted]
SCOTT D. *. WEBER [redacted]
MARK L. *. WELCH [redacted]
TIMOTHY M. *. WELTER [redacted]
WALLY M. *. WERNER [redacted]
RANDALL F. *. WHITE [redacted]
KENNETH D. *. WICKER [redacted]
THOMAS M. WILEY [redacted]
JAMES A. *. WILKERSON [redacted]
MARK L. *. WILLIAMS [redacted]
DENNIS N. WILSON [redacted]
JOSEPH N. *. WILSON [redacted]
REGINALD W. *. WILSON [redacted]
SHIRLEY D. *. WILSON [redacted]
SUSAN T. *. WINGO [redacted]
TIMOTHY M. *. WINSLOW [redacted]
CLINTON G. *. WOLBOLDT [redacted]
DWIGHT W. WOOD [redacted]
TIMOTHY C. *. WOOD [redacted]
FREDERICK T. *. WORK [redacted]
ROBERT J. *. WOZNIAK [redacted]
MARY J. *. WYMAN [redacted]
FRANK H. *. YACKOVICH [redacted]
KAZUNORI *. YAMAMOTO [redacted]
TERRY D. *. YEAGER [redacted]
DARIUS S. *. YORICHI [redacted]
HAROLD D. *. YOUNG [redacted]
JAMES M. *. ZAENGLEIN [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED U.S. NAVAL ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

JAMES H. ADAMS, III [redacted]
BRENT K. ANDBERG, [redacted]
GIBSON C. ARMSTRONG, [redacted]
ERIC E. AUSTIN [redacted]
ROBERT H. BAKER, [redacted]
ROBERT W. BARRY, JR [redacted]
DAVID C. BERGHULT, [redacted]
JOHN A. BOLT [redacted]
MICHAEL J. BORGSCHULTE, [redacted]
WILLIAM F. BOSS, JR [redacted]
BRETT A. BOURNE, [redacted]
TIMOTHY A. BROOKS, [redacted]
JOHN H. BRUGGEMAN, JR [redacted]
STEPHEN C. BRZOSTOWSKI, [redacted]
ROBERT J. CALLAHAN [redacted]
WILLIAM L. CAMPBELL, JR [redacted]
STEVE L. CANTRELL [redacted]
MARIO D. CARAZO, [redacted]
SCOTT D. CARSON, [redacted]
THOMAS E. CHANDLER, [redacted]
DONALD C. CHIPMAN, [redacted]
TIMOTHY M. CHRISTENSON, [redacted]
JONATHAN D. COLE, [redacted]
MICHAEL C. CONOVER, [redacted]
GUY R. COURSEY, [redacted]
BRIAN E. CRANE, [redacted]
SCOTT S. CREED, [redacted]
GARETH L. CROSSLEY, [redacted]
SUNIL B. DESAI, [redacted]
DOUGLAS E. DUDGEON, [redacted]
JON D. DUKE, [redacted]
ROBERT H. DURYEA, [redacted]
JEFFREY E. FALCONE, [redacted]
TODD R. FINLEY, [redacted]
WALTER E. FINNEY, [redacted]
MICHAEL J. FOLEY, JR [redacted]
STEPHEN P. FORKEL, [redacted]
ROBERT C. FRIEDMAN, [redacted]
MICHAEL C. GERRY, [redacted]
ARTHUR L. GLASGOW, [redacted]
BRENT W. GOODRUM, [redacted]
JASON X. HACKERSON, [redacted]
PAUL C. HAGAR, [redacted]
MATTHEW N. HESS, [redacted]
ERIC W. HILDEBRANDT, [redacted]
KELLY P. HOULGATE, [redacted]
BRIAN F. HUSSEY, JR [redacted]
TRACEY E. JENKINS, [redacted]
OWEN J. JONES, [redacted]
PRESTON W. JONES, [redacted]
MICHAEL C. KAISER, [redacted]
CHRISTOPHER L. KELLEY, [redacted]
BRENT R. KENDALL, [redacted]
YOUNGJOON KIM, [redacted]
ERIC D. KLEPPER, [redacted]
JULIE A. KOHL, [redacted]
MICHAEL J. LINDEMANN, JR [redacted]
KIMBERLY A. LIVINGSTON, [redacted]
STUART R. LOCKHART, [redacted]
CHRISTOPHER D. LOPES, [redacted]
JOHN J. MARTIN, [redacted]
SHAWN W. MCKEE, [redacted]
PETER S. MERRILL, [redacted]
ANTHONY J. MONACO, [redacted]
SAMUEL P. MOWERY, [redacted]
JAMES D. MULIK, [redacted]
RICHARD F. NEITZEY, [redacted]
CHRISTIAN L. NICEWARNER, [redacted]
MARK T. PALMER, [redacted]
JOSEPH J. PASQUITO, [redacted]
JOHN E. PASSANT, IV [redacted]
GREGORY D. PRICE, [redacted]
JOHN H. PYLANT, JR [redacted]
PAUL B. QUIMBY, [redacted]
THOMAS R. REILLY, [redacted]
MICHAEL W. RENTZ, JR [redacted]
JEFFREY S. RIBEL, [redacted]
DANIEL B. ROBINSON, [redacted]
DEAN E. ROBISON, [redacted]
JAMES M. RUSSO, [redacted]
ROBERT A. SANDRI, [redacted]
ROBERTA L. SHEA, [redacted]
DAVID P. SHEWFELT, [redacted]
JOSHUA G. SKULE, [redacted]
BRIAN M. SMITH, [redacted]
SHAUN C. SPANG, [redacted]
DAVID STOHS, [redacted]
CRAIG D. SYBRANT, [redacted]
ROBERT C. TAYLOR, [redacted]
GUY A. TORRES, [redacted]
BONIFACIO VINFRIDO, [redacted]
DANIEL R. WAGNER, [redacted]
ALEXANDER J. WAUGH, [redacted]
CHRISTIAN F. WORTMAN, [redacted]
PATRICK J. ZALESKI, [redacted]
DOUGLAS D. ZIMBELMAN, [redacted]

THE FOLLOWING NAMED U.S. AIR FORCE ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 541:

JAMES E. SZEPESY, [redacted]

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTIONS 531 AND [redacted]

SHERMAN E. ATKINSON, [redacted]
PATRICK T. BARRY, [redacted]
GUILLERMO A. CANEDO, [redacted]
BRADUN DUNBAR, [redacted]
GEORGE E. EHLERS, [redacted]
PATRICK A. GAUGHAN, [redacted]
BRUCE G. GRALER, [redacted]
HAROLD J. HAUSER, [redacted]
THOMAS K. HOBBS, [redacted]
BRIAN P. KELLY, [redacted]
PAUL L. KRUGGEL, [redacted]
JAMES C. LEWIS, [redacted]
VINCENT J. LUMALCURI, [redacted]
MARK S. MINER, [redacted]
LOWELL F. RECTOR, [redacted]
DEE S. ROSSER, [redacted]
JEROME J. RYAN, [redacted]
STEVEN L. SCHAEFER, [redacted]
MICHAEL D. SHERMAN, [redacted]

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U. S. CODE, SECTION 531:

ANTHONY J. BALTES, [redacted]
JOHN T. BLANCHARD, [redacted]
ALAN E. BUSENBARK, [redacted]
CHARLES W. JOHNSON, [redacted]
STEPHEN P. MANGUM, [redacted]
KERRY J. QUINN, [redacted]
MICHAEL W. VICKREY, [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate July 16, 1991:

DEPARTMENT OF DEFENSE

NANCY PATRICIA DORN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

LET'S EASE THE SUFFERING OF THE PEOPLE OF IRAQ

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BROOMFIELD. Mr. Speaker, yesterday's Wall Street Journal brought a fresh reminder of the pain and suffering being endured by the people of Iraq.

In the words of the Journal's reporter, Tony Horwitz, who is in Saddam City, "Iraq's economy is in a free fall, and so are most of its people. In the poorest districts, barefoot children scavenge the streets for edible garbage. Huge lines form, Moscow-like, on the rumor of meat arriving at government shops. Beggars are suddenly rife, as are young prostitutes, peddling sex for $10."

In case anyone gets the impression that the misery is universal, Horwitz points out that Saddam's corrupt inner circle is benefiting hugely from the post-war economic confusion, and that Saddam's son, Oday, frequently arrives at the five-star Rasheed Hotel "in his black Porsche, wearing a silk shirt and smoking a Havana cigar, to visit the hotel's posh discotheque."

In the war against Saddam Hussein, America scored one of the most convincing and clear-cut battlefield victories in its 200-year history.

To find a parallel, you would have to go back to America's participation in World War II. Yet one reason we look with so much pride to our participation in that effort was the diplomatic victory we achieved in the aftermath of the war. Our two major opponents are now among our closest allies.

In World War II, America was unrelenting in its prosecution of the war, yet it was generous to those it defeated. We have never been interested in waging war against people of other nations, but always against those unscrupulous officials in power who force their people into foolhardy military adventures.

It's time we turned our most recent victory on the field of battle into a convincing victory in the field of diplomacy.

To help get that process moving, I recently cosponsored a concurrent resolution offered by Congressman PENNY that would encourage our Government to ask the United Nations to release a portion of Iraq's frozen assets to UNICEF.

The sole purpose of this move would be to provide medical and humanitarian assistance to the Iraqi people, particularly its children. The funds would be funneled through UNICEF so that the money would be used to feed and clothe hungry Iraqi citizens and not to fill up the gas tank in Oday Hussein's black Porsche.

After World War II, American troops occupied both Germany and Japan. We have neither the ability nor the desire to do the same in Iraq. As a result, Saddam is free to persecute his own people just as he persecuted the people of Kuwait.

We may not be able to remove Saddam, but we can certainly ensure that his people, and not he and his cronies, are in a position to benefit from the country's financial assets and its great wealth of natural resources.

In the recent war in the gulf, America's great scientific minds and military strategists were able to wage a war of terrific ferocity but limited scope. Many Iraqi civilians died, but I'd like to think that many more survived because America was intent on aiming its precision weapons against Saddam and his military and sparing as much as possible Iraq's civilian population from the horrors of war.

It's time for some precision diplomacy. We want to make sure that the outcome of this war is not only the defeat of a reckless dictator but the development of lasting friendships with the people of Iraq and the Middle East.

I believe the Penny resolution is a good step in that direction, and urge my colleagues to support it. I insert the Wall Street Journal's article in the RECORD:

[From the Wall Street Journal, July 15, 1991]

CASUALTIES OF WAR—IN IRAQ TODAY, CHILDREN SCAVENGE FOR FOOD, ECONOMISTS DRIVE CABS

(By Tony Horwitz)

SADDAM CITY, IRAQ.—Khalid Saad measures despair in the quantity of gold swaying on his jeweler's scales.

On a stifling day in this poor Baghdad suburb, a pregnant woman pauses in the cool of Mr. Saad's shop. She stands as if to go—then gropes inside her abaya and unclasps the necklace nuzzling her breast.

"Are you sure?" Mr. Saad asks. She nods and turns away as the gold chain clatters onto his scales. The necklace, a wedding present, fetches the equivalent of $80 for the 19-year-old newlywed. "My husband will forgive me," she says, "when he sees all the food I bring home."

For Mr. Saad, such scenes have become a dispiriting ritual. Hoisting a sack holding one day's haul of purchased jewelry, he says, "Before the war, I would not buy this much in a month."

Iraq's economy is in free fall, and so are most of its people. In the poorest districts, barefoot children scavenge the streets for edible garbage. Huge lines form, Moscow-like, on the rumor of meat arriving at government shops. Beggars are suddenly rife, as are young prostitutes, peddling sex for $10.

NO EPIDEMIC—YET

Iraq's plight poses a conundrum for the West as it debates continuing sanctions. Economic despair clearly sharpens discontent; it appears that most Iraqis blame Saddam Hussein, not the allies, for their country's collapse. But because Iraqis feel powerless to change their regime, sanctions are administering pain without any promise of a cure. "The embargo doesn't touch Saddam or the people around him," says a Baghdad shopkeeper, lunching on cucumber and bread. "All you are doing is starving us."

Emaciated pets now prowl Baghdad alleys, set loose by owners who can no longer afford to feed them. International aid has thus far staved off the apocalyptic rates of disease and malnutrition feared a few months ago, but conditions remain ripe for an epidemic. On a back street of Saddam City, the Mosan family spent a recent day bailing raw sewage from the front room of their mud brick home. With Iraq's water system crippled by bomb damage and lack of spare parts, pipes often burst, flooding streets with fetid green sludge.

The Mosans' three-room hovel, home to 13 people, has no furniture and only one appliance: a creaking refrigerator cooling crusts of bread and chunks of fat, the poor Iraqi's cooking oil. A teen-age boy smiles from a photo on the wall. The Mosans' oldest son, he was killed in the Iran-Iraq war and remains the family's main breadwinner, earning $30 a month in death benefits.

In this Shiite Muslim district, where riots erupted in March, there is little love for Saddam Hussein. But for 17-year-old Kadriya Mosan, sanctions make no sense. "The Kuwaitis have their country back," she says. "So why are we still being punished?"

RUNAWAY INFLATION

Nearby, at the Saddam Hussein Hospital, shortages are forcing X-ray teams to use expired film, which often clouds in developing. A lack of anesthetics limits surgeons to emergency cases. There are no gloves and no catheters. At other hospitals, patients on machines needing constant electricity, such as kidney dialysis, are dying during power outrages.

In Saddam City and other destitute areas, war and sanctions have deepened chronic poverty. Many residents are accustomed, however grimly, to living on the margin. Much more sudden is the impoverishment of middle-class Iraqis, and of the once-pristine capital they inhabit.

Downtown Baghdad, a modern sprawl of crisp towers and futuristic monuments, is acquiring the shabby air of poor Arab cities such as Cairo. In the clotted traffic, snarled by the bombing of Tigris River bridges, taxis with broken windshields cough and gasp on the impure, low-octane fuel sold at local pumps. Lights dim as merchants turn on air conditioners. Whole sections of the city periodically black out. Most telephones are useless. And to keep pace with runaway inflation, the state is printing bank notes so flimsy that some bills are printed on only one side.

THE DEATH OF SOCIALISM?

The state also is abandoning market controls in hopes that the private sector can shore up this once-centralized economy. Each week brings new decrees, relaxing rules on import licenses or currency exchange. As a result, Baghdad now teems with vendors and hustlers. Even state food stores have spawned bazaars, with government workers buying goods at subsidized prices and then reselling them at a 200% markup on the sidewalk outside.

This sudden opening of the economy "is the unannounced death of the socialist system of the Baath Party," says Dominique

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Dufour, head of the Red Cross delegation in Iraq. "It's a free-for-all."

Job security is one of the first casualties. At one downtown square, itinerant laborers crowd the curb each dawn, waving shovels to catch the eye of passing contractors. A year ago, this floating labor pool was almost exclusively African. Now it is predominantly Iraqi. Estimates of unemployment range as high as 20%.

Clad in a faded Benetton shirt, tattered Reebok running shoes and an army cap, Bassam Mohamed waits patiently for a midday handout from a falafel shop beside the square. A welder by trade, he was drafted into the army to serve in Kuwait and returned to find his foundry closed for lack of spare parts. Now he's lucky to earn $10 a week hauling and digging, half his earlier wage. "I'm still not sure," he says blankly, "what happened to my life."

White-collar Baghdad is also in shock. With salaries static, and the cost of many goods having soared 1,000% or more over the past year, middle-class workers must drain savings or take second jobs to survive. After dark, Baghdad's streets fill with gypsy cabdrivers, many of them professionals or bureaucrats lucky enough to have serviceable cars. "Each night, I pray to Allah that I don't get a flat," says Ahmed Abdul Hussein, a moonlighting government economist. A new tire costs 400 dinars, 10 times the price a year ago and double Mr. Hussein's monthly salary.

NO CHICKENS, NO DREAMS

Most Iraqis now are spending almost all their income on food. While sanctions permit food imports, Iraq can't export oil or get at its foreign assets to pay for adequate supplies. With the size of state rations diminishing, most families find that their monthly allotment lasts a week. So they must buy the rest on the open market, where prices are spiraling so fast that many merchants have stopped marking their goods.

Out of an average salary of 50 dinars a week, Iraqis now must pay 18 dinars for a kilo of beef, up from 14 a week ago and one dinar before the invasion of Kuwait. A kilo of flour has risen 40-fold, to 4.5 dinars. Other staples, such as chicken, have simply vanished from the market.

Economizing is painful for Iraqis used to a comfortable urban lifestyle. Moayid Sayed says his wife recently started baking bread, but "the rolls are so hard, we can't cut it for sandwiches." There also isn't much to put on them. With the household favorite, processed cheese, now costing 10 times what it did a year ago, the Sayeds dip their rolls in a traditional Bedouin mix of oil and herbs.

Mr. Sayed, like many Iraqis, also has jettisoned his career dreams. After a long army service, he opened a souvenir shop a year ago, but shut it recently because he could no longer afford the rent. Now he's living on his savings and on handouts from his elderly father until he finds other work. "For a 44-year-old man, this is humiliating," he says.

Iraqis must scramble as well to keep cars and appliances running. At his car repair shop, Mohamed Mahmoud has found that with a bit of grinding, some parts can be made to fit different makes. "I can use Lada parts to fix a Fiat," he says, "and a Mercedes to fix a Toyota." He also has found that his 40-year-old, Bombay-made grinder has an advantage over newer, computerized models." If it breaks, I don't need a professor to fix it," he says.

SHORTAGE OF HARD CURRENCY

Some smuggling of spare parts is taking place. Naoom Harby, a truck parts supplier, recently went to India and flew a plane-load of parts from there to Jordan. In Amman, he has also contacted former supplier in Europe and persuaded them to fill orders placed before the crisis started last August. He has sent two truckloads to Baghdad and says Jordanian border guards have waved him through.

But such ingenuity is limited by Iraq's lack of hard currency. Foreign businessmen in Iraq, peddling food or renewing contacts for the day sanctions are lifted, say Iraqis are only offering Iraqi dinars or promises of payment from now-frozen foreign assets. Diplomats say the government is towing unneeded equipment to the Iranian border to sell for dollars.

Iraq is using what few resources it has to patch its bomb-pummeled infrastructure. For a regime barely able to feed its citizens, and stripped of its military might, rebuilding is about the only way to publicly display some progress to a dispirited populace. Newspapers routinely carry photographs of work crews repairing bridges and buildings, with captions such as "Trying hard to repair what aggressors have destroyed." Working round the clock and cannibalizing parts from idle plants, Iraq has gotten its utilities running. In Baghdad, fountains are even operating, and in outlying villages there is enough power to keep Saddam Hussein portraits floodlit through the night.

But this rapid recovery is more apparent than real. With control panels destroyed, workers at some power stations are monitoring turbines by ear, making accidents frequent. Electricity and water, running at 30% to 40% of pre-war levels, are adequate only because Iraq's biggest consumer—industry—is idle. And aid workers say capacity has peaked; from now on, unless spare parts come in, services will inevitably run down.

WIDESPREAD CORRUPTION

To prevent a collapse of Iraq's infrastructure, and of its food supply and health care, a United Nations team just back from Baghdad has recommended easing some strictures on Iraq. With limited oil exports and access to foreign assets, Iraq could buy essential food, medicine and spare parts. Otherwise, aid groups warn, Iraq could yet face a catastrophe as foreign relief funds dwindle.

But monitoring Iraq, to make sure it uses its income on necessities, and distributes goods and services fairly, could be impossible. At a wholesale market in Saddam City last week, trucks unloaded hundreds of 50-kilo bags of flour labeled "Gift from Canada." The flour, donated to Iraq by the World Food Program and intended for free distribution to orphans, war refugees and other needy Iraqis, is seeping onto the open market, where it sells for 72 dinars a bag.

Foreign diplomats, and many Iraqis, say corruption is rife at all levels of government. They add that the biggest beneficiaries include Saddam Hussein's inner circle, who use their dollars to stockpile goods that are then sold on the wildly inflated black market. Such profiteering means that many among Iraq's elite—ostensibly the group most capable of dislodging Saddam Hussein—are not only insulated from the embargo, but actually profiting from it. They also are flaunting their wealth. The five-star Rasheed Hotel is busy each night with lavish wedding parties, and Saddam Hussein's son, Oday, frequently arrives in his black Porsche, wearing a silk shirt and smoking a Havana cigar, to visit the hotel's posh discotheque.

BRISK BUSINESS IN CARPETS

Conspicuous consumption sometimes occurs side by side with conspicuous want. At a Baghdad auction house, buyers bid up to 12,000 dinars (about $1,500) for silk carpets from Qom in Iran. "People are getting rich, and they want hard assets to put their money in," says Mohamed Kasim, a carpet dealer, who adds that business is booming.

Business also is brisk on the sidewalk outside the auction house. Here, at an informal bazaar that has sprung up over the past year, cash-strapped Iraqis are selling their household possessions, often from the trunk or hood of their cars. Common items include dolls, steam irons, toasters, and picture frames. Also available are TVs and radio-cassettes looted from Kuwait and now recirculating through the economy as Iraqis try to raise cash.

On Friday, Tariq Aram parked a baby carriage filled with kitchenware by the auction house entrance. Encouraged by the quick sale of his pots and pans, Mr. Aram decided to keep the carriage. "If things improve, I want to have more babies," says the 40-year-old engineer and father of three.

If things don't improve, Mr. Aram plans to leave Iraq. Since the lifting of travel restrictions in May, Iraqis have begun flooding into Jordan, to shop and also to secure visas to the West. With litle money and no family abroad, Mr. Aram knows his chances of reaching the West are bleak. As a fallback, he's considering the one country that is actively seeking skilled Iraqis.

"Libya," he says. Chuckling grimly, Mr. Aram wheels his baby carriage home through the hot and crowded streets.

TRIBUTE TO THE LATE FRANK MOORE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. DARDEN. Mr. Speaker, today I rise to pay tribute to Frank Moore of Cartersville, GA, a respected Bartow County commissioner who passed away July 6.

Commissioner Moore will long be remembered by members of the Cartersville community as a dedicated and responsible member of the Bartow County Commission. He was a leader to the young and old, and worked diligently in his position to enhance and encourage better services to the area. It was always a pleasure to work with Commissioner Moore on projects of interest to Bartow County, and I share the feelings of many Cartersville residents when I say I will surely miss him.

Commissioner Moore was first elected Bartow County Commissioner in 1980. He was a member of First Baptist Church of Cartersville and the John W. Akin Masonic Lodge. He was past president of the Association of County Commissioners of Georgia, and was active in Little League programs in Bartow County through the years. Commissioner Moore served on the board of directors for the Georgia Department of Community Affairs, and was active in numerous community programs in Cartersville and Bartow County.

He is survived by his wife, Mary Lanier Moore; daughter and son-in-law, Melinda and Danny Gilreath, Cartersville; daughter, Vali Moore, Cartersville; grandson, Tyler Gilreath; parents, E.P. and Beulah Moore, Emerson; and several nieces and nephews.

Mr. Speaker, I would also like to share with my distinguished colleagues a story in Cartersville's The Daily Tribune News, which nicely profiles Commissioner Moore's political career. Excerpts of the article follow:

> "The three-term commissioner, first elected in 1980, last won re-election in 1988. Prior to his election, he had served as Bartow County clerk.
>
> Commissioner Moore, who had an open ear and door to all Bartow County residents, will be remembered in the community for many reasons—one of which is the new county administration building, currently under construction, that will bear his name.
>
> The county is currently undergoing a major building program with the construction of five facilities, administration building, jail, two senior citizens facilities and a health department, which were all spearheaded by the commissioner.
>
> Moore was an advocate for both the youth and elderly residents, having been a leader in the Little League organization on the local and at higher levels, as well as developing facilities for senior citizens in the community.
>
> He served as an officer, including that of president, of the Association of County Commissioners of Georgia.
>
> Along with the physical changes being seen in the county as a result of the commissioner's leadership, the county underwent other changes, including the adoption of a housing ordinance and adoption of the county's land use map and zoning ordinance.
>
> Moore, who said on numerous occasions that he had the best interest of Bartow County at heart at all times, lead a successful effort to institute the changes deemed necessary.
>
> In addition, he endorsed the establishment of an ordinance allowing the selling of malt beverages and wines, worked toward updating of county services, as well as making those and other services available to more residents throughout the county."

THE TRAGIC PLIGHT OF THE ARMENIANS IN THE SOVIET UNION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LANTOS. Mr. Speaker, I would like to call the attention of my colleagues to the plight of the Armenians in the Soviet Union.

Over the weekend, yet another act of violence was perpetrated by Azerbaijani forces—apparently with the concurrence of Soviet officials—against Armenians living in the border region of Armenia and Azerbaijan. This latest installment of brutality involves the use of helicopters, tanks, and other armored vehicles to forcibly expel Armenians from villages where they have lived for generations and which are now within Azerbaijan. These actions represent a continuation of the repressive measures employed by Soviet and Azerbaijani officials as they attempt to thwart Armenia's movement toward a more free and democratic society. To date, more than 800 people have been killed in this troubled region since February 1988.

Within the past year, Armenia has made laudable strides in the direction of democracy. Since the referendum in August of last year, in which democratic and popular forces emerged victorious, Armenia has proceeded toward sovereignty within the terms of succession stipulated by the Soviet constitution—the only Soviet Republic to do so. Regrettably, the Soviets, using the Azerbaijanis as surrogates, have resisted the democratization of Armenia every step of the way.

As Armenia strives for indendence from the Soviet colossus, we, in the Congress, must offer our strong and unequivocal support. We must speak out against the deplorable tactics used by the Soviets to purposefully make Armenia's transition to democracy as difficult and burdensome as possible.

Mr. Speaker, the actions of the Soviets and the Azerbaijanis are nothing short of criminal. I call on those responsible for the violence against Armenians to cease these deplorable actions and permit Armenia to move toward its democratic future. The time has come to put an end to the undeclared and immoral war against Armenia and the Armenian people.

THE GOVERNMENT SHOULD REPAY LOW-INCOME SENIORS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. RAHALL. Mr. Speaker, I was recently shocked to learn that the Federal Government had not informed low-income Medicare beneficiaries that they may not be liable for their out of pocket health costs. The recently released report by Families, U.S.A. has caused a brief fire storm of protest from many Members of the House of Representatives.

Recently I joined with over 100 of my colleagues in signing a joint letter to Dr. Louis Sullivan, Secretary of the Department of Health and Human Services, expressing our distress with regard to the inaction of the Department. If is unfair to the disadvantaged to not make them aware of important benefits for which they are eligible.

To address this issue I have introduced a bill that would require the Federal Government to reimburse those individuals that are qualified Medicare beneficiaries [QMB's], but have not been notified of their eligibility. The bill is designed to compensate poor individuals for a benefit that they should be rightfully receiving, as well as to provide an economic incentive for the Department of Health and Human Services to begin notifying people about this important program.

Under the current law, State Medicaid funds pay for the out-of-pocket medical costs of a Medicare beneficiary enrolled as a QMB. Since my bill require the Federal Government to reimburse beneficiaries, the States will not be burdened by undue costs to their Medicaid funds. Additionally, this legislation stipulates that the individual is only eligible for reimbursement if they make application within 60 days of their notification of eligibility as a QMB.

If a State/Federal program is going to truly work toward serving the people, both governments must hold up their end of the deal. In the case of the QMB Program, the Federal Government has been lacking in its efforts. For this reason we should seriously address the injustice of forcing the destitute to pay costs for which they are not liable. We must be willing to show the elderly of this Nation that our actions are sincere and well intended. A repayment of those medical costs for which they are not liable would go a long way in doing just that.

THE NAVY LEAGUE AND ITS REPORT ON DESERT SHIELD/STORM

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BENNETT. Mr. Speaker, I rise today to recognize the Navy League of the United States for its comprehensive report on the performance of our sea services in the Persian Gulf war. This balanced report offered by a civilian organization concisely reviews the involvement of all U.S. maritime elements leading to the stunning successes of Operations Desert Shield and Desert Storm.

The Navy League has no superior as our Nation's staunchest supporter of the maritime services—the U.S. Navy, Marine Corps, Coast Guard and merchant marine. The group was chartered in 1902 by a group of New York civilians concerned about our Nation's seapower. President Theodore Roosevelt was an early proponent, donating a portion of his Nobel Peace Prize money to found the first Navy League Council. Through wartime and peacetime, through times when the sea services had adequate funding and those with funding shortfalls, the members of the Navy League have told the maritime story.

The Navy League is an active, forward-thinking organization dedicated to ensuring the quality of our sea services is maintained and recognized. It offers forums where community and military leaders enjoy a free exchange of ideas. It sponsors the annual Sea-Air-Space Exposition in Washington—the world's largest. It presents recognition awards to top sea service performers and has established a scholarship fund. It sponsors the U.S. Naval Sea Cadet Program, preparing young men and women for sea service careers.

All of the Navy League's 75,000 members are civilians. They serve in 330 councils in the United States and overseas. These councils form bonds with local sea service units, commands, and recruiting districts, and provide support tailored to local needs.

As educators first and foremost, Navy Leaguers inform the public about our Nation's dependence on maritime superiority. Through Sea Power, the magazine of the Navy League, and reports like this, members are kept abreast of issues affecting this country's ability to maintain ocean superiority. I salute the Navy League's efforts and their preparation of this report, which will also be reprinted in full in the September issue of Sea Power magazine.

I include here an excerpt from the report which discusses the situation in the gulf prior to Iraq's invasion of Kuwait and a summary of the role played by the U.S. Navy's active-fleet combatant forces.

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

The build-up of military forces which ultimately would be used to drive Iraqi forces from Kuwait and to decimate Saddam Hussein's ability to wage war against his Middle Eastern neighbors took place amidst conditions unique in comparison with any previous prelude to U.S. military action in our nation's history. Never before had there been, and probably never again would there be, more than 30 modern air bases available, and in most instances ready, for use by both combat and logistics aircraft. Never had there been eight relatively new ports capable of handling any and all U.S. military cargo. Never had there been an unlimited supply of necessary petroleum products available in theater, free. And rarely had there been ready for use and under contract, close by, highly capable shipyards with drydocks large enough to accommodate a Ticonderoga-class cruiser should they be needed for battle-damage repair. Basic communications links already in place, and the United States and its allies would be ready for combat in an astonishingly short time, given the vast distances to be traveled before men and women and their tools of war could be put in place.

Once combat began, there were many more "firsts": Tomahawk missiles silently and unerringly finding their way to their targets while spectators watched in amazement; "smart" bombs whose dead-center hits on their targets were watched by millions of TV viewers around the world through the means of film taken by the pilots who dropped them; uncannily accurate missiles being fired at other missiles, and lighting up the night sky when they intercepted them, and aircraft undetectable by the enemy's radar which wreaked havoc with their weapons.

At the same time, there was reliance upon weapons and techniques of yesteryear, foremost among them being the 16" guns of the Navy's last two battleships, which fired more than two million pounds of ordnance at Iraqi targets in Kuwait, and the dogged search for and destruction of one of the oldest of weapons, enemy mines, by four U.S. minesweepers and those of five other nations. But clearly paramount in the ultimate success of Desert Storm were a Navy organization tried and tested over the past decade, a logistics system in place and ready and enhanced by more than 40 years of operational experience in the Middle East, and absolutely magnificent performances by tens of thousands of sea services men and women, regular and Reserve, afloat and ashore.

A glimpse of the contributions to the success of Desert Storm of the respective elements of the overall sea services force is in order.

ACTIVE-FLEET COMBATANT FORCES

Of its active-fleet combatants and support ships—carriers, submarines, battleships, cruisers, destroyers, frigates, amphibious ships, replenishment ships, and minesweepers—124 participated in Desert Shield/Storm. They were a fascinating mixed bag of ships whose staying power was phenomenal; they were underway for months on end, on an average, 90 percent of the time in a truly forbidding operational environment. More than half were in theater six months or more. Among them were some of the newest and the best: 11 Ticonderoga-class cruisers (CG-47), of which nine were ready to fire Tomahawks; 10 Los Angeles-class submarines, also Tomahawk armed and ready; 12 modernized Spruance-class destroyers, one of which, *Fife* (DDG 991) fired the most Tomahawks, 58, at enemy targets, and four almost brand new Whidbey Island-class landing ships (dock) (LSD-41). But also present were many whose ages must cause the Navy's leaders of tomorrow considerable concern: four 33-year-old ammunition ships, six cruisers more than 25; all seven of its combat stores ships (AFS) whose average age is 24; three fast combat support ships (AOE), 23; six amphibious assault ships (LPH), 26; 10 amphibious transport docks (LPD), 23, and three ocean minesweepers (MSO), 27. But old and new performed flawlessly, and only two ships, *Princeton* (CG 59) and *Tripoli* (LPH 10), suffered major damage, both from striking mines. *Leader* (MSO-490) sustained minor damage when she detonated a mine relatively close astern. *Iwo Jima* (LPH 2) suffered a high-pressure steam leak that cost the lives of 10 of its crew, but repairs kept her fully operational. And *Harry W. Hill* (DD 986) damaged her sonar dome, but because there was no submarine threat she was able to ably carry out her Desert Storm mission.

A WOMAN FOR ALL SEASONS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MAZZOLI. Mr. Speaker, my community of Louisville and Jefferson County experienced a severe loss when Sister Janet Dougherty, cofounder and director of the Sister Visitors Center, announced her retirement at the end of May.

Sister Janet is a native of Massachusetts, but came to Louisville in 1954, where she taught at St. Thomas More Elementary School and then became principal at St. Brigid School in Louisville's west end.

But, it was 22 years ago, Mr. Speaker, when Sister Janet Dougherty made her indelible mark on the community-service sector of Louisville and Jefferson County. It was then Sister Janet cofounded the Sister Visitors Center in west Louisville which supplies the poor and needy with food, clothing, and guidance until more permanent, long-term aid can be found. The center is backed by other prominent charity organizations in the Louisville area, including the Archdiocese of Louisville, the Sisters of Charity, Dare To Care and the Kentucky Harvest.

Sister Janet Dougherty will be so deeply missed because of her dynamic leadership, her innovation, and her extreme piety. By all accounts, Sister Janet was a people person. She made it her mission to find those people who were not being attended to by existing services. She turned no one away in need of assistance, regardless of race, color, or creed.

Mr. Speaker, Sister Janet is now home again in Massachusetts where she is continuing with her theological studies and spending time with her family. Her spiritual presence and legacy, however, will remain with those whom she touched in the Louisville and Jefferson County community.

Mr. Speaker, I wish Sister Janet Dougherty all best health and happiness in the years ahead. My community's charity alliance is diminished by her absence. But, as a star shines brightly in the distant sky, the accomplishments and love of Sister Janet Dougherty shine equally brilliant.

CATHOLIC SCHOOLS IN AMERICA: A LONG RECORD OF ACHIEVEMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. SOLOMON. Mr. Speaker, I have come across a feature in Time magazine which serves as a perfect affirmation for President Bush's "America: 2000" educational package.

The feature was titled "Can Catholic Schools Do It Better?" and the subsequent answer, to no one's great surprise, was a resounding yes.

Mr. Speaker, whatever our religious affiliations, we can all admit that for many generations our parochial schools have achieved outstanding results in providing a superior education at less cost than almost all public school systems. Even non-Catholic parents have turned to the parochial schools to educate their children.

True, like many other institutions, our parochial schools have been facing their own fiscal uncertainties and pressures. But parochial officials have loudly applauded the America: 2000 initiative. They recognize it as a program that will encourage educational alternatives, while it goes a long way in bringing America out of its educational malaise.

I enter the entire article in today's RECORD, and urge all Members to read it:

CAN CATHOLIC SCHOOLS DO IT BETTER?

(By Sam Allis Boston)

America's parochial schools have often served as a reproach to the troubled public ones in their communities. Unburdened by the bureaucracy and lethargy that bedevil most big-city school systems, and with a tradition of emphasizing discipline and academic rigor, they have generally been able to turn out better graduates—while often spending less than half the money per pupil. Now the Roman Catholic Church, worried about declining enrollments and hopeful about the emerging political sentiment to allow public school parents greater choice in where they send their kids, has launched the most extensive marketing campaign ever for its brand of education. Billboards, banners and posters will be blanketing the nation with the message Discover Catholic Schools 1992.

The Archdiocese of Chicago alone plans to lease 50 billboards as part of the mammoth promotion. Nationwide, each of the church's 7,291 elementary schools and 1,296 high schools will be asked to market an array of buttons, T shirts, pins, decals, posters, videos and banners that bear the logo of a proud galleon slicing through the waves, its sail emblazoned with a giant cross. Kits will be sold that instruct local administrators on how to place ads, write press releases and choreograph a month-by-month promotional campaign. Says Sister Ann Dominic Roach, superintendent of schools for the Archdiocese of Boston: "This is not business as usual."

The campaign, which is designed to ignite the faithful as well as sell non-Catholics and political leaders on the excellence of parochial schools, promotes them as "the best-kept secret in the U.S." This they are not—parochial schools have been part of U.S. education since the mid-19th century, and currently serve 2.5 million children. The real secret is how these schools have been able to do more for less. In the austere '90s, their cost-controlled quality and focus on fundamentals could serve as a model for public school systems seeking to conquer the problems of drugs, violence, lax standards and low morale.

Statistical evidence of the parochial system's success is striking. James Coleman, a University of Chicago sociologist, has found that Catholic high school students outperform their public school counterparts in reading, vocabulary, mathematics and writing. The dropout rate in Catholic high schools was less than 4 percent, he discovered, compared with more than 14 percent in public schools. Black or Hispanic students are three times as likely to graduate in four years as their public school counterparts. Some 83 percent of the graduates go to college, in contrast to 52 percent of those from public school.

To some extent such comparisons are unfair. The public systems are required to service, at tremendous cost, students with severe learning disabilities, physical handicaps and discipline problems. In addition, public schools must take everyone, whereas the children in Catholic schools tend to be from families motivated to find them a good education.

Even in the inner cities, Catholic schools have been successful in attracting—and educating—children from poor and minority families willing to bear the cost. The sacrifice is often heavy: high school tuitions can approach $4,000. Nevertheless, minority enrollment in the Catholic system is now 23 percent of the total, double what it was 20 years ago. "When my son would come home from public school, all he could talk about was who was fighting whom," recalls Laura Williams, a black Baptist whose three children have attended the Academy of St. Benedict the African on Chicago's South Side.

How do the Catholic schools do it? Mostly by practicing and preaching old-fashioned stuff: values, discipline, educational rigor and parental accountability, coupled with minimal bureaucracy. "Catholic schools have had to make a virtue out of necessity," explains Archbishop Francis Schulte of New Orleans. "These institutions have had to think and act creatively for decades to stretch small budgets."

It adds up to what Coleman calls "social capital," a combination of qualities that public schools simply can't match. At a time when families and neighborhoods are being ripped apart, the Catholic Church often anchors an institutional network on which parents, teachers and children can depend. The schools provide more personal attention to students—and to parents. Single-parent families in particular gain from the parochial approach. Children from such homes are twice as likely to drop out of public schools as those from two-parent families; in Catholic schools the rate for children from both types of families is about the same.

Catholic educators are proud that their institutions eschew the shopping-mall approach they see in public high schools, where students shop around for courses among endless electives. Their high schools rountinely offer fewer electives and require a heavier load of basics than do inner-city public schools: four years of English; three years or more of math; three years of science, foreign language and social science; and at least one year of computer science. Students must show proficiency in a course before they can move up a grade. Period.

The parents of non-Catholic students, who account for about 12 percent of enrollment, seem less worried about the religious instruction their children may absorb than about the absence of values in the public system. This parental acceptance is largely the result of the self-selecting nature of parochial schools. Catholic administrators make it clear in advance that their institutions teach the tenets of the church. Parents comfortable with that arrangement are free to apply. "I'm not Catholic, but we're all serving the same God," says Betty Pitts, a black parent of two children in Our Lady of Lourdes elementary school in Boston's Jamaica Plain section. "When the children are grown, they'll make up their own minds."

Then why the marketing push now? For all their advantages, parochial schools badly need funds. They have lost half their students and 2,500 of their schools during the past 25 years as part of the general movement to suburbia. Inner-city schools are still vulnerable as working-class Catholics continue to migrate to the suburbs. Moreover, the cadre of women in religious orders who traditionally taught in Catholic schools continues to decline, and lay teachers, often with families, demand higher salaries.

By publicizing the advantages that parochial schools can offer, the church hopes to help a good system thrive once again. In the process, by increasing a sense of competition for students and an awareness of the value of a rigorous education, the campaign could even serve to spur the nation's public schools.

COMPARATIVE REPORT CARD

New York City	Public schools	Catholic schools
Students	956,616	110,000
Student-to-teacher ratio:		
Elementary and middle	28:1	24:1
High school	30:1	18:1
Percentage of students who graduated on time	38	99
Students in special-education classes	119,858	100
Spending per student	$7,107	$1,735
Average teacher salary	$39,136	$22,550
Administrators at headquarters	3,930	33

A TRIBUTE TO DR. AKIO HAYASHI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MATSUI. Mr. Speaker, I rise today in deep sorrow to advise you that an outstanding citizen of Sacramento and a dear friend, Dr. Akio Hayashi, has recently passed away. Dr. Hayashi made numerous contributions to the Sacramento community and the State of California and he will be sorely missed.

Dr. Hayashi was a generous man who gave of himself in many ways. After earning his doctorate of dentistry from the University of California School of Dentistry in San Francisco, Dr. Hayashi started a private practice in Walnut Grove, CA. There, Dr. Hayashi started a Boy Scout troop for Japanese-Americans before returning to Sacramento in 1936. Always committed to the duties of citizenship, Dr. Hayashi faithfully served as an Army dentist during the Second World War. In addition, Dr. Hayashi was a fellow of the International College of Dentistry and an honorary member of the Sacramento County Dental Society. Exhibiting his generous spirit of giving, Dr. Hayashi took time to chair Sacramento City College's Advisory Committee during the 1960's and was instrumental in helping organize the school's dental assistant and dental hygiene programs.

In addition to his dedicated work in the dental profession, Dr. Hayashi was extremely active in community service organizations, especially Lions International. Past president of the Senator Lions Club of Sacramento and district governor of Lions International for 1969–1970, Dr. Hayashi was a key initiator of the Lions' Glaucoma Trailer Clinic and the Northern California Lions Sight Association, Inc. He was also an unselfish supporter of the Japanese-American Citizens League and a faithful member of the Japanese United Methodist Church.

Dr. Hayashi is survived by this wife of 54 years, the former Alice Kimiko Sakata; children, Robert H. Hayashi, M.D., of Ann Arbor, MI, Edwin M. Hayashi of Fresno, David K. Hayashi of Minneapolis, and Sybil Miyamoto of Sacramento; brothers, Masao Ben Hayashi of Honolulu and T. Terry Hayashi, M.D., of Pittsburgh; a sister, Florence Kinuko Ishibashi of Chicago; and 12 grandchildren. I offer my sincerest sympathy to his family and friends. We will all mourn the loss of such a generous and well-respected man.

TRIBUTE TO THE GREAT LAKES SWEET ADELINES CHORUS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the Great Lakes Sweet Adelines Chorus who represented the State of Michigan in the National Independence Day Festival and Parade in Washington DC.

Often referred to as the "ambassadors of harmony," the Great Lakes Chorus is a 90-member women's chorus, headquartered in Sterling Heights, MI. The members of the chorus range in ages from 18 to 82 and represent all walks of life. The one thing they share is the joy of singing.

Since the chorus' inception in 1959, they have been dedicated to promoting good will through the universal language of the arts. They are one of 650 choruses that belong to Sweet Adelines International, a nonprofit, nondiscriminatory, worldwide women's organization that promotes music education and performance skills.

The group prides itself on its professionalism, harmony, and contagious enthusiasm. They have become an acknowledged leader in the barbershop community by preserving barbershop harmonies for the people of Michigan. Their exciting and intricate choreography enabled them to place eighth in the international chorus competition in Salt Lake City, UT in October 1990. They also were last year's region 2 champion and made a historic appearance at New York City's Carnegie Hall in June 1990.

Under the able direction of Ms. Lee Balaguer-Davison, the Great Lakes Chorus has continued to share their joy of singing and performing in the barbershop style with music lovers and art patrons everywhere. Perhaps Ms. Balaguer-Davison's inspiration has taught the group to "go for it, no matter what it takes and learn from it, no matter what the results." I know with this in mind the Great Lakes Chorus will have thoroughly enjoyed participating in the National Independence Day Festival and Parade, and I know those in attendance must have equally enjoyed the group's performance.

Mr. Speaker, it is with great pleasure that I recognize these ambassadors of harmony on the floor of the House. We were proud to have them represent the State of Michigan on the 215th anniversary of our independence. I am confident that they will continue to share their joy of singing, preserving an integral part of our culture.

A TRIBUTE TO HAL WATKINS OF CAMARILLO, CA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LAGOMARSINO. Mr. Speaker, it is with great, personal sadness that I rise today to honor my friend, the late Hal Watkins of Camarillo, CA, who died on Wednesday, July 10, after a long illness. I want to extend my deepest sympathies to his wife, Vi; his sons, Craig and Gary; and his four grandchildren, Courtney, Rory, Brittney, Alana, and all of his friends and family.

Mr. Watkins, the son of a bread deliveryman, built an auto empire in Camarillo and Oxnard out of hard work and determination. His success as a car salesman was more than matched by his belief in giving to the community.

Mr. Watkins served as the director of the Ventura County Council of Boy Scouts for 16 years before becoming ill in 1987. He helped raise an estimated $50,000 for the group between 1972 and 1979 by organizing annual automobile auctions for their benefit. In 1975, the year he served as the president of the Boy Scouts, he donated a building to the group for its meetings.

Mr. Watkins' involvement with the youth of Ventura County did not end here.

His relationship with the Oxnard Union High School District spanned 17 years. Mr. Watkins donated 89 cars to the Oxnard Union High School district for its drivers training program.

Mr. Watkins was also a fundraiser for the St. John's Regional Medical Center Humanitarians and a member of the Rotary Club, of which he was president in 1971. Mr. Watkins was a past director of the Oxnard Chamber of Commerce as well.

His dedication to helping others endeared him to the community and he will be sorely missed by all.

50TH WEDDING ANNIVERSARY OF MARTIN AND HELEN CIESIELCZYK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an exemplary couple from the 5th Congressional District of Illinois, Martin and Helen Ciesielczyk, on the occasion of their 50th wedding anniversary. They were married at Mary Queen of Heaven Church in Cicero, IL on July 19, 1941, and are a role model of the family strength and solidity which has made America great.

Martin and Helen have lived in the Chicago area all their lives. Mr. Ciesielczyk worked for Peerless Jewelry Co. for 45 years, and Mrs. Ciesielczyk worked at Western Electric Co. before she had children and Sunbeam Electric Co. after her children were grown. In addition, Mr. Ciesielczyk served our country for four years during World War II. While in the army, Martin achieved the rank of staff sergeant and was honored with several ribbons and medals.

The Ciesielczyk's raised three wonderful children: Martin, Jr., Carol, and Barbara. All three have married and started families of their own. Martin and Helen now enjoy four grandchildren. Nicole, Julie, Christine, and Kimberly. During their retiring years, they are looking forward to spending time with each other and their family. They find much pleasure in watching their grandchildren grow.

Their commitment to each other and their family is impressive and deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Martin Ciesielczyk and his bride of 50 years, Helen, on their many years of love and commitment. May their life together continue to be refreshing and offer them many more pleasant memories.

CONGRESSIONAL OPPOSITION TO CZECHOSLOVAKIA'S PLANNED SALE OF TANKS TO SYRIA AND IRAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LANTOS. Mr. Speaker, as my colleagues in the Congress are aware, Czechoslovakia recently was involved in negotiating the sale of tanks to Syria and Iran. Those reports are extremely disturbing. Given the volatile nature of the Middle East in the aftermath of the Gulf War, the sale of such military hardware to Syria and Iran would certainly have a destabilizing effect on the region.

Mr. Speaker, opposition in Congress to Czechoslovakia's sale of tanks to Syria and Iran—two nations that have a longstanding record of supporting international terrorism—runs wide and deep. Subsequently, 47 of my colleagues joined me in signing a letter to President Vaclav Havel of Czechoslovakia urging him to reconsider this unfortunate policy.

I insert the letter and the names of my colleagues who joined me in signing it in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 28, 1991.

His Excellency VACLAV HAVEL,
President of the Czech and Slovak Republic, Presidential Palace—Hračany, Prague, Czechoslovakia.

DEAR MR. PRESIDENT: We were extremely disturbed and dismayed by the reports that your government is involved in negotiating the sale of tanks to Syria and Iran.

Arms sales to those two countries would be a grave error because both governments have a long-standing record of supporting international terrorism. Furthermore, any arms sales to the Middle East in the aftermath of the recent Gulf War should only be considered in light of broad international efforts to control arms sales in that region.

Under its previous communist government, Czechoslovakia had an extremely negative international reputation because of large-scale arms sales to countries which contributed to global tensions and the undermining of democratic governments in a number of areas. It would be most unfortunate if the new democratically elected government of the Czech and Slovak Republic continued that same irresponsible and counter-productive policy.

We urge you in the strongest terms not to proceed with this arms sale.

Tom Lantos, Chester G. Atkins, Frank Horton, Robert J. Lagomarsino, William Lehman, Barney Frank, Barbara F. Vucanovich, Raymond J. McGrath, Jim Jontz, Dick Swett, Gerry Sikorski.

Ronald V. Dellums, Michael J. Kopetski, Anthony C. Beilension, James A. Traficant, Jr., Nita M. Lowey, Ronald K. Machtley, William O. Lipinski, James H. Scheuer, Barbara Boxer, Gary L. Ackerman, Frank Pallone, Jr., George J. Hochbrueckner, William E. Dannemeyer, Michael R. McNulty.

Peter H. Kostmayer, Michael Bilirakis, Thomas M. Foglietta, Lawrence J. Smith, James H. Bilbray, Charles B. Rangel, Richard H. Stallings, Henry A. Waxman, Mel Levine, Martin Frost, Robert T. Matsui, Jolene Unsoeld, John Edward Porter.

Joseph P. Kennedy, II, Rick Santorum, Bill Paxon, Howard L. Berman, Thomas J. Manton, Vic Fazio, Benjamin L. Cardin, Ben Erdreich, Dennis E. Eckart, Edward J. Markey.

Members of Congress.

BUY AMERICAN WEEK 1991

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. RAHALL. Mr. Speaker, yesterday I introduced House Joint Resolution 299, which will declare the week of September 2, 1991 "Buy American Week." The importance of buying American-made products and the positive impact that such purchasing habits will have on the economy of the United States, should not be underestimated. I feel that it is only appropriate to associate a week that will focus the Nation's attention on buying American-made goods with Labor Day, the day we set aside to honor the American worker.

Although products made by American workers are often more costly than those made by their counterparts in other countries, it is for a good reason. Laborers in the United States are better compensated for their efforts. They are also protected by minimum wage restrictions, unemployment compensation, workmen's compensation, safety considerations, and other benefits that cause the products they make to be more costly. Foreign workers do not enjoy such protection and are often forced to work for under $1 an hour.

American workers, though, are also consumers. They purchase cars, clothes, and other commodities. They send their kids to college just like you and I. The money they make is put back into our economy. Foreign workers do not contribute to the economy of the United States in the same way.

In fact, the United States has tremendous deficits with most of the countries with which we have trade relations. While American consumers are spending their dollars on products made in Japan, China, and Germany, people in these countries do not have the same opportunity to purchase merchandise made in America.

American businesses also contribute to this country's economy. They provide jobs for Americans, pay taxes, and contribute to the social security and unemployment funds. Foreign companies, which merely export their goods to the United States, do not have the same kind of impact on our economy which American companies do.

Another factor to consider is the quality of products. American-made goods are high quality goods which reflect the pride Americans take in their work and in their country. American workers have more incentive to produce superior merchandise because they are producing for themselves and their neighbors.

All Americans have to be made aware of the importance of purchasing American-made goods. Buying American provides jobs for American workers, boosts American businesses, and strengthens the U.S. economy. "Buy American Week" is one step in raising this awareness and putting the U.S. economy back on the right track.

It is my hope that all of my colleagues will join me in recognizing the American worker in this most appropriate way.

NAVY AND MARINE CORPS AIR OPERATIONS IN DESERT SHIELD/STORM REPORTED BY NAVY LEAGUE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BENNETT. Mr. Speaker, I would like to publish at this point the Navy League's report on Navy and Marine Corps air support in Desert Shield/Storm. The entire report will be printed in the September issue of the Navy League's Sea Power magazine.

AIRCRAFT:

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

At the time of the President's decision to move forces to the Middle East, only Navy aircraft were there to provide combat missions if needed, and perhaps were the reason Saddam Hussein halted his armored columns on the Saudi Arabian border with Kuwait. But by the time the air assault began on 17 January, 80 percent of the aircraft in theater were land based. Ultimately Navy and Marine aircraft flew roughly 20 percent of the missions prescribed in the Central Command's Air Tasking Order, that directive which set forth each day's planned air operation. But in addition, Navy aircraft flew another 5 percent, some for intelligence gathering, some for electronic jamming, other for fleet defense. Further, because of their distances from targets—500 miles as an average for aircraft flying from carrier in the Red Sea, 250 miles for those flying from the Persian Gulf carriers—tanking was required coming and going, and as a result times aloft were long indeed. Land-based aircraft, with the exception of the F–117 stealth fighters, which were based well behind the forward line bases, were flying only 100–150 miles to their targets. The workhorses among Navy and Marine aircraft were F/A–18s, with almost 9,500 missions flown with but three losses one in combat. Also a bulwalk of the air assault were the venerable A–6s, which with Air Force F–111s, and a hand-full of F–15s were the only all-weather aircraft in theater. Many of their almost 5,000 missions were flown when other aircraft were grounded because of foul weather. Four A–6s were lost in combat; another was a non-combat loss.

Helping to clear the way for the more than 1,00 Navy and Marine strike aircraft were EA–6Bs which blinded enemy radars and destroyed many critical sites with their HARM (high-speed, anti-radiation) missiles. Of all the HARMs fired during the air assault, Navy aircraft accounted for more than 80 percent. So vital to the success of attack missions were EA–6Bs that a number of Air Forces and Navy strike were scrubbed because they weren't available to jam and/or knock out key sites. Meanwhile, E–2C earlywarning and S–3 and P–3C ASW aircraft combined with Air Force AWACS planes to monitor Iraqi planes and provide airborne traffic control. S–3s and P–3s also patrolled the shipping lanes, with specially configured P–3Es providing electronic reconnaissance. An S–3B on a reconnaissance mission in the northern Persian Gulf became the first aircraft of that type to engaged and destroy a hostile vessel using high-altitude bombing techniques. Guided by an Aegis cruiser, it pinpointed the position of a high-speed patrol craft and sank it.

Although most attack missions were flown against targets in northern Iraq, in the first three weeks of the air assault Navy pilots also contributed greatly to the annihilation of the Iraqi Navy, sinking and/or disabling many of its missile gunboats, minewseepers, and patrol craft.

The availability of tanker aircraft was critical to the success of Navy missions in the air campaign, since the longer missions required refueling en route to and from target areas. In providing that vital service, Air Force aircraft excelled. As one carrier airwing commander observed: "We simply couldn't have done it without them." Rarely were there occasions when tanker aircraft were not available, and cooperation between the Air Force and the Navy on these missions generally was outstanding.

This air campaign also marked the first time in combat for the five aircraft: Navy F–14A+ fighters, the C and D versions of the F/A–18, the Marines' AV–8B attack aircraft, and the Navy's HH–60H strike rescue helicopters. AV–8Bs flew from both land and sea, effectively utilizing the decks of two amphibious assault ships as well as airfields ashore. But the most frustrated of all the Navy and Marine aviators were F–14 pilots who for the most part simply could not find an enemy to engage. A number of Iraqi MIGs were sighted by pilots, but they elected to turn away rather than face the F–14s in combat. Eventually many would seek sanctuary in Iran and take themselves out of the war.

From October through late May, six MH–53E minesweeping helicopters had flown 3,386 hours; minesweeping gear was towed 1,455 hours. Each aircraft averaged some 70 hours a month in the air, with no personnel casualties or aircraft lost, a highly credible performance in a demanding environment with an equally demanding mission.

Marine AH–1W Sea Cobra helicopters also were most effective on combat missions and particularly in support of the Marine assault on Iraqi ground forces when the ground campaign commenced.

A scintillating collective performance that went almost completely unnoticed by the media, although not by those who benefitted daily from their skills and stamina, was that of the CH–46 pilots flying resupply missions from their replenishment ships. Going aloft in 25-year-old aircraft which certainly are the workhorses of the Navy's helicopter fleet, during Desert Shield/Storm they logged 20,000 accident-free flying hours, a phenomenal performance.

The absence of Navy film footage showing weapons striking targets precisely where aimed gave rise to speculation that Navy aircraft lacked "smart bombs." On the contrary, Navy aircraft were armed with, and pilots did use effectively, laser-guided bombs. What was lacking was across-the-board capability to film their trajectories, a tactical oversight which the Navy plans to correct.

TRIBUTE TO COL. JOHN F. "JACK" DONAHOE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to Col. John F. "Jack" Donahoe, an outstanding citizen who has dedicated over 25 years of service to the United States and is leaving California after a remarkable tenure as commander of the Sacramento Army Depot.

Colonel Donahoe was born in Boston, MA in 1943. Having a talent for science, he attended Boston Technical High School and in 1966 earned a B.S. from Northeastern University. Always a hard worker, Jack then earned a commission with the U.S. Army through the Reserve Officers Training Corp and completed the signal officers basic course at Fort Gordon and the Airborne School at Fort Benning.

For his outstanding service with the 198th Light Infantry in Vietnam Colonel Donahoe was awarded both a Bronze Star and a Purple

Heart. He completed the signal officers career course in 1972 and was assigned to the 82d Airborne Division. In 1976 Jack was once again assigned to serve abroad, this time in Turkey where he served as chief, Telecommunications and Operations Branch. Fluent in German, Colonel Donahoe reported to Germany in 1982 and commanded the 51st Signal Battalion, VII Corps. He completed his tour by serving with the U.S. Military Command, Berlin.

In 1987 Colonel Donahoe assumed command of the Sacramento Army Depot. As the depot commander, Jack demonstrated a deep respect for his employees and oversaw many extremely effective programs. Under his leadership, the Sacramento Army Depot was the first organization within depot support command to award a contract to the National Industry for Severely Handicapped. The Depot's Value Engineering Program saved $4.39 million and was noted as one of DESCOM's finest for the fiscal years 1989, 1990, and 1991. The Total Quality Management Program was a finalist for the prestigious Office of Management and Budget Quality Improvement Prototype Award and received the President's Council for Management Improvement Management Excellence Award. Jack also resided over the depot during the Desert Storm/Desert Shield operations. He made sure that the depot provided strong support for both the troops abroad and their loved ones at home. Clearly, Colonel Donahoe's leadership will be sorely missed in Sacramento.

Mr. Speaker, I ask that my colleagues join me in saluting Col. Jack Donahoe and in extending he and his family our best wishes in their future endeavors.

TRIBUTE TO ALL OF OUR VETERANS AND TO THE SOLDIERS OF OPERATION DESERT STORM

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to our veterans, and particularly to thank the men and women who served in Operation Desert Storm. They were being recognized in Port Huron, MI, on July 4th for their efforts on behalf of us all.

I would like to congratulate all those who participated in July 4th's rally. I am sorry I was unable to be with you in person. It is an honor to salute our men and women who have served our country so valiantly. Our recent victory in the Persian Gulf clearly shows the resolve of American soldiers.

The war in the gulf has been hard fought and bravely won. America has spoken with one voice. We have stood behind our troops 100 percent. We are proud of our victory. We are especially proud of the men and women who put their lives on the line to win. Our troops were sent to the Middle East to battle a ruthless dictator—they have done their job with all their heart and soul.

Let us not forget the families and friends of our soldiers who have given so much. They too are our heroes. Just as we draw strength from the courage of our troops, we draw inspiration from the mothers who organized family support groups * * * the companies who set up special satellite links to send messages to the troops * * * the school children who have written cards and sent care packages. Everyone in this community has done their part. You have all done us proud.

This is a moment of great national pride. We are not a nation that seeks war. Our goal is peace. But, when asked to pay the price for peace, we have drawn courage from the men and women who carried our flag so bravely in the gulf. We stand by them now—and we must continue to stand by them as they are returning home.

We should take some time to honor our Vietnam veterans as well. This honor is long overdue. We knew whom to call upon, but forgot whom to thank. Let all of us here pledge that we will never, never make the mistake of neglecting our veterans again.

Let us remember the pride and the sense of purpose Operation Desert Storm instilled in us. America and its allies have shown the world the power of democracy. Let us capture this spirit and fight for democracy here at home. Our greatest challenges are before us and we will overcome them—America will get better, Amercia will get stronger—let the courage of our troops inspire us all.

SANTA BARBARA COUNTY FAIR—A CENTURY OF EXCELLENCE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to recognize the Santa Barbara County Fair's centennial anniversary. In March 1891, the 37th District Agricultural Association of California was formed with the approval of the California Legislature. The first annual Santa Maria Valley Fair was held September 1–4 of that year.

In 1928, the exposition's name was officially changed to "The Santa Barbara County Fair." Parachutists were the main feature that year. As The Los Angeles Times put it, "There is more to be seen in three hours than could be told about in ten columns here." Admission in 1928 was 25 cents.

The opening day attendance in 1930 was 4,850. In the 1930's, airplanes were as much an attraction as the fair exhibits themselves. In 1944, the first fair to be held since the summer of 1941 offered more than $50,000 in cash premiums. That year, the First Annual Elks Recreation Foundation Wild West Show and Rodeo was held. The rodeo is a major attraction to this day. After the disruption by World War II, the Santa Barbara County Fair continued at its present location, Stowell Road and Thornburg in Santa Maria, CA.

The fair facilities expanded during the 1950's, a decade of prosperity. In 1956, livestock records at the time saw $3.25 per pound for the championship lamb. In 1966, the new convention center was completed just in time to house the fashions and home furnishings show at the fair.

In the 1970's an International Plaza represented various countries. This decade paid tribute to the expanding world of the agricultural central coast. A record $101,339.53 was raised during the 9-hour junior livestock auction, the first time the $100,000 mark had been passed. In 1976, Jody Marshal of Lompoc and Violo Buono of Santa Maria became the first women to be named to the fair board.

Like many other public entities, the fair began the 1980's decade in a financial pinch but managed to pull through and begin a 5-year construction program to improve facilities. An addition to the facility was the Frank Marciel Pavilion. Throughout the history of the fair, 4–H and Future Farmers of America members have displayed their dedication, hard work, creativity and commitment to agricultural pursuits. Agricultural leadership awards honoring farmer, livestock producer and agribusiness persons of the year began in 1985 under the leadership of Ernest Righetti. 1991 agricultural award winners include: Steve Jordan, Lompoc, "Farmer of the Year;" Lamar Johnston, Cuyama, "Livestock Producer of the Year;" and Williams Brothers Markets, "Agribusiness of the Year."

This year the Santa Barbara County Fair runs 10 days from June 28 through July 7. The 1991 fair intends to "Celebrate A Century" of fun, entertainment, and education. Independence Day will begin with a special Salute to Desert Storm soldiers to honor the return of heroic United States military men and women involved in the Persian Gulf. Linda Rondstadt headlines a special program for the Fourth of July evening along with a spectacular fireworks display which takes place in the Minetta Arena. The Santa Barbara County Fair boasts a history of outstanding shows, exhibits, community support, and professional entertainment. Its "Celebrate a Century" theme is well deserved.

SWEARING IN OF KENTUCKIANA MARINE PLATOON

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MAZZOLI. Mr. Speaker, I had the distinct honor and privilege to swear in the 55-person Kentuckiana Marine Platoon on July 4 at Cardinal Stadium in Louisville, KY. The unit, comprised of Kentucky and southern Indiana residents, will leave next month for Boot Camp at Parris Island, SC.

I have participated in all types of ceremonies before, Mr. Speaker. This induction ceremony, however, had a little extra pull on my heart for two reasons. First, it was Fort Knox Appreciation Day at Cardinal Stadium where the Triple-A Louisville Redbirds play. The men and women of Fort Knox always play a significant role in the military welfare of this Nation. In the afterglow of Operation Desert Storm, it seems one day is not enough to extend our love, affection, and praise to them.

The second aspect that struck me, Mr. Speaker, was the youthful exuberance of these young recruits. When I chatted with them, I could see and sense their pride in America and their determination to protect her interests. They embodied this renaissance in how Americans view the military after Desert Storm—with pride, joy, and optimism.

I would like to salute Maj. David J. Breen, the commandant of the Marine recruiting station in Louisville, and his three key assistants, S. Sgt. Drew Milburn, S. Sgt. Donna S. Alcorn, and Sgt. Stephen E. Grimes for their leadership in recruiting these young Americans and for arranging the July 4 ceremony.

Mr. Speaker, I am asking permission to insert here the names of the 55 recruits whose dedication, strength, and patriotism will make Kentucky, Indiana, and the Nation proud.

KENTUCKIANA PLATOON ROSTER OF PERSONNEL

Marine Corps Recruiting Office, Louisville: Maj. David J. Breen, S. Sgt. Drew Milburn, S. Sgt. Donna S. Alcorn and Sgt. Stephen E. Grimes.

MARINE CORP RECRUITS

From Louiville, KY: William R. Page III, Christopher A. Goodin, Christopher A. Kehrur, Jackie E. Sims, Larry J. Menendex, Christopher L. Carr, Robert B. Long, Timothy A. Oyler, William K. Haydon, David C. Payne, David E. Tan, Drumonda L. Simpson, Anthony S. Young, Gary L. Robey, Julius W. Lumpkins, and Paul A. Olges.

From Lexington, KY: Bradley N. Johnson, John G. Wilson, Gary A. Smith, Jr., Kevin D. Gullett, Donald G. Gabbard, James E. Baldwin, and Mark F. Holthaus.

From London, KY: Johnny R. Mcknight, Jr., Dennis L. Greer, Michael V. Kersey, Randy Strunk, Bryan E. Shelby, and Dane E. Lambdin.

From Hopkinsville, KY: Jamie D. Halter, David R. Rodrequez, Jr., and Allan R. Korb.

From Paducah, KY: Gregory E. Burgess, Cliff R. Dalton, and Jonathan J. Poe.

From Bowling Green, KY: Jason B. Wilson, Christopher A. Trosper, Kevin D. Jenkins, and Ralph D. Phelps.

From Clarksville, IN: Bryan D. Glover, Scott A. Jump, Kirk D. Sparks, Eric L. Henson, Dale L. Adkins, and Christopher L. Tedesco.

From Evansville, IN: Loren L. Rodgers, Darren S. Byers, Toby D. Shaw II, Mark C. Hall, Stephen J. Carr, Jon M. Williams, Anthony J. Cutone III, Brian S. Byrne, Kenneth V. Gamblin, and Christopher M. McBride.

THE 32D ANNIVERSARY OF CAPTIVE NATIONS WEEK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LIPINSKI. Mr. Speaker, the week of July 14 to 20 commemorates the 32d anniversary of Captive Nations Week. Ever since Congress designated Captive Nations Week in 1959, citizens of the United States have participated in ceremonies and activities supporting the self-determination of peoples throughout the world. At no time, however, has this issue become more urgent than it is today.

In the past half-century, captive nations have looked to the United States as a citadel of freedom and a leader in bringing about their liberation and independence. However, the United States, once a captive nation itself within the British Empire, has been overly cautious in recognizing the independence of such nations as Georgia, Ukraine, Croatia, Slovenia, Tibet, and the Baltic republics. The time has come to replace rhetoric with action.

A more aggressive policy should be formulated, one which champions multiparty elections, the establishment of free-market economies, and the withdrawal of foreign military and political forces. Freedom and diversity should also be maintained in the ethnic, cultural, linguistic, and religious spheres. Only then, in the words of the resolution, will "the desire for liberty and independence by the overwhelming majority of the people of these submerged nations [constitute] a powerful deterrent to war and one of the best hopes for a just and lasting peace."

In 1776, our Founding Fathers asserted in the Declaration of Independence the basic rights of life, liberty, and pursuit of happiness for all American citizens. These are rights to which all people are entitled, and are not reserved solely for Americans. I hope that the coming year will witness the release of all captive nations and the flourishing of freedom and democracy around the globe.

NAVY LEAGUE'S CHRONOLOGY OF THE NAVY IN DESERT SHIELD/STORM

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BENNETT. Mr. Speaker, the Navy League's report "The Sea Services' Role in Desert Shield/Storm" chronicled the role played by the Navy's forward-deployed carrier battle groups in the second segment of its report as follows. The entire report will be printed in the September issue of the Navy League's "Sea Power" magazine.

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

First on the scene, as the nation had come to expect by virtue of countless other similar arrivals in trouble spots worldwide in the almost five decades since the end of World War II, were two carriers, *Eisenhower* (CVN 69) and *Independence* (CV 62), with their supporting casts of combatants. By the time President Bush ordered U.S. forces to the Middle East on 7 August, both were ready to undertake combat missions for as long as might be necessary. Ultimately these two would be relieved by two others, and when hostilities commenced on 17 January, six carriers were launching aircraft against Iraqi targets. At conflict's end, four would be operating in the Persian Gulf, a "First" for any navy.

Meanwhile, almost from the moment they arrived in theater, cruisers, destroyers, and frigates became part of the international team that would uphold (and still is upholding) United Nations sanctions against Iraq by intercepting ships which might have contained cargo for that country. As of early June, 10,733 had been intercepted, an average of more than 30 a day. Many of the ships intercepted there were seeking to enter the Gulf of Aqaba, with their ultimate destination the Jordanian port of Al Aqabah. More than 90 percent of the intercepts took place in the Red Sea. More than 1,500 ships would be boarded, many after stubborn chases and shots across bows finally brought vessels to a halt, and 92 would be diverted to other ports. Often boardings would have to be made from helicopters, with boarders sliding down lines onto ships' decks. With sanctions still in place, intercepts still are being made. Frigates also were active in assaults on Iraqi-held Kuwaiti islands that returned them to Kuwaiti control. *Nicholas* (FFG 47) captured 23 Iraqi sailors, the first enemy prisoners of war taken, during such a raid.

The 13 submarines, which included a one-time SSBN now 29 years old and converted to attack submarine and to carrier of two dry-dock shelters from which swimmer-delivery vehicles (SDVs) can be launched, operated at will in the Mediterranean and the Red Sea, gathering useful intelligence on ship movements and other activities thoughout those bodies of water. But when hostilities commenced, they were there as part of the stike force, and two launched Tomahawks against Iraqi targets.

The 43 amphibious ships, excluding the two command ships, which participated in Desert Shield and Desert Storm—73 percent of all such ships in the Navy—were among the busiest in the international armada. They and their 18,000 embarked Marines prepared for amphibious assaults, if and when called upon, with practice forays along the Omani and Saudi Arabian coasts, assisted in boardings and searches of merchantmen whose uncooperative masters provoked more forcible measures, provided support for the many successful raids on Iraqi-held Kuwaiti islands, and with their active presence posed such a threat to Iraqi forces defending the Kuwaiti coast that 7–11 divisions were kept waiting for the invasion that never came. Their deceit was masterful, and as TV screens dramatically emphasized after Kuwait was liberated, it paid dividends in the form of tons of weapons and munitions that never got to be used against coalition forces.

But for that force, that wasn't all. Many became part of a five-month vigil off Monrovia, the war-torn capital of Liberia, during which thousands of Americans and other foreign nationals were evacuated and Marines ensured the continued safety of the American embassy. That vigil, which commenced in August, finally ended in January. While it was going on, another small amphibious task force, in response to an emergency request from the U.S. ambassador to Somalia, sailed for that nation's capital. Mogadishu, and embarked helicopters at night for a 360-mile, air-refueled dash that would make possible the evacuation under fire from the embassy compound of hundreds of Americans and foreign nationals from 30 nations. The government of Somalia was overthrown shortly thereafter.

The one area of naval endeavor where coalition forces were behind when the build-up began and never caught up was in mine countermeasures. Although U.S. naval leaders in the Persian Gulf were able to watch Iraqi minelayers deploying at night and returning at daybreak, and therefore were certain the Iraqis were planting mines in international waters, it was not known until long after the effort to counter them began that the Iraqis had planted over 1,000 mines in fields in a 150-mile arc along the Kuwaiti coast. Despite heroic efforts by the four U.S. minesweepers in theater, which included *Avenger* (MCM-1), the first of a 14-ship class of new mine countermeasures ships, minesweeps of other nations, 20 explosive-ordnance-disposal (EOD) teams, and MH-53 minesweeping helicopters, by mid-April only slightly more than 550 mines had been detected and destroyed. *Avenger* provided a glimmer of hope for the future, however, when on 27 February she detected by sonar, and ultimately destroyed, a magnetic mine hitherto regarded as undetectable by sonar. Later she would locate and destroy many more.

MOAKLEY SPEAKS OUT FOR JUSTICE IN JESUIT CASE

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. BONIOR. Mr. Speaker, the distinguished chairman of the Rules Committee, JOE MOAKLEY, recently took a trip to El Salvador to continue his ongoing investigation into the 1989 murders of the six Jesuit priests, their housekeeper, and her daughter.

While there, he made a very important speech in which he underscored the fact that it is "the institution of the Armed Forces that is responsible, not only for the murders but for the failure of the investigation, thus far, to uncover the whole truth." Chairman MOAKLEY urged officers who had information about the crimes to come forward, and indicated that El Salvador will not become truly democratic until justice is done in the Jesuit case.

Mr. Speaker, I am proud to associate myself with the remarks of Chairman MOAKLEY. No one in this Congress has more passionately pursued justice in the Jesuits case.

In the past, the Salvadoran military has been immune from convictions for human rights abuses. That pattern must be broken if democracy is to prevail. I commend Chairman MOAKLEY for his leadership on the issue—and join him in warning that future decisions about U.S. aid will be contingent on progress in the Jesuits case.

A copy of Chairman MOAKLEY's remarks follows:

REMARKS OF REPRESENTATIVE JOE MOAKLEY

I. INTRODUCTION

I am honored to be here at this historic university and grateful for the kind invitation to speak to all of you this afternoon.

I am especially grateful to Father Estrada for his very flattering introduction. He represents the very best in the Jesuit tradition and has done a remarkable job of presiding over this very great university during these very difficult times.

I also want to thank Father Michael Czerny and my dear friend, Father Charlie Beirne, for their assistance in arranging today's speech. I am delighted, as well, to participate in a program with Father Jon Sobrino who has always been a strong defender of social justice.

And I want to thank Father Rodolfo Cardenal who has bravely agreed to translate my remarks. I just hope his Spanish has a Boston accent.

I want to say at the outset that I am not one of those fellows who runs around the world telling other people how to run their countries. I have never set out to change the world; I'll be happy if I can make things a little better for the people I represent back home in Massachusetts.

El Salvador represents my first major effort in the field of international affairs and judging from the reviews I've received in some of the more conservative Salvadoran newspapers, there are some people out there who hope it will be my last.

As you may know, I am the Chairman of a special task force that was appointed by the Speaker of the U.S. House of Representatives to monitor the investigation into the terrible murders that took place on this campus on November 16, 1989. Members of the task force have not tried to investigate the case ourselves, but we have tried to monitor the progress of the investigation conducted by the authorities in this country.

Over the past year, our task force has prepared one major report and a number of shorter reports discussing the investigation. These efforts would not have been possible without the help of Salvadorans from many walks of life and from individuals in the U.S. Embassy, especially the U.S. Ambassador to El Salvador, William Walker, who I believe is a very good man who wants very much to see justice done in this case.

I am conscious, as I stand here, that past relations between the people of El Salvador and the Government of the United States have not always been smooth.

A former political leader of your country once said that El Salvador has endured during this century "fifty years of lies, fifty years of injustice, (and) fifty years of frustration." El Salvador's history, he said, is the history "of a people starving to death, living in misery. For fifty years, the same people have had all the power, all the money, all the jobs, all the opportunities."

And throughout those fifty years, I am sad to say that all the people of El Salvador heard from the United States was silence.

It was not until ten years ago, after the revolution in Nicaragua, that the U.S. Government began to pay serious attention to El Salvador. Because even the Reagan Administration understood that your country, with its history of social inequality, its corrupt and brutal military and its active and militant left was as logical a candidate for revolution as this hemisphere has ever seen.

And so, for the past ten years, America has provided more than $4 billion in economic and military aid to El Salvador. There are some in the Congress of the United States who have fully supported that aid. Others, such as myself, have expressed serious concern about the wisdom of providing large amounts of aid to the Salvadoran military.

II. IMPORTANCE OF THE JESUITS CASE

Those concerns were validated on the morning of November 16, 1989.

Obviously, the horrible murders at this campus were not the first in El Salvador nor, tragically, would they be the last. Tens of thousands have died as a result of political violence over the past decade. It makes no difference in the eyes of God, and it should make no difference in our own eyes, whether a victim of that violence is famous or unknown, rich or poor, a partisan of the left or right or of no side at all.

Every one of us is entitled to our rights; and every one of us is entitled to justice when those rights are violated.

It is not on abstract human or moral grounds, then, that so many of us have come to attach so much importance to discovering the truth about the murders that took place here at the UCA.

We are moved, instead, by the friendship that so many of us had for one or another of the nurdered priests; we are moved by the respect we felt for the courage of these men in their pursuit of social justice and peace; we are moved by the innocence and suffering of Elba Julia Ramos and her daughter Celina; and we are moved by the brutality and cowardice of the murders themselves—carried out, not in the heat of some battle—but in cold blood, in the dead of night, by dozens of well-armed and well-trained troops.

We are moved by these murders and we are determined that unlike the cases of Archbishop Romero, Fr. Rutilio Grande and so many others; at least this one crime against God and humanity will not go unpunished.

In this one case, we demand the truth. In this one case, we insist that the justice system do its job. In this one case, we demand that the Government and the armed forces of El Salvador live up to their claims to respect democracy and the law.

Opponents and critics of the government have been picked up, questioned, tortured and murdered in this country for years. Now, in the course of peace talks, they are asked to trust the government, to trust the armed forces, to trust the political system. It should not be too much to expect that government, those armed forces and that system to be worthy of trust in this one case.

For if El Salvador, with all the international pressure, cannot bring those who murdered the Jesuits to justice, how can anyone expect justice the next time a labor leader or a teacher or a campesino is killed? How can we expect those who have seen their relatives and neighbors kidnapped and tortured and murdered to lay down their arms unless they can do so in an atmosphere of justice and law? How can we expect an end to the violence of the left unless there is an end to the impunity from prosecution of the right?

That is why finding the truth in the Jesuits' case is so important; not because it pleases the United States, England, Spain or some other foreign country; but because finding the truth is essential for El Salvador to live at peace with itself.

III. STATUS OF THE CASE

As you know, eight members of the armed forces, including one Colonel, have been charged with the murders. Two others have been charged with destroying evidence. Four others have been charged with perjury.

I believe the President of the Supreme Court, Dr. Mauricio Gutierrez Castro, and Judge Ricardo Zamora deserve great credit for bringing the case to this point. The judge had done his best to build a strong case against the accused. And he has done his best to investigate the possible involvement of others in ordering or participating in the crimes.

The role of the military is another story.

General Ponce has said over and over again that these murders should be considered the acts of individuals and not the responsibility of the armed forces as an institution. General Ponce is just plain wrong.

Consider that:

Radio stations, controlled by the military at that time, broadcast threats against the Jesuits shortly before they were killed;

There were more than 200 soldiers at or near the scene of the crime;

The murders were carried out by an experienced and well-trained military unit, acting under orders;

Efforts were made at the scene to cover up the crimes and to point the finger of blame at the FMLN;

A phony firefight was recorded in the official log of military operations;

Not a single officer has come forward voluntarily with information concerning the case;

Evidence controlled by the military has been withheld and destroyed;

Many of the officers who were called to testify lied and lied again about what they know;

Even the special military Honor Board appointed by President Cristiani to review the case lied about it.

General, believe me, you have got an institutional problem.

And that's not the worst of it. I am convinced that, at a minimum, the high command of the armed forces knew soon after the murders which unit was responsible for the crimes. At a minimum, they sought to limit the scope of the investigation in order to protect certain officers from prosecution. And I continue to believe there is a strong possibility that the murders were ordered by senior military officers not currently charged.

I am convinced that there are officers in the armed forces who did not themselves participate in the crimes, but who have further information about the crimes. To date, these officers have not come forward because they fear they will be killed. They know that telling the truth about the military is considered by some in El Salvador to be a capital crime. Again, I say to General Ponce, you have an institutional problem.

It is, in my opinion, the institution of the armed forces that is responsible, not only for the murders but for the failure of the investigation, thus far, to uncover the whole truth.

And, in my opinion, you have an institutional problem when it is the institution that instills fear in potential witnesses; when it is the institution that teaches its officers to be silent, to be forgetful, to be evasive, to lie; when it is the institution that demands loyalty to the armed forces above loyalty to the truth or to honor or to country.

The fact is that there is nothing a soldier or officer could do that would be more patriotic or better for the armed forces or for El Salvador than to come forward with the truth in this case. And if that happens, it will be our responsibility, and that of the civilian government, to protect that witness and to make certain that the evidence he provides is acted upon, not covered up.

I still believe it is possible that a new witness or witnesses will come forward. I believe this because I know there are many good people in the armed forces of El Salvador, some of whom were educated right here at this university or at other Jesuit schools.

I believe there are many in the armed forces who want to see the full truth come out. I believe there are many who want to reform the armed forces and to see it take its proper place within your society.

I have been asked many times what it would take to satisfy me in the Jesuits' case. Would I be satisfied with the conviction of five soldiers? Must a Colonel be convicted? Are eight convictions enough?

My response is simple. I want the truth. Like Ambassador Walker, I want the truth because I believe the Salvadoran people deserve the truth. The whole truth.

There is no such thing as half justice. You either have justice or you don't. There is no such thing as half a democracy. You either have a democracy in which everyone—including the powerful—is subject to the law or you don't.

That's why I believe it is so important that the whole truth emerge in this case. Truth is not the enemy.

Without the truth, the armed forces will never be cleansed of its responsibility for this crime, and for shielding those involved in it. Without the truth, this government cannot lay claim to truly democratic institutions. Without the truth, the argument that those in opposition to the government should lay down their arms in undermined. Without the truth, the path towards peace in El Salvador will grow steeper still.

IV. PEACE

And I don't have to tell any of you how important it is to bring the civil war in El Salvador to an end.

Not long before he died, Father Ellacuria said that "the way of war has now given all it has to give; now, we must seek the way of peace."

As Father Ellacuria would have been the first to say, the way of peace is not easy, nor is it without risk.

But the way of war is murdering El Salvador. It is a war without victors, only victims. Seventy-five thousand dead. Thousands disappeared. A million forced to flee their homeland. A generation of children denied the innocence and the laughter of childhood. Thousands of young men and women who have lost an arm or a leg to explosives or gunfire.

Even the powerful, the Generals and the commanders, on both sides, are victims. For those responsible for this war must bear the burden in their souls of the killing they have caused, the destruction they have produced, the injustices that have been generated throughout this decade of war.

For ten years, we have heard what the leaders on both sides are against. We have listened to the words of hate, the demands for vengeance, the predictions of triumph. But it has never been important what each side is against; it only really matters what each side is for.

Now, during the negotiations, the burden has been on both the Government and the FMLN to define what they are for. Both sides deserve credit for the progress that has been made; both deserve blame for the senseless violence that has continued.

It breaks my heart, after all this time, to hear of yet more young people being disfigured or maimed or killed. It makes me sick to hear this violence justified as a bargaining tactic. And it makes me wish even more that Father Ellacuria were still here to share with us his wisdom and compassion.

It is not my job or the job of anyone from my country to define the appropriate terms for peace in El Salvador. That is solely the responsibility of Salvadorans, with help, as needed, from the United Nations.

But we in Congress do have a responsibility to see that the United States is a force for peace, not war, in El Salvador.

It is our job to help those on both sides who share the vision of an El Salvador that is democratic and just.

And so I say to the FMLN, if you want our understanding, negotiate in good faith; end your campaign of sabotage; no more assassinations; and bring to justice those who murdered the two Americans killed after the helicopter crash last January.

And I say to the armed forces, if you want our aid, do your part to end the violence; respect the rights of those with whom you disagree; negotiate in good faith; and bring to justice not just some, but all, who ordered or participated in the murders at this campus nineteen months ago.

V. CLOSING

I have been following events in El Salvador for about ten years. And I can't count the number of times I have been told not to expect very much from El Salvador. I have been told over and over again by people in my own government that violence is just part of the culture. Killing and corruption, I am told, have always been common in El Salvador.

Well, I love my country, but I think it's pretty arrogant for anyone from a nation with a $300 billion defense budget, $25 billion in arms sales, a huge military foreign aid program and the highest murder rate in the western world to criticize another society for its tendency towards violence. I don't say that Salvadorans are better than anyone else, but I have never seen a people that wanted or deserved peace more than the people of El Salvador.

You do not have to travel far from this beautiful campus to see whole urban neighborhoods constructed out of tin and cardboard, wedged into ravines where nothing grows except the appetites of young children.

You do not have to travel far to find babies being delivered and surgery being conducted using methods that have hardly changed in the last one hundred years.

You do not have to travel far to find farmers struggling to grow food for their families with no equipment except their own hands and no credit except their own empty pockets.

You do not have to travel far in El Salvador to understand why it is so important that the destruction end and the rebuilding begin.

And you do not have to travel far to understand why the lives of Father Ellacuria and his colleagues, far more than their deaths, were so important.

The Jesuit fathers taught us that peace is better than war for the simple reason that life is better than death.

They taught us to value the dignity and to respect the rights of every human being, no matter how humble.

They taught us that, although it has often been considered a crime in this country, it is never a crime to speak up for the poor, the helpless or the ill; it is never a crime to tell the truth; it is never a crime to demand justice; it is never a crime to teach people their rights; it is never a crime to struggle for a just peace. It is never a crime. It is always a duty.

So, in closing, I say let us pray that God will grant us the strength, with the memory of these martyred heroes always present in our minds, to fulfill this duty each and every day of our lives.

GARNISHMENT EQUALIZATION ACT OF 1991

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. JACOBS. Mr. Speaker, as an abstract proposition, those of us who are Federal employees ought not be bathed with immunity from the enforcement of judgments for the payment of debt, but we are.

That is bad enough in the abstract. The very notion that Uncle Sam cannot afford or is not willing to accept for himself the same legal responsibilities other employers in our country must meet, is offensive enough to the reasonable person.

But adding to that abstraction a real life tragedy that results from that immunity should motivate all of us to correct this Federal arrogance at our earliest opportunity by erasing the myth of sovereign immunity for individual debts of Federal employees.

Accordingly, I have sponsored legislation to do just that and I should hope that it could be passed in this Congress. The bill currently has 117 cosponsors.

Text of H.R. 643 follows:

H.R. 643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Garnishment Equalization Act of 1991".

SEC. 2. FEDERAL PAY TO BE TREATED IN SAME MANNER AS NON-FEDERAL PAY WITH RESPECT TO GARNISHMENT AND SIMILAR LEGAL PROCESS.

Notwithstanding any Federal law to the contrary, the pay of any person employed by the United States shall be subject to garnishment in the manner applicable to the pay of persons not employed by the United States.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "person employed by the United States" means (A) an elected officer of the United States and (B) a member of the civil service or of a uniformed service (as such terms are defined in section 2101 of title 5, United States Code); and

(2) the term "garnishment" means garnishment, execution, levy, attachment, and any similar legal process.

SEC. 4. EFFECTIVE DATE.

This Act shall apply to any garnishment order served after the date of the enactment of this Act.

The following testimony from Ms. Betty Moraes of Escondido, CA, is reason enough why this legislation needs to become the law of the land:

I am writing in pursuit of justice.

In 1979 I was violently assaulted by a drunken driver who is a career U.S. Navy enlisted man, a First Class Petty Officer. This man had a terrible prior and subsequent record of arrests and violent crashes for driving while intoxicated and other serious violations, including inflicting almost fatal injuries to others. I survived an impact of over 110 miles an hour when he crashed his truck head-on into my car; he destroyed 6 vehicles from 1974 to 1987 during his slaughtering rampages. Five and a half years later, in April of 1984, I won a civil suit in Federal Court after this man and his wife claimed joint bankruptcy (previously avoiding trial in Superior court for 3½ years). After a 2½-week trial, the jury ruled that the injuries I sustained during the crash were inflicted on me intentionally and maliciously. The jury found that his and his wife's debt to me were nondischargeable and awarded me a judgment in the amount of $333,000.00 including punitive damages.

To this date I've been unable to collect my judgment, other than the lowest insurance this repeat offender drunk driver had to carry by law, which, my attorneys kept, in great part because I am dictated by the Federal Government if, when and how I am allowed to exercise my legal rights to collect on my awarded judgment.

My assailant up to this day never showed the slightest remorse, only confirming the jury's verdict of his willful and malicious intent. Moreover, from the beginning, I was harassed, threatened, and verbally sexually offended. Also his spouse verbally and physically attacked me in the court's elevator. I was humiliated by them when they told me in court I could use the judgment for toilet paper, assured they had the government's support of immunity.

I have been unable to collect my judgment in great part because I am told by the government that federal salaries cannot be garnished for reasons other than child support and alimony, while my rights for restitution as a victim of a violent crime are oppressed because the offender is a federal employee. This is the case even though the court determined that the defendant was criminally negligent.

I have suffered greatly, not just from the violent crime which devastated my life and destroyed my livelihood, but also because of the failure of the judicial system to ensure that victims of federal employees are compensated appropriately. In my case, the Federal Government dictates to me when and how I am allowed to exercise my legal rights after justly being awarded a judgment.

I am impoverished as a result of my injuries. Having used up my life savings, I had to sell my home and most of my family heirlooms just to survive. I can no longer afford to retain attorneys to represent me after all these years when my attorneys' and my efforts and legal results were ignored by the government, which declined to accept prior court evidence of the debtors' income as I was also denied to file a claim in any court for garnishment of his salary. A federal government policy that expects federal employees found guilty of a crime to pay their financial obligations "in a proper and timely manner" is untrue and a misrepresentation of the facts. The government has not answered my questions pertaining to this policy, and I have been unable to obtain the statute which explains what constitutes the "proper and timely manner" pertaining to the government's policy, and who judges or will dictate when to make restitution to the victim.

At this time no attorney is willing to take this "collection" case on contingency for understandable reasons. The navy retired this individual at the age of 39 with full benefits, tuitions, etc. and refuses to give me his forwarding address where his checks are being mailed.

I strongly believe that my constitutional right to equal protection has been violated.

Passage of H.R. 643 will help ensure that this type of unfairness is not perpetuated.

A LETTER HOME

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. FROST. Mr. Speaker, the Persian Gulf war gave us new heroes, a renewed sense of patriotism, and love for our country. It has also reminded us of the supreme sacrifices that have been made throughout our Nation's history by the brave men and women who have answered the call to service.

A constituent of mine, Robert L. Layton, wrote a poem dedicated to those who serve. Entitled, "A Letter Home," it is a moving tribute, and I wanted to take this opportunity to share it with my colleagues.

A LETTER HOME

I was walking through the woods one day,
it was cloudy and the sky was gray.
I kicked a pile of leaves and found,
stationery all faded and brown.
it was a letter with no date or name,
but I started to read it just the same.
"My Dearest Family and Friends,
this war for me did finally end.

I've done my job as best I can,
doing my duty like a grown man.
I've been tired & hungry, sick & scared,
praying to wake up from this nightmare.
Seen many things too bad to tell,
things right out of a fiery Hell.
But I've seen love and kindness, too,
and devotion among comrades, true.

The day I was killed was like any other,
and it didn't hurt that much, dear Mother.
It's peaceful now, 'round the campfire here,
with my new friends of goodwill and cheer.
Most of them are kids just like me,
fighting and dying throughout history.
But we're not complaining if die we must,
protecting freedom is our sacred trust.

We razz each other about how we're dressed,
like those 3 cornered hats & home-spun vests.
A city boy in blue with lots to say,
to a farmer's son in butternut & gray.
The kid in leggings with mud from France,
spread all over his khaki pants.
A very young couple of G.I. Joe's,
one died on a beach, one in a hedgerow.

Close to the fire is a guy next to me,
from a frozen place called Hill 103.
Many uniforms and jungle green,
Soldiers, Sailors, Pilots and Marines.
And we newcomers in desert tan,
rapping with our brothers from Vietnam.
We're guys & gals and of all races, too,
a bullet doesn't care when it hits you.

Gotta get going to my new quarters,
doing what I was taught, following orders.
Sure wish I could be with you right now,
but we'll be together, someday, somehow.
Now you take care and don't be too blue,
just think of me, as I think of you."
The letter ended with the word "Love",
the name was hidden by a drop of blood.

I gently laid the letter down,
it turned to dust upon the ground.
Then I felt a soothing breeze,
and saw sunbeams through the trees.
I vowed never again to take for granted,
the seeds of freedom those kids had planted.
All filled with sorrow, but with pride, too,
for all Americans who died for me and you.

PUBLIC SERVICE SCHOLARSHIPS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. GILMAN. Mr. Speaker, last year Congress enacted legislation which I introduced allowing Federal agencies the flexibility to repay employee student loans and pay for employee educational expenses as part of the

Federal Government's continuing efforts to improve its recruiting and retention efforts. Today, I am introducing H.R. 2894, an administration initiative, which complements these past efforts by establishing a Federal scholarship program to allow agencies to pay for the costs of an employee's or recruit's education in return for a specified period of service.

At the beginning of the 101st Congress, the Committee on Post Office and Civil Service held a series of extensive hearings on the recommendations put forth by the President's Commission on the Public Service. The Commission was formed in 1987 to prepare recommendations to the President and Congress on what was viewed as the quiet crisis in the Federal Government. The Commission saw an erosion in the attractiveness of public service which seriously undermined the ability of government to respond effectively to the needs and aspirations of the American people. Among the Commission's findings was a recommendation that the Federal Government establish a scholarship program for current employees and recruits as a means of improving its efforts in recruiting and retaining highly qualified employees.

This legislation I am introducing today reflects the goals of the Commission by establishing a Public Service Scholarship Program to be administered by the Office of Personnel Management. Agencies can select candidates under the program to enter into a written agreement for the agency to provide up to a 4-year academic scholarship, leading to a bachelor's, master's, or doctor's degree at an accredited educational institution in return for 18 months of service for each academic year of scholarship assistance provided.

Candidates must obtain an acceptable academic standing with an accredited educational institution. Upon completion of the degree, the agency shall appoint such individual to full-time employment in the agency. Should an individual who entered into a scholarship agreement fail to complete the degree or fail to complete the specified period of service, he or she will repay to the agency the entire amount the agency has paid as scholarship assistance, unless the agency determines that such repayment would violate equity and good conscience or be against the public interest.

Amounts payable as a scholarship under this program will include tuition and fees, books and necessary expenses, appropriate living expenses, and any estimated tax liability for such scholarship. Agencies are authorized to make scholarship payments from the appropriation available to pay salaries and other expenses. In addition, appropriations are authorized to be made to the Office of Personnel Management to permit it to reimburse agencies for scholarship payments in order to encourage agencies to make use of this program.

Mr. Speaker, I commend the Office of Personnel Management for its efforts in developing this program. Such policies reflect farsighted leadership and are in step with attempts to constantly improve the Federal Government's efforts at recruiting and retaining the best and brightest employees. I hope all my colleagues will join me today in supporting this legislation.

I ask that the full text of the H.R. 2894 be printed in the RECORD at this point in addition to the section-by-section analysis.

H.R. 2894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Service Scholarship Act of 1991".

SEC. 2. (a) Part III of title 5, United States Code, is amended by adding after chapter 35 the following new chapter:

"CHAPTER 36—PUBLIC SERVICE SCHOLARSHIP PROGRAM

"Sec.
"3601. General; definitions.
"3602. Selection of candidates.
"3603. Scholarship agreements.
"3604. Scholarship payments.
"3606. Regulations; report.

§3601. General; definitions

"(a) The Office of Personnel Management shall establish a program under which agencies may award scholarships to outstanding students in return for a commitment by the students to accept employment with the agencies for a specified period of service.

"(b) For the purposes of this chapter—

"(1) 'agency' means an Executive agency; and

"(2) "Office' means the Office of Personnel Management.

§3602. Selection of candidates

"(a) The Office is authorized, without regard to title 41 or other statute requiring competitive bidding, to enter into a contract with one or more not-for-profit, non-government organizations to seek out and select candidates for the Public Service Scholarship Program in accordance with this section and the direction of the Office.

"(b)(1) Candidates for the Public Service Scholarship Program shall be selected on the basis of—

"(A) academic excellence and a commitment to public service or to a field of endeavor of use to the Government; and

"(B) geographic diversity from throughout the United States.

Candidates shall be selected without regard to race, color, religion, sex, national origin, marital status, age, disabling condition, or political party or affiliation.

"(2) A Federal employee may be selected as a candidate for the Public Service Scholarship Program.

"(c) A contract awarded by the Office under this section shall specify the efforts that shall be made by the contractor to ensure that applicants for the Public Service Scholarship Program are sought out from all of the diverse groups that comprise the Nation.

"(d) The Office and the Comptroller General shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of a contractor under this section that are pertinent to the contract.

"§3603. Scholarship agreements

"(a) An agency may select, from among the candidates identified under section 3602, an individual to receive a Public Service Scholarship from the agency.

"(b) The agency and the individual who is selected under subsection (a) shall enter into a written agreement which shall specify such matters as the Office and the agency may determine appropriate, and under which—

"(1) the agency shall provide a scholarship, as determined under section 3604, to the individual to assist the individual in pursuing a full-time course of study, for a period of not less than 1 nor more than 4 academic years, leading to a bachelor's, master's, or doctor's degree at an accredited educational institution that is authorized to grant such degree;

"(2) the individual shall pursue such course of study, maintaining an acceptable academic standing, until such degree is awarded, and shall provide to the agency such certification from the educational institution as the agency may require of the individual's attendance and academic standing during such period of study;

"(3) the agency shall appoint such individual, upon receipt of such degree, to full-time employment in the agency in a position—

"(A) in the excepted service, if the individual has not previously acquired competitive status, and, upon successful completion of 2 years of employment by the individual and the satisfaction of such requirements as the Office may prescribe, shall appoint the individual to a position in the competitive service, notwithstanding subchapter I of chapter 33; or

"(B) in the competitive service, if the individual has previously acquired competitive status; and

"(4) the individual shall serve as an employee of the agency for 18 months for each academic year of study during which scholarship assistance was provided.

"(c)(1) An individual who has entered into an agreement with an agency under this section and who—

"(A) fails to complete the specified degree in the specified field of study at the specified academic institution in the specified period of time; or

"(B) fails to complete the specified period of service as an employee,

shall repay to the agency the entire amount the agency has paid as scholarship assistance to or on behalf of the individual under the agreement, unless the agency determines that some or all of such repayment should be forgiven because requiring repayment would violate equity and good conscience or be against the public interest.

"(2) An amount subject to repayment under this subsection shall be recoverable from the individual or individual's estate by—

"(A) set off against accrued pay, compensation amount of retirement credit, or other amount due the individual as an employee of the Government; and

"(B) such other method as is provided by law for the recovery of amounts owing to the Government.

"(d)(1) An agency and an individual who have entered into an agreement under this section may, by mutual agreement, modify or terminate the agreement at any time.

"(2) An agency may unilaterally terminate an agreement under this section at any time, in which case the individual shall have no further obligation to the agency.

"(3) An agency may agree to allow the individual to complete part or all of the period of service required under subsection (b)(4) as an employee of another agency, subject to any agreement between the two agencies on reimbursement for the cost of the scholarship assistance.

"§3604. Scholarship payments

"(a) The Office shall determine the amount that may be paid as a scholarship under this chapter, on the basis of average costs at public and private educational institutions, covering tuition and fees, books and necessary expenses, appropriate living expenses, and any estimated tax liability for such scholarship. The amount may vary by level of degree being sought. The Office may revise the maximum amount from time to time, as the Office determines appropriate.

"(b)(1) Agencies are authorized to make scholarship payments from the appropriation, fund, or account that is available to pay salaries of employees of the activity where the recipient of the scholarship assistance is expected to be employed.

"(2) Appropriations are authorized to be made to the Office to permit the Office to reimburse agencies for scholarship payments under this chapter, or for portions of such payments, in order to encourage agencies to make use of the Public Service Scholarship Program established under this chapter.

"§ 3605. Regulations; report

"(a) The Office may prescribe regulations and criteria that it determines necessary for the administration of this chapter.

"(b) The Office shall prepare and submit to Congress each year a report on the operation of the Public Service Scholarship Program established under this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 35 the following new item:

"36. Public service scholarship program .... 3601".

SEC. 3. The amendments made by this Act are effective on the date of enactment.

SECTION-BY-SECTION ANALYSIS

The first section titles the bill as the "Public Service Scholarship Act of 1991."

Section 2(a) amends title 5, United States Code, by adding a new chapter 36, "Public Service Scholarship Program."

The first section of chapter 36 requires the Office of Personnel Management (OPM) to establish a program under which agencies would be authorized to award scholarships to outstanding students who agree to work for the agencies for specified periods of service. It also provides definitions of "agency" and "Office" for use under chapter 36.

The second section of chapter 36 governs the selection of candidates for the program. Subsection (a) authorizes OPM to contract noncompetitively for the recruitment and selection of candidates for the program. Subsection (b) specifies that candidates must be selected on the basis of academic excellence, a commitment to public service or to a field of use to the Government, and geographic diversity from throughout the United States, but without regard to race, color, religion, sex, national origin, marital status, age, disabling condition, or political party or affiliation. It also authorizes the selection of a Federal employee as a candidate. Subsection (c) requires the contract to specify the efforts the contractor must make to ensure that applicants are sought from all of the diverse groups in the Nation. Subsection (d) grants OPM and the Comptroller General access to pertinent books, documents, papers and records of a contractor under this section, for the purpose of audit and examination.

The third section of chapter 36 describes the scholarship agreements, that must be entered into between agencies and individuals who are selected under the program. Subsection (a) authorizes an agency to select from the candidates identified under the previous section, an individual to receive a scholarship from the agency under this program. Subsection (b) outlines the major provisions to be incorporated into the written agreement, under which the individual must be full-time student pursuing a bachelor's, master's, or a doctors degree at an accredited institution for at least 1 and not more than 4 years, maintaining an acceptable academic standing until the degree is awarded, and under which the agency must appoint the individual, upon receipt of the degree, to full-time employment in the agency, either in the competitive service, if the individual has competitive status, or in the excepted service, if the individual lacks such status, with subsequent noncompetitive appointment to the competitive service following successful completion of 2 years of employment and satisfaction such other requirements as OPM may prescribe. It also requires the individual to complete 18 months of service with the agency for each year of scholarship provided. Subsection (c) specifies that an individual who has entered into an agreement and who either fails to meet the academic requirements under the agreement or fails to complete the required period of employment must repay the entire amount of scholarship assistance provided unless the agency forgives some or all of the debt because requiring repayment would be contrary to equity and good conscience or the interests of the Government. Subsection (d) authorizes modification or termination of an agreement by mutual consent of the agency and the individual. It also authorizes unilateral termination of an agreement by an agency, with such termination, relieving the individual of any further obligation. In addition, the subsection permits an agency to allow the individual to complete some or all of the required service with another agency, subject to any agreement between the agencies regarding reimbursement for the scholarship assistance provided.

The fourth section of chapter 36 describes the scholarship payments to be made under the program. Subsection (a) requires OPM to determine the amount to be paid based on the average costs at public and private schools, including tuition and fees, books and necessary expenses, and appropriate living expenses, and taking into account any estimated tax liability for such scholarship. The amount may be fixed at different levels for different levels of degrees sought, and OMP may revise the maximum amount payable from time to time. Subsection (b) authorizes scholarship payments to be made from the money available for salaries and expenses by employed. Subsection (c) authorizes appropriations to OPM for reimbursement of agency payments to encourage use of the program.

The fifth section of chapter 36 authorizes OPM to prescribe regulations and criteria it determines necessary to administer the chapter, and requires OMP to report annualy to Congress on the operation of the program.

Section 2(b) makes a conforming amendment.

Section 34 provides that the amendments made by the Act are effective on the date of enactment.

SEMPER FIDELIS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. HYDE. Mr. Speaker, as the saga of Iran-Contra goes on and on, and as Judge Walsh, the independent counsel, gears up for further action, an article by Washington attorney, Irving Jaffe, is very instructive in providing some historical context to these events.

The article follows:

SEMPER FIDELIS * * *

(By Mr. Irving Jaffe)

The year was 1963; the scene, a resplendent hearing room in the nation's capital. Appearing before a Committee of Congress, a former Cabinet officer and Secretary of Defense knowingly, and with specific intent to avoid disclosure, gave wholly misleading testimony before a co-equal branch of Government. This characterization, I hasten to add, is not mine but, rather, the rueful admission of a then serving colleague.

The Question: "Are you aware of any agreement, any assurance, by yourself or anyone else in high government office, to Khrushchev that if he would withdraw at the time under the conditions that you showed us, the United States would thereby commit itself to any particular course of action?"

The Answer: "I am not only unaware of any agreement, it is inconceivable to me that our President would enter into a discussion of any such agreement. Moreover, there were absolutely no undisclosed agreements associated with the withdrawal of the Soviet missiles from Cuba. . . . " (Hearings, Subcommittee of the Committee on Appropriations, Eighty-Eighth Congress, First Session, pp. 30–31.)

Such testimony was not lightly given; it was considered and deliberate. It had its origins some months earlier when the whole world watched with some fascination, and no little concern, the unfolding nuclear confrontation over the presence of Soviet missile bases in Cuba—a drama which would cause all who were riveted to their portable radios to suspend their daily affairs until the Secretary of State was heard to remark that the other fellow just blinked.

For what was then held to be good and sufficient reason, the President, supported by his senior Cabinet officers, decided to secretly inform and assure Khrushchev that he, the President, was determined to remove Jupiter missiles from their bases in Turkey and would promptly do so once the Cuban crisis was resolved. Concerned at this implicit betrayal of our Turkish friends and ally and the certain chorus of Republican criticism over any "deals" with the then current "devil", all in the room (the Oval Office) on that fateful Saturday (October 27, 1962) "agreed without hesitation that no one not in the room was to be informed of this additional message (to Khrushchev)."

Among those who made this pledge were the Secretaries of State and Defense, their principal deputies, the Attorney-General, a former American Ambassador to Russia, the President's principal aide, and his Special Assistant for National Security Affairs. Some nine in all: Dean Rusk, Robert McNamara, Robert Kennedy, George Ball, Rosewell Gilpatric, Llewellyn Thompson, Theodore Sorensen, McGeorge Bundy, and the then President, John F. Kennedy—a galaxy of public officials seldom equalled for collective intelligence and wit.

We are indebted for this dramatic account to the first Assistant to the President for National Security Affairs to hold that office, McGeorge Bundy, in his excellent memoir "Danger and Survival" (Random House, 1988, pp. 391–462).

Caught in this vortex of conflicting obligations, the then Secretary of Defense felt compelled to give a wholly misleading assurance to a properly constituted Committee of the Congress; others, with reason, might choose a harsher characterization after reading the full transcript. Clear in mind and bold in execution, Mr. Bundy and his colleagues thought this secret assurance and "collateral deception" entirely justified. "So we thought that Saturday evening, and so we think today." All who witnessed those anxious days—the stark danger, the secret negotiations, the partisan clamorings, and then, the peaceful denouement—would be hard-pressed to disagree.

And yet, secrecy and deception, however sternly justified, have their costs, as Mr. Bundy freely admits: "By keeping to ourselves the assurance on the Jupiters, we misled our colleagues, our countrymen, our successors, and our allies."

One such cost of necessitous executive secrecy, of contemporary and compelling interest, is the continuing misfortune which has befallen a successor in office to Mr. Bundy, Admiral John F. Poindexter and his then aide, Lt. Colonel Oliver L. North who, some five years after their ordeal commenced, still find themselves adrift among the interstices of our vaunted criminal justice system. And yet, despite the passage of years, the gods are still not sated. It now appears that others will soon join them. The rack-and-screw of a more tormented age has now found its modern embodiment. It is called the "plea bargain", in which five years of relentless and not so subtle pressure (the threat of a felony indictment) has been "bargained" down to a mere disabling charge—a misdemeanor—as the quid pro quo for naming names, incriminating others or, more simply stated, squealing on one's friends, colleagues, and the associates of a lifetime. This is considered a more humane methodology to pursue by those in charge than the grosser, but somewhat quicker, ways of our forebears.

Alan D. Fiers, Jr., a long-serving and distinguished CIA officer, has now pled guilty to two counts of withholding information from Congress. In turn, he is expected to name his superiors, and possibly other intragovernment colleagues, with whom he shared the knowledge he gained in the course of performing his everyday duties. Since the Independent Prosecutor has only been able to produce fairly meager results for his complex five-year effort, it is understandable that, if one listens closely, one can discern the quiet tinkling of champagne glasses being hoisted in anticipation of a rich and satisfying harvest, to wit: the ensnarement of an additional number of dedicated and loyal civilian aides.

Are there differences of substance to distinguish these two events, equally traumatic to a nation in thrall at the time they occurred? Of course. To any fair-minded observer, however, the differences that do appear are chiefly of related fact, but hardly of policy in-the-making or, indeed, principle in application. Both transactions, in concept and in execution, were based on what seemed at the time a compelling Presidential assessment, a felt necessity, a valid national purpose, and each, in turn, gave rise to tortured responses by the responsible actors at the time. Purists will doubtless disagree.

One major difference, of course, unseemly though it may be, is that the administration now in office is Republican, while the principal Congressional criticism, now as then ostensibly bipartisan, is led by Democrats. In President Kennedy's Administration, the partisan attack was led by leading Republicans: Senators Keating, Capehart, and Goldwater.

The purists would argue, as did Rep. Hamilton (D., Ind.) at the time, that our system cannot work if complete trust does not exist between the Executive and Legislative branches—a standard devoutly to be wished for and beyond partisan reproach. But the inescapable fact, more so today than in the day of our founders, is that 535 members of Congress cannot responsibly make or execute foreign policy. And yet, many are more than eager to try—to the consternation of our friends and the delight of those who do not wish us well.

Must we then resign ourselves, ever-more helpless in a turbulent world, to an all-knowing and all-powerful Executive—the despised "Imperial Presidency"? The short answer, at least, is that at times and in places we may have no other practical choice. Hard cases make bad law, as Mr. Justice Holmes once observed. While we can all hope for a more mature relationship with appropriate committees of Congress, and a public discourse based on reasoned dialogue ratgher than mindless recrimination, we can be certain that suber choices will again have to be made in the future as they have in the past—without public disclosure and, yes, with "plausible deniability" if required. Lockerbie, Rabat, and Baghdad, as we have recently seen, are not philosophical abstractions.

If not quite perfection, then, neither does such recognition present so unbearable or dangerous a risk. For over 200 years the Republic has survived recurrent disputes over executive powers without invoking the spectre of prison for dedicated and loyal officers. To argue, as some do, that the Nuremberg defense is no defense, is to equate the bestial conduct of a nation gone mad with an effort to free American citizens held hostage. Misguided, perhaps; bestial, by no stretch of an over-wrought imagination. To take refuge in such moral equivalency is to suspend all critical judgment and the evidence of a thousand eyes. No war crimes were committed; no crimes against humanity were authorized. Our citizens, we need be reminded, still fester in their cells. Important issues concerning the limits of executive power remain to be debated and will likely occupy the national agenda for some time to come. Nothing can be resolved, however, by the continued prosecution, if not persecution, of two military officers who, unwisely perhaps, attempted to serve their country too well.

Some would raise the banner of an undiscriminating accountability to justify the current witch hunt. He did it (or, at least, he knew about it), therefore he must pay, and pay criminally! In various guises, this is the basic rationale for the five year (and counting) hunt for presumed culprits.

However, when one attempts to think through the implications of such rough and simple justice, less certainty appears. Consider: the glue which holds and binds a military organization is that of a known and certain discipline, refined and revised over years of sharp testing. Its fundamental tenet rests upon obedience to orders, whether in matters of dress, formation, or procedure, in order to meet its ultimate test—in battle. This is so for the start yet simple reason that one's life may well depend on the prompt and unquestioning obedience to orders. While we may hope, and plan, and train so as to assure that all orders will be rationally issued, the premise and requirement remains the same: Yes, sir, immediately, if not sooner!

Such a stern and unyielding concept is implicitly resisted by the sophisticates amongst us who find such thoughts intellectually barren and, indeed, a bit primitive. And, while at times, this practice may also have its comic aspects, let no one doubt its organic and inviolate nature; it is simply fundamental, if one is to weld a fighting force and not just field a mob.

A recent test of this doctrine comes to mind in considering the plight of Messrs. Poindexter and North. In the just concluded Gulf War, we have at hand the means to apply the practical logic of the so-called lessons of Nuremberg, as some so fervently urge. It has been widely reported that President Bush was reluctant to seek and obtain Congressional authorization for resort to force. An adverse vote would have been devastating to his policy; a favorable vote a useful, perhaps, but undesirable encroachment on his executive authority. Indeed, it has been reported that he was prepared to act without Congressional sanction.

Had he done so, what then? Would General Schwarzkopf have carried out the instructions of his commander-in-chief to start the bombing campaign and the following ground war? Or should his reply have been: Yes, sir—but first, sir, you will understand, sir, that I must consult my attorney (which person, conceivably, he may have forgotten to bring along, however excellent the planning may otherwise have been). After all, how else could a mere general (let alone a lieutenant colonel) be certain that his superior was cloaked with the proper authority? A new Independent Counsel awaits in the wings to instruct on correct procedure should the general be so lacking in circumspection as to follow his orders.

Is this truly the result to be wished for—the number of attorneys to be determined and assigned in accordance with say, rank? If so, a plethora of unmined riches awaits the bar and gives splendid and renewed vitality to the current pursuit of "billable hours."

Is the real error in judgment, then, made by Admiral Poindexter and Colonel North that of not having a battery of attorneys on retainer to interpret the less-than crystal clear instructions of the Congress (the Boland Amendment), or the ultimate constitutional authority of a president? And now, by extenso, the error also of poor Mr. Fiers? If so, America is in far greater and unchartered difficulty than any of us has yet imagined.

Given our founding concern with excessive presidential powers, now juxtaposed against unending evil events, it is unsurprising that an answer satisfactory to all yet eludes us. Must the constitutional balance then remain at risk, and the people defenseless, while the debate continues? Not entirely. Measured by results, if not by an exact participatory democracy, we can all take comfort that the first Tuesday in November occurs with some regularity—every four years. In the privacy of the voting booth, we can each weigh how well the Republic has fared, render our verdict on the presidential stewardship, and direct change accordingly. The aberration which occurred, and the accountability which is needed, is Presidential, not that of a distraught staff caught in the cruel vise of conflicting loyalties.

Yes, President Reagan is now retired and beyond partisan reach; his accountability must remain to history—a history that is, it is important to note, still unfolding. But, to continue to vent the nation's spleen on two military aides (and now their civilian counterparts, as well) who remained faithful to their calling as they say their duty, smacks more of ancient tribal feuds than that of a great and magnanimous nation. And yet, today, the Supreme Court in having let stand the overturn of Colonel North's conviction by the Court of Appeals raises anew the appalling spectacle of still another "trial" ("witness-by-witness" and "line-by-line") to determine the possibility of tainted evidence having permeated both the original grand jury investigation and the subsequent trial. The remaining charges at issue are two: obstructing Congress and acceptance of an illegal gratuity—the famed security fence, at home, to help ward off the attentions of Abu Nidal and his like-minded colleagues. (The third charge, destruction of documents, was reversed on appeal and not further pursued by the Independent Counsel.) To the parties concerned this is no small matter. We have Judge Walsh's word that the required evidentiary hearing, which he is determined to pursue, could well exceed the original trial in length and complexity.

And so the stage is set for a new constitutional challenge of indeterminate length and expense, and of uncertain end. Not only will the prohibition against self-incrimination be exhaustively re-examined, but we can already hear the early musings of defense counsel as to when the equal prohibition against cruel and unusual punishment begins to apply. The taxpayer's purse, if not quite the defendant's, is seemingly bottomless.

In recent days, New York and Washington vied with one another to stage the "mother" of all parades. President Bush proclaimed July 4 as a day of rejoicing and remembrance and, indeed, of healing and commonality. Can not a wise polity, as distinguished from a vindictive one, summon the wit and wisdom to close this polarizing chapter as well? Two avenues offer: Congress can instruct Judge Walsh to terminate his long and exemplary pursuit and submit his final report for legislative review and corrective action, as the Congress finds necessary. Alternatively, the President can dip into his now ample political bank account and pardon these officers in simple recognition that Semper Fidelis has long served this nation well. Upon reflection, a grateful nation will applaud the wise re-affirmance of this bond with its military.

Largeness of spirit, and not demeaning cruelty, has time and again been the distinguishing characteristic of this nation. And, while political courage has, admittedly, never been in plentiful supply, at a time of national rejoicing what better occasion for its exercise? Thirty-seven million dollars and five years later, both partisans and purists of every hue can surely and conscientiously agree that enough is truly enough.

CONSTITUTIONAL QUESTIONS IN MEXICO CLOUD FTA NEGOTIATIONS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. PEASE. Mr. Speaker, I call the attention of my colleagues to the following article from Mexico that appeared in the July 4 edition of El Financiero. It reports on a recent heated session in the lower House of the Mexican Congress, the Chamber of Deputies, in which members of the conservative National Action Party [PAN] raised profound questions about whether Mexican President Salinas has the constitutional authority and power to negotiate, let alone consummate, the NAFTA and other international trade agreements without receiving express formal approval from the Mexican Congress.

As you know, it is the Mexican Chamber of Deputies that is decidedly the most pluralistic institution within the Mexican Government. Like the U.S. House of Representatives in America, it is the most representative body of the diverse views of the Mexican people on the issues of the day. When constitutional doubts are voiced there about the manner in which Mexican President Salinas is rushing to complete a NAFTA, it should give pause to all Americans who believe that a cornerstone of democratic governance is the right of people affected by decisions to have a voice in making those decisions.

The article, as translated from Spanish to English by the Congressional Research Service, follows:

SCENARIOS: THE EXECUTIVE AND THE FTA; THE POWER OF CONGRESS; PAN QUESTIONING

(By Francisco Gomez Maza)

The National Action Party (PAN) brought up for discussion in the Chamber [of Deputies] the power and authority of the Executive Branch to increase, decrease, or eliminate the import and export tariff quotas included in the Free Trade Agreement with the U.S. and Canada.

In quite a heated session this past Tuesday, PAN said that, since everything related to increasing, decreasing or eliminating the export and import tariff quotas is the very essence of a free trade agreement, the Executive should expressly receive from the Congress of the Union the authority to be able to legally negotiate international trade agreements such as the ones being negotiated with the U.S., Canada and Chile.

If the Executive negotiates free trade agreements that involve tariff modifications and if he does not have express powers granted by the Congress of the Union, those negotiations will be carried out by the Executive outside of the Constitution and therefore they will be arbitrary and illegal—both the negotiations themselves and the acts coming from them, in the opinion of the legislators of the PAN opposition.

PAN is basing its argument on section 29 of Article 73 of the Constitution, which states that the establishing of taxes on foreign trade is a power of the Congress of the Union. In addition, the second paragraph of Article 131 of the Constitution determines that the goal being pursued with the exercise of that power is "to regulate foreign trade, the economy of the country, the stability of national production, or to realize any other goal to the benefit of the country."

On the basis of the above, according to the PAN deputies, in order for the Executive to be able to enter into legally valid negotiations, aimed at executing international trade agreements that involve modifications in tariffs, he must:

1. Ask the Congress for expressed powers in order to negotiate international trade agreements, specifying the breadth and scope of the negotiations proposed and their effects on the foreign trade tariffs in force.

2. In his request, the Executive should clearly specify to the Congress what the agenda for the negotiations is, the sectors and regions that would be affected, positively or negatively, with those negotiations; the objectives sought; the steps that will be taken in defense of employment in the cases in which it would be negatively affected as a result of the execution of the international trade treaty or treaties.

3. Consult constantly with the Congress during the negotiations in order to inform it on the progress on them in general and, in particular, to inform it on the use being made of the powers received. This should be done by the Executive without detriment to the obligation in Article 131 of the Constitution, second paragraph, imposed on him to submit for the approval of the Congress, in sending the fiscal budget for each year, the use that he may have made of the power granted.

According to PAN, so that a free trade agreement executed between our country and other nations will have the full effect, it must be implemented. In the case of Mexico, the implementation of an international trade agreement, assuming that its execution is legal, requires the clauses of the treaty not to be in conflict with or to violate legal provisions in effect. In order to safeguard the legality of the juridical system of the Nation in view of the implementation of a free trade agreement, it is necessary a priori and not a posteriori to carry out a careful analysis of all the legal provisions, beginning with the constitutional ones, that may be affected by the clauses of the treaty negotiated.

This legislative work, PAN says, by its very nature, is the responsibility of the Congress and it will not be able to carry it out if it does not know clearly and on a timely basis what the clauses are of the international trade agreement that are to be executed and implemented. If the Executive, in fact, should fail to recognize the competence of the Congress in these areas he would do so in clear and open violation of Article 49 of the Constitution.

In view of this situation, according to PAN, the complexity and risks involved in the broad and permanent incorporation of the country into international trade makes it indispensable to have sufficient regulations on Foreign Trade which determine and spell out:

1. What the power of the Congress is in the negotiation and execution of foreign trade agreements.

2. The objectives that the country should achieve in foreign trade, eliminating all discretionary authority in its establishment and follow-up.

3. The forms and times at which the negotiations, implementation and oversight of the international trade treaties which the country executes should be carried out.

4. The measures that the country should take to defend sufficiently its economic and commercial interests in the dealings with its trade partners and

5. The steps that should be taken to protect the companies, workers, and peasants that find themselves affected by the execution of international trade treaties.

PAN concludes that the Congress must face the historic demands that the current times present to it with a full patriotic sense and participate responsibly and appropriately in compliance with the mandate that the National has granted it and for which it will hold it responsible, since in the negotiation and possible execution of a free trade agreement with the U.S. and Canada the future of Mexico is at stake. And in order to analyze this question, the PAN deputies demanded the holding of an extraordinary period of sessions of the Chamber of Deputies.

UNITED STATES-BULGARIAN AND UNITED STATES-MONGOLIAN TRADE AGREEMENTS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. GEPHARDT. Mr. Speaker, just before the July 4 recess, Minority Leader BOB MICHEL and I introduced legislation to extend most-favored nation status to the Republic of Bulgaria and the Mongolian People's Republic. This legislation was introduced pursuant to the Trade Act of 1974, following the negotiation of new trade agreements with these two countries by the administration.

Under each agreement, "most-favored-nation" status, including the lowest applicable tariffs, would be accorded these nations, thus encouraging an increase in trade between our countries. Enhanced trade through free and fair trade agreements such as these merits all of our support. Through such market opening agreements we increase economic opportunity for American consumers, workers and businesses alike.

Both the United States-Bulgarian and United States-Mongolian treaties address several basic yet important concerns that have been voiced. Each nation will respect and enforce rights to patents, copyrights and national proprietary information. Other provisions add substance to these treaties by easing business operations through basic but necessary arrangements allowing direct hiring of employees, advertising, repatriation of hard currency, et cetera.

Additionally, in both Bulgaria and Mongolia, approval of commercial representatives of the United States will be handled through a simple registration process, and each participating nation has also agreed not to mandate the use of barter or countertrade in commercial transactions.

Finally, as the West and East become increasingly integrated, both treaties establish a framework for operating official tourism promotion offices as we develop stronger bilateral links between the United States and these two States.

Mr. Speaker, as our interdependent, global economy evolves, the United States must lead the way toward free and fair trade practices. These bills to approve the trade agreements with Bulgaria and Mongolia are a small but meaningful step in our quest for a truly global economy.

A RESOLUTION OPPOSING THE USE OF FORCE IN YUGOSLAVIA

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. SANGMEISTER. Mr. Speaker, along with a number of my colleagues from both sides of the aisle, I will soon introduce a resolution opposing the use of force in Yugoslavia and supporting the peaceful and democratic resolution of political differences in that country. With the increased willingness by the Yugoslav Central Government to use military force against Slovenia and Croatia in the past few weeks, I believe this is a particularly timely resolution and deserves immediate consideration. The resolution urges the United States policy toward Yugoslavia to be based on support for democracy, peaceful resolution of disputes, respect for human rights, establishment of a market economy, and the peaceful pursuit of the national aspirations of the peoples of Yugoslavia.

Mr. Chairman, can the United States do any less for the people of Yugoslavia? These are people that have suffered under a Communist, authoritarian government, ruled from Belgrade, for over four decades and is currently dominated by the Yugoslav military.

Yugoslavia consists of nations that do not even want to remain in the union, such as Croatia and Slovenia. In 1990, these two nations held free, open, multiparty elections resulting in parliamentary governments. On June 25 of this year, the Democratic Republics of Croatia and Slovenia declared their independence. Since that day, the Yugoslav Government has deployed troops and tanks to Slovenia, Croatia, and Kosovo which has led to conflicts resulting in numerous deaths and extensive property damage.

In 1989, the world witnessed the dramatic movement toward democracy and away from communism in Eastern Europe and the Soviet Union. The United States and Western Europe, rather than remaining silent, actively encouraged and promoted the ideals of freedom and democracy to the people of this region. Should the United States remain silent on the question of freedom and democracy in Yugoslavia? I say no. I say the United States should speak loudly and clearly so the Yugoslav Government unequivocally understands our position.

Mr. Chairman, some would argue that we should not say or do anything because this would upset the stability of the region. Where have these people been for the last 2 years? Real stability is constructed on the firm foundation of democracy and human rights. A person crushed under the rock of authoritarianism might be described as existing in a stable condition. Of course, this type of stability the world can do without.

I applaud President Bush and the European Community for recently invoking an arms embargo against the Yugoslav Government. I call upon the President and the State Department to continue to convey to the Yugoslav Government that their behavior is totally unacceptable.

Finally, I ask my colleagues to join me in the struggle for freedom and democracy in Yugoslavia by cosponsoring the resolution that will be introduced in the coming days.

SANDINISTA VIOLENCE IN NICARAGUA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. FIELDS. Mr. Speaker, I rise today to express solidarity with legislators in the Nicaraguan Assembly, and outrage at the recent violence in that country.

In the months between the election of Violeta Chamorro as President, and the time she took office, the Sandinista government gave away tens or even hundreds of millions of dollars in Government assets to their supporters. Houses, cars, computers, beachfront property, livestock, tractors, boats, and assorted other booty were handed out. The grandest prize went to former President Daniel Ortega. He gained a two-square-block complex that was confiscated from a bank executive. This is now surrounded by a solid concrete wall, and has guard towers to protect it. This giveaway is commonly referred to as "La Pinata," after the colorful paper animals that, when broken at childrens parties, shower the children with toys and gifts. Nobody, even the Sandinistas, deny that this giveaway occurred.

There is current debate in the Nicaraguan Assembly about a bill that would repeal the laws that were passed in the waning days of Sandinista rule that granted the legal rubberstamp to this preposterous giveaway. The Sandinistas, reacting to this proposal in the only manner they seem to know, have disrupted the democratic process and reacted with violence. The Sandinista legislators walked out of the National Assembly, ending the opportunity for real, democratic debate of the issue. In addition, Sandinista sympathizers took over at least six city halls and three radio stations. Several bombs exploded at the homes and offices of anti-Sandinista politicians. And Mr. Ortega threatened war if measures are passed to return his mansion to its previous owner.

Mr. Speaker, this only proves to me that the Sandinistas should not be trusted to play an active role in the Government of Nicaragua. They will not retire peaceably now that the people of Nicaragua have spoken, and said that they do not want to be ruled by the Sandinistas.

To my National Assembly counterparts in Nicaragua, I say be strong. Believe in democracy, and do not back down. You stand for what is right, you represent the will of the people and the hope for a secure, prosperous, and peaceful future for Nicaragua.

PROLIFERATION PROFITEERS: PART 20

HON. FORTNEY (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. STARK. Mr. Speaker, in recent weeks, the media has been full of news reports on Iraq's nuclear weapons program. There is no longer any doubt whatsoever that Baghdad had a program, in fact several programs, to enrich uranium. The International Atomic Energy Agency [IAEA] estimates that within 2 years, these programs would have been capable of enriching enough uranium to build nuclear weapons.

How could we have let this happen? How did we allow Saddam Hussein to come this close to having nuclear weapons? Immediate steps are called for. In my series on "proliferation profiteers," I have focused on one of the aspects of this problem—the Western companies which have sold nuclear technology to countries like Iraq. Today, I wish to include in the CONGRESSIONAL RECORD a summary of various foreign firms that helped fuel Iraq's nuclear weapons ambitions.

I have introduced legislation to help address this issue. My Nuclear Non-Proliferation Enforcement Act (H.R. 830) would put import sanctions on any foreign company which traffics in nuclear weapons technology without the proper safeguards.

Another aspect of this issue is the IAEA, the agency responsible for ensuring that peaceful nuclear facilities are not redirected towards military purposes. The IAEA has done well to fulfill it's limited mandate. But for the agency to truly inspire confidence in its safeguards, its role must be expanded. The IAEA must be able to perform random and unannounced inspects of any nuclear facilities, declared or undeclared, in any country in the world which has signed the Non-Proliferation Treaty. Only when these and other steps are taken will we have any real assurances that clandestine nuclear weapons programs are not taking place in the Iraqs of this world.

FOREIGN FIRMS REPORTED IN ILLICIT NUCLEAR TRADE WITH IRAQ

Numerous foreign firms are involved in the illicit export of nuclear technology to proliferant countries such as Iraq. Some of these companies are profiled in a series of case studies produced by the Emerging Nuclear Suppliers & Nonproliferation Project of the Monterey Institute. A sample of several firms supplying Iraq, the allegations against them, and their significant U.S. trade relations is extracted from those studies and is listed below. Several of the firms represented are German, but other European and Latin American concerns are represented as well.

One of the most notorious German firms engaged in illicit nuclear trade is H & H Metalform GmbH, a machine tool manufacturer. H & H Metalform allegedly delivered specialized machinery to Iraq for the production of enriched uranium—a critical nuclear weapons-related material—and reportedly agreed to establish an entire plant in that country. The transfer of sensitive enrichment design information to Iraq may also have occurred through former employees of Germany's MAN Technologie GmbH, a major supplier of such technology. Two Swiss firms, Schaeublin SA and Schmiedemeccanica SA, are also accused of supplying Iraq with uranium enrichment components and manufacturing tools.

Another German trading firm, Export-Union GmbH, with annual sales around DM 70 million, filled a 1990 Iraqi order for 54 tons of special steel suitable for nuclear weapons-related applications while training Iraqi specialists in how to process the material. The steel was originally produced by the German firm Saarstahl. German investigations of both firms continue.

Several German enterprises were implicated in Iraq's Sa'ad 16 weapons development complex where nuclear and missile-related research is believed to have occurred. The general construction contractor, Gildemeister Projekta GmbH, was in fact a German firm now facing criminal proceedings. Germany's largest aerospace concern, Messerschmitt-Boelkow-Blohm GmbH (MBB) also participated in the development of that center along with Transtechnica, an MBB subsidiary.

One non-German firm allegedly involved with Sa'ad 16 is Matrix-Churchill, a British machine tool manufacturer. Once controlled by an Iraqi-front company, Matrix-Churchill is accused of supplying equipment and training for the Iraqi complex as well as machinery used to manufacture uranium enrichment components.

In Latin America, personnel of the Brazilian Aeronautics Company (Embraer), Brazil's state-owned aircraft manufacturing concern, are alleged by the "strong evidence" of a congressional report to have exchanged information with Iraqi weapons experts. Embraer has strong connections to Brazil's Aerospace and Technology Center (CTA) which has worked to enrich weapons grade uranium.

U.S. Trade Relations: Some of the questionable activity of the firms listed above involved U.S. firms. For example, Gildemeister Projekta placed an order in 1986 with two U.S. companies, Electronics Associates of New Jersey and Gould of Fort Lauderdale, who unwittingly supplied the Sa'ad 16 complex with a sophisticated computer. Germany's MBB allegedly acquired electronic measuring instruments from the U.S. firm, Wiltron, Inc., and then resold them to Iraq while Matrix-Churchill's procurements were partially financed through the U.S. branch of the Italian Banca Nazionale Del Lavoro.

Besides the controversial attempt to purchase a U.S.-manufactured supercomputer (which could be used for nuclear weapons research), Brazil's Embraer signed a $700 million purchase option in 1990 to sell its aircraft to Westair Holding Inc. and United Express. MBB also has major U.S. trade relations. For example, it agreed in 1987 to pursue communication satellite contracts in conjunction with France's Aerospatiale and General Electric of the United States.

CAPTIVE NATIONS WEEK

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MOAKLEY. Mr. Speaker, this past year has been an expectant one for the people of the Baltic States. Many times in this past year we have taken the time to reiterate our desire to see the Baltics free and independent. This week, the 33d Captive Nations Week, in which when we contemplate and commemorate the struggle for self-determination around the world, affords us yet another opportunity.

There is no doubt that the Soviet Union, just as those nations considered as captive, wishes to join the family of nations as an equal and powerful partner. Perestroika and glasnost, restructuring and openness, are not just means to this end, they are fundamental. In this world of intertwined lines of communication and trade, the Soviet Union, as any other nation, can ill afford to establish boundaries that are taken by force and guarded like a fortress.

The United States has always been, and will continue to be, the leading advocate of self-determination. However, we do understand the unavoidable tensions of these struggles. It is easy to understand the frustrations of a country divided by ethnic nationalism, but we must stress the need for lawful and peaceful resolutions. Without the law, there will always be doubt and claims and without peace law cannot function with justice.

In Lithuania, Soviet troops continue destructive attacks on border posts. Armenians are accusing the Kremlin of supporting Azerbaijanis in the recurring flareup of fighting between the two republics. Slovenia and Croatia are involved in a tense standoff with the Yugoslavian Government.

Mr. Speaker, the great irony here is that while western Europe moves toward greater cooperation and integration, eastern Europe is literally ripping itself apart trying to get away from itself. By fighting and resisting, these nations are destroying the confidence and trust which they will need to become independent and integrated members of the family of nations—the only real benefit of self-determination.

Mr. Speaker, I am including for the RECORD a list of other captive nations, those with borders and without:

Slovenia, Croatia, Cambodia, Latvia, Lithuania, Estonia, Armenia, Georgia, Moldavia, Tibet, Mongolia, the Kurds, and blacks in South Africa, who still do not have the right to vote.

H.R. 2913

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. ARCHER. Mr. Speaker, a uniform international order in corporate taxation has long been established between the United States and its trading partners to encourage trade and profitability of multinational corporations, to ensure the right to tax their activities is equitably distributed between countries, and to avoid double taxation. The foundation of this international order is the application of arm's-length separate accounting by all jurisdictions.

That method of corporate tax assessment is required by the Internal Revenue Code and the model treaties of the United States, the United Nations and the Organization for Economic Cooperation and Development. The Federal Government and our trading partners have agreed to use arm's-length separate accounting in every income tax treaty to which they are parties.

Under arm's-length separate accounting, corporations are subject to tax only by the jurisdiction in which they operate and only on the portion of their income attributable to the business carried on in that jurisdiction. Profits are subsequently taxable when distributed as dividends in those jurisdictions where the dividends are received for tax purposes. If members of a corporate group do business with each other, intercompany pricing is required to be the same as prices which would be charged between unrelated companies.

Only Alaska, California, Montana, and North Dakota use a conflicting method, "worldwide combined reporting." Montana applies it to U.S.-based multicorporate groups, but not to those based overseas. Worldwide combined reporting is not used by any country in the world or by the other 41 of the 45 States which tax corporate income.

Worldwide combined reporting combines the profits of related but separate corporations worldwide and taxes them based on the ratio of payroll, property, and sales of the subsidiary in the State to the payroll, property and sales of the entire worldwide corporate group. Separate entities, dividend flows, and sources of profitable activity are ignored. The mere presence of a corporation subjects the income earned overseas by it and its overseas affiliates to State tax in direct contradiction to established international and Federal tax policy. American and overseas-based corporate groups are adversely affected.

The use of this conflicting method of corporate tax assessment by a few States has disrupted international tax policy and prevents the United States from speaking with one voice in matters of international taxation. For over a decade, our trading partners have formally conveyed their objections. The United Kingdom's House of Commons even enacted retaliatory legislation. Most recently, the Governments of Canada, the United Kingdom, and Australia, Austria, Finland, Japan, Sweden, Switzerland, and the 12 member countries of the European Communities—Belgium, Denmark, France, Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, The Netherlands, Portugal, Spain, and the United Kingdom—filed briefs in the Supreme Court of the State of California pointing out their objections to the use of worldwide combined reporting and their frustration at the resultant inability of the United States to speak with one voice in such matters. The U.S. Department of Justice also filed a brief in the case, agreeing with the decisions of the California trial court and the court of appeals, that worldwide combined reporting when applied to a U.S. corporation with an overseas parent corporation and to an overseas corporation with overseas subsidiaries is unconstitutional, a violation of the foreign commerce clause of the Constitution of the United States.

I am introducing today for myself and Representatives COBLE, GIBBONS, GRADISON, LEWIS of Georgia, RAY, SHAYS, RHODES, ROBERTS, and VANDER JAGT, H.R. 2913, the Domestic Corporation Taxation Equality Act of 1991. The bill addresses the problems resulting from the use of worldwide combined reporting. The bill also addresses the double taxation which occurs when a few States separately tax intercorporate dividends received by American corporations from their overseas affiliates, without allowing any credit or exemption for taxes paid in the country in which that income was earned. The principle is the same, that income was earned outside the United States and the taxing jurisdiction of any State, and is subject to the tax of the country in which it was earned.

In this time of increased global competition, we should not ignore the practices of a few States that detract from the ability of our corporations to compete internationally and from our ability as a nation to encourage investment. We should act to resolve the disruption to this country's foreign policy that results from the use by four States of a method of tax assessment that contradicts the tax policy of the United States and the rest of the world.

HONORING THOSE THAT SERVED

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. REED. Mr. Speaker, I rise today to pay tribute to the American servicemen who saw combat and sustained casualties during troop deployments in Lebanon, Grenada and Panama.

It is important to remember that troops were stationed in Lebanon for more than 2 years under hostile conditions. By the end of 1983, 257 servicemen had lost their lives in Beirut. Eighteen American soldiers lost their lives in service to their country in Grenada. There were also 20,000 servicemen who were stationed in Panama during Operation Just Cause and 24 servicemen died during this deployment.

At a time when our Nation is honoring those who served in the Persian Gulf, we must not forget to also recognize the hardships of those men and women who served so proudly. These individuals were also away from their homes and families during holidays, birthdays and other special events. Their families endured many of the same ordeals and worries as did the families of Desert Storm soldiers. It is time that the soldiers who served in past deployments receive the same kind of support and appreciation that we have seen in the months following Operation Desert Storm.

Mr. Speaker, I ask my fellow colleagues to join me as I recognize and honor those members of our Armed Forces who took part in military operations in Grenada, Beirut and Panama. And, I also ask you to join me in saluting the thousands of men and women in uniform around the world from Korea to the Kurdish frontier, who even as we speak, man the watchtowers of freedom. We must not forget the service of all of these men and women.

SUPPORT FOR H.R. 5

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. KOPETSKI. Mr. Speaker, in 1860, Abraham Lincoln stated:

> I am glad to know that there is a system of labor where the laborer can strike if he wants to! I would to God that such a system prevailed all over the world.

Well, President Lincoln would be dismayed that this system is in jeopardy today.

For over a century, this country has maintained a tradition that allows workers to unionize and, as a last resort, to strike. In fact, the National Labor Relations Act and the Railway Labor Act were enacted by Congress to guarantee these rights. NLRA and RLA also provide a level playing field for management and organized labor to settle disputes. While not always perfect, these laws have maintained a fair balance.

Mr. Speaker, that balance has shifted over the past decade. Why? Because management has found a new tool to use in their favor: the permanent replacement employee. Replacing legitimate strikers with permanent replacement employees or even threatening to do so negates a union worker's fundamental right to strike. It tilts the balance of fairness in our collective-bargaining system in favor of the employer.

I ask the opponents of H.R. 5 to explain to me the difference between firing a legally striking employee and permanently replacing that employee.

It's like saying I am going to kill you—do you want to be shot or stabbed? The end result is the same—you're dead.

The end result for the striking employee who is permanently replaced is the same as the striking employee who is fired—no job and no paycheck.

Tomorrow, the House will consider the Workplace Fairness Act which will give us the opportunity to restore the balance in our collective-bargaining system. I urge my colleagues to support this legislation.

THE NOMINATION OF CLARENCE THOMAS—A PERSPECTIVE FROM THE PADUCAH SUN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. HUBBARD. Mr. Speaker, today I would like to take this opportunity to bring to the attention of my colleagues an excellent editorial written by Don Gordon, the editorial page editor of The Paducah Sun. The Paducah, KY, newspaper is the largest daily newspaper in my western Kentucky district. The editorial appeared in the newspaper on Wednesday, July 3.

Under the insightful leadership of the newspaper's senior managers, president Fred Paxton and editor Jim Paxton, this newspaper consistently contains editorials which provide a respected perspective on issues confronting our Nation, State and region.

This particular editorial concerns the nomination of Judge Clarence Thomas to serve as an associate justice on the U.S. Supreme Court.

Because of the importance of this issue, I would urge my colleagues to read this editorial.

The editorial is as follows:

THOMAS' PAST IS REVEALING OF MAN

> There is little profit in pondering such imponderables as whether there is, or should be, a black seat on the U.S. Supreme Court, or for that matter a female, Hispanic or Jewish seat.
>
> The facts are, a black man is leaving the court and another black man has been nominated to take his place, and the only really important questions have to do with Clarence Thomas' fitness for the job.
>
> President Bush is not very convincing when he says race had nothing to do with his selection of Mr. Thomas, but so what? If he is qualified for the high bench, his skin pigmentation makes no difference.
>
> From President Bush's standpoint, the consensus politically ideal successor to Thurgood Marshall was thought to be a mi-

nority citizen who shares the president's general philosophy. Mr. Thomas, now a federal appeals judge in Washington, D.C., and formerly the head of the U.S. Equal Employment Opportunity Commission, fits the mold.

Confirmation is not destined to be routine. It rarely can be when the Senate and the White House are controlled by opposing parties, especially during times of sharp ideological divisions in the country.

Mr. Thomas can expect to come under serious challenge, if not outright attack, from abortion rights and civil rights groups, as well as the Judiciary Committee's leading liberals.

The man is a conservative, as that term is commonly understood, which in itself is enough to draw heated opposition from some quarters.

One past statement by Mr. Thomas is particularly revealing of his outlook: "Race-conscious remedies in this society are dangerous. You can't orchestrate society along racial lines by saying there should be 10 percent blacks, 15 percent Hispanics."

Does that mean Mr. Thomas' elevation to the Supreme Court would be "a sad day for older workers, for minorities and for women," as one senior citizen advocate contends?

Not likely. It more probably means Mr. Thomas would bring to the court a healthy and well-taken skepticism about preferential treatment on behalf of any class of citizens, a point of view beyond reasonable constitutional challenge.

It is almost impossible to believe that Mr. Thomas, given his background, ever would be hostile to individual rights or insensitive to the plight of people.

The nominee was born into poverty in Savannah, Ga., experienced the bigotry that afflicted his race, sampled the black militancy of the 1960s and emerged as an individual of education and achievement—and his own convictions.

His biography to date doesn't in itself qualify Mr. Thomas as a Supreme Court justice, but it provides a measure of what is inside the man, not an unimportant consideration.

Professional qualifications tend to be in the eye of the beholder. Judicial temperament, however that might be defined, usually is mentioned, and most presidents say they covet "strict constructionists" as bench nominees. Experience, of course, is an objective criterion, and here Mr. Thomas' record is a bit thin, his having served just over a year as an appeals court judge.

Critics shouldn't gain much ground on that score, however, considering the impressive amount of precedent for appointing Supreme Court justices with little or no judicial background. Earl Warren, Hugo Black and an incumbent, Byron White, come to mind. Neither Joe Biden nor Ted Kennedy would have objected to any of the three.

The ethnic, racial and gender makeup of the U.S. Supreme Court cannot be dismissed lightly. The highest court of the land makes decisions profoundly affecting all Americans and it would not do if its places were occupied always by nine white males of northern European ancestry. Yet it is not appropriate to think of the court in terms of special constituencies. Sandra Day O'Connor doesn't represent the interests of women; Antonin Scalia is not there to look after the concerns of Italian-Americans. And Clarence Thomas should not be regarded as the black justice. He happens to be black. That is all. From what is known of him, that perspective matches his philosophy, which is one good reason for his confirmation.

SOCIAL SECURITY NEEDS OUR PROTECTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. CONYERS. Mr. Speaker, today along with my distinguished colleague from New York, FRANK HORTON, and 24 additional Members from both sides of the aisle, I am introducing the Social Security Protection Act of 1991.

As all of us in this Chamber remember, last year in the Omnibus Budget Reconciliation Act, we excluded Social Security trust fund receipts and expenditures from the budget and Gramm-Rudman-Hollings spending calculations. The administration, however, has taken the position that trust fund expenditures which pay the costs of operating the Social Security system are still subject to Gramm-Rudman-Hollings.

The purpose of our bill is to correct this misperception and to make it clear once and for all that all moneys in the Social Security trust funds are protected from the pressures of the budget and the impact of Gramm-Rudman-Hollings, including expenditures to pay the costs of administering Social Security programs.

This protection is especially important because Social Security old-age and survivor insurance, and Social Security disability insurance are critical safety nets for the American people. Without funds to pay the administrative expenses of Social Security, benefits and claims payments cannot be processed. I do not believe that Social Security beneficiaries should be held hostage to the budget process.

Under the administration's view, the funds needed to operate Social Security are subject to possible sequestration, which would disrupt these vital programs. Indeed, during the 1990 sequester, the Social Security Administration underwent a 2.4 percent cut, which is causing serious problems, in processing disability claims due to the resultant "downsizing."

There are ample moneys in the trust funds to pay the operating expenses of Social Security and sequestration serves no purpose. The Social Security Protecton Act of 1991 would also expressly protect administrative expenditures from these funds from sequestration.

Our bill has already secured wide bipartisan support including the following cosponsors:

Mr. ACKERMAN, Mr. HUGHES, Mr. MFUME, Mr. PETERSON of MInnesota, Mr. YATES, Mr. RAHALL, Ms. DELAURO, Mr. PAYNE, Mr. ENGLISH, Mr. CARDIN, Mr. CONDIT, Mr. MORAN, Ms. MINK, Ms. NORTON, Mr. WISE, Mr. FLAKE, Mr. THORNTON, Mr. MCGRATH, Mr. ERDREICH, Mr. COX of Illinois, Mr. BARNARD, Mrs. COLLINS of Illinois, Mr. KLECZKA, Mr. FRANK, Mr. TOWNS, Mr. BONIOR, Mr. LAFALCE, Mr. NOWAK, Ms. BOXER, Mr. MCNULTY, Mr. RANGEL, Mr. WEISS, Mr. CLINGER, Mr. MCCANDLESS, Mr. SHAYS, Mr. HOBSON, Mr. LEWIS of Florida, Mr. MARTIN, Mr. HASTERT, Mrs. BENTLEY, Ms. ROS-LEHTINEN, Mr. MACHTLEY, Mr. QUILLEN, and Mr. EMERSON.

I hope that others will join us in the working for the prompt adoption of the Social Security Protection Act by the House.

The text of our bill follows:

H.R. 2898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Protection Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the intent of the Budget Enforcement Act of 1990 was to exclude from the calculations of the Federal budget the entire OASDI program, both the trust funds and the appropriations for their administration;

(2) the intent of the Budget Enforcement Act of 1990 was to exempt from the limitations on domestic discretionary spending established by the Balanced Budget and Emergency Deficit Control Act of 1985 the entire OASDI program, including appropriations for its administration;

(3) the intent of the Budget Enforcement Act of 1990 was to exempt from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 the entire OASDI program, including appropriations for its administration; and

(4) this legislation is necessary to correct the interpretation by the Office of Management and Budget that administrative expenses of the OASDI are not included in the Budget Enforcement Act of 1990.

SEC. 3. CLARIFICATION OF OFF-BUDGET STATUS OF ADMINISTRATIVE EXPENSES PAID FROM OASDI TRUST FUNDS.

Section 13301(a) of the Omnibus Budget Reconciliation Act of 1990 is amended—

(1) by inserting "(including the expenses of administering the old-age, survivors, and disability insurance programs)" before "shall"; and

(2) by adding at the end the following new sentence:

"No expenses of administering the old-age, survivors, and disability insurance programs shall be subject to sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985.".

SEC. 4. EXCLUSION OF ADMINISTRATIVE EXPENSES FOR OASDI TRUST FUNDS FROM TREATMENT AS DISCRETIONARY APPROPRIATIONS.

(a) DEFINITION OF CATEGORY.—Section 250(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after "1990" the following: ", except that expenses for the administration of the social security old-age and survivors insurance trust fund and the disability insurance trust fund (20–8006–0–7–651 and 20–8007–0–7–651) shall not be considered to be within any category.".

(b) EXCLUSION FROM REDUCTION UNDER SEQUESTRATION ORDER.—Section 256(h)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end the following:

"(J) The old-age, survivors and disability insurance (OASDI) programs.".

SEC. 5. EFFECT OF AMENDMENTS MADE BY THIS ACT ON DISCRETIONARY SPENDING LIMITS.

No amendment made by this Act shall cause any adjustment to be made under section 251(b) of the Balanced Budet and Emergency Deficit Control Act of 1985 to any discretionary spending limit (as defined in section 601(a)(2) of the Congressional Budget Act of 1974).

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by it shall apply to any fiscal year beginning on or after October 1, 1990.

HARASSMENT HARMFUL BUT IT'S TREATABLE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, sexual harassment is an issue which has been ignored—and unfortunately even snickered at—for too long. We are dealing with one legislative response to it as part of our civil rights bill. There are also efforts going on in the House to address our own procedures with regard to it. And one of the most important things that can be done in dealing with this outrageous practice is to publicize the extent to which women have been, sadly, expected to just accept it.

Fortunately, young women in particular see no reason why they should simply go along with a practice which degrades them. And I have seen no better exposition on the refusal of young women to put up with this outrageous behavior on the part of some men and a recent article in the Montgomery Star written by political correspondent Pat Lewis. Mr. Speaker, particularly in this era of ethical sensitivity, I feel compelled to disclose that the author of this superb denunciation of sexual harassment of women is, in addition to being the political correspondent for the Montgomery Star, my niece, the daughter of my sister Ann Lewis. But I ask that it be printed here anyway because it is an extraordinarily well done article on a very important subject.

HARASSMENT HARMFUL BUT IT'S TREATABLE

(By Pat Lewis)

MONTGOMERY.—Have you heard the one about the legislator and the reporter?

They're in this restaurant that's a popular gathering spot for lawmakers, the working press, lobbyists. The legislator spots the reporter, and beckons her over to his table.

"I just wanted to tell you I think you have the nicest breasts in the press corps," he says sincerely.

So she says, "Well, at least they're bigger than your brain."

Unfortunately, it's no joke. I'm the reporter. It was our first, and given his low-key role in the House, likely our last, conversation.

I'm not going to name him because his remark was no unique instance of miscommunication.

Instead, it's an example of how too many male elected officials talk to women in, and out of, the Statehouse.

Ask anyone whose job brings them in close contact with the Legislature and you'll be treated to a depressing litany of harassing remarks and gestures against women.

It ranges from the unprintable to the routine, but it adds up to be downright exhausting. Ask some guy about insurance premium taxes, and he'll tell you what a cute little thing you are.

Try to take notes in an interview, and you find yourself shrugging off unwanted physical contact at the same time.

Now, let me point out that they are not all like that. A number of men who work in Montgomery would never dream of behaving that way. They can read a calendar. They know what year this is.

But they haven't gotten to the point where they have started having heart-to-hearts with their esteemed colleagues. (Like Education Secretary Lamar Alexander, I'm a firm believer in the benefits of adult education.)

Also unwilling to speak out: many of the women who every day bear the brunt of this pervasive attitude.

Part of it is that for many, a quick retort could cost them a job. For all the gains women have made in recent years—evident even in Montgomery from the growing number of women working the halls as lobbyists, as reporters—the men still hold the power. They control the flow of money, jobs and information.

There are other, more complicated reasons. We've all heard these comments:

"Cause a fuss, and you'll be cut out of the loop."

"That's just the way these guys are."

"They just want to get a rise out of you—let it slide."

Or these:

"Come on, can't you take a joke?"

"Hey, honey, I was just trying to pay you a compliment."

"What are you so sensitive about? Wrong time of the month?"

I'm luckier than most. The guys doing the harassing aren't my employers; they aren't even my colleagues. And working for a newspaper gives me a certain power even the most cavemannish of lawmakers can understand. Does the phrase "ink by the barrel" ring any bells?

I don't know why this behavior is so prevalent in the capital. It's certainly not confined to Montgomery, or the Statehouse halls, as attested to by the recent resignation of a highly respected Stanford University physician who, at age 50, said she simply couldn't take the harassment.

All I know is that we shouldn't let these guys off the hook. It's not funny. It's not harmless.

But it is treatable.

HONORING DENNIS RIVERA

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. RICHARDSON. Mr. Speaker, there are many young political leaders emerging in this country. One of these is Dennis Rivera; president, AFL–CIO Union Local 1199 in New York City. As the following article in the New Yorker indicates, Rivera's meteoric rise has been characterized by a combination of toughness, tenacity, compassion, and hard work. He makes every Hispanic in this country proud of his accomplishments. Obviously we have not heard the last of Dennis Rivera.

I think my colleagues would be interested in reading selected excerpts from "Dennis Rivera: Getting Things Done," which appeared in the December 10, 1990, issue of the New Yorker:

[From the New Yorker, Dec. 10, 1990]

DENNIS RIVERA: GETTING THINGS DONE

. . . [A] leader began to emerge—a soft-spoken Puerto Rican named Dennis Rivera . . . 'is an exciting change from the schlumps who head most unions these days,' says Professor Eli Ginzberg, of Columbia University. . .

Rivera was born in 1950 in Albonito, a small industrial and farming town about an hour's drive south of San Juan . . . Dennis's father was Daniel Hickey, an Irish-American from Dunkirk, New York, who . . . came to Puerto Rico . . . in search of a site for a factory [on behalf of his employers. There he met, married and settled into a comfortable house with Dennis' mother—a Puerto Rican of Spanish extraction.] . . .

Dennis showed from his earliest years that he was unlikely ever to become a pillar of the establishment . . . Radical activities engrossed him during his university years . . . [H]e began leading marches in opposition to higher tuition, and joining other students in demanding a larger voice for students . . . In 1973, Rivera's itch to remake the world had become so strong that he quit the university . . . [and] accepted an invitation to sign on with [a sanitation union that he believed was doing nothing for its members] . . . After that, Rivera assumed a prominent role in organizing hospital and home-health-care workers into what became one of the island's biggest and strongest unions. . .

[Changes in his personal life] . . . in 1976 prompted Rivera to leave the island and come to New York to settle . . . [After a New York job search, he] . . . turned to Local 1199, the union that best exemplified the virtues Rivera felt a labor organization ought to have . . . The local had begun organizing hospital employees in the late nineteen-fifties . . . It had been founded by a small coterie of extreme leftists lead by Leon Davis, a pro-Communist native of Russia, who had been a drugstore clerk in Harlem . . .

Rivera's experience in organizing hospital employees in Puerto Rico proved a passport to a job . . . to serve the local's mushrooming Hispanic membership . . . [But in spite of Rivera's success in his new role, the local had been in decline—a decline that had been exacerbated by the change, a change in union leadership. Davis had retired.] . . . [H]is successor, Doris Turner, a former dietary clerk given to religious proselytizing and black nationalism, paid little heed to Davis's more traditional secular leftism . . . For Rivera, a youthful Davis aficionado, the struggle was a painful but valuable education, showing him what unionism at its most virulent and violent could be. . .

The tide began to turn [for Rivera and the other anti-Turnerites] in September, 1985, when the Labor Department at last established rules and guidelines for a new election, to be held the following April . . . Rivera and his confederates nominated . . . Georginna Johnson, a black social-work assistant—and she campaigned for the presidency on a racially balanced ticket: it included Rivera for executive vice-president . . . [as well other blacks, hispanics, and three whites] . . . Johnson squeaked through to victory by a margin of only 2,933 votes, out of 35,011 cast . . . That comparatively narrow win, unfortunately, didn't put an end to the intra-union conflict . . . within a year it became plain that there was almost as much discontent with Johnson's palace guard as there was among Turner diehards. . .

[In February 1988 a new slate was put together to compete against her in April 1989 with] the designation of Rivera as standard-bearer in the drive to replace Johnson. . . 'It was basically not a strongly contested election,' Rivera says. 'Johnson went into her shell'. . . Rivera won by a nine-to-one ratio—an almost incredible result in any union where a president is running for reelection, with all the built in advantages of incumbency. . .

[Almost immediately after taking office, the] calendar compelled him to begin bargaining for a new master contract with the League of Voluntary Hospitals. . . Rivera's initial approach was in the direction of peace not war [, as he] met privately with ranking hospital officials in an attempt to convince them that a mutual-assistance pact made more sense for both sides than a test of staying power in an extended economic duel. . . The hospitals rejected a joint lobbying effort. . . Rivera's next step was a blitz campaign to disabuse the hospitals of any notion that the union, despite its bruising internal battles, had become a paper tiger. . . Rivera spread the gospel that no goal was unattainable in the contract talks if the members demonstrated their determination to stand together. . .

The union got its first breakthrough exactly a week after the league contract expired, on June 30th, with the negotiations deadlocked. Five Roman Catholic hospitals and nursing homes, . . . agreed to two-year contracts providing annual pay increases. . . The Catholic institutions' decision to take the lead did not come out of the blue. It arose from the personal philosophy of Cardinal O' Conner as well as [his] admiration for Rivera. . . The Cardinal's high regard for Rivera was strengthened by the negotiations. . . 'He has given every evidence in my dealings with him that he is a very decent man, a man of integrity and high principles,' he said. 'If he maintains that posture, the sky is the limit for the beneficial influence he can have on the labor movement and, in that sense, on the country. I think he can become one of the great labor leaders in the United States.'

PLAY BALL!

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. SMITH of Florida. Mr. Speaker, I rise today in celebration of Florida's acquisition of a major league baseball team. I would like to thank Wayne Huizenga whose dedication and foresight helped make the dream a reality.

When Frank Robinson, the former manager of the Baltimore Orioles, first brought his team to Joe Robbie Stadium for a 1989 Spring training game, he complained of the field's poor conditions, especially the short outfield fence. Since then, the innovative Huizenga has replaced the first several rows of outfield seats with retractable ones. During the Miami Dolphins football games, the seats are electrically pulled out to provide room for the plethora of fans that pack the stadium each home game. During baseball games, the seats are pulled together to expand the size of the outfield. As a result, when Frank Robinson traveled with his team to Joe Robbie Stadium last March, he told the press that he was happily stunned with Huizenga's improvements.

As Huizenga has brought success to Blockbuster Video and the Blockbuster Bowl, so will he bring success to the Marlins. He has brought in a talented and experienced executive, Carl Barger. In Barger's short time as President of the Pittsburgh Pirates, the Bucs were transformed from a losing team to a World Series contender. Given Huizenga's track record, I am confident that he will make the decisions necessary to make the Marlins a success.

South Florida's great excitement about the Marlins is no surprise given recent history. Sports and south Florida have gone hand in hand. Joe Robbie Stadium and The Orange Bowl sellout each year when the Miami Dolphins and the University of Miami Hurricanes take the field for a football game. In addition, the annual New Year's Day Orange Bowl, one of the most prestigious college football bowl games, has witnessed some of football's best battles of the past 2 decades. Furthermore, the first Blockbuster Bowl proved to be an instant success as it attracted two perennial winners and a sellout crowd.

Basketball also has brought a new excitment to our fans. South Floridians consistently fill the spectacular Miami Arena as they cheer for Rony Seikaly, Sherman Douglas, Glen Rice, and the rest of the young, exciting, and much improved Miami Heat.

Lastly, baseball is an extremely popular sport in south Florida. Besides supporting the great University of Miami baseball team, fans have shown widespread support for major league spring training games. In addition to its surplus of spectators, south Florida is a haven for future major league stars. A myriad of sluggers, such as Jose Canseco, Andre Dawson, Rafeal Palmiero, and Oddibe McDowell, grew up playing little league and high school baseball in sunny south Florida. Because of the favorable weather, youngsters in Florida have the opportunity to play baseball all year round. As a result, many Florida athletes dedicate their time to baseball, thus providing fans, colleges, and major league teams with a constant supply of talented players.

Now that south Florida has its own squad, it will no longer have to settle for watching its native stars and other baseball greats on television. The fans will finally have the chance to vote for their favorite players for the All-Star Game, see their idols up close, and perhaps snag an autograph or a foul ball.

Joe Robbie Stadium also will provide an atmosphere in which south Florida's unique, diverse community can unite together. Whether the players render cheers, jeers, or tears, south Floridians will congregate at Joe Robbie Stadium and root for a Marlins victory. Whether they originally came from New York or the Caribbean, the Midwest, Cuba, or South America, the fans can now come to share in the making of an intense "wave" or simply sit back and relax while debating their opinions of the game.

Finally, baseball will implant enduring memories in the hearts of south Floridians. Many adults and children will always be able to recall their first major league baseball game. Nearly every New York Giants' and Brooklyn Dodgers' fan vividly remembers Bobby Thompson's dramatic home run at the Polo Grounds which propelled the Giants into the 1951 World Series. Whether they are exhilarating or disappointing moments, they have a commanding ability to unit spectators and leave them spellbound as they forget all their other worries.

Because south Floridians are fervent and loyal sports fans, I am confident that the major league has made a wise decision to grant them an expansion team. South Florida, like myself, will wholeheartedly support the Marlins just as they have the Miami Dolphins, the Miami heat, and the University of Miami Hurricanes.

WALLACE McCALL: DADE COUNTY PUBLIC SCHOOLS' PARENT-CITIZEN VOLUNTEER OF THE YEAR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I would like to bring to the attention of my colleagues a man who has been at the forefront of a quiet revolution in Dade County.

For years, Wallace McCall has unselfishly devoted his time and effort to improving our community. He is currently president of the Miami Job Corps Advisory Council, vice president of the Martin Luther King Parade Festival, vice president of the Greater Miami Branch of the NAACP and is a founder of the Inner City Scholarship Foundation. He also serves on the Dade County Police Advisory Board.

Mr. McCall has paid special attention to the students at Charles R. Drew Elementary School, an inner-city school that has become a model for other such schools around the country. I would like to share with my colleagues two articles which provide more detail about Mr. McCall's achievements and activities:

[From the Miami Times, June 20, 1991]

WALLACE McCALL MAKES MARK AS DISTRICT'S TOP PARENT VOLUNTEER

(By Ebony Jasper)

If he's not raising funds for Drew Elementary School, he's at a public hearing, giving voice to community problems.

This year's Parent/Center Volunteer of the Year for Dade County is Wallace McCall. "I enjoy helping an enabling others to help one another," he says simply.

McCall, who visits 26 schools in Dade County, is a former general foreman at Miami International Airport and is now committed to helping the youth in the community.

His favorite school is Charles R. Drew Elementary, 1775 N.W. 60th St. This school was at one time considered one of the worst schools because it is in the heart of the drug area. (Fred) Morley (principal) has worked hard to change that stereotype and now it is number-one and I call this home."

Known for his captain hats, McCall is sometimes called (unofficially) the "mayor of Liberty City" because he can often be found at a community affair and he's an advocate of change and improvement.

He often invites local leaders to visit the school to talk with the children about their careers and the importance of a education. The days in which he's not at a school helping students he's probably busy with his other projects and activities.

He's president of the Miami Job Corps Advisory Council, he sits on the Advisory Board of Jan-Mann Youth Center, is vice-president of the Martin Luther King Parade Festival, member of the Dade County Advisory Board and began the Inner City Scholarship Foundation. He is also a member of the Southern Christian Leadership Council, vice-president of Greater Miami branch of NAACP, member of the Dade County Police Advisory Board and a crime-prevention council member.

McCall says he is not seeking publicity but is concerned about Dade County and children. He's often the only Black advocate at many public hearings because many Blacks have to work and "if someone's not present to express our views, we're often overlooked."

WALLACE MCCALL AN ALL-AROUND SPECIAL DAD

He gives them all the things a good father gives his children. He helps them with their schoolwork; he helps them develop and showcase their talents, and he gives them a vision of what they can be in the future.

Wallace McCall thinks of Drew Elementary School as his family. He treats all the children of Drew as it they were his own children.

Like many concerned parents, he also works to insure that their school and the schools they will be attending are providing the best possible education.

Having a special father like Wallace McCall is a great experience for the children of Drew Elementary School. The children of Drew are very proud that he's been chosen as Dade County Public Schools' Parent/Citizen Volunteer of the Year.

If you were to visit Drew Elementary school, you would find Wallace McCall patiently helping students who have trouble with reading and math.

On another day, you would find him introducing one of the many community business and professional people he brings to Drew Elementary to serve as role models for children and to give them ideas for future careers.

On Wednesdays, you would find Wallace McCall at an area restaurant with talented students from Drew. He arranges opportunities to showcase their performing arts talents at club luncheons. One of these luncheon events was the Orange Bowl Committee's reception to salute Dr. Martin Luther King Jr., which was held at the Bayside Marketplace.

He's on the school's Magnet Advisory Board and has raised money for the talented arts magnet program. He has also raised money for much-needed uniforms and equipment for Drew's Flagette and Drill Team.

"As a citizen advocate, he volunteers his time during the day and evenings representing the Miami Northwestern Feeder Pattern," says Drew Elementary School Principal Fred Morley. "He works to improve the image of all the schools in the feeder pattern."

"We have called on Mr. McCall in many instances to serve as an advocate for Drew Elementary School," says Morley. "He has never turned us down. He is truly an outstanding member of the Drew family."

INTRODUCTION OF THE BALTIMORE-WASHINGTON CORRIDOR MAGNETIC LEVITATION TRANSPORTATION ACT OF 1991

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. CARDIN. Mr. Speaker, today I am introducing the Baltimore-Washington Corridor Magnetic Levitation Transportation Act of 1991. This legislation authorizes development of a magnetic levitation line between Baltimore, MD and Washington, DC. This 40-mile system would serve as the first link for a line revolutionizing travel through the entire Northeast corridor.

The construction of this initial line will bring benefits not only to the Baltimore-Washington corridor, but to all America as our Nation leads development of this cutting edge transportation system. Magnetic levitation technology, commonly known as maglev, was initially invented and researched in the United States in the 1960's. However, it was not pursued here aggressively and only Japan and Germany have developed working model transportation systems using this technology. Maglev uses electromagnetic forces to lift and propel passenger cars a few inches above a guideway at speeds reaching 300 miles per hour or more. Testing of small-scale systems has shown the promise of maglev as a safe, fast, environmentally sound, economically viable, and energy efficient form of transport.

Mr. Speaker, the Baltimore-Washington corridor would be an appropriate testing ground for this technology as maglev would link two major urban centers across varying terrains. There are already approximately 100,000 commuters traveling daily between these 2 cities, and 4,600 businesses based in the region. This combined area ranks fourth among the Nation's largest metropolitan areas. The implementation of a maglev system could end the backups on I-95 and the Baltimore-Washington Parkway. In a January 1991 study entitled "Roadway Congestion in Major Urban Areas, 1982–1988," it was found that of the six Northeast cities, Washington and Baltimore ranked first and fifth respectively in terms of traffic congestion. The study also stated that Washington itself had the third worst traffic problem in the country costing approximately $1.73 billion a year in lost time, gas consumption, and accident losses.

Besides relieving the density of traffic in this area, this system would make commuting more convenient. It is projected the system would carry 1,000 to 3,000 passengers an hour between these 2 cities. With a population in the region totaling 6 million, the potential for growth in use of the line is great. It could take 15 minutes or less to travel between Baltimore and Washington, as compared to the time of 1 hour that it presently takes without complications.

Additionally, the business sector located within this corridor would benefit from a maglev system making it easier for companies to locate in Baltimore and do business in Washington, or vice versa. It would lure the best minds and other advanced technologies to the region. Also, it would demonstrate the region's commitment to building a 21st-century economy. Further advantages include the presence of BWI Airport as a feeder into the proposed maglev line, and the extended line to be created running the length of the Northeast corridor.

The legislation I am introducing today with my colleagues, Representatives MFUME, MCMILLEN, MORELLA, and NORTON, from the region, would provide for a feasibility study, six 1-year grants for a design competition, and Federal matching funds on a 50–50 basis for development of the line. Only American companies and organizations will be eligible to compete. The maglev line will be developed by a public-private partnership where the Federal Government will work with a private industry to prove the viability of this new technology. The system would not only meet America's transportation needs, but at the same time, improve America's international competitiveness in a virtually unlimited market.

I would ask my colleagues to join me in support of this technology and legislation. Further, I include a copy of the bill in the RECORD:

H.R. 2914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baltimore-Washington Corridor Magnetic Levitation Transportation System Demonstration Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) our Nation's aviation safety and highway network are increasingly overburdened resulting in inefficiencies which waste billions of potentially productive working hours each year at a tremendous cost to the Nation's economy;

(2) the cost of conventional transportation by automobile, aircraft, and rail is high and because these conventional systems rely heavily on fossil fuels which are in limited supply, costs will continue to rise as energy costs increase and as the Nation's transportation infrastructure deteriorates;

(3) safety and environmental problems which are not easily addressed are also created from aviation and highway congestion and entail additional costs;

(4) magnetic levitation is a developing transportation technology which is high speed, environmentally clean, energy efficient, quiet, and safe;

(5) the Governments of Japan and Germany have each spent over $1,000,000,000 researching and developing magnetic levitation transportation technology and are preparing to introduce systems in the United States;

(6) United States scientific and industrial capabilities exist to support a domestic magnetic levitation industry and to construct operational magnetic levitation transportation systems in the United States;

(7) in order to promote the development of a United States designed and constructed magnetic levitation transportation system, Federal efforts must be undertaken to demonstrate the feasibility and practicability of such systems; and

(8) the corridor between the cities of Baltimore, Maryland and Washington, District of Columbia, possesses numerous characteristics including a length of approximately 40 miles, exposure to a range of climatic conditions, several potential routes, large popu-

lation bases at both ends and a link with a major airport which makes it ideal for a demonstration of the feasibility and practicability of a magnetic levitation system which would eventually link the major metropolitan areas of the northeast corridor of the United States.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States to construct and put into operation in the shortest time practicable a United States designed and constructed magnetically levitated transportation system eventually linking the major metropolitan areas of the northeast corridor of the United States.

SEC. 4. BALTIMORE-WASHINGTON CORRIDOR MAGNETIC LEVITATION TRANSPORTATION SYSTEM FEASIBILITY STUDY.

(a) IN GENERAL.—The Administrator shall study the feasibility of constructing a magnetic levitation transportation system between the cities of Baltimore, Maryland, and Washington, District of Columbia. The study required by this section shall include—

(1) a preliminary evaluation of alternative routes;

(2) a market analysis of potential ridership;

(3) an examination of alternative financing mechanisms and projected costs;

(4) identification of operational characteristics; and

(5) a determination by the Administrator of the feasibility and practicability of constructing a magnetic levitation transportation system between the cities of Baltimore, Maryland, and Washington, District of Columbia.

(b) REPORT.—The Administrator shall complete the report required by subsection (a) and transmit the results thereof to Congress not later than 12 months after the date of the enactment of this Act.

(c) FEDERAL SHARE.—The Federal share of the cost of the study required under subsection (a) shall not exceed 50 percent.

SEC. 5. BALTIMORE-WASHINGTON CORRIDOR MAGNETIC LEVITATION TRANSPORTATION SYSTEM DESIGN COMPETITION.

(a) IN GENERAL.—Upon a favorable determination pursuant to section 4(a)(5), the Administrator shall conduct a competition in which grants shall be awarded for the research and development of designs for magnetic levitation transportation systems between the cities of Baltimore, Maryland, and Washington, District of Columbia.

(b) AWARD OF GRANTS.—Not later than 15 months after the date of the enactment of this Act, the Administrator shall award up to 6 one-year grants to participants who have submitted proposals for research and development of a design for a magnetic levitation transportation system between the cities of Baltimore, Maryland, and Washington, District of Columbia. In awarding such grants, the Administrator shall take into consideration the fact that the design may be more easily accomplished if a business, organization, or other entity receiving such grant is located in the State of Maryland or Virginia, or in the District of Columbia.

(c) RULES AND SELECTION CRITERIA.—The Administrator shall issue rules governing the competition required under this section, including criteria that will be used to judge and select each proposal for system design submitted for consideration. Such selection criteria shall include factors relating to the construction of a magnetic levitation transportation system between the cities of Baltimore, Maryland, and Washington, District of Columbia, including cost-effectiveness, safety, ease of maintenance, ability to achieve speeds of 250 miles per hour, and the potential for the design to be a national model for such systems.

(d) ELIGIBLE PARTICIPANTS.—Participation in the competition required by this section shall be limited to United States businesses and consortia of such business, United States public and private educational and research organizations, Federal laboratories, and other United States organizations.

(e) TERMS AND CONDITIONS.—The Administrator shall establish terms and conditions to which grants awarded under this section shall be subject.

(f) SELECTION OF FINAL DESIGN.—Not later than 28 months after the date of the enactment of this Act, the Administrator shall review and select from among the design proposals submitted pursuant to this section a single design to be used as the basis for the award of a grant under section 6. In making the selection required by this subsection, the Administrator shall consider cost-effectiveness, safety, ease of maintenance, ability of the system to achieve speeds of 250 miles per hour and the potential for the system to be a national model. The Administrator shall also consider the extent to which the design incorporates new and innovative design concepts and components.

SEC. 6. BALTIMORE-WASHINGTON CORRIDOR MAGNETIC LEVITATION TRANSPORTATION SYSTEM DEMONSTRATION

(a) IN GENERAL.—Not later than 31 months after the date of the enactment of this Act, the Administrator shall award 1 grant in an amount as may be necessary, not to exceed 50 percent of the total cost, for the purposes of constructing a privately owned and operated magnetic levitation transportation system between the cities of Baltimore, Maryland and Washington, District of Columbia, in accordance with specifications contained in the design selected pursuant to section 5(f). The grant required by this section shall be awarded to either State or local governments or consortia of United States private business.

(b) APPLICATION PROCEDURES.—The Administrator shall prescribe the form and procedures for applicants to apply for the grant made available under this section.

(c) CRITERIA FOR SELECTION.—Criteria for selection of the grant recipient or recipients under this section shall be established by the Administrator.

(d) TERMS AND CONDITIONS.—A grant made to an applicant under this section shall be subject to such terms and conditions as may be prescribed by the Administrator.

(e) COOPERATIVE RESEARCH AND DEVELOPMENT.—In carrying out this section, the Administrator may enter into contracts or cooperative research and development agreements as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), except that the Administrator may fund up to 50 percent of the cost of each collaborative research and development project undertaken.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $500,000 for fiscal year 1992 for carrying out section 4 of this Act;

(2) $1,000,000 for fiscal year 1993 for carrying out section 5 of this Act; and

(3) such sums as may be necessary for each of the fiscal years 1993, 1994, 1995 and 1996 for carrying out section 6 of this Act.

SEC. 8. DEFINITIONS.

For the purpose of this Act, the following definitions apply:

(1) MAGNETIC LEVITATION TRANSPORTATION.—The term "magnetic levitation transportation" means suspension, guidance, and propulsion of a vehicle by magnetic forces with no physical contact between the vehicle and the guideway.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Railroad Administration.

(3) BALTIMORE-WASHINGTON CORRIDOR.—The term "Baltimore-Washington Corridor" means a corridor not more than 50 miles in length connecting the cities of Baltimore, Maryland and Washington, District of Columbia.

RECOGNITION OF TERRYVILLE CORINTHIANS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, today I would like to recognize the Terryville Corinthians soccer team, a group of young men from eastern Long Island who are dedicated not only to fine scholastic achievement and athletics, but also to fighting the war on drugs. The Corinthians are coordinated by Edward M. Lee, drug awareness chairman for the Port Jefferson Elks Lodge, and coached by Francisco Dezubiria.

This group of 19 men is also known as the Hugs Team for their efforts in the Hugs Are Better Than Drugs Program. They have shown their peers the dangers of drugs in today's society by their guest appearances at various ceremonies and distribution of antidrug literature. Their community involvement, such as marching in the July 6 Brookhaven Town Salute to All Veterans, and sponsorship by the Elks Lodge, is exemplary.

The Corinthians' efforts on the soccer field has earned them Sportsmen of the Year honors at nationwide tournaments. Currently, the players are competing at the National Soccer Tournament at the U.S. Air Force Academy in Colorado.

Mr. Speaker, I ask my colleagues to join me in saluting the young men of the Terryville Corinthians, Mr. Lee and Mr. Dezubiria, in their strong commitment on and off the playing field. I commend them for their sportsmanship and more importantly for their work to fight the drug problem in their community.

INTERNATIONAL FISH AND WILDLIFE PROTECTION ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing the International Fish and Wildlife Protection Act, a bill to expand the President's authority to take action against those nations whose citizens violate international fish and wildlife conservation agreements. This bill is identical to H.R. 132 in the 101st Congress, which was reported from the Merchant Marine and Fisheries Committee but was not taken up by the full House.

Under existing law, the President is authorized to embargo the importation of fish and wildlife products from those nations that have been certified as diminishing the effectiveness of international conservation agreements. My bill expands the President's authority and provides him with additional foreign policy options by allowing him to embargo any product from a certified country.

The concept of using embargoes for conservation reasons is not a new one—it is embodied in the Marine Mammal Protection Act and the Magnuson Fishery Conservation and Management Act and has been used with great success. Unfortunately, the limitation on embargo authority to fish and wildlife products has its limits. While the threat of such an embargo can have great effect, we often face situations where an offending nation has no exports of fish or wildlife to the United States, or where an embargo on such exports might be counter-productive to U.S. interests. By expanding the embargo authority, we can make it more effective, as well as providing the President with a wider range of options from which to choose.

Mr. Speaker, just last week the House passed two resolutions deploring the use of large-scale, high seas drift nets, with significant adverse consequences to our fisheries as well as other marine resources. The Committee on Merchant Marine and Fisheries is now considering two bills which will help address this problem. Passage of the International Fish and Wildlife Protection Act will give additional support to the conservation goals we all share.

PAN AM, BANKRUPTCY COURT MUST ENSURE EMPLOYEES' HEALTH AND PENSION BENEFITS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. FASCELL. Mr. Speaker, a real tragedy is befalling our Nation's transportation industry. Recently, Pan American World Airways announced that it is selling its transatlantic routes and other assets in an effort to reorganize its financial position and attempt to climb out of bankruptcy. It is hard to believe that it will soon not be possible to fly Pan Am to Europe after decades of being the pioneer and leader in aviation history. It is my fervent hope that the company will be able to survive and, perhaps, to fly again on a global basis.

But the real potential tragedy lies with the effect these actions will have on the loyal and dedicated employees who have served Pan Am over the years. While many of them will apparently be offered jobs by whomever takes over these operations, there will, undoubtedly be layoffs. And, as the company restructures, its retirees can only pray that they will not suffer the same anxiety as their colleagues from Eastern Air Lines. Eastern retirees face reduction of pension benefits in some cases and the possibility of the loss of all or a good portion of their health benefits. The decision, which is one of Solomon-like proportions, will be entirely up to the bankruptcy court judge, who must determine whether the company will keep its commitment to its former employees who have relied in good faith on the promises made to them, or to its creditors, who also have strong, legitimate claims to whatever pie is left for Eastern to divide.

The management of Pan Am and the bankruptcy court must take into account the Eastern situation as they struggle through their own reorganization. It is imperative that planning begin now to ensure that Pan Am's retirees will continue to receive all the health and retirement benefits for which they worked and planned most of their lives and now rely on at a time in their lives when they are most vulnerable to illness and reduced income. Pan Am owes these individuals nothing less.

Mr. Speaker, Pan Am's current employees, who may now be facing layoffs, are also in a very difficult position. Until 1978, employees of airlines involved in mergers, route sales, asset transfers, and similar transactions were routinely protected by labor protective provisions which gave them the right of first hire and other benefits. Following airline deregulation, these protections ceased to be imposed by the Department of Transportation and were considered only on a case-by-case basis when proposed mergers came before the Department for approval.

In 1987, the House passed legislation which would have restored many of these LPP's. However, under threat of a veto by the President, the Senate never considered the bill and the administration continues to strongly oppose such legislation.

To its great credit, Pan Am's management does seem to be giving first priority in all its negotiations to the fate and welfare of its employees and retirees. They, after all, are the ones who made the company what it was and will be the ones to carry on if it is to survive.

INTRODUCTION OF THE GOVERNMENT-SPONSORED HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. WYLIE. Mr. Speaker, today, I am pleased to be joining the distinguished chairman of the Banking Committee, Mr. GONZALEZ, along with the ranking member of the Housing Subcommittee, Mrs. ROUKEMA, in introducing the Government-sponsored Housing Enterprises Financial Safety and Soundness Act of 1991. This bill is designed to assure the safety and soundness of the housing-related Government-sponsored enterprises.

Last year's Omnibus Budget Reconciliation Act [OBRA] requires the House Banking Committee to report out legislation by September 15, 1991 to assure the safety and soundness of the three housing-related Government-sponsored enterprises: Federal National Mortgage Association [Fannie Mae], Federal Home Loan Mortgage Corporation [Freddie Mac], and the Federal home loan bank system. Together, these housing-related GSE's have incurred outstanding debt of over $885 billion. In light of the 1987 farm credit bailout and the S&L crisis, we in the Congress must be concerned over the significant obligations of these federally chartered organizations. Last year's Budget Reconciliation Act required the Treasury and CBO to submit studies on the GSE's and recommend legislation by April 30, 1991.

The Treasury's legislative proposal was introduced on June 25, 1991 by Chairman GONZALEZ, Mrs. ROUKEMA, the ranking member of the Housing Subcommittee and myself—by request. Fannie Mae and Freddie Mac have also presented their own alternative proposal for the committee's consideration. At our direction, the joint staff of the Housing Subcommittee have worked on a bipartisan basis with both Treasury and the GSE's in order to craft a compromise proposal. This attempted compromise, modeled on the Treasury bill with certain changes, creates a separate arms-length safety and soundness regulator at HUD for Fannie Mae and Freddie Mac and establishes statutory capital requirements. Although I feel that changes need to be made in the bill, I want to commend the chairman for doing his best to get the process of GSE reform moving in a bipartisan fashion.

As I stated, I do not support all of the provisions in the bill, but it's a good first step to get the process moving. Some issues may prove to be contentious. Higher levels of risk-based capital, the affordable housing component of the bill, and the limitation on compensation are all areas which deserve thorough consideration during subcommittee and full committee markup. The chairman has assured me that every Member's rights to offer amendments will be preserved. Mr. Speaker, let me say that we should proceed with caution in terms of making any radical changes to these critically important housing-related organizations. By the same token, however, the great importance of these GSE's and the tremendous size of their borrowings makes it incumbent upon our committee to consider carefully the need for increased Government oversight.

We established a good record of cooperation during last year's Cranston-Gonzalez National Affordable Housing Act. I look forward to working in the same bipartisan way with the administration, and with the distinguished chairman of the Banking Committee, HENRY GONZALEZ, on this legislation. I am confident that the Banking Committee will meet its responsibility under last year's Budget Reconciliation Act and report out legislation by September 15 of this year.

TRIBUTE TO DR. MARTIN J. ZION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. GREEN of New York. Mr. Speaker, it is with great pleasure that I rise today to honor my constituent, Dr. Martin J. Zion, upon his retirement as rabbi of Temple Israel of the city of New York.

Rabbi Martin J. Zion is the senior rabbi of Temple Israel of the city of New York, one of the largest and oldest Reform Jewish Congregations in Manhattan. He has brought great lustre and prestige to the congregation during his tenure of 29 years and the rabbinate with distinction for 47 years.

He was ordained with honors at Hebrew Union College-Jewish Institute of Religion where he also received a master's degree in Hebrew Letters and the degree of doctor of divinity.

Throughout his active ministry he has taken a prominent part in civic, academic, and religious affairs. He is widely known as a lecturer under the auspices of the Jewish Chatauqua Society and a frequent preacher on the "Message of Israel" program. He has served as instructor in Bible at Marymount College and Fordham University, and as an adjunct professor in Bible at the Augustance Lutheran Theological Seminary. During World War II he was the Jewish Chaplain at the U.S. Merchant Marine Academy.

In the community, Rabbi Zion has been engaged in a wide variety of activities, including a number of interfaith, interracial exchanges. He is a founding member of the Neighborhood Coalition for the Homeless and has served as a member of the U.J.A.-Federation Task Force on Synagogue Relations.

Upon his retirement he will continue to be active in the Temple. He is also looking forward to devoting more of his time to travel and study. I ask all my colleagues to join me in paying recognition to Dr. Martin J. Zion for the dedication and leadership he has provided our community.

AMENDING SECTION 457 OF THE INTERNAL REVENUE CODE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MOODY. Mr. Speaker, here in Washington, and in Congress, as laws are conceived that are meant to improve our public policy, we often overlook our fellow friends in public service in State and local governments. The interests of these individuals, especially those who assist in public safety, are frequently taken for granted as we work to develop constructive and equitable public policy.

Today I am introducing a bill to modify section 457 of the Internal Revenue Code relating to the treatment of deferred compensation plans of State and local governments and tax-exempt organizations.

This bill is a response to the expressed interests of the employees and union representatives of State and local governments and a response to the interests of the Governments' administrations as well. This bill clearly crosses both sides of the aisle.

My bill will amend section 457 in three ways. Together, these three measures should prove to be at least revenue neutral, and possibly revenue positive. Despite their minor revenue implications, these measures will have major beneficial and fair effects on the policies of deferred compensation plans for many individuals. These measures will also ease the burden on the Government and pension administrators.

First, my bill will provide for a cost-of-living adjustment to the maximum deferral amount per year. The level which is currently established under section 457 has not changed since 1978. Conversely, the maximum deferral amount per year of virtually every other existing deferred compensation plan is allowed to increase with inflation. My bill will justifiably align section 457 plans with 401(k)'s, 403(B)'s, and other deferred compensation plans by allowing for this cost-of-living adjustment.

The second provision of my bill allows an individual who has separated from service from a State or local government or tax-exempt organization to make a one-time change in the date in which distributions from deferred compensation plans under section 457 will begin.

Under present law, an individual who retires early, or separates from service for other reasons, must select a date in the future when distributions from the deferred compensation plan will begin. After selection, the individual does not have the option of changing this future date. My bill would allow the individual to make one change in this date of distribution, but the change can only be to a date later than the original distribution date.

This modification of current law would especially benefit individuals who are employed in public safety—police, firefighters—and normally retire at an early age. Upon arrival of the predetermined distribution date, my bill would give retirees the option of receiving distributions from the deferred compensation plan, or selecting another date in the future for distributions to begin. This is a fair adjustment to the law. Early retirees should not be expected to accurately determine financial needs many years in advance.

Finally, my bill will permit unpenalized distributions to individuals whose deferred compensation plans hold less than $3,500 and have been inactive for at least 2 years.

The individuals most affected by this will be young workers who decide, or are forced, to make changes in their lives that prevent them from continuing to defer income. Marriage, raising a family, purchasing a home, and sudden health problems are all examples of events that could prohibit an individual from being able to defer income. By allowing distribution from only small, inactive accounts, there is virtually no likelihood that this provision could be abused.

This provision will also ease much administrative burden, since under current section 457 law, these accounts must remain until time of distribution, which is after separation from service. By letting individuals obtain their money and dissolve their deferred compensation plans, administrators are relieved of the costs associated with maintaining these accounts.

If the individual does not want to dissolve their plan, then the plan administrator will have the option of dissolving the plan after 2 years of inactivity and distributing the money without the individual's consent, thus relieving itself of the costs associated with keeping the account open.

Mr. Speaker, this bill should not raise any major concerns among my colleagues. However, this bill has important implications for many of the State and local employees throughout the country. I urge my colleagues to support their public service employees and sign on to this bill.

GERIATRIC REACTIVATION PROGRAM FOR VETERANS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. EVANS. Mr. Speaker, by the year 2000 nearly two out of every three men over the age of 65 will be a veteran of the U.S. armed services. Many of these veterans will inevitably experience the effects of aging, the ravages of illness, and the increasing dependence on family caregivers. For many of these veterans, commitment to institutional care may be unavoidable, but for many others institutionalization can be avoided by restoring and maintaining physical, psychological, and social functioning.

Today, therefore, I rise along with 17 of my distinguished colleagues from the State of Illinois to introduce legislation authorizing the Secretary of the Department of Veterans Affairs to conduct a 5-year pilot program to demonstrate the advantages of providing veterans in nursing homes with treatment and services to maintain or reactivate their living functions.

With this legislation in mind, the Illinois AMVETS Health Care Facility Corp., in cooperation with the University of Illinois at Chicago and Veteran's Administration Medical District 17, proposes to finance, construct, own, and operate a teaching nursing home. The facility will establish a geriatric reactivation program for dependent elderly veterans in a national pilot project adopting research results and applied care systems tested and proven effective in Sweden. This unique initiative will coordinate the resources of a veteran's service foundation, a major university, and the Department of Veterans Affairs in a program to improve the quality of life expectations of elderly veterans and their families.

This pilot project will not only enhance the quality of life for millions of elderly veterans, its demonstrated benefits will ultimately translate into an enhanced quality of life for all elderly Americans. I am confident that this project will display reductions in hospital admissions, nursing home stays, physician services, and various social services. Applied on a national level, this program will result in an oveall reduction in health care costs and an improved quality of life for aging Americans.

For too long, we have failed to fully explore opportunities to increase the independence of aging Americans in our elderly care services. For too long, we have failed to recognize the potential in many elderly Americans for a self-sufficient lifestyle. For too long, Mr. Speaker, we have failed to show the kind of resolute faith in many of our aging Americans that they have continued to show in themselves.

I strongly urge the House to swiftly enact this legislation thereby renewing its faith in millions of elderly veterans.

THE SOCIAL SECURITY NOTCH

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. ROE. Mr. Speaker, I wish to thank my colleagues from New Jersey, Congressman JIM SAXTON for organizing this opportunity for those of us who feel so strongly about this issue: the Social Security notch. It is an issue which affects more than 12 million retired workers born between 1917 and 1921, over 419,000 of which reside in my State of New Jersey. Think about it, 12 million people represented by legislation supported by more than a majority of the House of Representatives and for almost 15 years virtually no action has been taken on the matter.

The average-earning, 65-year-old retiree born between 1917 and 1926 will receive an average of $912 a year less in Social Security benefits than the same average worker born between 1912 and 1916 and $454 a year less than the same worker born from 1927 to 1931, according to official Social Security Administration estimates. I know that we all would like to see this injustice fixed.

At the start of 102d Congress, I along with several of my colleagues in the House and Senate introduced legislation to correct the notch situation. The consensus bill, H.R. 917, sponsored by Chairman ROYBAL and Congressman MATTHEW RINALDO, does not abolish the reduction but instead eases the burden for notch victims, accordingly balancing benefit fairness and fiscal responsibility.

The support for correcting the notch benefit injustice is widespread. The notch babies are conscientious people who worked hard all their lives, through some of the most difficult times this country has ever faced, four wars, depression, and recession. Now they have organized a national grassroots campaign to restore what they have paid for with their many years of labor. Mr. Speaker, they deserve to be heard.

TRIBUTE TO FRANKLIN REGIONAL HOSPITAL

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. SWETT. Mr. Speaker, I rise today to offer my congratulations to Franklin Regional Hospital of Franklin, NH, winner of the prestigious Foster G. McGraw Prize for excellence in community service.

This is the second award the 49-bed, acute-care facility has received in 1991. Earlier this year, New Hampshire Health and Human Services Commissioner, Dr. Harry Bird, presented Franklin Regional Hospital with a commendation for its community health program on cancer education and screening. This innovative program has served as a model for similar programs across the State. This most recent honor is a unique accomplishment for Franklin Regional Hospital as it is the smallest facility to receive the McGraw Award. This year it successfully competed against much larger facilities in urban areas.

Mr. Speaker, Franklin is a town in my district which continues to struggle through the difficult economic times which currently confront northern New England. High unemployment has resulted in mounting human needs, particularly in the area of access to quality health care. A recent State government study showed that Franklin and the surrounding area had the highest need for prenatal care in the State.

Franklin Regional Hospital has responded to these demands by creating a prenatal clinic to meet the needs of low-income families. New programs have also been established for counseling and support for young mothers in at-risk categories with courses in nutrition, childbirth, and parenting skills. The success of these initiatives in Franklin will serve as a national model for other rural communities struggling to improve access to quality health care.

Mr. Speaker, over the past few years many in Washington have argued in favor of closing hospitals outside of our large cities. This national award demonstrates that small hospitals have a vital role to play in our national health care system. We in Congress must follow the lead of Franklin, and support legislation to help rural providers meet the enormous demand for quality care in rural areas. The staff at Franklin Regional Hospital and the entire community should take tremendous pride in their accomplishment. I ask my colleagues to join me in paying tribute to them on their receipt of this prestigious award.

GREENSBORO TRULY IS AN "ALL AMERICAN CITY"

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. COBLE. Mr. Speaker, on behalf of the citizens of the 6th District of North Carolina, I wish to congratulate the city of Greensboro, NC, on its recognition as one of only 10 to receive the coveted National Civic All America City Award. The award program, which began over 40 years ago, is the oldest and most respected community recogition program in the United States. While over 5,000 communities have applied for this honor, only 400 have been awarded this designation.

The National Civic League bases its decision on the level of civic excellence a community portrays. Through strengthening the civic infrastructure—the social and political fabric of a community, including how decisions are made, how citizens interact with one another and governmental institutions, and how challenges to the community are met—the cities compete to meet the strenuous criteria of the All America City Award.

In order to set itself apart from other nationwide challengers, Greensboro was described as "a city charting a new path into a new century." Major economic and social changes enveloped Greensboro, as they did many other cities in the 1980's, yet the city met the challenge. Greensboro adopted broad-based strategic planning, increased both public and private efforts, encouraged more diverse leadership development, and organized greater regional cooperation. Today we see a thriving community in positive transitition, moving toward a successful future.

Greensboro's All America City Award entry was initiated by City Manager Bill Carstarphen in May of 1990, and ultimately involved a committee of 19 citizens who determined the issues to be presented and prepared the final entry application which was submitted in April of 1991. The committee was chaired by Gary Davis, community affairs director of WFMY–TV, and supported by the late Jack Gardner, director of the City of Greensboro Public Information Department. Following Mr. Gardner's death in February of 1991, Richard Harriman, acting director of the Public Information Department, coordinated the effort. The committee raised private financing and arranged to send a delegation of 18 individuals to San Antonio, TX, to make the presentation.

Individuals involved included Davis, Harriman, Susan Howard, codirector of Greensboro Horizons; Linda Hiatt-Reichard, former executive director of Greensboro Visions; Mabel Scott, Greensboro Public Schools information officer; Mary Schott, former president of the Greensboro Jaycees; Ken Alston, director of Challenge Greensboro; Peter Reichard, vice president of the Greensboro Area Chamber of Commerce; Gail Murphy, Greensboro Area Convention and Visitors' Bureau; Meryl Mullane, Mullane Associates, Inc.; Sandy Carmany, Civic Volunteer; Janice Taylor, United Way; Don Brady, Brady Treane, Don Vaught, First Home Financial Services Corp.; Don Dixon, American Express; Thurmon Deloney, president, Piedmont Technolgies; City Manager Bill Carstarphen; and Mayor Vic Nussbaum.

I again offer Greensboro and its citizens a hearty pat on the back for their accomplishments. Now the rest of the Nation is aware of what we've known all along—what an outstanding place Greensboro, NC, is to call home. Greensboro truly is an "All American City."

CRIME PREVENTION MONTH

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. PRICE. Mr. Speaker, crime affects everyone, everyday, and everywhere. Crime is not isolated to poor, inner-city neighborhoods, but is rapidly growing in America's suburban and rural communities. Murder, child abuse, illicit drug use, rape, and theft are problems every community in America experiences. Crime not only affects its victims and their families, but crime affects the whole community through increased insurance rates, work absenteeism, loss of community vitality, and lost human potential. All totaled, crime costs American taxpayers $175 billion a year.

For these reasons, Mr. Speaker, today I am introducing a joint resolution to designate the month of October 1991 as "Crime Prevention Month." Representative CHARLES SCHUMER, chairman of the Judiciary Subcommittee on

Crime; Representative HAMILTON FISH, ranking member of the Judiciary Committee; and Representative WILLIAM HUGHES, past chairman of the Judiciary Subcommittee on Crime, are joining me in introducing this resolution today.

Crime Prevention Month will serve as a "Call to Action" to our Nation's citizens. It will provide organizations like the National Crime Prevention Coalition, Neighborhood Watch, Crime Stoppers, and Community Responses to Drug Abuse a focal point for promoting crime prevention activities, and will celebrate the many accomplishments in preventing crime that have already occurred in communities around the country. Crime Prevention Month will also provide an opportunity to reaffirm citizens' support of an involvement in community crime prevention programs and to enlist new individuals and groups in crime prevention efforts.

Crime Prevention Month is supported by the National Crime Prevention Coalition which is made up of 133 organizations including the National Sheriffs Association, AARP, NAACP, the National Council of La Raza, and the National Association of Mayors. The cooperative efforts of these groups have been successful in creating partnerships among citizens, law enforcement agencies, businesses, and government to rid our Nation's communities of crime.

I urge my colleagues to join with us in highlighting the accomplishments of crime prevention programs in your communities and in promoting more involvement in such efforts by becoming cosponsors of Crime Prevention Month.

SMITHSONIAN DEFENDS FREEDOM OF EXPRESSION—MUSEUM DIRECTOR BRAVES STORM OF CONTROVERSY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. KOSTMAYER. Mr. Speaker, earlier this week I met with the Director of the Smithsonian's National Museum of American Art, Ms. Elizabeth Broun, and had the opportunity to view two exhibits currently on display which have generated some controversy in recent weeks.

The two exhibits at issue are very different and are under fire for very different reasons. The controversy began with the March opening of the revisionist exhibition called The West as America: Reinterpreting Images of the Frontier. The show juxtaposes traditional paintings and sculptures of the American West with a text based on an unflattering appraisal of the westward expansion from 1820 through 1920. This volatile combination of imagery and language propelled the gallery and the rest of the Smithsonian Institution into the raging debate over political correctness.

On page 1 of the museum's comment book—used to give visitors an opportunity to express their views—the first shots were fired by former Librarian of Congress Daniel Boorstin, who wrote that the exhibit was "perverse, historically inaccurate, destructive * * * No credit to the Smithsonian." Word made its way from Dr. Boorstin, a distinguished American scholar, to Senator TED STEVENS (R–AK), who without seeing the exhibit, threatened Smithsonian Secretary Robert McC. Adams at a May 15 appropriations hearing with cutting the Smithsonian budget if the institution persists in purveying a political agenda. With the PC debate reverberating across the political landscape, the Senator's diatribes struck a resonating chord.

But Newsweek put it best in a story on the controversy when it wrote: "To label the Smithsonian a hotbed of radicalism because it runs a show like The West as America is a little like calling The Wall Street Journal a communist rage because it once ran a piece of Eugene Debs." Yet Secretary McC. Adams was subjected to a McCarthy-like grilling before the Senate subcommittee, warned by Stevens that "I'm going to get other people to help me make you make sense."

It is ironic that in its attempt to foster diversity and the free flow of ideas, the Smithsonian has been criticized for having a political agenda. It is also ironic that those who level these criticisms seek to impose their own ideology on the Smithsonian—a political agenda of a different breed. The institution should be commended for not laying a politically correct blanket over its exhibits, and for examining history with an open mind. Unfortunately, the same cannot be said for Senator STEVENS. Apparently, freedom of expression means tolerating unpopular views, except when you disagree with them.

The second exhibit in question has created more controversy. This time, however, the roles are reversed. While "The West as America" found the museum defending the display of a controversial exhibit, "Eadweard Muybridge and Contemporary American Photography," which opened at the end of June, found Director Broun under fire for removing a piece by artist Sol LeWitt which she said detracts from the exhibit.

Ms. Broun's objections to the 1964 LeWitt work—a narrow oblong black box with 10 tiny apertures through which the viewer sees images of an advancing nude female torse—were met with an unexpectedly harsh response by Jock Reynolds, one of the curators of the exhibit. Mr. Reynolds, director of the Addison Gallery in Andover, MA, rallied the support of most of the living artists represented in the exhibit, who demanded that their works be withdrawn to protest the museum's decision to remove the LeWitt piece.

Accused of censorship in the name of sensitivity, Ms. Broun has come under heavy fire. But on Monday, the Director issued a statement saying the LeWitt work will be installed in the exhibit. Claiming that the issue has never been about whether the piece is too controversial, but about whether the object enhances or detracts from the focus of the show, Ms. Broun now believes that the public is best served by including LeWitt's work in the exhibition, so everyone can discuss the issues, after having seen it.

While I appreciate the prerogative of a museum director authorized under contract to edit the contents of a show, I was gratified to learn of Ms. Broun's change of heart. After discussions with her on Monday, and after viewing the controversial piece myself, I can sympathize with her original position. In fact, the Director's offer to show the LeWitt work in a different part of the museum only re-enforces the credibility of her reasoning. However, the Museum of American Art does not have a policy of censoring artwork for any reason, and its Director—despite the criticism—possesses an unwavering commitment to freedom of expression, regardless of who may be offended.

Some critics have accused Ms. Broun of being no better than Senator STEVENS, attempting to stifle views contrary to her own—the only difference being the ideology invoked. They say her attempt to remove the LeWitt piece was no different than conservative attempts to shut down the Robert Mapplethorpe exibit at the Corcoran Gallery of Art 20 years ago. And on the surface, the parallels seem obvious, even ironic.

However, I must tell you, Mr. Speaker, that Elizabeth Broun believes deeply and passionately as I do in the first amendment and its principles of freedom of expression. A closer examination of the facts in both exhibits reveals someone who is more than willing to defend these principles in the face of strident opposition; in short, someone who is a great asset to the Smithsonian. I welcome her efforts thus far, and join her in the fight to defend these principles, so essential to both the Smithsonian and the Nation.

CHILD ABUSE PREVENTION AND TREATMENT ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Ms. NORTON. Mr. Speaker, last week, the House voted to extend for 1 year the authorization for child abuse prevention and treatment, adoption opportunities, and family violence prevention and services programs. What these programs have achieved in the District of Columbia is a case study success story that argues for reauthorization.

The Child Abuse Prevention and Treatment Act, has enabled the District to provide investigations by social workers of alleged child neglect; crisis counseling; referrals to agencies to determine arrangements for child custody; services to boarder babies; and counseling regarding the relinquishment of parental rights. The District has also received funding through this program to provide training to address the problems of disabled infants and children, especially those suffering from AIDS-related illnesses.

Similarly, the Family Violence Prevention Act has provided critically needed services to the people of the District—4,000 assisted through community outreach, hot lines, and workshops; training and counseling to 425 shelter staff and volunteers who serve battered women and dependents; 500 battered women aided.

Reauthorization of this program is also a special issue for the special people in the District who work in these fields. Their jobs are not glamorous, just vital to the many women, men, and children who are served. These dedicated professionals deserve our commendation for their service to the community, and the programs that assist them in their work deserve to receive the funding that will allow them to expand the nature and scope of these vital services.

A SALUTE TO AN ADVOCATE FOR EDUCATION: EDOLPHUS "ED" TOWNS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. DYMALLY. Mr. Speaker, I want to draw my colleagues' attention to the extraordinary work of the chairman of the Congressional Black Caucus, EDOLPHUS "ED" TOWNS, on behalf of educational opportunities for our youth.

He is particularly known for his support of black colleges and universities. As a graduate of an 1890 land grant institution, North Carolina A&T State University, the gentleman from New York, has been a long-time advocate for increasing assistance to the Nation's historically black land grant colleges and universities. During his 9 years in Congress, the Brooklyn Congressman has sponsored several amendments during the reauthorization of the farm bill which provide new resources for these colleges. ED TOWNS has been equally recognized as an avid supporter of the United Negro College Fund.

To date, ED's most successful educational initiative has been the enactment of the Student Right to Know Act. This landmark legislation, which became public law last year, requires the reporting of graduation rates for student athletes and reports on the incidence of crime on college campuses to the Department of Education.

As a member of the House Energy and Commerce Subcommittee on Health and the Environment, ED TOWNS has championed increased scholarship opportunities for the training of minority and disadvantaged health professionals. ED also promoted legislative initiatives which supported educational programs for those health-care workers who are willing to practice in medically underserved urban areas.

Locally, this Brooklyn Representative has served as an instructor at Fordham University and Medgar Evers College. His Annual College Fair and his efforts to encourage students to apply to the Nation's military academies are examples of the extra effort that ED undertakes to inform his constituents about potential educational opportunities. In addition, ED's work with local scholarship programs, like the Randolph Evans Scholarship Fund, have enabled many Brooklyn youngsters to attend college.

As an educator and a former member of the House Education and Labor Committee, I am honored to salute our colleague, ED TOWNS, on his many accomplishments as an advocate for enhanced educational opportunity.

A TRIBUTE TO THE GREENPOINT LITTLE LEAGUE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. SOLARZ. Mr. Speaker, I take great pleasure in rising today to pay tribute to the Greenpoint Little League on the occasion of its 40th anniversary and Alumni Reunion Day.

In 1951, the first games were played, and now, 40 years later, with 37 teams, the Greenpoint Little League strongly continues to make its contribution to the community. The league affords the children the opportunity to play ball, be part of a team, experience the thrill of victory and the agony of defeat, and learn what sportsmanship is all about. Furthermore, the league draws together businesses which sponsor teams, residents, volunteers, fundraisers, and executive committees. By teaching the fundamentals of baseball and sportsmanship to our youth, the league has been effective in drawing together the community and providing the cornerstone for atmosphere and good will.

Frank Crowley, the current Little League president, is ably assisted by several volunteers. One such volunteer is Machael Glus. Mr. Glus, over the past 25 years, has served as coach and manager, and with his team won the Minor World Series in 1968. Mr. Glus, currently in community relations, has significantly contributed to the program by obtaining equipment and organizing field trips. Over the many years, powerful bonds of friendship have been formed both among the players themselves, and between the players and Mr. Glus.

I am truly proud to congratulate the Greenpoint Little League on its 40th anniversary, and the wonderful people who make it work and to wish them continued success in their contribution to the community and, more importanlty, to our children.

LEGISLATION TO ALLOW A 4-MONTH GRACE PERIOD FOR THE PAYMENT OF FINES ON THE COAST GUARD USER FEE

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to introduce legislation to provide a 4-month grace period for the Nation's boaters before they are subject to fines in regard to the payment of the recently enacted Coast Guard user fee. Under this legislation the implementation of the law will not be affected—its effective date remains June 30. However, the fines for not obtaining the proper stamps will not be effective until October 31, instead of the current date of July 31. These fines run upwards of $5,000.

The need for this legislation is self-evident. Beside the fact that the fee is unpopular among boaters, the short timeframe in which to obtain the proper certification without being liable for fines is unrealistic. Although the fee will be phased in, and an opportunity will be provided for first time offenders to avoid payment by jumping through several bureaucratic hoops, the point remains that this whole process will prove to be a source of aggravation to the boating public. This is particularly true since very little information has been made available to date, apart from the public notices included in the Federal Register.

With over 16 million boats registered across the Nation, and one centralized distribution center for the stamps, the current time frame is insufficient and is a recipe for a bureaucratic nightmare.

Furthermore, an active effort is still underway to repeal the user fee. Should the repeal be successful, the enforcement measures will prove to be not only an inconvenience to boaters, but also a waste of Coast Guard time and money.

Either way, a 4-month grace period serves the public interest. Should the user fee be repealed, we save both the Coast Guard and the public from an unnecessary and confrontational enforcement process. Should this effort fail, the fees will be collected with no ultimate loss to the Treasury, and will provide a more realistic timeframe for the phase-in period.

For those concerned by a possible loss of revenue caused by this legislation, I would point out that the bill in no way affects the fee structure or the collection of fees. It simply allows a longer period for boaters to pay the fee before they would be subject to a fine. This is time which can be spent informing the boating public of its obligations under the new Coast Guard user fee law.

SUPPORT NOTCH-CORRECTION LEGISLATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. ACKERMAN. Mr. Speaker, the time to remedy the injustice known as Social Security's "notch" is now. After considerable debate, a well-designed, comprehensive bill has emerged to win the cosponsorship of more than a majority of the House of Representatives. This consensus legislation, the Social Security Notch Adjustment Act of 1991, H.R. 917, would provide over 12 million Americans born in the notch years of 1917 to 1926 with a fairer level of retirement benefits.

A study by the Social Security Administration clearly shows that the typical-earning 65-year-old retiree born in the notch years will receive an average of $912 a year less in Social Security benefits than the same worker born between 1912 and 1916 and $454 less than the same worker born from 1927 to 1931. This sharp dip in benefits over a 10-year period is the notch in Social Security. H.R. 917 would create a transitional formula to correct this inequity without creating another notch.

And most importantly, the bill would not threaten the financial health of the Social Security system. The measure would still allow the Social Security trust funds to increase by almost $1 trillion by the end of the decade.

Mr. Speaker, it is plainly unfair to reduce a retiree's benefits solely because he or she is born in a certain year. Congress must take a stand to restore fairness to the Social Security system. I strongly urge my colleagues who have not signed on to H.R. 917 to join me and 231 other Members who already have. Retirees born in the notch years should not have to wait any longer to receive benefits they worked a lifetime to earn.

BEYOND THE NUMBERS: WHY THE CENSUS SHOULD HAVE BEEN ADJUSTED

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. ANDERSON. Mr. Speaker, by the Census Bureau's own estimate, the 1990 census undercounts our Nation's true population by 5.3 million people. Secretary of Commerce Robert Mosbacher had until July 15 to decide whether or not to adjust the census to include these undercounts, or to leave the initial numbers intact. The census numbers are important because they determine both political representation and the disbursement of Federal funds. An inaccurate census could undermine the principle of one man, one vote, and prohibit the right amount of money from reaching the appropriate people. This will have a real impact on our States and local communities.

Despite the inaccuracies of the 1990 census, Secretary Mosbacher decided yesterday that he would not adjust the census. In making this decision, Secretary Mosbacher claimed that he did not want to break with tradition or politicize census decisions. A decision of this magnitude, though, should be based on facts, not tradition. Furthermore, his decision was unavoidably a political one, with both outcomes involving clear winners and losers. Without an adjustment, the losers became urban areas, large States, and minority groups. The losers will now be denied accurate representation and their rightful piece of the Federal pie.

California is one loser that has been impacted by the Secretary's decision. Not only will the State lose an additional Eighth Congressional District, but it will also be denied adequate Federal aid for its true population. As a result, the people of California will be underrepresented, politically and financially, in the Federal Government.

Although Secretary Mosbacher has made his decision, this matter is far from settled. Numerous cities and States who will be hurt by the current census figures are sure to file lawsuits demanding that the census be adjusted. It is my hope that when the courts review this matter, they will break with tradition and rely on the facts and figures available to ensure an accurate census.

TRIBUTE PAID TO HONOR SCHOLARS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to 11 young people from the 17th Congressional District of Pennsylvania who were recently awarded Robert C. Byrd Scholarships for outstanding academic achievements.

Robert C. Byrd scholarships are federally funded grants awarded to students like these 11, who are top-ranked in their respective classes. More than 3,900 applications for the $1,500 scholarships were received this year. Each of these 11 outstanding students met rigid academic standards including an overall grade point average of 3.5 on a 4.0 scale or above, SAT scores of 1100 or better, and a rank within the top 5 percent of their respective classes.

The following students were all recipients of the Byrd Scholarship: Jill J. Bower of Montgomery, a graduate of Montgomery Area Junior/Senior High School; Melinda K. Burrell of Halifax, Halifax Area High School; Charles J. Fusano of Mifflinburg, Mifflinburg Area Senior High School; Raymond V. Garner, Jr. of Milton, Milton Area Senior High School; Abby Irwin of Lewisburg, Lewisburg Senior High School; Brad Krock of Elysburg, Southern Columbia Area High School; Katie E. Mann of Selinsgrove, Selinsgrove Area High School; Justin Morris of Winfield, Selinsgrove Area High School; Kimberly D. Snyder of Sunbury, Shamokin Area High School; Robert T. Stoudt of Turbotville, Warrior Run High School; Heather Ulsh of Tower City, Williams Valley Junior/Senior High School.

The scholarships will be used during the 1991–92 academic year. These fine students have shown initiative throughout their high school years, the time they invested in academic achievement has brought them recognition which will help them begin a college career. These students in their scholastic work have each left an impression of leadership and ability for those who will to follow them, an impression which will also precede them in their next academic endeavor.

I ask all of my colleagues to join me today in congratulating these fine young people and in wishing them the best of luck in their future academic endeavors.

PHARMACY TECHNICIAN DAY 1991

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. KLUG. Mr. Speaker, October 24 of this year has been set aside by the Association of Pharmacy Technicians as National Pharmacy Technician Day. Mr. Speaker, I would like to take this opportunity to draw my colleagues' attention to this date and the important contributions of technical personnel in the delivery of pharmacy services in the United States.

We have come to expect near miracles from the medication available with a prescription through retail and hospital pharmacies. We marvel at the curative powers of modern drugs and the latest advances in pharmacology.

Too often, however, we take for granted the contributions of those who work behind the counter in these institutions, assisting in the preparation of medications for our use. The same prescription drug that can heal can cause immediate harm if not properly prepared. We depend upon the skills of the pharmacists and their technical support staff to ensure that the most exacting standards are met in the preparation of our medications. Their attention to detail ensures that our medication serves its intended effect.

We are well-versed in the pharmacists' contributions to the delivery of health care. Increasingly, the pharmacy industry has come to depend upon pharmacy technicians in the delivery of quality pharmacy services.

Increased demand for pharmacy technicians, coupled with more sophisticated roles, has led to greater professional and legal recognition of the services that these individuals provide. An extensive network of pharmacy technician training programs has evolved nationwide, through community and technical colleges, the military and industry, to assure the continued delivery of high quality pharmacy services. This growth will only continue and represents an important element in the evolution of pharmacy services in the United States.

Mr. Speaker, the Association of Pharmacy Technicians, by celebrating National Pharmacy Day on October 24, 1991, gives us an opportunity to look back on the positive contributions that technicians have made to the delivery of pharmacy services and to focus on the expanded role that these individuals will play in the future. It is their skill and commitment to excellence in the delivery of pharmacy services that brings the benefits of modern medication to bear on our lives.

TRIBUTE TO LISA ANN KRIMMER

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. SCHAEFER. Mr. Speaker, I would like to recognize Lisa Ann Krimmer, a student from my district who was awarded a 1991 Public Service Scholarship presented by the Public Employees Roundtable. Lisa was one of only 12 recipients chosen nationwide to receive a scholarship from among more than 300 applicants.

In her winning essay, "Why I Have Chosen to Pursue a Public Service Career," Lisa conveys the rewarding feeling she derives from giving her time and abilities to helping others. Her commitment to public service and dedication to those less fortunate than herself is an inspiration to us all.

Lisa, a student at New York University, has participated in volunteer activities ranging from offering dance instruction to underprivileged children, to providing physical therapy to those less fortunate than herself.

I wish to congratulate Lisa for her rewarding work. I would like to have her essay read into the CONGRESSIONAL RECORD in hopes of encouraging others to participate in public service.

POINTS OF LIGHT NO. 469

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. RIDGE. Mr. Speaker, as the 1990–91 school year came to a conclusion, President George Bush named the volunteers of the "Student to Student Mentoring Program" of the Erie School District as the 469th "Daily Points of Light" for the Nation. Through the Student to Student Mentoring Program, high school students are experiencing the joys of being a positive influence in the lives of at risk youths in the community and I would like to commend them.

Started in 1989 by the school district of the city of Erie, the Student to Student Mentoring Program matches elementary students who are in need of academic assistance with high school students who serve as positive role models in their lives. The high school students must maintain good grades, good attendance, and have good communication skills in order to serve as mentors. The elementary students are those who are in academic or social jeopardy, more commonly called "at risk" students. The President's designation further honors the program and the people who have, and will continue to make it work to the benefit of all concerned.

During the 1990–91 school year more than 150 high school volunteers worked to make a difference in their world through the "Student to Student Mentoring Program." Many of these students have graduated, no doubt richer for the experience the program has given them. They have left a lifelong impression on the lives of our young children. The recognition given by the President should serve to encourage even greater numbers of qualified high schoolers to participate next year. But beyond that, it should encourage all of us to seek ways in which we can make a difference. As the President has said, "If you have a hammer find a nail—if you know how to read help someone who does not." These students have done just that.

I was honored to nominate the Erie School District "Student to Student Mentoring Program" as a "Daily Point of Light" and look foward to seeing this program become a model for similar, efforts across the country. Everyone involved—the student mentors, the elementary schoolers who showed the initiative to accept the help offered, as well as the teachers and administrative staff who provided assistance and guidance—deserve our congratulations. We already knew what a great resource the young people of Erie are, now the Nation will know.

IMMIGRATION SERVICE VOLUNTEER ASSISTANCE ACT

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MOORHEAD. Mr. Speaker, today I am again introducing legislation which I believe addresses two important goals in the United States: The strengthening of our borders and the encouragement of volunteer activities by our citizens, a concept ardently supported by President Bush and the Congress.

The Immigration Service Volunteer Assistance Act would allow for the use of volunteers in search and rescue missions and similar humanitarian activities in border areas, in chaplain programs, as interpreters for languages other than spanish, as observers and reporters in border areas, and in other non-critical and non-operational support functions that the Attorney General deems appropriate. Let me assure you that the bill will in no way displace U.S. Government personnel, nor will the volunteers be used for any law enforcement duties which include arresting, detaining or interrogating individuals. Volunteers would only be considered a Federal employee relative to tort claims or in the event of a job-connected injury.

I am excited about the concept of using volunteers in support of law enforcement because I have seen how it can succeed. Los Angeles County has a history of utilizing thousands of volunteers in its operations. The Sheriff Reserve Program, for example, has been a tremendous asset to the citizens of Los Angeles County, both in terms of additional services and budget savings.

The influx of illegal aliens over our southern border presents enormous challenges and problems for government at all levels and for society in general. Authorizing the use of volunteers to augment our Border Patrol in its noncritical responsibilities makes sense, and I urge my colleagues to lend their support to my proposal. The volunteer spirit in America is a vigorous one, and now is an excellent time to foster that enthusiasm.

TRIBUTE TO HARRY CHAPIN

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. JOHNSON of South Dakota. Mr. Speaker, it was 10 years ago today that Harry Chapin was killed in a tragic car accident. Harry was famous for being a singer whose songs of hope, sadness, and wistfulness touched the lives of many people. But what was more striking about Harry Chapin than his songs, and known by far fewer people, is the incredible depth of his commitment to end hunger. Although he had earned many millions of dollars from his records and concerts, he contributed most of it to the antihunger foundation that he formed.

Not only was he a crusader on the issue of hunger, but he also was an extremely articulate spokesman. Although I didn't hear it myself, Senator TOM DASCHLE once told me that the single best speech that he'd ever heard was made by Harry Chapin talking about hunger. He said that by the time that the speech was over that Senator PAUL SIMON unashamedly had tears streaming down his face; it was that powerful.

What separated Harry Chapin from many people is that he defined family different than its conventional definition. Although he had his own family that he cherished, he also knew that—in the ultimate sense—we are all family. That, I believe, was the real meaning of his life. Because if we realized that we were all family, we wouldn't tolerate the fact that one out of eight children in this country go to bed hungry. We wouldn't tolerate the fact that in this world there are hundreds of people who starve every day.

On this, the day that he died 10 years ago, we are reminded of the tragedy of his loss. Not so much for his talent, although he was talented, but for the fact that his love for others was so fully realized in the way that he led his life. The world is a colder, darker place without him.

IT'S TIME TO RESOLVE NOTCH INJUSTICE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. MINETA. Mr. Speaker, expedient injustice has no place in the United States, or in the public policy decisions made by the Congress. That ethic must hold especially true for our senior citizens.

I have long supported legislation by my fine colleague from California, Mr. ROYBAL, that would restore fairness to the Social Security system. H.R. 917 is important legislation that would resolve a mistake made long ago.

Under current law, Americans born between 1917 and 1921 are being penalized for their dates of birth. As most recall, the "notch" inequity arose when Congress acted to phase-in the new benefits calculation to correct the flawed benefits formula of the 1970's. Instead of creating a gradual transition, what resulted was a precipitous reduction in benefits, most severely affecting those born between 1917 to 1921.

Senior citizens should not be penalized because of their birthdates. Hundreds of my constituents have written me and expressed their legitimate concern and anguish over the notch injustice. Many have written to me wondering if Congress is waiting for the notch babies to be phased out of the Social Security system as the solution to the problem, rather than grappling with the problem itself.

This country and this Congress must stand for more than turning a cold shoulder to our fellow Americans. We must not delude ourselves into believing that you can phase out unfairness, when that phaseout effectively means waiting for people to die.

As an original cosponsor of H.R. 917, I urge my colleagues to act on this legislation, and to act now. We now have more than a majority of the Members of the House in bipartisan support for H.R. 917. Our senior citizens have worked hard in helping to build this Nation. They justly deserve their full benefits, and full attention from this Congress.

WETLANDS RESEARCH

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. ORTIZ. Mr. Speaker, today I am introducing legislation that will establish a Wetlands Research Center in Brownsville, TX. The Port of Brownsville has graciously made available over 7,000 acres of property for wetlands research, education, and policy program activities. Congress has recognized that the study and preservation of wetland must be a national priority and in his 1992 fiscal year budget, President Bush called for expanding wetlands research. This property will also be used to establish an international wetlands environmental research and policy center with collaborative efforts by colleges and universities from the United States and Mexico. This innovative wetlands program will being together institutions of higher learning, Federal agencies, the Port of Brownsville, and the private sector. By establishing this center, comprehensive graduate and undergraduate programs can be established for basic and applied research on environmental matters. Additionally, this piece of legislation will help provide educational avenues for minority students to pursue environmental protection, science, and engineering. By supporting wetlands research, we not only preserve sensitive ecological habitats, but we encourage academic learning in this important area of study. I would like to salute the Port of Brownsville for recognizing the value of this wetlands property within their navigation district and for utilizing this land in such a unique way. I urge my colleagues to support this bill and help provide a valuable service to our environment.

TRIBUTE TO NICHOLAS J. POTTER

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 16, 1991

Mr. FAZIO. Mr. Speaker, I rise today to recognize PO Nicholas J. Potter for his outstanding contributions to the U.S. Navy and to our country during his distinguished career in the military. Petty Officer Potter has demonstrated, time and time again, a commitment and dedication to the Navy that has elevated him above his peers to become one of the best and brightest individuals in all of the U.S. Armed Forces.

First joining the Navy in August 1981, Petty Officer Potter has continually been honored for his hard work and devotion. He has excelled in all aspects of his military service, but has particularly demonstrated excellence in the Navy's special technical schools and in his technical duty assignments. For his hard work, Petty Officer Potter is now recognized as the leading petty officer for the Combat Systems Electronics Division.

Most recently, Nicholas Potter was selected as one of four sailors to be given the Navy's Sailor of the Year Award. As the Atlantic Fleet Sailor of the Year, Petty Officer Potter will receive a meritorious promotion to the next higher pay grade, and all-expense paid trip to Washington, DC, 5 days' rest and relaxation, and the opportunity to serve a year's duty as assistant to his Fleet Master Chief.

Mr. Speaker, Petty Officer Potter has earned the honor of being named Sailor of the Year. I know my colleagues join me today in recognizing and thanking him for his outstanding service to the Navy and to the Nation.

HOUSE OF REPRESENTATIVES—*Wednesday, July 17, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, to understand that the opportunities and responsibilities of daily living are a gift that is to be celebrated today and in all the days that may be ours. We admit how easily we keep hold on what is past and we repeat in our minds the failures and the sins of other days. Grant to us, O loving God, the grace to let go of the delinquencies of other times. Fill our hearts with wisdom and permeate our lives with joy for the new day before us that we will be the people You would have us be and do those good things that honor You and do justice for all people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. EVANS] please come forward and lead the House in the Pledge of Allegiance.

Mr. EVANS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 153. An act to amend title 38, United States Code, to make miscellaneous administrative and technical improvements in the operation of the United States Court of Veterans Appeals, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 985. An act to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

IN SUPPORT OF H.R. 5

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, I rise today in strong support of H.R. 5, legislation which will restore the balance between labor and management in the collective bargaining process. This balance has been severely disrupted over the last decade by ruthless employer tactics. By closing a loophole in labor law and banning company practices that have subverted the promises and protections of the National Labor Relations Act, H.R. 5 will reaffirm the promise made to American workers more than 50 years ago when the NLRA guaranteed basic workplace protections.

Simply stated, H.R. 5 would prohibit employers from punishing workers who exercise their legal right to engage in a lawful economic strike to improve their working conditions. And what has the punishment been? Permanent replacement. In other words, workers who are permanently replaced are fired from their jobs for exercising their collective-bargaining rights.

Business opponents of H.R. 5 charge that this bill would permit and even encourage any disgruntled workers to protest their working conditions and walk off their jobs—leading to virtual chaos in the workplace.

Nothing could be further from the truth. The bill has no application to employees in nonunion settings. The chief sponsors of the legislation have stated repeatedly that H.R. 5, when it was drafted, was intended to protect only workers in unionized settings. During markup in the three House committees with jurisdiction over H.R. 5—the Committees on Education and Labor, Energy and Commerce, and Public Works and Transportation—each of the committees accepted an amendment clarifying this important point. The Congressional Research Service analyzed the approved committee language and concluded as well that H.R. 5 applies only to union workers.

I urge my colleagues to vote for H.R. 5 and repair the damage that has been done to fair and balanced collective bargaining in this country. Enactment of H.R. 5 is long overdue.

TRIBUTE TO FRANK RIZZO

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, yesterday a part of Philadelphia died when former Mayor Frank Rizzo died of a heart attack at his campaign headquarters in center city. But today, as we mourn his death, we celebrate the fullness of his life. In many ways Frank Rizzo lived the American dream. A high school dropout from Philadelphia's ethnic wards, he worked his way up to become police commissioner and mayor of the city he loved. He was a larger-than-life crime fighter, a tough, honest cop.

He was a hard-charging mayor who always put his city first. He was a loyal and devoted husband and father.

It is fitting that Frank died during a campaign because campaigning is what he loved best. Anyone who campaigned with Frank can attest to his boundless enthusiasm and limitless energy.

He loved the people and they loved him. Few politicians in Philadelphia history or even American history had as loyal a following as Frank Rizzo.

Yes, Frank Rizzo made enemies, as any leader with drive and determination was bound to do, but whether we agree or disagree with Frank's policies, we could all agree that he spent his entire life working to make Philadelphia a better place.

His attitude of dedication and service is one to be emulated by young people in Philadelphia and across America.

Yesterday Philadelphia lost one of its favorite sons. His city, our country will miss him deeply.

PROVIDING FOR CONSIDERATION OF H.R. 5, WORKPLACE FAIRNESS ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 195 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 195

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, with one hour to be equally divided and con-

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

trolled by the chairman and ranking minority member of the Committee on Education and Labor, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part 1 of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, and said substitute shall be considered as having been read. No amendment to said substitute shall be in order except the amendments printed in part 2 of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified and shall be considered as having been read when offered. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order against the amendment offered as a substitute by Representative Goodling of Pennsylvania for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 195 provides for the consideration of H.R. 5, legislation to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

Mr. Speaker, the rule provides a total of 2 hours of general debate time.

One hour is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. Thirty minutes will be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce with the remaining one-half hour equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

The rule makes in order an amendment in the nature of a substitute printed in part 1 of the report accompanying the rule as an original bill for the purpose of amendment. This amendment is the bill as reported by the Committee on Education and Labor and as amended by the Committees on Energy and Commerce and Public Works and Transportation. The substitute will be considered as having been read.

Only two amendments are made in order under the rule. Both are printed in part 2 of the report accompanying the rule. Each amendment shall be considered as having been read and shall be considered in the order and manner specified in the report. The amendments are not subject to amendment except as specified in the report.

The first amendment is an amendment in the nature of a substitute to be offered by Representative PETERSON of Florida or his designee. The second amendment is to be offered by Mr. GOODLING of Pennsylvania or his designee.

The Goodling amendment is a substitute amendment and is in order as an amendment to the Peterson of Florida substitute. The Goodling substitute will be offered, debated in its entirety and disposed of before the Peterson substitute is debated. No other amendment is in order. Each amendment is debatable for 1 hour.

The rule waives clause 7 of rule XVI against the Goodling substitute. This waiver is necessary for nongermane provisions contained in the amendment. The previous question shall be considered as ordered on the bill. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, I rise in strong support of the rule and of H.R. 5. Swift passage of this rule will allow us to begin to debate responsibly, this critical issue of survival for the collective bargaining process for America's labor force. According to the law, workers may not be fired for engaging in a strike. Section 13 of the National Labor Relations Act guarantees them that right. However, they may be permanently replaced in those jobs if their employers desire to hire replacement workers. So, whether or not an individual can be fired does not really matter. In the end, he or she still loses the job. And whether it is through firing or replacement—it's still job loss because of a strike.

This rather confusing, and certainly unfair, policy came about as a result of a 1938 Supreme Court ruling known as Mackay Radio. Mackay Radio said that during an economic strike, strikers may be permanently replaced by newly hired employees. In the first 40 years following this ruling, there were few instances of employers actually hiring permanent replacements. However, the last decade has seen a dangerous trend evolve, as an alarming number of employers have deliberately hired permanent replacements to avoid addressing the valid concerns and complaints of their employees.

Beginning with the replacement of the PATCO workers in 1981 and leading up to more recent examples of Greyhound and Eastern Airlines—the practice of permanently replacing striking employees has also turned into a tool for those businesses more interested in union busting than in negotiating in good faith. Such actions effectively prevent union members from exercising their right to strike under the National Labor Relations Act as well as the Railway Labor Act. How can employees enter into collective bargaining when their employers know that by simply hiring replacement workers, they preclude any leverage those same workers may have at the bargaining table?

This legislation is critically important to American workers who in the past decade in particular have seen their hard-earned wages and benefits eroded by employers who are more concerned about mergers, leveraged buyouts, and short-term profits, than in achieving and maintaining a long-term economic growth through a productive, experienced, and reliable work force. H.R. 5 would overturn the Mackay and other subsequent rulings that unfairly undermine the rights of employees in favor of business concerns.

Passage of this bill would help put employers and employees on a level playing field. It is to the advantage of both business and labor if workers can go to the bargaining table and engage in debate, free from fear of arbitrary job loss. I hope Members will join with me in supporting the rule and in supporting H.R. 5.

□ 1010

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with all due respect to our chairman, I rise in strong opposition to this rule for H.R. 5, the so-called striker replacement bill. This rule might aptly be called the representative democracy displacement rule since it substitutes the judgment of the majority leadership for that of the 435 freely elected Members of this House.

Generally, you can tell how bad a bill is by how bad the rule is. H.R. 5 is no exception.

It is ironic, Mr. Speaker, that as dictatorial governments around the world are allowing democracy to flourish, democracy does not flourish in the House of Representatives. The title of the bill is the Workplace Fairness Act, yet there is nothing fair about the procedures we are following to consider this bill.

For example, the Rules Committee not only rejected on a party line vote our attempt to get an open rule, it also rejected our efforts to make in order four amendments that were submitted to the Rules Committee by its 5 o'clock deadline on Monday. These amendments would substantively improve H.R. 5 and increase its likelihood of passage. They include the amendment offered by the gentleman from Texas [Mr. ARMEY], restating that employers are not required to rehire employees who engage in violence during a strike; the amendment by the gentleman from Tennessee [Mr. DUNCAN], excluding small businesses, most of which operate at the margin; and two amendments by the gentleman from Pennsylvania [Mr. RIDGE], that would establish a 12-week cooling-off period if a strike is ordered and management seeks to hire permanent replacements.

Let me just add that I suppose we should be thankful that Republicans will, at least, be granted our right to offer a motion to recommit with or without instructions. Frankly, it has always been a bone of contention with both sides on the Rules Committee, and I am pleased to see it included in this rule.

Mr. Speaker, as I mentioned, there is an observable pattern in the House whereby bad rules accompany bad bills. If enacted, H.R. 5 will destroy the very incentives that have led to 53 years of relative cooperation between management and labor. It will cause highly skilled American jobs to move overseas. It will allow unions, which make up only 12 percent of the work force, to increase their economic clout in far greater proportion to their representation in the labor market. And it will relieve labor leaders of the responsibility for being accountable for their actions when asking rank-and-file members to go on strike.

The truth is, H.R. 5 does not address any loophole, either perceived or real. Employers have had the right to hire permanent replacement workers for over 50 years. It's ironic, Mr. Speaker, that even President Carter rejected a ban on permanent replacement as dangerously destabilizing the management-labor balance.

American businesses are much more competitive than they were 10, 20, or 30 years ago. Today, many firms are unable to bear the costs of a plant shutdown. Unless H.R. 5 is open to amendments, it is a prescription for economic decline.

Mr. Speaker, let us demonstrate that we have not lost faith in the ability of this House to freely work its will. Vote down this rule so that we can restore a little workplace fairness to the workplace of the people's Government.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, by adopting a loophole in the law which allows them to permanently replace strikers, many large corporations like Greyhound and Eastern Airlines have thrown long-term employees out on the street and broken pension and health agreements.

This unfair tactic hurts more than just union workers and their families. Replacement workers are less skilled, they are paid less and are less productive. Thus local businesses, local economies, and local tax bases also suffer.

Countries like Japan and Germany guarantee the right of reinstatement after a strike. Apparently they recognize the necessity of a highly skilled work force in providing prosperity and economic stability. It is time for our country to do the same, and that is why I urge my colleagues to support H.R. 5 and this rule.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from New York [Mr. HOUGHTON], who is making a valiant attempt to amend this bill.

□ 1020

Mr. HOUGHTON. Mr. Speaker, I am going to vote against this rule. It is not because I do not respect the chairman of the Committee on Rules and the Members on it. It is not that I resent the fact that Democrats have control over this. It is not that I resent the fact that my amendment, the one that the gentleman from Pennsylvania [Mr. RIDGE] and I suggested, was not allowed.

However, I do think that it is wrong to have what was considered at that time a flawed amendment be approved, and something which was really a middle ground amendment not approved, which was ours. I frankly think that this system is crazy, the people are great. However, to allow that type of thing to happen is wrong because what I think it does, is it deprives the members of unions, as well as management, from seeking another option.

I feel as if I speak in DC and get a reaction in terms of AC. Let me tell Members what our bill does, although I think it is fruitless to mention it now because it will not see the light of day.

It recognizes two things: that there is an unfair condition at this moment; that ever since the firing of the air controllers, the extreme people in management have taken it upon themselves to have immediate response and give permanent replacement status to some of their workers. That is wrong. That was never the intent of the Wagner Act. That was never any intent of any of the labor decisions that have come along.

The problem it puts everyone in is that many Members on this side of the aisle believe in unionism, have worked with the unions, have arbitrated with them, but we find ourselves in the position whether it is one extreme or the other. On the other hand, Members may find themselves in a situation where somehow they must protect those who are risking everything they have to try to start and run a business. We have H.R. 5 on one hand, and we have the extreme of what is happening now on the other: Neither one is satisfying, neither one protects both, and neither one, really, is fair.

The situation that we tried to grapple with, is this basic underlying psychology that nobody wants to hire a permanent replacement or a temporary replacement. However, we have to have some discipline. When we hire a replacement, we poison the well. We ruin the relationship, the underlying trust that exists between management and labor. No person wants that. However, if a person feels that they can hire one just like that, or on the other hand, they never can hire, they have no situation which they can begin to bargain and negotiate reasonably. Therefore, I think this is an unfair rule for not allowing this bill, which we propose and is a middle ground, to be exposed, to protect those people which I think are now going to be unprotected, because this bill is not going to go anyplace. H.R. 5 is not going to go anyplace.

What we are trying to do, rather than getting gas off our stomach and making everyone feel good, we would like to have something which is a practical base for negotiations. I do not think, unfortunately, that is possible at the moment.

Therefore, I will vote against the rule, and I will vote against H.R. 5, reluctantly, and hope that at another time, at another day, we will be able to see the light of day in something that I think is a reasonable compromise.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, when President Reagan fired the air traffic controllers in 1981, his message was clear. He said, "It is OK to hire scabs."

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will state his parliamentary inquiry.

Mr. ARMEY. Mr. Speaker, is it parliamentarily acceptable to use the word "scabs" in floor debate?

The SPEAKER pro tempore. The Chair knows of no prohibition against the use of that word.

Mr. ARMEY. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ARMEY. Mr. Speaker, is it acceptable, then, for me to refer to people who represent unions as goons?

The SPEAKER pro tempore. The Chair knows of no prohibition against the use of that word.

Mr. ARMEY. Thank you, Mr. Speaker.

Mr. TRAFICANT. Mr. Speaker, I ask the chairman of the Committee on Rules for 3 minutes uninterrupted so I can proceed with my statement.

Mr. MOAKLEY. Mr. Speaker, I have no objection to yielding 6 additional minutes to the gentleman from Ohio.

In answering the gentleman from Texas, I hope those are the only two four-letter words we hear on the floor from the gentleman from Texas.

Mr. TRAFICANT. Mr. Speaker, continuing my statement, when President Reagan fired the air traffic controllers and the labor unions of this country turned their back and created a work climate that has produced an America with chief executive officers with golden parachutes, with American workers being thrown out, here is exactly what happened: President Reagan said, "It is OK to hire scabs." Scabs. Big business took it a step further. They said, "We will not only hire those scabs, we will keep those scabs on the job permanently."

That is exactly what happened. Let there be no mistake, we have that condition today. Since 1985, 20 percent of all strikes have had scabs gaining permanent jobs.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, does the gentleman know what the word "scab" means in a very, very common parlance of the union movement?

Mr. TRAFICANT. Perhaps the gentleman could tell me on that.

Mr. ARMEY. The word is derived from the works of Jack London, and it was originated as an expression he coined, that a person who decides not to choose to join a union, would not make a scab on a good worker's rear end.

I wonder if the gentleman, understanding that, would recognize that I have never joined a union, and I have, in fact, crossed picket lines. Would the gentleman then suggest that, therefore, I am a scab?

Mr. TRAFICANT. Mr. Speaker, reclaiming my time, if the definition would so apply to the gentleman and he would, in fact, place that definition on himself by his own words, let that be his decision, not mine.

All I am saying is that I come from a district that fought to get workers' rights, and I see Members in Congress here with a pen and pencil just sending those rights down the drain every day.

I will now go on with my statement. I think what I am saying here today is, it has gotten so bad for the American worker, that while Congress will protect flag burners, they will not, in fact, allow American workers to carry a picket sign without the veiled threat that they are not only going to lose their jobs, but lose them forever.

Mr. Speaker, since 1985, 20 percent of all strikes had scabs hired permanently, and one-third of all strikes since that time, American business has threatened the American workers with the permanent replacement of their job.

The last 12 years, we lost about 55,000 jobs. Since the air traffic controller situation, companies in my district and throughout Ohio were very glad. They bused their men. When I was sheriff, one time I had to run, literally, safety inspections on buses. Scabs were being hauled in to threaten their workers at our plants, who had already taken concession after concession after concession. By the way, after I ran those safety inspections, those buses were not safe, and the sheriff had to stop those buses from entering. But I will be damned if I was going to have someone pull out a gun, shoot somebody in my town, and then blame it on labor. That did not happen. That problem was resolved.

I want to say this to Congress today. We have a fundamental right here today. There are no consumers without workers. If workers do not have some sense, some sense of permanence in their workplace, they are not good workers. The American workers take in concessions. They have been out on the line here for the last 10 years. Labor has kowtowed to the President. They have set a precedent in place, and labor cannot stop it now.

Labor made a big mistake, but I am not here today for labor. I am here today for working people. If it were not for many of those gains that the working people, through labor, have initiated, Congress would not have the pension it has, the American worker would not have the health insurance it has, and our Nation would not be as strong as it is today. Our industry would not be as vibrant, as viable, and yes, as competitive.

I want to say one last thing before I close. I say that hiring scab labor and keeping them on permanently is so bad that not even Japan will do it.

□ 1030

I am asking the Congress to pass H.R. 5. I support the rule, and I appreciate the time from the gentleman.

I do not like anyone to refer to me as a goon. I am not a goon, but I am saying this. Regardless of the definition, those people who come in and take another's job, with business in fact a part of that process, those are scabs.

Mr. DREIER of California. Mr. Speaker, to respond to the gentleman from Ohio, I am happy to yield 3 minutes to the gentleman from Texas [Mr. ARMEY], a hard-working member of the Education and Labor Committee, who has authored a very important amendment dealing with violence, which tragically is not incorporated in this rule.

Mr. ARMEY. Mr. Speaker, labor law should protect the rights of all working men and women, not only that 16 percent of the nonpublic labor force that elects to join unions, but that far greater percent of the private labor force, 84 percent, that elects not to join a union or not to go on strike. They should have their rights protected, particularly the right to be free from violence. Not only should they be protected from physical violence, but they should be protected from the violence that comes from having themselves slurred because they chose to exercise their free right as American men and women to go to work and to do so on their own terms, rather than on the terms defined for them by a group of remote, uninformed, uncaring, insensitive bureaucrats in Washington's AFL-CIO.

Now, I offered an amendment to protect this majority of free American men and women from the violence that is perpetrated against them when they choose to go to work by people on strike, and the committee met my offering with a violent rejection, using this tactic of slurring the character and the names of those free men and women who exercise their rights.

This is labor law? This is labor law that allows us in the Halls of Congress to use these kinds of slurs to describe the citizens of this country?

Mr. Speaker, I have to say in all due respect, I am disappointed in the inability of the Chair to enforce some standard of civility by which we characterize our constituents in this body.

Now, the chairman of the Education and Labor Committee, after they shouted down, hooted down and slurred my amendment and the people it represented, promised me personally that he would come before the Rules Committee and ask for an open rule where the rights of all Members to participate in this process would be protected, and right in front of me in the Rules Committee he specifically requested the Rules Committee not to allow me to offer this amendment that protects American working men and women from the violence perpetrated by a minority of militant malcontents on a union picket line.

I have had people in my office who have been shot in the leg through a truck door with armor-piercing ammunition.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. DREIER of California. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am going to ask this body to vote no on the moving of the previous question on this rule in order that we can send it back to the Rules Committee and see if the Democrat majority in this Congress is willing to write a rule that allows us to offer an amendment that protects the physical safety of working men and women on their way to work in this country from violent mobs in the streets and protects these same men and women from having themselves and their names slurred in front of their children with this awful epithet that the unions employ for any free man or woman in this country who chooses not to join or participate in their actions.

It is not acceptable to over-extensively guarantee the rights of a minority in such a way that allows them to wreak physical and mental abuse on a majority of hard-working, decent American men and women, and I am sorely disappointed in the inability of this Congress to represent the people of this country.

Mr. MOAKLEY. Mr. Speaker, the gentleman from Texas appeared before the committee with his amendment. The amendment reads that this paragraph shall not apply in any case in which the labor organization involved in the labor dispute concerned engages in or encourages its members to engage in violence during the dispute.

Mr. Speaker, this amendment simply restates current law by stating that companies do not have to rehire employees who engage in violence during a strike. That language is already on the books, and the committee felt that it was just redundant.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I am glad to yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the gentleman will recall in the committee yesterday, the language that we have here is specifically with respect to strikes on the books. "Disputes," extends the concept and makes it less ill-defined. If in fact this is nothing but a reaffirmation of the law, it should not be met with the kind of violent response with which it was met in the committee and the rejection by which it was met by the gentleman's committee.

Mr. MOAKLEY. Mr. Speaker, the gentleman's amendment was not met with any violence in my committee.

Mr. ARMEY. I did not say it did.

If the gentleman will yield further, I must say, and let me do make it very clear, the gentleman is a gentleman and runs a fine committee. It was not met with violence in the gentleman's committee. It was simply rejected.

My daddy always taught that it was better to be persecuted than ignored. I do not know, but it felt better in the gentleman's committee.

But I will say, my complaint is not with the gentleman. I do not believe the gentleman from Massachusetts would be so insensitive as to use the kind of language that we have heard on the floor today.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, 40 years ago, the United States led the world in terms of our industrial prowess, the development of new technology, the wages and benefits that we paid to our workers. Today, as major corporations are busy investing in Third World nations and throwing American workers out on the streets, we rank 10th in the world in terms of the wages and benefits paid to our industrial workers, and for the first time in our history younger workers are earning less than older workers. Children can expect a lower standard of living than their parents, for the first time in our history.

One of the reasons for the decline in the standard of living of our working people is that the organizations which represent them, the trade unions, are also in decline. In 1954, 34 percent of the workforce was organized. Today we are down to 16 percent.

Mr. Speaker, the right to strike for better wages and better working conditions is a basic American right, but it is a right which means nothing if it means that you are going to lose your job when you exercise that right. What does a right mean when you go out and you take advantage of that right and you lose your job?

Mr. Speaker, let us today stand with the working people of this country and tell the corporations that they cannot take away the basic rights of American workers, that they cannot replace workers on strike with permament replacements.

Let us pass H.R. 5, and be prepared to override a Presidential veto, if that is what we have to do to protect American workers.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 1½ minutes to the gentleman from Tennessee [Mr. DUNCAN].

□ 1040

Mr. DUNCAN. Mr. Speaker, many people have spoken in recent weeks about the harmful effect H.R. 5 would have on small business. It is clear beyond a shadow of a doubt that many Federal laws, rules and regulations are much more difficult and much more expensive for small businesses to comply with than giant corporations.

Because of this, yesterday I asked the Committee on Rules to allow me to offer a small business exclusion to H.R. 5. The amendment offered was a moderate one, limiting this exclusion to businesses half the size designated as small by congressional small business committees. In spite of the fact that there are fundamental differences between labor relations at a business employing thousands and a locally run small business, the committee would not allow the amendment to come to the floor.

Big businesses are financially stronger. They would be able to handle replacements easier than small businesses would. Almost every situation cited as showing a need for this bill is a big-business situation, such as Eastern Airlines.

Many small businesses are marginal at best. They are going out of existence at a rapid rate in this Nation, largely because of Federal favoritism toward big business.

H.R. 5 should not be applied to the mom and pop operations and other small businesses of this Nation.

This will only help the big to get bigger.

Ultimately it will decrease freedom and opportunity in this Nation, and ultimately it will hurt every working man and woman in this country.

Make no mistake about it, to vote for H.R. 5 in its present form is a vote against small business.

I would have voted for this bill had it had a reasonable small-business exclusion. Unfortunately, we will not have that opportunity.

So I urge my colleagues to vote "no" on this rule.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment of the gentleman from Tennessee would exclude companies or corporations of 250 members or under. And 99 percent of the companies would fit that category and 80 percent of the employees. So his amendment would, in effect, gut the bill. That is why it was not made in order.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Maine [Mr. ANDREWS].

Mr. ANDREWS of Maine. Mr. Speaker, today we begin debate on an important piece of legislation, H.R. 5, The Workplace Fairness Act. This bill in its essence is not about labor or management. It's not about liberal or conservative, left or right. It's about fairness, Mr. Speaker. It's about justice.

Today, you will hear all the horror stories about what it will do to American businesses if they aren't allowed to hire permanent replacement workers during a strike.

Well, I want to tell you what it did to a small town in my home State. Three years ago, 1,200 workers at the International Paper Co. mill in Jay, ME, went on strike to protest the company's refusal to negotiate a contract. The company immediately hired permanent replacement workers, many of them from out of State. Generations of workers from the surrounding towns had given their blood, sweat, and tears to make the company strong and prosperous. Overnight, their jobs were gone, their livelihoods destroyed, their communities divided.

Almost every industrialized nation, including Poland, prohibits the replacement of strikers with permanent workers. In Canada, Japan, France, The Netherlands, Germany Greece, Italy, Spain, in all of these countries and more it is illegal to do to their workers what International Paper Co. did to the workers in Jay, ME.

Mr. Speaker, the decade that gave us junk bonds, leveraged buyouts, and S&L's also gave us Patco, Phelps Dodge, and Frank Lorenzo. To restore America's greatness we must first restore the rights and the dignity of the American worker.

That is why I urge you to vote in favor of H.R. 5, and support this rule.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Erie, PA [Mr. RIDGE], who has authored two of the most important amendments to this bill but, tragically, they have not been incorporated in the rule.

Mr. RIDGE. Mr. Speaker, I'm tired of the "are-ya-with-me-or-against-me" attitude on this issue. People's livelihoods are at stake and without a compromise, nothing will get accomplished.

Our Nation's economic growth and success is due to the American people's intuitive sense of balance and fairness. If the balance of rights and obligations shifts one way, then our basic sense of fairness and justice swings the pendulum toward the other.

It's not a smooth swing. Heated debate and discussion are the energy that fuels the pendulum swing.

But there's no debate and discussion here. No opportunity to reach a compromise that benefits those the proponents of H.R. 5 purport to help: the working men and women of this Nation.

It's either you are with me or against me.

H.R. 5 won't become law. The leadership of labor will get their vote. Their litmus test. They'll tell their membership the House passed the bill. They'll tell them who is with them, who is against them. But in the end, nothing will change.

The distinguished majority leader of this body called two attempts to reach a compromise baloney. But what will the majority leader say to the rank-and-file union members 1 year from now when nothing's changed? What will he say when workers are still replaced, when they ask him how are they going to feed their families?

I'll tell you what he'll say, he'll say let them eat baloney. That's all they'll be able to afford. But he got others their vote. He'll go to the conventions and fire up the crowd and get a standing ovation. But that fire will be extinguished quicker than you can say scab when those folks realize all they got was a vote. And it's hard to feed a family with a vote.

Today politics will triumph over policy. Proponents and opponents will claim victory. But nothing will change in the workplace. The rights offered in H.R. 5 will never be enjoyed by workers.

Symbolism will triumph over substance. Professional lobbyists will ring their hands with delight. Delight, not in a victory for working Americans, but delight in having an issue they can use to rally their members, to raise money, and to send out reams of self-congratulatory letters to their membership.

Today, we are asked to consider the positions at both ends of the spectrum. There was one somewhere in the middle which I and some of my colleagues attempted to offer during this debate. We will never know whether that compromise could have bridged the gap enough to provide some real protection for American workers, for that debate was left behind closed doors in Rules Committee. For you see, if a rational, fair and honest compromise could have been brought before this House, the professional political lobbyists, whether representing labor or business, may not have the chance for their propaganda victory, the triumph of rhetoric over action; of sound bites over substance.

There is no legitimate alternative to the bookend proposals before us today. Let me then speak directly to American workers who want to believe they are being well-served by this body today. You're not. You are being used as fodder for the inside-the-beltway game of who can score highest on the public relations meter.

Shortly after this issue dies here in Washington, you will be inundated with letters and articles from your leadership telling you how close victory was and asking for further assistance so next time true victory will be attained. I am not sure exactly who you are, but for some who are listening, the next time this issue is discussed in the District of Columbia you or a member of your family may be out of a job because of this Chamber's inability to be honest with you or itself.

Sometimes leadership is telling you what you need to know—not what you want to hear.

This vote tells you what you want to hear. This House has failed you because H.R. 5 is going nowhere. It is DOA [dead on arrival]. Political merits and demerits will be assessed, but working men and women will gain nothing.

There is a problem in the workplace. H.R. 5 will not fix it. I have discussed this matter with hundreds of representatives from organized labor. They are understandably concerned about their job security.

The world is truly a more competitive place. Competition is much tougher and worldwide. Membership in organized labor is down from 34 percent of nonagricultural workers in 1954 to 16 percent today. Labor leadership is under great stress to reverse this trend and have no foreseeable way of doing so.

Trade laws aren't equitably enforced. The recession is squeezing labor and management. Management is trying to be more competitive and productive and negotiations are tougher. And finally, on occasion there appears an uncaring, unthinking and unscrupulous business type who seeks to destroy rather than negotiate.

While replacement workers are rarely employed in strikes, it happens often enough in the environment I previously described to make people very anxious, if not downright scared.

Labor leaders have used H.R. 5 to play on that fear. It is a sham and a shame since everyone in Washington knows it's not going anywhere, it will not be law—just a great applause line in a speech.

We need to do more than that for our workers. Let me tell you why.

For about a half century, there was a simple rule in the workplace: No contract, no work. Recently, that rule has not been so simple.

The labor movement argues that since about 1981, when President Reagan hired replacement workers for striking Professional Air Traffic Controllers, more and more employers have been willing to replace strikers with nonunion workers. Worse, labor argues, is the contrivance of labor disputes in order to bust the union.

In 1938, the U.S. Supreme Court ruled in National Labor Relations Board versus Mackay Radio & Telegraph Co. that employers had a right to keep their businesses operating during strikes over economic issues. They could hire workers to take the place of those on the picket lines. They could not, however, hire replacement workers during strikes over unfair labor practices. The distinction between the two is often blurred.

For reasons ranging from a strong organized labor force to public attitudes toward businesses that replace strikers, few employers actually permanently replaced workers who exercised their right to strike. But, according to labor, all that changed in the early 1980's.

Legislation strongly supported by labor, and equally denounced by business, will shortly come before the Congress that seeks to address what some believe is the erosion of the strike as the weapon of last resort. It bans the use of permanent replacement workers.

Labor argues that the legislation restores equity in the collective-bargaining process. If labor can't strike without fear of losing their jobs then the delicate balance of power at the bargaining table is tipped decisively in management's favor.

The business community argues that it would be extremely difficult to recruit even temporary workers unless those workers had a chance at a job with a company, if they performed well. Of primary concern to business is that the legislation may encourage the use of strikes since labor would have little to lose.

As a strong supporter of the collective-bargaining process, I have closely reviewed this issue. I think there is enough evidence for Congress to act. I also think that an outright ban on the use of permanent replacement workers is not the solution, nor does such legislation have even the remotest chance of becoming law.

That's why I have proposed the Collective Bargaining Protection Act of 1991. This legislation would establish a 12-week cooling-off period to enable the parties to sit down, roll up their sleeves, and bargain. The way the process is supposed to work.

It's a balanced approached because both sides must first exercise their ultimate weapons: Labor must vote to strike and management must decide to use replacement workers. Both sides would have 12 weeks to reach an agreeement. Most labor disputes are settled within 3 months. In the meantime, striking workers would not have to fear losing their jobs and the company would be able to conduct business.

Strikes are disruptive to our economy. They are even more disruptive to workers and their families who feel forced to resort to labor's ultimate weapon. The Collective Bargaining Protection Act is a better approach. It restores that delicate balance of power in labor-management relations so crucial to a productive and competitive economy. An economy that's fair to the worker, the employer, and the consumer.

I regret I could not offer the Collective Bargaining Protection Act as an amendment. I regret that most of Washington Labor Leadership was not inclined to offer a legislative proposal that had a reasonable chance of being enacted into law. When they become more interested in substance not symbolism and concerned with policy not politics, I hope they give me a call.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

☐ 1050

Mr. MURPHY. Mr. Speaker, I thank the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for this opportunity to speak on behalf of the rule. We will have hours of debate as the day progresses to discuss the merits or demerits of this legislation, and I would like to say in answer to the gentleman from Pennsylvania [Mr. RIDGE], my good colleague, that this is a very limited measure in itself, and we will discuss that during the day later.

I do not know; I am sorry that I missed the opening few minutes of the debate, but something apparently set off my good friend and colleague on the committee, the gentleman from Texas [Mr. ARMEY]. But I would like to say in answer to what he was speaking of; he was besmirching this legislation and painting all unionized workers in our country of violent activities, that that is not the case. We have ample laws, in answer to the gentleman from Texas, to protect us against violence from whatever source may be. Sometimes we are not satisfied with the enforcement of that protection, whether it be on the streets of Washington, DC, or in the coalfields of West Virginia or western Pennsylvania. But every State and every community in our Nation has a law against violence.

Believe me. Coming from the coal country and the steel valleys that I come from, I have seen those laws enforced against union activities, against law violaters. There are ample laws. We do not need to encumber this legislation with talking about supposed violence because it is already controlled. There are Federal laws, ample Federal laws, that protect legitimate worker activity, whether it be unionized or nonunionized.

Mr. Speaker, we are seeing today in the Federal courts provisions that limit the number of pickets on a picket line to a very, very few members, as low as three, and four, and five, and six. There are fines if unions permit or encourage their members to commit any type of violent activity. We saw last year where the United Mine Workers of America union was fined thousands and thousands of dollars, not because of what the union did, but because of what some radicals were accused of doing.

There are plenty of laws, and I say to my colleagues, "You need not encumber this very limited legislation."

I think we should support this rule. It is a good one. We offer the opportunity for two full substitutes, one by the gentleman who is the ranking member on the Committee on Education and Labor, the gentleman from Pennyslvania [Mr. GOODLING], which will totally limit this legislation, and we will debate his amendment in full. Then there is one by the gentleman from Florida [Mr. PETERSON] which further limits and clarifies this measure. There are ample amendments being offered. There will be ample debate time, and I see no reason that we should not adopt the rule, pass the previous question, and go on with the debate as it is.

Mr. Speaker, let me say to the gentleman from Pennsylvania [Mr. RIDGE], my very good friend and colleague, who he and I are perhaps 2 percentage points apart in voting in our history together in Congress, who says the matter is going nowhere, the following:

> I submit to those of you who are in your offices listening on both sides of the aisle that, if you think it is going nowhere, let's think about the votes that Claude Pepper cast back in the 1930's, or Lyndon Johnson in the 1940's and 1950's, or John Kennedy in the 1960's, and Hubert Humphrey in the 1950's and 1960's. Many times these great leaders of our country voted, and they lost, but what they provided us was a constant, steady flow of a vision for America of improvement in our legislation, improvement in the conditions of our workers, improvement in the lives of our people.

So, Mr. Speaker, the threat of its not going anywhere does not deter me, and I say that it did not deter those great Americans. Let us go on with the measure.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding time to me, and I rise in full support of this rule. I think it is a fair rule, and I think it is the kind of rule that we need. We have permitted the minority to have their say.

Mr. Speaker, I rise in support of House Resolution 195. In my view, H.R. 5 is the most important legislation affecting the rights of workers that this body is likely to consider in the 102d Congress. This rule enables the House to consider practical alternatives to the bill as reported by committee without being sidetracked by demagoguery. The rule fully protects the minority by making in order a motion to recommit with or without instructions.

The rule makes in order an amendment in the nature of a substitute to be offered by Mr. PETERSON. Mr. PETERSON has drafted a substitute amendment dealing with the difficult issue of representational strikes. I support making this amendment in order. I will support the amendment when it is offered.

The rule also makes in order an amendment in the nature of a substitute to be offered by Mr. GOODLING. Mr. GOODLING's amendment seeks a middle road in what is admittedly a very partisan and emotional issue. While I do not believe this amendment adequately protects the rights of workers, and will oppose the amendment when it is offered, I believe the House should have the opportunity to consider it.

H.R. 5 seeks to restore balance to our system of labor-management relations and protect the right of American workers to exercise a voice in the determination of their wages and working conditions. Its enactment will both further the economic security of the citizens of this country and promote the democratic values which serve to distinguish our country from all others. I urge the Members of this House to support this rule that makes possible consideration of the vital legislation and I urge the Members to support H.R. 5 when this rule is adopted.

Mr. DREIER of California. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Maine [Ms. SNOWE], our very hard working colleague.

Ms. SNOWE. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding.

Mr. Speaker and Members of the House, I rise in strong opposition to this rule, and I join the efforts of the gentleman from Pennsylvania [Mr. RIDGE] and the gentleman from New York [Mr. HOUGHTON] that we should have been permitted to offer an amendment addressing the cooling-off period that was proposed in the Ridge proposal. That is something that we worked on because we thought it was a fair and more effective approach.

There is no need to restrict this debate today, especially when we are contemplating labor law reform of this magnitude and for the very first time in more than 53 years. Why is the Democratic majority so afraid to hear that there are options to address this problem and other meritorious arguments that should be considered here on the floor of the House today?

Mr. Speaker, our goal should be simple. One is to insure that equilibrium exists in labor-management relationships. We should seek to insure that neither side in a labor-management dispute holds such a procedural advantage that it can force capitulation of the other side, and we did seek to encourage good-faith negotiation by both sides in a dispute so that they discuss and work out their differences rather than resort to confrontational tactics. With those goals in mind, we must then answer the question as to whether the use of permanent replacement workers has thrown the labor-management relationship out of balance, and, if so, what should be done.

I believe in then, Mr. Speaker, a position to speak to this issue because of the experience in my district in 1986 with Boise Cascade and in 1987 and 1988 with the International Paper Co. in Jay, ME. Nearly a 1,000 workers were supplanted by permanent replacements in Jay, and the signal that permanent replacements would be used came early on in the dispute. Management would argue that they did so because the union struck at five plants simultaneously across the country and they did not have sufficient personnel to maintain the plants. Frankly, though, International Paper management did not act prudently in hiring permanent replacement workers. They were ill served by this action, especially in a one-company town. It tore the community asunder, it pitted neighbor against neighbor and fathers against sons, and the wounds will exist for a very long time. No one won in this dispute, and everyone lost.

Mr. Speaker, the problems was that the fevered emotions on both sides never had a chance to abate, and tempers ran high, and beating the other side became the focus, not solving the impasse. There was never time, nor the opportunity, to get a perspective of issues at hand. Use of permanent replacement workers did play a role in the escalation of this situation, but will banning replacement workers address the problem? No. I would suggest that in fact it will skew the balance. What was needed in Jay, ME, and other places was a cooling-off period, a chance for both sides to take a second look at their disputes without immediate threats overhanging.

Mr. Speaker, that was the basis for the proposal that we wanted to offer that would be offered by the gentleman from Pennsylvania [Mr. RIDGE]. We developed this compromise providing for a 12-week cooling-off period which would start upon the time that temporary replacement workers were hired. That was the key in this legislation that was different from the substitute that will be subsequently offered. This delayed trigger would be most advantageous because it allows for more distance between the start of a strike and the use of replacement workers. This delay trigger is important because it provides a nonthreatening window in which both sides can work to solve the dispute. Unfortunately the Committee on Rules did not see it that way and denied us the opportunity to offer this proposal.

Therefore, Mr. Speaker, I am urging defeat because I do think that we should have the opportunity when issues of this importance come up before the House, we should have the opportunity to consider various options, and I think the very fact that we were not allowed to offer this proposal is because ultimately it could have gained the support of the majority in this Chamber because it is fair and the most effective approach in trying to address the problem. H.R. 5 would simply overreach in trying to restore balance.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I happen to be one of those who believe that H.R. 5 is a very unfair bill and that union leaders who represent only 12 percent of the work force in private industry in America are trying to rewrite the delicate balances which exist in regard to the last resort, for instance, that unions do not want to use, and that is the right to strike, the last resort that employers do not want to use, and that is having to go out and hire a new work force, and the last resort which many workers, union and nonunion, do not want to consider, and that is making a decision whether to go to strike or exercise their right not to strike.

I cannot explain to the people back home, for instance, about what a closed rule is because everybody back home, I think in all of our districts, really believes that, if their Member of Congress has an amendment, he is going to be able to rise on the floor and present that amendment.

□ 1100

And here I hear my colleagues, like the gentleman from New York [Mr. HOUGHTON], the gentleman from Tennessee [Mr. DUNCAN], the gentleman from Texas [Mr. ARMEY], the gentleman from Pennsylvania [Mr. RIDGE], and the gentlewoman from Maine [Ms. SNOWE]—and all of them are good Members; they do not cause problems in this body—are being forced to come here, rather obsequiously, and say, "If only I had had my right to be able to present this amendment, this is what I would say."

This is a tremendously important bill. For this Congress and many Congresses before and many Congresses after, it is very, very important, because it is going to obliterate over 50 years of labor law, ever since the Wagner Act. We should not treat it in this way. I have a great deal of respect for the gentleman from Massachusetts [Mr. MOAKLEY], but the gentleman said, for instance, "We didn't allow a certain amendment because it would have gutted the bill." He is a good man, he is an intelligent man, but that is the job of this Congress, to determine whether or not an amendment is going to gut the bill or whether it is good or bad or indifferent.

But the people of America will never hear the debate, the real debate that ought to take place here. We will have a relatively short period of time to debate, and when I go to town hall meetings and try to explain this, that we really do not have the right in the House to stand up and represent our districts and offer amendments, they do not understand. I understand why they do not understand, and that is why I am voting no on this rule.

Mr. DREIER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the word "fairness" is breathed with almost reverence on this floor by numerous Members. We hear the word "fairness," as though it is something that just oozes from the pores of the majority side until we see a rule like this one.

I just want to give a couple of examples. First of all, we have the Armey amendment. I talked to the gentleman from Texas [Mr. ARMEY] a few minutes ago. I understand his amendment was offered in the committee, and that the chairman of the committee told him that it would be an open rule and he would get a chance to offer it on the House floor. What we find out is that not only is this not an open rule, but the chairman specifically went before the committee and asked the committee to deny Mr. ARMEY his chance to offer his amendment because, as the chairman said in at least one public print that I saw, this is an issue that is already covered "and we don't want to highlight it on the floor, namely, labor violence."

Well, let me say that is not fair. Yet what is fair? The gentleman from Florida [Mr. PETERSON] comes to the committee—and I just read the transcript of the committee—and indicates that he has an amendment that has not been fully drafted yet, that he is not sure exactly what is in it, but he has this amendment and he wants it to be offered on the floor; it might be an amendment, it might be a substitute, but we are not sure exactly what it is going to be.

Now, let me ask, what is made in order? Is Mr. ARMEY's amendment made in order? No, Mr. PETERSON's amendment is made in order.

I think I am being fair here. I will ask the gentleman from New York [Mr. SOLOMON], who had a dialog with Mr. PETERSON, did the gentleman not indicate to you during the course of your deliberations that the amendment he had originally set up was just set up to kind of keep the door open so that he could actually draft an amendment that would actually come to the floor?

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, I am disturbed as to how this process took place, because we all are under instructions and we all try to cooperate when we are asked by our good chairman, the gentleman from Massachusetts [Mr. MOAKLEY], to file our amendments by a prescribed time of 5 p.m. When we got the report at 5:15 p.m., there was one amendment that had no name, and it was an amendment, not a substitute. Later on we find, around 7:30 or 8 o'clock that evening, that it was some substitute offered under the name of Peterson, who is a new Member of this House.

Mr. WALKER. Did the gentleman ask who wrote the amendment?

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield to me since he used my name?

Mr. WALKER. I will in just a minute, but first I want to clarify a point here.

Let me ask the gentleman, do we have any idea who drafted the Peterson amendment?

Mr. SOLOMON. We had no idea who drafted the amendment.

Mr. WALKER. Mr. Speaker, I understand he did not seem to know exactly what was in the amendment when he was testifying before the committee. Is that a fair characterization?

Mr. SOLOMON. No; he said he was not sure why it was being handled as a substitute.

Mr. WALKER. I am just very confused by the fact that we have amendments, and that one amendment that was discussed cannot be offered on the floor, but an amendment that no one ever heard of before the Rules Committee now can be offered on the floor.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I yield to the chairman of the Rules Committee.

Mr. MOAKLEY. Mr. Speaker, the Peterson amendment was received by the Rules Committee in draft form within the prescribed time limit.

Mr. WALKER. I have taken a look at the two amendments, and they are entirely different, and he himself said at your committee meeting, I say to the chairman, that the amendment he originally submitted on time was not the real amendment, that that was something that he submitted just to keep the door open.

Mr. MOAKLEY. No. What happened is that he submitted the amendment, but after sitting down with the chairman, I think they put it in more proper form, and there was a difference between the amendment and a substitute. But it was the same language after they clarified the form that it should be in.

Mr. WALKER. Did he not say before the committee that the amendment he submitted was just something that he submitted to keep the door open?

Mr. MOAKLEY. No; I do not remember him saying that.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I read the transcript, and I thought that is what I saw. I think we ought to go back and look at that.

Sure, I am glad to yield to the chairman of the Labor and Education Committee.

Mr. FORD of Michigan. Mr. Speaker, I hope that I have misunderstood the gentleman. It sounded as though he was attacking my veracity in suggesting that I promised my committee I would ask for an open rule and then did something different.

Mr. WALKER. No; what I said was that——

Mr. FORD of Michigan. I have said that we ought to have the record of my testimony before the Rules Committee inserted in this record at this point. I will say to the gentleman very clearly that I asked for an open rule.

Mr. WALKER. Let me reclaim my time.

Mr. Speaker, what I said was that the gentleman from Texas [Mr. ARMEY] whom I had talked to indicated to me that when his amendment was denied in the committee, you told him it would be OK because you would be operating under an open rule and he would have his chance, and then specifically all I accused you of in the committee was that you specifically denied Mr. ARMEY an opportunity to offer the amendment.

The SPEAKER pro tempore (Mr. MCNULTY). The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I am told that my testimony before the Rules Committee cannot be inserted in the RECORD, but I do remember the exchange with the gentleman from Texas [Mr. ARMEY] and I did, in fact, have a formal statement in which I asked for an open rule.

What I said is that the gentleman from Pennsylvania, who was not there, who talked to the gentleman from Texas [Mr. ARMEY], and then on the basis of a rumor of what happened in the Rules Committee, a place that he was also not present at, he accuses me of giving my word to a member of my committee and then doing something different. I want to tell the Members categorically, without any question of the gentleman's ability to test the real evidence, that I did, in fact, tell Mr. ARMEY I had asked for an open rule, and I did, in fact, ask for an open rule.

Mr. ARMEY. Mr. Speaker, will the gentleman yield? The gentleman used my name.

Mr. FORD of Michigan. Yes, I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, did the gentleman not specifically suggest and recommend to the Rules Committee that they not accept my amendment in the rule?

Mr. FORD of Michigan. No. When I was asked about your amendment yesterday, as to the merits of the amendment, not whether it should be in order, I stated—and this is accurate—that your amendment makes no substantive change in the law, that it was purely a piece of mischief, and it is today. Some people would have referred to it as "demagogic," but because the gentleman is a member of my committee, I would not attribute that motive to him.

Mr. ARMEY. Mr. Speaker, will the gentleman yield further?

Mr. FORD of Michigan. Yes, I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the gentleman assured me specifically in the Committee on Education and Labor that he had asked for an open rule and sought to protect every Member's right to participate.

Mr. FORD of Michigan. I did that.

Mr. ARMEY. And when you were in the Rules Committee yesterday, you specifically asked them not to accept my amendment in the rule. I was in the room, I heard you, this is not rumor, and that is exactly what happened.

Mr. FORD of Michigan. When I was in the Rules Committee, I was asked, "What about Mr. ARMEY's amendment?" and I said, "Mr. ARMEY's amendment does nothing to improve or change the National Labor Relations Act in any way. It is pure show business."

I talked to the substance of the gentleman's amendment, not whether it should be recognized.

Mr. ARMEY. Mr. Speaker, if the gentleman will yield one final time, irrespective of the inaccurate characterization of my statement that you made, you did specifically ask the Rules Committee not to accept my amendment.

Mr. FORD of Michigan. Mr. Speaker, if I may reclaim my time, I am not inaccurate, and I submit that if the gentleman thinks it is inaccurate, he should go back to the books and learn a little bit about labor law before he starts arguing it on the floor.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. FORD] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

□ 1110

Mr. RITTER. Mr. Speaker, I am personally familiar with the contributions of organized labor to the health and well-being of our Nation. I personally was a member of four different labor unions while growing up and going to school, ironworkers, plumbers, the UAW, the teachers. Both my parents were members of labor unions. The contribution is there. The legacy is long. It is legitimate. It is laudable.

Lech Walesa changed the world with a strike, but we are in totally different circumstances here in this country today, Mr. Speaker. We face massive competition both in our home markets and abroad and we need to work more cooperatively together.

We need teamwork. Any legislation that promotes the ease with which people can strike works against teamwork. Teamwork is not gained by making strikes easier.

In the quality revolution, each and every worker becomes his or her own best manager. Given the education, the training, the recognition, the reward, the responsibility, workers' and managers' distinctions are blurred. Hierarchies in management today are being removed. People are called associates. The "we" and "they" is gone. It is obsolete. "Us" and "them" is obsolete.

In the best quality companies, workers are managers, managers are workers. It is absolutely essential that what we do in this Congress spur the quality revolution, spur the opportunity for teamwork and not promote the opportunities for further dissension. We need less strikes, not more.

Mr. DREIER of California. Mr. Speaker, I will say that this debate that we have seen here today demonstrates that fairness in the workplace does not exist. This is the people's workplace here in the House of Representatives. We have had a litany of amendments that people have tried desperately to incorporate to improve this measure. Tragically the rule does not include them.

I urge a no vote on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, to close the debate, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Montana [Mr. WILLIAMS], is recognized for up to 5 minutes.

Mr. WILLIAMS. Mr. Speaker, I have been in this body for more than a dozen years now, and I am always surprised that any time we bring legislation to the floor of this House which has as its intention the extension of simple rights to Americans, that legislation invariably creates great verbal pyrotechnics on this floor. Perhaps those bills that seem the most flammable are those which seek to provide simple rights for America's workers. Perhaps it is the word "labor" that creates all these charges and countercharges, but this bill is not about labor, organized or unorganized. It is about workers.

We have heard a lot of rhetoric this morning. We are going to hear more this afternoon. We have heard about the insensitivity of the Committee on Rules. We have heard and will hear more about big labor bosses or thoughtless corporate tycoons. We have even already debated whether or not Members of this House, honored Members, have broken their word.

One Member said that this bill is going to obliterate labor law and another Member said this bill is going to decrease freedom in America. For heaven's sake, for heaven's sake.

We had a plant closing bill on this floor 3 years ago. Let me give my colleagues just one quote from that debate.

"Does anyone believe that this plant closing bill will help the workers of this country? No. It will provide for losing jobs in America. It will provide for discouraging employment."

That was debate on another bill which simply intended to extend rights to workers. It has been 3 years since that bill has been enacted and there is a consensus in this country that providing workers with advanced notice when a plant is about to close is sound, reasonable policy and has caused little, if any, difficulty.

Business Week, not published by the AFL-CIO, said this about that plant closing bill: "It turned out to be the disaster that never happened."

Likewise, after the eventual passage of this bill, we will find that labor and management are working together very effectively and the rhetoric we have heard and will hear today about the negative effect of the bill will be understood as the exaggeration that it is.

My colleagues, the most fundamental right of all working people is the ability to withhold their labor. That is a right that America's labor laws guarantee or at least purport to guarantee. The only reason we are here today is because the promise of our national labor laws is not being kept.

Let me read to Members what the National Labor Relations Act says with regard to strikes. "Nothing in this act shall be construed to impede or diminish in any way the right to strike." But just as sure as night follows day, anyone who strikes and knows they face losing their job if they do so has had that right impeded.

So the hard fact is, and what brings us to the floor today is, the words of America's law of the land do not ring true. To America's workers, the promise that they will not be impeded when they strike is a false one. So we are here today to foster respect and fairness in labor-management relations.

We are here today to simply extend to workers the right to withhold their labor.

Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 157, not voting 14, as follows:

[Roll No. 209]

YEAS—262

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart

Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Roe
Roemer
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NAYS—157

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Atkins
Coughlin
Dixon
Geren
Jefferson
Kennedy
Kleczka
Lowery (CA)
Matsui
Michel
Rose
Saxton
Weiss
Yatron

□ 1138

Mr. HOLLOWAY and Mr. SCHAEFER changed their vote from "yea" to "nay."

Mr. DAVIS changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNulty). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 265, nays 153, not voting 15, as follows:

[Roll No. 210]

YEAS—265

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NAYS—153

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley

Packard
Paxon
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Andrews (ME)
Coughlin
Dixon
Jefferson
Kennedy
Kleczka
Lowery (CA)
Matsui
Michel
Rose
Saxton
Stark
Weiss
Williams
Yatron

□ 1157

The Clerk announced the following pair:

On the vote:

Mr. Kleczka for, with Mr. Lowery of California, against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 173

Mr. COMBEST. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Resolution 173.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

WORKPLACE FAIRNESS ACT

The SPEAKER pro tempore. Pursuant to House Resolution 195 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5.

□ 11:59

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill [H.R. 5] to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, with Mr. LEVIN of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes; the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes; the gentleman from Washington [Mr. SWIFT] will be recognized for 15 minutes; the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 15 minutes; the gentleman from New Jersey [Mr. ROE] will be recognized for 15 minutes; and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 15 minutes.

□ 1200

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, H.R. 5, the Workplace Fairness Act, is the most important labor relations bill to be taken up by the Congress in more than a decade. It has one purpose: to restore to America's working people their most fundamental employment right—the right to withhold their labor without fear of retaliation.

H.R. 5 is simple and direct. It makes it an unfair labor practice for an employer to respond to a lawful economic strike by discharging and permanently replacing the strikers with other workers. It also makes it an unfair labor practice for an employer to discriminate against the strikers with respect to other employment terms and benefits.

If H.R. 5 is not enacted, the survival of collective bargaining in the United States cannot be assured. More and more employers each year are turning to the threat or use of permanent replacements as a way to coerce and intimidate union workers into concessionary contracts, or as a way to bust the union when the employees are pushed too far and are forced to strike.

On Monday, another such case was reported in the Daily Labor Report—a Pepsi-Cola bottler replaced its 85 union employees with 113 nonunion workers and got rid of the union when the replacements voted to decertify it.

Collective bargaining is being killed by employers who have found a way to regain unilateral control of their work forces and deny their employees a voice.

The law in its current unfortunate state permits employers like Greyhound and the New York Daily News to advertise for replacement workers before negotiations even begin, to bargain to impasse without delay and implement a humiliatingly low final offer, and then permanently replace the strikers in the first hour of a strike. Within a year, the strikers are prohibited from voting in an NLRB election and the union can be decertified, that is to say, destroyed. If we do nothing, our system of collective bargaining will be reduced to a system of collective begging.

The Committee on Education and Labor has studied this issue for more than 3 years, and we are confident that the bill we bring before you today is fair and deserves your support. Let us join West Germany, Japan, Canada, Sweden, France, and the other industrial giants of the world that value collective bargaining as a way to spur cooperation and productivity and prohibit the destructive practice of punishing workers who exercise their right to strike. Let us not praise unions in Poland and Czechoslovakia and strangle them in the United States. Let us pass H.R. 5.

MACKAY RADIO AND THE TRANS WORLD AIRLINE DECISIONS

The two Supreme Court decisions H.R. 5 is designed to reverse are *NLRB* v. *Mackay Radio & Telegraph Co.*, 304 U.S. 333 (1938) and *Trans World Airlines* v. *Independent Federation of Flight Attendants*, 489 U.S. 426 (1989).

Mackay Radio declares that an employee lays his job on the line when he goes out on an "economic Strike" over hours and wages and other terms and conditions of employment. He can't be fired, but he can be replaced, and permanently so. It matters little to the worker who loses his job whether he is fired, or whether he is replaced. What matters is the loss of the paycheck, the loss of his job, the loss of his union.

It is obvious to every working man and woman that this discharge and replacement do "interfere with or impede or diminish in any way the right to strike" in violation of section 13 of the act. Who can seriously argue that when the employer discharges the striker, he does not "interfere with, restrain or coerce" the workers' rights guaranteed in section 7 to "engage in concerted activity for mutual aid or protection?" The contrary decision of the Supreme Court in the Mackay Radio case is wrong, and came about in an almost off-hand way. Here is what happened.

Mackay Radio & Telegraph Co., like the better known Western Union, was engaged in the transmission of telegraph, radio, and cable communications, both at home, abroad, and to ships at sea. In 1934 before the Wagner Act, many of the Mackay Radio employees joined the American Radio Telegraphists' Association [ARTA]. The 60 employees at the San Francisco office were especially militant in this union.

In June 1934, ARTA began negotiating for a collective bargaining agreement with Mackay Radio. Negotiations dragged on and on, throughout the summer months. In September 1935, the union took a strike vote, and thereafter announced that it would call a strike for midnight, October 4, 1935, if no agreement was reached at the bargaining table.

In anticipation of the strike, Mackay Radio recruited 11 nonunion employees from its offices in New York, Chicago, and Los Angeles to transfer to the San Francisco office. The company promised them permanent jobs there.

The strike was called on Friday, October 4. All the regular employees in

San Francisco, including low-level supervisors, responded to the strike call. The strike fizzled elsewhere and was called off.

On Monday, October 7, all strikers returned to their jobs, except 11 in San Francisco, who were replaced by the outsiders from New York, Chicago, and Los Angeles. The company selected these 11 with care. One was a supervisor. Five were the least competent employees, with blemished work records. The five others were all good workers, but active union leaders. This is why they were selected for the blacklist.

Then, six of the replacement workers decided to return to their former homes; and the company took back the supervisor, the five incompetents, but not the five union activists.

The National Labor Relations Act became effective on July 5 of that year, and on October 15 ARTA filed unfair labor practice charges with the Labor Board alleging that the discrimination against the five, based on their union leadership, violated their rights under section 7 to "join, form and assist unions," and to engage in "concerted activity" for "mutual aid or protection."

The NLRB held for the union, and wrote that:

> The inference seems clear that the respondent's [Mackay's] officials readily perceived that circumstances had provided them with an excellent opportunity to rid (itself) of the leaders of the Local which had just caused it to pass through a costly strike and it did not fail to make the most of the opportunity. And in thus taking advantage of that opportunity the respondent (Mackay) committed a violation of the Act. 1 NLRB Reports at 218 (1936).

The NLRB refused to decide whether or not Mackay had a right to retain the permanent strike replacements. The Board wrote that the "preference to the strikebreakers" might violate the Act because the claim of the five discharged workers to their old jobs "is greater than that of the strikebreakers." But the Labor Board concluded that "since we find that a decision on the point is not necessary to the final judgment in this case we will not decide the matter." 1 NLRB Report at 216 (1936).

Mackay Radio refused to replace the five union activists it had discharged, and the NLRB took the case to the Court of Appeals for the Ninth Circuit. That court held that the Labor Act was unconstitutional, and therefore did not reach or decide whether it was lawful under the act to single out union leaders for discharge. Nor did that court decide whether it was lawful to keep replacements after the strike ended.

The National Labor Relations Board then took the case to the Supreme Court. The Supreme Court by then had upheld the constitutionality of the Labor Act, and the only issue briefed or argued by the parties was whether it was lawful to discriminate in employment opportunities because of heavy involvement in a union. The Supreme Court agreed with the Labor Board that it was unlawful for Mackay Radio to "keep out certain of the strikers" for the "sole reason that they had been active in the Union." 304 U.S. at 346. In like vein, the Supreme Court more recently held that an employer may not discipline union officials more severely than other union employees for participating in an unlawful work stoppage. *Metropolitan Edison Co.* v. *NLRB*, 460 U.S. 693 (1938).

But the Supreme Court did not stop there. The Labor Board expressly refused to decide whether Mackay Radio could retain the strike replacements in preference to the strikers. This issue was not decided by the Court of Appeals. It was not raised by the parties before the Supreme Court. But, despite all this, the Court, sua sponte wrote that, "it was not an unfair labor practice for Mackay to replace the striking employees with others in an effort to carry on the business," and although section 13 provides that the Act "is not to be construed so as to interfere with or impede or diminish in any way the right to strike":

> [I]t does not follow that an employer, guilty of no act denounced by the statute, has lost the right to protect and continue his business by supplying places left vacant by strikers. And he is not bound to discharge those hired to fill the places of strikers, upon the election of the latter to resume their employment, in order to create places for them. 304 U.S. at 345-346.

This ill-considered *dicta* has created the havoc in collective bargaining that H.R. 5 is designed to correct.

But there is more. *Trans World Airlines, Inc.* v. *Independent Federation of Flight Attendants*, 489 U.S. 426 (1989) took a giant step farther away from Congress' efforts to encourage the practice and procedure of collective bargaining. Under TWA, individuals who cross the picket line can get any vacant job, and keep it at the strike's end, no matter how low they might rank on the seniority scale. This is what happened.

The contract with TWA typically provided that flight attendants with greatest seniority would have first choice on vacant job assignments, vacant flight schedules, and vacant bases of operations. For example, should a job vacancy appear at the highly desirable San Francisco base of operations, the most senior qualified flight attendant who bid on the vacancy would be entitled to it. Should the flight to Tokyo become vacant, it would go to the most senior applicant for that schedule.

After 2 years of unsuccessful bargaining over wages and working conditions, the flight attendants went on strike on March 7, 1986. Earlier, TWA had warned that it would continue operations with permanent replacements and "crossovers," that is, union members who "crossed over" the picket line. TWA also warned that new employees and "crossovers" would be permitted to pick any vacant base of operation and any vacant flight assignment—and keep them when the strike ended, regardless of seniority.

This opened the door wide to junior flight attendants—if they broke ranks with their brother and sister employees—to choice assignments which otherwise went to others with 10 or 15 years of seniority. The incentive bore fruit.

During the 72-day strike, approximately 5,000 flight attendants remained on strike, some 1,280 flight attendants "crossed over" the picket lines, and some 2,350 new flight attendants were hired. When the strike ended, TWA recalled only the 197 most senior strikers to fill the "beginning jobs, not then occupied by the "crossovers" and new hires. Some 4,000 strikers are still out of work, waiting to be recalled.

The Supreme Court saw nothing wrong with this, because of the guiding precedent of Mackay Radio. TWA's decision to give the most desirable jobs to junior "crossovers" and not to the more senior full-term strikers "had the effect of encouraging prestrike workers to remain on the job during the strike or to abandon the strike and return to work before all vacancies were filled." But, wrote Justice O'Connor for the Court, this was only "an effect of the exercise of TWA's peaceful economic power, a power that the company was legally free to deploy once the parties had exhausted the private dispute resolution mechanisms of the Railway Labor Act."

Justice Brennan, joined by Justice Marshall, dissented because this kind of discrimination on the basis of union activity is "inherently destructive of the right to strike as guaranteed by both the Railway Labor Act and the National Labor Relations Act."

The TWA decision can only deepen the reluctance of workers to strike. They may be willing to give up their paychecks for a few weeks, or even months, in support of bargaining demands they believe are just. But it is an entirely different ball game when hard-earned seniority is put on the line. The stakes are greater; the risk almost unbearable. Clearly, the threat of seniority suicide "interferes with, impedes and diminishes" the congressionally-guaranteed right to strike. And without the right to strike, the process of collective bargaining becomes nothing more than a process of collective begging.

The TWA decision compounds the damage earlier done by its "godfather," Mackay Radio, and is the second of the two Supreme Court decisions we seek to repudiate with enactment of H.R. 5.

SUPREME COURT DECISIONS DISTINGUISHING OR APPLYING THE MACKAY RADIO DOCTRINE: MASTRO PLASTICS, ERIE RESISTOR, GREAT DANE TRAILERS, FLEETWOOD TRAILER, BELKNAP, AND TWA

We have discussed the background and holdings in Mackay Radio and Trans World Airlines. There are five additional Supreme Court decisions which have been featured in the debate and discussion during the committee hearings. They are *Mastro Plastics Corp.* v. *NLRB*, 350 U.S. 270 (1956); *NLRB* v. *Erie Resistor Corp.*, 373 U.S. 221 (1963); *NLRB* v. *Great Dane Trailers, Inc.*, 388 U.S. 26 (1967); *NLRB* v. *Fleetwood Trailer Co.*, 389 U.S. 375 (1967); and *Belknap, Inc.* v. *Hale*, 463 U.S. 491 (1983).

A. THE EARLIER DECISIONS SOUGHT TO AMELIORATE THE HARSHNESS OF THE MACKAY RADIO DOCTRINE

First, Mastro Plastics was the first of these decisions.

It holds that employees who strike to protest an employers' unfair labor practice—unfair labor practice strikers—can get their jobs back on demand.

The 76 employees at Mastro Plastics were well satisfied with their membership in the Carpenters Union. But their employer thought they should shift their allegiance to Local 318 of the Paper Mill Workers. He told his employees that "those refusing to do so would be out."

Despite the employer's threats, the workers remained loyal to their chosen Carpenters Union. Matters came to a head when the employer discharged an employee "because of his support of the Carpenters and his opposition to Local 318." The other employees promptly walked out in protest, despite a conventional no-strike clause in their contract.

The employer hired replacements, and then denied reinstatement to the strikers, on the theory that the employees had forfeited their employment rights because of the illegal strike. Section 8(d) of the act supports the employer here, because of its provision that a worker who engages in an illegal strike "shall lose his status as an employee." Nevertheless, the Supreme Court emphasized the employer's unfair labor practices as precipitating the strike and went on to hold that: "under these circumstances the striking employees do not lose their status as employees and are entitled to reinstatement with backpay even if replacements for them have been made."

The situation differs from that in Mackay Radio, said the Court, because a strike protesting an unfair labor practice warrants greater protection than a strike over economic benefits.

Second, Erie Resistor is the second case after Mackay Radio.

It holds that it is an unfair labor practice for an employer to give 20 years super seniority to his strike replacements, even when the promise of super seniority, as in Mackay Radio, is necessary to protect and continue the business.

Erie Resistor was unable to get strike replacements until it offered 20 years super seniority for purposes of layoff and recall. Then, many junior employees began to cross over the picket line. The Labor Board held that the offer of super seniority violated the rights guaranteed to workers under the act because it is a form of discrimination extending far beyond the employer's right of permanent replacement sanctioned by Mackay.

The Supreme Court affirmed. It noted that offering super seniority to replacements deals a crippling blow to the strike effort for two reasons. First, it gives employees with low seniority the opportunity to obtain the job security which, ordinarily, only long years of service can bring. Conversely, this new status seriously dilutes the accumulated seniority of older workers. Second, super seniority renders future bargaining difficult, if not impossible, by dividing employees into two camps; those who stayed with the union and those who returned before the end of the strike and thereby gained extra seniority.

The Court refused to apply the Mackay Radio doctrine because the employer's interest in continued production does not justify the increased encroachment on these rights resulting from the super seniority agreement.

The Supreme Court sees its role as one of balancing interests, and this time the Court came down on the side of the worker.

The Court also came down on the side of the worker in the next two decisions, Great Dane Trailers, and Fleetwood Trailers.

Third, during a strike at Great Dane Trailers, the employer gave accrued vacation benefits to workers who crossed the picket line in the form of cash payments, but denied the accrued vacation benefits to strikers, even though they had earned the benefits by their past employment.

The Supreme Court held that this was discrimination in its simplest form; and that the labor act prohibits this type of discrimination, which targets participation in concerted activities such as a legitimate strike.

Great Dane Trailers takes on additional significance because of its holding concerning the burden and degree of proof necessary to prove that an employer discriminated to discourage union membership and activities. Ordinarily, wrote the Court, a finding of a violation turns on whether the discriminatory conduct was motivated by an antiunion purpose. If it was motivated by a legitimate business purpose, it would not be a violation. But the Court added:

> Some conduct, however, is so inherently destructive of employee interests that it may be deemed proscribed without need for proof of an underlying improper motive.

On the other hand, when the resulting harm to employee rights is comparatively slight, and a substantial and legitimate business end is served, the employers' conduct is prima facie lawful and an affirmative showing of motivation must be made.

This prompted some commentators to suggest the end of Mackay Radio on the theory that the use of permanent replacements is inherently destructive of employee interests and therefore automatically proscribed. In contrast, the use of temporary replacements against strikers is comparatively slight and therefore unlawful only if the employer fails to come forward with evidence of legitimate and substantial business justification.

Fourth, in Fleetwood Trailers, the employer hired permanent replacements during a strike, and refused to reinstate the strikers when vacancies occurred thereafter.

The Court held that a striker, even when replaced, remains an employee within the meaning of the statute, and consequently has priority rights to the job over a stranger, if and when an opening occurs at strike's end. This is so because the effect of the employer's refusal to reinstate strikers is to discourage employees from exercising their rights to organize and to strike guaranteed by sections 7 and 13 of the act. The Court then applied the rationale of Great Dane Trailers and ruled that the employer has violated the act, as it had failed to prove legitimate and substantial business justifications for its refusal to take back the former strikers.

B. THE CHANGE OF COURT PERSONNEL AND THE CHANGE OF DIRECTION TIGHTENING THE SCREWS ON MACKAY RADIO

Great Dane Trailers and Fleetwood Trailers were decided in the heyday of the Warren Court. It was anticipated that the inherently destructive, and the substantial business justification tests would dethrone Mackay Radio. Surely, hiring permanent replacements is inherently destructive of the right to strike. Surely, even if hiring permanent replacements has only a comparatively slight adverse effect, the employer would have difficulty in proving a substantial business justification for hiring permanent replacements instead of using the more traditional techniques of coping with a strike. But this was not to be.

First, Belknap, Inc. versus Hale was decided by the Burger Court, and held that if the employer went back on his promise of a permanent job, the replacements hired during the strike could sue for damages in the local State courts.

The Court also ruled that "the refusal to fire permanent replacements because of commitments made to them in the course of an economic strike satisfies the requirements of NLRB versus Fleetwood Trailer Co. that the employer have a 'legitimate and substantial justification' for his refusal to reinstate strikers."

Belknap presents a scenario all too common in today's labor-management relations. The union and company began negotiations for renewal of the collective-bargaining agreement, but could not reach agreement. The union called a strike, and Belknap put ads in the local newspapers:

> Permanent Employees Wanted
>
> Belknap, Inc.
>
> Openings available for qualified persons looking for employment to permanently replace striking warehouse employees. Minimum starting rate $4.55 per hour. Top rate $5.85, depending on skill, ability, and experience.

A large number of people flocked to the plant and signed individual employment contracts reciting that:

> I, the undersigned, have been employed by Belknap, Inc. at its Louisville, Kentucky, facility as a regular full time permanent replacement to permanently replace —— in the job classification of ——.

Belknap then made a mistake of law. It granted a wage increase to those who stayed on the job, higher than the wage increase it had offered the union. This is an unfair labor practice, and the strike then became an unfair labor practice strike. Under Mastro Plastics the strikers could get their jobs back on demand. Belknap thus was forced to rehire the strikers, and he fired the cross-overs who had been promised permanent jobs. They then filed suit for damages in the State court, and the Supreme Court ruled that Federal law did not preempt the State cause of action. Belknap puts the employer in a box. If he hires permanent replacements to break a strike, he cannot reach a settlement agreement which includes taking back the strikers. Under Belknap he would then face a lawsuit before a State jury. On the other hand, if he refuses to take back the strikers no matter what, they will have nothing to lose and will prolong the strike at all costs. Thus, Belknap tightens the screws of Mackay Radio.

Second, the Trans World Airlines case upheld the right of an employer to offer strike replacements permanent super seniority in jobs previously filled by those on strike. It has been discussed previously. Suffice it to say here that the decision strengthens Mackay Radio's pressure on employees to forgo their right to strike, expands Mackay Radio to reach cases under the Railway Labor Act, and undermines the Warren Court decision in Erie Resistor prohibiting offers of super seniority to those who cross the picket line.

THE RIGHT TO STRIKE IS INTEGRAL TO THE SUCCESS OF COLLECTIVE BARGAINING

Back in 1935 when Congress passed the Wagner Act, our object was to provide employees with a meaningful role in working out their terms and conditions of employment with their employer. Congress saw an inequality in bargaining power, and set about to correct it. The solution was to confer upon employees a series of protected rights—to join, form, and assist unions; to bargain collectively through unions of their own choosing; to engage in concerted activities for mutual aid and protection; and, when necessary, to strike in support of their bargaining positions.

This right to strike was and is the keystone of our national labor relations program. If employees cannot mount a meaningful strike threat, the Federal labor policy does not work without it. There is no incentive for the employer to make concessions or reach agreement. From the first, it has been understood that the right to strike is essential to the give and take of true collective bargaining. Without this threat, negotiations degenerate into a sterile charade.

The courts have understood the need for strike power since the very beginning. Indeed, the square holding of the Mackay decision was that an employer violates section 8(a)(3) of the Labor Act when he discriminates against his employees because of their role in leading a strike.

Strike power is the go power of collective bargaining. The notion has never been better expressed than by Justice William Brennan in *NLRB* v. *Insurance Agents' International Union*, 361 U.S. 475 (1960). The union committee was bargaining in good faith at the bargaining table, but away from the bargaining table the insurance agents brought pressure on their employer with what they called a "Work Without a Contract" policy. This included a refusal to solicit new business, reporting late at district office meetings, and engaging in mass demonstrations at the company's home office.

The Labor Board concluded that the union breached its obligation to bargain in good faith when it utilized these harassing tactics; the very antithesis of the reasoned discussion it was duty bound to follow. The Supreme Court thought otherwise.

Justice Brennan first concluded that these harassing tactics were not protected under the act, and that the employer, if so minded, could discharge all the participants. But, the Court concluded, there was no violation of the duty to bargain. Collective bargaining, he wrote, cannot be equated with an academic collective search for truth, and consists of far more than argument, persuasion, and the free interchange of views. Justice Brennan concluded:

> The system has not reached the ideal of the philosophic notion that perfect understanding among people would lead to perfect agreement among them on values. The presence of economic weapons in reserve, and their actual exercise on occasion by the parties, is part and parcel of the system that the Wagner and Taft-Hartley Acts have recognized. * * * One writer recognizes this by describing economic force as "a prime motive power for agreements in free collective bargaining."

Our concept of collective bargaining, as Justice Blackmum put it in *First National Maintenance Corp.* v. *NLRB*, 452 U.S. 666 (1981), is premised on the belief that collective discussions backed by the parties' economic weapons will result in decisions that are better for both management and labor and for society as a whole.

The Mackay Radio dictum undermines the employees' principal economic weapon and blocks the road to meaningful, successful collective bargaining. Mackay Radio should be reversed by enacting H.R. 5.

MACKAY RADIO INTERFERES WITH, IMPEDES AND DIMINISHES THE RIGHT TO STRIKE

Mackay Radio authorizes the employer to replace strikers permanently. True enough, somewhere down the road the replacements might decide to take themselves elsewhere. If so, the striker will have priority in filling the vacancy, unless he has found another job. See *NLRB* v. *Fleetwood Trailer Co.*, 389 U.S. 375 (1967). But this is small solace to the striker whose job is terminated here and now.

The notion that anyone should recognize a fundamental difference between an employer's decision to discharge a striker and an employer's decision to "permanently replace" a striker ignores practical reality. In both instances, the employee is out of work because he exercised his right to strike.

Prof. Paul Weiler of the Harvard Law School wrote that while the law might recognize a distinction:

> The employee may be excused for not perceiving a practical difference as far as his rights under section 7 are concerned. The bleak prospect of permanently losing his job is obviously likely to chill an employee's willingness to exercise his statutory rights to engage in "concerted activities" 98 Harv. L. Rev. 351, 389–390 (1984).

Prof. George Schatzki of the University of Connecticut adds that the distinction between discharge and "permanent replacement" is meaningful even when looked at from an employer's perspective:

> The distinction between permanent replacement and discharge can hardly mean anything to the displaced employee; and to the employer it can mean little more. * * * As a practical matter, in almost all cases the *Mackay* doctrine—despite its articulated distinction—is an invitation to the employer, if he is able, to rid himself of union adherents and the union. 47 Texas L. Rev. 378, 383 (1969).

One need look no further than the Greyhound strike to refute any suggestion that being replaced is somehow different in kind from being fired.

At Greyhound, approximately 9,300 employees went on strike rather than accept the company's contract proposal. Three weeks before the strike began the company advertised throughout the United States for permanent replacements. When the strike began, the company wrote all the strikers, referred to the "TWA Supreme Court decision in 1989," and told them "if you abandon the strike and return to work before a contract is reached you will not be fired nor laid off to make room for a more senior driver returning at a later date."

When the union finally made an unconditional offer to return to work, the company replied that at best, no more than 600 jobs were available. For the other thousands of workers, being fired or permanently replaced for choosing to strike amounted to the same thing: a career destroyed, financial ruin, and untold personal hardship.

THE MACKAY DOCTRINE UNDERMINES THE PROCESS AND PROCEDURE OF COLLECTIVE BARGAINING

Lane Kirkland, president of the AFL-CIO began his testimony before our committee with the statement that the Mackay doctrine "poisons the development of healthy and mutually beneficial collective bargaining relationships." This is so, said Mr. Kirkland, because—

> Mackay allows employers to convert a dispute over the terms of a particular collective bargaining agreement into a dispute over the future status of the union and over the collective bargaining relationship itself.

Lynn R. Williams, president of the United Steelworkers of America, echoed this thought when he testified that:

> Mackay can prolong strikes and defeat the NLRA's objective of securing prompt resolution of collective bargaining disputes. Once an employer hires permanent replacements, the ongoing negotiations become vastly more complicated. To the issues that already divide the parties, there is now added a dispute over whether the employer will take back the strikers in preference to the permanent replacements. Parties who could have reached agreement on the issues they started out to negotiate, founder over the new issues that Mackay necessarily injects into the bargaining. Agreements are lost or delayed; industrial strife proliferates.

Richard L. Trumka, president of the United Mine Workers of America, characterized the Mackay doctrine as a cancer destroying free collective bargaining:

> By raising the stakes of what should be a limited conflict over limited objectives, the employment of permanent strike replacements transforms an economic strike—a strike over the terms and conditions which will govern the strikers' employment when they resume work—into a life or death struggle which can only be settled by the economic destruction of one of the parties.

The experience of these three labor leaders, who live with the problem of Mackay Radio every day of the year, is supported by all the empirical evidence.

A. DURING THE ORGANIZATIONAL CAMPAIGN

Collective bargaining begins when employees exercise their right guaranteed by section 7 of the act to "form, join, and assist unions." But all too often the employer heads off the organizing campaign with a statement like this:

> If I am required to bargain and I cannot agree, there is no power on earth that can make me sign a contract with this Union, so what will probably happen is that the Union will call a strike. I will go right along running this business and replace the strikers. They will lose all their benefits. Strikers will draw no wages, no unemployment compensation and be out of a job.

See *Dal-Tex Optical Co.*, 137 NLRB 1782 (1962). Such statements are permitted by the Labor Act as long as the employer remembers to add at the end that he must take back the strikers if and when strike replacements leave and create vacancies. *Baddour, Inc.*, 303 NLRB No. 36 (May 31, 1991).

Frank McCulloch, Chair of the NLRB for 15 years, notes that such Mackay Radio warnings played a prominent role in almost all the election files he has. Texas Law Prof. Julius Getman testified that in virtually all of the 35 union organizing campaigns he studied, the employer announced that it would bargain tough so that employees would have to strike to gain substantial benefits.

President Lynn Williams of the Steelworkers Union summed it all up when he said "vast numbers of employees forego unionizing altogether because of Mackay" because:

> Workers will not unionize if they fear that the consequence will be permanent job loss. And employers exploit that fear. In every organizing drive, the employer emphatically warns employees of its right to permanently replace them if they strike. It should not be surprising that employees who would otherwise favor unionization will shy away in the face of this danger.

B. AT THE BARGAINING TABLE

Should a majority of the employees designate or select a union as their bargaining representative, the employer is required by section 8(a)(5) of the act to bargain with the union in good faith. But once again, Mackay Radio can make a charade out of what should be a serious discussion of wages, hours, and other terms and conditions of employment. Without the right to strike, collective bargaining degenerates into collective begging.

In 1991, the United Auto Workers asked its international staff representatives across the country to respond to a union survey about the impact of employer use or threatened use of striker replacements since the mid-1980's. Twenty of the responses discussed the "impact of employer's threat on bargaining." Eighteen of these 20 responses reported "accepting concessions or worked without a contract."

Why were 18 of the 20 UAW locals unable to reach agreement at the bargaining table? Professor Getman provides one possible answer with his testimony that:

> Mackay makes it tempting for employers to bargain not to reach an agreement but rather to force a strike so that it can permanently rid itself of union supporters and very possibly the union itself.

C. DURING THE STRIKE

Should the workers go on strike, as is their right under sections 7 and 13 of the Labor Act, the use of Mackay Radio permanent replacements will, in the words of Lane Kirkland, serve only to poison the situation. All the evidence—Greyhound, International Paper, Continental Air, Phelps Dodge, and on, and on, and on serves only to prove that the growing use of permanent replacements exacerbates the length, intensity, and bitterness of strikes. It in no way encourages the practice and procedure of collective bargaining. Once an employer hires permanent replacements, the ongoing negotiations become vastly more complicated. To the issues already dividing the parties, there is now added a dispute over whether the employer will take back the strikers in preference to the permanent replacements. When all other issues are resolved, the strike continues over the permanent replacement issue and can reach the point of no return.

Witness the recent strike at the New York Daily News where the use of replacements turned the strike white hot. The paper advertised for replacements in anticipation of the strike and gave them 4 weeks training before the strike even started. The replacements worked for less than the wage paid to the strikers, sometimes half as much. These circumstances sent the signal that this was a fight to the end. Strikers, many with a lifetime of employment with the Daily News, knew they had little chance of finding comparable work elsewhere. They knew that hundreds of workers would lose their jobs anyway as part of the settlement to drive down production costs and that many more would be ousted if management insisted on retaining the replacements in a settlement to keep the paper open. The strikers no longer felt a stake in the paper's future, and their theme became "settle, sell, or sink." This is exactly the situation the 1935 National Labor Relations (Wagner) Act was designated to eliminate from the American labor scene.

THE REPEAL OF MACKAY RADIO WILL NOT CAUSE STRIKES TO PROLIFERATE

The suggestion has been advanced that if workers do not lay their jobs on the line when they go on strike; if workers can strike at will with a guaranty of their job back on demand, American workers will abuse their right to strike to the detriment of their company and the public at large.

But American unions are not strike-happy, and for good reason. As Lane Kirkland put it, a strike is "not a trip to Disneyland." Moreover, he testified, "Strikers recognize that their economic interest are bound up with the employer's economic interest. They know that if they cause their employer long-term harm, they cause themselves long-term harm."

Owen Bieber, president of the United Auto Workers, grew indignant at the suggestion that enactment of H.R. 5 would encourage strikes, would somehow make work stoppages risk-free. He testified that:

> These arguments totally ignore the fact that under H.R. 5 workers would continue to lose their paychecks when they go out on strike. It is simply insulting to workers to suggest that the loss of their paychecks is "little to lose" or "risk-free." I can only assume that persons making these arguments haven't missed too many paychecks.
>
> In our union, a strike can only be authorized where it is approved in a secret ballot election by a two-thirds vote. We require a two-thirds vote because, as inconvenient as a strike may be to the public, it can cause even greater inconvenience to the striker's family. Let me assure you that for the average worker, the prospect of missing a paycheck or several paychecks is a very serious matter. Ordinary workers don't have stock portfolios or certificates of deposit to tide them over.
>
> A majority of states deny unemployment benefits to workers in labor disputes. And the federal government denies food stamps and welfare benefits to a striker's family, even if the family otherwise qualifies. Strike benefits from unions are small or non-existent. And it is usually difficult for strikers to find other jobs because most employers won't hire workers who are on strike at another company. Thus, it is simply nonsense to suggest that workers will somehow become "strike happy" if H.R. 5 is enacted.

Captain Duffy, of the Air Line Pilots Association, concluded his eloquent testimony in the Senate with these observations:

> One final point which I cannot emphasize strongly enough; it is that eliminating the permanent replacement option is not likely to result in any rash of strikes or labor turmoil to the detriment of the public. Quite the contrary, employees in our industry are not "strike-happy." Pilots especially are cautious and risk-averse by nature; after all, those are the qualities you want in a pilot. Moreover, pilots—indeed, virtually all employees who are subject to the RLA—are now operating in a deregulated environment. They know full well that their jobs depend on the ability of their companies to compete in the marketplace. They also know full well that their wages and working conditions are tied to the economic health of their employers. And, lastly, they know full well that a strike which deprives their company of market share or drives the company into bankruptcy will not be in their interest. As much now as ever, pilots and other transportation employees want to settle their differences with their employer through bargaining, rather than through strike action.
>
> A strike always has been a weapon of last resort; if anything, airline deregulation has made that even clearer. In fact, there have been many situations in the airlines and in other industries where workers were most reluctant to go on strike, and it was management that stonewalled and maneuvered to force the workers into a strike, planning all along to use the strike as an opportunity to replace workers and drive their union from the property.
>
> Elimination of the permanent replacement option as proposed in S. 2112 will not be destabilizing; rather it is the continued use of that option or the threat of its use which is far more likely to result in intolerable conflict and confrontation.

SECTION 8(a)(5) AFFORDS NO PROTECTION WHEN EMPLOYERS FORCE A UNION TO STRIKE WITH UNACCEPTABLE BARGAINING DEMANDS AND THEN "BUST" THE UNION WITH PERMANENT REPLACEMENTS

Back in July 1988 when hearings first began on what is now H.R. 5, James P. Melican, vice president of the International Paper Co., initiated an attack on the pending legislation which has been repeated time and again ever since. Here is what Mr. Melican said:

> As you know, when employees are organized in a bargaining unit, the law requires that employers bargain in good faith on certain defined matters with the representatives of that unit. I suggest to you that, if the company's preconceived intent was in fact to "bust" the union, it would not have been bargaining in good faith, and would under existing law be subject to an unfair practice charge. In short, *if a deliberate effort on the part of an employer to destroy its employees' union were the problem, no change in the law would be needed.*" (Italic supplied.)

This contention is currently repeated by the minority of our committee with its assertion that should employers use the Mackay weapon to "bust" unions by refusal to bargain in good faith, "they will be ordered to reinstate any striking employees, displacing any Mackay replacements, and/or to bargain in good faith."

The minority then hastily adds that "the NLRB has been realistic enough to recognize that present economic realities may require 'hard bargaining' by employers in order to remain in business."

Aye, there's the "rub": to distinguish between lawful hard bargaining and unlawful surface bargaining. Finding illegal "surface bargaining" is more difficult than finding a needle in a haystack. Why? Because our labor law is predicated on the concept of "free collective bargaining"; free from Government regulation and control. As the Supreme Court succinctly put it in *Terminal Railroad Association of St. Louis* v. *Trainmen*, 318 U.S. 1, 6:

> The Railway Labor Act, like the National Labor Relations Act, does not undertake governmental regulation of wages, hours, or working conditions. Instead it seeks to provide a means by which agreement may be reached with respect to them. The national interest expressed by those Acts is not primarily in the working conditions as such. *So far as the Act itself is concerned these conditions may be as bad as the employees will tolerate or be made as good as they can bargain for.* The Act does not fix and does not authorize anyone to fix generally applicable standards for working conditions. (Italic supplied.)

During the Wagner Act debate, the chairman of the Senate Committee explained the concept of good faith bargaining in this oft cited language:

> When the employees have chosen their organization, when they have selected their representatives, all the bill proposes to do is to escort them to the door of their employer and say, "Here they are, the legal representatives of your employees." What happens behind those doors is not inquired into, and the bill does not seek to inquire into it. *NLRB* v. *Insurance Agents' International Union*, 361 U.S. 477 (1960).

When the early Labor Board in the Wagner Act days began to examine the content of the bargaining proposals and counter-proposals, to determine whether or not the employer was merely "going through the motions" and engaging in "surface bargaining" only, the Taft-Hartley Congress responded with a new section 8(d) which emphatically declares that the obligation to bargain in good faith: "does not compel either party to agree to a proposal or require the making of concession."

In refusal-to-bargain cases, the Labor Board is not to be blinded by empty talk. Good faith bargaining in theory requires more than a willingness to enter upon sterile discussion. Both parties must make an honest effort to come to terms and "merely going through the motions" will not suffice. *NLRB* v. *Truitt Manufacturing Co.*, 351 U.S. 149 (Frankfurter, dissenting).

But in practice, good faith bargaining is "not necessarily incompatible with stubbornness or even with what to an outsider may seem unreasonableness." *NLRB* v. *Truitt Manufacturing Co.*, 351 U.S. 149 (Frankfurter, dissenting).

Chief Justice Fred Vinson summed it up in *NLRB* v. *National Insurance Co.*, 343 U.S. 395 (1952) with his conclusion that:

> [T]he Act does not encourage a party to engage in fruitless marathon discussions at the expense of frank statement and support of his position. And it is equally clear that the Board may not, either directly or indirectly, compel concessions or otherwise *sit in judgment* upon the substantive terms of collective bargaining agreements. (Italic supplied.)

The Court held that an employer did not violate its duty of good faith bargaining when it put a sweeping managements rights proposal on the table and refused to budge. The proposal gave management the unreviewable right to select and hire, promote, discharge, demote, discipline, and determine schedules of work.

Should a labor union strike it lucky and win refusal-to-bargain case, it will not have won very much. One need not look beyond the Labor Board's opinions to verify this statement. Here is what the Board said when it rejected a proposal to make the employees whole—a make-whole remedy—by ordering the employer to pay those wages he would have agreed to pay had he bargained in good faith:

> We have given most serious consideration to the Trial Examiner's recommended financial reparations Order, and are in complete agreement with his findings that current remedies of the Board designed to cure violations of Section 8(a)(5) are inadequate. A

> mere affirmative order that an employer bargain upon request does not eradicate the effects of an unlawful delay of two or more years in the fulfillment of a statutory bargaining obligation. It does not put the employees in the position of bargaining strength they would have enjoyed if their employer had immediately recognized and bargained with their chosen representative. It does not dissolve the inevitable employee frustration or protect the Union from the loss of employee support attributable to such delay. *Ex-Cell-O Corporation*, 185 NLRB 107 (1970).

The short of the matter is that section 8(a)(5) gives no protection when employers such as Continental Air, Phelps Dodge, Greyhound, International Paper, and countless others set out to force a strike with totally unacceptable bargaining demands, and then break the strike—and the union—with permanent replacements. Employers know this. The minority knows this. It is a specious argument. It has no legitimate place in this debate.

THE MASTRO PLASTICS DOCTRINE AFFORDS NO RELIEF WHEN EMPLOYERS VIOLATE THE FEDERAL LABOR ACT BY PRECIPITATING A STRIKE WITH UNACCEPTABLE BARGAINING DEMANDS AND THEN HIRE THEIR WAY OUT OF A BARGAINING RELATIONSHIP WITH PERMANENT REPLACEMENTS

Mastro Plastics Corp. v. *NLRB*, 350 U.S. 270 (1956) holds that employees who strike to protest unfair labor practices on the part of their employer can get their jobs back on demand. This is in contrast to employees who strike over economic matters, such as wages, hours, health benefits, and the like.

Employers seize upon Mastro Plastics as a cure for the problem before us. They contend that it is an unfair labor practice for an employer to put extreme, harsh, and unacceptable bargaining demands on the table for the purpose of forcing a strike and then replace the strikers with more docile permanent replacements. Under Mastro Plastics, the workers can strike in protest, and replace their replacements at strike's end. So, "not to worry," they say.

We have demonstrated that it is virtually impossible to prove that an employer bargains in bad faith. Neither the Labor Board nor the courts "sit in judgment" upon the substantive terms of collective bargaining proposals, *NLRB* v. *National Insurance Co.*, 343 U.S. 395 (1952). Proposals "may be as bad as the employees will tolerate or be made as good as they can bargain for." *Terminal Railroad Association of St. Louis* v. *Trainmen*, 318 U.S. 1.

But, in any event relief under the Labor Act comes far too late to offer justice. Year in and year out, it takes nearly 3 years to process an unfair labor practice case.

The process begins when an employee files a charge with the regional office of the National Labor Relations Board. The Board employees investigate, and if the charge has merit, they issue a complaint. This takes approximately 48 days.

When the complaint is served, the matter is tried before an administrative law judge, sent to the scene of the alleged violation. There is an average time span of 155 days between the filing of the complaint and the end of the hearing.

The administrative law judge waits for the record to be transcribed, and then writes an opinion. This accounts for 158 days.

An aggrieved party can file exceptions to the administrative law judge report and appeal the case to the Labor Board. On the average, there is a time span of 484 days between the decisions of the administrative law judge and the Labor Board.

This does not end the matter. An aggrieved party can seek judicial review, and some 500 NLRB decisions are appealed each year. The time between decision by the Labor Board and decision by the appellate court averages 485 days.

The Mastro Plastics road to justice may be adequate for those with money and time to spare, but for discharged, displaced workers with no income and families to feed, the delay of justice for nearly 1,000 days is truly justice denied.

This Mastro Plastics argument lacks legitimacy in this debate, and its proponents know this full well.

WHY NOW, AFTER A HALF CENTURY

Mackay Radio was decided in 1938. The Court held that it was unlawful to discriminate against strikers because of their leadership in a lawful strike, but went on the say in an off-hand way that the company was not bound "to discharge those hired to fill the places of strikers upon the election of the latter to resume their employment in order to create places for them."

This unfortunate dicta lay like a loaded pistol available for use but, in the main, kept in the holster. True enough, employers used it in election campaigns to threaten workers with replacement and unemployment should they dare to vote for a union and begin bargaining.

Employers in right-to-work States or other union-free environments used it against low-skill employees in small and marginal bargaining units in times of high unemployment. But these victims lacked political clout and lacked ability to thrust the strike replacement issue to the forefront of national debate and congressional attention.

The issue did not really surface until the 1980's, when President Reagan discharged some 12,000 or more air traffic controllers when they went on an illegal strike.

The 1930's, when Mackay Radio was decided, was the time of CIO mass organizing campaigns and sit-down strikes. Organized labor's great struggle was to get organized and obtain first contracts. The strikes of that period were to force employers to recognize the union, and to protest employer "unfair labor practices." The Macay Radio doctrine did not apply to strikes of this sort.

Then came World War II, with labor's voluntary pledge not to strike. And the War Labor Board saw that pledge was enforced. When it was not, when John L. Lewis led the mine workers on a strike, the courts ordered them back to work.

After the war, Congress responded to a wave of strikes with the Taft-Hartley amendments. Attention centered on issues such as the closed shop, secondary boycotts, jurisdictional disputes, featherbedding, and the like.

Strike replacement remained largely dormant as a public policy question for the ensuing 20 or 30 years. The tone of industrial relations was set by big business/big labor collective bargaining relationships in the major industries. Equal pay for equal work, a pension plan, health insurance, a guaranteed annual wage—these were the issues in the workplace.

Mackay Radio was not an issue. Most employees accepted the practice and procedures of collective bargaining, however, reluctantly. And they knew that the long-term industrial relations consequences of employing permanent replacements are bitterness, strife, and lasting impediments to productivity. Although the power to replace strikers was there, it was rarely utilized by the trend-setting employers.

The short of the matter is that before 1980 it was extremely rare for employers to hire permanent replacements during an economic strike. A study by labor experts at the University of Pennsylvania Wharton School in 1982 described the use of permanent replacements as a weapon which "has only seldom been used. It has not become a basis part of the American system of collective barganing." Perry, Kramer, and Schneider, "Operating During Strikes: Company Experience, NLRB Policies, and Governmental Regulations," Labor Relations and Public Policies Series No. 23, University of Pennslvania (1982), page 123.

All this changed in the 1980's, after President Reagan broke the PATCO strike by firing and replacing more than 12,000 air traffic controllers. Company after company followed suit. Intended or not, the Presidential message they heard was that collective bargaining is no longer the public policy of the United States. It was now respectable to destroy unions. The pistol, loaded in 1938 by Mackay Radio, was now unholstered, and it has been fired again and again.

The Nixon-Reagan Supreme Court gave it even heavier ammunition with its Trans World Airlines decision.

Continental Air Lines, Phelps Dodge Copper Co., International Paper Co., Greyhound Bus Lines are merely the tip of the iceberg. There is a groundswell of similar action throughout the business community. Study after study tells us this is so.

1. GENERAL ACCOUNTING OFFICE

During 1990, the General Accounting Office studied trends in the use of permanent replacements during the 1970's and during the 1980's. Two of every three employer representatives, and seven of every eight union representatives who had an opinion, told the GAO that permanent replacements were used more often in the late 1980's than in the late 1970's. Employers told their employees they would hire permanent replacements in one-third of the strikes—31 percent in 1985; 35 percent in 1989. Employers actually hired permanent replacements in 17 percent of the strikes in both 1985 and 1989, replacing about 4 percent of all striking workers.

2. GRAMM STUDY

Professor Cynthia Gramm of the University of Alabama-Huntsville studied 35 strikes across the country—United States—and 21 strikes in New York. Employers hired permanent replacements in 16 percent of the U.S. sample and 24 percent of the New York strike sample. Those who hired permanent replacements responded that this was their first attempt to hire replacement workers.

3. AFL-CIO EMPLOYEE BENEFITS DEPARTMENT

The AFL conducted a study of 1990 strikes which involved 1,000 or more employees. Health care benefits was a major issue in 55 percent of the strikes. Some 11 percent—26,450—of the strikers were permanently replaced.

4. UNITED AUTO WORKERS STUDY

In 1991, the UAW conducted a study of 42 recent strikes. In 28, permanent replacements were hired. In 26 strikes representatives reported replacements were hired within 2 weeks, and in two situations replacements were hired before the strike began. In 12 cases, employers advertised for replacements before the strike began. Thirteen cases resulted in the union's decertification.

The pistol loaded by Mackay Radio in 1938 is being fired. Once again, Congress must act to "encourage the practice and procedure of collective bargaining." This was the promise of the Wagner Act in 1935. It is our obligation to make good on it today.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA] who is the ranking member on the Subcommittee on Labor-Management Relations.

Mrs. ROUKEMA. Mr. Chairman, I rise in opposition to H.R. 5—a bill whose proponents claim will close a loophole in the law.

Be not misled.

This bill goes beyond loopholes to a fundamental rewrite of existing law and turns 50 years of labor law and legal precedent on its head and inside out.

H.R. 5 completely eliminates the historic balance, purposely set in motion, to protect both management and labor during the collective bargaining process. That balance was achieved by giving workers the right to strike and management the recourse of hiring permanent replacements.

This bill returns us to the days of widespread labor unrest and hastens the close-down of many businesses.

In fact, it will eliminate the historic balance and do nothing to address the question of how to deal with unfair labor practices.

Current law amply protects the right to strike, and the right to continue business operations during an economic strike. Both sides have something to lose if they fail to reach a collective bargaining agreement:

Labor is threatened with the prospect of permanent replacement if it goes on strike.

Business is faced with the decline in productivity and profits which invariably accompany a strike whether or not permanent replacements are employed.

These risks are designed to encourage settlement of labor disputes. For 53 years this balance of risk has served labor and management very well, and has never been seriously questioned by the Congress, or by the Supreme Court, which first articulated the permanent replacement doctrine in the Mackay Radio decision in 1938, and which has reaffirmed Mackay countless times since then.

If H.R. 5 were to become law, the consequences to the economic health of this country would be enormous, as strike activity increased and as employers were forced to accede to sustainable economic demands by labor or risk going out of business altogether. Nonunion workers in related businesses could find themselves out of work as a domino effect of stalled industries and services respond to prolonged shutdowns by laying off employees.

Moreover, the proponents of H.R. 5 have not made the case that this bill is in any way necessary. They cite increased use of permanent replacement workers by businesses engaged in union busting, but the facts don't bear out this contention. The GAO studied the matter and concluded that permanent replacement workers were used in only 17 percent of recent strikes, and that only 4 percent of all workers were not reinstated after a strike ended as a result of being permanently replaced.

That economic strikes have become more bitter cannot be credibly disputed. But the economic pressures on both employees and business have increased dramatically in the past 10 to 15 years. Exacerbating current labor-management difficulties are growing disagreements about who will bear the increased costs of health insurance, employees or employers? In point of fact, health benefits were a major issue in work stoppages involving 18 percent of workers who went on strike in 1986 and that figure jumped to 78 percent of all striking workers by 1989.

The cost of health insurance is a major irritant in labor-management relations that cannot be ignored. However, this problem cannot be laid at the door of business, management's health insurance costs have risen dramatically and management has had no choice but to seek concessions from labor to assist in bearing those costs. And many employers have joined in the call for universal health insurance coverage because they cannot cope with this crisis and know they cannot shift the burden to their employees. Health benefit costs are going to continue to be contentious and seemingly irreconcilable as to who will bear the burden, and we will see bitter labor disputes centered on health costs with or without permanent replacement workers.

Moreover, many of the high-profile economic strikes of recent years can be attributed to wild merger and acquisition activity that has seen new management call for concessions from labor in order to meet the debt of a heavily leveraged buyout. While I realize that is small consolation for a worker who faces wage or benefit cuts, we simply cannot run to pass H.R. 5 without taking into account the factors that have contributed to labor-management tensions. These factors are broadly economic in nature, and not attributable to hiring replacement workers.

A good example of these tensions is the strike involving the New York Daily News. As you know, the unions called a strike and refused to negotiate further with management, which sought personnel cuts and wage concessions. There were very persuasive contentions that the union had indulged in widespread featherbedding which had become economically disasterous for the paper, and contributed mightily to management's requests for cutbacks. After a prolonged and intensely bitter strike in which permanent replacements were employed, the paper finally said it would find a buyer or go out of business. At the eleventh hour a buyer was found. The new owner offered the unions a deal that included personnel and wage cutbacks similar to those offered by the Daily News management and rejected by the unions in the first place. There is a lesson to be learned here, and that lesson is that unions have no monopoly on wisdom, fairness or common sense and that they can lead employees down the garden path to no avail. If H.R. 5 were the law, the

Daily News would have had to shut down without permanent replacement workers resulting in a loss of the jobs of union members and others forever.

Another important issue in this debate are the well-documented delays in adjudicating employee rights at the National Labor Relations Board. Any employee who is found by the Board to have been striking in response to or in the course of unfair labor practices by an employer is entitled by law to immediate reinstatement and back pay. However, it routinely takes up to 2 years for the Board to finally adjudicate an unfair labor practice complaint. Appeals courts are regularly throwing out Board orders because of the inexplicable and inordinate delay in issuing orders up to 7 years after the case was referred to the Board.

These delays have jeopardized the integrity of the National Labor Relations Act and resulted in justified frustration by both employees and employers who languish in uncertainty. Justice delayed is justice denied. While I will wait until debate on the substitute offered by my colleague and ranking minority member Congressman GOODLING to address this problem more freely, I am here to tell you that without reform of the National Labor Relations Board, we will never even begin to get our house in order in the labor-management relations arena.

And as to the contention of the supporters of H.R. 5, that all other industrialized workers decline to permanently replace striking workers except the United States and South Africa, I would like to point out that in Japan, they have company unions, and therefore it is in no way comparable to United States labor law. Germany prohibits strikes which would grievously wound an employer, and in the Netherlands, courts can enjoin strikes and prevent them from taking place altogether. There is hardly a case to be made for the U.S. emulating other nations' labor laws.

The essential point here is that the law is designed to manage collective bargaining disputes. It is not designed to have unfair advantage to either side, and current law does not have such an advantage. What the proponents of H.R. 5 ignore in pressing for this bill is the fact that the law acts as a referee to both sides, with voluntary agreement as its goal. If business could not permanently replace economic strikers, the law would turn instead to allowing labor to hold all the cards in a dispute, leaving business completely vulnerable.

Let's look at some of the limits on the right of business to continue operations with permanent replacement workers:

The ability of employers to continue operations using permanent replacement workers was most recently reaffirmed in 1990 in NLRB versus Curtin Matheson Scientific where the court ruled that employer may not presume that replacement do not support the striking union. An employer commits an unfair labor practice by refusing to bargain with the union without benefit of a representation election in which permanent replacements and striking workers are allowed to vote. In fact, permanent replacements remain members of the bargaining unit which went on strike, and statutory employees under the NLRA for a period of 1 year.

The permanent replacement doctrine is not some moldy dicta articulated by the Supreme Court 53 years ago and only recently gotten out of mothballs by business. It has been reaffirmed countless times by the courts, and refinements of the right to permanently replace economic strikers have been consistently made. For example, struck employers may not offer inducements, such as super-seniority, to strike replacements, and to do so constitutes an unfair labor practice. Nor may an employer pay replacement workers more than what was last offered to the union before the strike began. The courts have ruled that economic strikers who unconditionally apply to return to work remain employees and are entitled to full reinstatement upon the departure of the permanent replacement unless they have acquired regular and substantially equivalent employment, or the employer proves that the failure to offer reinstatement was for legitimate and substantial business reasons. And reinstated strikers are entitled to all benefits, including past seniority.

And H.R. 5 creates unprecedented privileges for union workers, who may not be permanently replaced, and nonunion workers, who may undertake an economic strike, but who, under H.R. 5, may be permanently replaced. I must remind my colleagues that the National Labor Relations Act protects the right to join a union and engage in concerted activity and the right to refrain from doing so. This is a cornerstone of our labor laws, and we would be throwing out over 60 years of hard won battles to provide balance to labor-management relations by protecting union workers to the detriment of nonunion workers. Again, I must stress that we must protect the right to strike, but under H.R. 5 we will effectively punish those who decline to join a union or to honor a picket line.

Finally Mr. Chairman, I wish to make the unequivocal statement that I would never be a party to union-busting or other tactics which diminish the lawful exercise of the right to strike. But what I am talking about here is maintaining the foundation of our system of collective bargaining, which is that both parties to a labor dispute must have the means necessary, both the right to strike, and the right to permanently replace, which make the prospect of a prolonged dispute costly and to be avoided by both sides. Neutral statistics from the GAO and the Bureau of National Affairs show that replacement workers are not being used with increasing frequency. The fact is that most collective bargaining disputes are settled voluntarily without resort to strikes or permanent replacement, and that most employers only hire such replacements as a last resort under severe economic duress.

Again, I urge my colleagues to vote against H.R. 5.

□ 1210

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Missouri for the opportunity to address what is perhaps the most important labor legislation that this Congress will have considered in over 50 years. Over 50 years ago we enacted the National Labor Relations Act to establish equitable justice and peace between labor and management in our country. It has worked well for many, many years.

Yes, we have work stoppages, we have differences of opinion, and we have strikes, but they are generally peacefully settled through negotiation. In our country we say "Yes, you may work at your own business, you may create your own business, you may create your own profession, you may work at it, but once you have to reach out and ask your neighbor or your friend or someone else to work with you to help you produce those profits and that income, you must then consider the needs and desires of those people you are asking to help in your business to make your profit."

So the NLRA 55 years ago said that those people then have a right to negotiate what their working conditions and their salaries might be, and that if the negotiations are not immediately successful, labor can only then withhold their labor and say, "Until we have negotiated a new contract, we withhold that labor."

That is referred to as a strike. That right was given to the American workers, as it was to every democracy in this world. But now we have an administration and a court system that says, "Oh, yes, the act says you have a right to withhold your labor, but your employer has a right to bring someone else in and take your job."

The right is then taken away. That would restore that right only in instances where we have an organized union labor force.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, let me just take a moment to put in perspective my position in this debate. I am a former member of the Committee on Education and Labor, and I am a minority Member of this body. I am also a member of four unions and have been in strikes as a participant and an organizer, and my position on this particular legislation comes from experiences I have had on the picket line as well as in subcommittee.

The reason I am not able to support H.R. 5 and rise in support of the Goodling substitute and in opposition to the Peterson substitute is because in my feeling both positions that are before the House today have been too extreme. To do nothing is not enough, and to do what H.R. 5 proposes is too much. I base this on what labor leaders have said to me in my office. What comes out of those conversations is that unfair strikes and unfair lockouts are basically the same. They are unfair. Unfortunately, there is nothing in the Peterson substitute or in H.R. 5 that addresses unfair labor practices or that addresses expediting the processes of the National Labor Relations Board to do something about that. Only the gentleman from Pennsylvania [Mr. GOODLING] does that. That is why I will be supporting him and not this alternative.

However, it is not my purpose here today to debate the fine points of labor law or management law. I want to talk about the law that always gets caught in the crossfire of many of these labor bills, and that is the law of unintended consequences, because in this body and in this Congress and probably for many years to come, we are probably going to be talking about health care. I cannot think of a piece of legislation that is more detrimental to holding down costs and preventing delivery of health care than H.R. 5. Just recently the Supreme Court ruled in favor of the National Labor Relations Board when it told hospitals in this country that they can have as many as eight bargaining units. Anybody can tell us that the more bargaining units you have, the easier it is to strike. That is why individuals in the health care professions have come forward and said that this is a death knell for rural hospitals, urban hospitals, and particularly for those facilities that are fighting to stay alive.

Listen to this. This is from a nurse:

> Under this legislation, it is realistic to expect the housekeeping and dietary staffs to strike at the same time, or within several weeks of each other. The other nurses and I would be forced to work double shifts—one shift caring for our patients and one shift housekeeping and preparing meals. Working double shifts for an extended period of time will physically exhaust the nursing staff and affect the ability of nurses to make the care decisions essential to the well-being of our patients.

Mr. Chairman, right now it costs about $7,000 to $15,000 to replace a registered nurse. If we add H.R. 5 on top of the Supreme Court decision in the American Hospital Association versus The National Labor Relations Board, the law of unintended consequences will drive down the delivery of health care, will drive up health care costs, and will drive out of business the qualifed personnel that we desperately need to maintain quality in our health care system.

Mr. Chairman, I ask the Members to vote no.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, the right to strike without fear that you will be permanently replaced is an essential ingredient of labor-management relations. Workers should never be driven to despair.

Back in the mid-1930's, in my home town of Flint, MI, General Motors was engaged in speedups, in increasing production, and my father became a victim of those speedups. His production had been increased several times, and he would come home exhausted from work. One day he came home and told my mother and my brothers and sisters that his production had been increased again, and that he could not keep it up.

My father was a very mild man. I never heard my father use a swear word in his life. He would take us to mass every Sunday and lead us in the family rosary. He was a very mild man, but he had a sense of justice.

The next morning my father went to work, got his production out for the first hour, and it was excessive at that. The boss came by, counted the production, and then took out the famous pink slip to fire my father.

My father, this very mild man, peeled off his wire-rimmed glasses and laid them on the machine. He said, "Bob, if you sign that, they are going to carry one of us out of here, because I have five children at home to feed, and I am going to fight for my job."

Bob Shoars was a decent fellow. He took a chance and ripped up the card.

The UAW made a difference in my father. But since Ronald Reagan really made it acceptable to bash the unions around, I feel that without this legislation workers will have the same desperation that my father experienced during the 1930's. That desperation led to the famous sit-down strikes in Flint, MI, where the workers occupied the plants so they could not be replaced.

So, Mr. Chairman, let us restore to labor the only tool they have, the right to strike without the fear of losing one's job.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. FAWELL], a member of the committee.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

In H.R. 5 unions are rebalancing labor and management rights under the NLRA to suit their fancy. These are unions that represent only a fading 12 percent of America's work force in private industry.

Their first effort in this rebalancing of labor and management rights is between the union, with its right to strike, and management, with its right to hire permanent replacement workers. And how is the rebalancing of this delicate balance done? It simply eliminates the right of employers to have that last resort, to hire permanent replacement workers. In fact, H.R. 5 labels an effort by an employer to hire permanent replacement workers as an "unfair labor practice." And so the most meaningful bargaining chip an employer has to balance off against a union's right to strike and close the employer's business is simply declared illegal. The fact that it has been an unquestioned right since passage of the Wagner Act in 1935 apparently means nothing to the union leaders who expo-sure H.R. 5.

So much for the union's balancing of rights and collective bargaining with employers.

This rebalancing of labor and management right of course is nothing more than a new and powerful tool for unions to attempt to get back their vanishing membership.

The second effort in the rebalancing of rights is between the unions and their right to strike and workers, all workers, union or nonunion, and their right as a worker not to strike. That is guaranteed, too, by the NLRA.

□ 1220

Here, in this bill, the right not to strike is trivialized by a new employment preference, the granting of the right to returning union workers after a strike to bump nonstrikers and crossovers from their jobs. They might be called scabs by some of my colleagues on the other side of the aisle. And how is this done? Again, by creating an unfair labor practice, just making it illegal for an employer to fail to recognize the seniority of the returning striker being sufficient to oust a nonstriker, or crossover employee, from their job.

Current law, by the way, states that employers can't give any employment preferences to nonstrikers or crossovers, such as super seniority, better pay than offered to the strikers, vacation benefits, and the like. And current law states that employers must give employment preferences to returning strikers after the strike is ended, in the form of job reinstatements for job vacancies, both for present and future vacancies. But courts have specifically held that returning strikers have no right to bump nonstrikers or crossovers out of their jobs.

Why? It is best explained in the Supreme Court case of TWA versus the

Independent Federation of Flight Attendants, a 1989 case.

The Court in that case pointed out that the flight attendant positions occupied by nonstrikers and crossovers were not vacant. Such jobs, the Court advised were therefore not available for reinstatement by returning strikers after the strike had ended.

The Court ended this comment by saying that to do so, to bump nonstrikers or crossovers, "would have the effect of penalizing those who decided not to strike in order to benefit those who did."

The Court added, "We see no reason why those employees who chose not to gamble on the success of the strike should suffer the consequences when the gamble proves unsuccessful."

In other words, if the employer is forced to penalize the nonstriker or crossover by taking away his job and giving it to a striker, what good is the exercise of the right not to strike, which is a guaranteed right of all workers in this land? The delicate balance between the right to strike and the right not to strike would, of course, be destroyed.

That, of course, is exactly the intent of the unions in their rebalancing the rights of the workers.

Mr. Speaker, all of the rights I have referred to—the rights of the union to strike; the right of an employer to counter an economic strike by hiring permanent replacement workers, and, last but not least, the right of all workers—individual workers, whether union or nonunion, to exercise his or her right not to strike, all of these are "last resort" decisions which can bring about a great deal of controversy in the communities of America. But they all play their part in this Nation's collective bargaining process. They function now within a tension of delicate balances worked out over 50 years of management-labor negotiations. They are as valid today as ever.

During the course of the debate on H.R. 5, the striker replacement bill, I have heard a good deal of rhetoric about several recent, highly publicized labor disputes. Among the labor disputes mentioned by proponents of H.R. 5 as justifying the need for a radical rewrite of our labor laws are those involving Eastern Airlines, Greyhound, Pittston, International Paper, the New York Daily News, and Ravenswood Aluminum.

First, I reject the concept that we should legislate by exception. These isolated, albeit widely publicized labor disputes hardly justify drastic alteration of a 53-year national labor policy. Second, I reject the strictly one-sided, antimanagement characterization of these labor disputes without further, more balanced analysis. While I do not claim to know all of the details involving these disputes, I believe it is irresponsible to rely on such examples without a more complete description of the facts. For example, several of these disputes, such as Greyhound and the New York Daily News, involved alleged unfair labor practices which, if proven, would put the strikes outside the scope of the proposed legislation. Other disputes, such as Pittston, never involved the use of permanent replacements.

In the Ravenswood dispute in West Virginia, for example, I am informed that the average W-2 for an hourly employee before the strike was $34,000. By comparison, the average annual income in West Virginia was $19,800. Even so, and even in view of falling aluminum prices and the effects of worldwide economic competition, the company's final offer in the collective-bargaining negotiations prior to the strike would have increased hourly employment costs by an additional $10 million over 3 years. The union leadership rejected this offer, without even submitting it to the membership for a vote. Instead, after insisting on last-minute bargaining on economic issues after exhaustive negotiations on other issues, the union demanded increased employment costs of $90 million over 3 years. This left a huge gap between what the union wanted and what the company could afford to give. Mistakenly, the union struck Ravenswood believing that the company would be unable to find replacement workers willing to work for the wages rejected by the striking union. In fact, the opposite is true, despite repeated acts of union violence, including beatings and other physicial assaults, destruction of property, and verbal intimidation, directed at the replacement workers and their families. The union miscalculated. Replacement workers, 80 percent of whom are from the local community, and a number of crossover employees, readily accepted these high-paying jobs with the company.

As in any labor dispute, people sometimes picture the company as a large, wealthy, and impersonal entity and the union as a small, struggling band of individuals. In reality, as demonstrated by labor disputes such as Ravenswood, the opposite is often true. A relatively small employer, struggling for economic survival, is confronted by the superior financial and organizational resources of a large international union and its allies. Today, unions use every resource at their command in labor disputes, including corporate campaigns involving manipulative complaints before Government agencies, such as OSHA, and international organizations, such as the ILO. Economic pressure is exerted through product boycotts and other efforts to pressure customers and financial institutions. Add to this the increasing and deeply disturbing use of union violence in labor disputes, and the deck becomes stacked against any management which attempts to continue operations during a strike.

My purpose is not to get into all of the details of the Ravenswood Aluminum dispute, or any of the other recent labor disputes. The matter currently is pending before the National Labor Relations Board, which is the proper forum for investigations, adjudication, and hopefully, resolution of such disputes. But before we legislate major changes to our labor laws based on this and other individual cases, I want the record to reflect that, as in most labor disputed, there are two sides to every story.

Mr. Speaker, not even Senator Wagner, in the heydays of union power in the thirties or forties, could ever have hoped to have found a Congress which would pass and give to him this one-two knockout punch set forth in H.R. 5. This union effort ought to be defeated.

Mr. CLAY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of H.R. 5 because I believe that the permanent replacement of striking workers is legally indefensible and morally reprehensible. A policy that gives preferential treatment to management for failing to settle labor disputes at the bargaining table contradicts the principle of fairness, equity, and justice. It is a practice that allows employers to effectively repeal the basic right of workers to engage in meaningful collective bargaining. It is a practice, Mr. Chairman, that has adversely impacted the lives of many individuals and devastated the peaceful environs of too many communities.

H.R. 5 provides that employers may not reward replacement workers while punishing striking workers. It recognizes sweat, toil, and skill as investment in job security equal to the investment of inherited money. This bill leaves intact the ability of management to use exempt employees, including supervisors and foremen, to perform the work of strikers. It leaves intact the ability of management to transfer work to other facilities or to subcontract the work to other employers. It leaves intact the right of employers to lockout bargaining unit employees. It leaves intact the ability of employers to hire temporary replacement workers. Far from distorting the status quo between labor and management, this bill leaves intact a full arsenal of weapons by which management can seek to force its will.

And neither, Mr. Chairman, as some mistakenly contend, does H.R. 5 buffer workers from the legitimate risks that a strike entails. Nothing in this legislation requires an employer to pay striking workers nor in any way alters the eligibility of such workers for any other kind of special assistance.

But, Mr. Chairman, the chief opposition to this bill is lodged in the fact that it boldly confronts the reality of a condition which gives favoritism to those who exploit the labor of honest, decent workers. We must face this reality. Since 1981 more than 300,000 Americans have been permanently replaced when they exercised their legal right to strike. This uncivilized way of resolving labor problems allows employers to effectively repeal the right of workers to engage in collective bargaining. When striking workers are permanently replaced, their unions are also permanently replaced by new workers who are defenseless, helpless, and disorganized. According to our labor law, it is the right of the worker to choose to join a union. If that right is to be meaningful, then the practice of permanently replacing workers can not be tolerated.

Almost 60 years of industrial history in this country has shown the fallacy of the contention that employers resort to permanent replacements out of economic necessity. Our major trading partners, our most aggressive competitors—Canada, France, Germany, Japan—all expressly prohibit the permanent replacement of strikers. All of the newly restored democracies of Eastern Europe prohibit the permanent replacement of strikers. Surely American workers whose taxes are expected to support these former Communist governments during this economic transition period—deserve no less.

The opponents of this legislation contend that employers should be guaranteed the ability to win a strike. They argue that we should protect the right of an employer to veto the right of a worker's choice to be represented by a union. But our obligation should be to ensure a fair and equitable balance between labor and management. Our obligation should be to protect the right of all Americans to exercise a voice in the determination of their wages and working conditions. That's how the democratic principles of self-determination are truly served.

The bill before us today will have a greater impact on the rights of American workers than any legislation this Congress is likely to consider this session. It will stop the practice of permanently replacing strikers and provide incentives to bargain in good faith. This bill encourages employers to settle labor disputes at the bargaining table rather than in the street. Failure to pass this bill and to protect the right to strike makes a mockery of workers' rights to engage in collective bargaining.

It is time to put an end to the counterproductive and unfair practice of firing those who merely wish to improve their wages and working conditions.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Chairman, while I fully appreciate the right of a worker to strike in order to address grievances that may exist in his or her work setting, I at the same time am concerned that if we eliminate, for all essential purposes the option that employers now have to keep their businesses operational, that we could very well be promulgating legislation that in the end would not only threaten the continued viability of the concern in question but, along with it, the very jobs that the strikers are fighting to preserve. Therefore, I reluctantly feel compelled to rise in opposition to this legislation.

The sponsors of this legislation are well-intentioned and have laudable goals in trying to reduce the number of strikes resulting in the use of replacement workers. Nobody wants to see permanent replacements used in any strike, but it's my fear that if enacted, this legislation will result in more labor stoppages. The ability for an employer to hire permanent replacements has been permitted for over 50 years. To all of a sudden ban the use of permanent replacements during a work stoppage and give striking workers this added negotiating power, I'm afraid will only serve to encourage the greater use of strikes to address perceived grievances. By withholding their labor and making it virtually impossible for an employer to find interim replacements because of the temporary nature of the position to be filled, this legislation could leave the employer with little other than to close down.

This legislation is being considered at the wrong time and for the wrong reasons. Now is not the time to rock our economic boat. We are already having a difficult time keeping our ship of commerce going in the right direction. With today's global economy and increased foreign competition, we would run the very real risk of undercutting our country's competitive position in world markets.

Labor and management are starting to realize the only way to survive the competitive international marketplace is through cooperation and team work. Even the Carter administration rejected the concept before us as being infeasible, citing objections raised by the Commerce Department that the banning of replacement workers would lead to increased labor disputes and inflationary wage increases. Labor unrest has been on a decline since the early eighties and I see no reason why we should jeopardize that trend by passing this legislation at this time.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida [Mr. IRELAND].

Mr. IRELAND. Mr. Chairman, it is easy to pay lip service to the small business community. But lip service is not what our Nation's entrepreneurs want or need to survive.

Lip service will not ensure that new jobs are available to young men and women who are just entering the work force.

Lip service will not keep smaller firms from going under in needless and duplicative paperwork and other regulatory requirements.

And lip service will not generate positive, productive relationships between small business owners and their employees.

However, my colleagues, lip service is all small businesses can expect from the supporters of H.R. 5.

Our Nation's 20 million smaller firms want to know how this bill came to be called the Workplace Fairness Act.

There is certainly nothing fair about stripping small employers of their right to keep their doors open when workers walk off the job for more money, or better benefits, or other economic reasons.

There is nothing fair about giving union employees special status under the law that nonunion employees don't enjoy.

In fact, by legislating this unequal treatment, we in Congress will be handing union leaders the organizing tool of their dreams. "Join the union, and if you go on strike, your job will be guaranteed. Don't join, and you can be permanently replaced." This is the message union organizers will be able to deliver to hundreds of thousands of small, nonunion workers.

The impact will be to destroy the good working relationships and high morale currently enjoyed by the vast majority of small business employers and their employees.

The claim that H.R. 5 protects small businesses by exempting nonunion firms is just plain wrong. It is lip service, plain and simple. In reality, the bill has devastating implications for small employers.

Supporters of H.R. 5 have been running ads on local radio stations featuring union employees who have been permanently replaced. "My company wanted to cut my health-care benefits," a female employee declares in one of these ads. "I had to take a stand. But when I went on strike to protect the benefits my family needs, I was permanently replaced."

The point of the ad, I suppose, is that H.R. 5 will protect workers and their families from unreasonable, uncaring business tycoons who want to convert dollars spent on employee health-care benefits into cheap corporate profits. But you and I know that, while this may make great advertising copy, it doesn't realistically portray the problems employers and employees are having in finding affordable health care coverage.

This ad is just one aspect of an emotionally charged and misleading campaign to garner support for a bill that big labor bosses are dying to see become law.

It's no secret that the cost of health insurance is skyrocketing. And smaller firms are by far the hardest hit in the health-care crunch. Many employers have seen their health care costs double or triple in recent years. Still other small companies have been rejected outright for renewal of their policies.

These small employers want very much to provide coverage for their employees. In fact, they rely on that very same coverage to protect themselves and their families. Faced with huge premium increases in recent years, many small employers have no choice but to ask employees to share some portion of the increased cost of coverage.

If H.R. 5 becomes, law, employees of a small union firm that asks its employees to pay even some small portion of those health insurance premiums would not be able to permanently replace workers who chose to strike rather than assume any share of the increased cost of the insurance. In this situation, an employer would have no choice but to give in to employee demands, no matter how unreasonable they might be.

A small business cannot keep its doors open without workers. There is no cadre of midlevel managers who can step in to replace the striking workers until the dispute can be settled. Temporary workers are expensive and difficult to find. They require training, are less efficient, and are injured more frequently than permanent employees. It would only be a matter of days before a small firm would have to close its doors—perhaps forever. I ask you: What is fair about that?

My colleagues, do not be misled by claims that H.R. 5 won't affect small business.

Do not be duped into handing union bosses the organizing tool of their dreams under the guise of small-business protection.

And do not settle for lip service when it comes to the fate of our Nation's smaller firms. Vote against H.R. 5.

Remember, it is easy to say that you're for small business. But it is how you vote that really counts.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Chairman, some of those who oppose H.R. 5 say that it will impede economic growth. They could not be more wrong. Economic growth occurs when it is inclusive, when everyone can share in it.

Without this change in the law, there is no effective right to strike. Without an effective right to strike, there is no effective right to organize. Without the effective right to organize, there will be no inclusion, no incentive, for all of us to become involved in reigniting the engines of economic growth.

For those who say that the country will not grow with H.R. 5, I say we will not grow without it.

Mr. Chairman, I urge Members to cast a vote today not only for fairness; cast a vote for inclusive economic growth. Cast your vote for H.R. 5.

□ 1230

Mr. GOODLING. Mr. Chairman, I reserve the balance of my time.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, the bill that we are about to vote on is a bill about fairness in the workplace, and this is a fairness which the majority of the American people assume is already in existence. This bill is about the right to strike, and most Americans assume that workers already have the right to strike. But common sense tells us that you do not have the right to strike if the labor law says you cannot be fired if you go out on strike on the one hand but on the other hand, the Supreme Court interpretation says you cannot be fired but you can be permanently replaced.

Common sense tells us that to be permanently replaced is the same as being fired. When one is permanently replaced, one does not have a paycheck. When you are fired, you do not have a paycheck. They are both the same. We must all vote for this bill to end what is a gross injustice.

Americans of all walks of life do not want to have our workers treated as the workers are treated in South Africa. The Daily News strike in New York, one of the most vicious attempts by management to work the permanent replacement segment of law to break a union, all of the consumers of the city of New York, all of the people who read the Daily News rose up and said, we do not think this is fair. We will not buy the Daily News.

The Daily News lost advertisers. Management was brought to its knees and had to sell the paper at a loss in order to recoup. They did not bust the union.

All Americans, when they understand that this is about fairness and justice, will come down on the side of the workers. We want our workers to be treated fairly. We do not want permanent replacements. We do not want them to be fired.

Fairness means that workers in America must have a clear right to strike.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii, [Mrs. MINK].

Mrs. MINK. Mr. Chairman, I appreciate very much the opportunity to address the House on this most important issue.

Mr. Chairman, I rise today to ask this House to vote for the reinstatement of the principle of balance and equity in labor-management relations. In recent years, the practice of permanently replacing strikers, which is nothing less than being fired from your job, has become common practice to punish workers who only seek to exercise their rights under collective bargaining and as such it has worked to poison the atmosphere in the workplace.

This hostile arena comes at a time when it is critical that labor-management relations be a positive influence to achieve the level of productivity and competitiveness in the American economy we need to meet our international goals.

During the 1980's the number of unfair labor practice charges doubled. The number of workers who had to go to court to win reinstatement in their jobs after being fired grew into the thousands in the seventies and eighties. The current climate which seeks retribution against workers who exercise their rights is corrosive and requires the enactment of H.R. 5.

Unions have had to stand the line because their contracts have been hit by reductions in health and pension benefits. Almost four out of five strikes in the eighties were to preserve the health benefits of workers and retirees. Striking and then being fired from their jobs is an egregious way to punish families all across the country. We need H.R. 5 to protect working people from this harassment.

Firing striking workers is a violation of the basic principle established in the National Labor Relations Act which granted workers not only the right to join unions, but when they did so, to allow them to bargain collectively with their employers. No other Western country except South Africa allows strikers to be fired and to damage the ability of management and labor to find common ground for agreement. Our biggest industrial competitors, West Germany and Japan, have these protections for their workers, and they have towered in their economic achievements.

The threat of loss of your job, if you stepped out of line, and misspoke, or seemed contentious, was the case before the enactment of the Wagner Act. It was the sense of this Nation that we needed to protect the worker from such untoward exposure to loss of his job if he spoke out against intolerable working conditions or unfairness. We gave the workers the cover they needed by the passage of the National Labor Relations Act. After this law passed, workers could speak out without fear of loss of their jobs.

Until recently that was the spirit in which labor-management relations were exercised. And the country prospered.

We need to restore this relationship to one which cannot be eroded by the fear of job loss. The right to strike is the very foundation of the workers' right.

I urge this House to overwhelmingly reaffirm this right today.

Mr. FORD of Michigan. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The time is now under the control of the gentleman from Minnesota [Mr. OBERSTAR] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT]. Each is recognized for 15 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I yield myself 6 minutes.

For over 200 years of the industrial revolution, prior to enactment of the Wagner Act, workers were at risk. They could be hired and summarily fired without rights, without standing, and often were.

The Wagner Act, which was labor's bill of rights, established the right of a worker to organize and to bargain collectively with his or her employer and to withhold his or her services from that employer in time of dispute.

In the 1938 famous Mackay decision, there was a little bit of a crack opened in that right to strike and to come back to your job after one had settled the dispute with the employer. The court held that workers could be permanently replaced and not called back to work, even if the strike were settled.

For four decades afterward, that little bit of an opening for employers tilted the balance back 200 years and was not used until the 1980's. Then came a decade of despair for the labor movement, a decade in which there was an avalanche, literally, of actions by employers to replace their workers for simply withholding their services in time of labor disputes, going on strike, faced with the prospect of never being able to come back to work.

The Subcommittee on Aviation and the full Committee on Public Works and Transportation has jurisdiction over a little part of this issue under the Railway Labor Act in its coverage of airline employees. The subcommittee held a full day and many hours of hearings on this issue.

What emerged from that hearing was a clear pattern of action of increasing intensity, action against striking workers in the airline industry.

We had Lorenzo I at Continental in 1985, when permanent replacements were hired for striking pilots. Over 2,000 of them never saw their jobs again. Over 5,000 machinists and 1,200 flight attendants were permanently replaced.

Alaska Airlines in 1985, permanent replacements hired for machinists. United Airlines in 1985, 570 permanent replacement pilots hired.

□ 1240

Although, they refused to cross picket lines.

TWA in 1986, 2,350 flight attendants permanently replaced, and then we had Lorenzo II in 1989, Eastern Air Lines; 1,800 flight attendants, 4,500 machinists, 1,100 pilots, 7,400 in all; from one of the most prolonged, protracted, and bitter, painful labor disputes in the airline industry.

Clearly, the balance had been tilted against workers with this persistent action of employers to deny workers the right, in effect, to withhold their services in time of dispute when that was the ultimate weapon and all else failed.

This is not to say that workers undertake a strike lightly or easily. I grew up in a steelworker family in the iron-mining country of northern Minnesota. I lived through strikes as a young kid growing up not knowing whether we were going to have a meal the next day, because we did not have striker funds. We did not have food stamps. If you did not save a little bit, you had soup, and when the soup ran out, the soupbone went dry, well, that was it. You did without. Nobody undertook a strike lightly, but when it was the only way to bring management to the table and to negotiate over basic rights for health benefits, for vacation, for decent hours of work, for protections on the job, for safety that we had to negotiate in those days, and we now have an Occupational Safety and Health Act, and a Mine Safety and Health Act to protect the workers, and when you could not negotiate those, the only way was to go out on strike.

Workers lost money. Families did without things. A strike was not something to be lightly undertaken. It was undertaken with pain on both sides.

This legislation simply restores the balance and the equity intended by the Wagner Act to give workers the right to negotiate and to strike, to sit as equals at the bargaining table, and not have a bargaining table that is tilted on one end toward management and so high on the other that they cannot see the working person.

I urge support of this legislation.

Mr. HAMMERSCHMIDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today, we are considering one of the most important labor bills to come before this body. In other cases, such as bills involving labor protection provisions [LLP's] and flight attendant duty time, I, and many other Members on this side of the aisle, have been supportive of labor's position. Our commitment to the working people of America is clear.

However, this bill presents a different situation. While our commitment remains the same, our approach is to maintain the status quo, because enactment of this legislation will ultimately be harmful to the working man and woman of this country.

We do not believe that the way to improve the situation is to upset the current balance between management and labor. In our view, the system that has been in place since the Supreme Court's Mackay decision of 1938 is a good one. It has benefitted all sides.

Since 1938, the American economy has grown dramatically. This has been good for all, both employers and employees. In short, our standard of living has greatly improved since 1938. Indeed, our economy is the envy of the world.

If the Mackay decision had been as bad as proponents of this legislation say, we would not have seen such widespread benefits from our economic prosperity. And it is simply not true that the use of the Mackay doctrine is something new. In fact, testimony at our Aviation Subcommittee's hearing demonstrated that the doctrine was used before 1980 much more often.

So while it is clear that the Mackay decision has not been detrimental to the American worker, upsetting that doctrine would be.

Changing the law now would overturn the delicate balance under which labor can strike and management can continue operating during the strike. It would mean that employees would have much less incentive to bargain in good faith. They could go out on strike knowing full well that they could get their jobs back at any time, regardless of the length of the strike or what they did during the strike. Management would be unable to attract a meaningful labor force to keep its business going during the strike.

The result of all this will be more strikes, more bankruptcies, more inflation, less labor peace, and a reduction in our international competitiveness. Naturally, this will adversely affect all Americans, including working Americans.

Therefore, Mr. Chairman, I oppose this bill. I oppose it not only on the merits, but also because of the way it is written. For example, I am concerned that the bill in its current form is unfair to nonunion workers.

Another problem with the bill is that it provides protections to strikers even if they engage in violence, secondary boycotts, or other unfair practices. If management were to engage in similar unfair labor practices, it would lose, even under current law, the right to replace strikers.

In closing, let me reemphasize a point I made during our committee's consideration of this bill. That is, replacing strikers is not the same as firing them. The difference is that fired employees have no right to get their jobs back, while replaced strikers have a preferential right to their jobs, as well as the right to continue to accrue seniority. Indeed, in cases where the business survived the strike, most permanently replaced strikers did get their jobs back.

Accordingly, Mr. Chairman, for all these reasons, I urge a no vote on H.R. 5.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from the District of Columbia [Ms. NORTON]

Ms. NORTON. Mr. Chairman, as a labor-law professor down the street at Georgetown, I used permanent replacements for more than the narrow rule of law involved. Almost every important principle of labor law and labor relations is implicated, and some of the most cherished rules of democracy as well.

I would ask Socratically: Is there a right to strike if you can be permanently replaced? Only South Africa says yes. Our allies say permanent replacements are not consistent with the right to strike, and I do not believe that my country wishes to stand with the Republic of South Africa.

There is a symmetry in our labor law. There is the right of workers to withhold their labor and the right of management to keep its business going. That symmetry is not there simply for form. It is there in no small part because the overarching purpose of the National Labor Relations Act is to ensure labor peace, and we have a better chance at labor peace, which keeps our industry going, if each respects the rights of the other and understands the obligations of the other, the employer to keep his business going, workers to withhold their labor, and at some point they then come together, and we achieve the kind of peace that has characterized labor-management cooperation and relations in this country.

Permanent replacements have given us longer strikes and the spread of conflict beyond the parties. Temporary replacements, which we have lived with for more than 50 years, have given us the kind of labor-management relations we are proud of.

Democracy itself is implicated in this bill, for free trade unions and the right to strike are as essential to democracy as freedom of religion, as due process for the accused, and as the first amendment.

Let us stand with American principles today and vote for this bill.

Mr. HAMMERSCHMIDT. Mr. Chairman, I ask unanimous consent that the gentleman from Pennsylvania [Mr. CLINGER], the ranking member of the Aviation Subcommittee, control the balance of the time for the Committee on Public Works and Transportation on our side.

The CHAIRMAN pro tempore (Mr. PRICE). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to try to dispel a couple of, glaring misrepresentations that have been put forward thus far in this debate.

The first is that the PATCO strike in the early 1980's, and the Reagan administration's handling of that strike, are somehow the mother of all evils that this bill is designed to correct. The second misrepresentation that the proponents of the legislation assert that employers have only recently used the Mackay doctrine at an unprecedented rate to replace workers, and this has happened as a result of, and subsequent to, the PATCO strike.

□ 1250

I think both of these statements are misrepresentations. Let me address the first one; that the handling of the PATCO situation was what led to the situation we have today and the need for this legislation. The first thing that really has to be emphasized again and again, the PATCO strike had nothing, nothing whatsoever to do with striker replacement in the private sector, either under the National Labor Relations Act or under the Railway Labor Act, which the Committee on Public Works and Transportation is most concerned with. The PATCO strike involved the public sector, and under the Federal Service Regulation Act, an act that Government unions have supported, striking against the U.S. Government is illegal and requires the firing of Federal employees who engage in a strike.

What we had here was that these were strikers acting in an illegal fashion. They were fired for violating a Federal law. They were not replaced. They were fired. New employees were hired to replace the fired employees.

And it should be pointed out, finally, that in this instance, President Reagan gave the employees who were on strike every opportunity to return to work before he fired them. I hope we can lay to rest the idea that somehow the PATCO strike and the Reagan administration handling was responsible for leading to this legislation.

Second, it is alleged that there has been an unprecedented rise in resort to the Mackay doctrine of the replacement since the PATCO strike. Recent studies have shown that permanent replacement of strikers is not indeed a recent phenomenon. In over 90 percent of the cases, and there have been 250 involving Mackay replacements, all but 22 of those replacements occurred before the 1980's, before the PATCO strike.

According to the General Accounting Office, Mackay replacements were hired in only 17 percent of all strikes, and more significantly, this only affected about 3 or 4 percent of all strikers in the 1980's.

Mr. Chairman, in conclusion, let me say that the airline industry has been heavily beset in recent months, and indeed in recent years. They have been faced with tremendous increase in fuel costs, threats of terrorism, the Desert Storm situation, the recession. All of these have led to enormous losses in the airline industry, over $4 billion just in the last quarter of last year. We had a number of bankruptcies including Pan Am, Continental, American West, Midway, and others are threatened. Passage of H.R. 5 would accelerate the trend toward concentration in the airline industry, a very fragile industry at this point, and this would lead to less competition and undermine, in my view, the flight options and the fare benefits resulting from air deregulation.

I would strongly urge a no vote on this legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act. A bill to restore basic rights to American workers. A means to restore some balance to our labor management relations.

This Nation is proud of its tradition of inspiring men and women to strive for better lives for their families through hard, honest work. We are a nation that honors hard work and the entrepreneurial spirit that have created America's vast wealth.

When I consider this legislation, I cannot ignore my heritage: an Italian working class neighborhood where my mother worked in the sweat shops and munitions plants. We have come a long way to securing basic rights for working people and creating a fair balance of interests in the workplace since the days when my mother slaved behind a sewing machine. That balance is now threatened.

We have lost something as a country in recent years. Hard earned dollars are buying less. Workers have fewer rights and fewer protections. Civility has broken down. The contract that binds workers and management in common enterprise has started to come undone.

The striker replacement bill is about civility, dignity in the workplace, and basic rights. The bargaining process requires that workers, to enhance their bargaining position, have the right to strike. But that is a hollow right if its exercise means the permanent loss of one's livelihood. The worker loses, his or her family loses, the company loses.

Mr. Chairman, this bill simply affirms what my parents fought for. I urge passage of the Workplace Fairness Act.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER], a member of the Committee on Public Works and Transportation.

Mr. BALLENGER. Mr. Chairman, I think it has been truthfully stated on the floor that this bill destroys a worker's right not to strike.

There has been some debate if right to work laws are affected. My home State of North Carolina and 20 other States have passed right to work laws. At the heart of right to work laws is the protection of 88 percent of our workforce from discrimination. The individual is allowed to make the informed decision, based upon merit, whether to join a union.

Unfortunately, the Strike Incentive Act will impose a penalty on nonunion workers. The bill removes protections passed by Congress and the States for hard-working Americans. Under H.R. 5, workers who choose not to go on strike and continue to work could lose their jobs, any seniority accrued during the strike as well as consideration of any training provided during the strike.

Let me use an example provided by the National Federation of Independent Business [NFIB]:

> The employer and the union agree to a contract and the striking workers return to the workplace. The strike forced the business to streamline its operation, making layoffs necessary. H.R. 5 demands that all layoffs will be made among employees who did not join the strike (nonunion workers), unionized workers who did not strike, and employees who returned to the company prior to the end of the labor dispute. Only those workers who toe the union line would be granted their jobs.

In right to work States, following Federal and State law, employees are told the decision to join a union is entirely theirs to make. However, it is silly to then turn to these workers and tell them if they don't join a union, they will lose their jobs anyway. H.R. 5 tells workers that if they agree with a union, their jobs are secure.

Right to work laws should be protected. Members from these States should be fighting to preserve these principles and vote down H.R. 5.

I would also like to mention a study by Dr. James Bennett, a professor of economics at George Mason University. Dr. Bennett published a study entitled: "Private Sector Unions: the Myth of Decline." The study showed that union income not membership was growing rather than shrinking, even when indexed for inflation.

In fact, in 1987, total union receipts came to $11.8 billion. As you may recall unions, represent only 12 percent of the private sector workforce.

H.R. 5, the Strike Incentive Act, will help union bosses get more cash. H.R. 5 will coerce and entice untold numbers of new compulsory dues payers into the union ranks. With this flood of new cash, big labor will be able to increase their attacks on State right to work laws in North Carolina and in other States.

It seems to me that almost $12 billion a year is more than enough money for union bosses to use to push their antibusiness, anti-right-to-work agenda. This bill is just another tool to help big labor achieve their goal.

Join me in opposing this bill.

The CHAIRMAN pro tempore (Mr. PRICE). The gentleman from Minnesota [Mr. OBERSTAR] has 6 minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 4½ minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, sometimes you cannot right a wrong, but we can learn from bitter experience. Sometimes we can make things better for future generations of Americans, our friends, and our neighbors.

Almost 3 years ago today tragedy struck hundreds of families in a small city way up in the Pacific Northwest, 3,000 miles away from this body. In Springfield, OR, my home town, a productive wood products manufacturer was bought out. The new owners, well they just did not like unions. No matter what, the fact that the Nicolai Plant they bought out was the most profitable and productive plant in their whole operation, much more profitable than their nonunion shops in the South; no matter the fact that they had a stable and productive and dedicated work force, with hundreds of years of total experience; no matter that the workers just wanted a fair settlement reflecting their productivity and profitability with the company. The new masters wanted the union out. They set out to break it, and they did.

They broke it because they have the tool for locking people out and then permanently replacing them, taking away their jobs, firing them, against the intent of labor law in this country, despite the distorted Mackay decision of many years ago.

□ 1300

Who won? No one won. The plant never recovered its profitability and productivity and the hundreds of families in the community of Springfield were disrupted. Many older workers never returned to full-time work. Many took lower paid jobs. Many had to return to school and get retrained or go into other employment.

This bill restores a fair and simple balance. Owners have the right to continue to operate during the strike, but not to fire the striking workers. Workers have one tool. They can deprive the owners of their productive labor temporarily in order to get a fair settlement, in order to get their fair share of theAmerican dream. That is what this is about today. It is not about big labor bosses or anything else. For a safe and secure workplace, decent wages, vote aye on the Workplace Fairness Act.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, the whole case for H.R. 5 is based on the idea that the use of permanent replacements for strikers has exploded during the 1980's.

The proponents admit that hiring replacements has been sanctioned by 50 years of labor law; but they say it was seldom done before the 1980's.

Because this is a new problem, they argue, we need to adjust the law, but their facts are flat wrong.

There is no evidence—absolutely none—that the use of permanent replacements has become widespread in the 1980's. Nor is there any evidence that they were seldom used in earlier decades.

The GAO—in a report solicited by the sponsors of the bill—concluded that:

> In the years surveyed (1985 and 1989) only 3 out of 20 strikes involved the use of permanent replacement.
>
> And in those cases only a small number of workers were actually replaced: 4 percent in 1985, declining to 3 percent in 1989.

That is 3 or 4 percent of workers were replaced under the Mackay doctrine—and many of these were no doubt rehired in strike settlements later. That is hardly a widespread phenomenon.

It is also flatly untrue that replacements were never used before the 1980's.

Although data is somewhat scarce, a survey of all cases before the Labor Board in which the Mackay decision was cited shows that there have been over 251 cases in which permanent replacements were hired. All but 22 of these occurred before 1981.

The bottom line is this: The hiring of permanent replacements is not widespread today and it is nothing new.

The Democrat proponents of this bill are using faulty history to justify overturning a key principle that has been in our labor law for 50 years. And they are doing that in the special interest of an organized minority of workers and in prejudice against the vast, responsible, majority of workers.

That, too, is not new and it is not different.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, I rise in support of H.R. 5.

President Bush said recently that it was moral and just that we give China most-favored-nation status so that they can send their slave labor-made products into the United States, made by people who have no workers' rights, who have no benefits at all. He has got it backward.

It is moral and just to recognize workers' rights. It is moral and just to allow that they have the right to be able to negotiate and strike if they need for better wages and benefits.

No working man or woman in the United States or anywhere in the world wants a strike, because it is devastating financially and psychologically, but they have got to have better benefits if they want to feed, clothe, and house their families. Industries and communities do not want to strike, but when workers who are the consumers in a community cannot negotiate a contract, then they only have one alternative to go to and they have to strike, and now industry and Government wants to take that right away from them.

Yes, it has been in effect for over 50 years that they could do that, but it was not until the 1980's when the antilabor, antiworker Reagan administration came in and decided they were going to take those rights away from them. He believed the American way was to take from the poor and give to the rich.

Well, should we recognize slave labor? Should we take away the American workers' rights? That is not the American way, Mr. Chairman. That is not it at all.

How would you like to work for 20 or 30 years in a plant and then cannot negotiate, go out on a strike and then get fired for doing it, just because you wanted to ask for better benefits. That is not the American way, to get fired for doing that. You want to be able to recognize that time, which is thrown out onto the street, and you allow some replacement worker to continue on. You do not get your job back. That has happened in my district, so I know the heartbreak of that.

So I say this is a fairness bill. I think that the House of Representatives should give it its fullest support.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I oppose H.R. 5. You know its unfortunate that we're debating a bill that'll never become law. We all know what's going to happen. Congress will pass H.R. 5, or the Senate's bill; the President will veto; and Congress will sustain his veto.

And after all that time—after the shouting is over—will the American worker, or American taxpayer, be better off? Regrettably, the answer is no.

But there is a positive, substantial step we can take. We can begin working anew on labor law reform. Specifically, we can begin to address the decisionmaking process at the National Labor Relations Board [NLRB]. An agency designed in part to ensure employees aren't unfairly treated by employers.

In the past, a decision by the Board could take anywhere from 1 year to 7 years. In fact, in January 1991, the GAO reported that once a case has been forwarded to the Board's headquarters, in 10 percent of those cases it took between 3 and 7 years before reaching a decision.

Members of the Education and Labor Committee recently received a letter from James Stephens, the Chairman of the Board, taking exception to the statements on the Board's case processing problems, made by Mrs. ROUKEMA, in the committee's report on H.R. 5.

While my hat goes off to Mr. Stephens for the reforms that have taken place; I must contend, we still need to review the NLRB to find improvements to the Board's decisionmaking process.

According to Chairman Stephens, as of June, 369 cases were awaiting a Board decision. While this is a marked improvement over the 1,059 case backlog in 1983, it still is far too many. The Board can do better.

For any delay or backlog in resolving labor disputes compounds exponentially the original dispute between labor and management.

But unfortunately Mr. Chairman, H.R. 5 does not even begin to address that problem. If H.R. 5 were enacted, the delays would still continue; the striking workers would not receive a timely resolution to their complaints; the employer would lose considerable sums of money—if not the business entirely—while waiting for a decision.

H.R. 5 throws the scales completely to the side of labor; ignores the rights of business owners; and ignores the need for NLRB reform.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I rise in support of H.R. 5.

For 35 years before I came to Congress, I was a business manager, mostly in charge of manufacturing plants. I can tell you that during those times we had quite a number of strikes of a national union.

I can tell you also in those strikes the presumption was that we were going to keep the company running, that the strikers would come back to work and our job was to sit down with them and see if we could not get things settled. We conducted those strikes, we got through the strikes, some of them were as long as 14 weeks, kept part of the plant running. We kept good feelings between the employees and the management during that time.

I can tell you that system worked in industry for 40 years and it worked broadly. It was only in the eighties that some of these employers got the idea that maybe they could rely on getting replacements for strikers in order to get rid of their unions.

I have had four cases right in my own congressional district during the eighties where an employer who did not like unions got rid of the union. He got rid of them that way.

This was not contemplated in the National Labor Relations Law, whatever you say. That decision needs to be overturned. It is unfair, it is un-American, and it is about time we got it fixed.

Mr. CLINGER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, airline strikes have been cited as a reason for the need to enact this legislation because of abuses that are cited in connection with some of the airline strikes.

□ 1310

But I would just make the point that in almost every instance where there has been an airline strike, the overwhelming majority of the employees who were replaced have either gotten their old jobs back or have been offered their old jobs back.

So to say there has been this massive dislocation, displacement of workers just is not true, at least as it relates to the airline strikes that we have had in recent years.

Finally, I would just say this is going to be a terrible blow to the airline industry, which at this moment in time is probably in its most fragile condition that it has been in its entire history.

I would hate to see a further consolidation in the airline industry, which would clearly result from enactment of this law.

So I would urge again a "no" vote on H.R. 5.

Mr. OBERSTAR. Mr. Chairman, I yield the remaining 1 minute of our time to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act.

As a cosponsor of H.R. 5, I believe that this measure is necessary to restore a fair balance between labor and management when a strike has occurred over economic issues. The frequent use of the practice of hiring permanent replacements for striking workers has given management an unfair advantage over legitimate strikers. Hiring permanent replacements also subverts collective bargaining efforts which have been so effective in promoting a balanced, cooperative relationship between labor and management.

As we head into the 21st century, American workers must be able to compete effectively with the workers of our major trade competitors, and to improve the quality of American industry. Today, all of our primary trade competitors, including Japan and Germany, have laws which prohibit the hiring of permanent replacements for strikers. We all suffer the grave consequences of declining wage standards and decreased productivity when we deny workers the right to strike without fear of losing their jobs. To continue to be competitive in a world market, we must make strides to strengthen the backbone of our economy. H.R. 5 is a positive and necessary action which highlights the value we place on our workers, and the confidence we have in them. Fairness to U.S. workers contributes immeasurably to productivity which is so necessary to the Nation's economic success domestically and internationally.

I urge my colleagues to vote for H.R. 5.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Chairman, I thank the chairman for yielding this time to me, and I rise in strong support of the working men and women of America and H.R. 5.

Mr. Chairman, I rise today in strong support of the working men and women of America and of H.R. 5, the workplace fairness bill. For too long, the workers of this country have been subjected to threats, intimidation, and even unemployment for exercising their legal right to strike. It is time to end this dark period in labor-management relations by passing this bill.

In the years following the turn of the century, American workers had virtually no protection from unscrupulous employers capable of firing employees suspected of involvement in union organizing activity. If workers voted to strike, company owners could hire permanent replacement workers to take their jobs, bring in Pinkerton guards to surround the factory, and use violent methods to lock rightful workers out of the plant. These industrial robber barons of the past used the absence of labor protection laws to their advantage, while making great profits for themselves and their top executives.

In the years following the Great Depression, Congress and the administration worked together to enact legislation designed to provide America's workers with the opportunity to bargain collectively and exercise the right to strike. Both the National Labor Relations Act and the Railway Labor Act guarantee this right. Section 13 of the National Labor Relations Act states that nothing "* * * shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications of that right." These laws also guarantee that a worker may not be fired for participating in a legal strike. Now I ask you—what is the difference between firing a worker for going on strike and permanently replacing a worker for going on strike? The net result is the same—the striking worker loses his job.

Court decisions in the cases of National Labor Relations Board versus Mackay Radio and Trans World Airlines versus Independent Federation of Flight Attendants have severely restricted the right to strike in this country. Although the Mackay ruling has been on the books for over 50 years, it was not until the 1980's that the use of permanent replacement workers became widespread. The firing of 11,000 air traffic controllers by President Reagan in 1981 began a policy of open warfare against the working class of this country. When corporations witnessed the introlerance of Government in the PATCO dispute, an era of distrust and confrontation began in labor/management relations.

Eastern Airlines is a sad case of what can happen to a healthy company when legitimate employees are fired—I'm sorry, permanently replaced—in favor of replacement workers. Frank Lorenzo, through his policy of terrorizing Eastern's employees, was able to almost singlehandedly destroy a company that was once the crown jewel of the domestic airline industry. He permanently replaced his striking employees and refused to negotiate a new contract with the machinists union. So much for a guaranteed right to strike.

Examples abound of companies using scab labor in the 1980's. International Paper, Continential Airlines, and Greyhound Buslines are among some of the better known cases of companies hiring permanent replacement workers during the past decade.

The critics of H.R. 5 claim that the current labor-management balance is working well because the number of strikes has declined. It's no wonder, would you go on strike if you knew there was a good chance that you would be fired for doing so?

Mr. Chairman, it is time to close this much abused loophole in Federal labor regulations. We can accomplish this with the enactment of the Workplace Fairness Act. I urge my colleagues to join with me in giving the working people of this country a break by voting "yes" on H.R. 5.

I commend my friend from Missouri, BILL CLAY, for sponsoring this fine piece of legislation, and I commend Chairmen ROE, FORD, and DINGELL for their hard work and attention to their committee members' concerns with various aspects of this bill.

The CHAIRMAN pro tempore (Mr. PRICE). The gentleman from Washington [Mr. SWIFT] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I am a Member of Congress who very rarely says that we deal with simple issues here. In fact, I think a majority of the time we deal with very complex things, often very highly technical things. The decisions are difficult, and what the right thing to do is sometimes very difficult to divine.

But to my mind this issue is simple: You are for real collective bargaining, or you are not.

I am a free enterpriser. There are many things wrong with it, but, like democracy itself, the free enterprise system seems to be better than all of the other systems that have been devised so far. But it has always seemed to me that the concept of organized labor is simply the way in which the individual worker can be a part of the free enterprise system.

Workers must have their piece of the pie in this system somehow or other, and one, they can beg for it under a paternalistic system or you can devise the means, as we have in this country and in many, many nations around the world, where workers can take care of themselves by banding together to negotiate with their employers.

When you stop and think about it, what you really have between management and labor is a partnership within the free enterprise system. Each needs the other.

This partnership is a very important framework, but there must be a method by which the partners can resolve differences, and that mechanism is called collective bargaining. That requires a balance between the two.

For 40 years that balance worked in practice. Forty years, I might add, of the greatest prosperity in the history of this country and 40 years that no fair-minded person would suggest was marked primarily by labor strife. Only in the last 10 years, the assertion by some in management of a dormant technique to replace strikers, has that balance been disturbed. And it is unacceptable to permit this im-balance to continue.

That is the reason I suggest that this decision is simple: Should labor share in our economic system as an equal partner or not? That is the question. I would suggest that the answer to that question is self-evident.

Mr. Chairman, this is one of the most important pieces of labor-related legislation that will come before us in this Congress. H.R. 5, the Workplace Fairness Act, will rectify a serious imbalance that currently exists in the collective bargaining process. By prohibiting the permanent replacement of striking workers, H.R. 5 will protect the rights of labor union members to engage in legal strikes.

I would like to commend Chairmen FORD and WILLIAMS of the Education and Labor Committee, Chairmen ROE and OBERSTAR of Public Works, and my chairman, Mr. DINGELL of Energy and Commerce, for the leadership they have shown in bringing this important piece of legislation to the floor. Also, I would like to commend Mr. CLAY, the sponsor of this legislation, and the more than 200 Members who are cosponsors, for their support of workers' rights.

H.R. 5 amends both the National Labor Relations Act and the Railway Labor Act to prohibit the permanent replacement of workers involved in legal economic strikes.

Permanent replacement workers are seldom used in railroad labor-management disputes because the extensive mediation process provided for in the Railway Labor Act is designed to settle disputes without either party resorting to work stoppages. Just because the weapon is seldom used, however, does not reduce its potentially devastating impact on the right to strike.

If employees can be dismissed for exercising their legal right to strike, then that right becomes meaningless. We must ensure that our railroad workers, who provide our Nation with vital transportation services, are free to bargain with their employers under fair and balanced conditions and are able to exercise their legal right to strike if necessary.

The Railway Labor Act also applies to the airline industry, and it is here that the issue of permanent replacement workers becomes more significant. Noteworthy examples are the 1985 Continental and 1989 Eastern Airlines strikes, in which Frank Lorenzo permanently replaced pilots, flight attendants, and machinists who exercised their legal right to strike.

Another sobering aspect of the use of permanent replacement workers occurs in the union certification process. Currently an employer can simply hire loyal permanent replacements, wait until 12 months have passed and the strikers are no longer allowed to vote in union decertification elections, and apply for such an election. This kind of union-busting tactic must be stopped.

At the hearings held by the various committees earlier this year, a question arose as to what workers are covered under H.R. 5. The Subcommittee on Transportation and Hazardous Materials, which I chair, adopted an amendment that clarifies that the bill's provisions apply only to workers represented by the recognized collective bargaining unit involved in the dispute. Similar amendments were adopted by the Public Works and Education and Labor Committees.

The record developed at our subcommittee's hearing and in the actions of the other two committees of jurisdiction clearly shows the serious imbalance that currently exists in the collective bargaining process.

By protecting the rights of labor union members to strike, and ensuring that permanent replacement workers cannot be used as a union-busting tool, H.R. 5 will restore fairness to the collective bargaining process.

In testimony before the various committees of jurisdiction, the administration's representatives have said that President Bush plans to veto this legislation if it is presented to him in its current form. I ask all of you to join me in voting to approve this important legislation, and send the President a clear message: the working men and women of America, the backbone of our Nation's economy, shall know that, should they choose to engage in legal strike activity, their jobs—their livelihood—will be protected.

I urge my colleagues' support for this important legislation. Congress must act now to restore balance to the collective bargaining process and ensure that America's workers, including the railroad workers who are so essential to our Nation's economy, retain the ability to utilize their legal right to strike without needlessly fearing they will have their jobs ruthlessly taken from them.

Mr. Chairman, I reserve the balance of my time.

Mr. RITTER. Mr. Chairman, I yield myself 5½ minutes.

Mr. Chairman, I would like to focus on the well-being of our workers, their jobs, and their communities, and I would like to call the attention of the Members to the realities these days of the competitive economic environment and, frankly, the good news in the ways we as a Nation have responded.

But first let me note that a portion of this bill considered by the Committee on Energy and Commerce, the title amending the Railway Labor Act, is of little practical consequence for the country's major railroads. For economic and contractual reasons as well as regulatory requirements such as engineer licensing, it is just not a practical option for a major railroad to replace any significant portion of its workers.

There has been no replacement of striking workers by a major railroad since the 1960's.

So if H.R. 5 has any real effect within the rail industry, it is going to be on the short-line and regional railroads. These are the entrepreneurs who kept parts of our rail infrastructure alive and kicking by being more adaptive, by being customer-responsive, being more competitive than the major carriers from whom they bought their lines.

These small carriers are the only ones who have any real option to replace strikers in time to affect the outcome of the dispute. And because these small railroads typically function on a thin financial margin, not continuing to operate during a strike could mean the end of the company.

That means the end to the good jobs that they created.

Mr. Chairman, our labor laws provide the right to strike, an inviolable and fundamental right in a democracy. And no one is taking away the right to strike. But the law does not say that all strikes will and must succeed. A strike should always be the action of last resort. But H.R. 5, unamended, brings about a sea change in the labor-management balance. It eliminates hiring replacements in all economic situations, not just unfair labor practice strikes.

Now, today, here, there are mutual incentives not to strike, and lower incidence of strikes is a very positive development over the last 10 years. It is a good sign that the number of strikes are down substantially in the 1980's. Most of it shows that we are learning to work together better as a team fighting not each other but the competition.

Let us stop and ask who loses when there is an abundance of strikes: The workers lose, their families lose, their communities lose. More than anyone else, the American worker, Mr. Chairman, has a vital interest in keeping our industries smoothly functioning, with positive approaches to collective bargaining which encourage cooperation, not confrontation.

We have heard a lot about the United States and South Africa being the only countries not to defend workers from permanent replacement. But what you do not hear is that countries like Japan have basically company unions. Their auto workers are making $50,000 a year. And that Germany prohibits a strike that would grievously hurt a company. And that Germany, Italy, and France all have multiple representation of the same workers from multiple unions.

Cooperation is the name of the game in the countries that are doing well.

□ 1320

Mr. Chairman, in labor disputes today the stakes are higher than ever before. America is engaged in a global competitive struggle, not just for exports, but right here in our home markets with imports, a war where no quarter is given to companies who cannot compete, and that makes it essential to foster what is balanced and successful about our system in producing nonstrike settlements to disputes. We need fewer strikes, not more.

Now, besides disrupting the balance of the collective bargaining system, as has existed over 50 years, and we have heard the statistics, replacement workers have been hired only to the tune of maybe 4 percent out of the total strikers—permanently replaced. H.R. 5 endangers the growing cooperation of labor and management to meet the global competitive challenge. American workers and managers have worked together during the last year to unprecedented levels, and instead of wasting their precious time and energy and creative juices on fighting each other, we are fighting our competitors.

Mr. Chairman, that is what the quality revolution is all about. It is about teamwork. It is about a situation where each and every worker becomes his or her own best manager. That is the essence of the quality revolution where the distinctions between management and labor are blurred, where we and they become us.

We need to put a premium on cooperation, collaboration, and not confrontation. H.R. 5 spurs more strikes. It makes striking easier. That is not the answer for American workers.

The question is: Will we support legislation that makes strikes easier, or will we promote collaboration instead?

I hope that the House will approve the carefully crafted and precise measures in the Goodling amendment, which serves as a compromise. Otherwise, we will be left with the stark alternatives of H.R. 5—and its wipe-out of 50 years of labor-management practice—or no change in the law.

I would urge my colleagues to oppose H.R. 5 and support the Goodling substitute.

Mr. LENT. Mr. Chairman, I rise in opposition to H.R. 5. Whatever modest gloss the proponents of this legislation may attempt to place on it, this legislation proposes to make a fundamental change in the labor laws that have served this Nation well since the days of the New Deal.

Under 50 years of settled case law, the general labor laws have included the possibility of hiring replacement workers as a legitimate management response to a purely economic strike—that is, a strike not responsive to an employer's own unfair labor practices. This is part of the system of carefuly balanced mutual incentives in our Federal labor laws. If we are to alter those incentives in a fundamental way, there should be a compelling reason for doing so.

All the empirical evidence says there is no such reason. A recent General Accounting Office report confirmed that only about 4 percent of striking workers were actually replaced.

This tells us that under current law, the issue of replacement simply does not enter the picture most of the time. By approving this bill, we would be introducing major uncertainties into the interpretation of our labor laws for no established reason.

As to the railroad aspects of the bill, the economic reality today is that permanent replacement of workers is not a credible option for any major railroad.

If the possibility of hiring replacement workers has any practical meaning in the railroad industry, it is for the small and struggling short-line and regional railroads—the classic "mom and pop" operations that have kept many marginal rail lines in service. These small companies simply cannot survive a stoppage of any significant duration.

So the question presents itself: Do we want to amend the Railway Labor Act with the sole effect of threatening these encouraging entrepreneurs among our smaller railroads? Clearly not. I urge the House not to approve H.R. 5.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. MANTON], a member of the subcommittee.

Mr. MANTON. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act of 1991. This important legislation would prohibit employers from permanently replacing workers who are legally on strike.

Mr. Chairman, during the past 10 years, the growing use of permanent replacement workers has severely undermined the collective-bargaining process. Permanent replacements rob workers of their basic right to strike and give employers an unfair advantage in labor negotiations.

The collective-bargaining process can only work fairly and efficiently for both sides if neither has an advantage. That is how the process worked for more than 40 years and that is how Congress can make it work again by passing H.R. 5.

Mr. Chairman, the opponents of H.R. 5 contend the bill is unnecessary because existing law prohibits employers from firing striking workers. This protection is of no value to the worker who is permanently replaced. For that worker, the result is the same: no job, no income, and no means of supporting a family.

I urge my colleagues to join with me in voting for H.R. 5.

Mr. RITTER. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, H.R. 5 has been called, the Workplace Fairness Act by its supporters, who claim it will restore the alleged imbalance between management and labor. This assertion is pure deception. The reality is that it should be designated the "striker's bill" because that is what it will promote. The resulting imbalance in labor law will be a destructive increase in strikes and a long-term threat to jobs and competitiveness.

Since the passage of the National Labor Relations Act, the rights of strikers to return to their jobs has been protected in unfair labor practice strikes where the NLRB has found the company in violation of labor statutes. In fact, current law entitles a worker to reinstatement, often with back pay, if he participates in an unfair labor practice strike, and it's easy to have a strike designated an "unfair labor practice" strike.

However, in economic strikes, where workers demand higher pay, benefits, job security or other considerations, the right of employers to replace striking workers has been upheld by the Supreme Court in NLRB versus Mackay Radio and Telegraph, 1938. That's been the law for over 50 years.

Overturning Mackay would not restore any shortcoming in labor law, but actually supply unions with a federally mandated advantage at the bargaining table. Proponents of H.R. 5 claim that, "Strikes are used by employers to get rid of both their obligation to bargain and the workers who support the union." This is a specious argument. Since 1939, there have been, on the average, only four to five Mackay cases annually; as many as 12 in 1948 and as few as zero in 1957. You can not logically argue that H.R. 5 should be instituted to combat the over use of Mackay replacements in the past years.

H.R. 5 would amount to company funded strikes against the company's and workers' long-term interests. In reality, strikers are very rarely permanently replaced at all. A January 1991 General Accounting Office Report states that in only 17 percent of all strikes were permanent replacements used, and that only 4 percent of striking employees were replaced by Mackay-justified replacements and in all probability most of that 4 percent was reemployed in different jobs.

Just as labor should be guaranteed the right to strike, an employer must have the right to replace striking workers in economic strikes. No business should be stopped by law from keeping its doors open. Currently, the effect of the Mackay decision is for strikes to be a last resort encouraging negotiated settlements. H.R. 5 removes any economic risk in striking, therefore eliminating any incentive for labor to compromise through negotiating.

It is my belief that the proposed legislation would vastly shift the balance of power in favor of union leaders to an unhealthy degree. The striker's bill will adversely affect our economy and erode our ability to compete. These economic considerations, as well as fairness to compel me to oppose H.R. 5.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I speak in strong support of H.R. 5. This important legislation will prohibit the hiring of permanent replacements for striking workers. It will ensure a level playing field in labor relations.

During the last decade, there has been an increasing tendency towards the hiring of permanent strikebreakers during labor disputes. This union-busting activity has resulted in a major imbalance in labor-management relations. Lifelong employees may find themselves out of a job merely because they have exercised their right to strike.

We are all too familiar with the tragedies of Eastern and Continental Airlines. In those cases, Frank Lorenzo used the bankruptcy and labor laws to destroy the careers of many hard working airline employees. Wages were cut, and medical, pension, and other benefits were eliminated. And when the employees tried to exercise their right to strike in protest, Lorenzo hired permanent replacement workers. In the end, Eastern disappeared and the workers—and passengers—suffered, but Lorenzo made a quick exit from the airline business.

Unfortunately, the United States is almost alone in the industrialized world in allowing the use of permanent replacement workers. A recent survey concerning the use of permanent replacement workers in a number of Western industrial democracies found that, with the exception of Great Britain and parts of Canada, none of the countries surveyed allowed employers to hire permanent replacements during strikes.

This is particularly ironic because all Americans take great joy in the liberation of Eastern Europe from Communist control. We should not forget that this liberation started with the brave workers of Solidarity in Poland, who used the strike weapon with great effectiveness. Just as we all oppose union-busting in Eastern Europe, so must we oppose it here.

The legislation before us restores the balance in the collective bargaining relationship and is fair to both labor and management. I urge its support.

□ 1330

Mr. RITTER. Mr. Chairman, I reserve the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], chairman of the full committee.

Mr. DINGELL. Mr. Chairman, I thank my dear friend and distinguished colleague, the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee, who has processed this matter with such confidence.

Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act. I want to commend the chairman of the Subcommittee, Mr. SWIFT, for guiding this legislation through our committee, where it was approved by a strong vote.

I also want to recognize the leadership shown on this issue by my good friend and chairman of the Committee on Education and Labor, Mr. FORD, by the chairman of the Labor-Management Relations Subcommittee, Mr. WILLIAMS, and by Chairmen ROE and OBERSTAR on the Public Works Committee.

H.R. 5 is a critically important bill that deserves support from every Member who believes in the right of workers to organize, to bargain collectively, and—when necessary—to strike. Increasingly during the last decade, corporate managers have grown more aggressive in their use of permanent replacements as a tool for union-busting. This trend must be halted and reversed.

I find it troubling and ironic that more than 50 years after the passage of the Wagner Act, there still exist within the ranks of American business those retrograde managers who would deny workers the freedom to exercise their most basic right—the right to withhold their services in pursuit of fair collective bargaining agreements.

For me, there is a element of deja vu in this debate, since I can still recall the time, as a child, when my own father was fired from his job for union organizing activities. Fortunately, we have reached the point where the right of workers to organize is protected by law. But that right means little if workers cannot also exercise freely their concomitant right to strike.

This legislation would have been unnecessary if during the last decade a new breed of management had not decided to declare war on the collective bargaining process. It is their behavior that has revealed the inequities of current law in this area. The striker replacement bill will correct those inequities.

I urge my colleagues to oppose the Goodling substitute, which would gut the protections of this bill, and to give H.R. 5 their full and wholehearted support.

Mr. SWIFT. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I was listening to the discussions, and I want to make several points.

First of all, workers do not strike frivolously. There has to be a good reason for a group of employees to be dissatisfied. Usually the reasons center really around life-saving issues like health care, pensions, and worker safety.

So the question really is this: We all know what happens in cases like this, but what happens to a 50-year-old male who has worked for a company for 30 years and decides, along with his colleagues, that that company's safety conditions are very irresponsible? Should that person who has given his youth to a company not have the opportunity to come back to the company once those situations are corrected? This happens usually when a worker is at the end of the line in trying to negotiate safety conditions.

So, Mr. Chairman, I am very concerned about the real workers and their lives, and I certainly support wholeheartedly H.R. 5.

Mr. SWIFT. Mr. Chairman, I yield myself 30 second just to make this comment:

I heard, I believe, drifting around the room here a little while ago the statement that no economic penalty occurs during a strike to the workers, and I think that comes under the heading of somebody who says, "It's not what you don't know that hurts you, it's what you know that ain't so."

Anybody who has tried to raise a family, pay the mortgage, and put groceries on the table without an income knows there is an economic penalty for a strike, one that this bill does not change. This bill simply says that while you are assuming that economic penalty, somebody cannot go out and give your job away.

With that, Mr. Chairman, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, if Members live through a bitter labor dispute like the one I am living through now in my district, they know the importance of this bill. Regardless of the position we take on the issue of management and labor, it is time to pass a permanent replacement workers bill and say that you cannot have permanent replacement workers.

There are two quick reasons for that. First of all, it is not good for the collective bargaining process to have permanent replacement workers. After you work through a long list of contentious issues, then you come to one that is sometimes insurmountable. What do you do with the replacement workers that were hired? That issue has got to be settled, and it can be settled by this legislation.

Second, I would argue that for business the hiring of permanent replacement workers is a short-term gain and a long-term loss. How many people here think that Eastern Airlines is now any better off? How many people here are riding Greyhound Bus Lines nowadays? How many people have seen other companies go down because of replacement workers?

Finally, Mr. Chairman, I point out that the law provides a right to strike, but the courts have said they can be permanently replaced. It is time to reconcile these two differences.

Mr. SWIFT. Mr. Chairman, I would inquire as to the respective times remaining.

The CHAIRMAN pro tempore (Mr. PRICE). The Chair will state that each side has 5½ minutes remaining.

Mr. RITTER. Mr. Chairman, I yield myself 2½ minutes.

Mr. Chairman, there seems to be some misunderstanding about the PATCO strike. I would just like to point out for the record that that strike was an illegal strike. That was the air traffic controllers' strike. That was not a legal strike. That strike should not be used as ammunition on behalf of H.R. 5. It is in the Federal law that Federal employees do not have the right to strike.

Ms. OAKAR. Mr. Chairman, will the gentleman yield on that point?

Mr. RITTER. I will not yield on my time. If the gentlewoman wants to take some time on her side, that is fine. We are short on time, and we are just waiting for other speakers to get to the floor.

I just wanted, Mr. Chairman, to clear up that misunderstanding. The right to strike is not what is at issue here, but it is being demagoged by some on the other side that by not voting for H.R. 5 we are removing the right to strike. The right to strike remains inviolable.

Here are some protections that underpin the right to strike:

First, a near absolute prohibition of injunctions against legal strikes, even where the health and safety of a community is being threatened. I can tell the Members that this is not the way it is in some of our European competitor nations.

Here are the other protections: A protection against disciplinary action by the employer for engaging in a legal strike; protection against being fired by an employer for engaging in a legal strike, including the striker's retention of employee status even where replacements have been hired; the frequent availability of public benefits, including unemployment insurance, to strikers; an immediate right to reinstatement where the employer has not hired Mackay replacements and that is in 83 percent of all strike; and in those few instances where Mackay replacements are hired, a continuing right to reinstatement as soon as a job opening occurs.

And we see that happening in plenty of places around the country.

Then there is a right to reinstatement even where replacement have been hired if the employer has committed an unfair labor practice which caused or prolonged the strike.

Here are other rights: There are substantial restrictions on the employer's ability to hire replacements; there is a continuing obligation on the part of the employer to bargain in good faith with the union even if replacements have been hired; and there is the right to vote in any election on continuing union representation held within a year after the commencement of the strike.

So this whole issue about somehow doing away with the right to strike if we do not pass H.R. 5 really is a red herring.

Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. ZELIFF], who has been the owner of three businesses over a period of 15 years.

Mr. ZELIFF. Mr. Chairman, I am from New Hampshire, and we have three small businesses. We have them currently, and we have met payroll for the last 15 years. One is a country inn, one is a small restaurant, and one is a gas station and convenience store. We have 52 employees, and I can say frankly that I have to go in on a Saturday night when the dishwasher left and do dishes myself, so I know what it is all about.

We have a chef, we have key individuals. We just cannot call out and bring people up to replace these individuals. Even the amendment process of 8 weeks would be a disaster for our businesses.

Small business in general is not like the big business that we may read about. We are talking about moms and pops. We are talking about rural areas. This bill, H.R. 5, would be an absolute disaster to the ability of a small business to be successful.

□ 1340

Take a look at any one of those roles.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield for a question.

Mr. ZELIFF. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, does the gentleman have a union at any one of these three businesses?

Mr. ZELIFF. Do I have a union representing me at any one of those three businesses? No, I do not.

Mr. FORD of Michigan. Mr. Chairman, then this bill does not apply to the businesses of the gentleman from New Hampshire.

Mr. ZELIFF. Mr. Chairman, the gentleman is incorrect. I have been a past president of the New Hampshire Hospitality Association, I have been involved with the National Restaurant Association, and I have been a past president of the New Hampshire Travel Council. I am speaking now as a Member of Congress on a much broader point of view.

Mr. Chairman, I understand where the gentleman from Michigan [Mr. FORD] is coming from, but it does not negate what I have been saying.

Mr. Chairman, what I am saying is as a representative of small business, this would be a disaster for anybody that has a small business, and their ability to run their business successfully.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART], a member of the committee.

Mr. ECKART. Mr. Chairman, today I rise to express my strong support for H.R. 5, the Workplace Fairness Act. In my district of northeastern Ohio, I have many constitutents who have been permanently replaced. Their stories cry out for justice and for equity.

I have heard from far too many constituents who no longer have jobs to believe that the use of permanent replacements is an anomaly. It's not an anomaly, it's an unfair weapon being used to break the spirit of hardworking everyday Americans.

I would like to relate the story of one such American. It involves a women in Chardon, OH, who is 56 years old, single, and living alone. The company she worked for hired permanent replacement workers. For some time, she lived on her life savings. Then she had no income. Eventually her telephone, electricity, and heat were turned off. She was even notified that she was in danger of losing her home. She could not afford to feed herself and was receiving food from a nearby food kitchen; however, as a diabetic she needed to follow a careful diet which was not provided by the kitchen.

Subsequently, she blacked out, striking the floor with her head hard enough to put her in a coma, where she lay for 3 days before a neighbor discovered her. She was taken to one hospital and then airlifted to another where she remained 18 days in intensive care.

Here is the real life example of a worker affected by the practice of employers hiring permanent replacement strikers. She has lost her savings, her health, and is in the process of losing her home. The stress of not having an income and not having a job have all contributed to her economic and physical deterioration, and the result for America is one less productive citizen.

Opponents of this legislation claim that there is a difference under current law between permanently replacing a striking worker and firing a worker. But if I may interject the words of an old Supreme Court Justice, "if it looks like a duck, walks like a duck, and sounds like a duck, it must be a duck."

Well Mr. Chairman, permanently replacing a striking worker quacks like firing a worker. Like the woman I described previously, the end result is the same, and in her particular situation, life threatening.

This is a fairness issue. As a worker not receiving an income the difference is merely semantical when it comes to deciphering whether you are without an income because you were fired or permanently replaced. It is disingenuous to argue that there is a difference.

I ask my colleagues to look beyond quacking semantics and vote for what is right and what is fair. Let's put a stop to this outrage to our democratic society and stand up for the average American by passing H.R. 5.

Mr. SWIFT. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, the Strikers Fairness Replacement Act is one of the most crucial issues that will affect the lives of almost all American employees as we enter the next century.

Since 1935, the National Labor Relations Act has protected the right of workers to join unions and engage in collective bargaining. One of the most important protections of the act is the prohibition of firing workers for exercising their right to join or help organize a union.

Ironically, only during a strike is it legal to replace employees for supporting union activity.

Mr. Chairman, it is crucial that when workers go on strike to gain improved working conditions that they are not faced with the threat of being replaced.

Permanently replacing workers who strike was deemed lawful by the U.S. Supreme Court 53 years ago in the Mackay Radio case.

Indeed in the past years some employers have not hesitated to effectively fire many striking workers, and that is not fair. This is unfortunate because now is the time to ensure that labor and management try and work together if we want to remain competitive in the global market.

Moreover, the effective right of workers to withhold their labor as leverage during negotiations is an essential element of our bargaining system. As workers have felt increasingly unable to strike, faith in collective bargaining has been seriously undermined.

Yet, the Strikers Fairness Replacement Act can help to restore that faith in the system. It will reverse the Mackay Radio case by prohibiting the hiring of permanent replacements during a labor dispute and prohibit discrimination against striking workers returning to their jobs once the labor dispute is over.

Mr. Chairman, I support this legislation wholeheartedly because it provides a clear statement in the law that workers will not be permanently replaced during a strike and American workers deserve that support.

I cannot emphasize enough the importance of ensuring that when workers go on strike to gain improved working conditions that they are not faced with the threat of being replaced.

The right to strike is a part of our democratic heritage. Indeed working people have earned the right to have a voice in the determination of their working conditions.

Mr. SWIFT. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, I rise in opposition to H.R. 5, the striker replacement ban.

In opposing this bill, I am not opposing labor unions or the rights of union members. Unions have contributed much to our Nation. Without unions, the American workplace would be, in many respects, more dangerous, less rewarding, and even less humane.

In part because of union representation, employers and employees have reached a delicate negotiating balance. Drastic changes such as those proposed by this bill would shatter that balance and give an unfair advantage to unionized employees.

We do not need to tinker with a system that is already fair.

In addition to its effect on overall labor-management relations, this bill would also have a devastating impact on rural health care.

In conjunction with the recent Supreme Court decision in American Hospital Association versus NLRB, which found that eight separate subgroups of hospital employees could form eight separate unions, H.R. 5 would drive up costs and limit access to service.

If any of the eight unions were to strike, an entire hospital would be shut down. In rural areas, there is no pool of skilled workers to come in and temporarily replace striking workers in an attempt to keep the hospital running.

Most rural citizens do not have the luxury of simply going to another hospital. They cannot afford even a temporary closing of a local hospital.

What if, to avoid that problem, hospital administrators give in to excessive labor demands? No one can doubt that increased costs would result and that these costs would be passed on to patients who are already seeing their health care bills skyrocket.

Even if you can overlook the fact that H.R. 5 allows workers to strike for economic reasons without fear of losing their jobs, remember that this bill will limit health services in areas that are already badly underserved.

I urge my colleagues to vote no on final passage of the strike breeder bill.

Mr. SWIFT. Mr. Chairman, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, today I rise to express my strong support for the Workplace Fairness Act.

The National Labor Relations Act was enacted to bring a balance to the collective-bargaining process so that both labor and management could work out their differences. Unfortunately, over the years, this balance has eroded and is now tilted in favor of management.

Under the law, when labor and management meet at the bargaining table and negotiations reach a standstill, employees have the right to strike and employers have the right to hire replacement workers. Mr. Chairman, I have never met a worker who wants to strike. Strikes are called out of desperation—they are a last resort. When workers strike, they lose their paycheck, their families suffer.

Employers have always had the right to hire replacement workers to protect and continue their business operations. However, over the last decade, more and more employers have opted to hire permanent replacement workers, thereby bypassing the collective-bargaining process and, more importantly, throwing experienced striking workers into unemployment lines.

If employers can simply hire permanent replacement workers, there is no incentive to negotiate in good faith. Employees then become afraid to exercise their right to strike in order to achieve better working conditions, wages, and benefits. This is not what Congress intended.

The Workplace Fairness Act simply prohibits employers from hiring permanent replacement workers during a strike. They may continue the long-standing practice of hiring temporary workers, but they would still be required to continue negotiations with striking employees. In other words, this legislation protects the collective-bargaining process.

Additionally, this legislation does not affect nonunion businesses. Language has been included to ensure that only union shops which are properly represented would be covered under this act.

Mr. Chairman, it is time for this Congress to stand up for the American worker. This legislation reaffirms Congress' long-standing position that workers have a right to strike without fear of being fired. Workers deserve nothing less. I urge my colleagues to support America's working families by passing H.R. 5.

Mr. RITTER. Mr. Chairman, I yield our closing minute to the distinguished gentleman from Louisiana [Mr. TAUZIN], a member of the subcommittee and the full committee dealing with this issue.

Mr. TAUZIN. Mr. Chairman, if we were to decide this issue on anecdotal hard case evidence, we could make some bad decisions today. However, we should decide this issue on the basis of what is good national policy.

A National Labor Relations Act that has been in place for many years, designed to promote balance in the discussion between management and labor issues, designed to encourage collective bargaining and discourage strikes, is working. It is working. There are fewer strikes in America, big, long-term strikes, in the last decade, than there were in the previous decade. Something is working.

Is there a shift in the balance? Yes. As labor surpluses develop, management gets a little leverage in the negotiations. As labor shortages develop in the marketplace, labor gets an additional leverage in the marketplace.

Mr. Chairman, if we have had problems, it is only in that cyclical evidence of labor shortages and labor surpluses. The good news for labor is that the NLRA will work and continue to work to their benefit as labor shortages begin to develop in America, and all indications are that labor shortages will be upon us as we turn this century.

Mr. Chairman, the act works. There are fewer strikes today. Let us continue to keep a good act working for the sake of collective bargaining.

□ 1350

Mr. SWIFT. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we have heard that if this bill passes, chaos will result. Chaos will result if we restore a practice that pertained for 40 years in this country, 40 years, I repeat, that were a period of unprecedented prosperity, 40 years that were not a time of particular labor unrest.

There will be no chaos if this bill passes. If this bill passes, there will be again balance for those Americans who do this Nation's work.

I urge my colleagues to vote for this bill.

The CHAIRMAN pro tempore (Mr. PRICE). The time is now under the control of the gentleman from Michigan [Mr. FORD], who has 15 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING], who also has 15 minutes remaining.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I have a prepared statement which puts forth in very passionate terms my support for this bill, but I would like to deal with a couple of the issues that I have heard the opponents of this legislation raise.

The first one is that somehow settled labor law from 1938 is now being changed, thereby taking a balanced relationship created through the National Labor Relations Act and weighting it heavily on the side of labor from the present balance that the law now has.

I think that comes from a fundamental ignorance of labor law and labor history. In 1938, when the Mackay decision came out, saying that employers could replace economic strikers, the law had absolutely no provision for union unfair labor practices. There was absolutely no prohibition against a closed shop. Secondary boycotts were allowed. Secondary strikes were allowed. Hot cargo agreements allowing agreements to prohibit the working on a product from an employer who was under strike, all of those were allowed.

When in 1947 the Congress at that time in its wisdom chose to override President Truman's veto and pass Taft-Hartley, we had a whole series of changes in that law. Secondary boycotts prohibited. Hot cargo agreements prohibited. A series of unfair union labor practices set forth in the law, a variety of restrictions. No ground swell occurred at that time to change the Mackay case because employers were not going through the tactic, the device, the ultimate sanction of permanently replacing striking workers. They were not making the substantial erosion on the right to strike, in the workers' right to strike.

For the gentleman from Pennsylvania [Mr. RITTER], who controlled the time earlier to say nothing in our opposition to H.R. 5 diminishes our continued support for the legality of the right to strike becomes hollow words when in fact the ultimate sanction, the ability to fire strikers by permanently replacing them erodes all of the statutory protection of the right to strike and against discrimination.

It truly becomes, the right to strike has become the right to quit. That is not what we intended in the Wagner Act. That is not what a majority of Members in this House wanted to continue. That is why H.R. 5 is so desperately needed.

Mr. Chairman, I rise in strong and proud support of H.R. 5, the Workplace Fairness Act.

If ever there were a piece of legislation whose time has come, this is it. In fact, as I review the sorry history of the past decade, I can only conclude that this legislation is long overdue.

I have watched with growing dismay as American workers have agreed to major givebacks of hard-won wages and benefits, on the understanding that they would share in the turn-around when their companies' profitability was restored. Instead, when the time has come, they have been confronted with ultimatums. Take it or leave it, because we know that if you choose to strike, we can permanently replace you.

Clearly, an increasing number of employers view collective bargaining not as a means of negotiating wages and working conditions, but rather as a means of recruiting a younger, lower paid new work force—comprised, they doubtless hope, of workers less likely to join a union.

Leadership at the national level could have signaled to American employers that their interest, as well as the Nation's lies with retaining a loyal and experienced work force. Instead, Ronald Reagan kicked off the 1980's by firing the air traffic controllers. Granted, theirs was an unlawful strike, but I don't think for 1 second that that was the sole basis for President Reagan's action. He wanted to send a strong and sure signal to American workers that the decision to strike might cost them their jobs, and to American employers that they could in effect fire striking workers, just as he did, with impunity.

As a result, what has for over 50 years been a rarely exercised loophole in the law, has now wreaked havoc on the lives and well-being of hundreds of thousands of American workers and the communities in which they live.

We are faced with a legal absurdity: Under the National Labor Relations Act, employers cannot discriminate against employees exercising their legal right to engage in an economic strike, yet employers can hire permanent replacements for their striking employees. New workers promised permanent positions are vested with an enforceable cause of action. And junior striking employees who cross picket lines may be retained and offered superior positions in preference to more senior strikers.

Don't tell me this doesn't destroy the right to strike.

As a former labor lawyer representing unions 20 years ago, I have followed closely the accelerating erosion of the remedies workers could avail themselves of when faced by employers who refuse to bargain in good faith. One by one, these remedies have been weakened. An entire new generation of lawyers has developed whose stock in trade is mastery of the delaying tactics which the Board has tragically sanctioned.

And of course over the years, the range of countervailing economic weapons has now almost thoroughly been denied to workers—from secondary strikes to consumer picketing to hot cargo agreements. All this at the same time that we preach the gospel of economic ambition—for employers only, so it seems.

Little wonder that, in the words of the committee report, "today workers have not so much a right to strike as a right to quit."

Tragically, the due bills have come in from a decade of Reaganomics, of takeovers, leveraged buyouts, and an entire range of economically and socially unproductive economic activities pursued by owners and investors with no loyalty to employees nor stake in the community.

Workers these days are expected to appreciate having a job at all. Concerted activity to improve wages and working conditions is seen as an act of ingratitude.

I hope that in considering today's vote, my colleagues will remember all the times we have as a body lamented the decline in U.S. productivity and competitiveness. Consider the terrible price we pay as a Nation—not to speak of the price paid by thousands of individual American families—when loyal, experienced American workers are replaced, and often at best underemployed in new, lower paid, and lower skilled jobs, if they are employed at all.

I do not want our children to have to relive the terrible history that pitted Americans against Americans, workers against their replacements. We understand, and abhor, that history as we understand it from our parents and grandparents, and from our history books. Let us restore the means for peaceful resolution of worker and employer differences promised by the National Labor Relations Act. I urge passage of H.R. 5.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes and 30 seconds to the distinguished gentleman from Michigan [Mr. HENRY], a member of the committee.

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 5. All of my colleagues have been faced in our districts with labor-management confrontations, sometimes involving merely economic issues, other times unfair labor practice issues, and often and unfortunately very, very contentious and ugly situations.

We should make very, very clear that this legislation does not restore past labor practice relative to labor-management confrontations, as previous speakers have claimed. This legislation represents a dramatic reversal of the manner in which this Nation has historically handled labor-management conflicts.

Reaching back to the Wagner Act of 1935, in which the distinction between an economic strike and an unfair labor-management practice was clearly established, reaching back to the Taft-Hartley Act in 1947, the distinction between the way in which the rights of labor are handled in terms of restoring labor's position to a job, between an economic strike versus an unfair labor-management practice on behalf of capital or management is clearly established historically in this country. Current law distinguishes between a strike involving an unfair labor practice, where the rights of strikers to return to their jobs are fully protected with the unqualified right to return to the job versus a strike over economic issues where management risks interruptions in its productivity and the burden of training new workers against labor's risk of job loss.

And even when a strike is over purely economic terms and does not involve unfair labor practices, labor still retains a right, a preferential right to reinstatement, although not an unqualified right to reinstatement.

Economic strikers already enjoy preferential rights to reinstatement. What this legislation seeks to do is to give an unqualified right to reinstatement for economic strikes in addition to that which is already enjoyed for strikes involving unfair labor practices.

Employees will be free to strike repeatedly, no matter how excessive their demands, knowing their jobs would always be waiting for them.

Take the International Federation of Flight Attendants versus TWA situation, for example. I am no fan of Frank Lorenzo, but on the other side we have got problems, too. In the TWA flight attendants' case, labor admitted in the record while before the court and before the NLRB that their demands were four times what the union itself admitted would be adequate to fill the jobs in dispute, four times what would be necessary.

We have in a capitalist society a situation in which labor has to contend with capital. And we want a level playing field. But when we deal with the issue of labor versus capital, we also have to remember that in a global economic environment or even within a national economy, capital also has to compete against capital and labor has to compete against labor.

H.R. 5 leaves us with a situation where labor does not have to compete with labor but capital still has to compete with capital. That will work in monopolies, whether it be the monopolies that come about because of some special economic positions and economic structure or industrywide regulation, but it will not work in global markets.

We hear talk of employers breaking unions. Any attempt of an employer to break the union is in and of itself an unfair labor practice. And once such a practice has been determined, that worker already enjoys under existing law an unqualified, I repeat, unqualified right to that job.

I will return to this later, Mr. Chairman, because I have much more to say on the issue.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, thank you for the opportunity to speak on this important legislation.

There are millions of workers who are or will be watching this debate. They search for a fair deal: decent health care when needed, reasonable wages to feed themselves and their children, and a workplace which is safe from horrible illnesses such as black or brown lung disease, chemical poisoning or accidents which mutilate one's body. When organized labor wins these rights, all working Americans enjoy the benefits. This is all collective bargaining attempts to achieve.

Yet this is precisely what Frank Lorenzo and his type are trying to destroy with their recent, vicious attacks.

Some opponents of this bill argue that the sky will fall down and that the Earth will open up if this legislation passes. Such is not the case. This bill merely restores the pre-1980 right of employees to lawfully withhold their labor, which is their fundamental right for a decent life in a democracy.

Let me give you one example of the importance of this bill: Since the Presidential action against PATCO, which violently changed the lives of all workers, certain companies have advertised for permanent replacements prior to an actual strike. The results as seen across this country, have been devastating. The Greyhound Bus strike is a classical example. Communities are torn apart. Peoples' lives are destroyed. And companies which have been pillars of the community are ruined.

I urge my colleagues to support H.R. 5.

Finally, the way to make America commercially strong is not by lowering our standard of living, but by increasing our productivity. Japan, Germany, and other countries which are raising their production all have legislation such as H.R. 5—none of them allow legal strikes to be busted by permanent scabs. We, too, can increase production. It won't happen by busting unions.

□ 1400

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Oklahoma [Mr. EDWARDS], who is not only a member of the committee, but is a member of leadership, and he is also a member of the task force involving this issue.

Mr. EDWARDS of Oklahoma. Mr. Chairman, every American worker knows that this country is at war. It is a war of imports and exports. It is a war of international trade balances. It is a war in which the weapons are economic growth and productivity and competitiveness.

America has grown out of the Dark Ages in which labor and management engaged in constant battle which closed shops and factories and brought American productivity to a standstill.

For more than 50 years, the law has maintained a balance between labor and management, 50 years in which America surged to leadership of the industrial world, 50 years of unprecedented technological growth.

For half a century Democrats and Republicans alike have maintained this balance. This is a balance that has been supported by Ronald Reagan and Franklin Roosevelt, by George Bush and Harry Truman, and by one Democratic Congress after another. It would be absolute folly to upset this balance now to encourage more strikes, more work stoppages, more lost productivity now when we face unprecedented economic competition from both Asia and Europe.

The opponents of this legislation are not the opponents of the American worker or of labor. The House Republican Policy Committee, of which I am the chairman, stated in a formal policy statement on this bill that House Republicans recognize the existing legal right of workers to strike. We commit ourselves to maintaining a balance in labor-management relations. We support the American worker, and we support fairness.

This legislation supports neither.

Why is the Democratic leadership trying now to change the law?

According to GAO, there has been no change in labor-management relations which calls for such a radical revision of labor law. Permanent replacement workers are now and always have been rare.

H.R. 5 is not about fairness. It is intended to create an inequality between labor and management. H.R. 5, amazingly, is so unfair, so outrageously extreme that it would even allow strikers who had engaged in violence to throw out of work the very victims of their violence.

In what other instance would you even begin to consider legislation that could do this to your constituents?

There are other serious consequences to this bill. For some workplaces, closing the doors is not an option. Hospitals cannot simply close down and wait until the strike is over.

Temporary replacements are not practical in a hospital. There will be no choice but to give in to whatever demands are presented or to close the doors. So health care, already excessively costly, would become more so.

Make no mistake, a vote for H.R. 5 is a vote to increase our Nation's health care costs or to close hospitals, and both will mean less health care for more people.

H.R. 5 hurts the majority of American workers, small businesses, the national economy, local community health and safety.

Who then does it help if it hurts the general interest? To whom is H.R. 5 fair? This bill has one purpose. It helps the special concerns of union management. To union management, H.R. 5 is more than fair.

No, H.R. 5 is not about fairness. It is about more strikes, lost jobs, lost rights, a less competitive America, and endangering the health and safety of our constituents.

I urge all of my colleagues to vote no.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the bill before us today.

I would like you to give some thought to the plight of the working men and working women of this country. Over the last decade the purchasing power of middle-income working families has decreased. Over the last decade the tax burden on middle-income working families has increased. Now, we seeing a growing effort to replace people when they simply try to assert their economic rights, by withholding their labor when they have items in dispute with management.

Mr. Chairman, those rights one being stripped away from working by the hiring of replacements, by the hiring of scabs.

Is it not about time—in this era of a Michael Milken, in this era of corporate raiders, in this era of the rich getting richer and the poor getting poorer, in this era of middle-income people getting short shrift all the way around—is it not about time for this Government to respond to the plight of the middle-income working families of this country? I think it is.

There will be a time, I hope, when in this Congress reserves the shift of wealth from the rich to the middle income. The richest 5 percent of this country have doubled their share of the national wealth in the last decade while the middle-income working families have had their purchasing power decreased.

But at the very least, for now, we should say to working families, working men and women in this country that this is not pre-Lech Walesa Poland, this is not Albania. We believe in free labor where American working men and working women can use their one tool to assert their economic rights, withholding their labor without being worried about government either tyrannizing them and preventing them from doing that—or, worse, hypocritically allowing employers to hire replacements and take their jobs away from them.

My friends, vote for Middle America. Vote for working families. Stand up for the working class of this country and pass this modest piece of legislation and do it today.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act. This bill will amend the National Labor Relations Act to make certain employees have the right to participate in collective bargaining, and the right to strike without the fear of losing their jobs to permanent replacements hired during the collective bargaining process.

With the threat of being permanently replaced, or fired, while taking part in a legal strike, workers do not truly have the full rights promised them by the National Labor Relations Act. There can be no good faith bargaining between workers and their employers in a labor dispute, when the employer has a trump card such as the threat of permanently replacing those same workers.

In the last decade we have seen an increase in the number of permanent replacements. In the *Trans World Airlines* v. *Independent Federation of Flight Attendants*, 489 U.S. 426 (1989), 4,000 flight attendant jobs hung in the balance during a labor dispute. Eventually, workers were given the options of accepting a substandard contract or losing their jobs.

The same is true of what occurred during the labor disputes between 9,000 Greyhound workers and their employer. Workers took a 10-percent cut in wages in 1987, followed by further cuts of up to 25 percent in benefits and wages. Greyhound refused good faith negotiations.

Roughly 6,000 workers went on strike and in the end, Greyhound told strikers who offered to return to work, that only 600 slots were available to them. Their jobs were gone.

After an exhausting 146-day strike between 2,300 workers of the New York Daily News and its former owner, the Tribune Co., new owner, Robert Maxwell said:

> What matters in the end is * * * we not only restored your jobs, but we proved that naked capitalism cannot win if it goes about destroying true collective bargaining.

During strikes, workers give up pay and benefits. Striking is their last option. Let us restore to them this vital, legal method in collective bargaining.

□ 1410

Mr. Chairman, just recently I found a snapshot which I have enlarged on this Xerox paper. It is a snapshot of my father on the left in the 1950's, on behalf of the Sheet Metal Worker's Union, striking in the South Bronx. My father always said to me that was the only true power he had in this society. H.R. 5 continues that ability for workers to defend themselves in this society.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER], a member of the committee.

Mr. BOEHNER. Mr. Chairman, supporters of H.R. 5 keep stating that the debate on this issue should focus on fairness. The self-proclaimed party of fairness has put forward H.R. 5 to bring equality to an allegedly unfair situation—Federal labor law which allows the use of replacement workers.

But what is fair? According to Webster's Dictionary, fair is defined as "free from self-interest, prejudice, or favoritism, free from favor toward either or any side." Supporters of H.R. 5 claim that the use of replacement workers is unfair to workers because it tilts the balance in labor-management negotiations in favor of management.

So the question put to us today in this debate is this: Does Federal labor law act in an unfair manner, by favoring management over labor? Though the majority party thinks otherwise, the answer is clearly no. The intent of the National Labor Relations Act is not to predetermine an outcome, but to bring both sides together to negotiate. The law acts to balance the rights of each party, giving both an incentive to settle their differences.

In a strike involving economic issues, labor and management are both given an ultimate weapon to protect their rights. For labor, their weapon is the right to strike. And this right is counterbalanced by management's right to continue operations through the use of replacement workers.

Using these weapons entails great risk for both sides. If employees strike for more money or better benefits, an economic strike, they must be ready to risk their jobs if others in the workplace find the pay and benefits the strikers have rejected as acceptable. It is very important to note that replacements can only be hired at the last best offer made to the union. If replacement workers will not take this last best offer made to the union, then management is making an unfair offer.

If H.R. 5 were to become law, all of the risk associated with going on strike would be eliminated. Instead of a balanced negotiating situation, companies would be faced with these stark choices: Agree to all union demands, no matter how outrageous; attempt to hire temporary employees to keep their business running; or refuse to meet labor demands, and shut down operations.

So Mr. Chairman, I ask what is fair about giving union members more rights than 85 percent of the work force that chooses not to join a union? What is fair about giving unions more rights than companies? What is fair about forcing every small business in the country to deal with a recognitional strike? What is fair about denying other employees a job that union members refuse to take? If you are truly concerned about fairness, you will vote against H.R. 5 which is not fair by anyone's definition.

Mr. FORD of Michigan. Mr. Chairman, I yield 1 minute to the gentleman from Philadelphia [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise to voice my strong support for H.R. 5, the Workplace Fairness Act, and against Goodling.

This issue is about returning parity to the bargaining table in labor disputes. Who knows better about compromise, bargaining, and negotiation than the men and women in this room?

We know that negotiations are crippled if parties to a dispute do not have potent bargaining chips.

We know that the most significant—the only—viable bargaining weapon in organized labor's arsenal is the right to strike.

And we know that present law tears the teeth and guts out of the right to strike.

In the 1980's—the decade of the scab—we saw it time and time again. The air traffic controller's strike. Greyhound. The New York Daily News, where replacement workers were on the job 20 minutes after a strike began. And Frank Lorenzo's war against the men and women who made Eastern Airlines fly.

This legislation does not mean that employers cannot hire temporary replacements and try to keep their business going. Rather, it forbids the hiring of permanent replacements.

I am proud to say that I introduced one of the first bills designed to stop this practice. And I am proud to support this legislation today. Let's return stability to the bargaining table so American workers can negotiate for a fair deal.

Mr. FORD of Michigan. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, after listening to the general debate, it is obvious that there is a lot of confusion, so I would like to bring it down to 4 points. I think these 4 points are things that H.R. 5 will not do and does not do.

It will not cover mom and pop stores, because they do not have unions. It will not cover nonunion workplaces. CRS has written a complete study of that at the request of people opposing this bill, that verifies this. It will not prevent an employer from hiring replacements for the duration of a strike. It only prevents them from hiring permanent replacements. It will not put U.S. companies at a disadvantage, since all of our major competitors prohibit the use of permanent replacements.

Those are the main four things we have heard about today that this bill does not do and will not do. I hope that the Members, when they cast their vote, will not be confused by the confusing array of contrary information they have heard here, and what their constituents have heard from various special interest organizations, sending untrue information into their districts.

Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, as an original cosponsor, I rise in support of H.R. 5 the Workplace Fairness Act.

The 1980's rise to a new phenomenon in the collective-bargaining process: the permanent replacement worker. According to General Accounting Office, in 1989, management hired permanent replacement workers in 17 percent of all strikes. In roughly one-third of all strikes, employers threatened to hire permanent replacements. To me this is a discomforting trend.

This Nation prides itself on maintaining a platform for fair labor-management relations. The National Labor Relations Act of 1935 and the Railway Labor Act of 1928 provide a neutral framework for the collective-bargaining process.

More importantly, NLRA promises workers a fair chance to join unions, to bargain collectively, and if no agreement can be reached, to participate in a peaceful strike to further their bargaining goals. These are fundamental rights to American workers and, Mr. Chairman, these rights are now in jeopardy because of the use of permanent replacement workers.

It is fundamental to the collective-bargaining process that each side has an advantage on the other. On the workers' side, he or she can withdraw their labor and the employer loses money. On the management side by striking, management withdraws the workers' income. This balance of power between the two encourages settlement. Today, through the new and increased use of permanent replacement workers the balance is upset. The advantage is to management, and a major incentive to settle is taken away.

What is the difference between firing a legally striking worker and permanently replacing that worker? Not a whole lot. In the end, both the fired striker and the permanent replaced striker have no jobs and no paychecks.

Clearly, management is using the permanent replacement and the threat of permanent replacement as a means of once again tilting the delicate balance of fair collective-bargaining process to the side of management.

I am strongly committed to keeping a balanced scale in the collective-bargaining process. H.R. 5 restores the balance. I support the American worker.

Mr. Chairman, I commend the chairmen of the three committees for working so diligently to bring this important piece of legislation to the floor. I urge my colleagues to vote for the Workplace Fairness Act and send a message that this Congress also supports the American worker.

□ 1420

Mr. GOODLING. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, first of all, let me repeat what I said in committee. The appearance of a scab means a healing process. In my opinion, as the National Labor Relations Act has evolved over a period of years that is exactly what they had in mind. They were not trying to produce confrontation. They were not trying to bring about unrest. They were trying to bring about a peaceful solution to problems.

Now, we have a tendency in the Congress of the United States to say whatever we want to say over and over again, no matter how many facts we may have to back that up or not. That is unfortunate, but it happens.

Today we have heard over and over again people trying to link somehow or another H.R. 5 with the air traffic controller firing. There is no connection whatsoever between the two. You were talking about a public sector group who knew by law that the President of the United States is required by law to fire them if they strike, because it is illegal; so it has nothing to do with the private sector in H.R. 5 whatsoever.

In fact, he bent the law. He begged them several times. He should have fired them on day 1 if he was going to go by the law, but he begged them over and over again to come back to work, come back to work. So it has nothing to do with H.R. 5.

A GAO study, we hear over and over again that somehow or another now we have all sorts of permanent replacements being put into place, something different than ever happened before; but yet what we really know is that from the information the GAO could get to make their study, that in 1985 there were only 4 percent permanent replacements, and in 1989 there were only 3 percent.

And listen to this. Many of those were reinstated, because the law requires that they be reinstated under certain circumstances.

Do not be fooled about who is covered and who is not covered and who it will affect and who it does not affect.

Let me tell you, if you pass H.R. 5, why would not everybody in the country join a union? You have unparalleled protection. Never before have we treated union and non-union workers differently. Here we do it for the first time. We treat union and non-union workers differently, and so you encourage everybody and their brother to become a member of the union.

Some have said that we just restore what was law. Read the text. You are not restoring, you are adding to; so read the text so you understand what it is we are doing.

Let me just close by saying that as Members of Congress we were sent here to represent 100 percent of the American work force. We were not sent here to represent 12 percent or 88 percent. We were sent here to represent 100 percent. We were not sent here to represent those who have a lot of money in their kitty. We were sent here to represent all workers in the United States, and that is why H.R. 5 is so dangerous. That is why we cannot make a differentiation.

I know what they say, with an amendment we have done such and such. Do not kid yourself.

Let us vote down H.R. 5. Let us look at some substitutes. Let us try to make a level playing field if we think there is not one, but let us not destroy a great relationship that is growing between labor and management, growing primarily because both sides know they need each other to survive.

Then last, let me also say that as we look at this legislation, we want to make sure that we do not cause employers to lose their businesses and employees to lose their jobs, because those jobs go elsewhere.

Think carefully before you vote.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise in support of H.R. 5, which is equity for all Americans.

Mr. Chairman, there are those who say that H.R. 5 would give organized labor the ability to shut down a business if that business does not meet their demands. Nothing could be further from the truth. If H.R. 5 becomes law, employers could still conduct their business by hiring temporary employees; they just could not hire permanent replacements.

Today in the workplace, actions by a few firms—like Greyhound and Frank Lorenzo's Eastern Airlines—have sent all Americans the message that the right to strike now means the right to be permanently replaced. GAO found that employers now threaten to hire permanent replacements in nearly one out of every three strikes. Today that threat is implicit in every American workplace.

That hurts American business because it encourages a casino mentality of junk bonds, and golden parachutes. It encourages raiding pensions and employee health benefits rather than providing the customer with better products and services.

The administration is fear-mongering when it claims that H.R. 5 hurts business. The fact is H.R. 5 restores balance. It builds teamwork. Japan, Germany, and other nations compete using teamwork rather than replacement workers. As owner-operator of a small business for over two decades, I know how vital such teamwork is. I urge my colleagues to join me in supporting this important legislation.

Mr. FORD of Michigan. Mr. Chairman, I yield the balance of our time to the gentleman from Montana [Mr. WILLIAMS], the chairman of the subcommittee who handled this bill.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we have heard what I would call camouflage words, buzz words, words designed to focus on the extremes, rather than on the policy. Such tactics tend to polarize people, not to enlighten them. Perhaps we can get away from principles such as those and talk about those who this bill is designed to help, real people.

Her name is Lori Anderson. She and Jerry Anderson are married. Jerry used to drive for the Greyhound Co. Lori says, "For 15 years I've been used to having him out there on the road, didn't see a lot of him, but we were living a fairly good life."

She noted that when the leveraged buyouts in the go-go economic days of the 1980's came, Greyhound promised them a better life by saying that when Greyhound does better, you will do better; but when the leveraged buyouts backfired, Jerry and Lori Anderson found out that they were required to pay the bills. So after long labor-management negotiations, Jerry Anderson exercised that one right that all Americans have, and that is to voluntarily withhold his labor. When he did, when he stood up on the parking lot, in the driveway, and exercised that other great American right of holding a protest sign, when he did it, he was fired.

Today, Jerry works for a bakery. He makes 50 percent of what he did. Their family is greatly troubled and they wonder if their lives have not been ruined by simply exercising their right of free expression.

His name is Ted Ramirez. Ted is from Miami. He is 55 years of age. He worked for Eastern Airlines half his life. He watched Eastern Airlines executive Frank Lorenzo practice leveraged buyouts and take advantage of the go-go unregulated economic schemes of the 1980's.

Then Ted Ramirez and 24,000 other workers, having exhausted all their collective bargaining opportunities, went to the one American right they had left. They withheld their labor. They stood outside the airport and said, "Frank Lorenzo is unfair. We are being asked to pick it up for Frank Lorenzo by having our salaries cut, and we have already had our salaries held even or cut, and now Frank Lorenzo wants 47 percent more out of our paychecks."

So they went on strike and they were fired.

Today, Ted Ramirez sells men's clothing, makes $5 an hour. His retirement is gone. His health benefits are gone. His family is in trouble. Why? Because he did what the law told him he could do. He withheld his labor. He went outside the airport and held a sign that said, "This employer is unfair. We can't bargain with him." He exercised his rights, and he was fired.

If the bill we have today passes the House, passes the Senate, and is signed by the President, no longer will Americans be fired for expressing themselves.

Mr. MINETA. Mr. Chairman, H.R. 5, the Workplace Fairness Act, is essential legislation which I am proud to support.

This legislation will restore the balance between labor and management which has been eroded over the last decade.

Since 1935, the National Labor Relations Act has protected the right of workers to engage in collective bargaining, including the right of workers to strike.

H.R. 5 will end the anomaly in current law which permits employers to permanently replace striking workers despite the fact that employers are prohibited from firing workers for taking part in legal strikes.

There is no difference to the worker in being fired or being permanently replaced. In either situation, it means no job, no paycheck, no benefits, no health care coverage. Meanwhile, the cost of food, of housing, of car payments, or tuition, and of medical bills continues.

On the other hand, businesses have a number of options to continue operations during a strike.

They can replace all of the strikers for the duration of the strike.

Or, they can operate with supervisors and nonunion workers.

Or, they can stockpile in anticipation of a strike.

Or, they can shift work to nonunion facilities.

Or, they can subcontract for the duration of the strike.

H.R. 5 will level the playing field, restore a fair balance between labor and management, improve the standard of living for American workers, increase the competitiveness of American industry, and insure that the interests of all American workers are protected.

Mr. MOODY. Mr. Chairman. I am no expert in labor relations or labor law. We have heard greater experts than I on the floor today explaining to the membership how important this legislation is to America's working men and women.

But I do know what fairness means. And the claims by opponents of the striker replacement bill that this legislation will unbalance the scales between management and labor is itself an unfair charge. In fact, the opposite is true.

Without this law, the scales would be completely unbalanced against labor—against workers' rights and ability to withhold their labor in a dispute. What balance is there when going on strike means you can be permanently replaced—that is, fired? How can you strike when your livelihood is permanently threatened?

What balance is there when Greyhound or TWA—or International Paper or Cudahy in my State of Wisconsin—all replace striking workers permanently?

The fact is that the traditional labor-management balance that has prevailed for the last 50 years has been drastically altered over the last 10 years by a Reagan administration that used then considerable means at its disposal to achieve a far reaching antilabor agenda. There are many examples. Enforcement of OSHA laws was essentially gutted by first reducing, then eliminating altogether, onsite inspections. OSHA fines for serious violations were resulting in death or critical injury were reduced by more than 50 percent from 1972 to 1990.

But even more seriously, President Reagan used his discretion to undercut the traditionally neutral, mediating role of the National Labor Relations Board [NLRB] by appointing members who were openly antagonistic to organized labor. This resulted in a sharp rise of findings in favor of management and against labor—even when compared to previous Republican administrations. To say that the NLRB was packed by antilabor ideologies is no exaggeration.

And that is why we need this bill. The TWA, Greyhound, and International Paper situations would never have arisen under a balanced NLRB.

As long as we have aggressively antiunion political leadership, there will be strong support for legislation like H.R. 5. We would not be here discussing this legislation if the executive branch hadn't sought every means available to circumvent and gut the intention of America's time-honored and time-tested labor legislation philosophy of a rough balance between labor and management on the NLRB.

We need a strong bill because we need to send a strong message—working men and women will not be the doormats for those ruthless employers, and their administration servants, who seek to drastically imbalance the scales of fairness.

Mr. STENHOLM. Mr. Chairman, Members on both sides of this issue who have spoken before me have focused on the effect that H.R. 5 would have on the two sides involved in a labor dispute, that is employers and unions. I would like to add a slightly different perspective and share with you some of the unintended consequences this legislation would have especially in one area of great concern to me—rural health care.

I think most of us can agree that the availability and cost of health care is one of the most important problems facing our country today. The problem is particularly acute in rural areas, with hospitals struggling to stay open and recruit the highly trained personnel necessary to keep the hospitals functioning. Of course, the real question here is not even the survival of hospitals; it is the health and lives of human beings. When the question becomes whether or not my senior citizens can receive health care, young women in my district can deliver their babies, or farmers have somewhere to go in the case of a farm accident, you can bet the issue has grabbed my attention and I'm not going to close my eyes to unintended consequences.

There is no question that H.R. 5 will cause more strikes. Coming on top of a recent Supreme Court decision which will facilitate the organization of acute care hospital employees, this legislation could result in traumatic disruptions of health care services, reduced access to services, and increased costs to consumers and the Government.

A hospital—especially one that is the sole provider of health care services within a several hundred mile area—does not have the luxury of closing its doors for any amount of time. The cost in terms of human life makes intentional shutdown of a hospital not only unacceptable but unethical shutdown of a hospital not only unacceptable but unethical as well. Likewise, rural hospitals do not have the option of hiring qualified temporary replacements. We start with a severe shortage of health care professionals in rural areas, a problem that we are spending Federal dollars to address through the National Health Services Corps and other incentives to health personnel. A hospital certainly won't be able to hire replacement workers with the supply being grossly inadequate to begin with. It is even more ludicrous to assume individuals could be convinced to travel hundreds of miles to a rural community to work as a temporary replacement. And even if one accepted that unrealistic premise, most hospitals would be unable to bear the cost of hiring short-term replacement workers. According to Betty Files, vice president of Hendrick Medical Center in Abilene, TX, the average cost of locating, recruiting, and training replacement nurses averages $15,512.

Without the option of closing its doors or hiring temporary replacements, a hospital would be faced with two equally undesirable options: It could either accede to labor's demands or it could attempt to maintain operations with nonstriking personnel.

Attempting to maintain operation without replacing striking personnel obviously would be extremely dangerous. Linda St. Mary LaFlamme, a registered nurse working in St. Louis, described this danger at a recent briefing:

> Ongoing labor stife in a hospital will strain the nursing staff to the breaking point, because the nurses will have to cover the basic services normally delivered by the striking employees * * * The other nurses and I would be forced to work double shifts * * * Working double shifts for an extended period of time will physically exhaust the nursing staff and affect the ability of nurses to make the care decisions necessary to the well being of our patients.

Mr. Chairman, I think we all know how our constituents feel about the rising cost of health care. The cost of health care will only increase even more rapidly as hopitals that are forced to accede to labor's demands pass the costs along to the consumers. Costs will also be passed to the Federal Government through the area wage index component of Medicare reimbursement to hospitals. Thinking that either consumers or the Federal Government can escape the costs of H.R. 5 is just plain foolish.

Mr. Chairman, this issue is not a simple issue involving only two sides. It is not just a fight between labor and management. This bill will have ramifications for the American people who may never see the picket line. Patients at a hospitals, residents of nursing homes, farmers waiting for their goods to be delivered to market and their customers waiting to buy these products, homeowners dependent on truck drivers to bring them home heating oil—all of these groups will be severely affected if we vote to impair the ability of industries to continue delivering their vital services during a strike. I urge my colleagues not to forget about these working men and women when they cast their vote on H.R. 5.

Mr. EDWARD of California. Mr. Chairman, the legislation we will vote on today will not grant any additional rights to union workers. It will only ensure that one of the most important labor rights, the right to strike, is preserved. That is why I rise today in strong support of H.R. 5.

Over the past 10 years, we have seen a dramatic shift in the balance of power between labor and management. Since President Reagan's decision to fire the air traffic controllers in 1981, it has become acceptable for management to permanently replace striking workers. This has had a destructive effect on the collective-bargaining process as employers have been reluctant to negotiate in good faith when they know they can simply hire new workers if they can force a strike.

H.R. 5 would give meaning to the right to strike guaranteed by the Federal Government. Although the law says that a worker cannot be fired for going on strike, the law also says that an employer is free to hire new permanent employees. H.R. 5 would get rid of this contradiction by clearly stating that employers do not have the option of hiring new employees in the event of a strike.

Finally, it is said that H.R. 5 is anticompetitive, yet the opposite appears to be true. According to the Library of Congress, among the industrialized nations, only Great Britain and certain Canadian provinces allow the hiring of permanent replacement workers. If Japan and Germany can compete in the global marketplace using replacement worker prohibitions, then I believe the United States can also compete with a similar law in place. I urge my colleagues to join me in supporting H.R. 5.

Mr. DICKS. Mr. Speaker, I rise in strong support of H.R. 5.

As a cosponsor of this legislation, I believe the right to strike is critical to the foundation of labor-management relations. This right has been guaranteed to American workers for more than 50 years, yet today it is seriously challenged by management's decision to hire permanent replacement workers.

I recognize that the Mackay decision provided employers the right to carry on the business. But as a matter of practice, however, management rarely exercised the option of hiring permanent replacements because it was considered to be unfair. Unfortunately, since the precedent of the air traffic controllers' strike of 1981, management has increasingly used its ability to replace striking workers, rendering this action by workers meaningless. Permanently replacing workers is not a legitimate practice in today's society. It destroys the cornerstone of collective bargaining. If management can permanently replace striking workers, the employers incentive to negotiate and bargain is reduced considerably.

Mr. Chairman, today we have an opportunity to restore balance, to bring fairness back into labor-management relations. I urge my colleagues to seize this opportunity and support this important legislation.

Mr. BUSTAMANTE. Mr. Chairman, I've come to believe that unions exist because either bad management exists at a worksite or a company has had a history of bad management. Groups of employees choose union representation in order to produce a democratic environment in the workplace through the collective-bargaining process.

Until the eighties, labor-management relationships have been relatively peaceful and stable as compared to the years when we were without a national labor law when workers had no rights. For the first 35 years of this century, workers had no say or influence in determining their wages or working conditions. They were treated as a simple commodity—a unit cost of production.

The Wagner Act changed that. But since the decade of the eighties, we are returning to the old days with the advent of a new kind of management class—the corporate raider. Unlike their counterparts of the past, they are interested in taking over and breaking up companies not building them. But like their predecessors, they are interested in breaking labor contracts, not building sound labor-management partnerships.

In 1935, Congress passed the Wagner Act to give workers a leg to stand on in dealing with management over issues of wages and working conditions. Under the National Labor Relations Act the strike is recognized as a tool to compel both labor and management to negotiate their differences seriously and fairly.

Corporate management has now found a way to undermine the collective-bargaining process and to shirk its responsibility to bargain in good faith. Management now engages in the practice of firing legal strikers by giving their jobs to permanent replacement workers. Three hundred thousand workers have been fired for exercising their legally protected right to strike since the early 1980's. The practice of hiring permanent replacement workers has destroyed a balanced labor management framework.

It's now time to restore balance to that system of checks and balances which presently governs labor-management relationships. I urge my colleagues to support this effort to achieve worker fairness. Please support H.R. 5.

Mr. MARKEY. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act, directed by my most able and distinguished colleague from Missouri, Representative BILL CLAY, and the amending language by my friend from Florida, Congressman PETE PETERSON. The National Labor Relations Act [NLRA] has given workers the right to organize labor unions, to bargain collectively with employers, and the right to strike for better wages, benefits, and working conditions for over 40 years.

A key safeguard the NLRA has to offer is the prohibition against firing workers for exercising their right to form or join unions. However, during a strike this safeguard loses its impact if it is legal to replace an employee who supported union activity during a strike. Increasingly during the last decade, since Reagan and PATCO, workers exercising their right to strike during a labor dispute have had this fundamental right undermined by employers who hired permanent replacement workers for the striking workers' positions.

H.R. 5 would amend the National Labor Relations Act to prohibit employers from hiring permanent replacement workers during a labor dispute and prohibit employers from discriminating against striking workers returning to their jobs once the dispute is over. I am an original cosponsor and solid supporter of this important legislation because the right of workers to strike is critical to the success of the collective-bargaining process, and that right must be well protected. The permanent replacement of striking workers represents a misinterpretation of the original intention of the NLRA, and it jeopardizes the rights of America's working men and women.

Opponents of this bill would have the American public believe that workers still have the viable option to strike. However, for the striking man or woman what is the difference between being fired and being replaced permanently? How seriously will workers' demands be taken by management when their final desperate attempt at having their concerns addressed is virtually powerless in the face of the permanent replacement threat?

Opponents of this legislation would also have the American public believe that permanent replacement has not been a major factor in labor-management relations during the last decade. However, over one-third of striking workers have been threatened with permanent replacement. This practice of intimidation leaves the worker with two options: lost your job or succumb to management's demands. These tactics have resulted in a decline in the real wages of the American worker during the last decade. An actual decline in real earnings during the Donald Trump, boom economy, high living, greed-driven eighties.

The real issue we are debating over today is whether we agree on the sanctity of the American workers' fundamental right to strike without fear of losing his or her job. The dignity of the working men and women in this country has been abused long enough by the use of the permanent replacement practice. It is time to rejoin the rest of the industrialized world in respecting the people who form the invaluable foundation of our country's economy. I ask my colleagues to support the Workplace Fairness Act to restore the equity in labor-management relations that the NLRA originally intended and to restore the honor in being an American worker.

Mr. GLICKMAN. Mr. Chairman, I rise today in support of H.R. 5, the Fairness in the Workplace Act of 1991. I do so after carefully considering the merits of the arguments both in favor of and opposed to this measure.

H.R. 5 will eliminate the apparent conflict between the National Labor Relations Act of 1935, which provides workers the right to strike without being fired, and the Mackay Supreme Court decision which allows companies to permanently replace strikers. Federal law prohibits employers from firing strikers, but it allows the employer to permanently replace the striker. My support of this bill stems from the need to clarify this contradiction.

I am very concerned about the loss of jobs caused by the practice of permanently replacing strikers. Collective bargaining will never be effective if there is an apparent imbalance in the negotiating process. Workers must be assured that they will have safe work conditions and fair compensation for their work contribution, and that if they do not have such conditions they can fairly bargain with their employers. They must be further assured that if the bargaining process fails, they can strike without the fear of being permanently replaced.

The decision to strike has always been a difficult and costly one for workers. It means being without a paycheck. It means a disruption of daily life for workers and their families. It is sometimes, however, the only way workers are able to protect their interests in contract negotiations with their employers. I urge my colleagues to remember this and realize workers strike only as a last resort. Keeping this in mind, I further urge passage of this legislation to maintain the balance of bargaining power between workers and their employers.

I would point out that this bill does not apply to nonunion employment relationships, which represent the vast and overwhelming majority of American employees. I would not have supported legislation which would have covered nonunion workplaces.

Mr. MICHEL. Mr. Chairman, I must oppose H.R. 5, the striker replacement bill. The bill would overturn 50 years of established law and unnecessarily change the delicate balance in labor-management relations.

The law, as it currently stands, prohibits employers from hiring permanent replacements for strikers if the company has engaged in an unfair labor practice.

But if workers strike for purely economic reasons, for higher wages or benefits, the law permits employers to remain in business by allowing the hiring of permanent replacements.

This, however, is a practice that most employers do not enter into lightly.

A delicate balance is struck between the employees' right to strike for increased wages and the employers' right to stay in business, to retain market share and to protect the jobs of those employees who have chosen not to strike.

H.R. 5 tips this delicate balance significantly toward workers who go on strike because it would force employers to accept the economic demands of striking workers or risk going out of business.

Arguments for H.R. 5 suggest that there has been a significant increase in the hiring of permanent replacements during the last 10 years. I grant that there have been several high-profile strikes in recent years involving permanent replacements.

But these isolated cases should not trigger a major revision of law which has served both labor and management well for over 50 years.

In fact, when examining the hard evidence the alleged trend does not materialize. An Employment Policy Foundation study identified 251 National Labor Relations Board cases since 1938 where permanent replacements were hired, with only 22 of those cases occurring since 1981. A GAO study found that only 4 percent of striking workers were permanently replaced in 1989.

I also note that over the years labor law has been reviewed and amended on several occasions. At no time has the issue of banning permanent replacements been seriously considered.

During a major overhaul of labor law in the Carter administration, the concept of banning permanent replacements was found unacceptable. It was felt that banning permanent replacements would lead to increased labor disputes and inflationary wage increases.

Enactment of H.R. 5 will lead to increased strikes. Rather than encouraging strikes, we should be encouraging labor and management to work together to improve the global competitiveness of U.S. companies. Increased competitiveness will lead to larger market share and more jobs for Americans.

In closing, I would like to remind Members that the President has indicted that he will veto H.R. 5.

I urge my colleagues to leave in place the existing balance which entails risks for all parties at the bargaining table. Let's not provide an unfair advantage to only one side.

Mr. STOKES. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act, and urge all my colleagues to support this legislation to restore a fair balance between the interests of labor and management, as orginally envisioned under the National Labor Relations Act.

I also want to take a moment to commend my colleague, the gentleman from Missouri [Mr. CLAY], who has worked tirelessly to bring this important legislation to the floor. As a result of his leadership we have before us a bill that protects the rights of American workers.

Mr. Chairman, there is a serious threat to the livelihood of working men and women of America—the permanent replacement of striking workers. This practice is both bad economic policy and morally reprehensible.

The right to strike is the only legal means workers have of bringing economic pressure to bear on employers to protrect their wages and working conditions. The National Labor Relations Act says, "Nothing in this act * * * shall be construed so as either to interfere with or impede or diminish in any way the right to strike * * *." Permanent replacement of striking workers eliminates the right to strike.

Though the right to permanently replace strikers has existed for more than 50 years, employers seldom resorted to it until recently. What is ultimately at stake is the survival of the collective-bargaining system. Without an effective right to strike, workers enter negotiations with no leverage.

Our labor law gives workers the right to choose whether to be in a union; but by permanently replacing the workers, the employer also permanently replaces the union. Increasingly, we see instances in which employers are promoting strikes, making bargaining demands that are so outrageous their employees are forced to strike. The employer then permanently replaces the workers and thereby effectively busts the union.

Mr. Chairman, in order to restore American manufacturing to global competitiveness, good will between labor and management needs to be nurtured. Instead, we have a law which deceives workers, and undermines the trust that is essential in building cooperative working relationships between labor and management.

The Workplace Fairness Act prohibits employers from hiring permanent replacement workers during a labor dispute. H.R. 5 also makes it an unfair labor practice for employers to grant employment preference to replacement workers over striking workers once a dispute is settled.

I am proud to be among the over 200 Members of Congress who have joined as cosponsors of H.R. 5. I believe that a practice which encourages employers to bargain in bad faith, that prolongs labor disputes, that destroys workers' rights to a voice in their working conditions, that destroys individuals, families and communities, should not and cannot be tolerated.

Mr. Chairman, the Workplace Fairness Act is an intelligent legislative solution to a very emotional and contentious issue in labor-management relations in this country. I urge all my colleagues to support this fair and reasonable legislation to restore fairness to labor-management relations.

Mr. ROE. Mr. Chairman, I strongly support and was one of the first to cosponsor H.R. 5, the striker replacement bill. The bill is designed to protect an important right which has been guaranteed to American workers for more than 50 years: The right to strike when they are unable to reach a collective bargaining agreement with an employer.

The right to strike is a fundamental right of American workers. It is part of a comprehensive system of workers' rights and protections that has proved successful during the past half century in making American workers the mainstays of our economy. To permit permanent replacements for strikers is to do away with the right to strike altogether. That right is fundamental to American society in the 20th century and must be maintained.

In recent years, the right to strike has clearly been jeopardized by several antiunion actions. Although the law is clear that employers may not fire striking employees, the courts have illogically ruled that the employer may permanently replace strikers. This right of employers was rarely exercised until the 1980's when replacing striking workers began to gain favor with some employers. In the airline industry, permanent replacement workers have been hired in five of seven airline strikes since 1981. More than 16,000 workers have lost their jobs in these strikes.

This is a dangerous precedent for American business. By ignoring the need for a qualified and experienced work force, by looking at the short term rather than an enduring and cooperative relationship between labor and management, some businessmen have undercut the quality and competitiveness of their own enterprises. American business rose to preeminence on a foundation of a working relationship between management and labor. By allowing one facet of this tandem to simply divorce itself from the other, without consideration, is to destroy this foundation and return to the days of sweat shops when workers were simply dependents of management rather than contributing partners.

Business is a partnership. Labor is not a simple chattel to be bought and sold at the best price. Workers are the lifeblood of productivity and to strip them of their right to stand up for themselves and their families strips them of their dignity and robs business of workers who care about their jobs and the quality of their work. A job is more than a simple paycheck, it reflects an individual's self image. To say that they simply serve at the whim of management is to remove from them any form of control over their own livelihood. This grossly unequal situation is far from the American ideal of justice and equality. It is a step backward and will further undermine the nation's struggle to remain competitive in the world market.

Industrialized nations throughout the world have recognized that labor and management are both integral to the success of business. Without a substantive right to strike, labor is left exposed, unable to bargain for its needs and unable to stand with management as an equal in performing the business of the country. Without a right to strike, labor becomes one more inanimate production component bought and sold like so much coal or steel or concrete.

H.R. 5 reverses this serious erosion of labor rights, prohibiting the permanent replacement of striking union employees. Two hundred and ten of my colleagues and I have cosponsored this vital legislation to reserve and protect the rights of working men and women in this Nation. I urge my colleagues to join me in passing this important legislation.

Mr. GREEN of New York. Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act of 1991. The legislation, which will amend the National Labor Relations Act and the Railway Labor Act, prohibits employers from giving replacement workers seniority over workers who strike for economic reasons. Recent examples in which management sought to do that include the Eastern Airlines, Greyhound, and Daily News strikes.

It is clear that, over the past 10 years, the collective-bargaining environment has changed. Labor-management relations have changed. H.R. 5 works to address the imbalance that has emerged and restores the legitimate right of an employee to strike without the threat of being permanently replaced. The legislation preserves the right of management to operate during strikes by allowing the hiring of temporary replacements.

In closing, I believe that losing one's job should never be a prerequisite for seeking economic equity. The Workplace Fairness Act will work to remedy the current inequity in our labor law as well as advance more cooperative labor-management relations. H.R. 5 will help restore the significant erosion in bargaining strength that the American worker has had to confront over the past decade.

Mr. CHANDLER. Mr. Chairman, I rise today in opposition to H.R. 5, also known as the striker replacement bill. This fails to achieve its goal of creating equity in the workplace, and instead, seriously undermines the delicate relationship that currently exists between employers and their employees. Over the past 50 years, we have created fair and equitable labor-management laws which have been used as standards for worker protection laws worldwide. Because we have these laws in place, American industries have maintained a competitive edge in the world marketplace.

Current law has guidelines in place that limit the ability of employers to use permanent replacements during a strike. The truth is that no striker can be fired for lawfully exercising his or her right to strike. The truth is that permanent replacements cannot be hired during an unfair labor practice strike—and this definition includes unreasonable settlement packages presented by an employer to a union. And the truth is that in contrast to claims that the incidence of permanent replacements has risen in the past decade, the General Accounting Office study has shown that employers have only hired permanent replacements during economic strikes in 17 percent of recent cases.

Proponents of H.R. 5 will argue that this bill is needed to bring back balance under the current labor-management collective bargaining process. I disagree. Proponents would have you believe that employers currently have no incentive to bargain with striking workers, so long as they have the right to replace them. This is simply not the case.

Mr. Chairman, I fear that H.R. 5 unfairly tips the scales and destroys the economic balance in private sector collective bargaining established over 50 years ago. Ultimately, this legislation will greatly diminish the ability of American business to compete both here and abroad. I firmly believe that Congress should instead be seeking ways to enhance the ability of American companies to compete in an increasingly global marketplace. This would do far more to benefit the American work force than this bill will ever hope to achieve.

Mr. GUNDERSON. Mr. Chairman, in voting on H.R. 5 today, the House has again failed in its responsibility to find fair solutions to the difficult problems facing American employees and employers.

A PROBLEM EXISTS

I will be the first to agree that the balance in labor-management relations has shifted in favor of management. While the Mackay Supreme Court decision, which H.R. 5 would overturn, has been in place since 1939, few employers have opted to permanently replace workers who strike for economic reasons. A GAO report requested by the proponents of H.R. 5 states there is little supporting data of more replacements hired since 1980. In fact, the Mackay doctrine has been used in court for just 4 to 6 cases per year on average over the last 40 years.

However, the problem is a few bad apples have spoiled this tradition. Some high profile labor-management disputes, like those at Eastern Airlines and Greyhound, for example, have made it obvious that some unscrupulous employers are not reluctant to permanently replace strikers to avoid bargaining in good faith with them.

I agree with labor that a problem exists, and that a solution is needed. However, H.R. 5 is not the solution. If the National Labor Relations Act [NLRA] is now tilted to favor employers, it will be tilted to favor employees under H.R. 5.

H.R. 5 IS NOT THE SOLUTION

H.R. 5 is unfair because it eliminates any defense an employer has against a total shutdown of his or her business. While section 13 of the NLRA guarantees that nothing should "interfere with or impede or diminish the right to strike," section 9(c)(3) of the NLRA refers to strikers "not entitled to reinstatement."

The law never intended to allow employees to shut down a business for any reason without incurring some minimal risk. In fact, the Supreme Court stated, "The right to bargain collectively does not entail any 'right' to insist on one's position free from economic disadvantage. The right to strike as commonly understood is the right to cease work—nothing more."—Warren Court, 1965, American Shipbuilding Co. versus NLRB.

Proponents of H.R. 5 know this. In 1977, when President Jimmy Carter proposed his labor relations reform bill, he specifically opposed banning permanent replacement workers. At the time, he thought such a ban would be unfair to employers and disruptive to the collective bargaining process. In the last Congress, proponents of H.R. 5 introduced H.R. 4552. That bill simply set a 10-week moratorium on hiring permanent strike replacements.

H.R. 5 IS PURE POLITICS, NOT GOOD POLICY

Why now do they seek to go further with H.R. 5? Unfortunately, I feel they have done so for political reasons—to force a Presidential veto. Evidence of this was clear when, during hearings on this issue before the Labor-Management Subcommittee on July 14, 1988, Chairman CLAY stated that the bill "may not become the law of the land, but it's going to become the battleground for the next session of Congress, I can assure you of that."

This hardball approach is too common. And it nearly always hurts America's workers. Many of the proponents advocating workplace fairness under H.R. 5 are the same proponents who demanded fairness during the divisive budget battle last year. They forced luxury taxes on the purchase of such items as automobiles, aircraft, and boats—all in the name of fairness.

Since that time, these taxes have cost American workers their jobs. Auto industry sales have dropped 45 percent since the fairness taxes were put in place. So far, over 3,000 auto sales workers have been laid off. The boating industry has laid off over 8,000 boat builders, and projects a total of 19,000 workers will be laid off by year's end.

My fear is that H.R. 5 follows this same logic of fairness. The bill undermines the intent of the NLRA, which is to reduce labor-management tension and reduce strikes. Today, strikes are at the lowest level since 1935. H.R. 5 makes striking as an alternative to productive bargaining too simple. No one gains when America's workers can't work.

A BETTER SOLUTION

While I oppose H.R. 5, I support the only available solution that represents a middle ground on this issue. The substitute offered by Mr. GOODLING acknowledges the pendulum has shifted to employers under NLRA, but looks for a solution that can become law.

First, the substitute prevents permanent replacements for the first 8 weeks of a strike, similar to the original H.R. 4552. The committee found the huge majority of strikes are resolved within 8 weeks.

Second, the substitute extends from 12 to 18 months the period of time strikers not reinstated have to vote in a representation election. This provision greatly decreases the opportunity for employers to decertify a union after conclusion of an economic strike. Specifically, it allows a union to seek to maintain its representation of replacement employers with votes of replaced strikers.

Third, the substitute includes a sense-of-Congress resolution stating that the National Labor Relations Board [NLRB] should resolve the problem of delays in intervening in such disputes. According to a recent GAO report, though fewer than 5 percent of cases filed go to Board, and just 17 percent of those are typically delayed 2 years or more, this amounts to 823 cases per year. The substitute bill would require the NLRB to give precedence to cases requiring determination of strike status.

Fourth, the substitute also contains provisions requiring secret ballot votes to strike, and codifies case law allowing employers not to reinstate violent strikers.

The Goodling substitute is balanced and fair, without the faults inherent in H.R. 5. Importantly, it is also well-intentioned, seeking not to give unfair advantage to one side over the other, but to maintain balance in labor-management relations.

A COMPREHENSIVE APPROACH TO LABOR LAW REFORM

Finally, I ask my colleagues to review my call for establishment of a bipartisan commission on labor law reform. In an increasingly competitive world economy, America cannot afford increased tensions in labor-management relations. Neither can American workers and American businesses afford continued partisan, piecemeal approaches to improving working conditions for American workers.

A major focus of the commission must be on redirecting the National Labor Relations Act. The NLRA should do more than simply mediate disputes. It should also provide guidance in promoting joint labor-management goals.

Again, I pledge to the Wisconsin laborers and business owners I represent that, despite failure by Congress to work these problems out, I will continue pushing for comprehensive reform of our labor laws. I plan to continue providing fair, middle-ground alternatives to the divisive policies advocated by some in Congress.

Mr. BORSKI. Mr. Chairman, I rise in strong support of H.R. 5 to provide essential protection to American working men and women.

There has been a lot of rhetoric injected into this debate but one fact is clear: Without this legislation, the right to strike is virtually meaningless.

The National Labor Relations Act was written in 1935 to protect the rights of workers to join unions and engage in collective bargaining. In general, this law has successfully protected working men and women. But it fails miserably when employees go out on strike. A strike is the one circumstance in which an employer can legally replace a worker who is engaging in a union activity.

In fact, ever since Ronald Reagan fired 11,400 striking air traffic controllers in 1981, employers have increasingly used this legal loophole to crush strikes.

Mr. Chairman, nothing is more fundamental to the collective-bargaining process than the right to strike. But confidence in that right is rapidly eroding. That is because thousands of workers have lost their jobs to permanent replacements when they exercised their right to strike.

Obviously, we need to restore workers confidence in this essential element of the collective-bargaining system. And, we have an opportunity to do that today by approving H.R. 5.

H.R. 5 would ban the hiring of permanent replacement workers during labor disputes. As such, the legislation would restore a measure of equity to labor-management relations. Employers would still be allowed to hire replacements during a lockout or strike, but striking workers would be entitled to their jobs at the end of the dispute.

Mr. Chairman, I believe this legislation is a matter of basic fairness and equity. The working men and women of this country deserve no less.

Mr. SKAGGS. Mr. Chairman, legislation that deals with the fundamental relationship between labor and management in this country is always sensitive business. So, the Workplace Fairness Act, H.R. 5, deserves careful review, and the questions that have been raised—principally by businesses and business groups—deserve decent answers.

In deciding to support H.R. 5, I have tried to proceed in that way. I start from the proposition that we have a clear national interest in preserving and encouraging a fair and balanced collective-bargaining environment, which can serve to resolve disputes and effectuate workplace changes in a peaceful and stable fashion.

The ultimate sanctions historically recognized in American labor law and practice have been the lockout—by management—and the strike—by labor. Neither sanction could be easily circumvented by the other side in a dispute. Each reflected a proper sense that no person should be forced to apply either their capital—plant and equipment—or their labor involuntarily.

For workers, the right to strike—to withhold one's labor—is essential to the fundamental balance, and therefore to the fundamental fairness of collective bargaining. No one makes the decision to strike easily—it's far too costly for everyone affected to be casual about it. But, without it, the ability to bargain effectively is greatly undermined.

Employers who wished to continue operations during a strike were able to do so with temporary replacements, an approach that has been recognized as legal notwithstanding its obvious impact on the viability of a strike. But what's happened in the last few years has been the growing practice of companies faced with strike simply to hire permanent replacements for strikers. For all practical purposes, that means you get fired for exercising your legal right to strike.

The net effect of allowing permanent replacements is to vitiate the ultimate bargaining position of workers and to render entirely unstable the collective bargaining process on which we properly reply for the orderly resolution of labor disputes. When the process gets so dramatically skewed in one direction, when people feel that the legal system no longer fairly requires comparable responsibilities and secures comparable rights for both sides, you end up with bitterness, community division and disillusionment, at best, and with resort to unlawful tactics, at worst. How much better to restore the proper balance than to merely condemn the wrongs wrought by imbalance. That's what H.R. 5 seeks to do.

Although the legal power to hire permanent replacements has existed since the late 1930's, companies simply didn't do it—at least not until recently. The President had a clear, if different, legal right to fire the PATCO strikers in 1981, because as Federal workers they had no legal right to strike. Still, that event appears to have legitimized in the minds of our less principled corporations a practice that had generally been viewed as illegitimate before. So, the 1980's and the abuses of Frank Lorenzo and others.

Several objections have been raised about the effect H.R. 5 will have in actual practice. And I want to try to address those questions. First, it was suggested by some that H.R. 5 would give protection to unauthorized walkouts and wildcat strikes. Clearly, by its terms, H.R. 5 applies only to those involved in labor disputes resulting from collective action under the auspices of a collective-bargaining representative. The use of that terminology, and the reliance on the well-established definitions of the National Labor Relations Act, precludes application in the case of illegal strikes.

Second, the issue of application to nonunion firms has been raised. The bill was amended in committee and now, again, on the floor to remove any practical doubt on this point. The protections afforded by H.R. 5 are to be available only to already unionized firms. There is even a lengthy legal opinion to this effect from the American Law Division of the Library of Congress. This bill was never intended to be a means to give labor a new weapon to use in organizing efforts. It's been made clear that it can't be.

So, the passage of H.R. 5, rather than leading to the excessive results feared by some of its opponents, will have the simpler effect of returning labor-management relationships to the state we generally knew throughout most of this century. Neither labor nor management will have excessive power, and both will have incentives to work together to reach agreement. Decisions on who will represent workers, and how disputes between employers and workers will be negotiated and settled, will follow well-established rules.

As part of this, the option of a strike will be available to a union, as the last resort that it always has been and always should be, and the option of hiring temporary replacement workers will be available to management, as it has been and should be. But a strike, while a drastic step, will not represent the end of the management-worker relationship, but instead a temporary impasse that can be resolved to everybody's satisfaction. And that, too, is as it should be.

Mr. ANNUNZIO. Mr. Chairman, I rise in support of H.R. 5, a bill lthat would bar the use of permanent replacement workers who take the jobs of striking employees who walk out over pay and other economic disputes.

Mr. Chairman, it's sad to think that we might not be considering this bill if President Reagan hadn't broken nearly 50 years of precedent by firing 12,000 striking air traffic controllers in 1981. Unfortunately, he did, and ever since then many American business owners have followed his lead. Scab laborers are now commonly used to intimidate American workingmen and women who are fighting for health care and livable wages to support their families.

By outlawing scabs, H.R. 5 will restore collective bargaining as the proper vehicle for settling labor disputes fairly. Mr. Chairman, despite the howls of protest that some business leaders have voiced against H.R. 5, I believe it will restore stability to the American workplace. Without H.R. 5, we will continue to see more of the disruptions that have ravaged companies such as Greyhound, Eastern Airlines and the New York Daily News.

But by passing H.R. 5, we will join industrialized countries such as Germany, Japan, France, Italy, Canada, and Sweden that forbid scab labor. The laws that now protect workers in those countries haven't hurt their competitiveness. We should expect the same results. In essence, this bill gives us a chance to help workers as well as our economy. I urge my colleagues to support H.R. 5.

Mr. McMILLEN of Maryland. Mr. Chairman, I rise today in support of the Peterson amendment to H.R. 5. In particular, I want to express my unequivocal support for the working men and women who will regain equality in our labor relations laws. I also am impressed by the efforts of Chairman FORD and Representative PETERSON in reaching a compromise to allay the fears of many individuals in this country about the effect of this legislation on non-union companies.

By reinforcing the language in this bill which restricts application of the law to bargaining unit work, work done by unionized employees, the legislation is more clearly defined. The Workplace Fairness Act will provide the balance in labor-management relations which has been missing for the past decade, and will ensure that working men and women may have the opportunity to work with management for the good of their companies.

At the same time, Mr. Chairman, employers in non-union companies will continue to have the freedom to write contracts with their employees without being bound by labor laws that should not apply to them. That is the crux of the Peterson amendment, and the reason why this amendment will provide stability to both collective bargaining situations and labor-management relations in non-union firms.

Mr. HEFLEY. Mr. Chairman, today Congress is faced with a choice. The choice is whether to support economic growth and vitality or to support big labor's latest plan to fill the union coffers. To me, the choice is clear.

Congress should not sanction big labor's attempt to disrupt 50 years of labor law. By passing H.R. 5, Congress would send a message to the American people. That message, however, is not that we support working men and women as some would have you believe, the message would be that we in Congress support big labor bosses.

It's now clear that the Democrats are going to use their old standby issue of class warfare, trying to pit labor against management in an attempt to show that they are the party of the working class. But Mr. Chairman, is telling a business that they must shut their doors and close up shop because their is an economic strike against them something that will benefit the working class? Is losing your job because your company couldn't survive the economic strike against it, something that benefits the middle-class worker? As always, when the Democrats open their mouths, hold onto your wallet America you're about to be robbed, because strikes are costly and businesses will pass that expense on to the consumer.

Mr. Chairman, currently, the union's potent right to strike is counterbalanced by management's equally lawful right to continue its operations with replacement employees. This balance provides the strongest possible inducement for both groups to negotiate their differences. By passing H.R. 5, and insulating employees from the traditional risks that have checked precipitous strikes, we would promote labor unrest which would hurt labor, management, customers, suppliers and consumers.

Mr. Chairman, I urge my colleagues not to saddle our economy with the excess burden of federally mandated job security and vote against H.R. 5. And against the substitutes before you.

Mr. FRANKS of Connecticut. Mr. Chairman, today we have legislation before us which has the potential to radically alter the delicate balance between business and labor that has existed for more than fifty years.

The National Labor Relations Act [NLRA] was set up to provide for an equal balance of power in the collective bargaining process. As the Act states, it was Congress' means of "restoring equality of bargaining power between employers and employees".

During a strike over unfair labor practices businesses are allowed to hire temporary workers to fill the slots of strking workers. Once the strike has ended, these striking employees are required to be reinstated with full back pay.

During a strike over wages and benefits, an economic strike, the employer retains the right to keep the business up and running by hiring permanent replacements. There are, however, strict limits on doing so. Whether replaced or not, economic strikers still officially retain employee status.

Only three years after the NLRA was enacted, the Supreme Court confirmed that the employer had the right to hire permanent replacement in order to keep the business operating. Since then the Court has reaffirmed in numerous cases this same employer right.

Basically, what we have here is a level playing field for labor and management. Both can reap economic reward or loss. Labor risks being permanently replaced and business risks to possibility of not being able to operate during a strike. Mr. Chairman, these are the equal and fair risks that have served working men and women well for half a century.

This balance has resulted in guaranteeing the hard fought rights of workers, but not at the devastating expense of business owners, large and small. The reason is both sides have effective means to bargain. Labor can impede a business' productivity and business can replace striking workers to keep the business up and running.

I have had ten years of experience as a labor relations manager in several different companies. I am a true believer in the collective bargaining process and know that it works. Mr. Chairman, contrary to popular belief, most companies look at permanent replacement as a last resort.

It is not in a company's best interest to permanently replace strikers because it is simply bad business to do so. It costs businesses time, money, and resources to train these new employees, for, in many case, highly skilled positions. It also results in down time related to productivity, a problem that could have servere consequences to our economy, which includes those workers on the picket line and their families.

It is my feeling, Mr. Chairman, that if H.R. 5 was to be enacted it would have an adverse impact on all businesses and would hurt our economy, especially in my State which continues to suffer.

If businesses, particularly small businesses, were prohibited from replacing striking workers in order to keep themselves afloat—then we will be shutting the gates of opportunity for everyone.

We will be tilting the scales toward economic anarchy. Working people and owners of a small and large businesses will be the losers.

Mr. Chairman, we have laws and courts for workers to seek justice. Yes, there have been problems and some injustices during the last 50 years, but the system works.

Let's not fall prey to special interest thinking and threats. I hope my colleagues will join me and stand up for the working people of this country and vote "no" on H.R. 5.

Mr. POSHARD. Mr. Chairman, as a cosponsor of H.R. 5, the Workplace Fairness Act, I am pleased to rise in support of the working men and women of the United States of America.

In the face of some very difficult circumstances, American workers continue to fight for decent wages, benefits, working conditions, and standard of living. But they are losing the fight. They are losing to unfair competition from abroad, and an attitude of disrespect here at home.

In my district there is a strong union tradition. But more than that, there is a strong working tradition. People in southern Illinois want to work and take their jobs very seriously, the same way they view attempts to take those jobs away.

It bothers me a great deal to hear people say the unions have lost touch with modern times and have outlived their usefulness. Where would American labor law be today without the progress earned inch by inch over the years by unions dedicated to improving the quality of life for their members? We don't see men and women coming home maimed or killed at the same rate we once did, because the workers decided they weren't going to accept those conditions, and management wasn't going to squeeze the extra penny of profit out of their pain and misery.

Today, companies that employ these workers are not the local operations they once were, but huge international conglomerates with little attachment to the people in the shops and factories. In this atmosphere the company does not hesitate to move to replacement workers if the union is not willing to live under a "take it or leave it" edict. That very attitude is what forces us, as the last resort, to move to protect the rights so many have fought for so long to retain.

Support H.R. 5, to move us away from this ruthless situation and toward a more fair and equitable system of labor relations.

Mr. WEISS. Mr. Chairman, I rise in strong support of the Workplace Fairness Act of 1991. We must seize this opportunity to restore workers' rights and fairness and stability in labor-management relations through collective bargaining.

H.R. 5 reasonably would prohibit the use of permanent replacement workers in a labor dispute involving economic issues, and would bar employers from offering preferential benefits to strikebreakers who cross the picket line and return to work. The legislation would end the anomaly in current Federal labor law that the Mackay Radio decision established 50 years ago. The law, on the one hand, prohibits employers from firing workers for taking part in a lawful strike, but on the other hand, permits them to replace striking workers permanently. Whether a striker is discharged or permanently replaced matters not to the worker—both translate into the same loss of job and loss of paycheck.

In the first 40 years after the Mackay decision, employers, while having the right to hire permanent replacement workers, hardly did so. They recognized that productivity depends on an experienced, highly trained, and loyal work force, that striker replacement is an improper employer retaliation, and that a lawful strike is a basic expression of workers' freedom of association.

In the last 10 years, however, employers have begun to use permanent replacements on a wide scale. When President Reagan fired air traffic controllers in 1981, he flashed a green light to the business community: It was now permissible to discharge striking workers. In addition, a new species of corporate manager emerged from corporate mergers and leveraged buyouts. Managers, overloaded with debt and concerned with survival, were willing to sacrifice long-term interests to win a strike.

A GAO study shows that in about 17 percent of the strikes reported to the Federal Mediation and Conciliation Service in 1985 and 1989, employers hired permanent replacement workers, and in about one-third of the strikes, employers threatened to hire permanent replacements. In addition to being used in the air traffic controllers case, striker replacements were used to end the Daily News, Eastern Airlines, Greyhound, and National Football League strikes, among many others.

Our major trading competitors, including Japan and Germany, guarantee their workers the right to their jobs after a strike is over. Unlike U.S. employers who resort to permanently replacing strikers, our competitors recognize the value of an experienced work force. Because they do not use permanent striker replacements, these countries enjoy stable labor-management relations, and thus are competitive in the world—and American—markets. They have high wages and trade surpluses. The United States, on the other hand, suffers from unstable labor-management relations, falling real wages, and a trade deficit.

Eliminating the option of permanently replacing striking workers, therefore, would help the United States achieve a more competitive position in the world economy. As long as permanent replacements are a possibility, some employers will force a strike as a way to get rid of union employees. When employers permanently replace strikers, they transform a limited dispute about wages into a larger and more heated confrontation about a worker's right to strike, right to keep his or her job, and right to union representation.

Permanently replacing strikers hurts all American workers, union and nonunion alike. In the 10 years that American employers have used striker replacements, not coincidentally, real weekly wages have dropped almost 6 percent. As employers more frequently resort to hiring permanent replacements for strikes, they eliminate labor's mechanism for raising real wages. As a result, wages are dragged down for all workers, both union and nonunion.

Critics of H.R. 5 charge that enactment of the bill will increase the willingness of workers to strike. This assertion ignores what a strike means to a worker: Confrontation, uncertainty, loss of income, and personal and family hardship. The decision to strike is not made easily—strikes are painful and are used as a weapon of last resort, to be avoided if at all possible.

I urge my colleagues to support the Workplace Fairness Act. We must close the legal loophole created by Mackay, which sabotages our law's promise to workers of a right to bargain collectively free from employer interference or retaliation and undermines our law's central policy of promoting productive and cooperative industrial relations. H.R. 5 would restore the balance of bargaining power between employers and workers which is now unfairly tipped in favor of the employer.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 5, the Striker Protection Act.

For over 50 years Congress has supported the worker's right to strike during a labor dispute and the employer's right to continue operations during the strike. I continue to support the collective bargaining process and the rights of employees to join together in solidarity and withhold their labor as a bargaining tool. Further, I continue to support the rights of workers to join together in an unfair labor strike without the fear of being permanently replaced. However, I will not support legislation which forces one party in a labor dispute, in this case the employer, to bear the entire burden of the risks and costs associated with a strike.

Nobody wins in a labor strike. Workers lose paychecks and employers lose a stable, experienced work force. A strike is, and should be, a last resort in the effort to reach a compromise in a labor dispute. It is a powerful tool, and even the threat of its use will often encourage an agreement.

Under H.R. 5, a strike no longer serves as a powerful tool to encourage compromise, but instead serves as an economic weapon that discourages good faith bargaining. This legislation would encourage more strikes by giving labor organizations unfair leverage in the bargaining process.

The effects of this legislation could seriously weaken the U.S. economy at a time when our Nation's economic health and international competitiveness are critical. I urge my colleagues to join me in opposing H.R. 5.

Mr. SYNAR. Mr. Chairman, today I rise in support of H.R. 5, which bans the use of permanent replacement workers during legal union strikes. This legislation is vital to maintain a healthy, balanced relationship between management and labor.

The right to strike is labor's single most effective bargaining tool in the collective bargaining process. Since 1935 the National Labor Relations Act [NLRA] has protected the rights of workers to join unions and engage in collective bargaining. A key component to that right is that employers may not fire employees for engaging in union activities. In the 1938 Mackay decision, the Supreme Court ruled that the National Labor Relations Act grants employers the right to hire permanent replacements for striking workers. This decision has governed labor-management relations ever since.

So, as we deal with this legislation we are being asked the question, "Why now?" The answer is simple: Up until the 1980's employers valued experienced, loyal, and well-trained employees, and did not generally take advantage of this ruling. Unfortunately, one needs only to look at the actions taken in a number of recent well-known strikes such as Greyhound, Eastern and Continental airlines, TWA, and International Paper to see that this trend no longer holds. We must not allow the right to strike to become a hollow, useless right. It is very important that we protect the right to strike as a credible protection for workers' rights in this country.

However, I am also concerned that the delicate balance between labor and management be kept even. Some people argue that H.R. 5 shifts the balance too far in favor of labor, however there is very little difference between being fired and being permanently replaced. This legislation in no way alters an employer's right to hire temporary replacements. The hiring of temporary replacement workers has long been considered an effective management tool to keep a business open during an organized labor strike. Other techniques, such as temporarily reassigning managment to strikers' jobs, stockpiling products in anticipation of a strike, or subcontracting out certain jobs, are also still effective means of dealing with strikes. Employers do win strikes without ever hiring or threatening to hire permanent replacement workers.

Concerns have also been expressed that this bill would encourage more strikes, but it is not reasonable to assume that employees would prefer to strike than work out an agreement and remain on the job and bring home necessary paychecks. Going on strike is never an easy decision for workers, and it is not taken lightly. Additionally, this bill applies to only organized union strikes, which should prevent sudden, unpredictable work stoppages by employees who have no clearly defined reasons for striking or negotiation structure.

And finally, concerns have been expressed by some in the business community that, at a time when the issue of American industrial competitiveness is constantly at the forefront it is inappropriate to alter the status of management-labor relations. I disagree. In fact, both Japan and Germany guarantee their workers the right to reinstatement after a strike. Most of our big competitors favor the use of highly trained, well-paid, loyal work force. They also favor fostering an atmosphere of cooperative between management and labor.

I think all of us would like to see a cooperative relationship exist between management and labor. Let's start working on building that relationship now. As long as workers can be permanently replaced for striking, the relationship between labor and management will remain tense. I am voting for H.R. 5 because it will restore workers' faith in the collective bargaining process and return the labor-management relationship to an even balance. Employers will retain their right to hire temporary replacements during any strike, and employees can join in organized labor activities without losing their jobs.

Mrs. SLAUGHTER of New York. Mr. Chairman, today I am proud to rise in support of America's working men and women and their families. H.R. 5, the Workplace Fairness Act, prohibits employers from permanently replacing organized workers striking on economic issues, thereby eliminating a loophole which threatens to unravel American workers' longheld right to strike.

Franklin Roosevelt's New Deal guaranteed workers the right to strike without fear of being fired. But since 1981, thousands of working Americans have been permanently replaced for standing up for benefits they were promised by their employers. It's hard to believe this could happen in America, but in the 1980's corporate profiteers like Frank Lorenzo have replaced striking workers and tried to gut the very fundamental right to strike. The balance between labor and management in collective bargaining has begun to shift against workers. This begins to explain why working Americans have suffered a 6-percent decline in weekly wages during the last 10 years.

Opponents of this bill charge that we are giving workers a blank check, encouraging them to strike, and endangering our Nation's ability to compete abroad. Nothing could be further from the truth. Any worker will tell you that going out on strike is a last resort. Loss of wages and benefits can devastate a working family. Moreover, this bill applies only to organized workers, responding to business concerns that unorganized workers could walk off the job over an unclear issue and have no clear bargaining agent to negotiate with an employer.

In almost every industrialized country, the right to strike is recognized as a basic workers' right. If Germany and Japan can protect their workers from being permanently replaced and remain competitive in the global marketplace, surely we can do no less here.

Mr. PORTER. Mr. Chairman, to protect the interests of striking workers and employers alike, our labor laws have maintained a clear and consistent distinction between two types of striking workers: Those who walk off their jobs due to an employer's abusive labor practices—an unfair labor practices strike—and those who voluntarily strike for higher pay or increased benefits—economic strike.

For more than 50 years, the distinction between unfair labor practice disputes and economic strikes has been considered so essential to fair and balanced labor relations that, until recently, it had never been questioned—even by organized labor.

But a bill now before Congress banning permanent replacements (H.R. 5) would eliminate this distinction, dismiss any notion of equitable bargaining terms, and grant unions unlimited leverage during strikes and bargaining.

Because strikers in an unfair labor practice dispute have been forced to the picket line by an employer's illegal practices, they are guaranteed immediate reinstatement with full benefits after the strike is over. Current law recognizes that an employer who violates employees' legal rights should not be able to continue business as usual while operating outside the law.

When organized labor does resort to the economic strike, current law already prohibits discrimination based on union membership, mandates preferential rehiring of returning strikers with full benefits as vacancies occur, and makes illegal any promised preferential treatment of prospective employees.

But in an economic strike, such as a strike for higher pay, the law also recognizes that an employer who has not broken the law—who simply disagrees with the unions economic demands—has the right to try to stay in business by hiring replacement workers. To attract such replacements, it is often necessary to offer permanent replacements. However, when a company does bring in permanent replacements, it is prohibited from offering them a better deal than it offers the strikers at the bargaining table.

Current law is intended to discourage every dispute from triggering a strike. When union members voluntarily walk away from $38,000-a-year production jobs in Maine, or $98,000-a-year jobs as pilots, or $200,000-a-year jobs as professional football players, they know that there is a substantial risk that other workers might find such pay acceptable.

Thus an economic strike is a calculated risk on the part of the union. A union striking for economic demands, that may or may not be reasonable, should not be afforded the same immunity to risk of replacement given to workers whose legal rights have been violated by their employer.

Under the provisions of House Resolution 5, Representative WILLIAM CLAY's legislation, unions would no longer have to weigh the risks of job loss against the reasonableness of their economic demand. Under this proposal, strikers making any economic demand, no matter how outrageous, would have the same right to automatic reinstatement after the strike as workers protesting an employer's unfair labor practices.

A permanent replacements ban would abolish the mutual risk faced by opposing sides in an economic strike—the important mutual risk that pressures both management and labor toward compromise and conciliation, and makes both sides think twice about demands or policies likely to precipitate a strike.

The measure does not purport to correct some loophole or address a pervasive problem. Two General Accounting Office reports have shown that permanent replacements are used in only 15 percent to 17 percent of strikes, and affects less than 4 percent of all strikers.

The infrequency with which employers have exercised the option to replace workers illustrates the balance of mutual risks under current law, which helps bring unioins and management closer to reconciliation and continued productivity.

What the proposed legislation would do is allow unions to engage in no-risk economic strikes at a time when 73 percent of all Americans—according to a recent Time/CNN poll—believe that organized labor has either too much or just the right amount of power.

Disproportionate leverage for either management or labor is just bad public policy, and the proposed permanent replacements ban represents an unjustified shift of power to labor's side of the bargaining table.

Strikes have always been an option of last resort. If enacted, this legislation would make them the first.

For these reasons, Mr. Chairman, it is crystal clear that passage of this legislation into law would undermine the competitiveness of the American economy at exactly the time when it needs to be its strongest.

Let us hope that the defeat of this measure will mark the termination of a century of labor-management strife in America and both sides will turn toward the increased cooperation and partnership between them necessary to meet and exceed the tough international competition that we face.

Mr. EDWARDS of California. Mr. Chairman, the legislation we will vote on today will not grant any additional rights to union workers. It will only ensure that one of the most important labor rights, the right to strike, is preserved. That is why I rise today in strong support of H.R. 5.

Over the past 10 years, we have seen a dramatic shift in the balance of power between labor and management. Since President Reagan's decision to fire the air traffic controllers in 1981, it has become acceptable for management to permanently replace striking workers. This has had a destructive effect on the collective-bargaining process as employers have been reluctant to negotiate in good faith when they know they can simply hire new workers if they can force a strike.

H.R. 5 would give meaning to the right to strike guaranteed by the Federal Government. Although the law says that a worker cannot be fired for going on strike, the law also says that an employer is free to hire new permanent employees. H.R. 5 would get rid of this contradiction by clearly stating that employers do not have the option of hiring new employees in the event of a strike.

Finally, it is said that H.R. 5 is anticompetitive, yet the opposite appears to be true. According to the Library of Congress, among the industrialized nations, only Great Britain and certain Canadian provinces allow the hiring of permanent replacement workers. If Japan and Germany can compete in the global marketplace using replacement worker prohibitions, then I believe the United States can also compete with a similar law in place. I urge my colleagues to join me in supporting H.R. 5.

Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act, and urge my colleagues to join me in voting for this important legislation.

Let's get a few things clear about the Workplace Fairness Act. First of all, it's illegal to fire a worker for engaging in union activity. So what is the difference between being fired and being permanently replaced? The law permits the striking worker to be permanently replaced. This loophole must be closed if America's working men and women are to have a viable option for action if their employers fail to bargain in good faith. Unless we close the loophole, there is no incentive for management to negotiate with workers who have no effective economic tools at their disposal.

While protecting the effectiveness of the right to strike, the Workplace Fairness Act also provides for businesses to keep their operations going by hiring temporary replacements. But it is integral to the balance of labor-management relations that when a strike is settled, workers can return to their jobs.

The decision to strike is not an easy one for America's working men and women. A strike means serious hardship, loss of income, strains family savings in order to pay their obligations, and causes tensions that hurt family relationships. It can take years to recoup these financial losses. Protecting the negotiating value of the right to strike will not make strike conditions easier for America's working families, and I reject the notion that the Workplace Fairness Act encourages strikes.

Passage of H.R. 5 will ensure the fairness and effectiveness of collective bargaining. H.R. 5 protects the rights of workers to negotiate for fair wages and safe working conditions. The bill also protects the rights of employers to hire temporary replacement workers during a strike in order to remain a viable business enterprise.

Support good labor-management relations and fairness in the workplace. Support H.R. 5, the Workplace Fairness Act.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of H.R. 5, the Workplace Fairness Act. This bill proposes to amend the National Labor Relations Act and the Railway Labor Act to prohibit employers from hiring permanent replacements for workers who are striking over economic issues as well as prohibiting employers from giving any employment advantage to a striking worker who crosses a picket line to return to work before the end of a strike.

The administration remains convinced that H.R. 5 would be detrimental to America's economic health. However, this bill, if passed, will improve both the standard of living for American workers and the competitiveness of American industry. Working Americans—union and nonunion alike—have suffered from declining wages over the last decade. Real weekly wages have dropped almost 6 percent, in part as a result of strengthened management position in the last 10 years. That stronger hand has led to a much more unfair distribution of income in this country. One of the reasons for the decline in wages is that employers have more frequently resorted to hiring permanent replacements for strikers, dragging down the wages of all workers, whether union or nonunion.

During the same period in which U.S. real wages fell, the American competitive position in the world market simultaneously deteriorated, resulting in a huge deficit today. Our major trading partners have pursued a policy of raising wages and maintaining a stable and cooperative relationship between management and labor, a relationship which they have used to sharpen their competitiveness in the world economy. All our major trade competitors, including Japan and Germany, prohibit the use of permanent replacements for strikers, believing that such a policy encourages a less contentious labor-management relationship. Our competitors' experience proves that businesses do not need the permanent replacement weapon to succeed.

The administration also suggests that H.R. 5 would destroy the economic balance between labor and management in collective bargaining. They claim that the employee's risk of permanent replacement is balanced by the employer's risk that a strike will threaten productivity and profits. They argue that this balance of risks promotes the settlement of collective bargaining disputes.

Mr. Chairman, contrary to this view, I believe that there is no balance in these relative risks. Once an employee is on strike, he or she loses pay, benefit accruals, health care coverage, expenses for food, mortgage and car payments, tuition, medical bills, and so forth. It makes no difference if the striker is replaced or not. On the other hand, the employer's well-being is unaffected and employers are also permitted to replace all of the strikers for the duration of the strike. I believe the only real equivalent of the strikers' permanent replacement would be forcing the employers to permanently cease operation.

H.R. 5 is needed because whether a negotiation results in a strike or not, the threat or permanent replacements always skews the process. A recent GAO study found that in 35 percent of all strikes the use of permanent replacements was expressly threatened and in 17 percent of the strikes the threat was carried out. This study further indicates that unions and employers are in agreement that the use of permanent replacements has grown in the eighties.

Workers view a strike as a weapon of last resort. Strike means no paycheck and personal and family hardships. Therefore, enactment of this bill will in no way increase the willingness of workers to strike. On the other hand, employers can continue to operate during strikes without permanently replacing workers through a variety of options. They can hire temporary replacements, use supervisory and management personnel, transfer or subcontract work, or stockpile in advance of a strike.

This bill provides equal protection for all workers. It protects those who choose to strike from being permanently replaced or otherwise disadvantaged due to an employer's preference for those who did not strike. Workers who choose not to strike are equally free to do so. Furthermore, this bill does not require employers to reinstate strikers who engage in violent tactics. It only applies to workers who engage in lawful economic strikes.

I am proud to be a cosponsor of this important legislation along with my distinguished colleagues. When you vote today, please vote in support of H.R. 5.

Mr. SCHEUER. Mr. Chairman, I rise to oppose the gentleman from Pennsylvania's amendment and to strongly support H.R. 5, the Workplace Fairness Act, which I believe greatly enhances the National Labor Relations and the Railway Labor Acts.

I am proud to be a cosponsor of H.R. 5 because I believe it goes a long way toward rectifying an imbalance in the negotiating power of management and labor that has developed since the enactment of these acts in 1935 and 1926, respectively.

Currently, under the NLRA and RLA, striking workers are not protected from permanent replacement. When a strike is over economic issues, such as wages or working conditions, employers can simply hire new workers, giving them the strikers' jobs, permanently. At the conclusion of such a strike, the striking workers must settle for, at best preferential consideration for new positions that open up in the future.

Strikers and court decisions of the past decade have demonstrated that these provisions must be updated.

In its TWA decision of 1989, the Supreme Court opened the door for crossover employees—that is, striking workers who cross the picket line and return to work—to displace other workers who continue to strike, even when they have more seniority.

The 1985 Continental and 1989 Eastern Airline strikes showed how an employer—in these cases Frank Lorenzo—can cut wages and eliminate benefits, and, when its workers strike in protest, completely replace them with permanent nonunion labor.

The pilots, flight attendants, and machinists were ready to accept some cuts, but when faced with wholesale elimination of benefits, exercised their right to strike. In return, they found themselves out of their jobs—permanently.

Passage of H.R. 5 would return this skewed bargaining relationship to balance by prohibiting the hiring of permanent replacement workers. Employers would still be able to hire temporary workers during a strike to stay in operation, but at the strike's conclusion, striking workers would regain their jobs.

The Goodling amendment, by allowing employers to hire permanent replacement workers after 8 weeks, effectively limits strikers' right to strike to less than 2 months.

With the exception of Britain, none of our fellow industrialized nations—Belgium, Canada, France, Germany, Greece, Italy, the Netherlands, Sweden, and Japan—allow employers to hire permanent replacement workers in strike situations.

That is why I believe provisions such as those in H.R. 5 are long overdue, and I must vote against the Goodling amendment.

Mr. FEIGHAN. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act of 1991.

What we are trying to accomplish today can be summed up in one word: fairness.

We need to restore fairness to the labor-management relationship. In 1935, the National Labor Relations Act established rules that placed labor and management on equal footing during contract disputes. It unequivocally guarantees the right to strike.

For nearly 50 years, fairness prevailed and the right to strike was recognized by all. That is, until some firms, encouraged by the antilabor stance of the Reagan administration, took advantage of a loophole in the law and hired permanent replacement workers to break strikes.

The threat of permanent replacement has been held over the negotiating table. Faced with this club, labor negotiators often had no choice but to make concessions and to give in to unreasonable demands of management.

Mr. Chairman, the right to strike is a fundamental American right. It is the critical means of leverage that workers have when management doesn't act in good faith at the negotiating table. Without the right to strike, the deck is stacked against labor.

Opponents of this bill will tell you that without it, labor still has the right to strike. They are wrong. Opponents will say that permanently replacing striking workers isn't the same thing as firing them. They are wrong. It is an insult to millions of hard-working Americans. And it is wrong.

Mr. Speaker, most managers and executives are honorable and fair and go to the bargaining table in the best of faith. I know many who deeply respect their workers. Most companies don't use the bully tactics of wielding the threat of striker replacement during negotiations.

But there are still a few Frank Lorenzos out there. And there will be more Frank Lorenzos if the law stacks the deck against American workers.

America doesn't need our entire industry to go the way of Eastern Airlines. America needs the Workplace Fairness Act. Workers with rights and the pay and health care they deserve are good workers. And good workers increase productivity. For that, the entire country is better off.

Mr. Chairman, this debate isn't about the well-being of labor. It's about the well-being of all America. I strongly urge all my colleagues to vote yes on this bill.

Mr. COSTELLO. Mr. Chairman, I rise today in strong support of H.R. 5, the Workplace Fairness Act of 1991.

This legislation seeks to address a basic, underlying fault in the National Labor Relations Act of 1935 and also in the Railway Labor Act of 1928, bills which sought to instill some balance between labor and management regarding the collective-bargaining process. This law allowed workers to use their ultimate leverage—their job—to join collectively and strike for improved working conditions and safety standards from their employer.

The right to strike has allowed employees to fight for these improvements without an employer threatening their jobs, as the right to strike without fear of job loss was guaranteed. A 1938 court decision, NLRB versus Mackay Radio, did however allow employers to continue their business by hiring permanent replacements during a strike.

This provision was rarely used until the 1980's, when several large corporations used the Mackay decision to ignore an employee's right to strike by hiring permanent replacement workers. Throughout the last decade, we have seen management use this option to avoid participating in the collective-bargaining process. If anyone doubts the effectiveness of this provision, one needs only look at the Nation's air traffic controllers, who were fired in 1980 by President Reagan and permanently replaced. Many of those fired in 1980 have never been rehired by the Federal Government.

Mr. Chairman, this bill is necessary to restore confidence in the collective-bargaining process. It is unfortunate that a few employers are turning this provision into a threat to intimidate labor unions from striking, and it clearly is being used more and more as a tool by some companies to force labor's hand during negotiations.

H.R. 5 would prohibit employers from hiring permanent replacements for workers who are striking over economic issues, such as wages, benefits, and working conditions. The legislation also forbids employers from giving any advantage to a striking worker who crosses a picket line to return to work before the end of a strike.

This legislation is essential to restoring the necessary balance between labor and management for the collective-bargaining process. Its passage will ensure that honest, straightforward negotiations can go forward without a high degree of suspicion on either side. Working men and women in America continue to see a decline in their wages, and any continuation of the use of permanent replacements will only erode further the position of hard-working Americans.

Mr. MFUME. Mr. Chairman, during the 1980's real average weekly wages decreased. At the same time, America's competitive advantage in the world economic market deteriorated and precipitated our trade deficit and imbalance today.

While some pundits may argue that the wage decrease was due to managements strengthened position at the negotiating table, I am far less concerned about affixing the blame than I am at finding a reasonable solution to this prevailing problem.

Most of our major trading partners have pursued policies which increase wages and maintain a cooperative relationship between management and labor. Such policies are inextricably linked to their surge in competitiveness and international market strength. Both Japan and Germany prohibit the use of permanent replacements for striking workers, believing that such policy encourages a less contentious labor-management relationship.

H.R. 5 amends the National Labor Relations Act and the Railway Labor Act to prohibit employers from hiring permanent replacements for workers who are striking over economic reasons such as wages, benefits, and working conditions. Additionally, H.R. 5 prohibits employers from giving any employment advantage to a striking worker who crosses a picket line to return to work before the end of a strike.

Mr. Chairman, the Workplace Fairness Act can help our Nation restore a fair balance between labor and management, and will improve both the standards of living for American workers and American competitiveness.

Mr. Chairman, an employee's right to strike is the strongest weapon they have in the collective-bargaining process. If employers continue to be allowed to hire permanent replacements, workers risk losing their jobs every time they participate in a wage strike. It is time to close the loophole in Federal law that prohibits employers from firing striking workers, but allows employers to permanently replace striking workers.

This loophole has existed for a little over 50 years, but during the 1980's—starting with the air traffic controllers—employers began using permanent replacements pervasively.

Employers can operate during strikes without permanent replacements. Many options exists for employers such as hiring temporary replacements, using management and supervisors to run an operation, subcontracting or transferring work prior to a strike and so on.

A workers right to reinstatement must be upheld and H.R. 5 is the vehicle to carry out a policy that will advance the interests of the American worker and American competitiveness.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute consisting of the text printed in part I of House Report 102–152 shall be considered as an original bill for the purpose of amendment and shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or", and

(2) by adding at the end thereof the following new paragraph:

"(6)(i) to offer, or to grant, the status of a permanent replacement employee to an individual for performing bargaining unit work for the employer during a labor dispute between the employer and the labor organization that is acting as the collective bargaining representative involved in the dispute; or

"(ii) to offer, or grant, an individual any employment preference based on the fact that such individual performed bargaining unit work, or indicated a willingness to perform such work, during labor dispute over an individual who—

"(A) was an employee of the employer at the commencement of the dispute;

"(B) in connection with such dispute has exercised the right to join, to assist, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection through the labor organization that is acting as the collective bargaining representative involved in the dispute; and

"(C) is working for, or has unconditionally offered to return to work for, the employer.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end the following:

"(b) No carrier, or officer or agent of the carrier, shall—

"(1) offer or grant the status of a permanent replacement employee to an individual for performing work in a craft or class for the carrier during a dispute which involves the craft or class and which is between the carrier and the labor organization that is acting as the collective bargaining representative involved in the dispute; or

"(2) offer or grant an individual any other employment preference based on the fact that such individual performed work in a craft or class, or indicated a willingness to perform such work, during a dispute over an individual who—

"(A) was an employee of the carrier at the commencement of the dispute;

"(B) in connection with such dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through the labor organization that is acting as the collective bargaining representative involved in the dispute; and

"(C) is working for, or has unconditionally offered to return to work for, the carrier.".

The CHAIRMAN. No amendment to said substitute shall be in order except those amendments printed in part II of House Report 102–152. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment except as specified in said report. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

It is now in order to consider amendment No. 1 printed in part II of House Report 102–152.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PETERSON OF FLORIDA

Mr. PETERSON of Florida. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. PETERSON of Florida: Strike all after the enacting clause and insert the following:

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or", and

(2) by adding at the end thereof the following new paragraph:

"(6) to promise, to threaten, or to take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative, or

"(II) at least 30 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees, and the Board has not completed the representation proceeding; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed, or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end the following: "(b) No carrier, or officer or agent of the carrier, shall—

"(1) offer or grant the status of a permanent replacement employee to an individual for performing work in a craft or class for the carrier during a dispute which involves the craft or class and which is between the carrier and the labor organization that is acting as the collective bargaining representative involved in the dispute; or

"(2) offer or grant an individual any other employment preference based on the fact that such individual performed work in a craft or class, or indicated a willingness to perform such work, during a dispute over an individual who—

"(A) was an employee of the carrier at the commencement of the dispute;

"(B) in connection with such dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through the labor organization that is acting as the collective bargaining representative involved in the dispute; and

"(C) is working for, or has unconditionally offered to return to work for, the carrier.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING AS A SUBSTITUTE FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PETERSON OF FLORIDA

Mr. GOODLING. Mr. Chairman, I offer an amendment in the nature of a substitute as a substitute for the amendment in the nature of a substitute.

The CHAIRMAN. The clerk will designate the amendment in the nature of a substitute offered as a substitute for the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute offered as a substitute for the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GOODLING as a substitute for the amendment in the nature of a substitute offered by Mr. PETERSON of Florida: In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. RESTRICTION ON HIRING DURING ECONOMIC STRIKE.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or", and

(2) by adding at the end the following:

"(6) to hire or to threaten to hire permanent replacement workers during the first eight weeks of an economic strike.

Nothing in paragraph (6) shall be construed to prohibit an employer from permanently replacing an employee—

(A) who engages in violence or threats of violence; or

(B) who secures employment equivalent to that which the employee held prior to such strike.".

SEC. 2. VOTING BY STRIKING EMPLOYEES.

The second sentence of section 9(c)(3) of the National Labor Relations Act (29 U.S.C. 159(c)(3)) is amended by striking "twelve months" and inserting "eighteen months".

SEC. 3. SECRET BALLOT.

Section 8(b) of the National Labor Relations Act (29 U.S.C. 158(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following:

"(8) to call for an economic strike unless a simple majority of the employees voting in the bargaining units vote by secret ballot to conduct such strike.".

SEC. 4. SPEEDY PROCESSING OF UNFAIR LABOR CASES.

It is the sense of the Congress that the National Labor Relations Board should give first priority and use the utmost speed to process unfair labor practice cases that involve the reinstatement of strikers who have been permanently replaced.

SEC. 5. EVALUATION AND IMPROVEMENT OF NATIONAL LABOR RELATIONS BOARD.

It is the sense of the Congress that the President should appoint an Executive Commission on Reform of the National Labor Relations Board to recommend to the President and the Congress, within one year of its appointment—

(1) statutory changes to the procedures for filing vacancies of National Labor Relations Board members, and changes in the number of Board members authorized by the National Labor Relations Act;

(2) changes in the number and functions of personnel at the National Labor Relations Board;

(3) internal procedural changes within the National Labor Relations Board to decrease or eliminate delays in processing cases;

(4) appropriate increases in Federal funding for the National Labor Relations Board so that it may better carry out its mission; and

(5) changes to the National Labor Relations Act which will provide expedited relief for certain complaints and actions brought under the Act.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair would inquire, what Member will control the time in opposition to the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING]?

Mr. FORD of Michigan. Mr. Chairman, I will be controlling the time.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

□ 1430

Mr. Chairman, first of all I want to thank my chairman of the Committee on Education and Labor because without my chairman of the Committee on Education and Labor's support I would not be here offering this today.

Mr. Chairman, I offer this amendment, or the substitute, for several reasons. First of all, 6 or 7 months ago when I met with my labor leaders and rank-and-file in labor, we met in order to talk about H.R. 5. At that time I told them that H.R. 5, in my estimation, could not become law and probably should not become law, because it does not do what they want it to do to help them; that it may have the opposite effect; that if they are interested in something beyond confrontation, if they are interested in something other than an issue, I would be very happy to try to work out a substitute that would meet the needs that they are talking about.

So, first of all, I ask them to tell me what their problems are, what do they see that is wrong at the present time. The first thing, of course, that they mentioned is air traffic control firing. I tell them immediately that is not the issue, that has nothing to do with H.R. 5.

Now let us discuss what you see are the problems with the present National Labor Relations Act as far as the private sector is concerned.

No. 1, they say that some employers, some employers, line up replacements before there is even a strike. They have the file right there, they have the applications, they may have even spoken to them about being replacements.

I said, if that is a problem and I would be the first to admit there probably are some unscrupulous people on both sides of this issue who would do something like that, we will control that by first of all saying that they cannot hire permanent replacements during the first 8 weeks of a strike.

Now, why do I make that offer? Because, as I said earlier, the purpose of this act is to bring both sides together at the negotiating table, solve their problems without a strike, without confrontation. So, by having this 8-weeks' period, it brings them and forces them to that negotiating table and how they know they will really have to get down to business, down to brass tacks.

They said that the second problem that they have is that some unscrupulous companies may use this as a way to get rid of the unions, they want to break the unions.

I say, well, I would offer them in response to that 18 months, when you as a replaced striker will continue to participate, not the 12 months that you are guaranteed now, but 18 months. It seems to me that should certainly take away any enthusiasm on the part of some who may be unscrupulous in management to try to break the union.

The third concern that they had dealt with the lack of speed in which their issues before the National Labor Relations Board are handled. And I do not think there is anyone in Congress who does not believe that we should do something to expedite this process.

I indicated to them that we would have included in my substitute legislation that would call for a sense-of-Congress resolution because I could not go into the legislative process, indicating that we want this process speeded up because we can eliminate many of the problems probably if it is speeded up.

Added to that, Mrs. ROUKEMA had what I think is an excellent addition, where we would have a sense-of-Congress resolution that the President will appoint a commission to immediately study what those problems are. Now, if you talk to the general counsel, they will say it is the NLRB, and if you talk to the Board, they will say it is general counsel who is causing all the problems. They report back then within a year to the Congress of the United States what are these problems so that we can intelligently look at them and discuss what the remedies are.

So I believe by coming up with that substitute, we can solve the problems that are perceived to be there. I say "perceived" because, of course, I know about Eastern Air Lines and, of course, I know about Pittston and, of course, I know about Greyhound. All of them were stupid in the manner in which they handled the problem. As a matter of fact, most of those are out of business. Pittston, in the last quarter, was losing its shirt, or losing their shirts, whichever is proper. So there is no question that there are those kinds of problems.

I offer my substitute because of my concern not for the leadership of those companies but for my concern of what happened to the laborers and their families because the situation was not handled and was not handled quickly, as it should have been.

So I believe, on balance, I have offered what will eventually have to be the direction we are going to go because I still believe that H.R. 5 in its present form, and above all with the substitute that will be put to it, will never become law. Then we have not helped anybody, we have just had another one of those great exercises and debate on the floor of the House that accomplished nothing for the people we want to try to help.

So I would hope that you would look at the substitute carefully and that you would realize that if we truly want to help the people, if we truly want to help laborers, we want to then make sure we bring about this healing process in such a manner that people are not hurt, labor or management, over a long period of time, so that no matter what the end result may be they can never get back what it is they have lost.

Again, 8 weeks before you can think about hiring a permanent replacement. Now, somebody may say, "Well, gee, they may promise this temporary employee that 'We are going to hire you temporary but you are going to be permanent at the end of 8 weeks.'"

Boy, is that company in trouble. What a foolish move that would be. Some may be foolish enough to try it, but, boy, will they be burned in the long run.

Keep in mind that in recent years, because of the whole competitiveness issue, labor and management, with few exceptions, have been working more closely than ever in the history of this country because they understand labor cannot survive without management, management cannot survive without labor.

So with my substitute, I believe we fine-tune the series of laws that work very effectively but must be fine-tuned to deal just with the issues now and in the near future. The cooperation between labor and management just positively has to grow. The survival of our country depends on that. They know that. The competition is so great that we just cannot lose to other countries because we cannot solve things peacefully and that we cannot have all sides become successful in the negotiating process.

So, again, I would ask that you look carefully at the substitute before you reject it out of hand. Let me just make one last observation.

In our conference today, a gentleman got up and said, "All of labor hates your substitute; all of management hates your substitute." I think what he was saying, "You must be an idiot. Since everybody hates your substitute, why are you offering it?"

□ 1440

Mr. Chairman, of course all of labor hates my substitute, if they cannot get H.R. 5, which I say they cannot get. I ask, "Why wouldn't you want the whole loaf if you could possibly get it?" And of course all of management hates my substitute because they do not want any changes.

So, I realize. I am not naive. I can count. It will be embarrassing because my newspapers will say, "Goodling only gets 60 votes," or whatever the amount on each side is, but I say, "Come back 5 years from now, and Goodling won't look so stupid, and perhaps he will have given some answers to the problems that are facing us that will help us resolve the problem in a peaceful manner."

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take this time first to assure the Chair and the House of my continuing admiration for the hard work that the ranking Republican on the committee does, the gentleman from Pennsylvania [Mr. GOODLING]. I know how he has agonized over this issue. We have discussed it many times, and I want to tell my colleagues that I believe that he is proceeding with his amendment out of the best of motives, and what he just said on the floor is what he truly believes.

I wish, as a matter of fact, that I was in a position to work it out just a little bit further with him so that I could support this amendment. He has some positive points in his substitute. The first and foremost is that the substitute recognizes the need to change the labor relations law to provide some protection, in this case limited, but some protection for workers who strike, so that settles that argument at the outset. Protecting workers for 8 weeks in the Goodling amendment sounds good because it is better than nothing, except that I am afraid that, like cooling-off periods, what that means is that everybody would be encouraged to sit back and do nothing for 7 weeks and 6 days and then finally rush to the table in the last day.

More importantly, Mr. Chairman, the Goodling substitute would give replaced workers something that they do not now have in extending from 1 year to 18 months the time when permanently replaced workers are eligible to vote on a decertification election, so it would take at least 50 percent as much time to replace a union using this tactic as it does now.

In addition, more importantly the Goodling amendment, and we would all join in this, calls for the National Labor Relations Board to use the utmost speed to process unfair labor practice cases that involve the reinstatement of strikers that have been permanently replaced. We applaud that, and, if we are successful in passing H.R. 5, I will work with the gentleman from Pennsylvania [Mr. GOODLING] hereafter in this Congress, or in the next one, if necessary, to add that to what we are doing in H.R. 5 because it is a laudable idea, and it is something we ought to be doing.

I wish, as I said, that we had come together during these discussions, but I want to make it clear on the public record that in opposing the amendment of the gentleman from Pennsylvania [Mr. GOODLING] I do not oppose Mr. GOODLING's motives or his efforts to find a solution to this problem. I hope that the Senate will give full consideration to the anguish that he, and even those of us on this side, have gone through trying to find an accommodation for our colleagues, and will act accordingly.

First, it is commendable that the substitute recognizes the need for change in the law and does provide some limited protection for workers who strike.

Positive points in the substitute: Protect workers who strike for 8 weeks, extends the period that permanently replaced workers are eligible to vote in a union election from 1 year to 18 months; and calls for the National Labor Relations Board to "use the utmost speed to process unfair labor practices cases that involve the reinstatement of strikers who have been permanently replaced."

Second, unfortunately the substitute does not go far enough. The limitation of 8 weeks on the prohibition against permanent replacement of strikers will frequently encourage employers to prolong strikes to last 8 weeks, because only then will they be able to permanently replace their employees. An employer need only wait 8 weeks to retain its current ability to permanently replace the strikers. The amendment would only slightly limit the current damage to labor relations of the Mackay doctrine. The requirement of secret ballot strike vote before workers can lawfully strike is an unfair infringement on the democratic rights of union members. Many unions have such requirements in their constitutions. These requirements were duly voted on by the union membership. It is not appropriate for Congress to dictate to workers how they should run their unions.

We do not place any similar requirements on employers. An equivalent provision on an employer might be a requirement that all stockholders approve by a two-third vote management's final contract offer to the union.

Mr Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I, too, greatly respect the gentleman from Pennsylvania [Mr. GOODLING], but I do want to dissent from one thing he said. He indicated that he thought labor and management are working more closely today than ever before. That certainly is not the view from where I sit. When I grew up, we did have, I think, an era of good feeling between organized labor and management. I think in the 1980's it came to an end, and I am for this bill because I think it helps to restore incentives to settle rather than continuing incentives to fight, and I think there is no incentive to settle unless the pain of a strike is equally distributed on both sides of the bargaining table. And I think this bill helps to redistribute that pain just a bit.

However, Mr. Chairman, my main purpose in coming here today is to discuss the context in which this bill is being debated. Opponents talk about this bill as though we are abandoning something which has achieved great balance and fairness. The fact is we have had just the opposite in the 1980s. In the last 12 years we have had the greatest economic imbalance in this country of any decade since the 1920s.

Here is what I mean: From 1980 through today the richest 1 percent of people in this country have had their incomes almost doubled, from $300,000 to about $550,000 today. Meanwhile a worker at exactly the middle of the income stream in this country has seen his wages decline by more than $1,000 in real-dollar terms, in purchasing power.

In 1960 the chief executive officer of the 100 largest corporations in this country, nonbanking corporations, on average earned 12 times as much as the average worker in their plant. Today that same CEO on average earns 72 times as much as the average worker in that plant. Since 1980 the income of the richest 1 percent of people in this society has increased by more than the income for 90 percent of American families combined. I ask if we can call that a balanced outcome.

Mr. Chairman, If you take a look at the richest 1 percent of people in this country today, 2½ million people, last year they made $565 billion. That is more than the combined incomes of 40 percent of all Americans, over 100 million Americans. That is the context in which we are addressing this bill. We are addressing it at a time when the average worker in this society, the average wage earner, has lost, in real-dollar terms, more than $1 an hour in the purchasing power of his wage.

Now this bill is not going to solve all of those problems obviously. We need more productivity increases. We need more training. We need more education. We need more investment to do that. But what this bill does is to help in a very small degree restore some sense of balance, some sense of equal power at the bargaining table, and I do believe that that will help contribute to a more fair outcome, and I do believe it will help contribute to an incentive on both sides to settle rather than to fight.

The other point I would like to raise is that some people are saying,

> Isn't this terrible? This bill sets up one set of rules for unionized workers and another set of rules for other workers.

I would point out that we cannot have it both ways. That is done in the amendment of the gentleman from Florida [Mr. PETERSON] in order to accommodate business interests who are objecting because of the lack of clarity, who did not want nonunion labor to be covered. So, I do not think the business community can have it both ways.

Mr. Chairman, I urge my colleagues to support the bill and oppose the amendment.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act, and against the substitute of the gentleman from Pennsylvania [Mr. GOODLING], and I particularly would like to commend the outstanding efforts and leadership of both the gentleman from Michigan [Mr. FORD] and the gentleman from Missouri [Mr. CLAY] on this very, very important legislation to the rights of the American worker and basic fairness in the workplace.

How can anyone pretend there is a right to strike in America when you can lose your job the first day by the calculated decison of an employer to bring in replacement workers permanently.

Is the right to strike now analogous to the right to starve or the right to wander the streets homeless?

Opponents of this moderate, common sense, and fair legislation today have said there is a right to strike but no right to a successful strike.

This legislation, however, does not mandate a result. It does restore fairness.

This legislation will not restore the jobs of thousands who have been treated like disposable fodder. But it will prevent such travesties in the future.

As to the pending substitute, I understand and commend the gentleman and commend the gentleman from Pennsylvania [Mr. GOODLING] for his spirit of compromise and being so positive for offering this amendment, but in reality it is a strike breaking or extending amendment, not not a strike-settling provision.

Can my colleagues imagine the pressures on the union to settle in 8 weeks or get thrown overboard forever?

Vote no on Goodling, yes on H.R. 5.

□ 1450

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the Goodling substitute as a reasonable compromise position on H.R. 5 that will not unduly burden either labor or management by creating an 8-week moratorium on hiring permanent replacements, or threatening to do so, after the beginning of an economic strike.

While I am very much opposed to H.R. 5, I believe that we are facing intractable problems in labor-management relations which can be addressed in part by the approach my colleague Congressman GOODLING takes to the issue of permanent replacement. The Goodling substitute allows the strike decision to be taken without undue pressure by the threat of permanent replacement, and in all other respects allows current law to operate after the 8-week period. This is a sound solution that offers employees real relief while keeping very much intact business' ability to operate during an economic strike.

The Goodling substitute is fair to employers and fair to business. It achieves the important goal of retaining the balance of power at the collective bargaining table, by giving protection from immediate permanent replacement while at the same time allowing business to continue operations during an economic strike after the 8-week moratorium has expired.

Both Mr. GOODLING and I have been working on solutions to the delays in adjudicating employee and employer rights at the National Labor Relations Board, and in addition the Goodling substitute includes my sense of the Congress resolution that the President should appoint a commission to reform the National Labor Relations Board. We will never make any progress in restoring balance to the collective bargaining process until we eliminate case-processing delays at the Board which are jeopardizing the integrity of the National Labor Relations Act.

These delays have done much to contribute to preceived injustices of employees in surcuring the otherwise fair and equitable remedies available under current law when such workers are permanently replaced. After careful review of this issue, I have concluded that case-processing delays at the Board—whatever their genesis—have resulted in organized labor's seeking the wholesale change in the law governing permanent replacement presented by H.R. 5. If current remedies for unfair labor practices by an employer were readily and speedily available to replaced workers, namely immediate reinstatement and back pay, I do not believe we would be facing H.R. 5 as an issue of abiding concern to organized labor.

Therefore, I believe we must shift the focus of this debate from one of overturning 53 years of settled labor law first articulated in the Mackay Radio decision and subsequent case law to solving readily apparent problems with the administration of justice under the National Labor Relations Act. We must make the current system work for employees and employers.

These delays have one result: Our labor laws do not protect the rights of employees or employers. For example, on April 23, 1991, the case of *NLRB* v. *Mountain Country Food Store, Inc.*, CA No. 90-1385, the Eighth Circuit Court of Appeals castigated the Board for extraordinary delay in processing a case and learned that the agency failed to offer any explanation for its sloth-like pace. The court termed the delay inexcusable and unfortunate, and further that enforcement of the Board's original order had become pointless and obsolete because of a delay of 7 years between the issuance of an administrative law judge's opinion in November 1982 and the Board's releasing of its own opinion in February 1989. In the meantime, noted one judge, the original handbilling dispute had become moot, since the union no longer existed, no longer represented company employees, and no longer carried any legal interest in a dispute which took place so long ago.

Several other Board decisions have been recently rejected on appeal because of inordinate delays rendering the initial dispute moot, and the Board's orders unenforceable. I want to remaind my colleagues that these are no merely dry legal cases. There are real people behind these cases—people with legitimate grievances which were lost—not to the merits of the law, but to the obdurate inability of the Board to carry out its mission to render justice where it is required. The Congress can not sit idly by while employee and employer rights continue to languish unenforced. We must get to the bottom of these problems, assign and implement solutions. The old adage, justice delayed is justice denied,'' has particular meaning here.

Even the General Accounting Office has studied Board case-processing delays and concluded that major changes need to be made. In its 1991 report, "Action Needed to Improve Case Processing Time at Headquarters," the GAO gave a detailed analysis of the reasons for these delays, and the types of cases most often relegated to inaction.

The report found that in 1984 through 1989 median case-processing times were generally the highest in the Board's history, with the exception of representation cases. Seventeen percent of all cases appealed to the Board took more than 2 years to be decided from 1984 through 1989. The NLRB's 33 regional offices resolve the vast majority of cases within 1 year. About 5 percent of the cases—between 900 and 1,900 annually during the 1980's—are forwarded for review to the five-member Board at NLRB headquarters. In the period between 1984 and 1989 the Board decided about 67 percent of the 5,000 cases appealed to it within 1 year from the date the case was assigned to a Board member. However, about 10 percent of the cases took from over 3 years to more than 7 years to decide.

Between 1984 and 1989, the medians for unfair labor practice cases ranged from a low of 273 days to a high of 395 days—between two and three times higher than medians in the 1970's. The median time to decide unfair labor practice cases in fiscal 1989 was 300 days. This was substantially higher than at the start of the decade. Also, 21 percent of the unfair labor practice cases decided in fiscal year 1989 had been at headquarters more than 2 years.

The GAO stated that many case-processing problems at the Board can be traced to the fact that the Board has no standard for the total length of time it considers acceptable for a contested case to be before it or for the length of time a case can remain in each decision stage before corrective action is required. In the absence of such standards, its monitoring procedures do not require Board members or their staffs to focus proactivity on cases most likely to show excessive delays unless corrective action is taken.

Another factor accounting for excessive delay is Board member turnover and vacancies. The Board had as many new members—six—during 1980 to 1984 as it had during the 1970's and more than it had during the 1960's. Five Board members were replaced during fiscal years 1980 to 1983. One newly appointed member served less than 17 months, another served less than 3 months. Turnover continued from 1985 to 1989, when six new members replaced others who were appointed from 1980 to 1984.

Contributing to these delays are inadequate funding levels for the Board. To quote from a letter to myself and other members of the Committee on Education and Labor from Board Chairman James Stephens and general counsel Jerry M. Hunter dated February 14, 1991:

> Within the level of this year's funding, we are barely meeting our casehandling workload while paying for those nondiscretionary expenses such as rent, communications, postage and other fixed costs over which we have no control. We have discontinued practically all training, virtually eliminated discretionary spending, reduced casehandling travel to a minimum, and have frozen hiring on a nationwide basis. Our progress in enhancing our automation capabilities has come to a halt and indeed, we will be unable to maintain our current capabilities due to the aging of computer, word processing and other equipment.
>
> Compounding our difficulties is the present understaffing in many of our field offices. Without adequate resources, the backlog of cases, an ongoing concern of the Congress, is building and will continue to do so to such an extent that the effectiveness of this Agency will be adversely affected. Currently, we are not able to make essential staffing adjustments among our Regional Offices by hiring employees or permitting transfers or details. Largely due to this disparate staffing, the median time to issue complaints is now three weeks longer, which exacerbates the backlog.

If relations between labor and management are to have any future at all, they must be based on the common sense foundation of a National Labor Relations Act which can be enforced fairly to protect the rights of both employers and employees. That is why the Congress passed the NLRA and why it created the Board. We must act now to put in place necessary reforms so that the Board can carry out its mission. My resolution, which is section 5 of the Goodling substitute, expresses the sense of the Congress that the President should appoint a commission to make recommendations to Congress for reform of the National Labor Relations Board including, but not limited to:

First, statutory changes to the procedures for filling vacancies of National Labor Relations Board members, and changes in the number of Board members if appropriate;

Second, changes in the number and functions of personnel at the Board;

Third, internal procedural changes within the NLRB to decrease or eliminate case-processing delays;

Fourth, appropriate increases in Federal funding for the Board and general counsel to carry out recommended reforms; and

Fifth, changes to the National Labor Relations Act which will provide expedited relief for certain complaints and actions brought under the act.

We cannot ignore the very real and pressing difficulties faced by the Board in securing for employees rightful remedies under the NLRA where the law requires. It is the very delays outlined here that have created justified frustration among unionized workers, and many employers as well. It is time to let the National Labor Relations Board—and the National Labor Relations Act—work as intended. The Goodling substitute is a common sense approach to the problem of permanent replacement and calls upon the President for reform of the NLRB. I urge my colleagues to support the Goodling substitute.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD], the chairman of our committee, and I join with him in complimenting our colleague, the gentleman from Pennsylvania [Mr. GOODLING].

During the 14 years I have had the privilege of serving with the gentleman from Pennsylvania, he has constantly sought compromise in difficult situations and provided us leadership in those situations. I agreed with him earlier today when he said that it is not fair that this should cover only unionized workers, but I know that the gentleman from Pennsylvania [Mr. GOODLING] understands that that was a compromise that we must accept when we accept and debate the Peterson amendment later in the afternoon. We will support that even though some of us believe that all workers should have the same protection whether they are unionized or not.

The fallacy in the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] is one that I think he legitimately arrived at in saying there should be a time limit in which the matter should be decided. The real problem is that if we then say the worker only has 8 weeks to determine whether he can legitimately strike or leave his place of employment or not, he will then in effect have lost his right at the end of 8 weeks.

If the gentleman would care to accept the notion that would say that at the end of 8 weeks all work would stop at the installation, the worker will not report and the plant will close, I will join him in that effort. We will then have the gun pointed at both heads, and we would then say, "You will solve it in 8 weeks or the plant will close and you won't have any profit and you won't have any wages."

Right now it only goes one way. There will not be any wages if there is a work stoppage, but the profit seems to go on with the replacement of workers.

The basic issue we face is the worker's right to withhold his or her labor until a mutually agreed-upon contract can be achieved.

I just want to say further that in many nations of the world our capitalistic democracy neighbors have built into their constitutions the right that an employee may leave the place of employment and at the end of the work stoppage, at the end of negotiations, have that constitutional right to return. We thought in this country in 1935 that we had achieved that protection for American workers. With the advent of the Reagan administration, followed by his Vice President, Mr. Bush, as President, and the Supreme Court that they have structured, those rights under the NLRA no longer exist. This will come just part way toward restoring those rights.

Mr. Chairman, I urge the Members to vote against the Goodling amendment and vote for the legislation.

Mr. Chairman, today I rise in support of H.R. 5, the strike replacement bill. This legislation has been too long in coming, and it is certainly appropriate that we are finally addressing this issue. Over the past 50 years, and especially during the last decade, workers—exercising their legally protected right to withhold their labor when agreement cannot be reached at the bargaining table—have found that management has brought in permanent strikebreakers to take their jobs. Since the Reagan administration established an antiworker climate in 1981, employers, in the mold of Frank Lorenzo, have been promising strikebreakers that they—not the workers on strike—will have a right to the workers' jobs.

Hiring replacement workers during a strike is both unethical and unfair. I believe that this is an option that should no longer be available. I believe that H.R. 5 restores basic worker rights, and assures fairness and stability in labor-management relations through collective bargaining.

I also feel that this legislation fairly balances the concerns of business as well. For example, while H.R. 5 would make it unlawful for an employer to offer permanent employment to an individual for doing bargaining unit work during a labor dispute, it would not change the current practice of allowing employers to use temporary workers as well as managers and supervisory personnel during a strike.

America, which has always prided itself as being the most productive nation in the world, finds itself standing nearly alone when it comes to providing job protections for striking workers. In Italy and France for example, the right to strike is guaranteed by the Constitution. Walkouts represent a suspension not termination of the employment relationship. Strikers cannot be summarily dismissed or permanently replaced. We need to learn from these examples.

We have heard of instances of companies actually advertising for replacement workers before a strike has even begun, which leads me to believe that the pendulum has swung too far. Such situations leave us no other alternative but to enact this legislation.

Unfortunately, the antiunion attitudes of the 1980's have spilled into the 1990's, and continue to disrupt the collective-bargaining process. This undermines stable labor relations. Workers are intimidated into giving up a basic legal right, the right to withhold their labor. Our labor laws were designed to protect workers. Yet when striking is turned into the equivalent of giving up one's job, the balance of power between corporations and their workers is decisively tilted against the workers. For this reason, I strongly urge my colleagues to support H.R. 5.

The CHAIRMAN. The Chair will state that the gentleman from Michigan [Mr. FORD] has 18½ minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 17 minutes remaining.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, today's vote on H.R. 5, the Workplace Fairness Act, is proof positive that 10 years of high testosterone, macho behavior in labor-management relations has failed. Ronald Reagan's double talk and Frank Lorenzo's scorched Earth policies left 300,000 American workers unemployed. "Replacement" is just a fancy euphemism for "fired." In either event, the workers and their families were left with no income, no health insurance, no nothing.

All the muscle flexing of get what you can management may have lined the pockets of the union busters and given management a few shortlived good headlines, but it has left Eastern Airlines in liquidation, Continental and Greyhound wallowing in bankruptcy, and the real average weekly wage of American workers falling precipitously.

Repeated concessions by labor have yielded nothing. International Paper Co. is a case in point. Though the company's profits tripled between 1986 and 1987, hitting $100 million, management ignored union concessions, including a wage freeze, and fired—oh, excuse me, permanently replaced—its 2,300 workers.

We not only need H.R. 5 but a whole new attitude in labor-management relations, in which teamwork and investing in long-term productivity replace self-destructive union busting. Cooperation has proven results. According to a 1986 study, at unionized companies that promoted teamwork, employee productivity increased 19 percent, while at companies that fought or ousted their unions, productivity fell by 15 percent.

Union busting not only destroys employee morale, it harms the bottom line, profits. The New York Daily News, for example, spent $24 million preparing for a totally destructive strike. American management needs to take another lesson from the Japanese. When they bought Firestone Tire & Rubber Co. in 1988, the new Japanese management invited labor to the bargaining table, because they saw labor as a value, not a threat. Today we can restore workplace fairness and invest in our Nation's labor force by voting for H.R. 5.

□ 1500

Mr. Chairman, I would like to ask the gentleman from Michigan [Mr. FORD] a question, because we have heard many Members come down here and say if we pass H.R. 5, we are not doing a thing for American workers that German workers, European workers, Canadian workers, and all sorts of others do not have.

But even Japanese, as well as others, have this not just in the law, but in their Constitution. My understanding is the gentleman from Michigan [Mr. FORD] knows something about that. Is that true vis-a-vis Japanese workers?

Mr. FORD of Michigan. Mr. Chairman, I was informed by a person who served on General MacArthur's staff that they wrote it into the Japanese Constitution because they believed they were going to make labor-management relations in Japan exactly as they perceived them to be in the United States of America, and that is how they froze it in place. It was General MacArthur who did this, and I am certain that every Member remembers him with affection and awe.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD]. I hope everybody does what General MacArthur would want them to do, and that is at least have the equal rights for American workers that he gave Japanese workers. It will be very ironic if we vote down H.R. 5, and they cannot even have a law for things that General MacArthur gave constitutional rights to the Japanese for.

Mr. GOODLING. Mr. Chairman, I yield 30 seconds to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I would like to make some clarification of the statements that were just made in prior statements, where Members continually try to make the parallel between our labor union laws and others as though striker replacement is the only distinction.

Mr. Chairman, that, of course, is not true. In Japan you have essentially company unions. They have an entirely different system than we have. There is no relationship to their striker replacement provisions with respect to our law.

Germany we could go into. Sure, they do not have striker replacement, but they also have all kinds of limitations. The Netherlands, France, all of those countries have very onerous restrictions on labor unions that we would not tolerate in this country.

Mr. GOODLING. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I agree with what was just said. In Japan, for instance, you are talking about the difference between onions and peaches. You are not even talking about the difference between oranges and apples. Labor does not have much say as individual laborers. If they want to move a plant because they say the plant is not productive here, or we do not need it there so we are going to move it there, collectively they do that. They know that from day one.

I would like to respond to the gentleman from Pennsylvania that the purpose of the 8 weeks, they have already been negotiating now for a year, 6 months, 4 months. They have already been doing all of this negotiating. What I am saying is in that 8-week period now you are down to the point where you had better crack it quickly, you had better really get to it, and stop playing games.

Nobody can afford to hire permanent replacement workers and survive. All of the companies we talked about are good examples; you cannot do it. You spend thousands and thousands of dollars to prepare your workers, so you cannot do it.

The extra 8 weeks says after all that negotiating you did and playing around, now you had better get to it, folks, and come up with an agreement that both sides can handle.

Mr. Chairman, I yield 3½ minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a member of the committee.

Mr. GUNDERSON. Mr. Chairman, let me join everybody in commending our good friend from Pennsylvania [Mr. GOODLING] for his work on this bill. Let me go further than that and commend members on the other side. I think we all understand that the emotions are not going to get too high today, because frankly today is dues day. Everybody is paying their union dues. That is what this is all about here, and we ought to understand that and go forward.

The reason I asked unanimous consent to read from a printed document is, "Showdown for Labor in the House" from this morning's Washington Post:

> At the Communications Workers of America Convention in San Francisco last month, delegates voted to prohibit the union from endorsing or contributing next year to any Congressional incumbent who did not embrace legislation to ban the use of permanent replacement workers in strikes.

Mr. Chairman, let us understand exactly what we are doing here today. We are here today because this is part of the 1992 campaign, and my friends on this side of the aisle have some obligations. We are all big enough to understand exactly that is why we are here.

I have to say as one of those who considers himself a moderate Republican, a number of Members on our side of the aisle met with organized labor on this issue, and we said, "Can we work out some kind of a middle ground?" They said, "Frankly, we can't now. Probably sometime in the future we can, but that is not the purpose of this bill here this afternoon."

Mr. Chairman, we talk about the fact that we are here to protect jobs. I would suggest if our real interest was in jobs, we would understand that this is the legislative equivalent of a luxury tax, and, instead of keeping jobs in this country, it is going to transfer them to other countries.

Mr. Chairman, if I knew this was coming, I would have voted against fast track. You are darn right, because with this in place, everybody in the South is going to move their plant over the border so they have some flexibility. Second, if we were really interested in jobs, we would talk about solving the recession, not passing this kind of legislation. Third, if we were really interested in jobs, we on the Committee on Education and Labor would have up today not this bill. We would have revisions of the Job Training Partnership Act, or the chairman's Higher Education Act, and do a whole bunch of new things for the nontraditional students, those adults that need to come back and get training so they can keep their jobs.

Is there a problem? Yes, there is a problem. I agree with my Democratic colleagues on that. In the era of hostile takeovers, let us understand, even if it is 4 percent of all the strikes that occur, there is a problem when you have the Lorenzos of the world coming in, not bargaining in good faith, with the pure intent of trying to cause a strike so they can immediately eliminate that union, eliminate that collective bargaining agreement, eliminate those employees, and hire lower paid people. I agree with that.

But the problem is, H.R. 5 is not the solution. If you want a solution, the solution is the substitute.

Mr. Chairman, I have to tell Members, I am amazed. Members get up and say that the substitute is bad because it is going to keep a strike in place for 8 weeks, so you do not want an 8-week cooling off period. Wait a minute. Are you going to tell me that every one of these strikes, that is so adamant, with both sides entrenched in their positions, they are going to fire the whole kit and caboodle of employees, that an 8-week cooling off period is going to extend the strike? Wait a minute. It is one or the other. Either the strike does not have significant differences and it is going to be solved, or you have got a big problem, and you need this cooling off period.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am in strong support of H.R. 5 and in opposition to the Goodling amendment. Let us be honest and briefly discuss what has been happening in the workplace in America in the last 20 years. Let us be honest and acknowledge that anybody who talks about current conditions being a level playing field, a level playing field, is dead wrong.

What in fact is happening? All of America knows what is happening. The average American today, the average American worker has seen a significant decline in his or her standard of living. We have seen millions of jobs leave the United States, good jobs, to go to the Third World, so that employers can pay workers there $5 an hour.

Meanwhile, while the American worker becomes poorer, the chief executive officer is getting $5 million a year, is getting $10 million a year. We are talking about a gap between the incomes of chief executive officers of corporations and American workers larger than any other industrialized country in the world. Is that a level playing field?

Mr. Chairman, what in fact we are talking about is economic power. Anybody with any sense understands that more and more power rests with the rich and the large corporations, and less and less power rests with the average American worker. What does the right to strike mean, if in fact you go out on strike and your boss takes your job and replaces you with a permanent replacement? What does the right to strike mean in that situation?

Mr. Chairman, what we are talking about is employers telling workers, "Listen, this is what you are going to get in your next contract. Take it or leave it. If you go out on strike, you are going to lose your job."

Mr. Chairman, we are talking about fairness here. Let us support H.R. 5.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

□ 1510

Ms. LONG. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I am a cosponsor of this bill because I believe that some legislation in this regard should become law. I will vote in favor of H.R. 5 because I want a bill to become law. But this bill will not become law in its current form. It will not become law because it is not a compromise which addresses legitimate concerns of the business community.

While the very large majority of employers treat employees fairly, I am convinced that too many employers—and the number appears to be increasing—have taken advantage of middle-income workers and their families over the course of the last decade by hiring permanent replacements in order to avoid good faith negotiations. Much of the evidence is clear on this point, and as many of my colleagues are aware, the GAO concluded in a report released earlier this year that while there were fewer strikes during the 1980's as compared to the 1970's, there were, in fact, more instances where employers hired permanent replacement workers during the 1980's.

I am also convinced that for us to be considering legislation to restrict the hiring of permanent replacement workers is totally appropriate and that it is possible to fashion a workable law which will not adversely affect businesses or the economy of our country. My colleagues might be interested in the fact that Germany, France, Italy, Sweden, and Canada—to name a few countries—all have laws on their books to restrict the hiring of permanent replacement workers. And all of these countries have higher average wages for workers than does the United States.

But the solution we come up with must be workable for employers and employees. The bill before us—in its current form—is not such a measure. The Goodling substitute is not such a measure either—and while the 8-week provision in the substitute has some merit, that provision alone is not the solution. Rather, binding arbitration provisions are a more reasonable approach. And to be honest, I have been soliciting the views of the business community in Indiana and to date, I am not aware of a workable measure for employers and employees.

A compromise bill, in my opinion, should encourage good faith negotiation on the part of business, but should not give labor unions an upper hand, as many contend this bill—in its current form—would allow.

One approach that would go a long way toward achieving this goal is to provide for a date certain when employers could—under certain circumstances—here permanent replacement workers. Such a deadline should be provided to encourage negotiations, but we should realize that a deadline in and of itself is not enough. Passing such a deadline should not automatically give employers or employees an advantage, but should only intensify the negotiating process by requiring that the parties enter into binding arbitration to resolve outstanding differences.

Unfortunately, the bill before the House today is not a workable compromise and it will not become law. This bill is, however, a vehicle on which the Congress and the administration can work. I hope this will happen during the coming months.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, first of all, a number of people on the other side of the aisle have said that somehow H.R. 5 is necessary to preserve the right to strike. Nothing is further from the truth. The right to strike remains.

Now, if there is a problem, as the gentleman from Wisconsin mentioned just a few moments ago, it may be in a hostile takeover the new reorganization seeks to get rid of the unions and if workers go out on strike they are immediately replaced or nearly immediately replaced by replacement workers who are permanent. How do we address that problem?

If it is 4 percent of strikers who are actually affected, how do we deal with the 4 percent with a rifle rather than with a blunderbuss or a nuclear weapon?

The Goodling substitute does that. It gives 8 weeks after all the negotiations have failed and workers go out on strike, it gives 8 weeks prior to the ability of an employer to hire permanent replacement workers. So those workers hired during the 8 weeks, they must be let go by law if Goodling is made into law. That solves the problem. It is a narrow approach to what may be a narrow problem.

It does not change 50 years of labor law. It is fair. It is a compromise. Why can we not compromise on this? Why does it have to be all or nothing at all?

I ask my colleagues on the other side of the aisle, is not a vote for Goodling, knowing that the administration is going to veto this bill, is not a vote for Goodling a chance to get something passed rather than nothing?

Thank you, Mr. Chairman. I rise in support of the substitute offered by my colleague from Pennsylvania, Mr. GOODLING. He is to be commended for this fine legislative effort. This proposal is a carefully crafted, precisely targeted measure aimed at preventing genuine abuses of our generally sound labor laws. and unlike H.R. 5, this substitute is structured not to endanger, but to enhance, the crucial balance of deterrence and incentives that encourage labor and management to resort to strikes only as an absolutely last resort in the collective bargaining process.

How does Mr. GOODLING's substitute do this? First, by preventing an abusive employer from jumping the gun and terminating good faith bargaining through premature use of replacement workers. The substitute prohibits hiring or threatening to hire replacement workers during the first 8 weeks of an economic strike.

Second, the Goodling substitute extends the period in which even replaced workers may vote in union elections—from the current 12 to 18 months, thus making it much more difficult for an employer to use replacements as a means of voting out a union as the employees' collective bargaining representative.

Third, the substitute makes it a condition of a lawful economic strike that the employees authorize through a secret ballot—a right not conferred by existing law. This enhances industrial democracy by giving employees the right to determine the course of their union in a strike situation, without fear of intimidation or retribution.

This is already law in Great Britain.

Finally, the Goodling substitute would make strikes involving the use of replacements the top priority on the docket of the National Labor Relations Board, the agency charged with overseeing the proper administration of the Federal labor laws.

This measure, Mr. Chairman, represents good legislative craftsmanship—a thoughtful, carefully analyzed answer to the few abuses that may affect the 4 percent of striking workers who are actually replaced by their employers. It contrasts sharply with the massive impact of H.R. 5 as reported. I urge that the House adopt the Goodling substitute as the best of both worlds—protection for striking workers where it is needed, without needless overkill that would harm the essential balance of incentives that has made American collective bargaining so successful. Let's protect the right to strike—a precious feature of any true democracy—but not by undermining the very system of labor-management negotiation that is absolutely essential to successful, competitive American industries. American workers, American industries, and the American economy deserve better; and if we adopt the Goodling substitute, they will get it.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in opposition to the Goodling amendment and in support of H.R. 5. This is a bad amendment to a good bill. I thank the chairman of our committee, the distinguished gentleman from Michigan, for bringing this before the House today.

Today we Members of this House of Representatives are representing the hard-working American families in our districts.

Today this House decides whether to protect the jobs of workers who are striking for wages to support their families, for health care or for other economic conditions. H.R. 5, the Worker Fairness Act, prevents companies from hiring permanent replacements when their own employees are out on legitimate strikes.

The struggle of organized labor is very much a part of the history of this country—brave men and women fighting for decent wages, decent working conditions, and decent benefits for them and their families. Greedy corporations resorted to strikebreaking and sometimes violence. Many of these gallant men and women gave their lives for their union brothers and sisters.

Because of their efforts, since 1935 under the National Labor Relations Act, organized labor has had the fundamental rights to organize, to bargain collectively, and to strike if necessary. This act, also known as the Wagner Act, made it illegal for companies to interfere with these rights, including the right to strike. An obscure Supreme Court decision in 1938 provided a loophole, however, for companies intent on union busting. The loophole wasn't really used until the Reagan-Bush years when a full-scale attack began on American workers.

The Worker Fairness Act is important to those hard-working Americans. It restores a fair and equitable balance between labor and management.

A strike is the ultimate tool for workers in collective bargaining, and only used in a last resort when negotiations have totally broken down. It is designed to place an equal hardship on management and labor: Management loses profits and the workers lose their wages. This should provide an incentive for both parties to go to the bargaining table.

But this balance becomes an imbalance when a company can effectively cease negotiations and then end a strike by hiring permanent replacement workers. This is a hollow choice for workers: "Keep your job on the company's terms—or lose it on the company's terms." America's workers deserve better.

Today, let us—the representatives of the people—let us truly represent the people. Let us stand up for workers and oppose the Goodling amendment. Let us stand up for the Worker Fairness Act.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLUG], a member of the committee.

Mr. KLUG. Mr. Chairman, I rise in support of the Goodling substitute to H.R. 5.

I think it is clear, Mr. Chairman, that there have been identifiable abuses, by employers, of their legal right to hire replacement workers during economic strikes. The plain truth, however, is that these abuses have been exceptions to the rule rather that the rule itself.

In fact, Mr. Chairman, there is no evidence to suggest that these cases where permanent replacement workers are involved is either the beginning or the continuation of a trend. The number of major labor strikes has dramatically declined over the last decade and the number of striking workers who have been replaced has not increased. In reality, the number of striking workers who have been permanently replaced under the Mackay statute has actually declined.

H.R. 5 is an overblown and potentially counterproductive response to the problem. Rather than the fairness which the authors and supporters of this legislation claim as their objective, I believe that this legislation will instead undermine an equitable balance in the collective bargaining process and, in the long run, foment increased labor-management conflict and economically costly strikes.

The ranking member of the Education and Labor Committee, Mr. GOODLING, has offered a proposal which is a far better response to the actual problem. It would put in place a moratorium on the right to hire permanent replacement workers which would protect striking workers without at the same time stripping employers of all power at the bargaining table. It also calls for much needed reform of the case processing standards of the National Labor Relations Board. I know from an experience very close to home that such reform is essential.

Average case processing times have been at the highest level they've been in the NLRB's history, with almost 20 percent of cases being appealed taking 2 years to be decided. These delays have presented major problems in adjudicating the rights of workers involved in strike activities. In my own district, in the town of Stoughton, it took the NLRB more than a year to finally rule in favor of the claims made by striking workers. For the men and women that had to live without a paycheck during that period it proved a very hollow victory.

Mr. Chairman, the Goodling substitute offers an opportunity to farily and reasonably address issues which need to be addressed. It maintains the very critical and long valued balance between workers and employers in the collective bargaining process while at the same time mitigating against the abuses which have spurred this debate. It creates a legal environment in which both employees and employers would have the strongest incentives possible to bargain reasonably and in good faith. H.R. 5 is not consistent with either of these aims and for that reason I urge my colleagues to support the Goodling substitute and to reject H.R. 5.

□ 1520

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, today we are considering a bill that stands at the very core of this Nation's democratic values: equality and fairness.

The last 10 years have seen the fair balance between labor and management shift in favor of management due to the proliferation of replacement workers.

There have been all kinds of examples given here today, Mr. Chairman, and let us take the Washington Post that was just mentioned where they managed to kick out their pressmen, where they turned one set of workers against another. Let us just take a look at what it says here. "CEO's," and that is the chief executive officers, "get a bigger piece of the pie. Average pay for top executives in 60 area companies nearly $700,000 in 1990." In the very same paper, right here in your Metro section, all you have to do is look in Maryland and look in Virginia, and you do not have to look any further than just outside the precincts of this capital, in the suburbs, "More driven to the streets. Area recession increasing evictions of the employed."

Some people have implied on this floor that people who are employed now cannot wait to go on strike. There are ads being taken out against this bill that say it is the striker breeder bill as if workers are a nest of mosquitoes, as if it is a kind of cancer that wants to spread, as if the people who are employed right now who have lost net wages over the past 10 years wanted to go on strike, and at the same time opponents of these measures have said that people are not going on strike as much as they had before even though it is for economic purposes; it is because people have been intimidated, because they have been made afraid.

This is an opportunity for Democrats and those Republicans who would like to join them to bring fairness and equity back into the workplace. This is the time for the Democrats in this House to make a statement that they are on the side of working families all across this country and to draw the line today.

Who is on your side? Who is standing up for your family? It is this bill. Vote for it if you want to vote for working American families.

Mr. Chairman, today we are considering a bill that stands at the very core of this Nation's democratic values—equality and fairness—the entire collective-bargaining system established by the National Labor Relations Act of 1935 and the Railway Labor Act of 1928 was based on the premise of providing fairness and equality in the collective-bargaining process. But, Mr. Chairman, that is no longer the case.

The last 10 years have seen the fair balance between labor and management shift in favor of management due to the proliferation of replacement workers. This certainly was not the original intent of our labor laws, but is an unnatural result caused by a President who went so far as to fire thousands of striking air traffic controllers. Thus, Mr. Chairman, because of this precedent there has been a huge increase in the number of workers being permanently replaced while exercising their collective-bargaining rights. Is it fair Mr. Chairman? I say it is not.

Mr. Chairman, every Member in this Chamber would like to see labor disputes settled at the bargaining table. But, how, Mr. Chairman, can we expect both labor and managment to negotiate in good faith if the conditions of the debate are not neutral. In order to settle labor/management conflicts we must give unions the capability to approach the table on an equal footing. It is only fair, Mr. Chairman, that the labor unions of this country need the right and authority to call an economic strike, or the collective-bargaining process will never be fair and equal.

The problem is, Mr. Chairman, that the workers of this country are struggling to maintain the basic standard of living acheived through 50 years of fair labor negotiations. The laborers of Hawaii's hotel industry do not work for corporations that will provide their families with maternity leave, nor do they work for corporations that will give them family medical leave or protect them from hiring discrimination; the loggers of Washington State do not work for companies that will allow them decent pension benefits; the meat packers of Iowa do not work for businesses that will provide them with day care. The coal miners of West Virginia do not have six-figure litigators on their payroll to protect them from unsafe working conditions; the steel mill workers of Pennsylvania do not have $100,000 per year lobbyists who provide management with tax breaks, and loopholes in the occupational health and safety regulations, and the air traffic controllers of this country only wished they had an administration in the White House that would have respected their collective-bargaining rights and recognized the professionalism required in air traffic control. It is apparent, Mr. Chairman, that there is no balance, and there will never be a real balance as long as striking workers are being permanently replaced.

The only thing that the workers of this country have is a Congress that can empower them with the tools to bargaining collectively. Let's not take these fundamental rights away. Mr. Chairman, if we continue to tie the hands of the working men and women of this country, they will never get a fair shake.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes, 15 seconds, to the gentleman from Pennslyvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, I rise today in support of the amendment being offered by my distinguished colleague from Pennsylvania. He is to be commended for working in a positive, constructive way to address serious permanent and real problems in the current state of labor-management relations.

The major component of Mr. GOODLING's substitute provides a temporary moratorium on the hiring of permanent replacement workers. There can be no question that this will help protect union members engaged in a strike and will encourage both sides to reach swift agreement on issues in dispute.

Unfortunately, the use of permanent replacement workers clouds the collective-bargaining process. Even if an employer does not use them, unions are constantly under the Sword of Damocles. The fear of permanent replacement is ever-present. And as long as the threat of permanent replacement exists, the collective-bargaining process is tainted.

An extremely important, but easily overlooked, component of the Goodling substitute is a provision urging swift resolution of unfair labor practice cases at the National Labor Relations Board. According to a January 1991 GAO report, it took more than 2 years to resolve 21 percent of unfair labor practice claims. Further, the median time taken to close such cases in the period 1984 to 1989 was two to three times longer than a decade before. When businesses engage in unfair labor practices, workers are compelled to go on strike to protect themselves. Unfortunately, slow disposition of these cases renders virtually meaningless the protections afforded by the NLRA.

Finally, Mr. Chairman, I would note that the administration now understands the importance of this issue. Last year, my colleagues TOM RIDGE, AMO HOUGHTON, and I were unable to secure a meeting with then Secretary of Labor Dole to discuss the issue. This year, we have met with both Secretary Martin and President Bush. The President is sincerely concerned about this problem and was interested in finding a fair way to protect the jobs of workers who exercise their legal right to strike. We ought to be working with him, rather than against him.

Mr. Chairman, a vote in favor of the Goodling substitute is a vote for a positive compromise. Let us put aside the political gamesmanship and partisan politics. Let us work together to find a solution to this problem which provides real protections to working men and women without handcuffing American businesses.

Mr. Chairman, as written, H.R. 5 is not going to be enacted into law. Let us put aside that vehicle and work toward passage of legislation that will not be met by the President's veto pen.

Mr. FORD of Michigan. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, much has been said by Members on that side who apparently are conferring with somebody in the White House about the fact that H.R. 5 would not be signed by the President. The implication being that if H.R. 5 was amended by Goodling it would.

Unfortunately, I have a letter dated July 15 from Lynn Martin, Secretary of Labor, saying unequivocally that the President was going to veto, or would be advised to veto, legislation of this kind, and then saying union-only limitations and moratorium amendments, in other words, the Goodling amendment, would not change the thrust of H.R. 5 or diminish the administration's objections to this bill.

So if Members are looking for a way to get the President to sign it, the Goodling amendment is not that way.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I am happy to yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I want to make sure the gentleman does not believe that I believe the President would sign the bill because of my substitute. However, there is another process, you know; there is a veto, and there are a certain number of votes needed to override, and a certain number of votes needed to sustain, and that may be the difference.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, let me just begin by saying that the notion that because the President says he is going to veto something we should, therefore, not contemplate doing it misreads the Constitution of the United States. The veto was never meant to be a magic wand. The veto is a very solemn instrument that, if the President after full debate decides he wants to take the reponsibility to veto a bill, that is his right, but if you allow the President simply by saying the word "veto" to dissolve the legislative process early, you have distorted what legislative-executive relations are supposed to be, and distortion of relations is why we are here.

This legislation would not have been thought of, and certainly would not have come forward, if it had not been for the radicalization of the National Labor Relations Board during the 1980's.

We have had periods in American history when Republican Presidents have appointed Board members who have moved in one direction and Democratic Presidents who have moved in another direction, and then we had 1981 and the Reagan years. We had, and I can say this in my capacity as a former chairman of the subcommittee over the NLRB jurisdiction and government operations, the NLRB shut down for working people, and an ideological set of appointments were made during the Reagan years which simply denied working people the benefits of the National Labor Relations Act.

People who now urge on workers to be conciliatory, to work this out, to find other ways should have been there in 1983 and 1984 and 1985 when people were fired for simply trying to exercise their collective-bargaining rights under the National Labor Relations Act and got no practical relief whatsoever, because the National Labor Relations Board, the entity that was charged with enforcing the National Labor Relations Act and the rights of working men and women, simply shut down to them for ideological reasons.

There have been a series of very substantial erosions in the ability of working people to get a fair share.

□ 1330

One of the precipitating events is what happened at the NLRB. We are here today, in part, because of that. Strikes which had begun to diminish in the eyes of some, came back, and that, now, is a balance that must be righted.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise to commend my colleagues from Pennsylvania for having the courage to begin the dialog that is absolutely essential to finding a solution to the problems that lie behind H.R. 5. I am deeply anguished by the hardship that has been imposed on some of our Nation's work force by a few irresponsible employers, who have approached the bargaining table in bad faith.

The real message behind H.R. 5 is the need to reform the National Labor Relations Board process to speed up decisions when good-faith bargaining is in question. Prompt action by the NLRB would have protected those hundreds of families that suffered for years at the hands of the old Colt management in Connecticut, which refused to bargain in good faith. Ultimately, the strikers received back pay and reinstatement under current law, but the price paid by those families was intolerable. One-half of the 4 percent of strikes involving permanent replacements were ruled unfair-labor-practice strikes by the NLRB and the workers awarded back pay and full reinstatement. However, the human price is too high. The law owes people swifter justice.

We need reform, but H.R. 5 will cost jobs, not secure jobs. In today's difficult economic times, more companies, when faced with the stark choice between a contract settlement they cannot afford and a strike that will shut them down, will simply close or move abroad. They will do so because they are competing in an international marketplace, and as part of a more interdependent business community, where failure to honor just-in-time delivery commitments is terminal. Strikes are more lethal in less time today than ever before. That means the choice between an unaffordable settlement and a long strike will more often lead to closure or relocation. Job loss, not job gain.

We should recall the experience we had with the ABC child-care bill, a bill originally drafted by interest groups, and dropped into our process for several years. They were intransigent. They said we could not negotiate. We cannot work our will, and we had no child-care policy.

We are facing that same situation today. We need for H.R. 5 to be part of a larger debate, as my colleague from Pennsylvania has tried to do, to bring it into a broad arena. We need NLRB reform. We need to prevent the retraining of replacement workers.

There are a number of solutions that we need, and this amendment starts that process.

Mr. FORD of Michigan. Mr. Chairman, I understand that the gentleman from Pennsylvania will close, since he is the proponent of this amendment, is that correct?

The CHAIRMAN. The gentleman from Pennsylvania has 2¼ minutes remaining, and the gentleman from Michigan [Mr. FORD] has 3½ minutes remaining.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the great fighter for the American working man, the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I grew up on the east side of Detroit. At the age of 7, I knew what a recession was.

I knew, and today I know many people laid off permanently. I have been in their living rooms and talked to them about it, and what it does to their families. No one in my neighborhood talked about taking somebody else's job. That is what this issue is about. There is nothing worse than losing your job, or fearing losing your job.

Many on the minority side talk about families, and their concern for families. What is worse than a family losing their livelihood? There is nothign worse than that. That is what this issue is here today.

Ironically, many people in the House did not want to vote on this controversial issue; they think it is controversial. I think it is one of human rights. Why? Because they were afraid of the next election, afraid of losing their job. How tragic. Stand up for the American people. Let Members protect American jobs. Let Americans pass this bill, and let Members talk about what we should be doing. After we take care of the people that have jobs today, let Members talk about creating jobs.

I do not hear any person on the other side talking about new jobs and creating new jobs, but talking about taking away jobs. We will win this fight, because we are on the right side of the American people.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in opposition to the Goodling amendment.

Mr. Chairman, I rise in opposition to the substitute amendment. Let me begin by commending the gentleman, as well as another gentleman from Pennsylvania, Mr. RIDGE, for their efforts with regard to the issue. If we do not yet agree on a solution, we nevertheless share a recognition of the problem and a common desire to address it. Both Mr. GOODLING and Mr. RIDGE have proposed substantive changes in law that would make definite improvements on the status quo. Neither, however, has proposed corrective changes that ensure American workers the protection to which they should be entitled. Nor have they offered a compelling reason why American workers should settle for less than they deserve.

The substitute amendment now before us provides that an employer may not hire permanent replacements for 8 weeks. In my view, an employer should not be able to offer permanent status to any employee so long as the striker retains employee status. Limiting the protection of H.R. 5 to an 8-week period will still encourage some employers to promote strikes as a means of terminating bargaining relationships. There is no good reason for supporting a provision that gives American workers substantially less protection than that enjoyed by Canadian, German, Japanese, French, Dutch, or Polish employees with whom they must increasingly compete.

The substitute amendment calls for the NLRB to give priority to unfair-labor-practice charges affecting the status of striking workers. I believe that the gentleman from Pennsylvania has identified one of the more significant weaknesses in current law. As a practical matter, for many workers, it makes little difference whether a strike is an unfair-labor-practice strike or an economic strike. While the union may promptly file charges to seek redress for unfair labor practices on the part of the employer, in too many instances it will be years before those charges are finally litigated and a determination is made as to whether the employees are economic strikers or victims of employer misconduct. In the meantime, though the need to provide a livelihood for their families does not diminish, the employees remain exiled from their job—without their regular income. Even if the employees eventually prevail, they are not fairly compensated for the damage done.

Under the NLRA, they are entitled to such wages as they would have otherwise received minus anything they have managed to earn or should have managed to earn in the interim. Yet, the employee has undergone a prolonged period of unemployment and suffered all the damage that entails. Normal family expenditures have been altered. Goods or services the family would have otherwise purchased have been forgone. In some cases, cars and homes have been repossessed and medical treatment has been postponed to that individual's detriment. Despite the fact that all of these deprivations may have been visited upon the employee because of the employer's violation of the law, the employee is not entitled to and does not receive remuneration. Much has been made by opponents of this legislation of the fact that Colt Industries paid back wages in the millions of dollars as a result of an unfair-labor-practice strike. What the opponents fail to point out is that the employees who were the victims of that employer not only would otherwise have earned every penny of that money and more, but suffered real losses that doubled or tripled their back-pay award.

Mr. GOODLING, having recognized this problem, proposes to deal with it by encouraging the Labor Board to expedite ULP charges affecting the status of strikers. As one who served for 7 years as chairman of the subcommittee with direct oversight for the Labor Board, let me say that the Board has been repeatedly and consistently urged to expedite such charges. In fact, beyond the problem of the Board itself, it is the structure of the judicial system that produces the delays. The solution that Mr. GOODLING proposes is no solution at all.

H.R. 5 does not increase financial liabilities to employers, nor does it increase compensation to employees. There are no provisions for punitive damages, nor is there any language addressing Board or court procedures. But, by eliminating the ability of employers to use strikes as a means of busting the union, H.R. 5 more effectively addresses the problem of ULP strikes than Mr. GOODLING's substitute.

I urge my colleagues to listen to the anger and frustration of our constituents. They deserve more than qualified, half-hearted and ineffective remedies. They deserve real solutions to the inequitable and unjust real problems they face. H.R. 5 provides those solutions. Regrettably, the Goodling substitute does not. I urge my colleagues to reject this amendment.

Mr. FORD of Michigan. Mr. Chairman, I have no further requests for time.

Mr. Chairman, I ask unanimous consent that my remaining time be transferred to the gentleman from Florida [Mr. PETERSON] for his time on his amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] is recognized to close debate on this amendment.

Mr. GOODLING. Mr. Chairman, I yield my remaining 2¼ minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I rise in strong support of the substitute. The committee bill takes Members to a brink of the major change in American labor law.

What does it risk? There has been a lot of talk about comparison of other European states that have different labor law relative to the replacement of striking workers. What happened in Canada when we took a similar step? Listen to Morley Gunderson in his book, "The Effects of Canadian Labor Relations Legislation on Strike Incidence and Duration": "is associated with statistically significant and quantitatively large increases in both strike incidence and duration and tense overall strike activity."

What is ironic, Mr. Gunderson points out, that bill is introduced with the intent to heal labor-management disputes, rather than to exacerbate them.

What is also of interest is that Canadian legislation is not an unlimited, unended right to having an unqualified right to reclaim your job in an economic strike. It is limited to 6 months. In fact, it even requires that there be votes for the strike.

In other words, even with the Canadian law, which mirrors very much what the gentleman from Pennsylvania [Mr. GOODLING] strives to do, the intentions were not fully met, and there were very, very serious risks being undertaken. What the gentleman from Pennsylvania [Mr. GOODLING] is trying to do is to respond to the concerns of labor, while, at the same time, put some hedges on the risks that we are undertaking.

Let me make clear one more time for the RECORD, because of the confusion and some of the misunderstandings on the issue. Existing law, existing law gives an absolute, unqualified right to reclaim a job, to reinstatement of a job, when a worker has been a victim of an unfair labor practice, and management's attempt to break a union and not engage in good faith collective bargaining is regarded, under law, as an unfair practice.

What is at dispute is the right of labor to have an unqualified right to reinstatement of a job when he or she goes on strike, over economic dispute. The committee bill puts management in a terrible dilemma, once that is given. The only way in which management can escape that dilemma is either to capitulate, without question, to the group demands, or else to eliminate the job, and eliminating a job does not help the worker we seek to protect.

I urge support for the substitute.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania [Mr. GOODLING] as a substitute for the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. PETERSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

The vote was taken by electronic device, and there were—ayes 28, noes 399, not voting 6, as follows:

[Roll No. 211]

AYES—28

Bentley
Callahan
Chandler
Clinger
Coleman (MO)
Duncan
Goodling
Grandy
Gunderson
Henry
Hobson
Houghton
Johnson (CT)
Klug
Machtley
Mazzoli
Meyers
Miller (OH)
Pursell
Regula
Ritter
Roukema
Schiff
Shays
Snowe
Walsh
Weldon
Young (AK)

NOES—399

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
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Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Gray
Kleczka
Matsui
Michel
Weiss
Yatron

□ 1601

Messrs. DARDEN, KOLTER, BRYANT, and McCANDLESS changed their vote from "aye" to "no."

Mr. PURSELL and Mr. CHANDLER changed their vote from "no" to "aye."

So the amendment in the nature of a substitute offered as a substitute for the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. NAGLE). It is now in order to debate the amendment offered by the gentleman from Florida [Mr. PETERSON].

Under a previous order of the committee, the gentleman from Florida [Mr. PETERSON] will be recognized for 32 minutes and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we are carrying on a debate over H.R. 5. It is very, very important legislation for this Nation. At the same time it is very sensitive, very controversial, but this legislation attempts to bring stability to the workplace. Thus, with that in place, we would have increased worker-management cooperation and, thus, greater productivity.

Mr. Chairman, this bill has strong advocates on both sides. Lobbyist associations and individuals who support the labor and business community are indeed expected to be very parochial in their arguments. However, Mr. Chairman, we in Congress must represent both sides of this argument. We must seek the middle ground, for none of us represent districts with just labor and just business.

As I studied this bill, I became uncomfortable with the ambiguity presented in the language describing who precisely was to be covered under this bill. The businessmen in my district were also concerned. They were concerned that perhaps any two of their employees could form themselves into a unit, walk off and, therefore, shut down that business, and the businessmen would not be able to replace them. At the same time there would be no clarity as to the issue of who the bargaining unit really was.

Mr. Chairman, I promised then that I would address this problem, and I have done so in the form of this substitute.

My colleague, the gentleman from Texas [Mr. EDWARDS], and I have joined to find a solution acceptable to all parties. This proved to be a very difficult project. Finally, on Monday evening this week, with the assistance of the able staff from the Committee on Education and Labor, we secured a compromise that clearly eliminates the ambiguity within the language applicable to organizational strikes.

Mr. Chairman, we have prepared a substitute amendment that restricts coverage under this bill only when the strike involves a union certified by the NLRB, a union recognized specifically by the employer, a union supported by 50 percent plus one of the work force, and that that work force has waited 30 days after filing for representational election by the NLRB. The substitute does not change any other provisions in the original bill, but draws a clear and precise line as to when the bill would apply.

This is a reasonable compromise that is supported by the committee Chairs of all three jurisdictional committees over this bill, and by the labor community as well and, I would suggest, by many of the small businessmen in this Nation.

□ 1610

Mr. Chairman, this substitute makes clear beyond any doubt that this bill does not cover nonunion workplaces.

Mr. Chairman, this substitute will take us to the point of compromise, to the point where we can agree as a Nation on the protection of the workers who are out there toiling away to make our Nation more competitive, to make our Nation more effective as it deals in the international market. I urge my colleagues to support this substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all I would ask the chairman if he would check the voting machine. I do not believe the vote-counting machine is working properly. I noticed the yeses did not seem to record during the last vote. Would the Chair check that out?

The CHAIRMAN pro tempore (Mr. NAGLE). The Chair will check it out. However, the Chair has found that the machine is accurate, despite the Member's aspirations.

Mr. GOODLING. I thought maybe it got stuck.

Two years from now it will be overwhelming.

At any rate, Mr. Chairman, please, let us not make H.R. 5 any worse. I know that this amendment is offered, No. 1, to get some people covered who had some real concerns, but there were no hearings, no one has really paid any attention to what it says, and it was given in good faith. But it is far worse than H.R. 5 before it was offered.

Let me give the Members an indication of why I say that. First of all, if we read it, it says: "Prevention of discrimination during and at the conclusion of labor disputes."

It says that the National Labor Relations Act is amended "by striking the period at the end of paragraph (5) and inserting '; or' and

"by adding at the end thereof the following new paragraph:

"to promise"—and this is an employer—and this is added:

"to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization—

"(I) was the certified or recognized exclusive representative * * *"

That somehow is supposed to cover labor. It does not do it.

Then, second: "at least 30 days prior to the commencement of the dispute had filed a petition pursuant to section 9(c)(1) on the basis of written authorizations by a majority of the unit employees"—and get this—" and the Board has not completed the representation proceeding * * *"—of course, they have not. We are told that even on the regional level it takes them at least 48 days. So, of course, at the end of 30 days they have not completed anything. Of course, on one hand it would appear that by saying that, we are taking out recognitional strikes. Keep in mind that when the bill was presented to the House, recognitional strikes were allowed in. Later on it appears that they put them back in. They take them out on one page and put them back in on the next page, because this is what it says:

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization * * *"

Mr. Chairman, we really are confusing the issue with this. I know it is well-intentioned, I know what the meaning was, and I know it was to cover some people. But it is not doing that. We had better go back to the drawing board and make very sure we know what we are putting in here.

Again it would appear they are protected no matter how because of course, as I indicated, it says 30 days. Suppose that they then rule at the end of the 48 days or the 6 months that it may take them to make decision that they have not certified. I guess they are still protected. I would think so, the way I read it.

So I am hoping that if we are going to enact something that is as bad as H.R. 5, we would not compound the problem and put something in that is well-meaning but that has had no serious deliberation about it and no one is carefully examining what we are doing.

Mr. Chairman, I reserve the balance of my time.

Mr. PETERSON of Florida. Mr. Chairman, I would request that the Chair inform us as to the time remaining.

The CHAIRMAN pro tempore. The gentleman from Florida [Mr. PETERSON] has 28 minutes remaining, and the gentleman from Pennsylvania [Mr. GOODLING] has 26 minutes remaining.

Mr. PETERSON of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act, which would make it illegal for employers to hire permanent replacement workers during legal strikes, and urge my colleagues to support this important legislation. Further, I commend the leadership of the Education and Labor, Public Works and Transportation, and Energy and Commerce Committees for their responsible stewardship of this bill. And to further improve H.R. 5, I am proud to support this substitute amendment offered by Mr. PETERSON of Florida. Quite simply the Peterson amendment further clarifies that the bill does not apply to nonunion workplaces.

Quite a number of misconceptions—and just a few too many misleading reports and statements—have circulated about this bill.

First, as amended in committee, and to be further clarified by the Peterson substitute, H.R. 5 does not apply to nonunion workplaces. Just a few days ago, the American Law Division of the Congressional Research Service concluded:

> As amended, the bill would prohibit the granting of permanent replacement status or other employment preference only to those individuals who perform bargaining unit work in a labor dispute.

It has also been said that H.R. 5 would encourage workers to strike. Nothing could be further from the truth. The individuals who make these statements cannot know or understand the hardship that a strike brings every worker and his or her family. If anything, American workers want to avoid strikes as much or more than their employers.

Some say this legislation will drive American jobs to foreign countries. This is the same threat we heard when we passed a plant-closing notification law. It is simply unfounded. American workers are among the most productive in the world and no employer interested in quality and productivity is going to seek a foreign home for fear of this legislation.

And what do we know to be fact? During the 1980's, increasingly, employers replaced striking workers with permanent replacements. In a few cases, firms placed ads for new workers even before a strike began. In the case of Eastern Airlines, Frank Lorenzo acquired a healthy company, subsequently reduced benefits, and refused to bargain fairly with workers. That created a hostile labor-management environment, a faltering company, and, as we know, eventual bankruptcy. This example was repeated throughout the country in various industries.

This legislation does not ban the use of temporary replacements, nor does it impede the ability of an employer to shift work to nonunion workers or facilities in order to continue business during a strike. The employer retains those rights. In my view, passage of this legislation will promote more effective labor-management relations and reduce the number of work stoppages. The bottom line, Mr. Speaker and colleagues? American workers should not be forced to sacrifice their jobs in their attempt to obtain a fair pay and benefit package.

I urge my colleagues to support this amendment and to support this important measure on final passage.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], a member of the committee.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the substitute offered by my colleague, the gentleman from Florida [Mr. PETERSON].

The substitute makes a fix to provisions of H.R. 5 which prohibit permanent replacement where unions only presume to represent nonunion employees. By requiring that the union file a petition signed by a majority of workers asking for union representation to obtain protection from permanent replacement, in effect a union could then get such majority support for union representation exactly 30 days before planning a strike and file a petition, which would be a shield from permanent replacement.

The National Labor Relations Board General Counsel summary operations for 1990 states that it regularly takes the regional offices of the Board 48 days to act on a petition for representation. Therefore, the Peterson substitute provides an automatic shield from permanent replacement within the time frame in which the Board cannot properly act on the petition, check the authenticity of the signatures, and find it insufficient to certify the union.

I might say, Mr. Chairman, that if in fact we pass this, we would find a phenomenon like the one we saw in Texas at the election of Senator Johnson a few years ago when it was said that "if I should die, bury me in Duval County so I can remain politically active."

□ 1620

I expect we will find a lot of folks in Duval County found to be politically active in the union under these circumstances.

The amendment is therefore a catch-22, forcing nonunion employers to forego employment on the basis of a unified illegal union representation petition. The result could be that businesses shut down until the board's regional hearing officer and regional director make an initial determination of the veracity of the petition. If the hearing officer and regional director state that the petition is insufficient, the union could appeal that decision to the National Labor Relations Board.

Does such an appeal process act as a stay on hiring permanent replacement workers? This is a question unanswered in the amendment.

Because the Peterson substitute creates a whole host of new problems concerning the sufficiency of representation petitions, it ties the hands of nonstriking workers while a petition is being verified.

Mr. Chairman, I must oppose the substitute, and urge Members to do the same. It is a shoddy piece of work, cobbled together in the past 24 hours, without the benefit of consideration by either the Committee on Education and Labor or the Committee on Rules. But, never mind. It was not intended to be passed in the first place, but only to provide for those who know better, but cave in to union pressure, a chance to cover their backsides.

Mr. PETERSON of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, most of us understand very well the need for this legislation and how much working people care about it. Opponents speak of introducing an "imbalance" in labor-management power. But the imbalance has already been introduced, as more and more employers have hired or threatened to hire permanent replacements, making a mockery of existing prohibitions against firing workers for exercising their right to strike.

It is very important, however, to craft this bill carefully, to make certain we are dealing only with organized shops within the confines of the National Labor Relations Act.

Mr. Chairman, I became alarmed some weeks ago as various small business representatives came in to see me, having been told by their national associations that they were threatened by this bill. That is why, along with other Members, I wrote the gentleman from Michigan [Mr. FORD] and the gentleman from Montana [Mr. WILLIAMS] some weeks ago asking for a clarifying amendment, and why we were gratified by their adoption of an amendment in committee to address this problem.

However, a gray area remains in the realm of recognition strikes, which a number of us have been working this past week to clarify. The result is the substitute amendment which the gentleman from Florida [Mr. PETERSON] now offers.

Mr. Chairman, the Peterson substitute would limit the coverage of H.R. 5 to situations where the union is certified by the NLRB, the union is recognized by the employer, or the union has been supported by petitions of a majority of the workers and has waited 30 days after filing for a representational election with the NLRB.

In other works, the amendment makes absolutely clear that nonunion workplaces are not covered by this bill. It draws clear and precise lines as to where and when the bill would apply.

Mr. Chairman, this bill offers a defensible threshold for defining the bill's coverage. But just as important as which threshold is chosen, is the fact that we are choosing a definite threshold. We are removing any vagueness as to who is and who is not covered, thus laying to rest these charges that the bill will have an uncertain and indiscriminate impact.

Mr. Chairman, this is a well-conceived amendment, and I urge its passage, and with it, the approval of the revised bill.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I rise in strong opposition to the Peterson amendment.

Mr. Chairman, what is the difference between the Peterson amendment and H.R. 5? Thirty days. That is the only difference I can determine between the gentleman from Florida's amendment and H.R. 5.

The Peterson amendment represents business as usual in the House of Representatives. His amendment became public knowledge Monday, and my office received a copy of it last night. Just like the civil rights bill, no one knows what will be considered on the floor until the Democratic caucus acts—usually the day before the vote. If there was a problem with H.R. 5, it should have been debated in the committees of jurisdiction, not the Democratic caucus.

I think it is very important for everyone to know that the only difference between this substitute amendment and H.R. 5 is 30 days. That is it—1 month. The Peterson amendment is supposed to limit the use of replacement workers to only union settings. However, there is a huge loophole in his amendment. It would ban the use of permanent replacements if the workers have filed a petition with the National Labor Relations Board, and the Board does not act on the petition in 30 days.

The right not to join a union is just as essential as the right to join a union. None other than Samuel Gompers, the founder and first president of the AFL, said in 1918:

> There may be here and there a worker who for certain reason unexplainable to us does not join a union of labor. That is his right. It is his legal right, no matter how morally wrong he may be. It is his legal right, and no one can or dare question his exercise of that legal right.

Unfortunately, Mr. Gompers is not the current leader of the AFL. H.R. 5 would end this legal right of choice in union matters, by giving union members a greater set of rights than nonunion members. H.R. 5 disenfranchises the rights of 85 percent of the American work force, and grants protection to a small minority of workers. In the process, it destroys workers choice. The only way to protect your rights as a worker, if H.R. 5 were to become law, is to join a union. So much for Mr. Gompers sacred right.

What does this change? Absolutely nothing. The Peterson amendment is still a union organizing tool, like H.R. 5. The Peterson amendment still gives union members a greater set of rights than nonunion members, just like H.R. 5. The Peterson amendment still leaves companies with two choices—accept all union demands or go out of business—just like H.R. 5. The Peterson amendment still affects every small business in the country, just like H.R. 5. And, the small business community is opposed to the Peterson amendment, just like H.R. 5. There is no cover provided by this amendment, and don't for a minute think you can fool your constituents with the Peterson amendment. It is H.R. 5 plus 30 days. Oppose the Peterson amendment.

Mr. PETERSON of Florida. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of H.R. 5, the Workplace Fairness Act. I commend Chairmen FORD, DINGELL, and ROE for their commitment to this legislation and this Nation's workers.

Mr. Chairman, the Workplace Fairness Act seeks to restore the fair balance between labor and management, to improve the standard of living for American workers and American competitiveness. This legislation amends the National Labor Relations Act and the Railway Labor Act to prohibit employers from hiring permanent replacements for workers in an economic strike. It prohibits employers from giving any employment advantage to a striking worker who crosses the picket line to return to work before the end of a strike. It is important to note that this measure does not apply to nonunion workers. It thereby protects employers against undisciplined work stoppages by employees who have no identified representative authorized to settle or negotiate their differences.

In the last 10 years the use of permanent replacements has increased. In fact a GAO study showed that employers hired permanent replacements in approximately 17 percent of the strikes reported in 1985 and 1989. In about one-third of the strikes, employers threatened to hire permanent replacements.

In point of fact, there is no need for permanent replacements because employers can operate their businesses without replacing strikers. Management has a host of other options to utilize during a strike. They can hire temporary workers. They can use supervisory or management personnel. They can transfer or subcontract. Most important, they can negotiate.

If our trading partners and competitors can do it, so can we. Japan, Germany, Canada, and France all prohibit the use of permanent replacements for striking workers. So should we. The United States is falling behind in quality and productivity. Not only have real wages for American workers declined but so too has our competitive edge. We need to strengthen the balance so that employers and employees work together rather than continue to watch the balance erode in favor of management which may in turn no longer bargain in good faith.

For example, in my own district in 1986, employees of Colt Firearms struck after working for almost a year without a contract. Management replaced striking workers immediately. After much negotiation, many issues were close to being settled—except the issue of the permanent replacement workers. The economic liability favored the company with respect to the replacement workers. Over 3 years later the strike ended—not when negotiations were completed—but when the employees who struck successfully bid to purchase the division. Similar long-term strikes have occurred in Connecticut. But this particular strike was the longest in Connecticut's history. And needless to say, it was devastating.

Management systems that encourage worker involvement are essential to increasing opportunity for success, from the smallest of companies to the largest of corporations. Promoting cooperation in industry—as a Nation—we enhance our efforts to compete globally.

In 1935, the National Labor Relations Act was created. It promised workers a fair opportunity to engage in collective bargaining. The act itself states that workers shall have the right, without fear of employer discipline or discharge, to join unions, to bargain collectively, and, if no agreement can be reached, to participate in a peaceful strike to further their bargaining goals. Collective bargaining is an integral part of the maintenance of labor-management relations. This system was established to treat both employer and employee as fairly and as equitably as possible. H.R. 5 reestablishes that fair treatment, that balance.

I urge my colleagues to join me in supporting H.R. 5, the Workplace Fairness Act.

Mr. PETERSON of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of the Peterson substitute and I commend the gentleman from Florida [Mr. PETERSON] for his construction modifications of this measure. I commend the distinguished gentleman from Missouri [Mr. CLAY] for proposing this legislation and the distinguished chairman of the House Committee on Education and Labor [Mr. FORD] for his efforts in bringing this legislation to the floor at this time.

Mr. Chairman, throughout the history of labor-management relations, it has been extremely difficult for the Congress to strike a proper balance. Back in 1935, Congress adopted the Wagner Act, giving workers and unions the support they needed in their efforts to negotiate with management. One of the crucial protections granted to labor was the right to strike. However, in 1938, the Supreme Court curbed that right, in what is known as the Mackay Radio decision, wherein the Court ruled that management had the right to "permanently replace" strikers who were pursuing economic gains including wages and other working conditions. I do not believe that this decision accurately reflected the true intent of Congress in the Wagner Act.

Despite what seemed to be a severe blow to the labor movement, the Mackay decision proved to strike an even balance between labor and management. Unions still had the right to strike, while management maintained the ability to continue its business operations. Whenever a strike would occur, management was not so quick to part with their hard working, highly devoted work force because the company would incur substantial costs in the hiring and training new workers, and it would be further inhibited to replace workers because of the ill will it would have created in the community. All these factors were counterproductive to the welfare of the company. Thus, the net effect appeared to be a fair balance that kept both sides functioning.

However, over the last decade, relations between management and labor have taken a turn for the worse. A number of companies have permanently replaced their strikers when the opportunity presented itself. Workers are being punished for exercising their rights which were guaranteed by the Wagner Act. Our hard-working citizens, the people who have been diligent and loyal to their companies are being punished for exercising their right to strike for improved working conditions and increased wages.

We all recognize that it is difficult to determine just what is fair and what is in the best interests of our Nation with regard to labor-management relations. While I strongly support management's right to continue its operations, during a labor dispute we must also consider the other side of the coin. Do unions actually have the right to strike when management is permitted to hire permanent replacements? While on paper, the unions still have the right to strike, in reality Mr. Chairman, this right has been eroded. What good is the right to strike if an employee jeopardizes his employment? Under these circumstances, do union workers really have a fighting chance in their efforts to improve working conditions. The playing field in labor-management relations is supposed to be equal, yet, today it is being heavily tilted in management's favor.

For those of us who are concerned that we may be giving labor enough power to bring commerce to a screaching halt, let us consider the following: First, H.R. 5, only protects those workers which have a union acting on their behalf in a legitimate collective bargaining dispute. This bill does not apply to the ordinary worker who is dissatisfied with work and walks off the job for a few hours, days or weeks. Second, unions are at their weakest point in history since the Wagner Act was passed. Approximately only 16 percent of our current industrial work force is organized. H.R. 5 does not swing the balance of power to the unions since it only protects a small fraction of the total work force in this country. Third, there will less strife when bargaining. There will be less incentive for strikes which means that commerce will continue at its normal pace, leading to greater productivity, output and fewer losses credited to strikes.

Mr. Chairman, we all recognize that by no means is this an issue which can possibly be resolved. However, it is our duty to make difficult decisions that will hopefully enhance the lives of our citizens and the welfare of our Nation. Let us consider what will enhance the welfare of our citizenry and country. I believe it is our responsibility to reinstate the Wagner Act's intent to provide the right to strike to the workers of our country. That right was once guaranteed to them, but the Supreme Court subsequently denied them that right and deprived them of a truly valid and necessary bargaining tool to use in their pursuit of a healthier physical and economic life. We must balance the scale of justice.

Mr. Chairman, the Committee amendment restricts coverage of this bill to circumstances in which there is a majority support for a union. The Peterson substitute further restricts coverage of this bill to 30 days after a petition for an election has been filed and that petition has to be supported by 50 percent of the workers.

Moreover, the Peterson substitute assures that an employer can get a representation election before any recognitional strike can occur and the NLRB can hold such an expedited election within 30 days.

Accordingly, I urge my colleagues to make the playing field equal once again by allowing labor to compete with management on fair terms by supporting the Peterson substitute and by adopting H.R. 5.

☐ 1630

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I do not know that I can add a whole lot to this debate in that everything has already been said in opposition to H.R. 5, but I would like to point out a couple of things, especially to those Members who think they can hide under the cover of the Peterson amendment.

The proponents of H.R. 5 in my opinion have no sense of history and they are totally bankrupt in their economic philosophy. They say that we have got to have H.R. 5 because there is massive replacement of strikers all over this country, when Member after Member has come down to this well and refuted that by citing a GAO study called for by the proponents of H.R. 5 themselves that showed that only 4 percent of striking workers have been replaced. There is no massive crisis in this country. The proponents are bankrupt in economic philosophy, and I think Americans are starting to realize that. They have been totally discredited. And when they start asserting that over the 1980's, the rich have gotten richer and the poor have gotten poorer and the middle-income families have lost their standard of living, when the facts and history have shown that is absolutely not the case. It is not the case, and they still come down here in the well and continue to throw out these discredited figures.

Now, when they come to the floor and tell Members that the Peterson amendment is going to protect nonunion workers, my colleagues from right-to-work States better look at this amendment very closely because the way I understand the Peterson amendment, members of a bargaining unit cannot be replaced when they have filed a petition for recognition at least 30 days before commencement of a strike. What that means in practice is the unions go in and sign up 50 percent of employees in a company plus one; that is a majority by my definition. And they go on strike, forcing the other 50 percent of the nonunion workers to go on strike because if they cross the picket line, they can be bumped after the settlement of the strike and more senior strikers return to work.

So right-to-work State Members better look at this very closely because the impact of H.R. 5 along with Peterson means that nonunion workers are totally affected.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I do not understand the point of the gentleman with respect to the remaining employees being bumped. First of all, if a majority, 50 percent plus one, as the gentleman said, 20 percent more than is now required, file a petition with authorization cards, wait 30 days to give the NLRB a chance and the employer a chance to agree to a quick election to determine majority sentiment through a secret ballot election, there is no replacement unless they wait that 30 days.

The question I have is, other than some contractual agreement that the employer has agreed to, what gives those people a right to bump the people who have remained on the job? The gentleman's point is incorrect. There is nothing in this bill, in this amendment by the gentleman from Florida [Mr. PETERSON] or in existing labor law which gives those striking employees the right to bump the employees who chose not to go out on strike.

Mr. DELAY. In practice, when one comes back in the settlement of a strike, most of the time they come back in and by seniority can bump nonunion workers that have crossed over the picket line and kept their job.

Mr. BERMAN. If the gentleman will continue to yield, the replacement workers——

Mr. DELAY. Mr. Chairman, reclaiming my time, I think we know how this operates in that nonunion workers who do not want to belong to the union are forced to participate in the strike, and we know how things work and history has proven how they work. They will be in effect bumped when the strikers come back in settlement of the strike.

It happens all across this country and has happened in history after history of settlements of strikes. So we are in a sense pulling nonunion workers and not covering them by the Peterson substitute. I just submit that Members better really look at this because it is not covered and H.R. 5 still remains in upsetting that delicate balance that we have been enjoying over the years since 1938.

The CHAIRMAN pro tempore (Mr. NAGLE). The gentleman from Texas [Mr. DELAY] has consumed 5 minutes.

Mr. PETERSON of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, I rise in support of H.R. 5 and the Peterson amendment thereto.

Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act, which will ensure that American workers cannot be permanently replaced when exercising their right to strike. H.R. 5 will also prohibit discrimination against striking workers who return to their jobs once the dispute is over. The Workplace Fairness Act will prohibit employers from giving any advantage to a striking worker who crosses a picket line to return to work before the end of a strike. It will protect hard-working Americans when they take a stand for their families.

Since 1935, the National Labor Relations Act has guaranteed workers the right to join unions and engage in collective bargaining to protect their basic interests. The right to strike gives workers the right to withhold their labor during these negotiations. It provides American workers with economic leverage in their bargaining relationship with management. It is one of the only tools they have to protect what they have worked for. Without the right to strike, the economic balance in the collective bargaining system is undermined in favor of the employer, who no longer has the obligation to bargain.

In 1938, the Supreme Court ruled that an employer can permanently replace striking workers. At the same time, however, the Federal Government has also insured that employers cannot fire workers for exercising their right to strike. So, the American worker is caught in a bind: Free to strike, but under the fear of being permanently replaced while exercising this right.

Regardless, permanent replacement of striking workers was rare until 1981, when then-President Reagan fired the striking air traffic controllers and immediately replaced them with permanent workers. Since that time, thousands of workers exercising the right to strike for improved working conditions or better pay have actually lost jobs to permanent replacements.

While the Workplace Fairness Act does protect the rights of the worker, it is also flexible enough to provide protection for the employer, too. An employer can continue operation during a strike by subcontracting or using temporary replacements or management and supervisory personnel. And, contrary to what opponents of this bill maintain, the Workplace Fairness Act only applies to workers who engage in lawful economic strikes; it does not require an employer to reinstate strikers who engage in violent acts. And it does not apply to nonunion facilities.

Workers do not casually exercise their right to strike. The strike is the American worker's last resort—to be used when all other negotiation attempts have failed.

The Workplace Fairness Act will insure that American workers can exercise their legal right to engage fully in the collective bargaining process, without the fear of losing their jobs. It will restore their historic right to challenge corporate decisions that threaten their future. I urge my colleagues to support this legislation.

Mr. PETERSON of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 5.

Mr. Chairman, I will certainly vote for H.R. 5. I would strongly urge my colleagues to do the same. Frankly, I don't think the controversy and opposition is justified with the committee reported measure to prevent the permanent replacement of working men and women exercising their rights.

This legislation is very modest. It applies only to economic strikes and only to collective bargaining situations involving organized labor. It addresses the rights of workers. Its perscriptions will not be needed in 97 percent of the collective bargaining sessions that take place each year.

Yet its adoption because of unprecedented actions of the past decade will signal a new day in labor relations, for it will create a bargaining arena in which the incentive for both labor and management is the peaceful, mutual settlement of disputes by persons who realize that their future lies in working productively together. H.R. 5 will restore a balance that is today lacking. Bernie Brommer, president of our Minnesota AFL-CIO, made the point well in his testimony last winter before the Minnesota Legislature which was considering similar legislation:

> The fundamental goal of collective bargaining is to achieve a settlement of the negotiations that is acceptable to both parties. The goal is not to achieve a situation where one party can succeed in the elimination of the other.

This legislation is needed today not because the Supreme Court in 1938 made a faulty or poorly reasoned decision in the Mackay case. It is urgently needed today because hiring permanent replacement workers became a common practice for managers to inflate short-term profits through wage brinkmanship. This practice, although permitted by the Mackay ruling, had been spurned by management and the National Labor Relations Act was, in fact, working nothwithstanding the Mackay Radio case. Today the troubles of hundreds of thousands of working people who lost their jobs in the 1980's after exercising their right to strike is a new fact of the labor/management environment. Unfortunately a public deception and media tends to personify a negative attitude toward working men and womens rights.

President Reagan struck a chord by firing the air traffic controllers. A new common denominator prevailed and if an American President could do what he did to the air traffic controllers, then surely, some business management advisers preached, it would be acceptable for the business community to search the record to find rulings and regulation to subordinate the worker. Fairness and good faith bargaining, the hallmark of good collective bargaining, was thrown out the window in the process. Just as the deregulation of the savings and loan industry served as a signal to the ambitious and unscrupulous to make their fortunes by managing for short-term gratification with little thought of the future beyond the current reporting period, so too have some in the service and manufacturing sectors pressed their advantage in bargaining by hiring permanent replacement employees. They had the White House, the decline in historically strong unionized sector economy and pressed the advantage as far as possible.

The incentive for management, for that select part of management that is on the edge of acceptable behavior, that gets publicity for their outrageous, even daring innovations, is, in fact, an incentive not to settle wage disputes reasonably with a degree of mutual respect that contributes to a stable, satisfied, efficient work force. Such practice is a terribly deceptive incentive, for it leads to less profit rather than more in the long run and to a less competitive American economy today and tomorrow. Last March, Business Week compared the outcomes of union busting versus cooperative relations with unions. Frank Lorenzo's Eastern Airlines is in liquidation. His Continental Airlines unit is in bankruptcy. Greyhound Lines is in bankruptcy. In a 1986 study of 56 manufacturers, William Cooke of Wayne State University found that "employers that had tried teamwork—about half of the sample—reported a 19-percent increase over the decade in the value added per employees.* * * The combative employers reported a 15 percent decline." These numbers speak for themselves. Antiworker tactics are not just unfair; such tactics are bad business.

H.R. 5 has been opposed because it is said that it will disadvantage employers. Such argument falls when confronted by the recent history and facts. The notion that employers are disadvantaged in bargaining if they cannot fire their work force—some may refer to this technique as permanent replacement, but its practical consequence is that workers are fired—tilts the scale heavily to the advantage of employers.

Over the years since the enactment of the National Labor Relations Act in 1935 when this Nation determined that labor/management relations would be peaceful, the balance of economic pressures of the parties has been carefully adjusted. Union workers, men and women, may not engage in sit-down strikes; union workers may not hold partial strikes; union workers may not conduct slowdown strikes or wildcat strikes or secondary boycotts. The employer's business has been fairly protected. But the fundamental right of union workers to hold a job is compromised by allowing employers to hire permanent replacements. Temporary worker replacement permitted today would still be allowed if this new policy, this fair policy of barring the firing of striking workers, is enacted.

We must signal the business world that the decade of the eighties is over. Our Nation needs sound economic growth. We need a more efficient allocation of resources, including labor. We want a bright and prosperous future rather than short-term profits exacted from the hide of workers today or tomorrow. That can only prevail with a strong labor force capable of playing a positive role with a balance of power in the collective bargaining process. H.R. 5 restores a basic element, a necessary element for the health of our U.S. economy; elemental fairness to the working men and women in the world of work.

Mr. PETERSON of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I want to compliment the gentleman from Florida [Mr. PETERSON] for his amendment. I think it clarifies a lot of misunderstandings in this bill.

Back in North Carolina 2 or 3 weeks ago I was at a chamber of commerce breakfast. A lady came up and said, "You are going to vote for H.R. 5. You are going to force my husband, if somebody walks out of his garage, he runs an automobile dealership, that he won't be able to hire somebody to come back and to take his place."

I said, "Absolutely not." I said, "Do you all have a union out there?"

She said, "No, we don't."

I said, "Well, then it does not affect you."

Let me make a couple of points here. There is an awful lot of misinformation that goes around in this place, especially when we talk about issues that affect people. I want to refresh my colleagues' memories. It is the same people that put out this misinformation, some of the greater organizations here in town, this is going to be one of their big votes and they are going to call the people back in their districts and this is going to be recorded on Members' report cards.

I remember back, this is not anything to do with workers or labor, this was back in the Grove City, when we considered the Grove City thing. The same people were saying, "If you vote for Grove City, you are going to have to hire homosexual people with AIDS to be youth pastors." They were passing this all through the district. Then we come back along, if my colleagues remember, and this has to do with people. We were voting on the plant closing bill. And the same information, the same people were making the same speeches. "If you vote for this plant closing bill, you are going to disrupt business all across this country. You are going to cause chaos. You are going to cause people to lose their jobs, and it is going to be absolutely chaos for the economy."

□ 1640

We passed the plant-closing bill, and just recently in my district, there were some 300 people, where a plant closed and went to Mexico, and they were asked, "What about your severance pay?" They said the 60-day notification was the severance pay.

When we came to the minimum-wage bill, it was not good enough. The administration said, "We are going to veto that minimum-wage bill, because if it is too high, and if you vote for any change in the minimum-wage bill," and, incidentally, people were calling me who were making in excess of $200,000 a year, and those were the only people that were calling me, so when we changed the minimum wage, according to all the statistics, it has not disrupted the economy. It has put a few more dollars in the pockets of working people.

To me, I do not understand what you have against working people. I urge that you support this amendment and support the bill.

Mr. GOODLING. Mr. Chairman, I yield myself 15 seconds just to merely say that we have nothing against working people. As a matter of fact, we want to try to protect their jobs, and that is why we have real concern about this particular bill, and when we talk about working people, we are talking about 100 percent of the working people, not 12 percent, which is what this bill deals with.

Mr. PETERSON of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from the State of Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I rise to engage the author of the amendment, the gentleman from Florida [Mr. PETERSON], in a colloquy.

I note that the gentleman's amendment would amend the section of the bill dealing with the National Labor Relations Act but makes no changes in the text reported by Energy and Commerce and the Public Works Committee with respect to the Railway Labor Act.

It is my understanding that the gentleman's amendment ties into section 8(b)(7) of the NLRA, which limits the right of employees to engage in recognitional picketing. Because there is no comparable provision in the Railway Labor Act, there was no need to address this issue in the amendment for railroads and airlines.

Is my understanding correct?

Mr. PETERSON of Florida. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I am happy to yield to the gentleman from Florida.

Mr. PETERSON of Florida. Mr. Chairman, the gentleman is correct.

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Florida. I would also observe that no instance has been brought to our Committee's attention of Railway Labor Act employees being replaced for engaging in recognitional picketing. Does the gentleman from Florida agree that this amendment expresses no opinion on the correctness of any judicial decisions in this area under the Railway Labor Act and that we are not addressing the issue here simply because there is no need to?

Mr. PETERSON of Florida. If the gentleman will yield further, I agree with the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I thank the gentleman. I would simply note that if it should appear in the future that this issue needs further examination, our Committee may want to revisit it at that time.

In the meantime, I thank the gentleman from Florida and commend him for his leadership in offering this amendment, which I support.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I rise in opposition to the Peterson amendment and H.R. 5.

Mr. Chairman, I come to the House of Representatives as a former working person in many unions and many nonunion jobs. A few years ago, I was unemployed. My wife did not work. We had no income, no health insurance, so when I speak to the chairman this afternoon, I want to make sure that everybody knows that I understand what it is like to work for a living and scratch a few pennies to pay the bills.

I have always identified with the working man. I am a former employee, a union member, of a wire factory, a chemical plant, and for many years I was a member of the National Teachers' Association. So I am familiar with some of those issues.

Mr. Chairman, I consider myself a moderate, especially when it comes to the working men and women of this country. Unfortunately, there seem to be a lot of labor bills this session which offer little room for moderation.

Today we are looking at a bill which essentially tells business that they will purchase labor from one source only at whatever price they set or else do without.

What if, for example, we could only purchase gasoline from one service station at whatever price that station demanded or else not drive? How many of us would consider that acceptable? This analogy parallels exactly the situation that this particular bill creates.

H.R. 5 seeks to provide labor with a Government-sponsored monopoly. In any other market we would consider monopolistic pricing unacceptable.

Today we may well give organized labor exclusive control of the amount that business must spend for labor.

I realize that a strike is a tremendous hardship for workers. No one would frivolously give up weeks of wages and benefits and put their family in that position. However, it is a crippling experience for business as well.

Even the briefest shutdown can often spell a death knell for business, thus worsening the situation for the employees.

Just as I believe strikers should be allowed to seek other incomes during a strike, an employer must be allowed to take steps to see that the business does not shut down as well.

I realize that this bill does not preclude the use of temporary replacements. But what skilled worker would leave a safe, permanent job for a temporary position?

If this bill passes, I can envision three possible outcomes: Businesses give in to labor demands and either fold or raise their prices; they will move their operations to foreign countries; or they automate to minimize their labor needs. None of these are in the interests of this country or the workers.

Mr. Chairman, someday I will leave Congress and return to the labor market. At that time I will sell my services to an employer just as every other worker does, but I will not believe, as I do not believe now, that any employer must buy my services at whatever price I set or else shut down.

Mr. Chairman, I urge my colleagues to oppose H.R. 5.

Mr. PETERSON of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Chairman, I rise in opposition to the Peterson amendment.

Mr. Chairman, it is with mixed feelings that I rise in opposition to this bill as amended by my friend, Mr. PETERSON of Florida. I understand and share the strong feelings that have inspired the authors and proponents of this bill. Over the last decade, we have seen the employer's right to hire permanent replacement workers evolve from the self-defense measure, recognized by the Supreme Court in the Mackay decision and later implicitly confirmed by Congress, become a weapon used by economic buccaneers such as Frank Lorenzo to break strikes and bust unions. Such tactics have destroyed the livelihood of thousands of American families, destroyed once healthy and thriving companies and contributed to deterioration of labor-management relations throughout our country. It is a tragedy for both its human and economic impact.

Because the toll it has taken is so high and the pain so personal, our congressional response embodied in H.R. 5 is hard-hitting and far-reaching. We have let our zeal for reform cloud our judgment. Mr. Chairman, in H.R. 5, we have overreached and for that reason I must oppose it.

Mr. Chairman, we could have crafted a bill that would have attacked these terrible abuses and prevented American working families from having to suffer from the unscrupulous tactics of the modern day robber barons of the world, a bill that would have passed and become law.

Instead, we went too far and we have before us a bill that is no more than a rhetorical exercise, a painful one at that, a bill that will never become a law of this land and the workers we all want to protect will get nothing.

This bill was inspired by union busting and strike breaking activities that have become all too common in America today. We could have helped. We could have crafted a bill to prevent these abuses. Instead, people with other agendas loaded up this bill with organizing tools and other intiatives that have assured it will never become law.

The abuses we sought to attack did not call for a bill that applies to nonunion workplaces. In fact for months, the bill's proponents claimed it did not apply to nonunion workers. A last minute amendment smoked out the true intentions of the bill's authors and put in black and white that it does apply to nonunion workplaces, not always, but in the most critical period in management-labor negotiations, the organizing phase. This was a back door effort to hitch an unrelated issue to a powerful engine of reform. A back door effort that will contribute to the bill's sure death, either by the Senate or by veto.

The overreaching does not stop with this example. The bill treats all employers, regardless of their record of labor relations and the specific needs of their industry, as if they are unscrupulous labor exploiting operators, providing no relief for legitimate and humane business needs essential to preventing a business from going under and destroying all of its jobs when it goes.

Mr. Chairman, we got greedy. We went too far. Everyone in this chamber knows this bill has no chance of ever becoming law. If it passes the Senate, and the Senate may never consider it, it will fall to a veto. Perhaps we have staged great political theater, a great afternoon soap opera for television viewers, but we have done nothing for the people we claim to serve. We have seen an afternoon of all sound and no fury.

Mr. PETERSON of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I have been sitting here attentively listening to this debate. I must say that, contrary to the claims of the opponents, passage of H.R. 5 will not lead to the ultimate demise of this Republic.

What we are seeking to do with this legislation is to protect basic rights. Now, under present law, if workers are on strike as a result of a dispute with management, those workers cannot be fired, but they can be permanently replaced. I happen to agree with that business journal of commerce which says that that is a distinction without a difference.

But then the opponents claim and they say that if you pass this bill that is going to encourage strikes as if the working men and women of America are just sitting back there waiting to go out on strike, because the opponents claim that if they go on strike, they pay no penalty and management suffers.

My colleagues, when workers go on strike, they lose something very basic: their weekly paycheck. Workers in America do not want to go on strike. No one wins in a strike. I think we can all agree to that.

Second, then, I have heard repeatedly that this will cover everyone in all the workplaces. Simply not so.

In the Committee on Public Works I was able to have an amendment passed, and in the Committee on Education and Labor, my colleague, the gentleman from Montana [Mr. WILLIAMS], was able to have an amendment passed that addressed that very issue.

I have for all of my colleagues a 7-page memorandum from the American Law Division of the Library of Congress. The memo is entitled, "Would H.R. 5, as Amended in the Committee, Still Apply to Nonunion Employees?" The answer is clearly no.

I will sum up what this 7-page memo says: "H.R. 5, as amended, could not apply to employees in a nonunion workplace."

Do you know what this reminds me of, this debate, with all the exaggerations and all the hype? It reminds me of Woody Allen, one of my favorities. Woody Allen, in his address to graduates, said this, more than any time in history, we have arrived at the crossroads. One road leads to hopelessness and despair, the other to total extinction. Let us pray we choose wisely.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Delaware [Mr. CARPER].

□ 1650

Mr. CARPER. Mr. Chairman, if I were an employer whose unionized work force voted by secret ballot to go on strike, and I found that I was denied the right, the opportunity to replace them, even on a temporary basis with other employees, I would not like it. I would raise bloody something.

On the other hand, if I am an employee working for somebody, and I have voted with the majority of my fellow employees, that we want to be represented by a union, and that union has negotiated a labor contract, multiyear, for a period of time, with our employer or employee, and we come to the end of the 2- or 3-year period of time, and I find that if I want to go on strike I can do so, but I will be replaced not temporarily but permanently, I would be just as angry as the employer would have been in the first instance.

I think where we stand, sometimes determines what we perceive to be beauty or fairness. Where I stand, it would not be fair to say to an employer that they cannot hire even a temporary employee; by the same token, it is not fair to the employee, to say that they will be permanently replaced if they go on strike.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to my friend, the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, today, I rise to join my colleagues in support of the Peterson substitute to the Workplace Fairness Act.

Throughout the debate on H.R. 5 we have heard criticisms that this bill is a radical step that would tilt the balance in labor-management relations in favor of labor. We have heard that organized labor is only using this bill to bolster declining membership. And we have heard that this bill is so broad that it would cripple management's ability to fire any worker who walked off the job. These allegations are simply not true.

There is no argument that workers have the right to withhold their labor in an economic strike. The Railway Labor Act of 1928 and the National Labor Relations Act of 1935 affirmed that right and ensured that neither side should have an advantage in resolving a labor dispute. But in 1938, the Supreme Court ruled that while workers could not be fired, they could be permanently replaced.

We know that the right to permanently replace striking workers is the right to fire striking workers. Eastern Airline employees were not permanently replaced, they were fired. Continental employees were not permanently replaced, they were fired. In the TWA strike, the Greyhound strike, the International Paper strike, and in strike after strike in the past decade, we have seen the striking workers fired under the guise of permanent replacements. H.R. 5 corrects this injustice and protects the jobs of those workers who are practicing their legal rights by prohibiting permanent replacements.

This bill does not apply to nonunion shops. It only applies to shops in which the union is the bargaining authority. Contrary to the fears of the chamber of commerce, two workers cannot bind together, claim they have an economic dispute and walk off the job. This does not happen in the real world and is not covered in the legislation. To further clarify this provision, Mr. PETERSON is offering a substitute that distinctly delineates the instances in which this bill would and would not apply.

While we debate this bill and delay the enactment of this legislation, we are seeing labor-management relations in this country further decay and our competitiveness in the global market further decline. We simply cannot be productive without strong relations between workers and managers. Our economy was strongest and our products irresistible in the global market, when our unions and managers worked together and trusted each other. It is no coincidence that we have lost markets to our Japanese and German competitors who protect their workers and encourage cooperation between management and labor.

I urge my colleagues to restore our global competitiveness and restore the trust between labor and management, and protect our workers. I urge my colleagues to vote with me in favor of Peterson substitute and in favor of H.R. 5.

Mr. Chairman, the Peterson substitute prohibits the permanent replacement of strikers when the strike involves: A union certified by the NLRB; a union recognized by the employer or; a union, supported by a majority of the workers, that has waited 30 days after filing for a representational election with the NLRB.

The amendment makes it clear that nonunion workplaces are not covered by the bill.

It draws a clear and precise line as to when the bill would apply.

Mr. Chairman, concerns were raised that the original bill would apply to nonunion workplaces. The committee bill amendment restricted coverage of the bill to circumstances in which there is majority support for a union.

The Peterson amendment further restricts coverage of the bill to 30 days after a petition for an election has been filed. The petition has to be supported by 50 percent of the workers.

The Peterson amendment assures that an employer can get a representation election before a recognitional strike can occur. The NLRB can hold an expedited election within the 30 days.

The amendment draws a clear line as to when strikes would be covered by the bill.

The only time a "recognitional" strike can occur under the amendment is when the employer has delayed the holding of a representational election.

Under the amendment an employer can assure that the only kind of strikes covered by the bill are those that arise after a union is recognized or certified.

The amendment is a reasonable compromise that labor has reluctantly agreed to support. It makes it clear beyond any doubt that the bill does not cover nonunion workplaces.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, it appears that the CFS and the majority staff of the proponents of the bill have an ongoing dialog since: First, the April 4, 1991, CRS memorandum quotes the majority staff; second, an amendment is proposed based, in part only, on recommendation of the CRS memorandum, but uses that initial memo for authority, and then third, the second May 7, 1991, CRS memorandum attempts to justify the proponents arguments regarding the offered amendment.

Second, the CRS memorandums are inconsistent in two important respects, but handled rather subtly by the second memorandum.

Although both memos quote the short title of the bill in their introduction sections, which mention labor disputes and this term is used in the discussion section of the April 4, 1991, memo, but the broad definition of such is never adequately addressed, particularly since: First, the memo of April 4, 1991, incorrectly states that the purpose of H.R. 5 is to prohibit employers from hiring permanent replacement employees in the course of economic strikes. The CRS memo of May 7, 1991 changes this to prohibiting employers from permanent replacing strikers. Although obviously inconsistent, both are also totally incorrect. Both the original bill and the amendment, and all discussion by the author of the amendment, declare that the bill and amendment apply in labor disputes, a term which goes way beyond strikes. Second, the original April 4, 1991, CRS memo leads me to believe that the definition of labor organization can be very liberally construed—that is, that two employees who protested working conditions could constitute a labor organization under the very expansive definition of that term; see April 4, 1991 CRS memo, pages 4 and 5. However, the CRS memo of May 7, 1991, seems to withdraw from the expansive explanation—which has caused much consternation and insecurity of the proper definition of labor organization among Members—and now claims that a majority of employees must have a representative to be a labor organization because only then could it bargain with the employer. This astute reasoning is not incorrect, but appears to change emphasis only for the purpose of supporting the amendment proponents' claim that the bill will now apply only in a unionized setting—a false assertion.

MAJOR INCORRECT ANALYSES

The big mistake in the CRS analyses of H.R. 5 is the failure to comprehend the usage of certain terms.

First, both CRS memos are confused as to the term "bargaining unit work." The memos contend that bargaining unit work in H.R. 5 involves only union settings since a bargaining unit must be a unit which a majority of employees have designated or selected a representative. Further, the May 5, 1991, memo states that H.R. 5, as amended, "could not cover an informal, minority group of employees in an unrepresented workplace, because the employer, by law, could not recognize and bargain with such a group."

The contentions make no sense in the practice of labor law. First, bargaining unit or bargaining unit work are terms not defined in the National Labor Relations Act [NLRA]. However, the representation section, section 9, provides that the National Labor Relations Board [NLRB] shall determine the unit appropriate for the purpose of collective bargaining which may be the employer unit, craft unit, plant unit, or subdivision thereof. There may be a unit appropriate for purposes of collective bargaining, and usually is, although no union has been selected or designated to represent the employees in the unit. This is particularly true where an election has been held, pursuant to board direction, but no union has been selected. The unit remains appropriate. There may be other appropriate units in which no election has been requested or held. A union need not be in the picture for a unit to be appropriate.

An appropriate unit for bargaining consists of employees with mutual or similar interests in similar circumstances, that is, community of interest among employees. Furthermore, the Board determines the appropriateness of a unit before an election is held.

The May 7, 1991 memo states, "Given the intent to limit the bill to bargaining units," but nowhere was this intent stated or explicated by its sponsors. Contrary to the statement in the May 7, 1991 CRS memo, in both (6)(i) and (6)(ii) of H.R. 5, as amended, the term "bargaining unit work" is used—not collective bargaining unit, nor appropriate unit, not appropriate bargaining unit. The fact that the term includes work, and is focused on the term "work" is emphasized in (6)(ii). There, the term "bargaining unit work" is clearly declared by the latter term "to perform such work."

Accordingly, use of the term "bargaining unit work" does not exclude nonunion settings. As a matter of fact, the amendment offered by Mr. WILLIAMS makes it definitely more clear that H.R. 5, as amended, is meant to apply to unorganized settings. The May 7, 1991 CRS memo makes the mistake of speaking, on page 1, of an existing bargaining unit. Nowhere does the bill, as amended so state, and nowhere have the proponents so stated.

Second, the CRS memos mention labor dispute in certain places, but never adequately explain why that term is used where it is in the bill, instead of economic strike. In reading H.R. 5, as introduced, or H.R. 5 as amended, if the proponents wanted only to overrule the Mackay doctrine, they would have—could have—used the term economic strike. To do so would have limited the effect of the bill to its stated intent. In using the term labor dispute, the proponents have greatly expanded the reach of the bill. Although the CRS memo of May 7, 1991 notes that the definition of labor dispute is expansive—page 4—the memo fails to recognize the reason for this expansive term, and, incorrectly, finds that because of other definitions it cannot be as expansive as it really is.

The word strike is nowhere in the bill as introduced or amended. As noted, the May 7, 1991 CRS memo incorrectly explains bargaining unit and bargaining unit work. Therefore, the conclusion, which uses those terms incorrectly defined, fails to understand the impact of labor dispute, as well. Since a labor dispute encompasses any problem between an employer and a union, or between an employer and employees, or between an employee and a union, or between an employer and nonemployees, or even between two unions, it is obvious that the term goes beyond a strike or an economic strike. Accordingly, the bill, as amended, prohibits an employer from permanently replacing an employee who goes on strike—or misses work—for reasons totally unrelated to an economic strike. For instance, an employer would commit an unfair labor practice if he or she replaced an employee—unionized or not—who strikes because of a jurisdictional dispute—work assignment—with another union—or group of employees. Even any prohibited activity by a union under the NLRA would not allow an employer the privilege of replacing an employee who leaves the job in support of the union, unless that individual's activities are specifically prohibited by the NLRA—that is, for cause, or loses his status as an employee, terms within the NLRA itself. A union's unfair labor practices are not imparted to individual employees. And since an existing bargaining unit does not have to be in place to have the bill take effect, if there is a representation labor dispute, an employer would be prohibited from replacing an employee who strikes for recognition within or outside the collective bargaining law as a labor dispute. There is no limiting language in the amendment.

Third, the words "collective bargaining representative" in the amendment to H.R. 5 are not as limited as the May 7, 1991, CRS memo suggests. This is so mainly because those words are modified by the phrase "labor organization that is acting as" the collective bargaining representative.

Usually, under the NLRA, collective bargaining representative refers to the labor organization or individual who represents the employees—a majority of the employees—in an appropriate unit. If, however, the amendment to H.R. 5 had wanted to keep within the usual meaning, the modifying phrase would have been "which is" instead of "that is acting as" the collective bargaining representative.

The May 7, 1991, CRS memo implies that the bill, as amended, would not apply where there is no existing collective bargaining representative. But, as worded, the amendment does not prohibit organizational activity, and the union has only to act as the collective bargaining representative of those employees seeking to organize. Under this obvious understanding and intention, the bill would prohibit an employer from replacing an employee or showing preference to a nonunion employee during the course of an organizational drive by a union.

That the above is so is reflected in the remarks of Mr. WILLIAMS, when he introduced the amendment to H.R. 5:

> The purpose * * * to make absolutely clear * * * H.R. 5 does not apply to any labor dispute or walkout that does not involve a union acting as the collective bargaining representatives of the employees involved in the dispute.

That is not saying that the union has to be the collective bargaining representative. That is not saying that an economic strike must be involved. That is not saying that the union must represent a majority of the employees in an appropriate unit.

That is saying that a union must be involved somewhere for an employee to be protected. That is saying that an employee can have a union acting as his or her collective bargaining representative to be protected against permanent replacement.

That the amendment applies to representational disputes was clear when Mr. WILLIAMS offered the amendment—page 110, Education and Labor full committee markup: "[B]argaining unit work is the term that has no meaning unless the employees have or are seeking collective bargaining." This statement clarifies that the bill, H.R. 5, as amended, is and can be, and is intended to be, used as an organizing tool. The statement by Mr. WILLIAMS is directly contrary to the May 7, 1991, CRS memo's conclusions.

Fourth, as noted, the term labor organization is inconsistently explained between the April 4, 1991, memo and the May 7, 1991, memo. Actually, the labor organization term is useful only to clarify that preferences are available only to unionized employees or those who support a union—a first-time distinction. Actually, as used, the term labor organization will, for the first time, cause discrimination under the NLRA. Republican Members have pointed out that the NLRA protects union and nonunion employees alike in their mutual concerted activity or their right to refrain from such. This bill, as amended, says an employee can be discriminated against if he or she is not part of a labor organization. This concept is totally inconsistent with section 7 of the NLRA, the heart of the act.

Fifth, the CRS memos speak of the rights of employees to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection. That language comes from section 7 of the act. The memos also address the right to strike. Although the April 4, 1991, memo would lead one to believe that the right to strike grows out of section 7, that right is found in section 13 of the act. Remember, there is no constitutional right to strike or any other right except the right or privilege granted in section 13 of the act.

The equally important right the memos fail to address is the right in section 7, which is the right to refrain from concerted activities, et cetera. That means that section 7 also protects the right to refrain from striking. The memo of April 4, 1991, states that an employer may not discharge strikers, because it would violate the purpose of the act to permit the discharge of employees who are engaged in activity that is expressly protected by the law. However, this and the May 7, 1991, memo failed to mention that it would violate the purpose of the act to discharge or discriminate against employees who are engaged in activity protected by the law—section 7—which is the right to refrain from striking. H.R. 5 as introduced, and amended, is directly contrary to this aspect of activity protected by the law. The omission of such an equally protected activity in these memos make them adequately flawed to be of any intelligible help in the analysis of this legislation—particularly as to whether they cover nonunion—right to refrain—employees or not.

Sixth, H.R. 5, as amended, applies to nonunion employees. That is the basis of this bill. H.R. 5 would prohibit an employer from replacing any employee who supports a union. It would not prohibit an employer from replacing an employee who is nonunion, thereby discriminating against any employee who does not support a union. Because it protects one and not the other does not mean it does not apply. It's like looking at the elephant. Language in legislation must be clear—so must language in an analysis.

Seventh, not a fault of the CRS memos, but the short title to H.R. 5—and, as amended—states: "To amend the [NLRA] * * * to prevent discrimination based on participation in labor disputes." Actually, the bill creates discrimination, or attempts to do so. It does this by discriminating against employees who fail to support or join a labor organization.

Mr. Chairman, therefore I would not hang my hat on seven pages, or whatever was mentioned, of some report from CRS, because I believe if some labor lawyers would get ahold of that report, they would sure have real fun with it.

Again, I would encourage Members not to make a bad piece of legislation even worse. Some may say that is difficult to do. I am sure it is unintentional. However, it has to be a smoking mirror attempt to provide cover for some.

The bill, again I repeat, for the first time creates a distinction in law between union and nonunion workers. The bill does one thing, and does it very well. It provides a perfect tool for those desiring to organize the work force. Next year or the year after, or perhaps 2 or 3 years from now, we will be back. This has been an exercise in futility. We know it is going nowhere. Then we will come back, and then we will sit down and try to be reasonable, and see if we cannot fine tune something that probably needs some fine tuning.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to my good friend, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of the gentleman's amendment and in support of the legislation.

Mr. Chairman, this legislation is simply about basic fairness. It is about the fairness of the workplace. It is about people's rights and responsibilities both on behalf of the employees and employers.

We have examined the American workplace over the last decade and longer, as we have continued to worry about productivity, including one of the things that we see that lends most to productivity, which is a fair workplace, a place where employees are involved in the decisionmaking powers of that workplace.

To suggest that we are going to embrace a provision of the law that allows an employer to be absolutely arbitrary and capricious with respect to his employees, and at that point, should they decide to forego pay, to forego the benefits, and to go out on strike, to then be dismissed in favor of permanent employees, is an outrageous act. It will not lead to more productivity. It will not lead to peace in the workplace. It will not lead to workers and employers working together for the benefit of this Nation.

This legislation is to prevent those kinds of arbitrary capricious acts by employers. It is about fairness to workers, to their families. It is about bringing the workplace together in the name of productivity, in the names of the rights and responsibilities of both parties. We should pass this legislation overwhelmingly. We should pass the Peterson amendment overwhelmingly.

□ 1700

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, very briefly, I rise in support of the amendment.

The gentleman from Pennsylvania [Mr. GOODLING] gave an interesting argument that does this bill really only apply to the unionized worker, the collective bargaining situation, because of its reference to bargaining units and talking about a CRS memo with respect to the application of terms that could very well apply in any nonunion situation or where unions lost an election, and therefore it is not a unionized work force; but the Peterson amendment talks in the concept of certification procedures, recognition procedures, processes which define this.

The irony is that the gentleman from Ohio [Mr. BOEHNER] says that this gives protection to union workers greater than the protection to nonunion workers, and the gentleman from Pennslyvania [Mr. GOODLING] says this bill applies to nonunion workers. You cannot have it both ways.

The fact is this bill is focused on the unionized workers, either in the context of traditional economic strikes, or in the limited situations where a recognitional strike is allowed under the very carefully crafted terms of the Peterson amendment, and the argument of the gentleman from Ohio [Mr. BOEHNER] is wrong. On the other side of the aisle they should stop using both inconsistent arguments at the same time.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, does an American citizen really have a right to vote if he is thrown into prison for voting? Does an American citizen really have a right to express his political view if he must pay a fine for speaking? Does an American citizen really have a right to strike if his employer can fire him when he exercises that right?

There is no right to strike if exercising that right costs you your job. We all regret strikes. They represent a failure to negotiate, a failure to agree, but when the basic rights of a worker are at stake and he chooses to walk off the job and away from his paycheck to protest the disagreement, he is exercising an American right paid for with the blood and suffering of thousands who have gone before him.

Some Republicans and some in the business community can twist this issue into rhetorical knots. Men and women who are ready to risk their lives for principle and dignity understand this issue clearly.

Support the Peterson amendment and support this legislation.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor.

Mr. FORD of Michigan. Mr. Chairman, I rise to support the Peterson amendment.

I want to make it very clear at the outset that as the chairman of the Education and Labor Committee, I appreciate the way in which the gentleman has approached this legislation and his reservations about it. The gentleman has brought those reservations to our attention. We were not able at first to respond in a positive way to his concerns, but as he persisted, and he has been persistent, he has enabled us to endorse his amendment, because, in fact, what it does is answer the people who would pick on nits, the nitpickers who try to twist words to create doubt where none should exist.

In the committee we amended the bill. We thought we amended it in a way that made it abundantly clear that the kind of strike that was being protected would have to be called by an existing union.

Now, unfortunately, after we amended the bill, various organizations for their own purposes, in some cases to raise money from people they scared the hell out of so that they could get money from them, confused the issue and created a gray area; but what the gentleman from Florida [Mr. PETERSON] did at exactly the right time was show us a way with mathematical precision to write language that no lawyer—and I am a former labor lawyer—can twist around to mean anything except that if you do not have a union in your place of employment, there is no effect on your place of employment by this legislation.

The Peterson amendment is a clarification of the original intent of the bill and the amendment adopted in committee. We never intended H.R. 5 to cover nonunion workplaces, but the definition of "nonunion workplace" does not appear in the bill. The Peterson amendment effectively supplies the definition: The workplace is covered only if a majority of employees in an appropriate unit sign authorization cards for a union, petition the NLRB for a representation election, and then wait 30 days. If the union loses the election it loses any protection under the bill.

This amendment is fair to employers and employees alike. It is not a weakening amendment; it is a clarifying amendment. It deserves our support.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in support of the Peterson amendment in the nature of a substitute. Since introducing H.R. 5, I have been deluged by concerns that the bill's protection will be used for frivolous reasons. While I personally believe that the protection of this legislation should be applicable to all workers who are legitimately engaged in a strike, I have acquiesced in efforts to address these concerns by limiting the provisions of H.R. 5 to circumstances in which a union is involved in the labor dispute.

In Committee, we adopted an amendment to address this concern. That amendment provided that the protection of H.R. 5 would be limited to strikes involving labor unions. Where employees were acting collectively on their own, regardless of the justifications for their actions, they would not be protected. However, the amendment adopted by the Committee protects and is intended to protect those employees who have formed a union and are seeking representation from their employers.

Now it is being contended that this protection is a loophole—that employees will walk off the job in order to go hunting or for some other nefarious and illegitimate reason and then claim they were seeking to form a union. Well, the Peterson amendment fully addresses the perceived, and in my view imaginary problem. Under this amendment, the employees must first circulate a certification petition and must obtain majority support for that petition. The employees must then file their petition with the NLRB. Then, before they fall within the purview of H.R. 5, they must wait 30 days. If the employer believes the petition is spurious, it is fully within the employer's ability to obtain an election within 30 days. Assuming the employer does not wish to contest an election, the NLRB is fully capable of conducting that election within a week, 10 days at the outside. If the union loses that election, then the employees are outside of the purview of H.R. 5. If they strike, they may be permanently replaced. If the employees strike before the expiration of the 30-day period and no election has been held, then once again the employees may be permanently replaced.

To the extent that the Boehlert-Williams amendment left any loopholes, a proposition I believe to be more fancy than fact, this amendment closes that loophole once and for all. If this amendment is adopted, those who believe that H.R. 5 raised any kind of problem with regard to nonunion employees no longer have an excuse to vote against this legislation. I urge the adoption of the Peterson amendment in the nature of a substitute.

Mr. PETERSON of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, as chairman of the subcommittee that had jurisdiction over this legislation, I want to assure my colleagues and place in the RECORD for whatever future use it might be that we have always intended that this legislation apply only to what has loosely been referred to as union workplaces. That workplace is the only one we have ever intended to be covered by this bill.

When the gentleman from Missouri introduced the bill, we used the term "labor organization." Some have doubted that that was definite enough or inclusive enough, so I amended it to assure that it only covered organizations acting as a bargaining agent.

The gentleman from Florida [Mr. PETERSON] has further refined it to say that not only must 50 percent plus one of the relevant work force support the union but they must also ask for an election petitioned by the NLRB, and then wait 30 days before they can strike and be protected by this legislation; so I am hopeful that our intention is now defined and secure in this legislation. It only affects union workplaces.

Mr. GOODLING. Mr. Chairman, I yield myself 30 seconds to respond to a comment that was made, that we cannot have it both ways.

We were actually both right, the gentleman from Ohio [Mr. BOEHNER] and myself. If a nonunion shop goes out on strike, they can be permanently replaced. If a union shop goes out on strike, they cannot be replaced; so basically I am correct.

Then, of course, the gentleman from Ohio [Mr. BOEHNER] says, however, if the union comes in and tries to organize the nonunion shop, you have a totally different situation; so basically we are both correct and it is not confused.

I will see you in two years when we negotiate in good faith and come up with a winner.

Mr. Chairman, I yield back the balance of my time.

Mr. PETERSON of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I rise in opposition to H.R. 5, the Striker Replacement Act.

This bill would ban the hiring of permanent replacement workers when employees strike for economic reasons such as higher wages or better benefits. This issue is a complex one with current law based on Federal statutes and National Labor Relations Board [NLRB] decisions. The Supreme Court ruled in a 1938 decision—NLRB versus Mackay Radio—that an employer's "right to protect and continue" their business justifies the hiring of permanent replacements for employees on strike. The law has remained untouched since that 1938 decision.

The enactment of H.R. 5 would allow workers to strike for economic reasons with full job protection. It would leave the employer with little option except to close his doors. This is clearly not the intent of our Federal labor relations policy which is to encourage collective bargaining. I am fearful that this bill's enactment will lead to more strikes and more companies being forced out of business. This hurts employees, business owners, and our economy. It is a change for the worse—not for the better.

For these reasons, I must oppose H.R. 5, and I encourage my colleagues to reject this legislation and seek ways to reduce the threat of strikes—not increase it.

Mr. PETERSON of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I rise in strong support of H.R. 5 and the Peterson amendment as a blow for freedom in this country for labor.

Mr. PETERSON of Florida. Mr. Chairman, I yield the balance of our time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

□ 1710

Mr. GEPHARDT. Mr. Chairman, and my colleagues, the Workplace Fairness Act fits in a larger context than simply a debate over labor-management relations.

It involves more fundamental issues: What kind of society do we want, and what kind of economy do we want for ourselves, for our children, and for the communities we represent.

When I go home to St. Louis, in virtually every town meeting I hold, I am asked: How can we justify paying Americans $15 an hour when Malaysian, Mexican, or Chinese workers receive just $1 for the same work?

There are three ways we can do this: One is protectionism—which we reject as destructive and counterproductive.

The second way is to become 15 times more productive. That is the path the Germans and the Japanese have chosen. It is the democratic way of paying higher wages for better workers—better educated, better trained, better managed, better organized, and better appreciated workers.

Silently, without public debate, the Republicans have chosen a third way—low wages for American workers—and this policy has taken its toll.

When we fail to enforce trade laws and permit dumping; when we let our schools deteriorate; when we lock the doors of college and opportunity to millions of American families; and when we countenance permanent replacements—American living standards go down in a pointless and futile and unjust pursuit of greater competitiveness through lowered wages and lowered expectations.

America will regain its economic strength only when we commit ourselves to becoming a high-wage and high-skill society.

It is what the Europeans have done. It is what the Japanese have done. And now America must do it as well.

That effort does not end with the passage of H.R. 5; but it is a very good place to begin.

Who gets hurt when permanent replacements are used? Not unions—families. These days, most contract disputes are not over big pay raises; they are over big wage cuts or reductions in health-care coverage.

Often working families are taking a stand to protect benefits promised them in prior agreements with management. Paid vacation, sick days, maternity leave, safer working conditions—these are the benefits workers are simply fighting to protect—benefits they have already earned.

The workplace fairness bill, being considered by the House of Representatives today, simply prohibits the hiring of permanent replacements for union workers who exercise their fundamental rights to strike.

This bill does not apply to nonunion small businesses or any other sized nonunion plant. It even allows management in union plants to hire temporary replacements for striking workers in order to maintain some production capability.

Closing this loophole would make our laws consistent with those of our advanced world trading partners, countries which are already as or more competitive than are we.

They value good relations between labor and management and feel their economies function better because they make this effort.

Yesterday, I shook the hand of Ted Ramirez, a machinist from Miami, who used to work at Eastern Airlines.

Beginning in 1976, his union took a series of devasting pay cuts because they wanted to help save the company.

He had pride in that organization, he gave it 25 years of his life, and he proudly moved from ramp serviceman to become part of the unit that designed Eastern's cost efficiencies.

Frank Lorenzo, the corporate profiteer, forced unionized employees' backs to the wall, asked for more givebacks than they could afford, and permanently replaced them when they went out on strike.

Ted Ramirez now calls himself fortunate because he has a job selling men's clothes at $5 an hour.

"We play by the rules," he said, "and we fight for our Nation when we're called. Now it is time our Government started giving us a little protection in return."

Can we do anything else but reward his decency and his confidence in the system with the little help that he is asking—not just for himself but for the rest of the men and women who break their backs every day to make our economy grow?

I urge my colleagues. Hear Ted Ramirez's plea, and the pleas of thousands of others he represents. Let us restore fairness to our system and stability to our economy—let us pass H.R. 5.

Mrs. LLOYD. Mr. Chairman, I rise in support of H.R. 5. I do so only because the Peterson amendment was adopted on the House floor today which makes clear that the legislation does not cover nonunion employers.

While I will support the bill, I do so with reservations. I by no means see H.R. 5 in its present form as a final solution to the broad issues in disagreement and I will reserve judgment on the future of this bill.

Unfortunately, I think that faults on both sides have brought us to this point today.

I am sympathetic to the concerns the business community has raised over H.R. 5. I realize that a company subjected to a strike suffers from lost productivity and profits. We are all concerned with America's competitiveness and we understand that our businesses face unfair practices from overseas. American business must have the flexibility to respond to these challenges. But we need to consider some of the startling occurrences that have been brought out by this discussion.

Over the last decade, some major employers have demonstrated no sense of loyalty to long-term workers who have helped build companies and communities. These are tough economic times for our families too and many American workers have their backs against the wall in bargaining for just wages, working conditions, and health and pension benefits. Business and labor should be able to discuss these issues in a constructive manner. All Americans deserve this consideration.

I feel it is important that this legislation be initially adopted as a vehicle for further discussions and that passage of H.R. 5 should be viewed only as a starting point. We must restore a balance and fairness to labor-management relations. I hope that passage of H.R. 5 will allow us to pursue that objective.

Mr. DE LUGO. Mr. Chairman, I speak today in support of the amendment offered by the gentleman from Florida. The language in this amendment strikes a fair balance amid the controversy that surrounded the Workplace Fairness Act.

In the past decade we have seen the Nation's economy and the global economy change in many ways, some of them drastic, many of them affecting the very foundations of the American workplace. We have seen our country move from a creditor to a debtor nation as our balance of trade has tilted in favor of foreign countries. We have seen substantial decreases in American manufacturing jobs and significant increases in service jobs. We have witnessed corporate mergers designed to improve productivity and reduce competition. We have seen much of our research and development go to foreign corporations who sell their products back to us.

We have seen changes, too, in the American work force. Deemed to be no longer competitive with lower paid, foreign labor, many corporations have taken their business abroad. Companies have down sizes, or restructured, to take advantage of non-U.S. workers. Union membership has dropped as employees have been pushed aside by American companies, or as relocations have caused enormous shifts in the location of the domestic work force.

In years past, in times of more robust growth and less global competition, there was an even balance between labor and management that for decades worked well indeed. When labor did not receive the benefits workers felt they justly deserved, they organized, and bargained and, if necessary, struck. Almost always, a just agreement was reached.

But now, in these new economic times, corporate attitudes have shifted. Perfectly willing to take their manufacturing elsewhere but still striving to take advantage of the huge, American consumer marketplace, corporations have entered into labor disputes actually hoping for a strike as an excuse to shut down a plant, or to hire nonorganized laborers to fill positions at a lower, more competitive price, with little or no social conscience, and with little or no attention paid to quality of product.

This is not right. If America is to be the marketplace where products and services are consumed, it must also be the workplace where products are built and services are delivered. If our competition has shifted from the domestic to the world stage, we must take several steps. We must encourage improved education in this country so that our future workers are equipped with the skills needed to compete in this new environment. We must see that corporate America becomes more willing to invest in its own, long-term future instead of seeking the short-term profit. We must see that companies be willing to train for the jobs they will need instead of sending work orders overseas. We must see that America's competitive edge—which is so dependent upon the abilities of its workers—is not lost through selfish decisions made in the boardrooms.

But first and foremost, we must ensure that American workers do not become extinct, that they not be thrown aside like refuse in the corporate quest for a quick dollar, while slowly, inevitably, the world overtakes us.

That is why the Fairness Act is so important. We are not protecting unions, nor are we encouraging foreign competition by protecting American workers from unfairness. We are seeing that the American worker remains a part of the system and a part of the process that for years has helped to make our Nation great.

I urge my colleagues to vote in favor of the amendment offered here today by the gentleman from Florida. For here is legislation that will keep America strong by keeping the American worker a part of the future.

Mr. LAFALCE. Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act. H.R. 5 acknowledges and restores the intent of the National Labor Relations Act of 1935, which gave workers the right to withhold their labor when all other means of collective bargaining have failed. Section 157 of title XXIX United States Code states that "employees shall have the right to self-organizations, to form, join, or assist labor organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities." Numerous judicial decisions have confirmed conclusively that a strike is concerted activity within the provision of the act. Section 158 (a)(1) and (a)(3) enforce these employee rights by declaring "it shall be an unfair labor practice for an employer: to interfere with, restrain, or coerce employees in the exercise of rights guaranteed in section 157 of this title; or by discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization." Finally, section 163 of title XXIX expressly states that "nothing in this act * * * shall be construed so as either to interfere with or impede or diminish in any way the right to strike." Thus, employers who terminated employees for going on strike or for otherwise engaging in concerted activity would violate section 158 of the NLRA. Employers found guilty of such unfair labor practices would be required to reinstate affected employees and provide them any back pay.

In contrast to the act, the Supreme Court said, in extraneous language, in the 1938 case NLRB versus Mackay Radio, that employers are "not bound to discharge those hired to fill the place of strikers * * * in order to create a place for the [strikers]." In reliance upon that Supreme Court extraneous language, some employers have concluded that while it is an unfair labor practice to fire workers who exercised their legal right to withhold labor, it is permissible to permanently replace them. But surely, a worker who is permanently replaced without getting his old job back can see no difference between being permanently replaced and being fired. Nor can I.

For many years, employers did not take advantage of this extraneous language. However, recent events have signaled a change in employers' willingness to permanently replace their employees, and this change has made it imperative that Congress intercede. H.R. 5 simply clarifies employees' right to strike guaranteed by the NLRA and prevents employers from interfering with this right by hiring or threatening to hire permanent replacement workers.

Some opponents have alleged it will diminish our industrial competitiveness in the rapidly changing global economy. While I applaud and share my colleagues' interest in promoting our competitiveness, this bill will not harm our ability to compete, it will merely bring our labor law into accord with other industrialized nations.

Legal specialists at the Congressional Research Service law library, who compared United States labor laws with those in other industrialized nations, found that Belgium, France, Germany, Greece, Italy, Japan, the Netherlands, and Sweden "reject the idea of dismissing striking workers. In [these] countries, the strike brings about only a temporary suspension of the labor contract. Thus, none of these countries empowers an employer to terminate the striking workers' employment and hire permanent replacement workers." Indeed, in the case of Japan, our biggest international competitor, "the employer practice of discharging striking members and replacing them with newly hired workers is still unknown."

Furthermore, the report found that while Great Britain and Canada lack a national prohibition on the use of permanent replacements, both place stringent limitations on the ability of employers to hire permanent replacements. In Britain, if an employer wishes to "avoid" the risk of complaints of unfair dismissal, he must dismiss all or none of the striking workers. And if the employer decides to rehire within 3 months of dismissal, all of the workers who have been engaged in a strike must be rehired.

Furthermore, three substantial Canadian provinces, Quebec, Manitoba, and Ontario, which together comprise 17 million of Canada's 26 million residents or some 66 percent of the entire population, forbid or sharply limit the use of permanent replacements.

> The Quebec Labour Code expressly prohibits employers from hiring replacement workers during a lawful strike. The province of Manitoba has adopted a law that prohibits the hiring of a permanent replacement. Ontario's Labour Law gives striking workers a guarantee of reinstatement for a period of six months from the commencement of a lawful strike.

Thus, H.R. 5 cannot be attacked for making us less competitive relative to our foremost competitors. Indeed, other industrialized nations prohibit employers from permanently replacing striking workers because of economic concerns. If an employer permanently replaces striking workers with new and less trained workers, he throws away a large investment in human capital. Permanent replacements will not achieve equivalent levels of productivity for months or years. Finally, the use of permanent replacements jeopardizes peaceful labor relations, thereby further decreasing employee productivity in the affected company and throughout American industry.

Mr. Chairman, a vote today for H.R. 5 is nothing less than a strong step toward clarifying that American labor law should be in line with other industrialized nations and limiting employer actions that could have negative effects on American industrial competitiveness.

Mr. SMITH of Florida. Mr. Chairman, I rise today in support of H.R. 5, the Fairness in the Workplace Act of 1991. This important legislation will ensure fairness in relations between labor and management. This bill has been carefully crafted to guarantee American workers a more equitable working environment. American law affords workers an opportunity to demonstrate their discontent, as a last resort in a labor dispute, to stand up and organize a legal strike. H.R. 5 will futher protect them by making it unlawful for employers to permanently replace employees who participate in a legal strike.

While it is unlawful for an employer to fire a worker for taking part in a lawful strike, that same employer is not prevented from permanently replacing the striking worker. This irregularity is absurd and totally inequitable. What is the difference to an employee if he/she is fired or permanently replaced? The end result is still no paycheck.

There is no incentive for a company to settle a labor dispute under the current system. H.R. 5 will restore balance and fairness to the collective bargaining process between employees and employers.

Workers do not decide to go on strike on a whim; they use it as a last resort. A strike means a loss of income, benefits, seniority, and tremendous disruption of one's life. It is time to send a message out to American workers that we in Congress recognize their struggle and will do everything within our power to make sure they receive equitable treatment and job security.

Mr. EWING. Mr. Chairman, I rise in opposition to H.R. 5, the striker replacement legislation.

I am deeply concerned that this legislation would have a devastating effect on labor-management relations, on America's economy, and on countless American families. I do not oppose H.R. 5 because I am opposed to organized labor or the right to strike, but because this legislation would really hurt those who it is intended to help; average American workers.

There is a great deal of misunderstanding about this issue. The backers of this legislation would have us believe that those going on strike can be fired at any time and have no recourse. However, under the 1938 U.S. Supreme Court decision in NLRB versus Mackay Radio and Telegraph Co., strikers protesting "unfair labor practices" were guaranteed immediate reinstatement to their jobs once the strike ended. This precedent has stood for 53 years. Indeed, such strikers are guaranteed their jobs even if replacements must be fired, and often receive back pay. After an economic strike, which involves issues such as benefits and pay, workers are guaranteed reinstatement as soon as jobs filled in the interim are again open, thus limiting the ability of companies to use permanent replacements.

The sponsors of H.R. 5 want us to believe that there is widespread replacement of those striking for economic reasons, but this is simply not the case. While there certainly have been some well-known examples of strikers being replaced, such as the replacement of Eastern Airlines strikers, the fact of the matter is that this rarely happens. As Labor Secretary Lynn Martin has pointed out, during the past decade only 4 percent of striking American workers had been permanently replaced.

The relationship between management and aggrieved employees is a very delicate one, and current policy, which has worked well for over 50 years, should not be changed. Workers know that if they strike they have reassurances that they will not forever lose their jobs, and employers have the ability to hire replacement workers, thus preventing the business from collapsing. If H.R. 5 becomes law, this balance would be destroyed since union members would have no reason to refrain from striking.

The extraordinary power that this legislation transfers to unions would mean more strikes. It would turn the strike option from an act of last resort to a preferred weapon. It would drive a tremendous wedge between labor and management, encourage confrontation, cripple business functions, and wreak havoc on the American economy. Failing businesses means fewer jobs and a failing economy, which is bad for all Americans.

Small business in this country cannot afford H.R. 5. H.R. 5 would undermine the checks and balance system provided in current collective bargaining agreements. For a small business to be prohibited from hiring replacement workers, is a sure way to lead them to economic extinction and real job losses.

We are all concerned today about the number of American jobs going abroad. This legislation would do a great deal to encourage jobs to go elsewhere. Companies which are crippled by strikes are likely to consider moving their operations overseas, where American jobs will be replaced permanently. I hope my colleagues will consider this when casting their vote on H.R. 5.

Mr. Chairman, of course this legislation would be bad for business. But it would also be bad for the working men and women of this country. I will oppose H.R. 5 and encourage my colleagues to do the same.

Mrs. LOWEY of New York. Mr. Chairman, as a cosponsor, I rise in support of H.R. 5, the Workplace Fairness Act. This bill is a fair and just manner of restoring balance in labor-management relations, which have been unbalanced in recent years by the growing use by some employers of permanent replacement workers to end strikes and break unions.

Most employers in this Nation continue to deal fairly and responsibly with their employees. However, during the past 10 years, a crisis has developed in which a small group of employers have sought to break unions by deliberately forcing their workers to go on strike through unreasonable negotiating tactics, then replacing them on a permanent basis. In some of these cases, employers have actually advertised for replacement workers before negotiations reached an impasse. Thousands of workers have lost their jobs unfairly as a result of this growing practice.

This pattern has disrupted the collective bargaining process and is undermining stable labor-management relations. Workers are intimidated into giving up the right to strike, which is a basic legal right protected by current law. This tilts the balance of power in labor disputes decisively in the favor of the employer.

It is no coincidence that working Americans—both union and nonunion—have suffered from declining wages during the past decade. During this period, when management's hand was significantly strengthened by increased use of replacement workers, real weekly wages of American workers dropped almost 6 percent. At this point in time, the United States ranks seventh among industrial nations in overall wage rates.

Clearly, the practice of permanently replacing workers has strengthened the hand of employers in labor disputes. But this strengthened hand has not at all increased our Nation's competitiveness. On the contrary, while wages have actually dropped, our competitive posture has been harmed. One reason is that the practice of permanently replacing workers has left many major companies without a trained and experienced work force. It is no surprise that our ability to compete in the world marketplace is decreasing when we are relying less on skilled labor, and more on workers who are not trained to do the job.

At the same time, Germany and Japan, whose ability to compete in the world marketplace is unquestioned, both guarantee their workers the right to reinstatement after a strike is over. While some American employers have focused on the short-term gains involved in breaking a union and cutting wages, their competitors overseas have learned that reliance on a trained work force is essential in order to produce a quality product. This makes it clear that H.R. 5 will contribute to American competitiveness, rather than detract from it in any way.

Some opponents of this legislation claim that it will encourage an excessive number of lengthy strikes. In this regard, it is important to note that strikes always have an enormous negative effect on workers. A decision to engage in a strike is never taken lightly, since it involves the loss of all compensation, and imposes numerous personal and financial hardships. This bill will not change that situation in any way; therefore, it will not act as an incentive for further strike activity. In fact, strikes involving replacement workers are particularly adversarial and protracted. This bill will make it more likely that strikes, when they happen, will be resolved more quickly and in a more amicable fashion.

In addition, opponents claim that the bill will provide workers with an unfair advantage in labor disputes. However, employers will continue to have many options for maintaining their operations during a strike. The most important of these options is the use of temporary replacement workers, which can be used legally for the duration of any strike. In addition, employers may use supervisory or management personnel in place of strikers, transfer or subcontract work, and stockpile in advance of a strike. Employers have prevailed in numerous strikes through the years without hiring permanent replacement workers or even threatening to hire them, and this situation is not likely to change under this bill.

Finally, some opponents of this legislation have expressed concern that it will affect nonunion as well as union employees. During consideration of H.R. 5 by the Education and Labor Committee, and amendment was adopted to clarify that the legislation only applies to union workers. Today again, I am joining the chairman of our committee in support of an important clarifying amendment that makes this point clear once and for all.

H.R. 5 is a relatively simple bill designed to eliminate abuses which have been perpetrated by a small minority of employers in recent years. It attempts to reestablish fairness and equity in the relationship of labor and management—a goal which will not result in an excessive number of strikes or provide our Nation's labor unions with an unfair advantage.

Rather, this bill has much to contribute to our Nation. It will help the working families whose lives would be shattered if their breadwinners lose their jobs simply for fighting for fair pay and fair benefits. It will help all of our Nation's wage earners, who would prefer reasonable wages and benefits to today's struggle against the ravages of the recession. And it will help our Nation's economy, which will benefit substantially from stable labor relations and more reliance on a highly experienced and highly skilled work force.

Sadly, the opponents of H.R. 5 see only a fight for who will get theirs today. But the proponents see a future of stable and cooperative relations between labor and management, focused on long-term growth and prosperity. To me, the latter vision is more promising for our Nation. I am proud to cast my vote for this bill, which is in the best interests not only of workers, but of businesses, the economy, and our Nation.

Mr. ROEMER. Mr. Chairman, I rise in support of H.R. 5, the Workplace Fairness Act, which bans the hiring of permanent replacements for workers engaged in economic strikes.

When Congress passed the National Labor Relations Act in the 1930's, it guaranteed the right of workers to organize, to join unions, and to strike without fear of reprisal by their employers. In recent years, however, the right of employees to strike when they are unable to reach a collective-bargaining agreement with employers has been undermined because employers are permitted to hire permanent replacements.

Under current law, employees are unfairly disadvantaged in the collective-bargaining process over economic issues because the employer is permitted to hire permanent replacement workers if there is a strike. However, striking employees may not be permanently replaced in a strike where unfair labor practices are at issue. In the case of an economic strike, striking employees who have been replaced do not have to be rehired when the strike is over—they are afforded only preferential consideration for positions that become vacant in the future.

In very recent times, those employees who exercised their right to strike have been permanently replaced after years of loyal service with an employer. They expected that their jobs would continue after the strike had been settled and that their jobs would be protected under the National Labor Relations Act. Instead, they face financial ruin and other personal hardships, both now and for the future. The devastating consequences borne by these employees can extend to jeopardizing their homes because they are unable to make their mortgage payments. The personal and emotional stresses have led in some cases to the breakup of employees' families. Strikes can adversely impact local communities as well. Irreparable anger among strikers, permanent replacements, and the company can threaten to destroy a community long after a strike has been settled.

Studies show that, in the past decade, employers have increasingly utilized the right to hire permanent replacements. This fact is highlighted by findings published by the General Accounting Office [GAO] which demonstrate that since 1985, employers have used or have threatened to use permanent replacements in one out of every three strikes in this country. Thus H.R. 5 is needed to restore an emerging imbalance in labor-management relations. Permitting employers to hire replacement workers on a permanent basis, in the event of an economic strike, is tantamount to discharging or firing employees for exercising their lawful right to strike if they are unable to reach an agreement in the collective-bargaining process.

I recognize that the business community has concerns about this legislation, Mr. Chairman, and that nonunion companies, in particular, are worried that this bill will apply to and severely impact them. I listened to these concerns and wrote a letter to Chairman Ford urging him to incorporate some clarifications and changes in the legislation. In response to these views and other Members' concerns, the committee incorporated an amendment, which I supported, to clarify that H.R. 5 does not apply to nonunion companies, which includes most small businesses.

It is my view that the abolition of hiring permanent replacement workers will not be an incentive for employees to strike more frequently. Aside from the economic disincentive of lost wages and benefits, there is the emotional uncertainty of not knowing how long the strike will last or when life savings will be depleted. Furthermore, a prohibition of permanent replacements will not ensure that a given union will prevail over management in an economic strike.

Workers do not strike frivolously or because they want to. They do not risk everything for cavalier reasons. They do so because they feel that their futures must be protected, and they do so at considerable personal financial risk. Under this legislation, employers can continue to operate during a strike by transferring nonstriking employees, managers, and supervisors. They can subcontract work, and they may rely on stockpiled inventories. Most importantly, the bill does not affect an employer's right to use temporary workers during a strike. This bill simply ensures that the hiring of replacement workers is indeed temporary and subject to the return of striking employees.

Mr. Chairman, this legislation is about fairness in the collective-bargaining process and about restoring an even balance to labor-management relationships. We need to work toward an improved and communicative labor-management relationship. This is a question of our competitiveness, our productivity, and our economic strength. It is an important step in protecting a worker's fundamental right to strike, and I urge my colleagues to support this bill.

Mr. WOLPE. Mr. Chairman, I rise in strong support of H.R. 5, the Workplace Fairness Act of 1991. This bill is about two issues critical to America's economic future: Fairness and productivity.

Mr. Chairman, in 1935 Congress passed the National Labor Relations Act, in which a worker's right to strike was guaranteed. Since that time, beginning with the MacKay Radio decision in 1938, the courts have slowly eroded the right to strike, the only weapon workers have to fight for a better standard of living. In fact, under current law, it is illegal for an employer to fire a worker, but it is perfectly legal for an employer to permanently replace a striking employee. All we seek to do here today is restore the original intent of the law.

Mr. Chairman, over the last decade the purchasing power of middle-income working families has decreased. Over the last decade the tax burden on middle-income families has increased. At the same time, the courts have eroded the right to strike. President Reagan, by firing the air traffic controllers, signaled to U.S. employers that confrontation was an acceptable course of action. Add to that the wave of mergers and leveraged buy-outs that reduced workers to pawns in the game played by corporate profiteers, and there is only one conclusion: a worker's right to strike for a better standard of living has simply become the right to settle for a substandard wage, or quit.

Opponents of this legislation claim that it will destroy economic growth. I think they are dead wrong. It is my view that the key to American competitiveness in the 21st century is increased productivity, achieved through greater teamwork between labor and management. A few facts prove my point. First, Japan and Germany, our toughest competitors, have laws prohibiting permanent striker replacement. Both countries have higher average wages than the United States, and they also have far greater increases in productivity over the last 10 years. Second, in a 1986 study of 56 manufacturers, William Cooke of Wayne State University found that "employers that had tried teamwork—about half the sample—reported a 19-percent increase over the decade in the value added per employee. The combative employers reported a 15-percent decline," a statistic that includes Frank Lorenzo's Eastern Airlines, which is in liquidation, and Greyhound Bus Lines, which is bankrupt. Clearly, our competitors have already realized what these facts tell us: Permanent replacement is not only unfair; it is just plain bad business.

Mr. Chairman, H.R. 5 would close the loophole in the law by outlawing the permanent replacement of strikers, as well as preferential treatment for workers who cross picket lines during labor disputes. It would not affect nonunion workplaces, and it would only be applicable to strikes in which the union membership has voted to go on strike. This legislation would help to balance and stabilize labor-management relations, and strengthen the teamwork and cooperation in the workplace that are vital to our Nation's economic future.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. PETERSON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PETERSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 174, not voting 7, as follows:

[Roll No. 212]

AYES—252

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro

Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolter

Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickle

Poshard
Price
Rahall
Rangel
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOES—174

Allard
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest

Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor

Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James

Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers

Nichols
Nussle
Ortiz
Oxley
Packard
Paxon
Payne (VA)
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays

Shuster
Sisisky
Skeen
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Whitten
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Boucher
Kleczka
Matsui

Michel
Sharp
Weiss

Yatron

□ 1737

Mr. McDADE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended, made in order as original text under the rule.

The amendment in the nature of a substitute, as amended, made in order as original text under the rule was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1740

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. LEVIN of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, pursuant to House Resolution 195, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute made in order under the rule adopted by the Committee of the Whole? If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. GOODLING. Mr. Speaker, I oppose the bill.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Goodling moves to recommit the bill (H.R. 5) to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 182, not voting 5, as follows:

[Roll No. 213]

AYES—247

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)

Collins (MI)
Condit
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)

Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolter
Kopetski

Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Poshard
Price
Rahall
Rangel
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Solomon
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tanner
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Young (AK)

NOES—182

Allard
Anthony
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison
Myers
Neal (NC)
Nichols
Nussle
Ortiz
Oxley
Packard
Patterson
Paxon
Payne (VA)
Petri
Pickett
Pickle
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Slaughter (VA)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Whitten
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Kleczka
Matsui
Michel
Weiss
Yatron

☐ 1810

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KLECZKA. Mr. Speaker, due to a recent 4-day hospitalization, I was unavoidably absent from rollcall votes 209 to 213. Had I been present, I would have voted in the following manner:

On ordering the previous question for the rule on H.R. 5, I would have voted "aye;" rollcall No. 209.

On adoption of the rule (H. Res. 195), I would have voted "aye;" rollcall No. 210.

On the Goodling substitute to H.R. 5, I would have voted "no;" rollcall No. 211.

On the Peterson substitute to H.R. 5, I would have voted "aye;" rollcall No. 212.

On final passage of H.R. 5, I would have voted "aye," rollcall No. 213.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5, WORKPLACE FAIRNESS ACT

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 5, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that my special order for 60 minutes today be vacated, and I ask unanimous consent that I be permitted to address the House for 5 minutes.

The SPEAKER pro tempore (Mr. HUTTO). Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE AIDS PANDEMIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, one of the biggest scourges to hit the United States, to face our society in our lifetimes, has been the AIDS pandemic. One of the things I have been talking about for the past 5 years is the need to have universal testing or routine testing for the population of this country.

The reason I have said that time and again, Mr. Speaker, is because the incubation period for the AIDS virus is between 2 and 10 years. Because of that incubation period, people who look healthy can communicate this disease to other people, without them knowing they even have it; certainly the people they come in contact with, not knowing the person they are with has the disease.

We have suggested that there were many, many ways this disease could be transmitted. The Centers for Disease Control in Atlanta, and for the former Surgeon General, Everett Koop, and others have said that no, the only way a person could get the AIDS virus was through drug contact and using needles intravenously, and a person could get it through sexual contact, and a person could get it through almost no other way.

The fact of the matter is that we are finding out day in and day out, these preconceived ideas in these categorical statements that have been made 4 and 5 years ago were and are incorrect.

As a matter of fact, we found out just recently that a young lady in Florida contracted the AIDS virus from her dentist. The patient's name is Kimberly Bergalis, and even though the dentist used protective gear, including rubber gloves, masks, and so forth. Because of that, there has been a hue and cry across this country by people saying that they wanted to know if their doctor or their dentist or their health care professional had the AIDS virus.

People have been afraid to go visit their health care professional because they felt they might be exposed to the AIDS virus, and they wanted to know before any invasive procedure was done, whether or not that health care professional has the AIDS virus. For that reason, the gentleman from California [Mr. DANNEMEYER], myself, and others, have cosponsored legislation which would mandate the testing of all health care professionals in this country, and it would further mandate that those health care professionals, if they tested positive for AIDS HIV, that they would be compelled by law to tell their patients that they had that disease, and their patients could then decide whether or not they wanted that particular health care professional to do invasive procedures on them.

That was something that would be mandated by law. We have found that the AMA has said that they wanted it to be voluntary. I do not believe that goes far enough, Mr. Speaker. I think we need to go much further than that. It needs to be mandatory.

Today, the Secretary of Health and Human Services, Mr. Sullivan, released a statement from his office requesting that all health care professionals be tested. Not mandating, but requesting. I want to read one little paragraph from his letter. He said,

> Our recommendations state that dentists, physicians, and other health care workers who perform exposure-prone procedures should find out their HIV and hepatitis B status. Any who are infected should not participate in such procedures unless they have obtained permission and guidance from special review committees which will require, at minimum, the potential patient be informed of the worker's HIV or hepatitis B status.

This is a step in the right direction. I commend Mr. Sullivan for doing this, but it is not enough. Ninety-five percent of the people in this country when polled recently, said that they want to know if their health care professional has the AIDS virus. They want to know so they can protect themselves and their families. I still believe that we must pass legislation in this body or have Health and Human Services and the Centers for Disease Control mandate that doctors be tested, dentists be tested, on a regular basis, as well as health care professionals.

□ 1820

We need to do that so that the public will be notified that they may be exposed to the AIDS virus if they go to a particular health care professional.

In addition to that, the health care professional has a right to know if his patient has the AIDS virus so they can take every single possible precaution so that they will not contract that deadly disease, which is almost 100 percent fatal, in fact it is 100 percent fatal.

So what we are heading toward is something I talked about 5 years ago, and that is universal testing in America for the AIDS virus. Doctors need to let patients know they have the virus.

The doctor needs to know if the patient and should know if the patient has the virus. So what we are heading for is universal testing.

I urge my colleagues to take a serious look at the legislation that the gentleman from California [Mr. DANNEMEYER] and I are sponsoring.

WHO'S REALLY FOR TAX FAIRNESS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. BUNNING] is recognized for 5 minutes.

Mr. BUNNING. Mr. Speaker, "what has happened once, will invariably happen again."

Abraham Lincoln said that in December 1839, over 140 years ago, when addressing the Illinois House of Representatives. That quote is still relevant today as we debate the so-called issue of tax fairness.

Every year since I was elected to this body, I have heard the majority screaming about tax fairness. We have even considered and adopted some measures that were passed in the name of tax fairness.

Unfortunately, it always seems that when we pass tax fairness measures, it is middle America that suffers.

The most recent attempt by the Congress at tax fairness was the luxury taxes included in last year's budget mess.

Those who proposed the taxes were delighted that we were finally going to sock it to the rich and make those folks pay for their expensive toys.

Well guess what? What happened once, happened again. The luxury tax is doing what it was supposed to do—it is putting the hurt on the American taxpayer alright, but it is the working middle class—not the rich—who are being hurt.

According to a recent study by Temple, Baker & Sloane the luxury tax on automobiles has created a permanent drop in demand of at least 20 percent for vehicles priced over $30,000.

This drop in sales will lead to a $71 million loss in revenues to the Federal Government in 1991 alone. States will lose $64.5 million in sales tax revenue.

A drop in sales means far more, however, than a loss of revenues to the Government. It means a drop in production and a loss of real jobs in America.

It is estimated that over 3,000 people in the automotive sales industry will lose their jobs this year because of the luxuary tax.

No estimates are available yet for the car manufacturers and their related industries.

Suffice it to say that the luxury tax may be an annoyance to a handful of rich people, but it has been devastating to the working class person associated with the automobile industry who are losing their jobs.

The same thing has happened to America's boat manufacturers with the luxury tax on boats. Industry experts estimate that the tax will contribute to a net loss of about 19,000 blue-collar manufacturing jobs and bankruptcy for countless small businessmen.

Now, from the same economic geniuses who brought you the luxury tax on cars and boats, comes a line of Presidential wannabees who are screaming that what we need is more tax fairness.

But what exactly is the so-called tax fairness that we wannabe Presidential caucus wants to give the middle class.

The main idea is to supposedly raise taxes on the well-to-do by creating a new 35 percent bracket for adjusted gross incomes of more than around $130,000 and putting an additional 11 percent surtax on incomes over $250,000.

The wannabee proposal is based upon the incorrect premise that those in the top tax bracket are not paying their fair share of taxes.

Since the Reagan tax cut lowered the top rate from 70 percent to 33 percent, the top 1 percent of the American taxpayers have paid more in taxes.

In 1981, with a top statutory rate of 70 percent, the top 1 percent of all taxpayers paid 17.6 percent of all income taxes collected.

In 1988, with a top statutory rate of 28 percent, the top 1 percent of all taxpayers paid 27.5 percent of all income taxes collected.

The average income tax payment of the top 1 percent also rose in that time frame from $68,725 to $104,008.

Look through the rhetoric of the Presidential wannabee caucus and you will see that they want us to believe that the American people are not being taxed enough.

The wannabees know its a lot of fun to bash the rich and it is a lot of fun to soak the rich. Playing on jealousy and taking advantage of envy has always been a favorite political strategy of this group.

But the bottom line is that soak-the-rich is not very honest and certainly not very productive.

It is not a matter of tax fairness. It is a matter of job fairness.

The wannabees are playing the worst kind of political game—class warfare for political profit.

The big losers will not be the wealthy. The most they lose is a couple per cent of their income.

The big loser, if we raise taxes on the top taxpayers, won't be the upper income taxpayers at all. The big losers will be the half million Americans who lose the opportunity to hold a job.

They lose it all.

TRIBUTE TO FRANK MOORE OF CARTERSVILLE, GA, BARTOW COUNTY COMMISSIONER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. DARDEN] is recognized for 5 minutes.

Mr. DARDEN. Mr. Speaker, today I rise to pay tribute to Frank Moore of Cartersville, GA, who served as sole Bartow County commissioner until his death on July 6.

Commissioner Moore will long be remembered by members of the Cartersville community as a dedicated and responsible Bartow County commissioner. He was a leader to the young and old, and worked diligently in his position to enhance and encourage better services to the area. It was always a pleasure to work with Commissioner Moore on projects of interest to Bartow County, and I share the feelings of many Cartersville residents when I say I will surely miss him.

Commissioner Moore was first elected Bartow County commissioner in 1980. He was a member of First Baptist Church of Cartersville and the John W. Akin Masonic Lodge. He was past president of the Association of County Commissioners of Georgia, and was active in Little League programs in Bartow County through the years. Commissioner Moore served on the board of directors for the Georgia Department of Community Affairs, and was active in numerous community programs in Cartersville and Bartow County.

He is survived by his wife, Mary Lanier Moore; daughter and son-in-law, Melinda and Danny Gilreath, Cartersville; daughter, Vali Moore, Cartersville; grandson, Tyler Gilreath; parents, E.P. and Beulah Moore, Cartersville; sister, Annie Lou Cato, Mableton; brother Robert Moore, Emerson; and several nieces and nephews.

Mr. Speaker, I would also like to share with my distinguished colleagues a story in Cartersville's the Daily Tribune News which nicely profiles Commissioner Moore's political career. Excerpts of the article follow:

> The three-term commissioner, first elected in 1980, last won re-election in 1988. Prior to his election, he had served as Bartow County clerk.
>
> Commissioner Moore, who had an open ear and door to all Bartow County residents, will be remembered in the community for many reasons—one of which is the new county administration building, currently under construction, that will bear his name.
>
> The county is currently undergoing a major building program with the construction of five facilities, administration building, jail, two senior citizens facilities and a health department, which were all spearheaded by the commissioner.
>
> Moore was an advocate for both the youth and elderly residents, having been a leader in the Little League organization on the local and at higher levels, as well as developing facilities for senior citizens in the community.
>
> He served as an officer, including that of president, of the Association of County Commissioners of Georgia.
>
> Along with the physical changes being seen in the county as a result of the commissioner's leadership, the county underwent other changes, including the adoption of a housing ordinance and adoption of the county's land use map and zoning ordinance.
>
> Moore, who said on numerous occasions that he had the best interest of Bartow County at heart at all times, lead a successful effort to institute the changes deemed necessary.
>
> In addition, he endorsed the establishment of an ordinance allowing the selling of malt beverages and wines, worked toward updating of county services, as well as making those and other services available to more residents throughout the county.

Mr. Speaker, commissioners set the highest standards for honesty and competence in public service. He was totally devoted to the people of Bartow County and to his loyal friends and family. His record as a public servant is one we should all seek to emulate.

THE GORE-DOWNEY TAX PROPOSAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I want to continue the discussion started by my great friend, the gentleman from Kentucky, about the so-called tax fairness issue that is becoming more and more discredited every day that goes by. I want to do it through the Working Family Tax Relief Act of 1991, which would replace the personal exemption for children with an $800 tax credit. Sounds good. According to the CBO, this bill would provide $23 billion in tax relief to 35 million low- and middle-income families. In order to pay for this tax cut, the Gore-Downey bill would raise the top income tax rate to 35 percent, impose an 11 percent surcharge on families with incomes over $250,000, and increase the alternative minimum tax to 29 percent. The CBO projects that these tax increases would only affect the richest 6 million families.

According to Senator GORE and Representative DOWNEY, the rich no longer pay a fair share of taxes. They reach their dubious conclusion by pointing out that in 1977 the richest 1 percent of taxpayers paid an effective tax rate of 35½ percent. Under current law, they claim the top 1 percent will only pay 29.3 percent in 1992. Of course, they offer no proof that the 1977 rate was any fairer than the 1992 rate.

Presumably, raising taxes on the rich would pay for tax cuts for everyone else. However, one hardly needs to raise taxes on the rich in order to justify cutting taxes. In 1977, the Federal Government collected $356 billion in taxes, an amount equal to 18.4 percent of our gross national product. In 1992, the Federal Government is expected to collect $1,170,000,000,000 in taxes, an amount equal to 19½ percent of our gross national product. Reducing the 1992 tax burden back to its 1977 level would require a $86-billion tax cut. That is nearly three times the amount proposed by Senator GORE and Representative DOWNEY.

Of course, the Gore-Downey bill is not designed to reduce the 1992 tax burden back to its 1977 level. Its purpose is to make the rich pay a greater share of the 1992 tax burden.

While Senator GORE and Representative DOWNEY are quick to point out the declining tax rates of the rich, they conveniently ignore the fact that the rich are paying more taxes than ever before. In 1981, the top 1 percent of taxpayers paid 17.6 percent of all the income taxes collected by the Government.

□ 1830

By 1988, the top 1 percent paid 27.5 percent of all the income taxes collected. Over this same period, the average tax payment of top 1 percent increased from $68,752 to $104,008, as measured in constant 1988 dollars.

Just as cutting tax rates increased the share of taxes paid by the rich, raising tax rates will reduce the share of taxes paid by the rich. If total Federal revenues are to be maintained at the current level, other taxpayers will have to make up the difference. If the Gore-Downey bill reduced the share of taxes paid by the rich to its 1977 level, low and middle income taxpayers would have to pay an additional $54 billion in 1992.

Rather than addressing the real problem facing American families—high taxes—the Gore-Downey bill sets its sights on promoting tax fairness. However, this is a very phony issue. The truth is raising taxes on the rich will produce little, if any, additional revenue. When the tax hikes on the rich fail to deliver the promised revenue, the deficit will rise and Congress will claim it has no other choice but to increase taxes on the middle class. Taxpayers will be far better off without the Gore-Downey version of tax relief, and the Democrats' idea of tax fairness.

PERSPECTIVE ON WORLD GRAIN PRICES

The SPEAKER pro tempore (Mr. HUTTO). Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, undoubtedly many Members from grain-producing States have been contacted by constituents who are very concerned about the exceptionally low market price of corn and wheat. Accordingly, this Member has organized a number of statistics from the U.S. Department of Agriculture and the Congressional Research Service that help to explain some of the important reasons why grain prices remain at such low levels.

While investigating this question, two overriding factors emerged which help explain current levels of grain prices:

First, during 1990, every major grain producing region—the U.S.S.R., Eastern Europe, the European Community, Canada, China, and the United States—enjoyed exceptionally good yields.

Total world production of grains was 1.76 billion metric tons in the year 1990/91. In 1988/89, total world production of grains was 1.56 billion metric tons. While the 200 million metric tons [mmt] difference may not appear great in relative terms, total world trade in grains is approximately the same amount as the difference in production during these 2 years—200 mmt; 209 mmt in 1989/90 and 188 mmt this year. Due to the large crop last year, world demand for grain imports declined approximately 10 percent, or by 20 mmt. The United States is the world's largest grain exporter and as a result has felt more acutely the contraction in world grain trade.

The second reason for current lower grain prices is the fact that Soviet wheat and coarse grain imports will decrease from 38.5 mmt last year to an expected 26 mmt this year. The U.S.S.R. is the world's largest grain buyer, ordinarily accounting for 20 percent of the world's purchases. This year they are expected to purchase substantially less—approximately 12 percent of world exports as contrasted to the usual 20 percent.

This decrease in purchases is largely due to the Soviets lack of hard currency, which they must have to continue purchasing commodities on a cash basis, as they have since the early 1970's. For all practical purposes, without the credit guarantees granted by the United States, the European Community, and others, the U.S.S.R. today would not be able to purchase agricultural commodities.

Now, let's look at some additional information related to grain prices.

In the 1989/90 crop year, 29 percent of corn sold by U.S. farmers was exported; that is, nearly 1 out of every 3 bushels. This year, only 21 percent—or 1 out of 5 bushels, of corn sold by farmers will be exported. Over the past 5 years corn exports as a percentage of total corn sales averaged 24 percent. U.S. feed grain exports are expected to decrease by 25 percent this year, with nearly all the decrease in corn.

In the 1989/90 crop year, 55 percent of wheat sold by farmers was exported. This year, only 44 percent of wheat sold by farmers was exported. Over the past 5 years average wheat exports to producer sales was 52 percent. The most important point to gain from these statistics is that, whether some people are willing to admit it or not, grain prices are largely export driven.

World supply and demand conditions and the trade policies of other nations have a direct impact on the price that U.S. farmers receive for their products. Additionally, it must be noted that the value of the U.S. dollar has also been rising recently, thereby partially offsetting any increase in world prices.

One bright spot for producers in the world supply-demand situation is that world stocks-to-use ratios are at historically low levels. This means that, worldwide, a relatively small amount of grain is in storage and readily available to meet the needs of world consumers. This tightness in the market gives expectations of rising prices in the future.

One other very important factor to consider in viewing world grain markets are the long-term, cumulative actions of the European Community, or the EC. Before 1980, the EC imported approximately 30 mmt of agricultural commodities annually. In amazing contrast, this year, they are expected to export around 33 mmt, approximately the same amount as they exported last year. This is an absolute difference and increase of 63 mmt in a world market of only 200 mmt. U.S. trade negotiators have long decried the EC's use of export and other subsidy and protection policies that distort world agricultural trade. Viewed in this perspective, the magnitude of the distortion caused by the EC, and the burden it forces U.S. farmers to bear, is significant.

The dramatic production change in the EC occurred only because of their use of massive, trade-distorting internal subsidies. Wheat producers in the EC are provided with incredible subsidies, which are two to three times higher than the U.S. target price. This excess production is then dumped on world markets with the use of export subsidies. During the past year, the EC has very aggressively used export subsidies, often far in excess of $100/metric ton (mt) of wheat, driving world wheat prices below $100/mt.

It should also be noted that, in a sharp turnaround, European Community subsidies have so narrowed the wheat-corn price spread that wheat has at times been a cheaper feed than corn during the past year. In sum, EC export bonuses for wheat have been so large that they have caused substantial weakness in feed grain prices by making wheat a ready substitute for corn. Since the U.S. consistently supplies over 75 percent of the world's corn exports, these EC subsidies for wheat have a disproportionately severe impact on the price of corn in the United States.

These subsidies also explain why EC bulk commodity exports remained constant during the past year and, accordingly, why U.S. bulk exports have decreased markedly. Due to very aggressive EC use of subsidies, the contraction in world grain trade has been absorbed almost entirely by the United States. The EC, Canada, and Australia are not expected to suffer notable reductions in their exports as the United States will.

These statistics illustrate how important a successful conclusion of the current Uruguay round of GATT negotiations is to American agriculture. The benefits that will accrue to United States farmers if the trade-distorting subsidies of the European Community can be reduced are truly significant.

President Bush is to be commended for making the EC trade-distorting agricultural policies a top priority U.S. concern of the current G-7 talks in London. The EC and its member countries should know that a great many Members of Congress continue to urge the U.S. Trade Representative, Ambassador Carla Hills, to hang very tough on insisting on those EC agricultural reforms. Yes, increased trade for services and manufactured products is an obvious benefit from a successful Uruguay round. But the European businesses interests and consumers must know that the EC stands basically alone in their intransigence on resisting reforms in their trade-distorting agricultural policy. They stand against the developing nations of the world and against their agricultural export competitors. The EC must come to their senses and do what is responsible to protect and enhance the world trade system.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WEISS (at the request of Mr. GEPHARDT) for today and tomorrow, on account of medical reasons.

Mr. MICHEL (at the request of Mr. CRANE) for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. DARDEN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MILLER of California, for 60 minutes, on July 30.

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. WOLF, for 5 minutes each day, on July 25 and 26.

Mr. BUNNING, for 5 minutes, on July 17.

Mr. DELAY, for 5 minutes, on July 17.

Mr. BEREUTER, for 5 minutes, on July 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LENT, immediately following Mr. RITTER on H.R. 5, in the Committee of the Whole today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous material:)

Mr. BROOMFIELD.
Ms. ROS-LEHTINEN in three instances.
Mr. GILMAN in two instances.
Mr. MCGRATH.
Mr. ROTH in two instances.
Mr. MACHTLEY.
Mr. SCHULZE.
Mr. OXLEY.
Mr. MOORHEAD.
Mr. SANTORUM in two instances.
Mr. HOLLOWAY.

The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:

Mr. NOWAK.
Mr. WAXMAN.
Ms. SLAUGHTER of New York.
Mr. TOWNS.
Mr. MILLER of California.
Mr. APPLEGATE.
Mr. HAMILTON.
Mr. TRAXLER.
Mr. MARKEY.
Mr. LEHMAN of Florida.
Mr. TRAXLER.
Mrs. BOXER.
Mr. ENGEL.
Mr. REED.
Mr. ROYBAL.
Mr. EDWARDS of California.
Mr. CARDIN.
Mr. GUARINI.
Mr. CAMPBELL of Colorado.
Mr. HERTEL.
Mr. CLEMENT.
Mr. SMITH of Florida.
Mr. BRYANT.
Mr. VENTO.
Mr. KILDEE.
Mr. STARK.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 985. An act to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region; to the Committee on Foreign Affairs.

ENROLLED JOINT RESOLUTION

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker.

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Thursday, July 18, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1756. A letter from the Director, the Office of Management and Budget, transmitting a report on revised estimates of the budget receipts, outlays, and budget authority for fiscal years 1991–96, pursuant to 31 U.S.C. 1106(a) (H. Doc. No. 102–115); to the Committee on Appropriations and ordered to be printed.

1757. A letter from the Board of Governors of the Federal Reserve System, transmitting its monetary policy report; to the Committee on Banking, Finance and Urban Affairs.

1758. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–62, "Uniform Disposition of Unclaimed Property Act of 1980 Amendment Act of 1991," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1759. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–63, "Fire Company Staffing Act of 1991," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

1760. A letter from the Secretary, Department of Health and Human Services, transmitting the annual report regarding the types of projects and activities funded under the Drug Abuse Prevention Program for Runaway and Homeless Youth, pursuant to 42 U.S.C. 11822; to the Committee on Education and Labor.

1761. A letter from the Secretary of Energy, transmitting the 14th report on enforcement actions and comprehensive status of Exxon and stripper well oil overcharge funds for the second quarter, fiscal year 1991; to the Committee on Energy and Commerce.

1762. A letter from the Secretary of Health and Human Services, transmitting the report on the long-term effects of infant formulas deficient in chloride; to the Committee on Energy and Commerce.

1763. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department's proposed Letter(s) of Offer and Acceptance [LOA] to Spain for defense articles and services estimated to cost $251 million (Transmittal No. 91–38), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1764. A communication from the President of the United States, transmitting a report on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council, pursuant to Public Law 102–1 (H. Doc. No. 102–116); to the Committee on Foreign Affairs and ordered to be printed.

1765. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 5, United States Code, to include certain service as qualifying for certain moving expenses; to the Committee on Government Operations.

1766. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1767. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1768. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1769. A letter from the Secretary, Department of the Interior, transmitting a report on mobilization of local equipment and presuppression needs, pursuant to Public Law 101–286, section 203(c)(2) (104 Stat. 175); to the Committee on Interior and Insular Affairs.

1770. A letter from the Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1771. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Harmonized Tariff Schedule of the U.S. provisions implementing annex D of the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Ways and Means.

1772. A letter from the Physician Payment Review Commission, transmitting the Commission's latest report entitled, "Monitoring Access," pursuant to 42 U.S.C. 1395w–1(c)(1)(D); jointly, to the Committee on Energy and Commerce and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN (for himself, Mr. WAXMAN, and Mrs. SCHROEDER)

H.R. 2922. A bill to amend the Public Health Service Act to establish an entitlement of States and certain political subdivisions of States to receive grants for the abatement of health hazards associated with lead-based paint, and to amend the Internal Revenue Code of 1986 to impose an excise tax and establish a trust fund to satisfy the Federal obligations arising from such entitlement; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. ANDREWS of Maine:

H.R. 2923. A bill to authorize the Small Business Administration to conduct a demonstration program to enhance the economic opportunities of startup, newly established, and growing small business concerns by providing loans and technical assistance through intermediaries; to the Committee on Small Business.

By Mr. BRYANT:

H.R. 2924. A bill to provide penalties for additional forms of credit and debit card fraud; to the Committee on the Judiciary.

By Mr. CAMPBELL of Colorado:

H.R. 2925. A bill to establish the Curecanti National Recreation Area in the State of Colorado as a unit of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COSTELLO (for himself, Mr. POSHARD, Mr. GEPHARDT, and Mr. CLAY):

H.R. 2926. A bill to amend the act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the memorial, and for other purposes; to the Committee on House Administration.

By Mr. de Lugo (for himself, Mr. Miller of California, Mr. Young of Alaska, Mr. Sharp, Mr. Vento, Mr. Lagomarsino, Mr. Markey, Mr. Murphy, Mr. Rahall, Mr. Williams, Mrs. Byron, Mr. Gejdenson, Mr. Kostmayer, Mr. Lehman of California, Mr. Richardson, Mr. Darden, Mr. Visclosky, Mr. Levine of California, Mr. Owens of Utah, Mr. Lewis of Georgia, Mr. Campbell of Colorado, Mr. DeFazio, Mr. Faleomavaega, Mr. Johnson of South Dakota, Mr. Schumer, Mr. Jontz, Mr. Hoagland, Mr. Johnston of Florida, Mr. LaRocco, Mr. Hansen, Mr. Blaz, Mr. Rhodes, Mr. Gallegly, Mr. Schulze, and Mr. Taylor of North Carolina):

H.R. 2927. A bill to provide for the establishment of the St. Croix, VI, Historical Park and Ecological Preserve, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DERRICK (for himself, Mr. Staggers, Ms. Snowe, Mr. Stallings, Mr. Skelton, Mrs. Bentley, Mr. Hammerschmidt, Mrs. Meyers of Kansas, Mr. Houghton, Mr. DeFazio, Mr. Swett, Mr. Richardson, and Mr. Volkmer):

H.R. 2928. A bill to direct the Secretary of Transportation to make appropriate arrangements with the Transportation Research Board of the National Academy of Sciences to conduct a study of special transportation services to health care facilities in rural areas; to the Committee on Public Works and Transportation.

By Mr. LEVINE of California (for himself, Mr. Lehman of California, and Mr. Miller of California):

H.R. 2929. A bill to designate certain lands in the California desert as wilderness, to establish the Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GEJDENSON:

H.R. 2930. A bill to amend the Arms Export Control Act to allow guarantees in connection with commercial sales of defense articles and services to NATO countries, Japan, Australia, New Zealand, and Israel; to the Committee on Foreign Affairs.

By Mr. HOBSON:

H.R. 2931. A bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice; to the Committee on the Judiciary.

By Mr. JOHNSON of South Dakota:

H.R. 2932. A bill to clarify eligibility under chapter 106 of title 10, United States Code, for educational assistance for members of the Selected Reserve; to the Committee on Armed Services.

By Mr. KILDEE:

H.R. 2933. A bill to amend the National School Lunch Act to extend through the fiscal year 1994 the pilot project relating to the provisions of all cash payments or all commodity letters of credit in lieu of entitlement commodities for school lunch programs; to the Committee on Education and Labor.

By Mr. MOODY:

H.R. 2934. A bill to expand the unemployment compensation benefits available to former members of the Armed Forces; to the Committee on Ways and Means.

By Ms. OAKAR:

H.R. 2935. A bill to designate the building located at 6600 Lorain Avenue in Cleveland, OH, as the "Patrick J. Patton U.S. Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. PRICE (for himself, Mr. Brown, Mr. Boucher, Mr. Valentine, Mr. Boehlert, Mr. Lewis of Florida, Mr. Rogers, Mr. Browder, Mr. Espy, Mr. Frost, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Lancaster, Mr. Perkins, Mr. Roe, Mr. Sawyer, Ms. Slaughter of New York, and Mr. Towns):

H.R. 2936. A bill to establish programs at the National Science Foundation for the advancement of technical education and training in advanced technology occupations, and for other purposes; jointly to the Committee on Science, Space, and Technology, Education and Labor.

By Mr. ROTH:

H.R. 2937. A bill to regulate interstate commerce by providing for uniform treatment of selected product liability problems, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. SERRANO (for himself, Mr. Miller of California, and Mr. Hayes of Illinois):

H.R. 2938. A bill to establish a Teacher Opportunity Corps to enable paraprofessionals working in targeted schools to become certified teachers through part-time and summer study; to the Committee on Education and Labor.

By Mr. WALKER (for himself, Mr. Lewis of Florida, Mr. Boehlert, Mr. Ritter, and Mr. Henry):

H.R. 2939. A bill to encourage and enhance science and technology research and development in the U.S. motor vehicle industry, to encourage cooperation between the Federal Government and the domestic motor vehicle industry to increase U.S. competitiveness, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. YOUNG of Alaska (for himself, Mr. Horton, Mr. Abercrombie, Mrs. Mink, Mr. Gilman, Mr. Burton of Indiana, Mrs. Morella, Mr. McMillen of Maryland, and Mr. Hayes of Illinois):

H.R. 2940. A bill to amend chapter 57 of title 5, United States Code, to provide that reimbursement for certain travel expenses related to relocation of Federal employees shall apply to all stations within the United States; to the Committee on Government Operations.

By Mr. CLEMENT (for himself, Mr. Cooper, Mr. Duncan, Mr. Ford of Tennessee, Mr. Gordon, Mrs. Lloyd, Mr. Sundquist, Mr. Tanner, Mr. Quillen, Mr. Alexander, Mr. Anthony, Mr. Barnard, Mr. Barton of Texas, Mrs. Bentley, Mr. Bevill, Mr. Bilirakis, Mr. Blaz, Mr. Bliley, Mr. Brewster, Mr. Brooks, Mr. Browder, Mr. Bunning, Mr. Bustamante, Mr. Callahan, Mr. Chandler, Mr. Coble, Mr. Condit, Mr. Costello, Mr. Cramer, Mr. Darden, Mr. Derrick, Mr. Dwyer of New Jersey, Mr. Emerson, Mr. Engel, Mr. Espy, Mr. Frost, Mr. Gilchrest, Mr. Gonzalez, Mr. Guarini, Mr. Harris, Mr. Hatcher, Mr. Hayes of Louisiana, Mr. Hochbrueckner, Mr. Hutto, Mr. Jacobs, Mr. Jontz, Mr. Kanjorski, Mr. Kasich, Mr. Kildee, Mr. Kolter, Mr. Lantos, Mr. Lehman of Florida, Mr. Lent, Mr. Levin of Michigan, Mr. Lewis of California, Mr. Lipinski, Ms. Long, Mr. Mavroules, Mr. McCloskey, Mr. McCrery, Mr. McDermott, Mr. McMillen of Maryland, Mr. McNulty, Mr. Montgomery, Mr. Moran, Mr. Morrison, Mr. Murphy, Mr. Murtha, Mr. Natcher, Mr. Neal of Massachusetts, Mr. Nichols, Ms. Norton, Ms. Oakar, Mrs. Patterson, Mr. Paxon, Mr. Payne of Virginia, Mr. Payne of New Jersey, Mr. Perkins, Mr. Pickett, Mr. Poshard, Mr. Pursell, Mr. Rahall, Mr. Ravenel, Mr. Roberts, Mr. Roe, Mr. Rowland, Mr. Roybal, Mr. Sanders, Mr. Savage, Mr. Schulze, Mr. Serrano, Mr. Skelton, Mr. Slattery, Mr. Smith of Florida, Mr. Spence, Mr. Tallon, Mr. Tauzin, Mr. Taylor of Mississippi, Mr. Towns, Mr. Traficant, Mr. Whitten, Mr. Wolf, Mr. Oxley, Mr. Sisisky, Mr. Rogers, Mr. Feighan, Mr. Martinez, Mr. Hammerschmidt, and Mr. Lancaster):

H.J. Res. 305. Joint resolution to designate the month of October, 1991 as Country Music Month; to the Committee on Post Office and Civil Service.

By Mr. MILLER of California (for himself, Mr. Jones of North Carolina, Mr. Kostmayer, Mr. Frank of Massachusetts, Mr. Owens of Utah, Mr. Stark, Mr. Dellums, Mr. Serrano, Mr. Lipinski, Ms. Kaptur, Mr. Jefferson, Mr. Fazio, and Mr. Kennedy):

H.J. Res. 306. Joint resolution to designate the Port Chicago Naval Magazine as a National Memorial; to the Committee on Interior and Insular Affairs.

By Mr. OWENS of Utah (for himself, Mr. Hobson, Mr. Leach, and Mr. Dymally):

H.J. Res. 307. Joint resolution to designate 1991 as the "25th Anniversary Year of the Formation of the President's Committee on Mental Retardation"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Washington:

H. Con. Res. 183. Concurrent resolution concerning the cooperation of the People's Republic of China in efforts to obtain information regarding the status of members of the Armed Forces of the United States who served in the Korean and Vietnam conflicts; to the Committee on Foreign Affairs.

By Mr. VISCLOSKY (for himself, Mr. Murtha, Mr. Gaydos, Mr. Regula, Mr. Applegate, Mr. Mollohan, Mrs. Bentley, Mr. Nowak, Mr. Oberstar, Mr. Russo, Mr. Erdreich, Mr. Bryant, Mr. Coyne, Mr. Jacobs, Mr. Jontz, Mr. McCloskey, Mr. Myers of Indiana, Mr. Roemer, and Mr. Rahall):

H. Con. Res. 184. Concurrent resolution regarding the regulation of steel product imports into the United States from the Union of South Africa; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

231. By the SPEAKER: Memorial of the Legislature of the State of Nebraska, relative to a Hunger Relief Act; to the Committee on Education and Labor.

232. Also, memorial of the Legislature of the State of Texas, relative to the status of American service personnel in Southeast Asia; to the Committee on Government Operations.

233. Also, memorial of the Legislature of the State of Louisiana, relative to boat user fees; to the Committee on Merchant Marine and Fisheries.

234. Also, memorial of the Legislature of the State of Louisiana, relative to the improvement and maintenance of the Quachita River; to the Committee on Public Works and Transporation.

235. Also, memorial of the Legislature of the State of Main, relative to Social Security benefits; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Hutto and Mr. Fish.

H.R. 73: Mr. Oberstar, Mr. Faleomavaega, Mr. Lipinski, Mr. Rose, Mr. Jacobs, Mr. Shays, Mr. Smith of Oregon, Mr. Owens of Utah, Mr. Pickett, Mr. Emerson, Mr. Tauzin, Mr. Sanders, Mr. Burton of Indiana, Ms. Snowe, Mrs. Kennelly, Mr. Gallegly, Mr. Solomon, Mr. Wise, Mr. Morrison, Mr. Lagomarsino, Mr. Thomas of Georgia, Mr. Alexander, Mr. Williams, Mr. Zeliff, Mr. Taylor of North Carolina, Mr. Studds, Mr. Cox of California, Mr. Porter, Mr. Reed, Ms. Long, Mr. Gilchrest, Mr. Harris, Mr. Roberts, Mr. Quillen, Mr. Stearns, Mr. Bustamante, Mr. Price, Mr. Coleman of Texas, Mr. Machtley, Mr. Durbin, Mr. Dellums, Mr. Clinger, Mr. Lewis of Florida, Mr. Stump, Mr. Dannemeyer, and Mr. Jones of North Carolina.

H.R. 74: Mr. Smith of Florida, Mr. Berman, Mr. Rahall, and Mr. Stokes.

H.R. 196: Mr. Espy and Mr. Mineta.

H.R. 261: Mr. Oxley, Mr. LaRocco, Mr. Lancaster, Mr. Harris, Mr. Johnston of Florida, Mr. Murphy, Mr. Murtha, and Mr. Upton.

H.R. 310: Mr. Leach.

H.R. 311: Mr. Herger.

H.R. 392: Mr. Olver.

H.R. 393: Mr. Payne of New Jersey.

H.R. 431: Mr. Wolpe and Mr. Staggers.

H.R. 501: Mr. Kennedy.

H.R. 516: Mr. McNulty, Mr. Dymally, and Mr. AuCoin.

H.R. 534: Mr. Skeen, Mr. Bacchus, Mr. Dooley, Mr. Visclosky, Mrs. Kennelly, Mr. Santorum, Mr. Cramer, Ms. Ros-Lehtinen, Mr. Bilirakis, Mr. Ackerman, and Mr. Gingrich.

H.R. 661: Mr. Shaw and Mr. Broomfield.

H.R. 747: Mr. Pursell, Mr. Goodling, Mr. Gordon, Mr. Jacobs, Mr. Gallegly, Mr. Volkmer, Mrs. Johnson of Connecticut, Mr. Burton of Indiana, Mr. Murphy, Mr. Baker, Mr. Hammerschmidt, Mr. McCrery, Mr. Ford of Michigan, Mr. Annunzio, Mr. Jones of Georgia, Mr. Browder, Mr. Espy, Mr. Nowak, Mr. Emerson, Mr. Sangmeister, and Mr. Stallings.

H.R. 784: Mr. Roemer.

H.R. 791: Mr. Kostmayer.

H.R. 809: Mr. Johnson of South Dakota.

H.R. 858: Mr. Fields, Mr. Martin, Mr. Dornan of California, Ms. Horn.

H.R. 939: Mr. Machtley.

H.R. 1004: Mrs. Roukema.

H.R. 1092: Mr. Harris.

H.R. 1130: Mr. Bilirakis and Mr. Poshard.

H.R. 1134: Mr. Schiff.

H.R. 1147: Mr. Peterson of Florida, Mr. Gibbons, and Mr. Borski.

H.R. 1200: Mr. Sundquist.

H.R. 1234: Mr. Smith of New Jersey.

H.R. 1239: Mr. Johnston of Florida.

H.R. 1241: Mr. Regula, Mr. Horton, and Mr. Walsh.

H.R. 1277: Mr. Chapman, Mrs. Patterson, Mr. Poshard, Mr. Johnston of Florida, Mrs. Lowey of New York, and Mr. Bryant.

H.R. 1300: Mr. Dymally and Mr. Mavroules.

H.R. 1335: Mr. Roth, Ms. DeLauro, Mr. Dixon, Mrs. Lowey of New York, Mr. Solarz, Mr. Smith of Florida, and Mr. Boucher.

H.R. 1344: Mr. Mazzoli, Mr. Berman, and Mr. Sanders.

H.R. 1355: Mr. Eckart, Mrs. Johnson of Connecticut, Mr. Solomon, Mr. Dannemeyer, and Mr. Hunter.

H.R. 1356: Mr. Santorum.

H.R. 1368: Mr. Thomas of Georgia.

H.R. 1380: Mr. Ireland.

H.R. 1417: Ms. Pelosi, Mr. Machtley, Mr. Slaughter of Virginia, Mr. Combest, and Mr. Stearns.

H.R. 1423: Mr. Peterson of Minnesota and Mr. Towns.

H.R. 1426: Mr. Mfume, and Mr. Cardin.

H.R. 1450: Mr. Barrett, Mr. Neal of Massachusetts, and Ms. Oakar.

H.R. 1468: Mr. Hunter.

H.R. 1472: Mr. Whitten, Mr. Klug, Mr. McCurdy, Mr. Zimmer, and Mr. Wolf.

H.R. 1481: Mr. Gingrich and Mrs. Roukema.

H.R. 1522: Mrs. Vucanovich, Mr. Bonior, Mr. Hayes of Illinois, Mr. Guarini, Mr. Washington, Mr. Dellums, Mr. Clay, and Mr. Owens of Utah.

H.R. 1551: Mr. Hyde.

H.R. 1554: Mr. Kolter.

H.R. 1559: Mr. Anderson.

H.R. 1572: Mr. Walker and Mr. McDade.

H.R. 1602: Mr. Brown and Mrs. Boxer.

H.R. 1635: Mr. Markey.

H.R. 1664: Mrs. Mink, Mr. McDermott, Mr. Dellums, Mr. Lewis of Georgia, Mr. Poshard, Mr. Jontz, Mr. Scheuer, and Mr. Jacobs.

H.R. 1676: Mr. Emerson.

H.R. 1704: Mr. Eckart, Mr. Condit, Mr. Anderson, and Mr. Ray.

H.R. 1723: Mr. Studds.

H.R. 1777: Mr. Peterson of Florida and Mr. Lewis of Georgia.

H.R. 1791: Mr. Espy, Mr. Borski, and Mr. Downey.

H.R. 1820: Mrs. Mink, Mr. Johnson of South Dakota, Mr. Slattery, Mr. Mfume, Mr. Martinez, and Mr. Lewis of Georgia.

H.R. 1853: Mr. Duncan.

H.R. 1860: Mr. Peterson of Minnesota and Mr. Nussle.

H.R. 1885: Mr. Slattery and Mr. Lagomarsino.

H.R. 1969: Mr. Geren of Texas.

H.R. 1987: Mr. Mineta, Mrs. Unsoeld, Mr. Jontz, and Mr. Towns.

H.R. 2001: Mr. Gordon.

H.R. 2027: Mr. Machtley.

H.R. 2046: Mr. Lagomarsino.

H.R. 2056: Mr. Matsui.

H.R. 2234: Mr. Stenholm and Mr. Neal of North Carolina.

H.R. 2244: Mr. Studds and Mr. Gonzalez.

H.R. 2299: Mr. Yates, Mr. Evans, and Mr. Lewis of Georgia.

H.R. 2303: Mr. Ackerman, Mr. Towns, Mr. Fish, and Mr. Sabo.

H.R. 2333: Mr. Gillmor.

H.R. 2361: Mr. Smith of Oregon and Mr. Carr.

H.R. 2363: Mr. Machtley and Mr. Cramer.

H.R. 2369: Mr. Johnston of Florida and Mr. de Lugo.

H.R. 2439: Mr. Lewis of Georgia.

H.R. 2463: Mr. Skeen, Mr. Baker, Mr. Taylor of North Carolina, Mr. Hansen, and Mr. AuCoin.

H.R. 2470: Mr. Emerson.

H.R. 2484: Mrs. Johnson of Connecticut and Mr. McEwen.

H.R. 2493: Mr. Zeliff.

H.R. 2515: Mr. Feighan, Mr. Gallo, Mr. Mavroules, Mr. Riggs, Mr. Zeliff, Mr. Zimmer, Mr. Guarini, Mr. Cramer, and Mr. Smith of Florida.

H.R. 2553: Mr. Sensenbrenner and Mr. Moorhead.

H.R. 2555: Mr. Weiss, Mr. Beilenson, Mr. LaFalce, Mr. Ford of Tennessee, Mrs. Schroeder, Mr. Towns, Mr. Wheat, Mr. Rangel, Mr. Owens of Utah, Mr. Owens of New York, Mr. Hochbrueckner, and Mr. Lewis of Georgia.

H.R. 2566: Mr. Eckart, Mr. Pickle, Mr. Stenholm, Mr. Bustamante, Mr. Hunter, Ms. Waters, Mr. Lewis of California, Mr. Packard, Mr. Ballenger, Mr. Moorhead, Mr. Roybal, Mr. Dreier of California, Mr. Torres, Mr. Lehman of California, Mr. Bryant, Mr. Rhodes, Mr. Harris, Mr. Clement, Mr. Kolbe, Mr. Bliley, Mr. Coble, Mr. Derrick, Mr. Brown, Mr. Lipinski, Mr. Price, Mr. Bevill, Mr. Cunningham, Mr. Dornan of California, Mr. de la Garza, Mr. Dannemeyer, and Mr. Dymally.

H.R. 2569: Mr. Green of New York, Mr. Dannemeyer, and Mr. Herger.

H.R. 2579: Mr. Wise.

H.R. 2584: Mr. Stenholm.

H.R. 2587: Mrs. Meyers of Kansas.

H.R. 2590: Mrs. Johnston of Florida and Mr. Lewis of Georgia.

H.R. 2603: Mr. Scheuer.

H.R. 2629: Mr. Bonior, Mr. Ackerman, Mr. Johnston of Florida, Mr. Torres, Mr. Walsh, and Mr. Kildee.

H.R. 2634: Mr. Wise, Mr. Towns, Mr. Frost, Mrs. Byron, Ms. Slaughter of New York, and Mr. Swett.

H.R. 2638: Mr. Miller of Ohio.

H.R. 2646: Mr. Dannemeyer.

H.R. 2689: Mr. Gunderson, Mr. Riggs, Mr. Lipinski, Mr. Klug, Mr. Solomon, and Mr. Taylor of North Carolina.

H.R. 2696: Mr. Jontz.

H.R. 2715: Mr. Owens of New York, Ms. Norton, Mr. Frost, and Mr. Serrano.

H.R. 2724: Ms. Norton, Mr. Lancaster, and Mr. DeFazio.

H.R. 2810: Mr. Gunderson, Mr. Rinaldo, Mr. Paxon, Mr. Broomfield, Mr. Lowery of California, Mr. Hyde, and Mr. de Lugo.

H.R. 2811: Mr. Alexander, Mr. Annunzio, Mr. DeFazio, Mr. Emerson, Mr. Hayes of Louisiana, Mr. Payne of Virginia, Mr. Petri, Mr. Poshard, Mr. Roe, Mr. Sangmeister, and Mr. Traficant.

H.R. 2819: Mr. Jontz, Mr. Poshard, Mr. Serrano, Mr. Boucher, Mr. Chapman, Mr. Jenkins, Mr. Gunderson, Mr. Rahall, Mr. Rangel, Mr. Martinez, Mr. Evans, Mr. Walsh, and Mr. Williams.

H.R. 2855: Mr. Hamilton, Mr. Pallone, Mr. Towns, Mr. Kildee, Mr. Hochbrueckner, Mr. Machtley, Mr. Boucher, and Mr. Jontz.

H.R. 2861: Mr. Guarini.

H.J. Res. 95: Mr. Lantos, Mr. Solarz, Mr. Zeliff, Mr. Stearns, Mr. Browder, and Mr. Inhofe.

H.J. Res. 178: Mrs. Vucanovich.

H.J. Res. 228: Mr. Rohrabacher, Mr. Lehman of California, Mr. Hall of Ohio, Mr. Studds, Mr. Morrison, Mr. Lewis of Florida, Mr. Dooley, Mr. Quillen, and Mr. Shaw.

H.J. Res. 242: Mr. Bryant, Mr. Aspin, Mr. Brewster, Mr. Bilbray, Mr. Carr, Mr. Hall of Ohio, Mr. Hubbard, Mr. Hunter, Mr. Jef-

FERSON, Mr. LIVINGSTON, Ms. LONG, Mr. KANJORSKI, Mr. MCMILLEN of Maryland, and Mr. EMERSON.

H.J. Res. 273: Mr. FROST, Mr. HARRIS, Mr. HORTON, Mr. MCNULTY, Mr. OWENS of Utah, Mr. TOWNS, Mr. HASTERT, Mr. RANGEL, Mr. MATSUI, and Mr. LANCASTER.

H.J. Res. 283: Mr. REGULA, Mr. WOLF, Mr. HORTON, Mr. EMERSON, Mr. GUARINI, Mr. LANCASTER, Mr. CLEMENT, Mr. LIPINSKI, and Mr. WALSH.

H.J. Res. 284: Mr. HUGHES, Mr. PAYNE of Virginia, Mr. SMITH of Florida, Mr. SKELTON, Mr. SPRATT, Mr. GORDON, Mr. HATCHER, Mr. ROSE, Mr. ESPY, Mr. MCMILLEN of Maryland, Mr. RAHALL, and Mr. FUSTER.

H. Con. Res. 3: Mr. SANTORUM.

H. Con. Res. 128: Mr. OWENS of Utah.

H. Con. Res. 172: Mr. LIPINSKI, Mr. MINETA, and Mrs. LOWEY of New York.

H. Res. 115: Mr. MFUME, Mr. LEWIS of Georgia, and Mr. ZELIFF.

H. Res. 139: Mr. GOSS, Mr. SCHEUER, Mr. GORDON, Mr. FROST, Mr. GALLEGLY, Mr. LENT, Mr. ESPY, Mr. BUSTAMANTE, Mr. RANGEL, Mr. ZELIFF, Mr DOOLITTLE, and Mr. BROWDER.

H. Res. 167: Mr. CAMP, Mrs. LOWEY of New York, Mr. MCCANDLESS, Mr. WISE, and Mr. WALSH.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 173: Mr. COMBEST.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1776

Mr. GEJDENSON of Connecticut:

—Page 26, after line 5, add at the end of the bill the following new section:

SEC. 27. SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(a) FINDINGS.—The Congress finds that—

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) 950 members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the 600 vessel boardings in support of maritime interception operations in the Middle East;

(4) 10 Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over 300 men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials, munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately 550 members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the international Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordinance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordinance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) COMMENDATION.—The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize such role.

SENATE—*Wednesday, July 17, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For the love of money is the root of all evil * * *.—I Timothy 6:10.

Almighty God, true and righteous altogether, sovereign Lord of history, we need desperately Your grace. The hard saying of the Apostle Paul is a bitter pill to swallow. Nevertheless, all around us we see the confirmation of its truth and the consequences of greed: Financial crises of State and Nation, great cities, major businesses, the junk bond fiascoes, corporate takeovers, S&L and bank failures because of corruption and mismanagement, epidemic bankruptcy. Not to mention the enormous profits which fuel the drug traffic and the spread of poverty despite great wealth.

We are reminded of Jesus' rebuke, "No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and money."—Matthew 6:24. Gracious, patient, forgiving Lord, help us acknowledge our sin, rearrange our priorities, and recognize the peril in the love of money.

For the love of God and the renewal of our national life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 17, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak therein. The Senator from Connecticut [Mr. DODD] is permitted to speak for up to 10 minutes, and the Senator from Louisiana [Mr. JOHNSTON] is permitted to speak for up to 20 minutes.

The Chair recognizes the Senator from Louisiana.

TITLE VI OF S. 1220—ENERGY EFFICIENCY

Mr. JOHNSTON. Mr. President, 6 weeks ago, the Committee on Energy and Natural Resources passed, by a vote of 17 to 3, the most comprehensive, the most balanced, the most effective piece of energy legislation ever to be considered by any committee of the U.S. Congress, and it is now presented to the U.S. Senate for consideration whenever it can appropriately be brought up on the floor. That legislation, S. 1220, was discussed yesterday.

Today, I would like to focus on a principal element of S. 1220—and an essential component of any meaningful energy policy—energy efficiency. Title VI of S. 1220 has some 30 provisions on energy efficiency which have been designed to increase energy efficiency in the industrial, commercial, and residential sectors of the economy; to encourage the Federal Government to use energy more efficiently; to provide incentives to utilities to aggressively promote efficiency; to assist State and local governments in implementing energy efficiency programs; and to establish a program for the collection and reuse of used oil that is improperly dumped into the Nation's soil and water.

With few exceptions, all of the energy efficiency proposals presented for the committee's consideration have been included in S. 1220 in some form. While the full Senate may debate how specific provisions should be strengthened or modified, S. 1220 puts nearly all viable nontax and nontransportation energy efficiency policy options into play for consideration by the 102d Congress.

I would like to recognize Senator WIRTH, chairman of the Regulation and Conservation Subcommittee of our committee, for his contributions to the efficiency provisions of this bill. Many of the energy efficiency provisions in the original National Energy Security Act, S. 341, were derived from Senator WIRTH'S National Energy Policy Act which passed the Senate last year but which did not make its way into law. In addition, the Senator proposed two comprehensive amendments on energy efficiency during committee consideration of this legislation. As a result of his commitment to conservation, the energy efficiency provisions of S. 1220 are stronger and more comprehensive than those of any bill that has been reported by the committee in many years.

If examined closely, I believe members will agree that S. 1220 is a thoughtful and realistic package which will substantially improve the Nation's energy efficiency.

Mr. President, I ask unanimous consent that a summary of all of the energy efficiency provisions of S. 1220 be printed in the RECORD following my statement and I will highlight the three areas of greatest significance.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. First, utility policy. The Nation's utilities are in a unique position to promote energy efficiency because of their technical ability to evaluate energy efficiency opportunities, their special relationship with their customers, and their ability to assist in financing energy efficiency improvements. Unfortunately, in most States a utility's profits are linked to its energy sales. Therefore, there is an institutional disincentive for utilities to promote measures that reduce sales even though they result in more efficient use of energy.

S. 1220 seeks to reverse this situation, and to encourage utilities to aggressively promote energy efficiency, by directing States to consider allowing utilities to earn at least as much profit from their energy efficiency program investments—and from improving their own system efficiency—as they earn from energy production investments. This shift in State policy would convert the current disincentive into a powerful incentive.

In addition, S. 1220 encourages the States to consider directing utilities to adopt integrated resource planning, and its imposes integrated resource planning requirements on certain Fed-

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

eral power marketing agencies and on the Tennessee Valley Authority. Integrated resource planning, similar to least-cost planning, is a decisionmaking process that considers all of the alternatives for meeting utility service needs—including energy efficiency alternatives—before final investment decisions are made. Given the cost-effectiveness of many energy efficiency projects, the adopting of integrated resource planning by utilities and Federal power marketing agencies will result in more energy efficiency initiatives by utilities. The American Council for an energy efficient economy estimates that these utility sector initatives will save the Nation 1.5 quads—that is, 1.5 quadrillion BTU's—of energy per year by the year 2010. That is the energy equivalent of 258 million barrels of oil per year.

A second highlight of S. 1220 is appliance and equipment efficiency.

The appliance and equipment standards established in 1987 and 1988 are one of the most cost effective Federal energy efficiency programs. The annual cost of the program to the Department of Energy is less than $5 million. However, the savings that result from the elimination of the least efficient furnaces, water heaters, air-conditioners, and other covered appliances will reach nearly 1.0 quad per year by 2000.

S. 1220 expands this residential appliance program by establishing maximum flow rates for showerheads that would result in additional energy savings estimated at nearly 0.3 quads annually by 2010. Perhaps more important, S. 1220 establishes, or authorizes, standards for commercial and industrial equipment for the first time. It is estimated that the inclusion of commercial air conditioning and heating equipment, lamps, and utility distribution transformers in the appliance standards program will save the Nation over 0.5 quads annually by the year 2010. Finally, S. 1220 expands labeling requirements to assist consumers in identifying and purchasing more efficient and cost effective products. Labels for lighting equipment, windows and office equipment are expected to save the Nation 0.3 quads per year by the year 2010.

The buildings sector is a third area of energy efficiency initiatives in S. 1220.

Buildings consume roughly 36 percent of the Nation's energy. S. 1220 includes an extensive package of proposals to spur energy efficiency improvements in buildings by reauthorizing and redirecting of the Department of Energy's Building Efficiency Standards Program. The general approach taken in S. 1220 is to better coordinate and integrate the Building Energy Efficiency Standards Program of the Federal Government with the efforts of industry, and with the State and local governments which have the authority to enforce building standards. I am pleased that a recent study by the Alliance to Save Energy, "Better Building Codes for Energy Efficiency" concurs in one of the main objectives of S. 1220, to encourage States to adopt the Model Energy Code that has been developed by the Council of American Building Officials.

S. 1220 would also strengthen the efficiency standards for Federal buildings and for buildings purchased with Federal mortgages. Building standards have an enormous potential for energy savings, but are slow to produce results because of the slow rate of turnover in the Nation's building stock. Preliminary estimates are that building standards would save 0.025 quads per year in the year 2010.

Finally, S. 1220 includes provisions to establish voluntary national home energy rating guidelines, to promote the use of energy efficient mortgages, and to establish stronger energy efficiency standards for manufactured housing.

Mr. President, in addition to these highlights in utility policy, appliance standards, and the building sector, S. 1220 includes a range of provisions dealing with energy use in everything from Federal buildings to Indian reservations.

Nevertheless, there are those who have asserted that S. 1220 does not go far enough with conservation. I would caution my colleagues not to prejudge this legislation. Congress has been closely examining energy policy options since the early 1970's. With S. 1220 the committee has put together a comprehensive package of the viable energy efficiency options.

If there are new ideas, I encourage their consideration. But I emphasize the committee has been dealing with this for a long time. We have Members dedicated to energy efficiency, to alternate fuels, to conservation. And we have applied ourselves to that, and the result is S. 1220.

In my experience, promoting energy efficiency, like all energy policy, is hard work. It is not enough to have a good idea. The Nation needs good ideas that recognize the complex nature of the energy industry, that are cost effective, and which have the votes needed for enactment.

Keeping these difficulties in mind, Members can better appreciate the challenge faced by the committee and can better evaluate S. 1220.

I mention one particular part of this bill that brought into conflict two of our Members who are most dedicated to energy conservation and energy efficiency, Senator WIRTH on the one hand, who has been a great leader in energy efficiency, and Senator BUMPERS, who knows no peer in the whole Congress in terms of dedication to energy efficiency, conservation, and alternate fuels.

Senator WIRTH had proposed regulation of electric motors. Senator BUMPERS, who happens to have in the State of Arkansas a manufacturer of electric motors, pointed out that there are so many different kinds of motors, from those which open garage doors to those which open tin cans. There are thousands of different kinds of motors, and the amount of energy that individual motors use is frequently inconsequential. And, therefore, to require that of, for example, a motor that opens up a garage door that is used only a few times a day be regulated, might add a great deal of expense and regulation and red tape to a machine the energy use of which is not particularly important.

We want back and forth on that particular amendment, and the committee, by a fairly close vote, was finally persuaded that Senator BUMPERS was right; that even though we are dedicated to standards for energy efficiency, that to regulate every motor, every electric motor, might be a greater expenditure in time and effort and red tape than the payoff which we would get for regulation of those motors. That was one major recommendation which was given to us which was not included in S. 1220. I think it is, even though I happened to have voted against Senator WIRTH in that particular instance, a good illustration of the tradeoffs that are often involved in energy efficiency.

With respect to this bill, as I mentioned earlier, in every area where we had a major recommendation, we adopted some form of that recommendation. Sometimes we did not go quite as far as some would like us to go. In many cases we went much further than others would have liked us to go. But the point is, we covered the waterfront of every area that we are familiar with. I and my staff, and a couple of other Members there, have been on that committee now for some 19 years and have a great deal of experience in this.

To have included every area means that this is a comprehensive energy efficiency bill. If it can be strengthened, we welcome those recommendations, we welcome those amendments on the Senate floor. But we urge our colleagues to be familiar with what this bill does in energy efficiency because it is a landmark bill in energy efficiency.

As I mentioned yesterday, this bill is an omnibus bill. It contains energy efficiency. It contains the most comprehensive set of recommendations on alternate fuels, requiring, for example, fleets to use alternate fuels in a major way. If you have 50 cars, any 20 of which are centrally garaged, you are going to be required to phase in alternate fuels for your vehicles. That is revolutionary. I think it is also effective.

We have research in everything from electric cars to natural-gas-powered cars, methanol, ethanol, ETB, MTBE, you name it, if it is an alternate fuel, we have research demonstration projects involved in this bill. As I mentioned there are vast conservation provisions, including those on CAFE standards, fuel efficiency standards for automobiles. We will be discussing those individual parts of this in the next few days so that my colleagues, in advance of consideration here on the Senate floor, and the country as a whole, can get an idea of what this bill consists of.

Many parts of S. 1220 are highly controversial. We understand that. If there were an easy way to have a national energy policy, some way we could produce a huge amount of energy to get this Nation off its dependence, which is now 50 percent dependence on foreign oil, headed toward two-thirds dependence on foreign oil by the year 1995 according to former Secretary of Energy Jim Schlesinger and others, if there were an easy way to do that, we would have done that a long time ago, Mr. President. If there was a magic carburetor out there, if there was some magic way to produce this energy, we would have done it a long time ago.

To do it involves some controversial things, and we will be discussing those. But it is a balanced bill, one that involves production, as well we must have production; one that involves conservation, alternate fuels and, as we point out, energy efficiency which we have discussed today.

So, Mr. President, I urge my colleagues to be familiar with this bill because it is going to be a comprehensive bill when we consider it. The majority leader tells me he is committed to bringing up this bill this year. I would think that would not mean this month, as I look at the calendar and particularly the appropriations bills. But I do take him at his word that it does mean this year. I look forward to passage of a national energy policy for once in the life and history of this country, an effective national energy policy.

I yield the floor.

EXHIBIT 1

TITLE VI—ENERGY EFFICIENCY

Subtitle A.—Industrial, Commercial and Residential

Building Energy Efficiency Standards.—Requires the Secretary of Energy to issue a Federal building energy code to assure that all new Federal buildings include energy efficiency measures that are technically feasible and economically justified. Also requires all buildings receiving Federal mortgages to meet or exceed the Federal code. Finally, the section requires the Secretary to support and participate in the upgrading of the voluntary industry building energy codes, and authorizes incentive funding to States and localities which adopt energy building codes at least as stringent as the voluntary industry code.

Residential Energy Efficiency Ratings and Mortgages.—Directs the Secretary to issue voluntary guidelines to be used by States, local organizations and others to develop energy rating systems for residential buildings. Authorizes technical assistance to encourage the adoption of rating systems. Finally, the section encourages the use of energy efficient mortgages to maintain housing affordability by authorizing a requirement that homebuyers be notified of the availability of energy efficient mortgages at the time of mortgage application.

Manufactured Housing Efficiency.—Requires the Secretary to make recommendations to the National Commission on Manufactured Housing regarding energy efficiency improvements to manufactured housing. Also requires the Commission to make such recommendations to the Secretary of HUD who has the authority to set energy standards. Finally, the section requires the Secretary to test the performance of manufactured housing built to the established standards.

Improving Efficiency in Energy-Intensive Industries.—Directs the Secretary to pursue a research and development program and joint venture program to improve efficiency in energy-intensive industries and industrial processes.

Report.—Directs the Secretary to give energy efficiency high priority in the areas of planning, research and development, private assistance, and Federal procurement. The Secretary is directed to prepare a report which evaluates energy efficiency policies and their potential to decrease overall United States energy use and oil consumption per unit of GNP.

Voluntary Guidelines for Industrial Plants.—Requires the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits, and for the installation of insulation, in industrial facilities for purposes of identifying cost-effective options for reducing energy use.

Energy Efficiency Labeling for Windows and Window Systems.—Requires the Secretary to provide financial assistance to support the voluntary development of a nationwide program to develop energy ratings and labels for windows and window systems. The section further requires the Federal Trade Commission to develop such a program if it is not developed voluntarily within two years.

Energy Efficiency Information.—Directs the Administrator of the Energy Information Administration to expand the scope and frequency of data collection under the National Energy Information System in order to improve the ability of the Department of Energy to evaluate the effectiveness of energy efficiency policies and programs.

Energy Efficiency Labeling for Lamps and Luminaries.—Requires the Secretary to provide financial and technical assistance to support the voluntary development of a labeling program for lamps and luminaries. The section further requires the Federal Trade Commission to develop such a program if it is not developed voluntarily within two years.

Commercial and Industrial Equipment Efficiency.—Adds lamps, commercial air conditioning and heating equipment, and utility distribution transformers to the appliance energy efficiency program, and requires the Secretary to conduct a study of the potential benefits of upgrading utility distribution transformers at the time of their routine maintenance. Finally, this section requires the Secretary to provide support for the development of a voluntary labeling system for commercial office equipment, or directs the Federal Trade Commission to develop such a program if one is not developed voluntarily within two years.

Energy Efficiency of Showerheads.—Establishes a maximum flow rate of 2.5 gallons per minute at 80 psi for showerheads manufactured after July 1, 1992 unless ANSI publishes a different standard before March 1, 1992, in which case the ANSI standard shall apply. Requires the adoption of any future ANSI standard if it is more stringent than the existing standard, and preempts all prospective state and local showerhead flow rate standards. Finally, the section requires uniform national labeling requirements consistent with ANSI.

Subtitle B.—Federal Energy Management

Federal Energy Management Amendments.—Requires Federal agencies to install energy efficiency improvements with pay-back periods of 10 years or less and establishes a Federal Energy Efficiency Project Fund for DOE to encourage agencies to undertake energy efficiency improvements in Federal facilities. Directs agencies to take advantage of utility energy efficiency incentive programs. Directs the General Services Administration (GSA) to identify the energy cost-effectiveness of items listed in the GSA product schedule, and directs the Administrator of the GSA to consider fuel efficiency when purchasing government vehicles. Finally, this section authorizes the Secretary to provide bonuses of up to $5,000 to Federal facility managers for success in saving energy.

Plan Regarding Demonstration of New Technology.—Requires the Secretary to submit a plan to Congress for the demonstration in Federal facilities, or by Federal agencies, of energy efficiency technologies that have received Federal assistance for research and development and which the Secretary has determined are ready for commercialization.

Study of Federal Purchasing Power.—Directs the Secretary to report on the potential of using Federal purchasing power to encourage the development and commercialization of new energy efficient products.

Subtitle C.—Utilities

State Consideration of New Ratemaking Standards.—Requires State commissions to consider decoupling regulation of utility profits from sales for purposes of removing disincentives for utilities to pursue demand side management and energy efficiency resources; requires State commissions to consider requiring utilities to engage in integrated resource planning (IRP).

Grant Program.—Establishes grant program for purposes of encouraging consideration by State commissions of demand side management and energy efficiency resources as means of meeting future electricity demand.

Integrated Resource Planning by the Southwestern Power Administration (SWPA) and the Southeastern Power Administration (SEPA).—Requires SWPA and SEPA to consider requiring nonregulated utility customers to implement IRP as a condition of future power contracts with each power marketing administration.

Integrated Resource Planning by the Tennessee Valley Authority (TVA).—Requires TVA to employ IRP in exercising its functions.

Subtitle D.—Used Oil Energy Production

Used Oil Energy Production.—Amends EPCA to promote the collection, refining, re-refining, and reprocessing of used lubricating oil into fuel for transportation and other petroleum products through market incentives and the removal of legal disincentives.

Subtitle E.—State, Local, Insular and Tribal Energy Assistance

Insular Areas Energy Assistance Program.—Provides direction to the Secretary, under existing authorization, for providing financial assistance to Insular area governments, for the purposes of encouraging the adoption of energy efficiency and renewable energy measures.

State Building Energy Incentive Fund.—Authorizes the Secretary to provide up to $1 million to States to capitalize a State revolving fund to undertake energy efficiency projects in State and local government buildings in those States which have demonstrated a commitment to improve building energy codes.

Private Sector Investments in Low-Income Weatherization.—Authorizes supplemental grants to Weatherization Program grant recipients to cover the costs of arranging private sector contributions to the program, and the costs of training and education activities between program grant recipients.

Training of Building Designers and Contractors.—Authorizes existing State Energy Conservation Programs to use Federal funds to assist in training building designers and contractors in energy system, energy efficiency, and renewable energy technologies.

Energy Education and Teacher Training.—Authorizes supplemental funding under the existing State Energy Conservation Programs to increase public understanding of energy issues or to provide teacher training in energy education.

Tribal Government Assistance Program.—Sets forth guidelines for the Secretary to provide financial assistance to tribal governments to plan and implement energy efficiency and renewable energy projects.

State Energy Conservation Plan Requirement.—Requires State Energy Conservation Plans to provide for vehicles to turn left from a one-way street onto a one-way street at a red light as a condition for receipt of Federal SECP funding.

Subtitle F.—LIHEAP Options Pilot Program

LIHEAP Futures Pilot Program.—Directs the Secretary of HHS to report to Congress on the advantages and disadvantages of using futures and options contracts for fuel as a means of protecting LIHEAP funds from large price increases in fuels, and authorizes the Secretary of HHS, in consultation with the Secretary of Energy, to conduct a pilot program.

Mr. DODD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

REFUGEES IN ISRAEL

Mr. DODD. Mr. President, friends of Israel around the world have watched with a mixture of wonderment and sadness as refugees from Ethiopia and the Soviet Union have poured into that fragile state. I say wonderment, Mr. President, because, however stark the prevailing conditions, the Israeli capacity to welcome and care for these needy refugees has shown no limits. And I say sadness because, no matter how open their hearts, the Israelis know that they simply cannot provide for them all on their own.

Mr. President, I think all of the world watched with utter admiration only a few weeks ago when 15,000 Ethiopians were air lifted in the space of some 36 hours out of Ethiopia and harm's way to the safety and refuge of the state of Israel. It was a remarkable occurrence, almost unparalleled in modern times, to move that many people—families, children—from their native homeland to a place of safe harbor in such a brief period of time and without incident. I think at one point there were some 24 aircraft airborne at a single moment, ferrying people between those two countries. Today, I want to direct my remarks primarily to the tremendous influx of refugees that are pouring out of the Soviet Union and how Israel can handle that kind of an influx and what we might do to assist in this incredible human endeavor.

The numbers involved in this massive influx of refugees are simply staggering. Last year, almost 200,000 refugees streamed into the tiny nation of Israel. This year, about the same number is expected. By 1995, over 1 million Soviet Jews will have left for Israel—an immigration that is proportionally equivalent to the entire population of France moving to the United States.

Mr. President, the United States has always stood by the side of Israel, and those nations that have sought to relieve the economic and human conditions of those who are caught under terrible circumstances. In the case of Israel, we have been a strong supporter since the unstable days of its creation. And now we hear our neighbor and friend asking for our help. The Israeli Government will soon formally ask for $10 billion of loan guarantees authority, and I emphasize loan guarantees over the next 5 years to help carry out its mission of humanity.

Let me make perfectly clear what it is the Israelis are asking for. They are not asking the U.S. taxpayers to provide them with $10 billion. Rather, they are asking that the United States Government provide the backing—the insurance, if you will—for private and commercial loans to Israel. As long as those loans are repaid, the long-term cost to the U.S. Government will be virtually negligible in relation to the overall program.

Let there be no doubt: these loans will be repaid. The creditworthiness of the state of Israel has been proven time and time again. As the Israeli economy expands due to the arrival of new refugees, the ability of Israel to repay its debts is only likely to improve.

In fact, Mr. President, that trend has already begun. In 1990, Israel's foreign debt was 36 percent of its gross domestic product, down from nearly 80 percent in 1985. Meanwhile, foreign debt service as a percentage of exports has dropped from 21 percent in 1988 to 15 percent in 1990. These are two of the most important indicators of a country's ability to repay debts. Both figures place Israel well above average on the international scale.

Mr. President, the warm acceptance of these refugees that have been received in Israel is one of the remarkable stories of our time. Israel's willingness to take in over 1 million refugees, despite the economic difficulties now facing it, reflects a rugged detemination and a sincere commitment to principle that has been characteristic of that small nation from the very beginning.

The mission undertaken by Israel is truly one of humanity. But without immediate assistance, this precious mission may well collapse under its own weight. Many of the newly arrived immigrants from the Soviet Union are without suitable housing. They lack jobs, and job training. And there is not yet a suitable infrastructure to accommodate them—not enough roadways, utilities or public transportation are just two of the problems. It is not for lack of will that the refugees are living in these conditions. There is simply a lack of resources.

And that is where U.S. assistance can play a vital role. Much of the loan guarantee authority would enable the Iraelis to offer housing for newly arrived settlers. But the funds would not be limited to housing. The money could also be used for important programs like roadways, the boosting of industries and job training—exactly the sort of investment in the future that these newest residents will need.

This is preciously vital guarantee authority money, Mr. President—guarantee authority that should be provided without delay, and without preconditions. But apparently, some in the administration do not see it this way. Rather, some in the administration are talking about linking this aid—linking it to a halt in settlements in the occupied territories. Mr. President, I believe such a policy would be indefensible.

Let me tell you what this linkage would not do, Mr. President. This linkage would not prevent U.S.—backed funds from being spent in the occupied territories. That is already a clear tenet of U.S. policy. In fact, the administration tied up the $400 million housing guarantee that Congress approved last fall for over half a year, while it sought assurances that the money would not be used in the territories.

Mr. President, this linkage would not bring an end to the dispute over the occupied territories that has so divided the Arabs and the Israelis. The dispute over the territories dates back almost a quarter of a century—and the basic conflict between the Arabs and Israelis dates back centuries. The Arab nations fail to recognize the very existence of Israel in the region. They continue their relentless boycott of companies that do business there. It should certainly be clear by now that the settlements are only a small part of the story.

The settlement issue needs to be addressed, but it need not be addressed on the backs of a million refugees who are seeking safe harbor.

What this linkage would do, Mr. President, is place the fate of thousands of refugees at the hands of a dispute they did not create, and certainly want no part of it. It says to the refugees: we may sympathize for you. We may be prepared to speak at great lengths about your suffering and your endurance. But when it comes to actually taking the steps necessary to help you, we would rather use you as a foreign policy leverage point or tool.

Should the President still be thinking about linking aid to settlements in the occupied territories, I would encourage him to visit the Middle East. I would encourage him to see the conditions that the Soviet refugees are living in. And I would ask him to explain to them why he insists on conditioning U.S. assistance.

Mr. President, it was half a century ago that the world stood by and watched as the Nazi regime murdered over 6 million European Jews and 5 million others in the European community. We could not help those Jews. But 50 years later, the emigration of Soviet Jews to Israel presents us, and the world, with the dramatic opportunity to make a difference in their lives.

We will never be able to make up for the families that were wiped out in the Holocaust. We will never be able to recapture those souls that were lost to the Nazi onslaught. But when the next generation takes stock of our contribution to humanity, at the very least they should be able to point to our efforts to help the refugees and say: That was a genuine act of compassion.

And so, Mr. President, as we watch this miraculous process unfold, we have before us a historic opportunity. With a reasonable and measured amount of assistance, we can play a fundamental role in one of the greatest stories of migration in our time. Or we can fold our arms, adopt a skeptical frown, and stand on the sidelines.

My hope, Mr. President, is that we choose the former. Our moral obligation is clear—to offer our assistance without preconditions, and without linkage. In the name of humanity, we can do no less.

Mr. President, I yield the floor.

Mr. DIXON. Mr. President, what is the order of business?

The ACTING PRESIDENT pro tempore. We are in morning business.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the introduction of S. 1482 and S. 1483 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. DIXON. Mr. President, I ask unanimous consent that morning business be extended until 10:30 a.m. under the same conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be permitted to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The period for morning business is extended.

Mr. CRAIG. Mr. President, I ask unanimous consent that I be able to proceed for 5 minutes under morning business.

The PRESIDING OFFICER. The Senator is recognized for up to 5 minutes.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 1484 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. ADAMS. Mr. President, I ask unanimous consent that morning business be extended until the hour of 11:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGISTRATION OF MASS MAILINGS

The filing date for 1991 second quarter mass mailings is July 25, 1991. If your office did no mass mailings during this period, please submit a letter to that effect.

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224–0322.

GORBY AND THE G–7

Mr. DOLE. Mr. President, it becomes increasingly clear that the only free lunch that Soviet President Gorbachev will get at the G–7 summit is the one that President Bush will host for him tomorrow.

Beyond that, most of the summit leaders—particularly President Bush, and Prime Ministers Mulroney, Major, and Kaifu—intend to give Gorbachev a good hearing; insist on a real commitment to political and economic reform, and a realistic plan to implement that reform; offer only limited and focused forms of assistance—primarily in the form of expertise and technology; and urge the need to really open the Soviet Union to large scale foreign investment, as the only effective long-term engine for economic development.

It seems to me that is precisely the posture we ought to take. As Mulroney said, this is not the time to be writing blank checks. It is time—high time—for Gorbachev to get on with real reform.

It is also my hope and expectation that President Bush and the other summit leaders will press Gorbachev hard in three specific areas.

First, the need for the Soviets to dramatically reduce their own defense spending. If any country could benefit from a peace dividend, it is the Soviet Union. And, as an adjunct to that proposition, the Soviets ought also to close the withdrawal window for the likes of Fidel Castro.

Second, the urgency of terminating, once and for all, the use of force and intimidation against the Baltics, and against some of the Constituent Republics of the Soviet Union—especially Armenia, where there has recently been a new up-surge of Soviet attacks on Armenian villages in the border area with Azerbaijan.

Third, the desirability of expanding direct ties with the Republics—political ties, investment and trade ties, and aid ties. Gorbachev must be made to understand that the expansion of such ties is inevitable, sensible, and could be in his own long-term interest.

Mr. President, this summit can be an important step forward in G–7 relations with the Soviet Union. But only if all sides are realistic about what the Soviets really need, and what the allies can and should provide.

Most of the G–7 leaders appear to be approaching the Gorbachev meeting realistically. I hope that Gorbachev and his Soviet colleagues are, too.

SINO-AMERICAN RELATIONSHIP

Mr. LIEBERMAN. Mr. President, last week, I spoke on this floor regarding our political and foreign relations with China. Today I rise to discuss trade and economic issues that affect the Sino-American relationship. For most of us the fall of the Berlin Wall symbolized the end of communism. But the events that led to communism's endgame did not begin with glasnost and perestroika. That began in China in 1978 when the Government of the People's Republic declared that it would begin a massive economic restructuring program, a program that has unleashed a capitalist genie that transformed the Chinese economy.

The two goals of the economic restructuring program were to shift some decision making from the central government to local governments and enterprises and to dismantle agricultural communes, replacing them with family farms, giving peasants control over what they produce. These reforms were to usher in a more market oriented system in the People's Republic, as part of a recognition of the failures of the Great Leap Forward and the Cultural Revolution.

For a time, Chinese economic successes were lauded in the West, and China's leader, Deng Xiaoping, like Gorbachev, was named man of the year of Time magazine, a leader with whom we could do business. China was seen as the nation that would serve as the example of how communism could be dislodged from within.

The grand experiment did not work, at least not in the way that the West wanted it to. Communism was not overthrown. The septuagenarians then running the country are now octogenarians, and they are still running the country. The reforms of Deng and his followers did not go far enough. The pricing system has not been sufficiently transformed and ownership of heavy industry is still concentrated in the hands of the Government.

What has emerged in China is two economies at odds with each other, one state controlled and one market-controlled. In the late eighties inflation took off and the average Chinese family had to worry about paying for basic necessities. Officials in charge of some state run factories began selling raw materials alloted to them at inflated prices to companies run by the new private sector. These Communist profiteers became one of the objects of protest of the students and others in China wanting more political and economic freedom. All these factors produced a highly unstable situation which helped bring the forces of change to blows with the old regime. The result was Tiananmen Square.

But the game is not over in China. The entrepreneurs along China's southern coast and their supporters from Hong Kong to Taiwan to the United States have all worked to keep the market alive in the People's Republic. And with some success. China continues to trade with the West, so well that the United States is about to run its second biggest trade deficit, after Japan, with China. The People's Republic of China will be replacing their capitalist brothers the Republic of China. In 1990 the trade deficit with China was $11 billion. The deficit for this year is projected to be $15 billion, and the 1992 deficit is expected to increase even further.

This is new for the United States since our largest trading partners have traditionally been our military and political allies, and shared our economic and political systems. With China, we are trading with a nation which shares neither, complicating an already difficult relationship.

And this difficult relationship is made even more so by the fact that China has begun to behave like a mercantilist state. It has moved systematically to slash the percentage of its trade in low value textiles, as well as agricultural imports from the United States, and to move toward the export of high value goods.

Although China still has not officially decided which economic road to follow, the momentum on the ground certainly seems to be moving in favor of the private sector. At least 40 percent of the industrial output of China in 1988 came from the nonstate sector and that percentage continues to grow. The central government is becoming increasingly reliant on the hard currency it receives from the deficit with the United States and from foreign investment. While it is difficult to predict exactly what will happen in China over the next few years, it is safe to say that in the future China will have a mixed economy heavily reliant on the market. The economic success of Taiwan, Hong Kong and other dynamic Asian economies is bound to influence China's successor generations.

Nonetheless, China remains a poor country where the per capita income of $320 per annum is only slightly higher than India's. It is also a regionalized nation. In many ways it is several countries in one. Beijing represents the old centralized system, and the southern coast with its free market system represents the way of the future.

The question we must address now as we consider the question of our trade status with China is what does the United States have to gain from continuing our present relationship with China—other than an increase in our trade deficit? The myth of the China market, a market of importance because of the sheer size of China's population, has been an issue since John Hay was Secretary of State in the late 19th century. So far, that myth has never been realized. To make matters worse, the Chinese bureaucracy confounds and confuses Western investors and Chinese law encourages an ad hoc compliance with contracts. One might simply ask American business: Why not simply invest in Taiwan or Thailand?

The answer is because there are real opportunities for United States exporters and United States manufacturers in China. Our exports to China totaled approximately $4.8 billion in 1990. Our leading American export to China in 1990 was aircraft: the aerospace industry is counting on China as a multi-billion-dollar market. There is also a considerable amount of foreign investment in China by United States firms. American manufacturers of low-priced footwear and toys have taken advantage of low wages paid to Chinese workers. Wages in nations like Taiwan and Korea are considerably higher than China's.

China has opened itself up to Asia and the West, and much of Asia and the West, the United States included, has responded with investment and trade. But the United States seems to be the only nation that is running a large, and increasing trade deficit. Our European and Asian allies have not made themselves the buyers of last resort for Chinese products.

It is exasperating that we have not addressed our trade deficit with China head-on. We are willing to take the Chinese Government to task on important issues such as infringement of copyrights and intellectual property rights, but we do not sufficiently urge them to simply buy more American made products. In a command economy, even a mixed command economy like China, it is often necessary to put aside certain market principles and just deal directly with the central authorities who do the buying for the Government. We should tell the Chinese authorities that they must buy more United States products, and that the present deficit is unsustainable, and unacceptable to the United States.

China is often the end of the line in a manufacturing process that begins in factories in Hong Kong or Taiwan. Because of the low wage scale in China, the work done there is often only labor intensive assembly. The higher value work, the so-called capital intensive portion of the manufacturing process, is done elsewhere. But since China is the last country in the process to put a product together, when the product is exported the credit goes to China and not the other nations involved.

But even given this accounting issue, we are still experiencing a runaway trade deficit with China whose most tangible value to us may be that it gives us leverage over the Chinese on other matters. While we should not overestimate that leverage, neither should we ignore it or squander it. Our economic goals can be clear: we have to get our trade deficit with China in balance, the Chinese Government must respect intellectual property rights and honor contracts, and the Chinese must continue the process of opening up their market to foreign goods and investment.

As the Chinese modernize their economy American companies ought to reap the benefit of that process. If they do not, their Asian and European competitors surely will. China could also serve as a base for United States economic interests in Asia, giving us a better foothold into East Asia which is dominated, economically, by Japan. We will need to be heavily involved in the Asian market in the next century if we are to compete globally against the Japanese and other growing Asian economic powerhouses.

In my previous statement, I discussed the political and security importance of China for the United States. China is a leading—perhaps the leading—power in the developing world. It is a member of the nuclear club and a major arms exporter. It is also a potential buffer against any future threat from the Soviets. China is a permanent member of the United Nations Security Council, and support from the so-called perm five proved very useful during the war with Saddam.

We should do all we can to bring China into the world economy, giving it more of a stake in global economic and political stability. The question is how to keep China moving away from past policies of economic isolation and political repression. The position of the present Chinese leadership on this issue was put quite succinctly by Chinese leader Li Peng when he said, "We want your technology, but we do not want your democracy." China's leaders need to understand that these are two sides of the same coin, that you ultimately cannot have one without the other.

How do we encourage continued economic reform in China, which, in turn, helps pave the way for political reform? Hong Kong's future is clearly a key. Hong Kong has supplied much of the capital and managerial base for the private side of China's dual economy. Some 70 percent of China's goods move through Hong Kong. It is Hong Kong's move back into China and its role as a medium through which the rest of the world can invest and trade with China that has led to much of China's economic advance. Hong Kong, for example, is very important to the United States presence in China and Asia; United States firms have invested $7 to $10 billion there since 1985. It is an economic base for the United States. Hong Kong's relative independence under Britain will end in 1997 when it is scheduled to return to China's control.

What can Hong Kong do for China over the next 15 years? It can continue to expand the market-based portion of China's economy. It can provide market-based financial institutions: banks, stock exchanges, and insurance systems. It can provide links to Western and Asian capital and firms which can form the basis for China's emergence from Third World status. It also can contribute its history of governance by law, and of free speech and press.

China's leaders acknowledge Hong Kong's economic value. But there is as yet no assurance that China will respect Hong Kong's independent role following 1997. Our trade with China gives us leverage to try to assure that Hong Kong remains free and strong. Hong Kong has been transforming China's economy. If it continues to play this role for another decade, further change is inevitable for China. Preservation of Hong Kong's character should be at the center of United States policy toward China.

Whatever we do, China cannot be ignored. It is an important part of the global economy and community of nations. It must be engaged. This means that we must continue to encourage China to play a leadership role in Asian and global affairs. But it does not mean that we can ignore the guiding principles—including human rights—of our own foreign policy. We must work toward a relationship with China that reflects both our interests and our values.

LEO CHERNE: A MAN WHO WOULD RESCUE THE WORLD

Mr. KENNEDY. Mr. President, a towering figure in America's voluntary agencies, who has for over 40 years provided leadership in our Nation's proud record of assisting refugees, Mr. Leo Cherne, has recently announced his retirement as chairman of the International Rescue Committee. The loss of his daily service in behalf of the world's homeless will surely be felt by IRC, but perhaps more by those whom he served for so many years.

Leo Cherne joined ICR just after World War II, and became chairman of its board in 1951 and every year since. And in every refugee crisis in every part of the world, he has been in the forefront of humanitarian relief operations.

It has been my privilege to know Leo for many years and to have seen the fine work of IRC workers in the field—from Bangladesh to Indochina to Ethiopia. Under his leadership, IRC's operations have expanded worldwide and have become essential elements in a number of U.N. and U.S. relief and rehabilitation programs.

In paying tribute to the many years of service by Leo Cherne and wishing him well in what we all know will be a very active retirement, I would like to share with my colleagues an article this week that describes the many facets of Leo Cherne's career and his extraordinary accomplishments. I ask unanimous consent that an article from the Washington Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 15, 1991]

A MAN WHO WOULD RESCUE THE WORLD

(By Helle Bering-Jensen)

Inside a small yellowing envelope with Vietnamese characters scribbled on its front is a tiny piece of shrapnel, about the size of a quarter. Leo Cherne keeps it in his desk, no matter where he might be.

"They removed this from the stomach of a 12-year-old South Vietnamese boy," says Mr. Cherne, who at 79 is one of the world's great humanitarians. "I had him brought to the hospital, and I thought he would bleed to death."

After American doctors told him the boy would live, Mr. Cherne headed out to the markets of Saigon to look for supplies for the boy's remote village. It had been cut off by the Viet Cong, which also had grabbed every scrap of food.

"I found a small shop where I purchased 5,000 pounds of these slimy little fish, drove them to the airport and piled them by hand into a helicopter," he says. Mr. Cherne also provided a supply of noucmam sauce, an absolute must for a Vietnamese fish dinner.

Then, having brought the supplies to the village, he almost got blown to bits by a land mine. All in a day's work.

This grim memento from 1966 is just one of the many that surround Mr. Cherne in his office on New York's Park Avenue—reminders of a life in refugee work going back more than a half-century. On Sept. 1, Mr. Cherne will step down from the chairmanship of the International Rescue Committee, a post he has held for nearly four decades.

Under his direction, it has grown into the largest non-religious relief organization in the United States, one with some 3,000 employees around the world and a budget of more than $40 million.

In the famine-stricken Horn of Africa, among the millions of Afghans in camps in Pakistan, among the hundreds of thousands mired in the camps of Indochina, the International Rescue Committee works to provide relief and, for some 10,000 people a year, passage and visas to the United States. Most recently, the IRC was one of the first relief agencies to send teams of nurses and doctors to help the Kurds on the Iraqi-Turkish border.

Since Mr. Cherne joined the organization in 1946 and became chairman of its board in 1951, he has achieved legendary status in the world of international relief work. Match the humanitarian passion of an Albert Schweitzer with the swashbuckling resourcefulness of an Indiana Jones, and you get someone not unlike Mr. Cherne, a man equally capable of addressing a Senate hearing, racing refugees across borders hidden in the trunk of his car or bargaining over life and death with guerrilla leaders.

"Although he has never held elected office, Mr. Cherne has had more influence on governmental policy than many members of Congress," noted Ronald Reagan when he awarded Mr. Cherne the Presidential Medal of Freedom, the country's highest civilian award, in 1984. Sen. Daniel Patrick Moynihan has called him "for 40 years one of the best-kept secrets of American foreign policy."

An adviser to presidents from Franklin Roosevelt to Reagan, honorary chairman of

Freedom House (the New York-based human rights group), chairman of the Foreign Intelligence Advisory Board under Gerald Ford and vice chairman under Mr. Reagan, a noted economist and forecaster of business trends for 50 years, Mr. Cherne is a multimillionaire and a true Renaissance man. He has composed more than 100 songs, including the hit "I'll Never Forget," which debuted on Dec. 7, 1941. He is also a sculptor whose works line the walls in his office.

"I think the secret is always to do what you really want," Mr. Cherne says, and for him the International Rescue Commission comes first. "It is the most rewarding kind of work you can think of because you get to see the results."

One of Mr. Cherne's most remarkable talents, says IRC Executive Director Robert De Vecchi, is his abilty to connect with a wide range of people. "Over the years, Leo has been the glue that holds all this together," he says. "Almost everybody on the board has a personal relationship with Leo that they consider very important if not downright sacred."

A quick scan of the IRC board reveals, among others, Sens. Mark Hatifield and Claiborne Pell, Rabbi Marc Tanenbaum, Henry Kissinger, Cambodian refugee Dith Pran and president of the American Federation of Teachers Albert Shanker. Nobel laureate Elie Wiesel and actress Liv Ullmann serve as the organization's international vice presidents.

NEW YORK TO TOKYO

Born in the Bronx in 1912, the son of Russian-Jewish immigrants, Mr. Cherne found his first job in show business as a member of the Metropolitan Opera's children's choir. "It was 50 cents a rehearsal, a dollar a dress rehearsal and $2.50 a performance," he recalls.

Other of his youthful pursuits included seamanship with the New York and Cuba Mail and Steamship Co. and journalism for the Daily Mail and the Bronx Home News, investigating the lethal substances being served in the Prohibition-era speakeasies. In 1935 he settled on a more permanent career path with his graduation from New York Law School, an offshoot of the Columbia University Law School.

Soon afterward he answered an advertisement for a new tax research enterprise grandly named the Research Institute of America by founder Carl Hovgard, who had just spend his life savings, all of $750, to get it started. Under the directorship of this duo—"the Kansas farm boy and the dead-end kid" as one news report called them—the business grew rapidly, developing a reputation for accurate economic analysis and predictions.

In 1938 Franklin Roosevelt asked the whiz kid outfit to help draft a plan for the country's industrial mobilization in the event of war, and after World War II, President Harry S. Truman drew on Mr. Cherne for aid in assessing the needs of postwar Germany. In the Pacific, Gen. Douglas MacArthur asked Mr. Cherne to develop a tax plan for the redistribution of wealth in Japan to create a large and stable middle class to be the foundation of Japan's fledgling democratic structure.

When, in 1954, he was hit with a case of acute fatigue and admonished by his doctors to relax, he took to sculpture instead. A bust of Albert Schweitzer was his first work, now in the collection of the Smithsonian Institution. Untrained, Mr. Cherne was not hampered by conventional methods. One artist complimented him on the figure's hair, remarking that he had achieved a realistic combed look. "But that is just what I used," exclaimed Mr. Cherne, "a comb!"

The busts that today line the walls of his New York office include Eleanor Roosevelt, John F. Kennedy, Lyndon Johnson and Abraham Lincoln. He is quite proud of a small porcelain replica of his Lincoln bust that sits on the coffee table. "It's a forgery," he says. "I love it, made in Japan."

Eventually, however, time pressures forced him to give up sculpting in the late 1970s. Music fell by the wayside too, but for a different reason. "It dawned on me that writing love songs is not a very reputable activity for someone who advises presidents," he says.

Nor, perhaps, for someone who spends his life saving the lives of others. The IRC has, as he himself puts it, Mr. Cherne's fingerprints all over it. "Enthusiasm is really the word that describes the spirit that Mr. Cherne brings to the organization," says executive director Robert DeVecchi, "enthusiasm that defies any sort of bureaucratic attitude."

THE WINDS OF WAR

The organization itself dates back to 1933, when physicist Albert Einstein, theologian Reinhold Niebuhr and philosopher John Dewey got together to form a committee to help those fleeing Germany after Hitler's power grab. At first, refugees were a trickle. Soon they became a torrent. With the Hitler-Stalin Nonaggression Pact of 1939, it was evident that the immediate threat to human life came from the communists as well as the fascists.

As Hitler devoured Europe "course by course," as Winston Churchill put it, masses of refugees were sent across Europe, mostly ending up in France, which became a giant man-trap when the Germans invaded it in 1940.

The IRC's agent in Marseilles, France, at the time was Varian Fry, a young literary editor from New York who managed to spirit out some 2,000 European artists and intellectuals, marching them across the Pyrenees into Spain.

Since World War II the organization has been dedicated, as Mr. Cherne puts it, to helping those who flee "dictatorships on the rights, dictatorships on the left, and dictatorship of the nuts"—Uganda's Idi Amin is an example of the last.

Communist dictatorships have produced by far the lion's share. "The refugee rate is communism's fever chart," wrote Aaron Levenstein in 1983 in "Escape to Freedom," his history of the organization. Of the some 14 million refugees in the world today, communist regimes have sent the most on the run, from Afghanistan, Ethiopia, Mozambique, Angola, Laos, Cambodia and Vietnam.

When the Soviets invaded Hungary in 1956, Mr. Cherne flew to Vienna, Austria, with $200,000 worth of donated medical supplies, which he drove across the border to Hungarian resistance forces. The IRC raised nearly $2.5 million to help the thousands of Hungarians who had fled their homeland.

That trip provided one of Mr. Cherne's most vivid memories—carrying 25 loaves of bread to the headquarters of the long-suppressed trade union movement. "A delegation of members came down the stairs in single file, and they each took a loaf of bread and carried it upstairs in single file," he recalls. "It simply was unbelievably moving."

In 1968, Mr. Cherne and then IRC President William Casey traveled to Czechoslovakia to assess the situation as Warsaw Pact tanks rolled into the country. They were finally stopped outside Bratislava. While Mr. Cherne tried to communicate with the Soviet soldiers, none of whom spoke any English, the future director of the CIA remained seated in the back of the car and read a novel.

"How can you just sit there reading?" Mr. Cherne asked. "Can you think of anything more useful I can do?" Mr. Casey replied. Finally the two were permitted to drive back to Vienna.

SAVING THE MIGRANTS

In recent years the mission of the IRC has changed from being a mainly European resettlement agency to being a worldwide relief organization geared toward the mass migration of refugees.

In the wake of the Vietnam War, the International Rescue Committee was largely responsible for calling attention to the mounting refugee problems in the Far East—the hundreds of thousands of fleeing Cambodians who were crowding into Thailand and the million-plus Vietnamese boat people, whom Western countries and agencies have tended to treat as "economic migrants" and therefore ineligible for asylum. Ominously, Hitler used the same term to brand Jews fleeing the Nazi regime.

The IRC today operates the Joint Voluntary Agency in coordination with the U.S. Embassy in Thailand, processing refugees from Vietnam, Cambodia and Laos who pass through on their way to the United States. Had it not been for the public pleadings of Mr. Cherne and civil rights leader Bayard Rustin, through their Citizens Commission on Indochinese Refugees, the already belated American response to the crisis in 1980 might have been delayed even longer.

In the late 1970s the IRC was one of the few groups to challenge the apologists for the new regimes in Indochina. In articles in the now-defunct Washington Star, Mr. Cherne wrote about the horrors and starvation created first by the Khmer Rouge and then by the invading Vietnamese armies. Leftists, Noam Chomsky among them, accused Mr. Cherne of slandering a progressive revolution. Far from being in the millions, deaths were at most in the thousands, Mr. Chomsky asserted, and he questioned the ideology of those who thought otherwise.

GLITTERATI TO THE RESCUE

One of Mr. Cherne's most effective stratagems for attracting world attention to the tragedy on the Thai-Cambodian border, where thousands of starving Cambodians and Laotians were trapped, was the March for Survival.

The marchers confronted the Vietnamese occupation forces. "We had 30 trucks filled with food and doctors and nurses," Mr. Cherne says. "But the Vietnamese prevented us from getting through, and so I organized a march with writers, political people, the widest spread of intellectuals, to go to the Cambodian border of Thailand with trucks and bullhorns."

Joan Baez was there, as was Elie Wiesel, and Soviet dissident Alexander Ginzburg, who had just come off the plane from the Soviet Union and had not even had a chance to change his clothes. Even though the marchers never did persuade the Vietnamese border guards to let them through, they did manage to attract the attention of the world news media.

Among the participants was Liv Ullmann, doyenne of the Swedish cinema, who has been an important part of the IRC ever since. Only weeks before, she had handed Mr. Cherne a $200,000 check from artists involved in Broadway theater. She had politely told him that if there was ever anything else she could do to please let her know, "not expecting," says Mr. Cherne gleefully, "that I would call two weeks later and say 'Are you ready to go to Cambodia?'"

As John Whitehead, who will assume the chairmanship of the IRC when Mr. Cherne steps down, says, "He has a real passion for the cause of human freedom." And he has never taken no for an answer.

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TITLE X PREGNANCY COUNSELING ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 323 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Chafee amendment No. 753, in the nature of a substitute.

AMENDMENT NO. 763

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 763:

At the end of the Chafee amendment No. 753 insert the following:

SEC. . Notwithstanding any other provision in this bill, a requirement of parental notice or consent shall not be applicable in any State which has held a referendum or initiative before December 1990 concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

Mr. PACKWOOD. Mr. President, I wanted the amendment read in full so it was clear to everyone what it is. Oregon, last year in November, had on the ballot a measure requiring parental notification. The voters defeated it.

And in the amendment proposed by Senator COATS last night he had a grandfather clause in it, in the last section, but the grandfather clause said to react only in the positive. If the State had enacted or had on the books a parental notification law, then the Coats amendment did not apply to those States. I called to his attention the fact that a car only goes forward. Oregon has acted under the ultimate practice of democracy in popular referendum and said we do not want it.

I offer this amendment, and I think it is acceptable to the Senator from Indiana and has been cleared, I believe, on both sides.

Mr. ADAMS. It has.

Mr. COATS. Mr. President, the Senator from Oregon and I have held discussions on this matter, and he did raise it to my attention last night. We recognize the unique situation which exists in Oregon, which has already held a referendum on the whole question of parental notification and consent. The Senator from Oregon has drafted this amendment such that it would exclude Oregon from the requirements of the language that we passed in the Coats amendment last evening. We cleared it with all interested parties on both sides of the aisle and have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so—

Mr. ADAMS. Reserving the right to object, and I shall not object, I did not hear the Senator's full request.

Mr. HELMS. I was just calling off the quorum.

Mr. ADAMS. May I inquire of the Senator—

Mr. HELMS. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

Mr. ADAMS. I reserve the right to object to that—

The PRESIDING OFFICER. The Senator cannot reserve the right to object.

Mr. ADAMS. In order to inquire of the Senator if the Senator wishes to proceed as in morning business or if the Senator wishes to proceed in some other fashion.

Mr. HELMS. I think that is a rather—excuse me, I say this with utter friendship to my friend—it is a little presumptuous a question. The Senator could either forbid me from calling off the quorum call or not. But if the Senator starts that game, it is going to last all afternoon long.

Mr. ADAMS. I might state to the Senator I do not want to start any games.

Mr. HELMS. OK.

Mr. ADAMS. The Senator has been on this for a long time and it is very delicate.

Mr. HELMS. The Senator cannot control what I am doing, except to object.

Mr. ADAMS. Except to maintain the status quo.

The PRESIDING OFFICER. The Chair will announce that the Senator from North Carolina has asked further proceedings under the quorum call be dispensed with. It is not a debatable issue. Is there objection? Hearing none—

Mr. ADAMS. Objection.

Mr. HELMS. All right. I do not get the quorum call called off. I warned my colleague.

Mr. CHAFEE. Now, wait a minute—

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I am doing this pursuant to just one thought I have in mind before we finally enter into a unanimous-consent request to resolve the remaining problems on this bill. The majority leader has been carefully and actively working on that, along with the minority leader. But I would like to ask a question of the distinguished Senator from North Carolina just for the record.

If I may, I would like to ask the distinguished Senator from North Carolina, because part of this ability to put together a final resolution on this bill is to clarify that the Senator chatted with people in London this morning. Is that true, that the Senator did?

Mr. HELMS. I will say to the Senator I did have a chat with people in London this morning.

Mr. HATCH. Does the Senator from North Carolina care to comment any further on that conversation?

Mr. HELMS. No, I do not believe I want to characterize the conversion except that it was satisfactory to me.

Mr. HATCH. Satisfactory to the Senator.

Mr. HELMS. I thank the Senator.

Mr. HATCH. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORE). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, we have had a series of discussions regarding the best manner in which we can proceed to dispose of this legislation. During those discussions, I and other Senators engaged in conversations with the distinguished Senator from

Indiana regarding his amendment adopted last evening by the Senate.

In connection with that amendment, with the Senator's agreement, I would pose through the Chair a question to the Senator from Indiana. And the question is: Am I correct in my understanding that the Coats amendment does not supersede any State law previously enacted and in effect relating to parental consent or notification for abortion without regard to whether such law is more or less restrictive than this Federal legislation?

Mr. COATS. That is correct.

Mr. MITCHELL. So my understanding is correct in that?

Mr. COATS. The Senator's understanding is correct.

Mr. CRANSTON. It is my understanding as well that the Coats amendment adopted last night would likewise not affect California since the California constitution—the supreme law in our State—prohibits parental notification or consent requirements. Last night, I discussed the California decision relating to this issue. Since the sponsor of the amendment has indicated it does not supersede any State law relating to parental consent or notification, whether more or less restrictive, including those States that prohibit such consent or notification, such an interpretation would cover all forms of State law, constitutional as well as statutory.

Mr. MITCHELL. Mr. President, I thank my colleagues. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 763

Mr. MITCHELL. Mr. President, I understand that there is an amendment by the Senator from Oregon [Mr. PACKWOOD] at the desk.

The PRESIDING OFFICER. The amendment is pending at this time.

Mr. MITCHELL. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 763) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 767

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. HATCH, proposes an amendment numbered 767.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment follows:

At the end thereof, add the following:

"Title X of the Public Health Services Act is amended by adding a the end the following new section.

"SEC. . Notwithstanding any other provision of law, no State may be denied funds under this Act because it requires health care providers to obtain the consent or notification of the parent of a minor before providing any health care service to such minor.

"Such law must be enacted prior to April 1, 1981."

Mr. HATCH. Mr. President, many of the Members are aware of the unique situation in Utah. In 1981, the State legislature enacted a law requiring parental consent if a teen was prescribed prescription drugs or devices paid for with Federal funds. Subsequently, the Tenth Circuit Court of Appeals invalidated this State statute, arguing that it was not the intent of Congress to require consent when providing prescription contraceptives to minors.

The appellate court's decision was costly for Utah. State family planning services sponsored through the Utah Department of Health were required to forfeit all Federal funding, and nongovernmental clinics became the only legitimate grantee under the Title X Program.

The Utah State Legislature debated on two separate occasions whether to overturn this law and declined to do so. As policymakers in the State, they believe family planning programs that give prescription contraceptives to teenagers must involve parents. They feel parent involvement is an excellent way to reduce teenage pregnancy, a sentiment which I might note is shared by Eunice Kennedy Shriver, executive vice president of the Joseph P. Kennedy Foundation. Many Utah legislators point to the fact that teenage pregnancy rates in Utah have declined during the period in which this State law was in effect.

Since 1984, I have been informed by the Utah State Department of Health that some women in Utah are not able to receive necessary family planning services given the existing funding limitations. The women are predominately located in rural areas. The health department has asked me to do all I can to help the State once again receive title X family planning funds.

Last year when we addressed the issue, the committee voted unanimously to include a demonstration authority to test the effectiveness of the Utah law. Although the bill was not considered by the full Senate before adjournment, it represented an equitable compromise to the dilemma facing Utah.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 767) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I believe we are ready for final passage of the legislation.

Mr. ROCKEFELLER. Mr. President, I join many of my colleagues in support of the legislation before us, S. 323, the title X Pregnancy Counseling Act. I commend Senator CHAFEE for his leadership in ensuring that a vital program continues to meet the needs of women throughout our Nation.

This legislation is important because it seeks to ensure that all women—rich or poor—will have equal access to the full range of medical advice and counseling at family planning clinics supported by the title X program.

I was disappointed with the May 23 Supreme Court's Sullivan versus Rust decision that upheld the administration's regulations commonly known as the gag rule. These regulations, proposed by the Reagan administration in 1988, try to specifically prohibit physicians and other health care professionals in title X clinics from answering direct questions from their patients about the full range of legal, medical options regarding unintended pregnancies.

These regulations, if allowed to go into effect, would create a double standard for women. Poor women who need to rely on public clinics would be denied information that would still be readily available to women who can afford to pay for advice or assistance from a private physician.

Title X funds support family planning services and counseling regarding all legal, medical options available to women including prenatal care, adoption, and foster care services, and pregnancy termination. Title X money cannot be used to pay for abortions. Title X only offers women medical information regarding their pregnancy.

Limiting what advice and medical information that doctors and health care professionals can provide to patients is simply wrong. The ruling should be reversed and the Chafee bill will do just that. Under the legislation pending before the Senate, women who rely on public clinics would be guaranteed to receive information on all medical options so that each woman will be able to make her own decision on this personal and private matter.

In West Virginia, there are over 71 clinics that depend on title X funding to provide family planning services to over 121,000 women. These women deserve to know that when they go to a title X clinic and ask questions that they will receive full information.

Passage of the Chafee legislation will restore confidence for women. It ensures that every patient at a federally supported clinic will receive full information and answers to questions. I support this legislation and urge President Bush to help enact this reasonable, constructive bill into law as quickly as possible.

AMENDMENT NO. 758

Mr. KOHL. Mr. President, I want to join those who support parental involvement in the abortion decisions of minors.

As a person who believes in a woman's right to choose, I have struggled with the question of whether or not—on balance—it is best to encourage parental involvement. I have listened carefully to both sides and I share concerns for those young women who are in abusive situations in which they tragically cannot talk to a parent. The concerns are real and must be addressed in whatever we do. In considering the court history, it seems clear that the court has consistently upheld a bypass to notification/consent laws for mature minors. The amendment before us is consistent with that.

Then there is the question of whether or not it is in the interest of the majority of these young women to require parental involvement through notification or consent. There are anecdotal tragedies that argue both positions. Some say that there isn't a law that we can pass that will force young women to communicate with their parents, to create trust where trust does not exist. I understand that. At the same time, I believe there is a value to parental involvement that can and does serve the interest of the majority of minor women in these circumstances. There is something to be said for the family, Mr. President. There is something to be said for talking this important decision through with someone who knows you, who loves you, and who wants to help.

Twice since coming to the Senate, I have had to vote on parental notification amendments that were too restrictive—amendments that would not have provided adequate bypasses for young women in abusive home environments. During the consideration of the most recent amendment, I stated my support for parental notification and my hope that we could move affirmatively on this in a balanced way. This is not simply an abortion issue. This is a family issue and I believe that is how the American people view it.

I am pleased with the efforts that have brought us here today. This is a very good and important amendment. I urge its adoption.

Mr. PELL. Mr. President, I am a supporter and an original cosponsor of S. 323, the Title X Pregnancy Counseling Act of 1991. This bill was introduced by my colleague from Rhode Island, Senator CHAFEE, and addresses the deep concern of many Rhode Islanders about both the family planning policies of the Reagan and Bush administrations, and a recent disturbing decision by the U.S. Supreme Court.

The Chafee bill is necessary because it would overturn regulations promulgated by the Department of Health and Human Services in 1988 that bar federally funded family planning clinics from providing any information about abortion, or from providing referrals for abortion information or services. These regulations prohibit title X providers not only from telling a pregnant woman that abortion is legal, but also from answering the woman even if she asks specifically about abortion. In fact, these regulations prevent doctors practicing in federally funded family planning clinics from providing any information at all about abortion, even if a woman has a medical condition or illness that would make pregnancy dangerous to her health.

As you know, Mr. President, title X clinics have provided family planning information and services since 1968. Since 1973, when Roe versus Wade recognized a woman's legal right to abortion, until now, title X clinics have also been free to provide information about all legal options regarding unwanted pregnancy. Title X funds have never been, and cannot, be used for abortion services.

Despite this clear history, the Reagan and Bush administrations promulgated these regulations, which seek to impose new restrictions on the delivery of—not services—but information. And they have been successful, to date, in large part because of the Supreme Court's recent decision in Rust versus Sullivan, which essentially affirmed the regulations.

I am deeply disappointed with the Court's decision in several ways. First, the Court failed to recognize the terrible effect of these regulations on the many low-income women who depend on federally funded title X clinics. What the Court has basically said is that low-income women do not have the same rights as other women to know all of their legal, medical options. This is wholly unacceptable and must be remedied.

Second, I am distressed, as I know many of my colleagues are, that the Court has failed to recognize the important free speech implications of its decision. The Court seemingly finds that the mere receipt of Federal funds may restrict speech. As a result, the Government will be able to control what doctors and counselors who serve low-income women in federally funded health clinics can say to their patients. In my view, this is a clear violation of the first amendment and must be corrected.

Third, I am distressed that the Court disregards the professional and ethical obligations of doctors to provide full information to their patients. The law, as it now stands, would essentially require a physician to violate his or her professional ethical obligations. This is untenable and senseless.

In my view, Mr. President, the Court's decision sets an alarming precedent and must not stand.

Mr. President, during a hearing held by the Senate Labor and Human Resources Committee, two Rhode Islanders testified about the potentially devastating effects of the regulations we seek to overturn today. Rhode Island State Senator Rhoda Perry, who is also the executive director of the Thundermist Health Center in Woonsocket, RI, spoke on behalf of the people of her economically depressed community. These Rhode Islanders increasingly seek health care from community health centers like Thundermist, which badly needs the limited title X funding it receives.

Our committee also heard the testimony of Ms. Beth Quill, head of the family planning program at Providence's Women and Infants Hospital. Ms. Quill spoke of the impact of the gag rule on hospitals. Both of these Rhode Islanders came to Washington to tell the Senate that the administration's gag rule will have a devastating impact on the lives of the women they serve and on the institutions that provide these needed health care services.

Mr. President, the women of Rhode Island and of this Nation need this legislation. They need to know that the Government will not interfere with the right of all patients to know all of the legal medical options available to them. And the doctors of Rhode Island and of this Nation need to know that the Government will not prevent them from complying with their professional and ethical obligations to provide full information to all patients.

I urge my Senate colleagues to vote for S. 323 and join both the House of Representatives, which overturned the gag rule several weeks ago in its Labor/HHS appropriations package by an overwhelming vote of 353 to 74, and the Senate Appropriations Committee, which approved overturning the gag rule by a vote of 29 to 0. I hope we can pass this bill by as decisive a vote.

Mr. DANFORTH. Mr. President, during the deliberations on this legislation we have had to confront two major issues: Abortion and free speech. These two issues represent two of my most deeply held principles: The sanctity of life and the right to free expression. Since the Rust versus Sullivan ruling I have struggled with the two principles that seem so at odds in the reasoning of Chief Justice Reinquist in the majority's decision in that case. I firmly believe that the Government violates the will of the people by using Federal funds to promote abortion. I also firmly believe that the Government abuses its power of the purse when it tells people to shut up about a particular subject when they are using Federal funds.

As William Allen White wrote in the Emporia Gazette—of which he was the editor for many years:

> You can have no wise laws nor free enforcement of wise laws unless there is free expression of the wisdom of the people—and alas, their folly with it.

There have been three major votes in the course of this debate that have forced the Senate to confront both the abortion question and the right to free speech. They have not been easy votes. The first vote was on an amendment introduced by my distinguished colleague from Minnesota, Senator DURENBERGER. I voted in favor of this amendment.

Senator DURENBERGER's amendment was a reasonable alternative to Senator CHAFEE's bill that should have passed. His amendment would not have restricted the discussion of abortion based on its content, but rather would have required that all pregnancy counseling occur outside the title X project. Under this amendment, title X projects would not counsel a woman dealing with an unwanted pregnancy, but rather they would refer her to another provider who could go through all the options available to her. The amendment did not ban any discussion of abortion, but would have required that counseling on any option, whether it be adoption and foster care, prenatal care services, or abortion, occur through a different program. Counseling is a social service that the Federal Government may decide to fund or not to fund; speech is a constitutional right that the Federal Government must not lightly restrict.

Upon disposition of Senator DURENBERGER's amendment, we reached a second amendment which was offered by Senator COCHRAN. Senator COCHRAN's amendment should have carried the day. His amendment attempted to pull in the reins on the Supreme Court's decision in Rust versus Sullivan. He attempted to make clear that even if we decide not to fund a social service, such as pregnancy counseling, we must not restrict the information that a pregnant woman is given. Senator COCHRAN's amendment said that the Secretary of HHS must not prohibit health professionals from providing, upon request, information concerning any legal option regarding pregnancy. I voted in favor of this amendment.

According to the Rust versus Sullivan decision, the Federal Government should be able not only to decline to fund certain services, such as counseling, that are outside the scope of the program, but the Federal Government is able to restrict speech that is outside the scope of the Federal program. That is a dangerously broad standard that the Cochran amendment rightfully avoids.

The Supreme Court's broad standard is that any speech outside the scope of the Federal program, can be restricted.

Does that mean the Department of HHS could write regulations that would prohibit a community health center worker from telling a client where she can go to register to vote? I believe the Supreme Court's standard would allow such a restriction.

Under the Supreme Court's standard, it is not inconceivable that Congress could pass a statute that prohibits drug prevention, education, and treatment projects for women from talking about safe sex, simply because it is outside the specific scope of the program.

What if the Office of Management and Budget, looking for a way to reduce Federal spending, convinced the Department of Education to write regulations prohibiting public school employees paid through chapter 1 funds from telling parents of disadvantaged students about other Federal programs from which they could benefit, such as WIC or AFDC or Medicaid? Such a restriction of speech would be allowed under the Supreme Court's standard.

I believe that Supreme Court standard to be dangerous.

There are situations when it is legitimate for the Federal Government to restrict speech within Federal programs. The standard for such restrictions of speech, however, should not be that which has been articulated by the Supreme Court.

Here's a situation where I think it is legitimate to restrict speech: A military recruiter sits in an office all day and tells potential military volunteers how terrible the military establishment is and what a bad idea it would be to sign up and become one of their professional killers. Telling a potential recruit not to join the military would defeat the purpose for which the recruiter is being paid; it would be inconsistent with the faithful and effective performance of the task for which the recruiter is being paid.

Similarly, the Hatch Act prohibits Federal employees from making partisan political speeches because it would undermine the public's confidence in public employees' ability to serve the whole public. Such speech can be restricted not because it is outside the scope of what the employee is being paid for, but because it is inconsistent with the faithful and effective performance of the tasks for which the Federal employee is being paid.

Voluntarily providing information to pregnant patients upon request is not inconsistent with the faithful and effective performance of family planning services, even though it is outside the scope of the program being funded.

Senator CHAFEE's bill is the underlying legislation that the Senate has been considering during this debate. I have concerns about Senator CHAFEE's legislation and about his substitute amendment. In my view, Senator CHAFEE's amendment does not address the need for a delicate balance between the right of free speech and the widely held belief that the Federal Government should not use its funds to promote or encourage abortion.

I believe Senator CHAFEE's amendment maintains a strong presumption in favor of counseling women about abortion. If his amendment were to become law, it would be a statement that the Federal Government seeks not simply to allow the discussion of abortion, but to promote it. CHAFEE's amendment effectively requires title X projects to counsel women about abortion unless such counseling would be contrary to religious beliefs or moral convictions of the project or individual.

Permitting the provision of information in response to a question is far different from requiring providers to counsel women who are in the process of making a decision about whether to have an abortion, as Senator CHAFEE's amendment would do. Permitting the provision of information in response to a question is also far different from banning any discussion of abortion in a title X project.

While I am opposed to abortion, I believe that to ban the discussion of abortion, or any other subject, outright would limit speech in a way that I believe is beyond the legitimate reach of the Federal Government. To require counseling about abortion would be bad policy that I believe Congress should not enact. But to permit speech is to remain true to one of the most central principles of a democracy: the right to free expression. It is a principle that distinguishes a democratic country from a totalitarian one. It is a principle in favor of which, consistent with my opposition to abortion, I have cast my votes during this debate.

Mr. HOLLINGS. Mr. President, the writings of the Supreme Court majority in the recent Rust versus Sullivan case leave me incredulous. I think the Court was clearly wrong on statutory and constitutional grounds, but simple common sense was also violated: A slender majority of the Court upheld regulations barring abortion counseling by medical professionals in federally funded family planning clinics. In doing so, the majority lightly dismissed the strong first amendment interests involved between patients and doctors by noting that the regulations "do not significantly impinge" upon the doctor-patient relationship.

Mr. President, it is common sense that they do more than impinge—they dictate. If tax accountants were barred from mentioning writeoffs to wealthy clients, I dare say this Court and this administration would be up in arms. But, now in the United States when an individual woman goes to particular doctors, the Federal Government has handed the doctor a well-edited script. Her tax dollars have bought a muzzle for her medical adviser. Oh, she is free to choose an abortion later on in her pregnancy after she leaves the clinic, we are assured by the Court—as long as it is done with inadequate medical information, without consultation with her doctor.

At this point, the Court's endorsement of unwarranted first amendment restrictions reveals itself as unwise medical policy as well. Mr. President, when I have voted to pass a law creating a health promotion program and when I have allocated scarce Federal resources for that program, I have not intended to provide second-class services. As access to health insurance has shrunk across this country and single-parent families have proliferated, I have not intended to exacerbate the balkanization of our health care system. Yet those are the ends to which the current Court has bent my votes.

With this vote, let us set the record straight. Let us join with the American Public Health Association and the American College of Physicians and promote sound public health. Let us join with the U.S. Conference of Mayors who see the need for comprehensive family planning and medical services on the streets of their cities. Let us remind the High Court and the administration that the women of this Nation deserve more than a clever legal back-of-the-hand by providing them the basic dignity of uncensored medical advice.

Mr. BRADLEY. Mr. President, I rise in support of this legislation, S. 323, to state clearly that women who are seeking medical advice are entitled to the best help that medical professionals can offer, unrestricted by anyone's political agenda.

Congress determined that adequate family planning services were in the Nation's interest. Accordingly, a program was established under title X of the Public Health Service Act to provide contraceptive information and services in order to help lower the incidence of unintended pregnancy, improve maternal and infant health, and reduce the incidence of abortion. The law provides that no abortions may be provided with title X funds and both the GAO and Secretaries of HHS have certified that no Federal funds have been utilized for those purposes.

Yet, year after year these programs are blocked, hindered, diluted, or filibustered, not because they are not needed, not because they do not work, but because of an ideological faction that wrongly sees these programs as a battleground against a woman's right to choose a safe and legal abortion.

But, Mr. President, the services the Government should be providing in these programs are safe, unbiased health services. We should not be using taxpayer dollars to promote anyone's political agenda. Politics has no place shaping what a doctor may or may not say to a woman seeking sound medical advice. Yet, that is precisely what the current regulations, insisted upon by the administration and consistently rejected by Congress, provide.

It is a sad irony that the family planning information established under these programs is supposed to give women knowledge about alternatives and choices that, if allowed to function without interference, will ultimately reduce the number of abortions. It will also reduce the number of low birth weight babies, the number of babies born to mothers who are not emotionally or financially prepared to give them a good life, and the number of children who die before their first birthdays.

Mr. President, we may not be willing right now to devote resources to a basic, cost-effective preventive health network to address grave problems of maternal and child health, but to deny women information—to prevent doctors from offering the best possible medical care—out of a misguided ideological crusade, is an outrage. I urge my colleagues to join me in strongly supporting S. 323, so that we can get on with the business of saving America's children. This legislation will clarify, beyond a shadow of a doubt, that Congress' intention was to help poor women get the best care available, so that their children will be born healthy and survive. To do so, we must let doctors speak freely and advise patients professionally about all their legal health options.

Mr. WIRTH. Mr. President, I rise today to express my strong support for Senator CHAFEE's bill to overturn the so-called gag rule. This bill will enable the Federal Government to assist in providing women with all the information they need to make responsible decisions about their reproductive health.

Mr. President, I am outraged by the decision made by the Supreme Court in Rust versus Sullivan because it in effect institutionalizes medical malpractice. This decision says that we have a government that prohibits medical professionals from discussing with their patients not only their rights, but what procedures may be in their best interest.

The decision upholds the administration's plan to promote its own policy at the expense of informed decision-making. This country would not stand for a government that prohibits a physician from telling a woman all her legal options for treating breast cancer. This country cannot stand for a government that prohibits a physician from telling a woman all her legal options about her pregnancy.

Mr. President, I have to say on the face of it, I am perplexed that this administration would continue to pursue this misguided policy. On one hand, most of the policies advocated by the President are geared toward eliminating Government oversight and regulation. But on the other hand—the hand that we must deal with today—he is advocating that the Government intrude into the lives of its citizens and make decisions about reproductive health that a woman should make for herself. To my way of thinking, this is as wrong a policy as there can be.

In its decision, the Supreme Court also upheld the administration's notion that proper and adequate health care is something available only to the moneyed in this country. If a woman works hard yet still requires Federal assistance to meet her health care needs, she simply won't have access to the same level of care that others do.

She is not allowed the opportunity to know what her options are, what the ramifications of her decision may be, or how her mental or physical well-being may be affected. Mr. President, it is an outrage that our Government would promote two types of medical care—limited and censored for the poor and proper and adequate for all others. Evidentally, the Supreme Court believes that only women who can afford private health care are entitled to make educated decisions. Is this equal justice?

I support the efforts of my colleague from Rhode Island in pursuing this legislation to overturn the gag rule and I hope that the other Members of this body will consider what is at stake—consider that the Senate could act in a way that says that we encourage people to closely review their options and make a decision based upon that reflection and guidance.

Mr. GLENN. Mr. President, I rise today in support of S. 323, the Title X Pregnancy Counseling Act of 1991, which overturns one of the most callous and discriminatory Supreme Court decisions of this session.

On May 21, 1991, in the Rust versus Sullivan decision, the U.S. Supreme Court seriously narrowed the basic rights of patients and doctors in federally assisted clinics. The Supreme Court ratified the notion that we have a two-tier system of health care in this country: one that limits the options available to poor pregnant women who must rely on Federal assistance, and another for women who enjoy adequate private health insurance that allows them to be fully informed of all options by their doctor. If title X physicians are unable to provide all medical information necessary for patients to make an informed choice about their pregnancy they will violate their medical codes of ethics and forfeit their first amendment rights.

When the Health and Human Services Department adopted the gag rule in 1988, no real thought was given to the health needs of thousands of poor women. However, the consequences of these regulations are indeed harsh. For instance, poor women will be denied the opportunity to discuss all their options; poor women who have made a painful but conscious decision to have an abortion will be unable to get quality information from their most reliable and trustworthy source of information—their doctor; doctors and other health care profesionals will be prevented from doing what they are ethically bound to do—provide complete information on all legal medical options available to their patients.

We must insist that health professionals, no matter who pays their salaries, continue to base the advice they give their patients on medical literature and their own best judgment, not on the Federal Register or the options of the Supreme Court.

The HHS regulations and the Supreme Court's decision clearly misread the congressional intent behind title X. Time and again efforts to legislate a gag rule have been voted down by Congress. Title X funds have never been used to perform abortions, only to provide neutral counseling and referral on all options for dealing with an unintended pregnancy, including abortion. Title X clinics are required to provide general health screening for all contraceptive patients. Clinics also detect and treat sexually transmitted diseases, conduct pregnancy testing, and provide prenatal care services. The scope of services provided by these clinics achieve tremendous health benefits. Pregnancy prevention is just one part of these services.

The high-minded values of bureaucrats and lawmakers have little relevance to the painful choices faced by women and girls in these profoundly personal matters. We must keep bureaucrats with axes to grind from meddling in the medical decisions of doctors and other health care professionals. Therefore, we must move quickly to enact legislation which will overturn the title X gag rule. I urge my colleagues to join me in support of S. 323.

STATES RIGHTS

Mr. KOHL. It is my understanding that the amendment by the Senator from Indiana is not intended to preempt States rights, and that a State such as Wisconsin which has in effect a parental notification law falls within section 4 of the amendment and is thereby exempt from the amendment's requirements.

Mr. COATS. That is correct. So long as a State has previously passed and has in effect a parental notification law, it is not my intent that that State's laws be superseded by this amendment.

Mr. KENNEDY. Mr. President, I would just like to take a few minutes to comment on the importance of this bipartisan achievement in voting to overturn the gag rule. By this action, we have reaffirmed the importance of free speech in this country and the right of physicians to practice medicine without Government censorship. We have expressed our unwillingness to condone a two-tiered medical system, in which the Government is allowed to dictate that low-income citizens are not entitled to complete information about their medical options. And we have sent a clear message to the administration that Congress never intended to gag physicians or cause them to engage in the practice of unethical medicine.

I would like to thank my colleagues for their work and leadership on this very important legislation. First of all, I would like to express my appreciation to the majority leader, Senator Mitchell for all his efforts in bringing this bill to a favorable vote within the brief time period since the Supreme Court decision. I would also like to thank Senator Chafee for his leadership and diligence in protecting this basic American right of free speech.

Senator Adams and Senator Packwood should also be commended for their invaluable assistance. And of course, Senator Hatch, the ranking member of the Labor and Human Resources Committee.

Let me also express my thanks to those members of my staff, and other Senators' staff who worked so hard to pass this bill. From my staff, Mary Jeka, Carolyn Osolinik, and Emily Van Tassel; Laurie Rubiner from Senator Chafee's staff; from Senator Adams staff, Robin Lipner and Ellen Globokar; from Senator Hatch's staff, Nancy Taylor; from Senator Cranston's staff, Suzanne Martinez; and from Senator Packwood's staff, Marcia Ohlemiller.

The PRESIDING OFFICER. Are there further amendments to the bill? If not, the question on the substitute amendment, as amended.

The amendment (No. 753), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 323), as amended, was passed as follows:

S. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Title X Pregnancy Counseling Act of 1991".

SEC. 2. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. PROVISION OF INFORMATION, NONDIRECTIVE COUNSELING AND REFERRAL SERVICES REGARDING PREGNANCIES.

"(a) Availability of Information.—The Secretary shall ensure that pregnant women receiving services from projects funded under this title are provided with information and nondirective counseling services, and referral services upon request, concerning all legal and medical options regarding their pregnancies. Women requesting information or nondirective counseling under this section regarding the options for the management of an unintended pregnancy shall be provided with nondirective counseling, and referral on request, concerning alternative courses of action that may include—

"(1) prenatal care and delivery; and

"(2) infant care, foster care, or adoption services; and

"(3) pregnancy termination.

If, in the case of a woman requesting such information and nondirective counseling, an ectopic pregnancy or other immediate threat to the women's health is suspected, such woman must be referred for immediate diagnosis and therapy.

"(b) Exemption for Religious Beliefs or Moral Convictions.—

"(1) In general.—No project, or individual employed or associated with such project, may decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), except where the provision of such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the project or individual.

"(2) Facilities and personnel.—A project that, as provided for in paragraph (1), declines to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), may not be required to—

"(A) make its facilities available for the provision of such information, nondirective counseling or referral services; or

"(B) provide any personnel for the provision of such information, nondirective counseling or referral services.

"(c) Requirement of Referral.—If a project or individual is exempt pursuant to subsection (b) from the requirement of providing information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a), such project or individual shall advise the patient of that fact and refer such patient to another individual within the same project, or if another such individual is unavailable, to another project, that provides such information, nondirective counseling or referral services.

"(d) PROHIBITION AGAINST DISCRIMINATION.—A project receiving assistance under this title after the date of enactment of this section shall not—

"(1) discriminate in the employment, promotion, or termination of employment of any physician or other health care personnel; or

"(2) discriminate in the extension of staff or other privileges to any physician or other health care personnel;

because such physician or other health care personnel has provided information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2), or (3) of subsection (a) or refused to provide such information, nondirective counseling or referral services on the grounds that such information, nondirective counseling or referral services would be contrary to the religious beliefs or moral convictions of the physician or health care personnel, or because of the religious beliefs or moral convictions of the physician or health care personnel with respect to such information, nondirective counseling or referral services.

"(e) NON-TERMINATION OF GRANT.—No project may be denied funding, or be terminated, under this title based on the decision of such project to provide or decline to provide information, nondirective counseling or referral services on any of the subjects described in paragraphs (1), (2) or (3) of subsection (a). The burden of proof shall be on the entity or official making the determination to deny funding or terminate the project to demonstrate that such denial or termination is not based on the decision by such project to provide or decline to provide such information, nondirective counseling or referral services.

"(f) ACCESSIBILITY OF SERVICE.—A grantee under this title shall ensure that information, nondirective counseling or referral services on each of the subjects described in paragraphs (1), (2) or (3) of subsection (a) is available at an adequate number of projects assisted by such grantee under the grant within the geographic area served, or otherwise provide access to such information, nondirective counseling or referral services at another entity within the grantee's geographic area which will provide such services under the same financial eligibility criteria as projects assisted under this title.

"(g) DEFINITION.—For purposes of this section, the term 'project' means an entity that provides family planning services with funds received under this title under a negotiated, written agreement with a grantee.

"(h) PROVISION OF STATISTICS.—A project receiving assistance under title X of the Public Health Service Act shall maintain statistics concerning the referrals of pregnant women to whom such project has provided information, counseling or referral under subsection (a). Such project shall, on a quarterly basis, prepare and submit to the Secretary of Health and Human Services a report containing the statistics maintained by the project under this subsection for the quarter for which such report is submitted. The Secretary shall ensure that no records are maintained by such project which include the names of individual women and the referrals requested by such women.".

SEC. 3. ABORTION SERVICES PROVIDED TO MINORS.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) No entity that receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated minor under the age of 18 unless—

"(A) the attending physician has received and will make part of the medical record of such minor the written consent of the minor and one parent, guardian, or adult family member of the minor;

"(B) the attending physician has given prior notice to a parent or guardian of the minor 48 hours prior to the performance of the abortion;

"(C)(i) the minor has received the information and counseling required under paragraph (2);

"(ii) the minor has provided a written verification of receiving such information and counseling and the attending physician has received and will make part of the medical record of the minor the written consent and written verification of the minor; and

"(iii) the attending physician has determined that—

"(I) the minor is mature enough and competent to provide consent; or

"(II) the involvement of a parent or guardian of the minor may lead to the physical or emotional abuse of the minor or is otherwise not in the best interest of the minor; or

"(D) a court of competent jurisdiction has issued an order, as described in paragraph (3), granting the minor the right to consent to the abortion.

"(2)(A) The information and counseling required under paragraph (1)(C) shall, in a manner that will be understood by the minor—

"(i) provide the minor with information concerning the alternative choices available for managing the minor's pregnancy, including prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination;

"(ii) include a discussion of the possibility of involving the minor's parents, guardian or other adult family members in the decision of the minor concerning the pregnancy and whether the minor believes that such involvement would be in the best interest of the minor; and

"(iii) provide an adequate opportunity for the minor to ask any questions concerning the pregnancy and the options available for the management of the pregnancy.

"(B) The individual providing the information and counseling to the minor as provided for under paragraph (1)(C) shall obtain the signature of the minor on a dated form that—

"(i) states that the minor has received the information and counseling described in subparagraph (A); and

"(ii) sets forth the reasons, if any, for not involving the parents, guardian or other adult family members of the minor in the decision of the minor concerning the pregnancy.

The individual providing the information and counseling shall sign and date the form, maintain a copy of the form and provide the original form to the minor or, if the minor so requests and the individual providing the information and counseling is not the attending physician, transmit the original form or a copy of such form to the attending physician of the minor.

"(C) The information and counseling required under paragraph (1)(C) may be provided by a physician, psychiatrist, psychologist, social worker, physician's assistant, nurse practitioner, guidance counselor, registered professional nurse or practical nurse licensed or registered to practice under applicable State laws, or an ordained member of the clergy.

"(3) This subsection shall not be applicable in any State that fails to provide a pregnant unemancipated minor under the age of 18 with a confidential, expedited judicial procedure that enables such a minor to obtain a judicial determination that the minor is mature enough and well enough informed to make the abortion decision, in consultation with the physician of the minor, independently, or that the abortion would be in the best interests of the minor.

"(4) This subsection shall not be applicable in any State—

"(i) in which the State law prescribes the conditions or circumstances under which abortions may be provided to unemancipated minors under the age of 16;

"(ii) to the extent that this subsection would conflict with the provisions of the constitution of such State; or

"(iii) in which a referendum or initiative has been held concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

"(5) For purposes of this subsection, the term 'adult family member' means an individual over the age of 18 who is a sibling, grandparent, or aunt or uncle of the minor.

"(6) A postal receipt that shows an article of mail was sent by certified mail, return receipt requested, delivery restricted to the addressee, bearing a postmark from the United States Postal Service, to the last known address of a parent or guardian and that is attached to a copy of the notice that was sent in that article of mail, shall be conclusive evidence of the notice described in paragraph (1)(B). The notice, if sent by certified mail, shall be deemed to have been received at 12:00 post meridian on the next day on which regular mail delivery takes place, subsequent to the mailing.".

SEC. 4. PARENTAL NOTIFICATION REGARDING ABORTION.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary may not make a grant under this section unless the entity applying for the grant agrees that the entity will not perform an abortion on an unemancipated minor under the age of 18, and will not permit the facilities of the entity to be used to perform any abortion on such a minor, without regard to whether the abortion is to be performed with any financial assistance provided by the Secretary, unless there has been compliance with one of the following:

"(1) A written notification is provided to a parent or legal guardian of the minor stating that an abortion has been requested for the minor, and 48 hours elapses after the notification is provided to the parent, except that notification may be delivered personally by a physician or the physician's agent, in which case 48 hours elapses from the time of making personal delivery, or notification may be provided through certified mail, return receipt requested, restricted delivery addressed to a parent or guardian at that individual's dwelling house or usual place of abode (as defined by rule 4 of the Federal Rules of Civil Procedure for the United

States district courts), in which case 48 hours elapses from 12 o'clock noon on the second day of regular mail delivery that follows the day on which the notification is posted.

"(2) The physician with principal responsibility for making the decision to perform the abortion certifies in the minor's medical record that she is suffering from a physical disorder or disease making the abortion necessary to prevent her death and there is insufficient time to provide the required notice.

"(3) The minor declares that the pregnancy resulted from incest with a parent or guardian of the minor or that she has been subjected to or is at risk of sexual abuse, child abuse, or child neglect by a parent or guardian, as defined by the applicable State law, provided that in any such case the physician notifies the authorities specified by such State law to receive reports of child abuse or neglect of the known or suspected abuse or neglect before the abortion is performed.

"(4) The entity complies with an applicable State or local law that requires that one or both parents or a guardian either be notified or give consent before an abortion is performed on an unemancipated minor under the age of 18, whether or not the State law provides that parental notification or consent may be waived through judicial proceedings.".

SEC. 5. TITLE 10 PROJECTS SEPARATE FROM CLINICS THAT PERFORM ABORTIONS.

Nothing in this Act shall be construed to invalidate, nullify or amend regulations published at 42 CFR 59.9 and 59.10.

SEC. 6. PARENTAL NOTICE.

Notwithstanding any other provision in this Act, a requirement of parental notice or consent shall not be applicable in any State in which has held a referendum or initiative before December 1990 concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

SEC. 7. STATE LAW NOT SUPERSEDED.

Title X of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. ______. STATE LAW NOT SUPERSEDED.

"(a) Notwithstanding any other provision of law, no State may be denied funds under this Act because it requires health care providers to obtain the consent or notification of the parent of a minor before providing any health care service to such minor.

"(b) Such law must be enacted prior to April 1, 1981.".

Mr. KENNEDY. Mr. President, I moved to reconsider the vote by which the bill, as amended, was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I want to express our appreciation to the majority leader for the cooperation that we have received, and also the minority leader, and pay tribute to the Senator from Rhode Island, who has been the primary mover of this legislation which is extremely important and vital in terms of the practicing of medicine by American physicians and pediatricians and gynecologists.

It is, I think, a real indication that this body wants to have medicine practiced in those clinics and not have politicians dictating medical advice. I think it is a tribute to the Senator from Rhode Island. I pay tribute to him and to my colleague, Senator ADAMS, who has been a strong force here on the floor.

I once again thank my friend from Utah. We are not in agreement with important provisions, obviously, of the legislation, but nonetheless we have respected each other's differences and we have seen I think one of the very important pieces of public health policy that we will pass in this Congress achieved today.

Mr. HATCH and Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I would be happy to defer to the Senator from Rhode Island, then I would like to be recognized.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Utah.

First of all, I wish to thank the manager of the bill, the distinguished senior Senator from Massachusetts. It was his committee that brought this bill to the floor. He has been a stalwart in our efforts to obtain its passage.

I also want to thank the majority leader, who has been extremely helpful throughout this long process that has involved many, many decisions. I have worked with him in many other areas dealing with the environment and this is the first chance we have had to work together on matters of this particular nature. As always, he has just been absolutely tremendously supportive and helpful. So I want to thank the distinguished majority leader for all he has done, and again to thank the Chairman of the committee, because we would not be here considering this if he had not brought it to the floor and if the majority leader had not called it up.

As for the distinguished Republican manager, Senator HATCH, he has not been exactly supportive of this measure but he has not stood in our way. He has called up the votes and we have moved along. So I am grateful to him for helping us move ahead in an orderly fashion.

Mr. HATCH. Mr. President, I do not want to keep the Senate much longer because we have been on this for a long time, and I know the majority leader wants to move to another bill. But, Mr. President, I do want to just say a few things about this bill that was just passed.

This bill is not about free speech. It is not about physician-patient relationships. It is not about access to health care for poor women. This bill is about using taxpayer dollars for the funding of abortion as a method of family planning. No more, no less. The substitute uses Federal dollars intended to fund contraceptive and other preventive family planning efforts to now fund abortion.

The American taxpayer does not want it. I do not. Abortion should never be a method of family planning and a vast majority of American citizens do not want it to be.

It is important my colleagues understand this bill is not neutral with respect to abortion. Under this bill, the only option on which a women must receive counseling is abortion. That is the only option where she must receive counseling.

The Chafee substitute says that title X projects may—"may," not "must," but may—provide counseling on prenatal care and delivery, infant care, foster care, adoption services or "pregnancy termination," that is, abortion.

Thus, a clinic with a proabortion orientation—and that unfortunately, Mr. President, describes most title X recipients—could fall to tell a client about my course of action except abortion.

What about a title X recipient that has religious objections to doing abortion counseling or to referring women for abortion?

Under subsection (c) of the bill, such providers would have to arrange for women to get abortion counseling and referral either in their project or in another project.

Thus, the bill requires that women receive counseling on one option and one option only, that is, abortion.

If your clinic is staffed by proabortion people—and most of them are—you may tell clients about other alternatives. But you need not do so under the Chafee bill. But if your clinic is staffed by people who have moral or religious objections to abortion, you must—not may, but must—arrange for pregnant clients to be counseled about abortion and to be referred for abortions.

This is significant stuff. That is why I believe the President of the United States will veto this bill should it pass through both Houses of Congress, and he would be right in doing so. To move from pure family planning, which is prepregnancy care and care for persons who want to have a baby, to one where abortion becomes the choice of first resort recommendation by those in the clinic, is I think a tremendously poor move, and I think contrary to what most American citizens really want. It really brings abortion to the point of now being a method of family planning; abortion, a method of family planning.

I think that is a sad day for the country but, be that as it may, the Senate has worked its will, and I hope if this bill does work its way through both Houses of Congress the President will veto it. I hope we will have the guts to sustain that veto. I thank the Chair and I thank my friend, the chairman of the Labor and Human Resources Committee, who managed it on the other side and who I think has worked diligently to help resolve some of the problems at the end. I would like to thank the distinguished majority leader who, as in all cases, handles these matters with class, with forebearance, with kindness, and with an ability to bring people together. I personally want to express my regard, my high regard—and I mean it—to the distinguished majority leader.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind remarks. They are very deeply appreciated.

I am pleased the Senate has acted on this important measure and I hope soon we will be enacting into law provisions which repeal the unwise and inappropriate gag rule that has been in effect as a result of the Bush administration's regulations.

Those regulations suppress free speech, create a two-tier class of medical advice in our society in which young, poor, often frightened women are unable to receive the same quality and completeness of medical advice to which other Americans are entitled. That is a situation which I think no one who cares about equality in our society can tolerate. So I hope this will become law.

I commend the distinguished Senator from Rhode Island [Mr. CHAFEE] for his leadership in this area, as well as Senator KENNEDY and Senator ADAMS for their persistence and perseverance.

UNANIMOUS CONSENT AGREEMENT—H.R. 2519

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request which has been cleared by the Republican leader.

I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 2519, the VA-HUD appropriations bill for fiscal year 1992 notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION ACT, FISCAL YEAR 1992

Mr. MITCHELL. Having disposed of the matter, Mr. President, the Senate is now ready to proceed to other important legislation and, exercising the authority granted to me under the previously adopted unanimous-consent agreement, I now ask the Chair to lay before the Senate H.R. 2519, the VA-HUD appropriations bill for fiscal year 1992.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,841,620,000, to remain available until expended: *Provided,* That not less than $9,711,000 of the foregoing amount shall be transferred to "General operating expenses" for necessary expenses in implementing those savings provisions authorized in the Omnibus Budget Reconciliation Act of 1990, the funding source for which is specifically provided as the "Compensation and pensions" appropriation.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34–36, 39, 51, 53, 55, and 61), $635,400,000, to remain available until expended: *Provided,* That, funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $25,740,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by 38 U.S.C. chapter 37, as amended, such sums as may be necessary to carry out the purpose of the program.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $39,689,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct and guaranteed loans authorized by 38 U.S.C. chapter 37, as amended, such sums as may be necessary to carry out the purpose of the program.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $85,870,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 38 U.S.C. chapter 37, as amended, such sums as may be necessary to carry out the purpose of the program: *Provided,* That during 1992, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,368,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 38 U.S.C. 1798, as amended, $8,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $21,000.

In addition, for administrative expenses necessary to carry out the education loan program, $307,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by 38 U.S.C. chapter 31, as amended, $105,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,688,000.

In addition, for administrative expenses necessary to carry out the vocational rehabilitation revolving fund program, $936,000, which may be transferred to and merged with the appropriations for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); [$13,495,096,000] *$13,527,920,000*, plus reimbursements: *Provided*, [That of the sum appropriated, $8,750,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further*,] That of the funds made available under this heading, [$375,000,000] *$389,550,000* is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1992: *Provided further*, That of the collections deposited in the "Medical care cost recovery revolving fund" pursuant to the Omnibus Budget Reconciliation Act of 1990, not more than $77,000,000 shall be available in fiscal year 1992 to cover the costs of collection activities: *Provided further, That of the funds made available under this heading, not to exceed $6,000,000 shall be available for transfer to the Medical Administration and Miscellaneous Operating Expenses Appropriation for quality assurance functions: Provided further, That of the funds made available under this heading, $700,000 shall be made available for a rural mobile clinic in the State of Vermont.*

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1993, [$226,795,000] *$227,000,000*, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $40,479,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1993.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; [cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and] hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; [$854,204,000] *$805,159,000*, of which $42,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration shall not become available for obligation until September 1, 1992, and shall remain available for obligation until September 30, 1993: *Provided*, That in addition to the foregoing amount made available under this head, $14,100,000 is appropriated for the unbudgeted fiscal year 1992 incremental costs associated with Operation Desert Shield/Operation Desert Storm and such funds are hereby designated to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further, That the funds appropriated in the preceding proviso shall be available only after submission to the Congress of a fornal budget request by the President that designates said amount as an emergency requirement as defined in section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985*: *Provided further*, That the $616,658,000 appropriated for the Veterans Benefits Administration in the "General operating expenses" appropriation of Public Law 101–507, is reduced to $613,658,000, and the $3,000,000 shall be available for the National Cemetery System.

NATIONAL CEMETERY SYSTEM

For necessary operating expenses of the National Cemetery System not otherwise provided for, including uniforms or allowance therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $67,045,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$28,000,000] *$29,959,000*.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 230, 1004, 1006, 5002, 5003, 5006, 5008, 5009, 5010, and 5022 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, [$522,000,000] *$309,850,000*, to remain available until expended: *Provided*, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1992, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1992, and (2) by the awarding of a construction contract by September 30, 1993: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): *Provided further*, That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further, That $100,000 of the funds made available under this heading shall be for the purchase of land adjacent to the Veterans Medical Center, Beckley, West Virginia.*

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 230, 1004, 1006, 5002, 5003, 5006, 5008, 5009, 5010, and 5022 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, [$189,701,000] *$190,701,000*, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That not more than [$45,176,000] *$41,176,000* shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), [$19,200,000] *$8,536,000*, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care"[: *Provided*, That from funds previously appropriated under this head, the Department of Veterans Affairs shall construct parking facilities with at least 1,500 spaces at the Detroit VA Medical Center].

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031–5037), $85,000,000, to remain available until September 30, 1994.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $5,104,000, to remain available until September 30, 1994.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1992 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1992 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1992 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities", shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1991.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1992 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Any funds available for fiscal year 1992 (not to exceed $10,000,000) for "General Operating Expenses" and the "National Cemetery System" may be transferred between the two appropriations.

Notwithstanding the funding limitations contained in section 346 of Public Law 100–322 (May 20, 1988), appropriations available to the Department of Veterans Affairs for fiscal year 1992 for National Cemetery System shall be available for the operation and maintenance of the National Memorial Cemetery of Arizona (formerly the Arizona Veterans Memorial Cemetery).

The Secretary of the Department of Veterans Affairs is hereby required to comply with regulations to be issued by the Department of Health and Human Services pursuant to the Clinical Laboratory Improvement Amendments of 1988.

The Department of Veterans Affairs medical center in Northampton, Massachusetts, shall after the date of the enactment of this Act be known and designated as the "Silvio O. Conte Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Silvio O. Conte Department of Veterans Affairs Medical Center.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

(INCLUDING TRANSFER OF FUNDS)

For the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitle A of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), [$151,000,000] *$175,000,000*; for the HOPE for Homeownership of Multifamily Units Program as authorized under title III of the United States Housing Act of 1937 and subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), [$100,000,000] *$130,000,000*; for the HOPE for Homeownership of Single Family Homes Program as authorized under title III of the United States Housing Act of 1937 and subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act, [$100,000,000] *$125,000,000*; and for the HOPE for Elderly Independence demonstration program as authorized under section 803(k) of the Cranston-Gonzalez National Affordable Housing Act, [$10,000,000] *$10,400,000*: *Provided*, That all amounts shall remain available until expended*: Provided further, That, notwithstanding any other provision of law, a mutual housing association shall qualify as an applicant under the HOPE for Homeownership of Multifamily Units Program: Provided further, That in selecting eligible families to acquire vacant units under the HOPE for Homeownership of Single Family Homes program, the recipient shall give a first preference to otherwise qualified eligible families who reside in public or Indian housing: Provided further, That of the amounts made available by this paragraph, $225,000,000 shall be derived by transfer from amounts made available for nonincremental use under the heading "Annual contributions for assisted housing" in fiscal year 1991 and prior years which remains unreserved at the end of fiscal year 1991.*

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), [$500,000,000] *$2,000,000,000*, to remain available until expended: [*Provided*, That after setting aside amounts for reservation in accordance with section 217(a)(2), and prior to applying the allocation provisions of section 217(a)(1) of such Act, $25,000,000 of the foregoing $500,000,000 shall be available for grants to States and units of general local government for a program of lead-based paint abatement in privately-owned housing, in accordance with such terms and conditions as the Secretary shall specify: *Provided further*, That for the purposes of the foregoing $500,000,000, such Act shall be construed as providing the following: in section 216(3)(A), "$750,000" both places it appears shall be "$375,000"; in section 217(b)(2)(A), "$3,000,000" both places it appears shall be "$750,000"; in section 217(b)(2)(B), "$500,000" both places it appears shall be "$125,000"; and in section 217(b)(3), "$500,000" shall be "$250,000"] *Provided, That the Secretary shall not, as a condition of assisting a participating jurisdiction under such Act using amounts provided herein for fiscal year 1992 only, require any contributions by or in behalf of a participating jurisdiction, notwithstanding section 220 of such Act.*

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

[(INCLUDING RESCISSION)

[For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $9,985,790,000, to remain available until expended: *Provided*, That of the new budget authority provided herein, along with $216,200,000 of budget authority previously made available for vouchers and certificates under section 8(o) and section 8(b) of the Act (42 U.S.C. 1437(o)) which remains unreserved at the end of fiscal year 1991, $157,800,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1737bb); $574,500,000 shall be for the development or acquisition cost of public housing, including $143,625,000 for major reconstruction of obsolete public housing projects, other than for Indian families; $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $25,000,000 shall be for the risk assessment of lead and $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,106,550,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) (of which $35,000,000 shall be for Foster Child Care); $818,975,000 shall be for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $2,555,141,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, including $70,000,000 which shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235); $718,462,000 shall be for assistance for State or local, tenant and nonprofit organizations to purchase projects where owners have indicated an intent to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $348,750,000 shall be for loan management, provided that any amounts of budget authority provided herein that are used for loan management activities under section

8(b)(1)(42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years; $266,682,000 shall be for section 8 assistance for property disposition; and $41,000,000 shall be for the conversion of rent supplement and rental assistance program units and projects to section 8 project-based assistance: *Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further*, That up to $227,000,000 of amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1992, shall be rescinded: *Provided further*, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further*, That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, 25 percent of the new budget authority for the development or acquisition costs of public housing other than for Indian families shall be used for major reconstruction of obsolete public housing projects other than for Indian families: *Provided further*, That of the $9,985,790,000 provided herein, $50,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); and $4,200,000 shall be for the housing demonstration under section 304(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625): *Provided further*, That sales of housing units by a public housing agency, as authorized by section 5(h) of the United States Housing Act of 1937, as amended, which occur under the Department of Housing and Urban Development's "Public Housing Homeownership Demonstration" (as described in 49 FR 43028 of October 25, 1984), shall not be subject to section 304(g) of such Act: *Provided further*, That of the $54,250,000 earmarked in Public Law 101–507 for special purpose grants (104 Stat. 1351, 1357), $667,000 made available for the city of Chicago to assist the Ashland II Redevelopment Project shall instead be made available for the city of Chicago to assist the Marshway Project.

[Of the $9,985,790,000 provided under this head, $343,920,000 shall be for capital advances for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $380,950,000 shall be for project rental assistance for supportive housing for the elderly under such section 202(c)(2) of the Housing Act of 1959, of which up to $92,950,000 may be for amendments for section 8 contracts for projects for the elderly that receive capital advances, including projects previously reserved under section 202 as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act, including $16,250,000 for service coordinators pursuant to section 202(g) of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).

[Of the $9,985,790,000 provided under this head, $83,400,000 shall be for capital advances for housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $104,510,000 shall be for project rental assistance for persons with disabilities under section 811(b)(2) of the Cranston-Gonzalez National Affordable Housing Act, of which up to $23,300,000 may be for amendments for contracts for projects for the handicapped that receive capital advances, including projects previously reserved under section 202 of the Housing Act of 1959 as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act.

[Any amounts heretofore provided under this head for assistance under section 8 of the United States Housing Act (42 U.S.C. 1437) for rental assistance in projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) (before revision in section 801 of the Cranston-Gonzalez National Affordable Housing Act) for such projects for the handicapped, may be used by the Secretary for project rental assistance under section 202(c)(2) of such Act (after revision by section 801 of the Cranston-Gonzalez National Affordable Housing Act).]

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,917,000,000, to remain available until expended: Provided, That to be transferred to and merged with the foregoing amounts, there shall be $1,764,747,195, consisting of $216,200,000 of budget authority previously made available for vouchers and certificates under section 8(o) and section 8(b) of the Act (42 U.S.C. 1437f(b)(o)) which remains unreserved at the end of fiscal year 1991; $348,547,195 of budget authority previously made available under this head for nonincremental purposes which remains unreserved at the end of fiscal year 1991; and $1,200,000,000 of recaptured section 8 funds resulting from the conversion of projects previously reserved under section 202 of the Housing Act of 1959, as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act, to the new capital grants program: Provided further, That, from the foregoing total of $9,681,747,195, $243,396,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $573,982,500 shall be for the development or acquisition cost of public housing, including $15,719,158 for a demolition/disposition demonstration program in St. Louis, Missouri, pursuant to section 513 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $3,000,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $25,000,000 shall be for the risk assessment of lead and $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r): Provided, That notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, of the $3,000,000,000 made available for modernization of existing public housing, $200,000,000 shall be awarded competitively for construction or major reconstruction of obsolete public housing projects, other than for Indian families, and $7,437,600 shall be for a demolition/disposition demonstration program in St. Louis, Missouri, pursuant to section 513 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625): Provided further, That of the $9,681,747,195 total under this head, $883,750,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f), including $50,000,000 for a Foster Child Care demonstration program involving ten States, and $12,840,790 for a demolition/disposition demonstration program in St. Louis, Missouri, pursuant to section 513 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $777,500,000 shall be for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); $1,320,042,895 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, including $70,000,000 which shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235), and such amendments to section 8 contracts, other than amendments to contracts for projects developed under section 202 of the Housing Act of 1959, as amended, and other than amendments for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235), shall be for no more than three years; $718,462,000 shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intent to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), and of the $718,462,000 made available for such assistance, up to $50,000,000 shall be for use by nonprofit organizations, pursuant to section 212 of the Emergency Low Income Housing Preservation Act of 1987, as amended by the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), and for tenant and community-based nonprofit education, training and capacity building and the development of State and local preservation strategies; $166,900,000 shall be for loan management: Provided, That any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall be obligated for a contract term that is no more than five years; and $88,883,800 shall be for section 8 assistance for property disposition: Provided further, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: Provided further, That up to $227,000,000 of amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1992, shall be rescinded: Provided *further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: Provided further, That of the $9,681,747,195 total, $50,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) and $75,000,000 shall be for grants to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately-owned rental units: Provided further, That such grant funds shall be available only for projects conducted by contractors certified and workers trained through a federally- or State-accredited program: Provided further, That, to be eligible for such grants, States and units of general local government must demonstrate the capability to identify significant-hazard housing units, to oversee the safe and effective conduct of the abatement, and to assure the future availability of abated units to low- and moderate-income persons; and $4,200,000 shall be for the housing demonstration under section 304(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625): Provided further, That of the $54,250,000 earmarked in Public Law 101–507 for special purpose grants (104 Stat. 1351, 1357), $667,000 made available for the city of Chicago to assist the Ashland II Redevelopment Project shall instead be made available for the city of Chicago to assist the Marshway Project: Provided further, That notwithstanding the language preceding the first proviso of this paragraph, $72,800,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in the Senate Appropriations Committee report on 1992 appropriations for the Departments of Veterans Affairs and Housing and Urban Development (S. Rept. 102–107).*

Of the $9,681,747,195 total under this head, $573,200,000 shall be for capital advances for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $480,000,000 shall be for the project rental assistance for supportive housing for the elderly under such section 202(c)(2) of the Housing Act of 1959; $248,700,000 shall be for amendments to rental assistance contracts for projects for the elderly that receive capital advances or projects reserved under section 202 as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act; and $16,250,000 shall be for service coordinators pursuant to section 202(g) of the Housing Act of 1959, as amended by section 808 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).

Of the $9,681,747,195 total under this head, $111,200,000 shall be for capital advances for housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); $108,280,000 shall be for project rental assistance for persons with disabilities under section 811(b)(2) of the Cranston-Gonzalez National Affordable Housing Act; $23,300,000 shall be for amendments to rental assistance contracts for projects for the handicapped that receive capital advances, including projects previously reserved under section 202 of the Housing Act of 1959 as it existed before enactment of the Cranston-Gonzalez National Affordable Housing Act.

In 1992 and thereafter, the amount of assistance payments made with funds provided under this head for vouchers and certificates under section 8(o) and section 8(b) of the Act (42 U.S.C. 1437f(b)(o)) may be adjusted annually if necessary to assure continued affordability: Provided, That the aggregate amount of such adjustments may not exceed the amount of any excess of contributions provided for in the contract over the amount of assistance payments actually paid.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

[For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,024,589,000, to remain available until expended: *Provided*, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.]

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,024,589,000, to remain available until expended: Provided, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: Provided further, That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts: Provided further, That, for those projects in the State of Maine, the owners of which have converted their section 23 leased housing contracts (former section 23 of the Act, as added by section 103(a), Housing and Urban Development Act of 1965, Public Law 89–117, 79 Stat. 451, 455) to section 8, the subsidy provided for five-year project-based certificates (42 U.S.C. 1437f(b)).

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1992 by not more than $2,393,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENT SUPPLEMENT PROGAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1992 by not more than $2,448,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and non-profit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, as amended, [$9,500,000] *$26,000,000*, to remain available until September 30, 1993.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), [$2,188,844,000] *$2,500,000,000: Provided, That of the funds provided under this heading, $344,156,000 shall not become available for obligation until September 20, 1992.*

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), section 106(c), and section 106(d) of the Housing and Urban Development Act of 1968, as amended, [$8,350,000] *$3,700,000*, of which $350,000 shall be available for the prepurchase and foreclosure-prevention counseling demonstration program.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, [$52,413,000] *$50,000,000*, and all uncommitted balances of excess rental charges as of September 30, 1991, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1992, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1992, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $60,000,000,000.

For administrative expenses necessary to carry out the guaranteed loan program, $255,645,000, to be derived from the FHA-Mutual Mortgage Insurance Guaranteed Loans Receipt account, of which not to exceed $250,100,000 may be transferred to and merged with the appropriations for salaries and expenses; and of which not to exceed $5,545,000 may be transferred to and merged with the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans under such funds authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $54,911,000: *Provided*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed of not to exceed $8,651,901,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan programs, $189,000,000, of which $184,900,000 shall be transferred and merged with the appropriations for salaries and expenses; and of which $4,100,000 shall be transferred and merged with the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK INSURANCE FUNDS

On October 1, 1991, each outstanding obligation issued by the Secretary of Housing Urban Development to the Secretary of the Treasury pursuant to section 520(b) of the National Housing Act, as amended, together with any promise to repay the principal and interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $165,000,000, to remain available until expended: *Provided*, That $5,700,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training): *Provided further*, That $10,000,000 of the foregoing amount shall be made available for grants for federally assisted, low-income housing.

Government National Mortgage Association

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1992, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $74,769,293,000. For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $6,595,000, to be derived from the GNMA—Guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $6,595,000 may be transferred to and merged with the appropriation for salaries and expenses.

Homeless Assistance

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, **[**$71,000,000**]** *$73,164,000*, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $150,000,000, to remain available until expended**[**: *Provided*, That, notwithstanding any other provision of law, of the foregoing amount, $5,000,000 shall be available for a homeless demonstration project at Luther Place Church in Washington, DC and $4,200,000 shall be available for the New England Shelter for Homeless Veterans in Boston, Massachusetts**]**.

The unexpended balances of the "Transitional housing demonstration program", available from the appropriations enacted in Public Law 99–500 and Public Law 99–591, and the unexpended balances of the "Supportive housing demonstration program", available from the appropriation enacted in Public Law 101–71, shall be added to and merged with amounts available under this heading.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, **[**$57,000,000**]** *$11,263,000*, notwithstanding section 837(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), to remain available until expended.

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), **[**$55,000,000**]** *$105,000,000*, to remain available until expended.

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part III, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, **[**$50,000,000**]** *$73,333,000*, to remain available until expended.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $37,200,000, to remain available until expended.

[SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

[For the Shelter Plus Care: Homeless rental housing assistance program, as authorized under subtitle F, part II, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $116,000,000, to remain available until expended.**]**

Community Planning and Development

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), **[**$3,265,000,000**]** *$3,400,000,000*, to remain available until September 30, 1994: *Provided*, That **[**$32,600,000**]** *$34,000,000* shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of such Act**[**, and $500,000 shall be available for a grant to demonstrate the feasibility of developing an integrated database system and computer mapping tool for compliance, programming, and evaluation of community development block grants pursuant to section 901 of the Cranston-Gonzalez National Affordable Housing Act of 1990**]**: *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following proviso) shall be expanded for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing **[**$3,265,000,000**]** *$3,400,000,000* to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further, That $2,000,000 shall be made available from the foregoing $3,400,000,000 to carry out a neighborhood development demonstration under section 915 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625): Provided further*, That after September 30, 1991, notwithstanding section 909 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended.

During fiscal year 1992, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $140,000,000 of contingent liability for loan principal.

REHABILITATION LOAN FUND

(TRANSFER OF FUNDS)

Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), the assets and liabilities of the revolving fund established by section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), and any collections, including repayments or recaptured amounts, of such fund shall be transferred to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g-5), effective October 1, 1991.

Policy Development and Research

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, **[**$29,500,000**]** *$25,000,000*, to remain available until September 30, 1993**[**: *Provided*, That $1,000,000 of the foregoing amount shall be available for innovative building technologies research with the Research Center of the National Association of Home Builders**]**.

Fair Housing and Equal Opportunity

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $13,000,000, to remain available until September 30, 1993: *Provided*, That not less than $8,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, [$744,078,000] *$879,453,000*, of which [$394,609,000] *$435,000,000* shall be provided from the various funds of the Federal Housing Administration: *Provided, That there shall be established, in the Office of the Secretary, an Office of Lead Based Paint Abatement and Poisoning Prevention to be headed by a career Senior Executive Service employee who shall be responsible for all lead-based paint abatement and poisoning prevention activities (including, but not limited to, research, abatement, training regulations and policy development): Provided further, That such office shall be allocated a staffing level of 20 staff years: Provided further, That a qualified industrial hygienist shall be designated for each Department of Housing and Urban Development field office administering assisted housing programs to oversee and coordinate lead paint abatement and poisoning prevention activities of that office: Provided further, That such appointments are to occur within 12 months of enactment of this Act for any office that serves any of the 25 largest public housing agencies and within 18 months for all other field offices of the Department.*

[PERSONAL SERVICES AND TRAVEL, OFFICE OF HOUSING

[(INCLUDING TRANSFER OF FUNDS)

[For personnel compensation and benefits for the headquarters Office of Housing, $55,580,000, of which $37,637,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That not to exceed $1,276,000 of the $55,580,000 herein provided shall be available for travel expenses of the Office of Housing: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

[PERSONAL SERVICES AND TRAVEL, OFFICE OF PUBLIC AND INDIAN HOUSING

[For personnel compensation and benefits for the headquarters Office of Public and Indian Housing, $10,424,000: *Provided*, That not to exceed $491,000 of the $10,424,000 herein provided shall be available for travel expenses of the Office of Public and Indian Housing: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

[PERSONAL SERVICES AND TRAVEL, OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

[For personnel compensation and benefits for the headquarters Office of Community Planning and Development, $17,872,000: *Provided*, That not to exceed $439,000 of the $17,872,000 herein provided shall be available for travel expenses of the Office of Community Planning and Development: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

[PERSONAL SERVICES AND TRAVEL, OFFICE OF POLICY DEVELOPMENT AND RESEARCH

[(INCLUDING TRANSFER OF FUNDS)

[For personnel compensation and benefits for the headquarters Office of Policy Development and Research, $10,705,000: *Provided*, That not to exceed $141,000 of the $10,705,000 herein provided shall be available for travel expenses of the Office of Policy Development and Research: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

[PERSONAL SERVICES AND TRAVEL, OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

[For personnel compensation and benefits for the headquarters Office of Fair Housing and Equal Opportunity, $10,516,000: *Provided*, That not to exceed $377,000 of the $10,516,000 herein provided shall be available for travel expenses of the Office of Fair Housing and Equal Opportunity: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

[PERSONAL SERVICES AND TRAVEL, DEPARTMENTAL MANAGEMENT

[For personnel compensation and benefits for the headquarters budget activity of Departmental Management, $9,293,000: *Provided*, That not to exceed $673,000 of the $9,293,000 herein provided shall be available for travel expenses of the Departmental Management activity: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.

[PERSONAL SERVICES AND TRAVEL, OFFICE OF GENERAL COUNSEL

[(INCLUDING TRANSFER OF FUNDS)

[For personnel compensation and benefits for the headquarters Office of General Counsel, $14,985,000, of which $2,754,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That not to exceed $259,000 of the $14,985,000 herein provided shall be available for travel expenses of the Office of General Counsel: *Provided further*, That the amounts herein shall not be consolidated into a single administrative expenses fund account, notwithstanding section 502(c)(3) of the Housing Act of 1948.]

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$43,645,000] *$44,665,000*, of which $9,645,000, shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

[Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.]

Notwithstanding any other provision of law or other requirement, the city of New London, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Shaw's Cove Urban Renewal Project (No. Conn. R-126), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New London shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Notwithstanding any other provision of law or other requirement, the cities of Newburyport and Malden, in Massachusetts, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Central Business Urban Renewal Project (No. MASS-R-80) in the city of Newburyport and the Civic Center Urban Renewal Project (No. MASS-R-118) in the city of Malden, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The cities of Newburyport and Malden shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Notwithstanding any other provision of law or other requirement, the Housing Authority of the city of Jefferson, in the State of Missouri, is authorized to retain any land disposition proceeds from the financially closed-out Capitol West Urban Renewal Project (Mo. R-45), pursuant to the agreement which permitted the retention of certain proceeds, which agreement was dated August 27, 1982, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Housing Authority of the city of Jefferson City shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the town of Calhoun Falls, South Carolina, relating to the public facilities loan (Project No. SC-16-PFL0061). The town of Calhoun Falls, South Carolina, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

[During fiscal year 1992, notwithstanding any other provision of law, the number of individuals employed by the Department of Housing and Urban Development in other than "career appointee" positions in the Senior Executive Service shall not exceed 15.

[Section 8(c)(1) of the United States Housing Act of 1937 is amended by inserting after "New York." the following new sentences: "The Secretary shall also establish separate fair market rentals under this paragraph for Monroe County in the Commonwealth of Pennsylvania. In establishing fair market rentals for the remaining portion of the market area in which Monroe County is located, the Secretary shall establish the fair market rentals as if such portion included Monroe County.".]

Section 801(a) of the Cranston-Gonzalez National Affordable Housing Act is amended in the last sentence of subsection (g)(2) of the amendment to be made (by such section 801(a)) to section 202 of the Housing Act of 1959 by striking "in housing principally serving frail elderly persons".

The last sentence of section 202(g)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(g)(2)) is amended by striking "or a project where the tenants are not principally frail elderly".

[Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

["(p) With respect to amounts available for obligation on or after October 1, 1991, the criteria established under section 213(d)(5)(B) of the Housing and Community Development Act of 1974 for any competition for assistance for new construction, acquisition, or acquisition and rehabilitation of public housing shall give preference to applications for housing to be located in a local market area that has an inadequate supply of housing available for use by very low-income families. The Secretary shall establish criteria for determining that the housing supply of a local market area is inadequate, which shall require—

["(1)(A) information regarding housing market conditions showing that the supply of rental housing affordable by very low-income families is inadequate, taking into account vacancy rates in such housing and other market indicators; and

["(B) evidence that significant numbers of families in the local market area holding certificates and vouchers under section 8 are experiencing significant difficulty in leasing housing meeting program and family-size requirements; or

["(2) evidence that the proposed development would provide increased housing opportunities for minorities or address special housing needs.".]

The Secretary shall cancel the indebtedness of the Sale Creek Utility District in Soddy Daisy, Tennessee, relating to public facilities loan (Project No. TN 40–PFL0071) issued May 1, 1962. The Sale Creek Utility District in Soddy Daisy is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

The Secretary of Housing and Urban Development shall transfer title to the repossessed property known as the Roosevelt Homes Project (No. 074–84006) located in Davenport, Iowa, to a nonprofit organization selected by the city of Davenport. Such property shall be used only for the provision of an integrated program of shelter and social services to the homeless, or for other nonprofit uses, for a period of not less than 20 years following the date of the transfer. Use of the transferred property before the expiration of the 20-year period following the date of the transfer for any purpose other than those described herein shall cause title to revert back to the Secretary of Housing and Urban Development.

Notwithstanding any other provision of law, housing assistance payments in the amount of $896,000 made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101–144), for project-based assistance under the section 8 existing housing certificate program (42 U.S.C. 1437f) for the Ganado Acres project, shall be for a term beginning on December 1, 1989.

Hereafter, notwithstanding any other provision of State or Federal law, regulation or other requirement, any public housing agency or Indian housing authority that purchases any line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary, may purchase such insurance without regard to competitive procurement.

Hereafter, the Secretary shall establish standards as set forth herein, by regulation, adopted after notice and comment rulemaking pursuant to the Administrative Procedures Act, which will become effective not later than one year from the effective date of this Act.

Hereafter, in establishing standards for approval of such nonprofit insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary shall establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

Hereafter, the Secretary shall not approve additional nonprofit insurance entities until such standards have become final, nor shall the Secretary revoke the approval of any nonprofit insurance entity previously approved by the Department unless for cause and after a due process hearing.

During fiscal year 1992, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 71 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 13 staff years for the Deputy Under Secretary for Field Coordination, (3) 19 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,068 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, of which 25 staff years shall be for data management reform and preservation activities only, (6) 207 staff years for the Assistant Secretary for Public and Indian Housing, (7) 275 staff years for the Assistant Secretary for Community Planning and Development, (8) 137 staff years for the Assistant Secretary for Policy Development and Research, (9) 170 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 219 staff years for the Office of General Counsel of which not more than 13 staff years shall be for the Immediate Office of General Counsel: Provided, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the Department of Housing and Urban Development to any organization included under the budget activity "Departmental Management."

The Secretary shall establish competitive procedures for the disbursement of the amounts made available under this Act for a scientifically-based risk assessment of lead in public and Indian housing. Such procedures shall not require that applications for financial assistance for the risk assessment of lead be made in connection with the provision of other assistance under section 14 of the United States Housing Act of 1937.

Section 606(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by adding at the end thereof the following new sentence: "The Secretary may apply this 25 percent requirement to all the homes under Nehemiah housing opportunity program or to a phase (approved under subsection (b)) consisting of at least 16 homes.".

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $18,440,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (Public Law 101–610), $2,000,000, to remain available until September 30, 1993.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (Public Law 101–610), $73,000,000, to remain available until September 30, 1993.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, [$40,200,000] *$39,200,000*: *Provided*, That not more than $395,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, $9,133,000: *Provided*, That such sum shall be available without regard to section 509 to this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $12,587,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed **[**$6,000**]** *$5,000* for official reception and representation expenses; **[**$1,084,000,000**]** *$1,029,000,000*: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913): *Provided further*, That of the amount appropriated, $4,951,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes for which that fund is established: *Provided further, That $500,000 of the amount provided under this heading for the Immediate Office of the Administrator shall not become available until the Administrator provides to the Committees on Appropriations the Agency's Strategic Plan.*

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, **[**$39,661,000**]** *$41,200,000*, of which $14,954,000 shall be derived from the Hazardous Substance Superfund trust fund and $623,000 shall be derived from the Leaking Underground Storage Tank Trust Fund.

RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For research and development activities, including procurement of laboratory equipment, supplies, and other operating expenses in support of research and development, **[**$333,875,000**]** *$313,000,000*, to remain available until September 30, 1993: *Provided*, That not more than $42,000,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development; *and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project*: *Provided further*, That of the amount appropriated, $2,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes for which that fund is established.

ABATEMENT, CONTROL, AND COMPLIANCE

(INCLUDING TRANSFER OF FUNDS)

For abatement, control, and compliance activities, **[**$1,133,625,000**]** *$1,142,500,000*, to remain available until September 30, 1993: *Provided*, That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further*, That of the amount appropriated, $10,982,800 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes for which that fund is established: *Provided further*, That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, **[**$39,700,000**]** *$18,000,000*, to remain available until expended: *Provided*, **[**That $6,700,000 of the foregoing amount shall be made available as a grant for a center for neural science to be constructed and owned by New York University: *Provided further*,**]** That none of the funds previously appropriated to the Environmental Protection Agency for activities pertaining to the proposed Environmental Technology and Engineering Center in Edison, New Jersey shall be expended, except for those funds necessary to investigate alternative laboratory sites: *Provided further, That of amounts previously appropriated under this heading, $6,000,000 shall be available as a grant to the Christopher Columbus Center Development, Inc. for planning and design of the Christopher Columbus Center of Marine Research and Exploration in Baltimore, Maryland.*

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), **[**$1,630,000,000**]** *$1,616,228,000*, **[**to be derived from the Hazardous Substance Superfund,**]** *consisting of $1,366,228,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101-508, and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101-508*, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $200,000,000 during fiscal year 1992, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed **[**$50,000,000**]** *$59,500,000* of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1992: *Provided further*, That no more than **[**$260,000,000**]** *$180,000,000* of these funds shall be available for administrative expenses**[**: *Provided further*, That notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall, from funds appropriated under this heading, obligate up to $213,000 for a new pumping station in St. Anthony, Minnesota: *Provided further*, That, notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall, from funds previously appropriated under this heading in Public Law 101-507, obligate up to $5,000,000 for Koppers Texarkana Superfund site relocation**]**.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, **[**$85,000,000**]** *$75,000,000*, to remain available until expended: *Provided*, That no more than $6,400,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, **[**$2,195,000,000**]** *$2,400,000,000*, to remain available until expended, of which **[**$1,783,500,000**]** *$2,383,500,000* shall be for title VI of the Federal Water Pollution Control Act, as amended; *and* $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended**[**; $49,000,000 shall be for section 510 of the Water Quality Act of 1987; $300,000,000 shall be for making grants under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for the purpose of constructing secondary sewage treatment facilities to serve the following localities, and in the amounts indicated: Boston, Massachusetts, $100,000,000; New York, New York, $70,000,000; Los Angeles, California, $55,000,000; San Diego, California, $40,000,000; and Seattle, Washington, $35,000,000; and notwithstanding any other provision of law, $46,000,000 shall be available for Rouge River National Wet Weather Demonstration Project grants to be awarded by the Administrator, who is authorized to make such grants to Wayne County, Michigan, such grants to be for the construction of sanitary sewers and retention basins, for the repair and maintenance of wastewater treatment plants and collection systems, and for the investigation of commercial and industrial facilities and storm sewer connections to implement the Rouge River National Demonstration Project for Wet Weather Flows: *Provided further*, That, notwithstanding any other provision of law or any regulatory requirements, the Massachusetts Water Resources Authority may utilize facilities inside or outside the Commonwealth of Massachusetts to meet any technology or marketing backup requirements imposed by the Environmental Protection Agency, the Commonwealth of Massachusetts, or any judicial decree for residuals management. The Massachusetts Water Resources Authority shall not be required to own such management facilities to meet such backup requirements as long as such facilities are under the control of the Massachusetts Water Resources Authority pursuant to a binding enforceable lease, contract, or other legal instrument for the period of time required under the approved residuals management program. Nothing in this paragraph shall relieve the Massachusetts Water Resources Authority of its obligation, pursuant to a preexisting court order, to maintain its ownership and control of a site within the Commonwealth of Massachusetts for potential use as a backup residuals management facility, except that the development of such land for a backup facility is not required prior to selection of a final site for such a facility by the Landfill Siting Commission appointed by the Governor of the Commonwealth of Massachusetts or January 1, 1992, whichever first occurs. Any facility used by the Massachusetts Water Resources Authority for residuals management shall meet all applicable Federal and State environmental requirements**]**.

ADMINISTRATIVE [PROVISION] *PROVISIONS*

[During fiscal year 1992, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 46 workyears for the Immediate Office of the Administrator, (2) 50 workyears for the Office of Congressional and Legislative Affairs, (3) 77 workyears for the Office of Communications and Public Affairs, (4) 187 workyears for the Office of General Counsel, (5) 61 workyears for the Office of International Activities, (6) 32 workyears for the Office of Federal Activities, (7) 285 workyears for the Office of Policy, Planning, and Evaluation, and (8) 1,386 workyears for the Office of Administration and Resources Management.]

During fiscal year 1992, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 72 workyears for the Immediate Office of the Administrator, (2) 50 workyears for the Office of Congressional and Legislative Affairs, (3) 77 workyears for the Office of Communications and Public Affairs, (4) 187 workyears for the Office of General Counsel, (5) 32 workyears for the Office of Federal Activities, (6) 259 workyears for the Office of Policy, Planning, and Evaluation, and (7) 1,386 workyears for the Office of Administration and Resources Management.

The Administrator of the Environmental Protection Agency shall move, within sixty days of enactment of this Act, the pollution prevention activities and workyears associated with the Office of Pollution Prevention from the Office of Policy, Planning, and Evaluation to the Office of the Administrator.

LEAD ABATEMENT TRAINING AND CERTIFICATION

Not later than twelve months after the date of enactment of this Act, the Administrator of EPA shall, in consultation with the Secretary of Labor, the Secretary of Housing and Urban Development and the Secretary of Health and Human Services (acting through the Director of the National Institute for Occupational Safety and Health) promulgate final regulations governing lead-based paint abatement activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; that contractors engaged in such activities are certified; and that laboratories engaged in testing for substances that may contain lead-based paint are certified.

TRAINING GRANTS

Grants for training and education of workers who are or may directly be engaged in lead-based paint abatement activities shall be administered by the Environmental Protection Agency. Such grants shall be awarded to non-profit organizations engaged in lead-based paint abatement activities with demonstrated experience in implementing and operating worker health and safety lead-based paint abatement training and education programs and with a demonstrated ability to reach and involve in lead-based paint training programs target populations of workers who are or will be directly engaged in lead-based paint abatement activities. Grants shall be awarded only to those organizations which fund at least 30 percent of their lead-based paint abatement training programs from non-Federal sources, excluding in-kind contributions.

DEFINITION

For purposes of the immediately preceding two paragraphs, lead-based paint abatement activities means activities engaged in by workers, supervisors, contractors, inspectors, and planners who are engaged in the removal, disposal, handling, inspection, and transportation of lead-based paint and materials containing lead-based paint from public and private dwellings, public and commercial buildings, bridges, and other structures or superstructures where lead-based paint presents or may present an unreasonable risk to health or the environment.

The Administrator shall maintain a facility within the Environmental Protection Agency to conduct biological testing of pesticides.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91–190), the Environmental Quality Improvement Act of 1970 (Public Law 91–224), and Reorganization Plan No. 1 of 1977, including not to exceed [$1,000] *$750* for official reception and representation expenses, and hire of passenger motor vehicles, $2,560,000.

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,491,000, of which not to exceed $1,000 may be for official reception and representation expenses: *Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, [$3,880,000] *$9,410,000*: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

POINTS OF LIGHT FOUNDATION

For necessary expenses for carrying out title III of the National and Community Service Act of 1990 (Public Law 101–610), relating to The Points of Light Foundation's promotion of social problem solving through voluntary community service, $7,500,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $185,000,000, of which not to exceed $541,000 may be transferred to the disaster assistance direct loan program account for subsidies for direct loans provided under section 319 of such Act, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

Funds provided to this account are available to subsidize gross obligations for the principal amount of direct loans not to exceed $6,000,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; [$165,113,000] *$163,113,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$3,600,000] *$5,144,000*.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, [$277,827,000] *$285,827,000*.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $12,874,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $45,023,000 shall, upon enactment of the Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1993. In fiscal year 1992, no funds in excess of (1) $32,000,000 for operating expenses, (2) $208,276,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

[NATIONAL INSURANCE DEVELOPMENT FUND

[Notwithstanding section 520(b) of the National Housing Act (12 U.S.C. 1735d(b)), effective October 1, 1991, any indebtedness of the Director of the Federal Emergency Management Agency resulting from the Director or the Secretary of Housing and Urban Development borrowing sums under such section before the date of the enactment of this Act to carry out title XII of the National Housing Act shall be canceled, the Director shall not be obligated to repay such sums or any interest thereon, and no further interest shall accrue on such sums.]

General Services Administration

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,944,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1992 shall not exceed $2,285,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1992 in excess of $5,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

Department of Health and Human Services

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,103,000*: Provided, That the appropriations, revenues, and collections deposited into the fund shall be available for necessary expenses of United States Office of Consumer Affairs activities in the aggregate amount of $3,203,000. Administrative expenses of the United States Office of Consumer Affairs in fiscal year 1992 shall not exceed $1,100,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1992 in excess of $3,203,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.*

Interagency Council on the Homeless

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311–11319), as amended, $1,083,000, to remain available until [expended] *September 30, 1993*: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

National Aeronautics and Space Administration

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; [$6,023,600,000] *$6,549,000,000*, to remain available until September 30, 1993*: Provided, That no funds appropriated by this Act or any other Act with respect to any fiscal year may be used to enter into contracts of the National Aeronautics and Space Administration for the Cassini Mission if the estimated total budget authority for development of the spacecraft, through launch plus 30 days exceeds $1,300,000,000.*

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; [$5,157,075,000] *$4,907,000,000*, to remain available until September 30, 1993, of which $32,674,796 shall be used only for the purpose of payment, to the Federal Financing Bank, for the Tracking and Data Relay Satellite System (TDRSS) loan: *Provided*, That such payment shall constitute settlement of all amounts owed on said loan.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, [$497,900,000] *$525,000,000*, to remain available until September 30, 1994: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities*: Provided further, That of the funds appropriated under this heading, $6,000,000 shall be available to continue the construction, equipping, and integration of a Classroom of the Future on the campus of Wheeling Jesuit College; $3,400,000 shall be available for planning and design for facilities in support of the Consortium for International Earth Science Information Networks (CIESIN); $10,000,000 shall be available to West Virginia University for an independent software validation and verification facility; $10,000,000 for construction and equiping a new space dynamics lab at Utah State University; $13,500,000 shall be available for construction of integrated facilities to support the National Technology Transfer Center; and $20,000,000 shall be available for construction and outfitting of the Christopher Columbus Center of Marine Research and Exploration.*

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901–5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $200,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; [$2,211,900,000] *$2,342,300,000*: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$10,500,000] *$14,600,000*.

ADMINISTRATIVE PROVISIONS

No amount appropriated to the National Aeronautics and Space Administration in this or any other Act *with respect to any fiscal year* may be used to fund grants, contracts or other agreements with an expected duration of more than one year, when a primary effect of the grant, contract, or agreement is to provide a guaranteed customer base for or establish an anchor tenancy in new commercial space hardware or services unless an appropriations Act specifies the new commercial space hardware or services to be developed or used, or the grant, contract, or agreement is otherwise identified in such Act[: *Provided*, That the Administrator may authorize such a grant, contract, or agreement if he determines, in consultation with the Committees on Appropriations, that deferral of such action until enactment of the next appropriations Act would be inconsistent with the interest of the Nation].

[Income derived from the National Aeronautics and Space Administration Endeavor Teacher Fellowship Trust Fund may be used to award fellowships to selected United States nationals who are undergraduate students pursuing a course of study leading to certified teaching degrees in elementary education or in secondary education in mathematics, science or technology disciplines.

[Funds provided in this Act for the National Aeronautics and Space Administration, shall be used for the same amounts, purposes, and programs as are provided for fiscal year 1991 under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101–507).]

During fiscal year 1992, notwithstanding any other provision of law, average employment in the headquarter's offices of the National Aeronautics and Space Administration shall not exceed: (1) 50 staff years for the Office of the Administrator; (2) 201 staff years for the Headquarters Operations; (3) 50 staff years for the Office of Commercial Programs; (4) 42 staff years for the Office of General Counsel; (5) 195 staff years for Agency Management; (6) 82 staff years for the Office of External Relations; (7) 33 staff years for the Office of Legislative Affairs; (8) 259 staff years for the Office of Space Science and Applications; (9) 160 staff years for the Office of Aeronautics, Explorations, and Space Technology; (10) 272 staff years for the Office of Space Flight, including Level I activity for the Space Station; (11) 62 staff years for the Office of Space Operations: Provided, That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the National Aeronautics and Space Administration to any organization included under the budget activity "Research and Program Management".

National Commission on Financial Institution Reform, Recovery, and Enforcement

SALARIES AND EXPENSES

To carry out the provisions of subtitle F, title XXV, of the Crime Control Act of 1990, $1,000,000, to remain available until expended.

National Commission on American Indian, Alaska Native, and Native Hawaiian Housing

SALARIES AND EXPENSES

For necessary expenses of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, in carrying out their functions under title VI of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235, 103 Stat. 1987, 2052) $500,000, to remain available until expended.

National Credit Union Administration

CENTRAL LIQUIDITY FACILITY

During fiscal year 1992, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1992 shall not exceed $964,000.

[National Institute of Building Sciences

[PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

[For payment to the National Institute of Building Sciences, $250,000.]

National Science Foundation

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; [$1,960,500,000] *$1,926,000,000*, to remain available until September 30, 1993: *Provided*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

[ACADEMIC RESEARCH FACILITIES

[For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,000,000, to remain available until September 30, 1993.]

ACADEMIC RESEARCH FACILITIES AND INSTRUMENTATION

For necessary expenses in carrying out an academic research facilities and instrumentation program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $46,000,000, to remain available until September 30, 1993.

UNITED STATES ANTARCTIC RESEARCH ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; services as authorized by 5 U.S.C. 3109; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; [$118,000,000] *$78,000,000*, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further, That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies.*

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed [$75,000,000] *$10,000,000*, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further, That up to $9,000,000 may be transferred to and merged with funds made available under "United States Antarctic Research Activities".*

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, [$435,000,000] *$465,000,000*, to remain available until September 30, 1993: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; [$109,000,000] *$117,000,000, to remain available until September 30, 1993*: *Provided*, That contracts may be entered into under salaries and expenses in fiscal year 1992 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further, That section 14(a)(3) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1873(a)(3)), is amended by striking the words "and when less than".*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, [$3,300,000] *$3,500,000*.

Neighborhood Reinvestment Corporation

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), [$26,900,000] *$36,900,000: Provided, That of the new budget authority provided herein, $10,000,000 shall be for the purpose of providing local neighborhood revitalization organizations revolving homeownership lending capital, and equity capital* *for affordable lower-income rental and mutual housing association projects, to remain available until September 30, 1996: Provided further, That the $10,000,000 shall be available for obligation to Neighborhood Reinvestment Corporation in quarterly payments of $625,000 beginning with September 1 of fiscal year 1992.*

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $27,480,000: *Provided*, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further*, That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further*, That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1992 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1992, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, **[**$15,899,000,000**]** *$15,867,000,000.*

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,328,000.

TITLE V—GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided*, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

[SEC. 516. None of the funds appropriated in title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first class travel of any Department official or employee unless required by medical necessity or on airplane flights longer than seven hours.]

SEC. 516. None of the funds appropriated, or otherwise made available by this Act, shall be used for first class travel.

SEC. 517. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 518. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

[SEC. 519. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.]

SEC. [520] *519.* (a) Section 622A(c) of title 38, United States Code, is amended by striking "September 30, 1991" and inserting in lieu thereof "September 30, 1992".

(b) Section 8013(e) of the Omnibus Reconciliation Act of 1990 (Public Law 101-508) is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992".

(c) The amount provided in this Act for "Medical care" for the Department of Veterans Affairs is hereby increased by $90,000,000, to be available only for procurement of medical equipment.

(d) Subsections (a), (b), and (c) shall not take effect if the amount provided in this Act for "Medical care" for the Department of Veterans Affairs is less than $13,462,000,000, plus reimbursements.

SEC. 520. Section 1396r-8 of title 42 is amended—

(a) by adding to subparagraph (c)(1)(C), within the first parenthetical, after "Government", "and further excluding prices to the Department of Veterans Affairs, and prices on contracts administered by VA"; and

(b) by adding after subparagraph (c)(4)(B), a new subparagraph (c)(5), providing that "All rebates payable hereunder by manufacturers to State medical assistance plans shall be calculated without reference to the price for any drug to the VA, and prices on contracts administered by VA."

SEC. 521. All funds appropriated under the heading "Commission on national and community service" in the paragraphs entitled "Salaries and expenses" and "Programs and activities" in Public Law 101-507 are hereby rescinded.

SEC. 522. For an additional amount for fiscal year 1991, to be available upon enactment, for "Commission on national and community service", "Salaries and expenses" for use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (Public Law 101-610), $2,000,000, to remain available until September 30, 1992.

SEC. 523. For an additional amount for fiscal year 1991, to be available upon enactment, for "Commission on national and community service", "Programs and activities" for use in carrying out the programs, activities, and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (Public Law 101-610), $55,000,000, to remain available until September 30, 1992.

SEC. 524. Notwithstanding any provision of this Act, none of the funds appropriated or otherwise made available by the Act or by any other act may be used to move Federal Housing and Urban Development offices from downtown Jacksonville, Florida, (as defined by the Downtown Development Authority of Jacksonville) or to finance the operation of Federal Housing and Urban Development offices in any area of Jacksonville, Florida, other than the downtown area (as defined by the Downtown Development Authority of Jacksonville).

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992".

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized.

PRIVILEGE OF THE FLOOR—H.R. 2519

Ms. MIKULSKI. Mr. President, I ask unanimous consent that Paul Bryant, Tom Spence, Sarah Linstead, and Paul Brubaker be accorded the privilege of the floor during consideration of H.R. 2519.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am proud to present to the Senate the fiscal year 1992 appropriations bill for the Departments of Veterans Affairs, and Housing and Urban Development, and 24 independent agencies, offices, and commissions within the Federal Government

This legislation would appropriate almost $81 billion in budget authority and $82.4 billion in outlays among these 26 agencies. As a result, this bill is within our 602(b) allocation for both budget authority and outlays.

This has been, without a doubt, the toughest year I have faced as a subcommittee chair. We have faced some of the greatest pressures among the various agencies in the bill. Our task was compounded by two factors. First, despite a heroic effort by our full committee chairman, our 602(b) allocation was more $1 billion below the President's budget request. Second, we received almost 1,400 member requests, totaling about $41 billion, for various items and programs in the bill. This represents a jump of almost 40 percent in the number and cost of member requests over fiscal year 1991.

Despite these challenges, I believe that the bill now before the Senate, reported by the Appropriations Committee without dissent, is a strong and balanced piece of legislation. It takes into account the need to weigh the competing interests funded in the bill very carefully. It meets our commitments to those who have served our Nation proudly, and to those in need, without forsaking our commitment to the frontiers of tomorrow in science, space, and technology.

There are a number of my colleagues who have been extremely helpful in shaping this legislation. First, and foremost, our distinguished full committee chairman, Senator ROBERT C. BYRD. In addition, I want to give a special note of gratitude to the subcommittee's ranking member, the distinguished senior Senator from Utah, Senator JAKE GARN. His help in drafting this legislation has been absolutely essential.

What then, are the milestones in this bill?

First, we maintain our commitment to veterans.

The bill contains a medical care appropriation above the House level, with a growth of more than 10 percent above last year. In fact, the increase for medical care, about $1.3 billion above 1991, is an increase three times the size provided for all of NASA.

In addition, our appropriation for general operating expenses for the VA also exceed the level proposed by the House, and represents a 10-percent growth over 1991 levels.

We put our money into making sure that veterans' commitment to health care is met, as well as prompt service in the application of benefits and also in the area of cemeteries, to make sure that they are preserved in a way that meets the dignity of the nature of its mission.

Second, we maintain our pledge to the President and to our country's future in space.

The bill contains full funding for space station freedom and a 10-percent increase for space science.

The core of NASA is preserved, as are all existing major science projects, with the exception of the CRAF portion of CRAF-Cassini. We have trimmed in virtually all areas requested to keep NASA's total to a $430 million increase over last year.

However, I think Members will find in the bill before them, the balance between manned and unmanned space activities which has been the hallmark of the VA-HUD subcommittee under my stewardship.

To those who continue to oppose the space station as too costly—and I know we will have a robust debate on that—I only ask them to look at the facts. The redesign which the committee ordered last year cut $8 billion out of the program between now and the year 2000. In addition, the redesign capped the outyear development costs of the station so that they would peak at $2.6 billion in real dollars by the middle of this decade.

I know anybody who heard that sentence did not understand it. But that is OK. What it says is that we have put disciplines within the costs of the space station without forsaking important scientific missions.

Finally, I ask them to compare the allocation to the space station versus other scientific activities. The space station does grow by 6 percent, but space science grows by 10 percent, and the National Science Foundation, which is the heart of our Nation's basic research effort, grows by 14 percent. So to say that the space station will take a lot of our resources is not accurate, and I think the numbers show it.

Third, in housing, a great pressing need, we have kept our pledge to start both the HOME endeavor and the HOPE endeavor. To ordinary people watching this on TV or reading the CONGRESSIONAL RECORD, they will say it is another acronym. HOME stands for providing innovative opportunities to State and local governments to create housing for the needy and home ownership opportunity. HOPE is an initiative by the administration, again, to create home ownership both through public housing initiatives as well as other properties. It is a homesteading initiative. We have done that. So they are not really just words and money. They are opportunities representing both parties' thinking.

This bill provides an increase above the House and other housing and community development programs: The community development block grant program, public housing modernization, Indian housing development and elderly housing development. This bill provides these increases in part by using prior year carryover funds of almost $600 million already appropriated to HUD.

In addition, we are using $1.2 billion in funds that was unspent in the 202 elderly housing progam. This windfall occurs not because we have cut housing for the elderly, but because we have converted it from a loan program to a grant program and can use these innovative rollovers. In fact, this bill increases elderly and handicapped housing by 83 percent above the budget request and 60 percent above the House level.

Mr. President, the other area that I am going to talk about is in the area of the environment. We are providing a 10-percent increase for EPA. We are not providing a 10-percent increase in just an agency. We are providing money so that States and local governments, again, can meet their responsibility.

This bill includes $2.4 billion for construction grants, $500 million above the budget request. A construction grant is sewage treatment.

I spent part of my recess actually going out to look at sewage treatment programs, ordinary men and women who take a lot of the waste materials generated by our society and purify it, and cleanse it so that when it goes into the Chesapeake Bay, we are not polluting the bay. Two million dollars in construction grants mean that we can meet growth in communities and be able to, at the same time, protect our environment.

Very often the biggest polluters are people just in the normal activities of daily living. Sewage treatment grants are an important part of environmental protection.

In addition, the committee restores funds for asbestos abatement. We want to get the asbestos out of the schools and have the money so we can put the teachers back in. We also take care of nonpoint source pollution cleanup that is so important.

Then we come to the National Science Foundation. We have a 14-percent increase there and a 44-percent increase in math and science education.

I think that both Senator GARN and I would say that this is an extraordinary accomplishment. It enables us to do high-quality research, make sure we do not lose ground in the area of science and, at the same time, make sure our teachers are fit for duty for the 21st century.

I think that is quite a bill to bring before the U.S. Senate. I know that there will be others who will offer amendments and debate. But I hope that we will pass the bill with a minimum of amendments.

I think, given the challenges that we face, I think we have met them. But the challenges are not just do we meet the test or responsibilities of an appropriations subcommittee, but will we meet the test of time, will we meet the test of scrutiny, have we made public investments in America's future, and do we have public actions that say thank you, that preserve the very democracy which we cherish? The bill we bring before the U.S. Senate, I believe, does that.

UNANIMOUS-CONSENT AGREEMENT

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the committee amendments be agreed to, en bloc, and that the bill, as thus amended, be regarded for the purpose of amendment as original text, provided no point of order under rule XVI shall have been considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I yield the floor and look forward to hearing the remarks of Senator GARN.

The PRESIDING OFFICER. The Senator from Utah is recognized.

The committee amendments were agreed to en bloc.

Mr. GARN. Mr. President, at the outset, I want to express my respect and admiration to the Chair, and to her staff, for the truly remarkable job that they have done in the preparation of this bill. Given the impossible budgetary constraints imposed on our subcommittee, and the tremendous demand for funding of programs within our jurisdiction, there was no way to fully satisfy all the demands placed on us. All we could expect is a balance, and the measure before us does achieve that goal.

The measure recommended by the Appropriations Committee reflects a very thorough and skillful assessment of each agency and program within the subcommittee's jurisdiction. This is no mean feat since this bill is the largest domestic discretionary spending measure with nearly one-third of the overall Federal total. Moreover, activities within the subcommittee's jurisdiction represent the most diverse, and disparate, array of activities: from maintenance of American battle monuments overseas to the Consumer Product Safety Commission and Selective Service System. We have expensive programs like veterans activities and HUD housing, and small inexpensive ones like the new $500,000 Commission on Native American, Alaska Native, and Native Hawaiian Housing. Funded within the bill is a Federal court, for veterans appeals, the wide-ranging regulatory activities of the Environmental Protection Agency, and also the President's Points of Light Foundation.

I consider it a remarkable feat just to keep all these agencies straight, let alone in a reasonable and clear perspective. But the real feat here is that within very onerous budgetary constraints, the committee has been able to structure a bill which allocates funding among this collection of agencies in a fair and balanced manner. It is a dramatic improvement over the version which passed the House, and I strongly recommend swift and favorable action by the Senate.

The Senator from Maryland has already summarized the recommendations of our committee so I would just like to take a moment to highlight one aspect of the pending measure which I feel very strongly about: investing in science, space, and technology for our Nation's future.

The enormous diversity in the bill, and the competition for scarce funding highlights the difficulty in restoring a balance in our committee's recommendations between the burgeoning demand for social service needs like veterans medical care and low-income housing assistance and what this Nation must invest in to prepare our society for the economic challenges of the next decade and century. No one in this Chamber will say that we should shirk our debt to those who fought in our Nation's wars of the past, and few would say that we must pare back on assisting the homeless and needy that we see on our streets today. But there are several who are comfortable saying that tomorrow will take care of itself.

They are content to simply take potshots at individual programs in NASA and the National Science Foundation which, if killed, will temporarily free up some money to satisfy immediate demands for current social spending. Individually, they are vulnerable since no one program can claim to dominate all critical investment in research and development which will yield the technologies and the trained work force to keep our economy strong through our childrens' generation and beyond. But this mentality is dangerous, because its all to easy to pick away at our overall program of research and development funding, one program at a time, to fund other items which command our immediate political attention. One or two this year. Then next year, a couple more, and again a few more the next until we find that we are not investing anything at all for our future needs.

I trust the Senate has enough foresight to examine the measure before us and see that it reflects a balance, and that this balance needs to be sustained not only this year, but into the future.

Again, I would like to follow on what the distinguished chair of the subcommittee has said. She mentioned that this was the most difficult budget year since she has become subcommittee chairman. That certainly is true. I would say beyond that, it is the most difficult year in the 15 years that I have served on this subcommittee.

I think that is fair to note, although each subcommittee chairman and ranking minority member probably comes before this Senate and says that we have not received a fair allocation. But all you have to do is look at the allocations over the last few years for this particular subcommittee, Veterans, HUD and Independent Agencies, and you will find that each year we are receiving a lesser percentage of the total allocated to the Appropriations Committee than we did the year before.

Certainly, that is not true of some other subcommittees, so our overall allocation has been reduced compared to the overall budget last year, and that is why I believe it is particularly noteworthy that the job the chairman and her staff have done on this bill is so commendable, because it does reflect a balance between all these very different needs within the subcommittee's jurisdiction. It is much better than the House. Although certainly all of our colleagues have the right to offer amendments, and I expect we will have to deal with some, I hope that we not disturb this balance between the very different areas this subcommittee jurisdiction covers.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I only ask that the quorum call be rescinded to encourage those Senators who wish to participate in a discussion on VA-HUD to come forth and bring their statements, or, to encourage Senators who have amendments they would like to offer—to improve the bill or to bring certain public policy considerations like the funding of the space station—to bring them to the Senate floor. I ask the Senators to bring their amendments to the floor at this time.

I make this request so that we can efficiently use the Senate's time, No. 1, and I think it would really expedite the debate. Also, I think debate during the daylight will be fresh, it will be invigorating, and it will enable a large majority of the American people to watch the Senate at work.

I encourage those who have those amendments not to bring them at happy hour time. It will not make me happy to have to wait until 4 o'clock for amendments. The hour is now.

For those Senators who wish to offer amendments, this is it. Or for those who think we have done a good job, it would be wonderful if they would come and talk about what we have done in housing and environment. If they think we have not done a good job, let us bring it out, let us talk about it. We are supposed to be the greatest deliberative body in the world. We put a lot of work into this legislation along with our Republican counterparts. If the Senators do have something to say, I would like to hear it. Most of all, I would like to hear it before 2 o'clock, or maybe 2:10.

Having said that, I will be back. I now note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, while we are waiting for Senators to bring their amendments to the floor, there are certain aspects of the appropriations that I would like to amplify. One is, I would like to talk about the issue of veterans and veterans medical care.

In my opening statement, I outlined the way we had increased veterans medical care substantially. But I want to have the veterans of the United States of America, in either the current war that has just ended or previous wars, to know the United States Senate is absolutely on their side when it comes to quality assurance activities.

I know most Americans and veterans watched TV shows during the past year about veterans medical care, and it painted a sorry picture in a few hospitals of lackluster performance, careful attention to the feeding, and activities associated with rehabilitation.

I want the veterans to know, No. 1, we really looked into that, and that we had very stern words with the appropriate administrative staff responsible for that.

Mr. President, we have 187 veterans hospitals around the United States of America, and most of them are more than fit for duty. They have excellent staff; they have dedicated people who are willing to even go the extra mile to look out for those men and women who have cared for the country.

But then there have been those where I would say there has been sloppy administration, not really taken care properly, or taking care of the details that they should.

In this legislation, I mandate the VA secretary to come up with a plan for quality assurance reforms. We not only told them to come up with a plan, we allocated $15 million to make sure we have quality assurance. We want our veterans' hospitals to be as fit for duty as the veterans were themselves when they went into combat and suffered those wounds of war.

So my legislation will provide for additional site inspection by a VA medical inspector who will go out and make surprise visits and so on, to make sure there is appropriate nursing staff, that the clinical laboratories are functioning at a quality level. We are also developing a quality checklist for evaluating hospital performance.

Mr. President, can you believe, there was no specific checklist for every single hospital to meet; each 187 was kind of operating out there on its own.

We are also going to improve resource allocation planning for the management of each hospital. We are also developing and mandating a plan to better manage the prosthetic backlog. When I heard about the backlog facing our veterans for their need for prosthetic devices, that was an unacceptable level.

Any backlog is unacceptable, but to suffer the wounds of war—and I do not have to elaborate on this for our Presiding Officer—and not be able to have access to the technological improvements we have made in limbs, to have to wait in line for that, no, that was unacceptable. That is part of our quality assurance.

We are also developing guidelines for disciplining a negligent physician, including instances where removal might be necessary. These are few and far between, but we have to have the same strict standards as our community-based hospitals. So I want the veterans to know that we have in here a very strong quality assurance program.

Another thing that came to our attention was the condition of some of our national cemeteries. Well, cemeteries, to this Senator, are a sacred place of ground. They are the final resting place, and in this case final resting place for America's heroes. So we have not only funded adequately, I believe, the national cemetery system, but it came to my attention that because we did not have the cemetery funds specifically fenced, there was a raid on cemetery money by the VA, and the money went into other little pockets.

When we put our money into making sure the veterans cemeteries are well cared for, they are not meant to go into a bureaucracy. We put in a new accounting system. I know it sounds a little nerdy to talk like that, but we have put a fence around it so that the money we put in for the cemetery system goes for the maintenance of this very sacred ground for our veterans.

So, Mr. President, those are some of the kinds of things we haved done, and as the afternoon goes on, I will be able to elaborate on other aspects of the bill.

Again, waiting for amendments from the Senators, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONDITIONING MFN TO CHINA

Mr. BAUCUS. Mr. President, last week the House of Representatives considered the issue of extending most-favored-nation trading status to China.

The House voted 223 to 204 to immediately deny China MFN status. Immediately afterward, the House voted 313 to 112 to put a number of foreign policy conditions on an extension of MFN to China beyond this year.

Apparently, a number of House Members felt that it was a mistake to cut off MFN status to China, but that putting conditions on MFN was an acceptable compromise.

Mr. President, I deeply believe that is an unfounded judgment. In fact, both the conditional MFN bill passed by the House and that pending in the Senate are tantamount to terminating MFN for China.

The House bill imposes some 14 conditions on extending MFN to China. The conditions range from releasing political prisoners to stopping forced abortions to stopping missile sales.

The Senate bill imposes virtually all of the same conditions and adds additional conditions on trade and support for the Khmer Rouge.

I support the objectives of each of the conditions in both bills. China's actions have been egregious in all of those areas. But we cannot hope to resolve every concern we have with China on the back of most-favored-nation trading status.

No nation in the world is even remotely considering revoking MFN. Let me repeat that, Mr. President: No country in the world is even remotely considering revoking MFN with China. In the same vein, no nation is likely to fundamentally reshape its foreign and domestic policy in order to retain MFN. That is particularly true with regard to China.

The current generation of hardline Chinese leaders only reluctantly tolerate economic ties with the West. As a group of Chinese dissidents who visited my office last week pointed out, the economic ties with the West actually strengthen the hands of their reform-minded rivals and undermine the hardliners control of the Chinese economy.

Putting new conditions on MFN for China would allow the hardliners to claim that trade with the West had allowed a foothold for United States "imperialism."

As recent press reports have indicated, the Chinese Government's propaganda machine is decrying United States efforts to interfere in Chinese domestic affairs by imposing conditions on MFN. Just last week, a Chinese Government propagandist argued that the entire Chinese democracy movement was inspired by Western counterrevolutionaries.

These and other signs led the Chinese who visited me to argue that the hardliners would seize upon the United States imposing conditions on MFN as an excuse to stop trade with the United States.

At the very least, they are extremely unlikely to take steps that they see as endangering their hold on power, such as releasing political prisoners, in order to retain MFN.

Generally speaking, the United States should be very cautious about using trade policy to promote U.S. foreign policy objectives.

As we learned during the Soviet grain embargo, United States trade sanctions—especially unilateral sanctions—almost never end up hurting the country they are aimed at as much as they hurt us.

Our allies—Japan, Germany, and Britain—simply do not believe in sacrificing their commercial interests for foreign policy objectives. That is why they are not even considering revoking MFN with China.

In this case, no other nation is contemplating withdrawing or imposing unattainable conditions. In fact, the leaders of Japan and Britain plan to visit China in the next few weeks.

If we withdraw or unacceptably condition MFN, our allies will continue to trade with China. Thus, China will not be hurt. The only losers will be the United States.

During debate on the 1988 Trade Act, the Congress declared that it was finally time to stop using trade as the handmaiden of foreign policy. It was finally time to recognize that commercial interests in America are as important as foreign policy objectives.

Unfortunately, we have not lived up to our rhetoric. Again we find ourselves ready to use trade policy in vain amount to achieve foreign policy objectives with regard to China.

Mr. President, if we do so, we will once again repeat the unfortunate experience with the Soviet grain embargo.

There is no disagreement as to our goals. We all are concerned about China's blatant abuse of human rights, its weapons sales, and its unfair trade practices.

But if we attempt to address these concerns by revoking MFN, history will demonstrate that we will fail, and we will be hurting ourselves because we will not be taking a concerted effort in joining with other countries in the world to encourage China to do the things that China must do.

If MFN were only the option with China I would vote to condition MFN. But they are not our only options.

Instead of once again employing trade sanctions to achieve foreign policy objectives, we should use foreign policy tools to achieve foreign policy objectives. For example, we could use the leverage gained from China's need for loans from the World Bank to press for improved human rights in China. And we could use our trade policy tools, such as section 301, to address our trade concerns.

I have been working with the administration for several weeks to develop such a package of carefully chosen rifleshot initiatives to address our concerns with China. These initiatives will be unveiled in the next few days.

I believe this approach of using trade policy tools to achieve trade policy objectives, and foreign policy tools to achieve foreign policy objectives, will prove far superior to addressing all of our concerns on the back of MFN.

In closing, Mr. President, I am looking very closely at the administration's response. If the administration in its response to me and to the Senate does not indicate that it is taking sufficiently aggressive actions to address human rights, transfer of technology sales, slave labor, products made by slave labor, and trade policy objectives, then I will be one of the first to state that I think the administration response is ineffective and insufficient, and I would reluctantly vote to condition MFN extension accordingly.

I very much hope that we, however, as a country, as a people, move forward and use the tools we have available to us so that we not only maintain our commercial interests with China but more importantly effectively encourage China to address the abuses it has undertaken so far.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Chinese Intellectual of Another Stripe."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHINESE INTELLECTUAL OF ANOTHER STRIPE

(By Lena H. Sun)

BEIJING.—One of China's leading propagandists for Premier Li Peng's hard-line policies got unusual exposure today, meeting with foreign reporters here.

He Xin, considered to be a favored adviser to Li, also may well be the most hated intellectual in China—who received death threats in the mail.

He came to public attention as the first Chinese intellectual to support the government's crackdown in Tiananmen Square. He quickly captured the attention of Beijing's leaders. Within months, his view that Western countries are trying to subvert China's political system began to receive unprecedented prominence in the official press.

At his press conference, He Xin (pronounced Huh Shin) struck a combative tone, accusing journalists of spreading lies and rumors about him, and dodged question after question, referring instead to this published voluminous writings.

"Some people are opposed to my views, therefore they began to curse me, and the result came out to be that it helped me to establish my fame," he said.

The 42-year-old scholar has depicted the United States as an enemy nation bent on destroying China's Communist system and replacing it with capitalism and has found eager audiences among party conservatives. Chinese leaders apparently believe that He Xin's theories will also blunt Western criticism of China.

He Xin argues that Western nations, especially the United States, supported China's 1989 democracy movement in an effort to weaken and divide China so that the United States would become the world's undisputed superpower.

"The United States has spent a lot of money on cultural and ideological infiltration,' He Xin has said, and "supported certain intellectuals in an anti-system movement in the name of 'democracy.' In the minds of some Chinese, the United States is so perfect, so strong that it looks almost like a god."

He also argues that democracy would bring about the same kind of chaos and factional violence that wrecked the country during the radical Cultural Revolution of 1966–1976.

A former Red Guard, He Xin is a self-taught scholar who dropped out of college after a few months. Yet he managed to win a college teaching job and entry into the Chinese Academy of Social Sciences.

He currently works at the academy's Institute of Literature, where he is shunned by most of those holding much more liberal views. The author of dozens of articles and books, including works on archaeology and the cult of the dragon. He Xin is accused by many social scientists of plagiarism.

Some Chinese intellectuals and Western diplomats feel particularly uncomfortable about He Xin, saying his arguments might carry more weight since he is an academic, he is young and he is not a Communist Party member.

Most Chinese intellectuals are said to feel he is a traitor and political opportunist, particularly because much of the repression after the June 4 army crackdown has been targeted at the intelligentsia.

He Xin's theories mesh well with the view among more conservative elders, who echo Mao Zedong's dictate that China should be more self-reliant and less dependent on the West, Chinese intellectuals say.

He was once considered a relatively obscure liberal who advocated replacement of socialist planning by a free-market economy. But his willingness to change his political colors and embrace and defend the current leadership, which all but a few Chinese intellectuals condemn, has brought him notoriety and growing political influence.

He has acknowledged that he attended a high-level meeting presided over by Li and offered advice to the leadership on how to deal with student protesters two days before the Chinese military violently seized Tiananmen Square in 1989.

Washington Post staff writer Daniel Southerland reported from Washington:

A glimpse of the kind of analysis that is seriously considered behind closed doors by Communist Party officials was provided recently by an internal party document designed for restricted circulation among high-ranking Chinese officials.

The document was obtained from Chinese dissident academics in exile. It is consistent with He Xin's publicly stated views, but goes much further in directly attacking the United States than commentaries normally made available to the Chinese public.

The document confirms that a conservative grouping of Chinese officials and their supporters view the United States with extreme suspicion. In the view of U.S. government analysts, if Washington were to withdraw most-favored-nation trading status for China, it would simply confirm to such hardliners their view that the Americans are trying to destroy China's current system of government.

With regard to He Xin, a Bush administration official once described him as "the McCarthy of this period" in China, because of his intolerence of other views and his sharp published attacks on his opponents.

According to He Xin, the U.S. government from 1984 to 1989 sought "to subvert the present government of China and overthrow its system."

"The U.S. did this in a very clever way," the document says. "First, it did all this under the banner of friendship and cooperation, supporting democracy and human rights. Second, it did it with the help of internal forces in Chinese society."

He Xin argues that the "true strategy" of the United States was revealed from the time of the student demonstration that erupted in the spring of 1989, when, in his view, it became U.S. policy to cause trouble in China, destroy the political and economic infrastructure, and bring about the country's disintegration. This strategy, He Xin contends, was made possible by the collapse of the Soviet threat to the United States, which made China no longer important as a partner of the United States in countering the Soviets.

He Xin alleges that the United States uses a variety of methods to carry out its plot to destroy the Chinese Communist system and to make China "subservient" to the United States, including attempts to "buy" Chinese talent by bribing and employing the sons and daughters of high-ranking Chinese officials.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION ACT, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. GARN. Mr. President, I note for my colleagues, or their staffs who are listening, once again we are faced with what seems to have become the norm around the Senate. The distinguished chairperson of the Subcommittee on HUD and Independent Agencies is here to deal with an important appropriations bill. It is 2:20 in the afternoon. We know there are some amendments. Yet no Senators have appeared to offer their amendments.

I think I know what will happen. Around 8:00 tonight, everybody will be milling around the floor, complaining about the majority leader and why we are in session into the evening.

I suggest we realize it is not the majority leader's fault or the Republican leader's fault if we will not come to the floor to do our work. So I encourage our colleagues who may have amendments. If they do not, I am not encouraging amendments. I am just suggesting, if there are any, they come over and work in the middle of the afternoon.

I realize the C-SPAN audience is not as big this time of day as it is in the evening. I understand all of that. But, on the other hand, I will be on the floor, as will the distinguished Senator from Maryland, and we will not tolerate any complaints about a late-night session tonight. We will defend the leadership on their attempts to get this or other bills moving. But the major reason we stay around here until 9 or 10 o'clock at night is because our colleagues on this, or other bills, simply will not come to the floor.

I hope if there are amendments they would come and we not have to stay late into the evening trying to deal with this legislation at 6 or 7 or 9 o'clock. If I had my way, we would simply go to third reading. Maybe that would stimulate some of our colleagues to come over, if they thought the bill was going to pass by voice vote in the next 10 or 15 minutes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I may proceed as if morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGING THE GUARD AT THE INTERNATIONAL RESCUE COMMITTEE

Mr. PELL. Mr. President, for generations the world's refugees have looked to the International Rescue Committee [IRC] for encouragement and support as they face the daunting challenge of leaving their homeland and finding asylum abroad.

The International Rescue Committee was founded by Albert Einstein in 1933 to come to the aid of refugees from Nazi-threatened Europe. Its first chairman was the great theologian Reinhold Niebuhr. When Dr. Niebuhr stepped aside as chairman his place was taken by Leo Cherne, a distinguished economist and the founder and president of the Research Institute of America. That was more than 40 years ago, and in that time the IRC has grown in international stature and fame. While many people in this country and abroad have joined with IRC in carrying out its humanitarian mission, it was Leo Cherne whose voice and intellect provided the inspiration that made the IRC the organization it is today.

In the past I have proposed to the Nobel Peace Prize Committee in Oslo, Norway, that they should consider the IRC for this highest of international honors. It would have been a recognition fully merited, a recognition of selfless, often unsung, work by hundreds, even thousands of volunteers and supporters; a recognition of those like Carel Sternberg and Robert DeVecchi who continue to lead the staff of the organization in meeting its difficult challenges. And it would have been a recognition of the long-enduring chairmanship of Leo Cherne.

On a personal note, it is among my proudest memories that in 1956, I represented the IRC in Austria at the time of the Hungarian refugee crisis, and I subsequently served as a vice president of the organization. Through the years I have looked to Leo Cherne as the keeper of the moral compass that points us in the right direction when it comes to helping refugees.

Leo Cherne has informed the Board of the International Rescue Committee that he wished to step aside as chairman. As a man who devoted much of his life to helping the world's oppressed, he has truly earned his passage. The IRC Board responded to his decision by electing him chairman emeritus. I want to join in honoring and congratulating Leo Cherne for a job well done.

If it was possible to find a worthy successor for Leo Cherne, the IRC has accomplished this by electing John Whitehead as its new chairman. John Whitehead had earlier enlisted with the IRC and had planned to make this a major part of his life following his successful career in the New York financial world. Then George Shultz tapped him to serve as his Deputy Secretary of State. So his election now as chairman of the IRC is in a sense coming full circle, a homecoming to an organization that I know has long been close to John's heart.

I am delighted to note also the appointment as IRC Vice Chairman of Winston Lord, our former Ambassador to China who has been so helpful in sharing his thoughts about that country and our relationship with it in his meetings with the Foreign Relations Committee. He will be a worthy partner for John Whitehead.

As we pay tribute to Leo Cherne it is reassuring that his shoes will be so well filled.

I ask unanimous consent that an article from the July 15 Washington Times describing Leo Cherne's many achievements and honors be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, July 15, 1991]

A MAN WHO WOULD RESCUE THE WORLD

(By Helle Bering-Jensen)

Inside a small yellowing envelope with Vietnamese characters scribbled on its front is a tiny piece of shrapnel, about the size of a quarter. Leo Cherne keeps it in his desk, no matter where he might be.

"They removed this from the stomach of a 12-year-old South Vietnamese boy," says Mr. Cherne, who at 79 is one of the world's great humanitarians. "I had him brought to the hospital, and I thought he would bleed to death."

After American doctors told him the boy would live, Mr. Cherne headed out to the markets of Saigon to look for supplies for the boy's remote village. It had been cut off by the Viet Cong, which also had grabbed every scrap of food.

"I found a small shop where I purchased 5,000 pounds of these slimy little fish, drove them to the airport and piled them by hand into a helicopter," he says. Mr. Cherne also provided a supply of noucmam sauce, an absolute must for a Vietnamese fish dinner.

Then, having brought the supplies to the village, he almost got blown to bits by a land mine. All in a day's work.

This grim memento from 1966 is just one of the many that surround Mr. Cherne in his office on New York's Park Avenue—reminders of a life in refugee work going back more than a half-century. On Sept. 1, Mr. Cherne will step down from the chairmanship of the International Rescue Committee, a post he has held for nearly four decades.

Under his direction, it has grown into the largest non-religious relief organization in the United States, one with some 3,000 employees around the world and a budget of more than $40 million.

In the famine-stricken Horn of Africa, among the millions of Afghans in camps in Pakistan, among the hundreds of thousands mired in the camps of Indochina, the International Rescue Committee works to provide relief and, for some 10,000 people a year, passage and visas to the United States. Most recently, the IRC was one of the first relief agencies to send teams of nurses and doctors to help the Kurds on the Iraqi-Turkish border.

Since Mr. Cherne joined the organization in 1946 and became chairman of its board in

1951, he has achieved legendary status in the world of international relief work. Match the humanitarian passion of an Albert Schweitzer with the swashbuckling resourcefulness of an Indiana Jones, and you get someone not unlike Mr. Cherne, a man equally capable of addressing a Senate hearing, racing refugees across borders hidden in the trunk of his car or bargaining over life and death with guerrilla leaders.

"Although he has never held elected office, Mr. Cherne has had more influence on governmental policy than many members of Congress," noted Ronald Reagan when he awarded Mr. Cherne the Presidential Medal of Freedom, the country's highest civilian award, in 1984. Sen. Daniel Patrick Moynihan has called him "for 40 years one of the best-kept secrets of American foreign policy."

An adviser to presidents from Franklin Roosevelt to Reagan, honorary chairman of Freedom House (the New York-based human rights group), chairman of the Foreign Intelligence Advisory Board under Gerald Ford and vice chairman under Mr. Reagan, a noted economist and forecaster of business trends for 50 years, Mr. Cherne is a multimillionaire and a true Renaissance man. He has composed more than 100 songs, including the hit "I'll Never Forget," which debuted on Dec. 7, 1941. He is also a sculptor whose works line the walls in his office.

"I think the secret is always to do what you really want," Mr. Cherne says, and for him the International Rescue Commission comes first. "It is the most rewarding kind of work you can think of because you get to see the results."

One of Mr. Cherne's most remarkable talents, says IRC Executive Director Robert DeVecchi, is his ability to connect with a wide range of people. "Over the years, Leo has been the glue that holds all this together," he says. "Almost everybody on the board has a personal relationship with Leo that they consider very important if not downright sacred."

A quick scan of the IRC board reveals, among others, Sens. Mark Hatfield and Claiborne Pell, Rabbi Marc Tanenbaum, Henry Kissinger, Cambodian refugee Dith Pran and president of the American Federation of Teachers Albert Shanker. Nobel laureate Elie Wiesel and actress Liv Ullmann serve as the organization's international vice presidents.

NEW YORK TO TOKYO

Born in the Bronx in 1912, the son of Russian-Jewish immigrants, Mr. Cherne found his first job in show business as a member of the Metropolitan Opera's children's choir. "It was 50 cents a rehearsal, a dollar a dress rehearsal and $2.50 a performance," he recalls.

Other of his youthful pursuits included seamanship with the New York and Cuba Mail and Steamship Co. and journalism for the Daily Mail and the Bronx Home News, investigating the lethal substances being served in the Prohibition-era speakeasies. In 1935 he settled on a more permanent career path with his graduation from New York Law School, an offshoot of the Columbia University Law School.

Soon afterward he answered an advertisement for a new tax research enterprise grandly named the Research Institute of America by founder Carl Hovgard, who had just spent his life savings, all of $750, to get it started. Under the directorship of this duo—"the Kansas farm boy and the dead-end kid" as one news report called them—the business grew rapidly, developing a reputation for accurate economic analysis and predictions.

In 1938 Franklin Roosevelt asked the whiz kid outfit to help draft a plan for the country's industrial mobilization in the event of war, and after World War II, President Harry S Truman drew on Mr. Cherne for aid in assessing the needs of postwar Germany. In the Pacific, Gen. Douglas MacArthur asked Mr. Cherne to develop a tax plan for the redistribution of wealth in Japan to create a large and stable middle class to be the foundation of Japan's fledgling democratic structure.

When, in 1954, he was hit with a case of acute fatigue and admonished by his doctors to relax, he took to scuplture instead. A bust of Albert Schweitzer was his first work, now in the collection of the Smithsonian Institution. Untrained, Mr. Cherne was not hampered by conventional methods. One artist complimented him on the figure's hair, remarking that he had achieved a realistic combed look. "But that is just what I used," exclaimed Mr. Cherne, "a comb!"

The busts that today line the walls of his New York office include Eleanor Roosevelt, John F. Kennedy, Lyndon Johnson and Abraham Lincoln. He is quite proud of a small porcelain replica of his Lincoln bust that sits on the coffee table. "It's a forgery," he says, "I love it, made in Japan."

Eventually, however, time pressures forced him to give up sculpting in the late 1970s. Music fell by the wayside too, but for a different reason. "It dawned on me that writing love songs is not a very reputable activity for someone who advises presidents," he says.

Nor, perhaps, for someone who spends his life saving the lives of others. The IRC has, as he himself puts it, Mr. Cherne's fingerprints all over it. "Enthusiasm is really the word that describes the spirit that Mr. Cherne brings to the organization," says executive director Robert DeVecchi, "enthusiasm that defies any sort of bureaucratic attitude."

THE WINDS OF WAR

The organization itself dates back to 1933, when physicist Albert Einstein, theologian Reinhold Niebuhr and philosopher John Dewey got together to form a committee to help those fleeing Germany after Hitler's power grab. At first refugees were a trickle. Soon they became a torrent. With the Hitler-Stalin Nonaggression Pact of 1939, it was evident that the immediate threat to human life came from the communists as well as the fascists.

As Hitler devoured Europe "course by course," as Winston Churchill put it, masses of refugees were sent across Europe, mostly ending up in France, which became a giant man-trap when the Germans invaded it in 1940.

The IRC's agent in Marseilles, France, at the time was Varian Fry, a young literary editor from New York who managed to spirit out some 2,000 European artists and intellectuals, marching them across the Pyrenees into Spain.

Since World War II the organization has been dedicated, as Mr. Cherne puts it, to helping those who flee "dictatorships on the right, dictatorships on the left, and dictatorship of the nuts"—Uganda's Idi Amin is an example of the last.

Communist dictatorships have produced by far the lion's share. "The refugee rate is communism's fever chart," wrote Aaron Levenstein in 1983 in "Escape to Freedom," his history of the organization. Of the some 14 million refugees in the world today, communist regimes have sent the most on the run, from Afghanistan, Ethiopa, Mozambique, Angola, Laos, Cambodia and Vietnam.

When the Soviets invaded Hungary in 1956, Mr. Cherne flew to Vienna, Austria, with $200,000 worth of donated medical supplies, which he drove across the border to Hungarian resistance forces. The IRC raised nearly $2.5 million to help the thousands of Hungarians who had fled their homeless.

That trip provided one of Mr. Cherne's most vivid memories—carrying 25 loaves of bread to the headquarters of the long-suppressed trade union movement. "A delegation of members came down the stairs in single file, and they each took a loaf of bread and carried it upstairs in single file," he recalls. "It simply was unbelievably moving."

In 1968, Mr. Cherne and then-IRC President William Casey traveled to Czechoslovakia to assess the situation as Warsaw Pact tanks rolled into the country. They were finally stopped outside Bratislava. While Mr. Cherne tried to communicate with the Soviet soldiers, none of whom spoke any English, the future director of the CIA remained seated in the back of the car and read a novel.

"How can you just sit there reading?" Mr. Cherne asked. "Can you think of anything more useful I can do?" Mr. Casey replied. Finally the two were permitted to drive back to Vienna.

SAVING THE MIGRANTS

In recent years the mission of the IRC has changed from being a mainly European resettlement agency to being a worldwide relief organization geared toward the mass migration of refugees.

In the wake of the Vietnam War, the International Rescue Committee was largely responsible for calling attention to the mounting refugee problems in the Far East—the hundreds of thousands of fleeing Cambodians who were crowding into Thailand and the million-plus Vietnamese boat people, whom Western countries and agencies have tended to treat as "economic migrants" and therefore ineligible for asylum. Ominously, Hitler used the same term to brand Jews fleeing the Nazi regime.

The IRC today operates the Joint Voluntary Agency in coordination with the U.S. Embassy in Thailand, processing refugees from Vietnam, Cambodia and Laos who pass through on their way to the United States. Had it not been for the public pleadings of Mr. Cherne and civil rights leader Bayard Rustin, through their Citizens Commission on Indochinese Refugees, the already belated American response to the crisis in 1980 might have been delayed even longer.

In the late 1970s the IRC was one of the few groups to challenge the apologists for the new regimes in Indochina. In articles in the now-defunct Washington Star, Mr. Cherne wrote about the horrors and starvation created first by the Khmer Rouge and then by the invading Vietnamese armies. Leftists, Noam Chomsky among them, accused Mr. Cherne of slandering a progressive revolution. Far from being in the millions, deaths were at most in the thousands, Mr. Chomsky asserted, and he questioned the ideology of those who thought otherwise.

GLITTERATI TO THE RESCUE

One of Mr. Cherne's most effective stratagems for attracting world attention to the tragedy on the Thai-Cambodian border, where thousands of starving Cambodians and Laotians were trapped, was the March for Survival.

The marchers confronted the Vietnamese occupation forces. "We had 30 trucks filled with food and doctors and nurses," Mr. Cherne says. "But the Vietnamese prevented us from getting through, and so I organized a march with writers, political people, the widest spread of intellectuals, to go to the Cambodian border of Thailand with trucks and bullhorns."

Joan Baez was there, as was Elie Wiesel, and Soviet dissident Alexander Ginzburg, who had just come off the plane from the Soviet Union and had not even had a chance to change his clothes. Even though the marchers never did persuade the Vietnamese border guards to let them through, they did manage to attract the attention of the world news media.

Among the participants was Liv Ullmann, doyenne of the Swedish cinema, who had been an important part of the IRC ever since. Only weeks before, she had handed Mr. Cherne a $200,000 check from artists involved in Broadway theater. She had politely told him that if there was ever anything else she could do to please let her know, "not expecting," says Mr. Cherne gleefully, "that I would call two weeks later and say Are you ready to go to Cambodia?'"

As John Whitehead, who will assume the chairmanship of the IRC when Mr. Cherne steps down, says, "He has a real passion for the cause of human freedom." And he has never taken no for an answer.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION ACT, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2519, the VA-HUD-independent agencies appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $6,000 and its 602(b) outlays allocation by $10.4 million.

I compliment the distinguished manager of the bill, Senator MIKULSKI and the distinguished ranking member of the VA-HUD Subcommittee, SenatorGARN on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the VA-HUD appropriations bill and I ask unanimous consent that it be printed in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2519

VA, HUD, IA SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2519		
New budget authority and outlays	81.0	42.5
Enacted to date	0	39.9
Adjustment to conform mandatory programs to resolution assumptions	.3	.6
Scorekeeping adjustments	0	0
Bill total	81.3	83.0
Senate 602(b) allocation	81.3	83.0
Total difference		
Discretionary:		
Domestic	63.6	61.4
Senate 602(b)	63.6	61.4
Difference		
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	.3	.3
Senate 602(b)	.3	.3
Difference		
Total discretionary spending	64.0	61.7
Mandatory spending	17.3	21.3
Mandatory allocation	17.3	21.3
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	−1.2	−.8
Senate-passed bill	NA	NA
House-passed bill	.1	.2

Mr. BUMPERS. Mr. President, the amendment is in the final stages of drafting. We changed it ever so slightly. So I will just commence the debate, and the amendment will be here momentarily. It is essentially the amendment I have discussed before.

But, without getting into the technical part of the amendment, which is rather irrelevant to the debate, we will just, with the indulgence of the distinguished floor managers, start talking about this issue which, for the first time since it was first conceived in 1984, is on the front burner.

I do not think the front burner is really hot yet and I have no illusions about what the outcome of the debate is going to be or what the outcome on this issue is going to be.

But completely aside from that, the fact that this particular project, the space station, called Space Station Freedom, enjoys considerable popularity across the country is because it has never been debated. I have also been a benign, passive supporter of the space station. It was not something that was any of my committee's jurisdiction, and I assumed that somebody knew what they were talking about when they conjured up the idea of putting a space platform in orbit.

My wife loves to say she used to be content to go to the flower shows and, in fact, she used to be a judge at the flower shows, and put flowers on the church altar every Sunday morning, went religiously to PTA meetings, and assumed everybody in Washington knew what they were doing, and was taking care of her business. After she had been here for a short while, she decided nobody has ever been as disillusioned as she was when she got here and found out that nobody was taking care of her business, according to her.

I think you can put the space station in the same category. If you walk down the streets of any city in America and I say, "How do you feel about the space station?" You say, "Well, it is OK." "What do you know about it?" "Well, not much. I understand it is something they are going to put in orbit. The President says he will veto any bill that does not have the space station, so it must really be important."

"Could you tell me what you expect to get out of the space station?" "Well, not really, except we are a leader in space. I sure would hate to lose that leadership."

But ask Members of the U.S. Senate—not the people on the streets, of Main Street America—ask any U.S. Senator what the payback of the space station is, and I promise you, there are not 10 who could even struggle through an attempted answer: I have heard they are going to do medical research. I have heard we are going to study material science, and all kinds of things that you can do at zero gravity, or what scientists call microgravity, the kinds of research that you have to have gravity to do. That is a common layman's perception, and that is the perception of 90 percent of the Members of this body.

So even though I am most certainly going to lose on this amendment, the debate has to begin and the people of this country have to be made aware that we are not talking about a beanbag. We are talking about a project that was conceived in 1984 at a cost of $8 billion and with eight rationales, eight specific missions to be carried out.

Today, in the year of our Lord 1991, we find, according to GAO, that the cost is now $30 billion for the hardware, $10 billion more for the payload, and a life cycle cost of $118 billion.

Let us go back to 1984 and come forward to 1991, and in 7 short years, a 300-percent increase for the hardware, and it is not off the drawing boards.

Mr. President, I fought a lot of losing battles in the Senate. It does not bother me as long as I am on the side of the angels. I can take some comfort in the fact that I did my best, and go home and tell my people that I am one of the people who is actually concerned about the deficit. I do not just pay lip service to it. I am voting for some things around here that will actually address the problem.

I do not want to get too far afield on the costs, but I thought it was really prophetic that the Washington Post yesterday morning almost juxtaposed the new deficit projection of $348 billion for 1992—is that not change? I just let that $348 billion roll off my tongue like that. That is over twice as much just projected for next year; over twice as much in 1 year as all the 4 years of Jimmy Carter's deficits, and he got kicked out of office because he could not balance the budget.

It is so huge, so mammoth, so staggering, we do not even talk about it anymore. And there has developed a mentality in the U.S. Cogngress and in the White House that when you are looking at a $348 billion deficit in 1 year, you might as well go ahead and do everything you want to do, because you cannot address a deficit of that size anyway.

But here we are starting out with $8 billion in 1984. Nobody questioned it; eight missions, seven of which have been scrubbed. Seven of the eight original rationales for the lab, for the space lab, have been scrubbed. We are now down to one, life sciences, which is essentially to study the effects on astronauts for long periods in space. If we ever go to Mars, it will be nice to know. This life cycle cost over a 30-year period, which GAO says is $118 billion—there is a House study group that says the life cycle cost will be $200 billion.

One of the reasons I am not dismayed about my chances of adopting this amendment today is it took me 5 years to kill the Clinch River breeder reactor. That was back when I first came to the Senate, and I ultimately had to take on one of the giants of the Senate, Howard Baker, who was majority leader. As a matter of fact, I think the only reason I finally won that maybe is because Howard announced he was not going to run again, and the people on his side decided they could vote however they wanted.

But who in this body, after all the money we spent on the breeder reactor, who in this body would want to resurrect that turkey? And for 5 long years, I stood right here and called it a turkey and lost, until one day everybody decided it really was a bad idea and we were able to kill it.

Mr. President, there is not any question about our ability to throw this space lab into space. We can build it. We have already built one. We built Skylab. Do you remember that? We built Skylab, which stayed up there for about 5 years. We manned it from time to time, not constantly, and ultimately it fell. It came down and burned up in the atmosphere.

The Russians have one up there right now called Mir. I bet Mikhail Gorbachev could not tell us one single experiment they have covered in that space lab that anybody could even relate to.

So we can do it. The question that we are debating on this amendment is, should we? If the answer to that is yes, the next question is, when? And then the question that is, at what cost?

Last Thursday, I was in Appropriations Committee meetings all day long. Among other things Betty Bumpers got me interested in as Governor, later as Senator, is childhood immunizations. So I have always tried to be the Senate leader in making sure that the children of this country are immunized against all preventable childhood diseases.

We know we have to give an extra shot of measles. We know we have to give our children hepatitis B shots. We know we have to give alpha influenza shots. All of that is going to cost a lot more money. We need $20 million more. We are up to about $260 million on the program right now. We need another $20 million if we are going to stop children from dying of measles. We had 89 die last year of measles. If you eliminate the soldiers we lost in Desert Storm to friendly fire, we lost as many children last year to measles as we lost people in combat in Desert Storm. And we need another, as we say around here, "measly" $20 million, and we cannot find it, Mr. President. In a budget of the Labor and Human Resources Subcommittee, with a $175 billion budget, we cannot find the extra $20 million we need that will mean the difference between life and death for some children. And yet here is a project that is going to cost $2 billion just for next year, and when this body gets through defeating this amendment and agrees to the committee position to put over $2 billion into this program, we will have appropriated precisely the $8 billion that this whole project was originally supposed to cost, and it will still be on the drawing board and not one piece of hardware will have been manufactured.

My interest was initially raised in this, Mr. President, because of the cost. Last year at about this time I engaged the distinguished Senator, my good friend from Maryland, Senator MIKULSKI, in a little colloquy about this cost when we were debating the same appropriations bill. She told me it had started out at $18 billion and was then up to, I believe she said, $32 billion. That got my attention. Anything that has gone up 300 percent in cost and is still on the drawing board gets my attention.

While these costs have been soaring, Mr. President, the benefit from the space station has been declining.

But the second reason I really became interested this year was because I have a great interest in the WIC Program—women, infants, and children—that provides a diet of high protein for a poor pregnant mother who, if she does not get a protein diet, is going to have a defective baby and then we can spend a couple million dollars on that child for the rest of its life.

I am interested in the maternal and child health program because we do a lot of things with that money in Arkansas. But one of the main things we do, of course, is what we call crippled children's clinics. And a program that I have a great interest in and personally I think is the biggest bang for the buck the U.S. Government gets is the so-called Meals on Wheels and congregate meals for our elderly.

Mr. President, I come from a little town. When I ran for Governor, we had about 1,500 people. We are up to 2,200 or 2,300 people now. We have one of those little senior citizens centers and 40 to 100 people go there at noon for meals. Last year we almost had to shut down dozens of centers just like that in my State because we did not have the money, and we had to start calling on those people to kick in 50 cents for their meal, many of them living on veteran's disability or veteran's pension that their husbands left them or a small Social Security payment. Fifty cents may sound like a pittance to this crowd, but if you are trying to get by on SSI, it is a lot. And this year we could not even begin to fund that program at the level we wanted.

Finally, Mr. President, there are the National Institutes of Health. On the other side of my amendment, you will hear arguments made today that we are going to do medical research and that somehow or other we may even find a cure for cancer or AIDS. I am not going to give you all the quotes that I have heard on that from people who know a lot more about it than I do, but as one of the premier scientists of this country said, when people start talking to you about the medical research that is going to be done on this, it is pure hype.

I will wait until others have had a chance to speak before I get into more detail on how you are not going to get any medical research benefits out of the space station.

Dr. Pinsius, head of Bell Laboratories, one of the most prestigious scientific organizations in America, said the only thing that he could think of we had ever gotten out of the space program from a research standpoint was the ability to do explosive welding on aluminum. Aluminum is a very difficult product to weld, and we did in fact learn how to do what they call explosive welding out of the space program. And another Nobel laureate physicist congratulated Dr. Pinsius on being able to name one thing.

Mr. President, there is not any question but that when it comes to building the space hardware, there have been some technologies. There have been some technologies that have had good civilian spinoffs. But that has been in the technological part of manufacturing the shuttle and the satellites. It has not been because of any research we did in space.

Mr. President, there is one other reason I became interested in this thing last year and more recently, and that is—and this ought to weigh heavily with every Senator—virtually every single scientific organization in America is opposed, not to a space lab, not to the space station, but to these astronomical costs we are looking at to build a space station which they insist we do not need in order to do the kind of life science projects we propose.

Indeed, my amendment does not torpedo all the money for the space station. It leaves money to do some basic research and to seek less expensive alternatives.

If by some magic I should prevail, we have to go to conference with the House which has funded the space station at almost full level, about $1.9 billion. So there is going to be money for a space station. There is going to be money for research on a space station.

But we do not need to embark with this monster which is going to have an insatiable monetary appetite. And if the cost was $8 billion in 1984 and is already in 7 short years up to $30 billion and $40 billion, counting the payload, I leave it to your imagination as to what the actual cost is going to be by 1999. I leave it to your imagination as to what the last cycle cost, estimated at between $118 and $200 billion is going to be.

Mr. President, Senator HEFLIN, my good friend from Alabama, has more than a passing interest in this amendment. I understand that. If I were sitting where Senator HEFLIN and Senator SHELBY are sitting I am honest enough to tell you I would be sitting on the other side of this amendment. If the State of Arkansas was going to get a $14.51 per person return just out of next year's appropriation and Lord only knows what it will be in the out years—if the State of Arkansas was going to get $14-plus for every dollar that they put into the space station, I would be sitting where they are sitting.

But I want to remind all my colleagues that while there are indeed about 21, 22, or 23 States who have contracts for some part of the space station, there are only 5 States—repeat, there are only 5 States—who will get back more in dollars for jobs and contracts on the space station than they pay income taxes for.

That bears repeating about 10 times because we all understand those very meritorious projects that the Federal Government puts in our States as opposed to those boondoggles in those other States.

But I am not being, shall I say, hypocritical about this. I understand precisely why some of these Senators are going to have to vote against this amendment. It is big money, and it is big jobs in their States. But I would like to say that not all of the Senators vote for this amendment because they think it is a high priority with the American people, because it is not. We are all for space. We are all for NASA.

Who has not gotten tears in their eyes when Neil Armstrong landed on the Moon? Who has not wept bitterly when the *Challenger* exploded? Who has not gotten tears in their eyes when our very own hero seated right here, came to the Senate with me, one of the finest men I have ever known in my life, JOHN GLENN, came back from space? Of course I am for NASA. Of course I am for the space program. But that is not what this debate is all about.

I believe it was the president of the American Physical Society which, incidentally, is 40,000 physicists in this country who oppose this thing, just as the Institute of Electrical and Electronic Engineers, 300,000 of them, oppose this. The National Science Foundation—you go through the list, everybody opposes it. But they oppose it because there is no payback. We are not going to get any medical research out of it, as well as any other medical research. As I was about to say, I think it was the president of the American Physical Society who said apparently we have come to believe that if we just throw something up there that costs $40 billion, surely something good will come of it.

As for how the American people feel about it, here is a poll. Politicians live and breath by these things. When allocating Federal funds, the public overwhelmingly supports medical research as a top priority. Fifty-nine percent of the American public had that as No. 1 on their list—research to improve health care and find cures.

Twenty-five percent list environmental research to reduce pollution as their No. 1 priority.

Nine percent say they favor research to use energy more efficiently, and where do you think space is? Four percent.

Mr. President, I am chairman of the Small Business Committee. We talk endlessly about what we are going to do for small business. In the hearings I hold over there, I am always finding that so many great things in this country have come from small business, and so many of the great findings in this country come from small research. I think it goes without saying that one of the reasons the National Physical Society opposes this is because they know it is going to sweep up all of the research money. They know it is not going to have any scientific payback. It is simply an engineering feat. We are going to throw the space lab up there for the same reason a man climbed the mountain—because it was there.

When it comes to small research, I sit on another subcommittee of appropriations called Labor and Human Resources, that also has the budget for the National Institutes of Health. Do you want to know where scientific advancement in this country is made in health care? It is made by all of those thousands of grants that NIH puts out each year to medical schools, private physicians, to do medical research.

You think about finding the cause and cure of Lyme's disease for a total cost of $1.5 million in five or six grants. Lyme's disease in my part of the country is a deadly serious business, and it saves between $5 and $20 million a year. Yet, Mr. President, last Thursday while I was looking for that $20 million I described a moment ago to try to provide for childhood immunization for children of this country so they will not die of measles or liver cancer later on, we were at the same time appropriating money to the National Institutes of Health. And we were not appropriating nearly enough money to them. Here is the chart. But I will give it to you.

In 1970, the National Institutes of Health to whom we look for virtually all medical research—cancer, AIDS, rheumatoid arthritis, heart, you name it, the most magnificent medical facilities in the world right here within spitting distance of where I sit. In 1970, they gave grants to 70 percent of all the applications they received for medical research grants—70 percent of the ones they considered to be meritorious.

Would you like to take a stab at how many they funded last year? Twenty-four percent. It is true, we are spending more money on research right now than we did in 1970, but if you factor the inflation rate in, it is not nearly as great. In 1989, 1988, they were able to hand out 6,800 grants. Last year, they were able to do 4,400. People are clamoring for help with cancer, AIDS, heart disease, all of those orphan diseases that you hear about periodically.

People who favor the space station say, like I say, if you send it up there, maybe something good will happen. Mr. President, if you are going to put out a fire, you ought to spray the hose right at the fire, not hook up a sprinkler and hope a few drops will hit the fire and ultimately put it out. If you want to do medical research, NIH is the place to do it.

Here is a quote from a supporter of the space station, Jerry Gray, director of science and technology policy for the American Institute for Aeronautics and Astronautics:

> It is a popular misconception that Freedom's—

That is the space station—

> main job is to do just science; it is not. A space station is not needed exclusively or even primarily for science.

I could go on with this argument about growing crystals, which most scientists say is nonsense.

Mr. President, under the budget agreement that was reached last year, we said in that budget agreement that each subcommittee of appropriations would be allocated—this is essentially what was decided—a certain amount of money. They changed the name from 302(b) allocation to 602(b). But in that allocation, it said, if you have cut funding for anything in that budget, and you want to take some of that money and put it over someplace else, you have to do it within the jurisdiction of that subcommittee.

The Senator from Maryland is chairman of the subcommittee on HUD, VA, and some related agencies, namely NASA. So in cutting out the money for the space station, or most of it anyway, I was limited to a couple of things, but those two things are near and dear to me. That is: Veterans and some other things in NASA that NASA itself considers extremely important, as do most of the physicists in this country.

When I first started on this amendment, I see there is $2,090,000,000 in there for the space station, my mouth starts watering and I think, good Lord, we can get $20 million to put into child immunization out of $2,090,000,000.

Then all of a sudden I find that you cannot take this money out of this bill and put it over into another program in another subcommittee. Or you can do it, but it is going to be subject to a point of order, and you have to get 60 votes to overcome a point of order. I am not even going to get 51. So there is no point in messing with points of order and trying to move some of this money over to other jurisdictions.

That is a tragedy. That is one of the things about the budget agreement that I detest.

I will tell you what I have done, Mr. President. I have taken from the $2,090,000,000 and put it into other projects. One of the things is VA medical services. I have heard Senators on this committee say that we have taken care of veterans in this bill. Mr. President, I have a different version of that. We have many beds closed in the VA hospitals in Little Rock, AR—I think well over 100. And I will give you three guesses as to why they are closed. They are closed because we do not have the money to keep them open.

I have letters here, which I will insert in the RECORD in a bit. I have letters here from doctors thanking me for offering this amendment and putting some of the money in veterans' medical services, and medical research. If there are 100 beds closed in the VA hospitals in Arkansas, my guess is that there are thousands of beds closed in VA hospitals all across America. And I can tell you that there is a long, long waiting list in my State. In addition to the fact that hospital beds are closed all across America for the lack of money, every VA hospital administrator and chief of staff will tell you that the reason they cannot keep doctors is because they do not have any research money.

Do you not believe that? Here is another chart: In 1985, the percentage of meritorious projects that the VA hospitals of this country—the Veterans' Administration—were able to pass out were about 77 percent. In 1985, 6 years ago, they were funding 77 percent of all the applications for medical research grants they received of the ones they thought were meritorious. In 1990, last year, they funded 28 percent, a 200 percent cut in medical research grants by the Veterans' Administration; and every doctor will tell you that is the reason they cannot keep doctors, because they have no research money.

When it comes to NIH, they say it is almost impossible to fund people that do not have a track record. Therefore, young researchers who are just out of medical school have virtually no chance of getting a grant. And the number of doctors engaged in research has declined 100 percent in the past 12 years.

A week ago this past Saturday night, I did not go, but Bob Hope was there. We had our big parade about 10 days ago in Little Rock, honoring our Desert Storm veterans, big crowd, big parade, lots of speeches. I did not make one. You know how I love to make a speech but I did not make one all day.

But from where I have an apartment in Little Rock, that night Bob Hope, Miss America, Marie Osmond, a few lesser lights were all there at the stadium, and they had 25,000 people, and it was a benefit for Children's Hospital, but it was tied in to the big Desert Storm celebration.

So I looked out the back window of my apartment, which is not far from the stadium, and about 9:30 the fireworks started and it was the biggest fireworks display I have ever seen almost anywhere, certainly, in Little Rock, AR.

And it went on for about 35 minutes, and when the last light from the fireworks display flickered out, I turned to my wife and I said: "Isn't that strange that while we are spending all this money on fireworks and spending this whole day honoring Desert Storm veterans, we are now forcing for the first time in history veterans with disabilities to make a copayment on their medical prescriptions. And we have thousands of beds, I guess, across the country closed because we do not have any money to keep them open for veterans, the very people we were honoring today."

Mr. President, it is always a question of priorities. You put your money where your heart is, I guess. I have such great respect for the people on the other side of this amendment. Senator GARN showed a great deal of bravery in going into space on the shuttle. I already alluded to the fact the Senate has one of the real all-American heroes in JOHN GLENN. There are the Senators who are fine men, from California, Alabama, and Florida, States who are going to benefit tremendously from this program.

But I want to make this last point on the deficit. It is true if you vote for my amendment, you are going to save less than $1½ billion, and around here you can say this in a New York minute and it does not mean much.

I am reluctant to say this, but when it comes to spending, this place is broken down. Nobody is addressing it. Yesterday, when I read those staggering figures on what the deficit next year is going to be, all I could think about was my grandson—I am not saddled with it—he is. He is 2 years old and healthy and I hope he stays healthy. It is such a staggering thing, I cannot believe it.

So on January 1 this year I said I am going to start voting to try to get this under control and particularly some of those projects that I think are highly questionable. So I said I am going to take on the space station which I think has some merit but no urgency. I am going to take on the super collider which may be even questionable from a meritorious standpoint but it is not urgent. And I am going to vote to trim $3 billion or $4 billion out of SDI and leave enough in that to keep the research going. And I certainly intend to take on the B-2 bomber. All together, Mr. President, over the lifecycle you are talking about over $100 billion.

I remember one of the lines that I thought Ronald Reagan used beautifully when he ran the first time. That was back when us Democrats were hoping he would be the nominee because we thought he would be the easiest to beat. I remember he said, if not now, when? If not us, who?

So I say to my colleagues, if you have any feelings at all about the deficit and if you agree with me that the space station may have some merit even, but not enough to start down the pike toward $200 billion in expenditures, you ought to say "us, now," on this deficit.

And to conclude with the remark I started to make a moment ago, I want to remind every Senator in this body that after you have killed this amendment, I want you to think about the fact that you have voted to impose over $100 million just in interest—just in interest—on your children and grandchildren forever, not for next year, $100 million a year in interest forever.

I yield the floor.

The PRESIDING OFFICER (Mr. LEAHY). Who yields time?

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, as manager of the bill, I yield myself such time as I might consume.

Mr. President, there are many Senators who wish to speak on the Bumpers amendment and two of them are astronaut Senators and I want them to be sure that they have full and ample time to talk about it. But as the chairman of this subcommittee, I want to say a few words about the station and the comments made by my colleague from Arkansas.

First of all, my colleague from Arkansas is skeptical about the space station. Guess what, Mr. President? So was I. Two years ago I was the Senator who said what are we going to do with this space station? I am not sure if it has a clear mission. Is it simply going to be a condo in the sky, waiting for someone to occupy it, with not a clear idea of what we would do there? And the more I looked at its original design, the more I say that it was overweight, underpowered, bulky, difficult to launch in space, and difficult to maintain in space.

The original design called for the assembly of over 20 different components at a space campus the size of the U.S. Capitol. It called for maintenance, space walks of over 400 a year, when we had done less than 100 in the entire history of the space program.

So I met with space experts, I met outside of the NASA organization, with NASA itself, and as the Chair of this subcommittee working with my colleague and astronaut Senator, we asked for a redesign of the architecture, a redesign of the funding, and a clarification of the mission, recognizing that the historic past of NASA has been to overestimate technological achievement and to underestimate the cost.

Mr. President, this Senator is a convert to the space station and like a lot of converts I am a true believer in the space station. Why am I a true believer in the space station?

First of all, its design and its mission have been clearly identified.

First, in terms of its mission. It is very clear that the mission of the space station will function primarily as a national institute of space science in the sky. Looking at the great planet of Earth and looking beyond the frontiers, we cannot have a 19th-century attitude for 21st-century challenges. The space station will provide us with very important scientific activity. It will provide us with research in areas particularly like life science and also in microgravity. The redesign of the space station, beside the fact that it has been downsized from earlier versions, will have the greatest research capability of any orbiting space lab ever built and it will far surpass what the Soviet Union ever did which was more interested in achieving records than in achieving scientific advancement.

Microgravity research and life science research will be very important to this country and its future.

Does my colleague talk about what the National Institutes of Health does? Sure. They do that. And they are fantastic. By the way, they are in the State of Maryland. I know probably more about NIH than most of the Senators. Could they use more money? You bet. Could they use administrative help? No doubt. But are we doing the job? You can better count on it.

And what the space station will do will be important complementary research to the National Institutes of Health. It is not in lieu of the National Institutes of Health, but there are certain metabolic, physiological, anatomical aspects that could be measured in space that could not be done here, one of which are bone diseases that we could estimate and be able to identify in a zero gravity atmosphere that will have profound effects in how we treat and handle many nursing home patients. And that is just one category alone.

Now let us talk about the design. The design has been downsized. It was overweight. It was underpowered. It was what everybody at NASA thought it should look like and it was all attached. Now we have a design that meets mission and meets funding. And I challenge anyone to debate those two criteria. And its downsized mission can achieve a scientific role.

There are those who talk about the aspect of, well, if it goes up there it will not work. Scientists have tried to argue that the redesigned space station is not the perfect orbiting laboratory and therefore should be canceled—perfect orbiting laboratory.

Well, that is what space is all about. There is going to be risk, but it is going to be quite a laboratory. And in fact scientists criticizing it, well-intentioned, have made the perfect enemy of the good. And those same scientists come in and say we need you, Senator, in the National Science Foundation appropriations to upgrade and modernize our facilities. We cannot do our research.

They do not say cancel the grants because they cannot do the research. They say give us more money for hearing units and air-conditioning units and all that. Absolutely right.

We do have an aging laboratory infrastructure in our scientific community that we are trying to address through the National Science Foundation. But just because every air-conditioning unit is not perfect and every Bunsen burner does not ignite the way they want it to do—of course that probably dates me. I do not know if they use Bunsen burners anymore. But they do not say cancel the grants or cancel themselves while they are waiting for a redesign.

So I would say that this space station—how does it compare in scientific capability? It is 40 times greater, the capability of the space lab, to the existing shuttle. It is 20 times greater than the capability on a shuttle with an extended duration orbiter. It is two times greater than what Skylab ever was, and 54 percent greater than the Soviet Mir space station. I think that is pretty terrific.

So, Mr. President, I feel that we have met the test of designing in an architectural way that will perform scientific research, provide for the safety of our astronauts, and at the same time we clarified the mission.

I am going to talk about the funding in another part of the conversation on this. I know my colleague from Utah has been waiting to speak. Let me just say from this part of my conversation, these are not only the views of Senator BARBARA MIKULSKI. I have here a letter of 65 U.S. Senators who say to me:

> Dear Madam Chair:
>
> We wish to express our support for Space Station Freedom, to recognize your considerable efforts as Subcommittee Chair, and ask for your continued commitment to a balanced civil space program.

This is what they say—not their compliments to me—it is what they say about the space station that counts.

> Space Station Freedom urgently needs consistent policy and funding support to maintain the program's capabilities and schedule and to honor our international commitments. As you know, the program has been restructured pursuant to guidelines formulated by the Appropriations Committee. NASA and its contractors met this challenge. We in the U.S. Senate must do our part in honoring the commitment made to NASA and to future generations of Americans.

And to our international counterparts to do it.

Sixty-five Senators are asking this chairperson of this subcommittee to fund Space Station Freedom.

Mr. President, I yield the floor—I know my other colleagues wish to speak on this—reserving the right to speak at such times as appropriate on further debate on this most important amendment.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Maryland has yielded the floor. Who seeks recognition?

The Senator from Utah.

Mr. GARN. Mr. President, first of all, may I compliment again the distinguished chairperson from the State of Maryland, Senator MIKULSKI. She has only been chairman of the Subcommittee on HUD and Independent Agencies for 2½ years. I think it is very important what she mentioned to the Senate, that she started out as a skeptic.

I must admit that I would much prefer to be chairman of the subcommittee, as I used to be, rather than the ranking Republican. And when it changed and Senator MIKULSKI became the Chair in January 1989, I wondered what type of a situation I would be dealing with. I must say what I found is a chairman who came on board, not having been on the subcommittee before, and not being familiar with all the details, extremely hard working, delve into all of these issues and, as she said herself, became a convert as she became extremely knowledgeable on these issues. It is very hard work, learning all the aspects of this budget.

She invited the head of the European space agency over to talk to both of us. And so it was not just a learning curve. It was a crash course that she took that I very much admire. And she put so much time and effort into learning not just the NASA part of the budget but all of the different intricacies of a very complicated budget of over $80 billion. I think the point to be made is the point she made herself, that the more she learned about it, she became a convert.

So I am a little bit puzzled with some of the remarks of my distinguished friend and colleague from Arkansas. And he is sincerely a friend. I am not saying that because that is the usual custom on this floor. Senator BUMPERS and I came to the Senate together in the election of 1974 and so we are classmates and have served nearly 17 years together. So I have great respect for him, for his ability, and also as a friend. But I could not more completely or totally disagree with his analysis of this situation.

There are a few points I would like to make to begin with that I think are important. My colleague made the statement that this had not beeen debated and it was finally time that we had a debate. Well, that puzzles me a little bit because I have been debating this thing for at least the last 7 years, year after year.

Now, maybe the Senator from Arkansas and some of my other colleagues on this floor have not been aware of that debate. But, believe me, it has been debated, over and over and over again, to the extent that last year the debate called for a complete redesign of the space station, cut it in size and cut the cost. So certainly, this is not a surprise to anybody. At least it should not be, certainly not to those members of the authorizing committees or the Appropriations Committees. It certainly has not been a very high visibility item in the newspapers of this country for several years.

We also talk a great deal about life cycle cost and it is very impressive when you talk about estimates of $118 to $180 billion. Yes, that is a lot of money. I come from a small State. We could run my State forever on that amount of money. We could run the State on the interest on that amount of money. So I do not wish to minimize that. It is just that I wish we would treat all budget items the same when we talk about enormous costs.

We are talking about $3.5 to $4 billion a year. I wonder how many of our citizens would buy a home—then when they priced the home whatever it was, use $150,000 as an example, they are told what the downpayment is and what the monthly payments are and that is usually how they determine whether they can afford it or not—I wonder how many of us would buy our homes if we were told that the price of that home up front was not only all of the principal and the interest, but we add in the taxes, we add the paint, all the repairs, all the maintenance, all the insurance, everything that went into that house over a 30-year period of time and that house became a $2 million house. I wonder how many would think they could afford it.

I wonder how many would think they could afford it.

Let us put it into perspective and say yes, we certainly do plan to spend $3.5 or $4 billion a year as an investment in the future space science of this country. And not just inflate it over the life-cycle costs.

On that basis I guess we should multiply food stamps by 30 years, because the food stamp budget alone is larger than the entire NASA budget. That is another point I think needs to be made very strongly.

Somehow, every year I find myself out here on the floor defending raids on this piggybank that is supposed to be so very large. The entire NASA budget is about 1 percent of the entire budget of the United States.

The Senator from Arkansas is correct. There are a lot of other valuable programs that have difficulty being funded in this budget. But if we eliminate NASA, remove it—not just the space station, let us remove the shuttle; let us remove everything they do: Aeronautical research, crash shift, supercritical wings, all the contributions, high-bypass engines that we now benefit from in our commercial and military fleet—if we just eliminate them and cut out 1 percent of the budget, we have not even begun to touch the budget problem of this country. We will never touch it until this body and the House of Representatives has the courage to deal with entitlements. Because we, as appropriators, now deal with one-third of the budget. That is all we are arguing about. The other two-thirds are entitlements that automatically grow every year, and this Congress does not have the courage to even talk about them.

I am not talking about eliminating entitlements programs. Certainly I am not talking about eliminating Social Security and veterans pensions and Federal civil service, and all the other entitlements, food stamps, welfare. There are some needed programs. But we at least ought to include them in the discussion when we have a $350 billion deficit, because we cannot cut enough out of defense and nondefense discretionary to solve the budget problem.

We cannot raise taxes enough to solve it because the American people will not tolerate it. Yet, we hear all these speeches every year about how we are going to fund all these other programs and save money and reduce the deficit by cutting NASA.

Again, I want all my colleagues to understand, eliminate NASA and we have saved 1 percent of the budget—1 percent. We are not talking about a large amount of money, relatively speaking.

This Senator, over the 17 years I have served—if anybody wants to examine my voting record—I get zeros on most of the liberal polls and 100's on most of the conservative polls on Federal spending. I think there are only two or three other Senators in this whole body whose voting record on fiscal matters is more conservative than mine. So, I, too, am interested in saving money. But we cannot do that by only looking at one-third of the budget. And we certainly cannot do it by attacking a portion of 1 percent of the entire budget and not looking to the future of this country.

Congress is extremely good at looking to what sounds good by the next election, which happens to be November 1992. But something that may not bear fruit for 15 or 20 years down the road is not of as much interest to them. And my interest goes far beyond the space station, far beyond the space shuttle, far beyond aeronautical research to a much more fundamental concern that I have, and that is the whole technological base of this country.

We are, in general, not spending nearly enough on research and development, whether that is medical or whether that is scientific. We are not training enough math and science teachers in this country for our young people. We are not training enough engineers and scientists. I do not know where the next generation of NASA scientists is going to come from. But the Germans are, and the Russians are, and the Japanese are.

If we wonder why we have a trade deficit and why we are continuing to have most of the technical apparatus made overseas, it is because we are not investing enough in the future; not nearly enough. Because we are investing in the present and in the past, but not enough in the future.

Is it not easy to come to the floor, year after year, while various of my colleagues try to get a piece of change out of NASA. Again, that does not solve any problems if we eliminated the whole budget.

But let us talk about the space station. I am rather interested in the number of people, particularly in the scientific community, who are so sure of themselves. But they have not been in space. They do know what it is like up there. They have not felt zero or microgravity. They have not done any medical experiments. As a matter of fact, I personally am offended by most of these scientific groups, and particularly Dr. Park from the University of Maryland, who wrote an insulting article for the Washington Post in his opposition to the space station. There are good reasons on the other side why some people are opposed. But for a Ph.D. who has the reputation he has, it was an insulting article that would not be a credit to a high school science student, let alone somebody of his reputation. Maybe I am candid, but that has been my nature. Besides, I am not running for reelection next year anyway, so I can say anything I feel like.

Do my colleagues know what his comment was, about the recent space sciences—like sciences mission? That the only thing they learned up there was that jellyfish got confused in zero gravity. I suggest this puts his reputation at stake, to make such an idiotic, stupid statement. I suggested on MacNeil/Lehrer that he might want to talk to the two MD's on that flight and two other expert Ph.D.'s who are experts in their field and listen to them—as I did that very day for an hour and a half—describe their medical experiments and the benefits they would expect to come from those medical experiments. But that would spoil his opposition if he talked to the people who had the facts.

Plus, the point of it is, it is going to take several months before all that data is digested and they come up with the interpretations of their work on bone demineralization, bone demineralization studies in zero gravity. We have known for a long time that you lose bone mass, particularly in your lower legs, in space. Well, there are some similar problems like osteoporosis in women, with the humpback. We are going to learn a lot in zero gravity about bone demineralization with applications here on Earth. Just as we have, over and over again, with more than 10,000 medical devices or procedures that have been developed in space research and development.

My colleague says they were not done in space. That is not a fact. A lot of them were done in space. I am amazed at that statement by these scientists. Otherwise, I do not know what I was doing in space. That was my primary responsibility, to do medical experiments on myself, plus Dr. Setton, who was also on a recent life sciences mission.

I think I was doing medical experiments in space. Maybe I was not. Maybe I was just spaced out and did not understand what I was doing up there. But, believe me, medical research has gone on in zero gravity. It has gone on in the space shuttle. I also happen to know that those space experiments were limited because we stayed up 7 days, and the longest the space shuttle has stayed up is 10 days. And any scientist out of high school ought to understand that many experiments take a great deal longer than that.

We had an electrophoresis machine on my flight, with Charlie Walker operating it, which processes pharmaceuticals in space, 100 times more effectively and 4 times more pure. There are cures for diseases out there, there is no doubt about it in my mind, if we are willing to spend the money to go out there where we have a long-term facility.

Charlie Walker had to fly on three different flights of 5 to 7 days each, but each time, a day before we reentered, he had to power down the machine. The experiments were incomplete because of lack of time, many of them taking longer than 28 or 30 days—sometimes months—to do.

Microgravity, as the scientists talk about it, rather than zero gravity as we laymen do, is very valuable to materials processing, to all sorts of other experiments that have gone on in the space shuttle.

I do not doubt what these scientists are saying. I have read the comments myself. But they have not been there, and when they talk about doing it all by robotics, we can do it with unmanned vehicles, that reminds me of a cartoon I saw a few years ago, with a Conestoga wagon sitting there with nobody in the wagon, nobody on the buckboard, and the caption said: "We are going out to explore the West, but it is so dangerous, we are sending unmanned vehicles."

Yes, we could have explored the West with unmanned vehicles. Just sent the oxen, horses, wagons out with machines on them, I guess. I had one of these eminent scientists who has been so critical of the space station lately in my office last week, and we agreed to respectfully disagree, but as he was leaving he said, "I love your State, Senator. I particularly enjoy the skiing. You have the best snow on Earth there. I wish I could live in Park City, UT, and ski a lot."

I said, "Why don't you?" He said, "Because my lab is in Boston." I said, "Just operate it with a robot. You just spent an hour telling me how we can do all this experimentation with robots in space and unmanned vehicles. Now you are telling me with land lines, hard land lines from Park City, UT, you cannot operate your lab in Boston?" He said, "Oh, I need to be there. Some of the equipment sometimes breaks down. If I could work it out, I would have to travel back and forth."

He finally realized what kind of a trap he was getting into. He is insulting my intelligence by telling me we can do it all with robots in space. Despite the fact it did not bother him, I enumerated all the times we had men and women in space repair equipment and save experiments. We certainly need a balanced space program of unmanned and manned vehicles, but you cannot replace men and women in space any more than he can operate his lab satisfactorily from Park City and do it in Boston. That would be a much easier task. At least he can get on Delta Air Lines and fly to Boston and fix something and return and operate his robots from Utah. It is an absolutely ridiculous concept to think that we can do it all with robotics.

Also, the charge is that there will be no meaningful experimentation coming from a space station. A comment was also made that they have done nothing on Mir. I spent 5½ hours in Star City last August. I had the opportunity to have General Leonov, the commander of the Soyuz portion of the Apollo-Soyuz mission, take me on a personal tour, show me all of their equipment, all of the things they are doing, their Soyuz, inside the Mir space station. I would be the first to admit without even being able to read Russian that I could look inside that Mir space station as I toured it, and they are not doing any serious high-tech science in that station. No doubt about it. But to say that they have done nothing in all the years that they have flown, they have shared a lot of medical information on what long-term space flight does to the human body. To discount that as being meaningless, even as much as a skeptic as I am of the Russians and their technology and their system, simply is not correct. We have learned some valuable information from their long-term space flights.

I wish we could keep this in perspective. As we talk about the costs again, I am absolutely appalled by the fact that my last car cost me more than my first house did and it had three bedrooms and two bathrooms. I cannot believe the cost of anything any more.

We can group these scientists into several different areas. Some of them are simply opposed to men and women being in space. They are not just after the space station. They want to kill men and women going into space to begin with.

Then there is a group who are all for theoretical science. They do not believe in applied science. They want to get in their little labs with no windows and play with theoretical science, which is important, but some day we need to apply science and what we have learned from it. Scientists ought to be able to realize that for every single dollar we invest in the space program, we get $8 or $9 back in the private sector. There is not any other Government agency that can claim that.

And then there are a lot of things that you cannot place a dollar value on. Again, as the Senator from Arkansas said, it may not have been invented in space, but because we did the space shuttle and because we did other programs, they were a byproduct of that research and development. One of those happens to be a heart pacemaker. I have no way to put a dollar value on a human life. It is valueless. You absolutely cannot place a value on it at all. But tens of thousands of people are alive because we have an implantable heart pacemaker. We have diabetic patients who have implantable insulin pumps. The list goes on and on and on. And I am not capable of standing on the floor today and predicting what exactly will come out of space research and development on Space Station Freedom, but I guarantee that we will have additional discoveries that are beyond our imagination now if we are willing to make the investment in the future.

There is another group of scientists who simply think that if they can cut NASA or the space station, they are going to get the money in their area, in their grants. The Senator from Arkansas pointed out that the budget resolution does not work that way. It is not going to be taken from NASA and put into NIH. Even if it did, NIH has grown far more rapidly. This chart, I am sure, is in black and white and cannot be seen too well on the TV or even in this body, but if you look at the relative amounts of academic research and look at NIH, and I am not begrudging NIH, I am a fan of NIH and I think they ought to have some more money in their grants, but there is NIH and here is NASA. The proportion over the years all the way back to 1950 is absolutely incredible in other areas besides NASA.

So, again, there is not a big bottomless pit in NASA that we can take money out of even if the budget resolution would allow us to do so. I do not want to get into any detail on this part of the subject either, but, boy, I could give some examples of NIH funding in grants and bottomless pits, of wasted money, people spending years and producing nothing, and that is the way science works. I am not really being critical. I am just making the point that you could put a lot of money into NIH and cannot show a direct correlation, but we certainly can in the space program and will if we build space station Freedom.

I think we have to be fair about this when we talk about NIH receiving a less percentage of grants than they used to. That is true, the percentage is smaller. But I just showed in this and other areas, NIH funding has gone up dramatically so I do not know that the percentage means very much.

There is also the group that seems to think that the space station is robbing other scientific programs within NASA. I think there are some figures that are interesting. Since fiscal year 1985 when Congress provided the first discreet funding for the space station program through the current fiscal year, a total of $5.781 billion has been appropriated for design and engineering for space station Freedom. This amount, however, is a net reduction of $1.3 billion from the $7 billion requested by the administration for the program during this period. So we have cut $1.3 billion from what two administrations requested.

But during this exact same period, administration budget requests for space science and applications have totaled $12.293 billion. Of this amount, $12.26 billion was appropriated, for a net reduction of only $33 million. Look at the comparisons. Space station Freedom down $1.3 billion. Science and other areas of NASA, a net reduction of $33 million. So it is very clear that the reductions in funding for the space station were not used to augment the administrations plan in budgeting space science programs. Space science and application funding has been substantially increased during the 6-year period. However, compared to the level of funding when the space station program began, space science has enjoyed more than a doubling in the level of NASA support, a 110-percent increase since fiscal year 1984. It is clear, therefore, that in the history of the space station program, growth in space science funding has not suffered nor has it benefited by reductions in funding in the space station program.

So I hope we can get away from some of the myths, most of all, to get away from all the statistics. I hope that we realize that we need to invest in the future; that we look at the incredible spinoffs from the space station.

I also suggest that when we talk about that, scientists across the spectrums in all these 14 organizations without exception oppose the space station, I suggest that this is not untypical of a lot of organizations in this town whose leadership is not in concert with their members. Just one example, the Council of Engineers and Scientists Organizations representing more than 80,000 scientists, engineers, technical, and professional employees recently stated they are totally committed to completing space station Freedom as configured by the Congress.

Their papers suggest that science opponents of the station are trying to divide the academic community from those scientists and engineers engaged in the practical application of scientific progress.

They also went on to talk about how their parent organizations did not represent them at all. As a matter of fact, they were upset because they felt that all of these statements were misleading.

I have talked longer than I intended, but I hope everybody realizes how important I think space station Freedom is to the future scientific research and development of this country and our technological base and recognize that in Congress it is time we started looking to the future and not the next election.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I rise to oppose the amendment of the Senator from Arkansas. It is not often that I differ with him on issues that come before the Senate. We are usually strongly together. But I have to differ upon this occasion. I am delighted to join with the distinguished chairman of the subcommittee, who is handling this bill on the floor, Senator MIKULSKI, with Senator GARN handling it for the other side of the aisle, with Senator HEFLIN, Senator GLENN, and others.

I too, would like to see even more funding for veterans, as is proposed by the amendment by the Senator from Arkansas, for space science programs, and for deficit reduction, too. However, I am fully committed to seeing the space station become a reality.

The space station is the linchpin in our manned space program, an international effort that will provide us with scientific spinoffs and technology advances to propel us into the next century. As we embark on this critical stage in the space station development, we are ensuring U.S. leadership in science and technology for decades to come.

We will learn much from the scientific work to be conducted on the space station's three multipurpose laboratories, providing access for an unprecedented number of scientific experiments. The potential advances in medical care and the environment make this venture into space a wise investment in the future of our Nation and the planet.

The microgravity work to be conducted in facilities like the space physiology facility will study the effects of prolonged human space travel. This work is essential if we are to realize the dream of travel to other planets. Proceeding with this research will lay the groundwork for a future mission to Mars.

Let me say a word to my colleagues who are uncertain about where they stand on the space station. This amendment will not only kill the space station, but should the amendment pass and we slash the funding for the space station, the President has made it clear that he will veto this bill. And there is much that is good in this bill.

Our colleagues, Senators MIKULSKI and GARN, have done magnificent work in putting together a balanced package. Housing, veterans' medical care, science funding, EPA, and the space station, all of these vital programs are budgeted from the same 602(b) allocation, an allocation that never seems to meet our growing needs. They have done admirable work in putting together a package that meets so many of these needs.

I appreciate the good intentions of the Senator from Arkansas in directing more money toward veterans' programs, but let me say this. As the chairman of the Senate Veterans' Committee, I want to let my colleagues know that this is a good bill in its present form without this amendment for veterans. In many areas, notably veterans' medical care, veterans and their families will do better with the funding in this bill than under the President's request and the funding levels in the House version of the bill.

Veterans' medical care funding in this bill is $32.8 million more than the House and $241 million more than the President's request.

Additional medical care funding includes an increase of $153.6 million to the President's request to help reduce a backlog in replacing outdated or broken medical equipment in the Department of Veterans Affairs.

There is an increase of $136 million over the President's request for additional health care staffing and special pay for health professionals.

There is also increased funding for the treatment of post-traumatic stress disorder, a problem we are now seeing with Persian Gulf veterans. Let me say a couple of special words about PTSD, post-traumatic stress disorder. I conducted a hearing yesterday of the Veterans' Affairs Committee on that particular problem. It turns out that many, many veterans returning from the Persian Gulf, and their families who waited back home, are now suffering from emotional, psychological, and psychiatric problems that stem from the experience in the gulf. We heard some heartrending stories about family breakups and all sorts of other problems confronting the people in the gulf and their loved ones.

We have to do more, I believe, than we are able to do now, and so we are going to be coming back looking for funding for this particular need in the future. But, we need to learn more about that particular problem before we know exactly its dimensions, how many people are affected. There may be many, running into tens of thousands. When we know the dimensions and know the best way to cope with that problem, we will come back to discuss that and to find the money and to establish the program.

Let me finally say that funding for the administration of veterans benefits is $15 million over the President's budget and $18 million over the House to help speed up processing of claims for disability, education, home loan, and other benefits. Cemetery system funding is $10 million more than the President's request, with an additional $3 million available in fiscal year 1991, which will have an enormous impact on the deteriorating condition of existing national cemeteries and will help in creating much needed additional cemeteries.

As chair of the Subcommittee on Housing and Urban Affairs, I also would like to commend the distinguished chair and ranking member and their staffs for the efforts they made to address the housing needs of our Nation.

The committee has managed to fund the new programs created in last year's Cranston-Gonzalez National Affordable Housing Act without eliminating existing, successful housing programs—as the administration had proposed.

The bill includes $2 billion for the new HOME investment partnerships program. This program will assist State and local governments meet their local housing needs. Across the country, communities are eager to get this program underway.

The bill provides funding to implement the prepayment solution contained in last year's housing bill to preserve the Nation's existing low-income housing stock.

Fifty million is provided for the AIDS housing program to help meet the special care and housing needs of AIDS patients. And the bill includes funding for the administration's HOPE Program.

Significant increases are also provided for existing programs such as community development block grants, public housing operating expenses and modernization.

The committee has also provided funds for lead-based paint initiatives in public and private housing. As the committee noted in its report, lead paint exposure continues to be a major health risk to our citizens—particularly children under the age of seven. I commend the committee for including $75 million for privately owned housing in addition to funds for public housing testing and abatement.

In California, the communities in Alameda County are undertaking an integrated program to screen children for high lead exposure, identify and remove lead paint in housing, and train workers on proper removal techniques. I think it will be a strong candidate for funding under this program.

Mr. President, these important increases in funding for housing programs and the increases to help our veterans will be lost should this amendment pass and that lead to a veto of the bill. For all these reasons I urge my colleagues to oppose the amendment.

The distinguished Senator from Maryland, who is handling this bill on the floor, rose to perhaps discuss the PTSD aspect and I wish she would do so.

Ms. MIKULSKI. If the Senator will yield, I thank him for his legislative efforts in this bill. I also thank him for giving us two crucial authorizing frameworks embodied in this legislation. One is on veterans care, both veterans' medical care, meeting the claims, rightful claims to benefits, and disability pensions, and now the resurgence of the post trauma stress is an area of great distress to everyone.

What we are able to understand, as I understand the Senator, is that Vietnam vets, once they began to see some of the battle scenes of Desert Storm, had incredible flashbacks. Veterans who had no previous problems have been suddenly affected and need the competent specialized help offered by VA.

Now we are also finding that although Desert Storm lasted 100 days in actual combat, the stress has been just far more than originally anticipated, and we need to be ready to be funding the appropriate resources to help the veterans in the transition time. Am I correct in that, I ask the Senator?

Mr. CRANSTON. Yes. Absolutely. I am delighted the Senator from Maryland, who is in a very strategic and powerful position to help, is so aware of the problem and ready to help when we know exactly what help is needed.

It is true that people who went through Vietnam have had many of their nightmares brought back to light by witnessing and reading about what happened in the gulf. The problem for the gulf veterans is absolutely unique in certain respects.

Let me say one more thing about Vietnam. It took us more than 8 years to get a program to help veterans who needed help for traumatic stress, after Vietnam. We cannot let that much time go by, and we will not, after this war.

A very unique aspect of this war is that many of the people who went overseas, some into combat, some close to combat, were in the Reserves and in the National Guard.

Thus more than ever before people who were called up this time did not get a deferment because of their dependents, children, and spouses. They were given 48 hours notice in many cases and yanked away from their families, away from their farms, away from their jobs, and away from their businesses and found themselves on their way to Desert Storm. There they waited in intense heat. They and the loved ones left back home so abruptly read predictions that perhaps 20,000 would perish, be killed when the fighting began, if it did. They heard that chemical weapons or perhaps a nuclear bomb would suddenly be turned loose.

This led to trauma there, and trauma back home where more than ever before when the combat actually did begin the whole thing was witnessed on television. This last led to immense strains for many people, conceivably running up into the hundreds of thousands. I do not know that yet.

So we have to be ready to deal with that problem as soon as we know. I am delighted that the present Presiding Officer of the Senate, Senator DASCHLE, is a member of the Veterans' Affairs Committee and will be dedicated to making sure with me and others that we deal with this problem when we know axactly what must be done. Then we will move swiftly and with the help of the Senator from Maryland I know we will do what needs doing.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in opposition to the amendment of my distinguished colleague from Arkansas.

But first I would like to congratulate the floor managers of the bill. I think Senator MIKULSKI has done an absolutely outstanding job in trying to balance several issues here—No. 1, our budget concerns, and then has tried very hard to make certain that we keep a proper balance on the many programs within her subcommittee account that deserve our support. I think she has done an admirable job in that. I am here to congratulate her and Senator GARN for supporting these activities.

Mr. President, I also regret having to oppose the amendment by the distinguished Senator from Arkansas because I know of his sincerity when he talks about human needs right here on Earth, and no one in this whole Senate has been more devoted to making certain that we have vaccines for our young people, for our children, for concerns of health for our elderly. He has been a real leader in the Senate in keeping the Senate's conscience turned to those concerns. I have supported him in those efforts in the past and will continue to do so.

When it comes to knocking out something like the space station I have to, with great regret, oppose what the distinguished Senator, my colleague from Arkansas, is trying to do.

Mr. President, he posed a question. Of what possible benefit is the space station? It is a very good question.

Obviously we like to have answers to that question. But I submit to my distinguished colleague from Arkansas that when you are talking about something like research, the reason you do research is because you do not know what is out there. You are trying to find out. Whether you are doing microresearch in the laboratory or whether it is macroresearch in space astronomy, or the Hubble, whatever. Research is the reason you do it.

I am reminded of a story they tell about back in the days I guess it was 130, 140 years ago, when Disraeli, the Prime Minister in England, was supposedly going through a laboratory where the scientist Faraday was conducting some experiments. They had bottles that Faraday had developed with electric charges in them. He could make the sparks jump from one bottle to another. Disraeli is supposed to have looked at this and watched the sparks jump. He turned to Faraday and said "But of what possible use is it?" and Faraday's reply was "what good is a baby?" What good is a baby? You do not know. You do not know what is going to develop.

Yet, every single advance that human beings have ever made is because somebody was curious about the unknown. This questing human nature, curious, questing human nature, has been at the heart of every single advance ever made. If we are to say that we are to cut off research, we are to cut off inquiry into the unknown, we are to cut out any effort to look at the new and try to see whether it has or not, see how it fits together with other fact patterns, then we in effect cut off human advance.

Can I tell the distinguished Senator from Arkansas today, one, two, three, four, five, here are the things that are going to be of value in the space station? No. I cannot. But I know this: I know it is one of the greatest opportunities we have to look into the unknown, to do things in a different environment.

He very properly points out, and I agree with him 100 percent, there should be more funding for NIH, NSF, the National Academy of Sciences, to look into research. That is fine. It is all well and good to help set them up in the laboratories. I think I helped back every single bill in the 17 years I have been in the Senate in that regard.

But you have one big difference here. This is the first opportunity we have to set up a laboratory at zero G, microgravity, and look into new research.

Before I go into that a little bit, I would like to digress just a moment in this area of research.

If you challenge an audience, as I have done, and say what do you think of the American dream, how did it come to be, how did this American dream of ours happen? What led America to be different? What led us into preeminency in the world? What led us to be the No. 1 leader in the world in almost every single field we have chosen to be involved with?

You will find somebody in the audience say that we had great natural resources. That is one thing.

Well we did. We had the majestic rivers, purple mountain majesties, fruited plain that we sing about. We had all of those things. But other places in the world, I submit, also had resources and they did not develop the way we did.

I submit there are two things that led us into the national preeminence in world leadership position that we hold today. No. 1 was education. Education was not in this Nation just for the kids from the castle as it had been in Europe, or the politically well-connected young people, or those who were already wealthy. But education in this land of ours came to be for everyone. And I would say we did a better job in making certain that every citizen had an opportunity at education than any nation in the world has done up to now.

We did not do it perfectly by a long shot. We can look back and see where a lot of our people did not share equally but, we did a better job of getting education for everyone than any nation in history, up until the last few years. Now we are under some pressure, and we are finding some difficulties. We are under increasing pressure as to whether we are going to be the world's leading educator in the future. We have to rise to that challenge also.

But there was a second element in addition to education. That is, we plowed more of our gross national product back into basic, fundamental, Nobel laureate, breakthrough type research than any nation in history.

We were a curious, questing people. We wanted to know why we cannot know all these things. We set out to do it.

So we learned the new. And with that educated citizenry we just leapfrogged ahead of other nations around in this world in the tiny little timeframe in history and came to be the world's leader.

We are asked what benefits will this bring to us? We do not really know. I wish I had that list here. But we certainly begin to see some things right now that are very, very promising in the space station. Because it lets us do microgravity research not just for 3, 4, 5, 7, maybe at the maximum 9 days on the shuttle, but let us do those experiments that really only have a chance to get started, to just get underway at the end of 9 days, to go on out to more lengthy periods of time.

What type of long-term research am I talking about? Well, one topic captured my imagination the other day when we met with the crew of the last space shuttle mission. This was the first mission that has been designed and flown strictly to do experiments on the human condition in space in zero G, zero gravity. They had lengthy experiments, and their biggest regret at the end of that time was that they were getting into such interesting things in their experiments, that they did not want to come back down to Earth.

For instance, the astronauts wanted to measure whether there were changes in the white blood cell count. There have been suspicions that changes in white blood cells occur, but we did not have a lot of information on these changes. So they set up experiments to determine what happened to the white blood cell count. White blood cells come out in the blood, as I think most people are aware, and eat up the germs and they fight infection and disease in the body; that is their main function.

Well, they measured the white blood cell count just in the short number of days they were up. Do you know what they found? A surprising decrease in the white blood cell count. This was not foreseen. This is the serendipity of research. They had no way of knowing that the white blood cell counts on all of the test subjects—the astronauts up there, not just one person, but several people—went downhill. The white blood cell count was measurably decreased, consistently going downhill.

If zero G causes that, reduced gravity causes that, can we assume that more than 1 G will reverse that and run it the other direction and give us an increased white blood cell count? Such an increase would give protection against disease, perhaps even an approach to AIDS or, who knows, maybe even cancer? I cannot predict that. But I also cannot predict that it will not result in that. Because you are down to looking at experiments, conducting actual experiments which have never been done before on the immune system, on the basics of how it forms its cells, and what triggers the immune response. Acquired immune deficiency syndrome takes the body from a position of defending itself and takes those defenses away. The research conducted in zero gravity, where we are altering artificially the condition of the body, that white blood cell count—could have an impact on AIDS research.

I asked the astronauts the other day, has anybody gone up to the human centrifuge in Johnstown, PA—where I did training along with the first astronauts too many years ago—and put somebody on the machine up there, this 50-foot arm that goes around, and run that machine up to 2 G's and leave them for a week or so and measure their white blood cell count to see if the decrease now increases? Is that a study that would lead to some cancer cure or some other disease cure? I do not know. I cannot say this latest research is going to result in a cure for AIDS or cancer. But I know that this curiosity about wanting to know what happens to the human body and curiosity about the unknown, and how one little fact pattern fits into another has been at the very heart and soul of every scientific advance since the beginning of people.

We are not at the end of it. We do not know all there is to know. That little experiment they ran on the last flight, to me, has so much promise and hope for what may develop.

Can I predict that it is going to be a cure for cancer or AIDS? Of course, I cannot do that. But I know that out of such experiments as these, great things will come. If there is one thing this country has learned throughout its history, it is that money spent on research normally has a way of paying off far beyond anything we see at the outset. I do not have any doubt that that will be the case here.

Another research finding that came off of that last flight, too, I thought was interesting. We have known that the body, in weightlessness over a period of time, losses part of its skeletal strength. Bones pass off a lot of calcium. We used to be concerned about this when someone was in space a long period of time. We used to say, "You are going to be jelly bones when you come back. You will tumble down on the floor and your bones will bend for lack of calcium." It does not go quite that far, but we do know that, after 7 days, astronauts can lose as much as 15 percent of their muscle mass. We know that bone growth is significantly affected, and we know that the bones do throw off some of their calcium, but we do not know why that occurs. Yet, that very same function that either keeps calcium in the bones or takes it out of the bones, whatever the process—is at the heart of the problem with osteoporosis, the weakening of bones, a typical elderly problem. Bones get weak; one falls down, breaks a hip, and is in a cast.

How many people have known elderly people that have had that problem? I had an aunt who broke her hip three times. She died a couple of years ago, and she was almost as close to me as my mother, a wonderful woman. She had fallen and had osteoporosis. I do not know whether we can reverse this disease or not, but intuitively I know that the place to study it is in zero gravity where we find the changes occurring in the bone and bone losing some of that strength in a short period of time. We can measure it and do experiments. You do not have to wait 20 or 25 years for it to develop, and you can run experiments on it right there.

Can we come out with an answer which will help people with degenerative arthritis, osteoporosis, or multiple sclerosis, or even some forms of diabetes? Such research must be carried out over a period of months and months sometimes. With the space shuttle we can only do research for days at a time. There are a whole host of experiments scientists want to look into. Some of the experiments that are going to be done on the space station Freedom, include: studying animal and plant growth in zero G, which may lead to a greater understanding of biological development. Different elements of health care, waste recycling, noise and vibration research, new computer programs, and other technologies that have to be developed to send the machine up there and keep it there for long periods of time.

Other experiments on the station will not deal with the human body, but with the development of lighter, stronger materials, including structural materials, glass and composites. Those things will have a direct economic benefit right here on Earth. Another area is the growth of more perfect protein crystals. We have already seen in the shuttle and on skylab some major changes of direction of experimentation with pharmaceuticals and industrial applications. The station will allow astronauts to grow and analyze such crystals while in zero G. They can analyze them right there, see what the changes are, make adaptations right there, instead of growing the crystals and having to bring them back to Earth for analysis every time.

So these are just a few of the things. I am not trying to run through all of the potential benefits by any stretch of the imagination here.

What is the likelihood of new things developing? If I am holding these research goals out as a carrot, what is the likelihood of them actually happening?

You know, the Augustine Commission that looked into the space program did a good job I think in outlining some of the potential we have for the future, talked about how some of these things developed since the early days of the space program.

Way back when I was first involved in the program and we were trying to get the flights up and keep them up there, could anyone possibly have foreseen the impact of one NASA research development—weather satellites? Hundreds of billions of dollars worth of value has resulted from weather satellite for farmers, for transportation, for airlines, for safety of transportation, for early warning of tornados and hurricanes. That was not foreseen back in those days. We had no idea that this technology would develop to the extent that it has.

Other research benefits from NASA include things as mundane as antiglare filter that was developed for use in space in the Gemini Program and now we have that same kind of coating being used on medical optical equipment, oscilloscopes, and sunglasses. Would it have been developed? Sometime, probably. Without the space program I am sure it might have been, but we have it now and we are using it now.

Indoor air pollution. NASA has carried out research concerning the ability of green plants to reduce the level of gases which contribute to indoor air pollution. This research has led to new designs in buildings to improve the indoor air quality. Would this have occurred? Maybe, but out of the experiment in the early days of the space program. No one ever foresaw that.

A gas analyzer also called a chromatograph developed for the Mars Lander Program is not commercialized and commonly used to detect and analyze hazardous constituents at superfund sites. Did anyone have the concept when we were trying to get a few little things up in space way back in those days of late 1950's and early 1960's there would be offshoots like that?

Patient monitoring is another one. A New York business which had one of the original contracts to develop a system to monitor vital signs of astronauts has become very successful developing equipment for doctors to monitor patients, and this equipment is widely used in emergency rooms, intensive care units, neonatal, pediatric units, and operating rooms around the world. Would that have been developed? Eventually I suppose it would, but NASA research contributed to it.

Drug research: NASA developed a computer program to analyze the dynamic characteristics of airplanes. Du Pont adapted this program. The new use of this program, modeling the effect of different types of drugs on the body.

Another research spinoff are of the muscle conditioning machines, originally developed for space station Freedom, already has been adapted for use by physical therapists, used for sports medicine and people with arthritis.

Clean room garments that were developed to be lint-free and cover the body and are not restrictive have become integrated for use into all types of electronic manufacturer's clean rooms and computer chip manufacturers as well as hospital emergency and operating rooms.

So you can go on and on with things that we cannot foresee at the outset of the space program just that are now in current use and have added to the economic welfare of this country that were serendipitous. They were things that came out of the space program that we really did not anticipate at the beginning.

That is the nature of basic research. That is this quest for knowledge that has been particularly American and particularly beneficial from the space program so far.

Now, with the space station, we have the opportunity to go into space on a more permanent basis. Experiments, once started, can run for months or even years if required in space instead of being up there for a few days and back down again. That is the reason the space shuttle crew was so excited about the space station. Some of the experiments that they ran on this last mission could run for months on the space station.

Is the station to be but a step to Mars? No, I do not think so. Since my own days in the space program, close to three decades ago, I have said that each step along the way we should maximize the research return. We used to joke about man in the can out in space and see how far out you could shoot that person and still get him back alive.

Canned man has never been my view of what the space program was all about. We now have the opportunity to go up into space and use that new laboratory of space for the experiments that I think will prove as valuable in the future as basic space research has in the past.

I agree with my friend from Arkansas completely. We need more money for NIH, but NIH does not have microgravity research capabilities. Other topics I pointed out, like white blood cell development, have great promise, but will this lead to a cure for cancer and AIDS? I do not know. I cannot predict that.

But I do know that in the past, money spent on basic research had usually had a way of paying off in the future beyond anything we have foreseen at the outset.

Do we have other problems here crying out for money? Certainly we do, and we have always had that. And if we had waited to solve all of our problems here in the status quo before we started out to go someplace else, we would have never even moved off the east coast of the United States. The area up and down the Mississippi River would probably be still an untamed land of some kind because we had not solved all the problems of the east coast. When those settlers decided to go West. They were curious. We had not solved all the problems we have in disease or anything else when people decided to do new research whether you speak about the development of the automobile or new types of housing, or whatever.

But through these advances that we have made through human curiosity, through this quest for information, we normally have seen advances in our whole economic condition and a better ability to take care of some of these other problems that my distinguished colleague from Arkansas talks about.

If we had never developed this country; never been curious about the new; never gone into the laboratory; never spent money on research unless we knew the outcome, I do not think this country would have progressed to where it is now. I do not know why you do research and incur an expense on something you already know. The nature of research is finding out the new and the unknown, and we have always put money into this research and this has led to an increased U.S. economy—an increased U.S. economy since our founding days that has enabled us to better take care of those vaccines for the kids that Senator BUMPERS has been such a proponent of and which I backed him on through the years. And all the other things, too, including health care; being able to take care of housing, and other matters. This has come about because we had an expanding economy in the country.

All of that has come from basic fundamental research. NASA estimates, some of the independent economic estimates, also say that the benefit to our economy of research done so far within NASA has brought back about somewhere between $7 to $9 return for every $1 spent.

Let us say that NASA is off. Let us say NASA is a little over exuberant on that. It is only 3½ to 1, but it is half. That is still a tremendous benefit to this Nation of ours, tremendous benefit, because as these techniques become known or new research brings out new ways of doing things, new products or new pharmaceuticals or new approach to disease, we become a better nation and our economy benefits and our position of leadership in the world benefits.

Can I guarantee all these things? No, I certainly cannot on the space station because it is basic fundamental research, and it is not something that can be done at the National Science Foundation. It is not something that can be done out at NIH because they do not have the microgravity. They do not have zero G research capabilities out there.

I know my distinguished colleague trots all this list of scientific people that are against this, and I will only say this: I have had about 30 years' experience dealing with the scientific community since my early days in the space program and this has been a continual push-tug back and forth between man and unmanned as to who gets what.

I would submit that because of the interest in science and in space that everyone has benefited in the scientific community. I think most scientists would agree to that, but let us face it, there has been a lot of jealousy back and forth. When you put up a manned space station it requires more money than setting up a laboratory here on Earth. So the scientists who are interested mainly in laboratory here on Earth are always jealous and always have been. That is a fact of life, and they will tell you that there is no problem with that, but does that mean there is not jealousy back and forth? Does that mean we should not undertake one of the greatest opportunities for establishing a laboratory to look into the new and unknown and do some of these experiments I outlined earlier here that we now have a chance to do? No, I do not think so.

I think we should go ahead with that whether they are jealous of this type program or not. Sometimes the scientists are not right, too. I believe it was Vannouver Bush who was rated literally as one of the leading scientists of the time, who ridiculed the thought there would be such a thing as a ICBM go over and hit another spot and hit it with some accuracy.

So scientists are not completely right in their own estimates of what is possible into the future.

Mr. President, I think that I made the point here that I wanted to make and that is that we do not know the benefits of research.

When people stand on the floor and they say, "What benefit can this be," the very point is we do not know. But the history of this Nation of ours is that money spent on research normally has a way of paying off in the future beyond anything we see at the outset, and the potential of this is, as I have indicated, with just some of the little things that have come up so far on the space shuttle, that are very promising directions to go, with new inquiry, hold such tremendous potential benefit for this Nation of ours, I do not see how we cannot do it.

The Japanese, we are concerned about them taking everything we do and they expand it and sell it back to us. Well, they are very interested in the manned program. They have already started down that direction. We are the world's leader in this.

I do not want this program just to say we are the leader, and wave a styrofoam finger at the world, and say we are No. 1, we are No. 1, much like we do after the ball games. But I say this is an opportunity for that questing, curious nature that we have that is exercised in research, and which has proven of such tremendous benefit to this Nation of ours. I just do not see how we cannot go ahead with this.

So, Mr. President, I may have some remarks to make later on this, but I hope I made my point today. I hope my colleagues will join me.

As much as I admire the proponent of this, and I have worked with him and I have agreed with him, I just have to disagree with him on this for all the reasons I stated above.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. BUMPERS. Will the Senator from Florida yield for just a second?

Mr. GRAHAM. I yield.

AMENDMENT NO. 769

(Purpose: To reduce appropriations for a space station and apply reductions to other purposes)

Mr. BUMPERS. Mr. President, I call up my amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 769.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 80, strike line 25, and insert the following: "September 30, 1993, of which $1,928,900,000 of the funds appropriated under this heading for a space station shall be available, in lieu of such space station, and in addition to any other amounts appropriated under this heading or any other provision of this Act, as follows—

"(1) to the National Aeronautics and Space Administration—

"(A) $50,000,000 for the Earth observing system;

"(B) $50,000,000 for the national launch system;

"(C) $17,000,000 for aeronautical research and technology;

"(D) $15,000,000 for space automation and telerobotics;

"(2) to the National Science Foundation, $50,000,000; and

"(3) to the Department of Veterans Affairs—

"(A) $378,000,000 for use for veterans' medical care;

"(C) $53,000,000 for use for veterans' medical and prosthetic research and development; and $1,315,900,000 shall be applied to deficit reduction. *Provided*, That no funds appropri-"

Mr. BUMPERS. I thank the Senator from Florida.

Mr. GRAHAM. Mr. President, as the distinguished Senator from Ohio has just so eloquently stated, throughout the history of this Nation, throughout the history of mankind, exploration of the unknown has always been in conflict with meeting immediate current needs.

Next year, we will celebrate the 500th anniversary of one of the great expeditions in the history of mankind, Christopher Columbus' discovery of the New World. In the history of Spain, 500 years ago today there was a conflict as to whether that was an appropriate expenditure, to outfit these three vessels to explore the unknown when there were so many needs to be met in Spain of 1491.

That conflict is an inevitable one. Current needs always are known. They typically have a human face. We can see a child in need. Expenditures to push back the boundaries of man's ignorance are, of necessity, speculative, often disembodied from any immediate human contact.

Mr. President, I support the continued U.S. leadership in space, and for today and the immediate future, that means America's continued support for space station Freedom.

I commend the chairman of the subcommittee for the outstanding job that she and the members of her subcommittee have done in presenting us with a well-balanced appropriations bill in an area of expenditures for some of the most needy and most compelling areas of Federal responsibility. She has submitted us a budget which provides substantial additional funds for important programs in veterans benefits, in housing, elderly and disabled programs, including spending for research through NASA, and specifically the next component of funding for space station Freedom.

Within that space station, there has been significant redesign to comply with congressional directives to reduce the complexity, the size, the cost of the program. NASA, Mr. President, has cut $8.3 billion from the development phase of the project, reduced the length of the laboratory and external maintenance in space by 40 percent. And in spite of those significant fiscal constraints, we still will have a scientific capability that will be 110 times greater than the space lab on the existing shuttle, and 4 times greater than the Soviets' Mir space station.

Mr. President, this station, with all of its unknowns, has benefits that we can, with a high degree of certainty, anticipate. This station will yield a strong return on America's investment. Industrial production can be expected to be enhanced through every area from general advances in science and technology, to the development of new products and improved processes, to the spawning of industries not known today, to the diffusion of new knowledge and the refinement of existing technology.

The station is expected to enhance economic benefits of NASA investment beyond those measured between 1978 and 1986, which totaled $22 billion in industrial sales, and $350 million in income tax receipts.

Mr. President, the space station Freedom will provide a world-class laboratory in which to conduct life science and medical research and microgravity materials research. The Senator from Ohio has documented the areas in which we can anticipate with a high degree of certainty that there will be advances in human knowledge.

Mr. President, the cancellation of the space station Freedom would result in the termination of the largest international scientific project ever undertaken. Fifteen countries have collectively pledged $8 billion to the project. They have spent $1.6 billion to date. To these contributors, the station project represents a signed treaty agreement. Cancellation of the program would hurt our ability to participate in future multinational scientific ventures.

Finally, Mr. President, space station Freedom is America's opportunity to remain firmly in the lead in space science and exploration. World economies are increasingly linked to knowledge-intensive, high-technology industries. Japan and Western European countries spend proportionately 25 to 50 percent more than the United States in the development of those new technologies.

In one area, aerospace, the United States continues to hold the dominant world position. Other countries in the world are both partners and customers of the United States because of our leadership in space and aerospace activity.

In 1990, while the United States ran an overall trade deficit of in excess of $100 billion, we actually had a trade surplus of $2 billion in aerospace products. That leadership, Mr. President, is important to our country's economic well-being, to our national security, and to the future ability of the United States to continue to be a major world-class technological economic leader.

There will be a space station built, Mr. President. It will be built by someone, somewhere. The only issue is whether or not the United States will play a significant role in that project. Yes, there are other competing needs. Yes, those needs are compelling. Yes, we can, as human beings and as representatives of the people of America, identify with those needs.

But, Mr. President, I do not believe that we will be serving Americans of today and in the future if we do not take a perspective on where we want this Nation to be as a leader in world technology, a leader in the exploration of the greatest unknown available to man, the universe in which we live.

Mr. President, I believe that the prudent course of action today is to support the very balanced proposal that the Senator from Maryland has given us to continue the level of support for space station Freedom which she recommends, and to continue America's leadership in world technology and in the uncharted frontiers of space.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I rise in support of the amendment by the Senator from Arkansas. I do that with great respect for the chairman of the subcommittee, who is one of the most capable Members of this body and one of the most feisty Members of this body; and with great respect for Senator JOHN GLENN, who not only showed ability but incredible courage in getting into that tiny little space capsule when he launched into space; as well as for our colleague from Utah, Senator GARN, who got into an appreciably larger space unit but who has done other things, including one of those things that perhaps has never been mentioned on the floor of this Chamber, and that is giving a kidney to another member of his family.

But the question right now before us is, is the Senator from Arkansas correct in his assumption? We toss figures around, $8 to $30 billion costs. GAO says $40 billion, ultimately $118 billion in cost.

This is the June 10, Time magazine:

> The National Academy of Sciences concluded that the space station had no scientific use at all.

Maybe that is an exaggeration. But I, on the basis of everything I know, without having a manned station we can learn virtually everything we can from having that very expensive, that Cadillac operation, up there. Time magazine described it as—

> * * * a sort of WPA for the aerospace industry. Administration officials contend that science has never been the whole point of the space station. Rather it is intended to maintain American prestige.

That is an awfully expensive prestige item. "The brave, new, do-nothing space station," it refers to it as.

We have had the Soviets in space at one period for a year. We do not need to duplicate everything that has gone out there. And, in terms of what my colleague from Florida, Senator GRAHAM, said, that other nations have pledged $8 billion—well, $8 billion out of $118 billion, if the GAO is correct—$8 billion is better than nothing, but it is not a very impressive figure.

I think one of the things we have to say is are we willing to make the hard choices and is this really going to pay off?

When the Senator from Arkansas had his amendment in the other day on the super collider, I voted against him even though, frankly, I think a nonscientific decision was made to put that super collider in Texas rather than Illinois. But I think there is a reasonably good chance we are going to get a payoff there. I may be wrong. But it is a small fraction of the amount of money we are going to spend here.

Let us say that $118 billion is an exaggeration. Let us pull it down and say it is $50 billion. And let us say we took half of that $50 billion to reduce the deficit. On the Budget Committee—and I see Senator HOLLINGS here—I remember when one of the witnesses, the Chairman of the Federal Reserve Board at that time, testified that when we reduce the deficit roughly $50 billion, we will reduce the interest rates roughly 1 percent. Let us say we took cumulatively half of that, $25 billion, and reduce the deficit by $25 billion, that pulls down interest rates, roughly one-half percent.

Then what are the other alternatives? Let me just spell out a few.

Yesterday, in the hearing before the Labor and Human Resources Committee we learned that, in 1969—talk about scientific progress now—in 1969 there were 60,000 graduate fellowships in this country. Do my colleagues know how many graduate fellowships there are from the Federal Government today? Twelve thousand. That is incredible. Look how we are slipping. That is the kind of choice.

What about, instead of spending all these billions for a space station, we spend a little more on arthritis research, mental health research, cancer research, diabetes research? Three or four years ago I had as a guest a long-time friend who happened to have Bell's palsy. It is a disease that disfigures one side of your face. It is not a life-threatening thing, but it is psychologically debilitating. I contacted NIH and said, what did we spend in this great, rich country last year on research on Bell's palsy? Do you know what answer came back? $30,000—almost nothing. These are the kinds of hard choices we are going to make.

Last week I held a town meeting in the little town of Findlay, IL. A woman got up and said:

> I run a little antique store, but the insurance company found out that my daughter has diabetes and they have told me now that my insurance bill is going to be $16,000 a year. We cannot afford insurance any more.

We have to make hard choices. Do we provide insurance for that woman and her family in Findlay, IL, or do we put some exotic thing into space that the scientific community tells us overwhelmingly just is not going to do any good?

We had a Budget Committee meeting here today, and I heard our colleague from Michigan, Senator DON RIEGLE, tell us about two people who are unemployed, why they need unemployment insurance. The lowest percentage of people unemployed today are getting unemployment insurance since the unemployment insurance started. We say we do not have the money for it. But we have money to launch a station into space?

Well, candidly, and I hope my colleague from Arkansas will not mind my saying it, he is not going to win this battle today. We are going to get outvoted today. But I remember Senator Paul Douglas said the big battles take 7 years. I hope it does not take 7 years. But one of the things we have to learn is we have to make hard choices. One of the people who has been telling us that is the Presiding Officer, the junior Senator from North Dakota, who on the Budget Committee has been trying to force us to make the hard choices. We cannot just do every little thing that comes into our minds, pleasant as it might be.

When the scientific community says overwhelmingly this does not make sense, when we hear that, for example, funding this will be the equivalent of funding the National Science Foundation for 60 years, where do we want to make that scientific investment? I think the evidence is overwhelmingly on the side of the Senator from Arkansas. I do not think the votes are going to be there, because this space station has dropped little projects all over this country. But I think we have to forget those little projects, insofar as possible, and say what is in the long-term best interests of this country? Are we willing to make the hard choices?

I hope we at least send a partial message through this discussion, and perhaps through the votes, that we better take a look at the hard choices. I commend my colleague for his amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I appreciate the comments of the distinguished Senator from Illinois because he has in mind the same concern that I have. He noted the heroism of our distinguished colleague from Utah, Senator GARN, and I agree with that. I think we have him and several other authentic American heroes in the U.S. Senate.

The day before yesterday I had the opportunity to introduce my grandchildren to Senator GLENN; I carried them down to the Space Museum and showed them the capsule he rode in. I also introduced them to Senator INOUYE, from Hawaii, who, in my opinion, is another genuine hero.

These folks who have really worked in the NASA vineyard, who know more about space than I do or ever will—I hesitate rising to speak on this particular subject, even though I am informed as chairman of the NASA authorizing committee. As chairman of the committee supporting, Mr. President, the authorization, I hesitate speaking at all.

However, like the distinguished Senator from Illinois, I believe we just cannot continue business as usual around this town. Sometime, somehow, we have to all sober up and realize that we are in deep trouble financially and fiscally, and only we can solve the problem, only the Congress is going to be able to do it in concert with the administration.

To date, we have received no help whatsoever from the administration, and that is what I want to speak about momentarily.

Let me say I also hesitated to speak today out of deference to our distinguished chairman of the Appropriations Subcommittee. She is the finest Senator you will find. The people of Maryland are extremely fortunate. I have watched Senators come and go for 25 years and not one is more effective than Senator MIKULSKI, not one goes about his or her work in a more conscientious fashion. If you look at the subcommittee report itself with regard to this space station, there is somewhat of a cutback, and she is paring it very closely because she is concerned about the finances.

Yet somehow, somewhere, we are going to have to draw a line and stop this binge of borrowing and spending. There is not any question in my mind that the public really does not understand the game we are playing, and they do not understand it because the President of the United States comes categorically before the American people and says we are headed in the right direction, we have finally put the Government, he said in his State of the Union Message, on a pay-as-you-go basis, reducing the debt $500 billion. In reality, the exact opposite is true. We are not going in the right direction, and as we found out this morning, instead of reducing the national debt $500 billion, under the budget agreement, this year and next year we are going to increase the debt by over $700 billion.

Lord knows the distinguished occupant of the Chair, the Senator from North Dakota, has done everything, even proposing a freeze. I voted for this freeze; I voted for my freeze.

You cannot get a discipline out of this Congress when the President himself say there is no need for further discipline; that the country is headed in the right direction and we are on a pay-as-you-go basis. This is a sordid sham and sham both. I just cannot stand for it any more.

I was going to quietly vote to support the distinguished Senator from Arkansas. Somehow the word got around and, ye gads, my office filled up with NASA people, with my personal staff wondering how I would vote, with the Appropriations Committee staff and everybody else from downtown. So I might as well speak my mind so there is no misunderstanding about it.

I am not against the space station, but I cannot afford it. I am not against the Stealth bomber, but I cannot afford it. I am not against the super collider, but I cannot afford it. I am not against one of those war planes. I had to tell my nephew, a Marine captain who was in the gulf, that we can't afford the Osprey. We just cannot afford it. I cannot make mobile the MX missile although I would like to make it less vulnerable. But I cannot afford to put it on rail cars. I cannot afford all of this at a time when I am riding home seeing people sleeping on the sidewalks and, as the distinguished Senator from Arkansas has pointed out so eloquently, at a time when we cannot get adequate vaccinations for our children.

The Senator from Ohio has made the argument for the space station, and when the authorization is requested, I support it. And then I meet myself coming around that corner as a member of the Budget Committee, as a former chairman of that entity, knowing that somebody, somehow, somewhere has got to talk sense. Now is the time, and I guess I will be the one to talk on this floor continually during the several weeks that ensue this summer because people need to be woken up to the gravity of our fiscal mess.

In 1989, when Mr. Darman submitted his first budget as OMB Director, he claimed that the 1990 deficit would be only $100 billion, and would meet the Gramm-Rudman-Hollings target. Remember these figures? I confronted Director Darman, I said oh, no, the 1990 deficit is going to be over $200 billion. I am no genius. I am just reading closely exactly what CBO and all the others are saying. In the end, the 1990 deficit came in at $277 billion.

That latest budget agreement—last fall's—was a sweetheart deal. It simply did away with the targets altogether. The Congress, the leadership of the Congress of the Senate and the House, together with the President of the United States agreed, mum is the word; everything is fine; we are going in the right direction, we need to do a little cutting of spending, a little new revenue, then sweep the rest under the rug and get us by the election in 1992. Yet today, Director Darman acknowledged that the 1991 deficit will be $338 billion, and the 1992 deficit will be $412 billion.

The very President who comes here and says that we put the Government on a pay-as-you-go basis, reducing the debt $500 billion, turns around and signs into law an increase of the debt limit from $3.1 to $4.1 trillion. And therein is the game that is now afoot. If you want to know what game is going on in this town, the game is to be absolutely sure that you do not exceed that $4.1 trillion, so that the administration doesn't have to request yet another extension of the debt limit prior to the 1992 election.

They are going into dangerous waters. Why are they going into dangerous waters? For the simple reason that if you look at that little machine in downtown Times Square, you will find it spins along like a speedometer showing the escalation of the national debt. It is already at $3.5 trillion.

The Director of the Office of Management and Budget says, oops, we are going to have a deficit of $412.1 billion for fiscal 1992, commencing the first of October. Yet even this huge number does not include major new expenditures on the S&L and bank bailouts. If we have yet another $70 billion technical correction on top of this, we could easily find ourselves exceeding the $4.1 trillion debt ceiling by this time next year. So no wonder they are dragging their feet on RTC sales to the tune of $45 billion this year. Now we know why they are dragging their feet.

The game in town is to drag your feet, freeze the ball, talk about these misestimates and blame it on Treasury, blame it on the Senator from Arkansas. They said, aw, we are not going to save any money with his amendment. I had to correct the director of OMB this morning because the way I add it up with the $1.9 billion, the distinguished Senator from Arkansas puts about $400 billion in the Veterans' Administration and $250 billion in research back at NASA and other entities, so that is $650 billion. So we will save $1.250 billion.

And again the distinguished Director of OMB comes and you have to really listen to what the gentleman says with respect to the deficit. I would like to refer to his exact words because he goes right down the list saying one more time in his testimony—I will read the exact words. Here we are going from $200 billion-plus to $338 billion, to $412 billion not including the Social Security surplus, absolutely in the wrong direction. In the exact words of the Director of the Office of Management and Budget from this morning's testimony, "The budget reforms enacted in 1990 have been working. Further, the structural deficit trend under current law remains favorable."

Now, if he can find favor in going from $338 billion to $412 billion, not to mention new S&L bailout expenditures and who knows what other emergencies might come up, I am not going along with this sham, I can tell you here and now.

So they say to the Senator from South Carolina, "you are not going along? Well, where are you going to cut?" Well, I am going to have to cut—I do not like to cut it—SDI. I received the first award from the SDI advocacy group, but I am going to have to cut some money out of that. We cannot afford it. I see SDI expenditures are going up. They ought to be going down now that the Soviet threat is in such abrupt decline.

So SDI, space station, super collider, Stealth bomber, mobile MX, Osprey. I have seen all of these things and what they cost and how they escalate on you.

Specifically, since my colleague from Alabama is on the floor, I want to emphasize that with respect to critical needs, what the space program really needs is that new launch vehicle. That is going to cost us $12 billion. I notice the Senator from Arkansas has included moneys for that. By the turn of the century if we do not have that new launch vehicle, we are lost. That is an absolute necessity. The station is a desirability. And I have to make the choices between the necessary and the desirable.

But somebody has to come to the floor, not as an apologist for that "a deal is a deal" mentality out of the summit agreement where you feel like somehow you have broken faith if you tell the sorry truth about our budget predicament. The American people tell the truth, and that is why they do not understand it. That is why there is such a demise in the reputation of the Congress and Government in Washington and even the very, very popular President.

They do not have a popularity or credibility on budget matters. In contrast, when Senator Chiles becomes Governor Chiles, he has to pay the bill; when Senator Wilson becomes Governor Wilson he cannot say "read my lips." He has to go to a sales tax, he has to go to income tax. When Senator Weicker becomes Governor Weicker, he cannot play that sordid game of "read my lips, I'm a good fellow. Reelect me."

I think Government has a better use than to be employed just to be reelected. We have to do something. We have to act.

Instead, that summit agreement locks us in so that we do absolutely nothing. We just get ourselves reelected.

You articulate a concern for education, you say you want to be the education President, the education Senator, but you do absolutely nothing for it. You articulate a concern for all of these particular problems—you identify rhetorically with them, hit-and-run style. You say, "I am for child care. I am for clean air. I am for all of these programs." But you don't actually do anything to solve these problems because there is no money, no will to act.

You have to pay the bill. I proposed, as a Senator, yes, a freeze, spending cuts that I have enumerated here, and, yes, revenues. If you have a better way to do it, fine, I will join in, if you all want to get serious about it. But instead we go willy-nilly down the road saying do not worry about it, just articulate a vague concern, identify with the people who are for the program; they will pat you on the back; they will lionize you as a big hero.

Or we just put it off budget. My senior South Carolina colleague and I, we can put everything off our budget; we can go get Social Security this afternoon, but then we put it on the budget of our little grandchildren. When we say we put an expenditure off budget, that means we put it on the kids and the grandkids.

That is where we have been failed by our friends in the fourth estate. One reporter wrote about the ballyhoo about the deficit. Well, who ballyhooed it? Reporters are the ones who go along with the charade like sheep. They know it is a sham. But they do not report it. They say, "Oh, people, do not worry about that." I know what you are talking about.

The interest cost, Mr. President, is now bigger than the entire budget was when we last balanced the budget. Here was poor President Lyndon Johnson, beleaguered and besieged, guns and butter, guns and butter, in the year 1968.

So we got together and we cut spending. We raised revenues and we gave Richard Milhous Nixon a balanced budget, a $3.2 billion surplus for fiscal year 1969.

I am one Senator—I am getting to be an endangered specie—who has not only recommended, who has not only voted for a balanced budget but has seen that budget balanced in 1969. In 1969, the entire budget was only $183.6 billion, yet today, the interest cost, interest cost alone, is $198 billion. That is net cost. The gross interest cost is $292 billion.

Where is Peter Grace when we need him? Where is Peter Grace? We might catch that fellow on waste, fraud, and abuse. The biggest waste, the biggest fraud, the biggest abuse is the increase in interest costs on the national debt. The increase is what you might call interest taxes. You can avoid income taxes if you do not make any income. You can avoid inheritance taxes if you do not inherit. You can avoid sales taxes if you do not buy. But you cannot avoid interest taxes. You have to pay them.

Yet, no one mentions this tremendous waste. Interest costs in increments of $30 billion. So we know now that when President Bush comes up and submits a budget in February that increases spending by $50 billion, $30 to $35 billion of that sum is going to go to increased interest costs, total waste for absolutely nothing.

Is no one in his right mind? This administration has said let us spend $30 billion or $35 billion more this year strictly on additional interest payments. No one has asked for an increase in an annual budget of $30 billion for new defense or domestic programs. The best I have been able to add it up in the Budget Committee, if you gave everybody everything Senators wanted, depending on how you counted, proposed new programs would cost between $9 billion and $11 billion, and, of course, we won't appropriate that money.

Meanwhile we are going to spend around $30 billion more this year for absolutely nothing, for added interest payments. Then we are going to get by the election in 1992, and the national debt will be right at the edge, at $4.1 trillion. Interest is going to jump up more than $30 billion, perhaps $35 billion. And then the gross interest costs instead of being $292 billion, it is going to be around $320-something billion.

Here today, we know the interest costs will exceed the defense budget. That is how it is going. They do not want to talk about it. They want to get everybody to say mum's the word. They want to say we have favorable conditions, that the budget reform has been working. Do you know what the purpose of that so-called reform was? To gut Gramm-Rudman-Hollings; just put the S&L bailout off budget and talk no longer of targets, talk only about savings.

There is no deficit target this year. You cannot criticize the administration, you cannot criticize the Congress for failing to meet the target. We got rid of the target. I exposed this last October when we were debating the budget deal. We were told this morning that we will trigger the deficit targets back in. Yes. After the election, in 1993 and 1994, for the 1994 and 1995 budgets, we will come back to Gramm-Rudman because we will have gotten past the 1992 election.

So we focused on proposed savings, not actual deficit targets, and the press picked it right up, gobbled it, called it now ballyhoo. That is their ballyhoo. Why did they not say we did away with the discipline? The only discipline, said President Reagan, we had for cutting spending was Gramm-Rudman-Hollings. The only discipline, said George Walker Herbert Bush, for cutting spending was Gramm-Rudman-Hollings.

But now they all throw up their hands like Gramm-Rudman-Hollings was an impossible dream. They had no idea of trying to even fulfill it. Their only dream was reelection. That is the game that is going on in this town. If you have to put an end to the game now with the super collider, if you have to stop it here with the space station, if you have to stop it with a Stealth bomber, so be it. We can debate every one of those matters. We have a greater need to put an end to this borrowing and spending, borrowing and spending, and creating waste, creating waste. This has to stop.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, unfortunately, I have to go to a committee meeting that has been scheduled, and it has been very difficult to arrange. But my remarks will be short.

I want to congratulate, first, the chairman and the ranking member, the minority member, of this committee for a remarkable job in reaching a balanced appropriations bill with very, very competing interests on it which are very meritorious.

If we look back and see where we are, directions were given to NASA by Congress, very specific directions, to redesign the space station and reduce the costs. They have followed that direction. They substantially redesigned it where they can be add ons if it is needed, and if we are able to pay for those add ons.

The committee this time comes up, and will be voting on a space station that provides $130 million more than the House version did. And I think it is wise because it would then meet the President's request and would meet, in effect, our obligation of giving NASA the directions to redesign the space station.

I could go into a lot of things about what the space program has produced but there is no question that of all of the programs that we have invested in, we have the greatest payback from the space program of any programs that the Government has financed. You just stop and think where we would be today if we had not had the space program—the satellite concept in space, the satellite dishes at home, the digital watches, the pacemakers, just to mention a few.

I will put into the record a great number of various programs. But just one, nuclear magnetic resonance, a diagnostic body scanning device that would not be with us if it had not been for space.

Just in firefighting, this is interesting to me, is protective clothing for firefighters, fire blocking fibers for clothes and upholstery, breathing apparatus for firefighters, and so on, just to mention a few.

As I look toward the future and what we have to consider, I think Senator GLENN hit it when he said we will be searching the unknown. But every development, every period of the advancement of mankind has come about from exploring the unknown.

In 1992, we will celebrate the 500th anniversary of the discovery of America when Christopher Columbus departed on a trip into the unknown. Why, therefore, as we look at the space station, should we say go forward with it if we do not know?

We realize that there are some basic sciences that have been developed that justify our examining the unknown. These largely fall in the field of microgravity or zero gravity. One is the growth of cells, and the second is the process of electrophoresis, which is the ability to separate the cells into their smallest integral parts. Those two concepts, in my opinion, justify the dedication of resources to discover the unknown. I think that those alone have such a great potential that we ought to move forward in this instance.

Just the argument that Senator GLENN made about white blood cells is an amazing potential. To me, we will make a sad mistake.

Mr. President, let me also mention one other thing before I close. There are a great number of organizations who support the space station. We have heard about some that are against it, and there are some that—because of the fact that their field of endeavor is put on a little less priority, therefore a number of them have come out against it. But the Council of Engineering and Scientific Organizations, which is a body composed of a great number of engineers and scientists, has supported the space station: the American Institute of Aeronautics and Astronautics; the American Physiological Society; the American Institute of Biological Sciences; and to my amazement, the American Academy of Otolaryngology.

I was interested to determine why the neck and head surgery groups, who deal with the throat, and the others, because they see so much potential to develop in regards to their areas that can occur at a space station.

I think it would be a serious mistake to stop the space station now.

I agree with most everything that the distinguished Senator from South Carolina said about our budget. He said, if you added everything that people wanted to the budget, it would amount to about $9 billion or $10 billion. But he said the interest is what is eating us up—the nonproductive element of the budget. I agree. And I think the answer is a constitutional amendment to balance the budget.

On the other hand, if I were to cut everything that he said has to be cut, it does not amount to that $9 billion or $10 billion. I think we have to get to the heart of the issue on deficits, and I think we have to approach it in that manner.

I think it is very important that we look toward deficit reduction. But, at the same time, what is also causing the deficits today is the reduction of anticipated revenues coming to the Government, which is a result of a slowed-down economy.

In regards to the future, if we cut off research and cut off the development of this country, we are cutting off our economy for the future, and we are cutting off revenues that would be coming in. If you were to list the total revenues that have come into the American economy—which then translate into the income tax or other taxes—that the space program has produced, we see that really we are cutting off our nose to spite our face when we stop looking at sources of revenue which come from research in the future.

So I urge my colleagues to defeat this amendment and let us move forward and adopt this budget that this Appropriations Committee has so excellently crafted.

Mr. President, I ask unanimous consent that a list of groups supporting the space station, along with some letters, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GROUPS SUPPORTING SPACE STATIONS

Council of Engineers and Scientists Organizations:

Aerospace Profession Staff Association.

Association of Scientists & Professional Engineering Personnel.

Engineers & Architects Association.

Engineers & Scientists of California.

Engineers & Scientists Guild.

Int'l Federal of Professional & Technical Engineers.

Southern California Professional Engineering Association.

Seattle Professional Engineering Employees Association.

TVA Engineering Association, Inc.

WEA Professional Lodge.

American Institute of Aeronautics and Astronautics, Dr. Peter R. Kurzhals.

The American Physiological Society, Martin Frank, Ph.D., Executive Director.

The American Institute of Biological Sciences, Charles M. Chambers, Executive Director.

The American Academy of Otolaryngology—Head and Neck Surgery, G. Richard Holt, M.D.

COUNCIL OF ENGINEERS
AND SCIENTISTS ORGANIZATIONS,
Westminster, CA, July 15, 1991.

Hon. HOWELL T. HEFLIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR HEFLIN: Contrary to recent press accounts, America's scientists, engineers and production workers do support Space Station Freedom.

During the last stages of Congressional action on the FY92 NASA budget, a handful of officials from some academic and professional societies have embarked upon a course to kill Space Station Freedom. They claim to speak for all American scientists and engineers, a claim that is totally unsubstantiated.

The Council of Engineers and Scientists Organizations (CESO), whose member unions are the recognized bargaining agents for 80,000 scientists, engineers, technical, and professional employees, is totally committed to completing Space Station Freedom as configured by order of the Congress.

The current attack on the space station is another form of the continuing opposition to a manned program by some in the academic community. They are now trying to create a false dichotomy between theory and practice. We believe that enemies of the space station favor the funding of theoretical science over applied science. Theoretical science funds the research of professors whose focus is scientific theory, whereas applied science utilizes scientists, engineers, and production workers in the actual construction of technological systems.

What is most unfortunate, however, is that opponents of the space station are trying to divide the academic community from those scientists and engineers engaged in the practical application of the scientific process. Theory and practice go hand in hand. We believe that there must be a balance between the two. Our goal is to put theory into practice. To do so, we must preserve our aerospace industrial base. We cannot continue to create theoretical models of space stations or national aerospace planes only to see them produced abroad. This is what happened to the engineering drawings of the VCR and the compact disc. America needs both an engineering base and a manufacuring base to produce the products we envision.

As scientists and engineers, we have joined production workers who are also engaged in constructing Space Station Freedom as well as other NASA programs requiring the creation of launch systems and other vehicles used in human space exploration.

The professorial opponents of the space station are now approaching the Senate seeking an amendment to zero out the station. Despite the failure of a similar move in the House of Representatives, this group has succeeded in obtaining recognition by both the electronic and print media. Together they are creating the impression that there is no support for the station. In fact, on McNeil-Lehrer's extensive report on the upcoming Senate vote, Dr. Robert Park, a self-appointed spokesman for the opponents of the station, said, "I know of no constituency that is behind the space station as it is currently envisioned." His ridiculous assertion went unchallenged. This statement flies in the face of a multi-state workforce coalition that has been working feverishly to preserve the station. This coalition of unions represents aerospace production workers as well as engineers and scientists.

The coalition's objectives go beyond constructing the space station and include all elements of a manned program. Our coalition includes the aerospace prduction workers building the shuttle, shuttle boosters, and all of the other subsystems which flow directly from constructing and operating the space station. Members of the Senate subcommittees dealing with NASA are well aware of our activities. Unfortunately, the media has chosen to ignore our existence.

Space Station Freedom is the key to preserving America's lead in space exploration and securing meaningful careers for the next generation of scientists, engineers, and aerospace production workers. I urge you to support Space Station Freedom.

Sincerely,

HAROLD J. AMMOND,
Legislative Director.

THE AMERICAN ACADEMY OF OTOLARYNGOLOGY—HEAD AND NECK SURGERY, INC.

Alexandria, VA, May 22, 1991.

I am writing to urge you to support the full funding for the Space Station Freedom. I have enclosed a copy of the testimony I recently gave before the Senate Appropriations Subcommittee on behalf of the American Academy of Otolaryngology—Head and Neck Surgery. Our views generally reflect that of the entire medical research community who feel that the Space Station will allow such a unique platform for the conduct of space biomedical research that is so sorely needed to assist our understanding of any vitally important human health issues. The Space Station gives the very best opportunity to carry out this research in a meaningful way with the real possibility of an accelerated transfer of knowledge and technology to the health care of millions of Americans in the very near future.

Thank you very much for your consideration of this testimony and, hopefully for your support of NASA's cooperative research efforts with the private academic and medical research sectors in the Space Station Initiative.

Respectfully yours,

G. RICHARD HOLT, M.D., X.S.E.,
President-Elect, AAO–ENS.

TESTIMONY OF G. RICHARD HOLT, M.D., M.S.E. PRESIDENT-ELECT, AMERICAN ACADEMY OF OTOLARYNGOLOGY—HEAD AND NECK SURGERY AND CLINICAL PROFESSOR OF OTOLARYNGOLOGY—HEAD AND NECK SURGERY THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER, SAN ANTONIO, TX, BEFORE THE SUBCOMMITTEE ON VA, HUD, AND INDEPENDENT AGENCIES, HOUSE OF REPRESENTATIVES, MAY 2, 1991

Mr. Chairman, members of the Committee, ladies and gentleman, I am Dr. Richard Holt, Clinical Professor of Otolaryngology—and Neck Surgery, The University of Texas Health Science Center at San Antonio. I am here today as President-Elect of the American Academy of Otolaryngology—Head and Neck Surgery, the largest organization of physicians and scientists treating disorders of the ears, nose, throat, face and neck in the world. I am pleased to appear before the Committee today to support the scientific and clinical necessity for the contiuned strong support of NASA's Life Sciences mission.

I have just recently returned from the Persian Gulf War where I served as a combat surgeon as an Army Reservist. During the three months I participated in Desert Shield and Desert Storm, I essentially was without any information on the appropriations process for NASA funding, something I have followed quite closely each year. Therefore, I have just recently obtained a great deal of information from many sources about NASA's budgetary status for FY 1992.

It has become apparent, at least to our organization and other medical scientific societies in the country with which I have discussed this topic, that NASA's Life Sciences continues to be threatened in its essential missions by funding problems. It may not be clear in this process of reviewing the short-term and long-term goals for our national space program just how important the basic and applied research performed by the Life Sciences Division is to American medicine and science, but we hope to join other groups in presenting this fact to you.

In the past, I have testified before this Committee on the potential medical benefits of directed space biomedical research to the knowledge and practice of medical care in the United States. This includes research in bone loss, muscle strength, cancer-induction by solar exposure, balance disturbances cardiovascular deconditioning, and tissue healing. These and many other research activities are primarily supported by the Administration's FY 1992 request of $184 million for NASA Life Sciences and includes the important and fundamental ground-based research as well as research during limited flight opportunities. The ground-based research provides the excellent opportunity for scientific interfaces from NASA funding for research carried out in conjunction with major universities and research groups across the country. Such cooperative research stimulates the entire biomedical and biotechnological interest in applying fundamental knowledge to direct applications for the advancement of medical treatment of Americans.

As a graduate-level engineer myself, I understand and appreciate the importance of the "hard science" budget of NASA's engineering divisions. However, as a physician and surgeon, I am very concerned with our need to better understand the fundamental physiology of the body so that we may better care for our patients. We have seen direct results in medical knowledge come from the Life Sciences' research and urge you to keep the funding for this important division of NASA high so that we all may continue to benefit from this excellent science.

I want to inform you of the development of a new organization, the National Coalition for the Support of Space Biomedical Research. This organization is growing out of a perceived need to better support and ensure the future development of space biomedical research. We will enroll scientific and medical societies with broad research interests who appreciate the importance of this research to American science and ultimately to the American people. Undoubtedly you will see and hear more about this organization as it develops.

Finally, we would like to emphasize the need to remember that Life Sciences is the enabling body to provide for long duration manned exploration of space. Without its activities, astronaut presence in these activities cannot be assured. As the shuttle flight opportunities for Life Sciences' projects are scheduled to decrease over the next five to ten years, we must be cognizant of their mission in providing for the health and safety of the astronaut as well as a better understanding of the human body's function in microgravity.

Scientifically, we believe that Life Sciences activities on the space station should have prime importance, and until those opportunities occur, we hope it will be possible to arrange for Life Sciences' missions to monitor the astronauts in unmanned but man-tended activities during construction of the space station.

Thank you very much for your past support for this opportunity to again strongly support their mission for the future.

WRITTEN STATEMENT OF THE AMERICAN INSTITUTE OF BIOLOGICAL SCIENCES FOR THE SENATE COMMERCE, SCIENCE, AND TRANSPORTATION SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE REGARDING THE REDESIGN OF THE SPACE STATION FREEDOM, APRIL 16, 1991

The American Institute of Biological Sciences (AIBS) appreciates the opportunity to comment on the redesigned Space Station Freedom (SSF) as it relates to meeting the basic research requirements of the life sciences. AIBS, a federation of 45 scientific societies and research laboratories representing over 80,000 professional biologists, is dedicated to "the advancement of the biological sciences and their application to human welfare."

AIBS agrees with the assessment of the Augustine Committee that the most significant feature of the space station involves research to determine how human physiology functions in space, a significant factor for future exploration of the solar system. Uncertainties regarding the feasibility of long duration human spaceflight, such as the effect of solar flares or the impact of galactic cosmic radiation, must be determined before more complex exploration of our solar system may proceed. Basic biological systems of plants and animals are altered in microgravity producing a vast array of responses. All living organisms are composed of complex systems, each of which has evolved in the presence of gravity. Under the effects of microgravity, many of these systems function in an altered manner. Studying human physiology and other basic biological processes in microgravity and obtaining the needed life sciences information for long duration human spaceflight missions is the primary goal of the space station. As the Augustine report concluded, "[T]he Space Station is a critical next step if the U.S. is to have a manned space program in the future."

NASA's decision to include a variable-speed centrifuge in its redesigned space station plan is critical for life sciences research. The centrifuge will allow controlled studies on whether factors other than weightlessness, such as radiation or the mix of gases in the spacecraft cabin, contribute to negative side-effects experienced in space by astronauts. The centrifuge will also allow exposure to fractional g-forces for varying periods of time thereby facilitating the study of both short-term and long-term effects of microgravity on biological systems.

AIBS also shares some of the concerns expressed by the Space Science Board regarding the centrifuge. Since the centrifuge will not be available for use on the station until after the year 2000, life science research will be delayed until that time. In the interim, we would like to see the Spacelab Life Sciences (SLS) Space Shuttle missions continue their research. AIBS is concerned that the present schedule for the SLS flights allows for a five-year gap between the last SLS flight and the fully operational space station. Not only will needed research be forgone, but the lull may discourage young scientists from the space biology program. Dedicated spacelab missions provide a critical capability for conducting research needing only short periods of time, leaving those experiments requiring long periods of time to the station.

Although AIBS agrees with the Space Science Board that the design of the centrifuge is vague, we do support the redesign so long as the centrifuge is capable of supporting a wide variety of species and may run continuously for several months. We are also concerned with the sharing of limited power among various laboratory modules. We trust that there will be sufficient power to conduct the long-term biological experiments which are the top priority for the station.

AIBS is also concerned with the potential to allocate funds from other science research projects, especially in light of funding limitations imposed on discretionary spending by the Budget Enforcement Act of 1990. We are concerned that the centrifuge and other necessary equipment are not contained within the present funding plan. We trust that NASA's budget will be allocated to meet its life science needs while retaining other science research projects.

AMERICAN INSTITUTE OF
BIOLOGICAL SCIENCES,
May 23, 1991.

Hon. BOB TRAXLER,
Washington, DC.

DEAR CONGRESSMAN TRAXLER: The American Institute of Biological Sciences (AIBS), a federation of 45 professional societies and research laboratories representing over 80,000 professional biologists, is concerned about proposed cutbacks in funding for the Space Station Freedom.

AIBS strongly supports the space station. We believe that the potential advances in basic science research justify financial support for the station. All living organisms are composed of complex biological systems which have evolved in the presence of gravity. The space station will allow these systems to be studied under the effects of microgravity, a vital step for long-term human exploration of space.

Enclosed is a copy of our statement regarding the Space Station Freedom to the Senate Commerce Subcommittee on Science, Technology and Space submitted earlier this year. It was offered as a constructive assessment of a project we hope will have maximum utility and effectiveness. If our comments are useful to your deliberation, we would be pleased to elaborate on them.

Sincerely,

CHARLES M. CHAMBERS.

AMERICAN PHYSIOLOGICAL SOCIETY,
Bethesda, MD, July 1, 1991.

Senator ROBERT BYRD,
Chairman, Senate Appropriations Committee,
Washington, DC.

DEAR SENATOR BYRD: The American Physiological Society urges the Senate Appropriations Committee to fully fund the $2 billion budget request for Fiscal Year 1992 for the National Aeronautics and Space Administration's Space Station Freedom and the $184 million budget request for the Life Sciences Division.

The nation's stated goals of colonizing the moon and sending manned space flights to Mars within the next 25 years is dependent upon a space life sciences research program designed to ensure the health of crew members in extended periods of zero gravity, to protect them from long term radiation exposure, to develop reliable life support and medical care systems, and to predict human behavior in isolation. A prime focus is the change in human physiology in space, such as loss of body fluids, motion sickness, bone demineralization, muscle atrophy, and cardiovascular deconditioning.

A delay in life sciences research needed to assure both the environmental and physical health of crew members in long term flights not only sets back the nation's goals in space, but it also blunts technological and biological advances that benefit mankind.

Knowledge gained from earlier space biomedical research already has had an impact on medical care and practice, especially in the areas of the mechanisms underlying bone loss, muscle strength, cell metabolism, cancer induction, vestibular disorders, regulation of heart function and blood pressure, and tissue healing responses.

Space Station Freedom and its space biomedical laboratory provide unique capabilities for the exploration of a spectrum of gravity dependent variables that would have direct biomedical and biotechnological applications for the medical treatment of a variety of diseases and disorders.

The American Physiological Society, the nation's oldest biomedical science society with a membership of 7,000, urges the Committee to appropriate $2 billion for Space Station Freedom and $184 million for the Life Sciences Division.

Sincerely,

MARTIN FRANK, Ph.D.,
Executive Director.

AMERICAN INSTITUTE OF
AERONAUTICS AND ASTRONAUTICS,
June 17, 1991.

Hon. BARBARA A. MIKULSKI,
Senate Office Building,
Washington, DC.

DEAR SENATOR MIKULSKI: In my role as Space Station Freedom Program Coordinator for the American Institute of Aeronautics and Astronautics (AIAA), I have been reviewing the arguments by various science groups which oppose this vital national space mission. Although those arguments have some merit in a short-term view of space science options and priorities, they clearly do not address the long-term need of the United States to maintain it's leadership role in space!

Specifically, in the critical area of the life sciences required for the successful manned exploration of the universe, only Space Station Freedom can provide the extended on-orbit time and equipment to effectively enable human survival in space and to demonstrate the closed-cycle systems performance essential for future manner ventures to the moon and Mars. While current Soviet missions on their Space Station MIR will provide insight and data on human operations in space, only the United States now has the advanced crew technology and measuring techniques to translate long-term space experience (through the crew health evaluation and closed-loop of life support system being built for Space Station Freedom) into the basis for future human space exploration!

Similarly, in the zero gravity arena, Space Station Freedom offers the unprecedented advantage of continuous human experimentation with promising production techniques which can yield new materials, medicines and processes to benefit all of us on earth and can enable major related commercial ventures . . . much in the same way that early space developments for Apollo helped launch America's electronics industry!

The same manned advantage applies in external experiments, where continuous human involvement can significantly accelerate measurements needed for cargo-scale mapping of earth and space, and can permit on-site correction/tuning of associated instrumentation to optimize in-orbit observations.

Finally, Space Station Freedom is this country's primary mechanism for the popular exploitation of space through small and rapid-response payloads which can provide low-cost access to space opportunities for our students, scientists and centers of excellence. Taken together, these potential payoffs clearly warrant our continuation of Space Station Freedom. I urge you to support this key step towards our country's future! The AIAA plans to hold a workshop to provide specific recommendation for utilization of the critical national resources presented by Space Station Freedom this Fall and we invite you to join us in this endeavor.

DR. PETER R. KURZHALS,
AIAA National Program Coordinator
for Space Station Freedom.

HOUSTON, TX.

P.S.—The attached charts illustrate AIAA's view of Space Station Freedom for the first three decades of free-world involvement. We would welcome your feedback and advice on this approach.

SPACE STATION FREEDOM UTILIZATION OVERVIEW

The primary purpose of Space Station Freedom is to evolve and validate the technology required for the long-term human exploration and exploitation of Space. This purpose requires a phased approach geared to provide the design concepts and experience essential for man's survival in Space and on Earth. Associated missions fall into the broad categories of micro-gravity, life sciences, external operations and small and rapid-response payloads which can stimulate new ideas and applications through low-cost access to Space. Individual, science, commercial and government ventures will benefit from this broadbased in-orbit capability.

EARLY EXPERIMENTS (1995–2000)

The initial phase of Space Station Freedom operations will concentrate on the establishment of the experimental techniques which can best take advantage of America's first permanent manned presence in Space. In the micro-gravity arena, planned payloads will explore new materials through combustion science and crystalography, will evolve new medicines through biotechnology, and will investigate new processes such as flow cytometry and advanced electrophoresis for future in-Space manufacturing. In the life-sciences arena, initial missions will gather data on human micro-gravity tolerance, physiology and dosimetry required to live in Space. In the external arena, Space Station Freedom measurements will collect interactive data on cosmic radiation, astrophysics and Earth phenomena. And in the small missions category, Space Station Freedom will provide the gateway for innovative Space experiments generated by our Universities and Centers of Excellence.

PROTOTYPE TESTING (2000–2005)

Following the Space Station Freedom shakedown during man-tended operations, permanently manned capabilities at the turn of the century will enable the prototype testing of new processes for Space habitation. In micro-gravity, these processes will focus on bio-engineering, materials and combustion advances along with commercial crystal growth and vapor transport. In life sciences, these processes will define cardiopulmonary, cell, muscular gravity and radiation phenomena required for human existence in Space. In external operations, the processes will catalogue long-term meterials exposure, ozone depletion and magnetic-field impacts. For small missions, principal payloads are expected to focus on chemical, fluid and crystal growth processes.

SYSTEM EVOLUTION (2005–2015)

The next step for Space Station Freedom will address new systems required for human Space use. In micro-gravity, this step will encompass medicine, materials and commercial propulsion production not possible on Earth. In life-sciences, this phase will evaluate the closed-loop performance of water, air, food and waste cycles essential to human survival in Space. For external operations, this phase will address exploration tracking and Earth monitoring from Space. And for small and rapid response missions, this phase will focus on specific operational concepts for laser dynamics, Earth resources, metal formation and pharmacokinetics in orbit.

CAPABILITY VALIDATION (2015–2025)

The final phase of Space Station Freedom applications will concentrate on the verification of the capability for human space exploration and exploitation. In micro-gravity, this phase is expected to provide the capability for free-flyer servicing and Lunar/Mars applications. In life-sciences, principal missions will gather long-term performance data on closed-loop ecological systems, behavior and partial gravity impacts. In external operations payloads will validate large-scale global mapping, robotics contributions and on-orbit construction techniques. And in small missions, the emphasis will shift to production deployment of new concepts and ideas at minimal cost.

Space Station Freedom will pioneer man's future in Space by supporting more than 5000 experiments and accumulating over 8 million crew hours in-orbit during its 30 year mission. While current mission plans may well be modified by real-time experiment results, the fundamental Space Station Freedom role will always remain to establish the know-how needed for America to remain A Leading Space-faring Nation in the coming decades!

NASA TECHNOLOGY SPINOFFS INTO THE AMERICAN ECONOMY

Mr. HEFLIN. Mr. President, we have all marveled at the technology developed by the National Aeronautics and Space Administration [NASA] that enabled an American astronaut to boldly place the flag of this Nation on the Moon, to develop the means for the flight of the space shuttle, and to unlock the secrets of using micro-gravity to enhance life on the Earth.

These accomplishments, Mr. President, conducted in full view of the world via television, have all resulted in an impact on our society which exceeds the momentary increase in our national pride. All of these events have had a residual effect by bringing billions of dollars back to the marketplace through the transfer of space technology, and improved the quality of life in a way unmatched by any other Federal agency.

NASA has a highly successful program which transfers literally thousands of technology advances to the private sector from the space agency. This technology transfer is a hallmark of a healthy, civilian space program, and it reaches all levels of our industrial base. The rapid transfer of NASA developed technologies is a major contributor to our industrial competitiveness. This is an important factor in making America competitive with the rest of the free world.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a list of 74 such space spinoffs, provided by NASA's Office of Commercial Programs, for my colleagues to consider.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Rechargeable cardiac pacemaker.

Ambulatory heart monitor.

Microminiaturization of the insulin injection system.

Programmable pacer, reprogrammed without surgery.

Human tissue simulator to help relieve chronic nerve pain.

Implantable heart aid (defibrillator).

Programmable implantable medical system for precise, automatic injection of medicine to target organs.

Nuclear magnetic resonance, a diagnostic body scanning device.

Digital image processing technology breakthroughs.

Slow scan telemedicine.

Automatic gas analyzer.

Miniaturized valving technology.

Infant radiant warmer.

Cordless surgical drill.

Microbe detector (body fluid sample analysis).

Apparel for clean rooms.

Flame resistant polymide foam.

Penetrating fire extinguisher.

Fire detector for invisible hydrogen flames.

Smoke detector.

Industrial gas leak detector.

Visual alert system for the hearing impaired.

Underwater Sonar locator system for flight recorders.

Life rafts that won't capsize in heavy seas.

Safety grooving of highways to reduce skidding.

Protective clothing for firefighters.

Fireblocking fibers for clothes and upholstery.

Breathing apparatus for firefighters.

"Hard Shell" pressure suits with fluidic joints for divers.

X-ray inspection system for airports.

Metal-coated plastic film technology used in stadium blankets, tents, wall coverings, drapery liners, window shades, candy wrappings, food packaging.

Personal cooling system, "Cool Vest" for race car drivers.

Footwear spinoffs from the moon boot.

Window film to reduce glare and heat from the sun.

Computerized beauty makeover.

Technology for portable ice rinks.

Riblets, tiny grooves, for racing yacht Stars and Stripes.

Abrasion-resistant coating for sunglass lenses.

Space image processing for geology, archeology, and pipeline monitoring.

Aerospace-aided instruments for air quality monitoring and noise abatement.

Anticorrosion coating used for bridges, ships, oil rigs, and for the interior of the Statue of Liberty.

Water hyacinths and other aquatic plant research for sewage treatment.

Space derived sewer monitor.

Vacuum chamber technology for crop drying.

Robotic sow, artificial nursing machine for piglets.

Improved fishing net with better weight and strength.

NASA–USDA developed computer aided crop spraying to cut wasteful and environmentally unacceptable drift of chemicals.

Irrigation system technology that cuts wear on machinery.

Air bearing flotation technology.

Heating chamber insulation materials.

Tele-Robotic welding system.

Microscopic plastic beads used as reference standards for calibrating sophisticated instruments.

Industrial pumps technology.

Magnetic liquids (ferrofluids).

Heat shield technology widely used for homes and office buildings.

Space telemetry used in an automatic oil well production reporting system.

Power amplifiers to reduce TV station transmission costs.

Power factor controller that senses the motors electrical needs.

Heat pipes for the Alaska Pipeline prevents pipe breakage.

Safer bridges from research in material strength.

Fabric structures technology.

An aluminum color anodizing process to increase weather protection for commercial buildings.

Bolt stress monitor for the construction industry.

Flat conductor cable for design and safety improvements.

Wind engineering assists with building designs and safety.

Stirling engine research for a more fuel efficient quieter, and environmentally safe engine for cars, trucks, and buses.

Space derived turbopumps for high speed crewboats and supply vessels for the offshore oil industry.

Cryogenic fluid storage and handling for natural gas tankers.

NASA Structural Analysis (NASTRAN) for design and predicting performance using computer modeling for cars, steam turbines, the U.S. Navy's Kidd Class destroyer.

Computer program enhancement through NASA's computer.

Software management and information center (COSMIC) for:.

Pile driving techniques for offshore oil platforms.

Prediction of noise levels in manufacturing areas.

Interpreting satellite data on changing conditions of waterfowl habitats.

How various chemical structures hold up when used in plastic containers.

Mr. HEFLIN. So, NASA must push science, technology, and space engineering to the limit. It will cost enormous amounts of money, but the payoffs are even more enormous. Studies have repeatedly shown the payback to the economy to be in the nine to one range, affecting everything down to the wrist watch that you are wearing, and the car that you drive. But how do you measure the value of the lives that can be extended and even saved by microgravity science research in the fields of cancer and other critical health matters? And perhaps as important, space technology has given us the ability to transmit television pictures instantaneously between continents by space satellites, opening up a new world of communication and understanding that is directly related to and in part responsible for the downfall of totalitarian governments in Eastern Europe. The dramatic Middle East events also demonstrate the value of immediate communication throughout the world, brought to the global population by NASA developed technology.

Just as Project Apollo took America to the Moon, and the space shuttle takes America regularly to Earth orbit, the space station Freedom Program stands ready to take its place as an inspiration for technology development. The cost of American preeminence in space is unmatched by the gains of this Nation and all of mankind will receive by continued support of a balanced space program with space station Freedom as its centerpiece.

SPACE STATION TECHNOLOGY AND COMPETITIVENESS

Mr. HEFLIN. Mr. President, I want to speak for just a few minutes on technology and competitiveness. My basic premise is not new, but it is important: Leadership in technology is the key to America's future as a world leader. We have all heard many speeches on this subject. And the conclusion of most everyone who has spent any time analyzing the issue is that the most basic ingredient of international competitiveness is to be first in technology. And to be first means that you have to invest your resources in the arena of science and technology.

Now what does all this talk about technology and investment mean when we are facing multi-billion dollar deficits? We are all very aware of the immense problems in our Nation such as poverty, inadequate housing, toxic waste dumps, and unavailable health care. Is it not our duty to first solve these social problems and then deal with the issues of technology and competitiveness?

How tempting it would be to go down that road and trade off our investment in the future to deal with today's needs. All of us in politics know how much the folks back home want that new road, and want decent housing. And Mr. President, I have supported the programs for roads and housing. But what I am here to urge as strongly as I can is that you can't put the cart before the horse and hope to get anywhere. The health of our society—and the continuing source of the revenues needed to pay for our social needs—absolutely depends on our investments in science and technology. It is precisely when we are leaders and innovators that we create wealth and jobs and the kind of strong economy that enables us to also build roads and houses and provide quality health care and a clean environment.

But we cannot have that strong economy unless we are willing to continue to make investments for the future of this great country. We cannot trade an investment in the space station—an investment in the future—for a short-term attempt to solve today's problems. That is a tradeoff we simply cannot make.

That, Mr. President, is what this debate is all about.

We have a bill before us in which the funding provided for science and technology was about as good as one could expect. Although space station Freedom was fully funded, many of us would have liked to see more dollars for some of the other NASA space science and advanced technology programs. But we are all very well aware of the budgetary constraints under which the committee was operating. We should note that even though the bill before the Senate funds NASA at a level about $435 million above the House-passed bill, still NASA is getting a $1.4 billion reduction from their request. Thus, we need to put this whole issue of how and where we invest our national resources in proper perspective.

What we approve today for NASA will be money provided to an agency that has been and is a growth producer and a revenue producer. Unless we are willing to make this kind of investment on the growth and revenue side of the ledger, our economy will inevitably wither and there will be even less dollars to take care of the social needs of our Nation—the requirements in the HUD and the EPA and the VA portions of this bill. I urge that you not try to take any more money from the science and technology side of the ledger. That is our seedcorn for the future. Let us make sure the horse stays in front of the cart.

I have spoken earlier during this debate on the bill about the tremendous spinoffs our economy has received from the space program. In nearly every case, NASA has moved very quickly to push the new technology developed in the space program back into the civilian community and the economy. When we look at a major endeavor like space station Freedom or any of NASA's other major space science projects, it may be hard to visualize just what new technologies will result. But be assured that they will come, just as surely as they have over the past three decades of the space program.

Our decision today in support of the space station and the rest of the NASA budget will pay dividends that will enable this great Nation to continue to care for our future social needs. So let us not take any more dollars away from this investment for the future than our budget process has already forced the committee to take. Our economy is waiting for an infusion of major new investments in science and technology. The Congress has already delayed the space station program far too long and has meddled far too much in what kind of program it should be.

It is time to get on with giving NASA the resources it needs to move forward with this exciting new project and all the other important pieces of the civil space program. I am absolutely confident that we will not regret this decision for one moment. We will be able to look back with pride—knowing that we played some small part in moving America forward.

NASA AND ITS FUTURE

Mr. HEFLIN. Mr. President, in the time of Columbus, some 500 years ago, only a tiny handful of individuals had the vision to see beyond the constraints of their time, to envision how new explorations and new knowledge might open up new routes to economic prosperity and thrust a nation into the forefront of an era. That spirit was stronger than ever at the end of the 18th century when the United States was formed and the task of building a civilization across this continent began in earnest. Although it has been 100 years since that Western frontier vanished forever from the maps of North America, that heritage—the heritage of the explorer and the builder—endures within us even today.

Nowhere today does that spirit burn more brightly, nor is the heritage of the explorer and the builder embodied more profoundly, than in the U.S. space program. And it is with the U.S. space program—with the men and women of NASA—that we as a nation seek most frequently the vision of where we as a people could be in 50 years or in another 500 years.

We all remember the vision illuminated in the motion picture "2001—A Space Odyssey." Created in the 1960's, Arthur C. Clarke's vision of an ambitious future in space rings true today. That same vision was shared, of course, by Dr. Wernher von Braun, one of the towering figures of the early U.S. space program, as well as by everyone at NASA. That is hardly surprising. What is truly exciting is that the vision was also shared by so many other Americans. We who are not scientists or aerospace engineers share just as deeply in that underlying faith in our future as explorers and builders. What is truly disappointing, however, is how far short of Clarke's and von Braun's vision we will fall when the year 2001 arrives in reality.

If we are to succeed in the next century, we must have a clear vision of the future as it might be and work today to build that future. Today our space program is the best in the world, but in the next century it might not be. 25 years from now—in the year 2016—we could be accomplishing exciting, inspiring endeavors in space. But where in fact will we be?

If we envision great accomplishments in the coming century, what steps must we take now, in this decade, to make those goals achievable? The central, crucial answer to that question is simple. We must make a renewed commitment to the development of advanced space technologies. To expand our frontiers in space, we must challenge conventional technologies, conventional approaches to our space endeavors.

However, any call to action must be accomplished by sound fiscal planning. If we are to build the future, during the next several years, NASA's budget must grow faster than the 3 percent that is in this appropriations bill. Certainly, the Congress must provide adequate funding for important ongoing programs. However, we cannot let the future languish or it will be lost. As was so cogently noted by the recent report of the Augustine Panel we must also make key near-term investments in new advanced research and technology programs and in new transportation systems. In conjunction with NASA's efforts to reduce the costs of current operations, we must strive to grow the NASA budget for the next several years. Making these investments will not break the bank, but failing to make them might very well break the future.

Moreover, despite our accomplishments, today the art of space engineering is new and relatively immature—comparable perhaps to the state of aeronautics engineering in the 1920's. We have real problems that must be addressed. Space station Freedom, still the next logical step, has undergone a painful period of redesign. It is now on a sound footing and can and should move forward with our full commitment.

In addition, we must recognize that there are other issues that must be addressed. Launch costs are too high and launch operations are too complex and time-consuming. If we are to acheive our goals we must have both low cost, reliable, cargo transportation to orbit and assured access to space for human operations. Together, steps to control internal costs and adequate near-term new investments in advanced technology and new transportation systems can provide the financial foundation for the future of the space program.

The past is beyond our ability to change, but the future is ours to make. Neither Columbus nor we could readily or accurately foresee where we might be at the end of the next 500 years. However, no less than von Bruan, we can and we must foresee where we can be in 25 or 50 years. But we must also act. The cliche says that those who fail to learn from the mistakes of history are doomed to repeat them. It is certainly just as true—and perhaps more terrible—that those who fail to anticipate the successes of the future will never achieve them.

Today, it is we who must have the vision to see beyond the constraints of our time, to envision how the civil space program can open new routes to national success and economic prosperity and keep this Nation at the forefront of a new era. We must anticipate what the future could be. We must take the key steps necessary to insure that that future comes to pass.

THE U.S. CIVILIAN SPACE STATION PROGRAM

Mr. HEFLIN. Mr. President, there is growing support for the U.S. civilian space program and a strong sentiment for improving the Nation's competitive stance in the international space community.

The U.S. civil space program enjoys an 80-percent approval rating from the American public and an even higher rating for some specific areas such as the space shuttle and the manned space station, according to a poll conducted by Market Opinion Research of Washington, DC. In fact, 87 percent of those polled believe that the space program helps keep America competitive and 92 percent support the NASA initiative for Earth observing systems which would help us understand the Earth's weather, climate, and environment.

These polling results are a testimonial to the ability of the American people to sort out value from the constant negative press heaped upon them by the ink-stained wretches who represent themselves as having knowledge of matters related to space.

For the past 2 years, it has been difficult to read a newspaper or watch a television news program without being subjected to a barrage of what I would call, NASA-bashing. The media are giving the American people the impression that the premier space agency in the world is incompetent, mismanaged, and incapable of doing anything right.

I submit, Mr. President, that this is a totally false and misleading picture of the most successful mission-oriented agency of the U.S. Government. These news reports are often an unwarranted slander of the most technically competent and capable scientists, engineers, technicians, pilots, and administrators in our Government, and indeed in the world.

It is clear that these assaults do not represent the views of the vast majority of Americans or the substantial majority of this body.

I have here, Mr. President, a letter to the Senator from Maryland [Ms. MIKULSKI], the Chair of the Committee on Appropriations, Subcommittee on Veterans' Affairs, HUD, and Independent Agencies, which is signed by 64 Senators. Several other Senators strongly support the position outlined in the letter, but due to their committee assignments, felt it would be inappropriate for them to sign it.

I would like to quote this letter from so many of our distinguished colleagues, and I ask unanimous consent to have it printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. The letter reads as follows:

> DEAR MADAM CHAIR: We wish to express our support for Space Station Freedom, to recognize your considerable efforts as Subcommittee Chair, and ask for your continued commitment to a balanced civil space program.
>
> Space Station Freedom urgently needs consistent policy and funding support to maintain the program's capabilities and schedule and to honor our international commitments. As you know, the program has been restructured pursuant to guidelines formulated by the Appropriations Committee. NASA and its contractors met this challenge. We in the U.S. Senate must do our part in honoring the commitment made to NASA and to future generations of Americans.
>
> We ask for your continued support of a balanced space program and the funding required to keep the program intact and on schedule. We look forward to working with you to achieve this goal.

We must give NASA the resources it needs to do its job. NASA's funding has fallen by more than two-thirds since Apollo. At that time, the agency received nearly 4 percent of the budget. Now, it is only 1 percent. If we are to expect Apollo era accomplishments, we must provide the funds.

It is impossible for NASA, its contractors and subcontractors, to start and stop major programs based on minor events that affect the budget. It lowers the morale of thousands of employees across America whose labor put us in space, stretched our technologies, and maintained our world position. The starting and stopping adds to our budget deficit and reduces NASA's ability to bring to its work the consistency which is necessary to do the job right.

Innovation, invention, exploration, and research are a risky business. But that's the business NASA is in. There are no guarantees, no insurance policies. Things do not always go right the first time. And yet, we expect NASA to assemble complex systems which have never been assembled before, put them together with limited time and budget, do it under congressional scrutiny of the minutest technical detail, and do it right, the first time—every time.

We in Congress are telling NASA, in effect, that we want total reliability, total safety, and total premonition of all that could ever transpire, while at the same time, expecting invention and discovery to be equally predictable.

While we debate the budget for NASA projects such as the space station, the Soviet Union is already in space with its MIR space station, threatening to take the technology lead, learning some of the things we should be learning, accomplishing some of the things we should be achieving. And if that isn't enough to provoke us to action, other space faring nations are also ready to begin their manned orbiting stations.

NASA has spent 33 years discovering the undiscovered, inventing the uninvented, and in the eyes of the world, enhancing the U.S. stature among men.

How is it, Mr. President, that we have come to the point that this program of excellence has become the target of those who would always find it easier to criticize than to contribute?

The leadership to achieve space goals will come from NASA visionary people, and not some nameless, faceless commission providing advice compromised by committee-style management. NASA must continue to be an organization dedicated to accelerating the development of high risk technologies.

Congress needs to solve the Nation's budget dilemma, but it needs to be selective and far-sighted in doing so. The long-term benefits that NASA programs such as the space station can bring us as a nation should not be overlooked. Inadequate funding today will have the effect of shortchanging us all in the future.

Let us focus on the future. We must wisely invest in the growth technologies of the future. The best way to make this investment is to insure that the Nation's premier science and engineering agency has the funding to avoid cost and scheduling delays of major programs. We can continue to lead the world's space nations, instill that national pride we've all felt before, provide inspiration for the young who want to become engineers and scientists, and, most importantly, keep this Nation's technology base fed with new innovations, permitting the American competitive spirit to soar with the future of NASA.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 8, 1991.

Hon. BARBARA A. MIKULSKI,
Chair, Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: We wish to express our support for Space Station Freedom, to recognize your considerable efforts as Subcommittee Chair, and ask for your continued commitment to a balance civil space program.

Space Station Freedom urgently needs consistently policy and funding support to maintain the program's capabilities and schedule and to honor our international commitments. As you know, the program has been restructured pursuant to guidelines, formulated by the Appropriations Committee. NASA and its contractors met this challenge. We in the U.S. Senate must do our part in honoring the commitment made to NASA and to future generations of Americans.

We ask for you continued support of a balanced space program and the funding required to keep the program intact and on schedule. We look forward to working with you to achieve this goal.

Lloyd Bentsen, Daniel K. Inouye, Thad Cochran, Alan Cranston, Wendell Ford, Al Gore, Bob Dole, Jake Garn, Kit Bond, John Glenn, Phil Gramm, Chris Dodd.
Howell Heflin, John Seymour, Slade Gorton, Chuck Robb, J. Lieberman, Connie Mack, Steve Symms, Wyche Fowler, Tom Daschle, John Warner, J.J. Exon, John Breaux, J. Bennett Johnston.
Richard Shelby, Trent Lott, Jack Danforth, Al Simpson, Daniel K. Akaka, Terry Sanford, Bob Graham, Larry E. Craig, Brock Adams, Strom Thurmond, David L. Boren, Quentin Burdick, Conrad Burns.
Kent Conrad, Bob Kasten, Al D'Amato, Warren Rudman, Dick Lugar, Nancy Landon Kassebaum, Pete V. Domenici, Malcolm Wallop, Orrin G. Hatch, Frank H. Murkowski, Mark O. Hatfield, Bill Roth, Max Baucus.
Alan J. Dixon, Bob Smith, Hank Brown, Don Nickles, Dave Durenberger, Arlen Specter, Harry Reid, Don Riegle, Richard Bryan, Jesse Helms, Larry Pressler, Herb Kohl, Mitch McConnell.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, listening to some of these comments concerning the budget and its constraints, I certainly share those concerns. As chairman of the Finance Committee, we face those problems. We are a bottom line committee.

I think an extraordinary job has been done here by Senator MIKULSKI, and the ranking member, Senator GARN, on the Republican side. They have come up with a balanced bill under very difficult circumstances. They have done a better job, I think, than the other body has for VA medical care. There is more for innovative new housing, more for the EPA, and more for space science and other sciences as well.

But, Mr. President, eliminating funds for the space station, I believe, would close the door on a promising part of our future. It would deny not only our current scientists, but future scientists as well, the chance to learn and experiment in this orbiting laboratory. It would kill the dream of manned space travel.

I think the money that supposedly would be saved would likely be frittered away on short-term needs, rather than on long-term opportunities. Probably extra billions would be spent on some magical, mythical new design, an alternative design, the perfect design, which somehow is going to cost a lot less and do far more than the plan that has been developed by NASA.

This debate is not just about program management or marginal dollars; it is about our scientific vision, about our role in the world.

We can gain some useful perspective if we recalled the words of Roger Chaffee, an astronaut who died in the tragic accident about 25 years ago. In his last interview just before that accident, Chaffee commented that Earthly problems look mighty small from 150 miles up. He went on to say, "The world itself looks cleaner, so much more beautiful. Maybe we can make it that way, the way God meant it to be, by giving everyone, eventually, a chance to see it from space."

The American space program recovered from that tragedy, and we went on to the Moon. In the process, we proved to the world that this country had the genius, resources, and the spirit to lead the world in solving problems. We recovered from the *Challenger* accident as well, and our people still give strong support to the space program.

Americans want to lead, not to be left out, when humankind crosses new frontiers. Now we are debating the space station, a program that has been buffeted by Congress, kibitzed by various experts, and now criticized by scientists that fear that possibly their part of research might be squeezed by the station's budget.

Much of the recent criticism has come because NASA followed congressional counsel and advice and instructions to revise that program to cut the costs and stretch out the development.

Even with the new design, under those constraints, the space station, once permanently manned, will have 4 times more scientific capability than the Soviet Mir space station, 5½ times the capability of Skylab, and 110 times the capacity of the space lab on the existing shuttle.

This space station will serve many goals. Some may be not too easy to quantify. It expands our science, giving us the opportunity for research into the life sciences and microgravity. It advances our technology by driving us to build new devices which will have significant application to everyday life here on Earth. It preserves our international leadership role in basic research in an area with huge commercial possibilities. And it opens the door to the unknown, giving our scientists a platform, a laboratory in space to do things no one can even dream of in advance.

That is why I believe it is so profoundly shortsighted to criticize the space station in simply cost-benefit terms. No one knew that when they built the laboratories used by Einstein, Nobel Prize research would result to such a profound degree. The space station is a laboratory in orbit, a unique opportunity, just waiting to be filled with innovative experiments and exploited by geniuses yet unknown.

During the Revolutionary War, John Adams wrote to this wife, Abigail, saying "I must study politics and war [so] that my sons may have liberty to study mathematics and philosophy * * * in order to give their children a right to study printing, poetry, music * * *."

That same notion of legacies for the future applies to the space program. We study astronomy and physics today so that our children can venture into space and practice science there, and so that their children can enjoy the benefits of the technological advances which the space program makes possible.

The space program is also a crucial part of our overall civilian R&D effort and thus of our future economic prosperity. Let us not forget that, in terms of share of GNP we are spending only half as much as Japan on Civilian R&D. And the Commerce Department concluded last year that we were trailing Japan in developing 11 of the 12 most promising technologies for tomorrow.

Coupled with the practical benefits of space research are the broader notions of national purpose and destiny. We Americans have never been satisfied just being hewers of wood and bearers of water. We have sought—and achieved—greatness in many areas, acknowledged around the world. It did not fall into our laps. We had to work for it. And pay for it.

Of course budgets are tight. They should always be tight. But we shouldn't destroy our bridge to the future for shortsighted reasons.

Some people would keep us earthbound. I want us to soar.

Some think we can learn enough just from instruments in space. I know that we need people there, to tell us what they experience and to inspire us by their achievements.

Some would have us look only at the problems around us. I want us to look beyond today so we can make our lives better tomorrow.

Some would be content to sit and look at our scrapbooks. I want us to add exciting new pages.

There is room in the space budget for space science and the space station. Senator MIKULSKI has done an extraordinary job in that, and so has Senator GARN. There is room in the Federal Budget for NASA and needed domestic improvements. There should always be room for voyages to the frontiers of human understanding.

Only if we continue to expand our vision and our knowledge can we expect to expand opportunities for our people.

If we abandon space exploration to others, they will harvest the new ideas and new products and new jobs.

If we leave the field by canceling the space station, others will pick up the ball and score with it.

Mr. President, if Ferdinand and Isabella had an Office of Management and Budget, Columbus might never have set out on his voyage of discovery. The same arguments could have been made then as are now made about the space station—the cautious, close-to-the-vest approach that is the archenemy of the daring, risk-taking, can-do attitude that has enabled America to meet every challenge for over two centuries.

We did not put men on the Moon by ducking the tough choices and playing it safe. And we will not continue to provide leadership and opportunity for our people unless we are prepared to expand our vision and our knowledge.

The space station is a critical part of that larger endeavor.

We need to build it. We need to put it in orbit. We need to learn from it.

Do not approve this amendment. Do not shortchange our future. Do not kill the dream.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Missouri.

Mr. BOND. Mr. President, I rise first to commend the chairman and Senator GARN for their excellent work in putting together this portion of the appropriations measure. I think they have done an excellent job in resolving some very difficult competing interests. They did so in a way that prioritizes programs of great need, and I believe that the work done by the committee deserves to be adopted by this body.

Some of the things that I have spoken about on this floor previously are the HOPE and HOME Programs. I think that the mark that has come out of the committee does an excellent job of pleading the very real need we find for housing in this Nation.

I commend the Senator from Maryland and the Senator from Utah, particularly, for funding HOME at the $2 billion level, and increasing the money for HOPE significantly over the House-passed level. The increases for modernization of funding R&D operating subsidies and full funding for elderly and handicapped housing is very important.

In addition, the subcommittee and full committee adopted a family unification program that I think is going to offer great benefits in the future by ensuring that families who are threatened with the loss of a child because they do not have adequate housing will get the priority attention they need. Keeping families together is one of the most important things we can do to avoid severe problems in the future.

This past week, I visited people in my State who are primarily responsible for dealing with troubled children, and they report to me case after case where problems with children became insoluble because they were separated from their parents simply because they did not have adequate housing, and thus service agencies took the children away and placed them in foster care.

So I think that what we have done in the housing section, on the VA medical care is very, very important. I strongly support that.

But I also want to address more particularly the question that has been raised today about the space station. I have been advised by the major research universities in our State that they are extremely concerned just about the House action in freezing spending for NASA. They note that that program, the space science program, would be hurt significantly. The OSSA programs, such as the Comet Rendezvous Asteroid Flyby, the Advanced X-Ray Astrophysics, the Earth Observing System, and the LIFESAT are vitally important for scientific research and development.

They have been cited to me in the statement by the Space Science and Applications Advisory Committee which, on June 7, 1991, has stated that the committee has consistently recognized the station is an essential element of the U.S. space program. They go on to say that a program must include the other scientific efforts if it is to be a balanced effort.

The committee has offered to work with NASA and the Congress to assure that science goes forward, that we go forward with the space station and the other significant programs that would benefit from the space station and related work.

Mr. President, at the end of my remarks, I will ask to print this statement in the RECORD.

But beyond that, I want to address some of the questions that may be raised in the minds of my colleagues.

There are several myths that I think we should take on, because they do not square with reality. Let me go down a couple of the myths, so to speak.

Myth No. 1: The restructured space station does not have enough capability to benefit science.

Reality: Space station Freedom will contain three multipurpose laboratories. The United States will receive nearly 50 percent of the European and space laboratory capabilities as part of the international agreement. Freedom may have more capacity than Skylab space lab or the Soviet Mir station.

To say, as has been said on this floor earlier, that since the Russians have already done it, we can learn no more is a gross understatement and underrealization of the capabilities and the capacities that we have. We continue to build upon what other countries and what we are doing and have done in space.

Myth No. 2: Space station Freedom lacks adequate power for science.

Reality: There will be sufficient power; more than three simultaneous space lab missions and more than the equivalent of two Soviet Mir stations.

Myth No. 3: The space station is bad for small science.

The reality: The space station will have an unprecedented availability of on-orbit resources, crew, power, volume, data, lab equipment, et cetera, to benefit small science. Small science is plagued by limited access to space. The space station solves that problem for small-scale, low-budget researchers by providing a research facility in space.

Mr. President, while I was in the private sector, I had the opportunity to work for the Midwest Research Institute, a premier research institution headquartered in Kansas City, MO. One of the things they were most interested in was the opportunity for that relatively small research institute to have access to what space discovery and space science could provide them, in things from materials handling and research, a wide range of applications where they believed that the space station and space experimentation could be of significant benefit to mankind.

Myth No. 4: Prospects for commercial benefit are remote.

Reality: The Soviets have announced plans to produce all of their insulin, all of the hepatitis B vaccine, and 50 percent of their interferon needs on board the Mir space station by 1995. They are many years ahead of us in space-based medical research and development, but the opportunities for the United States in commercialization of such products is enormous.

Myth No. 5: Manned space and space station hurts funding for space science.

Reality: NASA has traditionally funded space science at about 20 percent of the research and development budget. This means space science received the most when the Apollo shuttle and other manned programs were at their highest funding levels. The real problem is more funds are going to nonspace budget items, science, large and small technology, and manned and unmanned space are all underfunded.

Mr. President, I say in conclusion that in these tight budgetary times it is very difficult to make appropriate allocations of funds in a broad range of needs, from direct human needs, such as the VA, the needs for housing, to needs for the future, the hope of our country, the challenge of space, the exploration of scientific endeavor. I believe that the product which has come out of the Appropriations Committee under the guidance of the Senator from Maryland and the Senator from Utah deserves to be supported by this body. I urge that we support the appropriations as passed out of the committee, and I urge defeat of the amendment before us to delete funds for the space station.

Mr. President, I ask unanimous consent that the statement of the Space Science and Applications Advisory Committee of June 7, 1991, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE SPACE SCIENCE AND APPLICATIONS ADVISORY COMMITTEE ON THE FISCAL YEAR 1992 NASA BUDGET, 7 JUNE 1991

The Space Science and Applications Advisory Committee is deeply alarmed by the current status of the fiscal year 1992 NASA appropriation. In particular, the House action of 6 June to freeze fiscal year 1992 spending at fiscal year 1991 levels threatens irreparable harm to the space science program and to essentially all other elements of NASA except Space Station. The committee has consistently recognized that Station is an essential component of the U.S. space program. However, a program which includes the Station but does not include a healthy science effort is an unbalanced program.

The House action would have devastating impacts on the programs of the Office of Space Science and Applications (OSSA). A funding freeze will provide only 44 percent of the funding requested for Comet Rendezvous Asteroid Flyby (CRAF)/Cassini. The $183 million reduction in the request effectively cancels at least one and possibly both of these missions with perishable launch windows. The freeze will provide only 48 percent of the funding requested for Advanced X-Ray-Astrophysics Facility (AXAF). The reduction of $110 million in the request will lead to approximately a 1-year delay in the AXAF launch, and a $200 million increase in the run out cost as a result of inadequate funding to proceed with substantial mirror assembly and spacecraft design activities. A freeze will provide only 57 percent of the funding requested for the Earth Observing System (EOS). The $145 million reduction in the request will gravely impact the Presidential initiative on global change research.

The reduction in requested funding for both the Microgravity Science and Applications and the Life Sciences programs sharply curtails the experimental program scheduled for the Shuttle. Continued funding at the FY 1991 level makes timely development of the experiments for the Space Station impossible. The reduction in funding for Life Sciences would eliminate the only FY 1992 OSSA new start, namely LIFESAT. Substantial decreases in the Life Science and Microgravity program requests are difficult to justify in the context of funding 95 percent of the Space Station request, given the role envisioned for these disciplines in the Station program.

The servicing mission planned to restore full capability to the Hubble space Telescope will be severely compromised by the freeze through its impacts of both OSSA and the Office of Space Flight. Provision of only 67 percent funding requested for expendable launch vehicles will create substantial problems for a number of OSSA programs including Explorers, Total Ozone Mapping Spectrometer (TOMS), Global Geospace Science (GGS), and CRAF/Cassini.

The action of the House Appropriations Subcommittee in cancelling the Station failed to provide for a "balanced" space program; the implementation of the House freeze is at least as deficient in this regard. While the freeze restores the station, it seriously damages other NASA programs. Moreover, the resultant budget and program impacts are not consistent with the high priority which NASA has accorded the space science program nor with the recommendations of the Advisory Committee on the Future of the U.S. Space Program.

The Committee is prepared to work with NASA and the Congress to remedy the present situation. To advocate primarily science programs or to focus primarily on the reinstatement of the Space Station will not achieve a satisfactory NASA program. The near term dialogue with the Senate must be conducted with a broad vision of NASA priorities by all involved, while at the same time dealing realistically with the funding likely to be available.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, will the Senator yield to me?

Mr. GRAMM. I yield to the Senator from Maryland.

Ms. MIKULSKI. We are about to have a little discussion on a UC for a time agreement as to what time we will vote on this amendment, if the Senator would mind withholding.

I wonder if my colleague from Arkansas would consider a time agreement on this amendment. I propose a unanimous-consent request that we vote on the Bumpers amendment no later than 6:30, with the time equally divided between both sides.

Mr. BUMPERS. Mr. President, reserving the right to object, I wonder if we could add to that who the speakers will be and how much time will be allotted. I have just gotten a request since I came on the floor a moment ago for one more speaker on this side. I see the junior Senator from Texas is here. I wonder how much time he requires.

Mr. GRAMM. Mr. President, I feel very much swollen up with a speech, but I think certainly within 10 minutes.

Mr. BUMPERS. And or which side of the issue is the Senator from Connecticut?

Mr. DODD. How much time is the Senator going to give me?

Mr. BUMPERS. All he wants, under certain conditions.

Mr. DODD. I am a strong supporter of the space station, I say to my colleague from Arkansas, and I would like 10 minutes, if I could.

Ms. MIKULSKI. That leaves us 5 minutes.

Mr. BUMPERS. Mr. President, I am afraid I will have to object then, because I can see that we are going to need more time.

Mr. DODD. I would say, if my colleague would yield, I would be willing to reduce my time to 5 minutes, if that would help.

Mr. BUMPERS. Why do we not try this, Mr. President; if the distinguished floor manager would agree to it: let us agree to vote no later than 6:45 with the time equally divided, that is 1 hour from now, and perhaps, if these people keep their commitments of 5 or 10 minutes, we can probably finish and be ready to vote at 6:30.

Ms. MIKULSKI. I think that is an eminently good idea. I will withdraw my first unanimous-consent request and now propose another unanimous-consent request.

I ask unanimous consent that we vote on the Bumpers amendment no later than 6:45 with the time equally divided between both sides. That would enable each side to have approximately 30 minutes and Senators to adjust their speaking accordingly.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. I yield to the Senator from Texas, who had graciously yield to me for proposing this request, for 10 minutes.

Mr. GRAMM. Mr. President, I want to begin by saying what this vote is not about, and then I want to talk about what it is about.

Let me remind my colleagues that for the first time in many years we are operating under a binding budget constraint which is set out in law. It says exactly how much money can be expended for defense, for discretionary international expenditures, and for discretionary domestic expenditures. What we are debating here is not the total level of spending.

Now, I know our dear colleague from Arkansas has presented an amendment that takes money away from the space station and does not spend it all. But under the budget constraint that we face, given the fact that the Congress has already in over a dozen different cases tried to breach the spending totals in one way or another, I hope my colleagues will understand that this unspent money that the Bumpers amendment would give us, $1.2 billion, will last about as long as a scoop of ice cream would in a hot frying pan. The question here is not will the money be spent. We have set out a binding constraint on total spending. I have no doubt, Mr. President, that every penny of that is going to be expended. The question that we are going to decide here today is really a question about where that money is going to be spent and what kind of priorities we want to spend it on.

I will say one thing for our dear colleague from Arkansas, and that is he is consistent. Last week he proposed terminating funding for the superconducting super collider, a long-term science project, lots of money, an investment over a decade aimed at trying to promote the growth of scientific information which we hope will expand our ability to produce goods and services, improve our competitiveness in the world market, raise our living standards, make us richer, freer, happier. Our colleague today has moved to terminate the space station, another big and, regrettably, expensive scientific project.

But, Mr. President, as many arguments as can be made for the space station and the program, the choice we are going to make here today is a very, very simple choice.

We are going to choose between investing in the long-term future of the country on a project that will yield a return in the next generation, the space station, or we are going to ultimately end up spending that money on 1,001 other things, many of which will not yield a long-term rate of return to the American people.

We have had a lot of scientific arguments made here today. Some people have argued that you cannot justify the space station on the basis of the return we can expect on various kinds of scientific projects. I do not justify the space station on the basis of science at all. I justify the space station because it is an indispensable tool to allow us to move forward in space exploration.

We will learn a lot scientifically from it, but to try to measure the effectiveness of the space station based on microgravity research or other specific types of science, I think is to miss the whole point.

The current director of the Office of Management and Budget, Mr. Darman, once likened that approach to the approach you would have had, had you set out to judge the effectiveness and the productivity of Columbus' little fleet as a vehicle to study motion sickness.

The point is, the expenditure of energy to break the bonds of Earth's gravity is so great that if we are going to do anything in space we have to have a space station.

Really, we are down to a decision today, are we going to go forward in space, are we going to make a long-term investment in the future of America, or are we going to cut funds for that long-term investment so money can be spent elsewhere?

I believe it is a decision between investing in the future and investing in the present, and I believe that we grossly underinvest in the future. We are too often driven here by political concerns. That is the nature of democracy. And it has many positive effects. It produces the greatest political system in history. But the negative effect is that it tempts many to look too long and too hard at the next election and not long enough and not hard enough at the next generation.

I urge my colleagues to reject this amendment. We have put together an appropriations bill which was a tough one to put together. This committee has cut the President's space request by almost a billion and a half dollars. We are not talking about a bloated budget for space. We are talking about a bare bones budget that has been put together under very difficult circumstances. We have in essence frozen and reduced a lot of other components in the space program to fund the space station because it is the key to the future of the American space program.

To come in now and to kill the space station would, in my opinion, be the first step toward killing America's space program.

So I urge my colleagues to look at this amendment for what it is. It is a siren song that says this is a long-term investment, it costs a lot of money, the returns are not going to be had until the future, no insurance company could write a guarantee as to what is going to be gained. The amendment urges us to take the shorter view. It says, let us look at the first Tuesday after the first Monday of November 1992. It says, let us focus on things we could spend the money on that are more popular today.

I submit that, as appealing as that siren song may be it does not represent the kind of investment we have to make if we want America to be a greater, more productive country. So I urge my colleagues to resist this siren song, to vote no on this amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Maryland?

Ms. MIKULSKI. Mr. President, before time is yielded, I wish to clarify the consent we had just entered into by adding another unanimous consent, that no other amendments or motions to recommit be in order prior to the disposition of the Bumpers amendment.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Who yields time? The Senator from Maryland and the Senator from Arkansas control time.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield 10 minutes to the distinguished Senator from Tennessee.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. Mr. President, I commend the distinguished Senator, chair of the subcommittee, Senator MIKULSKI, for the excellent work she has done in putting together this bill. Every year, she deals with a very complex portion of the appropriations process. She does her work very well and I think the bill she brings to the Senate this evening reflects her competence and her dedication to duty.

Referring to duty, I feel it is my duty to rise in opposition to the so-called space station. I do that, not to call into question the merits or demerits of this particular project. I think they have been ably discussed and ably debated on both sides of the question here this evening. This is a project that this country cannot afford at this particular time in our history.

We were informed just this morning in the Senate Budget Committee that for fiscal year 1992, the deficit was going to be $70 billion higher than the administration had predicted just 6 months ago. The deficit for fiscal year 1992, and the deficit that we are putting on the American people and generations yet to come, will be $348 billion.

If we factor into that equation the fact that that deficit is party offset by Social Security, the true amount of the deficit for fiscal year 1992 will be $412 billion.

We are now at a point in our history where the national debt of this country amounts to 66 percent of our gross national product. I might say that in 1980 when President Reagan came to office the national debt stood at slightly over 20 percent of gross national product. In January 1989, when President Bush was sworn into office, the national debt stood at something like 38 percent of gross national product. Here we stand, less than 3 years later, and find the national debt of this country stands at 66 percent, or two-thirds of everything that this country produces in one full year. That is almost unprecedented in our history.

We find the deficit for fiscal year 1992 is calculated to rise to over 5 percent, 5.8 percent of gross national product, the second highest national debt in the peacetime history of the United States of America.

Superimpose this problem on testimony that we received before the Senate Budget Committee just this past Monday from the distinguished Director of the Congressional Budget Office, Dr. Robert Reischauer, and also from the Comptroller General of the United States. We were told at that time that unless we take steps now there is no hope that we can keep the budget summit agreement intact and arrive at deficits under the caps for 1994 and 1995.

We were told that if we stay on the present course, that we will break those caps in 1994 and 1995 by a minimum of $35 billion. If we accept the President's 5-year defense budget and if we adhere to the budget summit agreement and fund the defense budget that the President wants, we will find by fiscal year 1994, we will have to cut domestic discretionary spending by 7 percent to hit the caps. We have never done that in our history. Not even in the year of the draconian domestic discretionary budget cuts in 1981 and 1982. We did not even do it then.

So it is clear that we are not going to be able to cut domestic discretionary spending by 7 percent. So let us say that we just keep domestic discretionary spending going up at current policy levels, which is what we are spending now with the addition of inflation through 1994 and 1995. Then how are we going to hit the discretionary test caps? We are going to have to cut defense spending in such a sharp fashion and so quickly that it cannot be done in the procurement programs. It will all have to be done in personnel.

We received testimony from a number of experts who indicated that we would be cutting defense spending and cutting personnel by 425,000 people in fiscal years 1994 and 1995.

Mr. President, I submit that would do serious damage to the defense capability of the United States.

It is clear that if we are going to adhere to this budget summit agreement, if we are going to be sincere and keep the faith with the American people and try to do something about this deficit, we are going to have to do something about these big ticket programs.

The space station starts out at $2 billion for the coming fiscal year. The projections are that in the future it will cost somewhere in the neighborhood of $30 billion. This year, we have already authorized a substantial increase in highway spending, $8 or $9 billion, if memory serves me correctly. That was budget authority, but it is going to have to be paid for in the outyears, paid for with real cash-and-cash outlays. We have already on this Senate floor this year voted to fund in the appropriations bill the super collider. We simply cannot increase dramatically highway spending, we cannot fund the super collider, we cannot fund the space station, we cannot fund the B-2 bomber, we cannot fund SDI, we cannot fund the Sea Wolf submarine, we cannot fund over a hundred new procurement programs that are budding now over at the Department of Defense and hit these budget caps.

There is a lot of talk around here and a lot of rhetoric about the fact that we have to do something about this deficit. We have to reduce spending.

I hear a lot of talk from the other side of the aisle that we certainly cannot do it by raising revenues. Apparently, it does not do us any good to raise revenues because in the budget summit agreement we raised revenues by about $140 billion over 5 years, and just this morning, the Director of the Office of Management and Budget told us because of an error, a technical miscalculation in the Department of the Treasury revenues are going to be off by $132 billion over the next 5 years, in essence wiping out of the revenue increases that we fought, bled, and died over just last fall.

So, Mr. President, what I am saying to my colleagues is perhaps this space station is a commendable project. Perhaps the super collider is a commendable project. Perhaps the B-2 is a commendable weapons system. Perhaps the SDI is a commendable weapons system. What I am saying is that we cannot afford them all.

At some point, we have to start cutting back. And this is the point where I think we ought to start cutting back, cutting back on this space station.

The space station comes at a time, Mr. President, when we simply cannot afford it in this country. I am reminded of a debate that took place years ago before I came to the U.S. Senate. It was a debate involving the supersonic transport. There were those on the floor of this body, including our late beloved colleague, Senator Scoop Jackson of Washington, who said if we did not build what was called the SST then, that the United States was going to lose its edge in aerospace forever. This body chose not to fund it and the British and the French went ahead and funded their supersonic transport called the Concorde. It has been the biggest dinosaur they have had to deal with over the past 15 years. They lose tens of millions of dollars in operating it every year. As far as I can tell, it has brought no meaningful scientific advancements to either of those countries.

So, Mr. President, I rest my case on this argument. At some juncture, we in this body need to start assigning priorities to spending, and we simply must start now. I serve notice on my colleagues that unless we start assigning priorities to these big ticket items now, that there is no way in the world we are going to be able to adhere to this budget agreement that was solemnly adopted by this body and solemnly endorsed by the administration.

Parenthetically, Mr. President, I will add this.

This administration, in my view, is abdicating its responsibility to future generations in not making the hard decisions itself with regard to these projects. The administration comes to us and they say we want the super collider, we want the space station, we want all of these various weapons systems. Indeed, in a perfect world, it would be marvelous to be able to have all of this. But in this country when our fiscal affairs are in such a state of disarray, we simply cannot afford it.

So for that reason, Mr. President, I will reluctantly today cast my vote in favor of the Bumpers amendment, not reluctantly in favor of that amendment, but cast a vote reluctantly in opposition to the space station. In doing so, I will be well aware of the fact that we will be saving in this fiscal year $1,315,900,000 if the Bumpers amendment should become law, and in the outyears, we will be saving tens of billions of dollars that we will not have to put on the cuff, we will not have to go on the money markets and borrow and then pass the note off to future generations.

Mr. President, I yield the floor.

Ms. MIKULSKI. Mr. President, I yield 7 minutes to the Senator from Connecticut [Mr. DODD].

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, let me commend the distinguished manager of the legislation, the ranking minority member, the distinguished Senator from Utah, for the fine work they have done on this legislation. And as well my usual commendations to my colleague from Arkansas for eloquently articulating the issues that need to be raised when we are discussing an issue such as this, the magnitude of this issue and its importance. And of course our colleague from Tennessee has talked about a matter that has been the subject of constant debate, and that is the overall question of how we manage our fiscal matters.

The issue before us is whether or not it is in the interest of the United States to invest in this particular technology as we begin closing out the 20th century and focus on the issues that must draw our attention in the 21st century. It has often been noted that there is an asymmetrical structure in the appropriations bill that is before us today, between HUD, the Veterans' Administration, and NASA. I would like to make a case that is just to the contrary, that in fact there is a symmetry between these three issues.

With HUD appropriations, Mr. President, we deal with the present, with the current housing needs of America. With the VA, we recognize the contributions that have been made in the past to this country by our veterans in keeping this Nation strong.

And in dealing with NASA, we are dealing with our Nation's future. I think all of us in this Chamber recognize that the technology represented by the space station is vitally important—not only this Nation's security but to many of the issues that plague mankind.

So it is on that particular note, looking at the broader global implications of this issue, that I would like to address my remarks this afternoon. I will leave to others the scientific or technical questions involved with the various contributions that the space station can provide to the day-to-day needs of Americans. But I would like to point out, Mr. President, another feature that I do not think has been properly addressed, and that is the implications in terms of our international relations.

I remind our colleagues this afternoon that while America's leadership in space may be at stake in the space station, by no means are we going it alone in this venture. Rather, the space station is a joint venture between the United States, the European Space Agency, Japan, and Canada. This is a multinational effort.

In 1988, after almost 3 years of negotiations, the United States signed a multilateral agreement with these three partners to design, research, and build the space station.

Let me speak if I can, Mr. President, about the kind of commitment we received from our international partners. In dollar terms, our partners have pledged $8 billion toward this project. I suspect that commitment will have to come up. Toward that $8 billion these other three entities have already spent $1 billion. Unlike the United States, the Japanese and Canadians do not have large space agency programs. In fact, the entire Japanese space program revolves around its contribution to the space station. One-half of Canada's expenditures on space go to the space station.

As for the European Space Agency, it is important to point out that the Europeans joined forces on the space station only after an intense debate among its members—many of whom wanted to go it alone, to have their own space station. But we convinced them to join with us and to participate in the cost.

If we renege on that commitment today, with this amendment, we are going to find space station technology emerging among our chief competitors and at some point I presume we will come back and decide we want to go it alone—at a far greater cost. The Europeans threw in their lot with the United States because they had confidence in American leadership. I certainly hope that American leadership does not let them down this afternoon.

Mr. President, in the aftermath of the Persian Gulf war, we have established ourselves, I think we would say with some certainty, as an economic and military leader of the free world. In assembling a broad coalition of nations to fight Saddam Hussein, we have reaffirmed the sanctity of international law and respect for the United Nations.

What kind of a signal would it send were we to back out of an important—and I emphasize an important—multilateral commitment like the one we have developed with the space station?

Opponents of this amendment would say we do not want to kill the space station outright. In fact, that is what we would be doing. They say they simply want to slow it down but with $100 million the signal would be clear. Mr. President, we know how hard it would be to restore funds next year if we reduce those amounts today.

Mr. President, with great respect to the Senator from Arkansas, I urge our colleagues to reject this amendment and live up to our international commitments, to recognize there is a significant dollar amount coming from the international community to participate directly in the development of this technology. To go back and renege on this commitment today would be a great setback not only for this effort but for this country and for our potential to develop important tecnology for the 21st century. That is what this issue is certainly all about.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. I yield to the distinguished Senator, Mr. GORE, who chairs the subcommittee that authorizes the space legislation, 5 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. I thank the Chair.

I rise to express my support for H.R. 2519, the VA-HUD-Independent Agencies appropriations bill.

I think the leadership of the committee, especially my friend and distinguished able colleague from Maryland, Senator MIKULSKI, has done an outstanding job facing the extremely difficult task of allocating limited resources to programs affecting many important constituencies. I think Senator MIKULSKI's handling of this bill really as been extraordinary, and I will elaborate on some of the more detailed reasons for that conclusion in further statement for the RECORD.

I disagree with the pending amendment. I respect the view expressed so ably and eloquently by the Senator from Arkansas. I also want to say especially that I respect and acknowledge the sentiments expressed by my senior colleague from Tennessee and agree with some of the sentiments he has expressed. I voted against the super collider for the first time last week for many of those same reasons.

I have been particularly involved in this issue, and I want to share with the

Senate my perspective as chairman of the authorizing subcommittee.

Right to the point, I support the Space Station Freedom Program and will vote to oppose the pending amendment to terminate it.

Anyone who understands the way our space program is organized knows that the space station is close to being the keystone of NASA as an institution, as it currently exists, and is a central pillar of NASA's program. Ending the space station program could well mean ending America's long effort to support human presence in space. I do not think we should do that as a matter of choice.

I invite the attention of the sponsor of the amendment to the following point. This amendment proposes to terminate the space station shifting $1.2 billion into so-called deficit reduction. I do not know if everyone is a ware of it, but I want my colleagues to be aware of it, that if we vote to stop funding the space station program, we will be liable for $800 million in contract termination costs in that first year.

So there will not be, should the amendment pass, $1.2 billion in deficit reduction—$800 million of the amount authorized would have to be spent anyway, only we would get absolutely nothing for it. It would go to terminate the contract.

So we ought to be clear about what this amendment does. It terminates the space station program and related activities, but it does not produce the deficit reduction of the size advertised in the amendment because of those enormous contract termination costs.

Having articulated my basic position, I want to add that support for the space station program as well as any other has to be dictated by the availability of resources. Very simply, it is quite true the Federal Government does not have the resources to pursue every initiative regardless of costs. That is particularly true for NASA and the civil space program.

NASA's budget request for fiscal year 1992 was $15.8 billion, an increase of nearly $1.9 billion over the current year. Yet because of the 5-year budget agreement adopted last year, the resources to fund these increases simply are not available. As the Administrator of NASA has testified, more than 99 percent of his budget request would support ongoing programs. The fact is NASA cannot expect every year to get the money it needs to carry out each and every program it now administers. The Augustine committee clearly recognized this in concluding that NASA had more on its plate than it could realistically accomplish. Clearly, we have to strive to make sense of the NASA budget in an environment of limited budget growth. Endorsing the program today has ramifications for many years to come, particularly as the funding wedge that a certain program creates may preclude funding other even higher priority programs.

In this respect, NASA has failed to provide adequate long-term budget information to the Congress to ensure that decisions are made with a complete understanding of how the programs will be affected. That is why the NASA authorization bill which we passed out of committee and hope to bring to the Senate floor before the August recess provides out of the Commerce Committee a requirement that NASA give Congress a 5-year outlook of the funding needs of every major program, project, and mission, as well as life cycle costs associated with each one. We simply have to have this information to ensure that when funding decisions are made, the highest priority programs are not squeezed out of those already funded.

Mr. President, it is my hope that after this provision is enacted NASA will submit its first 5-year budget plan early next year when the President's budget is sent to the Congress. With this information we will be able for the first time to take a hard look at the future of every NASA program, including the space station.

I support the space station program but want to make it clear that with this new information future funding required for this program will be carefully scrutinized.

It is indeed unfortunate that the allocation of funds of this subcommittee could not have been higher.

The pending amendment offers many appealing add-ons to the subcommittee mark for other programs with great merit.

In particular, I agree that we need to—could I have 1 additional minute?

Ms. MIKULSKI. I have a total of 9 minutes remaining.

Mr. GORE. I ask for 30 seconds.

Ms. MIKULSKI. Thirty seconds.

Mr. GORE. I want to particularly emphasize the need to fund the NASA Earth observing system. Those who know my concerns for global environmental issues realize it is with great unease that I see a cut for appropriations of EOS driven by the shortage of funds in the NASA budget.

I will elaborate the sentiment I am expressing here for the RECORD, but I want to close by urging my colleagues to support the bill and defeat the present amendment.

I thank my colleagues for the courtesy.

Ms. MIKULSKI. I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise to oppose the Bumpers amendment and speak in behalf of the space station.

Mr. President, the space station Freedom does have a role in America's technological future. Life sciences will certainly be a prominent benefactor of the space station. But the synergism of technology provided by space research pervades every facet of our society.

These quantum leaps of knowledge have changed forever the fields of medicine, education, industry, and natural science. Health care is a major factor of space research. Technologies such as the CAT scan, the insulin pump, MRI imaging processing have become realities because of the space technology. The kind of long-term research that is needed to confront medicine's most challenging problems will be provided by the space station.

There has been no greater opportunity for the study of the environment than space. Mission to planet Earth and remote sensing programs are already working to provide our Nation's scientific community the data and the resources to better evaluate our Earth's environment.

Mr. President, space station Freedom will provide an important legacy to our Nation's youth as well. The vision and inspiration that built this country must continue to be pursued. Our Nation must be prepared for the global markets of the future as well.

The U.S competitiveness is challenged today on every front. While we often develop the high technology theory, we seem to lose out on the market gain. As Americans, we must ask ourselves, Mr. President, what our role is going to be in the future. Will we lead or will we follow?

We will know in a few minutes.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I have just consulted with the proponent of the amendment, Senator BUMPERS. I will be yielding time to Senator GARN. Senator BUMPERS will speak, I will speak, and then we will be moving to the conclusion of this bill.

The proponent of the amendment has graciously offered to, if we needed extra time, to put some of it over on our side.

Having said that, I will yield 5 minutes to the Senator from Utah, and will ask for approximately 5 minutes, if I do not have time, if the Senator from Arkansas will enable me to conclude.

Mr. BUMPERS. Is the distinguished floor manager suggesting that we vote at 5 minutes until 7?

Ms. MIKULSKI. The distinguished floor manager is suggesting that we vote when we complete these three conversations.

Mr. BUMPERS. I would suggest that we each add 5 minutes to our time and vote at 5 minutes until 7.

Ms. MIKULSKI. Mr. President, how much time does our side have?

The PRESIDING OFFICER. The Senator from Maryland has 5 minutes and 23 seconds. The Senator from Arkansas has 15 minutes and 8 seconds.

Ms. MIKULSKI. Would the Senator from Arkansas be willing to yield 5 minutes to me so that I can yield the remaining 5 minutes on my side?

Mr. GARN. Mr. President, I will only need 1 minute.

Mr. BUMPERS. Does the distinguished floor manager not wish to extend the time until 7:45? I really wanted 20 minutes. I only have about 15. I thought the Senator from Utah might want more than 1 minute.

Mr. GARN. I say to my distinguished colleague, after my long oration at the outset of this debate, 1 minute will be fine.

Mr. BUMPERS. Why do not we see how we go along?

Ms. MIKULSKI. I yield to the Senator from Utah 1 minute.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, despite the fact that space station Freedom will be a world-class scientific research facility, it is more than that. The space station Freedom is a technological base for technologies critical to sustain the economic leadership. It is a technological base for advanced materials, information and communications systems, biotechnology, energy and environmental research. It is a space station space-based research facility that can be used to investigate a broad range of scientific disciplines. It was not designed for a singular experiment or program.

Space station Freedom is also a major engineering challenge and undertaking. The station will help us better understand the effect of long-duration space flight on man, and what that means for future space activities. But the real benefits of the space station will be right here on planet Earth: in new and better medical techniques, in pharmaceuticals, in advanced materials, in better microelectronics and sensors, in a better understanding of the physical principles, in processes that can improve our manufacturing techniques, and in new jobs and opportunities.

Space technologies have improved our quality of life in the past, and will improve our quality of life in the future. I urge my colleagues to vote against the Bumpers amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I want to first address the 64 Senators who wrote the letter to the distinguished floor manager, Senator MIKULSKI. I have had a number of them come up and say "I want to vote for your amendment but I signed a letter by Senator HEFLIN to Senator MIKULSKI."

I looked that letter over pretty carefully. I want to point out to those Senators who signed that that we are leaving money in here for the space station. We are simply trying to come up with a cheaper alternative.

We are also restoring some money, $50 million, for the Earth observing system EOS, which Senator HOLLINGS mentioned, and is critical to the space program.

The committee report calls EOS "among the most important of NASA's current science projects because its result will have profound implications for future economic and policy decisions." But the committee cut it by $50 million.

I restore that $50 million for the national launch system which is absolutely critical to come up with a cheaper method of launching.

We put in $50 million which more than doubles the level provided by the bill.

We put $17 million in there for aeronautical research and technology which the civilian aviation system needs desperately to come with the next generation of civilian aircraft; $15 million for space automation and space automation, and therobotics.

What is that? That is the ability to do precise kinds of research they have been talking about all afternoon in unmanned space vehicles, and the shuttle.

You can do it by telerobotics. And then I put $50 million in the National Science Foundation, where science really is science. The committee cut the House level by $75 million.

Mr. President, I just want to tell those 63 Senators that you can vote for the Bumpers amendment, and you are not going back on your word. We are not only balancing the space program, which I have heard some of the opponents describe; we are also leaving $100 million in there, and when we go to conference with the House, does anybody think for a moment the space station is going to be killed, as the Senator from Connecticut suggested?

This space station is not going to get killed under my amendment, because of two things: No. 1, my amendment does not kill it; and No. 2, my amendment is not going to pass. But I can tell you what the future holds for this. The future holds disaster, unless we come to our senses.

Do you know what the National Research Council said, one of the most prestigious councils of scientists in America? They said that 87 percent of all research that anybody anticipates under this bill can be done in unmanned space vehicles, and the shuttle. You think about embarking on a $100 to $200 billion program to do just 13 percent of all the research programs that anybody can foresee.

Mr. President, I will tell you what science is. Listen to this. We put $1.5 million in NIH funding for research on Lyme's disease; we get $5 million back. We gave NIH $11 million for breast cancer research; we got $170 million a year back. We gave NIH $24 million to do research on kidney stones; we get $75 million a year back. We put in $700,000—think about this—and we get back an annual savings of $300 million.

Here we are starting on a $100 billion to $200 billion project that gets you nothing—nothing. Maxine Singer, president of the Carnegie Institute, and one of the most prestigious scientists in America; she has been everything. She is on the National Academy of Sciences; she has written numerous scientific articles, and now she is president of the very prestigious Carnegie Institute of Washington:

> I am very concerned that the space station is being increasingly justified on the basis of its anticipated benefits to health research. In fact, no substantial case has been made for this argument.

It goes on. And I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CARNEGIE INSTITUTION
OF WASHINGTON,
Washington, DC, July 17, 1991.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: I am very concerned that the space station, Freedom, is being increasingly justified on the basis of its anticipated benefits to health research. In fact, no substantial scientific case has been made for this argument. There is no well documented special advantage of experiments in space for improving medical care or for the development of new therapies and drugs. At best, reasons advanced to carry out biomedical research in space are preliminary; surely, our nation should not commit itself to decades of expenditures and effort on the basis of such uncertainty. At worst, the reasons advanced hold out false hopes to our citizens for important advances in medicine; no miracles will occur in space, rather, improved health will come from the continued commitment to earthbound research, development, and healthcare efforts.

I urge you to continue your strong efforts in opposition to the proposed massive increase in funds for the space station in the 1992 budget. Besides the points I have made, extensive and thoughtful analysis of this project from many scientific viewpoints have all led to the same conclusion; this is not a wise expenditure of our nation's resources at this time. I hope that you will convey these thoughts to the Senate.

Sincerely,

MAXINE F. SINGER,
President.

Mr. BUMPERS. This committee report itself says as follows:

> The agency should revise its strategic plans for space and aeronautical technology to more carefully link investments to the Nation's economic competitiveness. The committee expects NASA to integrate their plans more closely with the emerging list of critical technologies as outlined in the recent report released by the Council on Competitiveness and the Office of Science and Technology Policy.

What do you get on competitiveness? Let's listen to what the Council on Competitiveness and the head of the Office of Science and Technology Policy have to say.

Allan Bromley, the President's scientific adviser, a scientist, says:

> Neither the commercial processes nor the scientific merit of the microgravity experiments come close to justifying the cost.

That is the President's science adviser saying that. The U.S. Council on Competitiveness, Bobby Inman, George Fisher, chairman of Motorola, Don Peterson, chairman of Ford, John Aker, IBM. What do they say, top businessmen in the country:

> In an era of limited resources for science and technology, the United States must choose its priorities carefully. The United States is spending a lot of resources on national prestige technology projects that make little contribution to U.S. economic growth and competitiveness. Comparable spending on generic industrial technology would not only have a major impact on America's international prestige, but also its standard of living, national security and international influence.

Mr. President, the other night, Senator GLENN, Senator GARN, and I appeared on the MacNeil/Lehrer Show, and here is a letter sent to Senator GLENN. This is not meant to denigrate Senator GLENN in any way. But this is from a gentleman who is president of the University of California. He says:

> I am identifying myself. I am the Director of the National Science Foundation's Institute for Theoretical Physics at the University of California, Santa Barbara.

He says:

> I find in materials research, I know of no important experiment or process that has been or can be performed in space that cannot be reproduced on the ground at immensely less expense and generally greater reliability. The experiments in which I was originally interested are now obsolete.

And on and on it goes.

Let me tell you what a fellow named—just a moment—this is Prof. Nicolaas Bloembergen, Harvard University, and president of the American Physical Society.

> It is the view of the American Physical Society that scientific justification is lacking for a permanently manned space station in Earth's orbit. We are concerned that the contribution of a manned space station to the physical sciences has been greatly overstated and that many of the scientific objectives currently planned for the space station could be accomplished more effectively and at much lower cost on Earth, unmanned robotic platforms, or the shuttle.

Mr. President, if I were saying this, if this were country lawyer DALE BUMPERS from Arkansas telling you all these things about science, you would be right to be skeptical. I am not a scientist, but almost every single scientific organization in America, and many American Nobel Laureates, are saying that if you think you are going to get any kind of medical research benefit out of this space station, it is pure hype.

I could go on. I am sorry I do not have more time. It is not going to increase the number of votes I get, but I would like to make a record.

If you want real science, you find mapping of the human gene. That has the potential for curing cancer, AIDS, and everything else. That is where you will find benefits, both direct and indirect. That is what the Human Genome Project wants to do. And I support that.

I am getting to where I am not as concerned about the problem as much as I am about the attitude of Congress in dealing with it. There is no microgravity research worthy of the name going to occur on the space station. Every scientist says that.

I want to close out, Mr. President, by saying that in a perfect world, I might be for this. I am not sure I would, since I have gotten into it. I am not sure I would be for it under any circumstances. But in a perfect world where we did not have drug problems, where the crime rate was on the decrease, where children in poverty were declining, where the crime rate was going down instead of soaring, where the homicide rate was not the biggest in the world, where the energy future was secure and our toxic waste dumps cleaned up, and we had health care for everybody, and on and on; if we had those things, I might not be here. I probably would not be here.

I certainly would not be here if we were addressing the budget problems of this country, which absolutely guarantee the demise of this great Republic, if we do not start dealing with these matters in a responsible way.

I do not mean to denigrate a single Senator. Every one of them is my friend. But as I look down the list of the States, of winners and losers, not one Senator spoke against this amendment in the bottom 35 States, the ones that receive little or no funding from the space station. Every Senator that spoke against this amendment, with the exception of the Senator from Utah, is in the top 12 of the States who stand to benefit the most if this program goes forward.

I do not denigrate them, because if I were in their shoes, I might be doing the same thing; I admit that. But that is no way to run a railroad.

Mr. President, the problems in this country are right here on the ground. They are not in space. They are not going to be solved in space.

When scientists say over and over again, the very best of them, 300,000 people in the Institute of Electrical and Electronics Engineers; the American Physical Society, 40,000 members; the American Chemical Society, 70,000 members; virtually every physicist in America and every professor in America say, please, do not buy into this, we need the money for too many other things. And I am saying one of the things we need is to save the money.

The Senator from Texas said, "$1.25 billion, Senator BUMPERS, on deficit reduction, that would not last as long as an ice cream cone in the sunshine." You tell me what the relevance of that statement is, "It would not last as long as an ice cream cone in the sunshine"? Does that mean unless it is at least $2 billion, please do not bring it up on the floor of the Senate because it would not last?

That is exactly the mentality that has brought us to this very moment. That is the reason, because the deficit is going to be $348 billion next year, what is $1 billion? I tell you what it is: It is a beginning. It will be a commitment by the U.S. Senate by saying we are not going to do business as usual around here, we are going to start addressing the critical problems of this Nation. There is not one single problem in this country that spending $118 to $200 billion on the space station is going to solve. I plead with my colleagues to say to themselves, we are not going to do business as usual, we are going to be responsible.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland has 3 minutes and 14 seconds.

Ms. MIKULSKI. Mr. President, I yield myself 3 minutes and 14 seconds.

Mr. President, we are in the closing hours of this discussion, and I just want to talk about why we need this amendment. The space station is needed for two reasons, science and technology. One, to maintain U.S. leadership in aerospace technology; the second, to provide a permanent global class facility for scientific research in space. The space station will be the NIH of space science.

I had occasion to go down and visit the space center in Houston. There I saw what research will be done. In cancer research, doctors will be able to remove tissues from a cancer patient on Earth from which a new tumor can be grown outside of the body at a faster rate in the weightlessness of space. That artificial tumor can then be tested for what is the best course of treatment without subjecting the patient on Earth to dangerous, costly, physically exhausting tests. Significant cancer therapies could revolutionize health care.

A new century is coming, a new economy is being born. We have to ask ourselves, will America lead the way? In 1979 we lost 2.9 million manufacturing jobs. In the last decade we have lost them job by job. I represented, in my own congressional district, a street called Bruening Highway. We had General Motors, Western Electric, the Baltimore shipyards, Bethlehem Steel, and our great port. They once employed about 35,000 people in these jobs. We are now down to half. Western Electric has gone. General Motors is making sure that we are fighting minivan competition from illegal dumping from counterparts. Shipbuilding has been given away, and the failed trade policies have also wiped out making trade a two-way street in our port.

So where is our economy going to turn to? There are those who allege this is technopork—technopork to put together people in the aerospace industry, men and women whose hands I shook when I visited the space centers, many of them union labor, UAW labor. When I talked to people in the space program who are from the Hispanic origin, one generation away from being migratory workers are now working as space techs making good wages and at the same time creating an infrastructure that will take us into the 21st century. Just because we cannot predict every line item that we are going to invent does not mean we should do it. We are funding now the fiscal 1992 budget, the NASA budget. Fiscal 1992 will be the 500th anniversary of Christopher Columbus discovering America. On that anniversary I do not think we should be chintzy about the space program.

I hope we defeat the Bumpers amendment.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes and 7 seconds.

Mr. BUMPERS. Mr. President, there have been a number of arguments made this afternoon, there have been scientific arguments, and there have been competitiveness arguments. Everybody makes the competitiveness arguments when we talk about how Japan is eating our lunch because they are so far ahead of us because they spend so much more in research, and so on.

I want to tell this body so far we only spend 11 percent of our budget on domestic discretionary spending. In 1994 under the President's request for two things the supercollider and the space station, if the President gets his request for just those two items, they will take 50 percent of all the increase, all the increase in the amount of money we will have to spend in 1994. You think about that. You talk about children being immunized, you talk about AIDS and cancer. You think of us putting 50 percent of the increase in money that we are going to have to spend on the domestic discretionary spending on those two projects alone.

When it comes to competitiveness, Dr. Arno Penzias, vice president of Bell Laboratories in charge of research, testified over on the House side and here is what he said about the American Council on Competitiveness, which issued a report "Gaining New Ground, Technology Priorities in America's Future":

> I reviewed that report in preparing my testimony. It contains a number of areas such as microelectronics in which America's leadership is endangered or already severely damaged. I can find none of these competitive needs addressed by the proposed space station's programs or capability.

Mr. ROBB. Mr. President, I rise today to help America rise higher.

As Peter the Great built the city of St. Petersburg as his window on the new world to the west, so the United States proposes to build space station Freedom, as our gateway to the unexplored worlds beyond our home planet.

The space station will be the newest step on the road of mankind's ascent. Our earliest ancestors were bound to the land, trapped by the breadth of the oceans. Then rudimentary ships were built, and man became a seafaring creature. The oceans changed from a forbidding barrier to the avenue of discovery and commerce.

Centuries later, two bicycle makers achieved man's longstanding dream to emulate the birds and soar through the sky. And, over the years, man became a master of the air, and the defiance of gravity became commonplace.

Within our lifetimes, Mr. President, humanity has conquered a new medium, the famed final frontier of space. Our first efforts, just as with the sea and the air, were tentative explorations. But with the flight of the space shuttle *Columbia* in 1981, mankind became a spacefaring creature. That flight confirmed our ability to make space travel practical. Space, no longer unreachable, became a medium of commerce and experimentation. Just today, NASA successfully launched the *Pegasus*, a commercial space vehicle designed to bring the benefits of space to a wider audience.

It is no small point, Mr. President, that the *Columbia* and, indeed, most of the vehicles which have ventured into space carried upon them the Stars and Stripes. Americans are explorers. It is inherent in our national character to seek out that which has not yet been discovered, to do what others say cannot be done. Whether the challenge was posed by tyrants or by laws of nature, Americans have always led the response.

Once again, today, America is leading a grand international coalition. Our partners in the development of space station Freedom come from all over the globe, and they have sided with us because they recognize America's leadership in space exploration. Although the space station is an American initiative, it will truly be a vehicle for the use of all mankind.

Some people may wonder why we should venture into space. This question is frequently asked in the form, "Shouldn't we spend the money here on Earth?"

Mr. President, I feel secure in stating that every dollar allocated to space station Freedom will be spent here on Earth. We have engaged no Martian subcontractors, nor even consultants from Jupiter, to work on this project. More seriously, though, I understand the concern of those who say that in a time of finite resources, government should concentrate its efforts on improving the lives of those who need government's assistance the most.

I am a Democrat, Mr. President, precisely because I believe that it is government's role to assist those whose lives have not been as fortunate as, a majority of our citizens. But I follow the view of a visionary member of my party, President John Kennedy, who saw that the exploration and exploitation of space would result in the improvement of the lives of all Americans. Government's purpose is not only to comfort those who are afflicted today, but also to improve the future lot of our citizens. The research done on the space station, and the stimulation which it will provide to America's scientific and technological community, will help to ensure a better future for America and all of its citizens.

Much of what the space station will do cannot be done elsewhere. We have heard about the medical research which microgravity makes possible, and the basic research in electronics which can only be done in orbit. New materials, new methods of recycling, and new processing methods will help us cope with the demands on our overpopulated, increasingly polluted home planet.

But the biggest contribution that space station Freedom will make is in discovering the effects of true long-term exposure to space flight on humans. It will be the springboard from which further exploration of our universe will be launched.

And I would also point out that the great value of pure research is that we cannot know in advance what new wonders will be found. Sir Walter Raleigh could not tell King Charles of the miracles which waited in the New World, because they had yet to be discovered. But if he had balked in sending Raleigh on his journey, my Commonwealth and our Nation at least as we know them might not have been founded. Similarly, I cannot run down a checklist of the benefits which will come from research aboard the space station, because we have never been able to work in such an environment before. But unless we take the jump, I can almost guarantee you, Mr. President, that some significant innovation will go unfound. Scientists are among the strongest believers in serendipity, in stumbling on an important discovery that they were not even looking for. By conducting research in a fundamentally new environment, we will increase the opportunity for such chance breakthroughs many times over.

Mr. President, I am a staunch believer in governmental responsibility when it comes to budgeting. This is an expensive program. But it seems to me that government has three great missions. The first is to help all of its people meet their most basic needs, to nourish their bodies. The second is to educate them so that they may lead better, more productive and happy lives; in short, to nourish their minds. And the third is to nourish their souls, to infuse the people of a nation with some sense of common purpose. Government exists to accomplish the grand challenges that no individual or group could do by themselves. Space station Freedom is a prime example of something government alone can, and should, do.

SPACE STATION FREEDOM: WHAT WE GAIN AND WHAT WE WOULD LOSE

Mr. SEYMOUR. Mr. President, many of my colleagues today have eloquently spoken of the scientific promise that space station Freedom holds for the future. We know that if the Bumpers amendment is defeated, the world will come one step closer to new life science, health care, and industrial production technologies. If the Bumpers amendment passes, we may never know what we could know about these riches of our universe.

The more we drive into space, Mr. President, the more we discover about our own Earth. Space station Freedom will bring back a marvelous array of discoveries that could help us predict weather patterns more sharply, understand atmospheric impacts on soil quality, and make progress on curbing ozone depletion.

But space station funding for the next fiscal year can bring us even closer to the cares of home, and let me tell you why. First, we must know what we will lose should the Bumpers amendment pass. The President has made it crystal clear to Senators MIKULSKI and GARN, among others, that if we eliminate station funding, the entire VA, HUD, and independent agencies bill would be vetoed.

This veto, in turn would lose for America $805 million in VA operating expenses, $2.4 billion in sewage treatment grants, $1.5 billion in elderly and disabled housing programs, and $2.5 billion in public housing subsidies.

I mention this list of critical programs funded along with the space station to dispel two myths that have crept into this debate. The first myth is that if we vote for the amendment before us, an entire range of domestic programs would receive more money as a result. The second myth, interwoven with the first, is that the space station has taken money away from these programs.

The Senate Appropriations Committee markup of all the housing, elderly, and environmental projects I listed was substantial higher in each case than the bill produced by the House Appropriations Committee. And the bill that the House committee recommended, Mr. President, had no money whatsoever for the space station.

The final issue I want to reemphasize relates to the importance of the space station to the U.S. economy. In the State of California alone, it supports 4,000 jobs and 4 billion dollars' worth of contracts.

For an aerospace industry reeling from a lower military budget at home and subsidized cartels abroad, the station offers a bright glimmer of hope. Despite its problems, this sector of the economy still accounts for ten percent of all U.S. exports, and the commercial spinoff technologies that the space station can bring from the heavens will help domestic aerospace firms rekindle some of their overseas markets.

And so a vote for this amendment, Mr. President, is a vote against several benefits that could improve the civic life of this Nation. It would represent a vote against technologies that could further propel us into an age of low-cost, low-capital, and low-pollution industries. It would represent a vote against some of the most generous funding of veterans and elderly programs ever produced by the Senate. And it would represent a vote to deny our aerospace industries yet another chance to struggle back to their feet.

This amendment promises what it cannot deliver and condemns what its passage would bring. For reasons both visionary and practical, I urge my colleagues to defeat this measure.

Mr. PRESSLER. Mr. President, as ranking member on the Senate Commerce Science, Technology, and Space Subcommittee, I rise today to support space station Freedom. I say this as one who in 1987 voted to strike funding from the space station. At that time I was extremely concerned about the costs of the space station.

Responding to this concern, expressed by me and other Senators, the National Aeronautics and Space Administration restructured the space station to make it more affordable. I want to congratulate NASA on a job well done in redesigning the space station and congratulate President Bush for his strong leadership throughout this process.

I am sure it was difficult to draw up a revised blueprint for a project as complicated as the space station. However, NASA did just that, and did it well. In a matter of months, NASA has come up with a streamlined design that reduces space station costs by $8 billion, but still is capable of performing quality scientific work. This redesign has already won the support of the President, the Vice President and the National Space Council. Further, notwithstanding concerns expressed by some in the scientific community, the President's Science Adviser, Dr. Allan Bromley, has described the redesigned space station as something that the United States must do as the leader in space exploration.

Space station Freedom represents the future of the space program. The whole world will benefit from the important microgravity research that will be conducted on it. If the past is an indication, this research should lead to new drugs and materials that would be impossible to develop in Earth's atmosphere. These new developments will benefit all of us.

As with other NASA space programs that have brought about insulin infusion pumps, CAT scan and MRI imageprocessing technology, and laser heart surgery, I look for the space station to bring many new advances in health care. These advances will assist in providing quality medical care to all Americans, including veterans.

I agree with the chairman of the Senate Veterans' Affairs Committee in supporting the higher funding in this bill for veterans programs. This bill increases VA medical funding by 10 percent, and medical and prosthetic research by 5 percent. We owe so much to our veterans. For that reason I support H.R. 2519, and will support future supplemental appropriations for veterans' programs if they are needed to ensure high quality service to veterans.

Mr. MACK. Mr. President, today is a historic vote on space station Freedom. Yes, we have addressed this issue before, and will again throughout this decade. But for the first time, the Senate is poised to vote not on an abstract idea, but a real working facility that in a few years will be constructed and launched in orbit.

I have heard those opposed to Freedom say it is a waste of valuable resources, or that the station will not serve the scientific community, or that manned space activities hurt space science. I believe these arguments have been debated today, have been given their due time, and have been shown to be groundless.

Any Member of this body who denies the benefits, not only scientific, but also the power to stimulate our Nation to excel in all endeavors, does not realize the importance of this vote today.

The natural progression of our manned space program is at stake today. From Mercury, through the Apollo program, to the space shuttle, we now are proceeding to the space station. To vote for this amendment would end our manned program with the space shuttle. We would never achieve our goals beyond the space station. We would never return to the Moon without space station. We would never explore Mars; or beyond, without Freedom.

Wild dreams and fantasy? No. Putting a man in orbit was once a dream. Our trip to the Moon in July 1969, was once fantasy. Without Freedom, we would forever end the dream on which our generation was raised as well as the dreams of our children to explore the solar system with machines not even thought of today.

By defeating this amendment, America will continue to move forward. No Senator ever wants to cast a vote that will cause America to be weak and seemingly move backward. This amendment simply is one of those votes. We are faced with a clear choice.

I hope my colleagues will vote for Freedom, for space technology and leadership, to vote to move forward.

Freedom has arrived, and the vote the Senate will shortly take will enable Freedom to finally have the place it is due in our manned space efforts. I am proud to vote to continue these efforts.

Mr. LEVIN. Mr. President, I will vote today in favor of the Bumpers amendment to reduce funding for the space station. The issue before us represents a hard choice on whether to continue the current space station program or begin to address the fiscal realities that we now face. Senator BUMPERS' amendment proposed to reduce the Federal deficit by $1.2 billion and increase funding for veterans medical research and science research, while at the same time continuing funding for space exploration research. The Bumpers amendment also provides $100 million for continued space station research. I favor a space station we can afford and pay for. Moreover, the space station as envisioned by the subcommittee pushes us beyond the frontier of fiscal reality.

Mr. DANFORTH. Mr. President, I rise in support of space station Freedom and in opposition to the Bumpers amendment. Space station represents the essence of NASA's mission. It is a bold international effort to deploy an orbiting laboratory by the end of this century. It is the logical next step in NASA's rich tradition of manned space exploration. We are in a tough fiscal environment that requires us to make difficult choices among equally deserving programs. No one debates the need to spend more money to address pressing current problems such as poverty, homelessness, and disease. However, it is equally important to invest in our future. The future of our U.S. competitiveness and national security will depend on precisely the kind of scientific and technological breakthroughs that space station is expected to generate.

As with previous space missions, we cannot predict what benefits space station will generate in terms of scientific and technical advances. However, if the past is prologue, then we can assume that space station will produce a stream of spinoffs. Spinoffs from previous space missions have enhanced our lives in numerous ways that we now take for granted. Microcomputers, pacemakers, water filtration systems, communications satellites, and many other developments are all byproducts of our space program.

Aside from potential spinoffs, space station will teach us about humans' ability to live and work in space for extended periods of time. The information and experience gained from space station will lay the critical groundwork for any future manned missions to the Moon and Mars. Space station will also help improve the quality of our lives here on Earth. As a microgravity laboratory, space station may develop drugs and materials that we could not develop on Earth. Equally important, space station is consistent with this country's historical commitment to learn more about the universe in which we live and exploring new frontiers.

Mr. President, in the debate over space station, it is critical to remember that space station is an international science project. Japan, Canada, and Western Europe have all invested considerable time, money, and effort in working on their segments of the Space Station Program. To date, they have spent $1.5 billion on space station. We must proceed with, and complete, the development of space station to honor our commitments to our international partners. If we do not, they may question our commitment to other international science programs, such as the superconducting super collider and the U.S. Global Change Research Program.

Mr. President, space station also promises to play an important role in stimulating interest among young people in careers in science, engineering, and other technical areas. Many of today's scientists and engineers chose their fields of endeavor after being fascinated in their youth by the *Apollo* mission and other manned space missions. Experts anticipated a 650,000-person shortage of scientists and engineers by the year 2010. Unless we can direct more young people into math and science, our technological base and our national security could be severely impaired in the next generation. I believe space station will help expand our pool of scientific talent.

Mr. President, space station is a necessary investment in our future, and therefore I must oppose the Bumpers amendment.

Mr. SPECTER. Mr. President, I am voting in favor of the amendment offered by my colleague Senator BUMPERS to the Department of Veterans Affairs and Housing and Urban Development, and independent agencies appropriations bill for fiscal year 1992 which transfers funding from the space station project to veterans-related programs within the Veterans' Administration.

I recognize the virtues of the Space Station Program. The program promises significant advances to our Nation and the world. It need not be stressed the many technological advances that our space program has provided over the years, such as the many developments in plastics, metal alloys, and medicines. The program promises to continue to advance new technologies, such as robotics, high-speed computers, lightweight alloys, high-accuracy navigation, new propulsion technologies, and many more.

I appreciate the need to move forward in seeking to expend all we can on science and technology. I believe, however, that fundamental budget priorities such as the veterans-related programs—which the amendment offered by my friend from Arkansas bestows additional funding—takes priority before a space exploration project of such grandiose proportions.

I have traveled throughout my home State of Pennsylvania and the United States, most recently as the new ranking member of the Veterans' Affairs Committee, to VA medical centers. While there, I have viewed outdated equipment and buildings; I have discussed with staff at these centers their recruitment and retention problems; and with veterans I have heard stories of care which often becomes too difficult for them to obtain.

When I first came to the Senate, the budget for veterans' benefits and services was $22.9 billion. This year's recommendation for veterans' benefits and services is $33 billion. Every year I have fought for additional funding for veterans' services, specifically increases in veterans' health care.

However, when one views the increases in health care costs over the last decade and the increasing age of our Nation's veterans, the additional $11 billion is not enough. The additional moneys that would be provided for veterans' services under this amendment, approximately $431 million, would be a start toward our goal of providing the best possible care and services to our Nation's veterans.

Yesterday, July 16, 1991, the Veterans' Affairs Committee heard testimony from service men and women who have returned from Operation Desert Storm with both physical and possibly psychological injuries. From this very moving hearing, I learned that it is unknown at this time the level of care needed for future veterans entering into the VA system. At this point in time we need to take a proactive stance and supply additional funding for medical care to ensure proper care to current veterans and the new veterans requiring care in the future.

For these reasons I am voting for the amendment that recognizes our Nation's budget constraints and the needs of our veterans' community, while allowing funding to be committed to meaningful scientific research. We must continue to serve those who have faithfully served our Nation and continue to pay an unrepayable debt to our servicemembers.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 64, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—35

Baucus
Biden
Bradley
Breaux
Bryan
Bumpers
Burdick
Chafee
Cohen
Conrad
Daschle
DeConcini
Dixon
Exon
Fowler
Harkin
Hollings
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Rockefeller
Sanford
Sasser
Simon
Specter
Wellstone

NAYS—64

Adams
Akaka
Bentsen
Bingaman
Bond
Boren
Brown
Burns
Byrd
Coats
Cochran
Craig
Cranston
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Ford
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Inouye
Jeffords
Kassebaum
Kasten
Kerrey
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Packwood
Pressler
Reid
Riegle
Robb
Roth
Rudman
Sarbanes
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NOT VOTING—1

Pryor

So, the amendment (No. 769) was rejected.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, I want to thank Senators MIKULSKI and GARN for the excellent work they have done in bringing this bill before us.

Mr. President, I rise today to urge NASA to take action to protect our Nation's Landsat data archive. I know Senators MIKULSKI and GARN share my concern in this area. Currently, NASA plans to spend $1 million converting the past 19 years of Landsat data to a more durable storage medium. This amount needs to be increased, however, to avoid any further loss of Landsat data.

Mr. President, Landsat data have been collected without interruption for the past 19 years. During this time, the United States has flown five Landsat series satellites. With the launch of the NASA's Earth observing system [EOS] polar platform in 1998, Landsat data collected from these missions could provide a 26-year head start to NASA's Mission to Planet Earth Program.

In the Senate Commerce Science, Technology, and Space Subcommittee on April 24, 1991, we received testimony from Dr. Lennard Fisk the associate administrator in charge of NASA's Earth observing system. Dr. Fisk testified that if NASA could get access to existing Landsat data it would provide their researchers with a unique baseline of information about land conditions and changes during the 1970's, 1980's, and early 1990's that is not available from any other existing source. Dr. Fisk testified that the Landsat data would be ideal for the baseline against which NASA researchers could measure the extent of global change.

Environmental inventory data from the Landsat series of satellites is particularly suited to the long-term estimation and monitoring needs of the United States global change effort. Landsat data is vital for measuring rates of deforestation, desertification the movement of fragile ecosystem boundaries, and changes in vegetative cover and other land surface types. These data are crucial both as an early indicator of climate change and of changes in the chemical composition of the atmosphere.

Despite Landsat's obvious value, there is a problem.

Currently archived Landsat data exists in several different formats, which in some cases can only be processed on one-of-a-kind hardware systems. The data is becoming unreadable due to magnetic tape degradation or processing system obsolescence. Only a fraction of the data have been converted to a maintainable medium. For example, only about 10 percent of the approximately 400,000 MSS scenes acquired between 1972 and 1978 have been converted to usable, computer-compatible tape format. The remainder are stored on aging and deteriorating wide-band videotapes with no system available to process the data to a usable form. Similarly, since 1978, approximately 400,000 additional MSS scenes and 170,000 Landsat TM scenes have been acquired, and only 5 percent has been converted to a usable computer-compatible tape format. The issue of long-term conversion of Landsat data to a maintainable medium applies to all of the Landsat data acquired to date, of which approximately one-half is over 10 years old and deteriorating.

Because of funding limitations since 1984, National Oceanic and Atmospheric Administration and the United States Geological Survey Landsat archiving activities have been restricted to data maintenance. Large amounts of early environmental inventory Landsat data will continue to be lost due to tape degradation and other reasons unless additional funding is provided to transfer the data to a more permanent and retrievable storage medium. For this reason and because this data is so critical to the EOS Program, we need a long term plan from NASA for the purpose of protecting this national treasure. NASA needs to continue their cooperation with the Geological Survey to begin converting the past 19 years of Landsat data to a more durable archive medium.

We cannot stand by and watch the fruit of our Nation's investment in land remote sensing slowly rot. A small investment now will give NASA a headstart on understanding our home planet, while ensuring we do not lose the data we have already spent over $1.5 billion in collecting. I will look for a specific plan from NASA to accomplish this.

Mr. GARN. I certainly agree with the points made by the Senator and I will work with him and NASA to develop this plan.

Mr. MCCONNELL. Mr. President, as the Senate considers H.R. 2519 today, I would like to take a brief moment to talk about our Nation's veterans.

Next month will mark the tragic anniversary of the Iraqi invasion of Kuwait. Among the world powers, America responded first to this lawless aggression. In short order, U.S. soldiers and equipment rapidly deployed to that region. Thanks to brillant military leadership and the professionalism of all our soldiers and sailors, victory was total, swift, and decisive. We must now bring all our soldiers home as quickly as possible.

As we reflect on the year's events, I find myself impressed with the dedication of service displayed by our soldiers. Throughout our great history, brave American men and women have never hesitated to answer the call of duty when sounded. From World War I to the Persian Gulf, we are indebted to the countless sacrifices endured by our service men and women. Mr. President, to all veterans and their families, I extend my heartfelt thanks.

Senators MIKULSKI and GARN are to be recommended for addressing the needs of our vets in this bill. Over $14.4 billion is appropriated by the Senate for veterans' medical care—that's $33 million more than the House appropriated, and $331 million over the administration's request. The Senate also appropriated $805 million in VA operating expenses.

This bill also recognizes the need for quality assurances at VA medical centers—a concern expressed by numerous Kentucky veterans. The appropriation of some $15 million will provide for additional site inspections and will ensure high standards of health care at these facilities.

Mr. President, I urge my colleagues to demonstrate their support of America's veterans by supporting passage of this important bill.

Mr. KERRY. Mr. President, I rise in support of the committee report on the VA-HUD-Independent Agencies appropriation bill and commend Senator MIKULSKI and her colleagues on the subcommittee for a job well done in tough times.

As the Senate acts on the bill, I do wish to restate my strong hope that the Senate conferees on this bill will be able to agree to special Federal grant funding for the cleanup of sewage and sludge discharge to Boston Harbor.

Boston Harbor has been long recognized as one of the dirtiest estuaries in the United States. The harbor's serious pollution has resulted in diseased fish, closed shellfish beds, and periodically closed beaches.

In the fiscal year 1992 budget for the Environmental Protection Agency, the President requested $100 million for cleanup of Boston Harbor as part of $300 million in construction grant funding directed to the five largest municipalities which have yet to achieve full secondary treatment for their sewage discharge—in other words, the five cities with the largest and most serious sewage and water pollution problems. Most other cities have achieved this basic, health-related treatment level for their sewage discharges.

All five cities in the President's request, Boston, New York, Los Angeles, San Diego, and Seattle discharge into coastal waters. Completion of secondary treatment not only will bring critical environmental benefits to public health and safety but also will produce major improvements in fishing, swimming, boating, and other uses serving a regional population, in Boston's case, of over 8 million.

The Massachusetts Water Resources Authority [MWRA] is implementing a rigorous Federal court-mandated cleanup program which will total approximately $6.1 billion including secondary sewage treatment and removal of the domestic sludge discharge.

This is one of the largest public works projects in New England, 97 percent of the cost of which will be locally funded. By the year 2005, the average Boston area family is expected to pay more than $2,000 for water and sewer annually, which is nearly 5 times the current national average of $410.

Mr. President, the people of Massachusetts want a clean Boston Harbor; they want to comply with Federal law, and they are putting up the dollars to prove it.

Most major cities received significant grant funding to bring their sewage discharges into compliance with the Federal Clean Water Act. During the time in which grant funds were available, Boston sought modification of the Federal discharge requirement as authorized under section 301(h) of the act.

Many years of environmental studies and EPA deliberations culminated in the Agency's denial of the section 301(h) request, and planning for secondary treatment construction went forward. Now grant funds are no longer available.

The State revolving fund program under title VI of the act provides loans that would result in only minimal relief to Boston area ratepayers because of the high rating enjoyed by MWRA's own bonds. In other words, the interest rate differential between MWRA bonds and loans under the SRF program is so small that savings which would be realized by ratepayers is minimal at best.

The President's request for grant funding would provide a small, but welcome assistance to the ratepayers of the Boston area in meeting the secondary treatment construction burden and would result in significant environmental benefits.

As one of the five largest communities yet to complete secondary treatment, Boston is one of a logical category of municipalities deserving national recognition in the form of Federal grant funding assistance. That is not just this Senator's conclusion. That is EPA's conclusion. That is OMB's conclusion. That is the President's conclusion. And that is the conclusion of the House of Representatives.

For instance, EPA Administrator Reilly, testifying in the House earlier this year, made it clear that Boston and the other four cities required and deserved special Federal assistance, given the magnitude of the problem they confront, the history of Federal involvement in their cleanup efforts, and the benefits to public health and the coastal environment that will result.

Most if not all other large cities have completed secondary or more stringent treatment with a significant contribution from the EPA Construction Grants Program.

I know that the chairwoman of the appropriations subcommittee, my friend Senator MIKULSKI, appreciates this difficult situation. I understand and appreciate her view on earmarking. I am confident she will give this situation and the President's request additional careful consideration when this matter comes before the VA-HUD Appropriation bill conference committee.

The PRESIDING OFFICER. The majority leader.

LEGISLATIVE BRANCH APPROPRIATIONS FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, pursuant to the authority vested in me under a prior unanimous-consent agreement and following consultation with the distinguished Republican leader, I ask the Chair to lay before the Senate H.R. 2506, the legislative branch appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2506) making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Teresa Heinz, widow of John Heinz, late a Senator from Pennsylvania, $101,900.

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $69,279,000, to remain available until expended, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,387,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $419,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,796,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $624,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of com-

pensation to be fixed by the Chairman of each such committee, $713,000 for each such committee; in all, $1,426,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $350,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $161,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $11,357,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $32,700,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,059,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses $18,000,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $3,080,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $833,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,142,000 for each such committee; in all, $2,284,000, to remain available until expended.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $77,000,000, to remain available until expended.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $336,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $1,855,500, to remain available until expended.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $88,800,000, to remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $7,200,000, to remain available until expended.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $185,768,000, to remain available until expended.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $34,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

SECTION 1. (a) For the purposes of any rule, regulation, or order that has the force and effect of law and that establishes or limits the annual rates of compensation of officers and employees of the Senate by reference to the annual rate of pay of Senators (or by reference to an increase in the annual rate of pay of Senators), the annual rate of pay of Senators shall be deemed to be increased (or the effective date of this section) to the annual rate of pay that would be payable to Senators without regard to section 703(a)(2)(B) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note; Public Law 101–194).

(b) Notwithstanding any other provision of law, an officer or employee of the Senate whose pay is disbursed by the Secretary of the Senate may not receive any honorarium while that individual is such an officer or employee. For purposes of this section, the term "honorarium" shall have the same meaning as in section 505(3) of the Ethics in Government Act of 1978.

(c) This section shall take effect on the first day of the first month that begins on or after the date of the enactment of this Act.

SEC. 2. Section 4(c) of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 121c(c)) is amended by adding at the end thereof the following new sentence: "On or before December 31 of each year, the Secretary of the Senate shall withdraw from the fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in excess of $5,000 in the fund at the close of the preceding fiscal year.".

SEC. 3. Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h–6) is amended—

(1) by inserting immediately after the second sentence thereof the following new sentence: "The Legislative Counsel of the Senate (subject to the approval of the President pro tempore) is authorized to appoint and fix the compensation of not more than 2 consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this section.", and

(2) in the last sentence of such section, by striking out "and the Secretary of the Senate, respectively" and inserting in lieu thereof ", Secretary of the Senate, or Legislative Counsel of the Senate, as the case may be".

SEC. 4. Subsection (a) of section 2 of Public Law 100–71 is amended by:

(1) striking "$25,000" and inserting "$50,000",

(2) striking "The Secretary of the Senate is authorized" and inserting "Hereafter the Secretary of the Senate is authorized".

SEC. 5. (a) Notwithstanding the provisions of section 105(d)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(d)(1)), and except as otherwise provided in subparagraph (C) of such subsection (d)(1), the aggregate of gross compensation paid employees in the office of a Senator shall not exceed during each fiscal year $1,012,083 if the population of his State is less than 5,000,000.

(b) Subsection (a) shall take effect October 1, 1991.

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $709,001,000, to remain available until expended, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $5,781,000, including: Office of the Speaker, $1,477,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,127,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,388,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $1,025,000, including $5,000 for official expenses of the Majority Whip and not to exceed $308,930, for the Chief Deputy Majority Whip; Office of the Minority Whip, $764,000, including $5,000 for official expenses of the Minority Whip and not to exceed $93,520, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $218,500,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $67,900,000:

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $409,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $57,900,000.

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE INFORMATION SYSTEMS

For salaries, expenses and temporary personal services of House Information Systems, under the direction of the Committee on House Administration, $20,025,000, of which $8,615,000 is provided herein: *Provided*, That House Information Systems is authorized to receive reimbursement for services provided from Members and Officers of the House of Representatives and other Governmental entities and such reimbursement shall be deposited in the Treasury for credit to this account.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $214,518,000, including: Official Expenses of Members, $82,600,000; supplies, materials, administrative costs and Federal tort claims, $19,116,000; net expenses of purchase, lease and maintenance of office equipment, $4,427,000; furniture and furnishings, $1,810,000; stenographic reporting of committee hearings, $1,100,000; reemployed annuitants reimbursements, $1,000,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $103,833,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $632,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $6,500,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $80,000,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $48,878,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $20,860,000; Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,288,000; Office of the Doorkeeper, including overtime, as authorized by law, $10,013,000; Office of the Postmaster, $4,377,000, including $126,850 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $19,805 per annum each; Office of the Chaplain, $120,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $946,000; for salaries and expenses of the Office of the Historian, $361,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,356,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,171,000; six minority employees, $713,000; the House Democratic Steering Committee and Caucus, $1,476,000; the House Republican Conference, $1,476,000; and other authorized employees, $1,721,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1992 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (HOUSE INFORMATION SYSTEMS)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", "OFFICIAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. Effective for the fiscal years beginning with fiscal year 1992, the annual rate of pay for the positions established for the Democratic caucus and the Republican conference by section 2 of House Resolution 413, 94th Congress, as enacted by section 201 of the Legislative Branch Appropriations Act, 1976 and the positions established by sections 102(a) (1) and (2) of the Legislative Branch Appropriations Act, 1990 shall not exceed the annual rate of pay payable from time to time for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 103. The Clerk of the House under the direction of the Committee on House Administration, is authorized to receive payments of assessments for monthly equipment charges incurred by such organizations as are authorized by the Committee on House Administration. Receipts under this subsection shall be deposited into the Treasury for credit to the appropriate account under the appropriation for "Salaries and expenses" under the heading "Contingent expenses of the House", "Allowances and expenses".

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,020,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,391,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,759,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $1,000 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (5) $999,800 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,509,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, [$63,343,000] *$64,843,000*, of which [$31,389,000] *$32,094,000* is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and [$31,954,000] *$32,749,000* is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That of the amounts appropriated for fiscal year 1992 for salaries, including overtime, and Government contributions to employees' benefits under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, expenses associated with the implementation of the Capitol Police Employee Assistance Program, including but not limited to professional referrals, and expenses associated with the awards program not to exceed $2,000, expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $2,029,000, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1992 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,603,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred and twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $292,000, to be disbursed by the Secretary of the Senate.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One Hundred Second Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including official representation and reception expenses (not to exceed $3,500 from the Trust Fund) to be expended on the certification of the Director of the Office of Technology Assessment, expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, and 42 U.S.C. 1395w-1, $21,025,000: *Provided*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study **[**, except that funds shall be available, and reimbursement may be accepted, for salaries or expenses of the Office of Technology Assessment in connection with facilitating completion of the work required by section 400DD(e)(1), and the report required by section 400DD(g)(2), of the Energy Policy and Conservation Act.**]**

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,300 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, **[$22,372,000]** *$22,789,000*: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $7,858,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $50,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, **[$21,990,000]** *$23,427,000*, of which **[$3,405,000]** *$4,905,000* shall remain available until expended: *Provided*, That of the funds to remain available until expended, $2,000,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, **[$4,150,000]** *$5,029,000*.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $40,000,000, of which $10,149,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $33,403,000, of which $4,780,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Judiciary Office Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $30,800,000: *Provided*, That not to exceed $3,200,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1992.

ADMINISTRATIVE PROVISIONS

SEC. 104. (a) Section 108(b)(1) of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b-3b(b)(1)) is amended—

(1) in subparagraph (A), by striking "the rate payable" through the semicolon and inserting "90 percent of the maximum rate allowable for the Senior Executive Service;";

(2) in subparagraph (B), by striking "the rate payable" through the period and inserting "85 percent of the maximum rate allowable for the Senior Executive Service."; and

(3) by adding at the end, as a flush left sentence, the following:

"For purposes of the preceding sentence, 'the maximum rate allowable for the Senior Executive Service' means the highest rate of basic pay that may be set for the Senior Executive Service under section 5382(b) of title 5, United States Code.".

(b) Section 108 of the Legislative Branch Appropriations Act, 1991 (40 U.S.C. 166b-3b) is amended by adding at the end the following:

"(c) Effective beginning with any pay period beginning on or after the date of enactment of the Legislative Branch Appropriations Act, 1992, the rate of basic pay for up to 8 positions under the jurisdiction of the Architect of the Capitol may be fixed at such rate as the Architect considers appropriate for each, not to exceed 135 percent of the minimum rate payable for grade GS-15 of the General Schedule.".

SEC. 105. The Legislative Branch Appropriations Act, 1989 is amended in the matter under "House Office Buildings", under the paragraph headed "Architect of the Capitol" (40 U.S.C. 175 note)—

(1) by striking "5 U.S.C. 5307(a)(1)(B)" and inserting "section 5306(a)(1)(B) of title 5, United States Code,"; and

(2) by striking "policy." and inserting "policy, and subject to any increase which may be allowed by the Committee on House Administration based on performance exceeding an acceptable level of competence over a 52-week period (except that no such performance-based increase shall affect the waiting period or effective date of any longevity step-increase or increase under such section 5306(a)(1)(B)).".

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, **[$55,725,000]** *$56,000,000*: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, **[$89,941,000]** *$89,341,000*: *Provided*, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1992".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,862,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, [$201,494,000] *$197,582,000*, of which not more than $7,300,000 shall be derived from collections credited to this appropriation during fiscal year 1992 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,300,000: *Provided further*, That of the total amount appropriated, $7,636,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: [*Provided further*, That, of the total amount appropriated, $4,870,000 is to remain available until expended for the deacidification program] *Provided further, That, notwithstanding the provisions of 2 U.S.C. 150, as amended, $622,000 is to be available to support the catalog cards service.*

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $25,823,000, of which not more than $14,000,000 shall be derived from collections credited to this appropriation during fiscal year 1992 under 17 U.S.C. 708(c), and not more than $1,979,000 shall be derived from collections during fiscal year 1992 under 17 U.S.C. 111(d)(3), 116(c)(1), and 119(b)(2): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $15,979,000: *Provided further*, That $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $41,179,000, of which $9,417,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $3,235,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $175,690, of which $54,800 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 205. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $10,187,000, of which $2,000,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $865,000, of which $735,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $26,327,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $117,000.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,000 workyears: *Provided further*, That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15, nor to any employee involved in the in-house production of printing and binding: *Provided further*, That expenses for attendance at meetings shall not exceed $95,000: *Provided further*, That the revolving fund shall be available for expenses not to exceed $100,000 for a special study of GPO's personnel and compensation systems.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); [$440,879,000] *$434,379,000*: *Provided*, That not more than $6,213,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1992: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That, notwithstanding any other provision of law, $1,800,000 of this appropriation shall be available for the planning, administering, receiving, sponsoring and such other expenses as the Comptroller General deems necessary to represent the United States as host of the 1992 triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI): *Provided further*, That the General Accounting Office is authorized to solicit and accept contributions to be held in trust, which shall be available without fiscal year limitation, not to exceed $20,000, for any purpose related to the 1992 triennial Congress.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. Section 3216(e)(2) of title 39, United States Code, is amended by striking "subsection (1) of this section" each place it appears and inserting "paragraph (1) of this subsection".

SEC. 307. Notwithstanding any other provision of law, and subject to approval by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, and subject to enactment of authorizing legislation, amounts may be transferred from the appropriation "Library of Congress, Salaries and expenses" to the appropriation "Architect of the Capitol, Library buildings and grounds, Structural and mechanical care" for the purpose of rental, lease, or other agreement, of temporary storage and warehouse space for use by the Library of Congress during fiscal year 1992, and to incur incidental expenses in connection with such use.

SEC. 308. Section 311(d)(2)(A) of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a-2a), as amended by section 308 of the Legislative Branch Appropriations Act, 1991 (Public Law 101-520; 104 Stat. 2277), [is] *and section 315(a) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 60a-1b(a)) are each* amended by striking "5305" and inserting "5303".

[SEC. 309. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101-576.]

SEC. 309. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 310. Section 316 of Public Law 101-302 is amended—

(1) in the first sentence of subsection (a) by—

(A) striking "1991" and inserting "1992".

SEC. 311. (a) The provisions of this section shall apply to any individual who is employed by the Senate day care center (known as the "Senate Employee Child Care Center" and hereafter in this section referred to as the "Center") established pursuant to Senate Resolution 269, Ninety-eighth Congress, and section 3 of the Act entitled "An Act to authorize appropriations for the American Folklife Center for fiscal years 1985 and 1986, and for other purposes", approved August 21, 1984 (40 U.S.C. 214b; Public Law 98-392; 98 Stat. 1362).

(b) Any individual described under subsection (a) who is employed by the Center on or after the date of the enactment of this Act shall be deemed an employee under section 8901(1) of title 5, United States Code, for purposes of health insurance coverage under chapter 89 of such title. An individual described under subsection (a) who is an employee of the Center on the date of the enactment of this Act may elect coverage under this subsection during the 31 day period beginning on the date of the enactment of this Act, and during such periods as determined by the Office of Personnel Management for employees of the Center employed after such date.

(c) The Center shall make such deductions and withholdings from the pay of an individual described under subsection (a) who is an employee of the Center in accordance with subsection (d) of this section.

(d) The Center shall—

(1) maintain records on all employees covered under this section in such manner as the Secretary of the Senate may require for administrative purposes; and

(2) after consultation with the Secretary of the Senate—

(A) make deductions from the pay of employees of amounts determined in accordance with section 8906 of title 5, United States Code; and

(B) transmit such deductions to the Secretary of the Senate for deposit and remittance to the Office of Personnel Management.

(e) Government contributions for individuals receiving benefits under this section, as computed under section 8906 of title 5, United States Code, shall be made by the Secretary of the Senate from the appropriations account, within the contingent fund of the Senate, "miscellaneous items".

(f) The Office of Personnel Management may prescribe regulations to carry out the provisions of this section.

SEC. 312. Technical Corrections to Ethics in Government Act of 1978. The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 103(i) by striking "7-day" and inserting "30-day"; and

(2) in section 105(b)(1) by—

(A) striking "Each agency" and inserting "Except as provided in the second sentence of this subsection, each agency"; and

(B) inserting after the first sentence the following: "With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g)."

This Act may be cited as the "Legislative Branch Appropriations Act, 1992".

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I am pleased to bring H.R. 2506, the legislative branch appropriations bill for the next fiscal year, before the Senate. The committee is recommending a total of $2,309,582,400 in new discretionary budget authority for the agencies and activities funded in this legislation. This is, according to Congressional Budget Office scorekeeping, almost precisely equal to the legislative subcommittee's 602(b) allocation.

The aggregate increase over the enacted level for fiscal 1991 is $93.3 million, which is a little over 4 percent. The total recommended is $329 million less than the amounts requested in the President's budget, a reduction of 12.5 percent from the budgets proposed for the Congress and related agencies. I repeat, this is a reduction of 12.5 percent from the budgets proposed for the Congress and related agencies.

Mr. President, moreover, this $329 million decrease represents 78 percent of the increases requested. Let me underscore that point again. The committee is recommending that almost 80 percent of the increases requested by the agencies in this bill be denied or be deferred.

Most of the remaining growth over fiscal year 1991 is necessary to meet essential current service requirements such as mandatory pay and price level costs. Even here, though, we were not able to provide all of the resources that would be needed just to keep programs at the same level.

This is not surprising. This subcommittee's 602(b) allocation is, when certain scorekeeping adjustments are considered, less than the Congressional Budget Office baseline by almost $15 million.

Under the summit agreement, which we all have been asked to live under and which we are going to live under, the higher cost of compensation due to the new Federal Employees Retirement System and other elements is explicitly recognized. Personnel costs are growing at a rate significantly higher than general inflation.

The agencies in this bill are personnel intensive. They call for a lot of manpower. The work they do requires trained and capable people. An overall increase of a little more than 4 percent makes it very difficult to maintain existing staffing levels, let alone add positions for new initiatives or growing workload needs.

Organizations like the Office of Technology Assessment, the General Accounting Office, and the Congressional Budget Office do not have much flexibility in absorbing increases in mandatory pay or other uncontrollable costs. They can defer nonessential maintenance, equipment, and supplies. But that is about it. This is typically only a small percentage of their total budget.

Across the legislative branch as a whole, organizations typically are spending about 70 percent of their budgets on the personnel to which I refer. Most of the remainder, from roughly one-fifth to a one-quarter of the total budget, is going for modernization of computer and information systems. All other supplies, equipment, and nonpersonal items make up about 6 percent of legislative branch spending. So a funding shortfall will almost inevitably mean a loss of staffing and a loss of capacity.

In short, Mr. President, this is a very lean bill. Some will even say it is too tough, too lean. It will force some hard tradeoffs in the management of legislative branch agencies.

By and large, the only increases we are providing for the agencies in the legislative branch cover a portion of their mandatory personnel costs, inflation, and a few selected workload-related requirements.

The report accompanying the bill provides a fairly detailed explanation of its contents. Let me just briefly touch on some of the highlights.

First, let us talk about not only the legislative branch of Government but the Congress and specifically the Senate.

The total recommended for the Senate in fiscal year 1992 is $470.7 million. This represents an increase of $33.6 million over the enacted level and is a reduction of $3.1 million from the request. It is also, I might add, Mr. President, about $2 million below baseline. So it is a reduction in real levels of program activity from the current year as well.

Within this amount, the committee has provided funding of $2 million to support closed captioning of Senate floor proceedings. This is something that Senators in this Chamber have worked on for many, many years. There are Senators, with a direct personal interest in this initiative. One Senator in particular has a brother who is hearing impaired. That Senator has worked very hard to get closed captioning established. This is representative of the great need that we have in this body to assure that people, all people, can determine what is occurring. This service, which will be provided directly by the Office of the Secretary, should be in place before the end of this session.

We are also continuing projects to modernize Senate systems for data communication and correspondence management and preparing for the movement of the computer center and other support functions to space in the Postal Square Building.

Mr. President, the Presiding Officer comes from a rapidly growing State—on a percentage basis, not growing as rapidly as my State, but the growth is phenomenal. I get hundreds, hundreds of letters each day. I cannot imagine how many letters a Senator from a State like Florida, California, New York, or Texas gets. So we have a responsibility for the entire Senate, whether you are from a State with small population, Alaska, or a State with the largest population, California, to make sure that people who make inquiries to the Senate offices can get some response in a reasonable period of time. We are trying to do that with limited resources.

Mr. President, I would like to talk about related agencies of the Federal legislative branch. As I have said in the past, this is not just an appropriations bill for Congress. It funds organizations that not only provide direct support to the legislative process, but also produce services and products that have important benefits to all our citizens. The organizations funded in this legislation, leaving aside the Congress itself, have very significant functions and responsibilities in their own right. The record ought to be very clear on that point.

LIBRARY OF CONGRESS

Let us talk about the Library of Congress. We are recommending a total of $300,540,000, along with authority to spend a little over $23 million in receipts from copyright registrations and sales of cataloging data for the Library of Congress.

The Library of Congress is the world's premier library. That is without equivocation, without anyone being able to dispute that fact. The Library of Congress is the world's premier library. Its collections comprise the most extensive and comprehensive bodies of knowledge accumulated anywhere in this globe. It is truly a gem beyond compare.

The Library comprises the standard library functions, such as reference activities for the Congress and the public, and cataloging of library materials.

Mr. President, it would be a serious dereliction of our duty not to provide the resources necessary to maintain this Library's preeminence.

Last year we supplied the funds required to fill 218 vacant positions at the Library. A great majority of these 178, to be exact, are dedicated to reducing the current backlog in the cataloging of newly acquired materials. The bill we are recommending will continue support for that effort, which we are told in the hearings that we have held is the Library's highest single priority.

The ranking minority member of this full committee is a person that believes very much in the mission of the Library of Congress. Senator HATFIELD, senior Senator from the State of Oregon, has spent tireless hours trying to make sure that the Library is able to fulfill its function. And he and I have worked to try to do something about the backlog that this Library has accumulated over the years. Stacks of books, stacks of documents, maps, recordings, all kinds of things that the Library accepts simply have not been able to be cataloged and taken care of.

These documents, these books, were simply going into disrepair. They were being wasted. So we have worked hard to try to make sure that, if there is no other function fulfilled in these times of limited resources, we do something about the backlog. I think we have done a reasonable job in helping the Library meet those requirements.

In addition to the 178 that I talked about, the committee has also been able to find the money necessary to fill another 48 vacant positions in fiscal year 1992 to meet urgent program needs.

Ten of these are for the deacidification project, which despite a lengthy and somewhat checkered history, is critical to the preservation of the books and other printed materials central to our civilization. I am not gong to go into a lot of detail about why this is necessary. But in short, books were printed on paper, and if we do not do something with them the paper just evaporates, decomposes over a period of time. The books, the pages in the books, fall apart. This project to prevent this from taking place is ongoing. It is very important.

The Library also includes the Copyright Office, which is the central register for this country's creative works. It processes—and this figure is mind boggling—each year 600,000 claims.

The National Library Service for the Blind and the Physically Handicapped circulates 20 million talking books and books in Braille to more than 712,000 readers through the regional libraries in all 50 States and the territories.

A lot of times when you talk about these appropriations bills, it is as if they do not relate to real people, as if we are just picking numbers out of the air. And they are agencies of Government; they are very impersonal.

Mr. President, the Library of Congress deals with real people. I have just described a group of 712,000 people who cannot see, cannot see well enough to read, and because of the work done in the Library of Congress, these people can obtain talking books and other materials so that they can be part of the reading world.

I can remember before I came to Washington when a close personal friend of my mother unexpectedly went blind. She could see nothing. She had no premonition, no prior medical experiences that would indicate that she would lose her sight. But in a matter of 2 days she could see the mountains and the next day she could not see a page to read.

Well, I went to the county library. As a result of what is available through the Library of Congress, she was able to get talking books. We took them to her. We exposed her to a new world that she had been shut out from for over a year.

So what we are talking about here, Mr. President, are problems that real people have. And this great resource that we have, this Library of Congress, helps people deal with it, helps real people be able to do better than they could if it were not for the Library of Congress.

The Library of Congress is an institution, as I have indicated, Mr. President, that really does not have a peer any place in the world. I have said that three times here tonight in different ways, but that is true: The Library of Congress has no peer.

Its collections number 100 million items and form the knowledge base of this country. This library is the mother library for all libraries in our country. The Library has books and other library materials from all over the world in 400 languages. These foreign collections are invaluable to our Government and to our scholars.

As an example, during the Perisan Gulf war, the Middle East collections were heavily used, and the legal materials from this area were indispensable to the Congress and to the executive branch of Government in executing our constitutional responsibilities. Kuwait's central library was destroyed. Its resources are being replenished from the Library of Congress collections, which exceed those available in other Mideast countries.

So Kuwait is not going to Saudi Arabia, Iraq, Syria, or Egypt. They are coming here to replenish their library.

The Library's manuscript collections chronicle this Nation's history. Included in our Library of Congress are the papers of 23 Presidents, the papers of over 35 Justices of our Supreme Court, literary collections, including the papers of Walt Whitman, and the records of major civil rights organizations in this country, to name only a few.

I might add, Mr. President, one of the important projects that the Library has is to do something about the collective works of the NAACP. We have those. But they need to be cataloged, to put in some semblance of order. Quite frankly, they are not now. But, with the resources we are providing, the Library will get that job done. This, of course, is only a small speck of the work that will be done with those 200 positions. But that is an example.

The music manuscripts of the Library of Congress include Gershwin, Irving Berlin, Rodgers and Hammerstein, Leonard Bernstein, and Aaron Copeland, and represent some of the best creative genius of the century.

I think all Members of this body should take a tour of the Library of Congress. Quite frankly, not many of us have. Some of the most enjoyable hours that I have ever spent have been in the Library of Congress. One need only look across the street to see that beautiful architectural structure built by the Corps of Engineers before the turn of the century. It is beautiful on the outside and on the inside. I have been there, and I have actually held in my hands works of Mozart in his own handwriting.

What we are trying to do with the Library is hang onto what we have. As an example, we have a collection of nearly 3 million maps, 3 million maps and atlases. If you laid them out, they would cover 4 acres. It is the finest map collection library in the entire world.

It takes funds to organize and preserve these priceless treasures. We have an obligation to ensure that this heritage will be available to generations to come. Our predecessors in Congress have left us a legacy unequaled by any other nation.

The Library is not only a collection of priceless treasures, it is also an active national library that reaches out to this Nation. It catalogs books and periodicals for our Nation's libraries, over 200,000 titles each year. It saves libraries in our States at least $370 million in cataloging costs each year. Our libraries at home would have two choices: Not have the books, or pay for them themselves. If they paid, it would be an extra $370 million.

I have talked about the service to the physically handicapped, the 21 million books and magazines per year which are circulated. This is a tremendous asset to our country.

The Library is a symbol of this Nation's respect for learning. Recently, we opened the grandly restored main reading room. It is so beautiful that it is difficult to describe what they left for us. President John Adams, in his "Notes for a Dissertation on the Canon and Federal Law" wrote: "Let us * * * cherish, therefore, the means of knowledge."

So I think that we can do no better than to try and live up to the words of John Adams—we should "cherish the means of knowledge." And this is a real admonition for us, as we discuss funding for the legislative branch of government and, in particular, our Library of Congress, which is the people's library.

Mr. President, the value of the Congressional Research Service, which is part of our Library of Congress, is well-known to this body. The Congressional Research Service provides the quick response analysis, and information which is absolutely indispensable in the legislative process. It also provides invaluable analysis across the entire spectrum of policy and programs and is an important source of assistance in responding to requests and inquiries from our constituents.

GENERAL ACCOUNTING OFFICE

The General Accounting Office has been recommended to receive $434.4 million for next fiscal year, plus authority for $6.2 million in offsetting collections. This, Mr. President, is an increase of $15 million over enacted levels, but it is below the fiscal year 1992 baseline by about $3 million. None of the additional 100 positions requested is approved in our budget. In fact, GAO will be required to absorb about one-third of their uncontrollable pay costs and all other price level changes. The recommended funding for the General Accounting Office will require GAO to evaluate its use of field resources as well as its overall management of congressional details and congressionally requested work to operate effectively.

Mr. President, I have appreciated the support, advice, and counsel from the ranking minority member on this subcommittee. We know that there are people in this body who are dissatisfied, as are Members in the body across the Capitol, with the services of the General Accounting Office. We have tried, through report language in our bill, to direct the attention of the General Accounting Office to some underlying dissatisfaction with their operation. And we have asked them to evaluate its use of field resources as well as its overall management of congressional detailees and congressionally requested work to operate effectively.

The GAO can only be the watchdog of Congress—as I think it is, but recognizing that there are some people who disagree—if it is a watchdog of all Members of Congress—of the Democratic Members of Congress and the Republican Members of Congress. We want the General Accounting Office to be nonpartisan in its approach. We not only want the General Accounting Office to be nonpartisan in its approach; we want it to be nonpartisan in how it appears to approach things. We do not even want the appearance of favoritism. So even though there are members in this committee who feel they have accomplished that, some do not believe that.

Senator GORTON and I do not want to fight here on the floor. We want the General Accounting Office to take care of this perception that some people have. It is up to them to do that. If not, we will be back here next year, and there will be a battle on the floor about the General Accounting Office.

The report includes language directing a number of steps intended, Mr. President, to assure better targeting of GAO's resources in the stringent fiscal environment. Our expectation is that the General Accounting Office will respond promptly to those directives. The agency's substantive work is extremely valuable, and its functions as an independent and impartial auditing and investigative unit are of critical importance. The GAO works very hard.

During the past year, the General Accounting Office completed work on over 1,400 congressional assignments—that is a lot of assignments—and testified over 300 times at the request of Congress on various issues. One of the agency's chief priorities has been to seek ways of improving the cost effectiveness of Federal programs by targeting audits and evaluations in these areas where potentially large dollar savings can be realized, and where the risk for management and fraud and abuse are very high. The Comptroller General has reported that, as a result of GAO's work, over $15 billion in measurable financial benefits have been realized in fiscal year 1990 alone.

The agency made significant contributions to congressional deliberations on difficult issues surrounding the savings and loan crisis and the new banking proposals. It also assisted Congress with the reports for addressing the need for improved Federal financial management, internal controls, and accounting systems. It has also addressed issues critical to decisions on revenue bills, issues relating to improved health care, and containing health care costs. GAO has issued report on the restructuring of the U.S. armed services, arms control, the changing of the U.S. role in NATO, future economic relations with Eastern Europe, and the effects of international economics sanctions on Iraq, and much, more more.

Mr. President, I want to spend a little bit of time talking about the Office of Technology Assessment. The recommended bill, the bill now before the Senate, contains $21.025 million for Office of Technology Assessment activities in fiscal year 1991. This will maintain the same level of core staffing, but provides none of the additional positions requested.

The Senate has to understand what a lean, bare budget this is. The Government Accounting Office gets no additional staff; the Office of Technology Assessment gets no additional staff.

OTA is a valuable source of assistance and advice to both Houses in grappling with the complicated and often ambiguous scientific and technical issues inherent in many of the policy questions the Congress must resolve.

OTA's governing body—the Congressional Technology Assessment Board—comprises Members of both Houses and sets the framework within which the agency operates. The current Board includes Senators STEVENS, KENNEDY, HOLLINGS, PELL, HATCH, and GRASSLEY.

CONGRESSIONAL BUDGET OFFICE

The bill includes $22,789,000 for the Congressional Budget Office.

CBO is best known for its budget related functions. It gives the Congress an independent and nonpartisan source for budgetary and economic analysis. It is an invaluable antidote to politicized data from OMB.

But CBO also presents the Congress with options and alternatives in a wide range of subject areas beyond the budget per se. CBO's annual analysis of the President's budget and its semiannual updates of the budget and economic outlook are of particular value to the overall work of this committee. But CBO studies help to inform policymaking in almost every domain, from defense and national security to agriculture and human resources.

Once again, this past year, the Congressional Budget Office played a pivotal role in support of congressional budget action, in particular supporting last year's budget summit. It simply could not be done without them.

From the time in May when the President and congressional leaders agreed to negotiations, through the arduous sessions at Andrews Air Force Base, to the breakthrough agreement, CBO devoted thousands of manhours to providing summit negotiators with timely and essential information: Providing an array of alternative economic scenarios as well as innumerable cost estimates of an incredibly wide variety of legislative initiatives, information without which the Congress would have been totally unarmed in these very tough negotiations.

In addition to its support of the budget summit, CBO made, and continues to make, a very substantial contribution to the issue of Federal deposit institutions. CBO was the first agency to come forward with realistic figures on the cost of the S&L bailout, helping to demonstrate that the administration's estimates were just too unrealistic. Recently, as mandated by last year's budget agreement, CBO produced a seminal report on another area of financial concern to the Government; Government-sponsored enterprises. And just yesterday, the Director of CBO, Dr. Robert Reischauer, testified before the Senate Budget Committee about what we on the Appropriations Committee have already come to know all too well: That under the budget agreement, by the time fiscal years 1994 and 1995 roll around, the Congress will be facing some very tough decisions about how to comply with the very stringent discretionary spending caps.

But remember, Mr. President, that is what the budget summit was all about. How else can we save over a 5-year period a half trillion dollars.

Time and time again, the Congress has turned to CBO and demanded detailed information on complex issues in short order and, time and time again, the Congressional Budget Office has responded in an effective and thoroughly professional manner and has proven itself an institution of which the Congress can be justifiably proud.

ARCHITECT OF THE CAPITOL

The bill includes $153,666,000 to support the Architect's activities for the coming fiscal year.

The first Architect of the Capitol, Dr. William Thornton, was appointed by President George Washington in 1793 after his design for the Capitol Building was selected in a national competition. His responsibilities were confined to planning and supervising the construction of the new Capitol Building.

In the intervening years, the role of the Architect has expanded to reflect the development of the physical infrastructure of the Congress and the other public institutions located near the Capitol Square. He is now responsible for the supervision of all structural and mechanical improvements, additions, alterations, and repairs to:

The Capitol Building where we now stand and all the surrounding grounds; the Senate office buildings of which there are three, plus a lot of auxiliary buildings; House office buildings of which there are three and many auxiliary buildings; Library of Congress buildings and grounds; the U.S. Supreme Court building and grounds; Senate garages which parks thousands of cars; the Robert A. Taft memorial; and the U.S. Botanic Garden.

We are not going to talk a lot of about the Botanic Garden tonight. But we are going to have to face up to the Botanic Garden next year. We have there a building that is coming apart at the seams. There are places in the Botanic Garden that tourists do not go, the public cannot go, because it is too run down. We need to replace roofs, walls, and main structural elements. A major rebuilding of the Botanic Garden must take place or we are going to have to close the whole facility. It is in very, very bad shape. That is one responsibility of the architect.

These facilities, aside from their intrinsic historical and architectural significance, constitute invaluable capital investments. Their care, maintenance, and enhancement is a public trust of the highest order.

As anyone who has had an opportunity to travel across the Atlantic knows, much of the glory of Western civilization centers in its public buildings and monuments. The ancient Greeks and Romans and their heirs on the continent saw the architecture of public places as more than just the structures necessary to the conduct of government. They were, in addition, the embodiment of the greatness of a people and an expression of its fundamental aspirations and ideals. Our forebears were steeped in that tradition that they picked up from across the Atlantic. The beauty and monumental grandeur of the Capitol complex, the Mall, and other public places in this city are essential elements of their bequest to us.

We have also included funding and directives for a number of environmental initiatives; $580,000 is provided to expand the office recycling effort. One position and $148,500 will support improvements in hazardous waste management and disposal. There is, in addition, a $1 million pilot program to determine the feasibility and appropriate scope of retrofitting the legislative branch complex with energy efficient lighting. Several Senators are active supporters of these initiatives and I am glad we have been able to include them despite the tight funding constraints we face.

CAPITOL POLICE

The bill before the Senate contains a total of $66,872,000 to finance the Capitol Police in fiscal 1992.

Mr. President, I am prejudiced because I have been a police officer. The only police force I served on was the U.S. Capitol Police. So I personally take great pride in the Capitol Police. They are the unsung heroes of the peace and stability that we enjoy with our constituents and the rest of the people who work in these buildings. They do a tremendous job, Mr. President, and they do not get enough accolades for the work that they do.

This bill will support the current authorized work force but assumes that at least 50 of the uniformed positions on the House contingent will be civilianized this year. Assuming this goal is met or exceeded, the amount recommended will permit the pay compression. This is something they have wanted for a long time.

During the past several years, Members of Congress, their staffs, and the general public have been forced to reckon with an increasingly violent environment.

I can remember when I worked here as a Capitol policeman, my responsibilities were insignificant to what the Capitol policemen now have to put up with. It has even changed in the 9 years that I have been a Member of Congress.

Security procedures have developed and become more refined, as the volume and intensity of threats to peace and good order have grown.

The additional security measures associated with the recent war in the Middle East underscore once again the importance of a well-trained, professional, and technically capable police force.

Before leaving the Capitol Police, let me just say this, Mr. President. We should all be aware that some of the most major advances achieved by the Capitol Police in its lifetime have been under the direction of Chief Kerrigan. The Chief will be in office about 1 more week, when he will leave and start his retirement.

So I would like to publicly express to him the appreciation of the U.S. Senate for the work that he has done and certainly wish him well, and also express through him to the people that work in the Capitol Police the support and appreciation that the Senate gives to these people who make such a contribution to the peace and safety of this facility.

As I indicated a minute ago, this bill will impose some tough choices on all the agencies of the legislative branch. That situation is unlikely to change over the next several years. We underscore this reality in our report accompanying this bill. Let me just reemphasize that language here by quoting from it:

> It is obvious that any new initiatives, program enhancements or workload requirements will increasingly have to be financed by reallocating resources from programs and activities of lower priority. Changes in requirements can no longer be treated simply as automatic additions to the budget base. The agencies funded in this bill should begin now to build this fiscal reality into their programmatic and budgetary planning.

I know, Mr. President, that many of our agencies are disappointed with the funding that we are recommending. It is true that most of them did not receive everything that they have wanted and believe they need. In fact, as I pointed out earlier, we turned down 4 out of every 5 requests for increases. We, like every other subcommittee, are short of resources, but we have done the best we can do to meet essential requirements.

So, Mr. President, I urge the top managers in our legislative branch agencies to look around at their neighbors before complaining too much about the funding they receive under this bill.

Before I yield the floor, I again want to publicly express my appreciation to Senator GORTON, the ranking member, for his assistance in the development of this legislation. It really was a pleasure to work with him and his staff. Arriving at the point where we have with this bill was not easy, but we made it. I appreciate very much the Senator from Washington using his wisdom and experience to assist the chairman of the subcommittee in coming up with a bill that we feel is a good one.

I also want to thank Senator BYRD and the full committee staff for their help in bringing this measure to this point in the process. Anyone acquainted with this body knows that Senator BYRD is a man of the Senate. His dedication to the welfare to the people's branch of Government is unexcelled.

We are also fortunate to have Senator HATFIELD as the ranking member of the full committee. Everyone in this Chamber knows how much time and effort he has devoted to improving the Senate and strengthening the legislative branch in general. Until this year in fact he was a member of this subcommittee, despite the availability of more advantageous assignments, and he still maintains an active interest, as I indicated, with the library and dedication to our work.

Mr. President, I yield the floor.

(Mr. AKAKA assumed the chair.)

Mr. GORTON. Mr. President, Chairman REID and I have spent a great deal of time attempting to balance the many competing demands on the Legislative Branch Subcommittee against limited financial resources. During the hearing process, we reviewed requests for increases—some as high as 56 percent from every entity within our jurisdiction and have denied all but inflationary and essential program increases. The fiscal 1992 bill is only 4 percent over the current year enacted level and totals $2.3 billion in budget authority, $484,500 below the 602(b) allocation, and $2.3 billion in outlays, $9.3 million below the allocation. The bill total is $328.9 million below the President's budget request. Senators should understand that the President, under longstanding custom, makes no independent judgment of the budget presentations of the legislative branch. Each agency within our jurisdiction prepares its own budget and transmits it to OMB for inclusion in the President's Budget submission.

Most of the agencies that we fund are essential to the smooth operation of Congress, so we will feel the same budgetary restraints that will be imposed on most other agencies of Government. With the current budgetary climate unlikely to change, agencies within our jurisdiction are, and will continue to be, forced to find savings within their current operating budgets in order to accommodate new work load demands and program increases. These agencies provide vital services to the Members of Congress, their staffs, our constituents and foreign visitors. Given the tremendous volume of work that is handled and the broad jurisdictions of these departments, many of the cuts we made were indeed difficult and will have a detrimental impact on their ability to deliver important services.

Certainly much of what was requested would enhance the operations of Congress but, as was the case with most subcommittees, the allocation was substantially less than the budget request. The legislative branch trimmed $320 million, or 12 percent, from the request and has produced what I believe to be a lean and fiscally responsible bill. In future years, legislative branch agencies clearly will have to become leaner and meaner if the Congress is to meet its long-term budgetary objectives.

Mr. President, the bill we have crafted provides for the essential operations of the House and Senate, the U.S. Capitol Police, the Office of Technology Assessment, the Congressional Budget Office, the Architect of the Capitol, the Library of Congress and the Congressional Research Service, the Government Printing Office, the General Accounting Office, and several other important entities, all of real importance to Congress and the public. As you will recall, this subcommittee addressed concerns relating to the enhanced security of the Capitol complex and surrounding buildings as a result of the increased threat brought on by the war in the Persian Gulf. This bill encompasses the routine annual funding needs of Congress and a variety of related agencies.

The subcommittee has included detailed justifications of the individual accounts in the report accompanying the fiscal 1992 bill. I will touch briefly upon a few of those items and I must say I agree with some of the comments made by the subcommittee chairman, Senator REID, whose attention to detail has made this a fine bill.

The committee has provided a total of $470.7 million to fund the essential operations of the Senate. This amount is $3.1 million below the budget request and $33.6 million above the current year enacted level.

The total amount provides $185.8 million for salaries and expenses of Senators' personal offices, $69.3 million for officers and employees of the Senate, $34 million for official mailing costs, $7 million for inquiries and investigations, as well as necessary funding to maintain the computer support, the leadership and conference offices, legislative and legal counsels, the Sergeant at Arms and the Secretary of the Senate, and a wide variety of activities directly supporting the operations of the Senate.

The committee recommends $66.87 million to finance the operations of the Capitol Police. In addition to providing for the security of the Capitol and congressional buildings and facilities, the Capitol Police serve as extensions of our offices, providing information and assistance to thousands of people who visit Congress each year. The amount provided will allow the Police Board and authorizing committees to implement the requested pay compression and to make other changes creating greater parity with local police jurisdictions.

The bill before us contains $153.6 million for the Architect of the Capitol to provide for the care, maintenance, cleaning, and operation of the various buildings and facilities supporting the Congress, as well as the structural care and maintenance of the Supreme Court Building and grounds.

Mr. President, the bill provides $709.2 million for the operations of the House of Representatives, an increase of $61.5 million over fiscal 1991. In keeping with the longstanding tradition of comity, the Senate does not address items exclusive to the operations of the House.

In addition to providing appropriations for agencies directly supporting Congress, the Legislative Branch Subcommittee appropriates funds for a variety of agencies which have broader jurisdictions than the Congress.

The committee has provided a total of $244.5 million for the Library of Congress, an institution that serves not only the Congress, but supplies hundreds of libraries and learning institutions throughout the country with books and material and has great historic value and interest, as was recently demonstrated by the Queen of England's recent visit to the newly restored main reading room. The amount provided represents a reduction of $32.2 million from the budget request and is only $4.6 million over the fiscal 1991 enacted level.

The sum of $26.3 million is provided for salaries and expenses for the Government Printing Office. This amount does not include the amount provided under Senate funding for Congressional Printing and Binding. This appropriation provides $173,000 less than the current year and $1 million less than the budget request.

For the General Accounting Office, $434.4 million is provided. This amount represents a reduction from the request of $55.1 million. The Senate has provided $6.5 million less than the House and includes specific language relating to GAO's use of detailed employees. There is little doubt that GAO provides a needed service, but the committee feels that the agency needs to streamline its operations and strictly adhere to its original agency mission and policy objectives.

The bill recommends $21 million to maintain the operations of the Office of Technology Assessment, an agency which provides Congress with highly specialized technical and scientific information to assist in our policy making responsibilities. This amount provides only mandatory adjustments over fiscal 1991.

Mr. President, the Congressional Budget Act of 1974 established the Congressional Budget Office as a nonpartisan analytic organization that furnishes the Congress with information and analyses on issues relating to the U.S. economy, the Federal budget, and Federal programs. CBO must provide scorekeeping, 5-year cost estimates of reported bills, and 5-year projections of new budget authority, outlays and revenues to the budget, tax and appropriations committees on all matters within their jurisdictions. Additionally, CBO must report whether a sequester will be necessary to adhere to the discretionary caps, pay-as-you-go requirement for direct spending and receipts legislation, or the maximum deficit amount for a fiscal year. To carry out these essential operations, the committee is recommending $22,789,000 for fiscal 1992. This amount is $611,000 below the request and $1.6 million above the current year's level.

Mr. President, I want to return the compliments paid to me by the chairman. Chairman REID and his staff have cooperated magnificently in putting this bill together.

It has been a pleasure working with them throughout the hearing process and I look forward to working together to resolve any questions that may arise during the consideration of this bill. I know that Chairman BYRD and Senator HATFIELD share great personal interest in the Legislative Branch Subcommittee and are anxious to move this bill through the Senate, conference with the House and approval by the President.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2506, the legislative branch appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $484,000 and under its 602(b) outlay allocation by $9.3 million.

I compliment the distinguished manager of the bill, Senator REID, and the distinguished ranking member of the Legislative Branch Subcommittee, Senator GORTON, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the legislative branch appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2506

LEGISLATIVE BRANCH SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2506		
New BA and outlays	2.3	2.1
Enacted to date	0.1	0.3
Adjustment to conform mandatory programs to resolution assumptions		
Scorekeeping adjustments	0	0
Bill total	2.4	2.4
Senate 602(b) allocation	2.4	2.4
Total difference		
Discretionary:		
Domestic	2.3	2.3
Senate	2.3	2.3
Difference		
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	0	0
Senate 602(b)	0	0
Difference	0	0
Total discretionary spending	2.3	2.3
Mandatory spending	0.1	0.1
Mandatory allocation	.1	.1
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	−.3	−.3
Senate-passed bill	NA	NA
House-passed bill	NA	NA

Mr. BYRD. Mr. President, I congratulate the manager, Mr. REID, and the ranking manager, Mr. GORTON, for the superb work they have done in shepherding this legislation through the hearings, through the markup in the subcommittee, through the markup in full committee.

Now that they have brought it to the floor, I wish to commend them and their staffs for the splendid cooperation that has been demonstrated between these two Senators and other Senators on the committee on both sides of the aisle, and for the dedication which they have shown in dealing with this legislation.

Having been the chairman of the full committee now for 2½ years, I have had an opportunity to watch the other Members as they have dealt with their respective bills, and I must say that Senator REID and his counterparts have excited my admiration and appreciation.

Mr. President, I shortly will offer an amendment on behalf of myself, Mr. STEVENS, Mr. MITCHELL, and Mr. DOLE. The amendment that I will offer has three essential elements.

First, it restores equality in compensation between Members of the Senate and Members of the House.

Second, it prohibits the acceptance of honoraria by Members, officers, and employees of the Senate.

Third, it imposes the restrictions on outside earned income and employment enacted in the Ethics Reform Act of 1989, Public Law 101-194. In other words, it would limit outside earned income to no more than 15 percent of the base salary. Finally, the amendment includes rescissions which fully offset the costs of this amendment for fiscal years 1991 and 1992. Therefore it is deficit neutral and with the subcommittee's allocation.

As all of the Members of this body are well aware, the Senate is the only institution in the Federal Government—one may look to the east, to the west, to the north, to the south—nowhere else in the Federal Government will they find an agency, a department, an entity that has not received a comparability pay adjustment consequent upon the report of the 1989 Quadrennial Commission on Executive, Legislative and Judicial Salaries, within the exception of the U.S. Senate. That is it.

The Commission, it should be remembered, recommended a 50.8-percent increase in the compensation for senior positions throughout the Federal Government. This was the adjustment necessary to restore the purchasing power of senior executive, judicial and legislative salaries to the level that existed in 1969, 20 years ago.

The Commission also recommended, among other things, the enactment of legislation abolishing honoraria for all three branches and prohibiting outside earned income for activities or services that create or appear to create a conflict of interest in the performance of official duties.

President Bush endorsed the Commission's findings and incorporated its salary recommendations in his fiscal year 1990 budget.

Under the law existing at that time the Commission's pay recommendations would have gone into effect automatically unless disapproved by resolution of the Congress. Not surprisingly, a resolution disapproving the 50.8-percent increase in salaries was enacted. This set in motion a protracted process which culminated in the Ethics Reform Act of 1989.

This legislation made several changes in the Federal pay structure. First, the act, section 703, provided for a comparability adjustment of 25 percent in the salaries of Members of the House, other senior officials in the legislative branch—except for Senators, Senate officers, and senior Senate staff—and for all top-level positions in the executive and judicial branches effective January 1, 1991.

Second, it set the salaries of Members of the House and others at the rate equal to level II of the Executive Schedule, $125,100, for purposes of future pay adjustments.

Third, it restored the cost-of-living adjustments for fiscal years 1989 and 1990 for Members of the House and senior level executive, judicial and legislative officials—other than the Senate—effective February 1, 1990. These cost-of-living increases had been denied due to pay ceilings previously in force for those years.

Fourth, the act changed the method by which COLA's for Members of Congress, senior executive officials and judges and officials in the judiciary branch are determined. Since 1975, the COLA's for these positions were the same as those provided for by the General Schedule through the elaborate pay comparability process. Starting in January of this year, however, they are set equal to annual changes in the employment cost index for private sector wages and salaries, less one-half of 1 percent. Thus, the adjustment on January 1 turned out to be 3.6 percent.

In conjunction with these pay adjustments, the legislation also enacted a package of ethics reforms. The Senate was treated differently from the House, differently from the judicial branch, differently from the executive branch in certain respects. The principal differences between the Senate and the rest of the Government come down to this: The Senate chose to forego the comparability pay increase of 25 percent, took a larger COLA adjustment, and exempted itself from both the ban on honoraria and the restrictions with respect to the amount and source of permissible outside earned income.

In lieu of the outright ban on honoraria, the limitation on the amount that a Senator could retain was reduced from 40 percent of a Senator's salary to 27 percent, or approximately $27,300, in 1990. In addition, this limitation is decreased dollar for dollar for any increases in Senators' salaries until honoraria are phased out—which will be a long time.

Currently the limit on honoraria is just over $23,000.

There is presently no limitation on earned income for Senators, other than honoraria from outside sources. Taken together, these changes have produced significant discrepancies in official compensation between the Senate and the rest of the Federal Government—the whole shebang.

As of the first of this year, the salaries of Members of the House rose to $125,100 or $23,200 more than the current salaries of Senators. This is, of course, exclusive of honoraria and earned outside income for Senators. Nor is this pay differential confined to the House and Senate, as I have already indicated. Every other agency and entity in the Federal Government can and does pay its senior personnel at substantially higher levels than does the Senate. The entire executive branch, the judiciary, even the legislative branch agencies such as the Library of Congress, the General Accounting Office, the Government Printing Office, the Congressional Budget Office, the Office of Technology Assessment and the Architect of the Capitol, all of these—all of these—now have pay structures that provide compensation at much higher levels than Senators now receive.

A Senator's salary, as I have indicated, is $23,200 less than the salary of a Member of the House of Representatives.

As a matter of fact, I saw in Roll Call magazine just within the last 2 weeks, a headline that said 81 staff members in the House receive more pay, higher salaries than do Senators.

In reality—I should say again that a Member of the House receives in yearly salary $125,100—but in reality, a Member of the Senate can pocket $124,968, almost as much as a Member of the House receives in compensation. That fact is true right now before any legislation changing the rate of pay for service in the United States Senate is adopted.

The extra $23,068 that Senators may earn receives the close scrutiny of few Americans. It is called honoraria.

Actually, there is no limit on the amount of outside honoraria or fees for appearances that a Member of the Senate can earn, but he or she can keep for personal use an amount equivalent to 22.63 percent of the current $101,900 Senate salary, or $23,068. Members are required to report the amount and source of all honoraria in public reports each year. So it is legal.

I have accepted honoraria. Almost every other Senator, I suppose, has accepted honoraria. It is legal. We have to report it. But not everything that is legal is necessarily honorable.

In effect, every Member of this body can continue to collect nearly a 23-percent pay raise every year. But that pay raise is not paid to the Senator by the people who elected him to serve. It does not come from the Federal Treasury. That extra $23,068 comes through the back door, through the special interests, into a Member's pocket.

It works like this: an outside special interest group can pay a fee of up to $2,000 per appearance for a Member to make a speech or just to have a cup of coffee and perhaps answer a question or two. These are usually not Members' constituents. I would never expect my constituents to give me an honoraria, and I would assume that most other Senators feel the same way. These special interest groups are most often groups that are based in Washington and they have a vested interest in legislation that will come before the Senate in a given year.

There is nothing honorable about honoraria. It is simply a way for special interests to gain access to Senators and, in doing so, the special interests hope—hope—to influence Senators.

The perception that Members are beholden to the special interests is reinforced by the system.

Chasing honoraria takes time away from the people who send us here to represent them. It takes time from the reflection, study, and debate that Senators ought to engage in.

The perception of conflicts of interest when Members of the Senate accept honoraria is disturbing. When members of the committees, say, dealing with agriculture receive honoraria from tobacco interests, when Banking Committee members get honoraria checks from the banking industry, and America's military contractors spread honoraria money among members of the Armed Services and Appropriations Committees, this is the appearance that special interests are buying legislative attention and currying favor with key Members of the Senate.

The Senator who receives the honoraria may, indeed, not be influenced thereby, but the perception is to the contrary and the damage is done, and it is done to the institution.

The belief that honoraria represent money well spent by the special interests is evident by the fact that honoraria receipts continue to break annual records. In 1989, 71 U.S. Senators, including myself, kept a total of $2 million in honoraria for personal use. The Senate is the only place in the Federal Government where honoraria for personal use have not been banned. Everywhere else we say "Do not touch it, no honoraria." But as a Member with a special interest in, and love for, this institution, I am increasingly concerned by the perception that this great body is seen by the public at large to have lower ethical standards than does the House of Representatives or the executive branch or the judiciary.

It is past time for this body to end the unsavory practice of allowing honoraria for personal use. I have joined with other Senators on two previous occasions in offering legislation to ban honoraria. The amendment that I have offered on this bill in behalf of Mr. STEVENS, the majority leader, and Republican leader would correct this wrong.

Our amendment to the campaign finance reform bill in 1990 and to the same bill in 1991 passed by strong majorities. Unfortunately, that legislation has yet to become law, and it probably will not become law. But here is a horse that will go to the President's desk. It is a horse that can ably carry this rider to the President's desk and get it there in due time.

And so today I have risen again to try to do what is in the best interests of this institution and in the best interests of good Government: Namely, end the back-door salary supplement for Senators, and secure legislation to equalize Senate salaries with the amount provided to the other House of the U.S. Congress.

There should not be a double pay standard for service in the Congress of the United States. Every Senator ought to feel that the work he does is as valuable to the constituents of his entire State as is the work that is done by each Representative who represents a district in that same State. I think it is demeaning to the Senate to be a second-class body. Any Senator ought to be willing to stand up and say, "I am a Senator. I was elected to make tough decisions."

This is a tough decision. Now is the time not to run from a tough decision. Why should Members of the other body receive higher salaries than Members of this body? Why should members of the executive branch receive higher salaries than Members of this body? And the same can be said about the judiciary.

There should not be a double pay standard for service in the Congress. There are far-reaching ramifications to such an arrangement that, if not changed, will result in the slow erosion of the quality of the men and the women who offer their talents for service in the Senate. We must not perpetuate an arrangement which effectively shuts people out of serving in the Senate.

To continue down this road means there will not be any welders that come out of the shipyards in Baltimore and stand in this place. There will not be any more meatcutters that come out of the coal fields of southern West Virginia or Indiana or Illinois or Kentucky or Alabama to stand in this place. There will not be any garbage boys that come out of the hills of West Virginia, or produce salesmen, or even small, very small, small business operators that will come here to give of their talents. They too have talents that can be useful to the Senate and to the country.

Do only the wealthy have talent? I wish I were wealthy. I do not envy the wealthy. I want only what is due me. But I feel that when it comes to this Senate floor, the poor boy or the poor woman may serve as well, may serve as industriously, as dedicatedly, as devotedly, as efficiently, as skillfully, as can the scion of the wealthiest sire in this country.

That is what I am fighting for here tonight. It is easy to demagog. This is a great issue to demagog—easy. This is not to say that there may not be some Members who sincerely feel we should not equalize the pay of Senators with the pay of the House. But I want to see the two bodies on an equal basis. That was the way it was intended.

President Reagan stated it well in a January 6, 1989, letter to me concerning the recommendations of the Commission on Executive, Legislative, and Judicial Salaries. I quote from his letter:

> Fair compensation for those who bear the responsibility for effective functioning of our Government is critical at this juncture of history. The American people expect excellence at the top levels of Government, and they deserve to get it. But our Founding Fathers also envisioned a citizen Government whose members are drawn from all parts of our society.

That means that the son of a coal miner in West Virginia. That means that the farm boy out there working on the plains in the frosty mornings and late at night should be encouraged, as well as the rich man's son, to aspire to a Senate seat.

> We must not allow Federal service to become the province only of the wealth.

President Reagan said:

> We must ensure that the door to service remains open to Americans who must work to support their families, educate their children, and save for their retirement.
>
> As it now stands, Government service for any significant length of time presents a financial burden that fewer and fewer of those who are most highly qualified can afford to accept.

That is the end of the quotation from President Reagan's letter to me.

Mr. President, the double standard created by Members of this body, when in 1989 the Senate voted to retain back-door honoraria payments and reject the recommendations of the Quadrennial Commission, delivered a double whammy in terms of attracting the kind of talent necessary for service in this body. Already, the staggering costs of running for a U.S. Senate seat discourage talented men and women of modest means from even attempting a race.

In the 1990 cycle, the average cost of running for the Senate was around $4 million. Think of facing that mountainous cost. Then add to that the fact that Senators make $23,200 less than Members of the House, and it becomes apparent that there are more appealing challenges anywhere in the Federal Government other than running for a seat in the United States Senate.

There is another double standard we have created in this body which is even more absurd than the one we have created with the House of Representatives. We have set up a situation of inequality and pay even among Senators. Thirty-four Senators have adopted a policy of not accepting honoraria. That means that they are paid less than Members of the Senate who take honoraria.

Additionally, Senators who do take honoraria—and I have been one of them—and who serve on certain committees, receive more offers of honoraria than do those Senators who serve on committees less interesting to the special interests.

So, in effect, we have set up a several-tiered system of salaries for United States Senators: One tier for Senators who are able to earn the maximum honoraria and who do so; one tier for Senators who cannot earn quite as much honoraria but who do take some; and the last tier for Senators who do not engage in the practice at all.

The situation makes absolutely no sense, and it is crying out to be rectified. What needs to be done is for Senators to wean themselves from the odious practice of taking honoraria and start to draw the same pay as a Member of the House—but from the same source, the people who send us here.

Members of both Houses ought to draw it all from the same source. To the people who elect the Members of both Houses, and to those so-called good-government advocates who will certainly oppose this effort to put the Senate at parity with the House, I say how does it enhance good government to make service in the Senate the luxury which only the wealthy can afford? How does it make for good government to retain a system which tends to sanction back-door salary supplements through honoraria?

Most Americans are inclined to say no to a pay raise for Members of Congress. They have said it for 202 years, and they will say it for the next 202 years. Yet, this is the most important board of directors of any business in the world—right here, the Senate and the House of Representatives. And there is not a single facet in the lives of all Americans that is not directly or indirectly affected by the decisions that are made here in this body, in war and in peace.

In times of prosperity, and in times of depression, the decisions that are made here affect the veterans, the old people, the young people, the environment, energy, parks, U.S. forests—you name it. Each Member here makes decisions every day that impact on the daily lives of every American, old and young, rich and poor.

The present $101,900 seems an adequate compensation. I can understand that. Most Americans would be pleased to have half that amount or less. But few jobs demand the making of extremely tough decisions on trillion-dollar budgets, national unemployment benefits, crop insurance, nuclear arms treaties, billion-dollar projects, questions of health and safety and education which have to be made by United States Senators. Few occupations entail choices which will affect every man, woman, and child living in this country. The salary increase for Senators is a sound long-term investment in better government.

Given the gravity and the dimension of the many decisions that Senators are called upon to make daily, do we not need to try to attract the best and the brightest to Senate service? And is there someone who wishes to stand and say that the best and the brightest can only come out of the homes of the wealthy? How then would Daniel Webster ever have become a Member of this body? He was not a single child in a family. There are others one can name. Yet, if Senate salaries do not even keep pace with inflation, as indeed Senate salaries generally have not, how can we attract the talent unless those individuals are also wealthy?

It is my belief that Members of the Senate should be paid the same as Members of the House, and paid by the taxpayers who send them to serve and not by the special interest lobbies in Washington.

That is my version of good government—have salaries high enough to attract the top talent which the American people deserve, prohibit outside income from special interests, and keep the top levels of government from becoming solely the province of millionaires. May God bless the millionaires. I wish I were one. I do not envy them at all. They, too, contribute. But let us also have a few poor folks in here at the same time. Let us open the doors to a few poor folks who may aspire to run for the U.S. Senate as well.

In the hands of the men and women of the Senate rests in large measure the fate of this Nation. It does not serve the Nation to pay Senators substantially less than the rest of the Federal Government. It certainly does not serve the Nation to allow Senators to subsidize those lower salaries through the back doors through special-interest payments. It does serve the Nation to elect people to the Senate who are capable and worth the pay that national public office ought to command. That thought ought to sober us all and give pause to the demagog.

Mr. President, I make a plea for equality—equality with the House of Representatives, equality with the executive branch, equality with the judiciary, and equality with those branches of the Congress that I have named already.

I know the problems of younger Senators who are sending sons and daughters to college. My wife and I have sent our two daughters to college. We have tried to help our grandchildren. I know the problems. I know the reasons why Senators feel that they need the honoraria. Let us get rid of that, but in getting rid of that, let us pay Senators the salary that is commensurate with what they can get by earning honoraria, and a salary that is equal to that of the Members of the other body. I urge my colleagues to support the amendment.

AMENDMENT NO. 770

(Purpose: To provide for an equalization in certain rates of pay, to apply the honoraria ban and the provisions of title V of the Ethics in Government Act of 1978 to Senators and officers and employees of the Senate, and for other purposes)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. STEVENS, Mr. MITCHELL, and Mr. DOLE, proposes an amendment numbered 770.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, strike out line 25 and insert in lieu thereof the following:

(b) Subsection (a) shall take effect October 1, 1991.

SEC. 6. (a) The rate of pay for the offices referred to under section 703(a)(2)(B) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note) shall be the rate of pay that would be payable for each such office if the provisions of sections 703(a)(2)(B) and 1101(a)(1)(A) of such Act (5 U.S.C. 5318 note and 5035 note) had not been enacted.

(b) The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 503(1)(B) by striking out "legislative branch officers and employees other than Senators, officers, and employees of the Senate and" and inserting in lieu thereof "Senators and legislative branch officers and employees";

(2) in section 505(1) by inserting "a Senator in," before "a Representative"; and

(3) in section 505(2) by striking out "(A)" through "(B)".

(c) Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(d) Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is repealed.

(e)(1) Of the funds appropriated under the heading "SENATE" in any appropriations Act or joint resolution making funds available to the Senate before fiscal year 1992, and which (except for the provisions of this paragraph) would remain available until expended, of the remaining balances, $3,040,000, are rescinded.

(2) In addition to funds rescinded under the preceding paragraph, of the funds appropriated under the heading "salaries, officers and employees" under the heading "SENATE" of the Legislative Branch Appropriations Act, 1991, and which (except for the provisions of this paragraph) would remain available until expended, of the remaining balances, 250,000, are rescinded effective on the date of the enactment of this Act.

(f)(1) Except for the provisions of subsection (e)(1), the provisions of this section shall take effect on the date of the enactment of this Act.

(2) The provisions of subsection (e)(1) shall take effect on October 1, 1991.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have joined the distinguished President pro tempore on this amendment. In his usual thorough fashion he has made all the points I was going to make and more. I have spoken before on the floor during this Congress concerning the necessity to equalize the pay of the Senate with the House of Representatives.

There is no question in my mind that the existence of a separate salary for the Senate is a disincentive for young people to seek to come to the Senate, particularly from the House. Almost 40 percent of our Members have come from the House in the past. I cannot believe that a young person with a family could make the decision to run for the Senate, and do so at the expense of giving up 20 percent of their salary. It is to me just a matter of simple justice that we now eliminate honoraria and equalize these salaries. I wanted to do that last year. I think that we should have done it. But in our wisdom we do things slower in the Senate.

This amendment means a great deal, I think, to the people who work for the Senate. Members of the Senate who are unwilling to pay themselves what they should be paid to be equals to the Members of the House will not, in my judgment, make the decision to pay their people who work with them in their Senate offices and their committees what they should earn also.

I believe that the same 5,000 employees of the Federal Government who are now paid in excess of the Senate demonstrate that we have found, in our wisdom, in the past that there is justification to have a higher salary than we now pay ourselves. It is not easy to pay yourself. It is not easy to vote to pay yourself. But it is, unfortunately, a job that the Constitution leaves with us.

We have tried every kind of device and commission to cloak this decision from the Senate and the Congress in the past. None of them have worked. When it comes right down to it, our Members require us to vote, and we are going to vote. It is not going to be a voice vote. It is going to be a recorded vote, for everyone to see, on the decision of whether the Members of the Senate should be paid the same as the Members of the House.

I do not think there is any reason to delay that vote by too much to be said from my part. As I said, I think the President pro tempore from West Virginia, chairman of our committee, has made the case.

This morning, at the prayer group, I listened to a former Member of the Senate talk about the euphoria of election night, and he raised the question with us how to sustain that euphoria through a 6-year term. It is difficult to do, I think, when some Members of the Senate insist that others should bear the burden of management. This is a burden of management and, in my opinion, there should not be a dissenting vote. We know what the pay of the House is, and there is no reason for a Member of the Senate to be paid less than the Member of the House. This is not the normal pay raise vote. We passed that issue last year when we allowed the Members of the House to be paid more than we were to receive. We knew we would have to face it some day, and now is the day.

I just cannot believe that the Senate of the United States should disregard the history that the distinguished Member from New York, Senator MOYNIHAN, gave us through the rollcall here about 2 or 3 weeks ago when he described the history of the Constitutional Convention, and all that led up to the current provisions in the Constitution dealing with pay. There were those who believed at that time, Mr. President, that Senators should not be paid at all. They wanted a "House of Lords."

I think that the Senator from West Virginia has pointed out that that would not work in our democracy, nor will it work for this Senate to long be paid differently from that of the House. We had a period of time, even within my service, when the House Members were paid less than we were, by a mistake. They, at the last minute, decided not to take a pay raise that had been provided, and it went into effect. They changed it within a year.

My statement to the Members of the Senate is, no matter how anyone wants to describe this vote, it is not a pay raise; it is a pay equalization concept. We have crossed that bridge before.

I do not feel exactly the same way the Senator from West Virginia does about honoraria. It comes from the Chautauqua days of the past, the long tradition that those in public life went from place to place in our country, debated, answered questions and were paid a fee. That is still the situation in the Senate, until this bill passes.

I think there could be abuses and there probably have been, but I still feel there is a role for those of us in public service to go answer those questions, to take the trips, to explain to the national associations, national conventions, to teachers groups, union groups, and all of those who want speakers, what we are doing, why we have done what we have done. These are some of the challenges you face in public life. And those types of appearances are going to be required of Members of the Senate, whether we abolish this honoraria or not. We will have to cross the bridge as to how we handle that in terms of financing those trips in the future. For right now, this is a very simply issue.

Again, I say to the Members of the Senate who vote against this current proposal that I think maybe they ought to come and take some of the management of the Senate off of the backs of those who currently carry it. This is a task of leadership, in my judgment, to determine what is the fair compensation, not just for ourselves, but those who will come after us, because the history shows this pay will not be changed for 6 to 8 years now. It may be indexed for inflation, but it will not be changed to meet the comparability standards of the private sector for 6 to 8 years. That is a long-term decision. We will affect a lot of those who are not here yet by our decision.

I hope the overwhelming vote of the Senate will be to support the Byrd amendment. I congratulate the distinguished President pro tempore for his leadership and his willingness to put the time into this matter that he has devoted to it. It is, I think, another significant contribution that he has made to the Senate family.

For those who want to vote against this measure, I suggest they get a hotel room downtown, because I think most wives, if they were here on the floor, would vote for this amendment.

Mr. President, I ask unanimous consent that an article that I mentioned, written by Senator MOYNIHAN concerning the constitutional argument for increased Senate salaries, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Roll Call, June 27, 1991]

THE CONSTITUTIONAL ARGUMENT FOR INCREASED SENATE SALARIES

(By Sen. Daniel Patrick Moynihan)

A year ago, Aug. 1, 1990, the Senate took up an amendment to the campaign finance bill to prohibit Members from accepting speaking fees (or honoraria, a genteel usage of the academy now adopted here). I dutifully made my way to the floor to vote in favor. And did. But then got to wondering. The description of the measure that lay on the clerk's table in the well stated that the measure also limited "earned income" to 15 percent of Senate salary.

On sheer impulse, I went back to my desk and scribbled out a further amendment limiting "unearned income" to 15 percent also. I got the floor and sent the amendment to the desk, asking its immediate consideration, and asking further for the Yeas and Nays.

We speak of thunderclaps. Are there consternation claps. There must be, or at least there was one that afternoon. I spoke for ten minutes or so. No one spoke in opposition. The measure passed, 51 to 49. Friends approached in disbelief. They would have to leave the Senate! Do not worry, I insisted, the amendment would never become law.

It didn't, of course. And so we went through the same sequence this year. This time, however, I was better prepared. The essence of my argument was that the Founders had considered the subject of Senate pay at some length. The case had been made in Philadelphia that while Members of the House of Representatives should be paid, Members of the Senate should not. Inasmuch as the Senate was meant to represent the interests of wealth, and, accordingly, only the wealthy should be Senators.

This view was debated and rejected at Philadelphia. Accordingly, original intent—gotcha!—requires not only that Senators be paid, but that they be paid at the same rate as Representatives. There seemed no way to impress this fact on our more affluent colleagues other than to deny them access, whilst serving in the Senate, to the "unearned income" derived from inherited or accumulated wealth.

(Readers of Roll Call know that the real debate going on here is about raising Senate salaries to the level of House salaries. Abolishing honararia, as the House has done, would facilitate a return to equal pay. In the Senate, however, a sufficient number of the very wealthy members won't vote that way, not least because it seems to many unseemly to take money they don't need.)

Once again, no Senator appeared to oppose the measure. Sen. Mitch McConnell (Ky), Republican floor manager for the campaign finance bill, courteously yielded me five minutes "off the bill" that I might set forth the grounds for voting against the amendment. That done, the measure passed by 49 to 46, a margin of victory which I promptly claimed was "up 50 percent this year over last year."

The fact was reported. (New York Newsday: Moynihan Debates Self and Wins.) But no one picked up the constitutional argument. I found this in itself interesting, and in turn, grew more interested in the subject. I began to poke around in the literature, as they say, of constitution making.

Given the subject, the literature is surprisingly spare. Let me hasten to say that I am out of my field and quite possibly out of depth here. Even so, the Library of Congress is a pretty good resource. They have turned up a half dozen or so histories of the convention written in the source of two centuries! The earliest that I come upon is A View of the Constitution of the United States by William Rawle, published in Philadelphia in 1829. Chapter XVIII, "On Compensation of Public Officers" begins:

"The principle of compensation to those who render services to the public, runs through the whole Constitution."

He begins with the articles providing that Senators and Representatives and the President and judges shall receive compensation. He clearly regards this as a large matter and goes into some detail contrasting the exactions and injustices by which princes formerly provided for themselves. He treats the pay of military officers in some detail, and ends with this:

"A recent instance has proved that the charge of ingratitude cannot always be justly preferred against a republic.

"Invited to revisit a country, to which in early life he had rendered splendid and successful service; the heroism of General La Fayette has been rewarded, not merely by unbounded effusions of the public mind, but with a pecuniary compensation equally honourable to the donors and to the receiver."

Four years later, in Boston, Joseph Story published his celebrated Commentaries on the Constitution of the United States. He treats the subject of pay at some length. Medieval Britain required that shires and boroughs pay their own Members of Parliament. Two shillings a day was the going rate for knights, and was too much for many a jurisdiction. The practice had died out by the 18th century. By contrast, "it is believed that the practice in America during its colonial state was, if not universally, at least generally, to allow a compensation to be paid to members. . . ." Story is all for this:

"The principal reasons in favour of a compensation may be presumed to have been the following. In the first place, the advantage it secured, of commanding the first talents of the nation in the public councils, by removing a virtual disqualification, that of poverty from that large class of men, who, though favoured by nature, might not be favoured by fortune. It could hardly be expected, that such men would make the necessary sacrifices in order to gratify their ambition for a public station: and if they did, there was a corresponding danger, that they might be compelled by their necessities, or tempted by their wants, to yield up their independence, and perhaps their integrity, to the allurements of the corrupt, or the opulent."

He cites Rawle, and even cribs a bit: "It has been justly observed, that the principle of compensation to those, who render services to the public, runs through the whole constitution." He insists the compensation should come from the federal treasury.

By contrast, 20th century constitutional historians—such as there have been—virtually ignore the subject. The best volume, Clinton Rossiter's 1787: The Grand Convention (1966), has only a minor reference to the debate over whether compensation should be had from the individual state or the national government. The most recent work, Christopher and James Lincoln Collier's Decision in Philadelphia (1986), ignores the subject completely.

Catherine Drinker Bowen's wonderful Miracle at Philadelphia (1966) devotes a total of 13 lines to the subject of pay, noting that the Convention, having got stuck on the all-important issue of big state/small state representation, turned to "lesser matters."

For the sake of argument, let me offer a deliberately controversial thesis. To wit, that the most discontinuous and important event at the Constitutional Convention was the decision to pay the President and the Congress. This was an assertion of popular sovereignty without equivalent in the constitution making of nearly three millennia. It stated the principle of careers open to talent well in advance of Napoleon, a generation later, much less the British Civil Service of the next century. Rawle and Story were close enough to the event to have seen it for what it was. It was new.

What was new was the provision that those who govern should be paid for their services. As servants are paid. To serve a master. To wit, the polity.

The ruling classes, as they used to say, of Great Britain, knew what was involved. A half century later the People's Charter of 1838 advanced six astounding radical proposals. The fifth was that members of the House of Commons be paid. The debate raged on until the next century when the measure was finally adopted by the same parliament that enacted unemployment insurance.

By contrast, we were there from the outset at Philadelphia.

It will be recalled that the original undertaking of the Philadelphia Convention was simply to amend the Articles of Confederation. But the Virgina Plan, offered by Edmund Randolph, went further. Resolution No. 4 provided that

". . . members of the first branch of the National Legislature ought to . . . receive liberal stipends by which they may be compensated for the devotion of their time to public service. . . ."

Franklin was not comfortable. Madison's notes of Tuesday, June 12, 1787:

"Doctr. Franklyn said he . . . disliked the word 'liberal.' He would prefer the word moderate if it was necessary to substitute any other. He remarked the tendency of abuses in every case, to grow of themselves when once begun. and [sic] related very pleasantly the progression in ecclesiastical benefices, from the first departure from the gratuitous provision for the Apostles, to the establishment of the papal system. The word 'liberal' was struck out nem. con."

Early on it was proposed not to pay the Senate. This body was to represent property in the respectful sense that Locke had written of "life, liberty and property." (Jefferson had changed that to the pursuit of happiness, but even so.) The matter was debated on June 26.

"General Pinckney proposed "that no Salary should be allowed." As this (the Senatorial) branch was meant to represent the wealth of the country, it ought to be composed of persons of wealth: and if no allowance was to be made the wealthy alone would undertake the service. He moved to strike out the Clause.

"Doctr. Franklin seconded the motion. He wished the Convention to stand fair with the people. There were in it a number of young men who would probably be of the Senate. If lucrative appointments should be recommended we might be chargeable with having carved out places for ourselves."

I would wish to put this as gently as possible. A large event took place a year ago when the House raised its pay to keep up with inflation. The Senate refused. To the contrary, we put in place an arrangement whereby the amount of outside "earned" income is reduced each year to reflect the cost of living adjustment of Senate salary, such that total earned income declines each year. (Banning all honoraria just speeds up the process.) This disjuncture could easily become permanent. A critical mass in the body now has no need of salary. Surely there is no need to spell out what follows.

Citizens! I bespeak you. Consult Madison. The Federalist No. 10. Published in the New York Independent Journal in 1787:

"The most common and durable source of factions has been the various [sic] and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation."

Your Constitution was designed so as not to lend further advantage to those of great property. It is called checks and balances. Senators! We take an oath to uphold and defend that Constitution. Against "all enemies foreign and domestic." Extending to the enemy of ignorance concerning original intent.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, when I came to the Senate almost 19 years ago, I used to hear the older Senators at that time, those who had seniority, speak about the Senate and its institutional value, and they used the word "institution" all the time. I heard what they were saying, and I appreciated it intellectually, but I did not fully understand what they meant by the Senate as an institution, about its place under the Constitution, about the reverence that they had for this institution, about the deep and abiding respect that those senior Senators, when I first came here, had for this institution.

Mr. President, I have studied now at the feet of some of the great ones in the Senate, now for almost 19 years. Among them is the Senator from West Virginia, Senator ROBERT BYRD, who through his long and scholarly work, his histories of the Senate, his lectures, both in the college sense of a lecture and sometimes a lecture as one who is senior and more knowledgeable gives to those who are uninstructed and need instructions. I have listened to those lectures now for 19 years. I have heard him, I have heard others, and I have come to understand what is meant by the word "institution," as connected to the Senate.

I have come to understand a little better, because of Senator BYRD and others, about the place of this body under the Constitution.

Mr. President, there comes a time, from time to time, not very often, when there is presented on the floor of this Senate an issue which is truly institutional, that directs itself to the very core of what this body is, its relative place, not only under the Constitution, but its relative place in our Government, and such is this issue tonight.

Mr. President, there cannot be any Senator who seriously thinks that the Senate of the United States should be paid less than House members. My son-in-law, who just got elected from the State of Indiana, of whom I am immensely proud, and who I think is making a smashing success over in the House, still just got elected to the House, and he is making $25,000 a year more than Senator BYRD, who has been here for 30-odd years, more than the chairman of the Appropriations Committee, more than the distinguished minority leader, the majority leader, more than any of us.

Mr. President, this is an institutional issue. No one can fail to grasp the gravity of that. No one can fail to grasp the significance of the fact that there are staff members on the House side making more than U.S. Senators, that Federal judges make more, that Federal bureaucrats make more.

Mr. President, what the teachings of Senator BYRD and others, through the years, have been is that when it comes to the institution of the Senate, Senators rise up above their parochial interests; they rise up before their personal interests; and they do what is right.

Mr. President, it is time for Senators to vote their consciences, their consciences, tonight, not their own political interest. Oh, I know Senators are afraid to death of the 30-second television spot. They are afraid of so many things, and I include myself.

Look, not one single one of us is above political votes. But there are just times when that institutional vote demands that we stand up.

I congratulate Senator BYRD. I congratulate Senator STEVENS, who had the guts to stand up through the years, and Senator DOLE, Senator MITCHELL, and others who had the guts to stand up for this institution.

I have not always done that. I will be the first to admit that. But it is not too late, and tonight is an issue of that kind of gravity.

And I urge my colleagues, I especially urge my colleagues who do not need any money, who come here worth millions, I would say to them—by the way, when I came here as a freshman and we had these kinds of issues up some of the older Senators, I remember particularly my colleague Senator Long, he did not need the money, but he would always vote for pay raises because he used to tell me, he said, "BENNETT, it is the right thing under the institution." I remember Senator KENNEDY and others who have done the same thing. I would urge all of those, especially those who do not need it, to exercise a little courage and a little institutional interest tonight.

The PRESIDING OFFICER (Mr. BAUCUS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I believe everybody knows I am opposed to this amendment, so I want to take a few minutes to express that opposition. I will not dominate a lot of time.

I hope that there is a majority against this amendment. I know that there are a lot of Members opposed to this amendment. I hope they will come over here and speak. If any of them thought that I was going to speak a long time so that they would not have to hurry over here if they want to speak, I want to inform my colleagues that I will take just a few minutes. So, others who are opposed to this ought to get over here and express their views because I think they want to vote on it soon.

Before I speak to the substance of the amendment, though, I compliment the proponents of this amendment. It is different than other pay raise proposals from the past, for which we had to deal with efforts to sneak a raise through, because the proponents wanted to avoid a rollcall vote. In this instance, the debate is very open, aboveboard. The proponents of the amendment have already asked for a rollcall vote, so everybody will be on record and everybody has an opportunity to watch the vote.

This proposal differs from a lot of previous proposals that were brought before this body through a back-door approach, specifically to avoid a vote. The public ought to be satisfied with this process, because in earlier years they have griped to us, not so much about the pay raise, per se, but attempts to get it passed without a vote and not to be accountable. The public should be satisfied that this procedure is aboveboard and everybody will be on record.

It is especially notable that it is not the opponents of the amendment that had to ask for the rollcall but the proponents of the amendment. So I compliment the proponents for the procedure that they have chosen.

It bothers me, as it bothers several of the speakers who have expressed it, that Members of this body get paid less than Members of the other body. Particularly, I suppose, because in most States Members of the other body represent only a fraction of the people represented by most of the Members of this body. Even though they represent fewer people, they earn more money than U.S. Senators. It bothers me that Members of the other body, who sit on only one or two committees, get paid more than Members of this body, who serve on three, four, and sometimes even five full committees, and even more subcommittees.

But it bothers me even more if "equity" means that we have to further burden the taxpayers with raising our salaries. If "equity" means accomplishing that, then I guess I am not for it. We cannot justify "equity" until certain conditions have been met, that would signify that we, the board of directors of this great corporation, do a good job of management.

I wish I could think of a more creative way to say that "two wrongs do not make a right." But that is about as straightforward as I can say it. Just because the House has done something that may not be right, and I am sure that a lot of you think it is right, but just because they get paid more than we do, it is not right for us to do the same things. We should raise our salaries only after we show that we can manage Government efficiently and effectively.

My measure of this, Mr. President, is pretty straightforward, and I think our constituents would agree. That measurement should be when we balance the Federal budget. Not only have we failed miserably at that task, but we have probably lost the confidence of the American people that we will ever balance the Federal budget.

I am well aware of the fact that discretionary spending has been sharply curtailed in the present budget compromise of last year, at least relative to the free-for-all spending of past policies adopted by this body. But as long as interest on the national debt continues to increase, and as long as Congress cannot get control of entitlement spending, and as long as Government mismanagement produces financial crises like the savings and loan debacle, and as long as Congress makes itself a budget priority, as we are doing right now then the budget deficit will not be appreciably reduced.

This Congress has to learn how to say "no," not just on this issue, but on a lot of issues also. When it comes to saying "no," that lesson is best learned first with saying "no" to ourselves.

Mr. President, we are elected to lead. Sometimes we have to lead by example.

The laboratories of American Government, our State governments and State legislative bodies, are providing a good example these last several months as they have wrestled with budgetary crises. State budget problems are worse now than they have been in nearly a decade.

The State of California, for example, is facing an unprecedented budget shortfall of $14.3 billion. Twenty-nine States ordered budget cuts totaling $8 billion for the 1991 fiscal year. States have been forced not only to tighten their budgetary belts, but also to take other drastic measures in order to bring their fiscal houses in order. For example, the Governors of Connecticut and Maine imposed temporary shutdowns of all nonessential State services. Also, about a month ago, the Governor of my State of Iowa was forced to deny State employees a modest pay increase due to budgetary constraints. Further constraints were just ordered a few days ago that are going to lead to the layoff of some State employees.

If other governments must make these difficult decisions, so must we here in the Federal Government. It has been suggested that as we sit as the board of directors of the largest corporation, we have to make even tougher decisions. I do not deny that. A lot of tough decisions have already been made. People who sat in the budget compromise last year put forth a lot of work and effort and made a lot of painful judgments.

But if State legislatures can make difficult cuts in their budgets so can Congress make cuts with the Federal budget.

Not only has the public lost confidence in our ability to balance the Federal budget, it has lost confidence in our ability to handle any complex issue forthrightly.

If the Senate is to restore public confidence in its ability to lead the country back to fiscal sanity, we cannot raise our own salaries first out of the block.

As is so often the case, folks back home say it better than any of us inside the beltway.

I would like to read a letter from a constituent from Pella, IA.

> I think, in light of economic straits in which we as a nation find ourselves, that certain things should be passed by in favor of the most important—as individual families have to do in the same circumstances. What do we do when we have to economize? Food, shelter, and only necessary clothing take first place, and perhaps some education where it can be worked out, but only with great sacrifice on the part of all.
>
> What I am getting at? Our citizens need food and clothing and homes. This must come before added padding on Federal salaries!
>
> I can understand legislators who want value placed on what they do, comparing their salaries to those of CEO's and presidents of big companies. But those huge incomes are immoral!
>
> There must be some sense of right and wrong.

> It seems wrong to me that whenever budgets need trimming the money is taken from the benefits needed by the destitute and the poor who find themselves in increasingly desperate circumstances.
>
> How can you justify that salary increase?

Well, Mr. President, that is just one constituent. I suppose there are some who could quote constituents who would say that we ought to have a salary increase. I know, as has been discussed here, that we work hard. But despite that hard work, we must raise ourselves above the standards set by the other body.

Mr. President, we cannot raise our salaries on a facade of fairness. When we raise our salaries, it should be due to merit, judged by our ability to legislate the affairs of this Government, and most importantly, to balance the Federal budget.

One final comment, Mr. President. This is not directed to the substance of the legislation, but once again on the procedure of passing the raise. I have complimented the proponents of this legislation for asking for a rollcall so we are all on record. I have complimented the proponents of this amendment for offering it as a straightforward amendment, not through some back door approach.

I, would, though, remind the proponents of the amendment that there was a third procedural problem about which we would often hear from our constituents back home. We tried to correct this problem in the 1989 legislation. This problem is also addressed by a lot of State legislatures that when they raise their salaries, those increases should not go through until there has been an intervening election. This was first proposed by James Madison, as one of the original amendments to the Constitution that was not adopted in that First Session of Congress. In other words, if we raise our salary today, it should not go into effect until the subsequent election and at the start of the next term.

We put in Public Law 101-194, a provision that salary increases would not go into effect until an intervening election. It is my understanding that, in this amendment, the salaries are going to be increased upon enactment.

I do not doubt that this can be done legally. I understand that the actions of a succeeding Congress, without having to specifically repeal a previous position of law, would have precedent. Here we are subverting what I thought was a very important provision of 101-194. That is, except for the cost-of-living pay raise, salaries should not go into effect until an intervening election. From this standpoint, I take exception to the procedures of the proponents of this amendment.

This is not the main reason that my colleagues should vote against this amendment. But it is something that we tired to fix the last time we dealt with this issue.

Mr. President, I yield the floor.

Mr. WIRTH. Mr. President, I have been in Congress for 17 years and I believe in that period of time I do not remember a pay raise that I have voted for.

I am going to vote for this one, Mr. President. I wanted just briefly to explain why, why I believe that this is the right thing for us to be doing.

First of all, this is the first opportunity that we have had to link this, as I believe we should, with honoraria. I have spoken on any number of occasions since I have been here about my deep concern about the impact of money in the U.S. Senate, both in terms of campaigns and in terms of honoraria. I think that this is an important opening wedge and that presents us all, by itself, with a reason for voting for this amendment.

Second, Mr. President, I have also spoken at some length about my concern that this is becoming an institution in which people who do not have money cannot afford to come here. The world has gotten increasingly complicated and expensive, particularly for those of us in the West who have to come a long way and carry two households. People do not understand that very well. But I understand it when you watch why people are unwilling now to run for the U.S. Congress, and that is wrong.

We ought to, as the distinguished chairman of the committee pointed out earlier, have an institution that is open to more Americans. And this is an opportunity to break down that barrier.

Finally, Mr. President, I have been very concerned about the fact that we are also making it less and less possible for younger people with families to be in the House or to be in the Senate. And I think that misses a tremendous amount of this country and the concerns that people in this institution should have as they view various issues through the eyes of their children, through the eyes of their concerns that happen in more than a generational sense. Having this pay raise I think will make that a greater possibility, as well.

I, myself, will not be taking the pay raise, Mr. President. I am going to set up a program in the State of Colorado, but that is my business. What is important, I think, is that we now take the step.

I understand this is controversial. I understand it is difficult; for many it is going to be hard to understand. But I think it is the right thing to do and I think that the time has come to make this decision.

Mr. President, I yield the floor.

Mr. WELLSTONE. Mr. President, I will be brief.

I appreciate the words of the Senator from Colorado and when he argues that it is getting to the point where you have to have a tremendous amount of wealth or income to run for the U.S. Senate or to be a U.S. Senator, I can fully appreciate that, having been a college teacher and certainly not having that income.

I am not going to stand here and present some kind of broadside against many people that I serve with here whom I deeply respect. Senator BYRD has been a mentor for me. I guess I only want to say one thing. I find myself in opposition to the pay raise, and the main reason for that is that I feel very strongly that there is already too great a disparity between the income of those who are elected to office and the people that they represent. I really believe that.

All too often we make decisions about public transportation, but we fly in planes. And we make decisions about public education, but all too often we send our children to private schools. Or we make decisions about a range of different things, like health care for people, but we are fortunate enough to have our health care program.

So my feeling is that we have reached a point where, in a representative democracy—whereas I think we need to have some congruence between the incomes and the lifestyles of those who are elected and the people they represent—we have moved away from that. For this reason I do oppose this salary increase and I wanted to go on record as saying that.

Mr. DOLE. Mr. President, I think the distinguished Senator from West Virginia laid out a pretty good case. I cannot improve on it. I have been around long enough to know you cannot defend the pay raise to some people. The answer, to constituents, is why do you not just reduce the House pay. The better way to work this out to have parity is reduce the House pay. We cannot do that.

So, after about 9 months—longer than that—since the House pay raise was enacted, I think we are making a step in the right direction.

Maybe, as the distinguished Senator has indicated, maybe we are all overpaid. If Senators want to cut their pay in half, maybe it ought to be provided for in the legislation. But it is not. This is an institutional question.

I believe most people in my State will understand that as a Member of Congress, whether it be in the Senate or the House, there ought to be parity. We talk a lot about parity in farm States. We do not have it. We have not had it in the Senate for some time.

On the issue of honoraria, I want to indicate that this amendment allows Senators to collect honoraria, but they must donate it to charity.

I accept honoraria today, and will continue to do so. The only change will be that it will now all go to charities, instead of only a percentage which I currently donate.

I do not believe honoraria, in and of themselves, are evil. Some refuse to accept it, but accept compaign donations from the identical or related sources.

But I will just underscore the point that has been made by other speakers, that this is pay equity; pay equity. And I believe we are taking a step in the right direction. I know some Members just do not want to vote for a pay raise.

I want to underscore the point raised by the distinguished Senator from Indiana. I think it is particularly incumbent upon those, who may not need a pay raise, deflect this money away; they have so much other money and they can give their pay raise away.

So I hope this amendment will be adopted.

I want to extend my thanks to the distinguished majority leader, my colleague, Senator STEVENS, and my friend from West Virginia, Senator BYRD.

I ask unanimous consent that my prepared remarks entitled "Pay Equity for the Senate" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR BOB DOLE—PAY EQUITY FOR THE SENATE

Mr. President, late in the first session of the 101st Congress, both Houses passed the Ethics Reform Act of 1989 (P.L. 101-194). Among its provisions were those providing salary increases for senior Federal officials, including Members of Congress.

The act provided for a 25% salary increase for Federal officials, except Senators and the Senate leadership, effective Jan. 1, 1991. As a result, the salary of House Members increased from $96,000 to $125,100, effective Jan. 1, 1991. This adjustment represents an increase of 25%, as authorized by the Ethics Act, compounded by a 3.6% COLA increase.

Pursuant to the Ethics Act, Representatives are prohibited from accepting honoraria. Senators salary increased from $98,400 to $101,900, effective Jan. 1, 1991, reflecting a 3.6% COLA. The Ethics Act decreased permissible 1990 honoraria from the 1989 limit of 40% to 27% of salary.

Mr. President, I have been reluctant in the past to support pay raise legislation. During my thirty years in Congress, I have voted against a congressional pay raise seven times and for a pay raise on just three occasions.

My record shows that I have been reluctant to support legislation authorizing cost-of-living adjustments—or COLA—for Members of Congress, even though COLAs are regularly granted to most other Federal employees. I have voted against a congressional COLA 23 times and for a congressional COLA on only three occasions.

However, Mr. President, it seems to me that a United States Senator should be paid at least as much as a Member of the House of Representatives. I think most people in Kansas would agree that each of Kansas' two Senators should be paid as much as each of my State's five House Members. The fact is, Senators are making less than many staff members in the House of Representatives. I am not out here campaigning for more pay, but it seems to me that there should be pay equity with the House—particularly if we abolish honoraria as we do here. I support the elimination of honoraria and in so doing agree that pay equity with the House should be adopted.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, of all the problems with which Members of Congress must deal, none is more difficult and contentious than the question of compensation. It has been that way for 200 years.

The first Congress approved a constitutional amendment requiring an election to intervene before a pay raise for Congress could take effect. The States rejected it.

In 1816, the first attempt to raise congressional pay was repealed because of the clamor it caused. All subsequent compensation laws have been equally controversial, regardless of the time or the circumstances surrounding them. We have never had a satisfactory method for setting the compensation for high Government officials. We still do not.

Our society believes, and practices its belief, that money is an important and appropriate incentive for persons in virtually every area of human activity. Public service is one of the exceptions.

Americans do not want Government service limited only the wealthy. But they also do not want Government to be a means of enrichment for those who are not wealthy. Most Americans do not believe that high salaries are, in and of themselves, undesirable. But most Americans do believe that high salaries for public servants are undesirable. That is the public attitude. We must acknowledge it and respect it.

We must also recognize that the pay of high Government officials has not kept pace with the cost of living. The Constitution demands that the Congress establish its own compensation. The people demand that we do so in an open, reasonable, and fair way.

The problem we confront is the result of the self-inflected choice of the majority of Congress. Instead of accepting normal cost-of-living increases as all other Government employees and most other Americans do each year, the Congress has repeatedly rejected annual cost-of-living increases. The result is that congressional pay has fallen behind a little more each year.

This has also had the unfortuante effect of focusing greater attention on honoraria. Members of Congress have always accepted speaking fees. It is not a new practice. It is as old as our Nation. But in recent years, as controversy over the compensation of Members of Congress has grown, there has also grown a public perception that the receipt of speaking fees is improper and unethical.

I do not believe, for one, that this perception reflects reality. I believe to the contrary. Nevertheless, despite my belief, it is clear that a widespread perception does exist to the contrary among the American people.

The amendment before us will ban honoraria. Perception is important for public officials. We will not be able to restore the integrity of this institution in the public view until we abolish that perception. That much is reality.

For all Senators, this is not a vote that can or will escape criticism. Indeed, whenever the question of congressional compensation has come up throughout our Nation's history it has been the subject of great controversy and of criticism.

But it remains now for us to recognize that out of the conflicting views and desires of the public, of Members of Congress themselves, and the self-appointed critics of Congress, we have a choice. We can choose to accept the logic of banning honoraria and making the pay of Senators the equivalent of the pay of House Members. That is what this amendment will do. Or we can, instead, accept the evaluation of our worth made by our most severe critics.

That is what opposition to this amendment will do. This amendment deserves to be adopted. It is a reasonable and responsible and accountable piece of legislation. It bans honoraria, and it makes the pay of Senators equivalent to that of the House. In the overall level of compensation of Senators, including honoraria, there is no change.

Mr. President, I commend the distinguished President pro tempore, the Senator from Alaska, and the Republican leader for their effort and leadership.

I urge all my colleagues to join in working for this amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want to underline and underscore what has been said by a number of Senators tonight. And that is, this is an up-or-down vote. There has been nothing that has been done to try to do this in any back-door method. It is a vote up or down on the merits. The Senate must work its will on this issue.

Mr. President, I regret that this amendment raising Member pay is being proposed to this legislation. I am afraid that this amendment will arouse so much opposition that it will jeopardize enactment of an appropriation bill for the legislative branch for fiscal year 1992. If that were to happen, the result could be serious disruptions in the operation of the Congress and its support agencies.

This bill, as I have sought to describe in my opening statement, provides funding for a whole range of important activities and programs throughout the legislative branch. And all of these functions have a vital role in the process of representative government.

Unless this bill is enacted, it will not be possible to maintain even existing levels of essential services at the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, and the General Accounting Office—to name but a few—will not become available. I would hope that we could avoid that outcome.

I, of course, also object to this amendment on substantive grounds. I will not take the Senate's time to go into all the reasons at this point. My distinguished chairman, the sponsor of this amendment, can be extremely compelling. I will only point out that I have opposed all proposed congressional pay raises since I came to Congress nearly 10 years ago.

The Senate must work its will on this issue. I will vote against this amendment. But I have learned that when I do not have the votes, the best thing to do is sit down and shut up. I do not believe I have the votes against this amendment and so that is what I will do.

The PRESIDING OFFICER. Is there further debate?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I am going to vote against this amendment granting a pay increase for Members of the Senate. This is the wrong time to raise Senators' salaries.

America is in the midst of a serious recession. Many Americans, and many Marylanders, are not getting any paycheck at all. Moms and dads sacrificing to put their kids through college, young families struggling to put away enough to buy a home, small businessowners worrying about the rising cost of health insurance—they certainly cannot vote themselves a pay raise.

The latest figures show that the Federal budget deficit is larger this year than ever before in American history. We send the wrong message when we vote ourselves a pay increase.

I know the cost of living is high in Washington, DC, I have introduced a bill that would provide an 8-percent pay increase—only 8 percent—for rank-and-file Federal employees who work here. But we are not debating that bill tonight. Instead, we are voting on a 25-percent pay increase for ourselves. I oppose it, and I will vote against it.

Mr. LAUTENBERG. Mr. President, I will vote to oppose the amendment to increase the salary of Members of the Senate.

I did not support the recent increase in the salaries of our colleagues in the House of Representatives. I appreciate the argument that there should not be a double standard in the Congress. But, I cannot support an amendment that would correct the disparity between the salaries of the two Houses by raising the Senate level.

With a recession still stubbornly plaguing my State and the Nation, with Americans exhausting unemployment benefits, with a budget deficit that is growing instead of shrinking, I cannot support an increase in Senate salaries, especially of this magnitude. And, this is a large increase.

I do believe that, in the interest of maintaining the integrity of the Congress, we should adopt a total ban on a honoraria. We serve here for the public and we should be beholden to the public and the public alone. When a Member accepts honoraria, there is at best the appearance, at worst the reality, of a conflict of interest. I support that aspect of the amendment that would restrict honoraria. My record is clear on honoraria. I am a cosponsor of S. 469, legislation to ban honoraria. I have voted on amendments, unlinked to a pay riase, that would end honoraria. But, a pay raise should not be the price the public must pay to remove the shadow cast by honoraria on the integrity of this institution.

I will vote against the amendment.

Mr. NUNN. Mr. President, I support the amendment offered by Senators BYRD, MITCHELL, DOLE, and STEVENS to increase the salary of Senators to the same level as the salary of Members of the House of Representatives, top administration officials, and executive branch employees, while at the same time prohibiting Senators from accepting honoraria. I want to outline my reasons for supporting this amendment.

This amendment will not increase my current income. Those of us who accept honoraria will lose exactly the same amount in honoraria income as we gain in salary. In other words, for me personally, this is a breakeven proposal.

However, Mr. President, I am concerned about the widening pay gap between Senate staff employees and other legislative and executive branch employees. The top salaries for Senate staff members are currently capped just below Senator's salaries. The Federal pay raise that went into effect in January 1991 means that in addition to Members of the House, senior staff members in the executive branch, in the House of Representatives, and in congressional support agencies such as the Congressional Budget Office, the General Accounting Office, the Library of Congress, and the Government Printing Office receive a higher salary than a U.S. Senator and—as a consequence—that of our senior staff. A recent article in Roll Call, for example, listed 81 staff members of the House of Representatives who currently earn more than a U.S. Senator and predicted that this number will increase.

Some people may argue that these other categories of senior Federal employees should not have received the pay raise back in January, but the fact is that they did. I voted against the pay raise for Senators in 1989, but I indicated at the time that I would support an increase in pay for senior level Federal employees.

This brings me to the primary reason that I support the amendment to increase the salary of Senators and ban honoraria: An increase in Senators' salaries will allow salaries of senior Senate staff members to increase. Mr. President, it is one thing for Senators to vote themselves a smaller salary than our counterparts in the House of Representatives. But by capping staff salaries in the Senate, we have created a situation where the rest of the Federal Government, including the House of Representatives, now has a much higher salary scale than the Senate.

Mr. President, this is not a good situation for the Senate to be in. It is becoming more financially rewarding for our top staff to work almost anywhere else in the Federal Government, not to mention the private sector. The long-term result of this situation will be a decline in the quality and effectiveness of our work as it becomes more difficult to recruit and retain top people to run our Senate staffs.

Let me illustrate this problem from the perspective of the committees that I serve on here in the Senate.

The Armed Services Committee, which I chair, has a very small staff compared to other committees in the Senate with comparable oversight responsibilities. My practice as chairman has been to hire senior, experienced staff people who can help the committee oversee the entire range of national security programs in the $291 billion annual defense budget. Members of the committee staff have come from prestigious—and well paid—positions in and out of Government to work for the committee. The stability and experience these staff members bring to the work of the committee are essential for us to carry out our oversight of national security programs for the Senate.

One of our committee staff members, for example, came to the committee after a distinguished career in the Foreign Service where he served as the second-ranking diplomat in our Embassy in Moscow and in top State Department positions. This staff member concentrates on United States-Soviet relations, Eastern Europe issues, foreign policy and intelligence-related programs for the Armed Services Committee. An individual with this experience is very much in demand in the executive branch and the private sector.

Another member of the committee staff was a vice president of the Rand

Corp. and a senior OSD official before coming to the committee. This individual oversees all Defense Department stategic programs, including the B-2 program and SDI, which total approximately $45 billion in fiscal year 1992. Again, individuals with this expertise are highly sought after.

The situation on the Permanent Subcommittee on Investigations which I also chair is very similar. One of the members of the subcommittee staff is a former assistant U.S. attorney with extensive trial and investigatory experience. The small subcommittee staff includes other outstanding attorneys and investigators with experience that is much in demand in other branches of Government and in the private sector.

Mr. President, it will become increasingly difficult for the Armed Services Committee and the Permanent Subcommittee on Investigations to retain these and other members of our senior staff if we do not change the current situation in which their salaries are capped well below the salaries of senior positions in the rest of the Government, and even further below the salaries paid by the private sector for their expertise and experience. Members of the Senate staff have a strong commitment and dedication to public service. We should not ask them to make financial sacrifices that the rest of the Federal Government does not have to make.

I realize that many Americans, and many of my constituents in Georgia, will not be happy with my vote on this pay raise, even though it does not really raise my own current income. Congressional salaries have become a symbolic issue to people frustrated by the Federal budget deficit, Federal income taxes, the size and complexity of Government, the insensitivity of the bureaucracy, not to mention the many national problems we struggle with each day, including a recession that has reduced the income of so many Americans.

I share these frustrations. But I believe that eliminating our ability to recruit and retain professional staff will make Government more expensive and less efficient than ever, at a time when we can least afford it.

Mr. WOFFORD. Mr. President, you can drive up North Capitol Street from this building, out beyond the beltway, along I-270 and onto Route 15 and in a little over an hour be in my State of Pennsylvania. It's really very close by.

But we could not be further from Pennsylvania when it comes to this pay raise issue. In my State, the median income for a family of four is less than $36,000. Our current Senate salaries are almost three times that much. As a matter of fact, this is the biggest paycheck I have had in my life. More than when I was a college president. More than when I ran a major State agency. More than when I practiced law.

Now, no one has to tell me that it's expensive to have two residences. I have had to set up a new residence here in Washington myself in the past 2 months. I know how expensive it is.

But Mr. President, all we have to do is see what has been happening to working families in our country over the past decade. All we have to do is listen to what people are saying about their elected officials. All we have to do is understand the anger and the frustration felt by our Nation's taxpayers. And then we would know that the last thing this Senate needs is another $23,000 a year on top of the $101,000 we already earn.

There is a national recession out there. Our people feel the pain. Now is no time for us to be paying ourselves more of our taxpayer's hard-earned dollars.

Mr. SPECTER. Mr. President, I am voting against the pay raise for U.S. Senators because I believe there are many other more needy Americans who are denied funding under important Federal programs. From hundreds of open-house town meetings, I have developed my own policy of only casting votes which I can justify to my constituents in these face-to-face meetings. A "yes" vote could not pass that test.

Mr. SIMPSON. Mr. President, when we debate title X, or space station funding, or amendments relative to the Center for Disease Control guidelines on AIDS, or any other pressing national topic—there are always pockets—sometimes even deep pockets—of interest throughout America in the course of our deliberations. However, there is one issue which, I think since the beginning of this institution sparks more national interest than any other. And it should. I am not talking about funding levels for our national security. I am not talking about the confirmation of a Supreme Court Justice. I am not talking about a national energy strategy. I am talking about that nightmarish, supermarket tabloid of an issue—the rate of pay for Congressmen.

Well, if as the ad for the tabloid goes, "Inquiring Minds Want To Know"—I am quite ready to lay it all out to explain exactly why I intend to vote the way I will.

Since I have been here, I have never accepted more in compensation than a cost-of-living adjustment to my salary—just like any other Federal employee, or VA pensioner, or Social Security recipient would be entitled to receive. In the case of my Senate salary—some years the cost-of-living adjustments were less than the Federal average—some years we did not, by law, give ourselves a COLA—and some years I just flat did not accept what we were entitled to receive. Now when you do not want to accept your full pay or COLA around here—it is a complicated procedure. You have to put the difference of what you will accept, versus what you are entitled to receive, in a special account. The Government does not honor the request: "Just don't send me my money". At the end of the year, I take the money which has accumulated in that account, and return it to the Federal Treasury, less any Federal taxes which I have had to pay on those funds. For instance, on January 15, 1991, for the 1990 calendar year, I wrote a check back to the Federal Treasury for $16,587.52. It was money I could have accepted, but did not, and it was applied to the reduction of the Federal deficit.

In 1979, the first full year I was in the Senate, salaries were $60,662. For 4 years, the Congress deferred the receipt of any COLA. In 1983, the COLA's for the previous years were allowed, resulting in a salary of $69,800. A COLA was then granted in 1984 resulting in a salary of $72,600. A COLA was authorized in 1985 resulting in a salary of $75,100. I turned that COLA over to the Treasury, $2,500. There was no COLA in 1986. I turned over the previous year's COLA to the Treasury, $2,500. In 1987, a COLA was granted resulting in a salary of $77,400. Later in 1987, a pay raise was enacted bringing salaries to $89,500. I voted against the pay raise and turned over the difference between the raise and what I would accept—$77,400—to the U.S. Treasury. I wrote that check back to the Treasury in the amount of $12,100. I turned over the same amount in 1988 and 1989. Beginning in 1990, Senate salaries were increased to $98,400. However, the amount of the increase—about $9,000—was also reduced by the amount of funds that could be received as income from privately earned honoraria speeches. I did not accept that increase and returned the check previously described. For 1991, Senators were granted a COLA of $3,500 which meant salaries were up to $101,900. Before this year, I was therefore accepting a salary that was established in 1987, which was not based on raises, but only on COLA's that had been approved since I came to the Senate. As I have said, most of them I did not accept when they were granted. Since I had not accepted a COLA for nearly 5 years, I decided to receive the 1991 COLA—$3,500—which was added to my base salary of $77,400. In other words, I am now accepting $80,900. I would be entitled to receive $101,900.

Back in 1989, the House Members got rid of honoraria. That is just exactly what we are proposing to do today. I am in favor of doing that. Instead of supplementing their salaries with honoraria funds, the House Members decided to vote themselves a raise and to ban all honoraria receipts. In the meantime, and in order to try to keep high quality staff members employed in the House instead of leaving for work in the private sector for double or triple their congressional salaries, they increased the maximum salary which a House staffer could receive to about $115,000 per year. Recently in Roll Call, a Capitol Hill newspaper, nearly 100 House staff members were listed as making more than $100,000 per year. Many of these staffers make the maximum salary of $115,000. This bill would now allow Senate staffers to have equality with their House counterparts.

What I have chosen to do regarding my own salary throughout my career here may be considered unique. My determination to reject the salary increases which I have described might even be called strange. However, those choices are quite personal—call them what you will. If this pay increase is enacted, I will once again make the personal choice as to what I will do. If honoraria funds are completely abolished, then obviously I must supplement that loss of income with salary. However, there is a larger issue here. That issue is one of simple equity. As a body, should Senators who have as their constituents every single resident of their respective States be compensated at a rate of pay of about 20 percent less than House Members who generally represent—except in States like Wyoming—much smaller constituencies? In order to be compensated at similar rates, should Senators have to make speeches for pay to private groups to pick up the slack? Is it equitable for senior staff members in the House of Representatives to make $15,000 more per year than an elected U.S. Senator, Is it appropriate for a Senator's employee to make $15,000 more per year than the Senator? I think the answer to these questions is "no." I think that most Americans, based on the experiences of their own jobs, believe that folks who do the same job ought to get the same pay. I think they also believe that staff members of Congress should not be paid more than Members of Congress.

Therefore, as a matter of equity, it is not difficult for me to support a proposal which completely bans honoraria and allows Members of the Senate to be compensated at the same rate as House Members. However, as representatives who all stand for election; and who participate in town meetings; and who get and read mail from constituents, we will all have to respond in our own way to the singular issue of whether the specific amount of pay for all Members of Congress is reasonable. Those responses will be varied, sincere, and personal.

For my part, I will vote today to allow my colleagues in this body to be compensated at the same rate as are House Members, and at a rate which will be higher than the maximum allowable compensation for congressional staff. I will vote to rid ourselves of honoraria. My personal decision, which is just that and is not intended in any way to be perceived as evidence of martyrdom, will be to continue my unique, strange, and, yes, possibly even eccentric policy, of presently lagging behind my colleagues in terms of the salary which I will accept in this year, 1991. In summary, some will vote "no" and keep the dough—I am being up front and voting "yes," and will, for this year, continue to get less. Next year is another matter. The loss of honorarium income will force me to reassess my past actions.

The PRESIDING OFFICER. If there is further debate, the question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD (after having voted in the negative). Mr. President, if the distinguished Senator from Arkansas, my good friend, Senator PRYOR, were present, he would vote "aye." Therefore, I withdraw my vote.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illnes.

On this vote, the Senator from Kentucky [Mr. FORD] is paired with the Senator from Arkansas [Mr. PRYOR].

If present and voting, the Senator from Kentucky would vote "nay" and the Senator from Arkansas would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—53

Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Breaux
Burdick
Burns
Byrd
Chafee
Cochran
Craig
Cranston
Danforth
Dole
Domenici
Durenberger
Exon
Garn
Gorton
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Leahy
Lieberman
Lott
Lugar
Metzenbaum
Mitchell
Moynihan
Murkowski
Nunn
Pell
Robb
Rockefeller
Roth
Rudman
Sarbanes
Simon
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—45

Adams
Bond
Bradley
Brown
Bryan
Bumpers
Coats
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dodd
Fowler
Glenn
Gore
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Kasten
Kerry
Kohl
Lautenberg
Levin
Mack
McCain
McConnell
Mikulski
Nickles
Packwood
Pressler
Reid
Riegle
Sanford
Sasser
Seymour
Shelby
Specter
Wellstone
Wofford

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Ford, against.

NOT VOTING—1

Pryor

So the amendment (No. 770) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, Members of the Senate, I am advised by the managers that there are no further contested amendments to the bill, that there are several amendments which will be accepted. It is my hope and intention that we could then complete action on the bill by voice vote, which would permit the Senators to leave now since there will be no further action this evening.

Unless some Senator now stands and expresses an insistence that there be a record vote on final passage, there being none, then this will have been the last rollcall vote this evening.

There will be a cloture vote on the motion to proceed to the motor voter legislation at 10 a.m. tomorrow.

I thank my colleagues. I thank the distinguished managers of the bill.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENTS NO. 771 THROUGH 774

Mr. REID. Mr. President, I have four amendments at the desk that have been cleared on both sides. The first amendment makes minor corrections in the language relating to staff pay caps; the second makes certain technical changes to existing law to authorize direct payments to vendors under the contingent fund of the Senate. This change is necessary for the implementation of the Senate's new financial management system.

The third transfers funding for the elevator operators in the Capitol from the Architect of the Capitol payroll to the Sergeant at Arms payroll; and, the fourth provides for transfer of the jurisdiction and control of the Senate Chamber public address system from the Architect of the Capitol to the Sergeant at Arms.

Mr. GORTON. Mr. President, the amendments have been completely explained by the Senator from Nevada. This side of the aisle agrees with them completely.

Could I inquire of the Chair if the amendments have been reported?

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes amendments numbered 771 through 774 en bloc.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, to the first committee amendment.

The amendments (numbered 771, 772, 773 and 774) considered and agreed to en bloc are as follows:

AMENDMENT NO. 771

Technical changes to H.R. 2506, as reported:

On page 6, line 23, strike "or" and insert "on".

On page 6, line 25, strike "section" and insert "sections".

On page 7, line 1, after "703(a)(2)(B)" insert the following: "and 1101(a)(1)(A)".

On page 7, beginning with "the first" on line 10, strike all through "on or after" on line 11.

AMENDMENT NO. 772

On page 8, after line 25, add the following:

SEC. 6. (a) Section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended as follows:

(1) in the material preceding clause (1), delete "payment" and insert in lieu thereof "payment (including reimbursement)";

(2) in clauses (3), (4), (5), (7), and (9), delete "reimbursement to each Senator for";

(3) in the material following clause (9), delete "Reimbursement to a Senator and his employees" and insert in lieu thereof "Payment";

(4) in the material following clause (9), delete "reimbursed" and insert in lieu thereof "paid or reimbursed"; and

(5) in the last sentence, delete "reimbursement" and insert in lieu thereof "payment".

(b) Section 3(f) under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59(e)) is amended as follows:

(1) in the first sentence of paragraph (1), delete "shall be reimbursed from the contingent fund of the Senate for the rental payments" and insert in lieu thereof "the contingent fund of the Senate is available for the rental payments (including by way of reimbursement)";

(2) in paragraph (2), delete "reimbursed" and insert in lieu thereof "paid";

(3) in paragraph (3), delete "reimbursement" and insert in lieu thereof "payment"; and

(4) in paragraph (4), delete "reimbursement" and insert in lieu thereof "payment";

(5) in paragraph (5), delete "Reimbursement" and insert in lieu thereof "Payment".

(c) The amendments made by subsections (a) and (b) shall take effect October 1, 1991.

AMENDMENT NO. 773

At the end of the first Committee amendment insert the following:

SEC. . (a) Subject to subsection (b), those employees of the Architect of the Capitol engaged in operating elevators in that part of the United States Capitol Building under the control and jurisdiction of the United States Senate, together with the elevator operating functions performed by such employees, effective October 1, 1991, shall be transferred to the jurisdiction of the Sergeant at Arms and Doorkeeper of the Senate.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized to enter into an agreement or other arrangement with the Architect of the Capitol regarding the supervision of such employees.

AMENDMENT NO. 774

(Purpose: To provide for the transfer of the jurisdiction and control of the Senate chamber public address system to the Sergeant at Arms and Doorkeeper of the Senate, and for other purposes)

On page 8, add after line 25 the following new section:

SEC. 6. (a) Effective October 1, 1991, the jurisdiction and control of the Senate chamber public address system is transferred from the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate. In the case of any employee of the Architect of the Capitol transferred during fiscal year 1992 to the Sergeant at Arms and Doorkeeper of the Senate as an audio operator—

(1) in the case of days of annual leave to the credit of any such employee as of the date such employee is transferred, the Architect of the Capitol is authorized to make payment to each such employee for that annual leave, and no such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation; and

(2) for purposes of section 8339(m) of title 5, United State Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e), (n), and (q) of such section.

(b) The Architect of the Capitol shall provide the maintenance of the Senate chamber public address system until such system is replaced by a combined public address and audio broadcast system.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 775

(Purpose: To Reduce Appropriations for Senate official mail costs by $2 million)

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report. Does the Senator intend to amend the first committee amendment?

Mr. BROWN. Yes.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative desk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 775.

Mr. BROWN. I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 15, strike out "$34,000,000," and insert in lieu thereof "$32,600,000,".

Mr. BROWN. Mr. President, the amendment before the body deals with the appropriations for postage. This area is one that the committee has recommended increasing from $30 million to $34 million. In reviewing this area, I believe that this is an area we can save money on. The estimated outlays for fiscal 1991 will be $16.8 million. In other words, we are going to be spending $13.2 million less this year than what is appropriated. To raise that by $4 million seems to me to be irresponsible.

There are those who were concerned, of course, about the increase in mail that seems to occur during election years. But for those who have that concern, let me point out that in 1990, we only spent $15 million. Thus, instead of spending more during that year, we spent less.

I believe this is an area where we can save money. There is no question that this body needs to set an example controlling spending if we are to ask the American people to do their part as well. The amendment before the body is a modest one. It cuts the increase in this category in half. It saves $2 million.

Mr. President, I reserve the remainder of my time.

Mr. REID. Mr. President, I would be happy to, in just one second, yield to the Senator from Kentucky, the chairman of the Rules Committee. But I did want to say to this body that this bill would not be complete unless we had a discussion of franking.

I guess in one respect we should extend thoughtful consideration to the Senator from Colorado because what would this bill be without a discussion on franking?

I yield to the Senator from Kentucky.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, the amendment by the junior Senator from Colorado reduces the 1992 appropriations for the official mail as I understand, from $34 million to $32 million. He had a change of heart. I guess and did not want to rob his fellow colleagues of $4 million. He only wants to rob us of $2 million, making funds for 1992 $2 million more than the same amount as appropriated in 1991.

Mr. President, the Members of the Senate have been frugal in their outlays for postage, extremely so. The reduced level of funding will be adequate for most Members. It will not affect me personally, because I do not send out newsletters and have not for years. So it really does not bother me.

But I do feel compelled to remind Members of the effects of this amendment. The $34 million would permit each Member to mail at least one statewide mailing in the next fiscal year. If the amendment is adopted, most Members will not have sufficient funds for one statewide mailing.

Mr. President, while I do not oppose the amendment, I feel Members should be aware of the consequences of the amendment on their individual offices. What you do in your office ought to be your business. But you ought not to be interfering in other Senator's offices. You ought to be letting us do our bidding, and then you can do your bidding. Do not send out any mailings. Turn back the money like I do, and then your conscience will be clear, and you can tell your constituents "I did not spend the money; I gave it back." But at least give your colleagues an opportunity to make one simple statewide mailing. I think it is in their best interest.

So this amendment gets into the individual office's activities, and I hope that, as I understand it, there will not be a rollcall vote on this. We have accepted all the amendments without a rollcall vote. So, therefore, Mr. President, I guess there will be a voice vote on this.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We will accept the amendment. I state for the record, and I want the record certainly to be clear, that this subcommittee, over the last several years, has done really a fine job in clearing up controversies as relates to franking. The problem, as the Chair will recall, did not relate to what was going on in this body. It related to the other body. We were able to work out the program so that now there is disclosure both in this body and in the other body, and there is no problem with franking.

The $2 million cut that is sought by the Senator from Colorado is something that we take care of, something that will make things a little tighter; but the Senators have learned to live very frugally with the mail allotments we each have been given.

So we accept the amendment that has been offered by the Senator from Colorado. It has been cleared on this side. Mr. President, I yield the floor.

Mr. GORTON. Mr. President, this amendment is accepted on this side as well. I want to go beyond that to say that as the Senator from Nevada pointed out, not at all facetiously to the introduction of the Senator from Kentucky, this has often been a matter of controversy. In this case, the Senator from Colorado, who feels very strongly about it, has been most cooperative with us. He has already made a compromise, and it will save some $2 million, I think, without harming any of the activities of the Senate or its individual Members. So we are happy to accept his amendment.

Mr. FORD. Will the Senator from Washington yield for a question?

Mr. GORTON. Sure.

Mr. FORD. The money that is being allocated here is not just for newsletters. When you reduce that, it is also money that you use to respond to your constituents with direct mail. Not only is it reducing the ability to respond to your constituents on a direct mail basis; it also affects the statewide mailing.

Mr. GORTON. The Senator from Kentucky is certainly correct. This is on overall mailing cut.

Mr. BROWN. Mr. President, let me point out, if this amendment is adopted, it will leave the Senate with $32 million in this category. That is nearly double what we will spend this year. So I think if someone suffers from a concern that we will have made drastic cuts in people's ability to mail, we have enough money to nearly double the postage spending that took place this year, next year in this appropriation.

My own feeling is that it is not a tight or severe amendment. I must say that I deeply appreciate the willingness of the managers to work with us on this issue. And $2 million is not a lot of money, but I believe it is a way we will get to the soundness of a budget effort.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 775) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 776

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. DOLE, Mr. NICKLES, and Mr. COCHRAN, proposes an amendment numbered 776.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 1, strike "$69,279,000" and insert $69,895,000";

On page 3, line 10, strike "$1,796,000" and insert $2,012,000";

On page 3, line 17, strike "$713,000" and insert $913,000";

On page 3, line 18, strike "$1,426,000" and insert $1,826,000";

On page 5, line 4, strike "$1,142,000" and insert $1,199,100"; and

On page 5, line 5, strike "$2,284,000" and insert $2,398,200".

Mr. GORTON. Mr. President, this amendment is offered on behalf of myself, Senators DOLE, NICKLES, and COCHRAN. It deals with funding for the offices of both the majority and minority leaders, the two-party conferences, and the two-party policy committees, which I must confess, were overlooked for modest essentially cost of living, and increases in the bill at the total cost of the amendment is $673,100,000. It will not put us over our 602(b) allocation.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 766) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the remaining committee amendments be considered and agreed to en bloc, provided that no points of order be waived thereon, and that the measures, as amended, be considered as original text for the purpose of further amendment.

The remaining committee amendments were agreed to en bloc.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, if I could have the attention of the manager on the majority side and the manager on our side. I think both managers are aware of the interest that the Senator from New Mexico has in making sure that the General Accounting Office, which has in the past had an excellent reputation and has done a marvelous job for the most part, but of late has been losing their reputation for fairness, and might I say professionalism; some say there is a bit of partisanship in some of their reports and activities. Actually, the Senator from New Mexico is not really as concerned about that as I am the loss of integrity, organizational integrity, and a concern about efficiency and a duplication of effort.

I have an amendment, but do I not want to offer it, unless the managers are willing to accept it. I know that they have in this appropriations bill seriously looked at the General Accounting Office. I heard the distinguished manager speak to that issue. This bill reflects a concern for the General Accounting Office, and as the majority manager said, he has a concern for the apparent partisanship or growing partisanship of the GAO.

I am not addressing those kind of issues like where they have loaned their people, where they have so-called detailees. I know that is a big issue among some, and clearly most of those are detailed to the majority Members in the U.S. House of Representatives.

My amendment merely seeks to do one thing. The Comptroller General of the GAO has indicated to this Senator, and I believe he has said publicly, that he thinks the time has come to provide some professionals peer review for their reports. These are reviews of the general matters that they issue to the public. There is no peer review. No one from the outside, in any random way, looks at those reports to see that they are professional, to see that they are filled with the kind of integrity, that they have the kind of notice and nomenclature as to what is there, that other reports that are used in the United States have.

So this amendment would say in addition to the report language, which I understand accompanies this bill, this would say that we are going to have a peer review mechanism for the General Accounting Office, and I repeat, sooner or later this will come. If it does not get adopted tonight—and I am not going to ask for a vote. If the managers will accept it, we will do it. But sooner or later either this body, or the House, or Comptroller General Bowsher himself will see to it that there is peer review. It is now known that he wants peer review. Some people in the U.S. House do not want him to have peer review. That means probably he will try, and they will stop him. But sooner or later we will have it because it will be good for them.

We want a GAO report to be accepted by the media of America and the people who read it with the authenticity it is entitled to, with the credibility it deserves, and I want to state for the Senate, very quickly, what happened to this Senator regarding the GAO's reputation.

I was in an Energy Committee hearing. I was speaking to the chairman of our committee about the bill that was before us, and I happened to say that we had learned a lot in this committee from OTA, the Office of Technology Assessment. They have been professional. They have shown real expertise. And something in my mind said why do you not mention the GAO? So I said, "Not like the GAO," and the entire audience made up of bureaucrats, business people, witnesses who were waiting, some 100, actually laughed at the remark. I believe that is getting serious when they will say OTA is real science and real professional reporting and laugh when you mention the GAO. I do not want that to happen. One way we can prevent it is to make sure their reports are reviewed in a professional manner. That is the amendment.

I might ask the managers what is their pleasure.

Mr. REID. Mr. President, the two managers have spoken and we are not going to accept the amendment.

I would say to the Senator from New Mexico that I have spoken to him privately about his concerns with the General Accounting Office. He is sincere. He is factual. He has reasons for being concerned, and I had the Senator share those concerns with me.

As a result of the Senator's concern and other Senator's concerns, we have some pretty good language in this our report. For the first time, to my knowledge, the General Accounting Office is required to take a look at themselves. I think that is a significant step forward.

As I mentioned in my opening statement, we did that for a specific reason. I agreed to it because I want the General Accounting Office to be nonpartisan. I do not think the General Accounting Office serves the U.S. citizens to any purpose if it is regarded as an agency that is controlled by the party that controls the Congress. That would be wrong.

I will state to my friend, my respected friend, from the State of New Mexico, that we have had experiences with the General Accounting Office. And I think there are a lot of stories that people have told me of their bad experiences with the General Accounting Office. But I think the Senator from New Mexico and the Senator from Nevada had a good experience that I wish to recount.

The Senator knows that there is a very expensive military base built in the desert of Nevada. It was the secret training headquarters for the Stealth fighter. It was where the pilots were trained and the airplanes were hidden for many years during development. When that project no longer was secret, a determination was made by the U.S. military, the Air Force, that they no longer could afford to keep that secret base. They were going to move those airplanes to New Mexico.

I raised an objection. I said I do not think that sounds fair. We have a military base that is much closer. Why can they not move it to Nellis Air Force Base? That would save enough money.

The controversy evolved and I said if it is a move that will save this country money and make the Stealth just as available to the defenses of this Nation, then it should move because I do not think defense programs are job programs.

We turned this over to the General Accounting Office, as the Senator will remember, and we, in effect, said let the General Accounting Office investigation decide. We will abide by that. If GAO determines that the Stealth wing can stay either at Tonopah or it can stay in Nellis, the two Senators from New Mexico said, we will go along with that. The two Senators from Nevada said, if it is determined that it is cheaper and will provide security just as reliable for this country, then we will let it go to New Mexico.

They came back and said it should go to New Mexico. I did not like the result, but I abided by the result.

So the General Accounting Office does great work, as I have said. But I think we have to address these issues—because concerns are not limited to the Senate and there are Members of the other body who are saying that GAO is, in effect, a lap dog for the party in power. We do not want that. It defeats the purpose of the General Accounting Office.

So we have report language. And Senator GORTON and I have agreed that we are going to follow this thing through. We want to make sure that they come back with what we have asked them to do in this report.

I would say that that is the way that we should handle this. I think we have had hearings, probably not in enough depth, but I can guarantee the Senator from New Mexico that the Senator from Nevada and the Senator from Washington next year will have in-depth hearings regarding the General Accounting Office and its objectivity.

I will also state I think the oversight committee for the General Accounting Office is governmental affairs and they probably would like to look at this, Chairman GLENN and the ranking member, Senator ROTH.

We, I repeat, already have report language that does the job. So I will say to my friend from New Mexico who has rendered so many years of great service to not only the State of New Mexico but also to this country. Give GAO a chance to respond to the criticisms, and then if the response is not satisfactory, he will find the Senator from Washington and the Senator from Nevada joining with the Senator in whatever approach you may feel appropriate.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the Senator from New Mexico knows how greatly I respect him and knows that he and I are as close perhaps as any two Members of the Senate and I believe that he discussed this whole concern with me at a very early stage before he had drafted his bill. And it was because of the concern of the Senator from New Mexico that I asked the Senator from Nevada to fire the shot across the bow of the General Accounting Office by including it in this bill. That shot across the bow takes some $6½ million from what the House appropriated and some $55 million from what the agency itself asked for. It includes also language which will cause us to look into the shortcomings of the General Accounting Office.

Given the nature of this bill and the situation at this point, the interests of the authorizing committee in this legislation, I do, however, have to join with the distinguished Senator from Nevada in saying that we would feel it unwise to add this amendment to this bill at this point. But the pledge that was given to the Senator from New Mexico by my chairman goes for this Senator as well.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment that I would have offered be printed in the RECORD for those who would like to see what we would do with reference to peer review had we had this amendment accepted.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the appropriate place insert the following:

SEC. . (1) A representative sample of General Accounting Office reports, studies, and reviews shall be statistically selected by the Program Evaluation and Methodology Divison (PEMD) of the General Accounting Office.

(2) The sample of reports, studies, and reviews shall be drawn from the universe of reports, studies, and reviews conducted by the General Accounting Office over the 18 month time period preceding the enactment of this provision.

(3) There shall be established an Independent General Accounting Office Peer Review Committee. This committee shall consist of not more than 12 individuals with expertise in government program analysis, public policy analysis, financial and auditing review. The Comptroller General shall be a member of the Independent General Accounting Office Peer Review Committee. The Comptroller General shall select the remaining members of the Committee, and those selected shall be submitted for approval to the chairman and ranking members of the Senate Governmental Affairs Committee, the House Committee on Government Operations, and the Senate and House Subcommittee on Legislative Branch Appropriations.

(4) The sample of reports, studies, and reviews shall be submitted to independent analysis by nongovernmental organizations with recognized expertise in the relevant field of selected reports, studies, and reviews to assess the accuracy, fairness, and professionalism of the reports, studies, and reviews. The nongovernmental organizations conducting the independent analysis shall be selected by the Independent General Accounting Office Peer Review Committee.

(5) The independent analysis or analyses shall be completed in a timely fashion but not to exceed 12 months and submitted to the Comptroller General of the General Accounting Office, to the chairman and ranking member of the Senate and House Subcommittee on Legislative Branch Appropriations, and to the chairman and ranking member of the Senate Committee on Governmental Affairs, and the chairman and ranking member of the House Committee on Government Operations.

(6) The Comptroller General of the General Accounting Office is directed to take such measures as are necessary to correct identified problems of methodology and analysis as identified in the independent reviews.

(7) The Independent General Accounting Office Peer Review Committee shall consult with and generally keep advised the existing General Accounting Office's Quality Control Review Board.

(8) The Independent General Accounting Office Peer Review Committee shall make recommendations for ways in which the General Accounting Office can accomplish its mandates while not duplicating the work of executive agency Inspector General Offices.

(9) Funding for conducting this peer review system shall be made from funds appropriated in this Act to GAO.

Mr. DOMENICI. Mr. President, I have had a lengthy discussion with Comptroller General Bowsher about the GAO. Frankly, he told me some things I did not know about consulting firms and accounting firms in the United States of America who do similar work to the GAO, obviously more for a private sector, and certainly not as the watchdog for the Congress of the Government. He indicated to me there is an ongoing system in the United States, official in nature, whereby peer review is performed on these various entities.

Arthur D. Andersen has an internal charter, a charter that is internal to that prescription of the peer review so that everyone knows that their reports are done in a certain unbiased, professional, integrity-laden manner. I was not privy to the work that makes up that nationally accepted approach to peer review. So what I did in the amendment which I was going to offer was, with my staff, prepare a random peer review for the GAO, and that is what we would have prescribed.

I do this tonight because I do not like to take on the GAO and not have something come of it. Something is coming of it in the bill tonight because, as Senator GORTON indicated, I started this and spoke to him about some of my findings.

The first bill that came along was this one and a shot is being passed across the bow. GAO is being told, let us kind of get with it; let us clean up a little bit.

By no means are we saying they are incapable. They do many great things. Without them we would be incapable of doing many things that we are doing here. But we also know that they are at liberty to do almost anything they want. GAO has a half a billion dollar budget, subpoena power, and clearly report to no one other than to give their reports to Congress if they choose to take somebody on.

Now that is an invitation to disaster in a free society. And we must do better oversight, or we must put within their legislation, a mechanism that will see that the very worst does not happen. And I am not suggesting that it is.

I am suggesting there is less than professionalism from time to time; a lack of consideration for certain departments who furnish the information. And they even admit that.

I know the Senator knows that there have been such occasions. One recently was a report on the superconducting super collider. GAO did an indepth report and it did not even let the Secretary of Energy see a draft or anything else until it was public.

Now Mr. Bowsher does not like that. But that is happening. That is not decency in the marketplace in the United States. They have to fix things like that.

We know of occasions when prior to a report being issued publicly, someone is given the substance of the report so they can release it publicly. Now, in that case, those who oppose it who want to see what it is all about have nothing to refute it. We think that kind of thing ought to stop. That seems unfair. And essentially some reports are less than professional.

I thank the managers, both of them, for the work they have done. And I believe if you get the GAO to move in the right direction, you will have furnished a great service to the Congress because they will do a much better job on behalf of our people.

I yield the floor.

The PRESIDING OFFICER. Are there additional amendments?

AMENDMENT NO. 777

(Purpose: To provide $200,000 for the National Commission on Children)

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia, [Mr. ROCKEFELLER], proposes an amendment numbered 777.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . NATIONAL COMMISSION ON CHILDREN.

For necessary expenses of the National Commission on Children as established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $200,000 to remain available through December 31, 1992.

Mr. ROCKEFELLER. Mr. President, this is an amendment which would allow the National Commission on Children to complete its work on behalf of the children and families in this country. I believe that the amendment is acceptable to both the managers of the bill and would hope that it would be adopted.

The PRESIDING OFFICER. Is there additional debate on the amendment?

Mr. REID. Mr. President, the managers do accept the amendment.

I would say to the Senator from West Virginia—I have not had the opportunity and I would be happy to say it publicly—that I thank him for the great work that he as chairman of that commission did, not only for us who need that information as legislators but for the American public. It was a great piece of work. The Senator and the members of the Commission should be applauded and commended. We are most happy to accept this so that the report can be printed and distributed appropriately.

Mr. GORTON. Mr. President, this side of the aisle also accepts the amendment and joins in the congratulations offered to the distinguished Senator from West Virginia on his performance with the Commission.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 777) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROCKEFELLER. Mr. President, I was not expecting the managers of the bill to make those particular complimentary remarks and I thank both the Senator from Nevada and the Senator from Washington very sincerely.

The PRESIDING OFFICER. Are there additional amendments to the bill?

AMENDMENT NO. 778

(Purpose: To rescind an amount equal to the official mass mail costs available to Senator Wofford)

Mr. WOFFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. WOFFORD] proposes an amendment numbered 778.

Mr. WOFFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . Of the funds appropriated or otherwise made available under the heading "OFFICIAL MAIL COSTS" under the heading "SENATE" in the Legislative Branch Appropriations Act, 1991 and which would remain available until expended, $150,000 of the remaining balances are rescinded: *Provided*, That the amount rescinded by this section shall be deducted from the amount allocated by the Committee on Rules and Administration to the junior Senator from Pennsylvania for mass mail.

Mr. WOFFORD. Mr. President, this amendment I understand has been cleared by both sides and I appreciate that. I would like to say a few words about it.

Mr. President, just about 2 months ago, a well-intentioned elected official told me that as soon as I got to the Senate I should take advantage of the franking privilege by sending out a lot of mass mailings—right away, and free of charge.

And I thought to myself: "He really does think they're free. Because he doesn't think that tax dollars are real dollars." Well, I came to the Senate to represent people who pay taxes, do the work, foot the bill, struggle to save, and often come up a little short at the end of the month.

So I made a promise to the people of my State. I said that as a U.S. Senator, I would not send out self-promotional mass mailings at public expense. If someone writes me a letter, or calls my office, I will do everything I can to make sure they will get a response. But I will not ask the public to pay for a flood of newsletters that citizens too often consider as nothing more than taxpayer financed junk mail.

But I discovered, Mr. President, that under present law there is no way for me to pass those savings along to our taxpayers. It is like I have written a big check for the taxpayers—$150,000 to be exact—but Uncle Sam will not cash it. That makes no sense—and no dollars and cents going back to the taxpayers.

Of the amount in my office account available for official mail costs, I believe I can return $150,000 to the U.S. Treasury. So I offer this amendment to rescind that amount from my office appropriation. And I would urge that in the future we provide an easier way for Senators to save funds than to offer a separate appropriations amendment.

Our taxpayers are questioning as never before whether Government is spending their hard-earned dollars wisely. We simply must restore their confidence in us and our ability to manage Government wisely and efficiently.

We have so many needs today in our Nation, growing human challenges confronting not only the poor, but also the vast majority of our working families. What they know is that their incomes are stagnant, their taxes are going up, public services are being cut.

We need to save tax dollars everywhere we can. Mass mail is one place I believe I can save. I need this amendment to help me do it.

I appreciate the managers of the bill accepting this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Pennsylvania?

Mr. REID. Mr. President, this side accepts the amendment.

Mr. GORTON. This side accepts the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 778) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I know of no further amendments to be offered.

The PRESIDING OFFICER. Are there additional amendments to the bill?

If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2506) as amended, was passed.

Mr. REID. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. REID, Ms. MIKULSKI, Mr. ADAMS, Mr. INOUYE, Mr. GORTON, Mr. HATFIELD, and Mr. STEVENS, conferees on the part of the Senate.

Mr. REID. Mr. President, I would like to take this opportunity to express my appreciation to my chief of staff on the subcommittee, Jerry Bonham, who has worked many months in getting us to the point that we now are, where this bill is passed. We worked here just a few hours tonight, but the work going into this $2 billion-plus bill takes months. We are now in the middle part of July, and it has taken all that time to get it here. We have had numerous hearings.

I would also like to extend my appreciation, not only to Jerry Bonham for his hard work, but also to the chief of staff for the full Appropriations Committee. Jim English is always available for not only Jerry Bonham, but also for me when questions arise that are difficult and on procedural matters that we need some help with.

Mr. President, being in the Senate now during my fifth year, I have come to know and respect Keith Kennedy, who is always around whenever there is an appropriations bill up and is always most gracious and helpful. Sometimes the answers that you get you would rather not get, but the way the message is delivered is appreciated.

I also, of course, want to express my appreciation to Lula Joyce, who is the person who works with Jerry Bonham on a daily basis who does, in fact, a lot of the dirty work. She does typing and all those kinds of things that, if it were not done, this bill also would not be here. So Lula does a great job in so many different areas.

I have already expressed my appreciation to Senator GORTON. This is the first year we have worked together on this bill, but I am just so impressed with the experience that he brings to this committee, the experience he brings to this subcommittee, and the great help he has been in allowing us to get the bill to this point.

I want to express my appreciation to Senator GORTON for the help he has rendered to me.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, it was obvious that there was at least one controversial amendment dealt with during the course of this evening which was outside of the gamut of the work which the distinguished chairman of the subcommittee and I engaged in, preparing this bill. If we lay that to one side, we may very well have set a record for the noncontroversial nature of this bill, and for the amicability with which it was dealt here on the floor of the Senate.

I believe that is a tribute to the chairman of the subcommittee and to his willingness to listen to the concerns of the minority as they were expressed here, in part at least, by the Senator from New Mexico. So that we were able to present the bill, no portion of which was significantly controversial, and were able to pass it through the Senate in what may very well be record time for an appropriation bill.

So I appreciate the kind remarks that have been made by the Senator from Nevada. But I want to say all the credit he has given to this Senator, he deserves twice or three times over.

Sean O'Hollaren and his assistant, Ginny James, on our side of the aisle, made this an easy and smooth transition into a new position for this Senator. Keith Kennedy, the minority staff director with the full Appropriations Committee, has been a great help to this Senator, as he has to others. And my own personal staff members, Curtis Hom, who handles these matters within my office, and Sam Sping have, in conjunction with these others, succeeded in keeping me on the straight and narrow path and in helping to move this bill through so promptly.

VITIATION OF PASSAGE—H.R. 2506

Mr. REID. Mr. President, I ask unanimous consent that third reading and passage of the bill be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

AMENDMENT NO. 779

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 779.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, after line 20 (at the end of Section 311), insert the following:

(g) With respect to the House of Representatives, the House of Representatives Child Care Center and other matters relating to child care shall be governed in the manner determined by the House of Representatives, including as provided in House Resolution 21, Ninety-ninth Congress, as enacted into permanent law, and shall be subject to such regulations as the Committee on House Administration of the House of Representatives may prescribe.

Mr. REID. Mr. President, this amendment modifies Section 311 of the bill to insert language relating to the House day-care center.

Let me hasten to add that this amendment is requested by our counterparts in the House of Representatives. In observance of the principle of comity between the Houses, we make no judgment as to its merit, but do ask it be adopted.

The PRESIDING OFFICER. Is there further debate?

Mr. GORTON. I agree with the remarks of the Senator from Nevada.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 779) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I know of no further amendments to be offered, and I ask for third reading and final passage.

The PRESIDING OFFICER. Are there additional amendments to the bill?

If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2506) as amended, was passed.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. REID, Ms. MIKULSKI, Mr. ADAMS, Mr. INOUYE, Mr. GORTON, Mr. HATFIELD, and Mr. STEVENS, conferees on the part of the Senate.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. REID. Mr. President, on behalf of the majority leader, I move the Senate proceed to the consideration of Calendar No. 89, S. 250, the motor-voter bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes:

Wendell Ford, Jeff Bingaman, Daniel K. Akaka, Max Baucus, Timothy E. Wirth, J.R. Biden, Jr., George Mitchell, Richard Bryan, Bob Kerrey, J. Lieberman, Pat Leahy, Brock Adams, Daniel K. Inouye, Bill Bradley, John F. Kerry, Frank R. Lautenberg.

WITHDRAWAL OF MOTION TO PROCEED

Mr. REID. I now withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 241. All officers for appointment in the Reserve of the Air Force.

Calendar 242. Gen. John W. Foss, to be placed on the retired list, U.S. Army;

Calendar 243. Lt. Gen. Thurman D. Rogers, to be placed on the retired list, U.S. Army;

Calendar 244. Gen. H. Norman Schwarzkopf to be placed on the retired list, U.S. Army;

Calendar 245. Lt. Gen. James R. Hall, Jr., to be placed on the retired list, U.S. Army;

Calendar 246. Lt. Gen. Joseph P. Hoar, to be general, USMC;

Calendar 247. Lt. Gen. Ernest T. Cook, Jr., to be placed on the retired list, USMC;

Calendar 248. Maj. Gen. Royal N. Moore, Jr., to be lieutenant general, USMC;

Calendar 249. Maj. Gen. Henry C. Stackpole III, to be lieutenant general USMC; and

All nominations placed on the Secretary's Desk in the Air Force, Army, and Navy.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the notions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered. The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, and 8373, title 10, United States Code:

To be major general

Brig. Gen. Earl A. Aler, Jr., [redacted], Air Force Reserve.

Brig. Gen. John H. Burris, [redacted], Air Force Reserve.

Brig. Gen. Rodney L. Linkous, [redacted], Air Force Reserve.

Brig. Gen. Robert A. McIntosh, [redacted], Air Force Reserve.

Brig. Gen. Clark O. Olander, [redacted], Air Force Reserve.

Brig. Gen. John P. Van Blois, [redacted], Air Force Reserve.

To be brigadier general

Col. Wayne W. Barkmeier, [redacted], Air Force Reserve.

Col. Marcia F. Clark, [redacted], Air Force Reserve.

Col. John J. Costanzi, [redacted], Air Force Reserve.

Col. Louis A. Crigler, [redacted], Air Force Reserve.

Col. Terrence L. Dake, [redacted], Air Force Reserve.

Col. Andrew P. Grose, [redacted], Air Force Reserve.

Col. James W. Lucas, [redacted], Air Force Reserve.

Col. Charles R. Luther, [redacted], Air Force Reserve.

Col. Michael W. McCarthy, [redacted], Air Force Reserve.

Col. John M. Miller, [redacted], Air Force Reserve.

Col. Samuel P. Mitchell, Jr., [redacted], Air Force Reserve.

Col. Michael J. Peters, [redacted], Air Force Reserve.

Col. Robert E. Pfister, [redacted], Air Force Reserve.

Col. Terry G. Whitnell, [redacted], Air Force Reserve.

ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. John W. Foss, [redacted], United States Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Thurman D. Rodgers, [redacted], United States Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. H. Norman Schwarzkopf, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James R. Hall, Jr., [redacted], United States Army.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be general

Lt. Gen. Joseph P. Hoar, [redacted], USMC.

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Ernest T. Cook, Jr., [redacted], USMC.

The following-named officer, under the provisions of title 10, United State Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Royal N. Moore, Jr., [redacted], USMC.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

Maj. Gen. Henry C. Stackpole III, [redacted], USMC.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY

Air Force nomination of Aurora T. Maldonaldo, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1991.

Air Force nominations beginning Norman Arends, and ending Terrance J. Rock, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1991.

Air Force nominations beginning Major John W. Anderson, [redacted], and ending Major Paul E. Lavoie, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1991.

Air Force nomination of Rosa L. Sandwellweiss, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1991.

Air Force nominations beginning Richard M. Anders, and ending Shirley C. Clark, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1991.

Air Force nominations beginning Frank E. Carpenter, and ending John D. Vail, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 8, 1991.

Air Force nominations beginning Major Reese R. Armstrong, [redacted], and ending Major Edmund D. Effort, [redacted], which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 8, 1991.

Army nominations beginning Dennis J. Fringeli, and ending * Irwin B. Simon, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 24, 1991.

Army nominations beginning Maynard K. Bean, and ending Delores J. Podhorn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 8, 1991.

Navy nominations beginning James M. Castleberry, and ending Vicki S. Pearson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 8, 1991.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

DESALINATION

Mr. REID. Mr. President, 1 year ago, almost to the day, I stood on this Senate floor and talked about a technology that I think will be important to the United States and to peace in the Middle East. That technology is desalination: the extracting of fresh water from salt water.

A year ago I visited the Middle East and spoke with a number of leaders in Israel and in Egypt. The first and most basic step toward peace is to find areas in which the parties can mutually and readily cooperate. One of these areas is desalination.

In a desert climate, water is life. And though water could potentially be the subject of conflict, it could also be a potential source for peace. Israel, Jordan, and Syria all have access to the same overused water resources. In order to survive, they will have to cooperate.

Right now, even though they are in a technical state of war, Israel works in quiet cooperation with Jordan on management of resources at the Dead Sea. This is a seed that we all hope will grow into a more peaceful coexistence.

In Egypt, Dr. Alef Ebeid, the Minister for Cabinet Affairs and Environmental Secretary, told me that desertification is "the most significant problem facing future Governments of Egypt."

Senator SIMON has introduced a bill, S. 481, which not only resurrects the Federal Desalination Research and Development Program here in the United States, but also directs the Agency for International Development [AID] to convene a conference of nations that either use or hope to use desalination technology.

We have an opportunity to be proactive. We have an opportunity to plant the seeds of peace by heading off future water disputes in the Middle East. Let us take that opportunity.

I ask unanimous consent that an article written by Senator PAUL SIMON be inserted in the RECORD following my remarks.

[From the Christian Science Monitor, Mar. 26, 1991]

IT'S TIME FOR A BREAKTHROUGH IN DESALINATION

(By Paul Simon)

Amid the massive coverage of the Gulf war and the lesser coverage of California's drought, an unfamiliar word began to enter the American lexicon: desalination—the process of extracting fresh water from sea water.

When Saddam Hussein resorted to oil spoilage as a weapon of war, the public learned that Saudi Arabia relies on desalination plants for much of its fresh water. As California's drought has worsened, some are touting desalination as an option to assure adequate water supplies. And on our other coast, Florida is having its own water-supply problems.

Lack of fresh water increasingly is a brake on economic development and a source of friction between nations and between states and regions here at home. On a recent trip I made with Senate colleagues through the Middle East, both Israeli Prime Minister Yitzhak Shamir and Egyptian President Hosni Mubarak talked passionately of water needs.

Just as today oil drives the energy engine for much of the industrialized world and thus causes international friction, tomorrow water will be a cause of intense competition and conflict as nations vie over a fundamental life-sustaining resource.

Saudi Arabia relies on desalination technologies that convert salt water to fresh water. Out of necessity, the Saudis have employed a technology that will become increasingly important in the future in the arid nations of the Middle East, but also in much of the rest of the world, including the United States.

Saudi Arabia can convert salt water to fresh water because the Saudis have the economic resources to afford using the present technologies. The US armed forces there did the same during the war, again because we could afford it.

But Egypt, with its mushrooming population, is able to use only 4 percent of its land, mostly along the Nile. And as its population grows, less and less of that land can be used to produce food. Egypt is right on the Mediterranean, with an abundance of water at hand—but water Egypt cannot afford to use because it doesn't have the money to use present desalination techniques.

Likewise, Mauritania is desperately poor in large part because of lack of water, yet it is right on the ocean. When I visited Mauritania a few years ago the people were growing only 10 percent of their own food. If the Mauritanians could use the water at their doorstep, they could dramatically improve their quality of life—and be food exporters.

According to a report by the Office of Technology Assessment, American industry was at the forefront of desalination technology throughout the 1960s and into the 1970s, thanks to President Kennedy's special interest in the subject. Our efforts peaked in 1967, when federal funding reached $119 million in 1990 dollars.

Because today's process of distiliation is energy-intensive, the oil crisis of the early 1970s brought a dramatic drop in interest and research. By the late 1980s, U.S.-funded research had dwindled to a few hundred thousand dollars a year. When we ended most government sponsorship for desalination research during the early 1970s, Japanese and European firms, some of which were and still are government-supported, began securing contracts that earlier would have gone to American firms.

A measure I introduced last year, calling for renewed research funding, has been included in the president's budget. But it is a long way from being effective. This year I have introduced bipartisan legislation that would charter a long-term commitment for the US to reenter the desalination research field. The early signs of support for the bill are encouraging.

Saudi Arabia and Israel are doing research. The Soviets are interested because they have great arid lands. Interest is growing in California, the Southwest, and Florida.

The major technical obstacle at the moment is energy efficiency. State-of-the-art desalination technologies require enormous amounts of energy to create relatively modest amounts of potable water.

While this problem is not insurmountable for a cash-rich and energy-rich nation like Saudi Arabia, it keeps the technology out of reach for most nations facing dire water shortages.

One positive side effect of the tragic conflict in the Persian Gulf is that it might enable us to focus world resources and attention on the need to accelerate work on desalination technologies. We should seize the chance to make sure we are prepared to deal with the inevitable situation of massive and dire water shortages in many parts of the world.

This is an issue that could cause future wars if we do not vigorously pursue research. Renewing US leadership on desalination technology will yield untold benefits later, in strengthened prospects for peace in the Middle East, in economic security here at home, and in helping to end hunger around the world.

HENRY BILLION

Mr. DASCHLE. Mr. President, decent. Decent and caring beyond what any one human being ought to be able to be. That is the way I remember Henry Billion.

He was generous and fair. He gave his time and smile to everyone. And both, coming from Henry, were treasured gifts.

Henry Billion was a one in a million kind of person. The kind who stands out in our minds for a fundamental decency we know we can never equal. The kind who leads his community and his business yet finds time every day of his life to return home for lunch and dinner with family, to attend Mass and to do all of these things without the slightest hint of self-righteousness nor reproach toward those who cannot.

Because his life is so worthy of our attention, because the tribute to him written by an outstanding reporter is so moving, but most of all just to honor a fine, fine man, I ask unanimous consent that the story entitled "Billion's 'Wonderful Life' Ends," be printed in the RECORD at the conclusion of my remarks.

And I hope you will pay special attention to the closing quote in that story. When told he had terminal cancer it reports Henry to have said, "I'm too old to die young. I've had a wonderful life."

Absolving death itself of blame, forgiving fate for his taking and thanking her for his life. That was Henry Billion. I will never forget him.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sioux Falls Argus Leader, July 16, 1991]

BILLION'S "WONDERFUL LIFE" ENDS

(By Brenda Wade Schmidt)

Longtime Sioux Falls car dealer and community leader Henry Billion died Monday night of cancer. He was 78.

Billion, who was in the car business for 56 years, is remembered for his commitment to his family, church and community. He helped start Crippled Children's Hospital and School, led the campaign to build O'Gorman High School and was a board member at McKennan Hospital, where he died.

"Some of us realize he made a real contribution to this community," said Louis Hurwitz, Sioux Falls lawyer and friend of 50 years. "He built bridges in this community over which many will cross."

Billion was born April 24, 1913, in Sioux Falls' North End, the son of Belgian immigrants. His father, Alphonse, died when he was 4 and his mother, Coralie, moved the family back to their home country. A few years later, the family was back in Sioux Falls where his mother ran a boarding house at 12th Street and Minnesota Avenue, now the site of the First Lutheran Church parish hall.

"My dad, I think, got his work ethic from her,'" said his son and business partner, Dave Billion.

Henry Billion graduated summa cum laude from Loras College, a Catholic school in Dubuque, Iowa. During school and for a short time after he graduated, he worked at J.C. Penney. He started in the car business with a partner in an Oldsmobile dealership in 1935 and opened Billion Motors in 1945. That business has since grown to four dealerships in Sioux Falls.

He married Evelyn Heitz in 1935, and they raised eight children.

Billion was the type of family man who, despite extreme business and community involvement, went home each day to eat lunch and dinner with his wife and children, the Rev. John McEneaney said. Billion also was religious, taking time out each day to attend Mass. "He had a deep love of his church," McEneaney said.

In 1959, Pope John XXIII named him a Knight of St. Gregory, a papal honor bestowed on people who have given to their church and community. "His whole life has been marked by an extraordinary spirit of service," McEneaney said.

Business competitors respected Billion. Paul McKeen was in the car business when Billion started his dealership. McKeen said Billion was "just a wonderful man all the way through. We enjoyed each other immensely."

Billion's early hobbies included gardening and flower beds. More recently, he spent time at his lake cabin in Minnesota. He enjoyed Louis L'Amour books and new cars.

"Every year they came out with something new, and he liked that better," Dave Billion said. In the elder Billion's garage, he kept a 1991 Plymouth Voyager and an 1991 Oldsmobile.

Billion never retired from the auto dealerships, his son said. He maintained an office and until a couple months ago stopped in regularly.

In 1965, father welcomed son into the business, and the two eventually became partners. The starred together in their own slapstick commercials and even when they couldn't agree, they got behind whatever decision was made, the younger Billion said.

"He gave me a lot of opportunity and encouragement," he said. "I couldn't write a better script on how it should work."

A growth in the throat in 1961 left Billion with a gravelly voice. "He was very deliberate and soft-spoken, and yet when he talked, you listened," Hurwitz said.

In an interview in 1985, Billion said the condition that took away his voice for six months taught him something. "I found out there were a lot of things you don't really have to say."

In February, he was diagnosed with cancer when doctors found a spot on his lung. The disease spread to his spine and bones. Surgery, chemotherapy and radiation treatments were ineffective at curing the cancer.

When he was told he had cancer, he was accepting of the illness, his son and his priest said. "He said, 'I'm too old to die young. I've had a wonderful life.'"

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,314th day that Terry Anderson has been held captive in Lebanon.

In recent days we have read press reports of the failing health of Terry Anderson and Alann Steen. While I would hope that all courses are already being pursued to secure the release of these illegally detained persons, this new information is disturbing and adds—if at all possible—to the urgency. I ask my colleagues to join me in my prayer that these men will soon recover their strength and be rejoined with their families.

EPA INDIAN SET-ASIDE FOR WASTE FACILITIES CONSTRUCTION

Mr. MURKOWSKI. Mr. President, I rise today to speak about the EPA's Indian set-aside for construction. The Indian set-aside was included in 1987 amendments to the Clean Water Act. Since that time the EPA has provided grants for 39 projects throughout the country. The authorization for this program expires this year and will not be reauthorized in time for 1992 appropriations.

I, along with other members of the Select Committee on Indian Affairs and my senior colleague from Alaska, Senator STEVENS, hoped that the Appropriations Committee would include a 1-percent set-aside for Indian construction in the EPA budget to fill in the gap between expiration and reauthorization. The set-aside of $23,835,000 would have allowed for construction at an additional 28 locations in 1992. Unfortunately the Appropriations Committee did not see fit to include this set-aside and instead compromised with ½ percent set-aside at the discretion of the Director of the EPA. I hope the EPA does use this money for Indian construction.

Although I will not offer an amendment today because this matter has been settled by compromise in the committee, I would like to express my disappointment that this 1 percent set-aside for Indian construction was not included and to explain why this program is so critical to Alaska Natives. I will work with my colleagues to include the 1-percent set-aside for 1993 in the reauthorization of the Clean Water Act.

I would like to tell you about the sanitation needs of rural Alaska Natives. I would like to tell you about the honey-bucket-haul system, sewage lagoons that break or overflow, areas where individual septic systems are not feasible due to permafrost conditions. Now I know that waste facilities, especially human waste facilities are not the most pleasant of topics. In fact, few of us think anything about them even as we flush the toilet. Rural Alaska Natives, however, face this issue everyday. They face human waste in ways we have never dreamed of, Mr. President. There are few toilets in bush Alaska.

Over 90 percent of the villages in rural Alaska do not meet some aspect of the State or Federal code for water and sewage systems. The estimated cost to provide piped water and sewage systems to Alaska Native villages which meet Federal and State standards is over $1 billion. Much of this money is needed for waste facilities construction.

There are approximately 200 Native villages in Alaska. The vast majority of these are served by the honey-bucket-haul system. Sewage is collected in buckets and emptied each day into lagoons, barrels, or cesspools. In the spring when the snow melts, the winter's sewage appears again in the village. Children play in the yellow snow. We can only imagine the sight. Alaska Natives live with it and many health problems result.

Sewage seeps into the rivers, wells, lakes—the very water supply that serves the village. This, in conjunction with inadequate washing facilities—most villages are served at best by a single "washeteria" where everyone gets their water—results in a threat to public health that is completely unacceptable. High rates of communicable diseases such as hepatitis are a fact of life in Alaska Native villages. Outbreaks occur every year.

Just this spring the sewage lagoon in Bethel began leaking into a nearby slough. Residents could no longer fish for fear of contamination and emergency money had to be found to correct the problem. Bethel is one of Alaska's larger villages with services that are the envy of many smaller villages, and yet even their sewage facilities are inadequate.

Although even with this money progress will be slow, progress must continue. We cannot ignore the needs of these people or put them off for another year while we work out reauthorization of the Clean Water Act. The need is there, we know it's there, and we know that we will include an Indian set-aside in the reauthorization. I do not believe the committee adequately understood the problems faced by Indians and Alaska Natives when they refused the 1-percent set-aside, but I hope that the Director of the EPA will use his authority to provide the ½ percent authorized for 1992.

THE LIFE OF EDWARD W. CLYDE

Mr. GARN. Mr. President, I rise today to announce the passing of a giant in the practice of western water law—the father of the central Utah project—Edward W. Clyde of Salt Lake City. I want to express my sympathy to Ed's wife Betty and his family. He will be sorely missed by all those who knew and worked with him.

We who reside comfortably in the arid West do so in part because of the brilliant mind and keen intellect that Ed Clyde applied to our water problems. No one mastered and understood the intricacies of western water law more fully, no one brought the vision of water reclamation into reality more tangibly than he did.

When the waters of the Colorado were allocated, Ed Clyde was there on behalf of the State of Utah to protect and promote Utah's interests. During the heated congressional debate leading up to passage of the 1956 Colorado River Storage Project Act [CRSP], Ed Clyde worked tirelessly to make certain that Utah and the West would receive the municipal, industrial, and irrigation waters to which we are entitled. The significant development of the Western United States today is due in a very real way to the foresight and efforts to this great man during those and subsequent congressional debates.

Like no other man, Ed Clyde can accurately be described as the father of the central Utah project [CUP]. From its earliest days in the 1950's, until today, he continued to act as counsel to the Central Utah Water Conservancy District and counselor to us all. Countless times he would offer insight and bring me up to date on CUP developments during his many visits. His wisdom and institutional memory regarding the debates surrounding development of the Colorado River are legendary in the Western United States.

Mr. President, Utah has lost one of its most brilliant and visionary sons. The life of Edward W. Clyde will go forward as an example to us all. When the central Utah project is finally completed and the waters of the Colorado River System begin to flow into a greening and flourishing Great Basin, the vision of this extraordinary man will be fulfilled. On behalf of all the people of Utah, I express my appreciation for the life this man lived. The CUP will be a monument to his memory.

LEE HAMILTON MAKES SENSE ON THE ANDEAN DRUG WAR

Mr. CRANSTON. Mr. President, for some time now I have been strongly critical of the administration's efforts to provide military solutions to the Andean drug war.

As I have said many times on this floor, the militarization of the drug war cannot be an effective law enforcement alternative.

By strengthening Latin militaries in this internal security effort, we give them a role prohibited to our own military in our own Nation, and tend to reinforce their autonomy from civilian control.

This morning's Christian Science Monitor carried a very cogent argument by my friend Representative LEE HAMILTON on just how wrongheaded administration policy has been.

Representative HAMILTON believes, as I do, that the solution to the drug crisis requires the United States to work even more closely with our Andean partners to find alternative crops and to strengthen local civilian law enforcement efforts.

In the medium- to long-term, military solutions to the drug problem will only mean further loss of authority and ligitimacy by the Andean nations' elected authorities, the military's continual encroachment on civilian governance, and the poverty and degradation of the peoples—particularly the poor—of the region.

I commend him on this excellent article as I recommend it to my colleagues. I ask unanimous consent for this piece to be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 17, 1991]

EFFORT TO ATTACK DRUGS AT SOURCE FALTERS

(By Lee Hamilton)

Drug baron Pablo Escobar is doing his jail time in a custom-built prison near his base of operations in Medellin, Colombia. The Colombian government's failure to extradite Escobar and his aides to the United States, or to bring them to trial for cocaine trafficking, illustrates the difficulties of US policy in the drug war. Despite enormous investment, the US is making little progress in stopping drug production in South America.

Two years ago President Bush launched the "Andean Initiative," a major effort to stop the flow of cocaine into the US from the mountainous Andes region of South America (Bolivia, Colombia, and Peru). The US doubled law enforcement, military, and intelligence operations in the region. It sought to dismantle the supply network Colombian drug traffickers have set up to transport coca leaves from small farms to remote processing labs, and then to the US cocaine market. The US also offered incentives to the small farmers in the two spots which produce almost all the world's coca leaves (Peru's Upper Huallaga Valley and Bolivia's Chapare region) to switch to other crops.

Since 1989 funding for the Andean Initiative has more than doubled, from $171 million in 1989 to $379 million in 1991. The request for 1992 is $509 million.

Assessing Our Progress: In its effort to stem the supply of drugs, the US has used a three-pronged approach to cut coca production through crop eradication and substitution as well as interdiction. This strategy has had few results. Coca production is thriving. Even by the most cautious official estimates, coca production rose 5 percent between 1988 and 1990, with almost all of it coming from the remote regions of Bolivia and Peru.

A US pilot substitution program in which Bolivian small farmers are paid $900 for each acre they remove from coca production has not worked. The US has offered agricultural advice to small farmers wanting to substitute rice or corn for local consumption or bananas, pineapples, and palm hearts for export. These crops, however, have had little economic allure, in part because the international market for tropical produce is saturated.

Drug traffickers have moved their operations to escape crackdowns in Colombia, where 80 percent of the world's cocaine supply used to be processed. Now they are refining cocaine in Peru and Bolivia and transporting it directly to the US market, bypassing Colombia entirely. The traffickers are also expanding their operations to Ecuador, Brazil, and Venezuela.

The US interdiction program to stop Andean cocaine at national borders has had moderate success both in South America and in the US. Seizures of cocaine shipments by US officials were up sharply last year, prompting an estimated 9 percent decline in shipments arriving in the US. This was entirely due to improved interdiction of cocaine already enroute to the US.

Perhaps the best measure of success in limiting the cocaine supply is whether any shortages have resulted in this country, forcing up the price. These efforts to curb the supply have had little effect on the street price in the US, where 80 percent of the world cocaine supply is consumed. To reduce the supply, we must reinvigorate our strategy.

Controlling the Supply: First, we must recognize that farmers have to be able to grow crops at a profit. Destitute farmers have little choice but to grow coca, since it is the only way they can feed their families. A comprehensive US effort is needed including trade preferences, debt relief, and the creation of a market for other viable crops.

Second, we should strengthen civilian law enforcement. Police forces in South America are more responsive to civilian authority and less susceptible to corruption than military forces. The US ought to help civilian governments consolidate their control. Furthermore, the top priority of South American armies is to fight rebels and not drug traffickers. A militarization of the drug control effort has angered many in the region who fear increased violence.

Third, we need to strengthen our supply interdiction. Stopping drugs in transit has been more successful than crop substitution and eradication. Curtailing production is critical, but we must also reduce the supply crossing our borders.

Conclusions: Relations between Colombia and the US are deteriorating because of differences over the policies leading to the surrender of the drug traffickers. Colombians think Americans want to fight the drug war to the last Colombian. Americans think Colombia, with its soft treatment of Escobar and the other drug barons, is backing out of the drug war.

Colombia has been our staunchest ally in the effort to control drug trafficking but we will need its full cooperation for success. Certainly, Colombia has been more cooperative than Peru, which last year rejected $38 million in US military aid due to fears the money would strengthen the military at the expense of the struggling new civilian government.

The more we understand the problems the Andean governments face with drug trafficking, the more likely we will be able to succeed. We must continue to work with the Andean countries to limit the flow of illegal drugs into this country. We will not succeed without their cooperation and support.

In the meantime, we must reduce the demand for cocaine in the US through more effective law enforcement, education, and treatment.

REPEALING THE GAG RULE

Mr. RIEGLE. Mr. President, I urge my colleagues to support S. 323 and oppose amendments to weaken its intent. As an original cosponsor of this bill, I believe that federally funded health care clinics should provide nondirective counseling on the full range of medical options available to pregnant women, including prenatal care and delivery, infant care, foster care, adoptive services, and pregnancy termination.

The Supreme Court, in the Rust versus Sullivan case, recently upheld the administration's policy of restricting all federally funded health facilities that receive Federal family planning funds from discussing abortion as a medical option. When Congress enacted title X, it intended that patients be given nondirective counseling needed to make informed choices about pregnancy, including referrals to services not provided under the program. The program's guidelines in effect before the gag rule are consistent with congressional intent.

The gag rule skews information given to patients about options for unintended pregnancy by requiring clinics to give information on some options but not others. By restricting the rights of low-income women to full information, it promotes a two-tiered health care system.

Mr. President, the gag rule conflicts with the professional ethics and guidelines of major medical organizations, including the American Medical Association and American College of Obstetricians and Gynecologists, which insist on the physician's responsibility to provide full information to patients. This regulation denies health professionals their first amendment right of free speech.

The Rust versus Sullivan decision establishes a legal barrier that prevents physicians from providing complete, professional, and accurate medical advice, potentially increasing their malpractice liability. In fact, I recently learned of a case in Boston of a physician who was found to be negligent in not informing a woman of medical circumstances that might have led her to choose to terminate her pregnancy. The jury awarded $1.3 million to the woman, who delivered a severely brain-damaged child in 1984 as a result of her exposure to German measles. The child died in 1990.

The gag rule would prevent women from receiving the information they need—thereby potentially endangering their health. The gag rule would permit exceptions to its restrictions if the case was an emergency and was life threatening to the women. But there are cases where a woman's health is threatened, but her life is not immediately threatened.

For example, consider the case of an Ann Arbor, MI woman. She was 34 and married, and has one child, who at the time of her decision, was 5 years old. She had surgery for breast cancer which, unfortunately, was spreading to other parts of her body. She had understood that she couldn't get pregnant due to the chemotherapy she was receiving to battle the cancer. Through a family planning clinic, she found out she was pregnant. She also learned from the OB-GYN doctor that when a woman is pregnant, her body produces more estrogen which exacerbates the cancer growth. Her doctor advised her not to continue the pregnancy for this reason and because her fetus may have been affected by the chemotherapy. Based on this information, she decided to terminate her pregnancy. Under the gag rule, this woman would not have received information vital to her health.

Mr. President, S. 323 is needed to restore the status of a successful 20-year program by codifying its existing services. I urge all my colleagues to support S. 323. I also want to commend my colleagues, Senators CHAFEE and KENNEDY, on their leadership in this area.

POSITION ON S. 323, AS AMENDED

Mr. MURKOWSKI. Mr. President, today the Senate passed by voice vote a bill sponsored by Senator CHAFEE regarding the so-called gag rule. If a rollcall vote on S. 323, as amended, were to have taken place, I would have voted "yes".

I believe that the Government should not restrict the medical communities ability to provide information to patients.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:16 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2031. An act to amend title I of the Employee Retirement Income Security Act of 1974 to provide for equal treatment of telephone and electric cooperative welfare plans for the purposes of preemption;

H.J. Res. 181. Joint resolution designating the third Sunday of August of 1991 as "National Senior Citizens day"; and

H.J. Res. 255. Joint resolution designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week."

ENROLLED JOINT RESOLUTION SIGNED

At 6:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore [Mr. KOHL].

At 6:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1989. An act to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes.

MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1989. An act to authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.J. Res. 181. Joint resolution designating the third Sunday of August of 1991 as "National Senior Citizens Day"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 1341. A bill to amend title 5, United States Code, to require that a Federal employee be given at least 60 days written notice before being released due to a reduction in force (Rept. No. 102–110).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

John Schrote, of Ohio, to be an Assistant Secretary of the Interior.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Michael J. Malbin, of New York, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1994;

Harvey C. Mansfield, Jr., of Massachusetts, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1994;

Roy L. Shafer, of Ohio, to be a member of the National Museum Services Board for a term expiring December 6, 1994;

Steven I. Hofman, of Maryland, to be an Assistant Secretary of Labor; and

Jeffrey C. Martin, of Tennessee, to be General Counsel, Department of Education.

Diane S. Ravitch, of New York, to be Assistant Secretary for Educational Research and Improvement, Department of Education, vice Christopher T. Cross, resigned.

The following candidate for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For appointment:

To be assistant surgeon

David L. Sprenger

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON:

S. 1482. A bill to amend the Social Security Act to improve the notice of medicaid payment of medicare cost-sharing, and for other purposes; to the Committee on Finance.

S. 1483. A bill to extend the existing suspension of duty on parts of aircraft generators; to the Committee on Finance.

By Mr. CRAIG:

S. 1484. A bill to amend the Education Amendments of 1972 to ensure that students attending institutions of higher education that receive Federal funds are able to exercise the right to freedom of speech, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 1485. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolex; to the Committee on Finance.

S. 1486. A bill to suspend temporarily the duty on Procaine Penicillin G (Sterile and Nonsterile); to the Committee on Finance.

By Mr. MCCONNELL:

S. 1487. A bill to amend section 97 of title 28, United States Code, to provide for Federal district court to be held in Hopkinsville, Kentucky; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 1488. A bill to amend the Older Americans Act of 1965 to increase efforts to inform isolated older individuals, and older individuals who are victims of Alzheimer's disease and related disorders, of the availability of assistance under title III of such act; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself, Mr. LOTT, and Mr. JOHNSTON):

S. 1489. A bill to authorize appropriations for fiscal year 1992 for the Federal Maritime Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 1490. A bill to provide for the establishment of a national scenic byways program; to the Committee on Environment and Public Works.

By Mr. MITCHELL (for himself and Mr. CHAFEE):

S. 1491. A bill to establish a partnership among the U.S. Fish and Wildlife Service, the States, and private organizations and individuals to conserve the entire diverse array of fish and wildlife species in the United States and to provide opportunities for the public to enjoy these fish and wildlife species through nonconsumptive activities; to the Committee on Environment and Public Works.

By Mr. GORE:

S.J. Res. 181. Joint resolution calling on the President of the United States to take a leadership role in the international negotiations toward a World Forest Convention and a Framework Convention on Climate Change, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON:

S. 1482. A bill to amend the Social Security Act to improve the notice of Medicaid payment of Medicare cost sharing, and for other purposes; to the Committee on Finance.

MEDICARE BENEFITS FOR LOW-INCOME ELDERLY AND DISABLED BENEFICIARIES

Mr. DIXON. Mr. President, I rise today to introduce legislation to resolve a problem for more than 2 million low-income older and disabled Americans.

Recently, newspapers from across the country reported on the shocking results of a study issued by an advocacy group, Families USA Foundation, entitled, "The Secret Benefit—The Failure to Provide the Medicare Buy-in to Poor Seniors." The study highlights the failure of the Federal Government and many States to make low-income senior and disabled Medicare beneficiaries aware of free benefits that are available to them.

Each month, the Federal Government is deducting Medicare premiums from the Social Security checks of many seniors whose incomes are below the poverty level, when in fact, these seniors are entitled to have those premiums paid free of charge for them.

Many of these seniors are also making out-of-pocket payments for physician care and other health services that they are entitled to receive, free of charge.

Mr. President, I am suspicious that many of these seniors are not seeking medical care for fear that they cannot afford the out-of-pocket deductibles and copayments, when in fact, they are entitled to these, free of charge.

I refer to the Qualified Medicare Beneficiary [QMB] Program. This program has a congressional mandate to pay for premiums, deductibles, and copayments associated with Medicare benefits for beneficiaries whose incomes are below the poverty level, and whose assets are limited.

As my colleagues may remember, during repeal of the Medicare Catastrophic Coverage Act of 1988, Congress left intact the requirement that beginning in January 1989, the Medicaid Program is responsible for all out-of-pocket costs for Medicare-covered services to poor seniors and persons with disabilities.

Today, these out-of-pocket payments are unaffordable for the poor. Some of the payments are as follows: $29.90 per month for Medicare premiums for an individual, $59.80 for a couple; $100 per year per individual for the part B deductible; 20 percent copayment for all physician charges above the $100 annual deductible; and $628 for each hospitalization deductible.

Mr. President, these payments add up to a devastating total—a total which creates a financial hardship for the poor.

In my own State of Illinois, there are potentially 102,415 poor seniors alone who are eligible for the QMB Program who are not receiving these benefits.

The bill that I am introducing today is budget neutral. It does not mandate any new benefits. Instead, this bill will make sure that all of the poor elderly and disabled folks in Illinois, as well as all other impoverished Medicare folks throughout this country, are informed about the financial assistance which Congress said they are entitled to receive.

I want to reveal this well-kept secret to all of our senior and disabled citizens. This legislation mandates a promotional responsibility, and puts that responsibility where it rightfully belongs—on the Federal Government.

Simply, Mr. President, this bill will require the Secretary of Health and Human Services to do the following:

First, provide information about the QMB Program to all persons who apply for or seek information about Medicare benefits;

Second, include a clear and simple explanation about the QMB Program in the agency's annual mailing to all part A and part B Medicare beneficiaries. The explanation must be designed to attract the attention of the reader.

There may I express we already do the mailing. This is not a new mailing. It simply says that you will, in a simple and concise way, explain to these senior citizens who are below the poverty level they have the right to obtain these benefits; and

Third, make recommendations to Congress not later than January 15, 1993, on any legislative changes that may be needed to improve implementation of the QMB Program.

Mr. President, I feel confident that this legislation will provide assurance that the QMB Program will no longer be a secret to the poor.

I appeal to my colleagues to join with me and cosponsor this important legislation.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOTICE OF MEDICAID PAYMENT OF MEDICARE COST-SHARING.

(a) IN GENERAL.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by inserting after paragraph (3) the following new paragraph:

"(4) a clear, simple explanation (in a highlighted manner) of the eligibility requirements and application procedures for receiving payment of medicare cost-sharing (as defined in section 1905(p)(3)) by qualified medicare beneficiaries (as defined in section 1905(p)(1) and qualified disabled and working individuals (as defined by section 1905(s))."

(b) REPORT ON PROPOSED IMPROVEMENTS.—The Secretary of Health and Human Services shall report to the Congress not later than January 15, 1993, recommendations regarding any proposed legislation necessary to improve the provision of the benefits described in section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)).

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

By Mr. DIXON:

S. 1483. A bill to extend the existing suspension of duty on parts of aircraft generators; to the Committee on Finance.

SUSPENSION OF DUTY ON PARTS OF AIRCRAFT GENERATORS

Mr. DIXON. Mr. President, I am introducing legislation today to extend the existing duty-free status on aircraft generator components. This bill is simple and noncontroversial. The temporary suspension of duties on aircraft generators ends December 31, 1992. My bill would extend that date to December 31, 1994.

Legislation to temporarily suspend the duties on aircraft generator parts was incorporated in the last miscellaneous trade and tariff bill, H.R. 1594, and was passed. This bill is merely continuing that temporary suspension of duties for aircraft generator parts.

I had hoped that the completion of the GATT negotiations would have provided a permanent solution to this inequity. However, due to the temporary suspension of the GATT talks for 4 months and because there is no date on when these talks will finally conclude, I believe an extension of the duty-free status on aircraft generator components is necessary.

This bill merely provides time for the administrative process to correct an inequity created by the new harmonized system of tariffs. Before the tariff schedules were harmonized, aircraft generator components could be imported on a duty-free basis. Under the new harmonized tariff schedule, this duty-free treatment was eliminated.

This change resulted in a significant handicap for American producers of aircraft generators. Foreign-built aircraft generators can be imported duty-free, but if a U.S. firm wants to do the bulk of the work here in the United States, using some imported parts, import duties must be paid. As a result of this inverted tariff structure, there is an incentive to import complete aircraft generators from abroad.

As a result of this anomaly, Congress passed legislation in the 101st Congress to temporarily suspend duties on aircraft generator parts until the GATT negotiations or another administrative process could clear up this inequity toward U.S. aircraft generator manufacturers.

My bill would extend this duty-free status for aircraft generator parts until a more permanent solution can be found. This legislation is reasonable. I understand that the Finance Committee is considering putting together another miscellaneous trade and tariff bill; if this is the case, I strongly believe this provision should be included in that measure.

Mr. President, this is a meritorious bill, and I look forward to working with my colleagues to ensure its prompt enactment.

Mr. President, I ask unanimous consent that a copy of the bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY.

(a) IN GENERAL.—Heading 9902.85.03 (relating to parts of aircraft generators) of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, after December 31, 1992.

By Mr. CRAIG:

S. 1484. A bill to amend the Education Amendments of 1972 to ensure that students attending institutions of higher education that receive Federal funds are able to exercise the right to freedom of speech, and for other purposes; to the Committee on Labor and Human Resources.

FREEDOM OF SPEECH ON CAMPUS ACT

Mr. CRAIG. Mr. President, from the first land grant and private colleges to today's expanded university, American campuses have served as sanctuaries to generations of Americans eager to learn more about the world and to prepare for life.

To a great extent, the history of the university is the history of free thought itself. And it's no mistake that we tend to judge the freedom and advancement of societies by the openness of their universities.

That is not to say our university culture—like the rest of society—hasn't been sidetracked now and then by mistaken enthusiasms and wrong-headed ideas. It has. But, for the most part, American universities have been bastions of free thought and free speech—a marketplace of ideas where the best among them could sift to the top after open discussions and heated debates.

I would submit that it was this open exchange of ideas—some of them wrong—and the freedom of speech—some of it mistaken—that allowed for the development of our universities and the minds of their students.

Everyone in this Chamber remembers the excesses people went to on our campuses in the late sixties and early seventies. I certainly do. I was a student then. At the height of the Veitnam era I was student body president at the University of Idaho where the classic administration/student confrontation was heating up.

What did we do? Well, to a great extent, what students wanted was to ask questions and exercise their freedom of speech. Many people believed some of what was said was misguided and overzealous, but the important thing as far as the university community was concerned was that it could be said.

As a student leader and a representative of my peers, I found myself in a challenging position: Balancing factions as diverse as Young Americans for Freedom and Students for a Democratic Society in the interest of free speech and fairness.

I, like others who found themselves somewhere in the middle, fought for the right of free speech on campus. And I believe it was the right of free speech—the debates and the letting off of steam—that kept the lid from blowing off.

But a lot has changed since then.

Today those very freedoms and that very openness are being threatened by a mistaken enthusiasm that is grabbing hold of more and more of our finest colleges and universities.

While the rest of us go about our daily business, the openness and freedom of our schools which we used to take for granted is being eroded and replaced by a new, narrow ideology which, under the guise of decency and openness, actually promotes censorship and radical political indoctrination.

I am talking about the movement on this Nation's campuses to harass and control students to conform their speech to the so-called politically correct norms as determined by a group of new age liberals who are attempting to control campus thought and expression.

We have all read about this phenomenon in the national prints. Professors and administrators at some of our best schools—who, in years past, served as strident defenders of free speech—are now instituting and enforcing behavior codes and harassment policies that have the effect of denying students their first amendment rights.

As the sixties proved, mistaken enthusiasms can take hold for awhile. But, according to a recent article in U.S. News & World Report, "The new orthodoxy is unusual." Because "Its purity is guarded by faculty who rebelled as students in the sixties."

"Affirmative action, busing, gay rights, women's studies, the PLO, animal rights, bilingualism, the self-segregation of blacks on campus and censorship in the pursuit of tolerance are all politically correct." What's non-PC is "the SAT [scholastic aptitude test], doubts about abortion, Catholics, wearing fur, any emphasis on standards of excellence, and any suggestion that gender and ethnicity might not be the most overwhelmingly important issues of the modern era."

That should paint a pretty good picture—what's being advanced is a radical political agenda. And those who don't uphold it in speech are being punished.

Examples abound, and some of them are ridiculous.

Students at Brown University were banned from throwing parties with an ethnic theme after a student complained that a "South of the Border" party was offensive to Mexicans.

A Yale student was kicked off campus and could not attend graduation ceremonies because he helped advertise a debate whether the CIA's policy of discriminating against homosexuals was acceptable.

Campus debates on affirmative action and other important matters have been stopped because "political correctness" does not allow such discussion.

The list goes on and on.

The common denominator is that the codes needed to enforce ideological conformity and new-age sensitivity are trampling the first amendment of even the most mild mannered scholar. Students and professors who find themselves at odds with the codes are being denied tenure, asked to leave campus and having their reputations tarnished.

That is not fair. It is bad for the university, and it is trampling constitutional protections of free speech in one of the places where free speech and openness is most important.

Mr. President, I and others will be saying more about this matter later. However, today I would like to introduce legislation designed to bring common sense, balance, and free speech back to our colleges and universities. It is my hope that the Freedom of Speech on Campus Act of 1991 will help bar improper prior restraints on free speech.

My bill has a specific target: Shielding speech that should be protected by the Constitution. We all know there are certain kinds of speech—such as shouting obscenities, using "fighting words," or yelling "fire" in a crowded theater—that does not receive first amendment protection. This kind of speech is not covered.

My bill stands for the proposition that institutions of higher learning which receive Federal financial assistance cannot institute or enforce prior restraints on free speech. If such an institution discriminates against or sanctions a student on the basis of protected speech, it risks losing Federal funding. It is that simple.

Now, for what this legislation will not do:

It will not require professors to tolerate speech-related activities that disrupt the classroom or lecture hall—nor will it prevent them from giving out the grades they deem appropriate.

It will not prevent administrators from stopping activities that endanger the health or safety of students.

It will not stop advocates of "political correctness" or other ideas from espousing their views.

Religious and military institutions are exempt.

Mr. President, the Free Speech on Campus Act is an attempt to put an end to the misguided and dangerous practice of harassing young Americans with prior restraints on free speech. It is an effort to stop a form of what can only be called intellectual tyranny.

We would be wise to remember the words of Thomas Jefferson inscribed atop his memorial in our Nation's Capitol:

"I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man."

Mr. President, the aim of this legislation is to go after one of the most pernicious forms of such tyranny.

By Mr. DANFORTH (for himself and Mr. Bond):

S. 1485. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolex; to the Committee on Finance.

S. 1486. A bill to suspend temporarily the duty on Procaine Penicillin G (Sterile and Nonsterile); to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN CHEMICALS

• Mr. DANFORTH. Mr. President, on behalf of myself and Senator Bond, I am introducing today two miscellaneous tariff bills. The first would suspend temporarily the duty on Pyrantel Tartrate with Zeolex through December 31, 1994. The second bill would suspend temporarily the duty on Procaine Penicillin G—sterile and nonsterile—through December 31, 1994.

I ask unanimous consent that the texts of these bills be printed in full in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PYRANTEL TARTRATE WITH ZEOLEX.

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Pyrantel Tartrate with Zeolex (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94".

(b) Effective Date.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 1486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROCAINE PENICILLIN G (STERILE AND NONSTERILE).

(a) In General.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Procaine Penicillin G (Sterile and Nonsterile) (provided for in subheading 2941.10.50)	Free	No change	No change	On or before 12/31/94".

(b) Effective Date.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.•

By Mr. McCONNELL:

S. 1487. A bill to amend section 97 of title 28, United States Code, to provide for Federal district court to be held in Hopkinsville, Kentucky; to the Committee on the Judiciary.

PROVISION OF FEDERAL DISTRICT COURT TO BE HELD IN HOPKINSVILLE, KY

• Mr. McCONNELL. Mr. President, Sir William Gladstone said in the 19th century that, "Justice delayed is justice denied." That is the case in Caldwell, Christian, Todd, and Trigg Counties in western Kentucky. Citizens in these counties suffer undue delay and inconvenience in handling Federal court cases. This is attributable to the difficulty in getting to Paducah or Bowling Green where Federal district courts currently sit.

To alleviate the problem, I am introducing a bill to establish a Federal court in Hopkinsville. Hopkinsville already has a magistrate, a federally approved jail, and an FBI office.

People in these counties are being burdened by the lack of a Federal court within reasonable distance. Christian County has the third largest population in the western district and generates significant litigation in Federal court. It is expensive and inconvenient for lawyers and clients in the area to travel to Paducah or Bowling Green, currently the closest Federal courts. Paducah, the site of the nearest court, is over 70 miles away from Christian County.

The Federal Government pays for this inconvenience as well through the expense of transporting jurors, witnesses, attorneys, FBI agents, and other court personnel.

I propose to eliminate this expense and inconvenience by authorizing the Federal District Court for the Western District of Kentucky to reside in Hopkinsville. The cost for this proposal is minimal. Office and judicial space, subject to remodeling, already exists.

Mr. President, a relatively small gesture on the part of Congress could greatly benefit residents of these counties. I urge my colleagues to support me in enacting this bill.

Mr. President, I would like to take this opportunity to express my appreciation for the diligent work of Ben S. Fletcher III. Ben's tireless efforts on behalf of this project are greatly appreciated by me and the citiznes this bill would serve.•

By Mr. GRASSLEY:

S. 1488. A bill to amend the Older Americans Act of 1965 to increase efforts to inform isolated older individuals, and older individuals who are victims of Alzheimer's disease and related disorders, or the availability of assistance under title III of such act; to the Committee on Labor and Human Resources.

OUTREACH, INFORMATION, AND REFERRAL OLDER AMERICANS AMENDMENTS

• Mr. GRASSLEY. Mr. President, today I am introducing a bill which would amend the Older Americans Act of 1965 by enhancing the information and referral services available to Alzheimer's disease victims and their families. This bill was introduced by congresswoman OLYMPIA SNOWE in the House of Representatives.

Mr. President, the Congress will reauthorize again this year the Older Americans Act, one of our major public laws authorizing programs for older people. Since its original enactment in 1965, the Older Americans Act has become one of our great public success stories. It establishes a Federal-State-local-government-private sector partnership which draws on Federal, State and private sector funds to support many activities popular with older people.

I am pleased to offer this amendment to the act, Mr. President. I am also pleased to have cosponsored an amendment introduced by Senator GLENN on July 11 dealing with preventive health services under the act.

Ever since I first became concerned about Alzheimer's disease and the very difficult problems it creates for victims and their families, I have been aware that locating appropriate services is one of the most difficult of these problems.

This is a concern that is always raised by families who care for an Alzheimer's disease victim. This was the case at hearings and at workshops I held in the 98th and 99th Congresses under the auspices of the Subcommittee on Aging of the Committee on Labor and Human Resources when I was its chairman.

This concern was also reported in the major study of Alzheimer's disease done by the Congressional Office of Technology Assessment called "Losing a Million Minds."

It became clear that the OTA could provide a valuable service by focusing directly on this problem and trying to see how services for Alzheimer's disease victims and their families could best be located for those in need of them.

Therefore, with other Senators, I requested OTA to do a follow-up to "Losing a Million Minds" which would focus on this problem. This led to a second OTA publication which appeared in late 1990 and was called "Confused Minds, Burdened Families."

That study confirmed many of the things families and their representatives had been saying about the difficulty of finding appropriate services.

That study also reviewed types of agencies that might have the capacity to provide this kind of brokerage service. Agencies reviewed included area agencies on aging, community mental health centers, Alzheimer's Association chapters, home health agencies, and adult day care centers.

Although, according to OTA, all the organizations reviewed had strengths and weaknesses in relation to this problem, I believe that the existing information and referral capacity of the Older Americans Act network is well designed to be helpful with it.

Therefore, my bill would amend the act to call for the information and referral activity required of each area agency on aging to put emphasis "on linking services available to isolated older individuals and older individuals who are victims of Alzheimer's disease and related disorders * * *."

The bill also requires the Older Americans Act Plan required of each State to include similar language.

Mr. President, this bill, if enacted, will not solve the problem of linking victims and their families with services. But I have great faith in the capacity of our area agencies on aging, and believe that they can definitely make a contribution to that end.•

By Mr. BREAUX (for himself, Mr. LOTT, and Mr. JOHNSTON):

S. 1489. A bill to authorize appropriations for fiscal year 1992 for the Federal Maritime Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL MARITIME COMMISSION AUTHORIZATION ACT

• Mr. BREAUX. Mr. President, I, along with my colleague Senator LOTT, am introducing a bill today that authorizes the appropriations for the Federal Maritime Commission [FMC] for fiscal year 1992. The bill authorizes $17,974,000 to be used for the operations of the FMC. This is the same amount requested by the President in his budget request and the same amount in the FMC authorization bill passed by the House.

The bill also amends the Shipping Act of 1984. Section 3(8) and 9 of that act include provisions of the Shipping Act of 1978, more popularly known as the Controlled Carrier Act. The Controlled Carrier Act was passed with the intention of preventing controlled carriers, that is, government-owned or controlled carriers, from taking advantage of predatory, noncommercial price-cutting measures to unfairly undercut commercial carriers.

There was an oversight in the Shipping Act of 1984 which would allow the Act to be undermined through the use of "service contracts" by controlled carriers who engage in the U.S. waterborne foreign commerce. Under a service contract a shipper agrees to provide to a specific carrier or conference a minimum amount of cargo over a set period of time while the carrier or conference commits to an agreed rate and guarantees specific services. Congress incorporated verbatim the provisions of the Controlled Carrier Act into the Shipping Act of 1984.

The Shipping Act of 1984 contains a requirement that controlled carriers must maintain rates or charges that are "just and reasonable." The FMC has been given the authority to disallow controlled carrier rates that it feels do not meet this criteria. Controlled carrier rates generally can not be charged until 30 days after they have been filed with the FMC. However, since these restrictions apply only to a controlled carrier's rates or charges in its tariffs filed with the FMC, the service contracts entered into by controlled carriers are not subject to the same restrictions. Carriers are not required to file rates in service contracts in their tariffs. This means that these rates do not fall under the restrictions of the 1984 act. The FMC believes that it is not logical to empower it to oversee and regulate the possible predatory practices of foreign state-owned carriers who file their rates in tariffs, but not in service contracts.

The intention of this amendment is to resolve this problem by amending the Shipping Act of 1984 to require service contracts to meet the "just and reasonable" standard to which the 1984 act refers.

The bill also contains an amendment which would lift certain restrictions on the following vessels.

The *Lois T*—U.S. official number 668034—is a 29-foot sloop built in 1984 in Canada. The present U.S. citizen owner purchased it in 1988. He intends to charter it for 4-person sailing and fishing parties in the Chesapeake Bay.

The *Windward III*—U.S. official number 552289—is a 30-foot fishing vessel built in 1970 in Canada. The present owner, who purchased it in April 1990, unaware of the impediment to its commercial use, intends to use the vessel as a 6-passenger charter boat out of the Wrightsville, NC, area.

The *Argosy*—U.S. official number 528616—is a 60-foot motor yacht built in 1970 in Florida. From April 1981 to September 1983, the vessel was owned by a British-controlled Florida corporation, thus precluding its employment in the U.S. trades. Its present owner was not aware of this impediment prior to this purchase of the vessel. He intends to charter it in the Chesapeake Bay and to use it for community service projects sponsored by the Maryland Department of Natural Resources.

The *Pure Pleasure*—U.S. official number 968163—is a 31-foot fishing vessel built in Florida in 1980. The original owner of the vessel was a marine sales company which went bankrupt, and its records cannot be located. The present owners of the vessel cannot furnish a complete record of its intervening owners. Thus they are not able to obtain a certificate of documentation to permit commercial chartering of the vessel.

The *Jiggs*—U.S. official number 208787—is a 137-foot tugboat built in Ohio in 1911. From 1936 until 1970, it was owned by a Canadian corporation. Its present owners, who have owned it since 1972, desire to document it to permit its commercial services in the Great Lakes area.

The *Nushagak*—U.S. official number 618759—is a 64-foot fish processing vessel built in Japan in 1971. Its owners, U.S. citizens, purchased it in 1986 and have spent nearly $1 million in U.S. shipyards refitting the vessel. In order to continue to sell its production to its present buyers, the vessel must operate in U.S. territorial waters of the western communities of Alaska, which prohibited because of its foreign construction.

The *Phoenix*—U.S. official number 655712—is a 38-foot sailing vessel built in Canada in 1982. Its present owner purchased it in 1983 and was not aware of the impediments to its commercial use. He wishes to use the vessel for 6-person sailing charters.

The *Starlight VIII*—U.S. official number 910317—is a 42-foot yacht built in Maryland in 1968. The present owners of the vessel can not secure proper proof of its original owner. Thus, they are unable to obtain a certificate of documentation to permit commercial chartering of the vessel on the Great Lakes.

The *Cutty Sark*—U.S. official number 282523—is a 40-foot ketch desinged to resemble the *Mayflower*. It was built in Hong Kong in 1960. The present owners bought the vessel in 1989 and have modified it in U.S. shipyards for operation in Alaskan waters. At the time of the purchase of the vessel, they were not aware that U.S. law prohibits its use for excursion trips in Alaska.

The *Marcica*—Maryland registration number MD6417P—is a 32-foot cruiser built in the United States in 1972. The present owner who purchased the vessel in 1980 wishes to use it for charter fishing and cruising in the Chesapeake Bay and lower Potomac River. He has been unable to secure the necessary builder's certificate to permit documentation for commercial use.

The bill also waives the restrictions of the Jones Act and any other laws which restrict the operation of foreign-flag vessels in the coastwise trade of the United States for the M/V *Nordic Louisiana*—United Kingdom official number 306173. The M/V *Nordic Louisiana* is a British-build molten sulphur tanker owned by Freeport-McMoRan Resource Partners of New Orleans. The waiver will allow the vessel to engage temporarily in the coastwise trade until a replacement for the M/V *Louisiana Brimstone* can be obtained. That vessel was recently damaged beyond repair off the coast of Mexico.

Because there are no other available vessels capable of carrying liquid sulphur which are qualified to operate in the domestic trade—as certified by the Maritime Administration—the transportation of liquid sulphur to the Florida fertilizer industry would be seriously disrupted without this waiver. The Department of Agriculture has stated that the issuance of this waive is in the interest of national defense.

The wiaver will be based on several conditions. First the replacement vessel must be constructed in or rebuilt in a U.S. shipyard with 4 years of enactment with a binding contract for the work in place within 9 months of the enactment. Also, the repair work necessary to make the M/V *Nordic Louisiana* operational must also be performed in a U.S. shipyard. Finally, during the period of the waiver the officers and the crew of the M/V *Nordic Louisiana* must be U.S. citizens as a condition of the waiver.

The amendment also lifts restrictions on eight inflatable vessels. The waiver will permit these vessels to engage in the coastwise trade of the United States and permit them to be used to carry passengers between ports or places in the United States.

This legislation is necessary for the FMC to carry out all of its functions that are so important to regulation of the waterborne commerce of the United States. I, therefore, urge its quick passage.

Mr. President, I ask unanimous consent that the text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Maritime Commission Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Federal Maritime Commission $17,974,000 for fiscal year 1992.

SEC. 3. COASTWISE TRADE AUTHORIZATION.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), or any other provision of law restricting the operation of foreign-flag vessels in the coastwise trade of the United States, as applicable on the date of enactment of this Act, the foreign-flag vessel NORDIC LOUISIANA may, during the period described in subsection (b), engage in the transportation by water of molten sulphur in the coastwise trade of the United States, if—

(1) a binding contract for the construction or rebuilding, in the United States, of a coastwise-qualified replacement vessel is executed within 9 months after the date of enactment of this Act;

(2) all ship repair work on the NORDIC LOUISIANA necessary to its operation under this section is performed in the United States; and

(3) all officers and crew members employed on board the NORDIC LOUISIANA during its operation under this section are United States citizens.

(b) PERIOD OF AUTHORIZATION.—The period of transportation authorized under subsection (a) begins on the date of enactment of this Act and ends on the earlier of—

(1) the date that is 4 years after such date of enactment; or

(2) the date of delivery of a coastwise-qualified replacement vessel constructed in or rebuilt in the United States.

SEC. 4. WAIVERS FOR CERTAIN VESSELS.

(a) AUTHORIZATOIN TO ISSUE CERTIFICATES OF DOCUMENTATION.—Notwithstanding section 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) ARGOSY (United States official number 528616).

(2) CUTTY SARK (United States official number 282523).

(3) JIGGS (United States official number 208787).

(4) LOIS T (United States official number 668034).

(5) MARICA (State of Maryland registration number MD 6417P.

(6) NUSHAGAK (United States official number 618759).

(7) PHOENIX (United States official number 655712).

(8) PURE PLEASURE (United States official number 968163).

(9) STARLIGHT VIII (United States official number 910317).

(10) WINDWARD III (United States official number 552289).

(b) WAIVER FOR CERTAIN INFLATABLE VESSELS.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the following inflatable vessels may engage in the coastwise trade:

(1) Serial number 3968B, model number J990.

(2) Serial number 4581B, model number J990.

(3) Serial number A501A, model number D989.

(4) Serial number A502A, model number D989.

(5) Serial number 6291C, model number G091.

(6) Serial number 6300C, model number G091.

(7) Serial number 7302C, model number G091.

(8) Serial number 7305C, model number G091.

SEC. 5. CONTROLLED CARRIERS.

(a) CONTROLLED CARRIER RATES.—Section 9(a) of the Shipping Act of 1984 (46 App. U.S.C. 1708(a)) is amended by inserting "or service contracts" immediately after "tariffs" each place it appears.

(b) EFFECTIVE DATE OF RATES.—Section 9(c) of the Shipping Act of 1984 (46 App. U.S.C. 1708(c)) is amended by inserting "and except for service contracts" immediately after "Notwithstanding section 8(d) of this Act".•

By Mr. ROCKEFELLER:

S. 1490. A bill to provide for the establishment of a national scenic byways program; to the Committee on Environment and Public Works.

SCENIC BYWAYS ACT OF 1991

• Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Scenic Byways Act of 1991, a bill to establish a national network of scenic and historic roads. A national scenic byways system will enhance travel and tourism, a major industry in our 50 States, by luring travelers from the interstate highways to our Nation's backroads. A national scenic byways system will also protect the unique scenic, cultural, and recreational value of our scenic byway corridors.

This bill has been the culmination of several years of work, on my part and on the part of many interested groups, to establish a nationally designated network of scenic byways as part of the 1991 Federal aid highway bill. In February 1989, I introduced the Scenic Byways Study Act—S. 432—directing the Secretary of Transportation to make recommendations and develop guidelines for a scenic byways system. I was very pleased and proud to have my scenic byways study included in the Department of Transportation's Fiscal Year 1990 Appropriations Act. In February of this year, the Department of Transportation submitted this report on scenic byways to the Congress.

The measure which I am introducing today is based on the results of this national scenic byways study. In its study, the Department of Transportation found that nearly half of the States already have some type of scenic byways program in place. However, the study concluded that better results could be obtained if the various Federal, State, and local efforts are made in a more coordinated and mutually supportive manner. My bill is intended to lend support to those State efforts, encourage States that have not yet initiated scenic byways programs, and to facilitate information sharing among the States.

This is not the first time that a study has been done and Congress has looked at establishing a national scenic byways program. The Kennedy, Johnson, and Nixon administrations all established commissions or issued reports calling for a national system of scenic roads. A study prepared in 1987 for President Reagan's Commission on Americans Outdoors found that next to walking, pleasure driving is the most popular form of outdoor recreation for Americans. Consequently, the commission recommended the establishment of a network of State and local scenic byways and a Federal matching fund incentive program.

Congress is in the midst of considering the 1991 Federal highway bill, including determining what our Nation's transportation needs will be into the next century. With the Interstate Highway System almost complete, the time is finally ripe for a national scenic byways program.

The lure of the backroad has been an American tradition for many generations. The Sunday drive in the country, the cross-country trip to visit national parks and forests, and outings to see the fall foliage, are among the American traditions that have enriched us and helped us appreciate the beauty of our Nation. A scenic byways network would help ensure that the beauty of those scenic roads is protected for future generations.

Investing in and protecting that great resource—our scenic roads—can be accomplished by establishing a national scenic byways program. This should be one of the goals of the Federal highway bill.

The national scenic byways system will not consist of newly built roads, but rather, will use existing roads. It will complement the Interstate Highway System by providing alternate routes for recreational drivers—routes which showcase the Nation's natural majesty and cultural diversity. Studies show that almost 80 percent of American adults drive for pleasure and to sightsee. The Federal Highway Administration reports that 30 percent of all vehicular miles are driven for recreational activities. Increasingly, Americans are vacationing near their homes, and are including the drive to get there as part of their vacation.

The economic benefits of scenic byways as a means to increase travel and tourism are enormous. The desire to hit the road and see America firsthand has made travel and tourism the fastest growing industry in the country. Travel and tourism is a $327 billion industry which employs over 5.8 million Americans. It is also our Nation's largest export, earning $34.4 billion in 1990.

The Scenic Byways Act would not only increase tourism revenues generated from Americans, but also from foreign visitors. Increasingly, international tourists to this country are vistors who have already seen our big cities and developed attractions. More and more of these visitors are flying to gateway cities and renting vehicles to drive through America to see our wide open spaces, our wildlife and our smaller communities. The byways program will provide them with well-marked, scenic routes showcasing the best of our country.

The increased traffic through these beautiful areas of our country will also help invigorate the economies of those areas. Tourism has become the second largest industry in my home State of West Virginia, and the lifeblood of many of its rural areas. Tourists spend nearly $4 million a day in West Virginia alone. Tourism tax revenues raise a million dollars a year. And most importantly, 30,000 West Virginians are employed by some part of this multifaceted industry. The growth of tourism as a stable source of income for the citizens of all States makes the byways bill extremely attractive as a means of economic development.

Specifically, this scenic byways proposal includes funding to help States create a system of road designations, scenic easements, rest areas, turnoffs, and overlooks. It would improve access to recreational areas and provide funding for information and interpretation services. The Secretary of Transportation would be responsible for designating roads nominated by State and Federal agencies to be included in the system based on their scenic, historic, recreational, archeological, or cultural value. State participation in the program would be completely voluntary.

This bill creates an Office of Scenic Byways within the Department of Transportation to provide technical assistance to the States and to help States promote their scenic byways. It also establishes a scenic byways advisory committee to develop criteria for designation of scenic byways and to make recommendations for a very special set of routes of truly national significance which would be designated all-American roads.

The key to the scenic byways program is that it will not require an enormous outlay of funds. Because the byway system will be created from existing local, State, and National roads, the funding required for us to establish a recreational highway system will be moderate. The bill authorizes $20 million in fiscal year 1992 and $30 million in fiscal year 1993 for the interim program. It authorizes $50 million in 1994 and $75 million the year after.

The Senate has approved a scaled-down version of this scenic byways legislation, which was included in the Federal highway bill. We hope that the House will include this Scenic Byways Act of 1991, in its entirety, in its own highway bill.

Mr. President, we understand the economic value of travel and tourism and the parallel importance of protecting our wonderful national and cultural resources. I introduce this legislation to help my colleagues fully realize the benefits and practicability of a stronger byways program. This scenic byways bill will be an important tool to aid communities in focusing on their unique assets and developing plans to protect them.

I urge my colleagues to support the Scenic Byways Act of 1991. Not only does this bill enjoy broad support among recreation, conservation, tourism, and highways interest, but it is a bill which will benefit all Americans.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD, immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scenic Byways Act of 1991".

SEC. 2. PURPOSE.

The purpose of this Act is to establish a national scenic byways program—

(1) to preserve and enhance scenic byways for the benefit and enjoyment of present and future generations;

(2) to promote rural economic development, tourism, and marketing opportunities;

(3) to preserve scenic and historic resources; and

(4) to establish a new all-American road category of scenic byways.

SEC. 3. OFFICE OF SCENIC BYWAYS.

Section 104 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) OFFICE OF SCENIC BYWAYS.—There is established in the Administration an Office of Scenic Byways. The Office of Scenic Byways shall—

"(1) maintain, and provide to States, information regarding Federal and State activities and programs for scenic byways;

"(2) promote the existence and use of Federal and State assistance for scenic byways and all-American roads;

"(3) establish and maintain, in cooperation with the States, an inventory of highways for designation as scenic byways and all-American roads under section 219 of title 23;

"(4) carry out the planning, research, and technical assistance duties of the Department of Transportation with respect to the national scenic byways program under such section; and

"(5) carry out such additional duties as the Secretary may prescribe.".

SEC. 4. SCENIC BYWAYS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under section 219 of title 23, United States Code.

(b) MEMBERSHIP.—The advisory committee established under this section shall be composed of 16 members as follows:

(1) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

(2) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

(3) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

(4) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

(5) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

(6) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

(7) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of conservationists on the advisory committee.

(8) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of recreational users of scenic byways on the advisory committee.

(9) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of the tourism industry on the advisory committee.

(10) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of historic preservationists on the advisory committee.

(11) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests of highway users on the advisory committee.

(12) 1 individual appointed by the Secretary of Transportation to represent State highway and transportation officials.

(13) 1 individual appointed by the Secretary of Transportation to represent local highway and transportation officials.

(14) 1 individual appointed by the Secretary of Transportation who is specially qualified to serve on the advisory committee as a planner.

(15) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the motoring public.

(16) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent groups interested in scenic preservation.

Individuals appointed as members of the advisory committee under paragraphs (7) through (16) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

(c) FUNCTIONS.—The advisory committee established under this section shall develop and make to the Secretary of Transportation recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of section 219 of title 23, United States Code. Such recommendations shall include recommendations on the following:

(1) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

(2) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

(3)(A) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

(B) The advisability of uniform signs identifying highways as components of the scenic byway system.

(4) Standards for maintaining highway safety on the scenic byway system.

(5) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

(6) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway if such highway is not maintained in accordance with the minimum criteria established for designation as a scenic byway.

(7) Such other matters as the advisory committee may deem appropriate.

(8) Such other matters for which the Secretary of Transportation may request recommendations.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the advisory committee established under this section shall submit to the Secretary of Transportation a report containing the recommendations described in subsection (c).

(e) ESTABLISHMENT OF MINIMUM CRITERIA.—Not later than 6 months after the date of submission of the report of the advisory committee under subsection (d), the Secretary of Transportation, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, shall establish, by regulation, a minimum criteria for use by the State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of section 219 of title 23, United States Code. Such criteria shall include, at a minimum, a criterion with respect to each item listed in subsection (c).

(f) TERMINATION.—The advisory committee established under this section shall terminate on the last day of the 4-year period beginning on the date of the enactment of this Act.

SEC. 5. INTERIM SCENIC BYWAYS PROGRAM.

(4) GRANT PROGRAM.—During fiscal years 1992 and 1993, the Secretary of Transportation may make grants—

(1) to any State which has a scenic highway program for carrying out eligible projects on highways which the Secretary considers highly likely to be designated as scenic byways under section 219 of title 23, United States Code; and

(2) to any State which does not have a scenic byway program for the purpose of developing such a program.

(b) PRIORITY PROJECTS.—In making grants under paragraph (1) of subsection (a), the Secretary shall give priority to—

(1) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

(2) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated as a scenic byway;

(3) those eligible projects which are included in programs which can serve as models for other States to follow when establishing and designing scenic byways on an intrastate or interstate basis; and

(4) those eligible projects in multi-State corridors where the States submit joint applications.

(c) ELIGIBLE PROJECTS.—Projects eligible for Federal assistance under this section are those which would be eligible for Federal assistance under section 6 of this Act, and are described in subsection (f) of such section 219.

(d) FEDERAL SHARE.—The maximum Federal share payable for the costs of carrying out projects and developing programs under this section with funds made available to this section shall be 75 percent.

(e) FUNDING.—There shall be available to the Secretary of Transportation for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $20,000,000 for fiscal year 1992 and $30,000,000 for fiscal year 1993. Such sums shall remain available until expended.

(f) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of Transportation of a grant with funds made available under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project or program.

SEC. 6. NATIONAL SCENIC BYWAYS PROGRAM.

(a) ESTABLISHMENT.—Chapter 2 of title 23, United States Code, is amended by adding at the end the following new section:

§219. National scenic byways program

"(a) IN GENERAL.—The Secretary shall establish a national scenic byways program in accordance with this section. The scenic byways system shall consist of highways designated by the Secretary as scenic byways as a result of scenic, historic, recreational, archeological, or cultural values associated with each of such highways. The purpose of such program shall be to improve opportunities for travel on, and to maintain and enhance the values associated with, highways designated as scenic byways under this section.

"(b) STATE NOMINATION.—Each State may submit to the Secretary nominations of highways for designation as scenic byways. Such a nomination shall include, at a minimum, a State certification that, if a highway is designated as a scenic byway under this section, the highway will be managed by the State or a political subdivision thereof in accordance with the requirements of this section.

"(c) DESIGNATION.—

"(1) IN GENERAL.—The Secretary shall designate, from among highways nominated by States under this section, highways as scenic byways and all-American roads which meet the minimum criteria established by the Secretary under section 3 of the Scenic Byways Act of 1991.

"(2) TERMINATION.—If the Secretary determines that a highway designated as a scenic byway under this section is not being operated and maintained in compliance with this section, the Secretary may terminate the designation of such highway as a scenic byway.

"(d) GRANT PROGRAM.—After September 30, 1993, the Secretary shall make grants to States for one or more of the following purposes:

"(1) Developing a scenic byway program.

"(2) Carrying out of eligible projects on highways which are designated as part of the scenic byways system.

"(3) Carrying out programs for promoting the use of, and providing to the public information concerning, the scenic byway system.

"(e) PRIORITY PROJECTS.—In making grants under subsection (d)(2), the Secretary shall give priority to—

"(1) those eligible projects which are to be carried out on highways designated as all-American roads;

"(2) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

"(3) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is designated as a scenic byway;

"(4) those eligible projects in multi-State corridors where the States submit joint applications; and

"(5) those eligible projects which enhance the opportunity for recreation, including water-related recreational activities.

"(f) ELIGIBLE PROJECTS.—The following are projects which are eligible for Federal assistance under this section:

"(1) Planning, design, and development of State scenic byway programs.

"(2) Making safety improvements to a highway designated as scenic byway under this section to the extent such improvements are necessary to accommodate increased traffic, and changes in the types of vehicles using the highway, due to such designation.

"(3) Acquisition of scenic easements or the highway and areas of scenic, historical, archeological, scientific, or other interest in areas adjacent to the highway.

"(4) Construction along the highway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.

"(5) Improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protecting historical and cultural resources in areas adjacent to the highway.

"(7) Developing and providing tourist information to the public, including interpretive information about the scenic byway.

"(g) LIMITATION.—The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area.

"(h) FEDERAL SHARE.—The maximum Federal share payable for the costs of carrying out projects and developing and carrying out programs under this section with funds made available pursuant to this section shall be 75 percent.

"(i) TRANSPORTATION PLANS.—Each State shall incorporate planning for scenic byways and recreational travel in the urban and statewide transportation planning of such State.

"(j) PLANNING, RESEARCH, AND TECHNICAL ASSISTANCE.—The Secreatary may use not to exceed 5 percent of the funds made available to carry out this section in any fiscal year to carry out through the Office of Scenic Byways planning, research, and technical assistance activities with respect to the national scenic byway program.

"(k) PUBLIC PARTICIPATION.—The Secretary shall issue regulations ensuring adequate notice and opportunity for public participation and comment in the designation of scenic byways and all-American roads under this section and in development of corridor management plans referred to in subsection (e)(2).

"(l) FUNDING.—

"(1) IN GENERAL.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $50,000,000 for fiscal year 1994, and $75,000,000 per fiscal year for each of fiscal years 1995 and 1996. Such sums shall remain available until expended.

"(2) USE OF APPORTIONED FUNDS.—If a highway designated as a scenic byway under this section is also a highway on a Federal-aid system, funds apportioned for use on projects on such system may also be used to carry out projects eligible under this section on the highway by the State to which the funds are apportioned. Use of the funds shall be subject to provisions of this title applicable to such system; except the highway shall not be required to be constructed, reconstructed, restored, or rehabilitated to the standards applicable to such system under section 109 of this title.

"(m) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under subsection (1)(l) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project or program.

"(n) DEFINITIONS.—As used in this section, the following definitions apply:

"(1) HIGHWAY.—The term 'highway' includes dirt and gravel roads.

"(2) ALL-AMERICAN ROAD.—The term 'all-American road' means those highways designated as scenic byways under this section which are of national significance, are of outstanding beauty, are in areas of quintessential scenery, are of high cultural interest, or are of exceptional or unique value."

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of such title is amended by adding at the end the following:

"219. National scenic byway program.".

SEC. 7. LIMITATIONS ON STATUTORY CONSTRUCTION.

Nothing in this Act, including any amendment made by this Act, shall be construed as altering or otherwise affecting Federal laws and policies regarding the acquisition of roads, easements, and rights-of-way and as establishing any Federal land use controls or regulations.●

By Mr. MITCHELL (for himself and Mr. CHAFEE):

S. 1491. A bill to establish a partnership among the U.S. Fish and Wildlife Service, the States, and private organizations and individuals to conserve the entire diverse array of fish and wildlife species in the United States and to provide opportunities for the public to enjoy these fish and wildlife species through nonconsumptive activities; to the Committee on Environment and Public Works.

PARTNERSHIPS FOR WILDLIFE ACT

Mr. MITCHELL. Mr. President, the United States and Canada are inhabited by approximately 2,600 species of native fish and wildlife. Many of these animals provided food, clothing, and other essentials to a rapidly expanding human population during the last 200 years. But currently more than 80 percent of fish and wildlife species in North America are not harvested for human use.

The continued well-being of this once abundant fish and wildlife resource, and even the very existence of many species, is in peril.

In 1987, the U.S. Fish and Wildlife Service reported that 45 common migratory bird species, which are not hunted, had exhibited significant declines in abundance. Not all of these species are in trouble, but 13 experienced widespread, systematic declines of 47 percent during the previous 20 years.

The U.S. Fish and Wildlife Service now has prepared a list totaling 30 migratory bird species that warrant concern because of population declines, small population size, or habitat limitations.

Eleven of these species are found in Maine. They are the common loon, the American bittern, the least bittern, the northern harrier, the red-shouldered hawk, the roseate tern, the black tern, the barn owl, the olive-sided flycatcher, the loggerhead shrike, and the golden-winged warbler.

There also have been nationwide declines documented in the numbers of frogs and other amphibians. These species are critical links in the food chain of this planet.

Over 275 of the fish and wildlife species, and 82 invertebrate species—such as butterflies and mussels—in the United States are officially classified as threatened or endangered by the Federal Government under the Endangered Species Act. In addition, another 951 U.S. invertebrate species are candidates for listing under that act.

During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at an average rate of over one per month.

Many, if not all, of these species could have escaped this perilous status if there had been programs in place to monitor and conserve them.

Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly precarious status of fish and wildlife.

Continuing to concentrate attention on only a limited number of species will inevitably lead to the decline of additional types of fish and wildlife until they reach dangerously low levels where they, too, must be protected by the Endangered Species Act. At that point, the task of rebuilding a species' numbers is likely to be far less successful and far more costly.

Scientifically sound fish and wildlife conservation includes not only management of species taken for recreation and protected as endangered and threatened species, but also management of the vast majority of species which fall into neither category.

The American people value the natural diversity of wild animals that they inherited from their ancestors, and they want this natural heritage preserved for future generations.

Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing, and trapping. In 1985, Americans spent over $14 billion on nonconsumptive, wildlife-related recreation.

In Maine, 85 percent of the adult women and men photograph, feed, or simply watch and enjoy wildlife, and they spend nearly $70 million each year doing it.

Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act have benefited greatly the conservation of many types of fish and wildlife and their habitats.

A similar approach is needed to encourage partnerships among Federal and State governments and private entities to carry out projects for the conservation and appreciation of all species of fish and wildlife through management, research, and education.

Maine and many other States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the natural diversity of fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

Today, therefore, I am introducing the Partnerships for Wildlife Act to establish a cooperative working relationship among the U.S. Fish and Wildlife Service, the States, and private organizations and individuals.

This legislation builds on the concept of the North American Wetlands Conservation Act, which I introduced 2 years ago. In just 1 year, that law has matched $14 million in Federal appropriations with over $47 million from State, private, and Canadian sources.

The Partnerships for Wildlife Act will encourage similar partnerships to carry out projects to conserve the entire array of diverse fish and wildlife species in the United States which are not receiving much attention and to provide opportunities for the public to enjoy these fish and wildlife species through nonconsumptive activities.

The Partnerships for Wildlife Act will enable State fish and wildlife agencies to respond more fully to their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects, and it will encourage private donations for these projects, under the leadership of the National Fish and Wildlife Foundation.

Under this legislation, any funds appropriated by Congress will have to be matched 1 for 1 by private contributions from the National Fish and Wildlife Foundation, a private, nonprofit organization established by Congress in 1984.

These Federal-private dollars in a newly established wildlife conservation and appreciation fund then would be made available to States on a similar matching basis to carry out wildlife conservation and appreciation projects.

Consequently, an appropriation by Congress of $6.25 million will attract $6.25 million in private funds and $12.5 million in State funds to carry out $25 million in wildlife conservation and appreciation projects.

In Maine, the department of inland fisheries and wildlife department has indicated a need for additional funding to enhance and maintain wildlife diversity by documenting species' status, habitat requirements, and management needs and to safeguard wildlife populations by developing and implementing habitat and species management programs.

The legislation that I am introducing will make it possible for Maine to double the amount of funding for these efforts by matching the amount contributed to the nongame wildlife fund via the chickadee checkoff, up to $500,000, with Federal-private funds from the wildlife conservation and appreciation fund.

The combined moneys will benefit wildlife in Maine such as the box turtle and roseate tern, which have been designated as endangered and threatened, respectively, under the State, but not the Federal, Endangered Species Act. Species of concern in Maine, such as the harlequin duck and New England cottontail rabbit, which are vulnerable to declines in numbers, and species about which too little is known, such as the lynx and upland salamander, also will benefit.

In general, Federal-private matching funds under the Partnerships for Wildlife Act will be available to help any State fish and wildlife agency to: First, inventory fish and wildlife species; second, determine and monitor the size, range and distribution of populations of fish and wildlife species; third, identify the extent, condition, and location of the significant habitats of fish and wildlife species; fourth, identify the significant problems that may adversely affect fish and wildlife species and their significant habitats; and fifth, provide opportunities for the public to view and to enjoy fish and wildlife through other similar nonconsumptive activities.

I hope that my colleagues will join me in supporting prompt enactment of this legislation. There are important economic, recreational, and educational reasons to encourage wildlife conservation and appreciation projects through Federal-private-State partnerships, but the most important reason, in my judgment, is that an abundant, diverse and healthy supply of fish and wildlife improves the quality of life for the American people.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partnerships for Wildlife Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over $14 billion on non-consumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately 2,600 vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of verebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1987, the U.S. Fish and Wildlife Service reported that 45 common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that 13 of these species have experienced widespread, systematic declines of 46.9 percent during a 20-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over 275 of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including vertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, 82 species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act, and another 951 U.S. invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act have benefited greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through non-consumptive activities.

SEC. 3. PURPOSES.

The purposes of this Act are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through non-consumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The terms "conserve" and "conservation" mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term "designated State agency" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term "fish and wildlife" means wild members of the animal kingdom that are in an unconfined state.

(4) The term "Fund" means the Wildlife Conservation and Appreciation Fund established under section 5(f) of this Act.

(5) The term "National Fish and Wildlife Foundation" means the charitable and nonprofit corporation established under section 2 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701).

(6) The term "nonconsumptive activities" means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term "wildlife conservation and appreciation project" means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and wildlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543); and (C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1362(5)).

SEC. 5. WILDLIFE PARTNERSHIP PROGRAM.

(a) IN GENERAL.—The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) ELIGIBLE PROJECTS.—The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) PROJECT STANDARDS.—The Secretary shall not provide funding to carry out an eligible wildlife conservation and appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) LIMITATIONS ON FEDERAL PAYMENT.—The amount provided by the Secretary to any designated State agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $500,000.00;

(2) may not exceed 50 percent of the total project costs for that fiscal year; and

(3) may not exceed 75 percent of the total project costs for that fiscal year if designated State agencies from two or more States cooperate in implmenting such a project.

(e) FORM OF STATE SHARE.—The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.

(f) ELIGIBILITY OF DESIGNATED STATE AGENCIES.—No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if such an agency diverts revenue from activities it regulates for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) ESTABLISHMENT OF FUND.—(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund—

(A) amounts appropriated to the Secretary for deposit to the Fund; and

(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.

(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

(4) No amounts from the Fund shall be provided to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section unless the amount appropriated to the Fund has been matched wholly by a contribution made to the Fund by the National Fish and Wildlife Foundation.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund and to the Secretary for each of fiscal years 1992 through 1995 not to exceed $6,250,000 to match wholly the amount of contributions made to the Fund by the National Fish and Wildlife Foundation.

By Mr. GORE:

S.J. Res. 181. Joint resolution calling on the President of the United States to take a leadership role in the international negotiations toward a World Forest Convention and a Framework Convention on Climate Change, and for other purposes; to the Committee on Foreign Relations.

FOREST AND CLIMATE CHANGE LEGISLATION

• Mr. GORE. Mr. President, I rise to introduce a resolution that calls on President Bush to provide the environmental leadership he has promised. Soon, the nations of the world will meet for the third preparatory committee meeting for the United Nations Conference on Environment and Development. We have now passed a critical point in those meetings; less than a year remains before the conference will take place in Brazil. The conference provides a truly historic opportunity for all of the countries of the world to join together to chart a future for the planet that is bright for our environment as well as for our economies. I am afraid, however, that the critical importance of the meeting is escaping the President.

Many issues are on the UNCED agenda. All of them—oceans and water resources, preservation of biodiversity, and population, for example—require our immediate attention. Two issues, however, climate change and preservation and protection of the world's forests, have moved to the forefront. Agreements on both are to be signed at the conference, and their successful completion is of vital importance to its success. Our negotiators, however, have been standing in the way of progress on these issues.

Mr. President, 2 years ago, at their Paris Summit Meeting, the leaders of the "Group of Seven" major industrialized nations promised decisive action to curb global warming. Now, as the members of the G7 meet again, it is clear that most of them took the pledge they made in Paris seriously. The European Community, Japan, and Canada have all committed to action. In fact, there is only one country that has yet to make good on its promise. It is by now no mystery as to who that lone holdout is—it is, of course, our own country. What is new here, however, is the growing and increasingly pronounced disgust and frustration of the rest of the industrial world with our unwillingness to live up to our pledge.

Exasperated at the complete lack of progress at the first meeting of the Intergovernmental Negotiating Committee on Climate Change that the United States hosted in Chantilly, VA, Germany opened the second round in Geneva with an urgent plea for action—"It would be irresponsible," the German representatives declared, "to have further delays". The situation is "particularly urgent" they said, and the need for action is "extraordinarily great".

The British Government recognizes this. In fact, they apparently were so concerned by the administration's complete intransigence and endless delay tactics that they sent their environment secretary, Mr. Michael Heseltine, in a personal appeal to Mr. Sununu, Mr. Darman and others. Well, by all accounts, that appeal, too, has fallen on deaf ears. Mr. Heseltine wrote a followup letter to Mr. Sununu that has been characterized as unusually tough and personal, and Prime Minister John Major openly criticized the United States in a speech on the environment at which he announced some new initiatives that the British Government will be taking.

Mr. President, this is an intolerable embarrassment. We are the largest single contributor to the problem—the United States is responsible for some 23 percent of global carbon dioxide emissions. As Prime Minister Major pointed out, the European Community—responsible for only some 13 percent of global emissions has committed to action. It is time for the United States to do the same.

And I want to emphasize that, in refusing to hear the call of the British and others, and in failing to take responsibility for our overwhelming contribution to the global warming problem, we are jeopardizing not only successful completion of the Framework Convention on Climate Change, but we are also standing in the way of the completion of an effective and binding agreement to protect the world's forests.

The administration disputes this—and I must admit it is a subtle argument. But, the fact of the matter is that the developing world has made clear that it will not agree to a binding convention on forests unless and until the industrialized countries commit, in the climate change negotiations, to stabilization and to meaningful reductions in greenhouse gas emissions. Their logic is as follows: Just as fossil fuels are the economic lifeblood of industrialized society, the forests are often the economic lifeblood of developing countries. They are therefore reluctant to sign a strong forest agreement unless we are ready to sign an equally strong climate change convention.

So, Mr. President, it is high time we get on with it. While we hedge and retreat from commitment, we further jeopardize our planet's delicate climate balance and, at the same time, we are responsible for allowing the rampant destruction of the forests to continue unabated. Indeed, the destruction is not only continuing but is accelerating. The latest statistics show that—every second—another 1.5 acres of forest is torn or burded down. Thousands of species are being driven to extinction.

I call on the President to engage himself in these critically important issues. His failure to prioritize these matters is wholely irresponsible and, I would submit, immoral. I urge my colleagues to join me in this resolution, and I urge the President to heed its message.●

ADDITIONAL COSPONSORS

S. 102

At the request of Mr. COHEN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 102, a bill to amend title IV of the Higher Education Act of 1956 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs.

S. 250

At the request of Mr. FORD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 327

At the request of Mr. BOREN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 327, a bill to amend title 38, United States Code, to require the Secretary of Veterans' Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 401

At the request of Mr. DOMENICI, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Illinos [Mr. DIXON] were added as cosponsors of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 471

At the request of Mr. MCCAIN, the names of the Senator from South Dakota [Mr. PRESSLER], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 471, a bill to protect consumers by regulating certain providers of 900 telephone services.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 649

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 668

At the request of Mr. MCCAIN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 668, a bill to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations.

S. 685

At the request of Mr. GLENN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 685, a bill to establish summer residential science academies for talented, economically disadvantaged, minority participants, and for other purposes.

S. 717

At the request of Mr. SYMMS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 717, a bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from Medicare payment reductions for the services of new physicians provided in such areas.

S. 765

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one dollar coins.

S. 881

At the request of Mr. INOUYE, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 881, a bill to amend title VII of the Public Health Service Act to provide educational support for individuals pursuing graduate degrees in social work, and for other purposes.

S. 918

At the request of Mr. PACKWOOD, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Utah [Mr. GARN] were added as cosponsors of S. 918, a bill to amend the Internal Revenue Code of 1986 to exempt small manufacturers, producers, and importers from the firearms excise tax.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 1067

At the request of Mr. LAUTENBERG, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1067, a bill to amend the Urban Mass Transportation Act of 1964 to provide for grants and loans to private nonprofit corporations and associations to be used to pay operating expenses related to new and existing mass transportation services for elderly and handicapped persons.

S. 1111

At the request of Mr. MITCHELL, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1111, a bill to protect the public from health risks from radiation exposure from low-level radioactive waste, and for other purposes.

S. 1147

At the request of Mr. LIEBERMAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1147, a bill to require that the U.S. Government hold certain discussions and report to Congress with respect to the secondary and tertiary boycotts of Israel by Arab nations.

S. 1179

At the request of Mr. JOHNSTON, the names of the Senator from Kentucky [Mr. FORD], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of S. 1179, a bill to stimulate the production of geologic map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1332

At the request of Mr. BAUCUS, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the Medicare Program.

S. 1352

At the request of Mr. DODD, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], the Senator from Iowa [Mr. HARKIN], the Senator from Delaware [Mr. BIDEN], the Senator from Ohio [Mr. GLENN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1352, a bill to place restrictions on United States assistance for El Salvador.

S. 1377

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1377, a bill to amend the Public Health Service Act to expand the scope of the loan repayment programs for research with respect to AIDS to include other biomedical research, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Virginia [Mr.

ROBB] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1471

At the request of Mr. ADAMS, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1471, a bill to amend the Older Americans Act of 1965 to establish an elder rights program, and for other purposes.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE JOINT RESOLUTION 160

At the request of Mr. KERRY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 160, a joint resolution designating the week beginning October 20, 1991, as "World Population Awareness Week."

SENATE JOINT RESOLUTION 161

At the request of Mr. INOUYE, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 161, a joint resolution to authorize the Go For Broke National Veterans Association to establish a memorial to Japanese-American War Veterans in the District of Columbia or its environs, and for other purposes.

SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

SENATE JOINT RESOLUTION 176

At the request of Mr. DIXON, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from North Dakota [Mr. CONRAD], the Senator from Virginia [Mr. WARNER], the Senator from North Dakota [Mr. BURDICK], and the Senator from Maine [Mr. COHEN] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

SENATE CONCURRENT RESOLUTION 54

At the request of Mr. DODD, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Concurrent Resolution 54, a concurrent resolution expressing the sense of the Congress regarding the provision of medical and humanitarian assistance to Iraqi families and children in greatest need.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 150

At the request of Mr. MOYNIHAN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Resolution 150, a resolution expressing the sense of the Senate urging the President to call on the President of Syria to permit the extradition of fugitive Nazi war criminal Alois Brunner.

AMENDMENTS SUBMITTED

TITLE X PREGNANCY COUNSELING

PACKWOOD AMENDMENT NO. 763

Mr. PACKWOOD proposed an amendment to amendment No. 753 proposed by Mr. CHAFEE to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, as follows:

At the end of the Chafee amendment, No. 753, insert the following:

SEC. . Notwithstanding any other provision in this bill, a requirement of parental notice or consent shall not be applicable in any State in which has held a referendum or initiative before December 1990 concerning the conditions or circumstances under which abortions may be provided to unemancipated minors and such referendum or initiative has been subjected to a popular vote.

NATIONAL VOTER REGISTRATION ACT

DOLE (AND STEVENS) AMENDMENTS NOS. 764 THROUGH 766

(Ordered to lie on the table.)

Mr. DOLE (for himself and Mr. STEVENS) submitted three amendments intended to be proposed by him to the bill (S. 250) to establish national voter registration procedures for Federal elections, and for other purposes, as follows:

AMENDMENT NO. 764

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Enhancement Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the right to vote is a fundamental right;

(2) it is the responsibility of each citizen to exercise that right;

(3) it is the duty of the Federal, State, and local governments to promote the exercise of that right;

(4) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal Office;

(5) such laws and procedures can disproportionately harm voter participation in such elections by members of various groups, including racial minorities;

(6) all citizens of the United States are entitled to be protected from vote fraud and from voter registration lists that contain the names of ineligible or nonexistent voters, which dilute the worth of qualified votes honestly cast; and

(7) all citizens of the United States are entitled to be governed by elected and appointed public officers who are responsible to them and who govern in the public interest without corruption, self-dealing, or favoritism.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase registration of citizens as voters in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to enhance voter participation in elections for Federal office;

(3) to protect the integrity of the electoral process;

(4) to ensure the maintenance of accurate and current official voter registration lists; and

(5) to guarantee to the States, and to their citizens, a republican form of government, including elections conducted free of fraud, and governmental processes conducted free of corruption, self-dealing, or favoritism.

TITLE I—VOTER REGISTRATION ENHANCEMENT

SEC. 101. FEDERAL COORDINATION AND BIENNIAL ASSESSMENT.

The Attorney General—

(1) shall be responsible for coordination of Federal functions under this Act;

(2) shall provide information to the States with respect to State responsibilities under this Act; and

(3) shall, not later than June 30 of each even-numbered year, submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2 calendar years and providing recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act.

SEC. 102. RESPONSIBILITY OF CHIEF STATE ELECTION OFFICIAL.

The chief State election official of each State shall be responsible for coordination of State functions under this title.

SEC. 103. VOTER REGISTRATION ENHANCEMENT BLOCK GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General—

(1) for making grants under this section for fiscal years 1992, 1993, and 1994, a total of $25,000,000; and

(2) such additional sums as may be necessary for administrative expenses of the Attorney General in carrying out this title.

(b) BLOCK GRANTS.—(1) From the amounts appropriated under subsection (a) for any fiscal year, the Attorney General shall make grants to States, through chief State election officials, for the purposes of supporting, facilitating, and enhancing voter registration.

(2) To qualify for a grant under paragraph (1), a State shall match any amount of Federal funds dollar for dollar with State funds for voter registration enhancement activities, including—

(A) providing for voter registration for elections for Federal office at State departments of motor vehicles;

(B) providing for registration by mail for elections for Federal office;

(C) providing for designation of, and the carrying out of, voter registration activities at State-related and (upon agreement with the Federal Government and nongovernmental entities) Federal and appropriate private-sector locations for voter registration for elections for Federal office; and

(D) providing for uniform and nondiscriminatory programs to ensure that official voter registration lists are accurate and current in each State.

(c) ALLOCATION OF GRANTS.—(1) The Attorney General shall by regulation establish criteria for allocation of grants among States based on—

(A) the number of residents of each State;

(B) the percentage of eligible voters in each State not registered to vote; and

(C) other appropriate factors.

(2) In promulgating criteria pursuant to paragraph (1), the Attorney General shall give special consideration to State-sponsored programs designed to improve registration in counties with voter registration percentages significantly lower than that for the State as a whole.

(d) ADMINISTRATIVE REQUIREMENTS.—(1) The Attorney General shall by regulation establish administrative requirements necessary to carry out this section.

(2) To be eligible to receive a grant under this section, a State shall certify that the State—

(A) has in place legislative authority and a plan to implement procedures to promote and facilitate, to an extent and in such manner as the Attorney General may deem adequate to carry out the purposes of this title, voter registration for Federal elections—

(i) in connection with applications for driver's licenses; and

(ii) if the State so elects—

(I) by mail; and

(II) at voter registration centers located conveniently to prospective voter registration applicants;

(B) agrees to use any amount received from a grant under this section in accordance with the requirements of this section;

(C) agrees that any amount received through a grant under this section for any period will be used to supplement and increase any State, local, or other non-Federal funds that would, in the absence of the grant, be made available for the programs and activities for which grants are provided under this section and will in no event supplant such State, local, and other non-Federal funds; and

(D) has established fiscal control and fund accounting procedures to ensure the proper disbursement of, and accounting for, grants made to the State under this section.

(3) The Attorney General may not prescribe for a State the manner of compliance with the requirements of this subsection.

(e) REPORTS.—(1) The chief State election official of a State that receives a grant under this section shall submit to the Attorney General annual reports on its activities under this section.

(2) A report required by paragraph (1) shall be in such form and contain such information as the Attorney General, after consultation with chief State election officials, determines to be necessary to—

(A) determine whether grant amounts were expended in accordance with this section;

(B) describe activities under this section; and

(C) provide a record of the progress made toward achieving the purposes for which the block grants were provided.

SEC. 104. DEFINITIONS.

For the purpose of this title—

(1) the term "chief State election official" means, with respect to a State, the officer, employee, or entity with authority, under State law, for election administration in the State;

(2) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(3) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)); and

(4) the term "State" has the meaning stated in section 301(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(12)).

TITLE II—PUBLIC CORRUPTION

SEC. 201. ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the honest services of an official or employee of the United States or the State, political subdivision, or Indian tribal government shall be fined under this title, imprisoned for not more than 20 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), defrauds, or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the jurisdiction in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title, imprisoned for not more than 20 years, or both.

"(c) Whoever, being a public official or an official or employee of the United States, a State, a political subdivision of a State, or an Indian tribal government, in a circumstance described in subsection (d) defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States, a State, a political subdivision of a State, or Indian country of the right to have the affairs of the United States, the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title, imprisoned for not more than 20 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(e) Whoever defrauds or endeavors to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title, imprisoned for not more than 20 years, or both.

"(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States, a State, a political subdivision of a State, or an Indian tribal government, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) For the purposes of this section—

"(1) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) any person who has been nominated, appointed, or selected to be an official or who has been officially informed that such person will be so nominated, appointed, or selected;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201(a) and shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States; and

"(4) the term 'under color of official authority' includes any person who represents that such person controls, is an agent of, or otherwise acts on behalf of an official, a public official, or a person who has been selected to be a public official.".

(b) Technical Amendments.—(1) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 202. FRAUD IN INTERSTATE COMMERCE.

(a) AMENDMENT OF TITLE 18 OF THE UNITED STATES CODE.—Section 1343 of title 18, United States Code, is amended—

(1) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "in connection with intrastate, interstate, or foreign commerce, engages the use of a facility of interstate or foreign commerce"; and

(2) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

AMENDMENT NO. 765

Strike section 7.

AMENDMENT NO. 766

Strike section 6.

TITLE X PREGNANCY COUNSELING

HATCH AMENDMENT NO. 767

Mr. KENNEDY (for Mr. HATCH) proposed an amendment to the bill S. 323, supra, as follows:

At the end thereof, add the following:

"Title X of the Public Health Services Act is amended by adding at the end the following new section.

"Section . Notwithstanding any other provision of law, no state may be denied funds under this Act because it requires health care providers to obtain the consent or notification of the parent of a minor before providing any health care service to such minor."

"Such law must be enacted prior to April 1, 1981."

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATION ACT, FISCAL YEAR 1992

MACK AMENDMENT NO. 768

Mr. MACK submitted an amendment intended to be proposed by him to the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes; as follows:

Beginning with page 19, line 24, strike all through page 20, line 3.

BUMPERS AMENDMENT NO. 769

Mr. BUMPERS proposed an amendment to the bill H.R. 2519, supra, as follows:

On page 80 strike line 25, and insert the following: "September 30, 1993, of which $1,928,900,000 of the funds appropriated under this heading for a space station shall be available, in lieu of such space station, and in addition to any other amounts appropriated under this heading or any other provision of this Act, as follows—

"(1) to the National Aeronautics and Space Administration—

"(A) $50,000,000 for the Earth observing system;

"(B) $50,000,000 for the national launch system;

"(C) $17,000,000 for aeronautical research and technology;

"(D) $15,000,000 for space automation and telerobotics;

"(2) to the National Science Foundation, $50,000,000; and

"(3) to the Department of Veterans Affairs—

"(A) $378,000,000 for use for veterans' medical care;

"(C) $53,000,000 for use for veterans' medical and prosthetic research and development: and $1,315,900,000 shall be applied to deficit reduction. *Provided*, That no funds appropri-"

LEGISLATIVE BRANCH APPROPRIATIONS ACT, FISCAL YEAR 1992

BYRD (AND OTHERS) AMENDMENT NO. 770

Mr. BYRD (for himself, Mr. STEVENS, Mr. MITCHELL, and Mr. DOLE) proposed an amendment to the bill (H.R. 2506) making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes, as follows:

On page 8, strike out line 25 and insert in lieu thereof the following:

(b) Subsection (a) shall take effect October 1, 1991.

SEC. 6. (a) The rate of pay for the offices referred to under section 703(a)(2)(B) of the Ethics Reform Act of 1989(5 U.S.C. 5318 note) shall be the rate of pay that would be payable for each such office if the provisions of sections 703(a)(2)(B) and 1101(a)(1)(A) of such Act (5 U.S.C. 5318 note and 5305 note) had not been enacted.

(b) The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 503(1)(B) by striking out "legislative branch officers and employees other than Senators, officers, and employees of the Senate and" and inserting in lieu thereof "Senators and legislative branch officers and employees";

(2) in section 505(1) by inserting "a Senator in," before "a Representative"; and

(3) in section 505(2) by striking out "(A)" through "(B)".

(c) Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(d) Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is repealed.

(e)(1) Of the funds appropriated under the heading "SENATE" in any appropriations Act or joint resolution making funds available to the Senate before fiscal year 1992, and which (except for the provisions of this paragraph) would remain available until expended, of the remaining balances, $3,040,000, are rescinded.

(2) In addition to funds rescinded under the preceding paragraph, of the funds appropriated under the heading "salaries, officers and employees" under the heading "SENATE" of the Legislative Branch Appropriations Act, 1991, and which (except for the provisions of this paragraph) would remain available until expended, of the remaining balances, $250,000, are rescinded effective on the date of the enactment of this Act.

(f)(1) Except for the provisions of subsection (e)(1), the provisions of this section shall take effect on the date of the enactment of this Act.

(2) The provisions of subsection (e)(1) shall take effect on October 1, 1991.

AMENDMENT NO. 771

Mr. REID proposed four amendments to the bill H.R. 2506, supra, as follows:

REID AMENDMENTS NOS. 771 THROUGH 774

On page 6, line 23 strike "or" and insert "on".

On page 6, line 25, strike "section" and insert "sections".

On page 7, line 1, after "703(a)(2)(B)" and insert the following: "and 1101(a)(1)(A)".

On page 7, beginning with "the first" on line 10, strike all through "on or after" on line 11.

AMENDMENT NO. 772

On page 8, after line 25, add the following":

SEC. 6. (a) Section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended as follows:

(1) in the material preceding clause (1), delete "payment" and insert in lieu thereof "payment (including reimbursement)";

(2) in clauses (3), (4), (5), (7), (8), and (9), delete "reimbursement to each Senator for":

(3) in the material following clause (9), delete "Reimbursement to a Senator and his employees" and insert in lieu thereof "Payment";

(4) in the material following clause (9), delete "reimbursed" and insert in lieu thereof "paid or reimbursed"; and

(5) in the last sentence, delete "reimbursement" and insert in lieu thereof "payment".

(b) Section 3(f) under the heading "Administrative Provisions" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59(e)) is amended as follows:

(1) in the first sentence of paragraph (1), delete "shall be reimbursed from the contingent fund of the Senate for the rental payments" and insert in lieu thereof "the contingent fund of the Senate is available for the rental payments (including by way of reimbursement)";

(2) in paragraph (2), delete "reimbursed" and insert in lieu thereof "paid";

(3) in paragraph (3), delete "reimbursement" and insert in lieu thereof "payment"; and

(4) in paragraph (4), delete "reimbursement" and insert in lieu thereof "payment";

(5) in paragraph (5), delete "Reimbursement" and insert in lieu thereof "Payment".

(c) The amendments made by subsections (a) and (b) shall take effect October 1, 1991.

AMENDMENT NO. 773

At the end of the first Committee amendment insert the following:

SEC. . (a) Subject to subsection (b), those employees of the Architect of the Capitol engaged in operating elevators in that part of the United States Capitol Building under the control and jurisdiction of the United States Senate, together with the elevator operating functions performed by such employees, effective October 1, 1991, shall be transferred to the jurisdiction of the Sergeant at Arms and Doorkeeper of the Senate.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized to enter into an agreement or other arrangement with the Architect of the Capitol regarding the supervision of such employees.

AMENDMENT NO. 774

On page 8, add after line 25 the following new section:

SEC. 6. (a) Effective October 1, 1991, the jurisdiction and control of the Senate chamber public address system is transferred from the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate. In the case of any employee of the Architect of the Capitol transferred during fiscal year 1992 to the Sergeant at Arms and Doorkeeper of the Senate as an audio operator—

(1) in the case of days of annual leave to the credit of any such employee as of the date such employee is transferred, the Architect of the Capitol is authorized to make payment to each such employee for that annual leave, and no such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation; and

(2) for purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e), (n), and (q) of such section.

(b) The Architect of the Capitol shall provide the maintenance of the Senate chamber public address system until such system is replaced by a combined public address and audio broadcast system.

BROWN AMENDMENT NO. 775

Mr. BROWN proposed an amendment to the bill H.R. 2506, supra, as follows:

On page 6, line 15, strike out "$34,000,000," and insert in lieu thereof "$32,600,000,".

GORTON (AND OTHERS) AMENDMENT NO. 776

Mr. GORTON (for himself, Mr. DOLE, Mr. NICKLES, and Mr. COCHRAN) proposed an amendment to the bill H.R. 2506, supra, as follows:

On page 3, line 1, strike "$69,279,000" and insert "$69,895,000";

On page 3, line 10, strike "$1,796,000" and insert "$2,012,000";

On page 3, line 17, strike "$713,000" and insert "$913,000";

On page 3, line 18, strike "$1,426,000" and insert "$1,826,000";

On page 5, line 4, strike "$1,142,000" and insert "$1,199,100";

On page 5, line 5, strike "$2,284,000" and insert "$2,398,200".

ROCKEFELLER AMENDMENT NO. 777

Mr. ROCKEFELLER proposed an amendment to the bill H.R. 2506, supra, as follows:

At the end of the bill add the following:

SEC. . NATIONAL COMMISSION ON CHILDREN.

For necessary expenses of the National Commission on Children as established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $200,000 to remain available through December 31, 1992.

WOFFORD AMENDMENT NO. 778

Mr. WOFFORD proposed an amendment to the bill H.R. 2506, supra, as follows:

At the end of the bill add the following:

SEC. . Of the funds appropriated or otherwise made available under the heading "OFFICIAL MAIL COSTS" under the heading "SENATE" in the Legislative Branch Appropriations Act, 1991 and which would remain available until expended, $150,000 of the remaining balances are rescinded: *Provided*, That the amount rescinded by this section shall be deducted from the amount allocated by the Committee on Rules and Administration to the junior Senator from Pennsylvania for mass mail.

REID AMENDMENT NO. 779

Mr. REID proposed an amendment to the bill H.R. 2506, supra, as follows:

On page 44, after line 20 (at the end of section 311), insert the following:

(g) With respect to the House of Representatives, the House of Representatives Child Care Center and other matters relating to child care shall be governed in the manner determined by the House of Representatives, including as provided in House Resolution 21, Ninety-ninth Congress, as enacted into permanent law, and shall be subject to such regulations as the Committee on House Administration of the House of Representatives may prescribe.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that there has been a change in date for 1 of 2 days of hearings that have been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearings is to receive testimony on S. 1351, the Department of Energy Science and Technology Partnership Act.

The hearing that was originally scheduled to take place on Wednesday, July 24, 1991, has now been moved to Wednesday, July 31, 1991. No change has been made in the schedule for the hearing on Thursday, July 25, 1991. Both hearings will take place at 2 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

For further information, please contact Paul Barnett of the committee staff at 202/224-7569.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on July 17, 1991, at 2 p.m., to hold a markup on S. 474, S. 654, S. 758, and S. 759.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, July 17, 1991, at 11:15 a.m. and 4 p.m., in executive session, for markup of the Department of Defense authorization bill for fiscal years 1992-93.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 17, at 2 p.m. to hold a hearing to report on the African-American summit held in Abidjan, West Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Indian affairs be authorized to meet on July 17, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building, on S. 754, Treatment of Individual Income Derived From Trust Land.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, July 17, at 9:30 a.m., for a hearing on the subject: Progress in reducing and better managing Department of Defense inventories.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 17, 1991 at 2 p.m. to hold a closed markup on the fiscal year 1992 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 17, beginning at 9:30 a.m., to conduct a hearing on legislation to reauthorize the Water Pollution Prevention and Control Act, with special emphasis on nonpoint sources of pollution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 17, at 10 a.m., to hold a hearing on the Conventional Forces in Europe [CFE] Treaty, Treaty Doc. 102-8.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., July 17, 1991, to receive testimony on S. 734 and S. 736, legislation relating to oil and gas leasing on the Outer Continental Shelf.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMENDING CYNTHIA W. CURRY

• Mr. GRAHAM. Mr. President, I rise today to commend Cynthia W. Curry of Dade County, for being selected to serve as the first female, black president of the National Forum for Black Public Administrators [NFBPA].

NFBPA is an organization compromised of black public and private managers committed to the pursuit of excellence and the professional development of black managers.

Before her presidency, Ms. Curry served as the first and second vice president of the NFBPA. She was also involved in the development of the organization and has been an active participant and supporter of national programs.

In April 1983, the National Forum for Black Public Administrators convened in Fort Lauderdale, FL, for its first annual conference. Ms. Curry was a member of the first chapter officially chartered by the national organization, which has approximately 45 local chapters and over 300 members.

National Forum for Black Public Administrators is recognized as one of the fastest growing organizations in the country today. With Ms. Curry at the helm, this organization will surely continue its growth and success.●

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991-95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 15, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through July 11, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated July 8, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., AS OF JULY 11, 1991

[In billions of dollars]

	Revised on-budget aggregates[1]	Current Level[2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4
Revenues:			
1991	805.4	805.4	([3])
1991–95	4,690.3	4,690.3	([3])
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,447.6	−697.4
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; 0.1 billion in budget authority and 0.2 billion in outlays for debt forgiveness for Egypt and Poland; and 0.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service appropriations bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JULY 11, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834,910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm Troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (H.R. 2251, Public Law 102–55)	([1])		
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JULY 11, 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

[1] Less than $500,000.

Note.—Numbers may not add due to rounding.•

NATIONAL STUDENT/PARENT MOCK ELECTION

• Mr. HATCH. Mr. President, in 1990, only 36 percent of all eligible citizens bothered to vote, once again, as in 1986, the Nation's lowest voter turnout since 1942. The world's last best hope has the lowest voter participation rate of any of the lowest voter participation rate of any of the world's democracies.

In the 1988 Presidential election, barely 29 percent of all eligible voters ages 18–24 participated. President Bush, in his welcoming remarks to the students and parents participating in the 1990 National Student/Parent Mock Election said, "Today, all too often, the right to vote * * * has been abandoned. * * * Government does not work when the voice of the people is not heard, or is heard faintly."

On October 29, 1992, 5 days before the national elections, millions of young people and their parents, in all 50 states and all around the world, will make their voices heard by participating in the National Student/Parent Mock Election—"the largest voter education project ever" (Time magazine, November 14, 1988).

Three and a half million participated in the 1988 National Student/Parent Mock Election. They met all across the country, and through the Department of Defense dependents schools all around the world, to cast their votes for who would win the national elections and vote their recommendations on key national issues. Ten million watched on national television. One Washington, DC, commentator called it "the most ambitious voter-education project in the world."

Fifty national, civil, religious, and educational organizations cooperate on the National Student/Parent Mock Election. Both the Republicans and Democratic National Committees have endorsed the project.

Time magazine, principal sponsor of the 1988 National Student/Parent Mock Election, plans to participate in 1992. Secretary of Education Lamar Alexander supports the program as well. I am especially pleased that the National Student/Parent Mock Election has added law-related education to its voter education strategies, and I wish to commend the Department of Justice for the support that made it possible.

In addition, five States and five school districts won the 1990 awards for creating outstanding voter education projects to teach the "Fourth R—Responsibility." The awards were given by Congressional Quarterly and the National Association of State Boards of Education and the American Association of School Administrators in conjunction with the National Student/Parent Mock Election.

I would like to congratulate Arkansas Association of School Administrators, Connecticut League of Women Voters, Missouri School Boards Association, New York State School Boards Association, and the Virginia Department of Education. The winning school districts were Palm Beach County, FL; Huntsville Independent School District, TX; the Washington, DC, public schools; Dade County, FL; and the Tucson Unified School District in Arizona.

I once again would like to ask my Senate colleagues to contact their State and local school superintendents in order that as many students as possible participate in the 1992 National Student/Parent Mock Election.•

HONORING 826TH ORDNANCE COMPANY

• Mr. KASTEN. Mr. President, I rise today to honor the outstanding service of the 826th Ordnance Company, based in Madison, WI, in Operation Desert Storm. The 130 members of this Wisconsin-based company helped pass the ammunition that liberated Kuwait from Iraqi aggression—and turned a new and more hopeful page in the history of the region.

The work performed by the troops of the 826th in the sweltering heat of the Saudi desert was essential to our country's victory and they did it because they were men and women of honor who take pride in doing their duty.

For a job well done, I ask my colleagues to join me in sending to the members of the 826th Ordnance Company a heartfelt "thank you" from America.•

TRIBUTE TO ROBERT L. STEELE

• Mr. DODD. Mr. President, I rise to salute Bob Steele, a man who has become a venerable Connecticut institution, and who celebrates his 80th birthday this month. Throughout his 55 years on the airwaves of WTIC Radio in Hartford, Bob's erudite, top-of-the-morning affability has accompanied countless Connecticut residents through our morning routines. He was born in the heartland of Kansas City, MO, but since the day he rode into Hartford on the back of a motorcycle in 1936, Bob Steele has been a native son.

Thanks to Bob, generations of listeners know the definition of the word pugilism, as well as the meanings of many other commonly misused and mispronounced words. During each broadcast, Bob devotes a few moments to instructing his listeners on the proper pronunciation and definition of a word. His "Word for the Day" has become a signature feature of his show, and it's no wonder. Bob's adventures before launching his radio career in Connecticut provided him with plenty of experiences to describe with his extensive vocabulary.

A light- and welter-weight pugilist who fought professionally for a few years as a young man, Bob held a record of 2 wins, 14 losses, and 2 draws. The winds shifted and Bob followed a path of professional versatility: He worked as a restaurateur in California and then as a stuntman in the movies. When Bob's muses finally led him to Connecticut, a successful audition for a position as an announcer with WTIC postponed his return to Los Angeles indefinitely.

Since then, Bob Steele has been as reassuring as clockwork. He continues to teach, entertain, and delight us with the sports predictions, for which he has gained such notoriety. Legend has it that Bob's reputation as a sports forecaster took off when the coach of the Yale football team urged him to go against his hunch and pick the opposing team for a victory in an upcoming game. The reverse magic paid off in a Yale win, and Bob's success at predicting the winners by picking the losers continues to this day.

Bob Steele has put his reputation and charisma to good use on behalf of countless nonprofit organizations and causes through the years. The dramatic success of his appeal for blood donations to the blood bank during World War II continues today in his longstanding outreach on behalf of the Greater Hartford chapter, American Red Cross. Bob's commitment to literacy has expressed itself not only on his radio show, but also in his contribution to the Literacy Volunteers of America, to which he dedicated the Bob Steele Literacy Volunteers Reading Center in Hartford in 1986.

Combining wry humor with honest, straightforward sincerity and charm, Bob Steele has achieved an enduring place in the hearts of his listeners in Connecticut. And why not? After all, every day holds another adventure, as well as another opportunity, to expand the vocabulary and conscience of his millions of loyal friends.•

FEDERAL RECRUITMENT TECHNIQUES

• Mr. STEVENS. Mr. President, for the past couple of years, the Subcommittee on Federal Services, Post Office, and Civil Service, chaired by Senator DAVID PRYOR, has been looking into the recruitment techniques employed by the Federal Government. At a hearing held on June 19, 1989, testimony was received from four young people who had been frustrated in their efforts to obtain the necessary information on how to apply for Federal employment.

This hearing just happens to have been the first time the Director of the Office of Personnel Management, Constance Berry Newman, testified before Congress in that capacity. She surprised the attendees by sitting through the entire hearing, listening and taking notes on comments and observations made by the witnesses.

When Mrs. Newman was called to testify, she told the chairman that improving the front line, "the people who deal both on the phone and in person with the public," was one of the priorities of her office. I would like to take this opportunity to congratulate Mrs. Newman for following through on that commitment.

The first frontline service showcase seminar specifically designed for Federal agencies serving the public was held here in Washington, DC, on Tuesday, July 16. OPM was assisted in this effort by the U.S. Postal Service, the Departments of the Army, Labor, and Agriculture, the National Park Service, the Social Security Administration, the Bureau of Alcohol, Tobacco and Firearms, and the General Services Administration.

This is the first of many such seminars which are planned throughout the country. It is my hope that Federal agencies will encourage employees to attend these training sessions and return with renewed enthusiasm for improving all aspects of the Federal Government's service to the public.•

CAPTIVE NATIONS WEEK—1991

• Mr. RIEGLE. Mr. President, this week marks the 32d observance of "Captive Nations Week." This annual commemoration allows the people of the free world to show their support for citizens of the captive nations who, at great personal risk and sacrifice, continue to struggle for their human rights.

In the last 2 years, the world has witnessed incredible strides toward freedom. With the opening of the Berlin Wall, the success of democracy movements in Eastern Europe, and free elections in the Soviet Union the citizens of captive nations are finally beginning to experience liberty and the ability to determine their own national future.

A desire for freedom has brought about an unprecedented transformation in the political geography of the world. In Eastern Europe, people took to the streets armed only with the ideals of liberty and justice and overcame years of subjugation. Their courageous protests were instrumental in toppling brutal dictatorships and lifting the Iron Curtain.

But despite these victories, the struggle for democracy and freedom is by no means over.

During more than 50 years of illegal occupation, the Soviet Union has continually tried to eradicate the spirit of freedom which has burned in the hearts of the Baltic people. But they have not been successful. Last year, the Baltic republics of Lithuania, Latvia, and Estonia officially declared the restoration of their independence from the Soviet Union. Tragically, though, this was followed by another attempt to quash the Baltic drive for independence. Just last January, the world witnessed the most recent example of oppression from the Kremlin, when Soviet troops killed 14 people in Lithuania.

Similarly, the courageous fight for freedom in the Ukraine has been long and tragic. From the man-made famine of 1932–33 to the inept handling of the Chernobyl calamity, Ukrainians have suffered decades of harsh Soviet rule. In a historic attempt to break with the devastating past, the Ukrainian Parliament proclaimed the sovereignty of the Republic on July 16, 1990. This courageous act demonstrated the unwavering dedication of the Ukrainian people to overcoming Soviet repression.

The Republics of Armenia, Georgia, and Azerbaijan also remain captive under the Soviets' oppressive rule. In an attempt to solve interethnic tensions in these republics, the Kremlin has intensified rather than alleviated hostilities among local groups by employing a policy of brutal military suppression.

Nevertheless, the deep commitment to democracy by the new governments of Eastern Europe and the changes in the Soviet Union, itself, can only spell hope for those nations still under the shadow of oppression. With the support of the free world and the determination of citizens of captive nations, a time will soon come when all people will be free to decide their own destinies.•

SAN JUAN ISLAND LAND ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 141, H.R. 427, a bill relating to San Juan Island.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 427) to disclaim any interests of the United States in certain lands of San Juan Island, WA, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there is no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 427) was ordered to a third reading, was read the third time, and passed.

Mr. REID. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KOREAN WAR VETERANS REMEMBRANCE WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration to House Joint Resolution 255, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week" just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 255) designating the week beginning July 21, 1991, as the Korean War Veterans Remembrance Week.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 255) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN RICHARD HAYDEL POST OFFICE BUILDING

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 998, a post office designation in Louisiana, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 998) to designate the building in Vacherie, LA, which houses the primary operations of the U.S. Postal Service as the "John Richard Haydel Post Office Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 998) was ordered to a third reading, was read the third time, and passed.

Mr. REID. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CARL O. HYDE GENERAL MAIL FACILITY

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2347, a mail facility designation in Texas, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2347) to redesignate the Midland General Mail Facility in Midland, TX, as the "Carl O. Hyde General Mail Facility," and for other purposes.

There being no objection, the bill (H.R. 2347) was considered, ordered to a third reading, read the third time, and passed.

Mr. REID. I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REIMBURSEMENT OF CERTAIN TRAVEL EXPENSES

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 162, S. 992, regarding certain travel reimbursements.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 992) to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, NV.

There being no objection, the bill S. 992 was considered, ordered to a third reading, read the third time, and passed, as follows:

S. 992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of sections 5724 and 5724a of title 5, United States Code, Jane E. Denne of Henderson, Nevada is deemed to be an employee transferred by the Environmental Protection Agency from one official station to another for permanent duty in the interest of the Government without a break in service for travel by such employee from Lawrence, Kansas to Las Vegas, Nevada, in December 1986.

Mr. REID. I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Thursday, July 18; that following the prayer the Journal of proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein; that during morning business Senator JOHNSTON be recognized for up to 15 minutes, Senator SPECTER be recognized for up to 15 minutes, and Senator GRAHAM of Florida be recognized for up to 10 minutes; that the vote on the motion to invoke cloture on the motion to proceed to S. 250, the motor voter bill, occur at 10 a.m. with the mandatory live quorum having been waived; further, that upon conclusion of the cloture vote the Senate resume consideration of H.R. 2622, the Treasury, Postal Service appropriations bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:15 a.m., Thursday, July 18, 1991.

There being no objection, the Senate, at 10:43 p.m., recessed until Thursday, July 18, 1991, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 1991:

DEPARTMENT OF STATE

RICHARD CLARK BARKLEY, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

DEPARTMENT OF LABOR

MARSHALL JORDAN BREGER, OF THE DISTRICT OF COLUMBIA, TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR, VICE ROBERT P. DAVIS, RESIGNED.

DELBERT LEON SPURLOCK, JR., OF CALIFORNIA, TO BE DEPUTY SECRETARY OF LABOR, VICE RODERICK ALLEN DEARMENT, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate July 17, 1991:

AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, AND 8373, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. EARL A. ALER, JR. [redacted] AIR FORCE RESERVE.

BRIG. GEN. JOHN H. BURRIS [redacted] AIR FORCE RESERVE.

BRIG. GEN. RODNEY L. LINKOUS, [redacted] AIR FORCE RESERVE.

BRIG. GEN. ROBERT A. MCINTOSH, [redacted] AIR FORCE RESERVE.

BRIG. GEN. CLARK O. OLANDER, [redacted] AIR FORCE RESERVE.

BRIG. GEN. JOHN P. VAN BLOIS, [redacted] AIR FORCE RESERVE.

To be brigadier general

COL. WAYNE W. BARKMEIER, [redacted] AIR FORCE RESERVE.

COL. MARCIA F. CLARK, [redacted] AIR FORCE RESERVE.

COL. JOHN J. COSTANZI, [redacted] AIR FORCE RESERVE.

COL. LOUIS A. CRIGLER, [redacted] AIR FORCE RESERVE.

COL. TERRENCE L. DAKE, [redacted] AIR FORCE RESERVE.

COL. ANDREW P. GROSE, [redacted] AIR FORCE RESERVE.

COL. JAMES W. LUCAS, [redacted] AIR FORCE RESERVE.

COL. CHARLES R. LUTHER, [redacted] AIR FORCE RESERVE.

COL. MICHAEL W. MCCARTHY, [redacted] AIR FORCE RESERVE.

COL. JOHN M. MILLER, [redacted] AIR FORCE RESERVE.

COL. SAMUEL P. MITCHELL, JR., [redacted] AIR FORCE RESERVE.

COL. MICHAEL J. PETERS, [redacted] AIR FORCE RESERVE.

COL. ROBERT E. PFISTER, [redacted] AIR FORCE RESERVE.

COL. TERRY G. WHITNELL, [redacted] AIR FORCE RESERVE.

ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JOHN W. FOSS [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THURMAN D. RODGERS [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. H. NORMAN SCHWARZKOPF, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES R. HALL, JR. [redacted] U.S. ARMY.

MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be general

LT. GEN. JOSEPH P. HOAR [redacted] UNMC.

THE FOLLOWING NAMED OFFICER, TO BE PLACED ON THE RETIREMENT LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ERNEST T. COOK, JR. [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. ROYAL N. MOORE, JR. [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. HENRY C. STACKPOLE, II[redacted], UNMC.

IN THE AIR FORCE

AIR FORCE NOMINATION OF AURORA T. MALDONALDO, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1991.

AIR FORCE NOMINATIONS BEGINNING NORMAN ARENDS, AND ENDING TERRANCE J. ROCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1991.

AIR FORCE NOMINATIONS BEGINNING MAJ. JOHN W. ANDERSON, [redacted] AND ENDING MAJ. PAUL E. LAVOIE, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1991.

AIR FORCE NOMINATION OF ROSA L. SANDWELLWEISS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1991.

AIR FORCE NOMINATIONS BEGINNING RICHARD M ANDERS, AND ENDING SHIRLEY C. CLARK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 3, 1991.

AIR FORCE NOMINATIONS BEGINNING FRANK E. CARPENTER, AND ENDING JOHN D. VAIL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1991.

AIR FORCE NOMINATIONS BEGINNING MAJ. REESE R. ARMSTRONG, [redacted] AND ENDING MAJ. EDMUND D. EFFORT, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1991.

IN THE ARMY

ARMY NOMINATIONS BEGINNING DENNIS J. FRINGELI, AND ENDING*IRWIN B. SIMON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 24, 1991.

ARMY NOMINATIONS BEGINNING MAYNARD K. BEAN, AND ENDING DELORES J. PODHORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1991.

IN THE NAVY

NAVY NOMINATIONS BEGINNING JAMES M. CASTLEBERRY, AND ENDING VICKI S. PEARSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 8, 1991.

EXTENSIONS OF REMARKS

THE TRAGEDY OF KOSOVO CONTINUES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. BROOMFIELD. Mr. Speaker, in recent years, I have called the attention of my colleagues to the human rights tragedy in the Yugoslav Province of Kosovo. Today, the situation there remains terrible. While the world watches the democratic forces in Croatia and Slovenia fight for self-determination, the ethnic Albanians in the Province of Kosovo continue to suffer under the harsh rule of Serbian nationalism and the destructive policies of Serbian President Slobodan Milosevic.

The human rights abuses in Kosovo are well documented. In its "Country Reports on Human Rights Practices for 1990," the Department of State reported the following:

> In the Province of Kosovo, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians. This violence included the use of excessive force by the police to disperse peaceful demonstrators, including random and at times unprovoked shooting by police, resulting in at least 30 deaths and hundreds of injured.

Amnesty International's report is equally critical of Serbian violations of human rights in that province.

The chief architect of the problems in Kosovo is Milosevic. As a crypto Communist and Serbian nationalist, he is determined to rebuild the Serbian Kingdom of old at the expense of ethnic Albanians and other groups. In response to ethnic Albanian efforts toward self-determination in 1990, Milosevic dissolved the 188-member Provincial Assembly, took over the organs of the Kosovo Assembly and shut down Albanian language news media. He cruelly suppressed the ethnic Albanians in Kosovo, who represent over 90 percent of the province's population, arresting hundreds and killing many in the process. Thousands later lost their jobs, becoming second-class citizens in their own land. The provinces of Kosovo and Vojvodina lost their autonomous status in clear violation of the Yugoslav Constitution and were absorbed by Serbia against their people's wishes.

Milosevic cleverly engineered a deadlock in the Federal Presidency in May by blocking a Croat, Stipe Mesic, from assuming the presidency. Milosevic also exercises significant influence over the Yugoslav Federal Army. As Jacques Bacic recently reported in the New York Times, "Under Milosevic, the Yugoslav People's Army whose officer corps is predominantly Serbian, and other Federal institutions lost their all-Yugoslav orientation." In addition to the Federal army, Mr. Milosevic also employs the Chetniks, the ultraright wing Serbian militia, to help him build his Greater Serbia. Already, the Chetniks are urging the Serbian minority in Croatia to declare independence from Croatia. The Serbian army in Croatia, now dominated by nationalist Serbs, is also helping in this effort and would side with the Serbs if serious fighting broke out in Croatia.

Is it surprising that the people of Croatia and Slovenia declared their independence on June 25 after Milosevic had convinced them that he and his Serbian followers would use all means necessary to gain total control of Yugoslavia? Earlier in the year, supporters of democracy in Serbia held massive demonstrations in Belgrade protesting Milosevic's foolhardy policies. He is playing a dangerous game, and it is directly contributing to the dissolution of the country. Milosevic's efforts to carve greater Serbia out of today's Yugoslavia are leading to blood and destruction.

While we monitor developments in Croatia and Slovenia, Milosevic proceeds with his war against the ethnic Albanians in Kosovo. I want to share with my colleagues in the House the following article that appeared in the Washington Post July 15 concerning the latest developments in Kosovo.

SERBIANS PRESSING ETHNIC ALBANIANS IN UNEASY KOSOVO

(By Peter Maass)

PRISTINA, YUGOSLAVIA.—Serbia, the dominant republic of the Yugoslav federation, is bolstering a crackdown on ethnic Albanians in Kosovo by sending more security forces into the volatile province and excluding students and professors from the main university here, according to Serbian officials.

Although Croatia and Slovenia have captured international attention, Kosovo is also an ethnic hotbed of antiSerbian sentiment and could become a second front if fullfledged combat occurs in the northern republics. Ethnic Albanians here are just as determined as the Croats and Slovenes to find a way out of Serbian-dominated Yugoslavia, but they are far weaker, politically and militarily.

Serbia's moves appeared to be aimed at stemming secessionist pressures in a province where the vast majority clearly is dissatisfied with the status quo.

Zivorad Igic, a senior official of the ruling Socialist Party of Serbia, said additional forces and police have entered Kosovo since the independence declarations by Croatia and Slovenia last month, although he would not say how many or from what units.

Armed patrols and roadblocks have increased, becoming as prevalent as stop signs and traffic lights, according to ethnic Albanians here in Kosovo.

[In Croatia, the Associated Press reported from Zagreb, the republic's militia and Serbian militants battled Sunday in clashes that left at least two dead and many wounded in the Banija region, about 30 miles south of the Croatian capital.

[The violence came after the federal government, Croatia and Slovenia gave final approval for unarmed European Community observers to monitor a truce between the national army and the militias of the two secesionist republics.]

The situation here in Kosovo became more tense—and drew fury from neighboring Albania—with the announcement by Serbian authorities that freshmen enrollment at the University of Kosovo will be cut by more than two-thirds to 3,000. Half of those places will be reserved for Serbo-Croat speakers, even though about 90 percent of Kosovo's 2 million people are ethnic Albanians who speak Albanian.

Albanians here say the Serbians aim to force them out of the university and, eventually, out of Kosovo. Until now, the university was the heart of what remained of Kosovo's Albanian culture and freedom during an era that the locals view as military occupation. It was also the place the Serbian officials pointed to when they told human rights investigators that ethnic Albanians were not being repressed.

"It is the center of our culture and spirit," said Jusuf Buxhovi, a leading politician and historian.

At the end of June, Serbia's government in Belgrade took direct control of the university and replaced its rector with a non-Albanian, who has begun firing Albanian professors. According to Gazmend Pula, an Albanian engineering science professor and member of the Yugoslav Helsinki Watch Committee, about 30 of the university's most prominent Albanian professors were fired last week, and more dismissals are expected.

Serbian officials announced that the university's name is to be changed, and they say it probably will be named after St. Sava, a Serb. It is a gesture that Albanians view as an intentional insult, an act of what one professor calls "Serbian triumphalism." Some Albanian-language books are said to have been removed from the library shelves.

"Tensions have been running very high and will be even higher in September," said Pula, referring to the start of the school year. "If this trend continues, it won't be long until things explode into an open conflict."

Igic, the Serbian socialist, said the changes are part of a "rationalization" program aimed at bringing the university closer into the Serbian educational system. Asked if the shifts amount to a stepped-up Serbianization of Kosovo, he replied, "Absolutely."

The moves come at the end of a decade-long crackdown in which more than 80 ethnic Albanians have been killed and 11,000 sentenced to jail terms, according to Helsinki Watch, a human rights group. A Special Circumstances Law passed by the Serbian Assembly in June 1990 created an undeclared state of emergency, according to a Helsinki Watch report, and led to the disbandment of the Kosovo legislature a few days later.

In practical terms, that meant the end of Kosovo's autonomous status within the Serbian republic. Serbians now run the local government, the police force and virtually all key factories and businesses, according to Serbians and Albanians. More than 70,000 ethnic Albanians have been fired from their jobs, said Pula of Helsinki Watch.

The roots of the Kosovo conflict extend far into the past, which is the direction many

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Yugoslavs look at when discussing modern problems. Serbians regard Kosovo as their historical heartland, the seat of a great medieval kingdom that Serbian children learn about in grade school. Even though Albanians have lived here for centuries, and few Serbs now call it home, Kosovo is portrayed as inseparable from Serbia.

"Everybody is free to leave but nobody is going to take an inch of Serbian land," said Igic.

Because Serbia's Slavic grip is tightening rather than loosening, the Albanians are looking for a way out. Local leaders say public opinion has swung firmly behind the idea of secession from Yugoslavia to unite with Albania, which is no longer Stalinist.

The Democratic Union of Kosovo, the largest Albanian political party, says it want to avoid mass protests that could be crushed by Serbian armed forces. Party leaders are seeking international pressure on Serbia to ease the repression and prevent a potential disaster for their people.

The crackdown has raised new tensions between Serbia and Albania, which borders on Kosovo. The Albanian government has accused Serbia of planning genocide. This month Albania sent protests letters to the European Community, the permanent members of the U.N. Security Council and to the 35-nation Conference on Security and Cooperation in Europe.

The Serbian government responded a few days ago by accusing Albania of trying to provoke an armed conflict and capture Kosovo, saying minorities in Serbia enjoy freedoms unparalleled anywhere else in the world. Serbian authorities also accused Albania of beefing up its border forces and starting an exchange of rifle fire with Yugoslav soldiers early last week.

Albania leaders in Pristina say they will look to Albania for political and military support if, as they fear, Serbian or federal troops initiate violent hostilities.

"We will wait for our chance," said Avni Spahiu, foreign editor of the Albanian-language newspaper Rilindja, which was closed last year by Serbia along with Kosovo's Albanian-language broadcasting. "We are for dialogue and a peaceful solution. But in the end, if this terror continues, we will have to defend ourselves."

A SALUTE TO THE BAGLEY FAMILY REUNION

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. STOKES. Mr. Speaker, the tradition of family unity reaches back to our earliest moments as a people, and it lives on in all the many cultures we embrace today. From July 18–21, 1991, the Bagley family reunion will be held in Calverton, MD. This marks the third reunion of the descendants of William Albert and Georgia Ogburn Bagley. I am proud to salute the Bagley family on this important occasion.

More than 100 family members will travel from as far away as Denver, CO, to attend the Bagley reunion, which is being hosted by family members in Washington, DC, Maryland and Virginia. The theme for the celebration is "Family Unity." During the reunion, special recognition will be given Claudine Booker, the most senior member of the family.

Mr. Speaker, family reunions offer a special time for families to come together for celebration and renewal of the ties that bind them. Although the Bagley family has endured trials and tribulations over the years, the family has maintained their love, devotion, and commitment to one another. I am certain that the reunion will be a very special and joyous occasion.

Mr. Speaker, I ask my colleagues to join with me in extending best wishes to the entire Bagley family for a successful and heartwarming family reunion.

A TRIBUTE TO ALBERT VANN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, today I rise to recognize the outstanding achievements and contributions of Albert Vann, a man who has been involved in the field of education for 15 years as an administrator, counselor, and teacher.

Assemblyman Vann has played an important role not merely in teaching, but in establishing schools as well. He played key roles in establishing both the Boys and Girls Memorial High School and Medgar Evers College in Brooklyn.

Elected to the New York Assembly in 1975, the Assemblyman continues to be a prominent and highly respected leader in the fight for educational gains and minority rights. He was recently elected to his seventh term as chairman of the New York State Black and Puerto Rican Legislative Caucus. Through this body he successfully fought the racial gerrymandering of the New York City Council districts in 1981 and forced the adoption of a redistricting plan that dramatically increased minority representation on the council.

Al Vann has also been influential in the national and New York City political arenas. In 1984 he served as vice-chairman of the New York State Democratic Convention in San Francisco. In 1989 he played a key role in the election of David Dinkins as the first African-American Mayor of New York City.

Al's vast influence in the New York State Assembly is reflected in the importance of his committee assignments. As chairman of the Assembly's Children and Families Committee and a member of the Health, Education, and Ways and Means Committees, Mr. Vann has been successful in enacting numerous legislative measures to help New York residents.

I salute Al Vann's lifelong committment to education and to serving the residents of New York State.

CAPTIVE NATIONS WEEK 1991 A LOOK FORWARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, as we commemorate Captive Nations Week this week for the 32d year in a row, we look forward to the day when this commemoration will be a thing of the past.

Despite the great strides in recent years, we must remember the people of those nations still under the heel of totalitarian communism. Leading the list is the Soviet Union whose people have made some progress in recent years to break free of communism. Within the Soviet Union, are many nations which were illegally incorporated into its borders by force. Chief among these are the Baltic States of Lithuania, Latvia, and Estonia.

These States were seized by force over 50 years ago, as a result of the infamous Hitler-Stalin pact signed in 1939. This pact which launched the world into its most destructive war was also responsible for the division of Eastern Europe into spheres of influence between history's two most despicable dictators. The borders set by this pact, at least on the Russian side, are one of the few legacies left behind by Nazi Germany's policies.

Soviet troops seized these small independent nations in June 1940 and continue to occupy them today. Despite declaration of independence and referendums in all three of the Baltic Republics, Soviet troops continue to harass the freedom loving people of this area. Even after the Hitler-Stalin pact was declared illegal by the Commission of the Congress of People's Deputies of the Soviet Union in 1989, the suppression of these independent states has continued.

It is estimated that in Estonia there is one Soviet soldier for every five civilians. In Latvia, 1 in every 10 people is estimated to be part of the Soviet military. Even before the violence carried out by Soviet forces in January, Lithuania was home to at least 100,000 Soviet troops as well as 10,000 Soviet Interior Ministry troops and 5,000 paratroopers. This is concrete proof, that despite the United States' longstanding policy of not recognizing Soviet sovereignty over the Baltic countries, Estonia, Latvia, and Lithuania remain occupied by Soviet troops.

One thing gives us hope that the Baltic countries, as well as the other captive nations, will soon join Eastern Europe in breaking free of the yoke of communist oppression. And that is that despite 50 years of oppression, the history of the Baltic States shows that no government can stamp out the natural human desire to be free and independent.

We look forward to that day when the tide of freedom will inevitably wash over all the captive nations. We ask that President Bush and the other leaders meeting this week work toward hastening that goal. Let us hope that next year at this time we will be celebrating the freedom of all the nations once held captive by communism.

THE NAVY AND U.S.-FLAG SEALIFT FLEETS AND HOSPITAL SHIPS IN DESERT SHIELD/STORM AS REPORTED BY THE NAVY LEAGUE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. BENNETT. Mr. Speaker, the Navy League's report "The Sea Services' Role in Desert Shield/Storm" contains a section on the importance of the Navy and U.S.-flag sealift fleets and the Navy's two hospital ships. The entire report will be printed in the September issue of the Navy League's Sea Power magazine.

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

Sealift: When the Desert Shield build-up commenced, that aspect of the operation which initially was criticized the most was sealift. However, that criticism was for the most part focused on the absence of enough immediately available sealift assets to move Army and Air Force equipment to the Middle East more rapidly. Even so, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, would testify before Congress in December that the first phase of the build-up was completed a month earlier than expected. But by the time the ground campaign began, at which time the necessary ground forces were in place, the Military Sealift Command had utilized 21 chartered U.S.-flag ships, 162 foreign charters, and 106 ships of its own to move 2,424,700 short tons of dry cargo and ammunition to the Middle East in 551 lifts. It also had moved with its own tankers millions of tons of POL within theater. Interestingly, only 4.4 percent of all cargo moved was for naval forces. Another 600,000 short tons of containerized cargo was lifted by U.S.-flag container ships. The movement of cargoes originated in 19 U.S. ports and 22 in foreign countries; they included everything from helicopters to howitzers to hospitals, from tanks that had to be moved hurriedly from Europe or else be destroyed under an arms-control agreements to minesweepers moved by heavy-lift ship. Ships utilized ranged from just-completed Henry J. Kaiser-class tankers to one 45 years old, from the eight fast-sealift ships, which carried 13 percent of all cargo moved, to 74 ships activated from the Ready Reserve Force, most with relatively ancient steam-propulsion plants that required equally ancient mariners recalled from civilian life, one of whom was 83, to operate them. Of particular note was the shortage of roll-on/roll-off ships needed for rolling stock. Only 17 were in the RRF; as a consequence, 47 were chartered, 41 from allied-flag shipping companies.

Although the media often focused on the length of time required to load ships and sail them to the Middle East, they rarely described conditions attendant to both loading and sailing that resulted in unanticipated delays. For example, in Savannah, where commencing on 11 August the equipment of the Army's 24th Mechanized Division was loaded aboard the eight fast-sealift ships, only two berths were available for loading, and these frequently were unavailable for as much as six hours a day because of tide conditions and ramp angles. Further, one of the FSS broke down halfway across the Atlantic and had to be towed to Rota for transshipment of her cargo to other ships. Despite these impediments, the movement of the entire division over the 8,700 miles to Saudi Arabian ports was completed by 23 September, only six weeks from the time the first vehicle was put aboard. And during the movement of troops, vehicles, and equipment from Europe during Phase II of the build-up, mariners had to cope with the normal bitter winter conditions of northern Europe, which included below-freezing temperatures, 50–60-knot gales, and 30-foot seas.

An overwhelming success in all respects was the first use of the 13 Maritime Prepositioning Ships, all of which were completed and loaded with equipment for Marine expeditionary brigades from 1984–1986 but had not been used except in limited exercises. The five ships of MPS Squadron TWO arrived at Saudi Arabian ports from Diego Garcia on 15 August, and by 25 August the 7th Marine Expeditionary Brigade, whose personnel had been flown to the Middle East, had been linked up with its equipment and was ready for combat—the first heavy ground combat capability in theater. The four ships of MPS Squadron THREE from Guam were close behind, and during Phase II the four ships of MPS Squadron ONE, which sailed in Atlantic waters, were deployed to the combat theatre. Delivering all of the equipment those ships contained to the 45,000 men of the 1st Marine Division would have taken 2,100 flights of giant C–5 aircraft, the largest U.S. transport aircraft.

Backing up these ships were 12 Afloat Prepositioning Ships (Prepo) based in Diego Garcia, which contained ordnance, supplies, and fuel for the Army and the Air Force and a field hospital which was in place and operating only 16 days after being offloaded from the 450 international containers in which it was stored. The presence of all 25 prepositioned ships, with their invaluable assemblage of cargo vital to combat operations, in relatively nearby waters and ready for immediate deployment to this particular crisis area, clearly justified beyond all doubt the concept that had led to their procurement and creation and undoubtedly made mandatory the future construction and equipping of additional ships for use by the Army.

Also used for the first time were the Navy's two hospital ships, Mercy (TAH 19) and Comfort (TAH 20) based on the west and east coasts respectively. Underway within 5 days of the order for their deployment, they were active in theater by 23 September. Thankfully, at no time did these 1,000-bed floating hospitals, with their tremendous medical support systems, have to be used to anywhere near the full capacity for treating those wounded and injured in combat.

ROBYN JUBA—PROUD TO BE AN AMERICAN

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise today to share with my colleagues an essay by one of my constituents, Robyn Juba. In March, Robyn was declared the Colorado winner of the Veterans of Foreign Wars' Voice of Democracy Broadcast Scriptwriting Program. I wish to congratulate Robyn on this outstanding achievement and to also urge my colleagues to read Robyn's essay and to take her words to heart. As we continue our work in the House of Representatives, each one of us can be inspired by her eloquence and her wisdom.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Robyn R. Juba, Colorado winner, 1990/91 VFW Voice of Democracy Scholarship Program)

Up until a few nights ago, I honestly didn't think too much about the word "democracy". I came home from school one day and I sat down on the couch and turned on the T.V.; something that I usually do when I come home from school and there was a woman crying about her son. Her son was in the reserves and being sent over to Saudi Arabia, and I felt really bad for her. Then, it hit me. I don't know why it took me so long, but I thought, we're helping to win another country's freedom. Winning freedom. Hmm. Something I never really concentrated on unless I was studying for a history test. I began to think about all the things that I couldn't do if America wasn't a free country. I couldn't write editorials in the school newspaper as I do now. I couldn't choose my college major. I couldn't even drive into the next state. What would happen to Oprah Winfrey? Then, once I started to think about all of this, I began to think about the trip my ancestors made for freedom. They risked so much; possible starvation and disease, even death, to be free. What a trip to make! But can you imagine how beautiful the Statue of Liberty must have looked to them? They were free at last.

I really felt guilty after thinking of all of this and the many freedoms that I have all too often taken for granted.

So now I have this wonderful sense of pride. On Monday morning when we said The Pledge of Allegiance, instead of concentrating on my test that hour, I concentrated on every single word of the Pledge. I realized that I was getting louder and louder and a few people were looking at me kind of funny, but I didn't care. I'm free; that's all that I could think of.

To think that we have set such an example for other countries. Everywhere you turn America's either trying to win freedom in another country, or we're watching walls come down. Personally, I think that I'm living in a phenomenal time. Much of the world is taking a closer look at democracy and seeing how great it really is.

After thinking of all of this, I know that I can do anything that I want to. I can choose any career and travel just about anywhere to pursue that career.

So I think that I'll continue to say the Pledge of Allegiance as loud as I have been. Who knows? Maybe someone else might really start to think about the word "democracy".

SPORTSMEN NEED PUBLIC LANDS FOR WILDLIFE HABITAT

HON. RICHARD T. SCHULZE

OF PENNSLYVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SCHULZE. Mr. Speaker, as chairman of the Congressional Sportsmen's Caucus in the House of Representatives, I, along with my caucus member colleagues, have been concerned about the intensified attack by the antisportsman groups to eliminate hunting and trapping on Federal lands, and, more recently, on national wildlife refuges. With the material loss of wildlife habitat, our Nation's sportsmen need access to public lands in order to have a quality hunting experience where the renewable wildlife resources are managed properly, where hunting pressure is controlled and safety is a paramount concern. Our National Wildlife Refuge System offers thousands of men, women and young people possibly their only opportunity to pursue their sporting heritage. Such uses of wildlife refuges are certainly not incompatible with the purpose and intent of the National Wildlife Refuge System established more than 85 years ago.

I was extremely pleased to note that such compatibility determination was recently recognized in Federal litigation where the Humane Society of the United States sued the Department of Interior to ban whitetail deer hunting on the 2,300 acre Mason Neck Wildlife Refuge in Fairfax County, VA. The opinion of the court provides a thorough and thoughtful analysis of the parameters the Fish and Wildlife Service employs in determining whether or not hunting is a compatible use of a given refuge. I commend its reading to my distinguished colleagues:

[U.S. District Court for the District of Columbia, Civil Action No. 89-2772]

THE HUMANE SOCIETY OF THE UNITED STATES, ET AL., PLAINTIFFS, *v.* MANUEL LUJAN, JR., ET AL., DEFENDANTS

MEMORANDUM AND ORDER

This case is brought by a public interest organization, the Humane Society of the United States, and various coalitions of homeowner/citizens, against the United States Secretary of the Interior and the Director of the Fish and Wildlife Service ("FWS" or "the Service") to prevent the implementation of defendants' decision to permit limited public deer hunting on a national wildlife refuge in Fairfax Couty, Virginia. The case is now before the Court on the parties' dispositive cross-motions for final judgment on the record, having been preceded by some evidentiary proceedings in open court on plaintiffs' several attempts to obtain preliminary injunctive relief.[7] For the reasons to follow, the Court will deny plaintiffs' motion and grant the defendants' motion, dismissing the complaint with prejudice.

In August, 1989, the FWS issued a final rule, 54 Fed. Reg. 36032 (Aug. 31, 1989), opening the Mason Neck National Wildlife Refuge ("the Refuge") for deer hunting during the fall hunting season in Virginia. The Refuge, comprising approximately 2300 acres of Mason Neck, an 8000-acre peninsula on the south shore of the Potomac River 18 miles downstream from Washington, D.C., was established in 1969 as a habitat and sanctuary for bald eagles. It has been altogether closed to hunting for the first 20 years of its existence. The decision in 1989 to open it to deer hunting was impelled, in principal part, by FWS' desire to find an expedient to control the Refuge's burgeoning white-tailed deer population.

The Humane Society questions the legitimacy of the Service's justification for the hunt, as well as its refusal to acknowledge the potential for harm to the wildlife species to which the Refuge is dedicated, the bald eagle. The homeowner organizations are primarily fearful of injury to people and property in the vicinity, although some individuals apparently share the Humane Society's abhorrence of animal hunting generally.

Plaintiffs bring this action under an array of federal statutes respecting the Nation's wilderness assets. Each statute cited imposes some obligation or duty upon *inter alia*, the Secretary and the Service, of which defendants' decision to open the Refuge to deer hunting, according to plaintiffs, arguably places them in breach. If, for example, bald eagles should be adversely affected by the hunt, accidentally or otherwise, the defendants will have been accomplices to a violation of the Bald and Golden Eagle Protection Act of 1940, 16 U.S.C. §§668-668d. So also with respect to the Migratory Bird Treaty Act of 1918, 16 U.S.C. §§703-712. The Endangered Species Act of 1973, 16 U.S.C. §§1531-1544, requires all federal agencies to "conserve" endangered species. The hunt, plaintiffs say, will actually place bald eagles in jeopardy, not "conserve" them. Moreover, plaintiffs allege defendants' finding that the hunt will have no "significant" environmental impact is simply wrong. It most assuredly will have such an impact—on deer, on eagles, and possibly on people and property—and, thus, the decision contravenes the National Environmental Policy Act of 1970, 42 U.S.C. §§4321-4335, by the absence of an environmental impact statement in the administrative record compiled in conjunction with the rule-making process resulting in the decision to implement the hunt.

I.

The Secretary and FWS have moved to dismiss Count IV of the complaint on procedural grounds. Count IV purports to assert a direct cause of action under the Endangered Species Act of 1973, 16 U.S.C. §§1531-1544 ("ESA"), the statute imposing the general obligation upon federal departments and agencies to "conserve" endangered species of wildlife, 16 U.S.C. §1531(a)(1). The bald eagle is an endangered species, and ESA makes it unlawful for anyone to "take" a specimen of such species, 16 U.S.C. §1532(a)(1)(B). It also provides expressly for its enforcement by "citizen" civil suits commenced by "any person" against any other person, including the United States and its officials, to enjoin its violation. 16 U.S.C. §1540(g)(1)(A). The final rule, the plaintiffs allege, does nothing to "conserve" the endangered bald eagles; to the contrary, it poses a significant danger that bald eagles will be "taken," even if inadvertently.

"Citizen suits" to enforce the ESA, however, are required by the Act itself to be preceded by at least 60 days' written notice of the violation to the Secretary and to the "alleged violator" (in this case, presumably the FWS). 16 U.S.C. §1540(g)(2)(A). Defendants assert that plaintiffs failed to give the required 60-day pre-suit notice before commencing this action; indeed, they have yet to give it. Plaintiffs respond that their announced intention to sue, made in the comments they submitted to FWS during the notice-and-comment period of the rulemaking in opposing the idea of a hunt, sufficed as notice to the Secretary and FWS that litigation would be forthcoming if the final rule were adopted.

In Hallstrom v. Tillamook County, 493 U.S. 20, 110 S.Ct. 304 (1989), however, the Supreme Court interpreted a similar statutory presuit notice requirement, observing that the statutory provision "could not be clearer." The Supreme Court continued to hold that, by the literal language of the statute, "compliance with the 60-day notice provision is a mandatory, not optional, condition precedent for suit." 110 S.Ct. at 309. For this Court's purposes, the holding of Hallstrom is equally clear, and plaintiffs make no effort to distinguished Hallstrom.

ESA clearly states that "written notice" of the violation must be given to the Secretary and to the violator as a condition precedent to suit. It was not given here. A party's "comment," submitted to an agency in the course of a rule-making, does not constitute for formal per-suit notice required bvy ESA, no matter how vehemently it may have conveyed the party's intention to go to court if the rule ultimately adopted were not to its liking. Count IV of the complaint will be dismissed.

II

Other counts in the complaint, however, are based on the Refuge Recreation Act of 1982, 16 U.S.C. §460k; the National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§668dd-668ee; the National Environmental Policy Act, 42 U.S.C. §§ and a FWS regulation. "Agency action" alleged to be in contravention of those statutes is presumably amenable to judicial review under the Administrative Procedure Act, 5 U.S.C. §706(2)(A) ("APA"). The parties have cross-moved for summary judgment on these remaining counts.

In reviewing the FWS' decision to open the Mason Neck Refuge to deer hunting, the Court is, of course, obliged to apply the APA standard of review, VIZ., whether the agency acted "arbitrarily or capriciously, committed an abuse of discretion, or acted otherwise not in accordance with law." 5 U.S.C. §706(2)(A).[5] As always under the APA, the reviewing court is expected to limit itself to the contents of the administrative record.[6] *Camp* v. *Pitts*, 411 U.S. 138 (1973). The reviewing court is also not to substitute its judgment for that of the agency. It is simply to ascertain whether the agency has examined the relevant data and articulated a satisfactory explanation for its actions, including a rational connection between the facts found and the choice made. Only a "clear error of judgment" may be set aside. *Motor Vehicle Manufacturers Assoc.* v. *State Farm Mutual Ins. Co.*, 463 U.S. 29, 43 (1983) (quotation marks and citations omitted).

The National Wildlife Refuge System Administration Act of 1966, 16 U.S.C. §§668dd-ee, and the Refuge Recreation Act of 1962, 16 U.S.C. §460k, authorize the Secretary of the Interior to permit "appropriate incidental or secondary use(s)" of wildlife refuges, even though "recreational" in character, including hunting, which are "compatible with, and will not prevent accomplishment of, the primary purpose for which the[Se] areas were established." 16 U.S.C. §§460k, 668dd(d). The applicable regulation provides that any action the Secretary takes must be "consistent with principles of sound wildlife management, and must otherwise be in the public interest." 50 C.F.R. 32.1.

The parties are in voluble disagreement as to how to ascertain whether a secondary use of a wildlife refuge is "compatible" with its primary purpose.[7] Plaintiffs postulate the existence of an "almost absolute presumption" against secondary uses of wildlife refuges, a phrase derived from the case of *Defenders of Wildlife* v. *Administrator, Environmental Protection Agency*, 685 F. Supp. 1334, 1355 (D. Minn. 1988), *aff'd in relevant part*, 882 F.2d 1294, 1299-1301 (8th Cir. 1989). They also cite an earlier decision of another judge of this district court in *Defenders of Wildlife* v. *Andrus*, No. 78-1220 (D.D.C. July 14 & Aug. 18, 1978) ("*Ruby Lake*"), permanently enjoining

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Footnotes at end of article.

the FWS from permitting recreational motorboating at the Ruby Lake National Wildlife Refuge in Nevada. The *Ruby Lake* court declared that the "burden of proof is necessarily on [the Service] to demonstrate that [recreational] use is incidental to, compatible with, and does not interfere with the primary purpose of the refuge," and that the RRA "does not permit [FWS] to weigh or balance . . . recreational interest against [that] purpose." *Defenders of Wildlife* v. *Andrus*, No. 78–1210, slip op. at 9 (D.C.C. July 14, 1978).[8]

Defendants reject plaintiffs' suggestion that anything resembling a formal "presumption" against secondary uses is to be found in the legislation. They submit that the Act requires only that the Secretary make a "finding" that the proposed secondary use is "compatible" with the primary purpose of the Refuge, as he has in this case, and this Court must review that finding under the familiar inhibitions of APA review. *See Humane Society of the United States* v. *Modal*, 840 F.2d 45 (D.C. Cir. 1988); *Friends of Animals, Inc.* v. *Modal*, Civil Action No. 88–2978 (D.D.C. Nov. 10, 1988).

The Service has contended throughout these proceedings that the hunt is actually part of an overall "refuge management plan," and that the hunt will, in fact, further the primary purpose of the Refuge in providing an authentic natural habitat for bald eagles. FWS asserts that deer overpopulation in the Refugre is causing its degradation; excessive browsing has shorn away much ground level new growth. Plaintiffs argue that the relevant data on the deer population at Mason Neck is too sparse, dated, and sporadic to provide a reliable indication of the size of the deer herd. Further, because deer are nomadic and can be found throughout the Mason Neck peninsula, including other parklands adjacent to the Refuge, it is far from certain that reducing the herd indigenous to or found in the Refuge itself will solve the problem of overbrowsing. The hunt may not, therefore, significantly reduce the foraging deer population in the Refuge.[9]

Nevertheless, the administrative record reflects that the FWS has monitored the deer presence in the Refuge since the 1970's by several methods, all of which, flawed or not, showed it to be steadily increasing. By 1988 the size of the herd was estimated to be roughly double the number the land area could comfortably support. Inspection of the vegetation reinforced the population estimates; browsing to excess was, at least in the Service's opinion, apparent, to knowledgeable observers. Examination of deer carcasses disclosed evidence of malnutrition, a sign, the Service said, that the deer, as well as the flora upon which they fed, were suffering as a result of their overabundance.

Having concluded that the deer population must be reduced, the record shows, the FWS did give thought to alternative means of doing so. Trapping and transportation were rejected as too time-consuming, labor-intensive, and costly, as was chemical sterilization of the deer. The introduction of predators was contraindicated by the proximity of human habitation. FWS was without sufficient personnel at the Refuge to do the job in-house by itself. A well-controlled public hunt was in its judgment, the optimum solution. That it would simultaneously gratify the desire of some local sportsmen for the opportunity to hunt Mason Neck was merely a felicitous by-product.

FWS then turned to the matters of the eagles' and public safety during the hunt. The hunt territory was to be limited to the inland areas, away from the eagles' preferred roosting sites near the river shore. The single extant eagles' nest would be circumscribed by a buffer zone in which neither hunting nor transit would be permitted.[10] And boundaries would be fixed, and well-marked, to keep hunters away from dwellings and roads adjacent to the Refuge.[11] *See, generally*, AR 25–42.

This Court need only conclude that the agency took account of the relevant factors, and that the decision was not arbitrary and capricious, in order to sustain it. FWS appears to have done as it was obliged to do here, as this district court has concluded in other cases challenging similar decisions by the Service to open other wildlife refuges to deer hunting. *See Friends of Animals, Inc.* v. *Hodel*, Civil Action 88–2978 (D.D.C. November 10, 1988) (Supawna Meadows, New Jersey); *Humane Society of United States* v. *Clark*, Civil Action 84–3630, slip op. at 8–12 (D.D.C. January 27, 1987), *aff'd in pertinent part, reversed on other grounds sub nom. Humane Soceity of United States* v. *Hodel*, 840 F.2d 45 (D.C. Cir. 1988) (Chincoteague, Virginia).

As was true in those cases, this controversy, too, it appears, is animated primarily by the plaintiff's fundamental philosophical and public policy disagreement with the government over the wisdom and perhaps the morality, of the sanctioned killing of wild game on public lands ironically denominated a "wildlife refuge." Neither wisdom nor morality, however, is countenanced as a ground upon which this court may substitute its judgment as to the proper uses to be made of the Refuge for that of the defendants, even were it wholly in sympathy with plaintiffs.

For the foregoing reasons, therefore, it is, this 18th day of June, 1991.

Ordered, that plaintiffs' motion for summary judgment is denied; and it is

Further ordered, That defendants' to dismiss and motion for summary judgment is granted, and this case is dismissed with prejudice.

THOMAS PENFORD JACKSON,
District Judge.

FOOTNOTES

[1] *See* Memorandum and Order of November 6, 1990, the findings and conclusions of which are adopted and incorporated herein.

[2] To "take" a species is, *inter alia*, "harass" or "harm" it in any way, not merely to shoot, kill, or capture it. 16 U.S.C. §1532(19).

[3] The *Hallstrom* case proceeded under the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6972 ("RCRA"), but the Supreme Court itself noted that the ESA notice provision would have compelled a similar result. 110 S. Ct. at 307, n.1.

[4] Defendants also move to dismiss those counts charging violations of the Bald and Golden Eagle Protection Act, 16 U.S.C. §§668–668d ("BGEPA") (Count III), and the Migratory Bird Treaty Act, 16 U.S.C. §§703–712 ("MBTA") (Count V), neither of which provide expressly for private causes of action. Plaintiffs respond that they are really proceeding in Counts III and V *via* the Administrative Procedure Act, 5 U.S.C. §706(2)(A), as a party aggrieved by agency action that is "not in accordance with law," i.e., the BGIFA and MBTA. The Court assumes without deciding that plaintiffs may do so. *But See Defenders of Wildlife* v. *Administrator, Environmental Protection Agency*, 882 F.2d 1294 (8th Cir. 1989).

[5] *See, e.g., Humane Society of United States* v. *Hodel*, 840 F.2d 45 (D.C. Cir. 1988).

[6] Although, in theory, judicial review under the APA is confined to the administrative record, as a practical matter in this case the administrative record has been abundantly supplemented by additional filings by both sides; live testimony taken in conjunction with plaintiffs' requests for preliminary relief; the Court's own inspection on-site of the portions of the Refuge on which hunting has taken and will take place; and the prescience afforded for the future by the actual experience with the 1989 archery hunts and the 1990 shotgun hunt which the Court permitted to go forward while the case was pending.

[7] The ADA states that secondary uses of wildlife refuges may be regarded as "compatible" with their primary purposes if they would (1) "not prevent accomplishment of," (2) are "not inconsistent with," or (3) "will not interfere with" the primary purpose." 16 U.S.C. §460(k). The term is not otherwise, however, further statutorily defined.

[8] The Ruby Lake Refuge's "primary purpose" was to serve as a breeding ground and sanctuary for migratory birds, principally waterfowl.

[9] Plaintiffs actually find nothing about the decision to allow the hunt to be defensible. Not only is the ostensible justification offered for it specious, they contend, but the precautions taken by FWS against injuries to persons or property are inadequate or futile; the disturbance of the bald eagles' tranquility, not to mention their health, a virtual certainty; and the hunt as a means to an end, i.e., a reduction of the deer herd, as cruel as it is inefficient.

[10] Several studies contained in the record suggest that any human presence, and, in particular, gunfire, disturb eagles, causing them to "flush", or fly out of their roosts and flee from the disturbance. At the preliminary injunction hearing in November, 1990, the Court received extrinsic evidence regarding eagles' sensitivity to the presence of humans, and it concurred with the Secretary's finding that the shotgun hunt would not unduly disturb the eagles. Experience with the 1990 shotgun hunt has not disproved that conclusion.

[11] Plaintiffs contend that the proximity of private dwellings to the Refuge, as well as a major thoroughfare which is traversed daily by school buses, makes the hunt inordinately dangerous to humans. Plaintiffs assert that the buffer zones which the FWS has established are inadequate to assure safety, because shotgun blasts can, according to plaintiffs, travel distances in excess of the buffer zones, and because certain hunters will "inevitably" either not see or will ignore the markers delineating the buffer zones.

As the Court observed upon its own visit to the premises of the hunt, the hunt area is separated from homes and from the road by buffer zones of a minimum of 275 and 100 yards, respectively. The boundaries are well-marked by swatches of brightly colored material every several yards, each visible from its nearest neighbor. Additionally, all hunters wishing to participate in the hunt must attend a safety orientation session.

It is possible that some hunters may disregard the markers or disrespect the rules, but as the Court has previously observed, the fact that some people will break the rules does not demonstrate the folly of promulgating such rules in the first place. And again, experience with the 1990 shotgun hunt is reassuring.

A SALUTE TO FRANCESCO CANTARELLA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Francesco Cantarella.

After obtaining a B.A. from Bard College and an M.S. from Columbia School of Journalism, Mr. Cantarella began his working life as a reporter for a Newark, NJ newspaper. Following a successful career as a journalist, Mr. Cantarella changed careers to become a vice president with Chase Manhattan Bank. After more than a decade of success in the financial industry, Mr. Cantarella joined Abraham & Straus in 1980. Through tireless and diligent effort, he has risen to hold the office of the vice president of Abraham & Straus, Bloomingdales and Sterns.

In addition to his personal success, Mr. Cantarella has vigorously contributed to the growth and development of the financial and social of life his community. He has served on the board of directors of numerous organizations including: the New York Urban Coalition; the Better Business Bureau of Greater New York; Brooklyn Chamber of Commerce. As founder and co-chair of Career Opportunities for Brooklyn Youth and a vital member of the Randolph Evans Memorial Scholarship Fund he has served as an indispensable link between business leaders and civic leaders. His efforts have forged and polished this essential partnership. Because of his sincere desire to improve the life chances for economically disadvantaged students, countless young people have benefitsed from educational and career opportunities.

I rise to salute this renaissance man who has rendered significant contributions to Brooklyn.

JAZZ GREAT DUKE JENKINS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. STOKES. Mr. Speaker, on Friday, July 19, 1991, citizens of Cleveland will pause to pay tribute to one of this Nation's greatest jazz musicians, Duke Jenkins. Duke and his brother, Fred, and Ralph Jackson, who together comprise the Duke Jenkins Trio, have become legendary in the music field in our city. It has been my personal pleasure to have been the beneficiary of their friendship for many years. Additionally, they have been staunch supporters of my brother, Carl B. Stokes, during the period that he served as the mayor of Cleveland.

It is indeed a great pleasure for me to share with my colleagues a recent article on Duke Jenkins which appeared in the Call & Post Showtime magazine on July 11, 1991.

Mr. Speaker, I ask all my colleagues to join me in paying tribute to a great musician and even greater human being, Duke Jenkins:

DUKE JENKINS TO BE HONORED AT THE STATLER

(By Tina Killings)

Jazz great Duke Jenkins, who is best known in the Cleveland area for his appearances with his Qunitet back in the early 1950's, and later for his television variety shows sponsored by area Dodge dealers, will be honored at the Swingo's Ballroom at the Statler. Jenkins appeared on his variety show for two years before he decided to take his now famous Quintet on the road. Duke and his band went to Miami Beach, where they began playing at the ever popular "Harry's American Bar" inside the Eden Roc Hotel. The Quintet played at the Miami Beach Hotel for a lasting three-year engagement.

While performing at "Harry's," the quintet shared the spotlight with outstanding performers such as, the late, great, Sammy Davis Jr., musical legends, Pearl Bailey and Nancy Wilson, the musical and comedic talents of Dean Martin and Jerry Lewis, as well as the ever popular calypso sounds of Harry Belafonte, just to name a few.

Duke Jenkins, born Herman Jenkins, received the name "Duke" during his days at Miami University of Ohio, while singing with the campus orchestra. Because of his style and flair, students dubbed him "Duke", after the legendary maestro Duke Ellington.

Jenkins, a native of Canton, soon returned to the Cleveland area, after three long enjoyable years in Miami. Once back in Cleveland, Jenkins replaced the popular Quintet with the Organ Trio.

It was in 1962 when the Duke Jenkins Trio began playing area hot spots. The Duke Jenkins Trio played the Marriott and Ramada Inns in Cleveland for a combined period of five years.

During the five years that The Jenkins Trio performed the Cleveland area clubs, Duke managed to record his first album entitled, "Melodies to fit your mood," which was recorded for Lanco Records. In 1980 Duke came back with another album called "Night Songs".

Duke then hit the public with what was to be his final album, entitled "Something New" in 1985. This was something new for Duke; to finally receive recognition as a national recording artist—a new approach.

The Duke Jenkins Trio are still performing together, and can be "experienced" Tuesday through Sunday at the Quail Hollow Inn in Painsville.

For over one quarter of a century, Duke Jenkins has been thrilling jazz lovers of all backgrounds with his smooth, melodic baritone voice. He has been described as being versatile enough to perform all phases of jazz, which is why he has such a loyal following.

Duke and his lovely wife Christina (credited with inventing the original hair weave process) have two children, daughter Sheila 42, and son Herman Jenkins, Jr. 40, and granddaughter Sheilly 19, who will be cheering on as the great Duke Jenkins is appreciated on July 19th.

Duke Jenkins has been a pillar of Cleveland's jazz community since the early 1950's. He has since become a significant part of jazz history. Cleveland is truly richer for the musical contributions he has made to our community.

THE BRADY BILL: IN SMALL INCREMENTS, WE SURRENDER FREEDOM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. ROTH. Mr. Speaker, I have here an article written by author Robert Ringer that appeared recently in the May 19 issue of the Orange County Register.

The article is entitled "The Brady Bill: In Small Increments We Surrender Freedom," and in it, Mr. Ringer speaks to us about the issue of gun control, and the need to protect our individual freedoms against Government's natural tendency to restrict those freedoms.

Government's attempt at gun control, Mr. Ringer points out, do not attack the problem of crime. Rather, they erode the hard-won freedoms secured by our Founding Fathers. What is needed are tougher laws that hold individuals responsible for their actions. Those who commit crimes should pay the price, not law-abiding citizens who want to exercise their constitutional rights.

I commend this article to my colleagues as we move toward consideration of the crime bill.

[From the Orange County Register, May 19, 1991]

THE BRADY BILL: IN SMALL INCREMENTS, WE SURRENDER FREEDOM

(By Robert J. Ringer)

Now that Congress has jumped on the gun-control bandwagon by passing the Brady Bill, and President Bush is poised to sign it, the proponents of personal disarmament are almost giddy with excitement.

Hard-core gun-control advocates make no bones about the fact that they want all guns outlawed. They would prefer to accomplish their end quickly, but if the only way they can do it is through time-tested gradualism, so be it. We Americans are easygoing, even lackadaisical. It seems we are willing to acquiesce to just about any kind of moral outrage, so long as we are given enough time to digest it.

In another interview, a gun-control advocate said, "If the Brady Bill keeps just one person from acting on impulse and killing someone, it's worth it." Says who? I contend that even if the Brady Bill saved thousands of lives (which it wouldn't), it still should not be enacted. Five times as many people get killed in automobile accidents as by guns, but this unfortunate fact of life doesn't deny responsible individuals the use of automobiles. Likewise, just because some people use guns for criminal purposes is no reason to deny prudent, honest people the right to own them. There seems to be an illogical assumption in some quarters that just because something can be used to harm someone, it will be used for that purpose.

I wish the defenders of gun ownership would stop basing their arguments on statistics, which implies, through omission, that they accept the moral position of the gun-control lobby. Instead, they should have the courage to make their stand on moral grounds and let it be known that gun control is a freedom issue. The government simply has no right to forbid you to own a gun, for the same reason it has no right to forbid you to own anything.

In point of fact, the term gun control is a misnomer. What advocates really mean by this term is people control. The right to bear arms is not only a means of protecting one's life and property from other citizens; it is a last resort of defense against a repressive government. People have learned this lesson the hard way throughout history—in Hitler's Germany, in the Soviet Union and its eastern European satellites, and, most recently, in Iraq.

Owning guns has nothing to do with crime. It has to do with preventing crime. Isn't it remarkable that there are laws preventing law-abiding citizens from carrying "concealed" weapons, yet in every city in America criminals walk the streets carrying such weapons? Thus, gun-control laws result in criminals having a one-sided advantage over noncriminals!

Guns are a form of self-defense, and by removing a tool of self-defense from someone, government not only violates his rights but endangers his life. A gun is an individual's ultimate means of preserving his freedom. Could there be a connection between government's increasing violation of our individual rights and its stepped-up efforts toward gun control? As Morgan Norval has said, "Ending violence may be the dream, but the nightmare of reality is total tyranny of the state."

For the media to tie their push for gun-control legislation to tragedies like the Stockton playground killings and accidental shootings by kids playing with their parents' guns is shameless. There are thousands of criminals doing quite nicely without guns—raping, beating, burning, strangling, and smothering children. Should we outlaw matches, handkerchiefs, and pillows, too? Or how about just castrating the entire male population? The only sensible way to deal with crime is through tougher crime laws and a system that strips criminals of most of their rights.

It's nice to cheer the troops on their return from victory over a third-world potentate, wave American flags, and extol how wonderful it is to live in a free country, but if the governments can tell you what you can and cannot own, what real meaning is there to this so-called freedom?

It would serve all of us well to stop being taken in by the moral droolings of Hollywood confuseniks and heed the words of Etienne de la Boetie in the 16th century: "It is incredible how as soon as a people becomes subject, it promptly falls into such complete forgetfulness of its freedom that it can hardly be roused to the point of regaining it, obeying so easily and so willingly that one is led to say . . . that this people has not so much lost its liberty as won its enslavement."

TRIBUTE TO FELICIANO SABATES, JR., A PRODUCT OF THE AMERICAN DREAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to take this moment to tell the Nation of a most inspiring citizen, Feliciano Sabates, Jr. The July 5, 1991, issue of the Miami Herald featured an article about Mr. Sabates and his struggle to the top as one of the leading businessman in the United States.

The article is as follows:

Daytona Beach.—Feliciano Sabates, Jr., then 16 and a bit rebellious, had not yet formed firm convictions about communism. He simply didn't like Fidel Castro. In Cuba, in 1959, that was not a healthy attitude.

"I had gotten involved with some of the underground people," Sabates said. "I wanted to go into the mountains and fight. That's how stupid I was. My father figured I'd be dead if he didn't get me out."

That's why Sabates flew into Miami International Airport late that year with $25 in his pocket and two boxes of cigars.

"They wouldn't let you take money out of the country," he said. "But everyone in Cuba knew cigars were like cash in the United States. A man came up to me in the airport and said, 'I'll give you $20 for the cigars.' I said 'I'll take $25.'"

He was born not to become a captain of freedom fighters, it turns out, but a captain of American commerce.

Today, Felix Sabates heads a Charlotte, N.C., company that does $400 million in annual sales. His Top Sales Inc. deals in domestic and import products ranging from Nintendo games to personal care items by Windmere, a Hialeah-based company.

He has the country's largest dealership in Hatteras yachts and sportfishing boats. He is a minor partner in the NBA's Charlotte Hornets. And he has a zest for life and adventure that has steered him onto thunder road.

You can't really call Felix Sabates a good ol' boy. But in three short years, he has managed to fit right in on the NASCAR circuit.

His entry, a Pontiac, carries the black, green and gold colors of Mello Yello, number 42, and, normally, Kyle Petty. On Saturday, Bobby Hillin Jr. will be at the wheel in the Pepsi 400 at the Daytona International Speedway, and will be until Petty recovers from the injuries he suffered in a crash May 6 at the Winston 500 in Talladega, Ala.

Sabates believes in hiring people and then getting out of their way. But he always has his finger on the team's pulse, and he's always visible, and excitable, on race day.

"I've had more highs and lows in five years in auto racing than I've had in 25 years in the other businesses," he said, glee in his voice. "Every race day you hold your breath. Every race day you experience the joy of victory or the agony of defeat."

Felix Sabates radiates pride when he speaks of his own father, a highly successful Havana businessman until Castro took power and then, piece by piece, the senior Sabates' empire.

Sabates' mother, four sisters and two brothers would follow Felix to the United States in 1963, four years after he arrived. Sabates' father came to the United States in 1965. His parents, four sisters and dozens of other relatives still live in Miami, while his brothers work for him in Charlotte.

"At one point, my father had four or five jewelry stores in Miami," he said. "I remember he first rented this little hole in the wall, at 141 NE First St. He's 73 now, but he still has one jewelry and two optical stores. He goes to work at 9 in the morning and works until 8 at night. And when he was 69, he took refresher courses to pass the boards and be able to practice optometry."

Clearly, Sabates' zest for the business world is inherited. But beginnings get no humbler than those Felix endured. "My first job was in a hospital washing pots and pans," he said. He's fond of adding that he quickly got a promotion. "To washing dishes."

Sabates stayed in Miami for only three days after arriving from Cuba, leaving to live with an aunt and uncle in Boston and later in Columbia, Mo., where he worked as a hospital orderly before going to work selling pots and pans door-to-door—while still learning English.

In 1963, his mother, brother and sisters left Cuba and settled in Lexington, N.C., through a Catholic Church relocation program, and for a while Sabates became their sole support. He worked as many as 80 hours a week sanding furniture.

Later that same year, the family moved to Charlotte. Sabates first got a job parking cars for a rental agency. Then he began selling cars. That indirectly started him on the business path that made it possible for him to own race cars.

"I made a lot of money selling cars," Sabates said. "But I didn't like it."

One of Sabates' customers, Walter Reich, also was a Cuban immigrant, and Reich had known Sabates' father. "I asked Walter, 'What do you do?' He said he was a manufacturer's rep." That sounded good to Sabates. He asked Reich to hire him. A year later Reich had an opening and obliged.

Sabates' sales ability transferred easily. Reich first gave Sabates a small percentage of the business. In 1973, Sabates bought out Reich, who was retiring.

One of the products Sabates reluctantly agreed to market as the company gradually grew in those early years was a game called Pong. The manufacturer? Atari. "I was involved with Atari from the beginning when it came to this country in 1976."

But the first great financial windfall for Sabates came when a former Atari employee approached Sabates and three others about marketing a battery-powered, talking bear. Does the name Teddy Ruxpin ring a bell?

"We had one sample," Sabates said, chuckling. "And that didn't really work. All we had to show customers was a concept. We didn't even have a manufacturing company. But we went out and sold $100 million in less than six months."

That venture was separate from Sabates' Top Sales Inc., and led to Nintendo hiring Sabates as its Southeast representative when it first came to America.

"I can remember asking Walter Reich one time, 'Do you think we'll ever do $5 million in [annual] sales? Now we have that in defective returns," he joked.

Sabates decided to start his own Winston Cup team in 1988 and swore to apply the same business principals to stock car racing that served him well at Top Sales. Sabco Racing is fully computerized, and every department produces a profit-and-loss statement.

But even in a business where a $3-million sponsorship is not rare, and Mello Yello is one of the best sponsors, Sabates admits: "You'll never show a big return on your investment."

But the man who has turned $25 and two boxes of cigars into millions also admits the return on his stock car racing investment is much more a dollar-sign bottom line.

"The greatest thing that's happened to me in auto racing is the people I've met," Sabates said. "They're genuine."

Mr. Felix Sabates is an asset to our country and an inspiration to its citizens. He gives hope to the many immigrants seeking refuge every year in our great land of opportunity.

LOGISTIC CHALLENGES FOR NAVY AND DEFENSE DEPARTMENT PLANNERS IN DESERT SHIELD/STORM

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. BENNETT. Mr. Speaker, logistics challenges were discussed in a segment of the Navy League's report "the Sea Services' Role in Desert Shield/Storm." These challenges faced both Navy and DOD planners. This part of the report is submitted for inclusion here and the entire report will be printed in the September issue of the Navy League's Sea Power magazine:

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

Logistics: The massive, outstandingly successful logistics effort mounted to support all forces during Desert Shield/Storm perhaps served best to emphasize the importance of the leadership and organization that characterized the Navy during the decade of the 1980s and the establishment and fine-tuning of a system which, when called upon in time of crisis, worked almost flawlessly. As hosts of statistical data bear out, the Navy was out in front logistically from the time President Bush ordered U.S. forces deployed to the Middle East and remained in front throughout the build-up and the ultimate conflict.

The scope of the logistics effort was so broad it almost defies being encompassed into a brief commentary. However, a focus on a few areas of diverse logistics endeavor does make possible a better understanding of what was done even before a shot was fired, and after hostilities began, to help bring about the smashing victory that ensured.

Long before Desert Shield began, and as a result of the experience gained in the more than 40 years of operating in Middle Eastern waters and the large and lengthy naval presence there during the escorting of Kuwaiti tankers in 1987-1988, many steps had been taken to prepare for logistical emergencies. Contracts had been completed for repair work to be accomplished on battle-damage ships, if necessary in shipyards and drydocks in Bahrain and Dubai in the Persian Gulf area and in Turkey and Israel in the eastern Mediterranean. Many fuel-supply outlets had been arranged for. The future use of countless airfields and naval facilities had been coordinated. And the magnificant Saudi Arabian ports of Al Jubayl and Ad Damman on the Persian Gulf were more than ready for any kind of onslaught of cargo ships.

Meanwhile, carriers departing the United States were sailing routinely with 90 days of aviation supplies, 75 days of provisions, 60 days of ship supplies, 30-60 days of medical supplies, and 30 days of ammunition. Their escorts were supplied accordingly, as were other combatants headed for the Middle East. And combat logistics forces ships (CLF) sailing with those task forces carried another 90 days of ship supplies and 30 more of ammunition. To support them as necessary Military Airlift Command channel services were expanded and established, from Norfolk to Bahrain in the Atlantic, from Subic Bay in the Philippines to Al Fujayrah in the United Arab Emirates in the Pacific, and from Sigonella, Sicily, to Jiddah, Saudi Arabia, in the Mediterranean. Additionally, "Desert Express" air service was established from Charleston to Bahrain for the movement of small, critical items of supply. At the time the Navy began using the 12,000-foot runway at the ultra-modern new Al Fujayrah airport, and also its vast and unused warehouse, it was handling only two commercial flights a day. That situation changed quickly! Also used to good advantage by the amphibious-ship armada were the Omani airfield and naval facility at Masira, on the Gulf of Oman.

To augment the 24 fleet replenishment ships that were in constant use, 10 tankers and six other ships of MSC's Naval Fleet Auxilary Force were used, as were sizeable numbers of MPS and RRF ships after they were offloaded. Seven repair ships, including two which were veterans of World War II, Korea, and Victnam, performed yeoman service. One, for example, completed 10,000 repair jobs on 30 U.S. and allied ships. Another returned *Tripoli* to full duty 6 April, just two months after she has sustained severe hull damage from an Iraqi mine.

To ensure there were no aircraft grounded because of shortages of engines, aircraft-rework facilities at Rota and Sigonella had their work days extended to 20 and 24 hours daily, respectively, seven days a week. As a consequence, asserted a senior Navy logistician, "We never came close to having a bare firewall."

Also supporting afloat forces were over 5,000 measurement tons of dry and frozen provisions, ship's store stock, high-usage consumable items, and many bulk petroleum items stocked in warehouses at Jiddah after Desert Shield began. The provisions represented over two months of anticipated demand.

To handle the tons of Marine Corps combat equipment being moved to Saudi Arabia, the Navy once again called on its cargo-handling battalions, 80 percent of whom are Naval Reservists. More than 2,400 were airlifted to Saudi Arabia along with 40 tons of equipment; once there, they were moved where needed. It was they who made possible the tremendously quick link-up of Marines and their combat equipment by offloading ships of MPS squadrons TWO and THREE with amazing speed. These cargo handlers were used as far afield as Rota, too, where they transshipped 24th Division equipment from the disabled fast-sealift ship *Antares* for the onward voyage to Saudi Arabia. In all, they operated out of 21 different ports.

To build practically anything that anyone asked for the ubiquitous and ever-responsive Seabees—5,000 in all, of whom 1,000 were Naval Reservists—were called upon. They responded with the zeal for which they became known throughout island campaigns in the Pacific in World War II and with new techniques as well, including the use of arches produced by automatic building machines that made possible the erection of buildings 80 percent faster than with older methods. They built, among other things, hospitals, barracks, messhalls, security towers, and parking aprons, and provided water piping and power lines for all. They laid 7 million square feet of matting for Marine aircraft parking and taxiways, enough to cover 233 football fields. They moved over 3 million cubic yards of sand for fill and 255,000 cubic yards of select fill. The latter amount alone would have required a 120-mile column of dump trucks bumper to bumper. They used 7.7 million board feet of lumber, representing enough 2 by 4s to stretch from Pittsburgh to Los Angeles, and 262 miles of electric wire. They created mock gun turrets and tanks to deceive the enemy. But their crowning feat was the most dramatic—the construction just before the ground campaign began of 200 miles of four-lane highway out into the desert, over which Army forces would sweep in their dramatic flanking move that would envelop Iraqi forces.

One action that typified logisticians' ingenuity and resolve was the movement from the darkness of northern Norway in December of Field Hospital 15, which had been stored in caves carved out of rock along with other Marine Corps equipment that might have had to be used in event of a Soviet strike against Scandinavia. The officer who supervised its loading aquired the nickname of "The Arctic Camel", and in preparation for his foray into the snows had encountered a laughable bureaucratic bottleneck, namely, a reluctance on the part of supply personnel to issue cold-weather gear to one who carried orders to Saudi Arabia!

Defense industry, too, was responsive. On 21 separate occasions in January 1991 the Navy went to defense manufacturers and exercised priorities with regard to the manufacture of equipment, weapons, and supplies that might be required during hostilities. The overall response was immediate and postiive. And in one instance, a defense contractor who had in the past manufactured a particular item utilized frequently by naval forces, but which he was not then building for the Navy (although he was for a foreign navy), elected on his own to increase the production of that item—just in case. His hunch was right, and in time the Navy bought what he had produced and contracted for more.

Logisticians pointed out, justifiably, that "the system was revalidated by Desert Storm". Now what was needed was assurance that there was no return to the "hollow" forces of the late 1970s which never could have accomplished these logistics feats.

A BILL TO ESTABLISH THE CURECANTI NATIONAL RECREATION AREA

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. CAMPBELL of Colorado. Mr. Speaker, last year the people who live near the Curecanti National Recreation Area [NRA] celebrated its 25th anniversary. The Curecanti National Recreation Area was first recognized through an agreement between the National Park Service and the Bureau of Reclamation. This 40,000-acre recreation area served more than a million visitors last year, making it one of the most popular attractions in Colorado.

Although the area has been operating under a cooperative agreement, approved by the Secretary of the Interior, Congress has never formally recognized it, making it difficult for the Park Service to secure adequate funding. Today, I am introducing a bill to accomplish this unfinished goal.

This proposal legislatively establishes the boundaries of the NRA on existing Federal lands and acknowledges the recreational purpose for which the land has been set aside.

Recreation and tourism have become a mainstay of Colorado's economy. The visitation at federally owned and State-run recreation facilities far exceeds any original predictions. For instance, even at the small Rifle Gap Project the Government estimated that only 16,000 people a year would visit the project, yet annual visitation exceeds 100,000.

Fortunately, the Aspinall Unit and Curecanti were built with more than just water storage, irrigation, and hydropower in mind. In fact, all new Army Corps of Engineers and Bureau of Reclamation water projects have a significant recreation component. This area was designed with the comfort and enjoyment of the public in mind. It was designed to be a place where families could come to rest and recreate.

Tragically, at most other recreation areas, the Federal Government has turned the operation of the areas over to the States, but has not ensured an adequate level of Federal funding to maintain them.

The legislation I have introduced will ensure that will never be the case at Curecanti. I have also introduced the Bureau of Reclamation Recreation Act, H.R. 2368, to permit up to 50 percent Federal cost-sharing to operate, maintain, replace, and expand recreation facilities associated with Federal water projects through partnerships with non-Federal sponsors. The bill will also give the Bureau needed authority to manage its lands for recreation, fish and wildlife, wetlands, cultural resources, and other purposes, while still meeting its first mission to provide water.

My Curecanti legislation accomplishes this goal in accordance with section 1 of the Park Parkway, and Recreation Area Study Act of June 23, 1936, and section 8 of the Upper Colorado River Storage Project Act [CRSP] of April 11, 1956. I believe it will also gain administration support because the Park Service and the Bureau agree this legislation is necessary.

The bill grandfathers in such existing uses as grazing, hunting, fishing, off-road vehicle use, snowmobiling, and other uses that do not interfere with the primary purpose of the CRSP Act, which was water storage and power generation.

The bill also allows the National Park Service to convey a parcel of land next to the Gunnison River, 7 miles west of Gunnison, to the community if it wishes to develop a city park between the town and the recreation area. This would help Gunnison realize one of its many long-term goals for keeping tourists in "Gunnison Country."

Last year's 25th anniversary celebration also provided an opportunity to reflect on the accomplishments of the man who wrote the CRSP Act—former Interior Committee Chairman Wayne Aspinall.

Aspinall helped shape the natural resource policies of the West and is directly responsible for ensuring projects like the Glen Canyon Dam, Navajo, Flaming Gorge, and the Aspinall Unit of CRSP that bears his name, would be built to make it possible to store water for municipal use, industrial use, and for irrigation in a semiarid region.

I believe formally recognizing the Curecanti National Recreation Area will make millions more Americans aware of the excellent natural and cultural resources available on Colorado's western slope. It doesn't matter how you choose to recreate, if it can be done in public, and outdoors, you'll be able to do it at Curecanti. This is the public's facility. Public funds paid for it and it is nice to see that money coming home to enrich the lives of the people in local communities.

This measure, when combined with legislation I have introduced to redesignate the Black Canyon of the Gunnison as a national park, establish a national conservation area and add the Gunnison River to a growing list of nationally recognized "Wild and Scenic Rivers" will make the Gunnison Basin America's playground.

I have also attached letters of support for this legislation from the city of Gunnison, the Gunnison Country Chamber of Commerce, the city of Montrose and the Montrose Chamber of Commerce.

I hope my colleagues will wholeheartedly endorse this bill and help me push it through legislative process.

The letters follow:

CITY OF MONTROSE,
Montrose, CO, July 2, 1991.

BEN NIGHTHORSE CAMPBELL,
Congress of the United States,
Washington, DC.

DEAR REPRESENTATIVE CAMPBELL: As the Mayor of the City of Montrose, Colorado, I am writing in support of the Bill to establish and designate Curecanti National Recreation Area as an official unit of the National Park Service system. It would transfer jurisdiction of Federal lands within the boundaries of the area to the National Park Service which has been administering them under a Memorandum of Agreement with the Bureau of Reclamation for 26 years. The Bill's action would also continue to provide for such compatible activities as general recreation, off-road vehicle and snowmobile use in designated areas, hunting, and fishing.

Designations have been done by Congress for other areas such as Lake Mead and Glen Canyon national recreation areas, and enhance the formal standing of the area in planning and budgetary considerations, and policy and decision making.

As you are well aware, Curecanti is located in Gunnison and Montrose countries in the heart of one of the most scenic areas of the central Rocky Mountains, well known for its outdoor recreational opportunities. The recreation area is made up of three reservoirs impounded on the Gunnison River, each unique for scenery and recreational opportunities. Blue Mesa is the largest lake in Colorado and supports one of the finest fisheries and water-based recreation sites in the State. A portion of the famed Black Canyon of the Gunnison is found in the fiord-like lakes of Morrow Point and Crystal and is geologically significant. Boating, fishing, and camping on these two lakes forms a different use and challenge to the sportsperson engaging in their use.

Lakes, vast rising mesas, steep canyons and volcanic pinnacles create a landscape represented nowhere else in the nation. This diversity provides for a full range of recreational experiences such as boating, fishing, ice fishing, windsurfing and water skiing, sailing, camping, hiking, hunting, snowmobiling, ice skating, and others.

There are hosts of significant historic and prehistoric remains, adding to the varied history of the area. Recent studies into the prehistory have given national prominence to the park's archeological resources. Evidence indicates human presence here as early as 10,000 years ago. Several locations within the park memorialize the more recent historical events of mountain narrow gauge railroad building and operation. Additionally, the story of water use and development in the west is depicted.

The diverse resources of Curecanti National Recreation Area, be they scenic, recreational, or historical, have been drawing people to the Gunnison country for many years and have been important contributors to local economies, Curecanti is often among the four most visited attractions in the State with an annual following in excess of 1.1 million visitors. This visitation is vital to the continued growth and well being of the Gunnison Country. Establishment of the national recreation area with the National Park Service would help ensure the long term protection of these significant resources for the enjoyment of generations to come.

Sincerely,

TRICIA DICKINSON,
Mayor.

CITY OF GUNNISON,
Gunnison, CO, June 17, 1991.

BEN NIGHTHORSE CAMPBELL,
Congress of the United States,
Washington, DC.

DEAR REPRESENTATIVE CAMPBELL: As the Mayor of the City of Gunnison, Colorado, I am writing in support of the Bill to establish and designate Curecanti National Recreation Area as an official unit of the National Park Service system. It would transfer jurisdiction of Federal lands within the boundaries of the area to the National Park Service which has been administering them under a Memorandum of Agreement with the Bureau of Reclamation for twenty-six years. The Bill's action would also continue to provide for such compatible activities as general recreation, off-road vehicle and snowmobile use in designated areas, hunting and fishing.

Designations have been done by Congress for other areas such as Lake Mead and Glen Canyon national recreation areas, and enhance the formal standing of the area in planning and budgetary considerations, and policy and decision making.

As you are well aware, Curecanti is located in Gunnison and Montrose counties in the heart of one of the most scenic areas of the central Rocky Mountains, well known for its outdoor recreational opportunities. The recreation area is made up of three reservoirs impounded on the Gunnison River, each unique for scenery and recreational opportunities. Blue Mesa is the largest lake in Colorado and supports one of the finest fisheries and water-based recreation sites in the state. A portion of the famed Black Canyon of the Gunnison is found in the fiord-like lakes of Morrow Point and Crystal and is geologically significant. Boating, fishing, and camping on these two lakes forms a different use and challenge to the sportsperson engaging in their use.

Lakes, vast rising mesas, steep canyons and volcanic pinnacles create a landscape represented nowhere else in the nation. This diversity provides for a full range of recreational experiences such as boating, fishing, ice fishing, windsurfing and water skiing, sailing, camping, hiking, hunting, snowmobiling, ice skating and others.

The area hosts significant historic and prehistoric remains, adding to the varied history of the area. Recent studies into the prehistory have given national prominence to the park's archeological resources. Evidence indicates human presence here as early as 10,000 years ago. Several locations within the park memorialize the more recent historical events of mountain narrow gauge building and operation. Additionally, the story of water use and development in the west is depicted.

The diverse resources of Curecanti National Recreation Area, be they scenic, recreational, or historical, have been drawing people to the Gunnison country for many years and have been important contributors to local economies. Curecanti is often among the four most visited attractions in the state with an annual following in excess of 1.1 million visitors. This situation is vital to the continued growth and well being of the Gunnison Country. Establishment of the national recreation area with the National Park Service would help ensure the long term protection of these significant resources for the enjoyment of generations to come.

Sincerely,

DIANE LOTHAMER,
Mayor.

GUNNISON COUNTRY
CHAMBER OF COMMERCE,
JUNE 13, 1991.

BEN NIGHTHORSE CAMPBELL,
Congress of the United States,
Washington, DC.

DEAR REPRESENTATIVE CAMPBELL: The Gunnison Country Chamber of Commerce supports the Bill to establish and designate Curecanti National Recreation Area as an official unit of the National Park Service system.

Such designation would enhance the formal standing of the area in planning and budgetary considerations, and policy and decision making.

Curecanti is known for its outdoor recreation opportunities provided by a diversity of terrain. It welcomes over 1.1 million visitors each year, thus having a significant economic impact on the Gunnison area. The continued growth and prosperity of

Curecanti National Recreation Area is very important to Gunnison, therefore, we support the Bill which would help insure the long term protection of this valuable resource.

Sincerely,

LAYNE MEREDITH NELSON,
Executive Director.

Montrose, CO, June 14, 1991.

Hon. BEN NIGHTHORSE CAMPBELL
Congress of the United States,
Washington, DC.

DEAR REPRESENTATIVE CAMPBELL: The membership of the Montrose County Chamber of Commerce wishes to express it's support of your bill to establish and designate Curecanti National Recreation Area as an official unit of the National Park Service system. As I understand it, this bill would transfer jurisdiction of the Curecanti National Recreation Area to the National Park Service which has been administering the Recreation Area under a memorandum of agreement with the Bureau of Reclamation for twenty six years. The bill's action would continue to provide such activities as general recreation, Off Road Vehicle and Snowmobile use in designated areas as well as hunting and fishing.

Designations have been done by Congress for other areas such as Lake Mead and Glen Canyon National Recreation Areas and this bill will enhance the planning, budgeting, policy and decision making process.

Curecanti National Recreational Area is located in Montrose and Gunnison Counties, one of the most scenic areas of the Rocky Mountains, well known for it's outstanding recreational opportunities. The recreation area is made up of three reservoirs on the Gunnison river, Blue Mesa, Morrow Point and Crystal, each unique for scenery and recreational opportunities.

Lakes, vast rising Mesas, steep Canyons and volcanic Pinnacles create a landscape unlike anywhere else in the Nation. The diversity of the recreation area provides for a full range of recreational experiences such as boating, fishing, ice fishing, windsurfing, sailing, camping, hiking, hunting, snowmobiling, ice skating and numerous other activities.

The diverse resources of Curecanti National Recreation Area, be they scenic, recreational or historical have been drawing people to Western Colorado for many years and has been an important contribution to the local economies. Curecanti is often among the four most visited attractions in the State of Colorado with approximately 1.1 million visitors.

Establishment of the National Recreation Area with the National Park Service would help to ensure the long term protection of these resources for the enjoyment of future generations.

Sincerely,

KENNETH G. GALE,
Executive Director.

SALUTE TO CHARLES INNISS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, I rise today to give my salutations to Mr. Charles E. Inniss—tireless, dedicated community worker. Charles Inniss holds a B.S. in economics and a masters in public administration from New York University. Along with serving 23 years in the Army National Guard, Mr. Inniss was director of area development at the Bedford Stuyvesant Restoration Corp., the administrator of the Brooklyn Model Cities, and the director of development and public information for the Brooklyn Public Library.

The dedication Charles Inniss has displayed throughout the past years of community service hasn't been in vain. As vice president responsible for the Urban Affairs Department at Brooklyn Union Gas, he is able to continue his long history of service to the community. Taking on a position with such responsibility has not slowed down his involvement within his community; the list of his current community activities demonstrates that fact. Mr. Inniss serves the Greater New York/United Way, the NYC Partnership, the Brooklyn Children's Museum, the Brooklyn Psychiatric Center, the New York Urban League, the Studio Museum in Harlem, the Catholic Interracial Council, and the Marcus Garvey Nursing Home.

Charles Inniss is a man who deserves to be recognized and commended for being a role model whose undying determination to help his fellow citizens demonstrates his considerable generosity.

PORT CHICAGO 50

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. MILLER of California. Mr. Speaker, I rise today to bring to the attention of my colleagues the 47th anniversary of the worst World War II-related disaster to occur in the continental United States. The Port Chicago Naval Magazine was once the largest munitions supply facility on the west coast and was responsible for supplying the Pacific Fleet with ammunition. The disaster that occurred on July 17, 1944, left 320 men dead and over 390 more injured, both military personnel and civilians. This disaster alone accounted for over 15 percent of the total African-American naval casualties during the war. The blast was the equivalent to 5 kilotons of TNT, on the same order of magnitude as the atomic bomb that was to be dropped a year later at Hiroshima, Japan.

After this explosion, 258 men—all African-Americans—refused to return to a similar task of loading ammunition, a job that none of the men had been trained to do. Of these men, all but 50 eventually returned to their jobs. Because of their refusal to engage in a highly dangerous activity that they were never trained for, these 50 men were tried for mutiny. All 50 were discharged under less than honorable conditions.

I would like to take this opportunity to share with my colleagues a recent article from the Los Angeles Times. This article points to many of the issues behind the events surrounding the discharges of the men at Port Chicago. I encourage my colleagues to keep this article in mind as we await Senate action on the Department of Defense authorization bill that we passed earlier this year to ask the Secretary of the Navy to review the court-martial of these men.

[From the Los Angeles Times, July 16, 1991]

BREAKING THE SILENCE

(By John Boudreau)

(Military: Were 50 black sailors wrongly convicted of mutiny after a 1944 explosion that killed 320 men? Some of them say yes—and they want their names cleared.)

SAN FRANCISCO—On the night of July 17, 1944, Seaman 1st Class Robert Routh settled into his top bunk in a barrack at the Port Chicago Naval Magazine, about 30 miles east of Oakland. The 19-year-old had skipped leave in San Francisco to write letters, do laundry and save money for a trip home.

In a nearby barrack, Seaman 1st Class Joseph Small stretched out after an exhausting day of dockside duty. Hundreds of sailors were working around the clock to load two Liberty- and Victory-class munitions ships, bound for the war in the Pacific.

Other black sailors, many of them friends, worked into the night as Small tried to sleep.

They were men who would never finish their shifts.

The first of two explosions ripped open the night shortly after 10:18 p.m. "It was the biggest and the brightest Fourth of July coloration you've ever seen." says Routh, now 66, who was blinded by flying glass.

Then came the second blast, which also rocked Small's barrack, one of a cluster a mile from the dock. "The explosion lifted me and my mattress off the bunk," Small says. "I unconsciously gripped the edge of the mattress. I landed on the floor with the mattress on top of me. A lot of the falling glass was caught by the mattress. I'd have been butchered if [the mattress] hadn't fallen on me."

There were hundreds of sailors working on the docks, and most of them were killed or wounded; a few casualties were reported in the nearby town of Port Chicago. In all, 320 men died, 390 were injured. A majority of the casualties were African-Americans. During that era of segregation in the armed forces, blacks tended to be assigned to manual labor, including the loading of munitions.

The Quinalt Victory and the E.A. Bryant, two of the ships in the area, were tangles of metal; the dock, heaps of splintered wood. The force of the blasts destroyed the town of Port Chicago, scattered unexploded bombs miles from the harbor and registered on seismographs as far away as Nevada. It was the worst war-related disaster in the continental United States.

Some Navy investigators suspected sabotage; others hinted that sloppiness, bad training or equipment failure caused the calamity. In the end 50 black sailors were convicted of mutiny because they refused to return to work until safety measures were implemented.

According to sociologist Robert Allen, who has written a book on the disaster, the incident helped inaugurate the desegregation of the Navy that started in 1945.

But for the Port Chicago 50, that movement meant little. They served brief prison terms, were sent to sea for a year without leave, received less-than-honorable discharges and were refused veterans' benefits.

Now the surviving sailors want their names cleared.

Last May, the House passed a resolution, written by Rep. George Miller (D-Martinez), directing the secretary of the Navy to review the case and the extent to which racial prejudice or "other improper factors" may have tainted the original investigations and trials. The directive is under review by the Senate Armed Services Committee. If it is signed by President Bush, it's up to the Navy secretary to determine how or if the sailors might be compensated.

"It's an American tragedy," says Allen, who wrote 1989's "The Port Chicago Mutiny: The Story of the Largest Mass Mutiny Trial in U.S. Naval History." "It was the world as it was, and it was pretty grim. These guys were victims of racism and the military legal system. They were railroaded into jail. There was no mutiny. It was simply a wildcat strike."

Port Chicago, now part of the Concord Naval Weapons Station, was a sweltering and desolate outpost. The young black sailors, under the command of white officers, worked around the clock to load munitions.

The job produced jagged nerves, sore joints and distrust, according to the men who survived. The sailors lifted, rolled and stacked everything from eight-foot shells for battleships to two-ton bombs that pounded the enemy into oblivion.

"We were just shown a boxcar full of ammunition, wire nets spread out on the docks and the hole in the ship and told to load," recalls Small, 69, of Somerset, N.J. "Our greatest beef was that we were given no instructions. No one talked about the dangers we believed existed, and we were green, right out of boot camp."

In a ship's belly, the air is hot, sticky and stagnant. Bombs, slathered in grease, tumbled down ramps to awaiting sailors.

"Sometimes, you wouldn't catch them because they were coming down too fast and they would hit together," recalls Freddie Meeks, a 71-year-old Los Angeles resident and one of the Port Chicago 50. "They would make a big noise and scare you to death."

"I believe if we had been white, they would have given us some sort of instructions on how to handle the ammunition safely," says Small, who was accused of leading the mutiny.

According to Allen's book, during an investigation of the explosions, a Navy judge advocate quoted white offices as saying: "The colored enlisted personnel are neither temperamentally [nor] intellectually capable of handling high explosives." Allen based much of his book on official records from the Navy transcripts of an investigation of the explosions and the later courts-martial of the Port Chicago 50.

On Aug. 9, three weeks after the explosions, the survivors were ordered to fall in for a new work detail at nearby Mare Island, where another munitions ship, the San Gay, was berthed awaiting ammunition.

Survivors say black sailors, mourning the death of comrades, were stung by fear and frustration after being denied the 30-day leaves white survivors received.

"I thought we were treated pretty unfairly." says Percy Robinson, 66, a retired engineer who lives in Los Angeles and who was a seaman 1st class at the time. "My face was mutilated. When you passed the mirrors, the skin was hanging off your face and you couldn't recognize yourself. After you were wounded, you were supposed to go home for leave. After we were wounded they made us go back to work. That's why I struck."

Small called cadence that day for the men of the 4th Division.

"At the end of the street was a podium," he recalls. "Right was toward the parade grounds, left was toward the docks. When the lieutenant said, 'Column left!' everybody stopped dead in his tracks. He called me up front. He said, 'Small, are you going to work?' I said, 'No sir.' When I said 'No sir,' somebody in the ranks behind me said, 'If Small doesn't go, we're not going.'"

Initially, 258 men refused to work and were imprisoned on a barge for three days. Rear Adm. Carleton H. Wright gave the sailors a stern warning.

"He said, 'If you don't go back to work, you'll be charged with mutiny, and mutiny is punishable by death, by firing squad,'" recalls Robinson, who was among those who backed down. "He asked us again, 'Will you go back to work?' Everybody said yes, except 50 guys."

"That didn't turn the 50 sailors," Meeks says. "When it came time to decide, they said, "Those who want to go to work, step to the left. And those who don't want to work, step to the right.' So we stepped to the right. We said, 'If we're going to be shot, we'll be shot.' We were not going back to those conditions. I wouldn't call that mutiny. It was just a refusal to load ammunition."

Sailors who agreed to work were interrogated to provide evidence against the 50. Those who agreed to go back to work received summary courts-martial and were sentenced to three months' hard labor: eventually, however, they were granted honorable discharges. The Port Chicago 50 went to Treasure Island, a Naval installation in the Bay Area.

The court-martial started Sept. 14. A young attorney named Thurgood Marshall, chief counsel for the NAACP, had arrived to defend them.

"He told us the public was in our favor and there was a lot of sentiment against the trial," Small recalls. "He told me he was going to Washington to put in a formal protest against the Navy."

During the six-week proceedings, Marshall became enraged, according to Allen's account.

"This is not 50 men on trial for mutiny," Marshall told the press. "This is the Navy on trial for its whole vicious policy toward Negroes. Negroes are not afraid of anything any more than anyone else. Negroes in the Navy don't mind loading ammunition. They just want to know why they are the only ones doing the loading! They want to know why they are segregated: why they don't get promoted."

On Oct. 24, the Navy trial board, after only eight minutes of deliberations, declared the Port Chicago 50 guilty of mutiny. Sentences ranged from eight to 15 years in prison. The sailors also were busted to the lowest rank: seaman apprentice.

"I considered myself blessed," says Small, who received a 15-year sentence. "I could have been sentenced to death."

The black community and liberal white groups decried the convictions. First Lady Eleanor Roosevelt appealed to Secretary of the Navy James V. Forrestal. But the findings stuck.

The sailors were taken by train to the Terminal Island Disciplinary Barracks in San Pedro, where they remained for 16 months. Then the men were sent to sea but were denied shipside duties and liberty at ports of call.

A year later, the convicted sailors were quietly released from captivity and discharged, "under honorable conditions"—a step above dishonorable discharge, but one that nevertheless negated veterans' benefits.

No one knows how many of the Port Chicago 50 are alive today; only a handful have been accounted for.

"Many of them have made their peace with it and tried to forget it."Allen says. "Others are still traumatized by the experience. They still feel ashamed."

Most remained silent.

"I kept all those things inside of me," Meeks says. "I didn't want to hurt my family. We were supposed to be bad people. People would turn their thumbs down on you. I was pretty bitter about it."

Now Meeks wants to correct the record.

"I hope that all of America knows about it," he says. "It's something that's been in the closet for so long."

The Navy has no official opinion on the incident or on the proposal to reopen the case. Lt. Mark Walker, a Navy spokesman at the Pentagon, said: "It's in the hands of the Congress. If we're directed to reopen the investigation, to look at the facts again, we will do that. But that's as far as we can go."

Rep. Miller says the Navy owes the survivors a review of their cases. "In this case, you read the documents, you talk to the men and you feel justice wasn't done.

"If things work out right with this challenge to have the record corrected, it will prevent the next generation from repeating that tragedy."

WHY U.S. MILITARY AID TO EL SALVADOR SHOULD BE TERMINATED

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SANTORUM. Mr. Speaker, today I would like to draw to the attention of my colleagues an essay by Dr. Edward T. Brett entitled, "Why U.S. Military Aid to El Salvador should be Terminated."

Dr. Brett is a distinguished author and widely recognized Central American expert. He currently is professor of history and chair of history department at La Roche College in Pittsburgh. His "Overview of El Salvador" provides a foundation for determining our individual positions on issues that effect El Salvador.

Over the next few months, we will be making crucial decisions that will effect United States aid to El Salvador. El Salvador has been involved for 12 years in a civil war. Can we help end this conflict? Dr. Brett offers observations that should receive full consideration and debate. I look forward to our review of economic and military aid to El Salvador.

WHY UNITED STATES AID TO EL SALVADOR SHOULD BE TERMINATED

(By Edward T. Brett, Ph.D.)

OVERVIEW OF EL SALVADOR

In order to understand the current troubles in El Salvador, a basic knowledge of the country's past is necessary. About the size of Massachusetts, it is the smallest of the five Central American countries. It is also the most densely populated with about 400 inhabitants per square mile, a situation which has compounded its problems. Its soil is rich and consequently its economy has for five centuries been based on agriculture for export.

Nearly all scholars agree that the primary cause of El Salvador's present unrest is its system of land domination by a small, elite class. This long-entrenched structure was set up by the Spanish conquerors of the sixteenth century and has not substantially changed since. The primary motive of the

Spanish in colonizing Central America was personal enrichment and this goal was pursued at the expense of the native population. At first the land was stripped of its surface gold and an Indian slave trade was created. However, when these sources of wealth were quickly depleted, the Spanish turned to the production and export of cacao and later indigo. In both cases, Indians labor was so exploited that large numbers of natives were actually worked to death while creating profits for their Spanish masters.

After independence, the Salvadoran elite was forced to look for a new, more lucrative export. They found it in the 1860s in the production of coffee. Since large tracts of land were needed for the successful development of this crop, the new Liberal government passed laws enabling the landowning elite to confiscate the subsistence farms of the rural peasant class. Thus, compesinos (peasants) whose families had resided on these properties for generations now became landless. Moreover, to assure an adequate supply of cheap labor, a system of debt peonage was created and vagrancy laws were passed which required the landless unemployed to work on the coffee fincas (plantations). To maintain the status quo a law was also promulgated in 1907 outlawing rural unions and strikes. In 1912 a National Guard was created, which large coffee-growers routinely used to "keep law and order" on their estates. The above developments resulted in the consolidation of coffee lands into the hands of a few growers, the so-called "fourteen families" (actually an oligarchy of 75 families in fourteen extended groups).

When the Great Depression struck, the plight of the Salvadoran poor became more desperate. Male rural unemployment reached 40 percent in 1929 and steadily grew worse in the next few years. For those peasants with work, wages fell from fifty cents a day to twenty cents. In 1930 Arturo was elected president when he promised reform. The coffee elite and military, however, refused to allow any change in the system and ousted Araujo from office in 1931, replacing him with General Maximiliano Hernández Martínez. With their expectations for economic relief dashed and unable to feed their families, large numbers of peasants rose in rebellion in 1932 at the instigation of the communist Augustín Farabundo Martí. Although the revolt was easily put down, the elite determined to show the peasants that such actions would not be tolerated. Thus, on orders from Hernández Martínez, the army rounded up and executed as many as 30,000 peasants. This message was not lost on those who survived. For the next four decades the terrified peasantry remained docile, while the military directly governed the country in its own interest and that of the landowning oligarchy.

During the 1940s, the Salvadoran elite, attempting to reverse their declining economy (the price of coffee had more or less been steadily falling since the Depression), began expanding into cotton and sugar production. Again this entailed the removal of large numbers of peasants from their land, peasants who had previously been ignored since their small lowland plots had been useless for growing coffee. In the long run, however, agricultural diversification failed to reverse the country's economic downspin. To make matters worse the Salvadoran population soared from 1,443,000 in 1930 to 3,549,000 by 1969, due in large part to the reduction of malaria and yellow fever. As historians Benjamin Keen and Mark Wasserman point out:

"The swelling population put great pressure on wage levels: The average daily wage for field hand in the early 1960s was about 62 cents a day. . . . Since labor on coffee plantations was seasonal and a peon was lucky to get 150 days of work a year, the labor of an entire family for that period might yield a total yearly cash income of $300 by 1964."[1]

Obviously this was not nearly enough to provide even the basics for survival; nevertheless, the landowning elite and the military still refused to allow even the most minimal land or wage reforms. Faced with massive rural unrest, the Salvadoran government opted to take additional repressive measures to maintain the existing socio-economic structures. In the mid-1960s, President Julio Rivera and National Guard chief José Medrano formed ORDEN (order), a secret paramilitary organization consisting of tens of thousands of peasants who received patronage and other special favors in return for keeping rural order through spying, intimidation, and violence.

Not surprisingly, in the 1970s the Salvadoran situation deteriorated even further. By 1974 the annual inflation rate was 60 percent; unemployment was 20 percent and underemployment 40 percent. The proportion of landless peasants rose from 11.8 percent in 1950 to 41 percent in 1975. Of those who owned cultivatable land, 0.85 percent held 77.3 percent, while 99.15 percent held only 22.7 percent[2]—one of the worst land distribution ratios in the entire world. The disastrous economic situation caused opposition political parties to put aside their differences and join together, forming the Unión Nacional Opositora (UNO), in hopes of capturing the presidency. But the 1972 and 1977 elections were so blatantly fraudulent that all hopes of reform through the electoral process were abandoned. When a massive demonstration was held in San Salvador to protest the 1977 election, the army and police attacked the peaceful demonstrators, killing over 200 of them, this attack and the ones that followed produced a reaction from those they were intended to coerce. Labor and peasant unions and other mass organizations now came together for joint agitation against the government. Their protest rallies and occupations of church and municipal buildings were frequently answered by police and military repression. On the radical left, hitherto small revolutionary groups now grew in size and popularity when they began kidnapping and assassinating those perceived to be on the side of the government. Later, in 1980, these guerrilla groups would unite under the name Frente Farabundo Martí de Liberación Nacional (FMLN) and the Salvadoran civil war would begin.

Another factor further complicated the situation in the 1970s. The Catholic church, which had previously refrained from criticizing the Savadoran authorities, now entered the fray. Many priests and nuns, influenced by the Second Vatican Council (1962–65) and the Medellín Latin American Bishops' Conference (1968), came out in vigorous support of the poor. They soon found a charismatic leader in San Salvador, Archibishop Oscar Romero, whose Sunday morning homilies calling for justice and an end to violence became the most popular radio broadcasts in the country. But the Catholic church paid a costly price for its courage. Between 1977 and 1979 seven priests were murdered. Leaflets were posted throughout the capital city urging people to "Be a Patriot! Kill a Priest." On March 24, 1980—after calling on the U.S. to terminate all military aid to El Salvador and the day after he appealed to soldiers to refuse to obey orders to kill unarmed civilians—Archbishop Romero was gunned down while saying mass. As then U.S. Ambassador to El Salvador Robert White affirms, overwhelming evidence indicated that the assassination was planned by General Medrano, founder of ORDEN, and Major Roberto d'Aubuisson, a founder of ARENA, the political party currently in power in El Salvador.

The killing of Romero shocked the world and intense pressure was put on the Carter Administration to cut its Salvadoran aid. Washington feared, however, that if such a course was taken, the leftist FMLN, which had just launched an unsuccessful offensive, might come to power as the Sandinistas had in Nicaragua in 1979. Thus, although the Carter Administration loudly condemned the murder, aid continued to flow and even increased. White House officials reasoned that such aid could be a means of prodding the Salvadoran government to initiate land reform and political reform, but the failure of this logic was soon graphically demonstrated.

On December 2, 1980, three U.S. nuns and a Catholic lay missionary were raped and executed by the Salvadoran National Guard. President Carter immediately cut off all military aid, but within a month it was renewed, even though the U.S. Government was fully aware that the Salvadoran military was involved in a coverup of the crime. On January 4, 1981, U.S. AIFLD advisers Michael Hammer and Mark Pearlman and José Viera, director of the Salvadoran Agrarian Transformation Institute, were gunned down by the Salvadoran army. Although the murderers were known, the Salvadoran authorities refused to bring them to justice. Nevertheless, the new administration of president Reagan not only refused to cut aid, but actually increased it dramatically.

More government-sponsored killings followed. Frustrated, the U.S. Congress passed a law in 1981 requiring the president to provide assurance every six months that "indiscriminate torture and murder" by security forces were being brought under control; if he could not do so, aid was to be terminated. Nevertheless, in spite of overwhelming evidence produced by human rights groups such as Amnesty International and Americas Watch that government-sponsored terror was actually on the rise, President Reagan merely gave his certification of progress every six months. Members of his administration justified his action by claiming that right-wing dictatorships are preferable to leftist-Marxist dictatorships and that if aid is cut a Marxist government, aligned with the Soviet Union, might gain power. Reagan critics, however, contended that such unmerited certification sent a message to Salvadoran security forces that they need not end their repressive tactics in order to continue to receive U.S. aid.

After its 1980 election victory, the Reagan Administration had devised its own two-part plan for achieving peace and reform in El Salvador. First, it concluded that only by destroying the FMLN militarily could meaningful peace be assured; thus, a negotiated compromise settlement with the opposition was ruled out as an option. Instead, enormous amounts of military aid were sent to Salvadoran forces along with U.S. military advisers. Moreover, large numbers of Salvadoran soldiers were sent to the U.S. for training and professionalization. The second part of the Reagan plan was to create a process of honest democratic elections; it was reasoned that meaningful reform would naturally follow such elections.

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[1] Benjamin Keen and Mark Wasserman, *A History of Latin America* (Boston: Houghton Mifflin, 1988), p. 496.

[2] *Ibid.*, pp. 493 and 497.

Between 1981 and 1987 the Salvadoran government and military received $2.7 billion in U.S. aid.[3] Yet little, if anything, was achieved. The FMLN was no closer to defeat, as its 1989 offensive—arguably its most successful offensive to date—made clear. The Salvadoran security forces still opted for murder and torture on a regular basis. The 1989 bombing of the FENASTRAS union headquarters, in which ten union leaders were killed and thirty wounded, and the executions of six Jesuits, their cook, and her daughter a few weeks later graphically demonstrate the brutal methods of the military. Moreover, there is much evidence indicating that the entire army high command knew beforehand and approved of the killing of the Jesuits.

At great effort and expense, the U.S. was successful in bringing about relatively honest and democratic elections. In 1984 José Napoleón Duarte won the presidency and the following year his Christian Democratic Party (PDC) emerged victorious in legislative elections. They won with a campaign that promised peace and reform. Yet the Christian Democrats were unable to achieve either goal during their tenure in office. The failure to bring about peace was due in part to Reagan's refusal to allow Duarte to enter into serious peace negotiations with the leftist opposition FDR and FMLN. It was also due largely to a Salvadoran military which saw no advantage for itself in a termination of the civil war; indeed, the high command realized all too well that its lucrative U.S. aid would be drastically reduced if the war ended.

Duarte's plans for socio-economic reform also ended in failure for reasons which are too complex to enumerate in this study. Suffice it to say that by the end of Duarte's term in office the Salvadoran economy was worse than ever: Just as the disastrous Cuban economy is only kept afloat due to massive injections of Soviet aid, that of Salvador is kept from total collapse due to billions of U.S. dollars. The situation of the poor Salvadoran majority only deteriorated further during the 1980s. Terrorized by both sides in the civil war and unable to find sufficient work to feed their families, the poor "took to their feet" to survive. Hundreds of thousands entered the United States, Mexico, Honduras, and other countries, often illegally.

The ineptness of the Duarte Administration, coupled with extreme corruption on the part of Christian Democratic officials, caused Salvadorans to vote for the only real opposition in the 1988 legislative and 1989 presidential elections, the ARENA Party. It is important, however, to emphasize that these votes were less an endorsement of ARENA than a reaction against Christian Democratic failure. Although President Alfredo Cristiani of ARENA seems to be similar to Duarte, albeit somewhat more conservative, many experts argue that the fanatical Roberto d'Aubuisson still dominates the party he created. In truth, ARENA seems to have split into two factions, with the army siding with the d'Aubuisson wing. The Cristiani faction has been able to enter into negotiations with FMLN, even though the military views such talks with suspicion. To prevent the army from sabotaging this peace process, the U.S. Congress delivered a strong message when it cut military aid to El Salvador by 50 percent and promised to terminate military aid entirely if the government causes the peace negotiations to fail. Even though Cristiani, for his own political reasons, has called for a renewal of military aid, it seems clear to the current writer that such an action would be counterproductive. Instead, all military aid should be ended. If peace negotiations are successful, the U.N. should then renew its Salvadoran aid. But instead of sending it to the military, it should be channeled into grassroots developmental programs aimed at ameliorating the root cause of El Salvador's crisis, which is the antiquated, but long entrenched, unjust structural system that impoverishes and brutalizes the vast majority of the population for the benefit of a few.

REASONS FOR TERMINATING MILITARY AID TO EL SALVADOR

Both houses of the U.S. Congress will soon debate and vote on the Peace, Democracy and Development in El Salvador Act (S. 601 and H.R. 1346), the Adams-McDermott Bill. This bill, if passed in its initial form, would end all war-related aid to El Salvador and aid still in the pipeline and any new military aid as well as economic aid not specifically targeted for development projects. (This would eliminate much of the U.S. economic aid that is direct cash transfer from Washington, D.C., banks to the treasury of the Salvadoran government.) The bill includes a provision that requires that both houses of Congress vote before any aid can be restored.

There are many reasons why this bill should be supported. Among them are the following:

1. After 12 years of civil war in El Salvador, the conflict still continues and a brutal status quo built on violence, injustice, and repression is as well entrenched as ever.

2. Over $4 billion in U.S. aid since 1980, much of which has directly or indirectly been used for military purposes, has failed to end the conflict.

3. Only a tiny percentage of this U.S. aid has gone for health, nutrition, and agrarian reform or for grassroots initiatives.

4. U.S. aid has on the whole failed to address the root causes of the civil war—hunger, inequitable land distribution, lack of true democracy, and oppressive government by a small oligarchic elite.

5. U.S. military aid has actually proved counterproductive. With hundreds of millions of dollars flowing continually to the Salvadoran military, there is no incentive for the high command to end the civil war. Indeed, it realizes well that once the war ends, its U.S. military aid will be drastically reduced or terminated. Thus, there is actually incentive to perpetuate the war.

6. The Salvadoran military and its paramilitary associates have a dismal human rights record, including the murder of 13 priests, an archbishop, 4 U.S. churchwomen, countless political opposition, labor, and peasant leaders, and thousands of Catholic lay catechists. Aid obviously has failed to bring human rights reform.

7. In all, over 70,000 civilians have been killed since the civil war began in 1980, about 85 percent by government forces or paramilitary associates.

8. Tens of thousands have been displaced from their homes and forced to live as refugees. Thousands have entered the U.S. illegally.

9. The Cold War is no longer a factor; thus, an argument can no longer be made that military aid is necessary to prevent the Soviet Union from acquiring "another Cuba."

10. There is a large body of evidence that the Salvadoran high command was involved in planning the murders of the six Jesuits; there is also growing evidence indicating that they are involved in a coverup (see Moakley Report).

11. In the past, every time the military has committed an especially abhorrent atrocity, the U.S. has responded by terminating or reducing military aid, only to renew it and increase it within a short period of time. When the Jesuits were killed, Congress cut military aid by 50 percent. President Bush, however, in June 1991 released most of what has been withheld. This pattern of behavior sends the wrong signal to the Salvadoran military and government. It indicates that they can kill without penalty.

12. There is overwhelming evidence indicating that the FMLN is serious about ending the civil war through negotiations. It realizes that the vast majority of Salvadorans are weary of war; it knows that it cannot win the war; it realizes that it can no longer count on aid from the Soviet Union or Eastern bloc countries. Thus, it has every reason to negotiate a fair peace and get involved in a democratic process.

INTRODUCTION OF THE ST. CROIX, VIRGIN ISLANDS HISTORICAL PARK AND ECOLOGICAL PRESERVE ACT OF 1991

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. DE LUGO. Mr. Speaker, imagine a park that would combine an ecological treasure chest with a window on human history that may go back to 2000 B.C. and even earlier.

Imagine an area so rich in natural and historical attributes that a National Park Service study concludes there is no other location like it in the entire West Indies.

I am speaking of Salt River on the north shore of St. Croix in the U.S. Virgin Islands.

The wealth of the attributes in this one area is staggering:

One of the few carbonate submarine canyons in the world;

The largest and last remaining mangrove estuarine system in the Virgin Islands;

The last remaining undisturbed fish hatchery area on St. Croix;

One of the few remaining nesting grounds for endangered species such as the West Indian whistling duck;

Evidence of preceramic occupation;

The only ceremonial ball court ever found in the Lesser Antilles; and

Village middens and burial grounds going back hundreds of years before Columbus.

If that were not enough, Mr. Chairman, consider that Salt River is the only site now under the American flag where Columbus' party is known to have set foot. We know that after leaving St. Croix, Columbus went by St. Thomas and possibly the British Virgin Islands and that he stopped in Puerto Rico, but exactly where is not known.

There is no ambiguity with Salt River. The encounter between the Old and New World that took place there on November 14, 1493, during the second voyage of Columbus is well documented.

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[3] *Ibid.*, p. 505.

Michael Paiewonsky, a former Virgin Islands senator whose family has played a key role in our modern history, has written a beautifully illustrated and documented book on these first contacts called: "Conquest of Eden 1493–1515."

While Columbus' diary of his second voyage is lost, Mr. Paiewonsky has compiled eyewitness accounts of those who accompanied Columbus on his voyage, and of his son, Fernando Colon, who had access to his father's journals. Here are their descriptions:

> Guillermo Como, was aboard the flagship, *Marigalante*, with Columbus: "Having come near the coast (of St. Croix) the island was so attractive in appearance and location and inviting in the eyes of the mariners that it was decided to make port there."
>
> Michele De Cuneo, who led the 25-man party that went ashore at Salt River, said of St. Croix: "* * * very beautiful and very fertile and we arrived at a beautiful Harbor."
>
> Dr. Chanca, also on board the flagship: "* * * the island seemed to be very populous judging from the many tracts of cultivated land which were on it."

From his research, Mr. Paiewonsky infers that the St. Croix population at that time would have been about 20,000 to 40,000 people, and he quotes Como in describing a typical native West Indian dwelling:

> Their houses were built of thick reeds in the form of canopies; we were moved to admiration by their elegance. The beams were so ingeniously constructed and the timbers were fashioned so perfectly as to excite both wonder and envy.

Post-Columbus, Salt River became a center of colonial activity well over 100 years before the founding of Christiansted and Frederiksted. Spanish, British, French, Dutch, and even the Knights of Malta had settlements there, and the ebb and flow of their fortunes mirrored the turbulence of the Reformation, Counter-Reformation, and wars of succession that swept across Europe.

The whole history of the Caribbean is here at Salt River. As miraculous as it may seem, Mr. Speaker, this area that has been a center of human activity for 4,000 years is today relatively untouched. By sheer good luck, by quirk of history, we have the opportunity to preserve this window on history—Salt River.

Practically all of my colleagues on the Interior Committee, Democrats and Republicans, are joining me today as original cosponsors of this bill: The St. Croix, Virgin Islands Historical Park and Ecological Preserve Act of 1991.

This bill will bring together Federal and local government into a partnership to preserve this very special area for the benefit of present and future generations.

This legislation is the culmination of years of effort to save the site that started in 1958 when the Virgin Islands Legislature voted—Act 350—to purchase over 50 acres including the beach at the Columbus landing site. As a member of the legislature then, I was proud to be a cosponsor along with then-Senators Aubrey Anduze, Frits Lawaetz, Theovald Moorhead, Lucinda Millin, and Anne Abramson. My only regret is that the administration at that time did not acquire the entire 50 acres as called for in the legislation, but at least the key 5 acres at the beach were purchased.

In 1965 that site was established as a national historic landmark. In 1979, the entire shoreline, including the Cape of the Arrows and out into the Canyon area was established as a national natural landmark, and in 1986 it was placed on the endangered list.

In 1986, the local legislature again took a critical step, thanks to the urging of Senator Virdin Brown and Senator Holland Redfield and others, and appropriated $60,000 for the National Park Service to develop options for the preservation and management of the site. This same bill also officially recognized the Christopher Columbus Jubilee Committee whose president, Jessie Thomson has been one of the first and staunchest supporters of the preservation effort.

In 1987, I wrote to the park service requesting a new area study to assess the options and reach a concensus for the ultimate disposition of the site.

The resulting cooperative agreement was signed on July 12, 1988, by Gov. Alexander A. Farrelly and NPS regional director, Robert Baker. A 25-member planning committee, representing a broad cross-section of Federal and local government officials and the private sector was assembled and their resulting recommendations were the subject of public hearings on May 10, 1989, ably moderated by Barbara Gilliard-Payne. Practically all of the many people testifying spoke in strong support of preserving the entire area, including Senator Lilliana Belardo de O'Neal, Dr. Donna Green, Rudy O'Reilly, Jr., with the UVI Extension Service, Oscar Henry with the St. Croix Landmark Society, Liz Wilson with the League of Women's Voters and representatives of several other local and national conservation groups. Michael Walsh and Joan Eltman of the St. Croix Environmental Association have been especially supportive, as have the National Trust for Historic Preservation and the National Parks and Conservation Association. The Nature Conservancy, and in particular Brad Northrup, were indispensible to this effort.

Special mention for going above and beyond the call of duty has clearly been earned by Ro Wauer, then head of the NPS on St. Croix, now retired and the author of several books, and William Cissel, curator of the Christiansted National Historic Site and a native of St. Croix, for their extraordinary efforts in assembling data and encouraging public input. Bill Cissel is becoming known as "Mr. Salt River" so extensive is his knowledge of the history and ecology of the area. Ralph Bullard with NPS regional office in Atlanta was extremely professional and conscientious in compiling the study report. Richard Maeder and Mark Koenings, past and present NPS superintendents also played key roles.

The bill we have before us today, Mr. Speaker, is drawn from that park service study which was completed last summer.

The legislation states that in order to protect, preserve and interpret for the benefit of present and future generations the historical, cultural and natural sites and resources at Salt River, 1,046 acres of land and water encompassing the basin and its mangroves up to the surrounding ridge lines and out to the Sea Canyon will be established as the St. Croix, Virgin Islands Historical Park and Ecological Preserve.

Of the total acreage roughly 600 is water, under the trusteeship of the Government of the Virgin Islands. The Government of the Virgin Islands also owns 50 acres in estate St. John and the 5 acres on the beach at Estate Salt River containing the landing site, the ballfield, Mudfort and other archeological sites. Both the Secretary of Interior and the Government of the Virgin Islands will have authority to acquire by purchase or donation lands in the remaining 370 acres, and a commission will be established to make recommendations on how all the lands within the boundaries can be jointly managed by the Federal and local government.

The commission is precedent setting. It is jointly chaired by the Secretary of Interior and the Governor of the Virgin Islands, with each adding four members, an even number deliberately selected to underscore the need for mutual cooperation, respect, and understanding.

A companion bill is also being introduced this week in the Senate by the chairman of the Energy and Natural Resources Committee who last year stood with his family on the site and became a wholehearted supporter of its preservation. I thank the chairman of the Energy Committee for his commitment and support on Salt River and for his continuous support on many issues of benefit to the people of the Virgin Islands. We are indebted to him.

Our former colleague and now Secretary of the Interior, Manuel Lujan, also paid a personal visit to Salt River earlier this year, and when he stood on that beach and looked at the beautiful vista all around him, and realized the sweep of history that lay literally beneath his feet, he too became fully committed and personally dedicated to saving Salt River.

I thank my good friend, Secretary Lujan. He has visited with me in my office, not once, but twice to personally work out the details of this bill. Clearly he was the right person, the right Secretary of Interior, at precisely the right time, that was needed to help save this special place.

I have discussed this bill with Governor, Gov. Alexander A. Farrelly, and he is in full support.

Mr. Speaker, I urge my fellow colleagues of the House to support this bill and I thank my colleagues on the Interior Committee for their strong endorsement and support, especially the chairman of the full committee, Mr. MILLER, and the chairman of the Parks Subcommittee, Mr. VENTO, and the ranking Members, Mr. YOUNG and Mr. LAGOMARSINO.

FRIENDS AND FAMILY MOURN THE LOSS OF JOHN H. KINNEY OF ARGYLE, NY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SOLOMON. Mr. Speaker, a long-time friend of mine has passed away, leaving a great void in the lives of all who knew him. I'd like to say a few words about him.

John H. Kinney, of Argyle, NY, died earlier this month. He was 81. He founded his own insurance agency in 1930 and operated it until his retirement. But that only tells part of the story of a truly good man.

He was active at Argyle United Presbyterian Church and a 64-year member of the Argyle Grange 1081. He also was active in the Argyle Emergency Squad.

In short, Mr. Speaker, John H. Kinney displayed that spirit of voluntarism which has made such a comeback in the last 10 years. But even before that spirit reemerged John H. Kinney was practicing it.

Among those who mourn his loss are his immediate survivors, his wife Adah; his four daughters, Mrs. Marilyn Peck of Stillwater, Mrs. Betty Simmons of Orchard Park, Mrs. Karen White of Greenwich, and Mrs. Phyllis Snell of Argyle; a sister, Helen Reid of Argyle; and many grandchildren, great-grandchildren, nieces, nephews, and cousins.

Mr. Speaker, I ask all Members to join me in mourning the loss of John H. Kinney, a good citizen and a great friend.

A PLACE WHERE OLD-TIME SKILLS STILL SURVIVE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. APPLEGATE. Mr. Speaker, the growing emphasis placed on the need for voluntarism throughout America is much discussed, but oftentimes is not convincingly demonstrated.

That's certainly not the case in Noble County, OH. Citizens in Noble County have demonstrated what an all-volunteer organization can achieve and accomplish, without tax dollars or any kind of government assistance whatsoever. The result has been the development of the Johnny Appleseed Center for Creative Learning, located just outside of Dexter City, OH.

The Johnny Appleseed Center, dedicated in May 1989, offers craft artists and others an outlet with which to offer their goods, their art, and their craftwork. "Country Living," the official publication of the Ohio Rural Electric Cooperatives, recently told the outstanding story of the Appleseed Center and about the remarkable people who made it possible.

Mr. Speaker, I would like to share with you and my colleagues this interesting and remarkable story of voluntarism and true dedication by the people of Noble County.

A GROUP OF VOLUNTEERS WORKS TO KEEP TRADITIONAL CRAFTS GROWING IN SOUTHEASTERN OHIO

(By Gary and Mary Williams)

In southeastern Ohio's Noble County, a group of citizens is showing what an all-volunteer organization can accomplish.

With no tax money or government help of any kind, the Noble County Historical Society has opened the Johnny Appleseed Center for Creative Learning. The center provides an outlet for area craftspeople to market their wares and gives a boost to the local economy. A secondary function is to teach and preserve the crafts of the past and help to maintain local heritage and culture.

Located on St. Rte. 821, just south of Dexter City and one mile north of the Macksburg interchange of I-77, the center comes by its Johnny Appleseed name quite honestly. The building is on land once homesteaded by Johnny Appleseed's family, and one of his half-brothers is buried on the hillside above the center.

Unlike his fellow legends, Paul Bunyan and John Henry, Johnny Appleseed was a real person who spent most of his life paving the way for settlement of the Ohio frontier. Born John Chapman in Massachusetts in 1774, he was not yet 2 years old when his mother died. His father, Nathaniel, was serving as an officer in Washington's army at the time, so young Johnny was cared for by his maternal grandparents.

When Nathaniel Chapman returned from the war, he remarried and fathered 10 children with his new wife. This second family moved west to Ohio in 1805 and staked out a claim along Duck Creek, about 20 miles north of Marietta. By this time, John Chapman had been on the frontier for several years, but it is believed he was on hand to help his family select the site and build their cabin. He was known to have frequently visited his family here, with his last known visit in 1842, less than three years before he died near Fort Wayne, IN.

Johnny Appleseed is known by schoolchildren everywhere as the kindly hermit who had apple trees ready for the first settlers. He was a wanderer, a storyteller, a missionary and a friend to pioneers everywhere. It is the aspect of his character the Johnny Appleseed Center for Creative Learning seeks to emulate.

According to Noble County Historical Society President Myrtle Ake, "There has been a need in this area for people who produce things to be given an opportunity to sell." With the local economy in decline, many people engaged in crafts out of necessity or because they had lots of time on their hands. And since tourism represented an opportunity to offset the losses in local natural resources-based industry, a craft center seemed like a good idea.

The site of the Center was formerly Ogle's Restaurant, a popular local establishment. The building had been vacant and was owned by Eaker-Noon Coal Company. Baker-Noon offered use of the building to the historical society, and a $1-per-year lease was signed in November 1988.

Ake recalls first touring the building with fellow society members on a rainy night that revealed several leaks in the roof. "They still said 'Let's do it'—I guess you have to be a little crazy to visualize what can happen when things look discourageing," Ake said.

VOLUNTEERS ANSWERED THE CALL

A call went out for volunteers, and many organizations and individuals responded. Painting, wallpapering and plumbing were among the skills donated by nearly 200 volunteers. Outside support also was available. In particular, C. Burr Dawes and Bob Williams of the Johnny Appleseed Foundation offered encouragement and support. After a busy winter, the center was dedicated on May 28, 1989.

The Johnny Appleseed Center reflects its namesake's helping-hand philosophy. All items are sold on consignment and are made by 127 different craftspeople in seven counties. Many are from Noble County, but they are also from the adjacent counties: Guernsey, Belmont, Monroe, Washington, Morgan and Muskingum.

The historical society administers the center through a board of directors. In the yard near the building is a monument to Johnny Appleseed, erected in 1942 to commemorate the Chapman homestead. It serves as a reminder of the spirit of the place and the original source of inspiration. As board member Joy Flood puts it, "We decided to use Johnny Appleseed because we wanted a cottage industry. And since the monument was there, we decided to make it about Johnny Appleseed." The center is open from 10 a.m. to 5 p.m., Monday through Saturday, and from 1 p.m. to 5 p.m. on Sunday.

In the lobby of the center stands a spreading "tree" with more than 100 wooden apples bearing the names of hard-working volunteers. The volunteers' talent and effort which launched the center represents thousands of dollars of manpower and is the core of the entire endeavor.

The showrooms on the main floor feature ever-changing displays of a boundless variety of crafts. In addition to four rooms of craft displays, the center also sells two books it has published. One is a cookbook of apple recipes and one is a biography of Johnny Appleseed, both written by local volunteer authors. There is a classroom in the basement and the upstairs features a library and a quilting room.

It is the crafts and the craftspeople who are the central part of operations now. Sales Manager Sue Garvin says, "Most of the crafters have been in here and some of them have been real interesting." Board member and craft selector Pauline Robinson adds, "People can't believe we have such good craftsmen in this community."

The craftspeople also are pleased with the arrangement. Leo Schwallie, who work with stained glass, says "Johnny Appleseed Center gives a lot of crafters an outlet." Irene Peters, a woodcrafter and Washington Electric Co-op member, says, "I got tired of packing my stuff and taking it to craft shows. Someone told me about the Appleseed Center and I took some of my work there."

Fran Miller, another Washington Electric member who makes fabric rabbits, also prefers the center as an outlet. "It's a lot less hassle than doing a show. Besides, when you go down to the Center, you can see what's new," Miller said.

The creative learning aspect of the center has not been ignored. Education Coordinator Paul Wallace has set up several different classes. Among the offerings so far have been courses in photography, stained glass, basket-making, and apple-head dollmaking.

Another related activitity is the Noble County Historical Society's Soakum Festival. Held at Heritage Park in the Noble County Fairgrounds at Caldwell, Soakum celebrates the pioneer way of life.

The festival is named for a small settlement about one day's journey from Marietta. The town of Matrim tried to increase its fortunes by charging exhorbitant prices for its whiskey. This earned the town the nickname "Soakum." Soakum is held on the last weekend of September, so it roughly coincides with Johnny Appleseed's birthday on Sept. 26.

This past year at the Soakum Festival, a natural-foods birthday dinner was held for Johnny Appleseed. Guest speaker Edelene Wood of Parkersburg, WV, president of the Natural Wild Foods Assn., gave a slide show and a meal of foods similar to fare enjoyed by Johnny Appleseed. Also at the festival, the Friends of Johnny Appleseed was organized to help support the center's activities.

Despite its humble beginnings, the economic prognosis for the Johnny Appleseed Center for Creative Learning is encouraging. What's more, everyone involved is proud of what already has been accomplished because, as Ake puts it, "We did it all with good old-fashioned work!"

A SALUTE TO MICHAEL AMON-RA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has devoted time and effort toward improving the educational opportunities available to the young people of Brooklyn.

In the wake of the 1977 shooting of Randolph Evans, Mr. Michael Amon-Ra served as rally and demonstration coordinator of Concerned Citizens and Leaders to Save our Youth Coalition. His efforts played an integral part in fostering an ongoing dialog between civic officials and business leaders.

Through his organizational talents, a diverse group of Brooklyn residents participated in rallies and demonstrations which led to unprecedented discussions and negotiations between activists, community leaders, business and government leaders. Mr. Amon-Ra played a key role in these negotiations by serving as the chief adviser to the Coalition for Economic Fairness. Ultimately, these negotiations led to the creation of the Randolph Evans Memorial Scholarship Fund and the Randolph Evans Crisis Center.

Today, Michael Amon-Ra serves on the advisory board of the Randolph Evans Memorial Scholarship Fund. I salute his longstanding and committed effort to inspire hope and encourage scholarship.

THE NEW AMERICAN ORDER

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TRAXLER. Mr. Speaker, I would like to share with my colleagues an editorial which appeared in the June 17, 1991, issue of U.S. News & World Report. In the editorial, David Gergen, former speechwriter and press spokesman for Presidents Nixon, Ford, and Reagan, argues that far more critical than building a "New World Order" is the creation of a "New American Order." I absolutely agree with Mr. Gergen and would strongly encourage all of my colleagues, on both sides of the isle, to take time to carefully review his editorial:

A NEW AMERICAN ORDER

Every morning at 8 o'clock, George Bush begins his day by pouring over a report from the Central Intelligence Agency telling him of the latest rebellion in the Soviet Union, a coup in Africa, a cyclone in Bangladesh. A CIA officer briefs him personally on the details before he moves into a second meeting with National Security Adviser Brent Scowcroft, the man who hovers at his side all day. As many as 40,000 people in Washington's national-security establishment work hard so that Bush, like every recent president, can stay abreast of and remain focused on overseas threats.

But suppose the president got up on the other side of the bed for a change. Might we all be better off if the nation's chief executive began his day with an intelligence briefing not on the world but on America? Would he and others in Washington re-direct their mental energies if, first thing out of the box, a high-powered briefer told him what now happens on a typical day in this country? "Mr. President," he might report, "in the past 24 hours, 93 Americans died from guns; 16,000 were raped, mugged or robbed; 274 babies were born exposed to illicit drugs; 2,478 children quit school; 1,340 teenagers gave birth; commuters wasted 216,000 hours in traffic jams; the U.S. sent 14.5 million tons of carbon dioxide into the air; the national debt increased by $1.4 billion; Washington paid $80 million to foreign creditors in interest on the debt; 355 U.S. companies went belly up, and 5,500 Americans lost their jobs."

The point is obvious: In the new world of the 1990s, as the Soviet bear is finally locked in its cage, the most serious challenges to America are no longer overseas but here at home, and it's time for Washington to change focus. Strikingly—encouragingly—some of the most serious thinkers in the foreign-policy establishment are now advancing that argument, so that officialdom may soon take notice. William Hyland, editor of the prestigious quarterly *Foreign Affairs* recently wrote that with its triumph in the cold war, the United States "has never been less threatened by foreign forces," but "never since the Great Depression has the threat to domestic well-being been greater." His recommendation: "We have earned about a decade of freedom to reorient our foreign policy and concentrate our resources, energy and attention on dealing with the domestic crisis."

The chairman of the Council on Foreign Relations and the Institute for International Economics, Peter G. Peterson, weighed in a week ago with an essay that set off a storm of debate among national-security thinkers at an American Assembly conference. America must recognize, Peterson wrote, that failure to make progress on an economic and social agenda will place the country in greater peril than more traditional concerns of Soviet nuclear weapons and conventional attacks on our territory or vital interests. After thrashing it out, the American Assembly participants voted in support of that thesis.

The plea here is not that we lift another $10 billion from the defense budget or from foreign aid and invest it in our schools and highways. To be sure, we must end what Peterson calls a "choiceless" society—a debilitating incapacity to make hard trade-offs on a range of public policy issues. But before we even reach questions of where to find funds for domestic needs, we must first have a change of mind about what is urgent, demanding serious attention in our democracy, and what is less pressing. At the moment, the White House and many of the president's best and brightest are striving mightily to build a "New World Order." Far more critical is the creation of a New American Order.

In focusing on the domestic crisis, we need not and should not retreat into isolationism. We must remain leaders of the globe, engaged in far-flung missions to protect and extend freedom. Our economy and our culture must remain integrated with others. Yet, just as Dwight Eisenhower warned four decades ago, we must realize that our national security rests fundamentally upon our strength at home. An economy that limps into the future, built upon a population that is undernourished, undereducated and underachieving, will not only make us poorer and less just; it will also rob us of our capacity to act and lead overseas. To its credit, the foreign-policy establishment now sees this threat clearly. When will the White House wake up?

TRIBUTE TO KEVIN D. HARRIS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SCHULZE. Mr. Speaker, today I wish to commend a young constituent of mine for his outstanding achievement in winning second place in a National High School Videotaped Speech Contest, "Faces of China."

Kevin D. Harris, of the Chapel Christian Academy in East Norriton, PA, wrote and delivered a tremendous speech entitled, "The Potential for Freedom in China," and was awarded a $1,000 scholarship to the college or university of his choice.

The contest was sponsored by Friends of Free China and specified only that the contestant write and deliver a 6 to 8 minute speech on the topic of "Faces of China" and relate it in some fashion to the Republic of China on Taiwan. Friends of Free China is a national organization dedicated to the preservation of freedom and understanding between the people of the United States and the people of Taiwan.

I commend Kevin Harris for his achievement of excellence and include his speech in the RECORD:

THE POTENTIAL FOR FREEDOM IN CHINA

(Speech by Kevin Harris)

Nestled in the Southeast Corner of Asia, the people of China are divided. Despite a rich heritage in culture and tradition, the Chinese people are separated by two contrasting systems of government. Although their lifestyles are vastly different, their hearts are united by an urgent longing for freedom.

The People's Republic of China is characterized by the world's largest population—over 1.1 billion people, including the largest Communist party in the world. Ninety miles southeast of this nation is the "Beautiful Island" of Taiwan, also known as Formosa. This second group of people is called the Republic of China. Both of these countries claim to be the legitimate China and both seek the unification of China in the future.

As we analyze these two nations, we notice that Taiwan, under a system of free enterprise, enjoys many freedoms. This free enterprise system has proved effective as the country advanced in technology, wealth, and education. In contrast, the people on the mainland experience very little freedom. Let us ask ourselves, "What is freedom? And further, what is the potential for freedom in China?

We know freedom as simply being the right of people to make their own decisions, to chose their own destiny. According to Noah Webster, freedom is also, "A state of exemption from the power or control of another. Exemption from slavery, servitude, or confinement." China's potential for freedom depends on the people themselves.

From the city of Beijing, Deng Xiaoping, the most powerful man in China, rules essentially one fifth of the world. "All important industries have been placed under state ownership and direction. The government also controls most trade and finance."[1]

The Republic of China on Taiwan traces its beginning all the way back to the Nationalist Party on the Mainland. This political party was founded by Sun Yat-sen in the earliest part of the twentieth century. Ever since his death, tyranny and oppression have dominated Chinese society in the motherland. With the rise of communism and the later defeat of the Nationalists in 1949, the prosperity of China rapidly declined. After the Nationalists fled to Taiwan, the Communists set out to restore the war-devastated economy. But in fact, they enslaved the people as they endeavored to build their own power. Jimmy Yen, a Chinese man recently said, "Few governments in world history have every really developed the 'bitter strength' of their peasants. Many regimes may talk of setting up programs for them—relief. I want release not relief. I want to set up programs by the people. I believe in people!"[2] The communists continue to oppress the Chinese people today.

The pressure of communism on its people has occasionally surfaced, each time growing louder and stronger. The 1989 massacre in Beijing's Tienanmen Square illustrates this perfectly. It was prompted by the student's call for government dialogue on democracy. "The protests were peaceful. But to a tyranny what counts in the opposition, not the method."[3] Official figures say that student deaths reached to over 10,000.

The brutalities of this massacre have frightened Hong Kong as they wonder if communism is going to devour their country. As the 1997 unification of China approaches, 100,000 citizens of Hong Kong are emigrating every year.[4] But while most of Hong Kong is dreading the coming unification, Taiwan is seeking for unification on their own terms. Their terms call for a democratic society and a free economy.[5]

Unification alone cannot achieve democracy and freedom. The conflict for the government of Communist China is in their desire to keep their people ignorant, while maintaining their goals for modernization of China. We said earlier that freedom is the right of people to choose their own destiny. The people of China are not given many choices. How can they be free without an education? To be superior in technology, China must be superior in education.

Political freedom is desired by every human being, but even more fulfilling is the freedom that is found only in the heart. Numerous reports prove that many Chinese people have found this freedom. It is a freedom based on a decision to personally trust in the death of Jesus Christ as sufficient to pay for our sins and to provide assurance of eternal life in Heaven. We would do well to heed the Chinese Proverb, "The road to hell is paved with good intentions". "Righteousness exalteth a nation,"[6] but communism does not allow its people simple religious freedom.

Peace and freedom are long awaited and long desired on the mainland. The need and desire for freedom is evident. We must support the unification of Taiwan and communist China on democratic and free terms. Education is essential to the progress for China's freedom. Above all else, the freedom found in the Bible will liberate the soul. But all these aspects of the potential for China' freedom depend on the individual. The progress may be slow, but nonetheless, the people are the key to liberating China!

An elderly Chinese man put it this way, "'Only those who have almost been suffocated can know the value of air.' The Chinese people breathed very deeply, exultantly in 1989, they will do so again."[7]

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[1] "China," *The World Book Encyclopedia*, 1990 ed., p. 475.

[2] Jimmy Yen, *Reader's Digest*, October 1987, p. 263, 264.

[3] A, M. Rosenthal, "From China with Contempt", *Reader's Digest*, November, 1989, p. 198.

[4] Ross Terrill, Countdown to 1997", *National Geographic*, February, 1991, p. 125.

[5] *Free China Review*, January 1991, p. 20.

[6] The Bible, King James Version, Proverbs 14:34.

[7] Scott Simmie, Bon Nixon, *Tienanmen Square*, August 15, 1989, preface.

THE SUPREME COURT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, July 17, 1991, into the CONGRESSIONAL RECORD:

THE SUPREME COURT

One of the most important things we do when we elect a President of the United States is to shape the Supreme Court. The President nominates the justices and the Senate confirms them. In that way the Court is shaped over a period of time by our democratic institutions. The views of Ronald Reagan and George Bush have now been reflected in recent decisions of the Supreme Court, such as those restricting abortion and narrowing the rights of the accused. The Court is conservative, though increasingly activist.

SOLID MAJORITY

The struggle between the liberals and the conservatives on the Supreme Court is over. The Court now has a solid and energized conservative majority. The momentum for change in the Court is strong, and it is most obvious in the area of criminal law. Criminal defendants have not fared well under this court in recent years.

It was striking to see how many cases in the past term were decided by a 6–3 margin, once President Bush's nominee David Souter was added to the Court. The shift away from 5–4 votes is important because the narrow margin constrains the majority by the need to hold a justice who may be wavering. When the majority is larger, the opinions tend to become more sweeping, as they did in this term.

CONSERVATIVE COURT

Although the terms "liberal" and "conservative" are slippery when referring to courts, many of the Supreme Court's decisions this past term typified the conservative view that power should flow from Washington to the states. For example, in one case the Court held that federal law against age discrimination included an implicit exception for state judges. The Court warned the Congress to use caution in exercising its extraordinary power in a federal system and referred to the tenth amendment as a source of state immunity against federal regulation. The Court also indicated in a school desegregation case that the era of federal judges administering school systems, prisons, and other local institutions may soon be over. The Court deferred often to actions by the executive branch, as it did in the most controversial decision of the year upholding federal regulations that bar federally financed clinics from providing information about abortion.

The Court's conservatism was also exhibited in its decision limiting personal rights against those of the state or community. It threw out a number of rulings protecting the rights of defendants with respect to coerced confessions, search warrants, and federal habeas corpus jurisdiction.

The Court never moves only in one direction, and there were cases in this term when the conservatives were not able to muster a majority. For example, the Court gave a broad reading to equal protection. It ruled that prospective jurors could not be excluded because of their race and that the federal voting rights acts covers the election of state and local judges. But by and large the Court turned noticeably to the right.

ACTIVIST COURT

Another mark of a conservative court is that it sees itself as no place for resolving questions better left to the legislative branch. But even as the Supreme Court kicked some issues back to the lawmakers, the justices have been willing to do some of their own legislating from the bench. A case in point is the effort to streamline capital punishment. Unwilling to wait for the Congress to act, the Court set up procedural obstacles to repeated habeas corpus requests, thereby expediting executions. At times it reached beyond the narrow legal questions directly before it and addressed constitutional issues. For example, it ruled that coerced confessions from criminal defendants were not automatically barred from use as trial evidence, even though the case at hand did not require them to pronounce on that question.

The Court is increasingly moving away from judicial restraint into judicial activism, supporting political objectives especially in the area of criminal law. At one point Justice Thurgood Marshall said that the majority was serving as a "back-up legislature". Moreover, the Supreme Court usually only rarely and with greatest care dismantles its own precedents. Yet this Court has overturned four constitutional precedents and sharply restrained another in the past term. It has written that adherence to precedent is "not an inexorable command". It is acting with increasing boldness and is writing more far-reaching opinions than it did only a few years ago.

THE FUTURE

Next term the Supreme Court will tackle some controversial issues such as school desegregation, school prayer, individual privacy, and the constitutionality of laws prohibiting cross burning. Given its willingness to overturn precedents, if another conservative justice is appointed to replace Thurgood Marshall, the Court will likely make major changes when it has the opportunity.

The Court today is somewhat right of center but probably within the mainstream of popular opinion and attitudes. If the Court keeps moving to the right, such as by severely restricting individual rights, then public opinion may begin to change about the role of the Court.

NOMINATIONS

As a final note, I have an uneasy feeling about the process for nominating new justices. The Supreme Court was once roamed by legendary figures such as Oliver Wendell Holmes, Louis Brandeis, and John Marshall.

I wonder if President Bush was really right when he called Clarence Thomas, a very fine person, "the best person for the job". For all his attributes, Thomas has not shown himself to be a preeminent scholar, brilliant judge, or prized lawyer.

Presidents have many different criteria before them when they make their selection, and they may not simply put forward the name of the most brilliant jurist. In some of the most recent nominations, especially after the Senate's rejection of Judge Bork, Presidents seemed to be looking for candidates who have very little to say about most things. That may be politically necessary but it is unwise. It means that the Supreme Court will not be peopled with the giants that have so enriched its history.

TRIBUTE TO ANNE LESLIE ASHER

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mrs. BOXER. Mr. Speaker, I rise today to pay tribute to Anne Leslie Asher, a soon to be doctoral student at the California School of Professional Psychology in Berkeley/Alameda. Anne will receive one of the 1991 public service scholarships offered by the Public Employees Roundtable.

Throughout her undergraduate college career, Anne devoted herself to caring for and counseling others. At the same time, she had to overcome her own severe medical problems. Anne knows the hardships she will experience, but even with this knowledge, she is an optimist and excited to gain formal experience in her chosen field of clinical psychology.

Anne hopes to work in a public hospital or clinic with economically disadvantaged individuals. Once Anne made her decision to be a psychologist, she has never looked back, always intending to help others more in need than herself. Anne is a true public servant. With her positive attitude and strong record of experience, she will undoubtedly do what she has set out to accomplish.

Mr. Speaker, please join with me in letting our colleagues know of Anne's accomplishments by entering into the RECORD her winning essay on helping others and herself succeed. Anne's essay, titled "Why I Have Chosen To Pursue a Government Career," shows exactly why Anne was indeed chosen as the recipient of the scholarship award. Anne Leslie Asher is a superb American and will be a truly splendid public servant.

WHY I HAVE CHOSEN TO PURSUE A PUBLIC SERVICE CAREER

(By Anne Leslie Asher)

Throughout the past nineteen years I have remained determined to pursue a public service career within the field of psychology. It is natural that I would aspire to become a psychologist, since the range of options within this profession includes the diverse pursuits to which I was exposed during my childhood and adolescence. Due to the influence of my parents' wide variety of abilities and interests, I am both empirically and artistically-oriented. Psychology draws from science and the arts in a unique manner, and I would be hard pressed to suggest a field which more exhaustively utilizes this wealth of perspectives!

I initially became interested in psychology while I was attending high school. I was determined to gain as much awareness as possible regarding the spectrum of applications within my intended profession; and I spoke with practicing psychologists from various specialties. In order to ascertain if I had the potential to perform effectively within the domain of psychology, I gained "hands-on" experience serving the public as a volunteer counselor. I derived tremendous satisfaction from counseling others, and became confident that I would find fulfillment and challenge within the "helping profession." I have devoted a combined total of ten and a half years to working as a counselor within four community service agencies.

Upon entering college, I enrolled in as many psychology courses as my schedule permitted. As soon as I completed the lower division requirements of university study, I declared a major in psychology. These studies increased my awareness of the various aspects of psychology, and my appreciation for this discipline was heightened. However, until I encountered serious medical problems, my professional goals within psychology lacked definition. I had intended to combine an empirical background with my desire to make an impact as a psychotherapist within a publically funded institution; yet I was uncertain about how to channel these interests.

Although others might consider me a "disabled" person, I perceive myself as challenged rather than disadvantaged. I do make use of crutches or canes to walk about; yet, I have been enriched and fortified by the adversity which I have faced. My experiences contending with a life-threatening and disabling neuromuscular condition have not only enhanced my strength and stamina; the obstacles I have encountered have deepened my appreciation for life, clarified my goals and toughened my resolve.

I aspire to treat clients within public hospitals, clinics and physical rehabilitation centers. Specifically, I visualize myself working with people confronting physical challenges such as life-threatening, chronic, terminal and disabling conditions. I am greatly interested in caring for economically deprived individuals receiving medical services within publically funded health facilities, since I am especially sensitive to the unique problems which are encountered by low-income ill and disabled persons.

I desire the finest training possible in order to make the most profound and lasting difference within the field of clinical psychology. I have been admitted to the Doctor of Psychology program at the outstanding California School of Professional Psychology in Berkeley/Alameda, and I will begin my studies there during the coming fall semester. I am confident that my doctoral training will allow me to attain my professional goals within public service. No accomplishment could give me a greater sense of satisfaction and achievement than assisting ill and disabled patients within public health facilities to lead the most independent, productive and fulfilling lives possible!

INTRODUCTION OF THE LEAD PAINT HAZARD ABATEMENT ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. CARDIN. Mr. Speaker, today I am introducing, along with Congressman HENRY WAXMAN, the Lead Paint Hazard Abatement Act of 1991, an innovative measure for preventing the "most common and societally devastating environmental disease of young children"—U.S. Department of Health and Human Services, "Strategic Plan for the Elimination of Childhood Lead Poisoning," February 1991, p. 1.

This legislation provides for the only real cure for lead poisoning—prevention. The bill establishes a Trust Fund of about $1 billion per year for use by States and cities to operate comprehensive programs addressing the most intractable source of high-dose lead exposure for children: deteriorating lead-based paint in low-income housing and child care centers.

This dedicated source of funds will be used to cleanup lead paint hazards in older housing, the primary cause of the epidemic of childhood lead poisoning which affects one out of every six American children—causing IQ reductions, reading and learning disabilities, reduced attention span, hyperactivity and other learning and behavioral problems.

By generating revenues from an excise fee on lead, this legislation is consistent with the pay-as-you-go requirements of last year's budget agreement and will not increase the Federal budget deficit. Funds will be allocated from this trust fund based on a statutory formula reflecting local needs in terms of poverty and lead paint health hazards. To receive grants each year under the formula, cities and States must match a portion of the Federal grant and demonstrate their capacity to carry out an effective cleanup program.

The tax will be 75 cents per pound on newly mined lead and 37 cents per pound on recycled lead. The price of lead with the tax, however, will be roughly the same as it was a decade ago—adjusted for inflation. This two-tiered tax structure will provide strong incentives for expanded recycling of lead, a major environmental goal. Consumers will most frequently see this tax reflected in the price of a car battery which will increase by about $15. Since most car batteries last 4 to 5 years, the actual cost to the consumer will amount to only $3 per year.

The Secretary of Health and Human Services will review and approve local plans—(in consultation with the Department of Housing and Urban Development). A minimum of 75 percent of the funds will go into actual cleanups, with 10 percent allowed for inspections to identify the worst hazards, 5 percent for training contractors and workers, 5 percent for oversight and quality assurance, and 3 percent for counseling occupants in lead poisoning prevention methods. Only 2 percent will be permitted for administrative expenses. A statutory requirement will guarantee that funds will be targeted to low income families.

This legislation is the product of months of deliberation, drafting and revision by a great many people. The final product is a bill of which everyone involved can be proud. I recognize, however, that it is not the final word on this issue. I look forward to the constructive comments and suggestions of my colleagues and other interested parties for further improvements in this legislation. It is incumbent upon those who would criticize the tax portion of this bill to suggest a viable alternative. To suggest continued inaction is not an acceptable criticism of this bill.

My deepest gratitude is extended to the Environmental Defense Fund and the Alliance to End Childhood Lead Poisoning for their leadership in saving children from lead poisoning and their assistance in drafting this legislation. The original idea for this bill came from the EDF report "Legacy of Lead" and staff from both EDF and the Alliance worked tirelessly in helping me craft the bill I introduce today.

The national mandate to wipe out lead paint poisoning was established by Congress 20 years ago. Since then little action has been taken as millions of American children continue to suffer from this fully preventable disease. This bill provides the urgently needed resources to wage a concerted attack on the nation's most severe lead poisoning problems. I urge my colleagues to join me in sponsoring this legislation.

The following is a section-by-section explanation of the bill:

SECTION-BY-SECTION EXPLANATION

SECTION 101.—THE PROGRAM.

(a) ELIGIBLE ENTITIES.—This paragraph gives the Secretary authority to make grants from the trust fund. It defines eligible entities as states, cities over 100,000 and urban counties over 200,000 that submit an approvable plan of action to the Secretary. For any fiscal year a grant under $250,000 will be terminated and those funds redistributed to other eligible entities in the same fiscal year.

(b) ENTITLEMENT STATUS.—Eligible entities are entitled to their share as established by formula of any funds in the trust fund as of October 1 of the fiscal year. The bill creates an entitlement to this share for the eligible public entity, but does not create an entitlement status for any individual. An entitlement is created only to the extent that monies exist in the trust fund, only to the degree that the local matching requirements are met, and only if the grant is not terminated because it is less than $250,000 or is not used within 18 months of allocation.

(c) MATCHING FUNDS.—The local matching requirement starts at 5% in the first fiscal year a grant is received and increases 5 percent each subsequent year until it reaches 25 percent. This paragraph defines eligible forms of non-federal contributions.

(d) PURPOSE OF GRANTS.—Defines the purpose of the grants: inspecting residential structures and child care centers for lead hazards (no more than 10 percent of grant can be expended for inspection); abating lead hazards; disposing of debris from abatements; providing temporary housing during abatements; monitoring the abatements for safety and effectiveness (limited to 5 percent of grant amount); training workers and contractors (5 percent limit); counseling families at risk (3 percent limit). Administrative costs are capped at 2 percent of the grant amount.

(e) PROGRAM SAFEGUARDS.—No abatement can begin unless: the residents of the structure have an income less than 80 percent of area median income; an official of the local public health agency certifies the presence of a lead hazard; an official of the local housng agency certifies the abatement plan and costs are commensurate with the risk identified; and workers and contractors have met federally approved accreditation standards.

(f) ISSUANCE OF PROGRAM STANDARDS.—The Secretary will issue regulations to implement this legislation within one year of enactment using the notice and comment process. The regulations will be revised 18 months later and every 24 months subsequently. The Secretary of HUD, the Administrator of EPA and an advisory council will advise the Secretary on the regulations and standards pertaining to this program. If the Secretary fails to issue regulations within one year of enactment, the regulations in effect in the State of Massachusetts will be considered applicable for the federal program.

(g) SPECIFIC STANDARDS.—The regulations issued under paragraph (f) will specify standards for conducting inspection activities, abatement activities, monitoring activities, training activities and lead counseling. The standards will specify standards for identifying significant lead-based paint hazards in eligible structures, including methods and standards for determining the level of lead in paint and interior surface dust as well as determining when temporary housing is called for. The regulations shall specify standards for making the determination that abatement activities have adequately abated the hazards involved and rendered the structure safe for occupancy.

(h) APPROVABLE PLANS.—To receive a grant an eligible public entity must submit a plan to the Secretary not later than May 1 of the preceding fiscal year containing agreements to abide by the requirements of the program. In addition, the public entity must have in effect local laws providing for the enforcement of federal standards. One agreement must provide for the continued occupancy by low income families of residential structures that receive federal funds for abatement activities. To enforce this requirement a lien must be attached to any property in the amount of the federal assistance for a period equal to one month for every thousand dollars expended. These agreements will not be considered violated if the income of the residents was at or below the required level prior to the abatement. Grant recipients must also certify compliance with federal requirements for the most recent year in which the entity received federal funding.

(i) ANNUAL REPORTS—Public entities receiving assistance must submit to the Secretary reports documenting: sources and amounts of non-federal contributions; the number of children screened for elevated blood lead levels and the number determined to have elevated blood lead levels; the amount of funds expended for each eligible activity; and the types of housing for which abatement funds were utilized. In addition, the entity must report the number of eligible structures with respect to which: inspection activities were conducted; significant lead-based hazards were identified; abatement activities were commenced; abatement activities were completed and determined to have been adequately abated; abatement activities were completed and were determined to have failed to adequately abate the hazards involved. A list of the addresses of the eligible structures and their owners must also be provided to the Secretary.

(j) ALLOTMENTS.—The amount of an allotment for an eligible public entity for a fiscal year shall be a product of the amount in the fund on October 1 and a percentage reflecting the entity's need compared to the need of other eligible entities. An entity's need is expressed as the mean of three percentages. The first variable reflects the number of children living in poverty in the entity as a percentage of the number of children living in poverty in all elible entities. The second variable reflects the number of families living in pre-1950 housing in all eligible entities. The third variable reflects the number of families living in pre-1960 housing as a percentage of the number of families living in pre-1960 housing in all eligible entities.

(k) CITIZENS' SUITS.—Any person may bring an action against the Secretary where there is an alleged failure to perform any act or duty under this section that is not discretionary with the Secretary.

(l) EVALUATION OF PROGRAM.—The Secretary will provide for evaluations of the program and will report to Congress no later than February 1 of 1994 summarizing the findings of such reports.

(m) DEFINITIONS.—

SECTION 201—THE TAX

An excise tax is created on lead removed from any United States smelter or lead and any taxable lead product entering the United States for consumption, use or warehousing. The amount of the tax to be imposed shall be $0.75 per pound on primary lead and $0.37 per pound on secondary lead. Imports shall be considered to be primary lead unless the person liable for the tax establishes to the satisfaction of the Secretary of the Treasury that any portion of the lead is secondary. The tax will terminate ten years after enactment.

SECTION 202.—THE TRUST FUND

Any funds collected by the above tax will accrue to the Lead Abatement Trust Fund which shall be available only for the purposes of making grants under Section 101.

CHANGES IN YUGOSLAVIA HAVE LED TO THE BRINK OF CIVIL WAR

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SANTORUM. Mr. Speaker, as Yugoslavia steps into the future toward greater freedom and democracy, shadows have appeared of past dissension and militancy. These tensions and other recent changes in Yugoslavia have led that country to the brink of civil war.

Despite the efforts of both the United States and the European Community to encourage change, certain Yugoslavian republics have decided that the time has finally arrived for political self-determination. The right of citizens to determine their own future should be vigorously supported. Clearly, this principle was central to the concept of nationhood of our own Founding Fathers.

On June 25, 1991 the republics of Slovenia and Croatia took the dramatic steps of declaring their independence from the federation. Slovenia has begun to exercise its increased autonomy by securing its international border positions. This action resulted in a use of force by the Serbian-dominated Yugoslavian People's Army [JPA]. The use of force was successfully resisted by Slovenian defense forces and now a tenuous cease fire exists. The federal government now appears willing to allow Slovenian independence.

Croatia has advanced its independence measures with more moderation because of its large Serbian population and potential for ethnic conflict. Serbia, the largest member of the federation, has vowed to resist Croatian independence for fear the Serbian Croates would suffer as minorities in an independent Croatia. Because of the sensitive nature of this relationship a potential for intense violence exists.

The problems confronting the people of the Balkans are extremely complex. Any solution to this crisis must take into account the historical realities of the region. Rivalry, ambition, and conflict have plagued this corner of the world for hundreds of years.

In past centuries, the control of the Balkans by the Austria-Hungary Habsburg monarchy to the north and by the Ottoman Turks to the south has left an indelible mark on the Balkan republics. The republics are fundamentally different from one another; religious, economic, political, and ethnic diversity characterize the region. These factors have created historical divisions which 70 years under the flag of Yugoslavia have only been able to contain, not resolve.

After World War I, Yugoslavia was created to prevent the further outbreak of war in the region. At the insistence of Croatia and Slovenia a federal republic was formed in order to ensure their collective security and prevent domination by external forces. This served as a unifying force in the Balkans. After World War II the combination of the commanding force of Marshal Tito, Communism, and federal troops preserved the "territorial integrity" and legal standing of the state. Now that most of the "glue" which had preserved the state has evaporated, the underlying frictions have been allowed to rise to the surface.

The tensions which have accumulated during that span are being expressed. The task for policymakers in Washington and the European Community, is to encourage discussions and prevent the proliferation of arms. The republics of Yugoslavia may join the ranks of the western nations, not by resorting to armed conflict but through economic and social reforms. This will not be easy. We hope that there now exist the mechanisms to resolve conflict through a peaceful and democratic process.

International pressure to encourage peaceful negotiations, halting the influx of arms to the region, and attending to the civil and human rights of the ethnic minorities should be priorities. The bloodshed caused by the terrifying use of arms during recent weeks lends proof to the importance of this goal.

Armed struggle in this region has traditionally ended in tragedy for the people. The lessons of World War I and World War II should be enough to discourage the citizens of these republics from the use of violence against one another. Unfortunately, armed clashes this year alone have resulted in the deaths of scores of citizens. Every effort should be made to promote a peaceful solution and prevent further tragedy from occurring.

A SALUTE TO JOB MASHARIKI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, today I rise to recognize the monumental efforts of Job Mashariki.

Mr. Mashariki has devoted his life to enriching the community by becoming involved in numerous projects and volunteer programs designed to enhance and enrich the economic, social, political, and cultural life of Brooklyn. He has held pioneering leadership roles in numerous groups and organizations including: the Black Agenda Convention Consortium of Brooklyn Organizations, Black Veterans for Social Justice, and the New York Urban Coalition.

In 1977, the death of Randolph Evans compelled Mr. Mashariki to become involved in the struggle to create a lasting memorial to this young man. Over the years, he has participated in many meetings, rallies, demonstrations, and strategy sessions. This activism led to the establishment of the Coalition for Economic Fairness and Justice, a fund which provides scholarship support for poor and minority youth. For over a decade Mr. Mashariki has worked on behalf of youth.

I salute Job Mashariki for his vision and commitment to the young people of Brooklyn.

THE SAN FRANCISCO GAY MEN'S CHORUS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Ms. PELOSI. Mr. Speaker, I rise to recognize the achievements of the San Francisco Gay Men's Chorus.

For more than a decade, the San Francisco Gay Men's Chorus has striven to change the perceptions of gay men and lesbians everywhere, worked for the advancement of their rights, and helped to achieve public recognition of their contributions to the greater good. Their primary means of accomplishing this monumental task has been through music and their vocal talents.

The chorus began on a tragic day in November 1978, when San Francisco Mayor George Moscone and Supervisor Harvey Milk were slain in their city hall offices. That night a group of gay men gathered on the steps of the San Francisco City Hall to sing a memorial hymn as a gesture of unity with the residents of a city that had suddenly found itself gripped by panic and stunned by grief.

Less than a month later, on December 20, the original group of men and others made their official debut as the San Francisco Gay Men's Chorus. It was the first chorus in the world to openly and bravely identify itself as consisting of homosexual men.

For the first few years, the chorus primarily performed for audiences in its beloved home city of San Francisco. Then, in June 1981, it decided to undertake a pioneering effort with a national tour. The chorus performed across the country in Dallas, Minneapolis, Lincoln, Detroit, New York, Boston, Washington, and Seattle.

Over the years, the San Francisco Gay Men's Chorus has endured tremendous personal tragedy. More than 75 members of the chorus have died in recent years from AIDS. In an effort to help, the chorus has generously performed at numerous fundraising benefits for AIDS research and relief. Individual members of the chorus have also contributed to their community by volunteering as caregivers and service providers.

Mr. Speaker, in the decade since the landmark national tour, the San Francisco Gay Men's Chorus has brought happiness to many, hope and comfort to those in despair, and an understanding and brotherhood to men and women who have been shunned by society because of their individuality. The chorus' contributions and accomplishments are most noteworthy and I am honored to bring their achievements before the Congress.

CLEVELAND'S UNEMPLOYMENT CRISIS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. STOKES. Mr. Speaker, I rise today to bring to the attention of my colleagues a portion of a very interesting series of articles that were recently published in the Cleveland Plain Dealer. This series focuses on the plight of the unemployed in the Greater Cleveland area.

The Plain Dealer series provided an indepth examination of the unemployment crisis from a number of perspectives. This first section of the series takes a look at racial factors in getting a job, and the generally exhausting task finding a job can be.

I want to commend the Cleveland Plain Dealer for the publication of this very informative series. The various reporters who contributed to this work should also be commended.

Mr. Speaker, I hope my colleagues will take a moment to read this most interesting series.

[From the Cleveland Plain Dealer, May 15, 1991]

RACE IS A FACTOR IN JOB INTERVIEWS—BLACKS TREATED DIFFERENTLY, STUDY SAYS

(By Rodney Ferguson)

WASHINGTON—If you are young, black and interviewing for a job, you are less likely to be considered for it than your white counterpart—even if your qualifications are equal, according to a study released yesterday by the Urban Institute.

The report matched 476 pairs of young male job-seekers in Washington, D.C., and in Chicago—one black, one white—with virtually identical academic records, work experience and personality profiles. The candidates, the report said, were matched so closely that any difference in treatment "could only be attributable to race."

The candidates were sent to interview for the same job, chosen at random from classified advertisements in the Washington Post and Chicago Tribune.

The report concludes that when all factors except race are equal, the white candidate moved further along in the job process 20% of the time, while the black candidate moved further only 7% of the time.

The results confirm a suspicion many black people say is common knowledge in their communities, that a young white man is more often encouraged to submit an application, more successful in securing an interview, and more likely to be offered a job than a young black man is.

"I'm not the least bit surprised by these statistics," remarked Pauline Tarver, director of the Cleveland branch of the NAACP. She said 90% of complaints from people who fail to get a job or a promotion come from young black males.

Black job applicants were more likely to experience "negative comments, longer waits for scheduled appointments, and cursory interviews" than white applicants, the report says.

In one case, the white candidate was told a job was a "great prospect and offered great opportunity for future advancement." The interviewer was less encouraging with the black candidate, telling him the job involved "drudge work," and that "your supervisor will work your butt off."

The report, commented co-author Margery Turner, "contradicts the view that reverse discrimination is commonplace."

The report comes amid an intense lobbying effort by both business and civil rights groups over a federal civil rights bill. If it passes, the bill would overturn a half dozen Supreme Court decisions that made it more difficult for minorities to sue employers for discrimination.

President Bush vetoed a similar measure last year, and has stated his opposition to the "quotas" he says businesses would be forced to use to comply with the law. The House will consider the measure next week, and the Senate will look at it this summer.

Ralph Neas, executive director of the Leadership Conference on Civil Rights and an advocate of the bill, thinks the study may convince some undecided members that the civil rights bill is necessary "to overturn those disastrous Supreme Court decisions."

Women were not included in the study. Unemployment and wage rates for black women are traditionally fairly close to those of white women, experts say, which makes the problem of discrimination among black men even more acute.

That situation should prompt policy makers to take a hard look at the report, said Ronald B. Mincy of the Washington-based Urban Institute, and work "to give black children access to two earners . . . because their fathers are not working, and when they do work, they are working at low wages."

Unemployment rates for young black men are three times as high as for young white men, and black men get paid only two-thirds of what their white counterparts earn.

A similar Urban Institute study in 1989 found that the situation was even worse for Hispanics than for blacks. That study said whites were advanced in job interviews over Hispanics 31% of the time.

The results were most dismal for young black men who seek relatively high-paying jobs in sales and service. They were even less likely to be encouraged in their search for jobs that called for extensive contact with the public.

The study found that black applicants were treated worse in Washington than in Chicago. The study also concluded that black men were not more likely to face greater discrimination in the suburbs of Chicago or Washington that in the cities themselves.

The Urban Institute is a private, non-profit research group. The study was funded by the Rockefeller Foundation.

[From the Cleveland Plain Dealer, May 16, 1991]

CITY'S BLACK JOBLESS RATE HIGHEST IN UNITED STATES

(By Norman Parish and Michael Sangiacomo)

Cleveland had the highest unemployment rate for blacks and the second largest overall rate among the nation's big cities last year, according to U.S. Labor Department statistics.

One in five of the city's employable blacks (20.7%) and more than one in eight of all employable Clevelanders (13.8%) were unemployed in 1990. The city's 9% white unemployment rate, which ranked as the third worst in the national survey, was less than half of Cleveland's black unemployment rate, statistics show. In 1989, Cleveland also had the highest rate of black unemployment in the survey.

Cleveland Mayor Michael R. White hasn't seen the statistics, but the results did not surprise him.

"I walk the streets, I walk the neighborhoods, I see the results of unemployment," he said yesterday. "In one way or another, we all will pay for this problem, whether it's in welfare costs or having a man break into your home. We all pay sooner or later."

The annual survey examines the unemployment rates of 17 large U.S. cities, including 13 by race. About 60,000 households were sampled nationally for the survey. Because of the survey's sample size, there is an error range of plus or minus 5%, officials said.

The department's Bureau of Labor Statistics is scheduled to release a report on 1990 unemployment figures next month.

White said Cleveland businesses should take stock of their employees and see just how many Cleveland residents and minorities they have.

"We need a total commitment by businesses and the community to hire Clevelanders and minorities," he said, "It's better to have a person working for you on the inside than outside throwing rocks."

Cleveland's high unemployment rate among blacks has a significant impact because nearly half of the city's population is black.

The Labor Department's study shows that St. Louis had the second highest black unemployment rate, 18.9%; Chicago, third, 18.6%; Detroit, fourth, 16.1%; and Milwaukee, fifth, 17.5%.

Detroit's 16.1% overall unemployment rate was the highest in the country—more than double the national average of 5.5%.

Nationally the unemployment rate for blacks was 11.3%—twice the 4.7% unemployment rate for whites. Milwaukee had the largest disparity between white and black unemployment. While white unemployment in Milwaukee was among the survey's lowest at 2.8%, it was more than six times lower than the black unemployment rate.

"The large disparity between blacks and whites had to do with the large discrimination in the labor market," said Billy Tidwell, director of research at the National Urban League in Washington, D.C.

Experts blame the disparity between black and white unemployment on education, blatant racism, racial segregation or jobs being located outside the immediate reach of blacks.

At the same time, experts blame overall unemployment problems in Midwestern cities like Cleveland on a loss of manufacturing jobs in the 1970s and '80s and a work force that is unprepared for high-tech and service jobs that have emerged in recent years.

Cleveland NAACP Director Pauline Tarver was not surprised by the latest employment figures because she has seen an increase in the number of job discrimination complaints during the first four months of this year.

"We had 475 complaints in the early part of this year, but normally we have only 600 in a year." Tarver said. "Elected officials and business leaders need to see what we can do to address unemployment in the city, particularly as it relates to black males."

Kenneth Moore, labor market analyst for the Ohio Bureau of Employment Services in Columbus, says the high price of labor is another reason for high unemployment in Cleveland.

"We have lost a lot of jobs to the sun belt," Moore said, "Some of the factories in the Cleveland area are aging. It is a lot cheaper to build new factories than fix up the old ones, especially when you take into account that labor is cheaper in the South."

The effects on unemployment are wide-ranging, causing instant despair among those searching unsuccessfully for work to increasing costs to support the numerous safety nets of the newly unemployed, experts say.

Tidwell, who has done several studies on unemployment for the Urban League, said that unemployment, particularly in minority communities, actually was much higher than what national figures show. He said unemployment figures did not factor in "hidden unemployment," those who are unemployed but not counted by the system.

Government labor analysts count only those looking for jobs, not those who have dropped out of the job hunt and those who are underemployed because they have part-time jobs, Tidwell said.

Because of the undercount, Tidwell said, Cleveland's black unemployment rate could be 30% to 35%.

"That is depression-level unemployment," Tidwell said. "The numbers for (black) teens are probably even higher. Based on the adult figures, teen unemployment could be 50 to 70 percent."

High unemployment is not new in Cleveland. Last year, the city had the second-highest ranking overall unemployment rate, 12.8%, and the highest black unemployment rate, 21.6%. And for most of the 1980s, the city's black unemployment figures were near or surpassed 20%.

In 1982, the black unemployment rate peaked at 24.5%. Overall unemployment figures in other larger Ohio cities were considerably lower in 1990.

For example, the unemployment rate in Columbus was 4.5%; Dayton, 7.9%; Cincinnati, 5.2%; and Akron, 6.5%.

"The major reason for the unemployment difference (between Cleveland and the other Ohio cities) is the shift from manufacturing to service-producing industries," said Roger Fleming, assistant director of the labor market information division of the Ohio Bureau of Employment Services in Columbus.

Mayor White said there would be no solution until business, government and school leaders get together and address the problems.

"There is no magic wand to wave that will fix everything, and it's going to get worse before it gets better," he said. "We have allowed our educational system to be run by politics. When you have non-productive people in society, you have the problems with welfare, crime and law enforcement. We need to work on this together."

[From the Cleveland Plain Dealer, May 17, 1991]

FOR MANY, SEEKING EMPLOYMENT IS A JOB IN ITSELF

(By Michael Sangiacomo)

The unemployed sat stone-faced, staring straight ahead, silent. They didn't talk because it seemed pointless to burden each other with tales of similar pain.

Instead, they read the posters on the wall of the Ohio Bureau of Employment Services office on Euclid Ave., stared down at the thin, gray carpet, and waited.

Most looked sad. Too many had the vacant look of those who face too many lines, too many applications and too little hope.

They were among the 22,400 Cleveland unemployed, part of the mass that gave the city the distinction of having the highest black unemployment rate of 17 major U.S. cities and the second-highest unemployment rate overall.

Among them was Pierre Nappier. He was waiting to sort out a problem with a missing employment check, his mind racing about the events that led him there.

"I'm 49 years old," he said. "I have worked my entire life, my entire life. This is all new to me. I just want to work. I'm no good at being unemployed."

Unemployment can hit you like a heart attack, swift and unexpected. One minute you're working, and the next you're on the street with the pictures of your wife and kids torn from the wall. The place you once regarded as a part of your life has rejected you.

When Jackie Carter, 25, was laid off, it was a total shock. She never saw it coming. It was her first day back, from a five-month maternity leave. She walked into her office in the credit accounting department of a large downtown firm and was welcomed back by her colleagues. They happily chatted about her new baby, passed around photos.

"They put some candy on my desk," she recalled. "It was great to be back. You see, I really loved my job."

That day she sat down and was readjusting her desk and getting ready to begin work again. Her boss came over and said there was a layoff and she was among the casualties. Bang. She hadn't been back at work a half-hour.

Other times, unemployment creeps up slowly, like cancer. You get the hints, the warnings and then one day, it's over.

Nappier, an attendance officer at the Cleveland Job Counseling Center, said that in January there was a change in management. There was a lot of talk about coming changes in the operation. Seniority was wiped out, so his 17 years on the job now counted for nothing. After four weeks of living with the anxiety of not knowing who would be forced out, the bell tolled for him.

The ax fell, and he joined the ranks of the unemployed in Cleveland.

Nappier, Carter and the thousands of others who got the bad news now make frequent pilgrimages to the employment office with a single hope: getting back what they once had.

On this day, a Friday, several dozen people were in the building. Most people show up earlier in the week.

"It's rough, man," said Gregory Johnson, 31. "It's hard. People with jobs don't know what it's like being out here, day after day, trying to find work. I used to work at Azelrod Pontiac and I really liked it, but there was a change of administration there that left me out. I'd love to be back there again, parking cars, working a little bit in sales.

"I hear some people complaining about their jobs and it drives me crazy," he said. "I tell them to quit, give me their job. I don't care what it is. I'll take anything."

For the last week of April, 16,200 people were signed up for unemployment in the four Cleveland area bureaus. Those were the people on active unemployment, meaning they are still seeking a job and are compensated with weekly unemployment checks for 26 weeks. But Cleveland residents could have registered in other cities, and people from other cities could have registered here.

It's even tougher to determine the number of the city's hidden unemployed. Those are the people who have been out of work for so long they no longer receive unemployment compensation, and those who have stopped trying to find work. It's estimated there are 10% to 15% more people in that category than those signed up for employment compensation.

The statistics also can't measure the defeats, the disappointments and the icy fear of men and women who wonder how they will support their families.

Julius West, manager of the employment section of the Euclid Ave. office, said that in the last 11 months, the office found jobs for 2,100 people. He hopes to help 2,800 people get back on the job market by June but fears he will fall short of that goal.

"I come in and I see all the people waiting for help and I see it as a challenge," he said. "It fires me up. Then when I think about all the people we have helped find work, I'm elated.

"I think we've all come to realize that we can't help everyone," he said. "But we can help a few."

No one at the unemployment office was surprised that a U.S. Labor Department study showed Cleveland had the highest percentage of unemployed blacks among 17 large U.S. cities and the second-highest overall unemployment rate in 1989 and 1990.

"I know it," said Calvin Stanley, a 40-year-old Cleveland carpenter, who was in the unemployment office with his 10-month-old daughter Nephetiah. "It's bad out there. I've been laid off for two months. I go through the carpenters union for jobs and they said there are 225 carpenters out of work."

Stanley was the exception in the unemployment office. He stood out because he smiled and laughed as he played with his daughter. He didn't seem to carry the weight of worry on his shoulders. When asked why he didn't seem as crushed as the others, he smiled and said, "It's in God's hands."

For those who have not succumbed to despair, or, as one man put it "surrendered to the lure of making money illegally through drugs and crime," living with unemployment is a daily struggle.

Roy Holt, 37, has been "out there" for a little more than a year since his job buffing floors ended with the Lubrizol Co., of Euclid, an office-cleaning company.

It showed on his face. He has lost count of the number of jobs he has tried for and the number of times he was told, "We'll call you."

"Every week I look through the want ads in the Sunday paper, that's the big day," he said. "I look for almost anything that I can handle—truck driver, floor waxer, furniture refinisher—anything. I gave up being choosy a long time ago.

"Then early Monday morning I call them and try to set up interviews," he said "It's always the same. I go in and they are very nice. I fill out an application and ask about an interview. They say they'll call. They never do."

Holt sighed, looked around the employment office at the other people waiting.

"I don't know," he said. "It's very depressing. It takes a lot just to keep your head up and keep trying. Nowadays, I don't even expect a job anymore. I keep trying just to keep myself going. I just wish they wouldn't lie to me."

The people interviewed that day at the unemployment office didn't feel they were being singled out for joblessness because they were black, white, male or female. They blamed the state of the economy. They said the general economy of the nation caused plants to close up and lay off people.

"I was making boxes that are used for gift boxes by people like the May Co. and Higbee's," said Pamela Goldy, 26. "I was very good at operating the machine at the Color Tech Coating and Finishing Co. I was sick for a while. When I returned, I was laid off because they had to cut back. I was good at making boxes, there aren't many other places around where they make boxes."

Her wound is fresh. She was laid off last week.

Jackie Carter, the woman who was laid off the day she returned from maternity leave, was not upset with her former employers. She didn't even want to name them for fear they would be embarrassed.

Carter said if she didn't get a job offer soon, she planned to take her two young children and move.

"We moved to Cleveland in 1987 because the job opportunities were better," she said. "I grew up in Cuyahoga Falls. Now we hear that Atlanta has a lot of opportunities for blacks, so does Washington, D.C. and Baltimore."

Several others also talked about leaving the city for other places where they can get a job, any job as long as it pays a living wage.

"I'm ready for anything," said Johnson, "I think you've got to keep showing that you are ready and willing to work and keep trying. Stay with it, don't give up, and something's got to come your way."

POSTMASTER HAL HEMMINGSEN, GLENDALE, CA

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. MOORHEAD. Mr. Speaker, I take this opportunity to acknowledge before my colleagues in the House of Representatives an exemplary citizen and civil servant, postmaster Hal Hemmingsen of Glendale, CA. Mr. Hemmingsen has served the Glendale community with unwavering dedication, loyalty, and professionalism for 30 years both in his official position with U.S. Postal Service and in his volunteer activities.

Appointed acting postmaster of Glendale on July 7, 1961, Hal was named to the position permanently on June 8, 1963, by President John F. Kennedy, one of the last postmasters commissioned during his Presidency. Kennedy also selected Hal as one of 15 Postal Service representatives to the Federal Executive Board. Hal served for 8 years heading the Board's Management Improvement Center.

Under his leadership the Glendale Post Office has served 190,000 residents at 90,000 delivery points. Last year it had total revenues of $28 million, total expenses of $16 million, and an employee complement of 400. Hal considers the construction of two Glendale post offices during his tenure among his most important accomplishments.

In addition to his formal postal duties, Hal has served as a president of the National Association of Postmasters and as an editor of its publication the Postmasters Gazette. He recently received a national award from the Postmaster General, Anthony M. Frank, for his role in speaking to numerous local community organizations about the U.S. Postal Service and its programs.

Active in community affairs, Hal has contributed his time and leadership skills serving as chairman of the Glendale Community Chest Board in 1963–64; chairman, Glendale Community United Way Board in 1965–66; chairman of the 1968 Verdugo Hills area United Crusade; and chairman, Verdugo Hills United Way Board, 1969–70. He is a past commander and honorary life member of American Legion Post 127.

Cognizant of others' needs, Hal founded the Glendale Committee To Recognize Vietnam Veterans which sponsored an all-day festival at Verdugo Park to honor Vietnam veterans and their families.

I, and other members of the Glendale community, value Hal's contributions. The Glendale Board of Realtors recognized Hal for his outstanding community activities with its first Community Service award in 1971. In 1975, he received the Glendale Chamber of Commerce's Recognition Award for Distinguished Service to the City of Glendale.

Residents of the Glendale area continue to benefit from postmaster Hemmingsen's service endeavors. Currently Hal is president of the advisory board of the Positive Directions Activity Center; president, Jewel City 29 Toastmasters Club; and president, Glendale Committee to Recognize Veterans. He also is a member of the Optimist Club of Glendale, Glendale Business & Professional Women's Club, Kiwanis Club of Glendale, and Sister City.

It is my great pleasure to commend postmaster Hal Hemmingsen for his years of outstanding service and to wish him all the best in the years ahead.

CAPTIVE NATIONS WEEK

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. McGRATH. Mr. Speaker, I rise in recognition of this country's 33d year of commemorating Captive Nations Week, which arrives as the Baltic States of Estonia, Latvia, and Lithuania are still struggling for a peaceful solution to end more than half a century of Soviet military occupation.

Twenty-six million U.S. citizens trace their heritage to one of these countries considered captive nations. Among these people, Baltic-Americans along with their relatives abroad, have rejoiced as the countries of Eastern Europe are breaking free from Communist rule. Unfortunately, the Soviet Union has been reluctant to release their hold on the Baltic States. Hence, Estonia, Latvia, and Lithuania, remain on the list of captive nations.

The Baltic countries became captive nations as a direct result of the 1939 Molotov-Ribbentrop Pact signed by Hitler's Nazi Germany and Stalin's Communist Soviet Union. Through this pact, Hitler and Stalin divided Eastern Europe into spheres of influence. The Soviet Union has attempted to hold the Baltic States captive ever since. Despite numerous attempts to erase the memory of independence from the minds of Baltic citizens, the Soviet Union has been unable to crush the invincible Baltic spirit. Estonians, Latvians, and Lithuanians are well aware of the Soviet's illegal occupation of their homeland and yearn for freedom from Soviet Communist domination.

Although the Baltic nations have taken great strides forward in their struggle for independence, the events of the last year and a half illustrate the unwillingness of the Soviet Union to fully release these captive nations. The Soviet Union is reluctant to acknowledge the independence of the Baltics and has reacted with repeated military intimidation and economic boycotts. Despite such hardships, the people of Estonia, Latvia, and Lithuania have not given up the hope for complete freedom and their parliamentary leaders are currently undergoing negotiations with Soviet leaders to coordinate economic relations based on free trade.

It is important that the United States gives its full support to peoples seeking self-determination. I would like to take this occasion of Captive Nations Week to make clear to my colleagues the difficult road to freedom that still remains for the people of the Baltic States.

A TRIBUTE TO JUSTICE MICHAEL DILLON

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. NOWAK. Mr. Speaker, last week, citizens in western New York were saddened by the death of State supreme court justice, Michael F. Dillon, a distinguished and valued public servant. His career spanned more than three decades, starting in 1958 as corporation counsel for his native city of Lackawanna.

For 10 years, he was the district attorney of Erie County. I was privileged in 1964 to serve as an assistant district attorney under his administration. In 1973, he was elected a justice of the New York State Supreme Court and subsequently was designated presiding justice of the appellate division, fourth department, a position he held at his death.

A gregarious, energetic man who liked meeting the public as well as serving the public, Mike Dillon set a sterling example by his dedication and hard work. He will not only be missed by the judicial system but also by our community as someone who served broadly, even after his ascendancy to the bench. He possessed enormous talent and personality and his dedication to his family and contributions to western New York will long be remembered and admired. Following is a page 1 article from the July 10, Buffalo News, detailing his career:

JUSTICE DILLON DIES FOLLOWING HEART ATTACK

(By Anthony Cardinale)

Justice Michael F. Dillon, presiding justice of the Appellate Division of State Supreme Court in Rochester, suffered a fatal heart attack Tuesday evening while giving a speech in Albany.

Dillon, 64, a former Erie County district attorney, was speaking at a retirement dinner for State Criminal Justice Coordinator John Poklemba in the Holiday Inn Turf. He was taken to Albany Memorial Hospital about 10:30 p.m. and was pronounced dead there.

"He had a heart attack while making a speech in Albany and has passed away," said his brother, John Dillon.

Dillon, a Democrat, was re-elected without opposition in 1987 to another 14-year term in the Appellate Division, 4th Department. The Orchard Park resident had been nominated at separate conventions by the Democratic, Republican, Conservative and Liberal parties.

At the time, Chief Justice Sol Wachtler said he considered Dillon a worthy choice for advancement to the Court of Appeals, the state's highest tribunal. A tough prosecutor and attractive candidate, Dillon enthralled voters and captured the imagination of political kingmakers throughout his stellar career.

Dillon got his first taste of public office as corporation counsel and acting city judge in his native Lackawanna. He was elected district attorney after a whirlwind campaign in 1963, becoming the first Democrat to win that office in three decades. He was re-elected in 1965 and 1969.

Dillon ran unsuccessfully for Erie County executive in 1967.

At a testimonial dinner for Dillon in 1973 in the Hearthstone Manor in Depew, then-Democratic State Chairman Joseph F. Crangle told the nearly 2,000 in attendance that Dillon was a strong contender for the party's endorsement to run in 1974 against Gov. Nelson Rockefeller.

Instead, Dillon found himself elevated to the bench the following year.

In 1973, Dillon became the first candidate ever to be endorsed by the Democratic and Republican parties for re-election as district attorney. But he declined the endorsements and ran for State Supreme Court with the backing of the Democratic, Republican, Conservative and Liberal parties.

He was named an associate justice of the Appellate Division, 4th Department, in 1975 by Gov. Hugh L. Carey to replace the late Walter J. Mahoney. Carey elevated Dillon to presiding justice in 1979.

Dillon's son, Kevin, is now Erie County district attorney.

During his decade as district attorney, Michael Dillon made a reputation for himself by raising the conviction rate and launching investigations against "goldbricking and no-show jobs" in City Hall and against drunken drivers. He also strengthened the office's appeal work.

The son of an Erie Railroad boilermaker, Dillon attended Our Lady of Victory School and Lackawanna High School. During his senior year he worked full time on the 3-to-11 shift at the Bliss & Laughlin Steel Co. in South Buffalo.

He enlisted in the Navy and served in the Pacific Theater in World War II. Upon his return home he attended Canisius College and earned a law degree from the University of Buffalo in 1951. While attending college and law school, he worked nights in the open hearth operation at Bethlehem Steel Corp. in Lackawanna.

Before entering politics, he practiced law with his two brothers, John and William, in the law firm Dillon, Dillon, Dillon & Burke.

Dillon was elected vice president of the Federation of New York State Judges in 1987.

Survivors include his wife, Elaine; four other sons, Patrick, Michael, John and Daniel and two daughters, Doreen and Moira.

SALUTE TO SAMM PINN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, I rise today to give my salutations to Mr. Samm Pinn, lifelong resident of Bedford Stuyvesant, educator, scholar, social and political activist. Over the years Sam Pinn has received numerous awards in recognition for his outstanding contributions in community service, community development and the constant struggle for justice and liberation of African American people.

Samm is the founder and current chairman of the Ft. Greene Senior Citizens Council, Inc., past chairman of Independent Brooklyn CORE, and a founding member of the Randolp Evans Crisis and Scholarship Fund. Mr. Pinn's achievements are a result of years of arduous study. He holds a bachelor of arts degree from Morgan State, a masters in social work degree from Rutgers University and an honorary doctor of law degree from Mary Holmes College. In the course of devoting his life to enlightening others he has been a professor of social science and codirector of the Institute of African American Studies at Ramapo College of New Jersey for the past 18 years.

He is currently the host and producer of "The Grand Ones," a program aired on WYNE that allows senior citizens the time to express their views and concerns on various topics of interest. He has also produced and hosted "Jazz at 966," a Friday night jazz series filmed in downtown Brooklyn, NY. Samm attributes writing to the list of his many talents. He has written articles published by the City Sun, a newspaper dedicated to addressing the concerns of the African American community and is currently writing a book on politics.

I ask my colleagues to join me in commending Samm Pinn. His strong devotion to his community and educating generations has demonstrated his personal greatness as well as his creativity and selflessness.

THE SMALL BUSINESS ECONOM- IC OPPORTUNITY ACT OF 1991

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. ANDREWS of Maine. Mr. Speaker, this Nation faces a crisis. Small businesses and entrepreneurs cannot obtain the seed money they need to get their ideas from the drawing board to the finished product. They have difficulty maintaining or expanding their businesses. The recession has further worsened the flow of funds.

In my State of Maine for example, a coastal businessman told me he had to go to 20 banks before he could get a loan. Several owners of family businesses with good credit records spanning generations have had their lines of credit cut off. It seems everyone from Maine and throughout the rest of New England has a horror story to tell.

Mr Speaker I am pleased to introduce today the Small Business Economic Opportunity Act of 1991, which amends section 7 of the Small Business Act with a new demonstration loan program. This program will assist entrepreneurs who have promising plans for starting or maintaining successful businesses but who have particular difficulties in getting those plans off of the ground. The health and vitality of small business is essential for future economic growth. Monetary assistance in the form of "microloans" is one way to foster that health and vitality.

As a member of the Small Business Committee, I am very aware of the problems of credit availability in New England and the Nation, after participating in four credit crunch hearings in Washington, Boston, and my district of Maine. The credit crunch is real. It is affecting several small businesses. And, in rural States like Maine, whose economic base consists primarily of small businesses with less than 20 employees, my constituents have suffered from the unavailability of credit due to economic downturns.

Access to capital at both the public and private levels is limited. Traditionally, banks are adverse to providing small loans to individuals seeking to start small businesses, due to administrative costs in providing assistance, as well as the processing and servicing costs of loans. The risk involved in starting a new business places additional limits on a small business or entrepreneur attaining a loan.

This must change. Small businesses are getting a double hit: a recession and a credit crunch. A double remedy is needed: available credit and capital. The Small Business Economic Opportunity Act of 1991 will assist entrepreneurs by providing both credit and capital to cover initial business expenses through microloans. In addition, providing individuals with intensive marketing, management, and technical assistance will enable microentrepreneurs to develop and maintain small businesses. Management and technical support will help reduce the risk of loan defaults.

Although there are a variety of good loan programs such as the Small Business Administration's 7(a) loan program, none currently exist in the microloan category. Several private, nonprofit community development corporations throughout the Nation have experience in microlending to women, minority, and low-income individuals. They have targeted and worked with microenterprises in the past. They are also capable of supplying technical and managerial assistance. Because of their expertise, private, nonprofit community development corporations are best suited to handle the microloan demonstration program.

The current economic condition is more than a matter of economics. It is a matter of quality of life for present and potential owners of small businesses throughout our Nation. Microloaning is targeted to individuals who are closed out of traditional financial markets. It therefore fosters job creation and enables people to play a more active role within their local economy. As a result, individuals become more self-sufficient, and are better prepared to enter more traditional financial markets in the future.

Small business is the nest egg of our Nation's future prosperity. We've got to nurture and support it. And if we do, it will pay us back many times over in the future.

I insert a copy of this bill in the RECORD:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Economic Opportunity Enhancement Act of 1991".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE; PROGRAM DESCRIPTION.

(a) FINDINGS.—The Congress finds that—

(1) nationwide, there are many individuals who possess skills that, with certain short-term assistance, could enable them to become successfully self-employed;

(2) many of these individuals are currently receiving public assistance through programs such as unemployment insurance, welfare, or aid for dependent children;

(3) many more talented and skilled individuals who are employed in low-wage occupations could, with sufficient opportunity, start their own small business concerns, which could provide them with an improved standard of living;

(4) most such individuals have little or no savings, and no access to capital with which to start a business venture;

(5) providing such individuals with small-scale, short-term financial assistance in the form of microloans, together with intensive marketing, management, and technical assistance, could enable them to start or maintain small businesses and to become self-sufficient and taxpaying citizens;

(6) banking institutions are adverse to providing such assistance because of the administrative costs associated with processing and servicing the loans and because they lack experience in providing the type of marketing, management, and technical assistance needed by such borrowers;

(7) in light of the Federal budget deficit, it would be impractical for the Federal Government to provide small-scale loans and technical assistance directly to small business concerns; and

(8) loans from the Federal Government to intermediaries for the purpose of relending to startup, newly established, and growing small business concerns is the most efficient and effective method of providing microloans.

(b) PURPOSE.—The purposes of this Act are—

(1) to assist women, low-income, and minority entrepreneurs and business owners possessing the capability to operate successful business concerns;

(2) to assist small business concerns in those areas suffering from a lack of credit due to economic downturns; and

(3) to establish a microloan demonstration program to be administered by the Small Business Administration—

(A) to make loans to eligible intermediaries to enable such intermediaries to provide small-scale loans to startup, newly established, or growing small business concerns for working capital or the acquisition of materials, supplies, or equipment;

(B) to make grants to eligible intermediaries that, together with non-Federal matching funds, will enable such intermediaries to provide intensive marketing, management, and technical assistance to microloan borrowers; and

(C) to report to the Committees on Small Business of the Senate and the House of Representatives on the effectiveness of the microloan program and the advisability and feasibility of implementing such a program nationwide.

SEC. 3. ESTABLISHMENT OF MICROLOAN DEMONSTRATION PROGRAM.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end the following new subsection:

"(m) MICROLOAN DEMONSTRATION PROGRAM.—

"(1) ESTABLISHMENT.—There is established a microloan demonstration program, under which the Administration may—

"(A) make direct loans to eligible intermediaries, as provided under paragraph (3), for the purpose of making short-term microloans to startup, newly established, and growing small business concerns under paragraph (5); and

"(B) in conjunction with such loans and subject to the requirements of paragraph (3), make grants to such intermediaries for the purpose of providing intensive marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(2) ELIGIBILITY FOR PARTICIPATION.—An intermediary shall be eligible for participation in the program established under paragraph (1) if it—

"(A) meets the definition in paragraph (9); and

"(B) has at least 1 year of experience making microloans to startup, newly established, or growing small business concerns and providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers.

"(3) LOANS TO INTERMEDIARIES.—

"(A) INTERMEDIARY APPLICATIONS.—As part of its application for a loan, each intermediary shall submit a description to the Administration of—

"(i) the type of businesses to be assisted;

"(ii) the size and range of loans to be made;

"(iii) the geographic area to be served and its economic and unemployment characteristics;

"(iv) the status of small business concerns in the area to be served and an analysis of their credit and technical assistance needs;

"(v) any marketing, management, and technical assistance to be provided in connection with a loan made under this subsection;

"(vi) the local economic credit markets, including the costs associated with obtaining credit locally;

"(vii) the qualifications of the applicant to carry out the purpose of this subsection; and

"(viii) any plan to involve private sector lenders in assisting selected small business concerns.

"(B) INTERMEDIARY CONTRIBUTION.—As a condition of any loan made to an intermediary under paragraph (1), the Administration shall require the intermediary to contribute not less than 15 percent of the loan amount in cash from non-Federal sources. Such contributions shall be used by the intermediary as a reserve for any loan default.

"(C) LOAN LIMITS.—Notwithstanding subsection (a)(3), no loan shall be made under this subsection if the total amount outstanding and committed to one intermediary (excluding outstanding grants) from the business loan and investment fund established by this Act would, as a result of such loan, exceed $750,000 in the first year of such intermediary's participation in the program, and $1,250,000 in the remaining years of the intermediary's participation in the demonstration program.

"(D) LOAN DURATION.—Loans made by the Administration under this subsection shall be for a term of 20 years and at an annual interest rate of 4.5 percent.

"(E) DELAYED PAYMENTS.—The Administration shall not require repayment of interest or principal of a loan made to an intermediary under this subsection during the first year of the loan.

"(F) FEES; COLLATERAL.—Except as provided in subparagraph (A), the Administration shall not charge any fees or require collateral other than an assignment of the notes receivable of the microloans with respect to any loan made to an intermediary under this subsection.

"(4) MARKETING, MANAGEMENT, AND TECHNICAL ASSISTANCE GRANTS TO INTERMEDIARIES.—

"(A) GRANT AMOUNTS.—Subject to the requirements of subparagraph (B), each intermediary that receives a loan under paragraph (1) shall be eligible to receive a grant of not more than 20 percent of the loan amount to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(B) CONTRIBUTION.—As a condition of any grant made under subparagraph (A), the Administration shall require the intermediary to contribute an amount equal to not less than one-half of the amount of the grant, obtained solely from non-Federal sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-Federal programs.

"(5) LOANS TO SMALL BUSINESS CONCERNS FROM ELIGIBLE INTERMEDIARIES.—

"(A) IN GENERAL.—An eligible intermediary shall make short-term, fixed rate loans to startup, newly established, and growing small business concerns from the funds made available to it under paragraph (1) for working capital and the acquisition of materials, supplies, furniture, fixtures, and equipment.

"(B) PORTFOLIO REQUIREMENT.—To the extent practicable, each intermediary that operates a microloan program under this subsection shall maintain a microloan portfolio with an average loan size of not more than $10,000.

"(C) INTEREST LIMIT.—Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall be not more than 4 percentage points above the prime lending rate, as identified by the Administration and published in the Federal Register on a quarterly basis.

"(D) REVIEW RESTRICTION.—The Administration shall not review individual microloans made by intermediaries prior to approval.

"(6) PROGRAM FUNDING.—

"(A) The Administration is authorized to fund, on a competitive basis, not more than 30 microloan programs, including not less than 1 program to be located in each of the following States: Arkansas, Illinois, Iowa, Maine, Minnesota, New York, North Carolina, and South Carolina.

"(B) STATE LIMITATIONS.—In no case shall a State-

"(i) be awarded more than 2 microloan programs in any year of the demonstration program;

"(ii) receive more than $1,000,000 to fund such programs in such State's first year of participation; or

"(iii) receive more than $1,500,000 to fund such programs in any succeeding year of such State's participation.

"(7) RURAL ASSISTANCE.—In funding microloan programs, the Administration shall ensure that at least one-half of the programs funded under this subsection will provide microloans to small business concerns located in rural areas.

"(8) REPORTS TO THE CONGRESS.—

"(A) ANNUAL REPORTS.—On March 31, 1992, and March 31 of each ensuing year thorugh 1994, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a report on the implementation of the microloan demonstration program that includes—

"(i) the numbers and locations of the intermediaries funded to conduct microloan programs;

"(ii) the amounts of each loan and each grant to intermediaries;

"(iii) a description of the matching contributions of each intermediary;

"(iv) the numbers and amounts of microloans made by the intermediaries to small business concern borrowers;

"(v) the repayment history of each intermediary;

"(vi) a description of the loan portfolio of each intermediary including the extent to which it provides microloans to small business concerns in rural areas;

"(vii) a summary of the effectiveness of the demonstration program; and

"(viii) any recommendations for legislative changes that would improve its operations.

"(B) INTERIM REPORT.—On November 1, 1995, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives an interim cumulative report including the Administration's evaluation of the effectiveness of the first 3½ years of the microloan demonstration program with respect to the factors set forth in subparagraph (A) and the Administration's views on the advisability of extending the program beyond the 5-year demonstration period.

"(C) FINAL REPORT.—On Janury 31, 1997, the Administration shall submit to the Committees on Small Business of the Senate and the House of Representatives a final report evaluating the microloan demonstration program with respect to the factors set forth in subparagraph (A), and providing a final accounting of the Federal and non-Federal funding of the program.

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'intermediary' means a private nonprofit entity or a nonprofit community development corporation that seeks to borrow or has borrowed funds from the Small Business Administration to make microloans to small business concerns under this subsection;

"(B) the term "microloan' means a short-term loan of not more than $25,000, made by an intermediary to a startup, newly established, or growing small business concern;

"(C) the term 'rural community' means any political subdivision or unincorporated area—

"(i) in a nonmetropolitan county (as defined by the Secretary of Agriculture) or its equivalent thereof; or

"(ii) in a metropolitan county or its equivalent that has a resident population of less than 20,000 if the Small Business Administration has determined such political subdivision or area to be rural.".

SEC. 4. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Small Business Administration shall promulgate interim final regulations to implement the amendment made by section 3.

SEC. 5. PROGRAM TERMINATION.

The demonstration program established by the amendment made in section 3 shall terminate 5 years after the date of enactment of this Act.

SEC. 6. PROGRAM FUNDING AND REPAYMENT OF LOANS.

Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) in paragraph (1), by striking "and 7(c)(2)" and inserting "(7)(c)(2) and 7(m)"; and

(2) in paragraph (2), by striking "and 8(a)" and inserting "7(m), and 8(a)".

THE GREAT GLOBAL DEBTOR

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. OXLEY. Mr. Speaker, I commend to all Members the article below by Robert J. Samuelson, noted columnist and respect economist. His article is food for thought on the raging debate on the United States as a debtor nation.

THE "GREAT GLOBAL DEBTOR"

(By Robert J. Samuelson)

The idea that the United States is the "world's biggest debtor nation" is a legacy of the 1980s. The phrase has become a staple of commentators and politicians everywhere, who automatically include it among the alleged sins of the past decade. And recently, the Commerce Department put the matter in numbers. It reported that the United States' "net international investment position" was a minus $412 billion in 1990. Strictly speaking, this means we owed foreigners that much more than they owed us.

Don't worry about it.

There are plenty of genuine economic problems without inventing artificial ones. The image of Uncle Sam as a giant globaldebtor implies that, like Mexico or Argentina, we have gone massively in hock with the rest of the world and are at the mercy of our overseas creditors. It just isn't true. Our future prosperity hasn't become hostage to foreigners. It still depends mostly on what we Americans do here at home.

Let's see why. Consider this column as an exercise in economic literacy. Every so often, it's worth inspecting our cliches to see what, if anything, they mean. Ask basic questions about our being a global debtor and you discover that it's less menacing—and more complicated—than is commonly supposed.

Are we really going the way of Brazil and other overborrowed developing countries?

No. The analogies are alarmist. Our debt differs from theirs in three important ways. First is the size. What counts—for people, companies and countries—is the relation between debt and annual income (for countries, gross national product) or wealth. In 1989, Mexico's foreign debt was $96 billion, or 51 percent of its GNP. Argentina's debt was $65 billion, or 120 percent of GNP. Sure our debt is bigger, but so is our GNP. In 1990, our foreign debt equaled 7.5 percent of our GNP of $5.465 trillion.

A second difference is that our debt is in our currency; we owe dollars to foreigners. The overseas debts of most developing countries are also in dollars, but they have to earn those dollars by exporting. In theory, we could repay our overseas debts by printing more dollars. Inflating our way out of debt would be stupid; it would damage our economy. But the possibility shows that we're not at the mercy of foreign creditors.

Finally, our debt is not really a "debt" in the sense, for example, of a home mortgage. In 1990, Americans (companies and individuals) owned $1.764 trillion worth of assets abroad—plants, bonds, stocks and real estate. Meanwhile, foreigners owned $2.176 trillion of assets in the United States. It's the difference between these two figures ($412 billion) that's commonly referred to as our overseas debt. And it's getting worse. In 1982, we actually had a positive "net international investment position" of $364 billion. But you have to remember that today's negative number is not a loan that has to be repaid.

Well, doesn't the shift from creditor to debtor mean the U.S. economy has grown weaker?

Yes and no. Clearly, the balance of global economic power has shifted. The United States has lost its huge dominance. In the 1960s and 1970s, most Japanese companies weren't competitive enough to build U.S. plants. The Japanese weren't rich enough to buy many U.S. securities. Some Europeans had big U.S. investments, but the main overseas investors were American. Now that's changed.

But foreign investment in the United States isn't a sign of weakness. Why should foreigners build plants in a collapsing economy? Why would they buy its stocks and bonds? The surge of foreign investment here in the 1980s occurred mainly for three reasons: the lifting of restrictions in Japan and other countries against investing abroad; high U.S. interest rates, which made dollar bonds attractive; and a strong economy with low inflation.

Won't foreigners buy up the country, then?

Don't hold your breath. Every red-blooded American gets itchy about the growing foreign presence, and the $2.2 trillion total seems huge. But America is also huge. The Commerce Department estimates the value of all "tangible wealth" (excluding land) at $24.7 trillion: $8.8 trillion of business buildings and equipment, $11.1 trillion of housing and consumer goods (cars, appliances) and $4.8 trillion of government property. Land values probably add $4 trillion. Yes, foreigners own a whopping $231 billion of U.S. corporate stocks—more than 10 percent of their overall U.S. stake. But the figure is dwarfed by the total value of all U.S. stocks, about $4 trillion.

Won't paying interest and dividends abroad impoverish us?

Not really. Sending foreigners dollars won't much affect U.S. living standards unless foreigners spend the dollars to buy U.S. exports and services—and that might actually stimulate the economy. It's possible that foreigners might not spend the dollars in the United States, because the dollar is the main global currency used for buying and investing around the world. If they don't want to keep the dollars, they sell them for other currencies (the German mark, for instance). The dollar's exchange rate falls, making U.S. exports more competitive and imports here more expensive. Our exports rise, and dollars are repaid to us.

Consider this example: The U.S. overseas debt is $500 billion; foreigners earn a 10 percent return, or $50 billion annually; they don't want to keep any of their earnings in dollars. We could service this debt with a trade surplus of $50 billion, about 1 percent of GNP. That's hardly crushing. (Indeed, the hugh U.S. trade deficits of the 1980s reflected the mirror image of this phenomenon. The foreign demand to invest in the United States and to buy dollar securities raised the dollar's exchange rate and depressed U.S. exports.)

The message here is simple. We need to worry about the right economic problems, and being a global debtor isn't yet one of them. What matters are old-fashioned things: the productivity of U.S. firms and workers; maintaining low inflation (if we don't, foreigners will dump dollars). These will shape future living standards and prosperity.

People may still rant and rave about the evils of our being a great global debtor. But now you know something they don't: It's mostly sound and fury.

TECHNICAL EDUCATION AND TRAINING ACT OF 1991

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. PRICE. Mr. Speaker, I rise today to introduce the Technical Education and Training Act of 1991. This legislation will substantially upgrade our educational and training efforts in science, mathematics, and technology, to ensure that our work force has the skills to remain competitive in the global economy.

Our Nation's deficiencies in work force training are shutting the doors of opportunity on thousands of our citizens and sapping our competitiveness. Good workers in my State face unnecessary hardship because their skills have not kept pace with technological change. Plants have closed in rural areas because workers lack needed skills and there is no way for them to acquire these skills. And high technology businesses in the Research Triangle Park complain about the jobs that remain unfilled because of the lack of skilled workers. We are failing our Nation's citizens and sacrificing our economic future if we do not confront the needs of our work force directly.

My legislation would address this challenge headon by directing the National Science Foundation to develop a competitive grants program for associate degree colleges to provide technical training and education in advanced technology fields. Awardees would be expected to develop and disseminate model instructional programs, enter into innovative partnerships with the private sector and government agencies, improve faculty competence in advanced technology fields, and upgrade instructional laboratory equipment.

The bill also would establish 10 National Centers of Technical Education and Training. Five would be associate degree granting colleges with exceptional advanced technical training programs, while five would be institutions excelling in science and math education. The idea would be not only to upgrade these 10 institutions, but to use them as clearinghouses for institutions across the country which are trying to improve their education and training programs.

This bill takes advantage of the fact that community colleges in many States are already actively involved in training programs. Federal assistance in taking these programs to new levels of excellence and effectiveness, and then disseminating the models and methods across the country, would be a wise investment. Furthermore, the National Science Foundation's traditional role in improving education, especially in advanced technology fields, makes their participation in this kind of training and education development particularly appropriate.

I am glad to be joined by a distinguished group of original cosponsors including the chairman of the House Science and Technology Committee, GEORGE BROWN.

I look forward to working with him and other Members on this legislation. I invite colleagues to join me in sponsoring this bill. I believe it is legislation that is vital to the future prosperity of this Nation.

JEROD C. STEPHENSON: 1990–91 MINNESOTA VFW VOICE OF DEMOCRACY WINNER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. VENTO. Mr. Speaker, every year, the Veterans of Foreign Wars sponsors its Voice of Democracy Scholarship Program, which encourages high school students from across the Nation to write essays expressing their thoughts about America and about what democracy means to them.

I am pleased to announce that Jerod Carl Stephenson of St. Paul, MN, has been chosen as Minnesota's winner in this year's VFW contest. Jerod is the son of William and Francine Stephenson. He recently graduated from Como Park High School in St. Paul and is looking forward to going on to college and pursuing a career in broadcasting and journalism.

Jerod's essay demonstrates a keen appreciation of our Nation's history and the legacy of millions of immigrants from around the world who came here to build a better life for themselves and their descendants. I want to congratulate Jerod and all of the other winners of this year's contest for their thoughtful and insightful essays.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Jerod C. Stephenson, Minnesota winner, 1990/91 VFW Voice of Democracy Scholarship Program)

I've been trying to write this speech for the past hour, the speech on Democracy—The Vanguard of Freedom, but nothing seems to sound right. I need to take a break.

So I walk over to my bedroom window and look outside. I see a tree. The tree that looks as if it's been standing forever. The tree that towers above all others around it. That tree started from one small seed, and reached upward and outward and strove for survival.

Much like that seed a few unhappy English people decided to plant themselves in a new land. They set up their communities and strove to survive. They soon grew, and reached outward on the new land.

Those settlers, our forefathers, knew that there was something missing. They didn't have the freedom that they deserved on the land that they had made flourish. So they decided to start their own country. Feeling that their freedom would not come until they were able to govern themselves, they revolted against England, and after many battles and lost lives, they won what they had so strongly believed in. They had obtained their freedom.

To ensure this freedom would be kept alive for future generations, they began to build their government as a democracy, the precursor to freedom. The seed had sprouted.

I broke away from my daydream long enough to study the tree more closely. I noticed on the ground around the tree thick roots. These roots support the tree and make it to continue to grow for years to come.

Once again this reminds me of the United States and its history. Our forefathers knew that this country had needed something to build upon, as a set of rules to keep order and freedom spreading throughout the land. So they sat down and decided to draw these guidelines. What came about is what some have called the greatest document ever written, the Constitution. The roots have taken hold.

I was brought back from my dream by a strong wind. The wind whisked by, but didn't even disturb the tree. It was then I noticed the strong base of the tree. It had kept the tree unscathed from the wind. The base, the protection against a down fall, such as our government.

In our democracy, everyone has a voice in the government. And to utilize this, the people elect representatives for their voice. This is to help our country flourish and stand tall, much the same as the base of that tree.

Another of our country's strengths is the immigrants that come to the United States every year. We welcome these immigrants with open arms, and these immigrants have brought us such people as Albert Einstein and Irving Berlin. Such immigrants have made this country great and strong.

Above the base of the tree, the tree begins to spread out into many branches. This is to provide shelter for the rest of the tree below. It reminds me of the way our government branches out to protect our freedom and right as a nation to govern ourselves as a democracy.

On the tips of those branches are buds straining to open. After much hard work, the bud opens and blooms into a wonderful fruit. The buds are like the American citizens straining to and achieving freedom, and enjoying the fruits of their labor.

I notice that all around the tree many seedlings were starting to grow. The larger tree sheltering the smaller ones, and helping the smaller ones flourish, much the same way the larger tree had.

With this thought a smile spread across my faced and a knot rose in my throat. For our great country is exactly the same as that prestigous tree outside my window. For our country will always stand up and protect the weaker countries that fight for their freedom. That tree stands for what democracy means to me. To have my freedom. I turned from my window and grabbed my pen. I began to write as a tear ran down my cheek, and pride burst in my heart.

$80 BILLION TO DO NOTHING

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. ANNUNZIO. Mr. Speaker, last week Treasury Secretary Nicholas Brady, who chairs the Resolution Trust Corporation Oversight Board, came before the Banking Committee seeking another $80 billion to cover the losses from the S&L crisis. Moreover, the Secretary requested that the RTC's borrowing limit be raised from $125 billion to $160 billion—an increase of $35 billion.

It is incredible that the RTC should ask for additional funds when the RTC is not utilizing the funds it has.

The RTC has estimated that it needs to close an additional 161 thrifts in 1991. Yet the RTC did not close a single institution this past May. What prevented it? Certainly not a lack of funds, as Secretary Brady would have us believe. The RTC had on hand over $32 billion in cash at the end of April.

Mr. Speaker, the RTC has the resources it needs, and it must start to use them. It is not getting its work done—and it should not get more money until it does start to do its job.

A CONGRESSIONAL TRIBUTE TO DR. THOMAS F. CONNOLLY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a Massachusetts man, Dr. Thomas F. Connolly. Although not a constituent of mine, he was a frequent visitor to my office and his grace and charm endeared him to all. Dr. Connolly passed away on Sunday, July 7, 1991, and I wish to include a few remarks in the CONGRESSIONAL RECORD as a tribute to his life and personal character.

At 3 p.m. on Monday, July 15, 1991, a little bit of Lynn, MA, was placed to rest in the hallowed grounds of Arlington National Cemetery. Dr. Thomas F. Connolly, Colonel Connolly, now lies beside the honored heroes of America's history. Beneath the hillside mansion owned by the descendants of George Washington and the home of Robert E. Lee, Tom Connolly was interred after having received the loving tribute of a grateful Nation.

There could be no more appropriate site for the final resting place of this unique and remarkable man. On one of his frequent visits to the Nation's Capital, a city that Tom believed every American should visit at least once in a lifetime, he walked to the west portico of the Capitol Building and looked down upon Washington's Mall. In the distance was the towering monument that honors our first President. Beyond was the reflecting pool that fronts the Lincoln Memorial with the Vietnam Memorial to the right and the site of the proposed Korean War Memorial to the left. In the distance could be seen the mansion beneath which Tom now lies. It was a poignant moment as he talked of his love of State and country. "Let's walk to the Lincoln Memorial," he said.

If one walks around the Lincoln Memorial along the columned walkway that surrounds that imposing edifice there is a spot at the rear where you can look across the Potomac and see the flickering of the eternal flame that marks the Kennedy grave. "It's really very beautiful," said Tom, "It's very beautiful." Perhaps it was then that the idea occurred to him to come back to Arlington a final time and find eternal repose in the company of the long line of American military and civilian luminaries who sleep the long sleep blessed by their countrymen's prayers. He knew Arlington's beauty. He longed for its peace.

As the military escort performed its final salute, as the crack of rifle fire and the haunting sound of taps echoed across the solemn site, one could not help but think of the life of tom Connolly. The joy, the sorrow, the love, the warmth, the family, the honors, the accomplishments, the awards, the character of this deeply human individual defy description. One hopes that he knew how much he was loved and how much joy and humor and excitement and pleasure he brought to so many. He was one of a kind, a true gentleman, a good and loving friend.

There are far too many trite phrases used to describe our sense of loss at the passing of a man like Tom Connolly. We tend to overemphasize, to overpraise, to overindulge our own sense of loss. Tom would have none of that. What he would want is to be remembered. He would not ask this in a vain or self-seeking way. He would simply want us to pause in the midst of some Tom-related activity and remember. We will. We will think of him whenever we see a homeless person sheltered. We will think of him whenever we see a substance abuser helped. We will think of his charity. We will think of his kindness and his generosity. We will think of his humor, his mischievous humor. We will think of him particularly as he trudged the road of happy destiny. We will think of him in Lynn and Boston and Nantucket and Washington and of course, Arlington.

Doctor, advocate, humorist, entrepreneur, raconteur, friend, and colorful character, it is not trite to say he was truly unique. The avenues that he traveled, the rooms that he frequented, the vistas that he imagined, and the associations that he enjoyed will all be less because he will no longer be there. As for Lynn, ah Lynn, you will suffer the most of all. Your campaigns and your politics will continue. Your nominations and your elections will be held, but the process and the pursuit just won't be as much fun anymore.

Goodbye, old friend. Know that we loved you. Know that we will remember you today and tomorrow and tomorrow. For us is left however the certain knowledge that the angels in the heaven you now inhabit carry a bit of a smile these days. God love you.

Mr. Speaker my wife Lee joins me and my Washington staff in offering sincere condolences to the family of Dr. Connolly. To his children Tom, Mark, and Anne, and to his brother Steve and sisters Alice, Eleanor, and Mary we offer our prayers.

A SALUTE TO JITU K. WEUSI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a community leader and a native Brooklynite.

Jitu K. Weusi is a community leader and national activist who has played an integral role in founding and organizing groups and organizations throughout the Nation. He served as a founder or co-founder of numerous civic groups and associations including the African American Teachers Association, 1964; the East Cultural Center, 1970; the Uhuru Sasa Alternative School, 1971; the National Black United Front, 1980; and African Americans United for Political Power, 1989.

Mr. Weusi is a graduate of Franklin K. Lane High School. He has served as an educator and lecturer for over 29 years in high schools and colleges. In 1978, Mr. Weusi was a leader of the protest and subsequent negotiations that led to the creatiion of the Randolph Evans Memorial Scholarship Fund.

CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. BRYANT. Mr. Speaker, telemarketing fraud has become a major criminal problem in this country, victimizing thousands of consumers each year. To give law-enforcement officials added ammunition to shut down these frauds and prosecute them vigorously, I am introducing the Consumer Protection Against Credit Card Fraud Act, legislation to amend the Credit Card Fraud Act of 1984.

The amendment is designed to facilitate prosecution of increasingly sophisticated telemarketing scams. The identical provision was adopted by the Senate by unanimous consent on June 28, as an amendment to the Violent Crime Control Act.

The typical fraudulent telemarketing scheme involves solicitation of consumers by telephone; by mail; or through television advertisements which result in the consumer telephoning or accepting a telephone call from the fraudulent telemarketer. The fraudulent telemarketer then dupes the consumer into purchasing goods or services which either are never delivered or are substantially inferior to those which have been promised.

These scams have a particularly hard impact on elderly victims and those with a poor credit history. The banking industry is also victimized by credit card fraud. The Federal Trade Commission has estimated that losses due to telemarketing fraud now exceed $1 billion per year and affect hundreds of thousands, if not millions, of citizens who fall victim to these fraudulent schemes.

The Credit Card Fraud Act of 1984 was very successful in stemming the first generation of credit card fraud which involved counterfeiting and alteration of credit cards. The language I propose is designed to provide law enforcement officials with an effective tool for combating the most recent generation of sophisticated fraud schemes—the phony solicitation of credit cards over the phone and the laundering of credit card receipts. The effective prosecution of these new crimes requires that the 1984 law be expanded and updated.

Specifically, my legislation would prohibit solicitations for the purchase of a credit card without the authorization of the credit card company. In addition, it would establish a criminal offense for the fraudulent taking of payment by credit card for goods or services that are either never delivered or inferior to those promised.

The legislation would also provide that those who engage in credit card laundering violate the Credit Card Fraud Act. Credit card laundering is the practice by which fraudulent operators, sometimes in conjunction with third party intermediaries acting as brokers, persuade merchants with access to the credit card systems to submit, in the name of that merchant, the fraudulent operators sales drafts into the credit card systems.

This practice enables the fraudulent operator to circumvent institutional safeguards imposed by financial institutions participating in these systems.

I seek the support of my colleagues in stemming the telemarketing fraud tide and protecting the consumers, credit card companies, and their member financial institutions who are severely injured by these schemes.

PORT CHICAGO NATIONAL MEMORIAL ACT OF 1991

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. MILLER of California. Mr. Speaker, today on the 47th anniversary of the Port Chicago explosion, I am introducing legislation to designate the Port Chicago Naval magazine as a national memorial. This legislation honors those who served at Port Chicago, and the significant role Port Chicago played in our Nation's history. Once the largest munitions supply facility on the west coast, Port Chicago was the first major pier built exclusively for the handling and overseas shipment of ammunition. Most of the munitions supplying the Pacific Fleet during World War II were loaded by the U.S. Navy at the Port Chicago pier on the Sacramento River.

Today, Port Chicago is the home of the Concord Naval Weapons Station. But the former town along the south bank of the Sacramento River has an extensive history, according to historian Robert Allen, author of "The Port Chicago Mutiny."

At Port Chicago, the Sacramento River widened into the Suisun Bay, a few miles across at its widest point. Low, rolling hills paralleled the Sacramento River, forming a flat area between the river and the hills. On this plain, war-related industries, such as aviation fuel refineries, steel mills, and chemical plants, were built along with military installations, including the huge Army staging area at Camp Stoneman in Pittsburg upstream from Port Chicago, the Army arsenal at Benicia, and the huge Navy shipyard at Mare Island downstream. Most of the buildings in Port Chicago were one-story structures. The water came right up to the edge of the street, and the houses jutted out into the bay.

During World War I, several shipping steamers were constructed at Port Chicago. Because the town of Port Chicago was accessible by railroad and ship, and relatively far from major population centers, the Navy determined an ammunition depot should be constructed at Port Chicago. The naval ammunition magazine at Port Chicago was authorized in 1942.

Shortly thereafter, a 500-foot long pier for ships was constructed as well as a smaller barge pier, 27 barricaded sidings capable of accommodating 203 boxcars, nine storage buildings for inert materials, four barracks for enlisted men, a commissary and administrative offices. The facilities were completed in November 1942, and the first ship to be loaded, the SS *Brewer,* anchored in December 1942, a year after the attack on Pearl Harbor.

Over the next several years, Port Chicago became the most important ammunition handling facility on the west coast during World War II, and was later used in the Korean and Vietnam wars.

There were 1,431 enlisted personnel at Port Chicago during World War II, as well as 71 officers, and 106 Marines who guarded the base. About 231 civilians also worked at Port Chicago primarily as carpenters, locomotive engineers and crane operators. The men worked in shifts, around-the-clock, 24-hours a day. Unloading the ammunition that arrived in Port Chicago and reloading the explosives onto ships headed for the Pacific Theater was difficult work; some ammunition weighed as much as 2,000 pounds. Various types of ammunition were handled at Port Chicago, including artillery projectiles, depth charges, incendiary bombs, fragmentation bombs and TNT.

In June 1944, the pier was widened to allow for twice as much ammunition to be shipped from Port Chicago. The number of men working at the site was doubled. Port Chicago was now capable of accommodating two ships at a time. There was tremendous pressure to load as much ammunition as quickly as possible. Yet, reportedly none of the loaders, all of whom were black, were formally trained in the handling of explosives.

One month after the pier was widened, a historic tragedy occurred. On July 17, 1944, two ships the *EA Bryan*—loaded with 4,200 tons of ammunition and bombs—and the ammunition-free *Quinalt Victory,* as well as the dock facilities exploded. The blast was equivalent to 5 kilotons of TNT, on the same order of magnitude as the atomic bomb dropped on Hiroshima over a year later. The glare which mushroomed 10,000 feet into the sky could be seen 50 miles away in San Francisco, Oakland and Alameda. Seconds later, a shock the equivalent of an earthquake measuring 3.4 on the Richter scale, rumbled through the area, and could be felt as far away as Pierce Ferry, NV.

Everyone on the pier and aboard the ships was killed instantly. About 320 persons died, and another 390 military personnel and civilians were injured. None of the town's 1,500 residents were killed, although 109 were injured, and 12 persons lost the sight of an eye by looking at the blast. The single disaster accounted for more than 15 percent of all African-American naval casualties during World War II.

The *EA Bryan* was entirely demolished, and a 65-foot section of the *Quinalt Victory's* keel was left protruding from the bay, 1,000 feet from its original position. There was at least one 12-ton diesel locomotive operating on the pier at the time of the explosion. No pieces of the locomotive were ever located.

The Port Chicago explosion was the worst home-front disaster of the war. The town, located 1½ miles from the pier, was bombarded by twisted chunks of smoldering metal from the ships and jagged fragments of exploded shells. The structural damage which occurred on the Port Chicago pier and in the surrounding area was almost equal to the structural damage reported at the same distance from ground zero at Hiroshima. The 300 homes and business establishments in Port Chicago were destroyed. Windows broke in houses 20 miles away. Telephone lines fell to the ground. Property damage, military and civilian, was estimated at more than $12 million.

The bill I am introducing recognizes Port Chicago's important role in our history. Not only will this legislation honor the families whose lives were affected by the Port Chicago facility and explosion, but it also will commemorate the site's significance in American history. I encourage my colleagues to join me in supporting the Port Chicago National Memorial Act of 1991.

BRINGING CERTAINTY AND FAIRNESS TO PRODUCT LIABILITY CASES

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. ROTH. Mr. Speaker, I am pleased to introduce today legislation that will calm the turbulent waters of product liability. My bill, the Product Liability Uniform Standards Act, is designed to limit excessive damage awards against business. Such awards are making American business less competitive in world markets, costing American workers their jobs and driving up all consumer prices. My bill would make American business more competitive, save those jobs, and keep prices down. My bill would bring certainty and fairness into product liability court cases.

My interest was drawn to this problem first because of individuals I heard from in my district whom I knew to be very fine business people but were having problems getting insurance. Since those initial contacts with these people in the district, the problem has snowballed until we have a full-fledged crisis affecting almost every working man and woman in America. The issue of liability insurance has become the most pressing problem for the American economy today.

Hearings have been held. The problem has been analyzed. But we need action now, before America is sued right out of business.

This is a complex issue. Blame has been allotted all around. Some critics charge that the liability crisis is a conspiracy cooked up by the insurance industry to gouge the public. The insurance industry responds with charges of greed by fee-hungry trial lawyers whose number has tripled since 1970. Still others feel that is the result of judges and juries who award large damages to a litigation-crazed American public.

The U.S. manufacturing community cannot continue to function with a hodge-podge of irrational laws as its governing standard. The courts are clogged with cases. Insurance has become astoundingly expensive. Businesses are shutting their doors. Soon we will find that some necessary products and services are no longer available at any price.

It is no easy matter to conjure up a sensible Federal solution. Product liability cases traditionally have been covered by State laws. A Federal bill must not unduly intrude on the right of State authorities to fashion tort remedies. Also, complex legislation must be resisted.

When you try to rewirte 200 years of tort law, you come up with too many new definitions. There is no doubt that interpretation of these concepts will tie up the courts for years. With a solid body of law already fashioned, there is no need to wait for decades to get a clear meaning.

The U.S. Supreme Court Justice Oliver Wendell Holmes wrote, "The tendency of the law must always be to narrow the field of uncertainty." That tendency has not been apparent lately. Without certainty and predictability, plaintiffs sue, defendants do not know how to protect themselves, and insurance companies cannot reasonably assess risks and price. My bill is designed to go back to the basics. The system was working reasonably well, not perfectly, but reasonably well, up until a decade ago. It would seem reasonable to enact and moderate a restrained reform, and wait to see if radical solutions prove necessary. My bill follows Justice Holmes' advice; that is, it narrows the field of uncertainty. That is what we want to get at.

My bill targets the four crises in product liability. First, it would make negligence the sole test for any defective design and failure-to-warn cases.

It is only logical that the burden of proof should be with the plaintiff. After all, he is the one that is bringing the action. In this way, we can narrow the expansion of the law of the past few decades.

The second crisis is the rising amount of punitive damage awards. We call them "punies," and they have become the real surprise element in product liability cases. Just when a defendant thinks he has paid all the costs involved with a case, he is hit with an additional cost, because he did not pay fast enough.

To bring stability, predictability, and fairness to punitive damages, we need clearly articulated standards that set forth the kind of irresponsible conduct for which courts will impose punitive damages. In other words, give manufacturers some rules of the road.

Thus, in my legislation, plaintiffs would have to prove by clear and convincing evidence that the defendant was reckless. This is a standard higher than the current preponderance of evidence. It allows punitives to be awarded only when truly deserved.

The third issue to address is the overlap in workers' compensation and tort systems. Currently, a manufacturer is held liable when a defective product causes injury in the workplace and must bear full cost of the injury. The workers' compensation system, which dispenses money for workplace injuries, is entitled to recoup any funds it paid out for the ultimate recovery against the manufacturer.

The long and short of this is that manufacturers bear the full brunt of workplace injuries, even though the employer may have contributed to the injury by negligence in the workplace.

To resolve this problem and still limit the liability of the employer, one need only allow the workers' compensation award to be set off against the ultimate judgment.

This solution permits the plaintiff to retain the very same benefits he now enjoys. By shifting part of the cost back to the employer, we encourage safety in the workplace and alleviate the crushing burden of the manufacturers.

The fourth crisis is that of the innocent defendant being dragged into suits unnecessarily. Under the present system, in most States wholesalers and retailers are held strictly liable for the sale of defective products, even though there is nothing they can do to discover the defect. In most instances, they are in no position to control the product quality. This is not only liability without fault, it is liability without reason.

My solution is that if the manufacturer is sued, the wholesaler and the retailer who have no chance to discover the defect should be exonerated from liability. This will unclog the courts of unnecessary suits.

My bill provides also for a comprehensive study of the facts concerning damages in product liability.

The fairness and efficiency of our tort system depends upon appropriate damage awards; yet we have no useful damage award data on which to evaluate the efficacy of our legal rules.

If it becomes necessary to cap costs down the line, this study will allow us to make informed decisions. It is time to debunk the myth that any Federal product liability legislation will be anticonsumer.

The bill I have introduced speaks with fairness, common sense, and with moderation to the consumer and the business community alike. A tort system with clearly defined standards will enhance individual responsibility and end the punitive damage sweepstakes.

LEGISLATION TO RESTRAIN AMOUNT OF EXPORTED STEEL TO THE UNITED STATES

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. VISCLOSKY. Mr. Speaker, today, I am introducing legislation to urge the U.S. Trade Representative to initiate promply negotiations with the government of South Africa for the purpose of entering into a bilateral arrangement prusuant to the Steel Import Stabilization Act that is consistent with the steel trade liberalization program announced by President Bush on July 25, 1989.

As a strong supporter of the U.S. steel industry and its workers, I am seriously concerned about an important implication of the President's July 10, 1991, decision to lift American economic sanctions against South Africa.

Prior to the imposition of American sanctions against South Africa, which were mandated by the Comprehensive Anti-Apartheid Act of 1986, steel imports from South Africa were governed by a bilateral arrangement under the steel voluntary restraint agreement [VRA] program. The original VRA program was in effect from October 1984 through September 1989. However, because of the economic sanctions, South Africa was not included in the extended VRA program, which is in effect through March 1992. As a result, South Africa is not currently governed by the same rules as most of our major steel trading partners.

Now that sanctions have been lifted, South Africa has the ability to export at least half a million tons of steel into the United States. Further, since South Africa is no longer included in the steel VRA program, it would have the unfair advantage of being able to ship its steel products into the United States without restraint. It is currently estimated that the South African steel industry has the excess capacity to produce an additional 500,000 tons of crude steel per year for export to the U.S. in the 1990s. Not only would this translate into reduced American steel output, but it could also mean the loss of 1,500 American jobs.

I urge you and my other colleagues to support this important resolution.

A BILL TO REAUTHORIZE THE CASH/CLOC PILOT PROJECT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. KILDEE. Mr. Speaker, today I am introducing legislation to reauthorize the Cash/CLOC pilot project under the National School Lunch Program.

The National School Lunch Program will provide an estimated 4.1 billion meals in fiscal year 1991 to children across the country. These children will come from a wide variety of backgrounds, but they will all receive nutritious meals to help ensure their good health and their ability to learn.

Participating schools receive both a cash and a commodity reimbursement for every meal served which varies depending on a child's ability to pay the full cost of their meal. Cash/CLOC was first authorized in 1981 to test alternative means by which schools may receive their commodity reimbursements. Under this pilot project, 60 schools may receive the value of their commodity remibursements in the form of cash or commodity letters of credit [CLOC].

The Subcommittee on Elementary, Secondary, and Vocational Education heard testimony concerning Cash/CLOC earlier this year, and will conduct additional hearings on the program as the reauthorization progresses.

The Cash/CLOC pilot project is authorized through September 30, 1992. I am introducing a bill today that would reauthorize it for 2 additional years in order to generate discussion and comment, which I welcome throughout the reauthorization process.

PROLIFERATION PROFITEERS: PART 21

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. STARK. Mr. Speaker, in an important international development North Korea agreed yesterday to allow the International Atomic Energy Agency [IAEA] to inspect its nuclear facilities. North Korea had signed the Non-Proliferation Treaty [NPT] in 1985, but had not yet agreed to the necessary safeguards accord with the IAEA.

In recent weeks, there have been a number of positive developments in the area of nuclear nonproliferation. France and South Africa have agreed to sign the NPT, Brazil and Argentina are signing a safeguards accord with the IAEA. Even the People's Republic of China, the leading rogue proliferator, has given hints it might sign the NPT. Even so, nuclear proliferation remains the leading threat to U.S. national security. Pakisan still has an active nuclear weapons program and has hinted in the past it would pass the technology on to its allies in the Islamic world. The current IAEA inspection of Iraq also illustrates the possibilities of clandestine nuclear weapons activity in states which have signed the nonproliferation accord.

Today I am placing into the CONGRESSIONAL RECORD the 21st in my series of case studies of foreign companies which have sold nulcear weapons technology to developing countries. If we can stem this proliferation profiteering, there is a chance we can make some real progress in solidifying the nonproliferation regime. I have introduced a bill—H.R. 8309—that puts import sanctions on these foreign firms which traffic in unsafeguarded nuclear technology. This legislation has 48 cosponsors and the support of leading experts in the nonproliferation field.

FIRM 8: INTER-NUCLEAR SERVICE AG (SWITZERLAND)

Inter-Nuclear Service AG of Zug, Switzerland is a small nuclear industry firm involved in the import and export of nuclear materials. The company is a subsidiary of Germany's Nukem GmbH, but was also associated with the groun of firms connected to Alfred Hempel GmbH of Duesseldorf. The Hempel group was implicated in the illegal export on numerous occasions of heavy water, a sensitive nuclear weapons-related material, from Norway, the People's Republic of China, and the Soviet Union to Argentina, India, Israel and Pakistan from at least 1977 through 1987. *Der Spiegel* claimed in January 1988 that Inter-Nuclear Service, with supervision from its Nukem management, supported Pakistan's nuclear weapons research by secretly supplying that country with heavy water and acting as a Swiss go-between for the firm's German parents.

Sources: "Nuclear Fuel," 9/19/88, p. 4 by Mark Hibbs; "Der Spiegel," 1/18/88, pp. 18–30; "Die Ziet," 10–21–88 by Wolfgang Hoffmann.

TRIBUTE TO PORT ALLEN, LA

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. HOLLOWAY. Mr. Speaker, it is with great pride and pleasure that I pay tribute today to the town of Port Allen, LA, whose citizens I have had the pleasure of representing in the U.S. Congress. In particular, it is with great pride that I inform this great body of the significance of Saturday, September 14, 1991. Mr. Speaker, on that date, the town of Port Allen will celebrate its 75th anniversary.

The town of Port Allen is not an ordinary American city. It is not just another small town. It is more than simply another sleepy, southern locale. Port Allen is a special place, its townspeople are special folks. Located in West Baton Rouge Parish, a mid-point within the Eighth Congressional District of Louisiana, Port Allen, LA, is the town I first think of when people ask me about Louisiana.

Port Allen and its people, like most Louisianians, work hard and play hard. The people of Port Allen live in today's world, they do not want to live in the world as it used to be. They are too busy preparing for the world as it is going to be. It is Port Allen that I visualize when I tell people about the spirit of Louisiana's people, our love of life, our love for our neighbors, and for our communities.

I am proud to speak of Port Allen as the town celebrates its 75th anniversary. Its citizens have every reason to be proud. Port Allen, LA, is filled with people who represent the best of Louisiana.

Its citizens are caring, industrious, moral people with hearts of gold and skills to match who can compete with anybody, anywhere in America. I ask my colleagues in the Congress to join me in this salute to Port Allen as the town celebrates its 75th year.

SALUTE TO REV. DR. HERBERT DAUGHTRY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TOWNS. Mr. Speaker, I rise today to honor Rev. Dr. Herbert Daughtry—a progressive, pan-African activist and religious scholar who comes from a family which has produced three generations of black churchmen and leaders. As a result of his community involvement over the past 27 years he has more than earned the title of "The People's Pastor." As national presiding minister of the House of the Lord Churches, chairman emeritus of the National Black United Front and president of the African People's Christian Organization, Reverend Daughtry has risen to a point of national and international acclaim and responsibility. Reverend Daughtry has served in various capacities with the World Council of Churches and has also studied, lectured and done research at the Theological Ecumenical Institute in Bosseyn, Switzerland, and Virginia Theological Seminary.

In 1977 Reverend Daughtry was a major force that helped to bring about many opportunities for citizens in downtown Brooklyn. During the 1984 Presidential campaign, Reverend Daughtry served as special assistant to Rev. Jesse Jackson and was a member of Jackson's National Campaign Committee. In 1985, the New York Senate unanimously adopted a resolution honoring Reverend Daughtry for 25 years of service to humanity and he has received a doctor of humane letters awarded by Seton Hall University.

Reverend Daughtry is a valuable community leader and highly respected church leader whose dedicated efforts will always reflect the concern and commitment dedication that he has for his community over the years.

POEM OF THE COURAGEOUS RAFTERS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring the work of Mr. Juda Guzman Funes to the attention of my colleagues. Mr. Guzman Funes, a constituent of my congressional district who is originally from Honduras, has written a poem, in Spanish, on the continuing heroic voyages Cuban refugees are making across the 90-mile stretch of water which separates Cuba from the United States.

Balservos valientes, que al mar os arrojais,
Afrontando mil peligros, sed y hambre,
Lamento vuestro infortunio y desgracia,
Sufriendo el terrible sol y el calambre;
Entrais en la historia moderna y triunfais!!,
Remarcando tus ansias y amor por la democracia.
Os admiro y elogio vuestra gran voluntad,
Ereis org-ullo del sufrido pueblo cubano,
Sois un fuerte lazo que afianza la hermandad
Con todas las naciones del mundo hispano,
Uniendo con tu sublime y gran heroismo.
Buena opinión y admiración de la cristiandad
A favor de la isla bella, cautiva del comunismo;
No teniendo ya nadie la menor vacilación,
O duda alguna, de condenar a Fidel el dictador,
Solo comparable al fatídico Hitler, Adolfo;
Pues vosotros perferís afrontar al fiero tiburón,
Y a los mil y un riesgos en el inmenso Golfo,
Huyendo del tirano Castro, imitador de Nerón,
Buscais la tierra de la libertad y democracia,
Conmoviendo con vuestra audaz y valiente accion,
A los gobiernos nobles y a la humanidad,
Y hasta las tumbas de vuestros próceres,
Se contagian de sublime y gran adminsion,
Por vuestra gesta de heroismo y temeridad!!!.
Que Dios bendiga a los que a Florida han llegado,
Y tenga en su seno a los que se han ahogado!!!.

Nota: Los llamo balseroes, esperando que el pueblo cubano ytoda la hispanidad, acepten ese ti tulo de honor, como tributo a tan adminable gente, orguilo de cuba y de la hum anidad.

Although not from Cuba, Mr. Guzman Funes feels the hurt and pain felt by the rafters. He calls them valiant, because of the thousands of dangers that stand in their way from reaching freedom. Mr. Funes lists some of these dangers, which include thirst, hunger, sun, and sharks. He describes these hardships as hard to overcome, but the rafters prefer to face these dangers rather than face the present brutal regime of Fidel Castro.

THE 25TH ANNIVERSARY YEAR OF THE FORMATION OF THE PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. OWENS of Utah. Mr. Speaker, today I am introducing a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

Since the formation of the President's Committee on Mental Retardation in 1966, many need of the mentally retarded have been addressed. Due to the efforts of the Committee, persons with mental retardation have been freed from back wards of institutions. Training opportunities have been developed and our citizens with mental retardation are learning to live and work independently, free of institutional restraints. Many have secured jobs and housing, side by side with the general population.

The Committee's efforts have allowed the once silent voice of mentally retarded citizens to finally be heard, and in doing so we are becoming increasingly aware of the important and pending needs of these citizens.

Diligent efforts in research have revealed that over half of the more than 250 known causes of mental retardation are preventable. It is important that the general public be better educated on the prevention of mental retardation and that those who are affected be allowed to take their rightful place in society.

Throughout the last 25 years the Committee has assisted local, national, and international organizations with their efforts to reduce the incidence of mental retardation. The Committee has also aided individuals with mental retardation by helping them achieve full citizenship as productive, taxpaying members of society.

Despite all of its accomplishments, the work of the President's Committee on Mental Retardation is not yet finished. More must be done to make the general public aware of the causes of mental retardation and of the ways we've learned to prevent them.

By supporting these efforts we ensure the rights of the mentally retarded and we enable them to continue to lead active lives.

Please join me in designating the year 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

THE NORTH AMERICAN FEIS COMMISSION AND THE CULTURAL HALL OF FAME

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to the Irish Cultural Hall of Fame of the North American Feis Commission, an organization devoted to the promotion and preservation of Irish culture.

Mr. Speaker, the Irish Cultural Hall of Fame was created in 1978 to memorialize individuals who have given unselfishly of themselves to promote Irish culture. Those who are inducted into the hall of fame are no ordinary Irish-Americans. They are carefully selected individuals who have been actively involved in the field of the "Irish arts" as performers, teachers, or volunteers and have devoted at least 10 years working for the preservation and promotion of their culture.

The Irish having played such a colorful role in our Nation's history, I am particularly pleased that their rich heritage is being preserved and maintained in such a glorious fashion as through the Feis Commission's Hall of Fame. Its dedicated members have brought honor, fame, and prestige not only to themselves but to their communities and to the Irish race. Their example inspires young people to take an interest in their Irish heritage.

Accordingly, Mr. Speaker, I invite my colleagues to join with me in extending congratulations and best wishes to the Irish Cultural Hall of Fame and its inductees. I trust that the hall of fame will continue to recognize those whose dedication and integrity help to preserve the strength of Irish heritage in this country.

THE SOCIAL SECURITY NOTCH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. ENGEL. Mr. Speaker, I rise today to urge my colleagues to support H.R. 917, of which I am an original cosponsor. This bill is designed to correct the Social Security notch problem, which causes people born between 1917 and 1921 to receive smaller Social Security benefits than others. It is unfair that some people are being penalized because of the year they were born. These so-called notch babies should not continue to be second-class citizens.

During the 101st Congress, I was a cosponsor of a similar bill, which was one of 16 bills introduced to address this issue. H.R. 917 is a consensus bill which combines the best features of all these bills.

H.R. 917 is designed to help middle-class senior citizens by capping the creditable earnings used to calculate benefits to correct the notch at $29,700 per year. This cap would not apply to any income earned after age 65. Additionally, this legislation would provide a 10-year transition benefit for people born between 1917 and 1926 to ensure that there are no residual benefit discrepancies caused by the notch.

H.R. 917 is designed to hold the cost of correcting the notch to $5 billion per year during the 1990's and less thereafter. The Social Security surplus is currently over $155 billion and is expected to rise to over $1 trillion by the end of the decade. It is only right for us to use a small portion of this money to correct this horrible discrimination.

I believe the notch has resulted in arbitrary benefit discrepancies which are unfair and jeopardize the integrity of the Social Security System. I urge the Ways and Means Committee to take action on H.R. 917 and to correct the security notch. Let's stop this appalling discrimination once and for all.

CONGRATULATIONS STEPHEN EDWARD STEWART, TROOP 275'S NEWEST EAGLE SCOUT

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. CLEMENT. Mr. Speaker, presently, Boy Scout Troop 275 will confer on Stephen Edward Stewart the rank of Eagle Scout. I am pleased to join his family and friends in congratulating Stephen on earning this award.

Stephen is a 14-year-old who will begin this fall as a freshman at McGavock High School. Stephen plans to finish high school with high enough honors to receive an appointment to the Naval Academy, where he would like to be an aviator. Certainly, earning the rank of Eagle Scout is indicative of the high goals and dedication Stephen has already exhibited in his young life.

For example, Stephen is a member of the National Junior Honor Society. And the track team is which he competes placed third in the city track meet for the 800-meter relay and fourth in the city track meet for the 400-meter relay. Stephen's talents extend to music as well, as demonstrated by the fact that he plays violin in the school orchestra.

Stephen has had a distinguished career in scouting. He has earned two religious awards and some 18 additional merit badges beyond the required 21 for the Eagle Scout rank. He plans to earn additional merit badges so he can learn more and earn Eagle Palms. As evidence of his community service, it is important to note that he is a brotherhood member of the Order of the Arrow.

Stephen's Eagle project demonstrates his interest in conservation and underscores his plan to earn the Hornaday Award for Conservation. His project required over 429 hours to plan, develop and execute. Specifically, he placed four free-floating wood duck nesting boxes on Couchville Lake at Long Hunter State Park. These free-floating boxes will allow nesting without the problems of flooding destroying the nesting eggs or young. To pay for the project, Stephen spoke to businesses, individuals and community organizations like the Kiwanis Club and was able to obtain approximately $910 in donations.

Stephen's family and friends are especially proud of his earning the rank of Eagle Scout. In Stephen's case, it is one of many steps in a life already full of achievements and great goals.

Congratulations, Stephen.

THE DEATH OF MORT R. LEWIS

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. WAXMAN. Mr. Speaker, it is with profound sadness that I bring to the attention of my colleagues the death of my friend Mort R. Lewis. Mort's compassion, his ineffable determination, and his delightful sense of humor will continue to influence those of us lucky to know him during his lifetime.

Mort was a successful radio, television and film writer. He began his career as a comedy writer for radio entertainers like Jimmy Durante, Jackie Gleason, and George Burns. For television he created "The Public Defenders," and he contributed to such successful programs as "Bonanza," "Bewitched," "Combat," "Rawhide," "Truth or Consequences," and "This Is Your Life."

Although he had a busy career, Mort was a humanitarian whose love of people and the sanctity of life always kept him involved in efforts to improve the health of Americans. During the many years I knew him, he worked persistently, and through every avenue he could think of, to broaden the public's awareness of cardiopulmonary resuscitation [CPR].

Mort began his commitment to raise public awareness of CPR in the 1970's. He was instrumental in establishing one of the first blood banks in California. He was also a certified instructor of CPR for the American Heart Association and won its Award for Exceptional Services. In addition, he received the Humanitarian Award of the Los Angeles County Board of Supervisors, and one of the highest awards of the Writers Guild of America, the Valentine Davies Award.

Mort's commitment to CPR awareness was contagious. Nineteen fellow members of the Writers Guild of America-West became certified CPR instructors and the Screen Actors Guild, Dramatists Guild, and Writers Guild-East started their own programs.

Due to Mort's efforts, Congress passed a resolution declaring the week of October 20, 1985, as CPR Awareness Week. Los Angeles mayor Tom Bradley proclaimed the same week in 1986 as Los Angeles CPR Awareness Week. Mort spent years working to get the Stamp Advisory Committee to accept his idea for a CPR stamp and he obtained an impressive list of endorsements for his efforts.

Mort was an expert on the Civil War and connoisseur of the humor of Abraham Lincoln. He was past president of the Civil War Round Table for Southern California, vice president of the Lincoln Sesquicentennial Association of California, and a member of the advisory council of the United States Civil War Centennial Commission.

Mr. Speaker, a dictum of the Talmud instructs us that "if any human being saves a single soul, scripture regards him as if he had saved an entire world." Mort's life mirrored this teaching; and our lives are diminished with his passing.

I wish Mort's widow, Isabelle, good health and great strength from her beautiful memories of their long, happy life together.

WHICH COMPANY WILL BE THE NEXT EASTERN AIRLINES?

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SMITH of Florida. Mr. Speaker, too often Congress is accused of reacting to problems after they occur. We now have the opportunity to plan ahead to protect the retirement health benefits of perhaps millions of Americans and their families.

A few months ago, the retirees of Eastern Airlines learned that the trustee in bankruptcy wanted to reduce their health benefits. This is allowed under the bankruptcy law. Retirees of a liquidating company have no protection under the law. Their health benefits disappear when the company liquidates.

I had to tell constituents that Congress has no legal power to intervene once a company files for bankruptcy. The separation of powers doctrine prevents our interfering in a judicial proceeding.

Today it is Eastern, but who will it be tomorrow? It is not inconceivable that another major American company will declare bankruptcy before the turn of the century.

ERISA protects pension benefits, but no agency protects retirement health benefits. As the population ages and health costs continue to increase, retirement health benefits will become as important as pensions.

I am urging the appropriate committees to begin an investigation of this potential problem and to solicit possible solutions. Perhaps we need a pension benefit guaranty corporation for health benefits. Perhaps we need to include retirees in any universal health coverage Congress might approve.

I raise the question with the hope that we can develop a satisfactory response before it is too late for the retirees of the next bankrupt company. We cannot allow what is happening to Eastern's retirees to occur again.

TRIBUTE TO JAMES FARMER

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. LEWIS of Georgia. Mr. Speaker, 30 years ago, the course of history abruptly changed as a group of Americans boarded buses in Washington, DC, and rode into a cauldron of hatred in the Deep South. That was 1961, 3 years before the Civil Rights Act was signed into law. That was the "Freedom Ride." With James Farmer at its helm, that was the ride that put an end to Jim Crow in interstate transportation.

James Farmer is one of those too often forgotten heroes. When he was 22 years old, Farmer founded the Congress of Racial Equality. CORE was founded in 1943 as an interracial organization committed to the principles of nonviolence ascribed to by Mahatma Gandhi.

CORE demonstrations began in Chicago. Through Farmer's organizational efforts, 15 chapters soon made their presence felt throughout our Nation.

James Farmer is a man gifted with a huge array of talents—a towering intellect, an infallible memory, a mesmerizing voice, a commanding presence, equanimity in crisis, a forgiving spirit and an unswerving ethical compass. He has dedicated his talents to organizing others to stand up, speak out and act against wrongs.

In 1961, James Farmer decided to test the recent Supreme Court ruling outlawing segregation in interstate commerce by setting up freedom rides. There were 13 of us on the original freedom ride, including James Farmer. Farmer had said that "He would not be an armchair general, sending the troops where he would not venture to go himself." "I will go with them," he said.

Two days after we left Washington, we arrived in Rock Hill, SC. There was an altercation at the bus station there. Some of the riders were hurt.

I had to leave the ride at that time. Farmer and the others continued. When they got to Anniston, AL—about 2 hours outside of Montgomery—one of their buses was burned.

People on the other bus were beaten when they arrived at the station in Birmingham. Fearing for the safety of the freedom riders, James Farmer announced that CORE was canceling the ride.

Some of us in Nashville—Bernard Lafayette, James Bevel, myself and others—were determined that the ride should continue. So, we went to Birmingham to take up the ride.

Eventually, we made it to Montgomery. It was in Montgomery that Dr. Martin Luther King, holed up in a church with hundreds of others and an angry mob outside, got on the phone with Attorney General Robert Kennedy and told him that we needed the Federal Government's help. We got assurances from Bobby Kennedy that he would do all that he could to ensure that we were safe. James Farmer rejoined the ride.

When the freedom riders were put in the Hinds County Jail, Farmer went too. When the freedom riders were sent to the infamous Parchman Penitentiary, Farmer went too.

As a result of the ride James Farmer made, black people could—for the first time—travel freely throughout the United States.

The next year James Farmer went North. He organized Freedom Highways in 1962. The result was that thousands of activists, led by Farmer, desegregated restaurants and motels up and down the eastern seaboard.

James Farmer was scheduled to be one of the keynote speakers at the March on Washington in 1963. He did not participate in the March, however, because he refused to leave the jailhouse in which he was being held in Louisiana. Floyd McKissick read Farmer's statement at the March on Washington.

Farmer nearly lost his life at the hands of law enforcement officers and the Ku Klux Klan in Plaquemine, LA. His work in Louisiana attracted little press attention; but it resulted in the gain of voting rights and political empowerment for thousands of poor and black people in that State.

In 1969, James Farmer was named Assistant Secretary for the Department of Health, Education and Welfare. There he was instrumental in saving Head Start. He also developed the New Careers and HEW Fellows Programs, opening the doors for unprecedented numbers of blacks and other minorities to assume senior Government positions.

Today—71 years old and unsighted—James Farmer continues to issue "wake-up calls" to Americans of all colors and ages, reminding us of the work still to be done. What he will say as we commemorate the 30th anniversary of the freedom ride later this week is this:

> Here we will celebrate the bravery of those riders, but bravado is not enough. We will honor the past, but we must not be mired in it. The past shines brightest when it illuminates the present, enabling us to pierce the darkness of the future * * *. Look back! Yes. But most of all, employ the verve of yesterday in taking a bold leap forward.

I am honored to have this opportunity to pay tribute to an esteemed movement patriarch, James Farmer, a nonviolent warrior for freedom, equity, peace, and justice. James Farmer, one of the unsung heroes of the civil rights movement, continues to keep his eye on the prize.

UNION BEACH, NJ, TO HOLD WELCOME HOME CELEBRATION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. PALLONE. Mr. Speaker, on Sunday, July 21, the borough of Union Beach, NJ, will hold a Welcome Home Celebration for the men and women of America's armed forces who served their country so ably and heroically in Operation Desert Storm. Sunday's event will also pay tribute to all American veterans, whose service to their country in previous wars shall never be forgotten.

The celebration will begin with a parade through town, concluding at the borough's municipal building. The rest of the day's festivites will include music and dancing, with a fireworks show at dusk.

Mr. Speaker, America's triumph against the illegal Iraqi invasion and occupation of Kuwait stands as proof that our country will use its awesome military force for the purposes of upholding international law. Operation Desert Storm was proof that we mean business when it comes to preventing dangerous tyrants from imposing their will on their neighbors. As we work toward a better world of greater international cooperation, America's strength and resolve exists to deter and roll back the forces of aggression and dictatorship. A strong America is not a threat to anyone, but rather a guarantee that the cause of peace and freedom will prevail.

Our President and our top military officials deserve tremendous credit for their vision and leadership in winning this war quickly and decisively, while the designers and manufacturers of our defense technology deserve praise for their work on the equipment that made it possible for us to defeat Saddam Hussein's forces with a minimum of casualties. But the lion's share of the credit belongs to the men and women of our armed forces who volunteered to defend their country in a time of peace and then, when confronted with war, responded with bravery, professionalism and the will to win.

From the big cities to small towns, Americans have expressed their gratitude to these American heroes with parades and other celebrations. On Sunday, it will be Union Beach's turn to say "thank you." I consider it a great privilege to take part in this special event.

A SALUTE TO PRAIRIE VIEW A&M UNIVERSITY ALUMNI

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. LAUGHLIN. Mr. Speaker, today begins the 17th annual Prairie View A&M University National Alumni Convention. It is with great pleasure that I have this opportunity to recognize the current and former students of this distinguished university.

Prairie View A&M University is deeply enriched in academic history. Therefore, it comes as no surprise that the State of Texas constitutionally recognizes Prairie View A&M University as an institution of the first class. I am extremely proud to represent this exceptional group of students and educators who are committed to making our world a better place.

Prairie View A&M's excellence was well-demonstrated this past year by Lt. Gen. Calvin Waller, Prairie View A&M University, class of 1959, who served as Gen. Norman Schwarzkopf's deputy commander during Operations Desert Shield and Desert Storm. Lt. Gen. Marvin Brailsford, also a member of the class of 1959, played an integral part by supplying materiel readiness to the U.S. Army. America is proud of the leadership provided to our Nation by General Waller and General Railsford.

Mr. Speaker, during this past academic year, Prairie View A&M University had its computer engineering technology and electrical engineering technology programs receive accreditation from the accreditation board for engineering and technology. The Texas National Research Laboratory Commission gave $1 million for the first-year phase of Prairie View A&M University's particle detector research center, which Prairie View A&M University will direct as the lead institution in a consortium of 13 other universities. This proposal links collaborators of historical black colleges and universities to institutions with strong research reputation for joint benefit. Prairie View A&M University students won 1st, 2d, and 3d places in biology and two students tied for 1st in physics in the 10th Annual Research Association of Minority Professors Conference in Houston. These are only a few accomplishments from this distinguished university this year.

I applaud the dedication and challenge of Prairie View A&M University to its continued service. There is no doubt that this institution has contributed greatly to our country and is indeed an institution of the first class.

TRIBUTE TO AMBASSADOR MINERVA BERNARDINO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. SERRANO. Mr. Speaker, I rise this morning to pay tribute to Minerva Bernardino, Ambassador to the United Nations, a woman who has dedicated her life to the fight for women's rights and equality. Ambassador Bernardino will be honored this Friday evening at a Gala Banquet that is sponsored by the First Annual Grand Dominican Parade in my district, the South Bronx.

Mr. Speaker, Ambassador Bernardino has resided in New York City for many years. She holds the distinction of being the first woman Ambassador to the United Nations, representing her beloved country, the Dominican Republic. She was ambassador to the Netherlands for 3 years, 1971–72, 1972–73, and 1973–74, and has traveled the world demanding equal rights for all women.

She was a signatory of the charter of the United Nations in the San Francisco Conference in 1945; she is the only signatory still living. She was instrumental in the insertion of "equal rights for women" in the charter and was responsible for the words "equal rights for men and women" in the Universal Declaration of Human Rights. She led the fight for the adoption by the U.N. General Assembly of the Conventions for Political Rights for Women and the Nationality of Married Women. She is a signatory of the charter of the Organization of American States and is responsible for the inclusion of "equal rights for women" into that charter.

Ambassador Bernardino was the first woman to be elected first vice president of the Economics and Social Council of the United Nations. She was twice elected vice president of UNICEF. Mrs. Bernardino was for several years the chairman of the Commission on the Status of Women of the United Nations.

Mr. Speaker, of the innumerable awards bestowed upon Mrs. Bernardino, she is especially proud of one given to her in June 1950, by the National Council of Negro Women, which declared her Woman of the Year for her struggle for Civil Rights for Women. She is also proud to have established close friendships with other outstanding women of the world who have influenced and inspired her including Indira Gandhi, Eleanor Roosevelt, Eva Peron, and several queens of nations.

Mr. Speaker, I am proud to pay tribute to Ambassador Minerva Bernardino. She has dedicated her life to the fight for women's rights and the protection of equality for all minorities. Her leadership and commitment have paved the way for the women of the future, and have eased the transition for more women to play an active role in the advocacy of universal rights for all women.

CONGRATULATIONS TO ARCHBISHOP PHILIP SALIBA

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. TORRICELLI. Mr. Speaker, I rise in order to commemorate the 25th anniversary of Metropolitan Archbishop Philip Saliba as primate of the Antiochian Orthodox Christian Archdiocese of North America. On August 5, 1966, Archbishop Philip was elected to shepherd the Antiochian archdiocese and since he has, time and time again, exhibited visionary leadership.

Philip Saliba was born into a traditional Orthodox Christian family in Abou Mizan, Lebanon in June 1931. Following a traditional education, at the age of 14, he was accepted into the Balamand Orthodox Seminary in Tripoli, Lebanon, and later graduated from the Orthodox Secondary School and Assiyeh Orthodox College in Damascus, Syria. In 1949, at the tender age of 18, he was ordained as a deacon and assigned to the Antiochian Orthodox spiritual leader, Patriarch Alexander III. In 1952, he was appointed to teach in the department of Arabic language and literature at the Balamand Seminary. In September 1953, Deacon Philip enrolled at the Kelham Theological School in Nottinghamshire, England, and in September 1954 began theological studies at the University of London.

Philip Saliba's experiences during these still-impressionable years made a profound impact in shaping what became Philip's priorities as a priest and then as prelate: the need to cultivate and ensure integrity among the church hierarchy, the strengthening of Orthodox theological training and a focus on the importance of Orthodox youth education, and providing security for clergy and their families. In 1956, Philip arrived in the United States to study at Holy Cross Orthodox Seminary in Brookline, MA, and was subsequently assigned to St. George Orthodox Church in Detroit, MI, and began studying history at Wayne State University, receiving his B.A. in January 1959. On March 1, 1959, Philip Saliba was ordained an Orthodox priest and received his first pastoral assignment at St. George Church in Cleveland, OH. Father Philip continued to study Orthodoxy as the years progressed and earned a masters in divinity studies from St. Vladimir's Seminary in Crestwood, NY, in June 1965.

In 1966, Antony Bashir, archbishop of the Antiochian archdiocese at that time, died and Father Philip was nominated and later elected in August 1966, to succeed him. The new 35-year-old archbishop was now able to embark upon the objectives—theological, humanitarian, and administrative—that had always driven him to serve both the church and those around him.

In his 25 years as archbishop, Philip Saliba has accomplished a great deal, reflecting the priorities he established for himself so long ago. In the early 1970's, Archbishop Philip organized and established the first archdiocese-wide woman's organization, and appointed the first woman to the archdiocese board of trustees. In 1975, Archbishop Philip achieved the first measure of Orthodox unity in the United States by merging his Antiochian archdiocese with the only other Antiochian jurisdiction in the United States. Also, in 1975, Archbishop Philip founded the philanthropic organization, the Order of St. Ignatius of Antioch, whose membership now exceeds 1,000 members and has donated over $5 million to the archidocese and humanitarian projects around the world.

In addition, the Food for Hungry People Program, instituted in 1975, has donated over $1 milion to needy organizations and individuals the world over, without regard to race, creed or nationality. In 1978, the archbishop directed the purchase and subsequent development of the 300-acre Antiochian Village in Ligonier, PA. Archbishop Philip has been very involved in the search for peace in Lebanon and the Middle East in general. The archbishop constantly meets with other Christians, Jews, and Moslems seeking formulae for political solutions to these most difficult questions. Archbishop Philip has met with Presidents Reagan and Bush, State Department officials and leaders of other countries seeking the way of peace.

Archbishop Philip has been awarded many commendations and medals, among them are the Order of Cedars from the Lebanese Government and the Cross of Lebanon from the Lebanese Antiochian Archdiocese. He has been bestowed with honorary doctorates from his alma maters, Wayne State University and the St. Vladimir's Seminary. As impressive as each of these are, his most cherished honor was receiving the "Liberty Award" presented to him by Mayor Edward Koch of New York City in conjunction with the 100th anniversary of the Statue of Liberty; Archbishop Philip was one of only a few Americans to receive this honor.

On the eve of Archbishop Philip's 25th anniversary as primate of the Antiochian Orthodox Christian Archdiocese of North America, I congratulate him for his work as a theologian and humanitarian and as a fine example to all who choose and are proud to be Americans.

PRATISHATHA CELEBRATION HIGHLIGHTS INDIAN CULTURE AND RELIGION

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. GUARINI. Mr. Speaker, I would like to ask my distinguished colleagues to join me in saluting an Indian religious celebration taking place in my home State of New Jersey in August.

From August 2 to 11, Indian people from all over the world will travel to Siddhachalam in Blairstown, NJ, for a Pratishatha celebration.

During this celebration, members of the Jain religion will gather to further explore their beliefs and their inner selves. The celebration will include a world Jain conference, a cultural program, discussions, and seminars.

More than 100,000 people from the New Jersey-New York area are expected to meet at Siddhachalam. Among those attending will be residents from the large Indian community present in my congressional district of Hudson County, NJ.

Hardyal Singh, president of the International Mahatma Gandhi Association and the United Indian American Association, and Mono R. Sen. chairman of the Indo-American Association, are both coordinators for this event.

Both Mr. Singh and Mr. Sen's organization's are based in Jersey City. The Pratishatha celebration is a further extension of their efforts to promote awareness of Indian culture and heritage in the United States.

Both men are leaders within Hudson County's Indian community, which is about 30,000 strong, and I commend them for their work on this project.

The gathering at Siddhachalam will mark a milestone in the history of Jain's growth outside India. Many spiritual leaders will attend the conference, and L.M. Singhvi, India's High Commissioner to the United Kingdom, is also expected to attend.

The setting for this celebration is also important as Siddhachalam, in Blairstown, became the first Jain teerth outside India when it was founded in 1983. The word Siddhachalam means abode of supreme power. Since its opening, Siddhachalam has grown as Jain followers as well as non-Jains have flocked here for spiritual ceremonies.

Siddhachalam also serves as the headquarters for his holiness Acharya Sushil Kumarji Maharj, who is founder-chairman and a leader of the Jain religion.

H.H. Maharj, who is also known affectionately by his followers as guruji, has dedicated his life to promoting nonviolence, peace, environmental protection, and animal rights. He is the founder of the World Fellowship of Religion and the International Mahavir Jain Mission.

Guruji has participated in many world religion conferences and has worked to establish harmony between all religions. When Pope John Paul visited India, guruji stood against those who opposed his trip.

Although guruji belongs to the Jain tradition of spirituality, Hindus also look to him as a leader.

He is a leader in efforts to create peace through nonviolence.

In 1990, Guruji was the main speaker for meditation and nonviolence at the Global Conference of Spiritual Leaders and Parliamentarians in Moscow. During this conference, he discussed matters of world peace with Soviet Premier Mikhail Gorbachev.

It is through his work and leadership that those attending the August pratishatha hope to further their learning about Jain and enhance their spiritual awareness.

My distinguished colleagues, please join me in extending our best wishes to his holiness Maharj and all those attending the Pratishatha celebration.

TRIBUTE TO BILL POWELL

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity today to pay tribute to Bill Powell of Paducah, KY, who died April 2, 1991, at Lourdes Hospital in Paducah at the age of 71.

Bill Powell was an outstanding journalist with a long and distinguished career. Throughout his 45-year career, he devoted his efforts to reporting on events and matters of importance to western Kentucky.

He worked for 28 years with the Paducah Sun-Democrat, which is now the Paducah Sun. Before retiring in 1984, he spent the last 12½ years as the western Kentucky bureau chief for the Courier-Journal, Kentucky's largest newspaper which is based in Louisville. Before joining the staff of the Paducah Sun-Democrat, he worked for the Princeton Leader, a Caldwell County, KY, weekly newspaper.

Bill Powell was an institution in Western Kentucky. He was born in Henry County, TN, but grew up in Symsonia, KY, which is located in Graves County. He loved western Kentucky, which was evident to those who read his articles.

Bill was well known for his knowledge of the region. He was a reporter with a warm , outgoing style, and was highly respected by those of us who knew him.

Bill Powell served in the U.S. Navy and was a member of the Westminster Presbyterian Church in Paducah.

He is survived by his lovely wife Ruth Hobgood Powell of Paducah; two daughters, Danna Gardner and Nancy Lindsey, both of Paducah; and a brother, Lomon Powell of Symsonia.

My wife Carol joins me in extending our sincere sympathy to the family of Bill Powell.

TRIBUTE TO SHANNIE SLOAN BARNETT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Ms. KAPTUR. Mr. Speaker, On July 2, Ohio's Ninth District lost one of the most valuable members of its community with the death of Shannie Barnett. During his lifetime he gave so much to those who knew him. He was truly a man of honor; a man devoted to his family and friends, and to those whose lives he touched through his dedication to humankind.

Born in Pine Bluff, AR, and raised in Toledo, OH, Shannie Sloan Barnett was an active member of a number of organizations in our area. A 42-year veteran of the Jeep plant, Shannie started his career in the press shop and retired as a representative for the United Auto Workers at the plant in 1984. During his years at Jeep, he left his mark by helping to establish a job training program that helped hundreds of men and women obtain job skills.

Many in our area know Shannie for his superb basketball talent. He played on many local teams including the Brown Buddies, Ciralsky's Meats, and the Indiana Y Big Five. His basketball talent was so great that he was even invited to play as a pivot man for the Harlem Globetrotters. But Shannie chose to use his athletic talent to help young people in our community by serving on a number of athletic commissions in Toledo.

Shannie was involved in a number of other local organizations including the Metropolitan Men's Club, the NAACP, the Frederick Douglass Community Center, the Third Baptist Church, and the New Convenant Baptist Church.

Mr. Speaker, Shannie Barnett's passing has left a tremendous void in the lives of many residents of Ohio's Ninth District. Our thoughts and prayers go out to his wife Doris; daughters Linda Dent, Patricia Barnett, and Karen Barnett; grandchildren Jeffrey and Crystal Whitlow; Dwayne, Dawn, and Deanna Barnett; one great-grandson; brother Fred Allen; stepbrother Eunice Allen; stepsister Mary Allen and his vast network of friends who will deeply miss him. Individuals like Shannie Barnett do not come along too often, and I am thankful I had the opportunity to know such a great and caring man.

ILLINOIS EXTENSION OF JNEM

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. COSTELLO. Mr. Speaker, today I am introducing legislation which will ease the process of designating an Illinois extension of the Jefferson National Expansion Memorial. As many of my colleagues are aware, the JNEM is now home to the Gateway Arch in downtown St. Louis, directly across the river from my congressional district. The designers of the JNEM and the Arch have always envisioned an Illinois extension of this memorial, and the legislation I offer to the House today will accomplish that goal.

In 1984, my predecessor, Mel Price, and then-Congressman PAUL SIMON introduced legislation to expand the JNEM and establish a commission to develop the boundaries of the future park. In 1987, the Commission completed its work and submitted its plan to then-Secretary of the Interior Donald Hodel. After a lengthy review of the plan, Secretary Hodel said he could not support the "final plan" because of two conditions in the law: that "binding commitments" were not in place from private sources for park development, nor from the city of East St. Louis or State of Illinois for annual operation and maintenance costs.

Secretary Hodel's decision returned the process back to the Congress. In early 1989, legislation was introduced to remove the "binding commitments" clause, but Members of Congress from the St. Louis metropolitan area, as well as House Interior subcommittee Chairman BRUCE VENTO, felt that newly-appointed Interior Secretary Manuel Lujan deserved an opportunity to work with the Congress in moving forward on the Illinois JNEM, so the legislation did not receive a hearing.

In June of 1989, myself, Chairman VENTO, and Senators ALAN DIXON and PAUL SIMON met with Secretary Lujan to express our desire to work together to move the park forward. In an August, 1989 response letter to our meeting, Secretary Lujan indicated a desire to progress on the project once two conditions were met: that the land be tested and deemed environmentally safe; and that landowners be contacted, organized and urged to come forth with property to be offered to the National Park Service under the 100-acre plan.

In August of 1989, I requested that the Southwestern Illinois Development Authority, headed by Dr. Earl Lazerson, oversee the environmental testing and begin negotiations with the landowners. Earlier this year, Dr. Lazerson informed me that the land had been tested, and at this point I can inform my colleagues that all environmental testing is completed. In addition, 17 acres has been donated to SWIDA as part of the land negotiations.

In an effort to give the Secretary of the Interior the ability to acquire lands within the 100-acre boundary by means other than donation, which the 1984 law specifically allows him to do, as it reads, "within the area designated in accordance with this section, the Secretary of the Interior may acquire lands and interests by donation, purchase with donated or appropriated funds,* * *" at my request and with the assistance of Congressman SID YATES and our two Senators, Congress appropriated $1.325 million for land acquisition and development in fiscal year 1991.

As the 1984 law reads, "funds appropriated under subsection (b) of this section shall remain available until expended," these funds are available now for the Secretary to use for designation. Unfortunately, the Interior Department has not utilized these funds as an option to move ahead on the park plan.

On April 30, 1991, in a final, bipartisan effort by Members of Congress on both sides of the river to seek the Department of Interior's assistance on this proposal, a letter was sent to the Secretary asking that he designate the Illinois JNEM.

Mr. Speaker, it is unfortunate that to this date, we have received no response to this letter. In addition, Secretary Lujan seems reluctant to use the tools available to him to designate this extension. That is why, with the assistance of my three House colleagues in the downtown metropolitan area—Congressmen GLENN POSHARD, DICK GEPHARDT, and BILL CLAY—this bill is introduced today. It is my understanding that a Senate companion may be introduced in the near future as well.

This legislation makes three vital changes to present law. It designates the Illinois extension; removes the "binding commitments" provisions; and raises the park authorization levels from $2.25 to $7.5 million.

Mr. Speaker, this bill represents an opportunity to fulfill the dream of Eero Saarinen, as well as the original designers of the JNEM, of implementing a bistate park to commemorate America's westward expansion. This park will not only be an outstanding source of beauty and recreation, and Illinois' first national park, but in attracting many of the 2.5 million visitors to the Gateway Arch each year, it will help to revitalize the distressed economy of East St. Louis, IL.

It is estimated that a $30 million Federal investment in the JNEM on the west side of the river has been the catalyst for over $2.5 billion of private and public investment in downtown St. Louis. Surely Congress and the Bush administration can envision the valuable possibilities of such a similar investment on the east side. I urge my colleagues to support this worthwhile legislation.

A TRIBUTE TO MICHEL YISSACHAR

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to rise today and congratulate Michel Yissachar, of Allentown, PA, this year's recipient of the Ronald K. Machtley Academic and Leadership Excellence Award for the Providence Hebrew Day School.

This award is presented to the student chosen by the Providence Hebrew Day School who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Michel Yissachar has more than fulfilled this criteria. She has maintained a 4.0 average and has been selected to the National Honor Society. Michel Yissachar participated on the mock trial team, was secretary of the student council, and coeditor of the yearbook. In addition she was a peer tutor and a leader of a student youth group.

I commend Michel Yissachar on her outstanding achievements and wish her all the best in her future endeavors.

TRIBUTE TO TYRONE K. BACKERS, PRESIDENT OF ROTARY CLUB OF MIAMI-GOLDEN GLADES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. LEHMAN. Mr. Speaker, I am pleased to note the recent installation of Tyrone K. Backers as president of the Rotary Club of Miami-Golden Glades.

As you know, the Rotarians are a service organization dedicated to improving the quality of life in our communities, developing the talents and potential of our youth and promoting the highest ethical standards in business. Mr. Backers has demonstrated a longstanding involvement in our community, particularly in the areas of drug education and drug abuse prevention. He is currently executive director of the Community Crusade Against Drugs of South Florida, Inc., and chairman of the Crestview/Rolling Oaks Citizens Crime Watch.

Mr. Speaker, I extend to President Backers and the other Officers of the Miami-Golden Glades Rotary Club—Dr. Stefano DiMauro, president-elect; Mary Kay Gallagher, vice president secretary; Steve Dante, Treasurer; and Marty Leitzes, sergeant-at-arms, my congratulations and best wishes for continued success in the coming year.

SALUTE TO JOSHUA MORK

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Joshua Mork of Troop 50 in a Narragansett and he is honored this week for his noteworthy achievement.

Not every young American who joins the boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Joshua Mork landscaped a courtyard at South Kingstown High School in memory of two deceased students.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Joshua Mork. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Joshua Mork will continue his public service and in so doing will further distinguish himself and consequently better his community. I am proud that Joshua Mork undertook his Scout activity in my representative district, and I join friends, colleagues, and family who this week salute him.

CAPTIVE NATIONS WEEK

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 17, 1991

Mr. HERTEL. Mr. Speaker, I rise today to commemorate the 33d year in a row that the United States has designated July 14–20 as Captive Nations Week. As chairman of the ad hoc committee on the Baltic States and the Ukraine, I am deeply concerned about the plight of the Baltic and Ukrainian people. Every year since becoming a Member of Congress, I have introduced a resolution declaring June 14, Baltic Freedom Day.

Earlier this year, I had the opportunity to visit Latvia, Lithuania, and Estonia and to witness first hand the appalling destruction caused by the Soviet military's occupation of the Baltic States. I met with several members of the democratically elected governments to express my unconditional support of their independence movements.

The Baltic countries became captive nations on August 23, 1939, when the infamous Molotov-Ribbentrop Pact was signed between the governments representing Nazi Germany and Stalin's Soviet Union. Stalin and Hitler divided Eastern Europe into spheres of influence creating a pretext for the illegal occupation of Estonia, Latvia, and Lithuania in 1940. The Soviet Union consolidated power over the Baltic countries in 1940, and has attempted to hold these three Western nations captive ever since.

Mr. Speaker, even though a commission established by the Congress of the People's Deputies of the U.S.S.R. to examine the Hitler-Stalin pact of 1939 declared the pact illegal, and despite the United State's longstanding policy of not recognizing Soviet sovereignty over the Baltic countries, there is concrete evidence that suggests the Baltics still remain captives of Soviet military occupation. It is estimated that there is one Soviet soldier for every five Estonian civilians. One in every 10 people is estimated to be military in Latvia. Lithuania was home to at least 100,000 Soviet troops, 10,000 Soviet Interior Ministry troops, and 5,000 paratroopers prior to the violence carried out by Soviet forces in January.

One Soviet leader after another has tried by various means to erase the memories of freedom and prosperity from the minds of the Baltic people, but the Baltic spirit has proven to be indomitable. For over 50 years, Soviet historians have attempted to propagate the myth that the Baltic years of independent statehood were simply an anomaly and that the only desires of the proletariat in Estonia, Latvia, and Lithuania were to unite with the Soviet State. The Baltic countries have made long strides forward to restore their independence from the Soviet Union; however, several events prove the Soviet Union is still unwilling to free the captive nations within its empire.

Most recently, on June 26, 1991, Soviet military units occupied the central telephone and telegraph exchange in Vilnius, thus cutting off all communication between Lithuania and the outside world. Lesser communication service facilities outside of Vilnius and in Kaunas were also occupied.

In January 1991, the Soviet Union deployed paratroops and carried out other unusual military movements in an attempt to enforce the conscription of Baltic citizens into the Soviet Army. An estimated 14 people were killed at this time, some of which when Soviet tanks literally rolled over them in a successful attempt to take over the Lithuanian State television station. Mr. Speaker, I would like to point out that this action alone was not only unconscionable, but a blatant violation of international law, as the Geneva accord of 1949 forbids the conscription of occupied people into the army of occupation. I agreed with many organizations dedicated to the establishment of democratic governments in the Baltic States when they felt the Soviets hoped their crackdown on the independence movements in the Baltic States would go unnoticed, since the world's attention was focused on the Persian Gulf war.

In July 1990, Gorbachev introduced a plan for a New Union Treaty in which the central Soviet Government would retain control of most aspects of political, economic, and related policy decisions in the Baltic Republics. None of the Baltic countries has agreed to sign the treaty, but Gorbachev continues to exert pressure upon them to do so.

Mr. Speaker, these are just a few of the many examples of the Soviet Union's attempt to, at best, intimidate the Baltic people, and at worst, overthrow the democratic governments of these nations. I sincerely hope that this is the last year Congress recognizes Captive Nations Week. I pray that the aspirations of the Baltic people to obtain self-determination is a reality far before July 14–21, 1992.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for

printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 18, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 19

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

Judiciary

To hold hearings on the nominations of Andrew J. Kleinfeld, of Alaska, to be United States Circuit Judge for the Ninth Circuit, Benson Everett Legg, to be United States District Judge for the District of Maryland, Dee V. Benson, to be United States District Judge for the District of Utah, and Donald L. Graham, to be United States District Judge for the Southern District of Florida.

SD-226

10:00 a.m.

Finance

Medicare and Long-Term Care Subcommittee

To resume hearings on the Health Care Administration's proposal to institute a prospective payment system for inpatient hospital capital costs under the Medicare program.

SD-215

Foreign Relations

To hold closed hearings to examine Chinese nuclear involvement in the Middle East.

S-116, Capitol

JULY 22

9:30 a.m.

Small Business

To hold hearings to examine the small business impact of proposed enterprise zone legislation, including S. 1032, to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing tax relief for employment and investments.

SR-428A

JULY 23

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.

SR-253

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 140, to increase Federal payments in lieu of taxes to units of general local government for entitlement land, and S. 927, to provide for a transfer of lands between the U.S. Forest Service and Eagle and Pitkin Counties in Colorado.

SD-366

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

10:00 a.m.

Environment and Public Works

To hold hearings on S. 481, to authorize a two-phase program of research and development to produce water of a certain quality from saline or biologically impaired waters.

SD-124

Judiciary

To hold hearings on proposed legislation providing compensation for victims of sexual crime, including S. 983, to provide a cause of action against producers, distributors, exhibitors or sellers of pornographic material by a victim of rape, murder, or sexual assault.

SD-226

Joint Economic

To hold hearings to examine the economic outlook at midyear.

SD-628

2:00 p.m.

Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 23 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD-366

2:30 p.m.

Judiciary

To hold hearings on the nominations of Eugene E. Siler, Jr., of Kentucky, to be United States Circuit Judge for the Sixth Circuit, William G. Bassler, to be United States District Judge for the District of New Jersey, and Jorge A. Solis, to be United States District Judge for the Northern District of Texas.

SD-226

JULY 24

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1410, to protect the rights of consumers from unsolicited telephone marketing calls, and S. 1462, to revise the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes.

SR-253

Environment and Public Works

Environmental Protection Subcommittee

To resume hearings on S. 976, authorizing funds through fiscal year 1996 for programs of the Solid Waste Disposal Act, focusing on toxics use and source reduction provisions.

SD-406

Special on Aging

To hold hearings to examine the treatment of low-income medicare beneficiaries.

SH-216

Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B-318 Rayburn Building

10:00 a.m.

Foreign Relations

To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), and the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific (Treaty Doc. 102-7).

SD-419

Judiciary

Patents, Copyrights and Trademarks Subcommittee

Technology and the Law Subcommittee

To hold joint hearings on S. 1096, to ensure the protection of motion picture copyrights.

SD-226

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 1351, to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.

SD-366

2:30 p.m.

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings to examine certain problems in bankruptcy, focusing on airline leasing, the interaction of ERISA law in bankruptcy proceedings, and whether "Evergreen Trusts" are authorized by bankruptcy codes.

SD-226

JULY 25

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 621 and H.R. 543, to establish the Manzanar National Historic Site in California, S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area in California, S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history, and H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn.

SD-366

Rules and Administration

To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.

SR-301

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on proposed legislation to implement the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

SD-406

Veterans' Affairs

To hold hearings to examine readjustment problems of Persian Gulf War veterans and their families.

SR-418

10:30 a.m.

Rules and Administration

To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.

SR-301

2:00 p.m.

Energy and Natural Resources

To continue hearings on S. 1351, to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.

SD-366

Environment and Public Works

Nuclear Regulation Subcommittee

To hold hearings on international commercial nuclear reactor safety.

SD-406

Labor and Human Resources

Employment and Productivity Subcommittee

To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.

SR-485

Select on Indian Affairs

To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.

SR-485

JULY 26

10:00 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 58, to establish a national policy for the conservation of biological diversity.

SD-406

Joint Economic

To resume hearings to examine the economic outlook at midyear.

SD-628

JULY 29

2:00 p.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on oversight of the General Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.

SD-406

JULY 30

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to examine and evaluate recent developments relating to international negotiations on global climate change and stratospheric ozone depletion.

SD-406

2:30 p.m.

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 1179, to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants, and S. 1187, to revise the Stock Raising Homestead Act to provide certain procedures for entry onto the Stock Raising Homestead Act lands.

SD-366

JULY 31

10:00 a.m.

Commerce, Science, and Transportation

Merchant Marine Subcommittee

To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Commerce.

SR-253

Finance

To resume hearings on S. 612, to encourage savings and investment through individual retirement accounts (IRAs) in an effort to stimulate economic growth for Americans and the nation.

SD-215

AUGUST 1

9:30 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1156, to provide for the protection and management of certain areas on public domain lands managed by the Forest Service in the States of California, Oregon, and Washington.

SD-366

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on a proposed Department of Transportation headquarters, and the relationship between the Judiciary and the Government Services Administration for the provision of space for the Courts.

SD-406

SEPTEMBER 24

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.

334 Cannon Building

POSTPONEMENTS

JULY 19

10:00 a.m.

Foreign Relations

To hold hearings to review Ambassador Glaspie's July 25, 1990 meeting with Saddam Hussein.

Room to be announced

HOUSE OF REPRESENTATIVES—*Thursday, July 18, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for all Your good gifts to us—the gifts of faith and hope, the gifts of friends and family and colleagues, and above all else, the gifts of life and love. We are specially thankful for those who are supportive of us with their thoughts and prayers, with their faithful remembrance and friendship, and with their abiding concern. In the privacy of our own hearts we recall the names of those who have any special need, and we pray that Your healing grace, O God, that is greater than we could ever ask or imagine, will be with them this day and in all the days to come. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Minnesota [Mr. RAMSTAD] please come forward and lead the House in the Pledge of Allegiance.

Mr. RAMSTAD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 427. An act to disclaim any interests of the United States in certain lands on San Juan Island, Washington and for other purposes.

H.R. 998. An act to redesignate the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service as the "John Richard Haydel Post Office Building";

H.R. 2347. An act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility", and for other purposes; and

H.J. Res. 255. Joint resolution designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2506. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1992, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2506) "An act making appropriations for the legislative branch for the fiscal year ending September 30, 1992, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. REID, Ms. MIKULSKI, Mr. ADAMS, Mr. INOUYE, Mr. GORTON, Mr. HATFIELD, and Mr. STEVENS, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 323. An act to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes; and

S. 992. An act to provide for the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, Nevada.

BELATED ACTIVATION OF NATIONAL GUARD UNITS IN PERSIAN GULF WAR

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. MONTGOMERY. Mr. Speaker, in reviewing the few mistakes made during the Persian Gulf war, the Defense Department did not admit it made a mistake in not calling up combat units of the Army National Guard as soon as we became involved in August.

The other branches of the service used their Reserves in an outstanding manner in this crisis, which in effect, was also a test of the total force policy. That policy of putting active duty, National Guard and Reserve units side by side worked very well. But for some reason, the Pentagon ignored calling combat units of the Army National Guard until nearly the end of the war.

Actually, President Bush deserves credit for calling up the Reserves. If he had not insisted, I am not sure how many National Guard and Reserve units would have been mobilized for this conflict.

This mistake cannot be overlooked and certainly should be discussed at the Pentagon and in Congress as we look for ways to improve military operations.

Also the Army is talking about cutting your Army National Guard and Reserves by 30 percent in the different States. Congress will not accept closing one-third of the armories in your districts. I suggest the Army go back to the drawing board on this issue.

THE 1991 INTERNATIONAL SPECIAL OLYMPICS IN MINNESOTA

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. RAMSTAD. Mr. Speaker, this week and next, Minnesota and the Twin Cities area will be truly special places.

Starting Saturday and continuing over the next week, our State will be host to 5,870 athletes from 93 nations around the globe who will participate in the 1991 International Special Olympics.

The Special Olympics are as much a celebration as a competition, and the emphasis for the athletes is on participation, as well as ability.

As one of our newspapers recently said, the "games will be a pageant of courage and cooperation."

Minnesota has recently played host to the World Series, the U.S. Olympic Festival, the Stanley Cup finals and the U.S. Open in golf. The Super Bowl and the NCAA final four basketball championship will be played next year in Minnesota.

But I guarantee you, during this special week in Minnesota, there will be a greater bond between athletes, a greater sense of goodwill among spectators, and more examples of dedication, perseverance, and courage than in all those other great events combined.

Since its founding 23 years ago, the 16 events of the Special Olympics have shown us just how much these special individuals can bring to this world.

It is hard to figure who benefits the most: athletes, coaches or spectators. By watching, cheering, and participating in the Special Olympics, we better appreciate what binds us all as human beings on this Earth: qualities of decency, compassion, and unconditional love.

Hugs will outnumber medals. Smiles a football field wide will smother any agony of defeat. Victories will be shared by all.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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I invite the Nation to come to Minnesota—as so many the world over will—and be witness to a life-affirming, special energy.

These athletes will touch our lives in special ways over the next few days and be a testament to the power of the human spirit. All of us will be the richer for it.

ANOTHER EXAMPLE OF NEED FOR A NATIONAL HEALTH CARE PLAN

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. WISE. Mr. Speaker, James Keener, a Braxton County resident, retired from CSX Transportation in 1987. He took early retirement at age 58½. The health insurance he received from the company as part of the separation agreement gave him a lifetime total of $75,000 for him and his wife.

Last year his wife developed cancer in her mouth and neck. Over the course of several months, she spent about 30–35 days in the hospital in Pittsburgh. She came home in April and was readmitted to a Charleston area hospital following a heart attack. She died in Charleston just after her 60th birthday.

After her first two hospitalizations in the Pittsburgh hospital, her hospital bills had exceeded the lifetime limit of their insurance coverage. Mr. Keener now owes the doctors and hospitals in Pittsburgh and Charleston $114,000.

He has applied for Medicaid, but he did not qualify because of his assets and income. His assets include some property handed down to him from his parents, some CSX stock, and some IRA's. These assets were part of his plan for his retirement. He says that even if he sold everything he owned, he would not be able to come up with the money.

Mr. Keener is currently making payments of $50 a month on a bill of $80,000. It is a shame that Mr. Keener can work all of his life—over 40 years with the railroad—try to plan for his future and have his expected security ruined by health care costs.

He asks, Mr. Speaker, how long before this country develops a national health care plan for the Nation.

A DOMESTIC AGENDA THAT IS NEEDED

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the press and our loyal opposition complain that the President does not have a domestic agenda. Obviously, he does.

HUD Secretary Jack Kemp has outlined his domestic agenda, the principles we believe the Republican Party should follow in addressing this important issue.

He believes, and I agree, that we should establish a link between effort and reward for the poor. That link between effort and reward can be made in education, housing, and in every aspect of American life. It would offer each man and woman a chance to earn self-respect.

Secretary Kemp has outlined what Congress should do to get this country going again: First, encourage long-term investment by individuals and business with a capital gains tax cut and indexation. He points out that America is the only country without an indexed capital gains tax; second, roll back that last few payroll tax increases; third, double the tax exemption for children; and fourth, create enterprise zones for inner-city jobs and expand home ownership among the poor.

If we follow these principles and establish a link between effort and reward, we will do more to curtail poverty than ever before.

□ 1010

INTRODUCTION OF LEGISLATION DEFINING A NEW TRANSPORTATION POLICY

(Mr. MINETA asked and was given permission to address the House for 1 minute.)

Mr. MINETA. Mr. Speaker, America needs innovation and not insulation from new ideas.

America needs a new transportation policy that is fair to everyone and visionary for our Nation.

As chair of the House Subcommittee on Surface Transportation, I will today join with Chairman ROE of the House Public Works and Transportation Committee, Mr. HAMMERSCHMIDT, the ranking Republican on the full committee, and Mr. SHUSTER, the ranking Republican on the subcommittee I have the privilege to chair, to introduce legislation that defines what that policy must be.

In this legislation we finish the Interstates, build more roads, build more mass transit, provide greater safety, and improve our quality of life.

We bring together our highways and mass transit systems so that they work together.

We eliminate the penalties for converting highway money for mass transit use.

And we increase flexibility by allowing States and cities to determine more of their transportation priorities without being second-guessed by Washington.

Mr. Speaker, that is part of our new look for transportation in America—and America, Mr. Speaker, needs nothing less.

TAX RATE INCREASE: ECONOMIC SUICIDE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the proposed bill to create a 35-percent tax bracket affects everyone, not just those who earn over $100,000. Tax rates paid by the wealthy affect their spending and investment behavior, which in turn greatly affects Federal revenue and the country's total GNP.

The problem in clearly seeing this effect comes from oversights in forecasting. The Congressional Budget Office, the Joint Committee on Taxation, and even the U.S. Department of the Treasury frequently publish forecasts that are based solely on the mathematical implications. They determine the increase in Federal revenue due to an increase in tax rates, ignoring the economic fact that tax rates affect people's behavior. If raising tax rates always increased total revenue, then Federal revenue would reach his maximum with a 100-percent tax rate. Of course a 100-percent tax rate would result in no revenue—if people were not allowed to keep any of their income, they would have no incentive to earn any income at all.

The bottom line is that if tax rates reduce the incentive to work, there will be less saving, less investment, and less economic growth—and everyone's income will be lower.

Considering the investment and job formation that results from investment by those with income of more than $100,000, raising the top income tax rate would be economic suicide.

What is the matter with Congress? Are we more interested in demagoguery than economic prosperity?

REREFERRAL OF H.R. 2757 TO COMMITTEE ON HOUSE ADMINISTRATION AND COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. ROSE. Mr. Speaker, I ask unanimous consent that the bill (H.R. 2757) to authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and for other purposes, be rereferred jointly to the Committees on House Administration and Public Works and Transportation.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR MAINTENANCE AND OPERATION OF HOUSE OF REPRESENTATIVES CHILD CARE CENTER

Mr. ROSE, from the Committee on House Administration, submitted a privileged report (Rept. No. 102–155) on the resolution (H. Res. 198) providing for the maintenance and operation of the House of Representatives Child Care Center, which was referred to the House Calendar and ordered to be printed.

COMPASSION BEGINS AT HOME

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, in recent months our country has been at its best in meeting its moral obligations overseas. We have done the right thing in helping Kurdish refugees. We have come to the rescue of cyclone victims in Bangladesh. We have helped the Philippines dig out from volcanic eruptions.

Unfortunately, there are hundreds of thousands of American victims who are wondering when help will come their way, too. They are hoping to attract President Bush's attention to problems here at home—not just in foreign lands.

In December in my district in central California, a deep freeze struck. It destroyed crops and put farmers and farm workers out of jobs. It devastated entire communities. Since then, life for thousands of families in the San Joaquin Valley has been a daily struggle.

Last week, the White House declared in a report to Congress that farmers and farm workers struck by disasters throughout this Nation do not need additional disaster assistance. What about America's moral obligation to its own people? What about compassion? Does it only apply overseas?

Luckily, the freeze victims of California—and victims of other agricultural disasters in this country—have another chance as this Congress works to put together a supplemental disaster bill.

Let us hope that the victims of these disasters can finally get all the help they need. They deserve the same attention and compassion that their country has displayed overseas.

MORE TAXES ON WEALTHY WILL NOT BENEFIT MIDDLE AMERICA

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, the same folks who are pushing for quotas in the workplace and for stronger strike powers for labor unions now want to hike our taxes as well.

The 35-percent top income tax bracket proposed in the so-called Working Family Tax Relief Act of 1991 will not help the middle class.

Cutting taxes in the early 1980's led to the longest peacetime economic expansion in history. Raising taxes, as we did last year, pushed the economy into a recession and guaranteed a slower economic growth in the future.

Mr. Speaker, the truth is that raising taxes on the rich will produce little, if any, new revenue. When the tax hikes on the rich fail to deliver the promised revenue, the deficit will rise, and the liberals in Congress will claim we have no other alternative but to raise the taxes on middle America.

Do you get the feeling that these people really do not identify with or, indeed, even care about the needs of middle Americans?

Raising taxes on the rich is nothing more than a smokescreen for raising taxes on everyone else. Do we not owe it to the American people to be honest with them instead of pretending that they will benefit by taxes supposedly targeted toward the wealthy?

OUR PHILIPPINE BASES

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, on Monday I talked about the excessive costs to repair Clark Air Base in the Philippines. Yesterday, we learned that an agreement has been reached for its closure but the continued use of Subic Bay Naval Base. Now at issue is our presence in that region of the world. Before Mount Pinatubo's eruptions, the Air Force had decided to relocate Clark's fighter wing to Alaska, a move which will maintain our tactical fighter capability in that theater of operation. Airlift, however, is another matter because this capability must not be withdrawn so far as to be unusable. In years past, Taiwan, Okinawa, and Japan have been used for C–130 basing so these possibilities must be explored because Operation Desert Storm clearly demonstrated the need for forward basing in our overall rapid deployment airlift and sealift strategy.

And finally, an alternative, such as Alaska, for the Crow Valley Range must still provide a multifaceted training ground for air warfare. In the months ahead, the Armed Services Readiness Subcommittee which I chair will assess these decisions as to their impact on our Nation's military readiness requirements.

WE CANNOT SPEND OURSELVES INTO PROSPERITY

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, I would like to commend those in this House who held a special order last night on economic and tax policy. The main thrust was that we cannot spend ourselves into prosperity. On the contrary, prosperity comes from leaving more dollars in the pockets of American citizens to invest in jobs and to spend in the economy.

Mr. Speaker, it is time that the Congress rid itself of the notion that higher taxes somehow mean a smaller deficit and better government.

□ 1020

It sounds like a good concept, but there is plenty of evidence that that is not the way it works.

We need to look at the behavior of Congress itself, to know what it will never happen. Congress has a long history of spending beyond its means, and nothing has happened to change that in recent years. For every dollar of increased revenues, this Congress has spent a dollar and a half. Congress manages to always spend more than it takes in.

Liberals in Congress have become kind of spend-a-holics, always looking for another tax to advance the political agenda and to get more money for the Government to spend. Instead of looking for the next tax high, though, Congress should be getting treatment for its spend-a-holicism. An increase in taxes is the wrong solution to the problems that face the Nation today.

Members of this body should look carefully at their own constituent mail. We get huge batches of mail urging reduced taxes and less Government spending. I do not recall any person urging more taxes.

The solution to the budget deficit is not the worn-out liberal answer of more taxes, more taxes, more taxes. The solution is less spending and more self-restraint on the part of the Congress.

RURAL AMERICANS FACE PROBLEMS ON HUNGER UNIQUE TO THEIR AREAS

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, the Hunger Committee has been learning a great deal lately about domestic hunger in the more rural areas of our country.

What we learned at a hearing in Indiana, and what I expect will continue to be brought to our attention in other areas of our country, is that hunger is a real problem, and that the solutions to rural hunger are not the same solutions that are being implemented in our larger cities.

Often, food banks or other services are not available in rural communities. Even if services are available, rural Americans are many times unaware of their existence. Rural Americans are also isolated and often lack needed transportation to access whatever programs do exist. In addition, there is a certain rural pride that many times stigmatizes individuals into not asking for assistance, even when they and their families truly need help.

Hunger Committee hearings here in Washington and around the country are giving us a different perspective on domestic hunger, a perspective which I hope will be noted by both urban and rural Members of the House.

TAX INCREASES HINDER ECONOMIC GROWTH

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, if the big taxers in Congress only learn one thing from the Reagan Presidency, please let it be that higher tax rates hinder economic growth and that lower tax rates increase the incentive to create wealth. As any high school freshman should know, the more you tax something the less you get of it. And if the high tax crowd get their way, their tax on "income" means less prosperity for all Americans.

Therefore, since this is true, why are some tax-hungry Members of Congress proposing new and higher taxes? The answer is simple, bring back last year's rallying, cry, "Soak the Rich," even if it means the middle class pays more taxes.

Two quick facts from the decade of the 1980's should finally put a lid on this myth that higher rates will bring in more money.

First, tax collections under the Reagan expansion increased from $517 billion in 1981 to a projected record of $1.07 trillion in 1991, an increase of 107 percent.

And second, the tax burden on the top 1 percent increased from 17.6 percent in 1981 to 27.5 percent in 1988, while the bottom 50 percent plunged from 7.5 percent in 1981 to a low of 5.7 percent in 1988.

These two facts alone should force the big taxers on Capitol Hill to throw the politics of envy into the trash bin of history, where it belongs. And if these big taxers want to return to the days of the high-tax seventies, then the real losers will be the American people.

SELL, NOT SPEND

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, the RTC knows how to spend taxpayers' money better than it knows how to sell assets. The RTC has a computer program for paying its 7,000 employees, but not for tracking the $164 billion in assets which it has a statutory duty to sell. The General Accounting Office has told us that the RTC has no idea what it receives for the individual assets it sells. Yet the RTC Oversight Board came before the Banking Committee last week to request that it be allowed to borrow an additional $35 billion in working capital. This money should come from the sale of assets, not from the Federal Financing Bank at 6.7 percent.

Mr. Speaker, I see no reason why the RTC should be allowed to borrow more working capital until we have evidence that it is selling the assets already under its control. Its primary mission is to dispose of assets, not accumulate them.

The RTC does not lack for resources. Over 70 percent of the assets it currently holds consists of cash, investment grade securities, and performing loans. We must teach it to sell, not to spend.

AMERICA'S HEALTH CARE SYSTEM

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, there is stormy weather ahead, and our health care lifeboat has been taking on water. In the past month, headlines have screamed trouble at us: "Medicare Fund in Trouble: Officials Say Bankruptcy Possible by 2001," "Task Force Says Medicaid Costs May Reach $200 Billion in 1996."

We are all familiar with constituent complaints about our health care system, but popular concern has not seemed to translate into action on our part even though the components have been introduced; we have bills addressing malpractice reform, small business insurance, and long-term care. Nonetheless, just about everyone knows the health care crisis has gotten bigger than Congress, and that scares the people of this country. But things are finally starting to happen. I am encouraged by the formation of a Republican leadership task force dedicated to pulling the different, and sometimes obtuse, angeles on health care together. Deliberations are beginning in earnest. It is time to do more than just bail water with leaky buckets. We need a new lifeboat for health care before we all sink.

GOP PRESERVES TAX BREAKS FOR WEALTHY

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, my GOP colleagues never tire of defending the tax breaks that the Reagan-Bush administration gave to the wealthy during the 1980's.

I would like to refer them to page 1306 of the Committee on Ways and Means Green Book. It shows, during the last decade after-tax income for the top 20 percent of Americans rose by 27 percent in constant dollars, while after-tax income decreased during the same period for families in the bottom 60 percent.

In other words, 60 percent of Americans did less well; the top 20 percent did very much better.

The message is clear: During the 1980's the GOP slashed taxes for the wealthy. Now they want to preserve those tax breaks.

GREEN BOOK ANALYSIS WITHOUT MERIT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, that is a very fascinating presentation the gentleman from Ohio gave Members, out of the Committee on Ways and Means Green Book.

We have already made the point that the Committee on Ways and Means Green Book is based on totally fallacious analysis, based upon fallacious analysis because the gentleman is using capital gains income as real income in the presentation.

The Committee on Ways and Means has totally misused the figures for the 1980's by saying that capital gains income is the same as earned income. That totally throws off the entire presentation of the gentleman, and totally throws off the Green Book. The Green Book has been shown to be without merit in material analysis of what happened during the 1980's or any other time.

SAVINGS BOND BILL

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, everybody knows that savings in the United States have been going down, including for average families. This is because income is not going up.

Now, the Treasury Department has made it even more difficult for families in our country to save. Did Members know that when a person walks into their local bank to buy a savings bond for their little girl or boy's birthday, that at best now they will walk out not with a bond, but rather empty-handed, with an IOU.

So where is her birthday bond? "The mail," they say. It will get there, oh, maybe in 3 weeks, because the Treasury Department has embarked upon something they call their "regional delivery system," where a person gets a promise and no bond.

How would Members like to buy their own children's presents in that way?

Now surprisingly, in the last 2 years, there has been a dramatic drop in the sale of $50 and $75 savings bonds, a 60-percent decline in sales of $50 bonds; a 74 percent decline in $75 bonds.

I have introduced a bill, H.R. 2734, to restore bond availability to the American bond buyer at local branches. U.S. bonds are for our people, for small investors. Let Members make them available to every grandmother, grandfather, father, mother, that wants to invest in their child's future.

□ 1030

INTRODUCTION OF BILL TO EXPAND PERKINS STUDENT LOAN FORGIVENESS PROGRAM

(Mr. KLUG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLUG. Mr. Speaker, today I will introduce a bill to expand the Perkins student loan forgiveness program to include college graduates who focus careers in special education on infants and toddlers with disabilities.

In 1986 the Congress amended the Individuals with Disabilities Education Act [IDEA] to provide fiscal incentive to States to offer special education services to disabled infants and toddlers. Almost all of the States are now trying to do that. A common problem that they are confronting, however, is in finding adequate numbers of individuals trained and motivated to provide the very specialized services that these children require. The Education Departments Office of Special Education Programs, in its 1991 report to Congress, cites the teacher shortage as its greater concern.

My bill will encourage talented young men and women to dedicate themselves to this very special group of Americans in need. I urge all of my colleagues to support this effort by joining me as cosponsors of this bill.

JOIN THE VETERANS ORGANIZATIONS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I am calling upon all American veterans throughout the United States to join a veterans organization. There is strength in numbers. If the veterans of this country think their benefits might become reduced either in education, in housing or in health, then get together and join an organization so that you can do something about it.

Yet while we say this, there are 27 million veterans in the United States, but only 7 million of them belong to a veterans organization.

There are 95 veterans organizations throughout the United States. There are 22 which are federally chartered. We are not just talking about veterans. We are talking about survivors, spouses, children, orphans, we are talking about over 65 million people who are affected by the Veterans' Administration. That is over 25 percent of the total population of the United States.

That, Mr. Speaker, is what I call strength, and I ask the veterans of this country to get into an organization, join and make sure that your veterans benefits are going to be protected.

REMEMBERING OUR POW/MIA's

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, a little over 10 years ago, I was approached by a young woman called Sherry Masterson, whose father, Lt. Col. Michael Bat Masterson, was shot down over Laos in October 1968.

She looked to me and said, "David, please tell me that my father is dead."

Well, at that time I made the decision that I would do everything that I possibly could to resolve the crisis and there are many Members of this House who have worked diligently for years to try to resolve the POW/MIA crisis.

I look first to the gentleman sitting in the chair, our friend, the gentleman from Mississippi [Mr. MONTGOMERY], who led a commission in an effort to try to bring about a resolution to this.

We have all been very sincere, and yet the release of the photograph which showed these three people who have been identified by family members as those classified as missing in action has been something that has brought a great sense of frustration, especially when those of us who serve on the POW/MIA Task Force find out about this by looking at it in the newspaper, and then we hear this picture has been available for nearly a year.

Mr. Speaker, it is critical that we redouble our efforts so that we can assure that if there are Americans still being held against their will in Southeast Asia, that we do everything we can to get them out and that we get a full accounting of the 2,273 Americans still classified as missing in action.

INTRODUCTION OF SMALL BUSINESS ECONOMIC OPPORTUNITY ACT OF 1991

(Mr. ANDREWS of Maine asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Maine. Mr. Speaker, when Washington talks about business, it is often talking about big business.

Even when the SBA talks about small business it can be talking about a business with as many as 500 employees.

Well Mr. Speaker, 90 percent of the businesses in my State of Maine have fewer than 20 employees.

If we are going to lift our economy from the grips of a recession, then we are going to have to pay more attention to the needs of our truly small businesses, particularly when it comes to getting access to the capital that is needed to take promising ideas from the drawing board to the economy.

That is why I have introduced the Small Business Economic Opportunity Act of 1991.

The legislation will provide entrepreneurs and our smallest businesses with the capital that is simply unavailable to them during the credit crunch that is strangling our economy. These are the people who have been hit first and hardest by the recession and they are the people who are the key to economic recovery for our Nation.

Mr. Speaker I urge the Members of this body to join me in supporting the Small Business Economic Opportunity Act of 1991 so that we might unlock the economic strength that exists in communities throughout our Nation and get our economy moving again.

AS STATES' BUDGET PROBLEMS GROW, DEFICIT REDUCTION MUST BE TOP PRIORITY OF CONGRESS

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, budget deficit gridlock is gripping State legislatures across America as lawmakers struggle to address budget deficits as large as $14.3 billion in California, $4.6 billion in Texas, and up to $6.5 billion in New York. In some States government workers have missed paychecks and State social services are grinding to a halt. In my home State of Illinois, lawmakers today enter their 18th day without a budget.

The deficit crisis confronting State governments seems minuscule in comparison to the estimated fiscal year 1991 $348 billion deficit the Federal Government faces. The desperate situation in our State capitals should serve as warning to those of us in Congress that we act immediately to cut our Federal deficit before a national financial breakdown forces us to act.

Common sense tells families in Pontiac, Kankakee, and Bloomington, IL, that they must balance their budget and their checkbooks every month. Common sense should also tell Congress that the Federal Government must have a balanced budget.

Mr. Speaker, deficit reduction must be a top priority of Congress. I look forward to working with my new colleagues to bring common sense, and balance, to our Federal budget.

READ MY LIPS, READ MY WANT ADS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in the campaign of 1988, now-President Bush made two distinct and specific promises. The first one is well-known. He said, "Read my lips, no new taxes."

But what everybody has failed now to come to terms with is that second promise. He said, "If elected, I will create 30 million jobs by 1988."

Well, guess what? We all know what happened to No. 1, and on No. 2 this administration has suffered a net loss of jobs since election day, and at the G-7 summit nobody is talking about unemployment.

It is very simple. America has the unemployment problem. Who cares at the summit?

Let me say this, Mr. Speaker. I think the American workers have a tough time. They have had to figure out this administration. First it was, "read my lips." Then it was "read my hips." Then it was "read my mind." Now it is "read the want ads."

I want to know where the jobs are. I want this administration to start dealing with Japan and the G-7 about macroeconomic issues that affect the American workplace.

Congress should be mandating that through legislation.

THANKS FOR HELPING A STRANDED BUS LOAD OF CONSTITUENTS

(Mr. TRAXLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAXLER. Mr. Speaker, this morning's Washington Post carries a story headline, "Stolen, one bus and belongings. Visitors become victims right after reaching Washington, D.C."

Those victims were my constituents from Huron County, MI, a group of 32 young people attending a religious convention here in the city. Just after arriving, unfortunately, their bus was stolen and all their belongings, their clothing, their cameras, what have you, were on that bus, their money. It was a tragedy for these young people on their first visit to our Nation's Capital.

The good news, Mr. Speaker, is that as a consequence of Mayor Dixon and her fine staff, Delegate NORTON and her fine staff, the Grand Hyatt Regency Hotel where they were staying, came through and were of immense assistance to these young people who were destitute in this town as a consequence of this crime.

They are having their food paid for by the D.C. Committee to Promote the District. They are having clothing discounts at Woodies. A bus company has called to offer a bus during their time in the city, and some other people are trying to arrange bus transportation back home to Huron County for them. There has been an anonymous donation of $500 from a person in Silver Spring, MD, and WRC radio is kindly running all-day promotion ads asking for assistance and moneys to help these kids during their difficult stay in Washington.

□ 1040

And so, yes, there is a bad news story, but it is also a story of a city that has come to their aid. I want to extend, as their Congressman, my deepest appreciation to the city administration, to the delegates and to the businesses of this town for understanding the plight of these visitors and for the assistance they are providing to them.

NO FREE RIDE FOR THE SOVIETS

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, this week President Mikhail Gorbachev met with the world's seven leading industrial powers to discuss Soviet political and economic reform. Aid to implement these reforms was a major topic of discussion.

Although economic and political reform is greatly needed in the Soviet Union, providing United States tax dollars for vague Soviet plans for reform is not something that needed to be done.

I commend the President and the other G-7 leaders for deciding against direct economic aid to the Soviets.

America has plenty to spend its borrowed dollars on right here at home. We have roads and the country's infrastructure in need of repair, and an education and health system that is short on funding. Our country will have a 282 billion-dollar deficit in 1992!

We are closing military bases across the country and cutting funding in all areas.

The Soviet Government, at this point, has not demonstrated its commitment to fiscal responsibility and political realities. Our best estimates still put Soviet defense spending at a quarter of their gross national product.

The Soviet Union should reveal upfront how much money it has in gold reserves before asking for $10 to $12 billion to stabilize their currency.

As the world's second largest gold producer, the Soviet Union should be able to not only disclose its reserves but commit a portion to this stabilization fund, or at least put it up for collateral.

Mr. Speaker, we agree that reform in the Soviet Union is desperately needed. But to write a blank check to that country, even if we could, would be the worst policy for America.

IDEA: INCOME-DEPENDENT EDUCATION ASSISTANCE ACT

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, one of the major hassles in applying for college student aid is filling out the complicated family-needs analysis forms. Everybody hates them—they are intimidating, and they invariably have an element of unfairness, since they deal with the assets of the parents rather than with the students who, ultimately, are the ones who need the education.

There is a better way.

Not long ago I introduced a major student loan proposal, the Income-Dependent Education Assistance Act—IDEA for short.

Under IDEA, there would be no need for family-needs analysis forms. IDEA loans would be available to students without regard to the parent's assets. The rate at which IDEA loans would be repaid would be determined by the student's income after leaving school.

Further, the IDEA program would provide student loans at little or no cost to the taxpayers and would free up a great deal of Federal money, which could be used for education grants and/or for deficit reduction.

Mr. Speaker, I am seeking cosponsorships, and those interested can find more information on IDEA on page 11218 of the May 16 CONGRESSIONAL RECORD.

AFTERMATH OF VIETNAM WAR—ACCOUNTING FOR POW'S AND MIA'S

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, as you are so well aware, 9 months ago the Pentagon received a photograph that appears to show three servicemen who have been listed as missing in action since the 1960's. Since then the Pentagon has been unable to determine whether the photograph is authentic. During this time they did technical test after technical test. But what they failed to do is what they should have done years ago: Vigorously and aggressively pursue any and every lead about our country's POW's and MIA's.

For thousands of American families and indeed for the country as a whole, the Vietnam war will not truly be over until every last courageous soldier is accounted for. If we can summon the moral will to lead the world against the forces of darkness in the Persian Gulf, then surely we can search for the Americans missing in the darkness of Asian Jungles.

General Vessey himself told this Congress just a few months ago that not enough is being done to investigate the cases of our POW's and MIA's. I want to add my voice to his and to others who call upon our Government to use every tool at its disposal to solve these cases.

Until we satisfy ourselves that everything has been done, we cannot rest. If America is going to set the highest standards of human freedom, then Americans who have disappeared fighting for those standards must be accounted for.

COAST GUARD AUTHORIZATION ACT OF 1991

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 196 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 196

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1776) to authorize for fiscal year 1992 the United States Coast Guard Budget, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, as modified by the amendment printed in section 2 of this resolution, as an original bill for the purpose of amendment under the five-minute rule, each section shall be considered as having been read, and all points of order against said substitute, as modified, for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The following is the modification of the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries:

Strike all of section 21, beginning on page 21, line 1 through page 22, line 11, and renumber succeeding sections accordingly.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. BEILENSON], is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution, Mr. Speaker, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 196 is the rule providing for consideration of H.R. 1776, the Coast Guard Authorization Act for fiscal year 1992.

This is an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries.

The rule makes in order the Merchant Marine Committee amendment in the nature of a substitute now printed in the bill, and as modified by the amendment printed in section 2 of the rule, as the original text for the purpose of amendment.

Section 2 of the rule strikes a provision in the committee bill establishing a recycling program at Coast Guard facilities, since that provision constituted appropriating in a legislative measure, and also violated the pay-as-you-go requirements of the Budget Enforcement Act.

The committee substitute requires a waiver of clause 7 of rule XVI. This waiver is necessary because the substitute contains nongermane provisions dealing with special pay to certain lower ranking armed services personnel, including those from services other than the Coast Guard.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1776, the Coast Guard Authorization Act, allows the service to carry out its multiple missions of search and rescue, drug interdiction, enforcement of laws and treaties, and marine environmental protection. From testimony before the Rules Committee, we understand that the bill is noncontroversial and has bipartisan support.

Mr. Speaker, to repeat, House Resolution 196 is a straightforward open rule, and I urge its adoption so that we may proceed to consideration of H.R. 1776.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an open rule, and I support it.

Mr. Speaker, many Americans take the Coast Guard for granted, often without realizing the many important functions it serves. For example, when we speak of the war on drugs, it is really the Coast Guard that is our first line of defense in that war. They are the ones who confront directly the smugglers who are attempting to bring in large quantities of marijuana and cocaine by ship. They also man the planes which patrol over our coastal waters and track the planes of the drug runners. In port, they are the ones who inspect ships for contraband including drugs. While other Federal agencies are involved in the war on drugs as well, the Coast Guard is on the frontline.

Mr. Speaker, it is the Coast Guard that we turn to for the maintenance of aids to maritime navigation, icebreaking activities, the protection of the marine environment, and the security and safety of waterways, ports, and vessels.

H.R. 1776, the Coast Guard authorization for fiscal year 1992, is an important step in providing necessary support and policy guidance for the Coast Guard. However, there are still problem areas in the legislation. In the statement of administration policy made available to the Rules Committee, the administration took the position that it would oppose the bill in its current form because its authorization levels are excessive and it contains several objectionable micromanagement provisions.

Mr. Speaker, the rule the committee has provided is an open rule which will allow the full House to make improvements to the bill and address the concerns of the administration. I urge its adoption.

□ 1050

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 196 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1776.

□ 1053

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard budget, with Mr. DARDEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the House considers H.R. 1776, the Coast Guard Authorization Act of 1991. I would like to express my appreciation to the chairman of the House Committee on Merchant Marine and Fisheries, Hon. WALTER B. JONES, for his unfailing support of our efforts. This legislation is the result of the excellent bipartisan cooperation of our committee and our concern that the Coast Guard be given the congressional support it so deserves. I also wish to express my thanks to the ranking minority members on the full committee, the Hon. ROBERT DAVIS, and the subcommittee ranking member, the Hon. JACK FIELDS.

The Coast Guard is often cited as one of the most efficient, competent, dedicated, and committed organizations of our Government. It reflects the courage, patriotism, and a sense of duty to God and country of the individuals who serve in the Coast Guard. To maintain the excellence of the Coast Guard, we must insure the support of the people of the Coast Guard. This is what our subcommittee sought to accomplish in the Coast Guard Authorization Act of 1991.

Congress has continued with each session to expand the missions which are assigned to the Coast Guard. While the Coast Guard serves as a military organization, it also saves lives, regulates navigation on our waterways, protects the marine environment, enforces our drug interdiction policies, protects our fisheries resources, and performs so many other vital functions in a quietly efficient manner.

As an important part of our military defense, the Coast Guard demonstrated in the Persian Gulf that it is ready to serve on very short notice. It played an integral role in enforcing the sanctions against Iraq and in providing technical assistance in dealing with the Persian Gulf oilspill. I support the amendment to be offered by Mr. GEJDENSON to recognize and commend the Coast Guard for its role in the successful outcome of that operation.

The bulk of the Coast Guard funding authorization is for operating expenses. Operating expenses reflect the basic needs for personnel, such as salaries, housing, medical care, training and other vital needs. Congress needs to place more emphasis on keeping the personnel of the Coast Guard and reducing the high turnover rate which reduces the effectiveness of the organization as a whole. Further, any cut in Coast Guard funding means reducing the ability of the Coast Guard to provide search and rescue services, maintain aids to navigation, enforce our drug and fisheries laws, and protect the marine environment.

Replacement of the outdated 50-year-old buoy tender fleet is one of the top priorities of the Coast Guard acquisitions program. The new multimission buoy tender will also play an integral role in oilspill response because it will be designed with oil skimming capability as well as other missions.

This legislation authorizes $28 million for research and development programs. The Oil Pollution Act of 1990 requires the Coast Guard to begin and fund a research and development program that will insure that they have the knowledge base and technology for oilspill response activities. Much of this research and development will focus on protecting the marine environment from oilspills. This program will have long-term benefits for both our environment and our economy.

The subcommittee strongly supports the acquisition of a new command and control aircraft of the command personnel of the Coast Guard. The Coast Guard currently has available for its use for command and control only two aircraft, both of which are being used past their recommended life. The Persian Gulf conflict illustrated the need for these aircraft when they were called upon to transport the Commandant on very short notice for emergency meetings with the President and also to fly Coast Guard personnel to the Persian Gulf. Both of these planes are becoming very expensive to maintain and operate. I believe that the continued use of these aircraft poses a potential threat to those officers in the Coast Guard who use these airplanes.

I intend to introduce one amendment to create the Lower Mississippi River Waterway Advisory Committee. This provision is similar to section 13 creating the Houston-Galveston Navigation Safety Advisory Committee. Both of these advisory committees are currently working to assist the Coast Guard in the adoption of regulations which insure the safety of navigation on these waterways. These provisions insure the continuous operation of these committees and recognize the important role they play in attaining the goal of cleaner, safer waters.

I would like to make one last comment about the workload we have given the Coast Guard. The Oil Pollution Act of 1990 alone mandates some 80 rulemakings and studies which must be conducted by the Coast Guard. I have encouraged the Coast Guard to proceed expeditiously with the rulemaking required by that Act. In particular, the Coast Guard is now past due as to the rules setting forth structural and operational means of protecting the environment prior to the date on which the double-hull requirement becomes final. There are others that are overdue as well. We need to provide the financial support to insure that the Coast Guard can fulfill the OPA 90 mandate and we need to encourage the Coast Guard to expeditiously complete that task.

H.R. 1776 expresses the strong support in this Congress for the Coast Guard and for its outstanding people. I urge the support of this body for this legislation.

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, I strongly support the Coast Guard Authorization Act of 1991. In all the years I have served in the House of Representatives, I have yet to see an agency other than the Coast Guard so ably perform its missions with the funds it has been appropriated. It is indeed a compliment to the value of this service that we have entrusted it with more missions and responsibilities over the years, not the least of which was the Persian Gulf war.

But with the many missions come demands for greater funding. The Coast Guard performs such vital missions as search and rescue, environmental protection, fishery treaty enforcement, and marine safety. Lives, property, and commerce are directly dependent on the Coast Guard every day of the year, a fact which provides more than enough justification to fully fund this service.

Although the Persian Gulf conflict is over, there is still a type of war in the Pacific—illegal use of drift nets by foreign fishing vessels. This bill authorizes funds to enable the Coast Guard to stop Japanese, Taiwanese, and Korean drift net vessels from the indiscriminate killing and waste of vast numbers of marine life. The use of large-scale drift nets is a continuing problem despite the deadly threat they pose to our marine resources.

This bill also authorizes funding for continuation of the efforts we started in the Oil Pollution Act of 1990. There have already been positive changes around the country to ensure a rapid and effective response capability in the case of a potential oilspill. I am pleased to see that this country has a comprehensive and continuing policy dealing with oilspill prevention and cleanup.

One more note on the Coast Guard. I am sure that most of my colleagues share a disdain for the recreational boat tax that was instituted by Congress in the Omnibus Budget Reconciliation Act of 1990. I do not blame the Coast Guard for this, and no one should. The so-called user fee, however, is a tax, and nothing else, and it was implemented by Congress. I hope my colleagues will see the wisdom in repealing this unfair tax on boat owners.

Once again, I urge my colleagues to support full funding for the Coast Guard authorization bill.

Mr. FIELDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as a cosponsor of this important legislation, I rise in strong support of H.R. 1776, the Coast Guard Authorization Act of 1991.

This bill, which was drafted in a bipartisan manner, is the product of many months of careful consideration and it is an essential funding measure for the U.S. Coast Guard.

Mr. Chairman, as I am sure you will agree, there are few Federal agencies which are more respected and beloved than the Coast Guard.

In fact, we in the U.S. Congress like the Coast Guard so much that we continue to give them an ever-increasing number of roles and missions.

While the Coast Guard meets each new challenge with enthusiasm, unfortunately we have not provided them with adequate financial resources to deal with such pressing problems as drug interdiction, oil pollution control, bridge repair, and modernization of its seagoing fleet.

This year, however, we have an opportunity to help reverse that trend. It is my firm belief that the authorization levels contained in H.R. 1776 will provide sufficient money for the Coast Guard to carry out its myriad of responsibilities.

Mr. Chairman, while H.R. 1776 contains a number of important provisions, I would like to briefly highlight a few of those contained within the bill.

For instance, incorporated within this legislation is $14 million to renovate and extend the useful life of the Coast Guard cutter *Mackinaw*, which is the flagship of the Great Lakes icebreaking fleet. This vessel, which was constructed in 1943, is the only icebreaker capable of extended and uninterrupted service during the winter months in the Great Lakes. It is essential that we keep this vessel in operation, and I compliment the distinguished ranking minority member of our committee, BOB DAVIS, for his tireless leadership on behalf of the *Mackinaw*.

Second, we have authorized $29 million within this legislation so that the Coast Guard can obtain a new command and control aircraft. The acquisition of this aircraft is vital because the Coast Guard's two existing planes, which are used by the Commandant, have surpassed their useful life and the cost of maintaining them has become prohibitive. As a member of the Joint Chiefs of Staff, Admiral Kime must have safe and reliable aircraft at his immediate disposal. It is therefore essential that the Coast Guard acquire this new replacement plane.

Third, incorporated within H.R. 1776 is $52 million to implement various provisions of the landmark Oil Pollution Act of 1990.

As someone whose congressional district was devastated by two major oilspills last year, I anxiously await the pre-positioning of certain cleanup equipment in the Gulf of Mexico. I am convinced that with the additional funds we provide in H.R. 1776, the Coast Guard can accelerate that acquisition process and we can better protect our Texas coastline.

In addition, this money will be used to finance oil pollution prevention plans and to compensate those who are adversely affected by an oilspill.

Finally, I am pleased that we have included language within the Coast Guard authorization bill to statutorily mandate the Houston-Galveston Navigation Safety Advisory Committee.

This committee, which was created by administrative decree in 1982, provides solutions to the Coast Guard on a range of problems dealing with traffic congestion, vessel groundings, and oilspill control. Our ports are safer today because their suggestions have been implemented and it is appropriate that we have included this important advisory committee, which will serve at virtually no cost to the taxpayer, within H.R. 1776.

Mr. Chairman, in closing, let me say that I recognize we are living in austere times and that the funding demands placed upon us is enormous. Nevertheless, it is critical that we provide the Coast Guard with the financial resources they need to get the job done. It is my firm belief that H.R. 1776 is a step in the right direction.

Mr. Chairman, I urge my colleagues to support this legislation so that the Coast Guard can continue to wage its battle against the spread of illegal drugs into this country, adequately protect our coastline from future oilspills, and upgrade their oceangoing fleet to assist our citizens throughout this country.

Mr. Chairman, I would like to compliment my distinguished subcommittee chairman, BILLY TAUZIN, for his superb leadership in bringing this bill to the floor, and I look forward to providing the Coast Guard with the financial resources they need to get the job done.

□ 1100

Mr. Chairman, I reserve the balance of my time.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I take this time only to thank my colleague, the ranking minority member of the subcommittee, the gentleman from Texas [Mr. FIELDS] for his excellent statement and for his support and bipartisan work on this bill, and all we do in our committee on behalf of the U.S. Coast Guard. Not only is the gentleman an excellent legislator, but the cooperation he and his staff have provided to my staff and myself in our efforts has really improved the work of our subcommittee and made our product much better as a result. I thank the gentleman for that.

I would also like at this time to commend the Secretary of Transportation, Mr. Sam Skinner, for the extraordinary improvements that have been made in reference to budget requests for the U.S. Coast Guard and for other transportation functions. As a result of that, the chairman of the Subcommittee on Transportation of the Committee on Appropriations, the gentleman from Florida [Mr. LEHMAN], has been able this year to provide a much better resource base for the U.S. Coast Guard than in past years. This cooperation from the administration and from our Appropriations Committee is, I think, building a better base upon which this authorization bill can function. So I would like to indeed express the grateful thanks of both our committee and the U.S. Coast Guard to the gentleman from Florida [Mr. LEHMAN] and to Secretary Skinner.

Mr. Chairman, I yield such time as he may consume to the chairman of the full committee, the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of H.R. 1776, the Coast Guard Authorization Act of 1991.

I have been coming to the floor for many years now, to urge this body to support sufficient funding for the Coast Guard—one of the most efficient, dedicated, cost effective organizations in the Federal Government. As each year passes, my admiration for this service grows, and I believe that my attitude is reflected in the Congress as a whole. Last year on this floor, for example, we expressed our confidence in the Coast Guard when we placed on its shoulders enormous responsibilities under the Oil Pollution Act. If the money we gave the Coast Guard were equal to the esteem we have for that service, it would be the best funded agency in the country.

Most of us think of the men and women of the Coast Guard as the folks in white hats coming to rescue the stranded boater, fighting drug smugglers, or responding to environmental disasters like the *Exxon Valdez*. However, over the last year that public image has changed to include the Coast Guardsman as defender of liberty.

In Operation Desert Shield and Operation Desert Storm, Coast Guardsmen were the first called up and they will be the last to return home. Coast Guard enlisted and reserve personnel put some of their multimission expertise to work in this national defense effort. They provided port safety and security, they supervised the loading and unloading of hazardous military cargo, they participated in vessel boardings in the Middle East, and once again, they used their oilspill response expertise in combating the disaster unleashed by Saddam Hussein. The transportation of arms, supplies, and troops to the gulf was the greatest logistic operation since World War II, and the Coast Guard was the linchpin of that successful endeavor. All the while, the Coast Guard was doing its job at home.

This bill authorizes $3.1 billion to fund the various operations within the Coast Guard. It contains a number of provisions that will assist the Coast Guard in its internal operations. It also reflects the bipartisan cooperation that I am proud to say my committee is noted for.

I strongly urge my colleagues to support this necessary legislation. Let's show the Coast Guard we support them, whichever white hat they are wearing.

Mr. FIELDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding this time to me.

First of all, let me congratulate the chairman of the subcommittee, the gentleman from Louisiana [Mr. TAUZIN], and also the gentleman from Texas [Mr. FIELDS], the ranking member, who have done a superb job once again of putting this legislation together.

The Coast Guard, of course, affects many people all over the country, and what we do to assist the Coast Guard is very helpful to a lot of people.

Mr. Chairman, I also want to congratulate my counterpart, the chairman of the full committee, the gentleman from North Carolina [Mr. JONES], who has come up again with a very fine bill.

□ 1110

I want to talk, and I appreciate the things that have been put in this bill to take care of the problem with zebra mussels on the Great Lakes, the problem that I have had with the Coast Guard cutter *Mackinaw*, but I want to talk principally today about an amendment that I am going to offer later on which is a sense of the Congress amendment that we want to eliminate the so-called boater user fee which is not really a boat user fee. It is in fact an unjust tax.

We have introduced a bill, House bill No. 534, which now is cosponsored by a majority of the Members of this House, 218 Members of this House want that boat user fee tax repealed.

One of the requirements, of course, that when we make a decision to eliminate any kind of a revenue producer, we have to come up with an offset. The gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Texas [Mr. FIELDS] have worked very hard, and we have come up with an offset which in fact brings in about $30 million more than the $720 million that the user fee was supposed to bring in over a 5-year period.

One of the problems that we have had with it is that this $754 million that will be brought in by our true user fee that we have found as a substitute is that the money does not start coming in until the third, fourth, and fifth year, which means year No. 1, which is upon us now, and year No. 2, we do not bring in any money. So it is our responsibility to figure out a way to do that.

What we have done in our bill, which incidentally has unanimously been reported out of the full Committee on Merchant Marine and Fisheries, what we have done is said, OK, we will have to let the user fee go into effect for 2 years, but at the end of the 2 years the user fee will be automatically eliminated.

I know that there are a lot of Members that want to speak on the sense of the Congress amendment that I will be offering so I am suggesting that if their staff or if the Members are watching, we will probably be finished with general debate very shortly and be ready to go to that amendment very soon. I just want to say a few things about why this tax is an unjust, unfair tax.

First of all, what is a user fee? A user fee is a fee that is normally charged someone and they are going to get some benefit out of the fee. Such is not the case with what we did in regard to the user fee. Not one penny of this money will go for any benefit of the boaters in this country. So it is simply a tax that we added last year that will be used to lower the deficit.

We do not think that is fair. We did not pick on anybody else. We did not pick on any other form of recreation. We singled out boaters, totally unfair. That is why boaters all over the United States are complaining, not so much about the fact that the fee is going to be $25 to $100. It is a principle here.

Why should we charge one recreational industry a tax when we are not charging any other industry?

As we are already aware, boaters did pay 9 cents in gasoline taxes. We added another 5 cents last year. So they are paying 14 cents and not getting their fair share of the money to be used for the industry.

I will speak more to the amendment when we get to it, but I think it is very significant and important that we tell the rest of the Members of this House and also the other body that it is our intent to pursue as fast as we can some type of repealer legislation.

I might also comment about a couple of other amendments that are going to be offered, which I think deserve our consideration, too. One is going to be offered by our friend, the gentleman from Florida, Mr. PORTER GOSS, which I think makes some sense. That is that when the Coast Guard issues the decal to the people that are buying it, he will say that when they get that decal that there must be a statement in there saying, "You are not going to get any benefit out of the fee that you have paid."

I think that makes sense, too, so that the public, the boating public will know in fact they are getting no benefits out of this particular piece of legislation.

Also the gentleman from Maryland [Mr. MCMILLEN] may offer an amendment, and I hope he does, an amendment that says, "You cannot put a penalty on those people who fail to purchase their decal until after October 31 of this year," which I think also makes sense.

We are going to find, frankly, that what we did is not going to produce the revenue. I think the revenue that was supposed to be produced from the so-called user tax fee was going to be around $124 million. The simple fact is, we have not started yet to enforce or issue those decals until July 31 of this year. So the point is a lot of people in a lot of parts of the country are going to find that the boating season is half over with, they are not going to bother to buy or pay the registration fee, not going to get the decal. And we are going to find we are not going to get in near the amount of money that the Committee on the Budget thought they were going to get in.

So I think it is time that we talk seriously about repealing this tax, this fee. It is totally unfair, and I urge my colleagues to join in this effort when we get to it later on.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. STUDDS], the former chairman of the Subcommittee on Coast Guard and Navigation.

Mr. STUDDS. Mr. Chairman, I will not take the time. I simply want to commend the chairman of the full committee, the gentleman from North Carolina, and the gentleman from Louisiana [Mr. TAUZIN] and the ranking minority members. This bill will lead to a far stronger and healthier and sounder Coast Guard. That is in the interest of the Nation.

There are a great many provisions in it. I think it reflects in large part the wisdom and commitment of the Coast Guard, of its current Commandant, as well as the traditionally, characteristically, and appreciably bipartisan nature of this committee and the subcommittee. I commend all those involved.

Mr. Chairman, I rise in strong support of H.R. 1776, the Coast Guard Authorization Act of 1991, because it represents a very sound investment in the future of our Coast Guard.

Mr. Chairman, passage of this bill will mean that the strength of the Coast Guard will increase by over 1,100 people; it will mean that the Coast Guard will have better boats and aircraft to save lives; it will mean that this country will be better prepared to fight oilspills;

and perhaps most important, it will mean that the men and women of the Coast Guard will have improved health care, child care, and other family services.

Adm. Bill Kime, Commandant of the Coast Guard, deserves a lot of credit for working with the administration and the Congress in helping us shape this authorization bill. In many respects this bill reflects his vision about the future of the Coast Guard and his personal concern about the well-being of the men and women under his command.

The bill also contains a provision that would permit *Mayflower II* to do what *Mayflowers* are supposed to do—which is sail. *Mayflower II* is a replica of the original *Mayflower* owned and operated by the Plimoth Plantation and exhibited at the State pier in Plymouth, MA.

The vessel was given to the United States by the people of Great Britain in appreciation for American assistance during World War II. Because the ship is an exact replica of a 370-year-old vessel, it does not meet all the latest Coast Guard safety and navigational requirements.

This bill authorizes the Coast Guard to work with the Plantation to develop alternative safety requirements so that the vessel may receive a certificate of documentation with a coastwise trade endorsement. This will enable the *Mayflower II* to safely make a few short voyages a year and participate in the tall ship celebrations, like the one planned next year to observe the 500th anniversary of Columbus' discovery of the American Indian.

The bill will also help save the two precious lighthouses on Cape Cod and Nantucket Island. Built in 1797 as the first lighthouse on Cape Cod, Cape Cod Light is one of our Nation's most historic and important lighthouses. Originally run with 15 whale oil lamps, Cape Cod Light became the first flashing beacon in North America. Unfortunately, we may lose this important part of our maritime history because it is literally about to fall into the sea.

Sankaty Head Light Station is facing a similarly perilous future. Built in 1850 atop a 100-foot-high bluff on the eastern shore of Nantucket Island, this light, too, has just a few short years before it falls into the ocean.

The people of Cape Cod and Nantucket want these lighthouses saved and are willing to put their time and money to make sure that they are. But they need the help and expertise of the Coast Guard. This bill directs the Coast Guard to develop a strategy regarding the preservation and possible relocation of Cape Cod Lighthouse and Sankaty Head Light Station.

Finally, H.R. 1776 authorizes the Coast Guard to enter into long-term leases with the Commonwealth of Massachusetts to acquire a site at the Massachusetts Military Reservation on Cape Cod for the construction and renovation of family housing. There is a severe housing crunch in our area and this bill will make it possible for the Coast Guard to provide new and better housing for families.

Mr. Chairman, this is a good bill and enactment of this legislation will result in a stronger, healthier, and better equipped Coast Guard and I urge my colleagues to support it.

Mr. HOYER. Mr. Chairman, today I rise in support of two amendments offered to the Coast Guard authorization bill. The first amendment introduced by the ranking minority member on the Merchant Marine Committee, Mr. DAVIS, expresses the sense of Congress that the Coast Guard user fees be repealed immediately. The second amendment, offered by my friend and colleague, Mr. MCMILLEN, will delay the time when the Coast Guard can begin to collect fines from those boaters who failed to pay the user fee.

"User fee" is a misnomer. The revenue collected from recreational boaters across the country will not support Coast Guard programs that they use, so why is it called a "user fee?" Instead, the revenue from this tax—a more appropriate term—is placed in general transportation funds. This is unfair, and I see no reason why boating should contribute more to deficit reduction than any other recreational activity. Moreover, Congressman DAVIS has introduced legislation, H.R. 534, which would raise even more money than the tax on boaters by establishing a fee on shipping companies who access information from the Federal Maritime Commission. While I strongly support our country's effort to reduce the dangerously high deficits, let's not arbitrarily single out our Nation's boaters.

Finally, in another issue of fairness, let's delay the date that the Coast Guard can levy fines on boaters who have not paid the Coast Guard tax. The deficit reduction bill which implemented this tax was passed less than a year ago, and the regulations implementing this law were issued less than a month ago. How can we expect the 4.1 million recreational boaters in this country to comply with a law they probably don't even know about? Although the Coast Guard has given boaters a 1-month grace period to comply, this is not enough. Vote for the McMillen amendment and extend the grace period to October 1, 1991.

Mr. MCMILLEN of Maryland. Mr. Chairman, the boaters of America receved a triple whammy under last year's budget agreement. They got hit by a luxury tax, a gas tax, and a Coast Guard user fee. This last point, the user fee, is turning out to be particularly burdensome.

While I have substantive problems with the user fee itself, there is a practical problem of implementation which needs to be addressed.

The amendment I offer today will provide an extra 2-month grace period for the Nation's boaters before they are subject to fines for not having the proper decal on their boat.

Under this amendment, the implementation of the law will not be affected—its effective date remains June 30—and the fee structure is not altered at all.

However, the fines for not obtaining the proper stamps will not be effective until October 31, instead of the current date of August 31. These fines can run upward of $5,000.

The need for this legislation is self-evident. Besides the fact that the fee is unpopular among boaters, the short time frame in which to obtain the proper certification without being liable for fines in unrealistic. With 4 million boaters, and one centralized point of distribution, it is highly unlikely that—logistically—4 million fees can be paid and the decals distributed within the next 6 weeks. It just won't happen.

Although the fee will be phased in, and an opportunity will be provided for first time offenders to avoid payment by jumping through several bureaucratic hoops, the point remains that this whole process will prove to be a source of aggravation to the boating public.

This is particularly important since very little information has been made available to date, apart from the public notices included in the Federal Register. It is one thing to have a bad law, it is another thing to implement it in a way which precludes compliance.

Furthermore, an active effort is still underway to repeal the user fee. Should the repeal be successful, the enforcement measures will prove to be not only an inconvenience to boaters, but also a waste of Coast Guard time and money.

Either way, an extended grace period serves the public interest. Should the user fee be repealed, we save both the Coast Guard and the public from an unnecessary and confrontational enforcement process. Should this effort fail, the fees will be collected with no ultimate loss to the Treasury.

For those concerned by a possible loss of revenue caused by this legislation, I would point out that the bill in no way affects the fee structure or the collection of fees. It simply allows a longer grace period for boaters before they woud be subject to a fine. This is time which can be spent informing the boating public of its obligations under the new Coast Guard user fee law, and provide adequate time to comply with the law—albeit a bad law.

Mr. CLEMENT. Mr. Chairman, I rise in strong support of H.R. 1776, the Coast Guard Authorization Act for fiscal 1992. I would like to commend our chairman, the gentleman from Louisiana [Mr. TAUZIN], as well as our committee's ranking Republican, the gentleman from Texas [Mr. FIELDS], for their leadership in bringing this measure to the floor today.

Mr. Chairman, I would like to join with my colleagues in saluting the Coast Guard men and women who served in Operation Desert Shield/Desert Storm. While they were less visible than some of the other services, the Coast Guard nonetheless performed an invaluable strategic role in the operation and they did so admirably and with pride.

I have the distinguished honor of serving as vice chairman of the Coast Guard Subcommittee. As the representative of an inland district, I have had the opportunity to learn of the important role the Coast Guard performs on our inland waterways. For the benefit of inland water operators and recreational boaters, this bill continues the active and vital role of the Coast Guard in maintaining navigational aids, boat and vessel safety, search and rescue, and pollution prevention and mitigation.

From the many comments I have received from my constituents, I can attest to the responsiveness of the 2d Coast Guard District to the issues and problems raised by industries and operators along the Cumberland River. I want to commend Adm. William Ecker, commander of the second district, and the men and women under his command for their fine service. I trust that the second district is representative of all the Coast Guard districts across the Nation.

Mr. Chairman, I urge support of the bill.

Mr. RANGEL. Mr. Chairman, I am pleased to support H.R. 1776, Coast Guard Authorization Act of 1991. This bill provides authorizations for fiscal year 1992 for important programs of the Coast Guard including operation and maintenance, acquisition, construction and improvements, research and development, and retirement benefits for Coast Guard personnel. The bill does not contain any major new antidrug initiatives, but it does allow for the continuation of important Coast Guard drug enforcement activities and it makes possible several management initiatives designed to improve the efficiency of the Coast Guard.

The Coast Guard has a proud history dating back to 1790, when it was formed as the revenue marine to inforce the customs laws of our Nation. The Coast Guard was part of the Department of the Treasury until 1967, at which time it was transferred to the Department of Transportation. The Coast Guard functions under the control of the Navy in time of war, and in fact, the Coast Guard participated in the blockade of Iraqi shipping during the recently concluded Persian Gulf war.

The Anti-Drug Abuse Acts of 1986 and 1988 expanded the Coast Guard's role in waterborne and airborne marine drug interdiction. The Maritime Drug Enforcement Act authorizes the Coast Guard to search or seize any vessel that is manufacturing, distributing, or possessing with the intent to manufacture or distribute any controlled substance in the United States.

Major provisions of H.R. 1776 require the Secretary of Transportation to report to Congress on any duties that would be transferred to the Secretary of the Navy in a national emergency; provides for right of appeal to the commandant of the Coast Guard for career Coast Guard personnel who are being involuntarily retired; and authorizes the Secretary of Transportation to provide special pay for Coast Guard personnel in positions of unusual responsibility.

Mr. Chairman, I salute the Coast Guard for the important contribution it has made to America's national antidrug control strategy. Looking for drug smugglers on the high seas and in the air is hazardous, often monotonous duty, but it is important. I urge my colleagues to support this legislation.

Mr. FIELDS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUZIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 196, shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read.

The clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1991".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 and the remainder of the committee amendment in the nature of a substitute, as modified, is as follows

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated, to be available until expended, for necessary expenses of the Coast Guard for Fiscal Year 1992, as follows:

(a) OPERATIONS AND MAINTENANCE.—For the operation and maintenance of the Coast Guard, $2,570,000,000, of which $500,000 shall be used to implement the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, (Public Law 101–646), and $35,000,000 shall be expended from the Boat Safety Account.

(b)(1) ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, sonar simulators, and aircraft, including equipment related thereto, $446,000,000, of which $29,000,000 shall be used to acquire a new command and control aircraft, and $14,000,000 of which shall be used to renovate the Coast Guard Cutter Mackinaw.

(2) Funds authorized to be appropriated for the construction of a new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(3) Funds authorized to be appropriated for the acquisition of a new aircraft may be used only to procure an aircraft manufactured in the United States. Notwithstanding another law, the Coast Guard may transfer the current command and control aircraft to the manufacturer of any newly acquired aircraft in exchange for a reduction in the price of the aircraft to be acquired.

(c) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $28,800,000.

(d) RETIRED PAY.—For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000.

(e) ALTERATION OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $10,200,000.

(f) ENVIRONMENTAL COMPLIANCE AND RESTORATION.—For environmental compliance and restoration at Coast Guard facilities, $25,100,000.

(g) OIL POLLUTION ACT OF 1990.—Of the amounts authorized for Coast Guard operations and maintenance and acquisition, construction, and improvement, the following amounts shall be derived from transfer from the Oil Spill Liability Fund for implementation of the Oil Pollution Act of 1990 (Public Law 101–380; 104 Stat. 484):

(1) $25,000,000 for operating expenses; and

(2) $30,000,000 to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)), including the purchase and prepositioning of oil spill removal equipment.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992

(a) As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 4. TRANSFER OF AUTHORITY FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE NAVY UPON THE TRANSFER OF THE COAST GUARD TO THE NAVY.

Not later than 90 days after enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the functions, powers, and duties vested in the Secretary of Transportation and exercised through delegation to the Commandant of the Coast Guard that would be transferred to the Secretary of the Navy when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 5. ENLISTED PERSONNEL BOARDS

(a) Section 357 of title 14, United States Code, is amended to read as follows:

"(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

"(1) because the member's performance is below the standards the Commandant prescribes; or

"(2) because of professional dereliction.

"(c) An enlisted member under review by the Board shall be—

"(1) notified in writing of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

"(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

"(1) have twenty or more years of active service;

"(2) have been considered for involuntary retirement; and

"(3) it determines should be involuntarily retired.

"(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

"(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

"(4) allowed full access to and furnished copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

"(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within 90 days of the notification.

"(h) An enlisted member, who has completed twenty years' service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

"(i) An enlisted member voluntarily or involuntarily retired after twenty years' service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

"(1) the active-duty pay and permanent additions of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

"(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.".

(b) The catchline to section 357 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.", and item 357 in the analysis to chapter 11 of title 14, United States Code, is amended to read "357. Involuntary retirement of enlisted members.".

SEC. 6. AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE.

Section 93 of title 14, United States Code, is amended by—

(1) striking the word "and" at the end of subsection (q);

(2) striking the period at the end of subsection (r) and inserting "; and"; and

(3) adding the following new subsection:

"(s) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court.".

SEC. 7. HOUSING UNIT LEASE AUTHORITY.

(a) The Commandant of the Coast Guard may enter into a lease for a minimum period of 30 years with option to renew at the discretion of the Commandant to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts.

(b) Any lease under this section is effective only to the extent that amounts are provided for in appropriations laws.

(c) The Coast Guard may spend appropriated amounts for the construction and renovation of housing units at the site leased under subsection (a).

SEC. 8. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by striking at the end "September 30, 1992", and inserting "September 30, 1994".

SEC. 9. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 10. COAST GUARD HOUSING STUDY.

Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall submit to Congress a report on Coast Guard housing. The report shall examine the Coast Guard's current housing problems, long term housing needs, and estimate projected housing costs needed to relieve the current housing problems.

SEC. 11. TWO-YEAR BUDGET CYCLE FOR THE COAST GUARD.

Notwithstanding another law, the President is not required to submit a 2-year budget request for the Coast Guard until the President is required to submit a 2-year budget request for the Department of Transportation.

SEC. 12. NORTH CAROLINA MARITIME MUSEUM.

Notwithstanding section 3301(8) of title 46, United States Code, the General Greene, (vessel identification number USG NP5000025661), may transport not more than 16 passengers when the North Carolina Maritime Museum operates the vessel for educational purposes.

SEC. 13. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND CONSULTATION.—(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) MEMBERSHIP.—The Committee shall consist of 18 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico.

(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

(7) Two at-large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

(c) APPOINTMENT.—The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

(e) MEMBERSHIP TERM.—Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) COMMITTEE ADMINISTRATION.—Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may not be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of members of the Committee shall begin on October 1, 1992.

SEC. 14. VESSEL REQUIREMENTS.

Section 3503 of title 46, United States Code, is amended as follows:

(1) in subsection (a), by striking "November 1, 1993" and inserting "November 1, 1998"; and

(2) in subsection (b)(1):

(A) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(B) by adding the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any non-combustible material requirements that the Coast Guard prescribes consistent with preservation of the historic integrity of the vessel.".

SEC. 15. REIMBURSEMENT FOR PRESIDENTIAL PROTECTION.

(a) Not later than three months after the date of enactment of this Act, and annually thereafter as long as it is appropriate, the Secretary of Transportation shall request reimbursement from the Secretary of Treasury for all Coast Guard costs incurred in Fiscal Year 1991 and thereafter in providing security for the President and his family at or near Kennebunkport, Maine.

(b) If the Secretary of Transportation does not receive reimbursement for all Coast Guard costs, the Secretary shall immediately notify the Congress of that fact and the reasons for nonreimbursement.

(c) For the purposes of this Act and the Presidential Protection Assistance Act (18 U.S.C. 3056 note), the services provided by the Coast Guard for protecting the President and his family at or near Kennebunkport, Maine, may not be deemed to be temporary.

SEC. 16. TRANSPORTATION OF HOUSEHOLD EFFECTS OF COAST GUARD CADETS.

Section 406(b)(2)(E) of title 37, United States Code, is amended to read as follows:

"(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for cadets and midshipmen is 350 pounds.".

SEC. 17. SPECIAL PAY.

(a) Section 306(a) of title 37, United States Code, is amended by—

(1) striking "of pay grade 0–3, 0–4, 0–5, or 0–6" and inserting "of pay grade 0–6 or below"; and

(2) deleting the chart and inserting in its place the following chart:

"Pay grade	*Monthly rate*
0–6	*$150*
0–5	*100*
0–4 and below	*50".*

(b) Section 306(c) of title 37, United States Code, is amended by striking "in pay grade 0–3," and inserting "in each of the pay grades 0–3 and below,".

SEC. 18. DESIGNATION OF THE BORDEAUX RAILROAD BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Bordeaux Railroad Bridge at mile 185.2 of the Cumberland River is deemed an unreasonable obstruction to navigation.

SEC. 19. NEW CONSTRUCTION DECLARATION.

The vessel, Sea Falcon, United States official number 606930, is deemed to have been built in the year 1990 for all purposes of subtitle II of title 46, United States Code.

SEC. 20. CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE.

(a) CONVEYANCE OF LIGHTHOUSE.—

(1) AUTHORIZATION.—The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) DESCRIPTION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(3) AIDS TO NAVIGATION.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States.

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) LIMITATION ON OBLIGATIONS OF STATE.—The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(d) DEFINITION.—

For purposes of this section—

(A) the term "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, and associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(B) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 21. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and inserting "September 30, 1996".

SEC. 22. SHIP SHOAL LIGHTHOUSE TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of Berwick, Louisiana all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

SEC. 23. CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II.

(a) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel Mayflower II, owned by Plimoth Plantation, Inc. (a corporation under the laws of the Commonwealth of Massachusetts).

(b) The Secretary of Transportation may exempt the vessel Mayflower II from compliance with—

(1) any requirement relating to inspection or safety under title 46, United States Code; and

(2) any requirement relating to navigation under any law codified in title 33, United States Code; and require instead that the vessel comply with an alternative requirement established by the Secretary that the Secretary determines will ensure the safety of the passengers and crew of the vessel.

SEC. 24. CAPE COD LIGHTHOUSE AND SANKATY HEAD LIGHT STATION.

(a) STRATEGY.—

(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Army, the Secretary of the Interior, appropriate State, local, and other governmental entities, and private preservation groups, shall develop a strategy regarding the relocation, ownership, maintenance, operation, and use of Cape Cod Lighthouse (otherwise known as "Highland Light") in North Truro, Massachusetts, and Sankaty Head Light Station in Nantucket, Massachusetts.

(2) DETERMINATIONS REGARDING CONVEYANCE.—In developing the strategy, the Secretary shall determine whether and under what conditions it would be appropriate to convey the rights, title, and interest of the United States in Cape Cod Lighthouse and Sankaty Light Station to other Federal, State, or local government agencies or private preservation groups.

(3) ADDITION OF CAPE COD LIGHTHOUSE TO NATIONAL SEASHORE.—In preparing the strategy with respect to Cape Cod Lighthouse, the Secretary shall consult with the Director of the National Park Service to determine whether the lighthouse should become part of the National Park at Cape Cod National Seashore.

(4) CONSISTENCY WITH OTHER LAW AND EFFORTS.—Any strategy developed under this section shall be consistent with—

(A) the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws; and

(B) the goal of interpreting and preserving material culture of the United States Coast Guard.

(b) CONVEYANCE.—After completion of the strategy under subsection (a), the Secretary of Transportation may convey, by an appropriate means, all right, title, and interest of the United States in either or both of Cape Cod Lighthouse and Sankaty Head Light Station to one or more Federal, State, or local government agencies or appropriate nonprofit private preservation groups. Any conveyance under this subsection shall be made—

(1) without payment of consideration;

(2) subject to appropriate terms and conditions as the Secretary of Transportation considers necessary; and

(3) subject to the condition that if the terms and conditions established by the Secretary are not met, the property conveyed shall revert to the United States.

SEC. 25. OIL POLLUTION REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (Public Law 101–380; 104 Stat. 484) on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill.

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute, as modified, be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. GRADISON. Mr. Chairman, reserving the right to object, I would inquire of the distinguished gentleman from Louisiana what the purpose is of his request?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I have made this request only so that we can take amendments in the order in which

Members appear to offer those amendments rather than by title since some Members may not be here at the present moment to offer their amendment. It is just a matter of courtesty to Members.

If the gentleman has a problem with that, I will be happy to withdraw the request.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I would just say that I do have two amendments pending, and I think the ranking member of the full committee does, and we have been waiting here a long time. We would like to have our amendments brought up for those of us that got over here in due process.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. TAUZIN. Mr. Chairman, I will be happy to withdraw the unanimous-consent request.

The CHAIRMAN. The gentleman withdraws his request.

Are there any amendments to section 2?

PARLIAMENTARY INQUIRY

Mr. FIELDS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FIELDS. Mr. Chairman, I do not believe the gentleman did withdraw his unanimous-consent request.

Mr. TAUZIN. Mr. Chairman, I will be happy to restate it, if we do not have an objection.

The CHAIRMAN. It was the impression of the Chair that there was objection to the unanimous-consent request of the gentleman from Louisana.

Will the gentleman from Louisiana restate his unanimous-consent request?

Mr. TAUZIN. Mr. Chairman, I will again make a unanimous-consent request that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

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AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: At the end of the bill, at the following new section:

SEC. . LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND CONSULTATION.—(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) MEMBERSHIP.—The Committee shall consist of twenty four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessels owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical areas covered by the committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at large members who utilize water transportation facilities located in the geographical area covered by the committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization; and

(11) One member representing the general public.

(c) APPOINTMENT.—The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

(e) MEMBERSHIP TERM.—Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) COMMITTEE ADMINISTRATION.—Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Chairman, this amendment will permanently establish a lower Mississippi River Waterway Advisory Committee. Currently there is a committee established at the request of the Coast Guard to advise them on waterway and safety issues on the lower Mississippi River.

The committee will consist of 24 members with particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the lower Mississippi River and its connecting navigable waterway use including the Gulf of Mexico.

The costs of the current advisory committee is very minimal and the establishment of a permanent committee should not increase the amount of expenses. The current expenses are around $1,800 annually for actual travel reimbursements.

This amendment makes little change in the current charter agreement of the committee. The most significant changes is that it gives the authority to the committee instead of the Coast Guard to elect a chairman and vice chairman.

The CHAIRMAN. Is there further debate on the amendment?

If not, the question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONES of North Carolina: At the end, add the following new section:

"SEC. . PASSENGER VESSEL INVESTIGATIONS.

"Section 6101 of title 46, United States Code, is amended by adding at the end the following:

'(e)(1) This part applies to a marine casualty involving a United States citizen on a foreign passenger vessel that—

'(A) embarks or disembarks passengers in the United States; or

'(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

'(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

'(A) is thorough and timely; and

'(B) produces findings and recommendations to improve safety on passenger vessels.

'(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

'(A) seek a multi-national investigation of the casualty under auspices of the International Maritime Organization; or

'(B) conduct an investigation of the casualty under chapter 63 of this title.'.".

Mr. JONES of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. JONES of North Carolina. Mr. Chairman, this amendment would extend the authority of the Coast Guard to investigate marine casualties on passenger vessels that carry U.S. citizens.

Under current law, if an accident occurs on a foreign-flag cruise ship outside of the U.S. territorial sea, that accident does not have to be reported to U.S. officials. Thus, a ship can sail exclusively out of a U.S. port, with only U.S. passengers, have an accident 15 miles off our shore, and our Coast Guard would have no way of finding out the casualty even happened, let alone how it happened, and wouldn't be able to take steps to prevent future accidents. If we have so little authority in our own backyard, it's obvious that we can't do much if a cruise company advertises here in the States, entices Americans overseas, and someone is injured or killed during the voyage.

These facts are even more alarming when you consider that—

There are about 100 foreign ships operating out of U.S. ports; that's around 80 percent of the world fleet; 95 percent of those who vacation on cruise ships are Americans; and 50 percent of these foreign vessels are over 20 years old and 25 percent are over 30 years old.

In April of last year, there was a disastrous fire on the *Scandinavian Star* in the North Sea which killed over 150 passengers. Just weeks before, that same ship operated regularly off the coast of Florida carrying Americans. Had this tragedy occurred then, but outside of U.S. waters, no report to the Coast Guard would have been required.

My committee has held three hearings on cruise ship safety since last year. These hearings have demonstrated that our laws requiring the reporting and investigating of accidents are inadequate.

My view on this matter has been echoed in the international community. In his keynote address to the International Summit on Safety at Sea, held in Norway last April, the Secretary-General of the International Maritime Organization [IMO] expressed concern over the lack of compliance with accident investigating requirements. He stated that of the 1,239 instances of serious casualties since 1978, only 701 had been submitted to his group.

My amendment requires accidents on cruise ships carrying American citizens to be reported to the U.S. Coast Guard. This gives the Coast Guard the discretionary authority to conduct a post-accident investigation. If the Coast Guard undertakes an investigation, it is required to be thorough and timely and produce findings and recommendations on how to improve cruise ship safety. In complying with this requirement, the Coast Guard has two options. It can seek an investigation through the voluntary procedures now in place at the International Maritime Organization or it can conduct its own investigation.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to add that close to 80 percent of the cruise-vessel passengers worldwide are U.S. citizens and, thus, we must make every effort to verify the safety and reliability of passenger vessels carrying U.S. citizens and seek every opportunity to research accidents when they occur.

My colleague, the gentleman from North Carolina, my chairman, has offered this amendment that would guarantee that accidents involving U.S. citizens on foreign-registered passenger vessels will, in fact, be investigated and result in greater oceangoing passenger vessel safety.

I would like to commend Chairman JONES and his amendment. As usual, he and his staff have made a good Coast Guard authorization bill a better bill.

This amendment recognizes, in fact, that the Coast Guard has successfully implemented numerous agreements calling for better and greater vessel safety and better vessel construction and firefighting efforts. I think the chairman, in his amendment, not only recognizes the fact that the United States has cosponsored IMO resolutions calling for, in the case of cruise marine casualties, cooperative multination investigations by the vessel's flagging nation and the other nations involved.

I also believe the chairman is keenly aware that it is mostly U.S. passengers on these ships, and this amendment will protect and enhance the safety record of these vessels as regards U.S. passengers and, indeed, enhances the ongoing efforts of the Coast Guard to ensure that safety record.

For that, I commend the chairman of the full committee and would urge support of his amendment.

Mr. JONES of North Carolina. Mr. Chairman, I think, in substance, that I would warn that Congress should not wait for a disaster to prompt after-the-fact action. Our citizens deserve the highest level of protection and the safest cruise ships we can give them.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I am happy to yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, I rise in strong support of this amendment offered by our distinguished full committee chairman, the Honorable WALTER B. JONES.

This amendment, which is the product of testimony we received at the Coast Guard Subcommittee, will help to ensure the safety of the 4 million Americans who sail on foreign-flag passenger cruise ships each year.

While there are some who will argue that this amendment does not go far enough, it will require that any death, serious injury, or major damage to a passenger ship be reported immediately to the U.S. Coast Guard. In addition, it will ensure that any investigation into the cause of the accident be conducted consistent with regulations enacted by the International Maritime Organization [IMO].

Under current law, there is no reporting requirement, and investigations of accidents is the responsibility of the country in which the ship is registered.

Unfortunately, in the past this has caused a number of problems and it has placed the safety of our citizens at risk. For instance, in 1989, the Carnival cruise ship, *Celebration*, which is homeported in Florida, struck a Cuban freighter, causing the loss of life and serious damage to both vessels. Sadly, the American owners of the *Celebration* refused to cooperate in a U.S. safety investigation.

Mr. Chairman, as Members of Congress we have a fundamental responsibility to safeguard the safety of our constituents. It is my firm belief that this amendment is a positive step in that direction. Both the requirement to report and to properly investigate marine casualties on passenger ships will provide greater safety to those who travel on this mode of transportation. I am pleased to support this amendment and I urge its adoption.

Thank you, Mr. Chairman.

Mr. JONES of North Carolina. Mr. Chairman, I have taken this approach for two reasons. First, the International Maritime Organization is well respected and has recently made great strides in improving cruise ship safety. Second, its procedures for multinational investigations ought to be given a chance to work. I hope my amendment will have a positive impact in this area and will encourage nations to comply with their obligations under relevant international conventions. However, if that procedure fails, my amendment allows the Coast Guard to conduct its own investigation.

Congress should not wait for a disaster to prompt after-the-fact action. Our citizens deserve the highest level of protection and the safest cruise ships we can give them.

Just this week, the *Starship Majestic* cruise vessel suffered an engine room fire. This ship, registered in the Bahamas, was operating out of Port Canaveral, FL, carrying 739 passengers and 391 crew members. Fortunately, the fire was extinguished and no one was harmed, but the Captain had readied the lifeboats in case an evacuation became necessary.

The Coast Guard is participating in the post-accident investigation in this case only because the Bahamian Government and the cruise company are voluntarily complying with the International Maritime Organization guidelines. But technically, under U.S. law, the accident didn't even have to be reported to us. My amendment will correct that.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from North Carolina [Mr. JONES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: At the end of the bill, add the following new section:

SEC. . SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES.

(a) FINDINGS.—The Congress finds that—

(1) the Coast Guard fees imposed upon recreational boaters under section 2110(b) of title 46, United States Code, are unfair and unjustified;

(2) those fees do not qualify as user fees under existing law because the fees are not fair, are not based on the cost to the Coast Guard of providing services or things of value to recreational boaters, are not based on the value to recreational boaters of services or things of value provided by the Coast Guard, and are not based on a valid public policy or interest;

(3) recreational boaters who are required to pay those fees will receive no additional services in return for payment of the fee;

(4) recreational boaters already pay a fuel tax that contributes $70 million to the Coast Guard budget annually;

(5) the Coast Guard is reducing current services to recreational boaters;

(6) the Coast Guard fees imposed upon recreational boaters will be deposited into the general fund of the Treasury and do not benefit Coast Guard operations.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the requirement that the Coast Guard collect fees from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately.

Mr. DAVIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DAVIS. Mr. Chairman, this is the amendment that is the sense of Congress to repeal the recreational boater fee, and I actually think I will read the amendment, because it explains very clearly why I believe that we ought to adopt this amendment.

(a) FINDINGS.—The Congress finds that—

(1) the Coast Guard fees imposed upon recreational boaters under section 2110(b) of title 46, United States Code, are unfair and unjustified;

(2) those fees do not qualify as user fees under existing law because the fees are not fair, are not based on the cost to the Coast Guard of providing services or things of value to recreational boaters, are not based on the value to recreational boaters of services or things of value provided by the Coast Guard, and are not based on a valid public policy or interest;

(3) recreational boaters who are required to pay those fees will receive no additional services in return for payment of the fee;

(4) recreational boaters already pay a fuel tax that contributes $70 billion to the Coast Guard budget annually;

(5) the Coast Guard is reducing current services to recreational boaters;

(6) the Coast Guard fees imposed upon recreational boaters will be deposited into the general fund of the Treasury, and do not benefit Coast Guard operations.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the requirement that the Coast Guard collect fees from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately.

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Recreational boaters forced to pay a Coast Guard fee will receive no services whatsoever for payment of the fee; recreational boaters already pay a fuel tax that contributes $70 million to the Coast Guard budget annually; the Coast Guard reduces current services to recreational boaters; the Coast Guard fees imposed upon recreational boaters will be deposited into the general fund of the Treasury, and does not benefit Coast Guard operations.

Therefore, we think that we ought to repeal this fee as quickly as possible. As I mentioned before in my remarks under general statements on the bill, we have 218 Members, a majority of the Members of the House of Representatives who have cosponsored this bill.

The Coast Guard is having a very difficult time implementing this fee system. As we understand it, right now there are only four people taking calls on the so-called 800 line, as people call in to either pay for their fee with their credit card, or ask to have an application sent to them. At the rate of the number of boaters who need to file under the new system, each person answering that telephone would have to answer 68,000 telephone calls a day.

Obviously, this system is not going to work. It is not going to work that well. There will be a lot of people who are not going to be able to get their boats registered, even if they want to. I think that we should, and I would like to eliminate the fee before it even goes into effect.

I have indicated the reasons why this fee ought to be eliminated, but I think it is worth repeating. It is unjust, an unfair tax, and no benefit to the boaters whatsoever. We did not single out any other area of recreation. There are all kinds of other forms of recreation that we could have taxed. I do not think we should have taxed them, but we certainly should have not picked on boaters in the way we did.

We already know that the boating industry in this country has been hurt tremendously, and I am sure that other Members will talk about that particular issue.

Again, it is an unjust, unfair tax. I hope that all my colleagues will overwhelmingly join me today in a sense of Congress to have this be repealed.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words and I rise in strong support of the Davis amendment. The user fee which is being levied on recreational boaters is one of the most inherently unfair taxes I have ever seen. As a result of this tax, boaters have been singled out and forced to pay more than their fair share for deficit reduction.

Last year alone, boaters paid $27 million in new fuel taxes, a 10-percent luxury tax on new boat sales, a $35 FCC license fee, and increased State regulation fees. On top of all that, boaters are now getting hit with this user fee that could cost as much as $100 each year. No other recreational group has been asked to do as much to balance the budget. No other recreational group faces taxes from as many fronts.

In Michigan, as Mr. DAVIS knows, these taxes hit us especially hard. In our State, we are surrounded by water, it has shaped our history and defines our character. For many people in Michigan, boating is a way of life. In fact, there are more registered boats in Michigan than there are in any other State in the Union.

I have heard from some of my boating constituents who would not mind paying a user fee if it actually helped boaters. But not one dime of this revenue generated will go directly to the Coast Guard. Not one dime will directly benefit boaters.

This user fee must be repealed. I urge my colleagues to join me in expressing the sense of the Congress that this tax is unfair and must be abolished. Momentum continues to build in Congress to scrap this unfair tax—nearly half of the Members of the House have cosponsored legislation to repeal the user fee. The passage of this sense of Congress resolution will greatly help our efforts.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Davis amendment which expresses the sense of Congress that the so-called recreational boat fee should be repealed.

While I would have preferred that we consider H.R. 534, a bill introduced by the gentleman from Michigan [Mr. Davis] to repeal this erroneous fee, unfortunately, we will save that battle for another day.

Nevertheless, it is clear that based on the testimony we received at our April 24 Coast Guard hearing, that this fee, or more precisely this new boating tax, is almost universally disliked by the 4 million recreational boaters in this country.

It is a tax that should never have been approved and would not have been without the unique circumstances surrounding the Budget Reconciliation Act of 1990.

I would remind my colleagues that in the only up or down vote on the recreational boating fee in the House of Representatives, the proponents of this misguided idea were able to convince only 119 Members to support it and that is 87 votes less than the number who have now cosponsored its repeal.

Under the Coast Guard's final regulations, this tax will be collected on an annual basis and neither the Coast Guard nor the boating public will receive any benefit whatsoever. In fact, the regulations state that "recreational vessel owners paying the fee can expect no increase in the quantity, quality, or variety of services they receive from the Coast Guard."

This tax therefore, fails the fundamental test of what constitutes a user fee, since those who pay receive no benefit and no services.

In addition, I reject the argument that those who use our waterways pay little, if anything, toward their maintenance. The truth is that recreational boaters pay millions of dollars each year in Federal and State taxes and fees. These include: Customs entry fees, FCC radio license fees, State boat registration fees, State sales tax, Federal luxury taxes, property taxes, trailer and titling fees and $170 million in Federal fuel taxes in fiscal year 1992 alone. The vast majority of this money is used for a whole range of Coast Guard programs.

In short, those who use our waterways already pay their fair share and they should not be further burdened by this arbitrary, unfair, and indefensible recreational boat tax.

Mr. Chairman, I urge the adoption of this amendment and hope we can finish this repeal effort by enacting H.R. 534 in the very near future.

AMENDMENT OFFERED BY MR. PANETTA TO THE AMENDMENT OFFERED BY MR. DAVIS

Mr. PANETTA. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Panetta to the amendment offered by Mr. Davis: At the end of subsection (b), strike the period and insert the following: ", provided that the costs of the repeal are fully offset in each year."

Mr. PANETTA. Mr. Chairman, I will be brief. I recognize the controversy that surrounds this fee, having dealt with it for the last 10 years in various forms, as we have tried to deal with budget agreements and attempts at budget agreements.

The administration has submitted this proposal, I think, 8 of the last 10 years. Ultimately, as part of the budget agreement that was arrived at last year, this was a proposal that both the President and the Congress agreed to as part of the revenue package that was adopted as part of an overall agreement.

There is some $600 to $700 million in revenues that is involved here over the 5-year period. Now, another important element of the budget agreement is that if there are any additional new benefits provided under entitlement programs, or if there is a tax cut or a repeal, that those revenues that are lost have to be replaced. So, abiding by that pay-as-you-go requirement, what I have requested here is language that would say that if a repeal is to take place on this tax, then the costs of the repeal have to be fully offset in each year.

The reason I think this is important, it is not only because it abides by the budget agreement and the pay-as-you-go requirements of that budget agreement, but more importantly, yesterday we had the Director of the OMB, Mr. Darman, before the Committee on the Budget, tell members that for 1992 we are now looking at a record deficit of $348.5 billion. Obviously, when we are confronting that kind of crisis, that kind of debt crisis, I think the last signal that this institution wants to send to the country and to the world is that we are going to add that much more to the deficit as a consequence of the action we take today.

Therefore, for that reason, the language I submit here, basically demands that we do have an offset. If the House of Representatives and the Congress desires that this tax be repealed, it ought to have the guts to replace it with an offset.

I might say that the committee, to its credit in the proposal that is moving through the Congress did, in fact, do that. I commend them for doing that, because I think if this is to be successful in terms of the repeal, it has to be done with an appropriate offset. I commend the gentlemen for that.

□ 1140

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman particularly for his last statement, because the committee has gone to great length and the author of the bill, the gentleman from Michigan [Mr. Davis] and his staff have made great strides to provide not only an offset to provide as much money as this tax would have provided if everything had worked perfectly, and it will not, but actually produces $30 million more in the 5-year period than this so-called boat user fee tax would have produced under optimum circumstances; so I think we have a proposal before the House with the gentleman's amendment to the sense of the Congress amendment of the gentleman from Michigan [Mr. Davis] that will fit very nicely together, and I would encourage the gentleman and his Committee on the Budget to look favorably on what we are proposing to the full body in the form of the Davis amendment.

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to my colleague, the gentleman from Ohio, the ranking member on the Budget Committee.

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding to me, and I rise in support of his amendment.

I am sure that none of us in the House want to trigger the sequester, the across-the-board reduction in mandatory spending, which would be required if revenue were lost from one of the categories that are included under that broad pay-go umbrella. Specifically, the main programs vulnerable to such a cut are programs of great importance to the American people and to the Members of this House, such as agriculture programs and Medicare programs.

I, too, want to compliment the committee for its exploration of alternative means of raising revenues, and only would like to point out that under the budget agreement the substitute of one revenue source for another would still have to meet the revenue projections year by year, not just over the full 5-year period of time, in order to prevent the sequester which I know none of us desire to occur.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am happy to yield to the gentleman from Michigan, the principal author of the amendment.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 3 additional minutes.)

Mr. PANETTA. Mr. Chairman, I am happy to yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding to me.

I might say, Mr. Chairman, that yes, I am going to accept the amendment. I might say that it is a little redundant, because as the gentleman knows, whatever you do, you have to have offsetting revenue, no matter what happens, so I will accept it, but it is a matter of fact generally it would have to happen.

I might also say that as the gentleman has indicated, we have come up with a way to produce more revenue than the $720 million that the user tax will bring in.

The problem that we run into is the system in being set up, and for the benefit of the Members, what we have suggested and in fact is in the bill that is now ready to be filed, is a computer access fee with a Federal Maritime Commission automated tariff information system. This applies to international traffic when they file a rate daily. Over 900,000 of these are filed. What we are saying now is that you are going to have to pay 35 cents a minute to get that information. It brings in $30 million more than the fee on boaters is supposed to bring in, and frankly, it is not going to bring in that much. All of us know that now.

So we have complied with the letter of everything that the Budget Committee I think wants us to do.

I guess I would ask, as some of us know, the Ways and Means Committee has filed a letter asking for referral of this bill.

Now, we do not want that bill to linger in the Ways and Means Committee for a long period of time, because 218 Members of this House have said that we are in favor.

The House deserves an opportunity to vote on repealing this, or at least to have a vote on the floor.

I guess I am asking the ranking Member and the gentleman from California if they will give us a hand in talking to the Ways and Means Committee to see that they get this bill out of the Ways and Means Committee in a reasonable period of time, so that Members who want to vote on this issue will have an opportunity to vote on it.

Mr. PANETTA. Well, as the gentleman knows, the Ways and Means Committee has a large group of issues before it that involve revenues of all kinds and initiatives of all kinds; but I have discussed this with the chairman of the Ways and Means Committee and I am sure that he is going to give this matter his immediate attention with regard to whether or not these other revenues in fact will replace the loss that is done here.

Let me just say to the gentleman, there is no question in my mind the gentleman understands what the budget agreement is all about; but in the capacity as chairman of the Budget Committee, and I think the ranking member would agree with me, we have to continually remind the Members that if we are going to repeal something, it has to be clear that it is going to be offset, and that is the purpose of this amendment, to again clarify what was part of the budget agreement.

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, just a couple of points. I think this discussion underlines one of the concerns a lot of voters have had in this country, and that is that this is not really a user fee. It is a tax increase, because otherwise if there were less services being provided by the Coast Guard, or more services going to be provided by the Coast Guard as a result of this fee increase, we could just cut back on the services and not pay the fee and we would not have this offsetting problem.

But second, I think it should be pointed out that this is going to be a difficult tax to collect at best; $25 per boat will involve enormous administrative overhead, enormous enforcement costs, and therefore necessarily to require a dollar-for-dollar offset is not really realistic. If you find a better, easier source of raising money, as has been suggested by the gentleman from Michigan, in fact the Budget Committee under the Federal Treasury will end up well ahead, more than they would with the mess we are going to generate by this proposition.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. TAUZIN, and by unanimous consent, Mr. PANETTA was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to point out to the chairman of the Budget Committee that the gentleman is accurate in his statement. In our Coast Guard Committee hearings on the implementation of this so-called fee, we learned the cost of implementing the collection system may be as much as we are going to generate in revenues to it, whereas the proposal the gentleman from Michigan [Mr. DAVIS] has made for an offset is a real revenue producer.

I know the Budget Committee is not just concerned with the technicalities of the budget agreement, but also vitally interested in gathering the revenue necessary to halt this enormous budget slide we are in. I think it is important that the Budget Committee take this into account.

The cost of collecting this boat user fee may be more than we could gain in collections. That is crazy.

The new proposal on FMC fees will mean real revenue to the Government. I hope and I expect the Budget Committee will want to look at real revenue for a change.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for saying that.

Let me make clear, having dealt with budget reconciliation for a number of years now, that the basic approach of the Budget Committee is that when it comes to these kinds of policy issues, it really is better left to the committees of jurisdiction to make these decisions. They know what the issues are, they know what the impact is. I understand that.

From our point of view, we need to raise a certain amount of deficit reduction. So obviously if you can come up with a more effective and a fairer way to do it, then we would be more than happy to join in that issue.

Mr. DUNCAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief. I just rise in strong support of the amendment of the gentleman from Michigan.

I want to commend the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Michigan [Mr. DAVIS] for offering this amendment and for their diligent work on behalf of this amendment.

My part of Tennessee is made up of mountains and lakes. I have much boating that goes on there, many boating companies. I have a great many constituents who are extremely interested in this fee or this tax. I sponsored legislation in regard to this.

I want to say that I appreciate the work that has been done by these gentlemen on this amendment. I rise in strong support of it. I understand that the last time this fee was voted on by itself by the full Congress, it was soundly defeated in 1987. So I support this amendment.

Mr. GILLMOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to speak in behalf of the Davis amendment.

Last year Congress took an unfortunate step when it adopted the Coast Guard user fees, a revenue-raising measure which cost everybody owning a boat 16 feet long or over anywhere from $25 to $100. Like many provisions tucked inside a Budget Reconciliation Act, at the last minute without any opportunity for public comment, these fees have not been welcomed with open arms. Over 200 Members, as has been mentioned, of this body have sponsored legislation to repeal these fees.

Why? Because the fees are unfair. Boaters are not getting anything for their money. The Coast Guard's final rule, which was published this month, tells boaters as bluntly as possible not to expect new or better services.

□ 1150

Second, the fee is an unfair way to balance the budget. Instead of tightening our belts to cut waste, we are just creating a big pie by taking a bigger slice out of the taxpayers' pockets.

Frankly, this puts a damper on economic activity in districts like mine along Lake Erie, where businesses depend on tourism and they depend on vacationers.

Boater after boater asked me, and I think reasonably, "Why me? Why not charge beachcombers and swimmers? Why not have a user fee for people who hike the national parks or ride recreational vehicles across public lands?"

But before I give my colleagues any new ideas, let me simply say we ought to end this taxation of relaxation.

For many who have contacted me, opposition of the fees is a matter of principle. People do not like to be singled out for no reason. Frankly, I think this fee is a reflection of a philosophy held by too many in the Federal Government. That philosophy is: If it walks, if it talks, if it breathes, or even if it floats, tax it. And that is wrong.

You know, some say they cannot afford paying even a small fee. These fees apply even to a small rowboat of 16 feet. I simply want to ask my colleagues to join me in supporting Congressman DAVIS' sense-of-Congress amendment and also Congressman MCMILLEN's amendment to delay collection.

Mr. MCMILLEN of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Davis amendment and repeal of the user fees. I will be offering an amendment shortly which will delay the implementation of the penalties.

The concern that I have, notwithstanding the substantive argument with regard to user fees, is the fact that this is just going to result in confusion, in a lack of compliance by so many of our boaters across this country.

According to the U.S. Coast Guard, just over 32,000 boaters have received their decal, and only about twice that number have requested the form. This means that is 98 percent of America's boaters—over 4 million boaters in this country—are without the decal. It is improbable that they are going to be able to comply with this law.

So, I support the amendment for substantive purposes and, as I said, I am going to be offering an amendment shortly to delay the implementation of the fine to the end of October. It is my hope that we can repeal this altogether. Nevertheless I think it is important to give that extra grace period to the boaters of this country who, in my view, received several unnecessary blows in the budget agreement of last year.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. MCMILLEN of Maryland. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, first let me commend the gentleman from Maryland for the amendment that he will offer late on which will delay penalties for failure to comply with this tax while we are in the process of repealing it. How awkward it is going to be if we succeed in repealing it but citizens have already been penalized to pay a fine because they did not comply with something that we are repealing.

The gentleman is right on course.

Let me make one additional point, if the gentleman will allow me: What we are talking about is the difference between the tax and the fee. There is a major difference, and we need to think about it. This boat tax is a tax. It will not give one iota of new service to any boat owner in America. It will in fact cost the Coast Guard money to implement it; that will take away from services the Coast Guard is now providing. It is a pure tax.

What the gentleman from Michigan [Mr. DAVIS] will be offering as a substitute in his bill is a real fee, it is something people pay to get a service, computer access to shipper information that shippers need and will want in this augmented computer program.

What we are substituting is a real fee for a nasty tax.

I commend the gentleman from Maryland [Mr. MCMILLEN] for his work in assisting our efforts to not only repeal it but making sure that boaters do not get penalized while we are in the process of repealing it, and I thank the gentleman for his comments.

Mr. MCMILLEN of Maryland. Mr. Chairman, I thank the gentleman from Louisiana for his comments.

Mr. Chairman, most boaters do not even know about the new fee. I just want to point out it is my understanding that the only public notice of its implementation has been a notice in the Federal Register and a press release. Quite honestly, our boaters deserve a chance to be law-abiding citizens, again notwithstanding the substance of the argument, which is that this user fee should never have been put into effect in the first place.

Mr. Chairman, I commend the gentlemen for their work on this amendment.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support today for the amendment offered by the ranking Republican member of the Merchant Marine and Fisheries Committee, Mr. DAVIS, to H.R. 1776, the Coast Guard Authorization Act of 1991.

The Davis amendment is a sense of the Congress type amendment opposing the Coast Guard user fee on recreational vessels. This amendment is sensible and proper, and I commend the gentleman from Michigan for his leadership in this area. I would also like to congratulate Mr. DAVIS, as I understand that just today a majority of the Members of this House are now cosponsors of his legislation to repeal the Coast Guard user fee. I am hopeful that we can bring that bill to the floor of the House as quickly as possible.

Mr. Chairman, this tax disguised as a user fee was definitely one of the low points of last year's reconciliations bill. Calling this tax a user fee is a misnomer, as our Nation's boaters do not receive any additional services from the Coast Guard. The only thing America's boaters do receive from the Coast Guard is a yearly bill.

I am also concerned that the Coast Guard's mission will be bogged down by this user fee. The Coast Guard performs many important duties, and it performs them well. Protection of our Nation's coasts and inland waterways, drug interdiction, search and rescue operations, boating safety, and aids to navigation are all just some of the important tasks the Coast Guard performs. Now Congress has given the Coast Guard the additional duty of collecting a tax from approximately 4 million boaters. The sheer volume of paperwork alone to administer this tax is staggering. Instead of chasing down drug dealers, now the Coast Guard will be shuffling papers.

Mr. Chairman, the Coast Guard user fee is an experiment in futility. We should let the Coast Guard do what they do best: Protect our coasts. Let the IRS do what they do best: Collect taxes. Let us not turn the Coast Guard into a floating Internal Revenue Service.

I urge my colleagues to vote "yes" on the Davis amendment.

The CHAIRMAN. Is there further discussion on the amendment to the amendment?

If not, the question is on the amendment offered by the gentleman from California [Mr. PANETTA] to the amendment offered by the gentleman from Michigan [Mr. DAVIS].

The amendment to the amendment was agreed to.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the gentleman's amendment. One of the key issues here is whether this is a user fee or a tax. Is the purpose to support the Coast Guard by charging fees to people who benefit from Coast Guard services, where the fees bear some relation to benefits? Or is it simply another revenue raiser on the long list of new taxes to enable the Government to continue its pattern of constantly increasing spending? If it fits into the first category, it would be a user fee. If it fits into the second category, it is just another tax.

To answer this question we can look to my district where the Fox River-Lake Winnebago system has no Coast Guard presence. The Coast Guard used to provide services in this system, but it pulled out some years ago. Yet the Coast Guard argues it has some sort of vague presence there because it has general oversight and monitors boating safety—a flimsy connection at best. The boaters on the water do not think the Coast Guard has a presence there. They don't think they're getting services worth paying for—certainly not any services worth the amounts of these fees. I must agree with them. So clearly, on that basis it is not a user fee, it is a tax.

The final rule for implementing the fees, even while claiming a presence everywhere, seems to give my district an out, based on the definition of navigable waters. The law says fees apply to boats operated on navigable waters and the definition says you have to be able to navigate a 16-foot boat from such waters to waters subject to tidal influence. Clearly in the case of the Fox River-Lake Winnebago system this is not possible because a lock on the lower Fox River has been sealed to prevent the spread of sea lamprey. But even this determination is in doubt. The Coast Guard may still try to weasle out of it. The reason is clear. The objective here is revenue for the Government as a whole. So, just as clearly, this is a tax plain and simple, with no relation to services rendered to payers. Moreover, it is an unfair tax in that it applies only to one group selected by a totally arbitrary criterion rather than applying more equally across the population. Therefore, it ought to be repealed as soon as possible. In the interest of fairness, I urge my colleagues to support this amendment.

□ 1200

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Michigan [Mr. DAVIS], and I also stand in strong support of total repeal and immediate repeal of the boater tax.

Mr. Chairman, over the past few years this Congress has seemingly given almost on a daily basis more and more responsibility to the U.S. Coast Guard and seemingly less and less money to do it with. It seems that we expect them, and they will soon be able, to do everything with absolutely nothing.

However, Mr. Chairman, within this budget resolution of last year there was this peak of the user fee, which is nothing more than a tax, and it is not just a tax on some 4 million boaters. It is a tax on the entire boating industry, from the people who make the boats, to the people who have the marinas, to the people who have the hotels, motels, and tourism areas that want to support recreational boating. It is nice to know that we have a majority of the House of Representatives who have signed on for this repeal. That is very good.

There is one other thing that is necessary, and that is to have the vehicle here on the floor that we can vote to repeal this silly and onerous tax, and I want to support, not only the resolution of the gentleman from Michigan [Mr. DAVIS], but I want to support Mr. DAVIS in the kinds of things he is doing to try to get appropriate funding for the legitimate needs of the Coast Guard and to repeal this boating tax, and I salute the gentleman.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to express my strong support for Congressman DAVIS' amendment to the Coast Guard authorization bill for fiscal year 1992. However, instead of voting on this measure that simply expresses the sense of the Congress that the recreational boat user fees should be repealed, I wish we were voting on another measure Mr. DAVIS has introduced—and I have cosponsored—which would authorize repeal of this unfair tax.

I say tax, Mr. Chairman, because the moneys collected from recreational boatowners in Mobile, AL, and around my water-rich district will not go to improve or expand Coast Guard services to my constituents. Instead, Mr. Chairman, this money will go into the black hole we call the General Treasury.

I believe this is wrong. In my opinion, these boatowners already bear their fair share of this Nation's tax burden and I want to see this tax repealed. I urge my colleagues to join me in supporting Congressman DAVIS' amendment today and in cosponsoring his bill, H.R. 534, to authorize the repeal of this unfair tax.

Mr. Chairman, as if the Coast Guard user fees were not enough, last year's Budget Reconciliation Act put the screws to the boating industry in another way. Disguised as one of the taxes on the rich or luxury taxes, the bill provided for a 10-percent excise tax on certain boats. This tax is expected to produce only $3 million in revenue in 1991 while resulting in a loss of 8,000 jobs; 8,000 jobs, Mr. Chairman, 8,000 Americans who will not be paying taxes, but will be joining the ranks of our Nation's unemployed. I believe this loss of jobs will actually cost the Government more than the tax will bring in and I urge my colleagues to join me in supporting legislation to repeal this onerous tax.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words. It looks like the gentleman from Maryland [Mr. MCMILLEN] was here before.

Mr. Chairman, I am one of those who is proud to represent a district, along with the gentleman from Florida [Mr. SHAW] in the district just next to mine, which contains one of the highest concentrations of boats and boatowners in the United States. We are very proud of the work that the Coast Guard has done over the years. We are very dependent on the Coast Guard for the work they continue to do, helping boaters, helping people who are out at sea whose craft get disabled, people who are lost, whose ships go down, whose ships have problems, doing the Customs-helping work, searching for drugs, all of that.

The problem, Mr. Chairman, is that a lot of the boats that we are talking about are small boats, 16 foot, 18 foot, 20 foot, real recreational small craft, that are owned by average working people that use these on the weekends. They cost in many instances under $10,000, less than the price of a car, and, if we totaled all of the fees, licensing fees, registration fees, and other fees that they have to pay now, exclusive of what the sense-of-Congress resolution of the gentleman from Michigan [Mr. DAVIS] is seeking to delay, what we are talking about is an enormous amount of money making it very impossible for a lot of these people to effectively use their boats or enjoy the use of them.

Now on top of that we have got another fee for a decal to raise money for the Coast Guard. There is only one small problem. Aside from the fact that it is going to be very difficult for a lot of people in the category of boatowners I am talking about to afford to pay it, this is not Coast Guard money. So, the money that they are going to be putting into this decal fee is not going to go help the Coast Guard search for them when they are lost, help them when they are disabled, pull them from the sea if their boat capsizes. It is not going to help the Coast Guard search for more drugs, interdict more arms. It is not going to do any of those. It goes into the old general revenue, the Treasury. So, these people are paying a fee for a decal for a boat that does not have anything to do with their boat, or the Coast Guard, or anything else that is going to effectively help navigation, the waterways.

Mr. Chairman, we have one of the finest, the intercoastal waterways, that runs through my district and the district of the gentleman from Florida [Mr. SHAW], and this is not going to help the Coast Guard, it is not going to help the marine fund, it is not going to help us save the manatee fund. It is going to help none of that. It is going to be sitting there so somebody at some other agency can pluck it and use it for some other purpose.

Frankly, Mr. Chairman, I think that is intolerable. I say, "If you're going to assess a tax and call it a fee, which is what was done with this, then let it be a real fee, a user fee for the user of a product who then benefits from the imposition of that fee." The gentleman from Michigan [Mr. DAVIS] understands that that is not what has been done here, and I am very happy to help try to support his resolution and to endorse it to the rest of my colleagues.

Let us not do this. It is not fair to the average American, not fair at all. Oh, sure, Donald Trump, even with his troubles, could afford the decal on his yacht, if he still owns it. I do not even know anymore. He certainly could afford the one on the dinghy that he trailered, but a lot of Americans who have a lot of small craft cannot afford it, and, even if they could, it is wrong to take the money out of their pocket and transfer it to something which has nothing to do with the interest they hope would be served by the imposition of this fee in the first place.

Mr. Chairman, I certainly support the amendment of the gentleman from Michigan [Mr. DAVIS].

Mr. REED. Mr. Chairman, I rise in strong support of Mr. DAVIS' amendment to express the sense of Congress' opposition to the recreational boat user fee.

Rhode Island is known as the Ocean State. I can think of no more appropriate name. The ocean is a source of pleasure and a livelihood to the people of my State and district. It provides many with a living as fishermen, charter boat operators, and marine service providers. At the same time, there are few Rhode Islanders who have never been touched by the beauty of Narragansett Bay and the Atlantic Ocean. From the picturesque lighthouses at Point Judith and Block Island to canoeing through the Great Swamp, to the celebration of the tall ships and the blessing of the fleet in Galilee; boating is a common thread amongst all Rhode Islanders.

Today, there are some 30,000 boatowners in the Ocean State. Their vessels range from small rowboats and canoes used by a family's youngsters to the pleasure craft driven and sailed around Great Salt Pond on Sundays in the summer.

Many of these boaters have taken safety classes from the Coast Guard, some have even been rescued by the Coast Guard. I would like to thank the Coast Guard for its continuing efforts to make our waterways safe. And to commend it for the skill and speed with which it handled the *World Prodigy* oilspill in 1989. And I would also like to congratulate the Coast Guard on a job well done during Operation Desert Storm.

However, I must voice my objection to this so-called fee. The Coast Guard states openly that this fee will not lead to any increase in the quantity, quality, or variety of services provided to recreational boat users. Many of my constituents have written that the nonemergency tows are routinely dealt with by private tow companies. It is also my understanding that the Coast Guard is not allowed to charge for search and rescue services. To paraphrase an old saying: A tax by any other name, is still a tax.

Efforts to raise revenue should not single out one particular recreational group.

I have cosponsored legislation which would put an end to this tax before it can be implemented. I urge my colleagues to join me in the effort to repeal this unfair tax.

Mr. CUNNINGHAM. Mr. Chairman, I rise today in strong support of the Davis amendment. My colleague from Michigan deserves our commendation for his efforts to repeal of the boat user fees. As a cosponsor of his bill, and a member of the Merchant Marine Committee, I believe that the amendment currently before us is a step in the right direction.

Congress passed the luxury tax last year with the intent to soak the rich, but instead they have penalized the working men and women by nearly eliminating the boatmaking industry.

It is obvious to me that this tax was not intended to be a user fee from the start. This is just another example of Congress imposing a tax on an industry that they felt was not strong enough to fend off the Federal Government. Mr. Chairman, I feel that it is the responsibility of this Congress to represent the interests of the boating industry, and work to have this tax repealed.

This country is now struggling through a time of recession, and any economist will tell you that imposing further taxes is the surest way for this country to remain in recession. The impact of the boat user fee has indeed been detrimental to the boatmaking industry. Because these fees have altered the purchasing power of those who want to buy all sizes of boats, the public has simply ceased buying boats. The repercussions produced by these purchasing alterations have been devastating to the boatmaking industry, as well as many affilate industries.

Mr. Chairman, I would like to state for the record that I am in strong support of Mr. DAVIS' efforts to repeal this erroneous tax. In order for Congress to balance the budget, we must reduce spending, and cease to penalize specialized segments of the American work force. The boating industry has been unfairly targeted for taxing purposes, and this must be corrected. I urge my colleagues to support the Davis amendment and to cosponsor his bill.

□ 1210

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DAVIS], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DAVIS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 412, noes 6, not voting 15, as follows:

[Roll No. 214]

AYES—412

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
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Wise
Wolf
Wolpe
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Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—6

Beilenson
Coughlin
Green
Hayes (IL)
Kostmayer
Yates

NOT VOTING—15

Boxer
Cox (IL)
Gibbons
Gray
Hopkins
James
Kleczka
Marlenee
Matsui
McCurdy
Moran
Savage
Schiff
Weiss
Yatron

□ 1229

Messrs. BEILENSON, YATES, and HAYES of Illinois changed their vote from "aye" to "no."

Mr. WHEAT changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, insert the following new section:

SEC. . BUY AMERICAN PROVISIONS.

(A) The Secretary shall insure that the requirements of the Buy American Act of 1933 as amended apply to all procurements made under this Act.

(B) DETERMINATION BY THE SECRETARY.—(1) If the Secretary, after consultation with the United States Trade Representatives, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(b) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal years 1992 and 1993. Such report shall separately indicate the dollar value items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979, (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(C) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(D) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract under this Act, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. GRADISON. Mr. Chairman, I do object. We do not have a copy of the amendment, and I am following this bill to make sure that it coincides with the Budget Act. Without seeing it, I must insist that this amendment and other amendments be read.

The CHAIRMAN. Objection is heard.

The Clerk will continue reading the amendment.

The Clerk continued the reading of the amendment.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this language has been added and appeared in the bill last year. It contains provision for fairness and ensures that the Buy America Act is followed.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I support the Buy America laws and any efforts to insure that taxpayer funds are expended in this country to keep our citizens employed. I would like to remind the gentleman that there is a Buy America law in effect and that our authorization bill contains specific Buy America provisions with respect to the acquisition of the buoy tender and the purchase of the command and control airplane.

Under current law, 41 U.S.C. 10a through 10d, the Federal Government is required to buy domestic products unless such purchases are:

First, inconsistent with the public interest;

Second, unreasonable in cost;

Third, for use outside the United States, or

Fourth, of products not produced or manufactured in the United States in sufficient and reasonably available commercial quantities and of satisfactory quality.

In addition, the Congress has further acted in the Buy America Act of 1988 to prohibit Federal procurement from countries that discriminate against the United States in their procurement practices.

Therefore, I support the gentleman's amendment.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I just wanted to tell the gentleman that I strongly support and many Members on this side strongly support the gentleman's buy American provisions.

Mr. TRAFICANT. Mr. Chairman, I appreciate that from the gentleman from California.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. SOLOMON. Mr. Chairman, I have two amendments pending at the desk, amendments 67 and 68, and my question is, Is it possible to have these two amendments debated at the same time in order to reduce the vote on the second amendment, should it be necessary to have one?

I know that planes are departing and we do not want to delay those planes. I think it would save the membership time if we could debate the two amendments and then have a 15-minute vote on the first one, followed by a 5-minute vote.

Is that an acceptable procedure, if I were to make a unanimous consent request?

The CHAIRMAN. The Chair has some discretion in this area, if the amendments are considered en bloc and if there is no intervening business between the votes on the amendments. Does the gentleman ask unanimous consent that the amendments be considered en bloc?

Mr. SOLOMON. Mr. Chairman, that puts me at a disadvantage, but to go along with the membership, I would agree to do that, to have no intervening debate but two separate votes.

The CHAIRMAN. The gentleman makes a unanimous consent request that the amendments be considered en bloc.

Is there objection to the request of the gentleman from New York?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I just want to make sure. I just walked in so I apologize. I just want to clarify something.

The gentleman is talking about two specific amendments that are coming out now, not all the rest of the amendments to the bill.

Mr. SOLOMON. Mr. Chairman, just my two amendments.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

AMENDMENTS OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. SOLOMON: Page 26, after line 5, add the following:

SEC. 27. DRUG TESTING REQUIRED AS A CONDITION OF NEW EMPLOYMENT WITH THE COAST GUARD.

(A) DEFINITIONS.—For purposes of this section—

(1) the term "preemployment drug testing" means preemployment testing for the illegal use of a controlled substance; and

(2) the term "controlled substance" has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(b) PREEMPLOYMENT DRUG TESTING.—No person may be appointed to a civilian position in the Coast Guard unless that person undergoes preemployment drug testing in accordance with this section.

(c) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall issue regulations to carry out subsection (b). Such regulations shall be issued no later than 90 days after the date of the enactment of this Act.

(d) EFFECTIVE DATE.—This section applies with respect to any appointment taking effect after the date on which regulations are first issued under subsection (c).

Page 26, after line 5, add the following:

SEC. 27. CONTROLLED SUBSTANCES TESTING PROGRAM FOR CIVILIAN EMPLOYEES OF THE COAST GUARD.

(a) DEFINITION.—For purposes of this section, the term "controlled substance" has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(b) CONTROLLED SUBSTANCES TESTING PROGRAM.—The Secretary of the department in which the Coast Guard is operating shall establish and implement a program under which civilian employees of the Coast Guard shall be subject to random testing for the illegal use of controlled substances.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Without objection, the amendments will be considered en bloc.

There was no objection.

Mr. SOLOMON. Mr. Chairman, I would like to first of all commend the gentleman from Michigan [Mr. DAVIS], the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Texas [Mr. FIELDS] for the outstanding job that they do in the work on this committee. It reminds me of the Committee on Veterans' Affairs.

□ 1240

You certainly work together in a bipartisan effort on behalf of the American people, and I really do commend you from the bottom of my heart. You really do a great job. I wish all of our committees could work this same way.

Second, I just want to support the gentleman from Texas [Mr. FIELDS] and the gentleman from Michigan [Mr. DAVIS] in their efforts, as well as the gentleman from Louisiana [Mr. TAUZIN], as far as the user fee is concerned. I never heard of a good tax or a good fee, and certainly this one we are talking about repealing is one of the worst that this Congress ever enacted.

Mr. Chairman, the amendment requiring random drug testing of all civilian employees of the Coast Guard is identical to the amendment I have offered to every authorization bill on the floor this year and identical to the amendment your committee accepted.

I regret it is necessary to offer an amendment to each authorizing bill; however, I have no choice because Post Office and Civil Service Committee Chairman FORD refuses to hold hearings on my bill pending before his committee for years now.

Mr. Chairman, illegal drugs use is a terrible problem that is ruining our country and something must be done to stop it, and we can start today by adopting the two Solomon amendments.

My colleagues who are in opposition to my random drug testing amendment keep throwing around the figure that it costs $77,000 for each positive drug test and that we're only catching a small amount of people. Let's examine their statement more closely.

When you divide the total cost of the drug program by the number of people who have been caught, you come up with the figure they have quoted. This number reflects the fact that individuals in security or sensitive positions have the sense to stay off drugs because they know they are likely to be tested, which is the whole point of drug testing.

Ladies and gentlemen we're not paying to catch people. What we're paying for is deterrence.

It's like a great general recently quoted about military spending, "I'd rather sweat during peacetime, than bleed during war." Right now, because we don't have an across-the-board random drug testing program, the price appears expensive. However, the price for allowing illegal drug use to continue in the work force is far greater than we can imagine.

But if you still want to look at the price we pay for implementing user accountability programs, the cost is negligible in terms of the big picture.

There are a lot of ways to combat illegal drug use, but not a single one will work on its own. We spend billions of dollars on interdiction, treatment, and education, however, the drug abuse problem still exists. We have to get tough. Except for the Federal employees unions, I have yet to see the American public stand in opposition to random drug testing. As a matter of fact the majority of the American public supports random drug testing for all Federal employees.

Illegal drug use costs employers thousands of dollars a year in absenteeism, reduced productivity, and accident costs.

It also reduces morale for employees who must work with drug users. Casual drug users represent 75 percent of the total market for illegal drugs. Since common sense says there are people working for the Federal Government using illegal drugs, why shouldn't we expend the random drug testing programs we have already have in place to include all Federal employees and stop this nonsense?

The old adage that an ounce of prevention is worth a pound of cure really takes on some meaning in this situation.

Random drug testing is the most effective means of reducing illegal drug use as was shown by the military when they started implementing this program in the early 1980's. They had a use reduction of 82 percent. Other drug testing methods allow for someone to prepare for the inevitable and try to beat the system. And let me stress that while othere methods are helpful, they are not the most effective when standing alone.

If you feel this is unconstitutional, let the Supreme Court prove it. If I'm wrong, you won't hear another peep out of me about random drug testing.

But if I'm right, shouldn't we ensure the public trust in our Government, shouldn't we use every means at our disposal to put and end to illegal drugs use, and shouldn't we randomly test Federal employees?

The answer is yes because it is worth spending tax dollars to ensure public trust in Government, it is worth spending tax dollars to improve morale on the job, and most importantly it is worth spending tax dollars to save lives.

Mr. Chairman, as I've said before, casual drug users represent 75 percent of the total illegal drug market.

Mr. Chairman, if we could reduce illegal drug use by employees of our Nation's largest employer by 82 percent, and then in the second largest employer, the States, and then in the third largest employer, the local governments, we would set the example for the private sector and if the private sector followed suit, what would happen if illegal drug use was reduced by 82 percent?

The bottom would fall out of the illegal drug market, and the drug lords would have to go back to growing coffee, or go on welfare.

Mr. Chairman, the American people overwhelmingly support this amendment. Less than 30 percent oppose it.

Until just recently, this amendment routinely passed this House with little or no opposition.

A very few union leaders, representing a very few Federal employees, and what seems to be the entire Democrat leadership, now rises up in righteous indignation over getting tough on drug users.

Well, Mr. Chairman, fair is fair. If random drug testing is good enough for our military, if its good enough for half of the Federal employees, it ought to be good enough for all.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman used my name, and I would like the RECORD to show that I have not been a member of the Committee on Post Office and Civil Service since last year, so the gentleman's anger at me for not holding hearings on his bill, he has not been very diligent if he does not even know who the chairman is, and I have not been either the chairman or a member of the committee since last year.

Mr. SOLOMON. Mr. Chairman, I know the gentleman is on Education and Labor now.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Missouri.

Mr. CLAY. Mr. Chairman, as the new chairman of the Committee on Post Office and Civil Service, I would like to inform the gentleman that I intend to continue the policy of not having any hearings on your bills.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has expired.

(By unanimous consent, Mr. SOLOMON was allowed to proceed for 5 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding.

I commend the gentleman for his amendments, and I support them strongly. I think that we need to look at the history of drug testing with respect to that very important class of Government employees which is the active duty military in this country.

The statistics that the gentleman gave to the effect that there were 26 percent of our military who were admitted drug users in about 1982, and that that has gone down to about 4 percent, those statistics are absolutely accurate.

What we did in the military was develop an antidrug ethic. We got people involved against drugs, and we have got the military community, and not just the active duty members of the military, but their families and their friends and the civilian community, involved as well, and, you know, all of the horror stories that we saw in the early 1980's to the effect that this would have a demoralizing effect on our military people turned out not to be accurate.

In fact, their morale continued to climb throughout the 1980's and was manifest to everybody who saw, through the magic of communications, their activities and their superb action in Desert Storm.

The point is that morale has never been higher among our military people, and the morale among our civilian employees of the Coast Guard will, I predict, be higher if we involve them very actively in the war against drugs.

I commend the gentleman. I do not see any detrimental effect as a result of his amendment, and I see a real chance to develop a strong antidrug ethic in this branch of American Government that is dedicated to fighting drugs.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for his remarks.

The gentleman is absolutely right. I happened to be in the Persian Gulf twice during the conflict that took place there.

Ladies and gentlemen, the reason you can be so proud of those young men and women is because they are the best-educated, the best-trained, the best-equipped, the most highly motivated young men and women who are off drugs. And that is what counts, that is what random drug testing did.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Coast Guard's civilian drug testing program.

Currently, if you are a Coast Guard employee responsible for national security, public health, public safety, the protection of life and property or if you are a law enforcement officer, you already must agree to a preemployment drug test. The Coast Guard's current policy goes further; Coast Guard employees in positions of responsibility must also submit to the following drug tests: random testing, reasonable suspicion testing, postaccident testing, and followup testing after rehabilitation.

Coast Guard employees who serve in less responsible positions must also accept drug testing as part of their careers. They must submit to drug testing in following situations: reasonable suspicion testing, postaccident testing, and followup testing after rehabilitation.

The Coast Guard has a successful drug testing program in place. The gentleman from New York's amendment while important and ever necessary for other Government agencies, is fortunately less needed for the U.S. Coast Guard.

Mr. SOLOMON. Mr. Chairman, let me concur with exactly what the gentleman has said. They do have one of the best. We in no way cast any aspersions on them. The CIA itself, the Central Intelligence Agency, has the best. And the Coast Guard is as good as the CIA.

Let me just get on to the second amendment.

This amendment differs from the one we just voted on.

The previous amendment would have required random drug testing of all Federal employees.

This amendment would only require drug testing of applicants who are about to be hired as Federal employees of the Coast Guard.

Right now, all military members of the Coast Guard are randomly tested, as are a number of Federal civilian employees.

This concept of testing job applicants was recently upheld by the U.S. District Court of Appeals.

Mr. Chairman, this amendment was recently offered to the Defense authorization bill and failed by a very narrow vote.

Some Members who voted against my amendment said they did not know that it only affected new job applicants; otherwise, they would have voted for it.

Mr. Chairman, this amendment simply requires new job applicants, as a condition of their employment, to submit a urine sample for the purpose of testing for illegal drug use.

□ 1250

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, I was passed a note from the majority over there that there is a question about how this vote will take place on those two amendments.

At the end of the debate, I would hope the chairman would recognize me for the purpose of asking for the two separate votes, one a 15-minute and one a 5-minute.

The CHAIRMAN. The Chair will state to the membership, prior to the taking of the vote, the circumstances under which the vote will be taken.

Mr. SOLOMON. I might then, Mr. Chairman, ask for a division as we continue the debate for vote purposes.

The CHAIRMAN. The gentleman may demand a division of the question at this time.

Mr. SOLOMON. I do so.

The CHAIRMAN. The question will be put separately on each of the two amendments being considered in bloc.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

I say to my colleague, the gentleman from Louisiana that I know he has his best interest, but let me shed a little perspective from a personal perspective. I was commanding officer of a group of about 600 people in a fighter squadron when drug testing first started in the military. As a junior officer, I resisted it. I thought it was unfair. I thought that I am a fighter pilot, what right do they have testing me? I am serving my country.

What I found was, after a long period of time, we did find pilots, we found members in the squadron not only using drugs but dealing drugs as well.

As a commanding officer we administered, within house, our own program at very low cost. We did it with our own drug team. Those individuals were able, when they had a positive test, to take that test to a lab.

Now, Members say the Coast Guard, the critical safety people are tested. The Coast Guard is in a war every single day. I would want, as a boat owner, somebody coming up to me, holding a AKC-47 or whatever they carry, to have been drug tested, or the person that issued that via paperwork, or the person that issues anything within that.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, perhaps the gentleman misunderstands my remarks. Let me clarify them.

Not only are all military personnel of the Coast Guard randomly drug tested, but those civilians employed by the Coast Guard in sensitive positions are randomly drug tested as well.

Mr. CUNNINGHAM. I understand that. One of the points I will make, though, is that the only way we were able to catch these rascals, for example, we never tested them on deployment when we went over there to Yuma.

I took my drug team, unannounced, and did a drug test. I caught 10 of my senior petty officers doing drugs. Their reply to me was, "Skipper, we never tested on deployment before. It was a random check. You caught us. That was not fair." I told them if they do drugs, I will catch them every sneaky way that I can. I think that is only right.

In sports activities, in the military, if a person knows a test is coming, they can avoid it through diuretics or whatever it is. This provides a real way to catch folks that are doing drugs. It was very effective in the military. I have talked to the Coast Guard. If I have people that I suspect of doing drugs and I cannot catch them, I will be very upset in the squadron itself.

Every instance, it seems, when we want to do an antidrug test or random test, it is voted down. However, I would ask my colleagues to really think about this, send a message that we do not accept drugs in the workplace. If people are going to do it, we are going to catch them. This is one way to do it.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Missouri.

Mr. CLAY. This government did conduct random drug tests, and it was not inexpensive. They tested 29,000 people. It cost $11.8 million. They found 153 who tested positive. That is $77,000 per positive test.

Let Members not leave the impression here that it is inexpensive to conduct these random drug tests.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. SOLOMON. I have heard these figures debated away here before. We hear people talking about the taxpayers.

This gentleman is rated, for 13 years, in the top 10 percentile of this entire Congress, voting fiscally responsibly. Let me just say this: When we talk about how much it costs, it costs $10 for a drug test. Ten dollars. I will leave this floor so we can go downstairs and have Dr. Krasner test me. I invite any Members to come along with me. It will cost $10. Not $77,000.

Mr. CUNNINGHAM. Mr. Chairman, reclaiming the balance of my time, how much did it cost Washington, DC for Marion Barry? How much did it cost the kids of this country, looking at the leadership, taking drugs? How much does it cost other people, knowing that they can?

I witnessed personally the loss of an F-14. I saw a man cut in half. I saw a person mess up documents because they were spaced out on drugs. We do not want employees walking around spaced out on coke.

The cost analysis, and I did this on a squadron level with a little machine, when we came up with it, we tested in the lab, and it did not cost $77,000 per person; that is ridiculous.

Mr. CLAY. Mr. Chairman, I rise to strike the requisite number of words. The recent colloquy here tells Members why we ought to oppose this amendment.

Ten dollars it costs? What doctor charges $10 just to see a patient, much less to take a urine specimen?

Mr. Chairman, let me say that in the past 2 months, this House has extensively debated the same issue and has overwhelmingly rejected similar amendments offered by the gentleman from New York. We rejected amendments to the State Department authorization bill by 145 to 265. We rejected an amendment to the Department of Defense authorization bill by 157 to 269. We rejected an amendment to the Intelligence authorization bill, 169 to 234.

The gentleman stated that only a few labor union leaders are opposed to this. In the past, that routinely, this Congress passed similar amendments offered by him. That is true. In the past, we did routinely pass, and that was before his proposal was scrutinized.

Now we find that the Department of Defense, the Secretary of Defense opposed this amendment. We find that the Secretary of State opposes this amendment. We find that even the Coast Guard today is opposing this amendment. So it is not just a few labor leaders who are opposed to this. They have had good reasons for opposing it.

First of all, the Coast Guard currently conducts random drug testing of employees in safety critical positions. If they have a pilot, a pilot will be tested. That is not an argument here today. If we have nurses, aircraft mechanics, pilots, all of these people are being tested today.

Since the inception of the Coast Guard's drug testing program, less than one-half of 1 percent of those employees tested have tested positively. That is consistent with the other test results.

According to a recent GAO report, less than one-half of 1 percent of the Federal employees tested positive. The gentleman spent that $77,000 for each positive test. I say to the gentleman, Mr. Chairman, the courts have upheld the legality of the Government's testing of Federal employees in sensitive positions and in positions affecting safety and health.

The gentleman from New York [Mr. SOLOMON] would require random testing of Federal employees for no other reason than that they are Federal employees. The Solomon amendment jeopardizes the constitutionality of the Government's existing drug-testing program.

□ 1300

Inaccurate drug tests do more damage, those that cost $10, do more damage than good.

The Solomon amendment lacks any standard to ensure the accuracy and integrity of the tests it would impose, and I urge my colleagues to once again reject this amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CLAY. Yes; I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of the position the gentleman has just advocated.

The factual information the gentleman has cited in the instance of the Coast Guard would apply to aviation. In the experience I have had as chairman of the Aviation Subcommittee previously, the investigations in the Oversight Committee in which we conducted extensive inquiry into this subject of random drug testing, we found that the mistakes outlived the good that is done by this program. Mistakes are very hard to erase from the record of those innocent persons who are randomly tested and upon whom a mistake was made and the injustice visited. It just is not worth the pain and suffering and misery to an individual to go ahead and do this random testing of persons who are not in critical positions. That is what this is all about.

I think the last point that the gentleman from Missouri made is the one that is so important, that this random testing goes far beyond the criticality issue. People in sensitive and critical positions are covered by Government policy. They should be, and that is a proper use of drug testing, but not this fishing expedition that would be visited upon people who are not in sensitive or critical positions in the Government, and selecting them just simply, as the gentleman so well said, just because they are Federal Government employees. That is wrong. That is unfair. It should not be done and we ought to defeat this amendment.

Mr. CLAY. Mr. Chairman, I thank the gentleman, and I urge defeat of the amendment.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

First of all, I would like to say to the gentleman from New York, I appreciate his many kind remarks he made about this committee. It makes it more difficult for what I now have to do. But nevertheless, Mr. Chairman, I rise in opposition to the amendment by the gentleman from New York. The amendment directs the Secretary of Transportation to establish random drug-testing programs for civilian employees. The Coast Guard already has such a program for safety positions and I believe that is sufficient.

Assuming that the gentleman from New York wants mandatory random testing for all employees the cost would be astronomical.

Under the current Coast Guard program—a program that tests all uniformed personnel as well as civilians with safety related responsibilities—positive results have been found for less than one-half of 1 percent of persons tested.

In light of these results, the Solomon amendment seems to be a solution in search of a problem—and an expensive solution at that. Drug tests generally cost in the range of $30 for each test. I have heard that for each drug user caught through the Government's testing program, the Government has spent over $70,000. Mandatory testing of all Government employees would propel these costs out of this world. The proposal is wasteful and inefficient.

The courts have consistently upheld carefully tailored drug-testing programs that focus on persons in safety-sensitive positions. Indiscriminate testing may very well be found to be an unreasonable search and seizure.

I urge my colleagues to oppose this amendment and protect the Coast Guard's current testing program from court challenge. The current testing program advances our goal of a drug-free workplace—Let us not jeopardize this successful program just to show we are tough on drugs.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I think we are in some very unusual times in our country, and consequently it requires unusual measures. That is why I support the gentlmen's amendment.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. I am glad to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding to me. I will try to be brief here, because I know everbody wants to go.

You know, we talk about the constitutionality of this amendment. Here are the press clippings out of the Washington Post saying that the testing of future employees is totally constitutional.

But let me just respond a little bit to the chairman who questioned the votes that my amendment gets and why I have to keep coming back and doing it again and again. I am going to keep doing this again and again, not because I have anything against Federal employees. As a matter of fact, I am one of the major sponsors for the repeal of the unconstitutional Hatch Act that affects Federal employees right now. I have nothing but admiration for them. The thing is, we have to set an example.

Second, I do not want any Federal employee using drugs for any reason, if they are illegal.

I just want to point out that the first time we started calling for votes on these amendments, I only received 145 votes. The next time, a month later, it was 157. The next time, it went up to 169, and finally on the Future Job Employment, it got 197 votes. I am going to get 218 one of these days, Mr. Chairman, and we are going to do something about illegal drugs in America.

Mr. SIKORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as chairman of the Subcommittee on the Civil Service, I rise in strong opposition to the amendments offered by my good friend, the distinguished gentleman from New York.

It keeps going and going and going. Mr. SOLOMON is more persistent than the Energizer bunny. This is the fourth time this body has returned to the floor to debate these amendments. The House has spoken decisively on drug testing of Federal employees: In the past 2 months this body has overwhelmingly defeated three proposals requiring random drug testing of all State Department, Department of Defense, and Central Intelligence Agency employees. This body has also defeated a proposal requiring drug testing of all applicants to the Department of Defense.

Mr. Chairman, we are again debating unneeded drug testing amendments. The Coast Guard opposes Representative SOLOMON'S amendment. The Coast Guard currently conducts random drug testing of employees in safety-critical positions. Positions such as fire fighters, nurses, aircraft mechanics, and pilots are all randomly tested. Since the inception of the Coast Guard's drug-testing program, less than one-half of 1 percent of those employees tested, tested positive.

In addition to randomly testing civilian employees, the Coast Guard currently tests all applicants for safety-critical positions.

Mr. Chairman, as we have stated over and over, these proposals will be a waste of taxpayers money. A recently released GAO report showed it costs anywhere from $38.08 to $124.50 to conduct a drug test. Our subcommittee found that it costs $77,000 to identify just one person using illegal drugs.

Spending all this money didn't even turn up many users of illegal drugs. Less than 0.5 percent of the employees randomly drug tested, tested positive. Contrary to my good friend from New York's assertion, there is not a drug-testing problem in the Federal Government like there once was in the military. Our Federal civil servants are some of the most hard-working, most dependable, and most family oriented and drug-free employees in

America. Surveys show that they are older and more conservative than any other work force, private or public, in America. To require them to urinate in a plastic cup anytime and anywhere is a slap in the face of every one of those dedicated civil servants.

Mr. Chairman, for all these reasons, I strongly urge all Members to oppose the amendments and vote "no" on the Solomon amendments.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my friend may be right. At some point in time he might get 218 votes.

The fact of the matter is, though, that the gentleman keeps trying to fix something "that ain't broke."

Do I mean that we do not have a drug problem? We do. Of course, I do not mean that.

I mean that we acted, interestingly enough, in a bipartisan fashion with the Reagan administration and the Democratic Congress. As I have said before in debates on these issues, we had an awful lot of discussion as to how to implement a drug-testing program that would be effective in reducing any risk, particularly to safety of individuals involved with Federal employees, who may be Federal employees or maybe drive a train or drive something of that nature where the immediate use of drugs might cause a safety problem, or where they carry a gun, or where they have secrets available to them, safety-sensitive employees.

I suggest to you that we have fixed the problem. The administration is not for the Solomon amendments. The Coast Guard is not for the Solomon amendments, and we ought not to be for the Solomon amendments.

In point of fact, as I think the chairman of the subcommittee has already pointed out, I was not on the floor, but the gentleman from Louisiana in previous discussion had pointed out that the Coast Guard has in place now a very effective random drug-testing program.

The good news is in the past 4 years the Coast Guard has random tested 785 people and only 4, less than a half percent, have verified positive.

Now, what does that mean? In the armed services, we have statistics that are now 4½ percent, after a very intensive, intrusive, across-the-board testing process, which was necessary because of the very large problem that we had in the Armed Forces uniformed personnel. We have had success there; but it is still in the armed services, even with the testing program the gentleman suggests, 400 percent, or actually 800 percent, one-half percent versus 4½ percent, greater in that respect, or 3½ percent better.

The point being that we have had some very spirited debate on this amendment. This amendment is not necessary to accomplish our objective, and that is why every agency has opposed the amendment.

Now, as far as I know, all the agencies are still run by people appointed by President Bush, and they oppose this. They oppose it because they do not perceive it to be necessary.

Anytime that somebody in the Coast Guard or any other Federal agency has any reason to believe, that is, probable cause that somebody is using drugs and that is adversely affecting their performance on the job, they are subject to testing right now, period. That is not what we are talking about.

We are talking about for no cause. Random testing is now in place, as I said, after long negotiations between myself and others in the Congress and the leaders in the Reagan administration reached a policy that is working. It does not need to be fixed.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a point he has made on several occasions, but I just noticed in the newspaper headline a few minutes ago back in the cloakroom that the U.S. Olympic Committee is going to begin drug testing in October. Now, they are doing it as a preventive measure. I do not think the gentleman would contend that our Olympic athletes are druggies, that we have a whole host of drug users in the Olympic Committee. Yet they are going to use this as a preventive measure and so on.

So the question is, Why can it not be used elsewhere in society for the same reason?

Mr. HOYER. Well, the gentleman is not necessarily comparing oranges and oranges, for one thing.

As the gentleman knows, there are specific rules with respect to not necessarily the drugs that we might be talking about here, but the use of steroids and other drugs that are intended to maximize performance, unfairly pitting athletes against one another. That is one of the reasons they want to make sure that nobody is on those types of drugs.

Mr. WALKER. If the gentleman will yield, there are specific rules in our society, too, about the use of illegal drugs because it impacts on work performance, it impacts on safety, it impacts on all kinds of things in our society. There are specific rules in society that the gentleman from New York is trying to enforce as well.

Mr. HOYER. Well, I have the time, I suppose, and I will retain it.

The gentleman is absolutely right, there are rules. And if it impacts on performance, right now you can test them period, without Solomon, period. There is no doubt in anybody's mind that performance is key, that probable cause is the key. That is what our Constitution says, that is what the court cases have said, and we ought to continue to follow it as we have in the past.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York [Mr. SOLOMON].

The question will be divided.

The Clerk will read the title of the amendment upon which the vote will be taken.

Mr. SOLOMON. Mr. Chairman, it would be amendment 8.

The Clerk read the title of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the second amendment, if that question is put without intervening debate or amendment.

The vote was taken by electronic device, and there were—ayes 177, noes 240, not voting 16, as follows:

[Roll No. 215]

AYES—177

Allard
Annunzio
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Chandler
Coble
Coleman (MO)
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Dixon
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gingrich
Glickman
Goodling
Goss
Gradison
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Kasich
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Lowery (CA)
Luken
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moody
Moorhead
Murphy
Myers
Neal (MA)
Nichols
Nussle
Packard
Parker
Patterson
Paxon
Payne (VA)
Quillen
Ramstad
Ravenel
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster

Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Whitten
Wilson
Wylie
Young (FL)
Zeliff
Zimmer

NOES—240

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Anthony
Aspin
Atkins
AuCoin
Bacchus
Bateman
Beilenson
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Brooks
Brown
Bruce
Bryant
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coyne
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Long
Lowey (NY)
Machtley
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Morella
Morrison
Mrazek
Murtha
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Roe
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Thomas (GA)
Thornton
Torres
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—16

Alexander
Boxer
Bustamante
Cox (IL)
Gray
Hopkins
James
Kleczka
Laughlin
Matsui
Moran
Nagle
Pursell
Schiff
Weiss
Yatron

□ 1333

The Clerk announced the following pair:

On this vote:

Mr. James for, with Mr. Moran against.

Messrs. PANETTA, MCMILLEN of Maryland, OXLEY, and Mrs. COLLINS of Illinois changed their vote from "aye" to "no."

Mr. THOMAS of California and Mr. ANNUNZIO changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The pending business is the vote on the second amendment offered by the gentleman from New York [Mr. SOLOMON].

The Clerk will restate the title of the amendment.

The Clerk read the title of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will state that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 204, noes 213, not voting 16, as follows:

[Roll No. 216]

AYES—204

Allard
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Aspin
Ballenger
Barnard
Barrett
Barton
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehner
Brewster
Brooks
Broomfield
Browder
Bunning
Burton
Byron
Callahan
Camp
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Donnelly
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Goodling
Goss
Gradison
Guarini
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Hubbard
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (TX)
Jones (GA)
Kasich
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moody
Moorhead
Morrison
Murphy
Neal (MA)
Nichols
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Petri
Porter
Poshard
Ramstad
Ravenel
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torricelli
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Weldon
Whitten
Wilson
Wylie
Young (FL)
Zeliff
Zimmer

NOES—213

Abercrombie
Ackerman
Anderson
Andrews (ME)
Annunzio
Anthony
Atkins
AuCoin
Bacchus
Baker
Bateman
Beilenson
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Brown
Bruce
Bryant
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Collins (IL)
Collins (MI)
Conyers
Cooper
Coyne
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gillmor
Gonzalez
Gordon
Grandy
Green
Gunderson
Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hughes
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lowey (NY)
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Mrazek
Murtha
Myers
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Roe
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders

Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (IA)
Snowe
Solarz
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Thomas (CA)
Thomas (GA)
Thornton
Torres
Towns
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Young (AK)

NOT VOTING—16

Alexander
Boxer
Bustamante
Cox (IL)
Gray
Hopkins
James
Kleczka
Laughlin
Matsui
Nagle
Pease
Pursell
Schiff
Weiss
Yatron

☐ 1342

Ms. WATERS changed her vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. FAZIO: Add at the end of the bill the following new section:

SEC. . PORTION OF SACRAMENTO RIVER BARGE CANAL DECLARED TO NOT BE NAVIGABLE WATERS OF UNITED STATES.

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be a navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

Mr. FAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FAZIO. Mr. Chairman, I have been working with the Coast Guard and the Committee on Merchant Marine and Fisheries on this amendment which is designed to address a local problem in my district. It will enable the city of West Sacramento to expedite the approval process for bridge projects over a barge canal. It is a noncontroversial amendment. Neither the authorizing committee nor the Coast Guard have any objections to the amendment.

I want to thank Chairman JONES, subcommittee chairman, Mr. TAUZIN, and ranking member, Mr. DAVIS for the outstanding job they have done on this bill and for their help in crafting this amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I would indicate that the amendment offered by the gentleman from California [Mr. FAZIO] is not only in order, but, we like him so much, we would probably go along with him were it not.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, we have looked at this amendment and have no problems. We support what the gentleman from California [Mr. FAZIO} is attempting to do.

Mr. FAZIO. Mr. Chairman, I thank the gentleman from Louisiana [Mr. TAUZIN} and the gentleman from Texas [Mr. FIELDS} for their support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FAZIO].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goss:

SEC. . DISCLOSURE REGARDING RECREATIONAL VESSEL FEE.

Section 2110(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernable print, only the following statement:

"Persons paying the fee for which this document is provided can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.'"

Mr. GOSS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida.

There was no objection.

Mr. GOSS. Mr. Chairman, as a fellow sponsor of H.R. 1776, I commend Chairman JONES, Mr. DAVIS, Mr. TAUZIN, Mr. FIELDS, Mr. STUDDS, Mr. PICKETT, and Mr. HUGHES for the fine work they have done in putting together the Coast Guard authorization bill for fiscal year 1992. Let me begin by saying I urge my colleagues to vote for this bill.

But we would be remiss if we allowed today's discussion of the Coast Guard to pass by without addressing one of the primary concerns of America's boaters—the so-called recreational boat user fee imposed during last year's budget deal.

Mr. Chairman, today I am introducing a truth in labeling amendment to H.R. 1776—one that requires a disclaimer on this so-called user fee, clearly alerting boaters to the fact that they should expect no new or improved services in return for their money.

The American people have a right to expect truth in labeling, whether it is found on a bottle of orange juice, a jar of pasta sauce, a Milli Vanilli compact disc, or a Government-issued user fee decal.

As a result of an 11th-hour deal cut during last year's budget reconciliation negotiations, beginning next month, approximately 4.1 million boaters will have to pay an annual so-called user fee of anywhere from $25 to $100, depending on the size of their recreational vessel. Mr. Chairman, I do believe that legitimate user fees can and should be used to raise revenue for specific services or projects. The problem in this case is really quite simple: We're not dealing with a user fee—we're talking about a tax, plain and simple. In my book, a user fee is defined as one in which there is a clear and rational nexus between the fee being charged and any service rendered in return. In the case of the recreational boat fee, people will receive nothing in return for their dollars. In fact, the final rule on the user fee published in the July 1 Federal Register clearly states that:

> Recreational vessel owners paying the proposed fee, therefore, can expect no increase in the quantity, quality, or variety of services they receive from the Coast Guard.

So let's begin by getting our terminology straight—this annual fee is nothing more than a tax, levied on recreational boaters for no other reason than to raise revenue for deficit reduction. And that is the crux of my amendment—truth in labeling.

Mr. Chairman, clearly the right thing to do is to repeal this unfair tax outright. Let's admit the mistake and wipe it off the books—but as usual, passing a bad law is often easier than repealing one—although our repeal drive has the support of almost half of this House already and counting—we've still got more work to do.

In the interim, let's do the right thing and own up to what the Congress has done. The boaters have a right to know exactly what they are paying for.

Lest there be any question, the Coast Guard has not asked me to present this amendment. In this instance the Coast Guard is the unwitting victim of an unhappy congressional surprise—and my purpose in seeking this disclaimer is to avoid the shoot the messenger syndrome. The Coast Guard is doing its best to live up to this ill-advised congressional mandate that has literally made them another arm of the IRS.

It is my hope that this amendment will benefit the Coast Guard by removing any confusion or heightened expectations from vesselowners who have paid the fee. In addition, my amendment provides ample latitude to keep the administrative costs, which may be recovered by the Coast Guard, at a minimum.

I urge my colleagues to join me in our efforts to repeal this discriminatory tax, but in the meantime, if you believe in truth in labeling, I urge your support for my amendment.

□ 1350

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, just to clarify the point that the gentleman's amendment, as I understand it, does not affect the implementation of this user fee in this current year. It will be effective in the next year of implementation, is that correct?

Mr. GOSS. Mr. Chairman, reclaiming my time, it is my understanding that this would not make an administrative difference to the Coast Guard. If there is anything that would cause them grief, I have assured them and assured the gentleman that I would be delighted that effectiveness of this action be postponed until next year.

What I wanted to do was to ensure that in the event that there was no serious effect on this, that it could go forward this year.

Mr. TAUZIN. Mr. Chairman, if the gentleman will continue to yield, with that understanding, we have no objection to the amendment.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, I would like to rise in strong support. I think the gentleman makes a very important statement on this issue.

Mr. Chairman, I rise in support of the Goss truth-in-labeling amendment and I compliment the author for his foresight in this matter.

While the Coast Guard has indicated that those who pay the recreational boat fee can expect no increase in services, I think it is unlikely that the vast majority of Americans read the Federal Register or understand that this annual assessment is not a user fee but a tax.

Under the Budget Reconciliation Act of 1990, the Coast Guard is charged with the responsibility of collecting this fee, yet, none of this money goes to the Coast Guard and, therefore, there are no resources available to provide additional or increased service to the boating community. This amendment will make it clear to those who pay the fee that there is no relationship between the payment and Coast Guard services.

Again, I compliment the author who is a valuable member of our committee and I look forward to the day when we will repeal the onerous recreational boat fee.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding to me, and I commend him for his amendment. I think it is an excellent amendment. It will show and tell the public who are having to pay this unfair tax that they are in fact going to get no benefit out of it. I think it is a good idea and I recommend we adopt the amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word, and I rise in support of the amendent.

Mr. Chairman, while I rise in support of the amendment of the gentleman from Florida [Mr. GOSS], I rise principally to express my deep dissatisfaction with the way in which the Coast Guard has managed this fee issue, this boater fee issue.

Forgive me, but the way the Coast Guard has applied the fee description to inland waters is murky, to say the least. Coming from Minnesota, where we have 15,000 clean lakes, I want to tell my colleagues, about the best the Coast Guard can do, I will say to the chairman of the subcommittee, about the best the Coast Guard can do in explaining this to me and to my constituents is to say, "We can't describe for you which are navigable waters in the State of Minnesota except for Lake Superior and the Mississippi River, but tell you folk to go out there, use their boats, and if they are in violation, then we will fine them."

That is a $5 experiment I do not want anybody in my district to make. I think it is silly. It is a lousy law. It was applied in a bad way. It should not have been done the way it was done.

I understand the Coast Guard has had plenty of time, were they willing, to do this thing right. And if they did not have enough time, to take a little more time, come back to the Congress, ask for more time, we would give it to them to do it right.

I just want to say that happily, the Coast Guard said hand-propelled craft, canoes, will not be subject to the fee, nor pirogues either. But the way they have applied this, nobody knows whether that are going to go out today and boat and have a fine tomorrow.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I hope the gentleman does not take his anger at this user fee, which we all share, too, to harshly upon the Coast Guard. The problem is we wrote a bad law in the budget agreement.

Mr. OBERSTAR. Mr. Chairman, I said that.

Mr. TAUZIN. If the gentleman would continue to yield, the law says that the Coast Guard must apply the fee wherever it has a presence. What the heck does that mean?

Mr. OBERSTAR. Mr. Chairman, it does not mean very much.

Mr. TAUZIN. Mr. Chairman, if the gentleman would continue to yield, we have caused the Coast Guard horrible problems in trying to implement a terrible law. The best thing we can do is repeal it quickly.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I was planning to come to the floor today with an amendment to repeal, but it had so many budgetary implications, there was not time enough to deal with those. Someday we will have to do that, but I implore the chairman and the ranking member to work the Coast Guard a little bit more on this subject.

It is an unreasonable burden upon boaters in Minnesota, elsewhere, any State that has lakes, any State that has coastal navigable waterways, to say, "You go out there and use your boat and if you are in violation, we will fine you. Then you come back and talk to us about it."

That is an unreasonable burden.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the Coast Guard regulation is not quite that imprecise, although it is terrible in my opinion, still. It says that if your boat can reach those navigable streams, once you launch it, if you can get to a navigable stream from where you launch, you are covered with Coast Guard presence. They are trying to implement some very strange language we wrote, and it is not their fault. I would hope the gentleman would understand that our committee has worked hard to get the Coast Guard to clarify what we did not clarify in the law. They are having a tough time doing it.

Mr. OBERSTAR. Mr. Chairman, legislating something like this in a budget reconciliation act is the worst way to do legislation. Had it come through the Subcommittee on Coast Guard and Navigation, I am confident that the gentleman and his counterpart on the Republican side would have crafted a reasonable bill with reasonable language in reasonable time in which to promulgate regulations. But it did not happen that way.

The Coast Guard, I respect it immensely, have not done the job that they usually do and that we count on them doing.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Chairman, the gentleman from Minnesota is correct. We talk about Lake Superior, the Mississippi River. What about a tributary that leads from Lake Superior?

We have asked the Coast Guard, we have got a river that dumps into, let's say, Lake Superior and that is navigable. So where does one draw the line? How far does one go up the river, that river may lead into another small lake which is also navigable?

So the gentleman is absolutely correct, it is extremely difficult. The Coast Guard has not told the boating public exactly where they are going to be required to have this sticker. I think the gentleman makes a very valid point.

It just points out another reason why we ought to repeal this thing.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, to take it further, in the 1899 law of the Corps of Engineers that describes the navigable waterways, there were a lot of problem areas. So I take the time, I compliment the gentleman from Florida, the chairman of the subcommittee, for the work he has done with the Coast Guard and urge him to continue oversight and review of the issues and nudge them along so that boaters in both of our States will not have that problem.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(On request of Mr. TAUZIN, and by unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I would be more than happy if the gentleman would advise the committee and its staff of the particular problems he is experiencing with any lakes or streams in his district or State. We will communicate those to the Coast Guard and see to it that at least in the educational phase of implementation that work is done to avoid the terrible situation the gentleman describes.

Mr. OBERSTAR. Mr. Chairman, we do not want to give the committee a list of 10,000 lakes, but we will come to the committee with some list.

Mr. LEWIS of Florida. Mr. Chairman, I rise in strong support of the Goss amendment.

First, let me stress that this is not really a user fee. This money is not going to the Coast Guard. In addition, this money is not going for deficit reduction as its proponents claim.

Plain and simple, this money is being spent on more wasteful Federal programs and boaters are being asked to pick up the tab.

Last year, I opposed the budget summit agreement for many reasons, not the least of which was this unfair tax. At the time I believed this tax was being used to mask the true Federal budget deficit and its effects have reenforced this belief.

Mr. Chairman, my congressional district includes well over 100 miles of coastline and is the only district in the continental United States with two coasts. As such I am fortunate to represent thousands of recreational boaters.

In their correspondence, these boaters echo one sentiment. That is the outrage that they have been singled out for a tax increase in the guise of a user fee and they are receiving absolutely no benefit.

These boaters, Mr. Chairman, are willing to pay their fair share for Coast Guard services. But they rightfully bristle at paying for Congress' lack of will when it comes to reducing spending.

Mr. Chairman, we must balance the budget by fiscal discipline not by raising the taxes on one small group and calling it a user fee. Support this amendment and help us on our way to completely eliminating this unfair tax.

□ 1400

The CHAIRMAN. Is there any further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MCMILLEN OF MARYLAND

Mr. MCMILLEN of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCMILLEN of Maryland: Add at the end of the bill the following new section:

SEC. . DELAY OF PENALTIES FOR FAILURE TO COMPLY WITH RECREATIONAL VESSEL FEE REQUIREMENTS.

Notwithstanding any other provision of law, a person shall not be subject to any penalty under section 2110(b) of title 46, United States Code (relating to fees and charges for recreational vessels), for any failure to comply with that section occurring before October 31, 1991.

POINT OF ORDER

Mr. GRADISON. I make a point of order that the amendment violates section 302(f) of the Budget Act, because it would exceed the allocation of the Committee on Merchant Marine and Fisheries of new discretionary budget authority.

This amendment delays penalties for failure to comply with recreational vehicle fees requirements until October 31, 1991.

According to CBO, this amendment would increase discretionary budget authority by $120 million in fiscal year 1991, and we have a letter from them to that effect.

The amendment violates section 302(f) of the Budget Act because it would exceed the revised allocation of new discretionary budget authority in fiscal year 1991 of the Committee on Merchant Marine and Fisheries. According to the most recent scorekeeping report, the Committee on Merchant Marine and Fisheries has no new discretionary budget authority in fiscal year 1991.

The CHAIRMAN. Does the gentleman from Maryland [Mr. MCMILLEN] desire to be heard on the point of order?

Mr. MCMILLEN of Maryland. Mr. Chairman, I take issue with this point of order in that the budget statistics are based upon a subjective interpretation of the effect of the amendment.

Let me point out that this amendment in no way alters the fee structure or obviates the obligation of the American boater from paying the fee. All we are doing is allowing an additional 2 months to phase in the user fee—to allow an adequate amount of time for boaters to comply with the law; albeit a bad law.

Furthermore, I am told that the Coast Guard has stated that it will not be actively enforcing this law until October 1. Thus, the effective difference between this amendment and the Coast Guard action is minimal. But what kind of policy is a reliance on nonenforcement?

The Budget Committee's point of order is based upon a hypothetical policy assumption. Whether or not this assumption is valid is not a procedural point, but a policy question. Hence, it should not be contested as a point of order, but should be debated and voted upon by the House.

I, too, am concerned with the fiscal restraints which bind this body. However, we cannot expect the American people to abide by unrealistic restrictions as a result of the administration's delay in implementing the user fee. There are over 4 million boaters, and the current timeframe for implementation is wholly insufficient. As of yesterday, according to the U.S. Coast Guard, just over 32,000 boaters had received their decal, and only about twice that number had requested forms. That leaves 98 percent of America's boaters—over 4 million of them—without the decal.

Mr. Chairman, most boaters do not even know about the new fee. It is my understanding that the only public notice of its implementation has been a notice in the Federal Register and a press release. Boaters deserve a chance to comply with the law, and this amendment will give them that chance.

Mr. Chairman, this is a policy question, and should be decided as such.

Mr. DAVIS. Mr. Chairman, I would like to be heard on the point of order.

Mr. Chairman, you know, I can recognize when the Committee on the Budget has a legitimate argument against something that we might be doing which is going to take away funds that we had planned on receiving, but let me tell the Members that when CBO estimated how much money would be coming in from this tax, not fee, in this next fiscal year, they do not calculate the fines. They calculate how many boats there are. They calculate and they multiply that by how many boats, how much they are going to pay, and that is the way they calculate how much money.

In no way did CBO whatsoever calculate how many fines were going to be levied upon the people that did not actually pay for their registration fee. So it is totally unfair for the Committee on the Budget to come up here and say, well, this is not in concert with what we had agreed to as the Committee on the Budget.

First of all, the Committee on the Budget is going to find that they are going to be way off, but it is not fair to say that you challenge this on the point of order of something that nobody had any idea, nor still does have any idea, on what the fines are going to be.

I agree with the Committee on the Budget when they have a legitimate argument. This is not a legitimate point of order, and I would recommend and hope that the Chair will rule against the point of order.

The CHAIRMAN. Does any Member wish to be heard further on the point of order?

Mr. GRADISON. Mr. Chairman, I wish to be heard.

The issue here is not the amount of penalties. It is the amount of the fees.

Mr. Chairman, without a penalty, less fees will be collected, because it will be clear that if there is no penalty that the failure to purchase the decal will not carry with it a charge.

I refer now to a letter to the chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA], dated yesterday, written by the Director of the Congressional Budget Office. This letter was prepared at the request of the Committee on the Budget, and it says in part:

> We believe that, if this amendment is enacted, the Coast Guard would not be able to collect most of the recreational boat fees that are due under current law in fiscal year 1991. For scoring purposes, the baseline estimate for this year's fee collections is $127 million, classified as offsetting receipts. Assuming enactment around the beginning of September, we would expect this amendment to reduce these receipts, and thus increase budget authority and outlays, by around $120 million in fiscal year 1991, under baseline assumptions.

The Chairman, it is on that basis that I have raised the point of order.

The CHAIRMAN. Before the Chair rules, does the gentleman from Louisiana [Mr. TAUZIN] desire to be heard on the point of order?

Mr. TAUZIN. Mr. Chairman, yes, I do.

Mr. Chairman, if I may, I want to point out that the Coast Guard has already put out a directive indicating that boaters cited before October 1, 1991, will be able to avoid payment of civil penalties by showing evidence of fee payment to the district office within 30 days of the citation.

That means you could be cited on October 1, but you would not have to pay a penalty until October 31. Anyway, that is the current directive of the Coast Guard, and if that is the current directive of the Coast Guard, the amendment offered by the gentleman only embodies that current directive into the authorization bill.

The penalties would not be assessed before the Coast Guard says that they will not assess penalties.

It seems to me that can have no fiscal effect whatsoever upon the authority of the committee or upon the numbers of the Committee on the Budget.

I would argue that the point of order is not in order and that it should be denied for that very reason.

Mr. MCMILLEN of Maryland. Mr. Chairman, what we are talking about is confusion and chaos to the boat owners of this country. They are getting this from the Coast Guard that says you have got a grace period to October 31, and here we are debating this on the floor of the Congress, and we are saying that, no, a point of order, and that this will cost the Government money. The bottom line is, I think, our constituents who are boat owners are confused enough by what occurred in the budget agreement last year with regard to boats to further compound that today.

Mr. TAUZIN. Mr. Chairman, the question is, if I can wrap it up, how can a point of order lie to an amendment that simply incorporates the very directive of the Coast Guard that penalties will not be assessed until October 31? If that is the case, the Coast Guard so directed it, and the amendment simply incorporates that same delay, and there can be no effect upon the budget, and I would urge that the point of order be denied.

The CHAIRMAN. Is there further discussion on the point of order?

Mr. GRADISON. Mr. Chairman, on this point of order it is based on the statute. A regulation, once issued, can be changed and therefore, we have to, if we are going to be consistent with regard to these budgetary issues, look to the basic statute which is the basis on which I have raised the point of order.

Frankly, this is not something I made up or the Committee on the Budget has made up. It is the rules of the House, and it is a letter written, not by the Committee on the Budget, not by the gentleman from California [Mr. PANETTA] or the gentleman from Ohio [Mr. GRADISON], but by the Congressional Budget Office.

☐ 1410

The CHAIRMAN (Mr. DARDEN). The Chair is prepared to rule.

Mr. MCMILLEN of Maryland. Mr. Chairman, one further thought.

Some of the penalties can go as high as $5,000. We have less than 2 percent of the boaters in this country who have complied with this. The Coast Guard issued this as a regulation.

Is there not a practical point to say we ought to be consistent with what the Coast Guard is issued with regard to their regulation?

The CHAIRMAN. The Chair is prepared to rule.

The Chair appreciates the very competent, compelling, and creative arguments of the gentlemen from Maryland, Louisiana, and Michigan.

However, under section 302(g) of the Budget Act, the Chair must base his ruling on estimates from the Committee on the Budget. The Chair has examined an estimate from the CBO in this regard, upon which it is asserted the Budget Committee has relied.

Accordingly, the Chair must rule that the amendment would cause the allocation under section 302(b) of discretionary new budget authority to the Committee on Merchant Marine and Fisheries to be exceeded. Accordingly, then the point of order is sustained.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

I had hoped to offer two amendments to improve the effectiveness of our drug war air interdiction program. However, the Rules Committee was unable to provide the necessary waivers to protect my amendment from a point of order based on germaneness.

I also considered redrafting what is known as the Coast Guard shootdown amendment so that it would be germane. However, my colleagues would not have had enough time to review the new amendment. Nonetheless, I have not given up on my effort to fight the drug war in a manner which makes it possible to win it. When the right legislative vehicle comes along, I'll be back.

It is outrageous that our Nation is spending $2 billion a year on drug interdiction, and yet has not granted our interdiction agencies the authority they need to actually stop drug traffickers.

My first amendment would have given the Coast Guard limited authority to use force against drug trafficking planes. It is designed to combat a common means of trafficking whereby airborne drug traffickers fly to the coast of the United States, or to a nearby island, drop drugs to cohorts below, and then turn around and fly away without ever stopping. Frequently, we capture the whole thing on tape. Our interdiction agencies, with their multimillion dollar assets and expertly trained personnel, do not have the authority to do anything more.

My amendment contains 20 safety features which ensure that only drug traffickers are targeted. The most important require that prior to the use of force: First, U.S. authority recover and positively identify the package dropped from the plane's hold as illicit narcotics; and second, repeated warnings, by various means, are communicated to the trafficking plane. The standards authorizing use of force are so strict that mistakes will be virtually impossible. In fact, if enacted, the authority to use force under my proposal would rarely be used. Nonetheless, I believe strongly that this legislation is necessary if we hope to make any progress in stopping cocaine trafficking.

This proposal was the subject of an extensive hearing by the Merchant Marine and Fisheries Subcommittee on the Coast Guard and Navigation. In a statement submitted at this hearing, former commandant of the Coast Guard, Adm. Paul Yost wrote that "the use of force against airborne drug traffickers, under certain conditions, is not only justified but necessary given the world we live in." It's time we gave the Coast Guard the authority it needs to do the job we have assigned to it.

The second amendment I hope to offer would establish criminal penalties for failure to land an aircraft upon the order of a Federal law enforcement officer. Under this legislation, if an order to land is not obeyed, the aircraft's registration is immediately and automatically revoked.

It also provides the Coast Guard with air interdiction law enforcement authority. In addition, it gives both the Coast Guard and the Customs Service the authority to impose civil penalties as sanctions against planes for failure to obey an order to land, or against vessels that fail to obey an order to bring to.

This legislation was successfully attached to the crime bill last year, and passed the House by voice vote. It was subsequently removed in conference.

I know that I do not have to lecture my colleagues on the impact that the Nation's drug scourge has had on every single congressional district. It is similarly true that I do not need to be told how important demand side programs are to our overall war against drugs. However, if we are going to continue to spend billions of dollars of taxpayer money on efforts to stop drug traffickers, we need to go about the effort with greater seriousness.

Nations such as Colombia, Mexico, the Dominican Republic, and even Peru, have demonstrated, by forcing or shooting down drug trafficking planes, that they believe drugs are a genuine threat to their national security.

We have declared narcotics a national security threat, but it seems to me that some of us do not really believe it. Perhaps we should take the $2 billion we spend on interdiction and spend it on drug treatment and education. Because right now, I do not believe we are getting our money's worth.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me first commend the gentleman for his work in this area. I make the point that we declare a war against drugs and against druggies, and we do not give the authority to those who are in the Coast Guard enforced with the obligation of carrying out that war, or the ability to shoot down the enemy. Police officers can stop a moving car that is violating the law, and if necessary, do so with gunfire. However, we cannot do it when we have proof that druggies dropped drugs. We have tested them and know the airplane has committed a violation of laws, and all we can do is escort them back on the way to Colombia. Something is wrong.

The gentleman has been working hard to do something about it. While we might not be able to do it on this bill, I commend the gentleman's work and wish the gentleman Godspeed in hopefully getting something accomplished before too long, and give the Coast Guard a little more authority to win this war instead of just to watch those who are fighting it escape into some jurisdiction where we cannot catch them.

Mr. COUGHLIN. Mr. Chairman, I appreciate the distinguished chairman's cooperation and support. The gentleman has been a strong supporter.

I hope that this legislation will come before the Congress in the near future.

Mr. HUTTO. Mr. Chairman, I move to strike the last word in order to engage in a colloquy with the distinguished chairman of the Subcommittee on Coast Guard and Navigation on two or three items of interest.

Mr. Chairman, the gentleman will recall that about 2 or 3 years ago we passed a provision to require the Coast Guard to go on a biennial budgeting as the Defense Department is required to do now. I think that all of Government should be on a longer budget cycle. I think it would be in our best interests, it would give everyone better oversight. I think, perhaps, it would save money.

However, the Coast Guard, because it is in the Department of Transportation, and Transportation is not on a biennial budget, had requested relief from that, that we repeal that. I strongly oppose the repeal of it. However, I think there was a compromise provision, and I would hope that we would move forward, toward getting a longer budget cycle.

I would like for the gentleman to clarify the position of the Coast Guard with regard to the biennial budget.

Mr. TAUZIN. Will the gentleman yield?

Mr. HUTTO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I am happy to clarify that for the gentleman from Florida. What we agreed to, and what is incorporated in the act is a provision that delays implementation of the biennial budget requirement for the Coast Guard until the day at which the entire Transportation budget falls under a similar requirement. That, of course, avoids a problem of part of the Transportation budget coming on an annual basis while the Coast Guard part comes under a biennial basis. It still retains the biennial requirement, and goes into effect when the Transportation Department itself comes under this.

Mr. HUTTO. I know we ought to move toward biennial budgeting for all.

On another matter, the Coast Guard was very active and involved in Operation Desert Storm/Desert Shield, but perhaps has not received enough credit for that.

The law provides, as I understand it, that in times of emergency, the Coast Guard is cut to the Department of the Navy. I was just wondering how, briefly, if the gentleman could tell members, what happened during Desert Storm, and if there are provisions in this bill that treat that?

Mr. TAUZIN. If the gentleman will yield, I thank the gentleman for the inquiry.

What occurred in Desert Storm is the Coast Guard remained an independent branch of the Armed Forces, but worked under the operational command of the Navy.

Some people thought the Coast Guard automatically transfers to the Navy in time of war. But, as we have seen, the Coast Guard not only performs as the gentleman knows, in a highly credible and important military function, but also performs a great many civilian functions as well. The question was which of the functions or missions are transferred under Navy. There was a lot of confusion.

What this bill does is direct the Department of Transportation and Department of Defense study to determine how that should be implemented in the future, so that only the military missions, as are necessary, would be transferred under Navy, and the civilian missions would remain, hopefully, under Transportation. So while we cannot say how it would come out, we would get a good inquiry based upon the experience of the Persian Gulf war.

Mr. HUTTO. Mr. Chairman, one final question.

Finally, with the other body, finally acquiescing to the need for it, passed a good oilspill piece of legislation. I know that we moved forward to implement different parts of this.

There are, I believe, some provisions in this bill; how are we moving on that?

Mr. TAUZIN. If the gentleman will continue to yield, the good news is that the bill finally authorizes R&D money, which is critical for oilspill prevention. It authorizes $28 million for the Coast Guard to spend, and the Committee on Appropriations has, I understand, exceeded that request.

□ 1420

So that the Coast Guard can begin to do the kind of R&D to find the techniques of stopping an oilspill from getting out of hand.

Second, the authorization in the bill continues what the Coast Guard is already implementing, and that is the implementation of the pre-positioned strike teams. The Coast Guard has recently announced a decision on the 19 sites around the country where those oilspill response equipment and personnel will be located; so we are making I think great progress, although I, like the gentleman from Florida, share a belief that the Coast Guard is always short of necessary funds to implement this critical part of the oilspill liability law.

Mr. HUTTO. Mr. Chairman, I thank the gentleman for his response and for his good work on this matter.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 17, strike line 13 and all that follows through line 18, and redesignate the subsequent sections of the bill accordingly.

Mr. BURTON of Indiana. Mr. Chairman, for the past few months many of us in this body have been very concerned about the budget deficit. The projected budget deficit this year is going to be between $350 and $400 billion, the largest in U.S. history. As a result, a number of us have been very concerned about projects that we thought might be considered by many of us as pork barrel projects.

Now, the amendment I am proposing today deals with a bridge over the Cumberland River in Tennessee. I talked to the gentleman who is from that district, the gentleman from Tennessee [Mr. CLEMENT]. He is a very nice fellow and he has some good reasons for trying to get this new bridge built and the changes made down there; however, the Coast Guard is very concerned about this. I would like to cite some reasons why I think that this is not a meritorious project at this time.

The provision in the bill designates the Bordeaux Railroad Bridge over the Cumberland River in Tennessee as an "unreasonable obstruction to navigation."

The Truman-Hobbs Act authorizes Federal funding on a cost-share basis to alter bridges which the Coast Guard declares to be obstructions to marine navigation; however, this provision in this bill bypasss the regular Coast Guard process by determining which bridges are obstructions to navigation, and thus deserving of Federal funds.

To qualify for alteration under the Truman-Hobbs Act, the cost of bridge alteration must be least equal the benefits to navigation. There must be a one to one cost-benefit ration. Now, this is very important. I think that in a time of record deficits being $350 to $400 billion this year, we must apply this standard very carefully to Federal spending.

In February of this year, the Coast Guard issued a preliminary engineering report on the Bordeaux Bridge. The preliminary engineering report found that the benefits from altering the bridge would be approximately $115,000, that would be the benefit, while the cost would be $15 million. That figures out of a cost-benefit ratio of only 10 percent, instead of the one to one ratio that the Coast Guard uses as a guide.

The Coast Guard has rightfully concluded that funding for this project would not be cost effective. Were it not for this provision in the bill before us today, the Coast Guard would not fund this project at this time.

We talked to the Coast Guard. The Coast Guard said that they did not think this was a worthwhile project at this time. There are hundreds of bridges in this country that are worthy of consideration. I presume this is one, but it is not a priority item right now, and $15 million to save $115,000 is not a good cost-benefit ratio.

This provision, while not directly committing any Federal tax dollars, would require the Coast Guard to request appropriations for the Bordeaux River Bridge just as the Coast Guard requests funding to alter bridges that it does deem to be obstructions to navigation.

Under the Truman-Hobbs Act, the Federal Government has usually paid most of the cost of modifying or replacing bridges. The minimum cost for the Bordeaux Bridge project will be at least, as I said before, $15 million. The American taxpayer will end up paying the lion's share of this amount.

There were no hearings, including the Coast Guard, on the Bordeaux Bridge project.

As I said before, there are hundreds of bridges across the Nation that need to be altered in order to eliminate marine transportation hazards. Funding for this purpose is very limited. Congress should not authorize funding for projects which are not meritorious, while legitimate needs go unmet.

The OMB has just announced, as I said before, that the 1992 deficit is expected to go over $348 or $350 billion. Many of us think it is going to be more like $400 billion. If we are really serious about reducing the deficit, then we should start here by approving my amendment and striking this particular item.

I would just like to end up by saying, Mr. Chairman, that the gentleman from Tennessee is a good friend of mine and a fine fellow, but I do believe that the $15 million we are talking about is really excessive. I consider it to be a pork barrel project and not worthy at this time, and I hope my colleagues will see fit to support my amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the last word. I rise in strong opposition to the amendment.

While I concede the gentleman from Tennessee is indeed a good friend of the gentleman from Indiana, let me point out that this is not about friendship and this is not about the budget.

Under the Truman-Hobbs Act, money will be spent on bridges. It is not a question of whether you are going to save money for the Treasury or not on this issue. The question is one of priorities. It is one of whether or not in fact the bridge called the Bordeaux Bridge in the district of the gentleman from Tennessee is in fact a hazard to navigation.

Let me assure this body that the Coast Guard Committee did in fact look and examined carefully the complaint that this bridge was a hazard to navigation both at the subcommittee level and again at the full committee level. In between the subcommittee markup and the full committee markup, the gentleman from Tennessee was required to submit additional data which the Coast Guard did not have available to it to make the determination as to whether or not it should qualify for Truman-Hobbs. Let me concede that we have got a problem here. We have a Truman-Hobbs law that requires bridges which may be hazards to navigation to come under some sort of process of review and then a determination is made as to whether they qualify for this matching assistance program which is budgeted for whatever bridges qualify.

The problem is the process of review is woefully inadequate. There are only four Coast Guardsmen assigned at national headquarters to do the entire review process for the country. I will give you an example of how inadequate it is with reference to this specific bridge.

Is this bridge a hazard to navigation is the question we ought to answer today, and is the process a good one is the question my committee has to answer as we begin some hearings on that issue this summer.

On the first question, is this bridge a hazard to navigation, the Subcommittee on Coast Guard and Navigation and the full Merchant Marine and Fisheries Committee agreed this is a hazard to navigation in which lives and property are in jeopardy.

Let me tell you why. In the last year alone, there were four collisions with this bridge, four collisions with the bridge, and the Coast Guard has only found 170,000 some-odd dollars' worth of potential loss. Four collisions in a major waterway with the bridge.

The Coast Guard, coincidentally, in its inadequate review did not have in its informational base there were nearly 1,200 tows that went through that bridge last year. They only counted 400.

The Coast Guard did not have in its review indications that a million tons of shipping were not counted in that review. Because their shipping went past the Port of Nashville, they only counted shipping up to the Port of Nashville.

There are many inadequacies in the review process.

I can only tell the gentleman from Indiana [Mr. BURTON] that I am satisfied we have a faulty review process.

We are going after it. We are going to try to see to it that all the bridges, there are 50 now under consideration, that all get a real and substantial review and we find out the true cost benefits, the phony ones that come out, and that we really deal with the hazards to navigation that exist in the waterway.

Finally, let me say it again, we are not talking about whether we are going to save some money. We are talking about whether or not this bridge really is a hazard, a priority enough hazard that it ought to go on the Truman-Hobbs list.

It is my considered opinion, joined by the full committee and subcommittee, that this is a hazard to navigation. The Bordeaux Bridge ought to get fixed. If we can qualify for Truman-Hobbs, the sooner the better.

Mr. Chairman, I would urge defeat of this amendment for that very reason, I say to the gentleman from Indiana [Mr. BURTON], and I hope the gentleman will consider in fact withdrawing the amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, may I ask, why were not there hearings involving the Coast Guard? If something of this import came before the committee, it seems to me that the Coast Guard would have been called in to explain their opposition to it.

I and my staff contacted the Coast Guard and they said that this was not one of their top priorities, it was not worthy of being added to this bill. It was going to cost $15 million.

I would just like to know why they were not brought in for consultation, No. 1; and No. 2, the administration is opposing this.

I would like to have the gentleman's comments about that as well, because we have the administration opposing it and the Coast Guard.

☐ 1430

Mr. TAUZIN. First of all, the Coast Guard was consulted. We did check with the Coast Guard to find out if in fact they had made a finding on the bridge and why. We discovered that they did not have all the facts. And that was the committee staff's inquiry as reported to the full committee.

Second, I can only tell you the administration tends to back up the findings of the Coast Guard on these decisions. I can only reiterate the decision is a bad one. The decision the committee made, I believe, is a good one. The Bordeaux Bridge ought to be repaired; and it ought to be Truman-Hobbs qualified, and we have done so.

Finally, there are other Members who had requested their bridges be considered. They are not in the bill because we did not consider them to be of an emergency-qualifying nature. So we did do a review. We were discriminating in our review. We did check with the Coast Guard. We examined other information that the Coast Guard did not have. We only ask that you go along with this and we will get a better process for you in the future.

Mr. CLEMENT. Mr. Chairman, I would like to comment on one provision contained in the bill.

Section 18 of the bill designates the Bordeaux railroad bridge on the Cumberland River as an unreasonable obstruction to navigation, thus making the bridge eligible for Federal cost sharing under the Truman-Hobbs Act.

The Coast Guard has examined the bridge and determined the cost of altering it to be approximately $15 million. The horizontal opening below the bridge is only 128 feet, less than half the channel width authorized and maintained by the Corps of Engineers. Because of changes in the river from natural and human causes, the river can now accommodate barges that are larger, heavier, and capable of carrying more cargo than the smaller wooden barges in use when the bridge was constructed in 1904.

As a result, the bridge now hampers the free and easy passage of commerical vessels. There is, for example, the possibility of an increasing number of collisions between vessels and the bridge. The committee found that there were six reported vessel collisions with the bridge since 1983, four of which occurred last year, thus indicating that the bridge is a navigational obstruction.

I want to thank Chairman TAUZIN and ranking Republican JACK FIELDS and their staffs for their support of this provision. Their help will ensure the removal of an obstruction that hampers the safe passage of commerical tows on the Cumberland River.

WHERE THE COAST GUARD STUDY IS DEFICIENT

Mr. Chairman, some who criticize this designation as an example of pork barrel spending may not understand the facts that lead to the committee's decision.

Concerns about the navigational obstructions posed by the Bordeaux Bridge have been been expressed to the Coast Guard for several years. Yet until I and a commercial barge owner made a formal request in June 1989, the Coast Guard had not thoroughly investigated these obstructions. But by the time the Coast Guard completed its investigation this past January, they too had concluded that the bridge is obstructive to navigation, though by their calculations, not unreasonably obstructive.

Thus the Coast Guard shares the same assessment about the nature of the bridge's obstructions. The committee's difference with the Coast Guard is with regard to the benefits that may be derived from having alterations made with Federal assistance. In this regard, despite the best of intentions and hard work, the Coast Guard study is suspect. In particular, the data used by the Coast Guard to arrive at its conclusion are incorrect or, at best, suspect.

For example, the data used by the Coast Guard to measure the amount of river borne commerce for at least 1 year underestimates that traffic by 760,000 to 1 million tons—1987. This is due to the fact that the Coast Guard used a Corps of Engineer's report that counted traffic that terminated at the port of Nashville. The Coast Guard did not count the volume of traffic which passed through and beyond the Port of Nashville and, hence, under the Bordeaux Bridge. How many of the other 9 years are similarly underestimated and by what percent?

In addition, the data used by the Coast Guard to measure the number of commercial tows coming into the Port of Nashville are underestimated. The Coast Guard estimated that 406 tows came into the port in 1987. A Corps of Engineers report indicates that 1,148 tows went through nearby Cheatam lock that same year, assuming that 10 percent of those tows tied up before passing under the Bordeaux Bridge, the number of tows may still be underestimated by 180 percent. How many other years' worth of data are underestimated?

The Coast Guard also fails to take into account the projected increase in tonnage on the Cumberland River, which the Tennessee Department of Transportation estimates will increase from 4.5 million tons in 1990 to 5.9 million tons in 2000, and 6.8 million tons in 2010.

The value of removing some of the dangers posed by the hazardous cargo passing through the narrow channel is not considered. In 1990, for example, 918,000 tons of petroleum products and chemicals passed through Cheatam lock, most of it destined to or through the Port of Nashville. The Coast Guard does not take into account any value in avoiding the collateral damage to adjacent business and residential property should a hazardous materials barge strike the Bordeaux Bridge and explode. Nor does the Coast Guard consider the fact that the Exxon Co. has an oil terminal at the Bordeaux Bridge which could also explode.

It is not unprecedented to make legislative designations of bridges as "unreasonable obstructions to navigation." In fact, four of the six Truman-Hobbs alterations currently underway or eligible for Federal cost sharing were so designated by legislation.

Let me remind Members that the designation is only an authorization. Its enactment will not result in any Federal expenditure until Congress appropriates funds for the project in a future transportation appropriations bill.

Lastly, Mr. Chairman, to the claim that this is an example of pork, I can only say that one man's pork is another man's sustenance. This provision overrules the Coast Guard's recommendation only because, as I have argued, that recommendation is based on faulty and suspect data.

I do not think it violates my oath of office to make a case for designating the Bordeaux Bridge an obstruction to navigation. Members are often called upon to substitute their judgment for that of the administration. Such is the case here and I hope I have made a persuasive argument for doing so.

Let me point out that the Bordeaux Bridge is owned by a public entity, and not a private railroad or other corporation. Therefore, I believe the beneficiaries to be the public at large, if not the citizens of middle Tennessee. For my fellow citizens to seek the assistance of their Government is nothing to be embarrassed about or ashamed of. It is, in fact, the very right of each citizen to look to the Federal Government for assistance. Let us not forget that the existence of this very government is dependent on the consent of the governed. We give millions of dollars to projects overseas and, to paraphrase our colleague, the distinguished chairman of the Appropriations Committee, let us hope that one day soon our citizens will not have to have a foreign postal address to receive benefits from their government.

Mr. Chairman, some people peer down the green fairways of indifference. They can tell you that cost of anything, but the value of nothing. I trust that the Bordeaux Bridge designation is a case where the value of the undertaking will demonstrate the cost to be a modest investment in a region's future growth.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was rejected.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON: Page 26, after line 5, add at the end of the bill the following new section:

SEC. 27. SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(a) FINDINGS.—The Congress finds that—

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) 950 members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the 600 vessel boardings in support of maritime interception operations in the Middle East;

(4) 10 Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over 300 men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials, munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately 550 members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the international Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordinance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordinance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) COMMENDATION.—The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize such role.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I rise today in support of H.R. 1776, legislation to authorize the U.S. Coast Guard for fiscal year 1992. I also rise to offer an amendment to this bill.

First, Mr. Chairman, I want to take this opportunity to commend the chairman of the committee, Mr. JONES; the ranking member, Mr. DAVIS; the chairman of the subcommittee, Mr. TAUZIN; and the ranking member of the subcommittee, Mr. FIELDS, for bringing this bill to the floor and, more importantly, for their longstanding commitment and dedication to ensuring that the Coast Guard is able to carry out its ever-increasing mission.

As we consider this important legislation, what we must remember about the Coast Guard is that in addition to their domestic responsibilities of protecting the health and safety of the American people, enforcing environmental regulations, and fighting the war on drugs, the Coast Guard played an important, but mostly unrecognized role in the Persian Gulf war. My amendment will bring attention to this.

The American people have honored the American troops who served in the Persian Gulf with parades and other celebrations. We have praised the Air Force for the unrelenting air campaign, which crippled Saddam Hussein's forces. We have praised the Navy for their role in the air campaign and for subduing the Iraqi Navy, making them an insignificant force and allowing the allies to focus troops and supplies on other areas, and we have praised the Army for their success in the ground campaign.

Unfortunately, one branch of the service, the U.S. Coast Guard, has mostly gone unrecognized for its contribution. That is why I am offering this amendment, which is identical to House Concurrent Resolution 163, a sense of the Congress commending the Coast Guard for its important role in Operation Desert Storm and Operation Desert Shield.

Without the Coast Guard, the operations of the U.S. military may not have been so smooth, efficient, or decisive. Adoption of this amendment will bring attention to the Coast Guard's contribution and will honor the brave men and women, the active personnel, and the reservists who were called up and immediately went to work, facilitating the smooth handling of Operation Desert Storm and Desert Shield.

Mr. Chairman, though many may not realize it, more than 950 Coast Guard reservists were called up to participate in Operation Desert Shield and Desert Storm, serving in vessel inspection units, port security units in the gulf, and in supervising the loading of munitions and hazardous military cargoes.

It is important to recognize that the Coast Guard monitored the offloading and shipment of more than 4 million tons of cargo bound for the troops in the gulf, with no significant accidents.

The unique expertise of the U.S. Coast Guard law enforcement detachments, with their expertise in maritime sanctions enforcement, vessel boardings, and vessel inspection, led the U.N. sanctions enforcement forces in more than 60 percent of the nearly 600 boardings in support of the international maritime interception operations in the Middle East. In addition, the U.S. Coast Guard also provided training to others to enable the maritime interdiction forces to be able to effectively and safely enforce the U.N. sanctions.

More than 550 Coast Guard reservists served in port security units deployed in the gulf to provide port security and waterside protection of ships offloading essential military cargo in the gulf. This enabled crucial military and other support cargo to safely be brought into the theater of operations, be safely offloaded, and put into operations.

After Saddam Hussein created the massive oilspill in the Persian Gulf, the U.S. Coast Guard, through its environmental response program, headed the international interagency oil pollution response team at the request of the Saudi Government. Coast Guard Falcon aircraft with oilspill aerial surveillance and mapping capabilities were deployed in the area and quickly assessed the size and depth of the problem.

The Coast Guard Research and Development Center located in Groton, CT, developed a deployable differential global positioning system capability for use with the explosive ordnance disposal search detachment. Their successful development of this equipment improved the efficiency and effectiveness of the minesweeping and ordnance countermeasures operations in the gulf, saving thousands of dollars in direct operations costs and the inestimable savings in lives and equipment that could have been lost had this Coast Guard system not been developed.

Mr. Chairman, in addition to their direct gulf activities, Coast Guard personnel also played a critical role in the successful outcome of Operation Desert Storm and Operation Desert Shield by facilitating the safe transport of cargo and facilitating the approval of Ready Reserve vessels to be able to carry important cargo to the gulf. The Coast Guard Vessel Inspection Program conducted the required inspections of 73 sealift vessels, primarily activated Ready Reserve Force vessels brought into service because of this operation. Additionally the activation of a large number of Reserve vessels, as well as the significant increase in military vessel traffic, resulted in a vast increase in marine casualties requiring Coast Guard personnel actions and investigations. As a result, some field units have seen more than a 300-percent increase in their investigative workload. Many of these investigations will continue for months.

The increased marine traffic and the necessity to move huge amounts of equipment and supplies also required the Coast Guard to develop a flexible merchant marine manning and licensing program to facilitate bringing Reserve vessels into action and to ensure that ship crews were adequately trained to secure maximum safety.

U.S. Coast Guard personnel served in the Joint Information Bureau combat camera and public affairs staff.

Coast Guard personnel served in various joint command and control staffs in the gulf theater of operations.

The U.S. Coast Guard Intelligence Coordination Center provided support, monitoring, review, and evaluation of political, terrorist, military, and intelligence activities related to Desert Shield/Storm. Specifically, Coast Guard intelligence forces were deployed to determine threats to Coast Guard Forces, overseas and port security units. This was also expanded to provide intelligence support to the National Oceanic and Atmospheric Administration oilspill team which was deployed at Coast Guard headquarters.

Mr. Chairman, I believe that we must recognize all of our Armed Forces in the Persian Gulf. As the summer proceeds and we honor our troops in parades and celebrations throughout the country, it is my hope in offering this amendment that all Americans will understand and appreciate the important role of the U.S. Coast Guard in the Persian Gulf war. I urge my colleagues to join me in supporting this amendment, and I urge the American people to recognize the valuable contribution made by the U.S. Coast Guard.

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Alexandria, VA, July 17, 1991.

Hon. SAM GEJDENSON,
Rayburn House Office Building,
Washington, DC.

DEAR MR. GEJDENSON: The Non Commissioned Officers Association of the USA (NCOA) advocates your introduction of H. Con. Res. 163 intended to recognize the United States Coast Guard's role in the Persian Gulf conflict.

NCOA understands that your resolution has been reworked as an amendment to H.R. 1776 and will be acted on that form on July 18, 1991. This Association appreciates and fully supports your effort to recognize the servicemen and women of the U.S. Coast Guard for their significant contributions to the war effort in the Persian Gulf.

NCOA eagerly awaits favorable action associated with your amendment.

Respectfully,

MICHAEL F. OUELLETTE,
Deputy Director of Legislation Affairs.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the chairman of the subcommittee, the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman for this amendment.

Mr. Chairman, as we pointed out earlier, too often the role of the Coast Guard as a military branch of the Government is overlooked. The Coast Guard has been in every military engagement in which this country has engaged since its inception as an agency of our Government and has performed brilliantly.

This exercise in Desert Storm was no exception.

The Coast Guard men and women who attended to the task of helping this incredible deployment, assisting in the oilspill in the gulf, assisting in the stopping and interdiction of traffic that was in fact embargoed under the United Nations embargo, and all the work they did in assisting the military action that was so successfully carried out, this House, this Congress is certainly grateful. The gentleman's amendment certainly expresses that gratitude and appreciation, and I commend him for it.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. I thank the gentleman for yielding.

Mr. Chairman, I am pleased to support this amendment, which is identical to House Concurrent Resolution 163, which I have cosponsored, to commend the U.S. Coast Guard for its vital role in the Persian Gulf War.

While the Coast Guard has not received a great deal of attention for the contributions they made to the success of Operation Desert Shield/Desert Storm, this amendment recognizes their remarkable achievements.

For instance, it is not widely known that the Coast Guard participated in some 350 vessel boardings in the Middle East, that it provided port security for the unloading of essential military cargo, that 10 Coast Guard law enforcement teams assisted in the enforcement of the U.N. sanctions, and that it coordinated the cleanup of the massive oilspill off the coasts of Kuwait and Saudi Arabia.

Mr. Chairman, while these activities may not have been glamorous, they were, nevertheless, indispensable to our overall success in the Middle East.

Finally, I would like to also commend the Commandant of the U.S. Coast Guard, Adm. J. William Kime, for his superb leadership throughout the war. Admiral Kime was in the Middle East on several occasions during the conflict and our Nation was indeed fortunate to have him as Commandant during this critical moment in our history.

Again, I am pleased to support this amendment, and I thank the author, Mr. GEJDENSON, for bringing it to our attention.

Mr. GEJDENSON. I thank the gentleman for his comments.

Mr. Chairman, I close by saying that without the Coast Guard, this country could not go to war; we could not get our ships out of the ports; we could not get the cargo where we needed it. It is important that we take one moment to recognize that.

I thank the committee for their support, and I move the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut [Mr. GEJDENSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. DEFAZIO:

At the end of the bill add the following new section:

SEC. . TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES.

(a) CONVEYANCE OF LIGHTHOUSES.—

(1) AUTHORIZATION.—The Secretary may convey by any appropriate means to the State of Oregon all right, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) DESCRIPTION OF PROPERTY.—The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) AIDS TO NAVIGATION.—Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) LIMITATION ON OBLIGATION OF STATE.—The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens,

(B) the keeper's dwelling,

(C) several ancillary buildings, and

(D) such land as may be necessary to enable the State of Oregon to operate at the lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(2) the term "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens,

(B) several ancillary buildings, and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon; and

(3) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, my amendment would transfer two lighthouses from the U.S. Coast Guard to the Oregon State Parks and Recreation Department. The Coast Guard is relinquishing interest in all of its lighthouses in Oregon, turning them over to the State, counties, and cities. The Oregon State Parks and Recreation Department is excited about assuming ownership of the lighthouses and opening them up to the public.

Heceta Head is just north of the famous Sea Lion Caves, where it looms majestically as perhaps one of the world's most photographed lighthouses. The dark green forest and rocky headland background stands in sharp contrast to the stark white exterior of the lighthouse and caretaker's home.

A 6-mile drive from Highway 101 to the westernmost headland on the Pacific coast leads to the Cape Blanco Lighthouse. The historic Hughes House is the gateway to this magnificent tower that has guided fisherman around the head since 1870.

It is Coast Guard general policy not to allow civilians into the lighthouses. Transfer of these lights to the State of Oregon will allow the public to enter these historic landmarks for the first time, will permit the construction of a museum and educational exhibits, and will provide needed tourism dollars to local communities. Lighthouse enthusiasts from around the world will now be able to enjoy these sentinels of the Oregon coast.

The important navigation functions of these lighthouses will not be sacrificed. My amendment provides for the continued operation of navigation equipment by the Coast Guard. The classical fresnel lenses on the beacons will no longer operate, so the public can examine the mechanics of the beacon. Alternate beacons will be placed on the towers.

My amendment is supported by the U.S. Coast Guard, the Oregon State Parks and Recreation Department, and the entire Oregon House delegation. I urge my colleagues to support the DeFazio amendment to H.R. 1776.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield to me?

Mr. DEFAZIO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, I requested this only to qualify that the amendment as now drafted provides for the transfer, without the necessity of Federal assistance, in the maintenance of the lighthouse. Is that correct?

Mr. DEFAZIO. The gentleman is correct. This will save the Federal Government money in terms of the maintenance of the physical structure. Only the navigation aides would remain as an obligation of the Federal Government.

Mr. TAUZIN. Mr. Chairman, I urge the House to accept the amendment and urge its support.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Texas.

Mr. FIELDS. I thank the gentleman for yielding to me.

Mr. Chairman, we have examined the amendment of the gentleman from Oregon, and we find no objection.

Mr. DEFAZIO. I thank the gentleman from Texas for his comments.

Mr. DARDEN. The question is on the amendment offered by the gentleman from Oregon [Mr. DEFAZIO].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GONZALEZ] having assumed the chair, Mr. DARDEN, chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 1776) to authorize for fiscal year 1992 the U.S. Coast Guard budget, pursuant to House Resolution 196, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1776, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERSONAL EXPLANATION

Mr. KLECZKA. Mr. Speaker, due to a recent 4-day hospitalization, I was unavoidably absent from rollcall votes 214 to 216. Had I been present, I would have voted in the following manner:

On the Davis amendment to H.R. 1776, as amended, I would have voted "aye"; rollcall No. 214.

On the Solomon amendments to H.R. 1776, I would have voted "no"; rollcall No. 215 and 216.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1776, COAST GUARD AUTHORIZATION ACT OF 1991

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 1776, including corrections in spelling, punctuation, section numbering, and cross-referencing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 997

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent to have my name removed from cosponsorship of H.R. 997.

The SPEAKER pro tempore (Mr. CLEMENT). Is there objection to the request of the gentleman from California?

There was no objection.

VACATION OF 60-MINUTE SPECIAL ORDER AND SUBSTITUTION OF 5-MINUTE SPECIAL ORDER

Mr. STEARNS. Mr. Speaker, I ask unanimous consent that the 60-minute special order granted for today to Mr. EMERSON of Missouri be vacated, and that he be granted a 5-minute special order today instead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

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ADJOURNMENT TO MONDAY, JULY 22, 1991

Mr. DARDEN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from Georgia?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DARDEN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, JULY 24, 1991

Mr. DARDEN. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, July 23, 1991, it adjourn to meet at noon on Wednesday, July 24.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE DANGERS OF FEES FOR GOVERNMENT INFORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virgina [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, a few weeks ago, the Committee on Merchant Marine and Fisheries ordered reported H.R. 534, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels. The purpose of the bill is to repeal the user fee on recreational boats and to finance it with a user fee on information.

I would like to take a few minutes to discuss some significant problems presented by this legislation. At the outset, let me emphasize that I have no objection to the repeal of the user fee on boats. I have serious concerns, however, about the method selected to finance the repeal. A committee amendment proposes to impose a user fee for use of the automated tariff filing and information system [ATFI] operated by the Federal Maritime Commission.

ATFI contains ocean maritime tariffs filed and made public pursuant to law. The information in the tariffs is not proprietary or sensitive in any way. The tariffs are filed for the purpose of making them public. Tariff filing is a basic element of the regulation of the maritime industry.

The idea that the Federal Government would require the public filing of tariff information and then impose a high fee on those who use that information is very troubling. Although the ATFI system will contain information of little general interest, the proposed sale of information by the Government conflicts with basic policy principles. I would like to explain my concerns in more detail.

Under American constitutional and legal traditions, the ability of the Federal Government to exercise control over public information is severely restricted. For example, the first amendment to the Constitution prohibits laws abridging the freedom of speech. This prevents the Federal Government from exercising political control of information in the public domain. Of course, the Government has the right to protect classified or private information, but that is not what is at issue here.

H.R. 534 establishes a fee structure of $21 per hour for online use of the ATFI data base, whether access is provided directly by the FMC or by any other person. The FMC is authorized to establish alternative fee schedules that will result in the collection of equivalent total annual receipts. The bill authorizes appropriate enforcement, including criminal penalties. In effect, the FMC will collect a royalty of 35 cents a minute for use of the data base.

To illustrate the dangers of this approach, suppose that we apply this provision to the availability of Federal budget information. Imagine that OMB could issue rules requiring people using budget information to pay a royalty to the Government. Every year when the budget is released, States, newspapers, and public interest groups would have to pay for the privilege of acquiring and reprinting budget figures.

If a budget were particularly unpopular, an administration might set a very high price for access and reproduction in an attempt to keep the information from reaching the voters. Information that made the President look good might be free; less favorable information might be expensive. As an alternative, the information might be released but only on condition that it be reported favorably or along with the President's explanation. Would anyone feel comfortable if OMB could use criminal penalties to make sure that budget information were used in accordance with its wishes?

The point is that Government information must remain in the public domain, without restrictions on reuse and without any requirement for the payment of royalties. The power to restrict the use of information or the power to set a price for its use is the equivalent of political control. This is the type of Government activity that the first amendment was intended to prohibit.

A bureaucracy tends to use information to make itself look good. A recent Supreme Court case affirmed the ability of Government to regulate the speech of those receiving Federal funds. How will agencies exercise this power? While the political content of tariff filings may be minimal, the principles are the same. We cannot and should not give Government bureaucracies dominion over public information.

The importance of this policy is underscored by the Copyright Act. That act permits any person who publishes a book to set both its price and the terms under which the book may be read and used. But the law expressly provides that copyright protection is not available for any work of the U.S. Government. Why is the Federal Government denied the authority granted to every author? It is because Congress has recognized that the public interest is best served by keeping works created by the Government as free as possible of potential restrictions on dissemination.

H.R. 534 is inconsistent with the policy of the Copyright Act. The bill would authorize the FMC to set a price at any level necessary to generate the required revenue and to establish controls necessary to protect the information from unauthorized use. While this is not an explicit copyright, the essential elements—and dangers—of copyright by Government are present.

H.R. 534 is also inconsistent with another well-established Federal information law. The Freedom of Information Act provides a mechanism that allows any person to request information from a Federal agency. Information made available under the FOIA is in the public domain and may be used without restriction. But ATFI information may not be available at all under the FOIA because of the need to protect Federal revenues. Only those who can afford to pay will be able to use the automated data base.

Reliance on information revenues has other consequences as well. Suppose that in a few years, Congress decides that continued financial regulation of the maritime industry is unnecessary and proposes to repeal the tariff filing requirement. Under current budget rules, it would be necessary to replace the revenues derived from sale of ATFI information. If we could not find a way to raise those revenues, we might be obliged to continue unnecessary regulations because the Federal Government cannot afford to deregulate.

I fully recognize the budget constraints under which all of us are operating today. I know that the Merchant Marine Committee has acted in good faith in an attempt to find a solution to another difficult problem. But using Federal information resources as revenue sources is dangerous and ultimately counterproductive to open Government.

I have a second reason for my objection to the ATFI information fee. It won't raise enough money. The Congressional Budget Office has estimated that a fee of $21 per hour will raise $750 million over 5 years. With all due respect to CBO, this is a gross overestimate of the potential revenue. I can find no one in the information industry or in the maritime industry who believes that the revenues will be even a fraction of the estimate.

Let me illustrate this by using CBO's numbers for fiscal year 1996. CBO believes that the Government's revenues for 1996 will be $400 million. Let's examine that number more closely. At $21 per hour, there would be about 19 million hours of usage of ATFI information, or more than 70,000 hours per day. Based on a 10-hour day, CBO estimates that there will be over 7,000 people using the ATFI data base every hour of every day. I do not think that any existing automated data base has that many users.

It is simply not credible that an obscure data base of ocean maritime tariffs could generate so much use. This is not just a guess on my part. There is an existing commercial data base of the same information that will appear in ATFI. The gross revenues of the leading automated commercial tariff service are considerably less than 10 million dollars a year. The company tells me that if it had to pay royalties of $21 per hour to the Government, the increased price would drive away a significant portion of its business.

Another reason for not accepting the CBO estimate is the possibility that the ATFI royalty fees could be avoided altogether. Since the ATFI data base is created from tariffs filed electronically, an enterprising company might obtain those same tariffs directly from the filers. The resulting privately created data base would produce no revenue for the Government. Certainly the maritime industry and all potential users of ATFI would find it in their interest to cooperate in order to avoid paying unnecessary fees to the Government. If CBO's estimate is correct, the transfer of $400 million a year to the Federal Government would create a powerful incentive for creativity.

In conclusion, I want to emphasize that I am not opposed to the repeal of the user fees on recreational boats. My objection is limited to the use of information royalties to offset the revenue loss. I hope that the Merchant Marine Committee can find another way to achieve its objective.

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I had the great privilege last year to serve as an honorary cochairman of the "Captive Nations Week" commemoration here on Capitol Hill. In my remarks to the House on the occasion of that commemoration, I noted that the walls of communism were coming down and that United States policy toward the Soviet Union was at a tremendously important crossroads. I stated then, and still believe now, that what our Soviet policy needs is a rededication to freedom for the nations held captive by the Soviet Communist government. I called for a policy based on the idea that what the communists like to call a "secession crisis" is in fact a decades-old struggle by those captive nations for their independence! Finally, I called on our State Department not to tie our policy to the survival of any one political leader in the Soviet Union, but to instead aim it towards supporting the captive nations' independence and the promise of true freedom that their struggle holds.

Mr. Speaker, I rise today to commemorate the 32d anniversary of "Captive Nations Week," and to make some observations on recent developments in the Soviet Union that I think buttress the arguments I made 1 year ago. First, let's look at the pictures we have seen: The first directly elected President of Russia in that nation's 1,000-year history being sworn in and visiting with President Bush shortly thereafter in the White House; tens of thousands of Ukrainian Catholics freely crossing the Polish border to hear Pope John Paul II deliver a sermon; hundreds of unarmed Lithuanians going into the streets in protest every time Soviet troops move to seize Lithuanian Government facilities; tens of thousands of Muscovites taking to the streets despite Kremlin orders to protest Communist rule and being kept back from Red Square only by the deployment of hundreds of troops; and so on and so on.

Next, let's listen to the facts: 6 of the 15 Soviet Republics have declared themselves independent; another Ukraine—the size of France and with 55 million residents—is delaying its debate on whether it will remain in a Soviet federation until it has written its own constitution and elected its own President; and the remaining eight Republics, including Russia, have insisted that they—not the central Soviet Government—will levy taxes in future and apportion them to Moscow as they may see fit, not the other way around. We have seen the majority of residents of Leningrad vote to remove Lenin from their city's name and reinstate the name "St. Petersburg." We have read of the astonishment among Soviet generals when they heard the author of their new, official military of World War II describe the Soviet people indeed as heroes in the fight against Fascism, but also as martyrs to their own government's Communist repression. We have heard how average Soviet citizens now openly call their Communist rulers liars and thieves, and so on and so on.

In short, Mr. Speaker, the long struggle for freedom by the captive nations of the Soviet Union is now reemerging into full view. Our American policymakers must accept the fact that the Soviet Union as it is presently constituted cannot last! As an unnamed Western consultant was quoted recently in a news story regarding Ukrainian independence: "Basically, what we're watching here is a revolution. And the question is, will the West be ready when Ukraine secedes from the Union?"

Mr. Speaker, I was encouraged to see President Bush meet with Russian President Yeltsin. I was also encouraged to read that Secretary of State Baker had met with the foreign ministers of Estonia, Latvia, and Lithuania at the recent conference of the Commission on Security and Cooperation in Europe despite the Soviet Government's success in excluding them from that meeting. I am not yet certain, however, that the administration and our allies abroad have accepted the fact that Soviet President Gorbachev is now only one of many possible leaders of change and reform or the idea that what the peoples of the Soviet Union need is not more cash, but more freedom.

Mr. Speaker, I am in fact worried by the talk of a so-called grand bargain in which Mr. Gorbachev would promise further reforms in return for billions of dollars in aid. I am concerned because such a "grand bargain" might well be a "grand illusion" that in turn could prove a "grand betrayal" of the nations now held captive within the Soviet Union. First of all, the Communists still control the economy, and they certainly have no commitment either to free markets or to democratic reform. As many Soviet citizens will tell you, much of any aid sent to the U.S.S.R. will simply disappear into their pockets. Second, such aid would help delay the Soviets' switch from military-based production to consumer-oriented output—and so foster only temporary solutions to the huge economic problems their people face, rather than the outright free market approach that is vitally needed. Finally, despite Gorbachev's claims that such aid will help him convert arms factories to civilian production, it might just as easily help him maintain the U.S.S.R.'s huge military establishment, which is the last, best power base in the Communist party. It would indeed be a tragedy, wouldn't it, if by indirectly contributing to the survival of that Communist power base, we might possibly aid the kind of violent repression we have seen recently in the Baltic Republics?

Mr. Speaker, I would suggest to my colleagues that there are several things that Mr. Gorbachev could do right now to help his government and himself. If he truly wants to convert armaments factories to other purposes, he could cut his production of tanks and military airplanes. He could cut the size of his large, standing army. He could stop sending $4½ billion a year to prop up Communist Cuba's economy.

Let me enlist the aid of Czech President Vaclav Havel in support of my arguments at this point. Just recently, President Havel wrote that Western aid, if any, should go directly to the 15 Republics, not the central, Soviet Government. He called for a "thousand points of small assistance" to specific areas in newly created free markets in those Republics.

Mr. Speaker, I couldn't have said it better myself. The Republics—that is, the captive nations—of the Soviet Union are where we can see the true eagerness for change that is needed to promote economic reforms, not in the central, Communist government. The United States should promote private investment in those nations and provide economic advice to their leaders.

For all these reasons, American policy must be aimed toward the independence of those captive nations—and nothing less. Let's end the illusion of a "grand bargain."

Mr. Speaker, let me say this in closing. As events have shown, a Communist reactionary element is alive and well throughout the Soviet Union—although it is increasingly isolated within Moscow's Kremlin. One of the saddest things I have heard recently was the report of the poor young Lithuanian women whose legs were crushed by a Soviet tank when Communist troops ran over and shot at her and hundreds of other unarmed protestors in order to seize one of their Republic's broadcasting stations. In hearing such reports, I can only think of the massacre of hundreds of unarmed protestors by the Chinese Communist government in Beijing's Tiananmen Square a short 2 years ago. We still aren't sure just how many of those innocent victims of Communist repression were crushed to death by Chinese tanks, their bodies later cremated to destroy the evidence. We do know, however, that at least 13 of the unarmed Lithuanian protestors accompanying this poor young lady were killed, and certainly there is always the potential for more such killings.

Remarkably, Mr. Speaker, while Mr. Gorbachev can think of a thousand reasons to explain to us why we should give him aid, he can't seem to find out who exactly ordered that attack on those protestors. His prosecutor-general exonerated the troops for their acts. His report said that they had been attacked and were only defending themselves. His report is also astonishing in that it suggests that the crushing of the young woman's legs by the tank had been carried out by the protestors themselves, who conspired to push her under the vehicle in order to discredit the army. As for Gorbachev himself, well he simply pleads ignorance.

Mr. Speaker, we here in the United States cannot plead ignorance as we formulate our policy toward the Soviet Union, and we certainly cannot afford, either morally or economically, another "Chinese solution," in which we prop up a murderous Communist regime by opening up aid and trade with it—and, speaking of China, Mr. Speaker, we should not overlook the plight of the Tibetan people, a nation held in brutal captivity by Communists since the early 1950s. The terrors and indignities that the Tibetans have suffered all these years have been well hidden from the world by the Beijing Government, but we are now becoming more aware of the killings, imprisonments and organized efforts to destroy the Tibetan national identity that the Communists have carried out to keep Tibet captive. We here in the United States cannot countenance such brutality, and I personally have taken up the cause of Chinese and Tibetan liberty, calling for the termination of most-favored-nation trade benefits for the Chinese Communist government.

No, Mr. Speaker, our policy must continue to promote freedom for the captive nations and their citizens—both in the Soviet Union and Communist China and throughout the world—as it has done for over 4 decades. I therefore want to take this opportunity to commend the supporters of the "Captive Nations Week" commemoration for their long and tireless work for freedom, and to again this year call on President Bush to recognize the rightful place of these captive nations in our foreign policy toward the Soviet Union.

On this, the 32d anniversary of "Captive Nations Week," I extend my very best wishes to the peoples held captive in both the Soviet Union and Communist China. I look forward to their entrance into the community of free nations as full members in the very near future.

SUPPORT THE SYNAR-DARDEN AMENDMENT

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, next Tuesday the House of Representatives will consider the authorization for the Bureau of Land Management. As all of us know, this is a very important piece of legislation involving the stewardship of almost one-quarter of all the lands in this entire Nation.

It is very important, Mr. Speaker, that Members very carefully consider this legislation as it comes before the House. In particular the Committee on Interior and Insular Affairs has determined that there needs to be an end to a number of the subsidies that a number of people have been receiving off of Federal lands. The gentleman from Oklahoma [Mr. SYNAR] and I will be offering our amendment once more to put a realistic amount on the grazing fees that are charged by the Government to western cattlemen in some 16 Western States. I would ask that our colleagues very carefully consider these amendments, not only for the fiscal impact; that is, $150 million that the Government will receive in every year following the adoption of our amendment, but also consider the fact that our rangelands are in a very, very serious state of degradation.

So, accordingly, Mr. Speaker, I request that Members give this legislation its careful attention and that it adopt the Synar-Darden amendment.

REPORT ON DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1992

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–156) on the bill (H.R. 2942) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, which was referred to the Union Calendar and ordered to be printed.

Mr. SUNDQUIST reserved all points of order on the bill.

LEGISLATIVE PROGRAM

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute.)

Mr. SUNDQUIST. Mr. Speaker, I ask for this 1 minute to yield to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. SUNDQUIST. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would like to announce the schedule for the rest of this week and next week. Obviously votes have finished for this week.

On Monday, July 22, the House will meet at noon. At this point we are not planning legislative business, however there may be a suspension for that day. We will certainly give the minority adequate time to have notice of that. If there is a decision to do that, there will obviously be no votes on that day. If there is a suspension and a vote required, that vote would be held until Tuesday.

On Tuesday, July 23, the House will meet at noon to take up H.R. 1096, Bureau of Land Management authorization for fiscal year 1992 through 1995. That is an open rule, 1 hour of debate.

On Wednesday, July 24, Thursday, July 25, and Friday, July 26, the House will meet at noon on Wednesday and at 10 a.m. on Thursday and Friday, to take up first the House resolution on Department of Transportation appropriations for fiscal year 1992, subject to a rule; H.R. 2507, National Institutes of Health Amendments of 1991, again subject to a rule; H.R. 14, the Flight Attendant Duty Time Act, subject to a rule; and H.R. 2837, the dairy price support and inventory management bill, subject to a rule.

Obviously conference reports can be brought up at any time, and any further program will be announced later.

Mr. SUNDQUIST. Reclaiming my time, Mr. Speaker, there will be votes on Friday?

Mr. GEPHARDT. At this point there possibly will be. There is a chance that we could finish the business by the end of business on Thursday, but it is not likely.

Mr. SUNDQUIST. Mr. Speaker, I thank the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

A TRIBUTE TO OUR MAJORITY LEADER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 5 minutes.

Mr. CLEMENT. Mr. Speaker, I rolled the clock back some to a time that I remember and the gentleman from Missouri [Mr. GEPHARDT] remembers very well when it comes to Adlai Stevenson when he was running for President of the United States. This was in the 1950's when Adlai Stevenson was running, one of the most brilliant people that this country ever had, but never got elected President of the United States. My father was Governor of Tennessee at that particular time, and, when Adlai Stevenson came to Nashville, TN, I say to the gentleman from Missouri [Mr. GEPHARDT] that my father and I met Adlai Stevenson at the airport.

□ 1450

We were in the parade with him, and I will never forget that when I looked at my father, my father was really waving his hand, and then I looked at Adlai Stevenson, but rather than waving, he was just wiggling his fingers. My father looked over at me and he said, "Son, we're beat."

Adlai Stevenson was smart, but as intellectual as he was, he still did not have that personal touch that many people like DICK GEPHARDT and others have.

I might say concerning DICK GEPHARDT that it was a courageous decision on his part to make a statement that this year or this coming year, 1992, he is not going to run for President of the United States. It is not that he does not have the dream, it is not that he is not concerned about the direction of America, it is not that he does not want to make the difference, but at this time in his life he decided, "This is not what I need to do."

DICK GEPHARDT decided, "I need to be majority leader, where I can be of real help to so many people that need and deserve help in the United States of America."

We have a disparity growing between the haves and the have-nots. I know many of us are concerned about middle America and the crisis with the middle income Americans of our country. We do not want to be another Central America or South America. We want to keep our strong middle class.

But how do we do that? How can we solve these problems today, knowing that we have so many people who are apathetic who are sitting on the sidelines today and are not involved?

Too many people think that their vote and their voice is not important, but I am saying to the Members that everyone's voice and everyone's vote is important. We thought a few years ago that when we gave to the 18 to 21 age group the right to vote and the privilege of voting, they would really participate. But it has not happened. Less than a third of the age group from 18 years through 20 years is voting in political elections today. If we ask any of those in the 18- to 20-year age group who represents them and what the issues are, we find they truly are not involved.

But young people need to get involved. Most young people today cannot even afford to buy a house. They cannot buy a house, and they do not have a lot of the things that other generations have had previous to this generation. But in order to have those things for the future in a country that has approximately 250 million Americans, young people need to be involved more than ever before, and hysteria can turn into history. All it takes is for people to stand up for what they believe is right and for what is in the best interests of America.

GENERAL LEAVE

Mr. SUNDQUIST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of the special order of the gentleman from Missouri [Mr. EMERSON].

The SPEAKER pro tempore. (Mr. GONZALEZ). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THE ABC NEWS NIGHTLINE REPORT OF JULY 12, 1991 ON THE GATES NOMINATION

The Speaker pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 60 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I rise to speak in a special order today and read into the RECORD and make available for as many of the Members and the public as possible the full implication of the ABC News Nightline report of last Friday, July 12, 1991. This was a joint effort of the Nightline/Financial Times news organization investigation with respect to the Gates nomination to be CIA Director.

Mr. Speaker, what I intend to do today is read into the record the entire transcript of that Nightline broadcast of last Friday. The reason I want to do that is that it may not be clear to everyone at this time the serious implications of this nomination with respect to whether the laws of the United States in general and, most particularly, the intentions of the Congress with respect to having the executive branch obey the law have been fully met with in this nomination. So I think that is the context within which this program was broadcast, that is, whether or not the Gates nomination represents an attempt to cover up the full implications of Iran-Contra, the full implications of whether or not people in high office in the executive branch are capable of being there in the sense of understanding fully what their constitutional obligations are. It is extremely distressing to me that anyone, let alone someone in the executive branch of Government, would think that he or she can place themselves above the Constitution and above the intentions of Congress and the laws that Congress has passed.

We have seen that already in the North affair, where an individual determined that he would make decisions that were the prerogative and obligation of the Congress of the United States and in fact perhaps even mislead with forethought and knowledge the highest levels of the executive branch, on up to and including the President of the United States.

The program began with a Nightline/Financial Times investigation, entitled "New Gates Allegations."

The text of the material is as follows:

NIGHTLINE/"FINANCIAL TIMES" INVESTIGATION: NEW GATES ALLEGATIONS

TED KOPPEL. It began routinely enough.

Pres. GEORGE BUSH [May 10, 1991]. Well, I'm pleased to nominate Robert Gates to be the director of Central Intelligence.

KOPPEL. But this week, it started turning sour.

REPORTER. Does this new information give you any pause at all, and do you think that it may imperil his nomination?

Pres. BUSH. Absolutely none. Absolutely none. It gives me a chance to reaffirm fully, totally, my complete support for this outstanding individual who will be confirmed and who will be a great director of Central Intelligence.

I believe firmly in Bob Gates's word, and he's a man of total honor, and he should be confirmed as director of Central Intelligence.

We sent this nomination up some time ago, and if everybody's going to get flustered and panic because of some allegation by some—where we don't even know that the person is accusing him of anything, all I'm saying is fair play.

KOPPEL. Tonight, as part of our ongoing Nightline/Financial Times Investigation, new allegations that could scuttle the nomination of Robert Gates, President Bush's choice to head the CIA.

ANNOUNCER. This is an ABC News Nightline/Financial Times of London Investigation. Reporting from Washington, Ted Koppel.

KOPPEL. All week long, the rumors, allegations and reports have been building up. All week long, there has been a growing sense that Robert Gates's nomination as CIA director may be in trouble. But the focus of attention has all been on Gates's knowledge of and possible involvement in the Iran/Contra scandal.

Tonight, as part of our ongoing Nightline/Financial Times Investigation, we will bring you a new set of allegations, charges that Robert Gates was deeply involved as deputy director of the CIA in a major covert operation that funneled weapons and technology to Iraq. Arms shipments took place over a period of years during the 1980s. The issue of such covert operations came up in February of 1987, when Gates was first nominated to be CIA director. As you'll recall, he withdrew his nomination under pressure. But listen to what Gates said in his opening statement to the Senate Intelligence Committee back then.

ROBERT GATES [February, 1987]. We must ensure that no covert action is undertaken without proper coordination and proper written authorization, and also that they are conducted in full accordance with the law and our regulations.

KOPPEL. The question, then, is not only whether the covert shipments of arms to Iraq were properly authorized, but also whether the CIA fulfilled the guarantees made by President Reagan and by Robert Gates himself to keep the appropriate committees of Congress informed on a regular basis. The answer to those questions, ABC News has learned, is both yes and no. It is the no that will jeopardize the Gates nomination. More on that later.

The CIA's covert shipments put into Saddam Hussein's hands some of the most dangerous battlefield weapons in the world, weapons which ironically would be at the disposal of the Iraqi military in their war against U.S. troops earlier this year.

Cluster bombs, considered so devastating that the United States has specifically withheld them from the Israeli military. These bombs, which explode into hundreds of lethal fragments, are designed as highly efficient troops killers. The U.S. military refers to them as "area denial weapons."

This technology was shipped from the United States to Iraq via Chile. That in itself would have involved a violation of U.S. law in that the transfer of any military technology or equipment to Chile from the United States was prohibited until last December.

But there were also massive shipments of weapons and technology from Chile to Iraq, and that operation was overseen and run with the cooperation of the CIA. Robert Gates, Nightline has been told, was an integral part of that operation.

At the center of the Chilean arms connection was this man, Carlos Cardoen, a Chilean arms manufacturer. His role in shipping weapons to Saddam Hussein has been known for years. His connection with Robert Gates has not. By the mid-1980s, Cardoen was the largest private supplier of weapons to Iraq. In all, he was believed to have sold half a billion dollars worth of arms and advanced technology to Baghdad.

At a factory 500 miles north of Santiago, Cardoen produced tens of thousands of bombs and other equipment absolutely essential to Iraq during its eight-year war with Iran. The material would be loaded aboard regular Iraqi Airways flights from Santiago to Baghdad. Cardoen did not simply ship weapons; he set up entire factories, capable of producing bombs and other explosives. The components would be shipped to Baghdad from all over the world and then assembled in Iraq. One of these factories turned out cluster bombs.

As we first reported on the 24th of May, much of the sophisticated military technology that Cardoen was shipping to Iraq came from the United States. This company in sleepy Lancaster, Pennsylvania, is believed to be the source for some of the cluster bomb technology, but there was more.

Nasser Beydoun is also an arms dealer. He acted as a middleman between Carlos Cardoen and Iraq.

NASSER BEYDOUN, Arms Dealer. I am aware of Carlos Cardoen getting some type of technology on the air-fuel bomb from the United States, yes. I believe that Iraq now has a viable fuel-air explosive.

KOPPEL. These weapons are designed to explode just above ground level, like miniature atomic bombs, literally sucking all available oxygen out of the air.

It is clear that Carlos Cardoen's special relationship with the U.S. government was not known by all departments. When the Commerce Department inquired about his activities in early 1987, it received a cable from the U.S. ambassador in Santiago, saying, "Although Cardoen is involved in the sale of armaments and has made his fortune from it, he is considered to be a responsible recipient of U.S. products."

In fact, by 1987, the covert relationship between the CIA and Carlos Cardoen was already well-established. In 1983 the Reagan administration had become alarmed at how poorly the Iraqi military was doing in its war against Iran. A decision was made at the highest level of government to begin helping Iraq.

Indeed, ABC News has learned only today that around that time, 1983, Ronald Reagan issued a highly classified Presidential Finding stating that it was important to the national interest that arms and technical assistance be covertly funneled to Iraq with the help of the CIA. More on the significance of that Presidential Finding in a moment. What it unleashed was a flood of U.S. help to Iraq. A former CIA operative who was involved in the program has told us of a series of covert missions in which 707s loaded with arms were flown into Baghdad.

On one such mission in 1987, our source tells us, he accompanied a planeload of Soviet-built 122mm missiles. The Soviet equipment was shipped because it would be compatible with what the Iraqis already had. By 1987, there was at least one such flight a week into Baghdad.

Our former CIA source recalls bringing in 8100 bills in a bowling bag. They would also carry whiskey, cartons of cigarettes and copies of Penthouse magazine to speed up the unloading process, which usually took place at night. Once the White House had authorized the covert assistance program to Iraq, the CIA took over. In effect, the former CIA operative tells us, it amounted to a, "Here's what we want you to do and we don't want to know too much about how you do it." Our source tells us that he has personal knowledge of at least one meeting in 1986 in Florida between Robert Gates and Carlos Cardoen, the Chilean arms dealer.

Other sources have told us of other such meetings, here in the United States and in Europe. Which brings us to an unsolicited statement that was telephoned into Nightline from the Central Intelligence Agency almost a month ago, on June 17th. "Allegations," the statement read, "that Robert Gates facilitated illegal shipments to Iraq during the 1980s are totally without basis." Since we had never requested such a statement about Mr. Gates, we didn't know quite what to make of it at the time, but then today we learned of that Presidential Finding authorizing the covert shipment of arms to Iraq. It would be true, then, that Robert Gates did not facilitate illegal shipments to Iraq. Under the Presidential Finding, the shipments would have been quite legal.

But during this last set of confirmation hearings back in 1987, Robert Gates assured the Senate Intelligence Committee that he would always keep the committee current on ongoing covert operations. Indeed, the CIA is supposed to provide the Intelligence Committee with quarterly reports. According to well-informed sources on the committee, it has had no briefings on the covert arms pipeline to Iraq. That, said one senior senator on the committee, would be a total breach of trust.

"What would it do to the Gates nomination?" I asked, "It would probably be enough," said the senator, "to derail the nomination."

Again, an excerpt from Mr. Gates's testimony before the Senate Intelligence Committee in 1987.

Mr. GATES. If you cannot have a system in which there is some confidence between, (A), the branches of government confidence between the senior officials of the government, (A), that they will abide by the rules and, (B), that they will deal with one another honestly, then I think the system begins to collapse.

KOPPEL. Late this evening, the White House communicated its response to the charges contained in this report. "The whole story is unfounded. There were never any sales, covert or overt, to Iraq or Iran through a third country and Mr. Gates never met with Carlos Cardoen."

We'll be back with more in a moment.

Joining us now from our affiliate WTNH in New Haven, Connecticut is Congressman Sam Gejdenson, chairman of a subcommittee that has subpoenaed thousands of documents from the administration about U.S. export policy toward Iraq. And joining us here in our Washington studio is Alan Friedman, New York correspondent for The Financial Times of London and a member of the team investigating Robert Gates.

Alan, I'd like to begin by just repeating for you—and let me put on my "specs" here for a moment—the White House statement about our report. "The whole story," it said, "is unfounded. There were never any sales, covert or overt, to Iraq or Iran through a third country and Mr. Gates never met with Carlos Cardoen." A fairly carefully drafted statement, one would think.

ALAN FRIEDMAN, "Financial Times". Yes, Ted. I think that is right, and I would agree with the part of the statement that says there were never any sales to Iraq through a third party. Indeed, what we found was that some of the cluster bomb technology and fuel-air explosive technology was given, smuggled down to Chile, for use in systems that were then made and on-shipped to Iraq. In terms of the statement from the White House that there were never any meetings between Mr. Gates and Mr. Cardoen, I would simply say that we have a number of sources, some of them personally involved in these covert operations, one of them who was personally and physically an eyewitness present at a meeting in Florida with Mr. Gates and Mr. Cardoen in 1986 and who was told by Mr. Gates about other meetings that he had with Mr. Cardoen.

KOPPEL. Now, Congressmen Gejdenson, I realize that we sort of unleashed a lot of material on you here, but to what degree does this fit in with those thousands of documents that you've subpoenaed and with the information that you have?

Rep. SAM GEJDENSON, House Foreign Affairs Committee: Well, we've just gotten the documents, after a several-month battle with the administration to pry them loose, and it took a vote of a subpoena by the subcommittee to start the flow of those documents. But it's certainly consistent with the information that we've gotten, with the committee staff's discussion, with some of the people who have said they were at those very meetings as well.

I think the important thing to remember here is that the United States in 1982, under the Reagan administration, took Iraq off the terrorist list at a time when some of the worst terrorists in the world were being harbored by Saddam Hussein, we suddenly changed our policy and continued to keep Iraq off the terrorist list, enabling the exports of dual-use items that could be used for weapons from the United States directly to Iraq as well as these obvious sales that went indirectly to Iraq. So all through a time where they were harboring terrorists, when they killed 5,000 Kurds in 1988 and as recent as six days before the invasion of Kuwait, when I and other members of Congress tried to stop the subsidy of grain sales to Iraq, the Bush administration continued to oppose any sanctions against Iraq.

KOPPEL. Well, of course there's a huge difference between grain sales and the shipments of entire plants for the building of a cluster bomb factory.

Rep. GEJDENSON. Except for, I think, what you find is a pattern by both the Reagan and Bush administrations of trying to assist Saddam Hussein. What we found at one hearing was a document from the State Department that said that the United States was even ready to sell weapons to Iraq as long as they were for the personal protection of President Hussein, a policy that ignored all the outrages, a policy that ignored, I think, the intent of the Congress and the American people. And that the allegations that we've gotten from a number of sources seem to be consistent with that, that the United States did everything it could under the Reagan and Bush administration to assist Saddam Hussein.

KOPPEL. Alan, I know one of the things that we've discovered in our investigation, and I'd like you to elaborate on it a little bit, is that frequently indeed there were federal agencies, law enforcement agencies, that were trying to uncover what was going on, who found that they were being stymied at every turn. Can you talk about that a little bit?

Mr. FRIEDMAN. Yes. I think that if we look back at other discoveries we've made, when we found ISC, the company in Pennsylvania that was—that had cluster bomb technology shipped down to Chile as part of this covert operation for Iraq, we found that the CIA had detailed knowledge over a period of four and a half years of all sorts of shipments from ISC to South Africa, some of which were later transshipped to Iraq. We found that federal law enforcement agencies were unable to do anything about it because they just weren't told.

Likewise, we reported just recently and found the case of the man *[Ihsan Barbouti, Nightline No. 2637, June 2, 1991]* who built the Rabta chemical weapons plant in Libya who, even though the CIA was tracking him very carefully here in the United States, was allowed to build a chemical weapons plant here in Florida and ship dangerous cyanide with the help of CIA contract shippers to Iraq. All of these things were going on and the investigators seemed unable to uncover any of these things. We seemed to have part of the government trying to investigate and part of the government trying to ship.

KOPPEL. Congressman Gejdenson, I'd like to get your reaction to that and see whether your experience has been similar in some of the findings that—or conclusions that you have reached, but we'll take a break first and we'll be back in just a moment.

And we're back, discussing Robert Gates and secret U.S. arms exports to Iraq.

Congressman, the question I was asking before is to what degree you have become aware of some law enforcement agencies in this country trying to dig up information and finding that they were being stymied?

Rep. GEJDENSON. Well, we saw it from—across all the agencies. We had Dennis Clusky [sp], who was then in charge of export licensing at Commerce, testify before our committee in April that he suggested to Mr. Gates and others at meetings in the White House to stop the exports of dangerous technologies to Iraq. The following day Mr. Clusky resigned from the government, but we were told by Mr. Clusky that the White House, the President, the people in that room representing the President, argued for a policy that assisted Saddam Hussein in getting these dual-use technologies.

We've had Congressman Rose, who I know has been on your show, testifying about the grain sales being tied up with funding weapons to Iraq as well. So across the government, this thing went on and it's hard to believe that somebody like Mr. Gates, in his position, didn't know about it.

KOPPEL. Well, we are suggesting a lot more than that he may have known about it. We're suggesting that he was actively involved in it, and let me just pass on a little bit more information that we have gathered today having to do with the confirmation hearings themselves. I was told earlier this afternoon that both Allen Fiers, a former senior officer from the CIA and Claire George are not likely to be testifying voluntarily. Indeed, Allen Fiers has said he will not be testifying voluntarily before the Senate Intelligence Committee. The White House, as we've all heard during the course of the day, has been putting on some pressure to get those hearings underway before the August recess—August 2nd, of course, the Senate goes in to recess—and there are indications now that a week from Monday, indeed the hearings will begin. Mr. Gates will be asked to verify at that time, but I've also been told that there is no way that those hearings will be completed before the August recess and that Mr. Gates will be told that he is going to be recalled again after other witnesses have testified after the August recess. So these hearings are now destined to go into September. Go ahead, Congresman, I'm sorry.

Rep. GEJDENSON. I think that's terribly important, because what we have to remember here is, unlike other appointees of the President, what the head of the CIA does is not transparent. If you're the secretary of housing, as Jack Kemp is, and I disagree with one of his programs, not only do I know about it, but the average citizen knows about what Jack Kemp's doing. Sometimes you agree with him, sometimes you disagree with him. In the case of the director of the CIA, as is clear from repeated experiences: Oftentimes even the people in Congress who are supposed to know about these activities are not informed. This has to do with national security and the standard ought not be somebody who can get by the hearing process with White House pressure. The White House ought to be with us on this one. We ought to make sure that we have someone who fully discloses what's going on to the appropriate committees in the Congress, not someone involved in Iran/Contra, not someone who hasn't told the entire truth, and not someone who is in question about these activities. This has to be a definite decision by the Congress that this individual will come clean with the Congress and fulfill not just the letter of the law, but the spirit of the law.

KOPPEL. All right. Let me just interrupt for a moment, Congressman, because we're down to our last minute and a half or so. Alan, it is inevitable in this kind of an investigation that you run into a lot of sleazy characters, and I just want to get from you for our audience some sense of how much of the information that we have compiled here comes from the sleazy characters, and how much we feel we can really rely upon.

Mr. FRIEDMAN. Well, I think, the important point here is that we have had all sorts of allegations for the last three months when our team has interviewed dozens of people. We've been assiduously cross-checking and we've waited to actually go ahead with this story until we had very solid sources, those who are documented former CIA operatives, those who were physically, personally with Mr. Gates and Mr. Cardoen at those meetings. And we asked some of them why would Mr. Gates personally take the risk and go out and meet with Mr. Cardoen and get directly involved, get his hands dirty in these operations, especially as he was deputy director of the CIA at the time himself. And we were told that he went out because he wanted to give his imprimatur, because he wanted to make sure the job got done. We've talked to a number of solid people and cross-checked.

KOPPEL. All right. Alan Friedman, thank you very much. Congressman Gejdenson, thank you very much. I'll be back in a monent.

Sunday on This Week with David Brinkley, Secretary of State James Baker will discuss U.S.-Soviet relations.

And that's our report for tonight, I'm Ted Koppel in Washington. For all of us here at ABC News, good night.

□ 1520

Mr. Koppel than went on to thank Mr. Friedman and Congressman GEJDENSON for being on the program.

Mr. Speaker, the implications of this program as broadcast by Nightline with the cooperation of the Financial Times of London are stunning. The fact of the matter is that the allegations which were contained in the program are such that it calls into serious question whether Mr. Gates has deliberately misled the Congress of the United States specifically at the hearings that were held in 1987. It brings into serious question as to whether this nomination can even go forward at this point.

It most certainly points out that it is the obligation of the Congress of the United States through its committee representatives in the Senate to make sure that every question that is raised as the result of the information that has been forthcoming not only on this broadcast on Nightline last Friday but on all subsequent broadcasts——

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman will suspend momentarily.

The Chair is constrained to advise the House and the gentleman that references to the other body or to actions to be taken or not taken by the other body are not within the rules of the House.

Mr. ABERCROMBIE. Very good. Mr. Speaker, I appreciate being reminded of that.

With respect to the other body, one would certainly hope that its actions would reflect credit, as I am sure is the intention of the leadership in the other body.

Mr. Speaker, nonetheless, it is a fact of our political life and a matter of law that with regard to the Director of the CIA and with regard to the nominations that come before the other body that their rules and procedures are such that committees of the other body are required to make recommendations to the entire membership, and votes are taken with respect to those nominations. My point here is that the allegations contained not only in this news report but in subsequent news reports and analyses are such that it is incumbent upon all of us who have responsibility in this area to see to it that all of the questions are asked, that all of the answers are forthcoming, and that the security of this Nation is held sacrosanct and that security, I submit to you, Mr. Speaker, and to the other Members of the House, is that the Constitution be upheld.

No one is above the Constitution. We all took an oath. We all swore to uphold the Constitution. We all had that privilege. We all had that honor. In carrying it out, it seems to me, at a minimum, the people of the United States expect us and want us to see to it that anyone in the employ of the United States of America who acts in our name acts in conformance with the law and acts in the interests of the United States as determined by the legislative body and the executive branch, upholding that law and upholding that Constitution.

Mr. Speaker, these allegations, then, in summary, are very, very serious. The implications reach far, and I would think that it is in our interest and it is certainly in the interest of the American people to see to it that no one thinks for a moment that they will be able to escape the harsh glare of light upon the subject at hand; namely, did anyone who is now before the American people for their approval through their elected representatives to be in charge of something as sensitive in its consequences and implications, the CIA [the Central Intelligence Agency] that no person who is represented to us here in our national legislature as being worthy of heading that agency be anyone less than someone whose integrity can be relied upon.

Mr. Speaker, I think you are aware, and the other Members are aware, that the intelligence committees, the membership of intelligence committees, whether in this body or the other body, have some of the greatest burdens of responsibility of any of us. They are privy to information that in many respects is held back from the rest of us, and so we rely not only on their judgment and on their honesty, on their intelligence, on their perspective, but we rely on their capacity to be able to act in our interest, and by extension then, Mr. Speaker, the person who leads the CIA is, perhaps, in an even more sensitive position, because that person can, in fact, direct covert operations, in fact has responsibility over budgets and activities which we only, through our intelligence committees, are able to monitor at all.

Therefore, anyone who cannot be completely trusted in that position is someone that I think should be rejected, and so I hope all of these questions are fully explored.

I expect that the membership in the other body who has this responsibility will do so, and I can assure you, Mr. Speaker, that I, for one, intend to keep close contact with those who are following this and intend to keep this body informed.

I want to say in closing that I am particularly appreciative of the remarks made by the gentleman from Connecticut [Mr. GEJDENSON] on this program. It was insightful. It was concise. It was informative. All of his remarks reflected credit not only on himself but on his membership on the Committee on Foreign Affairs, and as long as we have people like that on the committee it is in good hands, indeed, and so I know that we can trust him to keep in touch on this issue.

I know that the membership will be grateful in the end for all of the attention that is going to be paid on this most vital subject.

TRIBUTE TO ED BONIOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I would like to take just this very short period of time to rise on a very special note of thanks to someone who is very special in my life.

Mr. Speaker, the victory that was mine and my family's and my friends' last week to the position of majority whip, I want to share with a very special person, my father.

My father, Ed Bonior, got involved in politics when I was a very young man in Hamtramck, MI. I recall in the very earliest days sitting around his knees as a very young man when television was first introduced, watching the first talk news shows on television, "Meet the Press," back in the early 1950's.

□ 1530

I remember the lively discussions we had at our dinner table about politics, about labor issues, about business issues.

My father was a small, independent businessman. He was a printer, elected as the mayor of the city of East Detroit, Macomb County, and became the chairman of the county board of supervisors of a county of over 600,000 people.

I learned a lot of my skills in politics, the skills that I do possess from him. I think more important, I think I learned the values which I take with me here to this great body, and which I think I mirror, in terms of my own constituencies, from him. He has been a great inspiration, and a great teacher to me. He was a great political leader back in Michigan. He is continually an inspiration to me in the work that I do.

I just wanted my friends and family to know that this victory that we were able to achieve last week is as much his as it is mine.

I thank the gentleman for allowing me the time to express this to my friends.

HONORING AMERICA'S HEROES

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Texas [Mr. JOHNSON] is recognized for 5 minutes.)

Mr. JOHNSON of Texas. Mr. Speaker, throughout the history of this great Nation, great men and women have worked selflessly to defend and protect the lives and liberty of their fellow Americans. We call these men and women heroes.

On July 7 in Dallas, TX, America discovered two new heroes.

On that day American League umpire, Steve Palermo and former Miami Dolphin Terence Mann were shot while trying to help two women who were being robbed in a parking lot.

Shortly before 1 a.m., a bartender noticed a robber robbing the women at gunpoint in a restaurant parking lot. Palermo, Mann and the bartender rushed over. The robber made off with the purse of a woman, knocked her down and hit her in the face. Three suspects drove off, but these three chased the fourth suspect over a highway overpass. Palermo caught the suspect and tried to make a citizen's arrest. While they were standing there without a weapon, the other three suspects returned in a car, and one fired two shots. The identity of the third man who tried to help was not released.

None of the four suspects, three adults and a juvenile, were wounded, and they fled by car. They were later captured by running a red light.

Terence Mann suffered a gunshot wound to the neck, abdomen, and arm. He was treated and released from Dallas Presbyterian Hospital.

Steve Palermo was less fortunate. He was shot on the tip of his spinal chord and is currently undergoing physical therapy at the Dallas Rehabilitation Institute.

Doctors say that Steve's rehabilitation will take time—but they hope for a full recovery.

Steve Palermo said that his actions represented "what any good citizen would do for another person."

Mr. Speaker, Steve Palermo and Terence Mann are true American heroes.

I know that all of my colleagues join me in praying for Steve's speedy recovery. We hope that he can shout "play ball" very soon.

I'll introduce a resolution to honor Steve Palermo, Terence Mann, and all American heroes who stand up to criminals and say "we're not going to take it any more." To Steve Palermo we say God bless you and get well soon.

THE LANGUAGE OF GOVERNMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 10 minutes.

Mr. EMERSON. Mr. Speaker, I would like to take this opportunity to honor the 85th birthday of a great American—the distinguished former Senator from California—the Honorable S.I. Hayakawa.

Senator Hayakawa is a naturalized American, born in Canada of Japanese parents. He was once denied entry into the United States because of his Japanese ancestry. Senator Hayakawa reflected on those years in a letter he wrote to me recently, part of which I would like read into the RECORD.

> I smile when I think about a Japanese man, born and reared in Canada, having a career teaching English in American universities, and then going even further to write books explaining semantics and the role of language in our lives to my fellow Americans. Of course, all this came about because we are in the enviable position of having a common language, English.

Senator Hayakawa believes deeply in a common language as a unifying and stabilizing influence in this diverse nation. He introduced the first English language amendment to the Constitution 10 years ago, evoking overwhelming public support. Polls and surveys show that the American people continue to support English as our official language of government. The most recent Gallup survey found 78 percent of the people in favor of this proposition.

In his letter, Senator Hayakawa wrote that each year his belief deepens in our common language as an essential element in our national makeup. Again, I quote from the Senator's letter:

> As the years pass I realize more and more the value of preserving our English language and designating it as our official language right up there with our flag and our national anthem.

The Senator's beliefs are well grounded in scholarship. In his classic study of linguistics, "Language in Thought and Action," he wrote:

> Language is the indispensable mechanism of human life. Language makes progress possible.

Incorporating that philosophy, in 1983 he founded U.S. English, a national, nonprofit, nonpartisan organization consisting of 400,000 members dedicated to promoting our common language. U.S. English is working to ensure the continued survival of our Nation through the use of shared, common language.

By making English the official language of our Government, we reaffirm our belief that a common language serves as a bridge for understanding in our diverse society. Adopting a policy of official English establishes a more efficient, less costly means of conducting public business in a country with about 150 different languages. The Language of Government Act is common sense legislation, but a lot of misconceptions surround it. I would like to address and clear up those misunderstandings today.

The Language of Government Act applies only to official government language. It does not affect private conversation or private business. Emergency services such as 911 and social services would continue to be provided in other languages, as they are now.

Official language does not mean that one language is better than any other, nor does it mean that English would be the only language spoken in the United States. That would be ridiculous. Official English means simply that our government will function in English, as it does now.

Official language is not a new or radical concept. More than half the nations of the world have designated a language in which their government operates. Nations with official languages abound in our own hemisphere. In South America, for example, Spanish is the official language of Ecuador, Honduras, Venezuela, and Paraguay. Other languages are spoken in those countries, but their governments function in Spanish. French is the language of government for Haiti, the Ivory Coast, Senegal, and Monaco. Other languages are used in those countries, but the governments operate in French.

The Language of Government Act will not affect the teaching and learning of other languages in the United States. This legislation is not meant to dampen the enthusiasm or interest that our citizens hold for other languages. It will not deter the private use of other languages in the home, the community, the church, and elsewhere. I cannot say it too often: Official language is the language of public business, not the language of private conversation.

We feel a historical link to the English language. We built this country on ideals and dreams that we debated in English. We often had different opinions but through our shared language, we found our way to compromises that made our Nation strong. People the world over dream of living in the kind of democracy we have created here. The freedoms that we enjoy in the United States are truly the envy of the world and the English language played a key role in creating those freedoms. At the same time, we are among the most culturally and ethnically diverse people in the world. Our people live together and work together in peace and freedom. We do not deny the services of our government to anyone, nor do we ever intend to.

I am proud to be the author of H.R. 123, the Language of Government Act, which would designate English as our nation's language of government. This legislation is designed to integrate our society through common communication, rather than fragment it along linguistic lines in the face of growing ethnic and cultural diversity. Most Americans agree that segregation of our society along language lines would be devastating in a nation as diverse as ours.

Senator Hayakawa has devoted his life to the study and teaching of the English language. He knows from personal experience that people of every race, color, and culture are welcome in this country to create a life for themselves and their families. And the key to unlocking these opportunities is our common language.

On Senator Hayakawa's 85th birthday, I urge my colleagues to join me in extending to him our congratulations and join me in cosponsoring the Language of Government Act to preserve and protect our national unity through one single language of government.

Mr. STENHOLM. Mr. Speaker, I am a cosponsor of the Official Language of Government Act because I believe that a common language is very important to a nation. Those of us who support this legislation maintain that English is the link that makes a single people out of a variety of ethnic and religious groups, races, and nationalities in the United States.

There are those who say we really did not need a common language. They say we could have made it this far without it because shared language does not mean that much anymore. The ethnic separatists who scorn assimilation into the mainstream society say U.S. citizens actually have very little in common with the United States anymore. They say we are not a melting pot; we are a salad bowl. We are just a collection of various ethnic groups sharing little more than geographic location. They claim English is just one of many languages in the mix.

This attack on English as our national language also obliges us to think about nationhood. Dictionaries define a nation as a group of people who share a common history, ethnicity, and language. There may be many languages represented in a geographic area, but at the core of a nation is the language shared by the majority of its people. In the United States, English is the common language. It is at the core of our democracy.

This is why I support H.R. 123, the Language of Government Act. The English language is more than just one of many languages spoken in this country. It is more than just part of the mix. The Language of Government Act establishes a language policy for this country that secures the importance of knowing English in the United States. American citizens may use their native language, but to succeed in America, a person must understand and use English. Consequently, we must turn vigorously to ensuring opportunities for non-English speakers living in our country to learn English.

This country is coming face to face with another undeniable fact: the ability of Americans to read and write the English language directly affects the economic and social well-being of this country. Through a shared language, knowledge becomes available to all. Common values can be defined. Common goals—like quality education—can be established and pursued.

It is a national disgrace, and a personal tragedy that the talents and abilities of millions of our fellow Americans are trapped in the cage of illiteracy. Illiteracy is eroding our economic effectiveness. Already the skills deficit in American business and industry has cost the taxpayer and the business community more than $20 billion in lost wages, profits, and productivity.

What is more, we are in the postindustrial era when most of the people in the work force make a living with their minds, not their hands. Never before has the majority of American jobs placed so many demands on employees. To compete effectively, the average American worker today must employ skills at a 9th to 12th grade level. During World War II, American jobs required a fourth-grade skills level.

American businesses are paying a high price to develop communication skills in their workers. U.S. companies are spending hundreds of millions of dollars every year as educators of last resort. For example, at the Unisys plant in Mission Viejo, CA, 125 workers are taught to read, write, and speak English at a cost of $150,000. American Express spends $10 million a year to teach its new workers basic English and social skills.

How can we in Congress help solve these problems?

The first step we must take is to establish a clear language policy for this Nation. We must state unequivocally that English is the language of the Federal Government of the United States. This legislation would make English the language of our legislative, executive, and judicial branches of Government.

Setting a clear language policy will inform those who live here and those who come here to make this Nation their home that the English language is important to the United States. You may live in this country without knowing the common language, but to participate fully in the political, social, and economic opportunities of this country, you should learn English.

Setting a clear language policy for this country does not discriminate against anyone. As a matter of fact, through a common language we ensure equal economic, social, and political opportunities for all. It is in the best interest of the people to operate our Government in our common language. In addition, it is in our country's best interest to promote policies that maintain our common language. By doing so, we will help America remain a land of equal opportunity for all rather than a nation with second-class foreign speaking citizens. Join me in promoting equal opportunity, literacy, and national unity. Support H.R. 123, the Language of Government Act.

Mr. SKELTON. Mr. Speaker, since the late 1800's, millions of immigrants have passed through Ellis Island to reach the United States. Today, we are the most culturally diverse nation in the world.

As a nation comprised of a huge cross culture of ethnic groups and languages, we must not remain strangers to each other—we must be able to communicate.

I am an original cosponsor of the Language of Government Act, a statute to declare English as the official language of the United States.

By designating English as the official language we will create a common channel of communication for all cultures in our Nation. Our Government will be required to provide programs to teach English to those who do not know it, giving Asians, Hispanics, and Eastern Europeans, the opportunity to play a larger role in local politics, business, and community efforts.

Polls from different ethnic groups indicate that they are in unanimous support of this legislation. While Missouri has several German and Hispanic communities, people from our State will benefit from this legislation as well. Nineteen States have already declared English as their official language.

The Language of Government Act will not affect the teaching and study of other languages. Nor will it deter the use of languages other than English in the home, community, or the church. I strongly encourage improved foreign language instruction in the United States. What this bill says is that in addition to other languages, there is one language that every American should know, and that is English.

A knowledge of English is the key to opening the doors of opportunity. America has a gift of cultural diversity. We should all use this to our advantage, yet let us not forget the importance of a common means of communication with one another.

Mr. DICKINSON. Mr. Speaker, I rise this evening to extend my congratulations to Senator S.I. Hayakawa upon his 85th birthday. It is a milestone in a life of milestones, many of which have been in service to his country.

Senator Hayakawa has said the designation of English as the official language of the United States would be a crowning achievement in his life. I call upon my colleagues to join me in endorsing the English language amendment to the Constitution, and I want to take a few minutes to tell you why I support it so wholeheartedly.

There is a turn of phrase we hear frequently in this country that conveys much of the spirit of this land. You hear it when something extraordinary happens—something unusual or peculiar to this country. Most often, you hear it when someone has beaten long odds and achieved an almost impossible success.

That's when you will hear someone say: "Only in America could this have been possible."

Senator Hayakawa must have felt that way. Because only in America could a man of Japanese parentage, born in Canada—who was once denied entry into this country because of his race—only in America could that man achieve what Senator Hayakawa has achieved—as author, linguist, educator, and U.S. Senator.

The country's most famous Austrian import, Arnold Schwarzenegger, has also known that only in America experience. He arrived on our shores in 1968 with only a duffel bag and a passion for his new homeland. When he became a citizen 15 years later, Arnold Schwarzenegger was well on his way to being one of the 10 wealthiest entertainers in America and one of our biggest film stars. He is also a major impetus for our national interest in physical fitness.

The lives of thousands of people are testimony to the "Only in America" quality that is such a unique part of our national heritage. Stephen Baker is another. His name may not be famous, but I'll bet you've "let your fingers do the walking" through the yellow pages of the telephone book. Stephen Baker created that slogan. A Hungarian immigrant who stepped off a boat from Europe in 1943 with $7 in his pocket, Stephen Baker has managed to tap into our American sense of humor. He is author of 21 books, among them "How to Play Golf in the Low 120's" and "How to Live With a Neurotic Cat."

The "Only in America" experience is part of the American dream, which, I am happy to say, is still coming true after more than 200 years. It is a promise of our national character that other nations of the world seek to emulate and the English language amendment seeks to preserve. "Only in America" is a promise of equal opportunity that offers us the chance to crack the cycle of poverty, ignorance, and prejudice and break through to goals we only dreamed of.

The American dream depends on the unity and political stability we enjoy under our unique system of government. Common language is a powerful ingredient in this mix. All of us who serve as Members of Congress know that our Government depends upon communication between elected representatives and the electorate. Our Republic has always relied upon common language to keep Government in touch with the people.

Earlier this year, I saw a letter opposing English as the official language of the United States. The letter said that our Founding Fathers had rejected the idea of naming English as our official language. That means they considered it, and then rejected it. I would like to see the historical validation of that statement. According to my research, the subject never even came up. It was assumed to be a fact.

The Founding Fathers argued about individual words and phrases during that historic September meeting in Philadelphia in 1787. But I could not find a single indication that they even considered an official language. Why should they have? The government of the 13 colonies in the New World, which would become the States, was English. It was a natural presumption by the Founding Fathers that our new country would function in English.

During the arduous, 3-year ratification process by the States, the authors of the Constitution depended on our common language more than ever.

They embarked on an unprecedented campaign to bring their arguments to the public. In countless speeches, newspaper articles and pamphlets, they focused on those issues where consensus was possible.

Word for word, line for line, the Constitution was made available for the fullest public discussion. Nothing like this had ever happened before—and perhaps never will again. As Congressmen began to consider the new plan, thousands of clergymen, farmers, lawyers, shopkeepers, doctors, blacksmith, and merchants were reading it themselves. Their active interest in establishing our government began a pattern of citizen involvement in the new Nation. And participatory government requires common language.

Opponents of my bill, the English language amendment, and Congressman EMERSON'S Language of Government Act, try to downplay English as our common language and make it just one of many languages spoken in this diverse nation. They would eliminate English as our common language because it is the linchpin of our common culture. These ethnic separatists know very well the role language plays in maintaining their own political bases, yet they maintain that English played very little part in the development of this Nation and plays very little role in our national life today. I say they are wrong.

In Los Angeles, there is a school partly supported by U.S. English, the nonprofit organization founded by Senator Hayakawa in 1983 to promote our common language. This school is called the Cambria English Institute, and it is the first step toward obtaining the American dream for many non-English speaking immigrants. People come there from all over the world—Switzerland, Guatemala, Cambodia, Mexico, Laos, Greece, Indonesia.

They arrive at Cambria Institute with little in common but the desire to learn English and take their place in their new country. As Sister Julia Hnu wrote: "English to me is very important because it enables me to communicate with others in this country and in others."

Learning English is not easy, but the students at Cambria understand the importance of knowing the common language of our country. Sonia Guandique said learning English is hard for her. "But I'm trying to speak it perfectly," she wrote. "Because if I'm living in this country, I have to find a way to make it better for me."

The dream of a better life has motivated millions of people who have come to the United States. They have come, and still come, from every part of the world, speaking every language and representing all types of cultures. Many maintain their native cultures and languages while adapting to their new country. But there is a trend now by some immigrant groups toward resisting assimilation into the larger society. A cult of ethnicity is bent on reversing the movement of American history and defining us not as a unified nation of individuals, but as adherents to an ethnic or cultural group.

A major concern expressed by Senator Hayakawa was preventing the segregation of our society along linguistic lines. This would be calamitous in a nation as diverse as ours. The common language movement seeks to include every race, ethnic, and cultural group in the process of democratic government. So long as we preserve one shared, common language, we will preserve the freedoms of all Americans.

The role of common language in the building and sustaining of our nationhood cannot be trivialized. We in the United States are bound together by concepts of freedom and individual rights and by love of country. But these are concepts and feelings that cannot be seen or touched. They are articulated through our common language, as they have been for more than two centuries of our Nation's history, in our Declaration of Independence, Constitution, and Bill of Rights.

Common language is at the core of our democracy. The English language amendment seeks to preserve this core. All Members involved in this special order share the goal of establishing a clear language policy for our country. A policy that says: "English is important in the United States. To participate fully in the economic, political, and social life of this Nation, you should know English."

Official language is a worldwide concept. The constitutions of more than half the nations of the world establish an official language. Many others have laws on government language policy. These provisions do not mean that other languages are forbidden in these countries. They simply clarify public policy.

Venezuela is an excellent example of a nation with official language. It is in our hemisphere, and it is a democracy. Venezuela's official language is Spanish, the common language of its people. A person traveling to Venezuela is free to speak or read any language he chooses while in that country, but when he conducts business with the Government, he will use Spanish. Official documents are in Spanish. Elections are conducted in Spanish.

The newcomer to Venezuela who does not know Spanish will find the country operating in his language upon demand. By declaring Spanish as its official language, Venezuela says it is important to know Spanish in that country. By maintaining an official language, Venezuela preserves an important component of the unity and well-being of its people and its democracy.

I find it ironic that people in Hispanic countries like Venezuela vigorously promote the dominance of a single language—Spanish—in their countries. But Hispanics in America promote bilingualism just as vigorously in this country. While they downplay the role of English as the common language of the United States, they know very well the importance of the Spanish language in maintaining their political constituencies. And in areas all across America, Hispanic activists are pushing for bilingualism in local governments and education. It is time to ask Hispanic activists if their ultimate goal is official bilingualism in the United States, and it is time for them to answer.

Bilingualism in individuals is to be encouraged. As we move into the 20th century and into a truly global economy, we are going to need more and more bilingual individuals. The English language amendment does not discourage the study of foreign languages. But official bilingualism is something entirely differently. The operation of government in more than one language simply does not work. Canada is the prime example of that.

The English language amendment is about whether we will have one official language as opposed to chaos. If the Hispanics can demand that our Government operate in their language, why shouldn't all the 148 language groups in our country demand it too? And how do we pay for all this? Official language costs Canada more than half a billion Federal dollars a year. Local costs are much more. In this country, it is just plain common sense for our Government to function in English. That doesn't mean English is better than any other language; it just means English is the common language of our country.

As I said earlier, common language is the linchpin of our common culture. The English language amendment recognizes our English as the foundation of our just and peaceful nation and its natural outcome, a better educated and more prosperous citizenry.

The good life is attainable by mastering the intellectual and cultural opportunities of a society. In the United States, we call it the American dream. The English language amendment seeks to preserve the foundation of that dream—so those success stories that begin with "Only in America" are as much a part of our future as they have been of our past.

We in Government have a particular responsibility to see that ours is a country of equal opportunity. We must maintain those individual rights and personal freedoms that promise our people: "If you can dream it, you can do it." I believe the English language amendment will keep that promise intact, and I invite my colleagues to join me in cosponsoring this historic legislation.

Mr. GALLO. Mr. Speaker, as U.S. citizens we celebrate and enjoy a diversity which is unique to our Nation and very much a part of our identity as Americans. And I, as the grandson of immigrants, strongly believe that knowledge of foreign languages and cultures is of the highest value.

Yet, in embracing our cultural diversity we should also not forget the importance of our primary language. Our common language, English, creates a strong bond among all Americans and serves as a means to bridge historical and cultural differences and unite us as a nation.

As a cosponsor of legislation to affirm English as the official language of the United States, I join in this special order today with my colleagues, Representatives BILL EMERSON and IKE SKELTON. Today marks the 85th birthday of former Senator Hayakawa who was a pioneer in the movement to establish English as the official language of our country. I hope that my colleagues will join me in remembering the tireless efforts of Senator Hayakawa and continue to fight for a nation united both in word and in deed.

Mr. PORTER. Mr. Speaker, it is only appropriate that today, on the 85th birthday of the distinguished former Senator Hayakawa, we discuss the merits of designating English as the official language of the United States.

Senator Hayakawa spent much of his professional life as a teacher. From this experience, he learned how important it is to provide the youth of our great nation with the vital communication skills necessary to succeed in their future endeavors.

This respect for the role of language and communication led Senator Hayakawa to propose that our common language, English, be established as the official language of the U.S. Federal Government. To achieve this end and to promote opportunities for Americans to learn English, he founded the nonprofit organization U.S. English. Today, U.S. English boasts a membership 400,000 strong and plays a leadership role in the movement to establish English as our national language.

We must follow Senator Hayakawa's example and join the fight to prevent the segregation of our society along language lines. We live in a land of immigrants—immigrants who came to our great Nation in search of a better life. Without a command of the English language, the children of these immigrants will be unable to fulfill their versions of the American dream. Without an understanding of English, they will find full school curricula inaccessible and will be segregated from their English speaking classmates.

The majority of the children served by the current bilingual system are Hispanic. I find the disparities in education for this group extremely disturbing. In 1988, only half of Hispanics 25 years or older were high school graduates. Approximately, 59 percent of the Hispanic dropouts did so by the 10th grade. We have an obligation to prepare our children for success in our society. Children who do not speak English at home must be brought to English proficiency as rapidly as possible.

On January 3, the gentleman from Missouri [Mr. EMERSON] introduced H.R. 123, the Official Language of Government Act of 1991. This measure would establish English as the official language of the U.S. Government and direct the Government to preserve and enhance the role of English as such.

Mr. Speaker, Hispanic educators have acknowledged that preschool children are at an age to learn English with relative ease.

However, these educators oppose this measure out of fear that learning English will cause the children to abandon their native tongues and lose touch with their national heritage. I cannot emphasize enough how misplaced this fear is. H.R. 123 will not affect the teaching or studying of other languages in addition to the English language. Nor will it deter the use of other languages in the home, community, church, or elsewhere. What the bill says is merely, in addition to any language people choose to learn, every American is expected to know English.

I urge all Members to join me today in commending Senator Hayakawa for his vision on this issue and in seeing his efforts to fruition by supporting H.R. 123.

LEGAL AWARENESS OF WESTCHESTER: LAW FOR ALL WHO NEED ITS PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, we have all been reminded recently of the tremendous impact that the legal system has on all of our lives. In a society such as ours—where the rule of law is paramount—access to legal expertise is a vital necessity. It is a sad fact that, for many people in our country, sound legal information is simply not affordable. Fortunately for the Westchester area, Legal Awareness of Westchester [LAW]—a group of caring and knowledgeable attorneys puts the protections of legal expertise within the reach of many citizens who would otherwise be without.

Founded in 1980 as Legal Awareness for Women, LAW is a nonprofit human services agency which charges itself with the awesome task of guaranteeing sensible and sensitive counsel to all who need it. LAW serves as a clearinghouse for family law information, provides free legal clinics and a legal information telephone counseling service, indepth legal awareness workshops, ELDERLAW seminars providing important legal information for senior citizens, and many more valuable services. In all, LAW has served over 45,000 women, men, and children in the New York metropolitan area in the past 11 years.

All of these services are made possible by the generosity of numerous corporate and individual donors, as well as New York State and Westchester County social service agencies. Of course, the attorneys who volunteer their time deserve special commendation because without their selfless efforts, LAW could not meet its fundamental objective. It is a source of great pride to me that I have been involved with Legal Awareness of Westchester, and I look forward to continuing to work together for years to come.

LAW is celebrating its 11th anniversary this Sunday. That celebration will commemorate the organization's many triumphs and invaluable service. Without a doubt, Legal Awareness' good work will continue for many years to come. It is a special privilege to rise today in recognition of this fine organization. It is no exaggeration to say that LAW has been instrumental in restoring people's lives and in seeing that the principles of justice on which this Nation was founded are fully realized for those they touch. I am sure that my colleagues join me in honoring Legal Awareness of Westchester for its continuing commitment to putting legal protections at the disposal of all who are in need of its protection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JAMES (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. CLEMENT, for 5 minutes, today.

(The following Members (at the request of Mr. STEARNS) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS, for 5 minutes, today.

Mr. SOLOMON, for 5 minutes, today.

Mr. JOHNSON of Texas, for 5 minutes today.

(The following Members (at the request of Mr. DARDEN) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. TORRES, for 60 minutes, on July 31.

(The following Members (at the request of Mr. ABERCROMBIE) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. STEARNS) and to include extraneous matter:)

Mr. SPENCE.

Ms. ROS-LEHTINEN.

Mr. SOLOMON.

Mr. GRADISON.

Mr. RHODES.

Mr. HORTON.

Mr. STUMP.

Mrs. MEYERS of Kansas.

Mr. GUNDERSON.

Mr. LOWERY of California.

Mr. CRANE.

(The following Members (at the request of Mr. DARDEN) and to include extraneous matter:)

Mr. ACKERMAN.

Mr. TORRES.

Mr. VISCLOSKY.

Mr. ROYBAL.

Mr. BONIOR.

Mr. STARK.

Mr. OBERSTAR.

Mr. KOLTER in two instances.

Mr. ASPIN.

Mr. McCloskey.
Mr. Faleomavaega.
Mr. LaFalce.
Mr. Mazzoli.

ADJOURNMENT

Mr. EMERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 44 minutes p.m.), under its previous order, the House adjourned until Monday, July 22, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1773. A letter from the Secretary of the Army, transmitting a copy of the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1990, pursuant to 24 U.S.C. 59, 60; to the Committee on Armed Services.

1774. A letter from the Secretary of the Navy, transmitting notification that a major defense acquisition program has breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

1775. A letter from the Secretary of Education, transmitting a copy of final regulations—the State Vocational Rehabilitation Services Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1776. A letter from the Secretary of Education, transmitting a notice of final priority for fiscal year 1991—Special projects and demonstrations for providing vocational rehabilitation services to individuals with severe handicaps, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1777. A letter from the Chairman, the Board of Foreign Scholarships, transmitting the 27th annual report on the Fulbright Program, pursuant to 22 U.S.C. 2457; to the Committee on Foreign Affairs.

1778. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Italy for defense articles and services (Transmittal No. 91-39), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1779. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting drafts of proposed amendments to the Immigration and Nationality Act of 1952 as amended and the Immigration Act of 1990; to the Committee on the Judiciary.

1780. A letter from the Director, Office of Management and Budget, transmitting the fifth report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102-25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

1781. A letter from the Secretary, Department of Health and Human Services, transmitting the 1991 annual report on the Indian Health Service [IHS] health facilities construction priority system, pursuant to Public Law 100-713, section 301 (102 Stat. 4813); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

1782. A letter from the Secretary of Labor, transmitting a letter of the administration's strong opposition to enactment of H.R. 5; jointly, to the Committees on Education and Labor, Public Works and Transportation, and Energy and Commerce.

1783. A letter from the Fiscal Assistant Secretary, Department of the Treasury, transmitting a copy of the following annual reports which are contained in the enclosed winter issue, March 1991, of the "Treasury Bulletin": Airport and Airway Trust Fund (26 U.S.C. 9502), Asbestos Trust Fund (20 U.S.C. 4014), Black Lung Disability Trust Fund (26 U.S.C. 9602), Harbor Maintenance Trust Fund (26 U.S.C. 9505), Hazardous Substance Superfund (26 U.S.C. 9507), Highway Trust Fund (26 U.S.C. 9602), Inland Waterways Trust (26 U.S.C. 9506), Leaking Underground Storage Tank Trust Fund (26 U.S.C. 9508), Nuclear Waste Trust Fund (42 U.S.C. 1022(e)(1)), Reforestation Trust Fund (16 U.S.C. 1606a(c)(1), Statement of Liabilities and Other Financial Commitments of the U.S. Government (31 U.S.C. 331(b)); jointly, to the Committees on Public Works and Transportation, Education and Labor, Energy, and Commerce, Interior and Insular Affairs, Agriculture, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSE: Committee on House Administration. House Resolution 198. Resolution providing for the maintenance and operation of the House of Representatives Child Care Center (Rept. 102-155). Referred to the House Calendar.

Mr. LEHMAN of Florida: Committee on Appropriations. H.R. 2942. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-156). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. VALENTINE (for himself, Mr. Lewis of Florida, Mr. Brown, Mr. Walker, Mr. Torricelli, Mr. Tanner, Mr. Ritter, Mr. Thornton, Mr. Henry, Mr. Bacchus, Mrs. Morella, Mr. Roemer, Mr. Rohrabacher, Mr. Swett, Mr. Gilchrest, and Ms. Horn):

H.R. 2941. A bill to authorize appropriations to the Department of Transportation for surface transportation research and development, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. LEHMAN of Florida:

H.R. 2942. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. BALLENGER:

H.R. 2943. A bill to require the Secretary of Education to evaluate programs providing disadvantaged children with guaranties of postsecondary education assistance, and for other purposes; to the Committee on Education and Labor.

By Mr. BERMAN (for himself, Mr. Lewis of California, Mr. Brown, Mr. Panetta, Mr. Boehlert, Mr. Sabo, Mr. Levine of California, Mr. Wise, Mr. Torres, and Mr. Gallegly):

H.R. 2944. A bill to further the development of commercially viable advanced transportation systems and electric passenger vehicles in the United States, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. BONIOR:

H.R. 2945. A bill to amend title 5, United States Code, to provide that, for purposes of a reduction in force affecting Federal civilian employees, a military retiree shall not be denied military perference on account of having performed 20 or more years of active service in the Armed Forces; to the Committee on Post Office and Civil Service.

By Mr. CAMPBELL of California (for himself, Mr. Jacobs, Mr. Cardin, Mr. Coble, Mr. Feighan, Mrs. Morella, Mr. Ramstad, Mr. Schiff, Mr. Staggers, and Mr. Stearns):

H.R. 2946. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact Police Officers' Bills of Rights, to provide standards and protections for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. GEKAS:

H.R. 2947. A bill to amend the Family Violence Prevention and Services Act to provide grants to States to fund State domestic violence coalitions, and for other purposes; to the Committee on Education and Labor.

By Mr. GRADISON:

H.R. 2948. A bill to amend the Internal Revenue Code of 1986 to eliminate inequities and provide symmetry in certain foreign provisions, and for other purposes; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 2949. A bill to amend title XIX of the Social Security Act to require coverage of prescribed drugs under the Medicaid Program for qualified Medicare beneficiaries and qualified disabled and working individuals; to the Committee on Energy and Commerce.

By Mr. MINETA (for himself, Mr. Roe, Mr. Hammerschmidt, and Mr. Shuster):

H.R. 2950. A bill to develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KENNEDY:

H.R. 2951. A bill to prohibit the use of Federal funds for syringes and needles that are not nonreusable, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KLUG (for himself, Mr. Jontz, Mr. Horton, Mrs. Vucanovich, Mr. Johnston of Florida, Mr. Martinez, Mr. Lehman of Florida, Mr. Zeliff, Mr. Evans, and Mr. Frost):

H.R. 2952. A bill to amend the Higher Education Act of 1965 to provide for the forgiveness of Perkins loans for providers of early intervention services for individuals with disabilities; to the Committee on Education and Labor.

By Mrs. LLOYD:

H.R. 2953. A bill to amend the Older Americans Act of 1965 to establish a housing ombudsman demonstration program; to the Committee on Education and Labor.

H.R. 2954. A bill to amend the Older Americans Act of 1965 to establish a demonstration program to provide supportive services in federally assisted housing; to the Committee on Education and Labor.

By Mr. McGRATH:

H.R. 2955. A bill to amend the Internal Revenue Code of 1986 to expand the exception from Social Security taxes for elected officials; to the Committee on Ways and Means.

By Mr. MAZZOLI:

H.R. 2956. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to reduce the amount of non-Federal funds required to be provided to obtain Federal funds under subpart 1 of part E of such title; to the Committee on the Judiciary.

By Mr. OBERSTAR (for himself and Mr. DEFAZIO):

H.R. 2957. A bill to provide for the establishment of a national scenic byways program; to the Committee on Public Works and Transportation.

By Mr. RHODES:

H.R. 2958. A bill to amend the Internal Revenue Code of 1986 to reduce the tax rate on capital gains; to the Committee on Ways and Means.

By Mr. SKELTON:

H.R. 2959. A bill to improve crime and drug control in rural areas, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. SYNAR (for himself, Mr. TAUZIN, Mr. BARTON of Texas, Mr. OWENS of Utah, and Mr. WISE):

H.R. 2960. A bill to reduce the Nation's dependence on imported oil by encouraging the production and use of domestic energy resources, including natural gas, and for other purposes; jointly, to the Committees on Energy and Commerce, Science, Space, and Technology, Ways and Means, Public Works and Transportation, and Government Operations.

By Mr. TAUZIN:

H.R. 2961. A bill providing for the establishment of a permanent Lower Mississippi River Waterway Advisory Committee; to the Committee on Merchant Marine and Fisheries.

By Mr. FOGLIETTA (for himself, Mr. BORSKI, Mr. WELDON, Mr. COUGHLIN, Mr. ANDREWS of New Jersey, Mr. EVANS, and Mr. TALLON):

H.J. Res. 308. Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission; to the Committee on Armed Services.

By Mr. SLATTERY (for himself, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ASPIN, Mr. BARNARD, Mr. BATEMAN, Mr. BENNETT, Mr. BEVILL, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BLILEY, Mr. BONIOR, Mr. BORSKI, Mrs. BOXER, Mr. BROOKS, Mr. BUSTAMANTE, Mr. CALLAHAN, Mr. CARR, Mr. CARPER, Mr. CHAPMAN, Mr. CLEMENT, Mr. CONYERS, Mr. COOPER, Mr. COUGHLIN, Mr. DAVIS, Mr. DELLUMS, Mr. DWYER of New Jersey, Mr. ECKART, Mr. EMERSON, Mr. ERDREICH, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. FISH, Mr. FORD of Tennessee, Mr. FROST, Mr. GEREN of Texas, Mr. GOODLING, Mr. GORDON, Mr. GRANDY, Mr. GUARINI, Mr. HARRIS, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HUBBARD, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. KASICH, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LAUGHLIN, Mr. LEHMAN of Florida, Mr. LEWIS of Georgia, Mr. LIVINGSTON, Ms. LONG, Mr. McCLOSKEY, Mr. McCOLLUM, Mr. McDADE, Mr. McDERMOTT, Mr. McGRATH, Mr. McHUGH, Mr. McMILLEN of Maryland, Mr. McNULTY, Mr. MARKEY, Mr. MARTIN, Mr. MARTINEZ, Mr. MAVROULES, Mrs. MEYERS of Kansas, Mr. MFUME, Mrs. MORELLA, Mr. MURTHA, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Ms. OAKAR, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PALLONE, Mr. PANETTA, Mrs. PATTERSON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PICKETT, Mr. PRICE, Mr. PURSELL, Mr. QUILLEN, Mr. RANGEL, Mr. RAVENEL, Mr. RINALDO, Mr. ROBERTS, Mr. ROE, Mrs. ROUKEMA, Mr. ROWLAND, Mr. ROYBAL, Mr. SAVAGE, Mr. SERRANO, Mr. SMITH of Florida, Mr. SOLOMON, Mr. SPENCE, Mr. SPRATT, Mr. STAGGERS, Mr. STENHOLM, Mr. STUMP, Mr. TALLON, Mr. TAUZIN, Mr. TRAFICANT, Mrs. UNSOELD, Mr. VALENTINE, Mr. WALSH, Mr. WAXMAN, Mr. WEBER, Mr. WEISS, Mr. WILSON, Mr. WOLF, Mr. WOLPE, Mr. YATRON, and Mr. YOUNG of Alaska):

H.J. Res. 309. Joint resolution designating August 29, 1991, as "National Sarcoidosis Awareness Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 318: Mr. PAYNE of New Jersey.

H.R. 335: Mr. PETRI.

H.R. 394: Mr. SAWYER, Ms. DELAURO, and Mr. HOYER.

H.R. 423: Mr. MURPHY.

H.R. 428: Ms. OAKAR and Mr. KILDEE.

H.R. 467: Mrs. BENTLEY, Mr. JACOBS, and Mr. CALLAHAN.

H.R. 474: Mr. HUTTO.

H.R. 709: Mr. MILLER of Ohio.

H.R. 765: Mr. GEJDENSON, Mr. FORD of Tennessee, Ms. NORTON, Mr. BACCHUS, Mr. ZELIFF, Mrs. JOHNSON of Connecticut, and Mr. MFUME.

H.R. 791: Ms. NORTON.

H.R. 827: Mr. JAMES and Mr. HAYES of Louisiana.

H.R. 840: Mr. MORAN and Mr. FROST.

H.R. 919: Mr. PETRI.

H.R. 1025: Mr. EMERSON, Mr. LEHMAN of Florida, and Mr. LEWIS of California.

H.R. 1048: Mr. EVANS.

H.R. 1063: Mr. DYMALLY and Mr. FAZIO.

H.R. 1110: Mr. PAYNE of Virginia and Mrs. COLLINS of Illinois.

H.R. 1133: Mr. RITTER and Mr. SHAYS.

H.R. 1147: Mr. MOODY, Mr. VENTO, Mr. SMITH of Florida, Mr. MORRISON, Mr. GEREN of Texas, Mr. JOHNSON of Texas, and Mr. STEARNS.

H.R. 1245: Mr. NOWAK, Mr. CUNNINGHAM, Mr. SWETT, Mr. GEREN of Texas, Mr. FOGLIETTA, Mr. HOCHBRUECKNER, Mrs. COLLINS of Illinois, Mr. SANTORUM, Mr. MOAKLEY, Mr. KOLTER, Mr. MAVROULES, Mr. OLIN, Mr. PETERSON of Minnesota, and Mr. HALL of Ohio.

H.R. 1363: Mr. LAGOMARSINO and Mr. RIGGS.

H.R. 1406: Mr. BLAZ, Mr. TAYLOR of Mississippi, and Mr. LANCASTER.

H.R. 1466: Mr. JOHNSON of South Dakota.

H.R. 1473: Mr. EVANS and Mr. ANDERSON.

H.R. 1515: Mr. KILDEE, Mr. SCHIFF, Mr. SENSENBRENNER, Mr. SOLARZ, and Mr. PACKARD.

H.R. 1523: Mr. NUSSLE.

H.R. 1527: Mr. TRAXLER.

H.R. 1598: Mr. McGRATH, Mr. BACCHUS, Mr. BROWN, Mr. FEIGHAN, Mr. ERDREICH, and Mr. BRYANT.

H.R. 1628: Mr. JOHNSTON of Florida, Mr. GEREN of Texas, Mr. WASHINGTON, Mr. SARPALIUS, Mr. McHUGH, Mr. LEWIS of California, Mr. ORTIZ, Mr. LEWIS of Georgia, Mr. GEKAS, and Mr. LAGOMARSINO.

H.R. 1771: Mr. BROOMFIELD, Mrs. BYRON, Mr. CARDIN, Mr. FROST, and Mr. NUSSLE.

H.R. 1864: Mr. SHUSTER, Mr. INHOFE, Mr. LAGOMARSINO, and Mr. DOOLITTLE.

H.R. 1882: Mr. HEFNER and Mr. SKAGGS.

H.R. 1900: Mr. BUNNING and Mr. FAWELL.

H.R. 2059: Mr. LEWIS of Georgia and Mr. COSTELLO.

H.R. 2115: Mr. ECKART.

H.R. 2141: Mr. LEHMAN of California, Mr. CARPER, Mr. ABERCROMBIE, Mr. MANTON, and Mrs. LOWEY of New York.

H.R. 2199: Mr. MACHTLEY.

H.R. 2229: Mr. JONTZ, Mr. ROE, Mr. VOLKMER, Mr. WEBER, Mr. AUCOIN, Mr. PERKINS, Mr. ESPY, Mr. DURBIN, Mr. BREWSTER, and Mr. NEAL of North Carolina.

H.R. 2230: Mr. JONTZ, Mr. ROSE, Mr. VOLKMER, Mr. GILLMOR, Mr. WEBER, Mr. AUCOIN, Mr. PERKINS, Mr. ESPY, Mr. HERGER, Mr. SUNDQUIST, Mr. BREWSTER, Mr. CAMP, and Mr. NEAL of North Carolina.

H.R. 2378: Ms. SLAUGHTER of New York.

H.R. 2383: Mr. ROE and Mr. LAGOMARSINO.

H.R. 2385: Mr. RAMSTAD, Mr. POSHARD, Mr. GUARINI, Mrs. BYRON, Mr. HUGHES, Mr. GINGRICH, Mr. QUILLEN, and Mr. WASHINGTON.

H.R. 2447: Mr. GALLO, Mr. GILCHREST, Mr. GILMAN, Mr. GINGRICH, Mr. GLICKMAN, Mr. HANCOCK, Mr. HERGER, Mr. HUNTER, Mr. KASICH, Mrs. KENNELLY. Mr. KOLBE, Mr. LEVINE of California, Mr. LEWIS of California, Mr. MARKEY, Mr. MARTIN, Mr. MILLER of Ohio, Mr. MONTGOMERY, Mr. MOODY, Mrs. MORELLA, Mr. MYERS of Indiana, Mr. NICHOLS, Mr. NUSSLE, Mr. PACKARD, Mr. PERKINS, Mr. PETRI, Mr. RIDGE, Mr. RIGGS, Mr. RITTER, Mr. SAXTON, Mr. SCHIFF, Mr. SHAYS, Mr. SKAGGS, Ms. SNOWE, Mr. STEARNS, Mrs. VUCANOVICH, Mr. WALKER, Mr. WALSH, Mr. WILLIAMS, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. HORTON, Mr. ROE, Mr. PORTER, Mr. ESPY, Ms. NORTON, Mr. MOLLOHAN, Mr. EMERSON, Mr. HOBSON, Mr. JONES of North Carolina, Mr. VALENTINE, Mr. BUSTAMANTE, Mr. ENGLISH, Mr. JONES of Georgia, Mr. YATES, Mr. MILLER of Washington, Mr. MFUME, Mr. PANETTA, Mr. REED, Mr. AUCOIN, Mr. BARTON of Texas, Mr. BERMAN, Mr. BLILEY, Mr. BOEHNER, Mr. BROOMFIELD, Mrs. BYRON, Mr. CARPER, Mr. CHANDLER, Mr. CHAPMAN, Mr. CLAY, Mr. DANNEMEYER, Mr. DELAY, Mr. DORNAN of California, Mr. DUNCAN, Mr. DURBIN, Mr. EDWARDS of Oklahoma, Mr. FAWELL, Mr. FIELDS, Mr. FORD of Michigan, and Mr. GALLEGLY.

H.R. 2452: Mr. ZELIFF and Mr. BRYANT.

H.R. 2566: Mr. MORAN, Ms. KAPTUR, Mr. WHEAT, Mr. SLAUGHTER of Virginia, Mr. WOLF, Mr. GINGRICH, and Mr. McMILLAN of North Carolina.

H.R. 2598: Mr. GALLEGLY, Mr. FAWELL, and Mr. ZELIFF.

H.R. 2603: Mr. LAGOMARSINO.

H.R. 2623: Mr. FROST, Mr. JEFFERSON, Mr. WALSH, Mr. LAGOMARSINO, Mr. WASHINGTON, Mr. MFUME, and Mr. LEWIS of Georgia.

H.R. 2661: Mr. ECKART, Mr. DIXON, and Mr. WISE.

H.R. 2672: Mr. DORNAN of California, Mr. HUBBARD, Mrs. MORELLA, Mr. MINETA, Mr. HUTTO, Mr. RAHALL, Mr. RITTER, Mr. LIVINGSTON, Mr. BUNNING, Mr. DELAY, Mr. COX of California, Mr. VOLKMER, Mr. ZELIFF, Mr.

ORTIZ, Mr. NOWAK, Mr. HAMMERSCHMIDT, Mr. BENNETT, Mr. SKEEN, Mr. THOMAS of Georgia, Mr. HARRIS, Mr. TORRICELLI, Mr. KANJORSKI, Mr. LEWIS of California, Mr. BROOMFIELD, Mr. MONTGOMERY, Mr. MORRISON, Mr. GEKAS, Mr. UPTON, Mr. BORSKI, and Mr. EWING.

H.R. 2695: Mr. WYLIE, Mr. HORTON, Mr. MARLENEE, Mr. HARRIS, Mr. ACKERMAN, Ms. KAPTUR, Mr. STUMP, Mr. ROBERTS, Mr. BRUCE, Mr. WILSON, Mr. LIVINGSTON, Ms. SLAUGHTER of New York, Mr. HAMMERSCHMIDT, Mr. MCGRATH, Mr. JACOBS, Mrs. ROUKEMA, Mr. OXLEY, Mr. COMBEST, Mr. MFUME, Mr. IRELAND, Mr. ZIMMER, Mr. SMITH of Florida, Mr. PALLONE, Mr. MCCANDLESS, Mr. HATCHER, Mr. HEFNER, Mr. BARNARD, Mr. ROGERS, Mr. WEBER, Mr. KLECZKA, Mr. OLIN, Mr. GILLMOR, Mr. LANCASTER, Mr. GUNDERSON, Mr. VANDER JAGT, Ms. PELOSI, Mr. FROST, Mr. WHEAT, Mr. MCEWEN, Mr. JOHNSON of South Dakota, Mr. PICKETT, Mr. BACCHUS, Mr. BOUCHER, Mr. GORDON, Mr. MCCURDY, Mr. LAGOMARSINO, Mr. SKELTON, Mr. HUTTO, and Mr. SPENCE.

H.R. 2755: Mr. ECKART, Mrs. LOWEY of New York, Mr. HUGHES, Mr. LANCASTER, and Mr. SERRANO.

H.R. 2797: Mr. BATEMAN, Mr. BORSKI, Mr. EVANS, Mr. FUSTER, Mr. GEJDENSON, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEVINE of California, Mrs. LOWEY of New York, Mr. MACHTLEY, Mr. MILLER of Washington, Mr. PEASE, Mr. RAVENEL, Mr. ROYBAL, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SLATTERY, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SPRATT, Mr. STARK, Mr. WYDEN, Mrs. UNSOELD, and Mr. ZIMMER.

H.R. 2812: Mr. WELDON, Mr. ACKERMAN, Mr. SCHAEFER, and Mr. MFUME.

H.R. 2863: Mr. GOSS.

H.R. 2871: Mr. EVANS, Mr. MCCLOSKEY, Mr. RITTER, Mr. HANSEN, and Mr. ROWLAND.

H.R. 2874: Mr. WYDEN, Mr. CUNNINGHAM, Mr. CARDIN, Ms. DELAURO, Mr. WISE, Mr. FASCELL, Mr. SCHEUER, Mr. BURTON of Indiana, Mr. SMITH of Florida, and Mr. OWENS of Utah.

H.R. 2879: Mr. GRANDY and Mr. WEBER.

H.J. Res. 57: Mr. MILLER of California and Mr. PACKARD.

H.J. Res. 142: Mr. SCHEUER, Mr. PETERSON of Florida, Mr. HOCHBRUECKNER, Mr. BLILEY, Mr. WYLIE, Mr. WOLF, Mr. VALENTINE, Mr. DE LUGO, Mr. DURBIN, Mr. HAYES of Louisiana, Mr. DIXON, Mr. MCGRATH, Mr. MINETA, Mr. ESPY, Mr. FROST, Mr. HUBBARD, Mr. GALLO, and Mr. YATRON.

H.J. Res. 166: Mr. BARRETT, Mr. BRYANT, Mr. BORSKI, Mr. BUSTAMANTE, Mr. DONNELLY, Mr. EMERSON, Mr. HASTERT, Mr. HUGHES, Mr. HYDE, Mr. LANCASTER, Mr. LEWIS of Florida, Mr. MARTIN, Mr. MCDADE, Mr. MOODY, Mr. OWENS of New York, Mr. RAMSTAD, Mr. SHAW, Mr. SMITH of New Jersey, Mr. TRAFICANT, and Mr. WOLF.

H.J. Res. 252: Mr. LIVINGSTON, Mr. GILMAN, Mr. GOODLING, Mr. HENRY, Mr. RAMSTAD, Mr. WHEAT, Mr. PORTER, Mr. LEVINE of California, Mr. HAMILTON, Mr. BERMAN, Mr. SKELTON, Mr. VOLKMER, Mr. EMERSON, and Mr. SANDERS.

H.J. Res. 274: Mr. BEILENSON, Mr. BERMAN, Mr. EDWARDS of California, Mr. EVANS, Mr. LEWIS of California, Mr. MCDERMOTT, Mr. MATSUI, and Mr. TORRES.

H.J. Res. 284: Mr. FAZIO, Mr. HORTON, Mr. FROST, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. ANTHONY, Mr. FEIGHAN, Mr. COYNE, Mr. STUDDS, and Mr. DEFAZIO.

H.J. Res. 294: Mr. EMERSON, Mr. LANCASTER, and Mr. HUTTO.

H.J. Res. 298: Mr. ANDREWS of New Jersey.

H.J. Res. 303: Mr. BAKER, Mr. BENNETT, Mr. BLILEY, Mr. COUGHLIN, Mr. DAVIS, Mr. DE LA GARZA, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. GRANDY, Mr. GUARINI, Mr. HORTON, Mrs. KENNELLY, Mr. LENT, Mr. MFUME, Mrs. MORELLA, Mr. TALLON, Mr. TORRICELLI, Mr. TOWNS, Mr. TRAXLER, Mr. WALSH, Mr. MCDERMOTT, Mr. SMITH of Florida, Mr. CLEMENT, Mr. FUSTER, Mr. ANNUNZIO, Mr. MOORHEAD, Mr. PORTER, Mr. HAMMERSCHMIDT, Mr. GREEN of New York, Mr. PAYNE of New Jersey, Mr. DWYER of New Jersey, Mr. ERDREICH, Mr. HARRIS, Mr. FROST, Mr. OWENS of Utah, Mr. MARTINEZ, Mr. MARTIN, and Ms. PELOSI.

H. Con. Res. 87: Mr. MILLER of Ohio.

H. Con. Res. 145: Mr. SOLARZ, Mr. WYDEN, and Mr. STARK.

H. Con. Res. 168: Mr. PAYNE of Virginia, Mr. TORRES, Mr. AUCOIN, Mr. YATES, Mr. LANCASTER, Mr. MORRISON, Mr. UPTON, and Mr. KOSTMAYER.

H. Con. Res. 171: Mr. MCGRATH, Mrs. LOWEY of New York, Mr. HOYER, Mrs. BOXER, Mr. GREEN of New York, Mr. HUGHES, Mr. GALLEGLY, Mr. WYDEN, Mr. WALSH, Mr. PORTER, Mr. CARDIN, and Mr. LANTOS.

H. Res. 107: Mr. Owens of Utah, and Mr. COSTELLO.

H. Res. 140: Mr. BILBRAY, Mr. FROST, and Mr. SMITH of Florida.

H. Res. 155: Mr. POSHARD and Mr. BUSTAMANTE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 997: Mr. DYMALLY.

SENATE—*Thursday, July 18, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *the patient in spirit is better than the proud in spirit.*—Ecclesiastes 7:8.

Father in Heaven, in our culture strong people do not admit weakness, but they feel it. They are not allowed to admit vulnerability, but they know they are. Power is the word and powerlessness is unacceptable. So we live as though we are supposed to be infallible and the pressure of perpetuating such illusion is debilitating and destructive.

Forgive us Lord for such transparent hypocrisy. Save us from its incipient enslavement, and free us to be ourselves. Help us to accept the exciting prospect that to acknowledge weakness and inadequacy might open the door to divine possibilities beyond our best human reasoning. We pray in the name of the truly authentic human who was himself and never pretended to be anything else. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 18, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a time for the transaction of morning business not to extend beyond the hour of 10 a.m.

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

THE NATIONAL VOTER REGISTRATION ACT

Mr. STEVENS. Mr. President, I want to address the Senate on the subject of the National Voter Registration Act. I do not have time reserved to speak on that but I do want to mention it in this time of morning business.

Mr. President, I want to call the attention of the Members of the Senate to a report that has just come out of West Virginia—on June 17. I will read this rather than put it into the RECORD. It is an AP report. The headline is "Officials criticize postcard registration." "Voter fraud case points to misuse."

HUNTINGTON.—A 76-count indictment charging 10 people with vote fraud should open the eyes of lawmakers about potential abuses of postcard voter registration, officials said.

"One of the conclusions of this grand jury was that the mail-in registration system should be abolished as soon as the Legislature can take action," said special prosecutor Tom Plymale.

The special Cabell County grand jury on Friday charged 10 people with vote fraud over the past five years. All the counts were related to postcard applications except for six misdemeanor charges against Mayor Bobby Nelson.

The grand jury had been called to investigate allegations that political bosses were using falsified postcard registrations to show their ability to drum up political support in certain areas of town.

Because the cards can be filled out anywhere and often are notarized after being signed, they allow people using false names and addresses to register to vote, critics of the system say.

Plymale, an assistant Wayne County prosecutor, said the panel felt there was an incredible "potential for misuse" under the system and that the procedure should be examined carefully.

Cabell County Commissioner Phyllis Given, a member of the House of Delegates when the registration plan was passed nearly seven years ago, said the grand jury pointed out some major flaws in the system.

"I feel after what happened that the Legislature should repeal it," Given said.

Sen. Ned Jones, D-Cabell, agreed the system needs to be studied.

"If we have a system where there's a lot of abuse, I think we need to look into that system," Jones said. "But, I don't know if that means repealing it or working on tightening it up somehow."

Secretary of State Ken Hechler has said that even with the abuses found in Cabell County, the postcard system has its merits and should not be discontinued.

Let me point out that this bill, S. 250, would prevent the legislature of a State from abolishing or changing postcard and mail registration. This will take away from the States the right to control their own election processes. This is just the tip of an iceberg we are seeing now in West Virginia about these methods to make registering to vote easier.

I think we all would like to have a good-faith effort to increase the voter turnout.

But to have a situation where we make it so easy that fraud is rampant, and we prevent the legislatures of the individual States from taking any action to change their voter registration procedures, I think is absolutely wrong. For that reason, I again urge that this bill not be considered, that we put off the whole consideration of this until we get a report from the States—a further report on what they want. The registrars of the individual States oppose this bill, and so should the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Louisiana is recognized for up to 15 minutes.

NATIONAL ENERGY SECURITY ACT

Mr. JOHNSTON. It has been over a month since the Committee on Energy and Natural Resources reported the most comprehensive, balanced, effective energy bill ever reported by any committee of Congress.

In the last 2 days, I have dealt with that bill. On the first day, Tuesday, we dealt with the bill in general, and yesterday, we spoke about the energy efficiency provisions.

Mr. President, it has been nearly a year since Iraq invaded Kuwait. During that time, American cars and trucks have burned about 110 billion gallons of gasoline and about 22 billion gallons of fuel oil.

It is over a month since our committee reported S. 1220, the National Energy Security Act of 1991. During that time, American cars and trucks have burned about 9 billion gallons of gasoline and nearly 2 billion gallons of diesel fuel.

Our transportation sector's appetite for oil is voracious. Two-thirds of all the oil used in the United States is used in transportation. Plainly, any effort to curb our oil consumption or re-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

duce our dependence on foreign oil imports must address the transportation sector in its profligate use of oil.

There are three ways we can go about it: First, we can discourage people from driving by substantially raising gasoline taxes. I note in the morning paper where President Bush says he would veto a bill, even if it contained as little as 5 cents in gasoline taxes.

I would not propose gasoline taxes. The Congress would not vote for them. The President would veto them. And the American people do not want them. So much for gasoline taxes.

Second, we can force the auto makers to make cars and trucks more fuel efficient through tougher corporate average fuel economy or CAFE standards. Tougher CAFE standards are an integral part of S. 1220. I will have more to say about CAFE standards in the days ahead.

Third, Congress can encourage the development of substitutes for gasoline. This third approach is what I want to focus on today.

S. 1220 contains four important subtitles designed to help replace gasoline and diesel fuel with alternatives like methanol, ethanol, natural gas, propane, hydrogen, and electricity. The first of these subtitles deals with alternative fuels used by motor vehicle fleets owned by Federal, State, or local governments or by private firms.

S. 1220 requires State and local governments and private firms that own at least 50 vehicles to use alternative fuel vehicles in fleets of 20 or more vehicles operated primarily in the Nation's 125 largest cities. That is easy to say, but the import of it is tremendous, Mr. President.

All fleets in government or private firms where you have 50 vehicles are going to have to have alternatively fueled vehicles, beginning later in the 1990's. All Federal agencies, regardless of the number of vehicles in their fleets, or their locations, would have to use alternative fuel vehicles.

S. 1220 does not require fleet operators to convert their existing conventional vehicles to use alternative fuels, but it does require that specified portions of all new vehicles acquired by those operators each year be alternative fuel vehicles.

For Federal and State fleets, these requirements begin in 1995. For local and private fleets, they begin in 1998. By 2000, 9 of every 10 new Federal fleet vehicles and 9 of every 10 new vehicles in qualifying State fleets will have to run on alternative fuels. By 2000, 7 out of every 10 new fleet vehicles acquired by covered municipal or private fleets must run on alternative fuels.

Mr. President, this is revolutionary. It is very tough stuff, but it is very effective in terms of getting an alternative fuel mix out there in both government, State-owned, and private fleets.

A second subtitle promotes the development of electric vehicles. Electric vehicles are a form of alternative fuel vehicles, but they are unique in promising zero tailpipe emissions of harmful air pollutants in the near term. S. 1220 authorizes the Secretary of Energy to enter into cooperative agreements for electric vehicle research and development, field demonstrations, and infrastructure development. It also amends the Alternative Motor Fuels Act to permit the Federal Government to acquire electric vehicles.

Mr. President, in areas like the L.A. County basin, we really need electric vehicles. The only way we are going to get them is for the Federal Government, I believe, to go into it in a massive way, as our bill does, which will create the incentive for manufacturers to manufacture electric vehicles. This bill does it.

A third major subtitle ensures the availability of adequate supplies of replacement and alternative fuels. This subtitle incorporates many of the principles long and diligently advanced by Senator JEFFORDS in his alternative fuel bill, S. 716. It directs the Secretary of Energy to seek voluntary supply commitments from domestic fuel providers to ensure that adequate domestic supplies will be available to meet the public needs. It also gives the Secretary standby authority to require domestic providers to make supplies available in the event of a shortage.

A fourth subtitle provides cooperative agreements and financial assistance to municipal transit authorities in large urban areas to demonstrate the feasibility of using alternative fuels for mass transit. It also establishes training and certification programs for technicians who convert conventional vehicles to run on alternative fuel.

Mr. President, the use of alternative fuels to run cars and trucks is not a new idea. Congress has been subsidizing the use of ethanol as a motor fuel through excise tax exemptions since the late 1970's. Indeed, billions of dollars have been spent on ethanol. In 1988, we passed the Alternative Motor Fuels Act, which called for the Federal Government to acquire the maximum practical number of alternative fuel vehicles and initiated various studies of alternative fuels and alternative fuel vehicles.

Congress gave alternative fuels a major push last year in the Clean Air Act amendments. We required fleets of 10 or more vehicles in 22 cities to start using alternative fuel vehicles by 1998. We also authorized the State of California to set up a pilot program designed to put at least 750,000 alternative fuel vehicles on the road before the end of the decade.

As an aside, I might say that while the Clean Air Act did a lot for alternative fuels, one of the problems is that one of the alternative fuels available is the new kind of gasoline to be made, reformulated gasoline, which does not get us off dependence on foreign fuels. This bill, S. 1220, does exactly that.

The administration supports the use of alternative fuel vehicles. In April, the President issued an Executive order requiring Federal agencies to acquire the maximum practical number of alternative fuel vehicles. The President's national energy strategy, S. 570, contains an aggressive alternative fuel program that would require State and private fleets of 10 or more vehicles in 125 urban areas to begin using alternative fuel vehicles in 1995.

Many States and private firms already use alternative fuel vehicles. Several States have laws mandating their use by some State agencies. Major corporations like the United Parcel Service, many natural gas utilities, and numerous transit and schoolbus fleets have begun using alternative fuel vehicles. In all, there are about 30,000 vehicles operating on natural gas in the United States and over 300,000 vehicles operating on propane. Over half of the States have one or more public or private fleets using some alternative fuel vehicles.

The auto companies are beginning to produce limited numbers of alternative fueled cars and light trucks. A few service stations have begun offering alternative fuels to the public.

Mr. President, even though what we have done is a good start, 30,000 vehicles out there operating on natural gas and 300,000 on propane, the only way we are really going to get alternative fuels in broad use in the United States is with the kind of program which we have here in S. 1220.

Only by mandating a broad use of alternative fuels are we going to get the automobile companies to begin to manufacture the vehicles, are we going to get the fleets to purchase those vehicles, and are we going to get the fuels broadly available to Americans and the distribution system both for vehicles and for the fuels available.

We must get alternative fuels vehicles and fuels cost competitive with the cost of conventional fuels, and fuels supplies must become reliable and as convenient as gasoline. That is why our bill goes into this alternative fuels vehicle in a massive way—it is, in fact, a big intrusion, if you will, into the free market—by mandating their purchase both by private fleets and by State and Federal and local governments.

But that is the only way you can get it done, because unless you mandate these purchases and mandate this manufacture and mandate that the fuel supply will be there, then there will always be a chicken and egg situation that will prevent the automobile companies from manufacturing because the fuels are not available or because the demand is not there. And the demand is not there because the fuels are not available or because the price is not competitive. It must be brought along all simultaneously, and S. 1220 does precisely that.

All of this is helpful, Mr. President, but it still is not enough. The American consumer cannot go into a car showroom and buy an alternative fuel vehicle. While a few service stations might sell one alternative fuel or another in some areas, the public cannot refuel alternative fuel vehicles in most places.

The fact is the American consumer will not accept alternative fuel vehicles until their cost becomes competitive with the cost of conventional vehicles and fuel supplies become as reliable and as convenient as gasoline. The auto companies will not mass produce alternative fuel vehicles and the oil companies will not install alternative fuel service stations until there is enough consumer demand to make them profitable. This is what is known as the chicken and egg problem. And that is where the fleet program in S. 1220 comes in.

S. 1220 requires large fleet operators to acquire alternative fuel vehicles in numbers large enough to support the development of the necessary infrastructure.

Make no mistake about it, Mr. President, this program is ambitious. Not everyone will want to give up their familiar gasoline vehicles for a chance to be in the forefront of a transportation revolution. Alternative fuel vehicles cost more than conventional ones. Because most alternative fuels contain less energy per gallon than gasoline, alternative fuel vehicles will have shorter range or else they will need larger fuel tanks, which will reduce marginally at least cargo space. Some fleet operators will have to pay to install their own refueling stations.

We are not unmindful of these criticisms, of these hardships, but there are also some tremendous advantages. For example, with natural gas, the cost of the fuel is much, much less than gasoline, and its availability is tremendous.

As I will speak later in this series of speeches about natural gas, we figure that present supplies of natural gas, at present rates of consumption—that is at the rate of consumption of 17 trillion cubic feet a year—we have over 60 years of readily available supplies of natural gas. And it costs less, considerably less; I think about less than half as much as gasoline per gallon or per million Btu's.

So we ought to encourage its use in vehicles. It is an American fuel, available domestically, produced by Americans, taxed by American Governments, and it provides American jobs. And we ought to mandate and encourage its use to the maximum extent possible.

The Committee on Energy and Natural Resources was not unmindful of these hardships. Throughout its consideration of the alternative fuels issue, the committee sought to balance the need for an ambitious and far-reaching fleet program against the committee's concern for the fleet operators who will be asked to implement it. For this reason, the committee excluded relatively small State and private fleets of 10 to 20 vehicles, which the administration proposed including, and added Federal fleets, which were not covered by the administration's bill. A special provision was crafted to allow diesel truck fleets to preserve the percentage of the fleet now powered by diesel. Exemptions were provided for fleet operators who are unable to acquire alternative fuel vehicles that meet their needs or who cannot obtain alternative fuel supplies and cannot afford to install their own refueling equipment.

While I offered the amendment that added the fleet program to S. 1220 in committee, the amendment has its origins in the work of many others. It drew on Senator ROCKEFELLER'S Alternative Motor Fuels Act, which we passed in 1988. It drew on the work of the Committee on Environment and Public Works found in the Clean Air Act amendments we approved last year. It drew on the President's national energy strategy. And it drew on the Federal fleet program proposed by Senator BINGAMAN in the last Congress and on the fleet proposals in Senator WIRTH's energy bill earlier this year.

We produced an excellent program. I urge my colleagues to look not only at the alternative fleets fuels provision of S. 1220, but at the other provisions: Energy efficiency, discussed yesterday; natural gas, to be discussed tomorrow; and keep tuned, Mr. President, because we will continue to discuss the other provisions of this bill, which is balanced, which is effective, and which will get America off foreign oil and give us energy independence.

In the end, Mr. President, I think the Committee on Energy and Natural Resources produced an excellent program. It is ambitious. It seeks nothing less than a revolution in the way we fuel our transportation system. But it is not arbitrary. It contains safety valves to lessen the burden on those who have to implement it. Most important, it will lead to major national benefits. It will help clean up the air by replacing pollution-producing gasoline and diesel fuel with cleaner burning alternatives. It will lessen our dependence on foreign oil.

Mr. President, the alternative fuel fleet program is but one of the environmentally beneficial energy programs in S. 1220. It is but one of the many reasons why the bill should receive early and favorable consideration by the Senate.

Mr. President, I yield the floor.

Mr. BINGAMAN. Mr. President, several days ago I urged my colleagues to proceed as quickly as possible to consideration of the critically important legislation represented by S. 1220, the National Energy Security Act of 1991. Today I would like to highlight one of the key parts of that legislation—the fleets and alternative fuels provisions.

It is important that these provisions be enacted. As my colleagues are aware, the transportation sector accounts for more than 60 percent of the oil consumption in this country. Increasing the use of alternative fuels will help to reduce our steadily growing dependence on foreign oil and enhance our energy security. The use of alternative fuels will also play a major role in reducing emissions of carbon monoxide and other air pollutants that threaten the health of millions of Americans.

I became convinced of the importance of promoting alternative fuels several years ago when the Environmental Protection Agency found that the largest metropolitan area in my home State of New Mexico, long famous for its pure air, were in violation of air quality standards for carbon monoxide. Carbon monoxide is but one of the dangerous air pollutants that result from cars and trucks burning gasoline and diesel fuel. High levels of these pollutants are a serious threat to public health and the environment. Replacing gasoline-powered vehicles with vehicles that burn cleaner fuels such as natural gas and ethanol can dramatically reduce emissions of these pollutants.

Two years ago, I introduced legislation to require the Federal Government to convert fleet vehicles operating in nonattainment areas to alternative fuels. I am pleased that the provisions of my legislation were incorporated into S. 1220 and that we were able to strengthen the provisions as well. They apply to all Federal fleets, wherever located, not just to fleets in the 22 nonattainment cities. S. 1220 also requires State and private fleets to phase in alternative fuel vehicles.

Mr. President, it is important to note that S. 1220 would make the Federal Government take the lead in converting its fleets from gasoline-powered to alternative fuel vehicles. The President has asked Federal agencies to acquire the maximum practical number of alternative fuel vehicles but exempted Federal fleets from the mandatory purchase requirements of the National Energy Strategy's Fleet Program. S. 1220 corrects that situation. Clearly the Federal Government should require at least as much of itself as it requires of State and private fleets.

By creating a guaranteed market for alternative fuel vehicles, the bill will create the necessary incentive for the development of fuel distribution and vehicle maintenance infrastructure, the lack of which has been the major impediment to their use. Greater availability of alternative fuels also will encourage the general public to choose such vehicles for their personal use. Both markets will encourage American automakers to step up their production of alternative fuel vehicles.

Mr. President, I commend Senator JOHNSTON for his leadership in developing the progressive fleet and alternative fuels program represented by title IV of S. 1220. Again, I strongly support his efforts to bring this important package before the Senate.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Florida is recognized for up to 10 minutes.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1492 and S. 1493 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

SENATE CONCURRENT RESOLUTION 53—REGARDING ISRAEL'S 1981 STRIKE AGAINST IRAQ'S NUCLEAR REACTOR

Mr. SPECTER. Mr. President, a concurrent resolution was filed earlier this week to express the sense of the Congress that the 1982 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense and that the United States should seek repeal of U.N. Resolution 487, which condemned that 1981 Israeli preemptive strike.

Mr. President, that resolution has been filed on behalf of 55 U.S. Senators, including the distinguished Republican leader, Senator DOLE; Senator HOLLINGS; Senator MURKOWSKI; and the full itemization will appear in the RECORD.

Mr. President, when the Israelis made their daring, bold preemptive strike on June 7, 1981, that action was taken to destroy the Iraqi nuclear reactor in what Israel said at that time was an act of self-defense. And although many in the world understood the purpose of that preemptive self-defense attack, a resolution was brought in the United Nations and Israel was condemned for that attack, Resolution No. 487.

It is now clear, beyond any doubt, that Israel was justified in that act of self-defense. We know from what has happened since that time, although the evidence was compelling at that time, but since that time there can be no doubt about the intent of Iraq to develop nuclear weapons for offensive military purposes.

We know of Iraq's intent from facts learned after the Israeli strike—from the Iraqi invasion of Kuwait, from the Iraqi mobilization of forces on the Saudi border, from the 39 Scud missile attacks which Iraq launched against the State of Israel without any provocation, without any justification. We know further from what has occurred in the course of the past several weeks, when we have found that Iraq has violated its commitments to the United Nations in terms of inspection of nuclear materials.

So the status of Iraq's aggressive intent, demonstrated by its flagrant violative conduct against Kuwait, against Israel, and against others, now makes it plain beyond any doubt that the intent to attack was present in Iraq back on June 7, 1981.

There is no doubt under international law, as the law governs the relationships among men and women, as the law governs relationships among nations, that a nation or an individual has the inalienable right of self defense, which is one of the most basic principles of law in existence.

Just as any individual has the right to use whatever force is necessary to defend himself or herself, similarly any Nation has the right to use whatever force is reasonably necessary to defend that Nation.

So we see that the action by Israel on June 7, 1981, in eliminating the capability of Iraq's Osirak nuclear reactor, was an act which benefited not only Israel, which certainly would have been subject to whatever forceful means Iraq could have used against Israel, as demonstrated by the 39 Scud attacks earlier this year, but Iraq would have used the same kind of force against its other enemies, as demonstrated by the Scud attacks against United Nations and United States forces in Saudi Arabia.

So what might have been a nuclear Armageddon in the near east was eliminated by the forceful, bold, daring and justified action taken by Israel back on June 7, 1981.

The United Nations exists to promote the cause of peace and justice among nations. The U.N.'s action in condemning Israel for that attack, action taken under Resolution 487, is now palpably wrong and mistaken. And the United Nations should recognize that error and should repeal and rescind U.N. Resolution No. 487.

As noted earlier, the resolution which has currently been filed has 55 cosponsors in the Senate. It is the intention of this Senator and the other cosponsors to move ahead and press for hearings before the Foreign Relations Committee to bring this resolution on for action by the Senate and then, hopefully, for action by the House of Representatives as well, on a measure which I think certainly will be enacted. And then to press the administration to take this matter up. Because not only was the Israeli preemptive attack an act for its own self-defense, but it was, as we know now, an act really for the defense of the entire world.

The experience which we have had with Iraq after the August 2, 1990, invasion puts the world on notice that we must use every means at our disposal to be absolutely certain that Iraq does not proceed to develop a nuclear capability. The heroic efforts by the United Nations under the leadership of the United States in repelling Iraq and ousting Iraq from Kuwait, should not be in vain. As hard as it is to monitor what goes on in Iraq, that must be done. All steps necessary to be sure that Iraq does not proceed secretly must be taken. Because if we come to a situation where Iraq has nuclear weapons, knowing the intentions of Iraq's leaders, we will be putting the entire world at risk.

I compliment President Bush for his leadership on this entire matter since last August. I compliment French President Mitterrand for his forthright statement that France was prepared to take whatever action was necessary, including military action, to be sure that Iraq does not proceed with a nuclear military capability.

No one wants to see a state of war return, a state of belligerency, with the very substantial costs incurred by the United States and the United Nations.

Since making my comments I see my distinguished colleague from California, Senator CRANSTON, is on the floor. A word or two is in order about a very important hearing held by the Veterans' Affairs Committee on Tuesday of this week. We had veterans from the gulf war come in to testify about the tremendous anguish, and the tremendous problems caused by the Iraq war—injuries which are being sustained to this day by the fighting men and women who were there and by their families as well.

As difficult as the military action was, we must take whatever action is necessary to see to it that Iraq does not mount a nuclear military capability, given their demonstrated intentions and given their demonstrated aggressive tendencies. But, as a first step, the action of the United Nations in Resolution 487 condemning Israel should be rescinded and, if anything, a resolution ought to be enacted by the United Nations, thanking Israel for its courageous and proper conduct in destroying Iraq's nuclear military capability. I thank the Chair and yield the floor.

Mr. MURKOWSKI. Mr. President, I rise today to join my colleague from Pennsylvania, Senator SPECTER, and 54 cosponsors to offer a resolution expressing the sense of the Senate that the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self defense, and that the United States should seek the repeal of U.N. Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike.

The United States is proud of the allied victory in the Persian Gulf. The allied forces successfully, and with few allied casualties, pushed back Saddam Hussein's military occupation of Kuwait. The allies are now taking on the enormous task of restoring the devastated State of Kuwait. Mr. President, the outcome of the allied force's victory could have been immensely different were it not for the 1981 Israeli attack on Iraq's growing nuclear capability. We owe a long overdue show of gratitude to the State of Israel for the prudent action it took 10 years ago.

The potential of an Iraqi nuclear threat to Israel and surrounding Arab states in 1981 was growing. Experts determined that in 1 to 3 years Iraq would have gained a nuclear threat capability. Iraq possessed the delivery capability with its jet bombers, and short-range and surface-to-surface missiles. If Israel had not taken preventative action against Iraq at Osirak to end Iraq's nuclear threat, the United States and the allied forces could have lost the war, or worse, lost an unthinkable amount of lives to a nuclear attack.

If the United States has learned one thing from this war with Iraq, it is that the threats of a dictator should be taken to heart. Saddam Hussein's naked aggression brought him into Kuwait. As we now know, he would have used any means possible to bomb Israel and the other Arab States, as he threatened to do before and during the invasion of Kuwait. Saddam did not hesitate to send Scud missiles into Israel in an unprovoked attack on innocent civilians. Israel showed great restraint during those attacks in January and February. The course of the war might have been very different if Israel has responded to these attacks with a show of force instead.

The time has come for the United States to seek to repeal the U.N. Security Council Resolution 487, which wrongly condemns Israel's attack on Iraq to prevent their nuclear aspirations. This action not only safeguarded Israel and the United States from a nuclear threat but the allied states as well. Thus, the Congress should also encourage the other nations in the alliance to join the United States in repealing this resolution, and show their appreciation for Israel's past action.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. I thank the Senator from Pennsylvania for his collaboration with me on the Veterans' Affairs Committee in exploring what can be done to deal with the post traumatic stress disorder that is prevalent among an unknown number of veterans at the present time, stemming from the Iraq war. I look forward to collaborating with the Senator on that front as we collaborated on many fronts.

MOTOR VOTER REGISTRATION

Mr. CRANSTON. Mr. President, I rise very briefly to urge an aye vote on cloture and support for the motor voter registration bill that is about to come before us in the form of a cloture vote. We stand for democracy in the world. We should stand for democracy at home.

Registration barriers against voting were enacted in our country after the Civil War as part of an effort to keep blacks and poor people from voting in our country. At that time registration, literacy tests, poll taxes were enacted. They had the effect of keeping people from voting. They were used deliberately for that purpose. In the civil rights days earlier in this century, when Lyndon Johnson was in the White House, we got rid of the poll tax, we got rid of literacy tests. We did not get rid of registration. It deliberately was created as a barrier to voting. It still is used deliberately in some parts of our country as a barrier to voting. In other places it is entirely inadvertent.

Registration may serve a useful purpose in making certain that only people vote who are entitled to vote under the law and the processes of our country. But we should make it much simpler for people to register so they can register without having difficulties in doing so. This measure before us would do exactly that. It would make it possible for people, when getting a driver's license, to simply say they would like to be registered, indicate the party, and they would become registered. That would, apparently, cover about 90 percent of the eligible voters in our country.

The other 10 percent would be registered by what is called agency-based registration, which is also proposed and covered in this law, where they congregate in unemployment lines to get unemployment insurance or to discuss their Social Security problems. They would be given a very easy opportunity to register at that stage.

I urge that this be done. It will strengthen our democracy and it will show when we demand democracy and the right to vote in the Soviet Union and other countries, we are also sincere about making that right possible for people here in the United States.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. THURMOND. Mr. President, I ask unanimous consent that morning business be extended 3 more minutes.

Mr. KENNEDY. Reserving the right to object, will the Senator state his request again?

The ACTING PRESIDENT pro tempore. The Senator is requesting morning business be extended 3 minutes and the vote for cloture be therefore set aside. Is there objection?

Mr. FORD. Reserving the right to object, we have had chairmen who have delayed their committee hearings to vote at 10 o'clock. We have many Senators here who want to vote at 10 o'clock. I hope that no other Senator will ask to extend the time because then I will have to object. I will not object to 3 minutes. I hope the Senator will finish in 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from South Carolina is recognized for 3 minutes.

NOMINATION OF JUDGE CLARENCE THOMAS TO THE SUPREME COURT

Mr. THURMOND. Mr. President, in the near future, the Senate Judiciary Committee will begin hearings on Judge Clarence Thomas for a position on the U.S. Supreme Court. I anticipate that the hearings will be thorough, comprehensive and, at times, contentious.

As we prepare for this hearing, it is important to note that Judge Thomas is not an unknown quantity, having been confirmed by the Senate on four occasions. He was before the committee just 15 months ago, at which time, a complete review of his background, qualifications and professional experience was undertaken. Judge Thomas was overwhelmingly approved by the full Senate for a position on the U.S. Circuit Court for the District of Columbia.

Currently, certain individuals and organizations have raised concerns about Judge Thomas. I believe much of the current opposition is based on the ideology, or judicial philosophy, that these individuals and groups believe Judge Thomas will apply if confirmed to the Supreme Court. Because so much has been said about the question of philosophy, or ideology, I want to comment about this issue within the context of the nominating process.

Some argue that philosophy should not be considered at all in the nomination process, while others state that philosophy should be the sole criteria. It is not appropriate that philosophy alone should bar a nominee from the Supreme Court unless that nominee holds a belief that is so contrary to the fundamental, longstanding principles of the Nation that his or her service would be inconsistent with the essence of this country's shared values. I believe it is inappropriate to reject a nominee based on philosophy alone as there are numerous other relevant factors that should be considered in reviewing a Supreme Court nominee.

Mr. President, if a philosophical litmus test can be applied to defeat a nominee, then the independence of the Federal judiciary would be undermined. Judges are not politicians who are put in place to decide cases based on the views of a political consistency, but are sworn to apply constitutional and legal principles to arrive at decisions that do justice to the parties before them.

It has been said that since the President uses philosophy to select a nominee, the Senate can use philosophy to evaluate one. A corollary statement should be just as true: when the President does not use philosophy solely to choose his nominee, the Senate should not use philosophy solely to reject that nominee. Historically, Presidents do consider philosophy when appointing nominees to the Supreme Court. That is part of our system of Government; it is the manner in which the American people have an opportunity to influence the Court which so greatly affects them.

The issue of philosophy is not a new one for the Senate Judiciary Committee. In prior discussions regarding a Supreme Court nominee, a prominent member of the committee, a Democrat, stated:

> It is offensive to suggest that a potential Justice of the Supreme Court must pass some presumed test of judicial philosophy. It is even more offensive to suggest that a potential Justice must pass the litmus test of any single-issue interest group.

Another prominent Democrat stated:

> Our examination of [this nominee's] judicial philosophy, that is relevant and important, but we should not condition our confirmation on her agreement with any opinions of ours, so long as her philosophy is within the norms set down by the Constitution itself.

In closing, no nominee should have to pass the litmus test of any particular group. The prerogative to choose a nominee to the Supreme Court belongs to the President—an individual elected by the people of this country. It is important to insure that a nominee possesses the intellectual capacity, competence, and judicial temperament to serve on our Nation's highest court. A Supreme Court Justice, or any other judge, for that matter, cannot be expected to make rulings based on the expectations of any political constituency. To do so would seriously jeopardize the efficacy and independence of the Federal judiciary.

THE TITLE X PREGNANCY COUNSELING ACT

Mr. KERRY. Mr. President, I rise today to express my support for S. 323, the Title X Pregnancy Counseling Act of 1991 which was passed yesterday by the Senate. I am proud to be a strong supporter and cosponsor of this vital legislation.

This bill will overturn the Supreme Court's affirmation of the Bush administration's regulations prohibiting recipients of Federal family planning grant funds from advising pregnant women that one of their options for dealing with pregnancy is pregnancy termination. In my judgment, no one should ever make a decision lightly or hastily to terminate a pregnancy. Such a decision should be reached only based on very careful thought and reflection. However, after much careful study, I remain committed to the position that no one ultimately is better able, and no one has a more compelling right, than a pregnant woman to choose if she wishes to have a child. I believe it follows naturally that physicians and family planning counselors should be permitted to include among the options they present to pregnant women the option of pregnancy termination—which is wholly legal in the United States under conditions enunciated by the Supreme Court.

While I consider freedom of choice to be critical to the health and well-being of the women of this Nation, I find equally troubling the free-speech restraints imposed by the Rust versus Sullivan decision upholding the Department of Health and Human Service's so-called gag rule. The most serious implications of the Rust decision lay in its blatant disregard for first amendment rights. Despite the Court's tortuous reading that the regulations do not force the title X grantee to give up its right of free speech, Justice Blackmun's dissent is absolutely correct. He says, "The majority professes to leave undisturbed the free speech protections upon which our society has come to rely, but one must wonder what force the first amendment retains if it is read to countenance the deliberate manipulation by the Government of the dialog between a woman and her physician." First amendment free speech rights are the most sacred of all the rights guaranteed by our Nation's Constitution. A woman's consultation with her physician must be considered among the most private types of speech protected by the first amendment. If the Federal Government is allowed to restrict the content of this type of speech, then certainly the potential for further intrusions into the private lives of American citizens is great. Today, we have an opportunity to stop the recent trend of increasing restrictions on civil rights by the Bush administration and the Supreme Court. We must act with conviction.

Finally, I am concerned for the physicians of America if the Bush administration's gag rule is allowed to stand. A doctor has a moral and ethical responsibility to give full and informed advice to his or her patients. I have received numerous letters and calls from physicians throughout the State of Massachusetts who are deeply concerned that their ability to perform what they consider to be their ethical duty, giving the full range of medical advice to their patients, will be impaired by the Rust decision. S. 323 will remove that impairment.

Failure of the Congress to resolve this matter will result in a two-tiered health care system. Those pregnant women who can afford private physicians will have no trouble receiving counseling on the full range of legal options available to them regarding their pregnancies. Low-income pregnant women who cannot afford private physicians will be restricted to just those options approved by the Government. Such a situation would be horribly unjust and must not be permitted.

A TRIBUTE TO ROBERT MOTHERWELL

Mr. METZENBAUM. Mr. President, our Nation has lost one of the great artists of this country, who was awarded the President's Award just last year in the White House. My wife and I were there.

Robert Motherwell has left the scene. He was one of the true giants of modern American art. He was a very caring, concerned individual. Whenever he knew there was a problem, Robert Motherwell wanted to be there to be helpful to do what he could to make this world a little bit better place in which to live.

Robert Motherwell died yesterday at age 77.

His impact and influence cannot be overestimated. He will be remembered by history as a brilliant and thoughtful philosopher, an eloquent and insightful writer, an important and provocative political thinker, and most of all, a master painter and an artist whose collages were once called perhaps the most consistently beautiful body of work produced by any artist at that time.

He inspired a generation, and has given pleasure to millions. From Dusseldorf, Stockholm, and Vienna to Washington, Los Angeles, and New York, art lovers bore witness as Robert Motherwell's work broke startling new ground and changed the shape of expressionist art.

From the moment he seized the world's attention in 1941 with his painting "The Little Spanish Prison," through his revolutionary contribution to the abstract expressionist movement, and until the very day this week that his creative energies ceased, Motherwell has remained a cornerstone of his profession, and a treasure to this Nation.

His achievements are too numerous to catalog. His 1965 retrospective at the museum of modern art, his mural commissioned by the National Gallery here in the Capital, his collaborations with the likes of Dekooning and Pollock, his "Elegy to the Spanish Republic" series, I simply could stay here for hours and recite this man's monumental efforts over decades.

To his beautiful and devoted wife, Renate, I send my heartfelt condolences.

My wife and I had the privilege of being with Robert and Renate and spent a day up at their home—two lovely, concerned human beings, two caring human beings. This Nation has lost one of its greats. He is irreplaceable.

I yield the floor.

TRIBUTE TO ANITA RABY

Mr. HEFLIN. Mr. President, I would like to pay tribute to Ms. Anita Raby for her outstanding performance as the president of the Alabama Education Association. Anita has recently completed her term as president and all Alabamians can be justly proud of her accomplishments in this office.

Ms. Raby, a native of Limestone County and a social studies teacher at West Limestone High School, is stepping down as the elected president of 69,000 of her fellow educators. Although she will greatly be missed in this capacity, I am pleased that she will continue the fight as a recently elected National Education Association director. Her talents and experiences will be a great asset to that organization as well as the AEA as she remains active on the local, State, and national level.

Perhaps Ms. Raby's most important accomplishment as President was to extend the term for future presidents from 1 year to 2 years. This change will allow future presidents to learn their jobs better and give them time to use this knowledge to improve our education system. Anita also played a large role in the negotiations with Governor Hunt's administration over the school reform package. She has helped smooth the transition to the new AEA building. This addition and the renovations to the old building will provide much-needed office and meeting space for the association. I know from experience that Ms. Raby serves as an effective representative for AEA when she travels to Washington. She has been an ardent supporter of increased funding for schools and one of her favorite programs to eliminate drugs from our schools.

Mr. President, I congratulate Anita Raby on the stellar record she built during her tenure as president of the Alabama Education Association. Although her leadership will be missed in Montgomery, her students in Limestone County and the National Education Association will benefit greatly from this change. I wish Anita the best of luck and look forward to her continued success.

THE BUDGET DEFICIT

Mr. HOLLINGS. Mr. President, I note in this morning's Washington Post that the distinguished columnist, Jim Hoagland, who usually writes on foreign affairs, is writing about the widespread joblessness in the United States.

Then I read, on the same page, another distinguished writer Hobart Rowen. Hobart Rowen quotes Felix Rohatyn, as saying, "If I were 30 years old, I would move to Europe." Rohatyn came to America as a teenager, and became a tremendous success as a financier. He masterminded the resurrection of New York City's finances in the mid-1970's. Permit me to quote from Rowan's column:

> Impressed by what he saw in preparation for "Europe 1992" on a recent swing around the continent, Rohatyn—senior partner of Lazard Freres—said he felt that he was "leaving the New World and coming back to the Old World" as he stepped aboard a plane in London for New York.
>
> The American economy, he argues, "is going no place. The assumption is that all the problems are too hard to tackle. We say we can't do anything about the real issues, like education, health, so no one even talks about them. Washington is pushing everything back to the state and local level.
>
> "But Europe is forward-looking, driven by a confident government-business partnership. They want to widen out the frontiers. People are thinking about and accepting a United Europe. Sure they have problems, but they assume they can be dealt with."

These are stunning comments by Mr. Rohatyn.

And then I turn to the main news section of the morning Post. I see a former Senator, now Governor, facing fiscal reality in a courageous and forthright manner. You will not find direction in a political poll for what Governor Wilson is doing in California. It's called leadership, and it has nothing to do with polls and popularity. Polls Vask simplistic questions: Are you for jobs or against jobs; are you for taxes or against taxes; are you for America, and against America? And the obvious answer is yes, we are for America. But what does that tell us?

We live in an unreal cocoon here in the Congress, and it clashes with the real world outside. Here we run away from our fiscal problems, we obfuscate and ignore. What a contrast is presented by our former Senate colleagues who are now serving as state chief executives. I read from this morning's Post:

> Wilson, who signed budget legislation 16 minutes before a midnight deadline, said today he found the tax increases "distasteful" but declared there was "a requirement of law and logic not to paper over the deficit" with accounting gimmicks or further spending cuts.

He was criticized for taking this course. I further quote Governor Wilson in his rebuttal:

> I don't have a lot of respect for screaming comments made by people who don't want to participate in the process * * * the easiest thing in the world to do is to hunker down and say no new taxes.

Wilson then observed that the deficit was estimated at $7 billion when he took office. He initially tried to close the gap with spending cuts alone. He proposed his tax package only after successive estimates more than doubled the original deficit estimate.

Oh, how I wish we could get Governor Wilson to come back as Senator Wilson and let him talk sense to this crowd. Let him talk to this crowd, and instruct us, in his eloquent words, that there is a requirement of law and logic not to paper over the deficit.

Once again, we witnessed the Federal "Paper Over" Act earlier this week. First, on July 15, the OMB put out its midsession review of the budget. It is a big booklet; you cannot find what the deficit is until the last page, page 55. When you look on page 55, they do not directly cite the deficit. They say: on-budget deficit; off-budget deficit; a surplus or deficit for 1991 is $338.3 billion.

One chart tried to obfuscate the real deficit number by talking about, and I quote, the "Deficit Excluding Off Budget Surplus." That is a discovery, Senator, to find the word surplus in Washington. I know we have not had a surplus since the calendar year 1968, fiscal year 1969.

You see, when you have surplus trust funds that you borrow from, those are slush funds to be raided. When you borrow from the Japanese in order to finance the deficit, that counts. Oh, yes; when you borrow from the Japanese, we list it as a deficit.

But when you borrow from American senior citizens and their trust fund; when you borrow from highway users and their trust fund; when you borrow from the airport and airways trust fund or from the Medicare trust fund, then it artificially reduces the deficit, it hides the true deficit.

Meanwhile the cupboard is stripped bare with regard to the trust funds. Specifically, Medicare, they plan to cut back benefits and services even further. We are closing down hospitals and clinics. The game is to increase the Medicare trust fund surplus so we can borrow from it to mask the deficit. So the trust fund is being used as a slush fund. But if you borrow from the Japanese, that truly counts in the deficit, so we prefer to avoid it.

We wanted to cut out that monkeyshine, "we" being the Congress and including the President. Last year, he signed it into law—that we could no longer list Social Security surplus funds in that deficit in order to artifically reduce the nominal deficit. But, no. The director of OMB, who is an astute accountant, does not abide by that legal requirement. He refers to it as on budget and off budget.

So he says that with the trust funds on budget the deficit is $348.3 billion, and with trust funds off budget the deficit is at $412.1 billion.

Post reporter John Barry talks about budget ballyhoo. He starts with the headline, which is: "Ballyhoo: Shortfall To Hit $348 Billion."

Writes Mr. Barry:

> The Bush administration raised its estimate for next year's Federal budget deficit by nearly $70 billion to $348.3 billion, by far the largest in the Nation's history.

Later Mr. Barry writes:

> The long string of big deficits indicates that if last fall's much ballyhooed budget deal between the President and the Congress had any impact on reducing the budget deficit, it was not enough to bring——

And it goes on and on.

The worst ballyhoo is in that headline, $348.3 billion, because the truth of the matter is the deficit is $412.1 under the law.

Then the same writers that pick up that line of baloney, misleading nonsense, they call it ballyhoo, but they are amplifying the ballyhoo.

In contrast, Pete Wilson out in California—now Governor Wilson—is governing in the real world. He would be ridiculed and criticized here in Washington for using the word taxes. But California has had some real problems, with a dropoff in their economy, a dropoff in the defense industry, and so on. So Governor Wilson, who did not create this mess, insists on governing in the real world. That is what we are trying to get this Congress to do, to come up with the real deficit figures and find out where the waste is.

Mr. President, I think a good way to find that waste is to look at a chart published by the Banking Committee, referring to the S&L losses, the RTC, the Resolution Trust Corporation losses, the interest expenses, the working capital loss, and so on. If you look at that chart, you see where the best campaign financing is.

When you pay your income tax, 60 cents of every dollar goes for interest costs. That amounts to a good slush fund to reelect all of us, because it allows us to get away with this "read my lips, I am against taxes, I am a nice fella." So we run up the deficit, and just pay the interest. And so there we are, and we just keep on up and up with interest costs. It is the biggest waste, biggest fraud, biggest abuse.

You can see from the $700 billion S&L industry cleanup, which has gone from $5 to $700 billion; a $57 billion S&L loss; a $160 billion RTC loss, and working capital loss of $40 billion. So you have $257 billion for the actual loss, but $425 billion in interest payments for not facing up to the problem on a pay-as-you-go basis. Instead, we say put it on the next generation's budget. Just borrow the money and go willy-nilly into deeper debt.

When this thing hit us, the recommendation was to do as we did back in 1968, put on a surtax. When we got to the war in Vietnam, President Johnson said we are going to pay for it and for the Great Society programs. He put on a 10-percent surtax and gave President Nixon a balanced budget; in fact, a $3.2 billion surplus. We could have made the S&L bailout a less than $200 billion loss by facing up to the problem. But, no, no, read our lips, we are against taxes; instead, we are just for waste, we are for interest taxes. Interest taxes grow by leaps and bounds. Right now, that little machine tracking the national debt in downtown Times Square says $3.5 trillion. Simply to pay interest on next year's interest, we will have to increase the 1992 deficit by up to $30 billion. Nobody will talk about this waste. That is $30 billion for absolutely nothing, total waste. So it is just one big political charade that we have going on.

I thought we ought to make note of the leadership that Governor Wilson has given his State. I wish he would come back here. I am happy to praise a Republican when I see him living in the real world, and I want to introduce Governor Wilson back to the Senate. I want him to come back here, and give a speech on budget in which he says that "A requirement of law and logic, is not to paper over the deficit." That is exactly what we have been doing. We continue to paper over it. The OMB Director comes and says, and I can quote, that the budget trend is favorable; we are headed in the right direction. The President says we are headed in the right direction; that we finally put the Government on a pay-as-you-go basis, and we are reducing the debt $500 billion. Yet the truth of the matter is that when we look at the report this week, we see that we have increased the debt by $700 billion. We are going absolutely in the wrong direction, and this waste has to stop. I thank the Senator.

Mr. HELMS. Will the Senator yield?

Mr. HOLLINGS. I will yield.

Mr. HELMS. Just for one word. Amen.

Mr. HOLLINGS. Thank you, Brother. Amen.

BOYCOTTING THE NEW YORK YANKEES?

Mr. MOYNIHAN. Mr. President, the Members of the Senate are familiar with the Arab League boycott of Israel as well as the secondary and tertiary levels of this boycott that forbid business with any company that does business with Israel or even with any company that does business with any company on the boycott list.

Compliance with this boycott has been outlawed by Congress, but the Arab League continues to issue updated lists of forbidden companies. The most recent of such lists was released recently and I rise to report to the Senate that the New York Yankees have earned the rare distinction of being the first major league franchise to be placed on this list.

New Yorkers are justly proud of the New York Yankees and their accomplishments through the years. It is hard to understand why the Yankees have been selected for this latest distinction. Is it because an old and unforgiving Brooklyn Dodger fan is employed in the Arab League boycott list office? It is also difficult to understand what the Arab League hopes to accomplish. Does this mean that the Yankees can't hold spring training in Riyadh?

We may never know. But we do know that this latest incident reveals the futility and sustained foolishness of the entire Arab League boycott effort and demonstrates yet another good reason why the Arab States would be well advised to end this offensive practice.

I ask unanimous consent to place in the CONGRESSIONAL RECORD last week's Jewish Week article concerning the New York Yankees and the Arab League boycott.

There being no objection the article was ordered to be printed in the RECORD, as follows:

[From the Jewish Week, July 5–11, 1991]

AN ARAB CURVE

(By Stewart Ain)

Holy cow! The New York Yankees have been black-listed by the Arab League.

The Yankees are No. 288 on a partial list of about 300 American firms on the Arab League's boycott list. Nobody knows why, least of all Arabs in the United States.

The list was obtained by the American Israel Public Affairs Committee, according to William Rapfogel, executive director of the Union of Orthodox Jewish Congregations of America's Institute for Public Affairs.

"It was a big surprise when we saw it," said Rapfogel. "It's really mindboggling."

Officials of AIPAC declined to comment on the list.

In the past, the Arab League boycott has been aimed at companies that are viewed by the Arabs as pro-Israel or that do business with Israel.

"What could the Yankees possibly have done to offend the Arabs, except not hitting?" asked Will Maslow, editor of the Boycott Report, which keeps track of Arab boycott activities for the American Jewish Congress.

He added that if batting is the criteria, "maybe the Mets should also be on the list."

"Does this mean Arab fans are not going to come to our games?" asked Yankees' attorney David Sussman.

"The only reason I can think of for the Yankees to be boycotted is because a very high percentage of Yankee management is Jewish," he said. "Our chief executive officer is Leonard Kleinman, Arthur Richman is the senior vice president and I'm the attorney."

Former Yankee first baseman and designated hitter Ron Blomberg was equally astonished by the news.

"To boycott the Yankees because of Jewish employees I think is the craziest thing in the world," he said. "I'll bet there are just as many Jewish employees at the Mets . . . I think it's just foolish, to be honest with you."

Mel Allen, known as the "Voice of the Yankees," said it "sounds ridiculous to me

. . . I don't know what the Arabs have to gain."

Asked why he believes the Yankees were singled out from other sports teams, Allen said: "They are part of the national pastime and, in the overall, they are still thought of as perhaps the most popular sports team in the country."

He added that although many Yankee executives are Jewish, the team's principal owner, George Steinbrenner, is not. On the other hand, he said the Chicago White Sox's two principal owners are Jewish.

Among the other American companies on the Arab boycott list, which is reportedly the first updated only to be obtained in many years, are Aetna Life and Casualty, AT&T, Bell Telephone Laboratories, Comsat, Mattel, Ford, NCR, Colgate Palmolive, Avis, Avon, Paramount Pictures, Du Pont, American Express, Bulova Watch, Helena Rubinstein, Chrysler, Colt Industries, Hughes Aircraft and the California Pretzel Co.

"This list is useful because it lets our people know who is on the Arab blacklist at a time when we feel the boycott is somewhat on the ropes," said Rapfogel. "Unfortunately, although it's still very active, we have for the first time in a long time some cautious optimism that it may be falling apart.

He noted that earlier this year Toyota, Nissan and Mazda asked the Saudi Arabians and Kuwaitis "whether it would be okay to sell their cars to Israel and they apparently said okay.

"Both the Kuwaitis and the Saudis unquestionably participate in the boycott, but they have been made to feel extremely uncomfortable now that the U.S. saved them [in the Gulf war]. As a result, they are rethinking whether they can fully participate in the boycott the way they once did."

Rapfogel said he and others who have analyzed the boycott list "haven't the slightest clue as to why some companies are on there. The only thing we can do is speculate that they had something to do with Israel, but we don't know what.

"But to include the Yankees is the most hysterical thing of all. That only shows the boycott is based on intolerance and ignorance of the Jews. They may have included the Yankees in the mistaken belief that Steinbrenner is Jewish. They didn't include the White Sox because they didn't know [the team] is owned by Jews. That's a perfect example of what the boycott is all about."

M.T. Mohdl, president of the American-Arab Relations Committee in New York, said he too was puzzled by the action. "I decline to even speculate why," said Mohdl. "The wisdom or the lack thereof of Arab policy is known only to God, and I'm not a god."

Abdallah, Shelh, the Arab League information officer in Washington, said he had "no knowledge about such things. Our office does not deal with such matters."

Asked if boycotting the Yankees would foster a better relationship, he replied: "I have no idea about such things."

Rapfogel said he's confident that being boycotted by the Arab League will not have an adverse impact on attendance at Yankee games.

"If it were not such a serious matter, it would really be funny," he added.

MARIO CHANES DE ARMAS

Mr. GRAHAM. Mr. President, I rise today to join freedom-loving Cubans throughout the world in celebration of the release of Mario Chanes de Armas, who has been incarcerated for 30 years as a political prisoner in Castro's jails. I am sure this long-overdue news of Mr. Chanes' freedom is a cause for rejoicing which is shared by my colleagues in the entire Congress. We eagerly await his arrival in the United States for a speedy reunion with his loved ones and friends, all of whom have suffered the pain of separation.

The tyranny of Fidel Castro, which victimized Mr. Chanes for an unprecedented length of time, still grips Cuba. Civil, political, and other fundamental human rights violations continue to plague that island nation. It is incumbent upon us to demand restoration of the most basic of human rights for Cuba's entire population.

While we celebrate today the release of the longest held plantado, we must not forget all the other political prisoners which Castro has deprived of freedom during his dictatorial reign. We must keep an international spotlight on the oppressive and tyrannical rule of Fidel Castro.

Let us call today on all the citizens of the world to demand that Cuba be allowed to join the community of free nations. Let that call go out from all corners of the globe to repudiate the Castro regime's inhumanity and persecution of its people. Let the Cuban people themselves decide if they want Castro to be their leader. Let the Latin American leaders meeting in Mexico voice this plea and insist that liberty and justice be restored to the Western Hemisphere's anachronistic holdout of totalitarianism, Cuba.

From Washington to Florida and around the world, let the keys to freedom and democracy open the cells of oppression for all the remaining Cuban political prisoners and for the entire population of the beautiful island of Cuba. Mr. President, we humbly offer this tribute in respect and admiration for Mr. Mario Chanes de Armas, a man whose sacrifices and staunch convictions should inspire us all.

LITHUANIA

Mr. PRESSLER. Mr. President, the protection of human rights is an international responsibility. These rights must be guarded vigorously. As the leading upholder of democratic ideals in the world, the United States shoulders a major role in human rights issues. Ironically, the concern for human rights has found expression even in the relations between two balloon associations, in America and in Lithuania. Who could have imagined, several years ago, that Lithuanian and American balloonists would reach across the miles to find common ground?

I was prompted to speak on this issue by a particularly heartrending letter I recently received. It was sent to me by the internationally renowned Soukup and Thomas Balloon Museum in Tyndall, SD. The letter was written by Violetta, a Lithuanian woman who described the terrible events which took place in the Lithuanian city of Vilnius on January 13, 1991. As chairman of the Lithuanian Balloon Association, she met Mr. Jacques Soukup, Mr. Kirk Thomas, and Becky Pope at a balloon rally in Vilnius in the fall of 1989. When I spoke with them about their experiences in Lithuania, they stressed the breathtaking beauty of that country, the warmth and generosity of the people there, and the fervent democratic aspirations of the Lithuanian people.

After the rally, the South Dakotans invited Violetta to visit them at a balloon fiesta which was to be held in South Dakota. Her balloon was the first Soviet balloon ever to enter the United States. Thus, a connection was made between the balloonists and cross-cultural ties were established. Consequently, Violetta turned to these two men to share her grief over the events of January 13. She described the frustration and desperation she and her fellow Lithuanians felt in their struggle for independence and freedom from Soviet repression. Violetta's plea was heard in South Dakota, and I am grateful to Jacques Soukup, Kirk Thomas, and Becky Pope for sharing her letter with me.

Mr. President, we were all horrified to see the bloody pictures depicting the terrible events of January 13, 1991. Soviet soldiers mercilessly beat and killed innocent civilians. Soviet troops opened fire on innocent civilians in Vilnius, killing at least 14 and wounding over 100. Then on January 20 in Latvia, Soviet Black Beret special forces attacked the headquarters of the Latvian Interior Ministry in Riga, leaving 4 dead and at least 11 injured. Those actions "offend America's deepest values," as Dr. Henry Kissinger was quoted in the Washington Post of January 22. We cannot remain silent when Soviet forces treat so brutally human beings who are struggling for freedom and the realization of democratic values in which we believe so strongly. These actions contradict Soviet progress on human rights. I hope they do not signify a reversal of that progress. The Soviet Union must establish its legitimacy to the rest of the world in human rights.

Those who have been watching and encouraging President Gorbachev must be sure not to lose sight of what is occurring in the smaller Soviet republics, such as the Baltic States and Moldavia. The use of brute force against people who peaceably seek democracy and independence is unacceptable. At the very least, we must make the Soviets aware that we do not approve of their repressive tactics and that continued use of such tactics creates serious obstacles to further improvement of United States-Soviet relations. The Soviets seek better relations with us. However, that is not possible so long as they abuse basic human rights. The Soviets stand at a threshold. They must make a decision whether to continue their current policies of aggression and repression, or to move toward genuine democratization, which means allowing freely elected governments to follow their chosen paths. A choice must be made.

Mr. President, I sincerely hope that Violetta and her fellow Lithuanians achieve the freedom they desire. All three of the Baltic States deserve governments and a way of life of their own choosing.

I ask unanimous consent that the letter from Violetta appear in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR KIRK: I hope you have heard about the events in Lithuania and as you have been here you can understand our determination to be free and independent perfectly well. Almost for the whole month I have not written any letters as I could not take a pen and a sheet of paper to do it. My heart was aching, my mind was empty of any words except of sorrow and sympathy for the dead. Among them there are two students from our university. Examinations have been postponed and our students kept vigil in Vilnius. The nightmare started on the 11 January when Soviet commandoes stormed the Press House and the first Lithuanian was wounded in the face with the hollow-nose bullet; on entering the body it tears it to pieces. After that people went to Vilnius to keep vigil there. My mother was there on the 13 of January but thank God she was at the Houses of Parliament at that crucial moment when the Soviet commandoes stormed the TV tower and radio committee in the early morning hours. She and the rest of thousands of people heard the shooting, explosions, and knelt and prayed as nothing could be done. There were lots of children and women at the Parliament, they were asked to leave the place by the MP's but nobody moved. The tanks came, stopped, searched the crowd with powerful, blinding lights but did not attack. They did not expect such determination of the Lithuanians. What concerns me, I almost went mad during that night. I did not sleep and eat for several days. That fatal night I watched TV, I saw the announcer with wide opened and horrified eyes, heard the shooting and swearing in Russian on TV, then they turned secret TV cameras on and we saw Soviet soldiers kicking and beating people in the corridors of the TV tower. Then everything went dark and silent. At the same time the radio transmission died and I heard the last words "we are still alive" were heard. And then the church bells began to toll and the sirens were turned on and it is difficult to describe what I felt. I went trembling, my hands and feet were icy, I was on the verge of a nervous breakdown. Everybody came to the town municipality to hear the news, there we learnt that the Parliament was functioning. Thank God there was a new TV station opened in Kaunas and it is the only one after almost the whole month. The Soviet soldiers still occupy the buildings they attacked on the 13 of January.

Gorbachev went too far. He decided to teach those "naughty" Lithuanians and now like Pontius Pilate is washing his hands openly. The impudent Russian democrats ask him what these red spots on his Novel dinner jacket mean. Those are spots of the bloodshed, of 580 people injured/impaired hearing because of the explosive grenades, mass legs under the armed cars, mounds of bullets and shells, and 15 people killed. The last one was shot only several days ago in the head by the soldiers. Though Gorbachev says that the troops have been withdrawn from Lithuania, that is a complete lie as everything else he says. The curfew exists in Vilnius and now the martial law is being imposed though it is illegal from both the Lithuanian and Soviet constitutions' point of view. We live under a great nervous tension that is being imposed by the Soviet Army and the Communists.

What is this and why is this? Who can we rely on? Who will understand? Who will hear our cry? Iceland was the first to hear but its mouth was shut by the Kremlin. Well, who will help us in our uneven struggle with the red dragon? We have been receiving only moral sympathy and help which helps Gorbachev to do whatever he likes in Lithuania and other Baltic states. We are left all alone. But God gives us strong determination and endurance. We have got our land, our language, our history and culture. We have got a strong desire to be free and independent. We have got wisdom and prayers to God. When the tanks were approaching the Houses of Parliament, thousands of people who were there knelt and prayed though they had been asked to leave the place. None moved while the tanks with their strong lights searched the crowds. I hope we shall survive.

I am sorry my letter is very emotional but I cannot do otherwise. I want everybody to know how things are going on here.

Hope to hear from you. Now I shall sign off.

Sincerely yours,

VIOLETTA.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the majority leader, pursuant to provisions in Public Law 102–62, the appointment of Gordon M. Ambach, of the District of Columbia, to the National Council on Education Standards and Testing.

S. 250 THE NATIONAL VOTER REGISTRATION ACT

Mr. STEVENS. Mr. President, S. 250, the National Voter Registration Act, is a good faith effort to make registering to vote easier.

The goal of the bill's proponents—to increase voter turnout—is a goal shared by everyone in this Chamber.

THE MOTOR VOTER REQUIREMENT

Most States also share the goal of providing their citizens an opportunity to register to vote when applying for a driver's license.

In fact, fully 27 States and the District of Columbia provide citizens an opportunity to register at their Departments of Motor Vehicles.

Furthermore, legislation was introduced in 17 other statehouses to establish some form of motor voter or agency based registration system.

States are enthusiastic about such programs. Fully 44 States have already instituted the concepts required by S. 250 or have bills before their State legislatures to begin them.

The enthusiasm of the States, however, is not translated into enthusiasm for the requirements of S. 250 because of the cost it entails.

The April 1991 Fiscal Survey of the States shows that 32 States are running a combined deficit of over $15 billion; 26 States are raising taxes by over $10 billion, the highest increases in the survey's history.

Another study shows that more than 25 percent of all major U.S. cities face a deficit exceeding 5 percent this year. There is simply no additional money for the unfunded mandates S. 250 will impose on State and local governments.

Thirteen States with over 36 percent of the Nation's population have told the Rules Committee that they have problems with the way this bill is written and the financial burden it would impose.

Ten of these States estimated their costs under S. 250 at over $87 million. My own State of Alaska estimated that these requirements will mean the equivalent of a 28-percent increase in the budget of its election division. This is despite the fact that Alaska already has all three forms of registration programs required by the bill.

Here is a list of the State and local government organizations that have criticized the unfunded mandates imposed by this bill:

The American Association of Motor Vehicle Administrators;

The National Association of Secretaries of State;

The National Association of Towns and Townships;

The National Governors Association; and

The National League of Cities.

These State and local government organizations are concerned because they know that programs like child nutrition or health care will have to be cut to pay for this bill.

Imposing these new costs on States is particularly hard to justify given that a link between the registration programs required by S. 250 and actual increases in voter turnout does not exist.

CRS looked at what happened in those States which adopted motor voter programs. In 7 of the 10 States with motor voter, turnout dropped. For all 10 States, voter turnout went down by 2.68 percent.

For the five States that have the more active form of motor voter somewhat similar to the requirement in S. 250, turnout in Presidential years went down by 6.21 percent. For non-Presidential elections, those States experienced a small increase of about one-half of 1 percent.

I support the idea of providing an opportunity to register to vote when applying for a driver's license, but this bill goes far beyond that proposition.

The bill forces States to register anyone who applies for a driver's license unless they specifically State in writing they don't want to register.

This automatic registration procedure will be expensive because the population elgibile to receive a driver's license is far larger than the population eligible to vote. It is expensive to sort out all of the ineligible voter registration applicants who will inadvertently register to vote.

People eligible to drive but not eligible to vote include everyone under 18 years old, convincted felons, and all out-of-State residents such as military personnel, students, temporary workers, and aliens.

Supporters claim sorting out ineligible applications is not a problem for the States who have motor voter now. The reason most States do not have this problem is because most States with motor-voter programs do not have the automatic registration feature required by this bill.

In fact, virtually all States that have motor-voter programs now would have to change them at tremendous expense to comply with this act.

The automatic registration requirement also increases the chances for inadvertent registration that could disqualify people for home State benefits. For example, students from Alaska that attend college in another State often are required to get driver's license in other States.

If S. 250 is enacted, and these students don't decline to register to vote when getting a driver's license, they will forfeit their scholarships, and could end up paying income taxes in the other State.

THE MAIL REGISTRATION REQUIREMENT

The bill would require all States to accept and process voter registration cards sent through the mail. Section 9(b)(3) of the bill also prohibits mail registration applications from including "any requirement for notarization or other formal authentication."

The Department of Justice warned the Rules Committee about mail registration under this bill. It wrote that S. 250:

> * * * would impose a sweeping requirement to allow mail-in registration while simultaneously limiting significantly the ability of the States to use a variety of techniques to verify the applicant's identity and eligibility.
>
> For this reason, S. 250's provision for registration by mail would entail a substantial and perhaps prohibitive risk of enhancing the opportunities of fraudulent registration and voting.

The Justice Department has good reason to fear the fraudulent effects of nationwide mail registration.

New York now has mail registration. After an investigation of systematic vote fraud in Kings County, NY, a grand jury concluded that mail registration, instituted in 1976, had become: "The principal means of perpetration election fraud" in New York.

The New York problem is so serious, that in 1988, Elizabeth Holtzman, a district attorney in New York, complained in the New York Times about "How easy it is to vote illegally" in that State.

Elizabeth Holtzman called for implementation of the grand jury recommendations which included a change in mail-in registration. Unfortunately, her pleas cannot be answered if S. 250 is enacted. This is because the bill would specifically forbid the changes to New York's mail registration called for by the grand jury.

West Virginia now has mail registration. After a series of indictments for voting fraud just last month, many election officials in that State want to get rid of mail-in registration.

This is a headline from a June 1991 Charleston Gazette: "Officials Criticize Postcard Registration; Voter Fraud Case Points to Misuse"

In this case, a special prosecutor said:

> One of the conclusions of this grand jury was that the mail-in registration system should be abolished as soon as the legislature can take action.

If S. 250 is enacted, a decision by the West Virginia Legislature to end mail-in registration will be in vain. S. 250 means that we will void the action of the West Virginia Legislature and force that State to continue a system being used to steal elections.

If mail registration was required in Illinois, one of the Justice Department's largest prosecutions of vote fraud would not have taken place.

Those who want to register today in Chicago must appear in front of registrars and may have to show identification. With S. 250, such precautions would be illegal.

If this bill passes it is likely that mail registration would quickly become the "principal means of perpetrating election fraud" in Chicago.

California experienced fraud with mail registration; that State had to hire a full time investigator to sort out bogus registration cards the State received through the mail.

Alaska requires postcard applications to be signed by two individuals over 18 years of age. Alaska's Governor wrote that this requirement is needed to heighten "the registrant's awareness of the serious nature of the voting laws." Alaska's witness precaution would be prohibited under the bill.

Alaska also requires out-of-State voter registration applicants to provide "identification or other documentation that supports * * * a claim to Alaska residency." This provision helps ensure that out-of-State nonresidents cannot bootstrap a claim to Alaskan State benefits from non-Alaska locations by filing phony registration applications through the mail. This bill would specifically prohibit this Alaskan precaution.

Another election fraud problem is noncitizens voting. The immigration and Naturalization Service examined a sample of ballots cast by foreign born voters in a 1989 U.S. House of Representatives special election. Fully 11 percent of these sample ballots were cast illegally by noncitizens. INS, also said the percentage of fraudulent ballots in the sample could be as high as 24 percent.

One way to prevent noncitizen voting in Federal elections would be to ask for documents establishing citizenship at the time of registration. Unfortunately, under S. 250's mail registration requirement, it would be illegal under Federal law to ask for proof of citizenship during registration.

In an effort to counter the threat of increased opportunities for fraud from S. 250's mail registration requirement, the bill would permit States to require new voters who have registered by mail to vote in person when they cast their first ballot.

This is not an effective precaution. First time, in-person voting turns the purpose of voter registration requirements in advance of elections upside down.

The reason most States have such requirements is to determine eligibility to vote prior to an election when there is time available to check the qualifications of a voter. S. 250 will mean States will have to determine a voter's eligibility on the day of election. This verification will have to be done by poll workers who may or may not have the qualifications to make such judgments.

THE AGENCY OUTREACH REQUIREMENT

The bill requires registration of applicants who use public assistance offices. The Justice Department wrote the committee that its experience:

> "* * * Demonstrates that public officials sometimes use their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party. S. 250 would increase substantially the opportunities for such intimidation and coercion of the public."

The Justice Department is not writing about a hypothetical problem.

Recently, the St. Louis-Post Dispatch reported on an investigation into allegations of political manipulation of public assistance recipients. In this case, public employees allegedly were registering public assistance applicants for one political party and telling them who to vote for. The public employees also allegedly drove public applicants to the polls. This abuse has apparently been going on for decades.

S. 250 would require public assistance employees across the Nation to become actively involved in the administration of elections and the result will be more manipulation and abuse of public assistance seekers.

Even if we don't have evidence of manipulation of public assistance recipients, S. 250 creates the appearance that assistance is linked to participation in the political system. This violates the American tradition of voluntary political participation. It is a bad idea and the Senate should reject it.

CONCLUSION

We should reject this bill because it will federalize the 18,000 separate election jurisdictions without doing anything to increase voter participation. Such federalization will lead to unnecessary expenses and will greatly undermine the integrity of American elections.

Senator DOLE and I have introduced a substitute which provides for grants to States to help them set up motor-voter programs.

This substitute is preferable to S. 250. Under it, motor voter will cost far less than S. 250 because the program will be more flexible. The substitute will not require mail registration and therefore will not increase the opportunities for vote fraud.

I urge my colleagues to oppose S. 250 and take a close look at our substitute when it is offered.

Thank you Mr. President.

S. 250—MOTOR-VOTER BILL

Mr. MCCONNELL. Mr. President, what I am about to say is heresy to some: The motor-voter bill is a solution in search of a problem.

To those for whom voting is the hallmark of good citizenship what I have said is blasphemy. Others, albeit few dare say so publicly, have joined me in saying relatively low voter turnout is a sign of a relatively content democracy. Low voter turnout is not indicative of impending doom or a nation in decline.

Behind every poll showing pessimism over the country's future is the reality that people are relatively content and optimistic about their own lives. A review of Gallup polls from 1979 to 1990 reveals that while the percentage of those satisfied with the direction of the country as a whole ranged from a low of 17 to a high of 66, a consistently solid 80 percent were satisfied with their personal lives.

While people believe government at all levels is incompetent at best, they nevertheless perceive elections and voting as marginal to their lives. Perhaps there is some cause-and-effect relationship there.

Charles Krauthammer expressed this view rather eloquently last year in an editorial for Time magazine. Mr. Krauthammer stated:

> * * * when almost every pundit wrings his hands in despair at low voter turnout—some even feel obliged to propose creative schemes to induce people to vote—I am left totally unmoved. Low voter turnout means that people see politics as quite marginal to their lives, as neither salvation nor ruin. That is healthy. Low voter turnout is a leading indicator of contentment. For a country founded on the notion that that government is best that governs least, it seems entirely proper that Americans should in large numbers register a preference against politics by staying home on Election Day.
>
> A few weeks ago, a producer from public television came to ask my advice about planning coverage for the 1992 elections. Toward the end, she raised a special problem: how to get young adults interested in political coverage. I offered the opinion that 19-year-olds who sit in front of a television watching politics could use professional help. At that age they should be playing ball and looking for a date. They'll have time enough at my age to worry about the mortgage and choosing a candidate on the basis of his views on monetary policy.
>
> To say that, of course, is to violate current League of Women Voters standards of good citizenship. Let others struggle valiantly to raise the political awareness of all citizens. Let them rage against the tides of indifference. They will fail, and when they do, relax. Remember that indifference to politics leaves all the more room for the things that really count: science, art, religion, family and play.

In another well-reasoned, intelligent article, James Kilpatrick argued:

> It seems to be taken for granted that a massive turnout of voters on election day is a good thing, a wholesome thing, an altogether splendid thing. Registering to vote is seen as a civic virtue. I view these assumptions as piffle.

Like these observers, I do not advocate low turnout, I just recognize it for what it is. And what it is not. It is not the most pressing issue of our time.

There is some irony in the professed concern of my colleagues across the aisle over the level of political participation. They passsed a campaign finance bill just 2 months ago that blocks citizens from participating in the process via limited and disclosed contributions to the candidates of their choice. To completely remove citizens from campaigns, 39 Democrats voted for full taxpayer funding of general election campaigns.

Mr. President, for the interest of Senators who support spending limits and the bill before us, I would like to make an observation about my State. The 1986 and 1990 Kentucky Senate races provide a contrast in spending and voter turnout. Both off-years, yet 239,000 more voters turned out in 1990 than 1986—a 35-percent increase. It is not coincidence that the 1990 race was more competitive, and expensive. It was also more interesting to voters, a clear choice between two ideologies.

The 1986 Senate race was virtually uncontested and within S. 3's spending limits. And a lot fewer Kentuckians bothered to vote.

The majority's campaign finance bill also severely limits the political parties' ability to conduct get-out-the-vote activities. As David Broder wrote in the Washington Post on June 2:

> * * * the Senate bill (and likely the House version as well) threatens new restrictions on state parties, limiting contributions they can accept for coordinated registration and get-out-the-vote campaigns. These efforts are at the heart of electoral democracy, but Congress is threatening to clamp down on them.

Now we hear all this concern over participation. Forgive me for being skeptical.

If we really want to increase turnout, we can tell voters more about the campaign finance debate and how Democrats want to make taxpayers pay for campaigns. That is a recipe for high turnout—angry voters.

In support of this bill, we will hear passionate speeches about the rise of democracy in Eastern Europe. Voices will boom: "Even the Soviet Union had a higher turnout in their Presidential election this summer than we did in 1988."

Mr. President, for the Soviet Union and Eastern Europe democratic elections are a novelty. The United States has been at it a lot longer. Rarely do we have such monumental issues at stake in our elections as new democracies do in theirs.

Supporters of liberalizing voter registration laws often lament our Nation's place in the bottom tier of western democracies in voter turnout. I would like to shed a little light on that argument.

The General Accounting Office studied this issue. The GAO noted that Italy ranks first in voter turnout, 94 percent; followed by Austria, 89 percent; and Belgium, 89 percent. The United States ranks 20th, 53 percent; followed by Switzerland in 21st place, 39 percent.

Mr. President, GAO observed that:

> The imposition of relatively small fines or other penalties can have a major impact on voter turnout. Austria, Belgium, and Venezuela impose fines or other penalties for failure to vote.
>
> In Italy, the nonvoter may have his name posted outside the town hall, and his identification papers may be stamped: "Did Not Vote for Five Years." It is widely assumed that Italian nonvoters are subject to discrimination in employment and other benefits. Not surprisingly, Italy has the highest voter turnout among the industrialized democracies, even though it ranks very low in political satisfaction and other attitudinal variables that facilitate voting.
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> The average voter turnout is about 10 percent higher in countries with penalties for not voting. The causal relationship between penalties and voting is fairly well established. For example, when two nations changed their laws on penalties for failure to vote, their turnout changed accordingly. In 1960, Costa Rica introduced penalties for failure to vote, and voter turnout subsequently increased by 15 percent. In 1971, the Netherlands eliminated all penalties for not voting, and participation then fell by 16 percent.

In Australia and New Zealand, failure to vote is a misdemeanor.

Of interest to those who blame our campaign finance system and voter disgust for low turnout, GAO observed in its study that:

> A popular explanation of our low and still declining voter turnout is that, unlike citizens of other democracies, Americans have become alienated from the political process. This argument assumes that Americans increasingly believe that politicians cannot be trusted and that the government is unresponsive ineffectual, or even corrupt. Sometimes the alienation is attributed to historical events that have occurred since the mid-1960's, such as the Vietnam War and the Watergate scandal.
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> While this is a plausible explanation, it is not supported by cross-national research on voting-related attitudes. Interest in politics, attention to political affairs in the media, and individual political efficacy are consistently higher in the United States than in the European democracies. Moreover, U.S. citizens are more likely than citizens of European democracies to engage in political activity such as working with others in their communities to solve problems, attending political meetings or rallies, and working in behalf of a party or candidate.
>
> While only 34 percent of Americans trust their government to do the right thing all or most of the time—compared to 76 percent of the Swiss and 55 percent of Austrians—higher levels of trust in government do not seem to be associated with higher voter turnout. For example, only 14 percent of the Italians trust their government, but they have the highest voter turnout among the industrialized democracies.

I do not see much to emulate in the turnout rates of other democracies. Those with the highest turnout coerce their citizens to vote. In the United States, people have the right not to vote.

Mr. President, declining voter turnout and registration procedure are issues meriting discussion and analysis. They do not require an expensive Federal mandate in the form of the bill before us.

Now let us check under the hood of the motor-voter bill and see how it works. The motor-voter bill would require State and local governments to register voters in three ways:

First, by simultaneous applications when applying for motor vehicle drivers' licenses;

Second, by applications received through the mail; and

Third, by applications through public assistance, unemployment, and vocational rehabilitation offices.

Clearly, this bill is going to cost States a lot of money to fuel it. Alas, Congress is about out of gas, so S. 250 would send the bill to the States. Cost estimates vary from $20 million to $200 million. Suffice to say it will be a lot of money. Shucks, the States will not mind. Or will they?

Most States have been struggling to devise budgets for fiscal year 1992. It is estimated that their combined deficit will be between $30 and $50 billion. Last year's combined deficit was $8 billion. In fiscal year 1992, California alone faces a $14 billion deficit. New York struggles with a $6 billion deficit. Texas is faced with a $4.5 billion deficit. Connecticut is in such bad shape that the Governor closed all nonessential government services. New Jersey is so destitute it's considering selling off part of I-95. My own State of Kentucky raised income taxes over a $1 billion last year.

Even the Governor of Oregon, who testified this spring in support of the bill, conceded that her State could not afford motor-voter and that is why a bill they passed is contingent on the Federal Government passing one.

Anita Tatum, the director of the voter registration for the State of Alabama, testified at length before the Rules Committee on the expense this bill would portend for her State. She also explained why this Federal mandate is not appropriate for Alabama. While some States have chosen to adopt similar systems, as Ms. Tatum noted: "Washington, DC, is not like Alabama. LA County is not like Alabama. Cook County in Chicago is not like Alabama." Officials in those other areas of the country no doubt would concur. Unfortunately, her views were not greeted with enthusiasm by the proponents of this bill.

Proponents of this bill say the cost is worth it because it will register more voters. It may register more people to vote. However, it does not follow that motor-voters will participate by driving to the polls and voting.

The Committee for the American Electorate studied this issue and at the outset made two notable observations:

> First, even at the apex of post-universal suffrage participation in 1960 when 62.8 percent of the eligible electorate voted, the United States had a rate of voter participation lower than most advanced democracies.
>
> Second, despite structural and demographic trends which would normally produce greater participation—general trend towards liberalized registration and voting laws; a more educated populace; declining national mobility and a general aging of the population—voter turnout continues to decline.

Low turnout is not a new phenomenon. The study notes that there are a number of reasons for the comparatively low turnout in this country as opposed to European nations: First, homogeneous rather than heterogeneous parties; second, parliamentary rather than Presidential democracies; third, fewer elections; and fourth, less complex systems of government and stronger parties, to name but a few.

The study goes on to say in regard to registration that:

> Declining voter participation cannot be attributed to problems in registration and voting law, since it has occurred during a time when registration and voting law generally has been altered to make registration and voting easier.

One of the reasons the study cites for declining turnout is declining political parties. As I noted previously, the campaign finance bill the Senate passed 2 months ago would further weaken the parties.

The study suggests that S. 250 is misdirected:

> The nature and scope of the nonvoting problem in America is such that creating the will to participate is by far the larger enterprise, since the number and percentage of Americans who voluntarily eschew the ballot box is by far greater than those who are blocked by legal, procedural, or administrative impediments.

Among the study's findings:

> It has been argued by many academic experts in the field of voting behavior that registration is the primary obstacle to voter turnout—that once a person is registered there is a nearly 90 percent likelihood that he or she will vote. That conclusion is not supported by this study (nor by other studies which have been conducted by the Committee).
>
> In this study there was a positive correlation between increments in registration and increments in turnout in some elections (although never at or near the level of 90 percent) and no such positive correlation in other elections, clearly indicating that political factors rather than registration are more determinative of turnout.
>
> In addition, the study found that when the existing registration pool was expanded, the likelihood of those additional registrants voting decreased.

The bill before us is supposed to increase voter turnout. There is no concrete evidence that it will do so; in fact, there is ample indication that it will not. The very premise of this bill—that it will increase participation—is seriously in doubt.

Mr. President, I have a number of concerns over this legislation including efficacy; expense; and election fraud. The latter is of tremendous concern to me.

Kentucky, my home State, has many traditions. Among the more infamous is our history of election fraud. It is a persistent problem and one which certainly is not confined to Kentucky. That is one very important reason so many States do not want the Federal Government to mandate voter registration procedures.

Perhaps the most disturbing aspect of the motor-voter bill is its potential to foster election fraud and thus debase the entire political process in this country. Several provisions of this bill have caused alarm among State and Federal officials who are charged with ensuring the integrity of our electoral process. That is why the motor-voter bill is acquiring a new nickname: auto-fraud.

We have a duty to protect the integrity of the electoral process for all Americans. While making registration and voting virtually effortless may boost turnout, it surely would undermine the integrity of the process.

One of the most dangerous provisions is the escape clause for States that cannot afford to or would rather not comply. States that have election day registration would not be subject to the provisions of the bill. This is a very dangerous proposition, one that has been largely overlooked in this debate. The cost to States of complying with

S. 250 make any escape clause attractive.

The Justice Department has said that the escape clause—election day registration—"* * * would greatly impair the ability of the Department and the States to combat voting and election fraud * * * [and] would totally preclude meaningful verification of voter eligibility, and thus allow easy corruption of the election process by the unscrupulous."

The Department delineated the dangers of this provision in a letter to the chairman of the Rules Committee in April:

> Of all the registration reforms which Congress has considered over recent years, from a law enforcement perspective this idea is by far the most troubling. Our objections to election-day registration rest on the following considerations:
>
> (1) Registering voters at the polls on election day totally eliminates the ability of election registrars to confirm a voter's identity, place of residence, citizenship status, felon status, and other material factors bearing on entitlement to the franchise.
>
> (2) Requiring voters who wish to register on election day to provide some form of identification before being permitted to vote does not respond to the fraud problem. Most commonly used identification documents can be easily faked. Thus, a single false identification can be used by the same voter to cast ballots under assumed names at numerous polling locations.
>
> (3) Merging into one simultaneous act both the registration process and the voting process dramatically increases the risk of voter-bribery, since corrupt political operatives interested in targeting prospective voters for payments will no longer be confined to the preexisting names on registration lists. This problem is exacerbated by the fact, as we have observed in prosecuting and supervising hundreds of vote-buying cases, that individuals who accept payment for their votes do not have a strong interest in candidates and issues, nor do they tend to see the act of voting as a civic duty. Thus, for a few dollars, they are easily manipulated into giving up their franchise.
>
> (4) The ballots of election-day registrants are liable to be tabulated before an irregularity can be ascertained. There is thus the realistic danger of irreversible damage to the integrity of the election, even in those instances where illegal registration and voting are later discovered.
>
> (5) Although election-day registration may work reasonably well in rural and sparsely populated states, it is extremely doubtful that it would be at all successful in many states with mobile and urbanized populations which have experienced significant levels of local and state governmental corruption.

The FEC's new role in regulating all State voter registration systems is not reassuring and does not alleviate concern over fraud. The Washington Post reported earlier this week that the FCC hasn't even finished auditing candidates from the 1988 Presidential elections. To facilitate all the new employees this bill and the campaign finance bill of 2 months ago would necessitate, we might have to kick the military out of the Pentagon to make room for the FEC army.

Mr. President, other provisions of this bill invite fraud as well. As the Department of Justice has stated:

> * * * some of the registration techniques mandated by the bill are fraught with the potential for fraud if adequate verification methods are not used in light of local conditions, and because of the strict limitations on standard means of purging voting lists of stale names, the bill would present a serious potential for increased voting fraud and electoral corruption. Voter registration laws are one of the principal protections against election fraud, and any changes to registration requirements must take into account the potential for increased fraud resulting from the changes.

Those who are concerned about election fraud are highly critical of the mail registration provisions of this bill. The Department of Justice notes that:

> Registration by mail is much more susceptible to misuse because a would-be registrant never has to appear in person before a registrar for verification of identity and eligibility. The Department's experience with voting fraud cases to date has not conclusively shown whether registration by mail has a substantial impact on the incidence of voting fraud or not—we simply don't know. Most of the States which already have registration by mail also have in place a variety of procedures for independently confirming the information provided in voter registration applications. These verification procedures, though clearly not perfect, at least help to minimize the opportunities for voting fraud.
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> By contrast, S. 250 would impose a sweeping requirement to allow mail-in registration while simultaneously limiting significantly the ability of the states to use a variety of techniques to verify the applicant's identity and eligibility. For this reason, S. 250's provision for registration by mail would entail a substantial and perhaps prohibitive risk of enhancing the opportunities for fradulent registration and voting.

Government agency-based registration also presents problems in combating election fraud. Social service and other Government employees are not experienced or trained in election procedures. Furthermore, as the Department wrote to Senator FORD, agency-based registration would:

> * * * risk various forms of intimidation of the public. In at least some circumstances, people seeking tax relief, public assistance benefits, building permits, etc, could easily be given the impression that they have to register, or register for a particular party, in order to please the administrator in whose hands the fate of their application rests. The Department's experience demonstrates that public officials sometimes abuse their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party. S. 250 would increase substantially the opportunities for such intimidation and coercion of the public. While Section 5(a) of the bill would ostensibly require the personnel assisting applicants with the completion of their applications not display any political preference or party allegiance or seek to influence the applicant's political preference or party affiliation, we think it would be overly optimistic to expect that this prohibition will be sufficient to deter influence and intimidation.

Many State officials have expressed concerns over election fraud under this bill. Governor Wilder of Virgina stated in a letter to Senator WARNER, a member of the Rules Committee, that S. 250 would "* * * open the door to fraudulent voting." Even the executive director of the D.C. Board of Elections, which currently has motor-voter, pointed out that S. 250, which registers all driver's license applicants unless they stipulate they do not want to, would open up the possibility of "inadvertently and routinely bringing on underaged drivers, noncitizens, nonresidents, felons, and other persons not qualified to vote."

Not only is this bill financially burdensome on States, and probably useless in increasing turnout, it also may undermine the very integrity of the electoral process. For that reason alone, Members should vote against it.

Mr. President, proponents of this bill say they just want to make it easier to vote. We should ask ourselves: How easy should voting be? Is it too much to ask that people have a passing interest in the political process 10, 20, or 30 days prior to an election? It is no secret that every 4 years in November there is a Presidential election.

If we just want to make voting as easy as possible, then technology may be the answer. Interactive television could be the panacea. Turn to "VOTE-TV", press the remote control button corresponding to the candidate of your choice shown on the screen and do your bit for democracy. Why, you could get back to "Jeopardy" or "Entertainment Tonight" before the commercial break ends.

There are (900) telephone numbers used for a variety of purposes, including fundraising. Perhaps a new number: "(900) VOTE-NOW." Dial for Democracy.

This is what the prerecorded message might sound like:

> Good afternoon. You have reached "Dial for Democracy," the voter-friendly service. Please enter your social security number, now (simulate dialing).
>
> Thank you, if you would like to review the ballot for today's election, dial "1" now. If you would like to vote a straight ticket, dial "2" now. If you would like to vote individually in each contest, dial "3" now. For more options, dial "4" now.

Perhaps to further stimulate turnout, voters could automatically be eligible for a national lottery. We could just pay people to vote. That is what they do in parts of Kentucky. In fact, paying people to vote may be less expensive and more effective than this absurd bill before us today.

This is an extreme illustration of making voting easy, but I wanted to make a point. How easy does it have to be? Would we serve our constituents by making it easy at the risk of increased voter fraud, increased taxes, or decreased social services? No.

Mr. President, we would do America a service by defeating this bill.

THE MOTOR-VOTER BILL

Mr. HATFIELD. Mr. President, I am pleased to be on the floor today as an advocate for increased voter registration. I know of no greater pursuit as a Member of this body than increasing access to our democracy and enhancing the opportunities for our citizenry to participate in their government.

My friends, if we don't achieve cloture on the motion to proceed today, or even this year, it will not be a failure. I am confident that we will debate this bill, if not today, then in the future. Because the problem of low voter turnout in our Nation has grown too serious to pass over just because the choices available to us are deemed controversial.

Furthermore, the concept of easing voter registration by linking registration to the driver's license procedure in each State is a simple, and extremely effective, solution. It makes good sense and with the appropriate fraud protections in place, it will provide a much-needed update to our current system. A system which is neither yielding the results nor the opportunities we all expect from it.

As many of my colleagues know, last year I had strong reservations about this legislation, particularly in the provisions protecting our system from voting abuse. I was however, committed to working with my good friend and colleague from Kentucky, Senator FORD, to correct these concerns. The legislation that we jointly bring to the floor today is vastly different from last year's version. I am confident that it adequately addresses concerns regarding voting abuse, and advances a three-tiered registration procedure which will genuinely improve our current voter registration system. It deserves the bipartisan support of our colleagues.

The arguments against S. 250 are in my opinion, lacking in substance. Recently, one high ranking State election official testified in a Rules Committee hearing that the large number of new voters that would be generated by this legislation would exceed the capabilities of their current polling places. Mr. President, it seems that this gentleman has made my point for me. I would be delighted if additional polling places were required to deal with increased voter turnout in the country—is that not a worthy goal? Am I one of the few Members of this body willing to admit that this is a goal worthy of my support?

Yes, this bill may require additional funds targeted to accommodating new voters. But should cost alone be a barrier to voter registration? Then are we telling America that we want increased numbers of voters, but only until our current polling places are full? I cannot accept that Mr. President.

I believe we have a responsibility to increase voter registration and therefore, assist the States in meeting these higher costs. Therefore, we have provided a postal rate reduction in the bill which the CBO predicts could save each State up to $4 million annually. This provision will allow States to mail voter-related material at reduced rates.

This bill also will yield savings in the future from the streamlining of the voter registration process. Currently a large amount of voter registration takes place shortly before each election and election officials are forced to hire part-time employees to deal with the overload. Under S. 250 registration will occur throughout the year and the CBO projects that this will save States $10 million in Presidential elections and $7 million in general elections each election cycle.

Finally, many opponents of this bill cite that it mandates computerization of the voting rolls. S. 250 does not require this additional step. Numerous States already have motor-voter laws successfully implemented without elaborate computer systems.

Mr. President, I must also briefly address the issue of States rights. Like many of my colleagues, my start in public service was at the State level and I am always weary of the Federal Government impeding on States' rights. This bill does address a subject traditionally left to the States. However, it is crafted to provide great flexibility to the States in implementing new registration procedures. It will be more convenient, more accurate, and more cost effective than our current system once it is fully implemented.

The issue of low voter turnout has reached such staggering proportions that we can no longer afford to blame voter apathy as the culprit. In the last congressional elections only 36 percent of the Nation's eligible population participated by casting a vote. Our citizens are discouraged from registering to vote by numerous factors. Our voter registration procedures are complex and imposing. I strongly believe we can make improvements with this legislation and I urge the full support of my colleagues.

Mr. SPECTER. Mr. President, I am opposed to invoking cloture on the pending motion to proceed on S. 250 because, once again, there has not been any discussion at all on this motion.

I have always supported increased voter registration. I am proud that Pennsylvania has recently begun voting registration drives at State unemployment and welfare offices. For too long citizens of our country have been denied the right to vote because of difficulty in registering quickly and effectively. But opponents of this bill have mounted persuasive arguments that portions of this bill—in particular the portion mandating mail-in registration—could potentially lead to instances of fraud. As a district attorney in Philadelphia, I found instances of election fraud to be the gravest threat to our democracy. Any legislation affecting voting registration must be carefully crafted to address this fraud issue.

Over the last few months, I have met with the president of Pennsylvania's League of Women Voters, Diane Edmundson, who argued very forcefully that this legislation is vital. My staff has also met with disabled rights groups and civil rights groups who are supporting legislation. I consider their input very important.

I believe it is inappropriate to invoke cloture, even on a motion to proceed, before there has been any debate at all on that motion.

Mr. SIMPSON. I rise to briefly express my opposition to this procedural vote which would force this body to begin consideration of what I consider to be a very flawed bill. I am referring to S. 250, the motor-voter legislation. I intend to be actively involved in that debate with much more extensive comments.

The primary problem I have with this legislation is that it is based on such a faulty premise. It is a grave error to think that low voter turnout is the result of perceived barriers to voter registration. I am fully convinced that when citizens feel that their votes will have an impact, they will then register and cast their ballots. I believe that the real problem in this country is that the ordinary citizen feels that special interest money and organizations have drowned out his or her vote in the electoral process. This causes voter apathy and results in a decreased desire to register and vote. For that reason, I was proud to be an original cosponsor of the Republican alternative to the campaign finance reform bill. Our bill would ban PAC's, eliminate soft money or sewer money in congressional campaigns, and would further reduce the amount an individual, who resided outside a candidate's State could contribute.

Instead of targeting the root cause of voter apathy, this bill would paternalistically impose the strong arm of the Federal Government into functions, which States such as Wyoming, have historically performed so very well.

This bill calls for motor-voter registration, mail registration, and registration in designated Federal, State, or private locations. Registration services would have to be available in government offices which provide public assistance, unemployment compensation, vocational rehabilitation, fishing and hunting licenses, and in government revenue offices.

My State already has an efficient voter registration procedure that has allowed us to maintain one of the highest voter turnout percentages in the Nation. Totally overlooked by this legislation are the costs of training all of the additional registrars. Not one Federal dime is authorized for these training costs, and I anticipate significant additional costs will be incurred in order to maintain an on-going training program for new hires, for hiring additional State personnel to supervise compliance with the law, and to increase salaries of the employees who didn't bargain for those additional registration responsibilities.

S. 250 is a bill in the truest sense of the word. The States will have to pick up the tab for this misguided Federal intrusion.

Instead I support and am cosponsor of S. 921, a more rational substitute sponsored by Senator DOLE and Senator STEVENS. S. 921 would enhance State efforts at voter registration without requiring Federal intervention. It would avoid one of the greatest weaknesses of the motor-voter bill, specifically the unfunded costs to the State and local governments. S. 921 would lend a helping hand to States by authorizing a total of $25 million over 3 years in grants as an incentive for States to implement and improve voter registration procedures. Unlike S. 250, implementation of these procedures would be completely voluntary. To be eligible for these grants, States would be required to match any amount of Federal funds dollar for dollar with State funds. S. 921 also beefs up Federal and State abilities to combat election fraud and public corruption. It is the type of bill that we should be considering in the Senate—not this "motor-voter" bill which mandates that States, like Wyoming, which are doing a darn good job in voter registration change their system, by Federal directive, with large unknown cost to State and local governments.

For these reasons I oppose S. 250 and oppose efforts to force the Senate to consider this legislation.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The hour of 10 o'clock having arrived, by unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes:

Wendell Ford, Jeff Bingaman, Daniel K. Akaka, Max Baucus, Timothy E. Wirth, J.R. Biden, Jr., George Mitchell, Richard Bryan, Bob Kerrey, J. Lieberman, Pat Leahy, Brock Adams, Daniel K. Inouye, Bill Bradley, John F. Kerry, Frank R. Lautenberg.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

VOTE

The ACTING PRESIDENT pro tempore. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 250, the National Motor-Voter Registration Act, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON] is necessary absent.

I also announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

The PRESIDING OFFICER (Mr. FOWLER). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—41

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Dixon
Pryor

The PRESIDING OFFICER. On this vote, the yeas are 57 and the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, parliamentiary inquiry. What is the Senate's business?

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2622, the Treasury-Postal Service appropriations bill, which the clerk will report at this time.

The assistant legislative clerk read as follow:

A bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 20, 1992, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Helms/Thurmond Amendment No. 734 (to committee amendment beginning on page 59 line 7), to make it a Federal crime for a doctor, dentist or other health care professional who has AIDs and knows it to preform invasive medical procedures without informing the patient.

Mr. DOMENICI. Mr. President, this unanimous-consent request has been cleared on both sides. I ask unanimous consent that the pending amendments be laid aside, and that it be in order for Senator HELMS to offer his amendment regarding child pornography, notwithstanding the provisions of the previous order.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. DOMENICI. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, the unanimous consent with reference to the four amendments we are to consider today provides that the Helms amendment on AIDS was supposed to be first amendment; is that correct?

The PRESIDING OFFICER. The Chair does not have knowledge of the subject matter of the Senator's amendment. But under the previous order, the Chair's understanding is that the Helms second-degree amendment to the pending committee amendment was the order.

That has now been laid aside under the unanimous-consent request of the Senator from New Mexico to allow the Senator to offer his child pornography amendment.

Mr. HELMS. What I propose to do, is proceed with the amendment on child pornography.

The PRESIDING OFFICER. The unanimous-consent request just adopted, the Chair informs the Senator, allows the Senator from North Carolina to offer his child pornography amendment at this time.

AMENDMENT NO. 780

(Purpose: To ensure that criminals convicted of child pornography offenses serve time in prison)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself and Mr. THURMOND, proposes an amendment numbered 780.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

SEC. .

(1) Pursuant to its authority under section 994 of title 28, United States Code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

(a) guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(b) guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limited to transportation, distribution, or shipping);

(c) guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level increase for possessing 10 or more books, magazine, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor;

(d) section 2G3.1 to provide a base offense level of not less than 10;

(2)(a) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days after enactment, whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supercede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

(b) The provisions of section 944(x) of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.

Mr. HELMS. Mr. President, may I ask who is controlling the time for the opposition, if there is any?

The PRESIDING OFFICER. The Chair advises the Senator from North Carolina that, under the order, the majority manager should be controlling the time.

Mr. HELMS. Maybe that is a good omen, Mr. President. Maybe there is no opposition to the amendment, and I would be surprised if any Senator does oppose this important amendment.

Mr. President, this amendment increases the sentences for smut peddlers convicted of transportation, receipt, or possession of child pornography. The Sentencing Commission recently, for some unbeknown reason, decided to reduce the sentences for these smut peddlers so low that most of these convicted smut peddlers and pedophiles will receive, at most, probation.

As I said last week, what goes on in this country? This was not the intent of Congress when it passed child pornography bills in 1988 and 1990.

So, in effect Mr. President, the Sentencing Commission has undermined Congress' attempt to assure severe punishment for dealing in child pornography. I want to turn that around. I want to say to the Sentencing Commission, "You made a mistake; now you correct it." The Helms-Thurmond amendment ensures that criminals will receive serious punishment for child pornography offenses, not a mere slap on the wrist.

The amendment instructs the Sentencing Commission to increase the penalty for child porn offenses so that offenders will serve at least some time in jail.

Mr. President, this amendment has the support of groups all across this country. For example, the National Coalition Against Pornography, the National Women's Leadership Task Force, the Religious Alliance Against Pornography, the Children's Legal Foundation, Morality in Media, and others.

I can already hear from some quarters, like the ACLU, "What is the big deal with pornography? It does not hurt anybody."

I have news for them. It hurt our defenseless young children. I am standing on this Senate floor precisely because pornography, and especially child pornography, causes enormous damage. It destroys young lives and eats away at the very moral foundation of this country.

Let me illustrate. In 1986, the Senate Subcommittee on Investigations found that child pornography was directly connected to child molestation. The experts testified that users of child pornography are frequently pedophiles.

A Los Angeles police detective testified that he estimated that among the 700 child molesters he himself had helped arrest, more than half had child pornography in their possession at the time.

Furthermore, child molesters testified that they used child pornography to persuade children to engage in sex acts or to pose for pictures. And the Senate report concluded that:

> Child pornography plays a central role in child molestations by pedophiles, serving to justify their conduct and assist them in seducing their victims.

We are talking about mere babies.

There have been dozens of studies by respected experts who come to the same conclusion—child pornography is indeed a cause of child molestations.

Mr. President, I ask unanimous consent that a compilation of the research on child pornography, along with the 1986 Senate report, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. I thank the Chair.

The question is, Why would the Sentencing Commission lower the penalty for child pornography? It baffles me. To be honest, I am not sure why they did it, but let me tell you what happened.

The 1990 crime bill created a new offense for possession of child pornography. There is an existing offense for receipt, transportation, or trafficking in child porn, which had a base level of 13. So what did the commission do? It decided to put receipt down with possession and give it a base level of 10, which means that criminals can get off with a sentence of just probation.

The President, the receipt offense should not be classified with the possession offense. Prosecutors usually obtain convictions for receipt of child porn based on reverse-strings. And experts say it is very difficult to prove trafficking and therefore they use the receipt offense more often. Furthermore, a person who purchases and receives child porn is actively supporting the child porn industry.

The Department of Justice concurs that receipt should not be classified with trafficking. The Department sent me a letter stating:

> The Department strongly believes that receipt of child pornography should be grouped with trafficking violations and not with the new possession offense. Reducing sanctions for receiving child pornography would send the wrong message to those who may consider violating the law.

Second, Mr. President, a base level of 10 is just too low, because the defendant usually gets probation or home confinement—no prison time. The current guideline is already too lenient. So what does the Sentencing Commission do? Instead of increasing the sentencing guideline, they reduce it.

I sincerely believe that we must increase the sentencing levels for child porn if we want to stop child molestations and put a dent in the child porn trade.

So my amendment increases the level for possession from the proposed 10 to 13, and it increases the level for receipt from 13 to 15. This ensures that these criminals will do some minimum time in prison and reflects the intent of Congress expressed in the 1990 and 1988 crime bills.

Mr. President, the Helms-Thurmond amendment provides real punishment for child porn crimes, instead of slaps on the wrist. For the sake of our children, I urge Senators to support the amendment.

I ask unanimous consent that copies of letters from the Department of Justice and several groups be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

RESEARCH ON PORNOGRAPHY: THE EVIDENCE OF HARM

(From the National Coalition Against Pornography)

CHILD PORNOGRAPHY

The Problem

The National Coalition for Children's Justice (Ken Wooden)

Between 1981 and 1985, child sexual abuse (including having pictures taken pornographically) rose by 175%.

The National Obscenity Enforcement Unit (Testimony before the Senate Judiciary Committee, June, 1988)

"Review of recent law enforcement statistics and studies, as well as scientific research, reveals the devastating effect obscenity and child pornography are having on our nation.

Ann Burgess, Professor at the University of Pennsylvania (Federal grant to study child pornography)

Pornography depicting children is used by child molesters to convince children that deviant sex acts (which all child sex abuse is) are normal—thereby breaking down their resistance. Her later study (1987) found that victims of child sexual abuse have symptoms of chronic or delayed posttraumatic stress. It causes multiple psychological problems which may take years to resolve.

Pierce (1984)

Sexually exploited children involved in the pornography industry are usually recruited among runaways, although some may use neighborhood children or their own children.

The Nature and the Extent of the Problem

Report of the U.S. Congress Permanent Subcommittee on Investigations on Child Pornography and Pedophilia (1986)

"No single characteristic of pedophilia is more pervasive than the obsession with child pornography. The fascination of pedophiles with child pornography and child abuse has been documented in many studies and has been established by hundreds of sexually explicit materials involving children.

"Detective William Dworin of the Los Angeles Police Department estimates that of the 700 child molesters in whose arrest he has participated during the last ten years, more than half had child pornography in their possession. About 80% owned either child or adult pornography.

"Each convicted child molester interviewed by the Subcommittee either collected or produced child pornogrphy, or both. Most said they had used the material to lower the inhibitions of children or to coach them into posing for photographs.

"It is not unusual for pedophiles to possess collections containing several thousand photographs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities.

"'The maintenance and growth of [the pedophile's] collections [of items related to children] becomes one of the most important things in their life. Child pornography exists primarily for the consumption of pedophiles—adults whose sexual preference and attraction is to prepubescent children. If there were no pedophiles, there would be little child pornography other than that involving adolescent children.' (Special Agent Kenneth Lanning, FBI)"

"Based on the information obtained during its investigation, the Subcommittee has reached the following general conclusions:

Child pornography plays a central role in child molestations by pedophiles, serving to justify their conduct, assist them in seducing their victims, and provide a means to blackmail the children they have molested in order to prevent exposure.

The vast majority of child pornography in the United States constitutes a small portion of the overall pornography market and is deeply underground. Unlike the adult pornography industry, it is not significantly influenced by organized crime.

It is extremely difficult, if not impossible in some cities, to purchase true child pornography at adult bookstores. The overwhelming majority of child pornography seized in arrests made in the U.S. has not been produced or distributed for profit.

The seizure by the U.S. Customs Service of imported child pornography, especially from Denmark and the Netherlands, has declined dramatically since late 1984 due to increased diplomatic and law enforcement pressure, American news media reports and increased caution shown by American child pornography customers.

The membership of known pedophile-support groups in the United States is probably less than 2,000. While many of the groups' members have been convicted for child sex crimes, the groups themselves are not involved actively in large-scale criminal conspiracies, such as commercial child pornography rings.

The Child Protection Act of 1984, which made illegal all distribution of sexually explicit material involving children, has been highly successful, leading to a substantial increase in federal prosecutions and the placing of higher priorities on such investigations. Since passage of the law two years ago, the Department of Justice has won 164 convictions on child pornography violations; in the previous six and one-half years, there were only 64.

While the awareness of many police agencies about child sexual exploitation has improved greatly, many still do not have the training, staff or inclination to recognize promptly and investigate potential leads to crimes involving child pornography or child sexual abuse."

Southern California Child Exploitation Task Force

It is "dangerously inaccurate" to presume that "because there is not widespread *commercial* distribution of child pornography in the U.S.," that therefore "significant law-enforcement effort in the area of child exploitation is not warranted. The threat imposed on our children has little to do with [that] aspect of the child pornography business."

Burgess (1984) (A study in Jefferson County, Kentucky)

"37 percent of the prostitute group admitted to having been involved in pornography; only 18 percent of the non prostitute group reported involvement in pornography. 38 percent of the runaways were involved in prostitution, and 15 percent of the runaways were involved in pornography.

"Identifying and tracking missing children is vital to curbing the victimization of children. Over 86 percent of Jefferson County children involved in child prostitution and pornography were, at the time of those activities, runaways or missing.

John Rabun, Exploited and Missing Children Unit, Louisville, Kentucky

"The Police/Social work team of the Exploited and Missing Child Unit (EMCU) of Louisville, KY investigated 1,400 cases of children suspected of being victims of sexual exploitation. Over 40 major cases involved the successful prosecution of adults involved with over 12 children each. One case involved 320 children. At the time of the arrest and/or service of search warrants, all 40 of these adult predators were found with various forms of adult pornography, and in most cases child nudes and/or child pornography were also found.

The National Obscenity Enforcement Unit

"It has been most successful in its efforts. Prosecutions for child pornography are up by 80% in the last fiscal year (1987) and obscenity prosecutions are up by 800%."

David Duncan (1988) Southern Illinois University

He did a content analysis of twenty-five years of homosexual pornographic magazines sold in adult bookstores of two major US cities. Dr. Duncan found the frequency with which clearly underage models appeared in such legally available magazines has declined to zero, due to the recent legislation prohibiting child pornography. Suggestions of child pornography remained, however, in the frequent use in porno magazine titles of such words as 'boy,' 'young' and 'teen' although the models were no longer adolescents. Youthful appearing models achieved star billing in what the Attorney General's Commission on Pornography has named 'pseudo-child pornography.'

"The final decline (of child pornography) in the late seventies may have been in response to the pressures building against child pornography which led eventually to that legislation. To a large extent it probably reflects the impact of child abuse programs emerging in the seventies, since most of the child models appearing in such pornography are likely to be incest victims being exploited by their parents or other adults."

But the fact that there is a demand for such material is clearly indicated by the continued presence of the new pseudo-child pornography.

Pseudo-Child Pornography

Judith Reisman (1987)

"A content analysis of Playboy, Penthouse, and Hustler magazines, December 1953 to December 1984, yielded 6,004 child images. Newsstand available child imagery in the content of erotica/pornography increased nearly 2,600% from 1954–1984. 80% of the children were actively involved in all scenes; and each magazine portrayed children as unharmed and/or benefited by adult-child sex."

David A. Scott (In Pornography; A Human Tragedy, 1987)

"Judith Reisman (1985) found that from the first issue of Playboy in 1954, children in cartoons (or photographs of adults dressed to suggest children) have appeared in sexual contact with adults, and the frequency and intensity of these contacts has increased through the years. The dominant impression was that child/adult sex is glamorous, thereby enhancing the impression that these activities are harmless. Magazines can escape the letter of child pornography laws while still implying that sex with children is desirable and readily available. And these magazines, of course, are sold in the open."

Don Feder (Boston Herald, 10/27/88)

"The October issue of Playboy contains a five-page rebuttal to the so-called Reisman report. Odd that a publication with a circulation of 3.5 million would devote so much space to answering what it assures us is preposterous stuff. Some experts believe [pseudo-child pornography] encourages sexual abuse, both by exciting perverted passions and fostering the belief that the child actually is an eager participant in the act."

"Pornographers protest their innocence, while facilitating the victimization of our children."

Does Pornography Promote Abuse?

The National Obscenity Enforcement Unit

They now teach their investigators at all of their seminars "to look for pornography at the scene of sexual crimes involving children."

"It is beyond debate that molestation of children is, in part, caused by consumption of pornography."

John Rabun, Exploited and Missing Children Unit

"Over 4 years, the EMCU team learned to expect to always find adult pornography since it was used for the offender's own arousal; self-validation of their own sex deviations; extortion of child victims or other adults; and deliberate and planned lowering of inhibitions of child victims."

The Badgley Report (1984)

The report found that almost 60% of both male and female juvenile prostitutes had been asked to be the subject of sexually explicit films or photographs; 12% of the girls and 20% of the boys had actually been used in making pornography: juvenile prostitutes are a high-risk group in regard to being exploited by pornographers.

Two smaller American studies emphatically confirm this finding (Burgess: 75 percent of youth hustlers had participated in pornography; John Rabun: 37 percent had participated).

The 1982 URSA Study: concluded that there exists a "slight" relationship between juvenile prostitution and pornography. There, 27 percent of the young male prostitutes had been photographed by a "john"; of the 54 young male hustlers for whom information was available, 9 had been photographed for commercial pornographic magazines. In the face of that evidence it seems impossible to deny the existence of a significant link between the exploitation of minors in prostitution and in pornography.

Extant studies of juvenile prostitutes showed less incidence of participation in pornography than is the real case because by its very nature one item of pornography can be viewed contemporaneously by many patrons and for repeated sittings. The demand for pornographic performers will always be a tiny fraction of the demand for prostitutes.

Surgeon General's Workshop on Pornography (June 24, 1986)

19 nationally and internationally recognized clinicians and researchers achieved consensus on the statement that "children and adolescents who participate in the production of pornography experience adverse enduring effects."

Southern California Child Exploitation Task Force (1988)

It is the longest existing task force in the U.S. and has prosecuted all the child pornography and Federal child abuse cases in the Central District of California during the past 10 years.

"According to the U.S. Customs Service, a conservative estimate of the number of pedophiles in the U.S. is 15,000. It is impossible to determine accurately the number, because pedophiles do everything possible to avoid detection."

"We have frequently gone into homes with search warrants for child pornography and discovered children living in the home who have been molested by the person who is the target of our child-pornography investigation."

"We have discovered photographs of the pedophiles molesting children."

"We have found convicted child molesters as well as individuals who were providing children to molesters."

"One of the men we prosecuted had 50,000 photographs of noncommercial child pornography in a storage locker. He admitted molesting several hundred children following his release from a state hospital for a child molestation conviction. He even maintained a ledger listing those molestations. He taught swimming and tennis to youngsters, some of whom became his victims."

"A convicted child molester who was the subject of one of our investigations was found, after he had ordered materials, to have homemade child pornography in his house—including a video tape depicting him molesting a child who was clearly under the influence of drugs or alcohol."

Some articles written in pornographic magazines call attention to a few cases in which individuals (who claimed neither to be sexually active with children nor to possess child pornogrphy) were the subjects of search warrants after they ordered child pornography from undercover Government agents. While Government operations occasionally identify individuals who are not suitable for prosecution, those cases are the exception, not the rule.

M. DOUGLAS REED, PH.D.,
Vice President, National Leadership, National Coalition Against Pornography.

SENATE REPORT 99-537 ON CHILD PORNOGRAPHY AND PEDOPHILIA, OCTOBER 9, 1986

I. INTRODUCTION

A decade ago, the sexual abuse of children was a subject that came to the attention of most Americans infrequently, if at all. Assault cases often were quietly kept out of the courts, and many police departments viewed such cases as little more than time-consuming social work. Child molesters were more often the target of jokes than investigations. For millions of Americans, child sexual abuse was a problem that was out of sight and out of mind.

During the late 1970s, however, reports of child sexual abuse slowly began to increase, and so did public awareness of the problem. The American Association for Protecting Children, a subsidiary of the American Humane Association, noted a ten-fold increase in the number of children reported to be sexual abuse victims from 1976 to 1983,[1] but it was not until the following year that the problem was presented to the general public as a "crisis." Beginning in 1984 and throughout 1985, child sexual abuse was almost constantly in the national focus. Networks and local TV stations devoted scores of prime-time hours to its exposure; hundreds of newspapers and magazines ran lengthy accounts of child sexual assaults and pornography rings; grocery bags and milk cartons began to carry the faces of missing children; citizen awareness groups sprang up around the country; police agencies that once paid scant attention to the problem began establishing special training programs for their officers and setting up child sex crime units; the National Center for Missing and Exploited Children was established in Washington, D.C.; in Congress, from 1983 to mid-1986 a total of 194 bills and 13 hearings focused specifically on some aspect of child abuse or child sexual exploition.[2]

With this unprecedented attention came an exponential increase in the reporting of child sexual abuse, believed by some to be the most underreported major crime in America.

Reports increased dramatically throughout the United States—in Farm Belt states and in the nation's largest cities, in West Coast beach towns and East Coast industrial centers, in the neighborhoods of the affluent, the middle class and the poor. "A 1985 report by the New York-based Child Welfare League of America said child sexual abuse reports rose 59 percent from 1983 to 1984.[3] In Delaware and Idaho reports nearly doubled from 1983 to 1984; in Oregon they rose 129 percent; and in Wisconsin, they went up by 132 percent.[4] In Houston, police received 1,600 reports of child sexual assaults in 1985, more than double the total in 1983.[5] In virtually all cases the extraordinary rise in sexual abuse statistics reflected a state's or city's increased efforts to discover and investigate such crimes, rather than a sudden increase in molested children over years past. And yet there is wide agreement that even these are conservative figures."[6]

The following are just a few of the many cases that attracted national attention during 1984 and 1985:

In Manhattan Beach, California, in the Spring of 1984, seven employees of a day care center were charged with 207 counts of rape, sodomy and other abuses, involving at least 41 children over a six-year period. Doctors confirmed that 37 of the children showed physical signs of molestation. After a grueling pre-trial hearing lasting several months, many parents withdrew their children as witnesses after watching other children undergo lengthy cross-examination by defense attorneys. Later the Los Angeles County District Attorney dropped all charges against five of the seven defendants, citing a lack of evidence.[7]

In 1985 a Roman Catholic priest was convicted of molesting over a period of years at

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Footnotes at end of article.

least 37 boys, among them altar boys and members of the parish Boy Scout troop in Henry, Louisiana. Depositions in the case disclosed that the priest's supervisors had confronted him with such allegations as far back as 1974 and had received similar complaints from parents in 1977. Yet the supervisors did not alert police and still allowed the priest to work with children. More than a dozen civil suits were filed against the diocese by the families and $4.2 million in damages already has been awarded.[8]

In Tampa, Florida, Eric Cross, who had been convicted of molesting young girls in four countries, was indicted for allegedly distributing child pornography while in prison on a molestation charge. He was convicted on 19 counts of distributing child pornography and other charges and sentenced to a 95-year prison term.[9]

As a large number of cases illustrate, child molesters come from virtually every type of background in society. In the past two years those convicted on such charges have included police officers, politicians, judges, physicians, lawyers, journalists, grandmothers, teachers and military officers, among others. To their neighbors and coworkers they were often respected, responsible members of the community, remembered by some acquaintances as being "great with kids." Many were active in church, school and sports organizations. The stereotype of the child molester as a menacing deviate lurking in public places obviously does not apply to many of them.

With these events as a backdrop, the Senate Permanent Subcommittee on Investigations in early 1984 began an investigation of child pornography and pedophilia—the abnormal sexual desire of an adult for pre-pubescent children. Subcommittee investigators interviewed more than 200 people in more than 30 states, including convicted child molesters, pornographers, pro-pedophilia activists, molestation victims, investigators, judges, prosecutors, psychiatrists and child protection workers. The Subcommittee also reviewed thousands of documents, including arrest reports, victim statements, pedophile correspondence, newsletters, child pornography catalogs, films, videotapes and magazines. Finally, the Subcommittee held three days of public hearings—on Nov. 29 and 30, 1984 and Feb. 21, 1985—for further exploration of the issues and questions raised during the investigation.[10]

The investigation's primary focus was on child pornography and pedophile activities in the United States, but because of the importance of The Netherlands, Denmark and Sweden in the international distribution of child pornography, the Subcommittee also examined efforts to combat child pornography in those countries.[11]

The Subcommittee found that while the growth in the number of reports of abuse and sexual exploitation of children is cause for continuing concern, recent Federal laws—notably the Child Protection Act of 1984—are beginning to show significant results in the battle against these evils. The public perception of an "epidemic" of child abuse and child pornography reports and arrests, which has led to demands for even tougher laws, may actually be testimony to the effectiveness of the existing laws in providing authorities with the tools to arrest and convict child abusers and pornographers. In addition, the economic impact of the child pornography industry often tends to be overstated. The most significant impact to society from this practice cannot be measured in economic terms; instead, it must be measured in terms of the extent of physical and psychic damage to innocent children brought about by the production and use of child pornography.

II. ORGANIZED CRIME

Because of the Subcommittee's historic interest in the activities of organized crime, an effort was made to obtain any information that might show a direct link between organized crime and the distribution of child pornography in the United States. The Subcommittee interviewed former child pornography distributors, federal informants, pedophiles, prosecutors and law enforcement officials from the United States, Canada and Europe. No one produced definitive evidence that traditional organized crime groups, such as La Cosa Nostra, have any appreciable influence on the production or distribution of true pedophile-oriented child pornography. Nor was evidence found of any widespread involvement, much less control, of child pornography distribution by other ethnic crime organizations or criminal groups, such as motorcycle gangs.

There is evidence that La Cosa Nostra crime families are involved in the production and distribution of commercial adult pornography.[12] A small portion of this market may include underaged models, usually 16 or 17, and some material appears to show legal-aged models who are dressed and made up to look like minors. While any sexually explicit material involving persons of this age is usually harmful, if not illegal, for purposes of this report child pornography refers to material involving children under 13.

After extensive inquiries, the Subcommittee has concluded that the distribution of child pornography in the United States is largely carried out by individual pedophiles, who produce this material and trade it among themselves or order it through the mail from other countries. In the few instances when police have uncovered commercial child pornography operations, they paled in comparison to the sophistication and profits of adult pornography distributors, and were not controlled by traditional organized crime. One such organization was run by Cathy Wilson, who at the time of her arrest in California in 1983 was believed to control about 80 percent of the commercial child pornography trade in the United States.[13] Wilson told Subcommittee investigators in August 1984 that "the Mafia" had not been involved in her operation or that of any other child pornographer with whom she dealt during the 1970s and early 1980s.[14] Richard Trolio, once a business partner of Wilson's who later became a federal informant against her, told the Subcommittee he agreed with Wilson's assessment.[15]

Economics probably plays a major part in organized crime's lack of interest in child pornography. The adult sex industry (magazines, videotapes, X-rated movie theaters, nightclubs, massage parlors, "dial-a-porn" and "escort" services, etc.) operates legally in much of the country and grosses several billion dollars annually.[16] Conversely, the commercial child pornography industry has declined substantially in recent years.[17]

Perhaps equally discouraging to organized crime is the aggressive enforcement of the 1984 federal child pornography statutes,[18] which carry 10-year prison terms for production, importation or distribution of the material. In comparison, violations involving adult pornography are often treated as misdemeanor obscenity cases, when they are prosecuted at all.

III. PROSECUTIONS BY THE DEPARTMENT OF JUSTICE

On February 6, 1978, Congress enacted Public Law 95-225, the Protection of Children Against Sexual Exploitation Act of 1977. This legislation added sections 2251 through 2253 to Title 18 of the United States Code to deal specifically for the first time with the problem of child pornography. Efforts by prosecutors to obtain convictions under these statutes, however, were hampered by a provision in the law that the pornographic material in question had to be produced or distributed for "commercial" purposes in order to warrant prosecution. Since most child pornographers in the United States tend to trade child pornography among themselves rather than sell it, the Department of Justice was forced to rely primarily upon sections 1461-1465, Title 18 of the U.S. Code, the federal obscenity statutes, to prosecute child pornographers.

Congress moved to close this loophole on May 21, 1984, by amending the child pornography statutes to delete the "commerciality" requirement and a requirement that the disseminated material be legally obscene.[19] The amendments, which also added civil and criminal forfeiture provisions to the statutes, now appear as sections 2251-2255, Title 18, U.S. Code. The effect of these amendments on the Department of Justice's ability to prosecute child pornography cases has been dramatic: from 1978 to April 1984, the Department obtained 64 convictions; between May 1984, and June 1986, at least 164 convictions were obtained.[20]

	Indictments	Convictions
Year:		
1978	13	13
1979	1	1
1980	11	10
1981	14	15
1982	19	7
1983	6	15
1984 (per-Act)	5	3
1984 (post-Act)	55	35
1985	123	102
1986 (May)	24	27

IV. PEDOPHILIA

The terms pedophile and pedophilia have been so widely used in the news media in recent years that their clinical definitions sometimes are overlooked. Many references to "pedophiles" seem to indicate the term is applied to any adult who is sexually attracted to a legal minor. That is not the case, and the distinction is worth noting.

Pedophilia, literally "love of a child," as used in this report refers to the condition in which an adult's primary sexual attraction is to prepubescent children—roughly between six and twelve years of age.[21] While many cases exist in which true pedophiles have been involved with children below and above those age boundaries, the vast majority fall between them. (A less-commonly used term, hebephilia, describes an adult's sexual attraction to adolescents. This more accurately defines the offenders involved in teenage prostitution, for example, than does the often-misused label, pedophile.) Pedophiles normally have little interest in adolescents who are beginning to reach sexual maturity; it is, in fact, the very lack of sexual development, the childish innocence, that arouses most true pedophiles. The term pedophile is often misused when applied to all child sex crime offenders. Experts agree that many children are assaulted simply because they are available and, of course, more easily overpowered than an adult. The true pedophile, as a rule, does not commit violent acts against his victim.

Pedophiles often are attracted to children within a specific age range—boys from 8 to 10, girls under 9, etc.—and there is some evidence to show this preference may develop because it was the same age at which the molester was also first molested as a child.[22] Many studies have shown a large percentage of convicted child molesters were themselves molested as children.[23]

While pedophiles come from virtually all social, racial, ethnic and age groups, therapists and investigators have been able to arrive at some common characteristics many of them seem to share. Pedophiles normally are divided into two categories—regressed and fixated. An authoritative psychiatric profile described them in this way:[24]

"The [fixated] often has never developed emotionally or intellectually. He feels comfortable around children and uncomfortable around adults. He sees the child as an adequate sexual partner who will enjoy the experience. He shows no guilt of shame afterwards. This offender will be passive, dependent, immature, lonely, inadequate, with low self-esteem. He knows right from wrong and will be law abiding apart from child molestation. He will have dated little and rarely be married. His immaturity will mean that his work, social and personal adjustment will be poor. He will often be employed in menial jobs and prefer to work around children. He seeks children out as companions and in his jobs, so he may be found working with children in his job or as a recreation.

"The [regressed offender] is reasonably well adjusted. He will have no criminal record (apart from child molestation) and will have a good job, social and personal adjustment. He will have dated and typically be married. However, under stress, especially threats to his masculinity, he regresses to immature behavior. So if he is fired, or criticized at work, or if his wife has an affair or criticizes him, he may begin to drink alcohol and impulsively choose a non-threatening female sexual partner (a child). After the experience, he will realize what he has done and feel guilt and shame. He deals with this guilt by attributing his behavior to alcohol."

V. MEETING AND SEDUCING CHILDREN

"I used all the normal techniques used by pedophiles. I bribed my victims, I pleaded with them, but I also showed them affection and attention they thought they were not getting anywhere else. Almost without exception every child I molested was lonely and longing for attention".—Joseph Henry[25]

A determined pedophile quickly masters the art of meeting and engaging the trust of children. Pedophiles are constantly seeking out new ways of drawing children into their confidence without raising suspicions.

Those who seek frequent contact with children, and either have no criminal record or believe it would not be discovered, may find employment as day care center workers, recreation directors, video arcade managers, Little League coaches, scout leaders, Big Brothers, schoolteachers or in a host of other occupations where children are present. In a study of 40 pedophile cases by FBI Special Agent Kenneth Lanning and Dr. Ann Burgess, almost half of the offenders used their occupations to encounter children.[26]

Other pedophiles have located children through babysitting, neighborhood contacts and volunteer organizations. Many have met their eventual victims through adult relationships with parents, as friends, co-workers, counselors, etc.

A number of cases have involved people in positions of authority—people to whom even careful parents often entrust their children, such as priests, teachers and police officers. These cases are cited not to undermine faith in these professions, but to emphasize that a pedophile's all-consuming desire for children will often outweigh his position of trust in the community.

Some pedophiles expose themselves to children or attempt to lure them into their cars or homes with presents, promises and deception, but these cases represent a small minority of the molestation incidents investigated by police officials in the United States. Fortunately, the stereotype of the child molester as a dirty, leering stranger on a park bench is disappearing as awareness of the true nature of pedophilia grows.

The words of a pedophile provide the best description of the thought process involved in attempting to meet and seduce children. Following is an anonymously-written excerpt from How To Have Sex With Kids, a booklet published by David Sonenschein, an Austin, Texas, author who has written extensively about pedophilia:

"The important thing about meeting kids is that it happens best when you meet in places or in doing things that interest both of you. Like in video game arcades, kids can tell if you're just in their cruising for sex, or are there because you like playing the games. The same with sports and sporting events. You can meet kids anywhere you go that you're interested in going, and what's important about this is you've got a right to be where you are. Like your own neighborhood. We have a right to walk around, talk to people there, and get to know who's who. . . .

"It's also a good idea to get to know parents. Sometimes you can get babysitting tasks or you can just take the kids places when they know you and know that the kids like being with you. Sometimes parents can introduce you to other kids too."[27]

Once the pedophile has gained private access to the child, he then must convince the child to cooperate. According to Nicholas Groth, a psychiatrist who has worked with many pedophiles in the Connecticut prison system, "The most commonly used technique of luring the child into . . . sexual activity is by capitalizing on the child's need for attention, approval, and human contact."[28]

Convicted child molester Joseph Henry, who molested 22 girls aged six to fourteen over a period of nearly 30 years, testified before the Subcommittee about the techniques he used to manipulate children:

". . . I would take my victims to movies and to amusement parks. When I babysat them, I would let them stay up past their bedtime if they let me fondle them. One little 8-year-old girl I was babysitting came over to my house one day soaking wet from a rainstorm. I told her I'd pay her $1 if she would stay undressed for an hour. This incident opened the door for three years of molestation."[29]"

VI. USE OF CHILD PORNOGRAPHY

No single characteristic of pedophilia is more pervasive than the obsession with child pornography. The fascination of pedophiles with child pornography and child erotica has been documented in many studies and has been established by hundreds of arrests of pedophiles who are found to possess a large amount of sexually explicit material involving children.

Detective William Dworin of the Los Angeles Police Department estimates that of the 700 child molesters in whose arrest he has participated during the last ten years, more than half had child pornography in their possession. About 80 percent owned either child or adult pornography.[30]

Each convicted child molester interviewed by the Subcommittee either collected or produced child pornography, or both. Most said they had used the material to lower the inhibitions of children or to coach them into posing for photographs.

It is not unusual for pedophiles to possess collections containing several thousand photographs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities—alone, with other children, with adults, and even with animals. In some child pornography, the children depicted are infants and toddlers, some as young as 18 months.[31] Rainer Hernandez, a California college student who testified before the Subcommittee about his experience as a molestation victim, reported that when Los Angeles Police officers searched the home of his uncle, who has molested Mr. Hernandez for four years when he was a teenager, they found thousands of sexually explicit photos of children.[32] In many other cases police have discovered extensive collections carefully indexed, often on home computers, by age of the children, origin of the material and type of sexual activities performed. A man in Austin, Texas analyzed an entire collection of child pornography magazines by the emotions shown on the children's faces—boredom, pleasure, pain, etc.[33]

In testimony before the U.S. Senate Subcommittee on Juvenile Justice on August 8, 1984, Special Agent Kenneth Lanning of the FBI's Behavioral Science Unit, a recognized expert on pedophilia, elaborated on the pedophile's fascination with child pornography:

"They (pedophiles) typically collect books, magazines, articles, newspapers, photographs, negatives, slides, movies, albums, drawings, audio tapes, videotapes, personal letters, diaries, sexual aids, souvenirs, toys, games, lists, paintings, ledgers, etc., all relating to children in either a sexual, scientific or social way. Not all pedophiles collect all these items. Their collections vary in size and scope. However, the maintenance and growth of their collections becomes one of the most important things in their life. . . . They may hide their collections, move them, or even give them to another pedophile, but they almost never destroy them."[34]

Experts cite seven primary reasons that pedophiles collect child pornography:

1. *Justification.*—A pedophile needs to know or to convince himself that his obsession is not "abnormal" and dirty, but is shared by thousands of other intelligent, sensitive people. The collection and trading of child pornography, along with scientific and academic articles justifying pedophilia, accomplishes this goal. Pornography also provides pedophiles with a common currency, a mutually desired possession which can be bought, sold and traded in order to develop trust and camaraderie with fellow pedophiles.[35]

The pedophile's collection includes lists of names, addresses and phone numbers of other pedophiles, and correspondence received from such persons. These lists are guarded like gold, often kept in safe deposit boxes or secretly hidden in the pedophile's residence. They not only provide contacts for the pedophile, but they further reinforce the belief that because so many others engage in the same activity, it must not be as "wrong" as society believes. This constant need for validation and support from other pedophiles, however, often overcomes the instinct for caution. Enticed by fantasy letters about child sex or promises of exchanging child pornography, many pedophiles have been trapped by police through the simple exchange of letters.

2. *Arousal*.—In the same way others use adult pornography, pedophiles use child pornography to stimulate their sexual drive and to aid in masturbation. While some pedophiles may only fantasize about the material, Lanning suggests that "the arousal and fantasy fueled by the pornography is only a prelude to actual sexual activity with children."[36]

3. *To lower a child's inhibitions*.—Many pedophiles firmly believe children enjoy sex with adults and that pictures of this activity will convince reluctant children to more freely participate. "Peer pressure has a tremendous effect on children," Lanning testified. "If other children are involved, maybe it is all right, the child things. In the pornography used to lower inhibitions, the child portrayed will appear to be having a good time."[37]

In two cases examined extensively by Subcommittee investigators, convicted molesters Joseph Henry and Donald Woodward acknowledged that they showed their victims child pornography in an effort to lower their inhibitions and even to suggest specific sex acts. In letters written by Woodward to other pedophiles, he explained specifically what he had in mind for the child pornography he was sending or receiving:

"I've just mailed you, in a separate envelope, a bunch of material on (the two children he was convicted of molesting). I need this material back before 7/23 for use as "bait" in a plan I'll tell you all about if it comes off. Maybe bait is the wrong word; they (the photos) are intended to be emulated by prospective participants . . .[38]

". . . The photos of [his 10-year-old victim], of course, are to be samples of poses that I want them [other children] in, from mild and sweet, to hot and lewd . . ."[39]

Woodward and his friends also found that a Polaroid camera came in handy during photo sessions with children. "I may just pick up a Polaroid . . . since kids always enjoy seeing how they look in pictures right away," Woodward wrote to another pedophile, "and I think it helps persuade them to go 'just a little farther' in the next shot . . ."[40]

4. *Preservation of the child's youth*.—Another principal reason for the collection of child pornography by pedophiles is to insure there will always be an image of the child at the age of sexual preference. "No matter how attractive any one child sexual partner is," Lanning testified, "there can be no long-term sexual relationship. All child victims will grow up and become sexually unattractive to the pedophile. However, in a photograph, a 9-year-old boy stays young forever."[41] Nor are the photographs always sexually explicit. Many pedophiles avidly collect photos of clothed children. Pederasts, or "boy-lovers" as they call themselves, quite often collect photos of young boys in sports outfits. William Thorne, a detective in the Bergen County, New Jersey, prosecutor's office, testified before the Subcommittee that in the arrest of James Cooper on molestation charges, officers found several hundred 35mm photographs of teenage boys at parks, swimming pools, ice rinks, video arcades, baseball games, even newspaper boys on their routes—all clothed, but usually wearing shorts (see pp. 20, 21).[42] Other pedophiles have collected department store catalog photos of young children in underwear.

5. *Blackmail*.—A child molester is consumed with the prospect of being caught. When he has taken sexually explicit photos of his victims, he not only has preserved the object of his desire for posterity, but he also has created an effective tool for keeping the child from revealing his abuse. If a child should threaten to tell his parents or authorities, the molester will remind him of the photos and tell him he will be punished or lose the affection of parents and siblings if the photos are revealed.[43]

6. *A medium of exchange*.—Agent Lanning testified that some pedophiles exchange photographs in order to gain access to other children. The quality and theme of the material (boy-boy, boy-girl, adult-child, etc.) determines its value. Because of this system of exchange, copying machines, slide enlargers and photo duplicating equipment are often used to produce duplicate copies of material which can be offered to other pedophiles.[44]

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[1] American Humane Association/American Association for Protecting Children, *Highlights of Official Child Neglect and Abuse Reporting;* Denver, CO, 1984, p. 17.

[2] Report to Subcommittee by Congressional Research Service, Washington, June 1986.

[3] Child Welfare League of America, *Too Young to Run: The Status of Child Abuse in America;* New York, February 1985, p. 5.

[4] *Ibid.*, p. 10.

[5] Subcommittee staff interview with Sgt. William D. Brown, Vice Division, Houston, TX, Police Department, February 1986.

[6] National Committee for the Prevention of Child Abuse, "The Size of the Child Abuse Problem"; Chicago, February 1985, p. 2; Sally Squires, "Who Would Sexually Abuse a Child?"; *The Washington Post* "Health" Magazine, June 19, 1986, p. 7.

[7] Ted Rohrlich and Lois Timnick, "McMartin Flaw: Gaps in Evidence"; *The Los Angeles Times*, Jan. 27, 1986, p. 4.

[8] Jon Northeimer, "Sex Charges Against Priest Embroil Louisiana Parents"; *The New York Times*, June 20, 1985, p. A–24.

[9] John Dorschner, "The Child Seducer"; *The Miami Herald* "Tropic" Magazine, Oct. 9. 1983, pp. 14–21; Subcommittee staff interview with Special Agent Barry Carmody, Federal Bureau of Investigation, Tampa, FL, March 1986. (Also see pp. 39–41.)

[10] Permanent Subcommittee on Investigations, United States Senate, *Child Pornography and Pedophilia;* S. Hrg. 98–1277, Part 1, Nov. 29–30, 1984; S. Hrg. 99–18, Part 2, Feb. 21, 1985 (*Hearings*).

[11] The U.S. Customs Service estimated in 1985 that 85 percent of the child pornography seized as it was entering the United States came from Denmark and the Netherlands; see pp. 29–34.

[12] California Department of Justice, *Organized Crime in California, 1982–83;* Sacramento, 1984, pp. 14–15.

[13] "Case Synopsis," Administrative Vice Division, Los Angeles Police Department, May 7, 1982 (copy retained in Subcommittee files).

[14] Subcommittee staff interview, August 1984.

[15] Subcommittee staff interview, August 1984.

[16] Gregory Stricharchuk, "'Porn King' Expands His Empire With Aid of Businessman's Skills"; *The Wall Street Journal*, May 8, 1985, p. 1.

[17] U.S. Customs Service seizure reports, February 1986; Subcommittee staff interview with Cathy Wilson, *op. cit.;* Subcommittee staff interview with Joyce Karlin, Assistant U.S. Attorney, Los Angeles, August, 1984.

[18] See following section.

[19] Child Protection Act of 1984, P.L. 98–292.

[20] Report to Subcommittee by Criminal Division, U.S. Department of Justice, June 1986.

[21] Kenneth V. Lanning, *Child Molesters: A Behavioral Analysis;* National Center for Missing and Exploited Children, Washington, February 1986, pp. 1–2.

[22] Sharon Araji and David Finkelhor, "Abusers: A Review of the Research," in Finkelhor, *A Source Book on Child Sexual Abuse* (Beverly Hills: Sage, 1986), p. 103.

[23] Lanning, *op. cit.*, p. 11.

[24] Op. cit.

[25] *Hearings*, Part 2, p. 8.

[26] Kenneth V. Lanning and Ann Wolbert Burgess, "Child Pornography and Sex Rings," *FBI Law Enforcement Bulletin*, Washington, January 1984, p. 11.

[27] David Sonenschien, ed., *How to Have Sex With Kids;* Austin, TX, 1983, pp. 6–7 (copy retained in Subcommittee files).

[28] A. Nicholas Groth with H. Jean Birnbaum, *Men Who Rape: The Psychology of the Offender* (New York: Plenum, 1979), p. 142.

[29] *Hearings*, Part 2, p. 8.

[30] Subcommittee staff interview, September 1985.

[31] *Hearings*, Part 1, p. 33.

[32] *Hearings*, Part 2, p. 18.

[33] Austin, TX Police Department, evidence seized in search of the home of David Sonenschein, August 1984.

[34] Subcommittee on Juvenile Justice, United States Senate, *Effect of Pornography on Women and Children*, S. Hrg. 98–1267, Aug. 8, 1984, p. 38.

[35] *Ibid.*, pp. 40–41.

[36] *Ibid.*, p. 43.

[37] *Ibid.*

[38] Donald Woodward, personal correspondence seized as evidence by Los Angeles Police Department.

[39] *Ibid.*

[40] *Ibid.*

[41] Subcommittee on Juvenile Justice, *op. cit.*, p. 42.

[42] *Hearings*, Part 1, p. 54.

[43] Subcommittee on Juvenile Justice, *op. cit.*, pp. 43–44. Also see *Hearings*, Part 2, p. 18.

[44] Subcommittee on Juvenile Justice, *op. cit.*, p. 44.

EXHIBIT 2

MORALITY IN MEDIA, INC.,
New York, NY, June 19, 1991.

Hon. JESSE HELMS,
U.S. Senate, Senate Dirksen Building, Washington, DC.

DEAR SENATOR HELMS: Morality in Media was greatly distressed to learn of new sentencing guidelines which will result in reduced sentences for those convicted of violating the Federal Laws pertaining to child pornography.

Child pornography is among the most heinous of crimes, and if anything, the penalties should be made stricter, not weaker. We are therefore strongly in favor of legislation which will "put teeth" back into the sentencing guidelines for those who violate the child pornography laws.

The best and only way to close the distribution network for child pornography is to severely punish those who create, distribute, procure and possess this vile material.

Sincerely,

JOSEPH J. REILLY, Jr.,
President.

RELIGIOUS ALLIANCE
AGAINST PORNOGRAPHY,
Cincinnati, OH, June 24, 1991.

Hon. JESSE HELMS,
U.S. Senator,
Washington, DC.

DEAR SENATOR HELMS: We are writing you on behalf of the National Coalition Against Pornography, Religious Alliance Against Pornography (RAAP) and the National Women's Leadership Task Force (NWLTF) to express our strong support for your introducing legislation that would strengthen the sentencing requirements for child pornography offenses.

Our concern that new legislation be introduced stems from the proposed guidelines that will take effect on November 1, 1991 unless both houses of Congress take affirmative action before that date. We were profoundly disappointed to discover that the proposed guidelines recommended reduced sentencing levels for transporting, receiving and possessing child pornography.

The reduction in sentencing requirements will have a devastating effect on law enforcement efforts in this area. We have made progress over these last few years because federal law enforcement authorities have been able to convict child molesters on child pornography charges. Those men could then count on spending some substantial time in jail. Sadly, every picture of child pornography displays a child molestation taking place.

With the new guidelines, receipt or possession of child pornography is only a base level 10 offense. For a defendant receiving child pornography (who accepts responsibility), the recommended sentence has dropped from 8-14 months to 2-4 months, with probation now being a distinct possibility! Having worked on behalf of thousands of victims of this material, it is our strong belief that the sentencing requirements for these offenses need to be strengthened significantly, rather than lessened.

It also seems inconceivable that these proposed guidelines reflect the seriousness with which we know you and the Congress view this heinous offense. It would be tragic if the guidelines proposed for last session's child pornography legislation (which was meant to strengthen the offense) were to result in a decrease in child victimization prosecutions.

We believe the pending Crime Bill offers an appropriate and opportune time to make some vital adjustments consistent with the seriousness of the crime.

Each of our united networks is a mainstream alliance of concerned leaders and citizens. The Religious Alliance Against Pornography membership includes the top leaders of nearly 50 denominations, faith groups and interfaith organizations, serving over 100 million citizens. The National Women's Leadership Task Force was formed with the same objective as RAAP: reducing sexual victimization by eliminating illegal and child pornography. We would be strongly supportive of any action taken in this area.

We look forward to the opportunity to continue working with you and your staff on making this vital correction in the immediate future. Thank you for your continued leadership and concern. We are deeply grateful.

Sincerely yours,

DR. JERRY R. KIRK,
Chairman, Religious Alliance Against Pornography; President, National Coalition Against Pornography.

DEEN KAPLAN,
Vice President, Public Polcy.

RELIGIOUS ALLIANCE AGAINST PORNOGRAPHY

As religious leaders, we believe in the inherent dignity of each human being. Created in God's image and likeness, the human person is the clearest reflection of God's presence among us. Because human life is sacred, we all have a duty to develop the kind of societal environment that protects and fosters its development. This is why we address a broad range of life threatening and life diminishing issues. These assaults on human life and dignity are all distinct, each requiring its own moral analysis and solution. But they must be confronted as elements of a larger picture.

The purpose of RAAP is to bring into clear fucus a major factor in the assault on human dignity and the consequent dehumanization that it promotes: hardcore and child pornography. This concern brought us together following the release of the Report of the Attorney General's Commission on Pornography. We are in unanimous agreement that hard-core and child pornography, which are not protected by the Constitution, are evils which must be eliminated.

As religious leaders, our primary responsibility is to teach and to motivate. We can and must help people understand the moral dimensions of the problem of hard-core and child pornography and what their responsibility is in this regard, while fully respecting freedom of expression guaranteed by the First Amendment. In particular, we wish to make it clear that we do not and will not advocate 'censorship'. Our understanding of censorship implies actions being taken against materials which are protected by the First Amendment.

As teachers, we will do all in our power to proclaim the truth of human dignity and freedom, and to promote the God-given human values neded for the moral health of our society. Given the information and motivation, people will do what is necessary to affect public policy.

The membership of RAAP, representing a broad spectrum of America's religious community, is an indication of the seriousness of the problem and our commitment to addressing it. This represents the beginning of an ongoing process which will facilitate greater cooperation on this vital issue among religious bodies.

MEMBERSHIP

Cooperative

Mrs. Jacqueline G. Wexler, President, National Conference of Christians and Jews.

Greek Orthodox

His Eminence Archbishop Iakovos, Primate, Archdiocese of North and South America.

Bishop Philip of Daphnousia, Archdiocese of North and South America.

Reverend Milton B. Efthimiou, Archdiocese of North and South America

Jewish

Rabbi March Tanenbaum.

Rabbi Mordecai Waxman.

Rabbi Walter S. Worzburger.

Protestant

Rev. James E. Andrews, Stated Clerk, Presbyterian Church (USA).

Bishop George W. Bashore, Bishop of Western Pennsylvania, United Methodist Church.

Dr. Harold C. Bennett, President & Treasurer, Executive Committee, Southern Baptist Convention.

Mrs. Sarah Blanken, Vice President, Women's Leadership, National Coalition Against Pornography.

Dr. Ralph A. Bohlmann, President, The Lutheran Church-Missouri Synod.

Bishop Voy M. Bullen, General Overseer, The Church of God.

Dr. G. Raymond Carlson, General Superintendent, Assemblies of God.

Rev. Clifford R. Christensen, Conference Minister, Conservative Congregational, Christian Conference.

Dr. Raymond E. Crowley, General Overseer, Church of God (Cleveland, TN).

Rev. L. Edward Davis, Stated Clerk, Evangelical Presbyterian Church.

Dr. James Dobson, President, Focus on the Family.

Bishop Paul A. Duffey, Secretary, Council of Bishops, United Methodist Church.

Dr. Steve F. Flatt, Minister, Madison Church of Christ.

Bishop William Frey, The Episcopal Church.

Dr. Archie R. Goldie, Secretary, N. Amer. Baptist Fellowship, Baptist World Alliance.

Dr. Ray H. Hughes, First Assistant/General Overseer, Church of God (Cleveland, TN).

Dr. B. Edgar Johnson, General Secretary, Church of the Nazarene.

Dr. William A. Jones, President, National Conference of Black Pastors.

Rev. Dean M. Kelley, Director of Religious & Civil Liberties, National Council of Churches.

Dr. Jerry R. Kirk, President, National Coalition Against Pornography.

Dr. Richard Land, Executive Director, Christian Life Commission, Southern Baptist Convention.

Mr. James M. Lapp, Executive Secretary, General Board, The Mennonite Church.

Dr. Eileen W. Lindner, Associate General Secretary, National Council of Churches.

Chief John Maracle, Chief of North American Native Christian Council.

Bishop George Dallas McKinney, Bishop of Southern California, Church of God in Christ.

Dr. Thomas A. McDill, President, Evangelical Free Church of America.

Dr. Billy Melvin, Executive Director, National Association of Evangelicals.

Commissioner Andrew S. Miller, The Salvation Army, Retired.

Dr. Edwin G. Mulder, General Secretary, Reformed Church in America.

Mr. David H. Northup, Executive Vice President, Advent Christian General Conference.

Commissioner James Osborne, National Commander, The Salvation Army.

Mr. Matt Parker, President, Institute for Black Family Development.

Mr. Vern Preheim, General Secretary, The General Conference Mennonite Church.

Dr. Adrian Rogers, Former President, Southern Baptist Convention.

Dr. Oscar Romo, Director, Div. of Language Missions, Southern Baptist Convention.

Dr. Mary O. Ross, President, Women's Conv. Auxiliary, National Baptist Convention, U.S.A., Inc.

Rev. Don Sauls, General Superintendent, Penecostal Free Will Baptist Church.

Dr. R. Donald Shafer, General Secretary, Brethren in Christ Church.

Rev. Ray E. Smith, General Superintendent, Open Bible Standard Churches, Inc.

Dr. Glen O. Spence, Executive Director, General Association of General Baptists.

Dr. Everett Stenhouse, Assistant General Superintendent, Assemblies of God.

Dr. Mary Ruthstone, Secretary, Women's Commission, National Association of Evangelicals.

Dr. Paul Tanner, Executive Secretary, Retired, Church of God (Anderson, IN)

Bishop Clyde E. Van Valin, Free Methodist Church of North America.

Rev. Vilis Varsbergs, President, Latvian Evangelical Lutheran Church in America.

Dr. Daniel E. Weiss, General Secretary, American Baptist Churches, U.S.A.

Dr. John H. White, President, National Association of Evangelicals.

Dr. Melvin L. Worthington, Executive Secretary, National Association of Free Will Baptists.

Rev. Donald E. Wrigley, President, Advent Christian General Conference.

Roman Catholic

His Eminence Joseph Cardinal Bernardin, Archibishop of Chicago.

His Eminence John Cardinal Krol, Archbishop of Philadelphia, Retired.

His Eminence Bernard Cardinal Law, Archbishop of Boston.

His Eminence John Cardinal O'Connor, Archbishop of New York.

Most Rev. Roger Mahony, Archbishop of Los Angeles.

Most Rev. James W. Malone, Former President, National Conference of Catholic Bishops.

Most Rev. Daniel E. Pilarczyk, President, National Conference of Catholic Bishops.

Bishop Robert J. Banks, Auxiliary Bishop of Boston.

Bishop Francis, J. Mugavero, D.D., Bishop of Brooklyn and Queens.

The Church of Jesus Christ of Latter Day Saints

Elder John K. Carmack, First Quorum of the Seventy.

Dr. Richard P. Lindsay, Second Quorum of the Seventy.

Mr. Bruce Olsen, Managing Director, Public Affairs.

NATIONAL WOMEN'S LEADERSHIP TASK FORCE

The National Women's Leadership Task Force, in partnership with the National Coalition Against Pornography and the Religious Alliance Against Pornography, mobilizes and equips women to eliminate child pornography and to remove illegal pornography from the open market.

SUPPORTIVE CONCEPTS

We are women of faith who have prayerfully come together to commit ourselves to the preservation and enhancement of human dignity.

We are women united in commitment to the task of eradicating child pornography and illegal pornography from our nation and our world.

We are concerned citizens who serve as business executives, church leaders, community leaders, educators, and government officials living in a society where illegal pornography degrades and dehumanizes women, destroys children, and corrupts men, those caught up in addiction and those exploited.

We are women focused on the goals of protecting ourselves, our families, our neighborhoods, and our communities by raising awareness that child pornography and other illegal pornography promotes sexual violence and victimization of children, women, men and families; developing regional and community task forces across America called WIN groups; and working with the Religious Alliance Against Pornography and National Coalition Against Pornography to influence local, state and federal governments. We encourage networking and/or joining with other decency organizations wherever feasible.

We are women who care and will encourage other women of diverse religious persuasions and philosophical motivations to join us in the challenge of freeing our nation from sexual abuse and degrading sexual attitudes.

MEMBERSHIP

Mrs. Sarah Blanken, Chairperson, Vice President, Women's Leadership, Natl. Coalition Against Pornography, Cincinnati, OH.

Mrs. Jan Augenstein-Miller, Development Officer, Miami University, Camden, OH.

Mrs. Susan A. Baker, Parents' Music Resource Center, Arlington, VA.

Mrs. Mariam Bell, Deputy Assistant Secretary for Public Affairs, Dept. of Health & Human Services, Washington, DC.

Mrs. Susan Bell, Board Member, Citizen's For Community Values, Cincinnati, OH.

Mrs. Ulyses Brinkley, Housing Program Specialist, Burke, VA.

Dr. Jane Nady Burnley, Director, Office for Victims of Crime, U.S. Department of Justice, Washington, DC.

Mrs. Sandra Clopine, Secretary, Women's Ministry Dept., Assemblies of God, Springfield, MO.

Sister Joy Clough, Director, Office of Public Information, Archdiocese of Chicago, Chicago, IL.

Ambassador Holland Coors, Washington, DC.

Mrs. Martha Davis, Women's Crisis Center, Covington, KY.

Mrs. Shirley Dobson, Focus on the Family, Pomona, CA.

Mrs. Becky Dunlop, Management Consultant, Arlington, VA.

Mrs. Tish Fainelli, Businesswoman, Video Biz, Longwood, FL.

Mrs. Rebekah Gibson, Businesswoman, Los Angeles, CA.

Mrs. Sandy Grear, Communications Management Consultant, Chicago, IL.

Mrs. Olive Hodson, Vice President, Women's Ministers International, Free Methodist Church, Lebanon, OR.

Mrs. Colonel Barbara Hood, Assistant to National President For Women's Organizations, Salvation Army, Verona, NJ.

Mrs. Laura Hudson, Executive Director, Citizens for Advocating Decency & Revival of Ethics, Lexington, SC.

Mrs. Susan Hunt, Consultant, Women in the Church, Presbyterian Church of America, Atlanta, GA.

Mrs. Joanne Jankowski, Lawyer, Maple Grove, MN.

Mrs. Dee Jepsen, Chairman of the Board, Regent University, Fairfax, VA.

Mrs. Ardeth Kapp, International President, Young Women of the Church of Jesus Christ of Latter-day Saints, Salt Lake City, UT.

Mrs. Patty Kirk, Natl. Coalition Against Ponography, Cincinnati, OH.

Dr. Eileen Lindner, Associate General Secretary, National Council of Churches, New York, NY.

Miss Patricia McEntee, Public Relations, Morality in Media, New York, NY.

Mrs. Beverly Medved, President, Natl. Council of Catholic Women, Kalispell, MT.

Mrs. Monique Nelson, California Care Coalition, Irvine, CA.

Mrs. Dellanna O'Brien, Executive Director, Women's Missionary Union, Southern Baptist Convention, Birmingham, AL.

Ms. Peggy Owens, Staff Associate, Washington Office, Presbyterian Church USA, Washington, DC.

Dr. Georgiana Rodiger, Clinical Psychologist, Altadena, CA.

Dr. Mary O. Ross, President, Women's Convention Auxiliary, National Baptist Convention, Detroit, MI.

Mrs. Cleo Seremetis, Representative of the Greek Orthodox Archdiocese of N. & S. America, Church and the Ladies National Philopthocos Society, Cincinnati, OH.

Dr. Mary Ruth Stone, Secretary, Women's Commission, National Association of Evangelicals, Cleveland, TN.

Rev. Leslie Taylor, Associate Director for Advocacy, United Church of Christ, Cleveland, OH.

CHILDREN'S LEGAL FOUNDATION,
Phoenix, AZ, June 20, 1991.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: As you well know, Children's Legal Foundation, funded in 1957, is dedicated to ridding the Nation of illegal child pornography and obscenity.

Child abuse and sexual assaults on children are occurring in epidemic numbers in the United States today. The Attorney General's Commission on Pornography in 1986 found that the primary vehicle for the production and distribution of child pornography involved trade in materials created by child abusers and distributed informally to other child abusers. If we, as a Nation, are to ever slow down this ever escalating exploitation of children, then we must treat the marketing—distributing, receipt, and possession—of child pornography as the serious crime that it is.

For the above reasons, and many more that are too numerous to list in this short letter, Children's Legal Foundation strongly endorses the legislation you are proposing which would strengthen the child pornography penalties as reflected in the Federal Sentencing Guidelines.

I know I speak not only for my organization, but also the more than 100,000 members of CLF when I thank you for your leadership in this area.

Sincerely,

JAMES P. MUELLER,
General Counsel.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 26, 1991.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: This letter is in response to your request for the views of the Department of Justice on your proposed amendment relating to various sentencing guidelines for child pornography offenses. My comments are directed to section (1)(b), of your amendment which would modify the Sentencing Commission's proposed changes to the penalties for the receipt of child pornography (sections 2G2.2 and 2G2.4 of the guidelines).

Your proposed legislation is consistent with the position the Department recently advocated to the Sentencing Commission. The Department strongly believes that receipt of child pornography should be grouped with trafficking violations and not with the new possession offense. Reducing sanctions for receiving child pornography would send the wrong message to those who may consider violating the law.

Therefore, the Department supports your effort to reinstate previously established penalties for receiving child pornography which has travelled in interstate or foreign commerce, or through the mail.

The Office of Management and Budget has advised that there is no objection to the submission of this position from the standpoint of the Administration's program.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

GAMMON & GRANGE,
Washington, DC, June 26, 1991.

Hon. JESSE HELMS,
U.S. Senator, Washington, DC.

DEAR SENATOR HELMS: I am writing you to express the strongest possible support for your introducing legislation that would strengthen the sentencing requirements for child pornography offenses. I have spent the last 9 years combatting child exploitation and child pornography, as the Chief Assistant U.S. Attorney in North Carolina, then as the first Executive Director of the U.S. Department of Justice Child Exploitation and Obscenity Section during the Reagan Administration, and now as the President of the National Law Center for Children and Families.

Corrective legislation is essential if we are to prevent hundreds of pedophiles from receiving token sentences which put them back on the streets to victimize children.

The clinical and law enforcement evidence in this area is overwhelming. Child pornography is produced, distributed, and consumed almost exclusively by pedophiles (adults expressing a sexual preference for children) or molesters. In hundreds of cases we have found it used to reduce the child's resistance to molestation, to blackmail the child against describing to authorities what has happened, to teach the child exactly what the molester wants done, and finally, as a form of stimulation for the molester. There is no such thing as a minor child pornography offense. The possession of one child pornography picture has directly contributed to the molestation of at least one young child.

The vast majority of these offenders are men. Their clandestine networks have proven extremely difficult for law enforcement agents to penetrate. We have used "reverse-stings" and a number of other innovative approaches to attempt to get beyond the veil of secrecy, to rescue these children. Two examples are particularly illustrative of the role of child pornography prosecutions in helping destroy molester networks.

In Los Angeles, The LAPD Sexually Exploited Child Unit has found pornography used in the commission of extrafamilial sex crimes against children in almost two-thirds of their cases over the past 10 years. In an enormous investigation (involving 40 major cases with 12 or more child victims per offender) by the Louisville Exploited and Missing Children Unit, they found all 40 of the adult predators with various forms of adult pornography. The vast majority also possessed child pornography. One can begin to understand the scope of this problem when you consider that one of the Louisville cases involved 320 children.

Without the strictest sentencing guidelines, pedophile networks will continue to grow and flourish, free from the fear of prison, where molesters can find no children to satisfy their urges. Law enforcement efforts in this area will be emasculated, as few U.S. Attorneys will devote either time or resources to an offense that in all likelihood, will produce probation as the final outcome. The tremendous progress we have made over the past five years through inter-agency cooperation, reverse-stings and new stricter laws, which have closed gaping loopholes, will be significantly eroded if the new sentencing guidelines mandate a level 10 offense for receiving child pornography. It seems almost inconceivable—hundreds of children will pay the price.

In almost every instance where we have investigated a child pornography offense, we have found some evidence of child molestation. I urge you to strengthen the old child pornography guidelines by at least two levels. A reduction in the sentencing requirements will tell the law enforcement community that these offenses are no longer considered serious by our policymakers. The strongest laws on the books are meaningless if an offender who is convicted of such a horrendous crime goes home an hour later.

Lastly, having worked both within the federal government and as an attorney in the private sector to help Congress draft effective laws dealing with child exploitation, I am confident that there is no possibility that these proposed guidelines reflect the seriousness with which the Congress views this life destroying offense. It would be tragic if the guidelines proposed for last session's child pornography legislation (which was meant to significantly strengthen the offense) were to result in a decrease in child victimization prosecutions. I urge you to prevent that from happening.

Sincerely,

H. ROBERT SHOWERS, Esq.,
President, National Law Center for Children and Families,
Partner, Gammon & Grange.

Mr. HELMS. Mr. President, I am going to reserve the remainder of my time in case there is some opposition to the amendment, which I do not really anticipate. But I do want a rollcall vote on the amendment so that it will get through to the Sentencing Commission that the Senate has taken note of this.

Mr. President, I ask unanimous consent that, since there is nobody else on the floor, the quorum call I am about to request not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Obviously I, cannot get the yeas and nays with no other Senator on the floor. Everybody is in committee meetings. I am supposed to be in a Foreign Relations Committee meeting myself.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, the Senator from North Carolina [Mr. HELMS] has agreed we will stack the vote on this amendment when the time runs out, or whenever it is all yielded back. So I ask unanimous consent the vote on the Helms amendment, No. 780, occur immediately before the next rollcall vote that will occur during consideration of the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum, and that time be charged in the normal order of the agreement.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. THURMOND. I yield myself such time as may be required.

The PRESIDING OFFICER. The Senator is recognized, with the time charged to the Senator from North Carolina.

Mr. THURMOND. I rise in strong support of the amendment being considered. This important amendment which I have cosponsored instructs the Sentencing Commission to increase the penalties for individuals who receive or transport child pornography.

Mr. President, this amendment will ensure that the thugs who traffic in child pornography serve time in prison. The link between child pornography and child molestation is close. Ted Bundy, who was executed for the brutal murder of a young girl, stated shortly before he was executed that pornography helped fuel his evil desires to commit heinous acts.

Child pornographers are vicious criminals. They steal innocence away from our children and permanently scar them emotionally and physically. Frankly, I can think of no crime more deserving of tough penalties than the sexual exploitation of our children.

I commend my distinguished colleague from North Carolina, Senator HELMS, for offering this amendment, and I am pleased to join him as a cosponsor. I urge the Senate to adopt this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll. Time will be charged equally to both sides.

The legislative clerk proceeded to call the roll.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

AMENDMENT NO. 780

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, the distinguished Senator from Louisiana mentioned to me that he wanted time.

Mr. BREAUX. Mr. President, will the Senator yield?

Mr. HELMS. Yes.

Mr. BREAUX. I make the comment I am waiting for our colleague, Senator ROTH, from Delaware in connection with what we are trying to do. I think it appropriate we wait. We will try to get time this afternoon when we are both on the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, will you tell me the time situation?

The PRESIDING OFFICER. The Senator has 9 minutes and 25 seconds on the amendment of the Senator from North Carolina.

Mr. HELMS. The other side?

The PRESIDING OFFICER. The other side has 15 minutes and 46 seconds.

Mr. HELMS. Who is managing on the other side?

The PRESIDING OFFICER. The Chair informs the Senator from North Carolina the Senator from Arizona was previously managing that time.

Mr. HELMS. It does not help much right now, does it?

I am inclined to yield back the time on this amendment because I have heard no opposition to it.

Mr. President, since we have the distinguished Senator from Utah on the floor let me ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. I understand. Gee, it is hard to get Senators to come, is it not? We had some questions.

I was ruminating, Mr. President.

I suggest the absence of quorum with the time to be charged to each side.

Mr. HATCH. Will the Senator withhold and yield to me?

Mr. HELMS. Yes.

Mr. HATCH. I would like to ask for yeas and nays.

Mr. HELMS. I think we need both managers.

The PRESIDING OFFICER. The Chair will advise the Senator from Utah there is not a sufficient second.

The Senator from North Carolina suggests the absence of a quorum with the time to be charged equally to both sides. Is there objection?

Mr. KENNEDY. There is objection.

The PRESIDING OFFICER. Objection is noted.

Mr. HELMS. I did not notice the Senator from Massachusetts.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator is speaking on time that has 15 minutes and 41 seconds.

Mr. KENNEDY. Remaining?

The PRESIDING OFFICER. Remaining.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 7 minutes.

AMENDMENT NO. 734

Mr. KENNEDY. Mr. President, I strongly oppose the amendment of the Senator of North Carolina. It purports to give peace of mind to patients by terrorizing physicians and other health care workers.

In fact, the Helms amendment would do nothing to achieve the goal we all care most deeply about—making the workplace safe for all patients and all health professionals. Instead, through threats of criminal sanctions, the amendment will exacerbate the very situation we are striving to avoid—a risk of HIV transmission between doctors or dentists, and their patients.

Right after this debate, Senators MITCHELL, DOLE, HATCH, and I will be proposing an alternative amendment which has strong bipartisan support. Our alternative, which the leadership of this Senate has worked hard to craft, would enact the best recommendations of our public health experts by implementing the new guidelines issued by the CDC earlier this week.

These guidelines are directly targeted to address the problem of reducing the risk of HIV transmission in the medical workplace. It does so through concrete measures and infection control procedures.

This amendment assures that the collective expertise of the Nation's leading public health officials will become the standard throughout the country.

It is critical for Congress to respond quickly, but also wisely, to the concerns of our many citizens. We have all been deeply moved by the suffering of Kimberly Bergalis, whose life has been cut short through the lax practices of a dentist with HIV. But now, more than ever, we must use sound public health principles that can genuinely protect patients from the risk of HIV transmission.

Strict use of universal precautions careful disinfection of equipment and instruments, and voluntary testing of health care workers doing exposure prone procedures are the surest, safest ways to achieve our goal. We are now finding out that correct cleaning of the dentist's drill and proper use of his equipment might have spared Kimberly Bergalis this terrible infection.

By contrast, we have seen how coercive measures divert precious resources and drive the epidemic underground. Time and time again, we have seen how policies hastily derived on the basis of fear have led to unnecessary suffering and unintended outcomes.

Using the best of science available to us, we can improve the situation by implementing the CDC guidelines and voting for this bipartisan amendment, instead of making it worse by resorting to criminal sanctions.

The first requirement of the health profession and of any doctor is to "Do no harm." That should also be the requirement for any action by Congress on this critical and highly charged emotional issue: "Do no harm."

Let us make no mistake. The Helms amendment would do more harm than good. It would do nothing to protect the health of the American people.

Worse, it could seriously undermine the willingness of health care workers to seek HIV testing when they know they have been placed at risk.

To vote for this amendment to control the risk of HIV transmission would be hypocrisy at the least, and dangerous in the extreme. Many more Americans are more likely to be unknowingly exposed to AIDS if their doctor faces a 10-year jail sentence, than if a careful, considered review were available to guide that doctor into safe practices under the CDC guidelines.

The Helms amendment proposes that any health care worker who knows he is HIV positive and intentionally provides a medical or dental treatment to a patient without prior disclosure will be imprisoned not less than 10 years, fined $10,000, or both.

Treatment, as defined in this amendment, would include the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient treated and the professional administering it.

The most routine kinds of medical procedures might fall under this particular definition, such as a doctor looking at a child's sore throat with the aid of a tongue depressor.

The broad, blunt language of this amendment could include over 90 percent of the Nation's physicians in a high-risk category, when about only 25 percent are directly involved in surgery. Senator HELMS would like us to believe that the other 75 percent of physicians representing more than 400,000 professionals, also pose a serious threat to their patients.

Senator HELMS' reaction arises out of fear, but his fear is not shared by the medical experts of the Nation's public health service in the Bush administration. The actual risk of transmission is very low, and it is limited to specific types of exposure-prone procedures, not all contacts between doctors and patients.

But let us not stop at physicians. What about the 2 million nurses who are practicing? Or the millions of other health professionals: The laboratory technicians, medical technologists, or therapists? How many of these workers are performing medical diagnostic work or a procedure that involved invasive contact? The list goes on and on. There are as many scenarios as there are treatments in the medical profession.

When these risks are so low that they cannot even be meaningfully measured, the Helms amendment is not the best way to use our scarce resources in the name of patient safety. It raises false hopes and provides only false security and comfort.

AIDS is already threatening HIV-positive doctors with capital punishment. What good does the Helms amendment do to threaten them with 10 years in prison?

We know what harm it will do.

The most predictable effect is to put our patients at greater risk than they are today. What health professional will want to take a test, if jail is at the end of the test result? The Helms amendment provides no alternatives, no options for the countless workers who daily risk occupational exposure.

The CDC guidelines allow for a expert review panel to assess what practices may safely be pursued. Not so under this amendment.

In fact, if this amendment is voted into law, we would soon be in double jeopardy. What health care worker will want to take care of any patient suspected of being at high risk for HIV? How many young students will turn away to pursue other, less chancy careers? This is a situation we all would regret, professionals practicing medicine, yet who are afraid to be tested; a system where some people cannot find even a doctor willing to care for their illness. Resorting to criminal penalties is not the answer to this problem.

Our alternative amendments is to adopt the CDC guidelines nationwide. A letter has been sent to every Senator that reads as follows:

> These guidelines represent a consensus on this issue among scientists and public health professionals as the best way to protect the health of the American public while maintaining an adequate system of health services. During debate on the Senate floor on July 11, an amendment was offered addressing this topic, but consideration of the amendment was postponed until this week, so that the CDC guidelines could be issued and Senators would have the opportunity to review them. After reviewing these guidelines, we are in agreement that they provide the most effective means of providing genuine protection for patients against the possibility that they could be infected with HIV transmitted from their physician, dentist, or other health care worker. This amendment respects the scientific judgment of Federal public health officials and the traditional right of the States to determine their own public health regulations. We urge you to vote for this amendment as the Senate's position on this complex but extremely important issue of health policy.

This will be the alternative amendment.

The choice we face is clear.

Either we will vote to instill fear and avoidance among physicians and other health care workers who are willing to care for us, or we will vote to strengthen our health care system and make it safer for everyone by adopting these guidelines. We cannot have to both ways. To vote for penalties in the Helms amendment is a mockery of the CDC guidelines, and dashes any hope of their implementation in a sound and rational manner. It is time to listen to those with the responsibility of protecting the health and safety of all Americans. I hope the Senate will vote for the bipartisan leadership amendment, and reject the Helms amendment.

This is a public health problem, not a criminal law problem. The best answer will be in rational public health policies, not irrational appeals to the public's fears and threats of criminal punishment.

Mr. President, how much time remains?

The PRESIDING OFFICER. The opponents control 6 minutes and 12 seconds.

Mr. KENNEDY. And the proponents?

The PRESIDING OFFICER. The proponents control 7 minutes and 56 seconds. Has the Senator from Massachusetts yielded the floor?

Mr. KENNEDY. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, will the distinguished Senator from North Carolina yield me a few minutes on the pending amendment?

Mr. HELMS. In just one moment.

I yield myself whatever time I may take.

The PRESIDING OFFICER. The Senator is recognized for up to 7 minutes and 50 seconds.

Mr. HELMS. In the first place, the Senator from Massachusetts was not discussing the pending amendment, which is fine. Under the rules he may discuss what he wishes.

Second, we will address this later. There were several inaccuracies in what he said.

But certainly I yield to my friend from Utah such time as he may need.

AMENDMENT NO. 780

Mr. HATCH. I thank my colleague from North Carolina.

Mr. President, what our children and our families are going through in this society is pathetic. We are inundated with filth. We are inundated with pornography. Almost every movie that comes out today is an R rated movie. Now, I am not against R rated movies. It is just that I do not think people should spend all their time watching them. If it is not violence, it is sex. That is fine. They can do whatever they want to with regard to approved movies.

What the distinguished Senator from North Carolina is talking about here is child pornography, materials that are absolutely geared to wrecking the lives of our young children and distorting the way they grow up, ruining their futures and making them, through the force of psychological exhibition, become people that they would not want to be, their parents would not want them to be, no one would want them to be.

Mr. President, I think we ought to all support this child pornography amendment. It is about time we did. It is about time that we doubled those particular penalties under the guidelines, as the distinguished Senator from North Carolina would like us to do. It is about time we got tough on these people.

And I do not want to hear any free speech arguments made in favor of child pornography. I do not think there are any. The Constitution provides that we have a right as a society to stamp out things that literally do not deserve the title "free speech." The best way to do that is to make the criminal penalty so stiff that people will have a greater reticence to enter into doing these types of things. Our laws are fairly clear on what is and is not pornography. It is difficult to always define it, but the fact of the matter is our courts are capable of resolving those issues.

I commend the distinguished Senator from North Carolina for taking the position he has and for bringing this issue to the floor. I have confidence that the courts will resolve these issues in a way that will not impinge upon free speech under the Constitution.

Mr. President, I thank the distinguished Senator from North Carolina for bringing this amendment to the floor and I thank him for the time he has given me at this point.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, obviously I am grateful to my friend from Utah. He has been a stalwart in efforts to preserve, protect, and restore the importance and significance of family in this country. And I thank him for his comments.

As to the pending amendment, I am prepared to yield back the remainder of my time if the other side is willing to do that also. But first I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I shall not reiterate my disgust and my contempt for sleazy people who deal in child pornography. And I am puzzled and baffled as to why the Sentencing Commission decided to limit the penalty for receiving child pornography to probation. I think they ought to serve time in jail. They ought to have time to sit and think about what they have done.

I happen to have the blessing of being a grandfather to seven grandchildren, including five little girls. I say to the distinguished occupant of the Chair, that were they to be victimized by these sleazeballs, I am not sure I could restrain myself. I have talked with many parents and grandparents who have experienced this trauma. I think the Senate will make a severe mistake if it does not overwhelmingly support the pending amendment.

Mr. President, I am prepared to yield back the remainder of my time if the other side is willing to do the same.

The PRESIDING OFFICER. Does the Senator from Arizona yield back the time?

Mr. DECONCINI. Yes.

Mr. HELMS. I thank the Senator. I yield back my time as well.

PRIVILEGES OF THE FLOOR

Mr. DECONCINI. Mr. President, on behalf of the Senator from South Dakota [Mr. DASCHLE] I ask unanimous consent that a congressional fellow serving in this office, Mr. Mark Peterson, be allowed floor privileges during the consideration of the pending legislation before us for today, including the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I do yield back the remainder of the time on this particular first Helms amendment No. 780.

The PRESIDING OFFICER. All time is yielded back on amendment No. 780.

Under the previous order the rollcall vote on amendment No. 780 will occur immediately prior to the next reported rollcall vote.

AMENDMENT NO. 734

The PRESIDING OFFICER. Under the previous order, the Senate will now consider amendment No. 734, also by the Senator from North Carolina.

Who yields time?

Mr. HELMS. Mr. President, I suggest the absence of a quorum, to be charged against my side in this instance.

The PRESIDING OFFICER. The absence of a quorum has been suggested with the time chargeable to the Senator from North Carolina. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

AMENDMENT NO. 734

Mr. HELMS. Mr. President, Senators should be familiar with the amendment at the desk. It is the same amendment which I attempted to offer to the crime bill and the same amendment which I attached to the Treasury-Postal appropriations bill.

The Helms amendment—which is cosponsored by Senators THURMOND, SMITH, and LOTT—says that if a doctor, dentist, nurse, or health care worker—that is a surgeon, obstetrician, or surgical nurse—who performs or is involved with invasive medical techniques and knows he has AIDS and fails to notify his patients of that fact is subject to a fine and jail term of not less than 10 years. It does not require mandatory testing and does not apply to emergency situations.

Let me say it again, for the record, the Helms amendment does not require mandatory testing. It does not require that the psychiatrist or the podiatrist undergo any testing nor does it compel them to disclose to their patients that they have AIDS. Using language provided by the distinguished Republican leader, the Helms amendment says that if you perform invasive medical procedures you must notify your patients if you know you have AIDS.

Mr. President, the inspiraton for this amendment is Kimberly Bergalis, a 23-year-old Florida woman who is now in the last stages of AIDS-related tuberculosis, a condition which is slowly destroying her brain and body. As the July 1 edition of Newsweek states, "sometime in the next few days, Bergalis will probably become the first American to die of AIDS, after being infected by her dentist * * *."

For the last few months, Kimberly has taken her struggle to the American people, demanding that HIV-infected doctors, dentists, and health care workers be required to disclose their condition to their patients. You see, Kimberly's dentist had AIDS. He knew he had AIDS but he refused to notify his patients of his condition. Now Kimberly Bergalis is about to die and four others who were treated by this man have tested positive for the virus.

On July 9, our former colleague and the current Governor of Florida, Lawton Chiles, visited Kimberly as she lay dying. Governor Chiles put it very plainly:

> It's a lot like being in the presence of a saint. I told her how much I admired her, I told her I thought she'd already protected many lives that wouldn't have been protected before * * * she is an innocent victim.

Mr. President, a June 20, 1991, Gallup Poll found that 95 percent of the American people believe that surgeons who know that they have AIDS should be required to tell patients if they are infected with the AIDS virus. The same poll found that 94 percent of Americans believe that all physicians and dentists should be required to tell their patients that they have AIDS if they know they are infected.

On Wednesday, the Charlotte Observer published a poll, taken across the State of North Carolina, which revealed that 93 percent of North Carolinians feel that health care workers with HIV should inform their patients if they are infected. In fact the poll went on to say that 72 percent of North Carolinians believe that health care workers should stop practicing if they know they are a threat to the health of their patients.

The American people in general and the people of North Carolina in particular, are ahead of the politicians and professional activists in this country who have for too long treated AIDS as a civil rights issue rather than the public health threat it really is.

The story of the brave woman in Florida is not isolated. In the State of Minnesota, a pediatric surgeon continued to perform deliveries, and rectal, and vaginal examinations months after he found out he had AIDS. In the most shocking part of this story, a Minnesota television station broadcast pictures of this doctor delivering a baby while his bare arm was covered with sores.

When asked about the sores by the mother of the child he was about to deliver, the doctor said that the sores were just an allergic reaction. This man knew he had the AIDS virus well before he delivered that baby. As one of his patients told Newsweek, "he takes an oath to save lives not give a death sentence."

In my own State of North Carolina, a health care trainee at a major hospital in eastern North Carolina worked with patients for more than a year after finding out he had the AIDS virus. Two thousand residents of the Fayetteville and Raleigh areas have begun receiving letters from military and county health officials saying that they might have been exposed to AIDS because their dentists had the disease.

On July 11, the distinguished senior Senator from Massachusetts, said that the chance of passing along the HIV virus was miniscule and that there were only five known cases of AIDS transmission from doctor to patient. I will respond to the Senator from Massachusetts in several ways.

First, no chance is miniscule if we are talking about potentially handing a death sentence to an unsuspecting person; the five reported cases of AIDS in Florida are five too many.

Second, the transmission of AIDS is not the only health issue at work here. As Senators know, people with AIDS carry many potentially life threatening diseases, such as tuberculosis, hepatitis, and virulent strains of cytomeglo-virus [CMV], which when brought into contact with pregnant women, significantly raises the chance of miscarriage and birth defects.

Third, he is correct in saying that we only know of five cases. But he also knows that the AIDS virus has a latency period of weeks, months, and years. Kimberly Bergalis was infected with AIDS in 1987; she didn't discover she had the virus until 1989. In the Minnesota case alone we cannot begin to imagine what the human cost will be due to one criminal physician who treated 1,300 women and children after he knew he had the virus. What does one say to the mothers in Minnesota, one of whom told Newsweek that every time she sees her infant with a diaper rash she worries if her child is infected with the AIDS virus.

On Monday, the Centers for Disease Control issued guidelines which recommend that doctors and dentists who perform invasive medical procedures stop doing them if they are infected. The distinguished Republican Leader will shortly offer an amendment to implement these regulations. I support his efforts, but they in no way lessen the urgency of the Helms amendment.

What happened in Minnesota and what happened in Florida is criminal. To recklessly expose thousands of innocent Americans to this deadly disease and to create wholesale panic in countless communities is a vile act which should be rooted out and punished.

The Helms amendment is a necessary compliment to the legislation of the Senator from Kansas [Mr. DOLE].

I am not talking about hundreds of medical professionals with this amendment. The vast majority have honorably abided by the opening sentence of the Hippocratic Oath: "I shall first do no harm." However, there are a few people in the medical establishment who have thrown away their oath and duty to others. The doctor in Minnesota, and the dentist in Florida, and the dentists and health care workers in North Carolina should be treated no better than the criminal who guns down a helpless victim on the street; the effect is the same.

Mr. President, many people have said that we should do something to protect the thousands of medical workers who are at risk from patients who are infected with AIDS. I agree. I am the father of a nurse. I want my daughter protected. That is why I have, for the last 6 years attempted, to bring attention to the callous disregard for public safety and common sense which has been exhibited by the AIDS lobby and its allies in the Senate.

I give health care workers across the country my pledge that I will do everything in my power to ensure that they no longer fall victim to the political agenda of the AIDS activists.

Before I conclude, Mr. President, I want to read to the Senate, a letter Kimberly Bergalis wrote to the Florida Board of Health. Let me warn those listening that parts of this letter are graphic. But remember that this is the cry of a young woman whose life was ruined by a so-called healer who didn't have the decency to tell this beautiful young lady that he was putting her life at risk.

Here is the letter:

When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

I was infected by Dr. Acer in 1987. My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your fingers and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skeleton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

I'm dying guys. Goodbye.

Signed, Kimberly Bergalis.

I ask unanimous consent that articles from the Winston-Salem Journal, the Charlotte Observer, Newsweek, and Human Events be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 7, 1991]

HELMS OFFERS PROPOSAL ON AIDS

(By Jon Healey)

WASHINGTON.—Prompted by the story of a woman who contracted AIDS from her dentist, Sen. Jesse A. Helms has tried repeatedly in the past two days to offer an amendment to punish doctors, dentists and nurses who have the AIDS virus but keep it secret from their patients.

Critics of his proposal, led by Democratic Sen. Edward M. Kennedy of Massachusetts, said that it would discourage doctors who might be infected from seeking tests and treatment. They also urged the Senate to wait until next week, when the Centers for Disease Control is scheduled to issue its guidelines for protecting both doctors and patients against the AIDS virus.

Helms' opponents twice blocked him from getting a vote on his proposal, and it was not clear last night how the issue would be resolved. In one tense exchange, Majority Leader George Mitchell, D-Maine, offered to schedule a vote on Helms' proposal next Thursday, but Helms would not accept the delay.

The AIDS amendment would require "health care providers" who know that they have the acquired immune deficiency syndrome virus to tell patients their condition before engaging in any "invasive physical contact." If they kept the virus secret from their patients, they would face a minimum penalty of 10 years in prison or a $10,000 fine.

Helms often brought up the case of Kimberly Bergalis, a woman who contracted AIDS from her dentist in Florida.

Helms also cited several other cases of health-care workers who continued to practice after contracting AIDS, including cases in Wake County and at Fort Bragg in North Carolina. Those doctors "should be treated no better than the criminal who guns down a helpless victim on the street, the effect is the same," Helms told the Senate on Wednesday.

Opposition to Helms' amendment came from medical groups and AIDS activists, who argued that the amendment was self-defeating.

Donna Richardson, the top lobbyist for the American Nurses Association, said that patients are protected by such infection-control precautions as rubber gloves and sterilized equipment, not by disclosure requirements.

The Centers for Disease Control has estimated that 50,000 health-care workers have the AIDS virus, but only five cases have been found of the virus being passed along to patients. All five involved Ms. Bergalis' dentist, who did not take common precautions against infections, Ms. Richardson said.

[From the Charlotte Observer, July 12, 1991]

SENATOR HELMS: FORCE DOCTORS TO REVEAL OWN HIV INFECTION

(By John Monk)

Doctors who are infected with the AIDS virus and who don't notify their patients should be fined up to $10,000 or imprisoned for 10 years, according to a proposal by Sen. Jesse Helms, R-N.C.

"None of these should be treated any different than the criminal who guns down helpless victims in the street," said Helms in a Thursday speech to the Senate.

Helms' proposal would apply to more than just doctors. Any health-care professional who tests positive for the HIV virus and subsequently performs "intrusive procedures" should face such penalties, Helms says, if they won't reveal their status to their patients.

The proposal—made first as an amendment to the Comprehensive Violent Crime Control Act of 1991—disrupted the Senate Thursday.

Senate leaders, who had wanted to pass the major crime bill Thursday afternoon, tried to outflank Helms by temporarily dropping the crime bill and bringing up a treasury appropriations bill.

But Helms then re-introduced his AIDS amendment on the treasury bill, prompting a vow from Sen. Edward Kennedy, D-Mass., that he would filibuster the treasury bill to stop Helms' amendment.

Thus, in the space of a few hours, Helms—who is known for wily maneuvers that focus attention on controversial issues—had managed to tie up two major bills.

As Thursday night wore on, the crime bill remained in limbo but some sources expected it to pass late Thursday—most likely without Helms' amendment.

Earlier in the day, in an interview in his office, Helms said he was outraged about health-care workers who place peoples' lives in jeopardy by exposing them to AIDS.

Quoting AIDS victim Kimberly Bergalis, a 23-year-old Florida woman whose remarks were published recently in Newsweek magazine, Helms called doctors who won't reveal they have AIDS and those who give it to their patients "bastards."

"That is exactly what they are. No, that is a reflection on bastards, to call them bastards. They are worse than that," Helms said.

"I've got some grandchildren I'm very fond of. If some suck-egg mule did that to them, I don't know if I'd be out of prison myself," Helms said.

Bergalis, who is dying, contracted AIDS from her dentist, Dr. David Acer, who died last September. In recent months, Bergalis has become the center of a nationwide controversy over whether health-care professionals should reveal if they have AIDS. Acer is the only health-care professional who is known to have transmitted AIDS to patients.

But Helms said there could be more victims of other doctors. An N.C. dentist and a

Minnesota physician have only recently revealed they worked with patients after being infected by AIDS.

The N.C. dentist, who died of AIDS complications last month, mailed letters to 800 former patients, telling them they might want to be tested for AIDS.

The American Medical Association didn't have a position on Helms' amendment Thursday. But a spokeswoman said the AMA's policy is that doctors who test positive for AIDS should not practice invasive procedures unless they notify patients of their disease.

A spokeswoman for the AIDS Action Council said her group was opposed to Helms' amendment.

"He is fanning the flames of fear and behaving very irresponsibly, making people much more frightened than they need to be," said AIDS Action Council spokeswoman Carisa Cunningham.

Supporting Helms on the Senate floor was Sen. Strom Thurmond, R-S.C., who said, "Those who recklessly provide medical treatment to unknowing patients should be held accountable."

But Sen. Paul Simon, D-Ill., said the Senate needed to hold hearings on the issue. "Let's know what we are doing when we vote on a life and death matter."

To Helms, the issue was simple.

"I'm saying the patient has a right to know," Helms said.

"If this doesn't involve a crime, please spell out to me what does."

[From the Charlotte Observer, July 14, 1991]

AIDS Debate: Should Doctors Reveal When They Have the Virus?

(By Karen Garloch)

The fear started last July, when federal officials disclosed that a Florida dentist had given AIDS to a patient.

It grew when officials learned four more of his patients had been infected.

And it continues with each new revelation that a health-care worker is infected with HIV, the deadly virus that causes AIDS. Within the past two months, a dentist at Fort Bragg and one in Wake County disclosed they had the virus.

"It just scares you," said David Brown, a laid-off factory worker in Sumter, S.C. "You could be seeing a doctor for 10 years, and all of sudden he's got it, and you find out and it's too late."

More and more patients are demanding to know whether their doctor is infected with the AIDS virus. The growing debate pits doctors against patients and the right to know against the right to privacy.

Health experts emphasize that the risk of getting infected from a dentist or doctor is minuscule. Almost 6,500 U.S. heath-care workers have contracted AIDS—two-thirds of them have died. But only five people of the more than 170,000 AIDS cases in the United States since 1981 are known to have contracted the virus from a health-care worker. All were patients of dentist David Acer of Stuart, Fla., who died of AIDS in September.

The big risk, experts say, is that patients will transmit HIV to doctors doing surgery or other invasive procedures, such as delivering babies. Nationally, 40 health-care workers have contracted HIV from patients, usually from needle sticks.

AIDS is transmitted through exchange of blood or semen, as might happen in vaginal or anal intercourse, sharing needles with drug users, or coming into contact with contaminated blood.

"An individual's risk of getting HIV from going to a doctor is probably less than driving to work in the morning—and yet there is this fear," said a Charlotte doctor who stopped practicing three years ago when he was diagnosed with AIDS.

The doctor, whose first name is David, asked that he not be identified to protect his parents. He is gay, and his companion of 18 years died of AIDS recently.

David, 45, knew he was infected with HIV for two years before he stopped practicing emergency medicine at Mercy Hospital in 1988.

In the early years of the AIDS epidemic, he said, no one ever reported getting the virus from a doctor. Still, he said, he always used precautions, such as rubber gloves and masks.

"I can't imagine any way I could have transmitted the virus to anyone else," he said. "There was never even any potential of my blood coming in contact with the patient at all."

Mercy Hospital officials said they reviewed his practice and said they found no need to notify patients, because he hadn't placed them at risk.

Last week, the issue reached Congress.

Thursday, Sen. Jesse Helms, R-N.C., proposed that any health-care worker with the virus who doesn't tell patients be fined up to $10,000 or imprisoned for 10 years. Helms' aides said Friday they have received many calls in support.

Helms quoted Kimberly Bergalis, who is dying of AIDS she got from Acer. In a deathbed letter to Florida health officials, she blamed "every single one of you bastards" who knew he was infected and did nothing.

"I've got some grandchildren I'm very fond of," Helms said. "If some suck-egg mule did that to them, I don't know if I'd be out of prison myself."

Many doctors find Helms' proposal extreme, even though they agree with the American Medical Association and the American Dental Association that doctors who are HIV-positive, should tell patients or give up surgery.

"Patients should have the right to know," said Dr. Bartlett Warren, a Charlotte dentist. "But it shouldn't be a mandatory thing."

Warren and his staff wear gloves and masks and are using more disposable instruments. Federal officials found that Acer didn't always disinfect his equipment or change gloves between patients.

The worry goes both ways.

"We're the ones who have blood on our hands every day," said Dr. Kenneth Wood, an orthopedic surgeon and Mecklenburg County Medical Society president.

"I would agree that doctors should be tested," said Charlotte orthopedic surgeon Thomas Moore, "but I think the patients should be tested, too."

Moore operated on an HIV-infected patient Friday. He wore a helmet shield, boots, impermeable gown and thick gloves.

"Human nature being human nature, people just don't take 100% precautions 100% of the time," he said.

A year and a half ago, Moore said, he unknowingly operated on an HIV-infected patient and let a medical student participate.

"I wouldn't allow that, if I had known," he said. "In that situation you need experienced people."

Recently, when officials disclosed that a Fort Bragg dentist was HIV positive and that one in Wendell had AIDS, patients were told so they could decide whether to be tested.

The Wendell dentist, Dr. John Spell, 46, died June 30, a day after the letters went out.

In both cases, officials said the possiblity of transmission was low. And in Wendell, 20 miles southeast of Raleigh, residents who had known Spell defended him.

"I know that John double-gloved, he wore goggles and a mask," said Mary Anne Globig, a nurse and high school classmate, "I felt very comfortable with John working on me. I don't have the insane fear of AIDS that some people have." Nevertheless, she was tested.

Frances Henderson, a family friend, accused the media of being on a "witch-hunt."

"He wouldn't have endangered his patients. I don't believe he has infected anybody with AIDS."

David, the Charlotte doctor with AIDS, said doctors who are HIV positive should stop doing surgery. But he said widespread HIV testing would be costly and not particularly beneficial.

Someone can be infected with HIV for up to six months without testing positive.

"You can't test people every day," he said. "The results of that test are only good for that day. You could go out that evening and acquire the virus."

David said he understands why patients are worried but thinks the "mass hysteria is unfounded."

"If this virus were easy to transmit by a physician to a patient, and if one doctor could infect five people, then surely out of thousands of doctors, there would be lots more cases to write about."

Dr. Jim Horton, a Charlotte infectious-disease specialist who has treated AIDS patients since 1982, agrees.

"My biggest concern is that people are misplacing their fears," Horton said. "They should be afraid of AIDS, but they need to be much more concerned about sexual activity and drug use than about health-care workers."

[From the Charlotte Observer, July 16, 1991]

Policy Urges AIDS Tests for Doctors

(By Karen Garloch)

Some doctors and dentists say that if they have to take AIDS tests under new federal guidelines issued Monday, then their patients should, too.

The Federal Centers for Disease Control's new guidelines recommend that doctors and dentists who do invasive procedures, such as surgery or pulling teeth, get AIDS tests and stop doing such procedures if they are infected. The only exception would be if a doctor gets approval from an expert panel and tells patients.

CDC guidelines don't have the force of law, since states regulate the practice of medicine.

"I don't want the health-care worker singled out for AIDS testing until the patients are tested." said Dr. Francis Robicsek, a world renowned heart surgeon from Charlotte. "We are the ones who are in blood up to our elbows."

"You're not going to get voluntary compliance among healthcare workers unless all patients can be tested," added Dr. Jared Schwartz, a Charlotte pathologist who has been active on state and local AIDS study committees.

Examples of invasive procedures are abdominal, gynecological or heart surgery, root canals and pulling teeth. The guidelines don't cover health-care workers who do only simple tasks, such as cleaning teeth or giving shots.

The CDC didn't recommend mandatory AIDS tests for any health-care workers, saying. "The current assessment of the risk. . .

does not support the diversion of resources that would be required to implement mandatory testing."

The CDC has reported just one case of AIDS transmission from doctor to patients: Florida dentist, Dr. David Acer, now dead of AIDS, is believed to have infected five patients with the AIDS virus. Concern over the risk of doctor to patient transmission prompted the new guidelines and other Congressional proposals.

Last week, U.S. Sen. Jesse Helms, R-N.C., proposed to make it a crime for a health-care worker infected with the AIDS virus to practice without telling patients.

A spokesman in Sen. Robert Dole's office said the Kansas Republican intends to introduce an amendment Thursday that would pressure states into tying the CDC guidelines to state medical licensing procedures.

Dole's proposal would let the U.S. government sever certain federal money to states that don't tie licensing to the CDC guidelines.

Schwartz said the CDC's recommendations make it extremely difficult not to have mandatory testing. It's a chicken and egg thing. If you want me tested, I want you tested. And I don't want you tested last week, I want you tested now."

Someone can be infected with HIV, the human immunodeficiency virus that causes AIDS, for weeks or months without testing positive, Schwartz said. "A negative test still does not guarantee that either the patient or the health-care worker is not infected.

"The bottom line is, over the next couple of years, we're going to end up doing one hell of a lot of tests, and it's going to make some people feel good, but it's not going to accomplish much.

Dr. Deborah Calle Foushee, a Charlotte dentist who specializes in gum disease said she was tested for AIDS a year ago but doesn't think tests should be mandatory.

"I really think it's something best left up to the individual . . . The likelihood of HIV transfer from a dentist to a patient is extremely remote.

"It's not something that I feel is a real threat, just because I think the barriers are effective . . . I am always well-gloved and well-masked and well-goggled."

[From the Charlotte Observer, July 17, 1991]

Poll: Doctors With AIDS Should Stop Practicing

(By Karen Garloch)

Most Carolinians think AIDS-infected doctors and dentists should tell patients about their infection and stop practicing, according to the 1991 Charlotte Observer/WSOC–TV Carolinas Poll.

But they also think AIDS-infected patients should tell their doctors and dentists, the poll shows.

"I would think nobody would really want to go to someone that had it," said Linda Wilkinson, a 27-year-old mill worker in Rowan County. "I'd be scared. . . If he's got it, he needs to tell you. If you've got it, you need to tell him."

Seven of 10 Carolinians polled said they are "somewhat" or "very" concerned about getting AIDS from a doctor or dentist, a concern prompted by the recent discovery that a Florida dentist infected five of his patients with the AIDS virus.

On Monday, federal health officials recommended that doctors and dentists get regular AIDS tests, and if infected with the AIDS virus, stop doing surgery and other procedures in which they're exposed to patients' blood.

For now, doctors can order AIDS tests for patients only with patients' consent.

Based on responses from 932 Carolinas adults polled June 24 through July 3, concern about AIDS is greater than ever.

"Each day they come up with something new," said David Brown, 35, an unemployed factory worker in Sumter, S.C. "It's scary."

Four years ago, when the Carolinas Poll first included questions about AIDS, half those surveyed said they were more concerned about AIDS than about cancer and heart disease. That percentage dropped to 37% in 1989 and went up again to 46% in 1990. This year, it was 52%.

The number of people who said they know someone with AIDS has almost tripled in four years, from 8% in 1987 to 22% this year.

That isn't surprising, since the number of Carolinas AIDS cases has soared.

Since 1987, North Carolina's reported AIDS cases have grown from 231 to 1,938 today; S.C. cases went from 147 to 1,365.

Nationwide, the number of reported AIDS cases has more than quadrupled from about 40,000 in mid-1987 to more than 182,000 today. More than half of the people have died.

Almost everyone polled—more than 93 percent—said health-care workers and patients should inform each other if they are infected with HIV, the human immunodeficiency virus that causes AIDS. Eighty-four percent favored routine AIDS testing for health-care workers.

What should happen if doctors or dentists are infected?

Most respondents, 72 percent, said infected health-care workers should stop practicing; 13 percent said they should continue practicing with stringent protective measures; 11 percent said they should continue practicing, but exclude invasive procedures such as surgery and pulling teeth.

Fannie Ingram, 35, an AIDS educator for the Anson County Schools, said infected doctors should be allowed to continue practicing if they're careful.

"If they're using stringent preventive measures and very, very careful, I don't see a danger there."

She said patients should make sure doctors and dentists wear protective gear.

"When I went to my dentist three months ago, he was not wearing gloves," she said. "I asked him kindly if he would put his gloves on. He had never had a patient ask him to wear his gloves."

Dr. Jared Schwartz, a Charlotte pathologist and AIDS educator, said that instead of routine testing, he would prefer mandatory inspections of dentists' and doctors' offices to make sure they are using gloves, gowns, masks and sterilized equipment.

"The result would be fewer infections of all kinds," he said.

Schwartz noted that the only health-care worker known to have infected patients with AIDS—Florida dentist David Acer—didn't follow proper procedure.

HOW THE POLL WAS CONDUCTED

The 1991 Charlotte Observer/WSOC–TV Carolinas Poll is the 11th annual survey of N.C. and S.C. adults. It is conducted by KPC/Research, the marketing research division of The Charlotte Observer. The poll is based on confidential telephone interviews of 932 people—609 in North Carolina and 323 in South Carolina—between June 24 and July 3. People quoted in articles on poll results agreed to be interviewed by reporters; otherwise, all poll data is confidential.

Poll takers used "random digit dialing." This method provides each household in a telephone exchange an equal chance of being selected, even if the telephone number is new or unpublished. Once a household was contacted, the adult to be interviewed was randomly selected. Four attempts were made to reach respondents, so hard-to-reach adults would not be underrepresented.

The maximum sampling error for 932 interviews is plus or minus 3.2 percentage points at a 95% confidence level, in other words, it is very probably (95 chances out of 100) that if all Carolinas adults were polled, the resulting figure would be within 3.2 percentage points of the figure obtained in the study. The sampling error for subgroups is greater because results are based on fewer interviews. For instance, the sampling error for North Carolina alone is plus or minus 4 percentage points.

The practical difficulties of conducting public opinion surveys may introduce other sources of error that cannot be measured. For example, as a group, those who refused to be interviewed may have had a different opinion.

[From Newsweek, July 1, 1991]

Doctors With AIDS

It is 80 degrees in the Florida dusk, but Kimberly Bergalis huddles under a quilt on the couch in her family's living room. At 65 pounds, she is half her normal body weight. Her skin is chalk white and her eyes stare blankly at the television blaring out music videos just six feet away. In late March the 23-year-old Bergalis took long walks on the beach; now she can barely lift her arms. She is in the last stages of an AIDS-related tuberculosis that wastes body and brain. Sometime in the next few days, Bergalis will probably become the first American to die of AIDS after being infected by her dentist, Dr. David Acer, who died of AIDS last year.

Bergalis went public with her condition in August, campaigning fiercely for regulations governing HIV-positive physicians and dentists that would require them to disclose their condition and thus prevent anyone else from suffering her fate. Now she is just waiting for the end. "Please get this over with," she whispers hoarsely through her horribly blistered mouth, as her mother combs her hair. Later, after her father bathes her and carries her to bed, he says, "See you tomorrow." And she replies "Hopefully not."

More than a thousand miles away. Dr. Richard Duff, a Minneapolis family practitioner, also contemplates his final days. Duff was diagnosed with AIDS more than three years ago. He believes he contracted the virus sometime between 1985, when he and his wife divorced after 18 years of marriage, and 1988, when they remarried. While he was single, Duff says, "I chased around." Once an athletic 150-pound man who loved to play racquetball. Duff is now barely 110—and maintains that weight only through nightly intravenous feeding. As he sits in his kitchem, slowly spooning peaches into his mouth, he seems 90, not 51. Between the diagnosis and his retirement from practice last week, Duff saw hundreds of patients who did not know he had AIDS.

Duff defends his decision to keep his condition a secret from his patients. Because he avoided invasive medical procedures, he says he "wasn't putting anybody at risk." In fact, he might have gone quietly into the night if not for an incredible coincidence: Philip Benson, one of Duff's colleagues at the Palen Clinic in Minneapolis, found out last fall that he, too, has AIDS. Duff says he knows people will think the two were lovers: "That bothers me incredibly." But, he says, there's no connection between the two cases and he has no idea how Benson got sick. On June 14 Benson sent 328 patients a letter advising them to get AIDS tests because they had come to him for procedures that might have exposed them to the AIDS virus. In the wake of extensive publicity about Benson, Duff made his public announcement last week. So far, none of Benson's or Duff's patients has tested positive for AIDS. Duff thinks of himself as a role model for other AIDS-infected doctors. Careful physicians, he says, "aren't risky."

Bergalis and the Minneapolis doctors are on opposite sides of the explosive national controversy over AIDS-infected health-care workers. Just a year ago most authorities on AIDS considered it virtually impossible for an AIDS-infected physician or dentist to pass the virus on to patients. Universally accepted precautions—such as rigorous sterilization of equipment, double surgical gloves and masks—were deemed sufficient to prevent the blood contact needed for transmission. In fact, when Bergalis was first diagnosed, health officials investigating her case relentlessly looked for other explanations, such as intravenous drug use or promiscuity. When those avenues provided dead ends, they concluded that Acer had indeed given her AIDS—although health officials say the means of transmission are a mystery. Since then, four other Acer patients have been diagnosed with the same strain of AIDS.

Although the five are still the only patients known to have gotten AIDS from a physician or dentist, their cases have turned the impossible into a frightening reality. Some health officals say the public reaction in recent months has bordered on hysteria. Legislators in several states have introduced bills calling for all HIV-positive doctors to disclose their status to all their patients, a move most medical associations regard as extreme.

According to a Newsweek Poll, more than nine out of 10 Americans think doctors should be required to tell their patients if they have AIDS (poll). Around the country, aggrieved patients have filed lawsuits after learning that their physicians were infected—even though the patients are disease-free. Many patients say they have begun to be suspicious of any doctors they fear fall into a risk group for AIDS.

Indeed, some doctors and patients have begun to view each other as potential agents of destruction, rather than participants in the healing process. Two months ago Morey Filler, a San Francisco obstetrician, was about to perform major surgery on a 38-year-old woman when she suddenly asked him if he had been screened for AIDS. Startled, Filler told her that he and his surgical team were not in any high-risk group and took precautions in surgery. Filler says that he now dresses like a "road warrior" with high plastic boots and gloves. Los Angeles cancer surgeon Mitchell Karlan faced the opposite dilemma recently after performing surgery on a patient with a facial tumor. The procedure was a success and, four days later, Karlan was about to take out the stitches—without gloves—when the patient told Karlan that he was HIV positive and advised the surgeon to protect himself. Karlan thanked the patient, donned gloves and removed the stitches. Universal precautions required in the age of AIDS make surgery "like being on guard duty for 30 days, 24 hours a day," says Karlan. "Every time I pick up a needle, it's like picking up a cobra."

Even as they try to calm these fears, health officials admit that there is some risk for both patient and doctor. According to the federal Centers for Disease Control in Atlanta, there were 6,436 reported cases of health care workers with AIDS from the start of the AIDS epidemic in the early 1980s until this March, including 703 nonsurgeon physicians, 47 surgeons, 171 dental workers and 1,358 nurses. Most experts say these figures probably represent only a small proportion of infected health-care workers since they are all full-blown reported cases of AIDS. Thousands more may have tested HIV positive. Others may be infected but symptom-free and therefore untested.

Health officials still emphasize that it is extremely unlikely that a patient will get AIDS from a physician, dentist or nurse; the much greater risk is that physicians and other health-care workers performing surgery or other invasive procedures on AIDS-infected patients will get the virus from their patients. At last week's international conference on AIDS in Florence, Italy, Dr. Albert Lowenfels of New York Medical College calculated that the risk of transmission from an HIV-infected surgeon to a patient is about one in 48,000.

"The risk closely resembles the risk of a vehicular fatality during transportation to and from the hospital," he concluded. In contrast to the five Florida cases, there are 40 known cases of health-care workers around the country who have gotten AIDS from patients, according to the CDC, most of them from accidental needle sticks or cuts. Some officials say the actual number of infected workers may be much higher.

Given the millions of surgical procedures performed in this country since the start of the AIDS epidemic, these figures should reassure both doctors and patients. But like everything else about AIDS, there's a big gap between knowledge and emotion. Many of Benson's patients panicked when they received their letters from the doctor. "I was screaming," says 30-year-old Kathy Nesby, a homemaker and mother of three. Benson delivered her daughter Nicole on Oct. 10—after he found out he had AIDS. Although Nesby says his arms and hands were covered with oozing sores, during the next few months Benson performed three well baby checkups on Nicole, looking at her eyes, nose and ears. Without wearing gloves, Nesby says he also spread the lips of Nicole's vagina and put a tongue depressor in her mouth. Although she and Nicole have tested negative for AIDS. Nesby worries about anything that goes wrong with Nicole. "She's had a little diaper rash now for over a month and a half," says Nesby. "It's sure taking a long time to clear up."

Like other patients of Benson, Nesby was particularly disturbed by the weeping lesions on the doctor's arms and hands. Though he claims he wore gloves when necessary, Benson performed rectal, vaginal and throat exams during months when the sores were so severe that one health-care professional who saw them compared them to third-degree burns. KARE TV of Minneapolis last week broadcast a photograph of a doctor identified as Benson delivering an infant last August; the photo appears to show sores on the doctor's bare arm even as his gloved hands extract the baby. Nesby says that when she asked Benson about his skin condition, he told her that it was "an allergic reaction to the sun." Another of Benson's patients, who is suing him and wants to be identified only as "K.A.C." says she can't understand why the doctor put patients at risk. "He takes an oath to save lives," she says, "not give a death sentence."

HIDING THE TRUTH

Neither Benson nor his lawyer would talk to Newsweek about the case. But Duff, Benson's colleague, admits that he hid the truth from patients who asked him if he was sick as he lost weight and grew weaker. He told them, "I'm dealing with a significant illness," he says. Mostly, he was concerned about his sons—now 14, 18 and 20. "My kids are at an age where there's a certain amount of AIDS phobia," Duff says. "I didn't want to cause a major crisis in my life." According to Duff, the clinic staff knew for two years and no one quit. In fact, he says, he asked the staff to tell him if they felt he should stop practicing. "Let me know, and I'll retire right away," he says he told them. "Sometimes you can't see things yourself very well." Now he says he realizes he should have quit earlier. Because of exhaustion, he had already cut his patient load in half. "Maybe this is God's way of saying, 'If you're not going to quit on your own, I'll get you to quit'."

But should someone have intervened sooner? Patients assume that state or federal regulatory agencies are watching over their health care. While this may be true in some parts of the medical system, doctors with AIDS are pretty much on their own. Only one state—New York—has issued enforceable rules for HIV-infected health-care workers. There are no federal regulations covering infected physicians. After months of debate, the CDC is still in the process of drafting guidelines on the issue. This week Rep. William Dannemeyer (Republican of California) is planning to introduce legislation in Congress governing infected health-care workers. Michael Osterholm, Minnesota's state epidemiologist, is the chosen representative of the nation's state epidemiologists to the Centers for Disease Control in its deliberations on new standards. "The lag in the development of federal guidelines is one of public health's worst hours," he says. "If we professionals don't do something proactive, the state legislators and the insurance companies will do it for us."

In Minnesota, state health officials were first notified of the Benson case eight months ago; it took that long to work its way through bureaucratic channels. Officials at the Board of Medical Examiners struggled with the case: they knew of no other situation in which a practicing physician with AIDS had been reported to his state board. Finally, after combing through records, authorities estimated that 328 patients were at greatest risk because of a combination of the timing of the procedures and the presence of the lesions. That number, revised last week to 339, includes 38 mothers and 38 babies.

The American Medical Association and the American Dental Association both recommend that HIV-positive dentists and physicians either refrain from performing invasive procedures or disclose their condition and obtain informed consent from their patients. Dr. Nancy Dickey, an AMA trustee, says professional self-regulation works best because each case presents its own set of problems. Some infected doctors in specialties where they have little direct contact with patients, such as radiology, would be able to work safely as long as they are healthy. Others, particularly surgeons, present greater risks.

Mandatory testing of all health-care workers might seem like a good solution, but some AIDS experts say it's impractical and ineffective. There can be a six-month lag between infection and the development of antibodies that show up on a test. That could mean that a doctor who cuts himself while operating on an infected patient would have to stop practicing for at least six months until he can be tested. And a clean bill of health could be meaningless just a day after it is issued if the health-care worker becomes infected.

Where would disclosure end? Should a physician with a seizure disorder tell his patient about his condition? What about doctors who are recovering alcoholics or substance abusers? Disclosure is "incredibly murky," says Dori Zaleznik, and epidemiologist at Beth Israel Hospital in Boston. "Do you have to tell the patient you had a fight with your wife this morning and it is affecting your judgment?"

Other physicians think the risks of testing are worth it. "The inherent right to know—for patient and doctor alike—always has to supersede confidentiality," says Dr. Sanford Kuvin, vice chairman of the National Foundation for Infectious Diseases in Washington, D.C. "The doctor doesn't have to put up a signboard, but there has to be informed consent if he is going to do invasive procedures. 'First, do no harm' is the absolute bedrock of medicine. The Kimberly Bergalises of this world are avoidable."

Testing doctors inevitably brings up the issue of patient testing. This week the AMA will meet to debate recommendations that call for routine testing at the discretion of the doctor, accompanied by counseling and informed consent. "Doctors are afraid," says Dr. Paul Rothman, president of Search alliance, and AIDS-research organization in Los Angeles. "They want to know the HIV status of their patients, and doctors who work in surgery ask us about it all the time. If we get the patient's permission, we give the information, otherwise it's up to the surgeon to discover it on his own. In many institutions, blood is illegally and surreptitiously drawn on patients to find out their status."

Historians say AIDS presents unique medical and social dilemmas. In past epidemics, infected doctors were never required to disclose their status to patients, says Sheila Rothman, a medical historian at the Center for the Study of Society and Medicine at Columbia University. Nor were patients expected to tell doctors that they had an infectious disease. "There was silence on both sides," Rothman says. From 1800 to 1870, one out of every five deaths in this country was from tuberculosis. So many doctors got the disease, Rothman says, that by the 1920s it was sometimes referred to as the "occupational disease of physicians." But even then, there was no question of not treating sick patients or of doctors who were ill refraining from practice if they were physically able to work.

Today physicians who willingly disclose their illness can pay a terrible price. Dr. Hacib Aoun's entree into the nightmare world of AIDS came without warning, heralded only by the sharp crack of a breaking test tube and the sight of HIV-contaminated blood dripping over his cut finger. In December 1986, three years after that awful day, the Baltimore cardiologist was diagnosed with full-blown AIDS. Administrators at the hospital where he was training refused to renew his contract. He sued and settled for an undisclosed sum a year later. Aoun has not been able to find a job since. He spends his time traveling around the country lecturing on doctors and AIDS. "Death is going to catch me with my boots on," says Aoun, 36. "I'm not going to sit down and dwindle away. I have a message to pass on." He is bitter that HIV-positive doctors are treated like lepers. "The one thing that I am not doing now is the thing I love most in life and that is taking care of people, because medicine has no place for those who are HIV infected, regardless of your talent."

At this stage in the epidemic, doctors who admit they have AIDS and want to continue to help others have few choices. They can become activists, like Aoun; they can work in noninvasive fields like psychiatry or they can limit their practice to people with AIDS—considered pariahs by many doctors. In one recent study, two thirds of medical residents surveyed said they did not plan to treat people with AIDS and 74 percent of residents said they would not give lifesaving treatment to HIV-positive patients if the risk of infection to the resident were one in 100, according to Molly Cooke, an associate professor of clinical medicine at the University of California, San Francisco, who conducted the study.

Or HIV-positive doctors can continue to practice, keeping their painful secret. That is the choice that Bill (not his real name), a 41-year-old New York doctor, has made. It's been a little more than two years since Bill tested positive for HIV. He is still healthy and is not on medication. He follows the universal precautions to the letter, including hand-washing, gloves and masks. "Do I think there's no situation where HIV could be transmitted?" he asks. "No, there must be. But living in 1991 America puts us at risk for lots of things. You could ride on a subway that catches on fire. You can be involved in a car accident. Being alive involves risk."

Bill says he took the AIDS test when his lover became infected. Since his lover died a year ago, he has been especially grateful for his work. "In grieving," he says. "I've found that work can be a refuge. I'm glad to have it." Bill believes that not only is he not putting patients at risk, but he is serving some who would otherwise get no health care. "I'm talking about clinic patients, patients with tuberculosis, drug abusers, patients who have no access to health care. I'm one of very few in my specialty who don't turn away patients whose consult read 'HIV positive, insurance negative'."

In the absence of federal regulations, HIV-positive doctors must make their decisions the way Bill did—one case at a time. Patients can only guess about the health of their doctors; similarly, doctors must take risks with patients they may consider suspect. And the few for whom the issue is no longer theoretical will try to make some sense out of their tragedy.

Like Kim Bergalis, Barbara Webb was infected by David Acer, her dentist. The 65-year-old retired teacher says she never thought much about AIDS until she saw a story in the local paper about a patient suspected of contracting AIDS from Acer. She and her husband, Bob, also an Acer patient, went in to be tested. Her husband's test was negative; hers wasn't. "It was just like being hit in the solar plexus by a heavyweight boxer," says Webb. "I could hardly breathe. I thought: 'This is impossible'." In the months since, Webb, who is on AZT, has made a fragile peace with her disease, but she's still angry that Acer hid his illness. Earlier this year she needed eye surgery. She told her doctor she was HIV positive and explained that she would not be insulted if he refused to operate on her; he agreed to do the operation. "I would have understood totally and gone down to the AIDS clinic," she says. "And it wouldn't have bothered me at all to go down. I just gave him the option. Nobody gave me the option."

I BLAME EVERY ONE OF YOU BASTARDS

(Kimberly Bergalis, the first patient to contract AIDS from her dentist, wrote this letter to Florida health officials April 6. Last week, as she neared death, her family released it for publication.)

"When I was diagnosed with AIDS in December of '89, I was only 21 years old. It was the shock of my life and my family's as well. I have lived to see my hair fall out, my body lose over 40 pounds, blisters on my sides. I've lived to go through nausea and vomiting, continual night sweats, chronic fevers of 103–104 that don't go away anymore. I have cramping and diarrhea. I now have confusion and forgetfulness. I have lived through the torturous acne that infested my face and neck—brought on by AZT. I have endured trips twice a week to Miami for 3 months only to receive painful IV injections. I've had blood transfusions. I've had a bone marrow biopsy. I cried my heart out from the pain of the biopsy.

"I lived through the fear of whether or not my liver has been completely destroyed by DDI and other drugs. It may very well be. I lived to see white fungus grow all over the inside of my mouth, the back of my throat, my gums, and now my lips. It looks like white fur and it gives you atrocious breath. Isn't that nice? I have tiny blisters on my lips. It may be the first stages of herpes.

"I was infected by Dr. Acer in 1987. My life has been sheer hell except for the good times and closeness with my family and my enjoyment for life and nature. AIDS has slowly destroyed me. Unless a cure is found, I will be another one of your statistics soon.

"Who do I blame? Do I blame myself? I sure don't. I never used IV drugs, never slept with anyone and never had a blood transfusion. I blame Dr. Acer and every single one of you bastards. Anyone that *knew* Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You are all just as guilty as he was. You've ruined my life and my family's. I forgive Dr. Acer because I believe the disease affected his mind. He wasn't able to think properly and he continued to practice.

"Do you know my family will be emotionally scarred by this forever? Do you know my mother lost her mother, father, grandfather and dog in a car accident when she was a teenager—and now she's going to lose her first born child?

"Have you ever awakened in the middle of the night soaking wet from a night sweat—only to have it happen again an hour later. Can you imagine what it's like to realize you're losing weight in your *fingers* and that your body may be using its muscles to try to survive. Or do you know what it's like to look at yourself in a full-length mirror before you shower—and you only see a skeleton? Do you know what I did? I slid to the floor and I cried. Now I shower with a blanket over the mirror.

"Well—I think I've said enough. Like I said—all is forgiven by me—there's no hard feelings anymore. But I will never forget.

"P.S. If laws are not formed to provide protection, then my suffering and death was in vain.

"I'm dying guys. Goodbye."

IN FLORENCE, A MEETING OF MYSTERIES

For the seventh year in a row, thousands of scientists from around the world gathered last week to share their research on a disease that frustrates and fascinates them. Although the International Conference on AIDS in Florence was less politicized than in past years, there were demonstrations over a

U.S. immigration policy that bans anyone carrying the AIDS virus. There were gloomy predictions that by 1995, 15 million people will be infected worldwide. And some studies suggested it's easier to get AIDS through heterosexual intercourse than most people think. But the conference offered good news, too: researchers understand better why some people carrying the virus remain free of symptoms for many years—and new drugs hold out the promise of prolonging lives.

An estimated 8 million to 10 million people are infected with the AIDS virus, says Dr. James Chin, head of the World Health Organization's AIDS surveillance unit; more than half live in sub-Sahara Africa. By 1995, Chin says, newly diagnosed cases will likely plateau in the industrialized world, but transmission will explode in developing nations. During the next couple of decades in the Third World, Chin predicts, "AIDS will become the leading cause of death for adults in their most productive years."

In the developing nations AIDS is spread most often by heterosexual intercourse. Initially researchers believed the virus was harder to transmit by vaginal sex than anal sex, where rectal bleeding gives it direct entry to the bloodstream. But researchers from Harvard University's Dana Farber Cancer Institute reported evidence of what scientists had long suspected: even very small concentrations of the virus can be transmitted directly through mucous membranes. Dr. William Haseltine's team discovered the virus in a type of cell found in the linings of the rectum, vagina and mouth. Although AIDS transmission through deep kissing (with exchange of saliva) is theoretically possible, says Haseltine, "most people in public health think the risk is a small one."

Viruses lurking in mucous membranes, away from the bloodstream, may be more difficult to zap with drugs. But at least one drug, AZT, has lengthened the lives of many people who are HIV positive. Several researchers reported that combining AZT with the experimental drugs known as DDC and DDI substantially increased survival rates.

Physicians have been tantalized by the puzzle of people with longstanding HIV infections who haven't developed symptoms. Dr. Jay Levy of the University of California, San Francisco, discovered that their immune systems naturally produce a substance that temporarily halts replication of the virus. It seems able to fend off the virus' ravages for as long as a decade, says Levy, and could be useful in developing effective drugs.

As the conference ended, there was much apprehension among participants over whether they would meet again in 1992. Many said they won't attend next year's meeting in Boston if the restrictive U.S. immigration policy isn't changed; conference organizers may even cancel it. The U.S. Public Health Service recently recommended eliminating all but active TB from the list of eight infectious diseases that preclude entry to the United States. So far, the Bush administration has rejected that advice. Like many other aspects of AIDS, the outcome of this conflict is still uncertain.

INNOCENT GIRL'S BLOOD ON POLITICIANS' HANDS

(By Ray Kerrison)

In what may have been her last public communication before she dies, Kimberly Bergalis indicted the American public-health service in terms that haunt her soul. Her blood, she said, was on their hands.

You bet it is. Kimberly Bergalis was a beautiful, healthy University of Florida student, as innocent as the sun in the sky, when she contracted AIDS from her dentist, Dr. David Acer. Now, at 23, she's a 70-pound skeleton, bedridden, wracked by pain, burning with fever, begging God to release her from her agony.

She is dying because the political and public-health systems are more interested in protecting the wayward, the deviant and the promiscuous than the upright.

She understands it so clearly that she wrote a letter to a health investigator that should sear the conscience of every politician, doctor and health worker in the country.

"Whom do I blame?" Kimberly wrote. "Do I blame myself? I sure don't. I never used drugs, never slept with anyone and never had a blood transfusion.

"I blame Dr. Acer and every single one of you bastards. Anyone who knew Dr. Acer was infected and had full-blown AIDS and stood by not doing a damn thing about it. You're all just as guilty as he was. You've ruined my life and my family's."

The unforgivable fact of Kimberly's impending death is that it is so unnecessary. She was infected when she had two teeth extracted in December 1987—three months after Dr. Acer, a bisexual, was diagnosed as having AIDS.

She was like a lamb led to the slaughter. The whole political, medical and public-health system of Florida, as they do in so many states, including New York, joined in a conspiracy of silence to shield Dr. Acer's deadly disease and allow hundreds of patients to be exposed to his infection. If this is not cold-blooded, deliberate dereliction of duty on a massive scale, I don't know what is.

After contracting AIDS, Dr. Acer treated 1,700 unsuspecting patients before he died last September. He is believed to have infected four others in addition to Kimberly.

Kimberly concluded her letter, "If laws are not formed to provide protection, then my suffering and death was in vain. I'm dying, guys. Goodbye."

You'd think, Kimberly's plight would trigger universal dismay and anguish. Not in New York. Our state officials studied her tragedy and shrugged it off.

A hundred Kimberly Bergalises could be sacrificed and New York's so-called public-health officials would not be moved. Why? Because they are political and medical cowards.

The nation's leading health groups—the American Medical Association and the American Dental Association—have both taken the unequivocal position that doctors and dentists infected with the AIDS virus should warn their patients or give up surgery.

That's just common sense, but the New York State Health Department trashes it. Its policy is that health-care workers infected with the AIDS virus need not tell patients and certainly they may continue to operate or perform other invasive procedures. The department holds that patients don't have a legal right to know the health status of doctors or dentists given them care.

Dr. David Axelrod, as the state commisioner of health, made this policy in the winter, shortly before he was stricken with a stroke. He claimed the chance of being infected by a doctor or dentist was one in 100,000 or one in a million. He apparently liked those odds. They are not so great if your name is Kimberly Bergalis.

Dr. Axelrod was not alone. Gov. Cuomo, Mayor Dinkins, the city's health commissioners and most politicians have consistently opposed mandatory reporting of the AIDS virus, even though it is the law for all other sexually transmitted diseases such as herpes and syphillis.

Why is AIDS, the deadliest of all such diseases, the lone exception? Because New York's politicians, especially Cuomo and Dinkins and their government departments, are prisoners of the radical homosexual lobby. They place the public's health at risk rather than offend the militants in ACT-UP.

The day may come when New York will have its own Kimberly Bergalis. If it does, watch out. That's when the politicians and health authorities will be held accountable.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER addressed the Chair.

Mr. KENNEDY. Mr. President, I yield whatever time the Senator needs.

Mr. DURENBERGER. Five minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to oppose the amendment offered by my distinguished colleague from North Carolina, which would require mandatory disclosure of HIV status by health professionals.

Mr. President, I also ask unanimous consent that Robert Wood Johnson, intern on my staff, and Susan Bartlett Foote be allowed the privilege of access to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, listening to my colleague read this very long last letter from Kimberly says the obvious, and that is that the issue generates a very high level of emotion. And reading it on the floor of the Senate, I am sure, is guaranteed to heighten emotion on this issue.

I must say that as I watched a similar experience in the State of Minnesota over the last 3 weeks, in the videotapes of a doctor in Minnesota delivering a baby. It turns out later the doctor did have AIDS, but every one of his patients has demonstrated they have not been infected. I just must say to my colleagues that we are all being victimized in this country because of this kind of fear. I say victimized.

In Minnesota, an unscrupulous person took out advertisements offering potentially lifesaving information. Here is what the ad said: "See if your doctor or dentist has AIDS." And then there is a phone number you could call. For $22.95, the callers received forms that the attorney general in the State of Minnesota has called shams with false, deceptive, and misleading statements preying on the public's anxiety and fear over AIDS and doctors. That is just one example.

Mr. President, I rise because I believe we need to allay the public's anxiety with facts and with good public policy. Last week, when we began the debate on this amendment, I appealed to my colleagues to look at the facts, and I make that appeal once again. Some people have said to me this amendment only mandates disclosure. Surely, they argue, disclosure of HIV status is not too much to ask?

Mr. President, we have to look more closely at this amendment, and I submit that it does more harm than good. The risk of transmission of HIV from health care workers to patient is extremely small. Of the 179,316 AIDS cases diagnosed in the United States as of May 31 of this year, one case, the case cited by my colleague from North Carolina, implicates a health care provider. In the context of this epidemic in this country and across the world, that is infinitesimal.

We must remember that millions of invasive procedures have been performed by physicians over the 10 years that HIV has been with us—and one case.

There are no cases of patients who contracted HIV disease from health care workers when those workers followed the universal precautions of infection control. None; zero. So, Mr. President, I recognize that the risk is small, but I must also recognize that it exists. I do not take that lightly. No one should be exposed to the AIDS virus unnecessarily.

However, as a nation and as a people, we must craft policies of infection control that are properly designed to eliminate the real risk, not a phantom risk inflated by fear and ignorance. This is what the amendment before us does. It imposes criminal sanctions on health care workers for failure to disclose their HIV status.

What is the purpose of criminal law? It is to punish wrongdoers and deter others from engaging in similar acts. The vast majority of health care workers accept their moral and professional responsibility to be servants of their patients. They do not need the fear of criminal sanctions to behave responsibility.

My colleague spoke of the one dentist in Florida. And it is clear that there are reckless and irresponsible people likely to intentionally infect their patients. These rare few refuse to take precautions. Their desire to continue practice appears to be driven by fear and denial. Do you think any one of these people who have what is already a fatal disease will be deterred by the threat of a long jail term? Come on. They are already terminal.

Mr. President, this amendment will not deter or punish those who present risk to patients. On the other hand, the broad mandate for disease disclosure in the amendment ignores the right of privacy of the individual health care provider.

Were a patient to reveal to a doctor that they had tested positive, there is no question but what the doctor has to keep that confidence. But if the reverse is the case and the doctor has to tell it to the patient, the patient can go out and tell it to the world. And that is likely what will happen with this amendment.

Mr. President, in addition to the personal costs associated with this amendment, I ask you what about the impact on access to care? Consider a nurse in a rural hospital anywhere in the world who takes every necessary precaution to protect her patients. Because of fear and ignorance, disclosure of HIV status is tantamount to forcing that nurse to withdraw from practice altogether.

Suppose she contracted it from a patient. Her career is over.

Patients will be deprived of health care services that may pose little or no risk to them. That is one of the hidden costs of this amendment.

It is important to remember there are no cases of patients who contracted HIV disease when health care workers followed universal precautions. None. Prevention and precautions eliminate risk. Fines and jail terms do not.

The proposal before us will not deter risky behavior on the part of a reckless few. It will not prevent transmission. It does not further the fight against the AIDS epidemic. And it may unfairly and unnecessarily harm the lives of others.

We need, Mr. President, prevention, not punishment. We need to cure AIDS, not to criminalize it.

The American public is deeply concerned about AIDS; we are all deeply concerned. However, this amendment is a gesture. We should not fool the electorate with policies that just will not work.

As a New York columnist has recently pointed out:

> As always, we yearn for bright lines, for guarantees, for absolutes. People look at photographs of Kimberly Bergalis, baked down to the bones by illness, and see themselves. But bright lines are neither available nor, in the last analysis right.

Mr. President, the amendment before us offers a false guarantee, a bright line that obscures the truth, and it is not in the last analysis, right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

The Senator from Massachusetts has 22 minutes and 20 seconds.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes.

Mr. President, I heard a few moments ago a very eloquent statement of compassion by the Senator from North Carolina about Kimberly Bergalis and the members of her family, with a reference to others whose lives have been taken as a result of HIV. All of our hearts ache at the extraordinary tragedy.

The issue here on the Senate floor is not who is more concerned about that tragedy, because there is obviously no lock on who cares the deepest, or who is the most concerned among the Members of the Senate. Obviously, all of us are deeply concerned about that extraordinary personal tragedy to Kimberly Bergalis and the other members of her family, and all of our hearts ache about her tragic story.

The issue that is before the Senate is what course should this body take in order that there not be more Kimberly Bergalises. That is basically the issue. We cannot go back and revisit that particular tragedy other than to be saddened by it. The question is, What we are going to do today to avoid that possibility in the future? What steps will this body take to avoid further tragedies of this kind?

We cannot absolutely ensure, through our actions here, that this situation might not occur again sometime in the future. What we must try to do is shape and fashion the soundest public health policy that we can to avoid such circumstances in the future.

This is the critical issue before us. And the question now to be considered by the Senate is whether we believe that the best answer to this would be sending someone to prison for 10 years, which they would be unlikely to outlive, and also imposing a $10,000 fine, or whether we should take the recommendations of the Centers for Disease Control and implement the newly released guidelines. These recommendations of the CDC represent the best thinking of our scientists and the medical profession, which have been studying and reviewing this issue for the last year. This has entailed thousands of pages of paper, days of testimony, and hours of consideration, all given to this one question: What is going to be the best public health policy for this country that will protect our patients and health care professionals. This is what the Centers for Disease Control has considered. They reviewed the option of mandatory testing, and discounted it for particular reasons—however, this does not disallow it as an option for States, should they make that choice. The CDC also considered the potential for criminal proceedings and discarded that approach.

What we have today, Mr. President, is the proposal of the Senator from North Carolina. Maybe there are going to be those here in this body who say, "We are going to vote for that." They will be able to go back home and say, "We have really ensured that the health delivery system today is going to be secure and safe; you face no possibility of contracting HIV or AIDS because we voted for the Jesse Helms amendment." Under his definition of basic procedure anyone who knowingly has HIV and does a procedure is going to jail. Therefore, go ahead to your hospital, your medical center, your dentist's office—there really is no chance that you'll ever get HIV.

That is nonsense. Maybe people will feel good about such a vote—the we have really been tough on HIV people—voting to put them in jail for 10 years. They can say we have really been tough, we have really solved this public health problem.

Alternatively, you will have the opportunity to vote for an amendment introduced by the majority leader, Senator MITCHELL, the minority leader, Senator DOLE, and cosponsored by my friend and colleague from Utah, Senator HATCH, myself, and others, that basically takes the thoughtful recommendations of the CDC covering a wide variety of different issues. These recommendations are related to the transmission of HIV from a health care worker to a patient, covering issues of disinfecting equipment and other kinds of preventive measures that have been reviewed and examined and found sound. They also looked at various kinds of invasive procedures which they have defined narrowly, carefully, prudently, and effectively. They have instructed the States to take the necessary steps to protect the public in those States, and to develop what the States believe to be the most effective ways of ensuring that protection—which may very well be mandatory testing or criminalization. The States are going to make those judgments; but this amendment provides that States comply with these guidelines or otherwise they lose Federal health resources and funding. Naturally, every State will take those steps.

The Centers for Disease Control, in their examination of the mandatory testing issues, believe that such testing helps drive the disease further underground. What medical professional, if they feel that they may be at risk, is going to take the HIV test when they know that is going to end their career practicing medicine? If they know that they have HIV, and go forward with some invasive procedure, then they go to jail. So if that individual thinks they may or may not have it, what are they going to do? Are they going to go out and get the test? Of course not. They are going to continue to practice medicine and put the patients at further risk.

That is going to be the effect of the amendment of the Senator from North Carolina. What is it going to mean for those individuals in the medical profession that may be involved in invasive procedures and who may feel that they may or may not be contaminated—do you think they will go out and be tested? Of course, they will not. Will you feel that you have really protected your patients by voting for a 10-year jail term? That individual will not be tested, and they will continue to practice. That is what we want to avoid, and what we will avoid, when we adopt the recommendations of the Centers for Disease Control.

Mr. President, if we start examining exactly what the Centers for Disease Control recommendations are as well as the——

Mr. DECONCINI. Will the Senator yield for a question on that subject matter?

Mr. KENNEDY. Sure.

Mr. DECONCINI. I am really interested in that point because, as I read the amendment of the Senator from North Carolina and as I understand the point of the Senator from North Carolina, the fact is the person has to know that he is a virus carrier and, if he does know he is a carrier, to avoid the penalty, he must give notification. If he does not know, then he is not subject to any penalties even though he might transmit the virus to someone else.

Mr. KENNEDY. The Senator is exactly correct.

Mr. DECONCINI. So the point of the Senator from Massachusetts is well intended, as is the amendment of the Senator from North Carolina. I am as concerned as the Senator from Massachusetts that, in fact, if we are going to get anyone who has any reason at all to believe he or she just might be a virus carrier, he or she may be afraid to get tested because once they get tested and it is affirmative, then they have to give notification to their patients or they are going to go to jail. If they have never been tested and they do not know one way or the other if they have the virus, then they are not subject to criminal penalties although they may be transmitting the virus.

Mr. KENNEDY. The Senator has summarized it absolutely accurately.

Mr. DECONCINI. I thank the Senator from Massachusetts for making that point as clear as he did.

Let me ask another question. There is nothing in the Helms amendment that protects the medical care profession. I do not have any figures, but I am under the impression that there are more cases of the AIDS virus being transmitted from patients to doctors than there are from doctors to patients. Maybe someone ought to look at how to protect the medical care profession from patients who are carrying the virus. I do not have an answer on how to do that. But this amendment obviously does not address that problem.

Mr. KENNEDY. The Senator is absolutely correct. We are attempting, even as we are here working with the administration, the Centers for Disease Control, and the Occupational Health and Safety Division within the Labor Department and with the representatives of the various medical professions, to do exactly that. We would have that kind of amendment, I hope, within the next 10 days before the August recess. I talked both to the majority leader and the minority leader. I have not talked personally to Senator HATCH. I am sure he would agree. But I have talked to the others about fashioning and shaping an amendment that will provide, to the extent possible, the medical professionals who, as the Senator has quite rightly pointed out, are at very considerable risk.

Mr. DECONCINI. If the Senator will yield 30 seconds from his time, I wish the Senator from North Carolina were here because when his amendment was first proposed, it was very attractive to me because of the obvious problems with AIDS transmissions as exhibited by the story that was printed in the local newspaper here, but from other cases where someone was careless and did not advise the patient that they were an AIDS carrier.

It seems to me there should be some penalty, but I am afraid this amendment goes too far in trying to do that. I know the Senator from North Carolina is trying to correct the problem. But I believe that as Senator KENNEDY pointed out it is going to be counterproductive. I think, based on that, I am going to support the compromise leadership amendment. I thank the Senator.

Mr. KENNEDY. I thank the Senator for his comments.

The PRESIDING OFFICER. The Chair informs the Senator from Massachusetts he has 10 minutes remaining.

Mr. KENNEDY. I yield myself another 4 minutes.

I would point out to the Senator that the recommendations of CDC place a heavy emphasis on the prevention aspects, disinfection and sterilization processes, and procedures for protection both of the doctor as well as the patient. But then it defines what the Centers for Disease Control, and basically what the medical profession, believe to be invasive procedures; and gives the requirements to the States that they are to fashion and shape, within a year, legislation to ensure that all health care workers would conform to the recommendations of the Centers for Disease Control.

Let me briefly point out some other troublesome aspects of the amendment of the Senator from North Carolina.

If you look at the language of the Senator, it covers any registered physician, dentist, nurse, or other health care professional who provides medical or dental treatment, and defines treatment as performance of any medical diagnosis, or procedure that involves invasive physical contact. Physical contact can mean any touching. Medical diagnosis means a person performing a medical diagnostic test that might not have any direct contact with the patient, such as orderlies, lab technicians, radiologists, or nurses who pose no virtual medical risk to the patient. They will be covered by the amendment and subject to the mandatory 10-year sentence.

If you extrapolate on that, Mr. President, we have 600,000 physicians, 134,000 in a surgical subspecialty, 182,000 in primary care; 150,000 dentists, and 71,000 dental hygienists. Allied health professions add other millions. We have 2 million nurses, 700,000 alone in critical care. This adds up to 4 million health care workers, who could at least be subject to the Helms criminal penalties.

What are we going to expect of the young people today who might be interested in a public health or medical career, when they have this whole issue in question over their heads? Everyone is implicated, and anyone who turns out to be HIV positive and does not tell the patient with whom they may have no personal contact, will automatically go to jail for 10 years. It is a mandatory minimum sentencing. You are saying to those individuals: "Do not ever get tested. Do not even think about getting tested. If you do and you stay in that profession, you are going to be penalized."

Mr. President, I do not think it is plausible that our colleagues vote for both, because they are basically incompatible. The Helms amendment effectively discourages testing, and the Dole-Hatch-Mitchell amendment encourages testing.

If we have learned something about this HIV disease, it is to deal with it from a sound public health point of view. That way, we are going to hopefully limit it, and restrict it. And we will soon, with the research that is being done at NIH, FDA, and in the private sector as well, move to a time when we will effectively eradicate it. And the best way to eradicate this disease includes counseling of those that may be affected and afflicted, and through voluntary testing. In the narrowly defined subset of cases which the Centers for Disease Control has indicated may pose a potential public health danger, we may insist that professionals will refrain from these exposure-prone procedures.

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes remaining on his time.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I understand that the Senator from Alabama wants the floor for not to exceed 3 minutes, if the Senator from North Carolina does not have any objection.

I ask unanimous consent that the Senator from Alabama be granted 3 minutes time, and that it not be charged against either side of this particular pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. HEFLIN. I thank the Chair.

(The remarks of Mr. HEFLIN pertaining to the introduction of S. 1494 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

Mr. DECONCINI. Mr. President, under the normal standards the absence of a quorum and the time consumed is to be charged against both sides; is that correct?

The PRESIDING OFFICER. That is not correct.

Mr. DECONCINI. What is the procedure?

The PRESIDING OFFICER. Only the Members who control time can put in a quorum call.

Mr. DECONCINI. If the quorum call is in effect.

The PRESIDING OFFICER. Then you can make the request.

Mr. DECONCINI. Let me get a clarification, Mr. President. If the Member who controls the time asks for a quorum call, then the time is charged against that Member's time; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. If no quorum call is requested, then the time is charged against both sides?

The PRESIDING OFFICER. Equally.

Mr. DECONCINI. Equally?

The PRESIDING OFFICER. The Senator is correct.

Mr. HEFLIN. Does the Senator want me to withdraw the quorum call?

Mr. DECONCINI. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts has 5 minutes remaining; the Senator from North Carolina has 9 minutes, 23 seconds.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have a letter from Secretary Sullivan stating the administration's position in strong support for the Centers for Disease Control guidelines and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 18, 1991.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: On July 15, my Department published health care worker guidelines that deal with preventing the transmission of the Human Immunodeficiency Virus (HIV) to patients during exposure-prone invasive procedures.

The guidelines call on all health care workers who perform exposure-prone procedures to find out their HIV and hepatitis B status and to not participate in such procedures unless they have obtained permission and individualized guidance from special review committees which will require, at minimum, that potential patients be informed of the infected worker's status.

The guidelines also emphasize the need for all physicians to carefully follow the "Universal Precautions" against infection, including such actions as thorough sterilization of equipment, careful handling and disposal of needles and other sharp instruments, and the wearing of gloves when appropriated.

I believe it is important to emphasize that patients face no risk of AIDS transmission from the great majority of medical procedures.

I understand the Senate will be considering several proposals dealing with this issue. I strongly believe that the guidelines we have issued, representing the consensus of the health care professions, will best serve the interest of patients and health care workers alike. Therefore, I support the Dole-Hatch-Mitchell-Kennedy-Helms amendment that would codify these standards.

Thank you for your review of this matter.

Sincerely,

LOUIS W. SULLIVAN, M.D.

Mr. KENNEDY. Mr. President, it says, "I strongly believe that the guidelines we have issued, representing the consensus of the health care professions, will best serve the interest of patients and health care workers alike."

The Members will have an opportunity to vote on that particular measure after we dispose of the Helms amendment.

Just briefly, Mr. President, the Helms amendment makes a mockery, a mockery of the Centers for Disease Control recommendations. If we accept that particular amendment patients are going to be at greater risk, not lesser risk, because of the criminality aspects of that amendment.

This has been the conclusion of the Public Health Service experts who have studied, reviewed, and consulted with medical experts all over this country. They have reviewed and studied it for 1 year. They believe that the Helms amendment poses a greater danger to patients in this country. That is why they have so strenuously urged the membership in this body and in the House, and across this country, to adopt what they believe will be the soundest Public Health Service policy that will be included in the leadership amendment.

I urge our colleagues to reject the Helms amendment and support the leadership proposal.

Mr. President, I wish to have printed in the RECORD letters of support for our position by various associations. I have already printed in the RECORD the letter of support by Secretary Sullivan in the administration. These letters are from medical associations in support of our position as well. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, July 17, 1991.
Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: As the Senate begins to examine the issue of transmission of the HIV virus in the health care setting, I wanted to apprise you of the American Hospital Association's (AHA) vigorous opposition to mandatory disclosure of health care workers' HIV status. The AHA is committed to ensuring that the risk of HIV transmission in the health care setting is minimized for patients and health care workers. We are aware of the enormous complexity and difficulty surrounding the issue of HIV transmission in the health care setting and have been working closely with the Centers for Disease Control since the onset of the epidemic to provide sound guidance to our member hospitals.

Management of HIV-infected health care workers has become a highly visible and emotional issue for everyone. The severe prognosis attached to HIV-infection, though improving, yields a natural desire to protect oneself from infection. There is, however, no such thing as a risk-free environment. To be effective, public policy must be reasonably related to what is known about the risk of HIV transmission; it cannot be based on generalizations, irrational fears or misperceptions. And the benefits of any related legislation must be contrasted with the human costs associated with broad, unwarranted, proscriptions.

A number of legislative approaches have been suggested regarding notification of health care workers' HIV status as a means to reduce the risk of transmission in a health care setting. Such approaches include requiring all health care workers to notify all patients of their HIV status, without regard to whether the nature of their contact with patients carries any risk of transmission, and instituting criminal penalties or imprisonment for any HIV infected health care worker who performs an invasive procedure. We believe such approaches are not based on sound public health policy and would jeopardize the delivery of health care services.

The American Hospital Association would argue that such approaches should be rejected for the following reasons:

1. The Centers for Disease Control (CDC) is the government agency responsible for managing the AIDS/HIV epidemic and has the expertise needed to recommend appropriate public policy. CDC's recommendations for preventing Human Immunodeficiency Virus and Hepatitis B Virus transmission during invasive procedures should act as the national guidelines for managing HIV-infected health care workers. CDC's just released guidelines recommend the use of universal precautions and advise that HIV-infected health care workers should refrain from performing exposure-prone procedures, or notify their patients of their HIV status. Furthermore, they recommend against mandatory testing.

The AHA supports these guidelines and recommend that they be considered as the basis for any federal legislation.

2. Mandatory testing of health care workers and disclosure of their HIV status would not significantly contribute to further decreasing the low risk of HIV transmission in the health care setting. The most effective method of minimizing risks of HIV exposure in the health care setting continues to be the rigorous adherence to universal precautions, which require the use of protective barriers (e.g. gloves, gowns, masks) when exposure to blood or other body fluids is anticipated. Several studies have affirmed the effectiveness of universal precautions in preventing exposures by reducing direct contact with blood and body fluids. There is widespread agreement within the health care community that continued emphasis on the use of universal precautions and sound infection control practices are essential in reducing the risk of HIV transmission in the health care setting. Most importantly, following rigorous precautions is the only effective means of guarding against transmission by newly infected individuals who have not yet seroconverted.

3. The current assessment of the risk of HIV transmission from health care workers to patients does not support the diversion of resources that would be required to implement restrictive policies against infected health care workers. Of approximately 9 million employees involved in the health care industry, less than 6,000 have been diagnosed with AIDS, which includes those in non-patient care related activities. Only a fraction of those perform invasive procedures. The cost of testing alone would be enormous (e.g., approximately $65 per worker who tests negative and $250 per worker who tests positive) and would not be justified based on what is known about the number of HIV-infected health care workers and their potential risk to patients. Disclosure of HIV status would mean great expense to the health care industry in retraining and replacing valuable workers unnecessarily excluded from practicing their profession.

4. Penalties and practice restrictions for HIV-infected practitioners who pose no risk to their patients could result in a severe shortage of personnel available to care not only for HIV-infected patients but for all patients living in geographic areas with high HIV prevalence. Such penalties are also likely to have a significant impact on the career choices of health care workers entering the field, who may be less likely to choose specialties which are believed to have the highest risk of exposure to blood, or less likely to work in geographic areas with a high seroprevalence of HIV infection.

5. HIV-infected health care workers who do not perform invasive procedures do not pose a risk of HIV transmission to patients. In the health care setting, the only risk to transmission to the patient is in invasive procedures where there is a high risk of percutaneous injury, or where the likelihood is high of a health care worker's blood coming in contact with the tissues or mucous membranes of a patient. However, even during the small subset of invasive procedures the risk is believed to be extremely remote. CDC has estimated that the risk of HIV seroconversion after an invasive procedure performed by an HIV-positive surgeon is between 2.4 to 24 per million. This is about one-tenth of the risk of anesthesia-associated death. Restricting all HIV-infected health care workers from performing their duties would preclude a nutritionist from giving nutritional advice, a radiologist from reading x-rays, or a nurse from taking a blood pressure.

The AHA's current recommendation is to assess individually each HIV-infected worker's ability to perform his/her job duties, and to consider limiting those duties based on a number of factors, including the type of procedures performed, the clinical stage of the illness, the presence of other clinical indicators (e.g. skin lesions) and the individual's record of compliance with infection control procedures.

We recognize the public's anxiety regarding HIV transmission in the health care setting, and believe that the public anxiety can be tempered by strong governmental leadership based on the scientific knowledge regarding HIV. We urge Congress to reject restrictive proposals and adhere to a rational approach to managing the AIDS epidemic.

Sincerely,

RICHARD J. POLLACK,
Vice President.

AMERICAN COLLEGE OF PHYSICIANS,
Washington, DC., July 17, 1991.

DEAR SENATOR: On behalf of the American College of Physicians (ACP), representing 70,000 physicians in internal medicine and its subspecialties, I am writing to strongly urge you to oppose the amendment to be offered by Senator Helms concerning HIV-infected health care workers.

The Helms amendment would impose criminal penalties on HIV-infected health care workers who perform invasive procedures without first notifying the patient of their status. The language is unclear as to whether the penalties could also apply in other types of medical treatment and diagnosis.

We do not believe that the Helms amendment would have the impact intended, that is to reduce the number of transmissions from health care workers to patients. Strict adherence to universal precautions and careful monitoring of the HIV and hepatitis B status of health care workers as suggested by CDC are much more likely to have a positive influence on reducing the risk of transmission than criminalizing non-disclosure.

After months of careful analysis and consideration of a wide variety of patient and provider concerns, the Centers for Disease Control issued this week to reduce further the already small risk of transmission from providers to patients. The CDC guidelines will strongly influence medical practice in the United States by providing a clear, coherent strategy to reduce HIV transmission. We believe that conflicting legislation at this time will have a seriously detrimental impact on overall efforts to reduce transmission from health care worker to patient.

Unlike the Helms amendment that does not even define invasive procedures, the CDC guidelines make an important distinction between invasive procedures and "exposure-prone" procedures. Using data on transmission of Hepatitis BV to patients, which is more easily transmitted than HIV, the CDC has identified certain dental and surgical procedures that should be considered exposure-prone. Since transmission can "theoretically" occur in these instances even with adherence to universal precautions, CDC is recommending that HIV-infected health care workers not perform these procedures. This is a very cautious approach, placing the safety of the patient first, and at the same time, does not unnecessarily restrict the practice of qualified health care providers.

The College strongly opposes the Helms amendment just when CDC has come out with guidelines that will have a significant impact on policies and practices at the state and local levels.

Sincerely yours,

H. DENMAN SCOTT, MD, FACP,
Associate Executive Vice President.

SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO,
Washington, DC, July 16, 1991.

DEAR SENATOR: On behalf of the 950,000 members of the Service Employees International Union who work in the public sector, health care, and building service industries, I urge you to vote against the Helms Amendment imposing criminal penalties on HIV-infected healthcare workers.

SEIU believes that criminal sanctions will not increase compliance with the "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" issued by the Centers for Disease Control on July 12, 1991. We agree with CDC that "Compliance by healthcare workers with recommendations can be increased through education, training, and appropriate confidentiality safeguards."

SEIU has been active in the national response to the AIDS epidemic ever since the early eighties when our members sought protection against occupational exposure to this deadly disease. SEIU's position has always been that strict adherence to universal precautions is the best way to provide maximum safety to patients and workers alike. SEIU recommends immediate enactment of the draft OSHA Bloodborne Disease Standard which would give universal precautions the force of law.

I am confident that the U.S. Senate will not respond to the massive public concern about HIV-infected healthcare workers with ill-considered measures that will weaken our nation's ability to battle the AIDS epidemic over the long haul. I urge you to vote against the Helms amendment.

Sincerely,

JOHN J. SWEENEY,
International President.

AMERICAN ASSOCIATION OF
NURSE ANESTHETISTS,
Park Ridge, IL, July 8, 1991.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: As President of the American Association of Nurse Anesthetists (AANA), I am writing to request that Congress refrain from action on any legislative proposals which would require mandatory disclosure of health care workers' HIV status. As you may know, AANA represents more than 24,000 certified registered nurse anesthetists (CRNs) nationwide.

CRNAs, like all health care professionals, are extremely concerned that every appropriate precaution be taken to insure that both patients and health care workers are protected from transmission of the HIV. In fact, AANA is currently in the process of developing guidelines for HIV/AID prevention and management for CRNAs.

Currently, within health care settings, general infection control procedures have been developed and accepted as a means to minimize the risk of patient acquisition of infection from contact with contaminated materials and devices and of transmission of an infectious agent from health care workers to patients. Such procedures also protect workers from the risk of becoming infected.

Presently, the AANA strongly recommends that all CRNAs adhere rigorously to the principles of universal precautions. Furthermore, we believe that all health care facilities should regularly review health care professionals' adherence to barrier techniques, establish protocols to protect patients from HIV infected health care workers, and set forth disciplinary procedures for failure to practice universal precautions.

Mandatory testing or mandatory disclosure of the HIV, however, does nothing to guarantee the prevention of HIV transmission. Rather, mandatory testing is cost prohibitive, creates monitoring difficulties, and may lend a false sense of security which has been shown to lessen adherence to universal precautions.

AANA believes it would be inappropriate for Congress to impose mandatory testing or disclosure at this time. Traditionally, states have addressed public health issues such as reporting. Moreover, the Center for Disease Control (CDC) will be issuing guidelines in the very near future. AANA strongly encourages Congress to refrain from acting on testing or disclosure legislation pending the release of the CDC guidelines.

We also strongly encourage the creation of a national commission to examine the impact of HIV/AIDS on the health care delivery system as a whole. It is imperative that we explore the ramifications of HIV infection on our ability to recruit and retain health care professionals. Additionally, we must understand and address the potentially negative effects of testing on health care providers with respect to malpractice, disability, and other insurance protections.

We welcome the opportunity to discuss these issues in greater detail with you or your staff. If you have any questions, please feel free to contact the AANA Federal Government Affairs Director, Kathy Michels, at (202) 682-1267.

Sincerely,

DAVID R. FLETCHER, CRNA, MA,
President.

COUNCIL OF STATE AND
TERRITORIAL EPIDEMIOLOGISTS,
Portland, OR, July 5, 1991.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I understand that the Senate may soon be considering an amendment to S. 1241 which would force states seeking federal funding for health programs to require health care workers who know they are infected with HIV to disclose that information to their patients.

As president of the Council of State and Territorial Epidemiologists (CSTE), I request that you oppose this amendment. My reasons for this request include:

1. There is no risk of HIV transmission from most health care providers to their patients. Even for health care workers who perform invasive procedures such as surgery, this risk is extremely small.

2. State laws requiring health care providers who know they are HIV-infected to notify their patients may actually increase the small risk of transmission to patients. Under such laws, a health care worker can avoid losing his or her livelihood simply by not being tested and by remaining ignorant of his or her HIV infection. This is perhaps the most dangerous scenario—an HIV-infected surgeon who is ignorant of his or her infection, who has not sought advice for protecting patients, and who is not practicing routine infection control precautions with special attention.

3. Solving the problem raised in item 2 by requiring periodic testing of health care providers would be far too costly relative to the minuscule risk such a measure would address.

I strongly believe that an approach which seeks the voluntary cooperation of an HIV-infected health care worker for protecting patients is much more likely to be effective than the proposed mandatory approach. An example of such a voluntary approach as used in Oregon is described in the attached "CD Summary".

Thank you for considering my request. If I, or other members of CSTE can provide additional information to help you as you consider this complicated issue, please let me know.

Sincerely,

LAURENCE R. FOSTER, M.D., M.P.H.,
President.

AMERICAN DENTAL ASSOCIATION,
Washington, DC, July 17, 1991.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: I am writing to express the strong opposition of the American Dental Association to amendment, No. 734, concerning HIV-infected health care providers which has been offered by Senator Helms to H.R. 2622, the pending Treasury, Postal Service and General Government Appropriations Act of 1992.

First and foremost, the Association supports the July 12, 1991 guidelines of the Centers for Disease Control and has provided significant input to the CDC this year regarding the relative risk of endemic transmission of bloodborne pathogens from health care worker to patient. The new CDC guidelines are consistent with ADA's own policy statement on HIV-infected dentists, which provides that HIV-infected dentists should refrain from performing invasive procedures or disclose their HIV status.

Overall, we believe that the complex public health issues of when and under what circumstances HIV-infected health care workers should disclose their status to patients should be decided by public health agencies, like CDC, working in cooperation with the appropriate state agencies, the affected professions, the employer and in each case the infected health care worker. The CDC guidelines should provide a great degree of comfort to Congress that the issues are being addressed appropriately by the agencies that have the expertise to address them.

The new CDC guidelines state that "investigations of HIV and HBV transmission from HCWs to patients indicate that, when HCWs adhere to recommended infection-control procedures, the risk of transmitting HBV from an infected HCW to patient is small, and the risk of transmitting HIV is likely to be even smaller." The guidelines also address a new classification of procedures identified as "exposure-prone." The CDC recommends that HIV-infected health care workers who want to perform exposure-prone procedures first be evaluated by a review panel of experts who represent a balanced perspective, including the individual's own physician, an infectious disease specialist, a professional with expertise in the procedures performed by the health care worker and public health officials. Subsequent to the review, the review panel is to advise the health care worker as to recommended restrictions.

The CDC guidelines further provide that "currently available data provide no basis for recommendations to restrict the practice of HCWs infected with HIV or HBV who perform invasive procedures not identified as exposure-prone, provided that infected HCWs practice recommended surgical or dental technique and comply with universal precautions and current recommendations for sterilization/disinfection."

The proposed Helms amendment fails to include any of these provisions. Instead, it would require all health care workers to disclose their serostatus to patients, regardless of whether they are performing "exposure-prone" precedures or procedures that pose no risk of transmission of HIV.

We also believe the Helms proposal fails to take into consideration the very serious confidentiality issues surrounding a health care worker's disclosure of his or her HIV status. While we firmly believe that public policy issues take precedence over an individual's own privacy rights, we are concerned that the overbroad Helms proposal fails to give any consideration to the confidentiality of a health care worker's HIV status under any circumstances. We believe the CDC guidelines properly balance public policy issues with the importance of maintaining confidentiality.

Finally, we fear that legislation of this nature will spur thousands of frivolous lawsuits by patients who are not infected with HIV but fear becoming infected. The CDC guidelines explain that only one health care worker in the ten year history of this disease has transmitted HIV to any patients. Look back studies have been conducted of other HIV-infected health care workers, including two general surgeons, a surgical resident, and a dental student and there have been no other instances of transmission. Already, litigation has been filed by patients who have been tested and do not have HIV. Adoption of the Helms amendment, we fear, would encourage a rash of unnecessary litigation of this nature.

If Congress truly believes that this subject needs to be addressed beyond the new CDC guidelines, the review process should begin with the health subcommittees of the Senate and the House of Representatives, where appropriate hearings would be held and input received from all interested parties.

Thank you for your consideration of our comments.

Sincerely,

THOMAS J. GINLEY, Ph.D.,
Executive Director.

THE ORGANIZATION FOR OBSTETRIC,
GYNECOLOGIC, & NEONATAL NURSES,
Washington, DC, July 10, 1991.

Hon. EDWARD KENNEDY,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR SENATOR KENNEDY: NAACOG, the professional specialty association representing more than 26,000 obstetric, gynecologic, and neonatal nurses, and health-care professionals, would like to take this opportunity to provide comments regarding S. 1241. An amendment that may be offered to S. 1241 would require States receiving assistance under any Federal health grant program to enact a law mandating health professionals and others infected with human inmunodeficiency virus (HIV) to disclose such information.

NAACOG is opposed to the concepts of mandatory HIV testing and mandatory disclosure regarding HIV status for the following reasons:

Given the limitations of currently available methods of HIV testing, negative test results may be a source of false reassurance to health-care professionals and health-care consumers. Data indicate that an as yet undetermined length of time exists in which testing for the presence of HIV antibodies remains negative although infection is present and communicable.

Limited data are available that identify types of procedures and the corresponding risk of transmission from HIV infected health-care workers to patients as well as from HIV infected patients to health-care professionals. More research is needed regarding the transmission of blood-borne diseases in health-care settings and during the performance of invasive procedures.

NAACOG supports:

Voluntary HIV testing with appropriate counseling, maintenance of confidentiality, and freedom from discrimination based on HIV status.

Acceptance of professional responsibility by the HIV infected health-care worker and personal responsibility by the health-care consumer to voluntarily disclose such status.

The development of policies and guidelines that address transmission of HIV in health-care settings based on epidemiologic data from research on the transmission of blood-borne diseases and invasive procedures and sound infection control practice.

Compliance with universal precautions whenever exposure to blood and body fluids may occur.

Assessment of practice limitations of HIV infected health-care professionals on a case-by-case basis that adheres to standards set by the Americans With Disabilities Act.

The incidence of HIV positive women and newborns is increasing. NAACOG supports legislative efforts that facilitate research intended to evaluate various aspects of HIV including prognostic characteristics, optimal treatment modalities, and prevention techniques. If NAACOG can provide further assistance, please contact Ann Chen, RN, BSN, JD, Health Policy Analyst, Department of Practice and Legislation, (202) 863-2468.

Sincerely,

ANN L. ROPP, RN, MS,
President.

JULY, 1991.

U.S. Senate,
Washington, DC.

DEAR SENATOR: I am writing on behalf of the Association of State and Territorial Health Officials (ASTHO), which represents the chief health officers in the 50 States, the District of Columbia, and the U.S. Territories, to express strong opposition to the Helms amendment criminalizing non-disclosure of health care worker HIV status.

State health officials recognize the potential for transmission from patient to health care worker and health care worker to patient as a complex and challenging problem which warrants the considerable attention it is currently receiving. ASTHO has approached this problem by developing and adhering to a set of principles stressing proper infection control procedures, voluntary testing, and establishment of confidential review panels to assist in the evaluation of workers who are HIV infected.

Alternatively, approaches such as that offered by Senator Helms which criminalize non-disclosure, will actually serve to deter and discourage health care workers from seeking testing or treatment for HIV infection; and most certainy from disclosure of their HIV status to patients. Threat of such penalties will be particularly serious for health care providers serving high HIV prevalence areas, and will likely have the unintended consequence of severely jeopardizing access to care for those individuals most in need of HIV prevention and treatment services.

For these reasons, it is ASTHO's position that resolution of this problem lies not in criminalization, but in sound policies emphasizing infection control, training and futher research on the risks of transmission.

Sincerely,

JOHN C. LEWIN, M.D.,
President.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, July 8, 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senator, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the nation's mayors, I would like to express our concern regarding possible amendments requiring disclosure of HIV status. It is our understanding that Senators Robert Dole and Orrin Hatch may soon be offering amendments to S. 1241 or another vehicle which would (1) require health professionals who have knowledge that they are infected with the HIV virus to notify patients of their status, and (2) require disclosure of knowingly infected HIV patients to their health care providers. The United States Conference of Mayors believes both of these amendments would be unwise public policy. We urge your assistance in assuring they are not adopted.

As you know, there is and will continue to be debate on the issues surrounding infected health care workers, a debate which has occurred within The United States Conference of Mayors, as well as within other governmental bodies and the public at large. After much discussion, most recently at our Annual Conference last month, our membership believes it is important to make public policy on AIDS based upon scientific evidence, as often the issues surrounding HIV are so emotionally charged as to lead to unsound policy. A debate should continue, but it should be one in which the actual risk of infection to patients is assessed along with an analysis of the benefits—if any—gained from requiring health professionals to notify patients of their HIV status.

The Centers for Disease Control has issued universal precautions for the protection of health care workers and others who may come into contact with HIV infected blood. Such guidelines makes clear that, for their own best protection, health care workers should treat each patient as though he or she is infected. Establishment of disclosure laws may only serve to give a false sense of protection to health care workers in those cases where patients do not disclose, either because they do not know of their infection or they choose not to inform the health professional despite the disclosure law. To ensure safety, the health professional will still have to treat everyone as though he or she is infected, using the established universal precautions.

Currently, the Centers for Disease Control is revising HIV guidelines regarding invasive procedures. This is an appropriate area for concern and the appropriate arena to develop policy regarding medical protocol and procedures, given the scientific knowledge of transmission of the AIDS virus through infected blood.

The language contained in the proposed amendment would require disclosure for all knowingly HIV infected health professionals who provide treatment consisting of "any medical diagnosis or procedure that involves physical contact between the patient being treated and the physician or health professional administering the procedure." Such language strongly implies that HIV can be transmitted casually and could only result in yet another round of AIDS hysteria if states are to be forced to enact such laws.

A third area of concern for the Conference of Mayors is the manner in which states are coerced into adopting disclosure laws by holding hostage all federal health funds received by the state. The United States Conference of Mayors believe this coercement to be an infringement on states' rights. Beyond this, it is uniquely unfair to the citizens of the individual states to withhold funds needed for the public health until such time as state legislatures can "rubber stamp" legislation which they may not believe is in the best interest of their citizenary.

For these reasons, The United States Conference of Mayors is opposed to the amendments proposed by Senators Dole and Hatch regarding HIV disclosure. We urge your support in ensuring that public policy on such matters not be made hastily in the heat of emotion. If you or your staff should have any questions regarding our position on this or any other health-related matters, please do not hesitate to contact Richard D. Johnson of my staff at (202) 293-7330.

Thank you for your consideration.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts has 3 minutes remaining. The Senator from North Carolina has 9 minutes 23 seconds.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 2 minutes.

Mr. KENNEDY. Mr. President, I yield myself the remaining time.

Mr. President, I do not want to conclude this presentation without mentioning my extraordinary apprehension for health care workers in this country. The basic reason why they become health care professionals is to service their fellow human beings.

In this long history of the Public Health Service we have never effectively indicted a whole class of individuals, which we would be doing with the Helms amendment. Even in all the times when we had the communicable diseases we never really effectively defined a whole class of health care workers.

We have individual responsibilities but we never really applied this kind of criminal kinds of process procedures for any class of individuals, particulary in the health care area, and I think it would be an enormous disservice to the millions of health care workers who devote their lives to the well-being of our fellow citizens.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator's time has expired.

Who yields time? The Senator from North Carolina.

Mr. HELMS. Mr. President, as I understand it the time on the other side has expired. Is that correct?

The PRESIDING OFFICER. The time in control of the Senator from Massachusetts has expired. The Senator from North Carolina has control of 8 minutes and 7 seconds.

Mr. HELMS. Mr. President, I yield such time as I may require. There are going to be four votes. First on the Helms pornography amendment, then on the Helms AIDS amendment, and then on the Dole AIDS amendment, which in fact is cosponsored in this order by the majority leader, Mr. MITCHELL, the Republican leader, Mr. DOLE, Mr. HATCH, Mr. HELMS, and somewhere down the line Senator KENNEDY. In other words, I became a cosponsor of the Mitchell-Dole-Hatch-Helms amendment early on because they complement each other. They are not in contradiction of each other at all. And Senators should vote for both of the amendments. The fourth vote will be on final passage of the bill.

Now then, I can always tell when I hit a nerve with the distinguished Senator from Massachusetts. He begins to hollering such words as "nonsense", and he resorts to quote facts out of thin air.

I am going to identify in the RECORD, at this point, where the Senator's speech originated because I received the same letter from the American Civil Liberties Union that he did. I shall put that letter in the RECORD at this point so that readers of the CONGRESSIONAL RECORD can compare what the Senator said in his speech a few minutes ago with what the American Civil Liberties Union said in its letter.

I ask unanimous consent to print that letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN CIVIL LIBERTIES UNION,
Washington, July 17, 1991.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: on behalf of the American Civil Liberties Union (ACLU), we write to urge you to oppose the Helms Amendment, No. 734, to the Treasury-Postal Appropriations bill. The Amendment, scheduled for a vote on Thursday, July 18, would impose criminal penalties on health care workers who, knowing that they are infected with HIV provide treatment without notifying their patients of their infection. The Helms Amendment not only violates civil liberties, it is a terribly counterproductive public health measure.

The Helms Amendment should be defeated for, among many others, the following reasons:

(1) *The Helms Amendment is a dangerously misguided attempt to protect patients because criminal penalties will only exacerbate—not diminish—the risk of transmission of HIV.* The Helms Amendment criminalizes only those who know they have HIV and thus it discourages health care workers from seeking voluntary HIV testing. This completely contradicts the recent recommendations of the Centers for Disease Control (CDC). If the intent of the amendment is to protect against transmission of HIV in the health care setting, the most effective approach is to focus on the implementation of universal precautions, not on the HIV status of the health care provider. This is the course recommended by public health experts such as Dr. David E. Rogers, the Co-Chair of Congress's own National Commission on AIDS, in the attached editorial from the New York Times.

(2) *The Helms Amendment is also a counterproductive public health measure because it preempts the role of the public health, scientific, and medical communities in regulating the professional conduct of health care providers.* In fact, the CDC, the American Medical Association (AMA), and the American Nurses Association (ANA), have each recently issued guidelines that address these issues. The Helms Amendment would effectively transfer control of public health and hospital employment policy from these professional experts to local criminal prosecutors.

(3) *The Helms Amendment is unconstitutionally overbroad.* The Amendment would send physicians to prison for no less than ten years for performing a broad array of procedures that pose absolutely no risk whatsoever to patients. The amendment applies to "any medical diagnosis or procedure that involves invasive physical contact between the patient being treated and the physician or health professional administering the procedure." The CDC, AMA, and ANA have adopted guidelines that more specifically address those procedures that are considered to be higher risk or "exposure-prone". With respect to all other procedures, the CDC explicitly states that "[c]urrently available data provide no basis for recommendations to restrict the practice of [health care workers] infected with HIV . . . who perform invasive procedures not identified as exposure-prone, provided the infested HCWs practice recommended surgical or dental technique and comply with universal precautions and current recommendations for sterilization/infection." Clearly, the Helms Amendment criminalizes activities that public health officials believe to be risk free.

(4) *The Helms Amendment unconstitutionally selects for criminalization one minuscule risk among the many proven risks to patients in the health care setting.* The risk of HIV transmission from a doctor is the "least significant of many risks to patients posed by physicians . . . Hepatitis, for example, is more prevalent, more infectious, and in some cases, just as deadly as AIDS. Some estimates have put the number of physicians impaired by drug and alcohol use, lack of training or other physical conditions as high as 10 percent." (Washington Post, 5/27/91). Between 150,000 and 300,000 people are injured or die every year in United States hospitals due to physician negligence or incompetence. Thus, the Helms Amendment does not address the risks facing hospital patients.

For the above stated reasons, we urge you to vote against the Helms Amendment.

Please feel free to call if you have any questions.

Sincerely,

WILLIAM B. RUBENSTEIN,
Director, ACLU AIDS Project.
JANLORI GOLDMAN,
ACLU Legislative Counsel.

Mr. HELMS. Mr. President, I think I may care more about medical workers than probably any other Senator in this body. My daughter, Nancy Helms Stuart, is a registered nurse. She is in charge of one area of responsibility at Rex Hospital in Raleigh. She on a number of occasions has been put at risk by AIDS patients.

So do not give me this nonsense, if I may borrow one of the favorite words of the Senator from Massachusetts, about not being interested in health workers. And I might add a question: Just who is chairman of the Senate committee with the responsibility to come up with legislation on the AIDS problem? I am not on the Senate Labor and Human Resources Committee; but if any Senator is inclined to suggest that perhaps that committee, chaired by the distinguished Senator from Massachusetts, ought to get to work on some of the things the Senator has been saying, I second the motion.

Rhetoric is fine. What the Senator obviously does not want to do is to agitate the homosexual lobby and the American Civil Liberties Union. For my part, I don't care whether I agitate either of those crowds.

Now it has been said many times in the press and otherwise, and I agree—I wish the Labor and Human Resources Committee of the Senate, which has the duty and the authority would get to work on that, instead of trying to defend people who have AIDS because of their lifestyle. I pray that they will get to work on it—I agree that the thousands of medical workers who are at risk from patients who are infected with AIDS deserve to have some protection. I agree 100 percent or, as George McGovern said once, 1,000 percent.

I am the father, as I have said of a registered nurse. She is very dear to me. I worry about her. I want my daughter protected. I want every health care worker protected. But we must not have a Senate committee that sits on its posterior and talks. That is why I have for 6 years attempted to call attention to the callous disregard for public safety and common sense which has been exhibited by the AIDS lobby and its allies in the Senate.

I give health workers across this country, including my daughter in Raleigh, NC, my pledge that I will continue to do everything I can to ensure that they, along with all other Americans, will no longer fall victim to the political agenda of the AIDS activists.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 3 minutes and 13 seconds remaining.

Mr. HELMS. I yield the remainder of my time to my distinguished friend from Utah, Mr. HATCH.

Mr. HATCH. I thank the distinguished Senator from North Carolina.

Mr. President, the amendment offered by Senator HELMS recognizes the severity of the risk which health care providers, who are HIV-positive, impose upon their patients. The Helms amendment would apply to those health professionals who:

First, know they are HIV-positive;

Second, who perform invasive procedures; and

Third, who do not inform their patients.

Such health care professionals, as rare as they may be, are guilty of intentionally inflicting harm. They are intentionally exposing their patient to the risk of death. Death. There is no cure. It could have been prevented. That kind of behavior deserves, indeed requires, criminal sanctions.

We know of over 6,000 health care professionals who are HIV-positive in this country. Those are the ones we know about. We do not know how many continue to perform invasive procedures. We do not know how many have disclosed their HIV status to their patients. We can only pray that many patients have not been unwittingly infected.

Senator HELMS has described the tragedy of Kimberly Bergalis. She got AIDS from her dentist. She is dying! We should never let that happen again.

Senator HELMS has also described the despicable behavior of the Minnesota obstetrician who knew he was HIV-positive. He continued to deliver babies with open sores on his arms. Are criminal penalties inappropriate under such circumstances? They are appropriate and you and I know it.

Senator KENNEDY suggests HIV-positive physicians can do no harm to their patients. There are already 5 documented cases—and who knows how many are not yet identified—of health professional transmission.

The harm is not theoretical. It is real. It is fatal. And it is something we all have to be concerned about.

When an individual in our society knowingly, intentionally, and without forethought, visits harm on another individual, we require criminal sanctions.

Senator HELMS requires that health professionals are not exempted from our traditional societal expectations. In that regard, he is absolutely correct.

Senator KENNEDY has argued that the CDC guidelines are the "best science" and the "best public policy." I agree. And, let me make one thing clear. I do not believe that the Helms amendment is inconsistent. And I have gone over that time and time again, worrying about whether I am doing right.

The CDC guidelines say that if a health care professional performs an exposure-prone—or invasive—procedure, and the health care professional has AIDS, then the patient has a right to know.

That, my colleagues, is consistent with the Helms amendment. Except, the amendment puts teeth by enforcing these recommendations.

So I am going to vote for the Helms amendment. And I have to say that without him having raised this amendment, the CDC guidelines would not have been as strong as they are, and I happen to know that personally. I have to tell you I want to pay a personal tribute to him for having done so. It is not just him coming out here and doing this. He really believes in what he is doing. I have to say the amendment is not inconsistent with the amendment we will file later known as the Dole-Hatch-Mitchell-Kennedy amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HELMS. Very well.

The PRESIDING OFFICER. All time has expired on amendment No. 734.

The Republican leader is recognized.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 781

(Purpose: To require States to adopt the recommendations of the Centers for Disease Control concerning the transmission of the HIV virus by health care professionals to patients)

Mr. DOLE. Mr. President, on behalf of myself; the distinguished majority leader, Senator MITCHELL; the distinguished Senator from North Carolina [Mr. HELMS]; the distinguished Senator from Massachusetts [Mr. KENNEDY]; and the distinguished Senator from Utah [Mr. HATCH], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. MITCHELL, Mr. HELMS, Mr. KENNEDY, and Mr. HATCH, proposes an amendment numbered 781.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Notwithstanding any other provision of law, a State shall, not later than 1 year after the date of enactment of this act, certify to the Secretary that such State has in effect regulations, or has enacted legislation, to adopt the guidelines issued by the Centers for Disease Control concerning recommendations for preventing the transmission, by health care professionals, of the human immunodeficiency virus and the hepatitis B virus to patients during exposure prone invasive procedures. Such regulations or legislation shall apply to health professionals practicing within the State and shall be consistent with Centers for Disease Control guidelines and Federal law. Failure to comply with such guidelines, except in emergercy situations when the patient's life is in danger, by a health care professional shall be considered as the basis for disciplinary action by the appropriate State licensing agent.

(b) Except as provided in subsection (c), if a State does not provide the certification required under subsection (a) within the 1-year period described in such subsection, such State shall be ineligible to receive assistance under the Public Health Service Act (42 U.S.C. 301 et seq.) until such certification is provided.

(c) The Secretary of Health and Human Services shall extend the time period described in subsection (a) for a State, if—

(1) the State has determined not to promulgate regulations to adopt the guidelines referred to in subsection (a); and

(2) the State legislature of such State meets on a biennial basis and has not met within the 1-year period beginning on the date of enactment of this Act.

Mr. DOLE. Mr. President, I think we have had most of the debate on the various amendments. I want to thank my colleagues.

In fact, Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed by myself, Senator MITCHELL, Senator KENNEDY, and Senator HATCH with reference to this particular amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
July 17, 1991.

DEAR COLLEAGUE: On Monday, July 15, 1991, the Centers for Disease Control published guidelines on "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures".

These guidelines represent a consensus on this issue among scientists and public health professionals as the best way to protect the health of the American public while maintaining an adequate system of health services.

During debate on the Senate floor on July 11, an amendment was offered addressing this topic, but consideration of the amendment was postponed until this week, so that the CDC guidelines could be issued and Senators would have the opportunity to review them.

After reviewing these guidelines, we are in agreement that they provide the most effective means of providing genuine protection for patients against the possibility that they could be infected with the Human Immunodeficiency Virus (HIV) virus or the Hepatitis B virus (HBV) transmitted from their physician, dentist or other health care worker.

We therefore will jointly offer an amendment on July 18 that will require states to adopt these guidelines by regulation or legislation.

This amendment respects the scientific judgment of Federal public health officials and the traditional right of the states to determine their own public health regulations. We enclose copies of the CDC guidelines and our amendment, and we urge you to vote for this amendment as the Senate's position on this complex but extremely important issue of health policy.

Sincerely,

GEORGE J. MITCHELL.
EDWARD M. KENNEDY.
BOB DOLE.
ORRIN G. HATCH.

Mr. DOLE. Also I have a comparison of this amendment, the pending amendment, and the Helms amendment, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

Helms amendment	CDC guidelines
	Universal precautions.
	Health care workers who do exposure prone (EP's) invasive procedures (IP's) should know HIV status.
If positive, they must:	If positive, they should/must:
	Not do EP's/IP's
	or
Notify patients before doing IP's	Consult with expert panel on under what circumstances, if any, they may do EP/IP's and notify patients before doing EP/IP's.
Penalties: $10,000 with 10 yr	Dole/Hatch amendment: Requires states to implement guidelines and tie to licensure. Enforces the requirement by cutting off PHS funds if failure to comply.

Mr. DOLE. And I ask unanimous consent that a letter from the Secretary of HHS supporting this amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 18, 1991.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: On July 15, my Department published health care worker guidelines that deal with preventing the transmission of the Human Immunodeficiency Virus (HIV) to patients during exposure-prone invasion procedures.

The guidelines call on all health care workers who perform exposure-prone procedures to find out their HIV and hepatitis B status and to not participate in such procedures unless they have obtained permission and individualized guidance from special review committees which will require, at minimum, that potential patients be informed of the infected worker's status.

The guidelines also emphasize the need for all physicians to carefully follow the "Universal Precautions" against infection, including such actions as thorough sterilization of equipment, careful handling and disposal of needles and other sharp instruments, and the wearing of gloves when appropriate.

I believe it is important to emphasize that patients face no risk of AIDS transmission from the great majority of medical procedures.

I understand the Senate will be considering several proposals dealing with this issue. I strongly believe that the guidelines we have issued, representing the consensus of the health care professions, will best serve the interest of patients and health care workers alike. Therefore, I support the Dole-Hatch-Mitchell-Kennedy-Helms amendment that would codify these standards.

Thank you for your review of this matter.

Sincerely,

LOUIS W. SULLIVAN, M.D.

Mr. DOLE. Mr. President, last week, my distinguished colleague from North Carolina, Senator HELMS, laid before the Senate an amendment related to disclosure by health professionals if they perform certain procedures and are HIV positive. Senator HELMS asked us to confront a very difficult issue that many of our constituents are concerned about.

Recent press stories about transmission of the HIV virus by health professionals had led to a great deal of fear on the part of many—some of which is justified, some of which is not. It is our hope that this consensus amendment, which is based on much of the work done by Senator HELMS, helps to relieve some of that fear.

The Centers for Disease Control has been working for a long period of time to develop recommendations based on the latest scientific information. As we all know only too well, there is far more unknown than known about this dreaded disease, although our knowledge is growing. It was their goal and ours to guide and protect our citizens without frightening them needlessly, nor creating an unrealistic expectation of safety. I believe the guidelines do just that, and it is for that reason that we base our amendment on the implementation of those recommendations.

There is clearly a risk, though small, of transmission between a health care worker and a patient. The recommendations provide that every effort be made to identify those procedures creating the greatest risk and direct that they either not be done by those who are infected, or be done under limited circumstances with the patient's full knowledge. If a health professional fails to follow these sensible guidelines there is no doubt in my mind that they should be disciplined by the State licensing agency. These agencies are accustomed to dealing with such matters.

Mr. President, having reached consensus on this matter which is designed to help protect patients, we must now turn our attention to protection of our health care workers. The universal precautions called for by CDC are designed to provide protection for all and should be the basis upon which our efforts are built.

Over the next few days, this Senator will be working with the Senator from Massachusetts and the rest of our colleagues and the Department of Labor to see if we can not bring to closure the consideration of regulations dealing with workplace protections. Again, our goal should be to protect not only those who are cared for, but also those who provide the caring.

Again, my thanks for the extraordinary efforts of all of my colleagues in this area. It is a very sensitive area. It is very controversial. But I must say if you watched, as I did, the TV program about this young lady from Florida, it is also a real problem. It may be only a few now, but it could spread. I think we have an obligation to make certain that we keep any expansion to a minimum.

So I commend all of my colleagues. I hope this consensus amendment will be supported by every one of the Senators present today. It is the approach we have taken; it is the one recommended. As far as I know, it has widespread support. It is not partisan in any sense.

This is a very sensitive area and I thank my colleagues for their attention.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the minority leader has referenced workplace standards. I would like to, if I could, engage him in a brief colloquy on this issue.

How much time do we have on this amendment? We have an hour, is that right?

The PRESIDING OFFICER. The Senator from Massachusetts controls 29 minutes and 33 seconds; the Senator from Kansas, 25 minutes and 51 seconds.

Mr. KENNEDY. I yield myself such time as I might use.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, everyone agrees that strict adherence by health care workers to universal precautions against bloodborne infection is the best way to protect both patients and workers against HIV—the virus that causes AIDS.

For 5 years, the Department of Labor has been working on regulations that would make employers supply the equipment and training needed for universal precautions. They have held extensive hearings and completed an exhaustive record. It is my understanding that the work on this standard has been completed but for some reason the Department has continually missed its own deadlines for issuing a final standard.

The OSHA bloodborne disease standard would not only provide the most effective means for guarding against infection, it also would establish uniform national standards and activate an already existing enforcement mechanism. If this regulation were law, then OSHA inspectors could immediately begin inspecting the offices of dentists and physicians and other facilities to make sure universal precautions are strictly adhered to.

Mr. DOLE. Mr. President, if the Senator will yield, I agree with the distinguished Senator from Massachusetts, Senator KENNEDY, that clearly precautions are necessary to guarantee maximum protection for patients as well as workers. At this point the urgency of this matter supports prompt implementation—and I underscore the word prompt—of the OSHA universal precaution regulations.

We should work together to move forward these efforts to put these regulations into effect. I will be working with my colleagues at the Department of Labor to make certain this happens at the earliest possible time.

Mr. KENNEDY. I thank the Republican leader. I look forward to working with the Senator, the majority leader, and my colleague Senator HATCH as well, to implement those regulations at the earliest possible time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 5 minutes to the Senator from Utah.

Mr. President, following 5 minutes to Senator HATCH, I yield another 15 minutes on an unrelated matter to the Senator from Missouri, Senator DANFORTH, out of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am pleased to cosponsor the minority leader's amendment. It would require States to adopt strategies for implementation of the Centers for Disease Control guidelines to prevent the transmission of HIV by health care workers.

I appreciate the work of Dr. Bill Roper, who is head of CDC; Dr. Jim Mason, who is, of course, the assistant secretary for health; and last, but certainly not least, the Secretary of Health and Human Services, Secretary Sullivan, for putting out these important guidelines that will protect patients in a manner which is fair to our health care practitioners who have responded admirably to our AIDS epidemic.

Specifically, these guidelines encourage health care workers to adopt certain universal health care precautions to protect patients and workers from the possible spread of the HIV virus. In addition, these guidelines require health care workers who test positive for HIV to either refrain from performing exposure-prone procedures or notify prospective patients before performing such procedures.

Although these are only guidelines, Senators DOLE, MITCHELL, KENNEDY, and I are anxious to ensure these recommendations are adopted. There are now many examples, too many, of patients being infected with HIV virus by health care professionals who knew they were HIV positive.

We know of over 6,000 health professionals, including 700 physicians and at least 1,350 nurses, who are infected. We do not know how many of them have voluntarily informed their patients of their HIV status. We can only pray that more patients have not been unwittingly infected.

The American people support health care professionals disclosing this information to their patients. Over 90 percent of our citizens support mandatory disclosure by nurses, physicians, and dentists who are infected with HIV.

I believe, as CDC does, that the disclosure must occur when procedures are performed which put the patient at risk of exposure.

I join Senators DOLE, MITCHELL, and KENNEDY in supporting an amendment to enforce these guidelines. This amendment will require each State, as a condition of receipt of Federal Public Health Service funds, to adopt these guidelines in their State licensing laws or regulations. We give the States time to adopt them. We will thereby protect our citizens and our health care professional community while we continue our pursuit of prevention or treatment of HIV infection.

In that regard, I want to pay particular tribute to my friend from Massachusetts for the work that he has done on three major AIDS research bills that have come before Congress. No one has worked harder or done more to try to resolve this very dreaded disease, this very dreaded virus. I have to say that if we do ultimately arrive at some sort of a panacea or a cure for HIV, it is going to be in large measure because of what the distinguished Senator from Massachusetts and others have done. I admire and respect that.

So I urge my colleagues to join us and the CDC by supporting this amendment. I think it is a fine amendment. It will help to settle these problems and will do it in a humane, decent, and dignified way.

With that, Mr. President, I yield back the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

CLARENCE THOMAS AND NATURAL LAW

Mr. DANFORTH. Mr. President, opponents of the Clarence Thomas nomination have taken his views of natural law out of context in an effort to portray the judge's position as turning the clock back on constitutional interpretation. In particular, they have extracted a single sentence from a single, lengthy speech, and they have transformed that sentence into what it was never intended to be: A sweeping statement of jurisprudence, foretelling his opinion of Roe versus Wade and other issues. They have created a straw man that never existed, and dramatically knocked it down.

What Clarence Thomas has said about natural law has been almost always in the context of civil rights. This was certainly the case in his speech to the Heritage Foundation from which his often quoted reference to Lewis Lehrman was extracted. Mr. President, I ask unanimous consent that a copy of the Heritage Foundation speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

WHY BLACK AMERICANS SHOULD LOOK TO CONSERVATIVE POLICIES

(By Clarence Thomas)

Much has been said about blacks and conservatism. Those on the Left smugly assume blacks are monolithic and will by force of circumstances always huddle to the left of the political spectrum. The political Right watches this herd mentality in action, concedes that blacks are monolithic, picks up a few dissidents, and wistfully shrugs at the seemingly unbreakable hold of the liberal Left on black Americans. But even in the face of this, a few dissidents like Tom Sowell and J.A. Parker stand steadfast, refusing to give in to the cult mentality and childish obedience that hypnotize black Americans into a mindless, political trance. I admire them, and only wish I could have a fraction of their courage and strength.

Many pundits have come along in recent years, who claim an understanding of why so many blacks think right and vote left. They offer "the answer" to the problem of blacks failing to respond favorably to conservatism. I, for one, am not certain there is such a thing as "the answer." And, even if there is, I assure you I do not have it.

I have only my experiences and modest observations to offer. First, I may be somewhat of an oddity. I grew up under state-enforced segregation, which is as close to totalitarianism as I would like to get. My household, notwithstanding the myth fabricated by experts, was strong, stable, and conservative. In fact, it was far more conservative than many who fashion themselves conservatives today. God was central. School, discipline, hard work, and knowing right from wrong were of the highest priority. Crime, welfare, slothfulness, and alcohol were enemies. But these were not issues to be debated by keen intellectuals, bellowed about by rousing orators, or dissected by pollsters and researchers. They were a way of life; they marked the path of survival and the escape route from squalor.

FAMILY POLICY, NOT SOCIAL POLICY

Unlike today, we debated no one about our way of life—we lived it. I must add that my grandparents enforced the no-debate rule. There were a number of concerns I wanted to express. In fact, I did on a number of occasions at a great price. But then, I have always found a way to get in my two cents.

Of course, I thought my grandparents were too rigid and their expectations were too high. I also thought they were mean at times. But one of their often stated goals was to raise us so that we could "do for ourselves," so that we could stand on our "own two feet." This was not their social policy, it was their family policy—for their family, not those nameless families that politicians love to whine about. The most compassionate thing they did for us was to teach us to fend for ourselves and to do that in an openly hostile environment. In fact, the hostility made learning the lesson that much more urgent. It made the difference between freedom and incarceration; life and death; alcoholism and sobriety. The evidence of those who failed abounded, and casualties lay everywhere. But there were also many examples of success—all of whom, according to my grandfather, followed the straight and narrow path. I was raised to survive under the totalitarianism of segregation, not only without the active assistance of government but with its active opposition. We were raised to survive in spite of the dark oppressive cloud of governmentally sanctioned bigotry. Self-sufficiency and spiritual and emotional security were our tools to carve out and secure freedom. Those who attempt to capture the daily counseling, oversight, common sense, and vision of my grandparents in a governmental program are engaging in sheer folly. Government cannot develop individual responsibility, but it certainly can refrain from preventing or hindering the development of this responsibility.

NO PRESCRIPTION FOR SUCCESS

I am of the view that black Americans will move inexorably and naturally toward conservatism when we stop discouraging them; when they are treated as a diverse group with differing interests; and when conservatives stand up for what they believe in rather than stand against blacks. This is not a prescription for success, but rather an assertion that black Americans know what they want, and it is not timidity and condescension. Nor do I believe gadget ideas such as enterprise zones are of any consequence when blacks who live in blighted areas know that crime, not lack of tax credits, is the problem. Blacks are not stupid. And no matter how good an idea or proposal is, no one is going to give up the comfort of the leftist status quo as long as they view conservatives as antagonistic to their interest, and conservatives do little or nothing to dispel the perception. If blacks hate or fear conservatives, nothing we say will be heard. Let me relate my experience as a designated black/conservative/Republican/Reagan appointee in the civil rights area—our soft underbelly as far as our opponents are concerned.

I begin by noting that there was much that many of us who have been in this Administration since the beginning could and should have done. This is at least as true for me as for anyone else. For example, I believe firmly that I should have taken a more aggressive stand against opponents of free enterprise and opponents of the values that are central to success in this society. For me, even more important, I should have been more aggressive in arguing my points with fellow members of the Administration and with those who shared my political and ideological bent. With that said, let us take a look at my perception of the past six years.

HIGH HOPES

In 1980 when Ronald Reagan was elected, I was a staffer for Senator John Danforth of Missouri. After the election, Thomas Sowell called to invite me to a conference in San Francisco, later named the Fairmont Conference. It was his hope, and certainly mine, that this conference would be the beginning of an alternative group—an alternative to the consistently leftist thinking of the civil rights and the black leadership. To my knowledge, it was not intended that this group be an antagonist to anyone, but rather that it bring pluralism to the thinking and to the leadership of black Americans. At the conference at the Fairmont Hotel in San Francisco, there was much fanfare, considerable media coverage, and high hopes. In retrospect, however, the composition of the conference, the attendees, and their various motives for being there should have been an indication of the problems we would encounter in providing alternative thinking in our society. Some of us went because we felt strongly that black Americans were being fed a steady diet of wrong ideas, wrong thinking, and certainly nothing approaching pluralism. There were some others, however, who appeared there solely to gain strategic political position(s) in the new Administration. This would be the undoing of a great idea. But even so, hopes were high, expectations and spirits were high, and morale was high. For those of us who had wandered in the desert of political and ideological alienation, we had found a home, we had found each other. For me, this was also the beginning of public exposure that would change my life and raise my blood pressure—and anxiety level. After returning from San Francisco, the Washington Post printed a major op-ed article about me and my views at the Fairmont Conference. Essentially, the article listed my opposition to busing and affirmative action as well as my concerns about welfare. The resulting outcry was consistently negative.

CASTIGATED AND RIDICULED

Many black Republicans with whom I had enjoyed a working and amicable relationship on Capitol Hill were now distant, and some were even hostile. Letters to the Editor castigated and ridiculed me. I was invited to a panel presentation by one organization, "Black Women's Agenda," and scolded by none other than then Congressman Harold Washington of Chicago. Although initially shocked by the treatment I received, my spirits were not dampened. I was quite enthusiastic about the prospects of black Americans with different ideas receiving exposure. It was in this spirit in 1981 that I joined the Administration as an Assistant Secretary in the Department of Education. I had, initially, declined taking the position of Assistant Secretary for Civil Rights simply because my career was not in civil rights and I had no intention of moving into this area. In fact, I was insulted by the initial contact about the position as well as my current position. But policies affecting black Americans had been an all-consuming interest of mine since the age of 16.

I always found it curious that, even though that my background was in energy, taxation, and general corporate regulatory matters, I was not seriously sought after to move into one of those areas. But be that as it may, I was excited about the prospects of influencing change. The early enthusiasm was incredible. We had strategy meetings among blacks who were interested in approaching the problems of minorities in our society in a different way—among blacks who saw the mistakes of the past and who were willing to admit error and redirect their energies in a positive way. There was also considerable interest (among some white organizations) in black Americans who thought differently. But, by and large, it was an opportunity to be excited about the prospects of the future—to be excited about the possibilities of changing the course of history and altering the direction of social and civil rights policies in this country. Of course, for much of the media and for many organizations, we were mere curiosities. One person asked rhetorically, "Why do we need blacks thinking like whites?" I saw the prospects of proselytizing many young blacks who, like myself, had been disenchanted with the Left; disenchanted with the so-called black leaders; and discouraged by the inability to effect change or in any way influence the thinking of black leaders in the Democratic Party.

HONEYMOON OVER

But all good things must come to an end. During my first year in the Administration, it was clear that the honeymoon was over. The emphasis in the area of civil rights and social policies was decidedly negative. In the civil rights arena, we began to argue consistently against affirmative action. We attacked welfare and the welfare mentality. These are positions with which I agree. But, the emphasis was unnecessarily negative. It had been my hope and continues to be my hope that we would espouse principles and policies which by their sheer force would preempt welfare and race-conscious policies.

The winds were not taken out of our sails, however, until early 1982 when we changed positions in the Supreme Court to support a tax exemption for Bob Jones University which had been previously challenged because of certain racial policies. Although the point being made in the argument that the administrative and regulatory arm of government should not make policies through regulations was a valid point, it was lost in the overall perception that the racial policies of Bob Jones University were being defended. In addition, the perception that the Administration did not support an extension of the Voting Rights Act aggravated our problems.

I was intrigued by several events that surrounded both the Bob Jones decision and the handling of the Voting Rights Act. As you probably remember, the decision to change positions in the Bob Jones University was made public on Friday afternoon simultaneously with the AT&T breakup. On the following Monday, I expressed grave concerns in a previously scheduled meeting that this would be the undoing of those of us in the Administration who had hoped for an opportunity to expand the thinking of and about black Americans. A fellow member of the Administration said rather glibly that, in two days, the furor over Bob Jones would end. I responded that we had sounded our death knell with that decision. Unfortunately, I was more right than he was.

With respect to the Voting Rights Act, I always found it intriguing that we consistently claimed credit for extending it. Indeed, the President did sign it. Indeed, the President did support the extension of the Voting Rights Act. But by failing to get out early and positively in front of the effort to extend the Act, we allowed ourselves to be put in the position of opposing a version of the Voting Rights Act that was unacceptable, and hence we allowed the perception to be created that this Administration opposed the Voting Rights Act, not simply a version of it.

MY FRIEND ATTACKED

Needless to say, the harangues to which we were subjected privately, publicly, and in all sorts of forums were considerable after these two policy decisions. There was no place that any of us who were identified as black conservatives, black Republicans, or black members of the Administration could go without being virtually attacked and certainly challenged with respect to those two issues specifically and the Administration generally. I remember a very good friend of mine complaining to me that he had been attacked simply for being my friend. Apparently the attack was so intense he simply left the event he was attending. They also made his date leave.

If that were not enough, there was the appearance within the conservative ranks that blacks were to be tolerated but not necessarily welcomed. There appeared to be a presumption, albeit rebuttable, that blacks could not be conservative. Interestingly, this was the flip side of the liberal assumption that we consistently challenged: that blacks were characteristically leftist in their thinking. As such, there was the constant pressure and apparent expectation that even blacks who were in the Administration and considered conservative publicly had to prove themselves daily. Hence, in challenging either positions or the emphases on policy matters, one had to be careful not to go so far as to lose his conservative credentials—or so it seemed. Certainly, pluralism or different points of view on the merits of these issues was not encouraged or invited—especially from blacks. And, if advice was given, it was often ignored. Dissent bore a price—one I gladly paid. Unfortunately, I would have to characterize the general attitude of conservatives toward black conservatives as indifference—with minor exceptions. It was made clear more than once that, since blacks did not vote right, they were owed nothing. This was exacerbated by the mood that the electoral mandate required a certain exclusivity of membership in the conservative ranks. That is, if you were not with us in 1976, do not bother to apply.

For blacks the litmus test was fairly clear. You must be against affirmative action and against welfare. And your opposition had to be adamant and constant or you would be suspected of being a closet liberal. Again, this must be viewed in the context that the presumption was that no black could be a conservative.

CARICATURES AND SIDESHOWS

Needless to say, in this environment little or no effort was made to proselytize those blacks who were on the fence or who had not made up their minds about the conservative movement. In fact, it was already hard enough for those of us who were convinced and converted to survive. And, our treatment certainly offered no encouragement to prospective converts. It often seemed that to be accepted within the conservative ranks and to be treated with some degree of acceptance, a black was required to become a caricature of sorts, providing sideshows of anti-black quips and attacks. But there was more—much more—to our concerns than merely attacking previous policies and so-called black leaders. The future, not the past, was to be influenced.

It is not surprising, with these attitudes, that there was a general refusal to listen to the opinions of black conservatives. In fact, it appeared often that our white counterparts actually hid from our advice. There was a general sense that we were being avoided and circumvented. Those of us who had been indentified as black conservatives were in a rather odd position. This caused me to reflect on my college years. The liberals, or more accurately, those on the Left spent a great deal of time, energy, and effort recruiting and proselytizing blacks by playing on the ill treatment of black Americans in this country. They would devise all sorts of programs and protests in which we should participate. But having observed and having concluded that these programs and protests were not ours and that they were not in the best interest of black Americans, there was no place to go. There was no effort by conservatives to recruit the same black students. It seemed that those with whom we agreed ideologically were not interested and those with whom we did not agree ideologically persistently wooed us. I, for one, had the nagging suspicion that our black counterparts on the Left knew this all along and just sat by and waited to see what we would do and how we would respond. They also knew that they could seal off the credibility with black Americans by misstating our views on civil rights and by fanning the flames of fear among blacks. That is precisely what they did.

ASSURING ALIENATION

I failed to realize just how deep-seated the animosity of blacks toward black conservatives was. The dual labels of black Republicans and black conservatives drew rave reviews. Unfortunately the raving was at us, not for us. The reaction was negative, to be euphemistic, and generally hostile. Interestingly enough, however, our ideas themselves received very positive reactions, especially among the average working-class and middle-class black American who had no vested or proprietary interest in the social policies that had dominated the political scene for the past 20 years. In fact, I was often amazed with the degree of acceptance. But as soon as Republican or conservative was injected into the conversation, there was a complete about face. The ideas were okay. The Republicans and conservatives, especially the black ones, were not.

Our black counterparts on the Left and in the Democratic Party assured our alienation. Those of us who were identified as conservative were ignored at best. We were treated with disdain, regularly castigated, and mocked; and of course we could be accused of anything without recourse and with impunity. I find it intriguing that there has been a recent chorus of pleas by many of the same people who castigated us, for open-mindedness toward those black Democrats who have been accused of illegalities or improprieties. This open-mindedness was certainly not available when it came to accusing and attacking black conservatives, who merely had different ideas about what was good for black Americans and themselves.

IDEOLOGICAL LITANY

The flames were further fanned by the media. I often felt that the media assumed that, to be black, one had to espouse leftist ideas and Democratic politics. Any black who deviated from the ideological litany of requisites was an oddity and was to be cut from the herd and attacked. Hence, any disagreement we had with black Democrats or those on the left was exaggerated. Our character and motives were impugned and challenged by the same reporters who supposedly were writing objective stories. In fact, on numerous occasions, I have found myself debating and arguing with a reporter, who had long since closed his notebook, put away his pen, and turned off his tape recorder. I remember one instance when I first arrived at the Department of Education, a reporter, who happened to be white, came to my office and asked: "What are you all doing to cut back on civil rights enforcement?" I said, "Nothing! In fact, here is a list of all the things we are doing to enforce the law properly and not just play numbers games." He then asked, "You had a very rough life, didn't you?" To this, I responded that I did not; that I did indeed come from very modest circumstances but that I had lived the American dream; and that I was attempting to secure this dream for all Americans, especially those Americans of my race who had been left out of the American dream. Needless to say, he wrote nothing. I have not always been so fortunate.

BURYING POSITIVE NEWS

There was, indeed, in my view, a complicity and penchant on the part of the media to disseminate indiscriminately whatever negative news there was about black conservatives and ignore or bury the positive news. It is ironic that six years ago, when we preached self-help, we were attacked *ad infinitem*. Now it is common among the black Democrats to act as though they have suddenly discovered our historical roots and that self-help is an integral part of our roots. We now have permission to talk about self-help. The media were also recklessly irresponsible in printing unsubstantiated allegations that portrayed us as anti-black and anti-civil rights.

Unfortunately, it must have been apparent to the black liberals and those on the Left that conservatives would not mount a positive (and I underscore positive) civil rights campaign. They were confident that our central civil rights concern would give them an easy victory since it was confined to affirmative action—that is being against affirmative action. They were certain that we would not be champions of civil rights or would not project ourselves as champions of civil rights. Therefore, they had license to roam unfettered in this area claiming that we were against all that was good and just and holy, and that we were hell bent on returning blacks to slavery. They could smirk at us black conservatives because they felt we had no real political or economic support. And, they would simply wait for us to self-destruct or disappear, bringing to an end the flirtation of blacks with conservatism.

Interestingly enough, I had been told within the first month of going to the Department of Education in 1981 that we would be attacked on civil rights and that we would not be allowed to succeed. It was as though there was a conspiracy between opposing ideologies to deny political and ideological choices to black Americans. For their part, the Left exacted the payment of a very high price for any black who decided to venture from the fold. And among conservatives, the message was that there is no room at the inn. And if there is, only under very strict conditions.

CONSERVATIVES MUST OPEN THE DOOR

It appears that we are welcomed by those who dangled the lure of the wrong approach and we are discouraged by those who, in my view, have the right approach. But conservatives must open the door and lay out the welcome mat if there is ever going to be a chance of attracting black Americans. There need be no ideological concessions, just a major attitudinal change. Conservatives must show that they care. By caring I do not suggest or mean the phony caring and tear-jerking compassion being bandied about today. I for one, do not see how the government can be compassionate, only people can be compassionate and then only with their own money, their own property, or their own effort, not that of others. Conservatives must understand that it is not enough just to be right.

But what is done is done. Let's be blunt. Why should conservatives care about the number of blacks in the Party? After all, it can be argued that the resources expended to attract black votes could be spent wooing other ethnic groups or other voters to vote Republican.

I cannot resist adding in passing that the RNC, which pays itself hefty bonuses, to blow opportunities can scarcely claim lack of resources.

SEARCH FOR STANDARDS

I believe the question of why black Americans should look toward conservative policies is best addressed as part of the general question, why any American should look toward conservative policies. Conservatism's problem and the problem of the post-Reagan Republican Party, the natural vehicle for conservatism, is making conservatism more attractive to Americans in general. In fact, our approach to blacks has been a paradigm of the Republican Party as a whole. The failure to assert principles—to say what we are "for"—plagued the 1986 campaign. Everyone was treated as part of an interest group.

Blacks just happened to represent an interest group not worth going after. Polls rather than principles appeared to control. We must offer a vision, not vexation. But any vision must impart more than a warm feeling that "everything is just fine—keep thinking the same." We must start by articulating principles of government and standards of goodness. I suggest that we begin the search for standards and principles with the self-evident truths of the Declaration of Independence.

Now that even Time magazine has decided to turn ethics into a cover story, there is at least some recognition that a connection exists between natural law standards and constitutional government. Abraham Lincoln made the connection between ethics and politics in his great pre-Civil War speeches. Lincoln was not only talking about the immediate issue of the spread of slavery but also about the whole problem of self-government, of men ruling others by their consent—and the government of oneself. Thus, almost 130 years ago Lincoln felt compelled to correct the erroneous reading set out in the Dred Scott decision:

"They [the Founding Fathers] did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the right so that the enforcement of it might follow as fact as circumstances should permit. They meant to set up a standard maxim for free society, which should be familiar to all and revered by all; constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated, and therefore constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people of all colors everywhere."

REEXAMINING NATURAL LAW

We must attempt to recover the moral horizons of these speeches. Equality of rights, not of possessions or entitlements, offered the opportunity to be free, and self-governing.

The need to reexamine the natural law is as current as last month's issue of Time on ethics. Yet it is more venerable than St. Thomas Aquinas. It both transcends and underlies time and place, race and custom. And until recently, it has been an integral part of the American political tradition. Martin Luther King was the last prominent American political figure to appeal to it. But Heritage Foundation Trustee Lewis Lehrman's recent essay in The American Spectator on the Declaration of Independence and the meaning of the right to life is a splendid example of applying natural law.

Briefly put, the thesis of natural law is that human nature provides the key to how men ought to live their lives. As John Quincy Adams put it:

"Our political way of life is by the laws of nature of nature's God, and of course presupposes the existence of God, the moral ruler of the universe, and a rule of right and wrong, of just and unjust, binding upon man, preceding all institutions of human society and of government."

Without such a notion of natural law, the entire American political tradition, from Washington to Lincoln, from Jefferson to Martin Luther King, would be unintelligible. According to our higher law tradition, men must acknowledge each other's freedom, and govern only by the consent of others. All our political institutions presuppose this truth. Natural law of this form is indispensable to decent politics. It is the barrier against the "abolition of man" that C.S. Lewis warned about in his short modern classic.

This approach allows us to reassert the primacy of the individual, and establishes our inherent equality as a God-given right. This inherent equality is the basis for aggressive enforcement of civil rights laws and equal employment opportunity laws designed to protect individual rights. Indeed, defending the individual under these laws should be the hallmark of conservatism rather than its Achilles' Heel. And in no way should this be the issue of those who are antagonistic to individual rights and the proponents of a bigger more intrusive government. Indeed, conservatives should be as adamant about freedom here at home as we are about freedom abroad. We should be at least as incensed about the totalitarianism of drug traffickers and criminals in poor neighborhoods as we are about totalitarianism in Eastern bloc countries. The primacy of individual rights demands that conservatives be the first to protect them.

RESPONSIBILITIES OF FREEDOM

But with the benefits of freedom come responsibilities. Conservatives should be no more timid about asserting the responsibilities of the individual than they should be about protecting individual rights.

This principled approach would, in my view, make it clear to blacks that conservatives are not hostile to their interests but aggressively supportive. This is particularly true to the extent that conservatives are now perceived as anti-civil rights. Unless it is clear that conservative principles protect all individuals, including blacks, there are no programs or arguments, no matter how brilliant, sensible, or logical, that will attract blacks to the conservative ranks. They may take the idea and run, but they will not stay and fraternize without a clear, principled message that they are welcome and well protected.

Mr. DANFORTH. Mr. President, no one who takes the time to read this lengthy speech could conceivably conclude that it is a speech about abortion, or about Roe versus Wade, or about when life begins. That is, quite frankly, a ludicrous interpretation of the speech. No straight-faced first-year law student would make such a suggestion.

But, to lay the question completely at rest, I asked Judge Thomas what he intended to say. I asked him whether he intended to apply natural law theory to abortion, or to comment on Roe versus Wade, or to express some theory on the beginning of life. His answer was absolutely no. There was no such intention in his remarks. Judge Thomas assured me that he has not prejudged any case that might come before the Supreme Court, and that he has formulated no views on the relationship between natural law and abortion.

The single sentence from which so much has been made was, in fact, a throwaway line. It was a good word about Lewis Lehrman, uttered in a place known as the Lehrman Auditorium to an organization where Lewis Lehrman is a trustee. It is the kind of compliment uttered by Members of the Senate every day, and to make it into a full-blown jurisprudence is not unlike turning a reference to "my distinguished colleague" into a full-fledged endorsement of everything your colleague has ever said.

The speech at the Heritage Foundation is not about abortion. It is about race. It is about the experience of being a black conservative. Especially, it is a chastisement of white conservatives for their negative position on civil rights. Clarence Thomas went to a conservative audience and told them that a strong position on civil rights was both necessary to win black voters and consistent with conservative philosophy. And in making that argument, he referred, as he has often done, to the concept of natural law embodied in the Declaration of Independence.

Natural law, as it has been expounded by Clarence Thomas in several speeches and law review articles, has been related almost entirely to the principle of equality found in the Declaration of Independence. Thomas believes that this principle of equality, which antedates the Constitution, must inform our understanding of what the Constitution means.

The heart of the Thomas argument is in the lines of the Declaration memorized by every school child:

> We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness.

Thomas believes that the "self-evident" truth of equality underpins the Constitution and must inform constitutional interpretation.

Clarence Thomas, a black man who has felt the sting of segregation and the legacy of slavery, has spent a great deal of time wondering how a nation founded on the principle that all men are created equal could have countenanced the existence of slavery and segregation.

As he stated in a 1987 speech honoring Martin Luther King's birthday, the Declaration of Independence "does not say all white men, but it says all men, which includes black men. It does not say all Gentiles, but it says all men, which included Jews. It does not say all Protestants, but it says all men, which includes Catholics." This is an issue of fundamental concern to a man who lived in a segregated regime "until the beginning of [his adult] life." Mr. President, I ask unanimous consent that a copy of this speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE CALLING OF THE HIGHER LAW

ADDRESS BY THE HONORABLE CLARENCE THOMAS, CHAIRMAN, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION ON THE OCCASION OF THE MARTIN LUTHER KING, JR., HOLIDAY DELIVERED AT THE U.S. DEPARTMENT OF JUSTICE, JANUARY 16, 1987

Let me begin by noting the date, which I will paraphrase in the last words of the original Constitution, since this is the year of its Bicentennial. We meet today, January 16, in the Year of our Lord, one thousand nine hundred and eighty-seven and of the Independence of the United States of America the two hundredth and eleventh. I mark the date in this way, for the holiday we celebrate brings out the peculiar tie between these two great documents of our political tradition.

The controversy surrounding the Martin Luther King, Jr., holiday can be something positive if it makes us think about why we should honor him. Our most important national holiday is of course the Fourth of July, but that appears to have become "shorn of its vitality and practical value" as a President as long ago as Abraham Lincoln feared it would be. I hope that the following comments might be worthy not only of the man we celebrate today but might make some contribution toward a more vital, valuable, and thoughtful celebration of the Fourth, and of the Bicentennial of the Constitution in general.

As Americans, we can be partisan on many different issues, but, as Americans, we must be non-partisan and in fundamental agreement on certain others. Holidays including such a one as this should be occasions on which we can see what we have in common with each other, rather than dwell on what divides us. Appropriately, Dr. King's greatest speeches were those associated with another controversial figure who also brought about for us unity on the highest basis—Abraham Lincoln. Let us reflect for a moment on Dr. King's speech at Lincoln University and of course on his Lincoln Memorial speech, on the occasion of the great march on Washington.

It is here that Dr. King's confidence in America shines forth the strongest. He was at his best when he emphasized that the civil rights movement would succeed only if it made use of the strengths of American society, only if it brought out what was best about America, and made America live up to what was highest in it. To denounce America as corrupt, or sick, or wicked, was to cast away the greatest resource the civil rights movement and its successors have—the innate justice of the Constitution and the fundamental decency of the American people.

In his June, 1961 commencement address at Lincoln University, Dr. King captured well the utopianism of America: ". . . in a real sense, America is essentially a dream, a dream as yet unfulfilled. It is a dream of land where men of all races, of all nationalities and of all creeds can live together as brothers. The substance of the dream is expressed in these sublime words, words lifted to cosmic proportions 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.'"

The man who would later speak of having a dream went on to reflect that the Declaration speaks of not some men, but of all men. "It does not say all white men, but it says all men, which includes black men. It does not say all Gentiles, but it says all men, which includes Jews. It does not say all Protestants, but it says all men, which includes Catholics." Because all men are created equal, and one is neither the natural nor the God-annointed ruler of the other, men can rule each other only through mutual consent. Consent requires expression through representative institutions, and this in turn implies broad suffrage, fixed terms of office, and separation of powers, not only to insure that the granted powers are not abused but that government has sufficient power to perform its necessary tasks. Both slavery and its surrogate segregation—which I lived under until the beginning of my adult life—denied Southern blacks inclusion in the scheme of the Declaration.

Two years after the Lincoln University speech, at the Lincoln Memorial, Dr. King would describe the Declaration and the Constitution as a "promissory note to which every American was to fall heir." But despite the bad check America had written black Americans, he refused to believe that the "bank of justice" was bankrupt. He knew that the resources of America were great because the dream he had of a nation where his children would be judged not "by the color of their skin but by the content of their character" was "deeply rooted in the American dream."

Dr. King gave us more to think about concerning the source of his confidence in his 1963 book, "Why We Can't Wait." Here, citing Thomas Aquinas, he notes that "An unjust law is a human law that is not rooted in eternal law and natural law." But "a just law is a man-made code that squares with the moral law or the law of God." This theme of a higher law behind the positive law is one that we today, we lawyers, we citizens who believe in the rule of law, and we who honor Martin Luther King need to take more seriously. For, as he maintained, American politics and the American Constitution are unintelligible without the Declaration of Independence, and the Declaration of Independence, and the Declaration is unintelligible without the notion of a higher law by which we fallible men and women can take our bearings.

So when we use the standard of "original intention," we must take this to mean the

Constitution in light of the Declaration. The Attorney General was careful to do this in his Constitution Day Speech in 1985, and I hope he continues to stress this essential connection throughout the Bicentennial Year. Those of us who are attorneys and all of us who deal with the law as professionals—not to mention our status as citizens under the law—must keep in mind that all the technical training we have is in the services of those enduring ideals. Of course there will be dispute about the proper interpretation of those ideals, and their application in a particular circumstance, and so forth. Democratic government and the majority rule behind it allow such disputes to be judged in a rational way. But majorities can themselves abuse power; they are legitimate majorities only insofar as they comply with the higher law background of the Constitution. Thus, completely consistent are strict obedience to the law and Dr. King's civil disobedience on behalf of a higher law, against segregation statutes.

With this theme of higher law in mind, let me make a few remarks to my fellow conservatives, many of whom have deep reservations about honoring Dr. King. We have to remember that he was only 39 when he was assassinated. Those of us who lived through the craziness of the sixties—perhaps contributing a little to it ourselves—but are still alive and have matured enough to realize our follies should not be so fast to attack Dr. King. We conservatives must recall that our political success came about only after the major civil rights legislation was passed, and the political agenda shifted such that people could call themselves conservatives with full confidence that they were not countenancing racism.

All conservatives should realize and constantly articulate the central importance of moral consensus in order to have any kind of common society, let alone a decent one. The prevalent moral skepticism, that dogmatic skepticism that refuses to question its own pig-headed insistence on moral relativism, threatens to destroy all decency in society and then dissolve society itself. How can it be that bigotry and tolerance are moral equivalents?

To counter such relativism, we, in this Bicentennial Year, should seek to renew our understanding of the natural law foundations of our Constitution. For Abraham Lincoln, the Declaration's teaching on human equality was "the father of all moral principle." Such confidence enabled the survival of this nation; it must once again be renewed so we can face today's dangers.

Conservatives in particular can benefit a great deal by serious reflection on the central place of the Declaration of Independence's "laws of nature and of nature's God." I give this advice because conservatives, I believe, more than those of other political persuasions have far more to offer Americans of all colors. Yet conservatives can learn a lesson from Dr. King. To give some examples: Surely the free market is the best means for all Americans, in particular those who have faced legal discrimination, to acquire wealth. Yet the marketplace guarantees neither justice nor truth. After all, slaves or drugs can be bought and sold. The defense of the equal opportunity to compete in a free market is a moral one that presupposes the Declaration. And Martin Luther King was fighting for that goal.

Let me cite another example of how conservative thought is deficient on an issue related to race, namely that of South Africa. No one who holds American principles dear can defend apartheid. One might even defend a form of despotism which ultimately benefited those under harsh and arbitrary rule. But no one has shown how apartheid improves those under its sway, economic benefits of living in South Africa to the contrary. In defense of South Africa, some may argue that the alternative is the black tyrannies of the rest of Africa. But not all of black Africa is tyrannical, as the Secretary of State's recent trip indicates. More to the point, the voice of the of the black tyrannies of Africa is essentially the same as that of South Africa. Both despotisms rest on premises which are ultimately traceable to nineteenth-century notions about evolution and their concomitant denial of natural rights as the basis of decent political order. The black tyrannies' rules are indoctrinated in Marxism—which they learned at British, French, and American universities. Marxism claims to be a science which gives absolute rules about human behavior and well-being. Apartheid too is based on what claims to be a science, derived as well from nineteenth-century notions of racial evolution. The English historian Paul Johnson describes the cultivation of this pseudo/science, which is rooted in reality as witchcraft, in his fascinating study of the twentieth century's assault on human freedom, "Modern Times." Both Marxism and apartheid are opposed to the American notion of equal natural rights. Marxism posits a master class, apartheid a master race. One is socialism of the left, the other socialism of the right. Dr. King's emphasis on the Declaration reminds us why we have to be opposed to both. The Declaration's standards are difficult ones to live up to, but they are the right response to our current nihilistic skepticism. Yet, nationalistic pride in having them is immediately sobered by our immense responsibility in abiding by them.

Conservatives need the Declaration's high standards to give them perspective, to make them approach politics with the proper idealism and the necessary humility. The American political writer Tom Paine is frequently quoted by President Reagan, much to the discomfort of some of his fellow conservatives. Paine declared, "We have it within our power to begin the world over again." That remains the revolutionary meaning of America. Politics is not for the purpose of gaining a temporary advantage, a chance to distribute the perquisites of power. It is not for the purpose of preserving an established order or of seeking to reinvent the wheel. In striving to preserve and bring about what is good, politics must measure itself by the standards of the higher law, of natural rights, or else it becomes part of the problem instead of part of the solution.

Having come so far in eliminating legal discrimination, we cannot fall into the trap of thinking that equal natural rights is mere rhetoric, a cloak for crass self-interest, that allows interests to be defined racially. A nation that is not based on race, that takes its bearings by standards that transcend race and apply to all humanity is what our fundamental ideals demand. This American challenge is one that must be the conservative challenge, too. And I have complete confidence that the means we conservatives possess are superior in meeting this great challenge.

To illustrate how Dr. King's focus on the Declaration might be applied today, in the area of civil rights, let us consider, once again Justice Harlan's dissent in the 1896 case of *Plessy* v. *Ferguson*, which legitimated segregation. Harlan's ringing dissent is of course known for its invocation of the color-blind Constitution. I want to reflect briefly on the substance of what Harlan argued, rather than on what has almost become a mere rhetorical slogan.

Harlan makes the following arguments against State-imposed segregation and for a color-blind reading of the Constitution. First, the Thirteenth and the Fourteenth Amendments strike down "Badges of Slavery" as well as the institution itself. Second, segregation constitutes an unreasonable infringement of personal freedom. Harlan implies that there is a private sphere which government must respect. Third, segregation is inconsistent with the original Constitution's guarantee to each state of a republican form of government. Referring to the argument of the Fourteenth Amendment as a whole, including its privileges and immunities clause, Harlan made constant reference to the duties of citizenship, and the rights they purchase.

This is what stands behind the Slogan "color-blind Constitution." The phrase refers to rights and duties, citizenship, and the distinction between a private and a public sphere. This latter argument against segregation is one we today should re-examine with care. Let us not forget that segregation is an extension of that despotic relationship of master to slave. Both slavery and segregation found support in the scientific doctrines of the nineteenth century, which found their basis in Darwinism. These ideologies held that there was no fixed, constant human nature, and a posteriori no natural rights on which to base one's political and moral life. Justice was to be found in the struggle of men, races, and nations. And with the abolition of nature and natural rights one throws out as well limited government and all the institutions which accompany it—written Constitutions, separate courts, fixed terms of office, and so on. Let us not forget that slavery and segregation were attempts to abolish or inhibit the private sphere, in the name of another private attribute, that of race. Paramount is a state-mandated set of institutions and practices. No one who truly believes in limited Government could possibly have a favorable word to say about segregation. Therefore, I applaud the Justice Department in making it clear that racial assaults will not be tolerated in this society.

Re-examining Dr. King in this way opens wounds that many of us hoped had long since healed. But it is too easy for some to forget what many, including myself have experienced—segregated restaurants, water fountains, and entrances, even in this very city, and assaults on blacks for attempting to register to vote, not to mention numerous other injustices and indignities. One might profit from a comparison of King in the segregation crisis—for example, that experienced in the Depression. The New Deal was the moderate response to that crisis—with Communism and fascism being the extreme responses. Dr. King's extremism may well have been the only moderate response to the rule of segregation.

Now today we must still question aspects of the New Deal, yet Franklin D. Roosevelt remains as popular as ever, as attested by the frequency with which President Reagan invokes his name. It is not inappropriate for us conservatives to make a similar comparison; let us honor Martin Luther King today, the same way we can admire Franklin Roosevelt. This does not oblige us conservatives to affirm all the actions either man undertook, but we can still honor them for heroism in dealing with the crises they faced.

> Some of you may want to know how this understanding of Dr. King and the American political tradition relates to my responsibilities as Chairman of the Equal Employment Opportunity Commission. The Commission's offices are just up the hill from the Lincoln Memorial, and we draw inspiration from his words and those that King spoke there. A brief quotation from Lincoln explains it all very elegantly. In response to the just-announced Dred Scott decision that claimed the Constitution affirmed the right to own slaves, Lincoln argued that the Declaration of Independence "intended to include all men, but they did not intend to declare all men equal in all respects. . . . They defined with tolerable distinctness, in what respects they did consider all men created equal—equal in "certain unalienable rights, among which are life, liberty, and the pursuit of happiness. This they said, and this [they] meant. They did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the right, so that the enforcement of it might follow as fast as circumstances should permit."
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> The EEOC is an enforcement agency which, under this Administration and Commission, is dedicated to protecting individual rights. Vigorous protection of individual rights does not require the imposition of quotas or racial preference or the creation of group rights. But a rejection of group classifications and remedies does not mean shrinking from zealous enforcement of the law. This approach to enforcement has its foundation in the Declaration and follows in the tradition of Dr. King. And I would dare-say it has its roots in the higher law.
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> Some of you may think I have been avoiding reference to recent race-related controversies. What relevance to these is Dr. King's significance, as I have been articulating it? In this Bicentennial year, the most significant thing we can do to improve our character as a people, and thereby perfect our relations with one another, is for our youth, still in school, to give the Declaration of Independence and Constitution a serious reading. This does not require additions to school budget, more computer terminals, or touchy-feely psychology courses. It does require the conviction that something worthwhile is to be found in those documents. If the Martin Luther King holiday can somehow lead our youth to take the fundamental laws of the land seriously, the way the Founders intended them, then its presence on our calendars is a fitting preface to our celebration next month of Washington and Lincoln, and for the entire Bicentennial year. Next month when you read or re-read the Farewell Address and the Gettysburg Address and the Second Inaugural, remember that the heritage they formed lives on in the words and deeds of the Reverend Martin Luther King.

Mr. DANFORTH. Mr. President, in examining the apparent contradiction between the stated goals of the Declaration and the reality experienced by blacks in this country, Thomas focused on two Supreme Court decisions that legitimated the twin evils of slavery and segregation, the Dred Scott decision and the Plessy versus Ferguson decision. Clarence Thomas believes that these cases were wrongly decided. In the words of a Harvard professor recently published in the Wall Street Journal, Thomas believes that the Justices in these cases failed to read the Constitution in light of the "moral aspirations toward liberty and equality announced in the Declaration of Independence."

In order to make this argument, Thomas asserts two propositions: First, the principles of the Declaration of Independence are embedded in the Constitution; and second, those principles should have dictated a different result in Dred Scott and Plessy versus Ferguson.

Thomas begins this effort by invoking Lincoln's criticism of the Dred Scott decision. As Thomas states in an article in the Harvard Journal of Law and Public Policy:

> Without the guidance of the Declaration of Independence, Lincoln explained, the Constitution can be a mask for the most awful tyranny, and not just over a particular race. With the Declaration as a backdrop, we can understand the Constitution as the Founders understood it—to point toward the eventual abolition of slavery.

In the same Harvard article, Thomas made clear that the two documents must be read together:

> If the Constitution is not a logical extension of the principles of the Declaration of Independence, important parts of the Constitution are inexplicable. One should never lose sight of the fact that the last words of the original Constitution as written refer to the Declaration of Independence, written just 11 years earlier.

And that is the quote from Judge Thomas.

Thomas believes that the principle of equality embedded in the Constitution required a different result in Dred Scott and the Plessy decision. In a Howard Law Journal article, Thomas revealed much of his purpose in exploring natural law: "Our task as defenders of constitutional government and the heritage that is indispensable to its perpetuation require us to challenge the Dred Scott decision." In the same article, Thomas argues that Justice Harlan's dissent, not the majority, had it right in Plessy. According to Thomas and Justice Harlan, the majority erred when it held that the 13th amendment and 14th amendment did not make State-imposed segregation unconstitutional. According to Thomas, Justice Taney in Dred Scott and Justice Brown in Plessy misunderstood the Constitution because they failed to understand it as the "fulfillment of the ideas of the Declaration of Independence, as Lincoln, Frederick Douglass, and the Founders understood it."

Thomas believes that the effect of the Supreme Court's misunderstanding is not simply limited to misguided constitutional analysis in the 20th century. Thomas believes that it forced the Warren Court to base its Brown versus Board of Education decision on unnecessarily weak grounds. According to Thomas in his Howard Law Journal article, "(t)he great flaw of Brown is that it did not rely on Justice Harlan's dissent in Plessy * * *. Thus, the Brown focus on environment overlooks the real problem with segregation, its origin in slavery, which was at fundamental odds with the founding principles." Clarence Thomas supports the holding in Brown, but he believes that the decision should have been written in even stronger terms than those used by Chief Justice Warren. He has described his critique as "Monday morning quarterbacking" of Justice Warren's reasoning.

It is in this context that Judge Thomas discusses his views on natural law. He believes that the Constitution cannot be understood in all its richness without reference to the principles and ideals embodied in the Declaration of Independence. It is a view, I believe, shared by a vast majority of Americans.

Therefore, I believe that the record is clear. Judge Thomas has cited natural law in connection with his keen interest in the issue of civil rights and race relations in this country. He has stressed that the notion of equality and liberty undoubtedly held by the Founders should have precluded the misguided decision in Dred Scott and Plessy versus Ferguson. He also believes that the mistakes made by the Court in these decisions continue to have an impact in present-day thinking about race relations. He has not extended this theory in any of the radical ways insinuated by his opponents, and in my view, it is insulting to imply that he has done so.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT AND INDEPENDENT AGENCIES APPROPRIATIONS, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, could I understand the parliamentary situation? What is exactly our parliamentary situation?

The PRESIDING OFFICER. The Senator from Massachusetts controls 26 minutes, 9 seconds, the Senator from Kansas 9 minutes, 17 seconds on the amendment as offered by the Senator from Kansas and others.

Mr. KENNEDY. After expiration of time on the amendment of the Senator from Kansas, what will be the next order of business?

The PRESIDING OFFICER. When all time is used pursuant to the previous unanimous consent, the Senate will return to amendment 780 as offered by Senator HELMS relating to child pornography. Then there will be a vote on amendment No. 734, again as offered by the Senator from North Carolina, relative to AIDS, at the conclusion of which there will be a third vote on the amendment offered by the Senator from Kansas.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, the Dole-Hatch-Mitchell-Kennedy amendment represents the best approach to dealing with the problem or possibility of a patient becoming infected through contact with a health care worker. The amendment relies on fact, not fear, and deals with the real public health issue, not just the emotion of the issue.

What does the amendment do? First of all, it requires States, within 1 year, to adopt by regulation or legislation, the guidelines published this week by the Centers for Disease Control. If the State fails to enact these guidelines, then it will be ineligible to receive Federal funds under the Public Health Service Act until it does enact them.

How do the guidelines work? First, they emphasize the critical importance that all health care workers adhere to universal precautions, disinfection, sterilization of devices, use appropriate handwashing, protective barriers, and care in the use of needles and other sharp instruments.

Second, they define those medical procedures where there might be the possibility, or a risk, of transmission. That is what the CDC described as "exposure-prone invasive procedures"—where the hands of the doctor actually enter a body cavity of a patient and conceivably some bleeding from the doctor could enter the system of the patient. The CDC is currently preparing a list of procedures where there actually might be a risk of transmission, and deals with health care workers who perform these procedures.

Third, the guidelines require that a health care worker who performs exposure-prone invasive procedures should be tested and thereby know his or her HIV status. If the worker tests positive for HIV, then he or she should not perform exposure-prone procedures unless they have sought both counsel from a hospital review panel and been advised under what circumstances they may continue to perform these procedures, including notifying prospective patients prior to exposure-prone invasive procedures of their HIV-positive status.

Thus, this amendment will protect the patient because it will actually encourage health care workers to get tested, since if they test positive, they will not be thrown out of work but may be allowed to continue their profession as long as they do not engage in any practice or procedure with a patient that could put the patient at risk. It will protect the health care workers because they will not face the Hobson's choice, if they test positive, of losing their jobs or facing a 10-year jail sentence. Thus, they will have an incentive to get tested and receive treatment, if they test positive.

Finally, it puts this vital public health issue in the hands of the States where it belongs.

By contrast, the Helms amendment does exactly the opposite. It is counterproductive. It does not protect the patient because it discourages the worker from getting tested. It also does not protect the health care worker for the same reason, because the worker will not get tested and therefore foregoes any early intervention treatment.

And finally, I would also draw again the attention of the Members to the careful proceedings undertaken by CDC in their role of leading our public health efforts. The Helms amendment takes no account of this important and effective process, and disregards the benefits of public health experience.

As I mentioned, over 70 organizations and professional associations have contributed their expertise to the formulation of the guidelines. These organizations did not endorse criminal penalties, but carefully and methodically they examined the protection we might afford a patient. This does not prohibit the States, if they so desire, from enacting penalties in their own respective jurisdictions. They are still able to do so. But, from a public-health policy, penalties were not endorsed as a component of their recommendations. The CDC has done a superb job. These guidelines emphasize first and foremost the safety of our citizens through enforcing universal precautions that benefit both patients and workers. And they require the establishment of monitoring the procedures to ensure that health care professionals practice safely.

There is a broad consensus around these guidelines, and I believe they will assist in maintaining a safe workplace. Wisely, the CDC has recognized the spectrum of approaches chosen by the States to regulate health care within their jurisdictions. This is how it should be. But we will have acted responsibly if we require the States to adopt these guidelines.

I appreciate all of the efforts of my colleagues, the majority leader, the minority leader and the ranking minority member, Senator HATCH, in the preparation of this amendment.

Mr. President, I suggest the absence of a quorum, and ask that the time be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask uanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am going to yield back the remainder of our time in about 1 minute. I want to make one final point to indicate that there are going to be two votes on AIDS. I think the consensus amendment is the better amendment. I think, as I have indicated, it was probably inspired because of the efforts of Senator HELMS.

I will vote for Senator HELMS' amendment because I think it helps focus on the seriousness of the issue before us. However, having said this, I think the best method in dealing with health care providers is not through the criminal justice system, at least at this point, not with criminal penalties, but rather through the State licensing process. The impact of losing one's license is, in fact, in most cases a far more frightening prospect for many as it could mean permanent loss of one's livelihood.

So, before the vote, I wanted to make it clear we will be voting first on the child pornography amendment, and then on the Helms amendment on AIDS, and the third vote will be the consensus amendment by myself, Senator MITCHELL, Senator HELMS, Senator KENNEDY, and Senator HATCH. I do believe that is a better alternative.

Having said that, Mr. President, I yield back the remainder of the time on this side.

Mr. KENNEDY. Mr. President, I, too, will yield back the remainder of the time in just a few moments.

I indicated earlier in the debate several organizations that have opposed the Helms amendment and which support the leadership's amendment. I would like to read, in the final moments, some relevant paragraphs. This is from the American Medical Association; their concluding paragraph:

> The American Medical Association believes that only through application of sound medical principles, rather than through the arm of the criminal justice system, we will be able to confront the issues of HIV-infected health-care workers. * * * The AMA strongly opposes the Helms amendment * * * effectively urges its defeat and supports the use of the CDC guidelines as the best mechanism to protect the health-care workers and their patients.

The American Academy of Pediatricians:

> We strongly oppose the Helms amendment and any other efforts that seek to impose criminal penalties, and thus provides disincentives for voluntary testing and counseling by health-care workers.

From the Association of State Health Offices, I read the appropriate paragraph:

> Alternative approaches such as that offered by Senator Helms which criminalizes nondisclosure will actually serve to deter and discourage health-care workers from seeking testing or treatment for HIV infection and most certainly limit disclosure of their HIV status to patients.

We have the representatives of many organizations saying that the approach of the Senator from North Carolina is a counterproductive one, and they urge a negative vote on the Helms amendment, along with their support for the leadership's amendment.

Finally, Mr. President, I have heard my colleagues indicate support for both amendments, but basically these amendments come at this issue in completely different ways. The Helms amendment discourages testing, and the CDC amendment encourages testing for the reasons that I have outlined here. The Helms amendment is mostly based in an ideological and emotional context, and is actually counterproductive to the goals we seek to achieve. The leadership amendment is based on sound public-health policy as reported from our public-health experts. I urge that the amendment of the Senator from North Carolina be rejected.

Mr. President, I ask unanimous consent that each of the succeeding votes ordered to occur after the first rollcall vote relative to the disposition of amendments to H.R. 2622 be 10 minutes in duration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on the Dole amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I yield the remainder of my time.

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on final passage of the Treasury-Postal Service appropriations bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 781

Mr. CRANSTON. Mr. President, the amendment by Senators DOLE, MITCHELL, HATCH, and KENNEDY require the States to adopt the guidelines for infected health-care workers that were issued by the Centers for Disease Control earlier this week.

To my mind, there is a world of difference between threatening health care workers with jail and encouraging sound medical practice. I strongly oppose the Helms amendment. I strongly favor the Dole/Mitchell/Hatch/Kennedy amendment.

The CDC guidelines are the result of months of consideration by scientists and laypersons. The CDC has been in the business of developing guidelines for medical practice for some 45 years. These guidelines represent the best thinking on how to reduce the risk of HIV transmission from health care workers to patients.

Under the CDC guidelines, all health care workers would maintain strict compliance with universal precautions. These precautions include sterilization of equipment and the careful handling and disposal of sharp instruments. Health care workers who test positive for HIV would either refrain from performing certain high-risk invasive procedures or obtain consent from prospective patients before performing such procedures. The CDC guidelines assert that health care workers who perform exposure-prone, or high risk, procedures should know their HIV antibody status. In other words, they should get tested. Those who are positive should not perform exposure-prone procedures without first notifying an expert review panel to detemine under what, if any, conditions they may do so. They would disclose their HIV status to patients.

Mr. President, the basic question before the Senate is this: What is the best way to reduce the risk of transmission of the AIDS virus from health care workers to patients? Is health care policy to be made and enforced through the criminal justice system? That is not an effective means of reaching the goal, which is to assure that HIV is not transmitted in the course of health care.

I believe that threatening health care workers with jail will tend to discourage them from being tested, and for those who already know their status, to make them more fearful of seeking treatment out of fear of disclosure. Also, the Helms amendent makes no mention of the hepatitis B virus, which poses a far greater risk of transmission that does the HIV virus. The CDC guidelines specifically mention hepatitis B, and, in fact, are written to reduce the risk of transmission of any disease.

The amendment now before us takes a very different approach. This amendment effectively mandates compliance by the States with the CDC guidelines by withholding Federal public health grant funds unless CDC guidelines are incorporated into State licensure laws or regulations. It is the States that traditionally regulate medical practice in this country, not the Federal Government nor the criminal justice system. Regulation of medical practice by the States simply makes for sound medical policy. The manner in which the CDC guidelines should be implemented will vary from State to State, as this amendment allows.

Mr. President, I believe that the Federal Government moves into dangerous territory when it tries to dictate professional ethical standards and penalties for the practice of medicine. What the CDC has done is spell out professional standards that provide guidance to State agencies and professional bodies that traditionally regulate medical practice. What the Dole/Mitchell amendment does is mandate that the States, not the Federal Government, find ways of making the CDC guidelines work under the licensure laws that are unique to each State.

Mr. DURENBERGER. Mr. President, I rise in support of the amendment, which is jointly offered by my distinguished colleagues from Kansas, Utah, Maine, and Massachusetts. This proposal requires States to adopt the recommendations of the Centers for Disease Control concerning the transmission of the HIV virus by health care professionals.

Mr. President, throughout this debate I have continually urged that we respect the facts and not succumb to emotion. The amendment before us does precisely that.

The Centers for Disease Control have gathered experts together to develop recommendations to prevent the transmission of HIV and hepatitis B virus in the health care setting. This effort represents the latest scientific evidence that is available.

This amendment requires States to adopt these CDC guidelines by regulation or legislation. The guidelines provide state-of-the-art science to assist the States in developing appropriate procedures for infection control.

The States can get the job done. State departments of health have had a long history of exercising these skills and in regulating public health activities in each State.

A balanced approach is possible. I would like to submit for the RECORD a copy of the HIV control policies developed at the University of Minnesota Hospital and Clinic. No hospital in the Nation has established so detailed a policy. The procedures are consistent with the CDC guidelines, as well as clear and fair for patients and professionals. They should serve as a model for responsible infection control.

The policy at the University of Minnesota balances the interests of patients through rigorous controls and the interests of health care workers by requiring disclosure of HIV status to the hospital epidemiologist. The hospital provides information and training to HIV infected workers. It also forbids such workers from performing certain invasive procedures.

I believe that the CDC guidelines represent an important start in our fight against AIDS and in our efforts to restore public confidence in medical treatment.

However, we are not just passing an amendment here, we must make sure that it works in the right way. I am concerned that the guidelines in some cases are quite general and that they would be difficult for States and communities to implement consistently.

For example, there is no definitive list of exposure-prone procedures, for which the highest levels of precaution are appropriate. When left to 50 States or to thousands of community hospitals to implement, the somewhat vague language in the guidelines may lead to unequal application.

The particular danger is that, in this atmosphere of fear and alarm, hospitals might be pressured into excessive restrictions. Hospitals are entitled to the wisdom of the CDC in identifying high risk procedures. The public is entitled to uniform standards no matter where they seek treatment. Health care providers are entitled to appropriate proscriptions of clinical practice.

Dr. William Roper, director of the CDC, yesterday reassured me that he will convene panels of specialists to develop these lists of exposure prone procedures. They should be available in a few months. However, we do not want hospitals and health care providers to delay. We want all relevant parties to act with dispatch. All necessary precautions and procedures must be immediately implemented. The scientific process is an evolutionary one. The CDC will continue to refine and improve all aspects of the guidelines as the data becomes available and more is learned about the deadly virus.

Yesterday, the chief executive officer of the Minnesota Medical Association, Dr. Paul Sanders, stated in the St. Paul Pioneer Press: "If legislation is done as a knee-jerk reaction to public hysteria, it would be bad." This legislation is not a knee-jerk reaction. It is a reasoned approach to a public health problem. I urge my colleagues to support it.

I ask unanimous consent to have printed in the RECORD two articles from Minnesota Medicine, April 1991, on HIV in the health care setting.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Minnesota Medicine, April 1991]

HIV INFECTION IN THE HEALTH CARE SETTING: PUTTING THE RISK IN PERSPECTIVE

(Minnesota Medicine Interviews Michael T. Osterholm, Ph.D., M.P.H.)

With the recent news of a Florida dentist transmitting the human immunodeficiency virus (HIV) to at least three patients, the public has become increasingly concerned about the risk of acquiring HIV infection from health care workers. The debate has become intense, with some pushing for mandatory AIDS testing and others adamantly opposing it.

In February, the American Medical Association and the American Dental Association issued a joint statement saying physicians and dentists who perform invasive procedures and are at risk of acquiring AIDS should be tested, and if HIV-positive, should either inform their patients or refrain from performing risky procedures. Response to the statement has been varied but strong, with many physicians arguing that it comes too close to proposing mandatory AIDS testing.

State Epidemiologist Michael Osterholm, Ph.D., M.P.H., recently reviewed the risk of acquiring HIV infection with the Zumbro Valley Medical Society's Legislation Committee. He presented data suggesting that widespread mandatory testing would do little to lessen the risk, which is minimal. Osterholm's discussion, which is recapped in this interview, convinced the society to postpone action on the bill.

Osterholm, also chief of the Acute Disease Epidemiology Section at the Minnesota Department of Health, has led studies to determine the risk of HIV infection in the health care setting, including the risk of patients transmitting HIV to health care workers.

Osterholm and the Health Department have been on the forefront of the AIDS issue, leading the nation in determining the accuracy of HIV testing and the risk of transmission in the health care setting. Osterholm, who believes some concerns about AIDS have been exaggerated, serves as a consultant to the Centers for Disease Control on this issue and is working to promote development of a reasonable policy that distinguishes between true risk and public fear.

MINNESOTA MEDICINE: Dr. Osterholm, thank you for agreeing to discuss a subject of great concern to health care workers and patients. We would like to hear your comments regarding the risk of acquiring AIDS in the health care setting. Can you help us put that risk in perspective?

OSTERHOLM: To deal with the issue, we need to examine the risk of human immunodeficiency virus (HIV) transmission from patients to health care workers and, as the public is now demanding, from health care workers to patients. Many of the issues that affect one discussion affect the other.

I am concerned about our understanding of the concept of risk—something our society has had problems coming to terms with in a lot of other areas, such as the environment and product liability. What is the risk, and how much risk is society willing to accept?

I believe we could completely eliminate the patient's risk of acquiring HIV from health care workers. However, the cost would be extreme, not just in terms of money but also in terms of the amount of testing involved and the resulting diversion of resources. The converse is also true. We could ensure that a patient would never infect a health care worker—or at least come very close to that. But, again, the cost—economic and otherwise—must be considered. To guarantee that level of safety, some infected people would be denied certain services, some kinds of procedures would be avoided, and the type of technology we can apply to those procedures would be limited.

Instead of taking these extreme measures to eliminate the risk of HIV transmission entirely, we are trying to find a middle ground where the risk is acceptable—whether it be one in a million or one in 100,000. At the same time, we want to avoid prohibiting a health care worker from doing his or her everyday job and denying patients the services they need.

MINNESOTA MEDICINE: Do you think widespread HIV testing would significantly reduce the spread of AIDS?

OSTERHOLM: Since 1985, we at the Minnesota Department of Health have strongly supported widespread testing of people who engage in behavior that puts them at risk of acquiring HIV. We believe it's very important for patients to know if they're infected. Early, appropriate treatment of HIV with Zidovudine (AZT) and other drugs can significantly increase the quantity and quality of life for people who are infected. This is similar in concept to managing patients with diabetes in the early stages to maximize the quality of their lives. We also know from studies that patients are more likely to initiate and maintain positive behavior to reduce the risk of HIV transmission if they know they are HIV-infected.

From the health care worker's standpoint, it's important to know about all aspects of a patient's health. A physician who is not aware of a patient's HIV infection cannot provide the most beneficial care, regardless of whether the physician is treating a broken leg or Pneumocystis pneumonia.

On the other hand, testing as we know it today has not increased infection control. All the data I am aware of demonstrate that knowing a person's HIV status does not reduce a surgeon's or other health care worker's risk of exposure to a sharp instrument. We would be the first to promote responsible testing in the health care setting if data existed to show it works. It just doesn't. What it does is cause relaxation of other infection-control measures.

The same is true for testing of health care workers. We have no data to support that widespread testing of health care workers would reduce the already very low risk of HIV transmission to patients.

HIV Testing

MINNESOTA MEDICINE: Before we further discuss the risks of acquiring HIV in the health care setting, let's talk about the rests. The public has misconceptions about what HIV testing involves. People hear about false positives and false negatives. Could you discuss the tests and their efficiency?

OSTERHOLM: The whole issue has evolved since testing was introduced in 1985 to improve the safety of the blood supply. In 1985, we at the Minnesota Department of Health wrote the first major article in the country on concerns about the performance of HIV-antibody serology. The commentary was published in the New England Journal of Medicine three weeks before U.S. blood banks introduced HIV-antibody serology as part of a mandatory screen for blood donors. We discussed sensitivity, specificity, the predictive value of a positive result, and most important, what would happen to the blood supply if every year we mistakenly told 2 percent to 3 percent of the population they were HIV-positive. For one thing, many people wouldn't want to donate blood anymore, and we'd be diminishing the small group of people who routinely donate blood.

Since 1985, more than 450,000 donors have given blood in Minnesota. During this time, 23 donors tested positive for HIV by enzyme immunoassay (EIA) and Western blot. Twenty-two donors were then tested by virus culture to determine if they were really infected. The HIV culture was positive for all 22. The other donor who was found to the HIV-antibody positive was not available for testing. However, he was likely infected since he had a risk factor for HIV infection and was positive for hepatitis B surface antigen. There wasn't a single false positive in that entire group. This high degree of accuracy can be explained by a couple factors. First, the EIA test is what I'd call "oversensitive," so it picks up individuals who are not truly infected. The Western blot test, which is used to confirm a reactive EIA, has a very high specificity. Using both tests allows us to maintain extremely high sensitivity and specificity. In the hands of a competent laboratory technician, this test is as good as any in medicine. Consequently, I'm not concerned that someone will inappropriately be labeled infected.

MINNESOTA MEDICINE: If I remember right, since 1985 no one has acquired AIDS from transfusions, but, naturally, some people are greatly concerned about that possibility.

OSTERHOLM: Your question brings up the flip side of the blood screening question, that is, has our testing missed someone who really was infected, and has that infected blood then been used for transfusion? We can't guarantee that hasn't happened, but of all the transfusion recipients who received blood after 1985 and have been tested, not one has tested positive for HIV, and many have asked to be tested. As far as we're aware, not one of the 350,000 Minnesotans who received blood from 1985 to 1990 has been diagnosed with HIV infection resulting from a transfusion.

It's important to realize that approximately 25 percent of those who receive blood would have died during the initial trauma if the blood had not been available. The number of Minnesotans alive today because they received blood would more than fill the Metrodome, and not one has been identified as having HIV. This helps put the risk in perspective.

MINNESOTA MEDICINE: Let's talk about HIV-antibody seroconversion. How long does it take for HIV infection to show up on the antibody test once a person has been exposed to HIV?

OSTERHOLM: That depends on which testing method we accidental exposure to blood.

We can conclude several things from our experience with HIV infection thus far. First, patients and physicians have minimal risk of contracting HIV infection in hospitals or other medical settings. The extreme cost and the minimal benefits make mandatory testing inappropriate. Second, physicians who are HIV-positive should voluntarily refrain from performing surgical procedures or disclose their infection to the patient and proceed only with informed consent. In addition, all health care workers at risk of HIV infection because of their lifestyles should be tested, seek counseling, and refrain from high-risk behavior. Third, organized medicine—at all levels—should be more involved in programs to educate the public and their member physicians about minimizing the risk of HIV infection.

[From Minnesota Medicine, April 1991]

HIV INFECTION IN THE MEDICAL WORK PLACE: ARE PHYSICIANS AND PATIENTS AT RISK?

(By Edmund C. Burke, M.D.)

Picture this scene: As you approach the health care facility, you see a sign reading, "Welcome to the XYZ clinic: Our doctors are HIV-negative," or "Welcome to the XYZ clinic: Only HIV-negative patients accepted."

Absurd, you say? Well perhaps, but maybe not impossible, considering the public's confusion and anger over the case of a Florida dentist transmitting HIV infection to at least three patients, and the AIDS-related death of a noted Johns Hopkins surgeon who had operated on about 1,800 patients.

The public has a right to be concerned. Organized medicine seems to have lost the initiative to educate the public about the true nature of HIV risk in the medical setting. Some physicians have even retired from surgery because of concern over acquiring HIV.

The Zumbro Valley Medical Society's Legislation Committee recently discussed the issue at length. Initially, the committee felt legislation for mandatory testing of all health care workers was appropriate, so it drafted a bill. The proposed bill provoked a blizzard of retorts and angry remonstrations, prompting the society to gather more information. It invited State Epidemiologist Michael Osterholm, Ph.D., and Michael Moen, director of Disease Prevention and Control at the Minnesota Department of Health, to Rochester to discuss the issue.

What the Zumbro Valley Medical Society learned was indeed a revelation. Much of the information, which convinced the society to postpone action on the bill, is contained in this month's Face to Face interview with Michael Osterholm (page 9). He points out that rhetoric on the AIDS epidemic has reached a hysterical point in many areas of the country. Therefore, it's important that we exert our utmost effort to educate the public on the minimal risk of HIV transmission in the health care setting.

There is definitely less risk of infection in areas of low HIV prevalence such as Minnesota. In New York City, one of every 20 patients is infected with HIV, compared with one of every 120,000 in Greater Minnesota, according to Osterholm. Current studies estimate that about three per 1,000 HIV-exposed health care workers will actually become infected. In other words, 997 will not develop HIV after such exposure.

Overall, AIDS and HIV infection are not very prevalent in Minnesota. Slightly over 800 AIDS cases and 1,548 HIV infections were reported to the Minnesota Department of Health by the end of 1990, according to the Minnesota Department of Health Disease Control newsletter (December 1990). The majority of these patients live in the Twin Cities area and are homosexual or bisexual men and/or intravenous needle users. The Minnesota Department of Health predicts the number of AIDS cases in the state will reach around 1,238 to 1,611 by the end of 1992. In a state with a 4.3 million population, these numbers are relatively small.

When we consider the cost of mandatory HIV testing and the question of how often to test, the issue becomes very complicated. We can assume that eventually the cost will filter down to the patient paying the bill, and since we are already deeply concerned about medical care costs, mandatory or indiscriminate HIV testing is out of the question.

As medical students, we were taught that the only way to halt an epidemic is through preventive measures, not treatment. An article in the June 21, 1990, New England Journal of Medicine entitled "The Risk of Exposure of Surgical Personnel to the Patient's Blood During Surgery at San Francisco General Hospital" by Gehberding et al., revealed that accidental exposure to blood occurred during a number of procedures, and neither knowledge of a diagnosed HIV invection nor awareness of a patient's high-risk status influenced the rate of exposure. However, double-gloving prevented perforations of the inner glove and cutaneous exposure of the hand. The authors' data support the practice of double-gloving and the increased use of waterproof garments and face shields to prevent mucocutaneous exposure. However, no evidence was found to suggest that preoperative testing for HIV infection would reduce the frequency of use. If we use the sequential EIA and Western blot testing, which is the standard method, seroconversion for most infected persons will occur within 45 to 60 days. Seroconversion can take as long as six months for 1 percent or 2 percent of individuals infected with the virus. The vast majority of people who have seroconverted have detectable antibody within the first two months after infection. With health care workers who have a documented exposure, we've gone one step further and are now using things like p-24 antigen, polymerase chain reaction testing, and HIV culture. Using these supplemental tests, we can be almost certain of infection status within 35 to 45 days.

Health Care Workers' Risk

MINNESOTA MEDICINE: What is the prevalence of HIV and AIDS in health care workers?

OSTERHOLM: HIV-infected health care workers need to be separated into two categories—those who acquired the virus through nonoccupation-related behaviors, including male-to-male sex and IV needle use, and those who acquired the virus occupationally. Of the 150,000 adult AIDS patients diagnosed in the United States through 1990, approximately 8,000 are health care workers. This large number often surprises people, but it shouldn't, because health care workers make up about 5 percent of our nation's work force. The majority of those 8,000 health care workers acquired AIDS through risk behaviors not related to their occupations. By far, most are men who have had sex with men. This shows that we haven't done the best job in promoting risk reduction or behavior change in our own health care workers—the very people who are supposed to be helping the general population reduce their risk.

Some health care workers do acquire HIV infection as a result of their occupations. Currently in this country, we are aware of approximately 46 people who have acquired HIV as a result of an occupational exposure. Thirty of those are individuals with confirmed exposure. They tested negative for the virus immediately after the exposure and seroconverted within six to 10 weeks following exposure. The other 13 we call prevalent-positive, meaning they were positive when tested. These include individuals infected prior to 1985, before HIV serology was available. However, in this latter group, we cannot account for any other source of their HIV infection. Currently, there are only three occupation-related AIDS cases in health care workers. Most, if not all, of these other 43 HIV-infected health care workers will become the occupation-related AIDS cases of tomorrow.

As of September 1990 in Minnesota, we had 46 cases of AIDS in health care workers, 43 of them men. The mechanism of transmission of HIV has been identified for all 46 cases, and none of the cases represents occupational exposure.

MINNESOTA MEDICINE: From your description, the health care setting is not a particularly risky place for acquiring AIDS.

OSTERHOLM: That depends on your perspective, of course. If you're one of those 46 individuals from around the country who is HIV-infected as a result of occupational exposure, you'll probably say the work place is very risky. But if we look at the big picture, a health care worker has a greater statistical chance of dying in a car accident on the way to and from work than of acquiring and dying from occupation-related AIDS. I agree, however, that this statistic isn't particularly comforting to the health care worker. Many health care workers argue that an individual willingly assumes the risk of driving a car, but that isn't the case when a person is accidentally exposed to HIV in the health care setting. I think that's a legitimate point, but still, the risk of acquiring HIV on the job is incredibly low.

MINNESOTA MEDICINE: Does the risk vary from one part of the country to another?

OSTERHOLM: Yes. The risk of developing HIV infection depends on several factors, including the likelihood of being exposed to blood. The exposure rate varies by occupation, the procedures a person does, and, to a certain degree, the person's technique. Also important is the prevalence of HIV infection at the institution where a person works. For example, in some hospitals in New York City, one out of every 20 patients is infected with HIV, compared with Greater Minnesota, where only about one of every 120,000 people is infected. The other factor is the likelihood of transmission occurring when a person is exposed. We know from studies that about three per 1,000 health care workers who have a percutaneous exposure from a sharp contaminated with HIV-positive blood will actually become infected. In other words, 997 out of 1,000 health care workers who were exposed to HIV through a break in the skin will not develop HIV after that exposure. Given the rate of HIV infection in Minnesota patients, the lifetime chance of a health care worker in a Minnesota hospital developing acute infection ir roughly about five in 100 million procedures. We would expect less than one case per 1,000 surgeons over a lifetime after accounting for all the factors. However, this number changes if you're at an institution in New York City, where up to five of every 1,000 surgeons can expect to develop HIV infection during their lifetimes. The big difference is not their technique or the rate of transmission given a positive exposure; it's the number of patients they see who have the virus.

Patients' Risk

MINNESOTA MEDICINE: Let's examine the other side, namely, the patient's risk. What is a patient's risk of acquiring AIDS from surgeons or other health care workers?

OSTERHOLM: As you know, this issue is being played up on television and on the front pages of our newspapers and weekly tabloids. However, to date, we know of just a single instance of patients being infected by a health care worker. In this case, HIV was transmitted from a Florida dentist to three patients. There will be more. But what is the risk over time? Is it one in 1,000 instances? One in a million? One in 10 million? That's where there may be some reasonable disagreement. Our experience with HIV and health care workers transmitting to patients is limited, but we have a relative wealth of information regarding hepatitis B, and many parallels can be, and should be, used to help anticipate the HIV experience.

MINNESOTA MEDICINE: Please expand on the concept of hepatitis B as an analogy to HIV infection.

OSTERHOLM: First, we know that hepatitis B virus is transmitted in manners identical to HIV. The one difference is quantitative, not qualitative. All the same bodily fluids are involved, but when a person receives a needle stick from a hepatitis B-infected patient, transmission occurs about 30 percent of the time. With HIV, as I mentioned, it occurs only about three out of 1,000 times.

In Minnesota, we've had a very active hepatitis B surveillance program. In fact, our first efforts were reported in Minnesota Medicine in the early 1980s and subsequently have been published in other journals like JAMA. We have followed up on all health care workers to learn where they received their infections. We've also followed up on all patients, attempting to discern where they acquired their infections, considering the health care worker or contaminated blood as possibilities. In 15 years, we've followed more than 430 infected health care workers and identified only two who transmitted hepatitis B to patients. One was an obstetrician/gynecologist in the Twin Cities who transmitted hepatitis B to three patients while performing vaginal hysterectomies. The physician had only recently become infected and was not aware of it. He was doing vaginal hysterectomies using his left index finger to locate the tip of the suture needle. The needle was in his right hand; he was sticking his glove into this blind field, causing him to bleed through the tips of his fingers. He has stopped using that technique and has continued to perform other surgical procedures, and there has been no evidence of hepatitis B transmission to other patients for the last 12 years. The other instance involved a surgeon who transmitted the hepatitis B virus to a patient during a rather uncomplicated surgery that took place one day before the surgeon's acute onset of hepatitis B. We know of other surgeons in this state who are chronic carriers of hepatitis B, but we have no evidence that they have transmitted it to patients.

As infectious as hepatitis B is, we know of only two infected health care workers who have transmitted the infection in Minnesota. I predict that if 500 health care workers became infected with HIV in this state, we very well might have no HIV transmission to patients. This is basically the same issue raised earlier of patient HIV transmission to health care workers. We have to apply the same logic and risk standards to health care workers as to patients. I do not see this as an issue warranting the dramatic measures that some people have suggested. I believe people are overreacting to public pressure and unnecessary fear of the situation.

Fear of AIDS

MINNESOTA MEDICINE: Is AIDS like many problems in medicine, where people are unfamiliar with the facts, and they become fearful to the point of hysteria?

OSTERHOLM: Yes, and AIDS typifies this as well as any issue in society. In 1985, I attended school board meetings to discuss the risk of HIV in school children and whether infected children should be allowed to attend school. There has never been evidence of HIV transmission in the school setting, even though HIV-infected children attend school. At the meetings, I saw parents stand at the microphone with a cigarette in their hand and say, "I can't accept any risk to my child. I can't accept HIV-infected children in my child's school." At about the same time as these meetings, eight Minnesota children were killed in school bus accidents, yet those same parents put their children on the school bus every morning, and they allowed them to play football—a sport that four children died while playing that same year. I'm terribly concerned that we might be approaching HIV infection in health care workers similarly—with exaggerated fear clouding reality.

MINNESOTA MEDICINE: As a final question, what kind of HIV-testing recommendations do you think the Centers for Disease Control will make?

OSTERHOLM: As a scientist, I like to believe that the real world operates on fact, although I know that's not true. I am concerned that political, as well as scientific, issues may be brought to bear on the Centers for Disease Control. It will be interesting to see to what degree the political process influences scientific decisions. If the decisions stay in the hands of the scientists, I have great faith that the CDC will establish a reasonable policy that is responsive to the interests and needs of all parties. If there is too much political influence, I believe policies will eventually be in place that are not based on science and fact, but will instead appeal to certain constituencies.

We need more forums like this interview to spur reasonable policy development. We need to put the issues on the table in order to distinguish fact from emotion. Somewhere in between we'll find a reasonable policy.

POLICY AND PROCEDURES MANUAL, UNIVERSITY OF MINNESOTA HOSPITAL AND CLINIC

Subject: HIV Control.
Source: Infection Control Committee Medical Staff-Hospital Council.
Section: Infection Control.
Volume II.
Policy Number: 33.19.
Effective: July 14, 1987.
Revision: 12/87, 9/90.
Reviewed: 10/89.

POLICY

All reasonable measures shall be taken to minimize the possibility of human immunodeficiency virus (HIV) transmission within UMHC.

PROCEDURE

1. Definitions used in this policy:

a. HIV Infected. Persons deemed HIV infectious as set forth in Section 4.B. Policy 33.21, Universal Blood and Body Substance Technique and Isolation.

b. UMHC Personnel. UMHC employees, residents and fellows, members of the Medical-Dental Staff, Specified Professional Personnel, Non-Hospital Ancillary Personnel, and students who have patient contact at UMHC.

c. Invasive Procedures. Procedures in which one's hand and any sharp instruments may simultaneously be in a vulnerable patient cavity such as an operative wound, the abdominal cavity, or the mouth.

d. HIV Infection Risk Activities. Activities placing one at risk of HIV infection as enumerated by the CDC for the exclusion of persons from blood or plasma donations. These include males who have had one or more sexual contacts with another male since 1977 and all persons who have had any unprotected sexual contacts or blood transfusion in sub-Saharan Africa or Haiti, shared needles used for self injection of drugs since 1977, receipt since 1977 of coagulation factor concentrate that has not been heat treated, been a prostitute at any time since 1977, and sexual contact with any person who has participated in one or more of the aforementioned HIV infection risk activities.

2. All HIV Infected UMHC Personnel.

a. HIV infected UMHC personnel shall be excluded from patient care activity unless there is a determination by the Hospital Epidemiologist that the employee understands the mechanisms of HIV transmission and will take steps necessary to prevent HIV transmission.

b. HIV infected UMHC personnel shall meet regularly with the Hospital Epidemiologist at the discretion of the Hospital Epidemiologist.

3. UMHC Personnel Who Perform Invasive Procedures.

a. UMHC personnel who perform invasive procedures and have engaged in HIV infection risk activities shall determine their anti-HIV status. Anti-HIV negative UMHC personnel who continue to engage in HIV risk activities should monitor their anti-HIV status as appropriate. Such persons may seek counsel with the Hospital Epidemiologist as to what is appropriate.

b. HIV infected UMHC personnel who perform invasive procedures shall inform the Hospital Epidemiologist and their Chief of Service of their HIV infection status.

c. HIV infected UMHC personnel shall not continue to perform invasive procedures unless the Chief of Service and the Hospital Epidemiologist are satisfied that the person will exercise appropriate infection control safeguards. Under no circumstances may the person perform procedures requiring blind, "by feel" manipulation of sharp instruments (e.g., vaginal hysterectomy).

4. Patient Exposure. In case of accidental transfer of blood from an HIV infected UMHC person to a patient, the HIV infected UMHC person shall inform the patient's staff physician, and the Hospital Epidemiologist. The patient's physician shall assume responsibility for assuring that the patient is informed. The Hospital Epidemiologist shall assure follow-up of the patient.

5. Needlestick. See Policy 33.18, Needlestick or Other Significant Exposure to Blood or Other Body Fluids.

6. HIV isolation policy. See Policy 33.21, Universal Blood and Body Substance Technique and Isolation, for isolation policy for HIV infected patients.

Mr. WOFFORD. Mr. President, today, I speak in support of the Dole amendment, which requires states to adopt the rules of the Centers for Disease Control to prevent the transmission of the HIV virus by health care professionals to their patients.

The issue before the Senate today is a vital public health issue that concerns all Americans. The transmission of the AID's virus from a health professional to a patient is a tragedy of the highest order and one which we are called upon to do everything in our power to prevent. We need to protect everyone. And we need to ensure that what we are doing will provide that protection.

Mr. President, I believe that adoption the Dole amendment provides such protection and best assures the peace of mind to which each American is entitled every time they visit their doctor or dentist.

On Monday, the CDC issued guidelines that toughen their recommendations to prevent transmission of the HIV virus and hepatitis B virus to patients in a health care setting. I commend the CDC for the careful way in which they formulated these guidelines and the thoroughness with which they addressed public concerns about possible transmission.

Mr. President, we need legislation which lays out steps to protect the public health. The Dole amendment does just that. It directs states to enact legislation adopting the recently issued CDC guidelines and provides that they incorporate these guidelines into their rules for licensing health professionals. Under the Dole amendment, no State shall receive assistance under the Public Health Service Act if it fails to do so.

Mr. President, to adequately provide for the public health, and more importantly, to retain the confidence of the people in the quality and safety of their public health environments, we need to mandate compliance with the CDC guidelines throughout this country. With this legislation we provide tough incentives for states to do just that.

Doctors who fail to comply with the CDC policy should face stiff, criminal penalties. I urge all States to incorporate the CDC guidelines in such a way that every health provider understands the need to follow CDC policy to the letter. Doctors should be required regularly to certify that they are in strict compliance with the guidelines. States should instruct their licensing boards to assure universal compliance and empower those licensing boards to hand out stiff punishments to those who do not comply. And every State should clearly spell out what the punishments will be, including strong, criminal penalties.

Most importantly, we need to do everything in our power to assure that what happened once to a lovely young woman and four other innocent people in Florida, never happen again. The CDC guidelines lay out on a scientific, medical basis precautions to provide this assurance. I urge every State to lay out clear, tough penalties that assure the widest possible compliance.

Mr. CHAFEE. Mr. President, I want to say a few words about the amendments before us, and our efforts to come up with effective methods of preventing the transmission of HIV infection from health care workers to their patients.

The amendment proposed by the Senator from North Carolina would make it a Federal crime carrying a minimum 10-year prison sentence for an HIV-infected health care worker to provide treatment to a patient without disclosure of his/her HIV infection. The amendment proposed by Senator DOLE will require states to adopt the Centers for Disease Control guidelines.

There is no question that HIV infection—and AIDS—is one of the most significant health problems facing our Nation today. Most people infected with the human immunodeficiency virus, or HIV, will develop AIDS, which is always fatal. Despite the tremendous gains made by the medical community over the past decade in broadening our understanding of this deadly virus, and its affect on the body's ability to ward off infection, we are still not close to achieving a definitive vaccine or treatment. We have, however, learned a great deal about how this virus is—and is not—transmitted.

There are situations where health care workers have been infected while they were caring for HIV-infected patients. These situations, although tragic and heartwrenching, are relatively few in number—only 40 cases out of the several million people in the United States estimated to be infected with HIV.

What about the transmission of the virus from a health care worker to a patient? We've all seen the recent report about the apparent transmission of HIV from an infected dentist to patients in his practice. This situation, while horrifying in its impact on these individuals' lives, appears to be unique. Of the 1.5 million people estimated to be infected with HIV in the United States, only five have been infected by a health care provider, and all five of these unfortunate individuals were infected by the same Florida dentist.

No studies about HIV transmission have identified doctor-to-patient transmission. Health care workers from all professional backgrounds—physicians, nurses, nurses aides—have cared for patients in many different health care settings over the past decade, and yet only this one example has indicated a link of HIV transmission from health provider to patients. Clearly something unusual was going on in this dentist's practice, and I am sure investigations will uncover these activities.

CDC has estimated that the risk of getting HIV infection from an infected surgeon is miniscule—one-tenth the risk of death from anesthesia for surgery. Yet because AIDS is universally fatal, even one case resulting from transmission from a health care worker to a patient is one too many. These cases, although few, must be prevented.

The amendments we are considering today seek to accomplish this end through very different mechanisms. The Helms amendment will criminalize the medical practice of HIV infected health care workers. The Dole amendment reinforces public health principles by requiring States to enforce the newly released Centers for Disease Control guidelines to prevent HIV transmission to patients during exposure-prone invasive procedures. I will support the Dole amendment because it will effectively accomplish our goal of eliminating the remote risk of transmission from health care workers to patients. It is based on scientific fact and is good health policy. I will not support the Helms amendment because I do not feel it will accomplish the goal we desire, and in fact may actually undermine our current HIV prevention efforts.

First, we know that an infected physician poses no threat to his patient by touching him, by doing a routine physical examination, or performing most examinations, tests, or procedures which we have all undergone in a physicians office. Taking a pap smear test or drawing blood poses no risk to a patient.

Studies show that the only risk which may occur—and even then it is a minimal risk—is with what are called exposure-prone invasive procedures, such as orthopedic surgical procedures, where the doctor may inadvertently nick a glove. Yet the restrictions in the Helms amendment require disclosure even for procedures which pose absolutely no chance for HIV transmission. The restrictions and potential for criminal prosecution are simply too broad.

Second, since this amendment criminalizes only those providers who know of their HIV infection but continue to practice, it may actually discourage providers from being tested. Doctors, fearing criminal liability, could purposely avoid being tested for HIV. That result would be directly counter to the amendment's intent, and to good public health practice.

I have one final concern about the Helms amendment. By requiring providers to disclose their HIV infection, we run a great risk of driving providers from their practices, and thus reducing access to much needed health services. We know that providers who have disclosed their infection have lost their practices. This will deprive these individuals of their livelihood while achieving no public health benefit.

The Centers for Disease Control, the agency in charge of HIV prevention in the United States, has developed guidelines based on months of research and scientific thinking. The medical community and numerous medical organizations, including the American Medical Association, have endorsed these guidelines. The Dole amendment will reinforce these guidelines through State legislation or regulation. This is the appropriate route for us to take.

I have one final concern. By imposing criminal penalties on HIV-infected health care workers, we are sending the wrong message to the American people. Our public health agencies across the country have been struggling to educate people about the risks of certain sexual behaviors and needle sharing which leads to AIDS. My fear is that the Helms amendment wrongly suggests that health care workers are a source of HIV infection. It deflects attention from where it should be focused—on the far more difficult task of changing personal activities, like sexual behavior and illicit drug use. These are the behaviors that have been well documented to lead to HIV infection.

The Dole amendment, which supports the CDC guidelines, will not fuel the misinformation and emotion surrounding this issue. The Dole amendment is sound public health policy. It is supported by the public health community and the medical community. It will protect the public, but it will not undermine current HIV prevention efforts. That is why I will vote for the Dole amendment and against the Helms amendment. That is why I believe the public will be better served by the policy and the public health message conveyed by the Dole amendment. I hope my colleagues will join me.

Ms. MIKULSKI. Mr. President, today we are addressing an issue that affects anyone who uses health care services—how to prevent the spread of AIDS in the health care setting. As we have recently seen in the tragic Florida case, there are patients who have contracted this terrible disease because a dentist failed to take proper precautions to prevent contagion. It is absolutely crucial that we take the most effective steps to ensure that this does not happen again.

Earlier this week, the Centers for Disease Control, after carefully studying this issue, released their recommendations to protect patients from contracting AIDS. The CDC guidelines are based on the best information available about how to prevent the spread of AIDS from patients to doctors, doctors to patients and patients to patients. More specifically, these guidelines address protecting patients from the spread of the HIV virus in the health care setting.

What do these guidelines say? They say that health care workers that perform surgery or other invasive procedures where HIV infection can occur should know whether they have the infection or not; that they should work with their employer to explicitly decide what procedures, if any, they can continue to perform; and that these workers should let prospective patients know what their HIV status is and let patients decide if they want to take the risks of being exposed.

The Dole-Hatch amendment takes these guidelines, and makes them law. It also requires strict penalties for workers that do not follow these precautionary guidelines exactly.

Mr. President, the Centers for Disease Control, whose sole purpose is to protect the public's health, should be setting the policy on this issue. The Congress should follow the best advice they can get, rather than what one Senator decides is politically expedient.

The Helms amendment is bad for a number of reasons. My greatest fear is that the Helms amendment will drive health care workers underground. Instead of knowing their HIV status, they will simply choose not to know. Under the Helms amendment, if they do not know, they cannot be held responsible. This, Mr. President, is a frightening proposition. I want health care workers to know their HIV status and take the proper precautions, not hide it from their patients and deny it to themselves. The Helms amendment also does not address how to prevent HIV infection from occurring in the first place. This is an irresponsible and life-threatening omission.

People who knowingly infect other people with this deadly disease should be punished. We all agree on that. However, I do not believe the Senator from North Carolina's amendment will accomplish this. I believe that his amendment will not make people safe from the threat of HIV infection, it will put them at greater risk.

Mr. President, I will vote to support a comprehensive approach to this issue which also requires disclosure of status, resolves what the HIV infected worker should be allowed to do in a health care setting, and protects the patient and the health care worker from the risk of infection. I will vote for the Dole-Hatch amendment.

VOTE ON AMENDMENT NO. 780

The PRESIDING OFFICER. All time having expired on amendment No. 781, under the previous order, the question is on agreeing to the amendment, No. 780, offered by the Senator from North Carolina. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—99

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—0

NOT VOTING—1

Pryor

So the amendment (No. 780) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 734

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 734, offered by the Senator from North Carolina, to the committee amendment on page 59, line 7. The yeas and nays have been ordered and the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—81

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Helms
Hollings
Johnston
Kasten
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Mack
McCain
McConnell
Metzenbaum
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NAYS—18

Akaka
Chafee
Cranston
DeConcini
Durenberger
Gore
Gorton
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Leahy
Lugar
Mikulski
Mitchell
Rockefeller
Wellstone

NOT VOTING—1

Pryor

So, the amendment (No. 734) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

VOTE ON AMENDMENT NO. 781

The PRESIDING OFFICER. The question is on agreeing to amendment No. 781 offered by the Republican leader, Mr. DOLE. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—99

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NOT VOTING—1

Pryor

So the amendment (No. 781) was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. the Senator from Arizona.

AMENDMENT NO. 782 AND 783

Mr. DeCONCINI. Mr. President, I ask unanimous consent to make a tehcnical modification to the Helms amendment, No. 734. The modification will eliminate repetition that occurs in the bill with the amendment as agreed to, a technical modification only. It has been cleared with the Senator from North Carolina.

I submit that amendment, along with another technical amendment to amendment No. 742 previously agreed to. I send the amendments to the desk and ask unanimous consideration for their adoption en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 782 to amendment No. 734 and an amendment numbered 783 to amendment No. 742.

The amendments considered and agreed to en bloc are as follows:

AMENDMENT NO. 734

Strike the first seven lives of amendment No. 734; insert at the beginning of the amendment, ": *Provided*, That"; and strike the period at the end of the amendment and insert in lieu thereof, a semicolon.

AMENDMENT NO. 783

Strike "$288,000,000" and insert in lieu thereof "$301,000,000".

Mr. DeCONCINI. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. If I might have the attention of the distinguished manager of the bill, I would like to clarify one point in the bill with regard to the establishment of an Internal Revenue Service toll-free call answering site in Rhode Island. The House approved bill and the bill as reported to the Senate by the Appropriations Committee recommend an appropriation of $1,661,298,000 for the Department of the Treasury account, entitled "Processing Tax Returns and Assistance." It is my understanding that House Report 102-109 expresses that body's intention that from the total appropriation for that account, $3,800,000 shall be made available for a toll-free call answering site in Rhode Island.

Mr. DECONCINI. That is correct.

Mr. CHAFEE. I should like to clarify with the distinguished manager that while a call answering site is not mentioned in the Senate report language, it is not the intention of the Senator to prohibit the use of funds in the aforementioned account for such a purpose.

Mr. DECONCINI. That is correct.

Mr. CHAFEE. I should like to clarify further the Senate's intention that the Department of the Treasury should attempt to accommodate the report language of the House with respect to the establishment of a toll-free call answering site in Rhode Island, within the funds that have been allotted for such a purpose.

Mr. DECONCINI. That is correct.

Mr. CHAFEE. I thank the distinguished Senator from Arizona for clarifying these points.

L.A. GANG ANALYSIS CENTER

Mr. SEYMOUR. Mr. President, I see the distinguished senior Senator from Arizona on the floor and I wish to yield to him so that he may respond to the following question: Is it my understanding that the committee recommends that ATF establish a link to the Los Angeles County sheriff's system as part of its development of its gang analysis center?

Mr. DECONCINI. The Senator from California is correct. Given the development and effectiveness of the gang reporting, evaluations, and tracking [GREAT] system, we can most effectively establish a gang analysis center in ATF by establishing a direct link with the GREAT system.

Mr. SEYMOUR. Thus, law enforcement agencies could then use ATF's center to obtain information that is actually based in the GREAT system.

Mr. DECONCINI. Yes, that is true. As the Senator from California knows, as outlaw gang activity has spread across the Nation, more and more municipalities are seeking the kind of information collected in the GREAT system. ATF's gang analysis center will help meet the growing demand for this information.

Mr. SEYMOUR. And finally, I am aware that the GREAT system has restrictions on accessing their system for the purpose of updating or inputing information. Is it the Senator from Arizona's understanding that before ATF is able to access the GREAT system, guidelines will be developed for purposes of updating and entering information into the GREAT system?

Mr. DECONCINI. Yes, that is my understanding. In fact, in the committee report, we state that before any funds are to be expended, we expect ATF to submit a comprehensive plan on the center that includes how ATF will integrate and use information from other law enforcement agencies. It is my understanding that ATF will work with the Los Angeles County sheriff's office to ensure that there is agreement on how information from the GREAT system will be used.

AMENDMENT NO. 732

Mr. GLENN. Mr. President, I rise today to discuss the questions that surround the DeConcini-Domenici amendment to H.R. 2622, the Treasury-Postal Service appropriations bill. This amendment proposes that Congress could save $180 million on revenue forgone by calculating the subsidy for nonprofit third-class mail as though all such mail were letter-shaped instead of consisting partly of flat-shaped pieces. Then a nonprofit organization could choose either to switch to letter-shaped mailers or continue to send flat-shaped pieces, only at a higher rate.

This amendment was devised by the Postal Rate Commission. The Commission's proposal would severely, by 4 cents per piece, increase the rate for flats, in contrast to their position on the recent rate increase.

This amendment was not subject to public hearings. It was not even tested in hearings before the Postal Rate Commission. In fact, the amendment bases itself on a Commission report that was kept embargoed so long that analysis could not be made, even by the Postal Service. Yesterday, I received an analysis from the Postal Service. I received a letter from Postmaster General Anthony M. Frank, who informs me that the methodology used to calculate this $180 million savings may have inflated the amount by as much as $80 million.

The sponsors of this amendment portrayed it as a rather painless approach, saying that only 20 percent of nonprofit third-class mail would be affected and that mailers can easily alter their practices. The Postmaster General reports that if the 41-percent rate increase embodied in this amendment is enacted, compounded with the 46-percent nonprofit mail rate increase of the recent case, certain nonprofit mailers will sustain a cumulative rate increase of 106 percent in less than a year. The Postmaster General's letter suggests that the amendment would impact a great number of nonprofit mailers but how many remains a question.

In this period in which we celebrate our Thousand Points of Light, I have to ask the question of whether we now threaten to extinguish some of these organizations with this amendment. As chairman of the Senate Governmental Affairs Committee, I would like to give some specific examples of what I am hearing:

The Interpreter is the official program journal of the United Methodist Church. It is issued eight times a year to pastors and leaders of 380,000 congregations and it incurred a 49-percent increase in its mailing rates last February. Enactment of the Senate provision would increase its costs to $385,000—double its 1990 mailing budget.

AUSA News is a publication of the Association of the U.S. Army. As a result of February's rate case, it reduced its frequency from monthly to 10 issues this year. It estimates its added costs at $50,000 with enactment of this amendment, which could lead to further cutbacks.

The Arkansas Baptist Newsmagazine, a weekly from 1902 until 1989, is now issued biweekly. It estimates that the Senate provision could run its costs up by $1,800 an issue.

As this amendment goes to conference, I ask that the conferees consider carefully the questions that the Postmaster General raises, for we deal with the fate of the organizations that truly demonstrate America's community spirit.

Mr. President, I ask that Mr. Frank's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE POSTMASTER GENERAL,
Washington, DC, July 17, 1991.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I want to bring to your attention the concerns of the Postal Service with the appropriation for revenue forgone on preferred postage rates included in H.R. 2622, the Fiscal Year 1992 Postal Service appropriations bill. The House version of the bill contained the full $649 million appropriation requested by the Postal Service, while the Senate version reduced this amount to $383 million. In view of the importance of this matter, we believe it is incumbent on us to advise you of our views regarding this reduction and the assumptions used to justify it.

By far the greatest share of the gap between the House and Senate figures, some $180 million, is based on savings which presumably could be obtained by calculating the subsidy for nonprofit third-class mail as though all such were "letter-shaped" instead of consisting partly of "flat-shaped" pieces. Our review of the methodology for this calculation, suggested originally by the Postal Rate Commission, leads us to believe that the savings obtainable through this method are inflated, perhaps by as much as $80 million. While the asserted intent of the Commission's methodology is to provide flats with a subsidy equal to that granted to letters, the actual result is that flats are subsidized at a lower rate. In fact, the average nonprofit flat would receive a subsidy of 2.7 cents (or 33 percent of cost), compared to a subsidy of 3.1 cents (or 37 percent of cost) for the average nonprofit letter. Equalizing the level of subsidy for flats and letters would cause a significant reduction in the prospective savings to be obtained from this measure.

We stress in addition that it is impossible to forecast with any specificity the ulitmate impact of this measure on postal volumes or revenues. The 41 percent increase in the rates for nonprofit flats anticipated in the Senate version, compounded with the 46 percent rate increase such mail absorbed in the last postal rate case, would produce a cumulative increase of 106 percent in less than a year. It is unclear whether this increase would have a disproportionate impact on particular types of nonprofit organizations, although we note that the current volume of nonprofit flats includes numerous magazines and newsletters published by colleges, universities, and other educational organizations. We expect that at least the one-sixth of flat-shaped mail which is composed of such publications would migrate into nonprofit second-class mail, increasing the volumes (and subsidy) for that class. The response of other types of nonprofit mailers is more difficult to predict.

As a further matter, we note that the Senate amendment specifically commands the Governors of the Postal Service to reconcile any Fiscal Year 1992 funding shortfall which may result from this legislation against future year appropriations requests. We are concerned that the potential magnitude of the sums involved, when combined with reconciliation amounts falling due from past years, may place the Congress in an even tougher dilemma between unaffordable subsidy levels and intolerable rate increases next year or the next. We are also troubled by the implicit assumption in the Senate language that the rates for nonprofit flats would be adjusted in a future rate proceeding before the Commission. Indeed, we strongly object to any proposal, such as this, which would restrict the prerogative of the Governors to take necessary action, including the adjustment of preferred postage rates, in response to a shortfall in the funding for revenue forgone.

Finally, we wish to state our explicit disagreement with the assumption in the Senate bill that the amount requested for revenue forgone can be reduced by a further 10 percent, or $65 million, in light of a reported decrease in mail volume after the most recent rate case. To the contrary, our full request for $649 million was developed following the Commission's recommendations, and incorporated an even larger drop in volume than that originally estimated by the Commission. Volumes for preferred-rate mailers have not deviated significantly from our projections, and there is accordingly no basis in fact for the further reduction in funding contemplated in the Senate version.

We appreciate the budgetary constraints which compel Congress to seek a reasonable method to limit the appropriation for revenue forgone. We respectfully suggest, however, that the Senate version of H.R. 2622 does not resolve this problem.

Sincerely,

ANTHONY M. FRANK.

Mr. LAUTENBERG. Mr. President, I am very pleased that this bill includes at my request $500,000 for a demonstration program that promises to have a real impact on the problem of vehicle theft in New Jersey.

Around the country, vehicle theft has increased by 42 percent between 1985 and 1989, to over 1.5 million offenses per year. The total value of stolen vehicles nationally now exceeds $8 billion per year.

The problem in New Jersey is particularly serious. Newark, NJ, has the worst auto theft rate in the country, and several other New Jersey cities are in the top 10. Last year, according to the State's Uniform Crime Report, there were 72,626 motor vehicle thefts reported in New Jersey, or 199 thefts every day.

One of the reasons why the auto theft epidemic has hit New Jersey so hard is that organized rings of car thieves are stealing vehicles for export to foreign countries, and are using New Jersey's ports to do so. There is a great demand for vehicles in many overseas locations, such as South America, the Caribbean, and Africa, and law enforcement officers report that prices for cars abroad may be three times higher than in the United States. In some cases, stolen cars are used to repay drug dealers.

The scope of the international trade in stolen vehicles is striking. According to the FBI, one in five vehicles on the docks waiting for Customs clearance in some Caribbean countries show clear signs of having been stolen and shipped from the United States. For vehicles worth over $15,000, the rate is nearly four out of five. It is an outrageous situation and must not be tolerated.

Mr. President, the Customs Service has been working hard at intercepting stolen vehicles before they are shipped abroad. Yet this is a difficult task, and Customs agents lack the resources they need to do the job right. In the New Jersey-New York seaport area, Customs Service agents are able to inspect only 16 percent of all vehicles manifested for export that fall in the high-risk category.

Mr. President, the vehicle theft interdiction demonstration program funded in this bill should allow the Customs Service to raise the inspection rate significantly. Agents also will receive additional training and equipment, which should enable them to do a better job of locating stolen vehicles. I am hopeful that these enhanced efforts will reduce the number of stolen vehicles shipped from the ports, lead to apprehension of members of theft rings exporting stolen autos, and develop and evaluate techniques for detecting stolen autos.

Mr. President, this project was developed with the cooperation of the Customs Service, and I want to thank the Service for its helps. I also appreciate the Service's assurance that money for this project will not be taken from the budget of the Customs office serving New Jersey.

Furthermore, I want to note that the committee report encourages the Customs Service to step up its efforts to address auto theft around the country. While the epidemic of auto thefts is particularly serious in the New Jersey area, it infects the Nation as a whole, and Customs needs to increase its attention to the problem in several areas.

In fact, Mr. President, the national scope of the auto theft problem requires a multipronged response that goes well beyond interdiction of stolen vehicles. Recently, the Senate approved my legislation, the Motor Vehicle Theft Prevention Act, as an amendment to the crime bill. That legislation would reduce vehicle theft and enable the police to stop cars that are likely to have been stolen, by establishing a framework for a consent-to-stop program. Under that program, vehicles owners may voluntarily put decals on their car that give law enforcement officials the right to stop their cars if they are operated under certain conditions, such as late night hours, during which their vehicles are not normally driven.

It is also important that vehicle manufacturers take steps to make cars more theft-resistant. Many law enforcement officials have told me that certain types of cars are extremely vulnerable to thieves, because of the way certain components, such as their steering columns, are constructed. It is important that manufacturers make adjustments to such components, to stop making life so easy for auto thieves.

Another possible approach to reducing theft is to strengthen the Federal law that requires manufacturers to mark certain car components with identification numbers. I have been working with a coalition of law enforcement, insurance, and other groups to look into the possibility of steps to expand and improve the effectiveness of that law.

Together, Mr. President, these steps can make a real difference in our effort to reduce auto theft. And I would welcome any other ideas for legislation or other steps that can be taken to address the problem. It is time to get serious about auto theft, and I want to do everything I can to help.

On another matter, Mr. President, I am very pleased that the Senate approved the amendment offered on Monday by the distinguished Senator from Connecticut, which I cosponsored, which gives the President the authority to adjust the recently approved locality pay for New York area FBI agents so as to include agents serving in adjoining areas. This could be important for many agents who serve in the Atlantic City FBI office and other areas of my State.

Mr. SEYMOUR. Mr. President, I rise to express my support for H.R. 2622, the treasury/postal appropriations bill as amended by the Senate Appropriations Committee.

The legislation we have before us is a reflection of the tough fiscal times we presently face. The funding recommendations are below the fiscal year 1992 section 602(b) budget authority as well as the House-passed bill. In short, this legislation reflects responsible, rather than reckless, Federal spending.

But with tough budget times come tough decisions, decisions on what programs place a higher priority in our national agenda. And the Appropriations Committee has made tough, but wise decisions.

This legislation reaffirms our commitment to assist State and local governments rid our streets of illegal drugs and violent crime. It contains modest but much needed increases in funding for the Bureau of Alcohol, Tobacco, and Firearms [ATF], including the highly successful Armed Career Criminal Apprehension Program. ATF plays a vital role in Federal Law enforcement efforts and the armed career criminals program has been highly successful in apprehending violent offenders. For those who doubt the link between drugs and violent crime, it is important to note that more than 80 percent of the violent criminals caught under this program have direct involvement in illegal drug trafficking.

The committee's recommendations also demonstrate the need to expand our drug interdiction efforts. The U.S. Customs Service and Border Patrol continue to represent our first line of defense in putting a stop to the flow of illegal drugs, to get the drugs from the hands of traffickers before they get them in the hands of addicts. H.R. 2622, as amended, correctly recognizes that our strongest stand must continue to be the southwest border region, and has included funding increases for more customs investigators, and other resources to strengthen our air interdiction efforts.

This legislation also directs funds from the special forfeiture fund under the Office of National Drug Control Policy to be used for hiring 100 additional U.S. Border Patrol Agents for the southwest border. I firmly believe that spending resources to stop the flow of illegal drugs and illegal aliens is more cost-effective in terms of both dollars and lives than waging a drug war in the streets and housing criminal aliens in our jails and prisons.

Finally, Mr. President, I wish to commend the committee, especially the distinguished senior Senator from Arizona, for recognizing the Federal Government's responsibility in efforts to combat criminal gang activity. It is no secret that the rise of criminal gangs in my State of California, as well as Senator DECONCINI's home State of Arizona, is directly related to the unfortunate rise in drug trafficking along the southwest border, as well as in communities across the Nation.

It's about time we recognized today's criminal gangs for what they are: Ruthless bands of organized criminals that make Capone's thugs of the Roaring '20's look like a Boy Scout troop.

Stopping these organized thugs requires organization as well, a coordinated plan of action from all levels of law enforcement: Federal, State, and local. And I am pleased that this legislation takes steps to promote coordinated activity. Central to this effort is funding that will assist ATF in establishing a gang analysis information center, a comprehensive data center that tracks patterns of gang activity and the kinds of crimes involved for use by all law enforcement agencies.

Presently, the Los Angeles County Sheriff's Department operates the most comprehensive data base on gang activity, known as the gang reporting, evaluation and tracking system [GREAT]. This system has been extremely beneficial to many municipal, county, and State law enforcement agencies across the country who have been besieged by gang activity.

So great is the GREAT system that the demand for access to this information has far outstripped the ability of the Los Angeles County sheriffs to supply it. It is my understanding that creation of a gang analysis center within ATF will help to make this information available to all law enforcement agencies.

I commend the senior Senator from Arizona [Mr. DECONCINI] and the distinguished Senator from New Mexico for their leadership on this very important issue. This legislation represents an important step in our efforts to develop a coordinated strike against criminal gangs, and I look forward to working with Senator DECONCINI in developing comprehensive antigang legislation.

Mr. DECONCINI. Mr. President, we are ready for final passage.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—91

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—8

Brown
Coats
Craig
Dixon
Kasten
Roth
Smith
Symms

NOT VOTING—1

Pryor

So the bill (H.R. 2622), as amended, was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I move that the Senate insist on its amendments to H.R. 2622, and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. DECONCINI, Mr. BYRD, Ms. MIKULSKI, Mr. KERREY of Nebraska, Mr. DOMENICI, Mr. HATFIELD, and Mr. D'AMATO conferees on the part of the Senate.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION ACT, FISCAL YEAR 1992

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 2519, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire [Mr. SMITH].

AMENDMENT NO. 784

(Purpose: To transfer funds from special interest grants to medical care for veterans)

Mr. SMITH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], proposes an amendment numbered 784.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning after the word "notwithstanding" on page 31, line 11, strike all through line 18 and insert in lieu thereof the following: "any other provision of this act to the contrary, $72,800,000 of the funds appropriated pursuant to this paragraph shall be expended for medical care by the Veterans Health Administration."

Mr. SMITH. Mr. President, I rise today to offer an amendment that would cut $72.8 million in earmarked special purpose grants included in the annual contributions for the assisted housing section of this bill and transfer that money to the Veterans Health Administration for medical care.

This Department, the Department of Veterans Affairs, Mr. President, operates the largest medical care delivery system in the country. It has 172 hospitals, 32 domiciliaries, 126 nursing homes, 139 outpatient clinics, and all of these do an outstanding job and can always use funding.

The appropriation provided in this legislation provides for medical care and treatment for eligible beneficiaries in VA hospitals, nursing homes, outpatient clinic facilities, contract hospitals, State home facilities, and on a grant basis they contract community nursing homes and through the hometown outpatient program, an extensive established program that I believe is deserving of these additional funds.

Last year in a letter to Congress, Secretary Kemp made the following statement:

> One of the principal purposes of the HUD Reform Act was to restore the public's faith in this Department's integrity by ensuring that HUD funds would be awarded competitively on the basis of clear and objective criteria. The administration continues to believe very strongly that the earmarking of funds to specific entities is inconsistent with the requirement for fair and open competition contained in the HUD Reform Act.

Mr. President, this legislation does earmark funds. The special purpose grants that my amendment would cut are awarded with little-to-no review from authorizing committees in Congress. They are not competitively awarded on the basis of clear and objective criteria. The grants are Senate add-ons that were not included in the administration's budget request nor were they in the House-passed measure.

I want to take a moment to let my colleagues know that I am not singling out any particular project and I am not singling out any particular State, and I am not singling out any particular Senator. My amendment would cut every special purpose grant in the bill. Some of the grants, I am sure, are worthy. There is $500,000 for the Newark Public Library to develop literacy programs in public housing developments. I am sure that is a worthwhile project. My question to my colleagues is what about $500,000 for a public library in Boston or Manchester, NH, or Dallas, TX, or Sacramento, CA, or Boise, ID? How did we determine that it should be Newark rather than some of those other cities? The point is we did not. We simply placed it in there; somebody placed it in there because of a particular happenstance, to be in the right place at the right time.

This is clearly wrong. No priority. No competition. Nothing. Just simply a big slush fund of money. This goes to Newark because somebody says it goes to Newark. Period.

The point is if you are a poor kid in some city—Anyplace, U.S.A.—and you need to use a public library, the only way you are going to get $500,000 to improve that library is if you have somebody on the conference committee somewhere who says we ought to have the money. Period. That is not fair to the poor kids in all the other cities in the country who ought to be in line for competition.

On the surface, as I say, it sounds good to be able to say. And there is always a good, worthwhile project with a good-sounding name, and that sounds wonderful. But the point is the process is terrible. It is unfair. It is unjust. And it is not helping the people in the country that it is designed to help.

These funds were not requested by the Secretary of Housing and Urban Development. As a matter of fact, on the contrary, he did not want those funds in there.

Who is to say that this particular project is more important than some other project? If we do not take the time to establish objective standards here in the U.S. Senate, we will never know if our money, the taxpayers' money, is being wisely spent. It is not being done.

The list is long. I am not going to read the list. But it is a long list of various projects. Many of them sound wonderful. Most of them sound wonderful because that is why they get in there, because they sound wonderful. Some tend to be outrageous, with no priority whatsoever in terms of other cities or in terms of which project may be more important than some other project.

My amendment very simply transfers these funds, totaling $72.8 million, to a program that I do know uses our tax dollars wisely: veterans' medical care. I think every Senator has received a letter from a category B or C veteran that has been delayed or denied health care. Here is a chance to do something about it. Most veteran organizations believe that $14.9 billion is needed in fiscal year 1992 to provide adequate health care for our Nation's veterans.

Under the committee amendment, funding for VA medical care would rise to $13.53 billion, and I commend the committee for their attention to this matter. My amendment is a modest attempt to improve this figure. If adopted, funding for VA medical care will rise to slightly more than $13.6 billion.

Mr. President, my amendment offers a clear opportunity to set some rational spending priorities. It is a chance to put the interest of veterans above the special interests. And I ask my colleagues to think about it, give it some thought, in terms of the whole reform needed in this whole process. Ask yourself: Are the criteria correct; are these the criteria that we want to determine who gets money, or who says that a poor kid in Newark, NJ, is more important than a poor kid in Sacramento, CA?

Probably one Senator or one Congressman put this in the bill with no vote, no authorization, nothing. That is wrong. Pure and simple. It is wrong. So I want to change that process.

I am going to be speaking out on the floor of the U.S. Senate over the next several months on this issue. I intend to bring it up over and over and over again on these appropriation bills, so you might as well get used to it. Because the process is wrong. It has to be changed. It must be changed.

I also know how difficult it is to make changes around this place when people are comfortable with the way we do business. Maybe we are comfortable with it, but I do not think the American people are comfortable with it because the process is inherently unfair. The American people know it and we ought to respond to that.

In view of the fact that I have taken a numbers count here on this amendment, I have come to the conclusion that we do not have the votes to adopt such an amendment. But I do want to point out to the chairman of the committee, as well as all the Appropriations Committees, as well as to you, Mr. President, that we need to change this process and, again, I intend to bring it up over and over again. My hope is that we will have enough Senators to come forth and say that this is a bad process, we ought to change it. And if we are not willing to change it here within the system, then we ought to at least move to perhaps a line-item veto or something where somebody has the authority to reach in and excise out these projects which are not approved by anyone.

Some would call it pork. Some of these projects are not pork in the sense that they are bad projects, but what I call pork are projects that are not authorized in any way but simply appear suddenly in somebody's bill.

And in many cases, Mr. President, you will find that these items appear when the House legislation comes into conference and companion legislation comes in from the Senate, and the two sides sit down and neither committee had a project in. And when it comes out of conference, there appears the project.

That is not a good way to do business. It is not a good way to be accountable to the taxpayers of America. I am not going to be a party to it. I am not going to be a part of it. And if I offend some people, so be it.

But I am going to change this process if it takes me all these years to do it. I am going to point it out over and over and over again, until I get 51 people in the U.S. Senate who agree with me so we change it. That is my goal.

So, Mr. President, in view of the fact I think I have made my point on this matter, at this time, I will withdraw my amendment and inform the Senate that at some point in the very near future, I will bring this matter up again.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

The amendment (No. 784) was withdrawn.

Ms. MIKULSKI. Mr. President, I thank the Senator from New Hampshire, first of all, for his remarks, really, and in bringing to the attention of the Senate his goal in funding projects that are merited to make sure that we get a dollar's worth of services for a dollar's worth of taxes, and that we put our money of the taxpayers' where it will do the most good.

I assure the Senator from New Hampshire that we did use some criteria. We met the general criteria for eligibility for funding under the Community Development Block Grant Program. We took a look to make sure it benefited low-to-moderate-income persons, or if it would aid in the prevention or elimination of slums and blight; and second, that the project demonstrated some type of non-Federal support, either financial or in kind, to guarantee that there is genuine local interest and that we are just not funding grant junkies.

I want to acknowledge that the Senator wants to press for reform. We look forward to working with him on fiscal responsibility and reform measures. I thank him for his cooperation in withdrawing the amendment, though I know he does not withdraw his intent.

Mr. SMITH. I thank the chairman.

Mr. GARN. Mr. President, I thank our colleague from New Hampshire for his consideration and cooperation. I understand his point, and many of the things he has said, I agree with. But the nature of the debate would take some time, so I appreciate his cooperation in withdrawing his amendment.

AMENDMENTS NO. 785 THROUGH 793

Ms. MIKULSKI. Mr. President, I now send nine amendments to the desk and ask unanimous consent that they be considered and agreed to en bloc, and that the motions to reconsider the votes be laid upon the table en bloc.

They have been cleared on both sides. They do not affect our 602(b) allocation.

There is an amendment that I have making technical corrections to section 520, which is to prevent escalation of drug prices to VA as a consequence of a provision of the Budget Act; a crucial amendment.

A McCain amendment allowing EPA to set aside one-half of 1 percent of construction grants for Indian tribes; a DeConcini amendment requiring the GAO to study the FHA Mutual Mortgage Insurance Fund; another DeConcini amendment providing that the Pascqua Yacqui Indian Tribe is considered as residing on a reservation; a Moynihan amendment transferring $2.9 million from EPA to the National Acid Precipitation Assessment Program; a Cranston-Riegle amendment amending the Cranston-Gonzales Housing Act to allow HUD-approved entities to serve as delegated processors under HUD's Multifamily Mortgage Insurance Program; a Murkowski-Stevens amendment to create a new regional office for EPA in Alaska; a Cranston amendment extending FHA-VA reciprocity provisions on property appraisals for 12 months; and a Mikulski amendment providing $1 million to start up the Chemical Hazards Safety Board, as authorized by the Clean Air Act amendments.

I think they have been cleared on both sides, and that there is no objection to the amendments.

Mr. GARN. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposed amendments en bloc numbered 785, 786, 787, 788, 789, 790, 791, 792, and 793.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 785

Beginning on page 104, line 17, strike all after "Sec. 520." through line 2 on page 105, and insert in lieu thereof the following:

"Notwithstanding any other provision of law,—

"(a) prices for drugs and biologicals paid by the Department of Veterans Affairs, and prices for drugs and biologicals on contracts administered by the Department of Veterans Affairs, shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers; and

"(b) the Secretary of Veterans Affairs shall attempt to negotiate new contracts, or renegotiate current contracts, for drugs and biologicals, including those contracts for drugs and biologicals utilized or administered by the Department of Veterans Affairs which are listed in Federal Supply Classification (FSC) Group 65 of the Federal Supply Schedule, with the view toward achieving a price comparable to, or lower than, the price charged the Department of Veterans Affairs by the manufacturer on September 1, 1990, increased by the fiscal year 1991 medical consumer price index, as determined by the Secretary; and

"(c) the Secretary shall provide a report by June 30, 1992, to the House and Senate Veterans' Affairs Committees, the House and Senate Appropriations Committees, the House Energy and Commerce Committee, and the Senate Finance Committee, on the percentage of price increase to the Department from September 1, 1990, to a date 60 days prior to the date of the report, for each drug and biological listed in FSC Group 65."

AMENDMENT NO. 786

Page 68, line 22, before the last semicolon, insert: , "and from which funds up to one-half of 1 percent may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities."

AMENDMENT NO. 787

SEC. . GENERAL ACCOUNTING OFFICE STUDY OF FHA MUTUAL MORTGAGE INSURANCE FUND.

The General Accounting Office (GAO) shall prepare and submit to Congress no later than April 1, 1992, a study of the actuarial soundness of the Federal Housing Administration's single family mortgage insurance program and the solvency of the Mutual Mortgage Insurance Fund (MMIF). The study, using the latest reliable data available, shall consider the extent to which the following factors were analyzed by the 1990 Price Waterhouse study of the MMIF, how the analysis of these factors might be improved, and how any appropriate modifications to the study's analysis of these factors or other factors identified by GAO would affect Price Waterhouse's conclusions regarding the actuarial soundness and the net worth of the MMIF and the ability of the MMIF to meet the capital ratio targets established in the Omnibus Budget Reconciliation Act of 1990. These factors include:

The actuarial performance of loans insured by the FHA during the years considered by Price Waterhouse, including the 1986 and 1987 books of business. Specifically, the overall default rates and claims (loss) experience of the loans considered and what that experience implies regarding the actuarial soundness of the MMIF.

The effect of the Mortgagor Equity rule issued by HUD, which limits the amount of closing costs that can be financed with a FHA mortgage to 57% of the total amount of allowable closing costs, on the actuarial status of the MMIF, default rates of FHA borrowers, the relative impact on purchasers of homes at various price levels, and the ability of potential FHA borrowers to purchase homes.

The effect of underwriting changes made by the Federal Housing Administration since 1986.

The effect of increasing the maximum mortgage amount that can be insured under the FHA single family mortgage insurance program.

The impact on the propensity of borrowers with mortgages currently insured by the FHA to refinance their existing mortgages with FHA insurance, given the annual premium requirements established by the Omnibus Budget Reconciliation Act of 1990, and the consequences for the actuarial soundness of the MMIF of a policy to allow "streamlined refinancings" whereby the borrower would not be required to pay an annual premium.

FHA's accounting method for deferring and amortizing the MMIF single-family one-time premium revenue.

The valuation of delinquent loans for loan loss reserve accounting purposes.

Assumptions regarding the rate of home price appreciation.

AMENDMENT NO. 788

At the appropriate place in the bill, insert the following new undesignated paragraph:

For purposes of the United States Housing Act of 1937, members of the Pascua Yaqui tribe who reside in Guadalupe, Arizona, shall be considered (without fiscal year limitation) as residing on an Indian reservation or other Indian area.

AMENDMENT NO. 789

On page 64, line 24, immediately after the colon, insert the following: "*Provided further*, That not less than $2,900,000 shall be made available, by transfer to the Council on Environmental Quality Management Fund, for use by the Office of the Director of the National Acid Precipitation Assessment Program in implementing the requirements of section 103(j) of the Clean Air Act, and of such amount transferred, not less than $1,400,000 shall be available only for implementing section 103(j)(3)(B) of the Clean Air Act:".

Mr. MOYNIHAN. Mr. President, the National Acid Precipitation Assessment Program [NAPAP] was authorized by Congress in Public Law 96-294 in 1980 to conduct scientific, technological, and economic analyses of the acid precipitation causes and effects and to evaluate the available options for its control.

In 1990 NAPAP reported that acid rain acidified at least 800 lakes and 2,200 streams in the Eastern United States, and that at least 200 more would be acidified over the next decade without any changes in controls. Acid rain also affected high elevation forests, substantially reduced visibility in the Eastern United States, contributed to corrosion of stone and metal structures, and may have caused human health problems. NAPAP also reported that reducing SO_2 emissions by 10 million tons below 1985 levels would halt further acidification of lakes and streams and allow many of the acidified waters to recover.

The NAPAP Oversight Review Board, a group of highly regarded independent reviewers, reported that the scientific research was of the highest quality, was critical to an adequate understanding of the acid deposition phenomenon and its control, and should serve as a model for other complex environmental problems faced by society. The Board also found, however, that insufficient attention was paid to the assessment process, and to communicating the findings of the program to decisionmakers in Congress, the administration, and the public. More important, however, was that NAPAP put the facts on the table—especially in the scientific literature that guides our experts to their conclusions. In response, we crafted a bill that reduced SO_2 emissions by 10 million tons below 1980 levels, employing a unique trading scheme for emissions allowances, which the economists tell us will lead to the lowest possible cost for the reduction. Paul Portney, an economist for Resources for the Future, has gone so far as to predict that the acid rain provisions of the Clean Air Act Amendments of 1990 will be the only cost-effective title of the bill, and then only because emissions trading will be cheaper than command-and-control approaches used elsewhere. This bill system could not have been designed without NAPAP data.

At this time, we must view this approach as what scientists call a null hypothesis—it is assumed to be correct unless proven otherwise. But we must conduct the experiment in order to make progress in protecting the environment. We cannot simply declare that we were perfectly correct. NAPAP was scheduled to slip quietly away after 1990. But this is exactly the time to continue the work done by this unique program; to make sure that the data are gathered to test this bold experiment, to see if it is a model for things to come, and to tell the result to Congress and the public. With this mission in mind, we reauthorized NAPAP in the Clean Air Act Amendments of 1990.

Unfortunately, our enthusiasm for NAPAP is not apparently shared by some of the participating agencies. The report required by Congress on how NAPAP plans to coordinate acid rain research is already 2 months late. And the reason is that at least some of the six Federal agencies that make up the NAPAP Task Force find it hard to agree to work together to conduct the experiment.

NAPAP was authorized to meet three primary goals: First, to coordinate the research of the participating agencies and to submit coordinated budget requests; second, to identify critical assessment gaps and to fill them using expertise available in the scientific and economic professional communities; and third, to report to Congress on program results in a form readily understandable by the public. Thus far, the six participating agencies have seen fit to recommend that each contribute $171,000 to the Office of the Director of NAPAP to accomplish these goals—at least one agency has already declined to pay anything. This is wholly inadequate to accomplish these goals. The task force further proposes not to allow NAPAP to fill critical gaps, that all work except coordination and reporting be done by one of the participating agencies. But what work will be done by the agencies as part of NAPAP? No one will say.

For this reason, I am offering an amendment to H.R. — the appropriations bill for VA, HUD, and independent agencies directing EPA to fund activities in the NAPAP office of the Director to accomplish the goals of section 103(j) of the Clean Air Act. It is not my intention that this appropriation preclude the proposed ageement of the other participating agencies to contribute $171,000 in fiscal year 1992 to the operation of the office of the Director. It is my intention that the office of the Director use at least $1,400,000 of these funds to identify critical assessment gaps and to fund scientists, economists, and statisticians in our best institutions to fill these gaps.

It is also my intention that the Director of NAPAP also begin to develop a strategy to communicate effectively with the public about NAPAP's ongoing activities and critical findings as they become available, in a form that is readily accessible and understood by the typical citizen. And, it is my intention that the office of the Director continue and expand the activities of the oversight board, to include advising the office of the Director on the prioritization of studies to fill critical information gaps.

Most important, I believe that whenever NAPAP reports to Congress on interagency findings, that these findings should include majority opinions that represent the best available consensus of the task force agencies, but that they also ought to contain dissenting or concurring opinions from any participants that cannot, in good conscience, agree with the majority. It is important to remember that the discovery and acceptance of scientific understanding does not occur by majority vote. Over time, the overwhelming weight of data persuade us as to the correctness of the scientific point of view. In the meantime, we must be willing to weigh conflicting evidence, provided that it is based on logical conclusions leading from high-quality data applied to clearly stated axioms.

It also is important to remember that perfect knowledge does not devolve only to NAPAP scientists by an act of Congress. In my experience as Director of the Bureau of Labor Statistics, I learned that it took decades to develop accurate indicators of the conditions in the Nation's work force. But perseverance of these dedicated public servants paid off, and now we have accurate and adequate statistics with which to make important decisions in this area. I fully expect a similar situation in arriving at the true costs and benefits of controlling air pollution. But that is all the more reason to start immediately.

The strength of NAPAP is that it brings together the expertise of a number of the Nation's agencies with environmental and natural resource management missions to provide the very best assessment possible of our progress toward reducing environmental damage from acid deposition at the lowest possible cost to society. I fully expect that EPA will play a lead role in analyzing the regulatory costs and environmental benefits of the Clean Air Act Amendments of 1991. But I also expect the Department of Energy to bring a different viewpoint and expertise to the calculation of the costs of SO_2 reduction, the Departments of Agriculture and Interior to bring to bear their expertise and different points of view with respect to our success in protecting forests, crops, and wildlife, and NOAA to bring to bear their expertise and points of view with respect to the atmosphere and oceans. I very much suspect that a complete consensus on the environmental results, costs, and benefits of NAPAP by all of these organizations would represent a lowest common denominator that offers us little to help us know whether we are on the right track, or whether adjustments are necessary.

Finally, I would ask the participants in NAPAP Task Force not to think of the acid rain provisions in the Clean Air Act Amendments of 1990 as a test that is passed with pride or failed with shame. The Congress, working with the administration, made an informed decision based on an unprecedented amount of scientific and economic information about a complex environmental problem. Arguably, NAPAP findings suggest that a more modest reduction in SO_2 emissions, say 8 million tons, would have adequately protected surface waters at a lower cost. And arguably, faster action could reverse the effects of acid deposition more quickly. It is unlikely, in retrospect, to have been a perfect decision. The only shame would be to fail to continually assess the results of the process in order to increase the efficiency and effectiveness of our efforts to protect the environment.

AMENDMENT NO. 790

Insert at the appropriate place in the bill: "Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting before the period in the first sentence the following, or other individuals and entities expressly approved by HUD. This amendment shall be effective only for fiscal year 1992.".

AMENDMENT No. 791

At the appropriate place add the following new section:

SEC. . ESTABLISHMENT OF REGIONAL OFFICE.

The Administrator of the Environmental Protection Agency shall establish within the Environmental Protection Agency an eleventh region, which will be comprised solely of the State of Alaska, and a regional office located therein.

Mr. MURKOWSKI. Mr. President, I rise today to offer an amendment to the VA/HUD appropriations bill which will direct the Administrator of the EPA to create a new regional office in Alaska.

In terms of land mass, Alaska is one-fifth the size of the contiguous United States, 365 million acres, two-thirds of which the Federal Government controls. Alaska is a rural State with a population of just 500,000, connected predominantly by air transportation. Alaska produces 25 percent of the Nation's oil and substantial amounts of other natural resources. Alaska is the only State with Arctic and sub-Arctic environments. Alaska has more wetlands, more sensitive ecosystems, more need for specialized environmental management than any other State in the Union. Alaska is, and should be viewed as a distinct region of the Nation. Creation of region 11 will benefit both my State and the Nation by ensuring that the special needs of this unique land are understood and properly protected.

The Environmental Protection Agency is currently making decisions vital to my State's continued well-being from the region 10 headquarters in Seattle; a city 2,500 miles away from Anchorage; a city not only far away in distance but in orientation. Region 10 solutions to the variety of environmental laws within EPA jurisdiction are designed for the Pacific Northwest and do not and cannot address the circumstances in Alaska.

DIFFERENT ENVIRONMENTAL CHALLENGES

Mr. President, let me share with my colleagues some specific instances where we need greater EPA involvement.

Alaska has over 200 million acres of national parks, forests, wildlife refuges, and wilderness. As the State continues to grow, we will need to increase our electric generating capacity or build facilities to diversify our economy. Because of the proximity of these public lands to our population centers and transportation corridors, expansion of our industrial base may present problems under the Clean Air Act even though it would not cause any significant deterioration of air quality.

Continued utilization of Alaska's mineral and oil wealth will require new and innovative methods of dealing with waste disposal and environmental mitigation. The oil industry continues to make great strides in developing techniques to produce oil in arctic conditions in an environmentally sound manner and close cooperation with the EPA will play an important role.

Over the next 3 to 4 years, 15 different hardrock mining operations will be reviewed in southeast Alaska alone. Each will require an environmental impact statement and each will be controversial. Again, high transportation costs, remote locations, unique climactic and geological considerations will all be factors.

Hazardous and solid waste disposal are becoming critical issues in Alaska. Relatively small quantities of hazardous waste have precluded building a hazardous waste facility in Alaska in the past, yet, as disposal in the lower 48 becomes more problematic, as transportation costs continue to climb and as contaminated sites in remote areas of Alaska are discovered, we will need to provide facilities in State. Should the State decide to pursue siting of a disposal site, very close cooperation with EPA will be required. Solid waste presents similar problems. Recycling measures which work in areas well connected by roads will not be practical in Alaska.

Nonpoint source pollution, total daily maximum loads, and surface water treatment are areas where EPA's assistance will also be critical. Many of the small bush villages do not have safe water or adequate sewage disposal. These communities are also small, remote and without the economic base to shoulder the high costs of typical facilities.

Alaska has 170 million acres of wetlands. Since Alaska was purchased by the United States from Russia in 1867 we have lost a half of a percent of wetlands to development. Let me say that again, Mr. President, a half of a percent in 124 years. A broad Federal no-net-loss program is ludicrous in a State like mine. What it means to us is no-net-growth. Some 45 percent of the State is classified as wetlands. We have to have EPA decision-makers in the State that understand this issue and can assist the State in getting a rational wetlands policy from the President's Domestic Policy Council.

OTHER REGIONAL OFFICES IN ALASKA

These are but a few examples of the pressing need for the EPA to have a greater presence in Alaska. And this is not without precedent. There is a standard cross-agency regional system which divides the country into 10 regions. However, few departments and agencies adhere to this system. They have divided their resources according to need. In fact, nine departments already have regional offices in Alaska; the Bureau of Indian Affairs, the Bureau of Land Management, the Fish and Wildlife Service, U.S. Geological Survey, the Mineral Management Service, the National Park Service, the Federal Aviation Administration, the Forest Service, and the Army Corps of Engineers. These agencies have already determined that the issues in Alaska require a greater presence.

REVENUE NEUTRAL

In concert with these policy reasons, I am convinced that we can create a region 11 in Alaska within existing funds. We already have two Alaska Operations offices in the State to which substantial staff and resources have been dedicated. Increases in staffing will be minimal and if we were to need additional office space, that cost would be minimal due to the abundance of low-cost building space available in Alaska. Support services like the Regional Counsel, Management and Environmental Services offices can be shared as well as some laboratory services. Offset these minimal increases with elimination of high travel costs between Seattle and Alaska and the removal of Alaska from region 10 jurisdiction and the net benefits will outweigh any costs.

CONCLUSION

Mr. President, all the quality staffing in the world cannot replace actual on-the-scene contact. We say this over and over in this Chamber: Local concerns and the subtleties of a community play a crucial role in tailoring programs that will actually work. You can't put a square peg in a round hole. And that is what is happening in Alaska. Pacific Northwest solutions for Alaska's problems are just plain ridiculous in many cases. I want EPA personnel making decisions where they live; where they're not able to retreat to headquarters 2,500 miles away. I want them to intimately understand and work day to day with the people who are impacted by their decisions.

This legislation is supported by the Alaska delegation, our Governor and has been accepted by the bill managers. My thanks to my colleagues from Maryland and Utah for their assistance.

AMENDMENT No. 792

Insert at the appropriate place the following new subsections:

SEC. . EXTENSION OF AUTHORITY.

Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking "18-month period" and inserting "30-month period".

SEC. . RETROACTIVITY.

If any administrative approval of any housing subdivision is made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act and otherwise is made in accordance with the provisions of section 535(b) of the Housing Act of 1949, the approval is hereby approved and shall be considered to have been lawfully made.

AMENDMENT No. 793

On page 65, line 18, before the end of the sentence insert the following new proviso: ": *Provided further*, That of the amount provided under this heading, up to $1,000,000 shall be available for the Chemical Safety and Hazard Investigation Board, as authorized by the Clean Air Act Amendments of 1990".

AMENDMENT NO. 794

(Purpose: To require financial institution regulatory authorities to make certain information available to the public in relation to the resolution of a failed depository institution by the Federal Savings and Loan Insurance Corporation involving the use of public funds)

Mr. WIRTH. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Colorado, [Mr. WIRTH] for himself, Mr. KERREY, Mr. METZENBAUM, Mr. CONRAD, Mr. WELLSTONE, Mr. ROCKEFELLER, Mr. SIMON, and Mr. BRYAN, proposes an amendment numbered 794.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 103, between lines 21 and 22, insert the following:

"(c) AVAILABILITY OF EXAMINATION REPORTS.—

"(1) PUBLIC AVAILABILITY OF INFORMATION.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or of a holding company of such institution, performed during the 5-year period preceding the failure of the institution.

"(2) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation, the Federal Savings and Loan Insurance Corporation, or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in paragraph (1) shall be published and made available to the public.

"(3) APPLICABILITY.—The requirements of paragraph (1) shall apply to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation.".

Mr. WIRTH. Mr. President, I rise to offer a public disclosure amendment similar to the one I sought to add to the crime bill when that legislation was before the Senate. The HUD, VA, and Independent Agencies appropriations legislation includes $15 billion for the FDIC's FSLIC Resolution Fund. The FDIC will use a portion of these funds to reexamine and pay obligations incurred as a result of the so-called 1988 deals and take whatever actions permitted by the 1988 agreements to save taxpayer dollars. The FDIC has indicated that such steps will save taxpayers $2 billion over time.

These 1988 deals were negotiated by M. Danny Wall, then the Chairman of the Federal Home Loan Bank Board in the closing days of that year. The bank board was seeking to resolve thrift failures but did not have adequate funds to close the failed institutions even if that approach was the lowest cost option. Many of the agreements were negotiated hastily as the bank board and would-be purchasers of failed thrifts sought to take advantage of expiring tax credits.

The result was a number of agreements that I, and others, were critical of at the time. Time has not helped the reputation of the 1988 deals and continued study of the agreements has led to the current effort to make the best of the situation and act to reduce the eventual cost of these agreements.

The amendment I offer today will require regulators to make public the prior examination reports of the failed institutions that were sold as part of the 1988 deals. It will also prohibit the FDIC from entering into secret agreements to settle lawsuits arising from the failure of those institutions.

The amendment establishes the same disclosure requirements that I sought to establish in my amendment to the crime bill. The difference is that instead of applying it to all thrift or bank failures where tax dollars are used, the new amendment only applies to those failed institutions sold in the 1988 deals.

I continue to believe we should establish the broader disclosure requirements. However, the legislation before us today provides us with the opportunity to require disclosure for a number of institutions whose failure and resolution has drawn significant interest. I think we should at least take that step now. When an appropriate vehicle becomes available, I will seek to require broader disclosure.

This sunshine amendment will open a valuable window into thrift failure and give taxpayers access to important information about why a financial institution failed and made the use of tax dollars necessary.

The estimated cost of the S&L crisis has increased steadily in recent years, from $19 billion in August 1988 to $160 billion today. We may see it increase further before we're through. Even if the current estimates hold, we will still have to provide hundreds of billions of dollars more to pay the interest on the funds borrowed to resolve the problem. Taxpayers are being forced to provide billions of dollars to resolve the industry's problems.

Fundamentally, I believe taxpayers are entitled to know why an expenditure of this scale became necessary. But today, when taxpayer money is spent on a failed thrift or bank, the taxpayers often have no idea why the institution failed, and have no means to obtain that information.

It is important to note that the requirements of the amendment only apply to institutions that have cost taxpayer funds.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of banks and thrifts can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is not available to the public. The amendment would correct that and shed some light on how the S&L crisis developed in the case of these particular institutions.

Disclosure is more than just an obligation to the taxpayer, it offers important benefits as well. Public disclosure can act as a forceful deterrent. Both bankers and regulators should know that the public will examine their actions when banks fail and hold them accountable.

Disclosure will not only promote more thorough bank examinations, but also fairer examinations. Some bankers have complained that examiners act arbitrarily. If disclosure is required, any arbitrary acts by the examiners will also come to light.

I would not be surprised if the banking regulators oppose this proposal. Some examination reports will, in retrospect, look bad after an institution has failed. I am sure there may be reports that regulators hope will never see the light of day. Other reports, no doubt, will show examiner warnings that should have been heeded.

Lax supervision did play a role in the S&L crisis—the combination of deregulation of thrift activities and relaxed supervision of thrifts was perhaps the greatest mistake of the 1980's. But the blame for that should not lie exclusively with the regulators. They were overworked at the time and requests for additional staff were ignored by an administration that felt a deregulated industry did not need supervision, acting as if there were no such thing as federal deposit insurance.

Some banking regulators have opposed similar disclosure efforts in the past, arguing that disclosure will lead to bank runs. For example, regulators opposed the change in FIRREA that required the bank regulators to publish their final orders on enforcement actions. They said there would be bank runs; they said the sky would fall in. It did not. And regulators opposed the change in the Crime Control Act of 1990 that required the bank regulators to publish all of their enforcement orders and agreements. They said there would be bank runs; they said the sky would fall in. It did not. In the case of these institutions that have already failed, the possibility of bank runs is not a concern.

Other administration officials have understood the importance of the sunshine of public disclosure in regulation of the financial industry. For example, Securities and Exchange Commission Chairman Richard Breeden, the White House's point man on the S&L cleanup when President Bush first took office has said:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards. * * * I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented.

Mr. Marshall Breger, the Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve the administration of Federal programs, including regulatory efforts has said:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quiet" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the Federal agencies become front page news, traditional informal, nonadversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

I think Mr. Breeden, Mr. Breger, and Justice Brandeis are right. Sunlight is the best disinfectant. Sunlight offers a check against dangerous practices. If people want to keep their business practices private—there is an easy way to do it. Run a safe and sound institution. That's what we all want to see.

Perhaps a little more sunshine in the early 1980's might have helped avert some of the S&L failures that were resolved in December 1988.

We should remember that S&L's and banks are not typical private businesses. They receive significant benefits from taxpayer support and guarantees. Deposit insurance and access to credit through Federal institutions such as the Federal Reserve and Federal Home Loan Banks are examples of the special support we give depository institutions. With this kind of government backing, thrift and bank problems are a legitimate public concern.

When the insurance funds are healthy, losses are covered by private funds—the insurance premiums paid by banks and thrifts—and a degree of privacy is appropriate. But when the so-called safety net breaks down and tax dollars are tapped as they were in the 1988 deals, we are in a different situation. Taxpayers have a right to know.

The public will benefit from public disclosure of both examination reports and settlements of lawsuits the Government files against individuals involved with these failed financial institutions. Public disclosure does not mean the FDIC and RTC should not pursue settlements of lawsuits, however.

FDIC and RTC lawsuits will offer an important window into the actions of management, directors, legal representatives, and auditors and how they contributed to a bank or thrift failure. Even a public settlement partially closes that window as witnesses do not testify and documents are not filed as evidence as they would if the suit went to trial. But regulators should be able to settle these lawsuits to avoid costly and time-consuming litigation that often has an uncertain outcome and free up FDIC or RTC resources to pursue other cases.

Settlements can be in the best interests of taxpayers. And partially closing the window is the price we pay for pursuing settlements. But we should not bring the shades down completely. That is why I think settlements should be available to the public. The public has a right to know about settlements if they are footing the bill for a bailout.

As long as settlements can be kept secret, public suspicion is inevitable. The public does not have a high degree of confidence in our banking regulators right now and are unlikely to trust secret settlements that offer the appearance of backroom deals. I believe taxpayers have a right to know about these settlements.

Again, I think all the reasons I have discussed for supporting disclosure for institutions involved in the 1988 deals apply to all financial institutions failures where tax dollars are used. But this amendment is just a step toward that goal. I encourage my colleagues to join me in this effort.

Mr. President, the offering of this amendment comes as no surprise to any of my colleagues. I and its cosponsors, Senator KERREY, Senator METZENBAUM, Senator CONRAD, Senator WELLSTONE, Senator ROCKEFELLER, Senator SIMON, and I am sure before we are done, many others, believe that the S&L's that have failed and been bailed out by the taxpayer, that those records should be public information.

I had attempted to offer this amendment to the crime bill, believing that there has been not only a great deal of shady activities, but clearly some high-powered white-collar crime in this whole area. Through various parliamentary situations, I was precluded from offering the whole amendment.

I noted in the legislation, the HUD and independent agencies appropriations bill, whose distinguished chairman, Senator MIKULSKI, has done such a good job on this bill, I noted in that legislation, Mr. President, that there is some $15 billion to resolve the S&L deals that were made prior to the passage of the FIRREA or the S&L legislation in early 1989.

In shorthand, Mr. President, there is $15 billion in this legislation for the so-called 1988 deals. These were the deals that were made at the close of the last administration. These were the deals that were made at a time when the administration had not asked for money here, and was setting up a number of what many believe were sweetheart deals in which agreements were made by the Federal Government with various purchasers to buy these bankrupt S&L's.

We are, in this bill, spending $15 billion—$15 billion, Mr. President—to do this.

Last year, on these deals, we spent $22 billion. The total estimated for the 1988 deals is currently estimated at $57 billion; $57 billion of taxpayers' money going for the 1987–88 deals only.

Yet you, Mr. President, or I or our staffs or the general public or newspapers in the country or aggrieved taxpayers cannot find out what happened and what they are getting for $57 billion. You cannot find out. The public cannot find out. You cannot offer a freedom of information request and get this information. A local newspaper, whether it is South Rocky Savings & Loan in Colorado, or East Orange Savings & Loan in California, or South Prairie Savings & Loan in south Texas, wherever it may be, a newspaper cannot go in and find out what happened in their local S&L. Who cut what deal with whom? Who borrowed from whom? Who borrowed? Under what conditions? With what collateral? Nobody knows because these are all documents that are not made available to the public, even if the public files a freedom of information request.

This is a very narrow amendment. This only goes to $57 billion worth of deals. I hope this amendment will be agreed to and I hope, also, we will have the good judgment to offer a similar amendment at a later date for the other $160 billion. The American taxpayer is out, now, well over $200 billion. In 1988, the administration told us this would cost a modest $19 billion. Mr. Gould came in and testified in front of the Banking Committee and said $19 billion was adequate to do the task. That was in late summer or early fall, 1988.

In 1989, the administration came back and told us that $19 billion was not adequate. The price went up in 1989 to $40 billion with an additional $10 billion cushion.

In 1990 that $50 billion was not adequate, and the price in 1990 went up to $107 billion for the RTC. And last week, 2 weeks ago, Mr. Seidman was in telling us this was going to be at least $160 billion.

We are not talking here about the $160 billion. That comes later. That caused a lot of problems. We will bring that up on the banking bill or whatever vehicle later. We are talking here about $57 billion for the 1988 deals. We are talking here specifically about the $15 billion in this particular piece of legislation. In the bill in front of us is $15 billion.

Some would say this is not germane to this legislation. Clearly this amendment is. The FDIC will be using a portion of these funds to reexamine and pay obligations incurred as a result of the so-called 1988 deals and take whatever action is permitted by the 1988 agreements to save taxpayer dollars. The FDIC has indicated that such steps can potentially save taxpayers $2 billion over some time. This is an absolutely germane amendment.

What would it do? What might we find out on these deals that were made, the 1988 deals, if we make the information available to the public? We might find out, for example, if any of these loans were issued in violation of any law or regulation. Were loans made over the one-borrower limit? There are limits set in the regulation as to how much an institution can loan to a single borrower. Were those regulations followed? Or was there some kind of a sweetheart deal between that S&L and one customer or one group of customers that violated that limit?

Were appraisals done? When the loans were made, and there were lots of loans made out there on pieces of dirt which in turn had been turned over and turned over and turned over, were appraisals made? Did these S&L's make appraisals when they made the loan? Who did the appraisal? How thorough were those appraisals? Without this amendment, Mr. President, you will not know, I will not know, nobody will know because we cannot find out. This information has to be made public.

What did the regulators know in the process? Did the regulators have a pattern of looking very carefully at this institution or not? How did the regulators behave? It may well be this amendment makes a number of regulators uncomfortable because we saw, we all know, an absolutely delinquency at the FSLIC between the time the so-called Garn-St Germain Act was passed in 1982 and the S&L's were deregulated. We deregulated the S&L's, allowed them to do all kinds of things, but the administration dramatically cut the regulation. What did those regulators who remained know? What did they watch during this process leading up to the 1988 deals?

Did they see what had happened and not act? Did they report to some of their superiors and maybe somebody put the lid on it at a superior level and did not let the information out? Were they quashed? Were they trying to do their job but were not allowed to do so? We are going to find out as well, Mr. President.

Who made the bad loans? Who was responsible for doing it? Was there one officer involved? What were his relationship to other people? We can find that out. And why were these loans bad? What happened to those loans? Were they made on commercial real estate? Is there a pattern of commercial real estate loans and that is what caused the problem? Or maybe there was a pattern in these loans of putting a great deal of money into leveraged buyouts. And what was the relationship of the lending institution and the institution with the leveraged buyout? We can find that out.

Or, was there a pattern of particular concentration in high-yield bonds? Was there a relationship between those high-yield bonds and the institution and the one to whom they were making loans? We do not know that information now, Mr. President, but this gives us the opportunity to look for it.

Who got the loans? Were there officers of the S&L who got the loans? Were there board members of the S&L who got the loans? Were there some kind of tie-ins between two or three or four institutions and the failed S&L's who got the loans? We cannot find out that information now. We do not know who got these loans. Yet the taxpayers are being asked to spend billions of dollars to bail out loans, but we do not know who got them, we do not know who made the loans, we do not know what the collateral was.

What was the status of these institutions at the time the loans were made? Were they safe and sound at the time the loans were made? Were they insolvent and the lending officers knew the S&L was insolvent, could not make these loans and, in fact, if the loan went bad, the taxpayers were going to have to come in because the deposits were insured? Did that happen? At what point did the S&L know that that S&L was insolvent? And when, behind that, did the regulators know?

Again, Mr. President, we cannot find out any of that information now. We do not have a pattern of what happened when, in any of these failed institutions, because this information is not public.

Granted, I will say again, this may embarrass some individuals. It may embarrass some of the people who were officers of the S&L, but they assumed that responsibility. It may embarrass people who are board members of S&L's, but they have that responsibility. It may embarrass individuals who were regulators and who had the responsibility for doing this and they may be embarrassed. It may be that they were overwhelmed, the S&L business having gone up dramatically following 1982 while the number of regulators and resources devoted to following up the S&L's declined very dramatically after 1982.

So we have this wedge in there and the regulators clearly were overworked. In that process were they harassed? In that process did they ask for help and did not get it? In that process were some of their memos to superiors quashed for political reasons? Quashed for other kinds of reasons? We cannot find that information out now, Mr. President, but after this amendment becomes law—which I hope it will—we can find out that information.

What will happen with that information? I do not know, Mr. President. But I certainly do know that what Justice Brandeis said about sunshine being the best antiseptic applies better to this than anything else that I can imagine. We do not have the resources in the Senate. The Senate Banking Committee has a very small staff. We do not have the resources and should not be siccing the General Accounting Office on all of these failed S&L's. We do not have all the resources to find out what happened in all these things. But I will bet if this information is public, since there are citizens who are very angry about the fact that they are paying, each household in this country, thousands of dollars for bailing this out, they are going to band together and say, "what happened?"

I will bet anything there are newspapers in these communities who are going to go after the institution there and check the history of that institution and find out what happened. There are a lot of enterprising reporters reaching into these institutions and saying what happened and why? Why were these deals made? But they cannot get that information now. They cannot get the information because it is not public. You cannot offer a freedom of information request—you cannot do it. If this amendment is adopted, then we will be able to do so.

It seems to me that a basic fact of a democracy is that when public money is expended, the public ought to know where that money is going. The only places where I can think that should not be the case is, one, in classified Defense Department programs. We deal with that issue very carefully by having a different way of dealing with that and everybody knows there are classified Defense Department programs and everybody knows there are classified Intelligence Committee programs. All the intelligence gathering techniques and so forth—there are classified programs there.

There is a very good reason for not having that information of the expenditure of taxpayer money made available publicly. We have a check on that. The Armed Services Committee watches carefully what happens to that classified information. The Pentagon is not allowed to shovel everything into the classified account so that they are not held accountable. The Pentagon, for the most part, is accountable and have to explain to the public how they spend their money. It is the same thing with the CIA. We have an Intelligence Committee that oversees the CIA, rides herd on it. We are hearing debates about that right now. There is an accounting there even for the programs that are classified.

There is no accountability of $57 billion of taxpayer money. We cannot find out. The only way now that we can find out is to go through the cumbersome process of taking an already beleaguered General Accounting Office and giving them a particular charter to go after something. The taxpayers do not know. The public does not know. Yet, we have $57 billion of black hole money that has been spent, and we do not know where it has gone and why.

This $57 billion is just the tip of the iceberg. It is small compared to the next piece which is $160 billion.

It would seem to me, Mr. President, that this is exactly the kind of amendment which we ought to be adopting.

It seems to me that this kind of disclosure not only will promote more thorough bank examinations as well, but also a fairer examination. Again, we know that this is an important public set of issues, but it also serves the purpose, Mr. President, of helping to make the regulators more accountable. They are going to know in the future that this kind of thing, if there is a failed S&L, failed institution of this kind, they will know in the future that these examination reports are going to be made public and, therefore, they are going to do a better job.

As I said before, I am sure that some of these bank regulators are going to be extremely uncomfortable with this, but I think, Mr. President, that this is precisely what we ought to do.

There has been, as well, a major concern among current members of the administration to make sure that we have a number of these out in the open. The importance of the sunshine has been reflected by many members of the current administration. For example, the Chairman of the Securities and Exchange Commission, Richard Breeden, the White House's point man on the S&L cleanup, did a very able job of assembling FIRREA very rapidly and crashing into that program in 1989.

I have great admiration of Mr. Breeden. When Bush first took office, Breeden said:

> I would hope we would learn from the disastrous experience of the thrift crisis as we move forward in developing both accounting and disclosure standards * * *. I think public disclosure is the greatest disinfectant, one of the greatest disinfectants ever invented.

Mr. Marshall Breger, Chairman of the Administrative Conference of the United States, an independent agency that develops recommendations to improve administration of Federal programs, including regulatory efforts has stated:

> The traditional approach to the oversight of financial institutions—namely heavy reliance on informal or "quiet" procedures to achieve legislative and regulatory policy goals—was satisfactory because the workload was under control and there was no apparent systemic problems that needed to be solved. But when significant failures erupt among regulated entities, and the day-to-day workings of the federal agencies become front page news, traditional informal, nonadversarial, back-room approaches are no longer sufficient. Enhanced decisional regularity, procedural openness, and greater public accountability are now demanded. * * * I think sunlight, to quote Justice Brandeis, is indeed the best disinfectant.

There can be no more eloquent statement.

We should also remember, Mr. President, that S&L's and banks are not private businesses. They receive significant benefits from taxpayer support and guarantees. Deposit insurance and access to credit through Federal institutions such as the Federal Reserve and the Federal home loan banks are examples of the special support we give depository institutions. With this kind of Government backing, thrift and bank problems are a legitimate public concern.

When the insurance funds are healthy—the S&L fund, the bank insurance fund—losses are covered by private funds. Insurance premiums are paid by banks and thrifts and a degree of privacy is appropriate. But when the so-called safety net breaks down and tax dollars are tapped, as they were in these 1988 deals, we are in a different situation and taxpayers have a right to know.

The public will benefit from public disclosure of both examination reports and settlements of lawsuits the Government files against individuals.

Let me also note, Mr. President, what the difference is between what happens under this amendment and what happens in a normal bankruptcy. If a small business in the United States goes bankrupt, that failed institution goes in to the bankruptcy judge and says to the bankruptcy judge, here are my assets, here are my liabilities and the judge decides who gets paid. The judge goes through all of this information. In a bankruptcy on the private sector, there is a vast amount of information laid out.

But we are not even laying out that much information for the S&L's. All we are requiring is that these reports on what happened in those institutions, when and where, be laid out. We are not making available the records on who was a depositor in an institution, who put their savings in there. We are not dunning any institutions that are healthy. This has to do only with those failed institutions that are bailed out with taxpayer money. This is a much narrower requirement, Mr. President, than even is laid out for a bankruptcy.

So why shoud the taxpayers' money not be even approaching the significance of the bankruptcy for private transactions? These are public transactions, Mr. President, and they absolutely need to be made available publicly.

These settlements can be and should be in the best interest of taxpayers. That is what they are supposed to be all about, and partially closing the window is the price that we pay for pursuing settlements. But we should not bring the shades down completely. We should have these settlements made available.

I think they should be made available to the public. I think it is absolutely time we do that, Mr. President. That is what this amendment is intended to do. It is not punitive for healthy institutions, it does not reach beyond the 1988 deals. It just says that the taxpayer ought to know where that $57 billion goes.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 795 TO AMENDMENT NO. 794

(Purpose: To require financial institution regulatory authorities to make certain information available to the public in relation to the resolution of a failed depository institution involving the use of public funds)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Nebraska [Mr. KERREY] proposes an amendment numbered 795 to amendment No. 794.

Mr. KERREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection.

The amendment is as follows:

> Beginning with page 1, line 5, strike through the end of the amendment and insert the following:
>
> (A) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or of a holding company of such institution, performed during the 5-year period preceding the failure of the institution.
>
> (2) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation, the Federal Savings and Loan Insurance Corporation, or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in paragraph (1) shall be published and made available to the public.
>
> (3) APPLICABILITY.—The requirements of paragraph (1) shall apply to any insured de-

pository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation.

(d) PUBLIC DISCLOSURE CONCERNING CERTAIN FSLIC TRANSACTIONS.—The Board of Directors of the Resolution Trust Corporation shall make available to the public not later than October 1, 1991, the draft version of a report prepared for the Oversight Board of the Resolution Trust Corporation and the Congress in accordance with section 21A(b)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(B)) that identifies by name all bidders and their employers, as well as all Federal employees and officials, involved in the Federal Savings and Loan Insurance Corporation's Southwest Plan transactions and Oklahoma Plan transactions.

Mr. KERREY. Mr. President, this amendment to the amendment offered by the distinguished Senator from Colorado is a bit narrower than the general requirement of release of information. This deals with a report that was done for the Congress and for the Resolution Trust Corporation's oversight board as a consequence of a very specific mandate in section 501(b) of the FIRREA legislation. That was a requirement for the RTC to report to the RTC oversight board and to Congress regarding all insolvent institution cases resolved by FSLIC between January 1, 1988, and August 9, 1989.

Mr. President, there were two volumes of this report which covered the Southwest plan and the Oklahoma plan transactions. These reports were prepared by Steptoe & Johnson, a law firm in the Washington, DC, area.

The amendment that I am offering comes as a consequence of some difficultly on the part of the RTC in deciding whether or not to release the complete version of this report. The problem arises because they are concerned, in the first instance, about germaneness of some of the information in the full report and then, second, Mr. President, the RTC board becomes concerned about the possibility of lawsuits that might be filed either against people who work for the RTC or perhaps even against individuals who work for Steptoe & Johnson. So there are some legitimate concerns, I believe, about the full release of that information.

Nonetheless, Mr. President, I have examined the report, and I simply find nothing in there that I would want to withhold from the public.

All of us have that opportunity to present to the public every piece of information that the public asks us. We are very familiar with full disclosure. We are familiar with the advantages of full disclosure, and we are familiar with the burdens of full disclosure.

In this particular case, Mr. President, what we are talking about is a transaction that occurred over a specific period of time from January 1, 1988, until August 9, 1989, when FIRREA was enacted. Over that period of time, some employees of State government negotiated on behalf of the taxpayers agreements that obligated the taxpayers, as we are today considering 15 billion dollars worth of appropriations of taxpayer money directly as a consequence of the transactions that were negotiated in 1988 and 1989.

Mr. President, I believe that unless there is an overwhelming, compelling reason to withhold information about those transactions, that information should be released. It is difficult for Members of Congress to do that kind of analysis and reach a conclusion as to whether or not the information should be released.

I would side with the remarks of the distinguished Senator from Colorado that unless there is national security issue at stake, unless we see the kind of detailed transactions, personal tranactions, that could somehow compromise an individual that did not expect that information to be released when they were negotiating with the Government, all those sorts of things could possibly cause us to conclude that at the time information should be withheld.

But, Mr. President, I call to the attention of my colleagues that we are not talking about, in my judgment at least, that kind of information. These are the reports that have been released to the public. A member of the press goes to the Resolution Trust Corporation and asks to see the evaluation that was done of those deals—and by the way, the report overall concluded that there were unfair procedures in the sales, which is one of the reasons that the press would like to get access, the public would like to get access to the full reports themselves that, indeed, Steptoe & Johnson indicated there were unfair procedures in those sales.

Mr. President, the full report does contain some personal information. The report is somewhat larger. The full report does contain information about some individuals who bid, and some individuals who approached the Government, but that is precisely the analysis that was done by Steptoe & Johnson, trying to determine whether or not there was unfair advantage given to some individuals.

So, Mr. President, I think it is legitimate for us to be supplied with the record and analyze and reach a conclusion whether or not it should be released. It seems to me it is a legitimate request on behalf of the people that the public have an opportunity to examine that final report itself.

There is a further reason I urge upon my colleagues to consider this particular amendment. That is, indeed, it is difficult for the RTC Board that in response to my questioning has said on repeated occasions they would consider releasing it—they have now scheduled a meeting for July 31 on which they are going to take this matter up—it is difficult for a Board like this to make a decision. It is difficult for this particular Board, which, Mr. President, I point out to my colleagues is also the Board of Directors for the FDIC. The RTC and the FDIC have one Board. That Board must make a decision now about whether or not to release the information. It is difficult.

I believe it is legitimate for us to provide some basis for that Board to make this decision, for us, based upon our understanding of full disclosure and the need for full disclosure, to support this particular Board when it makes a decision, so they have some comfort that we are backing that decision with our own best judgment.

Further, Mr. President, I say again to my colleagues who have examined this dual Board structure, the RTC Board must wonder whether or not their decision could in fact be overruled by the RTC Oversight Board itself. The RTC Oversight Board may say we have no intent of overruling your decision, but on previous occasions they have overruled and taken different action.

So I urge my colleagues to consider favorably this amendment. It is consistent with the kind of disclosures that not only we make throughout our service but the kind of disclosure I think all of us have grown accustomed to throughout Government.

Mr. WIRTH. Will the Senator yield?

Mr. KERREY. I will be glad to yield to the Senator from Colorado.

Mr. WIRTH. I commend the Senator from Nebraska for this amendment. I think it is helpful. The amendment simply goes to make public the Steptoe & Johnston analysis of how the 1988 deals were made and how much they are going to cost us. I think it is exactly the right thing to do. I thank the Senator for yielding and for his good work.

Mr. KERREY. Mr. President, it sometimes falls to us to try to remember what we were previously very concerned about; that during the debate about FIRREA legislation there was a great deal of concern about the 1988 transactions, and in some cases unfounded accusations made about the nature of these transactions. What occurred was the Congress, I think quite correctly, said that there was a requirement for an investigation to occur, an independent analysis of what occurred in those transactions. Indeed, in withholding the information as we all know, Mr. President, it creates an impression of conflict that may not be there. It creates a suspicion that perhaps something occurred that, indeed, did not happen.

One of the things that I believe is happening in America is that all the appropriations of the Resolution Trust Corporation are being called into doubt as a consequence of a deterioration of trust, in many cases not as a result of individual performance or individual intent but merely as a result of the public not getting all the information it deserves.

At the risk of being redundant on this particular issue, the oversight board only has four public meetings a year in which the public has a right to come and make their case and hear what decisions are being made, to listen to the logic of the decisions, and to have the opportunity to hold the public board accountable for the decisions and the basis for those decisions.

Mr. President, this is an amendment that I think is consistent with every standard of disclosure that we have as Members of Congress, and those of us who have had experience in the executive branch can testify as well it is a standard to which we have to hold in the executive branch as well.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. WIRTH. Mr. President, I believe there is a sufficient second.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, I suggest to my colleagues that they do not need to worry about a sufficient second at this time. After we have discussed this for a few hours or a few days, I am sure they will be able to get their sufficient second.

I feel very badly that we even have to discuss this subject on this particular bill. We have a good, well-balanced bill that deals with appropriations for a lot of fine agencies. I do not know how the Chair would rule. I never have known. But it clearly would be a technicality if this was considered germane. It is clearly legislation on an appropriations bill.

I do not know whether I will test that or not. I will decide sometime later. That is not nearly as important as what bad public policy this is.

I should probably be more moderate in my statements, but I will not. I sat here and thought about it. I thought that I would, but as a matter of fact this Senator is a little bit tired, more than a little bit tired, of this issue being politicized.

This Senator, after stuggling through this issue for many, many years, thinks it is far too important to play Republicans and Democrats with it or try to embarrass someone. There is plenty of blame to go around for probably the worst financial catastrophe this country has even been involved in. It will get bigger before it gets better. That should be obvious to everyone.

I have told the administration many times, whatever you think your estimates should be, double it, because even though you are doing the best estimates you can at this time, you know you are going to be wrong. You cannot predict the real estate economy, you could not predict the recession, you cannot predict the war, so just double it each time, and maybe you will be closer. That is all a matter of public record as well.

Over and over again, I have tried to be very realistic about this subject. Last fall, I got so upset with the RTC that I told them to do something even if it is wrong. Just do something because with all of the delay 2 years have passed since FIRREA. They have not done their job well enough. There is no doubt about that, no doubt whatsoever. Anybody can clearly see that.

Why do we not all recognize that and try to work together on some means because there is partisan politics that go on on both sides. Let us not kid anybody about that. But this Senator is sick and tired of it. Frankly, that is one of the reasons that I am not running for reelection. The major reason or overwhelming reason is I want to spend more time with my wife and children. It is a personal decision. I do not like to stay away from my family until 11, 12 playing games night after night for 18 years.

So I am leaving. But there is another reason. This body becomes more and more politicized every year I am here. I understand partisan politics. I am a Republican. There are a lot of issues that deserve to have partisan differences of opinion. But there are some that should have none. There are some issues we should just forget where in the heck we came from and what our political language is, and decide this country has one hell of a problem—and let us work together to try to do something about it.

We have one side that tries to minimize it, and the other side that tries to blame; and, boy, we have a wonderful dead horse here—the 1988 deals. Over and over and over again, year after year, the 1988 deals reminds me of a Republican and 50 years later we still blame Herbert Hoover. The Democrats have finally quit running against Herbert, or whatever his name is, Hoover. They finally quit that one.

I guess now we are going to play the 1988 deals and hopefully someday we will find that George Bush and Ronald Reagan did it all by themselves. Well, that is fine I guess. My party probably would be doing the same thing if it was a Democratic administration that had been around.

I understand the game. I understand it fully. But it does not make it right. It does not make it right that in some issues that are as important as this issue—and the incredible cost to the taxpayers—that we cannot forget the games, the politics, and sit down together, and say, what is the best public policy? That does not mean this Senator knows exactly what the best public policy is. But, collectively in this body, there certainly ought to be enough intelligence if we sat down together as Members of the U.S. Senate and said, collectively, what is the best public policy?

We are going to have another couple of amendments on the 1988 deals today from Senator METZENBAUM that I will accept after being modified. We will add more language every year. We will study them to death. Hopefully, on some people's part, we will find something terribly wrong. I do not know.

If I wanted to play the game, I guess, I should start off with amendments to investigate the Congress. I will guarantee you the record is very, very clear. The 1988 deals never would have been necessary, however good or bad or indifferent they are. Whether they are special deals or not, whether there is fraud, I do not know.

But I do know that if Congress had provided the money for FSLIC, if they had recapitalized FSLIC, the 1988 deals would not have been necessary—simply would not have been necessary. You would have had the money to go in and say, hey buddy, you are brain dead, you are out of existence. You could have done it, and done it a lot sooner back in 1985, or in 1986. The Senate at least behaved responsibly in the fall of 1986. The Senate passed a $15 billion FSLIC recap. The House of Representatives did not. Not only did the House of Representatives not recapitalize FSLIC in 1986, but they let the emergency provisions of Garn-St Germain expire. As long as I have mentioned Garn-St Germain, I am sorry.

The Senator from Colorado has left because this Senator is a little bit tired of the linkage between Garn-St Germain and deregulation and the problem. I will try for the 10,000th time to make a few points.

Garn-St Germain is still the law of the land, not primarily a deregulation bill. It was a regulatory bill and the first two titles were regulations—such things as allow troubled institutions to be merged across State lines so that you could find merger partners, rather than running down the FSLIC fund. The emergency provisions expired on September 30, 1986, and so after failing to get the $15 billion FSLIC recap—again totally paid for by the U.S. Savings and Loan League and their members, not a dime of taxpayers' money involved—they not only would not pass that, but they did not pass the extension of the emergency provisions of Garn-St Germain.

So we left the session in October 1986 not only not giving new power, new authority, and money for FSLIC to close down these brain-dead institutions, but we took away the existing emergency power. I would also add as to deregulations part in the failure of these institutions that over the last 10 years 74 percent of the entire dollar volume losses in this entire crisis occurred in State-chartered institutions.

I could drag out the testimony that if Garn-St Germain had applied to State-chartered institutions, not just Federal, there would not have been a S&L crisis.

One example. One of the big problems in this whole deal was direct investments where an institution did not have to make loans. They could make investments on their own behalf—ridiculous concept. Garn-St Germain continued the existing law of allowing 23 percent in direct investment, directed to Federal Home Loan Board, however, not to expand that definition.

So it actually tightened down on direct investments in the 3-percent basket but the Texas Legislature allowed 40 percent in direct investments and the craziness of the California legislature allowed 100 percent in direct investments. A State-chartered S&L in California did not even have to make loans.

So let us talk about facts here. Deregulation was a major cause of the problem. Seventy-four percent of those dollar volume losses occurred in State-chartered institutions and the vast majority of those losses occurred in Texas and California. Maybe we ought to investigate the Texas and the California legislatures but not the Federal legislation and not the Senate which did try very hard to recapitalize it.

So maybe I ought to start offering amendments every time we are going to investigate the 1988 deals. Maybe I ought to try to get into forbearance in the House of Representatives. Maybe I ought to talk about the role of some of the leadership in the House of Representatives that said it was a $5 billion problem.

We talk about estimates on this problem, and who was underestimating? The House of Representatives, not in an opinion, not in an estimate, but by the passage of a bill in 1987 said it was a $5 billion problem. That is all they had to pass to solve the problem. $5 billion will not even take care of the interest. But that is what the House of Representatives said.

If we are going to try to play games and politics and assess blame, then maybe this Senator every time an amendment comes up on the 1988 deals, will start offering one to have an investigation of the House of Representatives.

What are we going to find out? We are not going to find any dishonesty or any fraud over there but we will find out there was a heck of a lot of influence from the U.S. Savings and Loan League and the S&L's who wanted a Federal bailout, who wanted the taxpayers to bail them out.

I spoke to a group of them once in Phoenix when I was pushing my $15 billion FSLIC recap. One of them stood up and said, but you do not understand. We think this is the taxpayers' problem. We do not want to pay for our own problems.

I said, well, you probably will never invite me back again, but that is immaterial because if taxpayers of this country should not have to bail out waste, fraud, abuse, and stupidity, that is your problem.

I passed a $15 billion FSLIC recap in this body and again if anybody wants to forget the opinions, forget JAKE GARN's opinion, forget anybody else's opinion, just go back and read the CONGRESSIONAL RECORD.

If one just reads the hearing records in the House Banking Committee and the Senate Banking Committee, any fair-minded person has to come to the conclusion that the S&L crisis never would have occurred if Congress had done its job, if they had given the Federal Home Loan Bank Board the money and the authority to move in and close these institutions down. That was not done.

My purpose is not to stand here and defend the 1988 deals, because I do not know enough detail about each one to make that decision. I have no objection to going back and it being investigated. Over and over again, I have stood here and agreed to language that does that. With Senator METZENBAUM, we have gone through this several times. And the public has a right to know what happened in those and where their money is going.

That is not in dispute among the Senators here on the floor today. It is, how many times do we do it and in what ways do we do it, and simply to recognize the reality of the situation. Not once have I ever stood on this floor and ever attacked what went on in 1986 in the committee, or back in 1984 or 1985 about the House and the forbearance and their willingness to do it. Only in response to the other side. I have not and I will not initiate it, because I think it is immaterial at this point. It does not make any difference.

The point is, what do we do from now on? What should we have been doing?

I do not think RTC has done their job very well. Two years have passed, and they have not moved rapidly enough. Yet, many of the things we do hamper their activities. So we deserve some blame as well.

Let me get to what we are talking about in the Wirth amendment. Again, I do not have any problem with the intent of what Senator WIRTH is trying to accomplish. He is a distinguished member of the Senate Banking Committee and a very capable one. I value his membership on that committee. What are we trying to accomplish here? We are trying to find out what happened, and I have no problem with that.

I do not know how many studies we have to have to do that. But my problem here is not even with these reports being made public in some instances. My problem is: Do we cause more problems than we solve? Do we create problems with regulators that accomplish the exact opposite of the intent that the Senator from Colorado wants to accomplish? And do we embarrass or involve a lot of people?

We have heard a lot of talk lately about "right to privacy under the Constitution." I am not an attorney, but we talk a lot about right of privacy. This Senator has a hard time understanding the abortion debate, but that is a privacy issue. But honest people can disagree on that. We are going to hear a lot about privacy in the Supreme Court deliberations over and over again. But it seems to me that those people who are so concerned about privacy of the individual would not be for an amendment that is going to involve a lot of innocent people.

I have no problem with a board of directors, and I have no problem with the owners. That is not my problem. But this amendment goes further than that, where we are going to get involved with names of borrowers, and amounts. We are talking about customers of the bank.

I do not know—if I make deposits in banks or have loans as an individual, or anybody else in this country as a citizen—that it is anybody's business what I as an individual do. If I put my money in or make a loan on the bank, that is going to appear in the newspaper someday for everybody to see.

I think it is very clear that this amendment does endanger the privacy rights of the customers of these institutions.

I think we also ought to recognize, once again, what this bailout is involved in. Not one stockholder, not one officer, ever got any money out of this. That is not the intent. The intent is depositors.

We made a commitment, after the Great Depression, that depositors would be protected, and we put the full faith and credit of the U.S. Government behind that, so we would not have another catastrophe. So we have always been concerned about depositors, particularly the smaller depositors, with their life savings in our institutions—as we should be.

So every dime of this bailout that we hear about every day, as large as it is becoming, people at least ought to recognize that it is keeping the commitment of the Government of the United States to depositors, not stockholders, presidents, boards of directors, or anybody else. In most cases, they deserve exactly what they are getting, and maybe more in some cases.

I have tried hard, along with my staff, to make this point and to work out an amendment that we could agree on so that we were not exposing innocent customers of these banks. Again, names of borrowers and amounts; names of large depositors and amounts, unsubstantiated statements attributed—this is what are contained, to be clear, in examination reports that are made public in their entirety—to employees and/or management that would intimidate future free communication with open banks; information on security and safety systems and control that would continue to apply in the assuming bank; information affecting civil and criminal legal actions that would give unfair advantages to another party; salary and benefit information on employees.

What are we after here? Are we delving into the privacy of these people? I think it goes far beyond what is necessary to achieve the purposes which my colleague from Colorado would like to.

I have letters that at this time I will not go into, but I will quote from Chairman Seidman of the Federal Deposit Insurance Corporation, a letter dated July 10:

> Regardless of whether the amendment applies to open or closed institutions, we have serious concerns about the effect of the amendment. To understand the impact of the Wirth amendment disclosure requirements, it is necessary to understand the nature of the contents of the reports of examination. Bank examination reports contain detailed descriptions of all criticized loans and other personal financial information about the bank's customers.
>
> Information that has been provided by confidential sources about the bank, its management, and customers, is in the report. The examination reports also contain very sensitive financial information about the bank in its operations which, if publicly disclosed and thereby available to competitors, could place the insured institution at a substantial competitive disadvantage. Finally, the efficacy of the examination process is dependent upon the cooperation and willingness of an institution's management to provide highly sensitive information that otherwise would be difficult, or even impossible, for the examiners to obtain, and of which they might be completely unaware.

Mr. Seidman came on board after much of the trouble we are talking about occurred. He is not just worried about the privacy of these depositors and confidential information that goes beyond the overall bank situation; he is concerned that it inhibits good, tough examinations in the future. I certainly would share that concern.

I cannot imagine that anybody would want to do that and create an atmosphere where they were not as willing to share because of making it public.

Let me make it clear that the Freedom of Information Act, which a lot of people do not like—I happen to think it was a valuable piece of legislation to open up Government—specifically has an exemption for the bank examination process. It was not put there by accident.

The report language at the time was: "directed specifically to"—the reason they made this exemption—"ensuring the security of our financial institutions by making available only to a Government agency responsible for the regulation and supervision of such institutions, the examination, operation, and condition reports prepared on behalf of or for the use of such agencies."

It goes on to say indeed even records pertaining to banks that are no longer in operation can be withheld under exemption (a) in order to set the policy promoting frank cooperation between bank and agency officials.

This is not the regulators. That is from the report that goes with the legislation.

It is very clear what the Senate intended to do and why—so that we did not inhibit cooperation—we did not cause problems, for the very purpose my colleague from Colorado wants to achieve. I just do not think this is good public policy. That is the reason the General Accounting Office exists, to be an aid to us.

The General Accounting Office, yes, they are busy. But they certainly could go into these deals, as they are in the Bank of New England. But the very reason it was decided to ask the GAO to go into the Bank of New England and get all the information the Senator from Colorado would like to see is so it would not be made available to the general public and the depositors would not be exposed to lack of privacy.

There are ways to obtain for the Senate, any Senator, all the information that is necessary, but keeping the individual records private. Again, I do not have any objection. We go to the GAO by some other means. I think this would have a very chilling effect. I cannot imagine there are very many members of the public, when their name is constantly used, this must be public knowledge, would want their individual financial records disclosed to be read about in the newspaper. That is totally contrary to what most Members of this body talk about all the time in terms of a constitutional right to privacy.

So I just have a credible objection. I wish to pass this bill as rapidly as anyone, and I am sorry to be the one that is having to detain it. But I cannot stand by and see an amendment passed that I think is such objectionable public policy, especially when I do not disagree with the objectives of the sponsor of the legislation.

I hope there is some way we can work out some kind of a compromise where the information could be obtained, and the Senator from Colorado or any other Member of the Senate could see it, but not invade the rights of privacy of all these individual depositors in these institutions for a purpose that I do not understand, if we can obtain the information another way.

I do not intend to continue talking longer, at this point. I do not want to dominate the floor. I will obviously speak at length on other occasions.

Ms. MIKULSKI. Mr. President, if my ranking minority colleague will yield, the proponents of the amendment have indicated that it is not their desire to prolong the debate on this amendment. They, of course, can speak for themselves and would be ready to move to a vote. What would be the Senator's disposition? Would the Senator prefer to have a quorum call?

Mr. GARN. It is obvious that they would prefer to have me talk. I think they want to say more. But there are other speakers who are on their way to speak in opposition to this. I do not intend at this point to allow this to come to a vote, because I expect that they probably have the votes. This is one of those good, populous issues that sounds wonderful.

I do not know how I could emphasize more strongly that I do not object to what they want to achieve. I am frankly surprised at the lack of concern for the right of privacy by the sponsors of these amendments for those depositors and that we cannot, in some way, work out a compromise to solve that problem so we are not opening up the whole world, why we cannot work through GAO or something.

I see no purpose in making all these records public. Unless I am able to get some kind of compromise that makes this more reasonable, makes it good public policy, I will have to continue to talk or have other speakers talk, and I am not willing to go a vote, as much as I wish to finish this bill.

The PRESIDING OFFICER. Does the Senator from Maryland yield the floor?

Ms. MIKULSKI. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I agree completely with the distinguished chairman of the subcommittee. I would be very happy to move to a vote right now. I think the issue is very simple.

I have said this to the distinguished Senator from Utah [Mr. GARN] who has served so ably as the ranking Republican on the Banking Committee and has chaired that committee—I have said to him on a number of occasions, we are after examination reports. Examination reports do not include lists of depositors. Examination reports do not include the names and addresses and salaries of employees. Examination reports do not include lists of home loans and car loans, and so on.

We would be absolutely delighted to offer an amendment that says that that is not our intent. And we have made that offer to the staff of the distinguished Senator from Utah. And consumers are not involved in this. That is not what this is all about. We all know that. We are not after people. Mom and pop put a deposit in a S&L; that is not the issue. What we want to know is what do those examination reports say. The examination reports do not go after all of those depositors. They do not list depositors. The examination reports go after irregularities. They examine what?

What went on? What made what loan? It was not a car loan or a house loan that brought down these S&L's. Lincoln was not brought down because somebody made a loan on a 1983 Ford Fairlane. Lincoln was brought down because other kinds of arrangements were made, and that is what is in the examination report. It is what is in an examination report that caused these S&L's to go down the chute. That is what they are examining.

The public ought to know because it is costing the public in these pre-FIRREA deals, in the 1988 package, $57 billion. These have been examined. These institutions have been looked at. The Federal Government has the information as to why these institutions went down the chute. And the public has a right to know.

I would be more than happy, and I have made this clear to the distinguished Senator from Utah: We will, by statute, exclude home loans. We will exclude car loans. Whatever he believes is an egregious problem for the small individual or whatever privacy issues are fine. That is fine. That is not the point. It is the examination reports. That is what we want to have.

We are not asking, either, as the Senator suggested, for some kind of a major new examination. They have already been done. The Steptoe & Johnson report, addressed so ably by the distinguished Senator from Nebraska, goes into this and is a report already paid for by the taxpayers. These deals are done. The taxpayer has paid for them. The taxpayer ought to know what the taxpayer has gotten with the Steptoe & Johnson report. Why not make it public? We are paying for it; $57 billion worth. What is wrong with making it public?

I do not understand why this has become such an enormous issue. Taxpayers' money is being spent by the tens of billions of dollars, and it ought to be made available to the public.

As I have said to the distinguished Senator from Utah on a number of occasions, I understand his concerns about privacy. I share them. I understand his concerns about the innocent depositor. I share them. I understand his concerns about the innocent individual who might have had a car loan from these institutions. I share them. But none of those are the subject of the examination reports. That is not what examination reports do.

Maybe the distinguished Senator from Maryland had a good idea, that we have a quorum call and see what it is that the distinguished Senator from Utah would like to see in changes in the amendment. I have made that offer last week; I made that offer the week before. Our staffs have talked together, and I would like—you know, I have no desire to prolong this bill. I want to see this bill get passed so we can move along.

Mr. GARN. Will the Senator yield?

Mr. WIRTH. I am happy to yield to the distinguished Senator from Utah.

Mr. GARN. The Senator from Utah has never even seen an examination report, so I personally have no knowledge of what is in them. I am voting from the head of the Fed and the FDIC and the regulators, who tell me what is involved. And there is our problem.

The Senator and I have had a very good relationship. We talked on many occasions. Each time the Senator from Colorado and I have talked over the last week or so, I have thought we had the basis for some compromise.

But then, for whatever reason, and I am certainly not casting blame one way or another, when our staffs meet, they do not seem to be as cooperative as the Senator and I have tried to be, and there is obviously a difference of interpretation of what it covers. The Senator's staff obviously thinks it does not; the staffs and the chief regulators think that it does get involved. I just quickly repeat, the FDIC tells me the names of borrowers and amounts; the names of large depositors and amounts; information on security and safety systems and controls will continue to apply in an assuming bank.

So they are concerned not about the brain-dead institution out of existence, but what happens to the records of a healthy assuming bank.

I will be happy to put in a quorum call and see if we can discuss this. I am not an attorney. I do not know whether the Senator from Colorado is or not. I am not capable personally of making these legal distinctions.

But there is a very definite difference of opinion, and I do not doubt that you are sincere that you do not think it covers some of these. But you should not doubt my sincerity in believing the regulators' attorneys who tell me that it does. I do not want to take that risk in opening up the privacy that names borrowers and amounts you cannot distinguish. There is no identifying information. The bill does not discriminate between the criminals and noncriminals. The theory seems to be that everyone is presumed guilty of something unless they are proven innocent.

The bill does not distinguish between those people who actually caused losses in the institution and those in fact paid loans in full or were up to date.

The Senator will understand what I am getting at in trying to protect those relationships. I certainly do not have trouble in failed institutions, of having portions of those examination reports made public. That does not bother me. But it does bother me if there is a dispute over whether the language gets into these areas. The Senator from Colorado would not like to have a loan in an institution, be fully paid up, have the institution fail, and have his name listed as somehow, by perception, part of the problem.

Mr. WIRTH. If the Senator will yield, I believe that I do have the time.

I appreciate the concerns of the distinguished Senator from Utah. Here is an examination report. He can come over and I will be happy to share it with him. This is not a public document. It is about 12 pages long. It has no list of depositors. It has no list of small loans that are made. It has five subheadings: A letter to the board of directors outlining to the board of directors of that institution what the examiners thought was the problem. The examiners laid that out in a relatively succinct letter which is 3½ pages long. It then has an appendix to that. There are four. One, a discussion and analysis of asset quality and loan portfolio management. What was the quality of assets according to the regulators, and how well was the loan portfolio managed by the institution. No list of depositors, no list of loans.

A discussion of liquidity of the institution, of how was the institution operating.

The third subheading, international, how was the institution relating to various kinds of international loans which were of concern to the regulators.

And, finally, other matters, which is a technical appendix.

I would be happy to share this with the distinguished Senator from Utah, who is entitled to look at this report. The public is not. This is one of those institutions that went down the chute on which a very significant amount of public money was spent. No innocent individuals are mentioned in here. No list of depositors. No list of small loans. The irregularities found by the institution are listed here. There is a discussion. There is a letter from the regulators to the board of directors.

Now, what we have the ability to do is to track this sort of thing. Did the regulators, on these failed institutions in 1988 deals, did the regulators write to them in 1983 and say, "You have this problem," and in 1984 say, "This problem you have continues," and in 1985, "This problem continues." We do not know, because none of this is public.

But if there is such a pattern, does that not make you wonder if either the regulators were not doing the job or the institution was being deliberately delinquent and maybe we are in a situation where some of these who have gotten off scot free ought to go to jail. I do not know. But we do not have that.

I would be happy—again I made the offer on a number of occasions to make sure we excise—auto loans was raised at one point as a problem, consumer loans, car loans, home loans, deposits. None of those are in the examination reports. We would be happy to excise them if they are.

If the distinguished Senator would like to amend this amendment by unanimous consent or whatever, I am more than happy to do so. It is not my intent to get any individuals that might be presumed innocent. That is not the intent of this. It is to get this kind of fundamental information which goes to the management of those institutions and why they got in trouble and what they did about it. That is the intent of the amendment. That has been made very clear from the start. I think that is a very reasonable request for the American taxpayer. I am sure the distinguished Senator from Utah does as well.

Mr. GARN. Mr. President, I would be happy to look at the examination report, but I would have to assume that one report is not representative of all examination reports.

Again, I am not here representing my own feelings on examination reports, but I am amazed that we are in a debate that apparently totally disagrees with the Chairman of the FDIC, who is fairly well respected around his body, and the Chairman of the Fed. And I will quote one statement in this letter from Chairman Greenspan of the Federal Reserve System of July 10.

> We are concerned about the public release of examination reports. These reports contain confidential financial information regarding individual and corporate customers of the depository institution that is not publicly available from any other source. Release of this information could represent a serious intrusion on the privacy of these customers.

I have to assume that the Chairman of the Fed and Chairman of the FDIC know what occurred. So I would suggest that it would make some sense—I do not want to preclude the Senator from Nebraska speaking—but I would suggest that at this point it would probably make some good sense to have a quorum call and sit down and see if we can separate these issues, because I do not desire to stay out here, but I am getting opinions from the chief of the regulators that we are going to be invading the privacy of individual and corporate customers.

Mr. EXON. I wonder, Mr. President, if the Senator from Colorado would answer some questions that I have with regard to this whole matter, in just a moment.

I would first like to say that one of the real problems that I think we have in government today is the use of secrecy when secrecy is not in order. We run into that all the time, Mr. President, in the Armed Services Committee, the Intelligence Committee, and certain sectors of the Appropriations Committee where there is information available to certain Members because those Members have to have that information to responsibly discharge their duties. And for national security reasons most people agree that we have to have some kind of restriction to protect the national security interest of the United States.

Now, I also am very much concerned along the lines expressed by my colleague and friend from the State of Utah, Senator GARN, with regard to the invasion of privacy. I do think, however, that maybe this cloak of secrecy, that is used all too frequently, in my opinion, to keep information from the public for whatever reason, is overdone from time to time.

My first question to the Senator from Colorado is: Did I understand the Senator from Colorado correctly to say that the document that he has before him is not a public document and is not for public release?

Mr. WIRTH. That is correct, the bank examination reports. Now, the examinations reports of S&L's are not publicly available. You cannot, as a citizen, have access to them. As Members of Congress, we do.

Mr. EXON. In the view of the Senator from Colorado, is there anything in the report that he has referenced publicly here in debate that, in the opinion of the Senator from Colorado, should not be available to the public at large?

Mr. WIRTH. Well, if the Senator will yield, I do not believe that there is material in this particular report—I do not want to cite the institution because that would not be fair to the institution—but I do not believe there is anything there embarrassing to the consumers. In fact, I think the community would be absolutely fascinated with the allegations of this report only. And, if the Senator might further yield, if there were a pattern of reports like this over a 5- or 8-year period of the regulators saying to the institution, this problem has existed over and over again, that would truly be an interesting phenomenon, I would think, as to who is delinquent in this, the regulators of the institution or what was going on.

Then who is delinquent in this? The regulators? The institution? What was going on?

Mr. EXON. Does the Senator from Colorado share my fundamental belief that all too often certain agencies of the Government throw a cloak of secrecy over a document for their own self-protection rather than for the public good?

Mr. WIRTH. I could not agree with the distinguished Senator more. I earlier said I know some regulators, I am sure, will resist this public disclosure amendment because secrecy kind of covers up the potential of error. That is very understandable. That is a natural human instinct.

Mr. EXON. I would say, Mr. President, because of the $80 billion that has already been appropriated and will be spent, plus another $80 billion that we have been alerted to by responsible Federal authority that we are going to have to provide in some form in the future, certainly I believe the people of the United States are entitled to more information on what has happened and what has caused some individual failures of some individual institutions although, certainly, without having everyone who ever deposited a penny in the institution or borrowed a penny from the institution coming out in public.

I certainly agree with the remarks made by the Senator from Utah and the Senator from Colorado in that regard.

Is there some way that, in order to bridge this impasse that we have here now, that indeed we could get together during a quorum call and work some language, as has been suggested by the Senator from Colorado, into the proposition?

I noted with great interest that the Senator from Utah had indicated that he thought they had had an understanding, but when staffs got together they could not get the job done. In my experience, in many years in public service I have found that capable staff sometimes are not nearly as capable on getting together on some details as two Governors or two Senators sitting down and working out a problem. Sometimes, staff go overboard in introducing some of their viewpoints into a particular situation that are not necessarily shared by the Senator or the Governor who are trying to reach a common ground.

From listening to the debate, it seems to me at least from what has been said here on the floor today, there is little, if any, difference between what the Senator from Colorado wants to do and what the Senator from Utah wants to do and has agreed to. Possibly, going into a quorum call and having a discussion among the principals involved—the two managers of the bill, and the Senator from Colorado who, I think, has offered a very worthy amendment—maybe we can just bring this to a speedy conclusion and we can move ahead on what I understand from what I have listened to here on the floor this afternoon is the desire of all parties.

Mr. WIRTH. If the Senator will yield?

Mr. EXON. I am happy to yield.

Mr. WIRTH. I know the disease of overzealous staff has never infected the staff of the Senator from Nebraska nor mine, but there are other Senators who have problems.

Mr. EXON. I must say it has invaded mine from time to time, but it is corrected as quickly as I find out about it.

Mr. WIRTH. I am very happy to preclude anything that invades privacy, as suggested by the distinguished Senator from Utah. I have no intent of doing that. It is these fundamental reports that ought to be made public.

If the Senator might yield further I want to make his day with just a few more numbers on this, to depress my colleague a little more about the size and scope of the S&L disaster.

The Senator correctly referred to an $80 billion commitment so far and another $80 billion that we are looking down the gun of. I, unfortunately, am going to tell my colleague that that is all post passage of FIRREA, which is the legislation that occurred in the spring of 1989. Since the spring of 1989 there is a commitment of $160 billion.

What we are talking about here is what happened up until 1989 and that is a mere $57 billion. So this is in addition to the $160 billion to which my colleague referred. What we are talking about here is just the introduction to that. That is the preliminaries. Those were the deals made in 1988 and were made up until FIRREA passed in 1989. So that is a total of $217 billion out-of-pocket so far.

Mr. EXON. Mr. President, does the Senator from Colorado feel, as I do, that if we could have a better understanding, not only as Members of the Senate but also for the constituents whom we represent who have to dig up the money to pay for the shortfall, in the hundreds of billions of dollars—without getting specific as to what it is—if we could find out about it, it may indeed help us make some changes in the management of the system in the future so we will have a better understanding of what mistakes, if any, were made in the regulatory operation and investigation and reports?

It seems to me, one of the main reasons I would like to see the amendment adopted, the amendment offered by the Senator from Colorado, is that my friend and colleague, Senator KERREY, has been very instrumental in trying to bring about a total restructuring of the oversight system. I was with him from the very beginning on this. We are finally getting some attention now, that maybe we better had better take a look at it. It would seem to me even though we have a tendency to botch things from time to time, there is no way the Senate of the United States, by getting involved in this, could possibly botch the matter any worse than it has already been botched.

I hope and believe the main reason for agreeing to the amendment offered by the Senator from Colorado is simply to give the Senate and the people of the United States, the taxpayers who have to pay this, a better understanding as to how we can keep this from happening, as best we can, again in the future. Would that not make a major contribution to the amendment of Senator KERREY, cosponsored by this Senator? Would that not help us out, trying to figure out how we should best go forward? In other words, learning from the mistakes of the past as we, hopefully, move to a brighter and better mechanism in the future?

Mr. WIRTH. I certainly believe that is the case. That is one of the purposes of this; to understand who struck John and what went wrong.

Mr. EXON. I thank the Chair and the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I rise again to isolate a bit of the secondary amendment I offered to the amendment by the distinguished Senator from Colorado. I would appreciate hearing from the distinguished Senator from Utah, some comments as to why the disclosure of the Steptoe & Johnson report itself, the full report, is not a reasonable thing for this Congress to require?

Indeed, I am suggesting that by putting in the law the language that we want that report made public, we provide a support to the RTC Board itself, the very same board which is actually the Board of the FDIC—we provide a support and reinforcement for them to make a decision that they are obviously fearful of because of concern for potential legal action.

I understand the frustration of my distinguished colleague from Utah who has been involved in this for many, many years. There is obviously some concern that perhaps there are partisan elements injected into this debate. But Steptoe & Johnson were selected for that very reason. Steptoe & Johnson were selected. Instead of having Congress do an analysis which would have been suspect, instead of having Congress do the analysis of the 1988 deals, we went outside and we got an independent evaluation. That was the intent.

Steptoe & Johnson's analysis is a nonpartisan analysis and full disclosure of the report keeps this debate, I believe, on a nonpartisan basis.

But when there is doubt about what is being withheld and there is doubt about what is still there, not only do we have questions that go unanswered, but the public has questions that go unanswered and perhaps, most important in this particular instance, the public's representative, the press, has questions that go unanswered.

Again, I remind my colleagues, this report was released on December 26, 1990. The request went into Steptoe & Johnson by the press, by the public, for the full report. And those requests were turned away. First, because we were told that the additional information that are all names, none of which are depositors, none of which are small borrowers, but all individuals who were involved in the decisions which the independent analysis, the nonpartisan analysis concluded that some of the decisions were part of an unfair procedural process. It is not identifying this as something that occurred as a consequence of malicious intent, not as a consequence of real conflicts of interest, but just difficult procedures to establish, unfair procedures having been observed by Steptoe & Johnson.

It is impossible for us to sort out what we must do in the future to avoid that sort of thing if we do not have the opportunity to do analysis of the individuals and the decisions that they made to reach the conclusions about what the procedure ought to be.

Mr. President, the full release of this report should have occurred long ago. I appreciate and understand the concern the distinguished Senator from Utah has about privacy for small depositors and borrowers, but I do not understand the concern that underlies the opposition of release of this particular information or, at the very least, Mr. President, Congress going on record of supporting that full disclosure of this report, a report, Mr. President, that we requested.

I remind my colleagues, the law says that there will be an independent analysis. That analysis will be released to Congress and to the RTC. I assume by releasing it to Congress, it means we are the representatives of the people and thus going to be released to the people itself.

No, that is not what happened. Steptoe & Johnson and the RTC over concern for I do not know what, germaneness in the first instance, lawsuits in the second, said, no, we are not going to release all the information, thus putting us in the position where we have to read this entire report and try to determine ourselves whether the information should be released.

Mr. President, they have not made a compelling case for withholding information from the public. Thus, it seems at the very least in the Steptoe & Johnson case, they are transactions involving taxpayer money that we are voting on in considering this particular piece of legislation, $15 billion of taxpayer money, where the transaction was on behalf of the taxpayers, that they have a right to know all the information involved.

I am not asking for release of all the background information, all the interviews, all the voluminous details. All that information I am not asking to be released. But the final report, Mr. President, should not be allowed to be censored by Steptoe & Johnson out of concern on their part for germaneness or, in the second, in the instance for a lawsuit.

I would appreciate it if the distinguished Senator from Utah could perhaps provide me with some comments to guide me to be able to judge as to whether or not his opposition to Senator WIRTH's underlying amendment includes strong feelings about the release of all the information in the Steptoe & Johnson report.

Mr. GARN. I apologize to the Senator from Nebraska. I was trying to work out a compromise on another amendment and did not hear his request.

Mr. KERREY. Mr. President, I will summarize it. I said that I am sympathetic with the frustration that was obviously expressed earlier in the distinguished Senator's opening remarks, in particular focusing on the partisan nature sometimes that has been injected into the debate about the savings and loan problem and the need to restructure a solution and bring additional capital into that. The debate has, from time to time, degenerated into partisan bickering.

Nonetheless, my observation is, and perhaps I am incorrect, but my observation is that the independent analysis done by Steptoe & Johnson was done for precisely that reason, to avoid the partisan bickering. In fact, it is described as a nonpartisan analysis. We did not have a congressional committee look at it. We had an independent analyst look at it. They did their investigation. They reached their conclusion. They drafted a full report, and on their own made a decision reinforced now by the RTC to remove some of the information so that the public does not have access to it.

The question was whether or not the distinguished Senator from Utah had strong feelings about releasing the full report and, thus, would have strong feelings about opposing the intent of my amendment which is, A, to say that report should be released and that, B, it actually addresses the difficulty that the RTC Board faces, which is trying to answer the question as to whether or not there could be some legal recourse and thus saying to the RTC Board we will take an action that would reinforce the desire to make full disclosure.

Mr. GARN. I thank the Senator from Nebraska. Again, I apologize for requiring him to repeat. We were trying to work out another amendment compromise.

Let me at the outset say that all of my remarks, as the Senator from Nebraska is aware, were directed to Senator WIRTH's amendment, because I have not seen or was not aware that the Senator from Nebraska was going to offer an amendment. Therefore, I have only had a brief time to look at it while the debate has been going on.

In general, I do not object to release of the report in my cursory review of it, but I am aware that, again, there are some elements of privacy. I am informed that it identifies all of the bidders and their employees as well as all Federal employees and officials involved in Federal savings and loans.

My off-the-top-of-my-head opinion is there are elements that may fit the debate I was making against the amendment of the Senator from Colorado. I would have to take a closer look at these elements to see, but in general, I do not have a problem any more than I in general have a problem with release of an examination report if we are not getting into the privacy area of disclosure of individual private information.

Mr. KERREY. Mr. President, I appreciate that. I have spent some time with the full report. I must say that there are clearly some examples that I think 100 Senators will say, "This is ridiculous, this information should be released." When you get 100 Senators looking at it and say, for gosh sake, you are not releasing the name of a board member on a Federal Home Loan Bank Board, the Senator is saying that is not germane?

Mr. GARN. If the Senator will yield. I am not disagreeing with the general premise. I am saying I have not had the opportunity, having been made aware of the amendment a half-hour ago, to go into any depth.

Mr. KERREY. I appreciate the response of the distinguished Senator from Utah.

I point out to my colleagues that this is a request I have been making for some time. On March 20, 1991, Chairman Seidman of the FDIC agreed to make the unedited version public. That was during a meeting of our appropriations committee, VA/HUD and independent agencies committee. Then again during the Senate Banking Committee hearing in May of this year, again I asked Chairman Seidman if he would supply this information and he indicated that they were going to look into it once more.

I want to make it clear, though I respect the difficulty of receiving this amendment 30 minutes ago, my intent to try to get this information has been well known for some time. In fact, Mr. Seidman, the Chairman of the FDIC, personnally said in front of our committee that he had no objection to releasing the information.

The dilemma, Mr. President, is that every Member of the United States Senate now, I believe, has an obligation to read the report and try to determine how much this information should be made public. As I said, and I trust the distinguished Senator from Utah is correct that there are some in here who would say, for gosh sakes, why do you not release that information; almost 100 of us would say that ought to be released. Once my colleagues see that, as I have done—I have seen some information in here that I can see no reasonable indication for withholding from the public.

As a consequence of that, it causes me to say release the entire document because you have not made a compeling case at all that this information ought to be withheld. You have gone too far, in short, in withholding information from the public out of concern, as I said, for germaneness in the first instance and lawsuits in the second.

You have gone too far.

Mr. President, again I ask my colleagues to consider this kind of transaction. There are other examples away from the savings and loan problem, that can guide us. There are other examples where individuals approach Government. They ask for some sort of contractual arrangement, a contractual arrangement is produced, and there may be questions as a consequence of examining it, and all the details then become available.

We have had hearings where full disclosure is concerned. I have seen Senators rise with great concern if it is a child care program or education program. I would suggest that if it was a school funding issue at the local level, if they said to us that the information was being withheld because some individual had determined it was not germane or they were concerned that perhaps an employee was going to be sued, we would be outraged, Mr. President.

Somehow in this particular transaction we are all too willing to protect. I think we have gone too far. I think the public has an absolute right to know.

I have examined the document myself. I regret that I had to spend any time at all examining the document. It seems to me, Mr. President, this should have been released to the public, the public should have had this information last December when the law firm was assigned as a result of law to do an independent analysis presented to Congress and presented to RTC the results of that analysis. The full anlaysis should have been made public. But instead we all have to read the report and examine it and try to determine.

Mr. President, we are being asked to do more than we should. This report simply ought to be released, and my amendment merely reinforces a judgment that I believe Mr. Seidman at least and I suspect a majority of the board itself would like to do but they are concerned. I think we should eliminate that concern by enacting this amendment.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Missouri.

Mr. BOND. Mr. President, I rise to discuss the Wirth amendment. Certainly I have heard many of my colleagues talk about need to get the information on what really went wrong in the savings and loan mess. Some of us have been working on that information a very long time. I happened to have had the privilege of serving on the Banking Committee beginning back in 1987, and I heard our distinguished ranking member of this committee, Senator GARN, the ranking member of the Banking Committee, talk at great length about the need to move and to move quickly to recapitalize the FSLIC so we could start closing institutions using the premiums paid by the savings and loan industry so we would lessen the need ultimately for what has turned out to be a terrific taxpayer bailout.

Now, last year I worked with my colleague from Connecticut, Senator DODD, to get adopted by this body and ultimately to get adopted by the House and accepted by the administration a proposal to set up a savings and loan commission. This is a commission, a bipartisan, nongovernmental commission, that is to report to us, to give us information on what went wrong.

Mr. President, the funding for that is being held up in this bill. I hope we can move on and get that commission funded so we can have the experts who have been selected by the President, by the majority leader, by the Speaker get to work on it. I want to find out what the details are just as much as any colleagues do.

I heard it mentioned a few minutes ago that certainly having the Senate involved could not make matters any worse in the savings and loan crisis. That has to bring a smile to everybody's face because when you have a $150 billion black hole, it obviously took a lot of teamwork to get there in the first place. I do not think that either House of Congress nor the State legislators nor the regulators nor the industrialists nor the professionals who advised it are going to escape scot-free. There are going to be a lot of fingerprints on the body when we start to take a look at it.

As far as this amendment goes, I think, quite frankly, it has some very dangerous, unintended consequences.

Now, should the deals in 1988 be examined? Of course. That is what we directed our investigatory body, the General Accounting Office, to do. We asked them to go in and look at these deals, to see what happened, and to report back to this body and the House of Representatives what actually went wrong, what mistakes were made. Has there been criminal conduct? If so, there are prosecutorial bodies to examine it, prosecutorial mechanisms to pursue wrongdoers. There are also civil remedies. And where there has been wrongdoing, I expect—and we have every right to demand—that the Department of Justice, the U.S. attorney, that everyone involved will bring appropriate criminal actions.

We have our own watchdogs, the GAO, overseeing and looking at all that underlying information so that we can be assured if they are doing the job properly or if we can be warned if they are not.

Now, why do the people who are knowledgeable about banks, why does FDIC Chairman Bill Seidman say we should not adopt the Wirth amendment? There is an exemption in the Freedom of Information Act, exemption 8, that says it does not apply to matters "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

The House report back in 1966 said, "This exemption is designed to insure the security and integrity of financial institutions, for the sensitive details collected by Government agencies which regulate these institutions could, if indiscriminately disclosed, cause great harm."

The courts have recognized the importance of the current law which prohibits examination reports from being publicly disclosed, No. 1, to assure the security of financial institutions that such disclosures might undermine public confidence and cause unwarranted runs, and, No. 2, to ensure frank communication between bank employees and examiners.

These exam reports contain names of borrowers and amounts, names of large depositors and amounts, unsubstantiated statements attributed to employees or management that would intimidate future free communication with open banks, information on security, and safety systems and control that would continue to apply in the bank taking over the institution; information affecting civil and criminal legal actions that would give unfair advantages to the other party; salary and benefit information on employees. That is why Chairman Seidman in his July 10 letter to Senator GARN said you have to understand the nature of the contents of the reports of examination. They contain detailed descriptions. The reports contain very sensitive financial information about the bank and its operations which, if publicly disclosed and thereby available to competitors, could place the insured institution at a substantial competitive disadvantage, and, finally, it destroys the trust and confidence between the examiners and the employees of the institution.

Chairman Seidman also warned that the regulatory agencies also would be required to release exam reports for many healthy, open, insured institutions and this is one of the things to which I think we ought to call attention.

The Wirth amendment, as I read it, would require that any holding company which acquires one of these sick institutions under the 1988 plan would have to disclose all of their information as well.

This is a very broad disclosure. This could affect still open institutions. It could have a devastating effect. It could drive away customers from the institution, significantly cripple these institutions, and wind up costing the taxpayers far greater dollars.

I tell you one thing it would do for certain. When we have problems getting purchasers for these institutions willing to put up their dollars so the taxpayer does not have to come forward with the bucks to close a sick institution, if all of the details of the acquiring institution, their most secret, competitive information is revealed and exam reports were disclosed, nobody in their right mind in a financial institution would ever step forward and say I will take a sick thrift off your hands.

This is one more reason why the Wirth amendment would have a chilling effect and would, if anything, ensure that the current tremendous estimates of the cost of resolving the insolvent thrifts and the costs of dealing with sick banks would be far higher because nobody would touch one of these things if their innards, their internal workings, their most secret financial information would be spread across the public domain.

For this reason, Mr. President, I strongly urge my colleagues to reject the Wirth amendment.

Mr. METZENBAUM. Mr. President, I rise to commend the Senator from Colorado and the Senator from Nebraska for addressing themselves to this issue. I do not know of any single instance in Government where the people know less about where their money is being spent than in connection with the settlements of these deals.

What Senator WIRTH is saying with his amendment is that the people are entitled to know. I do not see now how anybody can be opposed to letting the people know.

There is a crowd down there at the Resolution Trust Corporation that somehow got in their head the idea that they own the Nation, and that they do not have to share with the people of this country the facts, the reality, and how their money is going out the door ever single day of the week. They do not have any reservations about coming here and saying the last time we needed $22 billion, this time we need $15 billion. And in the interim, some of the amendments that I put in last time, they have not done a thing about it. They give us gobbledygook. They give us just conversation.

I think the Wirth amendment as amended by the Kerrey amendment does exactly what should be done.

I was involved when we were trying to get the Steptoe & Johnson report. You could get the report after you battled but you could not find out how they got to it. It was one of those reports that was used by the agency in order to help them achieve their objective.

What is wrong with the truth? What is wrong with the people understanding how billions and billions and billions of their dollars are going out the door?

The only issue I take with my colleague from Colorado is about the merits of his amendment. The only issue I take with him is that he does not use the correct figure. This does not involve $57 billion. This involves in excess of $80 billion. And maybe more than that.

When we stand here on the floor day in and day out fighting for $200 or $300 million for some program meaning something to kids in this country, meaning something as far as education is concerned, meaning something as far as the homeless are concerned, we never can find the money. It violates the budget. It is not in accordance with the agreement. But $15 billion is what is involved in this bill for the RTC to continue paying out, and Senator WIRTH is saying let us know the facts. How did you give away the money in the past? Who had entry to come into your door and make the deal? Why did you give them so many hundreds of thousands or millions of dollars or billions of dollars? There was not any question about it. Some people had a better go than other people had.

You ask a lot of people in this country. They will tell you that they went to the RTC and they asked if they could get in to talk about taking over some of these deals. Oh, no, the door was closed.

I spent as much time on this subject as any member of the Banking Committee has spent on it trying to find out how these deals were put together, why they were put together, why somebody who had a criminal record was able to get one of these deals. We have tried and conducted hearings in trying to push the RTC to reopen, renegotiate and rescind those deals. The RTC will not do it.

The last time we told them to certify to us and give us information with respect to each of the deals, and what we have gotten is pabulum. We have gotten nothing. We have gotten soft, sweet talk. We have gotten the minimum that they could give us in order to comply with the statute.

I say that the Wirth amendment is exactly the kind of amendment that we need to let the people know what the facts are. Let us find out how those deals were made. Let us find out who had the entry to get in the door. Let us find out why the settlements were made, how much it cost the American taxpayer.

I think the Wirth amendment as amended by the Kerrey amendment is good legislation. I think we should adopt it and adopt it promptly. The American people are entitled to know how their money is being spent and the RTC is not willing to make that information available.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Thank you, Mr. President.

I ask unanimous consent that the pending Kerrey amendment 795 and the pending Wirth amendment 794 be temporarily laid aside in order to permit the managers to dispose of a series of amendments that have been cleared on both sides.

The PRESIDING OFFICER. Is there objection?

Mr. WIRTH. Reserving the right to object, before the request for unanimous consent was offered, Mr. President, I was going to explain an amendment which I will offer by asking unanimous consent which would exempt all of these little individuals of concern to the distinguished Senator from Utah. During this period of time, while it is set aside, I will show this amendment to Senator MIKULSKI and to Senator GARN and explain it. I think this will solve his problem and we can move right along.

Ms. MIKULSKI. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. GARN. Reserving the right to object, I will not object, I think the unanimous-consent request makes sense to proceed with the bill. I would like to make certain that we do reserve the right for Senator MACK to offer an amendment if he so desires. I understand if he does, he will talk about it and withdraw it. But I have not been able to check. So I would only reserve that right for Senator MACK to offer his amendment.

The PRESIDING OFFICER. Hearing no further objection, the unanimous-consent request is agreed to.

AMENDMENTS NOS. 796 AND 797

Ms. MIKULSKI. Mr. President, I send two amendments to the desk and ask unanimous consent that they be considered and agreed to en bloc, and that the motions to reconsider the votes be laid upon the table en bloc. They have been cleared on both sides and do not affect the 602(b) allocation.

The first amendent provides $500,000 within an available fund for a social-service center in Kansas and provides $1.155 million from within available funds to install new sirens in Kansas.

The second amendment is a modification to an earlier amendment offered en bloc regarding the GAO study of FHA.

I understand this technical change has been cleared on both sides.

I urge adoption of the amendments offered en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for Mr. DOLE, proposes an amendment numbered 796, and for Mr. DECONCINI, proposes an amendment numbered 797.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments considered and agreed to are as follows:

AMENDMENT NO. 796

On page 31, line 18, insert before the period: "including $500,000 for the city of Kansas City, Kansas to operate a social service center".

On page 77, line 4, insert before the period: ", notwithstanding section 201 of P.L. 100-707, including $1,155,000 to install new sirens in Kansas with a twenty-five percent local match in towns under 5,000 and a fifty percent local match in towns over 5,000."

Mr. DOLE. Mr. President, the old saying, everybody talks about the weather but never does anything about it, is almost always true. But when it comes to the severe weather we experience in Kansas, we cannot afford to just talk—we have to act.

Recently, I joined with Federal and State agencies to bring advanced early warning severe-weather sirens to 90 Kansas communities in 34 counties statewide. As a result of this cooperative effort, our State was to receive in the next year 152 surplus warning sirens that promised to give some of our smallest and most unprotected communities the life-saving notice they may need in the event of a weather emergency.

Just this month, officials at the Federal Emergency Management Agency discovered many of these sirens were in poor condition and under emergency circumstances, may fail when needed. In fact, I am advised that the cost of repairing a significant number of these sirens is more than replacing them with new equipment. This amendment would direct FEMA to purchase 152 new sirens and send them to the 90 Kansas communities who were expecting the used ones. Also, this amendment will allow the town of Andover to acquire two new sirens, if they desire, to provide better protection for their citizens.

Because this is new equipment, this amendment would require towns with populations less than 5,000 to pay a 25-percent share of the cost of purchasing, transporting, and installing the equipment. At this price, tornado protection appears to be a bargain.

EVERY SECOND COUNTS

With tornadoes and other severe weather a constant threat to our way of life, we need to do everything we can to fight back against the powerful forces of nature. Anyone who lives in Kansas knows that every second counts when severe weather is rolling across our State. The National Weather Service and local broadcasters do an outstanding job in relaying up-to-the-minute weather advisories, but without the piercing wail of a siren, many of our communities will never get the kind of warning they need to protect themselves. During the past 2 years, Kansas has been rocked with some of the most destructive tornadoes in our history—particularly in Andover where the difference between life and death may have been decided by the failure of their siren. That is proof enough for me we need action.

The Federal Government and the State of Kansas may not be able to stop tornadoes, but they can use their limited resources to protect lives, bringing needed severe-weather protection to thousands of Kansans, many in towns with no early warning systems whatsoever. Government has no higher purpose, and I am proud that as a result of this amendment, many small towns in Kansas will be better prepared than ever to ensure that natural disasters do not bring human tragedy.

Mr. President, I would ask that this money be transferred from national preparedness to civil defense and that this be reflected in the statement of managers and in the conference report.

AMENDMENT NO. 797

SEC. . GENERAL ACCOUNTING OFFICE STUDY OF THE FEDERAL HOUSING ADMINISTRATION'S MUTUAL MORTGAGE INSURANCE FUND.

The General Accounting Office shall prepare and submit to Congress no later than April 1, 1992, a study of the actuarial soundness of the Federal Housing Administration's single family mortage insurance program and the solvency of the Mutual Mortgage Insurance Fund. The study, using existing studies (including the study entitled "An Actuarial Review of the Federal Housing Administration's Mutual Mortgage Insurance Fund") and employing the latest reliable data available, shall analyze the actuarial soundness of the Mutual Mortgage Insurance Fund and the ability of the Mutual Mortgage Insurance Fund to meet the capital ratio targets established in the Omnibus Budget Reconciliation Act of 1990 under various economic and policy scenarios. Factors considered in the analysis shall include, but shall not be limited to, the following:

The actuarial performance of all cohorts of loans insured by the Mutual Mortgage Insurance Fund, including all available post-1985 books of business. Specifically, the overall default rates and claims (loss) experience of these loans should be considered.

The effect of the Mortgage Equity rule issued by the Department of Housing and Urban Development, which limits the amount of closing costs that can be financed with a Federal Housing Administration mortgage to 57 percent of the total amount of allowable closing costs, on the actuarial status of the Mutual Mortgage Insurance Fund, default rates of Federal Housing Administration borrowers, the relative impact on purchasers of homes at various price levels, and the ability of potential Federal Housing Administration borrowers to purchase homes.

The effect of underwriting changes made by the Federal Housing Administration since 1986.

The effect of the increase in the insurable maximum mortgage amount that was made permanent in the National Affordable Housing Act and the effect of further increasing the maximum mortgage amount.

The impact of a policy to allow "streamlined refinancing" whereby the borrower would not be required to pay an annual premium.

The Federal Housing Administration's accounting method for deferring and amortizing the Mutual Mortgage Insurance Fund single-family one-time premium revenue.

The valuation of delinquent loans for loan loss reserve accounting purposes.

The impact of various assumptions regarding the rate of real home price appreciation and mortgage interest rates.

The effect of various economic conditions, including favorable, mortgage, and adverse conditions, on the ability of the Mutural Mortgage Insurance Fund to build adequate capital levels.

Ms. MIKULSKI. We now move to two amendments that are also, as part of the unanimous consent, to be offered by the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I thank the Senator from Maryland.

AMENDMENT NO. 798

(Purpose: To amend section 21A of the Federal Home Loan Bank Act to extend the period applicable to single family property in the Affordable Housing Program)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 798.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF PERIOD APPLICABLE TO SINGLE FAMILY HOUSING.

(a) IN GENERAL.—Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended by striking "3-month" each place it appears and inserting "5-month".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to eligible single family properties acquired by the Resolution Trust Corporation on or after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, the amendment that is at the desk would help the American dream of home ownership become a reality for more low-income Americans. This amendment which modifies the Financial Resource and Recovery Enforcement Act of 1989, otherwise known as FIRREA, is designed to assist low-income home buyers and help them take full advantage of the special marketing period for single-family homes in the affordable housing inventories of the Resolution Trust Corporation.

When FIRREA was originally passed, there were 90 days within which home buyers would have an opportunity to be able to obtain the homes that were to be sold that were available by reason of taking over the savings and loans.

Realistically speaking there was not enough time, because while the home buyer was trying to find out the value, trying to find where the home was, trying to find out whether or not it could or could not be financed, it became almost an impossible situation. As a consequence, the very poorest people in the country who wanted to buy these homes, middle-income wage earners, people who were looking forward to having an opportunity for the first time in their lives to own a home, were not able to obtain it, to get even into the bidding process. This amendment would extend that to 150 days; 5 months instead of 3 months.

It is my understanding that the amendment is acceptable to the managers of the bill.

When FIRREA was passed, a 3-month marketing period was included to give low-income homebuyers a window of opportunity to submit a bid on a home without having to compete with the savvy real estate speculators. Experience has shown that the marketing period is simply insufficient given all the steps required to prepare a home for sale, and the effort and time needed to submit a bid and complete a sale.

The Affordable Housing Program created under FIRREA was an attempt by Congress to salvage something from the ashes of failed institutions for those individuals who in all honesty had nothing to do with the entire savings and loan debacle. The working man and woman. For too many of these people the dream of home ownership has become more and more an idealistic dream and yet under FIRREA we were given the unprecedented opportunity to assist many low-income Americans realize their dream of home ownership.

Yet when we included the affordable housing provision in FIRREA the White House complained, it moaned, and insisted that the Government had no business marketing low-income homes to the low-income taxpayers as a part of legislation designed to sell the assets of failed savings and loans. With the Affordable Housing Program the RTC has taken the White House objections to heart.

Last month we read in the New York Times and the Wall Street Journal about the failures of the Affordable Housing Program to market eligible properties to qualified buyers. Last week Mr. John Henneberger, director of the Texas Low-Income Housing Information Service testified before the House Committee on Banking, Finance and Urban Affairs about his experience with the Affordable Housing Programs in Texas. In short, he offered four observations:

First, the RTC has failed to accurately investigate, evaluate, and report on the performance of the program;

Second, the RTC has failed to undertake adequate marketing efforts;

Third, the RTC has failed to use its existing authority to implement the program; and

Fourth, the RTC has failed to list all eligible properties.

Mr. Henneberger came up with one last observation for the committee; Congress needs to make necessary changes in FIRREA so that the program will work effectively. I am offering this amendment today so that the working man and woman who wants to purchase a home from the RTC will have a reasonable chance to do so.

Mr. President, I would also like to pay tribute to the two members of my staff who helped develop this amendment: Irving and Bea Zeiger. Irv and Bea were volunteers on my staff this past spring.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 798) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 799

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 799.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert on page 95, after line 12, the following:

"The Office of Inspector General of the Resolution Trust Corporation shall review by September 30, 1993, each of the agreements described in section 21A(b)(11)(B) of the Federal Home Loan Bank Act and determine whether there is any legal basis sufficient for rescission of the agreement, including but not limited to, fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for rescission of the agreement. After such review has been completed, and based upon the information available to the Inspector General, the Inspector General shall certify its findings to the Resolution Trust Corporation and to the Congress.".

Mr. METZENBAUM. Mr. President, I believe this amendment goes very much to the whole question of the 1988 deals and the whole question of the manner in which the RTC has been conducting themselves.

This amendment specifically requires the inspector general of the Resolution Trust Corporation to investigate each of the 1988 deals for fraud or other wrongdoing to determine whether there is a legal basis to rescind the contracts.

The 1989 bailout law, the so-called FIRREA legislation, required the RTC to scrutinize each of the 1988 deals and look for ways to save taxpayers money. But among other things, RTC was specifically required to exercise all legal rights to rescind or force the renegotiation of a deal where there is a finding of illegal actions.

With the passage of FIRREA, I had hoped that the RTC would review the deals according to Congress' specifications. I was wrong—100 percent wrong. They did not do a darned thing. In the almost 2 years since the passage of FIRREA, the RTC has done little more than spend millions of dollars on studies, one of which was referred to previously by Senator KERREY, the Steptoe & Johnson review.

In fact, there were three studies that were done. The RTC is great with respect to studies, but they are not very good with respect to action and saving the taxpayers money. The first study was completed in September 1990, and they told us no more than what is self-evident: The Government made rotten deals, and the Government can exercise options in the contracts to buy back assets and pay off promissory notes.

I think they spent $3½ million, if my recollection serves me right, for that study. That study did not answer one of the most pressing questions concerning the 1988 deals, and that is: whether any of the deals could be rescinded because of fraud or other illegal actions.

Let us not forget what the 1988 deals were all about. The 1988 deals were made in the closing hours of 1988, when the RTC—I guess it may have been called something else at that time; I am not sure whether it was FSLIC, or whatever—in the closing hours were negotiating and completing deals with some of the sharpest businessmen in this country, some of them who had the best in with the politicians in this country.

They were putting deals through in the closing hours of 1988, because the law changed on December 31, 1988, at midnight. The law permitted them, at that time, not only to make the deals, to give unbelievable amounts of subsidies to bail out these savings and loans to new buyers, but it permitted them to give tax relief into the future.

If it were not enough to give tax relief, it permitted those who bought those savings and loans to take the tax benefits in order to reduce the taxes of the parent company, not only of the savings and loan. Some of the smart boys came in, and they were well represented, and those who repesented them were very well paid. They made some great deals. We are not talking about deals for $10,000 or $100,000 or $100 million. We are talking about deals for billions of dollars. The Government made one heck of a lot of rotten, rotten deals.

The American people do not know about this, but they know they have been had, and they do not understand quite why, or why people did not do more to protect them. I say to you, without fear of contradiction, that there were those in Government making those deals who were irresponsible to the people they were supposedly representing. I say that there were people making those deals who did not know what they were doing, and that people on the opposite side of the table knew very well what was going on. I say that the Secretary of Treasury, Mr. Nicholas Brady, has to accept a major share of the responsibility for those rotten deals made in 1988, because during the Christmas holiday that year, this Senator and the chairman of the Banking Committee, Senator RIEGLE, called him on the telephone when he was down in the Caribbean, and said: "Mr. Secretary these deals do not serve the American purpose; these are not fair to the American people. Nobody knows what is going on in these deals, and they are going out the door. Stop it, stop it, before the American taxpayer is taken for more than he or she has already been taken for."

Mr. Brady called back and said he was not inclined to do so, and was not sure he had the authority to do so. I say, I do not know whether Nick Brady had the authority to do so or not. But if the Secretary of the Treasury told those in charge of making the deals to stop it, nobody would have questioned whether he had the legal authority.

What we do not know is whether an acquirer profited at the expense of Government because of illegal acts that could serve as a basis to rescind the contracts, or how they were able to make those deals. The Government did not know what they were doing. The sharp boys on the other side of the table knew very well what they were doing. They were taking the American taxpayer to the clearner.

After the September 1990 study, the RTC assured us that their next studies, one focusing on the so-called Southwest plan deals, and the other, the so-called conventional deals, would answer these questions, and more. Both of these studies were completed in December and focused on the bidding and negotiating processes.

The December studies were equally lacking and disappointing. Studies, studies, studies, but no action. They did not answer the questions we needed to have answered. The studies go to great lengths to describe the various bidding processes used by the bank board, but they do little more.

It is unbelievable to me, as I stand here, that there are people in Government who were in a position to know, who could have done more, and who did so little. What motivated them to be so lackadaisical or unconcerned or indifferent? This Senator does not know.

With respect to the Southwest plan study, we are told that the plan did not provide the same opportunities for all potential bidders to compete on a fair and equitable basis. I know of people who said they called and said they wanted to bid, not necessarily on those particular deals, but they were people who had money, and they wanted to know how to get into the process, and the door was slammed shut right in their faces. They never had a chance even to offer a competitive proposal.

Does this mean that bidding and negotiating processes were not competitive? If not; why not? Was there any basis to undo the contracts because of irregularities in the bidding process?

These are questions that should have been answered, but were not. And I do not think the American people will ever know. If the Wirth amendment is agreed to, maybe we will learn a little bit more.

But why have we not learned already? Where are all those so-called responsible officials in government at the RTC who have not been willing, despite the amendments that were put on this bill last year that cost the American people $22 billion? We put amendments on saying the RTC had to provide us with more information to do more than they had been doing, but they have not done it. They have laughed in our face, and they thought we were a bunch—I do not know what they thought we are down here in Congress, but I know they thumbed their nose at us.

The law firm doing the study, Steptoe & Johnson, said it was not asked to address the questions as to why the bidding and negotiating processes were not competitive and whether or not there was any basis to undo the contracts because of irregularities in the bidding process.

Steptoe & Johnson, who I think owe the American people some explanation as to why they took the money for this study and did not really come to any reasonable or logical conclusion, said, "We did not understand our task to have been to make findings as to violations of the law."

That is exactly what we told them to do in FIRREA, and I believe Senator KERREY, from Nebraska, is 1,000 percent on target. My staff and I fought to get a copy of that report. It was not easy. You would have thought that they owned it, that they paid for it. We finally got a copy, but we could never get the backup information in order to see how they were able to arrive at their conclusions. But their contributions certainly did not address themselves to reality of the problems that exist in this area.

Then there was the second December study on the bidding process, and that was equally lacking. The authors of that study are a law firm in my own city of Cleveland, Baker & Hosteller. They said, "Our mission was not to evaluate the economic terms of any transaction or to investigate for fraud or wrongdoing."

What did we need the studies for? Not to evalute the economic terms of the transaction to see whether the deal is good or bad and not to investigate for fraud or wrongdoing? If they were not given that assignment, they should have been given that assignment. If they were given that assignment and they concluded it was not their mission, then it was their fault. But my guess is the former is the case.

Both studies should have been looking for irregularities in the bidding and negotiating process. Such findings could have served as a legal basis to rescind the contracts or serve as a basis to force the renegotiation of the contracts. This could have ultimately led to savings for the Government.

Any irregularities should have been reported to the appropriate Government agency for further investigation and possible litigation or prosecution.

Both studies failed miserably in their task of telling us whether any of the deals could be rescinded because of fraud or other wrongdoing.

The RTC has wasted a great deal of precious time and a tremendous amount of taxpayer money on useless studies that are of no real value and, in my opinion, look to me like nothing more than stalls.

The RTC has simply ignored the specific mandate in the FIRREA legislation.

I even suggested to the RTC that they might use private law firms on a contingency fee basis to do the job—to do their job—since, obviously, they were refusing to do it themselves. A number of prestigious law firms were willing to enter into such an arrangement even though that was not their normal method of practice.

In response to my suggestion, the RTC told me that they plan to do what? Yet another study to determine whether there were legal grounds to rescind the contracts.

They also told me that they plan to ask law firms to conduct a study pro bono, for free.

Mr. President, I know when somebody is giving me gobbledygook. I know when somebody is giving me phony talk. And I say to the people at the RTC, "You have been trying to bull us. You are giving us phony talk. You are trying to give us gobbledygook. When you are talking, you come to us regularly and ask for $22 billion, $15 billion in this bill, and coming for a heck of a lot more before it is all over, billions of dollars. And all you have for the Congress of the United States and people of this country is a lot of conversation, and you are not even willing to tell the facts as to how you made these deals, you are not even willing to act aggressively to try to rescind some of the deals if there were any illegalities. Whose tune are you playing? For whom do you work? Why is it you and the RTC can hold your heads high and walk down the street while the American people are being ripped off and you are not doing anything about it?"

The RTC was willing to pay outside counsel to do what amounted to meaningless studies, but was not willing to hire these firms on a contingency basis, which is without cost to the Government unless there is a recovery, in order to seek legal grounds to save taxpayer money. No, the RTC was not willing to do that.

Last year, the RTC asked this Congress for $22 billion to make payments on the 1988 deals and to restructure the deals by exercising options that are in the contract, such as prepaying notes. They told us, wonder of wonder, they could save $2 billion by doing that. Sure, they made the bad deals, knew they are going to pay off the people who put some money into them, they are going to give them cash in advance sometimes, much, much more money than they actually put into the deals, and, hooray, we are going to be saved, not going to be had, for $22 billion, we are going to save $2 billion on that.

We gave them the money but required them to provide the Congress with monthly reports, on a case-by-case basis, describing any action taken on the 1988 deals.

In addition, the RTC was specifically required to certify to Congress for each deal that a determination has been made as to whether there is a legal basis to challenge and possibly rescind the deal.

I stood here on the floor and had no difficulties with respect to the manager of the bill, but the fact is there were others in this body who were not willing to accept the amendment. And the RTC was sending word we do not want the amendment, and it was only when I threatened to stand here and keep the bill here as long as necessary that we were able to get the amendments in.

I want to make it very clear that the manager of the bill, Senator MIKULSKI, was completely cooperative and completely supportive and that it was others who stood in the way of making that possible.

Finally, when it was clear that the bill was not going to move unless those amendments were adopted, we got them into the bill.

I am frank to say to you it was my hope that by requiring that kind of reporting and certification, the Congress would ensure that the RTC would finally review the legality of the deals. I expected that the RTC would finally fulfill its obligations under FIRREA.

Mr. President, I was wrong again. When asked whether the RTC has reviewed the 1988 deals, to determine whether there was fraud or other illegal action involved, the RTC again told my staff, what do you think? That they planned to do another study. They have to be the most studious people that I have ever met in my entire lifetime because they are constantly having new studies, new studies. But this one is going to be better than the previous studies because this one they want to call together a think tank to study the issue. I do not know what is different about a think tank studying than Steptoe & Johnson studying the issue and Baker & Hostettler. It seems to me the Government officials do not need studies. They need to act.

When asked today whether the new study has been started, the RTC responds it is in the works, it is in progress. Absolutely nothing has been done. We are getting nothing from the RTC but a lot of begging for more taxpayer money and empty promises.

The Judiciary Subcommittee which I chair conducted oversight hearings on one of the 1988 deals, the Bluebonnet deal purchased by James Fail. Those hearings revealed that the Bluebonnet deal involved favoritism, poor Government staff work, huge Government subsidies to James Fail, political intervention. And with respect to James Fail, he was a man, who, due to his prior legal troubles, should never have been eligible to take over a thrift. In short, there were numerous grounds, including misrepresentation, to seriously consider rescinding or forcing renegotiation of the contract.

What has the RTC done about James Fail? Absolutely nothing. But James Fail has been busy. I might refresh your recollection and tell you that James Fail is the man who was able to get into this deal by putting $1,000 of his own money, period, $1,000 of his own money. While the RTC sits on its thumbs, James Fail has the nerve to sue the Government for allegedly interfering with the thrift he acquired from the Government as a result of his alleged misrepresentation.

Now, I have heard it all, but I say to you that to a Government that has been pouring out millions and, if I am not mistaken, billions of dollars to enrich Mr. Fail and to make it possible for him to go forward with his deal in that magnificent building which he operates down in Texas, what does he do? He does not even have the courtesy to say thank you. He is a pretty smart fellow. He just turns around and sues the Government, sues the Government. I do not know what for. But instead of being on the defensive, Mr. Fail takes the offensive. I remember when I practiced law I always thought that was a pretty good way of proceeding.

If the RTC is not trying to sell us a bill of goods with more useless studies, all the while begging for money, they are trying another tactic. They tell us that neither FIRREA or the certification legislation specifically tells them that they must review the legality of the deals. According to the RTC if we wanted such a review, we should have required the inspector general to do it.

This is just another instance where the RTC is operating as an entity accountable only unto itself. It has chosen time and time again to thumb its nose at the Congress.

The RTC has not scrutinized each of the 1988 deals as they were instructed to do by this Congress. The RTC has not even attempted to exercise its authority to rescind, or force the renegotiation of the deals where there was misconduct such as fraud or misrepresentation. The RTC has failed miserably in its responsibility to the public and in complying with its congressional mandate.

It has been almost 2 years since FIRREA required the RTC to review the 98 deals that comprised the 1988 deals to determine if the contracts can be rescinded. It has been 8 months since Congress gave the RTC $22 billion to resolve the 1988 deals. To date, the RTC has only resolved one of the deals; 1 out of 98. Can you imagine? Only one has been concluded.

And here we are again. The RTC is here with its hat in hand asking for $15 billion more to resolve the 1988 deals.

I am determined that the RTC will be held accountable for its actions. I think I am well enough informed that I am soon going to be getting an answer, "Well, we did not know," it should have occurred. We now have a new director of the RTC, because all the rumor mills indicate that the present director of the RTC is going to be leaving that position.

I do not know whether he is or he is not. But I can predict to you with certainty that this administration will find him to be a fall guy for all the things that did not happen while he was in control. And I say to you that no one person can be the fall guy. It is the fault of this administration.

It goes back to Nick Brady when he refused to stop the deals from being made. It is the fault of this administration in not wanting to do anything with respect to the dealings that were made. It is the fault of this administration for being willing to have an open door for certain fixers and have the door slam shut for many others. I am determined that the RTC will not act as an entity of its own—out to do whatever it pleases—including ignoring Congress.

My amendment is yet another attempt to make the RTC review the legal sufficiency of the 1988 deals. This time though, it makes it clear that the inspector general of the RTC has the duty to review the 1988 deals to determine whether there are legal grounds to rescind the contracts based on illegal acts.

And, as each Member of Congress knows, the inspector general is an independent operation, not responsible to the RTC, only responsible to itself and to the Members of Congress and the administration; I am not even certain it is responsible to the administration. I do know it is responsible to Congress and that we always can turn to it for a clear and unequivocal answer.

Specifically, the amendment requires the inspector general of the Resolution Trust Corporation to review each of the 1988 deals to determine whether there is a legal basis to rescind the deals, such as fraud, misrepresentation, improprieties in the bidding process, or any other legal basis sufficient for rescission of the agreement. Once the inspector general has completed his review, the inspector general is required to certify his findings through the RTC and the Congress by September 30, 1993.

Mr. President, it is my hope that the inspector general will act more promptly and as he reviews the deals that he will be reporting the conclusions of those results. I am pleased to have accepted an amendment, suggested by our colleagues on the opposite side of the aisle, that by September 1993, he has to complete his works. I think that is the way it should be.

It is my hope that any ambiguity the RTC has as to what is expected of them has been made abundantly clear by my amendment.

I last heard that my amendment is acceptable by the managers of the bill, and if it is I am prepared to proceed to ask the Senate to act on it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 799) was agreed to.

Mr. GARN. Mr. President, I appreciate the cooperation of the Senator in being willing to modify his amendment so that it was acceptable. However, I might have put a time limit on his speech, if I had known before I accepted it. But it is acceptable.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 800

(Purpose: To provide for funding for community action agencies under the HOME Investment Partnerships Act, and for other purposes)

Ms. MIKULSKI. Mr. President, I send to the desk and ask for its immediate consideration, an amendment which has been cleared on both sides. This amendment permits community action agencies to participate in the HOME Program, and I urge its adoption.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI] proposes an amendment numbered 800.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . The limitation on assistance under section 234(b) of the Cranston-Gonzalez National Affordable Housing Act shall not apply to community action agencies as specified in section 673 of the Omnibus Reconciliation Act of 1981, with respect to funds made available under this Act, whenever expended.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 800) was agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the only amendments remaining in order be the Kerrey amendment No. 795, the Wirth amendment No. 794, and a Garn amendment relative to 794 and 795; and that upon the disposition of these amendments, the Senate without intervening action or debate proceed to vote on final passage of H.R. 2519, the VA-HUD appropriations bill.

Mr. WIRTH. Reserving the right to object, Mr. President, I would like to speak on the reservation and ask a question if I might of the distinguished Chair of the subcommittee.

First, would it be possible on the Wirth-Kerrey amendment to add to the unanimous consent a time agreement so that we can just vote on the Wirth-Kerrey amendment?

Ms. MIKULSKI. I am advised by the ranking minority member that is not acceptable.

Mr. WIRTH. As I have said to the distinguished Chair over and over, I have no desire of holding up this bill. I just think this is an important issue of public policy that we ought to have a vote on. I am very happy to have a vote and time agreement and let us vote on it. But there is an objection to that, is that correct?

Mr. GARN. If the Senator would yield, yes, there is an objection. No one more than the managers of the bill would like to complete this bill. But as long as I consider the amendment of the Senator from Colorado very bad public policy. Yes I am willing and I will take the blame. I am willing to delay the bill. And our staff has been negotiating. I have not heard the results of that negotiation. But at this time, I would object to a time agreement on the amendment.

Mr. WIRTH. Further reserving the right to object, do we have a copy of the other amendment? We have seen the Kerrey amendment. I certainly know what the Wirth amendment is. There is a third amendment involved in the unanimous-consent request.

Mr. GARN. Again, if the Senator will yield, I cannot give the Senator a copy of the amendment because that is a place-holding amendment as protection for me, depending on what the negotiations end up with.

Mr. WIRTH. Is this an amendment relating to the discussions? This is the amendment that would be produced by staff negotiations, is that correct.

Mr. GARN. That is a possibility. I hope it is not necessary to offer an amendment. We can obviously offer changes to the amendment of my colleague by unanimous consent but it is a place-holding amendment which at this point does not have any substance to it. That is all.

I am not trying to play any games with the Senator. It is simply a place-holding amendment.

The PRESIDING OFFICER. Is there further objection?

Mr. WIRTH. I just do not know what that place-holding amendment means and protecting the rights of Senator KERREY—I was trying to find Senator KERREY—maybe we could add to the unanimous-consent request the possibility of adding another blank place-holding amendment to make sure the Senator's rights are protected. If that is all right we could add this to the unanimous-consent request.

Mr. GARN. I have no problem putting in a Kerrey place-holding amendment.

Mr. WIRTH. That applies only to this business before us, a Wirth-Kerrey amendment.

Ms. MIKULSKI. Relating to title IV.

Mr. WIRTH. That would be relating to the Wirth or Kerrey amendment, a Wirth-Kerrey amendment.

The PRESIDING OFFICER. Will the Senator please propound that unanimous-consent agreement again?

Ms. MIKULSKI. I ask unanimous consent the only amendments remaining in order be Kerrey amendment 795, the Wirth amendment 794, a Garn place-holding amendment to 794 and 795, and a Wirth-Kerrey place-holding amendment to 794, 795, and the other place-holding amendments; that, upon disposition of these amendments, the Senate without intervening action or debate proceed to vote on final passage of H.R. 2519, the VA-HUD appropriations bill.

Mr. WIRTH. Further reserving the right to object if I may, Mr. President, is the thrust that there would be a vote only on final passage? Senator KERREY and I made it very clear we would like to have a vote on the Wirth-Kerrey amendment in whatever disposition.

Ms. MIKULSKI. Since the amendments are in order, that I have propounded in the unanimous-consent request, it would be presumed that any processes associated with the normal discussion of amendments would be followed. Meaning we would have votes on the amendments unless there were objection.

Mr. WIRTH. Will the distinguished managers agree to include in the unanimous-consent request to have a record vote on whatever?

Ms. MIKULSKI. I would like to dispose of this unanimous-consent request.

Mr. WIRTH. Let me ask if included in this unanimous-consent request it is possible to include also unanimous consent there be a recorded vote on the Wirth-Kerrey amendment?

Mr. GARN. On or in relation to. In other words, that simply means that if and when the debate ends you reserve your right to have a vote either tabling up or down. "Or in relation" would give the opportunity to have one or the other. From a practical standpoint, it makes no real difference. Because I do not know when we will quit talking about it. I still hope we can resolve our differences. I do not have a report back from negotiations while this discussion is going on.

I am not trying to play games. I want to reiterate how important the public policy of this is to me. If the Senator wants to add "on or in relationship to," I have no objection to that.

Mr. WIRTH. I ask unanimous consent that be added to the request of the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Colorado is advised that a record vote cannot be obtained by unanimous consent.

Mr. WIRTH. I understand.

Ms. MIKULSKI. Did my colleague object to the unanimous-consent request?

Mr. WIRTH. I was adding to the unanimous-consent request that I wanted to see if we could get a record vote. I think Senator GARN and I have an understanding that on or in relation to that we will have a record vote, so that I have no objection to the unanimous-consent request of the Senator from Maryland.

The PRESIDING OFFICER. Will the Senator from Maryland restate the unanimous-consent request so the Chair has it?

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the only amendments remaining in order be the Kerrey amendment, 795, and the Wirth amendment, 794, and a Garn amendment relative to 794 and 795, and a Wirth-Kerrey amendment relative to the Garn amendment, a place-holding amendment; that upon disposition of these amendments the Senate, without intervention action or debate, proceed to vote on final passage of H.R. 2519, the VA-HUD appropriations bill.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered. The Senator from Utah.

NASA COMMERCIAL SPACE INITIATIVES

Mr. GARN. Mr. President, a matter which concerns me as we consider this appropriations bill is the reduction our committee made in the initiatives of NASA to stimulate and encourage commercial applications of space technology and private exploitation of opportunities in space.

Indeed, it is a fundamental goal of our civil space program to foster opportunities for the private sector to utilize the technologies yielded by governmental expenditures in space research and development for improved manufacturing processes, products, and services which can add to our Nation's economic strength and competitive position in the world.

Mr. President, in years past we could be content to let our private industry exploit new technologies and opportunities simply on the basis of blind luck and chance. Unfortunately, those days have past. The U.S. leadership in science and technology which was virtually unchallenged across the board only a few years ago, has gravely eroded in the face of determined investment strategies of our major trading partners in the world. Moreover, technologies developed overseas or made available to our overseas competitors from the United States are being applied in new commercial products manufactured by them at an accelerating pace far outstripping that of our domestic industrial sector.

So not only is our crucial lead in advanced technology being eroded, but our ability to exploit such technologies in competitive commercial products is also falling behind. We see the consequences of these changes in our burgeoning trade deficit.

Mr. President, I am pleased that NASA is taking the initiative to reverse this decline in American competitiveness. Rather than simply waiting for technology to filter out into industry on its own, NASA is aggressively reaching out to our private industrial sector to tell them of these new technologies and assisting interested parties to incorporate these improvements in commercially viable new products and services.

In addition, NASA is working with the private sector to investigate opportunities where industry can meaningfully participate in Government sponsored activities in a partnership which is not only more efficient and economical to the Government, but also economically viable as a private venture. Such an example is the proposal of Spacehab, Inc., whereby this company, using privately raised risk capital is preparing to develop and fabricate an expansion module for the space shuttle which will greatly expand opportunities to conduct experiments while in orbit.

Having spent a few days in orbit in the cramped compartments of the space shuttle, I can personally attest to how valuable and useful such a module would be. And also having spent the last 15 years engaged in congressional oversight of the budgetary requirements for Government developed hardware, I have every confidence that a technically competent and economically motivated private entity can secure this additional capability at least as efficiently as direct Federal procurement, and potentially, a lot cheaper, faster, and with greater potential utilization and participation by other private sector interests.

Of course this is a departure from business as usual and legitimate questions are being raised as to the ramifications of some of the relatively novel arrangements being developed. Furthermore, because a venture like Spacehab is dependent on the Government maintaining its commitments to schedule and flight opportunities, there needs to be adequate budgetary resources to cover potential contingencies should the Government not be able to follow through.

Mr. President, I am therefore concerned with the large reduction made in the space commercialization activities of NASA, both for ventures such as Spacehab, and for other meritorious and promising commercial opportunities. I therefore expect to revisit the needs of this activity in NASA when we go to conference with the House, and hope that we are able to augment the funding levels here in order to effectively encourage greater private sector participation in our Nation's civilian space program.

Mr. President, I ask unanimous consent that an excellent article on these issues, as they confront Spacehab, from the July 8 Washington Post be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 8, 1991]

FLIGHT OF FRUSTRATION

(By Sandra Sugawara)

For officials of Spacehab Inc., the final countdown has started as they attempt to answer the question: Just how easy will it be to make a buck in space?

On paper, it looks like Washington-based Spacehab should be a pretty good bet. The National Aeronautics and Space Administration said there is definitely a need for its product—a 10-foot-long pressurized module that fits in the cargo area of the space shuttle, expanding the cramped living and storage quarters.

Early responses to the Spacehab module have been encouraging. Although the module is not schedule to begin flying on the shuttle until 1993, Spacehab already has a backlog of $250 million in orders and projected 1993 revenue of $80 million.

James T. Rose, assistant administrator for commercial programs at NASA, point to Spacehab's success in bringing together various legal, insurance and financial institutions to secure the financing as a valuable model for other companies hoping to launch their own for-profit space ventures.

But Richard K. Jacobson, Spacehab president and chief executive, said if there is a moral to this story, it is far more complicated than that. He said Spacehab's story should be viewed as a cautionary tale by other companies thinking of embarking on a similar journey.

A space entrepreneur, said Jacobson, has to attempt to persuade banks and insurance companies to trust the federal government, which he said is very difficult. The executive also must try to persuade Congress and NASA to act like a commercial company, also nearly impossible, Jacobson said.

Bankers who were interested in lending millions of dollars to Spacehab were incredulous when they entered the world of government contracting, where they learned that NASA can unilaterally cancel contracts and where Congress can cut funds for Spacehab, no matter what long-term commitments NASA has made.

"I think the government should start to look at things and act like a commercial enterprise," said William Rockford, managing director of Chase Manhattan bank, which agreed to lend money to Spacehab only after Spacehab got insurance from Lloyd's of London to cover political contingencies such as budget cuts.

The Bush administration is sympathetic to those concerns, according to one administration official involved with space policy.

"The commercial guys have been telling the government this for a long time," the official said. "The financiers have been telling the entrepreneurs this for a long time. It's one of the things that has to be addressed before it's going to be possible for many of these commercial ventures to succeed."

The White House issued commercial space policy guidelines in February that authorized NASA to compensate companies if their projects are terminated. But the guidelines stated that NASA must come up with the termination payments out of its own budget, something unlikely to happen during these days of tight budgets.

Furthermore, Congress appears to be in no mood to give in to the recommendations of the commercial sector that it surrender its right to make annual appropriations. In fact, the House Appropriations Committee said it was alarmed by efforts by Spacehab and other commercial ventures to use contracts signed by NASA to obtain bank loans. Such financial deals mean that Congress cannot cut funds for those programs in future years without putting the commercial venture and banks in precarious positions.

"It's the worst kind of back-door spending," said Rep. Bob Traxler (D-Mich.), chairman of the House Appropriations subcommittee with jurisdiction over the NASA budget. "There's a serious principle involved here, the constitutional responsibility of Congress to appropriate funds. Agencies ought not to have blank checks. That's what this is, even though the contracts say they're subject to appropriations."

In response to concern over the Spacehab contract, the House in June passed an appropriations bill that included a provision limiting the ability of other companies to use long-term NASA contracts to raise money. The House also cut the fiscal 1992 funds that NASA requested for commercial space projects. If the Senate concurs and NASA decides the cuts should come from the Spacehab program, those reductions could force Spacehab to renegotiate its loan.

"What's going to happen is anybody's guess," Jacobson said. "That's what's wrong with the whole system. You can't depend on the government. A contract has no meaning. It will always be subject to appropriations."

Spacehab is located in a small suite of offices across the street from NASA, near the Smithsonian Institution's National Air and Space Museum. Jacobson moved the offices there when he joined the company in 1987, knowing that he would have to spend hours each week walking the halls of NASA to make Spacehab's case.

Jacobson, a former McDonnell Douglas Corp. executive, has assembled a small team of space industry and NASA veterans who should feel right at home at NASA, including Spacehab Chairman James Beggs, who as NASA administrator in the early 1980s played a major role in pushing the concept of privatizing space; Vice President Chester Lee, who was the NASA official who determined what payload each shuttle would carry; and general counsel Neil Hosenball, who was NASA's general counsel.

Spacehab has eight employees and little of the technical work has been done by company employees. For instance, Spacehab hired consultants to draw up the original designs. Likewise, it hired McDonnell Douglas to oversee the entire development and construction project, and Alenia SpA, the Italian aerospace company, to build the outer shell of the module.

So what does Spacehab actually do? It owns the aluminum module, which will double the living space for astronauts and quadruple the storage space for experiments. When the module is completed, Spacehab will lease the facility. "We're more like real estate developers," Jacobson said. "We are responsible for funding, contracting and marketing."

Whether Spacehab investors make a profit will depend on how many times the government agrees to fly the module and whether enough corporate clients can be found to rent the locker space the government does not want. About one-third of the space will be available to commercial customers in the six scheduled trips.

Originally Spacehab was conceived not as a plan for shooting experiments in space but as a scheme for putting tourists into space. In 1983, Robert Citron, a former Smithsonian Institution scientist who was living in Seattle, figured there would be a sufficient number of adventurous people willing to pay $1 million for the ultimate vacation.

Perhaps not surprisingly, NASA wasn't too keen on the idea. But a consulting firm advised him that the plan could be salvaged if the module were made to carry laboratory experiments instead of tourists.

Company executives spent the next few years peddling the Spacehab idea around the world. By 1986, Spacehab had raised nearly $2 million, largely from friends and space enthusiasts. It was enough to keep the doors open, but not enough to build the module. Then the space shuttle Challenger exploded in January 1986, dampening almost all interest in space by the financial community.

Sensing that they needed help from someone with more knowledge of the space industry, Spacehab officials launched a nationwide search for a chief executive and for a corporate partner in the spring of 1986.

That's where Jacobson entered. At 66, he had reached the mandatory retirement age at McDonnell Douglas and was preparing to spend his days on the golf course. But one day, his boss presented him with an alternative plan: If Jacobson, a former Air Force pilot who had spent 23 years at McDonnell Douglas, would run Spacehab, McDonnell Douglas would agree to become Spacehab's prime contractor and direct the development of the module.

Jacobson joined Spacehab in February 1987, and soon discovered the company didn't have any money to pay him. His first fund-raising effort—an attempt to go public—flopped when investment houses told Spacehab to come back after its modules were flying.

In the spring of 1988, however, Spacehab thought its financial problems were solved. The Taiwanese government said it was interested in funding the entire project, which was estimated at that time to cost $75 million.

Taiwan's interest stemmed from its inability to formally participate in NASA programs because the U.S. government does not officially recognize it as a nation. Taiwanese officials saw Spacehab as a back-door way into space activities in the United States. But before the final documents could be signed, the president of Taiwan died. The new president decided his country had more pressing concerns here on Earth, like sewers, roads and schools. The Taiwanese government, however, did encourage a group of Taiwanese industrialists to invest in Spacehab, and they provided about $10 million in 1989.

Jacobson also found significant interest in Japan. Mitsubishi Corp. put together a seven-company consortium that included Mitsubishi Heavy Industries, Japan Airlines and Shimizu Construction, which was interested in building bases on the moon. The group invested $10 million.

By late 1989, Spacehab had commitments for about $40 million from corporate investors, but it needed far more money to finish the project. It turned to Chemical Bank in New York. After determining that Spacehab needed an additional $104 million, Chemical Bank agreed to underwrite 50 percent of that and lined up Mitsubishi Trust Bank and Industrial Bank of Japan to provide the other 50 percent.

Soon, however, the banks began to get spooked by several aspects of the Spacehab deal. In particular they were concerned that federal law allows agencies like NASA to cancel their contracts with private companies whenever the government deems it necessary, and that Congress has the ability to kill funding for political or fiscal reasons.

"If a commercial bank is going to be lending into a market that is yet to be defined, you have to look for longer-term commitments from someone with deep pockets," said Rohan Paul, vice president of Chemical Bank. He said because few commercial companies currently use space for experiments, Chemical Bank wanted to make sure the government had a long-term commitment to use Spacehab.

The negotiations dragged on for months. At one point, the banks went to NASA and asked the agency to guarantee the loan. Rose said that NASA did not have the funds to do that. NASA also did not want to sign a contract for the flights until Spacehab had a loan. But the banks didn't want to lend money to Spacehab until it had a contract in hand.

By the spring of 1990, the Industrial Bank of Japan had gotten cold feet and dropped out. Chemical Bank brought in two French banks, Banque National de Paris and Paribas, and restructured the deal so each of the four banks had a 25 percent share. That meant that there was no lead bank, and Spacehab was required to negotiate with four parties.

In desperation, Spacehab hired the New York law firm of Milbank, Tweed, Hadley & McCloy, hoping to move things along more quickly, but negotiations continued to stall.

"None of [the bankers] were used to having a revenue contract subject to political events," said David G. Stoller, the Milbank, Tweed partner who handled the negotiations for Spacehab. "As a group, they really struggled with it. But no matter what we tried when we would close a door, a window would fly open. They were frustrated. They wanted to convert this into the kind of deal they were comfortable with."

After repeated prodding from Jacobson, NASA finally agreed that if it signed a contract with Spacehab it would make progress payments. That meant Spacehab would not have to wait until 1993 for its first payments, reducing the amount Spacehab needed to borrow to $64 million. Despite the break, the deadlock with the banks continued.

As the Sept. 30, 1990, deadline for reaching a deal approached, Stoller contacted a friend of his, William Rockford, who was the head of project finance at Chase Manhattan. "We got him on the phone at the 11th hour and briefly described the deal," said Stoller.

On Sept. 30, the Chemical Bank deal expired and on Oct. 1, Spacehab accepted Chase's commitment letter and the entire negotiation process started over.

This time, however, some other things fell into place for Spacehab. Despite the lack of a bank loan, NASA finally signed the contract with Spacehab in November, agreeing to lease the module for six flights at a total cost of $184 million. Spacehab received its first progress payment of $7.96 million last week.

After about two years of laborious discussions, Spacehab was able to persuade Lloyds of London to insure the module project against various risks, including acts of Congress. The insurance cost Spacehab $16 million for three years, but Rockford said that without it, there would not have been a deal.

Rose of NASA praised Spacehab's tenacity and creativity in putting together the deal. "It's one of the first times that conventional banks have loaned money to a commercial group trying to develop a facility for space application," Rose said. "Perhaps you'll see more and more of this beginning to flourish."

But with Lloyds of London's many financial problems and with the chance that Congress may not appropriate enough money to lease all six flights at the rate to which NASA has agreed, Jacobson questions whether other executives will have the same insurance option that he had.

Jacobson and Rockford argue that if commercialization of space is a priority, then the government is going to have to protect commercial ventures from congressional appropriations decisions that could cut anticipated funds.

The Bush administration has said the commercialization of space is a priority. Supporters expect commercial ventures to work more quickly and creatively outside the federal space bureaucracy. They also argue that by allowing commercial ventures to own their products and lease them to the government, the United States is helping to build a profitable space industry.

The commercialization of space also has supporters in Congress. Rep. George E. Brown (D-Calif.), chairman of the House Science, Space, and Technology Committee, which has oversight over space programs, said he and many members of Congress "wholeheartedly support the rapid commercialization of space."

Brown also acknowledged, however, that the current federal budget deficit will probably result in a slowdown of the kind of contract that Spacehab received, until there is a clearer picture of how much money will be available in the future.

"We are anxious to encourage the privatization of space," said Traxler, the appropriations subcommittee chairman. "But we don't want the government to be paying for the privatization of space and others to be reaping the benefits."

Traxler said if investors are going to profit from these projects, they should be willing to take risks. He also suggested it might be cheaper for NASA to own Spacehab rather than lease it, and NASA acknowledged it had not done a cost analysis to determine the cheapest method.

In the future, Traxler said, NASA should come to Congress before signing contracts for commercial ventures if it wants more funding stability. "I could conceive of a situation where Congress would agree to fund X number of dollars [in future years]. It is not impossible," Traxler said. But he quickly added, "We have been reluctant to do this in the past."

Despite all this, Jacobson, who is scheduled to retire in September after his four-year detour at Spacehab, said he remains an optimist about the commercial potential of space.

"I don't think there's any question that commercialization will be successful," said Jacobson, who will be succeeded by Alvin L. Reeser, an executive at United Technologies Corp. "The question is when."

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 1501 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

Mr. WIRTH. Mr. President, I ask unanimous consent that Senators DASCHLE and WOFFORD be added as cosponsors of the Wirth amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, we have attempted to resolve this issue. The Senator from Utah and I have gone back and forth on this, and we are very close. The Senator had been concerned about some items, as earlier stated, related to secured loans, home loans, automobile loans, small depositors, and so on, which we were happy to exempt. We agreed that should be done.

An impasse remains as to what a loss was that is going to materially harm an insured depository institution. We appear to be down to that, with the difficulty of defining it. I think that information ought to be made public; others do not. That is where we are.

The Senator has a very legitimate concern about the protection of small businesses and partnerships, but how that gets defined becomes a problem. So we have reached a valid impasse, I am afraid. I was hoping we would be able to get this worked out and proceed. I am happy to yield to the Senator from Utah.

Mr. GARN. I thank the Senator. The Senator from Utah is disappointed that we could not reach an agreement. It is particularly frustrating, because I do not think we disagree in concept, but we apparently cannot get our attorneys to agree. I think that is unfortunate that we are not able to come to some closure. If all of the examination reports were as the one the Senator had earlier, that is all they had in them, we would not even be debating this. Unfortunately, many of them contain far much more information than I feel should be disclosed as far as individuals.

I am sorry we cannot come to some agreement and wrap this up. Unfortunately, we are in that position, and in the Senator's original form, I obviously cannot accept the amendment. We are at an impasse, and it is unfortunate that we could not gain a compromise.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 2699, the District of Columbia appropriations bill for fiscal year 1992, notwithstanding the provisions of rule XXII; further, that when the bill is considered, the only amendments in order other than the committee amendments be the following: Managers' technical amendments; that upon the disposition of these amendments the Senate, without intervening action or debate, proceed to third reading and final passage of H.R. 2699, the D.C. appropriations bill.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I just point out I would assume that if the wheels come off the wagon on some other matter before this is completed, would it be in order to modify that one other amendment could be in order by the Senator from Texas? I do not think it will happen.

Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1992

Mr. MITCHELL. Mr. President, pursuant to the authority granted to me and following consultation with the Republican leader, I now ask the Chair to lay before the Senate H.R. 2699, the District of Columbia appropriations bill for fiscal year 1992.

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (H.R. 2699) making appropriations for the government of the District of Columbia, and other activities chargeable in whole or in part against the revenues of the said District for the fiscal year ending September 30, 1992, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

FISCAL YEAR 1992 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1992, $630,500,000.

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

[OFFICE OF THE MAYOR

[For a Federal contribution to the District of Columbia for the Office of the Mayor, $52,000.**]**

METROPOLITAN POLICE DEPARTMENT

For a Federal contribution to the District of Columbia for the Metropolitan Police Department, $75,000, of which $25,000 shall be for an accreditation study by a recognized law enforcement accrediting organization and $50,000 shall be for community empowerment policing programs.

BOARD OF EDUCATION

For a Federal contribution to the District of Columbia, **[**$1,100,000, of which $600,000 shall be for renovations to public school athletic and recreational grounds and facilities and $500,000 shall be for maintenance, improvements, and repairs to public school facilities under the Direct Activity Purchase System (DAPS): *Provided*, That the $500,000 provided for DAPS shall be returned to the United States Treasury on October 1, 1992, if the amount spent by the District of Columbia out of its own funds under DAPS and for maintenance, improvements, and repairs to public school facilities in fiscal year 1992 is less than the amount spent by the District out of its own funds for such purposes in fiscal year 1991] *$1,130,000 for the District of Columbia Public Schools: Provided, That $550,000 shall be for renovations, maintenance, improvements and repairs to public school facilities, including athletic and recreational grounds; $330,000 for the Options Program; and, $250,000 for the Parents as Teachers Program.*

DISTRICT OF COLUMBIA GENERAL HOSPITAL

For a Federal contribution to the District of Columbia General Hospital, [$12,000,000, of which $10,000,000 shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992] *$900,000.*

TRAUMA CARE FUND

For a Federal Contribution to the Trauma Care Fund, $10,000,000: Provided, That these funds shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

For a Federal contribution to the District of Columbia for the Department of Housing and Community Development for a site-specific study of the Municipal Fish Wharf to complement a study of the entire Southwest waterfront being completed by the Department, $200,000.

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

For a Federal contribution to the District of Columbia for the Fire and Emergency Medical Services Department, $949,000.

DEPARTMENT OF HUMAN SERVICES

For a Federal contribution to the District of Columbia for the Department of Human Services for the breast and cervical cancer screening program, $500,000.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, [$1,000,000] *$426,000.*

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, $3,000,000, *together with $6,000,000 to become available October 1, 1992.*

GEORGE WASHINGTON UNIVERSITY MEDICAL CENTER

For the construction and renovation of the George Washington University Medical Center, $250,000, pursuant to Public Law 101–590 (104 Stat. 2929), together with $16,750,000 to become available October 1, 1992, $16,500,000 to become available October 1, 1993, and $16,500,000 to become available October 1, 1994.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, [$111,973,000] *$110,921,000: Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $8,326,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, [of which $1,000,000 shall be derived from the general fund and not to exceed $7,326,000] *and* shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That the Mayor shall submit to the Council of the District of Columbia by October 1, 1991, a reorganization plan for the Department of Finance and Revenue that shall follow the directives and initiatives contained in the Report of the Committee of the Whole on Bill 9–151, the Fiscal Year 1991 Supplemental Budget and Rescissions of Authority Request Act of 1991, at 8-20 (March 25, 1991).

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, [$106,430,000] *$106,630,000: Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2–135; D.C. Code, sec. 45–2111), based upon its capability of repayments as determined each year by the Council of District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, [$930,836,000] *$931,785,000: Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That $50,000 of this appropriation shall be available at the discretion of the Chief of Police for community empowerment policing programs: *Provided further,* That not to exceed $25,000 of this appropriation shall be available solely for an accreditation study of the Metropolitan Police Department by a recognized law enforcement accrediting organization: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective September 30, 1989 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1992, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1992, in relation to the Lorton prison complex: *Provided* *further*, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further*, That the staffing levels of each engine company within the Fire Department shall be maintained in accordance with the provisions of the Fire Department Rules and Regulations, if any: *Provided further*, That the reduction in the staffing levels of each two-piece engine company shall not take effect until such time as the Fire Chief certifies to the Committees on Appropriations of the House and Senate that the Department is taking all reasonable steps to reduce the expenses of the Department, including steps to reduce overtime, filling eligible vacancies, returning detailees to their intended positions, and other measures deemed appropriate by the Fire Department: *Provided further*, That when staffing levels are reduced, the pay and salary levels of fire fighter technicians shall be held harmless during the term of the collective bargaining agreement in effect on the date of enactment of this Act: *Provided further*, That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Firefighting Division of the Department: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, [$706,431,000] *$706,461,000*, to be allocated as follows: [$518,764,000] *$519,344,000* for the public schools of the District of Columbia; [$1,100,000] *$550,000* for pay-as-you-go capital projects for public schools, [of which $600,000 shall be for renovations to public school athletic and recreational grounds and facilities and $500,000 shall be for maintenance, improvements, and repairs to public school facilities under the Direct Activity Purchase System (DAPS): *Provided*, That the $500,000 provided for DAPS shall be returned to the United States Treasury on October 1, 1992, if the amount spent by the District of Columbia out of its own funds under DAPS and for maintenance, improvements, and repairs to public school facilities in fiscal year 1992 is less than the amount spent by the District out of its own funds for such purposes in fiscal year 1991]; $84,200,000 for the District of Columbia Teachers' Retirement Fund; $73,495,000 for the University of the District of Columbia; $20,578,000 for the Public Library, of which $200,000 is to be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,290,000 for the District of Columbia School of Law; and $477,000 for the Education Licensure Commission: *Provided*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1992, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, [$877,033,000] *$866,433,000*: *Provided*, That $20,848,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: [*Provided further*, That $10,000,000 of this appropriation for the District of Columbia General Hospital shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992:] *Provided further*, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et. seq).

PUBLIC WORKS

Public Works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $234,390,000: *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,110,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act Amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $277,577,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $41,170,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

[PERSONAL SERVICES AND NONPERSONAL SERVICES ADJUSTMENT

[The Mayor shall reduce authorized appropriations and expenditures for personal services and related nonpersonal services in the amount of $1,000,000 within one or several of the various appropriation headings in this Act.]

TRAUMA CARE FUND

For the Trauma Care Fund, $10,000,000 to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: Provided, That this appropriation shall not be available for obligation until September 30, 1992 and shall not be expended prior to October 1, 1992: Provided further, That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: Provided further, That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year.

CAPITAL OUTLAY

For construction projects, [$310,928,946] *$310,378,946*, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided*, That $17,707,000 shall be available for project management and $10,273,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management

System: *Provided further*, That, [$1,100,000] *$550,000* for the public school system for pay-as-you-go capital projects shall be financed from general fund operating revenues : *Provided further, That up to $1,500,000 of the funds provided under this heading may be used to secure access, rights of way, easements or title to lands not now in public ownership known as the Metropolitan Branch Trail from its current owners*: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1993, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1993: *Provided further*, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $219,752,000, of which $38,006,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $51,690,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further*, That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided*, That the District of Columbia shall identify the sources of funding for this appropriation title from the District's own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,000,000.

GENERAL PROVISIONS

SEC. [101] *201*. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. [102] *202*. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1993, shall be transmitted to the Congress no later than April 15, 1992.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided*, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. None of the Federal funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec.. 47–361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94

Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1991 shall be deemed to be the rate of pay payable for that position for September 30, 1991.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec, 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1992, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1992 revenue estimates as of the end of the first quarter of fiscal year 1992. These estimates shall be used in the budget request for the fiscal year ending September 30, 1993. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking "sold before October 1, 1991" and inserting "sold before October 1, 1992".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 128. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 129. Sec. 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1991" and inserting "December 31, 1992".

SEC. 130. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 131. For the fiscal year ending September 30, 1992, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 133. (a) Up to 75 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1991 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of sections 142(d) and 144(d) of the District of Columbia Retirement Reform Act of 1979, approved November 17, 1979 (93 Stat. 866; Public Law 96-122; D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 75 light duty positions that may become vacant under subsection (a) of this section are filled, a civilian employee shall be hired to fill that position or it shall be filled by an officer or member of the Metropolitan Police Department for a temporary period of time.

(d) The limited duty policy of the Metropolitan Police Department shall be that in effect prior to July 8, 1990[, unless ordered by the relevant court]: *Provided, That nothing herein is intended to prohibit the parties from negotiating a limited duty policy that is fair for all concerned and that does not impede the Department from carrying out its duties: Provided further, That whatever negotiations take place should also consider methods to prevent abuses of the program which drains scarce police resources.*

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1992 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

[SEC. 135. (a) The Mayor shall ensure that the requirements of the Buy American Act apply to all procurements made with any funds provided under this Act.

[(b)(1) If the Mayor, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the United States Trade Representative shall rescind the waiver of the Buy American Act with respect to the procurement of such types of products produced in that foreign country with funds provided under this Act.

[(2) An agreement referred to in paragraph (1) is any agreement between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

[(c) The Mayor shall submit to Congress a report on the amount of procurements from foreign entities made in fiscal years 1992 and 1993 with funds provided under this Act. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to any agreement described in subsection (b)(2), the Trade Agreements Act of 1979, or any international agreement to which the United States is a party.

[(d) No contract or subcontract made with funds provided under this Act may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

[(e) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds provided under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

[(f) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

[SEC. 136. None of the funds provided in this Act may be used for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.]

SEC. 135. (a) Notwithstanding any other law, including the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; D.C. Code, sec. 1-201 passim), the Mayor, subject to subsection (b) of this section, may reduce the spending authorization for any independent agency of the District of Columbia government, except the Council of the District of Columbia and the District of Columbia courts, whenever the Mayor determines that the reduction is necessary to keep the budget for the District of Columbia government in balance.

(b) The Mayor shall submit any proposed spending reduction under subsection (a) of this section to the Council for approval. The Council shall consider the proposed reduction according to its rules. If no Member of the Council files an objection to the proposed reduction within 10 calendar days, excluding days of Council recess, after the receipt of a proposed reduction from the Mayor, the reduction shall be deemed to be approved. If an objection is filed during the initial 10 calendar day period, the Council may approve or disapprove the proposed reduction by resolution within 45 calendar days, excluding days of Council recess, after the initial receipt of the reduction from the Mayor, or the reduction shall be deemed to be approved.

SEC. 136. Notwithstanding the limitations on the types of indebtedness set forth in the first sentence of section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 804; Public Law 93-198; D.C. Code, sec. 47-321(a)), the District may incur indebtedness pursuant to section 461(a) to finance its outstanding accumulated deficit as of September 30, 1990, by issuing general obligation bonds: Provided, That the authority to incur such indebtedness shall expire on September 30, 1992. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 813; Public Law 93-198; D.C. Code, sec. 1-233(c)(2)), any act of the Council authorizing the issuance of general obligation bonds under this section may take effect on the date of enactment of such act.

This title may be cited as the "District of Columbia Appropriations Act, 1992".

TITLE II

FISCAL YEAR 1991 SUPPLEMENTAL DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $257,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2226 to 2227), $5,650,000 are rescinded for a net decrease of $5,393,000: *Provided further*, That of the $9,077,000 appropriated under this heading for fiscal year 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2226), to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, none shall be derived from the general fund and not to exceed $9,077,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That within fifteen days of the date of enactment of this Act the District of Columbia Retirement Board shall reimburse the general fund of the District by an amount not to exceed $818,000 for any expenses of the Board paid with general fund revenues in fiscal year 1991: *Provided further*, That the Mayor shall submit to the Council of the District of Columbia by October 1, 1991, a reorganization plan for the Department of Finance and Revenue that shall follow the directives and initiatives contained in the Report of the Committee of the Whole on Bill 9-151, the Fiscal Year 1991 Supplemental Budget and Rescissions of Authority Request Act of 1991, at 8-20 (March 25, 1991).

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $37,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2227), $29,525,000 are rescinded for a net decrease of $29,488,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $10,774,000, of which an additional $3,600,000 shall be allocated to the Fire and Emergency Medical Services Department; an additional $84,000 shall be allocated to the Civilian Complaint Review Board; and notwithstanding any other law, an additional $7,090,000 shall be allocated for the District of Columbia Police Officers and Fire Fighters' Retirement Fund: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2227 to 2229), $20,711,000 are rescinded for a net decrease of $9,937,000: *Provided further*, That notwithstanding any other provisions of law, of the funds available for fiscal year 1991, $225,000 of the amount allocated to the District of Columbia Judge's Retirement Fund are rescinded.

The following provision under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2228), is repealed: "*Provided further*, That at least 21 ambulances shall be maintained on duty 24 hours per day, 365 days a year:".

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $200,000 for the Public Library to be transferred to the Children's Museum.

Of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2229), $11,123,000 for the D.C. Public Schools; $10,000,000 for pay-as-you-go capital projects for public schools; $3,418,000 for the University of the District of Columbia; $41,000 for the Education Licensure Commission; $327,000 for the Commission on Arts and Humanities; and notwithstanding any other provisions of law, $23,650,000 for the District of Columbia Teachers' Retirement Fund are rescinded for a net decrease of $48,359,000.

The following provision under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2229), is repealed: "*Provided further*, That the amount allocated under this title for the public schools shall be increased, dollar for dollar up to $36,400,000, by the amount the annual Federal payment for fiscal year 1991 is increased above the current $430,500,000 Federal payment in fiscal year 1990:".

HUMAN SUPPORT SERVICES

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2229 to 2230), $11,227,000 are rescinded.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,965,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2230), $2,949,000 are rescinded for a net increase of $16,000.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $2,756,000.

REPAYMENT OF LOANS AND INTEREST

For an additional amount for "Repayment of loans and interest", $8,577,000.

REPAYMENT OF GENERAL FUND DEFICIT

The paragraph under the heading "Repayment of General Fund Deficit", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101-518; 104 Stat. 2231), is repealed.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $8,142,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $311,000.

SUPPLY, ENERGY, AND EQUIPMENT ADJUSTMENT

The paragraph under the heading "Supply, energy, and equipment adjustment", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2231), is repealed.

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal services adjustment", in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518, 104 Stat. 2231), is repealed.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $73,570,000, to remain available until expended: *Provided*, That of the amounts appropriated under this heading in prior fiscal years for the Mount Vernon Square Campus project of the University of the District of Columbia, $39,134,000 are rescinded for a net increase of $34,436,000: *Provided further*, That $2,644,000 shall be available for project management and $3,212,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and Sewer Enterprise Fund", $23,633,000: *Provided*, That of the funds appropriated under this heading for the fiscal year ending September 30, 1991 in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2232), $35,880,000 are rescinded for a net decrease of $12,247,000: *Provided further*, That $35,852,000 of the amounts available for fiscal year 1991 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $36,608,000 as provided under this heading in the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2232): *Provided further*, That $15,477,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects instead of $39,609,000 as provided under this heading in the District of Columbia Appropriations Act, 1991, approved November 5 1990 (Public Law 101–518; 104 Stat. 2232).

GENERAL PROVISIONS

SEC. [101.] *201.* Section 112 of the District of Columbia Appropriations Act, 1991, approved November 5, 1990 (Public Law 101–518; 104 Stat. 2234), is amended by striking "April 15, 1991" and inserting "May 17, 1991".

SEC. [102.] *202.* (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1991 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) For purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

SEC. 203. (a) Notwithstanding any other law, including the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 774; D.C. Code, sec. 1–201 passim), the Mayor, subject to subsection (b) of this section, may reduce the spending authorization for any independent agency of the District of Columbia government, except the Council of the District of Columbia and the District of Columbia courts, whenever the Mayor determines that the reduction is necessary to keep the budget for the District of Columbia government in balance.

(b) The Mayor shall submit any proposed spending reduction under subsection (a) of this section to the Council for approval. The Council shall consider the proposed reduction according to its rules. If no Member of the Council files an objection to the proposed reduction within 10 calendar days, excluding days of Council recess, after the receipt of a proposed reduction from the Mayor, the reduction shall be deemed to be approved. If an objection is filed during the initial 10 calendar day period, the Council may approve or disapprove the proposed reduction by resolution within 45 calendar days, excluding days of Council recess, after the initial receipt of the reduction from the Mayor, or the reduction shall be deemed to be approved.

SEC. 204. Notwithstanding the limitations on the types of indebtedness set forth in the first sentence of section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 804; Public Law 93–198; D.C. Code, sec. 47–321(a)), the District may incur indebtedness pursuant to Section 461(a) to finance its outstanding accumulated deficit as of September 30, 1990, by issuing general obligation bonds: Provided, That the authority to incur such indebtedness shall expire on September 30, 1992. Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 813; Public Law 93–198; D.C. Code, sec. 1–233(c)(2)), any act of the Council authorizing the issuance of general obligation bonds under this section may take effect on the date of enactment of such act.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1991".

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I am pleased to present the District of Columbia appropriations bill for fiscal year 1992 to the Senate today.

Mr. DOLE. Mr. President, if the Senator will yield, I indicate the manager on this side is on the way. He has no objection to proceeding.

I am pleased to note the Senator's presence here this evening and everything is being covered.

Mr. ADAMS. I am pleased to note the minority leader's statement and we will be most pleased to proceed.

The committee is recommending a Federal payment of $630,500,000, which is the same as the bill as passed by the House, the pending authorization, and the amount requested by the city. The authorization bill has passed the House and is pending before the Senate Governmental Affairs Committee.

That bill represents the first increase in the authorized level of the Federal payment in over 5 years. It is intended to make the level of the Federal payment more predictable and it is intended that we assist this new mayor in every way possible to be successful. It is intended to make the Federal payment not only more predictable but something that we can deal with in future years.

The committee's recommendation represents the recognition that the Federal Government has not, in recent years, lived up to its obligation to the local government. This amount is not a handout, it is not a bailout, it is not a gift, it is a payment in lieu of taxes representing nothing more than the Federal Government paying its taxes to the local government.

Mr. President, at the time that limited home rule was established for the city the Congress restricted the city's ability to levy taxes. For instance, the Federal Government does not pay property tax on 42 percent of the property that it owns in the city. Nor can the District collect sales tax on purchases made by the Federal Government in the city. It is estimated that fully two-thirds of the local economy is beyond the city's taxing authority.

If we are to expect that the city will maintain its physical infrastructure and provide quality services we must also be ready to pay our fair share. If we are to restrict the city's ability to tax the local economy, or want to limit the Federal payment, we must recognize the effect of that on the city's treasury.

Mr. President, those are some of the reasons why there needs to be a more stable and reliable way to determine the Federal payment and to set it on a predictable formula. This does not create an entitlement, but it does give the District a method which provides more stability in predicting the Federal payment from year to year.

In addition to the Federal payment, the committee is recommending the annual payment to the retirement funds of the District of Columbia of $52,070,000. We have also included $17,280,000 in Federal funds for various programs and projects, which I will highlight.

Mr. President, our recommendation includes, $500,000 to continue the breast and cervical cancer screening program for poor women. This program is designed to reach women who have no private insurance and do not qualify for Medicare. It is a preventive program. When fully implemented and sustained over the years it will reduce the need for other more expensive treatments should these women contract this terrible disease. A key component of this program is the outreach that must be done to locate these women and to inform them of the availability of this service.

We have also included $3 million in fiscal year 1992 and $6 million in fiscal year 1993 as continued support for the National Child Protection, Trauma, and Research Center at Children's Hospital. We have supported this project for the past 2 years because of the growing problem of child abuse and neglect cases in the District of Columbia. Much of this phenomenon is drug related. City agencies are being strained by the increasing caseload, which has grown by 106 percent in recent years. This center will provide one more resource that local government agencies can call on for innovative, professional help.

Mr. President, the bill also contains an additional $900,000 for D.C. General; $400,000 is for physicals and immunizations for school age children. Even though the law requires it, teachers in the District report that as many as one-third of children come to school without proper immunizations. These funds will expand on a program begun by the D.C. Board of Education and D.C. General last year to make sure that these kids, and their classmates, are protected from childhood diseases.

The sum of $500,000 is for pediatric HIV services. The hospital has identified a growing prevalence of HIV in newborns and young children. These funds will support the establishing of outpatient treatment and counseling for HIV children and their mothers.

The final recommendation in the area of health care concerns the establishment of a trauma care fund. We have provided $10 million which will be used as the initial capitalization of this fund. This is a small amount of money when compared to the over $176 million in uncompensated trauma care provided by the city's six level I trauma centers in 1989. This fund will not solve the problem of uncompensated care in the District of Columbia, but it is a start. The committee encourages the District government and others in the community to explore innovative ways to address this issue. One such possible additional source of revenues for the fund is the asset forfeiture fund. These moneys are derived from the arrest and prosecution of drug dealers. Since many of the trauma cases result from street violence, this account seems to be a logical source of additional funds.

Mr. President, in addition to these recommendations we are recommending concurring with the House allowance of $50,000 for the Metropolitan Police Department to assist community patrol activities, and the $25,000 included for an accreditation study of the department.

For the D.C. public schools the House included $600,000 for renovation of athletic and recreational facilities, and $500,000 extra for other maintenance improvements and repairs. We are recommending a total of $550,000 to be applied to the highest priority projects.

We have also included $330,000 in the school's budget to operate the Options Program of the National Learning Center during next school year and through the summer. This program is an intensive dropout prevention program for seventh graders. A recent report on this program shows that in one semester the kids increased their reading level by more than one grade level, and increased their math scores by 1.6 grade levels.

Mr. President, also included is $250,000 for a parents as teachers program that has been of great interest to Senator BOND. This program improves early childhood education by involving the parents at the very start of a child's education. I know the Senator from Missouri will have more to say on this program later.

Mr. President, the bill contains $799,000 to keep Engine Company No. 3 open during fiscal year 1992. The budget had proposed closing this station house, taking with it the ambulance station there. We are aware of the Mayor's plans to improve the ambulance service, and certainly support any effort to improve that vital service. I am concerned about removing the nearest ambulance to Union Station, the Capitol and the many hotels in the area with all the visitors that pass through that area daily. Keeping the station house open will allow it to be considered as part of the system while the ambulance service is being reviewed.

We have also included $200,000 for architectural and design work on improvements to the municipal fish wharf, which will be made following the completion of a comprehensive plan for the southwest waterfront. This unique marketplace generates substantial tax revenue for the District and requires improvements to improve access and safety for its patrons.

Mr. President, the committee is also recommending $250,000 to begin planning and design work on the modernization of George Washington University Medical Center. This project was authorized last year in Public Law 101-590. The university is required to match each dollar provided by the Federal Government on a one for one basis. The medical center is an important element in the city's health care system. Each year over 3,000 victims of violence find their way into the hospital's emergency room. In addition its medical staff coordinate training for the District's emergency medical personnel and provides medical services for the city's homeless shelters. In addition to this amount the bill includes advance appropriations to complete the project by 1995.

Finally there are four language items on which we have included recommendations. First, there are two House floor amendments that we have recommended be stricken.

Mr. President, the first one requires that the District comply with Federal buy America laws. The committee is recommending striking section 135 of the House bill, a so-called buy America provision, only after assuring itself that it is redundant. The buy America provisions of title 41 of the United States Code already apply specifically to the District. The only thing this amendment added were certification requirements on the District's already cumbersome procurement practices.

The second amendment provided that no funds could be spent for renovations to Eastern Market. I have received a letter from Councilmember Harold Brazil who represents the area where the market is located. He states that the "renovation of the market is purely a local matter" and urges that the language be deleted. The committee agrees with Mr. Brazil and we are recommending that the Senate strike the floor amendment included in the House.

Finally, there are two items that the city has requested that the House did not include. One, is language that would allow the city to issue $332 million in bonds to retire the accumulated deficit. This will allow the city to improve its bond rating by eliminating the need to issue yearly short-term notes to satisfy its cash needs. These bonds will be paid off in 12 years and permit the city to establish a fund reserve, or rainy day fund, like many other cities and States have done to handle short-term fiscal problems.

The second provision would grant to the mayor authority to order reductions in the budgets of independent agencies of the District of Columbia. This authority is necessary to ensure that the mayor has the power needed to maintain a balanced budget during fiscal years 1991 and 1992. This language is necessitated by a recent court decision calling into question the mayor's authority.

(Mr. DECONCINI assumed the chair.)

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. ADAMS. I am happy to yield to the chairman of the Appropriations Committee.

Mr. BYRD. Mr. President, I want to express my gratitude to the distinguished Senator and to the ranking member for their excellent work on this measure. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations, and I also compliment the majority and minority staff for their months of hard work in connection with this bill; Richard Pierce, Tim Leeth, Lula Joyce, and Dona Pate.

I also am pleased to state that the bill, as recommended, is $28,285,000 above fiscal 1991 appropriations. With respect to the subcommittee's 602 allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I express the gratitude of the Senate to the Senators who have worked on this bill so long. It is a labor of love, but somebody has to do this. A Senator does not get any kudos back in his State for the work he does on this bill, but this is the Federal city, not a Federal city. The Constitution refers to the Federal city.

And we only have one, the Federal city, Washington, DC. I was chairman of that Subcommittee on the District of Columbia appropriations for 7 years. The Senator from the State of Washington and his colleague from the State of Missouri are contributing a service to the Senate, to the city—the Federal city—and to the country. It takes many, many hours of painstaking work on the part of Senators who are on that subcommittee and on the part of the staff. Their work does not go unnoticed.

I also want to say that I have been pleased to see the work that the new Mayor of the District of Columbia is doing. She is instilling discipline and reality in the D.C. government. She is trying to clean up a mess, and that is pretty hard to do. But she is doing her best. As long as she puts the kind of effort into it that she is putting—she is taking some tough stands on some tough measures. She has opposition but she stands firm. Those are hard decisions she has to make. She inherited many problems.

I am encouraged when I see the kind of steadfastness that she is demonstrating. I will not get any votes back in West Virginia or votes against me for saying this. I just feel that somebody should stand up and encourage this lady who is taking on a tough job. And she is showing that she has the nerve, the stamina, and the courage to do it.

So I am for the increase in Federal payment. And I congratulate the Senator again because I know the kind of hours that he has had to put into this, and in doing so he has to take those hours away from the people who sent him here.

But it has to be done. Somebody has to do it. And the Senator has done well.

Mr. ADAMS. I thank the President pro tempore.

Mr. President, in closing, I want to note the support and the guidance that the distinguished chairman of the Appropriations Committee, ROBERT C. BYRD, my good friend and the Senator from West Virginia, has provided. He formerly chaired this subcommittee, as he stated, and his knowledge and understanding of the District have been indispensable during this entire process. They really have, and I appreciate it.

And I also want to note the contributions of the other members of the subcommittee. Senators FOWLER and KERREY on our side have made valuable contributions to our consideration of this bill. And on the other side, my junior colleague from the State of Washington, Senator GORTON, has spent time reviewing the District's budget, and our distinguished ranking member, the Senator from Missouri [Mr. BOND]—and I am pleased to see him on the floor—has made several very useful suggestions which have been incorporated in this bill, and this is a better bill because of it.

Mr. President, before yielding to Senator BOND, I have the usual unanimous-consent request concerning committee amendments and then I will yield to Senator BOND.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and the bill as thus amended be regarded for purposes of amendment as original text, provided that no points of order shall have been considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, at this point, I yield the floor so that we may hear from my distinguished colleague who is the ranking member of the District of Columbia Subcommittee, Senator BOND.

Mr. BOND. Mr. President, I thank the chairman of the District of Columbia Appropriations Subcommittee, my good friend from Washington. I also join with him in expressing our thanks both to the chairman of the full committee and the ranking member, the Senator from Oregon.

I express my special appreciation to Chairman ADAMS for bringing to the Senate a fair and equitable bill which I believe all of colleagues should be able to support. I should note that the budget authority and the outlays associated with the bill are within the subcommittee's 602 allocation.

Mr. President, as we are all aware, the District of Columbia has new leadership. Mayor Sharon Pratt Dixon has given every indication that she can and will bring stability to the District's finances. She has been joined in this effort by the chairman of the council, Mr. John Wilson. Together, they have confronted the fiscal problem and worked toward a solution—both in the short-term and the long-term.

It must be noted, as well, that the Congress and this administration has been supportive of Mayor Dixon's leadership. The bill before us continues that support. The supplemental appropriations bill passed earlier this year provided an additional $100 million for the Federal payment to the District. And the bill before us provides $630.5 million for the Federal payment—the first increase since fiscal year 1987. Mr. President, the Federal payment is a unique funding source provided to the District of Columbia to make up for the revenues lost to the city by virtue of the huge amount of untaxable land and assets owned by the Federal Government as well as embassies and so forth. In addition, the District must provide unique services to the Federal Government that are not directly reimbursed. I believe that the amount recommended in this bill is fair.

Mr. President, the chairman of the subcommittee has highlighted the bill in his opening remarks. I will not take the time of the Senate to repeat these facts and figures, but I do want to mention a couple of items of special interest: Parents as Teachers; $10 million trauma care fund to be used by various D.C. hospitals which have been dramatically impacted by the number of patients who cannot pay—from those who are truly in need to those who come in from violence.

I believe, based on my conversation with the Mayor, that she shares my view that the city's emergency rooms cannot be used as the city's primary care centers. We have asked the city to develop a proposal for handling non-emergency care away from the emergency rooms. Not only will this save money, but it provides a continuity in basic health care.

In addition, we are recommending language which allows the Mayor to use confiscated drug funds to help pay for the health care of the convicted individuals.

Mr. President, the Federal payment this year is a substantial increase over last year's request. I have spoken earlier about the Federal payment level, and I should mention that it appears that during this session of Congress that a formula for this payment will be acted upon. The House has already passed such legislation, and I believe it is a step in the right direction to allow stability in the District's budget process.

I must note that the bill before us also recommends a few small items to be funded with Federal dollars—again, all within our allocations. While the committee unanimously supported these items, I believe that we must be aware that future allocations to the District of Columbia for discretionary Federal dollars will be carefully reviewed. With the increase in the Federal payment and the improving budgetary situation of the District, I believe it will be the District's responsibility to handle these programs. I am not being negative about any of these matters, but I think we—and the District of Columbia government—must face the reality of ever-declining discretionary dollars.

Mr. President, in conclusion, I again want to commend the chairman of the subcommittee for his cooperation in bringing this bill before the Senate. I further want to thank the chairman of the full committee, Senator BYRD; and the ranking member, Senator HATFIELD for their support of the District of Columbia bill. Without their understanding and support of the unique problems facing the city, the increase in the Federal payment could not have happened.

Mr. President, I urge my colleagues to support the bill as recommended by the committee.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 2699, the District of Columbia appropriations bill, and has found that the bill is under its 602(b) budget authority allocation by $150,000 and at its 602(b) outlay allocation.

I compliment the distinguished manager of the bill, Senator ADAMS, and the distinguished ranking member of the District of Columbia Subcommittee, Senator BOND, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the legislative branch appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the scoring table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2699

DISTRICT OF COLUMBIA SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

Bill summary	Budget authority	Outlays
H.R. 2699:		
New Budget Authority and outlays	0.7	0.7
Enacted to date	0	....
Adjustment to conform mandatory programs to resolution assumptions	0	0
Scorekeeping adjustments	0	0
Bill total	.7	.7
Senate 602(b) allocation	.7	.7
Total difference	....	0
Discretionary:		
Domestic	.7	.7
Senate 602(b)	.7	.7
Difference	....	....
International	0	0
Senate 602(b)	0	0
Difference	0	0
Defense	0	0
Senate 602(b)	0	0
Difference	0	0
Total discretionary spending	.7	.7
Mandatory spending	0	0
Mandatory allocation	0	0
Difference	0	0
Discretionary total above (+) or below (−):		
President's request	....	....
Senate-passed bill	NA	NA
House-passed bill	....	....

AMENDMENT NO. 801

(Purpose: To correct printing errors)

Mr. ADAMS. Mr. President, pursuant to the statement of the majority leader, I send two amendments to the desk and ask they be considered en bloc. These are the amendments previously referred to as being technical amendments.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS], proposes an amendment numbered 801.

Mr. ADAMS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 4 of the bill, at line 13:
Delete "$949,000" and insert "$799,000".
On page 8 of the bill, at line 8:
Delete "931,785,000" and insert "$931,636,000".

Mr. ADAMS. These amendments are technical. They have been approved by both sides. They are to correct printing errors in the figures that appear in the bill and do not affect the total Federal funds we are appropriating.

Mr. BOND. We have no objection to these amendments.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 801) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, these amendments having been agreed to, and we having completed debate on this bill, I suggest we might proceed with completion of the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2699), as amended, was passed.

Mr. ADAMS. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ADAMS. Mr. President, I move the Senate insist on its amendments and request a conference with the House of Representatives thereon; and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. GORTON, and Mr. HATFIELD, conferees on the part of the Senate.

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION ACT, FISCAL YEAR 1992

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that a cloture motion be deemed to have been filed on the Wirth amendment No. 794, and that a vote on the motion to invoke cloture on the Wirth amendment No. 794 occur at 7:20 p.m. today, with the mandatory live quorum having been waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that if cloture is invoked, the Senate proceed as provided under rule XXII, and that the Kerrey amendment No. 795 be considered germane to the Wirth amendment No. 794; that if cloture is not invoked, the Wirth and Kerrey amendments be withdrawn and the Senate then, without intervening action or debate, proceed to third reading and final passage of H.R. 2519.

I further ask unanimous consent that upon passage of H.R. 2519, the Senate then vote on the motion to invoke cloture on the motion to proceed to S. 250, the motor voter bill, with the mandatory live quorum having been waived.

Mr. President, I further ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time with consideration of Calendar No. 149, S. 1367, the China MFN bill, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Is there objection to the unanimous consent request offered by the majority leader?

Mr. DOLE. No objection.

The PRESIDING OFFICER. Is there objection?

The Senator from Nebraska?

Mr. KERREY. Mr. President, reserving my right to object, I am not sure I will object; I want to be sure I understood what the distinguished majority leader was requesting there.

It was my understanding that I would still have the opportunity to present my amendment on the VA-HUD and independent agency bill. Is that included?

Mr. MITCHELL. If cloture is not invoked?

Mr. KERREY. If cloture is not invoked.

Mr. MITCHELL. That is not correct. The agreement contemplates that the Wirth and Kerrey amendments would be withdrawn if cloture is not invoked.

If that is inconsistent with the understanding of the Senator, then, Mr. President, I suggest the absence of a quorum to discuss it. I had been advised that this agreement was acceptable to all concerned. If that is not correct, then I will withhold propounding the agreement.

Mr. KERREY. Mr. President, I object to that unanimous consent on that basis.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, during the quorum call, I conferred with the distinguished Senator from Utah about the concern of trying to get a report that was done and presented to the Congress and to the Resolution Trust Corporation on December 26, 1990. My concern is that the full report be released to the public and not just provided as a private document for Members of the Senate or Members of the House of Representatives to review—that the public have access to the report.

In previous discussions, I have indicated, it seems to me, looking at the report itself, that there is nothing in there that should not be released; that there is no compelling reason to withhold it.

I would like at this time to engage in a colloquy with the distinguished Senator from Utah about his willingness to join with me in writing the Resolution Trust Corporation, particularly the Chairman of the Resolution Trust Corporation, Mr. Seidman, a letter urging them in their July 31 meeting to release the full Steptoe & Johnson report to the public.

Mr. GARN. Mr. President, I will say to my friend from Nebraska that I agree with him. I do not have any objection to the release of that report. As a matter of fact, I think it should be. I will be happy to compose a letter with him jointly signed to ask them to make that report public.

Mr. KERREY. Mr. President, I appreciate that support. I discussed on several occasions that the Resolution Trust Corporation Board was very nervous about potential legal action. Indeed, one reason I wanted to get it in statute was to give them confidence to make this report public as opposed to simply providing them a letter.

I am wondering, again, if the distinguished Senator from Utah would consider putting this perhaps in the committee report of the banking legislation. We discussed that as well as a possible follow-on if on July 30, when the RTC meet, they find themselves again saying that they are concerned about potential legal liability. I am not suggesting that will happen.

Mr. Seidman, at the Banking Committee hearing in May, indicated that he would be willing to release the report. I am not sure that will happen. I was wondering if the distinguished Senator from Utah would be willing to take that follow-on action after July 30 if the RTC Board voted in the negative.

Mr. GARN. In response to the distinguished Senator from Nebraska, the answer is simply yes, I would be.

Mr. KERREY. I appreciate that very much, Mr. President.

I withdraw my objection to the request of the distinguished majority leader.

I yield the floor.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Without objection, it is so ordered.

Mr. GARN. Mr. President, I ask unanimous consent that letters I have received from the Federal Deposit Insurance Corporation and the Board of Governors of the Federal Reserve System be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, July 10, 1991.

Hon. JAKE GARN,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your letter requesting an analysis and our comments on a proposed amendment by Senator WIRTH to S. 1241, the Crime Control Bill.

We understand the intent of the Wirth Amendment is to require the public release of reports of examination for FDIC-insured institutions which have failed. However, as the enclosed brief analysis of the amendment concludes, the regulatory agencies also will be required to release the exam reports for many healthy, open insured institutions. We are concerned that the Wirth Amendment will discourage healthy institutions from purchasing failed banks and thrifts. In summary, the examination process and the insurance fund will suffer if this amendment is adopted.

Regardless of whether the amendment applies to open or closed institutions, we have serious concerns about the effect of the amendment. To understand the impact of the Wirth Amendment disclosure requirements, it is necessary to understand the nature of the contents of reports of examination. Bank examination reports contain detailed descriptions of all criticized loans and other personal financial information about the bank's customers. Information that has been provided by confidential sources about the bank, its management and customers is in the report. The examination about the bank and its operations which, if publicly disclosed and thereby available to competitors, could place the insured institution at a substantial competitive disadvantage. Finally, the efficacy of the examination process is dependent upon the cooperation and willingness of an institution's management to provide highly sensitive information that otherwise would be difficult or even impossible for the examiners to obtain and of which they may be completely unaware.

Public disclosure could cause examiners to be less willing to state their frank and full opinions if they may be subject to public scrutiny and second guessing. The entire examination process, even for those banks in no danger of failing, would likely become much more adversarial as the climate changed. The results would be reduced efficiency and increased costs and delays. There may be an increased tendency on the part of bank management to take issue with examiners more readily and more vocally over relatively minor matters. This tendency may be magnified in the follow-up supervisory process to obtain correction of violations or unsound practices.

Finally, the General Accounting Office currently has full access to examination reports. Moreover, in granting GAO this authority, Congress recognized the importance of maintaining confidentiality of this information and thus, subjected the GAO to sanctions for breaching confidentiality.

Please contact us if you have any further questions.

Sincerely,

L. WILLIAM SEIDMAN,
Chairman.

ANALYSIS OF AMENDMENT TO BE OFFERED BY SENATOR WIRTH

Section 01 requires that the bank regulators, including the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision, and the FDIC, "publish and make available to the public reports of examination" of certain insured depository institutions under specified circumstances. The institutions include any bank or thrift whose assets or liabilities have been transferred to the FSLIC Resolution Fund or to the Resolution Trust Corporation ("RTC") and any Bank that is a member of the Bank Insurance Fund ("BIF") that has during the fiscal year either (1) failed or (2) received funds from BIF, if the BIF either has outstanding loans or has received funds from the Treasury, the Federal Financing Bank, or a Federal Reserve Bank, or if the BIF has a negative balance. It also applies to any institution insured by the Savings Association Insurance Fund ("SAIF") under the same circumstances.

The applicability of this Amendment will take immediate effect as to failed thrifts since the FSLIC Resolution Fund and the RTC have received Treasury funds and will be almost immediately effective as to the BIF since funds will be borrowed in the very near future from the Federal Financing Bank to complete the resolution of the Bank of New England. It also is anticipated that the BIF will borrow from the Treasury by the end of 1991.

As drafted, the Wirth Amendment will apply to all failed insured thrifts and banks whether they are acquired with assistance or not, and will require disclosure of all examination reports for the five years prior to the failure. In addition, and more importantly, it will apply to any healthy insured bank or thrift that acquires a failed institution or any of its liabilities since the amendment applies to any insured institution that "received funds" from BIF—such payments in purchase and assumption transactions are generally to the acquiring entity. Thus, the Amendment will have a highly detrimental effect on the ability of the FDIC and the RTC to attract bids for failed institutions from healthy banks and thrifts. It also will apply to any open and operating insured institution that has received open assistance either from BIF or, in the future, SAIF to prevent the failure of the institution. Finally, the Wirth Amendment will apply to any bank or thrift that serves as an agent of the FDIC in an insured deposit transfer to pay depositors of a failed bank or thrift their insured deposits (a cost effective method utilized by the FDIC to quickly and efficiently make insured deposits available to depositors of failed institutions that are to be resolved by liquidation) since the funds to pay off the depositors will be "received" from an insurance fund.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, July 10, 1991.

Hon. JAKE GARN,
Ranking Minority Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: You have requested our analysis and comments regarding the scope and coverage of an amendment to the crime bill that has been offered by Senator Wirth to release publicly examination reports of certain insured depository institutions.

The amendment would require each of the Federal banking agencies to make publicly available examination reports of any insured depository institution (and the holding company of that institution) that has failed or that has received assistance from the FDIC if, during the year that the institution failed or received assistance, the FDIC had any loans outstanding to the Department of the Treasury, the Federal Financing Bank or any Federal Reserve Bank. As written, the amendment would apply both to open institutions that have received assistance from the FDIC under section 13(c) of the Federal Deposit Insurance Act as well as to institutions that are closed and re-opened under the management of a new owner with FDIC assistance. The amendment would also apply to any closed depository institution, any institution that is transferred to a bridge bank, and any institution that transfers any assets to the FSLIC Resolution Fund or the Resolution Trust Corporation Fund. Reports of examination of these institutions as well as their holding companies for the five years preceding failure of the institution or receipt of FDIC assistance would be made public.

The amendment does not require that the outstanding obligation of the FDIC be incurred in connection with the resolution of the particular insured institution whose examination reports are released. Rather, by its terms, the amendment would require release of examination reports for any institution aided by the FDIC during a year that the FDIC had an outstanding obligation—for any purpose—to the Treasury, Federal Financing Bank or any Federal Reserve Bank. Consequently, reports of examination for open banks that have received any type of FDIC assistance must be made public if, during the year that the assistance is given, the FDIC has assumed a loan from a Federal Reserve Bank in connection with resolution of another institution.

We are concerned about the public release of examination reports. These reports contain confidential financial information regarding individual and corporate customers of the depository institution that is not publicly available from any other source. Release of this information could represent a serious intrusion on the privacy of these customers.

Public release of examination reports could also convert the examination process into an adversarial procedure that would greatly detract from the usefulness of examinations as a procedure for identifying and correcting potential problems at insured depository institutions. Concern that current examination reports might be publicly released at some time in the future would undoubtedly lead depository institutions to focus undue attention on the characterization of problems in the examination report and reduce the willingness of institutions to admit to potential problems in the report and correct those problems. Instead, depository institutions would focus on denying identified problems and attempting to justify past actions. This would greatly reduce the effectiveness of the examination process.

We are also concerned about the effect that release of examination reports may have on institutions that remain open after having received FDIC assistance. The FDIC has authority to provide assistance to insured institutions on an open-institution basis. Moreover, an institution may remain open following a sale of the institution with FDIC assistance to a new owner. Public release of examination reports for the 5 year period prior to the revitalization of these institutions may confuse the public regarding the health of the institution following FDIC assistance, and could jeopardize the ability of the institution to continue to operate. This could increase the overall costs to the FDIC of resolving troubled institutions.

We also wish to bring to your attention that the amendment, perhaps unintentionally, would appear to require public disclosure of the examination reports of banks that engage in ordinary discount window borrowing. Section 1 of the amendment requires publication of examination reports of each institution described in section 4 and any holding company of that institution. Section 4 defines institutions that have "received funds" to include any insured depository institution that has received cash or other valuable consideration from any Federal Reserve Bank in the form of a loan. This would cover discount window borrowing. A large number of banks that are not experiencing significant asset quality or other financial problems borrow from the discount window on a short term or seasonal basis. This amendment could discourage these institutions from borrowing from the discount window and effectively deprive them of this appropriate source of liquidity.

I hope this letter is of assistance, and would be happy to provide further information on this amendment at your request.

Sincerely,

ALAN GREENSPAN,
Chairman.

Mr. HARKIN. Mr. President, I would like to associate myself with the remarks of my friend from Colorado. His amendment is crucial to finding out what really happened in the 1988 S&L deals.

Mr. President, it is simply impossible for us to get a complete picture of what occurred without this information being made public. While it is within our authority to subpoena the records of the RTC or to call witnesses to testify before our committees, so often we are stymied in our investigations by the fact that we may not know what information to request of the bureaucracy or what questions to ask—and, on the most sensitive tasks of their jobs, regulators may not be totally forthcoming.

In order to assist in our efforts to oversee the S&L cleanup and to make the administration accountable for its decisions, the Wirth amendment provides for the public release of case records of bank prosecutions and out-of-court settlements. Should this amendment be adopted, we will no longer have to rely on hit-or-miss questioning or the investigative reporting of the press to ferret out administrative bungling or malfeasance. And the many members of the press and other investigators will be able to assist in that effort.

The public deserves to know how hundreds of billions of its tax dollars are spent. And yet, the record of public disclosure involving the Federal Government's handling of the S&L cleanup has been disgraceful. Until now, the logic behind highly questionable resales of bankrupt thrifts, such as Bluebonnet Savings in Texas, has been hidden from public view. At that time, Mr. James Fail, an insurance executive whose company was found guilty of securities fraud in 1976, put up only $1,000 of his own money to purchase 15 failed S&L's and, in return, received $1.85 billion in tax breaks from the Government. That's the kind of deal that needs examination and will be exposed to the light of day should this amendment be adopted.

All in all, the costs of this and other sweetheart 1988 deals may top, according to the GAO, $65 billion. In one single deal, alone, Mr. President, the purchase of Houston's First Gibraltar Bank may have cost the taxpayers as much as $8.8 billion in inducements and insurance bailouts. Think of the waste and think of the expense—think, also, of the lost opportunities.

I am concerned that a system of thrift resolution that works outside the public eye will be subject to fraud and abuse. Already we have witnessed a number of questionable deals made in the name of savings and loan resolution. Were those deals subject to public disclosure, would the outcomes have been different? I'm willing to bet they would be.

Mr. President, the only way we can have accountability in our democratic system is to adopt this kind of amendment. The ability of Congress to have real oversight and the right of the people to be informed about what their Government is doing with their money, loses all meaning without access to full and complete information. That is the principle behind the Wirth amendment.

I am frankly surprised that this amendment has attracted so much opposition. What is there to hide?

Mr. WOFFORD. Mr. President, I rise today in support of the amendment offered by my distinguished colleague from Colorado. This amendment will help ensure that the taxpayer financed cleanup of the savings and loan industry will be conducted in an open and responsible manner.

We know the bailout is costing a great deal of money. America's taxpayers have already committed $80 billion and, recently, the administration asked for $80 billion more. The Congressional Budget Office has stated that more than the administration's request will be needed before we finish cleaning up this mess. But, what we don't know is where the money is going. The public has been told that the money is used to protect depositors. But, the American people don't know how their Government is actually spending the money. Within the bounds of privacy, we should know with whom the deals are being made and the terms of those deals.

It is said that sunshine, which means full disclosure, is the best disinfectant. And this is especially true with respect to regulatory action by Government. The Securities and Exchange Commission discloses its enforcement actions against brokers, dealers, firms, and individuals. Such disclosure provides assurance that the Government is acting in the public's best interest. We should expect no less from banking regulators who are controlling billions of taxpayers' dollars.

Our taxpayers are questioning as never before whether Government is spending their hard-earned dollars wisely. We simply must restore their confidence in us and our ability to manage Government efficiently.

We need to open the windows and let the light shine on the savings and loan bailout. We need to be assured that the administration's regulators aren't making "sweetheart" deals. We need to be assured that taxpayers' dollars are being spent responsibly.

Mr. President, I yield the floor.

CLOTURE MOTION VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the Wirth amendment, No. 794, shall be brought to a close? The live quorum has been waived. The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. SMITH] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 57, nays 40, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—57

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—40

Bond
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—3

Pryor
Sanford
Smith

The PRESIDING OFFICER. On this vote, the yeas are 57, and the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

AMENDMENT NOS. 794 AND 795 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, amendment Nos. 794 and 795 are withdrawn.

ENVIRONMENTAL PROGRAMS

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1992 VA, HUD, and Independent Agencies appropriations bill. I commend the leadership of the subcommittee Chair, Senator MIKULSKI, who has put together a good bill under difficult constraints.

This bill makes a major financial commitment to the protection of our Nation's environment. I want to highlight aspects of the environmental spending in this bill, as well as projects of special importance in New Jersey which I worked to secure, as a member of the VA, HUD, and Independent Agencies Subcommittee.

Mr. President, I am pleased that total EPA funding in the bill would increase by about 10 percent, which includes increases for the asbestos program, nonpoint pollution, and construction grants. The $2.4 billion appropriation for the sewage treatment program, a $300 million increase over last year, would mean a $14 million increase for New Jersey, for a total of $98.6 million.

And the bill provides almost $52 million to fund nonpoint program efforts authorized by the Clean Water Act. Inexplicably, the administration proposed to cut this funding by almost 50 percent while at the same time saying that nonpoint pollution is responsible for over half of the pollution adversely affecting our Nation's waters. The committee bill rejects this foolish cut.

The bill maintains funding for Superfund at last year's level, but includes report language aimed at increasing actual cleanup funding at the level requested by the President.

Particularly in light of recent reports of waste in the Superfund contracting program, the subcommittee has taken a more cautious approach to funding Superfund. The Chair, Senator MIKULSKI, has attempted to target the bill's proposed cuts below the President's budget to those wasteful areas identified in these recent reports.

At my request, the General Accounting Office is examining the question of wasteful contracting practices, and I am hopeful that this independent audit will achieve greater efficiency in the program. The key is to make sure that we are not impeding EPA's ability to move forward with cleanups, and that we are imposing any proposed cuts on those areas of real inefficiency in the program. As we move ahead to conference, I look forward to working with Chair MIKULSKI to achieve both these goals for Superfund.

I am pleased that the bill includes $3 million for grants under title III of Superfund Amendments and Reauthorization Act.

Mr. President, the bill also contains at my request $700,000 for lakewater-quality activities at Cranberry Lake, Lake Wawayanda, Lake Marcia, and Sylvan Lake in my State of New Jersey. With this funding, the New Jersey Department of Environmental Protection will be able to perform studies and lake-quality restoration work on at least four priority projects in New Jersey. These lakes and many others throughout my State which were once used for recreation are now suffering from the effects of pollution. This money is a step in the right direction toward cleaning up lakes around our State and returning them to their natural condition.

The bill also contains $1.6 million for the Integrated Pollution Prevention Initiative at the New Jersey Institute of Technology [NJIT].

In its 1987 report, From Pollution To Prevention: A Progress Report on Waste Reduction, the Office of Technology Assessment found that pollution prevention efforts have proceeded slowly because industry lacks the information about the opportunities and benefits of source reduction. NJIT's proposal will help address the concerns raised in OTA's report.

Source reduction of chemicals, pollutants, and wastes provides significant health and environmental benefits, as well as cost savings. NJIT has proposed a pollution prevention initiative that will bring together academic institutions, industry, and the Federal Government in a multidisciplinary program that will seek increased utilization of waste reduction philosophies and techniques in industrial production.

NJIT is well equipped to carry out such an ambitious program. The institute is home to EPA's Northeast Hazardous Substance Research Center and also houses a Hazardous Substance Management Research Center that has the participation of various academic institutions and 32 industrial members. Furthermore, NJIT has well-established management and public service programs that the school will utilize in conjunction with its technical programs in an effort to produce engineering and managerial professionals who will be able to fully incorporate pollution prevention strategies in the workplace.

Mr. President, I'm very grateful to Senator MIKULSKI for including language in both the bill and report to stop EPA from any further spending on its proposed environmental technology or E-Tech lab in Edison.

Last year, at my request the subcommittee included language in the fiscal year 1991 VA, HUD, and Independent Agencies Appropriations Act that prohibited EPA from spending funds allocated in fiscal year 1988 for the design and renovation of the E-Tech lab. I requested that the subcommittee include this language because EPA had failed to adequately address the environmental concerns of local officials and the community. Furthermore, an informal EPA request for an additional $8 million for the project raised serious questions about the overall scope and design of the project.

The intent of the language included in last year's act was to prohibit EPA from constructing the E-Tech facility and to see if the Agency could satisfy State and local concerns. However, EPA has done neither, despite the fact that Congress gave the Agency ample time to do so. During the past year opposition to the project has grown and EPA failed to include a request for E-Tech in its fiscal year 1992 budget proposal.

Given EPA's lack of a budget request and its failure to satisfy concerns in New Jersey, I asked Senator MIKULSKI to include language in the subcommittee's bill and report that would permanently halt construction of E-Tech.

To permit E-Tech to go forward, in the face of community opposition, and considering the densely populated nature of the area, makes no sense.

As a coauthor of Superfund Amendments and Reauthorization Act of 1986, I continue to support an effective Federal research effort to find ways to treat hazardous waste. At my request, the Senate Appropriations Committee urged EPA to put forth alternatives to E-Tech at Edison to promote a vigorous, national program of hazardous waste research. I hope EPA will take the committee's language to heart and come up with a safer alternative to E-Tech in the near future.

The bill before us also includes funding for efforts to control medical waste, which periodically soils the beaches of my State and others, and threatens the health and peace of mind of Americans. The bill provides $1.4 million for grants to States like New Jersey to enforce the Medical Waste Tracking Act. The bill also requires the EPA to allocate sufficient funds within its budget to implement the act on the Federal level.

The committee report includes important language regarding radon which is estimated to cause 16,000 lung cancer deaths a year. Elevated levels of radon are relatively easy and cheap to reduce. But we need to test homes and schools for radon and mitigate those with radon presenting a health risk.

In 1988, the GAO issued a report prepared at my request which concluded that HUD was failing to act to address radon in our Nation's homes. So I wrote legislation which was included in the 1988 McKinney Act amendments requiring HUD to develop a policy to address radon in a number of its housing programs. This policy, which was just released 18 months late, says HUD will delay action for another 4 years while it conducts additional research. At a hearing of the Subcommittee on Superfund, Ocean, and Water Protection that I chaired earlier this year on the subject of radon, both GAO and EPA said that HUD has enough information to begin to act now.

So I'm pleased that the committee report requires HUD to redesign its policy within 60 days to act and to report to the committee within 6 months on its implementation. The report also directs EPA to develop guidance outlining testing and mitigation procedures for multifamily buildings in HUD's inventory.

The bill contains $57 million for the Asbestos School Loan and Grant Program. While this is less than the amount authorized in the Asbestos School Hazard Abatement Act Amendments of 1990 which I authored, it is $10 million above the House request and it rejects the administration's proposal to eliminate funding for this program.

I'm also pleased that the Senate adopted an amendment to provide EPA with authority to spend up to $1 million to fund operations of the Chemical Safety and Hazard Investigation Board which was authorized by the Clean Air Act Amendments of 1990.

Mr. President, this bill is an important one for the protection of our Nation's environment and for the cleanup of pollution that scars our landscape and threatens the public health. I urge my colleagues to support the environmental appropriations in this bill.

SCIENCE FUNDING

Mr. LAUTENBERG. Mr. President, this bill makes important investments in the development of American technology, and the preparation of America's next generation of scientists and innovators. It includes critical funding for the National Science Foundation and NASA, as well as research functions of the EPA, VA, and HUD.

I do want to note that the subcommittee has also included an increase in funds for two satellites systems—the Earth Observation System [EOS] and Landsat—that will improve the quality of our global climate research program. I was pleased to seek this funding and to work with the Chair on its inclusion in the bill.

EOS is the cornerstone of the U.S. global climate and will provide the scientific community with the necessary data to understand the rate, causes, and effects of global climate change, including such effects as climate warming, ozone depletion, deforestation, and acid rain. This bill provides $286 million for EOS, $95 million above last year's level. The bill also provides $5 million for long-lead parts for Landsat 7, the next stage of the Landsat satellite system, which is also essential for global climate change, deforestation, and acid rain. This bill provides $286 million for EOS, $95 million above last year's level. The bill also provides $5 million for long-lead parts for Landsat 7, the next stage of the Landsat satellite system, which is also essential for global climate change research and also has national security applications. The Landsat system was used to collect information during Operation Desert Storm. I am proud that scientists and researchers at General Electric facilities in New Jersey are developing these innovative projects.

The bill also includes $3.1 million for the continued development of the rotary engine for general aviation aircraft, a project being developed in Wood-Ridge, NJ.

Within the appropriation for NSF, the bill also includes $465 million for the education and human resource activities of NSF, $143 million over last year's level. The bill specifically includes $46 million for facilities modernization and instrumentation for our Nation's colleges and universities. The funding levels in the bill will enhance our efforts to prepare teachers of science, to support graduate research, and to upgrade the laboratories where America's scientists work. Our Nation's academic infrastructure is crumbling and the funding of this program takes a small step in rectifying this situation.

Mr. President, America's competitiveness depends on its technological edge. This bill makes an important investment in activities designed to keep that edge.

HOUSING AND COMMUNITY DEVELOPMENT

Mr. LAUTENBERG. Mr. President, I rise to support the fiscal year 1992 VA, HUD, and independent agencies appropriations bill, and to comment on the important strides the bill makes in the area of housing and community development. The Chair of the subcommittee, Senator MIKULSKI, has put together a bill that will provide welcome increases in programs designed to provide safe and adequate housing for Americans, and to promote the economic development of our cities and towns.

I am very pleased that the bill reported by the Appropriations Committee includes $165 million for the Public and Assisted Housing Drug Elimination Act. This program, which I developed about 3 years ago, provides much-needed assistance to housing authorities, owners of assisted housing, and residents of federally subsidized housing, to fight the plague of drug-related violence in many housing projects.

Mr. President, the residents of public and assisted housing, among the poorest of all Americans, are suffering disproportionately from the dramatic increase in drug-related crime over the past several years. Too many projects have become virtual war zones, controlled by armies of violent, heavily armed drug dealers. With severe violence routine, many residents, particularly young children, are afraid even to leave their apartments at night.

The Public and Assisted Housing Drug Elimination Act is the only Federal program designed specifically to deal with this problem, and is the most effective vehicle for such efforts. Last year, grants were awarded to 349 public housing authorities and 15 Indian housing authorities in 46 States, the District of Columbia, and Puerto Rico. Applications for grants in the current fiscal year, for which $150 million has been appropriated, are now being accepted by HUD.

The $165 million provided in this bill represents the full amount requested by the administration, and virtually the full authorized level of the program. It also includes $10 million that will be available for grants to owners of assisted housing projects, many of which face the same types of drug problems as those in public housing. Last year, with my support, the Congress expanded this program to include assisted housing.

As I discussed on the floor during consideration of last year's housing authorization bill, the owners of assisted housing have the primary responsibility for providing safe living conditions. However, many of these owners face an unforseeable explosion in drug-related crime and lack the resources to respond effectively. Under these circumstances, their residents should not be left at the mercy of violent drug criminals.

Last year's housing authorization bill allows HUD to establish separate selection criteria for consideration of applications from owners of assisted housing. Given the limited funds available, I am hopeful that these selection criteria will help HUD target grants to assist housing owners who could not otherwise meet their obligation to provide safe housing.

Another housing program in which I have been particularly involved is the HOME Program, which provides support for State and local governments, and nonprofit, community-based groups, for the development of affordable housing. The Community Housing Partnership title of the HOME Program is based on legislation I introduced in the 101st Congress, the Community Housing Partnership Act.

This bill contains $2 billion for the HOME Program, more than most supporters of the program were expecting or even hoping. While many housing advocates were asking for $1.5 billion for HOME, I went further and pushed for the full amount. And Senators MIKULSKI and GARN deserve real credit for finding the funds to provide this pleasant surprise. New Jersey can expect to receive $66 million in HOME funding under this appropriation.

I am also pleased that the bill includes a significant increase for the Community Development Block Grant Program. This is an essential tool for local governments seeking to meet urgent community development and housing needs. The bill provides $3.4 billion for the CDBG Program, almost $500 million above the President's request and $200 million above last year's level. That translates into $108.7 million for New Jersey.

Mr. President, I also want to note the funding provided in the bill for public housing operating subsidies and modernization. Public housing authorities face enormous problems in their efforts to serve their residents, and I'm glad we were able to avoid the severe cut in operating subsidies that was included in the House version of this legislation. The funding provided in the bill for modernization is also encouraging, given the severe needs for substantial rehabilitation of many housing projects.

Mr. President, I also am pleased that funding that has been included in this bill for the AIDS Housing Opportunities Act, a new program that was included in the omnibus housing bill last year. This program provides special housing assistance for people with AIDS. Under the program, funds are distributed largely to cities and States, which may use the funds for a number of housing services, including rental subsidies, construction of new housing, renovation of existing housing, homeless prevention programs, community residential facilities, information services, and other housing programs. Given the severity of the AIDS crisis, and the difficulty that many of those with the disease face in securing housing, I am pleased that the bill includes $50 million for the program, though I would have preferred a higher level.

I am also pleased that the bill includes $500,000 that I requested for a housing technology demonstration program that has been developed by the New Jersey Institute of Technology.

Given the severe shortage of affordable housing in much of the country, it is important that technologies be developed to reduce the costs of housing production. Yet presently, there are real disincentives for the home-building industry to invest capital in the development of new technological innovations. These innovations typically require many years of work, and the expenditure of large sums to pay for research, development, material testing, the construction of prototypes, code testing and approvals, tooling, and manufacturing and marketing. Given the fluctuations in the housing market, it is generally uncertain whether there will be a market after this lengthy process is complete.

A study by the New Jersey Institute of Technology found that there are many new ideas and technologies for improving housing quality and reducing costs that could be developed under the appropriate conditions. NJIT worked with a variety of building industry and State officials, and developed a proposal for a housing technology demonstration park for the design, development, and production of housing built with innovative materials, methods, and components. With the $500,000 provided in the bill, this project should provide a useful vehicle to test, demonstrate, and market affordable housing technologies.

I also want to note certain provisions that will have a direct, positive impact on several specific communities in New Jersey.

First, the bill includes at my request $2.5 million for the St. Joseph's School for the Blind in Jersey City, NJ. This is the State's only school for the blind and multidisabled, and serves the needs of approximately 60 students. Over 50 percent of students are from low-income families who receive public assistance.

Residential students at St. Joseph's are currently housed in old, cramped quarters on the second and third floors of the school. The proposed residential facility will be located off campus, to provide a more mainstreamed environment for the children and will be built on a parcel of land that the city of Jersey City donated to the school. The city has also proposed a comprehensive redevelopment plan for this section of Jersey City, called the Heights section, which will include a police and fire station, a water company building, a recreation area, and new and renovated housing.

The bill also includes $100,000 that I requested for improvements to the West Side Community Center in Asbury Park, NJ. This is a recreational center open to all community residents that serves as a hub for community activities, such as a summer day camp, drug abuse prevention classes, theater, sports, and child care.

The center has found that many senior citizens residing in the city are eating poorly, and wants to construct a kitchen that would be used to prepare hot meals for the elderly. In addition, the kitchen would be used for a summer box-lunch program for youth, which would complement existing summer recreation programs at the center.

I also want to point out an allocation of $20,000 that I sought for a commercial redevelopment feasibility study for Clayton, NJ. Clayton is a small town with low- to middle-income families and many senior citizens on fixed incomes. The town is seeking to bring back its downtown, which has deteriorated, and is hoping to implement a plan to revitalize that area.

The bill also includes at my request $50,000 for a feasibility study on the creation of a business park in Wildwood, NJ. Wildwood is a municipality that has suffered economically, and there is a real need to revitalize its downtown. This funding could help, by laying the groundwork for a business incubator that could offer reasonably priced space for various uses, such as factory outlet facilities, a vegetable product center, and a retail outlet for handicapped and special education adults and youth. I am hopeful that the study can be completed for less than the full $50,000, in which case funds also could be applied to begin preliminary work on the project.

In addition, the bill includes at my request $80,000 for an initiative to revitalize the central business district in Paulsboro, NJ. This initiative would be part of an effort to improve parking areas, store front facades, and the rehabilitation of a vacant building for senior citizen housing.

I note that the bill also includes $500,000 for the Newark Public Library to develop reading rooms at public housing projects and $2 million for job and economic revitalization in the city.

Mr. President, these New Jersey initiatives are consistent with the goals of Federal community development programs. They are important to the communities involved, and the many low- and moderate-income residents of these communities.

Finally, I want to thank Senators MIKULSKI and GARN for their help on these matters. They have done an excellent job with this bill in most respects, and they deserve a great amount of credit.

VETERANS PROGRAMS

Mr. LAUTENBERG. Mr. President, I rise in support of the substantial commitment that is made in this bill to the care of our Nation's veterans. Under tight budget constraints, the bill includes substantial increases to meet the growing needs of those who served our Nation. I commend the chair of the subcommittee, Senator MIKULSKI, and the ranking minority member, Senator GARN, for their steadfast support of our veterans.

The bill includes $14.3 billion for veterans medical services and programs, as well as significant funding for medical research and care, special pay for physicians, dentists and nurses, treatment of posttraumatic stress disorder, and housing for homeless veterans. Specifically, the bill includes $227 million for VA medical research. It provides $13.5 billion for medical care. That is $240 million above the President's request for medical care.

Of particular importance to the veterans of New Jersey, where our hospitals have experienced difficulty attracting skilled medical personnel, the bill also includes an additional $53 million for special pay for physicians and dentists, an additional $60 million for special pay for nurses, and an additional $23 million to hire over 400 nurses in areas of greatest need.

The bill also includes $30 million for posttraumatic stress disorder, $10 million over the administration's request.

I also note that the committee has included language in this report accompanying this bill directing the Veterans Affairs Department to address the significant unmet need for magnetic reasonance imaging services in New Jersey. The committee has asked the Department to include an appropriate request in next year's budget to meet this need, and to also provide the committees with a report on this matter.

Mr. President, our military personnel have risked their lives to protect the national security of this country. I'm pleased that the Senate has approved these increases, to help heal the wounds that our veterans still have with them, and to meet their other health care needs. Our veterans deserve no less.

CHANGES IN VETERANS SURVIVOR BENEFITS UNFAIR

Mr. GRAHAM. Mr. President, a change in law was made in the Omnibus Budget Reconciliation Act of 1990 which affects the financial security of veterans' widows and their survivors. Prior to November 1, 1990, widows of deceased veterans were eligible for a number of benefit programs. That eligibility was terminated upon the remarriage of the widow. However, if the second marriage was subsequently terminated by death or divorce, benefits were reinstated.

The Omnibus Budget Reconciliation Act eliminated the right to reinstatement of benefits. At the time this proposal was debated, I do not believe Congress realized this proposal was debated, I do not believe Congress realized the full impact of this proposal. In fact, Mr. President, as a member of the Senate Veterans' Affairs Committee, I supported this proposal.

I have now become aware of the consequences of that action and have introduced legislation, S. 659, to address this injustice.

Mr. President, I ask unanimous consent to include in the RECORD a position statement made by 20 military associations. This statement outlines the unfortunate consequences of the Budget Reconciliation Act for the families of deceased veterans.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF: AIR FORCE ASSOCIATION, AIR FORCE SERGEANTS ASSOCIATION, ASSOCIATION OF MILITARY SURGEONS OF THE UNITED STATES, ASSOCIATION OF U.S. ARMY, COMMISSIONED OFFICERS ASSOCIATION OF THE PUBLIC HEALTH SERVICE, ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE U.S., FLEET RESERVE ASSOCIATION, MARINE CORPS LEAGUE, MARINE CORPS RESERVE OFFICERS ASSOCIATION, NATIONAL ASSOCIATION FOR UNIFORMED SERVICES, NATIONAL GUARD ASSOCIATION OF THE U.S., NATIONAL MILITARY FAMILY ASSOCIATION, NAVAL ENLISTED RESERVE ASSOCIATION, NAVAL RESERVE ASSOCIATION, NAVY LEAGUE OF THE U.S., RESERVE OFFICERS ASSOCIATION, THE MILITARY CHAPLAINS ASSOCIATION, THE RETIRED ENLISTED ASSOCIATION, THE RETIRED OFFICERS ASSOCIATION, U.S. ARMY WARRANT OFFICERS ASSOCIATION

DIC WIDOWS DEVASTATED

The top issue of concern to us is the real and potential financial chaos caused by the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Sec. 8004 of P.L. 101-508 of November 5, 1990) which abruptly terminated—retroactively in some cases—reinstatement of Veterans Dependency and Indemnity Compensation (DIC) benefits to remarried widows who lose their second or subsequent spouse due to death or divorce after October 31, 1990.

This precipitous repeal of a long-standing practice has had devastating consequences for two categories of DIC widows. The first is the widow with young children who elected not to seek full time employment in order to care for her fatherless children. This widow has no career and therefore no pension rights of her own. She elected this option in the secure knowledge that should she remarry she would be protected financially if her second marriage ended.

The second category, DIC widows who have remarried, have been dealt a particularly overwhelming blow. If their second marriage ends many will be penniless. They made financial decisions based on the law that allowed reinstatement of their DIC benefits if their second or subsequent marriage ended.

The extraordinary injustice caused by OBRA is that countless DIC widows already in a second or subsequent marriage have made irreversible financial decisions based on the law that allowed reinstatement of their DIC benefits if their subsequent marriage ended. Based on the DIC guarantee, widows who married other servicemen agreed with their military spouses recommendation that they select a reduced Survivor Benefit Plan (SBP) annuity or decline SBP coverage entirely. Currently, that election cannot be changed. Even if that window of opportunity reopens in April 1992 as contemplated, the retiree must survive until 1994 before his widow would become eligible for survivor benefits. This is small consolation to the numerous widows who have already experienced the demise of their spouses or others whose spouses are terminally ill.

One of the imponderables in relying on a future SBP election to "pick up the pieces" is how many of these widows, or more probably how few of these widows are remarried to retirees who would be eligible for a second chance at SBP. A more likely scenario, and one reported more frequently to us, is that the widow has remarried a non-retiree and must rely on life insurance alternatives. The "Catch 22" is that many are uninsurable because of terminal illnesses, or the injuries, physical impairments or diseases that qualified them for Veterans Compensation. Others, advanced in years, face prohibitively expensive or unaffordable insurance premiums. If it were not for Congress' action in 1970 to restore DIC they would have purchased insurance when they were younger and the rates more affordable.

Since its enactment, no issue has reverberated more loudly through the veteran's community than this one. Many find it paradoxical that with one hand Congress is reaching out to the impoverished and down-trodden of the world with hundreds of millions of dollars of relief, while with the other they are forsaking the widows of veterans who made this Nation the dominant world force it is today. They ask with bewilderment how this Nation can look today's heroes squarely in the eye and make commitments about future benefits knowing full well that those promises, like DIC reinstatement may be short-lived.

Three examples of the undue hardships caused by OBRA of 1990 will help illustrate the severity of that law on widows.

SORRY, TOO LATE

Case 1: A DIC widow's second husband (a retired officer) died on October 24, 1990. She notified the Service Accounting and Finance Center of this death. She was informed by the Personal Affairs office that due to the situation in Iraq, they could not provide a Personal Affairs Officer for assistance, but would mail a packet which she could take to any VA office to file a claim. That packet arrived on November 7, 1990. Her second husband had elected not to participate in the Survivor Benefit Plan (SBP) because he understood (and left instructions to that effect for her) that in the event he predeceased her, she would be eligible for DIC benefits based on her first husband's service-connected death. She filed a DIC claim through the local VA office on December 18, 1990. To her horror she was notified on March 9, 1991 that the claim had been denied because, "The provisions under the Congressional Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 . . . prohibit the payment of death and indemnity compensation for any claim filed after October 31, 1990."

Case 2: This DIC widow remarried in 1973, knowing that she would be eligible to reinstate DIC if she became single again. On October 2, 1990, because her husband was becoming quite ill, she visited a Veterans Service Office in California, where she was assured she would be eligible to reinstate DIC if her current husband died and that the monthly benefit would be $834. Her husband died on November 7, 1990 after an emergency heart bypass surgery and five weeks in an intensive care unit. This widow was informed on November 27, 1990 that she was not eligible, as of October 31, 1990, to have DIC reinstated.

SHOULD HAVE PLANNED BETTER

Case 3: In 1979, a DIC widow married an officer who remained on active duty until retirement in 1987. In preparation for retirement, he was advised about his retirement benefits and several points were made: Upon his death, the wife would be eligible for reinstatement of DIC payments; DIC benefits would not be reduced by Social Security benefits; military Survivor Benefit Plan (SBP) payments are offset by DIC; if he elected to participate in SBP, SBP would be offset by Social Security at age 62; the decision to participate or not in SBP had to be made prior to retirement and was irrevocable.

Based on these facts, the officer declined SBP coverage. Now terminally ill, OBRA of 1990 has had devastating effects on their spiritual well-being. The assurance that DIC could be reinstated was a substantial and vital part of their financial planning. They are now left without either DIC or any prospects of qualifying for SBP and wonder why they relied on the Government to honor commitments.

These cases provide real world examples of the hundreds of widows who, in consultation with their husbands, planned for their futures in good faith, with the assurance of the U.S. Government that DIC could be reinstated. To deny this assurance now undermines the credibility of this Nation's leaders to the very members who have given the greatest service to their Nation. Veterans and widows alike find it ironic that now, while this grateful Nation is providing well-deserved benefits to veterans and survivors of veterans of Desert Storm, that the same Nation should ignore the plight of the widows whose spouses performed equally meritorious service in previous conflicts.

Savings may prove to be illusory. Numerous widows who were contemplating remarriage have placed those decisions on hold because of OBRA 1990. Their continuation on the DIC rolls will tend to decrease the savings anticipated by Section 8004 of OBRA 1990.

The following chart presents the effects of remarriage and death or divorce of a subsequent spouse on six Federal programs. In most cases, the benefits continue even when the spouse remarries after 55 or 60. VA (DIC) benefits are the only category for which benefits are not reinstated upon death or divorce of a subsequent spouse.

THE EFFECTS OF REMARRIAGE ON VARIOUS SURVIVOR PROGRAMS

Federal program and effect of remarriage	Effect of termination of remarriage thru death or divorce
VA benefits:	
1. Terminate benefits permanently unless marriage is voided or annulled.	1. Not reinstated.
Civil service survivor benefits:	
1. Remarriage under 55 terminates benefits.	1. Benefit reinstated.
2. Remarriage at 55 or over has no impact on benefits.	2. Not applicable.
Federal Employees Compensation act:	
1. Remarriage under 55 terminates benefits.	1. Benefit reinstated.
2. Remarriage at 55 or over has no impact on benefits.	2. Not applicable.
Railroad retirement:	
1. Remarriage under 60 (50 if disabled) terminates benefits.	1. Benefit reinstated at reduced rate.
2. Remarriage at 60 or over (50 if disabled) has no impact on benefits.	2. Not applicable.
Social Security:	
1. Remarriage under 60 (50 if disabled) terminates benefits.	1. Benefits reinstated.
2. Remarriage at 60 or over (50 if disabled) has no impact on benefits.	2. Not applicable.
Military survivor benefit plan:	
1. Remarriage under 55 terminates benefits.	1. Benefits reinstated.
2. Remarriage at 55 or over has no impact on benefits.	2. Not applicable.

We are aware of the extraordinary time constraints and budget pressures that were confronting you when the OBRA law steamrolled through the legislative process last fall. Now that the legislative furor has diminished and the moral and financial implications of that decision have become evident, we are optimistic that a better solution exists than to disallow DIC reinstatement. We can state without fear of contradiction that the distinguished members of this committee who have protected the interests of the veteran and his family unwaveringly for years would not knowingly hurt those surviving spouses of our Nation's heroes, who based their financial futures on the good faith commitment made to them by this Nation.

We ask that you repeal the provisions of Sec. 8004 of P.L. 101-508, November 5, 1990. Surely other alternatives exist which would save comparable funds, but would not have such far reaching impacts on our survivors.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Mr. LIEBERMAN. Mr. President, I rise in strong support of the committee amendment which provides that up to $1 million be provided by EPA for the establishment of the Chemical Safety and Hazard Investigation Board.

Mr. President, the only reason we find ourselves in the position of supporting this amendment so late in the appropriations process is because of the administration's attempt to avoid its responsibility under the Clean Air Act to create the Board. Despite the fact that the new Board was specifically patterned after the National Transportation Safety Board, which has been successful in establishing public confidence in its investigation of airline, railroad, and other transportation-related disasters, the administration objected to the structure and failed to act to create the new Board for 7 months after the Clean Air Act was signed into law. It was only 2 days ago, after extensive objections from members of the Senate Environment and Public Works Committee and the House Energy and Commerce Committee that the administration recognized that it cannot choose to ignore those sections of the law which it dislikes.

Dozens of workers have died in chemical plant accidents around the country so far this year and millions of persons live close enough to chemical plants to be killed or injured if winds carry fumes from explosions into their homes. The purpose of the independent watchdog established by the Congress under the Clean Air Act is to look into the causes of chemical disasters and to report to the public and the chemical industry on what happened and how to prevent it in the future.

In mid-June, an accident at a chemical plant in Charleston, SC, killed 6 people and injured another 33. And the number of accidents at chemical plants has been on the rise. The National Safe Workplace Institute reports that 23 workers have died in 5 accidents so far this year. Compare that to the early 1980's, when less than 10 people a year were killed in chemical plant accidents.

Mr. President, the administration must now put the formation of this Board on the fastest track possible. We must know why these accidents are occurring and what improvements are needed to prevent them in the future. We must not delude ourselves into thinking a Bhopal-like chemical disaster cannot occur here.

AGRICULTURAL CLEAN SWEEP PROGRAM

Mr. KOHL. Mr. President, as we consider the Environmental Protection Agency's budget for fiscal year 1992, I would like to call to the attention of my colleagues a program launched last year in Wisconsin that I believe merits assistance from the EPA in the coming fiscal year. This program—the Agricultural Clean Sweep Program—is designed to provide farmers with a means to dispose of unwanted, outdated and unused agricultural chemicals. Judging by the overwhelming demand for the program in its first year of operation, it is clear to me that we ought to be doing more at the Federal level to encourage this type of pesticide disposal program.

Agricultural Clean Sweep was operated on a demonstration basis in three Wisconsin counties last year. In each of those counties, the Wisconsin Department of Agriculture, Trade and Consumer Protection offered to dispose of all unwanted chemicals collected from farmers at a given site on a given day. The demand for the collection service was overwhelming.

Between the three counties, the department collected more than 39,000 pounds of unwanted chemicals from 270 farmers. Many more farmers who showed up with unwanted chemicals were turned away because of insufficient resources available for the program.

Because of the popularity of the program, the Wisconsin Legislature is currently debating a significant budget increase for the program in fiscal year 1992. If the proposed increase is approved, the department expects to be able to serve 10 to 20 counties over the next 2 years.

Mr. President, I hope that the Wisconsin Legislature will approve a budget increase for this program. But I would also like to see some Federal assistance for the program as well. Estimates show that 20 to 40 percent of farmers in Wisconsin are storing banned pesticides such as DDT, damaged pesticides, or pesticides that have been replaced by more effective products. In fact, the department estimates that Wisconsin farmers are storing 4 million pounds of pesticides that they can't use but can't dispose of. The eventual cost of properly disposing of this volume of chemicals may be as high as $20 million.

This is a big price tag, but the alternative is equally disturbing. Unless we help farmers dispose of agricultural chemicals properly, farmers will either continue to dispose of them improperly—by burying or dumping them—or continue to store them. Either option poses a continued risk to the health of our farm families and our rural areas.

Mr. President, I have not sought funding for this program in this bill because I have been told that the Environmental Protection Agency is attempting to provide funds to assist Wisconsin in its efforts in fiscal year 1992. Given that, I do not wish to intervene prematurely and unnecessarily in this area. I am hopeful that the EPA will, indeed, commit funds to this program, and I will be working with EPA officials to see that they do. But I wanted to bring the Clean Sweep Program to the attention of my colleagues because it is clearly a successful program, a needed program, and a type of program that demands and deserves Federal attention.

NATIONAL AND COMMUNITY SERVICE ACT

Mr. WOFFORD. Mr. President, I rise in support of this legislation, and I commend my colleague from Maryland for her leadership.

I especially applaud the Senate subcommittee's inclusion of funding for the National and Community Service Act. This action shows the commitment of the Federal Government to encouraging active duty citizenship and to providing new avenues of opportunity for America's young people.

Two months ago today, I gave my first testimony as a U.S. Senator on this legislation. I said then, and I say today, that we must provide the leadership that only the Federal Government can give.

National and community service is a movement that's growing and gaining support across America and across the political spectrum. Community service programs that ask and engage young people in the hard work of citizenship are emerging at the grassroots level in communities throughout our Nation.

In Maryland, the Maryland Conservation Corps and the Montgomery County Conservation and Service Corps are models that this act can replicate.

In Utah, service and conservation corps offer a proven vehicle to transform troubled youth into productive youth.

In New York and Vermont, promising initiatives in service-learning, youth corps, college-based service and intergenerational programs provide a base on which the National and Community Service Act can build.

And, in my State of Pennsylvania, we've proven that the return on our investment in service programs can be enormous. For almost 4 years, I chaired an effort we called PennSERVE: The Governor's Office of Citizen Service, which has sought to "ask and enable all Pennsylvanians to engage in community service."

Our experience with PennSERVE shows the vital link between the practice of citizen service and the preparation of a world-wide work force. Community service is the modern application of the oldest form of learning—learning by doing. And funding the National and Community Service Act can help others to see this connection. The seed money provided by this legislation can leverage other funds and revive other programs.

This summer in Pennsylvania, 2,000 young people will participate in the State's "Summer of Service," a youth corps program funded by the Job Training Partnership Act's summer youth employment and training funds, with a subsidy from the Pennsylvania Conservation Corps.

Based on last summer's experience, we're confident that participants will gain a full year of reading and math skills through the program.

Many of these young people will have experiences that are unique in their lives. Kids from the big city learning how to work together in the woods, to climb up a cliff and then repel back down. I've joined them going down those cliffs and let me tell you, these young people find out just what they're really capable of—and they never forget it.

Nationwide, we spend over $700 million in summer youth employment and training funds each year. The seed money this legislation provides will make these programs immeasurably more effective. Similar opportunities abound in our schools where community service provides multiple opportunities for making education more relevant, more exciting and more productive.

Pennsylvania's literacy corps illustrates this point. This State-funded program supports corps on 16 college campuses and provides technical assistance to another 14 corps funded by the Federal Literacy Corps Program. Through these efforts, more than 1,000 students have served in literacy programs and more than 2,500 Pennsylvanians have received tutoring. Similar private sector efforts such as Campus Compact and Campus Outreach Opportunity League, offer other opportunities to build effective partnerships between higher education, students, and their community.

The National and Community Service Act will do more than add names to America's roster of volunteers. It will change the way in which we perceive and treat our young people.

Mr. President, one thing I discovered when I helped found the Peace Corps 30 years ago is that Americans want to serve, to give of themselves and make not only our country, but the world, a better place. All we have to do is ask. Because by making that word "ask" into a strong and active verb, we tap into a reservoir of energy and commitment which knows no limits.

And make no mistake about it, we'll need every bit of that energy and commitment to overcome the challenges our society now faces and to prepare all of our young people to be productive workers in our economy and active citizens of our democracy. There is nothing more important we can do than to keep fighting until we take action to save another generation of disadvantaged young people from dropping out of school into a new cycle of joblessness, drugs, prison, and welfare.

It's a shame and a sin that a society with children who need care, roads that need repair, bridges that need building is paying able men and women to sit idle. They deserve the dignity of a job, and the taxpayers deserve a day's work for a day's pay. And effective citizen service programs are one way we can begin making it happen.

I believe that it's time again to ask all our young people to serve their country and their community. To serve, not be served—in the military service or the Peace Corps or a 100 local service corps where they can serve, earn, and learn, as millions of young Americans once did in the Civilian Conservation Corps—a program which lifted an earlier generation of young Americans up by their own bootstraps.

Our future lies in teaching our young people to do the hard work of freedom, the hard work of citizenship right here at home as well as abroad. This legislation moves us another important step toward that future.

RELOCATION OF ST. PETERSBURG VA REGIONAL OFFICE

Mr. GRAHAM. Mr. President, I would like to reiterate my support for the bill which the distinguished Senator from Maryland has developed providing funds for HUD, the VA, and various independent agencies.

I am particularly pleased that the Appropriations Committee has recommended an increase in the medical care account for veterans. This bill includes $13.5 billion for veterans' medical care, an amount higher than both the President's request and the House recommended level.

I appreciate the committee's recognition of two ongoing projects of critical importance to Flordia veterans—the construction of a long-term psychiatric unit and the expansion of a spinal cord injury unit. Both of these projects have been unnecessarily delayed by the VA, and the committee has appropriately encouraged the VA to move ahead with the next phase of construction.

I am concerned however, that the committee did not include funds for a project included in both the President's budget request and the House's appropriation measure allowing for the relocation of the VA Regional Office in St. Petersburg, FL.

Currently, VA benefits claims and appeals are made through this facility in downtown St. Petersburg. With the huge number of veterans in Florida, nearly 1.5 million, the workload has outgrown the capacities of the building. The building is not structurally capable of supporting the number of people and the huge amount of paperwork required to keep up with the benefits claims of Florida veterans.

The building has also had a history of other problems such as fire and safety deficiencies, asbestos, roof leakage, and rodent infestation.

In 1988 the VA was cited by OSHA for excessive floor loading due to files and bulk storage maintenance. As a means of resolving the OSHA citation, loan guaranty file cabinets, bulk publications, and general storage was moved to a remote warehouse not easily accessible for use by benefits counselors.

The VA has suggested that the building be relocated to property currently owned by the Department on the campus of the Bay Pines VAMC. Not only would a move allow for more room to get the job done, but it will allow veterans the convenience of being able to visit health care professionals and benefits counselors at one location. Colocation will also be beneficial to the employees of both the health care facility and the regional office who often work together on veterans' cases.

According to Thomas A. Wagner, the director of the Administrative Support Staff of the Veterans Benefits Administration, the VA's own economic cost analysis shows colocations to be cost effective. The colocation proposal meets all the necessary requirements for VA approval of such projects.

Mr. President, I hope the committee will recognize the value of this colocation proposal. I understand that the committee has a very limited budget with which to work, but perhaps during conference this item can be revisited.

I ask unanimous consent that a letter of support for the project from the executive director of the State of Florida Department of Veterans' Affairs be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF FLORIDA,
DEPARTMENT OF VETERANS' AFFAIRS,
St. Petersburg, FL, July 18, 1991.

Hon. BOB GRAHAM,
U.S. Senator,
Washington, DC.

DEAR SENATOR GRAHAM: Recently I learned that the Senate failed to include an appropriation of $24 million required to collocate the U.S. Department of Veterans Affairs (VA) St. Petersburg Regional Office (RO) with VAMC, Bay Pines.

Particularly distressing to me is the Committee assertion that relocation is not warranted at this time. This same negative view was accorded relocation of the Houston, TX RO.

To begin with, the projects proposed for Florida and Texas are not precisely comparable. Texas now has two ROs, while Florida has but one. To our knowledge, an additional requirement for office space is not the primary issue in the Texas proposal. In the Florida case, my understanding is that additional space is a principal justification for relocation of the St. Petersburg RO.

It has been well established that Florida RO workers handle larger caseloads per employee than anywhere else. This has obvious importance in terms of the quality of the adjudication of benefits available locally. This may help to explain the extraordinarily high number of cases forwarded to the Board of Veterans Appeals from Florida (one-third more cases than California, though its veteran population is nearly twice ours.)

Relocation of Florida's RO is our number one priority in the benefits arena. This is true because the RO can be a "choke point" for the entire array of veterans' benefits. We desperately need room for expansion to accommodate growth in the number of people who process claims in Florida. The obviously expensive alternative would be a second RO to accommodate Florida's burgeoning veteran population.

There are other strong arguments supporting collocation including improved interaction between "benefits" and "health care," but I'm sure the VA will advance those. If we can be of further assistance, please do not hesitate to call.

Respectfully,
EARL G. PECK, MGen., USAF (Ret.),
Executive Director.

SPACEHAB PROGRAM

Mr. HEFLIN. Mr. President, I would like to take a moment to enter into a short colloquy on a NASA program with the distinguished Senator from Utah [Mr. GARN].

As my colleague knows, the Spacehab Program represents a unique era of commercial development as the Government seeks new ways of fostering internationally competitive space business without directly supporting it. The Spacehab is a presssurized space module which augments the middeck volume of the shuttle for man-tended research in space. It fits in the shuttles cargo bay, quadrupling the experiment volume available in the pressurized area.

The Spacehab Program has been funded through a combination of equity and debt. Over $40 million has been raised in equity. A bank loan involving a revolving credit line up to $64 million dollars has been secured through the Chase Manhattan Bank. Spacehab has a backlog of $250 million in orders and projected 1993 revenue of $80 million. NASA has a fixed price contract with Spacehab for two-thirds of the capability of the first six flights.

The NASA contract titled CMAM [Commercial Middeck Augmentation Module] provides that Spacehab accommodate experiments developed by NASA Centers for Commercial Development of Space and U.S. industry to develop commercial uses of space. Over 60 universities and 160 industry groups throughout the Nation participate in this NASA sponsored program.

In the past, Congress has supported efforts to further private sector interest in commercial space development and I hope this trend continues this year. I would therefore question my colleague as to whether one such program, Spacehab, has the full support and endorsement of the committee?

Mr. GARN. The Spacehab Program has the full support of both the House and Senate authorizing committees. Furthermore, Spacehab is supported by the administration and was included as a commercial space initiative in President Bush's report to the Congress.

Mr. HEFLIN. There have been some rumors that due to the fact that the committee recommended a $47 million reduction in funding for NASA commercial programs, and because the Spacehab Program was funded at $47 million, it was to be the target of this cut.

Mr. GARN. That is not true, the committee's recommendation was completely unbiased. It was not our intention to target any program for this cut.

Mr. HEFLIN. Mr. President, I would like to thank my colleague from Utah for clarifying this matter for me.

INTERNATIONAL TREATMENT FACILITIES AT SAN DIEGO

Mr. SEYMOUR. Senator CRANSTON and I wish to bring to the attention of our distinguished colleagues, Senators MIKULSKI and GARN, the need for continued funding of the international treatment facilities located along the border between the United States and Mexico at San Diego, CA. The United States, through the Environmental Protection Agency and the International Boundary and Water Commission, has spent nearly $57 million thus far on the planning and design of the treatment works which will ultimately rid the Tijuana River valley of raw sewage flows. Currently, the city of San Diego and the IBWC indicate that there are 13 million gallons of raw sewage flowing daily through the valley.

Mr. President, the administration requested $100 million for fiscal year 1992 to continue work on the treatment works at the border. Construction is expected to begin soon on the first section of the outfall pipe which will carry treated sewage from the international treatment plant to a deep ocean outfall. The remaining land outfall, the ocean outfall and the treatment plant are expected to be completed in late 1995 if Federal and local funding continues.

EPA and IBWC agree that $49 million is needed for fiscal year 1992 to complete the design of remaining land outfall and ocean outfall and begin their construction. Some of the funds will be used to complete the design of the treatment plant.

Senator CRANSTON and former Senator Pete Wilson have documented over the past 6 years the significant health risk caused by this intolerable pollution problem, and thanks to their work and the assistance of Senators MIKULSKI and GARN, funding has been provided to begin to address this very serious problem.

I would like to inquire of the chairman and ranking Republican if they would be inclined to continue to support funding for this solution to an international border sewage problem?

Ms. MIKULSKI. Senator, I understand your concerns and those of Senator CRANSTON regarding this matter. As you know from the record of the markup H.R. 2519, the subcommittee indicated that it does not earmark funds for water pollution control projects; however, I recognize that this project is distinct from others in that it is an international project, Mexican officials, the city of San Diego, EPA, and IBWC have all been working to solve this problem. I assure you that Senator CRANSTON'S and your request will be given every consideration during the committee of conference.

Mr. GARN. I concur in this evaluation.

Mr. SEYMOUR. I want to express my appreciation to the Senator from Maryland and the Senator from Utah for their assistance on this matter.

TOS COLLOQUY

Mr. DECONCINI. Mr. President, I note that the Senate report on the VA-HUD-Independent Agencies bill indicates that $5 million budgeted by NASA to pay for an extension of the option to purchase two transfer orbit stage [TOS] boosters has been deleted from the President's request. The language goes on to say that this deletion is without prejudice and that if NASA decides to procure the vehicle for a specified mission the committee will take a second look at the issue.

I would like to ask the distinguished chair of the subcommittee, Senator MIKULSI, if it is her understanding that the $5 million request was made pursuant to a contractual agreement with Orbital Sciences Corp. which benefited both NASA and the company. To be more specific, NASA secured a 2-year extension on the option period and a lower purchase price for two options it held for Orbital's TOS upper stage. In return, Orbital was to be paid $5 million in the 1992 budget to cover costs related to maintaining its production line inventory and support equipment. During that 2-year period, which expires December of this year, NASA could either choose to exercise one or both of the options at the lower price, or forfeit the opportunity and allow the extension period to run out. In either case, NASA had a contractual obligation to the company to pay the $5 million.

Ms. MIKULSKI. I agree with the Senator. The money was requested by NASA pursuant to a contractual obligation.

Mr. DECONCINI. I understand the extremely difficult budget pressures faced by the distinguished manager of the bill and want to congratulate her for her skill in crafting a measure that meets the most pressing needs of the constituencies funded by the bill yet manages to stay within a very tight budget allocation ceiling. However, I wonder if the Senator from Maryland would agree with me that the conferees should make a particular effort to provide the funding required to allow NASA to meet its contractual obligations in general and the TOS contract extension obligation in particular.

Ms. MIKULSKI. I can assure the Senator that this conferee will do her best to see that this issue is addressed in conference within the constraints imposed by a very difficult budget allocation. However, I would note that NASA will first need to identify a mission for this TOS upper stage before they exercise this option should the conferees restore this $5 million.

Mr. DECONCINI. I thank the distinguished Chair.

LEAD ABATEMENT

Mr. JEFFORDS. Mr. President, for much of the past year, I have been working with EPA and OSHA on jurisdictional differences between the two agencies related to lead abatement. Working with these two agencies, we were able to reach a compromise that reflected not only the agencies' concerns, but also labor and industry concerns. I thus would like to request of my colleague from Maryland some information about the intent and scope of the lead abatement section of the VA, HUD, and Independent Agencies' appropriation.

First, I note in the committee report that OSHA is to develop the regulations related to worker health and safety. Is that correct?

Ms. MIKULSKI. Yes.

Mr. JEFFORDS. How much money is to be allocated for the purpose of lead abatement, particularly for the regulatory promulgation?

Ms. MIKULSKI. The committee is recommending an increase for EPA totaling $4,750,000 for lead-based paint activities, including $3,000,000 to establish a national system for standardizing training and accreditation programs and $1,750,000 for grants for training workers.

I might add that we are also recommending increases in HUD not only for additional technical guidelines development for abatement activities, but are also providing for the establishment of a new Office of Lead Paint Abatement and Poisoning Prevention to provide for a policy focus for Department-wide lead-based paint abatement activities and to coordinate with other Federal efforts. Finally, the committee is recommending an appropriation of $75 million for a demonstration of lead-based paint abatement in privately owned housing in addition to the previously funded demonstrations in public housing and our ongoing abatement activities as part of the $3 billion public housing modernization program.

I would say to the Senator that with respect to the two major agencies under the subcommittee's jurisdiction: HUD and EPA, we have been very concerned over the public health menace of lead poisoning, and are making very forceful recommendations as to the aggressive role that these agencies must undertake to responsibly address this enormous problem.

Mr. JEFFORDS. How is OSHA to pay for this rulemaking since no money is appropriated to OSHA in this bill for this purpose?

Ms. MIKULSKI. OSHA of course is not in our subcommittee jurisdiction and therefore we could not make a direct appropriation for that agency. I would say, however, that to the extent that they also have statutory responsibilities to address worker safety issues, I would hope that their appropriations bill would adequately provide the resources to fulfill their mandates. In addition, to the extent that OSHA would be providing services for another agency such as EPA or HUD, an interagency agreement, including reimbursements of funds to OSHA is certainly administratively permissible. I would certainly support such an arrangement if it permitted more timely and effective Federal action on this tragic problem.

Mr. JEFFORDS. Second, I have spoken to OSHA about its regulatory strategy for lead. OSHA believes two rules are needed. The first is an interim rule that OSHA believes it can issue very rapidly. The second rule would be a final rule that would address the issue of lead levels in greater detail. OSHA does not believe it can address this more important issue comprehensively in a year. Is it the intent of the language in the bill to allow OSHA to quickly promulgate an interim rule to be followed by a final rule within some longer period of time?

Ms. MIKULSKI. How long would it take to do a final rule and what would be involved in the interim rule?

Mr. JEFFORDS. Approximately 2 years for the final rule. For the interim rule, I anticipate that OSHA would propose the industry standard to the construction industry. The current construction standard is badly out of date.

Ms. MIKULSKI. I believe that such a two-track legislative approach is appropriate. Again, it is critical that the responsible Federal agencies meaningfully address this crisis as expeditiously as possible. I might also add that there is lead-based paint abatement going on across the country as we speak. The need for standards is long overdue and OSHA must move immediately.

Mr. JEFFORDS. Could union appprenticeship programs qualify or partially qualify to meet the intent of the training programs?

Ms. MIKULSKI. Yes, that certainly seems appropriate. As I have said, the need to abate lead-based paint exposure is an enormous nationwide problem. We certainly must use all available means to provide the training necessary to accomplish this goal in a safe and effective manner, and as the Senator knows I am very supportive of union apprenticeship programs.

Mr. JEFFORDS. Accreditation of laboratories may be best handled by trade associations. For example, the American Industrial Hygiene Association is a nonprofit group that has effectively run accreditation programs. Is it the intent of this legislation to require EPA to look at having an outside contractor, association, or entity run the accreditation program?

Ms. MIKULSKI. In our hearings both with respect to our subcommittee and in other hearings on biomedical health issues, there have been very profound concerns raised over the adequacy of laboratory quality assurance and certification. With respect to lead-based paint, since many of the testing procedures are relatively new, we have received reports of problems in accurate analysis in previously certified labs. I must therefore reserve judgment on this issue until a more thorough assessment of these concerns is completed. I will say, however, that nothing in the bill prohibits EPA from utilizing the services of an outside contractor.

Mr. JEFFORDS. Reciprocity in certification should be encouraged, as one of the main complaints I have heard about the asbestos program is that contractors must get recertified in each state needlessly increasing the cost of abatement projects.

Ms. MIKULSKI. Yes, EPA would be directed to encourage reciprocity of certification.

FUNDING FOR THE ADVANCED BUILDING TECHNOLOGY PROGRAM

Mr. LIEBERMAN. I want to commend the Senator from Maryland for the fine work she has done in putting together this most important legislation. I wonder if I might ask my friend from Maryland a question about a program of particular importance to me: the Advanced Building Technology Council, authorized last year in section 952(b) the Affordable Housing Act.

The Council, which is a voluntary program for participation by both the private sector and Federal construction agencies, will provide the Federal Government with access to cost-cutting new building technologies. It will promote new building techniques that result in cheaper and more energy efficient structures by evaluating and recommending, as well as assuring certain guarantees for, promising innovations for use in Federal buildings and other structures built with Federal funds. Federal agencies are required to consider and utilize, where appropriate these technologies.

I note that no specific funding is provided for the Council in this appropriations bill, I ask the chairman to consider providing funds for the Council in conference.

Ms. MIKULSKI. I want to thank my friend for his kind remarks, I want to assure him that I will give full consideration to providing funding for the Council in conference.

Mr. LIEBERMAN. I thank my colleague for her support and again commend her for the excellent work being done by her and her fine staff.

Mr. BOND. Mr. President, I am concerned whether the bill before us provides sufficient funding for the section 8 property disposition program, the program that facilitates the sale of foreclosed multifamily properties.

The bill appropriates funds for 2,858 section 8 certificates—the same number as the House. Yet, the congressional justifications for fiscal year 1992 shows a real leap in the HUD-owned inventory—23,563 units are estimated to be HUD-owned properties.

The adequacy of funding for the property disposition program is of particular concern in my State. The report I referred to earlier shows over 4,000 units that are either HUD-owned, in foreclosure or recommended for foreclosure in my State. Many of these are in St. Louis. I would also ask the chairman of the subcommittee to take a closer look at the level of need, in consultation with the Department, during conference deliberations. I do not think that it would be a good result to have HUD as a long-term owner of this housing, which may occur if the the number of units are too few.

Ms. MIKULSKI. I assure the Senator from Missouri that a full review of the need for property disposition subsidies will be conducted prior to the completion of conference.

SMUGGLER MOUNTAIN SUPERFUND SITE

Mr. WIRTH. Mr. President, as the manager of this bill may know, we have a rather unusual problem with a Superfund site in Pitkin County, CO. The Smuggler Mountain Superfund site is located in the heart of a middle-class residential community in Aspen. The Environmental Protection Agency has determined that the soil in the Smuggler Mountain neighborhood has high levels of lead and other heavy metals. As a result, in carrying out its legal responsibilities under the Superfund law, the Environmental Protection Agency has developed a plan for cleaning up that Superfund site.

But, Mr. President, that plan has sparked tremendous controversy among the people who live in Smuggler Mountain. They have some real questions about whether the mine tailings—which are covered by soil and gardens and homes in many places—pose a threat to their health, at least so long as the soil remains undisturbed. More important, they are very, very concerned that the bulldozers and back-hoes and other equipment that will have to be used to dig up the mine tailings will mobilize these heavy metals and directly increase the health risks to the people who live in this neighborhood.

I want to emphasize to the Senator from Maryland, the manager of this bill, that I am not criticizing the EPA. They have a job to do, and they are doing it in good faith. But I do have to emphasize that the people of Aspen and Pitkin Counties are virtually unanimous in their concern about whether some critical elements of EPA's remediation plan are necessary and appropriate, and whether the cleanup plan will actually increase risks to their health.

As a result, I recently wrote to the EPA to suggest that they take a second look at the cleanup plan. To be specific, I suggested that EPA adopt an interim remediation plan for this summer's construction season. That interim plan is based on the fact that there are a number of remediation measures that are not controversial. For example, there is wide agreement that some gravel and dirt roads should be paved, and that a great deal of signing and education needs to be done. Those measures could be implemented. But the controversial proposals, which involve significant soil disturbance, would be deferred for a season.

The second element of my proposal is that during this interim period, the Environmental Protection Agency would request an independent entity to take a look at the health risks that exist at Smuggler Mountain, and the health risks that would be created during the cleanup. The independent agency would then be in a position to make recommendations to the EPA about the appropriate scope of remediation at this site. I suggested to the EPA that the Agency for Toxic Substances and Disease Registry of the Centers for Disease Control would be viewed as independent and objective by everyone concerned.

At the risk of belaboring the point, I want to emphasize again that the uncertainties about the health risks posed by these buried mine tailings have galvanized the community. In all my years as a Member of Congress, I do not believe I have ever seen a community as united as the people of Aspen are over this issue. They simply will not let the cleanup begin unless, and until, we can convince them that the plan makes sense—that it is needed to protect their health—or as they would state it, that it won't jeopardize their health.

Unless we find a way to answer these citizens' questions, the cleanup plan for Smuggler Mountain will bog down deeper and deeper in controversy. That is not in the best interest of either EPA or Pitkin County.

But fortunately, while this issue has stirred tremendous controversy in Pitkin County, my proposal has been met with wide acceptance by members of the community and the leaders of the city of Aspen and Pitkin County. I believe it is a fair way to resolve the outstanding questions that so concern the residents of Smuggler Mountain.

That is why I am here this evening, Mr. President. We have discussed this matter in some detail, and I want to confirm our understanding that within the funds appropriated to the Environmental Protection Agency by this bill, the Agency for Toxic Substances and Disease Registry is to perform an independent assessment of the health risks at the Smuggler Mountain Superfund site in Colorado.

Is that also the understanding of the distinguished subcommittee chairman?

Ms. MIKULSKI. The Senator from Colorado is correct. I believe it is appropriate for the ATSDR to perform an assessment of the health risks of various options for the Smuggler Mountain remediation. This site is located in the center of a densely populated neighborhood, and it would be impossible to take in heavy equipment without a great deal of disruption. And I can certainly understand why the local residents would be concerned about whether the soil disturbance would increase the health risks to adults and children in the neighborhood.

Mr. WIRTH. I thank the distinguished Senator and manager of the bill.

CRAF

Mr. FOWLER. Mr. President, I would like to address a question to the distinguished Chair of the Subcommittee on VA, HUD, and Independent Agencies, the Senator from Maryland. I would like to briefly discuss a portion of the NASA Space Science Program which is of particular interest to me: The Comet rendezvous asteroid flyby [CRAF] mission.

But before discussing CRAF, I wish to thank the chair for her diligence and leadership in producing an fiscal year 1992 NASA appropriations bill which is balanced, viable, and affordable in the very difficult budgetary environment she had to work in. In particular, I am very pleased that the Senator from Maryland managed to produce a bill which repairs most of the damage to NASA's Space Science Programs that would have resulted from the imposition of an across-the-board freeze.

The major exception to this is in the proposed termination of the amendment portion of what Congress authorized in fiscal year 1990 as the combined CRAF/Cassini missions. It is my understanding that the Appropriations Committee came to this decision reluctantly, and based solely upon the severe financial constraints placed upon the VA, HUD, and Independent Agencies bill.

Ms. MIKULSKI. The Senator from Georgia is correct. I know of his longstanding, strong support for both the CRAF and Cassini missions, and I share his evaluation of the scientific value offered by both of these projects. The decision to terminate CRAF was, as he stated, a reluctant one based on the level of funding available for NASA within the committee's 602(b) budget allocation this year and what is likely to be available next year.

Mr. FOWLER. I thank the chair. I would like to further inquire of the Senator from Maryland whether, given that the other body has adopted an appropriations bill which assumes a continuation of the combined CRAF/Cassini mission albeit at an unrealistically low fiscal year 1991 spending level, she anticipates that the future of the CRAF mission will be an item for conference, and further that if sufficient resources can be fond, she could support a continuation of CRAF?

Ms. MIKULSKI. I do believe that the status of CRAF will indeed be an issue for conference. If the conferees can produce sufficient resources to fund a combined CRAF/Cassini mission without comprising the viability of the space station, EOS, AXAF, and shuttle programs as provided for in the Senate reported bill, then the Senator from Maryland woud be pleased to support a continuation of CRAF.

Mr. FOWLER. Asking the chair's indulgence for one last question, if a decision is made in conference to continue the combined CRAF/Cassini Mission, would it be the Senator from Maryland's expectation that the provision in the Senate bill which lowers the total cost cap from $1.6 billion to $1.3 billion would need to be modified accordingly?

Ms. MIKULSKI. The Senator from Georgia is correct. The recommendation for a $1.3 billion cap is contingent on termination of the CRAF component of the CRAF/Cassini mission.

Mr. FOWLER. I thank the Chair for her comments.

THE COMET RENDEZVOUS ASTROID FLYBY MISSION [CRAF]

Mr. FOWLER. Mr. President, at the outset, let me again thank the distinguished Chair of the VA, HUD, Independent Agencies Subcommittee, on which I have the honor to serve, for the excellent job she has done in putting together a well-balanced appropriations bill under the most difficult of circumstances. While my remarks will be confined to a narrow portion of one section of the bill, namely space science, this point holds true across the wide range of agencies and programs funded by the bill.

In the area of space science, the Senate committee bill is a significant improvement over the freeze voted by the House, providing almost $250 million more in fiscal year 1992 funding. This additional spending will allow the Advanced X-Ray Astrophysics Facility [AXAF], the Cassini mission to Saturn, and the Earth Observing System [EOS], all of which are high-priority science projects, and all of which would have been threatened by a freeze level, to continue forward, albeit at the slightly reduced pace.

The Senate committee bill also provides far more funding for the less glamorous but equally important little science programs such as the suborbital and Explorer Programs, and the vital categories of mission operations and data analysis.

Indeed, with one significant exception which I am about to highlight, the work of Senator MIKULSKI has produced a sound, scientifically valuable, and under the fiscal circumstances, affordable space science program.

However, as one who has had a longtime interest in space science, reaching back at least to when I served as chairman of the Space Science Task Force of the Congressional Space Caucus in the mid-1980's, I am compelled to speak up about the one major omission in the Appropriations Committee's space science program: the comet rendezvous asteroid flyby mission.

In focusing on space science I have virtually no constituent interest to represent. My State is well below average in overall NASA spending, and as far as I can tell there will be no impact in Georgia whether or not CRAF, or for that matter Cassini, is ever flown. I say this not to denegrate the importance of constituent representation, for indeed I believe that is one of our most important roles as elected representatives, but to indicate that I have no ulterior motives or hidden agenda in promoting a vigorous space science program.

Indeed, if I seek to represent anyone in this matter, it is our children, and their children. These space science programs are rather unique in that they almost always involve decisions to bear the cost of programs by elected officials who may well not be around when the benefits of their actions materialize. Thus the Presidents and many Members of Congress who provided the resources to get us to the Moon were not in office when Neil Armstrong set foot upon the Sea of Tranquility. And many of us who marveled at, and accepted credit for the wonderous performance of the *Voyager* spacecraft had not been here when these missions were authorized and funded. In the case of CRAF, if we do decide to continue this program, it will be well into the first decade of the 21st century before the major benefits arrive.

Many of us in this body, including this Senator, have been critical of the short time horizon used by too many American corporate executives in determining their corporate strategies. I still share that view, but unfortunately, the same can be said for Federal decisionmakers, on both sides of Pennsylvania Avenue, on all too may issues, from education, to environmental protection, to deficit reduction, to scientific research and development.

All of this brings me back to CRAF, the one major NASA casualty in the Senate appropriations bill. It is somewhat ironic to me that this particular mission, which was the first of our space science programs designed from the outset with cost limitations in mind, is now targeted to be the principal sacrifice to the overall problems with the NASA budget.

Beginning in the middle 1970's the declining planetary science budget and the demands for more sophisticated and more expensive missions led to less frequent planetary mission starts, with no American solar system exploration spacecraft launched between 1977 and 1989. The smaller number of new missions has reduced program balance, eroded the research base, and increased individual mission costs.

In 1980, to address the problems in the United States planetary exploration program, NASA, with the full support of Congress, formed the Solar System Exploration Committee [SSEC] to devise a new approach to the exploration of the solar system which would recognize the root causes of the problem, build upon the science rationale and the strategies of the Space Science Board and NASA working groups, and result in specific, prioritized recommendations to NASA.

To some acclaim in Congress and in the executive branch, in 1983 the SSEC presented its report to the Congress and the American people that sought to identify an affordable, long-term balanced mission strategy for the exploration of the solar system. The SSEC report recommended that a balanced core program of high priority science missions of low to moderate cost be implemented, with missions to the three areas of the terrestrial planets, the small bodies—asteroids and comets, and the outer planets.

Since the release of that report the Congress has authorized all of the elements of the SSEC core program: The Magellan mission to Venus; the Mars Observer; the Cassini mission to Saturn; and CRAF. Now, remember that this core program was designed as a minimum program to maintain American preeminence in planetary exploration, and to get down to this minimum the SSEC imposed economizing measures, such as commonality in mission components, as well as relegated dozens of other scientifically worthy solar system exploration missions to lower priority status which would be funded only if sufficient resources could be found.

In continuing to implement the SSEC core program, the Congress authorized the CRAF and Cassini missions as a combined program in 1989. This combination of the mission was very much in keeping with the spirit of SSEC in its aim of further minimizing costs by maximizing mission commonality. The success of this approach can be seen in the current estimates for the costs of the combined program, set at $1.6 billion, versus the costs of carrying out either mission separately, estimated at between $1.3 and $1.4 billion.

In initiating the program, the Congress took the further cost-conscious step of statutorily imposing a total mission cost cap of $1.6 billion, with strong directions to NASA mandating reduction in the missions' scope, if necessary, to stay within that total.

Once again, the CRAF mission has taken the lead in cost reduction, this time by significant descoping from the original mission plan in dropping both the Penetrator/Lander and the Scanning Electron Microscope/Particle Analyzer.

The comet rendezvous asteroid flyby now stands as the lone part of the SSEC core program which may not go forward. CRAF has been through a very long, and exhaustive development process. The announcement of opportunity for participation in CRAF was issued in July 1985, proposals were submitted in November 1985, investigations were selected in October 1986, and advanced development of most of the scientific instruments and the spacecraft has been underway for a number of years. As I mentioned earlier, it was authorized for a new start in 1989.

Substantively, CRAF represents a particularly high priority in that it would initiate American exploration of the chemically and physically primitive small bodies of the solar system. It provides an opportunity to explore at close hand some of the solar system's primitive bodies, and to obtain fundamental new knowledge about the origin and evolution of the solar system, the origin of life, and astrophysical dynamical processes. It also represents demonstration of the technique of rendezvous with a deep space object, a technique of widespread potential application in future missions to near-Earth asteroids, for example.

CRAF has been strongly endorsed by all relevant advisory committees of the National Academy of Sciences and NASA, including the report from Dr. Sally K. Ride, entitled "Leadership and America's Future in Space"; and by the Augustine Panel which fully backed NASA's current strategic plan for space science and applications of which CRAF is an integral part.

Canceling CRAF now may provide some short term budgetary savings, through that is not absolutely clear to this Senator, because of the loss of the propulsion system to have been provided by the Federal Republic of Germany for CRAF. And, if one assumes that we will never want to replace CRAF with another solar system exploration mission at any point in the future, then indeed there will be permanent savings from cutting CRAF. But the replacement costs for adding another solar system mission will almost certainly far exceed the $300 to $400 million, plus launch and operational costs, that a CRAF/Cassini versus a Cassini-only mission will cost.

The United States Space Science Program has produced great benefits to American taxpayers and to the people of the world at little cost, at least as related to other Federal expenditures. However, declining space science budgets in the seventies and early eighties, the increasing costs of cutting edge missions, and the *Challenger* disaster have combined to impede American progress in space science. Congressional support for such missions as the Hubble Space Telescope, the Magellan mission to Venus, and the Ulysses mission to study the Sun has revitalized the American program, and when they and other projects are launched, we will have reasserted our international leadership in the field. To keep up that momentum will require a continuing commitment to a balanced NASA program in which space science receives an equitable share.

CRAF is a high-priority science mission which has repeatedly passed the test of peer and advisory body reviews, which has been developed over a long period of time always with an eye toward cost limitation, and whose cancellation would provide minimal savings.

To further the goal of ensuring both a balanced American space program and a leadership role for American space science, I strongly support the continuation of the comet rendezvous asteroid flyby, and I will do all that I can in the upcoming conference on the VA, HUD, independent agencies fiscal year 1992 appropriations bill to restore that program.

EPA'S CLEAN AIR SMALL BUSINESS TECHNICAL COMPLIANCE ASSISTANCE PROGRAM

Mr. KASTEN. Mr. President, I had intended to offer an amendment to provide $2.6 million in additional funding for the Environmental Protection Agency's Clean Air Small Business Technical Compliance Assistance Program.

By adopting this amendment the Senate would have followed through on a commitment it made last year to this Nation's small businesses when it passed the Clean Air Act.

Recognizing that small business owners would need additional help in complying with the new clean air law, Congress established the Small Business Technical Compliance Assistance Program. Under the program, the States are required to establish technical assistance centers to help small business owners comply with the law. EPA was made responsible for overseeing the establishment of these State programs and for monitoring their operations.

EPA is making progress in implementing the program. It is currently finalizing guidelines to outline Federal and State roles in setting up the program. Unfortunately, the administration did not include any funding in its fiscal year 1992 budget request to help the States set up this program.

Along with the chairman and ranking member of the House Small Business Committee, Senator BUMPERS and I expressed our concern about this oversight in a letter earlier this year to EPA Administrator Reilly. In response, EPA noted the hard budget choices it has had to make in allocating funds to implement the new clean air law.

I certainly recognize these fiscal difficulties, but I am also all too aware of the fiscal difficulties many of the States are currently facing. If we fail to provide any money for grants to help set up this program, I am concerned that the States will be unable to set up the Compliance Assistance Program.

At this time I would like to enter in to a colloquy with the chairwoman and the ranking member of the Subcommittee on VA-HUD Appropriations. Could the distinguished Senator from Maryland inform the Senate of the proposed appropriations level for this program in both the House and Senate bill?

Ms. MIKULSKI. The House-passed bill allotted $4 million for the program to be made available for grants to the States, including $200,000 for the national EPA office for advisory support. As reported by the Appropriations Committee, the Senate bill has allotted $1.4 million for the program.

As a member of the Small Business Committee, I support the Small Business Compliance Program. However, our subcommittee was unable to match the House level because of limited funds.

Mr. KASTEN. The Compliance Assistance Program, supported by both the business and environmental communities, is an important ingredient in ensuring the viability of our Nation's small businesses. These owners are depending on the successful implementation of the Small Source Compliance Assistance Program.

I respectfully request that the chairwoman and ranking member work in conference to match the House level of $4 million.

Ms. MIKULSKI. I can assure the Senator from Wisconsin that I will do my best to achieve the House amount for this program in conference.

Mr. GARN. Mr. President, I too would like to reassure the ranking member of the Small Business Committee that I will support efforts to fund this program at the $4 million level appropriated in the House bill.

Mr. KASTEN. Small business owners in Wisconsin and throughout the country care about the environment and want to do their fair share to clean up this country's air. However, as we recognized last year they will need some help. The types of businesses expected to be covered by clean air regulations such as auto body shops, dry cleaners, and bakeries do not have and cannot afford technical experts or permit specialists on staff to comprehend fully the ramifications of these new regulations.

I thank the Senator from Maryland and the Senator from Utah for their cooperation. I yield the floor.

AVONDALE SEWAGE TREATMENT PROJECT

Mr. DeCONCINI. I wonder if I may engage the distinguished chairman in a colloquy concerning the Avondale sewage treatment project?

Ms. MIKULSKI. I will gladly yield to the senior Senator from Arizona.

Mr. DECONCINI. I would like to inquire about a matter which I brought to the committee's attention during its consideration of the fiscal year 1992 bill. As I indicated to chairman previously, the State of Arizona Department of Environmental Quality has designated the wastewater treatment plant and connecting sewer interceptor system planned and under constuction by the city of Avondale as Nos. 2 and 6, respectively, on its construction grants priority list.

Mr. President, because of the significant environmental and health problems identified by State and Federal authorities, I recently visited this area to view firsthand these problems that the city of Avondale is working so diligently to deal with.

Mr. President, I saw firsthand the problems facing this rural Arizona community simply because they cannot afford to pay for the cost of the sewer system. The average income of the citizens who live in these working-class neighborhoods is $4,000 per year. Over 87 percent of the existing septic systems have failed and many of the homes have open cesspools in their backyard. Eventually, if these homes cannot be connected to a modern wastewater treatment system, the department of environmental quality will be forced to red tag or close these homes for environmental reasons forcing these Arizonans to vacate their residences.

Mr. President, the city of Avondale has no choice but to build a new wastewater treatment plant. State officials have notified the city that the existing treatment plant does not meet existing State requirements for discharge and cannot be modified to do so. The city has been working closely with the State and Federal authorities to address this situation.

I wonder if the chairman can apprise me of how the fiscal year 1992 bill responds to situations such as the one Avondale finds itself in.

Ms. MIKULSKI. I thank the Senator from Arizona for raising this issue. I am also very concerned about the fact that reduced Federal funds will deprive the low-income citizens of both Arizona and Maryland the opportunity to have a reasonably priced water and sewer system which will provide them with the basic health and environmental standards that all citizens of this Nation deserve.

The Senator from Arizona has convinced the committee of the merits of the situation in Avondale. However, it is the committee position that construction grant funds should not be earmarked for special projects. Such earmarks lessen the total amount available to other projects which vie for funds on a competitive basis. In keeping with this policy, we did not include any constuction grant earmarks in the fiscal year 1992 bill.

Because of the compelling case that the Senator from Arizona has made on behalf of the Avondale project, the committee has included an additional $500 million for the construction grant program above the President's budget request. This will include an additional $6 million for the State Revolving Loan Program in Arizona for the express purpose of addressing such critical problems as the one you have identified. I urge you to work with both the State and city officials to ensure that these additional funds are used to address needs such as those of the city of Avondale.

Mr. DECONCINI. I thank the chairman for her consideration and support and I will continue to work with the State and local officials to ensure that the critical needs of the city of Avondale are dealt with in a manner that will allow them to keep their homes and have an affordable water treatment and sewer system that provides environmentally sound and sanitary living conditions.

PUGET SOUND WATER QUALITY

Mr. ADAMS. Mr. President, the Puget Sound water quality management plan and the city of Seattle's secondary sewage treatment facility plans are of vital importance to the environmental quality and quality of life in the Puget Sound area. I had asked the committee to provide $10.5 million in fiscal year 1992 to match the local funds for the Puget Sound water quality management plan, and I had asked the committee to approve the Presidents' budget request target of $35 million to enable the city of Seattle to construct secondary sewage treatment facilities, as in the House bill.

I appreciate the committee's position with respect to the earmarking of funds for such special projects. I would like to ask the chairperson if I may therefore have her commitment to work to assure these levels of funding for these projects when the bill reaches conference.

Ms. MIKULSKI. I appreciate the Senator's understanding of the committee's position on this matter, and assure the Senator that I will work with him in conference to obtain funding for the Puget Sound water quality management plan and the city of Seattle's secondary sewage treatment facility.

Mr. ADAMS. I thank the Senator.

CONSTRUCTION GRANTS/STATE REVOLVING FUND

Mr. D'AMATO. Mr. President, I would like to confirm with Senator MIKULSKI and Senator GARN, the managers of the bill, my understanding about the eligibility of money for the construction of secondary sewage treatment facilities in New York City.

My concern is about the lack of an earmark targeting a specific amount for New York City, though the money for these projects is available under the Senate bill. It is my understanding that under the bill the House approved the Bush administration's request of $300,000,000 for sewage treatment facilities broken down into the following amounts: Boston, $100,000,000; New York, $70,000,000; Los Angeles, $55,000,000; San Diego, $40,000,000; and Seattle, $35,000,000.

Currently, these five cities have some of the most important, yet most polluted coastal waters in the Nation. Under court order these cities must take immediate steps to reach full secondary treatment as required under the Clean Water Act. To comply, New York City, and the others, must now spend billions of dollars to meet tight construction schedules at a time when municipal budgets are extremely tight.

The swift completion of secondary sewage treatment facilities is critical to avoid an environmental nightmare that has plagued New York City in recent years: The washing up on our beaches of massive amounts of garbage from overflowing sewage systems. Would my colleagues agree that the cleaning up of our coastal waters will remain a priority of this Congress and do they support New York State's program funding level of $70,000,000?

Mr. GARN. Let me respond to my colleague by associating myself with the Senator from New York's remarks on the importance of providing the funds for the secondary sewage treatment facilities. This Senate subcommittee has traditionally refrained from giving explicit earmarks to this type of construction grant. However, this Senator assures the Senator from New York that I will do all I can to give his concerns complete consideration during the House-Senate conference.

Ms. MIKULSKI. I just want to join with my colleague Senator GARN to do what I can to give Senator D'AMATO's concerns adequate consideration when we move to House-Senate conference.

Mr. D'AMATO. I appreciate the comments made by my friends Senators MIKULSKI and GARN. I thank them for addressing my concerns and for their support for funding of this important program.

OFFICE OF POLLUTION PREVENTION

Mr. CHAFEE. Would the distinguished manager of this bill, Senator MIKULSKI, yield for a brief colloquy? H.R. 2519, the VA-HUD appropriations bill, directs the Administrator of the Environmental Protection Agency to move the Office of Pollution Prevention into the Office of the Administrator. EPA, as part of a reorganization, is currently considering moving this Office from its current location in the Office of Policy, Planning and Evaluation, to some other location where it can better accomplish its mission. It is my understanding that the Senator from Maryland is willing to reconsider this provision during the House/Senate conference on H.R. 2519.

Ms. MIKULSKI. I would say to the Senator from Rhode Island that when this provision is considered in the House/Senate conference, I will again consider the provision which locates the Office of Pollution Prevention in the Office of the Administrator. I will do so with a view toward ensuring that the Office is located in the best place possible to most effectively promote its multimedia emphasis and achieve its long-term goals. EPA has indicated a desire to meet on this issue prior to conference. I thank the ranking Republican member of the Committee on Environment and Public Works, the Senator from Rhode Island.

PRESERVATION OF FEDERALLY ASSISTED HOUSING

Mr. CRANSTON. Mr. President, I would like to engage the Senator from Maryland in a colloquy on HUD's implementation of the Housing Preservation Program established by title VI of the National Affordable Housing Act.

One of the most significant challenges facing the Congress is to preserve the affordability of hundreds of thousands of older subsidized housing units that are threatened with conversion to market-rate housing through mortgage prepayments and other methods of terminating low-income affordability restrictions.

Title II of the Housing and Community Development Act of 1987 provided a temporary, interim solution to the problem that was designed to give Congress the breathing room to consider and act upon the research and recommendations then being developed by several private sector task forces.

The breathing room created by the 1987 act was well used. From countless hearings, task force reports and intense negotiations emerged title VI of the National Affordable Housing Act, a permanent preservation solution that balances the interests of the owners, the tenants and the communities in which the housing is located. The preservation solution places prime emphasis on the need to retain the affordable housing inventory for its remaining useful life and, in my strong opinion, is, by far, the most cost-effective strategy available to the Federal Government for addressing the potential loss of this vital inventory.

The bill before us would provide $718 million to fund the permanent title VI program—as well as the title II program on a transitional basis. I commend the Senator from Maryland for her strong and unwavering commitment to carry out these preservation initiatives.

I have two major concerns, however, as HUD proceeds to implement the preservation mandate. The first concern is that the Department appears unwilling to follow the clear legislative intent of Congress in its promulgation of preservation regulations.

In early April, the House and Senate Housing Subcommittees received the Department's proposed preservation regulations. After careful review and deliberation, House Chairman HENRY GONZALEZ, House ranking member MARGE ROUKEMA and I, as chairman of the Senate Housing Subcommittee, concluded that such regulations deviated sharply from congressional intent in a number of key programmatic areas. A lengthy letter was sent to Secretary Kemp on April 22 detailing our concerns.

As the April 22 letter states, "the regulations—do not—reflect congressional intent in a number of very important provisions which are central to the preservation program." Two examples of regulatory departures are instructive:

Unwarranted emphasis on resident homeownership: The proposed regulations devise a sales process heavily biased towards resident homeownership. Under the regulations, for example, resident councils are the only entities that can achieve site control during the first year of the marketing period with all other priority purchasers put on hold until the very end of this 12 month period. Yet, resident councils pursuing the homeownership option are the only purchasing entities that have the opportunity to terminate affordability restrictions.

This favored treatment of resident councils runs directly contrary to the legislative history. One alternative clearly considered and rejected during the legislative process was the Administration proposal to confer "a right of first option" on resident councils seeking to acquire at-risk housing under the HOPE homeownership model. Instead, Congress created an entire class of preferred buyers ("priority purchasers") in the final legislation, of which resident councils are only one. Continued use of property as affordable rental housing for very low, low and moderate income persons is the primary objective of Title VI. The resident council homeownership option was included as a concession to the HUD Secretary based on a projection that only a small percentage of the units would be sold under this special program. The Department's proposed regulations evidence a retreat to the Secretary's earlier proposal, which cannot be countenanced in light of the legislative history and statutory language.

An unworkable sale process: The proposed regulations severely undermine the sale process established by the 1990 legislation. HUD has established onerous earnest money deposits, undercut the insured financing program, restricted the rights of priority purchasers with respect to certain financial inducements and, as described above, placed all non resident councils at a significant disadvantage. The combination of these factors, among others, will discourage owners who want to sell from participating in the sale program, thereby undermining owner choice, and make it very difficult for nonprofits (including residents seeking to acquire properties for rental purposes) and other priority buyers to acquire at-risk properties.

That result was clearly not intended by the 1990 legislation. The permanent preservation program—unlike the emergency 1987 measure—delineates a structured process for transferring the assisted inventory to new ownership. The process contains substantial risks; owners seeking to transfer their housing are allowed to prepay if no qualified purchaser makes a bona fide offer within the applicable time periods. Given the specter of prepayment and loss of affordable hosuing, the 1990 housing conferees fully expected the Department to establish by regulation and practice a workable transfer process.

Given these and other concerns, the April 22 letter directed the Department to "make those changes * * * necessary to bring the preservation regulations into conformity with congressional intent."

On May 22, 1991, the Department responded by letter to the concerns raised by congressional Members. The Department's response, also attached to the end of the colloquy, includes a strong defense of the favorable treatment provided resident councils seeking homeownership in the proposed regulations—indicating that the Department is unlikely to revise the regulations to conform with legislative intent. The Department's position, if accepted, could undermine the statute's prime objective of preserving the affordability of the federally assisted inventory for the long term. As described above, resident councils pursuing the homeownership option are the only purchasing entities permitted to terminate the existing affordability restrictions.

I am deeply troubled by the Department's approach to these important issues. I believe, however, that it is premature to act before the final regulations are issued. Since public comments were due by July 1, issuance should occur prior to the conclusion of the appropriations conference. If the Department fails to conform the regulations to legislative intent, in all respects, I have every intention of asking my distinguished colleague from Maryland for her assistance in conference on this matter.

Ms. MIKULSKI. I share the concerns raised by the Senator from California and concur with his interpretation of the legislative intent underlying the title VI preservation program. The Senator and many others worked long and hard on devising a preservation solution that is fair to owners, fair to tenants, preserves the housing and is budgetarily sound.

That solution is now subject to significant revision in the regulatory process—contrary to all accepted notions of the appropriate relation between the legislative and executive branches. I strongly urge the Department to respect the legislative intent of Congress and revise their regulations to conform to that intent.

Mr. CRANSTON. I thank the Senator from Maryland for that strong statement of support. I will continue to work with her to ascertain whether the Department's regulatory actions are acceptable.

My second concern is that the Department will not be able to provide Congress with an accurate estimate of the potential costs of our preservation efforts. An April 18 letter from the Department estimated, for example, that the cost of the Preservation Program will significantly increase in fiscal year 1993. I am concerned that—as with the section 8 contract renewals—the Department's estimates and information are not based on the most sophisticated data and analyses. I urge the Senator from Maryland to require the Department to subject their estimates to rigid field surveys and other verifying techniques and to report to the relevant congressional committees by November 15, 1991 on their results.

Ms. MIKULSKI. I strongly share the Senator's concern about the Department's ability to assess accurately the likely cost of the Preservation Program. The committee report to this bill provides a sobering account of the Department's persistent budgetary failures on the section 8 front. I think the Senator's suggestion is an excellent one and I intend to incorporate it in the conference report.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the previously mentioned letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, April 22, 1991.

Hon. JACK KEMP,
Secretary, Department of Housing and Urban Development, Washington, DC.

DEAR SECRETARY KEMP: We are writing to comment on the regulations submitted to the Congress for prepublication review on April 5, 1991, which would implement the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). As currently drafted, we do not believe that the regulations reflect Congressional intent in a number of very important provisions which are central to the preservation program.

In meetings on April 18th and 19th, our staffs had the opportunity to engage in an open and frank discussion of many of the problem areas with HUD staff. We have attached an annotated list of the issue areas discussed in order to make you fully aware of our deep concern. Let us add that this list is not all inclusive and that we believe that additional issues will arise during the public comment period.

Mr. Secretary, we appreciate the good intentions with which you and your staff approached the difficult task of writing these regulations. Our initial intention was to request that publication of the proposed regulations be delayed until we could resolve a number of the issues. However, in the interest of avoiding the time delays involved in re-obtaining Departmental and OMB clearances, we are not making that request.

We share a desire to work with you to resolve the problems in the proposed regulations. We expect close cooperation during the public comment period in order to make those changes, as outlined in the attachment, necessary to bring the preservation regulations into conformity with Congressional intent. Thank you for your attention to this matter of vital importance to the preservation of affordable housing.

Sincerely yours,

HENRY B. GONZALEZ,
Chairman.
MARGE ROUKEMA,
Ranking Member.
ALAN CRANSTON,
Chairman, Senate Subcommittee on Housing and Urban Affairs.

CONGRESSIONAL CONCERNS ON PROPOSED PRESERVATION RULE

APRIL 23, 1991.

1. MAJOR ISSUES

Unwarranted emphasis on resident homeownership:

The permanent preservation program established by the 1990 Act places prime emphasis on the need to retain the affordable housing inventory for its remaining useful life. This permanent solution emerged after intense negotiation among diverse interests and constituencies. Countless alternatives were offered, analyzed, dissected and ultimately either rejected outright or subsumed in some form in the final legislative compromise.

One alternative clearly considered and rejected during the legislative process was the Administration proposed promoting conversion to resident ownership as the principal means of preserving the older subsidized inventory as low-incoming housing. Organizations and individuals throughout the nation criticized this proposal as "mistakenly emphasiz[ing] resident ownership rather than permanent affordability as the preferred and most heavily subsidized alternative." (Senate Banking Committee Report at 107)

As finally constituted, the primary objective of the Conference Report is to preserve the at-risk inventory for use by very low, low and moderate income persons over the long term. Despite the fact that resident homeownership may be in conflict with this objective, the Conference Report did carve out a limited role for resident homeownership programs. That was done out of deference to Secretary Kemp's commitment to the concept and in recognition that the program would affect only a small proportion, 7 percent by the Administration's own calculations, of the at-risk universe.

The draft regulations ignore the extensive legislative history and devise a sales process heavily biased towards resident homeownership. As an initial matter, the draft rule (section 248.1) adds as a purpose facilitating the sale of housing to residents under the resident homeownership program (p. 148). The rule then proceeds to revise the preservation sales process in several ways to place resident homeownership at an advantage over other forms of ownership that would guarantee preservation of housing affordability for the long term.

1. Only resident councils can achieve early site control and expedite the acquisition of at-risk housing: The draft rule permits owners to accept only those offers tendered by resident councils during the 12 month marketing period. (Sec. 248.157(h) at p. 206) Offers submitted by all other priority purchasers must be held until the end of the 12 month marketing period. (Id.)

As noted above, this favored treatment of resident councils runs directly contrary to the legislative history. We believe that it is consistent with the overall statutory scheme for the Department to attempt to create a level playing field between purchasers with disparate resources and capacities. But there is absolutely no legislative basis for distinguishing resident councils from other tenant-purchase entities or community-based nonprofits.

In addition, the imposition of a minimum 12 month marketing period is inconsistent with the statutory scheme. The statute contemplates that, where possible, plans of actions would be prepared during the 12 month period; a time consuming and costly step that can only be taken after a bona fide offer has been accepted.

Such a long waiting period would have adverse consequences for owners and prospective purchasers alike. It will create a strong disincentive for owners to sell their property and, in so doing, vitiate the owners' ability to act upon its preferred choice in accordance with the statutory scheme. Moreover, it renders the sale program unworkable from the buyer's point of view because predevelopment funding cannot be obtained and due diligence reviews cannot be completed on a timely basis.

2. Resident councils are given top priority status among competing priority purchasers: (Id.) At the end of the 12 month marketing period, offers for preservation value are ranked, with resident councils receiving the highest ranking over the other priority purchasers: community-based nonprofits, public agencies and other nonprofits. (Id.)

We appreciate the Department's efforts to answer the very practical question concerning which buyer would be selected in the event of comparable offers. We agree with the Department's interpretation that the Statement of Managers may support "establishing a priority for community-based nonprofit organizations in the procedures for selecting among priority purchasers that make bona fide offers." (Preamble, p. 32–33) But, again, the legislative history repeatedly rejected giving first priority status solely to resident councils.

3. In order to participate in the homeownership program and qualify for any grant assistance, the resident council is required to prepay those assisted mortgages that carry affordability restrictions: (Preamble, p. 99; Sec. 248.173(s), p. 236) The statute (sections 226(b)(2) and 226(b)(10)) reveals the Congressional expectation that resident homeownership might assume a variety of forms and that, specifically, resident councils might assume the HUD mortgage and own a project as a limited equity cooperative.

Conditioning participation in the homeownership program on a termination of federal use restrictions runs directly contrary to the fundamental objective of the statutory scheme—long term preservation. Congress was clearly hopeful that the preservation objective could be accomplished even within the context of resident homeownership.

4. It appears that residents who pursue the homeownership option may only receive grant assistance and are prohibited from using alternative preservation incentives authorized by Section 219(b): (Preamble, p. 92; Sec. 248.173(e), p. 226)) Section 220(d)(3)(A)) expressly authorizes the provision of the incentives listed in section 219(b) to all qualifed purchasers, which includes resident councils. The conferees "intend[ed] that the Secretary work closely with priority purchasers to determine which mix of subsidies best suits their preferences and organizational capacity." (Conference Report, p. 465)

The draft regulations, by contrast, eliminate the Congressional emphasis on flexibility and choice. Having determined that resident councils must prepay the underlying mortgage, the draft regulations limit the form of assistance available to such organizations to grants. Yet, as noted above, HUD's narrow focus on one resident homeownership model is contrary to the statutory scheme. Congress clearly included limited equity cooperatives under the resident homeownership umbrella and such cooperatives, among other tenant-based purchasers, may prefer financing an acquisition with insured debt and subsidized rental assistance rather than grants.

HUD should amend its draft regulations to establish a flexible and workable transfer program that takes into account the concerns noted above.

Failure to publish appraisal guidelines for notice and comment:

Section 213(c) requires HUD to establish written guidelines for appraisals of preservation value. The statutory language and the Statement of Managers provide a series of instructions for HUD to follow in establishing the guidelines.

All experts agree that the appraisal process will be the most important step in the preservation program. Given this central role, it is imperative that all interested parties—Congress, tenants, owners, States, advocates—be given an opportunity to review and comment upon the appraisal guidelines before they are finalized.

The draft regulations do not contain the appraisal guidelines nor provide any indication of an intent to publish them for notice and comment.

HUD should move quickly to publish the appraisal guidelines in the Federal Register and allow a reasonable period for notice and comment by all interested parties.

Windfall Profits Test:

Section 222(e) delineates a "windfall profits test", permitting HUD to make incentive payments available only in rental markets where there is an inadequate supply of decent, affordable housing (if HUD determines there is adequate data to permit "objective and fair implementation") or where necessary to accomplish the other public policy objectives of the Act.

The provision also requires HUD to submit a report to the Congress "evaluating the availability, quality and reliability of data to measure the accessibility of decent, affordable housing" in all areas where eligible properties are located. On April 4, 1991, HUD transmitted a letter to the Congress detailing its evaluation.

Three separate issues are raised by our review of the draft regulations and the April 4th letter.

First, the Statement of Managers instructs HUD to "define how the "windfall profits test" will be implemented in notice and comment rulemaking." (Conference Report, 469) The draft regulations do not provide such a definition.

Second, the April 4th letter has several major deficiencies and does not, in our opinion, satisfy the statutory mandate.

1. The Department's experiential history with other programs is referenced, in lieu of an "evaluation" of available data sources needed to implement section 222(e). There is no explanation of how the determinations made under these other programs (such as the delineation of Difficult Development Areas for purposes of the low income housing tax credit program) are germane to the determination required by section 222(e).

2. The Department strongly suggests that an inadequate supply of decent, affordable housing is a relative concept, without explaining how this comparative standard would be applied, or explaining why an absolute threshold has been rejected. We believe that an absolute standard is more consistent with the statutory framework and legislative deliberations. The present and anticipated need in a given community should be compared with the current supply in that community to reach a decision on whether the supply of decent, affordable housing is adequate or inadequate.

3. Even where the supply of decent, affordable rental housing is adequate, section 222(e) requires an analysis of other public policy objectives—most significantly, the standards delineated under section 238(a). The letter fails to describe this part of the test in sufficient detail.

Third, the Department has not clarified how the windfall profit test relates to the comprehensive housing affordability strategies. It would appear that these locally prepared strategies could more accurately assess the adequacy of the affordable housing supply in a local rental market than the Department's own evaluations.

In summary, the Department's actions to date have not given us the comfort that the windfall profits test will be applied only in "exceptional cases", as envisioned by the Statement of Managers. (Conference Report, 469)

HUD should send Congress a revised report pursuant to section 222(e) evaluating the availability, quality and reliability of data sources for impelmenting the windfall profits test.

HUD should publish in the Federal Register an explanation of how the windfall profits test will be implemented (taking into consideration the concerns noted above) and allow a reasonable period for notice and comment by all interested parties.

2. REGULATORY PROVISIONS WHICH IGNORE CLEAR CONGRESSIONAL INTENT

Annual automatic rent adjustments:

Section 222(a) states that "future rent adjustments shall be made by applying an annual factor (to be determined by the Secretary) to the portion of rent attributable to operating expenses for the housing."

The provision was drafted in consultation with the Department—which expressed concern that adjusting future rents based on actual operating costs would reward management inefficiency. The option chosen was perceived by all involved as a cost-effective way of bringing certainty and administrative simplicity to the rent adjustment process.

The draft regulations have now created confusion about how the Department intends to implement this provision. The draft regulations simply track the statutory language, providing no guidance on how the provision would be carried out. More significantly, the regulatory preamble states that the Department may not have the data necessary to implement this provision and raises the possibility that the Department would seek to eliminate the requirement by legislative amendment. (p. 66-67)

HUD should amend its draft regulations to provide clear guidance on the rent adjustment procedure.

Receipt of 8 percent return for owners accepting incentives:

Section 219(a) instructs the Secretary to enter into such agreements as may be necessary to, *inter alia*, enable an owner to receive the authorized 8% return on preservation equity. This statutory instruction is not qualified or limited in any respect. Conferees expected that owners would receive this return beginning in the first year following approval of the Plan of Action. HUD might, for example, allow owners to withdraw residual receipts for this purpose or, in a Section 236 project, defer the rebate of excess rents.

The regulatory preamble, by contrast, states that "the statute does not necessarily guarantee [the 8 percent return] on an annual basis." (p. 56) The preamble then delineates a two-part rule: (1) HUD will approve rents at a level that ensures that owners receive the full 8 percent return beginning in the third year; and (2) an owner may accrue the amount not realized during the three year phase-in and realize that amount in later years through withdrawal of residual receipts. (Id.)

HUD should amend its draft regulations to ensure that owners receive the authorized 8 percent return beginning in the first year following approval of the Plan of Action.

Receipt of 8 percent return on cash invested by priority purchasers:

Section 220(d) states clearly that qualified purchasers (which include priority purchasers) should receive an adequate return on any actual cash investment.

The limitation of Section 241(f) insured financing to 95 percent of preservation equity raises the possibility that priority purchasers will contribute actual cash to an acquisition. The conferees did not believe that priority purchasers should be treated any differently than for-profit purchasers in the event of cash investment.

The regulatory preamble does not follow the legislative intent. The preamble states that "in cases where the project is being transferred to a *for-profit qualified purchaser*, incentives will be structured to enable the purchaser to realize an 8 percent return on investment." (73, emphasis added) The preamble is silent on the level and form of return that a priority purchaser will be allowed to receive.

HUD should amend its draft regulations to allow priority purchasers to receive the same return on any cash investment as other qualified purchasers.

Owner membership on nonprofit board and related party rule:

The conferees expected the Department "to develop sensible rules to implement the related party provisions." (Conference Report, 468) The Statement of Managers notes, for example, that "[i]f * * * an "individual is involved in the ownership of an assisted project and also participates, in his or her personal capacity and without compensation, on the board of directors of a nonprofit organization that seeks to acquire a project from the owner, this participation alone would not trigger the application of the related party rule." (469)

The draft regulations ignore the clear legislative intent cited in the Statement of Managers. Section 248.101 would consider an owner and a purchaser related parties if "any officer, director or employee of the owner is an officer or director of the purchaser". (p. 162)

HUD should amend its draft regulations to follow Congressional intent on the related party rule.

Nonprofit partners and related party rule.

A colloquy on the Senate floor between Senators Kerry and Cranston further circumscribed the scope of the related party rule. Senator Cranston clarified that the related party rule was not meant to cover situations where nonprofit sponsors serve as general partners in a syndicated ownership entity and seek to use preservation incentives to buy their projects back from for-profit investors. (See, Congressional Record, October 26, 1990, p. S17137)

The draft regulations cited above would appear to disallow the types of transactions contemplated by the Kerry-Cranston colloquy.

HUD should amend its draft regulations to follow Congressional intent on the related party rule.

3. REGULATORY PROVISIONS WHICH IGNORE IMPLICIT CONGRESSIONAL INTENT

Section 241(f) loan term.

The Section 241(f) insurance program was the center of much discussion and debate during the legislative process. Congressional discussion always assumed that the Department's practice of underwriting 241(f) loans for 40 years—established under the emergency preservation solution enacted in 1987—would continue under the permanent preservation program. This expectation is evidenced by the Statement of Managers example on how the revised program would work. (Conference Report, 467)

The draft regulations provide—without explanation—a marked shift from current practice. Section 241.1060 states that a 241(f) loan would have a maturity equal to the remaining term of the first insured mortgage or twenty years, whichever is longer. (p. 133)

HUD should amend its draft regulations to allow 40-year Section 241(f) loans.

Combination of Section 241(d) and 241(f) loans:

Section 241(f)(6) permits HUD to combine loans insured under section 241(d) with equity and acquisition loans insured under section 241(f). The conferees expected that this combination of loans would be carried out in an effective common sense fashion—perhaps by adding the rehabilitation expenses that are mortgagable under the section 241(d) program to a section 241(f) loan.

The draft regulations do not provide a mechanism for combining the underwriting of rehabilitation and equity or acquisition loans under the section 241 program. Failure to combine these loans may make it difficult to sell one or both of the loans on the secondary market. In addition, various features of the section 241(d) program—statutory cost limits, additional equity requirements—are antithetical to the purpose of the preservation program.

HUD should amend its draft regulations to allow for combination of section 241(d) and section 241(f) loans. If necessary, we would entertain any suggestions for technical revisions to the preservation law to achieve this objective.

Seller financing and related party rule:

As noted above, the statute limits insured acquisition financing to 95 percent of preservation equity. The conferees fully expect that the 5 percent equity contribution could be provided through seller purchase money financing or a charitable donation by the seller.

The draft regulations would appear to disallow such financing arrangements. Section 248.101 would consider an owner and a purchaser related parties if "the owner has made or intends to make any loan to the purchaser in connection with the transfer of the project". (p. 162) The preamble goes further by prohibiting the seller from making a grant or other financial assistance to the purchaser, which is presumably a reference to predevelopment funding. (p. 38) If HUD's regulation was meant to impede sellers from creating captive non-profits or otherwise engaging in self-dealing it has been written too broadly.

HUD should amend its draft regulations to follow Congressional intent on the related party rule.

Reimbursement of transaction costs for nonprofit purchasers:

Section 220(d) states that priority purchasers should receive adequate reimbursement for transaction expenses related to acquisition of eligible housing, subject to HUD approval. Conferees were plainly aware of the types of legitimate costs that priority purchasers incur during acquisition of assisted housing. The Section 241(f) program, in fact, was revised so that insured acquisition loans for priority purchasers could include any expenses associated with the acquisition, loan closing and implementation of the plan of action.

The draft regulations would provide little guidance on what costs would be reimbursable. Section 248.157(m)(6) would simply make reimbursement of priority purchaser transaction expenses consistent with the standards of other insurance programs. (p. 210) We are concerned that these "other" standards recognize the unique objectives and framework of the preservation program.

HUD should amend its draft regulations to provide firm guidance on what tansaction expenses are reimbursable, consistent with the letter and spirit of the Conference Report.

Other sales-related issues:

As noted above, the permanent preservation program—unlike the emergency 1987 measure—delineates a structured process for transferring the assisted inventory to new ownership. The process contains substantial risks; owners seeking to transfer their housing are allowed to prepay if no qualified purchaser makes a bona fide offer within the applicable time periods. Given the specter of prepayment and loss of afordable housing, the conferees fully expected the Department to establish by regulation and practice a workable transfer program.

The draft regulations appear to fail on this score in several respects.

1. Earnest Money Deposit: Section 248.157(g) requires that an earnest money deposit equal to 1 percent of preservation value be tendered along with the bona fide offer. (p. 205) Although we agree that a reasonable deposit is appropriate to establish buyer credibility, we believe that the proposed amount is too high relative to owner risk and may be unaffordable to practically every priority purchaser. The Resolution Trust Corporation, by contrast, does not impose a fixed earnest money deposit requirement.

The timing of the deposit may also be unrealistic, since it is axiomatic in real estate transactions that a substantial deposit is tendered at the point when site control is secured by the buyer. Purchasers who are dependent on third party lenders for predevelopment funds will not be able to secure the funds necessary to satisfy any earnest money deposit requirement as the program is currently structured. The problem is compounded by HUD's decision to permit an owner, in a voluntary sale context, to reject any and all bona fide offers because of a change of mind.

2. Bona Fide Offer: Section 248.101 contains a general definition of "bona fide offer". (p. 154) Section 248.157(i) requires the Commissioner to review each bona fide offer to determine whether it satisfies the general definition. (p. 206)

Two concerns are raised by this regulatory framework. First, there is concern that the lack of specificity in the definition of bona fide offer will allow for subjective and inconsistent determinations by HUD field offices. Second, there is concern that HUD's review of each and every bona fide offer amounts to regulatory overkill—and is better left to the reviews required during the plan of action phase.

HUD should amend its draft regulations to reconsider the timing and amount of earnest money deposits in accordance with the concerns noted above.

HUD should amend its draft regulations to contain model documents for bona fide offers.

HUD should amend its draft regulations to devise less burdensome review procedures for the transfer process.

4. REGULATORY PROVISIONS WHICH SIMPLY RESTATE STATUTORY LANGUAGE

Special role for State housing agencies:

Congress envisioned that State housing agencies would play an active role in the permanent preservation program. Section 227 would permit HUD to delegate authority for processing prepayment workouts to State housing agencies when certain conditions are met. In addition, section 213(c) would permit an appraiser to rely upon assessments of rehabilitation needs and other costs of conversion that have been determined by an appropriate State agency. Finally, section 241(f)(1) permits HUD to enter into risk sharing arrangements with State housing finance agencies.

The draft regulations provide little or no guidance on how these various State-directed provisions will be implemented.

HUD should amend its draft regulations to provide firm guidance on the implementation of provisions permitting the active participation of State housing agencies.

Section 218 standards:

Section 218 establishes specific criteria for approving plans of actions that seek termination of the low-income affordability restrictions. HUD could approve such a plan of action only upon finding that the plan would neither (1) create hardship for current tenants or displace them where comparable and affordable housing is not readily available nor (2) materially affect the general supply of low-income housing in the market area, lessen the ability of low-income people to find housing near job opportunities or reduce housing opportunities for minorities.

The draft regulations simply parrot the statutory language and provide no firm guidance on how these standards will be implemented with respect to an individual project. The Department's recent approval of a prepayment request in Madison, Wisconsin—over the objections of State and local governmental entities—raises serious concerns that the section 218 standards will be implemented in an arbitrary and inconsistent manner.

HUD should amend its draft regulations to provide firm, uniform guidance on the implementation of the section 218 standards.

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, DC, May 22, 1991.

Hon. ALAN CRANSTON,
Chairman, Subcommittee on Housing and Urban Affairs, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of April 22, 1991, on the Department of Housing and Urban Development's (HUD) proposed regulations on the "Low-Income Housing Preservation and Resident Homeownership Act of 1990" (LIHPRHA) submitted to the Congress for prepublication review. Similar responses are being sent to Representatives Gonzalez and Roukema. It is always a pleasure to hear from you.

I appreciate your interest in reviewing this important regulation and your willingness to share with the Department a list of concerns in specific issue areas. The proposed regulations were published in the Federal Register on May 2, 1991, and HUD will be accepting public comments for a 60-day period. It would be inappropriate for me to publicly respond to each of your concerns until all comments have been received and fully considered. However, it may be useful to make a few general observations with respect to what appears to be the areas of greatest concern.

The first major issue raised on your list of concerns is that the regulations place "an unwarranted emphasis on resident homeownership." As the title of the Act makes clear, expanding homeownership opportunities for low- and moderate-income families is a very major purpose of this legislation. It is particularly important because homeownership assures that the substantial government investment in these properties will benefit the residents. Resident ownership will not only preserve these properties for the future, but also expand the equity base to help low-income people escape the poverty trap. I know you would agree with me that the purpose of housing programs must be to help low-income people achieve economic independence and decent housing. Developers and others are partners of HUD in this effort, not the clients.

I also think that your concern represents an unintended reading of the regulations. The legislation establishes several types of entities as priority purchasers with a "right of first offer." With more than one type of entity having a right of first offer, it was necessary to establish some order of priority. Resident groups need adequate time to organize, plan, and gather resources necessary to submit a "bona fide offer." The intent of the regulation is, therefore, to "level the playing field" for resident groups as well as community-based non-profits willing to preserve projects as affordable rental housing. Community-based non-profits have the next highest priority among priority purchasers.

Establishing a first priority among priority purchasers for residents interested in pursuing homeownership is critical. I strongly believe that residents seeking to become homeowners need adequate time and resources to organize and plan before other purchases or transfers may occur. The Department estimates that at least 25,000 units of the "at-risk" universe of 360,000 units are likely to be converted to homeownership. This is only a rough estimate based on simplifying assumptions of income and operating expenses, and it should not be considered definitive or a constraint on the potential universe of homeowners.

I recognize that under the proposed regulations, other priority purchasers cannot have their bona fide offers accepted until the end of the statutorily specified 12-month right of first offer period. To help realize the Department's goal of maximizing units converted to homeownership, the 12-month period will assist other potential purchasers put together viable bid packages to preserve projects as affordable rental housing. In particular, the 12-month waiting period will give community-based non-profits adequate time to prepare their plans and to organize residents.

It is important to remember that if no bona fide offers are made, owners will be free to prepay their mortgages and convert their properties to uses other than affordable rental housing for low-income families. The 12-month right of first offer period will, therefore, be critically important to help prevent unnecessary prepayments and the resulting dislocation of poor people, which I know we both want to avoid.

The other two major concerns raised on your list of issues relate to the absence in the proposed regulations of the appraisal guidelines and the windfall profits test. Given the key role that appraisals play in determining the amount of incentives and the maximum sales price for properties, I believe it is important to publish the guidelines so as to provide an opportunity for public comment. Draft appraisal guidelines are currently being circulated for review within the Department. As soon as this process is completed, it is the Department's intention to publish the appraisal guidelines as a notice for comment in the Federal Register.

With respect to the windfall profits test, the legislative requirement was for HUD to initially determine whether it is feasible to develop such a test. As the Conference Report notes, the purpose of the windfall profits test is to assure that "the preservation solution not be used to provide incentives to owners who would not have prepaid, given local market conditions." My April 4, 1991, letter report to the Congress concluded that it was feasible to develop a windfall profits test. If HUD decides to develop and implement a windfall profits test, then it is the Department's intention to publish the specifics as a notice for comment in the Federal Register. The notice will, in part, address the questions and concerns discussed in your list of issues.

Although I have touched on only a few points raised in your list of issues, be assured that all of your concerns will be carefully reviewed and given the fullest consideration as the regulations are revised. The regulations are in a proposed form because of the need for full public discussion and comment on all issues and by all interested groups and individuals before this program is implemented.

One of the major achievements of the Cranston-Gonzalez National Affordable Housing Act was to develop a permanent solution to the problems posed by the potential prepayment of HUD-assisted mortgages and conversion to other uses of 360,000 units of affordable rental housing serving low- and moderate-income families. This solution was made possible only because of the close cooperation between the Administration and the Congress. It is my intention to continue this relationship to assure that a successful program of housing preservation and resident homeownership is implemented.

Thank you for your interest in the new low-income housing preservation and resident homeownership program.

Very sincerely yours,

JACK KEMP,
Secretary.

CHEMICAL ACCIDENT SAFETY BOARD

Mr. LAUTENBERG. Mr. President, I rise in support of the committee amendment to provide up to $1 million for the Chemical Safety and Accident Review Board.

Mr. President, this amendment would require that EPA provide up to $1 million for the Chemical Safety and Hazard Investigation Board which was authorized by the Clean Air Act Amendments of 1990.

Mr. President, the air toxics provisions of the Clean Air Act, which Senator DURENBERGER and I authored, included a new program to address chemical accidents. Some chemicals are extremely hazardous and, if not handled properly, pose significant risk of accidents.

According to EPA, there have been over 300 deaths and almost half a million people evacuated between 1982 and 1986 as a result of chemical accidents. And at least 17 of these events had the potential for more damage than occurred at Bhopal, where 3,400 died and 200,000 were injured from a catastrophic release.

And an article which appeared in the New York Times last month describes a rash of fires and explosions at refineries and chemical plants which has occurred since 1987. This article makes clear that the health and welfare of citizens in communities with facilities which use extremely hazardous substances, as well as the workers in these facilities, are threatened by inadequate safety precautions. I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 19, 1991]

PETROCHEMICAL DISASTERS RAISE ALARM IN INDUSTRY

(By Keith Schneider)

CHARLESTON, SC, June 18.—The blast that killed six workers at a chemical plant here on Monday was the latest in a streak of fires, explosions and poison-gas leaks at refineries and chemical plants around the nation.

Since October 1987, when a leak of hydrogen fluoride gas at a Marathon Oil refinery forced the evacuation of thousands in Texas City, Tex., the American petrochemical industry has endured one of the deadliest periods in its history, one that has baffled Government experts and alarmed company executives. The 12 worst explosions have killed 79 people, injured 933 and caused roughly $2 billion in damage.

In the last six weeks, before the blast here Monday at the Albright & Wilson Americas plant, an explosion at the Angus Chemical Company in Sterlington, La., killed 8 workers, injured 128 workers and residents, wrecked businesses and ruined so many homes that 23 families are still living in motels.

The explosion at Albright & Wilson Americas, a subsidiary of the Tenneco, occurred as workers were mixing chemicals to make a flame retardant used in textiles and is being investigated. Twenty-one employees and two firefighters were injured.

ARE THERE ANY LINKS?

Oil and chemical industry executives acknowledge that the number of recent big accidents, but they say they do not know if there is a common link. A petroleum trade group has begun a study to determine if there is a thread.

But independent safety experts and industry unions point to several trends that they say have made plants and refineries more dangerous: a growing dependence on the use of outside contractors, slipping safety standards, improper and inadequate training, flaws in engineering and design, old and deteriorating equipment, and a more aggressive drive for profits.

Gordon Strickland, assistant vice president of the Chemical Manufacturers Association, the industry's policy group in Washington, said that safety and training are improving, and denied that any of these factors were causing the rash of problems.

"The accidents that have occurred, it seems, all have different causes," he said. "The consequence is that one cannot nail it down to design or maintenance or whatever. And I don't believe that safety is anything but a first-line interest and concern in our industry."

THE DEATH RATE DOUBLES

An independent research group in Chicago, the National Safe Workplace Institute, said that the fatality rate from 1971, when the Occupational Safety and Health Administration was established, until the early 1980's was less than 10 a year. Over the past four years, the rate has been more than double that.

In 1987, according to the institute, the number of deaths and injuries in the petrochemical industry began to rise steadily. In 1989, an explosion at the Phillips Petroleum plastics plant in Pasadena, Tex., killed 23 workers. A year later, 17 workers were killed at an ARCO Chemical Company plant in Channelview, Tex. In the first six months of this year, 23 workers have died in five accidents.

The safety group based its estimate on news articles and interviews with business executives, labor groups, and Government officials.

On Monday, in the Charleston accident, 6 workers were killed and 23 injured when a chemical reactor apparently exploded without warning. Investigators from the company, and the State Labor Department have not determined the cause of the explosion.

But some aspects of the explosion described today by the plant's general manager and several workers were reminiscent of previous accidents. It occurred soon after a week-long shutdown; many of the workers killed or injured were contract workers, not plant employees, and new controls were being installed.

At this stage in the investigation there is no way to know if any of these factors contributed to the accident. And there is not a Federal agency that compiles statistics and investigates every accident the way the National Transportation Safety Board does, for example, with air crashes.

Although amendments to the Clean Air Act signed into law in 1990 established a Chemical Safety and Hazard Investigation Board, the White House has yet to appoint any members or provide funds.

The White House, in a statement, said it has not acted because of concerns over the structure of the board, how its activities will be coordinated with the Environmental Protection Agency and OSHA, and whether it will function as an independent group or under the jurisdiction of the President.

But Mr. Strickland of the chemical manufacturers group said there should be no delay: "Congress intended for the board to be established rapidly, and the events we see today suggest it should be expedited as quickly as possible."

OSHA now conducts investigations at accident sites, but its findings are often kept secret, pending the outcome of court cases involving penalties or, in rare cases, criminal charges.

WE LIVE IN TOXIC CITY

In the cities and towns that are host to the nation's 2,300 refineries and chemical processing plants, more and more workers and residents are asking whether the disasters are a coincidence, or an urgent signal.

"We live in toxicity, and it is very scary," said Bebe Lising, 39, a resident of Texas City and chairwoman of the Galveston-area chapter of the Sierra Club. "People have been kept so in the dark, and a lot of jobs are dependent on the industry. Our local health department is understaffed, and the plants monitor themselves."

Labor Department reviews show that the rate of injuries in refining and chemical plants is half the national rate for all manufacturing industries and has been declining. But the statistics do not take into account deaths and injuries suffered by employees of engineering and construction companies that work under contract.

Contract workers, whose numbers are rising in chemical and refining plants, are generally paid less and perform more dangerous duties than fulltime workers. Mistakes by these workers have been linked to many of the most serious accidents, including a disaster in October 1989 at the Phillips Petroleum plant near Houston that killed 23 workers and injured 232 people.

A study commissioned by OSHA determined last year that contract workers had much higher turnover rates than regular employees, received far less training and were much less aware of safety procedures in the event of an accident. The study, by the John Grey Institute of Lamar University in Texas, found that contract laborers were "routinely instructed to run in the event of an emergency," leaving regular employees to fight fires and shut down pumps and pipelines.

OSHA, a unit of the Department of Labor, is proposing a rule to require companies to give more training to contract workers. The American Petroleum Institute, the oil industry's principal trade group, has urged the Department of Labor to change its practices and report injury and accident statistics for all employees plant by plant.

Six months ago, the Petroleum Institute also started a study to see if any of the accidents had common characteristics. The study may be completed before the end of the year.

"There is great attention given to safety," said Charles Thomas Sawyer, vice president of industry affairs at the Petroleum Institute. "Is there a common reason for all of these accidents? I don't know the answer to that right now."

Last year, Congress directed OSHA and the E.P.A. to require companies to conduct studies of the potential castastrophic hazards of their plants and to submit plans for preventing accidents.

OSHA has almost finished its regulations. The E.P.A. has until 1993 to finish its regulations, which are aimed at modernizing equipment and improving manufacturing. Next month, the E.P.A. is scheduled to meet with state officials from New Jersey and California, the first states to establish rules for preventing chemical disasters.

The operating weaknesses in the petrochemical industry, say independent experts, may be the result of the aggressive cost cutting prompted by the corporate takeovers and mergers of the 1980's. To protect themselves from takeovers, or to finance the mergers, oil and chemical companies greatly increased production even as they cut costs and staff.

JOB TOTALS ARE SLASHED

More than 40,000 jobs have been cut in the refinery industry since 1982, according to the Petroleum Institute, leaving about 115,000 refinery workers. About 30,000 hourly jobs were lost in the chemical industry, according to the Oil, Chemical, and Atomic Workers International Union. Phillips Petroleum employed 30,000 people before it came under attack by T. Boone Pickens in the mid-1980's. By October 1989, when its chemical complex near Houston exploded, it employed 22,000.

"No sector of the economy was affected more by the raiders than the oil and chemical industry," said Joseph A. Kinney, director of the National Safe Workplace Institute. "Workers are paying for it with their blood."

Though industry executives say cutting costs has not affected safety, officials at OSHA say economy measures and their potential to compromise safety is a valid issue.

DEADLY BLASTS, TOXIC CLOUDS

The most serious chemical and refining accidents in the United States in recent years:

1. Texas City, Tex., Oct. 30, 1987: A worker operating a crane at Marathon Oil's Texas City refinery dropped a heater on a storage tank, causing a rupture that released 30,000 pounds of hydrogen fluoride gas. Three thousand residents were evacuated for three days, and 800 people were treated for breathing disorders and skin problems.

2. Pampa, Tex., Nov. 14, 1987: Butane and acetic acid leaked from a ruptured tank, forming a vast cloud of vapor that caught fire and exploded, destroying the Hoechst Celanese chemical plant, killing 3 workers and injuring 35 people. Economic loss, including property damage, lost production, legal expenses and fines: $241 million.

3. Henderson, Nev., May 5, 1988: Fire and explosion destroyed a Pacific Engineering and Production Company plant that manufactured ammonium perchlorate, a component of rocket fuel. Two employees, including the plant manager, were killed, 350 people were injured, 17,000 people were evacuated from their homes, and property damage was found 12 miles from the plant. Economic loss: $75 million.

4. Norco, La., May 5, 1988: An eight-inch pipe ruptured at a Shell Oil refinery, releasing a vapor cloud that ignited and exploded, killing 7 workers, injuring 42 and causing property damage that resulted in 5,200 claims. Economic loss: $327 million.

5. Pasadena, Tex., Oct. 23, 1989: A valve on a polyethylene reactor was left open at a Phillips Petroleum plastics plant, venting gases that caught fire and exploded with the force of 10,000 pounds of TNT. Twenty-three workers died, 232 people were injured, and the plant was destroyed. Economic loss: $750 million to $1 billion.

6. Baton Rouge, La., Dec. 24, 1989: A pipeline operating at high pressure ruptured at the Exxon U.S.A. refinery, releasing a cloud of ethane and propane that exploded, killing two workers, injuring seven and causing property damage up to six miles away. Economic loss: $44.7 million.

7. Channelview, Tex., July 5, 1990: An explosion in a compressor at a plant belonging to a chemical company owned by Atlantic Richfield killed 17 workers. Economic loss: $90 million.

8. Cincinnati, July 19, 1990: A fire and explosion at the BASF coatings and ink plant resulted from the cleaning of a chemical reactor vessel with volatile solvents. Two workers died, 80 people were injured, much of the plant was destroyed and 162 buildings were damaged. Economic loss: Company will not reveal.

9. Lake Charles, La., March 3, 1991: A fire and explosion killed 6 workers, injured 12, and caused extensive damage at the Citgo Petroleum refinery. Economic loss: Company will not reveal.

10. Corpus Christi, Tex., March 6, 1991: Two workers died and five were injured when hydrofluoric acid vapors escaped from a gasoline blending unit at the Kerr-McGee Corporation's Southwestern Refinery. Economic loss: Company will not reveal.

11. Port Lavaca, Tex., March 12, 1991: An explosion in the ethylene oxide unit of Union Carbide's Seadrift plant kills 1 and injures 19. Economic loss: $50 million to $75 million.

12. Sterlington, La., May 1, 1991: A fire in or near a compressor detonated nitro methane at the Angus Chemical Company plant, killing 8 workers, injuring 128 workers and residents, destroying much of the town's main business district and leaving 30 families temporarily homeless. Economic loss: more than $110 million.

13. Henderson, Nev., May 6, 1991: A pipe from a storage tank at the Pioneer Chlor Alkali plant leaked thousands of gallons of liquid chlorine in the middle of the night, causing evacuations, shutting down the city, sending 55 people to hospitals for treatment of injuries, mostly breathing problems.

14. Charleston, S.C., June 17, 1991: An explosion and fire at the Albright & Wilson Americas chemical plant killed 6 workers and injured 23 others including 2 firefighters.

The accident occurred one day after a week-long shutdown. Economic loss: still to be determined by the company.

Mr. LAUTENBERG. Mr. President, the Clean Air Act establishes a comprehensive program to address the public safety concerns posed by catastrophic releases of extremely hazardous substances.

As part of this program, the Clean Air Act establishes an independent Chemical Safety and Hazard Investigation Board, modeled after the National Transportation Safety Board. We need an independent board to ensure that chemical accidents will be subject to thorough investigations. The Chemical Board will investigate and report on chemical accidents involving death, serious injury and substantial property damage and make recommendations to EPA for action to prevent or mitigate chemical accidents. EPA must respond in writing to each recommendation, EPA is given authority to promulgate accident prevention regulations, and EPA must require leak detection systems.

Mr. President, I was in the negotiations with the administration before the Clean Air Act was brought to the Senate floor. The administration never raised a concern about this provision. The Board was included in the Senate, House, and final versions of the bill.

Suddenly, and with no warning, the President in his signing statement for the Clean Air Act said that a number of provisions relating to the Board were unconstitutional and would have to be corrected before the administration would establish the Board.

And in its budget request, the administration said it would request $5 million for the Board only after the Congress passed legislation to cure these alleged constitutional defects. That legislation has yet to be submitted to the Congress.

Because of the administration's failure to request funding and its expressed opposition to the Board as established, it appeared futile to set aside funds for the Board that the administration seemed decidedly unwilling to implement. So, neither the House nor the Senate Appropriations Committee provided funding for the Board.

Suddenly, last week, in a letter written to House Energy and Commerce Committee Chairman JOHN DINGELL, OMB Director Darman announced that the administration would submit a funding request for the Board to Congress. The letter also says the administration would begin the process of selecting Board members. I ask unanimous consent that the Darman-Dingell letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 9, 1991.
Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of June 21st concerning the establishment of the Chemical Safety and Hazard Investigation Board under the provisions of the Clean Air Act Amendments of 1990.

As mentioned in our letter to you of June 4, 1991, the Administration shares your concern about the accidental release of hazardous chemicals into the ambient air. I am writing to advise you of steps we are now taking to proceed with the establishment of the Board.

As you are aware, the totals for the President's FY 1992 Budget included funding for the Board within the domestic discretionary caps of the Budget Enforcement Act of 1990. We are now preparing the appropriations language necessary to make these funds available in Fiscal Year 1992 for transmittal to the Congress. We anticipate that the President will transmit this proposal in the very near future. In addition, EPA has been directed to work with the White House Office of Presidential Personnel to identify qualified individuals for potential appointment to the Board by the President.

It should be pointed out that before the Board can begin functioning, the Congress must provide appropriations for its operation. As you know, Congress did not provide any funding for the Board in FY 1991. Further, the House of Representatives did not inlcude any funding for the Board in the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations bill for FY 1992. Consequently, it will be incumbent upon the Senate to provide funding if the Board is to begin operation in FY 1992.

Thank you for your interest in this matter. I look forward to working with you on this and other issues in the future.

With best regards,
RICHARD DARMAN,
Director.

Mr. LAUTENBERG. Mr. President, I am pleased that the administration finally has decided to request funding for the Board. Unfortunately, the request comes so late in the appropriation process that available funds already have been allocated to other programs. We have been placed in this situation because of the administration's expressed antagonism toward the Board, its failure to request funds for the Board in a timely manner, and its failure to begin the process of establishing the Board.

Rather than at this late stage offset funding for the Board with cuts in other programs, this amendment would provide up to $1 million for the Board.

I urge my colleagues to support the amendment.

PALO ALTO VETERANS AFFAIRS MEDICAL CENTER

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I note that the distinguished floor manager, Ms. MIKULSKI, has done a tremendous job of putting together a bill that will be of very great value to our Nation's veterans. She has proven once again that she is, indeed, a true and effective friend of veterans.

However, Mr. President, with respect to one matter of absolutely crucial importance to veterans in northern California, I urge that, in conference with the House, she reconsider the position in the reported bill. That critical issue is fiscal year 1992 funding for the emergency replacement of the main hospital building at the Palo Alto VA Medical Center. That building was damaged and left unusable by the Loma Prieta earthquake in 1989.

Mr. President, since I have written the very able subcommittee Chair a detailed letter explaining why approval of the administration's fiscal year 1992 request is of such vital importance, I will not recount those reasons at this point. Rather, I will in a moment ask that the letter be printed in the RECORD and now ask the Senator from Maryland whether she has an open mind on this issue and will revisit it in conference.

Ms. MIKULSKI. Mr. President, I thank the Senator from California [Mr. CRANSTON] for his kind remarks regarding my efforts on the measure. He and I share an abiding commitment to meeting our obligations to those who have served. I assure him that I will give funding for the Palo Alto project every consideration in conference with the House.

Mr. CRANSTON. Mr. President, I thank the Senator and ask unanimous consent that the letter be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, July 18, 1991.
Hon. BARBARA A. MIKULSKI,
Chair, Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR BARBARA: I am writing to you on a matter of great urgency to the veterans of northern California—the deletion of funding for construction of the emergency replacement hospital at the Palo Alto VA Medical Center from FY 1992 VA-HUD appropriations bill (H.R. 2519). As you know, I believe you have again done tremendous work in putting together a bill that will be of great benefit to veterans. However, in this particular respect, I strongly urge that in conference with the House you reconsider the Committee's position.

The timely completion of this project is vitally needed to serve the veterans of northern California. Thus, I am writing to outline why I believe that the request for $40 million for FY 1992—as made by the Administration and approved by the House—is crucially important and why I am so strongly convinced that the reasons cited in the Committee's report for not appropriating these dollars in FY 1992 do not warrant bringing the project to a halt.

As you know, the Palo Alto project is for emergency replacement of the main hospital building, which was damaged and rendered structurally unsafe by the Loma Prieta earthquake on October 17, 1989. To date, the President has allocated $20 million for design and site preparation for this project from the Unanticipated Needs for National Defense Account that Congress established in 1989 after the Loma Prieta earthquake and Hurricane Hugo. The FY 1991 VA appropriation did not make additional funds available since both your Committee and VA rightly believed that the amount then available was sufficient for the purposes of carrying out all the work that could be done in FY 1991. In the report that accompanied H.R. 5158 (S. Rept. No. 101-474, page 29), the Committee noted that it fully expected the Administration's budget request for FY 1992 to include funds for "the construction of the replacement Palo Alto VA hospital."

Rather than include the full amount in the FY 1992 budget, the Administration requested $40 million for the fabrication and placement of the structural steel. That amount is all that can be spent prudently in the FY 1992 budget cycle and thus was the amount requested, rather than the full $232 million necessary to complete the project.

The Palo Alto VA Medical Center has been functioning under extremely trying conditions for nearly two years. The heroic efforts of management and staff to deal with the crisis that was thrust upon them and the understanding and support of the Stanford medical school enabled VA to continue to provide good quality care under most extraordinary circumstances. This is all based on the belief that the Congress and the Administration will move as quickly as possible to correct the problems caused by a catastrophic event. So far, their trust has been borne out by the Congress enacting and the President allocating emergency funding to get the construction project underway in 1990; the Veterans' Affairs Committee's strong support for the project; your inclusion in the report on the FY 1991 appropriation bill of a clear, strong message recognizing the need for a replacement hospital and inviting an FY 1992 Administration request for funding; and the Administration's submission of an appropriate FY 1992 request and the House's approval of it.

Nevertheless, many services have unavoidably suffered and continue to suffer. Many patients are still located in day rooms and doubled up in patient rooms that do not meet privacy or safety standards. The medical center has no medical intensive care unit or coronary care unit. Much of the current activity—for example, the facility's morgue—is being carried out in trailers and other temporary structures. VA staff members lack adequate work space and five or six sometimes share office space designed for one person. Many radiology and laboratory services must be purchased from outside sources at substantial additional cost. Research activities continue to be impaired. The spinal cord injury unit, one of the finest in the VA system, must turn away patients, forcing them to seek care as far away as Seattle and Long Beach because spinal cord injury space has had to be used for medical service patients. Optimum patient care cannot be restored until the replacement facility is completed.

If the Congress or the Administration were to cause a delay at this point, I am fearful that the medical center staff would suffer a disastrous blow to its morale, which is the glue that is holding together the center's ability to function. The very beneficial affiliation with Stanford would be damaged; staff recruitment and retention would become very serious problems; and the quality of patient care at this highly affiliated tertiary care hospital could deteriorate rapidly.

Ever since the earthquake devastated the Palo Alto VA Medical Center, I have been in frequent contact with VA officials for two major reasons: I wanted to be sure that this important hospital was replaced as quickly as possible. I also wanted to be sure that what VA proposed for that site was appropriate to meet veterans' needs. I am, as you are, very sensitive to the issue of VA cost overruns and the need for prudence in construction design.

In this year's Appropriations Committee Report (S. Rept. No. 102-107, page 30), three issues were raised regarding the project: the size of the replacement structure, the wisdom of demolishing some of the remaining structures, and the possibility of moving the facility to Menlo Park. I wish to assure you that all of the matters which appear to be of concern have been thoroughly analyzed both by the Department and by the Veterans' Affairs Committee, and I want you to be aware of a number of matters that I believe speak directly to your Committee's concerns.

First, with respect to the size of the replacement structure, the Committee report noted that the square footage of the new structure will be 37 per cent larger than the one it is replacing and urged consideration of reducing the number of beds. Regarding square footage, it must be remembered that the main hospital building being replaced was over 20 years old at the time of the earthquake. Patient bed areas in the damaged building were 43 percent under current space criteria and major clinical and patient treatment areas, 37 percent under the current criteria. The 37-percent increase is, VA advises me, necessary to bring the facility up to current standards for space and functional operations.

As to the number of beds, northern California already lags far behind the rest of the nation in the number of beds available for each 1,000 veterans. The most recent available data show that, as of FY 1990, there were only 2.09 VA hospital beds per 1,000 veterans in California compared to 2.58 beds per 1,000 veterans nationally, which is over 23 percent more. According to VA, its plans for northern California, assuming completion of the Palo Alto project, are for 2.19 beds per 1,000 veterans in FY 2005. Reducing hospital care for northern California veterans would obviously be most unfair.

Second, regarding the need to demolish certain existing structures, VA fully considered the strategy of constructing a smaller new building and reusing wings D, E, F, and G. That approach was rejected for a number of reasons. Those structures have seismic and many other deficiencies that would require correction as part of the project, and the phasing of the performance of that work would entail a great deal of disruption and cost in the form of temporary relocations of the functions range plans and the need to control cost overruns should not disrupt an emergency hospital-replacement project, and there can be no higher priority than putting this major VA health-care facility back into full operation.

Barbara, I realize that your subcommittee faced very serious budgetary constraints and has been required to make difficult choices. I also acknowledge the great work you did for veterans in so many other respects. However the Palo Alto VAMC presents a dire and emergent need outside the ordinary planning process. Therefore, I urge that, in conference with the House, you accept the House position on funding this project. Further time spent studying it or its location is not warranted by the facts and could seriously impair quality of patient care available to the veterans of northern California.

With warm regards,
Cordially,
ALAN CRANSTON,
Chairman.

OFFICE OF POLLUTION PREVENTION

Mr. BAUCUS. Would the distinguished floor manager, the Senator from Maryland, yield for a colloquy regarding a provision in H.R. 2519 relating to the relocation of EPA's Office of Pollution Prevention?

Ms. MIKULSKI. I would be happy to yield to the chairman of the Environmental Protection Subcommittee, the senior Senator from Montana.

Mr. BAUCUS. Is it correct that the floor manager seeks to relocate the Office of Pollution Prevention in an effort to maximize our Nation's waste reduction efforts? Is it also correct to say that the Senator from Maryland is concerned that the placement of this office within an EPA Program office would reduce its ability to optimize its mission?

Ms. MIKULSKI. The Senator from Montana is absolutely correct.

Mr. BAUCUS. I would say to the Senator from Maryland that I support her on this issue. I believe that EPA's pollution prevention activities have suffered from its current location of the Office of Pollution Prevention. Given the priority I place on pollution prevention, EPA's Pollution Prevention Office must be strategically placed where it has an opportunity to maximize results. I would be happy to work with the chairperson to make certain that the location of the Office of Pollution Prevention enhances its mission—the minimization of waste production across all environmental media.

Ms. MIKULSKI. I thank the Senator from Montana. I look forward to working with the Senator on this matter.

Mr. BURDICK. If the manager, the Senator from Maryland, would yield, I too rise in support of her on this matter. I worked with Ms. MIKULSKI on this problem last year, and agree that the matter she raises, the proper placement of the Office of Pollution Prevention, can have an inordinate impact on the reduction of hazardous waste production in our Nation. I will work with her to find the most appropriate EPA location where the office can have the maximum impact for its mission.

Ms. MIKULSKI. I thank the chairman of the Committee on Environment and Public Works, and look forward to working with him, as well.

COST CONTAINMENT IN MEDICAID PROGRAM

Mr. BENTSEN. Mr. President, I have some concerns about the committee amendment that changes section 520 of the bill—H.R. 2519—and would appreciate it if the distinguished chair of the VA/HUD Appropriations Subcommittee would be willing to clarify the committee's intent.

As my colleague from Maryland knows, the Omnibus Budget Reconciliation Act of 1990 [OBRA 1990] contained provisions authored by my distinguished colleague, the junior Senator from Arkansas [Mr. PRYOR], that were designed to contain costs in the Medicaid Program. These provisions protect American taxpayers by enabling the Medicaid Program to obtain prescription drugs at prices as low as those offered to the best customers of drug manufacturers, including the Department of Veterans Affairs [DVA]. The law operates by providing Medicaid with rebates sufficient to ensure that the price paid by Medicaid is the best on the market.

Mr. President, last year's development of these provisions was a long and contentious process, requiring numerous compromises to address the concerns of the administration, the pharmaceutical manufacturers, the States, consumers, and health care providers—including the Department of Veterans Affairs—while achieving the savings agreed to in the budget summit.

During these deliberations, I raised with the summit negotiators my concern over the potential for cost shifting to other Federal agencies and I, therefore, insisted on the inclusion of certain provisions intended to preserve the ability of the DVA to negotiate favorable discounts on pharmaceutical products. Yet, even with these provisions, I am advised that the Department of Veterans Affairs has encountered difficulty in obtaining the discounts it believes are justified. While much of the evidence at this point is anecdotal, we have asked the General Accounting Office to study the matter further.

As I understand it, the purpose of the amendment offered by the distinguished Senator from Maryland is to provide further protections for the DVA against possible price increases.

Ms. MIKULSKI. That is correct. This amendment is needed to ensure that the DVA can continue to secure the favorable prices on pharmaceutical products that it has so effectively negotiated in the past. It would do so by excluding VA prices from the calculation of rebates under the Medicaid law, by requiring the Secretary of Veterans Affairs to attempt to renegotiate current contracts to obtain better prices, and by requiring the Secretary to report to Congress on these negotiations and on pharmaceutical cost increases incurred by the DVA since OBRA 1990 was enacted.

Mr. BENTSEN. I appreciate that clarification and share the concerns of the distinguished Senator from Maryland. The DVA plays a special role in our Nation's health care system by providing care to the millions of men and women who have served in our Nation's defense. Because of its special role, it is imperative that we protect the DVA's ability to deliver the highest quality health care. However, it is also important that we obtain for the American taxpayer the most reasonable prices for pharmaceutical products essential to that care.

At the same time, it is critical that the Medicaid Program retain its ability to provide cost-effective benefits to the many pregnant woman, infants, children, and disabled and elderly individuals who rely on Medicaid for their health care. Thus, I would like to inquire whether the amendment offered by the distinguished Senator will preserve the Medicaid Program's access to favorable pharmaceutical prices, as provided in last year's budget agreement.

Ms. MIKULSKI. Yes, it will. I share my colleagues' concern that Medicaid costs be contained and, unlike the provision in the bill as reported, this amendment does not amend the Medicaid statute.

I want to add another point, and that is, if the pharmaceutical manufacturers continue to impose the exponential price increases in the same fashion, the Senate would have to consider taking whatever steps are necessary to confront the problem.

Mr. BENTSEN. Finally, I wonder if our distinguished colleague, the Budget Committee chairman, Senator SASSER, would confirm my understanding about the budget scoring of this provision. It is my understanding that this amendment will not require offsetting reductions in entitlement programs or increases in revenues pursuant to the pay-as-you-go provisions in the Budget Enforcement Act.

Mr. SASSER. That is correct.

Mr. BENTSEN. I appreciate the comments of my distinguished colleagues.

PUBLIC HOUSING REPLACEMENT

Mr. CRANSTON. Mr. President, I would like to engage in a colloquy with the distinguished manager of this bill regarding the replacement of public housing that is demolished or sold.

Section 18 of the U.S. Housing Act of 1937 prohibits the Secretary from approving a PHA's application for public housing demolition or disposition unless the PHA has a plan for the replacement of each public housing unit. The section permits such 1-for-1 replacement to be provided in total or in part through: First, the acquisition or development of additional public housing units; second, the use of 15-year project-based assistance under section 8 or other Federal or State programs; or third, the use of 15-year tenant based assistance.

In recent years, replacement housing has been provided from two primary sources. First, appropriations acts have provided explicit funding for 15-year replacement certificates: 500 replacement certificates were provided in the fiscal year 1991 law; 500 in the fiscal year 1990 law and 333 in the fiscal year 1989 law. Second, a portion of funds made available for the development of incremental public housing units has been used to develop units to replace public housing lost through demolition or disposition.

I have mixed views about the current system for replacing public housing. I support giving public housing authorities the flexibility to choose from a variety of options in meeting the replacement requirement. I am concerned, however, by the use of incremental public housing development funds—nominally appropriated to expand the supply of public housing—for purposes of meeting the replacement requirement. I believe we should take a truth-in-budgeting approach that would provide separate funding for the development of replacement public housing.

The committee bill provides funding for the development of incremental public housing units—without recognizing that a portion of these funds will be used to replace public housing units that are lost through demolition or disposition. The absence of funding for section 8 replacement certificates will, in fact, make public housing development the only source of funds available to meet the replacement mandate in fiscal year 1992.

Our current situation is a sad reflection of the inadequacy of HUD's reporting system on public housing demolition and disposition. That reporting system should improve—as early as next fiscal year—when section 513(b) of the National Affordable Housing Act takes effect. Section 513(b) requires the Secretary to transmit to Congress, as part of each annual budget request, a report outlining the commitments that the Secretary has made to fund replacement plans under section 18 and specifying, by fiscal year, the budget authority required to carry out such commitments. My hope and expectation is that over time such reports—and other improvements to the Department's reporting system—will lead to separate appropriations for replacement public housing in annual appropriations acts.

I ask whether my distinguished colleage from Maryland shares my concern and will work with me to improve the funding system for public housing replacement—if not in the current appropriations bill than in next year's legislation.

Ms. MIKULSKI. I share the Senator from California's concern about the current system for appropriating funds to meet the public housing replacement mandate. I will work with the Senator first to improve the Department's reporting system on public housing demolition and disposition and then to provide separate explicit funding for these purposes in appropriations legislation.

SOUTHWARK PLAZA PROJECT, PHILADELPHIA, PA

Mr. SPECTER. Mr. President, I wish to express my support for the report language provided in the House VA, HUD, and Independent Agencies Subcommittee appropriation bill concerning the Southwark Plaza project in Philadelphia. I respect the arduous task that the esteemed chairperson of the subcommittee, Senator MIKULSKI, and the ranking Republican on the subcommittee, Senator GARN, faced in addressing the various issues and requests before the subcommittee, and I commend them for their work. Nevertheless, I am concerned that the success of the Southwark Plaza project, in terms of increased affordable housing, may be further impaired unless report language is provided to allow HUD to assist this project.

Mr. President, the Southwark Plaza housing project, located in South Philadelphia, is a combination of high-rise towers and low-rise housing units that demonstrate many of the failures created by well-intentioned policies of the 1960's. The building and the units have greatly deteriorated physically. The design has encouraged uncontestable vandalism. The efforts, Mr. President, of the Philadelphia Housing Authority to create safe, decent, and affordable living in this public housing project is, I am informed, seriously challenged by circumstances beyond its control.

I further understand that the neighborhood surrounding Southwark is one where property values have increased consistently over the last few years. It is a gentrifying community of brownstone homes and urban boutiques occupied by a mix of young professionals and well-established seniors who have lived in the area for years. It is a neighborhood improving, and a neighborhood which generally embraces the redesign and the rehabilitation planned for Southwark.

But, Mr. President, Southwark faces difficulty. I am informed the difficulty exists because of changes made by the Department of Housing and Urban Development [HUD] in funding formulas in the now popular Major Reconstruction of Obsolete Projects [MROP] Program. I am informed that in 1987, HUD approved Southwark for rehabilitation under the then-newly created MROP program. This approval was based on the Comprehensive Improvements Assistance Program [CIAP] formulas which allow only 69 percent of the total development cost of a project to be funded with Federal money.

I am further advised that by 1990 it became evident that flows in many projects funded under MROP prohibited completion of those projects under the CIAP funding levels. HUD thereby changed the funding guidelines to adequately fund major reconstruction of MROP projects. Today, Mr. President, the estimated grant for a MROP project must be at least 70 percent, but not more than 90 percent, of the total development cost of the project. I am informed that HUD has not made these guidelines retroactive for projects approved for funding under MROP prior to 1990, such as Southwark Plaza.

Mr. President, Congress authorized the Major Reconstruction of Obsolete Projects program with the stated intention that it would be treated in the same manner as the public housing development program for new construction. The formulas for funding were to be identical. However, I am informed that HUD has unilaterally imposed cost limitations inconsistent with the intentions of Congress as outlined in the authorizing legislation which created MROP. Moreover, Congress intended MROP to fund totally failed sites. Southwark Plaza is a totally failed site. It is deserving of adequate funding premised on 1990 funding guidelines.

Mr. President, I ask that the conferees support the language contained in the House VA, HUD and Independent Agencies appropriations bill for fiscal year 1992, which directs HUD to fund the Southwark Plaza project at current 1990 levels. Without this direction, HUD will be unable to grant the necessary resources for the proper rehabilitation of the Southwark Plaza project, which is earnestly sought by the Philadelphia Housing Authority, the South Philadelphia neighborhood, the project's residents, and the more than 500 prospective families who would occupy the newly rehabilitated project.

Mr. President, I look forward to working with the conferees on this important project for Philadelphia.

NATIONAL AFFORDABLE HOUSING ACT

Mr. MACK. Mr. President, I strongly object to the language in this bill which changes the HOME matching requirements. The change represents a severe policy mistake that threatens the future of the HOME program, which was established under the National Affordable Housing Act.

As a conferee to the National Affordable Housing Act, I can assure you the match issue was well deliberated and resolved. The authorizers never intended the match be waived. The waiver undermines the whole HOME Program.

For more than 3 years in working on the National Affordable Housing Act, we have been talking about a partnership. With the partnership came the match. By waiving the match, the partnership falls apart. It is an outrage that the Senate has allowed this to happen.

As I said, the essence of the HOME program is the idea of a partnership between the Federal Government and the States/localities to provide low-income housing for the poor. In that spirit, HOME was designed as a matching grant program; the Federal Government would at least double every State/local dollar spent for low income housing.

For example, if a community chose to lightly rehabilitate older housing or offer vouchers to the poor, HOME would provide a 4-to-1 match; if the community chose new construction, HOME would provide a 2-to-1 match.

However, the Appropriations Committee—in response to the current financial strain in the cities and states—waived the match for 1 year. But, as a July 10 New York Times editorial suggests, the appropriator's "compassion is shortsighted. HOME's political popularity is due, in part, to the significant local commitment it requires. Waiving that commitment—even before the program gets started—could erode future support." Mr. President, I ask unanimous consent to have this editorial printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HOUSING THE POOR, SENSIBLY

Low-income housing is in short supply, and state and local governments are in no shape to help. That makes vital today's vote by a Senate subcommittee on HOME, a new low-income housing program. HOME authorizes block grants to states and localities on a matching basis. And it gives authorities great flexibility to use the money for rehabilitation, construction or rental assistance.

The question before the committee is how much to spend on HOME. The House has approved $500 million, barely enough to get started. Rehabilitation can cost $25,000 or more per unit; new construction $60,000 or more. Even after state and local authorities chip in their share, the House allocation won't make much of a dent.

To make a meaningful start, Congress would need to allocate at least $1 billion, and with any luck more. That would generate almost $100 million for New York City.

The money wouldn't be wasted. Last year's housing legislation compels local authorities to put together comprehensive plans for low-cost housing. In New York, city housing agencies, private corporations and nonprofit groups have begun the process. Community-based development groups have already established an impressive record of rehabilitating—and maintaining—low-cost housing in rundown neighborhoods. With an adequate infusion of HOME funds, their yeoman efforts to reclaim abandoned buildings, block by block, would have a chance to prosper.

The subcommittee will also take up local matching rates. The law calls for at least a 25 percent contribution from local authorities for rehabilitation and 50 percent for new construction. But because of the fiscal crisis afflicting city and state governments, many in Congress proposed temporarily waiving the matching shares.

Their compassion is shortsighted. HOME's political popularity is due, in part, to the significant local commitment it requires. Waiving that commitment—even before the program gets started—could erode future support. Better to reduce, but not waive, the local obligation. That way the program will prosper, and Congress will deliver a big boost to cities and town struggling to house their poor.

Mr. MACK. There are three major reasons why I believe the committee's waiver of the match is wrong.

First, and most importantly, the waiver of the match would mean that 32,000 low-income families will not be served. According to HUD, waiving the match for fiscal year 1992 would mean that only 123,000 families will be served versus 155,000 with the match. (See charts A and B.)

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

HOME INVESTMENT PARTNERSHIPS PROGRAM, FISCAL YEAR 1992 SENATE APPROPRIATIONS COMMITTEE MARK

With match in place

Appropriation	$2,000,000,000
Block grants	1,955,000,000
Technical assistance	11,000,000
CHDO TA	14,000,000
Lead-based paint	0
Indians	20,000,000

New construction: 15 percent of $1,955,000,000 = $293,250,000 × 1.5 (match) = $439,875,000.

Program level of $439,875,000 divided by $80,000 per unit = 5,498 units.

Substantial rehabilitation: 10 percent of $1,955,000,000 = $195,500,000 × 1.33 (match) = $260,015,000.

Program level of $260,015,000 divided by $50,000 per unit = 5,200 units.

Moderate rehabilitation: 50 percent of $1,955,000,000 = $977,500,000 × 1.25 (match) = $1,221,875,000

Program level of $1,221,875,000 divided by $15,000 per unit = 81,458 units.

Tenant-based assistance: 25 percent of $1,955,000,000 = $488,750,000 × 1.25 (match) = $610,937,500.

Program level of $610,937,500 divided by $9,700 per unit for two years = 62,983 units.

Total Program Level: $2,532,702,500 (including Matching Funds). Units: 155,139.

No matching

Appropriation	$2,000,000,000
Block grants	1,955,000,000
Technical assistance	11,000,000
CHDO TA	14,000,000
Lead-based paint	0
Indians	20,000,000

New construction: 15 percent of $1,955,000,000 = $293,250,000 × 1.0 (no match) = $293,250,000.

Program level of $293,250,000 divided by $80,000 per unit = 3,666 units.

Substantial rehabilitation: 10 percent of $1,955,000,000 = $195,500,000 × 1.0 (no match) = $195,500,000.

Program level of $195,500,000 divided by $50,000 per unit = 3,910 units.

Moderate rehabilitation: 50 percent of $1,955,000,000 = $977,500,000 × 1.0 (no match) = $977,500,000

Program level of $977,500,000 divided by $15,000 per unit = 67,167 units.

Tenant-based assistance: 25 percent of $1,955,000,000 = $488,750,000 × 1.0 (no match) = $488,750,000.

Program level of $488,750,000 divided by $9,700 per unit for two years = 50,387 units.

Total Program Level: $1,955,000,000 (no matching). Units: 123,130.

Mr. MACK. Second, as a response to current fiscal problems in the cities and states, the waiver fails to provide any relief for fiscal year 1992. The benefits of the waiver would not take place until the end of fiscal year 1993.

Third, by not requiring a local match, the waiver undermines incentives that states and communities have to prioritize housing activities.

Under HOME, recipients are given an automatic administrative cost credit equal to 7 percent of the HOME grant toward their match. Since HUD estimates that most jurisdictions will not have expended more than 10 percent of their HOME grant by the end of fiscal year 1992, the most a community would have to contribute is 5 percent—if they chose new construction. The committee waiver, however, applies to the entire fiscal year 1992 HOME allocation, not simply what is drawn down in fiscal year 1992. States will begin to benefit from the waiver at the end of fiscal year 1993. (See charts C and D.)

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

CHART C.—MATCH REQUIRED UNDER HOME PROGRAM: LIGHT REHAB/TENANT-BASED ASSISTANCE

City A	HOME grant allocation	Funds drawn for light rehab/tenant-based	Administrative credit	Match local contribution	Total match
Fiscal year:					
1992	$1,000,000	$100,000	$25,000	0	$25,000
1993	NA	200,000	45,000	$5,000	50,000
1994	NA	200,000	0	50,000	50,000
1995	NA	250,000	0	62,500	62,500
1996	NA	250,000	0	62,500	62,500
Total	1,000,000	1,000,000	70,000	180,000	250,000

Source: HUD estimate.

CHART D.—MATCH REQUIRED UNDER HOME PROGRAM: NEW CONSTRUCTION

City A	HOME grant allocation	Funds drawn for light rehab/tenant-based	Administrative credit	Match local contribution	Total match
Fiscal year:					
1992	$1,000,000	$20,000	$10,000	0	$10,000
1993	NA	170,000	60,000	$25,000	85,000
1994	NA	300,000	0	150,000	150,000
1995	NA	310,000	0	155,000	155,000
1996	NA	200,000	0	100,000	100,000
Total	1,000,000	1,000,000	70,000	430,000	500,000

Source: HUD estimate.

Mr. MACK. Therefore, for virtually every community, the automatic 7 percent administrative costs credit will cover their entire matching requirements in fiscal year 1992. Any further matching requirements would come due in the outyears, at which time economic recovery will presumably have set in.

For example, city A receives a HOME grant allocation of $1,000,000. According to HUD estimates, city A will only expend 10 percent, or $100,000, of the HOPE grant by the end of fiscal year 1992. City A chooses to use the grant funds for new construction which has a 2-to-1 match requirement. City A's match in fiscal year 1992 is, therefore, $50,000. The 7 percent administrative cost credit, or $70,000, would more than cover the city A's match in fiscal year 1992.

In addition, the HOME Program already provides the Secretary the discretionary authority to reduce matching requirements when he determines that a reduction is necessary to allow States/cities to participate in the program.

Under this authority, the Secretary may reduce the match by 75 percent in the first year of a participating jurisdiction, 50 percent in the second year and 25 percent in the third year.

The House, I believe, acted responsibly by not waiving the match. I urge the Senate conferees to the bill to accept the House language on the HOME match and reject the Senate's waiver.

IN SUPPORT OF GAO STUDY

Mr. DECONCINI. Mr. President, let me begin by saying that I was prepared to offer an amendment in the full Appropriations Committee markup of the VA, HUD appropriations bill that would have delayed the implementation of the Department of Housing and Urban Development [HUD] Federal Housing Administration [FHA] minimum mortgagor equity rule which went into effect on July 1. The minimum mortgagor equity rule restricts the amount of closing costs that can be financed in an FHA single-family mortgage to 57 percent. My amendment would have also required the Congressional Budget Office to conduct a study of the financial stability of the mutual mortgage insurance fund [MMIF] in order to assess whether the implementation of the HUD closing cost financing limitation rule is prudent at this time given other equity reforms already in place prior to July 1.

Mr. President, I firmly believe that rescission of the 57-percent rule is still necessary, but I have attempted to satisfy the concerns of my colleagues on the Appropriations Committee that believe my amendment would have destabilized the FHA single-family fund.

In short, HUD and the Office of Management and Budget [OMB] contend that restricting financeable closing costs will increase FHA home buyer equity. I disagree. Closing costs have no effect on borrower equity. I assert that closing costs are the expenses incurred when transacting the purchase of a house: lawyers fees, title search, and so forth; none of which involves a direct equity investment in the house. Not allowing the buyer to finance his or her closing costs does change the loan-to-value ratio for that loan, but does not expose the MMIF to any greater potential loss.

Quite the contrary, my estimation is that restricting closing costs will only work against stabilizing the fund. I contend that the FHA fund will lose far more as a result of implementation of this rule than OMB and HUD assume the new rule will gain in added new revenues. It is my also view that the program will no longer be affordable to many potential low-income home buyers because of greater out-of-pocket cash requirements. FHA will not be an equitable alternative to private mortgage insurance for the higher income good risk borrowers who are very important to the stability of the fund.

The effect of losing the low end borrowers who can no longer afford to use FHA and the high end borrowers who will take their business to private mortgage insurance companies will be extremely detrimental to the MMI fund. These upper end borrowers are FHA's least risky loans, and they will pass up FHA mortgage insurance for a better deal with a private insurance provider.

Consequently, I fear that the administration's estimates of the new MMIF premiums which will be gained because HUD implemented the closing cost limitation are too optimistic. I fear FHA will lose money, the single-family fund will get an undeserved black eye and public confidence in FHA will wane.

Mr. President, even though I feel very strongly about the need to rescind the 57-percent rule, I am nevertheless willing to withhold further action until an independent analysis of the FHA mutual mortgage insurance fund [MMIF] is conducted by the General Accounting Office [GAO]. This compromise amendment requires that GAO develop its own economic model of the FHA MMIF. In doing so, it is expected that the GAO will examine all relevant data and economic assumptions which formed the foundation for HUD and OMB to conclude that the implementation of the closing cost limitation rule was necessary to meet the capital ratio requirements contained in the 1990 Housing Act. And lastly, GAO is specifically directed to consider several factors which may not have been fully considered in other existing economic studies and models.

Mr. President, I wish to thank my colleagues, especially the distinguished managers of the bill, Senator MIKULSKI and Senator GARN, for their assistance and patience with this very important matter. I also would like to thank two other members of the Appropriations Committee who also sit on the appropriate authorization subcommittee, Senator D'AMATO and Senator GRAMM, and their staff, for their cooperation in ironing out a fair compromise for all concerned.

Mr. BYRD, Mr. President, the measure we are about to vote upon provides necessary funding for the Department of Veterans Affairs, the Department of Housing and Urban Development, the National Aeronautics and Space Administration, the Environmental Protection Agency, the National Science Foundation, the Federal Emergency Management Agency, the FSLIC Resolution Fund, and other independent agencies, boards, commissions, offices, and corporations. This bill is within its 602(b) allocation for both budget authority and outlays.

I wish to commend Senator MIKULSKI, the very able chair of the subcommittee. She has done a remarkable job on this very difficult piece of legislation, and I applaud her fine work and dedication to this bill. I also commend Senator GARN, the ranking minority member of the subcommittee, for his usual hard work and diligence.

I also complement both the majority and minority staff for their fine work on the bill: Kevin Kelly, Carrie Apostolou, Juanita Griffin, Stephen Kohashi, and Dona Pate. These dedicated professionals have worked many long hours to get this measure before us and passed.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 2519), as amended, was passed.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the bill as amended, was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MIKULSKI. Mr. President, I move that the Senate insist on its amendments to H.R. 2519, and agree to a conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

The motion was agreed to; and the Presiding Officer [Mr. DECONCINI] appointed Ms. MIKULSKI, Mr. GARN, Mr. LEAHY, Mr. D'AMATO, Mr. JOHNSTON, Mr. BOND, Mr. LAUTENBERG, Mr. FOWLER, Mr. NICKLES, Mr. KERREY, Mr. GRAMM, Mr. BYRD, and Mr. HATFIELD conferees on the part of the Senate.

NATIONAL VOTER REGISTRATION ACT FOR FEDERAL ELECTIONS

THE "MOTOR VOTER" BILL

Mr. DOLE. Mr. President, you do not need to be an election expert to realize that voter turnouts is at an all-time low. In 1988, for example, barely 50 percent of all eligible voters went to the polls—the lowest percentage in more than 40 years. Participation in midterm elections is even lower, down to about 34.4 percent in 1990.

Without a doubt, these are disturbing trends. But they are trends that S. 250, the so-called motor voter bill, will do nothing to reverse.

Unfortunately, low voter turnout has less to do with obstacles to voter registration and more to do with other factors—factors like the lack of competitive congressional races, the lackluster messages of our Nation's politicians, and the frustration of many citizens who feel that their votes simply do not make a difference on election day.

S. 250 will correct none of these problems. It will not make congressional races more competitive. It will not restore voter confidence in the electoral system. It will not guarantee high turnouts on election day.

But it will open the door for rampant fraud. And it will federalize an activity—voter registration—that the individual States have successfully performed for decades.

THE POTENTIAL FOR FRAUD

Mr. President, simply put, S. 250's mail registration procedures are a public invitation for corruption.

Just fill out a form, mail it in, and you are registered to vote. It is that simple.

There is no notarization requirement. No attestation requirement. No verification of identity or citizenship.

But there will be plenty of fraud. That is guaranteed.

UNFUNDED MANDATES

S. 250 would also impose significant unfunded costs on the States at a time when 32 of these States are running budget deficits.

According to estimates prepared by 10 States—Alaska, California, Florida, Illinois, Kansas, New Jersey, New York, South Carolina, Oklahoma, and Virginia—the total cost of complying with S. 250's requirements would exceed $87 million. The total cost for all 50 States would obviously be much higher.

Unfortunately, S. 250 says nothing about how the States should finance the costs of these new, burdensome requirements.

It is voter registration "sticker-shock:" the Federal Government mandates. And the States pick up the tab.

AN ALTERNATIVE

Mr. President, earlier this month, I joined my distinguished colleague from Alaska, Senator TED STEVENS, in introducing an alternative to S. 250.

The alternative would authorize a total of $25 million over 3 years in grants and an incentive for States to implement improved voter registration procedures.

Like S. 250, these procedures would allow registration at State Departments of Motor Vehicles, registration by mail, and registration at Federal and State government agencies.

But unlike S. 250, the implementation of these procedures would be completely voluntary.

The procedures would also remain subject to tough, antifraud provisions already on the books in most States.

In addition, the alternative recognizes that any liberalization of voter registration procedures must be accompanied by tougher penalties for public corruption. As a result, the alternative "beefs up" the penalties for such crimes as voter intimidation and ballot falsification.

CONCLUSION

Mr. President, many State governments have conducted very successful programs to make voter registration easier for all Americans.

In my home State of Kansas, for example, mail registration—accompanied by tough verification requirements—has been in effect since 1976. Other States have since followed Kansas' lead.

With a track record on voter registration, the States now need a helping hand from Washington.

They do not need another Federal mandate. And they do not need the iron fist of S. 250.

Mr. President, I have received letters from the National League of Cities, the National Association of Towns and Townships, and the National Association of Counties—all expressing their support for the alternative and their opposition to S. 250.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, May 30, 1991.

Hon. ROBERT DOLE,
Senate Minority Leader, The Capitol, Washington, DC.

DEAR MR. LEADER: I am writing on behalf of the public elected officials of the Nation's cities and towns in support of your proposed alternative, S. 921, to establish national voter registration procedures for Presidential and congressional elections.

The Nation's municipal public elected officials support efforts to enhance registration of more Americans to vote, but we oppose Federal initiatives which mandate significant new costs for local governments—unless such proposed mandates include reimbursement funds.

The version reported by the Senate Rules Committee, S. 250, would impose new and unfunded Federal mandates on an activity traditionally reserved to elected State and local governments. It would require States and local governments to either raise taxes or reduce other services to meet Federal goals and objectives. At a time when the Federal Government has adopted a pay-as-you-go philosophy, we believe it is only fair that such a standard should apply to mandates on other levels of government—even though it is uncertain—at best—that these changes would result in any increased voter participation.

In contrast, your proposal, the National Voter Registration Enhancement Act of 1991, would offer each State an incentive and would impose substantial penalties to help combat fraud and corruption in Federal elections. It would prohibit the Federal Government from mandating a State or municipality to require enhanced voter registration. Consequently, it would avoid interference in State and municipal authority, but would offer a voluntary means to encourage greater State and local registration efforts.

We believe your efforts are a responsible alternative, consistent with an effort to work in partnership with State and local governments. We appreciate and support your leadership.

Sincerely,

SIDNEY J. BARTHELEMY,
President, Mayor, New Orleans.

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, June 18, 1991.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing on behalf of the 13,000 local governments represented by NATaT, the National Association of Towns and Townships, in support of S. 921. Your continued understanding of the problems faced by small local governments in implementing unfunded mandates is greatly appreciated.

NATaT's members are from mostly small, rural communities nationwide. They are typical of the Nation's 39,000 general purpose local governments, 78 percent of which serve communities with less than 5,000 residents and half of which are communities with less than 1,000 people. Many of the local elected officials in these communities are the administrators of all elections in their jurisdictions. They have firsthand experience with the strengths and faults of voter registration.

NATaT is very supportive of voter registration efforts. In fact, township governments were founded on the principle of citizen participation. However, the process of registering voters must be one that is manageable and affordable for local governments. S. 250 is neither. It imposes new costs and confusing procedures for which local governments will pay a high price. We have heard very strongly and loudly from local government officials in opposition to S. 250.

In contrast, your legislation addresses these concerns by making the program voluntary and providing funds. By encouraging voluntary participation, you avoid interference with successful programs and leave states the flexibility to create innovative programs to address their specific needs. The penalties S. 921 would impose to prevent fraud and corruption are also necessary to ensure that the registration process is legitimate.

We hope that your colleagues in the Senate will join in support of S. 921. It is a sensible approach consistent with the partnership that the Federal and local governments should have. Thank you for your leadership on this important issue.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes:

Wendell Ford, Jeff Bingaman, Daniel K. Akaka, Max Baucus, Timothy E. Wirth, J.R. Biden, Jr., George Mitchell, Richard Bryan, Bob Kerrey, J. Lieberman, Pat Leahy, Brock Adams, Daniel K. Inouye, Bill Bradley, John F. Kerry, Frank R. Lautenberg.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is: Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 250, the National Voter Registration Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant collective clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 59, nays 40, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—59

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wirth
Wofford

NAYS—40

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—1

Pryor

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in affirmative, the motion is rejected.

The Senator from Minnesota.

NATIONAL VOTER REGISTRATION ACT FOR FEDERAL ELECTIONS

Mr. WELLSTONE. Mr. President, I rise to speak about this vote that has just taken place on cloture.

Mr. President, the motor voter legislation sponsored by the Senator from Kentucky [Senator FORD], was a piece of legislation that would have brought about more democracy in our country and what happened here tonight was almost every single Republican voted against a piece of legislation which would have made it easier for citizens in this country to have registered and voted.

What did this legislation call for that they were so afraid of? This legislation said that when a man or woman went to register to pick up a driver's license what you would have would be something called motor voter like in Minnesota, driver's license form, voter registration form, available for citizens, makes no difference whether Republicans or Democrats, but it would make it easier for our citizens to register to vote. That is what a democracy is about.

We have motor voter in the State of Minnesota, a wonderful program. Many, many States have it. For some reason with the exception of three Republicans, the rest of the Republicans in this Chamber were afraid of a piece of legislation that would enable American people to register and vote, unbelievable.

What did the legislation of the distinguished Senator from Kentucky [Mr. FORD] call for? It called for agency-based registration, when men and women in our country regardless of State go into agency unemployment offices, food stamps, and whatever, what would happen? Staff in those agencies would have voter registration forms available and they would be able to fill out these forms.

Mr. President, the vote on the part of almost every single Republican here tonight, a vote I might add to simply filibuster this piece of legislation, was a vote against agency-based registration which would have enabled many of our most vulnerable citizens, people who are unemployed, low and moderate income from having access to registration and vote.

What was this vote all about? What were the Republicans afraid of? Afraid of registration by mail and by postcard?

Mr. President, I have to say here tonight—and I want to say it to every single citizen in this country who might be viewing at this moment—that our country has made great steps forward, but we have so far to go.

In the 1870's and in the 1880's, the United States of America had high rates of voter participation. But then after 1896, we passed some laws and rules and regulations that now many of us know were a mistake. Some of those were the poll tax and literacy tests and, in addition, we had the grandfather clause and other things that were so discriminatory.

From 1896 and thereabouts, all the way, I say to Senator FORD, until 1965, all those years we had those laws on the books and then we passed the Voting Rights Act of 1965 and how proud we were as a Nation that we passed that legislation which would make sure that there was no discrimination, which would make sure that people were able to register and vote. Such an important piece of legislation.

Now in 1991, we have a situation in our country where 75 million Americans are not registered to vote. We know among the people who do register to vote—which is only 50 percent in a Presidential race—we know that of the people who do register to vote, 85 percent of them vote. But half the population, 50 percent, did not vote in the last Presidential election.

Why? Is it because people are apathetic and do not care? That, Mr. President, is not the main reason. The main reason is that we stand out with the lowest record of voter participation of any democracy—really at the very bottom—in the whole world. We have a system that makes it so difficult for people to register and to vote. That is what the Senator from Kentucky was trying to do with this legislation.

What did the legislation say? What the legislation said—and it would have been such a step in the right direction—is that no longer would a citizen in a State have to figure out how, when, and where to vote. In all too many States when you try to register to vote, you cannot register during the weekend, you cannot register sometimes at noonday during workdays. Working people have a very difficult time registering.

In many States, there is no mail-in. So you have to figure out where to go to register to vote. All too often you do not know where it is. All too often you have to travel 70 or 80 miles in order to find that place.

So, Mr. President, what we have is all these rules and regulations that vary State by State, and in all too many places in our country, we impose enormous difficulties on people so that we make it so difficult for them to register to vote. And it is discriminatory. It especially leaves out the working people.

This piece of legislation, this motor-voter registration, this agency-based bill, this bill that called for registration by mail-in, was a piece of legislation that built on the Civil Rights Act of 1965 in the United States of America. It was a piece of legislation that would have expanded democracy in the United States of America.

It should have not been called motor voter. It should have been called pro-democracy legislation. It should have been called the Voting Rights Act of 1991.

I want to say to my Republican colleagues, it is very, very difficult for me to understand, and I think, quite frankly, for people in this country to understand, why in the world would you vote against moving on and having real debate and discussion on a piece of legislation that would have enabled citizens to register when they go to the Bureau of Motor Vehicles to register, when they go to an agency, to be able to register by postcard? Why do you want to make it so difficult for people to register to vote?

We know that in the States that have motor voter and States that have agency-based registration, it works. We know that those States have higher levels of participation. We know in our country we do not have near enough people involved in politics. I thought—how naive it is of me to think so—I thought, as a U.S. Senator, that all of us in the U.S. Senate, whether we were Republicans or whether we were Democrats, were all interested in citizens being involved. I thought we wanted citizens to register to vote. I thought we were interested in more voter participation. I thought we were interested in more democracy.

That is not what the Republicans are interested in, Mr. President. This was, I am sad to say, a straight party vote. Three Republicans were willing to vote for a piece of legislation that would have made it easier for citizens in the United States of America to be able to register and to go out and vote. Is that not what this is all about? Should not every single Senator be promoting that, I ask my colleagues?

I hope to have some discussion about this tonight. What were you afraid of? Why were you afraid for more people in the United States of America to register and vote? What are you afraid of? Are you afraid of democracy? Do you not want working people to come out and vote? Do you not want young people to be able to register and vote? Do you want us to continue to have elections where only 50 percent of the population votes in a Presidential election and far fewer vote in congressional races and State and local races?

Do you want the United States of America to be rock bottom among democracies in voter participation? Do you want to continue to have these voter registration laws which are so discriminatory and make it so hard for working people to register to vote?

What in the world are my colleagues on the other side of the aisle afraid of? I cannot imagine why they would not want the American people to be able to register and vote. I think people all across this country are going to understand this vote tonight.

We will come back to it again. And I think that what we will do in the U.S. Senate—obviously, not tonight—but we will reach a higher moment, we will be a body that lives up to good public policy. We will leave partisan politics aside. We will be a U.S. Senate that cares about citizens in this country and wants them to be able to register and vote, and we will do that by passing this piece of legislation that the Senator from Kentucky, Senator FORD, has introduced.

You might be able to kill a good idea tonight. You might be able to kill a voting rights bill tonight. You might to able to stop people from participating in politics tonight. You might be able to make it difficult for working people to register and vote tonight. You might be able to undercut democracy tonight.

But I want to say to my Republican colleagues, you will not be able to do that tomorrow; you will not be able to do that in the months ahead. We will pass this legislation. And when we pass this motor voter registration, and when we have agency-based registration, and when we have registration by postcard, we will be more of a democracy, Mr. President. We will see higher rates of participation, we will see more people interested in politics, we will see more people voting, and we will be better off as a Nation for it.

Tonight is only the beginning. We will not stop until we pass this legislation. I think for anyone who is interested in democracy—Republican, Democrat, or other—this could probably be as important a piece of legislation as could ever pass, and I certainly welcome my Republican colleagues in the future voting for a piece of legislation to make this a more democratic country.

I thank the Chair.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

EULOGY FOR EDWARD W. CLYDE

Mr. HATCH. Mr. President, I would like to pay tribute to my friend, Edward W. Clyde, who died yesterday in Salt Lake City at the age of 73. Ed was one of the West's premier water-rights attorneys whose contributions in the State of Utah will always be appreciated and remembered.

I enjoyed working with Ed and was constantly amazed by his knowledge, his strength, and his character. Ed was a fighter, and during his illustrious career, won many landmark decisions. I am proud to call him a friend, and I want to send my condolences to his wonderful family.

Ed was well-known in the West for his work on many far-reaching projects, including his involvement with the Central Utah project. Ed also worked on the Intermountain power project, located near Delta, UT. Knowing the importance of water to our beautiful, desert State, Ed also represented 1,700 farmers regarding water rights to the Bear River in northern Utah. He also worked to protect Utah's ownership of the Great Salt Lake.

Ed was born in Heber City in 1917 to L. Dean Clyde and Ardell Buhler. He married Betty Jensen on August 14, 1941, in Logan, UT. In 1939, he earned his undergraduate degree from Brigham Young University and in 1942, he graduated first in his class at the University of Utah law school.

In addition to his remarkable professional achievements, Ed also devoted much time to community service. For example, he served as chairman of the University of Utah's institutional council, on the University of Utah Hospital's board of directors, Utah oil and gas board, and the American Bar Association's water law committee.

Ed is survived by his wife, four children: Carolyn Mollinet, Susan Williams, Steven E. Clyde, and Thomas E. Clyde. He is also survived by 12 grandchildren and one great-grandchild.

Ed was a great friend of mine and I wanted to pay this tribute to him.

TRIBUTE TO ALPHA SMABY

Mr. WELLSTONE. Mr. President, Alpha Smaby was a trail blazer for women political activists in Minnesota and around the country. Today we mourn her passing at 81 in Minneapolis and we extend our condolences to her family and wish them the best.

Mrs. Smaby was a State representative from 1964 to 1968 at a time when there was only one other woman in the Minnesota Legislature. In part because of her pioneering work in politics, there are now 43 women in the Minnesota Legislature and the Speaker of the House is a woman.

She was a progressive, grassroots politician in the best tradition of Minnesota politics. She spoke out for what she believed in and she acted on her beliefs. She was a member of the League of Women Voters, the American Civil Liberties Union, the Governor's Commission on the Status of Women and the McCarthy for President campaign in 1968. She recently wrote a book on Minnesota politics.

Alpha Smaby earned the respect and admiration of Minnesotans of all political persuasions. She was honest, articulate, passionate and a voice for the disenfranchised. She was a terrific woman, a sensitive and courageous person and a wonderful mother and grandmother. We will all miss her greatly.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,315th day that Terry Anderson has been held captive in Lebanon.

THE NOMINATION OF BOB GATES

Mr. DOLE. Mr. President, yesterday's decision by the Intelligence Committee to postpone until mid-September its hearings on the nomination of Bob Gates to be CIA Director was, in my view, unfortunate.

In any event, what is important now is that all sides understand that President Bush, and those of us who support Mr. Gates nomination, are not going to stand by and see it done in by delay.

Mr. Gates has been nominated to be CIA Director. He has not been offered up as a victim for some parliamentary form of "Chinese water torture."

The Constitution gives to the Senate, not to the special prosecutor, the power to decide on the fitness of this nominee. We cannot put off doing our job and meeting our responsibility, on the phony premise that the special prosecutor must do his job first.

The Senate's been around here a little bit longer than the special prosecutor's office, and we do not operate on his timetable. If Mr. Walsh has relevant information on this nominee—and I very much doubt that he has except for information that would confirm Mr. Gates' integrity and truthfulness but if he does—then surely he and we can find some way for that information to be made available to the committee and to the Senate.

The Gates hearing is now scheduled for September 17. Barring some totally unforeseen development, it cannot slip any further.

Mr. Gates must be heard. Anyone who wants to make any allegations of wrongdoing by or unfitness of the nominee must stand up and say so out in the open, not in some mean-spirited leak to the media. And then we in the Senate must face up to our responsibility, and do our job.

COOPERATIVE TAX LEGISLATION

Mr. COCHRAN. Mr. President, I am pleased to join my colleagues, Senators DAVID BOREN and DAVE DURENBERGER, in introducing legislation aimed at clarifying the tax treatment of farmer cooperatives with regard to the treatment of gains or losses on the sale of assets.

Under this legislation, if a farmer cooperative can demonstrate as a matter of fact that the asset sold—such as a cotton warehouse, grain elevator, or other type of business asset—was used to facilitate business done for or with its farmer members, then it may treat such income as patronage sourced. Patronage sourced income required to be distributed to the cooperative's farmer members is included in their members' taxable income. With regard to nonpatronage sourced income, cooperatives are subject to taxation just as any other corporate income.

The "facilitative use" test is the same test that the courts have consistently applied in a number of similar cases to determine whether the income may be treated as patronage or nonpatronage sourced by the cooperative. Notwithstanding what the courts have held, the IRS continues to challenge farmer cooperatives on this issue. The result has been to subject farmers and their cooperatives with unnecessary, costly, and time-consuming litigation.

For this reason, legislation is urgently needed to clarify existing law and to provide guidance to both the industry and IRS in terms of how gains and losses on such asset sales may be treated.

This legislation is strongly supported by farmers and their cooperatives not only in my State of Mississippi, but all across the Nation. It also enjoys broad bipartisan support in both the House and the Senate and I am hopeful that Congress will be able to consider this legislation this year.

Thousands of farmers in my home State of Mississippi are members and owners of over 100 farmer cooperatives of all sizes which handle, process, and market a wide range of agricultural commodities produced in the State as well as provide needed production inputs—such as seed, fertilizers, and fuel—and other related services.

Through these farmer-owned cooperatives, farmers themselves are working together to compete more effectively in both the domestic and international marketplace in an effort to earn a fair return on their productivity and investment. As we look to the future in terms of increasing global competition and declining resources at the Federal level due to budget constraints, we need to be focused on ways to further enhance the abilities of farmers to meet such challenges.

For these reasons, I urge my colleagues who have not had an opportunity to do so, to join me in support of this important legislation.

MOTOR VOTER LEGISLATION

Mr. SIMPSON. Mr. President, I am here to assist in closing up the Senate, with my good friend from Kentucky. I certainly could not help but be aware of the comments of the junior Senator from Minnesota. I was reflecting that it, perhaps, has been a long week. Perhaps a little tiredness and fatigue entered into the deliberations. He speaks with great energy and vigor, which is his wont and his reputation, and I admire that. I kind of do that myself.

If you are looking for a good, partisan argument, this is just as good a place to start as any that I am aware of, because it is not a purely partisan issue. It was not a solid Republican vote. I had heard that referred to four times in the debate, and that is untrue. It is not a correct statement. So we should have the RECORD reflect that.

We all know partisanship. It is what we do here. We unsheath the partisan sword and we go to battle. But it has been most fascinating to me to hear the argument that this involved only partisanship presented with such passion, because it is my personal opinion that the reason people do not vote does not have anything to do, really, with registration. It has to do with the fact that there are so many "duds" running for public office.

There are so many deadly, dull people who run for public office that even people who work downtown will not go vote. They say, "why would I go vote for that guy, all he does is tell me exactly what I want to hear." And when I say, "How about this or that," he or she says: "You got 'er, my friend; we will give it to you."

It is that very essence of politics that has led us, now, to a debt limit which will be, in March 1993, $4.145 trillion. You can tell that one to your grandchildren, in the year 2020, after Medicare costs have overwhelmed America and health care costs have overwhelmed America to the extent of 20 percent of our gross national product—no one will argue the validity of those figures, and a Social Security system that we will not touch because there are so many demagog politicians in the world who say, "Do not worry about me, I will never touch it with a stick." Meanwhile you can ask the guy at the Social Security Administration in Baltimore to get his chart and determine what an individual has put into the Social Security System during his or her working lifetime? You will be surprised. Do not forget, this is not some elitist system. If you know about the replacement rate and the fact that the little guy gets more than the fat cat out of Social Security, you can total it up and find a person can put in $8,422 and then, during his or her retirement, can get it all back in the first 5½ years of the benefit period. You can imagine the return when that person's life expectancy is 10 to 13 years. And you ask us about responsibility? Those are just a few minor facts.

Let us get to the "motor voter." It is appalling for any thoughtful legislator to believe it is good public business to register people who are standing in line in any Federal building for any kind of service, or in the game and fish line to get a fishing license, if they do not care enough about democracy, when there are laws in every State which allow citizens the time to register to vote, and allow time off to go vote with no loss of salary or income. We Republicans are accused of having a strange view of democracy. I don't think so. It is called accountability. And sometime, somewhere, the people who vote ought to know what they are doing.

Maybe such accountability would give us a little better idea of where we should be going. I have heard of revisionist history. Now we talk about that a great deal. The people who started this country were elitists. Some were slave holders. We can go back and revisit that. They read Locke. They read remarkable philosophies, and they put together a Constitution and a Bill of Rights which the Senator from Minnesota cherishes as much as I do.

The reason people do not vote in America today is because of the quality of candidates. Who is going to run? Who is going to present themselves for office when they pick through the stack of records of your wives, and your children, and your background when you were 18 years old, or 15, whatever?

The other reason for voter apathy is because citizens do not believe their voice is being heard. They do not vote because they believe that the PAC's have captured the process, and the special interest groups have, too, and the unions also. They believe every special interest group in America is calling the shots. That is why they do not show up at the polls.

They say: "What does it matter when the whole system is so bad?" That is why we ought to pass a reasonable campaign reform bill. The Democrats are advocating a proposal, and we are also trying to enact a proposal. I hope we can get something.

I think the American people expect it. But I can tell my colleagues this bill is an extraordinary, almost hysterical and histrionic approach to something which certainly does not incorporate my ideals of democracy. When people are apathetic and do not respond, this bill is not the remedy. They do not even respond anymore to people who, as I have said, offer to give them everything they want. That certainly does tap the Treasury.

But just so we get this in some proper perspective the secretary of state of Wyoming is a Democrat, an elected Democrat, a lady, Kathy Karpan. She is a very bright and thoughful woman. She has been talking to me for months about this bill and she said: "Watch out for it. It is the worst legislation I have ever seen. It is the most appalling legislation to any secretary of state, and to the people who really do the registrations in America."

That is the way it is. If my colleague will look at the endorsements that have floated around a bit over the past days, we will find the election officers of the States do not support this. They are Democrats and Republicans alike. So let us make sure we get that point. Let us deal honestly and openly with fact.

Our fine Wyoming Secretary of State said,

> This is the worst legislation I can ever imagine. It would be chaotic for us. You are telling us what to do on the Federal level and you are not giving us a nickel to do it with.

That is our usual bent in this place. So, we are providing no money to accomplish this bills goals. This is legislation which usurps the States, in their totality, of a sacred right and that is the right to vote, and register the citizens of a State to vote.

So, it is easy to come to this floor—and I have been here 13 years and know something about how it works—and use a deft blend of emotion, fear, guilt or racism to advocate the passage of a bad bill. That makes this a very strange place to work. Sometimes the process is quite unattractive.

I do not know any racists in this place. Yet that is much of what we seem to hear about. It is argued that one party is more racist than the other with regard to civil rights issues. That is absurd.

Clarence Thomas now is a victim of racism in reverse. You have seen the Moon from both sides when you hear that one. That is where we are in America today. It takes thoughtful people, Democrats and Republicans in public service, to come along and police up after the people that allege such nonsense. It requires devoted public servants to do the legislating and participate in the hearings and drain the venom of emotion and the hype and hoorah out of that issue, and do something positive for the good of the American public. That is exactly what I hope to be here for, and that is precisely what most of us try to do.

I will conclude by adding one dimension. We Republicans really do not like seeing an election take place, when all of a sudden, the union special interests drive up to the edge of town and set up phone banks, and just really "crank it into democracy." It is rather repugnant to this cowboy from Wyoming, when, suddenly, under the guise of democracy, here they come and they set up the phone banks and they call people and say: Do you know that the evil Republican is the guy who took your Social Security?

And the response is: "I did not know that, for heavens sake."

Then they collapse at their dinner table and tell all their friends. Meanwhile, some goon is sitting out in the shack pouring that stuff out to a whole network of precincts and people throughout the area. We Republicans take a dim view of that. We take a dimmer view of soft money, which has also been referred to as "sewer money." It is how they try to hide political contributions. Some of those in the other party are very adept at that.

I come from a State that typically votes the largest percentage of its voters in the Nation. Many other States have excellent records, too. The reason they do is because they have good election laws, good registration laws, and active candidates on both sides of the aisle.

We have an able Democratic Governor, a fine man. We have a split type of government where we have some cabinet members who are Republican; not exactly a cabinet, but very similar. That is what it is in real-life America.

And then there is another thing we Republicans do not like. We do not like to vote tombstones. We really go into shock when we see people who have registered in certain areas of the United States, and there are 3 or 4 in one address, or 10, and then you go there and there is not even an address.

I cannot imagine anything more fraudulent, or that would give more of a fertile ground for the total fraud of our American electorate system than having some guy tooling around in his car, and his driver's license is all he needs to register in different localities. Or, better yet, all he has to show is that he bought a game and fish license, or was on some type of government assistance, and that is all he needs to do. You do not even have to raise your hand, sign an oath or affirmation—maybe you do—and you kind of grunt, and then you get a vote in the United States of America. That is not my idea of democracy in any possible sense.

So those are some of the things that concern me. I am a Republican who is not afraid to speak out on these issues. This bill is a total phony. I am not talking about the sponsors, who I respect deeply. And I am not talking about those who support this legislation. Nor, am I talking about anybody who voted in any way.

I am just saying to my colleagues that if they will talk with the election officials of every State, they will find they are appalled by this, unless—the key is unless—they have the money to do it. And we are not going to give them any money. There is no money to do this.

Who is to pay the States who are crying for the Federal Government to lay off them? Who is going to pay the States for the additional registration people to do this? I do not know. That has not been explained to me. But I can say, this one has been cooking for a long time. It was advocated by a very able Senator from Wyoming, Senator Gale McGee, a Democrat. He supported this when he was in the U.S. Senate. He was a splendid representative of our State.

It has been laying around here for 20, 30, 40 years. It would be the most destructive thing that I can imagine to sensible registration, and sensible government. Furthermore, it will not solve the problem of apathy in America. I can assure you that. People of America are fed up. It is our job to restore their confidence and their trust.

We surely do not do it with hype, hurrah, and demagoguery. Americans have that figured out. Anybody can say those things, but what do these guys do? How do they protect themselves? How do they get reelected? And we do things to get reelected. All of us have. Our Founding Fathers warned us against that process. They said once the people of America know they have access to the public Treasury and to the elected officials that will produce for any special interest, then this country is in deep difficulty. That is a paraphrase, but it is very true. You see that every day.

If we are going to hear a total partisan assault in the evening hours, it would seem that the American people should hear, like Paul Harvey said, the rest of the story.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I had not intended to say anthing as it related to the so-called cloture vote on the motor voter registration bill. I am surprised at the remarks of my colleague from Wyoming. It appears that everything distasteful in politics, everything that is wrong with politics, he has just enunciated, and it all relates to one piece of legislation, the motor voter registration bill.

As to all the additional people who the registrars are going to have to put on, the point is, they will not have to put on any more. In fact, there is a reduction of $7 to $10 million in the cost annually, and a reduction in mail cost to them.

And you say there is no one out there for this bill. The secretaries of the State of Washington—I will get close to home—and the State of Oregon just passed the motor voter bill. The State of Minnesota has the motor voter bill. I can take secretaries of States, Governors, who have been here and testified. The secretary of the State of Washington is in this week attempting to help.

You say people are fed up. He got into that. He got to talking about sewer money. I thought we were talking about legislation. But if people are fed up, they are not fed up with Democrats; they are fed up with Republicans. It was $900 billion in debt when Ronald Regan came in. At the end of 8 years, at the end of 12, we will be $4 trillion in debt.

They say "Democratically controlled Congress." Any President who has a wet pen to veto and a third of the votes can do anything in this town he wants to. And that side of the aisle has a third of the votes, and you have a third of the votes in the House. All you have to do is threaten a veto.

The Republicans want accountability. Accountability for what? Let us start accounting. All you have to do is look at the figures: $900 billion to $4 trillion, and you are in control of the White House.

I just want to say I am a bit surprised at the onslaught received here. The Senator makes remarks I have never heard of. He talks about all these innuendoes and people saying things. Maybe he is in places I am not.

Talk about money. Republicans in the senatorial campaign committee at least 4 years ago, I believe under the former Senator from Minnesota, raised $85 million to help about a dozen or more incumbents and a few that were running. The Democratic senatorial campaign committee raised $12 million. Then we have all this money going into races, at least four, during that period that had expenditures against four Democratic Senate candidates. They won three of them. We only had one survive. He is here.

And voting tombstones; I do not know what this piece of legislation has to do with tombstones. We have grave stones, I guess. Tombstones is out West. Maybe they vote tombstones, but this bill does not encourage the use of tombstones. There are some States in this country that are modern. They have computers. They wipe their slates clean and have everybody reregister, and wind up with more on the rolls.

They say there is no teeth in this bill. I thought 5 years in the penitentiary was a tooth or two, anyhow, maybe not totally. Fraud, misrepresentation, all these things. But I have never had anybody come at me much harder than the Senator from Wyoming. He did not have to make it personal. I am the sponsor of the bill. He did not have to make it personal. He was.

And so, Mr. President, I thought we were going to close out tonight. Maybe we are going to close out. I do not want to close out a friendship, but we have gone pretty far here this evening accusing those who support this legislation with a lot of things which I believe are untrue.

I do not have staff here to shove me things to say and to read, but I am willing now, since the Senator has had his part and I have had a little bit of mine, to get on with the closing of the Senate for the evening.

Mr. SIMPSON. Mr. President, I think our friend from Minnesota might have a comment. We might hear that. I, too, have further comments. Indeed, so will, my friend, the Senator from Kentucky. I have been here for 13 years. No one can belt it around harder, in more partisan fashion than the Senator from Kentucky. I know of no one who can match him in the top of his game on pure, tough, hard politics.

It takes one to know one. I yield without losing my place on the floor, even in morning business, to hear what the Senator from Minnesota might have to say.

I certainly yield to the Senator.

Mr. FORD. The Senator can secure the floor in his own right.

Mr. WELLSTONE. I think I do have the floor in my own right.

The PRESIDING OFFICER. Does the Senator from Minnesota seek recognition?

Mr. WELLSTONE. Yes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, just for the sake of what I think people in our country want to know, I would like to respond to a few of the comments of my colleague from the State of Wyoming.

I believe I heard the Senator from Wyoming mention the fact that his secretary of state was opposed to this bill and something to the effect that you could hardly find any state officials in favor of it, or something like that. We could go back over the record. I heard something very similar to that.

The Secretary of State of Arizona, the Secretary of State of Indiana, the Secretary of State, Mr. President, from your State, Iowa, the Secretary of State of Maine, the Secretary of State of Massachusetts, the Secretary of State of Minnesota, the Secretary of State of Montana—I could go on down the list, but I think perhaps the point is made.

I respect my colleague from the State of Wyoming, and I have a tremendous amount of respect tonight for him, for his courage to come out here and defend what I think is really a very difficult vote to defend, to be quite frank.

My distinguished colleague said that this was not a partisan vote. Unless I am wrong, and I tried to learn my arithmetic right, I believe there were a total of three Republicans who voted for cloture tonight, three Republicans, three Republicans who were willing to have a full debate and discussion about how we could in fact improve our voter registration laws in the United States of America.

Let me go on to say to my distinguished colleague from the State of Wyoming just one or two other things.

When my colleague says that we have a very "sensible system of registration," I think perhaps the reason he says that is because I know him to be someone who takes politics seriously and he cares about politics, and for that I respect him. But I think perhaps he has not really taken a very close look at the kind of voter registration rules and regulations that exist in our country. In perhaps close to half of the States of the United States of America, you have to figure out where to go in a county to register. And by the way, it is usually not called the board of registration. It can have all sorts of names. When in fact you have to drive 70 miles, when in fact the hours at which you can register are very limited and when in fact, therefore, it is very discriminatory toward working people, I do not think you can really call it a sensible system of registration. That was my point.

Now, I heard the distinguished Senator from Wyoming talk about the deficit and ticking time bombs, and I think the Senator from Kentucky responded to that, and I would agree there is much that we should be doing. Perhaps, I would say to the senator from Wyoming, we would be doing a lot more if more people were able to register and vote and maybe they would vote different people into office, different Republicans, different Democrats, you name it.

My colleague said we have a sensible system of registration. It is not sensible when you do not know whether it is 25 days before election day or 32 days before election day or whatever number of days before election day and that information is not readily available. It is not difficult for someone who is a Senator, I want to say this to my colleague from Wyoming, who lives politics every day, maybe to figure all of this out, but for a lot of citizens it is very difficult. And as a matter of fact it becomes quite discriminatory.

Now, the Senator from Wyoming says that people are apathetic and they are apathetic because of the sorry lot of candidates, or something to that effect.

Again, I say to my distinguished colleague that for some reason there seems to be one particular group, when we look at what is this 50 percent hole in the electorate; it is disproportionately blue collar workers, it is disproportionately people of color, and it is disproportionately the young. I would think that my distinguished colleague from the State of Wyoming would want to see more participation of all of those citizens, of all the citizens in the country.

Let me be clear. What we are talking about is a piece of legislation introduced by Senator FORD, from Kentucky, which only tries to do one thing and do one thing well, and it is the same thing that, by the way, I want the Senator from Wyoming to know—and he can check this out—every single other democracy in the world does. What it does is it moves away from this system of personal periodic voter registration which is so confusing, so much bureaucracy—I know the Senator from Wyoming does not like that bureaucracy—and instead moves to a system that enables citizens of the United States of America, regardless of income, regardless of age, regardless of whether they live in some rural community far away from where they can register, the same right to register and vote.

Mr. President, in the State of Minnesota we call that more democracy. That is what this piece of legislation calls for, and that I think was why those who did not vote for cloture and did not want to discuss this or debate this cannot stop an idea whose time has come from becoming the law of the land in the United States of America.

Mr. SIMPSON. Mr. President, I deeply respect the Senator from Minnesota. As I say, he is a man of passion and vitality and he has taught courses on the Government of this country and its politics. He loves politics, I hunch, and so do I.

I will not detain the staff much longer, or my colleagues either. I think the Senator from Kentucky and I are going to close out at some point.

I come from a State, since my State has been brought into the debate, that also has a tremendous number of working people, a tremendous number of elderly people, a tremendous number of people with low incomes. They work in the oil patch, what there is left of it, or the uranium patch or what there is left of that, and they are miners and service workers. I will match distances with any other Senator in this Chamber as to how far you go to register to vote, with the possible exception of my colleagues from Alaska. My State has the highest registration among all the States in the United States. There is a reason for that. They do not find it difficult to go to a county courthouse or to a State-designated registration facility where all you have to do is give your name and your age and your address. The registrant says: "What district am I in?" The State registrar responds: "Just a moment, we will tell you. Precinct 25-1." "Thank you," and there you are. Not much more to it than that. And if that is egregious or abusive, then certainly I am missing something about democracy.

The folks in Wyoming like the administration of the election laws by our Secretary of State and we are quite pleased with that system. I cannot understand why someone would want to impose a Federal motor voter law upon the States, even though this bill does exempt some States.

So let the RECORD disclose too, that estimates of 10 States—and since States were mentioned here—Alaska, California, Florida, Illinois, Kansas, New Jersey, New York, South Carolina, Oklahoma, and Virginia, indicate that the total cost of complying with this legislation's requirements would exceed $87 million.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. Yes. I will.

Mr. FORD. How did they arrive at that figure? Is it just some figure they sent the Senator, because in the testimony from California their cost, with all charges—with even those charges they are now paying they added into that figure from California, which was I believe $20 million.

Mr. SIMPSON. Mr. President, these figures were sent to us by the States.

Mr. FORD. Mr. President, I ask unanimous consent that the testimony of the representative of the State of California from the Rules Committee be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF MR. BERNHARD

Mr. BERNHARD. Thank you, Mr. Chairman. I am Tony Bernhard. I am the Yolo County clerk, and I am the associate chair of the Legislative Committee for the County Clerks Association. Our association has no argument with the general policy that is intended in the bill. We support all efforts to encourage voter participation and expand voter registration. Our concern is with the absence of adequate funding that is in the bill, and we are concerned that without substantial funding it may not be possible for us to ensure continued error-free handling of the election registration process in our State. We are concerned also that without adequate funding, without substantial funding, our local policymakers will be in a position of having to take funds from existing social services and basic public health and safety services in order to pay for this program.

The county clerk's estimate for the cost of operating this program annually in California is about $20 million. Let me review the components of that cost for your information.

The motor-voter component of the bill would require all of the people who are obtaining driver's licenses automatically to be registered to vote. There are 19 million driver's licenses issued in California. There are another 4.5 to 5 million ID cards that are issued. Those are renewed every four years. We are looking at a workload of about 5 million affidavits that would be coming in to local election offices every year. That works out to between 20,000 and 25,000 per day that will be flowing into these offices.

Our estimate is that for handling these forms the cost will be about $3.6 million, and that is based on a figure of the California Secretary of State reimbursement of 60 cents to counties for processing each voter registration card. That 60 cents basically allows us five minutes of staff time at about $6 an hour for clerical staff to review the affidavit, ensure that it is completely filled out, assign the precinct to it, do the data entry, in some cases to do microfilming and digitized scanning. That would be all that the Secretary of State's reimbursement would pay for.

If an affidavit is incomplete, in California we are not allowed to just throw it away. We are required to follow up with the voter individually and make sure that the information is completed. An incomplete application includes an application without a signature. We can wind up spending considerable time on each affidavit. Most counties figure that the costs for processing a registration affidavit is in the neighborhood of $1.50. The Secretary of State's reimbursement is conservative, but that is the figure we are using on the $3.5 million estimate for processing these forms.

We would also be required to send a voter notification card, a card to each voter who is registered, which we estimate would cost about $2 million. That would be 20 cents a card including postage, labeling, handling, printing of the card stock, et cetera. So the total costs for processing in California on an annual basis the five-million-plus affidavits which we would receive as a result of motor voter would be about $5.5 million. And these are county costs.

We would also have a cost of about $4 million that we anticipate for servicing the increased voter rolls that would result from this, not the existing voter rolls but the increased voter rolls. We would anticipate an increase of maybe 10 to 15 percent of increase in the voter registration in the State. And in California we provide sample ballots and ballot pamphlets to all voters before each election. In terms of printing, mailing, labeling, postage costs, we estimate about $3 per voter for servicing the voter rolls. This is pretty consistent statewide, according to a survey the clerks did during the last congressional session when we were studying the previous legislation. So we are looking at a $4 million cost for that.

We would also be forced to increase precinct costs, we anticipate at about $1.6 million annually. These precinct costs would go up because in California we are not allowed to have more than a thousand registered voters in any precinct. Given the anticipated increase in registration, we would expect an additional 2,000 new precincts in the State, each of which would require for any election four poll workers at $50 apiece, plus costs in recruiting those poll workers, costs in renting polling places, costs in recruiting new polling places as well. This doesn't include the start-up costs which would go for additional equipment like voting machines; ballot boxes, et cetera, the various clerical supplies, tables, et cetera, that go into each precinct. Although those are one-time start-up costs, there would be an annual depreciation and renewal/replacement of that equipment. We are anticipating about $1.6 million for additional precinct costs.

The purge provisions in S. 250 would add an additional $700,000 annually based on the additional requirements to send the forwardable purge card after we received our notice that a voter had moved. California currently sends cards to any voter that does not participate in an election, in a November election. And in the event that that card is returned as undeliverable by the post office—in other words, in the event that we receive notification by the post office that the voter had moved—we would then have to send this second forwardable postcard. We anticipate that that would go to about seven percent of the voters based on our historical record. Given an increase of, as we say, 10 to 15 percent, California would see about 15 million registered voters on our rolls, and we would have a cost of about $700,000.

We are looking at start-up costs among the counties, at the county level, of between $5 million and $10 million. Although it is an estimate and it would be a one-time cost, there is, of course, ongoing maintenance and replacement of that equipment that is provided for staff and computer hardware. That is undetermined.

These costs don't include figures for the address updates that the Department of Motor Vehicles would be processing. At the current time, the Department of Motor Vehicles in California does not keep records for the procedures for updating their files. What they do, if someone changes their address on a driver's license, they just key in the driver's license number, it comes up on the screen, they change the address, and toss the letter away or the form away. So they don't keep records on that, although estimates from their staff, from their management, indicate that as much as 25 to 30 percent of DMV time is spent doing that. So we would anticipate some additional affidavits coming to the counties. The general overall county cost then is about $11 million annually.

State costs: The Department of Motor Vehicles estimates $5 million annually to gather and mail these affidavits to a central location for the California Secretary of State. That would be an annual cost and would not include the basic start-up costs and retooling, which could be substantial if an election form designed by the Federal Elections Commission did not accommodate the department's new method of taking pictures and digitizing the signatures, et cetera, for their driver's licenses. Their most recent bid for retooling all the field offices was $30 million. I am not with DMV. That is just what they tell me.

The Secretary of State estimates an annual cost of about $2 million for processing the 20,000 to 25,000 affidavits per day. That would include staff, postage, space, premises, et cetera. The total cost then would be $20 million annually, and as I say, this doesn't include the address updates from the DMV. It would not include the increased costs for processing provisional ballots that would necessarily increase. A provisional ballot is cast by a voter when they are not on the voter roll, if they come in and say, well, we are registered but somehow we are not on the roll. We allow them to cast a provisional ballot which goes in a separate envelope. That requires special processing, and because of the delay between registration at a Department of Motor Vehicles office and it being received in a local registrar's office, there would be a considerable increase in the number of people registering, in effect, at the last minute.

So our cost, then, would be about $1.30 per registered voter for this bill based on the provisions in it, $20 million based on 15 million registered voters. I don't know how you would want to expand that on a national level. California generally is about 10 percent of the Nation. We would expect that the funding for the bill, adequate funding, would have to be in the range of $150 million to $200 million annually just to cover the ongoing operating expenses.

We are concerned, my county particularly—it is 13 years since Proposition 13 was passed in California. The revenues in my county now are less than 50 percent of what they were 10 years ago. We are not in a position to raise property taxes, as are the people in other jurisdictions in the country. Therefore, our county would be in a position of having to take funds from existing social services, public health and safety services in order to pay for this program. Without adequate funding, we would expect the deterioration of the election process and local services. Without adequate funding, Mr. Chairman, our association cannot support this legislation.

Thank you.

[The prepared statement of Mr. Bernhard follows:]

Before the Committee on Rules and Administration, U.S. Senate, Testimony of Tony Bernhard/Yolo County Clerk/Yolo County, CA, April 17, 1991

Mr. Chairman and Members of the Committee: The California County Clerks Association is pleased to learn of Congressional interest in expanding voter participation by expediting and removing barriers to the voter registration process. As election officials, however, we have some serious concerns about the effects of S 250 on the voter registration process in our state.

Our primary considerations revolve around (1) the cost of the provisions contained in S. 250. There is no existing funding to finance the provisions of this proposal, (2) the impact on the integrity of the election registration process without adequate financing. Existing elections staff cannot produce error-free handling of the increased workload generated by this bill without adequate funding, and (3) the degredation of county-level public health and safety services as a consequence of limited State and local funds.

COUNTY COSTS

Automatic Registration Costs: Under the present proposal, a registration affidavit will be recorded for everyone completing a driver's license application, renewal, or address update (barring an affirmative action—such as checking a "no" box—on the part of the voter) regardless of whether or not a voter is currently registered or even eligible to vote.

This "automatic registration" will unquestionably produce significant numbers of affidavits duplicating those already on file—yet still requiring processing; as much as 70% of the population over 18 is presently registered according to the new census data. "Automatic registration" will also spawn a secondary process—both expensive and uncertain—for sorting out those who are ineligible (i.e. felons/parolees, non-citizens, non-residents who may remain registered in other states, those under 18 years old, etc.).

California currently has roughly 19 million driver's license holders; licenses are renewed every four years; address updates are of undetermined frequency. This breaks out at roughly 4.75 million affidavits completed/year, 400,000/month and 19,000/working day—this doesn't include DMV-issued ID cards (approximately another 5 million), or address updates. Our Secretary of State currently reimburses counties an average of 60¢ for each registration affidavit that is processed as part of state claims policy. For most counties, this reimbursement rate is extremely conservative and well below their costs—some counties surveyed by our association calculate costs as high as $1.50 average per affidavit for inspection, data input, and processing costs including followup should an affidavit be incomplete and require direct contact with the voter.

The Clerks' Association therefore estimates that, for counties, ongoing processing costs flowing directly from DMV's driver's license-generated affidavits will be approximately $3.8 million statewide. This includes only costs for regular driver's license applications and renewals, and does not include any figures for DMV address updates which would also generate an affidavit for each address change (along with necessary follow-up, etc.)—no figures on address changes have yet come to us from DMV.

Because S 250 assumes a default of "automatic registration" for driver's license applicants, a sizeable cost will be consumed merely in handling affidavits of duplicate and ineligible registrants.

The California Clerks' Association estimates an increase in voter registration of 10–15 percent flowing from Motor Voter. Thus, given our approximately 13.4 million voters currently registered, we should experience an increase of 1.5 million added to rolls as the result of Motor Voter.

Ongoing costs associated with servicing the increased stock of registered voters include expenses for: ballot printing, sample, ballot printing/labeling/mailing, absentee voter costs, data input and other labor costs. Cost estimates for servicing each registered voter vary only slightly among counties based on a statewide survey conducted during the last Congressional session: costs average $3 per registration or $4.02 million per year. These costs reflect expenses for California's sample ballots/ballot pamphlets, etc. that are provided at each election to all registered voters.

Precinct Costs: California law prohibits precinct sizes from exceeding 1,000 registered voters. The additional registered voters will require roughly 2,000 additional precincts each requiring 4 additional voting machines (@ $180), 4 additional voting booths (@ $75), an additional ballot box (@ $130), plus flags, signs, tables, additional roasters, provisional voter envelopes, etc., we estimate one-time hardware costs of approximately $1,500 per percent, or roughly $3 million statewide to equip the additional precincts. [Individual county estimates have ranged as high as $2,800 for furnishing each precinct.] Although these are one-time costs, there will be costs for maintaining these additional precinct supplies.

Each additional precinct will require 4 precinct workers on election day—at an average cost of $50 per worker. Thus, each precinct will cost $200 in poll worker salaries for each election, averaging only two regularly-scheduled elections per fiscal year at a cost of $800,000.

Thus, additional precinct costs for the expanded list of "automatically registered" voters is estimated at $3.8 million annually.

Purge Cost Increases: Costs for conducting the purge in California under the provisions currently contained in S 250 will also increase. Currently we do everything envisioned in the new proposal except sending the final, forwardable postcard—costs for which would be approximately $.7 million based on an estimated 65¢ for handling, labelling, and postage for each voter determined to "have changed residence." [With a Motor-Voter-enhanced statewide registration of approximately 15 million, and a current average purge rate of 7 percent (for whom the new, forwardable purge notice will have to be sent) non-forwardable purge cards would be sent to approximately 1.1 million voters.]

Start-up Costs: Many counties have identified one-time costs that they will incur for such things as new/additional computer capabilities, office equipment for new staff, etc. Those figures are estimated to range, statewide, from between $8–10 million and are obviously uncertain. But they reflect the costs of maintaining an increased registration list as well as for processing the duplicate/ineligible applicants and accommodating the more complex purge costs. Additional equipment is also subject to ongoing servicing/replacement expenses.

STATE COSTS

Department of Motor Vehicles Costs: DMV estimates of the costs for handling the new procedures by DMV at $4.5–5 million/year. The methodology for arriving at this figure is not available to the Clerks' Association, but we assume that it is premised on the FEC allowing the DMV to accommodate voter registration forms we are now using.

These expenses do *not* include sizeable start-up costs involving retooling of the DMV driver's license creation system currently that is employed by all of the field offices of that agency for photographing applicants and printing the actual licenses; accommodating the new voter-registration/driver's-license forms statewide will unquestionably be very expensive.

Secretary of State Costs: Our Secretary of State will be receiving from the various offices of the DMV approximately 19,000 affidavits per day. This will require additional office staff (at least 6–7 clerical personnel), office space, supplies and equipment, etc. for sorting, packaging and postage for mailing the affidavits on a regular basis to the 58 county clerks/registrars throughout California. Rough calculations on the number of staff, overhead etc. place the cost to the SOS at $1.5–2 million per year.

The California County Clerks estimate the annual total cost for accommodating the provisions of S 250 at approximately $20 million for California. This is a conservative figure: Los Angeles County independently estimates $5–5.5 million for itself alone.

Also, these estimates do *not* include such S 250 mandated expenses for counties as: technical assistance to local agency personnel—including DMV district offices—in voter registration procedures; costs for handling affidavits generated through *address* updates to DMV records; changes to signature-digitizing equipment that may have to be made depending on format changes to voter affidavits (such equipment is currently being used by a number of larger counties); costs for handling an expected increase in provisional ballots that will result from DMV registrations processed near or at the 30 day deadline.

CONSEQUENCES OF NO AVAILABLE FUNDING

If the new voter registration processes are to be implemented without exceeding the capabilities of existing election office staffs, adequate funding is essential. County government in California is staggering under more than a decade of budget program cuts. Several counties—including Yolo County—are bordering on bankruptcy. California itself is currently facing a budget shortfall estimated as high as 20% of its total current operating budget. A program of the magnitude envisioned by this legislation cannot simply be "absorbed" by state and county election officials without (1) leaving understaffed offices prone to error, and (2) taking funding from county provided social services and including basic health and safety programs. The Federal Government cannot assume this program can be funded by states and counties just because it assigns to them the responsibilities for it.

The California County Clerks' Association is pleased that Congress is working towards expanding voter participation by expediting the voter registration process. We recognize how difficult it is to anticipate the costs of implementing such an ambitious program as envisioned, but cannot support a program that does not contain adequate funds for its implementation.

Mr. SIMPSON. Finally, Mr. President, with regard to this issue, since I want to, I guess, stir the pot a little more—it was not my idea to stir the pot, but I have heard the Senator from Kentucky. I have heard that old argument. But the American people have figured out the real issue. That is: "Who is running America." The answer is the Congress of the United States of America. That is who runs America. The President does not get a single vote. He does have the right to veto. Indeed he does.

President Ford was a great vetoer. Many of them were upheld, and many were not. That is a tool of the Executive. But it is the Congress of the United States that has the real power, and I have watched it work. The Senator from Minnesota will see it too, because it is really something to watch.

For instance, the President presents a budget and it goes to the U.S. House of Representatives where they have not had enough Republicans over there to have enough staff to fully compete with the majority or to be in the majority themselves since time immemorial. There is a certain arrogance of staff in the U.S. House of Representatives. Even the Senator from Minnesota will find that out. It is not the Members. They are fine people. I have the greatest respect for Speaker FOLEY, and BOB MICHEL. They are splendid people.

So the first thing that happens when the President sends up his budget is, they ram it right down there through the rotunda. Then they add about 20 percent to it, just chuckle, slip it out on the floor, and say let the President grapple with that one. We will teach him "a lick."

Then it comes over here, and thoughtful Members of both parties try to get some sane balance on it.

They do an appropriations bill over there in 20 minutes. I challenge my colleagues here tonight to please dig up for me any appropriations bill they can find, with the possible exception of defense, that is less than what the President of the United States presented in his budget. We will then give it a red line and enshrine it here.

The name of the game over there for nearly 50 years has been, when a Republican was in the White House to take the President's budget, whoop her up, put it out on the House floor and send it over here so we can see how many people will bleed. How many rollcall votes can be gotten so they make good 30-second spots? "This is the Republican slob that cuts your Social Security benefit; that took your veterans benefit; that took your railroad retirement."

That is the way the game is played. We understand that. Those of us on this floor tonight understand it. "We three," as the old song goes.

But the country has been run by the Democratic Congress, except one brief hiatus of 6 years when the Republicans had a majority in the U.S. Senate. You want to talk about accountability to the American people—there it is. It is very vivid, very real. And remember that the President of the United States never got a single vote on any single spending activity, on any effort to cut an entitlement program, which is impossible here, very impossible, unless it is the Republicans doing it.

I sat right here, and I know my friend from Kentucky will never forget the night when we voted 50 to 49. We wheeled my old and dear friend Senator Pete Wilson of California in here on a gurney with his tubes inserted. He was recovering from surgery. He voted, and the vote was 50 to 49. We had one Democrat support us. We got rid of 13 agencies of the Federal Government that night. We also did an across-the-board cut on the entire rest of the Federal budget.

I remember the night, and I remember my colleagues coming up on the other side of the floor and they said: "Wow, terribly gutsy of you to do that." They could not vote with us. I understand that. That is not even an excuse. That is the reality of this place. But there was genuine admiration because we had taken that step and it seemed to be what the American people wanted.

Ten days later the President of the United States took so much heat from that vote that he really could not stick with it. That showcase bill became the subject of 30-second spots in the next election, and many of us were turned out to pasture.

Yet that seemed to be what the American people talk about all the time. "When are you people going to do an across-the-board cut?" We have had good bipartisan activity trying to do that. We had BIDEN, KASSEBAUM, GRASSLEY, the KGB, and we had other efforts. We have tried. Nothing works because someone will always come to this floor and say, "if you do not do this, the AARP will nail you; the AFL-CIO will nail you; the farmers union will nail you, or the REA is coming to town."

Mr. WELLSTONE. Will the Senator yield?

Mr. SIMPSON. That is a rather interesting part of our lives. So we do not ever cut anything back. That is the Congress.

Then, I share with you, not in confidence, of course, but there are many on our side of the aisle who feel that this bill is simply the third leg of three bills which are destined to assure a Democrat majority in this Senate. This may be a bit of paranoia, but I will share it with you. This is the third leg of the troika.

The first one is the Hatch Act, which we beat back. The second is the Democratic campaign reform bill, which we think is an incumbent protection law. And the third leg is "motor voter".

Whether that is real or not, that is a perception. This town lives by perceptions.

So that is where we are coming from. The American people can judge that any way they wish. But this really is "a bill," and the American people will have to pay it. The secretaries of state, and their state election administrators do not know how to pay it.

Mr. WELLSTONE. I know the distinguished Senator from Kentucky wants to bring the discussion to a halt, although I believe that, and the distinguished Senator from Wyoming wants to bring it to a halt as well.

Mr. SIMPSON. I believe the Senator from Kentucky wants the Senator from Minnesota and I to close; not close the Senate.

Mr. WELLSTONE. I will try. Let me, first of all, just say to my colleague from Wyoming that having been a teacher for all of these years, I want the Senator to listen to this, my distinguished colleague from Wyoming. I tell the Senator: when he was speaking about what happens to the budget bills and how difficult it is to get votes, I was waiting for him to come back to motor voter. I am trying to figure out whether the Senator was blaming this on motor voter registration. I take it the Senator was not. But I have to tell him, as someone who taught all of those years I admire his ability to lay out legislators, and some of what he has said I think I probably agree with.

But back to the subject at hand, there is something the Senator said at the end that I would just like for him to, I guess, in his own mind kind of explore the implications of it, and perhaps we can get back to the discussion tomorrow.

When the Senator says one of the things that concerns him the most is really this is a bill that will just bring about more voters who are Democrats, vote Democratic, that really concerns me because what he is saying is a piece of legislation that would make it easier for someone who lives so far away, and has a hard time registering because of such limited hours because, that person works and cannot get there at those hours, that the Senator will not want to have a piece of legislation passed because that person might vote for a Democrat. What the Senator is saying is for people who are disabled and have difficulties registering to vote, and given the current system the Senator will not want to make the changes.

I do not think the Senator wants to say this. That is why I am saying that. I know the commitment the Senator has to some of these people. I am not being coy.

I have gotten to know the Senator, and I have appreciated many of the discussions we have had. But the implications of what the Senator is saying is that the Senator does not want a piece of legislation that would make it easier for people with disabilities to register to vote, because they might vote Democratic.

Let us look at the people who are not registered and do not vote. What the Senator is saying is that the Senator would not want a piece of legislation passed that might encourage more of the young people—there are young people here tonight—to turn out to register to vote, because they might vote Democratic. What the Senator is saying is that he would not want a piece of legislation to pass which would make it easier for people of low income, moderate income, blue collar workers, to register to vote, because they might vote Democratic.

But in all due respect to my colleague, that is not the way we are supposed to make legislation. We are not supposed to pass legislation on that basis. We are supposed to put aside whether we are Democrats or Republicans and decide what kind of legislation is good public policy, what kind of legislation is good for this country, and in this particular case, what kind of legislation would lead to higher levels of registration, higher levels of participation, and more people voting.

For gosh sakes, everybody can be for people turning out and participating and voting. We ought not to be deciding on a piece of legislation on the basis of whether or not this particular person, that particular man, or that particular woman, will vote Democratic or Republican. That is not what this legislation is about.

Mr. SIMPSON. Mr. President, I certainly would not want to leave without saying that I appreciate my friend from Minnesota expressing his need for a clarification. I do not believe I have really said that all the people that would be registered under this bill would be Democrats or even alluded to that. I do not believe the record discloses that at all. It does not.

Mr. WELLSTONE. I think the Senator said it might be his paranoia, but many of them would vote Democratic. It is the same argument.

Mr. SIMPSON. Mr. President, I am speaking of that in connection with what I referred to as a "Democratic troika." In that context, I spoke of the three pieces of legislation. I was curious at the Senator's remark, if this bill is so easy, if it is so perfect, and if it is so superior a piece of legislation—why in the world would any, I guess, sensible person spurn it, especially a Republican? If it is that good, how come it has been floating around out there for 20 years? That is exactly where it has been.

First it was postcard registration. Then it floated around and became motor-voter. And then it had all sorts of forms. The States have responded, and the States have set up temporary registration booths during certain periods of the year. We have done that in Wyoming—temporary registration areas.

We are just simply trying to insure that the precious right to vote is not defrauded and befouled. When somebody can actually drive into four States in one day and register, we must get more serious. That is what we are talking about. I think that is the most destructive and disgusting form of democracy I can imagine. It would make the Founding Fathers flip in their graves.

But remember who they allowed to vote when they started—not very many. Strict rules, which were later found to be racist in some cases, very strict rules and regulations, as to who voted in this precious, emerging democracy, which have been modified to the extent that we now have ballots in 6 or 8 or 10 languages. That discussion is not my purpose. I know about immigration and refugee matters. All I am saying, is that the right to vote is a precious one, and we should do our best to insure that it is not susceptible to fraud or coercion.

There are no requirements that a voter must know the Constitution. Being able to read it was once a condition. That is gone. I can understand that. It was an intrusion on people who were inarticulate and perhaps could not speak English.

I say to the Senator and to my colleague from Kentucky, if the Senator wants motor voter registration and, they do in Minnesota; and apparently, they may in Kentucky, I say more power to them. But the Democrat Secretary of State of Wyoming will not have a thing to do with it. That is why I cast my vote, among many other reasons I have described against this bill.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I wanted to say to the Senator that I appreciate his remarks tonight. I really very much appreciated the opportunity to have this discussion with the Senator, and I hope that more of the Senator's colleagues tomorrow will be out on the floor defending their votes, as the Senator has. I think that is what it is all about. There should be accountability.

I certainly plan on continuing this discussion tomorrow, because there are many interesting questions that the Senator raises that I hope we will get a chance to explore tomorrow. I thank my colleague from the State of Wyoming.

Mr. FORD. Mr. President, I am tempted. During the 6 years that the Republicans were in control of the Senate, we went down $2.2 trillion further in debt.

MEASURES INDEFINITELY POSTPONED

Mr. FORD. Mr. President, I ask unanimous consent that Calendar Nos. 159 and 150 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed into executive session to consider the following nominations: Calendar Nos. 80, 251, 252, 253, 254, 255, 256, 257 and all nominations reported by the Judiciary Committee today.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

DEPARTMENT OF STATE

David Floyd Lambertson, of Kansas, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Michael J. Malbin, of New York, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1994.

Harvey C. Mansfield, Jr., of Massachusetts, to be a member of the National Council on the Humanities for the remainder of the term expiring January 26, 1994.

Roy L. Shafer, of Ohio, to be a member of the National Museum Services Board for a term expiring December 6, 1994.

DEPARTMENT OF LABOR

Steven I. Hofman, of Maryland, to be an Assistant Secretary of Labor.

DEPARTMENT OF EDUCATION

Jeffrey C. Martin, of Tennessee, to be General Counsel, Department of Education.

Diane S. Ravitch, of New York, to be Assistant Secretary for Educational Research and Improvement, Department of Education.

PUBLIC HEALTH SERVICE

The following candidate for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

1. For appointment:

To be assistant surgeon

David L. Sprenger

The nominations reported today by the Judiciary Committee considered and confirmed, en bloc, are as follows:

Morton A. Brody, of Maine, to be U.S. district judge for the District of Maine.

Clyde H. Hamilton, of South Carolina, to be U.S. circuit judge for the Fourth Circuit.

Fernando J. Gaitan, Jr., of Missouri, to be U.S. district judge for the Western District of Missouri.

STATEMENT ON THE NOMINATION OF JUDGE CLYDE H. HAMILTON, OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, it gives me great pleasure to recommend for confirmation Judge Clyde Hamilton, President Bush's nominee to be a judge on the Fourth Circuit Court of Appeals. On this occasion, I have the rare opportunity of having known this nominee, Judge Hamilton, all of his life.

Judge Hamilton has served as a U.S. district judge for the district of South Carolina since 1982. He is a native of Edgefield, SC, a graduate of Wofford College and the George Washington University Law School, where he graduated with honors, and was a member of the editorial staff of the Law Review. During his undergraduate studies, Judge Hamilton worked for me as a summer clerk in 1955. Judge Hamilton served in the U.S. Army from 1956 until 1958, and in the Army Reserve until 1962.

After earning his juris doctorate degree in 1961, he returned to his hometown of Edgefield, SC, and entered into the private practice of law with Mr. J.R. Folk. In 1963, he joined one of South Carolina's most prestigious law firms, known today as Butler, Means, Evins & Browne, as an associate and became a partner in 1966. Judge Hamilton was affiliated with this law firm until his appointment to the U.S. district court by President Reagan on December 1, 1981.

Mr. President, Judge Hamilton is a person of integrity, keen intellect, and ability. I believe that he will be an outstanding addition to the fourth circuit. As well, the American Bar Association gave Judge Hamilton their highest endorsement of unanimously well qualified for this appointment. It was with considerable pride that I recommended him to President Bush for elevation to the fourth circuit, and I urge my colleagues to vote in favor of the nomination of Judge Clyde Hamilton for the position of U.S. circuit judge for the fourth circuit.

STATEMENT ON THE NOMINATION OF JUDGE CLYDE H. HAMILTON, OF SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, I rise today to heartily endorse the elevation of the Honorable Clyde H. Hamilton to the Fourth Circuit Court of Appeals. He is an extremely talented man who has the education, the experience, and the temperament that ensure he will be a fine appellate judge.

Judge Hamilton received his undergraduate education at Wofford College in Spartanburg, SC. Wofford is not as widely known as it should be but is, quite simply, one of the finest institutions of higher learning in this country. Its graduates have excelled in every aspect of life and Judge Hamilton is further evidence of the quality of individual the school attracts. He went on to law school at the George Washington University here in Washington, where he served on the Law Review and graduated with honors.

During the 18 years he practiced law, he handled a variety of cases in both State and Federal courts. The cases he dealt with involved both civil and criminal matters. This extensive seasoning in the practice of law has served him well on the bench.

For the last 9½ years Judge Hamilton has served as a district court judge in my State of South Carolina. And he has done an outstanding job. He has demonstrated the thoughtfulness and the experience and the depth of knowledge that have won him this seat on the fourth circuit. Most importantly, however, Judge Hamilton has combined all these attributes with a top notch analytical mind and the ability to express himself clearly and convincingly.

Mr. President, I commend President Bush for making an outstanding selection, and I heartily endorse the nomination of Judge Hamilton.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Labor and Human Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:38 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5. An act to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 3:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 427. An Act to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes;

H.R. 998. An Act to designate the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service as the "John Richard Haydel Post Office Building";

H.R. 2347. An Act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility"; and for other purposes; and

H.J. Res. 255. Joint resolution designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week."

The enrolled bills and joint resolution were subsequently signed by President pro tempore [Mr. BYRD].

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5. An Act to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers; reports, and documents, which were referred as indicated:

EC-1631. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a mid-session review of the budget; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-1632. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the fifth report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC-1633. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report relating to standardization of equipment among members of the North Atlantic Treaty Organization and cooperative research programs with NATO and major non-NATO allies; to the Committee on Armed Services.

EC-1634. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report entitled "Not in My Backyard: Removing Barriers to Affordable Housing"; to the Committee on Banking, Housing, and Urban Affairs.

EC-1635. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, the semi-annual report on tied aid credits dated June 1991; to the Committee on Banking, Housing, and Urban Affairs.

EC-1636. A communication from the President of the Oversight Board, Resolution Trust Corporation, transmitting, pursuant to law, the financial operating plan of the Corporation for the third and fourth quarters of fiscal year 1991 and the first quarter of fiscal year 1992; to the Committee on Banking, Housing, and Urban Affairs.

EC-1637. A communication from the Chairman of the Board of Governors of the Federal Reserve System; transmitting, pursuant to law, the Monetary Policy Report of the Board; to the Committee on Banking, Housing, and Urban Affairs.

EC-1638. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting, pursuant to law, the annual report on the provision of services to minority and diverse audiences by public broadcasting entities and public telecommunications entities; to the Committee on Commerce, Science, and Transportation.

EC-1639. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on Japan's intention to suspend trade in certain endangerd species; to the Committee on Commerce, Science, and Transportation.

EC-1640. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting a draft of proposed legislation to amend the Act of October 15, 1988 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation, and for other purposes; to the Committee on Energy and Natural Resources.

EC-1641. A communication from the Secretary of Energy, transmitting, pursuant to law, the fourteenth report on enforcement actions and comprehensive status of Exxon and stripper well oil overcharge funds covering the second quarter of fiscal year 1991; to the Committee on Energy and Natural Resources.

EC-1642. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the National Pretreatment Program; to the Committee on Environment and Public Works.

EC-1643. A communication from the Administrator of General Services, transmitting, pursuant to law, a proposed prospectus for the Environmental Protection Agency; to the Committee on Environment and Public Works.

EC-1644. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on abnormal occurrences at licensed nuclear facilities for the first calendar quarter of 1991; to the Committee on Environment and Public Works.

EC-1645. A communication from the Administrator of General Services, transmitting, pursuant to law, notice of the determination that it is necessary in the public interest to use procedures other than competitive procedures in the procurement of leased space in the One Judiciary Square Building, 441 4th Street N.W., Washington, D.C.; to the Committee on Environment and Public Works.

EC-1646. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Harmonized Tariff Schedule of the United States provisions implementing Annex D of the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Finance.

EC-1647. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Medicare Coverage Denials for Home Health Agency (HHA), Skilled Nursing Facility (SNF), and Hospice Services: Limitation of Liability and Favorable Presumption"; to the Committee on Finance.

EC-1648. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the annual report on the extent and disposition of United States contributions to international organizations for fiscal year 1990; to the Committee on Foreign Relations.

EC-1649. A communication from the Director of the Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to establish a program of Public Service Scholarships, and for other purposes; to the Committee on Governmental Affairs.

EC-1650. A communication from the Chairperson of the Board of Elections and Ethics, Government of the District of Columbia, transmitting, pursuant to law, notice of the filing of a petition for referendum on the Assault Weapon Manufacturing Strict Liability Act of 1990 Repealer Act of 1991; to the Committee on Governmental Affairs.

EC-1651. A communication from the Vice President (Human Resource Management) of the Farm Credit Bank of Texas, transmitting, pursuant to law, the audited financial statement of the Farm Credit Bank of Texas Pension Plan for December 31, 1990; to the Committee on Governmental Affairs.

EC-1652. A communication from the Chief, Insurance and Benefits Division, Air Force Morale, Welfare, and Recreation Center, Department of the Air Force, transmitting, pursuant to law, the annual report on the Air Force Nonappropriated Fund Retirement Plan for Civilian Employees for the plan year ended September 30, 1990; to the Committee on Governmental Affairs.

EC-1653. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-62 adopted by the Council on July 2, 1991; to the Committee on Governmental Affairs.

EC-1654. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9-63 adopted by the Council on July 2, 1991; to the Committee on Governmental Affairs.

EC-1655. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Indian Health Service Health Facilities Construction Priority System; to the Select Committee on Indian Affairs.

EC-1656. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the long-term effects of infant formulas deficient in chloride; to the Committee on Labor and Human Resources.

EC-1657. A communication from the Secretary of Education, transmitting a draft of proposed legislation to alleviate burdens imposed upon educational agencies and institutions by the Family Educational Rights and Privacy Act of 1974 with respect to the maintenance of records by campus law enforcement units; to the Committee on Labor and Human Resources.

EC-1658. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the types of projects and activities funded under the Drug Abuse Prevention Program for Runaway and Homeless Youth; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-184. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY JOINT RESOLUTION NO. 23

"Whereas recent information indicates that at least 5.5 million children in the United States under the age of 12 years are hungry and over 11 million are either hungry or at risk of hunger; and

"Whereas in Nevada at least 74,179 children are at risk of hunger and nearly one-fourth of the families with children are hungry or at risk of hunger; and

"Whereas in Washoe County alone, 30,336 children received services from food bank agencies in 1990; and

"Whereas legislation has been introduced in Congress which is intended to reduce hunger, especially hunger among children; and

"Whereas the House of Representatives is currently considering a bill that could significantly reduce hunger among children, referred to as the Mickey Leland Childhood Hunger Relief Act, as a living memorial to the founder and chairman of the House Select Committee on Hunger, Representative Mickey Leland, who died on a trip to investigate hunger in Ethiopian refugee camps 2 years ago; and

"Whereas the Senate is also considering a bill to provide relief from hunger which is referred to as the Childhood Hunger Prevention Act; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That the Nevada Legislature urges the Congress of the United States to recognize that hunger has become a serious problem in our country and support and pass legislation to reduce hunger among children in the United States; and be it further

"*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval."

POM-185. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Commerce, Science, and Transportation:

SENATE CONCURRENT RESOLUTION NO. 64

"Whereas Congress last year passed a boat owner user fee supposedly to help defray the cost of United States Coast Guard boating programs, such as emergency rescues and maintenance of navigational buoys; and

"Whereas none of the revenue is earmarked for actual coast guard programs and would in fact create no new services to the taxpayers; and

"Whereas the user fee is little more than a leisure time tax on those citizens recreationally boating on our waterways; and

"Whereas boat owners already pay more than their fair share of taxes, including customs entry fees, radio license fees, state registration fees, federal luxury taxes, trailer fees, and other charges.

"*Therefore, be it resolved,* That the Legislature of Louisiana memorializes the Congress of the United States to repeal the boat user fee set forth in 46 U.S.C. §2110.

"*Be it further resolved,* That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-186. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

SENATE CONCURRENT RESOLUTION NO. 195

"Whereas nearly fifty years ago the Congress of the United States authorized the United States Army Corps of Engineers to bring a nine foot navigation channel to Camden, Arkansas; and

"Whereas in the early 1980's, over one hundred bend cuts and widenings were proposed to improve the Ouachita River; and

"Whereas most bend straightenings on the Ouachita River were ultimately eliminated by the corps and work on the upper portion of the river was put on hold only to resurface at the end of the decade; and

"Whereas the bend cuts and channel widenings of the Ouachita River will only serve to destroy a natural wildlife habitat and scenic portion of the state; and

"Whereas this project will not improve shipping and navigation upon the Ouachita and Black Rivers, but, will only serve to destroy a tourist and recreational area which brings more jobs and resources to the northern portion of Louisiana; and

"Whereas Congress should authorize the corps to maintain the Ouachita River north of the bridges at Monroe for the highest and best use which is not for navigation but wildlife and recreation.

"*Therefore, be it resolved,* That the Legislature of Louisiana memorializes the Congress of the United States to change the congressional mandate to the United States Army Corps of Engineers from one of further channelling on the Ouachita River to one of maintenance of the river north of the bridges at Monroe for their highest and best use for wildlife and recreation.

"*Be it further resolved,* That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation."

POM-187. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"Whereas the luxury excise tax on boats valued at more than one hundred thousand dollars will have a tremendous impact on the sales volume of the manufacturers building these boats; and

"Whereas the National Marine Manufacturers Association estimates that six to eight thousand boat industry workers could be idled or laid off due to declining sales as a direct result of the luxury tax; and

"Whereas the federal government has created a devastatingly harmful job-loss tax at a time when the national economy is straining with the weight of widespread recession; and

"Whereas the loss of federal taxes which will not be collected from these unemployed workers more than offsets the tax benefits gained from the tax.

"*Therefore be it resolved,* That the Legislature of Louisiana memorializes the Congress of the United States to repeal the luxury tax on boats valued at over one hundred thousand dollars.

"*Be it further resolved,* That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana Congressional delegation."

POM-188. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION NO. 25

"Whereas the text of the Tahoe Regional Planning Compact is set forth in full in NRS 277.200; and

"Whereas the compact was amended by the State of California and the amendments were adopted by the Nevada Legislature in 1987; and

"Whereas the amendments become effective upon their approval by the Congress of the United States; and

"Whereas the amendments would authorize certain members of the California and Nevada delegations which constitute the governing body of the Tahoe Regional Planning Agency to appoint alternates to attend meetings and vote in the absence of the appointed members, alter the selection process of the Nevada delegation and further expand the powers of the Tahoe Transportation District; and

"Whereas the compact was enacted to achieve regional goals in conserving natural resources of the entire Lake Tahoe Basin and the amendments are consistent with this objective; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of Nevada, jointly,* That the Legislature of the State of Nevada hereby urges the Congress of the United States to expedite ratification of the amendments to the Tahoe Regional Planning Compact made by the State of California and adopted by the Nevada Legislature in 1987; and be it further

"*Resolved*, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and to each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM–189. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Labor and Human Resources:

HOUSE RESOLUTION NO. 225

"Whereas the continued global competitiveness of this Nation depends upon a continuing ability of America's youth to pursue a goal of higher education; and

"Whereas without Federal student financial aid programs, a substantial percentage of those now attending college would not be there; and

"Whereas because Federal student financial aid programs are the primary response that the U.S. Congress makes to the needs of those who can't attend college without help, it is very important that the assistance that is available under those programs be awarded to those whose financial needs are essentially the same, even though in one case that need arises because a youth's parents meet financial aid criteria while in another case that same need arises because the youth, though under 24 years of age, nevertheless no longer is supported by his parents or claimed by them as an exemption on their income tax returns; therefore, be it

"*Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois*, That we urge the U.S. Congress to amend those provisions of Federal law that govern the award of financial assistance to persons attending or applying to attend institutions of higher learning in order that persons under 24 years of age (even though they have no legal dependents and are neither wards of court nor veterans of the U.S. Armed Forces), who cannot legally be claimed as an exemption on the Federal Income tax return of their natural or adoptive parents or legal guardian for the taxable year in which any part of the financial assistance applied for is to be awarded, and who were not eligible to be so claimed for the 2 immediately preceding taxable years, will be evaluated for assistance under Federally regulated student loan, grant and scholarship programs without consideration or required reporting of the household data, income, earnings, benefits, assets or expenses of their parents, stepparent or legal guardian; and be it further

"*Resolved*, That suitable copies of this resolution be presented to the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois congressional delegation."

POM–190. A resolution adopted by the Assembly of the State of New York; to the Committee on Veterans' Affairs:

LEGISLATIVE RESOLUTION

"Whereas it is reported that a committee within the Veterans' Administration has been studying and may recommend to Congress, as a means of reducing the federal budget, a number of proposals which include the elimination of significant established benefits, services and entitlement programs for disabled veterans; and

"Whereas these proposals would send a strong signal to Congress endorsing the elimination of long-established entitlement programs for veterans, particularly those veterans with injuries or disabilities sustained while serving in the armed forces of the United States; and

"Whereas it was the intent of the Congress of the United States from the beginning of our Republic to make just and reasonable restitution for the service and sacrifice of those men and women who have served in defense of this nation; and

"Whereas successive Congresses and Administrations have recognized this obligation and reaffirmed our national commitment to those who have served in 9 succeeding major armed conflicts, expanding this obligation, in Abraham Lincoln's words, 'To care for him who shall have borne the battle, and for his widow, and his orphan'; and

"Whereas any reduction of established benefits and services would be a betrayal of those veterans who have so gallantly served in the past; and

"Whereas this commitment not only serves the veterans, the widow and the orphan, but, by example and support, promotes the national defense by giving reassurance to those who serve now or those who may desire or have to serve in defense of this nation; and

"Whereas during this time of grave uncertainty in the Persian Gulf, our unwavering commitment to care for our nation's service personnel should be reaffirmed; now, therefore, be it

"*Resolved*, That this Legislative Body pause in its deliberations and, while recognizing the seriousness of the current federal budget deficit, memorialize Congress to reject any proposal which would erode or eliminate any veterans' benefit or service provided by the federal government as a means of reducing federal expenditures; and be it further

"*Resolved*, That copies of this Resolution, suitably engrossed, be transmitted to the presiding officers of each house of Congress and to each member of Congress from New York."

POM–191. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources:

ASSEMBLY JOINT RESOLUTION NO. 28

"Whereas the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. §§1331 et seq.) protects wild horses and burros from destruction, capture or sale by any person or governmental entity except when authorized by the Secretary of the Interior or the Secretary of Agriculture in connection with public lands administered by the Bureau of Land Management and the Forest Service; and

"Whereas over 65 percent of the wild horses and burros in the United States are in Nevada and the population of the wild horses and burros is increasing at a rate of approximately 18 percent a year; and

"Whereas the Bureau of Land Management in Nevada receives less than 16 percent of the budget of the Department of the Interior for the management of public lands and for the protection of the habitat of the herds of wild horses and burros; and

"Whereas because of the inadequate funding, federal agencies have not been able to gather the data that is required to establish a thriving natural ecological balance on the public lands; and

"Whereas one of the provisions of the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. §1333(b)(1)) requires the Secretary of the Department of Agriculture and the Secretary of the Department of the Interior to consult with the wildlife agencies of the states; and

"Whereas pursuant to NRS 504.470, the primary duty of the state commission for the preservation of wild horses is to preserve the herds of wild horses in Nevada; and

"Whereas the federal agencies that consult with the department of wildlife have acknowledged that the commission for the preservation of wild horses is a state agency pursuant to the provisions of the Wild Free-Roaming Horses and Burros Act of 1971 (16 U.S.C. §§1331 et seq.); now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of Nevada, jointly*, That Congress is hereby urged to review the funding for the management of public lands and the protection of the habitat of wild horses and burros and to provide a pro rata distribution of money that is based on the population of the herds of wild horses and burros in each state; and be it further

"*Resolved*, That the Secretary of the Department of Agriculture and the Secretary of the Department of the Interior recognize that the commission for the preservation of wild horses is a state agency for the purposes of the Wild Free-Roaming Horses and Burros Act of 1971; and be it further

"*Resolved*, That a copy of this resolution be transmitted by the Chief Clerk of the Assembly to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 55. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes (Rept. No. 102–111).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Clyde H. Hamilton, of South Carolina, to be United States Circuit Judge for the Fourth Circuit;

Fernando J. Gaitan, Jr., of Missouri, to be United States District Judge for the Western District of Missouri; and

Morton A. Brody, of Maine, to be United States District Judge for the District of Maine.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself, Mr. ADAMS, Mr. BRYAN, Ms. MIKULSKI, Mr. REID, and Mr. SYMMS):

S. 1492. A bill to amend the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. ADAMS):

S. 1493. A bill to establish the High Speed Surface Transportation Development Corporation; to provide for high speed surface transportation infrastructure development; and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEFLIN:

S. 1494. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 1495. A bill to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1496. A bill to suspend temporarily the duty on ofloxacin; to the Committee on Finance.

By Mr. METZENBAUM (for himself, Mr. DURENBERGER, Mr. LEVIN, Mr. GLENN, and Mr. WELLSTONE):

S. 1497. A bill entitled the "Great Lakes Protection Act of 1991"; to the Committee on Environment and Public Works.

By Mr. BREAUX:

S. 1498. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of businesses within Federal military installations which are closed or realigned and for the hiring of individuals laid off by reason of such closings or realignments, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. DODD):

S. 1499. A bill to reauthorize and revise certain provisions of the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY:

S. 1500. A bill to amend title IX of the Higher Education Act of 1965 to enhance the quality and diversity of college and university faculty and to expand individual opportunity in graduate education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BURNS (for himself, Mr. CONRAD, Mr. SHELBY, Mr. SIMPSON, Mr. MURKOWSKI, Mr. AKAKA, Mr. BAUCUS, Mr. DOMENICI, Mr. WALLOP, Mr. BROWN, Mr. CRAIG, and Mr. SYMMS):

S. 1501. A bill to amend the Reclamation Reform Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself, Mr. MCCONNELL, Mr. SASSER, and Mr. GORE):

S. Res. 155. A resolution designating the week of August 18, 1991, through August 24, 1991, as "National American Saddlebred Horse Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. ADAMS, Mr. BRYAN, Ms. MIKULSKI, Mr. REID, and Mr. SYMMS):

S. 1492. A bill to amend the International Revenue Code of 1986; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. ADAMS):

S. 1493. A bill to establish the High-Speed Surface Transportation Development Corporation; to provide for high-speed surface transportation infrastructure development; and for other purposes; to the Committee on Commerce, Science, and Transportation.

HIGH-SPEED SURFACE TRANSPORTATION DEVELOPMENT

Mr. GRAHAM. Mr. President, today I introduce two bills to accelerate the progress toward high-speed rail travel as an integral part of our Nation's transportation system.

Mr. President, the first bill, in which I am joined by the Presiding Officer as well as Senators ADAMS, BRYAN, MIKULSKI, and SYMMS, will amend section 146(g) of the Internal Revenue Code. It will provide the same tax-exempt bond financing treatment for high-speed intercity rail facilities, including magnetic levitation trains, as is currently enjoyed by airports and seaports.

The second bill, in which I am joined by Senator ADAMS, the High-Speed Surface Transportation Development Corporation Act of 1991, establishes a corporation to assist States through loan guarantees and other incentives with development and construction of new high-speed surface transportation systems.

Financing is perhaps the single greatest obstacle to implementation of high-speed surface transportation technologies in the United States. Equalizing tax incentives to the private sector will permit transportation infrastructure investment decisions to be made more fairly and on the basis of merit.

Establishing a corporation that is structured to further assist the States in this area will underscore the partnership and commitment in the development of this needed alternative transportation mode.

The bills I am introducing today accomplish these objectives.

It is encouraging that the rapidly growing interest in high-speed rail stems largely from initiatives at the State level. Recently, the State of Texas awarded a franchise to one of two bidding consortiums for a high-speed line that will connect the cities of Houston, Dallas, Fort Worth, Austin, and San Antonio.

In 1990, California and Nevada awarded a similar franchise for a magnetic levitation system capable of speeds of 250 miles per hour running between Anaheim and Las Vegas. Illinois, Pennsylvania, Ohio, Washington, New York, and a growing list of States are actively exploring prospects for high-speed surface transportation systems.

My own State, Florida, was one of the first to establish a high-speed rail transportation commission and solicit proposals from the private sector for a cross-State high-speed rail system connecting Miami, Tampa, and Orlando, and for a magnetic levitation demonstration system in central Florida. In early June, Gov. Lawton Chiles and the Florida Cabinet issued their final certification, thus giving the go-ahead to this magnetic levitation project, which will be the first magnetic levitation system in the world.

There is a reason for this interest. Americans are tired of gridlock on our highways, and weary of winglock at our congested airports. The statistics tell the story: Vehicle delays due to freeway congestion will increase 400 percent in urban areas from 1985 to 2005, according to one Federal Highway Administration estimate.

The Association of State Highway and Transportation Officials [AASHTO] tells us that the surface travel demand is expected to at least double by the year 2020.

The Federal Aviation Administration says that our 21 primary airports each now experience more than 20,000 hours of annual flight delays at an annual cost to airlines and U.S. businesses of at least $5 billion; by 1997, 33 airports are forecast to exceed this level of delay; and the litany goes on as travelers in this country become increasingly frustrated with congestion.

We need solutions. High-speed trains, both advanced steel-wheel technologies as well as magnetic levitation, must be part of our Nation's transportation future. For intercity travel at distances between 100 and 600 miles, high-speed ground transportation is an attractive alternative.

First, high-speed trains are safe. The Japanese, French, and German high-speed systems, for example, have never had a passenger fatality after years of operations carrying billions of passengers.

Second, high-speed trains are environmentally sensitive. A shift in travel to electrically powered trains will assist in achieving a cleaner atmosphere, since electric utilities, which power these systems, emit far less amounts of primary components of air pollution than highway vehicles. High-speed rail also conserves land compared with highway travel—2 tracks of a high-speed system can potentially carry as many travelers as 10 lanes of an interstate highway.

Third, high-speed trains are energy efficient. For example, new high-speed rail systems between major metropolitan centers—Miami-Orlando-Tampa; Chicago-Milwaukee; Philadelphia-

Pittsburgh; and Houston-Dallas-Fort Worth-Austin-San Antonio—would permit our airlines to perform their mission most effectively by carrying large numbers of people long distances. Short airline trips of under 500 miles are costly and fuel inefficient, and clog the limited takeoff and landing slots available at our airports.

Despite the interest and need for high-speed ground transportation, we have yet to turn a single shovel of earth for any true high-speed system in this country.

Mr. President, that is in spite of the fact that all over the world high-speed rail systems are being enjoyed every day by hundreds of thousands of travelers.

Why is this the history of the United States? Federal policy now emphasizes the existing highway and aviation modes to the near exclusion of new ideas in transportation. Both the highway and airlines benefit from the dedicated trust funds and public sector support. In contrast, we have told potential builders of high-speed ground systems to pay their own way.

After a decade of intensive exploration of the potential financial performance of high-speed trains, we are back to what we knew at the beginning: High-speed rail corridors will pay for their operating costs and some portion of their capital costs. Farebox and other revenues, however, will not be sufficient to cover all of the costs of capital necessary to construct these systems, even though every high-speed system which has gone into operation anywhere in the world has turned a profit operationally. The public sector must close this gap to bring the reality of high-speed surface transportation.

The States have tried. In Florida, we designed a sophisticated real estate value-capture mechanism intended to cover this significant portion of this gap for the private sector applicant.

Other States have pioneered other creative incentives.

It is now time for the Federal Government to join in this State-led effort.

Steps have already been taken by the Senate. On June 19, the Senate passed the Surface Transportation Efficiency Act of 1991. Included in this bill is a $750 million program to encourage the research and implementation of magnetic levitation. In addition to this program is authority for use and modification of interstate right-of-way for high-speed ground transportation systems.

Prior to that, in 1988, with the passage of the Technical and Miscellaneous Revenue Act, Congress took a preliminary step to join in the State-led effort to make high-speed ground transportation a reality.

The act included a provision which then-Senator Chiles, Senator BENTSEN, and I promoted. The provision amended the Internal Revenue Code to provide that the fixed guideway costs of a qualifying high-speed intercity rail project are eligible for tax-exempt financing provided that 25 percent of each bond issue for such costs receives an allocation from State private activity bond volume limitations.

This act was a major step forward, but we must do more.

Under current tax law, the remaining 25 percent of guideway and infrastructure costs are also eligible for tax-exempt financing, but must be included under the State volume caps. Given the specific total limits on State tax-exempt borrowing and the many competing uses for these funds, the limit has the practical effect of excluding much of the total project costs from tax-exempt financing.

We have a double standard—airports and seaports are eligible fully for tax-exempt financing, but high-speed intercity rail facilities are not.

We must end this disparity, take the 1988 Tax Act to its logical conclusion, and provide for Federal tax-exempt financing for 100 percent of total high-speed rail project costs. The bill I am introducing today amends the Internal Revenue Code and accomplishes this goal.

Exempting from Federal taxes interest on high-speed rail project debt would lower the cost of that debt by roughly 30 percent. This would reduce the effective interest rate on the project's debt from 13 to 9 percent, meaning that the average cost of capital, including debt and equity, would be as much as one quarter lower. The stream of revenues required to support the entire project financing, including debt and equity, would be lower by that same amount, or 25 percent. That margin could make the difference between moving ahead with high-speed rail systems in this country, and continuing our present crisis of congestion.

The High-Speed Surface Transportation Development Corporation Act of 1991 is intended to provide additional incentives by guaranteeing loans sought in connection with the development of high-speed surface transportation systems. Under this bill, the proceeds from such loans could be used to assist States in making any modifications to existing facilities necessary to accommodate these systems. Activities such as eliminating grade crossings and acquiring rights-of-way also would be eligible for guaranteed loan proceeds.

As with tax-exempt financing, rolling stock would not be eligible for guaranteed loans. Moreover, guaranteed loans could only be used to support 75 percent of the State's total project cost. Thus, private or State funds will still be an integral component of funding for high-speed surface transportation systems.

In addition to administering the guaranteed loan program, the corporation will be responsible for coordinating State's activities, and providing technical advice and consulting services in connection with the development of projects around the country.

The legislation I am introducing today will enable us to move ahead with high-speed surface transportation systems in the United States. By reducing the revenue required by permitting the use of tax-exempt debt outside of the State volume cap and by providing the necessary Federal guarantees for loans obtained in connection with State projects, will not only enable the Texas consortium to start construction but will make other State's and interstate systems sufficiently attractive to the financial markets.

One of the themes of America is the central role of transportation in our national development. In the 19th century the Federal Government assisted in the creation of canals, river transport, and railroads. These developments were critical to our industrial revolution.

In this century, the Interstate System has redrawn the map of urban and rural America.

The question today is what will be our contribution to the mobility of America in the 21st century. A modern system of high-speed ground transportation should be an important part of the answer to that question.

Completion of congressional initiatives already undertaken and the adoption of the measures I am introducing today are critical to ensuring that the Federal Government's role in the partnership with State and local governments and private citizens will be a strong one. It will be a strong partnership that can bring this dream to reality.

By Mr. HEFLIN:

S. 1494. A bill to implement the recommendations of the Federal Courts Study Committee, and for other purposes; to the Committee on the Judiciary.

FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION ACT

Mr. HEFLIN. Mr. President, I rise today to introduce the Federal Courts Study Committee Implementation Act of 1991.

In November 1988, the 100th Congress created within the Judicial Conference of the United States a 15-member Federal courts study committee and directed it, by April 2, 1990, to "make a complete study of the courts of the United States and of the several States and transmit a report * * * on such study." The statute specifically directed the committee to analyze alternative dispute resolution, Federal Court structure and administration, intra- and inter-circuit conflicts in the courts of appeals, and the types of disputes currently embraced by Federal jurisdiction. More broadly, it directed the committee to "recommend revisions to be made to laws of the United States as the committee, on the basis of such study, deems advisable," to "develop a long-range plan for the judicial system," and to "make such other recommendations and conclusions it deems advisable."

In December 1988, Chief Justice William Rehnquist appointed the committee members, who were, in the words of the statute, "representative of the various interests, needs, and concerns which may be affected by the jurisdiction of the Federal courts." The committee includes members of the Federal executive, legislative, and judicial branches and representatives from State governments, universities, and private practice, and I was privileged to serve as a member of this committee.

Last Congress, the Federal Courts Study Committee Implementation Act of 1990 was enacted into law as part of the Judicial Improvements Act of 1990. That Federal courts study committee legislation authorized a study of intercircuit conflicts in the courts of appeals, extended the terms of office of bankruptcy judges, revised the retirement system for claims court judges, addressed issues concerning appeals of bankruptcy cases, provided supplemental jurisdiction for the Federal district courts, extended the life of the Parole Commission, and authorized a study of the Federal Defender Program, among other things.

The legislation which I am introducing today will incorporate many of the remaining recommendations of the Federal courts study committee. A brief summary of the provisions set forth in title I of the legislation is as follows:

Section 101—Authorizes a 5-year pilot project to resolve intercircuit conflicts.

Section 102—Requires Congress to use a checklist in reviewing proposed legislation for technical problems.

Section 103—Includes the Court of International Trade and the Court of Appeals for the Federal Circuit in the Federal judiciary budget process.

Section 104—Requires each Federal circuit to establish bankruptcy appellate panels.

Section 105—Delegates authority to the Supreme Court to prescribe rules for appeal of final and interlocutory decisions.

Section 106—Places limitations on Federal diversity jurisdiction.

Section 107—Limits the removal of certain ERISA actions to Federal court.

Section 108—Abolishes the temporary emergency court of appeals and vests its remaining caseload in the Court of Appeals for the Federal circuit.

Section 109—Transfers jurisdiction for supervised release revocation hearings from district courts to the United States Parole Commission.

Section 110—Requires the exhaustion of State remedies under 42 U.S.C. 1997 prior to the filing of State prisoner suits brought under 42 U.S.C. 1983.

Section 111—Puts jurisdictional limitations on suits brought under the Federal Torts Claims Act.

In addition, title II of this legislation establishes a commission to be known as the National Commission on Federal Criminal Law Reform. This Commission will perform a comprehensive study of the Federal criminal laws and draft a proposed recodification of such laws.

Mr. President, what does this proposed legislation mean to the average American? The committee learned that between 1958 and 1988 the number of cases filed in the U.S. district courts tripled and the number of cases filed in the courts of appeals increased tenfold. I might remind my colleagues that ninety percent of the Nation's judicial business is conducted in State courts—yet it is obvious that in regard to the remaining 10 percent of business in the Federal courts, there has been a litigation explosion.

The ability of our Federal court system to dispose of its caseload expeditiously and efficiently goes to the heart of dispensing justice, and we in the Congress have a duty to examine the recommendations of the Federal courts study committee. Increasing the number of Federal judges is not the only solution. The committee has not recommended "radical reform," but rather "corrective surgery" with regard to the structure and management aspects of the administration of justice.

Mr. President, I request unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Courts Study Committee Implementation Act of 1991".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. INTERCIRCUIT CONFLICT RESOLUTION DEMONSTRATION PROGRAM.

(a) ORDER OF REFERENCE.—When by petition for a writ or certiorari or notice of appeal to the Supreme Court of the United States it is alleged, or it other appears, that an issue presented in the case involves a matter as to which the lower courts are in disagreement, the Supreme Court may issue an order of reference with regard to that issue. The order of reference shall include a listing of the United States courts of appeals which have decided the issue as to which a conflict exists.

(b) SELECTION OF COURT OF APPEALS.—When an order of reference has been issued in a case, the Clerk of the Supreme Court shall select at random a court of appeals, from all courts of appeals not on the applicable listing described under subsection (a), to hear such case for a decision en banc. Such court shall have jurisdiction over all issues referred and may issue such orders as may be necessary concerning its jurisdiction.

(c) EN BANC DECISION.—The en banc decision shall be final, subject only to the right of a party adversely affected by the decision to file a motion for review by the Supreme Court within thirty days after the date of the en banc opinion of the court of appeals. No response shall be made to such a motion, unless the Supreme Court orders it. The Supreme Court may review the case in the same manner as any case under section 1254(1) of title 28, United States Code.

(d) PRECEDENTIAL EFFECT OF DECISION.—If review under subsection (c) is not sought or if review is sought and denied, the opinion of the en banc court shall have the precedential effect in each circuit of an en banc decision of the court of appeals of each such respective circuit.

(e) TEMPORARY RULES.—The Supreme Court may issue temporary rules supplemental to its own rules and to the Federal Rules of Appellate Procedure governing the procedure in the Supreme Court and the courts of appeals in cases referred under this section.

(f) REPORT TO CONGRESS AND THE JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall establish a committee to monitor and evaluate the operation and effects of this section. No later than January 1, 1996, the committee shall submit a report to the Congress and the Judicial Conference on the operations and effects of this section. Such report shall include—

(1) the number and kinds of cases referred under this section;

(2) the cases which were eligible for referral under this section, but were not referred;

(3) the total caseload of the Supreme Court;

(4) such other information as the committee determines relevant to the continuation and effects of intercircuit conflicts nationally; and

(5) any recommendations as to whether the provisions of this section should be continued, modified, terminated, or replaced by an alternative procedure.

(g) EFFECTIVE DATE.—(1) The provisions of this section shall take effect on January 1, 1992.

(2) Notwithstanding the provisions of paragraph (3), all other provisions of this section shall apply to any case referred under the provisions of this section before December 31, 1997, as though such paragraph had not been enacted.

(3) The provisions of this section are repealed effective on December 31, 1997.

SEC. 102. JUDICIAL IMPACT STATEMENT OF PROPOSED LEGISLATION.

(a) COMMITTEE REPORTED BILLS AND RESOLUTIONS.—Each committee of the Congress shall include with any bill or resolution reported from such committee to the Senate or House of Representatives, a judicial impact statement that represents that the following legislative and judicial impact issues have been considered:

(1) the appropriate statute of limitation;

(2) whether a private cause of action is contemplated;

(3) whether pre-emption of State law is intended;

(4) the definition of key terms;

(5) the mens rea requirement in criminal statutes;

(6) severability of provisions;

(7) whether a proposed bill would repeal or otherwise circumscribe, displace, impair, or change the meaning of existing Federal law;

(8) whether State courts are to have jurisdiction and, if so, whether an action would be removable to Federal court;

(9) the types of relief available;

(10) whether retroactive applicability is intended;

(11) the conditions for any award of attorney's fees authorized;

(12) whether exhaustion of administrative remedies is a prerequisite to any civil action authorized;

(13) the conditions and procedures relating to personal jurisdiction over persons incurring obligations under the proposed legislation;

(14) the viability of private arbitration and other dispute resolution agreements under enforcement and relief provisions; and

(15) whether any administrative proceedings provided for are to be formal or informal.

(b) LEGISLATIVE PROPOSALS BY MEMBERS OF CONGRESS.—To the greatest extent practicable, each Member of Congress shall consider the legislative and judicial impact issues listed under subsection (a)(1) through (15) for any bill or resolution introduced in the Senate or the House of Representatives, and any amendment proposed to a bill or resolution.

(c) RULEMAKING POWER OF CONGRESS.—The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives and as such shall be considered as part of the rules of each House, and shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 103. INCLUSION OF THE COURT OF INTERNATIONAL TRADE AND THE COURT OF APPEALS FOR THE FEDERAL CIRCUIT IN THE FEDERAL JUDICIARY BUDGET PROCESS.

(a) BUDGET PROCESS.—In the formulation of the budget submitted by the President under section 1105 of title 31, United States Code, all submissions of budget requests and information related to such formulation for the Court of International Trade and the Court of Appeals for the Federal Circuit shall be made to the Office of Management and Budget through the Federal judiciary in the same manner as a United States court of appeals.

(b) EFFECTIVE DATE.—The provisions of this section shall be effective on the date of the enactment of this Act and shall apply with respect to the formulation of the budget for fiscal year 1992.

SEC. 104. ESTABLISHMENT OF BANKRUPTCY APPELLATE PANELS.

Section 158 (b) and (c) of title 28, United States Code, is amended to read as follows:

"(b)(1) Unless a judicial council establishes a joint panel under the provisions of paragraph (2), the judicial council of each circuit shall establish a bankruptcy appellate panel, comprised of bankruptcy judges from districts within the circuit, to hear and determine appeals from final judgments, orders, and decrees, and, with leave of the court, from interlocutory orders and decrees, of bankruptcy judges entered in cases and proceedings referred to the bankruptcy judges under section 157 of this title.

"(2) The judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine appeals under this subsection.

"(3) A panel established under this section shall consist of 3 bankruptcy judges provided a bankruptcy judge may not hear an appeal originating within a district for which the judge is appointed or designated under section 152 of this title.

"(c) All appeals under this section shall be heard by a bankruptcy appellate panel under subsection (b), unless a party elects to file an appeal under subsection (a). An appeal under subsections (a) and (b) of this section shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by Rule 8002 of the Bankruptcy Rules.".

SEC. 105. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF FINAL AND INTERLOCUTORY DECISIONS.

(a) APPEAL OF FINAL DECISION.—Section 1291 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The courts of appeals"; and

(2) by adding at the end thereof the following new subsection:

"(b) The Supreme Court may prescribe rules in accordance with section 2072 of this title, to define a final decision for the purposes of this section.".

(b) APPEAL OF INTERLOCUTORY DECISION.—Section 1292 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The Supreme Court may prescribe rules in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals, that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 106. LIMITATIONS ON FEDERAL DIVERSITY JURISDICTION.

Section 1332 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "The district courts" and inserting in lieu thereof "Subject to the provisions of subsection (d), the district courts"; and

(B) by striking out "$50,000" and inserting in lieu thereof "$75,000";

(2) in subsection (b), by striking out "$50,000" and inserting in lieu thereof "$75,000"; and

(3) by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) Notwithstanding the provisions of subsection (a), a district court shall have original jurisdiction under such subsection, only if the plaintiff in such an action is not a citizen of the State in which such district court is located.

"(2) For the purposes of this section—

"(A) a corporation shall be deemed to be a citizen of each State in which it is licensed or otherwise registered to do business; and

"(B) in determining whether a matter in controversy exceeds the sum or value of $75,000, the amount of damages for pain and suffering or mental anguish, punitive or exemplary damages, and attorney's fees shall not be included.

"(e) On January 1 of each year, the monetary amounts referred to in subsections (a) and (b) shall each be increased by the percentage equal to the percentage increase in the consumer price index for the preceding calendar year as determined by the Bureau of Statistics of the Department of Labor.".

SEC. 107. LIMITATION ON REMOVAL OF CERTAIN ERISA ACTIONS TO FEDERAL COURT.

Section 1445 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A civil action in any State court arising under section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) may not be removed to any district court of the United States, unless the matter in controversy exceeds $10,000, exclusive of interest and costs.".

SEC. 108. TEMPORARY EMERGENCY COURT OF APPEALS.

(a) APPEALS UNDER ECONOMIC STABILIZATION ACT.—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91–379; 84 Stat. 799) is amended by striking out subsections (b) through (h) and inserting in lieu thereof the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title may be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code.".

(b) JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking out "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting in lieu thereof "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking out "Temporary Emergency Court of Appeals" each place it appears and inserting in lieu thereof "United States Court of Appeals for the Federal Circuit".

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

"(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

"(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

"(14) of an appeal under section 523 of the Energy Policy and Conservation Act.".

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished effective on June 29, 1991.

(e) PENDING CASES.—(1) Any appeal which, on June 28, 1991, is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

(2) Any case which, as of June 28, 1991, has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 109. TRANSFER OF JURISDICTION FOR SUPERVISED RELEASE REVOCATION HEARINGS FROM DISTRICT COURTS TO THE UNITED STATES PAROLE COMMISSION.

(a) REVOCATION OF RELEASE.—Section 3148(b) of title 18, United States Code, is amended—

(1) by striking "district court" at the end of the first sentence and inserting "United States Parole Commission".

(2) by striking "judicial officer" and inserting "hearing officer" each place it appears.

(b) PROSECUTION FOR CONTEMPT.—Section 3148 of title 18, United States Code, is amended by striking subsection (c).

(c) HEARING OFFICERS.—Section 3148 of title 18, United States Code, as amended by subsection (b) of this section, is amended by adding at the end thereof the following:

"(c) The United States Parole Commission shall assign duly licensed attorneys as hearing officers in revocation hearings under this section.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all actions filed or matters commencing on or after the date of enactment of this Act.

SEC. 110. REQUIREMENT OF EXHAUSTION OF STATE REMEDIES PRIOR TO FILING OF STATE PRISONER SUITS BROUGHT UNDER SECTION 1997 OF THE REVISED STATUTES.

(a) 120-DAY PERIOD FOR EXHAUSTION.—Section 7(a)(1) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)(1)), is amended by striking "ninety" and inserting "120".

(b) MANDATE OF FAIR AND EFFECTIVE ADMINISTRATIVE REMEDY PROCEDURES.—Section 7(a)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)(2)), is amended to read as follows:

"(2)(A) A State shall enact fair and effective administrative procedures and remedies for inmate grievances not later than 2 years after the date of enactment of this paragraph.

"(B) A State shall submit the administrative procedures and remedies established pursuant to subparagraph (A) to the Attorney General or the appropriate United States district court for certification and approval upon the promulgation of the procedures and remedies. The State shall have the burden of establishing that the procedures and remedies are fair and effective.".

(c) REPEAL OF GRIEVANCE RESOLUTION STANDARDS.—Section 7(b) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)) is repealed.

(d) REVIEW AND CERTIFICATION BY ATTORNEY GENERAL OR UNITED STATES DISTRICT COURT.—Section 7(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(c)), is amended to read as follows:

"(b) The Attorney General shall develop procedures for the prompt review and certification of systems for the resolution of grievances of adults confined in any jail, prison, or other correctional facility, or pretrial detention facility developed as required under subsection (a)(2), to determine if such systems are fair and effective in assuring the rights of such inmates.".

(e) REPEAL OF SECTION 7(d) OF THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.—Section 7(d) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(d)) is repealed.

SEC. 111. JURISDICTIONAL LIMITATIONS ON SUITS BROUGHT UNDER THE FEDERAL TORTS CLAIMS ACT.

(a) IN GENERAL.—Section 2671 of title 28, United States Code, is amended by—

(1) inserting "**and jurisdiction**" after "**definitions**" in the section heading;

(2) inserting "(a)" before the first sentence; and

(3) adding at the end thereof the following:

"(b) United States Magistrates shall have original jurisdiction over any claim under $10,000 filed under this chapter.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 171 of title 28, United States Code, is amended by striking the item for section 2671 and inserting the following:

"2671. Definitions and jurisdiction.".

TITLE II—NATIONAL COMMISSION ON FEDERAL CRIMINAL LAW REFORM

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "National Commission on Federal Criminal Law Reform Act of 1991".

SEC. 202. ESTABLISHMENT.

There is hereby established a commission to be known as the "National Commission on Federal Criminal Law Reform" (hereafter in this Act referred to as the "Commission").

SEC. 203. DUTIES OF COMMISSION.

The duties of the Commission are to—

(1) perform a comprehensive study of the Federal criminal laws in title 18, United States Code and draft a proposed recodification of such title; and

(2) coordinate, cooperate, and exchange information with the Congress, the judiciary, and the Department of Justice in undertaking such recodification.

SEC. 204. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 13 members as follows:

(1) Three appointed by the President pro tempore of the Senate.

(2) Three appointed by the Speaker of the House of Representatives.

(3) Three appointed by the Chief Justice of the United States.

(4) Three appointed by the President.

(5) One appointed by the Conference of Chief Justices of the States of the United States.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Six members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) CHAIRMAN.—The members of the Commission shall select one of the members to be the Chairman.

(e) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of the enactment of this Act.

(f) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of the enactment of this Act.

(g) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(h) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of a government becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

SEC. 205. COMPENSATION OF THE COMMISSION.

(a) PAY.—(1) Except as provided in paragraph (2), each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which he is engaged in the actual performance of duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 206. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(b) STAFF.—The Chairman of the Commission may appoint and fix the pay of such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the annual rate of pay for any individual so appointed may not exceed a rate equal to the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 207. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission or, on authorization of the Commission, a member of the Commission may, for the purpose of carrying out this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department, agency, or entity within the executive or judicial branch of the Federal Government information necessary to enable it to carry out this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this subtitle.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 208. REPORT.

The Commission shall submit to each House of Congress, the Chief Justice of the United States, and the President a report not later than one year after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its estimate for the completion of a proposed draft for a recodification of title 18, United States Code.

SEC. 209. TERMINATION.

The Commission shall cease to exist on the earlier of—

(1) the date the Commission submits a proposed draft for recodification of title 18, United States Code, to each House of Congress, the Chief Justice of the United States, and the President; or

(2) three years after the date of the enactment of this Act.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 to carry out the provisions of this title.

By Mr. JOHNSTON:

S. 1495. A bill to provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes; to the Committee on Energy and Natural Resources.

ST. CROIX, VIRGIN ISLANDS HISTORICAL PARK AND ECOLOGICAL PRESERVE ACT

• Mr. JOHNSTON. Mr. President, many people are aware of the approach of the 500th anniversary of the discovery of America by Christopher Columbus, but very few people are aware of the date and the site at which the Columbus expedition landed on what is now U.S. soil. The date was November 14, 1493, and the site was even then noted for its beauty. An account of that first visit by Europeans to what is now U.S. soil was recorded by Michele de Cuneo, who led the first party ashore: " * * * very beautiful and very fertile and we arrived at a beautiful harbor." That harbor is now known as Salt River Bay and is located on the north shore of St. Croix in the U.S. Virgin Islands.

Salt River Bay has many other qualities of distinction. It is known to archeologists as an area of significant precolumbian development with evidence of villages, burial grounds, and the only ceremonial ball court in the Lesser Antilles. Since the first visit by Columbus, Salt River Bay was also the site of Spanish, French, Dutch, English, and Danish settlements, making it one of the few single sites with archeological evidence from each of the many periods in the history of the Virgin Islands.

Finally, Salt River Bay has tremendous ecological significance. The upper bay is the largest and last remaining mangrove estuarine system in the Virgin Islands. This system provides critical habitat for a variety of fish and bird species. The lower bay features one of the few carbonate submarine canyons in the world and which is one of the most thoroughly studied underwater habitats in the world. For many years, Salt River Canyon was the home of Hydrolab, an underwater manned research station operated by the National Oceanic and Atmospheric Administration. The Hydrolab is now retired and sits on display in the Smithsonian's Museum of Natural History just a few blocks from the Capitol on the Mall. But for years Hydrolab rested beneath the waters of Salt River Bay hosting marine scientists from around the Nation as they studied the Bay.

Mr. President, as a regular visitor to the U.S. Virgin Islands, and as a recent visitor to Salt River Bay, I can attest to its special beauty and significance. It is this personal experience that gives me particular pleasure in introducing the St. Croix, Virgin Islands Historical Park and Ecological Preserve Act of 1991. Enactment of this legislation would be a major step toward protecting and managing the historical and ecological assets of the bay for future generations. This bill would establish a park of just over 1,000 acres including 600 acres of water. While this would be a small park when compared with many other proposals which come before Congress, the unusual historical and ecological richness of the site justifies its special consideration.

I am very pleased that this bill is introduced with broad support both here in Washington, and in the Virgin Islands. The distinguished Delegate from the Virgin Islands deserves recognition for his foresight in making this legislation a priority, and for his hard work in negotiating its terms for introduction. Earlier this week I met with the Lieutenant Governor of the Virgin Islands, the Honorable Derek Hodge, and we discussed several initiatives to diversify and strengthen the economy of St. Croix. A park at Salt River Bay serves both those objectives. Earlier this year, the President of the Virgin Islands Senate, the Honorable Virdin Brown, visited Washington to lobby for the protection of Salt River Bay and for Federal support in strengthening the local territorial park system. His ideas are also reflected in this legislation. Just yesterday, I met with the Secretary of the Interior and I was pleased to hear first hand of his commitment to preserve Salt River Bay. His continued support will be invaluable in making this park a success. Finally, I would like to recognize the Nature Conservancy, and the National Parks and Conservation Association, for their initiative and for their contributions to the development of this legislation.

Mr. President, this bill would help to protect historical and ecological assets of importance not only to the people of the Virgin Islands, but to all Americans. Indeed, the history of Columbus' voyages of discovery are of international significance. I'm pleased with the broad support shown for this bill and I urge my colleagues to join this support for its enactment.•

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 1496. A bill to suspend temporarily the duty on ofloxacin; to the Committee on Finance.

SUSPENSION OF DUTY ON OFLOXACIN

• Mr. LAUTENBERG. Mr. President, I rise to introduce, on behalf of myself and Senator BRADLEY, a bill to suspend duties on ofloxacin. The same bill has been introduced in the House of Representatives by Representative DWYER.

The bill would suspend for 3 years the duty on ofloxacin, a broad spectrum antibiotic used for the treatment of adults with lower respiratory tract infections, skin and skin structure infections, prostatitis, and sexually transmitted diseases.

According to the International Trade Commission, there is currently no domestic production of ofloxacin, and the product must be imported to meet U.S. demand. Consequently no domestic manufacturer would be injured by this tariff suspension. Import duties on ofloxacin simply add to the overall production costs of downstream consumer products, costs which consumers of this medication ultimately must bear.

Johnson & Johnson, in my State, employs over 80 people to process the imported bulk ofloxacin into finished antibiotic product. These jobs depend on the continued economic viability of producing the finished product in this country. By suspending the 6.9-percent duty, we would help those workers compete with foreign manufacturers of the finished product.

For these reasons, I urge my colleagues to act swiftly to pass this bill. I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of this statement.•

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY DUTY SUSPENSION.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Trariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	(+)-9-Flouro- 2,3-dihydro-3-methyl-10- (4-methyl-1-piperazinyl)- 7-oxo-7h- pyrido [1,2,3,- de]-1,4 benzoxazine-6-carboxylic acid (provided for in subheading 2934.90.25)	Free .	No change .	No change .	On or before 12/31/94"

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. METZENBAUM (for himself, Mr. DURENBERGER, Mr. LEVIN, Mr. GLENN, and Mr. WELLSTONE):

S. 1497. A bill entitled the "Great Lakes Protection Act of 1991"; to the Committee on Environment and Public Works.

GREAT LAKES PROTECTION ACT

Mr. METZENBAUM. Mr. President, I rise to introduce the Great Lakes Protection Act of 1991. This legislation will help reverse long-term environmental degradation and restore ecological health to the Great Lakes. Senators DURENBERGER, LEVIN, GLENN, and WELLSTONE join me in cosponsoring this measure.

We've come a long way from the days when Lake Erie was said to be dead or, at least, dying. Gratefully, we are no longer confronted with the spectacle of burning rivers and lakes choked with oil and debris.

Just one look at any of the lakes tells you we've made progress. Regulatory and cooperative efforts to rein in polluters and curtail pollution has paid off.

But much more needs to be done in order to protect what is without doubt one of the Nation's most valuable and precious natural resources.

More than 35 million people live within the Great Lakes basin, over 27 million Americans and nearly 8 million Canadians. The five Great Lakes stretch over 1,000 miles along the boundary between the United States and Canada.

These freshwater lakes continue to be a vital avenue for regional, national and international shipping. They are a source of drinking water for millions and a fisheries source serving sports and commercial fishermen alike. Home to diverse and countless wildlife and plants, the lakes are also a recreational and aesthetic resource of world acclaim.

But the Great Lakes are still threatened by habitat destruction and long-term accumulation of toxic chemicals.

Untreated sewage, industrial discharges of toxic pollutants, and pollution from agricultural and urban runoff still threaten these waterways.

Nitrates and persistent toxics—like PCB's and dioxin—are still entering Lake Erie and the other Great Lakes at unacceptable levels. Exposure to these toxics threatens pregnant women and their fetuses, causes health problems and increased cancer risks to millions, and causes wildlife populations to decline.

Right now, you can safely swim and fish in only 1 in 12 miles of Great Lakes shoreline. According to EPA's water quality inventory, you can safely fish in only 3 in 10 miles. Thousands of acres of underwater sediment are contaminated by toxic pollutants dumped by factories, sewage treatment plants, hazardous wastesites, and other sources. In fact, these sediments are one of the main reasons for fishing restrictions in the lakes. Improper dredging and disposal of these contaminated sediments causes further harm.

Mr. President, we have some tough environmental problems on the lakes. But they are not insurmountable.

The comprehensive legislation which I am introducing today along with Senators DURENBERGER, LEVIN, GLENN, and WELLSTONE will focus attention on many of these problems including contaminated sediments and the improper dredging and disposal of such sediments. The following is a brief summary of some of the major provisions.

Contaminated sediments.—Toxic pollutants like PCB's, DDT, mercury, and dioxin are winding up in the bottoms of the lakes. These contaminated sediments pose significant health threats to fish, wildlife, and humans through foodchain and/or direct exposure. The bill being introduced today will authorize U.S. EPA to develop numerical criteria for a wide range of contaminants in sediment to protect wildlife, aquatic life, and human health. The bill will also require States to adopt sediment standards within 2 years of publication of such criteria and assures that sediment standards will be fully integrated into State and Federal water quality programs. The numerical criteria will be very valuable as a base for measuring the effectiveness of remediation and for determining the impact of dredged material disposal on the lakes.

Open water disposal of contaminated sediments and confined disposal facilities.—In order to protect the Great Lakes aquatic ecosystems, and the important fisheries, wildlife, and recreation values they support, this bill will end the open lake disposal of contaminated dredged materials by 1994. The bill also places tighter restrictions on where clean dredgings can be placed in an effort to protect municipal and water supply intake zones and to preserve fish spawning and recreational areas. And, in order to ensure the safety of confined disposal facilities where contaminated dredgings are dumped, the legislation will establish more stringent siting and environmental monitoring requirements for these facilities.

Remedial action plans and lakewide management plans.—Forty-three areas of concern have been identified along the Great Lakes where conditions are particularly degraded and the toxic contamination is particularly egregious. These sites include major municipal and industrial centers on rivers, harbors, and connecting channels. The Great Lakes States, along with Canada in some instances, are developing remedial action plans for each area of concern to help restore the environmental health and integrity of these submerged sites. The costs of remediation are going to be in the billions of dollars. Yet these submerged sites have been virtually ignored under the Superfund Program, a program which could help address the high cost and technical problems associated with cleaning them up. This legislation would change that by giving these sites higher priority under the Superfund Program.

The bill will also enable States to use State revolving loan funds for RAP implementation. In addition, the bill requires that comprehensive lakewide management plans be developed and completed for all of the Great Lakes by 1997.

Pollution prevention.—Focusing chiefly on the cleanup of polluted areas in the lakes will not be enough. We need to stop pollution at its source. This legislation will create a Pollution Prevention Demonstration Program to provide incentives, such as a waiver from new effluent guideline fees, to individuls who install pollution prevention technologies which achieve a 75-percent reduction in overall pollution discharge levels from the preceding year. The bill will also create a pollution prevention extension service to provide an active outreach effort to advise others about pollution prevention techniques.

Fish advisories.—PCB's and other toxic chemicals—including pesticides such as chlordane, combustion byproducts such as dioxins, and metals such as mercury—are found in sport fish throughout the Great Lakes and have been linked to cancer and numerous reproductive, neurological, and developmental problems in Humans. Yet according to a recent Plain Dealer article "Many anglers have tuned out official advisories on the danger of eating Great Lakes fish because of conflicting, disparate information." In Michigan, Ohio, and Pennsylvania waters of Lake Erie, for example, anglers are warned not to eat carp and catfish at all. In New York waters, anglers are advised not to eat more than a meal per week of those species. In another example, anglers fishing the Minnesota waters of Lake Superior were advised not to eat more than one meal of lake trout a month. But in neighboring Wisconsin waters, there was no advisory on lake trout up to 30 inches in length.

This bill will end such confusion by authorizing EPA to publish uniform fish consumption advisories which are adequate to protect sensitive populations such as pregnant women and those who consume large quantities of fish each week.

Mr. Chairman, this legislation attempts to address some of the major clean water-related issues currently affecting the Great Lakes basin. It should be viewed as a complement to S. 1081, the clean water reauthorization bill introduced by Senators BAUCUS and CHAFEE. It also fits well with Great Lakes legislation introduced by Senator GLENN dealing with reducing sedimentation at its source. I look forward to working with my colleagues on the Senate environment and Public Works Committee along with Senators from the Great Lakes region who are not on the committee to enact a Great Lakes package as part of the larger effort underway to reathorize the Clean Water Act.

I ask unanimous consent that the bill and a section-by-section analysis of it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE AND TABLE OF CONTENTS

SECTION 1(a) TITLE.—This Act may be cited as the "Great Lakes Protection Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1 Title and Table of Contents.
Sec. 2 Findings.
Sec. 3 Sediment Quality Criteria and Standards.
Sec. 4 Confined Disposal Facilities.
Sec. 5 Remedial Action Plans.
Sec. 6 Lakewide Management Plans.
Sec. 7 Pollution Prevention.
Sec. 8 Fish Advisories.
Sec. 9 Great Lakes Policy Committee.
Sec. 10 Great Lakes Research.
Sec. 11 State Revolving Funds.
Sec. 12 Authorizations.

FINDINGS

SEC. 2. FINDINGS.—The Congress finds that—

(1) The Great Lakes form the largest freshwater system on Earth and represent 95 percent of the freshwater supply of the United States.

(2) The Great Lakes are a natural resource of vital ecological, recreational, and economic importance on the local, interstate and international level.

(3) The Environmental Protection Agency reports significant water quality problems in the Great Lakes. Seventy-three percent of Great Lakes shoreline miles do not fully support designated water quality.

(4) Toxic pollutants in Great Lakes water and sediment and fish caught on the local level pose a significant threat to wildlife and human health on the interstate level. Recent studies indicate that consumption of contaminated fish from the Great Lakes poses a risk of cancer and a risk of fetuses.

(5) Implementation of pollution control programs by international organizations, Federal agencies, and States has contributed to some improvements in Great Lakes water quality and the ongoing development of Remedial Action Plans for identified Areas of Concern and Lakewide Management Plans for the lakes will continue water quality improvements.

(6) New water pollution control authorities are needed to supplement ongoing activities to protect the Great Lakes and to fulfill commitments to Canada under the Great Lakes Water Quality Agreement, including expanded authority for water and sediment quality standards, better management of confined disposal facilities, improved authority for development and implementation of Lakewide Management Plans and Remedial Action Plans, and improved pollution prevention programs.

SEDIMENT QUALITY CRITERIA AND STANDARDS

SEC. 3. (a) GREAT LAKES SEDIMENT QUALITY CRITERIA AND STANDARDS.—(1) Section 118(c)(7) of the Federal Water Pollution Control Act (33 USC 1258(c)(7)) is amended by adding after "toxins" the following—

"with an adequate margin of safety to take into account the additional toxic effect, either additive or in synergistic combination, of other pollutants in the same area of contaminated sediments and other pollutants in nearby bodies of water".

(2) Section 118(c)(7)) of the Federal Water Pollution Control Act (33 USC 1258(c)(7)) is amended by adding at the end thereof the following new subparagraph—

"(D) Within two years of publication of criteria and information pursuant to subparagraph (C) of this paragraph, each Great Lakes State shall adopt sediment quality standards for Great Lakes sediment. Such sediment quality standards shall be consistent with subparagraph (C) and section 303 of this Act, shall have the force and effect of standards adopted pursuant to section 303, and shall be managed and implemented in conjunction with standards adopted pursuant to section 303.

"(E) If a Great Lakes State fails to adopt sediment standards pursuant to this paragraph the Administrator shall promulgate such standards not later than the end of the two-year period specified in subparagraph (D).".

(b) NUMBER OF CONTAMINANT CRITERIA.—(1) Section 118(c)(7)(C) of the Federal Water Pollution Control Act (33 USC 1258(c)(7)(C)) is amended by adding after "pursuant to this paragraph" the following "for not less than 20 contaminants". (2) Section 118(c)(7)(C) of the Federal Water Pollution Control Act (33 USC 1258(c)(7)(C)) is amended by inserting after "Title" the following "and for additional contaminants of concern as expeditiously as practicable".

CONFINED DISPOSAL FACILITIES

SEC. 4. (a) CODIFICATION.—(1) Amend Section 115 of the Federal Water Pollution Control Act (33 USC 1265) by deleting all after "SEC. 115." and inserting in lieu thereof 33 USC 1293(a).

(2) The heading of section 115 of the Federal Water Pollution Control Act (33 USC 1265) is amended by striking "In-Place Toxic Pollutants" and inserting "Confined Disposal Facilities".

(b) PROHIBITION ON OPEN LAKE DUMPING.—Section 115(a) of the Federal Water Pollution Control Act (33 USC 1265(a)) is amended by inserting after "(a)" the following "(1)" and adding at the end thereof the following new paragraph—

"(2) After October 1, 1994, it shall be unlawful to dump or otherwise dispose of dredge spoil at any location in the waters of the Great Lakes other than a confined spoil facility established pursuant to this section.

"(3) The Administrator may waive the requirement to dispose of dredge material at a confined disposal facility based on a finding that the material to be disposed of—

"(A) does not contain contaminants at levels in excess of levels established in sediment quality standards pursuant to section 118(c)(7)(D) of this Act;

"(B) will not result in a violation of water or sediment quality standards;

"(C) will not degrade the chemical, physical, and biological characteristics of the substrate;

"(D) is done in a manner which is consistent with an approved Coastal Zone Management Plan for the State or States bordering the Lake in which the disposal occurs.

"(E) will be disposed of at a site which is;

(i) removed from the vicinity of municipal and private water supply intake zones;

(ii) removed from recognized commercial or recreational fishing grounds and from spawning, nursery, food supply or migration areas on which fish depend for their life processes;

(iii) in a non-erosive section of the lake to prevent the spread of material to areas outside the disposal area;

(iv) removed from areas of aesthetic and recreational value; and

The Administrator shall also take into consideration disposal sites which further wetlands protection, erosion control and water quality improvements.

"(4) Any person violating this provision shall be subject to a civil penalty pursuant to section 309 of this Act.".

(c) DESIGNATION OF CONFINED DISPOSAL FACILITIES.—(1) Section 115(b) of the Federal Water Pollution Control Act is amended by inserting "(1)" after "(b)" and adding at the end thereof—

"(2) After October 1, 1992, no new confined disposal facility shall be established without the concurrence of the Administrator and without providing for public review and comment. In concurring in such establishment, the Administrator shall find that the facility is not likely to result in violation of water or sediment quality standards or prevent the protection and propagation of a balanced, indigenous population of fish, shellfish and wildlife.

"(3) Not later than October 1, 1994, the Administrator shall review the operation of each confined disposal facility established pursuant to this section and assess the environmental consequences of continued operation of such facility. The Administrator shall terminate any future use of any existing facility based on a finding that continued operation of the facility is likely to result in violation of water or sediment quality standards or prevent the protection and propagation of a balanced, indigenous population of fish, shellfish and wildlife.

"(4)(A) Not later than October 1, 1994, the Administrator of the Environmental Protection Agency shall develop and implement management plans for confined disposal facilities not terminated pursuant to paragraph (3). Management plans shall be reviewed and revised every 5 years.

"(B) Management plans shall provide for monitoring of such facilities, including monitoring of—

"(i) water quality at the site and in the area of the site;

"(ii) sediment quality at the site and in the area of the site;

"(iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site;

"(iv) tissue of organisms living in the vicinity of the sites for potential bioaccumulation of toxic pollutants; and

"(v) such other conditions as the Administrator deems appropriate.

"(C) Management plans shall identify the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

"(D) The plan shall identify a schedule for review and revision of the plan which shall not be less frequent than five years after adoption of the plan and every five years thereafter.".

(2) Section 118(c)(11) of the Federal Water Pollution Control Act (33 USC 1254(c)(11)) is repealed.

(e) PERMIT REQUIREMENT.—Section 115 of the Federal Water Pollution Control Act (33 USC 1265) is amended by adding the following new subsection after subsection (g) and relettering remaining sections accordingly—

"(h) PERMIT REQUIREMENT.—(1) Beginning on October 1, 1994, any person disposing of dredge spoil shall obtain a permit specifying conditions for such disposal from the Administrator.

"(2) Permits issued pursuant to this subsection shall specify such conditions as are necessary to assure that disposal will be consistent with the management plan for a confined disposal facility.

"(3) Permits shall be issued for the term of the disposal activity, provided that no permit is issued for a period greater than six months.

"(4) Permits shall include such conditions concerning monitoring and assessment as are necessary to determine compliance with the permit.".

(d) RESPONSIBILITY OF THE ADMINISTRATOR.—(1) Section 115(c) of the Federal Water Pollution Control Act (33 USC 1265(c)) is amended by adding after "Secretary of the Army" the following "and the Administrator".

(2) Section 115(f) of the Federal Water Pollution Control Act (33 USC 1265(f)) is amended by adding after "Secretary of the Army" the following "and the Administrator".

REMEDIAL ACTION PLANS

SEC. 5. (a) MEMORANDUM OF UNDERSTANDING.—Section 118(f) of the Federal Water Pollution Control Act (33 USC 1268(f)) is amended by inserting after "Interagency Cooperation" the following "(1)" and adding at the end thereof the following new paragraph—

"(2) Upon the submittal of a Remedial Action Plan to the Program Office pursuant to paragraph (c)(3), the Administrator shall work with other appropriate Federal agencies including but not limited to those named in the stage II portion of the Remedial Action Plan, to develop a Federal Agency Memorandum of Understanding describing actions Federal agencies will take to support implementation of the plan for the area of concern. Such memorandum of understanding shall be submitted to the International Joint Commission in conjunction with the submission of the Remedial Action Plan.".

(b) REMEDIATION OF CONTAMINATED SEDIMENT.—Notwithstanding any other provision of law or regulation, any contaminated aquatic sediment site assessed under the hazard ranking system of the Comprehensive Environmental Response, Compensation and Liability Act which is part of a designated Area of Concern within the Great Lakes, or contributes pollutants to an area of concern, as of July 1, 1991 shall be awarded 10 points in such ranking and such points shall be in addition to any points which would otherwise be awarded to such site under such system.

(c) TECHNICAL CORRECTION.—Section 118(f) of the Federal Water Pollution Control Act (33 USC 1268(f)) is amended by deleting "1978" and inserting in lieu thereof "1987 and any subsequent amendments or agreements.".

LAKEWIDE MANAGEMENT PLANS

SEC. 6. Section 118(c)(4) of the Federal Water Pollution Control Act (33 USC 1268(c)(4)) is amended to read as follows—

"(4) LAKEWIDE MANAGEMENT PLANS.—(A) The Administrator shall submit to the International Joint Commission a Lakewide Management Plan for Lake Michigan not later than January 1, 1993 and proposed Lakewide Management Plans for the other Great Lakes not later than January 1, 1996. The Administrator shall publish final plans within one year of submittal to the International Joint Commission and begin implementation.

"(B) Lakewide Management Plans shall be consistent with the requirements of Annex 2 of the Great Lakes Water Quality Agreement, and shall include, at a minimum—

"(i) assess the environmental condition of the lake, including water and sediment quality and natural resources;

"(ii) identify the toxic pollutants exceeding water or sediment quality standards in the lake, describe the loadings of such pollutants to the lake, including conventional, non-conventional and toxic pollutants and identify the point and nonpoint sources of such pollutants;

"(iii) provide a comprehensive protection plan recommending specific actions to restore and maintain the chemical, physical, and biological integrity of the lake. Such a comprehensive protection plan shall include the specific measures to protect and maintain high quality waters and an identification of the reduction in loadings of pollutants identified in (ii) to assure the restoration and attainment of water and sediment quality standards, and the protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife and recreation in and on the water; and

"(iv) indicate the schedule for implementing recommended actions including the identification of the agencies and sources responsible for implementing the loading reductions, and the funding sources to support such implementation.

"(C) Lakewide Management Plans shall be developed in cooperation with the State or States bordering the lake including the public in those States, and with appropriate representatives of Canada and shall be developed in consultation with the Great Lakes Policy Committee.".

POLLUTION PREVENTION

SEC. 7. Section 118 of the Federal Water Pollution Control Act (33 USC 1268) is amended by adding after subsection (g) the following new subsection and relettering the remaining subsections accordingly—

"(h)(1) The Administrator, acting through the Great Lakes Program Office, and in coordination with the National Institute of Standards and Technology, and the Great Lakes States, shall establish a Great Lakes Pollution Prevention Technology Demonstration Program to increase the use of modernizing industrial pollution prevention technologies through technology demonstration in the Great Lakes region.

"(2) The Administrator shall, within one year of the date of enactment of this subsection, develop a list of modernizing toxic use and waste reduction technologies requiring demonstration. This list may include innovative production processes, and alternative products or raw materials that reduce, avoid or eliminate toxic or hazardous inputs or by-products.

(3) Any person with a permit to discharge to waters of the Great Lakes system pursuant to section 402 of this Act may participate in the demonstration program through—

(A) the installation of a pollution prevention technology from the list developed under this section to reduce pollutant discharges, or

(B) the installation of other pollution prevention technology that will reduce pollutant discharges to water by 75% from the discharges in the preceeding year without significant shifting of pollutants to other environmental media.

"(4) Any participant in the demonstration program shall—

"(A) be exempt from the requirement under Section 308 of this Act to pay a fee for the development of revised effluent guidelines; and

"(B) may be granted an additional year to comply with any new or revised effluent standards issued under this Act if, in the judgment of the Administrator, such extension is necessary and appropriate.

"(5) The Administrator shall establish a Pollution Prevention Extension Service to provide an active outreach effort to advise, inform and encourage pollution prevention by industrial discharges to the Great Lakes system.

"(6) The Administrator shall establish a Great Lakes Pollution Prevention Clearinghouse. The Clearinghouse shall utilize research from the EPA Risk Reduction Engineering Laboratory and shall provide information to municipal and industrial dischargers and sources of nonpoint pollution with information on methods, measures, techniques, and technologies to reduce toxics use.".

FISH ADVISORIES

SEC. 8. Section 118(c) of the Federal Water Pollution Control Act (33 USC 1265(c)) is amended by adding at the end thereof the following new paragraph—

"(12) The Administrator, in consultation with appropriate Federal and State agencies and other interested persons, shall publish contaminated finfish and shellfish consumption advisories for appropriate areas of the Great Lakes System and appropriate classes of fish and shellfish which are adequate to protect recreational and subsistence fishermen and pregnant and nursing women and their offspring. The Administrator may delegate to the States responsibility for issuance of advisories. Nothing in this paragraph shall preclude a State from establishing a more stringent basis for advising against fish or shellfish consumption. Copies of any advisories issued pursuant to this paragraph shall be distributed with fishing licenses in each Great Lakes State and be provided to appropriate public health officials in each State.".

GREAT LAKES POLICY COMMITTEE

SEC. 9. Section 118(e) of the Federal Water Pollution Control Act (33 USC 1268(e)) is amended to read as follows—

"(e) GREAT LAKES POLICY COMMITTEE.—(1) There is hereby established a Great Lakes Policy Committee to advise the Administrator and the heads of other Federal agencies identified in subsection (f) on development and implementation of programs for the protection of the Great Lakes.

"(2) Membership of the Committee shall include—

"(A) a representative of each Great Lakes State appointed by the Governor of such State;

"(B) three representatives of public interest or environmental organizations;

"(C) three representatives of industry;

"(D) three representatives of local government;

"(E) three representatives of the public.

"(3) The Director of the Great Lakes Program Office shall serve as ex-officio member of the Committee. The Great Lakes Program Office shall serve as staff to the Committee.

"(4) Members of the Great Lakes Policy Committee shall be appointed by the Administrator and shall serve not more than two terms of three years each. Members of the Committee shall select a Chairman on an annual basis.

"(5) The Committee shall advise the Administrator on all aspects of Great Lakes Program implementation including but not limited to allocation of funds, scheduling of programs and projects, establishment of research priorities, and oversight of State programs.".

GREAT LAKES RESEARCH PROGRAM

SEC. 10. (a) RESEARCH PROGRAM.—Section 118(d) of the Federal Water Pollution Control Act (33 USC 1268(d)) is amended to read as follows—

"(d) GREAT LAKES RESEARCH.—(1) Within one year of the date of enactment of the Great Lakes Protection Act of 1991 and every two years thereafter, the Administrator and the Administrator of the National Oceanic and Atmospheric Administration shall jointly submit to the Congress a three year plan for monitoring and research activities in the Great Lakes. These agencies shall coordinate with other federal agencies involved in Great Lakes research for purposes of developing the Research Plan. The Research Plan shall—

"(A) describe environmental trends and conditions in the Great Lakes and summarize water quality issues;

"(B) identify priority research needs related to protection of the Great Lakes, including activities needed to meet commitment in the Water Quality Agreement of 1987 and any subsequent agreements or amendments;

"(C) identify the research and monitoring activities of other countries, States, and other parties; and

"(D) identify the priority research and monitoring activities to be conducted by the EPA and NOAA to complement activities of other agencies and assure that priority needs are addressed to the fullest extent practicable.

"(2) There is established within the National Oceanic and Atmospheric Administration the Great Lakes Research Office. The Research Office shall be located in a Great Lakes State and shall, in coordination with the International Joint Commission, the EPA, and other appropriate federal agencies—

"(A) conduct appropriate research and monitoring activities provided for in the Great Lakes Research Plan;

"(B) establish a Great Lakes research exchange to facilitate the rapid identification, dissemination, and use of information concerning research on the Great Lakes; and

"(C) develop a comprehensive environmental data base for the Great Lakes system, including data on water quality, fisheries, and boita.".

STATE REVOLVING FUNDS

SEC. 11. (a) ELIGIBILITY.—(1) Section 601(a) of the Federal Water Pollution Control Act (33 USC 1381(a)) is amended by deleting "and" the first place it occurs and inserting after "section 320" the following "; and (4) for implementing Lakewide Management Plans and Remedial Action Plans developed pursuant to section 118 of this Act.".

(2) Section 603(c) of the Federal Water Pollution Control Act (33 USC 1383(c)) is amended by deleting "and" the first place it occurs and inserting after "section 320 of this Act" the following"; and (4) for implementing Lakewide Management Plans and Remedial Action Plans developed pursuant to section 118 of this Act.".

(b) PENALTIES.—Section 601 of the Federal Water Pollution Control Act (33 USC 1381) is amended by adding at the end thereof the following new subsection—

"(c) ADDITIONAL CAPITALIZATION FUNDS.—Notwithstanding any other provision of law, any penalty resulting from an enforcement action pursuant to section 309 of this Act involving a discharge into the Great Lakes System shall be deposited by the violator into the revolving loan fund established pursuant to this title of the State in which the discharge occurred. Funds deposited in State revolving loan funds pursuant to this subsection shall, to the extent practicable, be used to support implementation of plans, programs, and projects to benefit the water quality of the Great Lakes.".

AUTHORIZATIONS

SEC. 12. (a) AUTHORIZATION.—Section 118(h) of the Federal Water Pollution Control Act (33 USC 1268(h)) is amended by deleting all after "$25,000,000" in the first sentence and inserting in lieu thereof "$46 million in fiscal year 1992 and 1993, $48 million in fiscal year 1994, $50 million in fiscal year 1995, $52 million in fiscal year 1996, $54 million in fiscal year 1997 and $56 million in fiscal year 1998.".

(b) ALLOCATION.—The last sentence of section 118(h) of the Federal Water Pollution Control Act (33 USC 1268(h)) is amended to read as follows—

"Of the amounts appropriated each fiscal year—

"(A) 20 percent shall be reserved for development and implementation of plans and projects pursuant to paragraph (c)(3) of this section;

"(B) 20 percent shall be reserved for development and implementation of plans and projects pursuant to paragraph (c)(7) of this section;

"(C) 10 percent shall be reserved for implementation of pollution prevention activities pursuant to subsection (h) of this section; and

"(D) 10 percent shall be reserved for implementation of research identified in the Great Lakes Research Plan developed pursuant to subsection (d).".

SECTION BY SECTION ANALYSIS OF GREAT LAKES PROTECTION ACT

Section 1. Title/Table of Contents. This Act may be cited as the "Great Lakes Protection Act of 1991."

Section 2. Findings. The ecological, recreational and economic importance of the Great Lakes is identified and the need for additional efforts to protect the Lakes is described.

Section 3. Sediment Quality Criteria and Standards. Last year's Great Lakes Critical Programs Act (PL 101-596) directed EPA to publish numerical limits for contaminants in Great Lakes sediment adequate to protect health, aquatic life and wildlife from the bioaccumulation of toxins. This bill expands that provision by ensuring that not less than 20 such sediment criteria are developed for contaminants within a year and provides authority for publication of additional criteria. It also ensures that the new criteria take into account the toxic effects which could occur when different pollutants mix with sediment.

This section also requires Great Lakes States to adopt sediment standards within two years of publication of such criteria. The EPA is to adopt enforceable standards if States fail to act within two years. This new authority assures that sediment standards will be fully integrated into State and Federal water quality programs.

Section 4. Confined Disposal Facilities. This section limits the dumping of dredged spoils in the open waters of the Great Lakes. By October, 1994, dredged spoils will have to be disposed of in confined spoil disposal facilities (CDFs) *unless* the EPA Administrator finds the materials to be clean (meeting sediment and water quality standards) and posing no ecological or physical threat to the proposed water disposal area.

This section also tightens restrictions on the siting and management of CDFs. Currently, the Corps of Engineers builds and oversees such facilities. This section gives EPA the authority to close unsafe CDFs, to concur in the siting of new ones, and to develop long-term plans for assuring the safety of all CDFs.

Subsection (d) of this section provides that a person disposing of dredge spoil material at a confined disposal facility shall have a permit from the Administrator of EPA. Permits are to assure that disposal will occur consistent with a management plan for the facility. This section does not require a permit for open lake disposal.

Section 5. Remedial Action Plans. Remedial Action Plans are now being developed for 43 contaminated sites in the Great Lakes designated by the International Joint Commission as "Areas of Concern." 26 of these sites are on the U.S. side, 12 are in Canada, and five are shared by both countries.

The RAP process is currently the main clean-up planning process in the Great Lakes Basin involving a great deal of state and local participation. To clear up confusion over what different Federal agencies are supposed to do at these sites, this section requires EPA to adopt memorandum of understanding with other Federal agencies to delineate each agency's clean-up responsibilities under a given RAP.

This section also scores these contaminated aquatic sites higher under the hazard ranking system of Superfund, thereby making them a higher priority for clean-ups under that program.

Section 6. Lakewide Management Plans. The U.S.-Canada Great Lakes Water Quality Agreement required the U.S. and Canada (along with Great Lakes States, Provinces and the public) to develop Lakewide Management Plans to identify, manage and control critical pollutants in each of the Lakes. The Great Lakes Critical Programs Act (P.L. 101-596) required EPA and the Lake Michigan States to develop and implement a Lakewide Management Plan for Lake Michigan by January 1, 1994.

To ensure that plans for other Lakes are completed in a timely manner, this section sets a final deadline of January 1, 1997 for publishing final plans for each of the other Lakes. Furthermore, this section also spells out what should be included in such plans, including an overall assessment of the environmental quality of the lake; a description of pollutant loadings and their sources; and a comprehensive plan (including schedules and funding sources) for restoring and protecting the lake.

Section 7. Pollution Prevention. This section establishes a demonstration program to promote the use of industrial pollution prevention technologies in the Great Lakes region.

Those choosing to participate can select to install a technology from an EPA-generated list of pollution prevention technologies or they can install a different technology which reduces pollutant discharges by 75 percent from the preceding year. Eligible participants will be exempt from proposed fees for development or revision of effluent guidelines and may be granted an additional year to comply with any new effluent standards.

This section also establishes a pollutant prevention extension service in the Great Lakes.

Section 8. Fish Advisories. There are currently no uniform guidelines or standards for issuing fish advisories in the Great Lakes. This section authorizes EPA, in consultation with other Federal agencies and the States, to publish contaminated fish consumption advisories which will protect public health, including more sensitive populations (i.e. individuals who consume large quantities of fish, pregnant women, etc.) This section will not prohibit States from issuing more stringent advisories if they so desire.

Section 9. Great Lakes Policy Committee. This section establishes by statute a Great Lakes Policy Committee to provide independent and balanced advice to the EPA Administrator on Great Lakes programs and their implementation. The Committee will include representatives from the States, public interest groups, industry, local government and the general public. The Director of EPA's Great Lakes National Program Office, who currently chairs a similar committee, will serve as an ex-officio member of this new committee.

Section 10. Great Lakes Research Program. This section amends the existing Great Lakes research authority in the Clean Water Act to clarify that research plans for the Lakes are to be developed jointly by EPA and the National Oceanic and Atmospheric Administration, and in consultation with other appropriate Federal agencies currently involved in research on the Lakes.

Section 11. State Revolving Funds. This section will enable States to use their state revolving loan funds to implement Lakewide Management Plans and Remedial Action Plans. This section also requires that penalties assessed for Clean Water Act violations occurring in the Great Lakes area be deposited in the state revolving loan fund of the State where the violation occurred, and, to the extent practicable, be used to support programs benefitting the water quality of the Great Lakes.

Section 12. Authorizations. This section authorizes annual funding for the Great Lakes programs of between $46 and $56 million between fiscal year 1992 and 1998. This is a substantial increase above the existing authorization of $25 million for fiscal year 1991. This subsection also allocated not less than 20 percent for development and implementation of Remedial Action Plans and toxic pollutant demonstration projects. In addition, 10 percent of the funds are reserved for implementation of pollution prevention activities and research projects.

By Mr. KENNEDY (for himself and Mr. DODD):

S. 1499. A bill to reauthorize and revise certain provisions of the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

S. 1500. A bill to amend the title IX of the Higher Education Act of 1965 to enhance the quality and diversity of college and university faculty and to expand individual opportunity in graduate education; to the Committee on Labor and Human Resources.

OPPORTUNITIES FOR HIGHER EDUCATION

Mr. KENNEDY. Mr. President, education reform is an urgent priority for our Nation. The reauthorization of the Higher Education Act is an opportunity to revise and improve the current system to give more students the opportunity to achieve their full potential

Today, I am introducing two bills to help us reach these goals. The first will increase the maximum Pell grant from $3,100 to $4,500 and expand the number of eligible recipients. It will also insure that Pell grant recipients do not have their student aid reduced at the last minute.

During the past decade, the cost of a college education has risen dramatically. Most families do not have the financial resources to pay $20,000 a year, or more, to send a child to college. In the past, Pell grants have helped many lower and middle income students meet their college expenses. Now these students are increasingly being forced to rely on loans. The result is to put college education out of reach for many of the most promising students.

This legislation will renew our commitment to educational opportunity. By increasing the Pell grant, we are making a more realistic contribution to the cost of a college education. By expanding the number of eligible recipients, we are helping many hard working middle-class families meet the expenses of college.

The second bill will help qualified candidates from traditionally underrepresented groups earn doctoral degrees and enter the teaching profession at the college level. Graduate education programs, whether in the sciences or the humanities, are among the country's greatest strengths. These scholars are the guardians of our heritage and the pioneers of the Nation's future strength through their scholarship and research. They are also, at a time when we are increasingly concerned about the quality of primary and secondary education, the teachers of our children's teachers.

Yet, college and university faculties, and the graduate programs from which they draw, fall short of representing this Nation's diversity. Only 3 percent of all full time faculty members at American insitutions of higher learning are African-American, and only 2 percent are Hispanic. Less than 1 percent are American Indians. These statistics are not likely to improve in the near future. The number of African-Americans receiving doctorate degrees increased by only seven-tenths of 1 percent, or six individuals, between 1988 and 1989, and the number of Hispanics actually decreased by 4 percent.

The reauthorization of the Higher Education Act offers an opportunity to improve this situation. The legislation I am introducing will provide financial assistance to doctoral candidates from traditionally underrepresented groups, in return for a commitment to teach at a college or university once they have completed their degrees.

Some argue that such concerns about graduate study pale before the crisis in the Nation's schools, and that we should attend to their needs first. But a key part of the answer to improving elementary and secondary schools is improving access to higher education. We cannot expect students to take their full and rightful place in our educational system if there is a limit on their aspirations as learners and as scholars.

These two bills represent the most recent additions to a legislative package which also includes measures to simplify the financial aid system. This proposal simplifies the complex application forms that are a nightmare for milions of students to fill out. It also puts a cap on the inclusion of home equity in the aid process, in order to reduce the burden on homeowners trying to send their children to college.

In other legislation, I have also sought to address the excessive high school drop-out rate of minority students. As of 1989, only 55 percent of 18- to 24-year-old Hispanics completed high school. The comparable figure for African-Americans was 76 percent, and the rate for whites was 82 percent. These low rates mean lower college participation and more students who do not achieve their potential.

I recently introduced legislation to reverse this destructive trend by providing funds to schools districts and community-based organizations that operate early intervention programs to help at-risk students finish high school. In addition, the legislation gives these students an incentive to excel in high school by offering scholarships for college if they complete a rigorous core curriculum in high school.

The combination of early intervention programs and scholarships in this package of legislation will increase the likelihood that students will finish high school and go on to college. In the long run, we will all benefit from the contributions of these students to our schools, colleges, industry, and government.

I look forward to the testing of our initiatives, and to working with my colleagues to achieve the goals we share for the Nation's students and the Nation's future.

By Mr. BURNS (for himself, Mr. CONRAD, Mr. SHELBY, Mr. SIMPSON, Mr. MURKOWSKI, Mr. AKAKA, Mr. BAUCUS, Mr. DOMENICI, Mr. WALLOP, Mr. BROWN, Mr. CRAIG, and Mr. SYMMS):

S. 1501. A bill to amend the Reclamation Reform Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

RECLAMATION REFORM ACT

Mr. BAUCUS. Mr. President, I rise today to introduce the Reclamation Reform Act Amendments of 1991. This legislation will ensure the integrity of the reclamation program, stop circumvention of the law, break the deadlock over reclamation reform and provide for the continuance of traditional and legitimate farms and farming practices in the West. The balanced approach taken by this legislation addresses concerns about abuses of reclamation law while simultaneously protecting those reclamation water users and farmers who have fulfilled the requirements of reclamation law.

During the past several years, many legislative measures have been proposed in an attempt to eliminate alleged, potential and existing violations of reclamation law. Unfortunately, these legislative proposals, while directed at perceived violations of the law, would actually have had an adverse and harmful effect on many legitimate farmers and traditional farming practices in the West.

Farmers and farm water users in my State of Montana, and throughout the West, have been and are deeply concerned about alleged abuses of the reclamation program and strongly support the elimination of any intentional violation or evasion of the law. Farm water users have expressed their support of this legislation, which is specifically targeted at stopping identified abuses as well as any efforts to potentially circumvent the law, despite the fact that these amendments will simultaneously increase reporting burdens on legitimate farm water users.

My legislation takes a carefully aimed rifle approach to stopping abuses, rather than previously proposed shotgun approaches which would have harmed many legitimate farmers and farm families. In contrast, other legislative approaches have confronted the problem in a manner as indiscriminate as using a shotgun. Hitting the target and stopping violators was insured, but only at significant cost to many farm families and reclamation farm water users, with collateral damage and harmful impact to western farm communities.

Mr. President, the legislation I am introducing today, with the support of several of my colleagues, would significantly change reclamation law by limiting the availability of reclamation program benefits according to the types of relationships, practices, and agreements between certain farm operations. Specifically, this legislation will also place additional restrictions on the receipt of reclamation program benefits by minors, nonresidents aliens, trusts and trust beneficiaries, and certain types of farming operations.

Presently, nondependent minor children are eligible to receive non-full-cost water for their separately owned or leased landholdings. A perception exists that Federal reclamation ownership and pricing limitations could potentially be avoided by economically emancipating minor children and meeting current tax law dependency definitions. To prevent this perceived avoidance, this legislation establishes that the landholdings of unmarried, minor children will be attributed to their parents for pricing purposes, irrespective of the dependency definition under tax law.

In addition, under current reclamation law, nonresident aliens who otherwise would be prohibited from receiving Federal reclamation water benefits in their individual capacity, can avoid reclamation ownership restrictions by forming U.S. businesses. Because these businesses are subject to domestic laws and taxes, they can receive reclamation benefits even if some or all of the entity is owned by foreign residents. To eliminate the potential ability to circumvent the law, this legislation will require that all such entities pay full cost for water in proportion to any nonresident alien ownership.

Under current reclamation law, in some cases, economically independent landholding that are part of a common operation are not combined when determining the availability of reclamation program benefits. Critics of reclamation programs and agriculture have raised concerns that farms that are operated in cooperation with each other in any manner may be circumventing reclamation program benefit limitations.

To address this concern, to prohibit real or potential abuse of the law, and to assure that legitimate farming operations are protected, this legislation establishes a new "operation" definition which will combine landholdings which have common decisionmakers. Common decisionmaking will be presumed to exist if, for instance, a majority interest in two or more tracts of land is owned by the same person or persons, even in the absence of common land ownership. Such a definition will require a factual inquiry to determine whether lands are, in fact, being farmed or operated in common.

The proposed "operation" definition eliminates the possibility that individuals will be able to circumvent the law by holding an economic interest in different entities, and thus avoid the combination of landholdings for pricing purposes. However, legitimate farmers and farming practices such as those customary and traditional practices or activities involving cooperatives, processors, lenders, custom farmers, farm managers, crop lenders, and quality control realtionships and arrangements are protected by this legislation.

This legislation also establishes active farmer criteria used by the Department of Agriculture to determine eligibility for farm programs to also determine eligibility to receive reclamation program benefits. Under this criteria, farm families, neighbors, and farmers who share services, labor, management, equipment, and other resources which are vital to their operations can be assured continuation of their legitimate farming practices and reclamation benefits, but only if the mandated active farmer requirements are met. In contrast, passive investors will be required to pay full cost for water.

The legislation's new operation and active farmer requirements will eliminate possible circumvention of the law and insure that reclamation benefits flow only to legitimate farmers.

Critics of the reclamation program have focused their attention on the use of trusts to circumvent reclamation program limitations. This legislation specifically addresses this criticism and stops abuse and circumvention of reclamation law in this manner. Although present reclamation law subjects only the beneficiaries of a trust to ownership and pricing limitations, my legislation will extend these reclamation limitations to the trust itself. This directly responds to accusations that trusts are a means of avoiding reclamation program restrictions and effectively counters such criticism.

This legislation also addresses concerns regarding certification procedures, reporting requirements, and the penalty system. Owners and lessees of land served with Federal reclamation water must currently report and certify that they have complied with Federal reclamation law. The reporting and certification requirements are retained with modifications to reflect the amendments to reclamation law. To mitigate the impact of excessive penalties for inadvertent or excusable reporting errors, the legislation requires that a uniform penalty system be established based on the gravity of the error. However, in cases of intentional noncompliance or fraud, more severe monetary penalties and water delivery suspensions are explicitly established.

This legislation mandates significant changes to reclamation law. Farmers in the States served by reclamation projects are well aware that this legislation will result in certain adverse impacts on legitimate farms and farming operations throughout the West. As a result, farmers must be given reasonable opportunity to understand and comply with the new law and applicable regulations. In the past, technical, difficult regulations caused many of the compliance problems presently faced by farmers and districts. Due to the technical nature and complexity of the regulations, the Department of the Interior must be given a sufficient opportunity to issue the appropriate rules and regulations.

The effective dates and transition periods take into consideration the influences of planting cycles to insure that farmers are able to meet the new regulations without a major disruption in the middle of the year. This will also provide farmers with sufficient time to meet existing financial commitments before the full cost pricing and eligibility requirements take effect. This legislation establishes effective dates that are fair and equitable.

Mr. President, attempts to legislate reclamation reform have engendered a great deal of controversy, complex questions, and criticism of and by western water users. This legislation provides a responsible, efficient, and equitable resolution to this debate. This measure addresses these concerns, stops abuse or circumvention of reclamation law, but also ensures protection of legitimate farmers and farm families. I believe that this legislation provides the needed, balanced approach to this debate and will result in a long-term solution to the controversy that we have struggled with during the past several years.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1501

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Reclamation Reform Act of 1991".

SEC. 2. AMENDMENTS TO THE RECLAMATION REFORM ACT OF 1982.—The Reclamation Reform Act of 1982 (Act of October 12, 1982, 96 Stat. 1261, 1263) as amended is amended as follows:

(a) Section 202(4) is amended by adding at the end of this subsection the following sentence: "For purposes of the pricing limitation of Section 205 only, where a qualified recipient is an 'individual', such individual's landholding shall include the landholding of any unmarried child under the age of eighteen (18) years, regardless of the dependency status of the child under 26 U.S.C. 152.

(b) Section 202(6) is amended to read as follows:

"(6) The term 'landholding' means the total irrigable acreage of one or more tracts of land situated in one or more districts within the ownership or leasehold of an individual or legal entity which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding, the Secretary shall add to the landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that indirect landholding."

(c) Section 202 is amended by adding the following new subsections (8), (9), (10), (11) and (12) and renumbering the subsequent subsections accordingly:

"(8) The term 'nonresident alien' shall have the same meaning as set forth in Section 7701(b) of the Internal Revenue Code.

"(9) The term 'custom farmer' means an individual or legal entity who performs custom farming services, such as pesticide application, pruning, harvesting or other similar tasks, who does not bear a direct risk of loss in growing the crop.

"(10) The term 'farm manager' means an individual or entity acting directly or through employees who generally supervises farming operations on a landholding during the crop year, who does not bear a direct risk of loss in growing the crop and is not entitled to profits generated by the crop.

"(11) The term 'active farmer' means an individual, or legal entity acting through its employees or owners, which devotes at least five hundred (500) hours in a calendar year to activities benefiting some or all of the lands included within the landholding of such individual or legal entity, or who during the calendar year engages in activities with respect to such lands which are critical to the profitability of the farming enterprise conducted thereon.

"(12) The term 'operation' means:

"(a) All lands furnished with irrigation water as to which an individual or legal entity, which is not an owner or lessee, under all the facts and circumstances, makes the majority of the decisions or performs the majority of supervisory functions with respect to growing the crops on the lands that are furnished with irrigation water; or

"(b) All lands within common ownerships or common leaseholds through which any individual or legal entity owns or leases, directly or indirectly, with any other individual or entity, more than fifty percent (50%) of two (2) or more tracts of land and which are furnished with irrigation water.

"(c) The existence of any of the following shall not be considered in determining whether an operation exists:

"(1) A farm cooperative, processor, handler, packing operation, cotton gin, crop broker, seed company, water purveyor, or other similar organizations which are not entitled to profits generated by the crop which receives irrigation water.

"(2) An individual or legal entity who enters into a bona fide financial transaction with a land holder or operation involving land or crop loans, including, but not limited to, one who holds a security interest, crop mortgage, assignment of crop or crop proceeds or other interest in a crop or land solely for the purposes of obtaining repayment of a loan.

"(3) An individual or legal entity which enters into (or exercises rights under) a contract with a landholder or operation requiring quality control measures and/or the right to take control of farming operations in order to insure quality control.

"(4) Individuals or legal entities who use common equipment and/or labor.

"(5) A custom farmer or farm manager who provides custom farming or farm management services.

"(d) Full-cost pricing resulting from the application of this subsection or subsection 202(4) shall be phased in over three (3) years, that being thirty-three and one-third percent (33⅓%), sixty-six and two thirds percent (66⅔%), and one hundred percent (100%) of the difference between the applicable non-full-cost rate and the then existing full-cost rate for the first, second and third calendar years, respectively, following the effective date of these amendments."

(d) Section 203(b) is amended by inserting after the word "leased" whenever it appears the words "or operated."

(e) Section 205(a) is amended by inserting the following as subparagraph (1), and renumbering the remaining subparagraphs within section 205(a):

"(1) An operation in excess of nine hundred and sixty (960) acres of class I lands or the equivalent thereof."

(f) Section 205 is amended by adding new paragraphs (b) and (c), redesignating the existing paragraphs accordingly, and adding new section (f):

"(b) Notwithstanding the provisions of Section 205(a), lands of an operation which exceed nine hundred and sixty (960) acres of class I lands or the equivalent thereof, which are included in the landholding of an active farmer shall be eligible to receive irrigation water at less than full cost to the extent of such active farmer's otherwise unused entitlement as a qualified or limited recipient to receive irrigation water at less than full cost.

"(c) Notwithstanding the provisions of Section 205(b), an operation benefiting more than twenty-five (25) individuals shall, under no circumstances, be eligible to receive irrigation water at less than full cost on more than nine hundred and sixty (960) acres of class I lands or the equivalent thereof included within such operation."

"(f)(i) Notwithstanding any provision of this Act, a qualified or limited recipient which is a corporation, trust, estate or partnership and which has one or more nonresident aliens as a shareholder, beneficiary or partner directly or indirectly through other entities shall pay full cost for irrigation water in proportion to such shareholders, beneficiaries' or partners' beneficial interest in the assets of the recipient.

"(ii) The provisions of subsection (f)(i) above shall not apply for a four (4) year period after the effective date of these amendments to the benefical interest of a nonresident alien who held such interest on the date of enactment of this subsection or who received the same by gift or devise from such nonresident alien.

"(iii) To the extent the time period set forth in subsection (f)(ii) is not applicable, the provision of subsection (f)(i) shall not apply for a period of one (1) year to a nonresident alien who obtained such interest by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, or by devise."

(g) Section 206 is amended in its entirety by the following provisions:

"(a) As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in Section 203, each landowner, lessee and operation within such district whose total landholding westwide exceeds three hundred and twenty (320) acres shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this Act, including a statement of the number of acres leased, the term of any lease and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

"(b) The Secretary shall have the authority with respect to noncompliance in connection with reporting and certification forms to impose penalties not to exceed Five Hundred Dollars ($500.00) per year against the person or legal entity who is in violation for incidents of noncompliance based on errors, good faith questions of interpretation and unintentional omissions. In those cases where the Secretary determines that violations resulted from fraud or intentional noncompliance, the Secretary, in addition to other remedies available under law, is authorized to terminate water deliveries until compliance is achieved and impose a fine of up to Ten Thousand Dollars ($10,000.00) per year against the person or legal entity who is in violation. In each case, the Secretary shall collect the fines and penalties from the person or entity who is in violation.

"(c) The Secretary is directed to review all compliance violations identified prior to the effective date of these amendments. In the case of incidents of noncompliance based on errors, late submission of forms, good faith questions of interpretation, and unintentional omissions, in lieu of an assessment of full-cost, whether or not previously collected from the landholder or district, the Secretary shall impose penalties of up to Five Hundred Dollars ($500.00) per year against the person or legal entity who was in violation. Any amounts collected in excess thereof shall be refunded or credited to future payments of the district. The Secretary shall collect the fines and penalties from the person or legal entity who was in violation."

(h) Section 214(a) is struck in its entirety and the following language is inserted in place thereof and existing subsection (b) is redesignated as (e):

"(a) The ownership and pricing limitations of this Act and the ownership limitations in any other provision of Federal reclamation law shall not apply to an individual or corporate trustee acting in a fiduciary capacity for a beneficiary or beneficiaries.

"(b) The ownership and pricing limitations of this Act and the ownership limitations of any other provision of Federal reclamation law shall apply to a beneficiary of a trust in the same manner as any other individual.

"(c) The ownership and pricing limitations of this Act and the ownership limitations in any other provisions of Federal reclamation law shall not apply to lands which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the land served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title, provided the trust in which such lands are held was established on or before April 15, 1991. To the extent lands held in any such trust exceed nine hundred and sixty (960) acres of class I lands or the equivalent thereof, all lands held by such trust shall be deemed to be a single operation.

"(d) Trusts established subsequent to April 15, 1991 shall be deemed to be legal entities for purposes of Sections 202(6), 202(7) and 202(9)."

(i) Section 219 is amended by inserting at the beginning "(a)" and inserting the following new subsections:

"(b) The term 'operation' shall not apply to any landholding of a religious or charitable entity or organization, as defined by Federal law, which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands; provided that the entity or organization directly uses the proceeds of the lease only for charitable purposes; provided further that the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of Section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of Section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith."

(j) Section 224(e) is amended by adding the following:

". . . unless the party involuntarily acquiring such land previously sold such land subject to a covenant as provided in Section 209(f)(2), in which case said covenant shall continue in full effect for the balance of its original ten (10) year term."

(k) Section 224(i) is struck in its entirety and the following language is inserted in place thereof:

"(i) When the Secretary finds that any individual or legal entity subject to Reclamation law, including this Act, has not paid the required amount for irrigation water delivered to a landholding pursuant to Federal Reclamation law, including this Act, he shall collect from the individual or entity the amount of underpayment, which sum, together with the contract rate applicable to such landholder shall not exceed Sixty-Five Dollars ($65.00) per acre-foot, with interest accruing from the date the required payment was due until paid. The Secretary has authority to adjust this amount up to three percent (3%) per year based on project operation and maintenance costs. The interest rate applicable to underpayment shall be equal to the rate applicable to expenditures as provided in Section 203(3)(c).

"(j) Notwithstanding any other provison of law, any determination of noncompliance by the Secretary under this section or Section 206 shall be in accordance with Chapter 5 of Title 5 of the United States Code (relating to administrative procedure), subject to an adjudicatory hearing. No penalty shall be imposed by the Secretary on a landholder or operation for failure to comply with any provisions of this Act and the regulations established pursuant to this Act after one (1) year from the date of noncompliance unless such noncompliance was the result of fraud or intentional misrepresentation of fact by the landholder or operation. Upon a final determination being made, the Secretary may direct that irrigation water service to such individual or entity be terminated until the underpayment is paid in full.

"(k) Except to the extent that the right to receive or pay for irrigation water is modified after the effective date of this Act, the parties to any trust or agreement that has received or receives the approval of the Secretary pursuant to Federal reclamation law shall not be liable for any penalty or increased cost of irrigation water during the period for which such trust or agreement was approved or after said agreement is approved, unless such Secretarial approval was obtained as a result of fraud or intentional misrepresentation of fact by the party requesting that approval.

"(l) The Secretary shall promulgate rules and regulations which provide for reasonable time periods for Secretarial consideration of sales price approval applications, trust agreements, elections, and other arrangements submitted for approval. Such applications or agreements shall be deemed approved if Secretarial consideration is not completed within said time periods. All disapprovals shall be provided in writing to the landholder and the landholder's district and shall be based on good cause and not merely for insufficient time for such Secretarial consideration."

(l) Insert new Section 229 to provide as follows and renumber subsequent sections accordingly:

"SEC. 229. The Secretary and Secretary of Agriculture shall negotiate and execute a memorandum of understanding or other appropriate instrument to permit the Secretary access to and the use of information collected or maintained by the Department of Agriculture which would aid enforcement of the ownership and pricing limitations of Federal reclamation law, including this Act."

(m) Section 230 is amended by striking the number "230" and substituting therefore the number "231."

SEC. 3. EFFECTIVE DATE.—Within six (6) months of the enactment of this Act, the Secretary shall promulgate and publish in the Federal Register final regulations implementing the amendments made by this Act. The provisions of this Act shall become effective the next January 1st following publication of such final regulations, if at least ninety days have elapsed since such regulations became final. If ninety days has not elapsed then the provisions of this Act shall become effective the second January 1st following the publication of the final regulations.

Mr. WALLOP. Mr. President, it is with some reluctance that I join with my colleagues in introducing this legislation to amend the Reclamation Reform Act. I understand why this legislation is being introduced and I want to specifically commend Senator BURNS, the ranking member on the Subcommittee on Water and Power for his leadership and his willingness to tackle a thankless task. I also want to commend Senator CONRAD, the vice chairman of the subcommittee for his efforts and his involvement both last Congress and in this session. It was his questioning during the hearings last Congress, as much as anything else, which brought home to many in the Senate just how dangerous the legislation was last year and the immediate threat which it posed to traditional farming practices in the West and the direct assault which it made on the family farmer.

I speak from some experience on this issue since I was the floor manager of the original Reclamation Reform Act in 1982. I remember the debates and I remember quite clearly how both the Senate and the House agreed that we were not going to try to limit farms or farming operations. We understood the pitfalls which lay down that route and quite deliberately decided not to proceed. What we did agree on, however, was an economic benefit test which would distinguish legitimate operations from disguised leases. The test was guite simple and I see no reason why an aggressive application of that test would not have dealt with any real abuses.

Unfortunately, there are those who simply believe that farming itself is an abuse and who would prefer to end irrigated agriculture. They either fail to understand the social fabric of the West and the way generations of neighbors work together or they find such patterns distasteful. It was clear from the testimony last year that there were groups fully prepared to charge full cost if neighbors shared equipment or parents helped their children. The assault comes from those whose hands never touched the soil and whose only contact with agriculture comes at the supermarket.

I do not believe that amendments are warranted or needed. The 1987 amendments should have satisfied any lingering concerns. Aggressive enforcement by the Department should have dealt with any real abuses or attempts to evade the acreage limitations. Unfortunately, the problem is not abuses of the law but abuses of the process. Those who did not achieve their social agenda of ending family farming have adopted a scorched earth policy of holding Federal reclamation projects hostage. The hostage taking, even of projects such as Buffalo Bill which would have significant environmental benefits, is the reason for this legislation, not any widespread evasion or abuse of reclamation law.

There is not a lot I can add to the discussions which took place last year. I remain unconvinced that we need to do any legislation at all except that the Department in my view has not been as aggressive as it should have been in enforcing existing law. Given the hostage taking which is going on, we will probably be forced to enact something. My colleagues should not assume, however, that whatever we enact will in any way stop the assault on the West from those Eastern interests who simply want to end irrigated agriculture west of the 100th meridian. According to the February 1990 report "Federal Water Project Costs" prepared by Truman Price & Alex Radin, Wyoming repays 84 percent of all Federal expenditures on water projects. That is not just the Bureau of Reclamation, but all water project costs. Keep that in mind when you consider that New Jersey and New York repay nothing. Zero.

It's wonderful to listen to those who soak the taxpayers to drain lands for agriculture under the guise of flood control complain about acreage limitations in the West. It is almost funny to watch them formulate legislation to prevent neighbors from helping neighbors, to stop fathers from helping children, and to block children from helping each other while they dredge and fill at the public expense for the benefit of their local commercial interests with no thought of repayment. Remember that cost sharing is not the same thing as repaying the Federal share. If you look at the legislation which was being pushed last year, think long and hard over phrases such as "the mere sharing of equipment or labor among neighbors or family members shall not by itself create an inference that a joint farming operation * * * exists." Doesn't that make you comfortable? What business is it of the Federal Government if neighbors share equipment so long as they keep their economic interests separate?

I commend those who worked so long and hard on this legislation in an effort to find some formula which would break the logjam on projects. I suggest, however, that we will need to be very careful over any attempt to regulate operations rather than acreage. If we get into the trap of defining the reclamation program in terms of operations, the first victim will be the family farmers and those who actually work the land. The lawyers and dentists in New York and San Francisco will be able to buy land and hire managers, but poor old dad will be out of luck if he tries to keep Johnny's farm going while Johnny is off in the gulf defending the country. Johnny will come marching home with his purple heart to find a bill for full cost because his father or brother or neighbor ran his farm while he was off serving his country.

I am also concerned with attempts to retroactively eliminate trusts. As a result of the 1987 amendments, we required that trusts be irrevocable. The Secretary has approved a variety of trusts and the land has been divested. What is being proposed is a new and pernicious form of "Gotcha." Now that the land is beyond recall, we will sock the trusts with full cost and still attribute the land held for a minor child back to the parents. Now that we have them locked in, we will force the land to be sold to nonfamily members. Isn't it a wonderful concept that a parent can put land in an irrevocable trust for strangers but not for his own children?

I remember of hearing in 1987 when Congressman MILLER testified that the legislation which he had sponsored on amendments to the Reclamation Reform Act was not intended to affect family farming arrangements. He stated emphatically and clearly that.

> If I might just for a second, let me make it clear that Congressman Coelho's bill and my bill would allow for farm management arrangements so that families that have alienated their land to the children bring that back together could farm that as one operation, recognizing that the economic entities are in fact separable and that they are irrevocable. It allows for that, because of what the law says. It talks about ownership. The law only talks about ownership. The whole purpose was to get away from leases.

That was then, this is now. Time passes and a new assault commences.

I support this legislation because it fairly and clearly addresses the concerns which have been raised. I think that several provisions, especially those which will ease some of the reporting burdens on small farms, are improvements. The effort to adjust penalties is also a useful provision. The concept if actively engaged is an innovative approach and may help mitigate the impact of the changes. Although this legislation will have minimal impact on Wyoming, except for the relief granted small farms, I do not want to take a strictly parochial approach. I am concerned about the impact of any changes on farmers in Idaho, Montana, the Dakotas, Nebraska, Kansas, Arizona, and elsewhere. Both Senator BURNS and Senator CONRAD should be commended for their leadership and the knowledge which they bring to this issue. I think this is a valiant effort and I am pleased to cosponsor the measure. Assuming that any amendments to reclamation reform will have to be enacted to end the hostage taking, I think that this legislation is both responsible and realistic.

ADDITIONAL COSPONSORS

S. 141

At the request of Mr. DASCHLE, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. INOUYE], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 200

At the request of Mr. PRYOR, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 200, a bill to amend the Internal Revenue Code of 1986 to exclude small transactions from broker reporting requirements, and to make certain clarifications relating to such requirements.

S. 311

At the request of Mr. ROTH, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 668

At the request of Mr. McCAIN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 668, a bill to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations.

S. 722

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only 1 class of stock.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 971

At the request of Mr. DeCONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 1125

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 1125, a bill to provide incentives to health care providers serving rural areas, to provide grants to county health departments providing preventative health services within rural areas, to establish State health service corps demonstration projects, and for other purposes.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

S. 1157

At the request of Mr. DASCHLE, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. INOUYE], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1200

At the request of Mr. BURNS, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1200, a bill to advance the national interest by promoting and encouraging the more rapid development and deployment of a nationwide, advanced, interactive, interoperable, broadband communications infrastructure on or before 2015 and by ensuring the greater availabililty of, access to, investment in, and use of emerging communications technologies, and for other purposes.

S. 1231

At the request of Mr. BENTSEN, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1231, a bill to amend title XVIII of the Social Security Act to provide for coverage of colerectal screening examinations and certain immunizations under part B of the Medicare Program, and for other purposes.

S. 1245

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1300

At the request of Mr. ROTH, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1300, a bill to minimize the adverse effects on local communities caused by the closure of military installations.

S. 1398

At the request of Mr. REID, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. CRAIG], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

SENATE JOINT RESOLUTION 18

At the request of Mr. ROTH, his name was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Vermont [Mr. JEFFORDS], the Senator from North Dakota [Mr. CONRAD], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. DOLE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Joint Resolution 173, a joint resolution designating 1991 as the 25th anniversary year of the formation of the President's Committee on Mental Retardation.

SENATE JOINT RESOLUTION 174

At the request of Mr. GRAHAM, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Joint Resolution 174, a joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month."

AMENDMENT NO. 734

At the request of Mr. HELMS, the names of the Senator from New Hampshire [Mr. SMITH] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of amendment No. 734 proposed to H.R. 2622, a bill making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes.

SENATE RESOLUTION 155—DESIGNATING THE WEEK OF AUGUST 18, 1991 THROUGH AUGUST 24, 1991, AS NATIONAL SADDLEBRED HORSE WEEK

Mr. FORD (for himself, Mr. McCONNELL, Mr. SASSER, and Mr. GORE) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 155

Whereas in 1991, the American Saddlebred Horse Association, the oldest registry in the United States for an American breed of horse, is celebrating its 100th anniversary, having been founded in Louisville, Kentucky, in 1891;

Whereas the American Saddlebred Horse Association, presently located in the Kentucky Horse Park in Lexington, Kentucky, represents the American Saddlebred Horse, a breed of horse with a development that parallels the historic origins of the United States;

Whereas the American Saddlebred Horse, bred by English colonists as comfortable riding horses and referred to as "Kentucky Saddlers", were the preferred cavalry mounts during the Civil War;

Whereas today there are more than 75,000 living pedigree American Saddlebred horses on record at the American Saddlebred Horse Association;

Whereas the breed is heralded internationally as the ultimate show horse, demonstrating animation, brilliance, and grace at 3 and 5 gaits, as well as excelling as a pleasure and driving horse;

Whereas there are more than 7,000 active members of the American Saddlebred Horse Association and 56 affiliated American Saddlebred Horse Association Charter Clubs that exhibit the breed at an estimated 1,000 annual horse shows, fairs, and special events throughout the United States, Canada, Australia, and Europe; and

Whereas the American Saddlebred Horse Association will be holding a "Centennial Celebration" for thousands of members and spectators during the week of the Kentucky State Fair World Championship Horse Show, the Saddlebred sport's premier event: Now, therefore, be it

Resolved, That in recognition of the centennial year of the American Saddlebred Horse Association and of the role played by this distinguished breed in the history and growth of our great Nation, the week of August 18, 1991, through August 24, 1991, is designated as "National American Saddlebred Horse Week."

Mr. FORD. Mr. President, it gives me great pleasure, along with my colleagues Senators MCCONNELL, GORE, and SASSER, to introduce a resolution designating the week beginning August 18, 1991, as "National American Saddlebred Horse Week"—honoring the 100th anniversary of the National American Saddlebred Horse Association.

Founded in 1891 in Louisville KY, the American Saddlebred Horse Association is the oldest registry in the United States for an American bred horse. However, the history of the horse itself dates back to the 17th century as North America was colonized by British colonists. These all-purpose horses played a major role in the settlement of early America. The development of the breed parallels the historic development of America, evolving to present standards by the time of the Civil War.

In fact, the American saddle horse gained fame as a breed during the Civil War. Saddlebreds served as the mounts of many famous generals; Lee, Grant, Sherman, and Stonewall Jackson.

Due to their heightened popularity and commercial value, breeders conceived the idea of the formation of a breed association and registry. The first breed association of its kind in the United States, the American Saddlebred Horse Association formulated pedigrees and rules for the registry in 1891.

Today, 100 years later, we can reflect on the breed's rich and proud history. The saddlebred is truely a unique, remarkable horse. It is commonly considered the most impressive of all breeds, and many regard it as the most beautiful horse existing in the world today. Above all, they are highly intelligent, people oriented horses with endearing personalities, making them one of the most popular horses in America today.

Mr. President, as we honor the centennial anniversary of the American Saddlebred Horse Association, I would like to recognize the Kentucky members of the association who have worked tirelessly to prepare Kentucky and the Nation for the centennial anniversary. With their enthusiasm and dedication, many have been enlightened by the evolution of the American saddlebred horse, truely "The Horse America Made."

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATION ACT, FISCAL YEAR 1992

HELMS (AND THURMOND) AMENDMENT NO. 780

Mr. HELMS (for himself and Mr. THURMOND) proposed an amendment to the bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes, as follows:

At the appropriate place, add the following new section:

SEC. . (1) Pursuant to its authority under section 994 of title 28, United States Code, the Sentencing Commission shall promulgate guidelines, or amend existing or proposed guidelines as follows:

(a) guideline 2G2.2 to provide a base offense level of not less than 15 and to provide at least a 5 level increase for offenders who have engaged in a pattern of activity involving the sexual abuse of exploitation of a minor.

(b) guideline 2G2.4 to provide that such guideline shall apply only to offense conduct that involves the simple possession of materials proscribed by chapter 110 of title 18, United States Code and guideline 2G2.2 to provide that such guideline shall apply to offense conduct that involves receipt or trafficking (including, but not limited to transportation, distribution, or shipping);

(c) guideline 2G2.4 to provide a base offense level of not less than 13, and to provide at least a 2 level increase for possessing 10 or more books, magazine, periodicals, films, video tapes or other items containing a visual depiction involving the sexual exploitation of a minor;

(d) section 2G3.1 to provide a base offense level of not less than 10;

(2)(a) Notwithstanding any other provision of law, the Sentencing Commission shall promulgate the amendments mandated in subsection (1) by November 1, 1991, or within 30 days enactment, whichever is later. The amendments to the guidelines promulgated under subsection (1) shall take effect November 1, 1991, or 30 days after enactment, and shall supercede any amendment to the contrary contained in the amendments to the sentencing guidelines submitted to the Congress by the Sentencing Commission on or about May 1, 1991.

(b) The provisions of section 944(x) of title 28, United States Code, shall not apply to the promulgation or amendment of guidelines under this section.

DOLE (AND OTHERS) AMENDMENT NO. 781

Mr. DOLE (for himself, Mr. MITCHELL, Mr. HELMS, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill H.R. 2622, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Notwithstanding any other provision of law, a State shall, not later than 1 year after the date of enactment of this Act, certify to the Secretary that such State has in effect regulations, or has enacted legislation, to adopt the guidelines issued by the Centers for Disease Control concerning recommendations for preventing the transmission, by health care professionals, of the human immunodeficiency virus and the hepatitis B virus to patients during exposure prone invasive procedures. Such regulations or legislation shall apply to health professionals practicing within the State and shall be consistent with Centers for Disease Control guidelines and Federal law. Failure to comply with such guidelines, except in emergency situations when the patient's life is in danger, by a health care professional shall be considered as the basis for disciplinary action by the appropriate State licensing agent.

(b) Except as provided in subsection (c), if a State does not provide the certification required under subsection (a) within the 1-year period described in such subsection, such State shall be ineligible to receive assistance under the Public Health Service Act (42 U.S.C. 301 et seq.) until such certification is provided.

(c) The Secretary of Health and Human Services shall extend the time period described in subsection (a) for a State, if—

(1) the State has determined not to promulgate regulations to adopt the guidelines referred to in subsection (a); and

(2) the State legislature of such State meets on a biennial basis and has not met within the 1-year period beginning on the date of enactment of this Act.

DECONCINI AMENDMENT NO. 782

Mr. DECONCINI proposed an amendment to amendment No. 734 proposed by Mr. HELMS to the bill H.R. 2622, supra, as follows:

Strike the first seven lines of amendment no. 734; insert at the beginning of the amendment, ": *Provided, That*"; and strike the period at the lend of the amendment and insert in lieu thereof, as semicolon.

DECONCINI AMENDMENT NO. 783

Mr. DECONCINI proposed an amendment to amendment No. 742 proposed by him to the bill H.R. 2622, supra, as follows:

Strike "$288,000,000" and insert in lieu thereof "$301,000,000".

DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND SUNDRY INDEPENDENT AGENCIES, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATION ACT, FISCAL YEAR 1992

SMITH AMENDMENT NO. 784

Mr. SMITH proposed an amendment to the bill (H.R. 2519) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, as follows:

Beginning after the word "notwithstanding" on page 31, line 11, strike all through line 18 and insert in lieu thereof the following: "any other provision of this act to the contrary, $72,800,000 of the funds appropriated pursuant to this paragraph shall be expended for medical care by the Veterans Health Administration.".

MIKULSKI AMENDMENT NO. 785

Ms. MIKULSKI proposed an amendment to the bill H.R. 2519, supra, as follows:

Beginning on page 104, line 17, strike all after "Sec. 520." through line 2 on page 105, and insert in lieu thereof the following:

"Notwithstanding any other provision of law.—

"(a) prices for drugs and biologicals paid by the Department of Veterans Affairs, and prices for drugs and biologicals on contracts administered by the Department of Veterans Affairs, shall not be used to calculate Medicaid rebates paid by drug and biological manufacturers; and

"(b) the Secretary of Veterans Affairs shall shall attempt to negotiate new contracts, or renegotiate current contracts, for drugs and biologicals, including those contracts for drugs and biologicals utilized or administered by the Department of Veterans Affairs which are listed in Federal Supply Classification (FSC) Group 65 of the Federal Supply Schedule, with the view toward achieving a price comparable to, or lower than, the price charged the Department of Veterans Affairs by the manufacturer on September 1, 1990, increased by the fiscal year 1991 medical consumer price index, as determined by the Secretary; and

"(c) the Secretary shall provide a report by June 30, 1992, to the House and Senate Veterans' Affairs Committees, the House and Senate Appropriations Committees, the House Energy and Commerce Committee, and the Senate Finance Committee, on the percentage of price increase to the Department from September 1, 1990, to a date 60 days prior to the date of the report, for each drug and biological listed in FSC Group 65.".

MCCAIN AMENDMENT NO. 786

Ms. MIKULSKI (for Mr. MCCAIN) proposed an amendment to the bill H.R. 2519, supra, as follows:

Page 68, line 22, before the last semicolon, insert: "and from which funds up to one-half of one percent may be made available by the Administrator for direct grants to Indian tribes for construction of wastewater treatment facilities.".

DECONCINI AMENDMENT NO. 787

Ms. MIKULSKI (for Mr. DECONCINI) proposed an amendment to the bill H.R. 2519, supra, as follows:

SEC. . GENERAL ACCOUNTING OFFICE STUDY OF FHA MUTUAL MORTGAGE INSURANCE FUND.

The General Accounting Office (GAO) shall prepare and submit to Congress no later than April 1, 1992, a study of the actuarial soundness of the Federal Housing Administration's single family mortgage insurance program and the solvency of the Mutual Mortgage Insurance Fund (MMIF). The study using the latest reliable data available shall consider the extent to which the following factors were analyzed by the 1990 Price Waterhouse study of the MMIF, how the analysis of these factors might be improved, and how any appropriate modifications to the study's analysis of these factors or other factors identified by GAO would affect Price Waterhouse's conclusions regarding the actuarial soundness and the net worth of the MMIF and the ability of the MMIF to meet the capital ratio targets established in the Omnibus Budget Reconciliation Act of 1990. These factors include:

The actuarial performance of loans insured by the FHA during the years considered by Price Waterhouse, including the 1986 and 1987 books of business. Specifically, the overall default rates and claims (loss) experience of the loans considered and what the experience implies regarding the actuarial soundness of the MMIF.

The effect of the Mortgagor Equity rule issued by HUD, which limits the amount of closing costs that can be financed with a FHA mortgage to 57 percent of the total amount of allowable closing costs, on the actuarial status of the MMIF, default rates of FHA borrowers, the relative impact on purchasers of homes at various price levels, and the ability of potential FHA borrowers to purchase homes.

The effect of underwriting changes made by the Federal Housing Administration since 1986.

The effect of increasing the maximum mortgage amount that can be insured under the FHA single family mortgage insurance program.

The impact on the propensity of borrowers with mortgages currently insured by the FHA to refinance their existing mortgages with FHA insurance, given the annual premium requirements established by the Omnibus Budget Reconciliation Act of 1990, and the consequences for the actuarial soundness of the MMIF of a policy to allow "streamlined refinancings" whereby the borrower would not be required to pay an annual premium.

FHA's accounting method for deferring and amortizing the MMIF single-family one-time premium revenue.

The valuation of delinquent loans for loss reserve accounting purposes. Assumptions regarding the rate of home price appreciation.

DECONCINI AMENDMENT NO. 788

Ms. MIKULSKI (for Mr. DECONCINI) proposed an amendment to the bill H.R. 2519, supra, as follows:

At the appropriate place in the bill, insert the following new undesignated paragraph:

For purposes of the United States Housing Act of 1937, members of the Pascua Yaqui tribe who reside in Guadalupe, Arizona, shall be considered (without fiscal year limitation) as residing on an Indian reservation or other Indian area.

MOYNIHAN AMENDMENT NO. 789

Ms. MIKULSKI (for Mr. MOYNIHAN) proposed an amendment to the bill H.R. 2519, supra, as follows:

On page 64, line 24, immediately after the colon, insert the following: "*Provided further*, That not less than $2,900,000 shall be made available, by transfer to the Council on Environmental Quality Management Fund, for use by the Office of the Director of the National Acid Precipitation Assessment Program, in implementing the requirements of section 103(j) of the Clean Air Act, and of such amount transferred, not less than $1,400,000 shall be available only for implementing section 103(j)(3)(B) of the Clean Air Act.".

CRANSTON (AND RIEGLE) AMENDMENT NO. 790

Ms. MIKULSKI (for Mr. CRANSTON, for himself and Mr. RIEGLE) proposed an amendment to the bill H.R. 2519, supra, as follows:

Insert at the appropriate place in the bill:

Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting before the period in the first sentence the following, "or other individuals and entities expressly approved by HUD." This amendment shall be effective only for fiscal year 1992.

MURKOWSKI (AND STEVENS) AMENDMENT NO. 791

Ms. MIKULSKI (for herself, Mr. MURKOWSKI, and Mr. STEVENS) proposed an amendment to the bill H.R. 2519, supra, as follows:

At the appropriate place add the following new section:

SEC. . ESTABLISHMENT OF REGIONAL OFFICE.

The Administrator of the Environmental Protection Agency shall establish within the Environmental Protection Agency an eleventh region, which will be comprised solely of the State of Alaska, and a regional office located therein.

CRANSTON AMENDMENT NO. 792

Ms. MIKULSKI (for Mr. CRANSTON) proposed an amendment to the bill H.R. 2519, supra, as follows:

Insert at the appropriate place the following new subsections:

SEC. . EXTENSION OF AUTHORITY.

Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking "18-month period" and inserting "30-month period".

SEC. . RETROACTIVITY.

If any administrative approval of any housing subdivision is made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act and otherwise is made in accordance with the provisions of section 535(b) of the Housing Act of 1949, the approval is hereby approved and shall be considered to have been lawfully made.

MIKULSKI AMENDMENT NO. 793

Ms. MIKULSKI proposed an amendment to the bill H.R. 2519, supra, as follows:

On page 65, line 18, before the end of the sentence insert the following new proviso: "*Provided further*, That of the amount provided under this heading, up to $1,000,000 shall be available for the Chemical Safety and Hazard Investigation Board, as authorized by the Clean Air Act Amendments of 1990".

WIRTH (AND OTHERS) AMENDMENT NO. 794

Mr. WIRTH (for himself, Mr. KERREY, Mr. METZENBAUM, Mr. CONRAD, Mr. WELLSTONE, Mr. ROCKEFELLER, Mr. SIMON, Mr. BRYAN, Mr. DASCHLE, and Mr. WOFFORD) proposed an amendment to the bill H.R. 2519, supra, as follows:

On page 103, between lines 21 and 22, insert the following:

(c) AVAILABILITY OF EXAMINATION REPORTS.—

(1) PUBLIC AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or of a holding company of such institution, performed during the 5-year period preceding the failure of the institution.

(2) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation, the Federal Savings and Loan Insurance Corporation, or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in paragraph (1) shall be published and made available to the public.

(3) APPLICABILITY.—The requirements of paragraph (1) shall apply to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation.

KERREY AMENDMENT NO. 795

Mr. KERREY proposed an amendment to amendment No. 794 proposed by Mr. WIRTH to the bill H.R. 2519, supra, as follows:

Beginning with page 1, line 5, strike through the end of the amendment and insert the following:

(A) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public reports of all examinations of each insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act, resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or of a holding company of such institution, reformed during the 5-year period preceding the failure of the institution.

(2) PROHIBITION OF CONFIDENTIAL SETTLEMENTS.—Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation, the Federal Savings and Loan Insurance Corporation, or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in paragraph (1) shall be published and made available to the public.

(3) APPLICABILITY.—The requirements of paragraph (1) shall apply to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation.

(d) PUBLIC DISCLOSURE CONCERNING CERTAIN FSLIC TRANSACTIONS.—The Board of Directors of the Resolution Trust Corporation shall make available to the public not later than October 1, 1991, the draft version of a report prepared for the Oversight Board of the Resolution Trust Corporation and the Congress in accordance with section 21A(b)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(B)) that identifies by name all bidders and their employers, as well as all Federal employees and officials, involved in the Federal Savings and Loan Insurance Corporation's Southwest Plan transactions and Oklahoma Plan transactions.

DOLE AMENDMENT NO. 796

Ms. MIKULSKI (for Mr. DOLE) proposed amendment to the bill H.R. 2519, supra, as follows:

On page 31, line 18, insert before the period: "including $500,000 for the city of Kansas City, Kansas to operate a social service center".

On page 77, line 4, insert before the period: ", notwithstanding section 201 of P.L. 100-707, including $1,155,000 to install new sirens in Kansas with a twenty-five percent local match in towns under 5,000 and a fifty percent local match in towns over 5,000.".

DECONCINI AMENDMENT NO. 797

Ms. MIKULSKI (for Mr. DECONCINI) proposed an amendment to the bill H.R. 2519, supra, as follows:

SEC. . GENERAL ACCOUNTING OFFICE STUDY OF THE FEDERAL HOUSING ADMINISTRATION'S MUTUAL MORTGAGE INSURANCE FUND.

The General Accounting Office shall prepare and submit to Congress no later than April 1, 1992, a study of the actuarial soundness of the Federal Housing Administration's single family mortgage insurance program and the solvency of the Mutual Mortgage Insurance Fund. The study, using existing studies (including the study entitled "An Actuarial Review of the Federal Housing Administration's Mutual Mortgage Insurance Fund") and employing the latest reliable data available, shall analyze the actuarial soundness of the Mutual Mortgage Insurance Fund and the ability of the Mutual Mortgage Insurance Fund to meet the capital ratio targets established in the Omnibus Budget Reconciliation Act of 1990 under various economic and policy scenarios. Factors considered in the analysis shall include, but shall not be limited to, the following:

The actuarial performance of all cohorts of loans insured by the Mutual Mortgage Insurance Fund, including all available post-1985 books of business. Specifically, the overall default rates and claims (loss) experience of these loans should be considered.

The effect of the Mortgagor Equity rule issued by the Department of Housing and Urban Development, which limits the amount of closing costs that can be financed with a Federal Housing Administration mortgage to 57 percent of the total amount of allowable closing costs, on the actuarial status of the Mutual Mortgage Insurance Fund, default rates of Federal Housing Administration borrowers, the relative impact on purchasers of homes at various price levels, and the ability of potential Federal Housing Administration borrowers to purchase homes.

The effect of underwriting changes made by the Federal Housing Administration since 1986.

The effect of the increase in the insurable maximum mortgage amount that was made permanent in the National Affordable Housing Act and the effect of further increasing the maximum mortgage amount.

The impact of a policy to allow "streamlined refinancings" whereby the borrower would not be required to pay an annual premium.

The Federal Housing Administration's accounting method for deferring and amortizing the Mutual Mortgage Insurance Fund single-family one-time premium revenue.

The valuation of delinquent loans for loan loss reserve accounting purposes.

The impact of various assumptions regarding the rate of real home price appreciation and mortgage interest rates.

The effect of various economic conditions, including favorable, moderate, and adverse conditions, on the ability of the Mutual Mortgage Insurance Fund to build adequate capital levels.

METZENBAUM AMENDMENT NOS. 798 AND 799

Mr. METZENBAUM proposed two amendments to the bill H.R. 2519, supra, as follows:

AMENDMENT NO. 798

At the appropriate place, insert the following:

SEC. . EXTENSION OF PERIOD APPLICABLE TO SINGLE FAMILY HOUSING.

(a) IN GENERAL.—Section 21A(c)(2)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(2)(B)) is amended by striking "3-month" each place it appears and inserting "5-month".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to eligible single family properties approved by the Resolution Trust Corporation on or after the date of enactment of this Act.

AMENDMENT NO. 799

Insert on page 95, after line 12, the following:

The Office of Inspector General of the Resolution Trust Corporation shall review by September 30, 1993, each of the agreements described in section 21A(b)(11)(B) of the Federal Home Loan Bank Act and determine whether there is any legal basis sufficient for rescission of the agreement, including but not limited to, fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for rescission of the agreement. After such review has been completed, and based upon the information available to the Inspector General, the Inspector General shall certify its findings to the Resolution Trust Corporation and to the Congress.

MIKULSKI AMENDMENT NO. 800

Ms. MIKULSKI proposed an amendment to the bill H.R. 2519, supra, as follows:

At the appropriate place in the bill, add the following new section:

SEC. . The limitation on assistance under section 234(b) of the Cranston-Gonzalez National Affordable Housing Act shall not apply to community action agencies as specified in section 673 of the Omnibus Reconciliation Act of 1981, with respect to funds made available under this Act, whenever expended.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1992

ADAMS AMENDMENT NO. 801

Mr. ADAMS proposed an amendment to the bill (H.R. 2699) making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, as follows:

On page 4 of the bill, at line 13, delete "$949,000" and insert "$799,000".

On page 8 of the bill, at line 8, delete "931,785,000" and insert "$931,636,000".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, at 3 p.m., July 18, 1991, to receive testimony on S. 1018, legislation to establish and measure the Nation's progress toward greater energy security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, at 9:30 a.m., July 18, 1991, to receive testimony from William Harper, nominee for Director of Energy Research, U.S. Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 18, 1991, at 9:30 a.m., for a hearing on "Women and the Workplace: Looking Toward the Future."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 18, 1991, beginning at 10 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate: S. 291, San Carlos Apache Water Rights; S. 1350, Zuni River Watershed Act of 1991; S. 668, Consolidated Environmental Grants; S. 362, Mowa Band of Choctaw Indians Recognition Act; S. 45, Jena Band of Choctaw Indians Recognition Act; and S. 374, Aroostook Band of Micmacs Settlement Act, to be followed immediately by a hearing on S. 1287, Tribal Self-Governance Demonstration Project Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MERCHANT MARINE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 18, 1991, at 3:30 p.m. on the Federal Maritime Commission reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 18, at 2 p.m., to hold a hearing on four pending treaties: Treaty Docs. 101–14; 101–15; 101–17; and Treaty Doc. 99–29.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 18, at 11 a.m., to hold a nomination hearing on Charles Untermeyer, to be an Associate Director of the U.S. Information Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, July 18, 1991, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, July 18, beginning at 9:30 a.m., to conduct a hearing on legislation to reauthorize the Clean Water Act, with special emphasis on coastal protection, clean lakes, and the Great Lakes and Mexico border areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, July 18, beginning at 2 p.m., to conduct a hearing on legislation to reauthorize the Clean Water Act, with special emphasis on compliance and enforcement, State certification of Federal projects, and miscellaneous topics.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Thursday, July 18, 1991, at 9:30 a.m., on the subject: To study various proposals to regulate GSE's and to examine risks to the Federal Government.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

"ALEXANDER THE GREAT" OR JUST ANOTHER SECRETARY OF EDUCATION?

• Mr. SIMON. Mr. President, it was a happy surprise to pick up the publication, "Black Issues in Higher Education" and see an article by William A. Blakey, better known as "Bud" Blakey, now an attorney in Washington, DC, and for 9 years the person who headed my education efforts and served as staff director and counsel for my subcommittees in the House and Senate.

I have to agree completely with what Bud Blakey has to say. It is certainly true that when Lamar Alexander was named Secretary of Education our hopes were very high, perhaps unrealistically high.

Those expectations have been lowered.

But it is not too late for the Secretary of Education to contribute a great deal to this Nation in the field of education, and I hope he will do that.

It is typical of Bud Blakey that he challenges all of us, including the Secretary of Education.

Mr. President, I ask to insert his article into the RECORD at this point:

The article follows:

"ALEXANDER THE GREAT" OR JUST ANOTHER SECRETARY OF EDUCATION?

Since the creation of the Department of Education in 1980, the Department's chair at the cabinet table has been questioned and, with one exception, quietly occupied by a succession of individuals lacking the educational experience and political expertise to fulfill the dreams and expectations of many in the education community who looked forward to the day when "education" would not have to take a back seat to health and welfare programs on the Secretary of HEW's list of principal priorities. Hindsight being 20/20, former HEW Secretary Joe Califano may have been right when he predicted that education would suffer if the protective wraps of the larger HEW programs were removed. Irrespective of former Secretary Califano's prediction, it is clear that the Department of Education has suffered through a succession of inferior appointments to the cabinet post, and that the department has been exposed to numerous civil service retirements and departures, and has served as the graveyard and personnel dumping ground for many Reagan era Neanderthals who don't know the difference between at Pell Grant and a food stamp.

Secretary Alexander's appointment was welcomed by most in the education community—with high hopes of real secretarial and presidential leadership—and as the chance to have someone other than the Office of Management and Budget (OMB) making the administration's education policy decisions. The higher education community, in particular, was hopeful, since the first issue to be addressed by the new secretary would be the reauthorization of the Higher Education Act.

This then is an early attempt to assess the Secretary's performance after fewer than 50 days in office. Some will say any assessment is premature and hasty. My own view is we don't have time—in minority access to and success in higher education terms, in workforce readiness terms, nor in high school drop-out or college preparation terms—to wait to determine whether we have an "apostle of the Reagan past" or an "advocate for our education futures" at the Department of Education.

I have chosen three measuring rods to evaluate the Secretary—(1) his appointments (and terminations), (2) his legislative proposals and the Bush administration education agenda, and (3) his independence/willingness to listen to others outside the Department in formulating departmental party.

Shortly after his arrival, Secretary Alexander asked for and received the resignations of one-half of his senior staff—the presidentially appointed assistant secretaries for postsecondary education; research and improvement; and legislation and public affairs; and the general counsel. The deputy secretary resigned as well. The only common denominator among those he kept and those he "fired" appears to be White House political connections. Asked to resign were Dr. Ted Sanders, the undersecretary; Dr. Leonard L. Haynes (one of only two Black Americans in the group) who served as assistant secretary for postsecondary education; Nancy Kennedy, the assistant secretary for legislation; Edward Stringer, the general counsel; and Christopher T. Cross, assistant secretary for research and improvement (who was promised a choice of two other jobs which did not materialize).

While some have suggested that these resignations could be justified on competence grounds, that seems unlikely given the retention of Assistant Secretary for Civil Rights Michael Williams after he violated the procedural and substantive rules of Washington's political bureaucracy—when he proposed to reverse 27 years of civil rights law in a press release—making it difficult to find someone who had demonstrated less political sophistication or lack of knowledge of his position!

After a trip to the White House woodshed and a torrent of embarrassing non-explanations of the new civil rights policy on minority scholarships, a new policy was articulated—to save Williams' and the president's collective face—but the new policy was more contrived and legally unsupportable than the initial one. Even if one gives the Secretary a "C" for removing those who were allowed to resign, he gets a "D" on Williams' retention on substantive grounds, and an "F" for his lack of political sophistication. (Finding another position for Williams should not have been a problem since he had already had two other Bush administration jobs in *less than two years.*) No, these decisions were apparently made on a "who-do-you-know," not "what-do-you-know" basis.

The Secretary is to be commended, however, on his appointment of Xerox CEO David K. Kearns. If Mr. Kearns sticks to trying to make the train at the department run on time (as he promised the Senate Labor and Human Resources Committee he would), rather than selling the "Education 2000" choice proposals to corporate America (which he will be told by the Republican National Committee to do and tempted personally to do), this could be the best step President Bush and the Secretary could take. After all, there is much to do to make the department more efficient and effective—implement the National Student Loan Data System (five years authorized, three years appropriated, but not yet implemented), assure that departmental regulations are published on time, especially those affecting the Stafford Loan Program (GSL); balance the Office for Educational Research and Improvement agenda so that it examines both elementary/secondary and postsecondary issues; implement the Department of Education Organic Act by merging some of the as yet unmerged research and policy advocacy portions of the department leftover from the 1980 separation from HEW; collect those student loans and monitor those "trade schools" that rip students off; crack down on the traditional sector schools with equally horrible low-income and minority admissions, retention and graduation records, etc. The Secretary gets an "A" for the appointment only if Mr. Kearns passes his final exam.

The Secretary has produced little, if anything extraordinary or visionary in the Higher Education Act narrative submitted to the Speaker of the House on April 30, 1991. Although the higher education community was led to believe that the Secretary would review "everything" after his confirmation and changes could be anticipated when the legislation was sent to the hill, the speaker letter reveals little that is new.

A thoughtful proposal on program integrity, rather than trying to shift the department's responsibility and the blame to the regional and national accrediting agencies, which the Secretary approves, or to the states (where there is little in terms of knowledge or manpower to fulfill the states' role), would have been helpful. We need something that would *frontally* address low- and middle-income student access/success problems, and would alleviate the enormous burdens that low- and middle-income students, who qualify for a loan, when they seek access to college. Even the much heralded "direct loan" alternative would look good to many if some one would tell us *where* we intend to get the annual $13 billion from for the fiscal years 1992–97; *what* agency is going to administer the program at the federal level; and *how* do institutions like Knoxville College in Tennessee and Millsaps College in Mississippi survive if they don't want to be responsible for processing applications, disbursing and collecting GSL loans?

Rather than a much-needed, well-thought out Higher Education Act reauthorization proposal, we get a mixture of pablum and politics called "Education 2000." More accurately it should be called "Education 1992" since its real purpose is to ride the education issue into and through the 1992 presidential election. Marlin Fitzwater, the President's press secretary, said it all when he said that ". . . this would be the President's highest priority between now and 1992." Nothing the President has proposed in Education 2000 can be accomplished at the federal, state or local level within that time frame. We are left to conclude that the purpose of the proposal is politics not education reform.

Rather than pablum, the President could do something concrete—like fulfill the 1988 campaign pledge to fully fund the Head Start Program—where the reneging started with the submission of the FY 1992 budget. Rather than creating a model school in each Congressional district, why not support the equalization of expenditures effort already underway in the states—using the Kentucky Legislature's education reform and revenue equalization programs as a model. Rather than *acting* like the Education President, including reading lessons with the kiddies—some of whom don't know who he is—*be* the Education President by setting a good example in the federal government by keeping at least one promise to tomorrow's workforce! The President and the Secretary will receive a "D" for doing nothing for four years.

The signs, unfortunately, do not bode well for Secretary Alexander to fulfill my decade-long hopes for a great Secretary of Education and for dynamic leadership in the area *most critical* to the survival of America as we knew and know it.

The Secretary's statements, following consideration of the continued certification of the Middle States Association of Colleges and Schools by the National Advisory Commission on Middle States' proposed use of a diversity standard as one criterion to be used in granting or denying accreditation. His expressed view that a diversity standard represents a "coercive restriction" appears to not only lean to the starboard on the "minority scholarship" and diversity issues, but may indicate he has already adopted the C. Boyden Gray/Department of Justice posture which is in opposition to minority scholarships. I hope I am wrong.

Who is the Secretary listening to—Bob Atwell, Chester Finn, Mike Farrell, Boyden Gray or John Sununu—on higher education issues?

In case you have not already guessed, I am disappointed in Secretary Alexander. My hopes were perhaps too high, only high enough to meet the dreams of all the eagles I know at Tougaloo and Talledega colleges, all of the hopeful faces I have seen at the Oyster School and Benjamin Banneker High in the District of Columbia, and all of the expectant hearts and heads at the Art Institute of Atlanta and Chicago State University.

Mr. Secretary, do we have time to wait for you to lead?•

A TRIBUTE TO THE VOTERS OF DENVER AND TO WELLINGTON AND WILMA WEBB

• Mr. WIRTH. Mr. President, on June 18, 1991, the voters of Denver, CO, elected a new mayor, Wellington Webb. The people did more than elect a new mayor, however, they also sent a strong message that racism has no place in politics—and that electing the best candidate to office depends on lively and intelligent public debate about issues that concern people and their lives, not on the color of one's skin.

Denver's mayoral campaign attracted a great deal of national attention, Mr. President, not only because of the contrasting campaign styles of the candidates—but also because the two candidates were both extraordinarily able men who also happen to be black Americans, Wellington Webb and Norm Early. Minorities comprise less than 20 percent of Denver's population—and many political experts and commentators were, therefore, astonished when the primary election involving five candidates narrowed to these two men. The experts should not have been surprised. The people of Denver are not interested in racial labels or political slogans—they demanded and got an election campaign based on a substantive discussion of the issues.

I believe that the Denver mayoral election of 1991 was a tribute to the vision, idealism, and progressive spirit of the voters of Denver. It was also a personal triumph for two Denverites of outstanding stature in Colorado politics, Wellington and Wilma Webb.

Mr. President, I have known and worked with the Webbs for many years. Wellington is a man of immense talent and experience in public life having previously served in the Colorado Legislature, the Carter administration, Gov. Dick Lamm's administration and as Denver city auditor. His wife, Wilma Webb, is also a distinguished public servant currently serving in the Colorado General Assembly.

Together, Wilma and Wellington have forged a reputation of outstanding public service for the citizens of Denver and Colorado. As Wellington begins his term as the new mayor of the city and county of Denver, I wanted to take a moment in this forum to wish him the very best of success—and to congratulate the citizenry of Denver for their commitment to a style of politics that brings people together, rather than driving them apart.•

CAPTIVE NATIONS WEEK

• Mr. LEAHY. Mr. President, I rise today to call attention to an anniversary we would all rather not have to commemorate. July 14 marked the beginning of Captive Nations Week. For the past 33 years, we have paused during the third week of July to remember those nations that—despite their legitimate demands for sovereignty—are denied the independence that we in the United States have enjoyed for more than two centuries.

Throughout those years, the Baltic States—Lithuania, Latvia, and Estonia—have belonged to that number.

The captivity of the Baltic States dates back to a 1939 agreement between the Soviet Union and Germany, the Molotov-Ribbentrop pact. With this pact, Hitler and Stalin divided Eastern Europe illegally between themselves. The Baltic States have been under Soviet rule ever since.

During the last few years, the world watched with anticipation as a new generation of Soviet leaders struggled boldly to bring the Soviet Union back from the brink of collapse.

We have seen Eastern Europe throw off its shackles. We have seen the Soviet Government take its first tentative steps toward a market economy. And we have looked on as Soviet citizens have voted in the first free elections of their lives.

Not all that we have seen has been pleasant. For many, the last 2 years have brought fear and deprivation, not freedom. Countless Soviet citizens have had to balance their new freedoms against violence, cold, and hunger.

But perhaps the most bitter fate has befallen the people of the Baltic States. In its efforts to right the wrongs of the Stalin years, the Soviet Government has ignored one terrible Stalin legacy: The captivity of the Baltics. Fifty-two years after the signing of the Molotov-Ribbentrop pact, and despite all the efforts of the Baltic peoples to free themselves, the Baltic States remain under Soviet occupation.

The Baltic States have justice on their side. The Molotov-Ribbentrop pact was not legitimate in 1939, and it is not legitimate today.

It has now been more than a year since Lithuania's formal declaration of independence. To date, the Soviet Union has only responded to this declaration, and to similar moves by the other Baltic Republics, with threats and violence.

The Soviet Union has attempted to extort promises of fidelity from the Baltic States by denying them vital food and medical supplies.

Its armed forces have carried out unexplained acts of violence against the Baltic States. Just 3 weeks ago, armed men stormed the offices of the telephone network in Vilnius Lithuania, resulting in a 24-hour disruption of communications. The attack is reported to have been carried out by Soviet black beret troops.

The Soviet Government has attempted to intimidate and dishearten the Baltic peoples with a vast and imposing troop presence on Baltic soil. In Estonia, for example, the Soviets have stationed one soldier for every five civilians.

In short, the Soviet Government has brutally rejected the Baltic States' legitimate desire to rule themselves in peace.

These events are particularly unfortunate at a time filled with possibilities for improved United States-Soviet relations. Indeed, the significance of the Baltic States' captivity is twofold. It is not only the subjugation of three nations deserving of liberty—as if that were not enough. It is also a stumbling block on the road to a new era in United States-Soviet relations—a long-overdue era of goodwill, cooperation, and security.

I hope that the Soviet Union will see the folly of its continued occupation of the Baltic States. I recognize the delicate nature of the Soviet Union's internal politics at this time, and the complexity of action such an acceptance would require.

But it would be blindness to deny the fact that security and a lasting peace in the Baltic States will be achieved only when the Soviet Union ends its decades-old, illegal occupation of that region. I therefore urge the Soviet Government to end this occupation with all possible speed.

It is my hope that by next year at this time, the Baltic States will no longer be captive nations, but sovereign nations enjoying the independence they so richly deserve.•

SUCCESS STORIES FROM SMALL-TOWN ILLINOIS

• Mr. SIMON. Mr. President, the decline in the agricultural economy throughout the Midwest has had a severe impact on our small towns. We continue to see many small towns lose jobs and people. But some communities are proving it doesn't have to be that way. A little ingenuity and hard work can go a long way. I have written a column for newspapers in my State about some small-town success stories and I ask to have it printed in the RECORD.

The article follows:

Success Stories From Small-Town Illinois

It is discouraging to travel in Illinois (and any other state) and see small towns declining. I speak with prejudice as someone who has spent most of his life in smalltown America.

Yes, there are flaws in the small town, but there are also virtues, and it is no accident that a disproportionately high percentage of those who are the nation's leaders come from small town America.

Is the decline of rural communities inevitable?

There are those who say it is, who look at the declining percentage of our population involved in family farms, and view the dying of so many small communities as certain as the rising of the sun.

Let me tell you about two communities—among many in Illinois—that are not giving up. One is Ohio, Illinois (population 544), and the other is Oakland, Illinois (population 1,035).

Many years ago, I spoke at a school commencement in Ohio, Illinois, but more recently the schools of Ohio have faced closing because of declining population of the community.

The people decided to do something. They formed the Ohio Growth Foundation and promised the foundation would pay the first $3,000 in real estate taxes for anyone who would buy and move into an existing vacant house in Ohio. They promised anyone who built a new home $5,000 in similar tax relief.

Raising the money has not been easy.

But the program has been successful. Vacant homes have been sold and new homes built. A new corporation has been formed to build houses, with the profits from the company going to the Ohio Growth Foundation, to help pay for the real estate tax relief.

Not only are there more people in Ohio now, four new small businesses have located in Ohio. Local leadership turned the corner for Ohio, Illinois.

I heard about Oakland's efforts and told my staff I wanted to visit Oakland.

Small communities that want to revive themselves would do well to send a small committee to Oakland and Ohio to see how they do it.

Oakland's citizens have done a host of small things to make this community distinctive, everything from an old-fashioned inn on the square where you can stay and have a meal, to a fine antique store, appropriately called The Log House.

They have promoted recreational facilities, including a golf course, tennis courts, a swimming pool, and a lake. The town now has a small bakery. How many small towns of 1,035 do you know that have a bakery?

And once a year, the last Saturday in August, they have what they call a "Community-Wide Yard Sale," sort of a garage sale that the whole town participates in.

If you write, they'll send literature that makes Oakland look like the center of the universe.

What is happening in Ohio, Illinois, and Oakland, Illinois, may not seem important, but it is.

It illustrates what the spark of leadership can do to turn communities from dying small towns to thriving small towns.

That's good for the nation.

And perhaps if small towns can honestly face their problems, and with effective leadership turn things around, so can the nation.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., Friday, July 19; that following the prayer, the Journal of proceedings be deemed approved to date; that the time of the two leaders be reserved for their use later in the day; and that there then be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, let me just say that I too very much enjoyed this bit of, I guess you would call it, debate which we do not do much of in this place, and I am having to hear and listen to my friend from Minnesota, to hear what he is saying in his passion, and that is something I will learn, and I promise to do that.

As for the minority whip's relationship with the majority whip, I do not think there are two people that understand each other better than the very earthy, bright, and energetic Senator from Kentucky.

Mr. FORD. Hold back on the word "earthy."

Mr. SIMPSON. I do not dare hold back on that because when the debate is over he will reign upon me, and I have regard for him, and it is what the system is all about. Other countries do not understand it, but it works.

RECESS UNTIL TOMORROW AT 9:15 A.M.

Mr. FORD. Mr. President, I would like to have the last word.

If there is no further business to come before the Senate today, and if the acting Republican leader has no further business, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:15 a.m., Friday, July 19.

There being no objection, the Senate, at 9:10 p.m., recessed until Friday, July 19, 1991, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate July 18, 1991:

NATIONAL COUNCIL ON DISABILITY

ELLIS B. BODRON, OF MISSISSIPPI, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1993, VICE MARGARET CHASE HAGER.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate July 18, 1991:

DEPARTMENT OF STATE

DAVID FLOYD LAMBERTSON, OF KANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MICHAEL J. MALBIN, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 26, 1994.

HARVEY C. MANSFIELD, JR., OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 26, 1994.

ROY L. SHAFER, OF OHIO, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1994.

DEPARTMENT OF LABOR

STEVEN I. HOFMAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF EDUCATION

JEFFREY C. MARTIN, OF TENNESSEE, TO BE GENERAL COUNSEL, DEPARTMENT OF EDUCATION.

DIANE S. RAVITCH, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

FERNANDO J. GAITAN, JR., OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI.

CLYDE H. HAMILTON, OF SOUTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT.

MORTON A. BRODY, OF MAINE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MAINE.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATE FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be assistant surgeon

DAVID L. SPRENGER

EXTENSIONS OF REMARKS

THE MEDICARE LOW-INCOME BENEFICIARY PROTECTION ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. STARK. Mr. Speaker, I rise today to introduce the Medicare Low-Income Beneficiary Protection Act of 1991. This bill would expand Medicaid's current buy-in protection to assist Medicare beneficiaries with incomes up to 133 percent of the Federal poverty level.

According to a report issued by the "Commonwealth Fund Commission on Elderly People Living Alone, Medicare's Poor," one-third of near-poor elderly people are reduced to poverty by their out-of-pocket payments for medical care.

These people need our help. It is outrageous that we force near-poor seniors to choose between essential medical services and heat. This choice forces too many seniors into financial disaster.

Today, out-of-pocket medical costs remain a serious concern for millions of older Americans. Approximately 3 million near-poor elderly persons have incomes that barely exceed the Federal poverty level, yet only 8 percent have Medicaid supplementary assistance. Consequently, near-poor seniors, with annual incomes of less than $7,200 per year—less than $140 per week—incur substantial out-of-pocket costs for their medical expenses that they simply cannot afford.

When compared to senior citizens in higher income groups, these near-poor seniors are particularly vulnerable. They tend to be the oldest of the old and in poorer health. They have more chronic conditions and functional impairments, use more prescription drugs and are more likely to incur substantial medical expenses. According to the 1987 National Medical Expenditures Survey [NMES], seniors who are near-poor spend 15 percent more than the average Medicare beneficiary for prescription drugs.

In 1988, Congress enacted legislation requiring States to phase in buy-in coverage for low income Medicare beneficiaries with incomes at or below 100 percent of the Federal poverty level. Under this provision, States are required to pay Medicare premiums, deductibles and coinsurance for eligible elderly and disabled enrollees. This provision was designed to eliminate financial barriers to medical care.

Under the 1988 law, States were required to extend coverage to individuals living in families with incomes up to 85 percent of poverty in 1989, 90 percent of poverty in 1990, 95 percent of poverty in 1991 and up to 100 percent of poverty in 1992.

The Omnibus Reconciliation Act of 1990 [OBRA 1990] accelerated by 1 year the schedule for phasing in the requirement that States cover Medicare cost-sharing for Medicare beneficiaries with incomes below 100 percent of poverty effective January 1, 1991.

In addition, OBRA 1990 required States to cover the part B premiums—but not deductibles and coinsurance—for Medicare beneficiaries with assets below twice the SSI level and incomes below 110 percent of poverty beginning January 1, 1993, and with incomes below 120 percent of the poverty level beginning January 1, 1995.

My proposed bill would require States to cover all Medicare cost-sharing requirement for seniors with incomes up to 133 percent of the Federal poverty level at the normal State-Federal matching rate.

The extended coverage would be phased in according to the following schedule. Beginning in 1993, Medicaid payments for Medicare cost-sharing requirements would be extended beyond premiums to cover deductibles and coinsurance for Medicare beneficiaries with incomes below 110 percent of poverty.

Beginning in 1994, all Medicare cost-sharing requirements would be covered for beneficiaries with incomes up to 120 percent of poverty. By January 1, 1995, Medicaid would cover all cost-sharing requirements for Medicare beneficiaries up to 133 percent of poverty.

Mr. Speaker, this bill is similar to a provision included in the Omnibus Budget Reconciliation Act of 1989 [OBRA 1989] that required all States to cover pregnant women and infants with family incomes of up to 133 percent of the Federal poverty level by April 1, 1990.

With the 1991 Medicare deductible at $628, Medicare premiums at $29.90 per month, copayments for physician bills rising with the 12-percent growth in physician expenditures, the average near-poor Medicare beneficiary can expect to spend a significant share of annual income for medical care.

This bill would offer enormous assistance to the 3 million near poor Medicare beneficiaries who struggle to pay their medical bills. I urge my colleagues to join this effort to assist these low income senior citizens.

A TRIBUTE TO RAY BAKER

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. KOLTER. Mr. Speaker, it is with great pride that I rise today to pay special tribute to Mr. Raymond H. Baker, secretary-treasury of the General Teamsters, Chaffeurs, Warehousemen and Helpers of America Local 538. He leaves a legacy of service to his community and to his country.

Ray, a resident of North Apollo in my Fourth Congressional District, has been a member of Local 538 for 35 years, an officer for 25 years and secretary-treasurer for 18 years. He represents 1,000 teamsters in freight, warehousing, United Parcel Service, the grocery trade, construction, municipal work, manufacturing and nursing in Armstrong, Butler, Venango and Clarion Counties.

Ray has dedicated much of his life to the betterment of working people not only in his area but throughout the State of Pennsylvania. He has served as director of the Pennsylvania Conference of Teamsters. recording secretary of the Teamsters Joint Council No. 40 of western Pennsylvania, chairman of the Joint Council No. 40 Construction Committee, chairman of the western Pennsylvania Teamsters and Employees Pension Fund and trustee of the Kittanning Teamsters and Employers Welfare Fund, a group insurance plan.

Membership in Local 538 has more than doubled under Ray's leadership and organizing efforts. He has labored for the working class and promoted collective bargaining as a means of improving working conditions, health coverage and pensions, as well as income.

I am sure that Ray has earned the respect and gratitude of his fellow teamsters, his community and his colleagues in the State of Pennsylvania.

Mr. Speaker, I know that you and the Members of the U.S. House of Representatives will join me in saluting Mr. Ray Baker for his many years of outstanding service to his community and to his country. His unselfish contributions of time and energy are to be commended. Certainly his accomplishments are greatly appreciated and will be long remembered in the area he served so well.

TRIBUTE TO JAMES A. PAWLEY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, I rise today with a heavy heart upon learning of the recent death of Mr. James A. Pawley of Essex County. He was 88 years old.

While his death saddens me, I can only look back and marvel at this man who worked tirelessly to improve the quality of life for countless African-Americans during his long and distinguished life. As executive director of the Urban League of Essex County, NJ, from 1954 to 1970, Mr. Pawley was one of my mentors and mentor to thousands of other young people. This proud and distinguished man served as a role model to me as he demonstrated by example that black people could aspire to greatness at a time when there were few visible role models. Mr. Pawley's Urban League sponsored seminars on job opportunities and dressing for success were pivotal in my personal and professional development.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

As one of the unsung heros of the civil rights movement, Mr. Pawley guided the Essex County Urban League through its most turbulent period; the civil rights movement and the urban disorders of the late 1960's. A professional educator and social worker, Mr. Pawley was thrust into the limelight in the early 1960's. He was often called on to be a mediator between young aggressive black leaders and the targets of their ire in the corporate world—while maintaining the trust and confidence of both sides.

According to many, he shunned demonstrations, however, he spoke on behalf of protesters. In 1963 Mr. Pawley demonstrated his frustration and disdain for Newark city and corporate leaders by presenting them with a fist full of unanswered memos he had sent them over several years when he was asked about pickets and other public demonstrations. He exclaimed, "What are they picketing for? What are they sitting-in for? It is all in here begging for attention. If the proper attention had been given to this, we would have a nice calm peaceful Newark today."

During his tenure as executive director of the Urban League, his chapter made more job placements than any Urban League chapter in the country. Organizations planning to picket an employer would sometimes alert Mr. Pawley in advance so that the Urban League could have job applications when racial barriers were removed.

Under his leadership the Essex County Urban League implemented many new projects, many of which focused on employment and training. The agency's budget quadrupled and its staff grew threefold. He also opened satellite offices in the suburbs of Newark.

Mr. Pawley hails from Georgetown, SC. He received his bachelor's degree from Benedict College. Despite his formal education, he had to work many menial jobs until he landed a supervisory position in adult education with the Works Progress Administration in New Jersey and Washington. In the mid-1940's he earned a masters degree in economics from American University. In 1947 he joined the Urban League as industrial relations secretary and served in a similar capacity in Kansas City for 4 years.

In the 1940's, he began to develop many adult education and training projects. Mr. Pawley was called on many times by the Congress as well as State and local governments throughout the Nation to testify on the economic condition of black Americans.

After leaving the Urban League in 1970, Mr. Pawley became a counselor at East Orange High School and an outreach worker for the Montclair-North Essex YWCA. He also held many other local positions of notoriety: president of the South End Community Day Care Center and trustee of the First Montclair Housing Corp., and secretary of the Greater Newark Urban Coalition and Episcopal Community Services of the diocese of Newark.

The condition of African-Americans improved greatly as a result of this outstanding and selfless national, State, and community leader. We may have lost Mr. Pawley, but his teachings and legacy will live on for generations to come. Our national condition is much improved as a result of this fine man. Thank you, Mr. Pawley, my mentor and my friend.

THE MARINES IN THE GROUND OFFENSIVE IN DESERT SHIELD/STORM

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BENNETT. Mr. Speaker, the Navy League's report "The Sea Services" Role in Desert Shield/Storm" contains a segment which discusses the participation by Marine units ashore in the ground offensive. I include it here. The entire report will be printed in the September issue of the Navy League's Sea Power magazine.

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

THE MARINES ASHORE

Prior to the commencement of the ground campaign, Marine units, including artillery, reconnaissance, and combined arms task forces, were busy disrupting Iraqi defense positions and enjoyed tremendous success with artillery raids and roving gun tactics. But they also had drawn first blood on 29 January, at Al Khafji, near the Kuwait border, when an Iraqi column testing allied defenses was thoroughly mauled in the process. Before coalition forces attacked on 24 February, the Marine 1st and 2nd Divisions, each more than 18,000 strong, were shifted 40–50 miles northeast of their original staging area. When they attacked, they were supported by the U.S. Army 1st Brigade on the west, the 3rd Marine Aircraft Wing, Navy aircraft, and thousands of combat service personnel from the 1st and 2nd Force Service Support Groups. As they were breaching two belts of minefields, 12-foot-high sand berms, booby traps, and fire trenches, two Saudi and Quatari task forces were moving up Kuwait's east coast. So devastating was the attack from both land and air that most Iraqis fought for only a few minutes before surrendering. By the end of the first day, the two Marine divisions had moved into Kuwait, engaged and defeated an Iraqi armored column, and taken Al Jaber airfield and more than 9,000 prisoners.

Despite sporadic resistance during the next three days, and a few intense battles, by the time Kuwait's International Airport was secured on the fourth day of the ground war, the two Marine divisions had decimated 11 Iraqi divisions, destroyed or damaged more than a thousand tanks, 608 artillery pieces, and seven missile launchers, and captured more than 20,000 Iraqi soldiers. Marine losses were unbelievably low: five killed and 48 wounded. The totally unexpected rout of Iraqi forces in such an unbelievably short time made it unnecessary for the Marines remaining aboard ship to come ashore in support of the 1st and 2nd Divisions. But they were ready—with as many as six different plans of attack—had they been called upon. All in all, the Marines were a formidable force indeed.

A TRIBUTE TO THE McCLELLAN FEDERAL CREDIT UNION

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. FAZIO. Mr. Speaker, I rise today to salute an important organization in my district that contributes to the Sacramento community, as well as my constituents who serve in the U.S. Air Force. The McClellan Military Federal Credit Union has served active and retired Air Force members and their families since 1957.

On the morning of Tuesday, July 23, 1991, the McClellan Federal Credit Union will dedicate a new office on Madison Avenue in North Highlands, CA. This office represents the McClellan Federal Credit Union's latest effort to provide optimum service for its customers. The McClellan Federal Credit Union has always assisted the members of both the active and retired Air Force with their saving needs. When the credit union was founded on August 26, 1957, it was located in a small building on McClellan Air Force Base. Today, the McClellan Federal Credit Union serves more than 24,000 members worldwide with assets of over $120 million.

The McClellan Federal Credit Union has an outstanding reputation for its personal customer service. The growth in membership has allowed the McClellan Federal Credit Union to create three branch offices within Sacramento to better serve the community. As an active member of the local business community, the credit union has a history of excellence and has always been a valuable resource for all its customers. I am proud to have the McClellan Federal Credit Union located in the Fourth Congressional District.

Mr. Speaker, it is with deep appreciation and respect that I salute the McClellan Federal Credit Union for its service to our men and women who are part of the Air Force family. I wish the McClellan Federal Credit Union, and all of its staff, best wishes and continued success in the future.

PROLIFERATION PROFITEERS: PART 22

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. STARK. Mr. Speaker, today I am placing into the CONGRESSIONAL RECORD the 22d in my series of case studies on foreign companies which have contributed to the spread of nuclear weapons.

With the historic agreement between the United States and the Soviet Union on the START accord to reduce the number of nuclear warheads, there is even more reason to focus our energies on the threat of nuclear proliferation.

FIRM 9. ORDA AG (SWITZERLAND)

Orda AG of Switzerland is a small nuclear materials trading firm established by Alfred Hempel GmbH of Germany in 1980 with an investment of $34,000 that grew into a multimillion dollar enterprise in just five years. According to British intelligence sources, the firm's location in the "uncontrolled" Swiss tax haven of Zug enabled it to act as a transshipper for sensitive nuclear materials—most importantly heavy water useful in the production of plutonium for nuclear weapons—without regard to German export laws and regulations. The Hempel group apparently channelled all deliveries of such heavy water to India through the Swiss subsidiary. Orda is also believed to have shipped between four and six tons of enriched uranium from the People's Republic of China to South Africa as well as several tons of uranium ore from the PRC to Argentina.

Sources: Nuclear Fuel 7/25/88, pp. 7–8, 9/19/88, p. 4 by Mark Hibbs; Die Tageszeitung, 10/7/89, pp. 14–15 by Thomas Scheuer; Wall Street Journal, 6/21/88, p. 34, 1/3/89, pp. 1, 6 by John J. Fialka; Die Zeit, 10/21/88 by Wolfgang Hoffmann.

A TRIBUTE TO JOE TITUS

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. KOLTER. Mr. Speaker, I rise to pay very special tribute to a dear friend, Joseph D. Titus, who died on March 10, 1991. Joe was a resident of Hermitage, PA, in my Fourth Congressional District, and served the community as manager of the New Castle and Butler offices of the Social Security Administration.

Joe was born in Bradford, PA, on April 24, 1936. A graduate of Bradford High School, he attended Georgetown University in Washington, DC, where he received a bachelor's degree in economics and played firststring on the varsity basketball team.

He married his wife Theresa on August 31, 1963, and raised a wonderful family including a son, David, who is a student at the University of South Carolina, and a daughter, Lisa, a resident of Sharon, PA.

Upholding strong moral and community standards, Joe Titus was involved in many organizations. He belonged to the National Management Association for Social Service Administrators of which he was a past Treasurer, and was also a consultant for the National Association for Retired Federal Employees. As a charter member of the Hickory Gridiron Club, he served as president. At Notre Dame Church in Sharon, he was a devoted member participating in important church positions. As a lector, eucharistic minister, and member of the renewal committee and special activities committee, Joe helped others in spiritual concerns.

Mr. Joe Titus was a man of exemplary character who received great respect. He was always willing to stop and listen to problems from any member of the public. He extended himself beyond the requirements of his service to help those in need. Joe solved many problems for constituents while visiting my district office in New Castle, PA, and his untiring efforts on behalf of Lawrence and Butler Counties will be sadly missed, not only by his coworkers, but by myself and the many people of the area.

Mr. Speaker, I rise today before the U.S. House of Representatives to honor Mr. Joe Titus, a man who will long be remembered in a very special, positive and honorable manner in Pennsylvania.

HAPPY BIRTHDAY AUNT OZALEE AND AUNT ROSALEE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it gives me great pride to bring to the attention of my colleagues, the birthday of my aunts Ozalee Payne and Rosalie Gee. Aunt Ozie and Aunt Rosie celebrated their 75th birthday on Monday, July 15.

They were born to Rev. William Payne and Ollie Thigpen Payne in what is now Monticello, FL. When the girls were delivered by the midwife it was the talk of the town. The twins' two older sisters were assigned to care for the babies while their mother recuperated. Sallie cared for Ozie, while Laura was assigned the care of Rosie. Even today, the four sisters are extremely close. In fact, they all reside in their own apartments in the same apartment building overlooking beautiful Branch Brook Park.

They moved to Newark, NJ with the family in 1920. They later moved to East Orange, NJ and attended Ashland Avenue School. Aunt Ozie and Aunt Rosie are members of the Bethlehem Baptist Church in Newark. Both were members of the church's Progressive Women's Guild. They were also members of the Sallie Williams Cheer Unit, a charity club which distributed food baskets to the poor. The club also assisted victims of fires by donating clothing and linens to burned out families.

The twins are avid baseball fans and are known to become very caught up in the games and frequently express their satisfaction or dissatisfaction with their team's performance—from the comfort of their living rooms. During earlier days the twins were active bowlers and Rosalee, who was married to the late Richard Gee, is credited with teaching her only son, Richard G. Gee, to swim. He developed into a champion collegiate swimmer and still competes in tournaments.

Mr. Speaker, I know my colleagues will join me in wishing my Aunt Ozalee and my Aunt Rosalee a happy birthday.

VOLUNTEER FORCES AND RESERVE COMPONENTS IN DESERT SHIELD/STORM REPORTED ON BY THE NAVY LEAGUE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BENNETT. Mr. Speaker, a portion of the Navy League's comprehensive report "The Sea Services' Role in Desert Shield/Storm" focuses on the people of today's All-Volunteer Force, as well as the key role played in the Gulf war by the Reserve components. The entire report will be printed in the September issue of the Navy League's Sea Power magazine.

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

PEOPLE

Long before half a million Americans were deployed to the Middle East, both civilian and military leaders had been proclaiming that men and women in the uniforms of all the services were outstanding, and perhaps the best ever to serve their nation in terms of overall competence, education, dedication, motivation, and training. Without question, their accomplishments during Desert Shield/Storm proved their leaders right in every respect. What they demonstrated in being able to cope with a hostile environment and to ready themselves for combat in those long months before Desert Storm, and in across-the-board performance—in the air, on the ground, and on and under the sea—once hostilities commenced unquestionably will serve for years as a model for those who come behind them to emulate.

There is no aspect of military endeavor during those months of waiting, and then fighting that is not replete with tales of matchless performance by officer and enlisted, men and women, chief petty officer and private first class, tales that reflected all those qualities that any military commander would hope to see embodied in the forces he commanded: unquestioned ability, stamina, courage, the ability to communicate effectively under pressure, dogged determination, and inspirational leadership. As a consequence, it would be well nigh impossible to properly document all of those truly exemplary performances that warranted individual recognition, even if one could decide which ones should be recognized.

Rather, a focus on two brief sets of statistics may serve best to describe what was made possible by Navy people. One pertains to aircraft performance. The FY 1991 Navy goal for mission-capable rates for its aircraft, its measure of their material readiness, is 70 percent; as operational and maintenance funding has declined year after year, that goal has had to be lowered from a desired level of 73 percent. But during Desert Shield/Storm, MC rates of 90 percent were attained. For those rates to be attained, everything had to function perfectly: The leadership and organization that made possible the logistics system that provided the spare parts, the weapons, the electronics packages that obviously performed well, those who made that basic system work, and most important, and those who would commence work on aircraft some of which were older than most of them, like the Navy's venerable and difficult-to-maintain A–6 attack aircraft, after they had been 6–7 hours in the air on combat missions, and have them ready to fly within hours. And those crews would do this day in and day out. Their record speaks for itself.

The second pertains to the readiness of ships. One senior officer who was a type commander at the time the build-up was ordered stated that his ships were in the best possible state of readiness when they sailed because of an all-hands effort across the board to ready them for sea in every respect. But when they reached the Middle East, he still anticipated CASREPS (reports of casualties to ships and/or their equipment) to rise which, initially, they did. Then, much to his surprise, they leveled off, and subsequently, despite months in that demanding environment, with more than half of the ships being more than 20 years old, and with almost all of them underway 90 percent of the time, they began to decline. Further, this level of readiness was attained and maintained despite the myriad of missions assigned: mine countermeasures, intercepts of foreign vessels, practices for amphibious landings, raids on Iraqi-held islands, replenishments, search and rescue, gunfire support, and a host of others. One onscene commander observed: "The list of out-of-commission equipment is shorter than at INCHOP (the dates ships reported their arrival in theater and came under the operational control of the senior commander there). Aside from parts and the occasional large-motor rewind, the ships have become fully self-sufficient and could apparently stay out here indefinitely." But only outstanding performances by people could make that possible.

Naval Reservists contributed mightily to the success of the campaign. The Navy was authorized to recall 44,000, but it actually brought back only 21,000. Of those, more than 99 percent responded. More than 50 percent were medical personnel, many of whom were rushed to medical facilities in the United States whose staffs had been decimated by the requirements to expeditiously man the Navy's two hospital ships. Of the total recalled, 6,856 were deployed to the Middle East. In many areas Naval Reservists represented most, if not all, of the Navy's capability, as in cargo handling, dedicated search and rescue, naval control of shipping, logistic air transport, and naval construction. The performance of these personnel, like that of their active-duty counterparts, was superb.

Personnel of a sister service whose knowledge, skills, and professionalism were absolutely invaluable in making ship intercepts were those who comprised the 10 Coast Guard law enforcement detachments (LEDets). These seasoned veterans of boardings of potential drug traffickers and other lawbreakers were moved from ship to ship as deemed necessary and not only used their experience to great advantage in actual boardings but also contributed immensely to the training of Navy personnel involved. Coast Guard personnel—both active-duty and Reserve—also were intimately involved in supervising the safe loading of equipment, ammunition, and supplies aboard ships bound for the Middle East, and in otherwise maintaining port safety and security. Reservists were on scene when the first of the fast sealift ships began loading equipment of the 24th Mechanized Division in Savannah on 11 August. Eventually they would operate from 19 ports in supervising loading, inspecting the vessels taking on cargo, and ensuring safety regulations were rigidly adhered to. Coast Guard port-security units were deployed overseas for the first time in their history in September 1990. The first unit to be deployed, the Port Security Unit 303rd, made up from three units in Wisconsin, included a grandmother who rode shotgun behind a .50 calibre machine gun on a 22-foot patrol boat.

The Coast Guard also was assigned the responsibility of heading the U.S. interagency teams formed to assist the government of Saudi Arabia in assessing the damage caused by the release of Kuwaiti oil by Iraqis into the Persian Gulf in mid-January and in planning to cope with the damage caused by it. That advisory team was active in Saudi Arabia 10 days after the first release of oil by Iraqi personnel. Subsequently the Coast Guard would provide specialized aircraft for use in collecting data to be used by the Saudi and Bahraini governments. This overall effort is still ongoing.

The Marines recalled 30,586 Reservists and deployed 13,500 to the Middle East, where they were integrated into units of all kinds and fought ably alongside regular components during the ground war. A dramatic example of their readiness was provided by one Reserve tank company, which in a less-than-30 minute encounter with an unwary Iraqi force knocked out 30 tanks and a host of trucks and other vehicles.

COLLEGE OPPORTUNITIES FOR DISADVANTAGED CHILDREN

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BALLENGER. Mr. Speaker, today I am introducing legislation that I hope will encourage more of the business community and private sector to become involved in providing college opportunities to disadvantaged children.

There are many programs across this country where the business community, universities, or individuals have sponsored disadvantaged individual children or classes beginning in the sixth or seventh grade by guaranteeing the payment of college tuition in exchange for the completion of a satisfactory elementary and secondary education. In addition, these sponsors provide the necessary support services to the students in order for them to successfully complete their education. These services can include providing study skills, counseling, mentoring, or any other encouragement that the child needs to stay in school. Many of these programs are modeled after the "I Have a Dream" program introduced by Eugene Lang.

In my own home town of Hickory, NC, Catawba Valley Community College has an excellent program that works with concerned individuals, school personnel and local businesses to provide sixth graders with an incentive to maintain good grades and complete high school by guaranteeing them an enrollment in a college-transfer, technical or vocational program at the college. Eligible students must be enrolled in the Hickory public school system, be first generation college students, be successful in future academic endeavors, and demonstrate an interest and involvement in extra-curricular and community activities.

While many of these programs may be working very well in a few communities, I believe if more businesses knew about these programs, more disadvantaged students would have the opportunity to go to college. My bill will require the Secretary of Education to evaluate the effectiveness of these programs by studying a sample of them, determining what makes them successful, what responsibilities the sponsors must provide and then disseminate information about these successful programs to the business and educational community.

Businesses want students with the education and skills necessary for employment so that they can continue to compete in today's world markets. I think that business leaders will provide the resources necessary to encourage students to attend colleges and universities if they know that such programs exist and are successful. My bill will provide that data and I urge my colleagues to cosponsor it.

MEMORIALIZING THE MEN OF THE U.S.S. "NEVADA" ON THE 50TH ANNIVERSARY OF PEARL HARBOR

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mrs. VUCANOVICH. Mr. Speaker, it is with great honor that I have the privilege of introducing here the text of a resolution passed by the Legislature of the State of Nevada. The U.S.S. *Nevada* was attacked by the Japanese in Pearl Harbor, and, in honor of the upcoming 50th anniversary of this attack, the State of Nevada wishes to pay tribute to the ultimate sacrifice that the men of that ship made.

STATE OF NEVADA ASSEMBLY CONCURRENT RESOLUTION 101

Whereas, On December 7, 1941, the Japanese attacked Pearl Harbor; and

Whereas, Although the USS Nevada sustained heavy damage during the attack, it was able to destroy several Japanese aircraft; and

Whereas, The men who died that infamous day demonstrated their extraordinary courage and heroism in defending their country; and

Whereas, In sacrificing their lives for their country, those men exemplified the highest ideals of American society; and

Whereas, By recognizing their ultimate sacrifice, we honor those men who serve as a painful remembrance of the high price of freedom; now, therefore, be it

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the Nevada Legislature memorializes the courageous and heroic men of the USS Nevada who sacrificed their lives in defending their country at Pearl Harbor on December 7, 1941.

A PERSONAL TRIBUTE TO DR. T. FRANKLIN WILLIAMS, DIRECTOR, NATIONAL INSTITUTE ON AGING

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. ROYBAL. Mr. Speaker, it is with great personal pleasure that I rise to pay tribute to a distinguished American leader in the field of gerontology, my good friend, Dr. T. Franklin Williams, on the occasion of his retirement as Director of the National Institute on Aging.

As Chairman of the House Select Committee on Aging, I have had the opportunity to work closely with Dr. Williams for many years on a wide variety of subject areas of immediate concern to America's millions of senior citizens.

If there has ever been a kind and dedicated American doctor who truly cares about our Nation's elderly, it is Dr. Williams, who is retiring from Federal Government service on July 31, 1991.

Dr. Williams has for the last 7 years served as Director of the Public Health Service's National Institute on Aging. He has led the Institute into the 1990's with a 21st century concern for the best that science can offer, and an almost 19th century interest in the well-being of older people in need of both health care and caring from their doctors and from the Nation's health care system.

Dr. Williams was appointed in 1983 to lead the National Institute on Aging as it entered its second decade. At that time, the Institute had experienced significant growth but was still a fledgling and developing entity within the National Institutes of Health.

For example, the Baltimore Longitudinal Study on Aging, the longest ongoing study of adults anywhere, had recruited hundreds of participants so that researchers could distinguish between what constitutes normal healthy aging and those changes that are produced by diseases of later life. In addition, 14,000 older Americans became the focus of the Established Population for Epidemiologic Studies of the Elderly [EPESE], which collects and analyzes data on cognitive impairment, physical illnesses, and disabilities in later life. New intramural research groups, such as the Laboratory of Molecular Genetics, soon began operation. It should be pointed out that all these projects and new research directions were being funded with less than $100 million.

However, Mr. Speaker, since Dr. Williams' tenure began, the NIA budget has more than tripled to reach this year's funding level for aging research of over $320 million. The confidence that Dr. Williams has instilled in the scientific community and in Congress clearly has played a major role in this very significant increase in funds during tight economic times.

NIA's growth in research dollars and measurable gerontological progress has been particularly apparent in the area of Alzheimer's disease, often referred to as the "Disease of the Century," with its devastating impact on more than 4 million American families and the enormous economic strain—estimated at $88 billion yearly—it places on our society.

Under Dr. Williams' direction, the clinical approach to Alzheimer's disease has benefited greatly from the fruits of NIA supported research. This has been accomplished through significant advances that have included earlier and more accurate diagnoses as well as improved clinical management techniques that have enabled Alzheimer's patients to remain in the community longer and with less suffering. In addition, increased understanding of the problems of family burden and stress has enhanced the capacity of families to care for their loved ones more effectively and keep them at home longer.

Most recently, Mr. Speaker, Dr. Williams fostered NIA's strong national and international leadership presence by initiating two important and innovative programs: NIA's Geriatric Research Institutional Training Award Program, aimed at increasing U.S. developments in geriatrics, and the World Health Organization Special Program on Research in Aging, based at NIA.

Among his achievements as an administrator and organizational leader are many benefits that flow from Dr. Williams' personal involvement in physical fitness and daily exercise programs. He has encouraged the NIA staff to participate in individual exercise programs at least twice a week, and has taken a continuing professional interest in clinical trials on frailty and injuries that feature exercise programs as a clinical intervention.

Dr. Williams' many initiatives during the past 7 years have greatly enhanced the national image and impact of the National Institute on Aging in addressing the major health problems confronting older adults in America and around the world.

Through his own scholarship, with more than 46 scientific publications while at the NIA, and national recognition including 12 major honors and awards while NIA Director, Dr. Williams' exemplary record of accomplishment, contribution, and dedication brings honor to himself and to our Nation.

In summary, Mr. Speaker, I consider it a privilege to have worked closely with such a distinguished physician, scholar, research scientist, and health care administrator as Dr. T. Franklin Williams.

Though we will miss his outstanding leadership as Director of the National Institute on Aging, we will always remember his many contributions to America's senior citizens. And we wish him a long and well-deserved retirement from his many years of public service to the Nation.

OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. DINGELL. Mr. Speaker, I am pleased to rise today to draw your attention to Captive Nations Week.

Since the original signing of Public Law 89–90 by President Dwight Eisenhower in 1959, the Captive Nations Week Committee of Michigan has annually held observances during the third week of July.

This committee is cosponsored by Captive Nations Committee of Metropolitan Detroit and American Friends of Anti-Bolshevik Bloc of Nations. Six Michigan communities of ethnic background comprise the committee. These communities include representatives of the three Baltic States, Ukraine, Byelorussia, Croatia, Albania, and Slovenia.

As Soviet President Gorbachev meets this week with the leaders of the industrialized nations, the stalling of both perestroika and glasnost have become clearly apparent. The Republics within the U.S.S.R., many of whom have declared their sovereignty, have been prevented by the central government from exercising democratic freedoms.

In this time of rapid structural and social change throughout the world it is important to recognize those captive nations still subject to repressive rule. Keeping in line with the spirit of democracy and the essence of our American heritage it is important for the United States to remember and embrace those nations struggling to defend their human rights and maintain their quality of life.

Mr. Speaker, I ask my colleagues in the House to join me in observing and commemorating the 31st annual Captive Nations Week.

LESSONS LEARNED IN DESERT SHIELD/STORM AS REPORTED BY NAVY LEAGUE

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BENNETT. Mr. Speaker, the final segment of the Navy League of the United States report "The Sea Services' Role in Desert Shield/Storm" discusses the shortfalls, deficiencies, and "lessons learned" in the Persian Gulf war. I include it for the Record today and thank the Navy League for producing this balanced and complete report, the report will be reprinted in full in the September issue of the Navy League's Sea Power magazine.

THE SEA SERVICES' ROLE IN DESERT SHIELD/STORM

SHORTCOMINGS

No combat operation, however small, will ever be deemed perfect by military commanders; shortcomings of one kind or another always will manifest themselves. Certainly this was true in the largest truly joint undertaking by U.S. forces. Regrettably, none of the major ones can be easily or inexpensively resolved:

1. A shortage of "smart weapons". For example, as the air war wore on, laser-bomb kits became in increasingly short supply. Had the conflict lasted longer, and their continued use been warranted, the supply may have been exhausted. The arsenal of these and other "smart weapons" obviously need to be refilled, but filling it won't be cheap.

2. A shortage of heavy penetrating bombs. More of this kind of weapon is needed for assured penetration of heavily bunkered or hardened shelters for aircraft, communications, radars, et.

3. Joint communications that often were ineffective. The most visible case in point was less-then-effective communications links between the joint commander, CINCCENT, and his Navy component commander. A second was delays in communicating the Air Tasking Order (ATO) and related information to naval air forces. With unquestioned allied control to both air and sea, there was time and opportunity to work around these problems. Future conflicts may not afford that luxury.

4. Inability to meet the demand for tactical reconnaissance. The Navy's principal platforms, F-14s equipped with the tactical air reconnaissance pod system (TARPS) and unmanned aerial vehicles (UAV), performed as designed, but simply could not meet the demand.

5. A shortage of enough U.S. strategic sealift. There was enough sealife overall, but more than half of the ships involved were foreign flag. Would those ships have been available if control of the sea had not been absolute, or if different political views toward that nation or those nations regarded by the United States as the enemy had prevailed? Probably not. One's reliance on one's allies to respond in time of crisis cannot be absolute, either. Definitely more sealift is needed.

6. A stronger mine-warfare presence. Historically the United States has relied heav-

ily on its allies to provide mine-warfare assets to augment those of the Navy. And even as of early May, ships of six nations still were doggedly clearing Iraqi mines from Persian Gulf waters. But as is true with sealift, one's reliance on one's allies in mine warfare cannot be absolute. And the effectiveness of Iranian mines during 1988 and Iraqi mines in 1990–1991 certainly has not been lost on naval leaders of nations who some day might be adversaries. One new class of 14 oceangoing mine-warfare ships is fully funded; half now are in the fleet. A second class of 12 coastal minehunters has been partially funded and is under construction. However, it appears likely that even more dollars will be needed if the Navy is to have enough ships to meet its deep-water sweeping requirements.

7. Beyond the battleships, a shortage of gunfire support. The 16" guns of *Missouri* and *Wisconsin* were awesome. But there was nothing to back them up, nor will there be when once more these mighty ships are mothballed. The 5"/.54 calibre gun is an accurate weapon, but its ability to inflict damage can't compare with 16" shells.

8. Finally, the crying need for a new Navy attack aircraft. The A-6 has performed magnificently for years, and it rose to new heights during Desert Storm. But the fact remains that it is old, is more difficult to maintain than newer aircraft, and lacks stealth. Too, the opposition it faced was in many ways minor league at best. The Navy's next foe may have far better, and more modern, air defenses. Congress is in the process of providing funds for the A-X, which all hands hope can be developed rapidly and ultimately will be a worthy successor to what has been a Navy mainstay for decades.

All in all, the performance of the sea services in the Gulf war earned high marks indeed. Unquestionably, the performance of its people was exemplary; they proved conclusively that, given leadership and training, and a logistics system that ensures they have ample and adequate tools of war, they are unbeatable.

But even as all hands can look back with pride at what was accomplished, and bask in the warmth of the appreciation of their countrymen, there is a nagging concern about the future. And that stems from the fact that even as all the sea services strive to provide their men and women in uniform with the best possible tools of war, they must fight for enough dollars to maintain only three-fourths of existing assets and to construct only a modicum of new ones. It is our fervent hope that neither this Administration nor those which follow, as well as Congresses of today and tomorrow, forget that wars in which fewer than 150 Americans die in combat can only be won so decisively by ensuring those who fight it have the best with which to fight.

CITIES NEED HELP IN THE DRUG WAR

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. MAZZOLI. Mr. Speaker, I come before you and our colleagues to discuss a bill which will assist our Nation's cities in their fight against the scourge of drug abuse and the violence that drug abuse spawns in our streets.

The war on drugs affects all areas of our Nation, but it takes on a special nature and urgency in and around our cities. Most local governments—such as Louisville and Jefferson County in Kentucky's Third Congressional District, which I am proud to represent—have stepped up their own antidrug and anticrime activities.

One example is the Louisville-Jefferson County A.W.A.R.E. Coalition. The goals of the coalition are to plan, coordinate, and promote effective alcohol and drug prevention, intervention, treatment, and volunteer programs. However, the Federal Government must continue to provide adequate funding to local governments if groups such as A.W.A.R.E. are to achieve their worthy goals.

I am introducing today legislation to authorize a permanent continuation of the current 75–25 percent Federal/local cost-sharing formula under the Edward Byrne Memorial State and Local Law Enforcement Block Grant Program. Unless my measure is enacted, local government's share of the cost of fighting the drug war will increase to 50 percent at the end of this fiscal year when the 75–25 percent matching formula—ordered in the fiscal year 1991 Commerce-Justice-State appropriations bill—expires.

Without a continuation of the current cost-sharing formula, many—if not most—local governments will be hard-pressed to provide the 50 percent match and will be precluded from participating in this very vital program to the extreme detriment of the citizens of our metropolitan areas.

I ask my colleagues to join in my efforts to assist local governments to win the war of all wars: against drugs and drug abuse.

DESIGNATION OF THE ZORA LEAH S. THOMAS MEMORIAL POST OFFICE (H.R. 158) AND THE CLIFFORD G. WATTS MEMORIAL POST OFFICE (H.R. 157)

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. NEAL of North Carolina. Mr. Speaker, I am pleased to propose that this House honor Clifford G. Watts and Zora Leah S. Thomas, two outstanding citizens and postmasters, by designating postal facilities in Taylorsville and Hiddenite, NC, in their memory.

Clifford G. Watts served as the postmaster in Taylorsville, NC, for 18 years until his death in 1978. As a leading alumnus of the University of North Carolina, a veteran of World War II, and a deacon in the First Baptist Church of Taylorsville, Clifford Watts was a valued and active member in his community.

Zora Leah S. Thomas served as the postmaster in Hiddenite, NC, for 42 years. Mrs. Thomas devoted her life to her community as a public servant, teacher, and active member of the Hiddenite Methodist Church.

Mr. Speaker, the designation of the Zora Leah S. Thomas and Clifford G. Watts memorial post offices will recognize the long and distinguished service of these two postmasters. I am honored to have the opportunity to propose this tribute to Mr. Watts and Mrs. Thomas.

ON INTRODUCTGION OF THE CLEAN DOMESTIC FUELS ENHANCEMENT ACT OF 1991

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. SYNAR. Mr. Speaker, the 1980's were a lost decade for energy policy in America. I hope we are about to change that dismal picture. America can go one of two ways. We can develop a timid package that does little more than tinker with the status quo. Or we can develop a bold package of reforms and initiatives that will actually set the Nation on a different and better energy course, one that will make significant strides toward meeting our goals of a more secure, more efficient, more environmentally sound energy future. The former will be fairly easy; the latter will involve some difficult choices for this committee. My hope is that we are ready and able to confront the difficult policy choices before us and make some tough decisions.

I believe we must first decide what our energy security goals are. In my own view, any worthwhile national energy strategy must achieve at least these goals.

It must be comprehensive and deal with our entire energy mix, addressing existing and future energy sources;

It must make substantial strides toward increased energy efficiency in the United States;

It should attempt to achieve short-term as well as long-term energy security gains;

It must result in overall improvements in environmental quality;

It should make sense economically, and enhance competitiveness wherever possible. To the greatest extent possible, its individual parts should direct scarce public and private resources to areas where we can get the biggest bang for our buck, for example, by achieving energy security gains plus environmental, economic and/or competitiveness gains;

It must be flexible;

It should rely on or encourage market-based responses wherever possible. Where regulation is essential, it should strive for its most practical and least intrusive form;

It should result in reduced U.S. dependence on unstable foreign energy supplies; and

It should attempt to strengthen the energy security of our own hemisphere—the United States, Canada, Mexico, and Venezuela in particular—by encouraging the free and fair flow of energy supplies between our Nations.

In short, Mr. President, the individual ideas are important and must be separately weighed against some fundamental standards to ensure that we will not repeat the regulatory mistakes of the past or initiate questionable new programs which ultimately will drain scarce resources away from more productive efforts. But the individual ideas must also be viewed for their benefit as part of the whole, by trying to ensure development of a flexible and synergistic energy program for the Nation.

We must also be realistic. The dimensions of the energy problem are extraordinarily complex and, as a practical matter, Congress will not be able to address each and every problem confronting us—nor, in fact, do I believe we should try. It is not possible for us to look into a crystal ball and know precisely what our energy future holds. Like energy markets, energy problems are dynamic and we must not attempt to construct an inflexible course for the future.

No strategy or program will permanently resolve our energy problems. Accordingly, my hope is that we will not undertake this action with a view toward "forever" resolving our energy crisis; rather, we will need to revisit our policies from time to time to ensure we are still headed down the right road. Of course, to start down the road at all we have to get out of the driveway, and that is what we do today.

I respect and appreciate the tremendous amount of time and effort that the administration, and the Department of Energy in particular, devoted to development of their National Energy Strategy [NES] proposal. After a decade of laissez-faire energy policy—a policy with disastrous implications for America's energy posture—I was very gratified by the administration's willingness to try and confront the very serious energy problems facing the Nation. I also applaud the efforts of my colleagues who produced many innovative approaches to solving energy problems, some of which I have picked up in my own bill. I would particularly like to thank Congressman TAUZIN, BARTON, WISE, OWENS, and ANDREWS and Senator WIRTH for their contributions to this legislation.

It is no secret, however, that I was disappointed in the administration's product. While their energy stragegy proposal includes a number of programs I strongly support, I firmly believe it falls far short of their rhetoric about getting the Nation's energy policy back on track. Many of its programs are unrealistically optimistic or inconsistent with the facts. I was especially troubled by the fact that the goals outlined in the President's energy strategy were completely contradicted by the President's own budget.

For instance, under the administration's NES, gas consumption is expected to increase from 18.3 trillion cubic feet (tcf) today to 21.8 tcf in 1995—and to 24.2 tcf in the year 2000. Yet the President's fiscal year 1992 budget actually cut funding for natural gas extraction research from an already paultry $16 million to a mere $8 million. Despite the expected significant increase in demand, and the compelling case for increased R&D to improve on existing extraction techniques, DOE's budget would allocate only $8 million to this essential research area, out of a total DOE R&D budget of $1.5 billion—and a total DOE budget of $16 billion. In response to the overwhelming need for higher authorizations for this item, I have raised this amount to $25 million per year.

Likewise, the administration's NES calls for increased use of alternative fuels, such as compressed natural gas and increased R&D on alternative fuel engines. But DOE's budget would provide only $16 million for all alternative fueled vehicle research and demonstration. Moreover, research on new engine technology was actually cut by over $3 million in DOE's proposed budget. Once again, my bill increases these items to the budget level they deserve.

Promising new gas-based energy technology, such as high-efficiency, low polluting fuel cells, was cut 48 percent in the President's budget. Here too, my bill restores funds for this technology and sets up fuel cell joint ventures and a Federal demonstration program.

Although the administration's NES calls for more research cooperation and technology transfer between the Government and universities, DOE's university research grants for advanced oil and gas extraction would be cut 23 percent to just $1 million.

In short, the administration has not been willing to put much money or priority behind its new-found enthusiasm for many important programs contained in its own energy strategy.

I have addressed most of these deficiencies in the DOE program, since I believe that those of us who are disappointed in the administration's bill are obligated to come forward with other and hopefully better ideas.

Yesterday, during the Energy and Power Subcommittee's first day of markup on the National Energy Strategy, I gave a detailed speech on my energy views. My statement included comments on energy efficiency, domestic petroleum production, nuclear energy, coal and Federal Energy Regulatory Commission reforms, emergency preparedness and global warming among other topics.

I applaud the efforts of Chairman SHARP to include strong and effective energy efficiency provisions in the energy strategy markup documents. I am especially gratified by his decision to include the Federal Energy Savings Incentives Act in his draft. This bill, which I cosponsored with Congressman ED MARKEY, is the result of findings of a joint hearing held last year on Federal agency energy efficiency programs held by the Energy and Power Subcommittee and my own Subcommittee on Environment, Energy and Natural Resources. The measure provides incentives for agency installation of energy efficiency services and products and streamlines the regulations for Federal participation in utility shared-savings plans.

I am also pleased that Congressman SHARP included most of Congressman MARKEY'S Energy Efficiency Standards Act, a measure which I also cosponsored. If it were fully implemented, by 2010 these provisions would reduce peak electricity demand by 30,000 megawatts and save consumers an estimated $40 billion.

As my colleagues know, I have long believed that a cornerstone of any national energy strategy must be increased reliance on natural gas. Accordingly, the Clean Domestic Fuels Enhancement Act of 1991 includes provisions designed to increase the market for clean-burning natural gas as a vehicular fuel and in heating, cooling, co-firing, fuel cells and other major areas.

The bill includes crucial provisions important for natural gas and a complete program for alternative fuels development, including provisions for: investment tax credits for vehicles powered by clean-burning fuels, vehicle conversions, and infrastructure development for refueling stations; mass transit; Federal and State government fleets; alternative fuel use in non-road vehicles and engines; removing impediments to greater use of natural gas, including refueling; Federal programs to promote vehicular natural gas use and other consumer-oriented educational programs in this area.

Incentives are needed both for increasing the opportunities for gas use and for vital alternative fuels infrastructure development. Yet the administration's proposal does neither. Gas research and development is just a tiny fraction of all DOE R&D spending and, aside from fuel cells, spending in this area has declined despite its extraordinary potential for replacing imported oil. A half-hearted program in this area will virtually doom any efforts to significantly increase our use of domestic natural gas over the long term. Consequently, Congress must invest in better extraction techniques, new technologies and infrastructure development—in short, the whole range of programs necessary, from the well-head to the pump—in order to capture the benefits of this remarkable fuel.

Any comprehensive energy strategy worthy of its name must also emphasize alternative fuels; it must deal with auto efficiency. As is well known, transportation accounts for well over half of all U.S. oil consumption. Even the substantial gains we have made in fuel economy in the last decade are threatened by the potentially large increases in total miles which Americans are projected to drive over the next decade. Only increasing reliance on alternative fuels and improvements in fuel economy can reverse this discouraging picture.

But in order to break the CAFE deadlock, I think we will have to look at some new ideas.

On fuel economy and alternative fuels, my bill looks to the marketplace and consumer-choice to produce needed fuel economy improvements. It uses a fee-based system under which purchasers of vehicles which exceed a certain level of efficiency will receive a rebate, while those which do worse will pay a fee. Importantly, credit will be given for vehicles powered entirely by alternative fuels based on their environmental benefits, with greater credit given for domestically-produced alternative fuels.

Ironically, the President's energy strategy and many other energy bills ignore the pivotal contribution of lower-48 oil production.

Aside from a pledge to implement the tax incentives for oil and gas production enacted by Congress last year, regrettably the administration's strategy contains only three initiatives to spur domestic oil production: opening the Arctic National Wildlife Refuge [ANWR], ending most outer continental shelf leasing restrictions (some of which were imposed by the President himself), and some increased R&D on enhanced oil recovery.

Under the administration's NES projections, ANWR peaks at around 900,000 barrels/day by the year 2005; OCS production rises, under the NES, by about 100,000 barrels/day in 2010 and 400,000 barrels/day in 2015; and advanced oil recovery R&D is expected to produce an additional 3 million barrels/day in 2005 and 3.2 million barrels/day in 2010.

In contrast, the 15 percent tax credit for tertiary recovery which Congress already enacted into law is expected to produce 320,000 barrels/day as early as the year 2000.

DOE estimates that there are 300 billion barrels of unrecovered oil remaining in existing oil fields, more than 30 times more oil than the highest estimates of what could be in ANWR and over 100 times more than DOE estimates would be added by lifting the OCS leasing restrictions.

To its credit, the administration proposed to increase spending on enhanced oil recovery R&D in an effort to turn this potential into reality. I applaud this move and hope Congress will make sure that the final NES legislation authorizes the administration's proposed funding levels for enhanced recovery R&D.

I do not believe it was an especially wise or practical decision by the administration to have attached such a higher political priority to opening ANWR and OCS areas than to increasing lower-48 production, particularly when the potential benefit of these two areas pale in comparison to the potential of enhanced oil recovery—benefits which might well be enjoyed more quickly and more cheaply. At a minimum, I believe a far more balanced approach was in order.

My bill has several key provisions to encourage production in the lower-48 States, including expanding the availability of the enhanced oil recovery tax credit and changing the tax treatment of intangible drilling costs for independent producers. While these initiatives and other incentive programs designed to stabilize or encourage greater production in the lower-48 are largely outside the jurisdiction of this committee, they must be dealt with for any energy package to be truly comprehensive.

Finally, this bill is not the sole approach needed to solve all our energy needs. However, it addresses areas not covered by other bills or those treated only in a cursory way. Dealing with these issues presents tough choices for America. But ignoring the problem is the worst choice of all.

I submit a section-by-section analysis to be printed.

CLEAN DOMESTIC FUELS ENHANCEMENT ACT OF 1991 SECTION-BY-SECTION

Section 1.—Short Title and Table of Contents.

Section 2.—Findings.

TITLE I.—NONVEHICULAR OIL AND NATURAL GAS PROVISIONS

Section 101.—Authorizes $25,000,000 for each of FY 92, FY 93 and FY 94 for continued and expanded DOE research, development and demonstration related to increasing the availability of natural gas from existing reservoirs and formations, and from nonconventional sources, including tight formations, Devonian shales, less permeable formations, coalseams and geopressured brines. The section also authorizes DOE to enter into joint ventures with private firms related to such research, development and demonstration.

Section 102.—Authorizes $9,000,000 for each of FY 92, FY 93 and FY 94 for research related to the co-firing of natural gas with coal in electric power plants and for provision of financial assistance to public or private entities involved in co-firing research. Co-firing of natural gas with coal offers substantial emissions improvements over the burning of coal in electric power plants.

Section 103.—Authorizes not more than $17,500,000 for each of FY 92, FY 93 and FY 94 to support DOE research for natural gas cooling and heating technologies, including absorption heat pumps and engine driven heat pumps.

Section 104.—Authorizes $67,000,000 for FY 92, $74,000,000 for FY 93, $76,000,000 for FY 94, $79,000,000, for FY 95 and $82,000,000 for FY 96 for federal fuel cells research and development.

Section 105(a).—Requires DOE to solicit proposals for and provide financial assistance to at least one joint venture for the demonstration of fuel cell technology. Up to $3,000,000 for each of FY 92, FY 93 and FY 94 is authorized for the program.

Section 105(b).—Requires DOE, in consultation with the Interagency Task Force established by section 547 of the National Energy Conservation Policy Act, to conduct a program to promote the early application of fuel cell technology in federal buildings. A minimum of ten projects must be identified by DOE. $15,000,000 is authorized for FY 92 and FY 93 to carry out the program.

Section 106.—Authorizes $40,000,000 for FY 92, $41,000,000 for FY 93, $47,000,000 for FY 94, $49,000,000 for FY 95 and $51,000,000 for FY 96 for federal enhanced oil recovery research and development.

Section 107.—Requires DOE to establish a program of research, development, demonstration and commercialization of high efficiency heat engines. $25,000,000 for each of FY 92, FY 93 and FY 94 is authorized to support the program.

Section 108.—Requires the National Academy of Sciences to report on and make recommendations concerning the establishment of a uniform national policy to enhance the use of natural gas.

Section 109.—Revises and establishes various tax policies to stimulate increased domestic oil and natural gas production and recovery. Eliminates tax penalties applicable to drilling investment, corrects the minimum tax credit and expands the oil recovery credit.

TITLE II.—ALTERNATIVE FUELS AND FUEL ECONOMY

Section 201.—Definitions.

Section 202(a).—Authorizes up to $27,000,000 for FY 92, $36,000,000 for FY 93 and $41,000,000 for FY 94 for research and development of natural gas vehicles.

Section 202(b).—Authorizes $10,000,000 for each of FY 92, FY 93, and FY 94 for research, development and demonstration related to improving natural gas and other alternative fuel vehicle technology.

Section 203.—Provides an investment tax credit of 20% for January 1, 1992 to December 31, 2001, 15% for January 1, 2002 to December 31, 2002, 10% for January 1, 2003 to December 2003, 5% for January 1, 2004 to December 31, 2004 for the purchase of qualified clean-burning motor vehicle fuel property. Such property includes equipment to modify a vehicle to operate on alternative fuel, new dedicated alternative fuel vehicles and alternative fuel fueling equipment. The credit would apply to the portion of vehicle equipment which is additional equipment to allow the vehicle to operate on the alternative fuel.

Section 204, 205 and 206.—Eliminates regulatory obstacles under the Natural Gas Act and the Public Utility Holding Company Act to the sale of vehicular natural gas. Also, the section eliminates the application of state law to such sales if the law was in effect prior to January 1, 1989. The elimination of these regulatory hurdles will stimulate the development of a vehicular natural gas fueling infrastructure.

Section 207.—Authorizes $30,000,000 for each of FY 92, FY 93 and FY 94 for DOE to enter into cooperative agreements with state and local transit authorities to demonstrate the use of alternative fuels for mass transit.

Section 208.—Requires federal agency fleets to phase-in the acquisition of alternative fuel vehicles: 10% in 1995, 15% in 1996, 25% in 1997, 50% in 1998, 75% in 1999 and 90% in 2000 and thereafter. Also, requires the GSA and DOD to ensure that alternative fuels will be available to the federal fleet.

Section 209.—Provides exemptions for the federal fleet program for vehicles operated as part of an experiment in the use of alternative fuel vehicles and for vehicles for which the Secretary of Defense claims a national security exemption.

Section 210.—Requires state government fleets of ten or more vehicles in cities of 150,000 or more population to comply with the requirements of the federal fleet program.

Section 211.—Authorizes $5,000,000 for each of FY 92, FY 93 and FY 94 for a Department of Labor program to assist in the training of technicians involved in the conversion of vehicles to operate on alternative fuels.

Section 212.—Authorizes $30,000,000 for each of FY 92, FY 93 and FY 94 for DOE to establish and carry out a program of providing financial assistance to encourage the development and commercialization of natural gas and other alternative fuel vehicles.

Section 213.—Authorizes $10,000,000 for each of FY 92, FY 93 and FY 94 to allow DOE to enter into cooperative agreements with public or private entities willing to provide 50% of the costs of research and development to improve natural gas and other alternative fuel vehicle technology.

Sections 214, 215, 216 and 217.—Establishes a fee/rebate program to provide financial incentives for the purchase of fuel efficient, low-polluting vehicles. Purchasers of vehicles that exceed carbon dioxide emission target levels established by EPA would pay a fee for every hundredth of a gram per mile per cubic foot of interior passenger volume by which CO_2 emissions exceed the target for that model. Fees collected under the program would be used to pay rebates to purchasers of vehicles that emit less carbon dioxide per mile per cubic foot of interior passenger volume than the EPA established target levels. The target levels would be decreased each year to encourage greater efficiency. Credits for vehicles that operate on clean, domestic alternative fuels would be established.

Section 218.—Requires DOE to study whether the use of alternative fuels in nonroad vehicles (such as locomotives, marine vessels and airport vehicles) would contribute to reduced reliance on imported energy sources.

Section 219(a).—Requires DOE to establish a program: to promote the awareness of alternative fuels; to identify purchasing policies of the federal government that inhibit or prevent federal government acquisition of alternative fuel vehicles; to report on how the use of alternative fuel vehicles can be promoted through exemptions from or preferential treatment under state, federal and local traffic control measures; and to develop a plan to establish a trust fund for loans to convert vehicles to operate on alternative fuels or to purchase new such vehicles.

Section 219(b).—Clarifies the applicability of anti-tampering rules to vehicles converted to operate on alternative fuels.

SCENIC BYWAYS ACT INTRODUCED

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. OBERSTAR. Mr. Speaker, today I join my colleague, the gentleman from Oregon [Mr. DEFAZIO] and the Senator from West Virginia [Mr. ROCKEFELLER] in introducing in our respective Chambers the Scenic Byways Act of 1991.

The Interstate Highway System is almost complete, and the Public Works and Transportation Committee, on which I serve, is deeply involved in writing monumental new Surface Transportation legislation to guide us in the postinterstate era. Part of that rewrite should look beyond the effort to knit our Nation together by the fastest, most direct, routes possible, and include a different aspect of travel: leisure travel; a different landscape: the scenic, recreational, cultural and historic wonders of America; and a different road system: scenic byways.

Unlike interstate highways, scenic byways would take travelers away from the main corridors and into the mountains, forests and countryside, along the lakes, rivers and seashores of our great Nation. Instead of bypassing towns and villages, scenic byways would take the traveler into America's rural communities to eat, to shop, to stay, perhaps to experience a different way of life.

The bill we are introducing today would create a National Scenic Byways System in which States may participate on a voluntary basis. It would provide funding to assist States in planning and developing a scenic byways program, making safety improvements, providing scenic easements, constructing scenic features such as rest areas, turnouts, passing lanes and overlooks, improving access to recreation areas, and providing information and interpretation.

Many States already have their own scenic byways-type programs. Such roads could, if the individual States desire, form the core of the National Scenic Byways System.

This system would consist of highways proposed by the States, and designated by the Secretary of Transportation for their scenic, historic, recreational, archeological, or cultural values. Within the scenic byways program the bill establishes a subset of elite "All-American Roads," so designated for their great national significance.

The bill would authorize a 5-year program, funded at $20 million in the first year of the program, rising to $75 million in the last 2 years.

It would create an Office of Scenic Byways in the Department of Transportation, to provide technical assistance to the States, to promote scenic byways, to establish and maintain an inventory of scenic byways, and to carry out planning, research, and technical assistance duties with respect to the National Scenic Byways Program.

The bill also creates a 16-member Scenic Byways Advisory Committee composed of those Federal agencies and State, local, and private groups with interest in scenic byways. The committee is charged with developing and making recommendations to the Secretary regarding minimum criteria for use in designating highways as scenic byways.

The Advisory Committee would report to the Secretary within 18 months. The Secretary would then have 6 months from receipt of the report to issue regulations establishing the minimum criteria for designation.

To keep the momentum of those States with existing scenic byways programs, and to encourage others to begin planning and developing new ones, the bill establishes a 2-year Interim Scenic Byways Program, to provide a minimum level of funding while the Advisory Committee and the Secretary are finalizing the regulations. The Interim Program provides funding for projects which are on highways "highly likely to be designated as scenic byways" and for program development.

The full program would get underway in 1994.

The bill provides important guarantees that a road, once designated, would maintain its scenic, or other qualities. There are provisions for dedesignation if its qualities are degraded. The bill also would require the Secretary, in approving funding, to give priority to projects which have corridor management plans and a strong local commitment to protecting the byway, in order to assure that the local communities along the road will play their proper role in zoning and other protective actions. No grant could be made for a project which would not protect the scenic, historic, recreational, cultural, natural, or archeological integrity of the highway and the adjacent area.

This same set of priorities also guarantees a local role in selection and designation of such a road: If local interests are unwilling to commit to protecting its scenic, historic, or other values, it would be difficult for that project to be funded. Finally, the bill states that it should not be construed to alter or affect Federal laws and policies regarding the acquisition of roads, easements, and rights-of-way, or as establishing any Federal land use controls or regulations.

Scenic byways would not necessarily be an interconnected network. The system would more likely consist of many unconnected roads, perhaps just segments of roads, with scenic, or historic significance. Many such roads already exist, ranging from the 3,000-mile Great River Road following the Mississippi River from Canada to the gulf, to the 16-mile Mount Vernon Memorial Highway between Mount Vernon and Washington.

It would not be a road-building program. Most funding would go to safety improvements, enhanced access to recreational areas, and protection of historical or cultural resources in areas adjacent to the highway. Construction would be permitted for rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities, as well as for facilities for bicyclists and pedestrians.

Recreational driving is the second most popular outdoor activity in America, and this country has a matchless wealth of scenic, recreational, cultural, and historic glories to be visited. The Scenic Byways Program would enable Americans to stop and savor these features.

We hope it can be incorporated in the new surface transportation bill, and become an integral part of America's postinterstate transportation system.

AN EFFECTIVE CHINA TRADE POLICY

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. HOAGLAND. Mr. Speaker, on July 10, I voted against H.R. 2212—the Pelosi bill—as amended. The bill would continue China's status as a most-favored-nation trading partner through the end of this year, but would make the grant of MFN status next year conditional upon China's making significant progress toward change in several areas, principally civil liberties and proliferation of nuclear weapons. The bill passed 313 to 112.

As my distinguished colleague Mr. LEACH of Iowa stated during the debate on the bill, there is little disagreement among us about our goal—to encourage China toward greater recognition of human liberties and human rights; to discourage sales of nuclear weaponry and technology; and to push China as vigorously as possible toward a democratic form of government. The debate over this bill reflects only a disagreement on the means of drawing China in these directions.

Let me first set out the conditions of the Pelosi bill as it was originally proposed. It required China to take eight separate steps. First, it would require that China:

Account for citizens detained, accused or sentenced as a result of the nonviolent expression of their political beliefs during the events leading up to and occurring during and after the 1989 crackdown on Chinese students; and

Release citizens who were imprisoned in connection with these events.

In addition, to renew MFN next year, President Bush would have to certify that China is making significant progress toward achieving change in the following areas:

Ending religious persecution in China and Tibet;

Removing restrictions on freedom of the press and on broadcasts by the Voice of America in China and Tibet;

Terminating acts of harassment against Chinese citizens living in the United States;

Ensuring access of international human rights monitoring groups to prisoners, trials, and places of detention in China and Tibet;

Ensuring freedom from torture; and

Terminating restrictions on peaceful assembly in China and Tibet.

These conditions require significant progress toward freedom of the press and religion, the right to assemble peacefully, the right not to be incarcerated for acts of political speech occurring around the 1989 massacre, opening trials to international monitoring groups, and providing adequate places of confinement. These protections are guaranteed in amendments I, IV, V, VI, and VIII of our Bill of Rights.

Of course, we Americans agree with these purposes. These are all laudable goals, and I support them, but how realistic is it to think we will achieve these goals with 1 year of trade sanctions. The present leadership in China will dig its heels in when confronted with such demands.

What would our reaction be if China told us to rewrite the Bill of Rights by next year or else they would no longer buy our products? We would dismiss the demand out of hand. "To heck with selling the products," would be our reaction.

During the debate, the House adopted by voice vote an amendment reported by the Ways and Means Committee that added even more conditions to the Pelosi bill, requiring China to:

Take steps to prevent the export of goods to the United States made with prison labor;

Assure in a clear and unequivocal manner that it is not assisting nonnuclear countries in acquiring or developing nuclear weapons, either directly or indirectly;

End the practice and support of programs of coerced abortions and forced sterilization; and

Moderate its position of opposing Taiwan's entry into the General Agreement on Tariffs and Trade.

To require so many conditions makes the Pelosi bill, as amended, nearly equivalent to the Solomon proposal, House Joint Resolution 263, that would cancel China's MFN status outright. I endorse wholeheartedly the goals of the Pelosi bill and the Ways and Means amendment. However, I believe trade sanctions are the wrong means to achieve those goals, and may even make those goals harder to achieve.

We have considerable influence over China at this point in history because we import approximately $15 billion of their products and because China has such a favorable balance of trade with America—unfavorable from our point of view, a $10 billion deficit. But we must be realistic about what we can expect to extract with this leverage. As Mr. LEACH stated, our goal should be to pull China in our direction, not increase its isolation from the community of nations by setting up conditions that it will not meet.

Further, history tells us that blunt trade tools are a weak instrument with which to induce change in totalitarian regimes. The grain embargo put in place by the Carter administration did not change Soviet policies in Afghanistan. Instead, it severely and permanently hurt the midwestern grain farmer as the Soviets readily found other suppliers. It is not in our interest to put in place policies that will shift perhaps permanently, China's sources of grain and other commodities.

Last year, America shipped approximately 800 million dollars' worth of agricultural products to China. The Nebraska Farm Bureau Federation estimates that 30 million dollars' worth of Nebraska agricultural products will be sold to China this year with MFN status. If MFN status is revoked, much of that trade will be lost to American farmers. China can easily find other grain supplies.

I believe the Pelosi bill would be counterproductive. Therefore, I reluctantly voted against H.R. 2212, as amended. I hope this and subsequent debates can help us develop more realistic policies that will discourage China from exercising repressive human rights policies and from selling nuclear weapons and technology to other nations and will encourage China to join the dramatic and historic movements by the former Warsaw Pact countries in granting broader democratic rights to its citizens.

THE ACHIEVEMENT OF BALTIC INDEPENDENCE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. HORTON. Mr. Speaker, as you know, I have been a strong supporter of the independence of the Baltic States throughout my years in Congress. I am in close contact with various individuals and organizations committed to achieving Baltic independence. I recently met with a Lithuanian-American constituent of mine who is extremely dedicated to the liberation of Lithuania. I feel his story is worthy of our attention.

Paulius Klimas is one of the most committed activists I have ever met. In 1988, Mr. Klimas walked 500 miles from his hometown of Rochester, NY to Washington, DC to demonstrate his opposition to the imprisonment of the first Lithuanian dissident sentenced during glasnost. In addition, Mr. Klimas recently returned from Lithuania after leading the "Baltic Freedom Walk", a 400-mile walk for independence through Estonia, Latvia and Lithuania. I am including his own account of the Freedom Walk in today's CONGRESSIONAL RECORD. Furthermore, I call upon all of my colleagues in the House to join us in the fight to bring peace, freedom and democracy to our friends in the Baltic States.

THE BALTIC FREEDOM WALK

(By Paulius Klimas)

SUMMARY STATEMENT

Lithuanian-American activist Pauli Klimas and ten Halts reached the Cathedral in Vilnius, Lithuania on June 14, 1991. The "Baltic Freedom Walk" had begun from the Estonian parliament building one month earlier. Only Klimas and two Estonians had completed the entire 600 kilometer (400 mile) walk. Unfortunately no Latvians participated in this trek that reached Rica, Latvia on May 22 and the Lithuanian border on June 3.

Lithuanian President Vytautas Landsbergis greeted the walkers at the parliament building and accompanied them to the Cathedral where a mass was to be held to commemorate the 50th anniversary of the first Lithuanian deportations to Siberia. Former Lithuanian dissident Petras Grazulis, the first Lithuanian sentenced during glasnost in 1988 according to the Lithuanian Information Center, participated in this walk. In May of 1988, Klimas walked 500 miles to protest Grazulis' imprisonment. He was released in October of 1988 after serving a nine month sentence for refusing to attend a military refresher course.

This walk received a great deal of publicity in Estonia and Lithuania. The political climate in Latvia didn't allow the walk to gain momentum. The walk's theme song "About Being Free" was played by radio stations in all three Baltic States. The people of Lithuania, Estonia, and in some areas of Latvia, organized receptions for the walkers.

The President of Lithuania and I led a group of "Baltic Freedom Walkers" and a crowd of 500 people through the cobblestoned street known as Gediminas Prospect in Vilnius, Lithuania. Vytautas Landsbergis had joined us at the Lithuanian parliament building for the last kilometer of a 600 kilometer (400 mile) walk for Baltic independence. This walk would officially end at the Cathedral where a special mass was to be held. As we walked, President Landsbergis reminisced about our first meeting in Chicago two years ago when I proposed this project.

Since preparing for a walk takes time, in the fall of 1989 I suggested that it take place in the summer of 1991. President Landsbergis indicated that the summer of 1990 would be appropriate, and I couldn't argue. Then the Soviet blockade of Lithuania canceled the walk indefinitely. The massacre at the Vilnius television tower on January 13, 1991 added to the chaos, and few of my friends believed that a walk was feasible. I still hoped for the opportunity.

As a Lithuanian-American, I had initiated this walk to demonstrate my faith in Baltic independence and dedication to the land of my forefathers. My parents left their native Lithuania in the 1940s to escape Communism. They met in the United States, and I was born in a free nation where I learned the Lithuanian language. Before I received a Bachelor's degree in English, I graduated from a Lithuanian Saturday school. Often I dreamed about visiting Lithuania and meeting my relatives.

In March of 1991 I received an invitation from a relative to visit Lithuania for the first time. With donations from my employer Thomas James Associates Stock Brokerage and the parishioners of St. George's Roman Catholic Lithuanian Church, I was able to finance my project. I immediately obtained a Soviet visa and an assurance of support from Sajudis or the Lithuanian Popular Front. The plan was for a Latvian, and Estonian, a Lithuanian (to serve as interpreter), and myself to begin on May 14, 1991 from Tallinn, Estonia. We would walk through Riga, Latvia and finish in Vilnius on June 14.

On June 14, 1941 the Soviets began deporting Lithuanians to Siberia. The 50th anniversary of this tragic event was to be commemorated with a mass at the Cathedral for those who suffered or died in Siberia. Stalin was responsible for the murder or deportation of more than one million Baltic citizens between 1947 and 1953. (Romuald J. Misiunas and Rein Taagepera *The Baltic States: Years of Dependence 1940–1980*, Berkeley: Univ. of Ca., 1983) p.274–280. Among those deported were my grandparents.

During my visit to Lithuania I met my paternal grandmother Marija Klimas who at 88 years of age has a very good memory. As successful farmers my grandparents were among thousands of Lithuanians that Stalin wanted to liquidate. Vincas and Marija Klimas were stripped of their property and deported in 1948. According to my grandmother, they spent 16 days on a cattle-cart with little food or water as they traveled to a Siberian work camp. After almost ten years in Siberia, they were released and returned to Lithuania in 1957. My grandfather died of heart problem several years later. Their suffering has always motivated me to act.

In 1988 I walked 500 miles in a twenty-three day march to protest the imprisonment of the first Lithuanian dissident sentenced during glasnost. This walk began in my hometown of Rochester, New York and ended at the White House on May 24. A member of the

National Security Council agreed to present the case of Petras Grazulis to President Reagan's advisers at the Moscow Summit. Although he had fulfilled a two year commitment in the Soviet army, the Soviets ordered him to attend a military refresher course. Grazulis refused and was sentenced to ten months in a Soviet labor camp.

The Soviets often use conscription to punish dissidents; Grazulis had been planing a Lithuanian Independence Commemoration. Remarkably while in prison, Grazulis learned about my walk via the Voice of America which had interviewed me and also played both the English and Lithuanian versions of the song "Hope's Alive (Free Grazulis Now)". My friend Jim Griffo wrote this song and recorded it at Dynamic Recording in Rochester. Grazulis was amazed when he learned about the walk and song.

Meeting Grazulis was a great moment in my life. After serving nine months of a ten month sentence, Grazulis was released in October of 1988. I was unable to contact him until I arrived in Lithuania. We met in Vilnius a few days before the walk was to begin. Once he learned about the walk, Grazulis immediately decided to participate. Plus, he provided a driver, a jeep, and a trailer to assist the walkers. Eventually our number grew beyond the intended three participants; the jeep and trailer proved to be a great asset.

The jeep would transport the walkers, the primary walking group consisted of seven Estonians and four Lithuanians, to the hotel or camp ground that was closest. (Unfortunately, no Latvians joined us). In case of rain, the six men and five women in this walking group could seek shelter in the jeep or pull rain gear out of the trailer. There was a cross section of ages, from 16 to 60, crammed into the jeep as we progressed on our schedule.

A pace of twenty kilometers or twelve and one-half miles a day enabled us to meet local officials and the media. Usually we were provided with lodging at a local motel or camping facility. Many of our meals were also arranged through local officials who were eager to accommodate us. Invariably town officials would present us with pins or pennants with their particular insignia.

Each walker wore a "Baltic Freedom Now" T-shirt. This slogan encircled a map of the Baltic States in which each nation was designated by its national colors. The Baltic American Committee or Rochester, of which I am a member, had designed this T-shirt. I had also brought a "Baltic Freedom Now" baseball cap, but I only had a few of them. However, it was quite inspiring to see the eleven of us in uniform and cheering "Baltic Freedom Now" as we held each other's hands and raised them high above our heads to signify that the day's mileage was done.

Throughout the walk our positive attitude never quit. Occasionally we sang folk songs separately and used the Russian language to communicate. Music is an international language; our theme song "About Being Free" was played by radio stations in all three Baltic States. My friend folk singer Bonnie Abrams wrote this song specifically for the walk, and she also recorded it at Dynamic Recording in Rochester. This song emphasizes that occupied nations can choose a peaceful path to independence and succeed. "I am a sovereign and free land" it states.

The people of Estonia strongly believe in independence. About 400 of them gathered at the Estonian parliament building on May 14, 1991 to see it begin. The media made every effort to publicize our objective of reaching Vilnius in one month. During the walk, Estonians would simply stop their cars and present us with flowers. They would usually be crying and their tears would motivate us onward.

In Parnu-Jaagupi a women's organization drank a toast to the walk's success. The director of collective farm in Parnu-Jaagupi, which is located near the Baltic Sea in the southwest Estonia, showed me his fifty-year old machinery; we both agreed that independence could only improve the economic situation. Later, in the city of Parnu I addressed a political convention and received a standing ovation for saying "Freedom for Estonia".

The political reality in Latvia is much more complicated since the population is almost fifty percent non-Latvian and predominantly Russian. Local officials in Ainazi greeted us with flowers as we crossed into Latvia on May 22. They also provided us with accommodations at a local school and a good meal. However, until we reached Riga almost 100 kilometers away no one greeted us. Once in Riga, the Latvian Popular Front organized a television interview for us and a radio station replayed an interview that I had done earlier.

When we reached Lithuania on June 3 we were able to immediately generate publicity. At the Lithuanian border post near the town of Pasvalys we organized a demonstration to protest Soviet terrorism. The Soviet OMON or Interior Ministry troops known as the "Black Berets" had recently killed a Lithuanian border guard on the Lithuanian-Byelorussian border. Plus, they had terrorized and burned buildings at several Baltic border post including the Lithuanian border post at Pasvalys. Our demonstration took place directly across from a trailer that Soviet troops had destroyed. I told the crowd of 300 people that violence can't defeat a non-violent movement.

We had several other major demonstrations in the towns of Pasvalys, Ukmerge, and Panevezys. At these rallies, Grazulis often explained how grateful he is for my supporting him. Lithuanian radio and newspapers closely covered these rallies. I would always tell the crowd that the only viable course for Lithuania was independence now! Our song "About Being Free" was often played at these rallies.

As the Cathedral drew closer, images of the people I had met danced through my mind. President Landsbergis congratulated me as we reached the Cathedral and the walk was completed. I thanked President Landsbergis for walking with us and thought about the difficult days ahead for him and other Baltic leaders.

During the mass I prayed not only for my grandparents and all those who suffered in Siberia. I also prayed for Baltic independence. It was wonderful that we had reached our objective and been appreciated. I felt fortunate to have had such an opportunity and to participate in this commemorative mass. Some day I'll walk through an independent Estonia, Latvia, and Lithuania!

HISTORIC JERUSALEM WELSH CONGREGATIONAL CHURCH SHOULD BE PRESERVED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. SOLOMON. Mr. Speaker, few areas of the country have as rich an historical heritage as the 24th District I am proud to represent.

Perhaps even more than any history books, the old churches of the district reflect that heritage and stand as permanent monuments to the past, and one of those churches is the Jerusalem Welsh Congregational Church in Granville.

That part of the district was extensively settled by Welsh immigrants, many of whom came here to work in the slate quarries. Few of their descendants speak Welsh any more, but the influence remains in the names of many Granville-area residents.

The sad part of the story is that this church is now vacant, in need of repairs, and on the market. Its members cleaned out the church in the 1970's, and now the best hope is that it will be bought by someone who is willing and able to preserve it for its historical and architectural value.

A more complete version of this story was published recently by my hometown newspaper, the Glens Falls Post-Star. I enter the story in today's RECORD.

[From the Glens Fall Post-Star, July 16, 1991]

GRANVILLE CHURCH PART OF VANISHING WELSH LEGACY

(By Joan Patton)

GRANVILLE.—In the middle of Granville on Bulkley Avenue is a vacant church. At the turn of the century, it was one of four Welsh churches that served a largely Welsh population of men and women who had left their native land for a better life in America.

Today, the 80-year-old Jerusalem Welsh Congregational Church is another part of the now-vanishing legacy of those early Welsh quarriers. Very few people here now can speak Welsh, but many have made at least one trip to Wales.

The most visible reminder of their heritage remains in names like Evans, Hughes, Jones, Roberts and Williams.

In the Morris Rote-Rosen photographic collection in the Pember Library are pictures of the Jerusalem Welsh Congregational Church and of many Welsh, their homes, their serious-faced preachers and slate quarries.

For all the tales this church could tell about its parishioners and their Welsh heritage, it remains mute: The church records have disappeared.

Florence Constantine, of Welsh descent, joined the church in the mid-1940s; by then the sermons no longer were delivered in Welsh. When she and other members cleaned out the church in the 1970s, she said, they found Welsh Bibles and Testaments, but not much else.

Who can tell how many members belonged to the church, how often services were held, whether members performed in the annual "Eisteddfoday" (Welsh singing musical and reciting competitions)?

The church has been owned by the Assembly of God since 1977. Its fate is uncertain.

The church and the parsonage next door were recently put on the market.

Welsh people all across the country know about it from an article that Janice Bruso, a resident of Poultney, Vt., published earlier this year in "Y Drych," The American Organ of the Welsh People, St. Paul, Minn.

The church needs some repairs, particularly where the roofs of the two buildings join, but it stands four-square, as it has since the early 1900s. Take a look in the dirt-floored basement, and you'll see the massive stone foundation on which the organ was placed, the heavy square posts that support the sanctuary floor; the stone piers supporting the floor of the original wood church.

It's a classic case of a culturally significant building awaiting the right person or organization who can adapt the sturdy building to a new use, what historic preservations would call "adaptive re-use."

As the story goes, a group of Welsh families emigrating to Granville around 1900 to work in the slate industry, "knowing there was no Congregational Church, brought along their own pastor."

The first church, on South Maple Street, was a simple wood building, with a meeting room and smaller Sunday school or kitchen. The clapboard church has a steep-pitched, slate-covered roof.

Sigmund Weinberg, an area contractor—and Jewish—had just built the Peniel Welsh (now Presbyterian) Church on Quaker Street, when the Welsh congregation asked him to build a new and bigger church adjoining the wood frame building. They also asked him to loan them the money to build it, which he did.

When the congregation later paid off the loan, Weinberg refunded 10 percent of the money and gave the church a pipe organ. That organ, placed in an alcove behind the pulpit in 1910 on the wall abutting the old church, was sold in recent years to a church in Florida.

Five Gothic lancet stained-glass windows sit along each side of the nave, but bear only one memorial dedication: to Sigmund Weinberg.

The brick and stone building has a fish-scale-patterned slate roof, purple slate steps and stoop and corner steeple. Inside is a handsome carved, marbleized slate pulpit.

A balcony runs around three sides of the sanctuary, whose pews are arranged in three concentric rows facing the pulpit. The floor slopes toward the pulpit.

Enclosed stairways off the entrance foyer lead to the gallery and pastor's study.

The gallery is braced by steel rods reaching to the ceiling. There's some question, said Granville realtor Ann J. Hitchen, whether the support rods are original or were added perhaps in the 1940s.

The ceiling is paneled in tongue-and-groove wood. The acoustics of the sanctuary are considered to be "very good, indeed," said Cyril Lloyd, a Welsh-born banker, now retired. Lloyd said his wife's family, from South Poultney, used to attend the church, which seats at least 400.

A St. David's Society, dedicated to preserving Welsh heritage recently was formed in Poultney. The Slate Museum in Granville now closed, includes information about the influence of the Welsh on the slate industry.

HEALTH CARE REFORM

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. McCLOSKEY. Mr. Speaker, as you know, one of the legislative priorities of this Congress will be some much needed reforms of our health care system. Despite the fact that our Nation spent over $600 billion for health care in 1990, too many of our citizens lack adequate access to the kind of care they need. Moreover, the costs continue to increase at a rate substantially higher than the general rate of inflation. Over the last 20 years, health care costs increased an average of 17 percent each year. Finally, the demands for long-term care for the elderly are consuming Medicaid, so that there is little left for general health care services to the poor. This problem can only get worse as the population of our country ages.

Several studies concerning what we should do to address the problems of access and cost are currently underway and others, such as the Pepper Commission established by the Congress, have already been completed. Many of these studies concentrated on the financing mechanism of our health care system and they have provided us with some very helpful recommendations for reform.

Mr. Speaker, I would like to direct the House's attention to a health care study commission in my own State, which is developing some unique and thoughtful recommendations for health care reform.

The 17-member bipartisan, multi-discipline commission was created by Indiana's legislature in 1989. The commission's work is supported by a 70-member volunteer technical staff, each analyzing a specific area of health care. The commission's final report is due in November 1992.

The commission is chaired by the chief executive officer of the Associated Group, L. Ben Lytle. Mr. Lytle is an attorney who has lectured and written extensively on health care reform. The 40-year-old Associated Group is an insurance and financial services organization based in Indiana and operating in 22 States. Including its commercial insurance carriers and its unique Blue Cross/Blue Shield plan, it is one of the 20 largest health insurers in America. The Associated Group has garnered considerable knowledge about needed reform both from its 40 years of experience and from concentrated research it began in 1985. The depth of this research was one of the reasons Mr. Lytle was selected to chair Indiana's Health Care Commission.

Obviously, the results of the Associated Group's research or the Indiana Health Care Commission's findings to date would be too extensive for me to go into at this time, but I would like to briefly touch on one area of the Indiana Health Care Commission's investigation which appears to go to the heart of one of the root problems of our health care system. If we step back and view the system as a whole, a critical tenet emerges: a very small percentage of patients account for a very large proportion of total health care costs. In fact, the trend toward concentration of costs in services for the critically, chronically, and terminally ill appears to be increasing.

While the large majority of Americans in any given year need relatively few health care services, a small minority incur high costs and often require complex care. In fact, only 3 to 5 percent of the population account for 40 to 50 percent of all costs, and 10 percent of the population account for fully 75 percent of the costs in the health care system. In effect, about 50 percent of the population have virtually no health care expenses. Another 40 to 45 percent will incur $2,000 or less, 3 to 5 percent will have expenses exceeding $100,000. By treating those who need a significant amount of care and those who need little care in the same financing and delivery system, we have driven up the costs for both and at the same time, lessened the quality of, and access to, health care for all. The Indiana Health Care Commission is evaluating a recommendation to remove the critically, chronically, and terminally ill from the general health care system and place them into a professionally managed system specializing in high quality, cost-effective care. This new concept is called the Platinum Card System.

Under this plan, an individual with certain specific diagnoses identified by a panel of expert physicians as critical, chronic, or terminal illness would be eligible for voluntary entry into the Platinum system. If the individual decides to enter the system, all necessary care would be provided at lower cost, with fewer limits or in many cases no limit. In return, the individual agrees to use the doctors, hospitals, and other health care providers selected to provide services to Platinum Card patients. These providers would be specialists in the named diagnoses and would have agreed to standards of quality, efficiency, and also agreed to standards on prices for the service. Care would be provided under individualized treatment plans coordinated by professionals who specialize in the particular catastrophic illnesses. Cost and quality control would be achieved by the selection of providers who have proven track records and handle high volumes of cases in the specified diagnoses. Further economies are achieved through the coordination of care by a trained professional. Financing of the Platinum Card pool could be public, private, or both. It could include Medicaid and Medicare patients as well as privately insured persons. If only a 10 percent efficiency is gained, and much more is possible, $35 billion to $50 billion could be saved with an increase in quality. The reduced cost pressure from elimination of high-cost cases would make employer-sponsored insurance more affordable.

While the Platinum Card system is not a total solution to the problems in our health care system, it is an idea worth considering while Congress works toward a more comprehensive solution.

I believe, Mr. Speaker, that we should learn more about this idea and others that are being explored by the Indiana Commission on Health Policy.

DEMOCRACY—THE VANGUARD OF FREEDOM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. JONES of North Carolina. Mr. Speaker, I am delighted to report that Michael W. Flanagan of Newport, NC, within my congressional district is the State of North Carolina's winner for the 1990/91 Veterans of Foreign Wars Voice of Democracy contest. Mike is in the 11th grade at West Carteret High School in Morehead City, NC, hoping to pursue a career in chemical engineering. With your permission, I would like to have printed the text of his "Democracy—The Vanguard of Freedom."

"DEMOCRACY—THE VANGUARD OF FREEDOM"

(By Michael W. Flanagan, North Carolina winner, 1990/91 VFW Voice of Democracy Scholarship Program)

A Letter to Home
December 2, 1992

Dear Son,

How's it going Buddy? I hope you're being good for your mom. She needs all the help she can get. While I'm gone, you're going to have to work real hard because you're the man of the house now, and I want you to do a real good job till I get back.

Now, your mamma told me you couldn't understand why I had to be gone and why I couldn't come home for Christmas. Well son, you may be a little too young to understand but I hope you will appreciate the reason that I'm gone later. You see, about twelve years ago I signed a piece of paper that contained an oath. I swore to protect the United States of America and the freedom created by its democracy by joining our United States Armed Forces. You can't understand the privilege you have to live in America. Other parts of the world live in hunger, war, and oppression. These people have to live with the fear that their very own government may simply come in and take their homes, their families, and even their lives.

Here, you can live without the worry of this. Our government is set up on the principles of liberty and freedom. It is set up to protect us and our way of life. It has been like this for over two hundred years. Our founding fathers set up such a model for the world to follow. We are considered the apex of freedom. This height could have only been reached through a single path, and that, son, is democracy. Everyone who lives in America believes in this philosophy, and we hold it sacred in our hearts. We want the entire world to be able to live as free as we. And son, that's what I'm doing, helping these people live as we do.

After the invasion of this country six months ago, the people's lives have gone from a heaven to a hell. They can no longer walk the streets for a breath of fresh air without the fear of being shot, and this enrages me. I am here to try and recapture heaven for these citizens. They believe in the same principles as we do, and I want them to live that way again. We are trying to re-establish the democracy. When democracy is re-established, freedom will be restored with it. You see, democracy is the vanguard of freedom, son. One cannot and does not exist without the other. Where you have democracy, you will have freedom. In communist societies, freedoms are little if any, and it goes the same for socialistic societies.

We, as a democracy, must help preserve the democracies of the world. If we help protect and help other nations move towards democratic societies, the world will be a better place. But, if we don't, the anti-democractic societies will begin to take over, taking our homes, jobs, and our entire way of life. So I put my life on the line everyday to protect the democracy of the United States and of the world. With the protection now, when you are my age son, you may never have to worry about a situation like this. But, if you are unfortunately faced with the situation I am, I hope you face it bravely. It is our duty as Americans to protect the democracy of the United States and of the world because democracy is truly the vanguard of freedom.

Well son, I have some drills I have to run so I will end this letter. Help mom and be good, but most of all, think about what I have said in this letter and try to appreciate what we have here in the world of democracy and freedom. I love you!

Signed,
Dad

LABOR LAW REFORM—"UPDATE THE NLRA"

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. GUNDERSON. Mr. Speaker, in my ongoing effort to make the case for the need to reform our labor laws, I want to focus attention today on the National Labor Relations Act [NLRA]. Specifically, I want to briefly discuss two issues which point out that the NLRA could be much more effective in serving the best interests of American businesses and workers.

Congress' last comprehensive review of the NLRA—the Nation's main law guiding labor-management relations—was during passage of the Landrum-Griffith Act in 1959. Since then, many labor-management disputes have demonstrated both that the focus of the NLRA, and the ability of the National Labor Relations Board [NLRB] to help resolve disputes could be greatly improved.

Given the divisive debate on the House floor yesterday over H.R. 5, the strikebreaker replacement bill, it is appropriate today to look at more comprehensive changes that should be made to the NLRA.

In general, employers argue that the collective bargaining process is too inflexible under present law, causing polarization in negotiations. Employees argue that, while the law defines an employer's minimum legal responsibilities to his or her employees, it offers no incentives to fulfill moral and social responsibilities. Changes to the NLRA could emphasize the common elements both parties share in maintaining productivity and improving competitiveness.

RESTORING BALANCE: SECTION 8(a)2

First, we must look for ways to restore true balance between labor and management under the NLRA. The act is intended to help balance the competing self-interests of labor and management. As the middle ground between these interests often shifts in one direction or the other when applied to individual circumstances, the act should provide for this needed flexibility.

For example, section 8(a)(2) of the NLRA limits an employer's ability to influence organized labor. While this provision was designed to prevent employer-sponsored "in-house" unions—which blocked outside unions from entering the work place—the provision also inhibits positive labor-management programs, such as in-house "quality councils" and other innovative, joint management programs.

In a 1987 report by the Department of Labor ("U.S. Labor Law and the Future of Labor-Management Relations"), the department considers section 8(a)2 prohibitions on employer contributions to such labor-management programs (referred to as the "unlawful assistance" branch of the section) to be too broad. The report characterized the provision as "potentially so broad and all-inclusive that it was thought necessary at the outset to exempt one form of indirect financial support, the payment of wages to an employee while negotiating with the employer during working hours."

While the DOL report did not advocate changing section 8(a)2, interpretations of the statute are sufficiently broad in this and other areas as to likely prevent some labor-management ventures which otherwise might be pursued. If our emphasis should be on strengthening the collective bargaining process as an important institution of the labor-management relationship, emphasis should also be on promoting positive cooperative ventures between the two outside of the collective bargaining arrangement.

Section 8(a)2 and similar provisions may still be warranted to prevent unfair employer advantage over employees. But they should be updated to reflect changes in workplace relations which have occurred since 1934.

IMPROVING EFFECTIVENESS: THE NLRB

Second, in order to further strengthen the collective bargaining process, we must strengthen the avenues available under the NLRA to enforce and mediate between parties to such agreements. The National Labor Relations Board, though designed for this purpose, has been unable to mediate disputes quickly enough.

A 1991 GAO report found that, in both 1988 and 1989, 95 percent of all cases filed with the NLRB were resolved at the regional level. When cases were litigated before an administrative law judge, the median time to obtain a decision was about 1 year. Half of nonlitigated cases were resolved within 50 days.

However, problems with delay still affect those cases directed to the NLRB headquarters. Since 1973, this has been an average of fewer than 5 percent of cases filed. Though this number is small in relation to the total, in 1989 it amounted to 874 cases (of 40,108 filed). During the period 1984 through 1989, the median time to resolve cases before the national board increased, and 17 percent (823) of those cases took a median of more than 2 years to decide.

Charges that the national board is not as responsive as it might be in resolving these disputes tend to center on perceptions that cases before the Board are backlogged. The GAO report found that 30 percent of cases had been pending 2 or more years in 1988. However, the backlog, as high as 300 cases in

1987, has dropped to just 10 cases in 1991. Since the average time required to resolve cases has not been reduced, case backlog is clearly not the main factor in NLRB delay. Mandates on the NLRB to assure maximum due process protection for employees and employers alike are more likely to blame for delays.

The GAO report also attributed delays to the lack of standards for the length of time a case can be considered by the NLRB, and for the length of time a case can remain at each stage before corrective action is taken. Another cause of delay is turnover on the board.

These delays lead to uncertainty on the part of both employees and employers. For example, in the case of a strike for unfair labor practices, a decision by the NLRB general counsel not to file a charge of unfair labor practices against an employer, usually within 45 days, often serves to end the dispute by declaring such strikes to be without merit. However, the decision to file such a charge leaves both labor and management uncertain about the actual legal status of the strike until after a ruling by the board. Under the current process, the average case takes 2 years between filing and final Board resolution. Even then, further delays may arise due to appeals.

Because the current process prevents timely NLRB intervention to resolve labor-management disputes, procedural and structural improvements should be made in a manner that balances faster resolution of cases with adequate due process protections.

It is my hope that Congress will spend less time on divisive debates, such as that we saw yesterday on H.R. 5, and more time on creating comprehensive reforms. Reforming the NLRA alone to improve labor-management relations would easily fill our time. It would also give both American businesses and American workers far more than they could ever gain by continued partisan, piecemeal change.

STABILIZING THE POPULATION IS VITAL—THE AMSTERDAM DECLARATION

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mrs. MEYERS of Kansas. Mr. Speaker, I am pleased that closer attention is being given to the problems associated with world population growth. Just last week, the United Nations commemorated July 11, as World Population Day. I would like to take this opportunity to bring to my colleagues' attention the importance of this issue to the future of our planet. The relationship between human population and the environment must be recognized if we hope to pursue the vital objectives of sustainable resource management and ecologically sound growth.

The Amsterdam Declaration of November 1989, recognizes the importance of population planning. It makes specific recommendations to implement the goals of stabilizing the world's population and balancing the population and resources of the Earth. It identifies specific actions that both the donor states and the recipient states should take in order to make the best use of resources available for family planning.

People are part of the environment. They affect the ecology. I do not subscribe to the obscene theory that human beings are a blight on the Earth. But one would have to be willfully blind not to recognize that population pressure has an effect on the environment.

The biggest cause of tropical deforestation has been the expansion of crop and grazing lands to try and feed a skyrocketing population. The need for firewood has also caused massive deforestation. The Food and Agricultural Organization estimates that over 1½ billion people are cutting firewood faster than the trees can grow back.

We in the House are beginning to realize the importance of American leadership in the field of international family planning. During consideration of the International Cooperation Act of 1991, the House acted to remove two of the primary obstacles to a rational approach to this problem: The Mexico City policy and the prohibition against providing aid through the United Nations Fund for Population Activities [UNFPA]. The Mexico City policy prohibits American family planning assistance to any foreign nongovernmental organization that has anything to do with abortion, although no U.S. family planning funds have ever been used for abortion. It is the foreign policy equivalent of the title X gag rule. The prohibition against providing aid to UNFPA was just as harmful. UNFPA provides family planning assistance to over 100 countries, but had its American funding cut off because of a program it had been conducting in China.

Congress must continue its work to highlight the importance of international family planning. We must continue our efforts to turn the goals of the Amsterdam Declaration into reality.

SUPPORTIVE SERVICES IN HOUSING ACT OF 1991 AND THE HOUSING OMBUDSMAN ACT OF 1991

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mrs. LLOYD. Mr. Speaker, today I am introducing two bills to improve the quality of life for older Americans living in assisted housing. Both bills create demonstration programs under title IV of the Older Americans Act [OAA], and it is my hope that they will be included in the act's reauthorization this year.

The first bill amends the OAA to establish a demonstration program to provide supportive services in federally-assisted housing projects. The Supportive Services in Housing Act of 1991 provides $4 million for grants to the aging network to conduct outreach and provide services to frail older individuals who are residents of Federal housing projects. Services may include: meals, transportation, personal care, housekeeping, case management, and others.

We know that there are thousands of older residents living in these facilities who face premature or unnecessary institutionalization if supportive services are not provided. The cost of ignoring their needs is to take away their opportunity for independent living and millions of dollars unnecessarily spent by the Medicare and Medicaid programs on institutional care.

Unfortunately, the supportive services needs of older residents of federally-assisted housing projects are beyond the resources that the aging network has been given. This demonstration will enable area agencies on aging and their subcontractors to better target resources to low-income individuals, with particular attention to low-income minority individuals. It is my sincere hope that this demonstration will lead the way for future efforts to better serve some of the frailest and most needy older Americans living in Federal housing projects.

Mr. Speaker, the second bill that I am introducing today also addresses problems that frequently occur in assisted housing situations, both Federal and non-Federal facilities. The Housing Ombudsman Act of 1991 will provide $2 million to create a demonstration program to provide ombudsman services to older residents of assisted housing and individuals seeking assisted housing. This will help to ensure the quality and accessibility of publicly assisted housing programs for older Americans.

This demonstration will provide ombudsmen to assist older adults in receiving timely and accurate information; fair treatment; and protection from abuse, neglect, exploitation, or other illegal treatment in publicly assisted housing programs. Ombudsmen will look out for the best interests of their resident clients by providing advice and advocacy, as they do in the Long-Term Care Ombudsman Program of the OAA. Services will also include referrals, resolution of complaints, and assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems.

Housing ombudsmen will advocate for the rights of older residents and will assist in issues related to functional impairments, discrimination, threats of eviction, grievance procedures, and regulations of the Department of Housing and Urban Development and the Farmers Home Administration.

Both professionals and volunteers may be used to provide these services, and grants may be awarded to various agencies including area agencies on aging, legal service providers, ombudsman programs, and others.

Mr. Speaker, the two bills that I am introducing will assist thousands of older Americans living in assisted housing. This legislation will also provide further evidence and data that will direct Congress to focus more on the needs of older low-income individuals and their housing and supportive service needs.

I am pleased to say that I worked on this legislation with the chairman of the Senate Subcommittee on Aging, Mr. ADAMS, and he and his staff director, Bill Benson, deserve much of the credit for developing the housing ombudsman concept. I am also pleased to note that the housing ombudsman demonstration has been included in Senator ADAMS' Elder Rights Program, which Mr. ROYBAL introduced in the House.

TRIBUTE TO COMMEMORATE CAPTIVE NATIONS WEEK

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BONIOR. Mr. Speaker, I rise today to announce the commemoration of Captive Nations Week at the Ukrainian Cultural Center in Warren, MI, this Sunday, July 21. Next week marks the 32d commemoration of Public Law 86–90, which instructed "the President to issue a proclamation each year until such time as freedom and independence shall have been achieved for all captive nations." Ever since the original signing of this law, the Captive Nations Week Committee of Michigan has held annual observances the third week of July to honor all the Captive Nations.

As we bear witness to the unprecedented social and political changes occurring in Central and Eastern Europe, it is important to remember the people who have risked much in their courageous bid for freedom and independence. For far too many years, the blessings of freedom, liberty, and justice have been denied to the people of the Captive Nations. The Captive Nations Week Committee of Michigan has remained committed to remembering friends and relatives who have suffered under oppression.

In keeping with this theme, I am proud to say that on March 22, I introduced H.R. 1603 which would formally make it the policy of the United States to support democratization, self-determination and independence for all republics within the Soviet Union which seek such status. This resolution directs our foreign assistance and other programs to support those republics whose governments are democratically elected. And, while strongly supporting the peaceful resolution of conflicts, it condemns the actual and threatened use of force to suppress self-determination.

I believe this bill sends a strong message to the Soviet leadership. They must be made aware that intervention, or any type of interference in the Captive Nations' affairs, is not tolerable and will continue to damage their potential political and economic ties with the United States.

We should also continue pressing the Soviet Union with respect to human rights. This is no time for the United States to waver in what has been our historical and traditional commitment to freedom and democracy. It should be clear that individual liberty, religious freedom, national independence, and the democratic process are of critical concern. While we are excited that legal guarantees of religious liberty have been put in place in a number of Central and Eastern European nations, regretfully many are still unable to exercise this freedom. We must insist that what is codified in law is allowed in practice.

In these times of promise and possibility we are excited by the present reforms. However, I believe liberalization would have never occured without the persistent effort, dedication, and commitment of various groups and individuals throughout the world. The Captive Nations Week Committee of Michigan is one of these organizations and I commend its members for their diligence in organizing this important annual event.

TRIBUTE TO WILLIAM J. MARSCHALK

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity today to pay tribute to my longtime friend William J. Marschalk of Calabasas Park, CA, who died July 12 at the age of 46 following treatment for Hodgkin's disease.

Bill Marschalk was an outstanding business executive, and I am pleased to have known him and to have called him my friend. As executive vice president of administrative services for Great Western Financial Corp. of Beverly Hills, CA, he contributed greatly to its successful business endeavors.

Prior to joining Great Western in 1979, Bill served in various legislative and government affairs positions with the National Association of Realtors, the National Forest Products Association, and the California Savings & Loan League.

In 1969, Bill began his distinguished career as a trial attorney with the Federal Trade Commission here in Washington, DC. From 1975 to 1977 he served as director of House and Senate liaison for the U.S. Department of Housing and Urban Development.

Bill Marschalk was also active in community affairs. He served on the board of trustees of the Housing Opportunities Foundation of the U.S. League of Savings Institutions, as a director of the California Housing Partnership Corporation, a member of the executive committee and board of directors of the Big Brothers of Greater Los Angeles, and as a member of the president's council of California State University in Northridge, CA.

He is survived by his lovely wife, Jeanne; their two children, Cory and Heather; his mother, Irene Marschalk; a sister, Maribeth Marschalk; and two brothers, Robert L. and Paul Marschalk.

An exceptional person to all who knew and worked with him, affable and talented Bill Marschalk will be greatly missed.

My wife, Carol, joins me in extending our sincere sympathy to the family of Bill Marschalk.

IN RECOGNITION OF BIOMEDICAL ELECTRONICS EQUIPMENT TECHNICIANS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. SPENCE. Mr. Speaker, I rise today to pay tribute to a group whose role in the medical profession represents both the great strides in medical equipment technology that have occurred in the last 50 years and the need for continued emphasis on specialized training for the highly technical world we live in today. The State of South Carolina, by order the Governor, has already proclaimed the week of April 8–12, 1991, as Biomedical Electronics Equipment Technician Awareness Week to honor these individuals who keep the complex medical equipment that many of us take for granted in proper working condition and who make certain that it operates within the proper specifications to ensure the safe treatment of patients.

Biomedical equipment technicians have years of school and field training to prepare them for their most important role in the medical field. In the late 1940's and early 1950's, the advancements and improvements in medicine required more specialized professionals to assist throughout the health care system. In the early days, biomedical equipment technicians emerged as a product of the U.S. Armed Forces. Today, there are still very few being trained by the public sector, and, although there are over 40,000 of these specialists employed by hospitals and service companies throughout the Nation, the profession continues to rapidly expand and grow. Biomedical equipment technicians' commitment to education and recruitment of new technicians ensures that, as medical technology grows in the next decade, we will be able to fill the increasing demand for more trained specialists in the years to come.

There is no doubt that biomedical professionals and especially these individuals, deserve our recognition, gratitude, and praise. Their leadership in the promotion of growth and education in their field and research in the areas of clinical equipment design and use benefit the entire medical community and raise the quality of health care for all Americans.

For their initiative in these matters and for their dedication to serving the public, I join my fellow South Carolinians in honoring this valuable group of health care specialists.

TRIBUTE TO JOSEPH CHUDNOW

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. ASPIN. Mr. Speaker, I rise today to pay tribute to a hardworking and dedicated leader in our community, Mr. Joseph Chudnow. On Sunday, July 28, the American Friends of the Hebrew University will present Joe Chudnow with the 1991 Scopus Laureate Award at a dinner in his honor in Milwaukee.

Joe has served the American Friends of the Hebrew University in leading positions for years. He was president of the Wisconsin chapter, vice president of the natiional chapter, and a member of the international board of governors of the Hebrew University of Jerusalem.

The Scopus Award is the highest honor the American Friends can bestow upon an individual. It was named for Mount Scopus which is the site overlooking Jerusalem from which the Romans launched their final attack, destroying Jerusalem and the second temple in the year 70. Mount Scopus is also the site where the Hebrew University's first cornerstones were laid in 1918. The Hebrew University campus has become a symbol of hope and peace, and the Scopus Award symbolizes the Hebrew University's highest ideals.

The Scopus Laureate is awarded to those who have excelled in their fields and who have demonstrated deep humanitarian concern throughout their career. Joe Chudnow represents all those qualities.

The word Scopus means vision. The qualities of vision apply equally to Scopus Award honorees in the United States as well as to all those who see that the development of Mount Scopus in Israel as a center for academic study and research will benefit all the world.

Joe is in most impressive company as he earns this award, for others who have been awarded with the Scopus Laureate include Arthur Rubinstein, Elie Wiesel, Itzhak Perlman, Samuel Rothberg, Max Kampelman, and Saul Bellow. American Friends of the Hebrew University now add our very good friend Joe Chudnow to this list of distinguished honorees.

Mr. Chudnow is a 1942 graduate of the University of Wisconsin and he was a member of the U.S. Army in World War II, serving in both the African and Italian theaters. He and his wife Marian have three children; Donald, Yaffa, and Debra, and six grandchildren.

Joe Chudnow is vice president and secretary/treasurer of Chudnow Construction Co. which was founded in 1951. Chudnow Construction, headquartered in Milwaukee, is a diversified housing construction, management and land development organization and major builder in 15 cities throughout Wisconsin, Minnesota, and Florida.

Joe has served on numerous boards of directors and associations, and won numerous honors on the local, State, and national level which are affiliated with his profession. He served for 12 years as a member of the Governor's Code Council, appointed to the position by Governors Lucey, Dreyfus, and Earl, and just recently reappointed by Governor Thompson for another 3-year term. Joe worked for 17 years with the local code council of the Metropolitan Builders Association to finally achieve a uniform one and two family dwelling building code in the State of Wisconsin which took effect in 1978. He has been actively involved in building codes for many years on local, State, and national levels. Among other national positions Joe has been serving as one of 15 national directors of the Home Owners Warranty Corp. since 1975. In addition, he serves on the government affairs committee of the Wisconsin Builders Association and he presently serves as alternate director on the board of directors of the Wisconsin Builders Association.

Both the Metropolitan Builders Association of Greater Milwaukee and the Wisconsin Builders Association have honored Joe with the distinction "Builder of the Year."

Joe is a builder of homes, but he has also done a great deal of work building his public service achievements. He is past vice president of the Pabst Theater, a member of the campus oversight management committee of the Karl Jewish Community Center involved in reviewing all budgets and budget requests and overseeing all operations of the Community Center, and he is a member of the board of directors of the Jewish National Fund. In addition, Joe is director of the Milwaukee Jewish Convalescent Center.

Mr. Speaker, Joe Chudnow sets the highest standards for his professional and community service. As he is awarded the Scopus Laureate, I salute Joe for his success and his many valued contributions to his community, to the building industry, and to Israel.

I join Joe's family and friends and those at the American Friends of the Hebrew University in congratulating him as he is awarded the Scopus Laureate.

INTRODUCTION OF LONG-TERM INVESTMENT INCENTIVE ACT

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. RHODES. Mr. Speaker, today I am introducing the second of two bills that will serve to promote long-term capital accumulation of capital assets. The Long-Term Investment Incentive Act of 1991 will phase in a lower capital gains tax over three years.

This bill will promote the long-term accumulation of assets by rewarding, with a lower capital gains tax rate, those who hold such assets three or more years. The lowest rate of 15 percent, for those assets held three years, will be substantially lower than the highest possible current rate, 28 percent. Assets held between two and three years will qualify for a 20 percent rate; those held between one and two years will be taxed at a 24 percent rate. Investors will be much more likely to hold on to their assets for longer periods of time if they know that doing so will lower the taxes they pay when they sell the asset. It is nearly universally agreed that long-term holding of assets is preferable to short-term trading and selling. Thus, my bill will contribute to this important goal.

Many of those who have previously opposed capital gains have done so in part because of their opposition to rewarding what they consider to be economically unproductive profits on short-term trading. It is my hope that those Members who appreciate the many benefits of a lower tax rate on capital will be able to support this legislation, which will not cut the tax rate on those capital gains which arise from assets bought and sold within one year.

Mr. Speaker, this legislation, in conjunction with my previously introduced bill, H.R. 2863, the Long-Term Capital Enhancement Act of 1991, will serve to promote a long-term view of asset accumulation. It will reward those who choose to invest and save, rather than trade and speculate. This is an important way to promote economic well-being in this nation and I hope all Members will support these two pieces of legislation.

FLUNKING KIDS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. CRANE. Mr. Speaker, for years now we have heard about American children all over this country not receiving a fundamentally sound education. Indeed, we continue to hear about high school seniors who graduate without ever learning to read. The all too familiar, and predictable, refrain we hear from critics is that the solution to our education woes is more Federal money. In my view more Federal money is not the solution. In fact, this so-called solution is nothing more than an easy copout which in the end undermines serious efforts to honestly evaluate the manner in which we currently educate our young people.

In the final analysis perhaps one of the most important elements of all is an absolute commitment by parents and teachers to the goal of educational excellence. As part of that commitment, I urge my colleagues to read the following article by Mary Sherry, entitled "In Praise of the F Word" which appeared in the May 6, 1991, edition of Newsweek. As the article points out, passing kids who haven't learned the material may be part of the problem and may be why we are dooming many children to long-term illiteracy.

[From Newsweek, May 6, 1991]

IN PRAISE OF THE F WORD

(By Mary Sherry)

Tens of thousands of 18-year-olds will graduate this year and be handed meaningless diplomas. These diplomas won't look any different from those awarded their luckier classmates. Their validity will be questioned only when their employers discover that these graduates are semi-illiterate.

Eventually a fortunate few will find their way into educational-repair shops—adult-literacy programs, such as the one where I teach basic grammar and writing. There, high-school graduates and high-school dropouts pursuing graduate-equivalency certificates will learn the skills they should have learned in school. They will also discover they have been cheated by our educational system.

As I teach, I learn a lot about our schools. Early in each session I ask my students to write about an unpleasant experience they had in school. No writers' block here! "I wish someone would have had made me stop doing drugs and made me study." "I liked to party and no one seemed to care." "I was a good kid and didn't cause any trouble, so they just passed me along even though I didn't read well and couldn't write." And so on.

I am your basic do-gooder, and prior to teaching this class I blamed the poor academic skills our kids have today on drugs, divorce and other impediments to concentration necessary for doing well in school. But, as I rediscover each time I walk into the classroom, before a teacher can expect students to concentrate, he has to get their attention, no matter what distractions may be at hand. There are many ways to do this, and they have much to do with teaching style. However, if style alone won't do it, there is another way to show who holds the winning hand in the classroom. That is to reveal the trump card of failure.

I will never forget a teacher who played that card to get the attention of one of my children. Our youngest, a world-class charmer, did little to develop his intellectual talents but always got by. Until Mrs. Stifter.

Our son was a high-school senior when he had her for English. "He sits in the back of the room talking to his friends," she told me. "Why don't you move him to the front row?" I urged, believing the embarrassment would get him to settle down. Mrs. Stifter looked at me steely-eyed over her glasses. "I don't move seniors," she said. "I flunk them." I was flustered. Our son's academic life flashed before my eyes. No teacher had ever threatened him with that before. I regained my composure and managed to say that I thought she was right. By the time I got home I was feeling pretty good about this. It was a radical approach for these times, but, well, why not? "She's going to flunk you," I told my son. I did not discuss it any further. Suddenly English became a priority in his life. He finished out the semester with an A.

I know one example doesn't make a case, but at night I see a parade of students who are angry and resentful for having been passed along until they could no longer even pretend to keep up. Of average intelligence or better, they eventually quit school, concluding they were too dumb to finish. "I should have been held back," is a comment I hear frequently. Even sadder are those students who are high-school graduates who say to me after a few weeks of class, "I don't know how I ever got a high-school diploma."

Passing students who have not mastered the work cheats them and the employers who expect graduates to have basic skills. We excuse this dishonest behavior by saying kids can't learn if they come from terrible environments. No one seems to stop to think that—no matter what environments they come from—most kids don't put school first on their list unless they perceive something is at stake. They'd rather be sailing.

Many students I see at night could give expert testimony on unemployment, chemical dependency, abusive relationships. In spite of these difficulties, they have decided to make education a priority. They are motivated by the desire for a better job or the need to hang on to the one they've got. They have a healthy fear of failure.

People of all ages can rise above their problems, but they need to have a reason to do so. Young people generally don't have the maturity to value education in the same way my adult students value it. But fear of failure, whether economic or academic, can motivate both.

Flunking as a regular policy has just as much merit today as it did two generations ago. We must review the threat of flunking and see it as it really is—a positive teaching tool. It is an expression of confidence by both teachers and parents that the students have the ability to learn the material presented to them. However, making it work again would take a dedicated, caring conspiracy between teachers and parents. It would mean facing the tough reality that passing kids who haven't learned the material—while it might save them grief for the short term—dooms them to long-term illiteracy. It would mean that teachers would have to follow through on their threats, and parents would have to stand behind them, knowing their children's best interests are indeed at stake. This means no more doing Scott's assignments for him because he might fail. No more passing Jodi because she's such a nice kid.

This is a policy that worked in the past and can work today. A wise teacher, with the support of his parents, gave our son the opportunity to succeed—or fail. It's time we return this choice to all students.

IN CELEBRATION OF THE 50TH ANNIVERSARY OF CARL'S JR.

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. COX of California. Mr. Speaker, July 17 was a very special day in the history of Carl Karcher Enterprises. July 17, 1991, marks the 50th anniversary celebration of Carl's Jr. restaurants. It is a great privilege to honor Carl Karcher today as he gathers with his family, good friends, and employees to celebrate 50 years of tremendous accomplishments. On this special occasion, it is fitting that we take a moment to reflect on the history of Carl's Jr. restaurants.

Fifty years ago, Carl and his wife Margaret purchased a hot dog stand in Los Angeles for $326. Their hard work paid off and their business quickly grew to four stands. Soon after, Carl and Margaret moved to Anaheim in Orange County where they opened their first full service restaurant, Carl's Drive In Barbecue.

In 1954, Carl's brother Don joined the business and they opened the first Carl's Jr. Since that time, Carl Karcher Enterprises has experienced phenomenal growth. Carl's Jr. is now a multinational corporation providing families all over the world with delicious meals at an affordable price.

Mr. Speaker, I ask my colleagues to join me in commending Carl Karcher for providing us with a shining example of genuine success. Not only has he provided millions with wholesome nutritious meals and excellent service, Carl Karcher is tirelessly committed to the values that have made this country great—honest hard work, devotion to family, reverence to God, and charitable service to the community.

Carl Karcher's dedication to these American ideals is evident in his corporate philosophy of saying "thank you" to the community for choosing to dine at Carl's Jr. He has provided enormous support to local charities and programs—including the Boy Scouts, the United Way, Drug Use is Life Abuse, the Children's Miracle Network, and so many more.

On behalf of the U.S. Congress, and all of the citizens of Orange County whom it is my privilege to represent, I extend my sincere thanks to Carl Karcher for all that he has done. I am confident that communities fortunate enough to have Carl's Jr. restaurants will continue to enjoy their excellent foods and to benefit from Carl Karcher's generosity.

SKELTON INTRODUCES RURAL CRIME AND DRUG CONTROL ACT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. SKELTON. Mr. Speaker, I rise today to introduce the Rural Crime and Drug Control Act of 1991.

A recent report indicates that drug abuse and crime are increasing at a faster rate in rural America than many of our largest cities, including New York and Los Angeles. As a former prosecuting attorney in rural Lafayette County, MO, it distresses me that hardcore drug abuse, the capital city of my State, Jefferson City, has seen a recent trend toward violence committed by groups of young people.

This legislation, similar to a measure introduced by the chairman of the Senate Judiciary Committee, aims to fight the war on drugs on two fronts: supply and demand.

It increases assistance to State and local law enforcement by $50 million, and provides $45 million to hire an additional 350 Drug Enforcement Administration [DEA] agents to combat rural drug trafficking. It provides for the establishment of rural drug task forces; creation of programs to hire, train, and better equip rural police officers on the front lines of drugs and crime; and increases in the availability of drug treatment and prevention centers in rural communities. It would also increase penalties for trafficking "ice."

The law enforcement and drug treatment needs of small town America have been overlooked for too long. People in rural communities deserve the same resources to fight their war on drugs and crime as those who live in the cities. I encourage my colleagues to support this important legislation.

TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. WEBER. Mr. Speaker, today, I cosponsored the Telecommunications Equipment Research and Manufacturing Competition Act, introduced by Mr. SLATTERY.

The 7-year ban that has prevented regional Bell Cos. from manufacturing telecommunications equipment has hampered our domestic telecommunications industry. The lifting of manufacturing restrictions on the "Baby Bells" will enhance America's leadership in the international telecommunications market, because it will allow them to engage in engineering activities needed to bring new generations of products and services to American consumers. The lifting of these restrictions will also help the economy by increasing investment in research and development and creating more jobs.

However, my support of this bill is not unconditional. I am especially concerned about how the legislation affects smaller companies and rural telephone cooperatives. Rural safeguards need to be added to this legislation. They include:

First. Requiring the Bell Cos. to make available to other local exchange carriers the software they need for their telecommunications equipment, including upgrades.

Second. Requiring the continued availability of equipment and software as long as reasonable demand exists, unless the Bell Cos. can prove to the FCC that it is not profitable under a marginal cost standard.

Third. Requiring the Bell Operating Cos. [BOC's] to engage in joint network and design with local exchange carriers [LEC's] in the same areas of interest.

Fourth. Allowing LEC's to invoke strong district court enforcement.

As this bill makes its way through the legislative process, I will work to see that these concerns are addressed, and I will not support this legislation if they are not addressed.

A TRIBUTE TO CULMER YOUTH OUTREACH PROJECT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to the Culmer Youth Outreach Project [CYOP]. This project is sponsored by the Young Women Christian Association and is headed by Mr. Rene Munoz.

THE CYOP is a school-based-after-school program in Miami which deals with multi-ethnic youths from neighborhoods near Overtown and Little Havana. The CYOP participants are mostly underprivileged youth who attend Booker T. Washington Middle School.

Booker T. Washington Middle School, where CYOP is stationed, visited by Queen Elizabeth of England. Before the Queen's arrival, the school prepared for several days. The band practiced with the flag girls, trees were trimmed and many flowers were planted to set the groundwork for the Queen's appearance. The Queen's arrival initiated a memorable awards ceremony which occurred in front of the school. This was an event that enlightened the lives of the children of Booker T. Washington Middle School by teaching them the protocol from another country.

Mr. Munoz has received awards including the Dorothy Gildersleeve Award of the Council For Chemical Dependency and also has received a letter of appreciation from the Honorable Steve Levine, a judge from the 11th Judicial Circuit County Court of Dade County, FL.

Mr. Munoz, the program director at CYOP, a Cuban-American, is committed to helping these youths to become the decisionmakers of tomorrow. Mr. Munoz has one personal resource in his favor: He is missing both his arms. He is an inspiration for all the children of the program by showing them how through hard work and determination, one can overcome all problems and disabilities. In more cases than he will admit to, Mr. Munoz has placed himself in physical danger so that a potentially violent situation could be resolved peacefully. The help that Mr. Munoz has given to the children of my district can not be commended enough.

I would like to thank Beverly Phillips, executive director; Natacha S. Millan, assistant executive director; Sara Herald, president; Barbara Ibarra-Scurr, president-elect; Tanya Dawkins, vice president; Dayle Wilson, secretary; and Evelyn Macia, treasurer; the officers of the Miami branch of the YWCA. I would also like to thank the board members of the YWCA for sponsoring Mr. Munoz and his outstanding efforts: Vicki Augustus, Suzanne Barry, Conchy Bretos, Annete De Lara, Linda Keyes, Ann Machado, Clara Oesterle, Evelyn Shes, Ellen Downey, Antonia Gary, Maritza Gomez-Montiel, Bonnie Greer, Ruby Hemingway, and Nancy Hester. Without people like Mr. Munoz, our troubled youth would have no person or place to turn to.

VISCLOSKY HONORS PUERTO RICAN COMMUNITY OF NORTHWEST INDIANA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the Puerto Rican community of northwest Indiana as they host their 10th annual Puerto Rican Cultural Beachside-Island Festival in East Chicago, IN. This year the festivities will be held from July 18–21 in commemoration of the 39th anniversary of the Commonwealth of Puerto Rico.

In honor of the Puerto Rican community's accomplishments, the Honorable Robert A. Pastrick, mayor of the city of East Chicago, has issued a proclamation renaming the city's Jeorse Park to "The Island of Puerto Rico" for the festival. The park will be transformed into an island setting to highlight the culture of Puerto Rico and other popular Caribbean nations. In addition to the popular music, authentic food, and handmade crafts which will be available, local merchants have joined together to sponsor a free carnival for the enjoyment of all participants in the festivities.

The Puerto Rican Parade Committee along with the Puerto Rican Cultural Association have both been instrumental in making this annual affair a great success. This year's parade, which will take place on July 21, 1991, includes over 175 floats and marching units. I congratulate the officers of the Puerto Rican Parade Committee—Maria Zambrana, president; Oracio Rodriguez, vice president; Tomas Caraballo, secretary; and Margarita Muniz-Perez, treasurer—for their inspired efforts in organizing this.

In conjunction with the celebration, the queen pageant was held on July 6, 1991, where contestants competed for the title of Miss Puerto Rico of northwest Indiana. Ms. Alleman Marison was selected as queen over these festivities and will continue her reign over all events in the coming year. Included in queen Alleman's court are Bernadette Castellanos, princess; and, Diana Hernandez, duchess.

The Puerto Rican community of northwest Indiana has been continually involved in increasing the level of cultural awareness throughout the entire area. The annual celebration does not only serve to honor those involved, but also provides the residents of northwest Indiana an excellent opportunity to experience the diverse and distinguished culture of Puerto Rico and other Caribbean nations.

On behalf of the entire First Congressional District of Indiana, I ask my colleagues to join me in commending the Puerto Rican Cultural Association and the Puerto Rican Parade Committee for their efforts in sponsoring this observation of the 39th anniversary fo the Commonwealth of Puerto Rico.

RECOGNITION OF TWO BROTHERS AND FUTURE PHYSICIANS' EXTRAORDINARY ACCOMPLISHMENTS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to call your attention to an extraordinary fraternal duo whose accomplishments merit recognition from this House. These two young men, Balamurali and Jayakrishna Ambati, have collectively accrued two National Merit Scholarships and college degrees. They are now medical students who have already coauthored, in addition to countless articles, a groundbreaking book entitled "AIDS: The True Story—A Comprehensive Guide." That the Ambati brothers have only 33 years between them makes their numerous accomplishments even more remarkable. Balamurali, only 13, was graduated from New York University and will enter medical school in the fall; Jayakrishna, 20, received a B.S.E. in electrical engineering from the Johns Hopkins University and is currently in his third year in an M.D.-Ph.D. program.

Calculus is a complex discipline that most educated people first encounter in college. Balamurali Ambati mastered it at the age of 4. The average college-bound high school senior scores 1,000 on his scholastic aptitude test [SAT]. Bala exceeded this score at age 10 by 370 points. In the 3 years since then, Bala, who was born in Vellore, India, and moved to the United States along with the rest of his family at age 3, has completed high school and college and has been accepted to medical school for the fall term. If he continues his rapid pace he will earn an M.D. by age 17, thus becoming the world's youngest physician ever. Bala has also proven himself to be a prolific author and speaker. In addition to the book he and his brother coauthored, Bala has a book on environmental pollution set for publication in the fall. Furthermore, Bala has written articles on such esoteric topics as heuristic combinatorial optimization and made several presentations at conferences whose attendees are several times his age.

Twenty-year-old Jayakrishna has had a life similarly full of remarkable accomplishments. In addition to the dual degree he is pursuing as an M.D.-Ph.D. candidate specializing in neural and behavioral science, Jayakrishna, like his brother, has been quite active outside the classroom. Jayakrishna, has written for countless scholarly journals, including the "American Mathematical Monthly," the "College Mathematical Journal," and "The Pentagon," and has made presentations on such issues as obesity at scholarly conferences. Finally, Jayakrishna won the 1988 IEEE Research Paper Competition.

Our President has deemed the year 2000 as the target date for American students to lead the world in the areas of math and science. These two Hollis, NY, residents are an example of the type of scholarship and diligence our Nation needs if we are to achieve this goal, and I urge Members of this House to honor their remarkable achievements. The

Ambati brothers are a credit to their family, New York City, and this Nation. Firm believers in the ethic of hard work and unusually gifted, Balamurali and Jayakrishna deserve the Congress' heartfelt praise and congratulations. I call on all my colleagues in the House of Representatives to join me in saluting these remarkable brothers.

JANET BOZGAN RECEIVES SPECIAL SCHOLARSHIP FROM THE NATIONAL GALLERY OF ART TEACHERS INSTITUTE

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. STUMP. Mr. Speaker, I rise today to recognize a very gifted and creative teacher in the Third Congressional District, Mrs. Janet Bozgan of Glendale, AZ. Mrs. Bozgan is among the select group of recipients of a scholarship for the National Gallery of Art Teachers Institute, which is taking place this week in Washington, DC. She is an art instructor at the Ignacio G. Conchos Elementary School in Phoenix and the John R. Davis Elementary School, also in Phoenix.

The National Teachers Institute was initiated at the National Gallery of Art 3 years ago to provide teachers with information about the arts and its cultural context and to expand existing resources for art education. The topic for this year's institute is the European Renaissance.

Mrs. Bozgan is highly regarded among her peers, and has received numerous awards for photography. She is actively involved in art associations throughout Phoenix and Arizona. Mrs. Bozgan's personal comments on art include, "I feel all of human life is involved with art in some form from the minute we get up until we go to sleep at night. Art touches our lives continually and we have many choices as to how much we let it influence us. Art effects each of us differently and we interpret it based on our background. I hope my students become aware of art in its many forms and meanings along with developing an appreciation and understanding or art/history/culture and self-expression and exploration."

The scholarship is well deserved and Arizona and the Third Congressional District can be proud to be represented at the National Gallery of Art Teachers Institute by such a fine teacher, scholar, and artist.

TRIBUTE TO SISTER MARY LOUISE LYONS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. CARDIN. Mr. Speaker, today, I rise to pay tribute to Sister Mary Louise Lyons, of the Daughters of Charity, who has been appointed the new administrator of the St. Elizabeth Ann Seton Shrine in Emmitsburg, MD.

Friends and colleagues will honor Sister Mary Louise on Sunday, August 11, 1991, with a reception at St. Agnes Hospital in Baltimore, MD. Sister Mary Louise has served as president and chairman of the board of St. Agnes Hospital since January 1982. Her leadership at St. Agnes as well as within the Baltimore and Maryland spiritual and health care communities has been exemplary.

After joining the Daughters of Charity in 1937, Sister Mary Louise taught elementary school in the Emmitsburg Province. She received both a bachelor's degree in nursing and master's degree in nursing education from Catholic University.

Sister Mary Louise has been in the healthcare ministry since 1948 and has served as administrator of the Seton Psychiatric Institute and Villa St. Michael in Baltimore, Sacred Heart Hospital, in Cumberland, MD, and De Paul Medical Center in Norfolk, VA. Sister Mary Louise has been active as a member of the Virginia and Maryland Hospital Associations.

As a friend and adviser, Sister Mary Louise has served on my Health Care Advisory Committee and will, I hope, continue to offer her expertise and viewpoint on national health care issues and legislation.

I congratulate my colleague, gentlewoman BEVERLY BYRON, who will soon be welcoming Sister Mary Louise as a constituent. Sister Mary Louise is a natural resource whose energy and compassion are felt wherever she serves.

A TRIBUTE TO THE CLARK COUNTY RED CROSS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BILBRAY. Mr. Speaker, I rise today to recognize the outstanding effort and commitment that the American Red Cross showed during the Persian Gulf conflict. The Red Cross' tradition of duty and service to the humanitarian needs of our country and our troops has been clearly exemplified by the Clark County, NV, Red Cross. It is the volunteers who gave and continue to give their time and energy who deserve the praise and on July 29, the Clark County Red Cross will acknowedge their outstanding efforts.

Throughout the war, the Clark County Red Cross provided the link between Operation Desert Storm and Operation Home Front. In the period between August 2, 1990, and March 31, 1991, the Clark County chapter served the needs of over a thousand needy citizens. They helped to maintain the communication lines to the front and in those times of dire need when it became imperative and necessary to talk to loved ones, the Red Cross facilitated nearly 3,000 emergency communications to the front.

In addition, the Clark County chapter provided the necessary psychological and emotional supports that are vital at a time such as this. The Red Cross provided the security and assistance that many families needed in those uncertain hours when many were not sure if their sons, daughters, fathers, or mothers would be coming home. The Clark County Red Cross went further than many thought would be possible with their limited means and provided a vital link in our chain of assurance that it would all be alright.

I commend the men and women of the Red Cross. It is through their humanitarianism and their caring that many families made it through the dark hours. Now, as we celebrate victory and healing I encourage all my colleagues to join me in acknowledging the work of the Clark County Red Cross and their vital contribution to keeping together the Las Vegas community.

NORTHEAST GAS INTERESTS WIN ONE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. TOWNS, Mr. Speaker, I applaud today's action by the Subcommittee on Energy and Power to ensure that Canadian Gas Imports are not treated differentially from domestic sources. Unfortunately, the amendment successfully offered by my colleagues, Mr. LENT of New York, Mr. MARKEY of Massachusetts, and Mr. MOORHEAD of California, was necessitated by last month's Senate amendment which required the Federal Energy Regulatory Commission [FERC], to redress alleged disparities in approving rates for imports of Canadian gas.

Natural gas producers, in this country, have argued that Canada's system of regulating gas prices give Canadian producers an unfair competitive advantage. On the other hand, northeast consumers, like my New York constituents, are concerned with the availability and access to low-price gas. As my own utility, Brooklyn Union Gas has indicated, they will continue to purchase a majority of their gas supplies from domestic producers. With the construction of the Iroquois Pipeline now finally under way, as a matter of pure economics, they cannot afford to foreclose the availability of Canadian sources.

As we move forward to develop a national energy strategy bill in the House, I anticipate that there may be other issues which pit different regions of the country against one another. I am hopeful that these interests can be addressed in a manner which is balanced rather than one which results in a contentious solution. I certainly hope that this will be the ultimate solution where Canadian Gas Imports are concerned.

CAMBRIDGE HIGH SCHOOL "BOBCAT" MARCHING BAND TAKES FIRST PLACE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. APPLEGATE. Mr. Speaker, I'm proud to announce that the Cambridge, OH, High School "Bobcat" Marching Band was the recipient of the First Place Plaque in recognition of their outstanding performance in the 1991 Independence Day Parade and Festival in our Nation's Capital on July Fourth.

The Bobcat Marching Band, under the leadership of Max W. Treier, director of bands, and James Rock, the assistant director, was the official Ohio representative to the parade which was viewed by thousands of people along Constitution Avenue in Washington. The nearly 100 students from Cambridge High School, located in my congressional district, demonstrated to the entire Nation their immense enthusiasm and outstanding talent. I would like to take this opportunity to convey my congratulations to the Bobcat Marching Band and to every student who participated in this special event.

Mr. Speaker, the people of Cambridge, OH, sent their very finest to Washington for the celebration of our 215 years of independence and freedom. This Congress, and all Americans, should bestow a special honor on the members of the Bobcat Band, the staff members, the chaperons and, most of all, the parents, who did so much to make this possible. Congratulations on a job well done!

CONGRATULATIONS TO THE CENTRALIA ORPHANS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. POSHARD. Mr. Speaker, I rise today to pay special tribute to the winningest basketball team in the Nation. The Centralia High School Orphans have a long and prestigious career in southern Illinois. Since the tipoff of the first Orphan game in 1906, the team has compiled 1,668 career victories, more than any high school or college in the Nation.

Although the Orphan's freshman season in 1906–7 consisted of only four games, it would be the start of what was to become a southern Illinois basketball dynasty. In 1915 this powerhouse team was coached by the legendary Arthur Trout. He called the plays for the Orphans until 1949. During his time on the bench he led the Orphans to 809 victories, including State championships in 1918, 1922, and 1942. It was also during the era of Coach Trout that the Orphans had their most victorious season. In 1941 the Orphans won 44 games while losing only 2. Unfortunately they were shot down during their bid for the State championship.

The Orphan pride at CHS is truly something to behold. The community support that is given to the young men who have played for the Orphans is unprecedented. An Orphan fan is like no other; Orfans are among the most dedicated and innovative anyone has ever seen. Orfans are not only the cheerleaders or the students who sit in what is fondly known as the Orphanage, but the parents, the townspeople, and the CHS faculty all get caught up in Orphanmania.

Throughout the years the Orphans have dedicated their efforts to the pursuit of excellence. The only way to achieve perfection is through dedication and the Orphans have always persisted in the endeavor to be true champions.

A fine coach, Bob Bogle, is now pacing the sidelines for the Orphans. He and the team are determined to improve upon their historic achievements. I have no doubt that they will realize this goal and continue to make opponents fearful of meeting in the center jump circle.

These exceptional young people are a shining example for all to follow and I am proud to be able to represent them in Congress.

MODIFICATIONS IN THE WORKING FAMILY TAX RELIEF ACT OF 1991

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. DOWNEY. Mr. Speaker, on May 7, I introduced, with Senator AL GORE, Representative GEORGE MILLER, and Representative DAVID OBEY, the Working Family Tax Relief Act of 1991 (H.R. 2242). This legislation gives tax relief for middle income and working poor families by replacing the personal exemption with a refundable credit of $800 per child under age 18. It also redresses the imbalances of the past decade by requiring the wealthiest Americans to pay their fair share of taxes.

The bill was drafted, using distributional data provided by the Congressional Budget Office, so that it would be budget neutral and comply fully with the pay-as-you-go requirements of the Budget Enforcement Act of 1990. However, the Joint Tax Committee has now presented its official estimate of H.R. 2242 and they have reported a revenue shortfall from the bill as introduced. To achieve the revenue neutrality of the Working Family Tax Relief Act of 1991, at the time of markup I plan to offer several amendments to the legislation. The Joint Committee has estimated that H.R. 2242 as modified achieves my promise of revenue neutrality.

The modifications I plan to offer are—

Substitute a 36-percent top individual rate for the proposed top rate of 35 percent.

Substitute a 15-percent surtax on individuals having adjusted gross incomes of $200,000 and above—for joint returns—for the proposed 11-percent surtax. The dollar threshold for other income filing statuses will be adjusted accordingly.

Change the effective dates for the surtax and the $800 refundable child credit to January 1, 1993.

Modify the earned income tax credit provisions to make them internally revenue neutral.

THE COST OF AMERICA'S PRIVATE HEALTH CARE SYSTEM

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 18, 1991

Mr. BEREUTER. Mr. Speaker, once again the outstanding magazine, The Economist, has in its usual trenchant manner examined the American scene and American institutions. Their analysis in the June 15, 1991, edition is worthy of my colleagues' close attention and I commend it to them.

AMERICAN SURVEY—WORRYING ABOUT HEALTH

A comfortable, working American has little cause to complain about the quality of health care he receives. The United States is brimful with highly paid doctors, one for every 400 citizens. These doctors have at hand the world's finest gadgetry, in liberal quantities; the rich western part of Germany has 0.7 open-heart surgical units per million people, and Canada 1.2, but America boasts 3.3. Best of all, for that working American, health care is nearly always a perk that comes with the job. That renders almost bearable the mass of form-filling that sprouts with each verruca.

Physician paradise though, is fast becoming corporate hell. For 50 years a benign federal government has encouraged companies to provide health cover for their workers by exempting health benefits from income tax. Employers now pay for 85% of the 173m Americans covered by private health insurance. The cost of health, meanwhile, has ballooned. Annual spending per head on health care has risen, in constant dollars from $950 in 1970 to $2,350 in 1989. For most businesses, health care is the second-biggest item of expenditure behind salaries. The cost, on average, is now equivalent to two-fifths of companies post-tax profits.

Yet it is the tax break which, more than anything, contributes to America's climbing health costs. Since an employer pays for most of the benefits of his staff, they have little incentive to keep medical costs down. By the same token, hospitals and doctors, charging a fee for each service rendered (and fearing malpractice suits), have a duty to themselves not to skimp on treatment.

Both business and government have made attempts to control medical costs by, for instance, rationing the services provided to consumers. But often costs saved in one quarter have merely flowed to another. Health spending continues to grow by 5% a year in real terms. In 1980 health spending absorbed 9.3% of GDP in 1989 it absored nearly 12% or $604 billion. Canada spends only 8.7% of its GDP on health, Britain 5.8%.

Employees are now learning that they are not immune to business's troubles. Last year four-fifths of all of America's labour disputes centered on medical benefits that companies were trying to cut. Thousands of (mostly small) businesses cannot, or choose not to, provide health cover for their workers—particularly in industries that insurers deem to be high-risk. These workers are usually too poor to buy their own insurance. As a result, the employed account for most of the 34m Americans (including dependants) who languish without medical insurance. A large but unknown number of other employees, particularly those with a history of high medical costs, want to change jobs but cannot, for fear of losing health insurance.

As with business, so with federal and state governments. Largely through the Medicare programme for the elderly and Medicaid for the poor, federal and state governments now pay for 42 cents of every dollar spent on health care (they also lose about $58 billion of revenues from those tax perks). Indeed, the American government spends almost as much of GDF on health as the British government does (see chart on next page). This might have been expected to rein in costs. Yet spending on health as a share of all federal spending has risen from 10% in 1975 to nearly 15% today. Medicare costs, at an annual $100 billion, are soaring, largely because more old people are being kept alive longer with ever costlier technology. The Medicaid programme covers only two-fifths of those officially described as poor. * * *

A DEMOCRATIC STRETCHER-CASE OR TWO

All of which has led some Democratic Party barons, * * * to think that they might have found an issue with which to shame the administration. Two kinds of reform are proposed.

The first is for America to adopt the Canadian system of health care. In this, though hospitals and doctors work largely in the private sector, universal access to medical care is paid for by the government out of taxation. This idea is popular among an unusual alliance of labour leaders and big companies—the ones that would like to be relieved of expensive commitments to past and present employees.

Last week four Democratic senators launched to bill to reform health care in a different manner. Under this bill businesses would have the choice of either insuring all employees or contributing to a payroll tax, from which government would provide coverage. This plan, * * * has the advantage that it would not radically change the current mix of health-care finance—non-profit insurers, private insurers and health maintenance organizations (HMOs), which, for an annual fee, dispense health care to their clients through own-brand doctors and hospitals.

Yet both plans are flawed. Canada's system suffers from queues, shortages and ropey equipment. Canada's long border with America's swifter medical services acts as a safety value to a system under pressure. Moreover, the Canadian government's monopoly over health spending has failed to curb costs. In the 20 years to 1987, Canada's real spending per person rose by 4.6% a year, compared with 4.4% in America.

Forcing business to foot the bill is even less feasible. The * * * plan envisages a tangle of subsidies for small and barely profitable businesses. The annual cost of these and other subsidies could be $60 billion or more. Given the current state of the budget, the money could not be found.

Neither proposal promises to restrain spending. One that does is being advanced by the Heritage Foundation, a conservative think-tank. This simply proposes that the link between tax breaks and employer-provided cover be abolished. In its place, tax credits would be given to families, varying according to income and health expenditure. In return families would, by law, be required to buy a minimum degree of health cover. Such a system would help to control costs by putting spending choices in the user's hands, allowing him to choose among current insurers and providers. It would also allow him to carry health cover from one place of work to the next.

If they were imaginative enough to see it, such a proposal—as well as being by far the simplest of the three—would have something to appeal to both Democrats and Republicans. By taking nearly $60 billion of tax breaks from the well-paid employees who now benefit most from them, and then spreading them as credits to the less well-paid, the Democrats could back a progressive tax reform. And giving more power to the consumer would dance well to the tune of "empowerment" that the White House has been whistling of late.

Many politicians—on the House Ways and Means Committee, the National Governors' Association and in the Democratic leadership, among others—have promised that this year health reform will be the big issue. Even the administration, in the recent form of Richard Darman, director of the Office of Management and Budget, has talked about it. But a summer gleam in Washington's eyes is liable to glaze over long before the leaves turn red.

SENATE—*Friday, July 19, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable Joseph I. Lieberman, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalms 133:1.

The U.S. Senate is the living symbol of our Union of States.

God, our Father, these words inscribed on the west wall of the Dirksen Building call to mind a familiar Latin phrase, e pluribus unum—out of many, one—and remind the Senate of its commitment to unity. Here they are, 100 Senators, like a great symphony orchestra with unimaginable potential and an incredibly complex score. Music is not made if all use the same instrument or play the same notes. That would be unbearable boredom and no one would listen. Diversity is the essence of harmony. Nor is music produced by throwing instruments at each other or by playing louder, or when each tries to solo or ignores the conductor.

Help your servants, Lord, to secure relationships which blend efforts and guarantee great music. Save us from discord that grinds and grates and grieves. Help each of us to follow the score of his conscience under Your direction as the maestro so they may make beautiful music together. In the name of Him whose mission is to unite all things. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Byrd].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, Friday, July 19, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Joseph I. Lieberman, a Senator from the State of Connecticut, to perform the duties of the Chair.

Robert C. Byrd,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business with Senators permitted to speak therein.

The Chair recognizes the Senator from New Jersey [Mr. Bradley].

ON RACE AND CIVIL RIGHTS IN AMERICA

Mr. BRADLEY. Mr. President, what compels me to speak today is the state of race relations in America which every day exacts terrible costs on whites, on blacks, on all races, on the Nation. Let us begin by stating what is often unstated. Our destiny, both black and white, is bound together; the coal and iron of American steel. Each race, its strength inseparable from the well-being of the Nation. Each race, in need of the other's contribution to create a common whole.

All races must learn to speak candidly with each other. By the year 2000, only 57 percent of people entering the work force will be native-born whites. White Americans have to understand that their children's standard of living is inextricably bound to the future of millions of nonwhite children who will pour into the work force in the next decades. To guide them toward achievement will make America a richer, more successful society. To allow them to self-destruct because of penny-pinching or timidity about straight talk will make America a second-rate power. Black Americans have to believe that acquisition of skills will serve as an entry into society not because they have acquired a veneer of whiteness but because they are able.

Blackness does not compromise ability nor does ability compromise blackness. Both blacks and whites have to create and celebrate the common ground that binds us together as Americans and human beings.

Today, the legal barriers that prevented blacks from participating as full citizens have come down. Many notable African-Americans have walked through those open doors and up the steps to the corporate boardrooms, city halls, to the statehouse and to Presidential cabinets. Many more millions of African-Americans live ordinary lives in an extraordinary way in cities, towns, and farms across America. Hard-working, law-abiding families fighting to build a life for their kids; robust churches peopled by individuals of faith and commitment; educators willing to discipline and teach.

Yet 43 percent of black children are born in poverty. The black infant mortality rate and the black unemployment rate are twice those of white Americans.

And forming the backdrop for the urban neighborhoods where the poorest, most unstable families live is the daily violence. The number of black children who have been murdered in America has doubled since 1984. In Washington, DC, and many other American cities the leading cause of death among young black men is murder. That violence, and the fear of it, shape perceptions in both the white and black communities. For example, if you are white you know what you think when you pass three young black men on a street at night. If you are black you know the toll that the violence takes on black families both coming and going—more college age black males are in prison than in a college. Communities cannot develop if these trends continue nor can the potential of our cities be realized behind barricades patrolled by private security guards. Crime and violence cause poverty.

Visit a public housing project in one of our big cities. See the walls pockmarked by bullet holes. Smell the stench of garbage uncollected and basements full of decomposing rats. Hear the gunshots of drug gangs vying for control of territory that the community needs for its commercial and social life but that the police do not help them preserve—territory that bankers redlined long ago.

Listen, as I have, over the last few years across America to the stories of families trying to make it in the middle of this horror. Listen, in Elizabeth, NJ, to residents of public housing describe how the drug dealers prey on the joblessness and misery of all the residents but especially the young. Listen, in Chicago to project mothers, their children dodging bullets on the way to school, threatened with the murder of a younger son unless an older son joins the gang. Listen, in Newark, NJ, to a

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

grandmother, who, when asked what she wanted more than anything else said, "a lock that works." Listen, in Brooklyn, NY, to a former cocaine dealer gone straight saying that his brother lying inert in a crack stupor in front of me on the floor of his mother's meager apartment was going to be killed within a year by dealers who wanted their money. Listen, in Camden and Paterson, NJ, to doctors tell about crack children having crack children, alone—the fathers in prison or in an early grave—falling deeper and deeper into hopelessness. Cry out in anguish and cry out in anger about this kind of life in America today. And weep for all of us who allow it to continue.

But, go beyond tears of pity and guilt. Face the moral paradox. How can we achieve a good life for ourselves and our children if the cost of that good life is ignoring the misery of our neighbors? The answer has been to erect walls.

The wall of pride: We are better and deserve what we have. The wall of ignore the problem and it will go away. The wall of blaming the symptoms. The wall of liberal guilt that rationalizes and distances us from the fact that people are actually being murdered. The wall of innocence: We have nothing against black people, we did not know. The wall of brute force, used to oppress and separate. And finally the Willie Horton wall of demonization that says they are not like us.

All of these walls we have constructed have stunted our national growth and character and made us less able to lead the world by our living values. A maze we have seemed to lock ourselves into and are dangerously close to forgetting the way out. Put simply, there can be no normal life for blacks or whites in urban America or effective help for the ghetto poor until the violence stops.

Our failure to improve these conditions is inseparable from the fact that we no longer speak honestly about race in America. The debate about affirmative action is ultimately a debate about empowerment, past debts and what each of us thinks we owe another human being. But it does not directly affect the daily lives of families struggling against violence. They worry about survival, not college admissions. At the same time, we have to admit that neither Republicans nor Democrats have come up with good answers to these horrible conditions. As they say in my urban town meetings, "Very few politicians really care, or else things would already have changed."

Liberals have failed to emphasize hard work, self-reliance, and individual responsibility. Clearly, there are thousands of individuals, like Clarence Thomas, who have exercised individual strength and perseverance to overcome the obstacles of racial and economic oppression. But he also benefited from passage of civil rights laws which broke down the legal barriers of the past. The odds of overcoming a prejudiced attitude are better because your individuality is guaranteed by law. Individual responsibility also is a challenge to our humanity as much as to our ambition. White Americans make decisions each day, who they hire or fire or who their children play with, which ripple into the tide of American race relations.

At the same time, conservatives have failed to use the power of government for the common good. Even in the face of rampant violence, in urban ghettos, conservatives refuse to act. Clearly, the collective will of the Nation, when channeled through legislation can be an indispensable resource in the war against injustice and poverty. But it is also true that government should be held accountable for results. Bureaucrats who fail should be fired. Government success should be measured in problems solved and in conditions bettered. Teachers should teach. Nurses should give comfort, and welfare workers should listen. Government service is more than just a job.

People, black and white, are individuals not representatives of a racial creed. There is no African-American, there are African-Americans, each a distinct individual with a different view and attitude.

Yet, Americans often see race first and the individual second. That means each individual assumes all the costs of racial stereotypes with none of the benefits of American individuality. As long as any white Americans look at black Americans and associates color with violence, sloth, or sexual license, then all black Americans carry the burden of some black Americans. That is unfair. As long as any black Americans look at white Americans and associate color with oppression, paternalism, and dominance, all white Americans wear the racist exploiter label of some white Americans, and that is unfair.

It is ludicrous to say that all female black Americans are welfare queens, yet Ronald Reagan for a generation tried to etch that stereotype in the minds of his corporate, country club, and political audiences. It is ludicrous to say that all African-Americans are Willie Hortons. Yet, the Willie Horton ad was an attempt to demonize all black America. If you do not believe me, ask any African-American who tries to hail a cab late at night in an American city.

It is just as ludicrous to say all white Americans are Archie Bunkers, yet some self-appointed black spokespersons make a living preaching racial hate and make a mockery of the values civil rights leaders—both black and white—risked their lives for to end segregation.

Most of us do not confront the realities of race in America today. Ronald Reagan's welfare queen distorts reality. George Bush's rapist-murderer panders to those in the electorate who cannot see the individual for his color. Both cling to old relationships and old attitudes of inferiority and superiority, scapegoats and stereotypes. The result makes seeing the other races' perspective, much less the individual behind the color, more and more unlikely.

In the face of these problems, I challenged President Bush last week, on the Senate floor, to lead us by example and to tell us how he has worked through the issue of race in his own life.

I asked President Bush to help us alleviate five doubts about him: His record, from 1964 to the present. His choice to play the politics of race while economic inequality increases. His inconsistent words. His leadership. And his convictions.

There has been no response.

The President's silence, however, will not muffle the gunshots of rising racial violence in our cities. Silence will not provide the candor necessary to overcome the obstacles to brotherhood. Silence will not heal the division among our races. Silence will not move our glacial collective humanity one inch forward.

I, for one, feel compelled to speak—to speak from my own experience, and from my heart.

I grew up in a small town of 3,492, tucked between two limestone bluffs on the banks of the Mississippi River. It was a multiracial, multiethnic company town in which most of the people worked in the glass factory and were Democrats. The town had one stoplight and there were about 96 in my high school class, which integrated in the ninth grade.

My father, who never finished high school, was the local banker and a nominal Republican. To him a reliable customer was not black or white but one who paid off his loan. He used to say that his proudest moment was that, throughout the Depression, he never foreclosed on a single home.

Growing up, I sang in the church choir that was conducted by my mother. I played Little League and American Legion baseball, with black and white friends. I was a Boy Scout and I was the tallest French horn player in the high school marching band—or perhaps any marching band anywhere.

My mother wanted me to be a success; my father wanted me to be a gentleman; neither wanted me to be a politician.

I left that small town and went to college in New Jersey and then England, but after that—for a long time—I never thought of politics. I was a professional basketball player for the New York Knicks. From September to May for 10 years, I traveled across America with the team. It was not a high school or college team. We were professionals. Basketball was our work that we did every day—together.

Each teammate had a different set of friends in every town. But, day in and day out, we lived together, ate together, rode buses together, talked together, laughed together, and of course, played together. During those years, my dominant teammates were Willis Reed, Dick Barnett, Walt Frazier, Dave DeBusschere, and Earl Monroe. We created one of the first basketball teams to capture the imagination of a national TV audience and we won the hearts of New Jersey and New York. It was an extraordinary group of human beings.

I wish I had $100 for every time in the last 20 years that someone—usually a white person—asked me what it was like to play on the Knicks and travel with my teammates. "What was it like?" I would ask, "What do you mean?"

"Well, you know, guys who came from such different backgrounds and had such different interests than yours."

"You mean that most of them were black? That I was living in a kind of black world?" I would ask.

"Well, yes!" they would finally admit, "What was it like on that team"

"Listen," I would say, "traveling with my teammates on the road in America was one of the most enlightening experiences of my life."

And it was. Besides learning about the warmth of friendship, the inspiration of personal histories, the powerful role of family in each of their lives and the strength of each individuality, I better understand distrust and suspicion. I understand the meaning of certain looks and certain codes. I understand what it is to be in racial situations for which you have no frame of reference. I understand the tension of always being on guard, of never totally relaxing. I understand the pain of racial arrogance directed my way. I understand the loneliness of being white in a black world. And I understand how much I will never know about what it is to be black in America.

I worried about all of that for a while, but then I forgot it. Because I had known for a long time that no one was just black or just white. We were all just human, which meant we were neither as virtuous as we might hope nor as flawed as we might think. The essence of humanity is treating each other with respect. Some of us will not be able to do that with words because we're prisoners of the words themselves. Others will be able to do it with words but never deeds. If we say "African-American" but think something else, where are we?; if we say "white brother" but think something else, where are we?

People of good faith need to find common ground—and I am not talking partisan politics. I am talking about the human heart.

It was William Faulkner who said that man is immortal "because he has a soul, a spirit capable of compassion, sacrifice, and endurance." Politics at its best touches these things, but only rarely does it penetrate to the depths necessary to confront the turbulence in each of our hearts; rarely does it celebrate our courage, our honor, our hope. We need a politics that does not divide us or demean us but helps us escape the easy evasions, see the truth, and prevail in our humanity.

President Lyndon B. Johnson did that when he signed the 1964 Civil Rights bill, a bill whose passage I witnessed in the Senate Chamber as a student intern. The bill ended separate restrooms and drinking fountains for black and white Americans. It ended the dirty motels that blacks often had to stay in because whites excluded them from "whites only" motels. It ended the "whites only" restaurants and the buses that reserved the back for blacks.

LBJ knew Texas. He grew up poor in the Depression. He saw politicians lose because they got too close to blacks. He understood the politics of race, and still he chose to provide moral leadership.

In the Senate race in Texas that same year George Bush, the son of eastern wealth who came to Texas to make his own fortune, ran for office as a Republican. He lost, but in the course of the campaign he opposed the civil rights bill being debated in Washington. The civil rights bill I saw passed in the Senate. The civil rights bill that Lyndon Johnson was to sign into law. Of the 1964 Civil Rights Act, candidate Bush said it "violates the constitutional rights of all people." I still have never heard President Bush say why he believes that. I have never heard him expess regret or explain why he opposed the most significant widening of opportunity for black America in the 20th century.

An enlightening and courageous response to today's condition does not begin and end with the legal solution that was the beginning in 1964. Today's solution must begin by accepting that the burning heart of the crisis of race in America is our individual and collective failure to address the problems of race in our own lives—and the failure of our leaders to address openly, and with moral courage the problems of race and poverty in our Nation.

It is a failure when we compare the ideals of our Nation with the reality in our streets. It is a failure when we compare the hopes of the privileged with the dying dreams of the disadvantaged. It is a failure when we compare our increasingly larger unskilled population with the labor needs of a growing economy. It is a failure to work through our own individual and national feelings about race. And until we correct these failures of attitude and inaction, we will not understand the meaning of race in America. This is hard to do for me, for you, for all of us, but it is not impossible. In fact, by turning our failures into successes we will be regenerating America, improving the standard of living for all Americans and preparing ourselves for a new kind of American leadership in the world.

While no one program, or set of programs, can solve the problems of race and poverty in this country, we, as a people, with the leadership of our President, can take steps toward a solution. I propose four steps.

First, remove the remaining legal barriers to equality of opportunity. In the context of our current debate, this means restoring those civil rights that were removed by the recent Supreme Court decisions in 1989. A 1991 Civil Rights Act will take us a long way in that direction. That will be done when the President orders his staff to stop looking at this issue as a political ad and to start seeing its relevance to our ability to win the global economic race.

Second, restore and revitalize a healthy, growing economy for all Americans. A rising tide does lift all boats. We have to begin to invest today for a better future for our children. This will mean lowering interest rates to encourage investment. This will mean tax relief for families with children. And this will mean difficult budget cuts in some areas in order to finance increased expenditures for programs—like Head Start and WIC that work—and for programs that will increase our productivity—programs in education, job training, health, and infrastructure.

Third, replace the politics of violence with the politics of public safety and intervene directly and massively against poverty, drugs, and violence. And by "we" I mean all concerned voices, especially those black and brown voices trapped within the swirling storm. Instead of politicians using Willie Horton to profit politically from people's fears or outbidding each other in a contest for the most draconian punishment, we need ideas to increase life chances, and timetables for action, for change and for results.

Being tough is necessary. I do not have much tolerance for those who make millions off the destruction of a generation. That is why we need the death penalty for drug kingpins who murder, tough sentences for drug-related crimes committed with a gun, and gun control that establishes a waiting period and a background check. But these measures alone are no guarantee of safety in your neighborhood. It is more difficult. The violence we fear seems to erupt anywhere and for no apparent cause. The violence we fear is the violence of the predator who kills not for money or with a plan but at random for fun and with malice.

So what we need is more police, yes. The ratio of felonies to police has increased dangerously. But, better police too, and tougher laws. In many cities there are few places where people do not have to be vigilant. The concern is constant and pervasive. Yet, police often act as if they were an occupying army, fearful of an enemy population, responding from their cars to emergency calls. And while they have good reason to be alert, they make arrests only to have the arrested back on the streets shortly after or, if they go to jail, replaced by another predator who feels emboldened or desperate or both. The result: No improvement in safety for the majority.

The politics of public safety implies police, armed with a popular mandate, out in the community building partnerships with the law abiding majorities. Together they will help to prevent crime in all neighborhoods of a city. They will identify the indigenous resources that can form the critical base of self-help and intelligence upon which Government and police assistance can be leveraged. The politics of public safety succeeds only if citizens feel more secure. Surely, if the President cared about these problems, he could direct his administration to come up with sharper ideas and the resources to help Government agencies and local police implement them. If we are serious about reducing violence and improving safety, we can do no less.

Fourth, and most importantly, begin an honest dialog about race in America by clearing away the phony issues that can never bring us together. I ask President Bush to promise never again to use race in a way that divides us. Communicating in code words and symbols to deliver the old shameful message should cease. Race baiting should be banished from our politics.

And then, I ask every American to become a part of the dialog that lifts this discussion to the higher ground. Beginning with ourselves, each of us must address our own personal understanding or misunderstanding of race. Ask yourself, when was the last time you had a conversation about race with someone of a different race? Ask yourself what values are shared by all races? And begin to ask our leaders how they have confronted their own understanding or misunderstandings about race in their own real lives—not just their political careers.

I commit myself to work as hard as I can for as long as it takes on each of these four steps. All of them will require concerted action and leadership wherever we can find it. Only one can be achieved by words: The last, the quest for an honest dialog. But without it all the others could misfire—not solving the problems or, worse, being manipulated by those who would keep us from our better selves.

The other day a press person said to me that his magazine was doing a story on racial integration—is it dying, is it changing, is it less relevant, does it hold the same appeal as it did, is America moving beyond it or away from it, is it a means or is it an end? I believe that integration and race and civil rights are central to our American future. They are not merely programmatic issues. They are not political trends. They are fundamental questions of attitude and action, questions of individual moral courage and the moral leadership of our Nation. James Baldwin, returning from France in 1957 and counseling his nephew in 1957 not to be afraid during the civil rights demonstrations of the early 1960's, concludes with this:

> I said that it was intended that you should perish in the ghetto, perish by never being allowed to go behind the white men's definitions, by never being allowed to spell your proper name. You have, and many of us have, defeated this intention; and, by a terrible law, a terrible paradox, those innocents who believed that your imprisonment made them safe are losing their grasp of reality. But these men are your brothers—your lost, younger brothers. And if the word integration means anything, this is what it means: that we, with love, shall force our brothers to see themselves as they are, to cease fleeing from reality and begin to change it. For this is your home, my friend, do not be driven from it; great men have done great things here, and will again, and we can make America what America must become.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

THE REMARKS OF SENATOR BRADLEY

Mr. WELLSTONE. Mr. President, I came here to speak about the National Voter Registration Act for 1991, but if I could for a moment I have a few words that I would like to say to my distinguished colleague from the State of New Jersey. These words are not rehearsed. They are not written down. But I have been sitting here listening to his remarks. I have to respond.

First of all, I want to say to the Senator from New Jersey that when I think about why I wanted to be elected to the U.S. Senate and serve here I think about a definition of politics which says that politics is about the improvement of people's lives. I think about political leadership as being a leadership that inspires people, and calls on people to be their own best selves. I really believe that is what the Senator from New Jersey represents. I am so appreciative of his eloquence and the power of what he said.

I cannot, Mr. President, truthfully say that I was the tallest one in my band when I was in high school; different roots. I was perhaps one of the shorter ones in my high school. But I went to the University of North Carolina, and not to play basketball but to wrestle. Sheila and I were married when we were 19, and we had our first child when we were 20; not a lot of money. And between athletics, working, and school, I thought that was all we had time for. But there was that civil rights movement exploding all around us. We became a part of it.

What I want to say to Senator BRADLEY from New Jersey is that what Vincent Harding, Jr., said about the way people talked about Martin Luther King, Jr., applies to his words today. Black people, African-American people used to say about Martin Luther King, Jr., as he left the pulpit and went out in the communities where the people were, that Dr. Martin Luther King, Jr., was walking his talk. In other words he did not separate the life that he led from the words that he spoke.

I believe that the Senator from New Jersey is walking his talk. He is saying what needs to be said in our country today. He is appealing to the goodness of people in our country, and there is a lot of goodness. He is inspiring us. He is calling upon us to be our own best selves. He is warning us that we must not be divided by race. He is saying we can do much better as a nation, and he is absolutely right.

I just would like to thank the Senator for a truly wonderful speech which is far more than a speech.

NATIONAL VOTER REGISTRATION ACT

Mr. WELLSTONE. Mr. President, I cannot help thinking that there is a connection between the words of the Senator from New Jersey and the action that we took last night, or I should say the inaction that we took last night in the U.S. Senate. Last night I spoke about this with some anger but the Senator from New Jersey has put me in a different mood. I think I would like to try and talk about that vote last night in a different context, and perhaps in a different way.

Last night—the people of our country should know this—we had a cloture vote. That cloture vote was a vote about whether or not we should proceed with the debate and discussion about a piece of legislation called the National Voter Registration Act of 1991, sponsored by Senator WENDELL FORD from Kentucky and Senator MARK HATFIELD from Oregon.

What did that legislation call for? That legislation is interesting, given what the Senator from New Jersey had to say, and was really an extension of the Civil Rights Acts of 1965, the Voting Rights Act. That legislation said that we would in the United States of America reach out and make sure that all citizens in our country regardless of their race or their income or their age or where they lived would have the full opportunity to register and to vote.

Mr. President, it should be pointed out that 75 million people in our country are not registered to vote. Of the people that vote, of the people that are registered to vote, fully 85 percent of them turn out to vote. But 75 million people are not registered to vote. There is a problem of nonparticipation in our country. What a better country it would be if everyone participated. The problem is people find it so difficult to register.

So this Voter Registration Act of 1991 called for several different things. First of all, it would require that we have motor voter. We have this in my State of Minnesota. Many States have it. There is a driver's license form, and then a voter registration form. It makes it easier for citizens to register to vote.

What else did this legislation call for? It said that when you go into a social service agency, unemployment office, welfare office, public agency, that staff in a scrupulously nonpartisan way—it is not Republican or Democrat—would have forms available and enable people to register to vote.

Finally, what this legislation called for was that every State in the United States of America would send out to people by mail registration forms so they could register by mail.

Mr. President, why did Senator FORD from the State of Kentucky introduce this legislation? It goes to the very heart of what the Senator from New Jersey had to say. Post-1896 election in our country, we put into effect some laws that we cannot be proud of and some rules and regulations that we cannot be proud of. Some of those laws were a poll tax. Some of those laws had to do with literacy tests. You could not vote unless you paid a tax. There were literacy tests that were discriminatory, and all sorts of ways that we disenfranchised people so they could not vote. Then we had a whole series of rules and regulations which I will get to in a moment.

Mr. President, it took us a half a century to overturn those discriminatory laws. That was the Voting Rights Act of 1965.

We did overturn a whole maze of confusing, bewildering, and discriminatory rules and regulations that now exist in our country. In only four States can you actually register on election day. Minnesota is one of them, Maine is one of them, Wisconsin is one of them. In North Dakota you do not have registration. Those States interestingly enough have the highest levels of voting participation.

In about half the States in our country you can register by mail or you can pick up a form somewhere, which makes all the sense in the world. In the other States you cannot register by mail. You have to figure out where to register, where to go, what times you can register—you name it. All too often when a person tries to figure out where to register, he or she does not know where to go.

If you can figure out where to go, if you can get there, sometimes in rural communities you have to travel 70 or 80 miles, then you have to make sure it is open. Quite often the office is only open maybe noon hours during the week, not on weekends. It is very difficult for working people to register and vote. It is very difficult for people in rural areas to register and vote. Mr. President, it is very very difficult for people with disabilities to register and vote.

The Senator from Kentucky, WENDELL FORD, and the Senator from Oregon—and I am proud to be a cosponsor—introduced legislation to expand democracy, to make it easier for people to register and vote. Their piece of legislation was the Voting Rights Act of 1991. Their piece of legislation would have made this a better country, because it would have ended this discrimination against people, and it would have allowed the United States to have a much higher level of voter participation.

Mr. President, I want to point out to you and to the people in our country that right now we are rock bottom among all the major democracies in the world. We have the lowest voting participation. Barely 50 percent of the people turn out in a Presidential election. We are the only country which has the system of personal periodic voting registration which puts the burden on the individual to figure out where, when, and why, and how to register and vote.

Mr. President, this piece of legislation would have taken us in the right direction. This piece of legislation would have dealt with the problem of 75 million people not being registered to vote.

This piece of legislation would have sent a message all across our country that our Government is committed to the idea that it does not make any difference what the color of your skin is, does not make any difference where you live, does not make any difference whether you are old or young, does not make any difference whether you are old or young, does not make any difference whether you are disabled or not; we would play a positive affirmative role in making sure that every citizen would have the same opportunity to register and vote. Motor voter, Bureau of Motor Vehicles, driver's license registration form, surely this is a moderate proposal. Registration forms, when you go into a food stamp office, you have an opportunity to register to vote. Surely, all the people in the country support that.

But last night, unfortunately, we had a partisan vote. As a freshman Senator, I could hardly believe it. We had a vote on whether or not we would proceed—I see the Senator from Louisiana here now—and whether we would have the opportunity to discuss and debate this; and only three Republicans—for reasons that I do not quite understand—were able to vote for cloture. That is absolutely unbelievable.

We had a debate afterwards, and one of my Republican colleagues said that he was concerned that—if in fact we had laws and rules and regulations in the United States of America which would make sure that every citizen would have the same opportunity to register and vote—if we should pass legislation to make sure that the 75 million people that were not registered would have that opportunity, maybe they would vote for Democrats.

Well, Mr. President, you do not refuse to pass legislation that will provide assistance to people with disabilities because you are worried how they will vote. You do not refuse to pass legislation that would help senior citizens register to vote because you are worried about how they would vote. You do not refuse to overturn discriminatory rules and regulations and laws because you are worried how people would vote. If that was the mindset in 1964 and 1965, we never would have passed the Voting Rights Act of 1965.

I really wonder, hearing the eloquent remarks of the Senator from New Jersey, how far back we have turned the clock. This is a moderate piece of legislation, introduced by Senator FORD from Kentucky and Senator HATFIELD from Oregon, cosponsored by other Senators, enabling people to register to vote in the United States of America, making sure that we would expand participation, making sure we would have more democracy, making sure that we would have a better country.

Well, Mr. President, we will be back to this vote in September. We will get the 60 votes for cloture, because when you have a good idea, when you have an idea that is fair and just, when you have a piece of legislation that does call upon all of us in America to be our own best selves, when you have a piece of legislation that would enable all citizens to register and vote, when you have a piece of legislation that would expand democracy, when you have a piece of legislation that would end discrimination, when you have a piece of legislation that would enable the citizens most vulnerable to be able to vote in the ballot box and protect themselves, vote for themselves, vote for their communities, and vote for their children, when you have a piece of legislation that is the very best kind of legislation that you could ever pass for making this a better country with more participation, you can kill that piece of legislation one night. But you cannot kill it forever.

Come September, the Senator from Minnesota and many other Senators are committed to voting for cloture, having a full debate and discussion, and passing this legislation.

Mr. President, I make an appeal to all of my Republican colleagues. I commend at least one of my colleagues for debating last night. I make this appeal: You have nothing to be afraid of. You should never be afraid of people registering to vote. You have nothing to worry about. Do not vote against a piece of legislation because you are worried about more participation. That is what made us a great country. Do not vote against a piece of legislation because you are worried about more democracy. That has made us a better country. Do not vote against a piece of legislation which the vast majority of people in the United States of America, out of a sense of fairness, will support.

This piece of legislation is not for black us, it is not for white us, it is not for old us, it is not for young us, it is not for rural us, and it is not for urban us; it is for all of us. We will pass the National Voter Registration Act of 1991, Senate bill 250, and we will pass it this year.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Louisiana is recognized.

NATIONAL ENERGY SECURITY ACT OF 1991

Mr. JOHNSTON. Mr. President, today is the fourth day that I have taken the floor to speak about the National Energy Security Act of 1991, a balanced comprehensive energy bill reported by the Senate Energy Committee by a vote of 17 to 3.

Mr. President, in addressing the need for comprehensive legislation to implement a national energy strategy, I frequently have made the point that there is no single answer to our energy policy dilemma. There are no silver bullets. Still there are certain indispensable building blocks that must form the cornerstones of any plan that is worthy of being called a national energy strategy. Without a doubt, natural gas is one of those cornerstones.

Mr. President, S. 1220, the National Energy Security Act of 1991, contains a comprehensive set of natural gas initiatives. These initiatives will enhance our Nation's energy security by promoting greater use of natural gas. S. 1220 includes a title devoted solely to natural gas. Title XI addresses regulatory issues and the Federal Energy Regulatory Commission. But the natural gas provisions do not end with title XI. S. 1220 includes alternative fuels and fleet provisions that can be expected to open the door for natural gas to play a bigger role as a vehicular fuel. S. 1220 includes provisions to reform the Public Utility Holding Company Act that can be expected to create opportunities for natural gas to fuel a greater percentage of new electric powerplant construction. S. 1220 authorizes greatly expanded Federal research and development and commercialization programs for natural gas end-use technologies and resource recovery technologies.

The approach to natural gas in S. 1220 stands in dramatic contrast to the approach taken by the Congress the last time that comprehensive energy legislation was considered. When the Congress enacted parts of the Carter energy plan in the late 1970's, the conventional wisdom was that our Nation's natural gas resource base was severely limited and diminishing quite rapidly. This perception was based on shortages of natural gas on the interstate market and the highly disruptive curtailment of natural gas supplies to downstream markets during the winter heating season. As we recognize now, the cause of the problem was not natural gas the resource but rather Federal natural gas policy that unduly restricted the price of natural gas dedicated to the interstate market. Nevertheless, based on the view that natural gas was a rapidly diminishing resource that must be reserved for high-priority uses, the Congress passed laws that discouraged and, in some cases, prohibited the use of natural gas. The Natural Gas Policy Act of 1978 included provisions for the incremental pricing of natural gas supplied for industrial use and for the emergency allocation of natural gas in times of shortage. The Powerplant and Industrial Fuel Use Act prohibited the use of natural gas in industrial boilers.

Experience has proven that the natural gas resource base is far larger than was assumed in the 1970's and can be produced economically for a much lower cost than was assumed. Experience also has proven that Federal decontrol of the price and allocation of natural gas at the wellhead results in lower natural gas prices. The competitive forces unleashed by partial wellhead decontrol under the Natural Gas Policy Act of 1978 altered profoundly the way that all segments of the natural gas industry do business and the way that the Federal Government regulates the natural gas industry. The experience with partial wellhead decontrol under the NGPA led the Congress to enact the Natural Gas Wellhead Decontrol Act of 1989. Under this new law, all remaining Federal price and allocation controls on natural gas at the wellhead will be phased out by January 1, 1993.

The ultimate beneficiary of the changes brought about by the NGPA is the American consumer. Look at what happened after January 1, 1985. It was on that date that new natural gas was decontrolled at the wellhead under the NGPA. As this chart illustrates, in real dollars, wellhead natural gas prices have plummeted. This has translated into consumer benefits at the downstream end of the pipeline. Look at the trend for natural gas prices at the city gate, the point at which a local distribution company takes possession of the natural gas. Mr. President, for the information of my colleagues, I ask unanimous consent that a copy of this chart be reprinted in the RECORD following my statement.

The approach to natural gas in S. 1220 is based on recognition that greater utilization of natural gas is in the best interest of the Nation. Our Nation's energy security is served by greater utilization of natural gas. Natural gas is a domestic fuel that can displace imported oil in a variety of applications, fueling automobiles and mass transit vehicles, generating electricity, and heating homes and businesses. Over 90 percent of the natural gas consumed in the United States is domestic production. Our neighbor and largest trading partner, Canada, supplies almost all of our natural gas that is not produced here at home.

Natural gas is abundant. Our Nation's natural gas resource base will last through the midpoint of the next century, even at significantly increased levels of consumption. In connection with assembling the national energy strategy, the Department of Energy estimated that with advanced production technology, economically recoverable natural gas resources in the lower 48 States total almost 1,100 trillion cubic feet. To this can be added another 100 tcf of natural gas in Alaska that is estimated to be economically recoverable. Presently, the Nation consumes approximately 19 tcf of natural gas per year. At this rate, the economically recoverable resource base in the lower 48 States would last almost 60 years.

Natural gas is reasonably priced. For the past several years the natural gas market has been characterized by ample supplies and low wellhead prices. As a result, natural gas sells at a substantial discount to oil. A comparison of natural gas delivered to the city gate in New York City and fuel oil delivered to New York harbor is illustrative. On an energy equivalent basis, natural gas sells at a 36-percent discount to low-sulfur residual fuel oil and at a 62-percent discount to heating oil. Even as supply and demand for natural gas come into greater balance, natural gas prices should remain in line with competing fuels.

The distribution infrastructure for natural gas is well developed. It includes production facilities, gathering lines and processing plants. It includes an interconnected network of large-diameter, high-pressure interstate pipelines. It includes local distribution lines that deliver natural gas to homes, businesses, factories, and powerplants. Altogether, our Nation is crisscrossed by over a million miles of natural gas pipeline. The natural gas delivered through this infrastructure supplies almost a quarter of our Nation's energy needs. And more pipeline is being added to tap into new production areas and to serve new markets.

Natural gas makes sense not only for energy security, but also for the environment. Natural gas is the cleanest fossil fuel. Natural gas vehicles can help to reduce the formation of urban smog. Natural gas in electric powerplants can reduce emissions of the precursors of acid rain. Natural gas can displace dirtier fuels and reduce emissions of carbon into the atmosphere.

How will S. 1220 promote greater natural gas utilization? For starters, Mr. President, S. 1220 will eliminate regulatory barriers that inhibit natural gas from getting to where it is needed. That is the purpose of title XI.

First, title XI creates new fast-track procedures for the Federal Energy Regulatory Commission to authorize the construction of new interstate natural gas pipelines. One of these fast-track options amends section 7 of the Natural Gas Act to include an optional certificate procedure. Project sponsors willing to assume the financial risk associated with a new pipeline will be able to take advantage of this new procedure. In contrast, under the FERC's traditional procedure for pipeline certification, the project sponsor is guaranteed an opportunity to recover its cost of service from ratepayers and must subject itself to much greater regulatory scrutiny. The other fast-track option amends section 311 of the NGPA to expand the authority to construct and operate pipeline facilities for the transportation of natural gas in interstate commerce. In addition, title XI streamlines the administrative process at the FERC. Environmental reviews in connection with pipeline certification applications will be expedited. This will be done by eliminating redundant paperwork without diminishing environmental security. Delays in the rehearing of FERC orders will be eliminated.

Second, title XI amends the law to enhance natural gas producer access to the market. Pipelines will be authorized to file joint rates with the FERC. These rates will help producers in cases where it takes more than one interstate pipeline to get natural gas from the producing field to the city gate. Limited antitrust relief will be granted to small producer cooperatives. FERC will be authorized to order interstate pipelines to interconnect with producing facilities to accept deliveries of gas for shipment out of a producing area.

Third, regulatory barriers to greater use of vehicular natural gas, or VNG, will be eliminated. The law will be clarified so that gas distributors do not find themselves subject to burdensome Federal regulation on account of their VNG activities. VNG retailers who are not otherwise public utilities will be exempt from State public utility regulation. The Public Utility Holding Company Act will be amended to prevent a company from becoming a registered gas utility solely because of its VNG activities.

Will these changes in regulatory law make a difference? You bet they will. Preliminary estimates by the Department of Energy indicate that title XI will increase both natural gas production and natural gas consumption. DOE predicts that because of title XI, annual natural gas consumption will increase by somewhere between the equivalent of 282,000 and 658,000 barrels of oil per day by the year 2000. By the year 2010, DOE predicts that more than the equivalent of 470,000 barrels of oil per day of increased annual natural gas consumption will be created by title XI. On the other side of the equation, DOE predicts that because of title XI annual natural gas production will increase by somewhere between the equivalent of 235,000 and 611,000 barrels of oil per day by the year 2000. By the year 2010, DOE predicts that more than the equivalent of 470,000 barrels of oil per day of increased annual natural gas production will result from title XI.

Mr. President, title XI of S. 1220 incorporates certain compromises. Individual provisions of title XI may not represent the optimal solution for all concerns. Still, as a total package title XI enjoys wide support among the major segments of the natural gas industry, natural gas producers, both majors and independents, interstate pipelines, and local distribution companies. To amend title XI in any significant way would risk upsetting the balance that the Energy Committee worked so hard to achieve.

The only really contentious aspect of title XI is natural gas imports. Independent natural gas producers insist that they are at a disadvantage when competing with natural gas imported from Canada. They contend that the disadvantage is created by a disparity between the way that United States and Canadian regulators allocate costs in the rates for natural gas pipeline transportation. This allocation of costs is known as rate design. The disparity in rate design methods has become known as the rate tilt issue. Title XI includes an amendment offered by Senators WIRTH and DOMENICI to address the rate tilt issue. I supported the Wirth-Domenici amendment because I believe that our domestic natural gas producers deserve a fair shake.

The Wirth-Domenici amendment set off all kinds of bells and whistles. The Government of Canada contends that the amendment violates the United States-Canada Free-Trade Agreement. Some U.S. local distribution companies and gas users maintain that it will frustrate their ability to acquire natural gas on a competitive basis. Much of the problem, I am convinced, has to do not with the underlying purpose of the amendment, but rather with the manner in which it is drafted.

I am hopeful that this matter can be resolved. I am encouraged by some recent developments. First, substitute language has been proposed by an interagency working group from within the administration. This substitute language is intended to address the rate tilt issue without offending the free-trade agreement. Second, in orders concerning new pipelines to bring domestic gas to markets also served by imported gas, the Federal Energy Regulatory Commission has begun to adjust the rate design to be more comparable to the Canadian rate design.

So much for natural gas regulation. How else will S. 1220 promote greater natural gas utilization? One way, Mr. President, will be through the alternative fuels and fleet provisions of title IV of S. 1220. I described those provisions in some detail during morning business yesterday. The program will be fuel neutral and the market ultimately will decide the alternative fuel of choice. Natural gas is well positioned to be the fuel of choice. Natural gas enjoys certain inherent advantages compared to other fuels. In addition to the various attributes already recounted, natural gas requires no costly refining or processing to be used as an automotive fuel. When you add it all up, Mr. President, natural gas can be a real winner as a transportation fuel.

Electric generation is another area where natural gas use will expand. In early 1989, the Department of Energy predicted that natural gas use for electric generation will double by the year 2000. DOE predicted that by then 6.2 trillion cubic feet of natural gas per year will be used to generate electricity. Last year's enactment of the Clean Air Act amendments will do even more to make natural gas an attractive fuel for electric generation.

Title XV of S. 1220 would amend the Public Utility Holding Company Act. I intend next week during morning business to describe PUHCA reform in some detail. For purposes of today's discussion, the important point is that title XV will amend PUHCA to remove corporate obstacles to independent power production. Removing these obstacles creates the opportunity for the natural gas industry, as well as others, to take an equity interest in independent power production facilities. PUHCA reform will let the natural gas industry participate to a greater extent in the generation of electricity.

Natural gas has made great strides in competing for a share of the electric generation market. Improvements in natural gas-fired electric generating technology and environmental imperatives dictated by the Clean Air Act have made natural gas a very attractive option for electric generation. Experience with cogeneration facilities constructed under the Public Utility Regulatory Policies Act, or PURPA, has demonstrated the reliability and efficiency of natural-gas-fired turbine generators. The remaining question for the future of natural gas and electric generation is security of supply. By removing corporate obstacles to the ownership of independent power facilities, PUHCA reform creates the opportunity for the natural gas industry, the group that should be most expert at assembling reliable long-term gas supply, to provide the answer.

Mr. President, 2 weeks ago, I and the distinguished ranking minority member of the Energy Committee had a chance to visit Teeside—Teeside is the name of a town in England—at that location a 1,700-megawatt gas-fired electric generating facility being built by Enron Corp. of the United States. It will be the largest facility of its type in the world. Mr. Ken Lay, who is Enron's CEO, tells me that with PUHCA reform this kind of facility can be replicated in the United States. It is said that there are 150,000 megawatts of electric generating capacity that will be needed in this country in the next 10 years. I asked Mr. Lay how much of that could be fired by natural gas. He said that with PUHCA reform he believes that 35 percent of that 150,000 megawatts of electric generating capacity can be filled by natural gas. So the implications of PUHCA reform for the use of this abundant fuel, natural gas, are really overwhelming.

Finally, Mr. President, over the long term, greater natural gas utilization can be expected to result from the expanded research and development and commercialization programs that will be authorized under title XIII of S. 1220. Title XIII authorizes a program of basic R&D and cost-shared commercialization projects to promote new and more efficient uses of natural gas. Examples include emissions control technologies, including cofiring natural gas with coal, natural gas vehicle technologies, fuel cells for electric power generation, heating and cooling technologies, and advanced combustion turbines. Title XIII also authorizes a program for basic R&D and cost-shared commercialization projects to develop technologies to increase the economically recoverable natural gas resource base. Examples include technologies to improve the recovery of natural gas from tight sands, coal beds, and geopressurized formations.

In conclusion, Mr. President, natural gas must be one of the cornerstones of a comprehensive national energy strategy. Greater utilization of natural gas can enhance our Nation's energy security and benefit the environment. The natural gas provisions of S. 1220 provide a blueprint to get us there.

THE WEPCO ISSUE AND SECTION 14201 OF S. 1220

Mr. President, one of the titles of our legislation has to do with the so-called WEPCo issue. Since we reported that bill, a WEPCo rule has been promulgated by EPA. That rule appears to cover the subject matter adequately. So it is our intention to extract, to take from our bill, those WEPCo provisions under certain conditions.

Mr. President, section 14201 of S. 1220, the National Energy Security Act of 1991, addresses a very complex electric utility regulatory issue known as the WEPCo issue. Some have asked how section 14201 might interact with the Clean Air Act as amended by the Congress last year. I would like to take this opportunity to respond to this question.

First, Mr. President, it might help to outline briefly the WEPCo issue and the purpose of section 14201. The WEPCo issue involves the Environmental Protection Agency's administrative interpretation of new source requirements under the Clean Air Act; in particular, EPA's determination of when a physical change at an existing stationary source results in an increase in emissions thereby triggering new source requirements. EPA's skewed methodology for making this determination created considerable disincentive for electric utilities and others to make physical changes at their facilities, including changes to reduce emissions, improve efficiency and reliability, and facilitate fuel switching.

Section 14201 of S. 1220 addresses the WEPCo issue by specifying how physical or operational changes at existing electric utility powerplants will be treated for purposes of new source performance standards and new source review under the Clean Air Act. One set of rules is specified for physical or operational changes that constitute pollution control projects. Another set of rules governs physical or operational changes made for other purposes. The applicability of both sets of rules is limited to cases where the powerplant's maximum achievable capacity is not increased by reason of the changes. Finally, in a case where the physical or operational change results in a "modification", as that term is defined by the Clean Air Act, a standard for nitrogen oxide control requirements is specified.

What are some of the questions that have been asked about section 14201? First, some have questioned whether this provision would create a loophole in the Clean Air Act. This question appears to be based on the erroneous assumption that section 14201 would override much of the preexisting Clean Air Act.

In fact, Mr. President, there is no language whatsoever in section 14201 that would abridge the protections provided by national ambient air quality standards, state implementation programs and new source review. To the contrary, subsection (g) of section 14201 states expressly that "[n]othing in this section shall authorize an increase in emissions which causes or contributes to a violation of a national ambient air quality standard, PSD increment, or visibility limitation." It could not be more clear.

Second, some have asked whether section 14201 would enable refurbished and reconstructed powerplants to evade new source performance standards and new source review. In fact, section 14201 delineates the scope of refurbishment and reconstruction that may occur without triggering NSPS and new source review.

Subsection (a) addresses the application of new source performance standards under section 111 of the Clean Air Act in a case where the physical or operational change is not a pollution control project. NSPS is established on the basis of a stationary source's emissions rate. More precisely, it is measured on the basis of how many kilograms per hour of a pollutant are discharged into the atmosphere. Subsection (a) provides a test for determining whether a physical or operational change at a powerplant will be considered to be a "modification" which may trigger NSPS. Under this test, a physical or operational change at a unit will not be treated as a modification if it does not increase the maximum hourly emissions of any pollutant regulated under section 111 above the maximum hourly emissions achievable at that unit during the last 5 years of operation prior to the change.

This 5-year reference period is important because the performance of electric powerplants ordinarily deteriorates with the passage of time. As a powerplant wears out, it is said to become derated. In other words, it cannot perform up to its original rated generating capacity. Therefore, in the case of a 30-year old powerplant that has been significantly derated, subsection (a) would prevent the operator from using what the unit's maximum hourly emissions had been when it was brand new for purposes of calculating whether NSPS had been triggered.

A second limitation on the scope of refurbishment and reconstruction under section 14201 is provided by subsection (e). This provision codifies the so-called reconstruction rule in EPA's regulations. Under this provision, a physical or operational change that is not a pollution control project would trigger NSPS if the fixed capital cost of the change or replacement exceeds 50 percent of the fixed capital cost of a comparable new facility. The reconstruction rule will prevent repowering projects from escaping NSPS. A repowering project is one where a new boiler is installed in order to extend the life and the power generating capacity of a powerplant.

A third limitation on the scope of refurbishment and reconstruction under section 14201 is provided by subsection (d). This provision limits the applicability of the rules for both pollution control projects and other kinds of physical or operational changes. Under subsection (d), a physical or operational change falls outside the scope of section 14201 if it will increase a unit's maximum achievable capacity above that achievable during the last 5 years of operation prior to the change. The subsection also gives a permittee the latitude to suggest to EPA other periods that may be more representative.

Section 14201 also protects against increases in emissions on an annual basis. Subsection (c) specifies that physical or operational changes that are not pollution control projects will not trigger new source review under parts C or D of the Clean Air Act unless they result in a significant net increase in representative annual emissions during normal operations. The concept of "significant net increase" in emissions as the threshold for triggering new source review is taken from EPA's regulations.

Third, some have asked whether the provision governing pollution control projects would encourage significant increases in local air pollution. What is the basis for this assertion? First, it is stated that subsection (b) includes no requirement that the reduction in emissions must occur at the particular site of the pollution control project. It is suggested that in order to reduce systemwide emissions a utility might undertake a pollution control project that results in operating the controlled powerplant at a higher capacity in order to back out a dirtier plant at another location. It is suggested further that, while this might reduce systemwide emissions, it might also increase emissions at the site of the pollution control project. This assertion ignores subsection (g) of section 14201. Subsection (g) makes clear that a physical or operational change undertaken under section 14201 may not cause or contribute to a violation of the Clean Air Act programs intended to protect local air quality.

Second, it is stated that because subsection (b) applies to physical or operational changes "primarily for purposes of reducing emissions," it creates some kind of a loophole for powerplant operators to spend nearly 50 percent of project costs for other purposes. While subsection (b) does not include any numerical cutoff as to what percentage of project costs must be for emissions reduction in order to qualify as a "pollution control project," it is difficult to imagine EPA tolerating significant expenditures for physical changes unrelated to emissions reduction. In fact, what is intended by the words "primarily for purposes of pollution control" is to permit the inclusion of physical or operational changes for which there also may be an economic motivation. For example, a powerplant operator may make physical changes to facilitate the conversion of the powerplant from fuel oil to natural gas. Some of the motivation for this change may be based on fuel price and operational flexibility in addition to environmental compliance.

Fourth, it has been asked whether the nitrogen oxide control requirements of subsection (f) of section 14201 will allow for increases in smog-forming emissions of nitrogen oxides. Once again, Mr. President, the express provisions of section 14201 provide the answer. Paragraph (2) of subsection (f) states that "[a]ny State or local permitting authority shall retain the right to impose more stringent limitations for control of nitrogen oxides." Therefore, should it appear that compliance with the subsection (f) standards would cause or contribute to local air quality problems, local authorities would remain free to adopt more stringent requirements.

Finally, Mr. President, it has been asserted that section 14201 is somehow at odds with the intent of the Congress and the administration in the enactment of the Clean Air Act Amendments of 1990. In fact, the conference report on the Clean Air Act Amendments of 1990 took a neutral stand on the merits of the WEPCo issue. To quote from the statement of managers: "The deletion of most provisions relating to the WEPCo decision is not intended to affect or prejudice in any way the issues or resolution of the WEPCo matter."

It is my hope that we need not debate WEPCo as part of the floor consideration of S. 1220. This is a terribly complex issue that is best left to the administrative agencies with special expertise in this area. In early June, the Environmental Protection Agency announced proposed rules clarifying the agency's policy concerning changes made at electric utility powerplants. In view of this development, and on the condition that no other WEPCo amendment be offered, Senator WALLOP and I have written to the majority leader and offered to withdraw section 14201 in the course of floor consideration of S. 1220. Mr. President, I ask unanimous consent that a copy of our letter to the majority leader be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
ENERGY AND NATURAL RESOURCES,
Washington, DC, June 28, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: This responds to your letter of May 23, 1991, regarding the provision in the National Energy Security Act of 1991 adopted by the Energy Committee to address the so-called WEPCo issue.

Subsequent to your letter, the Environmental Protection Agency on June 6, 1991, announced proposed rules clarifying EPA's policy concerning changes made at electric utility powerplants. EPA's proposed rules represent a significant step toward resolving this difficult regulatory issue and are consistent with the Committee's intent in section 14201 of S. 1220. The proposed rules should provide electric utilities with greater confidence in determining how to comply with the Clean Air Act Amendments of 1990 and whether physical or operational changes trigger new source review.

While the Energy Committee does not desire to reopen last year's debate on the Clean Air Act Amendments, the Committee does have a legitimate interest in EPA's WEPCo policy as an energy issue. Prior to clarifying its new source review policy in the preamble to the proposed rules, EPA's policy as enunciated in the WEPCo decision and in pronouncements following judicial review of that decision deterred electric utilities from undertaking activities that made good sense from an energy policy perspective. Furthermore, in the absence of this clarification, electric utilities would have been discouraged from implementing cost-effective emissions reduction strategies. This would have added greatly to the cost of compliance with the Clean Air Act Amendments and would have burdened electric utility ratepayers with unnecessary rate increases.

In the Committee's view, section 14201 of S. 1220 represents an equitable balancing of the competing interests in the WEPCo issue. While we do not concur in your view of the possible air quality impacts of the provision, this debate hopefully need not be joined. In view of EPA's proposed rule, and on the condition that no other amendment on the WEPCo issue be offered, we are willing in the course of floor consideration of S. 1220 to offer an amendment to strike section 14201. We do reserve the right, however, to revisit the WEPCo issue should EPA in the rulemaking process, or in the final rule, deviate significantly from the proposed rule.

We sincerely hope that this represents the final chapter in our consideration of this difficult issue.

Sincerely,

J. BENNETT JOHNSTON,
Chairman.
MALCOLM WALLOP,
Ranking Minority Member.

Mr. BREAUX. Mr. President, before I get into the remarks I would like to make, I would just like to commend the distinguished senior Senator on the excellent statement on natural gas that he has just completed and, also, in a broader sense, for the excellent work he has done in bringing to this body a national energy policy, which this country sorely lacks.

I hope that the Senate will have an opportunity in the very near future to, in fact, bring the Senator's energy bill to the Senate floor for discussion. For too long this Nation has done without any energy policy tht has been produced by the Congress. The energy policy in this country that we operate under is not made in this country. Indeed, it is made by OPEC every time they meet in faraway places and fix prices. If our companies did what they do, our companies would go to the penitentiary because their activities are illegal, and yet we continue to allow that type of action to determine energy policy of the United States. Senator JOHNSTON and his committee's bill will give the United States an energy policy that we sorely lack. I commend him for his good efforts in that regard.

Mr. BINGAMAN. Mr. President, I rise today in support of the natural gas provisions of S. 1220, the National Energy Security Act of 1991. S. 1220 contains a comprehensive set of natural gas regulatory initiatives as well as provisions that will stimulate greater natural gas utilization.

Mr. President, natural gas is our most undervalued energy resource. In the gas patch this will be remembered as the summer of the great price collapse. On the spot market, natural gas is selling at less than replacement cost. On an energy equivalent basis, natural gas is selling at nearly a 70-percent discount to fuel oil.

Mr. President, we need desperately to develop enhanced markets for natural gas. Not only is this in the best interest of the natural gas industry, it is in the best interest of the Nation. Natural gas can make important contributions to achieving our Nation's energy and environmental policy goals. Our Nation is blessed with a large natural gas resource base that can be developed economically. Natural gas can displace imported oil in a whole variety of applications. Natural gas is our cleanest fossil fuel and can make an important contribution to cleaning up our environment. Natural gas can fuel the electric powerplants that we will need to bring on line in the near future.

Mr. President, eliminating the impediments to natural gas achieving its potential should be one of the primary goals of our national energy policy. The natural gas initiatives in S. 1220 take important steps toward that goal.

The natural gas title of S. 1220, title XI, includes a series of provisions to streamline the regulatory process at the Federal Energy Regulatory Commission. A series of amendments that I offered on this topic were adopted by the Committee on Energy and Natural Resources as part of title XI.

Mr. President, significant economic costs result from regulatory delays in the approval of proposed natural gas pipelines. The sponsor of a proposed pipeline is not the only loser in these matters. So too are the customers that might be served by more plentiful natural gas supplies. Our Nation's economy loses out. When I introduced my amendments last February, I included for the record a paper prepared by a former member of the Federal Energy Regulatory Commission that attempted to quantify the costs associated with regulatory delay. These costs included the balance of payment costs from the importation of oil that could have been displaced by domestic natural gas; costs incurred by using a less efficient or more costly fuel; and environmental costs from using a more polluting fuel instead of natural gas.

As a case study, the author of this paper examined a proposed expansion of the Florida Gas Transmission System pipeline that took almost 4 years of proceedings at the FERC to win approval. He estimated that if the proceedings could have been cut short by 1 year, between $261 million and $195 million in economic and environmental costs could have been saved. In addition, balance of payments costs of $130 million could have been avoided. This is not a trivial matter.

Mr. President, title XI of S. 1220 also addresses an issue of special importance to independent natural gas producers in the State of New Mexico. The independent producers maintain that they are at a competitive disadvantage when competing with natural gas imported from Canada. They contend that this disadvantage is created by a disparity between the way that United States and Canadian regulators allocate costs in the rates for natural gas transportation. This regulatory disparity has become known as the rate tilt issue.

New Mexico's natural gas producers vie directly with imported natural gas for a share of the highly competitive California market. With producer margins already shaved to the bone, even a slight difference in the regulatory treatment of transportation costs for natural gas coming from different supply basins can make the difference between winning and losing a share of this market.

Mr. President, as part of title XI of S. 1220 the Committee on Energy and Natural Resources adopted an amendment to address the rate tilt issue. I joined with the authors of this amendment, Senators WIRTH and DOMENICI, as a cosponsor. The rate tilt amendment has proven to be contentious. The Government of Canada contends that it violates the United States-Canada Free-Trade Agreement. Some local distribution companies and gas users maintain that it will frustrate their ability to acquire natural gas on a competitive basis. While I take issue with these contentions, I am willing to work with all interested parties to find a workable solution. I am encouraged by the administration's recent willingness to join in this effort.

Mr. President, S. 1220 also recognizes the need to develop new markets for natural gas. The alternate fuel and fleets provisions create the opportunity for natural gas to play a bigger role as a transportation fuel. Reform of the Public Utility Holding Company Act will open the door for the natural gas industry to participate to a greater extent in the generation of electricity. Research and development and commercialization provisions should lead to new and more efficient ways to utilize natural gas and advanced resource recovery methods.

In conclusion, Mr. President, natural gas can and should be one of the cornerstones of our national energy policy. S. 1220 offers the opportunity to take a big step to making this a reality. I urge my colleagues to support the natural gas provisions of S. 1220.

BASE COMMUNITY RECOVERY ACT OF 1991

Mr. BREAUX. Mr. President, yesterday I introduced legislation which I think is sorely needed as a result of the economic bombshell that the Department of Defense and the President of the United States dropped on some 23 States. Seventy-eight bases, as a result of an announcement of the President, are recommended for closure or realignment in our national defense structure. It is an economic bombshell because of the devastating economic effects that that decision is going to have on those 78 communities throughout the United States.

The States that are affected include Arkansas, Arizona, California, Colorado, Florida, Idaho, Illinois, Hawaii, Indiana, Louisiana, Maine, Massachusetts, Michigan, Missouri, New Jersey, New Mexico, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and the State of Washington. That economic bombshell literally means the loss of thousands and thousands of jobs, both direct and indirect, and a loss of hundreds of millions of dollars to these local economies.

The President has approved the report of the Base Closure Commission without any change whatsoever. He simply rubber stamped it. The Congress now has the option, of course, to overturn that decision, an effort that we are going to attempt to do but one that is going to be very difficult, indeed. I certainly plan to vote to disapprove the recommendations of the Commission and of the President when it is presented to the Senate. But, as we all know, it takes an affirmative vote of the Congress to do that. If the President should veto any action by the Congress, it would be a requirement for us that we override that veto, again an act that would be very difficult.

The report, among other things, recommends the closing of England Air Base in the State of Louisiana and also the realignment of the Fort Polk military Army facility, also in Louisiana.

It is interesting, according to a study completed by Louisiana State University, that in Louisiana alone, the combined impact of the closure of this Air Force base and the realignment of the Army base will result in an estimated 12,000 jobs lost immediately, $228 million in reduced sales, and the loss of over $257 million in household income.

This is the result of a closure of an air base which is really, in total size, not that large in comparison to many others. This economic disruption, I think, makes no sense. I believe the Commission made a mistake when they recommended the closure of England Air Base. England is a superior base, which ranked higher than more than half of the 16 Tactical Air Command bases which were evaluated by the Commission itself. Bases that ranked as high as England should not have been closed. The Commission did the recommendation. The Commission did the study. And yet their own study said that this particular base was ranked, as I indicated, much higher than many of the bases we have allowed to stay open.

I do not know ultimately the outcome of the vote to disapprove the President's recommendation. I hope that we will be successful. But if the President's recommendations do prevail, Congress certainly needs to show the communities that we are preparing for the worst-case scenario and that we are ready to support them and give them all the help and assistance that we possibly can. Faced with these potential closures nationwide, we would have to act to ensure that the local communities that will be hardest hit by these closure recommendations will have access to the full range of resources necessary to rebuild their economies.

Mr. President, I was involved in a base closure many years ago as a former staff person. It seemed at that time that the Federal Government just walked away from the community, locked the door, and threw away the key. The local community was left to fend for themselves and decide what their economic fate would be with only a very few tools in their hands to help themselves.

This year should certainly be quite different. We should give them the tools and the assistance, the ideas and the preparations that would be of help to them in order to survive an economic low.

Therefore, Mr. President, I introduced legislation which will give hope to these communities; which will tell them that the Federal Government has not forgotten them, and which will indicate to them that they can be assured that, when they are in their darkest hours and time of greatest need, that the Federal Government will be there to help and to assist and to pave the way for a brighter future.

The bill I introduced yesterday, along with the principal cosponsor, Senator ROTH, will provide tax incentives to businesses that locate on closed or realigned bases; tax incentives to employers who hire former military or civilian employees of a closed or realigned base, and tax incentives to individuals who have lost their jobs, who decide to stay in that closed-base area.

Specifically these provisions, and I will try to outline them briefly, are employer and employee incentives. To encourage businesses to hire these former employees of closed or realigned bases, a tax credit would be given to the employers.

This is not a new concept. This bill would expand the targeted jobs tax credit which we already have, and would merely include as a category of eligible employees, former military and civilian employees of these closed or realigned bases.

A credit of up to $2,400 would be available per employee. The credit would be available to any business anywhere and this provision would enable a small business to reduce its labor costs by hiring these individuals if they fit its requirements.

The second part of our legislation would be to encourage individuals to stay in a base closure area. Instead of just packing up in a U-haul or any type of moving equipment and just leaving, we want to encourage the people to stay in the community.

In order to do that, this legislation would provide that each individual would have his own personal income tax reduced by a wage credit when he takes a new job in a particular area. The bill provides this wage credit to former civilian and military employees of the closed or realigned base who, in fact, do decide to stay in this economic impact region.

This is a term which, of course, is used by the Department of Defense and is easily defined. This wage credit would be a nonrefundable, one-time credit, equal to 10 percent of the wages but no greater than $3,000.

Next, we provide capital incentives because many of these bases have buildings that need repair or renovation in order to be ready for the new use which hopefully will come. Our legislation would reduce the cost of doing this type of work by providing for accelerated depreciation, for building construction, for reconstruction, and also for improvements which would be provided.

The goal is to reduce the overall tax liability of a business in the beginning and the early years of its moving into these closed facilities and, of course, would encourage businesses to look at a closed military base as a prime opportunity and area into which they could move, to take advantage of these incentives and in fact locate and employ people in the area.

Instead of the 31.5 years, the recapture rate on this depreciation would be 21.5 years.

Next, it is obvious that new businesses need new and often very expensive equipment in order to begin a new operation in these closed bases. So our legislation would reduce the cost of this capital by allowing businesses that locate on closed bases to deduct a greater amount of cost of new equipment that would be placed in service each year. Under the current, existing law, it allows the expensing of up to $10,000 a year for new equipment. Our legislation allows businesses to expense 25 percent of the cost of any new equipment that they would place in service in one of these closed military bases.

Notwithstanding a 25-percent limitation, businesses would be able to expense at least $10,000 but no more than $200,000 under our legislation.

Finally, as an assistance to new businesses acquiring the needed revenues to start up in these economically hard-hit areas, our legislation would allow businesses to have access to inexpensive, tax-exempt financing.

The bill expands the small issue development bonds for manufacturing, and also for first-time farmers in that program. Each State's bond cap would be increased by at least $50 million, to enable the issuance of tax-exempt bonds on behalf of entities locating on these closed or realigned bases. The bill also allows for the issuance of new $20 million bonds because current law only authorizes the issuance of $10 million bonds.

These Federal tax benefits should be used in a manner that actually creates jobs and economic activity. Many impacted communities have already established planning commissions to adjust to base closures. I specifically commend the Alexandria, LA, community for doing just that. They are prepared for the worst, while they hope for the very best, and certainly work toward achieving that goal.

Our tax incentives are not the only way to assist communities that have been impacted by these base closure announcements. I have joined Senator ROTH in introducing S. 100, which, when combined with the legislation we introduced yesterday, I think ought to give each community the access to the full range of assistance programs they are going to be needing.

The Roth-Breaux bill essentially changes the way military bases are disposed of. Under current law, if a base is closed in a State, the first priority on who gets that facility is the Federal Government. The Federal Government does not need the help that a local community gets. Under existing law, the Federal Government is considered a priority recipient of that closed base.

Second, if they do not need it or do not want it, then the State comes in and has a claim.

Third, and finally, only after the previous two potential recipients decline the use of those facilities, does the local community come in and have a claim to those facilities. Under the Roth-Breaux legislation we reverse that order and give priority consideration to the local communities who, of course, are the most deeply and most seriously affected area because of the closure.

So, under the Roth-Breaux legislation, S. 1300, the first priority to receiving the use of these facilities would, indeed, be to the local communities, who would be deeded the property in the normal channels for deeding property to the Federal Government. I think that makes a major improvement over the current system.

Mr. President, I have been asked by others as to what the cost of this legislation would be and, obviously, there is a cost attached. Yesterday we made a request to the Joint Tax Committee to give us a revenue estimate of how much this legislation would cost. I am awaiting a response from the Joint Tax Committee and look forward to receiving their information.

But it is obvious that no matter how much it costs to give these tax incentives, tax credits to individuals who are adversely affected, those costs will be offset by the amount of revenues that would be lost if we were to do nothing.

As an example I cited the cost estimated just with one base in Louisiana. When you lose 12,000 jobs and you impact a local community by the loss of $228 million in reduced sales and the loss of over $257 million in household income, those are real costs to the Federal Government. If 12,000 people lose their jobs, Mr. President, 12,000 additional people do not pay their taxes and the Federal Government loses revenues as a result of people being unemployed.

Therefore, any cost of providing tax incentives will obviously be reduced by generating new jobs and growth and economic development, thereby generating more taxes to be paid to the Federal Government.

So, I think it is a wise investment in the economic security of this country. It is a wise investment, assuring all of these citizens who, over the years, contributed to the national defense of this country by working in and around military bases, that when those bases are no longer needed the Federal Government will not walk away from these cities, these towns, these communities and these individuals and say only thank you very much and do nothing to help them.

If we can find money to help the Kurds, if we can find the money to help Poland, if we can find the money to help many foreign countries around the world and, in most cases, rightfully so, certainly in the time of American needs in communities, American citizens who are deeply affected economically and personally by these closures that our Government has an obligation and a responsibility to be as generous to our own citizens as we have found in the past to be generous to foreign nations when they have suffered economic dislocations.

I commend my colleagues to the consideration of both pieces of legislation: First, S. 1498, the Breaux-Roth tax incentive package, and second, the Roth-Breaux bill on the restructuring of how properties will be disposed of, S. 1300.

Mr. President, I ask unanimous consent that a copy of the bill, S. 1498, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Base Community Recovery Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, such amendment or repeal shall be treated as made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TAX INCENTIVES RELATING TO FEDERAL MILITARY BASE CLOSURES AND REALIGNMENTS.

(a) IN GENERAL.—Chapter 1 (relating to normal tax and surtax rules) is amended by inserting after subchapter T the following new subchapter:

"Subchapter U—Tax Incentives Relating to Closed Federal Military Installations

"Part I. Definitions.
"Part II. Hiring incentives.
"Part III. Investment incentives.

"PART I—DEFINITIONS

"Sec. 1391. Definitions.

"SEC. 1391. DEFINITIONS.

"(a) APPLICABLE FEDERAL MILITARY INSTALLATION.—For purposes of this subchapter, the term 'applicable Federal military installation' means a Federal military installation or other facility which is closed or realigned under—

"(1) the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note),

"(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or

"(3) section 2687 of title 10, United States Code.

"(b) ECONOMIC IMPACT REGION.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'economic impact region' means any area which is located in a county or other political subdivision of a State any portion of which is located within 50 miles of the boundaries of an applicable Federal military installation.

"(2) ADDITIONAL AREAS.—The Secretary may, after consultation with the Secretary of Defense, designate any area not described in paragraph (1) as part of an economic impact region if the Secretary determines such area to be adversely impacted by the closing or realignment of an applicable Federal military installation.

"(c) TERMINATED EMPLOYEE.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'terminated employee' means an individual who is certified, under procedures similar to the procedures described in section 51(d)(16), as being an individual (whether or not a Federal employee)—

"(A) who was employed on an applicable Federal military installation, and

"(B) whose job was terminated by reason of the closing or realignment of such installation.

"(2) LIMITATION.—An individual shall not be treated as a terminated employee with respect to any job termination after the later of—

"(A) the close of the 2nd calendar year following the calendar year in which the announcement of the job termination occurs, or

"(B) the close of the 1-year period beginning with the date on which the employee first begins work for any employer after the job termination.

"PART II—HIRING INCENTIVES

"Sec. 1392. Targeted jobs credit.
"Sec. 1393. Terminated employee credit.

"SEC. 1392. TARGETED JOBS CREDIT.

"For purposes of section 38, a terminated employee shall be treated as a member of a targeted group for purposes of determining the targeted jobs credit under section 51.

"SEC. 1393. TERMINATED EMPLOYEE CREDIT.

"(a) IN GENERAL.—In the case of any terminated employee, there shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to 10 percent of the qualified wages of such employee for the taxable year.

"(b) QUALIFIED WAGES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified wages' means wages paid by an employer to an employee if—

"(A) at least 90 percent of the employee's services for the employer during the taxable year are directly related to the conduct of the employer's trade or business within an applicable Federal military installation or economic impact region, or

"(B) at least 50 percent of the services of the employee for the employer during the taxable year are performed within such installation or region.

"(2) LIMITATIONS.—

"(A) 1-YEAR LIMIT.—The term 'qualified wages' includes, with respect to any individual, only wages attributable to services rendered during the 1-year period beginning with the day the individual first begins work for any employer after becoming a terminated employee.

"(B) DOLLAR AMOUNT.—The term 'qualified wages' for any taxable year shall not exceed the excess (if any) of—

"(i) $30,000, over

"(ii) the amount taken into account as qualified wages under this section for any preceding taxable year.

"(C) FEDERAL GOVERNMENT SERVICES.—The term 'qualified wages' does not include wages paid for services performed as an employee of the Federal Government, or any agency or instrumentality thereof.

"(3) WAGES.—The term 'wages' has the same meaning as when used in section 51 (without regard to subsection (c)(4) thereof).

"(c) LIMITATIONS.—

"(1) PHASE-OUT.—The amount of the qualified wages of a taxpayer under subsection (a) for any taxable year shall be reduced (but not below zero) by $1 for each $1 by which the employee's total wages (whether or not constituting qualified wages) exceed $60,000.

"(2) REDUCTION OF CREDIT FOR TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under subsection (a) for any taxable year shall be reduced by the amount (if any) of the tax imposed on such taxpayer for the taxable year under section 55.

"(3) SELF-EMPLOYED INDIVIDUALS ELIGIBLE.—For purposes of this section, the term 'employee' includes an employee described in section 401(c)(1) (relating to self-employed individuals).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) shall be treated as a credit allowed under subpart A of part IV of subchapter A of this chapter.

"(2) CONTROLLED GROUPS.—All employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this section.

"PART III—INVESTMENT INCENTIVES

"Sec. 1394. Capital incentives.

"Sec. 1395. Financing incentive.

"SEC. 1394. CAPITAL INCENTIVES.

"(a) REDUCTION IN RECOVERY PERIOD FOR NONRESIDENTIAL REAL AND RESIDENTIAL RENTAL PROPERTY.—

"(1) IN GENERAL.—For purposes of section 168, the applicable recovery period—

"(A) for any qualified nonresidential real property shall be 21.5 years, and

"(B) for any qualified residential rental property shall be 17.5 years.

"(2) QUALIFIED PROPERTY.—For purposes of paragraph (1), the term 'qualified nonresidential real property' or 'qualified residential rental property' means nonresidential real property (as defined in section 168(e)(2)(B)) or residential rental property (as defined in section 168(e)(2)(A)), whichever is applicable, which—

"(A) is located on an applicable Federal military installation,

"(B) is used by the taxpayer predominantly in the active conduct of a trade or business on such installation, and

"(C) is placed in service by the taxpayer during the 15-year period beginning on the date of the announcement of the closure or realignment of such installation.

"(b) INCREASE IN AMOUNT WHICH MAY BE EXPENSED.—

"(1) IN GENERAL.—In the case of qualified section 179 property—

"(A) the limitation under subsection (b)(1) of section 179 with respect to such property shall be equal to the amount determined under paragraph (2), and

"(B) subsection (b)(2) of section 179 shall not apply with respect to such property.

"(2) AMOUNT WHICH MAY BE EXPENSED.—For purposes of paragraph (1)(A), the amount under this paragraph shall be equal to the excess (if any) of—

"(A) the lesser of—

"(i) 25 percent of the cost of the qualified section 179 property (or, if greater, $10,000), or

"(ii) $200,000, over

"(B) the cost of section 179 property for the taxable year which is not qualified section 179 property.

"(3) QUALIFIED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified section 179 property' means section 179 property which is used by the taxpayer predominantly in the active conduct of a trade or business on an applicable Federal military installation.

"(B) EXCEPTIONS.—The term 'qualified section 179 property' does not include—

"(i) property which is used or located outside of an applicable Federal military installation on any regular basis, or

"(ii) property the original use of which commences with the taxpayer after the close of the 15-year period beginning on the date of the announcement of the closing or realignment of such installation.

"(C) OTHER TERMS.—The terms 'cost' and 'section 179 property' have the meanings given such terms by section 179.

"(c) RELATED PARTIES.—

"(1) IN GENERAL.—No property shall be treated as qualified nonresidential real property, qualified residential rental property, or qualified section 179 property if it is acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer as of the time of the acquisition.

"(2) RELATED PERSON.—For purposes of paragraph (1), a person (hereafter in this subparagraph referred to as the 'related person') is related to any other person if—

"(A) the related person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(B) the related person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), '10 percent' shall be substituted for '50 percent' in applying sections 267(b)(1) and 707(b)(1). In the case of the acquisition of any property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination under this paragraph of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination.

"(d) SPECIAL RULES FOR RECAPTURE IN CASE OF DISPOSITIONS, ETC.—

"(1) IN GENERAL.—If, during any taxable year, property which is qualified nonresidential real property, qualified residential rental property, or qualified section 179 property—

"(A) is disposed of other than to a person who is to continue the use of such property as qualified property, or

"(B) in the case of qualified section 179 property, is removed from the applicable Federal military installation, or otherwise ceases to be used in the active conduct of a trade or business on such installation,

the tax under this chapter for such taxable year shall be increased by the amount described in paragraph (2).

"(2) AMOUNT OF INCREASE.—The increase in tax under paragraph (1) shall equal the amount which bears the same ratio to the aggregate decrease in the tax for all prior taxable years which resulted solely from the application of this section to the property as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for such property under section 312(k).

"SEC. 1395. FINANCING INCENTIVES.

"(a) IN GENERAL.—For purposes of part IV of subchapter B of chapter 1—

"(1) in applying section 144—

"(A) subsection (a)(12) (relating to termination dates) shall not apply to any qualified base closure bond, and

"(B) for purposes of subsection (a)(4)(A)(ii) thereof, capital expenditures of not to exceed $10,000,000 shall not be taken into account with respect to any issue described in subsection (b), and

"(2) the limitation under section 146(d) for any State for any calendar year shall be increased by the lesser of—

"(A) an amount equal to $5 multiplied by the population of the State which resides within all applicable Federal military installations and economic impact regions within the State (or, if greater, $50,000,000), or

"(B) the aggregate face amount of all qualified base closure bonds issued during such calendar year.

"(b) QUALIFIED BASE CLOSURE BOND.—For purposes of this section, the term 'qualified base closure bond' means any bond which is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide facilities which—

"(1) are to be located on an applicable Federal military installation,

"(2) are to be used in the active conduct of a trade or business on such installation, and

"(3) are to be placed in service before the close of the 15-year period beginning on the date of the announcement of the closing or realignment of the applicable Federal military installation."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Tax incentives relating to closed Federal military installations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

BASE CONVERSION

Mr. ROTH. Mr. President, today America faces an opportunity that has eluded it for the more than 50 years. Today, in the twilight of the cold war, we are able to redirect, in a significant way, the priorities governing how we use Americans' tax dollars.

With careful attention to Government's role and responsibilities concerning social programs, we can turn both our attention and increased resources to strengthening America's competitive economic ability, our education, infrastructure, our families and individual sense of self-reliance. With well-defined policies governing our relationships abroad, with strong alliances, and the maintenance of a sound defense, we can begin to prepare for an era of peace—a golden era marked by personal empowerment and prosperity.

As we redirect resources, however, we are going to have to make difficult decisions—decisions like base closings and conversions—decisions that will be uncomfortable but necessary. The mathematics are plain: a reduction in military spending and personnel equals a reduction in bases.

However, Mr. President, there are measures that this body can take to reduce the economic consequences to individuals, families and communities as these bases are closed. Last month I offered with Senator BREAUX legislation that will turn challenges posed by base closings into an opportunity for those affected. In short, the legislation turns the closed bases over to the communities free of charge, and allows the individuals, families, and local business community to direct and receive the economic potential of what in most cases is prime real estate.

The approached envisioned by the Roth-Breaux base conversion bill has now been embraced by the Base Closure and Realignment Commission which only 2 weeks ago issued its report to the President. The Commission's conclusion is that:

> Reusing former military base property offers communities the best opportunity to rebuild their economies.

And this is exactly what Roth-Breaux offers—it offers these communities first choice of the installation.

For example, a community that stands to lose an air base will be able to convert it into a much needed airport, rather than have the property go first to the Federal Government to be used as a prison or a nuclear waste site. Giving communities the first right to lands in question will facilitate their economic rebound.

However, Mr. President, there is one more important step that Congress can take to improve the opportunity created by base conversions. Toward this end, Senator BREAUX and I have introduced legislation, S. 1498, that will provide tax incentives to encourage individuals who have been adversely affected by a base closing to participate in the conversion process and the emergence of the subsequent industry or commercial use of the property.

For the communities involved, our legislation provides the State and local governments the ability to issue industrial development bonds, or IDB's, of a tax-free basis so the local governments increase their ability to attract businesses to the areas in transition. For the businesses, our bill provides tax incentives for them to locate and expand their operations in these areas. And for individuals, our proposal offers a tax credit to offset wages lost by a base closing.

These incentives include wage credits, faster depreciation, and expensing provisions. Combined, these are strong market incentives for businesses to both hire area workers who have lost their jobs and to invest their capital in the area to provide new growth and new jobs. Coupled with the transfer of land to the community, the potential economic loss from closing a base instead becomes fertile ground for economic growth.

I am a believer in the market economy, and I feel this bill to provide tax credits and incentives for development is the best method by which to help these areas recover from the economic effects of losing a military installation. Along with the base conversion bill, these measures will allow us to take the necessary steps toward meeting our Nation's changing needs and realizing the full benefits that are possible in the post-cold-war era.

Mr. ROTH. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLARENCE THOMAS—A REMARKABLE MAN

Mr. DANFORTH. Mr. President, as the Senate prepares to take up the confirmation of Judge Clarence Thomas, Senators will be considering not only the career of this remarkable man, but his entire person. Senators will want to know both what he has done and who he is.

One measure of who he is is what he has said about his own life, about his experiences and what they have meant to him as he has developed his own outlook on the world. I have had the remarkable opportunity of accompanying Judge Thomas on each of his visits to Members of the Senate. I wish I could capture the warmth of the man and the moving vignettes he has described from his own life's history.

Fortunately, the New York Times included on its op-ed page on July 17, 1991, a speech by Clarence Thomas at Savannah State College.

I commend this speech to the Senate as an example of how Clarence Thomas looks at his own life and at the world around him.

Mr. President, I ask unanimous consent that the op-ed piece from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 17, 1991]

CLIMB THE JAGGED MOUNTAIN

(By Clarence Thomas)

(Following are excerpts from a commencement speech that Clarence Thomas, President Bush's nominee to the Supreme Court, gave at Savannah State College on June 9, 1985.)

I grew up here in Savannah. I was born not far from here (in Pinpoint). I am a child of those marshes, a son of this soil. I am a descendant of the slaves whose labors made the dark soil of the South productive. I am the great-great-grandson of a freed slave, whose enslavement continued after my birth. I am the product of hatred and love—the hatred of the social and political structure which dominated the segregated, hate-filled city of my youth, and the love of some people—my mother, my grandparents, my neighbors and relatives—who said by their actions, "You can make it, but first you must endure."

You can survive, but first you must endure. You can live, but first you must endure. You must endure the unfairness. You must endure the hatred. You must endure the bigotry. You must endure the indignities.

I stand before you as one who had the same beginning as yourselves—as one who has walked a little farther down the road, climbed a little higher up the mountain. I come back to you, who must now travel this road and climb this jagged, steep mountain that lies ahead. I return as a messenger—a front-runner, a scout. What lies ahead of you is even tougher than what is now behind you.

That mean, callous world out there is still very much filled with discrimination. It still holds out a different life for those who do not happen to the right race or the right sex. It is a world in which the "haves" continue to reap more dividends than the "have-nots."

You will enter a world in which more than one-half of all black children are born primarily to youthful mothers and out of wedlock. You will enter a world in which the black teenage unemployment rate as always is more than double that of white teenagers. Any discrimination, like sharp turns in a road, becomes critical because of the tremendous speed at which we are traveling into the high-tech world of a service economy.

There is a tendency among young, upwardly mobile, intelligent minorities to forget. We forget the sweat of our forefathers. We forget the blood of the marchers, the prayers and hope of our race. We forget who brought us into this world. We overlook who put food in our mouths and clothes on our backs. We forget commitment to excellence. We procreate with pleasure and retreat from the responsibilities of the babies we produce.

We subdue, we seduce, but we don't respect ourselves, our women, our babies. How do we expect a race that has been thrown into the gutter of socio-economic indicators to rise above these humiliating circumstances if we hide from responsibility for our own destiny?

The truth of the matter is we have become more interested in designer jeans and break dancing than we are in obligations and responsibilities.

We have lost something. We look for role models in all the wrong places. We refuse to reach back in our not too distant past for the lessons and values we need to carry us into the uncertain future. We ignore what has permitted blacks in this country to survive the brutality of slavery and the bitter rejection of segregation. We overlook the reality of positive values and run to the mirage of promises, visions and dreams.

I dare not come to this city, which only two decades ago clung so tenaciously to segregation, bigotry and I remember businesses on East Broad and West Broad that were run in spite of bigotry. It is said that we can't learn because of bigotry. But I know for a fact that tens of thousands of blacks were educated at historically black colleges, in spite of discrimination. We learned to read in spite of segregated libraries. We built homes in spite of segregated neighborhoods. We learned how to play basketball (and did we ever learn!), even though we couldn't go to the N.B.A.

Over the past 15 years, I have watched as others have jumped quickly at the opportunity to make excuses for black Americans. It is said that blacks cannot start businesses because of discrimination. But Jim Crowism, to convince you of the fairness of this society. My memory is too precise, my recollection too keen, to venture down that path of self-delusion. I am not blind to our history—nor do I turn a deaf ear to the pleas and cries of black Americans. Often I must struggle to contain my outrage at what has happened to black Americans—what continues to happen—what we let happen and what we do to ourselves.

If I let myself go, I would rage in the words of Frederick Douglass: "At a time like this, scorching irony, not convincing argument, is needed. Oh! Had I ability, and could reach the nation's ear, I would today pour out a fiery stream of biting ridicule, blasting reproach, withering sarcasm and stern rebuke. For it is not light that is needed, but fire; it is not the gentle shower, but thunder. We need the storm, the whirlwind and the earthquake."

I often hear rosy platitudes about this country—much of which is true. But how are we black Americans to feel when we have so little in a land with so much? How is black America to respond to the celebration of the wonders of this great nation?

In 1964, when I entered the seminary, I was the only black in my class and one of two in the school. A year later, I was the only one in the school. Not a day passed that I was not pricked by prejudice.

But I had an advantage over black students and kids today. I had never heard any excuses made. Nor had I seen my role models take comfort in excuses. The women who worked in those kitchens and waited on the bus knew it was prejudice which caused their plight, but that didn't stop them from working.

My grandfather knew why his business wasn't more successful, but that didn't stop him from getting up at 2 in the morning to carry ice, wood and fuel oil. Sure, they knew it was bad. They knew all too well that they were held back by prejudice. But they weren't pinned down by it. They fought discrimination under W. W. Law [a Georgia civil rights leader] and the N.A.A.C.P. Equally important, they fought against the awful effects of prejudice by doing all they could do in spite of this obstacle.

They could still send their children to school. They could still respect and help each other. They could still moderate their use of alcohol. They could still be decent, law-abiding citizens.

I had the benefit of people who knew they had to walk a straighter line, climb a taller mountain and carry a heavier load. They took all that segregation and prejudice would allow them and at the same time fought to remove these awful barriers.

You all have a much tougher road to travel. Not only do you have to contend with the ever-present bigotry, you must do so with a recent tradition that almost requires you to wallow in excuses. You now have a popular national rhetoric which says that you can't learn because of racism, you can't raise the babies you make because of racism, you can't get up in the mornings because of racism. You commit crimes because of racism. Unlike me, you must not only overcome the repressiveness of racism, you must also overcome the lure of excuses. You have twice the job I had.

Do not be lured by sirens and purveyors of misery who profit from constantly regurgitating all that is wrong with black Americans and blaming these problems on others. Do not succumb to this temptation of always blaming others.

Do not become obsessed with all that is wrong with our race. Rather, become obsessed with looking for solutions to our problems. Be tolerant of all positive ideas; their number is much smaller than the countless number of problems to be solved. We need all the hope we can get.

Most importantly, draw on that great lesson and those positive role models who have gone down this road before us. We are badgered and pushed by our friends and peers to do unlike our parents and grandparents—we are told not to be old-fashioned. But they have weathered the storm. It is up to us now to learn how. Countless hours of research are spent to determine why blacks fail or why we commit crimes. Why can't we spend a few hours learning how those closest to us have survived and helped us get this far?

As your front-runner, I have gone ahead and taken a long, hard look. I have seen two roads from my perch a few humble feet above the madding crowd. On the first, a race of people is rushing mindlessly down a highway of sweet, intoxicating destruction, with all its bright lights and grand promises constructed by social scientists and politicians. To the side, there is a seldom used, overgrown road leading through the valley of life with all its pitfalls and obstacles. It is the road—the old-fashioned road—traveled by those who endured slavery, who endured Jim Crowism, who endured hatred. It is the road that might reward hard work and discipline, that might reward intelligence, that might be fair and provide equal opportunity. But there are no guarantees.

You must choose. The lure of the highway is seductive and enticing. But the destruction is certain. To travel the road of hope and opportunity is hard and difficult, but there is a chance that you might somehow, some way, with the help of God, make it.

Mr. DANFORTH. In addition to the nominee's own reflections about himself, it is informative to see what others who have known him in the past have said about him. One recent example is the op-ed piece in the Washington Post on July 16, 1991, by my longstanding legislative director and staff director of the Senate Commerce Committee Allen Moore. Allen Moore and Clarence Thomas were colleagues in my Senate office from 1979 to 1981.

Mr. President, I ask unanimous consent that a copy of the op-ed piece written by Allen Moore be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 16, 1991]

THE CLARENCE THOMAS I KNOW

(By Allen Moore)

I have been reading and hearing a lot about Clarence Thomas these days. Some of it makes me wonder: Can this be the same Clarence Thomas who worked for me in Jack Danforth's office 12 years ago and has been my friend ever since?

The man I read about has been called an "arch-conservative" who has "forgotten where he came from," who believes "affirmative action is like heroin," whose seven years as chairman of the Equal Employment Opportunity Commission were "the most retrograde in its history," whose first marriage ended in a "messy divorce that deserves scrutiny," whose "opposition to abortion is well-known," whose "allegiance to the pope" should be examined, whose actions are "guided by political calculation," and who is "harshly judgmental and self-righteous rather than compassionate and empathetic."

The Clarence Thomas I know is a caring, decent, honest bright, good-humored, modest and thoughtful father, husband and public servant who has already come farther in 43 years than most of us will in a lifetime.

The president did his nominee no favor when he said race was not a factor in the nomination. Of course it was, and Thomas readily admits it, just as he acknowledges that race played a role in his selection for other jobs along the way. He has never denied his indebtedness to, or admiration for, those, such as Justice Thurgood Marshall, who helped open such doors. He does not blindly oppose the notion of taking race into consideration for hiring, promotion or admissions decisions. What he does oppose are rigid numerical goals and quotas, which he considers divisive and unfair.

When he gets a chance to fully explain his views in Senate hearings, he will challenge his listeners to think beyond platitudes and conventional orthodoxy. Clarence Thomas has always supported the idea of giving preferential treatment to the truly disadvantaged, especially minorities, rather than to those from middle- or upper middle-class backgrounds who happen to be members of a targeted minority group. To do otherwise risks stigmatizing those favored—to make it appear as if they are incapable of competing fairly. It also can put the unprepared in situations where they are destined to fail. "God helps those who help themselves," Clarence might say, encouraging self-help and self-reliance. Martin Luther King Jr., Malcolm X and Jesse Jackson have stressed such themes.

Regarding his feelings about the pope, I believe Clarence stopped being a practicing Catholic when he left the seminary almost 25 years ago. In recent years, he has attended a Methodist church, a Christian church and, most recently, an Episcopal church.

I don't know how he feels about abortion, but I would be very surprised if he didn't have an open mind on *Roe* v. *Wade*. Many liberals and conservatives on both sides of abortion issue acknowledge the vulnerability of that decision on purely legal grounds, but I personally wouldn't bet the ranch on how he would come down on the issue.

I know something about Thomas's first marriage because I spent many hours talking with him as it broke apart. He was tormented both about breaking his wedding vows and about the impact of the divorce on his young son. He sought me out for advice because I was a divorced father with two well-adjusted children. His divorce was handled amicably, with Clarence given undisputed primary custody of his son. Both parents have played a major role in his upbringing, and all parties have great respect for each other.

Clarence's record as EEOC chairman deserves close scrutiny, just as it did when he was renominated and reconfirmed for a second term as chairman, and just as it did when he was nominated and confirmed to his seat on the D.C. Circuit Court of Appeals. The record will speak for itself, but someone should also look inside the agency to find out how people feel about Thomas the man and the leader.

Evan Kemp, his successor as chairman, marvels at what Thomas did with a historically underfunded agency that saw its budget cut nine out of 10 times in the 1980s. (Usually Congress cut the president's request, then beats up the agency for its budget-related shortcomings.) Clarence Thomas inherited a poorly managed, dispirited agency whose employees were embarrassed to admit where they worked. His legacy, according to Kemp, is that employees are now proud to work at the EEOC and even named the new headquarters building after him. Nonetheless, says Kemp, "Clarence won't get the credit that is his due; I will." People throughout the agency sing Thomas's praises—his dedication, his professional standards, his extraordinary sensitivity to and support of the "little people," and his inspiration to employees at all levels.

The suggestion that his actions have been politically motivated is laughable. This is not a political animal. His passionate, behind-the-scenes battles with the White House and Justice Department conservatives during the Reagan years were hardly politic. In addition, several times through the years, I strongly advised him to approach his detractors both on and off the Hill. "They attacked me without knowing the facts," he would say, "and it would be hypocritical to approach them." This is a man who advanced in a political environment in spite of, not because of, his political skills.

Perhaps the most absurd charge leveled at Thomas is that "he forgot where he came from." Thomas's professional and personal life, not to mention his conscience, wouldn't permit him to forget his roots if he wanted to. Neither would the world around him. After lunch a few weeks ago, he and I were strolling around downtown Washington. He suddenly realized he was late for an appointment and asked me (I'm white) to hail him a cab.

"I have trouble getting a cab downtown, and it's virtually impossible in Georgetown," he said, jumping into the taxi I had flagged down as the driver mouthed an obscenity in my direction.

Mr. DANFORTH. Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, the quorum call is dispensed with.

THE 1991 MID-YEAR REPORT

The mailing and filing date of the 1991 Mid-Year Report required by the Federal Election Campaign Act, as amended, is Wednesday, July 31, 1991. All principal campaign committees supporting Senate candidates must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on the filing date for the purpose of receiving these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contract the Office of Public Records on (202) 224–0322.

TRIBUTE TO ARIZONANS WHO LOST THEIR LIVES IN THE PERSIAN GULF WAR

Mr. DECONCINI. Mr. President, Arizona has a long and distinguished history of military service by its citizens since territorial times. Throughout their history, Arizonans have proudly and unselfishly served from San Juan Hill to the Argonne, from Anzio to Midway, from Da Nang to Hue, in Grenada, in Panama, and most recently, in the conflict in the Persian Gulf. In each of these eras, Arizonans have made the ultimate sacrifice of their lives defending the ideals held dear by this Nation.

We can all rejoice in the swift military victory in the gulf with extremely low casualties, but we still mourn the loss of life by any American in service to his or her country. Words are of little comfort to grieving mothers, fathers, sons, daughters, wives, husbands or children. It is a stark fact that the loved family member is no longer with us. Only time can bring a measure of healing and acceptance.

While my heart is heavy with sadness, I am honored to recognize the five Arizonans who in the oft quoted and famous words of Abraham Lincoln gave "the last full measure of devotion—their lives—to preserve freedom."

Marine Lance Cpl. James B. Cunningham, who died in a tragic gunshot accident in Saudi Arabia;

Marine Pvt. Michael A. Noline, a member of the San Carolos Apache Tribe, who died in a raid near the Kuwaiti border;

Marine Lance Cpl. Eliseo Felix, an Hispanic youth who proudly served in the Marine Corps;

Marine Sgt. Aaron Pack, who was killed by enemy fire as United States troops swept into Kuwait to liberate that oppressed nation; and

Sgt. Dorothy Fails, a member of the Arizona National Guard's 1404th Transportation Company, who died in Saudi Arabia while performing her duty as a driver.

Our valiant troops can never be adequately praised or commended. They came from widely diverse backgrounds but were joined in a common cause—the defense of freedom—and were willing to sacrifice their lives in that pursuit. In death, these modern day patriots join the illustrious company of the heroes of past conflicts. These men and women served in the proudest tradition of those who have defended freedom since the birth of our Nation more than 200 years ago. I salute them and I extend my sincerest sympathy to their families and friends in this time of grief and loss.

REPRESENTATIVE JOE MOAKLEY SPEAKS AT THE UNIVERSITY OF CENTRAL AMERICA

Mr. DECONCINI. Mr. President, I read with great interest a speech delivered by Representative JOE MOAKLEY at the University of Central America in San Salvador, El Salvador on July 1, 1991. As you may recall, I have worked with Representative MOAKLEY for many years on the issue of providing temporary protected status to Salvadoran refugees here in the United States. I have strongly advocated this issue because I believe that we in this country have a responsibility to the victims of a civil war in which the U.S. Government has played a significant role. Representative MOAKLEY and I were finally able to see this legislation passed last year, and I again wish to thank my colleagues for supporting this humanitarian measure.

The speech, which I ask unanimous consent to be printed in the RECORD at the conclusion of my remarks, is a sensitive and moving statement on the need for true peace and justice for the long-suffering people of El Salvador. We in this body may disagree about the methods that have been used to influence the Salvadoran civil war, but we are of one mind when it comes to the fervent hope that the two sides to the conflict can settle their differences peacefully.

Representative MOAKLEY speaks with conviction, from his role as chairman of the Speaker's Task Force on El Salvador, about the significance of the case of the assassination of the Jesuit priests and their companions in November 1989. He states, and rightly so, that while we in the United States want to see justice achieved in this case, it is more important that the people of El Salvador know that justice will prevail and those who break the law, whatever their station in life, will be held accountable for their actions.

I applaud Representative MOAKLEY for his continued leadership on this important issue, and his balanced approach to it. I highly recommend his speech to my colleagues in the Senate.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF REPRESENTATIVE JOE MOAKLEY

I. INTRODUCTION

I am honored to be here at this historic university and grateful for the kind invitation to speak to all of you this afternoon.

I am especially grateful to Father Estrada for his very flattering introduction. He represents the very best in the Jesuit tradition and has done a remarkable job of presiding over this very great university during these very difficult times.

I also want to thank Father Michael Czerny and my dear friend, Father Charlie Beirne, for their assistance in arranging today's speech. I am delighted, as well, to participate in a program with Father Jon Sobrino who has always been a strong defender of social justice.

And I want to thank Father Rodolfo Cardenal who has bravely agreed to translate my remarks. I just hope his Spanish has a Boston accent.

I want to say at the outset that I am not one of those fellows who runs around the world telling other people how to run their countries. I have never set out to change the world; I'll be happy if I can make things a little better for the people I represent back home in Massachusetts.

El Salvador represents my first major effort in the field of international affairs and judging from the reviews I've received in some of the more conservative Salvadoran newspapers, there are some people out there who hope it will by my last.

As you may know, I am the Chairman of a special task force that was appointed by the Speaker of the U.S. House of Representatives to monitor the investigation into the terrible murders that took place on this campus on November 16, 1989. Members of the task force have not tried to investigate the case ourselves, but we have tried to monitor the progress of the investigation conducted by the authorities in this country.

Over the past year, our task force has prepared one major report and a number of shorter reports discussing the investigation. These efforts would not have been possible without the help of Salvadorans from many walks of life and from individuals in the U.S. Embassy, especially the U.S. Ambassador to El Salvador, William Walker, who I believe is a very good man who wants very much to see justice done in this case.

I am conscious, as I stand here, that past relations between the people of El Salvador and the Government of the United States have not always been smooth.

A former political leader of your country once said that El Salvador has endured during this century "fifty years of lies, fifty years of injustice, (and) fifty years of frustration." El Salvador's history, he said, is the history "of a people starving to death, living in misery. For fifty years, the same people have had all the power, all the money, all the jobs, all the opportunities."

And throughout those fifty years, I am sad to say that all the people of El Salvador heard from the United States was silence.

It was not until ten years ago, after the revolution in Nicaragua, that the U.S. Government began to pay serious attention to El Salvador. Because even the Reagan Administration understood that your country, with its history of social inequality, its corrupt and brutal military and its active and militant left was as logical a candidate for revolution as this hemisphere has ever seen.

And so, for the past ten years, America has provided more than $4 billion in economic and military aid to El Salvador. There are some in the Congress of the United States who have fully supported that aid. Others, such as myself, have expressed serious concern about the wisdom of providing large amounts of aid to the Salvadoran military.

II. IMPORTANCE OF THE JESUITS CASE

Those concerns were validated on the morning of November 16, 1989.

Obviously, the horrible murders at this campus were not the first in El Salvador nor, tragically, would they be the last. Tens of thousands have died as a result of political violence over the past decade. It makes no difference in the eyes of God, and it should make no difference in our own eyes, whether a victim of that violence is famous or unknown, rich or poor, a partisan of the left or right or of no side at all.

Every one of us is entitled to our rights; and every one of us is entitled to justice when those rights are violated.

It is not on abstract human or moral grounds, then, that so many of us have come to attach so much importance to discovering the truth about the murders that took place here at the UCA.

We are moved, instead, by the friendship that so many of us had for one or another of the murdered priests; we are moved by the respect we felt for the courage of these men in their pursuit of social justice and peace; we are moved by the innocence and suffering of Elba Julia Ramos and her daughter Celina; and we are moved by the brutality and cowardice of the murders themselves—carried out, not in the heat of some battle—but in cold blood, in the dead of night, by dozens of well-armed and well-trained troops.

We are moved by these murders and we are determined that unlike the cases of Archbishop Romero, Fr. Rutilio Grande and so many others; at least this one crime against God and humanity will not go unpunished.

In this one case, we demand the truth. In this case, we insist that the justice system do its job. In this one case, we demand that the Government and the armed forces of El Salvador live up to their claims to respect democracy and the law.

Opponents and critics of the government have been picked up, questioned, tortured and murdered in this country for years. Now, in the course of peace talks, they are asked to trust the government, to trust the armed forces, to trust the political system. It should not be too much to expect that government, those armed forces and that system to be worthy of trust in this one case.

For if El Salvador, with all the international pressure, cannot bring those who murdered the Jesuits to justice, how can anyone expect justice the next time a labor leader or a teacher or a campesino is killed? How can we expect those who have seen their relatives and neighbors kidnapped and tortured and murdered to lay down their arms unless they can do so in an atmosphere of justice and law? How can we expect an end to the violence of the left unless there is an end to the impunity from prosecution of the right?

That is why finding the truth in the Jesuits' case is so important; not because it pleases the United States, England, Spain or some other foreign country; but because finding that truth is essential for El Salvador to live at peace with itself.

III. STATUS OF THE CASE

As you know, eight members of the armed forces, including one Colonel, have been charged with the murders. Two others have been charged with destroying evidence. Four others have been charged with perjury.

I believe the President of the Supreme Court, Dr. Mauricio Gutierrez Castro, and Judge Ricardo Zamora deserve great credit for bringing the case to this point. The Judge has done his best to build a strong case against the accused. And he has done his best to investigate the possible involvement of others in ordering or participating in the crimes.

The role of the military is another story.

General Ponce has said over and over again that these murders should be considered the acts of individuals and not the responsibility of the armed forces as an institution. General Ponce is just plain wrong.

Consider that:

Radio stations, controlled by the military, at that time, broadcast threats against the Jesuits shortly before they were killed;

There were more than 200 soldiers at or near the scene of the crime;

The murders were carried out by an experienced and well-trained military unit, acting under orders;

Efforts were made at the scene to cover up the crimes and to point the finger of blame at the FMLN;

A phony firefight was recorded in the official log of military operations;

Not a single officer has come forward voluntarily with information concerning the case;

Evidence controlled by the military has been withheld and destroyed;

Many of the officers who were called to testify lied and lied again about what they know;

Even the special military Honor Board appointed by President Cristiani to review the case lied about it.

General, believe me, you have got an institutional problem.

And that's not the worst of it. I am convinced that, at a minimum, the high command of the armed forces knew soon after the murders which unit was responsible for the crimes. At a minimum, they sought to limit the scope of the investigation in order to protect certain officers from prosecution. And I continue to believe there is a strong possibility that the murders were ordered by senior military officers not currently charged.

I am convinced that there are officers in the armed forces who did not themselves participate in the crimes, but who have further information about the crimes. To date, these officers have not come forward because they fear they will be killed. They know that telling the truth about the military is considered by some in El Salvador to be a capital crime. Again, I say to General Ponce, you have an institutional problem.

It is, in my opinion, the institution of the armed forces that is responsible, not only for the murders but for the failure of the investigation, thus far, to uncover the whole truth.

And, in my opinion, you have an institutional problem when it is the institution that instills fear in potential witnesses; when it is the institution that teaches its officers to be silent, to be forgetful, to be evasive, to lie; when it is the institution that demands loyalty to the armed forces above loyalty to the truth or to honor or to country.

The fact is that there is nothing a soldier or officer could do that would be more patriotic or better for the armed forces or for El Salvador than to come forward with the truth in this case. And if that happens, it will be our responsibility, and that of the civilian government, to protect that witness and to make certain that the evidence he provides is acted upon, not covered up.

I still believe it is possible that a new witness or witnesses will come forward. I believe this because I know there are many good people in the armed forces of El Salvador, some of whom were educated right here at this university or at other Jesuit schools.

I believe there are many in the armed forces who want to see the full truth come out. I believe there are many who want to reform the armed forces and to see it take its proper place within your society.

I have been asked many times what it would take to satisfy me in the Jesuits' case. Would I be satisfied with the conviction of five soldiers? Must a Colonel be convicted? Are eight convictions enough?

My response is simple. I want the truth. Like Ambassador Walker, I want the truth because I believe the Salvadoran people deserve the truth. The whole truth.

There is no such thing as half justice. You either have justice or you don't. There is no such thing as half a democracy. You either have a democracy in which everyone—including the powerful—is subject to the law or you don't.

That's why I believe it is so important that the whole truth emerge in this case. Truth is not the enemy.

Without the truth, the armed forces will never be cleansed of its responsibility for this crime, and for shielding those involved in it. Without the truth, this government cannot lay claim to truly democratic institutions. Without the truth, the argument that those in opposition to the government should lay down their arms is undermined. Without the truth, the path towards peace in El Salvador will grow steeper still.

IV. PEACE

And I don't have to tell any of you how important it is to bring the civil war in El Salvador to an end.

Not long before he died, Father Ellacuria said that "the way of war has now given all it has to give; now, we must seek the way of peace".

As Father Ellacuria would have been the first to say, the way of peace is not easy, nor is it without risk.

But the way of war is murdering El Salvador. It is a war without victors, only victims. Seventy-five thousand dead. Thousands disappeared. A million forced to flee their homeland. A generation of children denied the innocence and the laughter of childhood. Thousands of young men and women who have lost an arm or a leg to explosives or gunfire.

Even the powerful, the Generals and the commanders, on both sides, are victims. For those responsible for this war must bear the burden in their souls of the killing they have caused, the destruction they have produced, the injustices that have been generated throughout this decade of war.

For ten years, we have heard what the leaders on both sides are against. We have listened to the words of hate, the demands for vengeance, the predictions of triumph. But it has never been important what each side is against; it only really matters what each side is for.

Now, during the negotiations, the burden has been on both the Government and the FMLN to define what they are for. Both sides deserve credit for the progress that has been made; both deserve blame for the senseless violence that has continued.

It breaks my heart, after all this time, to hear of yet more young people being disfigured or maimed or killed. It makes me sick to hear this violence justified as a bargaining tactic. And it makes me wish even more that Father Ellacuria were still here to share with us his wisdom and compassion.

It is not my job or the job of anyone from my country to define the appropriate terms for peace in El Salvador. That is solely the responsibility of Salvadorans, with help, as needed, from the United Nations.

But we in Congress do have a responsibility to see that the United States is a force for peace, not war, in El Salvador.

It is our job to help those on both sides who share the vision of an El Salvador that is democratic and just.

And so I say to the FMLN, if you want our understanding, negotiate in good faith; end your campaign of sabotage; no more assassinations; and bring to justice those who murdered the two Americans killed after the helicopter crash last January.

And I say to the armed forces, if you want our aid, do your part to end the violence; respect the rights of those with whom you disagree; negotiate in good faith; and bring to justice not just some, but all, who ordered or participated in the murders at this campus nineteen months ago.

V. CLOSING

I have been following events in El Salvador for about ten years. And I can't count the number of times I have been told not to expect very much from El Salvador. I have been told over and over again by people in my own government that violence is just part of the culture. Killing and corruption, I am told, have always been common in El Salvador.

Well, I love my country, but I think it's pretty arrogant for anyone from a nation with a $300 billion defense budget, $25 billion in arms sales, a huge military foreign aid program and the highest murder rate in the western world to criticize another society for its tendency towards violence. I don't say that Salvadorans are better than anyone else, but I have never seen a people that wanted or deserved peace more than the people of El Salvador.

You do not have to travel far from this beautiful campus to see whole urban neighborhoods constructed out of tin and cardboard, wedged into ravines where nothing grows except the appetites of young children.

You do not have to travel far to find babies being delivered and surgery being conducted using methods that have hardly changed in the last one hundred years.

You do not have to travel far to find farmers struggling to grow food for their families with no equipment except their own hands and no credit except their own empty pockets.

You do not have to travel far in El Salvador to understand why it is so important that the destruction end and the re-building begin.

And you do not have to travel far to understand why the lives of Father Ellacuria and his colleagues, far more than their deaths, were so important.

The Jesuit fathers taught us that peace is better than war for the simple reason that life is better than death.

They taught us to value the dignity and to respect the rights of every human being, no matter how humble.

They taught us that, although it has often been considered a crime in this country, it is never a crime to speak up for the poor, the helpless or the ill; it is never a crime to tell the truth; it is never a crime to demand justice; it is never a crime to teach people their rights; it is never a crime to struggle for a just peace. It is never a crime. It is always a duty.

So, in closing, I say let us pray that God will grant us the strength, with the memory of these martyred heroes always present in our minds, to fulfill this duty each and every day of our lives.

NATIONAL VOTER REGISTRATION ACT FOR FEDERAL ELECTIONS

THE "MOTOR VOTER" BILL

Mr. DOLE. Mr. President, you do not need to be an election expert to realize that voter turnouts is at an all-time low. In 1988, for example, barely 50 percent of all eligible voters went to the polls—the lowest percentage in more than 40 years. Participation in midterm elections is even lower, down to about 34.4 percent in 1990.

Without a doubt, these are disturbing trends. But they are trends that S. 250, the so-called motor voter bill, will do nothing to reverse.

Unfortunately, low voter turnout has less to do with obstacles to voter registration and more to do with other factors—factors like the lack of competitive congressional races, the lackluster messages of our Nation's politicians, and the frustration of many citizens who feel that their votes simply do not make a difference on election day.

S. 250 will correct none of these problems. It will not make congressional races more competitive. It will not restore voter confidence in the electoral system. It will not guarantee high turnouts on election day.

But it will open the door for rampant fraud. And it will federalize an activity—voter registration—that the individual States have successfully performed for decades.

THE POTENTIAL FOR FRAUD

Mr. President, simply put, S. 250's mail registration procedures are a public invitation for corruption.

Just fill out a form, mail it in, and you are registered to vote. It is that simple.

There is no notarization requirement. No attestation requirement. No verification of identity or citizenship.

But there will be plenty of fraud. That is guaranteed.

UNFUNDED MANDATES

S. 250 would also impose significant unfunded costs on the States at a time when 32 of these States are running budget deficits.

According to estimates prepared by 10 States—Alaska, California, Florida, Illinois, Kansas, New Jersey, New York, South Carolina, Oklahoma, and Virginia—the total cost of complying with S. 250's requirements would exceed $87 million. The total cost for all 50 States would obviously be much higher.

Unfortunately, S. 250 says nothing about how the States should finance the costs of these new, burdensome requirements.

It is voter registration "sticker-shock:" the Federal Government mandates. And the States pick up the tab.

AN ALTERNATIVE

Mr. President, earlier this month, I joined my distinguished colleague from Alaska, Senator TED STEVENS, in introducing an alternative to S. 250.

The alternative would authorize a total of $25 million over 3 years in grants and an incentive for States to implement improved voter registration procedures.

Like S. 250, these procedures would allow registration at State Departments of Motor Vehicles, registration by mail, and registration at Federal and State government agencies.

But unlike S. 250, the implementation of these procedures would be completely voluntary.

The procedures would also remain subject to tough, antifraud provisions already on the books in most States.

In addition, the alternative recognizes that any liberalization of voter registration procedures must be accompanied by tougher penalties for public corruption. As a result, the alternative "beefs up" the penalties for such crimes as voter intimidation and ballot falsification.

CONCLUSION

Mr. President, many State governments have conducted very successful programs to make voter registration easier for all Americans.

In my home State of Kansas, for example, mail registration—accompanied by tough verification requirements—has been in effect since 1976. Other States have since followed Kansas' lead.

With a track record on voter registration, the States now need a helping hand from Washington.

They do not need another Federal mandate. And they do not need the iron fist of S. 250.

Mr. President, I have received letters from the National League of Cities, the National Association of Towns and Townships, and the National Association of Counties—all expressing their support for the alternative and their opposition to S. 250.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, May 30, 1991.

Hon. ROBERT DOLE,
Senate Minority Leader, The Capitol, Washington, DC.

DEAR MR. LEADER: I am writing on behalf of the public elected officials of the Nation's cities and towns in support of your proposed alternative, S. 921, to establish national voter registration procedures for Presidential and congressional elections.

The Nation's municipal public elected officials support efforts to enhance registration of more Americans to vote, but we oppose Federal initiatives which mandate significant new costs for local governments—unless such proposed mandates include reimbursement funds.

The version reported by the Senate Rules Committee, S. 250, would impose new and unfunded Federal mandates on an activity traditionally reserved to elected State and local governments. It would require States and local governments to either raise taxes or reduce other services to meet Federal goals and objectives. At a time when the Federal Government has adopted a pay-as-you-go philosophy, we believe it is only fair that such a standard should apply to mandates on other levels of government—even though it is uncertain—at best—that these changes would result in any increased voter participation.

In contrast, your proposal, the National Voter Registration Enhancement Act of 1991, would offer each State an incentive and would impose substantial penalties to help combat fraud and corruption in Federal elections. It would prohibit the Federal Government from mandating a State or municipality to require enhanced voter registration. Consequently, it would avoid interference in State and municipal authority, but would offer a voluntary means to encourage greater State and local registration efforts.

We believe your efforts are a responsible alternative, consistent with an effort to work in partnership with State and local governments. We appreciate and support your leadership.

Sincerely,

SIDNEY J. BARTHELEMY,
President, Mayor, New Orleans.

NATIONAL ASSOCIATION OF
TOWNS AND TOWNSHIPS,
Washington, DC, June 18, 1991.

Hon. ROBERT DOLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing on behalf of the 13,000 local governments represented by NATaT, the National Association of Towns and Townships, in support of S. 921. Your continued understanding of the problems faced by small local governments in implementing unfunded mandates is greatly appreciated.

NATaT's members are from mostly small, rural communities nationwide. They are typical of the Nation's 39,000 general purposes local governments, 78 percent of which serve communities with less than 5,000 residents and half of which are communities with less than 1,000 people. Many of the local elected officials in these communities are the administrators of all elections in their jurisdictions. They have firsthand experience with the strengths and faults of voter registration.

NATaT is very supportive of voter registration efforts. In fact, township governments were founded on the principle of citizen participation. However, the process of registering voters must be one that is manageable and affordable for local governments. S. 250 is neither. It imposes new costs and confusing procedures for which local governments will pay a high price. We have heard very strongly and loudly from local government officials in opposition to S. 250.

In contrast, your legislation addresses these concerns by making the program voluntary and providing funds. By encouraging voluntary participation, you avoid interference with successful programs and leave states the flexibility to create innovative programs to address their specific needs. The penalties S. 921 would impose to prevent fraud and corruption are also necessary to ensure that the registration process is legitimate.

We hope that your colleagues in the Senate will join in support of S. 921. It is a sensible approach consistent with the partnership that the Federal and local governments should have. Thank you for your leadership on this important issue.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

Mr. DOLE. Mr. President, I also ask unanimous consent that a letter from the Assistant Attorney General respresenting the views of the Justice Department, along with a statement of administration policy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 17, 1991.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice regarding S. 250, the National Voter Registration Act of 1991. S. 250 would establish national voter registration procedures for presidential and congressional elections. Although the Department strongly endorses the bill's general goal of involving more Americans in the electoral process, we oppose enactment of this bill.

The bill would require all states, except those that have no voter registration requirements at all (i.e., North Dakota) or those with election day registration procedures, to employ three methods of registering voters for federal elections, and would specify in considerable detail what the states would have to do to implement each of the three methods. First, states would be required to include the option for voter registration as part of the process for applying for a motor vehicle driver's license ("motor-voter registration"). Second, states would be required to provide for voter registration by mail ("mail-in registration"). Third, states would be required to designate state-related, federal, and private sector locations to make registration applications available and accept them for transmittal to the appropriate election officials ("satellite registration"). The bill would also severely restrict the grounds upon which voters' names could be removed from voting lists.

Absent any showing of a threat to the integrity of the electoral process resulting from the unjustified restriction of the opportunity for citizens to vote, or the discriminatory treatment of particular groups of citizens, the bill might well exceed the constitutional authority of Congress by involving the federal government in matters which the constitution allows the states to regulate as they deem appropriate. Because it would mandate elaborate procedures without regard to local conditions or appropriate alternatives, the bill would represent a substantial and unnecessary imposition on the states. Moreover, because some of the registration techniques mandated by the bill are fraught with the potential for fraud if adequate verification methods are not used in light of local conditions, and because of the strict limitations on standard means of purging voting lists of stale names, the bill would present a serious potential for increased voting fraud and electoral corruption. Voter registration laws are one of the principal protections against election fraud, and any changes to registration requirements must take into account the potential for increased fraud resulting from the changes.

We are not convinced that the case for mandating uniform, nationwide registration procedures has been made. Eliminating barriers to registration will increase the pool of potential voters and make it possible for more citizens to vote, which is certainly an important goal. However, it is unclear to what extent the change proposed by S. 250 would translate into greater voter turnout, because the empirical link between increased registration and increased voter turnout is undeveloped. Some of the most convincing explanations for shortcomings in registration and voter turnout appear to be poverty, lack of education, alienation, apathy, cynicism about the value of voting, and voter contentment.

We recognize that some historical registration requirements arose from a desire to disenfranchise blacks (and, as a byproduct, disenfranchised many less-advantaged whites). The well-documented historical record of that disenfranchisement and its effects, as well as the continued intentional application of discriminatory registration practices, led to enactment of the Voting

Rights Act, which has proven effective in eliminating discriminatory voting practices and remains a powerful weapon in dismantling illegitimate barriers to voting. A similar record has not been developed in support of the national standards proposed in this bill, nor has there been a convincing showing that existing federal remedies are inadequate.

Moreover, many states are voluntarily adopting innovative registration practices, including variations of the three mandated by the bill. We understand that some form of motor-voter registration has worked well in a number of jurisdictions without any appreciable increase in fraud, that many areas are experimenting with various forms of satellite registration, and that mail-in registration is being used successfully in several jurisdictions. But these jurisdictions also use a variety of procedures to guard against fraud and maintain the integrity of the electoral process. In short, they are able to adapt and tailor the procedures to take into account local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. That essential flexibility to respond to local conditions would be forbidden by this bill.

S. 250 is substantially similar to S. 874 in the last Congress, which the Administration opposed. However, one key change in S. 250 is that it would exempt any state from the requirements of the bill if the state adopts an election day registration system. In view of the potentially costly and burdensome nature of the bill, this exception would effectively serve as an compelling incentive for states to adopt election-day registration, a change which would substantially impair efforts in many areas to verify voter eligibility, and thus would invite voting fraud and corruption of the election process.

Furthermore, the serious potential for fraud and corruption would be compounded by the current limitations in federal criminal law governing electoral crimes and other forms of public corruption. Existing federal jurisdiction, for example, does not reach fraudulent schemes not involving the use of the mails and where a federal candidate is not on the ballot. As discussed more fully in the attached memorandum, because of these limitations, the provisions of S. 250 would create a greatly increased risk of public corruption, particularly at the local election level where almost all electoral fraud now occurs. Among the most common voter fraud crimes, which we believe will be exacerbated by S. 250, are bribery of voters, stuffing ballot boxes, voter intimidation, and the casting of ballots in the names of deceased, incompetent or otherwise ineligible individuals. In order to increase the Department's jurisdiction to prosecute those who corrupt the electoral process, we have strongly supported enactment of the "Anti-Corruption Act," which passed the Senate in October 1989 as Title IV of S. 1711.

For these reasons, although we fully support the goal of facilitating voter registration, we strongly oppose S. 250, because its approach of mandating uniform procedures regardless of local circumstances is unwarranted, overly restrictive, and almost certain to invite increased fraud and corruption in the electoral process without providing the necessary jurisdictional tools to combat those crimes. The enclosed memorandum elaborates upon these concerns. In our view, should legislative action be considered, it would be far preferable to adopt a more flexible approach which 1) responds to these concerns by leaving the initiative to the states and 2) includes appropriate revisions to current criminal law. Both of those proposals are reflected in S. 3021, which was introduced by Senators DOLE and STEVENS in the last Congress. We would be pleased to work with the Committee on such an alternative to S. 250.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

DEPARTMENT OF JUSTICE ANALYSIS OF S. 250

I. SCOPE OF CONGRESS' AUTHORITY

At the outset, we note that S. 250 would unnecessarily intrude into areas of legitimate state discretion. Congress has only limited constitutional power over the conduct of election, even elections for federal officials. Congressional power over presidential elections is described in Article II, section 1, clause 4 of the Constitution: "The Congress may determine the Time of Chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States." Congress has broader power to regulate elections for Senators and members of the House of Representatives: "The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators." U.S. Const. Art. I, §4, cl. 1. Electors for Senators and Representatives in each state are to have the same qualifications as those of the most numerous branch of the state legislature. Art. I, §2; amend. XVII. Although the Supreme Court has recognized that Congress has general power to regulate presidential elections to the extent necessary to prevent fraud and preserve the integrity of the electoral process,[1] Congress may not exercise this authority in a manner that "interfere[s] with the power of a state to appoint electors or the manner in which their appointment shall be made."[2] Thus, while Congress has some authority to preserve the integrity of the federal election process by taking steps to prevent fraud, it cannot encroach upon the exclusive power of the states to regulate the manner in which elections are conducted.

Although the precise scope of Congress' power over federal elections is uncertain,[3] we believe that there is a serious question of whether S. 250 may be defended as a permissible exercise of constitutional power. Congress does not have plenary authority to dictate the procedures which a state must employ in elections for federal officials. There is no suggestion that S. 250 is designed to prevent fraud and corruption. Nor is there any showing that this bill is necessary to eliminate any discriminatory practices. Accordingly, we question whether this bill is constitutional.

II. LIMITATIONS ON STATES' FLEXIBILITY TO TAYLOR REGISTRATION PROCEDURES TO SUIT LOCAL CONDITIONS

Apart from the question of Congress' constitutional power, S. 250 would operate to deny the states their historic freedom to govern the electoral process. The flexibility which the Constitution generally gives the states recognizes that different cultural and demographic circumstances may call for different approaches in many areas, including voter registration. For example, registration procedures sufficient to prevent substantial fraud in a sparsely populated, mostly rural state may not be adequate for a more densely populated state with major metropolitan centers and large population and outflows. Depriving the states of this flexibility to tailor their individual approaches to their own particular problems and circumstances—by imposing a single, uniform policy nationwide—forecloses the benefits that would otherwise come from diversity.

A. Practical Impact on the States

In practical terms, S. 250 would impose two significant kinds of costs on the states, the first of which is that the mandated registration methods inevitably would impose added costs on the states, which might be substantial in some cases. The bill would have the effect of dictating to the states how to utilize their resources, rather than leaving them flexibility. It would also make the provision of various services somewhat more expensive for the states and more complicated for the applicants (many of whom would have no need to register to vote).[4] The bill would not merely regulate state registration procedures but, by virtue of Sections 5 and 7, the conduct of other state functions (such as the issuance of motor vehicle driver's licenses, the provision of public assistance, unemployment compensation and related services) may be affected by the applicability of the Voting Rights Act,[5] though we do not view that as a significant burden. The elaborate procedures contained in Section 8 of the bill for verification and removal of names from the official voting lists also are more complicated and expensive than those presently used by most if not all states. While the bill does not (at least on its face) raise the special concerns we would have if it were to attempt to regulate registration procedures for elections of state officers generally, it most likely would coerce the states into following the same procedures for state elections as well.[6]

B. Potential for Fraud and Electoral Corruption

The second cost of the bill is its impact on the integrity of the electoral process. This legislation would effectively eliminate many registration practices that are presently serving to deter electoral fraud. Voter registration laws are the main systemic safeguard against most common varieties of election fraud. Their preventative effect has been augmented by the fact that until now each State has been free (within the constraints of the civil rights laws) to tailor its procedures for establishing the eligibility of prospective voters to differing demographic circumstances.

The requirements of S. 250 would apply uniformly to all states except those that have no voter registration requirements at all (i.e., North Dakota) or those with election day registration procedures, requiring the states to adopt three specified methods for allowing individuals to apply to register to vote,[7] and severely limiting the grounds upon which voters' names could be removed from voting lists.

Motor-Voter Registration. This method is relatively unobjectionable from a criminal law perspective. The Department's experience in prosecuting voting fraud cases suggests that combining the process of applying to register to vote with that of applying for a motor vehicle driver's license would have little adverse impact on the incidence of voting fraud.[8] Moreover, because there is some

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Footnotes at end of article.

degree of overlap between the factors involved in a license application and those involved in a voter registration application, personnel who are already familiar with license application procedures should be relatively easy to train as voting registrars.

Mail-in Registration. Registration by mail is much more susceptible to misuse because a would-be registrant never has to appear in person before a registrar for verification of identity and eligibility. The Department's experience with voting fraud cases to date has not conclusively shown whether registration by mail has a substantial impact on the incidence of voting fraud or not—we simply don't know. Most of the states which already have registration by mail also have in place a variety of procedures for independently confirming the information provided in voter registration applications. These verification procedures, though clearly not perfect,[9] at least help to minimize the opportunities for voting fraud.

By contrast, S. 250 would impose sweeping requirement to allow mail-in registration while simultaneous limiting significantly the ability of the states to use a variety of techniques to verify the applicant's identity and eligibility. For this reason, S. 250's provision for registration by mail would entail a substantial and perhaps prohibitive risk of enhancing the opportunities for fraudulent registration and voting.

It is unclear the extent to which S. 250 would preclude confirmation procedures, except for the applicant's own attestation.[10] The provisions of Section 9, taken together with those in Section 8(a), might be read to require election registrars to accept at face value every application form that is tendered to them and enroll the applicant as long as the form is facially complete. Limiting the ability of election officials to perform routine identity verifications prior to enrollment would create a large potential for abuse.[11] Even under the best of circumstances, redressing fraudulent registrations through criminal prosecutions of the perpetrator (if he or she could be found) would not rectify the damage caused to the integrity of the election process. Moreover, as discussed below, the provisions of Section 8 would severely limit the ability of registrars to remove the names of voters that they know to be ineligible or fraudulent once they have been enrolled, thereby compounding the damage.

Satellite Registration. The third method of voter registration provided in S. 250—application in person at various federal, state or private-sector locations where the public is served directly—also may be problematic in some circumstances. This provision would entrust the task of registering voters to individual government and private personnel who may lack training in and sensitivity to the unique factors involved in preventing voting fraud and establishing and maintaining accurate and up-to-date voter registration lists.

This approach also would risk various forms of intimidation of the public. In at least some circumstances, people seeking tax relief, public assistance benefits, building permits, etc. could easily be given the impression that they have to register, or register for a particular party, in order to please the administrator in whose hands the fate of their application rests. The Department's experience demonstrates that public officials sometimes abuse their power to dispense or withhold benefits in order to pressure citizens into voting a particular way or registering for a particular party.[12] S. 250 would increase substantially the opportunities for such intimidation and coercion of the public. While Section 5(a) of the bill would ostensibly require that personnel assisting applicants with the completion of their applications not display any political preference or party allegiance or seek to influence the applicant's political preference or party affiliation, we think it would be overly optimistic to expect that this prohibition will be sufficient to deter influence and intimidation.[13]

Restrictions on Grounds for Removal. Another very significant potential for fraud is created by the provisions in Section 8, which severely restrict removal of voters from official voter lists. The grounds provided for removing voters from the lists—at the request of the voter or in the event of the death, mental incapacitation, criminal conviction, or change in residence of the voter) are appropriate. But those grounds assume that registration officials receive some notice of the change in circumstances; they are not self-implementing.[14] Accordingly, registrars ordinarily rely as well upon a continued failure to vote—the passage of some minimum number of years, or the occurrence of some minimum number of elections—as a ground for removing stale names from the list. S. 250 would completely eliminate this ground for removing voters' names; Section 8(b) provides that a name could never be removed merely for failure to vote in a federal election—even if the failure to vote persisted over a period of decades. This provides the states far too little leeway to protect against voting fraud by periodically purging the voting rolls of those who have not voted in some time. It would be possible for a voter to remain on the list of eligible voters for an indefinite period after he or she has died, moved away, or otherwise ceased to be eligible to vote in the state in question.

The provisions in Section 8(d) regarding mail verification of changes in residence are inadequate to respond to this concern. In order to remove someone from the list of voters, the registrar first must have some information in order to "determine[ ] that a registrant may have changed residence". Then, the voter must both fail to respond to a forwardable notice from the registrar[15] and fail to vote during the next two federal general elections. Voters who had moved could continue to maintain their place on the official lists either by returning the card (which may have been forwarded to them at their new address) and listing the old address, or simply by continuing to vote at the old location. At a minimum, voters who moved would have to be left on the official list until the bill's requirements were met. The bill does not allow the registrar to remove names from the official list even for voters who are known for a fact to have moved, unless the voter provides that information directly in writing or the registrar follows the two-step process just described, and that process requires that the name be left on the list for two general elections.

In our experience prosecuting voting fraud cases, the maintenance of names on official lists of eligible voters long after eligibility has ended is among the most significant factors contributing to ballot box stuffing and illegal "proxy" voting.[16] On the other hand, we recognize that various methods of purging voters from the rolls have been used in the past to deny the franchise to minority voters. Certainly, vigilance remains necessary to prohibit purging schemes from discriminatorily excluding minority voters; that calls for vigorous enforcement of the Voting Rights Act of 1965.[17] In our view, in order to accommodate these varying concerns, we firmly believe that the choice of a specific waiting period should be left up to the individual states to make based on their own particular experience and circumstances, subject to the requirements of the Voting Rights Act.

III. ELECTION-DAY REGISTRATION

S. 250 contains a new provision which provides for an exemption from the requirements of the bill for any state which allows individuals to register at the polls on the date of a general election.[18] Although Section 4(b) is captioned as a "nonapplicability" provision, in light of the addition of paragraph (2), a more accurate heading would be "election-day registration."

As discussed above, S. 250 would impose substantial—and potentially costly—procedural requirements upon the states with respect to the manner in which they regulate and administer elections in general and the voting process in particular. Since this bill, like its predecessor S. 874 in the last Congress, offers no federal funding to assist the states with these new obligations, Section 4(b)(2) will most certainly be seen as an escape clause, effectively influencing most states, whether for policy, political, or practical reasons, to consider adopting "election-day regisration" in order to avoid the costs and specific standards associated with the mandates of S. 250.

The Department, since 1977, has consistently and strongly opposed federal legislation to impose election-day registration in the States, based on our conviction that election-day registration would totally preclude meaningful verification of voter eligibility, and thus allow easy corruption of the election process by the unscrupulous. Of all the registration reforms which Congress has considered over recent years, from a law enforcement perspective this idea is by far the most troubling. Our objections to election-day registration rest on the following considerations:

Registering voters at the polls on election day totally eliminates the ability of election registrars to confirm a voter's identity, place of residence, citizenship status, felon status, and other material factors bearing on entitlement to the franchise.

Requiring voters who wish to register on election day to provide some form of identification before being permitted to vote does not respond to the fraud problem. Most commonly used identification documents can be easily faked. Thus, a single false identification can be used by the same voter to cast ballots under assumed names at numerous polling locations.

Merging into one simultaneous act both the registration process and the voting process dramatically increases the risk of voter-bribery, since corrupt political operatives interested in targeting prospective voters for payments will no longer be confirmed to the preexisting names on registration lists. This problem is exacerbated by the fact, as we have observed in prosecuting and supervising hundreds of vote-buying cases, that individuals who accept payment for their votes do not have a strong interest in candidates and issues, nor do they tend to see the act of voting as a civic duty. Thus, for a few dollars, they are easily manipulated into giving up their franchise.

The ballots of election-day registrants are liable to be tabulated before an irregularity can be ascertained. There is thus the realistic danger of irreversible damage to the integrity of the election, even in those instances where illegal registration and voting are later discovered.

Although election-day registration may work reasonably well in rural and sparsely populated states, it is extremely doubtful that it would be at all successful in many states with mobile and urbanized populations which have experienced significant levels of local and state governmental corruption.

IV. THE GOALS OF INCREASING VOTER PARTICIPATION WOULD BE BETTER SERVED BY A MORE FLEXIBLE APPROACH

The clear disadvantages of S. 250—both with respect to the restrictive, inflexible procedures it would impose on the states, and the greatly enhanced potential for election fraud—strongly counsel a rejection of that approach. S. 250 would unnecessarily limit the states while failing to provide the federal government with expanded criminal jurisdiction over election fraud.[19]

Certainly, the goal of increased voter participation, while maintaining the integrity of the electoral process, is an important and laudable one. Should Congress desire to enact legislation in this area, we believe that this goal would be much better served by permissive, rather than mandatory, legislation to encourage the states to adopted expanded registration procedures tailored to their specific needs. Such legislation should provide both funds and flexibility to the states, while at the same time providing federal prosecutors with stronger statutory tools to combat the serious and difficult problems of election fraud and public corruption.

This latter approach is reflected in another voter registration bill, introduced by Senators Dole and Stevens as S. 3021 in the 101st Congress. S. 3021 would make new registration procedures voluntary for the states, and provide discretionary grants to those states that chose to adopt some or all of the new procedures. S. 3021 would add a new anti-corruption statute (proposed 18 U.S.C. §225) to remedy the existing patchwork matrix of criminal laws which attempt to deal with frauds on the electoral process and other abuses of the public trust by public officials.[20] The purpose of this important feature of S. 3021's registration proposal is to maximize the federal jurisdictional bases through which federal prosecutors can prosecute corrupt government officials and vote thieves in federal court. S. 3021 also would place the administration of the new registration requirements more appropriately in the hands of the Attorney General, rather than the Federal Election Commission, as S. 250 would provide.

We continue to believe that any legislation which would propose a relaxation of voter-registration requirements should be linked to an increase in federal criminal jurisdiction over election fraud and public corruption, in order that federal prosecutors will be able to respond effectively to the concomitant increases in corruption and election crimes that will inevitably accompany any substantial relaxation of the registration process.

The need to augment existing federal criminal laws dealing with election fraud and governmental corruption has greatly intensified since the Supreme Court's decision in *McNally* v. *United States*, 483 U.S. 350 (1987). Under *McNally*, the federal mail fraud statute—long the main statutory vehicle to assert federal prosecutive jurisdiction over corruption at the local and state levels—no longer applies to corruption and election fraud schemes that do not entail a deprivation of property rights. The enactment by the Congress of 18 U.S.C. §1346 in 1988 did not remedy *McNally*'s negative impact on our ability to combat election fraud in non-federal elections. It is therefore a matter of some urgency to the Department that additional anticorruption legislation, such as that contained in Title II of S. 3021 (101st Congress), be enacted. Under the present statutes relating to, for example, election fraud, the assertion of federal prosecutive jurisdiction over corrupt conduct depends more on whether the name of a federal candidate happens to be on the ballot than on the type of criminal conduct which took place. This is not conducive to an efficient and effective law enforcement response to the serious crimes of election fraud and governmental corruption.

V. CONCLUSION

For all of the foregoing reasons, the Department of Justice recommends against enactment of S. 250. Any federal legislation in this area should follow instead the kind of approach reflected in S. 3021 in the last Congress.

We recognize, of course, that voter registration requirements at times have been used as instruments of discrimination against minorities. Those abuses were instrumental in leading to passage of the Voting Rights Act, and that Act has done much to eliminate discriminatory registration requirements. We believe that discriminatory registration laws or procedures can be dealt with adequately under existing law. While continued vigilance and vigorous enforcement of the Voting Rights Act remain crucial, the current record simply does not support enactment of this sweeping federal mandate, which would deny the states the essential flexibility they require to preserve the integrity of the electoral process.

FOOTNOTES

[1] *See Burroughs* v. *United States*, 290 U.S. 534 (1934) (upholding a federal law imposing record keeping requirements on political committees that accept contributions or make expenditures for the purpose of influencing the election of presidential or vice-presidential electors); *see also Buckley* v. *Valeo*, 424 U.S. 1, 13 (1976) (upholding a federal law regulating campaign contributions against a First Amendment challenge and observing in dicta that the constitutional power of Congress to regulate federal elections is "unquestioned").

[2] *Burroughs*, 290 U.S. at 544.

[3] The power of the states to establish certain qualifications for voting in the election of Senators, Representatives, and the President is limited by several constitutional amendments. *See* U.S. Const. amend. XV (race, color, or previous condition of servitude); amend. XIX (sex); amend. XXIV (poll taxes); amend. XXVI (age). In *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), the Supreme Court upheld a provision of the Voting Rights Act Amendments of 1970 which lowered the minimum age of voters in federal elections from 21 to 18, but the justices could not agree as to the proper basis for the Act's constitutionality. Justice Black believed that Congress has broad authority to set qualifications for voters for electors for President and Vice President, *id.* at 119–24, but four other justices denied that Congress has such power, *id.* at 209–12 (Harlan, J.) and 287–92 (Stewart, J., with Burger, C.J. & Blackmun, J.), while three justices expressly refused to consider Congress' authority to set qualifications for voting in federal elections. *Id.* at 237 (Brennan, White & Marshall, JJ.). The Court split on whether the Act was supported by Congress' power under the Fourteenth Amendment to prohibit discrimination on the basis of age, *compare id.* at 135–44 (Douglas, J.) & 239–81 (Brennan, White, & Marshall, JJ.) *with id.* at 154–200 (Harlan, J.) and 293–96 (Stewart, J., with Burger, C.J. & Blackmun, J.). This issue, however, is not raised by S. 250.

[4] For example, state driver-licensing eligibility does not overlap completely with voter eligibility, requiring states to follow additional steps with respect to license applicants to determine the applicability of voter registration. Most drivers who periodically renew their licenses already would have registered to vote through the normal voter registration mechanisms, and would have no need of the motor-voter registration procedures, while a large number of first-time applicants for driver's licenses—including those under the age of 18 and those who are not United States citizens—would not be eligible to register to vote even though they can obtain a drivers' license.

[5] Section 11(d) of the bill provides that nothing in the bill shall restrict the applicability of the Voting Rights Act. Sections 4(f)(4) and 203 of that Act state: "Whenever any state or political subdivision subject to the prohibition[s] of * * * this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable language minority group as well as in the English language * * *." 42 U.S.C. §§1973b(f)(4), 1973aa-1a. Because of these provisions regarding voter registration forms and materials, the bill might have the effect of requiring the limited number of jurisdictions subject to the multilingual requirements of that Act to make bilinqual voting materials available as part of an application for a driver's license or public assistance. Likewise, jurisdictions covered by the preclearance provisions under Section 5 of the Act, 42 U.S.C. §1973c, might have to obtain preclearance of some changes with respect to driver's license registration or public assistance to the extent that they afffect voter registration. Because of the limited number of jurisdictions involved and the ease with which the requirements of the Act may be met, we do not anticipate that these obligations would impose an undue burden.

[6] Because the bill ostensibly would apply only to registration for voting in federal elections, the states still would be free to employ a different set of procedures with regard to registration for voting in state elections. However, the prohibitive cost of maintaining two parallel sets of voter registration procedures likely would induce most states simply to conform their state registration procedures to federal standards, thereby economically coercing the states into abandoning their constitutional prerogative to determine the qualification for voting in state elections.

Apart from the cost of maintaining two parallel sets of voter registration procedures and voter rolls, that approach could cause considerable confusion on the part of voters who may misunderstand the limited scope of the federal registration procedures and mistakenly believe that they are registered for all purposes.

[7] S. 250 does not directly impose registration on the day of election. However, the exclusion from the requirements of the bill for any state that has adopted election day registration will be a very strong incentive to adopt that approach. That approach, as discussed more fully below, would greatly impair the ability of the Department and the states to combat voting and election fraud.

[8] We note, however, the anomaly in Section 5(d) of the bill which provides that a person could request a change of address for motor vehicle license purposes without having the registrar informed of the move for voting purposes. That would seem to facilitate fraud by those who would continue to vote at the old address.

[9] We note that the security of many existing mail-in registration schemes used by the states is suspect because some of them rely almost entirely upon having registrars send out non-forwardable canvass letters to persons who register by mail rather than in person. Although the assumption presumably is that the United States Postal Service will return the letters with respect to individuals who do not actually live at the specified address, that is simply not the case. The Postal Service does *not* inquire whether the addressee of non-forwardable mail actually exists and lives at the address in question. As the Postal Service acknowledged at a November 1989 meeting of the Federal Election Commission's Advisory Committee on Election Administration, the *only* circumstance in which non-forwardable mail will be returned is where the addressee 1) is a real person 2) who once resided at the specified address and 3) actually filed a change of address form with the Postal Service; in any other case, the mail will simply be delivered to the current resident at the address with no notice to the sender. Thus, even one of the key existing methods used by the states to prevent fraudulent or multiple registrations is flawed, and S. 250 would not permit even the use of that method.

Because the assumption underlying verification by mail is false, there may in fact be a great deal of fraudulent registration by mail that simply has gone undetected. The only reported case in which registration by mail has been used fraudulently is *Untied States* v. *Cianciulli*, 482 F. Supp. 585 (E.D. Pa. 1979), and there the fraud was discovered only as a fortuitous byproduct of an investigation into matters unrelated to voter registration.

[10] Section 9(b)(2) of the bill would require mail voter registration application forms to include an attestation by the applicant, under penalty of perjury, that he or she meets all eligibility requirements, but would not permit notarization or any other form of formal authentication.

We also note that the bill requries the "signature of the applicant" on the registration application form. We are concerned that this language could prevent persons who are unable to write their names from registering in accordance with these provisions.

[11] Moreover, although Section 6(c)(1) permits the states to require that new voters who have registered by mail must vote in person at their first election, the following paragraph creates an exception for persons who are eligible to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act, the Voting Accessibility for the Elderly and Handicapped Act, or "any other law." This last condition, freely permitting absentee voting, would substantially eviscerate the safeguard of a first-time-in-person requirement. By definition, *every* voter must vote in person unless authorized by law to vote by absentee ballot.

[12] *See, e.g.*, United States District Court, Northern District of Illinois, Eastern Division, *Report of the Special January 1982 Grand Jury.*

[13] After all, existing felony laws (e.g., 42 U.S.C. §1973i (c) and (e), and 18 U.S.C. §§594 and 597) have never been wholly successful in deterring coercive or fraudulent registration and voting practices where political and social conditions are conducive to such practices. We know of no reason to expect that additional laws prohibiting intimidation and coercion would be any more successful.

[14] Registration officials are unlikely to find out when a registered voter has changed his or her voting residence if the voter hasn't bothered to inform them. Similarly, registrars would need to receive notice of deaths or convictions before removing voters' names on those grounds.

[15] The fact that the notice must be forwardable would mean that the registrar often would not receive notice of a change in address. Under existing Postal Service procedures, if a valid change of address order was on file, the forwardable notice would have been sent on to the addressee without any notice to the registrar that the addressee had moved from the specified address. On the other hand, if no change of address order had been filed, or if the person had never lived at the address at all (and used a false address to register previously), then the letter would simply be delivered to the address, again without any notice to the registrar of that fact.

[16] *See, e.g., United States* v. *Gordon*, 817 F.2d 1538 (11th Cir. 1987); *United States* v. *Howard*, 774 F.2d 838 (7th Cir. 1985); *United States* v. *Olinger*, 759 F.2d 1293 (7th Cir. 1985); *Ingber* v. *Enzor*, 664 F. Supp. 814 (S.D.N.Y. 1987). *See also* United States District Court, Northern District of Illinois, Eastern Division, *Report of the Special January 1982 Grand Jury.*

[17] We note that the bill's purging procedures would not apply in any event to persons registered by federal examiners under the provisions of the Voting Rights Act. Section 6 of the Voting Rights Act , 42 U.S.C. §1973d, permits Federal examiners to register voters in certain circumstances. Such federal registration lists have been compiled in Alabama, Louisiana, Mississippi, Georgia, and South Carolina. Under Sections 7(d) (2) and 9 of the Voting Rights Act, 42 U.S.C. §§1973e(d)(2) and 1973g, federally listed voters can only be removed from the state's list of eligible voters with the approval of the Office of Personnel Management after a challenge heard by an OPM hearing officer in accordance with OPM regulations, 45 CFR Part 801.

[18] Section 4(b)(2) provides that the bill "does not apply to a State in which . . . all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office."

[19] S. 250 would also require that federal prosecutors provide state election officials with comprehensive information about felony convictions secured within their districts. Section 8(f). This is an unreasonable burden on federal prosecutors insofar as the information would already be part of the public record.

[20] The Department's proposed anti-corruption statute was set forth as Title II of S. 3021. This same language passed the Senate during the 101st Congress, as Title IV of the President's national drug-control legislation, S. 1711, in October 1989.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 11, 1991.

STATEMENT OF ADMINISTRATION POLICY

(S. 250—National Voter Registration Act of 1991—Sponsors: Ford of Kentucky and 24 Others)

The Administration endorses the goal of increasing participation in the electoral process. However, the Administration opposes S. 250, and urges enactment of the amendment in the nature of a substitute (S. 921) expected to be proposed by Senators DOLE and STEVENS.

S. 250 would rewrite the election laws of virtually all States (except for States with no voter registration requirement at all or States with election day registration). It would require the States to employ three methods of registering voters for Federal elections, and specify in considerable detail what the States would have to do to implement each of the three methods. It would also restrict the grounds for removal of ineligible voters.

The Administration opposes of S. 250 in its current form because: (1) a sufficient justification has not been demonstrated for imposing extensive procedural requirements and significant related costs on the States; (2) the bill would increase substantially the risk of voter fraud without enacting any effective criminal prohibitions that go beyond the limits of existing law; and (3) the Voting Rights Act of 1965 already provides sufficient tools to challenge registration procedures that are discriminatory.

Although many States have adopted innovative registration practices, including variations of the three mandated by the bill, those jurisdictions also use a variety of procedures to guard against fraud and maintain the integrity of the electoral process. They are able to adapt and tailor the procedures to take into account local conditions that may make some practices more effective than others or may call for special measures to avoid fraud or for avoiding certain practices entirely. That essential flexibility to respond to local conditions would be forbidden by this bill. In particular, S. 250 would create substantial opportunities for abuse because it would limit the State's ability to confirm independently the information contained in voter registration applications and severely restrict the States' ability to remove ineligible voters from the rolls. This serious potential for fraud and corruption would be compounded by the current limitations in Federal criminal law governing electoral crimes and other forms of public corruption, which S. 250 does not effectively address.

The Dole-Stevens substitute, by contrast, would promote increased voter participation in elections by giving States an incentive to implement voluntarily nondiscriminatory registration procedures through a system of Federal block grants with a matching fund requirement for States. It would also clamp down on public corruption through stiffer fines and expanding the scope of Federal jurisdiction to prosecute election crimes.

THE SECOND ANNIVERSARY OF THE HOUSE ARREST OF AUNG SAN SUU KYI AND THE IMPOSITION OF UNITED STATES TRADE SANCTIONS ON BURMA

Mr. MOYNIHAN. Mr. President, I rise today to call the attention of the Senate to the fact that today is the second anniversary of the house arrest of Aung San Suu Kyi. My colleagues I am sure are aware that Suu Kyi is the embodiment of the struggle of the Burmese people to end three decades of military repression. During the tremendous uprising that the world witnessed in Burma in 1988, when literally millions of Burmese took to the streets to demand democratic reform, Suu Kyi emerged as the leader that united the fractious nation of Burma.

Her grace and courage touched the Burmese people as it has touched us. She is a leader of such power and force that the Burmese military dictatorship remains so afraid of her that she has been silenced for 2 years.

Even so, in May 1990 the Burmese people elected her party, the National League for Democracy, to power in Burma. Her party won 80 percent of the seats for a new parliament. The junta somehow stunned that their own party was doomed to repudiation in any free ballot, has since simply gone on to deny the results of the election and the will of Burma's citizens. And Suu Kyi remains imprisoned, cut off from her family, her friends, and her people.

But her spirit is not cut off from us. Indeed, she speaks to us loudly every day. Just this month the European Parliament awarded Suu Kyi its highest human rights award, the Sakharov Prize. Of course, Suu Kyi could not be present to accept the award, but its meaning was elegantly explained by the President of the European Parliament, Enrique Baron Crespo, who presented it in absentia to her. I ask unanimous consent that the text of Mr. Crespo's speech be included in the RECORD.

It is also fitting, Mr. President, that I have the opportunity to inform the Senate on this second anniversary of Suu Kyi's arrest, that the State Department has informed me just yesterday of the President's decision to impose economic sanctions on Burma consistent with the requirements established by the Congress in section 138 of the Customs and Trade Act of 1990. Many Members of the Senate have been urging action under this law, and today we can take some satisfaction that an important action has been taken under it. The President will not renew the United States Bilateral Textile Agreement with Burma which expired at the end of 1990.

Without such an agreement, there is no certainty of market access to the United States for Burmese textiles, and, indeed, we intend to see them stopped. Textiles imports from Burma accounted for $9.2 million in trade in 1990, almost half of Burma's exports to the United States. They grew quickly from less than $4 million in 1987. We intend to see them decline even faster. We also have this important message today to any foreign investor who might be tempted to go to Burma for quick profits by shipping textiles to the United States: Think again. The President and the Congress will not permit the United States market to finance the exploitation of the Burmese people.

Indeed, this is an important event, a further statement of opposition by the United States to the Burmese regime, and one with consequence. Certainly, many of us would like ever more steps taken against Burma and those who would seek to benefit from the tragedy of the Burmese people. We will continue to work to that end. And we will work with the administration to continue an unrelenting campaign against the criminals that call themselves the SLORC.

We hope that Suu Kyi can hear our resolve today. We certainly hear hers.

I ask unanimous consent that a letter from Janet Mullins, Assistant Secretary of State for Congressional Affairs, to me on July 18, on Burmese economic sanctions, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY ENRIQUE BARON CRESPO, PRESIDENT OF THE EUROPEAN PARLIAMENT

Honourable Members, we are gathered together in a solemn sitting in order to deliver the 1990 Sakharov Prize to Aung San Suu Kyi. This prize, as you know, is awarded for freedom of thought.

Unforunately our prizewinner is unable to be with us today, as she is being held against her will and that of her people by tyrants who imagine that with their blind attitude they can stop the course of history.

Your President is therefore obliged, once again, to hand over this important prize to a member of the family of the 1990 Sakharov prizewinner.

First of all may I say to her son Kim and her husband Michael ARIS how much we admire you own sacrifice and how we share you emotion and justifiable pride.

We are awarding this prize to a brave Asian. A woman whose name has become synonymous with the non-violent struggle for freedom and democracy.

Ladies and gentlemen, "There are moments of tragedy, horror, anger and sheer disbelief. Surpassing all is the conviction that a movement which has arisen so spontaneously from the people's irresistible desire for the full enjoyment of human rights must surely prevail."

The words of our prizewinner were delivered in October 1988 at a moment of great hope for the people of Burma, when it appeared that democracy was about to prevail.

In July 1989, however, the military dictatorship placed our prizewinner under house arrest and then banned her from standing for election. In spite of this fact, and the enormous intimidation to which her movement, the National League for Democracy, was subjected, the League won 392 out of the 485 seats in elections held in May 1990. A quarter of the candidate elected in those elections are now in prision. At least 500 officials of the National League for Democracy are in jail. The military authorities resort systematically to the use of torture and murder. Burma is indeed a country in prison.

I have to inform the European Parliament that the authorities in Burma have categorically refused to cooperate with this Presidency even to the extent of not disclosing whether the letter which I sent to Aung San Suu Kyi to inform her of this award has been delivered or not. I would like to thank the Presidency of European Political Cooperation, represented in Rangoon by the French Ambassador, for their help in this matter. Unforunately their efforts were as fruitless as my own. I would add how much I also deplore the fact that the Burmese authorities have even refused Dr. Aris permission to visit his wife in order to discuss her response to my invitation. I specifically asked that this request be granted, but again my request was refused. The European Parliament's frequent resolutions deploring the suppression of human rights in Burma have been echoed in numerous statements by the twelve Member States as well as resolutions by the United Nations. I regret that some Asian countries have failed to support international action to bring pressure on the Burmese military dictatorship. The authorities in Burma clearly believe that they can defy not only the people of their own country, but also world opinion as frequently expressed by the United Nations. They are wrong.

Ladies and gentlemen, what is most impressive about our prizewinner is her commitment to non-violence. When Aung San Suu Kyi took on the leadership of the National League for Democracy she knew the risks which she was undertaking. Having lived outside her own country for many years, she could have decided to avoid these risks. It was out of loyalty to her people and to the basic values of democracy and human rights that she returned home.

Since her childhood Aung San Suu Kyi has always been aware that she is the daughter of the country's national hero, U Aung San. Having fought for his country's independence he was assassinated at the age of 32, when his daughter was only 2 years old. As her husband has told me, she has spent the rest of her life learning about a father she never knew and in doing so has been imbued with the principles of freedom, discipline and self-sacrifice for which he is always remembered by the people of Burma. Like Gandhi, like Havel and like Andrei Sakharov himself, she has learnt that these values are much more powerful than the instruments of repression. In the face of terrible pressure she has learnt to live in freedom from fear. As she herself has written: "It is not easy for a people conditioned by fear under the iron rule of the principle that might is right to free themselves from the enervating miasma of fear. Yet even under the most crushing state machinery courage rises up again and again, for fear is not the natural state of civilized man."

This ceremony today confirms the fundamental commitment of the European Parliament to work for the respect of human rights in all continents. In the past few years we have seen great progress in many parts of Europe, Latin America and Africa. Today we remind ourselves that this struggle must go on. It is a task to which our Parliament and the European Community as such is well suited. Our countries have faced up to the consequences of repression and conflict and have decided to build together a European Union to defend the achievement of democracy in our own continent. Moreover our campaigns for human rights are not intended to interfere in any country's internal affairs, but merely to support the universal values of the United Nations.

In conclusion, I can assure you that we all also welcome the important Declaration on Human Rights adopted by the European Council of 29th June. In this declaration it is recalled in particular that the protection of human rights is one of the foundation stones of European cooperation and of the relations between the European Community and third world countries. This occasion underlines Parliament's active role in this vital respect.

This is both a sad and a hopeful occasion. As I hand over the 1990 Sakharov Prize, I do so in the knowledge not only that democracy will triumph in Burma, but in the knowledge that when that happens, sooner rather than later, Aung San Suu Kyi will be able to be with us to celebrate her victory, the victory of her people and the victory of her struggle for peace and freedom.

U.S. DEPARTMENT OF STATE,
Washington, DC.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I write because of your interest in the implementation by the Administration of Section 138 of the Customs and Trade Act of 1990, which calls for the President to impose appropriate economic sanctions on Burma if that country does not meet certain conditions specified in that Act. Burma has not met those conditions, and I wish to let you know that the Administration will inform the Chairmen of the House and Senate committees concerned that we intend to implement Section 138 by refusing to renew our bilateral textile agreement with Burma.

This agreement, which lapsed December 31, 1990, was the foundation for Burma's largest single category of exports to the United States. In 1990 textiles accounted for just over $9 million of total Burmese exports to the United States of $22 million. In many instances the absence of a textile agreement leads to increased imports because of the lack of controls. This has not been the case in regard to imports from Burma. In just the first four months of 1991, textile imports from Burma have decreased by 15 per cent in volume and 11 percent in value compared with the same period in 1990.

We believe this is due to uncertainty on the part of importers and potential investors in Burmese textile capacity about the state of political relations, the Burmese economy, and most importantly, the lack of a guaranteeed share of the American market that comes with a textile quota. The Burmese government seems to recognize this siutation, as it has several times requested us to renew the textile agreement. We would of course continue to monitor closely imports of textiles from Burma to assure that this action remains appropriate.

Section 138 also calls for the Administration to consult with other industrial democracies on the possibility of multilateral economic sanctions. We continue our discussions on this issue with the EC countries, the Nordic states, Canada, Japan, Australia, New Zealand, and the Republic of Korea. We were thus gratified that the EC earlier this month announced an arms embargo on Burma similar to ours. While we find serious concern with the situation in Burma, there is no significant support for multilateral economic sanctions, generally because of the paucity of economic relations with Burma. We will continue to press our friends and allies on the situation in Burma, including the members of ASEAN next week at the annual Post-Ministerial Conference in Kuala Lumpur.

We will of course maintain the sanctions we have previously taken against Burma: an embargo on the sale of arms; the suspension of all non-humanitarian aid; opposition to loans to Burma by international financial institutions; and no OPIC programs. We are likewise continuing, with some success to encourage others not to provide bilateral assistance to Burma, to join us in a common approach to Burma, and to condemn Burma's human rights practices in United Nations fora.

I appreciate your concern with the human rights abuses and political oppression of the military regime in Burma. I assure you that the Administration will continue to work with you for democratic reform and improved human righs practices in Burma.

Sincerely,

JANET G. MULLINS
Assistant Secretary,
Legislative Affairs.

S. 250, MOTOR-VOTER LEGISLATION

Mr. FORD. Mr. President, last night, the Senate failed to invoke cloture on the motion to proceed to the consideration of S. 250, the National Voter Registration Act of 1991. Prior to and after the two cloture votes, we heard some statements from some of my colleagues about this bill. I would like to take this opportunity to clear the record of some errors and other misinformation that was said on the Senate floor.

Contrary to the views expressed by opponents of this legislation, the purpose of this bill is not to increase voter turnout. Both the Senator from Oregon, Senator HATFIELD, and I, are well aware that no legislation can mandate a higher turnout. What the motor-voter bill would do is increase the number of eligible voters to participate in the electoral process. It will increase the pool of voters that we as candidates will have to motivate and encourage to vote. And the figures show that registered voters do vote.

In the 1990 general elections, only 36 percent of eligible voters went to the polls. Voter turnout of registered voters was 54.7 percent.

Last night, it was said by one Senator that the State of Wyoming typically votes the largest percentage of its voters in the Nation. Then I heard that Wyoming has the highest registration among all the States. Mr. President, these statements are very misleading and are not completely accurate.

In the 1990 general elections, Wyoming ranked 14th in turnout. Thirteen other States had a turnout higher than Wyoming. In 1988, Wyoming ranked 29th in total turnout for the Presidential election. In fact, since 1976, Wyoming has never ranked higher than 20th in turnout for the Presidential elections. That is far from having the largest percentage of voter participation in the country.

In terms of its percentage of registered voters, Wyoming does not have the highest registration among all the States. Based on a CRS report on the 1990 election statistics on registration and turnout, Wyoming ranked 33 out of 51 in the registration percentage based on the voting age population. And in the last Presidential election year, Wyoming ranked 40 out of 51 in the registration percentage based on voting age population

The record is very clear Mr. President, Wyoming is far from having the best registration and turnout among the States. In fact, in those States which require advance registration, Minnesota has consistently ranked the highest in terms of registration and turnout of any of the States. Minnesota has all three registration programs of S. 250. This belies the suggestion by some of my colleagues that registration programs do not affect turnout.

Based on the CRS report of the 1990 statistics on registration and turnout, I have a table which ranks the 50 States and the District of Columbia according to turnout. And I ask unanimous consent this table be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1990 voter turnout and State ranking

[Based on voting age population]

1. Maine	56.51
2. Minnesota	55.83
3. Montana	53.31
4. Oregon	51.83
5. Massachusetts	51.17
6. Alaska	50.85
7. South Dakota	49.90
8. Nebraska	49.90
9. Vermont	49.86
10. North Dakota	47.85
11. Rhode Island	47.34
12. Iowa	46.48
13. Connecticut	45.34
14. Wyoming	45.23
15. Idaho	43.92
16. Louisiana	43.81
17. Ohio	42.99
18. Kansas	42.08
19. North Carolina	41.23
20. Hawaii	40.94
21. Colorado	40.24
22. Utah	39.91
23. Arizona	39.69
24. Alabama	39.67
25. Arkansas	38.89
26. Nevada	38.18
27. Wisconsin	38.12
28. Oklahoma	37.64
29. Illinois	37.54
30. Michigan	37.44
31. New Mexico	37.15
32. Washington	36.43
33. Indiana	36.27
34. Delaware	35.74
35. California	35.56
36. Florida	35.44
37. District of Columbia	35.22
38. New Hampshire	34.89
39. Missouri	34.82
40. Pennsylvania	33.26
41. Kentucky	32.82
42. New Jersey	32.43
43. Texas	31.31
44. Maryland	31.16
45. Georgia	30.41
46. New York	29.92
47. South Carolina	29.12
48. West Virginia	28.67
49. Virginia	24.55
50. Tennessee	21.04
51. Mississippi	19.53

Mr. FORD. Mr. President, the opponents point to a study by the Congressional Research Service which they claim shows that in those States which adopted motor voter, turnout declined and did not increase. It should be noted that the CRS study was flawed in a number of respects. First, the CRS study included States with motor-voter programs which had not yet been implemented. Of the 10 States included in the CRS study, 4 did not have an operating motor-voter program at the time of the 1988 election, when the study was conducted.

Second, the CRS report did not distinguish between new applicants and renewals. Some State motor-voter programs are limited to new drivers license applicants and other States limit the program to license renewals. This allowed two biases to affect the study. The first is that new applicant-only programs have much less impact on registration levels, since it is obvious that far fewer people apply for licenses than renew them every 4 years. The second bias is that those applying for licenses are overwhelmingly younger than those who renew them, and young people vote less. In short, these biases lead to an underestimation of the potential impact of motor-voter programs on both registration and voting levels.

Third, the CRS study did not distinguish between in-person and mail drivers license renewals. Finally, a motor-voter program needs to be fully operational for 4 years—a full driver's license renewal cycle—in order to test its impact on registration and voting. In fact, the CRS study noted that "the lack of time for motor voter procedures to show any affect" hampers evaluation in "States that have only recently adopted the system."

Mr. President, one of the arguments made most against the bill is that it will increase the opportunity for fraud and abuse. These concerns, while real, are adequately addressed in the bill. S. 250 includes five specific protections against fraud: First, an attestation clause that sets out all the requirements for eligibility to vote; second, the signature of the applicant under penalty of perjury; third, the State may require by law that a first-time voter who registers by mail make a personal appearance to vote; fourth, each applicant is to be given notice of the disposition of his or her registration; many States use this notice as a means of detecting fraudulent registrations; and fifth, Federal criminal penalties would apply to any person who knowingly and willfully engages in fraudulent conduct.

Opponents to this legislation point to mail registration as the greatest opportunity for fraud. To support their argument, they point to a 1984 New York grand jury which investigated vote fraud in Kings County, NY. According to opponents, the recommendations of the grand jury as they relate to mail registration would be prohibited by S. 250. This is simply untrue.

Following the committee's markup and reporting of the bill, I received a letter from Elizabeth Holtzman, the comptroller for the city of New York. Ms. Holtzman was the district attorney who convened the New York grand jury. Let me take a moment to cite a few passages from her letter, because her comments are very enlightening:

> During my tenure as King's County District Attorney, a Brooklyn Grand Jury investigated fraud and illegality in certain primary elections in Kings County, New York. The Grand Jury's 1984 report documented deficiencies in the voter registration system and made recommendations for reform. The Grand Jury did not, as implied by the minority view included in the Committee Report accompanying S. 250 * * *, recommend repeal of the mail registration system * * *.
>
> As a result of the Grand Jury's investigation, eleven recommendations were made. Of these eleven, two recommendations related to the registration procedure itself. The first was the recommendation of a study to evaluate various proposals and remedies to identify voters at the time of voting or registration, serializing registrations cards and insisting on greater accountability by organizations engaged in voter registration. The second recommendation called for a recision of the voter registration card affirmation to less legalistic language and printed in prominent boldface type so as to be easily noticed and to alert the applicant. The remaining nine recommendations related to security at the Board of Election offices.
>
> The proposed National Voter Registration Act of 1991 would not preclude states from taking these and other steps to protect the integrity of the electoral process. In fact, the Act could strengthen anti-fraud efforts.

As indicated by Ms. Holtzman's letter, the main focus of the grand jury's report was on security at the board of elections. Security was so lax in these offices that the individuals engaged in the fraudulent activities were able to hide themselves in the ceiling of a rest room and accomplish their forgeries undetected after the close of business.

I would also point out to my colleagues who have a fear of mail registration, that the State of New York recently enacted a new registration statute which extended the deadline for mail registration and would permit local officials to abolish registration at boards of elections, except in Presidential election years; thus, relying almost exclusively on mail registration. Clearly, if the State of New York believed that the mail registration system resulted in fraudulent registrations, it would have sought to abandon or limit mail registration.

In fact, a few years ago, the Congressional Research Service studied the experience of the 19 States which had mail registration at that time. That study concluded that mail registration was not accompanied by any increase in voter or registration fraud, and that there are effective ways to prevent fraud that were in use by those States. That study showed that the two most frequently used means to prevent fraud were an attestation clause and a followup mailing to the applicant on the address stated on the application. Both of these measures are provided for in S. 250. They have been proven to be sufficient and effective, while at the same time, they do not impose unnecessary burdens and procedures on people conducting voter registration drives.

With regards to agency-based registration, let me just say that the fears expressed by some Members that recipients of benefits will be manipulated or intimidated are completely unfounded. In those States which have agency-based registration, there has been no single case of intimidation or coercion. In fact, S. 250 specifically prohibits such conduct and would subject anyone engaged in such activity subject to Federal criminal prosecution.

One of the most significant parts of S. 250 is that eligible citizens, once registered, should not needlessly re-register as long as they remain eligible to vote in their jurisdiction. My colleagues have pointed to a recent GAO report which analyzed voter participation in industrialized democracies. This report found, in part, that many democracies penalize voters for not voting. And this, opponents argue, indicates why our sister democracies have such high voter turnout. What my colleagues fail to point out is that there is a penalty for not voting in this country. That penalty is that if you do not vote, your name will be removed from the list of eligible voters. While nonvoting may be an indication that a registered voter has moved, it is not a sufficient reason for the removal of that person's name from the rolls. S. 250 would prohibit the purging of a voter's name for the simple reason of failing to vote. The proposals by the minority would not prevent this from occurring.

I have heard many arguments that this bill will impose undue financial burdens on the States. I will not deny that there will be some startup costs that are associated with the registration programs. But to argue that we should include an increase in registrar's salaries because they didn't bargain for increased registrations is ludicrous. This argument only serves to demonstrate that many of the cost estimates that have been cited by opponents are inflated and do not reflect the true and technical requirements of the bill.

Perhaps what is more disturbing in these arguments and costs is that opponents are arguing administrative convenience over the principles of democracy. This bill will increase the number of registered voters and that will likely mean that the States will have to plan for the possibility of larger turnouts. But I do not think we should begrudge this bill because it will mean a larger administrative workload. Those who make such an argument, I find deeply disturbing. I find it difficult to accept the argument that States are going to cut basic health and safety budgets in order to pay for the costs of increased registration rolls because it is akin to the imposition of a poll tax on new registrants. Mr. President, I thought the 24th amendment to the Constitution eliminated the poll tax.

In fact, through several other constitutional amendments, I thought we eliminated many of the restrictive practices and requirements on the right to vote. Last night, I heard some discussion about the right to vote and the restrictions imposed on that right by our Founding Fathers. Surely my colleagues do not suggest that we should return to the days when only white male property owners were permitted the right to vote?

Is it the intent of the opponents of this legislation to achieve through archaic and confusing registration practices that which they cannot achieve through outlawed practices such as poll taxes and literacy tests?

This bill is about access to the voting booth. And access is first achieved by registering to vote. This bill makes registration convenient and accessible to all eligible voters, regardless of race, income, and physical condition. What could be more democratic? What could be more vital to the interests of the republican form of government?

We should not be content with low voter participation. It is a national disgrace. S. 250 would go a long way toward improving voter participation in the electoral process. As the Secretary of State of Washington, Ralph Munro, stated during a hearing before the Rules Committee, the election process should not be used to test the fortitude and determination of the voter, but to discern the will of the majority. I couldn't agree more.

Mr. President, the National Voter Registration Act of 1991 will go a long way to assure that voting rolls are kept current and accurate so that they can serve as vehicles to facilitate full participation in our elections, rather than as obstacles to full participation by our citizens. It will assure that the exercise of the right to vote will be readily available to all qualified citizens, and not a prize reserved for those who demonstrate the stamina and endurance to overcome obstacles. This bill deserves the attention and support of all Members troubled by the trends of declining voter participation.

TURKEY'S INVASION OF CYPRUS

Mr. BIDEN. Mr. President, yesterday in a speech before the Greek Parliament, President Bush said that the United States "will do whatever it can" to help settle the Cyprus problem this year.

The President's pledge comes 17 years—almost to the day—after Turkey's invasion of Cyprus led to its tragic division. Before speaking to the President's statement, it is worth recalling some of the events that led to the current situation.

In the fateful month of July 1974, a coup by radical Greek Cypriots, instigated by the rightist junta in Athens, threatened the Turkish minority in Cyprus. The plotters sought to unite Cyprus with Greece.

Turkey, a guarantor of the treaty establishing Cypriot independence, sent forces with two benign results. The coup on Cyprus failed, and the dictatorship in Athens collapsed. Had Turkey withdrawn at that point, the world could hardly have complained. A few weeks later, however, in the midst of peace talks in Geneva, Turkey launched a second invasion; 40,000 troops proceeded to carve the nation in two.

The invasion was as vicious as it was rapid; thousands were killed. Nearly 200,000 Greek Cypriots—30 percent of the population—fled their homes in Northern Cyprus and resettled in the south. To this day, over 1,500 people, including 5 Americans, remain unaccounted for.

As with Iraq's invasion of Kuwait, alert United States diplomacy might have averted tragedy. Warnings by President Johnson on two occasions in the 1960's had helped prevent Turkish intervention. But a Nixon White House distracted by Watergate ignored predictions of the coup on Cyprus, and stood by while Turkey launched its invasions.

Unlike Iraq, however, Turkey's illegal actions were only briefly punished. The United Nations demanded Turkey's immediate withdrawal but enforced no sanctions. A partial U.S. arms embargo imposed by Congress lasted just 4 years.

Meanwhile, the occupation of northern Cyprus was buttressed by the immigration of mainland Turks who were encouraged to settle in Cyprus by Ankara. In 1983, Turkish Cypriots declared secession by establishing the "Turkish Republic of Northern Cyprus," recognized only by Turkey. The U.N. Security Council again spoke forcefully, declaring the act legally invalid but it failed to act further.

Last September, in his address to Congress, President Bush proclaimed that the fifth objective in the gulf crisis was the creation of a "New World Order" Where the "rule of law supplants the rule of the jungle."

Unfortunately, the rule of the jungle persists in Cyprus. Today, U.N. peacekeepers monitor a cypriot dividing line. Beyond it, Turkey occupies nearly 40 percent of Cyprus in defiance of the U.N. charter and the Helsinki Final Act.

If we are to realize the vision outlined by the President—and demonstrate that the New World Order is more than a slogan—the United States must energize the pursuit of other sound objectives affirmed by the United Nations, beyond the liberation of Kuwait.

The Bush administration has made clear that it seeks peace between Israel and the Arab States as well as a resolution of the Palestinian question. Justice demands that the administration also turn to the Cyprus issue with equal vigor by pressing forcefully for Turkish withdrawal.

Such efforts would encounter the paradox that Turkey played a key role in laying the cornerstone for the New World Order. Turkey's shutdown of Iraq's export pipeline was critical in the U.N. blockade, and allied planes used Turkish bases. But Turkey's contribution to principled U.N. action in one area cannot provide immunity against principled U.N. action elsewhere. There is no such thing as time off for good behavior.

The administration may resist courting Turkey's anger at this moment, but applying principles—and dealing with the difficult—is precisely what the promise of a New World Order is about. The United States cannot dispatch half a million troops in every instance of aggression. We can demand consistency in applying the principle that aggression be collectively resisted.

The President's speech to the Greek Parliament is an encouraging and important development, and a clear expression of America's interest in a settlement. When he visits Turkey tomorrow, he must deliver an equally unequivocal message. He must make clear that Turkey's occupation of Cyprus cannot continue. He must make clear that its violations of international norms are unacceptable. And he must make clear that its actions are an impediment to United States-Turkish relations.

At stake are basis issues of international, law, which a series of U.N. resolutions have underscored. At stake is the relationship of the two NATO allies, Greece and Turkey. And at stake is a small country's right to govern itself, free from outside pressure and occupation.

Mr. President, for 17 years, the people of Cyprus have waited for an end to the unnatural division of their island. President Bush's statement is a hopeful sign that the administration is willing to work, at the highest level, for a settlement.

I sincerely hope that the President's words were not merely empty rhetoric, devised to please the audience of the moment, but a firm and solemn commitment to catalyze a peaceful settlement of the Cyprus question. As chairman of the Subcommittee on European Affairs, I will be closely monitoring developments on this issue, and stand ready to work with the President to bring an end to this horrible tragedy.

U.S. POLICY ON BALTIC STATES: RHETORIC VERSUS REALITY

Mr. DECONCINI. Mr. President, in compliance with Public Law 101-309, the administration recently submitted its report on U.S. Government actions in support of the peaceful restoration of independence for the Baltic States.

The document asserts that—

> In the wake of Soviet pressure against the Baltic States, our Government has undertaken a vigorous diplomatic effort designed to both help avert future violent confrontations in the Baltic States and to enable the Baltic people to realize their legitimate but long-denied aspirations.

Perhaps, but I would suggest that the administration's efforts have been somewhat less than vigorous. Let us examine some of the points made in the President's report.

The document refers to statements previously made by Secretary Baker, in which the Secretary is quoted as saying that the United States supports granting Estonia, Latvia, and Lithuania observer status at CSCE meetings. But the administration has consistently refused to take the lead in proposing observer status until all the other delegations at CSCE, including the Soviet Union, agree to support the proposal. In other words, we accede to Moscow a veto on our proposals before we even raise them. We have never operated this way in CSCE before. Is this reticence part of the New World Order, an order in which we fatalistically follow the lowest common denominator?

The United States should formally propose CSCE observer status for the Baltic Governments irrespective of what we think Moscow will say. I would consider that a mark of vigorous diplomatic leadership. By playing a leadership role on this issue, we could have a major impact on the issue of observer status for the Baltic States.

The administration report also states that since mid-January 1991 the President and Secretary of State have repeatedly raised the issue of the violence in the Baltic States that has taken at least 21 lives. I am pleased to hear this, but apparently raising these matters has not prompted Mr. Gorbachev to tell his Interior Minister, Mr.

Pugo, to call off his black beret forces in the Baltics. Beginning late April and continuing to the present, these special forces have been burning and harassing customs posts on the Baltic borders. This violence has abated somewhat on the eve of Mr. Gorbachev's foraging expedition to London, and Moscow has asked Mr. Pugo to investigate the customs posts raids, which sounds to me like asking the fox to investigate who's been stealing the chickens from the coop.

So far investigations have done nothing to change a policy under which the Vilnius TV tower is still occupied and the border post harassments continue. On June 3, 1991, the Moscow-based Soviet procuracy produced a contemptible investigative report that essentially blamed the Lithuanian people for the deaths in Vilnius on the night of January 12–13, 1991. The State Department response was to find the conclusions of the report "at odds with the facts," a somewhat tepid response in my opinion. The administration should have told Moscow that agricultural credits, most-favored-nation trade status, grand bargains, ruble conversion support, et cetera, will be at odds with the facts as long as Moscow's forces in the Baltics continue to terrorize the population and the democratically elected governments of those countries.

With respect to President Bush's determination to grant MFN status to the Soviet Union, I find the administration's approach to this issue difficult to characterize as vigorous support for the Baltics.

The administration has informed the governments of the Baltic States that MFN for the Soviet Union will extend de facto to their territories, that the inclusion is an interim measure, and that the Baltic States "may count on our continued efforts to encourage the Soviet government to maintain a dialog with you."

And in case the Baltic States have any illusions about their inclusion, the administration adds, and I quote:

> If you work either to exclude the Baltic States from inclusion in the trade agreement and MFN, or block passage of the agreement, that could make our task and yours more difficult.

I find the arrogance of this statement appalling. How can the United States which has for more than 45 years passionately refused to recognize the forcible incorporation of the Baltic States into the Soviet Union, now admonish these countries because they do not wish to be included in a treaty which does not recognize them as having any right to represent their own interests?

Understandably, the Foreign Ministers of Estonia, Latvia and Lithuania have written to the President and asked him to exclude the Baltic States from the MFN territorial status of the USSR. Otherwise, they write, "good faith negotiations between the Soviet Union and the Baltic States may be delayed indefinitely." I hope the administration will take this plea for continued recognition of the fact the Baltics are not part of the Soviet Union into consideration and simply reactivate the MFN status already in effect for the Baltics. I am sure Congress will be happy to assist in remedying any technicalities which could be viewed by those in the administration who wish to hide behind them as impediments to reviving MFN status for the Baltics.

Mr. President, as chairman and cochairman of the Commission on Security and Cooperation in Europe respectively, Congressman HOYER and I have introduced resolutions Senate Joint Resolution 89 and House Joint Resolution 179. Senate Joint Resolution 89, calls upon the administration to:

First, establish an American presence, such as information offices, in each of the Baltic States;

Second, to channel U.S. Government and private assistance directly to the Baltic States;

Third, recognize and establish direct contacts with the Parliaments of Lithuania, Latvia, and Estonia as the legitimate, freely elected and democratic representatives of the peoples of the Baltic States, and

Fourth, to propose observer status for the Baltic States in the CSCE at the very next opportunity.

We believe these steps will further the Baltics' fight for freedom.

Mr. President, all of us in the Congress recognize the many challenges which the new Europe poses for lasting peace and stability in the region, indeed the world. But the stability we are all seeking will not be achieved by supressing the right of peoples to freely determine their own futures through peaceful, democratic means. I fail to understand why the administration persists in giving the unelected Moscow establishment greater support and credibility than leaders in the Baltic States and many of the Republics whose authority to govern comes from the people themselves. Perhaps the real question we should be debating is the definition of stability. Is it a comfort zone defined by an unelected head of state who threatens instability if he isn't given what he wants or is it based on the courage of those who have already demonstrated their commitment to the pursuit of real democracy? I prefer to put my faith and support on the latter.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,316th day that Terry Anderson has been held captive in Lebanon.

Yesterday, Islamic Jihad renewed its demand for the release of the Hamadi brothers. One of the Hamadi brothers was convicted for the hijacking of TWA flight 847 and the murder of Robert Stethem. The other for participating in the kidnaping of two German hostages.

The group also released a photograph of Terry Anderson, as is its custom, to establish its bona fides. And although the official statement did not mention Terry Anderson, the photograph was disturbing. In an interview with the Associated Press, Terry Anderson's sister, Peggy Say noted that the picture was at least several months old and that her brother was thinner than in earlier photographs and unshaven.

Although we cannot know what the Islamic Jihad has in mind with their latest demand, we do know that Terry Anderson and his family have suffered a grave injustice, and I ask my colleagues to join me in demanding his safe return.

Mr. President, I ask unanimous consent that a New York Times report on this subject be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRO-IRAN GROUP ISSUES PHOTO OF U.S. HOSTAGE

(By Ihsan A. Hijazi)

BEIRUT, LEBANON, July 18.—Pro-Iranian kidnappers released a photograph of an American hostage, Terry Anderson, here today to back up a threat to German authorities over the treatment of two convicted Lebanese Shiite Muslims in German prisons.

The statement, by the Islamic Holy War organization, made no mention of Mr. Anderson, the longest held of 12 Western hostages in Lebanon.

Mr. Anderson, shown in the photograph with a beard, was the chief Middle East correspondent of The Associated Press when he was abducted in West Beirut on March 16, 1985. He appeared angry in the Polaroid picture distributed with the statement to newspaper and wire service offices.

The group, believed to consist of Lebanese Shiites affiliated with Teheran, warned the German authorities of dire consequences if harm should come to the brothers Abbas and Mohammed Ali Hamadi. It accused the German Government of being subservient to the policies of Americans and of the Jews in the world. The United States was criticized strongly and told that it would pay for the "black crimes it has committed against the downtrodden in the world."

STABBED IN GERMAN PRISON

The state prosecutor's office in Saarbrücken, Germany, said that Abbas Ali Hamadi was stabbed in the head, shoulder and stomach last Monday with a needle used in the prison workshop. He was treated for slight injuries, a spokesman for the state prosecutor said, adding that the dispute appeared to have been over a supposed theft. He did not say what had happened to the other inmate.

Abbas Hamadi was jailed for 13 years in 1980 in Germany for involvement in the kidnapping of two German businessmen, Rudolf Cordes and Alfred Schmidt, in Lebanon; they were subsequently freed.

Two Germans are among the Western hostages here, besides six Americans, three Britons and one Italian.

Abbas's brother Mohammed Ali is in jail in Frankfurt after being convicted in the 1985 hijacking of a Trans World Airlines plane to Beirut Airport.

The Holy War group says it holds another American, Thomas Sutherland, hostage. Mr Sutherland, deputy dean of the school of agriculture at the American University of Beirut, was seized on the airport road in June 1985.

ISRAELI PRISONER EXCHANGE SOUGHT

A group also calling itself Islamic Holy War issued a statement from its headquarters in Amman, Jordan, today saying it was ready to help in a prisoner exchange involving Israeli prisoners and Arabs held by Israel.

The statement said the organization was acting in coordination with the Islamic resistance movement in Lebanon led by the Party of God and was prepared to arrange International Red Cross visits to the Israelis.

But it first wants Israel to release four Muslim prisoners from the Gaza Strip and to give a promise to free all other detainees.

RECESS UNTIL 1:30 P.M.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Nevada, at the request of the majority leader, now asks unanimous consent that the Senate stand in recess until 1:30 p.m. today.

Without objection, the Senate will be in recess until 1:30 p.m. today.

There being no objection, the Senate, at 11:02 a.m., recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. KERREY].

The PRESIDING OFFICER. The Senate will come to order. The Chair, in his capacity as the Senator from Nebraska, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, as Senators will know from the long and careful reports in yesterday's press, the Senate Labor and Human Resources Committee on Wednesday rejected by one vote the controversial nomination of Carol Iannone to the advisory council for the National Endowment for the Humanities. The view of the majority appears to have been that Dr. Iannone had insufficient citations in the Arts and Humanities Citation Index and the Social Science Citation Index. It was also alleged that her principal publications have appeared in Commentary magazine. It was never clear to me whether the objection to Dr. Iannone was that she had ever published in Commentary, or that she had done so insufficiently. No matter, I rise merely to express my disappointment on behalf of Dr. Iannone, and melancholy acknowledgement of the further intellectual decline of the Democratic Party. I almost said demise, but will leave bad enough alone.

A curious allegation: merely a Commentary writer. And in ways, a revealing one about our capital. Just to say it out loud is to realize that just possibly Washington is the only capital in the Western world in which such an allegation would be made with intent to harm. In London, Paris, Rome, Stockholm, to say of a professor of literature that his or her principal work has appeared in Commentary is—well—to say that this is a critic of the first rank. In the tradition, say, of Lionell Trilling.

Commentary is, as its cover states, "Published By The American Jewish Committee." It was founded, as a recall, in 1945—thereabouts—by the legendary Elliot E. Cohen who was editor until his death in 1959. He was thereupon succeeded by Norman Podhoretz, who remains editor to this day, assisted by Neal Kozodoy, Marion Magid, and Brenda Brown. They have equals, one should not doubt, in the world of literary criticism. But that said, the matter rests. None surpass them.

Ours is a political world down here, and these matters do not routinely enter our thoughts, much less our conversation. This despite the fact that from the first, Commentary writers have had pronounced political views. This again may be more a European than an American style, but then New York has always had a special association with European thought which the rest of the Nation has not failed to notice.

I distinctly recall, and knowing his great good nature, I am sure he will not object to my relating, a trip to New York City in May 1977 with then Vice President Mondale. The spring recess was about to begin and he was off to one of his beloved Minnesota lakes where his tackle box and bass gear awaited him. He had been asked to stop in New York on his way home to speak at the dedication of a new facility at Sloan-Kettering Hospital. Hubert Humphrey had been treated there the previous year and there was, of course, nothing he or any other Member of the Senate would not do for Hubert. I assume it is correct to refer to the Vice President as one of us. He is, after all, our Presiding Officer. The Vice President, as was his great courtesy—which I could wish had become a custom of that office—asked if I would like to ride up with him. I was heading home as well, and would naturally want to be on hand at Sloan-Kettering. Anyway, I got out to Andrews a few minutes before Fritz arrived, and settled down aboard Air Force Two with a cup of coffee and the new Commentary. The cover featured a major article on Soviet politics by a friend of mine who was then teaching at Harvard. I thought it first-rate, and mentioned it to the Vice President when he got aboard. He asked if he could take it with him on his vacation, to which, of course, I agreed. That afternoon I called Norman Podhoretz. I said:

> Norman, I have some good news and some bad news. The good news is that the Vice President of the United States is taking the new issue of Commentary with him to read over his vacation. The bad news is that until this morning the Vice President of the United States had never heard of Commentary.

I have to believe that things have not much changed in the intervening 15 years. In the Senate, that is. Mind, the Washington Post knows about such matters. It is not so long ago that the Post called Commentary "America's most consequential journal of ideas." Which is fairly restrained by the standards of the Toronto Daily Star, which once declared:

> It [Commentary] is the best monthly in the English-speaking world.

This is the journal Professor Iannone is accused of writing for. Well, there you are.

Well, no. There is more. My distinguished friend, the Senator from Utah, touched upon the matter in a remark that appeared in yesterday's Post. In an exchange in the Committee on Labor and Human Resources, he defended Professor Iannone's qualifications stating:

> She's from a first-generation, immigrant, working class family. * * * And she's only 43 years old.

Senator HATCH may know more than even he realizes. For it is the distinctive feature of Commentary that to a degree that I cannot imagine has any contemporary or historical equivalent, Commentary has published the work of young writers born into or raised among the working classes of New York City. Many of them were and are Jewish, as is only natural for a journal published by the American Jewish Committee. Many had grown up in the Marxist milieu that was so common in New York in the years 1920–50. Some had been Marxists, frequently Trotskyites. Others had been anti-Marxists but as young Robert Warshow, a Commentary writer in the 1940's—who died much too young—observed, either way your life was caught up with that subject. And so issues of the political left received inordinate attention in Commentary. But with this difference. Those writing about The Workers actually knew some. The Irving Kristols and Nathan Glazers—to name but two of a succession of major American intellectuals who were editors at Commentary—grew up in the working class neighborhoods of New York City. A setting as natural to them as the salons of their radical counterparts in Paris or Berlin. Or Greenwich Village. I recall once visiting W.H. Auden in the Village. He was living in the building from which Trotsky had published Novy Mir before the Russian revolution, a thought which gave the great British poet much satisfaction. As it would any Oxford graduate. Trotsky was, after all, a literateur. A bohemian. He would never, however, have made a Commentary writer. Too refined.

I ought to declare my interest here. I first appeared in Commentary—Lord save us—30 years ago this May. My article, which Norman Podhoretz features on the cover, was entitled "Bosses and Reformers: A Profile of the New York Democrats." I had been involved in New York Democratic politics for some years by then. I had watched the developing divisions within the Democratic Party as between its working class, mostly Catholic, traditional constituency, and a new group of middle or upper middle class, mostly Protestant and Jewish, professionals who were challenging the old-time leaders. Denigrated, of course, as "bosses." This was something new. With rare exceptions, such scions as Herbert Claiborne Pell, Jr., father of our revered senior Senator from Rhode Island, a Member of Congress from Manhattan, and from 1921-66 chairman of the State Democratic Committee. As New Yorkers moved into the middle classes, they left the Democratic Party in this century. The Irish were even then departing, as Glazer and I wrote in "Beyond The Melting Pot: The Negroes, Puerto Ricans, Jews, Italians, and Irish of New York City." But something in the Jewish tradition said otherwise. Middle-class professionals they may be, or may have become, but they remained Democrats. But, as Bernard Shaw might say, with different tastes.

This conflict was adumbrated in the doomed Presidential races of Adlai Stevenson in 1952 and 1956. But all hell broke out over the nomination of John F. Kennedy for President in 1960. Kennedy was a Catholic; Kennedy was a conservative. And his brother—well. The first statement was a fact, the second a perception. But among New York liberals perceptions are facts. And so the word went forth from Eleanor Roosevelt, Thomas K. Finletter, and yes, our beloved Governor Herbert Lehman, that Kennedy would not do. The reformers hated and feared him. Not least because the "bosses" supported him. Now these bosses were, generally speaking, perfectly democratic Democrats, such as Charlie Buckley of the Bronx, our grand old colleague Gene Keogh of Brooklyn, even the legendary Dan O'Connell of Albany. Well, in the latter case, I suppose, a real boss as well as an alleged one. Kennedy was the overwhelming favorite in our party. But not of the reformers. The scenes in the Los Angeles Convention were tumultuous, often painful. Even if, as I recall, the reformers had only 2½ votes, all pledged to Stevenson. I was a Kennedy delegate in Los Angeles—an alternate delegate, actually, but I have in my Senate office a small framed emerald green badge that says: "Delegate for Kennedy," with my name written below. But I had friends in the reform camp. When it was all over and the wounds, if anything, worse, it seemed to me a useful thing to try to explain this to the respective parties, neither of which really understood the other. There was no better place to publish such an article than Commentary, and I was thrilled when Norman Podhoretz accepted it. No, Mr. President, I haven't got that quite right. It was not just that Commentary was the best place to publish it, it was also the only place that would. A journal such as the Atlantic or Harpers just wouldn't be interested in what working class Democrats thought.

That is the point I would hope to make. My good friend from Utah was absolutely right. I very much fear Professor Iannone's troubles arose not from the quality of her work, but from her genes, social and otherwise. She is an Italian, Catholic ethnic with a working class background.

Yesterday's Wall Street Journal carried an absorbing review by David Brock of Aaron Wildavsky's new book, "The Beleaguered Presidency." Professor Wildavsky, lost now amongst the lotus eaters of Berkeley, retains the street-wise toughness of a native New Yorker. And he can spot what is going on among Democrats. What is going on is the logical extension of the trends I tried to describe in Commentary 30 years ago. To wit, the Democrats are becoming a "party that delegitimized the Nation's second largest constituency—white, working, Christian males."

I suppose the second largest such group would be the female of that species. In any event, Professor Iannone has had a setback on account of it. But I dare to hope that she will not take it personally. I do not know her, but I know some of her work. From Commentary, obviously. I sense that quality William James described as tough-mindedness. Actually, the future should be bright. She has been banned in Boston. No greater fortune ever attended the struggling novelist of the 1930's. Sales would soar outside of Boston. Professor Iannone has now been banned in the Democratic Party. What greater fortune could befall an American intellectual in this decadent fin de siecle. I wish her well.

Mr. President, I wish her well.

Seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the will roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—HOUSE CONCURRENT RESOLUTION 113

Mr. MITCHELL. Mr. President, I ask unanimous consent that House Concurrent Resolution 113, a concurrent resolution regarding the use of driftnets, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE DISCHARGED FROM FURTHER CONSIDERATION AND BILL PLACED ON CALENDAR—S. 884

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 884, the Driftnet Moratorium Enforcement Act of 1991, and that the measure then be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill which was placed on the calendar:

S. 884. A bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

The following concurrent resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H. Con. Res. 113. A concurrent resolution to express the sense of the Congress that the President should seek an international moritorium on the use of large-scale driftnets called for in United Nations Resolution 44-225, while working to achieve the United States policy of a permanent ban on large-scale driftnets.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1088: A bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for the other purposes (Rept. No. 102-112).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1507: An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes (Rept. No. 102-113).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BROWN:

S. 1502. A bill to extend until January 1, 1995, the suspension of duties on certain glass fibers; to the Committee on Finance.

By Mr. NUNN (for himself Mr. ROTH, Mr. LEVIN, and Mr. SASSER):

S. 1503. A bill to amend the Higher Education Act of 1965 to provide more stringent requirements for the Robert T. Stafford Student Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. BENTSEN, Mr. KERRY, and Mr. BURNS):

S. 1504. A bill to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. MCCAIN, Mr. SHELBY, Mr. KENNEDY, Mr. HOLLINGS, Mr. BRADLEY, and Mr. METZENBAUM):

S. 1505. A bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission; to the Committee on the Judiciary.

By Mr. GLENN (for himself and Mr. HATCH):

S. 1506. A bill to extend the terms of the olestra patents, and for other purposes; to the Committee on the Judiciary.

By Mr. NUNN from the Committee on Armed Services:

S. 1507. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN (for himself, Mr. ROTH, Mr. LEVIN, and Mr. SASSER):

S. 1503. A bill to amend the Higher Education Act of 1965 to provide more stringent requirements for the Robert T. Stafford Student Loan Program, and for other purposes; to the Committee on Labor and Human Resources.

REFORM OF GUARANTEED STUDENT LOAN PROGRAM

• Mr. NUNN. Mr. President, with the education of our young people occupying such a vitally important place in our Nation's future growth and wellbeing, and in view of Congress' current consideration of the 5-year reauthorization of the Higher Education Act, I rise today to introduce legislation to reform the Guaranteed Student Loan Program.

This legislation is the direct result of the Senate Permanent Subcommittee on Investigation's recently completed, yearlong examination of major problems—and, particularly those involving so-called proprietary or career training schools—in the U.S. Department of Education's Guaranteed Student Loan Program [GSLP]. In the course of its investigation, the subcommittee held 8 days of hearings, at which testimony was received from scores of witnesses representing all involved Guaranteed Student Loan Program institutions and interests.

These hearings painted a dramatic and highly disturbing picture of a well-intentioned program gone awry, with devastating effects on America's young people and taxpayers. The subcommittee, for example, found that while GSLP volume almost doubled between 1983 and 1989—from $6.8 to $12.4 billion—during the same period loan defaults increased by more than 300 percent—from $444.8 million or just under $2 billion. As a direct result, the cost of defaults jumped from 10 percent to 50 percent of total program costs during the 1980's, so that currently more than half of the Government's GSLP Program costs go to pay for past loans gone sour, rather than to support the education and training of today's students.

The hearings were filled with examples of the kinds of program failures and abuses that led to the sad state of affairs reflected in the above statistics. For instance, the subcommittee learned about large numbers of proprietary schools that saw the 1980's, in the words of one school owner, as an "opportune time to be crooked." Consider, for example, the following schools, all of whom participated in the Guaranteed Student Loan Program:

A Florida school with nursing assistant and respiratory therapy programs, which was colocated with a store that sold records and X-rated video tapes. Upon entering the school a visitor also could not help but notice an incense-burning voodoo altar in the owner's office and that access to the classroom was nothing more than a hole in the wall;

A truck driving school headquartered in Indiana, which during the 1980's enrolled close to 100,000 students, almost all of whom used Federal student aid funds to pay for their tuition. At one of this school's branches, more than 40 percent of its 31,000 students defaulted on their loans, to the tune of some $27 million;

A Houston, TX, brick- and tile-laying school that in less than 10 months, between 1988 and 1989, ran almost 600 students through its courses, with a cumulative loan volume that exceeded $3 million. Many of these students had been recruited from homeless shelters in Dallas, San Antonio, and New Orleans by means of false promises of free housing and monthly living allowances while they completed their training;

An Ohio auto repair school that operated out of a fruit stand and a California auto repair school without a garage, tools, or cars to work on—that charged $5,500 for a 3-month course.

How these schools, and hundreds more like them, gained access to GSLP funds was also an essential part of the subcommittee's investigation. The testimony presented confirmed that the three-tier process—commonly known as the triad—of State licensure, accreditation, and eligibility/certification, has failed badly by allowing inadequately prepared schools to get into the GSLP and permitting problem schools to remain in the program even after major abuses have been found. Indeed, the Department of Education's inspector general testified that the triad was often little more than a paper chase, while a legal services attorney from New York City referred to it as a fundamentally flawed system, which sometimes seemed aligned against the student-consumers' interests.

The subcommittee's investigation also revealed extensive problems and abuses on the part of the GSLP's financial intermediaries—lenders, guaranty agencies, loan servicers, and secondary market organizations. For example, the subcommittee found instances where GSLP loans had been made despite obviously faulty identifying information: For instance, a student whose address was listed at a motel in Connecticut; a Kentucky student with an "unknown" listed address; and, a student at 403 Cant Read, Pritchard, AL. The subcommittee also examined perhaps the largest single fiasco involving the GSLP—the collapse of the First Independent Trust Co. [FITCO] of Sacramento, CA, at one time the second largest lender of GSL's in the Nation. FITCO's failure directly affected other major GSLP financial players—for example, the now-defunct Higher

Education Assistance Foundation—a guaranty agency—the California Student Loan Finance Corp.—a secondary market organization—and United Education and Software—a loan servicer—and will result in hundreds of millions of dollars in losses to the taxpayers.

Finally, as part of its investigation, the subcommittee scrutinized the U.S. Department of Education's management of the GSLP, finding its performance to be grossly inefficient and ineffective in virtually every area of its GSLP-related responsibilities. Indeed, as the following examples indicate, virtually every witness that testified at the subcommittee's hearings described instances of gross mismanagement, ineptitude, and/or neglect on the part of the Department:

In connection with its responsibility to determine a school's eligibility to participate in the GSLP, the Department failed to follow its regulations that require each institution to have its status in this regard updated at least every 4 years. As of December 1989, 4,555 schools were overdue for this redetermination and none of them had been terminated for not responding to an update request.

Making a mockery of its requirement that a school's financial and administrative capabilities to participate in the GSLP be certified, between 1985 and 1988, the Department's Certification Branch approved 97 percent of the 2,087 institutions it reviewed. By October 1988, about 800 certified schools were financially troubled and/or had administrative deficiencies.

Regarding loans made by FITCO—at one time one of the Nation's leading GSLP lenders—between 1984 and 1989, the Department failed to collect millions of dollars in origination fees owed the Government.

Between 1984 and 1988, when the GSLP was experiencing explosive growth and problems associated with this growth, Department lender reviews declined by 63 percent, from 763 to 282. At one point during this period, a former Department employee testified that his regional office had no travel funds and just three program officers to monitor 800 lenders located throughout California, Arizona, Nevada, Hawaii, and the trust territories.

It took the Department as long as 4 years to implement some GSLP-related regulations mandated by the 1986 Higher Education Act reauthorization. Likewise, the Department has been attempting to establish a guaranteed student loan database for at least 15 years, with little apparent success.

Communication/coordination is so poor that a school operating in an area under the control of one of the Department's regional offices can open a branch in another region without the latter ever knowing it. Communication/coordination problems were also noted in the Department's headquarters in Washington.

In terms of resources, expertise, and initiative, witnesses testified that the Department's enforcement efforts are woefully inadequate. For example, one school the subcommittee looked into was able to stay in business for more than 7 years, until State licensing authorities forced it to close, even though the Department found serious problems in its operations just a matter of months after it had been approved for GSLP participation.

Summarizing the hearings and yearlong investigation, the subcommittee last month issued its final report, "Abuses in Federal Student Aid Programs." This report concludes that, as a result of the extensive and pervasive problems identified in the investigation, both the GSLP's intended beneficiaries—tens of thousands of young people, many of whom come from backgrounds with already limited opportunities—and the taxpayers have suffered. The former have been victimized by hundreds of unscrupulous, dishonest, and inept proprietary schools, receiving neither the training nor the skills they hoped to acquire and, instead being left with debts they cannot repay. Likewise, the taxpayers have been billed for billions of dollars of losses in defaulted loans, while many school owners, accrediting bodies, and lenders and other financial players have profited handsomely, and in some cases, unconscionably. In sum, this vitally important program's credibility has been severely eroded and its future severely jeopardized. "In order for the GSLP to survive its current difficulties," the report states, "it is the subcommittee's view that nothing less than a comprehensive, intensive, and sustained effort to reform the program is needed." The report contains some 27 recommendations for further action, which the legislation I am introducing today is designed specifically to implement.

What follows is a section-by-section description of the legislation:

SECTION 1

Per report recommendations 20 and 21, this section prevents certain abuses by guaranty agencies, which have cost the taxpayers millions of dollars in unnecessary expenses, that are currently allowed under the Higher Education Act. For example, since guaranty agencies are not required to do so, they often purposely delay submitting claims for reimbursement for defaulted loans to the Department of Education from one fiscal year to the next. This practice, known as the arbitrage game, allows guaranty agencies with high default loan portfolios to escape intended trigger default penalties and increases the Government's reimbursement and interest subsidy costs. To correct this problem, this section requires that a guaranty agency which has made payment on a default claim must file for reimbursement from the Federal Government by the 45th day after making such payment or the 270th day after the loan became delinquent, whichever is later.

Currently, there is little incentive for guaranty agencies to aggressively collect on delinquent loans prior to default—since they can collect and retain a portion of the collected amount even after default and reimbursement. This section eliminates that practice by requiring that the guaranty agency, within 30 days of receipt of reimbursement, assign to the Secretary of Education the promissory note for the loan on which the reimbursement was made. In the event that the Secretary is subsequently successful in collecting any payment on the note from the borrower, this section further provides that the guaranty agency that received the reimbursement payment shall be liable to the Government for the costs subsequently incurred by the Government in collecting the payment from the borrower.

This section also provides that the Secretary shall not reimburse the guaranty agency in instances where a default claim is based on an inability to locate the borrower unless the agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all available skip-tracing techniques, including skip-tracing assistance from the Internal Revenue Service, credit bureaus, and State motor vehicle departments.

SECTION 2

Per report recommendation 18, this section provides that a lender may not sell the promissory note on a guaranteed student loan until all proceeds of the loan have been disbursed. Upon the sale of any such loan, both the seller and the purchaser of the loan would be required to notify the borrower as to the sale and its effect on the borrower. The subcommittee found numerous instances in which lenders sold promissory notes on student loans almost before the ink was dry on the paperwork. As a result, borrowers frequently did not know who ultimately held their loan, complicating repayment efforts and increasing the likelihood of default.

SECTION 3

Per report recommendation 12, this section strikes limitations imposed on the Secretary of Education's authority to impose civil monetary penalties upon lenders and guaranty agencies under section 432 of the Higher Education Act. It is aimed at helping to correct major deficiencies the subcommittee found in the Department's ability to act swiftly and decisively to cut program losses and take appropriate corrective and/or punitive actions, when abuse and/or fraud are found in the GSLP.

SECTION 4

In order to effectively implement, report recommendations 1, 2, 4, 5, and 7, this section redefines the term "vocational school" to consolidate the number of eligible domestic institutions into three categories: First, 2- and 4-year degree granting institutions; second, publicly owned and operated vocational schools; and third, proprietary trade schools. The new category of proprietary trade schools would include all private trade schools, whether for profit or nonprofit, and would also include those trade schools associated with a 2- or 4-year institution. This category, however, would exclude any correspondence, or home study school, or any school offering a correspondence or home study program.

By placing all private proprietary schools into one category, this section creates the framework to address the current problems of the proprietary school sector, which were so graphically documented in the subcommittee's hearings. For example, one of those problem areas—the failure of accrediting bodies to assure that the institutions they accredit are providing students with a quality education—is addressed by language calling for uniform minimum standards that all accrediting bodies concerned with proprietary schools would have to meet in order to be recognized by the Secretary of Education.

Finally, this section also amends the Higher Education Act's present due diligence provision, to require that due diligence be performed in connection with originating, as well as servicing and collecting, loans. This responds to the kind of problems revealed by the subcommittee' investigation, such as cases of loans made to students at unknown addresses, motel rooms, and the like. This provision is not intended, however, to require a lender to perform a credit check on potential student loan borrowers.

SECTION 5

Per report recommendations 24 and 25, this section provides for Government oversight of the Student Loan Marketing Association [Sallie Mae]. It provides that the Secretary of the Treasury, in consultation with the Secretary of Education, may exercise rulemaking authority over Sallie Mae, and that Sallie Mae provide the inspector general of the Department of Education with annual financial and compliance audits.

This section responds to testimony before the subcommittee, which raised questions about the relationship between Sallie Mae and the Guaranteed Student Loan Program. Although Sallie Mae is a Government-sponsored enterprise, no Federal agency presently regulates or oversees its business operations or financial soundness.

SECTION 6

Per report recommendation 9, this section adds new provisions to the Higher Education Act, setting forth the process and criteria under which a proprietary trade school shall be approved by a State higher education agency.

Testimony presented to the subcommittee established that State licensure, one of the key prerequisites for a school to participate in the GSLP, has failed to protect both the Federal Government and student borrowers for a number of reasons, including: a lack of uniform standards, fragmented responsibility, inadequate staff and resources, weak enforcement authority, political considerations, and due process constraints. Furthermore, since States are generally left with the power to set their own licensing requirements and education standards, there is no consistent definition of the educational prerequisites that need be satisfied in order to be licensed to operate a school. This section, therefore, calls for the establishment of a set of uniform minimum standards to be utilized by all States in granting licenses to proprietary schools, and places the authority to grant such approval in the hands of just one agency within each State.

SECTION 7

Per report recommendation 12, this section changes the Higher Education Act's current language, which requires the Secretary of Education to provide a hearing on the record, to providing for a hearing, in instances of: final audit or program review determinations; limitation, termination, or suspension proceedings; or, the imposition of civil penalties.

The Department's present procedures require that it afford a full evidentiary, administrative hearing in almost all instances in which it seeks to take adverse action against a school. The subcommittee heard testimony that this places time-consuming and resource-intensive burdens on the Department, which problem schools exploit so that the flow of Federal funds continues until the lengthy hearing on the record process is concluded. This section recognizes that in many instances, and in conformance with basic due process safeguards, relevant issues can be fairly and expeditiously addressed by written submissions and/or oral arguments.

SECTION 8

Per report recommendations 16 and 25, this section requires that all officers, directors, and other key employees of eligible institutions, lenders, guaranty agencies, loan servicing firms, accrediting bodies, State higher education agencies, and secondary markets, must report to the Secretary of Education on any financial interest such individuals may hold in any other entity participating in the GSLP. This provision responds to the subcommittee's finding that conflicts of interest among GSLP participants is an unacceptably common occurrence.

In addition, the section requires that all secondary market organizations and loan servicing firms undergo an annual financial and compliance audit, to be submitted to the Department's inspector general. This requirement responds to the subcommittee's finding that the Department does not adequately regulate or monitor the activities of these critically important GSLP financial intermediaries.

SECTION 9

Per report recommendation 10, this section amends title II of the Department of Education Organizational Act to create the position of Assistant Secretary for Student Financial Assistance and to establish an Office of Student Financial Assistance Oversight and Enforcement, which shall be administered by the Assistant Secretary. This provision responds to the subcommittee's finding that the Department's management of its GSLP responsibilities has been woefully deficient and is in dire need of a complete overhaul.

SECTION 10

Per report recommendation 14, this section authorizes the Commissioner of the Social Security Administration to assist the Secretary of Education in determining if prospective borrowers are using true and correct Social Security numbers when applying for guaranteed student loans. The subcommittee received testimony that considerable GSLP abuse could be avoided if Social Security numbers of potential borrowers are verified before a loan is originated.

SECTION 11

Per report recommendation 19, this section requires that, notwithstanding any other provision of law, if the Secretary of Education asks, pursuant to his oversight responsibilities for student financial assistance, any Federal or State financial regulatory agency for information pertaining to an institution participating in a title IV student financial assistance program, the latter shall provide the Secretary with the requested information. This provision responds to the considerable testimony heard by the subcommittee, which revealed major gaps in communication and coordination between and among the Department and the various State and Federal regulatory authorities with institutions participating in the GSLP.

SECTION 12

Per report recommendations 6, 12, 23, 26, and 27, this section provides for certain reports to Congress as follows:

First, the inspector general of the Department of Education shall review and report to Congress on the functions and effectivness of the Advisory Committee on Student Financial Assistance.

Second, the Comptroller General of the General Accounting Office shall review and report to Congress on the role of guaranty agencies in the Stafford Student Loan Program.

Third, the Secretary of Education shall report to Congress on the advisability of statutorily protecting officials of accrediting agencies involved in the legitimate performance of their activities. In addition, the Secretary shall report to Congress on the feasibility of setting limits on the type of proprietary trade school education that Federal funds should subsidize.

Fourth, the President, with the assistance of the Secretary of Education, shall report to Congress regarding how to: First, develop greater support and respect for skills training; second, determine what skills the United States needs; third, promote the most effective balance between skills training and academic forms of postsecondary education; and, fourth, develop the most useful balance between Federal loans and grants in the provision of skills training.

Mr. President, the Guaranteed Student Loan Program is a worthy, and worthwhile, program. Unfortunately, virtually none of the GSLP's major components is working efficiently or effectively. As a result, the GSLP's integrity has been severely compromised and its future may very well hang in the balance. Accordingly, with the aim of restoring the program's integrity and returning it to the well-intentioned purposes and goals which led to its creation, I ask my colleagues to support this legislation and thereby to assure that the Guaranteed Student Loan Program again becomes the vehicle for educating and training America's young people that it was intended to, and should always, be.

Mr. President, I have included with this bill a detailed section-by-section summary and I ask that it be printed in the RECORD along the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GUARANTEE AGREEMENTS.

(a) IN GENERAL.—Section 428(c) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1078(c)) is amended—

(1) in paragraph (2)—

(A) by amending paragraph (D) to read as follows:

"(D) shall provide that a guarantee agency that receives reimbursement payment from the Secretary shall, within 30 days of receipt of such payment, assign to the Secretary the promissory note for the loan on which such payment has been made, and shall further provide that if the Secretary is successful in collecting any payment on such note from the borrower, then the guarantee agency that received the reimbursement payment shall be liable to the United States for the costs of collecting such payment;";

(B) by striking "and" at the end of subparagraph (F);

(C) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(D) by inserting the following new subparagraphs at the end thereof:

"(H) shall require a guarantee agency which has made payment on a default claim to file for reimbursement under this subsection by the 45th day after making such payment or the 270th day after the loan became delinquent with respect to any installment thereon, whichever is later; and

"(I) shall prohibit the Secretary from making any reimbursement under this subsection to a guarantee agency in instances where a default claim is based on an inability to locate the borrower, unless the guarantee agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all skip-tracing techniques, including skip-tracing assistance from the Internal Revenue Service, credit bureaus and State motor vehicle departments.";

(2) in paragraph (6)—

(A) by striking subparagraphs (A) and (D);

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(C) in subparagraph (A) (as redesignated in subparagraph (B)) by striking "this paragraph and"; and

(3) by amending paragraph (8) to read as follows:

"(8) FUNDS COLLECTED.—Any funds collected pursuant to subparagraph (D) of paragraph (2) shall be deposited into the fund established pursuant to section 431.".

(b) CONFORMING AMENDMENTS.—Section 428F(a) of the Act (20 U.S.C. 1078-6(a)) is amended by striking paragraph (4).

(c) TECHNICAL AMENDMENTS.—

(1) AMENDMENT TO PARAGRAPH HEADING.—The heading for paragraph (6) of section 428(c) of the Act (20 U.S.C. 1078(c)(6)) is amended by striking "SECRETARY'S EQUITABLE SHARE" and inserting "ADMINISTRATIVE COSTS".

(2) CROSS REFERENCES.—Section 428(l) of the Act (20 U.S.C. 1078(l)) is amended—

(A) by striking "(c)(6)(C)(i)(I)" and inserting "(c)(6)(B)(i)(I)"; and

(B) by striking "(c)(6)(C)" each place such term appears and inserting "(c)(6)(B)".

SEC. 2. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS.

Section 428G of the Act (20 U.S.C. 1078-7) is amended by adding at the end thereof the following new subsection:

"(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—

"(1) IN GENERAL.—An eligible lender shall not sell a promissory note for any loan made, insured, or guaranteed under this part until all proceeds of such loan have been disbursed.

"(2) NOTIFICATION.—The seller and purchaser of any loan made, insured, or guaranteed under this part shall notify the borrower at the time of the sale of any such loan as to the sale and the effect of such sale on the borrower.".

SEC. 3. LEGAL POWERS AND RESPONSIBILITIES.

Subsection (g) of section 432 of the Act (20 U.S.C. 1082) is amended—

(1) by striking paragraphs (2), (3), and (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively.

SEC. 4. DEFINITIONS.

(a) DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.—Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in paragraph (1) of subsection (a)—

(A) in subparagraph (B), by striking "or" at the end thereof;

(B) in subparagraph (C), by striking the comma at the end thereof and inserting a semicolon and "or"; and

(C) by inserting before the matter following subparagraph (C) the following new subparagraph:

"(D) a proprietary trade school,";

(2) in the matter preceding paragraph (1) of subsection (b), by inserting ", other than a proprietary trade school or a vocational school," after "educational institution";

(3) by amending subsection (c) to read as follows:

"(c) VOCATIONAL SCHOOL.—The term 'vocational school' means any public business or trade school, or public technical institution or other public technical or vocational school that—

"(1) provides training to prepare students for gainful employment;

"(2) admits as regular students only persons who have completed or left elementary or secondary school or who are beyond the age of compulsory school attendance in the State in which the institution is located:

"(3) is owned or operated by—

"(A) the United States or any instrumentality or agency thereof; or

"(B) a State or any political subdivision thereof;

"(4) has been in existence for 2 years; and

"(5) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph.";

(4) in subsection (f)—

(A) by striking "servicing" and inserting "making, servicing"; and

(B) by striking "collection practices" and inserting "making, servicing and collection practices"; and

(5) by inserting at the end thereof the following new subsection:

"(o) PROPRIETARY TRADE SCHOOL.—

"(1) IN GENERAL.—(A) The term 'proprietary trade school' means any business, trade, technical, or career school which—

"(i) provides training to prepare students for gainful employment in a recognized occupation;

"(ii) admits as regular students only persons who have completed or left elementary or secondary school or who are beyond the age of compulsory school attendance in the State in which the institution is located;

"(iii) is a private institution, including a private nonprofit institution or a private institution affiliated with an institution of higher education;

"(iv) is approved by the State in which the school operates pursuant to section 440(b);

"(v) has been in existence for at least 2 years; and

"(vi) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph.

"(B) For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority on the quality of training offered by a proprietary trade school. The Secretary shall not approve an accrediting agency or association which accredits proprietary trade schools in accordance with the provisions of this paragraph, unless such agency or association—

"(i) provides the Secretary with evidence of effective training of accrediting team members in the consistent application of accreditation standards to proprietary trade schools;

"(ii) prohibits more than ⅓ of the members of such agency's or association's accreditation decisionmaking body from being affiliated with a proprietary trade school accredited by such agency or association;

"(iii) establishes detailed guidelines to address actual and potential conflicts of interest among such members of such agency's or association's accreditation decision-making body;

"(iv) evaluates and accredits separately each branch of a proprietary trade school seeking accreditation;

"(v) accredits a proprietary trade school for a period of not longer than 3 years at a time;

"(vi) conducts at least 1 unannounced site examination of each proprietary trade school during each period of such school's accreditation;

"(vii) publicly discloses when a proprietary trade school is due for accreditation or reaccreditation;

"(viii) revokes the accreditation of, or denies accreditation to, any proprietary trade school which has had its Federal certification or State approval denied or revoked during the preceding 24 months;

"(ix) notifies the Department, the appropriate State higher education agency, and other accrediting agencies or associations of all adverse actions taken against a proprietary trade school or the owners of such school, including the denial of accreditation; and

"(x) complies with any and all other standards promulgated by the Secretary for accrediting agencies or associations.

"(C) The Secretary, in consultation with representatives of accrediting agencies and associations, shall develop and make public uniform performance-based consumer protection standards which shall be applied by all accrediting agencies or associations which accredit proprietary trade schools. Such standards shall include standards on enrollments, withdrawal rates, completion rates, placement rates, and default rates.

"(2) Home Study or Correspondence Schools.—The term 'proprietary trade school' shall not include a home study or correspondence school or any school which offers a home study or correspondence program.".

(b) General Provisions Relating to Student Assistance Programs.—Section 481 of the Act (20 U.S.C. 1088) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking "institution of higher education" and inserting "trade school"; and

(B) in subparagraph (B), by striking "postsecondary vocational institution" and inserting "vocational school"; and

(2) by amending subsections (b) and (c) to read as follows:

"(b) Proprietary Trade School.—For the purpose of this section the term 'proprietary trade school' has the same meaning given to such term in section 435(o).

"(c) Vocational School.—For the purpose of this section the term 'vocational school' has the same meaning given to such term in section 435(c).".

SEC. 5. STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Act (20 U.S.C. 1087-2) is amended—

(1) in paragraph (2) of subsection (h), by striking the second sentence and inserting the following: "The Secretary of the Treasury, in consultation with the Secretary, may make such rules and regulations as shall be necessary and proper to ensure that the purposes of this section are accomplished. The Secretary of the Treasury and the Secretary may examine and audit the books and financial transactions of the Association and may require the Association to make such reports on the Association's activities as the Secretary of the Treasury or the Secretary deem advisable.";

(2) in subsection (j)—

(A) by striking "Reporting.—The" and inserting "Reporting.—

"(1) Financial Audit.—The";

(B) in the third sentence thereof, by inserting "and the Secretary" after "Treasury"; and

(C) by inserting at the end thereof the following new paragraph:

"(2) Compliance Audits.—(A) The Association shall provide for the conduct of a compliance audit annually. Such audit shall be performed by an independent certified public accountant in accordance with Federal Government auditing standards. The purpose of the audit shall be to determine the Association's compliance with the provisions of this Act.

"(B) The independent certified public accountant conducting the audit described in subparagraph (A) and the Inspector General of the Department of Education shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association that such auditor determines necessary to facilitate the audit.

"(C) A report on the audit conducted pursuant to this paragraph shall be made by the auditor and a copy of such report shall be sent to the Inspector General of the Department of Education.".

SEC. 6. APPROVAL OF PROPRIETARY TRADE SCHOOLS.

Part B of title IV of the Act is amended by inserting at the end thereof the following new section:

"SEC. 440. APPROVAL OF PROPRIETARY TRADE SCHOOLS.

"(a) State Approval Required.—

"(1) State Approval Required.—(A) In order to be eligible to participate in the program assisted under this part the State higher education agency for the State in which a proprietary trade school is located shall approve such school in accordance with the provisions of this subsection.

"(B) The approval described in subparagraph (A) shall consist of a qualitative review and assessment of the school's facilities and activities, including on-site inspection of the school.

"(C) A State higher education agency may approve a school for a period of not more than 3 years.

"(2) Application.—(A) Each proprietary trade school desiring the approval described in paragraph (1) shall submit an application to the State higher education agency at such time, in such manner and accompanied by such information as the State higher education agency shall reasonably require. Each such application shall contain assurances that the school has met each of the criteria described in paragraph (3) in addition to any other criteria required by such State, and has complied with the provisions of this section.

"(B) The State higher education agency is authorized to charge an application fee for approval under this section.

"(3) State Approval Criteria.—The criteria for approval by a State higher education agency shall include the following:

"(A) The quality and content of each course or program of instruction, training, or study may reasonably and adequately be expected to achieve the stated objective for which the course or program is offered.

"(B) There is in the school adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of the course or program.

"(C) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy, and rules of operation and conduct is given to students prior to enrollment in the school.

"(D) The school maintains and enforces adequate standards relating to attendance, satisfactory academic progress, and student performance.

"(E) The school complies with all applicable regulations relative to the safety and health of all persons upon the school's premises, such as fire, building, and sanitation codes.

"(F) The enrollment of the school does not exceed an enrollment which the facilities and equipment of the school can reasonably accommodate.

"(G) The school's administrators and instructors possess the professional qualifications necessary to comply with applicable State requirements, and the school's officers, directors, and owners demonstrate financial and fiduciary responsibility, as prescribed by applicable State statute or regulation.

"(H) The school has a fair and equitable refund policy a copy of which has been provided to each student prior to enrollment.

"(I) The school publishes and makes available to the higher education agency and to all prospective students current information as to the withdrawal rate, completion rate, and loan default rate of the school's students.

"(4) Revocation.—If information comes to the State higher education agency's attention that a school no longer meets the criteria for approval, the State higher education agency may investigate and, upon sufficient grounds, initiate proceedings to revoke approval. If approval is revoked, the State higher education agency shall immediately notify the Secretary.

"(5) Definition.—For the purpose of this subsection, the term 'higher education agency' means the officer of the agency primarily responsible for the State supervision of higher education.

"(b) Special Rule.—

"(1) In General.—If a proprietary trade school or a branch of a proprietary trade school changes ownership resulting in a change in control of such school or branch, or if a proprietary school opens a branch of such school, then the school or branch, in order to be eligible to participate in the program assisted under this part, shall obtain separate certification, approval and accreditation in accordance with this section.

"(2) Definition.—For the purpose of paragraph (1), the term 'change in ownership of a proprietary trade school that results in a change of control' means any action by which a person or corporation obtains new authority to control the actions of such school or branch. Such action may include—

"(A) the sale of such school or branch or of the majority of the assets of such school or branch;

"(B) the transfer of the controlling interest of stock of such school or branch or the parent corporation of such school or branch;

"(C) the merger of two or more of such schools or branches;

"(D) the division of one or more of such schools or branches into two or more such schools or branches;

"(E) the transfer of the controlling interest of stock of such school or branch to the parent corporation of such school or branch; or

"(F) the transfer of the liabilities of such school or branch to the parent corporation of the school or branch.".

SEC. 7. PROGRAM PARTICIPATION AGREEMENT.

Section 487 of the Act (20 U.S.C. 1094) is amended—

(1) in paragraph (2) of subsection (b), by striking "on the record";

(2) in subparagraph (D) of subsection (c)(1), by striking "on the record";

(3) in subparagraph (F) of subsection (c)(1), by striking "on the record";

(4) in subparagraph (A) of subsection (c)(2), by striking "on the record"; and

(5) in clause (i) of subsection (c)(2)(B), by striking "on the record".

SEC. 8. AUDITS.

Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended by inserting the following new sections at the end thereof:

"SEC. 493. INDEPENDENT COMPLIANCE AND FINANCIAL AUDITS.

"(a) IN GENERAL.—Each loan servicing agency and entity acting as a secondary market shall provide for the conduct of a compliance and a financial audit annually. Such audits shall be performed by an independent certified public accountant in accordance with Federal Government auditing standards. The purpose of the audits shall be to determine such loan servicing agency's and such entity's compliance with the provisions of the Act.

"(b) ACCESS.—The independent certified public accountant conducting the audit described in subsection (a) and the Inspector General of the Department of Education shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by such loan servicing agency or such entity that such auditor determines necessary to facilitate the audit.

"(c) DEFINITIONS.—For purposes of this section and section 494—

"(1) the term 'loan servicing agency' means any entity that administers loans made under part B as contractual agents for the noteholders; and

"(2) the term 'acting as a secondary market' means engaging in purchasing and holding loans made under part B of this title for the purpose of providing lenders with a source of liquidity.

"(d) REPORTS.—A report on the audits conducted pursuant to this section shall be made by the auditor and a copy of such report shall be sent to the Inspector General of the Department of Education.

"SEC. 494. REPORTING REQUIREMENT.

"(a) IN GENERAL.—All officers and directors, and those employees and consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State higher education agencies, and entities acting as a secondary market, who are engaged in making decisions or providing advice as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such times as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.

"(b) REGULATIONS.—The Secretary shall develop regulations to ensure compliance with the provisions of subsection (a).".

SEC. 9. ASSISTANT SECRETARY FOR STUDENT FINANCIAL ASSISTANCE.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

(1) in section 202(b)(1) by—

(A) striking "and" at the end of subparagraph (F);

(B) redesignating subparagraph (G) as subparagraph (H); and

(C) inserting immediately after subparagraph (F) the following new subparagraph (G):

"(G) an Assistant Secretary for Student Financial Assistance; and"; and

(2) by inserting at the end thereof the following new section:

"SEC. 216. OFFICE OF STUDENT FINANCIAL ASSISTANCE OVERSIGHT AND ENFORCEMENT.

"There shall be in the Department an Office of Student Financial Assistance Oversight and Enforcement, to be administered by the Assistant Secretary for Student Financial Assistance. The Assistant Secretary shall administer such functions affecting student financial aid assistance as the Secretary shall designate, including overseeing the activities of financial aid recipients.".

(b) AMENDMENT TO TITLE 5.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Education (6)" and inserting "Assistant Secretaries of Education (7)".

SEC. 10. ASSISTANCE FROM THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION.

The Commissioner of the Social Security Administration, or the Commissioner's designee, is authorized to assist the Secretary of Education in determining if borrowers of loans under the Robert T. Stafford Student Loan Program are using true and correct social security numbers when applying for such loans.

SEC. 11. INFORMATION REQUESTS.

Notwithstanding any other provision of law, upon request of the Secretary of Education, or his or her designee, to any Federal or State financial regulatory agency for information pertaining to an institution participating in any student financial assistance program assisted under title IV of the Higher Education Act of 1965 which is made pursuant to the Secretary's oversight responsibilities for student financial assistance programs under title IV of such Act, such financial regulatory agency shall provide the Secretary of Education with the information so requested.

SEC. 12. REPORTS.

(a) INSPECTOR GENERAL.—The Inspector General of the Department of Education shall review and report to the Congress within 6 months of the date of enactment of this Act on the functions and effectiveness of the Advisory Committee on Student Financial Assistance.

(b) COMPTROLLER GENERAL.—

(1) STUDY.—The Comptroller General of the General Accounting Office shall review the role of guaranty agencies within the Robert T. Stafford Student Loan Program, examining the administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments.

(2) REPORT.—The Comptroller General shall report to the Congress within 1 year of the date of enactment of this Act on the study described in subsection (a). Such report shall consider and make recommendations concerning the feasibility of—

(A) increasing the role of guaranty agencies in oversight and licensing of proprietary trade schools under the Robert T. Stafford Student Loan Program;

(B) strengthening Federal disincentives for high default rate portfolios;

(C) consolidating guaranty agencies regionally or otherwise; and

(D) eliminating the role of guaranty agencies within the Robert T. Stafford Student Loan Program.

(b) SECRETARY OF EDUCATION.—

(1) STATUTORY PROTECTION FOR OFFICIALS OF ACCREDITING AGENCIES.—The Secretary of Education shall report to the Congress within 90 days of the date of enactment of this Act on the advisability of statutorily protecting officials of accrediting agencies involved in the performance of legitimate Robert T. Stafford Student Loan Program activities.

(2) PROPRIETARY TRADE SCHOOL EDUCATION.—The Secretary of Education shall report to the Congress within 6 months of the date of enactment of this Act on the feasibility of setting limits on the type of proprietary trade school education that Federal funds should subsidize, emphasizing education and training from which students and society shall realistically benefit.

(c) PRESIDENT.—The President, with the assistance of the Secretary of Education shall report to the Congress within 24 months of the date of enactment of this Act regarding how to—

(1) develop greater support and respect for skills training;

(2) determine what skills the United States needs;

(3) promote the most effective balance between skills training and academic forms of post-secondary education; and

(4) develop the most useful balance between Federal loans and grants in the provision of skills training.

SECTION-BY-SECTION SUMMARY OF S. 1503

SECTION 1. GUARANTY AGREEMENTS

Subsection (a) amends Section 428(c)(2) of the Higher Education Act of 1965 (the "Act") to provide that a guaranty agency which receives reimbursement from the Secretary shall, within 30 days of receipt of such reimbursement, assign to the Secretary the promissory note for the loan on which such reimbursement was made. If the Secretary is subsequently successful in collecting any payment on the note from the borrower, then the guaranty agency that received the reimbursement shall be liable to the United States for the costs of collecting the payment. Any funds collected in this manner shall be deposited into the fund established under Section 431 of the Act.

Subsection (a) further amends Section 428(c)(2) to require a guaranty agency which has made payment on a default claim to file for reimbursement by the 45th day after making such payment or the 270th day after the loan became delinquent, whichever shall be later, and to prohibit the Secretary from making reimbursement to a guaranty agency in instances where the default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of all available skip-tracing techniques, including skip-tracing assistance from the Internal Revenue Service, credit bureaus, and State motor vehicle departments.

Subsection (b) makes conforming amendments.

Subsection (c) makes technical amendments.

SECTION 2. REQUIREMENTS FOR DISBURSEMENT OF STUDENT LOANS

This section amends Section 428G of the Act to provide that an eligible lender shall not sell a promissory note for any loan made, insured, or guaranteed under the Robert T. Stafford Student Loan Program until all proceeds of the loan have been disbursed. Upon the sale of any such loan, both the seller and the purchaser of the loan are required to notify the borrower as to the sale and the effect of the sale on the borrower.

SECTION 3. LEGAL POWERS AND RESPONSIBILITIES

This section amends Section 432(g) to strike those paragraphs which place limitations upon the Secretary's ability to impose civil penalties for violations of the Act.

SECTION 4. DEFINITIONS

Subsection (a) amends Section 435(c) to provide a new definition for the term "vocational school."

Subsection (a) also amends the requirement of "due diligence" contained in Section 435(f) to include a requirement of due diligence in the making, as well as the servicing and collecting of loans. The requirement of due diligence in the making of loans is not intended to require a lender to perform a credit check on student loan borrowers.

Subsection (a) further amends Section 435 to provide a definition for the term "proprietary trade school."

Subsection (a) also amends Section 435 to set forth the criteria upon which the Secretary may list accrediting agencies or associations which accredit proprietary trade schools.

Subsection (b) amends Section 481 of the Act by replacing the terms "proprietary institution of higher education" and post-secondary vocational institution" with the terms proprietary trade school" and "vocational school" respectively.

SECTION 5. STUDENT LOAN MARKETING ASSOCIATION

This section amends Section 439(h)(2) of the Act to allow the Secretary of the Treasury, in consultation with the Secretary of Education, to make such rules and regulations concerning the Association as may be necessary to achieve the purposes of the section. The Secretary of the Treasury and the Secretary of Education may also examine and audit the books and financial transactions of the Association and may, require the Association to make such reports on the Associations activities as they deem advisable.

The section also amends Section 439(j) to provide that a report of each annual audit of the Association be furnished to the Secretary of Education in addition to the Secretary of the Treasury.

The section further amends Section 439(j) to require that the Association have an annual compliance audit performed by an independent certified public accountant in accordance with Government Auditing Standards, and that a copy of such compliance audit shall be submitted to the Department of Education Office of Inspector General.

SECTION 6. APPROVAL OF PROPRIETARY TRADE SCHOOLS

This section amends Part B of Title IV of the Act by adding a new section 440 which sets forth the process and criteria under which a proprietary trade school shall be approved by a State higher education agency.

SECTION 7. PROGRAM PARTICIPATION AGREEMENT

This section amends Section 487 by changing all references to "hearing on the record" contained therein to "hearing."

SECTION 8. AUDITS

This section amends Part G of Title IV by adding a new Section 493 which requires that all secondary markets and loan servicing agencies shall have an annual financial and compliance audit performed by an independent certified public accountant in accordance with Government Auditing Standards, and that a copy of such audits shall be submitted to the Department of Education Office of Inspector General.

This section also amends Part G of Title IV by adding a new section 494 which requires that all officers and directors, and certain employees and consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State higher education agencies, and entities acting as a secondary market, shall report to the Secretary on any financial interest which such individual may hold in any other entity participating in any program assisted under Title IV.

SECTION 9. ASSISTANT SECRETARY FOR STUDENT FINANCIAL ASSISTANCE

This section amends Title II of the Department of Education Organizational Act to create the position of "Assistant Secretary for Student Financial Assistance" and to create an "Office of Student Financial Assistance Oversight and Enforcement" which shall be administered by such Assistant Secretary.

SECTION 10. ASSISTANCE FROM THE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION

This section authorizes the Commissioner of the Social Security Administration, or his or her designee, to assist the Secretary of Education in determining if borrowers of loans under the Robert T. Stafford Student Loan Program are using true and correct social security numbers when applying for such loans.

SECTION 11. INFORMATION REQUESTS

This section requires that, notwithstanding any other provision of law, upon the request of the Secretary of Education, or his or her designee, to any federal or state financial regulatory agency for information pertaining to an institution participating in any Title IV student financial assistance program which is made pursuant to the Secretary's responsibilities for student financial assistance programs under Title IV, such financial regulatory agency shall provide the Secretary with the requested information.

SECTION 12. REPORTS

Section (a) provides that the Inspector General of the Department of Education shall review and report to the Congress on the functions and effectiveness of the Advisory Committee on Student Financial Assistance.

Section (b) provides that the Comptroller General of the General Accounting Office shall review and report to the Congress on the role of guaranty agencies within the Robert T. Stafford Student Loan Program.

Section (c) provides that the Secretary of Education shall report to the Congress on the advisability of statutorily protecting officials of accrediting agencies involved in the legitimate performance of their activities. In addition, the Secretary shall report to the Congress on the feasibility of setting limits on the type of proprietary trade school education that federal funds should subsidize.

Section (d) provides that the President, with the assistance of the Secretary of Education shall report to the Congress regarding how to: (a) develop greater support and respect for skills training; (b) determine what skills the United States needs; (c) promote the most effective balance between skills training and academic forms of post-secondary education; and (d) develop the most useful balance between federal loans and grants in the provision of skills training.•

• Mr. ROTH. Mr. President, I rise today in support of the Nunn-Roth bill, which has been introduced today to amend the Higher Education Act of 1965 to provide more stringent requirements for the Robert T. Stafford Student Loan Program. I am pleased to join Senator NUNN and others as a sponsor of this important piece of legislation, which is a natural follow-up to hearings held by the Permanent Subcommittee on Investigations of the Governmental Affairs Committee. As ranking minority member of the subcommittee, I would like to take this opportunity to praise Senator NUNN, who, as chairman of PSI, conducted a thorough investigation of the many abuses which currently exist within our Nation's Federal student aid programs. I want to commend him for his longstanding interest and continued involvement in trying to develop solutions to the problems that exist within the Guaranteed Student Loan Program. In fact, I recall hearings over which Senator NUNN presided in 1975, when PSI examined this same topic and found similar problems, only on a much smaller scale. I know I speak for my colleagues and for the American people in applauding the leadership of Senator NUNN in this area, which is so critical in the development of our Nation's most valuable resource—our young people.

Mr. President, federally guaranteed student loan programs have helped America cultivate the human capital that is such an important component of our global economic competitiveness. And proprietary schools are an important part of that process. The training which many of these schools provide gives many young people legitimate prospects for a brighter future; people for whom that otherwise might not be possible. But unfortunately, as was revealed over the course of a long series of hearings, major problems currently exist within the Federal student loan programs, particularly regarding proprietary schools. It became clear that a disproportionate amount of problems in the GSLP were attributable to proprietary school student borrowers. We discovered that such borrowers suffer default rates that are twice that of 2-year institutions and four times the rate of 4-year schools. It was therefore disturbing to participate in this series of hearings. I listened to horror stories from numerous young people who have suffered at the hands of the unscrupulous proprietary schools. I met young people who simply hoped to improve themselves, but instead were exploited by these institutions, many of which I hesitate to call educational in nature.

I received a letter yesterday from the godmother of a young woman who fell victim to just one such school, the Culinary School of Washington, DC, which offers training for aspiring chefs. Despite serious problems over an 8-year period—during which time its cumulative student loan volume reached $19 million—CSW retained its eligibility to participate in the GSLP. The letter I received yesterday begged of me, "Please do all taxpayers a favor and listen to my Godchild; she is so hurt by her experiences." The godchild wrote:

> I never got the education I was promised and I was given student loans and I really didn't know. Now I'm in default with loan collectors harassing me and my family.

This young woman is probably only beginning to realize the terrible situation that CSW forced upon her. Lacking proper training and unable to find jobs, such students often default on their federally guaranteed student loans and thus suffer the added humiliation of seeing their credit ratings destroyed in the process. As in this example, the ultimate irony is that many young students don't realize they have a Federal loan until they are told they are in default. Unfortunately, this woman is one of a long list of aspiring students who have had their educational opportunities cut off as a result of the fraudulent activities of such proprietary schools. Ultimately it is the American taxpayer who bears the cost of these scams.

Given our enormous budget deficit, we can ill afford to wait any longer to address the fundamental problems in the student loan program. As defaults continue to rise, the need for action becomes increasingly urgent. Further, while the focus of the subcommittee's investigation, and this legislation, was on the loan program, I would add that it is more than likely that our Pell Grant System is being adversely affected as well. As my colleagues are aware, prior to qualifying under our loan programs, students must first be qualified for need through the Pell Grant Program, and when qualified, receive funds through this program first. As many of our proprietary students are from disadvantaged backgrounds, it is likely that they are receiving Pell Grants in addition to student loans. We must also attempt to stop waste, fraud and abuse in this area.

The legislation which has been introduced today is a much needed starting point in dealing with the extensive range of issues raised by our investigation. I would draw attention to two critical components of this legislation. First, a comprehensive set of criteria are established by which proprietary schools shall be approved by State higher education agencies. Currently, State licensing processes are simple business licensing procedures. We will now require that such schools do more than just pay a small fee in order to operate. They will now have to meet nine specific criteria which will ensure that these schools adhere to acceptable educational standards. Second, criteria are set forth by which trade school accreditors are listed. Unfortunately, accreditors have also gotten into the act in recent years, by being willing to accredit any school which is willing to pay a fee. Now we will help prevent these important players in the educational process from simply being bought.

A variety of other important initiatives are also packaged within this legislation, which provides Congress with an opportunity to make up for its failure to act to reduce the problem of student loan fraud, and the defaults that result. Many of my colleagues have been quick to assign all of the blame in this area to the Education Department. However, the Department cannot fully address this problem singlehandedly. Congress must accept its share of responsibility for failure to enact tougher measures to combat abuse in the student loan program. Fortunately, I believe there is now wider recognition that Congress can no longer afford to delay. A broad range of abuses have been identified, and Congress must work closely with the administration to remedy them.

I would like to advise my fellow Senators that the Department of Education is already beginning to move on this issue. on April 8 of this year it issued a blueprint for action to improve guaranteed student loan management. I am submitting a full copy of the 19-page report which was prepared jointly by OMB and the Education Department, and I ask unanimous consent that it be included in the RECORD at the conclusion of my remarks. The Department has announced a reorganization, and while it certainly needs the assistance of Congress to fully address these issues, it has taken some important steps in the right direction.

Finally, I would call the attention of my colleagues to the last section of this bill, which calls for the study of many crucial areas of the student loan program. The overall role of guarantee agencies will be examined by the General Accounting Office, which I urge to take a well-balanced and case-by-case approach to reviewing our functioning agencies. The GAO must avoid blanket characterizations of these institutions which ultimately place one or more of the guarantee agencies in a difficult financial position. Additionally, other reports will be forthcoming, which will hopefully provide the catalyst for further action on this subject. Certainly this legislation is only the beginning of a thorough evaluation of our Federal student aid programs.

Mr. President, I look forward to making the necessary improvements in order to ensure that the student aid program benefits our students and not unscrupulous wheeler-dealers and that the taxpayers do not become further exposed to losses in this program. Again, I commend the leadership of Senator NUNN in this area, and I am hopeful that we can continue to work together through final passage of this legislation and beyond.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[April 1991]

IMPROVING GUARANTEED STUDENT LOAN MANAGEMENT: A BLUEPRINT FOR ACTION

INTRODUCTION

Long-simmering problems in the management of student financial aid programs—particularly the Guaranteed Student Loan (GSL) program—culminated last year in the financial collapse of the Higher Education Assistance Foundation (HEAF), a national Guarantor of student loans. The Department of Education (ED) acknowledge that its managerial practices contributed to high loan default rates, as well as fraud and abuse in the program, and recognized the need for restructuring and refocusing management. In addition, ED concluded that two issues deserved immediate attention: (1) the efficiency of the present system for certifying eligibility of schools and (2) the broader question of whether or not the Department's use of federally-staffed regional offices rather than the development of a strong state-level capacity could continue to be a viable approach.

PROBLEMS WITH THE PROGRAM

A review team, led by ED and the Office of Management and Budget (OMB), carefully examined GSL operations and concluded—as had the Department, Congress and others—that the current program has real problems. Among them:

Too many shoddy schools in the student aid programs. Statutes exist to prevent marginal schools from participating in the program, but ED has failed to use these statutes. One result of this failure has been an ever-increasing number of loan defaults, which are estimated to reach $2.7 billion in 1991. Another result has been abuse of the system—and outright fraud.

Inadequate guarantee agency oversight and management. This inadequacy was evident in the Department's failure to react to early indications and to take effective steps to prevent the collapse of a large guarantee agency, the Higher Education Assistance Foundation (HEAF). The HEAF collapse threatened the availability of loans to millions of students and cost the government at least $30 million. While the Department can manage a crisis, it is better to prevent a crisis from occurring.

Poor financial management capabilities. The General Accounting Office reports it cannot audit the GSL program because accounting records are poorly maintained. The Department has been forced to hire contractors to assemble basic guarantee agency data that should have been available and routinely analyzed.

Limited data and analysis. In many cases ED can't answer even basic questions about the program and its effectiveness. In some cases, the Department does not have data; in other cases, the data are available but not routinely analyzed.

ACTIONS RECOMMENDED

The review team—with the intent of building on reforms requested by the Administration and enacted by the Congress in the Omnibus Reconciliation Acts of 1989 and 1990—recommended that the Department of Education do the following:

Reorganize the Office of Postsecondary Education (OPE) and build up its staff level and ability to ensure that the other actions are implemented aggressively and effectively.

Strengthen and coordinate gatekeeping and monitoring functions to ensure that only legitimate educational providers participate in student aid programs;

Improve oversight of guarantee agencies and lenders;

Provide better systems and data for control and decision making; and

Organize a team to ensure that ED carries out these actions.

BACKGROUND

The following background information should help to clarify the analysis of the review team and the reasoning behind the actions they recommended.

HOW THE PROGRAM WORKS

The GSL program uses a complex system of nearly 8,000 postsecondary institutions (who verify student enrollment and eligibility for loans), 13,000 private lenders (who make the loans), and 45 State and private guarantee agencies (who insure the loans against default). This system provides loans to students or their parents to help meet the costs of postsecondary education. In 1991, about 4 million individuals will receive almost $11 billion in GSL loans. The Department reinsures the guarantee agencies for default claims paid to lenders.

By the end of 1991, there will be over $55 billion in outstanding loans. Total loans number over 22 million. The gross cumulative default rate has risen to nearly 17 percent, with the net default rate (offset for collections) approaching 12 percent. Schools with less than four-year programs typically have high default rates: proprietary schools averaged a 27 percent cohort default rate in 1989. Two-year public institutions averaged 17 percent, while four-year schools averaged 6 percent.

Besides providing reinsurance, ED recognizes accrediting agencies and approves school participation in the program through eligibility and certification procedures. It also enters into participation agreements with the guarantee agencies. While guarantee agencies determine and monitor lender participation in the program, ED can also take enforcement action against lenders. In addition, ED collects and disseminates data on the GSL program to inform managers and policy makers.

ORGANIZATIONAL PROBLEMS

Within the Office of Postsecondary Education (OPE), responsibility for student aid has been divided among the various offices. This division has led to fragmented management of the GSL program. For example, although there is a Deputy Assistant Secretary for Student Financial Aid and a Director of Student Financial Assistance Programs, neither is singly charged with responsibility for the three "gate keeping" functions of accreditation, eligibility, and certification. These functions determine which schools are allowed to enter the GSL program and continue to participate. Similarly, planning and program development occurs in three different offices, despite overlapping issues and concerns. The Assistant Secretary of Postsecondary Education is the only official within OPE whose responsibility encompasses all student aid functions. As a result, he has to deal with an unnecessary number of separate offices on any given issue.

This fragmented organizational structure complicates communication and decision making within the Department; results in several different offices dealing with schools, lenders, and guarantee agencies; delays the issuance of guidance and regulations; splits responsibility for compliance; reduces the likelihood of comprehensive program and system changes; limits program and policy analysis; and fails to use resources and processes in a coherent and effective manner.

Recently, OPE management took a positive step by transferring the school eligibility and certification functions into the Office of Student Financial Aid (OSFA). These functions have yet to be integrated fully into OSFA operations. Because the current Deputy Assistant Secretary has been "acting" for nine months, his ability to make major changes in organization and staffing has been limited.

Improvements in the financial management of the GSL program are critical. The present organization does not adequately emphasize fiduciary responsibilities, but focuses instead on promoting services to participants. To adjust and improve this focus, fresh management perspectives are in immediate necessity.

OPE does not have enough staff. Nor do all current staff have the necessary breadth, training, and skills to handle their growing responsibilities. OPE needs staff who can perform different managerial and analytical functions, with experience and training in finance, information systems, data analysis, planning and policy making.

What follows are recommendations for reorganization and staffing needs. They are ambitious and demand careful attention and diligent planning. The reorganization and specific personnel needs must be analyzed and clarified prior to hiring significant numbers of new staff. And senior managers should be involved in the reorganization, hiring, and training.

RECENT ACTIONS TO SOLVE PROBLEMS

ED and Congress have taken steps in recent years to curb the default problem. A default reduction initiative, implemented in 1986, combined legislative, regulatory, and management improvements. At both the Administration's request and its own initiative, Congress incorporated needed reforms in the Omnibus Budget Reconciliation Acts of 1989 and 1990. These changes included:

Eliminating GSL eligibility for students attending institutions with high default rates unless the institution can show mitigating circumstances that explain their high rate. This change will assist in removing the worst schools from the program and protect unsuspecting students who would have attended these institutions. Schools with default rates above 35 percent will not be eligible for the program starting July 1, 1991.

Lowering loan limits in the Supplemental Loans for Students program if students are enrolled in programs of less than one year. This change will prevent students in short-term programs from incurring excessive debt that their future earnings would be unlikely to support.

Delaying disbursement of GSL loans. This change will prevent students who drop out of school quickly from incurring large debts and would deter schools from registering students who are likely to drop out—a practice designed to obtain initial tuition and fees payments without the responsibility of rendering services.

Requiring schools to administer Secretary approved tests to students without a high school diploma, a strategy designed to determine a student's ability to benefit from the postsecondary program. This change will prevent students from enrolling in programs for which they are not prepared and, as a consequence, incurring debts without acquiring the skills or education to support repayment.

To emphasize its seriousness in facing these problems head on, ED must begin these steps immediately with high level support and follow up.

Taken together, the recommendations presented in this paper should reduce potential defaults from students at educationally deficient schools; assure adequate scrutiny of the activities and financial practices of lenders and guarantee agencies; better concentrate resources on priority needs; develop and make available better ways of doing business for our managers and policy officials; and greatly enhance our ability to root out and remedy problems. These suggested steps are realistic and a vital part of an overall strategy for improved management.

SPECIFIC RECOMMENDATIONS

The following specific recommendations are designed to implement the actions outlined in this report.

Recommendation No. 1: Reorganize the Office of Postsecondary Education into two subsidiary offices, each headed by a Deputy Assistant Secretary reporting to the Assistant Secretary for Postsecondary Education.

The Office of Student Financial Assistance—responsible for all student aid functions.

The Office of Higher Education Programs—responsible for grant and other initiatives to improve postsecondary education.

Discussion: In this organization, the Deputy Assistant Secretary for Student Financial Aid would be responsible for all student aid functions (including debt collection and other credit-related activities) and all gatekeeping/monitoring/compliance functions. To accomplish this restructuring, the Agency Evaluation and Support Division would be transferred to OSFA from the Office of Higher Education Programs. All other OPE functions would be the responsibility of a Deputy Assistant Secretary for Higher Education Programs.

The Office of Student Financial Aid would be organized along functional lines since many of its activities cut across programs. Three offices would be established: Program Development; Compliance and Enforcement; and Debt Collection, Finance, and Data Systems. The three offices would be headed by high-level, career-reserved Senior Executive Service employees with strong managerial and analytical skills.

To improve and consolidate OSFA's analytic capabilities, a new Division of Program and Financial Analysis would be established in the Office of Program Development. One unit would be dedicated to analyzing and monitoring the financial practices and condition of guarantee agencies (in the manner of bank examiners). This unit should be staffed with individuals trained in financial analysis, accounting, and management. Another unit would combine quality control and program analysis functions. This unit would compile and analyze program statistics and prepare reports on activities and trends in the student aid programs. It would be staffed with individuals who are experienced in program analysis and have strong analytical and quantitative skills.

The proposed reorganization would ensure clean lines of communication and responsibility in managing and operating the student aid programs. By itself, however, the reorganization is unlikely to remedy the GSL program's myriad problems. Without strong talent in OSFA directing the groups responsible for solving the problems, any reorganization will probably accomplish little.

Recommendation No. 2: Emphasize strong leadership in all senior positions, including the Assistant Secretary, Deputy Assistant Secretary for Student Financial Aid, and the three office heads.

Discussion: The top administrator in OSFA—the Deputy Assistant Secretary for Student Financial Aid—should be selected on the basis of strong professional and management qualifications. This administrator should understand and be experienced in student aid or other large loan programs. The desperate need to improve the management and operations of this office demands an extremely well-qualified person to be available for the long haul.

All senior positions should be filled as soon as possible so that these officers can be involved in reorganizing the system and in hiring and training staff. Strong leadership is critical to integrating successfully the functional organization recommended above. Each of the three functional offices should be headed by a strong manager. The Program Development head should be well-versed in program and policy analysis; the Compliance and Enforcement head should have a background in financial analysis and oversight of complex entities; the Finance and Data System head should have strong computer analysis and systems skills and substantial experience in credit management.

Recent changes in the civil service law provide greater flexibility for recruitment efforts, and salary levels are more competitive; so there is potential for obtaining high quality management personnel. Limited funds for these activities are available in 1991. Where necessary, the Department should use limited-term or other accepted appointments to bring senior managers onboard quickly.

Current OPE staff should also be considered and selected if they bring appropriate skills, records of strong performance, perspective, and commitment to the position. Adequately trained and skilled support staff will also be needed with the creation of these new positions.

Recommendation No. 3: Reinforce staff at all levels of OSFA. Hire the numbers and kinds of staff necessary to handle the increased load to be placed on the office by new emphasis on analytical, quantitative, and managerial skills. Consider development of staff with the skills and perspective of bank examiners to handle guarantee agency monitoring.

Discussion: During the past 10 years, responsibilities in the student loan programs have grown substantially. Given the new demands to be placed on the organization for increased intensity in monitoring, data gathering and analysis, and financial management, significant numbers of new and retrained staff will be necessary to accomplish its mission. If the 1992 budget request is enacted, the employment ceiling for 1991 and the requested budget for 1992 would allow OPE to hire up to 150 new staff members by the end of this calendar year. It is reasonable to presume that most, if not all, of this number will be needed. At present, about 300 FTE are devoted to GSL and another 580 FTE work on other student aid programs. This goal is ambitious and will only be achieved through the following measures: expedited development of position descriptions; on-site recruitment of this spring's recipients of bachelor's and master's degrees—beginning immediately; and a major emphasis on hiring Presidential Management Interns from this year's class. The Department's personnel office may require additional support from the Office of Personnel Management to devise and carry out this intensive recruitment effort, which can include the new flexibility for recruitment included in last year's pay reform legislation. A full recruitment strategy should be developed and put into effect within the next three months.

The additional staff would complement the current OPE staff and should be assigned to financial and compliance-related activities, including certification, re-certification, and the imposition of sanctions, program reviews, information and data systems, program and policy analysis. These new staff members would supplement increases in recent years and would be distributed among the three new organizational units. However, the greatest share should be devoted to financial compliance and analysis.

An immediate priority effort must be to use more productively a major resource already within OPE: the current staff. Training programs specifically oriented toward expanding and improving the skills of current OPE staff must be developed and implemented quickly. Having staff operate with status quo skills while expanding the management effort will impair achieving the reforms sought for this program. New staff should complement, not compete with, current staff.

Recommendation No. 4: Strengthen and Coordinate Gatekeeping and Monitoring.

Discussion: Gatekeeping refers to the screening procedures followed by the State licensing agencies, accrediting agencies, and ED in recognizing accrediting agencies and scrutinizing institutions seeking to participate in student aid programs. State licensing bodies grant operating licenses; accrediting agencies review the quality of a school's academic program; ED recognizes accrediting agencies, ensures that the school meets the statutory definition of an "eligible" institution, and certifies that the school has the administrative and financial capability to participate in student aid programs.

Although most institutions participating in the student aid program are legitimate educational providers, some are not. Some of the high default rates and the associated problems of fraud and abuse occur because the accreditation, eligibility, and certification process has not worked well.

Accreditation agencies may not have adequate criteria in areas such as administrative and financial capability, and student outcome data. Although ED has formally recognized accrediting agencies for years, the strongest sanction taken against an accreditation agency to date has been limiting the term of recognition.

A study by the Office of Inspector General found that the Department did not enforce basic financial guidelines in its reviews, although OPE staff members assert that significant improvements have recently been made. However, this is an area where there are too few trained financial analysts. For this reason, underlying problems may continue without increased staff with new skills.

Responsibility for the gatekeeping functions is splintered. The 200 regional staff members, who perform routine program reviews and audit follow-ups, are not regularly involved in reviews of a school's eligibility and certification, a task performed by staff in Washington. Such tangential efforts squander opportunities to act on 'problem' schools in a concerted way. Until recently, the Deputy Assistant Secretary for Student Financial Aid has lacked responsibility for the crucial gatekeeping functions—accreditation, eligibility, and certification. While eligibility and certification were recently transferred to OSFA, accreditation remains in another office.

Once it is initially determined that schools are able to participate in student aid programs, they must continue to be monitored for compliance. ED has the authority to fine schools, place limitations on their participation in the program, and suspend or terminate participation. Yet Departmental use of these sanctions is an uncommon recourse. Since 1987, three suspensions and 35 limitations have been initiated; 44 schools have been terminated. In 1990, fines were assessed against 217 schools, resulting in payments of $765,000. Because fines (including those based on audit liabilities) are 'negotiated', the total pales when contrasted to the $106 million of proposed fine amounts and audit liabilities which comprised the starting points for negotiation.

Schools are required to submit a non-Federal financial and compliance audit every two years. These audits are frequently late—or never submitted. Many are seriously deficient in detail and quality. There is little indication that the Department uses the required biennial audits to undertake a credible review of a school's financial condition. Over fifteen hundred program reviews of schools are completed annually; these concentrate on student-aid aspects, rather than on financial aspects. The program reviews are supplemented by IG reviews of proprietary schools, but these efforts are demonstrably inadequate. They must be significantly increased and rigorously pursued.

Recommendation No. 5: Begin now to work with licensing boards and accreditation agencies to establish higher standards, including rewriting accreditation regulations.

Discussion: Without additional legislative authority, it is difficult for ED to influence the activity of State licensing boards. The 1992 Budget and legislative programs include specific suggestions for both licensing and accreditation improvements. In the meantime, the Department should seek to work in a cooperative manner with these boards to strengthen licensing criteria.

The Department does, on the other hand, have authority to change the criteria for recognizing accreditation agencies. Although a blunt instrument, the Department can condition or withdraw recognition of a agency. This authority has not been fully utilized. The Department should examine the criteria that accreditation agencies must meet to be recognized, focusing first on gaps or weaknesses that allow widespread accreditation by particular agencies of schools with high default rates. Revision of these criteria through rulemaking may be necessary to strengthen the accreditation activities of these agencies.

Regulations allow the Department to review an agency's recognition at any time, and to withdraw recognition of the agency. The Department should use this authority to undertake priority reviews of accrediting agencies whose accredited schools have disproportionately high default rates. The reviews should provide the basis for revising and strengthening the accreditation criteria and processes used by these agencies.

A performance-based system to ensure accountability in student aid should be considered. An institution's default rate is one outcome measure, but the Department should develop others.

Recommendation No. 6: Combine and enhance reviews of ongoing program eligibility and administrative and financial certification and apply standards for participating schools more strictly.

Discussion: OSFA should condition or limit the certification of a school for administrative and financial capability to participate in student aid programs where such capability is not demonstrated. OSFA should also regularly monitor a school's financial condition and performance with Departmental financial and administrative capability requirements.

New financial analysts and program reviewers should coordinate activities within the OSFA and with the Inspector General to undertake gatekeeping activities better. The Department should work with an outside financial or management consultant to develop analytic guidelines and models to aid them in their reviews.

Recommendation No. 7: Expand and streamline the process for terminating a school's participation in the GSL program. Final regulations should be promulgated expeditiously.

Discussion: Hundreds of schools with average default rates over 35 percent will be eliminated from eligibility in July of 1991 with the implementation of the Omnibus Budget Reconciliation Act of 1990. A 30 percent cut-off will begin in 1993. The Department should be fully prepared to undertake timely adjudications and process appeals expeditiously. The Offices of General Counsel and the Administrative Law Judges, in addition to OPE, must continue efforts to gear up for likely appeals. At the present time, the Notice for Proposed Rulemaking—which would lay out the appeals process for terminated schools—is awaiting the definition of "mitigating circumstances" that would allow high default schools to avoid termination.

ED must have a well-reasoned rule proposal ready very soon. It should be shared with OMB, interest groups, and affected Hill staff and their views taken into account before an NPRM is published. Twice last year Congress passed laws to overrule student-aid regulations judged to be inadequately developed; this rule is too critical to fall into that category.

Recommendation No. 8: Immediately begin using financial and compliance audits, improved monitoring, and sanctions against schools with inadequate financial resources.

Discussion: Amend the "School Site Review Guide" to place greater emphasis on assessments of an institution's financial condition and include guidelines for doing these.

Better coordination is required between the program review and monitoring, and IG functions to assure continuing oversight of schools that are financially weak. An OPE reorganization combining gatekeeping and review functions will have major payoffs in improved communications and coordination.

The Department must ensure that OPE's recent tightening of surety bond requirements is reducing the Government's financial exposure and constraining, financially troubled schools from going overboard in relying on GSL-based tuition payments.

Current authorities must be applied much more aggressively. Through use of conditional certifications, the Department can increase the frequency and content of financial reviews of particular schools.

Recommendation No. 9: Immediately begin expanding the financial oversight of guarantee agencies. Stipulate minimum financial solvency requirements in agreements with guarantee agencies. Use an early warning system to detect financial weakness, and establish procedures for potential guarantee agency collapse.

Discussion: ED lacks any satisfactory system for monitoring the financial condition or practices of guarantee agencies. There is no "early warning system" to alert the Department that a guarantee agency is in financial trouble and that immediate intervention may be necessary. Indications of financial difficulties at HEAF failed to generate any timely Departmental response and were inadequate to forestall HEAF's complete collapse.

Department reviews of the financial condition of the guarantee agencies indicates that four guarantee agencies may fail in the next several years if corrective actions are not taken; others are in a financially vulnerable position. In addition, the takeover of HEAF will continue to require careful monitoring on an ongoing basis.

Inadequate controls allow lenders to delay or miss payments to ED of loan origination fees that they collect and which are owed the Government.

Under recommendation No. 1, a special unit responsible for monitoring the financial condition and practices of guarantee agencies would be established in the Office of Program Development.

Existing guarantee agency analytical models should be revised and improved as necessary and utilized by management to monitor the health of the agencies and to forecast future problems.

Procedures should be developed in anticipation of future guarantee agency failures. Departmental intervention and coordination with such agencies should occur early on to address problems.

Recommendation No. 10: Increase the number and severity of penalties and sanctions levied against guarantee agencies and lenders who fail to comply with substantive administrative and financial provisions.

Discussion: The General Counsel's Office should review and issue a report on the various compliance authorities available to the Department in enforcing various requirements of the GSL program.

Guarantee agency responsibilities for oversight of lenders and schools (including enforcement of program requirements) should be monitored closely and coordinated with Departmental monitoring and compliance efforts.

Through regulatory changes, the government should tighten controls on lenders over collection of loan origination fees and the accounting for these funds. These, and all other regulations, must be monitored closely to make sure they are issued on a timely basis.

Recommendation No. 11: Evaluate the data and information needed to manage and plan for the GSL program, and provide for better systems and data for control and decision-making.

Discussion: The Government Accounting Office, the Inspector General, and the Senate Subcommittee on Investigations have all characterized the Department's computer systems for the GSL program as being wholly inadequate. Data from these systems are either old, unreliable, or not collected at all. Data bases do not relate well to each other; information is replicated in many different subsystems, but because of coding and other errors, it is not easy to correlate or combine data. Data that are available are often not analyzed or used effectively. No systematic analysis of required and/or desired data has been undertaken.

Some of the problems stem from a scheme that has compartmentalized management of these systems. There is a poor understanding of what each system contains and how their operations might be integrated. This lack of understanding appears to be carrying over into the development of a new system, the National Student Loan Data System (NSLDS)—where a precise definition of how the NSLDS will interface with, complement, or supplant the three existing systems—has yet to be prepared.

Because high quality, timely data are generally not available, the Department often cannot answer questions on student aid programs and participants. When policy, regulatory, or financial analyses raise more complicated questions, these often require a time-consuming and costly reprogramming of software before a response can be given. In addition, the Department often cannot readily judge the effectiveness or merits of programs, management techniques, or alternative policy proposals because of insufficient information, analyses, and evaluations.

A comprehensive analysis of data needs is the first step to improving program management and information. The study teams on data needs did not undertake this kind of assessment. Such an assessment involves determining what information is needed to accomplish the following: to monitor guarantee agencies and lenders, to predict more accurately default and interest costs, to improve collections, to forecast volume, to outline borrower characteristics, to analyze proposed legislative and regulatory changes, and to evaluate program effectiveness.

Recommendation No. 12. Correct serious shortcomings in current management information systems so that data required for compliance, financial, and evaluation purposes are useful, timely, and accurate.

Discussion: Once data needs have been identified, ED should make it a priority task to evaluate the best way to collect these data. To accomplish this task, the Department must first understand how data needs relate to other student aid programs. Such understanding will require a comprehensive assessment of all data needs and the current GSL-related systems, including the delineation of data flows, definition of user needs, and approved and proposed plans to modify current systems.

For the new National Student Loan Data System (NSLDS), data content, applications, and linkages with other GSL-related systems must be quickly defined. The prospective cost of NSLDS (as well as system designs that delay operational use until a full-blown system is finished) must be scrutinized carefully or else the system will have little value for its primary purpose of reducing defaults and overpayment of awards.

The staff for developing, procuring, and operating GSL information systems should be consolidated in a single organization within OSFA.

Contracts for the GSL and Title IV Application systems are up for renewal in 1993. The future design and operation of these systems must be integrated with the design and operation proposed for NSLDS. ED should initiate further cost/benefit analysis on the merits of changing the present arrangement between the contractors and the Department on the ownership and operation of the systems. This analysis should be undertaken so the Department can be more responsive to changing needs.

Program analysis, simulation modelling of the student aid programs, and evaluation activities should be increased to assess better how programs are working and whether or not they are effecting the intended outcomes. Program analysis—compiling program data and preparing reports on the student aid programs—would occur in the new OSFA analysis division. To ensure independent and objective assessments of program operations and performance; the Planning and Evaluation Service (in OPBE) should continue to be responsible for program evaluations. Evaluation activities include analyses of participants, services, and strategies to determine if program operations are effective. Because of past problems with predicting student aid costs, responsibility for computer models that analyze the distributional and cost implications of changes in the student aid programs should be better organized and responsibility centralized in one office.

A long-term analysis and evaluation plan for student aid should be developed by the Department. These activities must be accompanied by greater coordination and cooperation among Department offices. The development of this plan should involve all Department offices responsible for student aid programs. Earmarking program funds in appropriation requests would be one way to increase funds for evaluation of the student aid programs; in the past program funds have not been available for studies. While over $16 million is spent on Chapter 1 evaluation each year, less than $5 million per year has been used on student aid evaluations.

On a regular basis, the Department should prepare, publish, and disseminate an increased number of reports on student aid programs—program descriptions, program and policy analyses, and evaluation studies. The new OSFA analysis division and OPBE would be responsible for these reports.

Recommendation No. 13. Immediately begin to establish a temporary team with responsibility for ensuring that the Department successfully carries out these recommended actions.

Discussion: A temporary team of Departmental staff should be created and assigned the task of implementing the near-term program-related actions. The temporary team should review the study team reports and outline a blueprint for specific action. (These reports contain more detailed findings and specific recommendations which complement the general recommendations outlined above.) The team should also ensure that various reorganization proposals, position descriptions, and recruitment plans are prepared.

This team should be headed by a senior staff person and should report to a senior official representing the Secretary. This step is important to ensure actions and to indicate to the outside community, including Congress, the seriousness of the entire Department's commitment to solving these problems.

The team should also review the process for student aid regulation—which is historically slow and long—and should identify and correct any systemic Departmental problem that might cause lengthy delays in strengthening and restructuring the organization.

At the beginning, status reports should be prepared each month so that implementation problems are recognized and addressed quickly. The team should also prepare periodic reports to the Secretary that indicate the Department's commitment to real reform in the student aid programs.

CONCLUSION

As mentioned earlier, none of these recommendations are earth-shattering. However, taken together they constitute a strong course of corrective action by the Department. To implement these recommendations successfully would require a major commitment of resources and leadership beginning immediately. Without this kind of commitment, the recommended steps will have limited impact on GSL management and operations.•

By Mr. INOUYE (for himself, Mr. HOLLINGS, Mr. STEVENS, Mr. BENTSEN, Mr. KERRY, and Mr. BURNS):

S. 1504. A bill to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PUBLIC TELECOMMUNICATIONS ACT

• Mr. INOUYE. Mr. President, I rise today to introduce the Public Telecommunications Act of 1991, legislation authorizing funding for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996 and for the Public Telecommunications Facilities Program [PTFP] for fiscal years 1992 through 1994.

Public broadcasting has been an integral part of the American broadcasting system since its inception in the 1920's. A public broadcasting station was one of the first radio stations to go on the air in the early 1920's. Public broadcasters have been innovators both in the areas of programming and technology. In fact, PBS was one of the first organizations to test satellites as a mechanism for distributing programming to its affiliates. Since its beginnings, public broadcasting has grown to become synonymous with quality programming addressing a wide range of issues and concerns. These facts demonstrate that public broadcasting has come a long way toward achieving its goals.

When the Public Broadcasting Act of 1967 was passed, its basic purpose was "to encourage the growth and development of public radio and television broadcasting * * * for instructional, educational, and cultural purposes; * * * to develop technologies for the delivery of public telecommunications services; and expansion and development of [the] diversity of its programming." I think that we can all agree that public broadcasting has worked to fulfill those goals and, for the most part, successfully.

In the 20 years since the Public Broadcasting Act was passed, the number of noncommercial stations and the available programming has inceased tremendously. At the same time, the number of alternative sources of programming have evolved, particularly, video services. This does not mean that the work of the CPB or our public broadcasting stations is finished. There continue to be many rural areas that have few if any public broadcast stations. There continues to be a need for expansion of public broadcasting service, particularly public radio stations and programming service in less populated and remote areas of our Nation. This Congress the committee intends to examine these needs and try to allocate sufficient resources to address the needs of these citizens.

In addition, public broadcast stations are finding it increasingly difficult to fund existing operations and programming, not to mention research and development. To ensure that the CPB can assist stations in the maintenance and expansion of their current high quality programming, to enhance program production, and to further technological developments in the industry, this legislation authorizes funding for the CPB in the amount of $355 million for fiscal year 1994, $401 million for fiscal year 1995, and $444 million for fiscal year 1996.

The bill also addresses one housekeeping matter, the CPB presently has an even number of Board members. In order to avoid stalemates, this bill reduces the number of CPB board members from 10 to 9, to give the CPB an odd number of Board members. The legislation also lengthens the terms of each member from 5 to 6 years and staggers the terms of the members.

Funding for the PTFP is also authorized in this bill. This program provides funds for the construction of new stations and upgrading of existing stations. It helps to ensure public broadcast service to unserved and underserved communities or segments of the population. This bill authorizes $42 million per year each year for fiscal years 1992, 1993, and 1994.

The increases proposed here are necessary to enable the program to overcome the effects of inflation and to permit a small increase in the number of stations assisted. In 1990, the program received 276 eligible applications for assistance totaling over $59.8 million but was only able to accept 111 applications, awarding $20.7 million. In addition, the cost of transmission equipment and other necessary facilities has increased between approximately 20 percent over the last 5 years. Thus, the increases are necessary to cover some additional funding requests and cover the costs of inflation.

In closing, I want to urge all of my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Telecommunications Act of 1991".

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1990," ; and

(2) by inserting "$42,000,000 for fiscal year 1992, $42,000,000 for fiscal year 1993, and $42,000,000 for fiscal year 1994," immediately after "1991,".

CONGRESSIONAL DECLARATIONS OF POLICY

SEC. 3.(a) Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting immediately after paragraph (7) the following new paragraphs:

"(8) public television and radio stations constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

"(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and".

BOARD OF DIRECTORS

SEC. 4. (a)(1) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(A) by striking "10" and inserting in lieu thereof "9"; and

(B) by striking "6" and inserting in lieu thereof "5".

(2) Section 396(c)(2) of the Communications Act of 1934 (47 U.S.C. 396(c)(2)) is amended by striking "10" and inserting in lieu thereof "9".

(b) Section 396(a)(5) of the Communications Act of 1934 (47 U.S.C. 396(a)(5)) is amended to read as follows:

"(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 4(c) of the Public Telecommunications Act of 1991. Any member appointed to full a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.".

(c)(1) An office, as referred to in this subsection, is an office as a member of the Board of Directors of the Corporation for Public Broadcasting.

(2) With respect to the three offices whose terms are prescribed by law to expire on March 26, 1992, the term for each such office immediately after that date shall expire on April 1, 1998.

(3) With respect to the two offices whose terms are prescribed by law to expire on March 1, 1994, the term for each of such offices immediately after that date shall expire on April 1, 2000.

(4) With respect to the five offices whose terms are prescribed by law to expire on March 26, 1996—

(A) one such office, as selected by the President, shall be abolished on March 26, 1996;

(B) the term immediately after March 26, 1996, for another such office, as designated by the President, shall expire on April 1, 2000; and

(C) the term for each of the remaining three such offices immediately after March 26, 1996, shall expire on April 1, 2002.

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION

SEC. 5. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "and" 1993" and inserting in lieu thereof "1993, 1994, 1995, and 1996";

(2) by striking "and" after "fiscal year 1992,"; and

(3) by inserting ", $355,000,000 for fiscal year 1994, $401,000,000 for fiscal year 1995, and $444,000,000 for fiscal year 1996" immediately after "fiscal year 1993".

REPEAL

SEC. 6. Paragraph (4) of section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is repealed.

EFFECTIVE DATE

SEC. 7. Section 4(a) shall take effect on March 26, 1996. All other provisions of this Act are effective on its date of enactment.●

● Mr. HOLLINGS. Mr. President, I rise today to express my strong support for the Public Telecommunications Act of 1991, which I am proud to cosponsor. This bill authorizes funding for the Corporation for Public Broadcasting and the Public Telecommunications Facilities Program and will ensure the continued growth of the American system of public broadcasting, a vital part of our broadcasting industry and an important source of informational, cultural, and instructional programming.

I have long supported the American system of public broadcasting. Many Americans depend on public broadcasting for substantive, in-depth treatment of current issues that commercial stations do not provide. Despite numerous changes and funding obstacles, our public broadcasters have consistently provided the American public with high-quality programming, like the PBS Civil War series.

Today, many of the larger markets have multiple public television and radio stations serving the diverse interests of those communities. At the same time, we should not lose sight of the fact that there are still communities with little or no service, and we must continue to strive to serve these areas. There are rural areas in this country where public radio stations are the only broadcast stations available to residents. As a result they bear a tremendous burden and need our support.

In the area of education, public broadcasters work with our schools and universities to expand and supplement their curricula. In view of the rising costs of education, it is imperative that we continue to fund one of the most economical and efficient mechanisms of distributing educational information to our children, both in their homes and in schools.

Given the importance of public broadcasting, the funding provided in the bill is far less than what ideally is needed, but is realistic in the context of the current budgetary climate. We are aware that the majority of public broadcast stations' funding is raised from private sources—sources that are suffering the effects of the current recession. In addition, these stations are facing funding reductions in State and local funding. Thus, while the CPB provides only 15 percent of all the funds used for the operation of public broadcast stations and the production of programming, it is imperative that we provide the maximum support possible for our stations in this authorization.

In closing, I believe that this legislation is essential if our public broadcasting system is to continue to provide quality programming to the Nation's citizens. I urge my colleagues to support it.●

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. MCCAIN, Mr. SHELBY, Mr. KENNEDY, Mr. HOLLINGS, Mr. BRADLEY, and Mr. METZENBAUM):

S. 1505. A bill to amend the law relating to the Martin Luther King, Jr. Federal Holiday Commission; to the Committee on the Judiciary.

MARTIN LUTHER KING HOLIDAY

Mr. DECONCINI. Mr. President, I rise today, along with my colleagues, Senators HATCH, MCCAIN, SHELBY, KENNEDY, HOLLINGS, BRADLEY, and METZENBAUM, to introduce a bill which will improve the effectiveness of the Martin Luther King, Jr., Federal Holiday Commission. An identical bill, H.R. 2215, was introduced in the House of Representatives by Congressman SAWYER on May 2, 1991.

This Commission was established in 1984 to encourage activities relating to the observance of the Martin Luther King, Jr., Federal holiday honoring the accomplishments of Dr. King. Although Congress appropriated $300,000 per year for 5 years to the Commission in 1989, the tremendous reponse to the efforts of this valuable organization has created a need for the Commission to expand its work force.

The Commission has experienced a great deal of success in accomplishing its objectives. When the Commission began work in 1984, only 17 States recognized the achievements of Dr. King by observing the Martin Luther King, Jr., Federal Holiday. Since that time, an additional 32 States have established a holiday honoring achievements in the area of civil rights. Although my home State, Arizona, does not currently recognize the achievements of Dr. King, 23 cities, including Phoenix and Tucson, have responded to efforts promoting Dr. King's achievements by celebrating the holiday through their own initiatives. By promoting compassion, justice, and understanding, the Commission educates our young about the importance of racial equality.

Although the Commission has been successful so far, without additional funding they will not be capable of fulfilling the objectives my colleagues felt so strongly about in 1989. Because of the Commission's difficulty competing against established organizations for private sector contributions, the Commission will fall short of their necessary funding requirements.

The bill I am introducing today will remedy this situation by authorizing an additional $200,000 and $400,000 for the Commission for the 1992 and 1993 fiscal years, respectively. This additional funding authorization will allow the Commission to maintain the quality of the personnel they currently have, while expanding their work force to meet the demands of their wide-ranging activites.

Specifically, the additional funding authorization will allow the Commission to expand from five to eight staff positions and from 23 to 30 at-large members. Both of these provisions are included in my bill, which also increases the maximum rate of pay for staff members from GS-13 to GS-15. Aside from the increase in authorized funding, this bill will not result in additional costs, but the quality and quantity of the Commission's activities will be improved.

During his lifetime, Martin Luther King, Jr., fought for the cause of civil rights for all people, which affected millions of lives. His accomplishments live on as our society continues to strive for racial equality. This bill merely provides the Commission with the resources to continue informing our young that they too can make a difference. The effect of the Commission's efforts is felt not only in the area of civil rights, but throughout our society.

Mr. President, I ask unanimous consent that the entire text of the bill I am introducing today be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to establish a commission to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr." (36 U.S.C. 169j and following) is amended—

(1) in section 4(a)(6) by striking "twenty-three" and inserting "thirty";

(2) in section 6(a)—

(A) by striking "five" and inserting "eight"; and

(B) by striking "GS-13" and inserting "GS-15"; and

(3) by amending section 7 to read as follows:

"SEC. 7. There are authorized to be appropriated to carry out this Act—

"(1) $500,000 for fiscal year 1992; and

"(2) $700,000 for fiscal year 1993.".

By Mr. GLENN (for himself and Mr. HATCH):

S. 1506. A bill to extend the terms of the olestra patents, and for other purposes; to the Committee on the Judiciary.

EXTENSION OF THE TERMS OF THE OLESTRA PATENTS

● Mr. GLENN. Mr. President, I rise to introduce a bill and ask that it be referred to the appropriate committee.

Mr. President, this bill would extend certain patents related to a product known as olestra. Olestra is a fat substitute which tastes, feels, and acts like fat, but does not add any fat, calories, or cholesterol to the food in which it appears.

Procter and Gamble, an Ohio corporation, has spent tens of millions of dollars in research and development to create and develop olestra.

The thing about olestra which warrants the patent relief provided herein is that it is a unique product; so unique that the FDA has no precedent for the required review before the product is approved for consumer consumption. The review time is so extensive that, by the time it is given, if at all, the patents may have expired, depriving Procter and Gamble of all exclusive marketing rights of its invention.

I offer this legislation because I believe that the intent of the legislation is consistent with U.S. patent law, which protects exclusive marketing rights of a product. This protection is particularly important to encourage research and development on the part of U.S. corporations if America is to remain competitive in the international marketing arena.

In its development of olestra, Procter and Gamble has proven itself to be a pioneer in the area of fat substitutes in a weight- and health-conscious world market. The downside is that Procter and Gamble, by doing so, has found itself also in a pioneering regulatory situation.

I feel that the FDA is right in taking its time to carefully review this unique product, and that Congress should certainly do nothing to speed up or otherwise compromise this process. Consumer safety is the basis for the extensive review and I would rather see years of review to ensure that the product is safe than to rush the review only to find out years hence that the product should never have been released.

However, I do not feel that Procter and Gamble should lose the exclusive marketing rights of its product because of the additional review time. This bill would provide a 10-year extension on four olestra-related patents held by Procter and Gamble. The time of the extensions would begin at the time the product is finally approved by the FDA.

Mr. President, I feel that this action is proper and necessary. It will provide the necessary financial incentive for continued corporate investment in research and development, thus keeping U.S. corporations competitive in world markets.●

ADDITIONAL COSPONSORS

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 837

At the request of Mr. BUMPERS, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 837, a bill to amend the Internal Revenue Code of 1986 with respect to the discharge, or repayment, of student loans of students who agree to perform services in certain professions.

S. 1166

At the request of Mr. INOUYE, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1166, a bill to provide for regulation and oversight of the development and application of the telephone technology known as pay per call, and for other purposes.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1245

At the request of Mr. DASCHLE, the names of the Senator from Arkansas [Mr. BUMPERS] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1261

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1395

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1395, a bill to assist in the development of micro-enterprises and micro-enterprise lending.

SENATE JOINT RESOLUTION 8

At the request of Mr. SANFORD, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 140

At the request of Mr. WARNER, the names of the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. SYMMS], the Senator from North Dakota [Mr. BURDICK], the Senator from Missouri [Mr. DANFORTH], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 140, a joint resolution to designate the week of July 27 through August 2, 1991, as "National Invent America Week."

SENATE JOINT RESOLUTION 141

At the request of Mr. WARNER, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Idaho [Mr. SYMMS], the Senator from North Carolina [Mr. SANFORD], the Senator from Delaware [Mr. ROTH], the Senator from Missouri [Mr. DANFORTH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Pennslyvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 141, a joint resolution to designate the week beginning July 21, 1991, as "Korean War Veterans Remembrance Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. INOUYE, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 172, a joint resolution to authorize and request the President to proclaim the month of November 1991, and the month of each November thereafter, as "National American Indian Heritage Month."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. SYMMS], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from California [Mr. SEYMOUR] and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will be holding a hearing on disaster assistance legislation pending before the committee. The hearing will be held on Tuesday, July 23, at 9:30 a.m., in SR–332.

For further information please contact Bill Gillon of the committee staff at 224–5207.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Friday, July 19, 1991, to hold a hearing on Efforts to Combat Fraud and Abuse in the Insurance Industry: Part III.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MEDICARE AND LONG-TERM CARE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Medicare and Long-Term Care of the Committee on Finance be authorized to meet during the session of the Senate on July 19, 1991, at 10 a.m., to hold a hearing on the Health Care Financing Administration's [HCFA] rulemaking proposal on Medicare physician payment reform.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 19, at 10 a.m., to receive a closed briefing on Chinese nuclear involvement in the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, July 19, 1991, at 9:30 a.m., to hold a hearing on the nomination of Andrew J. Kleinfeld, to be U.S. circuit judge for the ninth circuit, Benson Everett Legg, to be U.S. district judge for the district of Maryland, Dee V. Benson, to be U.S. district judge for the district of Utah, and Donald L. Graham, to be U.S. district judge for the southern district of Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HELPING THE SOVIET OIL INDUSTRY

• Mr. LIEBERMAN. Mr. President, a few days ago, the Journal of Commerce contained a very thoughtful essay by Peter von Braun, a constituent of mine, on how to resuscitate the Soviet oil industry.

He knows of the problems confronting the industry, because through his company, U.S.S.R. Oil Recovery, he has been working hard to bring new life to existing Soviet oil fields through innovative techniques. He has had some success, but has run into the ubiquitous Soviet bogeyman—the vast government bureaucracy—in trying to do business with Soviet oil barons.

There has been a great deal of discussion about putting together a grand bargain to aid the Soviet Union. The Federal Government has a large deficit, so a significant infusion of cash to the Soviets—even if all economic and political conditions for such aid were met ahead of time—is not a real possibility. But it is strongly in our national interest, in light of our overdependence on Middle Eastern oil, to increase Soviet oil production and exports. If we can work with them to bring life to their oil industry, their oil industry could be the key to providing capital investment to support a market economy. A profitable oil industry enables the Soviets to pay for their own reforms. In his article, Peter suggests that the United States help the Soviets lay out specific objectives that can serve as a guide to turning around their ailing oil industry. He has some very interesting ideas. I am submitting his article for the RECORD so that my colleagues will have an opportunity to read it. The article follows:

[The Journal of Commerce, July 17, 1991]

FREE THE SOVIET OIL INDUSTRY

(By Peter von Braun)

Soviet President Mikhail Gorbachev is not likely to walk away from his meeting with Western leaders in London this week with promises of massive financial aid. Instead, he'll probably come away with more modest pledges of Western technical assistance. This could include some aid for revitalizing the beleaguered Soviet oil industry.

But no amount of Western help can make a difference unless the Soviets are ready to help themselves. As a first step, they should liberate the Soviet oil industry. Oil traditionally has been the largest Soviet export. And the Soviet Union needs to increase exports to earn the hard currency necessary to finance internal reforms.

Leading up to this week's G–7 summit in London, Secretary of State James Baker said a package of Western reforms for Moscow may include "a public-private project to resolve impediments to private investment in their energy sector, investments which can earn hard currency for them and provide an example of a successful sector operating with property and contract rights."

The Soviet oil industry faces a major crisis. Though the soviet Union is now the world's largest oil producer and a major exporter, many experts predict it will become a large importer of oil as early as the mid-1990s unless radical changes are made.

Soviet petroleum production has fallen from 600 million tons in 1988 to 550 million tons in 1990. Forecasts for 1991 show a continued decline to between 500 million and 524 million tons—equivalent to a drop of 1.5 million to 2 million barrels a day. This decline already has caused a major drop in Soviet oil exports, primarily to Eastern Europe.

The problems plaguing the Soviet oil sector today became obvious to me during a recent trip to the Soviet Union, where I consulted with oil producers to teach them techniques to get more oil out of older wells. Soviet oil producers must deal with faltering central control without clear guidelines as to how the new "system" works, a massive bureaucracy, compartmentalization of functions, and political confusion between the Autonomous Republics, Union Republics and All Union levels.

As a result of these problems, Soviet oil producers often have difficulty meeting their obligations under deals signed with Western companies. Their inability to deliver on their commitments—failure to export the oil earned by Western companies from joint production arrangements, for example—can destroy Soviet-Western relationships. Typical Soviet excuses are that "it's just too complicated under the current system" or "only Prime Minister Pavlov can approve exports now" and, left unsaid, "we don't dare approach him."

Further, it appears that some Soviet hardliners are opposed to increased Western investment in the Soviet oil industry, so they drag their feet on approving joint venture arrangements. Obstructing deals may be their unofficial way of driving out Westerners.

The United States can help by setting out specific reform objectives for Mr. Gorbachev. The first item on the U.S. agenda should be to insist that the Soviets live up to the deals they already have signed (the problem on non-payment is not unique to the oil patch). Liberating oil exports should be the first step.

Second, the United States should urge the Soviet to simplify the way business is done in their oil industry. There is much confusion over which level of government is in charge and how co-production, joint ventures or technology transfers get established, registered and authorized. This chaos delays investment and technology transfers for years. The Soviets must decentralize the decision-making process and clarify lines of authority.

Third, the United States should urge the Soviets, themselves, to invest in their own industry. Current Soviet "revenue sharing" arrangements are confiscatory beyond any rule of reason. The state pays many Soviet oil production associations only about 60 rubles-a-ton or about 8 rubles-a-barrel for the oil they produce. At free market rates, this is only about $2 a ton or $0.27 a barrel vs. world market prices of about $150 a ton or $20 a barrel.

Soviet oil producers have not had the money to invest in the maintenance of infrastructure, new technology, exploration and development, or even the most basic environmental safety measures. Often they require massive state subsidies to maintain even the most rudimentary levels of operations. Mr. Gorbachev must liberate the oil economy to finance needed reinvestment by letting producers keep more of the value of what they produce.

Fourth, the United States should urge the Soviets to price domestic energy, including petroleum, at free market levels. This would create a strong movement toward energy conservation and make pollution control through more efficient energy usage economically attractive. Conservation could have a great effect on Soviet petroleum consumption, increasing energy efficiency by 25% or more. This would free up some $20 billion worth of oil for export.

Skeptics would say that the Soviet economy cannot stand the shock of sensible oil pricing. Poland, Hungary and Czechoslovakia already have made this transition. As a huge oil producer, the Soviet Union should be able to handle the transition even more smoothly.

Liberating prices would do three things: force conservation, decrease pollution, and generate the hard currency necessary to finance reform. These three effects would create a massive stimulus for economic activity and create new markets for Soviet industry.

Without reforms in the oil industry, American companies will not be willing or able to transfer technology to increase oil production from existing Soviet oil fields—the answer to the short-term production crisis—or to undertake large scale exploration and development programs—the answer to long-term production needs.

Washington can do a great deal to help the Soviets pull themselves out of their own economic crisis. Urging Moscow to adopt sound energy policies should be very high on the U.S. agenda.●

WORKING FAMILY TAX RELIEF ACT OF 1991

● Mr. GORE. Mr. President, at the appropriate time in the future, I will propose the following amendment to S. 995, the Working Family Tax Relief Act of 1991. I ask that this statement and the following changes I will propose be printed in the RECORD.

Title I, on page 2, line 11, insert at the beginning of the line "beginning with the taxable year following calendar year 1992,"

Title I, on page 3, line 12, replace "1992" with "1993".

Title II, on page 5, line 20, replace "If taxable income is: Over $110,000 The tax is: $27,845.50 plus 35% of the excess over $300,000" with the following: "If taxable income is: Over $110,000, The tax is: $27,845.50 plus 36% of the excess over $110,000."

Title II, on page 6, line 4, replace "If taxable income is: Over $94,000, The tax is: $24,005.50, plus 35% of the excess over $94,000" with the following: "If taxable income is: Over $94,000, The tax is: $24,005.50, plus 36% of the excess over $94,000."

Title II, on page 6, line 12, replace "If taxable income is: Over $66,000, The tax is: $16,709.50, plue 35% of the excess over $66,000" with the following: "If taxable income is: Over $66,000, The tax is: $16,709.50, plus 36% of the excess over $66,000."

Title II, on page 7, line 2, replace "If taxable income is: Over $55,000, The tax is: $13,922.75, plus 35% of the excess over $55,000" with the following: "If taxable income is: Over $55,000, The tax is: $13,922.75, plus 36% of the excess over $55,000."

Title II, on page 7, line 8, replace "If taxable income is: Over $13,200, The tax is: $3,369, plus 35% of the excess over $13,200" with the following: "If the taxable income is: Over $13,200, The tax is: $3,369, plus 36% of the excess over $13,200."

Title II, on page 7, line 11, replace "35 percent" with "36 percent".

Title II, on page 8, line 7, replace "11 percent" with "15 percent".

Title II, on page 8, line 7, insert after "for such taxable year" the following: ", beginning with the taxable year following calendar year 1992,".

Title II, on page 9, line 11, replace "$250,000" with "$200,000".

Title II, on page 9, line 13, replace "$200,000" with "$160,000".

Title II, on page 9, line 15, replace "$125,000" with "$100,000".

Title II, on page 9, line 9, replace "$150,000" with "$120,000".

In addition to the above amendments, the earned income tax credit provision shall be modified to make it internally revenue neutral.●

RECORD TO REMAIN OPEN UNTIL 4 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open today until 4 p.m. for the submission of statements and introduction of legislation and that the Armed Services and Labor Committees may have until 4 p.m. today to report Executive or Legislative Calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JULY 22, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2:30 p.m. on Monday, July 22; that following the prayer and the time reserved for the two leaders, the Journal of proceedings be deemed approved to date; that there be a period for morning business not to extend beyond 3 p.m., with Senators permitted to speak therein; that at 3 p.m., the Senate proceed to the consideration of Calendar No. 149, S. 1367, a bill to extend to the People's Republic of China renewal of most-favored-nation treatment until 1992 provided certain conditions are met; and that there be no rollcall votes on Monday prior to 7 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Members of the Senate, at 3 p.m. on Monday, pursuant to the order just obtained, the Senate will begin consideration of the bill to extend to the People's Republic of China renewal of most-favored-nation trade status until 1992 provided certain conditions are met.

There will be debate only on that measure until 4:30 p.m., following which we anticipate that Senator HELMS will be recognized to offer an amendment, a vote on which will occur not prior to 7 p.m. There may be other amendments and other votes, although that has not yet been finally determined.

Senators should be aware that there will be at least one and possibly more rollcall votes on Monday not prior to 7 p.m., the time to be fixed on Monday after the Senate commences consideration of that measure.

RECESS UNTIL MONDAY, JULY 22, 1991, AT 2:30 P.M.

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 2:30 p.m. on Monday, July 22.

There being no objection, the Senate, at 2:19 p.m., recessed until Monday, July 22, 1991, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate July 19, 1991:

FEDERAL RESERVE SYSTEM

ALAN GREENSPAN, OF NEW YORK, TO BE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 4 YEARS. (REAPPOINTMENT)

ALAN GREENSPAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF 14 YEARS FROM FEBRUARY 1, 1992. (REAPPOINTMENT)

SENATE—*Monday, July 22, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. LIEBERMAN].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Who can find a virtuous woman? for her price is far above rubies. The heart of her husband doth safely trust in her, so that he shall have no need of spoil. She will do him good and not evil all the days of her life.—Proverbs 31:10–12.

Eternal God, who created us in Your image, male and female, on this occasion of the 101st birthday of Rose Kennedy, we thank You, gracious God, for this remarkable woman, her commitment to her family and her faithfulness despite overwhelming tragedy and difficulty. Thank You for the leadership she has given the Nation through her sons. May she on this day be aware of our admiration, respect, and affection.

We thank You for the great women of the Bible, the great women of history, and the great women of today. We thank You for their influence, their leadership, their power, and we bless You for virtuous women.

Father in Heaven, thank You for faithful wives and mothers whose love and labor are unending. Thank You for professional and business women and for all the faithful women who serve at every level of human endeavor, demonstrating their indispensability in our society.

We pray in His name who never failed to honor women, at whose grave women were the last to leave and at whose resurrection women were the first to arrive. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Senate majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon, following the time reserved for the two leaders, there will be a period for morning business not to extend beyond 3 p.m., during which Senators will be permitted to speak. At 3 p.m., the Senate will begin consideration of Calendar item No. 149, that is S. 1367, a bill to extend to China renewal of most-favored-nation trade status until 1992 provided certain conditions are met.

During today's session, there will be a period for debate only on that measure until 4:30 p.m. At or after 4:30, it is expected that Senator HELMS will offer an amendment relative to the subject of the bill. There will be a vote on that amendment not prior to 7 p.m. this evening. There may be other amendments and other votes, but that has not yet been determined.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 3 p.m., with Senators permitted to speak therein.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HAPPY 101ST BIRTHDAY, MRS. KENNEDY

Mr. BYRD. Mr. President, today is the birthday of one of the most extraordinary women in American history.

This woman has never held public office. She has never been a candidate in a political election. She has never served on the board of a major American corporation. She has never written a bestselling novel or composed a famous poem.

Nevertheless, this woman is known worldwide, and is admired and loved by millions.

And she can make a claim unparalleled in American history—to have been the mother of three men each of whom became a United States Senator, one of whom became Attorney General of the United States, and one of whom was President of the United States.

I am, of course, speaking of Rose Kennedy, wife of the late Ambassador to the Court of St. James, the Honorable Joseph P. Kennedy, and the mother of President John Fitzgerald Kennedy, Senator Robert Kennedy, and our own colleague, the distinguished Senior Senator from Massachusetts, EDWARD M. KENNEDY.

Today, Rose Kennedy is 101 years old, and we are Members of the 102d Congress.

In her long life, Mrs. Kennedy has witnessed the convening of half of the Congresses in U.S. history—a record equalled by but a handful of living Americans.

But, moreover, as the wife of a United States Ambassador to Britain and the mother of three of the most significant political figures in this century, as a matter of fact, in both centuries that the Senate has been in existence, Mrs. Kennedy has been a participant in, and a contributor to, some of the most dramatic events in contemporary American and world history.

We are privileged in our time in history to have so long with us as an in-

NOTICE

In an effort to facilitate timely delivery of the Congressional Record each morning, the Senate will begin, on July 22, 1991, to send copy to the Government Printing Office at 4 p.m. each day of session, and every hour thereafter. This procedure will apply to all introduced bills, amendments, and other routine morning business.

Copy will be available for 2 hours for review by Senators and their staff prior to submission to the Government Printing Office. The 2-hour review period will apply to floor proceedings as well as routine morning business.

Joint Committee on Printing

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

spiration and a symbol of hope, patience, courage, fortitude, motherhood, and patriotism this extraordinary woman—the matriarch of an extraordinary family.

Mr. President, I know that I speak for all of our colleagues on both sides of the aisle and in both parties in expressing profoundly sincere wishes to Mrs. Rose Kennedy for a happy birthday on this very special milestone day in her life. And I hope that Senator KENNEDY will express to his mother our good wishes of the United States Senate for her happiness on this day and a continued long life—wishes that we extend to Mrs. Kennedy as the representatives of all 50 States and of roughly 250 million Americans who stand in debt to this indomitable American woman.

And to Mrs. Kennedy, Erma joins me as I say, on her behalf and on behalf of all of my colleagues, to Mrs. Rose Kennedy:

The hours are like a string of pearls,
 The days like diamonds rare,
The moments are the threads of gold.
 That binds them for our wear.
So may the years that come to you
 Such health and good contain,
That every moment, hour, and day,
 Be like a golden chain.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

NATURAL GAS PROVISIONS OF S. 1220 THE NATIONAL ENERGY SECURITY ACT OF 1991

Mr. SHELBY. Mr. President, I rise today to express my support for the natural gas provisions contained in S. 1220, the National Energy Security Act of 1991. I commend the distinguished chairman and ranking member of the Energy Committee, Senators JOHNSTON and WALLOP, for their leadership on this issue and recognition of the fact that the promotion of natural gas is a critical component of any energy policy in the best interest of the Nation.

The health of the natural gas industry is also important to my home State of Alabama. Currently, Alabama ranks 12th in natural gas production. Within the next 5 years we will undoubtedly be numbered among the top 10 natural gas-producing States.

Natural gas will play a key role in leading this Nation from a position of energy dependence to one of energy independence. The United States is fortunate to have abundant natural gas resources. It has been estimated that with conventional technology, we have enough natural gas resources to supply this country for 38 years, at our current rate of consumption. With continued advances in exploration and production technology, our natural gas resource base could supply us for as many as 57 years.

Recent events in the Persian Gulf have made it clear that we must utilize all of the energy resources at our disposal to the fullest extent possible. The natural gas and pipeline industry must play a vital role in carrying out this mandate.

Oil imports are responsible for about 55 percent of the foreign trade deficit with which Congress continues to grapple. Natural gas, however, has the potential of displacing nearly 1.7 million barrels of imported oil per day within 10 years. Furthermore, natural gas can be employed in the generation of steam for enhanced recovery of domestic oil.

Ninety percent of the natural gas consumed in the United States is domestically produced and provides nearly half all the energy consumed by U.S. households. Natural gas is an economic fuel. On an energy equivalent basis, natural gas is about 70 percent cheaper than oil. Together, these factors have the potential to boost the gross national product and improve the Nation's trade balance.

Natural gas is environmentally sound. It is our Nation's cleanest burning fossil fuel. Natural gas combustion emits virtually no particulates, sulfur oxides, carbon monoxide, reactive hydrocarbons, and other pollutants.

Existing regulatory barriers, however, prevent full utilization of our natural gas resources. The enactment of the Natural Gas Act of 1938 began Government's involvement in the natural gas markets, starting with a utility type regulation of interstate pipelines. That regulatory system has not been conducive to productivity and consumption of natural gas.

Compared to the last 20 years, there has been a significant decline in gas consumption by the industrial and electric generation sectors. Today, domestic use of natural gas is more than 10 percent lower than in 1970.

Consumers, producers, and the environment have suffered because of regulatory impediments that prevent the marketing of all the natural gas that we are capable of producing. The deluge of regulatory requirements associated with the construction and operation of natural gas pipelines create uncertainties that discourage investments necessary for consumers, producers, and transporters to take full advantage of the natural gas market.

Among the greatest regulatory barriers in the natural gas industry is the problem of transporting the gas from the wellhead to the consumer. Title XI of S. 1220 expedites pipeline construction by providing a range of regulatory options.

Included in this process is an optional certificate procedure that would vary the level of regulatory oversight of pipeline projects according to the risk assumed by the pipeline and the effect that the new pipeline might have on existing ratepayers.

Title XI further streamlines the regulatory process at the FERC by making it the lead agency for the NEPA process and permitting third party contractors to prepare environmental impact assessments. This will aid in removing much of the delay in building new pipelines due to the current cumbersome environmental review proceedings at FERC. Delays caused by tolling orders on rehearings are also addressed.

Amendments to section 311 of the Natural Gas Policy Act [NGPA] will enable pipelines to take advantage of greater opportunities to construct and operate pipeline facilities that transport natural gas in interstate commerce.

The natural gas provisions of S. 1220 recognize the potential and need to use natural gas as an automotive fuel. This is done by clarifying and limiting the FERC's jurisdiction over local distribution companies selling vehicular natural gas. Nonpublic utility retailers of vehicular natural gas are exempt from the regulation of State public utility commissions.

Upon review of S. 1220's changes in natural gas regulatory procedures the Department of Energy [DOE] predicts that gas production and consumption will increase. The public could consume an additional 1 trillion cubic feet of natural gas by the year 2010.

Natural gas also stands to benefit from the alternative fuel and fleet provisions of S. 1220. The enhanced market atmosphere created by S. 1220 will posture natural gas to be an important fuel of choice for fleet vehicles.

With the passage of the Clean Air Act amendments last year, cleaner, more efficient means of generating electricity are being explored. Turbine generators fired by natural gas have proven to be an effective, reliable and efficient alternative for electric generation.

Mr. President, in Alabama we have a saying, "Use it or lose it." Natural gas is an abundant fuel with yet unseen potential. We must use this resource to its fullest extent or we will lose the multitude of invaluable opportunities that rest with the continued development of the natural gas industry.

S. 1220 provides a foundation upon which we can build this industry, benefit the economy, protect the environment, and aid in securing the energy future of our Nation.

TRIBUTE TO ALPHA SMABY

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to a Minnesotan who spent a lifetime in Minnesota grassroots politics. Alpha Smaby, a former legislator and an advocate of equal rights for all, died on Thursday, July 18, at the age of 81. As her friends and family gather this afternoon in St. Mark's Cathedral, Minneapolis, to remember Alpha Smaby, her energy and her conviction will be missed.

Alpha Smaby served in the Minnesota House of Representatives while I served Gov. Harold LeVander, from 1967 to 1971. At that time, the legislature was two-thirds GOP. Alpha not only touched every policy she cared about, but she actually made a difference.

My colleague, Senator WELLSTONE, has already reminded us of the many things Alpha Smaby gave, personally and professionally, to her home State of Minnesota. I stand, instead, to salute her, to thank her posthumously for her contributions and to offer her family my sympathies.

TRIBUTE TO COL. MARCIA RINKEL, U.S. ARMY, UPON HER RETIREMENT FROM ACTIVE SERVICE

Mr. THURMOND. Mr. President, during the past several months, the role of women in our military services has been a major topic of discussion, both here in the Halls of Congress and across our great Nation. I rise today to recognize a soldier, Col. Marcia Rinkel, U.S. Army, whose career over the past 30 years has vividly demonstrated the tremendous contributions that women make to our Armed Forces.

Colonel Rinkel, who is currently serving as the chief of the Assistance Division, Office of the Inspector General, U.S. Army, will retire in August 1991. She was commissioned as a second lieutenant in the Women's Army Corps in August 1961 after graduating from Kansas State University.

From her initial assignment as a platoon leader at the Brooke Army Medical Center, Fort Sam Houston, TX, Colonel Rinkel served in assignments of increasing responsibility throughout the world. Although her career field focused on military personnel, she served with great distinction at all levels of command from company commander, Women's Army Corps Training Brigade, to commander of the 21st Replacement Battalion, U.S. Army Europe.

Before women in combat became a media buzz word, Colonel Rinkel had already served 2 years in Vietnam. As many of you can recall 1968 through 1970 saw some of the most ferocious fighting in the Vietnam war, Colonel Rinkel contributed to the successful outcome of this effort first as a plans officer and later as chief of personnel actions for the Logistic Command, Vietnam. For her service in Vietnam she received the Bronze Star with two oak leaf clusters.

Upon her return from Vietnam, Colonel Rinkel's extensive experience was tested as a personnel management officer at the U.S. Army Personnel Center and as the Secretary of the General Staff, 3d Reserve Officer Training Corps, Fort Riley, KS. In each of these positions she was influential in guiding the careers of junior officers and setting an example for women throughout the Army.

In 1980, Colonel Rinkel returned to Washington as the secretary to the Joint Staff, Armed Forces Industrial College at Fort McNair. She has subsequently served as the chief, Accession Management and Separations Division, officer personnel management directorate at the Military Personnel Center and as an investigator in the Office of the Army Inspector General. In June of 1988, Colonel Rinkel became the chief of the Assistance Division, Office of the Inspector General. In this position, she has been the driving force in eliminating waste, fraud and abuse in the Army and ensuring that the rights of the Army's soldiers are protected.

Mr. President, I am pleased to recognize Col. Marcia Rinkel for her many years of outstanding service to the U.S. Army and our great Nation. I wish her the best in her well-deserved retirement.

THE 1991 CONGRESSIONAL CALL TO CONSCIENCE VIGIL

Mr. DECONCINI. Mr. President, I am pleased to rise today to participate in the 1991 Congressional Call to Conscience and to thank this year's chair of the vigil, Senators LAUTENBERG, KOHL, and GRASSLEY. For the past 15 years, this Call to Conscience has brought to the attention of this body, the American public and Soviet authorities the plight of countless refuseniks who had been denied their basic rights of freedom of movement and family reunification.

While in the past I have focused on a particular refusenik, today I would like to talk briefly about several situations which are precluding Soviet Jews from emigrating. According to reports provided by the Union of Councils for Soviet Jews, many applicants face delays of up to 7 or 8 months before getting responses to their applications for exit permission. In other instances, many OVIR offices [Office of Visas and Registration] are so overwhelmed with the number of applicants, that they have had to close their doors temporarily. Further reports indicate that in a number of cities all graduates from certain institutions such as the Penza Polytechnic Institute are being deemed to have access to state secrets and are being told that they cannot apply to emigrate from the Soviet Union.

Mr. President, over the past few years there has been a marked improvement in the number of Soviet Jews and others permitted to emigrate. According to statistics in 1989 more than 71,217 Jews emigrated from the Soviet Union. That number more than doubled to 186,815 in 1990 and through the end of June of this year those emigrating had already surpassed 100,000. These figures are impressive, but we cannot ignore those who are still being denied their right to leave the Soviet Union.

In May 20, the Supreme Soviet passed, in principal, a new law on exit and entry from the Soviet Union. The legislation represents a significant improvement over existing emigration law. However, several sections fall short of internationally recognized standards, including those of the Conference on Security and Cooperation in Europe [CSCE], on freedom of movement issues. In addition, the law will not fully go into effect until January 1993. Although the number of Jews leaving has risen and the Soviets have passed their emigration legislation, the number of refuseniks and those Soviet Jews who are unable to apply to emigrate, the so-called poor relatives, remains in the hundreds.

Despite the fact that people continue to be denied the right to leave, some for more than 10 years—and in spite of existing obstacles to full freedom of movement, President Bush has announced his intention to grant the Soviet Union an additional 1 year waiver of the Jackson-Vanik amendment to the 1974 Trade Act. In order to ensure further progress is made on the remaining refusenik cases, I, along with Congressman STENY HOYER have introduced a sense of the Congress resolution, that asks the President to consider certain performance factors before providing a waiver in 1992 of the Jackson-Vanik trade restrictions. This resolution would basically see to it that the Soviets live up to their commitments in implementing their recently passed emigration legislation.

The resolution asks the President to consider the following objectives before providing in 1992 a waiver of the Jackson-Vanik trade restrictions: First, all individuals who, for at least 5 years, have been refused permission to emigrate from the Soviet Union, are given permission to emigrate; second, restrictions on freedom of movement, including those pertaining to secrecy, are not being abused or applied in an arbitrary manner; third, a fair, impartial, and effective administrative or judicial appeals process exists for those who have been denied permission to emigrate; fourth, the Government of the Soviet Union is ensuring that its laws, regulations, practices, and policies conform from their commitments under its international obligations, including the relevant provisions of the Helsinki Final Act and all Conference on Security and Cooperation in Europe Commitments.

Prior to President Bush's meeting with President Gorbachev in London, the leadership of the Helsinki Commission sent a letter to President Bush asking that he raise several human rights issues with the Soviet President. These issues focused on the remaining refuseniks and the situation in the Baltic States of Latvia, Lithuania, and Estonia. We plan to raise these issues again prior to the Moscow summit at the end of July. I am pleased to share with my colleagues the text of the Helsinki Commission's letter to President Bush, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMISSION ON SECURITY
AND COOPERATION IN EUROPE,
Washington, DC, July 11, 1991.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge you to raise several human rights issues with President Gorbachev during your upcoming meeting in London. While many aspects of Soviet human rights policy and practice have improved in recent years, problems persist. It is particularly important, we believe, to seek resolution to these matters without further delay, mindful that the Soviets are scheduled to host the third meeting of the Conference on the Human Dimension this September.

We are extremely concerned about the continuing low-level violence taking place in the Baltic States. As you know, from April to the present, Soviet "Black Beret" internal army units under the direct control of Moscow have been staging raids on border control posts and other government buildings in the Baltic States, particularly in Lithuania. In response to protests from the democratically elected governments of the Baltic States, Moscow has offered denials, obfuscation, and promises to "investigate." Yet the violence continues.

Mr. President, we urge you to impress upon President Gorbachev that such actions are not only inconsistent with international obligations agreed to by the Soviet Government, and a contradiction of the liberalizing policies associated with President Gorbachev, but call into question the seriousness of the government to political pluralism and a state based on the rule of law.

We are also very concerned over Soviet policy and practices with respect to freedom of movement. Despite significantly increased levels of Soviet emigration, hundreds of individuals continue to be denied their right to leave, many under the pretext of access to "state secrets." Others are denied their right to leave until years after they have completed their military service. Still others are prevented from leaving until they secure permission from relatives who hold a virtual veto over their departure. In addition, there are several Soviet citizens prevented from exercising their right to leave the USSR to visit family members in the United States who had defected from the Soviet Union.

In his December 1988 address before the United Nations, President Gorbachev indicated that "strictly warranted time limitations on the secrecy rule will now be applied." Citing this and other announced reforms, the Soviet President asserted that "this removes from the agenda the problem of so-called 'refuseniks.'"

Unfortunately, President Gorbachev has failed to fully honor these assurances. Accordingly, Mr. President, we urge you to ensure that the plight of Soviet refuseniks remains on the agenda until all outstanding cases have been resolved and the individuals involved have been allowed to leave.

In giving its consensus to the Vienna Concluding Document, the Soviet Union undertook a commitment to resolve outstanding human contacts cases by July 15, 1989. Today, nearly two years later, dozens of these same cases remain unresolved. The time has come to wipe the slate clean.

We request that you present the attached list of outstanding cases to President Gorbachev during your upcoming meeting in London. While we are mindful of the significant progress that has taken place with respect to Soviet emigration law and practice, this is of little consolation to those who continue to be denied their right to leave the USSR.

Sincerely,

DENNIS DECONCINI,
Cochairman.
STENY H. HOYER,
Chairman.
ALFONSE D'AMATO,
Ranking Minority, Member, Senate.
DON RITTER,
Ranking Minority Member, House.

Mr. DECONCINI. Finally, Mr. President, on September 10, less than 2 months from now, the 35 signatory states of the Conference on Security and Cooperation in Europe [CSCE] will gather in Moscow for the third of three meetings of the Conference on the Human Dimension [CDH]. The Helsinki Commission, which I cochair, plans to travel to Moscow for the opening of the CDH meeting. It is the intention of the Commission to raise the issues that I have outlined above. It is imperative that the Soviets live up to their commitments under the Helsinki Final Act, and the Vienna and Copenhagen documents. The Soviet Union in giving its consensus to the January 1989 Vienna concluding document undertook a commitment to resolve outstanding human contacts cases by July 1989. Today, nearly 2 years later, as I indicated above, some of these cases remain unresolved. The time has come to finally wipe the slate clean and I encourage the Soviets to do just that before the Moscow meeting.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,319th day that Terry Anderson has been held captive in Lebanon.

BAN OF WILDLIFE TRADE WITH THAILAND

Mr. MOYNIHAN. Mr. President, I rise to call the attention of the Senate to the determination by the Secretary of the Interior, Manuel Lujan, that effective July 30, 1991, wildlife imports from Thailand will be banned. This will initially cover some $18 million in Thai exports, and further trade could be affected if Thai practices don't change.

This action was not taken precipitously by Secretary Lujan, nor as a consequence of a unilateral U.S. determination. On the contrary, the administration's action has been taken in complete compliance with international law. Specifically, the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora. CITES as it is known.

Indeed, the ban on Thai wildlife exports is compelled under the terms of CITES itself, because of the failure of the Thai Government to take any action to implement CITES. The CITES Secretariat, charged with controlling international trade in endangered species, has documented over 100 violations by the Thai Government. Consequently, on April 12, 1991, the standing committee on CITES recommended to the 110 members of CITES that they ban wildlife trade with Thailand.

Even though Thailand joined CITES in 1983, it has yet to pass legislation to implement CITES. Let alone take efforts to enforce it. According to the Interior Department, Thailand has become a hub of illegal smuggling activity for species of wildlife from throughout Southeast Asia.

Thailand is not the only nation that tolerates illegal wildlife trade. Singapore is another that comes quickly to mind. But, as the administration has now determined, there is no nation worse than Thailand. A strong statement, but a true one. Not by my reckoning. Nor by the reckoning of the Secretary of the Interior. Rather by the determination of the standing committee of CITES which represents 110 nations.

Mr. President, for some years now I have introduced legislation in the Congress to increase and strengthen the institutional and legal relationship between trade and environmental issues. A GATT for the environment, as I have called it in S. 59. This latest example of Thailand's total disregard of CITES again underscores the need for a GATT for the environment.

In the meantime, I commend the administration's action on Thailand, and urge its vigorous enforcement.

I ask unanimous consent that the release by the Secretary of the Interior announcing the ban on wildlife trade with Thailand be printed in the RECORD.

I yield the floor.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

INTERIOR SECRETARY LUJAN ANNOUNCES BAN ON WILDLIFE TRADE WITH THAILAND

Secretary of the Interior Manual Lujan today announced that the United States is banning trade with Thailand in wildlife protected under an international treaty that regulates trade in endangered species.

"This trade ban will protect wildlife by denying a market for illegally taken animals," Lujan said. "Through this action, the United States is living up to its responsibility as part of the international environmental community."

Lujan's action, which takes effect July 3, bans imports and exports of all wildlife protected under the 111-nation Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The action affects an estimated $18 million in annual trade in CITES-regulated wildlife between Thailand and the United States. The vast majority of the trade is wildlife exported from Thailand to the United States.

The ban follows an April 22, 1991, notification from the CITES Secretariat asking all party nations to "take all measures" to prohibit trade with Thailand, recognizing that the country is unable to control wildlife trade as a result of inadequate laws and ineffective enforcement. Twelve European community nations have also taken steps to restrict wildlife trade with Thailand, and similar action is under consideration in Japan.

In 1990, the Interior Department's U.S. Fish and Wildlife Service seized illegal Thai shipments of ivory jewelry, sea turtle products, leopard and tiger parts and products, and a wide range of reptile products such as shoes and belts. The seizures noncompliance in shipments of wildlife from other countries.

Thailand serves as a staging point for shipments of live cheetahs, tigers, bears, orangutans, and gibbons. Thailand is a signatory to CITES but has no effective means of enforcing CITES regulations and no laws to protect wildlife that enters Thailand from other countries. In practice this has meant that smugglers may obtain CITES permits from Thailand in an effort to slip illegal wildlife shipments past Customs and Fish and Wildlife Service inspectors.

Under the ban, the Fish and Wildlife Service will not clear for importation shipments of CITES wildlife that originate in Thailand or are re-exported to or through that country regardless of the documentation provided. Furthermore, the United States will not approve for export to Thailand from the United States any CITES-listed species. Shipments may be returned to Thailand or seized if they violate United States law.

Lujan said the United States will consider lifting the ban when sufficient evidence indicates that Thailand complies fully with treaty requirements.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

UNITED STATES-CHINA ACT

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to consideration of S. 1367 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, reported without amendment and without recommendation.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Mr. MITCHELL.

Mr. MITCHELL. Mr. President, I will momentarily make a statement in support of the legislation. Following my remarks the distinguished Senator from Indiana will be making a statement in opposition to the legislation and the chairman of the Senate Finance Committee and ranking member of the Finance Committee will be here shortly to manage the bill and to make their statements.

Under the previous order there will be debate only until 4:30, following which it is expected that Senator HELMS will be recognized to offer an amendment.

BIRTHDAY WISHES

Mr. MITCHELL. Mr. President, before we get into the debate on the subject, I would digress for a moment to note that the distinguished President pro tempore during morning business made a statement recognizing this as the birthday of Mrs. Rose Kennedy and expressed the sentiment of the entire Senate in wishing her well.

I would like to note that today is also the birthday of two other distinguished Americans, one of whom is Senator ROTH of Delaware and the other of whom is the distinguished Republican leader who is here present on the Senate floor, and I know that I speak for all Senators in wishing the distinguished Republican leader well and many, many more happy birthdays.

Prudence dictates that I not disclose the number because it is in that twilight zone where it is too many to be mentioned, but not enough to achieve the status of venerable that goes with many more.

But I do want to say, Mr. President, that it has been a great pleasure for me, as majority leader, to work with the distinguished Republican leader. While we often disagree on issues, our disagreements have never been personal or unreasonable and I look forward to continuing our efforts, I might say in our current status.

Mr. DOLE. Mr. President, if the majority leader will yield, I would just say that I appreciate very much the recognition. I only say it beats the alternative. I also note I am pleased that the press is here. It is 3 o'clock. If we do not stay in too late maybe they will be here this evening.

UNITED STATES-CHINA ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. MITCHELL. Mr. President, the Senate now begins consideration of legislation the specific subject of which is the question of extending most-favored-nation tariff treatment to the export products of the People's Republic of China.

But the larger subject of this debate is the American national interest in the world.

The long-range goals and best interests of our own Nation should rest at the heart of any debate on foreign trade or foreign policy.

We will not craft coherent policies toward specific nations unless we are guided by consistently those abiding long-term interests.

That is true whether the issue is trade relations with the People's Republic of China or arms agreements with the Soviet Union. Our focus has to be the national interest, not the manipulation of short-term advantage for this or that interest group or the political advantage of one or another individual.

The American national interest—our Nation's goals, the interests that best serve our people, for whose sake our Government is established—the American national interest is in a stable and prosperous world.

We have found, through the course of history, that stability in the world is best preserved when nations do not menace each other. We have found that democracies are the governments least likely to menace others, and the most effective at resisting aggression.

Similarly, our national interest is in a prosperous world, both because widespread prosperity reduces the range of human conflicts and because our American ideals place the highest value—the very highest value—on the rights and security of the individual human being.

Throughout the course of our history, we have found that democratically governed citizens have the greatest opportunity to pursue prosperity for themselves and their families. Only a democracy ensures the freedoms essential to economic prosperity. The short-term economic shifts of dictators do not create the long-term security individuals need to build lasting wealth.

Historically, therefore, lasting prosperity has been out of the reach of dictatorships.

They can manipulate markets for short term gain or to enrich small and privileged groups, but they cannot build the widespread prosperity which is the only secure guarantor of stability.

These fundamental factors, therefore, should guide our policy debates, whether they are based on trade issues, arms issues, or other matters.

Will a policy contribute to or detract from the expansion of democratic governments?

Will a policy contribute to or detract from the ability of people to pursue a better life for themselves and their children?

Judged by those criteria, the administration's policy toward the People's Republic of China deserves to be reconsidered. The Government in China is not moving the system toward more democracy or more openness. Instead, it is moving toward more repression.

It is evident that the Government in China is pursuing an economic policy based on governmental manipulation and selective, temporary free markets in a few parts of the country.

It has been more than 2 years since the elderly Communist rulers of China sent tanks and soldiers to kill Chinese citizens for the crime of peacefully advocating democracy in China. That was their crime. They advocated peacefully for democracy in their country. For that, they were murdered by the tanks and soldiers of their own country.

It has been over 2 years since the President sent the first of several high level missions to talk with the Chinese leaders about human rights violations and weapons technology proliferation—subjects that are at the heart of world order and stability.

Yet, despite 2 years of forbearance and 2 years of efforts at dialog, there has been no progress—no progress; none. The goals of American policy—stability and prosperity in the world community—are no nearer realization today in China than they were 2 years ago.

Instead, repression continues unabated. Hundreds of Chinese who were arrested because they favor democracy remain unaccounted for, more are detained without charge or languish in prisons and work camps. Instead of improving, the human rights situation in China has worsened.

Judging by results, it is clear that the extension of most-favored-nation status has created no incentives—no incentives whatsoever—for the Chinese Government to respect the civil rights of their own people.

The extension of most-favored-nation status to China is conditional at this time, because China does not meet the human rights standards already in law: The right of free emigration is not a right any Chinese citizen can today exercise.

We have to determine whether the conditional extension of a privilege for the purpose of liberalizing the political system should continue when no signs of liberalization are evident despite 2 years of this policy.

We have to make a judgment as to how long it is reasonable to wait for such signs to appear before we change the policy.

The bill before us is designed, not to prejudge the issue today and reach a conclusion, but to provide a framework of time within which we can determine if the improvements in Chinese policy for which MFN status is granted are in fact coming to pass.

It is my sense that no coherent policy judgment on this point has been made by the administration.

Instead, the President continues to justify the policy year by year despite the year-by-year evidence that the policy is failing.

At each sign that the Chinese are violating international trading rules, or that the Chinese are threatening to ship missiles, or that the Communists are selling nuclear technology, at each sign the President dispatches officials to speak with the Chinese leaders.

In response, the Chinese leaders indignantly reject what they call American interference in their internal affairs.

And so the policy of favoring China remains in place, and so does that policy's lack of success.

This bill is designed to focus on an examination of that policy. Unless we take the time to examine whether a policy is working, we will not have—we will never have—coherent policies. And unless we have coherent policies, we will not be doing what is in our Nation's best long-range interests.

One element of that policy that deserves the most careful examination is practical economics. Much attention in this debate has been focused on China's horrendous human rights record, which even the opponents of this legislation acknowledge. Much debate has been focused on China's horrendous policy on the sale of nuclear technology, ballistic missiles, and missile launchers which even the opponents of this legislation acknowledge. And I will address them in a moment.

But not enough attention, not enough debate, has focused on the economic terms of our relationship with China and its incredible disadvantage to our own country.

And so we should begin with this question: In economic terms alone, does our trade relationship with China benefit both countries or just one?

And, if one, which one?

Last year, the administration suggested that our trading relationship with the Chinese Government was so important to American business interests that most-favored-nation status had to be renewed despite admitted concerns over human rights or China's missile sales to Third World countries.

So let us look at that trade relationship after yet another year of most favored status.

China's exports to the United States have increased by 27 percent in that year, to a total of $15 billion. Those exports now account for nearly one-fourth of all of China's sales worldwide. Our exports to China, meantime, American exports to China, have decreased by $1 billion, to a total of $4.8 billion. And so the China-United States trade imbalance has increased by 67 percent in a single year and now favors China to the tune of $10.4 billion. The export imbalance continues to grow at a rate nearly 10 times as fast as China's purchases of goods from the United States.

Clearly, the overall balance of trade in this relationship favors China dramatically, and the trend continues even more so today. It is clearly a much more important relationship to China than it is to the well-being of the people of the United States.

Additionally, the most troubling reality is that the rapid rate of export growth from China has not been accidental or the result of Chinese ingenuity. It is the direct result of a government-manipulated trade policy, using generalized and pervasive controls over trade and payments to limit exports from the United States and to promote their exports to the United States.

In an appearance before the Joint Economic Committee recently, the Bush administration's Deputy Assistant Secretary of Commerce for International Economic Policy testified:

> Over the last 2 years, we have observed a pronounced increase and proliferation in tariff and nontariff barriers to imports that have effectively denied imported goods fair access to China's domestic market.

Those are not my words. Those are the words of the Bush administration's expert on such matters. describing what has happened in the 2 years that the President's policy has been in effect.

Let me repeat the words of the Bush administration regarding what China has done in the 2 years since the President put this policy into effect. Again, these are not my words, these are not the words of anyone outside the Bush administration. This is the Bush administration's trade expert who said:

> Over the last 2 years, we have observed a pronounced increase and proliferation in tariff and nontariff barriers to imports that have effectively denied imported goods fair access to China's domestic market.

Mr. President, that testimony supports press reports of trade manipulation. In August 1989, press stories suggested that the Chinese State Council secretly decided to exclude American firms from the Chinese telecommunications market. The Assistant Secretary, again the Bush administration's expert, testified that:

> In fact, China's policies have made it increasingly difficult for U.S. firms to gain fair access to domestic Chinese markets; in 1990, China was the only major market for U.S. goods and services in which sales experienced an actual and appreciable decline.

Again, Mr. President, I emphasize, this is the Bush administration's trade expert describing what has happened to Chinese trade policies since we began the policy that the administration now seeks to perpetuate.

It is one thing to claim that the Chinese people ultimately reap some benefit from a trading relationship and that it should continue for that reason. But when the administration's own testimony is that Chinese leaders see most-favored-nation status as an opportunity to manipulate trade to their own advantage and to American disadvantage, we should examine with great care the cost to our own Nation of that relationship. Again, the Assistant Secretary from the Bush administration:

> More disturbing than the substantial and growing United States trade deficit with China, is the fact that the deficit reflects a decision by China to intensify protectionist measures as a way of managing imports.

Let me repeat that sentence:

> More disturbing than the substantial and growing United States trade deficit with China, is the fact that the deficit reflects a decision by China to intensify protectionist measures as a way of managing imports.

So, according to the Bush administration itself, the policy pursued by the administration for the past 2 years has been a spectacular failure in influencing the behavior of the Chinese Government in trade with the United States, and it has demonstrably and beyond dispute produced a result that is the exact opposite of what our policy seeks to achieve.

Every Senator must ask, is such a trade relationship in the best national interests of the United States? On a purely economic basis, there are extremely strong arguments for ending such a relationship. When one partner cynically uses a favored trade status to manipulate trade to its advantage and to the severe disadvantage of the United States, the relationship cannot prove durable. What is equally disturbing is that the relationship today is benefiting a few Americans but actively harming many others. That is not the hallmark of a sustainable relationship.

When copyrighted software is stolen and reproduced at will by the Chinese, the American producers of that product are being robbed. It is robbery, just as much as if an individual citizen is robbed out on the street. Last year, Chinese piracy of American software cost American manufacturers directly over $400 million. The American owners and the American workers are losing the rewards of their own hard labor and their own effort.

The other side of the economic relationship, China's exports to the United States, shows that despite the hope that economic liberalization will lead to political liberalization, exactly the opposite has occurred. It has now been thoroughly documented and is beyond dispute, documented by the Congressional Research Service and the General Accounting Office, as well as by Asia Watch, that the Chinese regime uses forced labor in its prisons. That is not in dispute. Many of the products that those prisoners produce are being exported to the United States. That is a direct and outrageous violation of existing American law.

In April of this year, the Customs Service announced it would investigate this situation. To that, every Senator must say: It is about time. And I hope the results of that investigation will be available soon.

In this respect, the liberalization of trade relations has not liberalized government policies. Instead, the trade relationship is being cynically exploited by the Chinese Government. The products of political repression within China are earning hard currency for the leaders of that repression.

The very people who are directing the repression are benefiting from it, even though it directly violates existing American law. And the administration will do nothing about it. The administration has done nothing about it. That is not a basis for a relationship that is sound, sustainable or, in the long-term American national interest.

The American national interest and global stability is a permanent national interest, one that should lie at the heart of every relationship we have with every other nation. The Chinese Government has not cooperated in international efforts to control the proliferation of ballistic missiles and nuclear technology to Third World countries. China has refused to sign the Nuclear Nonproliferation Treaty. China rejects membership in the 16-nation missile technology control regime.

Mr. President, the Persian Gulf war showed all Americans and people all over the world how modern warfare can threaten civilians hundreds of miles from the front line, even when the missiles are not nuclear armed.

A stable world will not emerge so long as a dictator can threaten the civilian populations of neighboring countries. Missile technology control is as important as nuclear weapons and nuclear technology control. Both are very much a matter of long-term American national interest.

The press reports tell us that the Chinese have negotiated to sell ballistic missiles, missiles which are nuclear warhead capable, to Pakistan, Syria, to Iran. China has sold a nuclear reactor to Algeria, which can be used to manufacture nuclear weapons material. Chinese leaders loudly deny that they are selling nuclear technology and weapons, but the evidence points increasingly to a high-level Chinese Government policy of indiscriminate weapons sales anywhere in the Third World as a source of hard currency for the Chinese military and for relatives of the Chinese regime's leaders.

Government denials, no matter how indignant, are not good enough to serve as the basis of American policy when an issue so central to our national interest is at stake, and that is especially so when previous denials have since been proven to be false. How many times do we have to receive denials that later prove to be false before we refuse to accept those denials?

The American interest in expanding and securing democratic liberties around the world for people everywhere is self-evident, yet the Chinese practices of repression within China and oppression against the people of occupied Tibet remains unaddressed and unchanged. Reports from overseas and from within our own Government repeatedly highlight that the status of human rights under the current Government of China is appalling. Asia Watch reported Chinese prisons and labor camps hold more political prisoners today than they have held in over a decade. The annual State Department human rights report again concluded that "China's human rights climate in 1990 remained repressive, if less overtly so than in 1989."

What that means, of course, is that they are hiding this repression better than they were the previous year. That is not the basis for a sustainable relationship in terms of our national interest in democracy and individual human freedom.

Mr. President, the situation in Tibet continues to be one of the great quiet outrages of the 20th century. A Chinese occupation has killed, according to the Dalai Lama of Tibet, one-fifth of the people of that country.

I ask every American to consider the staggering implications of that fact. The Dalai Lama stood just a few feet from here in this Capitol Building just a few months ago and he told us that the Chinese had murdered 1,200,000 Tibetans out of a total population of 6 million people. That has not been disputed by the administration. Members of Congress, Republicans and Democrats alike, stood there and applauded the Dalai Lama, received the Dalai Lama. And today the administration proposes a policy that makes a mockery of the Dalai Lama and the tragedy of Tibet.

If taking over a country and murdering 20 percent of that country's population is not an appalling human rights record, then I ask someone in this Senate to tell me what is. If killing 20 percent of the entire population of a country does not stir the conscience of the American Government, does not provoke the U.S. Senate to action, then I ask one of my colleagues to tell me what will.

The Chinese policy has been to virtually destroy one of the world's oldest religious traditions in its own homeland of Tibet, and that policy continues today unchanged. Our State Department, the administration, reported earlier this year that demonstrations by Tibetans have been violently broken up by Chinese troops and the whereabouts of dozens of people in Tibet remain unknown. Tibetan refugees report torture and mistreatment in Chinese jails and detention centers.

Tibetan independence cannot even now be reflected in Tibetan religious practice. A new law apparently places many religious activities under the control of the Government.

The State Department's report is echoed by the work of independent international observers. There is no credible evidence to the contrary; none has been suggested. It is simply ignored, as though if we do not talk about the people of Tibet, if we do not think about the people of Tibet, maybe the problem will go away.

Mr. President, the Chinese policy of eradicating the Tibetan culture and the Tibetan people and Tibetan independence forever continues today unchanged. How long should we hold out the hope that the people who are carrying out that policy will moderate it?

In every respect, our policy toward China should receive a careful evaluation as to its success. If it is not working, and I believe it is not, we ought to know that and change it. This bill provides a framework for examining serious questions about our policy toward China. This bill says that we cannot condition the extension of most-favored-nation status on the broad generalities that have been used in the past. It is time to examine the specifics, to measure each of them against the national interest at stake, to balance the importance of our national objectives against the costs and benefits of that policy.

This bill is not a restriction on the President or any intrusion into his conduct of foreign policy. It reflects the fact that any policy must be judged critically and methodically against the national interest it is meant to serve.

The bill gives the President 1 year in which to work with the Chinese leaders he knows so well to produce change in those human rights, trade, and weapons policy which now strain our bilateral relations. All that requires of the President is that next June, a year from now, if he should again conclude that the policy of granting favorable trade status to China is sound, that he report on the specific elements of that policy in terms of the results it has produced.

Such a report would include answers to several specific questions: Has the Chinese Government accounted for those citizens detained, accused, or sentenced because of the nonviolent expression of their political beliefs? Has the Chinese Government released citizens imprisoned for such expression? Has the Chinese Government stopped exporting products to the United States made by forced labor?

Has the Chinese Government ceased the supplying of arms and military assistance to the Khmer Rouge? Has the Chinese Government made significant progress in adhering to the joint declaration on Hong Kong, in preventing violations of internationally recognized human rights and correcting unfair trade practices? Has it adopted a national policy which adheres to the limits and controls on nuclear, chemical, and biological arms production?

The answers to each of these questions reflect elements of the national interest which this policy, like all our policies, is designed to pursue. When we have those answers, we will all be in a better position to judge if the policy is succeeding.

The bill contains one additional, crucial provision designed to directly and promptly respond to the proliferation of missile technology.

Missile technology is extremely destabilizing when it is in the hands of nondemocratic governments whose relations with their neighbors are in a constant state of tension.

The national interest in a stable world is self-evident. We should not run the risk that another Persian-Gulf-type crisis could erupt, where civilian populations can be held hostage and the world community must respond to aggression.

The possibility of Chinese sales of certain ballistic missiles or launchers to Syria, Pakistan, and Iran is not conducive to global stability. Indeed, it is a clear and direct threat to regional peace.

Yet that possibility is far from remote. Intelligence reports as well as routine news stories have made that clear.

So the bill provides that 15 days after enactment, the President must certify to the Congress that such sales have not taken place. If, at any time after enactment the President determines that such sales have occurred, he is required to notify the Congress and to immediately terminate most-favored-nation trade treatment for products from the People's Republic of China.

The President has repeatedly said that our goal is to seek a world order based on the rule of law and the fundamental rights of man.

I agree. Such a world order would serve American interests. It is what our foreign policy is designed to produce. When a policy produces movement toward a world ruled by law, we should continue and expand that policy. When a policy does not produce that result, we ought to reexamine it. When a policy contributes to the opposite result, we should change it.

When our Nation first changed its policy toward recognizing the Government of the People's Republic of China 20 years ago, we made a policy reversal of enormous and difficult magnitude.

With the benefit of hindsight, few would argue that it was a mistake. It was not a mistake. With all of its subsequent ups and downs, the greater integration of China into the world community has had benefits for the people of the country and for the world community.

But there is an enormous difference in ending a policy of isolation which served neither American, Chinese, nor world interests, and changing a policy which is not producing any good results.

We will continue to have a relationship with China. The question is what should be that relationship. Should it be one-sided, with Chinese manipulation and cynicism on one side and American frustration on the other? Or should we aim for a relationship in which both parties recognize that there are obligations that go along with the benefits of the relationship?

All the free governments in the world today recognize that they have international responsibilities as well as privileges. It is fair to apply to the Government of China the same standards we apply to other nations. Ultimately, that is what this bill seeks to do.

It is against our national interests to compound a mistake and continue a failed policy. I believe it is time to reexamine our policy and to change it if it shows no evidence of producing desirable results.

That policy reveiw and that possible shift in policy is what this bill is designed to achieve. It deserves the support of every Senator who agrees that the expression of our fundamental interests worldwide must be clear, consistent, and forceful in every relationship.

Mr. President, I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Indiana [Mr. LUGAR].

Mr. LUGAR. Mr. President, I thank the Chair for recognition. I also thank the distinguished majority leader for an excellent statement in support of the legislation he has offered, but which I shall oppose.

I will quote extensively during my views this afternoon from testimony given by the Under Secretary of State, Lawrence Eagleburger, before the Senate Foreign Relations Committee, and from a letter written by the President of the United States on July 19, 1991, to the distinguished Senator from Montana [Mr. BAUCUS].

I excerpt from these documents liberally because they are the views of the President and his administration, and clearly the intent of the bill offered by the distinguished Senator from Maine is to offer an alternative foreign policy with regard to China.

At the outset, I quote from Secretary Eagleburger's testimony:

> Promotion of fundamental human rights is and will persist as a cornerstone of our policy. Top administration officials, from President Bush and Secretary Baker on down, have stated this forcefully and repeatedly to senior representatives of the Chinese Government. The President of the United States was the first major world leader to condemn the crackdown of Tiananmen, and promptly indicated that, in such circumstances, there could be no "business as usual" with the Chinese. The United States today remains alone

> among Western democracies in maintaining its Tiananmen sanctions against China and in refusing to restore normal relations until China makes substantial progress in addressing our human rights concerns. Without question, we have taken the strongest measures against China of any country in the world.

I underline that point, Mr. President, because the United States does remain alone, by itself, in maintaining our sanctions against China. That is a very serious point of our foreign policy, a very courageous and outspoken point, as a matter of fact.

> We do not accept, therefore, the premise that what is at stake in the MFN debate is the administration's concern for human rights in China, or its desire to promote democratic reform. All Americans—in the administration, the Congress, and the public at large—are in agreement on these matters, as we are on the need to seek a stronger commitment from the Chinese on nonproliferation and on fair trade. The real issue, of course, is how we achieve these objectives. Our debate should focus, as President Bush stated recently at Yale, on selecting "a policy that has the best chance of changing Chinese behavior." We firmly believe that renewing China's MFN waiver—without conditions—provides our best instrument for promoting positive change and U.S. interests in China.

I make that point, Mr. President, because the position of the administration, the position that I will advocate today, is there should be most favored nation without conditions. The administration has not put forward a compromise. It has not stated that most favored nation for China with one, two, three, or five conditions would be acceptable.

Indeed, the debate today may be one in which the initial five conditions as I hear them the distinguished Senator from Maine are augmented by additional conditions offered by Senators in the form of amendments. The administration will not be in favor of any of the conditions. We are in favor of an unconditional MFN, and we favor this simply because to have the sword of Damocles hanging over American business, over our tourism, over our exchange students' going back and forth, over all of the elements of our bilateral relationship, is to jeopardize and undermine the planning of Americans and Chinese. Foreign policy simply cannot operate under such conditions.

The mechanistic termination of most favored nation through conditionality in the legislation that the Senator from Maine has proposed is unacceptable to a President; he has authority to maintain the stability of foreign relations by offering certainty to those in our body politic, in our business world, and in our human rights communities.

As Secretary Eagleburger pointed out:

> I would urge at the outset that the Congress resist the temptation to seek a middle-ground solution by extending MFN with conditions. We believe such a solution to be illusory and a recipe for failure. Throwing down the gauntlet with a public ultimatum on MFN—indeed, one specific to China—would only make it easier, not harder, for conservative Chinese leaders to claim that national honor and sovereignty precluded any concessions. Our credibility would then require us six months or one year from now to terminate MFN if China failed to meet each and every condition imposed.
>
> Let us be honest with ourselves. Let us confront today the real issue which the debate on conditionality would only delay for a short period of time—namely, whether to extend MFN on its own merits and without conditions, or to terminate it.
>
> As I will explain, the administration supports the extension of MFN because it believes that an open China is key to our eventual hopes for a more democratic China. MFN has become over the past 11 years an underlying structural component of our relationship, which has facilitated our ability to engage the Chinese on a broad range of issues and has allowed us selectively to apply sanctions targeted to our specific differences. MFN itself is simply not the vehicle we should use to exert pressure on the Chinese with regard to particular issues. To place conditions on MFN would hold our single most powerful instrument for promoting reform hostage to the reactions of the hardliners in Beijing.
>
> In short, the administration fervently believes that MFN is of fundamental value in promoting positive change in China. That fundamental value will not change 6 months or 1 year from now, and that is why we also fervently believe that MFN should be extended without conditions.

Mr. President, the President of the United States has attempted to respond very specifically to the elements of the bill introduced by the distinguished Senator from Maine. He has done so in the form of a letter to Senator BAUCUS of Montana. Senator BAUCUS and 14 other Senators, of which I was one, queried the President on very specific charges that have been raised by Senators and others about our relationship to China. The President responded to our inquiry:

> I appreciated receiving your views on the importance of renewing China's most-favored-nation [MFN] trade status while also seeking to achieve progress with the Chinese on issues of vital concern to the American people. We clearly share the same goals. We want to see China return to the path of reform, show greater respect for human rights, adhere to international norms on weapons sales, and practice fair trade. China should contribute to international stability and not detract from it.
>
> You rightly note that withdrawing MFN would hurt not only Americans but also the people of Hong Kong and the millions in China who are working for progressive change. Continuing MFN is essential to protect American consumers and exporters, and to support the economic forces that have been driving reform in China for more than a decade. It is no accident that the process of reform accelerated with the increase in foreign businesses operating in that nation. Those who would end political and economic reform in China have the most to gain if MFN were withdrawn. It is the economic forces pressing for the loosening of state control and increased personal freedom that would suffer the most. Other losers would be the thousands of American workers and farmers who together produced in 1990 almost $5 billion in exports to China.
>
> Since we started the process of normalizing contacts with China in the 1970's, there has been strong bipartisan support for the United States relationship. Building on the three United States-China communiques, United States interaction with the government and people of China has produced demonstrable progress. That interaction must continue despite the recent severe setbacks. Nevertheless, I support the view that strong measures are needed to address our concerns in China and have not hesitated to use them in a targeted fashion. To underscore our deep dismay about human rights violations, I have kept in place a number of sanctions since the Tiananmen Square crackdown which have affected arms sales, high-level contacts, U.S. economic programs and U.S. support for multilateral development bank lending to China.
>
> The United States is currently the only nation maintaining its Tiananmen sanctions and refusing to normalize relations until China makes substantial progress on human rights. For example, while all our allies and other World Bank members have supported virtually all of the last 16 World Bank loans to China, we have declined to support seven because the loans would not serve basic human needs.
>
> At the London Summit, we raised China's human rights practices with our G–7 allies and encouraged them to continue to stress to China's leaders, as we have repeatedly, the importance that democratic governments attach to human rights. We made clear that the United States will continue its policy of supporting only those multilateral development loans for China that serve basic human needs [BHN], and our view that any non-BHN lending to China help to promote market-oriented economic reform.
>
> To advance our nonproliferation objectives, I recently authorized a number of steps aimed at engaging the Chinese on their weapons transfer policies and making clear our dissatisfaction with transfers that contribute to regional instability. The Under Secretary of State for International Security Affairs recently traveled to Beijing for a detailed discussion of nonproliferation issues, including our specific concerns about Chinese exports. He pressed for China's adherence to the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime, actions I called for in my commencement speech at Yale University on May 27. We are pleased with the constructive role China played in the July 8–9 Middle East arms control talks in Paris. The Chinese endorsed all the key objectives of my Middle East arms control initiative, such as efforts to freeze and ultimately eliminate surface-to-surface missiles and block the production and acquisition of nuclear useable material. The Chinese also agreed to work rapidly in follow-on meetings to flesh out the broad agreements reached in Paris.
>
> At the same time, I have also taken measures to emphasize to China that the United States is concerned about reports of destabilizing missile-related transfers. In April, I rejected requests for licenses to export satellite components for a Chinese communications project because of the involvement of Chinese companies in unacceptable missile equipment transfers. Just recently, I approved trade sanctions against two Chinese companies for that same reason. In addition, I directed that no further licenses of high-speed computers and no further exports of satellites to China be authorized until our

concerns that China adhere to accepted international nonproliferation standards are satisfactorily addressed. The United States will be coordinating with other countries in order that these measures not be undercut. Our experience has demonstrated that such consultations will lead to effective, multilateral technology transfer restrictions.

I have also instructed U.S. agencies to press vigorously our concerns about Chinese unfair trading practices. In April, I directed the U.S. Trade Representative to identify China as a priority foreign country under the Special 301 provisions of the Trade Act for failing to protect U.S. intellectual property rights. If China does not make real progress during the 301 investigation, trade action will follow. Beyond intellectual property protection, my Administration has invited senior Chinese trade officials to Washington in August for continuation of consultations begun in June regarding access for U.S. products to the Chinese market. If these talks fail to produce Chinese commitments to take substantial measures to improve market access, the Administration will self-initiate further action under Section 301 of our trade laws.

We are strictly enforcing the terms of our textile agreement with China and have already made charges against China's quota because of illegal textile shipments through third countries totalling approximately $85 million so far. Following consultations in July, we expect to make additional charges. If China does not exert effective control over these illegal shipments, we are prepared to take additional action against China.

Charges that China exports goods produced with prison labor are a matter of serious concern. The Customs Service is investigating these charges. In addition, we have obtained a firm high-level commitment to prevent the sale of prison labor products to the United States. We will continue to monitor China's behavior in this area closely and will strictly enforce relevant legislation concerning prison labor exports. In particular, I am ordering the following additional measures: The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending negotiation of this agreement, the U.S. Customs Service will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor. The denial will continue until the Chinese Government or the Chinese exporter provides credible evidence that the products were not produced by prison labor.

I am also instructing the U.S. Customs Service to identify an office to receive information on prison labor exports and establish producers for the prompt investigation of reports of prison labor exports from interested parties. Additional customs officials will be directed to identify prison labor exports and aid in uncovering illegal textile transhipments.

Although it is not directly related to China's MFN status, I share your interest in Taiwan's accession to the GATT. As a major trading economy, Taiwan can make an important contribution to the global trade system through responsible GATT participation. The U.S. has a firm position of supporting the accession of Taiwan on terms acceptable to GATT contracting parties. The United States will begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Taiwan's GATT accession. Because China, our tenth largest trading partner, could also make an important contribution to the global trading system, I will seek to have the Chinese Government take steps on trade reform so that China's GATT application can advance and its trade practices can be brought under GATT disciplines through the Working Party formed for China in 1987. U.S. support for Taiwan's accession to GATT as a customs territory should in no way be interpreted as a departure from the long-standing policy of five administrations which acknowledges the Chinese position that there is only one China, and that Taiwan is part of China.

In sum, therefore, I am prepared to address the concerns you and your colleagues have identified, and I am doing so. But discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to American interests and would render futile pursuit of the initiatives I have outlined, which are discussed in greater detail in the attachments. Working together, I believe we will best protect America's interests by remaining engaged with China and the Chinese people.

Sincerely,

GEORGE BUSH.

P.S.—At the recently concluded G-7 Summit in London, the leaders of these Western Democracies all urged renewal of MFN.

The President referenced in the conclusion of his letter, various attachments. I want to touch upon some of the elements of those attachments, because they are a very important set of documents in their own right, setting forth the achievements of this administration.

Human rights concerns have been at the heart of our relationship with the People's Republic of China since the tragic events of June 1989. Every high-level meeting since that time has at least touched on human rights issues, and several—such as the December 1990 visit to China by Assistant Secretary Schifter—have been devoted exclusively to them. We have consistently stressed to the Chinese leadership that there can be no return to the kind of relationship we enjoyed before 1989 without substantial improvements in China's human rights practices.

Our overall approach on human rights issues has consisted of:

PUBLIC EXPRESSION OF CONCERN

President Bush condemned the brutal suppression of demonstrations in Tiananmen Square in June 1989, the first world leader to do so. He declared May 13, 1990, a National Day in Support of Freedom and Human Rights in commemoration of the 1989 demonstrations, and issued another statement to mark the anniversary of the crackdown in 1991.

In our human rights reports for 1989 and 1990, we were fair but hard-hitting, and as accurate as available information would allow. These reports have drawn high praise from human rights groups, and harsh condemnations from the Chinese Government.

The State Department issued a statement on January 9, 1991 condemning the trials of nonviolent dissidents.

In April 1991 the President met the Dalai Lama at the White House to demonstrate our respect for His Holiness' nonviolent approach to conflict resolution and our concern for human rights problems in Tibet.

SUSPENSION OF BILATERAL PROGRAMS

On June 6 and June 20, 1989, the President announced the suspension of a number of bilateral programs and changes in United States approach to multilateral issues until the human rights climate in China improved. Those suspensions generally remain in effect.

A multitude of high-level exchange visits that would normally have taken place since 1989 have been canceled. Only a very limited number of visits at and above Assistant Secretary level have been approved on a case-by-case basis, and only when they addressed issues of key concern to the United States; and so forth, like human rights, nonproliferation, unfair trade practices, and narcotics.

Military exchange visits have been suspended completely.

Work on several existing military equipment and technology projects has been suspended indefinitely.

We have stopped the transfer of military or dual-use equipment or technology to Chinese military and security services.

The United States sought to postpone all multilateral development bank loans to China from June 1989 to Jaunuary 1990. Since then, we have supported only those loans that serve the basic human needs of the Chinese people.

We have suspended grants, loans, and insurance guarantees to China under the Trade and Development Program and OPIC.

We have worked through Cocom to suspend planned liberalization of export controls to China.

ENGAGEMENT IN DIALOG

Through the few high-level visits that have been authorized, and through regular diplomatic channels, we have engaged the Chinese Government in an unprecedented continuing dialog on a wide range of human rights issues.

The Scowcroft-Eagleburger missions of July and December 1989 were devoted primarily to laying out our human rights concerns and suggesting steps the Chinese could take to address them.

During Chinese Foreign Minister Oian's visit to Washington in November 1990, President Bush and Secretary Baker reiterated the need for progress on human rights, and stressed that human rights is a cornerstone of American foreign policy.

Assistant Secretary Schifter visited China in December 1990, the first time our top human rights official has done so. In 16 hours of intense discussions with senior Chinese officials, he spelled out in detail our human rights concerns in a wide range of areas including accounting of detainees, release of political prisoners, denial of due process and fair and open trials, treatment of prisoners, divergence of Chinese law from international standards, respect for freedom of religion, abusive implementation of family planning regulations, and human rights problems in Tibet. He delivered a list of 151 representative cases of reported political incarceration, and asked Chinese authorities to clarify the status of the cases and release those whose imprisonment violated international norms. He suggested changes in Chinese laws and judicial processes that would bring them into conformity with international standards.

Under Secretary Kimmitt in May 1991 reiterated many of the points made by Assistant Secretary Schifter, and called on the Chinese Government to declare an amnesty for all those imprisoned for nonviolent political activities. He also urged the Chinese to implement effectively their claimed prohibition on export of prison labor products.

I make the point with regard to the detainees, Mr. President, that there is no way of verifying how many detainees there are in the People's Republic of China. Quite apart from their status, to adopt a mechanistic formula for identifying the detainees, for releasing them and accounting for them, is to beg the issue of how we would know what the verification procedures could be. We have identified all that we know by name and have made very specific representations to try to release them.

Mr. President, in addition to the human rights dialog entered into by the administration, it is important, also to talk about the Chinese response.

RESULTS OF ACTIONS

Most importantly, the Chinese Government has acknowledged the legitimacy of human rights as a subject of bilateral discussion, both with us and with other concerned governments. They received a congressional delegation devoted exclusively to human rights concerns in March 1991, and agreed to receive another later this year. They also agreed to receive human rights delegations to be sent by the Governments of France and Australia. In addition, they have taken a number of modest but positive steps to improve the human rights situation in China.

Martial law was lifted in Beijing in January 1990 and in Lhasa 4 months later. No part of China is currently subject to martial law.

Most of those detained after the Tiananmen tragedy were released by the end of 1989. Chinese authorities announced the release of nearly 1,000 more detainees in 1990, and about 70 have been released so far in 1991. Officials claim that only 21 still await trial detention in Beijing, and at least one of these, labor leader Han Dongfang, has been released for medical treatment.

While at least 30 persons have been convicted on political charges since the beginning of the year, the sentences meted out to them were generally less severe than those imposed on similar charges in previous years. Those released without further punishment included prominent dissidents such as essayist Liu Xiaobo, journalist Zhang Weiguo, playwright Wang Peigong, and legal scholar Chen Xiaoping.

Leading dissident Fang Lizhi and his wife, who had obtained refuge in the United States Embassy in Beijing for over a year, were allowed to leave China in June 1990, and are now at Princeton University.

Most investigations of those involved in the 1989 protests have ended, and most of our Chinese contacts report that the oppressive atmosphere of 1989 has lifted significantly.

The Chinese have ceased the most odious forms of harassment of Chinese students and scholars in the United States; harassment was a serious problem in 1989 and early 1990.

Relatives of many, though not all, overseas dissidents have been allowed to leave China and join them abroad. In some of the remaining cases that we have raised with Chinese officials, passports have subsequently been issued.

Several released dissidents, including Tiananmen hunger striker Gao Xin and former Arizona State student Yang Wei, have been allowed to leave the country.

Chinese authorities have undertaken to stop the export to the United States of products made in Chinese prisons. We will continue to monitor this situation closely, but it appears that the Chinese Government is taking increasingly specific steps to enforce their prohibition on export of these products.

In response to concerns expressed by administration officials and Members of Congress, the Chinese have provided useful new information on the status of persons reported detained for religious activities.

Economic reforms have resumed, in some cases matching or exceeding levels reached before 1989. Some limited political reforms, in important but relatively noncontroversial areas such as the personnel system, have continued. An administrative procedure law that became effective in October 1990 for the first time enables Chinese citizens to sue abusive officials.

There are indications that further progress may be in the offing. We are continuing to press the Chinese Government to release all remaining detainees, to commute the sentences of those nonviolent dissidents already convicted, and to allow the departure of the remaining relatives of overseas dissidents who wish to leave. We are hopeful that a combination of dialog and specifically targeted pressure will lead to further movement on these and other remaining issues of concern. And in the longer term, we are confident that the momentum toward greater freedom and democratization in China, built up during the decade of reforms and dramatically reflected in the 1989 demonstrations, will prove irreversible.

Mr. President, the administration would contend that these are significant, though modest steps. They are the result, in most cases we would contend, of very concerted negotiations by the United States of America and the sanctions put in place after the Tiananmen Square incident which, as I pointed out earlier, we alone have maintained.

The administration is also deeply concerned about the proliferation issue. The United States is engaged in a high-level dialog with the Chinese that began early in our relationship. Looking at the broad trends in China's nonproliferation policy since normalization in 1979, it is clear that our dialog has paid off in important areas, demonstrated by China's evolution toward international consensus on nonproliferation in areas of great importance to us. For example, China, which once held an antagonistic view of multilateral controls on nuclear exports, joined the IAEA in 1984 and sent observers to the Nuclear Nonproliferation Treaty Review Conference in 1990.

MIDDLE EAST/SOUTH ASIA

China's support for the Middle East arms control initiative is another case in point. China's participation in the initiative is a positive step that will strengthen international nonproliferation efforts and indicates China's resolve to contribute to efforts to attain stability in the Middle East. In addition, China's willingness to participate in multilateral efforts to reduce tension in South Asia will be crucial to establishing stability in that volatile region.

Moreover, we have seen Chinese arms sales restraint in some areas where we have vital interests. For example, to the best of our knowledge, apart from the 1987/88 sale of missiles to Saudi Arabia, China has not delivered medium-range missiles to the Middle East. It is clear that in other specific cases China has taken international concerns into account and declined proposed missile exports to prospective buyers.

UNDERSCORING OUR CONCERNS

It is because serious concerns remain that we want to maintain a constructive nonproliferation dialog with Beijing. We do not intend to ignore current problems, but isolating China by dismantling the framework for our relations is not the way to advance our nonproliferation objectives.

We have the means available to underscore our concerns where there are differences in our approaches to nonproliferation and we have used these legislative and executive branch tools. For example, we have imposed trade sanctions mandated by the National Defense Authorization Act on Chinese entities involved in missile-related activities. We have also announced the Administration's decision that, pending progress toward our nonproliferation objectives, we will not license high-speed computers and will not issue further waivers of legislative restrictions on satellite exports. These new sanctions have been imposed in addition to the existing sanctions announced immediately following the June 1989 assault on Tiananmen and amplified by Congress in the Department of State Authorization Act for Fiscal Year 1990-91. Moreover, we have not certified China under the bilateral agreement for nuclear cooperation that took effect in 1985.

Our policy mix of sanctions and cooperation at any given time is necessarily dependent on Chinese behavior. We are encouraged by China's indication in June that it is reviewing its policies with respect to Missile Technology Control Regime [MTCR] and the NPT. We seek China's adherence to the NPT and the MTCR guidelines and will encourage the Chinese to take concrete steps toward adherence to the key multilateral standards for international behavior established by these institutions. The administration will continue to use the legislative authority that already exists and will take resolute action if the Chinese do not address favorably our nonproliferation concerns.

A central concern has been trade and other economic issue. The administration is committed to achieving with China the same goals that have guided our trade policy with all other countries. We seek open markets and the opportunity for U.S. firms and their products to compete on fair and equal terms. To achieve these goals, and realize the principles of equality, mutual benefit, and nondiscrimination set forth in the United States-China Bilateral Trade Agreement, this administration has pursued a policy of negotiation and engagement on trade issues with China. In particular, the administration has sought to improve United States access to China's marketplace; to bolster Chinese protection of intellectual property; to end fraudulent practices by Chinese textile exporters using false country of origin declarations; and, to induce Beijing to undertake the economic and trade reforms required for membership in the GATT.

Reciprocal MFN tariff treatment underpins our ability to work constructively with the People's Republic of China. China's desire to retain access to the United States market has enabled us to engage Chinese leaders even during periods of tension. We believe that discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to our trade interests and erode our ability to influence China's behavior on key trade issues.

THE PAST DECADE OF BILATERAL TRADE RELATIONS

After decades of adhering to an import-substitution strategy that focused on minimizing China's reliance on outside sources of machinery and equipment, China began in the 1980's to seek outside sources of these goods. It also has increasingly drawn on foreign technology, expertise, and funds by actively encouraging joint ventures.

China's opening to the outside world has helped transform its economy, bolstering reform-oriented sectors that are not directly controlled by the central government. For example, the state sector now produces just over half of China's industrial output; in 1978, its share was 78 percent. China's dynamic rural industries, which are privately and collectively owned, have burgeoned. There are 30,000 foreign-invested ventures now in China, with a total contracted value of $40 billion. The impact of China's open door has been particularly pronounced in the southern and coastal provinces, where 90 percent of the foreign investment and more than three-fourths of China's trade activities are located. This region, in turn, has become the primary engine of economic reform in China largely as a result of the introduction of market concepts to Chinese employees of joint ventures and to citizens engaging in commercial exchanges with the West. The economic autonomy fostered by this interaction contributes to increased political and even individual self-determination.

The United States has been a vital partner in this transformation. Following congressional approval of the bilateral trade agreement, the United States and China established formal trade relations and reciprocally granted most-favored-nation [MFN] status in 1980. Growth in our commercial ties has helped to change China and to bring it into the global trading system. Since the resumption of normal trade relations, United States-China two-way trade has increased almost 770 percent, from $2.3 billion in 1979 to over $20 billion last year.

We are now China's second-largest trading partner and its largest export market.

China is our 10th largest trade partner, up from 15th in 1981.

Over 1,000 United States firms have invested more than $4 billion in China and another $5 billion in Hong Kong related primarily to trade with the PRC.

In 1990, the United States exported 4.8 billion dollars' worth of goods to China, including: 749 million dollars' worth of aircraft; 544 million dollars' worth of fertilizer; 512 million dollars' worth of grain; 281 million dollars' worth of cotton yarn and fabric; 273 million dollars' worth of chemicals; 264 million dollars' worth of electric machinery; 238 million dollars' worth of wood and wood pulp; and 227 million dollars' worth of scientific instruments.

Commercial relations with the United States have exerted positive influences on China's business and economic practices since 1980. China has shifted away from total reliance on a strongly centralized economy, shown greater tolerance for experimentation with market mechanisms to regulate its domestic economy, and decentralized and liberalized its foreign trade practices.

REGRESSION IN CHINA'S TRADE POLICIES

China's opening to the outside world has not been smooth. Over the past decade, attempts to accelerate the implementation of market-oriented reforms have been followed by Beijing's recentralization of control, as concern about the country's ballooning trade deficit led Beijing to step in to regain some of the trade authority it had relinquished.

Moreover, throughout the period since the normalization of trade relations and the granting of reciprocal most-favored-nation trading status in 1980, China's web of barriers to imports has made it difficult for many United States exporters to gain access to the Chinese market. U.S. firms have also had difficulty securing protection for their intellectual property.

United States trade negotiators have long been engaged with the Chinese Government, both in bilateral negotiations and in multilateral consultations at the GATT held to review China's application for membership. We have sought to ensure that bilateral commercial relations develop in accord with the principles that underlie our bilateral trade agreement: Equality; mutual benefit; and nondiscrimination. From 1979 through 1987, Chinese authorities made some progress in reducing nontariff barriers to imports, in improving transparency, and in protecting the intellectual property of foreigners.

This trend has been reversed over the last 3 years.

Since 1988, Chinese trade policies and practices have become more protectionist, nontariff barriers to imports have proliferated, and the trade system has become less transparent. These policies undoubtedly contributed to a 17-percent decline in United States sales to China in 1990. China was the only major foreign market for United States goods and services in which our exports declined in 1990.

Despite intensive bilateral negotiations with Chinese authorities since the USTR in 1989 placed China on the priority watch list of countries providing inadequate intellectual property protection—including three rounds of meetings over the past 5 months—China has failed to live up to the commitments contained in the bilateral memorandum of understanding [MOU] signed in May 1989.

At the same time, other problems have developed in our bilateral trade relationship. For example, to bypass United States textile and apparel quotas, Chinese exporters have increasingly resorted to shipping these products to the United States via third countries using false invoices and counterfeit visas. Also of concern to us has been the apparent lapse in China's commitment to economic and trade reforms that would bring the country in line with the GATT's free-trade principles. China's reassertion of central control over the past few years has called into question its willingness and ability to undertake the obligations that would be required of China as a contracting party to the GATT.

STEPS THE U.S. GOVERNMENT HAS TAKEN AND WILL TAKE TO ADDRESS BILATERAL TRADE PROBLEMS

In six key areas of our bilateral trade and economic relations, the administration has taken steps to resolve trade problems. We are prepared to do more.

ON MARKET ACCESS

Beginning in the fall of 1990, the administration resumed subcabinet level meetings with the Chinese, that had been suspended since June 1989, to secure Chinese actions to reverse the growing list of new protectionist measures.

In April 1991, the administration formally set in motion a market access initiative that continued with the visit to Beijing, in mid-June, of an interagency delegation to discuss market access issues. In meetings with senior Chinese officials, United States Government officials raised nine types of market access barriers, including: The lack of transparency in rules and regulations; the expansion of import licensing requirements; the use of import substitution policies; the proliferation of import bans and quotas; the growth of standards, testing, and certification requirements, including discriminatory quality standards procedures for imports; the high level of many import tariffs; the unnecessary use of certain phytosanitary regulations; the uncertainties regarding government procurement and tendering regulations; and the lack of information regarding China's major development projects.

The administration has proposed holding another round of market access consultations in August 1991. If that round of negotiations fails to yield substantial commitments from the Chinese authorities to dismantle market access barriers, the administration will self-initiate section 301 action to address those barriers the removal of which offers the most potential for achieving United States trade policy objectives and increasing United States exports.

ON INTELLECTUAL PROPERTY PROTECTION

On April 26, 1991, USTA identified the People's Republic of China as a priority foreign country that denies adequate and effective protection of intellectual property rights. Accordingly, on May 26, 1991, USTA initiated a special section 301 investigation on the basis of four problem areas: First, inadequate copyright protection; second, inadequate patent protection; third, inadequate trade secret protection; and fourth, ineffective enforcement of trademarks. Consultations with the Chinese are ongoing. The first round of consultations under the section 301 investigation occurred in mid-June and a second has been proposed for August.

The deadline for making a determination under section 301 is November 26, 1991. This may be extended for 3 months if China is making substantial progress in drafting or implementing measures that will provide adequate and effective protection of United States intellectual property rights. At that time, the USTR must determine whether the acts, policies, and practices of the People's Republic of China are actionable under section 301 and what retaliatory action, if any, is appropriate.

If the consultations fail to produce adequate and effective protection of intellectual property rights, the administration will take retaliatory action.

ON TEXTILE TRANSSHIPMENTS

The United States Customs Service has been vigilant in documenting cases of Chinese textile transshipments over the past year.

In August 1990, USTR held consultations with Chinese authorities on the transshipment issue. Additional consultations took place in November 1990, March 1991, and May 1991.

The United States Government charged China's quotas for goods that were sent to the United States under false country of origin declarations valued at over $85 million.

China has begun to take actions to curtail textile fraud since the December charges were made. For example, it issued regulations prohibiting reexports through a third country to countries that have signed textile agreements with China. Further, the Chinese Government has issued provisions for the punishment of those who violate the regulations.

The administration has prepared more charges valued at about $14 million that we anticipate will be levied after consultations with China next month.

The administration will increase the number of U.S. Customs officials dedicated to investigating circumvention.

If transshipment persists, we will be prepared to take additional action against China.

ON FORCED LABOR

The importation of goods produced with forced, convict, or indentured labor is prohibited by 19 U.S.C. 1307, which also directs the Secretary of the Treasury to prescribe regulations for enforcement of the provision. The Secretary of the Treasury, under 19 CFR 12.42, has delegated to the Commissioner of Customs, authority to determine that a class of goods is the product of forced labor and exclude those goods.

Customs has been investigating imports alleged to be the product of forced labor in China. Customs has interviewed emigres about forced labor practices in China. Customs is also analyzing import samples to determine if they match the descriptions provided by the emigres and others. Additional special agents have been detailed to Hong Kong to assist in the investigation.

Although the letter from Senator BAUCUS and 14 cosigners did not specifically address the issue of prison labor imports, appropriate action is called for to fulfill the intent of existing law. The administration therefore proposes to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific products exports to the United States are being produced by prison labor.

Pending negotiation of the MOU, Customs will temporarily embargo specific products from China when there is reasonable indication that they are made by prison labor. Embargoes will be lifted only after the Chinese Government or the Chinese exporter provides credible evidence that the products are not produced by prison labor.

MULTILATERAL LENDING TO CHINA

The G-7 consensus, led by the United States, was successful in prohibiting all MDB lending to China from June 1989 to February 1990 in response to the international outcry against the crackdown by the Chinese authorities at Tiananmen Square.

From February 1990 to July 1990, the G-7 consensus supported a gradual resumption of World Bank lending to China for projects that clearly met basic human needs [BHN]. The consensus held firm and actively prohibited other loans from Board consideration. Only five loans—totaling $590 million—were approved in World Bank fiscal year 1990. This is substantially less than pre-Tiananmen Square levels of World Bank commitments to China, which were $1.4 billion in World Bank fiscal year 1988 and $1.3 billion in World Bank fiscal year 1989.

At the Houston summit in July 1990, several G-7 countries decided that China's long-term development needs argued for lending outside the BHN limits favored by the United States. Accordingly, the G-7 Houston Summit Declaration of July 1990 on MDB lending to China expanded the boundaries of permitted MDB lending to China to include loans which were environmentally beneficial or which supported market-oriented economic reform. Only BHN loans were considered by the World Bank Board until December 4, 1990, when the market oriented economic reform loan for rural industrial technology was approved by the Board. On November 29, 1990, the ADB approved its first loan to China since Tiananmen Square, Agricultural Bank Project, which the United States did not support. Despite the approval of infrastructure project loans by the World Bank and the Asian Development Bank, the United States has and will continue to withhold support on all loans that do not meet BHN criteria.

ON GATT ACCESSION

Since China applied for GATT membership in July 1986, the United States has been a leading participant in the collective efforts of major GATT contracting parties to develop terms for China's GATT participation that will support the objectives of the GATT and will influence Chinese Government policies to become, over time, more compatible with the GATT framework for world trade.

United States and other major GATT contracting parties' concerns about China's ability and willingness to live up to GATT obligations, particularly since June 1989, have stalled progress in the working party established to consider China's application for membership in the GATT.

The administration intends to continue to press Beijing to undertake trade and economic reforms so that its GATT application can advance and its trade practices be brought under GATT disciplines.

At the same time, the administration will begin to work actively with other GATT members to resolve in a favorable manner the issues relating to Taiwan's accession as a customs territory would be consistent both with GATT legal criteria and the one-China policy which acknowledges the Chinese position and has been adhered to by successive United States administrations.

Taiwan's GATT accession would yield substantial trade and commercial benefits to the United States and to the international trading system.

Taiwan has indicated that it is prepared to accede to the GATT as a developed economy, to bind virtually all its tariffs, and to join the major nontariff measure GATT codes.

THE IMPORTANCE OF MFN

As highlighted above, the administration is aggressively seeking to resolve outstanding bilateral trade issues with the People's Republic of China. MFN underpins our ability to work constructively with the People's Republic of China. We believe that discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to our trade interests, and would render futile pursuit of the initiatives outlined above.

It would reduce our leverage in market access, intellectual property rights protection, and other trade-related negotiations. China's desire to retain access to the United States market has enabled us to engage Chinese leaders in consultations on bilateral and multilateral issues even during periods of tension. Because China is not a GATT member and not bound by GATT trade disciplines, it is especially important to have many levers that enable us to engage the Chinese on trade issues.

It would hurt U.S. exporters. If the United States rescinds China's MFN trading status, China will not only discontinue MFN tariff treatment for the United States, but would likely cease purchasing billions of dollars of United States wheat, aircraft, fertilizer, cotton yarn and fabric, wood and wood pulp, electric machinery, scientific equipment, and chemicals. Foreign competitors, whose goods would be subject to lower tariffs, would be quick to exploit our departure. Lost shares of China's market would not easily be regained even if MFN were restored at some future date.

It would hurt U.S. consumers. Tariffs on the 25 most important United States imports from China would rise from the present average tariff rate of 8.8 percent to an average rate of 50.5 percent. These increases would mean sharply higher prices for lower-end Chinese goods. The costs to United States consumers would be largely borne by poorer Americans, who are primary consumers of low-cost Chinese products.

It would damage America's reputation as a reliable trade partner. Our trade competitors will not join us in denying MFN status to China. Other Chinese trade partners, especially in Asia, urge that China's MFN status be retained.

It would hurt investors, businesses, and workers in Hong Kong. Loss of MFN would impede China's integration into the regional economy, a development crucial to regional stability particularly as we near the 1997 deadline for Hong Kong's reversion to Chinese sovereignty. It could cost 43,000 jobs in Hong Kong and result in direct revenue losses of approximately $1.2 billion. Hong Kong's GDP growth could be curtailed by as much as 2 percent.

It would set back efforts to bring about meaningful economic reform in China. A disproportionate burden of the MFN denial would fall on the primary engine of economic reform in China—the economies of the southern and coastal provinces. In Guangdong province, for example, 40 percent of industrial output is produced for export, half of which goes to the United States. Sectors that fall outside of the direct control of the central government have been especially important to China's development as an exporter; one-third of China's exports currently come from rural—individual and collectively owned—industries and from foreign-invested ventures. The foreign ties these provinces and nonstate-owned factories developed with the outside world prior to Beijing's reassertion of central control in mid-1989 enabled these provinces to weather the austerity program; without these foreign markets, Beijing's grip would have been all the tighter. As Beijing's influence over the regions and sectors most closely integrated into the global economy has diminished, these regions and sectors have become increasingly sensitive to global economic conditions. Revocation of China's MFN trading status would cause unemployment to rise and factory losses to mount in export-producing regions.

CONCLUSION

Those who engineered the violence in China in June 1989 are unlikely to bear the economic costs associated with the denial of MFN. Intead, those who suffer would be American businesses and their employees, American consumers, and the people of Hong Kong and the progressive area of China.

China's opening to the outside world over the past decade has accelerated growth in the nonstate sectors of the economy; resulted in strong links between China's coastal regions and the global economy that have enabled this reformist region to weather Beijing's periodic efforts to reimpose central government control over economic activity; and introduced market concepts to a generation of Chinese managers involved in joint ventures, trade negotiations, and training in the West. For this process to continue, China's most-favored-nation treatment in the United States is essential.

Mr. President, the administration has taken the steps, as I have pointed out, with regard to forced labor, with regard to multilateral lending, with regard to textile transshipment, with regard to GATT accession. But it is important, Mr. President to underline this testimony, and to point out how engaged the administration is in all of these issues.

When most-favored-nation status was given to China during the Carter administration, charges were made that the Chinese regime was a brutal, uncaring regime without much concern with democratic values and values of human rights that we care about in the United States, charges were made that China was a centralized government with 78 percent of its economy accounted for in the centralized public sector.

I simply point out, Mr. President, that the road has not been smooth, but the path has been one of active engagement through diplomacy and through tough talk as was required. I do not know any country more influential than the United States with regard to Chinese relationship. We are, as I pointed out, now in a relationship that is much more complex for the United States in terms of our commerce, as well as our idealism.

I would just simply conclude, Mr. President, by pointing out that the debate that we are having today resumes from time to time simply because we are disgusted with particular practices and, as free Americans, we speak our mind, whether it is a domestic or foreign situation.

But I quote once again Secretary Eagleburger's wisdom in his testimony before the Foreign Relations Committee when he said:

> The fact of the matter is that we have the necessary policy instruments to address aggressively and in a targeted fashion each of the issues of concern to us—and we are doing just that. The granting or denial of MFN does not relate directly to any of these problems. Even on the issue of our trade deficit, no economist to my knowledge has ever suggested that MFN status can be the cause of such a deficit, or that its denial would solve the problem.
>
> We remain convinced that denying MFN to China would not put pressure on the Chinese to change their behavior in specific areas. Instead, it would undercut our ability to engage them and thereby influence their actions. Withdrawal of MFN would impose a broad, blunt sanction on the Chinese people, punishing equally and indiscriminately the progressive entrepreneurs and the ideological hardliners. We advocate instead the continuation of selective application of pressure directly on the issues and people of concern to us. To borrow an analogy from the military, we should use smart instruments targeted on specific problems with China, rather than an instrument of indiscriminate effect, such as MFN.

For these reasons, Mr. President, I am hopeful that the Senate will reject the legislation before us, and that it will give the President the ability to continue the MFN status without conditions and that we will endorse the very strong efforts taken by the administration in each of the critical areas that have been raised in this debate and by sensitive Americans deeply interested in our relationship with China.

I thank the Chair.

Mr. BENTSEN. Mr. President, this debate today is about more than China's most-favored-nation status. It is about the kind of relationship this country is going to have with China in the decades to come. It is about what kind of country China is going to be as it emerges and seeks the benefits of participation in the economy of the world.

Make no mistake about what is at stake here. It is not just how we are going to treat China today or 1 year from today. It is about the kind of foundation that we are going to lay for our relations with China in the decades to come.

We have to get that right because China is simply too big to ignore. If we turn to blind eye to human rights abuses in China, what we are really doing is consigning over a billion Chinese citizens to a life without dignity or freedom.

If we permit China to block our exports to them, we risk seeing it become another Japan, an export-driven economy whose markets remain impenetrable to our most competitive exporters. Take a look at the potential. China has a population eight times that of Japan, and a potential work force and market certainly to match.

I can recall the story about Napoleon who was asked about a policy decision toward China. He said, let that giant sleep. China is not going to sleep. It is emerging and it is on the move. We cannot afford to take a hands-off approach to China. It is too important to the future of this country and to the future of the world.

Since 1980, the United States has granted most-favored-nation status to China. For China, that privilege is conditioned on free emigration and its record in allowing people to leave China freely. That standard represents one of the most basic of human rights. From it flows other human liberties, because no country can allow free emigration while repressing the democratic hopes and aspirations of its people.

Each year since 1980, the President has determined that continuing China's most-favored-nation status will promote the right of free emigration for the Chinese people. The President has made that determination again this year. And it is our job in the Congress to review that decision.

In the Finance Committee, we held hearings to consider the President's recommendation. We heard from the administration. We heard from a great variety of private interests both for and against giving most-favored-nation status to China.

On June 27, 1991, the committee ordered two bills reported to the Senate relating to China's most-favored-nation status. It reported unfavorably Senate Joint Resolution 153, which disapproves in total the President's decision. The effect of the disapproval resolution would be to terminate most-favored-nation status for products imported from China beginning 60 days from enactment.

Now at the same time, the committee offered an alternative. The committee sent to the Senate for further consideration S. 1367, and that is the bill we are considering today. It would allow China's most-favored-nation status to continue for another year as long as certain arms sales do not occur. But before extending China's most-favored-nation status next year, the bill would require the President to determine that China has improved its policies in three main areas—in human rights, trade, and weapons proliferation.

I voted against the first bill, the disapproval resolution, because I do not believe that the immediate revocation of MFN would serve our objectives in China.

What we really ought to be doing is pushing the Chinese leadership just as far as we can push them, and then give them most favored nation; do as much as we can to break down the trade protectionism, protect human rights, and stop the sale of missiles with nuclear capability to countries like Pakistan, Syria, and Iraq.

Until June 1989, extension of China's most-favored-nation status had proceeded routinely. But the events in Tiananmen Square in June of that year brought about a dramatic change in the way the American people think of China. When they think of China now they think of tanks and troops, and they think of guns aimed at Chinese citizens exercising rights which we hold so dear in our own country: The right to speak freely and to assemble peacefully.

Since the events of June 1989, the American people, and we as their representatives, have debated whether we should continue to carry out normal trade ties with a government that we watched so brutally turn on its own people. Can we in good conscience continue business as usual with the Chinese Government?

Today, the repression we witnessed in Tiananmen Square continues, but they are much more careful about it; it continues in a much less visible way. Behind closed doors, those who have challenged the antidemocratic methods of the leadership have been sentenced to long prison terms—longtime activists like Wang Juntao and Chen Ziming. Likewise, religious persecution has been increased over the last few years, with mass arrests and imprisonment taking place of priests, nuns, and the clergy.

Just how many Chinese citizens have been imprisoned for their political activities we really do not know. The Chinese Government certainly will not say. The State Department says it is probably in the thousands. Some estimates have been as high as 30,000.

The legislation that we are considering today says most-favored-nation status continues next year only if the Chinese Government gives us the answer to that question and releases those detained for the peaceful expression of their political beliefs.

As for the freedom to emigrate, that is not an option for those who are in prison. Nor is it a viable option for most students who are now told they either must work for 5 years or repay the state for their education before they can go abroad. Nor is it likely that those working for democracy in

China feel comfortable applying for a passport, since they must get those passports from the police and only after a review of their activities before and after Tiananmen Square.

Then there is another issue we ought to address. I heard my distinguished friend from Indiana referring to the importance of our trade with China. When two countries give each other most-favored-nation status, we anticipate that both countries are going to benefit in their trade relationship. But look at what has happened since we granted China most-favored-nation status. Before 1980, China's annual exports to us amounted to less than $1 billion a year. By 1990, they exported 15 billion dollars' worth of products to us.

Did our trade see the same kind of growth? Did we enjoy the same kind of benefits? Before MFN we were exporting about $2 billion in goods to China. Last year we exported less than $5 billion.

In other words, under MFN we have seen a $3 billion increase in our exports to China while China has seen over a $14 billion increase in their exports to us. Not bad for China. But this relationship has added over $10 billion to our trade deficit.

Right now our deficit with China is our third largest and our fastest growing. Last year China increased their exports to us by 27 percent. Our exports to them were decreased by 17 percent. In no other major market in the world did we have that kind of a decrease. Is that the kind of trade relationship we want, that kind of protectionism against our products?

Over the last 3 years China has expanded central control over foreign trade and it uses those controls to limit imports. The number of corporations authorized to import has been reduced by one-third. I heard the figure cited a moment ago as to how many corporations were authorized to import into China. But the relevant point is that the number of those companies has been reduced by one-third.

The number of products subject to import licensing or import bans has increased. Today we have 53 product categories, accounting for over 45 percent of China's trade, that require import licenses. Import licenses means control by the Government. Imports of 80 types of products are completely banned. Tariffs on more than 100 items have been increased in the past 3 years to rates of 120 to 170 percent and range as high as 200 percent.

How do you compete with that? Does that sound like a most favored nation?

Some of China's barriers are more subtle. For example, it does not publish its trade directives, so exporters do not know what they are up against. And it imposes high quality standards on foreign products, and then requires elaborate testing and certification to see that those standards are met. For example, if you want to export automobiles to China you have to provide two free cars as samples to the Chinese Government. Then you have to pay them $40,000 for their testing. And then you have to foot the bill for the Chinese inspectors to come to this country to inspect the factory.

The Chinese apply none of these rules, of course, to their own automobile manufacturers.

China also steals the markets of American exporters by stealing United States intellectual property. Even the administration admits that China remains one of the world's premier violators of others' intellectual property rights. It provides no patent protection for chemical and pharmaceutical products; none. Its new copyright law provides no protection for U.S. products. United States copyright industries have estimated losses of $410 million each year from Chinese copyright pirates.

The problem is so bad that the United States Trade Representative designated China a "priority foreign country" under the special 301 provision of the 1988 Trade Act for violating property rights, copyrights.

Today we are really at a critical crossroads with China. We tolerated these kinds of policies much too long. And the sad legacy was a U.S. trade deficit that spiraled out of control in the 1980's. Let us not repeat it with China, with all of its size and all of its work force. I am not willing to see China repeat that kind of performance; closing off its markets until it develops into a major competitor and then opening it up only bit by bit, begrudgingly, in the toughest of negotiations.

But this administration prefers a hands-off policy. It has failed to send a message to the Chinese leadership that there is a price to pay for its policies of repression, of protectionism, of indiscriminate arms sales, and it is time for the Congress to send that message loudly and firmly.

I urge my colleagues to tell the Chinese leadership that MFN is a benefit that they should no longer take for granted.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I want to follow up on the comments of the distinguished chairman of the Senate Finance Committee by discussing the economic dimension of our relationship with China. The fact of the matter is that the Chinese are manipulating the trade relationship to serve their purposes.

I will shortly address the human rights reasons and the missile and nuclear technology proliferation reasons why we should not extend MFN, on which basis I think a very strong case can be made. But whenever one tries to advance those arguments, people say: "Wait a second. This is an economic relationship. MFN has to do with our trade relationship, and we ought to look at it only in that dimension."

I do not agree with that. But let us take that as a working premise, and let us look at the United States-Chinese economic relationship and the most-favored-nation treatment for China solely in that context.

I am going to quote the administration's own words. Under the Omnibus Trade and Competitiveness Act, which the distinguished Senator from Texas was so effective in helping to move through the Congress in 1988, the Secretary of the Treasury is required to submit an annual report to the Congress on international economic policy and exchange rates of countries that are trying to manipulate these factors in order to gain a trade advantage. They are required to update these reports every 6 months.

In its latest report submitted just 2 months ago, in May of this year, the Treasury Department first of all pointed to the extent of the trade imbalance.

As the able Senator from Texas has pointed out, the Chinese trade surplus with the United States has been growing in geometric progression. In fact, their trade surplus with the United States in 1990 was $10.4 billion. Since their trade balance with the entire world was a positive $9 billion, the United States more than accounted for China's positive trade balance.

This gap in the trade balance has grown at an incredible rate over the last 3 years. In 1985, China's trade surplus with the United States was zero. It was, in other words, in balance. In 1986, China had a trade surplus with the United States of $1.7 billion; in 1987, $2.8 billion; 1988, $3.5 billion; 1989, $6.2 billion; and 1990, $10.4 billion.

So over the last 2 years, from 1988 to 1990, China's trade surplus with the United States has tripled. It has gone from $3.5 to $10.4 billion, and if the trends for this year are carried through, it is estimated that the trade surplus will soon reach $15 billion.

Thus their entire worldwide positive balance comes out of their trade relationship with the United States. To this someone may say that China is competing in international markets and this surplus is just a measure of effective competition. Yet this argument simply will not hold water.

Let me quote from this report from the Treasury to the Congress on International economic and exchange rate policy:

> The manner in which foreign exchange is allocated, along with import licenses and other market access barriers, is an important means by which China controls the external trade sector. These pervasive controls are symptomatic of the broader controls which characterize the command structure of the Chinese economy.
>
> An import license is a prerequisite for obtaining a foreign exchange allocation for

> nonpriority imports at the official exchange rate. The licenses are, hence, a primary means of controling imports. However, even if a foreign trade company has obtained an appropriate import license, it may not be able to obtain a foreign currency allocation.

So the Chinese have this very well calculated system of, first, controlling trade through import licenses, and then controlling it through foreign currency allocation.

The report goes on:

> For priority imports, foreign exchange at the administered rate is allocated to foreign trade companies under the foreign exchange plans of the central, provincial, and local governments. The allocation decision, while not affecting exchange rates, does provide a second control not only on the value of imports, but also on the supplier of any particular product. This control, to the extent purchasers are directed away from U.S. suppliers to other suppliers, increases the U.S. bilateral trade deficit with China.

The report continues:

> On the export side, China uses a number of licensing and other administative means to influence exports. For example, China gives exporting firms priority access to raw materials, energy, and bank loans. An important element in China's export strategy is efforts to target sales to the U.S. market.

Having discussed the way China controls imports and how they also, in effect, control exports, the report then goes on to make this assessment, and I quote:

> It is our assessment that the principal cause of China's bilateral trade surplus and external surpluses appears to be generalized and pervasive administrative controls over external trade, which inhibit imports, including from the United States, and promote exports, particularly to the United States, China's largest market.

Mr. President, how much of this are we going to stand for? There is a gross abuse of trade practices. It has resulted in an exponential increase in our trade deficit with China. This chart shows United States-China trade from 1986 through 1990. The first bar is United States exports to China; the second bar is United States imports from China. As you can see, while our exports to China increased a bit up to 1989, they actually dropped in 1990. In fact, United States exports to China dropped by 17 percent between 1989 and 1990, as a result, I submit, of the administrative control practices that I just cited from the report from the Treasury.

Meanwhile, our imports from China continue to ascend at a very rapid rate. They have gone from $4.8 billion in 1986, to $6.3 billion in 1987, to $8.5 billion in 1988, to $12 billion in 1989, to $15.2 billion in 1990; $15.2 billion is what we imported from China last year. In the same year, $4.8 billion is what China imported from us, which meant China had a hefty little trade surplus with us of $10.4 billion. China's balance with the rest of the world was a positive $9 billion.

So all of their surplus is coming out of their trade with the United States. To quote the Treasury again:

It is our assessment that the principal cause of China's bilateral trade surplus and external surpluses appears to be generalized and pervasive administrative controls over external trade, which inhibit imports, including from the United States, and promote exports, particularly to the United States, China's largest market.

If the trends continue as projected for this year, it is estimated that China's surplus with the United States will jump from $10.4 to about $15 billion, and there are some projections that in a year or two from now, it would go above $20 billion.

This is what is happening in the economic dimension. I want to go on to address the human rights aspect and the arms proliferation issue. But for those who try to discount those considerations and limit the debate to the economic relationship, this is the economic relationship. It reflects a gross abuse of the trade terms. Our Trade Representative has said so. The Treasury Department has said so. It is clear the Chinese are manipulating that trade relationship in order to build up these large surpluses in their trade with the United States. At the end of 1991, it is expected that our second largest trade deficit will be with China, exceeded only by Japan. Of course, with Japan we have been trying to bring the deficit down with some success, not much, but some success. At least the line is trending down. The Chinese trend is upward. It is trending upward because of these administrative controls over external trade.

In its 1991 National Trade Estimate Report on Foreign Trade Barriers, the United States Trade Representative documented China's trade practices and their impact on United States exporters, investors, and our bilateral trade relationship. It singled out China as one of three countries whose trade practices are, and I quote now:

> The most onerous and egregious and who are not negotiating in good faith or making progress in negotiations.

Our trade deficit with China jumped 67 percent between 1989 and 1990. In 1990, China's exports to the United States increased 27 percent over 1989.

What about our exports to China? It is reasonable to assume that if there is a growing trade relationship, there will be an expansion on both sides. As I said, China's exports to the United States increased by 27 percent from 1989 to 1990. By what percent do you think United States exports to China went up? In each of the previous years our exports to China had gone up, through not by much. We had an overall deficit with China, but at least our exports to China were going up. But what happened in 1990? Mr. President, I wish I could say that our exports to China increased. The fact is I cannot say that. China's exports to us went up 27 percent. Our exports to China went down—down—by 17 percent. That is the economic relationship. Here we are, debating most-favored-nation trade treatment, and we have this clear-cut abuse by China of the trade relationship, with numerous examples of unfair trade practices.

In fact, the report of the United States Trade Representative provides a detailed account of the areas in which China maintains unfair and restrictive trade practices. They employ a complex system of tariff and nontariff barriers foreign firms' access to their domestic market. Since 1988, China has tightened these controls. I am quoting now from the Trade Representative's report:

> Since September 1988 China has tightened administrative trade controls, recentralized trading authority for certain commodities, and increased the number of import bans.

They have been increasing the tariff on most items. They have an import regulatory tax which imposes a separate surcharge over and above applicable tariffs. They require import licenses in 53 product categories, accounting for almost half of China's trade by value in 1989. Industrial ministries in 1990 showed reluctance to allow expanded imports that competed with products from the factories under their jurisdiction. Quantitative restrictions are used to limit foreign companies' access to China's markets.

Then there are the standards, testing, labeling, and certification techniques to which the distinguished chairman made reference. There is the whole effort at export incentives which I previously quoted. It is estimated that over 90 percent of China's exports by value receive this type of support from various levels of the Chinese Government. There is a lack of intellectual property protection, a lack of copyright protection, a lack of patent protection, a lack of trademark protection—on and on and on. Are we simply supposed to take this while the trade deficit continues to escalate? It is going to go from $10 billion to $15 billion to $20 billion, and so on.

Therefore, Mr. President, even when one looks at the economic dimension alone, there is more than an adequate case for passing the conditional MFN extension which the majority leader has introduced. Actually, I think this bill is a very moderate proposal because it extends MFN for 1 year, in effect putting China on notice that it must address the very serious concerns we have with respect to the relationship before we will allow a further continuation of MFN.

Let me turn very quickly to two other areas that are of deep concern to me. One is human rights. There has been virtually no improvement in China's human rights record since the brutal repression of the peaceful human rights demonstrators on Tiananmen Square 2 years ago. Those who participated are still being punished. There are arbitrary arrests, detentions without charge, torture, forced prison labor, and other violations of internationally recognized standards of human rights.

China is the world's most populous country. If the United States is to assert a serious human rights standard, we cannot ignore the behavior of the most populous country in the world. Otherwise, we would be clearly applying a double standard.

I submit to you that in fact there is no other country in the world that could have engaged in the pattern of conduct that we see here with respect to human rights, with respect to unfair trade practices, and with respect to weapons proliferation and still be accorded most-favored-nation status. We would have acted long before we have acted in this situation. We are now in a situation where former Communist countries all around the world are making great strides toward democracy.

Freedom is advancing at, in some places, a breathtaking pace. It is a development we welcome, but one which we have not seen in China. There the repression continues.

Let me turn finally to the weapons proliferation issue. What we are confronted with is the Chinese Government engaging in frequent and large sales of highly sophisticated weapons, including components of and capabilities for nuclear weapons, to very unstable areas of the world. It has been reported that China provided Pakistan with the complete design of a tested nuclear weapon and enough enriched uranium to build two atomic bombs; that China provided South Africa with enriched uranium; that China assisted Iraq in making magnets used for production of nuclear fuel and sold Iraq 30 Silkworm antiship missiles; that China provided Saudi Arabia with intermediate-range ballistic missiles and trained Iranian nuclear technicians. There are further reports that China is planning to sell nuclear-capable M-11 missiles to Pakistan and M-9 missiles to Syria, that they are constructing a nuclear reactor in Algeria, and providing Iraq with the ingredients for chemical and nuclear weapons. And, of course, China continues to provide the murderous Khmer Rouge in Cambodia with diplomatic, economic, and military support.

If China continues its disregard of the concerns which have been expressed with respect to weapons proliferation, we will have the extension of ballistic missiles and nuclear technology into the Middle East which is, of course, a tinderbox. This comes at a time when, following the Persian Gulf war, one hopes that we will be able to introduce some restraint and containment on the transfer of weapons into the Middle East.

It is clearly not in our interest that this continue. How is the United States going to be able to make the argument to other nations on human rights, on the transfer of weapons, and on a fair international trading regime, if we do not respond to the abuses taking place in each of these areas by the Chinese regime?

Mr. President, I submit that if we are to reflect any clarity and consistency about what we stand for in the international arena, if we are to show that we are serious about freedom, about democracy, about human rights, about nonproliferation of dangerous weapons systems, and about fair play on international trade, we need to pass S. 1367, introduced by the majority leader. This bill actually extends the renewal of MFN treatment for another year, conditioned on meeting the concerns which I have expressed and which others have detailed.

What the legislation that is before us is seeking, in response from the Chinese Government, is eminently reasonable. We ask only a degree of cooperation on internationally recognized human rights, on weapons transfers, and on fair trade practices. Therefore, Mr. President, I strongly urge support for S. 1367.

Mr. President, I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Missouri.

Mr. DANFORTH. Mr. President, we cannot have it both ways on this vote. We cannot at once issue a broadside against the People's Republic of China and then argue that we are really simply extending most-favored-nation treatment with conditions. That is not the case. We are voting not on conditional MFN. We are voting on MFN itself. There can be no doubt about that.

If we enact the legislation that is now before us, the result would be to terminate most-favored-nation status with China. Maybe that is what we want to do. Maybe that is what Senators would like to vote for. But let us not delude ourselves that there is such a thing as a middle ground, that there is such a thing as conditional most-favored-nation status.

I do not know of anybody who is aware of our foreign policy concerns and dealings with China who really believes that, if we submit to the People's Republic of China certain conditions for most-favored-nation status, they would suddenly say, "OK, we accept those conditions. That is fine with us. We agree. You have got us. You have really got us in a box. We are so anxious to do business with you, we are so anxious to trade with you that we will eat humble pie. We will give in."

As a matter of fact, the same issue was raised to Deputy Secretary of State Eagleburger when he testified before the Finance Committee. He said in his testimony, and I am quoting:

> I would urge at the outset that Congress resist the temptation to seek a middle-ground solution by extending MFN with conditions. We believe such a solution to be illusory and a recipe for failure. Throwing down the gauntlet with a public ultimatum on MFN—indeed, one specific to China—would only make it easier, not harder, for conservative Chinese leaders to claim that national honor and sovereignty precluded any concessions. Our credibility would then require us 6 months or 1 year from now to terminate MFN if China fails to meet each and every condition imposed.

That is the statement of the Deputy Secretary of State. He believes that it is an illusion to feel that there is such a thing as conditional MFN. We are going to be voting on whether to terminate most-favored-nation status with China.

As I understand the basic thrust of the argument that was made by my chairman, the Senator from Texas, Senator BENTSEN, and by Senator SARBANES, the basic thrust of the argument, the main point that was made, was that the trade deficit is just too large. This is too big a trade deficit. We cannot take this anymore.

Mr. President, I thought that argument, namely, conditioning trade policy on the size of the trade deficit, was pretty well put to rest with the Gephardt amendment.

Mr. SARBANES. Will the Senator yield?

Mr. DANFORTH. I will be happy to yield in a minute but I would prefer if I could, to continue with my thought. Then I will be happy to yield to the Senator.

Mr. President, it was very much the vogue a few years ago, for Members of Congress to argue, as Congressman GEPHARDT argued, that the trade deficit is the measure of trade relations between the two countries. When the trade deficit reaches a certain level, that should trigger retaliation. This legislation is the Gephardt amendment. This legislation would say that the trade deficit is just too large, we cannot take it any longer, and therefore we are going to stop trading. We are going to stop doing business with the People's Republic of China.

I wonder if we intend to apply the same rule to other countries with which we have a large trade deficit, beginning, for example, with Japan. We just cannot do business this way. The trade figures are too high. Here are the charts. Here is where imports are going, here is where exports are going. The trade deficit is too large. Let us revoke most-favored-nation status.

We rejected the concept of the Gephardt amendment. I think we should reject the concept of the bill before us.

Then it is argued, well, not only is the trade deficit too large, $10 billion, $15 billion, maybe going to $20 billion, but really the Chinese are not playing by the rules of the game, and because they are not playing by the rules of the game, we are going to stop the game. So that is sort of the second rung of the argument that is made for this legislation.

And so we hear, well, the Chinese use import licenses. Import licenses, we all know, are terrible; and they are. Therefore, they say, it is a reason to revoke most-favored-nation status. If the existence of important licenses is the basis for revoking most-favored-nation status, then let us revoke most-favored-nation status for Mexico; let us revoke most-favored-nation status for Brazil; let us revoke most-favored-nation status for India, for Thailand, and even for Canada, as a matter of fact, and New Zealand, and the Philippines. One country after another begins to fall, if the use of import licenses is the basis for revoking most-favored-nation status.

And then it is said, well, they steal intellectual property rights—patents, trademarks and copyrights. They take those away from us. Well, we cannot stand that. Let us not enforce the laws that are on the books. Let us stop the laws, stop the trade. Let us pretend that this country of over 1 billion people does not exist, because they steal our patents. They steal our copyrights.

Well, if that is to be the rule, then how about Taiwan? Why do we have rules of international trade? The reason we have rules of international trade, I hope, is to enforce them, not to stop playing altogether.

Mr. President, after making the point, as the advocates of this legislation do, that the trade deficit is too high, and we cannot take it anymore, and let us quit, or that the rules are being abridged and we cannot take that anymore, so let us quit, then immediately the argument gets to issues of foreign policy and issues of human rights.

It is said that we really do not like the Chinese, we do not like what they do to their own people, and we do not like their policies, internal or external. We all know of Tiananmen Square, and we all know they take political prisoners. For those reasons, we have to send them a message, and the way to send them a message is to stop trading with them.

Mr. President, I simply point out that this in turn raises a fundamental issue that has been before us for many, many years. The issue is: what is the relationship between trade policy and the other objectives of national policy?

Traditionally, it has been the Congress that has been the branch of government that has been particularly concerned with the economic interests of the American people. Traditionally, it has been the executive branch that has been particularly interested in the conduct of foreign policy. Congress is granted, by the Constitution, the power and the jurisdiction over international commerce. But, as a practical matter, what Congress does is to delegate that responsibility to the executive branch. We cannot operate trade policy from the floor of the Senate, so we do delegate a tremendous amount of responsibility to the executive branch.

The tradition has been that it is Congress that attempts to elevate the role of international trade in dealing with other countries. And, historically, in the Senate Finance Committee, what we have attempted to do is put pressure on whatever administration happens to be in power to raise the level of international trade in dealing with other countries.

We have made the argument that too often administrations, whether Democratic administrations or Republican administrations, have relegated economic questions, and international trade in particular, to a second-class status in dealing with other countries. We have argued in the Finance Committee, time and time again, that administrations tend to use international trade as a bargaining chip. We say to administration representatives, as we have said for years—certainly, since I have been around here—"You are pulling your punches; you are not pressing our trade concerns. You are not raising trade concerns, for example, when you have meetings such as last week with the G-7. You are soft peddling international trade." It is too easy for the administration to give away economic matters because of overall foreign policy concerns.

The basic role of Congress has been to put the squeeze on administrations to make more of the role of international trade. What an irony it is, Mr. President, that in this particular legislation, the tables are completely turned. Here it is that Congress decides that trade comes last, and foreign policy concerns come first. We do not like Tiananmen Square, nobody likes Tiananmen Square; therefore, withdraw most-favored-nation status. We do not like the way the Chinese conduct their internal affairs or their external affairs, therefore, withdraw most-favored-nation status. It is the opposite of the usual role we have played in Congress, which has been the role of trying to elevate the importance of international trade in the dealings with other countries.

I remember back in the early 1980's, when I had the privilege of serving as the chairman of the International Trade Subcommittee in the Finance Committee. Every year I had to chair the hearings on whether or not to extend most-favored-nation status to Hungary, Romania, and the People's Republic of China.

At that time, almost all of the concern was voiced with respect to Romania. Various people would appear before the Finance Committee, and they would tell us what a terrible place Romania is. They would say that, in Romania, they bulldoze churches; and in Romania, they turn Bibles into toilet paper; and in Romania, they persecute ethnic minorities; and in Romania, they persecute Jews, and on, and on, and on. We were told this is what a terrible place Romania is. Every year, this issue was raised in the Senate, and every year the Senate, after considerable debate, took the position that we could not, as a matter of policy, turn most-favored-nation status on and off because of what is going on within a country. That was the policy we took.

We took the position that Jackson-Vanik meant that emigration was the sole condition for most-favored-nation status, and we should not extend that further.

Now, it is said in this legislation that most-favored-nation status is revoked or most-favored-nation status is extended so as to accomplish all kinds of extraneous results.

Mr. President, that would be a major change in trade policy. It would be a major reduction of trade policy in relationship to other objectives of our country. And before we make that decision, we might ask ourselves, would it work? Would it work?

If the United States of America decides that we are going to turn off over a billion people, if we are going to decide that we are not going to do business with the People's Republic of China because we want to bring them to our position or we want to change their policies, then the question is, Would it work?

Secretary Eagleburger says "no." He says that there is no chance that it will work. He says that this would have the practical effect of strengthening the hand of the most reactionary parts of the Chinese political system. That is his view. It would not work; it would backfire.

And we would not be joined by our allies. We would not be joined by the rest of the world. We would not be joined by the Europeans or the Japanese with whom we met last week. We would not be joined by the Koreans. We would not be joined by any other country.

We would be attempting to influence the People's Republic of China by turning off international trade while the rest of the world rushed in to fill the vacuum that we have created. This is legislation which is designed to accomplish absolutely nothing, except hurt ourselves; which has no prospect of success; which would turn trade policy in the United States on its head; which would give up the idea of enforcement, for the idea of not playing the game at all. It is truly misguided legislation. It may be the stuff of a good television commercial but it is bad economic policy for the United States and bad political policy as well.

I apologize to the Senator from Maryland, and I would be happy to entertain any thoughts or questions.

Mr. SARBANES. No apology required.

Mr. President, I note that the distinguished Senator from Missouri, a minister and a lawyer, is always prepared to do justice to the arguments made from the other side. But as I listened to his description of the argument that had been made by the chairman of the committee and by myself on the economic question, I must say, I did not think justice was being done to the other side.

We did not start from the premise that the large trade deficit in and of itself was a basis for moving at MFN. In fact, he put the cart before the horse. We started from the premise that the unfair trade practices in which China is so deeply engaged are, in effect, what has led to the large trade imbalance. The figures support that, the descriptions of their practices support that, and the reports from the administration support that.

The United States Trade Representatives, in its 1991 National Trade Estimate Report on Foreign Trade Barriers, singled out China as a country whose trade practices are "the most onerous and egregious and who are not negotiating in good faith or making progress in negotiations."

And the Treasury in its report says:

> It is our assessment that the principal cause of China's bilateral trade surplus and external surpluses appears to be generalized and pervasive administrative controls over external trade, which inhibit imports, including from the United States, and promote exports, particularly to the United States, China's largest market.

The Senator also mentioned import licensing. But this is only one item on a long list of unfair trade practices. The Chinese are engaged in every one of these unfair practices; some other countries are engaged in one or another, but the Chinese are engaged in every one of them. The consequence of engaging in those practices is what has led to this rapid escalation in our trade deficit with China, has gone from $1.7 billion in 1986 to $10.4 billion in 1990. It has tripled just since 1988.

So it is not the trade deficit alone, it is the whole range of unfair trade practices in which China has been engaged which has resulted in these large trade deficits, and that is the root of the economic problem.

Mr. DANFORTH. Mr. President, if I may respond. The Senator from Maryland insists in arguing from the standpoint of numerical deficits. That is the approach he took in his argument, his principal argument. It is the position that has been taken by the so-called Gephardt amendment. I think that it is bad trade policy.

With respect to the so-called list and the national trade estimates, I invented that list—I mean, the idea of the list.

Mr. SARBANES. All the more reason it should have influence with the Senator.

Mr. DANFORTH. The idea of having national trade estimates was a concept that was developed in the early 1980's, and the idea was to have a systematic way of cataloging unfair trade practices. Why do such a thing? Why catalog unfair trade practices? We catalog unfair trade practices in order to address them; to address them, hopefully, in a systematic way; to address them by enforcing the law; to address them by applying section 301 of the Trade Act. That is the reason for having national trade estimates, a list of unfair trade practices, but not for the purpose of making the argument that we should withdraw most-favored-nation status. That was never intended by Congress when we developed that list.

Mr. BENTSEN. If the Senator will yield for a moment.

The PRESIDING OFFICER. The Chair wishes to state the Senator from Missouri still has the floor.

Mr. DANFORTH. I am happy to yield the floor.

Mr. BENTSEN. I thank the Senator very much.

Mr. President, my distinguished colleague from Missouri also referred to me in his comments and stated I said the problem existed because there was a big deficit in trade. No, not at all. That is not what I said.

What I talked about was the trend, and where it is going. What I talked about was the change in policy and that that policy is more restrictive. What I talked about was that a third of the corporations in the last 3 years that have been allowed to export to China have been barred from sending further exports to China. What I talked about was that our exports to China have been reduced by 17 percent in the last year, when that has not happened in any other market of any size around the world. What I talked about was that China's exports to the United States increased by 7 percent in that period of time. What I talked about was in the last 3 years, they have raised their duties from 120 to 170 percent and that China has raised them as high as 200 percent on some products.

And then my friend from Missouri raised the example of Mexico. What a poor example. With regard to Mexico, we remember the special 301 trade law, a law the Senator helped draft. Mexico, instead of being cited on special 301 intellectual property rights, has now passed within the last week a very tough intellectual property rights law that is tougher than Canada's law. That nation has reduced its duties from 100 percent to a maximum duty of 20 percent, to an average of 9 percent ad valorem. That is where they are going.

My concern is the trend, where it is headed. What kind of a business relationship do you have? If you are headed downhill and they are headed uphill and they are putting roadblocks in your way, that is what concerns me, not the size of the deficit by itself.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, today we begin debate on the issue of MFN for China. I expect this will be a good and spirited debate. And I hope that, once we have debated and voted, we can put this issue to rest for this year.

When we get to the vote on final passage of the Mitchell resolution, I believe that vote will make clear that neither this resolution, nor anything like it is going to be enacted into law this session. And the Nation's interest will not be served by dragging out this issue—for any other reasons.

As I indicated when the President first announced his decision, it is important for us to see through all the handwringing, and overheated rhetoric—and keep our eye clearly on what the issue really is, and is not.

As the Senator from Missouri just pointed out, the issue is not whether we approve of, or condone, China's policies in areas like human rights, advanced weapons proliferation, and trade. We all share the view that China's policies in all those areas fall far short of what we want, and insist on.

The issue is not whether we do something about our concerns. Virtually ever one of us believes we must keep the heat on Beijing in all of these areas.

The real issue is: How do we best do what clearly needs to be done? Is MFN the best tool? Is it an effective tool?

And this debate really is between those who believe withholding MFN will force the Chinese to shape up in all these areas; and those of us who believe that MFN is not the right tool—because it is a toll that will not work, and will, in fact, probably backfire.

I will be listening hard to the arguments of those who support the pending resolution—listening to hear them explain the process by which terminating MFN will lead to the release of a single political prisoner; will bring greater democracy to China; will cause China to rethink, and reconstruct, its arms sales policies; will cause China to change its unfair trade practices.

I will be listening to hear them explain how much pressure we will really bring to bear on China by withholding MFN—when not a single other nation on Earth will follow suit. We are the only one. We are the Lone Ranger if this happens. On the contrary, it is not hard to imagine the parties that are going to be held around the world—from Australia, to Japan, to Western Europe—when they hear that Uncle Sam is about to impose another restriction on its own exporters, to no useful end.

And a lot of those exports are grain that comes from the Midwest and upper Midwest. We are not talking about being strangers; we are talking about people we know.

I should note in that regard that we will apparently be debating later an amendment that requires the administration to ensure that our GATT partners will impose the same restrictions on trade that we do. I must say, among all the Alice in Wonderland ideas that are floating around these days, that one takes the cake. And I look forward to hearing how the supporters of that amendment intend the administration to ensure something that we all know is absolutely, 100 percent impossible to accomplish. But that is a matter for debate at a later time.

For now, let me return to the main point, which is—let us keep our eye on the ball.

The issue is: Do we just want to feel good? Or do we really want to do some good in these very legitimate areas of concern? And I applaud those who have raised those concerns.

As everyone knows, myself, the distinguished Senator from Montana [Mr. BAUCUS], and a number of other Senators wrote to the President—saying that we do have grave concerns in many areas; insisting that the administration deal urgently with those concerns, and tell us how it intends to do that; but concluding that MFN was just not the right tool to use to address those concerns.

The President has responded to our letter, and our concerns, in a very straightforward, detailed way—and has laid out an action plan that will effectively address the concerns that we have. For those Senators who have not yet read it, I hope they will do so now. The President outlined a real, effective approach. And the contrast between the action approach of the President, and the feel-good approach of the pending resolution, could not be clearer.

Mr. President, the pending resolution will not accomplish what it seeks to accomplish.

Robert Frost once admonished fence-builders to take care about what they were actually fencing in, and what they were fencing out.

Sanctions advocates should also take heed about who will actually suffer the impact of the sanctions they propose.

Enacting the pending resolution—Uncle Sam out there all alone, cutting off MFN while all of our partners continue to go their merry way—that will not seriously hurt the old men in Beijing. If several thousand years of Chinese history is any useful guide, the Beijing leaders would react to its enactment not by crying uncle—but by retreating further into isolationism and repression.

Its enactment would hurt the very people we seek to help. It would hurt the reformers, who—while we smugly celebrate our lofty moral stance—will suffer the repressive backlash we have sparked, and who, in the longer run, will be further isolated from access to our presence.

It would hurt the free market reformers, most heavily concentrated in southern China—which, not coincidentally, is where most of our business presence is centered.

It would hurt the people of Hong Kong—who are counting on us to help preserve their relative freedom and prosperity, as they transition to their new relationship with the People's Republic of China.

It would hurt us—our investors, our exporters, our importers—costing us countless dollars, and jobs, and growth; all without having any positive impact on our broader foreign policy or humanitarian goals.

Mr. President, I just made reference to the several thousand year history of China, and the lessons that history teaches.

The history of the Senate is a bit more modest in duration. And I am afraid our history too often suggests that this body is not always capable of putting aside posturing, and partisanship—and just getting on with the sensible, effective approach.

I hope that we can act on this issue just as we did on the fast track. This is not a partisan issue; it should not be a partisan issue.

But I hope we can act on this issue in a way which will lead future historians to conclude that the Senate can act responsibly, sensibly, and purely in the national interest.

It seems to me the way to do that is to defeat the pending resolution and to get behind the action plan of the President to really deal with our legitimate concerns in China.

If the President does not follow through, I am certain the distinguished Senator from Montana and a number of his colleagues on that side and a number of his colleagues on this side will be asking some very difficult questions of the administration. This was not just a letter to pacify a number of Senators who had grave concerns.

I know the President understands. I talked to the President shortly after he touched down on his return trip from Turkey today. He is very concerned about this legislation. He asked if the letter he sent was satisfactory, and I said I think it was. Maybe not to everyone. There are some who will have different views, some who have partisan views, some who may want more. But the President is determined to follow through. And I just hope that our colleagues, in the final analysis, will defeat the pending resolution and support the President's action plan.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, Benjamin Franklin once said: "No nation is hurt by trade."

Those words are as true today as they were 200 years ago. Nations are indeed helped by trade—it creates jobs, boosts economies, and builds ties between nations.

But the converse of Benjamin Franklin's statement is equally true: Nations are hurt by lack of trade. Lack of trade costs jobs, reduces economic growth, and hinders the free exchange of people and ideas.

In this debate over extending most-favored-nation trade treatment to China we must not repeat the mistake we have done too often, of treating trade as the handmaiden of foreign policy.

And we must not overlook the obvious—by revoking MFN for China we would punish not one, but two nations, for we in the United States would feel a blow as great as the people of China.

Do not get me wrong. There is not one Member of the Senate who does not want to see reform in China. China remains trapped in a web of tyranny and oppression.

Who can forget the stirring image of a single Chinese student holding back a line of Chinese tanks?

Who can forget the horrifying images of the Tiananmen Square massacre?

Unfortunately, China's outrageous behavior has continued.

Some of the democracy protesters arrested in the Tiananmen Square crackdown remain in prison. Some have even been forced to produce goods which are later exported to the United States—in violation of U.S. law.

On the international front, China has moved toward selling very dangerous and destabilizing missiles into unstable regions and ignored international agreements aimed at halting nuclear proliferation.

On top of all this, China has pursued a highly protectionist trade policy.

It has erected new barriers to block U.S. exports, and allowed widespread piracy of U.S. intellectual property.

As a result, United States exports to China have shrunk. China's trade surplus with the United States and all of its major trading partners has ballooned.

All in all, China's recent record is a litany of horrors. China has thumbed its nose at accepted standards of international behavior. Its behavior can no longer be tolerated.

On that point, I am sure every Member of the Senate agrees.

But the real question is how do we best foster change in China? How do we encourage the reforms we seek? How do we avoid a backlash that could plunge China into even deeper oppression?

Do we best achieve our objectives through impassioned, outraged speeches or by working constructively for progress in China?

The legislation we are now considering will demonstrate outrage at China. But in the end it will make the problems we are seeking to address worse, not better. We must strive to engage China in a constructive relationship, not to isolate it from the world.

Withdrawing MFN, or imposing conditions on it that are tantamount to withdrawal, is simply the wrong approach. And let there be no doubt that the conditions imposed by the bill before us are unlikely to be met.

What would it mean to withdraw MFN status?

MFN is not a special benefit we extend only to our closest friends; rather it is the minimum treatment we extend to virtually all of our trading partners.

In fact, more than 160 nations are now accorded MFN status by the United States. Though we have taken other measures, we grant MFN to Iran, Libya, South Africa, Syria, and even Iraq.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BAUCUS. At a later point. I will yield later.

If MFN status were withdrawn, tariffs on Chinese imports would automatically rise to Smoot-Hawley levels. Chinese products would be hit with tariffs as high as 110 percent.

In practical terms, this would mean a virtual embargo on all products from China. In short, withdrawing MFN is about the most severe unilateral trade sanction that we can take.

In this case, the unilateral sanction would not hurt its intended target—the Marxist hardliners that ordered the Tiananmen massacre. Rather, its impact would be felt by reformers in China, and by American machinists, longshoremen, and farmers.

The chief beneficiaries of MFN in China are the southern Chinese provinces and Hong Kong—the strongholds of the Chinese democracy movement.

In China, there is a history of tension between central and provincial governments dating back at least to the 17th century.

Those tensions persist today. Reform-minded leaders control the industrial heartland of China—Guandong Province.

These leaders welcome ties with the West and—according to reports from human rights groups—allow significantly greater freedom than their counterparts in other provinces.

The central government in Beijing is controlled by hardline Marxists, however. These hardliners have always been suspicious of ties with the West and now complain of U.S. imperialism.

But the reform elements are able to keep ties with the United States because of MFN status. As one group of reformers recently wrote:

> Foreign trade and investment, and the demands they put on a centralized command economy, promote (reform) forces, and foster native interests to press for structural reform.

Many of the goods produced in southern China are exported to the United States. In fact, over 1,000 United States businesses have set up shop in China.

With these economic relationships come personal contact with U.S. businessmen and first hand exposure to Western values. Ideas are traded along with goods.

If MFN were cut off, the tie with southern China would be broken. The reform leaders would be weakened and the hardliners' suspicions of the West would be reaffirmed. Oppression and human rights violations are likely to increase.

This point was made persuasively in an article in this Sunday's New York Times. As David Shambaugh, a China scholar at the University of London, said in that article:

> There's no doubt in my mind that revoking MFN would only strengthen the hardline constituency and worsen the human rights situation.

I ask unanimous consent that this article be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. Mr. President, we must keep in mind, that the darkest periods of Chinese history, such as the Cultural Revolution, came about when China was isolated from the world.

Rather than isolating China from the world by cutting off economic ties, we should seek to engage China—to bring China into the 20th century.

Trade is the link that allows us to engage China. It is the bridge that allows Western values into China.

If we are truly interested in reform in China, if we are truly interested in improving the lives of Chinese citizens—we should seek to expand economic ties, not to cut them off.

Chinese peasants and students would not be the only losers if MFN were cut off. Americans would also lose.

Although United States exports to China are limited by Chinese unfair trade practices, the United States still exported about $5 billion to China in 1990.

In 1990, China imported $749 million in United States aircraft and aircraft parts, $512 million in United States wheat, and $544 million in United States fertilizer.

China is a particularly important market for United States wheat. In recent years, China has been America's No. 1 wheat export market. A recent CRS study noted that if United States wheat exports to China were stopped, wheat farmers would get 27 cents less per bushel for the wheat they sell.

There can be little doubt that China would discontinue virtually all of these purchases if the United States cut off MFN status and imposed Smoot-Hawley tariffs on Chinese exports.

All of our major exports to China—aircraft, wheat, fertilizer, et cetera—can easily be purchased from other nations. And other nations would be eager to fill the gap.

No other nation is even contemplating cutting off MFN for China. In fact, at the recent G-7 summit, all western leaders urged the United States not to cut off or condition MFN to China. Rather than sanctioning China, Japan and Great Britain are sending their heads-of-state to Beijing in the coming weeks to reestablish high-level contacts.

In the case of economic sanctions against South Africa and Iraq, the United States sanctions were supported by our allies. But if we cut off trade with China we will be acting alone—completely alone.

And make no mistake about it, United States exporters will feel the brunt of Chinese retaliation for this unilateral step by the United States.

In 1983, China slashed wheat imports from the United States for 2 years in retaliation for United States textile restrictions.

In response to the much greater provocation of withdrawal of MFN, China will simply shift its trade with the United States to Europe, Japan, Canada, and Australia. China will purchase Airbus instead of United States-made aircraft and it will buy its wheat from Australia or Canada rather than from the United States.

The $5 billion in lost exports will quickly translate into lost jobs. Within a matter of months, 100,000 jobs will be lost. And those are real jobs held by real Americans. Real machinists on Boeing and McDonnell Douglas assembly lines will be thrown out of work. Fertilizer plants would close and lay off their workers. And real wheat farmers in the farm belt will lose their farms and be driven off of the land.

Five billion dollars in trade is an abstract figure, too large for most of us to truly comprehend. But telling 100,000 Americans that we want to put them out of work is something that should put this issue in perspective for all of us.

And, ironically, the lot of the Chinese peasants for whom those jobs are sacrificed will actually deteriorate.

In our enthusiasm to promote human rights abroad, we should give a little more thought to the basic human rights of Americans right here at home to hold a job and support their families.

Some will respond to my argument about United States exports and jobs lost by pointing to the trade deficit with China. They will argue that the United States will actually gain from cutting off trade with China because we import more from China than we export to China.

This is the kind of simplistic economic thinking that led Congress to pass the Smoot-Hawley Tariff Act before the Great Depression.

It is true that China is unfairly limiting United States exports. In fact, because of China's protectionism it now runs a trade surplus with all of its major trading partners, including Japan.

But these trade barriers can and will be dealt with under U.S. trade laws—laws that many of us have crafted to respond to just this type of problem.

As the United States Trade Representative's Office has noted, attempting to address Chinese trade barriers by cutting off MFN is actually likely to make the United States' overall trade imbalance worse, not better.

As noted, all trade with China—both exports and imports—would be reduced to a trickle.

But the goods that we import from China—low-end apparel, footwear, and toys—will not then be made in the United States. These high labor, low-quality products have not been made in the United States for more than a decade. China won the United States market for these products away from Indonesia, Thailand, and Korea—not from United States domestic production.

If these imports are cut off from China, they will simply be imported from somewhere else and add to our overall trade deficit.

On the other hand, U.S. exports are unlikely to find new markets. World markets for United States exports to China—wheat, aircraft, et cetera—are highly competitive. If these products are not sold to China, most are unlikely to be sold at all.

United States trade laws can be used to address our trade concerns with China. But cutting off MFN because we have a trade deficit amounts to cutting off our nose to spite our face.

Many Senators also will argue that the legislation before the Senate does not cut off MFN for China—it merely conditions future MFN for China on changes in Chinese behavior.

But this is clearly a red herring.

The conditions bill that we are considering is tantamount to cutting off MFN.

The bill imposes some 15 conditions on extending MFN to China, ranging from stopping missile sales to releasing all political prisoners to ending support for Communist forces in Cambodia. Some Senators are poised to add still more conditions.

Many Senators have argued that China can meet the conditions that are set.

But that is not the issue.

Even if China could in theory change its behavior, the real question is will China change its behavior in order to retain MFN.

Unfortunately, the answer to the second question is no. China has a history of resisting foreign interference dating back to the construction of the Great Wall.

And no nation will allow the United States to dictate its foreign and domestic policy in return for gaining MFN.

Will China's octogenarian rulers release all political prisoners and—at least in their view—endanger their hold on power to get MFN? Sadly, the answer is "no."

Will China's rulers cave into the United States demand that it end support for its Communist allies in Cambodia? Support for Communist revolution is a fundamental tenet of their ideology. Clearly, they will not let the United States unilaterally dictate such a move.

And the list could easily go on and on.

We will overload the trade relationship with foreign policy baggage. We simply cannot hope to address all of our foreign policy concerns with China in the context of MFN.

In fact, a group of Chinese dissidents and former United States Ambassador to China Leonard Woodcock visited my office recently and argued that the hardliners may use United States conditions on MFN as an excuse to renounce MFN entirely.

In their view, the hardliners view trade with the West as undermining their hold on power and strenthening their domestic opposition. They note that the central government's propaganda machine has been railing against U.S. conditions on MFN for weeks and accusing the United States of imperialism.

In their view, passage of conditions on MFN would provide the long sought pretext for weakening economic ties with the United States.

Many will be quick to dismiss these views as speculation. But before they do so they should take a hard look at the last time we attempted to use MFN to improve respect for human rights in a Communist country.

Congress had long been concerned about abuses of human rights in one of China's closest allies—Romania.

When the Congress was drafting the 1988 Trade Act, both Houses passed a provision that would suspend MFN for Romania for 6 months because of its abuses of human rights.

The authors of these provisions argued that it would scare Romania into respecting the rights of its citizens. But on February 23, 1988, the conferees on the 1988 Trade Act decided that the provision had served its purpose and dropped it from the Trade Act.

But Romania did not meekly attempt to comply with United States demands in order to avoid a future showdown. Instead, on February 26, 1988, Romania itself renounced MFN with the United States.

Apparently, the Romanian regime decided that its grip on power was dearer than MFN. The leadership of China is certain to make the same judgment.

Let us not fool ourselves. If it were to become law, the conditions bill we are considering today would not force China to alter its behavior and would result in a cutoff of MFN.

The lesson of history is clear. From the Soviet grain embargo to the experience with Romania, we see again and again that making trade the handmaiden of foreign policy will fail to achieve our foreign policy objectives and harm our trade interests.

But if MFN is not the answer, what is?

The hard answer to that question is that there are real limits on our ability to influence events in China. We are unlikely to be happy with China's behavior until the current generation of leaders is replaced.

But in the meantime, we can pursue carefully targeted sanctions against China to address our specific concerns.

I fault the Bush administration for not aggressively and creatively pursuing such measures on their own. But over the last several weeks I have been working with a number of Senators to press the administration to develop a comprehensive package of measures to address our concerns with China.

I am very pleased to say that the President last week transmitted to me a letter detailing this new policy toward China.

A number of measures will be taken.

With regard to human rights, the United States will continue to engage China with trade and diplomatic measures.

In addition, three major steps will be taken.

First, the United States has reinvigorated its policy of blocking multilateral loans to China. At the recent London summit, the President personally pressed our G–7 allies to support our policy of denying loans to China until it improves its respect for human rights.

Second, the administration will continue all sanctions imposed on China in the wake of Tiananmen including suspending military and technology projects, blocking all transfers of military and dual-use equipment, and blocking plans to liberalize Cocom controls on exports to China.

Third, the administration launched a major new program to block imports of goods made by prison labor. A major new Customs Service enforcement effort has been launched. The President has announced that unless and until China formally agrees to cease exporting goods made by prison labor, whole classes of products that are suspected of having been made by prison labor will not be allowed into the United States.

This new program will ensure that Chinese political prisoners are not forced to produce goods for export to the United States.

With regard to missile sales and nuclear proliferation, the President has launched a strategy of negotiations backed up with sanctions.

The administration has intensified high-level efforts to convince China to sign and abide by the Nuclear Nonproliferation Treaty and the missile technology control regime. The administration has also begun multilateral talks with China aimed at ending the flow of destabilizing weapons into the Middle East. Finally, the administration is working bilaterally to prevent the transfer of the M-9 and the M-11 missile.

There are good signs in all of these negotiations.

If these negotiations fail, the President has pledged to use targeted trade sanctions against China. Already the United States has blocked export of satellite components and computer technology that could assist in China's efforts to develop missiles.

The President also pledged to work for multilateral controls on exports of technology to China.

Also let us not fool ourselves on the impact of the legislation we are debating. If the United States cuts off or imposes unattainable conditions on MFN, U.S. leverage will be lost. In that event, we can be virtually certain that China will sell missiles to Syria and Pakistan.

With regard to trade, the President has unveiled an impressive two-pronged strategy to end Chinese piracy of United States intellectual property and to open the Chinese market.

In April, at my urging, the administration initiated a section 301 investigation aimed at ending Chinese piracy of United States intellectual property. This investigation continues. And if it is not concluded successfully within 6 to 9 months of the date it was initiated, the President has pledged to retaliate against imports from China.

To address China's market access barriers, the President agreed to self-initiate section 301 investigations into China's many trade barriers unless China agrees to remove them in the next month.

Remember, section 301 was developed and passed by Congress over administration objections. As the Japanese and the Europeans will unhappily attest, it is a tough and effective tool for opening markets.

If foreign nations do not open this market, section 301 requires the administration to impose trade sanctions on those nations. It has been successful in opening markets in Japan, Korea, Taiwan, and around the world.

I am confident this strategy will address our trade problems with China.

As a more general protest against China's behavior, the administration has announced its support for Taiwan's application to join the GATT.

Though it is clearly in the United States economic interest, China has strongly opposed this move and the administration has acquiesced to Chinese demands. This sharp shift in United States policy sends a strong signal to China.

I know that some of my colleagues are skeptical as to whether the administration will fulfill the many commitments it has made.

But we can keep the administration's feet to the fire. If the commitments are not fulfilled, we can still withdraw MFN next year. Review of MFN status remains an annual process.

As I said, I wish the President had worked with Congress to establish this new China policy years ago. But he has done it now, and it deserves a chance to work.

The howls of displeasure from Beijing demonstrate that the sanctions the President has announced are bitter medicine for the Chinese. But in my view, it is medicine that has a chance of curing the patient's ills, instead of killing him.

For the first time in years, we have a China policy that comprehensively and concretely addresses our concerns with China.

With regard to trade and prison labor, I believe we have now done virtually all that we can do. And I am confident we will get results.

With regard to human rights and missile sales, we have sent China a clear and unmistakable message.

Only time will tell if this new policy will achieve the results we all seek, but it certainly has a better chance of succeeding than cutting off or conditioning MFN.

We should keep in mind that China is the most populous nation in the world. More than 1.2 billion people live in China. That is five times the population of the United States. One in every five persons alive on Earth today lives in China.

Over the next 10 years, it is projected to grow into one of the largest markets in the world.

We must sanction China and try to move it toward reform. Sanctions and other measures like those the President has announced will prod China in the right direction.

But we simply cannot afford—morally or economically—to cut China and its people off from the world. We cannot allow China to drift further away from Western values and we cannot let the Chinese market close to United States exports.

If we hope to encourage reform in China, we must keep trade ties open, not cut ourselves off.

We must pull China into the 20th century, not push it further into oppression. We must engage China, not isolate it.

EXHIBIT 1

[From the New-York Times, July 21, 1991]

DOING BEIJING A 2D FAVOR?

(By Nicholas D. Kristof)

BEIJING, July 20.—As the Senate prepares to vote on whether to suspend trade advantages for China, many experts say the initial beneficiaries of such a cutoff would be the very hardliners that the sanctions are aimed at.

The Senate is expected to vote soon, perhaps Monday, on revoking most-favored-nation trade advantages. The goal of the cutoff would be to encourage China to free dissidents from its prisons, end the use of torture, and ease the repression that prevails from Tibetan monasteries in the west to universities in eastern cities like Shanghai and Harbin.

The problem for the United States is that a cutoff of most-favored-nation trade status would probably strike hardest—at least at first—at budding capitalists, whose factories might close; pro-Americans, who would have to lie low during the denunciations of Yankee treachery; and moderates in the Government, who would probably lose ground to the hard-liners.

"There's no doubt in my mind that revoking M.F.N. would only strengthen the hardline constituency and worsen the human rights situation," said David L. Shambaugh, a China scholar from the University of London. "It would fuel the xenophobic impulses of the ideologues who seek to close China's doors."

OUTCOME IS HARD TO PREDICT

To be sure, it is nearly impossible to predict what will happen in China over any length of time, and the gain to the hard-liners might not last long.

In the longer term, the economic distress might even work against them, by bringing an abrupt coup in the Central Committee or a revolution in the streets. The results could be democracy, or something less palatable.

"Cutting off M.F.N. leaves you with two possibilities," a Western diplomat said. "The first is an even more hardline regime still thumbing its nose at the rest of the world. The second is 'Apocalypse Now': they can't keep a lid on things, there's chaos in the streets, and they come up with a new system, whether it's a military dictatorship or something else."

It is difficult to be sure of public opinion in China. But the overwhelming majority of people with whom the topic was discussed in scores of conversations in recent months said they hoped the trade status would be extended.

But they often admitted that they were torn; on the one hand, they would like the United States to punish Prime Minister Li Peng and make the hardliners "lose face"; on the other hand, they do not want to suffer economic hardship.

SOME FAVOR A BLUFF

Many intellectuals say they hope the trade benefits will be extended only after a long struggle. That would put the Beijing Government on notice that it had better improve its image or risk losing most-favored-nation status next year. They say they favor trade sanctions as a bluff, but not their actual use.

An outright cutoff of the current low tariffs is considered unlikely, in part because President Bush is determined to maintain trade links with China. One possibility is that most-favored-nation status will be prolonged conditionally, with future extensions granted only if China makes progress on human rights issues.

Most Chinese do not seem familiar with the idea of conditional renewal of the trade status. When the issue was explained, some said they favored it—if the conditions were ones that China would be likely to meet.

Many Chinese seem more enthusiastic about Western denunciations of human rights abuses than they are about trade sanctions. Many favor measures that would make their own leaders lose face without losing trade.

A "RADIO FREE CHINA"

Another proposal batting around Capitol Hill that fits in with the thinking of many

Chinese intellectuals is a "Radio Free China," modeled on Radio Free Europe. The State Department opposes this idea, however, because it would certainly sour diplomatic relations with Beijing.

Both advocates and opponents of most-favored-nation status argue that their approach is the best one for improving the human rights situation in China. But history suggests that the West, whatever it does, is unlikely to have a major impact on China.

The United States' efforts against China in the 1950's only made the country more radical, and the Soviet Union found at the end of that decade that economic leverage was useless in trying to prod China in the directions it wanted.

The only country that has truly succeeded in molding China for any prolonged period is Mongolia, which in the 13th century took the extreme approach of invading China and establishing its own dynasty.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Oregon [Mr. PACKWOOD].

Mr. PACKWOOD. Mr. President, let me congratulate my colleague from Montana, Senator BAUCUS, on a truly extraordinary speech that has reviewed the entire situation as well as anybody has to this moment in the debate, and I think as well as anybody else is going to, no matter who else will speak. It was an excellent presentation.

Let me, if I might, try to put this in simple terms. We talk about most favored nation [MFN] and we use all kinds of acronyms in the Congress. Sometimes I wonder if the general public knows what it is we are talking about. We can almost go all day long and never say a complete sentence but simply do it in alphabets.

"Most favored nation" is a trade term that means that we extend to any country the same favorable tariff terms that we will give to any other country. For example, there is a tariff on imported automobiles of 2½ percent. That means any automobile that comes into this country from Mexico, Brazil, Germany, England comes in at 2½ percent, and, if by chance we were to lower the tariff with respect to one country to 2 percent, we would have to extend that 2 percent tariff to all other countries. That is all most favored nation means. It does not matter if it is cars, electric grills, or widgets. They all come in under the lowest tariff or whatever other requirement we put on it.

The United States extends to every country in the world most-favored-nation treatment, except to Communist countries. In 1951 we said Communist countries do not get it. We defined what a Communist country was, and listed them. They did not get it at all, although this was a moot point at the time. There was not much trade between the United States and Communist countries. So no one really cared.

Then in 1974 we passed what is known as the Jackson-Vanik amendment. It said that Communist countries can get MFN if they will allow free emigration or if extending most-favored-nation status to them would substantially promote free emigration. It was very clearly, at that stage, aimed at the Eastern European countries who would not allow Jewish emigration. You had a pent-up demand of Jewish citizens in the Soviet Union and in the other Eastern bloc countries who wanted out, but these people were not permitted to emigrate.

So it was a carrot. We said all right, you are a Communist country. You do not get most-favored-nation status but if you will let people freely emigrate, then you can get it. And to date that has been the standard that we have adhered to. If a country will let its people out, we will give them most-favored-nation status. Remember, that that is only for Communist countries. All the other countries get it whether they let anybody out or not.

The Senator from Montana mentioned some of the countries that get it. Iraq—now there is a bastion of democracy. Libya, Iran, Syria, all get most-favored-nation status. Syria, a country that leveled the town of Hamah and killed 20,000 men women and children, buried them in the rubble, surrounded the town with tanks, in a religious dispute, and blew them down, gets most-favored-nation status.

So when we talk about human liberties, that is something that is very dear to this country. But in that case, if we are going to apply that standard to China, and that is worthy of debate, then why only China?

I will tell you what I think has happened. We have heard arguments about Chinese trade barriers. China does have trade barriers. Japan has trade barriers. For example, we cannot yet sell any rice in Japan. Only recently have we been able to sell much in the way of beef or forest products; it is a closed country. In Brazil, we still cannot sell any steel of any consequence, and Brazil subsidizes the steel that they export.

The Motion Picture Association came to me the other day. They wanted to make sure we do not extend most-favored-nation status to the Soviet Union because they are pirating films, not paying proper royalties and violating the copyrights on them.

Financial service industries, banks, insurance companies want us to take it away from countries that will not allow our banks and branches to open up in their areas. These are all involved in trade. It is understandable.

We have the hardest time getting our agricultural products into many countries. Every segment of the American agricultural economy that cannot get into a particular country, whatever their business, would most likely want us either not to extend most favored nation to that country if it does not have it, or if it happens to be a Communist country that does not have it, or take it away from some country that does have it.

China does have it. That is worthy of debate both on trade and on human rights. But if we are going to do it, there is no point in singling out just China. Let us be very serious about why we are singling them out. We are not singling them out because of bad trade policy. They have had bad trade policy as long as they have had most-favored-nation status. They got it in 1980. They have always been an insular country. Only very recently have they started to do much trading at all.

The Senator from Montana is absolutely right. The generation that still controls China is the generation that made the revolution. These were the people that were on the long marches, not their sons and daughters. They regard this as theirs, not the people's country. And all they need is an excuse to turn inward again.

If we were dealing with the leadership in China 5 or 10 years from now, when that generation is dead and gone, then that might be a different situation. But when you were part of the group that trekked from the north on that long march, huddled against the rain, the snow, and were holed up in northern China thinking you would never see your revolution succeed and then it succeeded, it is understandable why you would think this is your country. You are not going to let Westerners take it away.

So everything the Senator from Montana said is true. If we revoke most-favored-nation status for China, it will not cause their leaders to open up China. It will cause them to become again more insular.

In the slightly more prosperous southern provinces of China, which are not the strongholds of the Communists—by and large, those were the provinces that historically were more westernized, had the seaports, and the ones that dealt with the West—the revolution in China did not come out of those provinces. It came out of the rural heartland, not the maritime provinces, and not the trading provinces.

If we revoke most-favored-nation status, all that will happen is that those provinces that want to look at the West and would like to be involved in trade will be frozen shut. And we would succeed in, once more, for another 3, to 7 years, as long as this generation lasts, imposing their iron grip on China.

Let us be serious about why we are denying MFN to China, if we do. It is not that they sell arms. They have been selling arms—and frankly, they are not very good arms—for a variety of years.

France sells arms, and they sold Mirage planes to Iraq. You may recall in

1981, when the Israelis bombed the Baghdad reactor. Israel, of course, was censured at the moment, as they get censured for everything they do, unfortunately and unfairly. They bombed this reactor, which we later learned is not a reactor to generate electricity; it was to make atomic weapons. And it was the French that were building it. They had several hundred technicians there. A number were killed in the bombing raid. We have not withdrawn most-favored-nation from France because they were building in an atomic weapons plant for Iraq.

No, it is not that China sells arms. It is not that China has a backward trade policy. It is Tiananmen Square. The difference between Tiananmen Square—where as best we can tell, 1,000 to 1,500 may have been killed, and others were taken prisoner—and Hamah, where the Syrians literally bombed with their tanks and planes the 20,000 men, women, and children to death—is that we saw Tiananmen Square on television, and we did not see Hamah.

Had we seen Hamah, the reaction against Syria, I think, would have made what we are thinking about doing to China pale.

There is not a single person in this Senate that defends what the Chinese did at Tiananmen Square. Nor do we defend what Guatemala is doing. Every year the State Department puts out the "Country Reports on Human Rights Practices." For 1990:

> Guatemalan security forces and civil patrols continue to commit, "with almost total impunity," a majority of the major human rights abuses, including: extrajudicial killing; illegal detention; torture; and disappearance of political opponents.
>
> Sri Lanka: Political killings—carried out the government's security forces and police—remaining a major human rights problem. Additionally, there are thousands of cases of: disappearances; illegal detentions; unfair trials; and torture.

Burma, which will not let any Westerners or press in, is practicing—and it's probably understated—torture, disappearances, arbitrary arrests and detention, unfair trials, compulsory labor, and curtailment of freedom of speech, press, and assembly.

Why do we not take away their most-favored-nation status? Because we have not seen it, as we saw Tiananmen Square.

I think, Mr. President, a fair argument can be made that perhaps we want to revisit the entire issue of most-favored-nation status. Maybe we want to say that, as a matter of American policy, we are going to hold nations to certain standards of fair trials, judicial review, freedom of speech, freedom of the press—basically our Bill of Rights. That may be a fair subject for debate.

But, in that case, let us do it on a broad-base basis. Let us see whether we should apply the same standard to Burma and Sri Lanka and Guatemala and Iraq and Syria. Syria, who was involved up to its neck in the Pam Am plane attack that blew up over Lockerbie, Scotland, continues to get most-favored-nation status. Why? Because we did not see the bomb planted by the terrorist financed by Syria on television.

No, Mr. President. I understand the fury we feel about China, and I feel it as strongly as anybody else. But the Senator from Montana is right. If we withdraw most-favored-nation status from China, we will not get them to release the political prisoners they still hold, and held before Tiananmen Square. We will not get them to change their trade practices. We will not, until this generation of leaders dies.

If trade sanctions will cause them to change, we have every tool now to do it. We have every arrow in the quiver to do it on the books now. The President has the emergency power to impose embargoes on Chinese goods, if he wants. Even though Iraq gets most-favored-nation status, we have embargoed trade with Iraq. Even though Libya gets it, we have embargoed most of Libyan trade. We can embargo China's trade, if we want. We have domestic laws on unfair competition and on intellectual property, such as trademarks, property rights, and royalties.

We have laws on the books now, actions that can be taken by the Government or by private parties. We can enforce many of those, if we want. Whether it would change China's conduct is another question. But we have the tools to do it, if we wish to try it.

So I hope that we will not withdraw most-favored-nation status for China, so that the result would be as follows: One, those products that are made in China that come to this country will go up substantially in price. Here are a couple of examples: Nike and Avia, who estimate that at least on the production they do in China, the price of the product would go up about 25 percent. How does that benefit anybody? Second, to the extent that China loses markets, it will put peasant workers, who have probably been guilty of nothing, out of work in China. They are not the ones causing the abuses of civil liberties. How does that benefit anybody?

No, Mr. President, one day China will come around. They are not going to come around this year, if we revoke or condition most-favored-nation status. But I ask, at a minimum, if that is the path we are going to start down, that we at least be honest in our reasons, and that we say that, in that case, these standards are going to apply to other countries with equal vigor, who are guilty of the same transgressions.

That will be a change from what we have done on most favored nation in the past. Maybe we want to go that way. But to single out China and to pretend that they are the only country that is guilty of transgressions sufficient to take away their MFN status is a joke, and it is hypocritical.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I rise to support, and to urge my colleagues to support, majority leader Senator MITCHELL's legislation to condition the granting of most-favored-nation status to the People's Republic of China.

I know that arguments can be made on both sides of this issue. The Senator from Oregon has just stated one case very eloquently and forcefully.

Others have spoken from a different point of view and I do so. This is an issue of momentous security, foreign policy, and economic consequences.

The Senate did not have the opportunity to vote on this subject last year. Since then, there have been a series of disturbing developments which I believe it is essential that the Senate consider. In order to ensure a vote this year, I introduced a resolution of disapproval after the President announced his decision to renew China's preferential trade status. Now that Senator MITCHELL's bill is being considered, a vote on the resolution of disapproval is no longer necessary so I will not call it up. A vote on the fundamental issue will take place.

Senator MITCHELL's legislation does what President Bush has been unable to do, that is, frame a constructive American policy toward China.

This bill establishes a series of reasonable policy objectives over the short and long term. It establishes a set of sensible standards for Chinese behavior which are just as much in China's interests to meet as they are in America and the world's interest to request.

Over the next 12 months it requires China to meet four simple requests:

First, account for those democracy movement protestors who have been imprisoned;

Second, release those protestors;

Third, cease exporting slave labor products to the United States; and

Fourth, end its military assistance to the Khmer Rouge.

Over the longer term, this legislation requires China to make significant progress toward meeting several other human rights and trade goals, including providing adequate protection for American intellectual property rights and fair access for American exporters to China's markets.

In the short term, this legislation requires China not to supply ballistic missiles or missile launchers to Iran, Syria, and Pakistan.

Since this legislation was first introduced, China has already made progress toward meeting some of these goals. In regard to the Khmer Rouge, last week Beijing hosted an unprecedented meeting of the four Cambodian factions at which agreement was reached on a process that would end foreign military assistance to all. It is clear that China is backing away from its previous strong support for the Khmer Rouge, demonstrating that China does respond to international pressure.

We must keep that pressure up. We are not giving up leverage, as has been suggested, if we condition most-favored-nation status for China on appropriate Chinese behavior. We would be getting new leverage. China wants our trade, China wants our money. To get it, we must tell them that there is a price.

That is precisely what Senator MITCHELL's legislation aims to accomplish.

We are not bashing China. We are not trying to isolate China.

We are telling China that there is an entry price to be paid for being part of the international community, that entry price is to abide by international norms of behavior.

After World War II, the nations of the world banded together to form the United Nations. In so doing, every nation, including China, agreed to certain basic principles concerning human rights, security, and trade. Gradually, all nations have agreed to expand upon and operationalize those principles in a number of international organizations. One of the key principles concerns the safeguarding of international peace and stability.

China is now undermining international peace. China is now preventing world order. China is helping to make possible a nuclear holocaust.

Reasonable people could argue whether or not this is the deliberate intent of the Chinese leadership. Perhaps they just want to make money by exporting weapons of mass destruction. But the effect of their actions, whether deliberate or not, is clear.

Most-favored-nation status would deny them some money. Then they have to consider their books and if they want trade with us and what that means in terms of economic opportunities for them, they will start changing their behavior. If they prefer to try to make what I believe would be less money, selling deadly weapons to unsavory nations in part, that is a very unwise choice for them to make.

That is what this debate is about. The American people should know it and understand it. They should be awakened to the dark cloud China is now spreading around the world. That dark cloud will hang over California, Montana, Kansas, Texas, Maine, Oregon, just as it now hangs over the Middle East and South Asia.

This issue is bigger, far bigger than most-favored-nation status for China.

China is the fifth largest supplier of arms to the Third World. Throughout the 1980's China secretly provided weapons to South Asia, South Africa, South America, and the Middle East. This included the transfer of nuclear and chemical technologies adaptable to weapons purposes.

During the last year, Chinese sales of ballistic missiles and their launchers to Syria, Pakistan, and Iran have been reported. China has reportedly arranged sales of M-9 and M-11 missiles to Syria and Pakistan. Both are capable of delivering nuclear warheads distances ranging approximately between 200 and 400 miles. China has also transferred to Saudi Arabia CSS-2 missiles with a 1,500-mile range and with a nuclear payload capacity.

China has systematically and secretly helped nations develop a nuclear capacity in conjunction with its sales of delivery systems.

A few months ago it was revealed that China had been secretly aiding Algeria develop a nuclear facility. According to experts, the reactor is apparently too large to be only for research purposes. The Chinese did not acknowledge their involvement in the reactor's construction until April 30 but according to administration testimony before my East Asian and Pacific Affairs Subcommittee, the project had begun in the mid-1980's.

China has also been active in assisting Iraq develop a nuclear weapons capacity, providing it with lithium hydride, a chemical used in the production of nerve gas, missile fuel, and various nuclear weapons.

The administration says it is concerned about Iraq's nuclear capability but if the administration was really as deadly serious as Secretary Cheney says we are, should we not be equally serious with the country that has reportedly helped Iraq develop a nuclear capability namely, China?

In recent weeks, Chinese officials have made overtures about considering joining either the Nuclear Suppliers Group or signing the Nuclear Nonproliferation Treaty. This is not the first time that China has made such nonproliferation pledges.

In 1984, China's Premier, Zhao Ziyang, promised that China would not engage in nuclear proliferation itself, nor would it "help other countries to develop nuclear weapons." But only a few months after the statement was made, China secretly sold tons of heavy water to India through a West German nuclear materials broker, according to testimony in my Foreign Relations subcommittee.

In the early 1980's China reportedly provided Pakistan with plans for a nuclear bomb. Our concern was so great that last October President Bush suspended military aid to Pakistan because the administration could no longer assure Congress that Pakistan did not have nuclear weapons. In April the President barred the sale of American components to a Chinese satellite because of his concern about China's involvement in the export of weapons of mass destruction.

In December 1989, a Chinese Foreign Ministry official stated that, except for a small number of mid-range missiles sold to Saudi Arabia, "China has never sold, nor is planning to sell missiles to any Middle East country." China's recent arrangements with Syria and Pakistan clearly contradict this pronouncement.

A few years ago, Mr. President, only the United States, the Soviet Union, England, France, and China had nuclear weapons. Now, according to the press several other countries have nuclear weapons. It is clear that some would not have them who now have them without China's help.

Of all the original great powers with nuclear capability, only China has systematically and deliberately exported to other nations that technology and the delivery systems needed. Even the Soviet Union has been more responsible.

The administration says it has engaged China in a dialog on this issue.

For how long and with what results?

I would ask the administration:

Has China canceled any contracts because of their dialog?

Has China ceased exporting nuclear technology or missiles and missile technology as a result of their dialog?

Has China stopped cooperating with any nation in these technologies as a result of this dialog?

Has China informed the United Nations or informed the International Atomic Energy Agency about all its projects in these technologies as a result of this dialog? The answer to all of those questions obviously is "no, China has not."

In March Assistant Secretary of State Richard Solomon said that "we have the missile technology control regime and the Chinese have indicated that they will honor those parameters." On June 20 the Chinese denied reports that it had sold medium-range missiles to Pakistan. On June 27, the Chinese confirmed that they were selling M-11 missiles to Pakistan. The M-11, we believe, is in violation of the missile technology control regime.

On July 7, the Associated Press reported that Iran was determined to develop nuclear weapons and was looking to China for help even though Deputy Secretary Eagleburger had assured the Foreign Relations Committee on June 27 that China was not trying to sell nuclear weapons technology and/or nuclear technology to Iran.

The Nuclear Control Institute recently released a partially declassified Defense Intelligence Agency cable dated May 12, 1986, which states that China had completed a feasibility study in 1986 to construct a nuclear powerplant in Iraq by 1990. One of the plant's specification was that it should have the "ability to [be] camouflag[ed] from satellites."

It is not likely that that would have been the case had this been intended for peaceful purposes.

Given what we apparently did not know about Iraq's nuclear capacity, I suggest the administration reassess what assistance China could be providing to other countries in that region.

When the issue was raised about imposing sanctions against Iraq before its invasion of Kuwait, the State Department testified, "You attempt to remain engaged, to argue, to dissuade, to bring moral pressure to bear. Sanctions would not improve our ability to exercise the restraining influence." On June 12, Secretary Baker testified that missile sales are "one of the reasons we say it is important to remain engaged with the Chinese and not cut them off."

Time and time again the administration has expressed its concern about military sales, trade, and human rights to China. Time and again, the Chinese have said one thing while doing another. Mr. President, it is time to use our trump card.

In the final analysis what we are asking from China is no more, nor no less, than the type of responsible behavior in human rights, in security, and in trade to be expected from any nation that is a member of the international community.

We are not asking China to abide by American standards or Western standards, but by international standards. These are standards established not to hurt nations but to help and to protect them.

If China does not want to follow them, it should understand it will become a pariah nation. A vote against most-favored-nation status sends a clear signal to China about the cost of being a pariah. And it is a vote for world peace.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, recently, President Bush decided to extend most-favored-nation status to the People's Republic of China for an additional year. Why was this decision correct? Well, let us step back a minute, Mr. President, and review our objectives. What are we trying to achieve?

We want to urge China to incorporate more of the features of a democracy. That is one of the goals we seek in connection with China. And we want China to move toward the implementation of a market-based economy. We want China to release all its political prisoners. We want them to allow the free exercise of religion and otherwise improve its record on human rights. We want China to stop exporting nuclear technology and other weapons of mass destruction to volatile regions of the world. We want to protect the investment of American companies in China. We want a more balanced trading relationship with that nation. We want China to respect American patents and copyrights.

These are all our objectives. I think everyone agrees on these goals. In short, Mr. President, we want China to join the community of nations, a community that acts responsibly toward its own citizens and toward other nations.

How can we best assure that these objectives are met? Will denying MFN, most-favored-nation, status to China force that nation to change its policies in the near future? With all due respect to the majority leaders and others who disagree, I firmly believe such an approach would actually impede achievement of our objectives.

Mr. President, first let us just look at those words "most favored nation." If there ever was a misnomer, that is it—most favored nation. Frankly, those terms violate the truth-in-labeling law. The United States, as has already been pointed out here on the floor, grants most-favored-nation status to more than 160 countries. And, as has been pointed out already, look at the list of those countries. Are they not really wonderful behavers? Iran, Iraq, Syria, Yemen and South Africa.

Mr. President, someday, before I leave this place I am going to lead a campaign to change the name of most favored nation to something else. I mean perhaps we should call it the "common, ordinary, every-day treatment" of nations. This would be called the COEDT. That is a little long. I think we ought to call it "normal trading status," NTS.

We are going to have normal trading status with China as we do with 160 others Nations of the world, because that is actually what MFN means. There is nothing more favored. After all, when nearly every nation in the world receives something, it is hard to call it most favored. It is the ordinary every-day treatment that we give all the other countries, practically, in the world.

The only countries that do not have that status now are the certain Communist nations that have failed to comply with one requirement. The only way a nation fails to receive most-favored-nation treatment now is if it fails to comply with the so-called Jackson-Vanik law. What is that? That law requires free emigration practices. Has denial of most-favored-nation status had any effect on those policies in other nations?

Well, just let us look at this. I suppose there is no expert in the world who has dealt more with other nations in this particular problem than Henry Kissinger. In his book, "Years of Upheaval," he questions whether Jackson-Vanik actually had any effect on the Soviet Union's emigration policy. And he concluded that those policies became even more restrictive then they otherwise would have been because of the imposition of Jackson-Vanik.

What is being suggested here today under the so-called Mitchell bill is that we will add whatever conditions anyone can dream up, add them to our trade law. Come one, come all with any objections you have about China and throw them on to this grab-bag bill.

China, it might be noted, complies with Jackson-Vanik. As a matter of fact, their Premier said, If you want any emigrants, we will send you all you want." But the problem is the other countries will not take them.

I think it is important to look past emotion and examine the practical aspects of this issue. China, as the distinguished Senator from Montana pointed out, is a mammoth nation of 1.3 billion people, nearly one-fifth of the world's population. Twenty percent of the world's population— nearly that amount is in China today. That nation has a long history of isolation. There is nothing new about China sealing itself off from the rest of the world. And the idea that they are going to wince, and come crawling to us if we deny them most-favored-nation status is ridiculous. It is absurd.

First of all, nations do not react that way. When the United States levees some requirement on another nation, they are not going to jump through a hoop in order to ingratiate themselves with our country.

I think we ought to recognize the following. Over the past decade there has been a change even under the aging leadership of the Communist Party. There has been a change toward permitting experimentation with increased economic ties to the West. In other words, gradually, China has shown some indication of coming out of isolationism. We know what China was like from the end of World War II until the Nixon-Kissinger visits in the early seventies. That nation was sealed off by the rest of the world, and it sealed itself off from the rest of the world.

However, there has been this experimentation, as I mentioned, with increased economic ties with the West. A whole new generation of entrepreneurs has been created, particularly in southern China.

How can I say that? What do I know about that? Oh, yes, I have been to China, not only as a private citizen but also in other capacities, in governmental capacities. But I know this because I have talked with those American entrepreneurs who have factories in the southern part of China, so they know a lot more than many of us do. They recognize that those links between those people in south China and the West have become particularly strong.

Progress has been slow but I believe it is those individuals, those business individuals in the southern part of China who ultimately will put the pressure on the central government to liberalize its policies. To withdraw MFN would virtually destroy those business leaders and entrepreneurs. No one argues with that. That is accepted. They will go down the drain because they will not have access to the U.S. markets to sell their goods.

Opponents of MFN for China are persuaded by the claim that rescinding that status will put great pressure on China to improve its human rights policy. I do not agree. Over the past months, through quiet diplomacy, we have been able to secure the release of over 1,000 political prisoners arrested after the Tiananmen Square massacre. This includes several of the most prominent Chinese dissidents.

Obviously we have been disappointed by the continued imprisonment of many others. Everything is not perfect. Nobody is going to make that claim. However, if we break off relations with China by rescinding MFN status the slow progress we have made will grind to a halt.

Is it not curious that few if any responsible groups in the world that have dealt with China believe that denying MFN will cause the Chinese to change their policies? No other country in the world has denied China that nation's version of MFN. So it is strange that a policy is being considered on this floor that is rejected by every other nation. It is rejected by England, and France, and Switzerland, and Sweden, and Denmark—and no one will call those nations soft on human rights—and they all have kept normal trading relations with China.

One of the most troubling policies of the Chinese Government has been the sale of nuclear technology and ballistic missiles to other countries. However, since the United States has expressed its concerns, China has evidenced some change in this. China has pressed Algeria to agree to international inspection of its nuclear facilities. China has publicly stated its support for increased responsibility in the sale of ballistic missiles and other weapons of mass destruction. China has indicated it seriously is considering signing the Nuclear Nonproliferation Treaty. Not every nation in the world has signed that. China has not, but we would like them to.

It is apparent that those sales China has made have not been for political benefit. They have been for cash. Somehow, the idea that by cutting China off from the cash it receives with the sales of goods and services to the United States will somehow make them more amenable to cutting off its sales elsewhere in the world where it seeks cash is absurd.

Another problem with the proposal to remove MFN status is the impact on American businesses which have invested nearly $5 billion in the southern part of China. People will say, oh, well, we want to rise above that. We are not concerned with $5 billion that our firms in the United States have invested in China. That is just too bad. We do not care if we lose those American jobs that depend on the products that are imported from China, and sales that we make to China.

Would removal of MFN encourage China to buy more from us? No one believes that. Would it make China more responsive to demands for the protection of intellectual property if we cut them off? I do not think anybody really believes that.

One of the points that is made on the floor here is that we have a large trade deficit with China, as though that is somehow immoral. Just like we have a large trade deficit with Japan.

The trouble is, we have large trade deficits with many countries in the world. But somehow the idea is that it is particularly immoral to have it with China. It should be pointed out there are a lot of high-technology items that the Chinese would like to buy from us, but we have trade sanctions with China. We will not sell them everything they want and we might as well recognize that.

Our principal hope for improvements in our trading relationship lies in the desire of the Chinese Government to establish a more balanced relationship with the United States. That is one of the—if you can call it that—signs in the wind that indicate things might be better. The Chinese have sent a buying mission over here, and they have signed purchase orders for $1.2 billion worth of American products. This, in addition to the $5 billion that China expects to spend here already.

Removing MFN status with the Chinese certainly would make them less cooperative, as far as buying anything from this country, and would cause all those sales to fall by the wayside. The denial of MFN status would hurt the Chinese moderates that we would like to see become more influential.

There is a certain segment of the Chinese leadership that would like to see MFN revoked. They are the hardliners. They have preached right along, do not do business in the West, they will do you in. By revoking MFN, we would prove them right. Any precipitous step on our part would play right into the hands of those hardliners.

We also must remember, most of China's most brutal policies took place at a time when it was most isolated. All of the incidents with the Red Guards, we used to hear about, took place when China was totally insulated, in that period following World War II up to the visit of President Nixon.

So, let us not return to a time when China had nothing at stake and could, and indeed did, act with impunity. I think, it is also worth mentioning China's support of the United States in the United Nations during the time of the Kuwait war.

Mr. KERRY. Will the Senator yield for a question?

Mr. CHAFEE. Could I finish, and then I will be glad to.

Without that support, the liberation of Kuwait might not have taken place. In the future, such support might not be forthcoming, if we were to cut everything off. I think that we have to remember that some have recommended here we ought to send China into a corner as a pariah. Draw up the bridges and say, "Retreat into your isolationism as you have in the past, and as you are perfectly prepared to do." I do not know what that is going to gain us.

I would like to point out one condition in the Mitchell bill that is particularly troubling. This is the subject of ballistic missile sales to the Middle East. The bill calls for an immediate termination of MFN within 15 days of enactment of this bill, unless the President certifies to Congress that China has not transferred certain missile technology to Syria, Iran, and Pakistan.

In other words, the President has to certify a negative, a task that is completely different from the certifications we normally ask of our President. That particular requirement saddles the intelligence community with the untenable job of having to prove a negative, a difficult proposition, indeed.

While proving that a transfer had taken place might be accomplished, how in the world is our intelligence community going to say that a transfer has not taken place? In other words, with sufficient data we can certify that a transfer had taken place. Even with all of our abilities to gather intelligence on the activities of other countries, I do not believe we are going to be able to certify that a transfer has not taken place.

Mr. President, this entire debate points out a very American tradition in world diplomatic relations. Most of us have ancestors who came to this Nation to flee political, religious, and economic repression. We have fought hard for the freedoms we enjoy today. As Americans, we are very proud of the type of society we have built in our country.

Our Bill of Rights symbolizes our dedication to protecting the individual rights of our citizens. We have also developed a foreign policy that seeks to encourage other nations to show the same degree of respect for the rights of its citizens. We believe in that.

But if other countries decline to go as far as we would like, should we ostracize them? Should we essentially break off contact? I believe we should remain engaged. I believe we should not give up. I believe we should continue to push for the best we can hope for and be patient for a better day.

The Chinese Government has many flaws and many of its policies are offensive to Americans. I am not here to claim otherwise. I am convinced we will better serve ourselves, better serve the Chinese people, and better serve American interests by maintaining the present level of relations with that large and great nation.

I urge my colleagues to support the President and unconditionally extend MFN to China for another year.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Massachusetts.

Mr. KERRY. Mr. President, I had intended to ask a question. I understand we are under time constraints. The chairman of the Foreign Relations Committee has been waiting. I believe he wishes to speak for 5 minutes. I respectfully ask the Chair, if there is no objection, that the chairman of the Foreign Relations speak for minutes, that I follow him, and the Senator from New Mexico follow me.

Mr. DOMENICI. I will make that a unanimous-consent agreement subject to being interrupted if the majority or Republican leader desires.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Mr. President, I want to ask the Senator from Rhode Island before he leaves the floor—I think the Senator has posed the question as though the choice for us is really whether or not we break off contact; in other words, that the bill proposed by Senator MITCHELL is automatically a breakoff of contact or we remain engaged.

What I ask the Senator from Rhode Island is that he seemed to talk as though if we proceed with this bill, that we are somehow cutting them off automatically and then they are insulated from action. I ask the Senator from Rhode Island what specifically he thinks we are getting from China today as a consequence of our current engagement, and whether or not if you simply go along as though nothing was wrong by unconditionally granting MFN, do you not then also insulate the leadership by saying to them they can do whatever they want because we will not hold them accountable? I wonder what we are getting and whether or not unconditional does not insulate them just as much as being cut off?

Mr. CHAFEE. Not at all. I believe not at all. First of all, as I pointed out, over 1,000 dissidents have been released as a result of the quiet diplomacy we have had. There is being built up, as I mentioned, in the southern part of China, a whole new nation of entrepreneurs. The United States has invested some $5 billion in China overall, most of that in the southern part of China. That is leading, to new Chinese economic reforms, but I cannot say to the distinguished Senator from Massachusetts everything is going to be fine. On all of these issues we make judgments, based not only on the situation as it exists now, but based on our experience and what we have seen. One thing we know is that there is no difference between denial of MFN, and MFN with a whole series of conditions that we have never levied on any other nation. As I mentioned, the only reason for denial of MFN we have ever had with another nation is for its violation of the Jackson-Vanik amendment.

So here we are embarking on whole new territory and dealing with the export of missiles, and the freedom of dissidents, and on and on the list goes. No proud nation, and certainly China is a proud nation, is going to countenance that. They are going to say, you put us under these conditions, we are not going to observe them. I think we can expect that. I think it is a great mistake proceeding along those lines.

I make one further point that I believe is quite important, and that is this requirement of the majority leader that the President of the United States must certify that there has not been the transfer of missiles to—let me read this particular provision—"must certify that China has not transferred certain missile technology to Syria, Iran, and Pakistan.

We cannot prove a negative. Who in the world is going to be able to get up and say we swear that there have not been these transfers? We cannot do that.

Mr. KERRY. Will the Senator yield?

Mr. CHAFEE. Our intelligence community is not equipped to do that.

Mr. BIDEN. Will the Senator yield?

Mr. CHAFEE. I yield for a question.

Mr. BIDEN. Is the Senator suggesting our national technical means are not capable of determining whether or not M-9, or M-11 missiles, or missile launchers have been transferred to Syria, Iran, or any other country? Is he suggesting that?

Mr. CHAFEE. Sure. I am suggesting that we do not have the capacity for the President to certify the Congress that China has not transferred certain missile technology.

Mr. BIDEN. I can assure you, we do have two technologies, we do have the capacity and he has the capacity now to tell you what they have already transferred to those countries. I am sure the Senator is aware of what has already been transferred in materials of missile launchers. I assume he knows that our intelligence community has already certified to the President of the United States and in turn the President will be delighted to tell you if you ask him that it has already been transferred.

Mr. CHAFEE. The Senator is arguing two separate points. Sometimes we can ascertain that something has occurred and we can say so. That is an entirely different thing from saying something has not occurred.

Mr. BIDEN. Will the Senator yield for a question?

Mr. CHAFEE. On some occasions, we can ascertain something has occurred. This legislation does not say that. When the President has to make these other certifications—we are used to certifications that come out of, for example, our aid to El Salvador; these are certifications that the Government has not participated in negotiations or the Government fails to support an active role for the United Nations, we can tell these things. But we cannot certify that a transfer has not taken place. I have served just as long in the Intelligence Committee as the distinguished Senator from Delaware has.

Mr. KERRY. Mr. President, I have encroached, through this questioning process, on the Senator from Rhode Island. We had an agreement that he could proceed at this point.

Mr. PELL. Mr. President, is this colloquy at an end?

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. PELL. I thank the Senator from Massachusetts for his courtesy, and I wish to congratulate the majority leader for bringing this issue up for debate.

Mr. President, I rise in support of majority leader Senator MITCHELL's bill, S. 1367, conditioning extension of nondiscriminatory trading privileges to the People's Republic of China. I congratulate the majority leader for bringing this issue up for debate.

The Foreign Relations Committee has held numerous hearings and briefings on our relations with China. Those sessions have only served to heighten my concern over China's behavior. They have deepened my conviction that it is time for Congress to send China's leaders a strong message: They must match action with words if they desire to be a responsible member of the world community.

For the past 2 years China has only deviated further from the norms of international behavior in human rights, in trade, and in security.

In human rights extrajudicial killings continue; prisoners are tortured; and democracy advocates are detained. Amnesty International reports that the use of the death penalty in 1990 was the highest since 1983 when more than 10,000 people are believed to have been executed.

The administration reports in its list entitled "Achievements of the President's Strategy of Engagement," that their dialog with China has resulted in the release of 1,000 political detainees. They fail to report continued harassment of those released. They are kept under police surveillance; they lose their jobs; they lose their housing; they lose their ration tickets; they lose their medical care, and they continue to have to report to the Public Security Bureau.

The administration makes no mention of conditions in Tibet where, as the Dalai Lama mentioned in his recent speech before Congress on April 18, that over 1.2 million Tibetans have been killed and 6,000 monasteries destroyed by the Chinese.

Yesterday, the Washington Post reported that the Chinese tried to pull the wool over the eyes of our Ambassador to China, James Lilley, when he visited a Tibetan prison. According to the Post, Lilley said, "we saw right through it. That prison was no Boy Scout camp, and we knew it." What he didn't know was that after he left, two prisoners were badly beaten and placed in solitary confinement for trying to pass a petition to him.

The question is: How has the President's policy toward China made life any better for the Tibetans or the democracy movement protesters?

There is another issue of grave concern to the Foreign Relations Committee which deserves wider consideration by the Senate. That concern is China's widely reported active efforts to export weapons of mass destruction including nuclear bombs and the means to transport them.

The administration claims that the Chinese "are beginning to move in the right direction."

I ask, how quickly?

The administration states approvingly that China has agreed to place the nuclear plant it is constructing for Algeria under International Atomic Energy Agency [IAEA] safeguards. This came only after years of Chinese secret assistance to Algeria was disclosed last April. One presumes that the IAEA safeguards will be better monitored than they were in Iraq.

The administration cites Chinese support for the elimination of Iraqi weapons of mass destruction. Of course, China is reported to have aided Iraq in these secret nuclear programs.

The administration mentions that Chinese President Yang Shangkun has "recently stated unequivocally that China had not sold any intermediate-range missiles." However, on June 27, the Chinese announced they were selling M-11 missiles—capable of delivering an 800-kilogram payload at least 180 miles—to Pakistan. So much for Chinese assurances.

The Dalai Lama said it well last April:

> For the sake of the people of China as well as Tibet, a stronger stand is needed towards the government of the People's Republic of China. The policy of "constructive engagement," as a means to encourage moderation, can have no concrete effect unless the democracies of the world clearly stand by their principles. Linking bilateral relations to human rights and democracy is not merely a matter of appeasing one's own conscience. It is a proven, peaceful and effective means to encourage genuine change. If the world truly hopes to see a reduction of tyranny in China, it must not appease China's leaders.

In considering whether or not to vote for conditioning trade relations with China, I ask my fellow Senators to consider two questions: First, is the world a safer and better place today because of the administration's strategy of engagement with China, and second, do China's past and present actions indicate they want to make the world a safer place?

I thank the Senator from Massachusetts for his courtesy.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank the chairman of the Foreign Relations Committee, the Senator from Rhode Island. I would like to say a few words about the bill, and then I guess the Senator from New Mexico is going to speak.

Mr. President, almost every word that I have heard in the course of this debate from those who want an unconditional MFN is essentially true, I think, with the exception of the conclusion that is drawn. There are jobs at stake, and they are absolutely correct in saying that. The trade deficit should not be the motivation for inaction, but I do not think it is.

In addition to that, there are trade sanctions in effect now, yes. But the real issue is one of judgment. I approached this issue with great reservations about setting up an equation that automatically was going to result in a cutoff. Why? Because I think there are great benefits to having MFN. If we can keep it, I would prefer to see us keep MFN. But the question of judgment is really at what price, at what price do you want to keep MFN and the assets that it brings you, and at what point do you have to arrive at a different judgment about what is at stake?

I listened to the Senator from Rhode Island say Switzerland, France, a lot of other countries have relations and they are not doing anything. That is not a reason for us not to do something, When have we known those countries—with all due respect and apology to them, when have we known them on the world stage to be the No. 1 countries asserting a matter of principle and morality that results conceivably in self-inflicted pain?

I do not think that has been the case. And sometimes we have found that the issue of leadership falls to us, as I think it did most recently in the situation with Iraq. So the United States led that effort, and other countries, thank heavens, were there. That is something we have to think about as we approach the question of China.

My colleague from Rhode Island said look at what they have done. Think about the list of what he said they have done. They have released 1,000 dissidents, and we have invested billions of dollars in their country. And the people in the provinces that are near the ocean have, in fact, gained exposure to Western concepts, Western ideals, and to Western business.

Think about that. That is the list of what the Senator says they have done. One thousand dissidents—I correct him—were released, mostly, according to those who make judgments about these things, because the United States went through the argument we went through on MFN last time. And it was because China saw the possibility of losing MFN that those steps were taken, so that we would not necessarily come back to the point that we find ourselves at right now, making the judgment about how you get some kind of action.

Mr. President, the question we have to ask ourselves is how do you, in fact, stimulate some kind of positive action from China. How do you take a stand that is sufficiently a stand in favor of human rights, in favor of the kinds of changes we need but at the same time sensitive and balanced and respectful of some of the realities of how change might come about in China, of what would institute that change, of how that leadership responds, and of all of the special nuances of a part of the world that, frankly, we are not always very good at understanding.

I believe that what Senator MITCHELL is proposing and what many of us are supporting is, in fact, a compromise, a compromise that I would have hoped both the administration and China could view as not creating an automatic cutoff, not putting us in the position of guaranteeing that the draconian concept that everybody is opposed to is automatically going to happen.

I ask my colleagues who oppose this to think hard about what is in this bill. What is in this bill? There are realy only five conditions. Condition No. 1 is that there should be an accounting for those at Tiananmen Square who were arrested on the basis of belief.

Condition No. 2 is that those who were arrested on the basis of belief ought to be released. My colleague says 1,000 of them have been released. I would respectfully submit there is a subjectivity in that accounting process. We do not know for certian if they have absolutely accounted for everybody; if everybody has been released. But those are the first two conditions.

The third condition is that China not be sending and selling goods to the United States that are produced by prison labor, by forced labor.

China has said they will not do that. China has said they are not doing that. So already, three of the five conditions have essentially been either half met or fully met.

Mr. President, I am going to interrupt my own comments at this point. The Senator from New Mexico has an amendment. Obviously, I want to try to accede to the leadership and keep the process moving. I do not know how this is done. Perhaps we can carry this over until tomorrow if I cannot return this evening to complete it. That cannot be done. Is that correct?

Mr. President, I will pick it up at another time and carry on from where I left off. I yield the floor.

Mr. BENTSEN. Mr. President, I say to the distinguished Senator from Massachusetts, we are very appreciative of that. The Senator from New Mexico is ready for his amendment. We will have time tomorrow for him to continue to discuss this.

Mr. KERRY. That would be fine. I yield to the judgment of the distinguished manager of the bill. I was about to persuade the Senator from Kansas to vote for us. But if he wants to forego that——

Mr. DOLE. I might.

Mr. BINGAMAN addressed the Chair.

Mr. DOLE. Will the Senator yield?

Mr. BINGAMAN. I yield to the distinguished Republican leader.

Mr. DOLE. As I understand, I yield to the distinguished chairman of the committee. Is he prepared to accept the 30-minute time agreement equally divided?

Mr. BENTSEN. Mr. President, in response to the minority leader, yes, we are ready and prepared on this side to accept the 30-minute time limitation.

Mr. DOLE. Is that all right with the author of the amendment?

Mr. BINGAMAN. That is fine with me.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the Senator from New Mexico be prepared to offer his amendment with an agreement that there be 30 minutes equally divided, 15 minutes to a side in the usual form, with no second-degree amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 802

(Purpose: To express Congress' findings with respect to the trade practices of the People's Republic of China, to specify additional areas of trade in which the People's Republic of China needs to make significant progress, to require the President to take action with respect to certain trade practices and human rights violations, and for other purposes)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 802.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, between lines 23 and 24, insert the following:

(10) The United States has failed to use existing laws and other means to respond to, prevent, or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(11) The Government of the People's Republic of China is engaging in unfair trade practices against the United States which are unreasonable and discriminatory and burden and restrict United States commerce by failing to protect intellectual property rights, raising tariffs, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

On page 5, between lines 11 and 12, insert the following new section:

SEC. 3. PRESIDENTIAL ACTION.

The President is directed to take the following actions with respect to the People's Republic of China's human rights violations, weapons proliferation, and unfair trade practices:

(1) Interact more forcefully with our allies, especially Japan and European countries, and with the World Bank and other multilateral lending institutions, to accomplish the restriction of transfers of technology to China.

(2) Encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning the People's Republic of China's missile transfers to other countries.

(3) Direct the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States Commerce.

(4) Encourage the Human Rights Commission of the United Nations to issue a report on human rights conditions in the People's Republic of China, and to work with our allies and the Union of Soviet Socialist Republics to encourage Human Rights Commission to issue such a report.

(5) Take any other action the President deems advisable to achieve the purposes of this Act.

Redesignate section 3 through 5 as sections 4 through 6, respectively.

On page 7, line 5, strike "and".

On page 7, between lines 5 and 6, insert the following:

(G) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict United States commerce by failing to protect intellectual property rights, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries, and

On page 7, line 6, strike "(G)" and insert "(H)".

Mr. BINGAMAN. I yield myself 10 minutes, Mr. President.

Mr. President, I am concerned, as several other speakers have been tonight and as our majority leader is, with China's policies and the relations of this country to China in recent years. I am also greatly dissatisfied with the United States Government's policies toward China. The essence of my remarks is going to be that the policies of China and our own flawed responses to those policies need to be changed.

The amendment that I am proposing to S. 1367, a bill authored by the distinguished majority leader, is intended to achieve these objectives.

The amendment does several things. First, there are two new findings that we add to the bill. One is finding that addresses China's unfair trade practices, and specifies a number of the more unacceptable ones, such as the failure to protect intellectual property rights and the raising of tariffs, and another is the finding that refers to the failure of the United States Governent to use existing laws and other means to respond appropriately and effectively to China's outrageous actions in the area of human rights and armed proliferation and trade.

To carry these out, and also to implement other actions of the bill, I am proposing new provisions which strengthen the conditions related to trade under the most-favored-nation status.

What we could do, Mr. President, essentially is to direct our own President to take actions under existing law to see to it that we make improvements in these areas of concern, primarily trade policy, human rights policy, and proliferation of missiles throughout the world, and sales by China in particular.

Mr. President, there has been an extensive discussion here this afternoon of the particular problems that exist in our relationship, the trade imbalance that exists, the facts that last year we had a trade deficit of \$10.4 million with China—this year it is expected to approach \$15 billion—the terrible human rights abuses both in Tibet and those related to the Tiananmen Square incident, and, of course, the sales and the threatened sales of missiles to various parts of the world.

Mr. President, let me reiterate that I am deeply disturbed about several of China's policies that have a bearing on our relations with that country. I am also greatly dissatisfied with the United States Government's policies toward China. The essence of my remarks is that the egregious policies of China and our own flawed responses to those policies need to be changed. The amendment I am proposing to S. 1367, the bill authored by the distinguished majority leader, Senator MITCHELL, is intended to help achieve these objectives.

The amendment does several things. First, two new findings are added to the bill. One finding addresses China's unfair trade practices and specifies a number of the more unacceptable ones, such as the failure to protect intellectual property rights and the raising of tariffs. Another finding refers to the failures of the United States Government to use existing laws and other means to respond appropriately and effectively to China's outrageous actions in the areas of human rights, arms proliferation, and trade.

To carry out these and other sections in the bill, new provisions are added strengthening conditions relating to trade under which most-favored-nation status will be renewed, directing the President to take certain actions, such as substantially tightening restrictions on technology transfer to China and inducing the Human Rights Commission of the United Nations to issue a report on human rights conditions in China, and mandating that section 301 of the Trade Act be invoked against China. Section 301, not to be confused with what are known as super 301 and special 301, authorizes and in some cases requires the U.S. Trade Representative to retaliate against unfair trade practices of foreign governments.

THE MFN DEBATE

The debate about extending most-favored-nation status to China centers on three problems: First, its brutal violations of human rights; second, its irresponsible proliferation of weapons of mass destruction; and third, its unfair conduct of foreign trade. Most of the debate has concentrated on the first two issues: human rights and proliferation. I agree with much of the criticism directed at China with respect to these issues.

From Tibet to Tiananmen Square and its aftermath, the Chinese Government has followed policies and committed acts that systematically violate fundamental and internationally recognized human rights. In addition, for the past decade, the Chinese Government has been exporting sensitive military technology and weapons to developing countries in the Middle East and elsewhere. Beijing's actions in these areas are objectionable and unconscionable.

The third issue, China's unfair trade, is equally important but has not received the same amount of attention. Nevertheless, the trade issue deserves attention in this.

MFN is a device used in determining whether to have normal trade relations with a foreign country. It is always appropriate to evaluate how a foreign country intends to or actually does conduct its trade with us when deciding whether to grant to renew that status. That is especially so when the foreign country is under Communist rule, or any other system where the free market is not allowed to operate, and trade is controlled by the government. To my mind, even if China had a stellar record on human rights and was not engaged in proliferation activities, we would have to give serious consideration to withholding MFN because of China's unfair trade policies.

It has been a little over a decade since China opened its doors to the outside world and embarked on ambitious economic reforms. China made significant gains as a result of the reforms and discovered that access to the United States market and Western technology and expertise are essential to its own growth. China apparently also discovered that it is possible to exploit its relationship with us without provoking a strong reaction. The United States Government has been extremely lax in allowing China to use unfair trade tactics against us. If the trade relationship between our two countries is not a one-way street, it is a three-lane highway, with China operating on two high-speed paved lanes and the United States on a single bumpy road.

THE GROWING TRADE DEFICIT

Trade experts have observed China's rising volume of exports and imports and commented on the fact that it presently has trade surpluses with the United States and other major Western trade partners. The underlying causes of China's trade surpluses have, for the most part, escaped scrutiny.

What explains China's trade surpluses? A number of factors are involved and several reflect favorably on Beijing's determination to turn outward and become a part of the global economy. China's trade in 1990 amounted to more than $115 billion and it has become the 13th largest trading country in the world. To achieve this result, China moved toward a decentralized foreign trade sector and adopted other reforms.

However, the large trade surpluses are a recent phenomena and remain to be explained. Why did China's exports to the United States rise by a whopping 27 percent in 1990, while United States exports to China fell? These and other questions about China's bilateral trade relations have now been answered by authoritative United States Government sources who point to what can only be described as China's unfair trade practices. The United States had a bilateral trade deficit with China last year of $10.4 billion, according to official United States estimates. It is clear that this large and growing deficit is in great measure a result of Chinese actions intended to produce such a result.

CHINA'S FOREIGN TRADE POLICY

China has adopted an economic policy that combines promotion of exports with restrictions on foreign imports. The fact that Beijing is following an export-led growth strategy is, by itself, not surprising. A number of industrialized and developing countries have adopted such a strategy. We ourselves have been stressing the importance of exports. But the rules of international trade require that nations who want access to foreign markets give foreigners access to their domestic markets.

It is not uncommon for nations to sometimes stretch the rules and to adopt nontariff trade barriers to protect certain industries. There are numerous disputes among trading partners over such practices. But China is not just engaging in an occasional stretching of the rules. She is breaking them openly, flagrantly, and systematically.

THE CIA REPORT

The fact that China is not playing by the rules of the international trading system is documented in a new CIA report and in testimony given by three Government trade officials to the Joint Economic Committee on June 28, 1991. I will quote the relevant findings in the CIA's unclassified report, entitled "The Chinese Economy in 1990 and 1991: Uncertain Recovery":

> The leadership's continued emphasis on export growth without import liberalization risks foreign protectionism. Even without productivity-enhancing domestic reforms, China's export promotion policies could allow it to achieve at least 10-percent average annual growth in exports over the coming decade. Beijing will continue to employ a blend of administrative and market-oriented policies to encourage factories to export.

The CIA report points out that with low wages and as many as 120 million unemployed or underemployed in the agricultural sector alone, China has an immense and still untapped potential as a high-volume producer of labor-intensive products at low prices. The report goes on to state:

> The complexity of China's trading system and Beijing's renewed manipulation of import controls may foster increasing resentment from China's trading partners, more and more of which are facing growing trade deficits with Beijing. Last year, China's trade surplus with the European Community soared 121 percent to $4.9 billion while its trade surplus with Japan nearly doubled to $5.2 billion.

China's trade surplus with the United States was somewhat higher than the combined surpluses with the European Community and Japan. This underlines the seeping nature of Beijing's policy of promoting exports while restricting imports. China's trade surpluses last year were neither an aberration nor a temporary phenomenon.

I have displayed two charts to illustrate the magnitude of the bilateral deficit and the trends. The first chart shows China's trade with the United States from 1985 through 1990. There are two bars for each year, one for China's exports and one for China's imports. It can be seen that in every year China's exports to the United States were greater than China's imports from the United States, resulting in bilateral surpluses in China's favor. In 1985, the U.S. deficit was $300 million. It grew to $2.5 billion in 1986, $3.4 billion in 1987, $4.3 billion in 1988, $7 billion in 1989, and $10.4 billion in 1990. In other words, the trade deficit with China has increased for the past 6 years in a row, and this year, 1991, will mark the seventh.

The second chart breaks out China's exports to the United States and China's imports from the United States so that the trends for each can be seen. It will be seen that China's exports have increased by great leaps in each of the past 7 years, from 1984 through 1990. Imports from the United States, on the other hand, have been erratic and at much lower levels. They actually declined in 2 years, in 1986 and again in 1990. And in 1990 they were lower than they were in 1988.

Elsewhere in its report, the CIA shows that China's most recent 5 and 10 year development plans state that Beijing will strengthen oversight of imports in order to curtail them. In a lengthy appendix to its report, the CIA lists numerous actions taken by the Government since 1988 to strengthen central control over foreign trade. Among the actions taken were increases in customs duties, requirements for import licenses, registration and testing procedures for certain imports, imposition of quotas, and the banning of some imports.

The facts strongly suggest that while China restricts imports from other Western countries, the United States has been selected for the most discriminatory actions. In 1989, for example, a secret Government directive specified that future contracts for telephone switches be awarded only to a Japanese, German, or French firm. American firms were effectively banned. In other areas, discriminatory custom rates make it impossible for U.S. firms to win bids.

While China's global imports declined by 10 percent last year, imports from the United States declined by 17 percent, a disproportionately greater amount.

OTHER AGENCIES CONFIRM UNFAIR TRADE PRACTICES

The CIA report demonstrates that China's approach to international trade is one sided and unfair in the most fundamental sense, and the CIA is not the only Government agency to draw this conclusion. In the hearings I conducted on June 28, testimony was presented by spokespersons for the administration from three agencies involved in United States-China trade relations: The Commerce Department, the State Department, and the Office of U.S. Trade Representative. All concluded that Chinese protectionism and other unfair practices have increased in recent years.

Joseph Massey, Assistant United States Trade Representative for China and Japan, observed that in the past decade China has decentralized and liberalized its foreign trade. He then made the following statement:

> Since 1988, however, China has skewed its trade policy into a more protectionist mode. As a result, we and many of China's trading partners now have a substantial and growing deficit with them. China's barriers to imports take a variety of forms and cover a broad spectrum. China requires import licenses on a significant number of products and excessive standards and reviews. Import bans and quotas cover products ranging from electronic equipment and machinery to timber and grains.

Mr. Massey cited a series of other objectionable Chinese trade practices including unilaterally hiking tariffs on many items, the use of false country-of-origin documentation to transship textiles and apparel to the United States through third countries, and inadequate protection of intellectual property rights for United States authors, software developers, and inventors.

Richard Johnston, Deputy Assistant Secretary of Commerce for International Economic Policy, summarized the most significant trade barriers faced by exporters to China:

Managed trade and lack of transparency as a result of official unpublished directives that effectively exclude certain companies from the market or restrict their activity;

Import licensing requirements used to deny imports entry when they are of higher quality and lower price than domestic substitutes;

Import substitution policies that exclude products for which the government deems there are acceptable substitutes;

Import bans, quantitative and other market-limiting restrictions, often adopted contrary to market demands;

Standards, testing and certification requirements which have been increased by 30 percent over prior years and place burdens on importers not placed on domestic producers;

Tariffs and other charges of up to 200 percent;

Discriminatory custom rates exempting imports financed by concessionary loans, making it impossible for U.S. firms to win bids based on technology or price;

Absence of competitive bidding in most Government procurement; and

Government guidelines that permit approval of only productive investment.

Mr. Johnston concluded:

> These trade barriers and other impediments have had a serious effect on United States exports. Since 1989, leading United States exports to China have declined significantly. Of 13 major product categories in 1990, exports increased in only four. Of the remaining nine, exports were flat in one and declined * * * from 6 to 84 percent in the remaining eight.

The State Department spokesperson, Kent Wiedemann, Director of the Office of China and Mongolia, agreed with the finding in the CIA report that China has adopted an export-led growth strategy. The State Department believes that China needs to be made to understand that in order to be a member of the global economic community it must adhere to its rules.

WHY THE U.S. NEEDS TO ACT: PRESIDENT BUSH'S LETTER

The facts about China's unfair trade policies and practices and their harmful effects on United States exports and our trade balance cannot be reasonably disputed. What are the prospects and what is the U.S. Government doing to reverse the present trends? What steps were taken in the past and what new and more effective actions are planned?

In the hope that President Bush would himself indicate that the administration had resolved to take firm steps in response to China's unfair trade practices, as well as to her violations of human rights and proliferation activities, I cosigned a letter to George Bush with the Honorable MAX BAUCUS and other distinguished colleagues. The President's response was received last Friday, July 19.

The President's response is in my view, disappointing. Indeed it confirms both the continuing nature of China's objectionable conduct and the lack of forcefulness in the United States response. United States actions, as described by the President himself, consist mainly of discussions, messages, expressions of concern, and negotiations. The United States raised China's human rights practices at the London G–7 summit. We have pressed for adherence to the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime. United States agencies have been instructed to press vigorously our concerns about Chinese unfair trading practices.

It stands to reason that under present circumstances, if the United States continues doing business as usual with China, our bilateral trade deficits will continue mounting. China has stacked the deck against us. If we do nothing, we will buy billions of dollars more of goods from China than China will buy from us. It should go without saying that this will not be the result of a lack of competitiveness on the part of American firms, but rather as a result of the unfair trade policies followed by China.

The administration argues that it would be harmful to United States economic and business interests to deny MFN to China, that it would be better to use the trade leverage that exists in the present relationship rather than disrupting it.

I have a different perspective. China has discovered it is possible to exploit its relationship with us without provoking a strong reaction and they plan to exploit it even more. They are promoting exports to Western countries, especially the United States, as a way to earn much needed hard currency, and they have tightened restrictions on imports in order to build up large surpluses. Their long-term plans call for further measures to promote exports and stiffer controls of imports.

When the administration states "We continue to press the Chinese with all the means at our disposal and the Chinese continue to sit and negotiate with us," that, in my view, is an acknowledgment that the means at the Government's disposal are insufficient to bring about the desired changes, or that the Government's efforts have been ineffective, or both. That being the case, the administration is in a very weak position to oppose placing conditions on renewal of MFN. The amendment I have offered remedies this situation.

Mr. President, I ask unanimous consent that a document which I entitled "Exhibit to CIA Report" be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Exhibit to CIA Report

APPENDIX C: MEASURES ADOPTED TO STRENGTHEN CENTRAL CONTROL OVER CHINA'S TRADE SECTOR, 1988–91

Over the last few years, Beijing has reasserted central authority over trade. The following chronology outlines some of these controls.

Jan. 1988: Beijing requires import licenses for 53 commodities, according to article in the Chinese press published in May 1990. The list includes steel, lumber, rubber, petroleum, wool, wood pulp, sugar, plywood, civil aircraft, electronics, instruments, automobiles, televisions, camcorders, and processing equipment. The commodities reportedly account for 45 percent of China's total imports. The Ministry of Foreign Economic Relations and Trade (MOFERT) will issue licenses for 16 categories; authorized provincial and municipal branches of MOFERT may issue licenses for the other categories. For purchases not specified in the state import plan, units applying for licenses must obtain consent from the Bank of China to use their foreign exchange. If the desired import is produced domestically, the unit must present documents from the ministry producing the substitute certifying that an import is required.

Jan. 1988: Beijing announces list of 173 products requiring export licenses. MOFERT must issue the licenses for 29 commodities, primarily resources, price-sensitive commodities that have a limited foreign market, or products subject to foreign quotas. MOFERT offices in port cities may issue licenses for 62 commodities, primarily animal products. Provincial and municipal branches of MOFERT issue licenses for 82 commodities.

Feb. 2, 1988: Beijing implements new administrative rules governing the registration and testing of foreign drugs in China.

Apr. 29, 1988: The Ministry of Machine-building and Electronics Industry (MMBEI) approves 100 products developed by the aeronautics industry as import substitutes, in effect banning imports of the products.

Aug. 12, 1988: Beijing raises duties on imports of color televisions and motorcycles to over 300 percent.

Sep. 15, 1988: Beijing doubles the customs duties on imports of consumer appliances—such as washing machines, radios, and cassette players—to 100 percent.

Sep. 22, 1988: China recentralizes control over silk imports and exports.

Jan. 1, 1989: MOFERT bans exports of copper, nickel, aluminum, platinum, yellow phosphorus, and their alloys. In addition, Beijing adds 16 items to the list of commodities that require export licenses: newsprint paper, bone dust, polystyrene, polypropylene, ABS resin, chromium ore, molybdenum ore, ferrochrome, ferromanganese, magnesium metal, manganese metal, methylbenzene, dimethylbenzene, rubber, salted pine mushrooms, and Chinese medicinal herbs.

Jan. 14, 1989: The China Tobacco Import and Export Corporation requires import licenses for cellulose acetate filter tips used in manufacturing cigarettes.

Jan. 25, 1989: MOFERT sets up a new body, the Import and Export Permit Administration, to tighten control over the granting of import and export licenses.

Feb. 1989: Beijing raises import tariffs on 45 items and reduces rates on two items; also reduces export tariffs on silk and adds four nonferrous metal products to the list of nine export goods that require export tariffs.

Feb. 1, 1989: Beijing centralizes control over pesticides production and sales.

Feb. 1, 1989: MOFERT announces plans to reduce by one-third the number of corporations authorized to import wool in order to curb competition for imports that had bid up purchase prices.

Feb. 10, 1989: Beijing designates China National Ferrous Metals Company sole agent for importing cold-rolled steel, carbon-sintered steels, tin-coated steel, and zinc-coated steel sheets.

Feb. 20, 1989: Beijing announces that the importation of foreign cigarettes and liquor will be banned.

Mar. 16, 1989: Beijing hikes duties on imports of refrigerators and refrigerator components.

Mar. 19, 1989: The State Planning Commission announces an import quota system for timber imports and that purchases are to be reduced 40 percent; quotas are to be allocated to local governments, which can then determine what kind of timber they wish to buy.

Apr. 6, 1989: Li Peng announces that the importation of all luxury cars is banned.

Apr. 6, 1989: Beijing announces that no additional joint ventures producing canned beverages will be authorized, and that import licenses for canned beverages will no longer be granted.

Apr. 24, 1989: Beijing imposes strict controls over the importation of color television components and levies a special consumer tax on domestic TV sales.

Apr. 26, 1989: Beijing strengthens inspection, approval, and management of imports of electromechanical products to encourage the substitution of domestic products.

May 1, 1989: Beijing requires quality licenses for imported products that involve safety, public health, and environmental protection, including automobiles, motorcycles, motorcycle engines, refrigerators, refrigerator compressors, air conditioners, air conditioner compressors, color television sets, and kinescopes.

May 14, 1989: Guangdong Province bans imports of cigarettes, alcohol, cosmetics, canned foods, frozen fish, meat, fruit, candies, biscuits, vegetables, clothing, shoes, scented soap, shampoo, beverages, household electrical applicances, and plastic daily essentials.

June, 1989: Guangdong officials confirm that restrictions exist on the importation of electric power generating equipment.

June 1, 1989: MOFERT creates the Plywood Import Coordination Group consisting of nine corporations with the exclusive right to import plywood. Only three among the nine can participate in price negotiations.

June 6, 1989: Beijing announces exports of copper, zinc, lead, manganese, iron, and nickel must be reported to the China nonferrous Metals Import and Export Corporation for examination and approval.

June 10, 1989: Beijing requires export licenses for six metal ores: copper, zinc, lead, manganese, iron, and nickel, with approval granted by one of two central bodies.

June 27, 1989: MOFERT empowers the Plywood Import Coordination Group to negotiate and sign all contracts for the importation of plywood.

July 4, 1989: Beijing requires import licenses for purchases of refrigerators, air conditioners, and video recorders.

July 13, 1989: MOFERT extends central management to 13 kinds of imports ("Category 1 goods") to control competition among importers. Products that may be imported only by state-owned specialized foreign trade corporations include grains, sugar, steel, fertilizers, crude and refined oil, rubber, timber, polyester fibers, tobacco, cotton, presticides, and farm use plastic sheeting. Beijing announces the formation of "import coordination groups" to unify negotiations with foreign suppliers over import prices for other controlled products ("Category 2 goods.") The products in this category include: wool, wood pulp, plywood, craft paper, corrugated paper, cigarette filters, chemical materials, scrap ships, and TV tubes.

July 22, 1989: Beijing further recentralizes imports of canned drinks, imposing 40-percent tariffs on imports of materials used in the production of pop-top cans. In addition, government institutions, mass organizations, and enterprises are prohibited from using public funds to purchase canned drinks.

July 24, 1989: Beijing requires import licenses for 22 medicinal products and export licenses for seven traditional Chinese medicinal products.

July 25, 1989: MOFERT revokes the import rights of seven wool importers, requiring representatives from the companies to form an import coordination group to conduct unified negotiations.

Aug. 1, 1989: MMBEI bans the importation of 20 electronic and machinery products, including computer hardware, TV sets, tape recorders, video equipment, VCR units, and integrated circuits. The ministry also restricts imports of assembly lines for televisions, tape recorders, fiber-optic and mircowave communications equipment, printed-circuit boards, and other electromechanical products.

Aug. 4, 1989: Beijing adds 106 goods in 44 different categories to the list of items subject to inspection.

Aug. 11, 1989: Beijing raises import duties on six items: coffee, syrup, vacuum cleaners, electronic games, cosmetics, and soap, and levies export duty rates of 50 percent against lead and zinc exports.

Aug. 22, 1989: Beijing requires export licenses for computers and peripheral equipment.

Aug. 22, 1989: The State Council reportedly issues a secret directive that future contracts for telephone switches be reserved exclusively for Siemens (Germany), Alcatel

(France), and NEC (Japan), in effect banning US companies. Information about the directive is leaked to a US telecommunications firm and subsequently published by a Western business journal in late 1990.

Aug. 28, 1989: Beijing imposes new standards for the inspection of guidelines for TV imports.

Sept. 1, 1989: Beijing increases tariff levels for various imports; medical instruments, scientific research apparatus, medicines, drugs, and perfumes are subject to 20-percent tariffs; household appliances (excluding VCRs), cameras, watches, bicycles, textile products, and cosmetics 100 percent; VCRs and motorcycles 150 percent; cigarettes, liquor, and limousines, 200 percent.

Sept. 21, 1989: Beijing limits the right to export canned mushrooms to 18 approved entities.

Oct. 1989: China Animal and Plant Quarantine Headquarters imposes strict controls on imports of all tobacco leaf as a result of the detection of live tobacco blue mold on a shipment of Greek oriental tobacco. The regulation is not publicized.

Oct. 23, 1989: Beijing publishes a list of 148 varieties of import commodities subject to inspection under a new commodity inspection law to be implemented on 1 May 1990.

Oct. 26, 1989: Guangdong Province establishes minimum export prices for 29 goods, including lithopone, yuanming powder, potassium permanganate, cassia, cassia oil, paper products, cattle hides, feather and down, rattan products, black wood furniture, red bricks, sea sand, fresh water sand, canned fish, soy sauce, lychee, mandarin oranges, shelled peanuts, sesame, dried rice vermicelli, blanched peanuts, electric fans, fluorescent lamp stands, glazed wall tiles, pocket knives, padlocks, plastic products, mosaic, and precious ink stone.

Nov. 4, 1989: The State Administration of Technology Supervision requires three levels of approval for imports of measuring devices; design approval, import approval, and inspection.

Nov. 28, 1989: Beijing centralizes exports of tungsten, giving sole trading rights to three corporations.

Dec. 1, 1989: Beijing raises import tariffs on film for medical and scientific uses on and certain printed circuits, eliminates export duty on prawns, and introduces an export tax of 50 percent on tin and tin concentrate.

Jan. 15, 1990: Beijing raises tariffs on consumer goods such as coffee, sweetener, cosmetics, soap, electronic games, and small vacuum cleaners.

Jan. 17, 1990: The Ministry of Agriculture stipulates that all organic and inorganic fertilizers, soil conditioners, and plant growth-regulating agents must be inspected and registered prior to importation.

Jan. 25, 1990: Beijing reduces import tariffs on cattle hides and raw materials for tire production, and eliminates a 50-percent import regulatory tax on television picture tubes.

Feb. 13, 1990: The State Planning Commission approves new import restrictions on building materials such as marble, granite plates, certain types of glass, plastic carpeting, plastics, glass fiber, flax or cotton wallpaper, wall or floor bricks, plaster stone plates, and aluminum alloy doors and windows.

Feb. 22, 1990: The State Council promulgates regulations requiring MOFERT to submit applications for import and export of 20 types of materials to the Ministry of Materials.

Feb. 24, 1990: Beijing recentralizes exports of paraffin wax.

Feb. 26, 1990: Beijing bans exports of yellow phosphorous and polyvinyl chloride.

Apr. 1990: Beijing bans the importation of small-scale electric power-generating equipment.

May 1990: Beijing requires quality licenses from the State Administration of Import and Export Commodity Inspection for nine additional imported commodities: automobiles, motorcycles and their engines, refrigerators and air conditioners and their compressors, television sets, and kinescopes.

May 1, 1990: Beijing increases the number of products subject to export licensing from 173 to 185. Additional products include canned broad beans and asparagus, walnuts, sorghum, rabbit meat, cotton liners, silicon-manganese alloys, and certain pharmaceuticals.

June 1, 1990: Beijing raises the range of import tariffs on certain film-developing chemicals from 25 to 35 percent to 80 to 100 percent and reduces the export tax on certain ferroalloys from 50 to 20 percent.

Aug. 1990: The Ministry of Chemical Industry announces it will limit the amount of fertilizer imported and require an import license for each purchase.

Sept. 1, 1990: Beijing raises duties on 11 items, including chemicals, pesticides, and pharmaceuticals. These increases followed lobbying by Chinese manufacturers who faced growing inventories of chemicals because sales to the domestic market dropped as a result of the economic slowdown. Tariffs on metal containers for compressed or liquified gas were raised from 12 to 17 percent to 50 to 70 percent, and those on ultrasonic equipment were raised from 12 to 17 percent to 25 to 35 percent. The tariffs on certain optical lenses were reduced from 30 to 40 percent to 12 to 17 percent.

Oct. 19, 1990: Beijing increases tariffs on seven chemicals, pesticides, and medical instruments.

Nov. 20, 1991: The Customs Tariff Commission of the State Council raises duties on seven imported commodities, including soybean oil, sesame oil, rapeseed oil, palm oil, palm kernel oil, and coconut oil. The change is undertaken to raise prices on imported goods, which were lower than domestic vegetable oil prices.

Jan. 10, 1991: The Customs Tariff Commission announces increased import tariffs on nine commodities to promote industrial production. The products include air conditioners, walkie-talkies, pagers, and sorbitol. Tariffs are simultaneously lowered on 40 imported commodities, including chemical fertilizers and some raw materials related to agricultural and industrial production.

Mr. BINGAMAN. Mr. President, I would like to call the Senate's attention in particular to some provisions and some conclusions that were contained in a CIA report. I know the majority leader referred to that. I chair a subcommittee of the Joint Economic Committee which deals with many of these same issues, and that subcommittee has received from the CIA each year for the last several years a report on the Chinese economy. This year we received such a report, and I commend it to my colleagues for their reading. It is called "The Chinese Economy in 1990 and 1991: Uncertain Recovery."

I will not try to read the various effective provisions of this report, but I think it makes it very clear that the problem we have with China today is the result of very conscious actions by the Government of China to restrict imports and to promote exports, particularly to the United States. And the most telling part of that report, at least to my mind, was one of the appendices. It is appendix C called "Measures Adopted to Strengthen Central Control Over China's Trade Sector 1988 through 1991."

Mr. President, let me just go through this exhibit for a moment here and highlight some parts of it for the edification of Senators who are interested in this issue. It is a six-page exhibit and it is a very detailed exhibit in chronological order beginning in January 1988 and ending in January 1991, listing specific things that the Government of China has done to restrict imports, primarily some to promote exports but primarily to restrict imports.

The range of actions that have been taken and the number of actions that have been taken by the Government of China during this last 3 years to accomplish this objective is really startling to me. I would just call this to the attention of my colleagues. For example, January 1988, Beijing announces a list of 173 products requiring export licenses. A few months later, August 1988, Beijing raises duties on imports of color television sets and motorcycles over 300 percent. In April 1988, the Ministry of Machine Building and Electronics approves 100 products developed by the aeronautics industry as import substitutes, in effect banning imports of the products. September 1988, Beijing doubles the customs duty on imports of consumer appliances to 100 percent.

Mr. President, you can go on into 1989. Beijing hikes duties on imports of refrigerators and refrigerator components. Beijing announces the importation of liquor and cigarettes will be banned. Beijing centalizes control of pesticide production and sale.

Going into the next year, Beijing requires import licenses for purchases of refrigerators, air-conditioners and video recorders.

Mr. President, I think any of my colleagues will have to conclude, if they look at the exhibit that accompanies this CIA report, that there has been a concerted and very persistent effort by the Government in Beijing, the Government of China, to keep United States firms, foreign firms in general, but United States firms in particular from being able to sell their products within China.

The large trade deficit we have with China today is not a result of free trade practices. It is clearly a result of China's decision to develop a large surplus with the United States to exploit its position and its access to the United States market to the disadvantage of this country, to the disadvantage of our own producers and to the advantage of China itself.

Mr. President, that is an unacceptable situation. I share the concerns of the majority leader with regard to human rights abuses. I share his concern with regard to proliferation of missiles, and I also want to underline my particular concern with regard to the trade difficulties.

The amendment that I am offering tries to shift some of the focus of this debate and says, certainly, we have things we want China to do in the next year, but we also have things we want this Government to do—our own Government. It directs that the President take several actions and that he interacts more forcefully with our allies, especially Japan and European countries, and with the World Bank and other multilateral lending institutions, to accomplish the restriction of transfers of technology to China.

So, to my mind, it is an important action that needs to be taken. If in fact that technology is being exported to the rest of the world on missiles, which we are trying to control through the missile technology control regime, we need to deal with that.

It directs the President to work with the Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China.

It directs the President to encourage the Human Rights Commission of the United Nations to issue a report on human rights conditions in the People's Republic of China, and to work with our allies and the Union of Soviet Socialist Republics to encourage the Human Rights Commission to issue such report.

And it directs the President to take any other action the President deems advisable to achieve the purposes of this act.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. At this point, I yield the floor to the manager of the amendment to make any comments he would like.

Mr. BENTSEN. Mr. President, I ask the distinguished Senator, who is offering the amendment, to yield 1 minute to me.

Mr. BINGAMAN. I will be glad to yield a minute.

Mr. BENTSEN. I congratulate the Senator for strengthening the trade portions of this bill. His amendment directs the USTR to use section 301 to do away with China's restrictive trade practices; and, even better, points out in significant detail what progress must be made, and how we can measure it, when the President makes that determination next year whether to continue China's MFN status. So I am pleased to support the Senator's amendment.

Mr. BINGAMAN. Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD. Mr. President, I thank the Chair. I am going to oppose this amendment. I think it simply worsens the Mitchell bill that we already have before us. It adds more conditions.

If we are going to single out countries, do not do it one at a time. Take all of the ones that are guilty of illegal trade practices, and guilty of human rights violations and withhold most-favored-nation status, and say that, henceforth, this is going to be our standard. But I encourage the rejection of this amendment.

Mr. BINGAMAN. If the Senator is willing to yield back his time, I am.

Mr. PACKWOOD. I yield my time.

Mr. BINGAMAN. I yield the remainder of my time, Mr. President.

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Georgia [Mr. FOWLER], are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR], is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Vermont [Mr. JEFFORDS], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Delaware [Mr. ROTH], are necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 35, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—55

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
D'Amato
DeConcini
Dixon
Dodd
Exon
Ford
Glenn
Gore
Graham
Harkin
Helms
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Smith
Wellstone
Wirth
Wofford

NAYS—35

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
Danforth
Dole
Domenici
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Johnston
Kassebaum
Kasten
Lott
Lugar
McCain
McConnell
Nickles
Packwood
Rudman
Seymour
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—10

Bradley
Daschle
Durenberger
Fowler
Garn
Jeffords
Murkowski
Pressler
Pryor
Roth

So the amendment (No. 802) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MACK. Mr. President, this is a difficult issue for me, because I fully understand and even sympathize with those who passionately argue that the renewal of most-favored-nation status for China is in this Nation's interest. I understand that many consider revoking MFN a futile unilateral act. I understand that we have a significant level of trade with China and that some American jobs are at stake. I understand the argument that free trade is a liberalizing force in China that eats away at the regime's iron grip on the people.

I understand all these arguments, but I keep coming back to the question of freedom and human rights. I think about the image of the lone student standing in front of a line of tanks 2 years ago just before the Tiananmen Square massacre. I think about the Statue of Liberty erected by the students in Tiananmen Square, and how the statue and some of the students on it were crushed by tanks. I think about the people still in prison today for daring to speak out for democracy and human rights. And I think to myself, what can we do that will best keep faith with those brave souls and the dream of democracy for the 1 billion people they represent.

The conclusion I come to is that the best way we can stand for freedom and human rights in China is to revoke MFN immediately, and keep it revoked until the human rights situation has improved.

Some have argued that we should not revoke MFN because we would lose leverage with the government of China. The implication of this argument is that since MFN was granted to China in 1980 by President Carter we have had significant influence on China. I disagree. Yes, China has voted with us in the U.N. Security Council at times, and yes, the cultural revolution is behind us, but the human rights situation in China is still abysmal and getting worse.

There has been no improvement in human rights and freedom in China since the Tiananmen Square massacre. As the Independent Federation of Chinese Students and Scholars wrote in a letter to me,

> International human rights organizations and the U.S. State Department have documented a worsening human rights situation in the past year. Thousands have been imprisoned, executions have dramatically increased, and many democracy activists were harshly sentenced in secret trials.

The Chinese students have, I believe, a realistic attitude toward the Chinese Government. They believe that there is an internal struggle going on between hardliners and reformers, and that the way for the United States to help the reformers is to provide a clear financial incentive for reform. Again, to quote from their letter,

> We are convinced that the United States Government is in the unique position to strongly encourage concrete actions to achieve greater freedom in China.

I do not believe that the Chinese Government is immune to pressure for reform. And if they are, I do not believe that we can in good conscience continue to do business-as-usual with them.

While outright revocation of MFN is not an option that we are voting on today, it is the option I support. Absent that option, I will support conditional renewal of MFN, and the amendments offered to strengthen those conditions.

Mr. KENNEDY. Mr. President, I strongly support this bill to condition the renewal of China's most-favored-nation trading status for the People's Republic of China.

The events of the past 2 years have proven time and again that the Bush administration's policy toward the Chinese dictatorship is a failed policy.

Since 1989, Chinese authorities have stepped up persecution of human rights activists, executed hundreds of prodemocracy advocates, jailed thousands of individuals for expressing their political beliefs, increased restrictions on emigration and foreign travel, ignored previous assurances regarding missile sales, and increased barriers to free trade.

Unconditional renewal of China's MFN status would send a clear message to Beijing hardliners that for the sake of trade with China the United States Government is willing to ignore such brutal practices and flagrant violations of human rights.

In light of Beijing's continued disregard for human rights and unfair trading practices, imposing conditions on the extension of China's MFN status has become the only credible approach by which the United States can hope to change Chinese policies.

Congress must clearly indicate to the Chinese authorities that there is a price to pay for their continuing human rights abuses. If America is to retain its role as the leader of the free world, it must support these long-suffering people in their struggle to embrace the very ideals upon which our own country is founded.

President Bush claims that conditioning MFN will strengthen hardliners within the Chinese regime who want MFN withdrawn so they can once again close China's door to the outside world. But China's leadership doesn't want to close the door.

The economic reforms of the 1980's opened China's economy and it has become dependent upon foreign trade, technology, and capital. China is profiting from its trade with the outside world and Chinese leaders want the economic benefits the West has to offer.

But these benefits should not come at the cost of ignoring violations of internationally recognized fundamental human rights. Conditioning China's MFN status will reinforce the ability of moderates within the Government to argue that brutal repression must end.

Today, advocates of democracy in China are even less likely to receive a fair trial than they were in 1989. Political authorities have increased their interference with the judicial process. During the past 2 years, Chinese officials have stressed that courts must follow the Communist Party line. Judges have been encouraged to handle cases rapidly and to hand down death sentences without pity.

Prodemocracy leaders out of the public eye have been singled out for harsh treatment. It is not uncommon for such individuals to be jailed for 10 or 20 years, sometimes simply for making dissident speeches.

In Tibet, tens of thousands of Chinese troops and police enforced de facto martial law to prevent demonstrations during recent celebrations marking the 40th anniversary of the Chinese invasion. Roadblocks of armed guards were stationed around Lhasa, a 2-month curfew was instituted, foreign journalists were barred, and tourists were warned not to speak to Tibetans and were prevented from leaving their hotels without guides.

Since 1989, hundreds of Tibetans have been killed by Chinese authorities during protests, and many thousands more, including monks and nuns, have been arrested and tortured.

Arrests of religious leaders also increased in 1990. Sixty Chinese Catholic leaders, including 20 bishops, are currently detained. Last year, more than 30 Catholic bishops, priests, and lay leaders were arrested. Just last month, the acting bishop of Shanghai was arrested and taken into detention.

In addition, since June, 1989, more than 400 Protestant clergy and lay leaders have been arrested and 300 churches have been closed.

In 1986, the administration argued that the best way to influence the apartheid regime in Pretoria was to avoid sanctions and to continue trading with that country.

That argument was rejected by Congress. And the sanctions we imposed were a significant factor in bringing about positive changes by that country's repressive regime.

One of the most effective ways to change the human rights policy of a repressive regime is by using economic pressure. Refusal by the administration to link MFN with human rights ignores the progress achieved in the past through such linkage.

Similarly, there is a widespread bipartisan consensus that the economic pressure brought to bear by the Jackson-Vanik trade amendment has played a key role in advancing the cause of human rights in the Soviet Union.

Pursuant to Jackson-Vanik, prior to renewing a Communist country's MFN status, the President must make a determination that its emigration practices are becoming less restrictive. During the past 2 years China has increased emigration restrictions to punish those who have expressed their political beliefs.

Yet President Bush refuses to apply Jackson-Vanik to China. He insists that China is likely to behave in a fundamentally different manner from the Soviet Union if economic conditions are applied—despite the fact that the Beijing regime is considerably weaker than Moscow was in the 1970's.

The administration claims that Beijing will not respond to "external pressure." Yet the Chinese Government has great reason to respond since China is heavily dependent upon the United States export market.

In 1990, the United States trade deficit with China was $10.4 billion. It is expecterd to grow to $15 billion by the end of this year and is already up 17 percent from this time last year.

To recoup foreign exchange losses in the aftermath of the Tiananmen Square massacre, the Chinese Government has dramatically increased exports while limiting, and in some cases banning, imports, and severely restricting Western business investments in China.

The pending bill takes advantage of the fact that China relies heavily upon the United States as its largest export market by using this significant economic leverage to improve respect for human rights and fair trading practices.

The use of slave labor in China is another serious abuse that our legislation would address. The 1987 State Department report on human rights practices in China states:

> Sentencing to prison and labor reform usually entails participation in compulsory labor. Prison and labor reform camps are expected to be partially self-supporting if not operating at a profit.

Today, there are 4,000 to 6,000 such camps in China and Tibet, and between

10 and 20 million people are detained in these camps. These prisoners are used as slave labor to lower the costs of the country's exports—many of which are targeted for the U.S. market.

In addition, the legislation addresses China's arms sales to Third World nations. During the 1980's, China sold millions of dollars worth of nuclear and missile technology to South Asia, South Africa, South America, and the Middle East.

Now, China is building a nuclear reactor in Algeria that could fuel nuclear weapons.

In addition, it has contracted to sell missiles to Pakistan and Syria that can carry nuclear warheads and has reportedly entered into agreements to sell uranium and heavy water to Argentina, South Africa, and Brazil.

The pending bill limits such sales by conditioning the renewal of MFN on a reduction in the proliferation of weapons of mass destruction.

In light of the Chinese Government's unsatisfactory human rights record, unfair trade practices, and arms sales, unconditional renewal of MFN would only continue our current failed policy and be viewed by jailed democracy advocates as a silent endorsement of the repressive policies of the Chinese regime.

U.S. trade policy should not be held hostage by the threats of a government which not only kills and imprisons peaceful protesters and democracy advocates, but which has said that it will not hesitate to do so again.

The Chinese people have great respect for the democratic traditions of the United States. We all recall the statue of the Goddess of Democracy which brought such hope and determination to the thousands of prodemocracy advocates who participated peacefully in demonstrations in 1989, and which became a symbol to the world of their aspirations for democracy.

By conditioning the renewal of MFN status on an improvement in human rights, Congress can renew the hopes and aspirations of these long-suffering people and help to bring freedom and democratic reform to China and Tibet.

I commend Senator MITCHELL for his leadership and I urge my colleagues to join in supporting this important legislation.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY BIRTHDAY, SENATOR DOLE

Mr. BYRD. Mr. President, earlier this afternoon, I was pleased to wish happy birthday to the mother of the senior Senator from Massachusetts, TED KENNEDY. I have since been reminded that birthday greetings are also in order for another great American, and I am pleased to call attention to that birthday as well.

Today is the birthday of the senior Senator from Kansas, our distinguished colleague, Senator ROBERT DOLE. For many years, I have enjoyed the friendship and the colleagueship of Senator DOLE, and I know that all of our fellow Senators join me in wishing for him the happiest of birthdays, and many, many more to come.

Senator DOLE is noted widely in the press and beyond for his wit and his quick mind. But as his colleague, I have long admired Senator DOLE for not only these attributes, but also for his legislative skills, his commitment to the Senate and its work, his unstinting energy in behalf of causes and purposes in which he believes, and his unsurpassed patriotism and his love for our country.

Erma joins with me in wishing a happy birthday to Senator DOLE, and we hope that this day will be an especially significant one for him and for his brilliant and lovely wife, Libby.

Mr. President:

The roses red upon my neighbor's vine
Are owned by him, but they are also mine.
His was the cost, and his the labor, too,
But mine as well as his the joy, their
    loveliness to view.
They bloom for me and are for me as fair
As for the man who gives them all his care.
Thus, I am rich, because a good man grew
A rose-clad vine for all his neighbor's view.
I know from this that others plant for me,
And what they own, my joy may also be.
So why be selfish when so much that's fine
Is grown for me, upon my Kansas neighbor's
    vine.

And I will break the rules of the Senate and say, "Happy birthday, BOB. Many, many more happy birthdays to you."

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROSE KENNEDY: 101 YEARS YOUNG, STILL INSPIRING HER FAMILY AND AMERICA

Mr. DOLE. Mr. President, the distinguished President pro tempore, and earlier the distinguished majority leader, Senators BYRD and MITCHELL, were kind enough to mention today is my birthday, and I thank them both for their good wishes.

Let me also state for the record that I am proud to share this birthday with one of the most extraordinary women in American politics, Rose Kennedy.

As a loving wife, mother, grandmother, and greatgrandmother, she has inspired her family for generation after generation, and through her devotion and compassion, she has continued to inspire us all. America knows the terrible family tragedy Rose Kennedy has had to bear, but despite the burden, she has endured with courage and grace.

Mr. President, I know my Senate colleagues join me in wishing this remarkable woman all the best on this, her 101st birthday.

Please let the RECORD show that July 22 belongs to Rose Kennedy.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INOUYE RURAL HEALTH BILL

Mr. GRASSLEY. Mr. President, I rise this evening to discuss two pieces of legislation that were introduced last week, and do this to urge my colleagues to join in the cosponsorship of this legislation.

Mr. President, I am joined in one of those pieces of legislation with Senators INOUYE, BURDICK, DOLE, AKAKA, HARKIN, HATFIELD, SIMPSON, KERREY, CONRAD, DECONCINI, CRAIG, AND COCHRAN, to introduce legislation to reauthorize what I believe is an innovative and valuable rural health program.

This legislation would continue a program designed to address a number of health care problems characteristic of rural communities.

It tries to get at the shortage of health care personnel in rural communities by stimulating, through grants, long-term collaborative relationships between teaching institutions and health care providers in rural communities.

It would do this by making the establishment of such a relationship a condition of participating in the program. The idea is that if beginning health care workers actually practice in a rural community with established practitioners, not only will they be providing health care for the term of the grant, but they could also decide to stay in that community or to practice in some other rural community.

Our legislation also tries to get at some of the special health problems more prevalent in rural areas than in urban areas. It is well known, for instance, that there are more accidents in rural areas than in urban areas, and that the death rates in rural areas from accidents are considerably higher than in urban areas.

This reflects the fact that agriculture is one of our most dangerous occupations. There can also be different environmental health problems in rural areas than in urban areas. For instance, in my own State of Iowa much concern has been generated in recent years about groundwater pollution from chemicals used in agriculture and the possible health threats it presents.

In any case, the program which would be reauthorized by this legislation places a strong emphasis on health care promotion and disease prevention services to individuals residing in rural communities. It also emphasizes the importance of focusing on rural occupational health and safety and environmental health concerns.

Finally, the program established by the legislation will give priority to projects emphasizing innovative ways of providing health care in rural areas where it is often more difficult to provide health care because of the distances individuals must go to reach health care providers or facilities.

These include projects which demonstrate innovative methods to provide access to cost-effective comprehensive health care in rural areas and projects to use innovative methods to train rural health practitioners.

The amounts authorized for this program are $10 million for fiscal year 1992, $15 million for fiscal year 1993, and $15 million for fiscal year 1994.

I just want to add for the record that this program was originally developed by Senator INOUYE with the assistance of Senator BURDICK and myself during the 100th Congress, and became part of Public Law 100-607.

Mr. President, last week I introduced a bill which would amend the Older Americans Act of 1965 by enhancing the information and referral services available to Alzheimer's disease victims and their families. This bill was introduced by Congresswoman OLYMPIA SNOWE in the House of Representatives.

Mr. President, the Congress will reauthorize again this year the Older Americans Act, one of our major public laws authorizing programs for older people. Since its original enactment in 1965, the Older Americans Act has become one of our great public success stories.

It establishes a Federal-State-local-government-private sector partnership which draws on Federal, State, and private sector funds to support many activities popular with older people.

I am pleased to offer this amendment to the act, Mr. President. I am also pleased to have cosponsored an amendment introduced by Senator GLENN on July 11 dealing with preventive health services under the act.

Ever since I first became concerned about Alzheimer's disease and the very difficult problems it creates for victims and their families, I have been aware that locating appropriate services is one of the most difficult of these problems.

This is a concern that is always raised by families who care for an Alzheimer's disease victim. This was the case at hearings and at workshops I held in the 98th and 99th Congresses under the auspices of the Subcommittee on Aging of the Committee on Labor and Human Resources when I was its chairman.

This concern was also reported in the major study of Alzheimer's disease done by the Congressional Office of Technology Assessment called "Losing a Million Minds."

It became clear that the OTA could provide a valuable service by focusing directly on this problem and trying to see how services for Alzheimer's disease victims and their families could best be located for those in need of them.

Therefore, with other Senators, I requested OTA to do a followup to "Losing a Million Minds" which would focus on this problem. This led to a second OTA publication which appeared in late 1990 and was called "Confused Minds, Burdened Families."

That study confirmed many of the things families and their representatives had been saying about the difficulty of finding appropriate services.

That study also reviewed types of agencies that might have the capacity to provide this kind of brokerage service. Agencies reviewed included area agencies on aging, community mental health centers, Alzheimer's association chapters, home health agencies, and adult day care centers.

Although, according to OTA, all the organizations reviewed had strengths and weaknesses in relation to this problem, I believe that the existing information and referral capacity of the Older Americans Act network is well designed to be helpful with it.

Therefore, my bill would amend the act to call for the information and referral activity required of each area agency on aging to put emphasis "on linking serrvices available to isolated older individuals and older individuals who are victims of Alzheimer's disease and related disorders * * * ."

The bill also requires the Older Americans Act plan required of each State to include similar language.

Mr. President, this bill, if enacted, will not solve the problem of linking victims and their families with services. But I have great faith in the capacity of our area agencies on aging, and believe that they can definitely make a contribution to that end.

I yield the floor.

STATE AND LOCAL ACTION ON ACID-FREE PAPER

Mr. PELL. Mr. President, on October 12, 1990, the President signed, as Public Law 101-423, Senate Joint Resolution 57 to establish a national policy on permanent papers, which I had introduced in February 1989, and which was cosponsored by 47 members of the Senate. A companion joint resolution was introduced in the House by Representative PAT WILLIAMS in March of that year.

The Federal part of the law is now being implemented: for Government publications and documents of enduring value, the Government Printing Office is procuring alkaline papers, with a life of hundreds of years, replacing acidic paper with a life measured in decades.

I should like to report today on one of the subsidiary purposes of this legislation, namely to encourage non-Federal publishers, including State and local governments, to take similar action. A number of States had already begun to legislate in this area about the time my joint resolution was first introduced. In order of their action, they were:

Connecticut: Following a 1988 study resolution, Public Act 86-167 was enacted in 1989 to take effect on July 1, 1989. It required the use of acid free paper for "permanent State and local records." This law was later amended and strengthened.

Indiana: Section 3 of Public Law 30-1989 of May 5, 1989 amends the State code to require the use of archival quality paper for records that a commission determines should be preserved indefinitely.

Arizona: Section 101 of title 39 of the State code was amended in September 1989 to require the use of the "durable or permanent" paper for State documents.

Colorado: Senate Bill 90-78, passed in April 1990, requires the use of acid free, alkaline-based, or permanent-type paper for State publications after July 1, 1991.

Virginia: Following a study resolution passed in January 1990, a comprehensive bill was passed in February 1991. It requires the use of permanent paper for public records defined as "archival" and for all State publications of enduring value.

Massachusetts: By Executive Order 293 of December 31, 1990, alkaline or permanent papers will be required for most State records.

Nebraska: On March 11, 1991, the unicameral legislature adopted Legislative Resolution 45 urging State and local governmental agencies to publish documents, letters, and other papers of enduring value on alkaline permanent paper, and requiring the State Energy Office and the State records administrator to submit a report to the Committee on Government, Military, and

Veterans Affairs within 12 months, on the use of alkaline permanent paper, including recycled alkaline paper, in State and local government agencies.

CHAIRMAN REID'S LETTER

Through the efforts of legislators, officials and agencies, progress was being made, but the measures taken, except in Connecticut and Virginia, did not comprehensively cover all relevant State and local documents and publications. Then Charles Reid, Chairman of the U.S. National Commission on Libraries and Information Services, himself a long-time library trustee and former mayor, thought it would be helpful to bring the Federal policy and example directly to the Governors of the States, territories, and affiliated commonwealths. On March 16, 1991, he wrote a letter to the Governors of the States in which no action had been taken.

Mr. President, I am happy to report that Chairman REID's initiative has been warmly welcomed by the Governors. Their responses have been most encouraging, and replies are still coming in. Responses as of mid-June can be summarized as follows:

Alaska: The Division of State Libraries, Archives, and Records Management has under consideration proposed regulations to provide archival standards for the creation, maintenance, and preservation of records of enduring value in State agencies, whether on paper, acetate and plastic film and tape, or electronic media.

Florida: On November 8, 1990, the Paper Standards Committee of the Bureau of Archives and Records Management met with the User Advisory Committee of the Department of General Services, which is now developing a standard paper contract requiring a minimum PH (alkaline) level of 17.0.

Hawaii: The Hawaii State Archives is in the process of developing a recommended policy on the use of alkaline paper for government records and publications of enduring value.

Iowa: The State Historical Society and university presses in the State are using acid-free paper in their publications. On April 2, 1991, the State Records Commission received a report and recommendation of the State archivist that the commission prepare a legislative initiative for the 1992 session of the legislature.

Maryland: The Governor has now asked the Department of General Services, which contracts for many State agency publications, to require bids to be submitted for both acid and acid-free papers; and has asked the State archives to provide a list of manufacturers that can provide permanent papers.

Michigan: The Governor has now referred the issue to the Michigan Department of Management and Budget, which issues printing regulations to be followed by State agencies.

Mississippi: The Governor has now referred the matter to the Department of Archives and History and the Division of Records Management.

Montana: In the 1991 session of the legislature Joint Resolution 22 was passed, calling on the State Library and the Legislative Council jointly to draw up guidelines for the use of acid-free paper for the publication of State documents, and report to the next legislature with recommendations.

New York: The State Library and the State Archives are working together to prepare proposed legislation.

North Carolina: As of April 26, 1991, and with the support of the Governor, House Bill 186 had been reported out of committee. It would require the State librarian and the librarian of the University of North Carolina at Chapel Hill to designate each year State documents and State publications that must be printed on alkaline paper.

Commonwealth of Northern Mariana Islands: The Governor has referred "this interesting and worthwhile proposal" to the appropriate agencies.

Rhode Island: In 1989 a resolution of the State legislature called for the establishment of a State policy on permanent paper, and in the 1991 session of the General Assembly legislation was introduced requiring the use of acid-free permanent paper in the printing of State documents.

South Dakota: As of April 3, 1991, the Governor reported that the legislature had recently approved Senate Bill 209 requiring State agencies to print permanent public records on acid-free, alkaline-based or permanent-type paper.

Washington: The State printer has a goal of using acid-free permanent papers for all State publications and documents, and already estimates that this goal is 85 percent achieved with paper that is not only acid-free but recycled.

Wisconsin: The Governor has now asked the Public Records Forms Board, the State Historical Society of Wisconsin, and the Department of Administration to study the feasibility of establishing a voluntary State program to use acid-free permanent paper for State publications and records of enduring value as recommended in section 2(3) of Public Law 101-423.

Mr. President, I hope that this tabulation of State activity on this important subject will be of interest to my colleagues in the Senate, so many of whom were cosponsors of the Federal law, and to those interested in this subject in the States. Hopefully, all States will eventually take action requiring publication on acid-free paper of documents of enduring value produced at the State and local level. The sooner this happens, the more the very high costs of trying to salvage deteriorated publications and documents will be avoided.

In closing, I wish most heartily to commend and thank the Honorable Charles E. Reid for his initiative in writing to the Governors, as well as his earlier support of the joint resolution that became Public Law 101-423. I also wish to thank and acknowledge the help of Robert W. Frase of Falls Church, VA, for his assistance in preparing the summary of State actions taken prior to Chairman Reid's letter.

MARCH 16, 1991.

DEAR GOVERNOR: In accordance with our enabling Public Law 91-345, I have the honor of bringing to your attention the attached copy of Public Law 101-423, signed by President Bush on October 12, 1990, which establishes a National Policy on Permanent Papers.

Section 1 and Section 2(1) of the Act read as follows:

"Section 1—It is the policy of the United States that Federal records, books and publications on enduring value be produced on acid free permanent papers."

"Section 2(1)—Federal agencies require the use of acid free permanent papers for publications of enduring value produced by the Government Printing Office or produced by Federal grant or contract, using the specifications for such paper established by the Joint Committee on Printing."

This policy has already been put into operation by the U.S. Government Printing Office (GPO), with the support of the Congressional committees on appropriations; and the GPO has reported, upon investigation, that acid free, permanent papers can be obtained at no higher costs to the government than acidic papers.

Section 2(3) of the law also carries the urgent recommendation of the Congress that:

"American publishers and State and local governments use acid free permanent papers for publications of enduring value in voluntary compliance with the American National Standard . . ."

I am sure that your State Librarian and Archivist have already advised you of the threatened loss of our historic heritage because of the deterioration of the acidic papers in almost universal use since the middle of the last century; and the need to address this problem in two ways:

To prevent the continuation of the problem by using acid free permanent papers with a life of several hundred years from this point forward; and

To salvage as much as it is practical of existing publications and documents by deacidification or by transferring their contents to more durable forms such as microfilming.

Several States have already taken legislative or administrative action to require the use of permanent papers and documents for important State publications and documents, or are in the process of doing so.

If in your State, there are legislative or administrative developments which your State anticipates or has taken in this area about which we have not been informed, we would appreciate receiving copies of the relevant materials. We are gathering this information for presentation to Congress.

In addition to Public Law 101-423, I am enclosing for your information the following documents:

President Bush's statement when signing P.L. 101-423 U.S. House of Representatives Report #101-680 on H. Res. 226 GPO Report to Chairman of House Appropriations Committee—May 1990 National Commission on Libraries and Information Science Resolution of Support of National Policy on Permanent Papers American Library Association resolution of January 10, 1990, regarding National

Policy on Permanent Papers, including Chronology.

American Library Association brochure explaining importance of implementing National Policy on Permanent Papers.

The U.S. National Commission on Libraries and Information Science would be interested in hearing from you regarding further progress in your State toward implementing P.L. 101-423.

Sincerely,

CHARLES E. REID,
Chairman.

REGARDING AMENDMENT NO. 800 TO THE VA/HUD APPROPRIATIONS BILL

Mr. DIXON. Mr. President, I rise to express my appreciation to the distinguished and able chairwoman of the HUD-Independent Agencies Appropriations Subcommittee for offering an amendment, No. 800, to H.R. 2519, the VA/HUD appropriations bill.

The amendment corrects an oversight in the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, which was recently brought to my attention by the Illinois Community Action Association. Senator CRANSTON and I worked with Senator MIKULSKI to correct this oversight.

As my colleagues know, the National Affordable Housing Act, which I cosponsored, created the Home Investment Partnerships Grant Program to encourage the development of affordable housing at the State and local levels for low- and moderate-income families. The act strengthens the public-private partnership to provide affordable housing.

With this partnership goal, the National Affordable Housing Act requires State or local governments receiving grants under the HOME Program to set aside not less than 15 percent of their funds to community housing development organizations to manage and conserve low-income properties.

In addition, the National Affordable Housing Act precludes community housing development organizations from receiving HOME assistance for any fiscal year in an amount that, together with other Federal assistance, would provide more than 50 percent of the organization's operating budget in that year.

This language precludes groups like community action agencies from receiving the special set-aside funds if they otherwise qualify as community housing development organizations.

For 27 years, community action agencies have been in the forefront of providing essential comprehensive programs to help low-income families regain their independence, including assisting low-income families with housing. Community action agencies have a long history of housing rehabilitation, weatherization, and related activities.

The amendment which this body approved on last Thursday, removes the barrier which inadvertently was created in the National Affordable Housing Act. Community action agencies, a major network of housing advocates, can once again actively and fully participate in our national housing strategy.

Mr. President, I urge Senator MIKULSKI and other conferees on the VA/HUD appropriations bill to do all in their power to preserve this important provision in H.R. 2519.

FOREIGN AID AUTHORIZATION BILL

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 147, S. 1435, the foreign aid authorization bill.

Mr. GRASSLEY. For the leader on this side of the aisle, I object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I now move to proceed to Calendar No. 147, S. 1435, the foreign aid authorization bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the consideration of S. 1435, a bill to amend the Foreign Assistance Act of 1961, and for other purposes:

Tom Harkin, Paul Wellstone, Richard Bryan, Wendell Ford, Bill Bradley, Joseph Lieberman, John Breaux, Wyche Fowler, Claiborne Pell, Terry Sanford, Charles S. Robb, Tom Daschle, Paul Simon, Paul Sarbanes, Max Baucus, Alan Cranston.

Mr. MITCHELL. Mr. President, I withdraw my motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

SEQUENTIAL REFERRAL OF A NOMINATION—JOHN E. SCHROTE

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the nomination of Mr. John E. Schrote, to be Assistant Secretary for Policy, Management and Budget of the U.S. Department of the Interior, be referred to the Committee on Governmental Affairs for not to exceed 20 days, if and when reported by the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF VETERANS AFFAIRS CODIFICATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 132, H.R. 2525, the Department of Veterans Affairs Codification Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2525) to amend title 38, United States Code, to codify the provisions of law relating to the establishment of a Department of Veterans Affairs, and so forth, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, I rise today to urge my colleagues to support H.R. 2525, the Department of Veterans Affairs Codification Act, as passed by the House on June 25.

The codification act would make technical amendments to title 38, United States Code, which contains all the major laws providing for benefits and services to veterans. This bill, which was drafted by the Office of the House Legislative Counsel, would make long overdue revisions to title 38 that will make it a better organized and more readable and understandable document. Provisions included in the bill reorganize and restate the laws relating to the authority of the Department and the Secretary of Veterans Affairs. In crafting this legislation, the drafters have been extremely careful not to change the meaning or intent of the existing law. As my counterpart on the House side, Representative SONNY MONTGOMERY, said in his statement of June 25—which begins on page H5028 of the RECORD—some may argue that the proposed word changes may result in significant changes in the meaning of the law. I want to state, in the strongest possible terms, that the purpose of this legislation is to make much-needed technical and organizational amendments to title 38 in order to enhance its usefulness. No substantive changes to the title would result if this legislation is adopted.

I express my appreciation to Bob Cover and others in the House Office of Legislative Counsel, Charlie Armstrong and others in the Senate Office of Legislative Counsel, and staff of the Office of the General Counsel in the Department of Veterans Affairs for their hard work and interest in this endeavor and for taking on the difficult task of reviewing and checking this legislation for technical accuracy.

For the benefit of my colleagues, I note that also beginning on page 16196 of the June 25 RECORD there appear two tables, prepared by the House Office of Legislative Counsel, showing the source of new sections of title 38, United States Code, proposed to be enacted by H.R. 2525, and the proposed disposition of existing provisions of title 38 and Public Law 100-527.

Mr. President, I urge my colleagues to approve H.R. 2525.

Mr. GLENN. The Governmental Affairs Committee, which I chair, had a lead role with the Senate Veterans' Affairs Committee in writing the legislation which resulted in the conversion of the Veterans Administration to the Department of Veterans Affairs in 1988—Public Law 100-527. In addition, the committee has jurisdiction over the inspector general community established throughout the Government, including the Office of Inspector General in the Department of Veterans Affairs. Therefore, I have carefully reviewed H.R. 2525, which would codify certain provisions of Public Law 100-527 and make other changes in title 38. There are two provisions of H.R. 2525 which I would like to note and comment on at this time.

First, Public Law 100-527 changed two key VA positions—the Chief Medical Director and the Chief Benefits Director—into positions requiring Senate confirmation. That law required the President to appoint individuals to those positions "without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability" in their respective areas of expertise. I note that H.R. 2525 deletes the requirement that the President appoint these individuals on the basis of their integrity and refers only to demonstrated ability. I understand that by this change, the Senate Committee on Veterans' Affairs does not intend to imply that nominees for these positions should not be judged on the basis of their integrity, or that the President should not consider the individuals' integrity in selecting him or her for the appointment.

Mr. CRANSTON. The Senator from Ohio is correct. That is not the intent of the Committee on Veterans' Affairs, as the Senator from Ohio knows, these two positions are treated differently under the Department of Veterans Affairs Act from other top VA positions. They are the only positions under that act requiring Senate confirmation as to which no political affiliation test can be applied. In addition, each position is appointed for a 4-year term and, if the President were to remove an incumbent before the end of the term, the President would be required to notify Congress of the reasons for the removal. Thus, it should be clear for all concerned that our committee pays very particular attention to these two positions and will indeed continue to evaluate candidates for these positions on the basis of their fundamental suitability, which surely includes their integrity.

Mr. GLENN. I thank the chairman of the Veterans' Affairs Committee for the explanation. Also, I note that pursuant to current section 203 of title 38 of the United States Code, the law requires that—

> Any funds appropriated * * * may be used for a settlement of more than $1 million on a construction contract only if the settlement is audited independently for reasonableness and appropriateness of expenditures and the settlement is provided for specifically in an appropriation law.

This provision would allow either the independent statutory IG within the Department to perform such an audit, or an entity outside the Department such as the Defense Contract Audit Agency or GAO. H.R. 2525 would change the law to require that the audit be performed by "an entity outside the Department," thus prohibiting the IG from performing such audits. I do not believe this change is appropriate or good public policy. I would therefore request that the Veterans' Affairs Committee reconsider this matter in future legislation and restore to the IG the authority to perform such audits.

Mr. CRANSTON. I appreciate the concerns of the Senator from Ohio and believe that they are well placed. I will revisit this issue as part of an overall look at the provision in question, which will be new section 313 of title 38 once this legislation is enacted, and will seek to persuade my colleagues on the House Veterans' Affairs Committee of the merits of allowing the Department of Veterans Affairs IG to perform this audit function.

Mr. SPECTER. Mr. President, I am pleased to support passage of H.R. 2525, the Department of Veterans Affairs Codification Act.

This bill makes technical changes to laws governing the Department of Veterans Affairs. The impetus for this effort—which includes a reorganization and restatement of the laws relating to the authority of the Department and of the Secretary—was the Department of Veterans Affairs Act, Public Law 100-527, which elevated VA to Cabinet status.

I want to emphasize, Mr. President, that the changes made by H.R. 2525 are purely technical, and are not intended to have any substantive effect.

This technical effort has been a major undertaking, in progress, Mr. President, for more than a year. I would like to thank both Senate and House committee staff for their hard work on this measure, particularly Bill Brew of the Senate staff and Pat Ryan of the House. I would also like to express my gratitude to the Senate and House Legislative Counsel, especially Charlie Armstrong of the Senate and Bob Cover of the House. Finally, I would like to thank VA's Office of General Counsel, under the direction of Deputy General Bob Coy, for its invaluable technical assistance on this measure.

I urge my colleagues to support this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 2525) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF LEGAL REPRESENTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Senate Resolution 156 submitted earlier today by Senators FORD and STEVENS to authorize the payment of legal representation expenses of certain Senate employees.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

> **A resolution (S. Res. 156) authorizing the Committee on Rules and Administration to provide legal representation to certain present or former employees of the staff of Senator D'AMATO.**

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, earlier today the joint leadership group of the Senate made the following recommendation to the Senate Legal Counsel regarding representation of certain present and former Senate employees in connection with an upcoming grand jury proceeding:

> **RECOMMENDATION OF ACTION TO AVOID CONFLICT OR INCONSISTENCY IN THE REPRESENTATION OF SENATE PARTIES**
>
> **Pursuant to §710(a) of the Ethics in Government Act of 1978, 2 U.S.C. §288(a) (1988), it is recommended that the Senate Legal Counsel take the following action in order to avoid a potential conflict that could arise between the Legal Counsel's responsibilities to the Select Committee on Ethics and representation of present or former members of Senator D'Amato's staff who have been, or may be, asked to provide evidence to the federal grand jury in the Eastern District of New York. In the event that any such individual desires legal representation in connection with an appearance before the grand jury, the Senate Legal Counsel shall refer him or her to the Committee on Rules and Administration for assistance in arranging for the employment of private counsel for representation with respect to official actions and responsibilities.**
>
> **SENATE JOINT LEADERSHIP GROUP.**
>
> **JULY 22, 1991.**

Two former Senate employees who were on the staff of Senator D'AMATO have contacted the Rules Committee

for assistance in arranging for representation. Consequently, Senator STEVENS, ranking minority member on the Rules Committee, and I have prepared this resolution to authorize retention of outside counsel, as a substitute for the representation which normally would have been provided by the Senate Legal Counsel. It is routine for the Senate to provide such representation to protect the privileges of the Senate. I therefore urge adoption of the resolution.

Mr. STEVENS. Mr. President, I concur in what the chairman has said and support the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 156) was agreed to, as follows:

S. RES. 156

Resolved, That (a) the Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate, legal expenses associated with the employment of private counsel to represent, subject to subsection (b), any present or former employee of the Senate on the staff of Senator D'Amato, with respect to official actions and responsibilities of such employees while on the staff of Senator D'Amato, in connection with testimony before the grand jury in United States District Court for the Eastern District of New York.

(b) The employees to be covered by such representation, and the amount of legal expenses to be paid, shall be determined by the Committee on Rules and Administration.

Mr. MITCHELL. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:34 p.m., a message from the House of Representatives announced that the Speaker has signed the following enrolled bill:

H.R. 751. An Act to enhance the literacy and basic skills of adults to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. LIEBERMAN).

At 2:47 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1776. An Act to authorize for fiscal year 1992 the United States Coast Guard Budget.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1776. An Act to authorize for fiscal year 1992 the United States Coast Guard Budget; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1475. A bill to amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes (Rept. No. 102–114).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 1508. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1509. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1510. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military personnel activities of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1511. An original bill to authorize further supplemental appropriations for fiscal year 1991 for incremental expenses associated with Operation Desert Storm, and for other purposes.

S. 1512. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

S. 1513. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military construction for the Department of Defense, and for other purposes.

S. 1514. An original bill to authorize appropriations for fiscal years 1992 and 1993 for defense activities of the Department of Energy, and for other purposes.

S. 1515. An original bill to establish the Commission on the Assignment of Women in the Armed Forces.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN, from the Committee on Armed Services:

S. 1508. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1509. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1510. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military personnel programs of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1511. An original bill to authorize further supplemental appropriations for fiscal year 1991 for incremental expenses associated with Operation Desert Storm, and for other purposes; placed on the calendar.

S. 1512. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; placed on the calendar.

S. 1513. An original bill to authorize appropriations for fiscal years 1992 and 1993 for military construction for the Department of Defense, and for other purposes; placed on the calendar.

S. 1514. An original bill to authorize appropriations for fiscal years 1992 and 1993 for defense activities of the Department of Energy, and for other purposes; placed on the calendar.

S. 1515. An original bill to establish the Commission on the Assignment of Women in the Armed Forces; placed on the calendar.

By Mr. CRANSTON (by request):

S. 1516. A bill to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years; and for other purposes; to the Committee on Veterans Affairs.

S. 1517. A bill to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans Affairs.

S. 1518. A bill to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses; and for other purposes; to the Committee on Veterans Affairs.

S. 1519. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance

programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans Affairs.

By Mr. BENTSEN (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. BREAUX, and Mr. DURENBERGER):

S. 1520. A bill to amend title XVIII of the Social Security Act to make certain changes with respect to extended care and home health services, and to provide for a waiver of certain Medicaid requirements to conduct a demonstration project with respect to adult day care services, and for other purposes; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. GRASSLEY, Mr. THURMOND, and Mr. PACKWOOD):

S. 1521. A bill to provide a cause of action for victims of sexual abuse, rape, and murder, against producers and distributors of hard-core pornographic material; to the Committee on Judiciary.

By Mr. BOREN (for himself, Mr. DURENBERGER, Mr. BAUCUS, Mr. DOLE, Mr. PRYOR, Mr. SYMMS, Mr. BREAUX, Mr. ROTH, Mr. DASCHLE, Mr. GRASSLEY, Mr. RIEGLE, Mr. LEAHY, Mr. LUGAR, Mr. HEFLIN, Mr. COCHRAN, Mr. HELMS, Mr. CONRAD, Mr. DANFORTH, Mr. HARKIN, Mr. SEYMOUR, Mr. AKAKA, Mr. BOND, Mr. DECONCINI, Mr. DIXON, Mr. EXON, Mr. FORD, Mr. GORTON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KERRY, Mr. LEVIN, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. WIRTH, Mr. BROWN, Mr. CRAIG, Mr. WELLSTONE, Mr. ADAMS, and Mr. CRANSTON):

S. 1522. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. HARKIN, Mr. PELL, and Mr. SIMON):

S. 1523. A bill to amend the Public Health Service Act to reauthorize certain Institutes of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 1524. A bill to suspend temporarily the duty on disperse red 279; to the Committee on Finance.

S. 1525. A bill to suspend temporarily the duty on luvican m-170 and luvican ep; to the Committee on Finance.

S. 1526. A bill to suspend temporarily the duty on fastusol C blue 76L; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. FORD, and Mr. STEVENS):

S. Res. 156. Resolution authorizing the Committee on Rules and Administration to provide legal representation to certain present or former employees on the staff of Senator D'AMATO; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (by request):

S. 1516. A bill to amend title 38, United States Code, to limit the protection afforded certain service-connected disability ratings which have been continuously in force for 20 or more years; and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' BENEFITS REFORM ACT OF 1991

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1516, the proposed Veterans' Benefits Reform Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated July 2, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the July 2, 1991, transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE AND REFERENCES

SEC. 101. This Act may be cited as the "Veterans' Benefits Reform Act of 1991."

SEC. 102. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE II—PRESERVATION OF DISABILITY RATINGS

SEC. 201. Section 110 is amended by inserting "(a)" before the text of that section and adding the following new subsections:

"(b) A rating protected under subsection (a) of this section shall not be combined with any other rating to provide a higher rate of compensation, unless the facts found continue to support the protected rating.

"(c) For purposes of chapter 11 of this title, the provisions of subsection (a) of this section shall not apply to a total disability rating based on unemployability of the individual, where the individual has engaged in gainful employment during the period when the rating was in force."

TITLE III—RENOUNCEMENT OF RIGHT TO BENEFITS

SEC. 301. Section 3106 is amended by adding the following new subsection:

"(c) Notwithstanding subsection (b) of this section, where a new application for pension under chapter 15 of this title or dependency and indemnity compensation to parents under section 415 of this title is filed within one year after renouncement of that benefit, the application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred."

TITLE IV—COMMUNICATIONS CONCERNING BENEFITS

SEC. 401. Subsection (f) of section 3020 is amended by adding the following new paragraph:

"(3) The Secretary shall prescribe an appropriate method or methods for provision of notices concerning benefits and verification of continued eligibility for benefits to payees for whom; provide the Department of Veterans Affairs does not have a current mailing address. Notwithstanding section 3003(c) of this title and paragraphs (1) and (2) of this subsection, and pursuant to regulations promulgated by the Secretary under this paragraph, the Secretary may suspend benefit payments to payees who fail or refuse to provide a current mailing address or cooperate in the establishment of another appropriate method of communication for provision of notices concerning benefits and verification of continued eligibility for benefits. Such regulations shall be designed to ensure that benefit payments will be resumed promptly once a current mailing address of the payee is provided or other appropriate method of communication is established."

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans Benefits Reform Act of 1991." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

In general, the draft bill's three substantive titles would—

limit the protection afforded certain disability ratings which have been continuously in force for twenty or more years;

ensure that when a new claim for an income-based benefit is filed within a year of renouncement of the benefit, any income received during the interval between the renouncement and the filing of the new application will be considered for income-computation purposes; and

authorize VA, pursuant to regulations, to suspend benefit payments if a payee fails to keep VA informed of the payee's current mailing address or cooperate in the establishment of another appropriate method of communication concerning benefits.

As explained below, these provisions are intended to increase the efficiency and integrity of programs serving the needs of our veterans and their survivors.

PRESERVATION OF DISABILITY RATINGS

Title II of the draft bill would limit the protection afforded certain disability ratings under 38 U.S.C. §110. Current law provides that a disability which has been continuously rated at or above a percentage disability evaluation for twenty or more years for compensation purposes shall not be rated thereafter at less than such evaluation, except upon a showing of fraud. The legislative history of this provision shows its primary purpose is to prevent the reduction in income support on which a veteran would understandably come to rely over the course of many years. However, as currently worded, this provision not only protects a veteran against the loss of benefits, but can have the effect of unjustifiably compensating the veteran beyond the level which he or she could justifiably expect.

For example, protection of a total disability rating which is no longer warranted can occur when, for whatever reason, the Department of Veterans Affairs (VA) fails to discover the inaccuracy of the rating until after it has been in effect for twenty years or more. After twenty years, the total disability rating is protected under section 110 and the veteran will receive compensation at the one-hundred-percent rate for the rest of his or her life. However, if the veteran has other disabilities ratable at sixty percent or more, special monthly compensation would be payable at the rate specified in 38 U.S.C. §314(s). Thus, the protected disability rating has the effect of providing basic entitlement to an unjustifiably high rate of special monthly compensation. Untoward results can also occur when a protected rating is combined with ratings for other disabling conditions which have increased in severity, giving rise to a higher than warranted combined rating. In neither of these situations has the veteran come to rely on the higher rate of benefits which will result from protection of the disability rating.

In addition, VA's disability rating schedule provides that a total disability rating may be assigned when the schedular rating is less than total, if the veteran is unemployable as a result of any service-connected disability or disabilities. If a veteran who receives a total disability rating under this individual unemployability provision returns to employment, but the individual unemployability rating is not reduced before the expiration of twenty years from the date it was assigned, the disability rating will still be protected under section 110 despite the fact that the veteran has other income and is no longer dependent on the Federal benefit.

Section 201 would amend current section 110 to preserve the basic purpose of the protection provision while eliminating the unwarranted effects of protection of certain disability ratings. Thus, section 201 would amend section 110 to (1) provide that a rating protected under that section shall not be combined with any other rating to provide a higher rate of compensation, unless the facts found continue to support the protected rating and (2) provide that the section shall not apply to total disability ratings for compensation based on unemployability of the individual where the individual has actually engaged in gainful employment.

Enactment of section 201 would result in estimated pay-as-you-go savings of $2.4 million over the five-year period, FY 1991–1995.

RENOUNCEMENT OF RIGHT TO BENEFITS

Title III of the draft bill would amend 38 U.S.C. §3106 to provide that when a new claim for an income-based benefit is filed within a year of a renouncement of the benefit, benefits will be payable as if the renouncement had not occurred. Under current law, a claimant has the right to renounce pension, compensation, or dependency and indemnity compensation and, following such renouncement, has the right to file a new application for the benefit, which application is treated as an original application. Under current law, a claimant receiving a need-based benefit, *i.e.*, pension or parents' dependency and indemnity compensation, may renounce the benefit in anticipation of receipt of nonrecurring income and then, following the receipt of such income, reapply for pension benefits. Such a claimant, who renounces the benefit and then reapplies within a year of the renouncement, can effectively avoid having the income received during the interval between the renouncement and the new application considered for income-computation purposes. Existence of this "loophole" is inconsistent with the objective of the improved-pension program that benefits be provided on the basis of actual need.

Section 301 would eliminate this "loophole" in section 3106 by providing that a new application for pension or parents' dependency and indemnity compensation filed within one year after a renouncement shall not be treated as an original application and that benefits will be payable as if the renouncement had not occurred. This will ensure that income received during the interval between the renouncement and the filing of the new application will be considered for income-computation purposes.

Enactment of section 301 would result in estimated pay-as-you-go savings of $400,000 over the five-year period, FY 1991–1995.

COMMUNICATIONS CONCERNING BENEFITS

Title IV of the draft bill would authorize VA to suspend benefit payments if the payee fails to keep VA informed of the payee's current mailing address or cooperate in the establishment of another method of communication concerning benefits.

Section 3020(f) of title 38, U.S. Code, provides that, if a payee does not have a mailing address, payments will be delivered under methods prescribed by VA. This provision addresses the problems that the lack of a mailing address causes recipients in receiving their benefits. However, an amendment is necessary to address the problems that the lack of a mailing address causes VA in fulfilling its responsibilities to assure that veterans' benefits are provided in accordance with law. In the absence of a current mailing address or other arrangements, VA cannot contact beneficiaries in order to provide notice or information about benefits, request verification of continued entitlement, and investigate possible fraud.

Section 401 of the draft bill would amend 38 U.S.C. §3020(f) to authorize the Secretary to prescribe an appropriate method or methods for communicating with beneficiaries and would authorize suspension of payments to payees who fail or refuse to provide the Secretary with a current mailing address or cooperate in establishing another appropriate method of communication for provision of notices concerning benefits and verification of continued eligibility. The regulations would ensure that payments will be resumed promptly once a current mailing address or other appropriate means of communication with the payee is established. The amendment will assist VA in obtaining evidence in support of claims while reducing fraud, waste, and abuse. VA believes that it is not unreasonable to require that recipients of VA benefits make themselves available to provide information and to receive notices concerning benefits provided to them.

Enactment of section 401 would result in estimated pay-as-you-go savings of $3 million over the five-year period, FY 1991–1995.

The effect of this draft bill on the deficit is:

[By fiscal years—in millions of dollars]

	1991	1992	1993	1994	1995	1991–95
Outlays	....	−1.3	−1.4	−1.5	−1.6	−5.8
Receipts	....	....	....	....	....	....

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. The "Veterans' Benefits Reform Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislation to Congress and its enactment would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD J. DERWINSKI.●

By Mr. CRANSTON (by request):

S. 1517. A bill to amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37; to the Committee on Veterans' Affairs.

VETERANS LOAN ASSET SALE ACT

● Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1517, the proposed Veterans' Loan Asset Sale Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated July 2, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the July 2, 1991, transmittal letter and enclosed bill analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1517

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Loan Asset Sale Act of 1991".

SEC. 2. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 1820 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) The Secretary is authorized, upon such terms and conditions as the Secretary deems appropriate, to issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.
Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith the "Veterans' Loan Asset Sale Act of 1991," a draft bill, "To amend title 38, United States Code, to permit the Secretary to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37." We request that it be referred to the appropriate committee for prompt consideration and enactment.

The proposed legislation would benefit VA's vendee loan sale program by authorizing the Department to guarantee the REMIC certificates sold to investors when VA's vendee loans are securitized, usually three sales per year with a total annual volume of about $800 million. VA already provides a strong full faith and credit guaranty on the loans. However, under existing law, which dates back to 1945, long before modern mortgage backed securities were developed, VA cannot directly guarantee the certificates even though they represent an interest in a pool of guaranteed vendee loans.

Lack of a direct certificate guaranty prevents VA from obtaining the best pricing for its securitized loans. With the proposed legislation, the estimated decrease in yield that will have to be given to investors is estimated to be 10 basis points, which, of course, results in more proceeds to VA and reduced subsidy costs. In addition, SEC and rating agency fees will be avoided. Thus, total additional revenue to VA, based on securitizing $800 million of vendee loans per year, would result in estimated pay-as-you-go savings of $21.8 million over the 5-year period FYs 1991–1995. Because VA already provides a 100 percent full faith and credit guaranty on the underlying loans, there will be no material increase in risk to the Government. VA's ability to perform its obligation to make "timely" payments to investors will be assured by the cash reserves that are established for each securitized sale and by the other elements of the REMIC credit structure.

VETERANS' LOAN ASSET SALE ACT OF 1991

The effect of this draft bill on the deficit is:

[By fiscal years—in millions of dollars]

	1991	1992	1993	1994	1995	1991–95
Outlays	[1] 1.8	−5.3	−5.2	−4.9	−4.6	−21.8
Receipts						

[1] Assumes enactment prior to August 1, 1991, as it would apply to the next loan sale.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenues and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. The "Veterans' Loan Asset Sale Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this legislation to Congress and that its enactment would be consistent with the Administration's objectives.

Sincerely yours,
EDWARD J. DERWINSKI.

ANALYSIS OF DRAFT BILL

This draft bill would amend title 38, United States Code, to permit the Secretary of the Department of Veterans Affairs to guarantee the timely payment of principal and interest on certificates evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under chapter 37.

The mortgage loans in question are vendee loans that arise as an incident to VA's GI Loan Guaranty program. On some number of defaulted GI loans, it is less expensive for VA to make partial payments on its guaranties and take over the residential properties than to "no bid," that is pay the entire guaranty amount and leave the properties with the mortgagees/mortgagors. When VA acquires properties, it resells them and a substantial number are sold with purchase money mortgage financing, i.e., with financing provided by VA. These loans are known as "vendee loans." VA then sells the vendee loans in the secondary mortgage market.

Over the past year, VA has brought its vendee loan sale program to a high level of efficiency. The loans are pooled and securitized, usually in three sales per year with an annual volume of about $800,000,000. The securitization vehicle is a special purpose trust, which issues multiple-class pass-through certificates and elects to be taxed as a Real Estate Mortgage Investment Conduit (REMIC). Outside firms, selected through competitive bidding, assist VA in setting up and operating each REMIC and in selling the certificates to investors: underwriters, trust counsel, trust auditor, trustee, master servicer and printer. Credit structure and documentation have become standardized, and fees for the outside firms are very competitive. Closing costs now aggregate less than one-half of one percent of the balance of the loans sold, and master servicer and trustee fees, together, are just 23 basis points per year on the oustanding loans (100 basis points equaling one percentage point). VA furnishes a 100 percent full faith and credit guaranty on the vendee loans in each pool. accordingly, pricing of the VA certificates is good, better than VA used to get under its old 4600 program by selling loans through competitive auction for resale into the GNMA (Ginnie Mae or Government National Mortgage Association) market. In addition, the highly efficient arrangement with the firms that act as master servicers, under which VA covers default losses only after the properties have been foreclosed and sold, results in lower lifecycle costs to VA than with the former 4600 program, under which VA was obligated to buy back loans after 90 days delinquency.

However, at present VA does not and cannot guarantee the REMIC pass-through certificates themselves, as distinguished from the underlying vendee mortgage loans. VA's legislation dates from 1945, long before development of modern mortgage pass-through certificates, and speaks in terms of guaranteeing mortgage loans, not certificates that are marketed and traded as securities and represent an interest in a pool of mortgage loans.

The lack of a guaranty promise running directly from VA to the investor means that VA does not get the best price when it securitizes its loans. A certificate guaranty promising timely payment of interest and principal would increase proceeds to VA by decreasing the interest rate or "yield" that must be offered to investors by an estimated 10 basis points. On $800,000,000 of sales, VA's approximate annual volume, this could be additional proceeds to VA of approximately $5 million per year. In addition, VA's loan sale expenses would decrease by about $400,000 per year, because a U.S. Government guaranteed security need not be registered with the SEC nor rated as to credit worthiness by the commercial rating agencies.

A VA guaranteed certificate would offer the kind of simple, straightforward, full faith and credit promise that investors are familiar with in the case of GNMA certificates. (Currently, GNMAs are single-class pass-through certificates, not multi-class REMICS. GNMA is studying, but has not yet adopted, a multi-class pass-through REMIC program.) Because VA already offers a 100 percent guaranty on the underlying loans in its REMIC pools, adding a direct certificate guaranty of timely payment wold result in no material increase in risk or cost to the Government.

The remainder of this analysis addresses the following questions: (1) What will a VA certificate guaranty look like? (2) How does VA's present vendee loan guaranty differ from a certificate guaranty? (3) What benefit will VA realize from a certificate guaranty? (4) Will there be additional risk to the Government? (5) How will VA ensure that its guaranty of "timely" payment is honored? (6) Will the timeliness guaranty result in additional cost to the Government? (7) Can VA verify that its REMIC structures are quantitatively sound? (8) Why doesn't VA sell its vendee loans through GNMA, particularly if GNMA adopts a REMIC program?

(1) What Will a VA Certificate Guaranty Look Like?

VA's certificate guaranty will be similar to the guaranty that GNMA (the Government National Mortgage Association or Ginnie Mae) puts on GNMA certificates. For each VA vendee loan sale a trust will be formed to hold the mortgage notes and mortgages, to issue certificates, and to sell the certificates to investors. The trust will make an election under the Real Estate Mortgage Investment Conduit (REMIC) tax provisions and will promise to pay to investors monthly the principal and interest due on the mortgages plus prepayments received. It is anticipated that each trust will obtain the cash required to make these payments from payments on the mortgages, master servicer advances of delinquent payments and VA guaranty payments with respect to defaulted loans. To provide maximum assurance of timely payment to investors, VA will guarantee that the investor payments will be made on a timely basis to holders of the certificates, regardless of assets held by or payments made into the trust. VA's guaranty will pledge the full faith and credit of the United States and will be printed on the face of the certificates.

(2) How does VA's Present Vendee Loan Guaranty Differ from a Certificate Guaranty?

At present, *i.e.*, since American Housing Trust VI (AHT–VI) sold in May 1990, VA provides a set of interrelated and full (*i.e.*, 100 percent) loan guaranty promises to the trust organized for each transaction. These include a representation of the principal dollar amount in the mortgage pool, protection against loss of principal and interest from default or other cause, and assurance of additional interest at the certificate rate if there is delay in advancing for shortfalls in scheduled interest and principal. See (5), below, for an explanation of the mechanisms that VA uses to ensure that its guaranty operates smoothly and that holders of AHT certificates are paid in full and on time.

However, this current VA guaranty does not provide 100 percent assurance to holders of certificates directly from VA that the expected payments will be made. The proposed certificate guaranty will provide such assurance. The investor will see a simple and straightforward full faith and credit promise rather than face a relatively complex structure that must be analyzed and understood before the investor can become comfortable.

(3) What Benefit Will VA Realize from a Certificate Guaranty?

The bottom line benefit is better pricing. The First Boston Corporation, currently VA's lead underwriter, estimates that a certificate guaranty of timely payment will reduce the yield that must be offered to investors by 5 to 15 basis points. Assuming a reduction in yield of 10 basis points, this will result in additional proceeds and reduced subsidy costs to VA of approximately $5 million per year on a volume of $800,000,000, VA's approximate annual volume. Kidder, Peabody & Company, VA's financial advisor, concurs in this estimate. The higher price will be brought about by greater investor demand for the product, and the greater demand has two principal causes. First, with a certificate guaranty, VA's vendee securities will have a zero risk weighting under the bank and thrift capitalization rules, rather than their present 20 percent risk weighting. Second, a significant number of large investors, including mutual funds, foreign government accounts, etc., have guidelines or practices that restrict them to securities directly issued or guaranteed by the Government.

With a certificate guaranty, VA also will save on SEC and rating agency expenses presently totaling approximately $400,000 per year. This saving will be without loss of corresponding benefit. The credit structure and documentation for VA's REMIC has become quite standardized over the past year, and the level of actual review and comment by the SEC and the rating agencies is minimal. Investors will continue to receive the same disclosure and information that now is furnished in a Prospectus and Supplement.

A guaranty of timely payment of principal and interest is the kind of straightforward Government guaranty that the market has come to expect, *e.g.*, GNMA's timely payment guaranty. However, in a clear demonstration of the worth that investors place on a certificate guaranty as distinguished from a loan guaranty, VA's lead underwriter and financial advisor estimate that even a certificate guaranty limited to ultimate payment of principal and interest plus yield maintenance (similar to VA's present guaranty), but not including timely payment, would capture most of the pricing benefit for VA. The big difference is between guaranteeing the underlying loans and directly guaranteeing the certificates that investors buy.

It also should be noted that a Government guaranteed security would be more attractive in the retail market.

(4) Will There Be Additional Risk to the Government?

There will be no material additional risk. VA's present guaranty already covers 100 percent of the credit risk on the vendee loans. Theoretically, a certificate guaranty will expose VA to the risks that if (i) the REMIC trust becomes subject to federal or state tax, (ii) there is an unreimbursed investment loss on mortgage payments before they are distributed, (iii) trustee defalcation occurs or (iv) the REMIC structure is faulty, there will be a shortfall in cash available to pay certificateholders and VA will have to make up the deficiency. However, these theoretical risks are essentially zero as a practical matter, given the expert legal, accounting, investment banking and trust administration advisors that work with VA in setting up and operating its trusts, the quality and financial strength of the trustee employed, and the requirement that mortgage payments be invested only in tightly circumscribed "Permitted Investments."

(5) How Will VA Ensure that its Guaranty of "Timely" Payment Is Honored?

VA will use the same credit structure that it now uses, but possibly with somewhat more up-front cash funding of the specific loss reserve set up for each sale. The structure uses a combination of readily available cash and third-party support to provide up to six months time for VA to obtain from Congress the additional funds needed to honor its guaranty if losses prove to be outside the range anticipated. Because of the change to the permanent indefinite budget authority, losses on loans originated after September 30, 1991, will be funded without approval from Congress and, therefore, would not require a 6-month cushion.

Both the master servicer and the trustee promise to advance funds to cover shortfalls in scheduled interest and principal; *i.e.*, from delinquency or default, and VA promises to reimburse them "promptly." The trustee is always a major money center bank, currently Bankers Trust Company. For each transaction, a specific reserve is established, funded by a combination of cash from certificate sale proceeds and cash from monthly distributions on a portion of the subordinate certificates retained by VA from earlier, non-guaranteed vendee loan sales. The master servicer and the trustee may withdraw cash from the reserve to cover advances. Reserve moneys are readily available because they are invested in a U.S. Treasury money market mutual fund.

As part of its guaranty, VA promises to restore the reserve "promptly" to a specified floor level if it should fall below that level. "Promptly" has been defined by VA as meaning probably within a month or two, perhaps three months, but in no event longer than six months. Six months was chosen to afford adequate time for VA to go to Congress for a supplemental appropriation. It is unlikely that the reserve fund would need such a large infusion. The loss coverage was based on a worst case (Texas) scenario.

Thus, VA will not have to respond under a timely payment certificate guaranty until the following resources have been exhausted: (i) cash in the reserve set up for the particular loan sale transaction, (2) the promise of the master servicer to advance for any shortfall in scheduled interest and principal, and (3) the promise of the trustee to advance for any shortfall in scheduled interest and principal if the master servicer fails to advance. These resources are in addition to the Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund. While VA is obligated to reimburse the master servicer and trustee for advances, this full faith and credit reimbursement obligation is subject to the same "promptly" standard as VA's obligation to bring the reserve back to its specified floor, i.e., within six months.

By funding the reserve with an appropriate amount of cash set aside from sale proceeds, the risk of VA being unable to honor a timeliness certificate guaranty can be eliminated under any specified stress scenario. The upper bound is a scenario that assumes all vendee mortgagors stop paying the day after the certificates are sold, that both the master servicer and the trustee default on their promises to advance, and that the Loan Guaranty Revolving Fund or the Guaranty and Indemnity Fund, as the case may be, has a zero balance. Even under such an obviously unreasonable scenario a cash reserve of 5 to 6 percent will secure the six-month time period to get a supplemental appropriation from Congress. VA expects to work in close and on-going consultation with OMB to ensure that reserve cash balances are set and maintained at levels fully adequate to eliminate any real risk that VA might not be able to honor its timeliness guaranty.

(6) Will the Timeliness Guaranty Result in Additional Cost to the Government?

There will be no additional cost to the Government. The only change from present VA practice will be a possible increase in the size of the cash reserve set up for each sale. If the reserve is increased, cash that otherwise would have gone to the Loan Guaranty Revolving Fund or the Guaranty and Indemnity Fund financing accounts will go to the cash reserve. The reserve is invested in U.S. Treasuries, through a money market mutual fund whose investments must be all or substantially all "direct obligations of the United States."

(7) Can VA Verify that Its REMIC Structures Are Quantitatively Sound?

VA employs cross-checks with several outside experts to ensure that its REMIC pass-through certificate structures are sound. It is true that sophisticated computer programs and experienced operators are needed to model the many "what if" possibilities for a REMIC structure and ensure that there is neither shortfall nor excess between what comes into the mortgage pool and what is to be paid out, regardless of delinquencies and defaults. VA does not itself have these programs and expertise. Instead, VA assembles an expert team through competitive bidding and uses an underwriting rather than an auction approach for its REMIC sales. This permits VA and its team to begin work on each vendee loan sale many weeks in advance of the scheduled closing date, allowing much more time to explore and analyze alternative structures than would be the case with an auction approach. The structure ultimately selected is checked and verified for VA by the lead and co-lead underwriters, by VA's financial advisor and by a major independent accounting firm, each of which has the required computer capability and expertise. The level of protection is, essentially, 100 percent.

(8) Why Doesn't VA Sell Its Vendee Loans Through GNMA, Particularly If GNMA Adopts a REMIC Program?

VA's present securitized vendee loan sales, even without a VA guaranty directly on the certificates, produce better results for VA and the Government than the old 4600 sales into the GNMA market. The reason is a combination of better up-front pricing to VA (4600 bids by private parties were not all that high) and better efficiency in operation. In 4600 sales, VA had to buy back loans after 90 days delinquency. In securitized sales, VA does not take back loans and does not pay for losses until foreclosure and sale of the property to a new buyer have been completed by the master servicer. However, this efficient approach is not a permissible procedure under the GNMA program, even if VA was able to qualify as a GNMA issuer.

The key question is whether VA and the U.S. Government as a whole will be better off having two REMIC programs operating side by side, a VA guaranteed REMIC and a GNMA guaranteed REMIC? The answer to this question cannot be known in advance.

GNMA does not now have a REMIC program. When it gets one, it may or may not want VA vendee loans, which have their own prepayment history and market image. Of course, there should be dialogue and coordination between VA and GNMA, and a considered and reviewed decision should be made after GNMA gets its REMIC program up and running. Until then, VA's REMIC program for vendee loans, with a certificate guaranty, is the best alternative for VA and for the Government.

Conclusion:

The VA loan securitization program has been successful in providing access to the world's most efficient capital markets for the financing of VA vendee loans. This has been accomplished through an indirect guaranty of the securities. For their own reasons, the various investors demand a higher yield (or reduced price) for indirectly guaranteed securities than for directly guaranteed securities. Converting the indirect guaranty to a direct certificate guaranty also will reduce the securitization expenses (such as SEC and rating agency fees) that VA presently incurs as if it were a private party rather than a department of the U.S. Government.

These elements in combination make a compelling case for reducing Government expenses and increasing Government revenues by permitting a direct guaranty of securities evidencing an interest in chapter 17 vendee loans.•

By Mr. CRANSTON (by request):

S. 1518. A bill to amend title 38, United States Code, to equalize payments of dependency and indemnity compensation to surviving spouses, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' AND SURVIVORS' COMPENSATION AND PENSION IMPROVEMENT ACT

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1518, the proposed Veterans' and Survivors' Compensation and Pension Improvement Act of 1991. The Secretary of Veterans Affairs submitted this legislation by letter dated July 2, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the July 2, 1991, transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE AND REFERENCES

SEC. 101. This Act may be cited as the "Veterans' and Survivors' Compensation and Pension Improvement Act of 1991."

SEC. 102. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION EQUALIZATION

SEC. 201. Section 411 of title 38, United States Code, is amended—

(a) in subsection (a)—

(1) by striking out "Dependency" and inserting in lieu thereof "(1) Subject to subsection (b) of this section and clause (2) of this subsection, dependency"; and

(2) by adding, immediately following the table, the following:

"(2) Minimum rate payable.

"(A) Effective October 1, 1991, until September 30, 1992, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E–2.

"(B) Effective October 1, 1992, until September 30, 1993, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E–3.

"(C) Effective October 1, 1993, until September 30, 1994, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E–4.

"(D) Effective October 1, 1994, until September 30, 1995, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E–5.

"(E) Effective October 1, 1995, the minimum rate payable shall be that provided for the surviving spouse of a veteran whose pay grade was E–6.";

(b) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively; and

(c) by adding the following new subsection (b)—

"(b)(1) For awards based on deaths occurring on or after October 1, 1991, or on or after 90 days following the date prescribed by Presidential proclamation or by law as the ending date of the Persian Gulf war, whichever is later, the monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be that provided in subsection (a), provided, however, that if the pay grade of the person upon whose death entitlement is predicated exceeds E–6, then dependency and indemnity compensation shall be paid at the rate payable for the surviving spouse of a veteran whose pay grade was E–6."

TITLE III—PENSION PROVISIONS

SEC. 301. WARTIME SERVICE REQUIREMENT FOR PENSION.—(a) Section 521(j) of title 38, United States Code, is amended to read as follows: "A veteran meets the service requirement of this section if such veteran served in the active military, naval, or air service—

"(1) for one hundred eighty days or more during a period of war;

"(2) during a period of war and was discharged or released from such service for a service-connected disability; or

"(3) for an aggregate of one hundred eighty days or more in two or more separate periods of service during more than one period of war."

(b) This section shall be effective October 1, 1991.

(c) SAVINGS CLAUSE.—In the case of a claim filed before October 1, 1991 (including a claim with regard to which eligibility has been finally determined), the Secretary of Veterans Affairs shall apply section 521(j) of title 38, United States Code, as it existed on September 30, 1991.

SEC. 302. UNIFORM RATE OF REDUCTION OF PENSION BENEFITS FOR INSTITUTIONALIZED VETERANS.—Section 3203(a)(1)(C) is amended by striking out "$60" and inserting in lieu thereof "$90".

SEC. 303. CONFORMING TIME LIMIT FOR SUBMISSION OF EVIDENCE IN THE IMPROVED PENSION PROGRAM.—Section 3010(h) is amended by striking out the word "calendar".

TITLE IV—MISCELLANEOUS COMPENSATION PROVISIONS

SEC. 401. EXTENSION OF PRESUMPTIVE PROVISIONS RELATING TO RADIATION EXPOSURE TO ADDITIONAL GROUPS OF EXPOSED VETERANS.—Section 312(c)(4) is amended—

(a) in subclause (A), by striking out all after "who" and inserting in lieu thereof "participated in a radiation-risk activity."; and

(b) in subclause (B)(i), by striking out the period at the end of the sentence and inserting in lieu thereof ", whether or not such device was detonated by the United States.".

SEC. 402. INCREASE IN MANIFESTATION PERIOD FOR RADIATION-INDUCED LEUKEMIA.—Section 312(c)(3) is amended by striking out "such period shall be the 30-year period beginning on that date" and inserting in lieu thereof "no such limitation shall apply".

SEC. 403. PROTECTION OF SERVICE CONNECTION AND DISABILITY EVALUATIONS WHEN RATING SCHEDULE IS CHANGED.—Section 355 is amended—

(a) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(b) by designating the first three sentences as subsection (a);

(c) by designating the last sentence as subsection (b); and

(d) by adding at the end the following new subsection:

"(c) In making a readjustment under subsection (b) of this section, the Secretary may provide that the readjustment shall not have the effect of reducing any ratings in effect on the date that the readjustment takes effect."

SEC. 404. INCREASE IN ESTATE LIMITS FOR INCOMPETENT INSTITUTIONALIZED VETERANS.—Section 3203(b)(1)(A) is amended—

(a) by striking out "$1,500" and inserting in lieu thereof "$4,500"; and

(b) by striking out "$500" and inserting in lieu thereof "$1,500".

TITLE V—REPEAL OF CERTAIN SUNSET PROVISIONS

SEC. 501. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.—Section 3117 is amended by striking out subsection (g).

SEC. 502. REDUCTION IN PENSION FOR CERTAIN VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.—Section 3203(f) is amended by striking out paragraph (6).

TITLE VI—MANILA REGIONAL OFFICE

SEC. 601. EXTENSION OF SECRETARY'S AUTHORITY TO MAINTAIN A REGIONAL OFFICE IN THE REPUBLIC OF THE PHILIPPINES.—Section 230 is amended—

(a) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(b) in subsection (a), by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs"; and

(c) in subsection (b), by striking out "1991" and inserting in lieu thereof "1996".

THE SECRETARY OF VETERANS AFFAIRS,
Washington, July 2, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill entitled the "Veterans' and Survivors' Compensation and Pension Improvement Act of 1991." I request that this bill be referred to the appropriate committee for prompt consideration and enactment.

In general, the proposed bill's five substantive titles would—

equalize the rate of dependency and indemnity compensation for surviving spouses;

lengthen the period of wartime service required to qualify for nonservice-connected pension;

in the case of incompetent institutionalized veterans without dependents, increase the estate limits which govern the suspension of compensation payments;

extend the presumptive provisions relating to radiation exposure to veterans who were exposed while on active duty for training;

in the case of leukemia, delete the requirement that, to be presumed service connected, the disease must be manifested within 30 years of exposure to a radiation-risk activity;

make various technical changes in the compensation and pension programs;

repeal the sunset provisions in two cost-saving measures in the Omnibus Budget Reconciliation Act of 1990; and

extend, until 1996, the Secretary's authority to maintain a regional office in the Republic of the Philippines.

As explained below, all these provisions aim to increase the responsiveness of the government to the needs of our veterans and their survivors.

DEPENDENCY AND INDEMNITY EQUALIZATION

Title II of the proposed bill would equalize payments of dependency and indemnity compensation (DIC) to surviving spouses. Under current law, 38 U.S.C. §411(a), the surviving spouse of a veteran who dies on active duty or who dies as a result of a disease or injury incurred or aggravated in service is eligible to receive DIC at a rate determined by the highest grade held by the veteran in service. VA believes it is inequitable to award gratuitous benefits based on rank when no other gratuitous veterans' benefit is so based.

Accordingly, title II would provide that (1) claims for DIC based on deaths occurring on or after October 1, 1991, or 90 days following the ending date of the Persian Gulf War, whichever is later, would be paid at a rate not to exceed that in effect for pay grade E-6, (2) effective October 1, 1991, the minimum rate payable would be that in effect for pay grade E-2, with this 'floor" increasing by one grade per year, so that, by October 1, 1995, no DIC recipient would be paid at less than the E-6 rate, and (3) claimants currently receiving DIC based on a pay grade higher than E-6 would continue to receive that higher rate.

The President's FY 1992 budget assumes five-year (FY 1991-95) costs of $230.9 million. The Administration is required by law to use these estimates to meet the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act of 1990.

Based on revised assumptions, this proposal would cost $174.7 million over the five-year period (FY 1991-95). These estimates were included in remarks made by the Chief Benefits Director at the June 5th hearing held by the House Veterans' Affairs Subcommittee on Compensation, Pension and Insurance. These estimates, however, will not be used for pay-as-you-go purposes because of the requirement in the Budget Enforcement Act to use the estimates contained in the President's FY 1992 Budget.

PENSION PROVISIONS

Title III of the proposal bill would make several changes to VA's program of nonservice-connected pension benefits.

Section 301 would amend section 521(j) of title 38, United States Code, to require generally 180 days of service during wartime in order to quality for nonservice-connected pension. Under current law, a veteran must generally have served ninety consecutive days, of which only one day must have been during a period of war, in order to qualify for pension. This amendment would, we believe, ensure that the pension program is directed to our wartime veterans. Section 301 would be effective October 1, 1991, and would not affect claims filed prior to that date. Enactment of section 301 would result in estimated pay-as-you-go savings of $36.7 million during fiscal years 1991-1995.

Section 302 would amend section 3203(a)(1)(C) of title 38, United States Code, to provide that the pension of a veteran whose pension has been reduced because of VA-provided hospitalization or domiciliary or nursing home care, and who is readmitted for such care within six months of discharge, would have a cap of $90 per month, rather than $60. Public Law No. 101-237 amended 38 U.S.C. §3203(a)(1)(A) and (B) to provide that the pension of these veterans would be reduced to $90 per month following admission. The law did not, however, amend section 3203(a)(1)(C), which continues to specify a reduction to $60 per month following readmission within six months of a previous reduction. VA believes that the needs of veterans subject to reduction following readmission are the same as those of veterans newly admitted to VA facilities, and that both groups should have the same amount of pension available to meet those needs. Enactment of section 302 would increase direct spending by $144,000 over the five-year period, FY 1991-1995.

Section 303 would amend section 3010(h) of title 38, United States Code, to provide that when an award of pension has been deferred or paid based on anticipated income, the effective date of entitlement or increase in pension shall be in accordance with the facts found if evidence is received before the expiration of the next year. Under current law, pensioners have until the expiration of the next calendar year to submit such evidence, resulting in wide variations in limitations periods under the Improved Pension program, which, unlike previous pension programs, does not operate on a calendar year basis. For example, a pensioner with a reporting period which happens to begin January 1 would have until December 31 of the following year to revise the income report—some 24 months—while a pensioner with a reporting period which begins December 1, who would also have until December 31 of the following year, would have but 13 months. VA believes that these inequities and inconsistencies, which the Improved Pension program was enacted to avoid, should be eliminated. VA estimates that there are no administrative or benefits costs associated with this proposal.

MISCELLANEOUS COMPENSATION PROVISIONS

Title IV of the proposed bill would make several changes to VA's program of service-connected disability compensation relating to radiation-exposed veterans, changes in the rating schedule, and incompetent institutionalized veterans.

Section 401 would amend 38 U.S.C. §312.(c)(4) to (1) change the definition of "radiation-exposed veteran" by deleting the requirement that participation in a radiation-risk activity must have taken place while the veteran was serving on active duty, and (2) clarify that onsite participation in a test involving the atmospheric detonation of a nuclear device can include the detonation of such devices by nations other than the United States.

Under current law, to be eligible for the statutory presumptions associated with exposure to ionizing radiation, a veteran must have been so exposed while on active duty. Nevertheless, there were reservists and/or National Guard personnel who participated onsite in such tests. Because such service may have been characterized as "active duty for training," see 38 U.S.C. §101(22), such individuals would not be afforded the presumptions of service connection set forth in section 312(c). Section 401 would permit individuals who participated in a radiation-risk activity other than while serving on active duty—primarily those who participated while on active duty for training—to be considered radiation-exposed for the purposes of the Radiation-Exposed Veterans Compensation Act of 1988, codified at 38 U.S.C. §132(c). See generally 38 U.S.C. §§101(2), 101(22) and 101(24).

In addition, there has been some confusion as to whether American veterans who participated onsite in the detonation of nuclear devices by nations other than the United States—such as Great Britain and France—are entitled to the presumptions of 38 U.S.C. §312(c). While the statute itself refers only to "atmospheric testing," the formal title of Pub. L. No. 100-321 specifies United States' testing. Section 401 would clarify that onsite participation in a test involving the atmospheric detonation of a nuclear device, even if the device were detonated by a nation other than the United States, would be considered a "radiation-risk activity."

Enactment of section 401 would increase direct spending by $400,000 over the five-year period, FY 1991-1995.

Section 402 would amend 38 U.S.C. §312(c)(3), relating to diseases associated with participation in tests of nuclear weapons, to provide that leukemia arising at any time after service will be considered associated with a radiation-risk activity. Current law provides a presumption of service connection for certain diseases which become manifest to a degree of 10 percent or more within 40 years of exposure to a "radiation-risk activity." 38 U.S.C. §312(c). In the case of leukemia, the condition must have become manifest within 30 years.

A claimant may also seek disability compensation for the effects of radiation exposure under regulations promulgated under the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. No. 98-542 (1985). See generally 38 C.F.R. §3.311b. Until recently, those regulations provided that, in order for leukemia to be considered radiogenic, it had to become manifest within 30 years of exposure, a limitation which paralleled the statutory requirement. However, the Veterans' Advisory Committee on Environmental Hazards, a federal advisory group established pursuant to Pub. L. No. 98-542, has recommended, based on the most recent information, that the time restriction for the manifestation of leukemia be deleted. Based on that recommendation, VA regulations have been so amended. 38 CFR. § 3.31b(b)(4)(ii). Although the standards in the regulations differ somewhat from those in the statute, we believe that fairness to veterans mandates that the time requirement similarly be removed from 38 U.S.C. § 312(c)(3) with respect to leukemia.

Enactment of section 402 would increase direct spending by $400,000 over the five-year period, FY 1991–1995.

Section 403 would amend section 355 of title 38, United States Code, to provide that no readjustment of the schedule for rating disabilities (currently found in part 4 of title 38, Code of Federal Regulations) shall result in a reduction of individual evaluations or severance of service connection in the absence of a demonstrable improvement in physical or mental condition or a finding of clear and unmistakable error.

Current law does provide some protection for disability ratings. Thus, 38 U.S.C. § 359 provides that service connection in force for ten or more years shall not be severed except upon a showing the original grant was based on fraud. In addition, 38 U.S.C. § 110 provides that if a disability has been rated at or above an evaluation for twenty or more years, the evaluation will not be reduced unless based on fraud.

Changes to the rating schedule have potential for severance of service connection or reduced evaluations in those cases where the service connection or evaluation has not been in effect for the periods required. For example, the reclassification of the manifestations of simple schizophrenia from a psychosis to a personality disorder precludes a grant of service connection for the condition. Similarly, the evaluation for hearing loss has been substantially changed based on new testing methods. Recent General Counsel opinions have held that VA does not have the authority to protect service connection or the evaluation granted under prior provisions of the rating schedule, unless the applicable time requirements in 38 U.S.C. §§ 359 and 110 have been met.

As you know, VA is currently undertaking a review of the rating schedule, and changes in the descriptions of the various levels of disability can be expected. It is believed that where schedule criteria are changed, service connection should not be severed and evaluations should not be reduced in the absence of clear error or a change in the severity of the disability. In this regard, it is observed that in 1946, with the advent of the current Schedule for Rating Disabilities, Congress expressly provided for the protection of compensation awards granted under the 1925 Rating Schedule. Congress should accord similar protection to awards granted under the current Rating Schedule.

VA estimates that there would be no administrative or benefits costs associated with section 403.

Section 404 would amend 38 U.S.C. § 3203(b)(1)(A) to raise the estate limits which apply to certain incompetent institutionalized veterans. Under current law, where an incompetent veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care at government expense, payments of VA pension or compensation or of emergency officers' retirement pay are suspended when the veteran's estate equals or exceeds $1,500. The suspension continues until the estate is reduced to $500. This amendment would raise those limits to $4,500 and $1,500, respectively.

The "$1,500 rule," as it has come to be known, was enacted to prevent the accumulation of large estates of Federal benefits which would be inherited by persons who had no original entitlement to those benefits during the veteran's lifetime. The current limits are no longer realistic in terms of today's economics or administrative processing. When it was enacted in 1933, the $1,500 estate limitation represented the accumulation of a year or more of benefits. At today's 100-percent service-connected rate, the limit represents only about one month's benefits.

Because of the types of disabilities that result in incompetency ratings, many veterans who are potentially subject to the $1,500 rule are in and out of hospitals and other institutions on a regular basis. Their stays may last a few days or several weeks. Each stay must be reported to the VA regional office of jurisdiction so that a determination can be made by an adjudicator as to whether the veteran's award should be adjusted. The current value of the veteran's estate must be verified by an estate analyst through review of available records or by direct contact with the veteran's fiduciary. In many instances notification that the veteran was institutionalized and notice of verification of the size of the estate may not reach the adjudicator for award adjustment in a timely fashion. Since the payment of one month's benefis at the 100-percent rate will in all likelihood put the veteran over the current income limit, award action will be required to suspend further payments while the veteran is institutionalized. By the time that notification is received and award action taken, more than one month's benefits will have been paid and an overpayment created.

If the veteran continues to be institutionalized, the debt must be collect from the estate. On occasion, a fiduciary will challenge in court the propriety of the debt. Even if VA prevails in court, an administrative cost to the Department and the veteran is incurred. If the veteran is released from institutionalization and the award is reinstated, the debt is collected from the running award. However, in many areas of the country, particularly those where the cost of living is high, it may be difficult for the veteran to reenter the community with limited or no assets as a result of VA's attempt to collect the debt from either the estate or the running award. Further, in many cases, awards are alternately suspended and resumed every other month, compounding the volume of transactions and the potential for overpayments.

Elevating the estate limitation to $4,500 will create an administrative buffer which will decrease the number of award transactions, provide more timely administrative processing thereby decreasing the number of overpayment actions, provide for a reasonable economic base to facilitate the veteran's reentry to the community after institutionalization, and still keep at a relatively low level the value of the estate subject to distribution to remote heirs.

While it would be possible to employ an adjusted benefit rate to deal with this problem—as is done in the case of certain veterans without dependents who are in nursing homes or domiciliaries for more than three months—VA has concluded that such an approach would not be appropriate in this instance. The purpose of the $1,500 rule is to prevent the accumulation of estates composed of Federal benefits that potentially will be inherited by persons who had no original entitlement to those benefits. The estate limitation has nothing to do with the financial needs of the veteran, although it is assumed that the financial needs of a government-institutionalized, incompetent veteran without dependents are greatly reduced. Merely reducing the rate at which funds accumulate would still permit the accumulation of sizable estates in cases of lengthy institutionalization.

Based upon a recent sampling of ten percent of VA's regional offices, we estimate that each month approximately 588 incompetent veterans have their benefits suspended or resumed as a result of the $1,500 rule. Many of these actions result in overpayments and collection actions. We believe that raising the estate-valuation limitations as proposed in section 404 will significantly reduce the number of transactions, overpayments, and collection actions currently attributable to the $1,500 rule.

Enactment of section 404 would increase direct spending by $2.1 million over the five-year period, FY 1991–1995.

REPEAL OF CERTAIN SUNSET PROVISIONS

Title V would repeal two "sunset" provisions attached to measures in the Omnibus Budget Reconciliation Act of 1990 designed to ensure that benefits paid to veterans and survivors were directed to those in need and entitled.

Section 501. Section 8051 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101–508, amended chapter 53 of title 38, United States Code, by adding a new section 3117 which, in general, granted the Secretary the authority to obtain third-party and self-employment tax information from the Secretary of the Treasury and the Secretary of Health and Human Services for purposes of determining eligibility for VA needs-based pension and parents' dependency and indemnity compensation and VA health-care services based on income status. In addition, 38 U.S.C. § 3117 grants the Secretary the authority to obtain from the Secretary of the Treasury wage and self-employment information for purposes of determining eligibility for compensation paid (pursuant to 38 C.F.R. § 4.16) at the total-disability rating level based on an individual determination of unemployability. Subsection (g) of 38 U.S.C. § 3117 provides that the Secretary's authority expires September 30, 1992. Section 501 of the proposed bill would delete subsection (g). Enactment of section 501 would result in estimated pay-as-you-go savings of $528.4 million during FYs 1991–1995.

Section 502. Section 8003 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101–508, amended section 3203 of title 38, United States Code, by adding a new subsection (f), which generally limits monthly pension payments to $90 for Medicaid-eligible recipients of VA pension who have no dependents and who are in nursing homes participating in Medicaid. Paragraph (6) of 38 U.S.C. § 3203(f) provides that subsection (f) expires on September 30, 1992. Section 603 of the proposed bill would delete paragraph (6) from 38 U.S.C. § 3203(f). Enactment of section 502 would result in estimated pay-as-you-go savings of $361 million during FYs 1991–1995.

TITLE VI. MANILA REGIONAL OFFICE

Section 601 would amend section 230 of title 38, United States Code, to extend, through September 30, 1996, the Secretary's authority to maintain and operate a regional office in the Republic of the Philippines. Under current law, this authority expires September 30, 1991. VA administers programs providing compensation, pension, and education benefits through a regional office in Manila, to Filipinos who were in or attached to the United States Armed Forces during World War II. During fiscal year 1989, more than $123 million in benefits were paid through the Manila regional office. VA estimates that this proposal would result in administrative costs of $2.3 million in fiscal year 1992, with a five-year cost (FY 1992–96) of $12.5 million.

The effect of this draft bill on the deficit is:

[Outlays in millions of dollars]

	Fiscal years—					
	1991	1992	1993	1994	1995	1991–95
Title I	....	....	....	....	....	....
Title II	....	−15	14	103.3	128.6	230.9
Title III	....	−1.6	−6.7	−11.6	−16.8	−36.7
Title IV	....	.7	.7	.7	.8	2.9
Title V	....	....	−279.9	−312	−297.5	−889.4
Title VI	....	....	....	....	....	....
Total	....	−15.9	−271.9	−219.6	−184.9	−692.3

The "Veterans' and Survivors' Compensation and Pension Improvement Act of 1991," which would result in a net decrease in spending of $692.3 million over the five-year period of FYs 1991–1995, includes provisions which were included in the President's FY 1992 Budget and others which were not reflected in the President's FY 1992 Budget.

The provisions included in the President's FY 1992 Budget would decrease direct spending by $695.6 million over the five-year period of FYs 1991–1995. However, sections 302, 401, 402, and 404 of the draft bill would increase direct spending over that same period by $2.9 million. This amount is not reflected in the President's Budget and, therefore, must be offset to avoid a sequester.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if not fully offset. The FY 1992 Budget-related provisions of "Veterans' and Survivors' Compensation and Pension Improvement Act of 1991" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1992 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, the FY 1992 Budget-related provisions contained in this bill should be considered in conjunction with the other proposals in the FY 1992 Budget.

As noted earlier, sections 302, 401, 402, and 404 are not reflected in the President's FY 1992 Budget; therefore, they must be offset by other Administration legislative proposals not reflected in the President's FY 1992 Budget. Accordingly, these sections of the bill should be considered in conjunction with VA's proposed legislation entitled "Veterans' Loan Asset Sale Act of 1991," which is not reflected in the President's FY 1992 Budget. This proposed legislation contains sufficient savings to offset the costs of sections 302, 401, 402, and 404.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress, and its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.●

By Mr. CRANSTON (by request):

S. 1519. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' EDUCATIONAL ASSISTANCE IMPROVEMENTS ACT

● Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 1519, the proposed Veterans' Educational Assistance Improvements Act of 1991. The Secretary of Veterans Affairs submitted to this legislation by letter dated July 2, 1991, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the July 2, 1991, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This may be cited as the "Veterans' Educational Assistance Improvements Act of 1991."

(b) REFERENCES TO TITLE 38.—Except as otherwise may be specifically provided, whenever in the Act as amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; references to title 38, United States Code; table of contents.
Sec. 2. Provision for Permanent Program of Trial Work Periods and Vocational Rehabilitation for Certain Veterans With Total Disability Ratings.
Sec. 3. Provision for Permanent Program of Vocational Training for Certain Pension Recipients.
Sec. 4. Limitation of Entitlement to a Program of Independent Living Services to Veterans Having a Serious Employment Handicap.
Sec. 5. Equalization of Montgomery GI Bill Benefits for the Same Amount of Active Duty Service.
Sec. 6. Elimination of Advance Payment of Work-Study Allowance.
Sec. 7. Accredited Course Approval Requirements.
Sec. 8. Bar to Veterans' Educational Assistance for Course Enrollment Under the Government Employees Training Act.
Sec. 9. Repeal of the Authority for VA to Make Education Loans.
Sec. 10. Determination of Rates for Independent Study.
Sec. 11. Technical Amendment Requirement that Training Establishments Certify Hours Worked Under the Montgomery GI Bill Selected Reserve Program.

SEC. 2. PROVISION FOR PERMANENT PROGRAM OF TRIAL WORK PERIODS AND VOCATIONAL REHABILITATION FOR CERTAIN VETERANS WITH TOTAL DISABILITY RATINGS.

(a) IN GENERAL.—(1) Section 363(a) is amended—

(A) In paragraph (1), by—

(i) striking out "during the" and inserting in lieu thereof "during and after the initial"; and

(ii) striking out "a period of 12 consecutive months" and inserting in lieu thereof "the period described in paragraph (3) of this subsection";

(B) In paragraph (2)(B), by striking out "program period" and inserting in lieu thereof "initial program period"; and

(C) By adding at the end the following new paragraph:

"(3) The period referred to in paragraph (1) of this subsection for maintaining an occupation shall be 12 consecutive months in the case of a qualified veteran who begins such occupation during the initial program period or 6 consecutive months if the veteran begins his or her occupation after the initial program period."

(2) Section 363(b) is amended by striking out "During the" and inserting in lieu thereof "During and after the initial".

(3) Section 363(c)(1) is amended by striking out "In the case" and all that follows through "providing—" and inserting in lieu thereof the following:

"The Secretary shall provide to each qualified veteran awarded a rating of total disability described in subsection (a)(2)(A) of this section, at the time notice of each award is given to the veteran, a statement containing—".

(b) CLERICAL AMENDMENT.—(1) The table of sections at the beginning of chapter 11 is amended by striking out "363. Temporary Program" and inserting in lieu thereof "363. Program".

(2) The catch line at the beginning of section 363 is amended by striking out "Temporary program" and inserting in lieu thereof "Program".

SEC. 3. PROVISION FOR PERMANENT PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.

(a) IN GENERAL.—Section 524 is amended—

(1) By amending subsection (a) to read as follows:

"(a) A veteran awarded pension may apply for vocational training under this section and, if the Secretary makes a preliminary finding on the basis of information in the application and otherwise on file with the Department of Veterans Affairs that, with the assistance of a vocational training program under subsection (b) of this section, the veteran has a good potential for achieving employment, the Secretary shall provide the veteran with an evaluation to determine whether the veteran's achievement of a vocational goal is reasonably feasible. Any such evaluation shall include a personal interview by a Department of Veterans Affairs employee trained in vocational counseling unless, in the Secretary's judgment, such an evaluation is not feasible or not necessary to make the determination required by this subsection.'';

(2) In subsection (b), by striking out paragraph (4); and

(3) By amending subsection (c) to read as follows:

''(c) Notwithstanding section 525 of this title, a veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the health-care eligibility protection provisions of section 525 without regard to when the veteran's entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b)(1) of that section).''

(b) Conforming Amendments.—Chapter 15 of such title is amended—

(1) In the table of sections of such chapter, by striking out ''524. Temporary program'' and inserting in lieu thereof ''524. Program'';

(2) In the catch line at the beginning of section 524, by striking out ''Temporary program'' and inserting in lieu thereof ''Program''; and

(3) In section 525(a) by—

(A) Inserting ''(except as provided in section 524(c) of this title)'' after ''program period''; and

(B) Striking out ''such chapter'' and inserting in lieu thereof ''chapter 17 of this title''.

SEC. 4. LIMITATION OF ENTITLEMENT TO A PROGRAM OF INDEPENDENT LIVING SERVICES TO VETERANS HAVING A SERIOUS EMPLOYMENT HANDICAP.

(a) In General.—Section 1509 is amended by striking out ''under section 1506(d)'' and all that follows through ''a veteran'' and inserting in lieu thereof ''that a veteran has a serious employment handicap and, under section 1506(d) of this title, that the achievement of a vocational goal by the veteran''.

(b) Effective Date.—The amendment made by section (a) shall be effective with respect to persons originally applying for benefits under chapter 31 of title 38, United States Code, on or after the effective date of this Act.

SEC. 5. EQUALIZATION OF MONTGOMERY GI BILL BENEFITS FOR THE SAME AMOUNT OF ACTIVE DUTY SERVICE.

(a) In General.—Section 1415(b) is amended by striking out ''in the case'' and all that follows through ''paid—'' and inserting in lieu thereof ''an individual (other than an individual described in section 1411(a)(1)(A)(i)(II) of this title, or who would be so described but for being discharged or released from active duty as described in section 1411(a)(1)(A)(ii) of this title) who is entitled to an educational assistance allowance under section 1411 or 1418 of this title and whose initial obligated period of active duty is two years, shall be paid a basic educational assistance allowance under this chapter—''.

(b) Conforming Amendments.—(1) Section 1411(a)(1)(A)(i) is amended by striking out '', or (II)'' and all that follows through ''Armed Forces'' and inserting in lieu thereof ''; (II) serves, as the individual's initial obligated period of active duty, two years of continuous active duty in the Armed Forces and, without a break in service after completion of such service and pursuant to a reenlistment or extension of such initial enlistment, serves for at least one additional year of continuous active duty in the Armed Forces; or (III) in the case of an individual who initially serves less than three years of continuous active duty without a break, serves an initial obligated period of two years of continuous active duty in the Armed Forces''.

(2) Section 1413(a)(2) is amended—

(A) by striking out ''initial obligated period of active duty'' and inserting in lieu thereof ''active duty service described in section 1411(a)(1)(A)(i) of this title; and

(B) by striking out ''after June 30, 1985.'' and inserting in lieu thereof ''as part of such individual's active duty period described in section 1411(a)(1)(B)(i) of this title.''.

(3) Section 1416(a)(4) is amended by inserting ''(II), or'' after ''or''.

(c) Effective Date.—The amendments made by this section shall be effective as of July 1, 1985.

SEC. 6. ELIMINATION OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

Section 1685(a) is amended by striking out the last sentence.

SEC. 7. ACCREDITED COURSE APPROVAL REQUIREMENTS.

(a) Elementary and Secondary Schools.—Section 1775(a) is amended, in the third sentence, by inserting '', other than an elementary or secondary school,'' after ''institution''.

(b) Attendance Standards.—Section 1775(a) is amended by inserting in the last sentence ''the institution's attendance standards (if it has and enforces such standards) and'' after ''minimum''.

SEC. 8. BAR TO VETERANS EDUCATIONAL ASSISTANCE FOR COURSE ENROLLMENT UNDER THE GOVERNMENT EMPLOYEES TRAINING ACT.

Section 1781(a) is amended by striking out ''who is on active duty'' and all that follows to the period and inserting in lieu thereof ''for pursuit while on active duty of a course of education or training paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or (2) for pursuit of a course of education or training paid for under chapter 41 of title 5''.

SEC. 9. REPEAL OF EDUCATION LOAN PROGRAM; TECHNICAL AMENDMENTS.

(a) In General.—(1) Section 1662(a) is amended by—

(A) in paragraph (1), by striking out ''(4)'' and inserting in lieu thereof ''(2)'';

(B) striking out paragraphs (2) and (3) in their entirety; and

(C) redesignating paragraph (4) as paragraph (2).

(2) Section 1712 is amended by—

(A) striking out subsection (f); and

(B) redesignating subsection (g) as subsection (f).

(3) Subchapter III of chapter 326 is repealed in its entirety.

(b) Conforming Amendments.—(1) The table of sections at the beginning of chapter 32 is amended by striking out ''1631. Entitlement; loan eligibility.'' and inserting in lieu thereof ''1631. Entitlement; payment of benefits.''.

(2) The catch line at the beginning of section 1631 is amended by striking out ''loan eligibility'' and inserting in lieu thereof ''payment of benefits''.

(3) The table of sections at the beginning of chapter 36 is amended by striking out:

''Subchapter III—Education Loans

''1798. Eligibility for loans; amount and conditions of loans; interest rate on loans.

''1799. Revolving Fund; insurance.''.

(c) Savings Provision.—Notwithstanding the provisions of subsection (a)(3) of this section—

(1) The Secretary is authorized, with respect to education loans made prior to the effective date of this Act, to continue to collect loan principal and interest due, and to declare and recover (or discharge) overpayments, pursuant to the provisions of section 1798, as such section was in effect on the day before the effective date of this Act; and

(2) the Department of Veterans Affairs Education Loan Fund, established by former section 1799(a), shall continue to be maintained in the Treasury of the United States for deposit of the collections referred to in clause (1) of this subsection, and the Secretary is authorized to transfer all or any part of the monies contained in such Fund to the appropriation for readjustment benefits, from time to time, to be used for the purposes of that appropriation.

SEC. 10. DETERMINATION OF RATES FOR INDEPENDENT STUDY.

(a) Post-Vietnam Era Veterans' Educational Assistance.—Section 1631 is amended by adding at the end the following new subsection:

''(g)(1) The amount of the monthly benefit payment to an individual enrolled in a course leading to a standard college degree to be pursued exclusively by independent study shall be 25 percent of the monthly benefit otherwise payable to such individual computed on the basis of the formula provided in subsection (a)(2) of this section. For each month of such payment, the individual's entitlement under this chapter shall be charged at the rate of 25 percent of a month.

''(2) In any case in which an individual pursues independent study in combination with resident training, the amount of the monthly benefit payment shall be based on the total combined training time, as determined by the Secretary. In no event, however, shall the applicable measure of the independent study pursuit used in calculating such total combined training time exceed the equivalent of quarter-time training.''.

(b) Montgomery GI Bill Selected Reserve Program.—Section 2131 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out ''(g)'' and inserting in lieu thereof ''(h)''; and

(2) by adding at the end thereof the following new subsection:

''(h) For purposes of determining the amount of the monthly educational assistance allowance payable under subsection (b) of this section to a person enrolled in an independent study program leading to a standard college degree, the Secretary of Veterans Affairs shall—

''(1) Consider pursuit of such program if entirely by independent study as quarter-time pursuit; and

''(2) in any case in which a person pursues independent study in combination with resident training, determine the rate of pursuit on the basis of the total combined training time, except that in no event shall the applicable measure of the independent study pursuit used in calculating such total combined training time exceed the equivalent of quarter-time training.''.

SEC. 11. TECHNICAL AMENDMENT REQUIREMENT THAT TRAINING ESTABLISHMENTS CERTIFY HOURS WORKED UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out ''1780(c),''.

The Secretary of Veterans Affairs,
Washington, July 2, 1991.

Hon. Dan Quayle,
President of the Senate, Washington, DC.

Dear Mr. President: There is transmitted herewith a draft bill ''To amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Educational Assistance Improvements Act of 1991," would make a number of amendments to the education and vocational rehabilitation programs administered by the Department of Veterans Affairs, to facilitate the administration of the programs and make certain provisions more equitable.

The major provisions of the draft bill would amend and make permanent vocational rehabilitation and training programs for certain veterans, limit entitlement to a program of independent living services to veterans with serious employment handicaps, equalize Montgomery GI Bill benefits for the same amount of active duty served, deny VA educational assistance benefits to individuals taking courses paid for by the Government Employees Training Act, and repeal the authority for VA to make education loans.

The effect of this draft bill on the deficit is:

[Fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995	1991–95
Outlays	....	.7	1.3	1.4	1.6	5.0
Receipts	....	....	....	....	....	....

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if not fully offset. Since the "Veterans' Educational Assistance Improvements Act of 1991" would increase direct spending, it must be offset.

However, this bill should be considered in conjunction with the "Veterans' Loan Asset Sale Act of 1991." Together, they meet the OBRA pay-as-you-go requirement.

We have been advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress and its enactment would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD J. DERWINSKI.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

Section 1

Subsection (a) provides that the draft bill may be cited as the "Veterans' Educational Assistance Improvements Act of 1991."

Subsection (b) provides that, unless otherwise specified, whenever in the draft bill an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subsection (c) sets forth the table of contents for the draft bill.

Section 2

This section would amend section 363 of title 38 to modify and make permanent the current temporary program of trial work periods and vocational rehabilitation for certain veterans with total disability ratings authorized by that section.

This temporary program was established in 1984 and initially ran from February 1, 1985, through January 31, 1989. It was intended as a test to motivate service-disabled veterans awarded a total rating based on Individual Unemployability (IU) to either participate in a vocational rehabilitation program, or utilize existing skills to secure employment.

As motivation, the program required that a veteran awarded an IU rating during the program period had to undergo an evaluation to determine rehabilitation potential or risk termination of the award. If achievement of a vocational goal was found reasonably feasible, an individualized written rehabilitation plan was developed for and with the veteran.

While failure to cooperate in or complete the plan could result in reconsideration of the veteran's continued eligibility for the IU rating based on evaluation findings, successful program pursuit would protect the IU rating unless and until the veteran maintained substantially gainful employment for 12 consecutive months. (Veterans awarded the IU rating before commencement of the program period could request an evaluation and voluntarily participate in a rehabilitation program.)

Public Law 100–687 (Nov. 18, 1988) extended the program through January 31, 1992, and made it completely voluntary after study results showed that those whose participation was voluntary displayed the greatest motivation and the best outcomes. It maintained the trial work period feature of rating protection. The amendments made by this section, in addition to making the section 363 program permanent, would make a programmatic adjustment, reducing the trial work protection from 12 to 6 consecutive months of substantially gainful employment. Conceptually, the trial work period feature is consistent with current rehabilitation philosophy and practice, and clearly is an essential element of the program. However, the existing provision is excessive in terms of the extent of protection needed for program purposes.

It is appropriate that this program, which has been shown to have positive results, should, with the improvement mentioned, now be made permanent.

Section 3

This section would amend 38 U.S.C. §524(a)(4) to delete the termination date for the vocational training program for certain veterans awarded VA pension benefits, as well as the program's requirement that veterans under age 45 participate in an evaluation of vocational potential. Further, this section would provide that a personal interview by a VA counselor is not required as part of the veteran's evaluation when such an interview is not practical or necessary for the feasibility determination. Last, the section would maintain, as a permanent feature of the program, protection of health-care eligibility for program participants whose pension is terminated by reason of income from work or training as described in 38 U.S.C. §525.

Congress established this temporary program of vocational training for certain new pension recipients in 1984. The temporary program initially ran from February 1, 1985, through January 31, 1989, and subsequently was extended through January 31, 1992. Under current law, veterans below age 45 who are awarded pensions during the program period beginning February 1, 1985, must participate in an evaluation of their vocational potential unless VA determines the veteran is unable to do so for reasons beyond his or her control. If the evaluation discloses that it is reasonably feasible for the veteran to achieve a vocational goal, the veteran is offered a program of vocational rehabilitation as provided under chapter 31, with certain restrictions.

The section 524 temporary program clearly has been beneficial. VA finds that approximately one-third of the veterans for whom an evaluation has been provided are capable of pursuing a vocational program and becoming suitably employed. Further, the proportion of veterans with earnings is an estimated four times higher among veterans who pursue a vocational training program under VA auspices than for veterans who are otherwise capable but do not elect to pursue such a program.

VA also has found, however, that providing required evaluations for veterans under age 45 imposes a major administrative burden without commensurate benefit to the veteran or the Government. In fact, a substantially higher proportion of veterans who can participate in the program on a voluntary basis do so in comparison with veterans for whom participation in an evaluation is required. Reducing the administrative burden by eliminating the mandatory requirement for evaluation will improve program effectiveness and conserve staff time without impairing a veteran's access to program services. VA does not believe that continuation of the vocational training program is warranted unless this change is made.

Additionally, while the provision affording each veteran the opportunity for a personal interview with a VA employee trained in vocational counseling is retained, an exclusion is made for cases where it is apparent that such an interview would not be productive or where the information plainly shows that achievement of a vocational goal is not reasonably feasible.

Finally, the health-care eligibility protection feature is a valuable incentive to program participation and its retention is in the veteran's and the Government's interest.

Section 4

This section would amend section 1509 to require that a veteran be found to have a serious employment handicap to qualify for a program of independent living services.

Under existing law, a service-disabled veteran who is entitled to disability compensation may be provided a program of independent living services if he or she has an employment handicap and is currently unable to prepare for, obtain, or maintain suitable employment. An employment handicap is defined as an impairment of the veteran's ability to secure and maintain suitable employment. A serious employment handicap is defined as a significant impairment of the veteran's ability to prepare for, obtain, or maintain suitable employment.

Programs of independent living services are among the most complex, difficult, and costly rehabilitation programs that VA furnishes to eligible service-disabled veterans. Yet, unlike other types of complex and costly programs of services, such as extended evaluation, a finding of serious employment handicap is not a precondition to providing independent living services.

Veterans for whom a program of independent living services is authorized generally have a serious employment handicap. However, it is possible for a veteran who does not have a serious employment handicap to be provided a program of independent living services. This is most likely to occur when the veteran's nonservice-connected disabilities are the main reason for the veteran's inability to pursue a vocational rehabilitation program. The effects of the service-connected disability on the veteran's ability to train for and secure suitable employment, while meeting the requirement for a finding of employment handicap, do not meet requirements for a finding of serious employment handicap.

We believe this proposed amendment will help assure greater uniformity in the criteria for providing seriously disabled veterans programs of special services.

Section 5

This section would amend the Montgomery GI Bill Active Duty program, in section 1415, to expand the category of persons eligible for the $300 monthly rate of basic educational assistance allowance to include persons who initially serve a continuous period of at least 3 years of active duty, without a break in service, even though they were initially obligated to serve less than 3 years of active duty. The chapter 30 entitlement categories in section 1411(a)(1)(A)(i) would be expanded, accordingly.

Under section 1415, the chapter 30 basic monthly benefit rate is determined by the veteran's initial period of obligated service. An initial obligated active duty period of 3 or more years will entitle an eligible participant to $300 a month of basic educational assistance allowance for full-time training, while an initial 2-year enlistment will entitle a participant to $250 per month. Thus, someone who enlists for 2 years and, without a break in service, reenlists or extends his or her enlistment for an additional year still is entitled only to the $250 monthly rate based on the initial 2-year enlistment.

This amendment would recognize the initial 3 years of continuous active duty service described in the above example as comparable to serving a 3-year initial obligated period of active duty for purposes of entitlement to the $300 rate of basic chapter 30 allowance. This is equitable and consistent with program purposes as it would encourage servicepersons to extend their tours of active duty, if requested, and increase reenlistments.

Section 6

This section would amend section 1685 to eliminate the advance payment requirement of the current work-study allowance and, instead, provide for the payment of the work-study allowance after services have been performed.

The current work-study program statute requires that an amount equal to 40 percent of the total amount agreed to be paid under the work-study agreement must be paid in advance of the performance of any service. The remaining work-study allowance is paid after the services are performed. Enactment of this section would virtually eliminate accounts receivable in VA's work-study program.

Section 7

This section contains two amendments to the section 1775 criteria for approval of accredited courses by a State approving agency (SAA).

First, subsection (a) of this section would exclude elementary and secondary schools from the section 1775(a) requirement that, in making application for approval of a school course, the educational institution must furnish copies of its catalog to the SAA.

Elementary schools and most high schools, other than those with evening divisions, do not publish catalogs. Thus, such institutions which do not choose to publish a catalog for submission in compliance with the statutory requirements are denied SAA approval for their courses. The deletion of this requirement would remove an inequitable and unreasonable burden for these schools.

Second, subsection (b) of this section would add the requirement that all accredited schools that have and enforce standards of attendance must submit such standards to the SAA for approval. Public Law 101-237 amended the law to require that VA terminate the benefits of anyone who is not meeting the attendance requirements at his or her school. In view of this, it is reasonable to require that an accredited school publish its standards of attendance (as currently required for school standards of progress or conduct) in the school catalog or bulletin submitted to the SAA in seeking course approval. It should be emphasized that no accredited school would be required by this amendment to adopt attendance standards, however.

Section 8

Section 8 would amend section 1781(a)(2) to bar VA payment of education benefits to an individual for training paid for under the Government Employees Training Act (GETA), regardless of whether that individual's hours of training are distinct from or overlap his or her regular duty hours of employment.

Currently, section 1781(a)(2) provides that no educational assistance allowance under chapter 30, 34, 35, or 36 of title 38 or chapter 106 of title 10, and no subsistence allowance under chapter 31 of title 38 may be paid to an individual who is attending a course of education or training paid for under the GETA and whose full salary is being paid while so training. A recent precedent opinion by VA's General Counsel has construed that section as permitting payment of VA educational assistance to a veteran training under the GETA if the training was received during periods of the day other than those for which the individual's salary is paid.

This amendment would clarify that payment of VA education benefits to an individual for pursuing a course of education also paid for by the Government under the GETA constitutes a duplication of benefits, even where the individual's hours of training are different from those daily work hours for which the person receives a full Federal salary, thus, eliminating this overlapping expenditure of Federal funds.

Section 9

This section would repeal various provisions of title 38 which authorize VA to grant education loans to eligible veterans and other eligible persons, as well as make clerical amendments deleting all references to such loans.

Under chapter 36, subchapter III, VA is permitted to make direct education loans to veterans and eligible persons for continuing their full-time training in the first 2 years after expiration of their delimiting period and for flight training reimbursed at the 60 percent level.

The VA education loan program has experienced excessively high default rates resulting in huge overpayments. Consequently, in recent years, Congress has acted to strictly limit eligibility for these loans. For example, the Omnibus Reconciliation Act of 1981 drastically reduced the number of education loans which could be made. It is now recommended that the final step be taken to remove all authority of VA to make education loans to reduce a source of continuing overpayments.

This section includes a savings provision so that, notwithstanding the proposal's repeal of the present education loan authority contained in title 38, the Secretary could continue to collect the principal and interest on those loans which are outstanding, together with any overpayments which are established under the program. It further would provide that the "Department of Veterans Affairs Education Loan Fund," established by section 1799(a) of title 38, would continue to be maintained in the United States Treasury. This would allow continued use of the education loan program's existing accounting system, with no cost to the Government, as opposed to the establishment of a new accounting structure within the readjustment benefits appropriation. The Secretary would be authorized to periodically transfer amounts from the Fund to the readjustment benefits account to be used for the purpose of the latter.

Section 10

This section would amend chapter 32 of title 38 and chapter 106 of title 10 to clarify the rates payable for independent study pursuit under those chapters. More specifically, payment would be based on the measurement of independent study as quarter-time training when pursued alone, and when pursued with resident training, would be based on the combined training time, as determined by the Secretary, but with the independent study component limited to the equivalent of a quarter-time measure.

Currently, section 2131 of title 10 sets out the educational assistance rates payable for institutional training under chapter 106 but does not state the rate payable for independent study. Chapter 32 provisions similarly lack such express guidance. Although there is general authority for VA to prescribe by regulation the measurement of and rates payable for such pursuit under those chapters, and while any such administrative action taken consistent with the rate of payment specifically authorized for independent study under other VA education benefit programs (i.e., chapter 34 and 35) would be reasonable, it remains desirable, nevertheless, to provide explicit, specific guidance in this area. Accordingly, this section provides such guidance.

Section 11

This section would amend 10 U.S.C. §2136(b) to reinstate the reference to section 1780(c) of title 38 in administering the Montgomery GI Bill Selected Reserve program. A recent amendment to chapter 106 of title 10 deleted reference to section 1780(c), governing certification of enrollment in and pursuit of a program of apprenticeship or other on-the-job training.

Public Law 101-237 amended chapter 106 to require a reduction in a reservist's apprenticeship or other on-the-job training benefits whenever he or she does not work 120 hours. However, no express legal authority requires the training establishment to certify how many hours the reservist worked. This amendment would rectify the inadvertent removal of this necessary administrative section.•

By Mr. BENTSEN (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. BREAUX, and Mr. DURENBERGER):

S. 1520. A bill to amend title XVIII of the Social Security Act to make certain changes with respect to extended care and home health services, and to provide for a waiver of certain medicaid requirements to conduct a demonstration project with respect to adult day care services, and for other purposes; to the Committee on Finance.

MEDICARE AND MEDICAID CHRONIC CARE AMENDMENTS ACT

• Mr. BENTSEN. Mr. President, the bill I am introducing today, along with Senators BRADLEY, CHAFEE, BREAUX, and DURENBERGER, would make modest, but important, changes to the home health and skilled nursing facility services available under the Medicare Program. It would also establish a demonstration project under the Medicaid Program, designed to encourage the development of adult day care facilities.

Last year, I introduced legislation to rectify a serious problem with the coinsurance structure of the Medicare skilled nursing facility [SNF] benefit. We were unable to enact this reform within the context of the budget agreement. But I continue to believe it is important to address this inequity.

When the Medicare Program first began, beneficiaries paid a daily SNF coinsurance amount of $5 beginning on the 21st day of a nursing home stay. That amount has increased rapidly over the past 25 years. In 1991, beneficiaries are paying $78.50 a day. On average, this contribution covers more than 50 percent of the cost of a nursing home day. In some cases, the $78.50 actually exceeds the cost of a day of care in a SNF. When this occurs, it is less costly for beneficiaries to give up their Medicare benefits and directly pay the entire nursing home cost themselves. CBO estimates that this happens in about 20,000 cases each year, or 5 percent of Medicare nursing home stays nationally. But it varies by geographic region. For example, in Alabama, Kentucky, Mississippi, and Tennessee, over 14 percent of the patients are better off paying the whole cost of the nursing home day than the $78.50 Medicare coinsurance rate.

The problem results from the link between the coinsurance rate for nursing home stays and the inpatient hospital deductible. The coinsurance rate is set to equal one-eighth of the hospital deductible. And the hospital deductible is computed to represent the average cost of a hospital day. Hospital costs have grown much faster than nursing home costs over the years, and the result is that SNF coinsurance is now way out of proportion to the cost of nursing home care.

S. 1520 would break the link between the hospital deductible and the SNF coinsurance rate and lower the coinsurance amount to $65 beginning in 1992. The $65 coinsurance amount would stay in place over time until the coinsurance rate was reduced to 20 percent. This would happen gradually over a number of years.

I would have liked to propose moving immediately to a 20 percent coinsurance rate to be consistent with other coinsurance requirements in the Medicare Program, but it is simply not feasible given our difficult budgetary situation. We can, however, take the modest steps proposed in this bill to ensure that beneficiaries are not required to contribute an excessive amount toward the cost of their nursing home stay.

Medicare only covers post-hospital nursing home stays, raising concern that some beneficiaries may be unnecessarily admitted to the hospital for a costly inpatient stay solely for the purpose of qualifying for the extended care benefit. S. 1520 would require the Secretary of Health and Human Services to study and report within a year on the impact of eliminating the 3-day prior stay requirement. The report would include estimates of the budgetary implications of eliminating the requirement on the Medicare and Medicaid Programs, on beneficiary out-of-pocket spending, and also an assessment of the medical necessity of hospital stays immediately preceding Medicare-covered nursing home admissions. To provide better information on the medical necessity of prior hospital stays, at least three peer review organizations would be required to review and provide hard data on these cases.

The bill would also expand coverage of home health services. For many Medicare beneficiaries, services provided in their home by nurses or home health aides substitute for days that would otherwise be spent in a hospital or a nursing home. The law allows for coverage of home health services provided on an intermittent basis, without clearly defining this term. Medicare administrative guidelines generally limit benefits to 3 weeks of continuous home health services. The interpretation of these requirements, and therefore the coverage of home health services, varies across the country, however.

S. 1520 would clarify the law and extend home health benefits for up to 42 days of continuous services. This would make home health benefits available for a longer period of time for those beneficiaries with a need for daily visits. For example, individuals for whom a 6-week course of antibiotic therapy is prescribed would have undisrupted treatment at home instead or requiring a lengthy and unnecessary hospital stay.

S. 1520 also includes a Medicaid demonstration project intended to encourage the development of adult day care centers located at federally supported housing facilities for the elderly. The demonstration projects would help to enhance coordination of health, housing and other services, and provide assistance to elderly individuals in the gray area between complete self-sufficiency and institutionalization.

At the adult day centers established through this demonstration project, individuals would receive personal care and suprevision, meal service, health and social services, and other services to lend the support needed to delay institutionalization for as long as possible. These services can help not only the elderly individual who uses the services, but his or her family as well. For example, if adult day care is available, some caretakers may be able to continue to pursue their careers instead of having to quit their jobs and stay home to care for an elderly relative.

While many of us wish it were possible to immediately enact comprehensive long-term care legislation, the cost of such legislation will make it difficult to move ahead in the near term. However, we cannot ignore the serious financial problems facing families with elderly relatives in declining health. Accordingly, I offer four proposals today to improve the existing Medicare home care and nursing home benefits, and through the Medicaid program, to expand the availability of alternative community care settings for the noninstitutionalized elderly.

It is my hope that these steps can be taken, which are certainly modest in comparison to the growing and costly need for comprehensive long-term care services. However, the cost of even the modest Medicare and Medicaid proposals included in this bill are not insignificant. While the bill does not presently include an offset to cover these new expenditures, let me assure my colleagues that when in is reported by the Committee on Finance, all costs will be covered.

Mr. President, I ask unanimous consent that the text of S. 1520 and a summary of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the materal was ordered to be printed in the RECORD, as follows:

S. 1520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare and Medicaid Chronic Care Amendments Act of 1991".

SEC. 2. ASSESSMENT AND ADJUSTMENT OF COINSURANCE AMOUNT FOR POST-HOSPITAL EXTENDED CARE SERVICES.

(a) IN GENERAL.—Paragraph (3) of section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)), as restored by section 101(a) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended to read as follows:

"(3)(A) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a coinsurance amount equal to $65.00 for each day (before the 101st day) on which such individual is furnished such services after such services have been furnished to such individual for 20 days during such spell.

"(B) Before September 1 of each year (beginning with 1992), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for post-hospital extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1992), promulgate the coinsurance amount which shall apply to post-hospital extended care services furnished in the succeeding year. Such amount shall be equal to the greater of—

"(1) 20 percent of the national average per diem cost estimated under subparagraph (B) in that year, rounded to the nearest multiple of 50 cents (if such amount is not a multiple of 50 cents); or

"(2) $65.00."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 1813(b)(3) of such Act (42 U.S.C. 1395e(b)(3)), as revived by section 101(a) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by striking "and post-hospital extended care services".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to post-hospital extended care services furnished on or after January 1, 1992.

SEC. 3. EXTENDING HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for a period of up to 42 consecutive days.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished in cases of initial periods of home health services beginning on or after January 1, 1992.

SEC. 4. STUDY AND REVIEW OF PRIOR HOSPITALIZATION REQUIREMENT FOR COVERAGE OF EXTENDED CARE SERVICES.

(a) STUDY AND REPORT ON 3-DAY INPATIENT HOSPITAL STAY REQUIREMENT.—(1) Within 1 year of the date of enactment of this Act, the Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall study and report to Congress on the impact of eliminating the requirement under section 1861(i) of the Social Security Act that the provision of skilled nursing facility benefits is only covered under title XVIII of such Act if furnished to an individual who prior to receiving such benefits was an inpatient of a hospital for a period of at least 3 consecutive days.

(2) The report summarizing the findings of the study conducted under paragraph (1) shall include—

(A) an estimate of the impact of eliminating the prior hospitalization requirement on spending for inpatient hospital services under title XVIII of the Social Security Act and nursing home services under titles XVIII and XIX of the Social Security Act;

(B) an estimate of the impact of eliminating the prior hospitalization requirement on out-of-pocket spending by individuals entitled to benefits under title XVIII of the Social Security Act;

(C) an assessment of the medical necessity of inpatient hospital stays immediately preceding the provision of skilled nursing facility services as currently required under section 1861(i) of the Social Security Act; and

(D) the Secretary's recommendation regarding the appropriateness of eliminating the current 3 day prior hospital stay requirement.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS TO REVIEW PRIOR HOSPITAL STAY REQUIREMENT.—(1) The Secretary shall enter into agreements with at least 3 organizations with contracts under section 1154 of the Social Security Act. Such agreements shall specifically provide for the review, as described under section 1154(a)(1), of all inpatient hospital stays for patients receiving post-hospital extended care services for which payment is made under title XVIII of the Social Security Act.

(2) The Secretary shall, within 6 months after the date the reviews described in paragraph (1) are completed, report to Congress on the results of such reviews.

SEC. 5. DEMONSTRATION PROJECTS TO PROVIDE ADULT DAY CARE SERVICES IN ELDERLY HOUSING FACILITIES.

(a) IN GENERAL.—Pursuant to section 1115 of the Social Security Act, the Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall, acting through the Office of Research and Demonstrations, provide for the establishment of 5 demonstration projects under title XIX of the Social Security Act, to provide for the operation of adult day care centers (as defined in subsection (d)(2)) which are located in section 202 housing facilities (as defined in subsection (d)(3)), and which are operated by States, local governments or nonprofit organizations, for the benefit of elderly residents of the section 202 housing facilities and nonresidents who live in the local community, in order to reduce the risk of institutionalization and provide respite to families who care for the elderly at home. The Secretary, in conducting demonstration projects under this section, shall provide for the waiver of the provisions of such sections of title XIX of the Social Security Act as may be necessary to carry out the purposes of this section, as provided in subsection (i).

(b) CONTENTS OF APPLICATION.—An application submitted by a State to the Secretary to conduct a demonstration project under this section shall, with respect to each adult day care center operated under a demonstration project under this section—

(1) contain assurances that adult day care center will meet the standards applicable to the provision of home and community based services under section 1929(f) of the Social Security Act and such other standards as the Secretary may specify;

(2) describe the site where the adult day care center will be located and the services to be provided by the adult day care center;

(3) describe the adult day care center management (organizational structure, lines of supervision and responsibility, personnel policies and practices, governing body, sources of funding, and such other information as the Secretary may require);

(4) specify the number of individuals to be served at the adult day care center and describe the populations that the adult day care center is expected to serve (the mix of clients' types and degree of functional disabilities, ages, income levels, living arrangements, and caretaker arrangements);

(5) provide a planned staffing profile specifying the numbers and professional backgrounds of individuals to be employed full- or part-time or who volunteer at the adult day care center and the training, continuing education, and evaluation procedures to which such employees and volunteers will be subject;

(6) specify the intended ratio of each type of staff member (such as nurses, supervisors, social workers, and others) to clients;

(7) describe the procedures by which the State or adult day care center management will—

(A) determine whether an individual is eligible to receive services pursuant to the criteria established under subsection (e)(1), which procedures must involve State responsibility to make or review such determinations;

(B) develop a care plan;

(C) evaluate the progress of patients; and

(D) maintain patient records;

(8) describe methods by which the adult day care center management will attempt to recruit and screen participants from the section 202 housing facility and from the local community;

(9) contain assurances that the adult day care center will—

(A) meet any applicable State licensure requirements or other standards applicable to adult day care centers operating in the State;

(B) meet the requirements of section 1929(f) of the Social Security Act, and any other standards established by the Secretary under this section; and

(C) specify the procedures by which the State will ensure that the adult day care center meets such standards;

(10) set forth the reimbursement rate to be paid to the adult day care center by the State and enumerate any other sources of funding or in-kind support on which the adult day care center will rely; and

(11) provide any additional information that the Secretary may require.

(c) SELECTION OF APPLICATIONS.—In selecting applicants to conduct demonstration projects under this section, the Secretary—

(1) shall ensure that such projects are conducted in geographically diverse areas;

(2) shall provide that no more than 2 demonstration projects are conducted in any one State;

(3) shall provide that a site currently providing adult day care center services under section 1929 of the Social Security Act will not be selected;

(4) shall provide that a site currently providing adult day care services in a 202 housing facility described in subsection (d)(3) will not be selected;

(5) shall ensure that the project meets the requirements under subsection (d); and

(6) may select 1 or more sites which serve exclusively clients who meet the criteria established in subsection (e)(1)(B)(ii) (relating to cognitive impairments).

(d) PROJECT REQUIREMENTS.—(1) A demonstration project established by the Secretary under this section shall provide that with respect to an adult day care center operating under a demonstration project under this section—

(A) each adult day care center serves residents of a 202 housing facility (defined in paragraph (3)) and residents of the local community who meet the criteria established under subsection (e);

(B) no more than 25 percent of the individuals served by an adult day care center are residents of the 202 housing facility at which the adult day care center is located unless, after recruiting efforts, the adult day care center management is unable to fill additional slots with qualified participants from the local community and the Secretary approves an exception for this reason;

(C) the adult day care center provides at the facility—

(i) supervision and personal care of clients;

(ii) meal and snack service (as the Secretary determines to be appropriate for the length of time participants attend the center, and coordinated with other programs providing meal services so as not to supplant such services);

(iii) transportation to and from the facility;

(iv) organized social, recreational, and therapeutic services;

(v) monitoring of medication and health;

(vi) nursing services, to the extent needed by the residents;

(vii) capability to handle emergency and life-threatening situations (including escape plans in the event of fire, maintenance of essential medical information about clients, and presence of personnel trained to provide first aid and cardiopulmonary resuscitation);

(viii) coordination of such services with other organizations operating in the community; and

(ix) such other services as the adult day care center may wish to provide and the Secretary deems appropriate;

(D) the adult day care center meets the minimum requirements for home and community care established under section 1929(f) of the Social Security Act and any other requirements established by the Secretary pursuant to this section; and

(E) the adult day care center meets any applicable State licensure requirements or other standards applicable to adult day care centers operating in the State.

(2) For purposes of this section an "adult day care center" is a site at which health, social, therapeutic, and related support services are furnished by appropriately trained staff for 4 or more (but less than 24) hours per day, on a regularly scheduled basis at least 3 days per week, to functionally or cognitively impaired adults through an individualized plan of care designed to ensure the optimal functioning of such an individual.

(3) For purposes of this section a "202 housing facility" is any housing project or residence financed under section 202 of the Housing Act of 1959 which has sufficient congregate space to accommodate an adult day care center meeting the standards required by this section.

(e) INDIVIDUAL ELIGIBILITY CRITERIA.—(1) An individual shall be eligible to participate in a demonstration project under this section if such individual—

(A) is 65 years of age or older;

(B)(i) is unable to perform without substantial assistance from another individual at least 2 of the following activities of daily living: bathing, dressing, toileting, transferring, and eating; or

(ii) has a cognitive impairment such that he or she is—

(I) unable to perform without substantial human assistance (including verbal reminding or physical cuing) or supervision, at least 2 of the following activities of daily living: bathing, dressing, toileting, transferring, and eating; or

(II) requires substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself;

(C) has an income no greater than 300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act; and

(D) has resources (as determined under section 1613 for purposes of the supplemental security income program) that do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program.

(2) In determining which eligible individuals should receive services at an adult day care center operated under a demonstration project under this section from among those individuals who are not residents of the section 202 housing facility in which the adult day care center is located, priority should be given to individuals who are dependent on a daily basis on a primary caregiver who is living with the individual and—

(A) is assisting the individual at least 4 hours during each weekday without monetary compensation in the performance of at least 2 activities of daily living (bathing, dressing, toileting, transferring, and eating); and which the individual could not perform without such assistance, or

(B) is providing supervision necessary to prevent the individual from posing a health or safety hazard to himself or herself.

(3) Individuals served in an adult day care center operated under a demonstration project under this section must be scheduled to receive services at least 3 full days per week or the equivalent thereof.

(4) A demonstration project conducted under this section may provide that individuals not meeting the eligibility criteria specified under paragraph (1) may receive services at an adult day care center if the resources of the adult day care center permit and if, after recruiting efforts by the adult day care center management, all individuals eligible under paragraph (1) who are seeking the services of the adult day care center are being served, and such an individual is required to pay for such services pursuant to a sliding scale fee schedule based on income, which is established by the State, and under which the highest daily per capita payment does not exceed the daily per capita cost of the program.

(5) Eligibility for participation in a demonstration project under this section shall not entitle participants to be eligible for other services under title XIX of the Social Security Act, nor affect such individuals' receipt of services (other than adult day care services) under such title if they are otherwise eligible for such services.

(f) ELIGIBLE ENTITIES.—An entity eligible to conduct a demonstration project under this section shall be a State, local government, or nonprofit organization.

(g) REIMBURSEMENT AND ALLOCATION OF FUNDS.—(1) An entity operating an adult day care center under this section shall be reimbursed by the State at a rate set by the State which is reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards.

(2) The amount allocated by the Secretary to each project site shall not exceed that site's prorated share of the total sums available under subsection (k) as calculated on the basis of the number of client-days expected to be generated at such a site.

(h) DURATION OF PROJECT.—A demonstration project conducted under this section shall be conducted for a period of up to 5 years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the entity conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section.

(i) WAIVER OF PROVISIONS OF TITLE XIX.—The Secretary in providing for demonstration projects under this section may waive section 1902(a)(1) (relating to statewideness), section 1902(a)(10) (relating to amount, duration, and scope), and such other provisions of title XIX of the Social Security Act, except section 1929, (relating to minimum requirements for home and community-based care), section 1903(m) (relating to health maintenance organizations) and section 1905(b) (relating to the Federal medical assistance percentage) as deemed necessary to carry out the purposes of this section.

(j) EVALUATION AND REPORT.—(1) The Secretary shall evaluate the effectiveness of each demonstration project conducted under this section in—

(A) providing high quality adult day care services;

(B) delaying or preventing institutionalization or hospitalization of the section 202 housing facility residents served by such projects in comparison to the housing facility residents of comparable functional ability who do not receive services at the adult day care center;

(C) reducing costs by providing adult day care services at section 202 housing facilities as compared to other settings (such as freestanding adult day care centers and centers located in nursing homes, public housing facilities, and senior centers);

(D) providing relief to caregivers; and

(E) meeting such other goals as the Secretary may specify.

(2) The Secretary shall submit a report to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives summarizing the findings of the evaluation conducted under paragraph (1), by no later than 1 year after the third year that such projects are commenced, and shall submit a final evaluation no later than six months after completion of the demonstration projects.

(k) LIMITS ON EXPENDITURES AND FUNDING.—(1) The Secretary in conducting projects under this program shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than $7,000,000 for the 5-year period beginning with fiscal year 1992.

(2) Payments to a State under a project with respect to expenditures made for medical assistance made available under a demonstration project under this section may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(3) Payments shall be made under this section only for—

(A) services specified in subsection (d)(1)(C) and such other services as specified by the Secretary pursuant to this section, provided to individuals who meet the eligibility criteria established under subsection (e)(1);

(B) the start-up costs attributable to establishing an adult day care center to be operated under a demonstration project under this section; and

(C) the costs attributable to evaluation of the demonstration projects.

SUMMARY OF THE MEDICARE AND MEDICAID CHRONIC CARE AMENDMENTS

REDUCTION IN SKILLED NURSING FACILITY (SNF) COINSURANCE RATE

The requirement that the coinsurance rate for Medicare SNF services equal ⅛ of the inpatient hospital deductible would be eliminated, and the coinsurance amount would be reduced from its 1991 level of $78.50 to $65.00 in 1992. The daily coinsurance amount would remain at $65.00 until the coinsurance rate equals 20 percent of the average cost of a SNF day. This provision would not change the current law requirement that begins application of coinsurance after the 20th day in a skilled nursing facility.

EXTENDED MEDICARE HOME HEALTH BENEFITS

Medicare home health benefits would be extended to cover up to 42 consecutive days of nursing and home health aide visits. Current law covers home health benefits provided on a part-time or intermittent basis. Guidelines define intermittent to include up to 28 hours per week of home health services provided on less than a daily basis, or up to 21 consecutive days of services. This provision would define intermittent to include services provided less than 7 days a week, or up to 42 days of consecutive services.

STUDY OF THREE DAY PRIOR STAY REQUIREMENT

The Secretary of HHS would report to the Congress on the impact of eliminating the three day prior hospitalization requirement for Medicare coverage of skilled nursing facility benefits. The report would include an estimate of the budgetary implications for the Medicare and Medicaid programs and on beneficiary out-of-pocket costs, and an assessment of the medical necessity of inpatient hospital stays immediately preceding skilled nursing facility admissions under current law, and the Secretary's recommendation concerning continuation of the three day stay requirement.

The Secretary would also be required to enter into agreements with at least three Peer Review Organizations to provide for 100 percent medical necessity review over a one-year period of hospital admissions immediately preceding Medicare-covered nursing home stays.

ADULT DAY CARE DEMONSTRATION PROJECT

Five 5-year demonstration projects would be established to encourage development of adult day care centers located in elderly housing facilities. States could receive Medicaid Federal matching funds to reimburse adult day care centers operated by nonprofit organizations, local governments, or States and which are located at housing facilities financed through the Housing and Urban Development "Section 202" program (which finances housing for the elderly and disabled). At the Secretary's discretion, some of the projects could be specialized to serve cognitively impaired individuals.

Eligibility for services at an adult day care center would be restricted to individuals who: are 65 years of age or older; limited in performing at least two out of five activities of daily living (bathing, dressing, toileting, transferring and eating) due to physical or cognitive impairments, or, due to cognitive impairment, pose a danger to themselves; have an income no greater than three times the Federal benefit level for the Supplemental Security Income (SSI) program (i.e., $14,652 per year in 1991); and have resources no greater than twice the amount than an individual may have to be eligible for the SSI program (i.e., $4,000).

No more than 25 percent of the clients at an adult day care center could be residents of the Section 202 housing facility. In selecting clients from the local community, priority would be given to those cared for by a family member or another person living at home (so that the program serves to provide respite to caretakers as well as services to clients). If resources permit, the adult day care centers could also serve clients who do not meet the program eligibility criteria if payment is made on a sliding-scale basis.

The following services would be provided at the adult day care centers: supervision and personal care; meal service; transportation; social, recreational and therapeutic services; monitoring of health and medication; nursing services, to the extent necessary to serve the clients; capability to handle emergency situations; coordination of services with other community organizations; and other services deemed appropriate by the Secretary of Health and Human Services.

The adult day care centers would be required to meet any State licensure or other applicable standards and such other standards as the Secretary may require.

Evaluation would be required to determine: the effectiveness of the adult day care centers in providing high quality adult day care services, preventing or delaying institutionalization and hospitalization of participants, and alleviating caregiver burdens; the relative cost of providing adult day care services at Section 202 housing sites as compared to other settings; and such other criteria as the Secretary may deem appropriate.

CBO estimates the Federal cost of this provision at $7 million over five years. The Federal matching funds could be used for start-up costs, operating expenses, and evaluation costs.•

• Mr. BRADLEY. Mr. President, I rise today in support of the Medicare and Medicaid chronic care amendments introduced by Senator BENTSEN. These amendments will provide some important benefits to older Americans. These benefits will enable those among the dependent elderly and disabled to obtain needed care in the comfort and the dignity of their homes. The support of skilled personnel who come to the home to provide care, can mean the difference between recovering and receiving rehabilitation at home or going to a skilled nursing facility.

An estimated 1½ million people currently are cared for in nursing homes. Yet that is only 20 percent of the elderly who need long-term-care services. The remainder continue to live in their communities and depend on a network of both formal and informal caregivers. As our population ages and a greater proportion of our people live long enough to confront dependency, adequate protections for the care of elderly recipients, adequate support for the caregivers, and appropriate services must be developed and implemented to provide quality and cost effective services for the aging in our society.

Mr. President, for years now I have worked to expand home and community care services for the elderly. I have worked on ensuring that our elder citizens have access to humane and supportive care and services as they grow older and become more dependent. Home care, adult day care, and respite care have been approaches that I have emphasized because I believe that they offer the elderly needed services in settings that are supportive and accessible to their families.

Mr. President, over the years I have held several hearings in New Jersey on the need to expand home health services. Four years ago, I introduced legislation to triple the number of days of daily home health services that Medicare would provide. In 1988, Congress enacted the catastrophic health care legislation, which roughly doubled the home care benefit from 2 to 3 weeks of daily care to 38 days of care. That was an important step, and I took great pride in being part of enactment of the expansions. Unfortunately, these special protections for our disabled and dependent elderly were lost in the rush to repeal the Medicare Catastrophic Coverage Act. I believe that the loss was both gravely shortsighted and unwise. Last year, I introduced a bill to restore and expand these special home care protections in the Home Benefits Improvements Act of 1990. This legislation was not enacted in the 101st Congress.

I am particularly pleased that the amendments which are being introduced today reinforce my efforts to restore and broaden Medicare's Home Health Program. Currently, the present system of Medicare reimbursement for home care is totally geared toward post-acute care rather than long-term care. Despite the fact that many elderly patients are being discharged from hospitals earlier than in the past because of the prospective payment system, Medicare-reimbursed home health services are becoming less available to patients. The definition of intermittent, in particular, has contributed to confusion about coverage.

The expanded home health care benefits proposed in these amendments may provide the margin of care necessary to keep beneficiaries in the home setting. The amendments will clarify eligibility for this benefit by clearly defining intermittent care. It will also double the number of days of skilled home health care covered for the sickest elderly, those who require skilled home care for up to 7 days per week. It will increase the number of days from 3 weeks under current law to 42 days of coverage.

Mr. President, the amendments introduced today address problems in the Medicare and Medicaid programs through much needed clarification of the extended Medicare home health benefits, formal study of the issue of the 3-day prior hospital stay requirement for Medicare coverage of skilled nursing benefits, modification of the coinsurance rate requirements for Medicare skilled nursing facilities, and establishment of adult day care demonstration projects. These amendments will support my efforts to remove some of the administrative barriers and bureaucratic redtape which prevent elderly, sick Americans from receiving the benefits that Congress intended them to have.•

• Mr. DURENBERGER. Mr. President, I am pleased to join the distinguished chairman of the Finance Committee, Senator BENTSEN, in introducing the Medicare and Medicaid Chronic Care Amendments Act of 1991.

Mr. President, in 1988, when Congress passed the Medicare Catastrophic Coverage Act, our goal was to create a benefit package that would better meet the needs of the elderly and disabled population. Unfortunately, in the pandemonium surrounding the repeal of catastrophic, some of the most critical benefits were eliminated, despite my best efforts and those of Senator BENTSEN to preserve them.

While not identical to the skilled nursing home and home health care benefits contained in the catastrophic legislation, the bill we are introducing today is similar in content and designed to accomplish many of the same objectives.

Mr. President, we are seeking to reduce the out-of-pocket expense of a skilled nursing home stay. While there may have been a good reason to tie the coinsurance rate for skilled nursing care to the inpatient hospital deductible in 1965, this rationale no longer exists. The cost of an acute care hospital day has risen far more rapidly than the cost of a day in a skilled nursing facility, meaning that patients are absorbing a much larger proportion of the cost of their skilled nursing care in 1991 than they did in 1965. In fact, in some parts of the country, the Medicare coinsurance for a skilled nursing home day—$78.50 this year—exceeds the average cost for the day. We can hardly say that Medicare is paying its fair share of the bill in these cases.

The chronic care amendments would reduce the coinsurance to $65 and then freeze it until it equals 20 percent of the average cost of a skilled nursing facility day. This would establish a more reasonable level of cost sharing for beneficiaries, and it would do so in a very gradual manner from a financial perspective. My understanding is that it could well be more than a decade before $65 equals 20 percent of the average cost of a skilled nursing home day.

Mr. President, the chronic care amendments would also clarify the definition of "intermittent care" for home health services and would provide coverage for up to 42 consecutive days. This provision is similar to the one I fought to preserve during the repeal of catastrophic.

I would note that the existing definition of "intermittent care" is cumbersome and virtually impossible for anyone with even the highest levels of education to understand. It is unfair to continue to burden beneficiaries and home health care providers with its ambiguities.

Mr. President, two other important provisions are contained in the chronic care amendments. First, we have charged the Secretary of Health and Human Services to report to Congress on the impact of eliminating the 3-day prior authorization requirement for Medicare coverage of skilled nursing home care. At the same time, we have asked the Secretary to contract with at least three peer review organizations to review the medical necessity of all hospital stays immediately preceding Medicare-covered nursing home stays. This will help lay to rest once and for all the question of whether many of the hospitalizations occurring before a skilled nursing home stay are initiated simply to gain access to nursing home care. While I have my doubts, I think it is very important to obtain empirical data and then make a policy decision on whether to keep or eliminate the 3-day prior stay requirement.

Finally, Mr. President, the chronic care amendments would fund five 5-year demonstration projects to encourage the development of adult day health centers in HUD section 202 elderly housing facilities. The purpose of these demonstrations would be to learn whether adult day health centers located in housing projects are effective in providing high quality services, whether the availability of such services delays institutionalization and hospitalization of participants, and the relative cost of providing adult day health services at section 202 housing sites compared to other settings.

Mr. President, taken together, the chronic care amendments form an excellent basis for improving the affordability and availability of chronic care services to Medicare beneficiaries. I want to stress, however, that as we move to consider this legislation in the Finance Committee I plan to work closely with the chairman and other members of the committee to ensure that we carefully consider the impact of the legislation on the long term costs of the Medicare Program, and that we establish an appropriate and equitable mechanism for paying for these important provisions.●

By Mr. BOREN (for himself, Mr. DURENBERGER, Mr. BAUCUS, Mr. DOLE, Mr. PRYOR, Mr. SYMMS, Mr. BREAUX, Mr. ROTH, Mr. DASCHLE, Mr. GRASSLEY, Mr. RIEGLE, Mr. LEAHY, Mr. LUGAR, Mr. HEFLIN, Mr. COCHRAN, Mr. HELMS, Mr. CONRAD, Mr. DANFORTH, Mr. HARKIN, Mr. SEYMOUR, Mr. AKAKA, Mr. BOND, Mr. DECONCINI, Mr. DIXON, Mr. EXON, Mr. FORD, Mr. GORTON, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KERRY, Mr. LEVIN, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. WIRTH, Mr. BROWN, Mr. CRAIG, Mr. WELLSTONE, Mr. ADAMS, and Mr. CRANSTON).

S. 1522. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of cooperatives of gains or losses from sale of certain assets; to the Committee on Finance.

TAX RELIEF FOR FARM COOPERATIVES

Mr. BOREN. Mr. President, today Senator DURENBERGER and 49 additional Senators join me in introducing legislation intended to clarify the tax treatment of gains and losses resulting from the sale of assets by farmer cooperatives. Currently, cooperatives that sell an asset face uncertainty regarding whether the gain or loss from that asset should be considered as resulting from patronage sources or nonpatronage sources. The classification of income as patronage or nonpatronage is important since gain from patronage sources may be distributed to patrons as a patronage dividend which is deductible to a cooperative and taxable to the patron. This bill allows nonexempt farmer cooperatives to elect patronage-sourced treatment for gain or loss from the disposition of an asset used in the cooperative's business with farmer-patrons.

Due to conflicting signals from the Internal Revenue Service regarding the classification of various items of income as patronage or nonpatronage sourced, farmer cooperatives have taken different approaches to making these determinations regarding gain or loss from the sale of assets. Some cooperatives, relying on a general standard adopted by both the IRS and the courts, have treated this gain or loss as patronage sourced because the assets sold actually facilitated the marketing, purchasing, or service activities of the cooperative. Other cooperatives have treated gain or loss from the sale of assets used in the patronage operations as nonpatronage sourced in reliance on an example in Treasury Regulation Section 1.1382–3(c)(2) and the IRS's administrative position that capital gain is automatically treated as nonpatronage sourced.

Farmer cooperatives that have treated gain or loss from the sale of assets as patronage sourced have found themselves facing IRS challenge. This has been the case even though patronage treatment based on the use of an "actually facilitates" analysis has been consistently applied in court cases where the characterization of income as patronage or nonpatronage has been at issue. In fact, the courts have taken this position based on their interpretation of the rationale behind an IRS published ruling.

This legislation would relieve cooperatives of the uncertainty they currently face when deciding how to treat gain or loss from the sale of an asset used in their patronage business by essentially codifying the test used by the courts.

A survey by the National Council of Farmer Cooperatives clearly demonstrates that the impact of this legislation is widespread and of great interest to the farmer cooperative community. The survey showed that a significant number of respondents indicated that they classify the gain or loss from the sale of an asset in accordance with how the asset was used in the cooperatives business. The bill's importance is further demonstrated by the number of cosponsors. Support includes a majority of the Finance Committe and the entire Agriculture Committee.

The Finance Committee has previously adopted this provision, but the full Senate has not had an opportunity to consider the issue. Cooperatives have faced uncertainty for too long. The IRS has amply proven it will not abide by the court cases dealing with this issue. It is now up to Congress to put this issue to rest.

The resolution of this issue is important to the over 100 farmer cooperatives headquartered in my State of Oklahoma as well as thousands of other farmer cooperatives across the Nation and their farmer members. For these reasons, I urge my colleagues who have not done so to join in support of this needed legislation. Mr. President, ask unanimous consent that the text and a section-by-secion analysis of the bill, and a letter from the National Council of Farmers Cooperatives be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1388 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(k) TREATMENT OF GAINS OR LOSSES ON THE DISPOSITION OF CERTAIN ASSETS.—For purposes of this title, in the case of any organization to which part I of this subchapter applies—

"(1) IN GENERAL.—Such an organization may elect to treat gain or loss from the sale or other disposition of any asset (including stock or any other ownership or financial interest in another equity) as ordinary income or loss and to include such gain or loss in net earnings of the organization from business done with or for patrons, if such asset was used by the organization to facilitate the conduct of business done with or for patrons.

"(2) ALLOCATION.—An election under paragraph (1) shall not apply to gain or loss on the sale or other disposition of any asset to the extent that such asset was used for purposes other than to facilitate the conduct of business done with or for patrons. For purposes of this paragraph, the extent of such use may be determined on the basis of any reasonable method for making allocations of income or expense between patronage and nonpatronage operations.

"(3) PERIOD OF ELECTION.—An election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the organization. Any such revocation shall be effective for taxable years beginning after the date on which notice of the revocation is filed with the Secretary.

"(4) ELECTION AFTER REVOCATION.—If an organization has made an election under paragraph (1) and such election has been revoked under paragraph (3), such organization shall not be eligible to make an election under paragraph (1) for any taxable year before its 3rd taxable year which begins after the 1st taxable year for which such revocation is effective, unless the Secretary consents to such election.

"(5) NO INFERENCE.—Nothing in this subsection shall be construed to infer that a change in the law is intended for organizations not having in effect an election under paragraph (1). Any gain or loss from the sale or other disposition of any asset by such organization shall be treated as if this subsection had not been enacted.".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

(2) If the organization makes an election under section 1388(k)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)) with its return for a taxable year beginning before January 1, 1992, and such election provides that such organization elects to take benefits of this paragraph, the amendment made by subsection (a) shall also apply to all taxable years beginning before January 1, 1992, and the election under such section 1388(k)(1) shall also be effective for all such taxable years.

SECTION-BY-SECTION ANALYSIS OF PROPOSED LEGISLATION ON TAX TREATMENT OF CERTAIN ASSET DISPOSITIONS BY NONEXEMPT FARMER COOPERATIVES

PARAGRAPH 1. IN GENERAL.

Cooperatives may elect patronage sourced treatment for gain or loss from the sale or other disposition of any asset, provided that the asset in question was used by the organization to facilitate the conduct of business done with or for patrons. The election would apply to all assets including depreciable section 1231 assets as well as stock or any other ownership or financial interest in another entity. Under the election, the gain or loss resulting from the asset sale would be treated as ordinary.

PARAGRAPH 2. ALLOCATION.

Where an asset has been used for both patronage and nonpartronage purposes, the election to treat gain or loss from the sale of that asset as patronage sourced applies only to the amount of the gain or loss allocable to the patronage use. A cooperative may use any reasonable method for making allocations of income or expenses between patronage and nonpatronage operations.

PARAGRAPH 3. PERIOD OF ELECTION.

The statutory election would be available generally with respect to taxable years beginning after 1990 and, unless revoked by the cooperative, for all taxable years subsequent to the first taxable year for which the election is made. An election which is made with respect to a taxable year beginning before 1992 would, if the election so provided apply also to prior taxable years of the electing cooperative. An electing cooperative can at any time revoke its election effective for taxable years beginning after the date on which the revocation notice was duly filed with the IRS.

PARAGRAPH 4. ELECTION AFTER REVOCATION.

If the cooperative revokes the election, it must wait at least three taxable years before making another election.

PARAGRAPH 5. NO INFERENCE.

No inference will be drawn from the legislation regarding the proper application of existing law relating to the classification of income or loss from asset dispositions by nonelecting cooperatives.

NATIONAL COUNCIL
OF FARMER COOPERATIVES,
Washington, DC, July 18, 1991.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOREN: On behalf of the National Council of Farmer Cooperatives, I would like to take this opportunity to express our strong support for your proposed legislation to clarify the tax treatment of gain or loss on the sale of assets by farmer cooperatives.

The National Council of Farmer Cooperatives is a nationwide trade association representing over 100 major regional marketing, supply and credit cooperatives, and 32 State Councils. Our members represent nearly 5,000 local cooperatives with a combined membership of nearly 2 million farmers.

As proposed, the bill adopts the same test the courts have consistently applied in similar cases to determine whether income may be treated as patronaged sourced. Under this test, cooperatives which are able to demonstrate as a matter of fact that the asset was used to facilitate business done for or with their farmer members would be able to treat any gain or loss as patronage sourced. Such patronage sourced income would continue to be taxed at either the cooperative or farmer level in accordance with Subchapter T of the Internal Revenue Code.

We believe this to be a fair and reasonable approach and one that is strongly supported by farmers and their cooperatives across the nation. The bill would eliminate the uncertainty facing many cooperatives regarding the tax treatment of gains or losses on the sale of assets and the prospect of continued costly and time-consuming litigation due to IRS challenges.

For these reasons, we again want to commend you for your leadership and support for this important legislation and we urge its enactment.

Sincerely,

WAYNE A. BOUTWELL,
President.

Mr. DURENBERGER. Mr. President, I am pleased today to join Senator BOREN and others among my colleagues in introducing legislation aimed at clarifying the tax treatment of farmer cooperatives with regard to gains or losses on the sale of certain assets.

This legislation is strongly supported by farmers and their cooperatives all across the Nation, including the nearly 500 cooperatives headquartered in the State of Minnesota.

During the last Congress, I cosponsored similar legislation which was approved by the Senate Finance Committee, but not considered by the full Senate. I am hopeful that this year, Mr. President, we will have the opportunity to bring this important legislation to the floor and see it signed into law.

This bill would simply adopt the same test that the courts have consistently used in a number of similar cases to determine whether income may be treated as patronage sourced. Patronage sourced income may be required to be distributed to the cooperatives's farmer members and would be included in the farmer's income and taxed accordingly. Under such a test, a cooperative which can demonstrate as a matter of fact that an asset was used to facilitate business done for or with its farmer members may treat such gain or loss as patronage sourced.

Without enactment of this legislation, many farmer cooperatives will continue to be faced with considerable uncertainty regarding the tax treatment of gains or losses on the sale of assets such as grain elevators or other types of business assets. Uncertainty has created problems in the past and continues now to threaten cooperatives with challenges by the IRS, which can result in costly and time-consuming litigation. In the end, the ultimate cost is borne by the farmer member-owners of the cooperatives.

In adopting the same test consistently applied by the courts, this bill clarifies existing law and greatly simplifies tax compliance for farmer cooperatives. It would eliminate much of the uncertainty regarding the treatment of gains or losses on assets sales made by farmer cooperatives. Most importantly, this bill would reduce or eliminate the likelihood of protracted and expensive litigation, a development which would benefit the IRS and taxpayers alike.

Mr. President, I urge my colleagues to join with me in support of this important legislation and I urge its enactment.

Mr. INOUYE. Mr. President, I rise today in support of the bill introduced by Senators BOREN and DURENBERGER concerning the tax treatment of asset sales by cooperatives. This legislation is vital to the cooperatives in Hawaii. Its enactment would allow Hawaiian cooperatives that treat gain or loss from the sale of an asset used in their member business as patronage sourced, will no longer face uncertainty regarding that decision.

This legislation codifies an IRS ongoing practice. It adopts the test used by the courts in determining what is patronage-sourced income. The IRS continues to uphold a position that has been defeated in court on nine occasions. Resolution of this issue once and for all would represent significant tax simplification for the cooperatives of Hawaii.

I am pleased that I am joining many of my Senate colleagues in cosponsoring this legislation. This demonstrates that it is an issue of concern to cooperatives across the country.

Mr. President, I urge my colleagues to support this tax simplification measure, and request its expeditious consideration.

Mr. DOLE. Mr. President, I am pleased to join my colleagues in strong support of the important and timely sale of assets legislation. Farmer cooperatives in my home State of Kansas and throughout the United States are now faced with needless complexity and confusion in a part of the tax law that directly affects them—the determination of what is patronaged sourced income.

The problem is that when a farm cooperative sells an asset it must determine for tax purposes whether the income or loss from the sale is patronaged sourced. If the income is classified as patronage sourced the cooperative may be required to distribute it to its patrons who pay tax on the income. However, if the income is classified as nonpatronaged sourced, the cooperative must pay tax on such income whether or not it is distributed to patrons.

In short, Mr. President, the legislation introduced today would do a great deal to simplify an important part of the tax law. It is essential that a cooperative be able to determine with reasonable certainty whether income is patronage source. Farmer cooperatives are a critical and integral part of the Kansas agricultural economy. There are 214 farmer cooperatives operating in virtually every one of the State's 105 counties. A very substantial number of the 70,000 Kansas farmers are owner-members of these 214 cooperatives, which had a combined business volume in 1990 of $2.2 billion. All these local cooperatives as well as the regional cooperatives which they own have a vital stake in this legislation.

But this is not a Kansas issue. It is a national issue. Because of the broad based support among its membership, the National Council of Farmer Cooperatives advises me that this bill is its top legislative priority. The widespread support among farmer cooperatives is reflected by the fact that 51 Senators from Vermont to California and Hawaii and from North Dakota to Arkansas have joined in sponsoring this legislation. Among these sponsors are a majority of the Finance Committee and virtually all of the Agriculture Committee.

Mr. President, I am hopeful that we will be able to pass this legislation in 1991. Farmer cooperatives are not asking for a new tax break, rather they want clarification and simplification.

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of the legislation introduced today by Senators BOREN and DURENBERGER to clarify the tax treatment of gains and losses on the sale of assets by farmer cooperatives. The bill will allow cooperatives to treat the gain or loss resulting from the sale of any asset used by the cooperative as patronage-sourced, as long as the asset was used by the cooperative to facilitate the conduct of business with its members.

The need for this legislation is clear. In recent years, farmer cooperatives that have treated a gain or loss from the sale of assets as patronage-sourced have faced IRS challenge even where that asset actually facilitated the business activities of the cooperative. This has occurred, in spite of recent court decisions which have consistently applied an "actually facilitates" test in distinguishing between patronage and nonpatronage income.

To address this problem, the legislation we are introducing today clarifies that the same test that the courts have used in related cases to determine whether the income may be considered patronage-sourced will be used for farmer cooperatives. Farmer cooperatives will thus be provided reasonable certainty as to the tax consequences of their asset sales. Without this legislation, many cooperatives will continue to face unnecessary challenges by the IRS, resulting in costly and time-consuming litigation.

Mr. President, this legislation is important to farmers across the United States, including those in my home State of Vermont. According to figures from the Department of Agriculture, four out of five American farmers belong to one or more farmer cooperatives. These farmer cooperatives produce and market practically every type of agricultural commodity. They also furnish production supplies and credit to their farmer members. There are nearly 5,000 local farmer cooperatives across the country, with a combined membership of nearly 2 million farmers. As you can see, Mr. President, the potential impact of this legislation is far reaching.

This legislation has strong bipartisan support. It is identical to a bill introduced in the last Congress by Senators BOREN and DURENBERGER and is supported by farmer cooperatives from all across the country. I would also point out that every member of the Senate Agriculture Committee is a cosponsor of this important legislation.

Mr. President, this reform is long overdue. I urge that it be favorably considered by Congress this year.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. HARKIN, Mr. PELL, and Mr. SIMON):

S. 1523. A bill to amend the Public Health Service Act to reauthorize certain institutes of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH REAUTHORIZATION ACT

Mr. KENNEDY. Mr. President, the legislation I am introducing today will enhance the Nation's preeminent role in biomedical research. The National Institutes of Health Reauthorization Act of 1991 will reauthorize programs at the NIH that have led to major discoveries of causes, treatments, and cures of a range of devastating diseases. This legislation will establish new initiatives and expand existing endeavors at the NIH in areas of growing concern and increasing potential. These areas include women's health, children's health, the human genome, cancer, AIDS, and disease prevention and control. The measure is intended to stimulate growth in research and training to realize the great potential that exists for future advancements in medicine.

Every day we read of the latest astonishing scientific and medical developments. Today's achievements in basic and clinical research are the foundation for tomorrow's treatments and cures. Yet, the most remarkable achievement of the NIH may be that there has been no net cost to the American people. The health care savings from advances in one area alone—preventive medicine and the development of vaccines—have more than paid for the Nation's 105-year investment in the NIH. The NIH receives about one-half of 1 percent of the Federal budget and less than 2 percent of the health care dollar. The Nation's daily health care bill is over $1.5 billion. The yearly bill for NIH is paid in 5 days. It is a small investment with an enormous dividend for a priceless asset of all Americans—their health.

Never have we needed biomedical breakthroughs more than we do now. Although millions of Americans have been saved from disease, millions of others suffer from afflictions for which there are not yet cures. Twenty years after Congress passed the National Cancer Act, cure rates for many cancers are increasing and lives are being saved. Still, half a million Americans will die from cancer this year. Ten years after the first reports of AIDS, we have made enormous progress in understanding the disease, yet the virus continues its relentless attack.

Today, inadequate funding of the NIH threatens to impede the great progress we have made and foreclose us from desperately needed treatments and cures. During the last decade, the NIH has seen modest growth of 2 to 3 percent per year above inflation. However, funding for the National Heart, Lund and Blood Institute increased at less than half that rate during the same period. The picture for the National Cancer Institute was worse, with its funding declining by 6 percent during the decade.

These two Institutes oversee contributions to our understanding of the two biggest killers in our society, heart disease and cancer. The failure to fully support growth of these institutes is a failure to take advantage of the many promising research, treatment, and prevention opportunities that have developed in the recent past.

Inadequate funding of the NIH also threatens the structure and vitality of biomedical research efforts nationwide. Our investment in the Nation's biomedical research enterprise is at risk of being devalued. Our leadership in biomedical research and biotechnology can easily be lost to other nations.

In the recent past, the Cancer and Heart, Lung, and Blood Institutes have been able to fund less than one out of four new and competing research proposals. Large numbers of the proposals that have gone unfunded are excellent, high priority research, the most promising work of our brightest investigators. In fact, there is often little difference in merit between the proposals that receive financial support and those that do not.

This situation threatens to erode the base of biomedical research. Many young scientists who fail to receive research grants, even though their projects are meritorious, will have to leave the field. Years of training have been invested in them. Experienced scientists who have been consistently supported for years will be forced to close their laboratories. High quality work with great promise for the future, will be left undone.

We need to send a clear message of support and renewal to show that our commitment to biomedical research is still a major priority of our society. This bill sends that message.

The legislation gives new authority for 5 years to the National Cancer Institute and the National Heart, Lung, and Blood Institute. Recently, a new era of human gene therapy was born when researchers from both Institutes collaborated to perform the first gene transfer studies in humans. Discoveries of oncogenes and suppressor genes may lead to opportunties for prevention, diagnosis, and treatment of cancers. These are but some of the breakthroughs of basic and clinical research at NIH.

The bill will reauthorize the National Cancer Institute at $2.25 billion for fiscal year 1992 and the Heart, Lung, and Blood Institute at $1.65 billion. These figures represent a $450 million increase over fiscal year 1991 appropriations for the Cancer Institute and a $550 million increase for the Heart, Lung, and Blood Institute. The increases will bring the budgets of these Institutes closer to professional recommendations. It will permit these Institutes to return their funding for new and competing grants to the mid-1980's level of 30–35 percent. Also included is much needed emphasis on prevention and control programs. These vital components of the health research effort have been too long neglected.

The bill also directs the Cancer Institute to significantly boost research efforts on breast cancer, one of the greatest threats among all cancers. Nearly one out of every four Americans diagnosed with cancer has cancer of the breast. Over 150,000 new cases will be diagnosed this year. This cancer is particularly devastating to young women. It is the leading cause of cancer death among women aged 15 to 54, in the prime of their lives and careers. In fact, women lose an average of 20 years of potential life as a result of breast cancer. The bill authorizes $75 million in new funds for a program to expand, intensify, and coordinate NIH efforts on breast cancer and certain other gynecologic cancers.

This bill will also reauthorize the National Research Service Award Program, which provides training grants for scholars across the Nation. We must move ahead to support the training of new investigators at a level that assures a continuing supply of scientists. These graduates are our next generation of researchers and teachers of researchers. It has been nearly two decades since I introduced the National Research Service Award Act to counter attempts to dismantle our system of support for the training of biomedical researchers. These training programs and the young scientists supported by them continue to play a critical role in the success of biomedical research.

The bill will reinvigorate the program as it approaches its twentieth anniversary. The funding of $415 million, $108 million over fiscal year 1991 appropriations, will bring us within targets set by the Institute of Medicine. It will support more than 15,000 training grants to individuals and institutions, representing over 1,000 new positions. This funding also will allow us to make stipends more competitive with those of other agencies and programs, enhancing our ability to attract new talent to biomedical and behavioral research. New authority is also granted to develop programs to recruit women, underrepresented minorities, and disadvantaged individuals into training programs.

Another provision that is equally essential to renewed growth in biomedicine is a peer review matching grant program for extramural facilities construction. Since 1969, when Federal support of research facility construction began to diminish, facilities have increasingly fallen into disrepair and needed new construction has been delayed. This provision authorizes $150 million in funding to make a start in supporting construction needs that will require $10 to $15 billion over the next decade. We must begin to make progress in this area. It will be less expensive to meet our responsibilities in this matter now than to delay while construction costs continue to climb.

The reauthorization for the National Library of Medicine contained in the bill provides for expanded outreach programs under the authority of the Medical Library Assistance Act. A prestigious Planning Panel on Outreach has recommended a substantial enhancement of the Library's information system. It will make available to every physician in the Nation who has access to a personal computer the most current knowledge on the origins and treatment of disease. The bill supports this program and other NLM programs with an authorization of $40 million, more than doubling current funding. Improved medical information services can save many times their cost through earlier diagnosis and more up-to-date treatment.

The Center for Biotechnology Information, established in 1988 has demonstrated its usefulness in disseminating current information on molecular biology. The impressive advances in this field, particularly in the capacity to alter DNA, require the expansion of computer systems for entering, storing, analyzing, and transmitting this information. We need to develop new ways to link existing databases, create new databases, and provide integrated computer systems that will furnish easy-to-use access to these databases. The bill authorizes $15 million for the Center, bringing the authorization level in line with what is currently being spent.

In addition to breast cancer, the bill emphasizes other important initiatives on women's health. Too little effort has been made to involve women in NIH-sponsored clinical research. As a result, serious uncertainties exist over whether new treatment or prevention methods tested on men are appropriate for women. In some cases, half the population is left without any benefit from years of clinical trials. Examples are the lack of women as subjects in cardiovascular research and the lack of research on the transmission and treatment of AIDS in women.

Bias against particular populations is unacceptable in any area and this bill seeks to eliminate it from biomedical research. It sets requirements for the inclusion of women and minorities in clinical trials conducted or supported by the NIH. It also gives statutory authority to the Office of Women's Health Research, established last year by NIH, to oversee the implementation of plans and policies for addressing women's health concerns throughout the Institutes. The Office will also develop plans for the establishment by 1993 of a Center for Women's Health Research, with the capacity to directly support such research.

Another important initiative that addresses a neglected area is new authority for research centers on human reproduction. While the Federal Government supports some basic research on reproductive health, including infertility and contraception, it has not been a priority for funding. Yet, the rates of abortion, unintended pregnancy, and infertility in the United States are among the highest in the industrialized world, and exact staggering economic and social costs. Because of cost and liability, only a few American pharmaceutical firms maintain an active research and development effort in contraception and infertility. As a result of these obstacles, progress has been slow. Norplant, the new implantable contraceptive device, is the first new method approved since the 1960's.

There is a pressing need for more research in these areas to prevent the trauma of unintended pregnancy and the heartbreak of infertility. This legislation calls for five new applied research centers to seek new methods of contraception and new treatments for infertility. It also establishes an educational loan repayment program to encourage young scientists to choose careers in this area.

This legislation gives statutory authority to a new program of Child Health Research Centers administered by the National Institute of Child Health and Human Development. This program has made excellent progress since its initiation by Congress in 1989 and development at NIH last year. It is providing resources to speed the transfer of knowledge gained from basic research to clinical applications that will benefit the health of children. Pediatric investigators are acquiring the tools and skills needed to address urgent problems.

Ten years into the epidemic of acquired immune deficiency syndrome, the NIH has made rapid and significant advances in understanding the biology of the disease and the human response to infection. Yet, unusual properties of the AIDS virus have thwarted efforts to develop vaccines and other prevention strategies. These problems, along with continued spread of the epidemic to new areas and populations, have led to an enormous toll in human suffering and unprecedented challenges to our health care system. As a recent report by the Institute of Medicine concluded, NIH needs a carefully planned and well-organized long-term strategy for the control and eventual eradication of the virus.

This bill requires the Department of Health and Human Services to develop and implement a comprehensive plan for AIDS activities at NIH. Provision is also made for stronger evaluation efforts and the coordination of planning and evaluation. The bill places new emphasis on the development of strategies to prevent and treat the cancers and infectious diseases that accompany AIDS. It reauthorizes the successful program of educational loan repayment for health professionals who agree to conduct research on AIDS at NIH. It also calls for studies of parallel-track drug release mechanisms, drug approval processes, and third-party payors' policies regarding clinical trial participants.

The bill also requests permanent authority for the discretionary fund for the Director of the National Institutes of Health. This bill will provide the Director with $25 million in needed support for research and programmatic opportunities that fall outside the normal funding cycle. It makes good administrative sense to have a capacity to respond to research needs and opportunities as they arise, rather than wait for months until the funding cycle comes around again.

This legislation gives statutory authority to the National Center for Human Genome Research, which coordinates and supports research and training in the areas of human genome mapping and DNA sequencing. Its mission is to take full advantage of newly developed tools of molecular biology to accelerate our understanding of DNA and the genetic basis of disease.

The bill extends the authorization for the National Foundation for Biomedical Research to 1996. The Foundation, established by last year's NIH legislation, will support privately funded, endowed chairs for distinguished senior scientists at NIH. The presence and work of some of our country's most outstanding scientific leaders will help maintain the NIH at the forefront of biomedical research. The Foundation will also support a number of excellent mid-level visiting scientists who will benefit from and add to the research environment at NIH.

Our failure over the past decade to fully support biomedical research is short-sighted. There are few better investments in our future than the investment we make in health research. Passage of this bill will mark the beginning of a new era of creative support for the efforts of the Nation's scientists. Few priorities are more important than restoring the statute of America's biomedical research enterprise.

I ask unanimous consent that the text of the bill and a summary may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Reauthorization Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—REAUTHORIZATION OF CERTAIN INSTITUTES AND EXPANSION OF VARIOUS PROGRAMS

Sec. 101. National Cancer Institute and National Heart, Lung and Blood Institute.
Sec. 102. National Library of Medicine.
Sec. 103. Revision and extension of National Research Service Awards Program.
Sec. 104. National Center for Biotechnology Information.
Sec. 105. National Foundation for Biomedical Research.
Sec. 106. Biomedical and behavioral research facilities.

TITLE II—WOMEN'S HEALTH RESEARCH
Sec. 201. Women's health research.
Sec. 202. Effective date and applicability of requirements.
TITLE III—CONTRACEPTION AND INFERTILITY
Sec. 301. Contraception and infertility.
TITLE IV—PROGRAMS RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME
Sec. 401. Loan repayment program with respect to research at National Institutes of Health.
Sec. 402. Research with respect to acquired immune deficiency syndrome.
Sec. 403. Studies.
TITLE V—NIH DIRECTOR'S DISCRETIONARY FUND, CHILD HEALTH RESEARCH CENTERS, AND INTERAGENCY PROGRAM FOR TRAUMA RESEARCH
Sec. 501. NIH Director's discretionary fund.
Sec. 502. Child health research centers.
Sec. 503. Interagency program for trauma research.
TITLE VI—NATIONAL CENTER FOR HUMAN GENOME RESEARCH
Sec. 601. Purpose of Center.
TITLE VII—DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO CONTE, AND LIMITATION ON NUMBER OF MEMBERS.
Sec. 701. Silvio Conte senior biomedical research service.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Paperwork reduction.
Sec. 802. National Commission on Sleep Disorders Research.
Sec. 803. Transfer of provisions.
Sec. 804. Biennial report on carcinogens.
Sec. 805. National Institute of Allergy and Infectious Diseases.
Sec. 806. General provisions.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—REAUTHORIZATION OF CERTAIN INSTITUTES AND EXPANSION OF VARIOUS PROGRAMS

SEC. 101. NATIONAL CANCER INSTITUTE AND NATIONAL HEART, LUNG AND BLOOD INSTITUTE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 408(a) (42 U.S.C. 284c(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "1,500,000,000" and all that follows through the period in subparagraph (A), and inserting in lieu thereof "2,018,400,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996."; and

(B) by striking out "100,000,000 and all that follows through the period in subparagraph (B) and inserting in lieu thereof "such sums as may be necessary in fiscal year 1991, $156,600,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996."; and

(2) in paragraph (2)—

(A) by striking out "$1,100,000,000" and all that follows through the first period in subparagraph (A), and inserting in lieu thereof "$1,500,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996."; and

(B) by striking out "$101,000,000" and all that follows through the period in subparagraph (B) and inserting in lieu thereof "such sums as may be necessary for fiscal year 1991, $151,500,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.";

(b) RESOURCE PROGRAM.—Section 421(b) (42 U.S.C. 285b–3(b)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (4) the following new paragraph:

"(5) Shall, in consultation with the advisory council for the Institute, support appropriate programs of training and education, including continuing education and laboratory and clinical research training.".

SEC. 102. NATIONAL LIBRARY OF MEDICINE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 469 (42 U.S.C. 286E) is amended by striking out "$14,000,000" and all that follows through the first period and inserting in lieu thereof "$40,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

(b) GRANTS FOR THE DEVELOPMENT OF NEW EDUCATIONAL TECHNOLOGIES.—Section 473 (42 U.S.C. 286b–4) is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall make grants to appropriate public or private nonprofit institutions for the purpose of carrying out projects in the research, development, and demonstration of new educational technologies. Such projects shall assist in the training of health professions students, and enhance and improve the research and teaching capabilities of health professionals. Funding may support projects including those concerning computer-assisted teaching at health professions and research institutions, the effective transfer of new information from research laboratories to appropriate clinical applications, the expansion of the laboratory and clinical uses of computer-stored research databases, and the testing of new technologies for training health care professionals in non-traditional settings.".

(c) REMOVAL OF CAP ON CERTAIN GRANTS.—Section 474(b)(2) (42 U.S.C. 286b–S(b)(2)) is amended by striking out ", except that" and all that follows through "750,000".

(d) NATIONAL INFORMATION CENTER ON HEALTH SERVICES RESEARCH AND HEALTH CARE.—Part D of title IV (42 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 4—National Information Center on Health Services Research and Health Care Technology

"SEC. 478A. NATIONAL INFORMATION CENTER.

"(a) ESTABLISHMENT.—There is established within the National Library of Medicine an entity to be known as the National Information Center on Health Services Research and Health Care Technology (hereafter in this section referred to as the 'Center').

"(b) PURPOSE.—The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

"(c) COORDINATION.—The Secretary, acting through the Center, shall ensure that the activities carried out under this section are coordinated with related activities of the Agency for Health Care Policy and Research.

"(d) FUNDING.—The Director of the National Library of Medicine and the Administrator for the Agency for Health Care Policy and Research shall enter into an agreement providing for the implementation of this section.".

(e) CONFORMING PROVISIONS.—

(1) STRIKING OF DUPLICATIVE AUTHORITY.—Section 904 of the Public Health Service Act (42 U.S.C. 299a-2) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) RULE OF CONSTRUCTION.—The amendments made by subsection (d) and by paragraph (1) of this section may not be construed to terminate the information center on health care technologies and health care technology assessment or the interagency agreement established under section 904 of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act. Such center and interagency agreement shall be considered to be the center and agreement established in section 478A of the Public Health Service Act, as added by section 102 of this Act, and shall be subject to the provisions of such section 478A.

SEC. 103. REVISION AND EXTENSION OF NATIONAL RESEARCH SERVICE AWARDS PROGRAM.

(a) ADDITIONAL AUTHORITIES.—Section 487(a)(1) (42 U.S.C. 288 et seq.) is amended—

(1) in subparagraph (A)(iv), by striking out "and" at the end thereof;

(2) in subparagraph (B), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) make grants for comprehensive programs to recruit women, underrepresented minorities and individuals from disadvantaged backgrounds, into fields of biomedical or behavioral research and to provide research training to women, underrepresented minorities and such individuals.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM.—Section 487(d) (42 U.S.C. 288) is amended by striking out "$300,000,000" and all that follows through the first period and inserting in lieu thereof "$415,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 104. NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Section 478(c) of the Public Health Service Act (42 U.S.C. 286c(c)) is amended—

(1) by striking out "$8,000,000" and inserting in lieu thereof "$15,000,000"; and

(2) by striking out "1989" and inserting in lieu thereof "1992"; and

(3) by striking out "fiscal year 1990" and inserting in lieu thereof "each of the fiscal years of 1993 through 1996".

SEC. 105. NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Section 499a (42 U.S.C. 289i) is amended—

(1) in the second sentence of subsection (c)(1)(A), by inserting ", except the ex officio members," after "Foundation"; and

(2) in subsection (i)(1), by striking out "1995" and inserting in lieu thereof "1996".

SEC. 106. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Title IV (42 U.S.C. 281 et seq) is amended by adding at the end thereof the following new part:

"PART I—BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 499B. DEFINITIONS.

"As used in this part:

"(1) CONSTRUCTION AND COST OF CONSTRUCTION.—The terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements.

"(2) PUBLIC OR NONPROFIT PRIVATE INSTITUTION.—The term 'public or nonprofit private institution' means an institution that conducts biomedical or behavioral research, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"SEC. 499C. GRANTS FOR CONSTRUCTION.

"The Director of the National Institutes of Health, through the Director of the National Center for Research Resources (hereinafter in this part referred to as the 'Director'), is authorized to award grants on behalf of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration to public and nonprofit private institutions to expand, remodel, renovate, or alter existing research facilities or construct new research facilities pursuant to this part. Applications for grants shall be evaluated on the basis of merit as provided in section 499J.

"SEC. 499D. TECHNICAL REVIEW BOARD ON BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established in the National Center for Research Resources of the National Institutes of Health a Technical Review Board on Biomedical and Behavioral Research Facilities (hereinafter referred to in this part as the 'Board') to advise the Director and the Advisory Council established pursuant to section 480 (hereafter in this part referred to as the 'Advisory Council') on matters concerning the construction of facilities, and to conduct the peer review of applications received under this part.

"(2) MEMBERSHIP.—The Board shall be appointed by the Director and consist of not fewer than—

"(A) 12 members to be appointed without regard to the civil service laws; and

"(B) an official of the National Science Foundation designated by the National Science Board.

"(3) FACTORS FOR APPOINTMENTS.—In selecting individuals for appointment to the Board under paragraph (2), the Director shall consider factors such as—

"(A) the experience of the individual in the planning, construction, financing, and administration of institutions engaged in the conduct of research in the biomedical or behavioral sciences;

"(B) the familiarity of the individual with the need for biomedical or behavioral research facilities;

"(C) the familiarity of the individual with the need for dentistry, nursing, pharmacy, and allied health professions research facilities; and

"(D) the experience of the individual with emerging centers of excellence as defined in section 495E(d)(2).

"(b) DUTIES.—The Board shall—

"(1) advise and assist the Director and the Advisory Council in the preparation of general regulations and with respect to policy matters arising in the administration of this part;

"(2) make recommendations to the Director and the Advisory Council concerning—

"(A) merit review of applications for grants; and

"(B) the amount that should be granted to each applicant whose application, in its opinion, should be approved; and

"(3) prepare an annual report for the Advisory Council, that shall be available to the public, that—

"(A) describes the activities of the Board in the fiscal year for which the report is made;

"(B) describes and evaluates the progress made in such fiscal year in meeting the facilities' needs for the biomedical research community;

"(C) summarizes and analyzes expenditures made by the Federal Government for such activities;

"(D) reviews the approved but unfunded applications for grants; and

"(E) contains the recommendations of the Board for any changes in the implementation of this part.

"(c) TERMS.—

"(1) IN GENERAL.—Each appointed member of the Board shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

"(2) STAGGERED TERMS.—Of the initial members appointed to the Board—

"(A) 3 shall hold office for a term of 3 years;

"(B) 3 shall hold office for a term of 2 years; and

"(C) 3 shall hold office for a term of 1 year; as designated by the Director at the time of the appointment.

"(3) REAPPOINTMENT.—No member shall be eligible for reappointment until at least 1 year has elapsed since the end of such member's preceding term.

"(d) COMPENSATION.—Members of the Board who are not officers or employees of the United States shall receive for each day the members are engaged in the performance of the functions of the Board compensation at the same rate received by members of other national advisory councils established under this title.

"(e) USE OF MEMBERS.—The Director is authorized to use the services of any member or members of the Board, and where appropriate, any member or members of any other national advisory council established pursuant to this title, in connection with matters related to the administration of this part, for such periods, in addition to conference periods, as the Director may determine appropriate. The Director shall make appropriate provision for consultation between and coordination of the work of the Board and the advisory Council, with respect to matters bearing on the purposes and administration of this part.

"(f) ADMINISTRATION.—The administration of the Board's functions shall be the responsibility of the Director and shall be carried out in the same manner as the administration of the functions of the Advisory Council.

"(g) BOARD ACTIVITIES.—

"(1) IN GENERAL.—In carrying out its functions under this part, the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(2) SUBCOMMITTEES.—Subcommittees established under paragraph (1) may be composed of Board members and nonmember consultants with expertise in the particular area to be addressed by the subcommittees. The subcommittee may hold meetings as determined necessary to enable the subcommittee to carry out its activities.

"SEC. 499E. APPLICATION AND SELECTION FOR GRANTS.

"(a) SUBMISSION.—Applications for grants under this part shall be submitted at least once each year to the Director by interested public and nonprofit private institutions.

"(b) AWARDING OF GRANTS.—A grant under this part may be awarded by the Director if—

"(1) the applicant institution is determined by the Director to be competent to engage in the type of research for which the proposed facility is to be constructed;

"(2) the applicant institution meets the eligibility conditions established by the Director;

"(3) the application contains or is supported by the reasonable assurances that—

"(A) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

"(B) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility; and

"(C) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

"(4) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

A grant under this part may be made only if the application therefor is recommended for approval by the Advisory Council.

"(c) ELIGIBILITY CONDITIONS.—Within the aggregate monetary limit as the Director may prescribe, applications that, solely by reason of the inability of the applicants to give the assurance required by subsection (b)(2), fail to meet the requirements for applications described in this section, may be approved on condition that the applicants give the assurance required by such paragraph within a reasonable time and on such other reasonable terms and conditions as the Director may determine appropriate.

"(d) AWARDING GRANTS.—

"(1) IN GENERAL.—In acting on applications for grants under this part, the Director shall take into consideration—

"(A) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

"(B) the quality of the research or training, or both, to be carried out in the facilities involved;

"(C) the need of the institution for such facilities in order to maintain or expand the institution's research and training mission;

"(D) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(E) the age and condition of existing research facilities and equipment.

"(2) INSTITUTIONS OF EMERGING EXCELLENCE.—

"(A) IN GENERAL.—In addition to the considerations required under paragraph (1), the Director shall also consider other criteria for the awarding of grants to eligible institutions that demonstrate emerging excellence in biomedical or behavioral research for the construction of research facilities.

"(B) ELIGIBILITY.—To be eligible to receive a grant under this paragraph, an institution shall—

"(i) have a plan for research or training advancement and possess the ability to carry out such plan; and "(ii)(I) carry out research and research training programs that have a special relevance to a problem, concern, or unmet need of the United States;

"(II) have already demonstrated a commitment to enhancing and expanding the research productivity of the institution; or

"(III) have been productive in research or research development and training in settings where significant barriers to institutional development have been created by—

"(aa) the underrepresentation of minorities in health science careers;

"(bb) the health status deficit of a large segment of the population; or

"(cc) a regional deficit in health care technology, services, or research resources that can adversely affect health status in the future.

"SEC. 499F. AMOUNT OF GRANT; PAYMENTS.

"(a) AMOUNT.—The amount of any grant awarded under this part shall be determined by the Director, except that such amount shall not exceed—

"(1) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(2) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(b) RESERVATION OF AMOUNTS.—On approval of any application for a grant under this part, the Director shall reserve, from any appropriation available therefor, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this subsection may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

"(c) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this part, there shall be excluded from the cost of construction an amount equal to the sum of—

"(1) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this part; and

"(2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) WAIVER OF LIMITATIONS.—The limitations imposed by subsection (a) may be waived at the discretion of the Director for institutions described in section 499E(d)(2).

"SEC. 499G. RECAPTURE OF PAYMENTS.

"If, not later than 20 years after the completion of construction for which a grant has been awarded under this part—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private institution; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"SEC. 499H. NONINTERFERENCE WITH ADMINISTRATION OF INSTITUTIONS.

"Except as otherwise specifically provided in this part, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to the administration of any institution funded under this part.

"SEC. 499I. REGULATIONS.

"Not later than 6 months after the date of enactment of this part, the Director, after consultation with the Advisory Council, shall prescribe regulations concerning the eligibility of institutions for grants awarded under this part, and the terms and conditions applicable to the approval of applications for such grants. The Director may prescribe such other regulations as the Director determines necessary to carry out this part.

"SEC. 499J. PEER REVIEW OF APPLICATIONS.

"(a) IN GENERAL.—The Director shall require appropriate peer review of applications for grants under this part in accordance with section 492.

"(b) MANNER OF REVIEW.—Review of grant applications under this part shall be conducted in a manner consistent with the system of scientific peer review conducted by scholars with regard to applications for grants under this Act for biomedical and behavioral research.

"(c) MEMBERSHIP.—Members of a peer review group established under this section shall be individuals who, by the virtue of their training or experience, are eminently qualified to perform peer review functions, except that not more than one-fourth of the members of any peer review group shall be officers or employees of the United States.

"SEC. 499K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $150,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.".

TITLE II—WOMEN'S HEALTH RESEARCH

SEC. 201. WOMEN'S HEALTH RESEARCH.

Title IV (42 U.S.C. 281 et seq.) is amended—

(1) by redesignating parts F and G as parts G and H, respectively; and

(2) by inserting after part E the following new part:

"PART F—WOMEN'S HEALTH RESEARCH

"Subpart 1—General Provision With Respect to Women's Health

"SEC. 486O. INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH.

"(a) GENERAL REQUIREMENT.—In conducting or supporting clinical research for purposes of this title, the Secretary shall ensure that women and members of minority groups are included as subjects in each project of such research, subject to subsection (b).

"(b) NONAPPLICABILITY.—

"(1) IN GENERAL.—The requirement established in subsection (a) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(A) is inappropriate with respect to the health of the subjects;

"(B) is inappropriate with respect to the purpose of the research; or

"(C) is inappropriate under such other circumstances as the Secretary may designate.

"(2) CRITERIA.—For purposes of paragraph (1), the Secretary shall by regulation establish criteria regarding the circumstances under which the inclusion of women and minorities in clinical research is inappropriate.

"(c) ANALYSIS OF EFFECT ON WOMEN AND MINORITY GROUPS.—In the case of any project of clinical research in which women or members of minority groups are required under subsection (a) to be included as subjects in the research, and there exists scientific reasons to expect that there may be differences because of such gender or minority status, the Secretary shall ensure that the project is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other subjects in the research.

"(d) NOTIFICATION.—Not later than January 1, 1992, the Secretary shall notify appropriate research entities and research grant recipients concerning the requirements of subsections (a), (b), and (c).

"(e) CLINICAL RESEARCH EQUITY SUBCOMMITTEES.—

"(1) ESTABLISHMENT.—The Secretary shall establish within the advisory council of each of the national research institutes a subcommittee to be known as the Clinical Research Equity Subcommittee (hereafter in this subsection individually referred to as a 'Subcommittee').

"(2) DUTIES.—Each Subcommittee shall review all clinical research conducted by the agency for which the advisory council involved is established. The purpose of the review shall be to determine the extent to which the research is being conducted in accordance with subsections (a) through (c). Such a review shall be conducted not less than annually. Not later than 60 days after each such review, each Subcommittee shall submit to the Secretary and the Director of NIH a report describing the finding made as a result of the review.

"(3) COMPOSITION.—Each Subcommittee shall be composed of not less than 6 members of the advisory council involved. The Director of NIH shall designate the membership of each Subcommittee from among members of the advisory council involved who have expertise regarding clinical research on diseases, disorders, or other health conditions—

"(A) that are unique to women, more prevalent in women, or more serious for women; or

"(B) for which the risk factors or interventions are different for women.

"(4) APPOINTMENT OF ADDITIONAL MEMBERS.—If the Secretary determines that an advisory council for a national research institute does not contain a sufficient number of individuals with the expertise required for purposes of paragraph (3), the Director of NIH shall appoint to the advisory council, from among individuals who are not officers or employees of the United States, a number of individuals necessary with respect to complying with such paragraph.

"(5) SUSPENSION OR REVOCATION OF RESEARCH AUTHORITY.—If the Secretary determines that any project of clinical research conducted by any agency of the National Institutes of Health is not being conducted in accordance with subsections (a) through (c), the Secretary shall suspend or revoke the authority for the project under such conditions as the Secretary determines appropriate.

"(f) DEFINITION.—For purposes of this section, the term 'minority groups' means racial and ethnic minority groups.

"SEC. 486P. PEER REVIEW REGARDING INCLUSION OF WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH.

"(a) EVALUATION.—In technical and scientific peer review, conducted under section 492 or this part, of proposals for clinical research, the consideration of any such proposal (including the initial consideration) shall, except as provided in subsection (b), include an evaluation of the technical and scientific merit of the proposal regarding the inclusion of women and members of minority groups as subjects in the research.

"(b) EXCEPTION.—Subsection (a) shall not apply to any proposal for clinical research that, pursuant to subsection (b) of section 492A, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.

"SEC. 486Q. INCLUSION OF WOMEN IN AGING RESEARCH.

"The Director of the Institute on Aging, in addition to other special functions specified in section 444 and in cooperation with the Directors of other National Research Institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.

"Subpart 2—Women's Health Research

"SEC. 486R. OFFICE OF WOMEN'S HEALTH RESEARCH.

"(a) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institutes of Health, shall establish an Office of Women's Health Research (hereinafter referred to in this part as the 'Office') and provide administrative support and support services to the Director of such Office.

"(b) DIRECTOR.—The Office of Women's Health Research shall be headed by a Director who shall be appointed by the Director of the National Institutes of Health.

"(c) PURPOSE.—It shall be the purpose of the Office to ensure that research pertaining to women's health is identified and addressed throughout the research activities conducted and supported by the National Institutes of Health. The Secretary, acting through the Director of the Office, shall—

"(1) establish an intramural research program in gynecology at the National Institute of Child Health and Human Development;

"(2) establish a clinical service in gynecology; and

"(3) develop plans for and establish, not later than January 1, 1994, a Center for Women's Health Research to support research pertaining to women's health conditions.

"SEC. 486S. FUNCTIONS OF THE DIRECTOR.

"(a) IN GENERAL.—The Director of the Office of Women's Health Research shall—

"(1)(A) identify women's health research needs, including prevention research;

"(B) identify needs for coordinated research activities, especially multidisciplinary research relating to women's health, to be conducted intra- and extra-murally;

"(C) encourage researchers whose research is funded or supported by the National Institutes of Health to pursue research pertaining to women's health;

"(D) encourage researchers whose research is funded or supported by the National Institutes of Health to pursue research into the aging processes of women, with particular emphasis given to menopause; and

"(E) support the development and expansion of clinical trials of treatments, therapies and modes of prevention that include women of all ages, races and ethnicities.

"(2) establish a coordinating council that shall be composed of the Directors of the Institutes, Centers, Offices, and Divisions of the National Institutes of Health, to assist in the duties described in paragraph (1); and

"(3) establish within such Office an advisory committee to be known as the Women's Health Clinical Research Advisory Committee (hereafter referred to in this section as the 'Committee.').

"(b) ADVISORY COMMITTEE.—

"(1) COMPOSITION.—The Committee shall be composed of not less than 12 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Such members shall include physicians, practitioners, scientists, and other women's health professionals whose clinical practice, and research specialization focus on women's health and gender differences that affect women's health.

"(2) DUTIES.—The Committee shall—

"(A) advise the Director of the Office concerning—

"(i) appropriate research activities to be supported by the Office with respect to—

"(I) research on conditions and diseases unique to, more prevalent in, or neglected concerning areas of health relating to women of all ages, ethnicities, and racial groups;

"(II) research concerning gender differences involved in clinical drug trials, with emphasis provided to pharmacological response and side effects resulting from such;

"(III) research concerning gender differences involving disease etiology, course and treatment;

"(IV) research concerning obstetrical and gynecological health, conditions, diseases, and treatment;

"(V) research concerning health conditions relating to women that require a multidisciplinary approach;

"(IV) research concerning the prevention of health conditions that affect women; and

"(VII) the merits of establishing a Center for Women's Health Research as an independent center within the Office of the Director rather than as a center that is part of an existing Institute;

"(B) report to the Director of the Office on research concerning women's health that is publicly and privately supported;

"(C) provide recommendations to the Director of the Office regarding the operations of the Office;

"(D) monitor the compliance of all research projects supported or conducted by the National Institutes of Health with laws and regulations relating to the inclusion of women in clinical study populations;

"(E) provide advice to the Director of the National Institutes of Health concerning the manner in which to advance and encourage research on women's health;

"(F) provide advice to the Director of the National Institutes of Health concerning the merits of establishing the Center for Women's Health Research as an independent center within the Office of the Director of the National Institutes of Health rather than as a center that is part of an existing Institute;

"(G) request that a study be conducted by the Institute of Medicine of the National Academy of Sciences that could assist in determining the manner in which to remove obstacles to and advance and encourage research concerning women's health; and

"(H) make recommendations to the appropriate committees of Congress and to the Director of NIH for further legislative and administrative initiatives, as appropriate for achieving the purposes described in section 486O(c).

"SEC. 486T. REPORT TO THE SECRETARY.

"(a) IN GENERAL.—Not later than January 1, 1992, and biennially thereafter, the Director of the National Institutes of Health shall prepare and submit to the Secretary, a report that shall—

"(1) describe and evaluate the progress made, during the period for which such report is prepared, in research, treatment and prevention with respect to women's health conducted or supported by the National Institutes of Health;

"(2) summarize and analyze expenditures, made during the period for which such report is made, for activities with respect to women's health research conducted or supported by the National Institutes of Health;

"(3) contain such recommendations as the Director of the Office of Women's Health Research considers appropriate; and

"(4) for the initial report, recommend whether the Center for Women's Health Research should be a free standing intramural center or whether it should be an intramural center attached to an existing Institute.

"(b) SUBMISSION TO CONGRESS.—The Secretary shall provide a copy of the reports submitted under subsection (a) to the appropriate committees of Congress.

"(c) STUDY.—With respect to the study conducted under a request made under section 486R(b)(2)(G), such study shall include an examination of the infrastructure of the Institutes, the grant approval process, the peer review process with regard to the impact of such on women's health research, the manner in which to increase the number of women in senior level research positions, and a proposed research agenda for biomedical and biobehavioral research on women's health.

"SEC. 486U. DATA BANK ON WOMEN'S HEALTH AND GENDER DIFFERENCES RESEARCH.

"(a) ESTABLISHMENT OF PROGRAM.—The Director of the National Institutes of Health, after consultation with the Director of the Office of Women's Health Research and the Board of Regents of the National Library of Medicine, shall establish, maintain, and operate a program to provide information concerning research, treatment, and prevention activities relating to women's health and gender differences.

"(b) DATA BANK.—

"(1) ESTABLISHMENT.—The Secretary shall establish a data bank to compile information concerning the results of research with respect to women's health and gender differences that affect women's health. Such data bank shall be headed by an executive director to be appointed by the Director of the Office of Women's Health Research.

"(2) CLINICAL TRIALS AND TREATMENTS.—The data bank established under paragraph (1) shall compile information concerning clinical trials and treatments with respect to women's health and gender differences.

"(3) INFORMATION.—The executive director of the data bank shall make information compiled by the data bank available through existing informational systems that provide access to health care professionals and providers, researchers, and members of the public.

"(4) REGISTRY.—

"(A) IN GENERAL.—The executive director of the data bank shall maintain a registry of ongoing clinical trials of experimental treatments for conditions and diseases unique to, or more prevalent in, health areas concerning women and gender differences, or other health areas that have been neglected with respect to research concerning women or gender differences.

"(B) INFORMATION.—Information to be maintained in the registry under this paragraph shall include—

"(i) eligibility criteria (including sex, age, ethnicity or race) for participating in clinical trials;

"(ii) the location of the clinical trial sites; and

"(iii) any other information determined to be appropriate by the executive director.

"(C) REQUIREMENT TO PROVIDE INFORMATION.—Not later than 21 days after the date on which the Food and Drug Administration approves the application of the sponsor of a clinical trial for an experimental treatment, such sponsor shall provide information concerning the research to be conducted under such clinical trial to the data bank. The data bank shall include information pertaining to the results of such clinical trials of such treatments, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatment.

"SEC. 486V. DEFINITION.

"As used in this part, the term 'women's health research' includes research concerning etiology, diagnosis, prevention, health promotion, treatment, and gender differences of conditions and diseases unique to, more prevalent in, or neglected in all age, ethnic, and racial groups.

"SEC. 486W. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996.

"Subpart 3—Research Programs With Respect to Cancer

"SEC. 486X. RESEARCH PROGRAMS ON BREAST CANCER AND CANCERS OF WOMEN'S REPRODUCTIVE SYSTEM.

"(a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The research programs expanded or intensified under subsection (a) concerning breast cancer and cancers of the reproductive system of women shall be coordinated with activities conducted by other National Research Institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

"(c) PROGRAMS FOR BREAST CANCER.—The research programs expanded or intensified under subsection (a) concerning breast cancer shall focus on research efforts undertaken to expand the understanding of the cause of, and to find a cure for, breast cancer. Such programs shall provide for an expansion and intensification of the conduct and support of—

"(1) basic research concerning the etiology and causes of breast cancer;

"(2) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

"(3) prevention and control programs with respect to breast cancer in accordance with section 412;

"(4) information and education programs with respect to breast cancer in accordance with section 413; and

"(5) research and demonstration programs with respect to breast cancer in accordance with section 414, including the development and operation of breast and prostate cancer research centers to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities.

The centers referred to in paragraph (5) should number at least six, should include support for new and innovative research and training programs for new researchers, and should attract qualified scientists and expedite the transfer of research advances to clinical applications.

"(d) IMPLEMENTATION OF BREAST CANCER RESEARCH PROGRAMS.—

"(1) PLAN.—The Director of the Institute shall ensure that the research programs described in subsection (c) are implemented in accordance with a program plan. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9)(A). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(2) SUBMISSION OF PLAN.—Not later than March 1, 1992, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel and shall simultaneously submit a copy of such plan to the Director of NIH, the Secretary, and the appropriate Committees of the Congress.

"(3) REVISIONS.—The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel and shall simultaneously submit such revisions to the Director of NIH, the Secretary, and the appropriate Committees of the Congress.

"(e) OTHER CANCERS.—The research programs expanded or intensified under subsection (a) concerning ovarian cancer and other cancers of the reproductive system of women shall provide for the expansion and intensification of the conduct and support of—

"(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

"(2) clinical research and related activities into the causes, prevention, detection and treatment of ovarian cancer and other cancers of the reproductive system of women;

"(3) prevention and control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 412;

"(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 413; and

"(5) research and demonstration programs with respect to ovarian cancer and cancers of the reproductive system in accordance with section 414.

"(f) REPORT.—The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 407, a report that describes the activities of the National Cancer Institute under the research programs referred to in subsection (a), that shall include—

"(1) a description of the research plan with respect to breast cancer prepared under subsection (d);

"(2) an assessment of the development, revision, and implementation of the research plan with respect to breast cancer;

"(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

"(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

"(5) such comments and recommendations as the Director considers appropriate.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated for the National Cancer Institute under sections 301 and 408, there are authorized to be appropriated $75,000,000 for fiscal year 1992, of which $25,000,000 shall be allocated for research under subsection (c)(1), $25,000,000 shall be allocated for centers, research, and programs under paragraphs (2) through (5) of subsection (c), and $25,000,000 shall be allocated for research and programs under subsection (e), and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

"SEC. 486Y. RESEARCH PROGRAM ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

"(a) ESTABLISHMENT.—The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, in consultation with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee, shall establish and implement a program for the purpose of expanding and intensifying research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.".

SEC. 202. EFFECTIVE DATE AND APPLICABILITY OF REQUIREMENTS.

(a) EFFECTIVE DATE.—The amendment made by section 201 shall apply to research proposals considered after January 1, 1992.

(b) APPLICABILITY.—The amendment made by section 201 shall apply with respect to any project of clinical research whose initial approval by the Secretary of Health and Human Services occurs after the expiration of the 90-day period beginning on the effective date of this Act.

TITLE III—CONTRACEPTION AND INFERTILITY

SEC. 301. CONTRACEPTION AND INFERTILITY.

(a) RESEARCH CENTERS WITH RESPECT TO CONTRACEPTIONS AND RESEARCH CENTERS WITH RESPECT TO INFERTILITY.—Subpart 7 of part C of title IV (42 U.S.C. 285g et seq.) is amended by adding at the end thereof the following new section:

"SEC. 452A. RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) IN GENERAL.—The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of diagnosing and treating infertility.

"(b) NUMBER OF CENTERS.—In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c) DUTIES.—

"(1) IN GENERAL.—Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and by females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in both males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals.

"(2) STIPENDS AND FEES.—A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) COORDINATION OF INFORMATION.—The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) CONSORTIUM.—Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Secretary, after consultation with the Director of the Institute.

"(f) TERM OF SUPPORT AND PEER REVIEW.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended for one or more additional periods of not to exceed 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.".

(b) LOAN REPAYMENT FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Part G of title IV (42 U.S.C. 288 et seq.) (as redesignated by section 205) is amended by inserting after section 487A the following new section:

"SEC. 487B. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) ESTABLISHMENT.—The Secretary, after consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program to enter into agreements with appropriately qualified health professionals (including graduate students) under which such health professionals shall agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Secretary agreeing to repay, for each such service, not to exceed $20,000 of the principal and interest of the educational loans incurred by such health professionals.

"(b) ADMINISTRATIVE PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a), apply to the program established in such subsection to the same extent and in the same manner as such provisions apply to the National Service Loan Repayment Program.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section and section 452A, there are authorized to be appropriated $20,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1996.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1991, or on the date of the enactment of this Act, whichever occurs later.

TITLE IV—PROGRAMS RELATING TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 401. LOAN REPAYMENT PROGRAM WITH RESPECT TO RESEARCH AT NATIONAL INSTITUTES OF HEALTH.

(a) MINIMUM PERIOD OF SERVICE.—Section 487A(a)(2)(B) (42 U.S.C. 288-1(a)(2)(B)) is amended—

(1) by inserting "(i)" after the subparagraph designation;

(2) by striking out the period and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 487A(c)(1) (42 U.S.C. 288-1(c)(1)) is amended by striking out "1991" and inserting in lieu thereof "1996".

SEC. 402. RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Title XXIII (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304(c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after "Director of such Institute" the following: "(and the Directors of other agencies of the National Institutes of Health, as appropriate)"; and

(B) in subparagraph (A), by inserting before the semicolon the following: ", including recommendations on the projects of research that should be given priority with respect to preventing and treating opportunistic cancers and infectious diseases";

(2) in section 2311(a)(1), by inserting before the semicolon the following: ", including evaluations of treatments for opportunistic cancers and infectious diseases";

(3) in subsection (c) of section 2313—

(A) by amending the subsection heading to read as follows: "PARTICIPATION OF PRIVATE INDUSTRY, SCHOOLS OF MEDICINE AND PRIMARY PROVIDERS"; and

(B) by striking out "schools of medicine and osteopathic medicine" and inserting in lieu thereof "schools of medicine, osteopathic medicine, and existing consortia of primary care providers organized to conduct clinical research concerning acquired immune deficiency syndrome";

(4) in subsection (e) of section 2313—

(A) by striking out "1991" in paragraph (1) and inserting in lieu thereof "1996"; and

(B) by striking out "1991" in paragraph (2) and inserting in lieu thereof "1996";

(5) in section 2315—

(A) by striking out "international research" in subsection (a)(2) and all that follows through the period and inserting in lieu thereof "international research and training concerning the natural history and pathogenesis and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome, opportunistic infections and other emerging microbial diseases."; and

(B) by striking out "and 1991" in subsection (f) and inserting in lieu thereof "through 1996";

(6) in section 2318—

(A) in subsection (a)(1)—

(i) by inserting after "The Secretary" the following: ", after consultation with the Administrator for Health Care Policy and Research,"; and

(ii) by striking out "syndrome" and inserting in lieu thereof "syndrome, including treatment and prevention of HIV infection and related conditions among women";

(B) in subsection (b), by inserting "and treatment" after "prevention"; and

(C) in subsection (e), by striking out "1991." and inserting in lieu thereof "1996";

(7) in section 2320(b)(1)(A), by striking out "syndrome" and inserting in lieu thereof "syndrome and the natural history of such infection"; and

(8)(A) in section 2351(a)—

(i) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2)(A) shall develop and implement a comprehensive plan for the conduct and support of such research by the agencies of the National Institutes of Health, which plan shall specify the objectives to be achieved, the target date by which the objectives are expected to be achieved, and an estimate of the resources needed to achieve the objectives by such date; and

"(B) shall develop and implement a plan for evaluating the sufficiency of the plan developed under subparagraph (A) and for evaluating the extent to which activities of the National Institutes of Health have been in accordance with the plan;"; and

(B) in section 2301(b)(6), by inserting before the semicolon the following: ", including evaluations conducted under section 2351(a)(2)(B)".

SEC. 403. STUDIES.

(a) CERTAIN DRUG-RELEASE MECHANISMS.—

(1) CONTRACT FOR STUDY.—The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining, with respect to acquired immune deficiency syndrome, the impact of parallel-track drug-release mechanisms on public and private clinical research, and on the activities of the Commissioner of Food and Drugs regarding the approval of drugs.

(2) INSTITUTE OF MEDICINE.—The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study described in such paragraph. If such

Institute declines to conduct the study, the Secretary shall carry out paragraph (1) through another public or nonprofit private entity.

(b) THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

(1) determining the policies of third-party payers regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome; and

(2) developing recommendations regarding such policies.

(c) ADVISORY COMMITTEES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of determining—

(1) whether the activities of the various advisory committees established in the National Institutes of Health regarding acquired immune deficiency syndrome are being coordinated sufficiently; and

(2) whether the functions of any of such advisory committees should be modified in order to achieve greater efficiency.

TITLE V—NIH DIRECTOR'S DISCRETIONARY FUND, CHILD HEALTH RESEARCH CENTERS, AND INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

SEC. 501. NIH DIRECTOR'S DISCRETIONARY FUND.

Section 402 (42 U.S.C. 282) is amended by adding at the end thereof the following new subsection:

"(g)(1) The Director shall have a Director's discretionary fund that may be used—

"(A) to correct imbalances, to be more responsive to new issues and scientific emergencies, and to act on research opportunities of high-priority;

"(B) to support research that does not fit clearly into the research assignment of any existing Institute; and

"(C) for such other purposes, including the purchase or rental of equipment and space, as the Director determines appropriate.

"(2) There are authorized to be appropriated for the fund established under paragraph (1), $25,000,000 in fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.".

SEC. 502. CHILD HEALTH RESEARCH CENTERS.

Subpart 7 of part C (42 U.S.C. 285g et seq.) (as amended by section 301) is further amended by adding at the end thereof the following new section:

"SEC. 452B. CHILD HEALTH RESEARCH CENTERS.

"The Director of the Institute shall develop and support centers that will build the research capacity of pediatric institutions and develop pediatric investigators, thereby speeding the transfer of advances from basic science to clinical applications and improving the care of infants and children.".

SEC. 503. ESTABLISHMENT OF INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

Part B of title IV (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 409. INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

"(a) IN GENERAL.—The Director of NIH shall establish a comprehensive program to conduct and support basic and clinical research on trauma (hereafter in this section referred to as the 'Program'). The Program shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

"(b) PLAN FOR PROGRAM.—

"(1) IN GENERAL.—The Director of NIH, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g), shall establish and implement a plan for carrying out the activities of the Program. All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

"(2) SUBMISSION TO CONGRESS.—The Director of NIH shall submit to the Congress the plan required in paragraph (1) not later than April 1, 1992, together with an estimate of the funds needed for each of the fiscal years 1993 through 1995 to implement the plan.

"(c) PARTICIPATING AGENCIES; COORDINATION AND COLLABORATION.—The Director of NIH—

"(1) shall provide for the conduct of activities under the Program by the Directors of each of the National Research Institutes and agencies of the National Institutes of Health involved in research with respect to trauma;

"(2) shall ensure that the activities of the Program are coordinated among the institutes and agencies referred to in paragraph (1); and

"(3) shall, as appropriate, provide for collaboration among the institutes and agencies referred to in paragraph (1) in carrying out such activities.

"(d) CERTAIN ACTIVITIES OF PROGRAM.—The Program shall include—

"(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

"(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma; and

"(3) basic and clinical research regarding trauma care for pediatric and geriatric patients.

"(e) MECHANISMS OF SUPPORT.—In carrying out the Program, the Director of NIH may make grants to public and nonprofit private entities, including designated trauma centers.

"(f) RESOURCES.—The Director of NIH shall assure the availability of appropriate resources to carry out the Program.

"(g) COORDINATING COMMITTEE.—

"(1) IN GENERAL.—There shall be established a Trauma Research Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

"(2) DUTIES.—The Coordinating Committee shall make recommendations regarding—

"(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

"(B) effective collaboration among the agencies in carrying out the activities.

"(3) COMPOSITION.—The Coordinating Committee shall be composed of the Directors of each of the National Research Institutes and agencies of the National Institutes of Health involved in research with respect to trauma, and any other individuals who are practitioners in the trauma field as determined by the Director of NIH. The Director of NIH shall serve as the chairperson of the Committee.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'designated trauma center' has the meaning given such term in section 1231(1).

"(2) The term 'trauma' means any serious injury that could result in loss of life or in significant disability and that would meet pre-hospital triage criteria for transport to a designated trauma center.".

TITLE VI—NATIONAL CENTER FOR HUMAN GENOME RESEARCH

SEC. 601. PURPOSE OF CENTER.

Title IV is amended—

(1) in section 401(b)(2), by adding at the end thereof the following new subparagraph:

"(E) The National Center for Human Genome Research."; and

(2) in part E, by adding at the end the following new subpart:

"Subpart 4—National Center for Human Genome Research

"SEC. 485B. PURPOSE OF THE CENTER.

"The general purpose of the National Center for Human Genome Research established within the National Institutes of Health (hereafter in this subpart referred to as the 'Center') is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

"(1) planning and coordinating the research goal of the genome project;

"(2) reviewing and funding research proposals;

"(3) developing training programs;

"(4) coordinating international genome research;

"(5) communicating advances in genome science to the public; and

"(6) reviewing and funding proposals to address the ethical issues associated with the genome project.".

TITLE VII—DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

SEC. 701. SILVIO CONTE SENIOR BIOMEDICAL RESEARCH SERVICE.

Section 228(a) of the Public Health Service Act (42 U.S.C. 237), as added by section 304 of Public Law 101-509, is amended to read as follows:

"(a)(1) There shall be in the Public Health Service a Silvio Conte Senior Biomedical Research Service, not to exceed 750 members.

"(2) The authority established in paragraph (1) regarding the number of members in the Silvio Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the Senior Executive Service be reduced to offset the number of members serving in the Silvio Conte Senior Biomedical Research Service (hereafter in this section referred to as the 'Service').".

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. PAPERWORK REDUCTION.

Section 465(d)(2) (42 U.S.C. 286(d)(2)) is amended—

(1) by striking out "Rules" and inserting in lieu thereof "Notwithstanding any other provision of law, rules";

(2) in subparagraph (B), by striking out "or" at the end thereof;

(3) in subparagraph (C), by striking out the period and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following new subparagraph:

"(D) under licensing arrangements that provide for quality control and full recovery of access costs.".

SEC. 802. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH.

Section 162 of the Health Omnibus Programs Extension of 1988 (Public Law 100-607) is amended in subsection (i), by striking out "18 months" and inserting in lieu thereof "24 months".

SEC. 803. TRANSFER OF PROVISIONS.

(a) In General.—Section 12 of the Health Research Extension Act of 1985 (42 U.S.C. 285e-2 note) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et. seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F (42 U.S.C. 285e-8).

(b) Availability of Appropriations.—With respect to amounts made available in appropriations Acts for the purpose of carrying out the Program transferred by subsection (a) to the Public Health Service Act, such subsection shall not be construed to affect the availability of such funds for such purpose.

(c) Technical Amendment.—Section 445G(a) of such Act (as so redesignated) is amended by striking out "and its incidence in the United States".

SEC. 804. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) (42 U.S.C. 241(b)(4) is amended by striking out "an annual" and inserting in lieu thereof "a biennial".

SEC. 805. NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.

Section 446 (42 U.S.C. 285(f)) is amended by inserting before the period the following: ", including tropical diseases".

SEC. 806. GENERAL PROVISIONS.

Section 405 (42 U.S.C. 284) is amended—

(1) in subsection (b)(1)—

(A) in the matter preceding subparagraph (A) of paragraph (1)—

(i) by striking out "human diseases" and inserting in lieu thereof "human disease";

(ii) by striking out "for which the national research institutes were established"; and

(iii) by inserting "and agency of the National Institutes of Health" after "each national research institute";

(B) in subparagraph (K), by striking out "and" at the end thereof;

(C) in subparagraph (L), by striking out the period and inserting in lieu thereof "; and";

(D) by adding immediately after subparagraph (L) the following new subparagraph:

"(M) may, notwithstanding any other provision of law, in disseminating information pursuant to this section and other laws, enter into licensing agreements that provide for quality control and the full recovery of access costs."; and

(E) by adding at the end thereof the following new sentence: "For purposes of Federal income, estate, and gift taxes, any gift accepted under subparagraph (H) shall be considered to be a gift or transfer to the United States.";

(2) in the matter preceding subparagraph (A) of subsection (b)(2), by inserting "and agency of the National of Institutes of Health" after "research institute"; and

(3) in subsection (c)—

(A) by inserting "and agency of the National Institutes of Health" after "national research institute" in the matter preceding paragraph (1);

(B) by inserting "or agency" after "institute" in paragraph (1); and

(C) in paragraph (2)—

(i) by inserting "and agencies" after "institutes"; and

(ii) by inserting "or agency" after "institute".

THE NATIONAL INSTITUTES OF HEALTH REAUTHORIZATION ACT OF 1991

SUMMARY

Amends the Public Health Service Act to reauthorize certain Institutes of the National Institutes of Health and makes additional provisions as follows:

1. National Cancer Institute

Authorizes $2.09 billion for FY 1992 and such sums as are necessary for FY 1993-1996. This includes $75 million for a new research program on breast cancer and other gynecologic cancers.

Authorizes $156.6 million for cancer control programs at NCI for FY 1992 and such sums as are necessary for FY 1993-1996.

2. National Heart, Lung, and Blood Institute

Authorizes $1.5 billion for FY 1992 and such sums as are necessary for FY 1993-1996.

Authorizes $151.5 million for prevention and control programs at NHLBI for FY 1992 and such sums as are necessary for FY 1993-1996.

Expands the National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program to include support for training and education.

3. National Library of Medicine

Authorizes $40 million for the Medical Library Assistance Act Programs (MLAA) for FY 1992 and such sums as are necessary for FY 1993-1996. Expands the MLAA programs to support grants on new educational technologies. Removes the cap on certain grants administered by the NLM. Transfers authority for a national information center on health services research and health care technology from the Agency for Health Care Policy and Research to the NLM.

4. National Research Service Awards

Authorizes $415 million for FY 1992 and such sums as are necessary for FY 1993-1996. Provides that grants may be made for comprehensive programs to recruit women, underrepresented minorities, and individuals from disadvantaged backgrounds into biomedical or behavioral research.

5. National Center for Biotechnology Information

Authorizes $15 million for FY 1992 and such sums as are necessary for FY 1993-1996.

6. National Foundation for Biomedical Research

Extends the authorization for the Foundation to 1996.

7. Biomedical and behavioral research facilities

Creates an extramural grants program to be located in the NIH Center for Research Resources. Authorizes $150 million for 1992 and such sums as are necessary for FY 1993-1996. Public and nonprofit research institutions may apply for merit-based, matching grants to expand or renovate existing research facilities or to construct new facilities.

8. Women's health research

Requires the inclusion of women and minorities as subjects in clinical research conducted or supported by NIH and ADAMHA. Provides statutory authority for the Office for Women's Health Research, already established administratively at NIH, to ensure that research pertaining to women's health is identified and addressed throughout NIH. A Center for Women's Health Research is to be established by 1994.

A Women's Health Clinical Research Advisory Committee is provided for, as is a data bank on women's health research. Requires the Director of the National Institute on Aging to conduct research into the aging processes of women.

Establishes a research program on breast cancer and cancers of the reproductive system of women. Authorizes $75 million for 1992 and such sums as are necessary for FY 1993-1996.

Establishes a research program on osteoporosis, Paget's disease, and related bone disorders. Authorizes $40 million for 1992 and such sums as are necessary for FY 1993-1996.

9. Contraception and infertility

Creates a program within the National Institute of Child Health and Human Development to support five centers for research and training on contraception and infertility. A loan repayment program is authorized to repay educational loans of health professionals who agree to conduct research on contraception or infertility.

10. Acquired Immune Deficiency Syndrome

Expands the authority of the AIDS Advisory Committee of the National Institute of Allergy and Infectious Diseases (NIAID) to make recommendations on opportunistic infections and cancers. Directs the NIH's clinical evaluation units to conduct trials of treatments of opportunistic infections and cancers.

Requires the Secretary, acting through the NIH Director, to develop and implement a comprehensive plan for AIDS activities and the evaluation of such activities.

Reauthorizes the program to repay the educational loans of health professionals who agree to conduct research at NIH with respect to AIDS. Requires that the Secretary provide for three studies on drug development and approval, and reimbursement for care provided in clinical trials. Reauthorizes until 1996 the programs that support the conduct of community-based clinical trials of investigational therapies, the efforts to promote international research on AIDS vaccines and treatments, and the development of model protocols for the clinical care of AIDS patients.

11. Director's Discretionary Fund

Authorizes $25 million for a discretionary fund, to allow the Director to respond to new needs, opportunities, or emergencies.

12. Child Health Research Centers

The Child Health Research Centers program within the National Institute of Child Health and Human Development, is given statutory authority to support centers for research with respect to child health.

13. Interagency Program for Trauma Research

Establishes a comprehensive program of basic and clinical research on trauma. Creates a Trauma Research Interagency Coordinating Committee to establish and implement the program.

14. National Center for Human Genome Research

The Center, already established administratively at NIH, is given statutory authority to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes.

15. Silvio Conte Senior Biomedical Research Service

Designates the Senior Biomedical Research Service in honor of Silvio Conte and raises the limit on the number of members.

MISCELLANEOUS PROVISIONS

16. Paperwork reduction

Exempts the National Library of Medicine and other programs at NIH from certain provisions of the Paperwork Reduction Act that would preclude them from existing quality control and recovering access costs.

17. National Commission on Sleep Disorders Research

Extends for six months the deadline for submission of the Commission's final report.

18. Alzheimer's disease registry

Transfers the provisions establishing the Registry from the Health Research Extension Act of 1985 to the Public Health Service Act.

19. Biennial report on carcinogens

Provides that the annual report on carcinogens be made a biennial report.

20. National Institute of Allergy and Infectious Diseases

Provides that research on tropical diseases be added to the mission statement of NIAID.

Mr. ADAMS. Mr. President, I rise today to join the chairman of the Senate Labor and Human Resources Committee, Senator KENNEDY, as an original cosponsor of the National Institutes of Health [NIH] reauthorization bill. I want to thank the chairman for working with me and Senators MIKULSKI and HARKIN during the past year to see that this bill redresses the gender bias that exists at our Nation's leading research institutes.

The sad truth is that women's health care in this country is not taken as seriously as men's. This is especially true in the area of medical research. Less than 1 year ago, the General Accounting Office found that NIH—which pays for most of this Nation's health research—had failed miserably to implement a policy that would encourage researchers who apply for grants to include women in their studies. In fact, at the time, the NIH policy said that the inclusion of women should not be a consideration of the scientific merit of the grant application.

The American Medical Association pointed out recently that women are likely to receive inadequate health treatment for such conditions as cardiovascular disease because diagnostic and treatment protocols are based on studies done in men. In fact, the two most recent clinical trials in the area of heart disease included 15,000 and 22,000 men and no women. It will be years—if at all—before clinical trials of this magnitude can be done with women.

We must correct this problem. By incorporating my bill, the Clinical Trials Fairness Act, into this year's reauthorization bill as we did last year, NIH will be required to see that women are included in all clinical trials except where it is found to be scientifically inappropriate. Essentially, this legislation would codify existing NIH policy and establish an oversight mechanism to ensure that it is carried out. This step is necessary because the GAO found that NIH had poorly implemented its 1986 policy to encourage its researchers to include women in clinical trials, and had neglected to even issue guidelines 3 years after the policy had been promulgated.

Mr. President, including women in clinical trials is just one of the ways we can begin to redress the gender bias in our health research today. Another, and equally important avenue is to increase attention—and funding—on diseases and conditions specific to women, like breast and ovarian cancer, osteoporosis, and menopause. This bill makes a significant contribution in this area. I would like to thank the chairman for including three provisions I have recommended that I believe will go a long way toward achieving parity in women's health research: First, the bill requires that the National Institutes on Aging, in cooperation with other institutes, conduct research into the aging process of women with particular emphasis on menopause; second, this year's reauthorization would increase funding for breast and other cancers affecting women by $75 million; and third, the bill would provide $40 million for increased research on osteoporosis.

This last year, as chairman of the Senate Aging Subcommittee, I held a series of hearings on the health status of midlife and older women. What I found was shocking. Although women today can expect to spend more than one third of their lives in a postmenopausal state, little attention or resources have been directed at this critical life stage. Menopause and the loss of ovarian hormones plays an important role in the development of diseases and conditions affecting women, yet the United States has no public health policy regarding hormone replacement therapy, a common form of medication for menopausal symptoms and the prevention of osteoporosis. In fact, there appears to be little consensus about hormone replacement therapy and questions remain about how and when HRT should be given, who can or can't take the drug, at what dose should it be prescribed, for how long it should be taken, for how long it is effective, when it is unsafe, and whether there are other nonpharmacological interventions that can receive the same or better results?

I also found that the increasing rate of breast cancer in this country has become truly epidemic. Last year, the American Cancer Society reported that 1 in 10 women would be diagnosed with breast cancer. This year that figure is 1 in 9. That means that 175,000 women will develop breast cancer an increase of over 33 percent since 1980. And it is estimated that 44,500 of these women will die from the disease. In fact, the mortality rate for breast cancer has not improved significantly since 1930. Yet, despite the improvement in treating other cancers, we still don't know or understand what causes breast cancer, how to cure it, or why the incidence rates have increased so significantly.

We also know very little about preventing osteoporosis and the debilitating fractures that too often result when osteoporosis is untreated. Despite the enormous personal cost of this disease to women and their families, as well as to the health care system, we lack critical information about the size of the population; who is most at risk; who can be treated with approved medications; and what other drugs or nonpharmacological approaches can help prevent the disease?

Women deserve the answers to these questions. And this bill will require that NIH intensify and expand its research effort in these areas: Breast and ovarian cancer, osteoporosis, and menopause. Most important, we have provided the resources to make sure that this critical research can take place. The bill includes $25 million for basic breast cancer research to understand the cause of breast cancer and to find a cure; $25 million to establish at least six breast cancer centers to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention, and treatment research; $25 million for research of ovarian cancer and other cancers of the reproductive system; and $40 million for research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

This reauthorization is a historic one. It makes research on women's health a top priority of the NIH. American women have been at risk long enough. It is time to close the health care gap that exists for women today and this bill will take us closer to that goal.

I look forward to working with the chairman to see that this bill is adopted by the Senate quickly.

Mr. HARKIN. Mr. President, I rise to express my support for the National Institutes of Health Reauthorization Act of 1991. I am pleased to join my distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY in sponsoring this important health legislation. Senator KENNEDY, long-time leader for improved biomedical research, has once again fashioned a strong and responsible package of initiatives that will move us forward in searching out causes, treatments and preventive strategies for health problems affecting so many Americans.

Mr. President, I am particularly pleased that the provisions of S. 966, the Contraceptive and Infertility Research Centers Act of 1991, have been included in the bill being introduced today. This proposal, which I introduced along with Senators PACKWOOD, HATFIELD, MIKULSKI, SIMON, CRANSTON, and LIEBERMAN, would provide specific authorization for the establishment of three research centers focused on developing improved methods of contraception and two research centers focused on developing better diagnosis and treatment of infertility. As a method of addressing the shortage of qualified researchers in these areas, a loan repayment program for graduate students or health professionals who agree to conduct research on contraception and infertility.

There is a tremendous need for these research centers. Infertility and contraception are central concerns to millions of Americans of child-bearing age. While the United States is without question the world leader in biomedical research, we have lagged behind a number of industrialized nations in the world when it comes to research and development in the areas of infertility and contraception. This is a common sense approach to the growing problems of infertility and unplanned pregnancies.

The initial work by NICHD to develop the centers has been very promising. And I was very heartened to learn from Dr. Healy of her strong support for this effort. It is tremendously important that we assure continuity to this effort begun by the fiscal year 1991 appropriations. This legislation would do much to assure needed continuity and support.

Mr. President, I am also very pleased that other important portions of the Women's Health Equity Act have been included in this reauthorization measure. Enactment and effective implementation of these provisions should put an end to some areas of gender bias at the National Institutes of Health [NIH], including the proportion of women and minorities participating in NIH sponsored clinical trials, the number of research projects and clinical programs focused on women's health issues, and the number of women in higher level positions at the NIH. I want to especially commend my colleagues on the Labor Committee, Senators MIKULSKI and ADAMS, for their leadership in this critical area.

We must greatly intensify our national research efforts in a number of important areas related to women's health. In particular, I am pleased that this legislation would authorize an expansion of support in the areas of breast, cervical and ovarian cancer and osteoporosis. These diseases take a tremendous toll on American women each day. We have to do much more to expand research and improve prevention of these killers. I am pleased that an additional funding has been provided in the fiscal year 1992 appropriations bill to NIH [NCI] to support these priority areas.

I look forward to working with my colleagues to assure that this legislation is appropriately considered and approved.

ADDITIONAL COSPONSORS

S. 141

At the request of Mr. DASCHLE, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Nevada [Mr. REID], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 155

At the request of Mr. NICKLES, the name of the Senator from Wyoming [Mr. WALLOP] was added as cosponsor of S. 155, a bill to amend the Internal Revenue Code of 1986 to eliminate Intangible Drilling Costs as Preference Items in the Alternative Minimum Tax.

S. 523

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as cosponsor of S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

S. 855

At the request of Mr. GLENN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 855, a bill to amend the act entitled "An act to authorize the erection of a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean war."

S. 878

At the request of Mr. DODD, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 878, a bill to assist in implementing the plan of action adopted by the World Summit for Children, and for other purposes.

S. 902

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 902, a bill to amend title XIX of the Social Security Act to reduce infant mortality through improvement of coverage of services to pregnant women and infants under the Medicaid Program.

S. 903

At the request of Mr. BRADLEY, the name of the Senator from South Dakota [Mr. DASHCLE] was added as a cosponsor of S. 903, a bill to create a children's security trust fund that may be deposited and utilized to expand certain Federal programs that provide assistance to children, and for other purposes.

S. 904

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 904, a bill to provide for the establishment of a children's vaccine initiative, and for other purposes.

S. 905

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 905, a bill to amend title XIX of the Social Security Act to improve the childhood immunization rate by providing for coverage of additional vaccines under the Medicaid Program and for enhanced Federal payment to States for vaccines administered to children under such Program, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 972

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1003

At the request of Mr. GLENN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1003, a bill to provide for appointment by the President, by and with the advice and consent of the Senate, of certain officials of the Central Intelligence Agency.

S. 1179

At the request of Mr. JOHNSTON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1179, a bill to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants.

S. 1239

At the request of Mrs. KASSEBAUM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1239, a bill to preserve jobs in the aircraft industry by amending the Internal Revenue Code of 1986 to repeal the luxury excise tax on aircraft.

S. 1245

At the request of Mr. DASCHLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1259

At the request of Mr. AKAKA, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Illinois [Mr. SIMON], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 1259, a bill entitled the "Steel Jaw Leghold Trap Prohibition Act".

S. 1329

At the request of Mr. HOLLINGS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1329, a bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes.

S. 1330

At the request of Mr. HOLLINGS, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1330, a bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes.

S. 1399

At the request of Mr. MITCHELL, the names of the Senator from Oregon [Mr. HATFIELD], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1399, a bill to establish a program to provide Soviet graduate students with scholarships for study in the United States.

S. 1410

At the request of Mr. PRESSLER, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 1410, a bill relating to the rights of consumers in connection with telephone advertising.

S. 1424

At the request of Mr. CONRAD, the names of the Senator from Nevada [Mr. REID], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 1424, a bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a mobile health care clinic program for furnishing health care to veterans located in rural areas of the United States.

S. 1444

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1444, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 25 percent of the purchase price of new electric-powered automobiles.

S. 1463

At the request of Mr. BREAUX, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Texas [Mr. BENTSEN], the Senator from Texas [Mr. GRAMM], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 1463, a bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands in the United States, and for other purposes.

S. 1466

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1466, a bill to amend the Congressional Budget Act of 1974 to ensure the neutrality of the Congressional Budget Office.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Utah [Mr. HATCH], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 170

At the request of Mr. DOLE, the names of the Senator from Delaware [Mr. BIDEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Nevada [Mr. BRYAN], the Senator from Nevada [Mr. REID], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Montana [Mr. BURNS], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Idaho [Mr. CRAIG], the Senator from Arizona [Mr. DECONCINI], the Senator from Arizona [Mr. MCCAIN], the Senator from Connecticut [Mr. DODD], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Georgia [Mr. FOWLER], the Senator from Georgia [Mr. NUNN], the Senator from Iowa [Mr. GRASSLEY], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Michigan [Mr. LEVIN], the Senator from Florida [Mr. MACK], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oregon [Mr. PACKWOOD], the Senator from Maryland [Mr. SARBANES], the Senator from California [Mr. SEYMOUR], the Senator from Alabama [Mr. SHELBY], the Senator from New Hampshire [Mr. SMITH], the Senator from Wyoming [Mr. WALLOP], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 170, a joint resolution designating September 20, 1991, as "National POW/MIA Recognition Day", and authorizing the display of the National League of Families POW/MIA flag on flagstaffs at certain Federal facilities.

SENATE CONCURRENT RESOLUTION 27

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Concurrent Resolution 27, a concurrent resolution urging the Arab League to terminate its boycott against Israel, and for other purposes.

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. DECONCINI, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Concurrent Resolution 45, a concurrent resolution to express the sense of the Congress that the President should consider certain factors in 1992 before recommending extension of the waiver authority under section 402(c) of the Trade Act of 1974 with respect to the U.S.S.R.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 156—RELATIVE TO PAYMENT OF CERTAIN LEGAL EXPENSES

Mr. FORD (for himself and Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 156

Resolved, That (a) the Committee on Rules and Administration is authorized to pay out of the contingent fund of the Senate, legal expenses associated with the employment of private counsel to represent, subject to subsection (b), any present or former employee of the Senate on the staff of Senator D'Amato, with respect to official actions and responsibilities of such employees while on the staff of Senator D'Amato, in connection with testimony before the grand jury in United States District Court for the Eastern District of New York.

(b) The employees to be covered by such representation, and the amount of legal expenses to be paid, shall be determined by the Committee on Rules and Administration.

AMENDMENTS SUBMITTED

UNITED STATES-CHINA ACT

BINGAMAN AMENDMENT NO. 802

Mr. BINGAMAN proposed an amendment to the bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, as follows:

On page 4, between lines 23 and 24, insert the following:

(10) The United States has failed to use existing laws and other means to respond to, prevent, or discourage the People's Republic of China from—

(A) committing violations of internationally recognized human rights, including the rights of the people of Tibet;

(B) taking action that results in the proliferation of dangerous military technology and weapons; and

(C) engaging in unfair trade practices against the United States.

(11) The Government of the People's Republic of China is engaging in unfair trade practices against the United States which are unreasonable and discriminatory and burden and restrict United States commerce by failing to protect intellectual property rights, raising tariffs, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles to the United States through third countries.

On page 5, between lines 11 and 12, insert the following new section:

SEC. 3. PRESIDENTIAL ACTION.

The President is directed to take the following actions with respect to the People's Republic of China's human rights violations, weapons proliferation, and unfair trade practices:

(1) Interact more forcefully with our allies, especially Japan and European countries, and with the World Bank and other multilateral lending institutions, to accomplish the restriction of transfers of technology to China.

(2) Encourage members of the Missile Technology Control Regime to set up a working group to develop a common policy concerning the People's Republic of China's missile transfers to other countries.

(3) Direct the United States Trade Representative to take appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the trade practices of the People's Republic of China which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States Commerce.

(4) Encourage the Human Rights Commission of the United Nations to issue a report on human rights conditions in the People's Republic of China, and to work with our allies and the Union of Soviet Socialist Republics to encourage the Human Rights Commission to issue such a report.

(5) Take any other action the President deems advisable to achieve the purposes of this Act.

Redesignate sections 3 through 5 as sections 4 through 6, respectively.

On page 7, line 5, strike "and".

On page 7, between lines 5 and 6, insert the following:

(G) ceasing unfair trade practices against the United States which are unreasonable and discriminatory and burdensome and restrict United States commerce by failing to protect intellectual property rights, employing regulatory taxes as a surcharge to tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to tranship textiles to the United States through third countries, and

On page 7, line 6, strike "(G)" and insert "(H)".

ADDITIONAL STATEMENTS

ADA TECHNOLOGIES, INC.: A COMPANY MADE POSSIBLE BY THE SBIR PROGRAM

• Mr. WIRTH. Mr. President, I would like to address for a few moments the subject of recent advancements in our ability to control air pollution, and the contribution which ADA Technologies, Inc., and the Small Business Innovation Research [SBIR] Program have made to this effort. The passage of the Clean Air Act Amendments of 1990 has created a renewed impetus for developing new methods to solve our air pollution problem. ADA Technologies, Inc., a small Colorado company, has answered this call, and is hard at work developing products that will help control emissions from coal-burning powerplants.

ADA Technologies, Inc., was established in 1985 through the Small Business Innovation Research [SBIR] Program. This program, which is scheduled for reauthorization next year, is designed to provide small businesses with the funding required to research, develop, and market new technologies. During its 10-year existence, time after time, the SBIR program has proven its value.

Without funding from the SBIR Program, small companies such as ADA Technologies would be unable to afford the enormous initial expenses of research, development, and marketing of their prototypes. Without SBIR, important research would just not be taking place. ADA's valuable discoveries include new equipment which controls the fine dust emissions from coal-burning powerplants, and a new analyzer which allows emissions of ammonia, nitric oxide, and sulfur dioxide from powerplants to be measured on a real-time basis, rather than with the traditional delay of laboratory testing. Technologies such as these, serving to protect our clean air, could not have been developed without SBIR funds.

Mr. President, future developments in air and environment preservation depend in part on small innovative companies like ADA Technologies, Inc. These companies will need funds from the Small Business Innovation Research Program to make their ideas a reality. For this reason, it is my hope that Congress will reauthorize the SBIR Program next year. I ask to include an article on this subject which appeared in the Denver Post, immediately following my remarks, and I thank the Chair.

The article follows:

WANTED: EMPLOYEES WHO PREFER TO TAKE TIME TINKERING WITH THINGS

(By Janet Day)

ADA Technologies Inc. rejected a recent job applicant because she admitted taking her bike to a repair shop rather than fixing it herself.

Picky? Maybe, company officials said, but in the highly competitive field of technology development, they need to make sure that they hire employees who like to tinker with things or take them apart just to see how to make them better.

"Our people have to enjoy a challenge, enjoy solving puzzles, fixing cars or bicycles or just twiddling with things," said Judith Armstrong, company president.

The 6-year-old firm in the Inverness office park in southern Arapahoe County spends all of its time tinkering with things, and, in the process, reducing the nation's air-pollution problem.

ADA Technologies makes equipment to control pollutants from coal-burning power plants.

Its newest effort, announced last month, is an analyzer that allows power plants to measure ammonia, nitric oxide and sulfur dioxide emissions on a real-time basis rather than waiting for lab results. The company also has developed new technology for the baghouses used to control very fine dust emissions at power plants.

The company now has 22 engineering employees, a third of them with doctoral degrees. But they're not ivory-tower elitists, Armstrong insists.

"What separates us from the competition is that we're oriented toward field work and not just paper studies," she said. "We hire people with experience at utilities, so they are trusted by blue-collar employees as well as at the white-collar level. They can walk into a plant and assure the workers that we're not going to break their equipment."

Armstrong started the company with her husband, James Armstrong, who's vice president of operations, and Michael Durham, vice president of research and technology. In 1985, they realized that the growth of personal computers offered vast opportunities for development of new technologies.

They won some Small Business Administration research awards and have grown from there.

Clients include Public Service Co. of Colorado, the southern California air-quality district, the U.S. Environmental Protection Agency, Electric Power Research Institute, NASA, the Army, Navy and Air Force.

Armstrong doesn't expect the company to veer far from the cutting edge of pollution-control technology in the future. The next step after air pollution may be in waste minimization and toxic-waste incineration equipment.

The privately held company reported $1.8 million in sales last year and expects to have more than $3 million in sales this year.•

HONORING TONY OLIVA

• Mr. DURENBERGER. Mr. President, on Sunday July 14, 1991, the Minnesota Twins honored one of their greatest baseball players when they retired Tony Oliva's No. 6. Tony now joins former teammates Harmon Killebrew and Rod Carew as the only Twins so honored.

Tony spent his first full season in the majors in 1964 and led the American League in batting with a .323 average. He also collected 217 hits, 32 home runs, and 109 runs scored as he completed one of the most remarkable rookie seasons ever. These numbers earned Tony the 1964 American League Rookie of the Year Award.

The next year, Tony became the only player in major league history to win back-to-back batting titles in his first two seasons in the majors. He batted .321 and continued his stellar run production with 98 RBI's and 107 runs scored. From 1964 to 1970 Tony proved to be one of the most consistent players in baseball averaging 22 home runs and 91 RBI's a year.

Oliva retired in 1976 after spending a total of 15 seasons with the Twins. He left the diamond with a .304 lifetime batting average, 220 home runs, 3 American League batting titles, and a string of 8 consecutive All-Star team selections. In addition, Tony also holds Twins' records for most seasons played, 15; doubles, 329; extra base hits in a season, 84 in 1964; total bases in a season, 374 in 1964; and consecutive hits.

Tony's contribution to baseball did not end with his retirement from the playing field. Since he left active duty, "Tony O" has served as a first-base coach, batting coach, minor-league manager, and Mexican League manager. His influence and presence has been felt by current major league stars such as Kirby Puckett, Tom Brunansky, Gary Gaetti, and Kent Hrbek. Perhaps Tony said it best when he stated, "You feel good knowing that you've helped guys like Puckett, Hrbek, and Gaetti since they were in the minor leagues. I've seen them go on to become a success and that makes me very happy."

Mr. President, again I congratulate Tony Oliva on his many accomplishments and I thank him for allowing the baseball fans of Minnesota to be part of his marvelous career.•

CAPTIVE NATIONS WEEK

• Mr. SIMON. Mr. President, this week marks the 32d commemoration of Captive Nations Weeks, recognizing the people of oppressed nations around the world and their courageous quest for freedom.

Since Captive Nations Week became law in 1958, much has changed in our world. The cold war is over; the United States and the Soviet Union have reached arms control agreements and the face of communism has changed. With these changes our view of Captive Nations Week needs to change. Today we face the problem of people within certain countries being denied their freedoms. The Soviet Union, China, Iraq, Cuba, and South Africa still do not allow universal and free elections, and the rule of law is not practiced. We ought to direct our efforts to encourage freedom for people in all countries, and in all parts of each country.

I welcome the Soviet withdrawal from Eastern Europe and the commitment of countries like Poland, Hungary, and Czechoslovakia to establishing pluralistic societies and free-market economies. But the Soviet Union has still not satisfactorily addressed the problems within their own country, and continues to illegally occupy the three Baltic States. The recent attack on a Lithuanian communications center was another example of Soviet unwillingness to let these nations go. The Ukraine, Armenia, Georgia, and other republics have also been rebuffed by the Soviet Central Government in their efforts to seek additional freedoms.

Other regions of the world are not free from oppression either. China's record of suppressing its citizens is abysmal. The massacre at Tiananmen Square has not been forgotten; the brutal occupation of Tibet continues, an occupation now more than 40 years old; and Beijing's decision this year to give harsh prison sentences to nonviolent demonstrators reinforces the world's condemnation of that regime.

And while South Africa has made great strides in breaking down the structures of apartheid, it has still not given the right to vote to almost 30 million of its citizens. More needs to be done, including the release of many hundreds of political prisoners. In Cuba, Fidel Castro continues to rule without a mandate from his people. And in the Middle East, we all witnessed Saddam's massacre of Shiites in the south and the exodus of Kurds in the north of Iraq following on the heels of the war to free Kuwait.

Mr. President, Captive Nations Week gives us a chance to be thankful for our system of government and helps us to focus on the many people on this planet who do not enjoy the same freedoms as we do. It is important that oppressed people, wherever they are, know that our commitment to a free and democratic world community is real.•

WRONG PRESCRIPTION FOR THE UNINSURED

• Mr. SYMMS. Mr. President, I would like to bring to the attention of my colleagues an article which recently appeared in the Wall Street Journal entitled, "Wrong Prescription for the Uninsured." The author, John Goodman, president of the National Center for Policy Analysis, expounds on the problems of the health care system and HealthAmerica (S. 1227), the Democrat health reform proposal. His analysis is right on target.

I commend the sponsors' efforts on S. 1227; however, I concur with Mr. Goodman that it will not help the current health care crisis. The bill's sponsors have blamed State-mandated benefits as one force driving up the cost of health insurance and I agree. Yet to remedy the situation, S. 1227 substitutes Federal mandates for State mandates. This does not solve the problem, it only shifts it to a new level.

In his article, Mr. Goodman brings to light the direct impact this legislation will have on employers and small businesses and I would encourage my colleagues to read it. I ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, June 11, 1991]

WRONG PRESCRIPTION FOR THE UNINSURED

(By John C. Goodman)

To solve the problem of 34 million Americans without health insurance, Senate Democrats have unveiled a new healthcare plan. Ever faithful to the big government, big bureaucracy point of view, George Mitchell (D., Maine), Edward Kennedy (D., Mass.), John Rockefeller (D., W.Va.) and Donald Riegle (D., Mich.) propose to take a manageable problem and turn it into a major disaster.

Under the bill's "pay or play" plan, employers would have a choice: pay a federal tax, tentatively set at about 7% of payroll, or provide health insurance to their workers containing core benefits defined in Washington. If employers decide to pay the tax, government will assume responsibility for providing health insurance and employees will pay premiums that vary based on income level.

For example, a $2,500 family health insurance premium for a worker earning $20,000 costs 13% of payroll, not 7%. In this case, the obvious choice for the employer is to pay the tax and turn the problem over to government. Indeed, considering that about 95% of all uninsured workers earn less than $30,000, in the vast majority of their cases employers will have strong incentives to pay the tax rather than to begin providing coverage themselves. (The cost of the core-benefit package will vary depending on the benefits included, and the age, occupation and geographical location of employees. The $2,500 example is a very conservative number; the current average cost per employee in the U.S. is $3,217.)

THE TEMPTATION

This is not necessarily good news for the uninsured. Assuming uninsured employees are already paid a fair wage a 7% payroll tax means that their employers will have to cut wages by 7% or lay off workers. Since those earning the minimum wage can't by law take a wage cut, they stand the greatest risk of becoming unemployed.

Employers who already provide health insurance to their employees also will compare tha 7% tax with the cost of a health-insurance policy containing federally mandated benefits. A great many of them will be tempted to pay the tax and drop existing coverage. Nor is this mere speculation. A Kennedy aide says the bill's sponsors expect this to happen.

Lee Iacocca will like this plan. For years he's wanted to dump Chrysler's health-care costs on government, and the Senate Democrats are offering him a chance. Instead of paying what I estimate to be close to $4,000 per employee for private insurance, Mr. Iacocca could pay a tax of less than $3,000, have government provide each Chrysler worker with health insurance, and make a handsome profit. (If they have any sense, Chrysler workers will resist this mightily.)

If employers decide to provide health insurance to their employees, they will be required under the bill to include mental-health benefits (the fastest-rising component of health-care costs) and preventive procedures, including mammograms, pap smears and well-child care (items for which costs double when the administrative costs of third-party insurers get factored in). The required out-of-pocket deductible is only $250. Employers could charge a higher deductible only if they provided additional benefits to those in the core package—not to cut costs.

Count on the benefits expanding and the costs rising once the special interests get their hands on the bill. In response to provider pressures, state governments have enacted more than 800 cost-increasing mandated benefits, requiring insurers to cover services ranging from acupuncture to invitro fertilization. All this means that individuals have to pay for coverage they do not want. Though the Senate Democrats' bill would override these state mandates—in an attempt to control costs—the lobbyists can be expected to move to Washington and continue their push for coverage of more and more services.

If employers exercise the option to pay the tax rather than provide health insurance, what happens to the workers? Rather than purchasing a private health insurance policy on their own, they will be required to join Medicaid. In fact, if you have any desire to toss away your private health insurance and join Medicaid, you'll love the Senate Democrats' new health-care plan.

Granted, under the Democrats' plan Medicaid would be reorganized. It would also have a new name—"AmeriCare." But Medicaid under any name is still Medicaid.

In most places, Medicaid pays doctors and hospitals 50 cents on the dollar—sometimes even less. As a result, doctors increasingly won't see Medicaid patients and access to hospital care is increasingly limited to charity hospitals.

Because Medicaid underpays, health-care rationing is inevitable. And more severe rationing is right around the corner as the hospital marketplace becomes more competitive, cost-shifting to other patients becomes less feasible and government at all levels has less money to spend. So far, only Oregon publicly admits that rationing in its Medicaid program is routine. Medical providers know the same thing is happening in every state.

If readers get a sense of *deja vu*, it's probably because they *have* heard this before. The Senate Democrats have endorsed the very plan that Michael Dukakis created for Massachusetts. Voters may recall Mr. Dukakis's 1988 boast that everyone in Massachusetts had health insurance. Well, not quite. The Massachusetts Legislature wants to delay the private sector's entry into the program until 1994, and the current governor wants to kill the whole program.

On problem is that government is inherently incapable of administering an insurance program that prices risk accurately. Witness the deposit insurance debacle at the federal level and the auto liability insurance crises in California, New Jersey and Massachusetts. In Massachusetts, auto insurance has become so politicized that any possibility of rational premium prices has vanished and 65% of all premiums now go to the state risk pool.

The Senate Democrats have already signaled they have no interest in insurance prices based on real risks. The 7% payroll tax has no relationship to the actual cost of health for any particular employee. And they are proposing a quasi-cartel in the small-group health insurance market to guarantee that private insurance premiums won't reflect real risks either. This will speed the exodus of people into Medicaid (oops, AmeriCare), the risk pool of last resort.

A second problem both for Massachusetts and the Senate Democrats is small business, which employs most of the noninsured workers. Does it really make sense to heap new taxes on small business—the job-creating sector of the economy—in the middle of a recession? One suspects that even the senators would answer "no."

In fact, one suspects they're not really serious about the proposal at all. The plan proposes a two-year grace period for new small businesses and a five-year grace period for firms with fewer than 25 employees—the firms where almost half of all uninsured workers are employed. Like Mr. Dukakis, the Senate Democrats propose to talk now and act later—definitely after the next election.

A third problem is health-care costs—which are bound to rise as more people acquire health insurance. Initially Senate Democrats propose "voluntary" spending limits with targets for the total amount spent on physicians fees and hospital services throughout the country. But since the nation's 5,000 hospitals and 500,000 doctors could not possibly agree collectively on anything, the targets are bound to be missed, and "voluntary" will soon become "mandatory."

This is precisely the approach taken in countries with national health insurance, where governments set arbtirary budgets for hospitals and area health authorities and force the providers to ration health care. The result is a lower quality of care and more—not less—inefficiency.

While 700,000 people wait for surgery in Britain, at any one time one of four hospital beds is empty. While 50,000 people wait for surgery in New Zealand, one out of five beds is empty. As the waiting lines grow in Canada, the politics of bureaucracy determines who gets the next brain scan. In all three countries, about one in every four hospital beds is filled with the chronically ill elderly, using the hospital as an expensive nursing home.

LISTEN TO BENTSEN

Bureaucratic health-care rationing is anything but fair. Although health care is theoretically free in England, 12% of the population now has private health insurance. In New Zealand's "free" health care system, one-third of the population has private insurance and one-fourth of all surgery is performed privately. In Canada, where private health care has been virtually outlawed, the U.S. border is the safety valve. For example, about 100 Canadians get heart surgery every year at the Cleveland Clinic.

Before taxing small business to pay for an expanded Medicaid program with health-care rationing required by limits on spending, the Senate Democrats should listen to their colleague Lloyd Bentsen (D., Texas), author of refundable tax credits for the purchase of health insurance. Instead of pushing more people into a government rationing program, the Bentsen approach would empower low-income families and make them real participants in the health-insurance marketplace.●

PROGRAMS FOR GANG PREVENTION AND HOMELESS YOUTH

● Mr. SIMON. Mr. President, I am pleased to see that my colleagues in the Senate Appropriations Committee have funded two very important grant programs which I authored in 1988. These programs are vital in the struggle to lead our youth away from drugs and gangs and into productive lives. These are the Drug Education and Prevention Program relating to youth gangs and the "Transitional Living Program for Homeless Youth."

For fiscal year 1992, the Drug Education and Prevention Program received level funding of $14,786,000 and the funds for the Transitional Living Program were increased to $12,000,000. I am encouraged by the continuation of support for these programs, as they reflect a sincere desire to improve the lives of young people in our country.

The need for both the gang and homeless youth funding is obvious. The problems of homeless youth and gangs continue to plague the country. The majority of States have reported problems with gangs in both urban and rural areas. Recent studies have shown that gang members commit crimes at a higher rate than juveniles who are not related to gangs, and that they commit more violent crimes. Increased youth involvement in the use and sale of drugs is attributed to the fact that drug trafficking is the economic base of most gangs.

I believe that intervention and prevention must be provided along with law enforcement activities and prosecution. A dollar spent keeping a young person out of a gang can help him or her to lead a productive life, and it can save the possible greater expense of dealing with that youth through the criminal justice system. The Drug Education and Prevention Program is directly aimed at deterring youth participation in gangs. The program grants funds to those public and private nonprofit agencies, organizations, institutions, and individuals which are designed to prevent and reduce juvenile participation in gangs by providing alternative activities and support programs.

Similarly, there remains a vital need to address the problem of homeless youth. A GAO report that I requested released on December 19, 1989, indicated that although services are provided at federally funded shelters, they do not meet the extent of the need. Only 29 percent of the youth at these shelters receive educational services and only 6 percent employment and job training services. Yet 50 percent of those age 16 or older have left school; 22 percent of the homeless youth are reported to have drug and alcohol problems, yet only 3 percent receive treatment. The GAO report also indicated that critical aftercare services are lacking.

The Transitional Living Program for Homeless Youth, creates an alternative to help older teens learn to live on their own. Under the program, housing is offered in group settings, along with support in finding jobs and completing high school. Also, guidance is offered in personal finances and in running a household. Unlike the shelter provision of the Runaway Youth Act, the transitional living programs provide up to 540 days of shelter and help youth to access vocational and education opportunities, as well as provide a support structure. The transitional living program promotes self-sufficiency and prevents future extended dependence on social services.

These two grant programs serve the critical needs of our Nation's youth who are without a home and who are involved, or risk being involved with, a gang. These efforts have been successful in steering youth toward healthy and productive avenues. It is certainly in our country's best interest to continue these two vital grant programs. I applaud the efforts of the committee and hope the full Senate will follow suit.•

SALUTE TO NOBLES COUNTY, MN

• Mr. DURENBERGER. Mr. President, as a boy growing up in rural Minnesota, I learned to appreciate my State's great outdoors and beautiful environment. That is why I am especially proud to salute the people of Nobles County, MN, for their attention to recycling.

Rural Nobles County is spacious, vibrant, and has an abundance of life wherever you look. This county exemplifies the beauty of America, a beauty these Minnesotans hope to preserve. I congratulate the people of Nobles County for designating July 21–27, 1991, as Nobles County Recycling Education and Recognition Week.

This effort to cuts across the entire community. Industries in the area are encouraged by the county commission to participate in the Nobles County Business Recycling Program. This year, the commissioners, who deserve recognition of their own, are recognizing exemplary industries that have reducing the solid waste they have put into the environment.

The Campbell Soup Co. and Monfort Pork, Inc., have cut their solid waste stream by 50 percent. This is a significant decrease. Bedford Industries, a local manufacturer of industrial and floral wired ribbon, was worried about excessive quantities of plastic waste. They developed a product line specifically designed to put these wastes to good use. The new product, plastic lumber, also utilizes much of the waste plastic processed at the Nobles County Recycling Center.

Congratulations to Nobles County for all they have accomplished with their comprehensive recycling program. It is obvious that the residents of Nobles County understand how precious and important their environment is to their quality of life and to future generations. I am proud of the steps they have taken to preserve their environment and heritage.

As a member of the Senate Environment and Public Works Committee, I know about the efforts of many communities across the Nation to make the environment clean and safe. I am especially proud of Minnesota's solid waste reduction goals and the initiatives that all Minnesota counties and communities are taking. Together we all have the power to make a difference to protect the treasures of Earth.•

GADSDEN: THE ALL-AMERICAN CITY

• Mr. SHELBY. Mr. President, I rise today to pay tribute to the fine city of Gadsden in northeast Alabama. Gadsden has recently been named a 1991 All-American City Award winner. Gadsden is one of 10 cities nationwide to receive this prestigious honor.

No city is without problems, but it is how a city responds to these problems that defines a community's ability to achieve success in the 1990's. Gadsden has passed this test valiantly. Just 5 years ago, Gadsden was fighting a host of civic problems, including educational and environmental shortcomings.

Now as America looks ahead to the 21st century, Gadsden is a leading example to communities throughout our great Nation. Gadsden's renowned Quest for Excellence Program has been a cornerstone of its renaissance. The program began in 1988 and has been a resounding success. Quest for Excellence focuses on Gadsden's future leaders, the community's young people. I was quite impressed with the immense accomplishments of this program. In the 4 years since its inception, the program is already paying off for the youth of Gadsden—grades have risen, school dropouts have declined, gang violence has dropped, and drug abuse has fallen.

The success of Quest for Excellence is a function of the unity of purpose exemplified by the citizens of Gadsden. There is a vision of a Gadsden where children's dreams are realized in the classroom, on the athletic field, and ultimately in the marketplace. There is a realization that in order to have a truly successful program all sectors of the community have to be involved and committed. Gadsden has all of this and more. The community is a model for public-private partnerships, a formula that spells success.

But Quest for Excellence is only part of the story. Gadsden also has established a good neighbor network that has been successful in reducing litter and crime while helping to refurbish local housing. And in 1990, Gadsden opened the doors of its new Cultural Arts Center, a facility that is on par with the finest arts facilities in America.

The story of Gadsden is a story of commitment, civic pride, and involvement, and an unquenched thirst for excellence. I applaud the city of Gadsden for this prestigious recognition. They are truly a deserving recipient.

Mr. President, I am proud to represent the people of Gadsden in the U.S. Senate and it has been my privilege to share some of their many accomplishments with my colleagues.•

ALLOCATION OF FISCAL YEAR 1992 SPENDING AUTHORITY TO THE SUBCOMMITTEE OF THE COMMITTEE ON ARMED SERVICES

• Mr. NUNN. Mr. President, under section 602(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority. The 602(a) allocation of the fiscal year 1992 budget totals among the Senate committees was printed in the conference report on the concurrent resolution on the budget for fiscal year 1992.

Section 602(b) of the Budget Act requires committees to allocate such spending authority among either subcommittees or programs within their jurisdiction and to report these allocations to the Senate.

The Committee on Armed Services submits the following report in compliance with section 602(b) of the Budget Act allocating its direct spending authority among the subcommittees. I ask that the report be included in the RECORD at this point.

The report is as follows:

REPORT OF THE COMMITTEE ON ARMED SERVICES PURSUANT TO SECTION 602(b) OF THE CONGRESSIONAL BUDGET ACT OF 1974

Mr. Nunn, from the Committee on Armed Services, submitted the following report:

The Committee on Armed Services, which was allocated certain budget authority and outlays by the managers of the conference on the House Concurrent Resolution 121, reports the division of such allocations among subcommittees of the Committee for fiscal yeare 1992.

BACKGROUND

Under section 602(a) of the Congressional Budget Act, the statement of managers accompanying a conference report on a concurrent budget resolution includes an allocation of budget totals among the committees of the Senate and House of Representatives that have jurisdiction over spending authority.

Section 602(b) of the Act requires the committees to allocate such spending authority among either subcommittees or the programs over which they have jurisdiction and to report these allocations to the Senate.

ALLOCATION RECEIVED BY THE COMMITTEE

The direct spending authority allocation received by the Committee on Armed Services was made to this committee of original and complete jurisdiction for the federal programs and activities assumed in the allocation.

The Committee on Armed Services received the following allocation for fiscal year 1992:

Fiscal year 1992

Direct spending authority:	*Millions*
Budget Authority	$49,494
Outlays	36,297

ALLOCATIONS MADE BY THE COMMITTEE

The Committee has made its allocations among the several subcommittees as shown in the following table. Budget authority and outlay figures are CBO baseline estimates incorporated in the budget resolution.

The total amount of funds allocated in this report is equal to the allocations made to this Committee in H. Con. Res. 121, the Concurrent Resolution on the Budget for Fiscal Year 1992.

Fiscal Year 1992

Subcommittee on Manpower and Personnel:	*Millions*
Budget Authority	$49,412
Outlays	36,237
Subcommittee on Readiness, Sustainability and Support:	
Budget Authority	$82
Outlays	60•

JOEL HORNSTEIN, RECIPIENT OF 1991 SCHOLARSHIP

• Mr. LAUTENBERG. Mr. President, I rise today to recognize Joel Hornstein, a resident of Hackensack, NJ, and recipient of the Public Employees Roundtable 1991 Public Service Scholarship. Joel's winning essay on "Why I Have Chosen to Pursue a Government Career," offers a refreshing perspective of a dedicated young individual committed to improving the lives of the less fortunate.

I ask that Joel's essay be printed in the RECORD.

The essay follows:

WHY I HAVE CHOSEN TO PURSUE A PUBLIC SERVICE CAREER

I don't work in soup kitchens any more.

On my return from a tenth grade year spent working and studying in Israel, I found myself acutely aware of problems in New York to which I had previously grown numb. I could no longer turn my head from the homeless sleeping in doorways; I could no longer ignore children, only years younger than me, growing up in welfare hotels infested by rats and heroin needles.

From an initial work camp weekend, I became increasingly involved in a range of projects to help New York's needy. I worked in soup kitchens, distributed food in Grand Central station, and, most personally rewarding of all, embarked on a series of outings with six to ten year-olds from the Martinique welfare hotel. Soon, I launched a social service club at school and began to press, with almost immediate success, for a school-wide service requirement.

But as my efforts rapidly expanded, so too did my understanding of the enormity of the problems I was working to resolve. The two hundred or so smiles of gratitude I would receive in a day at a soup kitchen, which once had so warmed me, now pained me instead. They reminded me that there were twenty other meals in the week, meals, I had not been able to feed my guests, and that those I had served were but a fraction of all those hungry.

I turned to politics as a means of addressing on a broader scale the problems of poverty and homelessness. From volunteer in one campaign I rose to become student coordinator of another, and from there to paid deputy campaign manager of the Levitt congressional campaign. As my political involvement grew, I had the opportunity to influence policy, touring Manhattan's public schools and meeting with student leaders, for example, in order to brief then Borough President David Dinkins.

I came to Harvard to study government. I wanted to learn how most effectively to use the machinery of power to implement what seemed obviously correct measures. My blind confidence in the justice of what I sought was quickly shaken, however, by an introductory class in economics. I learned that government programs, no matter how admirable their goals, can if not crafted properly prove inefficient and at times even counterproductive.

I soon concluded that the analysis of policy both preceded in logical order of study and surpassed in level of interest the subject of policy implementation. I eagerly plunged into economics, taking in quick succession such courses as public sector economics, American economic policy, and a tutorial on American poverty policy. My interest in policy meshed well with my ability in mathematics, allowing me to progress rapidly toward my present thesis, in which I am evaluating the relation of savings to real after-tax interest rates in OECD countries.

Next year I will begin graduate coursework. My area of special focus will be public sector economics: the study of tax policy and of the provision of public goods. After earning my Masters degree, I hope to work for a year for either the President's Council of Economic Advisers or the Office of Management and Budget. I will then return to school to prepare my dissertation.

On completing my education, I intend to return to Washington. I am very excited by the prospect of putting my study of public sector economics to practical application. Doing so will provide not only an exciting intellectual challenge, but the opportunity to improve the lives of others in a meaningful and lasting way.

I no longer work in soup kitchens. I believe, however, that the work for which I am now preparing will someday prove even more valuable.•

CROSWELL OPERA HOUSE CELEBRATES ITS 125TH ANNIVERSARY

• Mr. RIEGLE. Mr. President, the Croswell Opera House in Adrian, MI, will be celebrating its 125th anniversary in October. The Croswell is the oldest continuously operating theater in the State of Michigan, and one of the country's premier community theaters.

The Croswell Opera House was built in 1866 by Charles Croswell who later became the Governor of Michigan. Over the years, the Croswell has undergone various transformations—originally it was a live theater, with lectures, concerts, plays, vaudeville, fine arts, et cetera. In 1921, it was converted into a movie house. It has endured many hardships and in 1967 was almost shut down. But with the help of the community, local businesses, government grants, and foundation support, it was rescued and has since been restored as an authentic opera house with quality theater and artistic programs.

Almost 70,000 people from Michigan, Ohio, and Indiana participate in events at the Croswell each year, and the number is increasing. The primary goal of the Croswell Opera House is to extend all its services to the community and surrounding area. More than 100 theater presentations are performed each year involving hundreds of volunteers. We owe a debt of gratitude to those who have worked to restore and preserve the Croswell Opera House for this and future generations. A theater such as this is too often a neglected piece of our history. I join the people of Adrian in wishing the Croswell Opera House a very happy anniversary and extending best wishes for a promising and successful future to come.•

TAKE PRIDE IN AMERICA 1990 NATIONAL AWARDS PROGRAM

NATCHITOCHES NATIONAL FISH HATCHERY

• Mr. JOHNSTON. Mr. President, each year the Secretary of the Interior's Take Pride in America Program recognizes individuals and organizations for their outstanding efforts to increase public awareness about our country's natural and cultural resources. Earlier today, awards were presented to the 1990 national winners and I am very proud to announce that two of this year's winners—the Natchitoches National Fish Hatchery and the Audubon Institute/Audubon Zoo—are from Louisiana. Throughout the years, I have become increasingly aware of the high degree of excellence that accompanies everything these organizations do and I can attest to their dedication to the environment. They are indeed deserving of this prestigious award.

The Natchitoches National Fish Hatchery has always held a special place in my heart. Included within the hatchery is an aquarium which displays a number of native Louisiana fish and turtles. Until recently, it was the only aquarium in Louisiana open to the public. The hatchery is located in my wife Mary's home town and I am especially proud that it is the only national fish hatchery to receive the 1990 Take Pride in America Award.

The Natchitoches National Fish Hatchery received this award for its ongoing activities to increase public stewardship through awareness, education, and action. During 1990, it spearheaded four related activities—the first and largest of which was the Cane River Lake cleanup. This activity involved organizing 200 volunteers to collect over 20 tons of trash—including a 1956 Edsel—along the banks of the 36-mile-long Cane River Lake. The volunteers met a 7 a.m. on a Saturday morning and were sent to six separate locations along the river where they collected trash for approximately 4 hours. Following the cleanup, the volunteers returned to the downtown riverbank for a picnic and an afternoon of entertainment. The Cane River cleanup was such a success that plans have been made to make it an annual event.

The Natchitoches National Fish Hatchery also fostered the sense of stewardship through its Earth Day, National Fishing Week Open House, and National Hunting and Fishing Day activities. Through these activities, the hatchery has provided the community with a hands on knowledge of our fishery resources. For example, the hatchery's Earth Day exhibit included a living stream with examples of plastic, glass, and chemical pollution. It describes the effect of these contaminants on fish and their environment. During the National Fishing Week Open House, the public was invited to the hatchery to see and touch several types of fish and turtles located in a petting pool and touching trough. Children were invited to put their hands through the "What Am I?" box and try to guess what they were feeling; for example, fish eggs, algae, tadpoles, water, et cetera. Finally, for National Hunting and Fishing Day, the hatchery, at the invitation of a local gun club, set up a living stream exhibit featuring traditional southern sport-fishing species. Hatchery staff also demonstrated proper casting techniques to children and provided information on fish aging techniques.

Mr. President, through these and other activities, the hatchery has increased local awareness of the need to protect fishery resources and their habitat and for this they are a truly deserving recipient of the 1990 Take Pride in America Award. I am sure you join with me in offering them our sincerest congratulations.•

THE 1993 WORLD UNIVERSITY GAMES

• Mr. D'AMATO. Mr. President, in 2 years, July 8–18, 1993, the eyes of the world will be on Buffalo, NY as the United States hosts the World University Games for the first time in their 70-year history. The World University Games is the second largest international amateur athletic event in the world. It will bring over 7,000 athletes and officials from 120 countries to America to compete in 12 sports.

The games are staged every 2 years with both summer and winter events. This year, in fact this week, they are taking place in Sheffield, England. At the Sheffield closing ceremonies, the United States will accept the World University Games mantle. To celebrate this development, the 1993 organizing committee is staging "World University Games Week" from July 20 to 28, 1991, with activities throughout western New York and beyond.

Over nearly four generations, the World University Games have showcased many of our Nation's finest student athletes from ages 17 to 28. People like basketball star Larry Bird, legendary diver Greg Louganis, track and field champion Valerie Brisco, and one of our colleagues, Senator BRADLEY, have donned the U.S. colors. The 1993 games will be the most important international amateur athletic competition that year and a key element of the U.S. Olympic Committee strategy to establish our country as the premier host for similar events in the 1990's.

The World University Games, however, do not end at the walls of the stadium or the edge of the playing fields. Reflecting a heritage of service to educational development and cultural understanding, the 1993 games will also conduct major academic, cultural, and economic programs. These include an international academic conference, a sports medicine convention, a multievent cultural festival focusing on developing nations, and a trade show designed to stimulate exports of American goods and services.

Preparations for the 1993 games are well underway. Under the leadership of the Greater Buffalo Athletic Corp. and the 1993 organizing committee, planning and staffing for the many facets of this great event are taking shape. Critical support from the private and public sectors are mounting as awareness grows of what the games will mean to our Nation's athletes and to the region's development. Volunteers from every imaginable background are also stepping forward to contribute their invaluable time and energy to the event.

Government, too, has a role in the 1993 games. The United States was selected over many other interested countries with the official endorsement of the President and Congress. Thus, with thousands of participants and hundreds of thousands of spectators from around-the-globe expected to gather in the United States, there is a clear Federal interest in the safety and productivity of the games. I thank my colleagues for their ongoing support and urge them to continue their favorable consideration of Federal support for the games. It is essential for an event of this scale and caliber.

Of course, the heart and sole of the World University Games is fair and open competition—a principle that runs deep in America whether on the athletic field, in the classrooms, or in the workplace. This week is a time to celebrate our 1991 team and to redouble our efforts to make the 1993 World University Games the greatest possible success.•

TAKE PRIDE IN AMERICA 1990 NATIONAL AWARDS PROGRAM

AUDUBON INSTITUTE—AUDUBON ZOO

• Mr. JOHNSTON. Mr. President, each year the Secretary of the Interior's Take Pride in America Program recognizes individuals and organizations for their outstanding efforts to increase public awareness about our country's natural and cultural resources. Earlier today, awards were presented to the 1990 national winners and I am very proud to announce that two of this year's winners—the Audubon Institute-Audubon Zoo and the Natchitoches National Fish Hatchery—are from Louisiana. Throughout the years, I become increasingly aware of the high degree of excellence that accompanies everything these organizations do and I can attest to their dedication to the environment. They are indeed deserving of this prestigious award.

The Audubon Institute-Audubon Zoo received the 1990 Take Pride in America Award for its "Earth Fest '90" Program, a week-long conservation event which attracted over 25,000 participants—1990 marked the fifth year that the Audubon Institute-Audubon Zoo has sponsored Earth Fest.

Through this event, the Audubon Institute increases public awareness about the environment and about the need to encourage conservation-oriented thinking. During the work week, Earth Fest events are geared toward school children and include activities such as recycling, tree plantings, wildlife gardening, and more. The New Orleans Regional Transit Authority transports the children to the zoo free of charge.

During Earth Fest weekend, 45 environmental organizations provided information to the public on environmental-conservation awareness and local Girl Scouts participants in an Audubon Park and Lagoon cleanup. Entertainment with an environmental theme was scheduled throughout the weekend and reduced admission to the zoo was available to individuals and families who brought recyclable goods with them.

The enormous public participation in Earth Fest serves as a tribute to its success. Through these activities, the Audubon Institute and Zoo have increased public awareness of the environment and have encouraged the public to act in a more environmentally sensitive manner. If past success is any indication of future possibilities, I am sure Earth Fest will do nothing but reach an even larger audience in the years to come. The Audubon Institute-Audubon Zoo is a truly deserving recipient of the 1990 Take Pride in America Award and I am sure you join with me in offering them our sincerest congratulations.•

THE CENTURY COUNCIL

• Mr. SEYMOUR. Mr. President, I rise to pay tribute to the Century Council, an important and innovative new team created to reduce the abuse and misuse of alcohol beverage products.

I had the opportunity to learn of the Century Council during a recent visit with its new chairman, Ambassador

John Gavin. Ambassador Gavin has established two initial priorities for the Century Council: First, to reduce the incidence of drunk driving through community wide campaigns, tough and effective law enforcement, and better education; and second, to eliminate alcohol abuse among young Americans through effective identification and education programs.

To assist the Century Council, over $40 million has been pledged over the next 3 years by leading companies in the alcohol beverage industry. Supporters of the Century Council include many large and small wineries, many leading spirits companies, and several breweries. I believe this is an intelligent, responsible and frankly, commendable gesture on the part of these companies. They recognize that responsible use of alcohol by consumers is good public policy and good business. And I hope that Ambassador Gavin's efforts will enjoy the support of all of the alcohol beverage industry.

Mr. President, the founding of the Century Council sends an important message that the concern about the misuse and abuse of alcohol is one shared even by the representatives of that industry. To rid the Nation of the plague of alcohol abuse requires a team effort—an effort on the part of parents, teachers, government, and other community leaders. The Century Council represents the alcohol beverage industry's determination to be a part of this team.

Ambassador Gavin has set some very ambitious goals for the Century Council. With his proven leadership and the support of the Council's sponsors, I am confident that the Century Council can make a real difference. I welcome Ambassador Gavin and the Century Council to the Nation's community of leaders determined to make our streets safer and our children wiser of the dangers of alcohol abuse. I wish them the very best of success.•

RELIEF FOR AFRICA

• Mr. LIEBERMAN. Mr. President, I rise today to call attention to the current crisis and famine in the Horn of Africa. The enormity of human suffering in this region demands immediate actions from this body, from our entire Government, and from the world.

The United Nations Food and Agriculture Department recently estimated that 30 million Africans—a population roughly equal to that of California—are in danger of severe malnutrition and starvation. Thousands have already died, and tens of thousands more will die unless the world acts. At greater risk are the estimated 3 million refugees who have fled from Ethiopia, Somalia, and the Sudan. These countries have been plagued not only by recurrent drought but by civil war as well.

Famine is nothing new to the people of the region who have suffered so much. Many of those who currently face starvation have suffered throughout their lives from the pangs of hunger and from the dangers of war that ravage their lands and have forced them to abandon their homes. But this time the situation is even worse.

The Horn of Africa Recovery and Food Security Act of 1991 (S. 985), which this body recently passed, is an important first step in our efforts to help the people of the Horn. I want to salute some of my Connecticut constituents, notably Jack Williams of the United Way of Bridgeport, for working on behalf of such a humane piece of legislation. This act correctly recognizes the need for both emergency relief to the region and for a U.S. policy committed to fostering an atmosphere of peace and stability in which long-term solutions to the Horn's chronic problems can be pursued. It also properly supports the use of indigenous grassroots organizations to target aid to the neediest regions. By focusing on these organizations, we can begin to establish an infrastructure for aid distribution and work toward the long-term goal of self-reliance.

Mr. President, the numbers and statistics I cited earlier are unfathomable when translated into individual human suffering. All who value human life must recognize our moral obligation to do everything in our power to initiate massive relief efforts to help end the suffering in the region as quickly as possible. Once again, I commend my colleagues for passing the Horn of Africa Recovery and Food Security Act of 1991. I furthermore urge the Members of the House to act quickly on this legislation, the necessity of which increases with every passing moment.•

AIRBAGS

• Mr. LEVIN. Mr. President, I would like to comment on the airbag provisions in S. 591 and S. 1012 which the Senate recently passed by voice vote. I support the installation of airbags and other measures to improve vehicle safety, but I believe these bills ought to be amended before becoming law.

In particular, the legislation's schedule for the installation of airbags will cause needless costly redesign for some vehicles because the auto manufacturers' product plans have been based on the schedule in the current NHTSA regulations. In addition, the legislation, unlike the NHTSA regulations, does not provide credit for the early installation of airbags.

INSTALLATION SCHEDULE

Most manufacturers have announced their intention to install airbags on most, if not all, product lines during the nineties. They are doing this without a statutory mandate. Instead, they are responding to both consumer demand and the safety rules established by NHTSA.

S. 591 and S. 1012 would require manufacturers to install airbags in the driver and passenger positions in light truck vehicles [LTV's] on a schedule considerably in advance of that required by the current NHTSA regulations. NHTSA developed its implementation schedule after going through a complete rulemaking process and a thorough investigation of industry leadtime considerations.

NHTSA's regulations recognize the special design and production requirments of LTV's. The LTV class includes a wide variety of different vehicles including small, medium, and large pickup trucks. several different full size vans, front-wheel drive minivans, rear-wheel drive minivans, small and large utility vehicles, and Jeep-type vehicles. Most of these vehicles require something unique in their airbag design solutions, including different instrument panels, knee bolsters, and potentially unique crash sensors.

The regulations also acknowledge the need to exempt step-in van vehciles because of their unique configuration and usage. While the committee report on S. 591 says that the bill would require airbags only on minivans, small pickups, and Jeeps, the bill language would appear to require airbags on most large pickups, vans, and utility vehicles. Clearly, the bill should be amended in these respects.

To enact into law this legislation as currently drafted would be punitive to the manufacturers. Any airbag legislation should adopt the schedule already established through rulemaking and to which manufacturers have already locked in product cycle plans.

CREDITS FOR THE EARLY INSTALLATION OF AIRBAGS

Not only have the manufacturers made plans based on the regulations' installation schedules, but they have also made plans based on the credits the regulations provide for early installation in certain vehicles. These credits have encouraged the early development and production of vehicles with driver- and passenger-side airbags, and have allowed for the most efficient installation of airbags in each model.

S. 591 and S. 1012 do not provide credit for the early installation of passenger-side airbags such as the NHTSA regulations award during the phase-in period. At a minimum, they should be amended to include a credit arrangement.

I do not quarrel with the goal of this legislation, I only suggest some ways in which it can and should be improved without compromising its goals. It could also be improved in some other ways, which my colleague, Senator RIEGLE, will describe.•

• Mr. RIEGLE. Mr. President, I share the concerns raised by my colleague, and would like to mention some additional ways in which the bill could and should be improved.

This legislation does not provide sufficient flexibility for unforeseen events, such as supply disruptions, which have in the past temporarily prevented manufactures from installing airbags as planned. In addition, by mandating a design standard rather than a peformance standard, this legislation may stifle innovation, preventing the industry from developing more effective, alternative safety devices.

FLEXIBILITY

Laws mandating particular technologies must include provisions for unforeseen factors, such as major interruptions of materials and supply, that could temporarily prevent a manufacturer from meeting its anticipated production volume of airbag-equipped vehicles. Flexibility for supply interruptions is particularly important in industries, such as the airbag industry, which have expanded rapidly to meet large demand increases.

Between 1988 and 1990, there were 11 sodium azide fires at the three principal airbag propellant manufacturers. In at least one case, the auto manufacturer had to delay installation of airbags as a result. Clearly, this legislation ought to include provisions for temporary exemption of manfacturers facing unforeseeable supply constraints.

DESIGN STANDARDS

Congress and the Department of Transportation have long recognized the importance of safety studies and determinations to set performance standards, rather than mandated design standards such as those contained in S. 591 and S. 1012. Performance standards provide manufacturers with the latitude to produce the required technology to meet the standard without dictating the actual design. Design standards tend to stifle further innovation, and may forestall the development of alternative technology.

Consequently, the Congress and adminstration have refrained from setting design standards, standards which state that this or that design is the only one that qualifies. Current NHTSA regulations set schedules for the installation of passive restraint devices in cars, light trucks, and buses, but let the manufacturers and consumers determine what type.

But rather than mandating a performance standard, a certain measure of occupant safety that must be met by all new vehicles, S. 591 and S. 1012 mandate a single design standard: the airbag. Mandating a standard of performance, in contrast, would encourage manufactures to further research and test new ways to protect the occupants of motor vehicles.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, July 23; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:15 a.m. with Senators permitted to speak therein; that during morning business, the following Senators be recognized to speak: Senator GORE, 20 minutes; Senator JOHNSTON, 20 minutes; Senator WELLSTONE, 10 minutes; and Senator LEAHY, 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess, as under the previous order, until 9 a.m. Tuesday, July 23.

There being no objection, the Senate, at 8:19 p.m., recessed until Tuesday, July 23, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1991:

DEPARTMENT OF STATE

PARKER W. BORG, OF MINNESOTA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNION OF BURMA (MYANMAR).

JAMES F. DOBBINS, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN COMMUNITIES, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

AFRICAN DEVELOPMENT FOUNDATION

C. PAYNE LUCAS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 22, 1993, VICE DAVID C. MILLER, JR.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DONALD R. LIVINGSTON, OF GEORGIA, TO BE GENERAL COUNSEL OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM OF 4 YEARS, VICE CHARLES A. SHANOR, RESIGNED.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

CHARLES SZU, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 1996, VICE THOMAS G. POWNALL, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

BEN-CHIEH LIU, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1993, VICE MARGARET PHELAN.

NATIONAL COUNCIL ON DISABILITY

MARY MATTHEWS RAETHER, OF VIRGINIA TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994 (REAPPOINTMENT).

PEACE CORPS NATIONAL ADVISORY COUNCIL

MICHAEL B. MCCASKEY, OF ILLINOIS, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1992, VICE JOSEPHINE K. OLSEN.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR THE TERMS INDICATED (NEW POSITIONS):

FOR TERMS OF 1 YEAR:
GAYLE EDLUND WILSON, OF CALIFORNIA.
GEORGE WILCKEN ROMNEY, OF MICHIGAN.
KAREN SUSAN YOUNG, OF CALIFORNIA.
WILLIAM J. BYRON, OF THE DISTRICT OF COLUMBIA.
GLEN W. WHITE, OF KANSAS.
THOMAS EHRLICH, OF INDIANA.

FOR THE TERMS OF 2 YEARS:
RICHARD FREDERICK PHELPS, OF INDIANA.
LESLIE LENKOWSKY, OF INDIANA.
ALAN KHAZEI, OF MASSACHUSSETTS.
PAUL N. MCCLOSKEY, JR., OF CALIFORNIA.
REATHA CLARK KING, OF MINNESOTA.
SHIRLEY SACHI SAGAWA, OF VIRGINIA.
WAYNE W. MEISEL, OF MINNESOTA.

FOR TERMS OF 3 YEARS:
DANIEL J. EVANS, OF WASHINGTON.
MARIA HERNANDEZ FERRIER, OF TEXAS.
FRANCES HESSELBEIN, OF PENNSYLVANIA.
PATRICIA TRAUGOTT ROUSE, OF MARYLAND.
JACK A. MACALLISTER, OF COLORADO.
JOYCE M. BLACK, OF NEW YORK.
ROBERT L. WOODSON, OF MARYLAND.

DEPARTMENT OF JUSTICE

WILLIAM HO-GONZALEZ, OF VIRGINIA, TO BE SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES FOR A TERM OF 4 YEARS, VICE LAWRENCE J. SISKIND, RESIGNED.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

JAMES C. KENNY, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1993, VICE JAMES COLES, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Monday, July 22, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord, we praise You and give You thanks for the glories of a new day and for the many blessings You have showered down upon us.

We come to You, aware of our sins and shortcomings. We have done those things we should not have done, and have failed to do much that we should. We beg Your forgiveness.

Give us an assurance of Your pardon, and the strength to meet the challenges and temptations of a new day.

Make us open to new truth, and bless us, we pray, with a fresh sense of Your grace. Give us the insight to discern Your will in our lives, and the courage to seek and follow Your will in all that we do.

In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Mississippi [Mr. MONTGOMERY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

FDIC FINANCES GROW BLEAKER

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, on June 27, FDIC Chairman Seidman testified that the fund declined by 15 percent in the first quarter of 1991. This is on top of the 23-percent average rate at which FDIC has declined in the previous 3 years.

Seidman also more than doubled his projection of FDIC losses. He now projects as much as an $11 billion deficit by the end of 1992, compared to his $4.6 billion deficit prediction of 6 short months ago.

FDIC losses hit an all-time high last year, with a negative net income of $4.85 billion. Nevertheless, the assets of troubled banks jumped by an incredible 74 percent to an all-time high of $409 billion.

Mr. Speaker, the FDIC is in deep, deep trouble. I am concerned that the restructuring bill reported out of the Banking Committee last month doesn't do enough to protect the taxpayer from bailing out the FDIC. That is why I voted against this legislation.

Our two primary objectives should be to protect the taxpayers and recapitalize FDIC. The sooner we accomplish these tasks, the better. If other parts of this package will slow down our two primary objectives, then we should put them on the back burner.

UNIVERSITY OF NORTH CAROLINA STUDY MUST GO FORWARD

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today, as chairwoman of Children, Youth, and Families, I am sending a letter to Secretary Sullivan. I am very sorry I have to send it.

I was so saddened by his courage meltdown when the right wing came after him, and he stopped a very, very important study that had already been funded by the University of North Carolina dealing with adolescents and sex. Yes, I know it is a very difficult issue to deal with, but in the 1980's, the number of teen pregnancies doubled in this country. That is a terrible trend.

In the 1980's, the increase in the STD's, sexually transmitted diseases, increased to absolutely an epidemic level. That is a terrible trend.

We need answers. This study was very carefully crafted by people who knew what they were doing and was only targeting children who were already into these kinds of activities to try and find out what put them there. It was not trying to drive other kids in there, but to try and see what we could do to correct that behavior.

I certainly hope Secretary Sullivan looks at this. This is one of the biggest health problems we have in this country, and it has been neglected for so long. It has been funded, and I certainly hope he gets it back on track.

TRIBUTE TO BALLARD HIGH SCHOOL, LOUISVILLE, KY, MIXED CHOIR

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, last Thursday morning at 7 o'clock, Ms. Sandy Allen, who is the principal of Ballard High School in Jefferson County, Louisville, KY, received a phone call, an international phone call, and the message was from her students who constitute the choir, the mixed choir, of Ballard High School.

The message was, "We have won Vienna, the city of music; we have won Vienna, the city of music."

What the message, cryptic as it was, meant was that the 55 young men and women who constitute Ballard's mixed choir won both the best of the festival for mixed choirs as well as a special prize for its performance in the prestigious Vienna International Youth and Music Festival.

I just want to take a moment to complement those 55 young men and women, Mr. Perry Duckett, who is their music director, and all of the people who took part in that wonderful adventure, and it was an adventure, 2 years in the making, involving each of the young people having to raise money for their transportation, and to salute them as a member of the community and as a Member of Congress.

We are very proud of you. You have brought great respect and dignity to our community.

VIETNAM GOVERNMENT MUST STOP REPRESSING RELIGION

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, it is ironic that last November I was in Hanoi speaking with the Foreign Minister of Vietnam and that he had assured me that Vietnam was turning over a new leaf. He assured me that in the new Vietnam there would be freedom of religion.

Why this is ironic is because one of my own constituents has just been arrested by the Communist government in Vietnam for giving out Bibles that were translated into Vietnamese. Two Orange County residents, Americans of Vietnamese descent, have been held by the Communist government in Vietnam since July 2.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

This outrage cannot be let to sit without action on our Government's part. The fact is that two Americans are in a Communist jail for doing nothing more than preaching the Gospel.

If we are to have normalized relations with Vietnam, they are going to have to stop this type of activity against American citizens, but also they are going to have to stop repressing their own Christian community. We cannot have normalization of relations in any way with a Communist government like Vietnam if they continue to persecute their own Christian community, and the message has got to go out from all Americans that there are two Americans being held in a Vietnam prison; they are not alone.

In situations like this, all Americans stand together.

The Vietnamese Government should release Rev. Taun Phuc Ma and Rev. Ni Van Ho, American citizens who were doing nothing more than practicing their God-given rights of freedom of religion, and that freedom should be extended to all people everywhere including the Vietnamese people.

□ 1210

BILL CONTINUES CURRENT EDWARD BYRNE FEDERAL/LOCAL SPLIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, last Thursday I dropped a bill in the hopper which I would like to just momentarily talk about, with the hope of encouraging my colleagues to support the bill.

My bill would continue permanently the current 75 percent Federal/25 percent local sharing arrangement for the Edward Byrne money, in that title of the section of the Omnibus Crime Control and Safe Streets Act of 1968.

The Edward Byrne section deals with law enforcement assistance in the antidrug effort. Currently, by reason of 1-year extensions, the split of money is 75 percent which is advanced by the Federal Government, and 25 percent which is the local share. As of October 1 of this year, unless the extension is continued permanently or temporarily, the formula will revert to a 50 to 50 split.

It is very difficult, Mr. Speaker, under all the circumstances today, for local governments to provide the money which they need for purely local activities, or in the case of antidrug efforts, those which are partly Federal and partly local. They are strained in the resources which they have at their disposal, and they are obviously searching out as many new ways to raise local revenues as possible.

If the 50 to 50 split were to be ordered this coming October 1, I am led to believe by reliable information from my friends at home in Louisville and Jefferson County, that their ability to cooperate in these Edward Byrne grants would be severely limited. With that would go the possibility of continuing what has been a very valiant and a very successful effort at home, to fight the war against drugs and drug abuse, and the violence in the streets which goes with drugs and drug abuse.

My bill would, as I said earlier, continue permanently the current sharing arrangement of 75 percent Federal/25 percent local. On Friday, in Louisville, my hometown and district, I had a meeting with a group called AWARE, an acronym for Area-Wide Alcohol/Drugs Rehabilitation Education Enforcement Coalition, which has been extremely successful at home. At that meeting, I indicated that I had, the day earlier, filed a bill. They were extremely gratified by that news because they picked a time at that meeting to advise me of the specific ways in which their ability to fight the war against drugs would be curtailed or maybe even eliminated unless the 75 percent/25 percent split or share is continued.

These are the people, as I said in my remarks to them on Friday, who are in the trenches. They are, literally, in the trenches fighting that way, which is so absolutely necessary to win if our streets are to be livable and our cities are to be livable again. My friends at home indicated to me that they wish to continue the effort. They believe the war is winnable, despite its very strong difficulties and very strong challenges which lie ahead. But, the only way they can win that war, Mr. Speaker, as they have advised me clearly, is with adequate resources.

When my bill is printed, I intend to circulate in the form of a Dear Colleague letter to all of my colleagues, some information about it. My letter will indicate that my colleague, friend, and congressional classmate, the gentleman from New York [Mr. RANGEL], who is the chairman of the Select Committee on Narcotics Abuse and Control, which I happen to serve on with him, is a colleague of mine in these efforts to create a continuation of the 75/25 percent sharing arrangement. I will ask my colleagues to join the gentleman from New York [Mr. RANGEL] and me in these efforts.

Mr. Speaker, I just wanted to take this moment to tell our colleagues that the war against drugs is a very stern challenge for all Members. This is a challenge that we can meet and surmount. However, it will take resources, Federal and local. It is my belief that if we retain the current arrangement of 75 percent/25 percent local, we have a better chance of meeting that challenge.

RESOLUTION REPEALING 25TH AMENDMENT TO THE CONSTITUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today as I have for 25 years, I have reintroduced a resolution asking for the repeal of the 25th amendment to the Constitution, which is in respect to Presidential succession.

The reason I do so is that I was here at the time in 1965, and in fact I think it was this month or thereabouts, when this resolution was brought up quite suddenly. In that day and time, Members did not have the procedural methods that we are accustomed to today. They were, in a manner of speaking, more direct, and in fact pretty much on the fast track.

Appropriation bills for defense, which for that day and time were astoundingly high, $35 billion, would go through this Chamber in less than 20 minutes. Tax bills would come under closed rule, and they still do, and some of the more complicated tariff arrangements in the tax bills would flash through here with little or no debate, and certainly no amendments.

When this amendment came up, and the bells, which were infrequently rung in that day and time, called for a quorum, a live quorum, and then the offering of the resolution by then chairman of the Committee on the Judiciary, Manny Celler, I naturally was intrigued. I came forward, and not being a member of the Committee on the Judiciary, I got a copy of the resolution. I read it, reread it, and could not imagine that it was serious.

Therefore, I went to the chairman and I asked him, "Chairman, what is this about? You are not really pushing this?" At that time, Chairman Celler was up in years and not feeling too well. He was kind of crotchety and ill-tempered, and was very impatient with me. He said, "Well, I don't know what you are asking." I said, "You refer here to, if the majority of the governing body decides that the President is disabled; that is, unable to discharge his duties, they shall then declare so, and the Vice President becomes interim or acting President." I said, "Now, what do you mean by 'governing body'? There is no such language in this Constitution." He got very impatient and said, "Well, I don't have time. You ought to know that that refers to the Cabinet."

□ 1220

And I said, "Well, but the Cabinet is not a constitutional word, either."

Well, with that he lost patience with me and kind of cursed me under his breath and waved me away.

So I came back and sat and looked it over, and the more I read it, the more

I became convinced that a real effort was being made that afternoon to pass that bill, and I would not support it.

So I found myself one of about 28 voting no, but I was the only one who took the floor, like today on a special order right after, and spoke out and gave my reasons. I wish I had been altogether wrong. It is difficult to evoke 1965 today.

The big ado was the fact that President Johnson had been President without a Vice President for 1 year, and I brought out the fact, not to Chairman Celler, but to the author of the resolution in the Senate, Senator Birch Bayh of Indiana. I was very, very concerned. I did not think that three-fourths of the legislatures would without inspection and thorough going review of the history would quickly approve that resolution. Well, I was wrong. They did. It was in post-haste, a minimum amount of time, approved by the required number of State legislatures. The rest is history.

I said that what this did was promote and provide the environment, in the words of James Madison, for "the bold and the ambitious to take over."

I pointed to the experience of such men in our history back in the beginnings when we had such men and had some, like Aaron Burr, who were even conspiring with the Spanish down in the Southwest to form some kind of allegiance actually against the United States, and who as you will recall your history was the one who in a duel killed Alexander Hamilton. He was certainly within that definition of James Madison, bold and ambitious.

I said in those remarks that we could not do anything less than appeal to the future at such times, which God forbid but which experience showed we had suffered then, such as the Civil War, times of divisiveness, times of passion, that the bold and the ambitious would be fishing for power and that this instrumentality would hang like Damocles' sword over our constitutional and democratic government's head forever and a day until it is repealed.

Well, I never foresaw that in my lifetime or even in my membership in the Congress I would see that happen, but it did.

I want the RECORD to show that in 1974 by the time we had the incident of Vice President Spiro Agnew that had faded, just 1 year before in September of 1973, who recalls Vice President Spiro?

Well, to our detriment, all free people in all the history of free people in a democracy, history shows that when people relax their hold on their responsibilities and their duties, they would lose their liberties and lose that democracy, as indeed history shows they have, and as we are now, and a long way down the road with apparently very little perception on the part of those who would have the responsibility of molding opinion or leadership for which the people must depend, but in our system it is presupposed that that knowledge is inherent in the people, which I think everybody knows is an assumption that in these difficult days and in the days of instantaneous electronic communication and the grasp for power and the exercise for power, notwithstanding the constitutional restraints, is something that the people have to depend on their agents, that is us; but today we live in a day and time whether it is in private enterprise or public, the sense of trusteeship is not there.

We see the dilemma that we are in now and probably the most serious one confronting this Nation in I would say a 100 years, not 75 years, with very little perception even in the industry itself known as the banking and financial enterprises.

You see where corporate heads even at a time when their competitiveness is nil and still holding that power and those inordinate profits, will look upon their enterprise which has quasi-public responsibilities as something that has no trust responsibility. Inherent in that and the compromise of integrity is the basic root from which these very difficult problems which in due time will be called crises; but at the bottom of it is a constellation, an array of constitutional enactments, such as the 25th amendment, and what follows there from the executive branch's powers and the Executive orders that have emanated from various Presidencies, the delegation of tremendous authority during times of crisis, such as war, from the Congress under the Constitution to the President as would be necessary during those times. A multimember body cannot exercise with the rapidity and quickness of judgment and decision that a unitary official, like the President must, in time of war; so if we look at the powers the President exercises today that obviously have to be delegated by the Congress under the Constitution, they date back to the Espionage Act of 1970.

Unfortunately, democracies, and I think ours in particular, have fallen right into the faults of the monarchies. Therefore, we are like the old Bourdon kings. We learn nothing and we forget nothing.

The 25th amendment is a dangerous sword hanging over our heads. I never dreamed in my lifetime as much and as troubled as I was by the occurrence in September 1973, by the departure of Spiro Agnew as Vice President and the circumstances, and that is another story, and apparently according to him in the book he wrote afterward, and the title of that book is "Go Quietly Or Else," and he attributes that threat to then Gen. Alexander Haig, who 1 year later joined Senator Bayh and Henry Kissinger, approached President Nixon as the House of Representatives was on the verge of voting an impeachment resolution and said, "If you don't quit, we will invoke the 25th amendment."

Now, I cannot see any of us, and particularly since I was here at the time and was a lone voice who recorded why I had voted no, the other 27 Members voted no, but as far as I know, never stated any reason. I did, and ever since then it has been at the bottom of a great deal of concern; so today I have reintroduced this and it is now known as House Joint Resolution 310.

I am reaffirming a conviction I have had for 25 years, as I say and repeat, and I believe that strongly today as ever that the 25th amendment is a threat to the stability of elected Government in this country. We value our Constitution because it ensures that the Government is elected and that the elected Government is bound by laws.

□ 1230

But laws and constitutions are only as strong as the will of the people that keep and enforce them. A government respects law only if its leadership is committed to law. And we know that this is not always the case. In the 25th amendment we have a device that is intended to provide for an orderly succession in the office of the Presidency. Proponents of the amendment had the best of intentions, I have no doubt of that. But to conceive and write the legislation that was going to truly carry out those intentions was, and has turned out to be, something else. The result is that we have a standing invitation in law in the Constitution to overthrow the President through the operation of the disability clause of the 25th amendment. In recent weeks we have learned of our current President's health problems, problems which are being treated and which are still being studied by medical officials—and, God willing, will result in complete, total recovery for our President. But none of us, no one, has any guarantees to life, and there is no way of knowing whether the 25th amendment will become applicable during this administration or any other administration.

However, Presidential succession has been an issue in nearly every Presidency since Woodrow Wilson. Woodrow Wilson suffered a stroke and had a 2-year disability while in office. Then Roosevelt's death, Eisenhower's heart attack, Kennedy's assassination, Nixon's resignation, and Reagan's near-assassination and later cancer surgery.

Mr. Speaker, I have voted in recent days in ways that clearly show I am in the minority on some issues, and this has been true all through my career. It was not because the positions were taken because I loved them; I am like everybody else, I love a winner too. But since I started on the city council, I cut my teeth in politics there, never having intended to get into politics, I realized that one had to base whatever decisions he made on as much knowledge and documentation and without fear of favor as it was humanly possible to summon. And if the people give you that independence, who else, then, can be the cause for the deprivation of it other than one's self?

So, as I say and repeat, clearly I have been in the minority. On the city council, on June 19, 1954, of all days, I was the only one voting against an array of segregatory ordinances, for my great city of San Antonio had never bothered to pass since it was founded as a municipality under our law in 1839. And it looked very, very extraordinary that I would vote "no" and eight members would vote "aye." But I did. I had the great pleasure in exactly 1 year and 10 months later, with a new council, of offering the repealer and opening every tax support and municipal facility to all citizens regardless of race, color, creed, sex, or religious behavior.

I have introduced legislation in an attempt to repeal the 25th amendment ever since it was ratified in 1966–67.

Now, who bothers with the 25th amendment? Who even reads it?

I want to ask my colleagues, "How many of you are familiar with its exact wording?" And who is going to tell me, when I took the floor in August 1965 and was the only one giving reasons for voting "no" to that resolution, that I would see the worst fears confirmed in my lifetime? I never dreamed of the extraordinary dangers inherent in that amendment.

What is this 25th amendment? Among other things, it was passed because apparently it was felt that a great crisis had ensued after the death of President Kennedy and the assumption of the Presidency by Vice President Johnson. Now, Johnson, because he did not have a Vice President for 1 year—and I remonstrated with Senator Bayh and with Chairman Celler that the ship of state survived, it survived the assassination of Lincoln and the attempted impeachment and trial for impeachment of President Johnson, who succeeded him. Now, who was Andrew Johnson's Vice President? I said, "Let's not hurry."

What was overlooked was something, which I researched: The Congress in its very first Congress passed enabling legislation to carry out that section in the Constitution with respect to the Presidency and its occupancy. And what those statutes said—and they lasted until 1925—was that if anything happened to our President, if he should die while in office or resign or probably impeached—which was remote, of course, because in 1791 nobody thought of that—but they were serious people and they were following through implementing the statutes in those areas of general direction in the Constitution.

What they provided for was that if that President was to leave office and there remained 1½ years or more in his term, an election should be held so that the people would elect their President. The last thing the men who wrote the Constitution ever wanted and feared the most was an unelected chief magistrate, as they called him in that day and time, or President. And we got him.

There is a fairly good book on this, entitled "The Process of Political Succession," though not about what I have just said. I have not seen it written anywhere. It is edited by Peter Calvert.

The orderly transition on the assassination of John Kennedy was not, in fact, as orderly as it was made out to seem to be to the outside world. But compared with the chaos that followed the attempted assassination of Ronald Reagan in 1981—and, I might add, what followed his cancer surgery in 1985—it was a model. And of course what happened in between with President Nixon in 1974 was just as chaotic.

Now, if the 25th amendment was meant to eliminate chaos and provide for a smoother transition, this has not been accomplished. We are just lucky.

What happened in 1974? We had the Chief of Staff Alexander Haig and Secretary of State Henry Kissinger, both positions filled by appointment, not elected by the people, saying, "Mr. President, if you do not resign, we may have to invoke the 25th amendment." These two unelected officials were going to use the disability clause of the 25th amendment to make a decision for the American people, make that decision for them and force the President out of office.

Later, upon the attempted assassination of President Reagan in 1981, the self-same Alexander Haig, as Secretary of State this time, was then at the scene claiming to be in charge of the country when in fact there were three men ahead of him in the line of Presidential succession.

Such ambition and such ignorance of our Constitution and the 1947 Presidential Succession Act is precisely the danger inherent in the disability clause of the 25th amendment.

In 1985 President Reagan's cancer surgery caused another crisis in possible Presidential succession. The President's reluctance to turn over the reins of power under the 25th amendment during his recuperation period may have caused one of the worst scandals in recent history, the Iran-Contra affair. In fact, when President Reagan went in for the actual surgery, he did not want to set a precedent and bind the hands of his successor, so although he wrote a letter that followed the format of the 25th amendment, it did not call what he was doing an action under the 25th amendment and in fact said that he did not think the 25th amendment applied to his temporary sedation for surgery.

□ 1240

But what about his recuperation? A person does not have major surgery and go back to work at full force as soon as the anesthesia wears off, yet I have read that the President's legal counsel, Fred Fielding, together with Chief of Staff Donald Regan, made the decision for the President to resume the Office of the Presidency immediately after his surgery. Not the doctors, not the Cabinet, but two Presidential advisers made the decision. When asked about this, Mr. Fielding said that his and Regan's decision was based on the surgeon's saying that the President was OK. They reportedly accepted this on face value and did not question the physician about the President's judgment.

It was a terrible thing for the President to be brought back to office that soon, a terrible thing for the country, reports that President Reagan made Presidential decisions during his recovery from cancer surgery. It lends additional credence to the former National Security Adviser, Mr. McFarlane's, contention that he received all approval from Reagan for the arms shipment to Iran. Reagan underwent surgery on July 13. The first arms shipment occurred the next month.

Was the President reluctant to invoke the 25th amendment because of its disability provisions because of the probability that he could not regain power once he regained his health? Mr. Speaker, the 25th amendment certainly did not help prevent that tragic mistake in his judgment, and it possibly caused it because of the fear that power, once relinquished, could not be regained. As reported from a book based on Presidential disability and the 25th amendment, edited by Kent W. Thompson, one of the drafters of the amendment, former Senator Birch Bayh, has stated there was concern about the possibility that a means for a coup d'etat was being created by the language of the amendment. He has said that this concern led to the inclusion of the President's Cabinet in the decisionmaking of the President's inability to discharge the duties of his office.

But here I must interject the very question I raised with Chairman Celler. "Cabinet" is not a constitutional word. "Governing body" is not a constitutional word. So, even if Birch Bayh felt that they were invoking the Cabinet, it was certainly a very, very naive assumption. But the 25th amendment does not even mention the President's Cabinet, as I said. What it states is this:

Whenever the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, and up to now the Congress has provided no law, determine that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as acting President.

Now, in fact in light of the additional fact that the amendment was drafted in response to the assassination of President Kennedy, it is significant that Senator Robert Kennedy expressed grave concern about this provision of the amendment. Senator Bayh has reported that Senator Kennedy objected to the language and told Senator Bayh that President Kennedy did not know any of the members of his Cabinet personally, until he appointed them. Senator Kennedy believed that the Cabinet then was not close to the President and could not possibly offer the kind of protection against a coup that Bayh and the other drafters of the amendment thought they were providing, and I certainly do agree. You cannot give those with the most to gain from a decision the nearly absolute power to make that decision and not to expect it to be abused at some point.

Compounding the inherent danger caused by the disability clause or the technical problems; for instance, what constitutes an inability to discharge the duties of the Presidency, is this limited to medical disability, or does it include political inability to lead a country? In time of stress, and passion, and division, why not? Why could the judgment not be that the President was totally and politically unable to lead the country? The Constitution does not say that cannot be. What is the duty of the President's physician if he uncovers a serious illness which the President wishes to keep confidential? What happens to the physician-patient privilege against revealing such information? Further, if inability includes being put under anesthesia, as many believe, despite President Reagan's assertions to the contrary, does it also include being under the influence of sleeping pills? How about inebriation or even changes of mood caused by prescription medication?

With so much left to the interpretation by those who are charged with the responsibility and power of making a determination of the President's ability to discourage his duties, there is much room left for mischief, and what is the incentive that would lead the Vice President and members of the President's Cabinet to move for their own purposes under the disability clause of the 25th amendment? Look at what we have had lately, since 1945, but much more so in the last decade. We have seen a rise of the imperial Presidency in this country. I dare say that perhaps the overwhelming majority of the Members in and out of Congress, as well as a citizen, would say, if asked, that the President has more power, that he is omniscient, and that he is of greater power and authority than either of the other one of the two branches of Government. That simply is not so, and it is in direct contradiction to our U.S. Constitution, yet our Presidents have been approaching a position of absolute authority, with greater momentum every day, and going back for some time and on a bipartisan basis.

I have been raising these issues since I came to the Congress. Look at the recent vote by Congress to give the President absolute authority to negotiate a free-trade agreement with Mexico or 160 other countries, and look at the recent votes ratifying the President's unilateral warmaking. I was one of only three, as far as I know, that criticized the Presidential order giving rise to the invasion of Panama on December 20, 1989. Where are they now? We are in occupation and governing militarily. We have over 15,000 of our troops in Panama. They are in charge and governing. That is two-thirds, more than two-thirds, than the top number we had at the time of the invasion.

So, who cares? But what does it mean? It means that Presidents, if wise, would want to have a copartnership of the policymaking body, or at least the leadership known as the Congress. Congress, a multiple body, particularly under the circumstances surrounding today, is quite unable or unwilling to rise to the occasion, and it has been for some time. But not too many years ago, take the first peacetime draft act, 1940. Congress can sure be a lot more responsive to their constituents' well-being. Yes, with great debate and hesitation they passed that first peacetime draft in 1940, but they sunsetted because they would last no more than a year, but they also provided protection for the individual that might be called who would lose his job, even if temporarily.

□ 1250

So right then and there, it provided certain protections. One year later in 1941, the month of August, it came up for renewal. The Congress was not going to extend it, even then, because they realized what a far-reaching power they had given the President.

Then after much debate and one amendment by a Member of this House that said, "OK, if we extend it, it will have this proviso, that no person subject to the terms of this act shall be compelled to serve against his will outside of the continental United States, unless a declaration of war is expressly provided so by the Congress."

With that inclusion, they got the one vote that extended that bill, passed the bill, passed by one vote in the late summer of 1941, just a few months before Pearl Harbor.

What we have forgotten is that the declaration of war did come on December 8. Then when the hot shooting phase of the war ended in Europe, subsequently in Japan, we forgot all about that and we kept a draft apparatus. But then I recall vividly, as if it were today, get the boys back, we have won the war, not realizing that and even today we are still under the misperception that that war is over with. Actually, we still have not too many thousand, under 300,000 troops in Germany, which sooner or later the Germans are not going to tolerate, as they are beginning not to.

Is there a peace treaty? Well, the nearest thing was the agreements that had been lately signed by Russia and the other countries on the merging of the two Germanies. But there never has been a formal peace treaty or conference terminating World War II.

In Korea, South Korea, we have about 48,000 troops and another 40,000 Americans. We have no treaty obligation for the defense of South Korea. Our meager handful of troops could hardly be sufficient to protect South Korea. The South Korean defense is greater than most of our NATO allies' defense forces, better equipped, with the most sophisticated warcraft, soldiers highly trained, and they have an army of over 65,000.

So what is the military purpose of 48,000 American military in South Korea? We have already had, just in the last 2 years, four violent demonstrations against our presence militarily there. But we are still—we are still appropriating a couple of billion dollars. What is the military purpose? Where is the leadership of the country in the executive branch, the President being the Commander in Chief of the Armed Forces of the United States?

Just the day before yesterday I saw where he is considered the Commander in Chief of the United States. That is simply not so. He is not the Commander in Chief of the United States. If he is, then we have a king. And if so, our citizens are not citizens. They re subjects. We are not citizens, we are subjects.

It is that simple, and it goes back to the fact that without any perception, we have gravitated from one situation to another without addressing the basic constitutional issue, such as the Draft Act.

Now, the President has the power, and in fact right now we have about 17½ million names of the young that have to register for the draft, 18 to 20. Our Government can in 3 hours time bring in the first call. They have got everything set up. They have even got a rental arrangement with a building downtown, and it would not take just a matter of hours. It is all set up.

Of course, the Congress has to sanction, but we do not have to pass any law or anything. We just have to sanction the President's power to carry out the draft provisions of the Draft Act. So where are we?

It took the bitter divisiveness first beginning to show its ugly head in the

Korean war. There at the end of 1953, before the armistice, whatever you want to call it, we were beginning to have the same kind of demonstrations. They had protesters in California stopping munitions trains and all, but by that time President Eisenhower got elected and he brought about the arrangements of the truce. So it did not give rise, but at the basis of that was the fact that people were being selected on a very selective basis, militating against the poor and the uneducated, to go out and die and face death while other Americans were not.

This is a tremendous transaction from World War II and the carrying out of the draft there. So I am just giving this as an example of how things can add up to an aggravated situation in a time of great passion and divisiveness that could make this amendment the most dangerous weapon we have directed at the heart of a democracy.

In our Nation's first 10 years of nationhood, which really were the First and Second Continental Congresses, the Articles of Confederation, nobody thought of having the office of the Presidency anywhere around. They feared that. The whole debate in the Constitutional Convention later in 1787 clearly reflected that all through, and certainly an unselected President, that was the worst thing they could conceive happen to our country. So they did not bother, the first 10 years of our nationhood, they did not bother having an office anything like that, no such thing as a President or a Chief Magistrate, as they called them then.

They did not want to have anything to do with that from which they were extricating themselves, tyrannical, arbitrary, capricious power. This is why the most revolutionary words ever to this day are the first words of the Preamble to our Constitution, and I have encouraged, all through my activity for years and years, students to memorize them.

I will go to elementary school students, and I will offer some little reward like a book or something to those students that memorize. Why? Because encased in those words are still the most revolutionary, that is, "We the people of the United States," not the Congress, not the President, not anybody else, but "We the people of the United States" are the source of all power in order to form a more perfect union, et cetera, et cetera. The people.

How many countries in the 20th century that have started out in the name of the people would say that that power emanated from the people? They would not even refer to it. Those were extremely radical words in a world where the whole world was governed either by kings, by divine right, or by czars or potentates or allegorics. And here there are Americans saying no, power does not come to a king from God. Power comes only from the people.

Well, look at what is happening today. One would not think so. One would think that we were supposed to be responsible to some leader, not to the people.

□ 1300

For the first time in this world, as I said, then of kings, and today of the other system, those words came across. We have strayed away from that, so that when we end up with the possibility, in fact, the reality, that we have an unelected President and an unelected Vice President, we have a continuing sword pointed at the very heart of our democratic, constitutional form of government.

As the President gains greater and more absolute power, it is increasingly important for us to reevaluate the 25th amendment. The incentives for blind ambition to govern actions under the disability clause of the 25th amendment are stronger now than ever before. We must not allow provisions for a coup d'etat, which the disability clause establishes, to remain a part of our law.

As a nation established on the principle of the power of the people, we have provided through the 25th amendment a means of relinquishing that power and establishing it instead in a very few unelected government officials.

How can we allow this kind of Presidential power, which our Founding Fathers feared and tried to prevent, but which has grown out of any sense of proportion in recent years, to be held by an unelected President who has assumed power over the wishes of the elected President?

The 25th amendment allows this, and it is wrong. It is dangerous, and the 25th amendment should be repealed.

LEADING EMPLOYERS INTO APPRENTICE PARTNERSHIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. GRANDY] is recognized for 60 minutes.

Mr. GRANDY. Mr. Speaker, I am taking this time today to discuss with the membership a bill that has been introduced recently, which I had the privilege to introduce with five Republicans and five Democrats, H.R. 2550, the acronym of which is LEAP [Leading Employers into Apprentice Partnerships].

The purpose of this special order today, Mr. Speaker, is to really have a kind of electronic "Dear Colleague" with those Members who have not become familiar with this piece of legislation.

To put it in the proper context, let me begin by reading from "America, 2000." Those Members that are not aware of "America, 2000" should know that this is essentially the President's blueprint for educational reform for this country. This is the document that the President and Secretary Alexander and our Nation's Governors and various business leaders have crafted to kind of pave the way for educational reform, and in some cases, radical reform, for this country.

I am not going to be dealing directly with the main thrust of this book, which is elementary reform and secondary reform. I want to turn to page 69 of this document and read from what they call the after-school years. Because it is my contention, and one of the reasons that I introduce this legislation, that we have not paid enough attention as a society and as a government to those people that find themselves after school without any opportunities whatsoever.

That is directly related to the fact that while they were in school they did not get the education, the basic skills that they needed, to put themselves into the work force and become skilled laborers.

But let me read some paragraphs from this, because it basically sets forward our strategy, supposedly, as government, to these individuals who have not been well-treated by our present public education system.

> Comprehensive, well-integrated, lifelong learning opportunities must be created for a world in which three of four new jobs will require more than a high school education. Workers with only high school diplomas may face the prospect of declining incomes, and most workers will change their jobs 10 or 11 times over a lifetime.
>
> In most States the present system for delivering adult literacy services is fractured and inadequate. Because the United States has far higher rates of adult functional illiteracy than other advanced countries, a first step is to establish in each State a public-private partnership to create a functionally literate work force.
>
> In some other countries, government policies and work programs are carefully coordinated with private sector activities to create effective apprenticeship and job training activities. By contrast, the United States has a multilayered system of vocational and technical schools, community colleges, and specific training programs funded from multiple source and subject to little coordination. These institutions need to be restructured so that they fit together more sensibly and effectively to give all adults access to flexible and comprehensive programs that meet their needs. Every major business must work to provide appropriate training and education opportunities to prepare employees for the twenty-first century.
>
> Finally, a large share of our population, especially those from working class, poor, and minority backgrounds, must be helped to attend and remain in college. The cost of a college education as a percentage of median family income has approximately tripled in a generation. That means more loans, scholarships, and work-study opportunities are needed.

I chose to begin my remarks with that quote, Mr. Speaker, because I want to talk about the disparity between word and deed, the difference between what we are preaching and what we are practicing, in Congress and, indeed, as a Government at large.

It is not a question, when we talk about education, whether we are talking about afterschool or preschool education, of how much money we spend. It is a question of how do we spend the money that we have?

With that in mind, having just read several paragraphs of governmental intent, let me talk about the practical effect of how our educational dollars are going for those people that are coming out of high school and looking for work opportunities.

Let me refer to this first chart and talk about three, I think, very important points that show the difference between word and deed in our educational policy.

First, about 66 percent of our Federal education dollars are spent on 30 percent of the high school students who are college bound. In other words, 70 percent of those students that get out of high school, or do not finish high school, are without any real major means of funding.

What does that necessarily translate to? That means under our present system, a college bound student in this country can expect to get about $5,000 per year in combined subsidies. A noncollege bound student, what we will now call and probably call for years to come the nontraditional student, can probably expect an average of $50, one one-hundredth of what our college bound population can expect. If this nontraditional student ends up in jail, he or she gets a nice big subsidy, but that is hardly the point. The point is how do we keep that eventuality from happening?

Look at the difference between what we are doing in this country and what our competitors around the world are doing in terms of putting their commitment into moving a trained, and in many cases highly developed skill force, into the front lines of competition.

U.S. competitors spend an average of 4 to 6 percent of their payroll on worker training, while U.S. business spends less than 1½ percent. Of this 1½ percent spent on worker training, 66 percent is invested in the already college-educated employees.

In other words, if you are in the work force, if you have a college degree, your employer probably will spend more money making sure that you get an advanced degree, increased training, than he will on the bottom rung, or the front line worker who, in many cases, probably is more deserving and more desperate to receive that training.

We have a shrinking work pool in this country. Any demographic study will tell you that, from the Bureau of Labor Statistics down to just about any Member of this body. But very often when we talk about Government policy and when we talk about competitiveness, we mention the word "capital" and we talk about capital formation, we talk about plants and equipment, and research and development for which we are currently proposing a 20-percent tax credit, or we talk about cash, access to funds.

What we very infrequently talk about when we talk about capital and competition in this country is human capital, our workers, our labor force, and how we are going to proceed to prepare them, and in so doing, us, for the 21st century.

Now, as anyone within the sound of my voice knows, we are in the middle of a recession right now, perhaps bottoming out, perhaps not.

□ 1310

The point is that when the economy was going full tilt, many employers were basically grasping at any workers they could find. They were giving what is now called the steamed mirror test. In terms of employment, that means if you can walk up to a mirror, exhale, and the mirror steams, you have got the job.

But the workers we are talking about for the 21st century have to be trained with both advanced and basic skills. A work force without advanced skills cannot compete with our developed trading partners, a work force without basic skills cannot compete with developing countries.

While we talk about what we are going to do to become more competitive with Japan and Germany, we really are falling behind some of the countries that we are providing aid to, because we are not investing enough of our time, talent, and our attention into this work force of nontraditional students.

Let me go a step further and say that as a member of the Committee on Ways and Means, I have now sat through 2 or 3 weeks of hearings on competitiveness. We are having an exhaustive review of how this Nation can become more competitive, and everybody from the Speaker of the House down to business executives and union leaders have come in and said that what we need to do is recommit to education. There is no argument with that. Everybody believes in that. Sure, we will quibble over how much money to spend and how the money should be spent, but everybody believes that a competitive America has to be a highly educated America.

There has been some discussion during these competitiveness hearings of trying to create work-study or apprentice programs or the work-study opportunities fleetingly referred to in this document that I read earlier, but very little legislative attempt to kind of plant that seed and create a mechanism by which business and government and communities and professional educators can actually plant and harvest our human capital and prepare for the 21st century.

Quite honestly, some of the most compelling testimony I have heard has come from business, and specifically the words of William Kolberg, who is the president of the National Alliance of Business, who was a witness at the Ways and Means hearings on international competitiveness said this in his speech a few months ago, he said:

> The last frontier of international competitiveness, I submit, is the work force. It is the one component we can't export or import with ease and quantity. Those nations that build the best educated and trained workers into internationally competitive skill forces will draw the high-skill industries and, thus, enjoy the higher standards of living. Those nations that have undereducated and undertrained workers will increasingly be forced to compete on the basis of low wages and, thus, suffer lower standards of living.

That is significant in this Congress, because one of the major pieces of legislation we have thus far passed is the North American Free-Trade Agreement, our free-trade agreement with Mexico. One of the major arguments levied against support for that trade negotiation was that by grafting onto American capital a country that is rich in human resources but very poor in development such as Mexico, we would basically just wind up exporting cheap labor and cheap-labor jobs to Mexico.

Well, those of us that supported the North American Free-Trade Agreement believed that what we really had the opportunity to do was raise the standard of living in Mexico, raise the wage base, raise the opportunity, and in so doing, probably create more higher paid jobs. But if we do not begin to invest in our workers in this country, the fears of the opponents of the North American Free-Trade Agreement will probably become a reality.

Unfortunately, as I said earlier, for all of the lofty comments being made by businesses about how important their work force is, we are still way behind our foreign competitors. Coincidentally, America and Germany right now, in terms of public funds, are spending about the same on their public education systems, about $300 billion annually, and that includes Federal, State, and local subsidies.

But the difference, of course, is then what is happening with business and through business.

Where do we go from here? In the competitiveness hearings held by the Committee on Ways and Means, we heard testimony from a great number of witnesses, and most witnesses testified on such things as research and development tax credits, and, again, when I am talking about that, I am talking about bricks and mortar, plant and equipment, and various allocation formulas for multinational corporations and the high cost of capital. A few witnesses testified on the training programs their agencies, business, or industries are undertaking.

In order to improve this Nation's human capital, and there are some outstanding leaders, Mr. Speaker, that are doing this, Motorola, Corning Glass, American Express have all kind of created career academies and work reorganization and work training and apprenticeship programs which really, I think, are the best that we have to offer in the business community. But there is a demand for American business to play a larger role in making that transition from the work force to the skill force.

Right now big businesses can afford to undertake education programs. Why? Because they can see the macroeconomic effect of their investments. They can afford the cash flow of education programs. They can devote a number of personnel without severely impinging upon their productivity. That is wonderful.

But what about small business? What about most of the businesses in this country, most the businesses that create most of the jobs in this country?

Right now only about 13 percent of the small firms in this country offer any formal training to workers with less than a high school degree. And why? Well, because they cannot afford the investment. In many cases, if they do invest in some kind of worker training program, if they do actually try to expand their work force and specifically train workers and perhaps even better their education, what they invariably wind up doing is losing those trained workers to a larger firm. So obviously there is no cost-benefit relationship to that investment, because why train a worker, spend your money, for somebody else.

However, if small businesses can join together, they can see these effects just like a big business can. With that in mind, my colleagues and I have introduced Leading Employers into Apprentice Partnerships, or the LEAP Act.

Let me take a moment to describe this in detail, Mr. Speaker, because this may sound complicated, but, indeed, it is quite simple.

It is predicated on the belief that businesses and communities have a mutual interest in replenishing the skill force in their own communities, whether they are large or small, but unfortunately, right now, they do not have the mechanism by which to do it. The LEAP Act provides that mechanism.

Through the Tax Code, the LEAP Act would encourage businesses to get together and contribute funds into one pot, a 501(c) nonprofit tax-exempt organization that would fund apprenticeship programs in conjunction with local community schools and community colleges. This is not a top-down educational reform that is handed down from the Secretary of Education to various State bureaucrats and back to the communities. It is a tax credit that goes to those businesses and those leaders in the community and allows them to form the model that they need to address the skill needs of their communities.

Notice in the chart here the need in the business community for skilled employees. That is probably true in every town and city in this country. Businesses provide money for a nonprofit organization and create guidelines for the apprentice program.

In this particular apprentice program, you would have not just business, although because they are obviously investing in this, they would probably have a majority of seats on the board of the tax-exempt nonprofit organization, but you would also have probably leaders from the educational system, whether or not we are talking about the high school or the community college or both, and you would no doubt have governmental leaders of the community, and you would probably also have the apprentices or perhaps their parents or both designing the apprentice program. It follows then that business and the school partnership establish the structure of the apprentice program, and by that, I mean a work-study opportunity.

Students would attend the apprenticeship programs at local businesses for school credit in addition to academic programs at school, and here is what you wind up getting: on the microeconomic level, the business is going to wind up with employees that are gaining basic skills as well as specialized skills.

□ 1320

They are reinvesting at a local level for a specific task. Community work forces reskilled and replenished with a minimal of oversight by business, or for that matter, by Government.

The tax-exempt organization is designing, implementing, and operating the program. The schools get an increase in class resources seeded by business, increase in class attendance, because what we have added here is purpose. The one thing perhaps missing in our educational system right now is a reason to stay in school. Students cannot understand why they should stay in school. They cannot understand what the connection is between what they are learning in a classroom and what they will need in life.

Finally, your graduation rate will go up. What happens on the macroeconomic level, unemployment probably goes down because we have more people not just getting skills, but getting a job with those skills. Federal assistance probably is decreased through unemployment insurance compensation, and welfare, public assistance programs that are usually designed to help those people that have been thrown out of the workplace due to lack of skills.

We have an increase in funds devoted to education, with no increase in Federal bureaucracy. Speak to any teacher about that right now. Just about any teacher I deal with in my congressional district, Mr. Speaker, will profess to say they got into this profession under a false premise. They thought they would be allowed to teach. What they are doing now is filling out forms and going to meetings. Hopefully, this will be able to translate a little bit into their freedom to perform their job.

Increased productivity, increase in competitiveness. Let me dwell just for a moment again on the makeup of the board; 51 percent control of the local businesses. Do not forget this can be a consortium of businesses, and in most small towns would; 49 percent would be the community high school and college staff, if there is one in their community. Trainees or parents of trainees, State and local officials in this, such as mayors, State representatives and senators. If there is a secretary of education in the State or liaison from the Governor's office, so much the better. The purpose here is to bond business into the community for a common community goal. That is what is missing in our after school programs right now.

We have a lot of top-down funding for job skills. The Job Training Partnership Act, section 127 of the Tax Code is employer provided education. That helps. The targeted job tax credit helps.

Almost invariably, the hoops and hurdles people have to go through to qualify for these credits are dictated by an agency or bureaucracy, beyond the community's auspices. That is what this act seeks to reverse.

Now, basically, it would give schools new vocational opportunities while providing the resources to match. The reason this is important and timely right now is just like the Federal Government, which is going through obviously a period of contraction in trying to deal with their deficit, that is happening now in the State/local. My State of Iowa has a $300 million deficit. There has been a cutback, of State-provided services, which has meant fewer agencies being open shorter hours. It is unlikely, then, we will see a lot of new education initiatives coming from our governmental organizations, because they do not have the money to fund them. However, because of tight Federal budgets, Congress cannot afford to pick up the whole cost. So we need a new player.

The obvious player in this particular scenario, Mr. Speaker, is business. Who, more than they, have a vested interest in replenishing our work skills? When I say "business" I do not mean to imply that labor does not. Organized labor has traditionally been one of our greatest repositories of work skill training. This is designed to help them as much as the management side of the equation.

Now, how would this tax incentive work? The bill is a tax bill, amends no other existing language than the Internal Revenue Tax Code and provides dollar-for-dollar matching funds from the Federal Government. The first part of the incentive is the deduction.

Right now, business can receive a deduction for contributions to a tax-exempt organization. That is worth about 34 cents on the dollar, if a company is paying a 34-percent corporate tax rate. The second part of the incentive, the new part, really is the 20-percent tax credit. Business would receive a 20-percent tax worth roughly 20 cents on the dollar. Together, these incentives would equal roughly 50 cents on the dollar, dollar-for-dollar matching funds. Businesses would have to put their money up front in order to see the tax offsets from the Government, but what we have now is a real incentive for businesses, large and small, to seek out work opportunities and train for those opportunities, and in so doing, put some pressure on their local education establishments to increase the basic skills, so that their potential work force can get those jobs.

Now, the American work force that I have been talking about, whom this act is trying to help, to help into apprenticeships, is a very multicultural phenomena. As we know, it is not the 30 percent of kids that will go on to college, the ones that are already, to a large degree, subsidized. We are talking about high school students and high school dropouts. We are talking about community college students who are returning for education, after perhaps many years out of the educational mainstream. We are talking about displaced homemakers. We are talking about former prisoners and substance abusers. We are talking about immigrants, nontraditional workers, which a major news publication in this country has referred to as the "forgotten half." And we know it is considerably more than 50 percent.

Now, we cannot afford to foresake these people. We do not have the luxury of hiring only college-educated individuals, and we cannot afford to have workers pass only the steamed mirror test in order to get a job.

Incidentally, I might say to this point, Mr. Speaker, one of the main cosponsors of this bill is the gentleman from New York [Mr. RANGEL], who represents Harlem. Now, his district and my district could not be further apart, probably, in terms of their ethnic balance. I come from northwest Iowa. It is a small town, predominantly rural congressional district. He comes from Harlem, a big-city multicultural district. Ironically, we have a lot of the same problems, a lot of displaced workers, reduced opportunity, a lot of nontraditional students. Consequently, the needs in the urban area and the needs in the rural areas are melded under a program like this, because they are designed close to home.

With that in mind, I am hoping that Members from both urban and rural constituencies will look favorably on this kind of legislation, because studies show that a significant portion of our students will learn better, as I said earlier, if they have a purpose, if there is some kind of work force incentive tied to that. Vocational education is the way we will keep many of our noncollege-bound kids involved and interested in school.

Now let me go to an example, a concrete example, of how this would work. This would apply just about anywhere. We will say there are a group of florists, and I chose them because florists tend to be typical small businesses, few employees, but like so many employers, looking and not finding the skilled labor that they need.

Under the LEAP Act, a group of florists could get together and contribute funds into a LEAP organization, into a tax-exempt entity, in order to fund an apprenticeship in that field. The work skills learned might include floral arranging, might include account keeping, and basic business skills of taking customer orders and office etiquette. In exchange for the opportunities to get some work-based learning, the apprentice is required to take additional classes in science. We will say horticulture, perhaps botany, and perhaps a business class or two.

It is in these more advanced academic requirements that students may finally see the reason that good reading, writing, and arithmetic skills are necessary. Academic course work that may seem dull to a high school junior will take on a new appeal when there is a work-based learning component to accompany. At the same time, students are getting a basic academic education. They are getting vocational education inside the businesses for which they might one day work, and while the work on the florist shop might not lead to a career in that field, the classroom work and basic job skills learned will stay with the students for a lifetime. So in other words, if a group of florists in a medium-sized city decide to replenish work skills, they turn back the high school or perhaps community college and say, "We will pay for you to teach a few basic courses that we need for our industry, such as botany, horticulture, perhaps some business math, but we are depending on you to provide at least some basic educational skills to these students so that by the time they get to their advanced learning, they will have the basic fundamentals to cope with the new curriculum."

That puts some legitimate pressure on local educational systems to deliver the goods. It also goes back to that question of purpose, the administrators, the teachers, the PTA can turn back to the students and say, "Now you know why you are in school. Businesses in this community are providing an opportunity for you which you may or may not use, but at least right now it is better than standing in the unemployment line."

□ 1330

In so doing it provides some purpose. Now, just coincidentally, and somewhat ironically, the Secretary of Labor, Lynn Martin in today's Washington Post talks about "Teaching Tomorrow's Skills." She has recently received a report from the Secretary's Commission on Achieving Necessary Skills. Let me read just one paragraph from her editorial in today's Washington Post:

> When I visited Union apprenticeship programs, the value of contextual learning was driven home when many young people told me that they finally understood why learning basics such as math was important. They said, "It's needed for the job."

Hence this bill, Mr. Speaker, to provide purpose to an eroding educational system that is providing a lot of instruction and is very process oriented. It is not outcome oriented. We process a lot of people through the system. We give them degrees. We send them on their way and invariably they wind up coming back, diploma in hand, but with really no productivity to show for it. If we want to go to an outcomes-based educational system, if America 2000 is going to mean something, we have to build purpose all the way through the system. I do not think it is too much to say to a 16-year-old or a 26-year-old who has had a variety of educational opportunities, but nothing really to show for it, that now we are going to create that connection between your work and your study.

Many of the purposes of this legislation are not to create anything new, but to use the existing facilities and capabilities that we have. We make use of the existing bricks and mortar, whether we are talking about a high school or whether we are talking about a community college, and we are using teachers already on State payrolls.

There is nothing, of course, to keep a business from saying, well, we want some of our employees to teach these courses; but because they are creating this Board and using the available talent pool in their educational system, it stands to reason that they will use those people best capable to make an educational contribution.

It makes use of existing Job Training Partnership Act structures and local private industry councils.

Indeed, as a member of the Education and Labor Committee for 4 years, we worked closely with private industrial councils when we were reauthorizing the Vocational Act, the Perkins Act.

This to a very large degree is a self-help variation from the Carl Perkins Act; but most importantly, it draws on the talent and resources of the local community. The staff of the tax-exempt organization would work on scheduling the apprentice's time, drafting specific workplace learning goals, and in cases where applicable handle payroll or transportation for the apprentices.

Unlike most Federal programs, Mr. Speaker, this one stops when it is not working anymore. If businesses find that for some reason the purpose has run afoul of the original intent, if the tax-exempt organization is not working out, they can scrap it and start over or re-form into another group—no existing Government infrastructure which eventually begins to feed on itself.

Now, briefly let me talk about one of the criticisms of this kind of a system that invariably comes up when you propose these kinds of educational tax credits.

What about abuse? What about the employer who uses this tax credit in a sense to not really further the skill force of the community, but really kind of views Federal dollars to improve the very limited skills of an already very professional work force?

Fortunately, the Internal Revenue Code already contains some very serious antiabuse roles for tax-exempt organizations. The LEAP Act creates a new form of section 501 tax-exempt organization that is permitted to carry out these apprentice programs.

There are two forms of tax-exempt entities: public charities and foundations or private charities. A public charity, such as the American Cancer Society, has broad public support and gives funds to a broad cross-section of the public. A foundation, on the other hand, sometimes called a private charity, and that would be something like the Ford Foundation, has a narrower funding source and gives to a relatively narrower cross-section of the public. Foundation tax report rules are much more stringent than those for public charities.

The Internal Revenue Code is written in such a way as to call a new tax-exempt corporation a foundation. Unless it notifies the IRS that it is not a foundation and receives a determination letter from the IRS, that it is in effect a public charity. The IRS, in other words, has to make that determination.

Technically, this is called defining the term in a negative way. Section 509 of the Code calls organizations "private foundations" unless the organization receives more than one-third of its funding from forces such as grants, gifts, or contributions.

The partnership organizations created in the LEAP Act must file a timely notice with the IRS in order to qualify for tax-exempt status and to determine whether they are public charities or foundations. Provided that a particular LEAP organization is relatively broad-based, the IRS would then provide the organization with a determination letter stating that it is a tax-exempt public charity and give it a tax-exempt number. So already there is a system of oversight and review that unscrupulous employers would have to deal with from the very beginning.

All section 501 organizations must file an IRS form 990-PF. which is an information return. In the last few years the IRS has announced that it would step up auditing 990-PF forms and private foundations must also file a form 4720 for certain transactions.

The auditing of LEAP organizations or even the threat of audit, along with the penalties for misdeeds, should be enough to keep these organizations honest and worthy of their tax-exempt status, we hope.

But still, is it not better to at least give an incentive back to the community, as opposed to imposing a mandate on that community? Unfortunately, very often, although that is not the intent of some of our job training programs in our employment services that we provide through the Department of Labor and other Federal bureaucracies back to the States, what happens is the regulations are such that they discourage people from seeking training.

One of the big problems that may be encountered with organizations, such as the one I have described, would be areas of investment income and failure to distribute income. These problems would be covered under the prohibited transaction section 503 of the Code. These prohibited transactions would be: No. 1, lending money without adequate security and reasonable rate of interest; No. 2, pay and compensation in excess of reasonable allowance for salaries for other compensation for personal services actually rendered, or making any part of its services available on a preferential basis to the creator of the organization if the person or corporation made a substantial contribution.

What that basically says is a law firm is not going to be able to set up a tax-exempt organization to take its already highly educated work force and teach them at taxpayer expense a new and subtle and complicated form of the law to expand their business. That is why we are not necessarily giving the money to the businesses; we are giving the money through the businesses to the tax-exempt organizations, and it is the board who will decide.

Now, if for some reason a community decides unscrupulously to manipulate this board in such a way, then yes, probably the Federal Government would step in; but unlike any other kind of tax credit that I know, Mr. Speaker, this particular piece of legislation, H.R. 2550, forces accountability because we are forcing businesses and communities to watch themselves, so the policing mechanism again is at the local level, because the purposes and goals are at the local level.

Now, I have introduced this legislation, as I said, with the gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. HOUGHTON], who is the former chairman of Corning Glass, and as I said, five Republicans and five Democrats.

I cannot tell this body right now how much this tax credit costs. The Joint Tax Committee is currently looking into what kind of revenue offsets might be needed, and unfortunately I cannot tell you at this time how expensive this bill is to America.

I can tell you that the 20-percent R&E tax credit will probably cost the economy about $1.8 billion over the next 5 years.

I would only argue, is it not as important in invest in human capital in this country as it is to invest in bricks and mortar and technology?

I would also say that are there not some savings to be derived if a bill like this actually works and in so doing we find we are less dependent on things like the Job Training Partnership Act or the Targeted Jobs Credit, or various other mechanisms that we have built into our Tax Code and into our Federal oversight that is designed to help people who have already lost an opportunity?

This bill is designed to help the people before they lose the opportunity. And I would argue that although I cannot from a joint tax point of view numerically say this is a savings of tax dollars, in terms of the investment in public policy I would have to argue that a bill like LEAP probably redirects the money where we want it to help those people before they lose their sense of purpose.

So, Mr. Speaker, that was the purpose of this special order today. I would encourage Members who are interested in finding out more to contact my office. I really feel as though this is a direction, if this country is going to talk about competitiveness, we have to talk about something more than capital gains, tax credits for research and experimentation and various, what have become known as, business-oriented tax credits.

This is a business-oriented tax credit, but it is the business of education that this country has to begin investing in. Federal Government, State government, local government cannot afford to do it. We do not have the revenues, we do not have the desire to raise our taxes to provide the revenues; because of that, Mr. Speaker, business large and small cannot afford not to.

A HISTORIC MEETING WITH DR. EDWARD DEMING

The SPEAKER pro tempore (Mr. VOLKMER). Under a previous order of the House the gentleman from Georgia [Mr. GINGRICH], is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, as many people know, Dr. Deming is in many ways the founder of the quality movement, as the man who initially in the late 1940's and early 1950's educated the Japanese into the process of quality, and into creating a culture of quality, and he was brought into the Capitol today. He is now in his early nineties. He spoke with a number of Members of Congress and senior staff people and members of the executive branch from the White House who came up to sit in and talk with him and learn about ways in which America has to change.

I want to particularly thank Speaker FOLEY and Republican leader BOB MICHEL for helping us with this particular project, getting Dr. Deming up here.

The thing I want to share with my colleagues is that Dr. Deming talks about a transformation, he talks about a change which he says is the same as taking ice and turning it into water. He says that if you are really going to compete in the 21st century, if you really want to have quality as it applies to health, to education, to manufacturing, to Government, it is not just reshaping what we already do, it is not just taking a block of ice and making it look different by making an ice sculpture. It is in fact a fundamental change, a transformation from the way we have been in the habit of thinking and doing things to a very different way. He uses the analogy of ice to water, the notion that you have to apply heat. He makes this point, in part, because he says that the greatest single problem has been good intentions, the people with the best of intentions and the best efforts; that people, as he puts it, who do not have basic knowledge, and he referred over and over this morning to the concept that you have to have profound knowledge and that profound knowledge comes from a really deep study of what leads to quality.

And the first step in leading to quality is the concept of the system, the idea that people are a team, that they are involved with each other in achieving things and that they have to learn to rely on each other in a cooperative way in order to get things done.

He made what I thought was an absolutely fascinating point about the difference between the pyramid in which we normally talk about hierarchies and a flowchart. He said that in the pyramid it may tell you who is in charge at the very top of the pyramid but it does not tell you what anybody is doing, it does not tell you what their real relationships are. He said that "in a flowchart I begin to understand what my job is, how it relates to jobs before me and how it relates to jobs after me, and I begin to understand why I am part of a larger system and myself. And I begin to find why my work has purpose." He drew the analogy of having to wash down a table. He said, "Now, am I cleaning this table off so you can use it as an office; am I cleaning the table off so you can use it in a restaurant; or am I cleaning it off so that it is an operating-room table?" He said there is a whole different standard of cleanliness for each of those three functions, a different kind of purpose. I am relating to different kinds of people. Am I relating to a secretary or to a surgeon as I design my job? And I think the point he is making is that if you start by thinking about the entire team, the team's function, the way the team works, you have a very different approach to getting the job done and a very different approach, if you will, to playing the game or to learning that if you approach it only from the standpoint of a hierarchy.

The other insight he offered was the distinction between games, we have winners and losers, and the rest of life. He made the point that, in learning, everybody can win, in learning, everybody can achieve a set standard, that you do not have to have a top 1 percent or a top 5 percent or a top 20 percent; that in fact if your goal is for everybody to learn how to read, it is possible to have a society in which for all practical purposes every person learns how to read. It is possible in a society in which every person learns how to do basic math. And that the difference between starting by grading people very early and telling them, "Well, you are really in the bottom 10 percent," leads a lot of them simply to drop out; it creates a sense of internalized distinction that leads people to be crippled and to feel psychologically humiliated and ultimately to be no longer participants.

Dr. Deming emphasized over and over the notion that you want to set standards that everybody reaches and you want to bring everybody along to that fulfillment. That you want everybody to have a chance to learn and everybody to have a chance to succeed and everybody to have a chance to be productive. In that way, the entire team is better off.

I found it a fascinating experience to deal with a man who participated in the studies at the Western Electric Hawthorne plant back in the mid-1920's, a man who helped develop our entire approach to the postwar world and who, by his work on General MacArthur's staff in 1947, had an initial introduction to Japan, a man who developed a general approach to thinking about systems, to thinking about variation, to thinking about dealing with human beings which allowed him to develop what I believe is the most powerful model for working together in the information age, and which I think will be for the 21st century the same kind of breakthrough that the assembly line, Henry Ford and Taylor's scientific management were for the 20th century.

Also I just want to say to my colleagues we had a very impressive morning, we had an opportunity to learn from a man who is a legend, we had an opportunity to begin a relationship of applying the quality of Congress, the executive branch, American culture, which I hope we will continue to foster and develop. I think it was a historic moment. For those of my colleagues and their staffs who could not be there this morning, we did have it videotaped, so it is possible to get a copy of the videotape and to see Dr. Deming on Capitol Hill and see the kind of ideas he has for how we can transform the system in the future.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATRON (at the request of Mr. GEPHARDT), from July 17 through August 5, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GRANDY) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes each day, on August 1 and 2.

Mr. GINGRICH, for 60 minutes each day, on July 29, 30, 31, August 1 and 2, and September 11, 12, and 13.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. MAZZOLI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GRANDY) and to include extraneous matter:)

Mr. GRADISON.

Mr. BLILEY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. TRAXLER.

Mr. LANTOS in two instances.

Mr. COOPER.

Mr. SYNAR.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 751. An act to enhance the literacy and basic skills of adults to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

[Inadvertantly omitted from the Congressional Record of Thursday, July 18, 1991]

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 427. An act to disclaim any interests of the United States in certain lands on San Juan Island, WA, and for other purposes;

H.R. 998. An act to designate the building in Vacherie, LA, which houses the primary operations of the U.S. Postal Service as the "John Richard Haydel Post Office Building";

H.R. 2347. An act to redesignate the Midland General Mail Facility in Midland, TX, as the "Carl O. Hyde General Mail Facility," and for other purposes; and

H.J. Res. 255. Joint resolution designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week."

SENATE BILL REFERRED

[Inadvertantly omitted from the Congressional Record of Thursday, July 18, 1991]

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 992. An act to provide the reimbursement of certain travel and relocation expenses under title 5, United States Code, for Jane E. Denne of Henderson, NV; to the Committee on the Jucidiary.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 48 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 23, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1784. A letter from the Deputy Assistant Secretary (Environment), Department of Defense, transmitting a report on the DOD Environmental Compliance Program for fiscal year 1992-97, pursuant to Public Law 101-510, section 342(b)(4) (104 Stat. 1537); to the Committee on Armed Services.

1785. A letter from the Chief of Staff, Office of the Secretary of Health and Human Services, transmitting a status report of outstanding HHS reports to the Congress; to the Committee on Energy and Commerce.

1786. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Oman for defense articles and services (Transmittal No. 91-34), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1787. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 91-35), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1788. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Morocco for defense articles and services (Transmittal No. 91-33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1789. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Brazil for defense articles and services (Transmittal No. 91-36), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1790. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Mexico (Transmittal No. DTC-39-91), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1791. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Robert Clark Barkley, of Michigan, to be Ambassador to the Republic of Turkey, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1792. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1793. A letter from the Vice President, Farm Credit Bank of Springfield, Springfield Bank for Cooperatives, transmitting the annual report of the Group Retirement Plan for Agricultural Credit Associations and Farm Credit Banks in the First Farm Credit District, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1794. A letter from the Chairman, Federal Election Commission, transmitting copies of proposed regulations governing the public financing of Presidential primary and general election candidates, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

1795. A letter from the Chairman, Federal Election Commission, transmitting copies proposed regulations governing disposition of excess campaign or donated funds by Members of Congress, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

1796. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1797. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1798. A letter from the Director, Office of Personnel Management, transmitting copies of the Civil Service Retirement and Disability Fund annual report for fiscal year 1989 and 1990, pursuant to 5 U.S.C. 1308(a); jointly, to the Committees on Government Operations and Post Office and Civil Service.

1799. A letter from the Secretary, Department of Health and Human Services, transmitting a report on the methodology and rationale used to establish a payment rate for the drug erythropoietin [EPO] and a plan for ensuring the appropriateness of rates in the future, pursuant to Public Law 101-239, section 6219(c) (103 Stat. 2254); jointly, to the Committee on Ways and Means and Energy and Commerce.

1800. A letter from the Secretary of Health and Human Services, transmitting a report on Medicare coverage denials for home health agency, skilled nursing facility and hospice services, pursuant to 42 U.S.C. 1395; jointly, to the Committees on Ways and Means and Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and serverally referred as follows:

By Mr. ANDREWS of Texas:

H.R. 2962. A bill to grant temporary duty-free treatment to fuel grade tertiary butyl alcohol; to the Committee on Ways and Means.

By Mr. GILCHREST:

H.R. 2963. A bill to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LOWERY of California (for himself, Mr. HUNTER, Mr. CUNNINGHAM, Mr. MOORHEAD, and Mr. PACKARD):

H.R. 2964. A bill to provide for comprehensive immigration border control through improvements in border enforcement and security; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. SCHUMER:

H.R. 2965. A bill to direct the Secretary of the Army to develop a prevention monitoring program for zebra mussels throughout the New York City water supply system, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SYNAR (for himself, Mr. LENT, Mr. BLILEY, and Mr. COOPER):

H.R. 2966. A bill to amend the Petroleum Marketing Practices Act; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. GONZALEZ:

H.J. Res. 310. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 25th amendment to that Constitution; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

236. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to fire ants; to the Committee on Agriculture.

237. Also, memorial of the Legislature of the State of Louisiana, relative to on-the-job training subsidies; to the Committee on Education and Labor.

238. Also, memorial of the Legislature of the State of New Hampshire, relative to automatic dialing devices for telephone solicitations; to the Committee on Energy and Commerce.

239. Also, memorial of the Legislature of the State of Maine, relative to the Women's Health Equity Act of 1991; to the Committee on Energy and Commerce.

240. Also, memorial of the Legislature of the State of Louisiana, relative to applying restrictions to legislative bodies; to the Committee on House Administration.

241. Also, memorial of the Legislature of the State of Louisiana, relative to Veterans hospitals; to the Committee on Veterans' Affairs.

242. Also, memorial of the Legislature of the State of Louisiana, relative to Federal impact assistance funds from outer continental shelf oil and gas activities; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 330: Mr. MAZZOLI.

H.R. 357: Mr. TRAFICANT and Mr. WILSON.

H.R. 393: Mr. ZIMMER.

H.R. 806: Mr. FROST.

H.R. 1184: Mrs. PATTERSON, Mr. JONES of North Carolina and Mr. CRAMER.

H.R. 1226: Ms. NORTON.

H.R. 1293: Mr. LEWIS of Georgia.

H.R. 1300: Mr. MFUME.

H.R. 1385: Mr. CLAY, Mr. LEWIS of Georgia, and Ms. NORTON.

H.R. 1424: Mr. DWYER of New Jersey.

H.R. 1456: Mr. SKEEN, Mr. KYL, and Mr. LIVINGSTON.

H.R. 1472: Mr. MURPHY, Mr. PETRI, Mr. MCDADE, Mr. BROWDER, and Mr. STAGGERS.

H.R. 1473: Mrs. UNSOELD.

H.R. 1768: Mrs. LOWEY of New York, Mr. RANGEL, Mr. TORRICELLI, and Mr. PALLONE.

H.R. 1944: Mr. STUDDS.

H.R. 2089: Mr. ANDERSON, Mr. DUNCAN, Mr. MATSUI, and Ms. PELOSI.

H.R. 2092: Mr. BEILENSON, Mr. RAMSTAD, Mr. RANGEL, Mr. WEISS, Mr. OWENS of Utah, Mr. POSHARD, Mr. SMITH of New Jersey, Mr. MACHTLEY, Mr. LEHMAN of Florida, Mr. HORTON, and Mrs. SCHROEDER.

H.R. 2218: Mr. BUNNING.

H.R. 2294: Mr. RAY, Mr. COMBEST, Mr. CAMP, Mr. DOOLITTLE, Mr. OXLEY, Mr. PETERSON of Minnesota, and Mr. OWENS of Utah.

H.R. 2550: Mr. TOWNS and Mr. PARKER.

H.R. 2553: Mr. LEWIS of Georgia and Mr. LOWERY of California.

H.R. 2579: Mr. JOHNSTON of Florida.

H.R. 2604: Mr. FRANKS of Connecticut and Mr. JOHNSON of Texas.

H.R. 2624: Mr. KOLTER, Mr. MFUME, Mr. SABO, Mr. HUBBARD, Mr. SMITH of Florida, Mr. JONTZ, Mr. DEFAZIO, Mr. TORRES, Mr. SLATTERY, Mr. COSTELLO, Ms. WATERS, and Mr. ERDREICH.

H.R. 2782: Mr. MILLER of California.

H.R. 2810: Mr. JOHNSTON of Florida and Mr. MACHTLEY.

H.R. 2830: Mr. ECKART.

H.R. 2879: Mr. PENNY, Mr. COSTELLO, and Mr. WALSH.

H.R. 2929: Mr. MINETA and Mr. HENRY.

H.J. Res. 102: Mr. ROEMER, Mrs. COLLINS of Michigan, Mr. HYDE, Mr. HUTTO, Mr. MRAZEK, Mr. RAY, Mr. RIGGS, Mr. RINALDO, Mr. YATES, Mr. PERKINS, Mr. PURSELL, Mr. STUDDS, Mr. ACKERMAN, Mr. RIDGE, Mrs. KENNELLY, and Mr. NEAL of North Carolina.

H.J. Res. 177: Mr. LANTOS, Mr. HYDE, Mr. FEIGHAN, Mr. HALL of Texas, Mr. MCEWEN, Mr. MCNULTY, Mr. LANCASTER, Mr. SPENCE, Mr. SAXTON, Mr. DOOLITTLE, Mr. BENNETT, Mr. HAMMERSCHMIDT, Mr. PURSELL, Mr. BORSKI, Mr. ERDREICH, Mr. HAMILTON, Mr. JONES of North Carolina, Mr. MURPHY, Mr. HASTERT, Mr. GONZALEZ, Mr. MINETA, Mr. OWENS of Utah, Mr. NEAL of Massachusetts, Mr. MORAN, Mr. NATCHER, Mr. HUGHES, Mr. WOLPE, and Mr. YATRON.

H.J. Res. 241: Mr. CHANDLER, Ms. COLLINS of Michigan, Mr. CRAMER, Mr. GORDON, Mrs. LOWEY of New York, Mr. MANTON, Mr. NUSSLE, Mr. VENTO, Mr. WELDON, and Mr. JOHNSTON of Florida.

H.J. Res. 264: Mr. MCEWEN, Mr. LIPINSKI, Mr. LOWERY of California, Mr. LEWIS of Georgia, and Mr. PANETTA.

H.J. Res. 284: Mr. MANTON, Mr. HARRIS, Mr. GUARINI, Mr. LEHMAN of California, Mr. SCHEUER, Mr. RINALDO, Mr. MAVROULES, Mr. RICHARDSON, Mr. YATRON, Mr. SLATTERY, Mr. ERDREICH, Mr. SERRANO, and Mr. OWENS of Utah.

H.J. Res. 293: Mr. DORGAN of North Dakota, Mr. PETERSON of Minnesota, Mr. CLEMENT, Mr. HENRY, Mr. THOMAS of Georgia, Mr. SKEEN, Mr. BROWDER, Mr. BURTON of Indiana, Mr. WALSH, Mr. DELLUMS, Mr. DE LUGO, Mr. HARRIS, Mr. DICKS, Mr. VOLKMER, Mr. DYMALLY, Mr. EWING, and Ms. PELOSI.

H.J. Res. 299: Mr. TRAFICANT, Mr. WOLPE, Mr. ANNUNZIO, Mr. OBERSTAR, Mr. MCNULTY, Mr. APPLEGATE, Mr. SERRANO, Mr. CLEMENT, Mr. GAYDOS, Mr. MAZZOLI, Mr. HORTON, Mr. GUARINI, Mr. MRAZEK, Mr. PAYNE of New Jersey, Mr. ROE, Mr. DINGELL, Mr. BUSTAMANTE, Mr. ASPIN, Mr. ACKERMAN, Mrs. LLOYD, Mr. WISE, Mr. YATRON, Mr. TRAXLER, Mr. KOLTER, Mr. WILSON, Mr. BENNETT, Mr. TAUZIN, Ms. NORTON, and Mr. BREWSTER.

PETITIONS, ETC.

Under clause 1 of the XXII,

103. The SPEAKER presented a petition of the Seattle Arts Commission, Seattle, WA, relative to amendments to the Immigration Act of 1990; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

WHO SAYS BLACKS MUST SUPPORT THOMAS?

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. STOKES. Mr. Speaker, President Bush's decision to nominate Judge Clarence Thomas to the U.S. Supreme Court has provoked a great deal of debate here in the Congress and throughout the Nation. As his confirmation hearings approach, many will examine Thomas' record on affirmative action, civil rights, abortion, and other controversial issues which are certain to come before the Supreme Court.

One question being asked by the White House is why black leaders would be opposed to the nomination of an African-American to the Nation's highest Court. Notable black organizations, including the Congressional Black Caucus and the National Association for the Advancement of Colored People [NAACP], have criticized the nomination of Clarence Thomas.

In an article which appeared in the July 15, 1991 edition of the Cleveland Plain Dealer, Rev. Marvin A. McMickle, an outstanding minister and president of the Cleveland Branch of the NAACP, addressed this issue. This thoughtful and incisive article is entitled, "Who Says Blacks Must Support Thomas?"

Mr. Speaker, I am pleased to bring this article to the attention of my colleagues and urge that they take a moment to consider Reverend McMickle's arguments.

WHO SAYS BLACKS MUST SUPPORT THOMAS

(By Rev. Marvin A. McMickle)

It is, perhaps, time for the local NAACP branch president to say why so many black Americans view the Supreme Court nomination of Clarence Thomas with alarm and concern.

There seems to be some assumption that because Thomas is black, all other blacks in America should welcome the prospect of his presence on the nation's highest court. The fact is, the NAACP national office and I personally view this nomination with cautious pessimism. What is known about the views of Clarence Thomas disturbs me, and what is not known disturbs me even more.

First, however, let me assert my grave concern over the public hysteria created by the criticism of Clarence Thomas by some black persons. Why is it to be assumed that, because he is black, all other blacks should hold their tongues and not express concern about his views and past history? When Robert Bork was nominated, widespread disagreement about his presence on the court was raised by other white Americans, and nobody seemed shocked. Whites are allowed to disagree on matters of policy or ideas, but seem shocked when blacks exercise the same option.

It is one of the lingering effects of racism upon American society that, of course, all black people agree on everything, and one of them would have no need to ever disagree with another. Freedom will not fully come for black Americans until we are as free to hold divergent views among ourselves and to speak freely about those divergent views as is the case for whites, whose views are as divergent as Edward Kennedy and William Sloane Coffin on one side and Jesse Helms and Pat Robertson on the other.

In fact, black America has never been as monolithic as some might think. The modern debate about affirmative action vs. black self-help is reminiscent of the debate 100 years ago between W.E.B. DuBois and Booker T. Washington over the best approach to black liberation or between Martin Luther King and Malcolm X in the 1960s on the same issue.

That black people can be found who disagree on affirmative action vs. self-help is surprising only to those, black and white, who think that blacks are incapable of thinking and speaking for themselves. What may make this particular disagreement unique is the fact that Clarence Thomas is not only disagreeing with some black leaders in America, but that he is so readily embraced by some in white America whose contempt for blacks is well known (Jesse Helms and Strom Thurmond).

Further troubling to many, is that he was elevated to this judicial pinnacle by two presidents whose administrations have presided over a steady reversal of civil-rights progress (Reagan and Bush).

As to the nomination of Clarence Thomas itself, let me list the areas of concern. Already widely discussed is his performance as head of the Equal Employment Opportunity Commission. That is readily the only public record available on this man. What his performance there promises to blacks, women, the elderly and others is no cause for enthusiasm. He savaged that agency. After only 16 months as an appeals court judge, there is little to suggest his views or his ability as a judge.

The real irony of this nomination is what it says about the shape and state of the U.S. Supreme Court for the next generation. George Bush has named to the court two men of incredibly low profile and even lower production of legal opinions and scholarly production. We know their ideology but we know nothing about their legal or judicial views.

Given the way in which all nominees since Bork (Kennedy-Scalia-Souter) have been coached for their confirmation hearings, we will not likely learn any more about Thomas until he is seated on the court and begins to produce opinions. Given the issues that will confront the court in the years to come. (capital punishment, free speech, limiting police power, Roe vs. Wade, environmental policies and equal protection under the law). I wonder if the nation is well served by Supreme Court justices, seven of whom share the same conservative political ideology, and about whom so little is known.

We demand to know a lot about a nominee for a four-year term as president. For a lifetime term on the Supreme Court we seem content to accept legal and judicial unknowns, and are then asked to believe that the nomination carries no political overtones.

Finally, the NAACP regrets George Bush's lack of honesty in answering whether Thomas was named because he is black. Bush said that Thomas was the best man for the job. That is untrue by every measurement. The truth is Thomas was George Bush's choice to replace Thurgood Marshall. No one imagines that Clarence Thomas is the premier black federal judge in the United States. He is not yet in the same league as A. Leon Higgenbotham of the 3rd Circuit Court in Pennsylvania or Harry Edwards, who sat with Thomas on the 2nd Circuit Court in Washington D.C. Both of these men are primed for the high court, but they are not conservative ideologues.

I am hard-pressed to believe that Thomas would have been "the best man for the job on the merits" if Bush had to replace Harry Blackman, who is also 82 years old and about to retire. This was a political decision by an increasingly conservative president. The shame is that Bush is unwilling to tell us that obvious truth.

INTRODUCTION OF LEGISLATION TO CURTAIL ANTI-COMPETITIVE PRICING PRACTICES BY MAJOR REFINERS

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. SYNAR. Mr. Speaker, I am today introducing legislation to amend the Petroleum Marketing Prices Act by adding a new title to that law designed to curtail certain anticompetitive pricing practices by refiners. I am very pleased to be joined in this important effort by Congressmen LENT (R–NY), BLILEY (R–VA), and COOPER (D–TN), who share my concern over these pricing practices and the adverse impact they are having on wholesale distributors, C-store operators, chain retailers, service station dealers, and on the marketplace.

This legislation has two very simple purposes: To prevent refiner suppliers from charging their wholesale customers or dealers more for gasoline supplies than those refiners charging at the retail level at their own company-operated stations in the same marketing area—thus unfairly competing against their own customers; and to prohibit refiners from engaging in resale price maintenance.

This legislation is critically necessary to restrain the practice, commonly referred to as "price inversions", whereby some refiners have been charging their wholesale customers more for gasoline supplies at the rack than those same refiners are charging at the pump at their own retail outlets in the same marketing area. Now, Mr. Speaker, it doesn't take a rocket scientist to figure out that when this

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

happens, there is no way in the world that that wholesale customer can effectively compete against a refiner supplier. Far from competing, he is at a severe price disadvantage.

This bill is also necessary to ensure that refiners are constrained from directly or indirectly pressuring their independent service station dealers from setting specific retail prices, thereby limiting the flexibility which dealers have to price competitively.

In a moment, I want to go into the provisions of the bill in some detail. But at the outset, let me say that no matter how this issue is approached, no matter how complicated critics try to make the argument and the issue appear, it still boils down to two very simple propositions: First, that a supplier's wholesale prices should not be higher than his retail prices—specially where a wholesaler must directly compete against his supplier; and, second, refiner suppliers should not be attempting to dictate retail prices to their independent service station dealers. Period. It's just that simple, Mr. Speaker.

This is not to say that the issue is not challenging. Rather, I merely suggest that there are those who will seek to make it appear far more complicated than necessary.

I am the first to admit that the Petroleum Marketing Practices Act is a difficult law and that petroleum markets, and the ways in which they relate to each other, can sometimes be difficult to understand. They have changed enormously over the last decade and continue to evolve, particularly with the advent of futures markets in crude and petroleum products and increasing reliance on spot markets.

But they are not quite so complicated that Congress is unable to appreciate how they work or powerless to identify and address problems occurring the marketplace.

These price inversions began to occur last fall, after the Iraqi invasion of Kuwait, a period of severe volatility in petroleum prices. While I was greatly concerned about this pricing practice at the time, like many others I assumed that a return to market stability would undo whatever peculiar pricing events had given rise to the inversions. Indeed, the American Petroluem Institute's study of those inversions which occurred during the August-September 1990 period suggested the inversions were merely anomaly induced by volatility in the market. Assuming one could accept API's explanation and agreed with its rationale, one would have expected the inversions to stop when the market returned to a normal state.

But that is not the case. Unfortunately, they occurred again during January and for extended periods of time later this year—a period during which the market was calm and prices were relatively stable. So, any suggestion that this was simply a volatility-induced anomaly, just doesn't hold water.

I have heard many explanations about how markets work, and about how they operate both independently and collectively. Yet, with all due respect, these explanations present no rational or compelling argument for why the petroleum market should not function so far outside the norm in terms of pricing product at various levels of distribution. Other markets don't operate that way and I have yet to hear a convincing argument as to why this one should.

As a result of these price inversions, some wholesale distributors have been put in the unenviable position of trying to market gasoline in competition with their suppliers who are able to charge significantly less at the pump—in the same marketing area. The resulting financial squeeze on these wholesale distributors, who are facing many other financial burdens, can be substantial. Certainly this bill will not relieve those other burdens, such as the costs for installation of new underground tanks and liability insurance, or the normal pressures of an intensely competitive marketplace. But the bill can—and hopefully will—relieve the burden of unfair competition by their own suppliers. This is its purpose.

Mr. Speaker, I want to emphasize that this legislation is crafted in a way to result in the least possible intrusion into the marketplace. For me, that is a fundamental principle which should guide any effort to find a fair and viable solution to this problem. No new government bureaucracy would be created.

And importantly, the legislation in no way dictates retail gasoline prices at the pump. Refiners are, and will continue to be, free to set retail prices where they choose. I would add, parenthetically, that the other provisions of the bill attempt to ensure that refiners' independent dealers are also free to set retail prices wherever they want. What the bill does require, however, is that refiners choose to compete with their own wholesale customers, that they not charge those wholesale customers more than the price they are charging at their own direct-operated retail outlets in the same geographic market area, adjusted for the refiner's cost of doing business.

In adjusting for the refiner's cost of doing business, the legislation provides for a very simple and very conservative rebuttable presumption: That dealer tank wagon prices should be about 6 percent less than retail prices, and that wholesale prices at the rack should, in turn, be about 4 percent less than dealer tank wagon prices.

As a very simplistic example, let's say that in one marketing area, a refiner chooses to set the retail price for regular unleaded gasoline at one of his own company-operated outlets at $1/gallon. I would reemphasize that the refiner is free to set his retail prices wherever he wants. If that refiner directly competes with his lessee dealers or with one or more of his wholesale customers in that particular marketing area, then he can charge his dealer lessee no more than $0.94/gallon for that same grade of gasoline and could charge his wholesale distributor no more than $0.90/gallon.

Again, these rebuttable presumptions were not just pulled out of thin air. They represent very conservative estimates of the refiner's cost of doing business at company-operated outlets. If a wholesale distributor or lessee dealer is charged more than those benchmark percentages of that suppliers' retail prices, then a prima facie case exists that the refiner has violated the provisions of the act. The refiner, however, can overcome the prima facie case by showing that his costs of doing business are less than the presumption. By using these conservative estimates, we anticipate only the most obvious and egregious cases would be the subject of any action.

I realize that some will employ the battle cry of price controls because of these presumptions, in an effort to stave off congressional scrutiny of this pricing practice. Let me say, Mr. Speaker, that I have lived through price controls, I know price controls, and this does not represent price controls.

Indeed, as I noted earlier, this proposal is specifically designed to be the least intrusive approach to correcting the problem. It is designed to avoid unduly interfering in the ability of refiner suppliers to set retail prices wherever they choose at their own outlets. And in an effort to avoid frivilous cases, we have chosen to employ what are in truth extremely conservative presumptions.

Mr. Speaker, I sincerely wish this sort of legislative fix was not necessary. Numerous major oil companies have told us they recognize the problem caused by these price inversions, and are sympathetic to the financial squeeze they impose on their wholesale customers. Indeed, virtually every major oil company we have talked to has told us that to try and address the problem they have a policy to prevent such inversions. However, it is important to note that they also agree that these inversions are likely to continue to occur despite their policies. Some have established rebate programs of one form or another which are supposed to compensate wholesale distributors for their losses when such inversions occur.

While I commend the industry for recognizing the seriousness, and the unfairness, of these inversions and appreciate their effort to respond to the situation, I must respectfully, but vigorously, disagree that their policies and/or rebates have been an effective response.

In fact, it is obvious that their policies to prevent such inversions are not working. As I noted before, these price inversions have now occurred several times since the beginning of this year, including an extended period during March and April when markets were relatively calm, and refiners have told us such inversions are likely to occur again and again despite their policies.

Further, while I am also pleased that some companies have established these rebate programs to try and compensate for price inversions, it has been impossible to learn the details of these programs and, in any event, even the companies admit that the rebates cannot make their wholesale distributors whole again following an inversion.

In light of all this, it seems only logical and reasonable to me that if we know the practice to be a serious problem, and recognize that the companies' rebates are not effective in remedying it, then we should look for a viable means of preventing the problem in the first place. That is what this legislation is all about.

Its second goal is to ensure that independent service station dealers have the flexibility to set retail prices at their stations, without undue pressure by refiners to fix prices at a level designed to meet other marketing objectives of the refiner.

Independent service station dealers are not employees of the oil companies, and they should have the opportunity to meet competition in their local areas through prices they deem appropriate. This is not always the case. Refiners, for example, sometimes influence these retail prices through the use of rebates or discounts that are tied to the dealer selling so much gasoline in a given month. Dealers can be forced to participate in these programs in order to remain competitive, even though they may not always be in the dealer's best interest.

The legislation addresses this problem by prohibiting refiners from entering into schemes or agreements to set, change or maintain maximum retail prices of motor fuels operated by independent dealers, in short, a traditional concept prohibiting resale price maintenance.

Now, the major refiners have made a number of assertions about the concepts incorporated into this legislation, assertions which are either erroneous on their face, or highly exaggerated. I would like to address some of them up front.

First, some companies have asserted that this legislation will result in higher prices for consumers. Of course, that is not the case. We have gone out of our way to assure that nothing affects the rights of refiners to set retail prices at their company-operated outlets wherever they want, and they will continue to set their retail prices as competition dictates. Like my colleagues, I have always supported efforts to promote a healthy and vigorously competitive petroleum marketplace and nothing in this bill undermines that principle.

Some suggest the legislation will allow inefficient marketers to stay in business. Believe me, this bill will not do anything to protect inefficient marketers from the forces of the marketplace. It will simply protect wholesaler distributors and dealer lessees from certain fundamentally unfair forms of competition by their own suppliers. I think reasonable people recognize there is a big difference between intense, but normal, competitive pressures and instances where your own supplier is engaging in a pricing practice that threatens the economic viability of your business.

As I noted earlier, some refiners have contended this proposal represents price control legislation. Nothing could be further from the truth. None of us is quite so young that we don't remember Federal price controls; they were pervasive upstream and down—from the well-head to the gas pump. They were intended to strictly regulate the ultimate price paid by the consumer at the pump. As I have indicated repeatedly today, we have gone out of our way to craft a proposal whereby retail prices are not dictated by the bill, and to provide the least intrustive method possible for remedying cases where refiners price in a manner which virtually guarantees their own wholesale customers can't effectively compete against them.

This criticism goes hand-in-hand with all the old, baseless, standbys about reduced competitiveness, decline in customer convenience, guaranteed profits, et cetera. In truth, these arguments have no merit. They are simply designed to scare Congress into doing nothing about a practice which the refiners themselves concede is a serious problem for distributors and is one likely to continue to occur.

Looking at the resale price maintenance provisions in more detail, some major oil companies have asserted that the legislation might be used to prevent refiners from providing dealers with certain incentives, such as volumes discounts. In fact, the legislation's restrictions on resale price maintenance—much like other antiprice maintenance proposals acted on by Congress—might prevent such discounts only in cases where the discounts or other incentives are designed solely to induce certain retail pricing practices, in effect a backdoor means of setting retail prices. Otherwise, the legislation should have no effect on discounting or incentive programs otherwise permitted by law. That is all it is intended to encompass with regard to volume discounting or other incentive programs.

With regard to the prohibition on resale price maintenance in general, I must say I would be surprised if any refiners would argue they should be permitted to dictate all retail prices to their independent dealers. Since other criticisms against the bill are based largely on arguments that no one should interfere in the workings of a competitive marketplace, it would be ironic indeed to now hear arguments that only refiners themselves should be permitted to do so.

Mr. Speaker, I am well aware that, despite our best efforts, this legislation may not represent the perfect solution to these problems—problems which even the refining community recognizes as serious. My offer to those who would criticize this approach, however, is to come up with a better proposal that provides an equally viable remedy in an even less intrusive way. I am open to suggestions for improving or fine-tuning the bill, as I'm sure my colleagues are, and I look forward to working with refiners, marketers, and dealers in an effort to craft and enact a workable solution to these problems.

Will this legislation address every problem facing marketers and dealers? Of course not. Marketers and dealers face extreme pressures every day in an intensely competitive business. They are in the process of meeting significant new burdens in the environmental area. The costs of liability insurance are in some cases prohibitive for smaller marketers and dealers and have forced many from the marketplace altogether.

But the fact that we cannot address all these problems should not prevent us from dealing with a few obvious ones where the issues are ones of basic fairness. That is what we are trying to do here.

There are other PMPA issues still around. Issues raised last year in legislation supported by the service station dealers, for instance, are still the subject of negotiations between the dealers, marketers, and major refiners. I do not believe those issues belong on this bill. Certainly, down the road, it might be appropriate to consider combining the marketing issues currently on the table if a consensus could be reached on all of them. In the meantime, however, I believe it is more appropriate to have the separate issues move along separate tracks.

Finally, Mr. Speaker, some more recent proposals such as retail divorcement or divestiture, have been suggested. That such radical measures are even the subject of serious discussion may be an indication of the high level of concern and frustration that marketers and dealers feel over certain supplier practices; nevertheless, I strongly oppose both and would vigorously resist any effort to attach such proposals to this or other PMPA legislation.

I look forward to working with my cosponsors and other Members, as we give some critically needed scrutiny to these unfair and anticompetitive pricing practices. For those concerned about maintaining a healthy and robust petroleum product marketplace, I hope you will join us in cosponsoring our legislation to provide a remedy for those so seriously affected by these practices.

FIVE REASONS TO OPPOSE THE DAIRY BILL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. GRADISON. Mr. Speaker, later this week, the House is scheduled to consider H.R. 2837 which would substantially change this Nation's dairy programs. This bill is bad for several reasons, and should be opposed.

Supporters say H.R. 2837 is needed to combat the low market prices dairy producers have been receiving. Over the past year producer prices for dairy products have dropped dramatically. When viewed in a long-run context, however, the drop appears less serious. The table below, which shows various dairy prices leads to three observations. First, prior to the recent drop, milk prices were at historic highs. Much of the drop can be explained as a return to the historic average, brought about by increased production. Second, although prices are slightly lower than their long-run average, the difference is not dramatic, especially when compared with the magnitude of the prior increases. Last, milk prices have been increasing in recent months, justifying hope that the worst is over for producers and that prices will soon return to normal levels.

In spite of this, H.R. 2837 would effectively tax America's consumers by forcing them to pay higher prices for all dairy products. The committee recognizes that such a move would only exacerbate the industry's perpetual problem of overproduction and so seeks to institutionalize a system of production quotas. The Department of Agriculture has already indicated that it will recommend a veto of this legislation. OMB is likely to take a similar stance. They rightly object to several of the bill's provisions.

First, H.R. 2837 turns over important Government functions to a new national dairy inventory management board consisting of milk producers. Although the board must consult with the Secretary of Agriculture, many of the normal Government decisions surrounding the operation of the Federal dairy program would be transferred to this private board representing dairy producers. We should not allow private boards to direct Government policy.

Second, the bill significantly raises the Federal support price for milk. The support price would rise from its current level of $10.10 per hundredweight to $12.60 in 1992 and 1993, $12.10 in 1994 and $11.60 in 1995. This in turn will raise the retail price of milk by approximately 12 cents per gallon. This is one Member who will not vote to raise the price of milk for all his constituents for the benefit of a nationally small number of dairy farmers.

Third, the bill changes the composition of milk to require a greater percentage of milk solids. This would alter the taste of milk. The bill makes this change in order to get rid of some of the extra production resulting from the higher support prices. I believe the taste of milk should be left to consumers. Recently consumers have been voting in the opposite direction, increasing their purchases of lighter milk products.

Also, enactment of the bill will lead to the implementation of production quotas. Some have argued that we should guarantee producers higher prices by limiting the ability of individual farmers to produce as much as they want. Adopting this philosophy would seriously weaken the long-term competitiveness of American agriculture by reigning in its productivity and innovation. In order to guarantee existing farmers higher incomes, production controls would raise the price of food for consumers, weaken our competitiveness, and make it more difficult for the next generation of farmers to enter the industry. The 1985 and 1990 farm bills decisively rejected this philosophy.

Finally, the higher milk prices brought about by this bill will negatively impact Federal programs which supplement the purchasing power of those who might otherwise suffer from poor nutrition. The most important of these programs are the Women, Infants, and Children Program [WIC], the Food Stamp Program, and the child nutrition programs.

H.R. 2837 attempts to deal with this problem by increasing the assessments on dairy producers to pay for any negative impact. The bill would allow the private board to tax dairy farmers so that the benefits in each of these programs would not be diminished by the higher dairy prices. Yet, it is not clear that this plan will fully compensate the programs for their increased costs, especially in the first year when assessments have not yet occurred.

Indeed, the attempt to ameliorate the bill's negative impact on consumer prices raises an even stronger objection in the case of WIC. Under the terms of last fall's budget agreement, higher taxes in mandatory programs cannot be used to fund increases in discretionary accounts such as WIC. The bill's sponsors attempt to get around this objection by creating a mandatory program within WIC. This sort of budget gimmickery violates the spirit if not the letter of the budget agreement.

In sum, H.R. 2837 attempts creates a wide variety of budget and policy problems in order to solve an emergency which will likely no longer exist by the time the legislation is enacted. Private markets do not always perform smoothly, but on the whole they are much more efficient and fair to both producers and consumers than Government schemes to fix prices.

SELECTED MILK PRICES, 1986–90

	M–W manufacturing grade	New England blend	Upper Midwest blend	Texas blend	Class I	U.S. retail
1986						
January	11.12	12.98	11.35	12.79	13.35	19.21
February	11.04	12.88	11.26	12.70	13.35	19.14
March	11.02	12.58	11.23	12.50	13.29	19.10
April	10.98	12.41	11.19	12.48	13.21	19.12
May	10.98	12.39	11.19	13.09	13.58	19.09
June	11.00	12.33	11.20	13.03	13.55	19.19
July	11.06	12.97	11.26	13.11	13.54	19.24
August	11.33	13.52	11.51	13.36	13.54	19.28
September	11.55	13.80	11.73	13.69	13.60	19.09
October	11.69	14.04	11.90	13.94	13.87	19.31
November	11.91	14.02	12.10	13.98	14.10	19.38
December	11.88	13.82	12.09	14.04	14.24	19.41
1987						
January	11.07	13.88	11.97	14.19	14.47	19.41
February	11.27	13.58	11.59	13.95	14.44	19.79
March	11.03	13.08	11.34	13.45	14.26	19.29
April	11.00	12.71	11.26	13.22	13.83	19.34
May	11.00	12.42	11.21	13.02	13.60	19.55
June	11.07	12.46	11.27	13.12	13.56	19.48
July	11.17	13.07	11.37	13.17	13.56	19.45
August	11.27	13.51	11.48	13.36	13.61	19.52
September	11.42	13.82	11.64	13.56	13.70	19.78
October	11.35	13.86	11.60	13.61	13.81	19.81
November	11.34	13.69	11.59	13.50	13.97	19.81
December	11.12	13.31	11.38	13.32	13.90	19.93
1988						
January	10.91	13.13	11.19	13.26	13.91	19.95
February	10.60	12.86	10.89	12.97	13.69	20.10
March	10.43	12.43	10.71	12.59	13.48	19.95
April	10.33	12.08	10.58	12.29	13.16	19.98
May	10.34	11.81	10.56	12.17	12.99	19.86
June	10.34	11.75	10.55	12.16	12.89	19.78
July	10.52	12.38	10.72	12.33	12.89	19.78
August	10.98	13.09	11.13	12.67	12.88	19.69
September	11.48	13.51	11.58	13.06	13.06	20.00
October	11.88	13.93	11.98	13.41	13.53	20.34
November	12.23	14.20	12.35	13.85	14.03	20.59
December	12.27	14.13	12.44	13.91	14.43	20.84
1989						
January	11.90	14.09	12.19	14.09	14.79	21.14
February	11.26	13.80	11.65	14.06	14.83	21.45
March	10.98	13.25	11.34	13.26	14.46	21.57
April	11.09	12.73	11.34	12.79	13.82	21.53
May	11.12	12.55	11.33	12.77	13.54	21.48
June	11.33	12.74	11.52	13.00	13.65	21.48
July	11.76	13.41	11.90	13.35	13.67	21.43
August	12.37	14.25	12.46	13.83	13.87	21.55
September	13.10	14.96	13.06	14.41	14.30	21.91
October	13.87	15.57	13.74	15.03	14.91	22.31
November	14.69	16.19	14.46	15.66	15.65	22.93
December	14.93	16.44	14.98	16.14	16.43	23.69
1990						
January	13.94	16.44	14.40	16.43	17.26	24.48
February	12.22	15.74	13.04	15.73	17.50	25.02
March	12.02	14.92	12.62	14.55	16.51	24.62
April	12.32	13.85	12.55	13.83	14.79	24.55
May	12.78	13.86	12.91	14.13	14.59	24.29
June	13.28	14.25	13.36	14.48	14.89	24.12
July	13.43	15.01	13.57	14.87	15.35	24.50
August	13.09	15.62	13.48	15.26	15.83	24.79
September	12.50	15.52	13.10	15.14	15.96	24.72
October	10.48	14.61	11.54	14.09	15.62	23.02
November	10.25	13.94	11.15	13.65	15.08	24.57
December	10.19	12.28	10.48	11.83	13.01	23.95
1991						
January	10.16	12.19	10.47	12.09	12.79	23.78
February	10.04	12.03	10.38	12.11	12.73	23.60
March	10.02	11.95	10.31	11.59	12.70	23.69
April	10.04	11.94	10.30	11.62	12.59	23.53
May	10.23	11.84	10.44	11.78	12.57	23.43
June	10.59	11.84	10.68	11.94	12.59	

"MIAMI'S FOR ME" VOLUNTEER SERVICE PRESENTS NEW TELEVISION PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to your attention a new project sponsored by "Miami's for Me" volunteer service. This volunteer service has been known for its achievements for over a decade and is now introducing a new information service called "Volunteer Miami."

"Miami's for Me" is a nonprofit organization founded in 1981. The primary goal of the organization is to provide individuals with information on various volunteer services. With this information, individuals are able to choose the volunteer service best suited to their interests. The organization hopes this will promote civic pride in Miami and show how everyone can make a difference in our society.

Recently, "Miami's for Me" sponsored a television program which will make volunteer service information available to all. This new program, "Volunteer Miami," started airing on July 1 and will continue as a 12-part series examining the inner workings of some volunteer services. Some shows will feature interviews with the founders of their services, while others will show the services' achievements. The first show of the series introduces the idea of "voluntarism" to the audience, and each show concludes with information on how to join the services.

There are many individuals responsible for "Volunteer Miami" without whom the project would not have been possible. These people should be admired for their sacrifices and respected for their dedication to the community. Harriet Carter, founder of Volunteer Miami and cohost; and David Tilden, cohost, in particular should be noted for their tremendous efforts to the project. Citibank, D'zyne Design, United Way, and Channels 4, 10, and 17 should also be recognized for their work on the project.

I would like to emphasize the beneficial impact Harriet Carter's "Volunteer Miami" will have on the community. By implementing this new program, "Miami's for Me" has expanded its outreach into an extremely viable medium. May they have continued success in the future.

AUDUBON SOCIETY PROVES OIL DEVELOPMENT, WILDLIFE MIX

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. YOUNG of Alaska. Mr. Speaker, as Congress considers the matter of whether or not to allow oil and gas development in a small portion of the Arctic National Wildlife Refuge in Alaska, it is important that Members are aware that at least one environmental group with land holdings allows such development. In the following article which appeared in the Washington Times details, the Audubon Society has for years balanced oil and gas development on lands held for their wildlife values. I believe it proves that such development can take place safely, as do the existing operations at Prudhoe Bay in Alaska, immediately west of the Arctic Refuge. Of course, the stakes are much higher in the refuge, where scientists have estimated geological structures could contain more than Prudhoe Bay itself. This would make the refuge the largest oil find ever in North America. I submit the article for the RECORD, and ask that it be inserted in its entirety.

[From the Washington Times, July 18, 1991]

AUDUBON THE KEY TO ANWR OIL?

(By Jonathan Alder)

Down in the heart of the Louisiana bayou lies the Rainey Wildlife Sanctuary. It is the

26,800-acre home to a grand assortment of animal and plant life and serves as the seasonal nesting and breeding grounds for many migratory birds. It is owned and maintained by the National Audubon Society and is closed to the general public, thereby providing an exceptionally pristine and secure wildlife habitat. The Rainey sanctuary is a model of environmental management.

However, while birdwatchers, campers and other visitors are unable to explore Rainey's ecological diversity, profit-seekers have been able to take advantage of what Rainey has to offer. Oil companies have leased the rights to the oil deposits in the preserve for more than 25 years, and today there are still four active wells within the refuge.

Many associate oil drilling with the environmental degradation and the disruption of animal habitats. Not only has Audubon found ways to allow access to oil deposits in Rainey without compromising environmental concerns, but National Audubon has also negotiated contracts allowing exploratory drilling in the Corkscrew Swamp Sanctuary, near Naples, Fla., and the Michigan Audubon Society (MAS) allows oil operations in its Baker Wildlife Sanctuary, one of the nation's first sandhill crane sanctuaries.

MAS' experience with drilling in the Baker sanctuary is particularly instructive. The Baker sanctuary includes what is widely considered to be an important nesting and breeding ground for many species, including the osprey. MAS has termed it "the most important and significant refuge" it manages. Nevertheless, when MAS conducted a study of the effects of oil operations in the sanctuary, it found that oil drilling and extraction was not having a harmful impact on the local flora and fauna. Furthermore, the report clearly stated that the birds breeding in the sanctuary in habitats adjacent to the well site were not noticeably disturbed by the presence of humans or the noise of the well drilling." This allayed many fears that human and machine activity would cause birds and other animals to forego seasonal mating and thereby stunt wildlife population growth in the sanctuary.

Given Audubon's success in balancing oil interests and ecological concern, it is surprising that the society, and most other environmental groups, oppose allowing the federal government to pursue a similar course in the Arctic National Wildlife Refuge. ANWR is a potential windfall for federal coffers, and many believe it holds more oil than nearby Prudhoe Bay, North America's largest oil field.

Of course each region is unique, and different considerations apply to each potential drilling site. The environment of exploration can occur in the winter when ice and frozen tundra protect the delicate permafrost layer, and most wildlife is far south of the coastal region where any drilling would take place. Additionally, drilling activity can also be coordinated with seasonal migration and mating so as to provide minimal disruption, and pipelines and service roads can be designed to not impede the Caribou herds' paths of migration. Such methods have been good enough for Audubon; they should be good enough for the federal government.

Audubon subsidizes its conservation activities through the careful development of natural resources. Why does not the Audubon Society encourage the American taxpayer to do the same? In an age when America is overly dependent upon foreign sources of oil, and the federal government is under the burden of massive debt, there is a need to take advantage of what Alaska's North Slope has to offer. Organizations such as Audubon should seek innovative approaches to hydrocarbon development that are compatible with environmental concerns. Audubon should be part of the solution rather than part of the problem.

A TRIBUTE TO NANCY LETOURNEAU

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. ROBERTS. Mr. Speaker, today I would like to recognize Nancy Letourneau of Aurora, KS. Miss Letourneau is the first district winner in the annual Veterans of Foreign Wars Voice of Democracy script writing contest.

Her script is a fine example of the dedication and pride she feels toward democracy. As a tribute to her hard work, I ask for her script "Democracy—The Vanguard of Freedom" to be inserted into the CONGRESSIONAL RECORD.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Nancy Letourneau)

What is something that millions of people have sacrificed there lives to taste and millions more die to protect? No—I am not talking about that morning cup of coffee that you cannot begin the day without or that afternoon chocolate bar that just hits the spot. It is something both you and I participate in, depend upon, and expect. Any ideas? I am talking about democracy—the vanguard of freedom. Let's examine why this commodity is so precious that people are willing to die to possess it.

What is democracy? Democracy is the liberator of people held behind Berlinian stone walls, something our American forefathers graciously died to protect, something students in Beijing courageously shed blood in hopes of, as well as something we participated in this November as we elected our congressional representatives.

Have you ever gone window shopping? Remember admiring that item on the other side of the glass? This is just like the people all around the world who have only seen democracy through the cracks of the Berlin Wall. These people's faces wear an exhausted expression which have never smiled with freedom. They have never held their head high with freedom's pride.

Freedom is not some bold term, it is the pleasure to worship what you choose, the privilege to participate in government, the opportunity to choose a job, the selections found on grocery shelves, and the liberty to go where you want and the right to speak one's mind.

Clara Smith Reber explains freedom this way in here poem appropriately entitled "Freedom".

Freedom is a breath of air, pine scented, or salty like the sea;
Freedom is a field, new-plowed furrows of democracy!
Freedom is a forest, trees tall and straight as men!
Freedom is a printing press, the power of the pen!
Freedom is a country church, a cathedral's stately spire;
Freedom is a spirit that can set the soul on fire!
Freedom is a man's birthright, a sacred rampart;
The pulse beat of humanity . . . the throb of a nation's heart!

It is because of this—freedom—that people seek the treasury of democracy.

Our ancestors fought the American Revolution to free themselves and their grandchildren from the tyrannical yoke of England. To taste democracy they gave their lives. Through their victory, we drink the freedom of democracy. Also as the end of the Cold War shapes a new global political arena, and enemies become allies, democracy is changing the world. For example, the historical 1989 unveiling of the Iron Curtain and the tumbling of the Berlin Wall exposed people to freedom that before they could only dream about. Also on October 3, 1990 as Germany reunified, democracy offered those who had only eaten the spoiled fruits of suppression, the ripe fruits of freedom through democratization. Finally, students in Beijing gathered in Tiananmen Square to protest for something they saw in the West, but never experienced due to communist domination. Sadly, their blood fell like rain because old hardliners refused to quench their thirst for democracy. Their cries for freedom were silenced with bullets.

All of these examples illustrate a desire in people to be free. Democracy provides the vehicles to drive freedom to the poeple. Just like there will always be wars, there will always be people dying for the democratic way of life.

So the next time you hear someone say "I'd just die for a piece of chocolate," think of all those people who have died for a taste of something far more precious—democracy, the vehicle to freedom.

A SPECIAL SALUTE TO CLEVELAND INVENTOR GARRETT A. MORGAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. STOKES. Mr. Speaker, on Wednesday, July 24, 1991, the city of Cleveland will pause to pay tribute to a great African-American inventor, manufacturer, businessman, and humanitarian, Garrett A. Morgan. On that date, the Division Avenue water facility will be renamed in honor of this famous Clevelander. The July 24 tribute marks the 75th anniversary of the rescue effort lead by Garrett Morgan to save workers trapped beneath Lake Erie in Cleveland's worst water works disaster in history. Garrett Morgan will be remembered for his bravery, heroism, and compassion for his fellow man.

I want to take this opportunity to commend the Cleveland City Council and, in particular, Councilman Craig E. Willis, for his commitment and longstanding efforts to honor this great American. At this time, I would like to share with my colleagues some biographical information regarding this individual.

Mr. Speaker, Garrett A. Morgan is hailed in American history for his many inventions. In fact, during his lifetime Morgan invented so many things that he was referred to as "the Black Thomas Edison."

Garrett Morgan was born in Paris, KY, in 1877 and moved to Cleveland in 1895, where he worked as a machinist in a textile factory.

In one of his early business endeavors, Morgan and his wife ran a shirtwaist manufacturing business. Morgan also invented many haircare products for blacks, including straightening and curling combs.

Morgan's first successful invention was a belt fastener which enabled sewing machines to run properly. In 1912, Garrett Morgan developed and patented the gas mask or safety helmet, which received national recognition. He won a gold medal in 1915 and again in 1916 for this invention by the International Exposition of Safety and Sanitation. The Cleveland Fire Department bought five of the masks and the fire departments of Akron and Los Angeles added the device to their equipment. The National Safety Device Co. was formed to manufacture the mask.

In 1923, Garrett Morgan invented the traffic signal. The first traffic signal which Morgan patented was installed in Willoughby, OH, and shortly thereafter at East Ninth Street and Euclid Avenue in downtown Cleveland. The patent for this device was later sold to General Electric for $40,000.

Mr. Speaker, despite his success as an inventor, Garrett Morgan faced many obstacles. Unfortunately, in the early 1900's, it was difficult for many to accept the fact that African-Americans were capable of developing inventions. Thus, Morgan was forced to not only pretend that he was not the inventor of his products, but also that he was not black. He passed himself off as an Indian and had a white man to assume credit for his inventions.

In 1920 Garrett Morgan established the Cleveland Call, which served as a medium for him to advertise and promote his widely distributed line of hair treatment products. In 1923 Pioneer Publishing Co. took over the company and purchased a printing plant on Central Avenue in Cleveland. This marked the birth of Cleveland's first black weekly paper. In 1927 the paper merged with a competing black weekly, the Cleveland Post, and the Cleveland Call and Post was created. The newspaper continues to serve the African-American community.

Mr. Speaker, the gas mask which Garrett Morgan invented attracted national attention when it was used to save lives following a gas explosion in a water-intake tunnel beneath Lake Erie. It was during the evening hours of July 24, 1916, that an explosion shook Cleveland. It became apparent that workers were trapped in the tunnel below the surface. Ten rescue workers entered the tunnel in an attempt to save the lives of the workers, but failed to return.

Early the next morning, the Cleveland Police Department asked Garrett Morgan to use his gas mask to assist with the rescue attempt. While the mayor and other public officials looked on, Morgan, his brother, Frank, and two other men entered the tunnel and rescued six men. An official photograph from authentic records of the events showed Garrett Morgan, wearing the gas mask he invented, tenderly handing over to a policeman the unconscious body of one of the men rescued.

The Carnegie Hero Fund Commission conducted an investigation of the entire matter, and later gave awards to individuals involved in saving lives in the tunnel. Garrett Morgan was never included in any of the awards. Likewise, a city council resolution commending Morgan and awarding him $2,000 was denied by the law department. Despite this, a group of leading citizens presented Garrett Morgan with a diamond-studded medal for his heroism and bravery. For his heroism Morgan also received a medal from the Cleveland Association of Colored Men and the International Association of Fire Chiefs. Morgan died in 1963 at the age of 86.

Mr. Speaker, Garrett Morgan was a great American and an outstanding inventor. The traffic signal he designed is a part of our everyday lives. Additionally, during the recent Persian Gulf war, our troops relied upon the gas mask which Garrett Morgan invented to save lives. I am proud that the city of Cleveland will honor Garrett Morgan and pay him proper recognition which is long overdue.

I am also pleased to note that pursuant to Ordinance No. 2511–90 which Councilman Willis sponsored, an area of Cleveland bounded by East 125th Street on the east, and East 115th and 114th Streets on the west, has been renamed Garrett Square, NE., in recognition of Morgan's outstanding accomplishments, his legacy to Cleveland, and contributions to American history. I commend the Cleveland City Council and I am honored to participate in this special tribute to Garrett Morgan.

THE FOREIGN INCOME TAX REFORM ACT OF 1991

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. GRADISON. Mr. Speaker, today I am introducing the Foreign Income Tax Reform Act of 1991. The bill is designed to eliminate many inequities and impediments facing U.S. companies in their international operations caused by the current U.S. tax system.

Since 1986, our export sector has contributed significantly to GNP growth and net exports are increasing in their importance to the health of the American economy. Exports now account for almost 7 percent of GNP. This is almost double what it was during the 1960's. In many respects, the U.S. economy is becoming export oriented, and our growth export led.

An increasing number of American companies are finding that their most profitable markets and the markets with the highest growth potential are foreign. Many large companies now earn more overseas than they do domestically. In fact, the share of corporate profits coming from foreign operations has more than doubled since the 1960's. The foreign share of corporate profits has grown from 6.5 percent during the 1960's to 15.4 percent during the 1980's, and is likely to continue increasing throughout the 1990's.

At the same time many companies are expanding their overseas operations, they are faced with high effective tax rates, rates higher than those imposed by any other major industrialized nation. According to the National Chamber Foundation, the effective U.S. tax rate on foreign income is 35.2 percent, while all other major industrialized countries impose effective tax rates in the 25- to 31-percent range, with the average being 29.2 percent. In fact, the U.S. effective rate is higher than the statutory corporate rate of 34 percent because of the double taxation in the current system.

Despite these dramatic shifts in the U.S. economy, the Tax Code penalizes companies with overseas earnings. Many provisions of the current tax system cause double taxation of foreign source income and unnecessarily burden U.S. companies. My bill proposes 22 changes to relieve double taxation and lessen the administrative burden on U.S. companies.

The U.S. foreign tax system has grown so complex that even major companies with large, knowledgeable tax staffs admit that they do not know if they are computing their tax liability correctly. They are not intentionally disregarding the law, but that they just don't know what the law is and how to properly comply. This situation cannot continue without there being an adverse impact on voluntary compliance.

My bill is the only comprehensive revision of the foreign income tax rules before this Congress which attempts to address the issues of double taxation and complexity. Several of its provisions have been previously introduced by Senators BAUCUS and DANFORTH and by Congressman THOMAS of California. Chairman ROSTENKOWSKI and Senator BENTSEN have also included similar provisions in their recent tax simplification bill.

I realize that my bill contains several provisions which lose substantial amounts of revenue and that without offsetting revenue they will not be enacted. I have asked the Joint Committee on Taxation to provide me with an estimate of the cost of the provisions in the bill. I expect that some provisions may not be very expensive and revenue can be found to enact them. Others may have to wait for a more favorable fiscal environment. Nonetheless, I feel that it is important to begin thinking about comprehensive changes to our foreign income tax laws.

A summary of the legislation follows:

THE FOREIGN INCOME TAX REFORM ACT OF 1991 SUMMARY

SECTION 1. AMENDMENT OF INTERNAL REVENUE CODE

Modifications are made to the Internal Revenue Code of 1986 to restore fairness and competitiveness to international tax policy.

SECTION 2. ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT

This section eliminates double taxation on foreign source income in computing the alternative minimum tax by eliminating the 90% cap on the use of the foreign tax credit.

SECTION 3. LIMITED APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS

Foreign persons not doing business in the U.S. are exempted from the Uniform Capitalization Rules of Section 263A.

SECTION 4. LOOK-THRU RULES FOR FOREIGN CORPORATIONS NOT TO APPLY TO SEPARATE CATEGORIES WITH DE MINIMIS AMOUNTS

Foreign corporations with *de minimis* amounts of separate limitation income are exempted from the foreign tax credit basket rules of Section 904.

SECTION 5. EARNINGS AND PROFITS DEPRECIATION USED IN ASSET BASIS IN ALLOCATING EXPENSES

This provision permits taxpayers required to allocate or apportion any deductible expense on the basis of U.S. and foreign-sited assets to do so by using the same depreciation method and life for both domestic and foreign assets.

SECTION 6. RULES FOR ALLOCATING INTEREST, ETC., TO FOREIGN SOURCE INCOME

This provision provides fairness in the interest allocation formula based on worldwide assets by permitting interest incurred by foreign affiliates to be taken into account. In addition, interest expense that a U.S. subsidiary of a U.S. based multinational corporation, with solely U.S. operations, incurs on the basis of its own credit is allocated fully to U.S. source income.

SECTION 7. DETERMINATION OF SOURCE IN CASE OF SALES OF PERSONAL PROPERTY

Consistent with the current rule for claiming indirect foreign tax credits under Section 902, this change provides foreign sourcing of gains and losses from the sale of stock of Section 902 corporations.

SECTION 8. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME

Consistent with the "look-through" rules applicable to dividends received from foreign corporations, this modification provides similar treatment for allocating gain and losses from the sale of stock of a section 902 corporation to separate categories of income for foreign tax credit limitation purposes.

SECTION 9. TREATMENT OF SALE OF A PARTNERSHIP INTEREST UNDER SEPARATE INCOME LIMITATION

Consist with pre-TAMRA proposed regulations, this section treats gain, as well as a loss, from the sale of partnership interest as a disposition of the assets of the partnership for purposes of determining separate categories of income for foreign tax credit limitation purposes.

SECTION 10. TREATMENT OF SALE OF A PARTNERSHIP INTEREST UNDER SOURCE RULES

Consistent with the modification made in Section 9 above, this change provides that the gain or loss from the sale of partnership interest will be treated as a disposition of the assets of the partnership for income sourcing purposes.

SECTION 11. TAX RULES APPLICABLE TO 80/20 COMPANIES

This provision conforms the source rule for 80/20 company dividends with the source rule for 80/20 interest payments; the source rule for 80/20 stock gains with the source rule for foreign corporations stock gains; and the Section 904 (d) characterization rule for 80/20 stock gains with the Section 904 (d) characterization rule for foreign corporation stock gains.

SECTION 12. APPLICATION OF SEPARATE FOREIGN TAX CREDIT LIMITATION FOR NONCONTROLLED SECTION 902 CORPORATIONS

This section extends the current look-thru rules that apply to dividends received from controlled foreign corporations for foreign tax credit limitation purposes to dividends received from noncontrolled section 902 corporations. Dividends from noncontrolled section 902 corporations for which a taxpayer does not elect look-thru treatment are consolidated into one separate limitation basket.

SECTION 13. PASSIVE FOREIGN INVESTMENT COMPANY

Consistent with the 1986 Congressional intent, this change excludes from the PFIC provisions those companies subject to Subpart F provisions of the Code.

SECTION 14. DEFINITION OF PASSIVE FOREIGN INVESTMENT COMPANY

This amendment changes the PFIC test from one based on gross income to one based on gross receipts.

SECTION 15. TREATMENT OF PRIOR YEAR DEFICITS UNDER SUBPART F

In order to bring simplicity and fairness to the Subpart F rules, this amendment allows all pre-1987 (post-1962) accumulated deficits of offset similar Subpart F income earned after 1986.

SECTION 16. RECAPTURE OF OVERALL DOMESTIC LOSS

In order to provide symmetry with the foreign tax credit limitation rules dealing with overall foreign losses, this modification requires subsequent domestic income to be recharacterized as foreign income in the case of overall domestic loss.

SECTION 17. ALLOCATION OF RESEARCH AND DEVELOPMENT EXPENDITURES

This amendment makes the temporary allocation provisions a permanent rule so the 64 percent of US R&D expenditures will be allocated to US source income, with the remainder apportioned on the basis of gross sales or gross income.

SECTION 18. EXCHANGE RATE FOR FOREIGN TAXES SAME AS FOR INCOME INCLUSION

This amendment provides generally for the translation of foreign income taxes into U.S. dollars using the translation rate applicable to the inclusion of the underlying income.

SECTION 19. ALLOCATION OF DEDUCTION FOR STATE AND LOCAL INCOME AND FRANCHISE TAXES

Under this provision, all deductions for State and Local income and franchise taxes are allocated to US source income for foreign tax credited purposes.

SECTION 20. FOREIGN TAX CREDIT CARRYOVER RULES AND REFUND PROCEDURES

This provision conforms the foreign tax credit carryback/carryforward and ordering rules to those for general business credits. It also expands the 6411(a) tentative refund procedures to include foreign tax credits.

SECTION 21. EXPANSION OF DEEMED PAID CREDIT BEYOND 3RD TIER COMPANIES

The prohibition on claiming deemed paid credits for subsidiaries beyond the third tier is repealed. Other ownership tests relating to the deemed paid credit are unchanged.

SECTION 22. POOLING EARNINGS AND PROFITS FOR THE DEEMED PAID CREDIT

This provision replaces the post-86 pool of earnings and profits with a three year moving average for purposes of calculating the deemed paid credit.

SECTION 23. EFFECTIVE DATE

Except as otherwise provided, the amendments made by this Act are applicable to taxable years beginning after December 31, 1991.

LATIN AMERICAN ASSOCIATION OF INSURANCE AGENCIES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to recognize the Latin American Association of Insurance Agencies [LAAIA]. This organization, based in my congressional district in Miami, FL, was formed in 1969 in order to address the concerns of Latin American insurance agencies and their customers. The association attempts to educate the Hispanic American public not only in south Florida but in all of Florida about insurance issues. The LAAIA also helps insurance companies by initiating communication with the legislature in Tallahassee on insurance issues. It tries to eliminate the concerns of insurance companies about risks in insuring arriving immigrants.

In addition to addressing the concerns of insurance agencies, the LAAIA also greatly contributes to helping the Miami community. They conduct charity fund raisers for the underprivileged and abused children of the Children's Home Society, raise money for United Cerebral Palsy and Clinica Para Ninos con Cancer, a division of Children's Cancer Care in Miami, FL. Each December the LAAIA purchases and distributes toys to the Jackson Memorial Hospital children's ward, the Ronald McDonald House, and the Children's Home Society. This past year the association also had a 26-week television program on WLRM entitled "Insurance and You." This 1-hour, call-in program involved insurance agents, company personnel, and claims personnel. The purpose of the program was to inform the public on insurance issues ranging from health insurance to auto insurance.

The first president of the association was Manuel Arques. At this year's convention, which was held July 20, Ms. Martha Webster Stark was installed as the first woman president of the association. The new board of directors for 1991–92 to also be sworn were: President-elect, Jorge Ramallo; vice president, Luis Sastre, Jr.; secretary, Daniel Vaisman; treasurer, Mary B. Fernandez; directors, Julio Jimenez, Jenny Palma, Loreta Rodriguez, Rodolfo A. Suarez; immediate past president, Daniel Prenat; associate liaison, George Cintron.

I would like to take this opportunity to thank the many south Florida residents for their involvement in the Latin American Association of Insurance Agencies. Among them are the outgoing board of directors: President, Daniel Prenat; president-elect, Martha Webster Stark; vice president, Jorge Ramallo; directors, Eddy Tagle, Miriam Arencibia, Luis Sastre Jr., Rafael Duarte; treasurer, Ana B. Ramallo; secretary, Mary Fernandez; past president, Andy Rodriguez; associate liaison, Hilda Lopez; editor of the LAAIA newsletter, Annette Rodriguez.

OSHA CITES POSTAL SERVICE FOR HEALTH VIOLATIONS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. LANTOS. Mr. Speaker, I am pleased to call attention to the recent action by the Occupational Safety and Health Administration [OSHA] of the Department of Labor in which they issued a formal citation against the U.S. Postal Service for willful violations of the Occupational Safety and Health Act. OSHA has found that the Peoria, IL, and Columbus, OH, post offices willfully exposed their employees to severe hazards at their work on two widely used letter sorting machines. These machines are in use throughout the Postal Service.

Although OSHA has the responsibility for overseeing the health and safety of Federal workers, it is virtually unprecedented for the agency to take the drastic step of actually citing a fellow agency for failing to correct serious workplace dangers.

Regrettably, the Postal Service, the largest nondefense employer in the country, has a long history of ignoring advice from OSHA and from ergonomic experts concerning the dangers presented by the letter sorting machines.

In March of this year, the Employment and Housing Subcommittee, which I chair, held a field hearing in California at which we learned about the prevalence of painful and crippling cumulative trauma disorders or repetitive motion illnesses which afflict large numbers of letter sorting machine operators. Over many years employees and unions have complained to the Postal Service and to OSHA about these problems. Repeatedly, OSHA has investigated the complaints and made recommendations to the Postal Service, which has refused to act on them.

This year, OSHA had an intensive study made of the Peoria and Columbus operations by a national authority, Dr. Roger Maris of Ohio State University. When OSHA transmitted his report and recommendations to the Postal Service, they were curtly brushed off. Testimony at my subcommittee hearing revealed stubborn resistance by the postal authorities. After further efforts at conciliation by OSHA proved futile, under the leadership of Assistant Secretary Scannell, OSHA moved to issue a strongly worded citation, setting forth a timetable for corrective action at the two post offices.

They are to be commended for taking this step. However, OSHA has no power to fine or sue a Federal agency, as it does private employers. So it behooves us, as overseers of the Postal Service and all other Federal agencies, to see that the citation is not ignored as previous recommendations have been. We should no longer permit thousands of hardworking postal employees to be exposed to the traumatic workplace situations which have now been thoroughly exposed.

A TRIBUTE TO THE OLD FIRST REFORMED CHURCH

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. SCHUMER. Mr. Speaker, I rise today to pay tribute to the Old First Reformed Church in Brooklyn. The "Old First" will commence a yearlong anniversary celebration on September 29, 1991, marking the centennial of the dedication of its 1,200-seat sanctuary on September 27, 1891.

The Old First Reformed Church was founded in 1654 and is one of the oldest, continuous ecclesiastical organizations in America. The church's first edifice was built in Brooklyn in 1666. As its congregation grew, the church moved several times before its present-day chapel at Seventh Avenue and Carroll Street was completed in 1889. Rapid growth in the area pushed forward plans to complete the sanctuary, and the church as it stands today was dedicated on that September day 100 years ago.

For countless years, the "Old First" has been serving the spiritual and social needs of our community. The beautiful sanctuary which this celebration is honoring is used for special programs and graduations by local schools. Concerts by the Grace Choral Society and by local folk singers are held there several times a year as well as acting as the home for Boy Scout Troop 14.

I salute the "Old First" on the occasion of this centennial celebration and may the church and our community be blessed with 100 more years.

H.R. 2966

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. BLILEY. Mr. Speaker, I rise today as an original cosponsor of the Petroleum Marketing Competition Enhancement Act, introduced today by my colleague from Oklahoma, Representative SYNAR. H.R. 2966 addresses the existing threat to competition in the gasoline marketplace—a problem that has acutely manifested itself over the past year.

The threat I speak of is the ability of petroleum refiners to render irrelevant the marketing efficiencies of their wholesale customers—the Nation's independent petroleum marketers and dealers—thereby threatening these customers' economic viability. A manifestation of this phenomenon over the last 11 months has been a series of price inversions in the gasoline market.

In a market left to supply and demand, gasoline prices at the terminal, and forward to retail, progress from lowest to highest in the following order: unbranded rack, branded rack, branded dealer tankwagon and retail price.

Since August 1990, however, a series of price inversions have occurred around the country and in some locations continue today. These inversions or "flips" have led to pricing in this order: retail price, dealer tankwagon, branded rack and unbranded rack.

These price inversions do not represent the free market at work. Rather, they represent the exercise of substantial market power by a limited number of companies to control the price of gasoline. That control represents the unlevel playing field on which competition finds itself today.

On this unlevel playing field, petroleum marketers have frequently found themselves paying a higher price at wholesale than the price that their refiner-supplier sold the product at his own direct-operated outlets.

The consequences of these alterations in historic gasoline market price structure is the infliction of significant economic hardship on independent marketers, who, based upon their operating efficiencies, have traditionally been the most price competitive at the pump. Such circumstances threaten the ability of the independents to compete effectively in the retail market for motor fuels to consumers' detriment.

My dedication to free market principles is well known. That dedication is premised upon my belief that the operation of an undistorted market ensures that consumers receive the benefits of the economic efficiencies which the resourcefulness of entrepreneurs creates as they strive for success in a competitive environment.

A free and competitive market has always benefited consumers. In such a market the entity which most efficiently performs a function succeeds in competition with its less efficient competitors. Thus, I pursue legislation which limits the commercial behavior of businesses only when I perceive that such action is necessary to secure for consumers the economic benefits which the market is supposed to provide for them. My cosponsorship of H.R. 2966 is based upon my concern that absent the enactment of this legislation, the driving public may be denied the benefits which the highly efficient operations of independent gasoline marketers should bestow upon them.

In essence, the legislation is of very limited scope and simple operation. It does only two things: first, the bill would prohibit a refiner which operates a retail outlet with company personnel from selling gasoline to its wholesale customers in the same market at a price which is higher than the price at which it sells gasoline to motorists, adjusted for the cost of doing business.

The objective of such a requirement is to ensure that the operating efficiencies of such a refiner's wholesale customers are not rendered irrelevant in competition with their supplier/competitor. Specifically, an independent marketer's efficiencies are of no consequence in competition with its supplier/competitor if that marketer cannot purchase gasoline at a price which is no higher than the price which that supplier/competitor charges to motorists in the same market.

Second, the bill would prohibit a refiner from controlling the resale price of its independent customers. The Petroleum Marketing Practices Act was enacted in recognition of the great disparity in bargaining power between refiners and their independent customers. The ability of an independent businessman or woman to determine his or her selling price is a cornerstone of market theory. This provision is designed to ensure that the prices charged by a refiner's independent customers reflect those customers' independent business decisions, rather than an exercise of that refiner's inherent power over its customers.

In summary, as one dedicated to consumers' receiving the benefits of the superior operating efficiencies which undistorted competition generates, I have elected to cosponsor this legislation. I believe it is the least invasive means by which true competition in the retail marketing of motor fuels can be insured. I urge my colleagues to join me in seeking this bill's prompt enactment.

TRIBUTE TO UAW LOCAL 887

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Ms. WATERS. Mr. Speaker, it is my pleasure to commend the UAW Local 887 on its 50th anniversary—50 years of fighting for the rights of working men and women. Since its charter, the members of UAW Local 887 have been led by such illustrious leaders as Charles Dorchester, Paul Lindsey, Franklin Dayton Owens, Rudy Sauser, George Terry, Ed Parkos, Lou King, Paul Schrade, Jack Hurst, Henry Lacayo, Joel Bomgaars, and Al Ybarra. Currently UAW Local 887 is led by Acting President E.J. Schalls.

Prior to the formation of UAW Local 887, workers were represented by organizations such as the International Association of Machinists and the Welders Union. After disputes regarding representation, 7,100 NAA workers voted on July 1, 1941, to form a separate local. With that mandate, UAW Local 887 was chartered on July 15, 1941.

During its 50 years of service to the working men and women of this country, UAW Local 887 has resolved labor conflicts and grievances, brought contracts to successful conclusions, promoted good will and planned organizing campaigns to improve working conditions for its members and other workers. It is appropriate to commend UAW Local 887 for its contribution to the welfare of American workers.

I am pleased to pay tribute to the United Auto Workers Local 887 for enhancing the quality of life of its members through its programs. In these times of high unemployment, recession, and downsizing, it is even more critical that organizations such as UAW Local 887 continue to work vigorously on behalf of local people.

GASOLINE PRICE INVERSIONS

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. COOPER. Mr. Speaker, a strange phenomenon in our Nation's wholesale gasoline markets threatens our local gasoline distributors. If it continues, it could result in less choice and higher prices for consumers at the gas pump.

Imagine a market in which it is cheaper for wholesale distributors of gasoline to buy 8,000-gallon truck loads of gas at their suppliers' retail filing stations than it is to buy it from them wholesale. Sounds crazy, since retail prices are supposed to reflect transportation and operating expenses that don't exist for wholesale purchases. But it has been happening, and it has created a price squeeze that many marketers cannot withstand.

The bill introduced today by Mr. SYNAR, myself, and others tries to address these bizarre occurrences, known in the industry as price inversions.

Price inversions have occurred on and off in different areas of the country since President Bush called on the major oil companies to lower their retail gasoline prices last August. Retail prices did drop, but in many cases, wholesale prices did not. As a result, the traditional hierarchy of gasoline prices has been turned completely upside down. Refiner retail prices have been lower than their delivered branded wholesale prices which have been lower than branded wholesale prices at the terminal rack, which have been lower than unbranded wholesale prices at the rack.

There is no agreement about why refiner prices became inverted. Frankly, I am less concerned about why than I am about the effect the inversion is having on the wholesale distributors of refiner gasoline, otherwise known as jobbers. Many of these small businesses own or supply stations which compete directly with refiner stations. For several months there was no way they could be competitive without operating at a loss.

The major oil companies have argued that price inversions are natural market phenomena. However, they have so far been unable to explain how it is possible for a company's wholesale gas plus transportation to its retail station can be cheaper than the same wholesale gas without transportation.

The bill we have introduced today seeks to restore the natural hierarchy of prices in those geographic areas in which an oil company is selling both on the wholesale and retail levels. The bill actually proposes to do openly what most of the major oil companies are already doing privately with their secret rebate programs.

These programs were designed to pay off jobbers who are in direct competition on the retail level with their suppliers. The effect is that no one knows what net wholesale prices really are. Perhaps the rebates have had the effect of reversing the inversion for some. But these programs are inherently arbitrary; and they are controlled by the supplier, not by the marketplace as they would suggest. At the very least, suppliers should be required to publicly disclose wholesale rates which reflect their rebates. That way jobbers would have a better sense as to whether they are being treated fairly.

According to the U.S. Energy Information Administration, jobber sales have declined 14 percent over the last 4 years, while sales from refiner-operated stations have increased by the same amount. Major oil companies' income from refining and marketing increased 254 percent during the first quarter of this year. In contrast, the Petroleum Marketers Association of America calculates that during that same period, jobber income per gallon of gasoline sold fell 73 percent.

I'm not suggesting there is a conspiracy going on to get rid of jobbers, but I am worried about this trend. Jobbers are important competitors. As lean small businesses, they often operate much more efficiently than the refiners. Wholesale distributors have also been responsible for many marketing innovations, like cheaper, self-serve gas. Jobbers are especially important in rural areas where the majors do not find it profitable to own stations.

This legislation does not begin to address all of the factors which have contributed to the financial problems of many distributors. However, it should ensure that they get a fair shake from their suppliers in the marketplace.

I should note that I am not committed to the exact language of the bill. In fact, I have some concern that the margins it would establish might in effect become minimum markups, which would most certainly not be in the best interest of consumers. However, I am cosponsoring it because I feel strongly that these price inversions threaten the livelihood of legitimate and valuable small businesses. I look forward to working with interested parties to perfect its approach.

The other component of this legislation addresses the practice of some refiners to impose maximum retail prices on gas stations they supply but do not own and operate.

The bill would prohibit any agreement or scheme which has this effect and provides competitors standing to sue. There simply are no circumstances under which price fixing—even maximum price fixing—is good for consumers in the long run.

I encourage my colleagues to support this legislation.

EXTENDING MFN TO CHINA

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. GEKAS. Mr. Speaker, I rise today to discuss the granting of most-favored-nation [MFN] trading status to the People's Republic of China. This extremely significant and controversial issue has been the focus of extensive debate in this body. In the spirit of this debate, I would like to share with my colleagues the contents of a letter recently sent to President Bush by the Asian American Voters Coalition. The following persons were signatories to the aforementioned letter: John Tsu, Ph.D., coordinator, San Francisco chapter, AAVC; Grace Shu, chairwoman, Chinese American Republican National Federation, Pennsylvania; Alfred Liu, president, Asian Benevolent Corps, Washington, DC; I.K. Liang, president, Washington, DC, chapter of the Taiwanese Benevolent Association; Michael Yuan, adviser, Asian American Voters Coalition; Kung Lee Wang, founder, Organization of Chinese Americans; Jane H. Hu, founder, Asian American Voters Coalition, Maryland; Irvine Lai, cochairman, AAVC, California; John Tan, Asian American Voters Coalition, Illinois;

Ping Tom, Midwest cochair, Asian American Voters Coalition, Illinois. I am pleased to report that Grace Shu, a constituent of mine and a signatory to the letter sent to President Bush by the Asian American Voters Coalition, is responsible for bringing the following material to my attention.

DEAR PRESIDENT BUSH: Your decision to grant most favored nation trading status to the People's Republic of China is strongly supported by those who understand the current conditions and future developments of China.

Free trade is the best way to expose the communist Chinese government to the benefits of free commerce and international trade. Trade has been a primary channel for contact between Americans and Chinese, sharing the ideas and values which have contributed to progressive developments within China. Free trade has also improved the living standards for hundreds of millions of Chinese people. These changes in the right direction will eventually lead China to freedom and democracy.

If China is denied the MFN status, the most effective channel of communication between Americans and Chinese would be closed. The only way to get China to change is to exert a positive influence to lead Chinese government to economical stability which will give them the security needed to allow more freedom and democracy to their own people.

Today, very few people in China still believe in communism; however, they are afraid of total political and economical collapse caused by radical reform. A natural and peaceful evolution to freedom and democracy is most likely as Americans continue to have strong influence on China. Chinese leaders cannot be forced to change, they will respond very negatively. However, showing them positive results and future prosperity, they will cautiously change their directions.

If the MFN status for China is denied, China may face the danger of economical breakdown and billions of people will suffer. Now the United States may have to spend 1.5 billion dollars to prevent the total collapse of the Soviet Union. We certainly do not want to spend billions of dollars in the future to save China from total collapse. All countries have to work together to solve the problems of today's world.

The crackdown at Tiananmen almost crushed any hope we have had for a free and democratic China. We are also angry and disappointed that the Chinese government continue to suppress freedom and to sell nuclear weapons to unstable countries in the Middle East. However, these issues should be dealt with the Chinese government directly using diplomatic and other means without affecting the welfare of Chinese people severely.

We understand your patience and kindness for billions of Chinese people. For this reason, we give you the strongest support and gratitude.

TRIBUTE TO GEORGE JOHNSTON

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to George Johnston of Saginaw, MI, who has been general manager of the Central Foundry Division since 1985. He has been promoted to general manager of Delco Marine and Delco Products Division in Dayton, OH, and will soon be moving there. He will be greatly missed, particularly because of his efforts to make the foundry in Saginaw a world class model.

As a member of the Saginaw County Chamber of Commerce, George was on the forefront of Saginaw's search for economic expansion. He was also an active participant in the United Way where he was a leader in recruiting voluntary aid for those individuals in our community who most needed help. Of great importance to George were his efforts to improve America's environment for youth through the Boy Scouts of America, Lake Huron Area Council. Besides his contributions to our community, he served in the U.S. Marines Corps during the Korean conflict.

Saginaw is not the only area that recognizes George's fine character. His talents have been recognized by General Motors since 1957. He has worked his way up through various supervisory assignments in manufacturing, process engineering, and personnel. George has served in the Muncie, Indiana Battery Plant, nine plants in Anderson, IN, and facilities in Dayton, OH, and Lockport, NY.

George was born in Anderson, IN, on January 11, 1932, and graduated from Indiana University with a bachelor of science degree in management in 1955. He also attended the Harvard University Business School Advanced Management Program in 1978. George and his wife, Nancy, have two sons.

Please join me in wishing the very best of success to George Johnston. He is a valuable contributor to Saginaw and to General Motors. We will remember him well.

TRIBUTE TO BILL C. DAVIDSON

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to recognize an exceptional community servant, Bill C. Davidson. Since January 1985, Mr. Davidson has been the elected president of the Terminal Railroad Association of St. Louis. On August 1, 1991, he will retire from TRRA after working 43 years in the railroad industry. Bill Davidson's civic contributions to southwestern Illinois on behalf of TRRA over the past 6 years are commendable.

Bill Davidson was instrumental in the completion of numerous transportation projects including the donation of the Tunnel Railroad to the city of St. Louis and the exchange of the Eads Bridge for the MacArthur Bridge, which was essential to the Metro Link Light Rail project.

During his tenure as president, TRRA won the 1986 National Harriman Bronze Medal Award in the switching and terminal group for its employee safety record. This was TRRA's first national safety award since the association's formation almost 100 years prior. Since that time, TRRA has won numerous other safety awards. It is evident that Bill Davidson's commitment to education and improving employee safety has been successful.

Bill Davidson is responsible for the many community outreach programs TRRA participates in, including "Operation Lifesaver," a rewarding program to teach railroad safety to children, and Junior Achievement's "Project Business," a classroom program taught by TRRA employees to introduce young students to the business world.

In addition, he is an active member of the Tri-Cities Chamber of Commerce and the Granite City Rotary Club. One of his more significant contributions to the community is through the Tri-Cities Area United Way.

As chairman of the United Way Major Firms Division, he was able to raise 67 percent of the $1,049,000 raised in the 1990 United Way campaign. TRRA has increased employee participation in the campaign significantly since Bill Davidson's arrival, and his encouragement and supportiveness to employees has enabled donations to be increased by 352 percent in the past 6 years.

Bill Davidson, through his superior leadership and involvement in the community, has contributed to the future prosperity for the southwestern Illinois region and has laid the groundwork for the future progress in many areas of economic development. I ask my colleagues to join me today as I recognize Bill for his significant accomplishments.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 23, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 24

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee

To hold hearings on S. 1410, to protect the rights of consumers from unsolicited telephone marketing calls, and S. 1462, to revise the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes.

SR-253

Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on S. 976, authorizing funds through fiscal year 1996 for programs of the Solid Waste Disposal Act, focusing on toxics use and source reduction provisions.
SD-406

Judiciary
To hold hearings on the nominations of Eugene E. Siler, Jr., of Kentucky, to be United States Circuit Judge for the Sixth Circuit, William G. Bassler, to be United States District Judge for the District of New Jersey, and Jorge A. Solis, to be United States District Judge for the Northern District of Texas.
SR-332

Special on Aging
To hold hearings to examine the treatment of low-income Medicare beneficiaries.
SH-216

Joint Printing
To resume hearings to examine the technological future of the Government Printing Office.
B-318 Rayburn Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Foreign Relations
To hold hearings on the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (Treaty Doc. 102-4), the Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific (Treaty Doc. 102-7), and the Convention for a North Pacific Marine Science Organization (Pices) (Treaty Doc. 102-9).
SD-419

Judiciary
Patents, Copyrights and Trademarks Subcommittee
Technology and the Law Subcommittee
To hold joint hearings on S. 1096, to ensure the protection of motion picture copyrights.
SD-226

Labor and Human Resources
To resume hearings on certain provisions of S. 1227, to reform the nation's health care system to assure access to affordable health care for all Americans, focusing on its economic impact.
SD-430

2:30 p.m.
Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings to examine certain problems in bankruptcy, focusing on airline leasing, the interaction of ERISA law in bankruptcy proceedings, and whether "Evergreen Trusts" are authorized by bankruptcy codes.
SD-226

JULY 25

8:45 a.m.
Office of Technology Assessment
Board meeting, to consider pending business.
EF-100, Capitol

9:30 a.m.
Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Securities and Exchange Commission.
SD-538

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 621 and H.R. 543, to establish the Manzanar National Historic Site in California, S. 870, to authorize the inclusion of a tract of land in the Golden Gate National Recreation Area in California, S. 1254, to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, S. 1344, to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history, and H.R. 848, to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn.
SD-366

Governmental Affairs
To hold hearings to examine activities of the Food and Drug Administration, Department of Health and Human Services.
SD-342

Rules and Administration
To hold hearings on S. 165, to direct the Secretary of the Senate or the Clerk of the House of Representatives, when any appropriations bill or joint resolution passes both Houses in the same form, to cause the enrolling clerk of the appropriate House to enroll each item of the bill or resolution as a separate bill or resolution.
SR-301

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on proposed legislation to implement the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.
SD-406

Foreign Relations
To resume hearings on the Treaty on Conventional Armed Forces in Europe (CFE), with Protocols on Existing types (with Annex), Aircraft Reclassification, Reduction, Helicopter Recategorization, Information Exchange (with Annex), Inspection, the Joint Consultative Group, and Provisional Application; all signed at Paris on November 19, 1990 (Treaty Doc. 102-8).
SD-419

Labor and Human Resources
To hold hearings to examine certain issues relating to coverage for personal care attendants' services.
SD-430

Veterans' Affairs
To hold hearings to examine readjustment problems of Persian Gulf War veterans and their families.
SR-418

10:30 a.m.
Rules and Administration
To hold hearings on S. Res. 82, to establish the Senate Select Committee on POW/MIA Affairs.
SR-301

11:00 a.m.
Budget
To resume hearings to examine alleged waste and abuse in the Medicare program, focusing on practices involving payment and coverage of medical equipment and supplies.
SD-608

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 1351, to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on international commercial nuclear reactor safety.
SD-406

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Select Committee on Indian Affairs on employment on Indian reservations.
SR-485

Select on Indian Affairs
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on employment on Indian reservations.
SR-485

Joint Economic
To hold hearings to examine the current poverty situation in the United States.
2359 Rayburn Building

JULY 26

9:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on current educational television programming and to examine new technologies which could impact the future of educational television.
SD-430

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 353, to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes.
SD-226

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 58, to establish a national policy for the conservation of biological diversity.
SD-406

Joint Economic
To resume hearings to examine the economic outlook at midyear.
SD-628

JULY 29

9:30 a.m.
Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
Business meeting, to mark up S. 792, to authorize funds for programs of the Indoor Radon Abatement Act of 1988, S. 455, to establish a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors, and S. 1278, to authorize funds for fiscal years 1992, 1993, and 1994 for the Office of Environmental Quality.
SD-406

10:00 a.m.
Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
To hold hearings on proposed legislation relating to Superfund problems facing municipalities.
SD-406

2:00 p.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on oversight of the General Services Administration's (GSA's) planning and management procedures and the condition of the Federal Building Fund.
SD-406

JULY 30

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the resettlement of the Rongelap, Marshall Islands.
SD-366

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine and evaluate recent developments relating to international negotiations on global climate change and stratospheric ozone depletion.
SD-406

Judiciary
Constitution Subcommittee
To hold hearings on issues relating to abortion as contained in Rust versus Sullivan.
SR-332

10:00 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

2:30 p.m.
Energy and Natural Resources
Mineral Resources Development and Production Subcommittee
To hold hearings on S. 1179, to stimulate the production of geologic-map information in the United States through the cooperation of Federal, State, and academic participants, and S. 1187, to revise the Stock Raising Homestead Act to provide certain procedures for entry onto the Stock Raising Homestead Act lands.
SD-366

JULY 31

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on proposed legislation authorizing funds for the Maritime Administration, Department of Transportation.
SR-253

Finance
To resume hearings on S. 612, to encourage savings and investment through individual retirement accounts (IRAs) in an effort to stimulate economic growth for Americans and the nation.
SD-215

2:00 p.m.
Energy and Natural Resources
To resume hearings on S. 1351, to encourage partnerships between Department of Energy laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness.
SD-366

AUGUST 1

9:30 a.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1156, to provide for the protection and management of certain areas on public domain lands managed by the Forest Service in the States of California, Oregon, and Washington.
SD-366

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 22, to regulate interstate commerce with respect to parimutuel wagering on greyhound racing, and to maintain the stability of the greyhound racing industry.
SR-253

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on a proposed Department of Transportation headquarters, and the relationship between the Judiciary and the Government Services Administration for the provision of space for the Courts.
SD-406

3:00 p.m.
Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on proposals to extend the patent term of certain products, including S. 526 and S. 1165.
SD-226

SEPTEMBER 24

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the American Legion.
334 Cannon Building

HOUSE OF REPRESENTATIVES—*Tuesday, July 23, 1991*

The House met at 12 noon.

The Reverend Dr. Joel Dent, Pine Forest United Methodist Church, Dublin, GA, offered the following prayer:

Eternal God, whose power fills all darkness with light and all minds with truth, come with divine inspiration upon this gathered body to guide deliberations, enhance discussions, and influence decisions which promote justice, equal mercy, and lasting peace.

May government of, by, and for the people flourish in these crowded and busy Halls.

May Representatives see individual tasks as important contributions to the larger whole.

Bless those who grow tired and weary. Refresh their minds with new insights and broader visions.

May the preferences of the few give way to the needs of the many.

May the dreams of greatness yield to the greatness of dreams.

Undergird America's leaders with a love for God that deepens our respect and love for all the world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MARLENEE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MARLENEE. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 104, not voting 55, as follows:

[Roll No. 217]

YEAS—274

Abercrombie
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barton
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dixon
Dooley
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schulze
Schumer
Serrano
Sharp
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates

NAYS—104

Allard
Armey
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Edwards (OK)
Ewing
Fawell
Fields
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hunter
Inhofe
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach
Lewis (FL)
Lightfoot
Machtley
Marlenee
Martin
McCandless
McDade
McGrath
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Porter
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Stump
Taylor (NC)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—55

Ackerman
Barnard
Bonior
Brooks
Callahan
Condit
Dellums
Dingell
Donnelly
Engel
Ford (TN)
Franks (CT)
Gejdenson
Gray
Green
Holloway
Hopkins
Hyde
Ireland
Jefferson
Jenkins
Johnson (TX)
Johnston
Kasich
Kolter
Lehman (FL)
Levine (CA)
Lowery (CA)
Matsui
Mavroules
Miller (WA)
Mrazek
Neal (MA)
Oakar
Oberstar
Payne (NJ)
Pelosi
Price
Schiff
Shaw
Slaughter (NY)
Smith (IA)
Stearns
Stenholm
Sundquist
Swift
Thomas (CA)
Torricelli
Vander Jagt
Washington
Weber
Weiss
Wilson
Yatron
Young (AK)

□ 1225

Mr. ESPY changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas [Mr. DELAY] kindly come forward and lead the House in the Pledge of Allegiance.

Mr. DELAY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2525. An act to amend title 38, United States Code, to codify the provisions of law relating to the establishment of the Department of Veterans Affairs, to restate and reorganize certain provisions of that title, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2519. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes;

H.R. 2622. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes; and

H.R. 2699. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2519), an act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. GARN, Mr. D'AMATO, Mr. BOND, Mr. NICKLES, Mr. GRAMM, and Mr. HATFIELD, to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2622), an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Mr. BYRD, Ms. MIKULSKI, Mr. KERREY, Mr. DOMENICI, Mr. HATFIELD, and Mr. D'AMATO, to be conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2699), an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. BOND, Mr. GORTON, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that, pursuant to Public Law 102-62, the Chair announces on behalf of the majority leader, the appointment of Gordon M. Ambach, of the District of Columbia, to the National Council on Education Standards and Testing.

THE REVEREND DR. JOEL DENT

(Mr. ROWLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, it is my pleasure today to have my pastor here as a guest Chaplain, Dr. Joel Hill Dent, who is a native of Douglas, GA; a graduate of South Georgia College, LaGrange College, and Emory University's Candler School of Theology. In 1986 he received the doctor of ministry degree in the area of pastoral and family counseling. He has served on the conference board of ordained ministry as candidacy registrar, the board of health and welfare, the conference committee on education, and for 6 years as a trustee of the Methodist Home. He also serves on the Dublin District Council on Ministries.

As I said, he is presently serving as pastor of the Pine Forest United Methodist Church in my hometown of Dublin, GA. I am very pleased to have him here today, Mr. Speaker.

CRIME BILL DISCHARGE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, today I have filed discharge petition No. 1 on House Resolution 183 which is a 1-hour open rule providing for the consideration of H.R. 1400, the President's Comprehensive Violent Crime Act of 1991.

Mr. Speaker, my colleagues will recall that in his speech to a joint session of Congress back on March 6 of this year, the President challenged us to pass his crime and highway bills in 100 days.

Well, Mr. Speaker, it has now been 138 days since that speech and the President's crime bill still languishes in some dark recess of the Judiciary Committee—a legislative black hole if there ever was one.

Mr. Speaker, the other body has already passed a crime bill acceptable to the President. And yet, all we've heard from the House to date are cries of protest from some Democrats that the bill is too tough, too tough on murderers, too tough on drug barons, too tough on ruthless criminals who have no respect for human life at all.

I would say to my colleagues on the other side of the aisle that you are certainly entitled to bring out a softer on crime bill if you want, but at least give this House a chance to vote on the alternatives.

I urge my colleagues to sign discharge petition No. 1, so that we can force this important anticrime measure to the floor and debate and amend it under an open rule.

□ 1230

REAL VERSUS UNREAL INCOME

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, last Thursday, this body received an amazing revelation from our colleague, the gentleman from Pennyslvania, with respect to real, and presumably unreal, income. When I took economics in college, I was taught that an increase in wealth represented income. I was not taught the Republican subtleties of real versus unreal income. I did not learn, for example, as my Pennsylvania colleague claims, that an investor earning $20,000 on a stock investment is not as well off as a steel worker working in the mill for $20,000 a year. That is certainly a novel concept.

The gentleman from Pennsylvania argues that capital gains income is not the same as earned income. In one respect there is some truth to his statement. The Bush administration and my Republican colleagues are not trying to provide tax breaks for earned income, but only for capital gains.

THE 36 PERCENT TAX BRACKET WOULD HINDER ECONOMIC GROWTH

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the Gore-Downey bill, (H.R. 2242/S. 995) that calls for an increase in the top tax rate to 36 percent will not accomplish what its proponents claim. The notion that increasing the tax rate for upper income Americans will lighten the tax burden of the middle class is simply false.

We all know that under Ronald Reagan, the highest marginal tax rate dropped from 50 to 28 percent. The change, however, did not mean rich people got to pay less in taxes. It meant they got to pay more. Under the 1981 tax cuts, the share of all taxes paid by the richest 1 percent of American taxpayers rose from 18 percent in 1981 to 28 percent in 1988. The bottom percent of Americans saw its share of the tax burden drop from 77 to 66 percent.

Increasing tax rates for the wealthy will not lead to greater economic prosperity for middle class America. In fact, historically, a decrease in top tax rates has historically benefited everyone more than an increase ever has. If the top income tax rate were raised to 36 percent, there would be definite changes: Affluent Americans would be paying higher tax rates on declining incomes. As a result, people in the middle class would end up paying more taxes for the privilege of punishing the rich, and all of us would be sacrificing the economic growth promoted by a sensible Tax Code.

H.R. 2943 PROMOTES PROGRAMS THAT GIVE DISADVANTAGED CHILDREN AN OPPORTUNITY TO GO TO COLLEGE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, last Thursday, I introduced H.R. 2943 which promotes the "I Have a Dream" College Scholarship Program created by Eugene Lang.

Under the original "I Have a Dream" Program, disadvantaged youth are promised a free college education if they complete their studies and graduate from high school. Many businesses and individuals have sponsored disadvantaged children beginning in the sixth or seventh grade by guaranteeing the payment of college tuition in exchange for the successful completion of elementary and secondary school. They also serve as counselors and mentors providing much needed encouragement for these youngsters to stay in school. In my hometown of Hickory, NC, Catawba Valley Community College sponsors such a program for sixth graders and it has changed their lives forever.

H.R. 2943 directs the Department of Education to compile and make available information about the various "I Have a Dream" type scholarship programs so that those interested in helping a disadvantaged student receive a college education will have knowledge about programs that work.

Businesses want and need students with the education and skills necessary for employment in order to continue to compete in today's world markets. This is one small step that can help the private sector find educated workers while changing a youngster's life forever.

CAN'T ANYONE IN THIS ADMINISTRATION COUNT?

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, Treasury Secretary Brady testified that an additional $80 billion in loss funds will be required for the RTC. This sum is on top of the $50 billion authorized by FIRREA in 1989, and the additional $30 billion Congress approved just last March.

In making this request, Secretary Brady engaged in an astonishing display of revisionist history. He claimed that this new request does not represent a true increase over earlier administration estimates.

In January, Brady estimated the RTC's total cost to be between $90 billion and $130 billion. "We still believe this to be true," he testified, since $130 billion in 1989 dollars is about $160 billion. What a cop out.

First, I must correct the Secretary's arithmetic. An inflation rate of 11 percent over the last 2 years would be necessary to turn $130 billion into $160 billion in 1991. In reality, inflation has averaged 5 percent over this period.

Second, if the Secretary wants to use the standard of 1989 dollars, I would remind him of his repeated assurances in 1989 that $50 billion would be the maximum price tag for the regulatory disaster known as the RTC. It seems that he missed the mark, no matter how you add it up.

It is time for the administration to stop playing number games and start making the RTC work.

THE TIME FOR NOTCH REFORM HAS COME

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, earlier this month, more than 30 of my colleagues, and I, stood outside this Chamber for a press conference.

The bipartisan group had one message: The time for notch reform has come.

We announced that for the first time there is a majority in the House who support correcting the notch.

You do not have to ask me; you can ask any of the 235 Members who have cosponsored H.R. 917.

H.R. 917 is different from past notch reform legislation. Late last fall major sponsors of 101st congressional notch bills gathered to develop a consensus, and we did it.

Not only does the bill help retirees with modest earnings histories, but it also uses a 10-year transition formula favored by a 1988 GAO report.

And, when the legislation was introduced, it had more than 130 original sponsors.

The consensus is in; the time has come for a vote on the House floor.

IT IS TIME TO CITE JAPAN FOR ILLEGAL TRADE IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, experts say that Japan will control 40 percent of the American trade markets by 1992. They say Japan will accomplish this because Japan is cheating and lying and practicing illegal trade such as Toyota and Mazda dumping minivans in the American marketplace 30 percent below the cost that they sell them in Japan.

Second of all, these Japanese carmakers are lying about the domestic content provisions and lying about their operating expenses, and not even paying taxes to Uncle Sam. Everybody in America knows Japan is ripping us off; Congress knows it, the White House knows it, and no one is doing anything.

I say it is time to cite Japan for illegal trade in America before we do not have a domestic car maker left, and the only thing they will understand is: Hitting them in the pocketbook.

It is time for Congress to act on illegal trade.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair would remind our guests in the gallery that we are delighted to have them here but they are not to respond to statements made by Members on the floor.

□ 1240

CORRECTING THE NOTCH

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, what if someone proposed a bill that would decrease the salaries of Members of Congress who were born between, say, 1936 and 1941? Although I am sure some of our constituents might applaud such a measure, I think most would agree that singling out one group of individuals for cuts simply because of when they were born is unfair. Still, this Congress continues to stand by and allow just such an injustice to stand. More than 12 million seniors—the so-called notch babies—have been deprived of their Social Security benefits thanks to an alleged quick fix in the late 1970's that was designed to bail out the system. The public distress that has characterized this issue for the past 13 years is rising to an audible pitch as 235 of our colleagues, a majority of this House representing both sides of the aisle, have now committed to correcting this unintended discrepancy. H.R. 917, legislation designed to ease the effects of the transitional formula, would pass this House today if the leadership would allow a vote.

We've taken the easy way out—sitting by and waiting for this issue to go away—for too long. I urge my colleagues to acknowledge the unfairness of the notch and restore credibility to the Social Security System. Let us bring H.R. 917 to the floor now.

IMPORTANCE OF A STRONG MILITARY RESERVE AND MEDICAL COMPONENTS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, one of the great and happy differences between the aftermath of the war in the gulf and the aftermath of the war in Vietnam is that, unlike Vietnam, when the returning men and women were forgotten, or, even worse, ignored, the people who are coming back from Desert Storm, the men and women, are being honored and revered for the sacrifice they made.

Mr. Speaker, just last Saturday, at home in Louisville, I had the chance to join with my friends in welcoming back officially the 5010th U.S. Army Hospital Unit which was deployed in January and February of this year throughout the country, with several of them sent to Saudi Arabia. Colonel Nold, Dr. Robert Nold, who is the commanding officer, and Maj. Michael Freville, who is the administrative officer and who took control of the unit, spoke to the assemblage on Saturday and made the point, something I was not aware of myself, that something like two-thirds of the U.S. Army's medical capability is in Reserve components. So, it is very important for us in Washington and in the Congress to make sure that we have a strong Army Reserve and, particularly, a strong military medical component in the event there is another conflagration.

Mr. Speaker, we pledged to the men and women of Desert Storm that we would not forget, and we are not forgetting.

AMENDMENT TO ELIMINATE NEW TAXES FOR HIGHWAY IMPROVEMENT RULED NOT GERMANE

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, the President and the administration and the Senate have all proposed legislation on transportation that would improve our highways and our transit without raising taxes. If we work together here in the House, we can achieve the same goal.

But the $153 billion transportation bill that is now under consideration in my Committee on Public Works and Transportation and that wil come to the floor of this House next week includes $25 billion in new taxes.

Earlier today, Mr. Speaker, I offered an amendment to eliminate those new taxes which are contained and referred to in section 104 of the bill. My amendment was ruled not germane and, as a result, there has been no recorded vote on the taxes included in this bill in subcommittee, nor will there be any such vote in the full committee. Now it appears that the Committee on Rules may not make amendments in order that would permit us to eliminate this tax.

Frankly, Mr. Speaker, we can disagree on whether we should raise taxes in the teeth of a recession, but we should not disagree on whether democracy should work. I urge my colleagues to insist on an up-or-down vote on the tax increases contained in this bill.

IN SUPPORT OF H.R. 2893 AND FREEZE RELIEF

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, I rise in strong support of H.R. 2893, the Agricultural Disaster Assistance Act of 1991, which will be considered by this House today under suspension of the rules.

Included in it are provisions that will go a long way toward helping farmers and farmworkers in central California, which was hit by a devastating freeze last December.

The bill will make it easier for citrus growers and other farmers hurt by the freeze to receive emergency loans from the Farmers Home Administration.

The bill also helps farmworkers and their families by including more workers in an existing emergency grant program.

This bill is a step in the right direction for all California freeze victims.

Unfortunately, the next step—emergency funding for some of these programs—has been stalled by the White House.

In fact, White House pencil pushers maintain that there is no agricultural emergency in the San Joaquin Valley of California. They're dead wrong.

Seventy-three thousand farmworkers out of work because of the freeze know there is an emergency.

Hundreds of growers and packers whose operations were stopped cold by the killer frost know there is an emergency.

Children of farmworker families feeling hunger in their bellies know it, too.

What they don't know is why their country won't help them.

I urge my colleagues to support H.R. 2893. I urge the White House and this Congress to approve emergency funding for victims of the California freeze.

NICARAGUA'S SANDINISTAS RESIST PRESSURE TO RETURN CONFISCATED ASSETS

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, last year, after Violeta Chamorro won the Presidency in Nicaragua in spite of the Sandinistas virtual control of the electoral apparatus, the Sandinistas decided they would not let their 10 years of totalitarian rule be for nought. Before the newly elected President could be sworn in, the Sandinistas undertook an unprecedented grab of houses, cars, and property that made the Somoza's rape of the state look like child's play.

The Sandinistas' confiscation of millions of dollars worth of property had as a cover the legislative decrees passed by the Sandinista-controlled assembly. Now that the Chamorro government's coalition majority in the assembly has passed legislation to overturn the Sandinistas' thievery, the Sandinistas are threatening a return to armed conflict in Nicaragua.

The Sandinistas are not proposing to fight for democracy or the needs of the poor, they are threatening to fight to protect their mansions and their Mercedes. If that was what the revolution was all about in Nicaragua, then the Nicaraguan people deserve better.

The government majority is the national assembly is trying to do what is right for the people of Nicaragua, and we in the U.S. Congress must express our support for the efforts of democratically elected legislators in Nicaragua striving to establish justice and fairness.

IS PRESIDENT BUSH COMMITTED TO ENDING APARTHEID?

(Mr. KENNEDY asked and was given permission to address the House and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, the devious hand of apartheid continues to wrap tightly around South Africa. Over the weekend the world learned that the Government has spent $500,000 to support the political aims of Chief Buthelezi and the Inkatha movement. Today we learn that the Government has set up a $132 million slush fund, not to hasten the transition to democracy, but to continue the immoral policy of domination of the many by the privileged few.

The South African Government is playing the oldest trick in the book of Machiavellian politics, divide and conquer, and they are playing it with great cunning and brutality. The South African Government is not satisfied only with funding political rallies, but there is growing evidence that they are engaged in covert actions that have left over 5,000 dead. We have seen this play before in Angola, Mozambique, and Namibia.

Mr. Speaker, it is clear that President Bush has shown a moral commitment to end sanctions against South Africa, but the question is whether he is morally committed to ending apartheid. If he is serious about supporting a transition to democracy in South Africa, then he must denounce this latest duplicity and must call an end to all forms of political action that undermine peaceful change.

NEGOTIATIONS BETWEEN UNITED STATES TRADE REPRESENTATIVE AND MEXICO WRAPPED IN SECRECY

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, on July 2, Ambassador Carla Hills negotiated a memorandum of understanding with Mexico on textiles. It is reported that it merely extends the existing agreement with a few minor changes. Yet, textile industry representatives were in Washington at the time of this negotiation working on the Hong Kong agreement and were not notified of the ongoing Mexico negotiation. It appears that it was consummated in such secrecy that many in the media still are unaware that it occurred.

My sources from inside Mexico report that the United States received the support of Mexico for our position in the Uruguay rounds—support which Mexico steadfastly has refused to give over many years. Now we are asked to believe that Mexico did a 180-degree turn for extension of an existing agreement—that they made no significant gain in exchange for their support.

If that is true, then one would have expected public announcements from the Trade Representative's Office of a major triumph this month. This is a very strange story which deserves explanation. The Congress—having given Mrs. Hills the power to negotiate the entire Mexico Free Trade Agreement without interference—should be alerted by the most recent action of her office.

□ 1250

IN SUPPORT OF THE FAMILY FARMER

(Mr. SANDERS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, this week or next the Congress will have the opportunity to take decisive action to save the family farm, to make certain that our dairy production does not end up resting in the hands of a few giant agribusiness corporations who in years to come will be able to control the supply and cost of milk products.

Mr. Speaker, our oil production and distribution is controlled by a tiny cartel of oil companies. Our banking system is increasingly being controlled by a handful of huge banks, and we see this process in industry after industry. The big get bigger; the little guy gets bankrupt and gets driven out of business.

In my view, if we are interested in saving the family farm, it is absolutely imperative that this body adopt a two-tier supply management system which will guarantee our family farmers a fair and stable price for their product. If we fail, and if the family farmer gets driven off of the land, the consumer will suffer. Our environment will suffer. In fact, the entire Nation will suffer.

Mr. Speaker, let us do the right thing. Let us stand up with the family farmer. Let us pass a two-tier supply management system which guarantees our farmers a fair and stable price for their products.

MFN TRADE STATUS FOR CHINA

(Mr. RAY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, this morning, reading the Washington Post, a disturbing article on China's campaign to evade United States textile quotas appeared in a prominent section of the paper. The facts highlighted in this article are appalling. For years, the Chinese Government has been making a concerted effort to avoid United States textile quotas by sneaking textile goods into the United States through a third country. Goods that were made in China are entered into the United States market with labels from Hong Kong, Lebanon, and Africa.

Therefore, it is not surprising that the textile industry in our country is fighting for its very survival. The decline of the industrial base of the U.S. textile industry is well documented and, in fact, confirmed by the inability of this industry to fully supply the troops in Operation Desert Storm.

Foreign imports supported by a well-intentioned but devastating free-trading philosophy are responsible for the death knell of about 50 percent of textile industries in the United States.

Just recently, the Department of Defense issued a report on the ability of the domestic industrial base of textile and apparel manufacturers to support mobilization efforts.

I hope, Mr. Speaker, and it is very important that there will be a bill that the Senate will pass in the very near future which preserves the rights of both the American people and the Chinese citizens in the national priority of that country.

INTRODUCTION OF FAIRNESS TO FANS ACT

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, today a creeping economic and electronic elitism is taking away the average sports fan's ability to watch his favorite team on broadcast television.

Increasingly, pro sports teams are taking their games off local broadcast television. The average fan, whose area may not be wired for cable or may not have the extra income to afford premium channels, is losing his ability to follow the hometown team on television. And to add insult to injury, many of these same fans are the local taxpayers who are subsidizing glittering new stadiums that serve as the homes for local professional franchises.

Mr. Speaker, today I am introducing the Fairness to Fans Act of 1991. This legislation would require teams to make a portion of their regular season games available on local free TV.

Viewing professional sports should not be limited to the well off and the wired. Let us be fair to the fans, all of them.

INTRODUCTION OF THE AUGUSTUS F. HAWKINS MEDICAL ASSISTANCE ACT OF 1991

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DIXON. Mr. Speaker, today I am pleased to introduce the Augustus F. Hawkins Medical Assistance Act of 1991. This measure, which is named in honor of one of this institution's most distinguished former colleagues, would provide $10 million in grants to medical and allied health care programs at historically black colleges and universities [HBCU's]. The Hawkins Act would strengthen the undergraduate and graduate medical and allied health care training programs at HBCU's.

The Hawkins Act bonds the mission to these schools with the urgent need to train a cadre of committed health care professionals to serve in economically disadvantaged and underserved urban communities. Program grants would be awarded to HBCU's that are making substantial contributions in medicine and providing opportunities for individuals who are underrepresented in medical and allied health professions.

There is a health care crisis in this country. Not only is the cost of adequate health care rising, making it more difficult for low-income individuals to receive adequate health care, but there are fewer health care professionals serving in low-income communities. Reports on the state of health care among minorities and low-income individuals continue to show that they are at risk and likely to die from a wide range of chronic diseases such as high blood pressure, cancer, and diabetes. Moreover, densely populated urban areas are also the least served in the Nation.

Mr. Speaker, the Hawkins Medical Assistance Act is desperately needed to improve the medical and allied health care programs at HBCU's—the training ground for many of our future minority medical professionals.

FAILURE OF RAIL LABOR EMERGENCY BOARD TO ADDRESS RIGHT OF WORKERS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, last week the conclusion to the 1991 rail labor strike occurred. I must say that I was very disappointed with the results. After Congress had voted in mid-April to create a new special Presidential Emergency Board because the Presidential Emergency Board had failed to resolve the differences between rail labor and management, once that new board had been reappointed and worked for 60 days and many issues were brought before it by rail labor, the intention was that they would be able to work out some of the differences that persisted.

The new Presidential Emergency Board determination last week rejected every single one of the proposals brought before it by rail labor in order to modify or change the January Presidential Emergency Board recommendations.

Every single one of the cases that they brought before it did not receive the positive attention or any consideration from the new board. Mr. Speaker, this action by the new board failed workers and the rights of the employees to have some voice in the collective bargaining process.

I think that such action really violates the spirit and the assumption that many of the Members of the House envisioned when we passed, in mid-April, the back-to-work order concerning rail labor strike. Members of this House reasonably assumed that there would be some opportunity to modify this initial January board finding. We understood that it was a bad settlement in the middle of April, and it is really a worse settlement for rail labor today in July 1991.

Mr. Speaker, I would hope that this at least points up once again that the Railway Labor Act is not working. The fact of the matter is that we have to do something fundamental to address and restore some balance in that collective bargaining process. After 3 years of no agreement, today we note that railway workers end up without a voice, without recourse in terms of the determination and shape of the employment conditions that they must work under.

IN SUPPORT OF ISRAEL'S POSITION ON MIDDLE EAST PEACE PLAN

(Mr. SCHUMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, as we move toward the possibility of a peace conference in the Middle East, the State of Israel has shown caution, caution that in my opinion is very justified. After all, the administration's view that Syria and Israel are sort of equivalents, in my judgment, just lacks history. It lacks any knowledge of what has happened in the region.

To ask Israel to give up the Golan Heights, which Syria will do in exchange for a promise that she will not attack Israel again—after she has time and time again—is sort of like saying to an enemy of 40 years, "I will give you the hammer I have in exchange for a promise you won't hit me over the head with it."

Rather than pressuring Israel regarding the West Bank and Gaza, the administration should pressure Syria regarding Lebanon. Rather than pressuring Israel to permit nearby legitimized Palestinian representatives, the administration should pressure Syria to once and for all finally recognize Israel.

As we head toward a peace conference, let us remember that rather than pressuring U.N. participation at the conference, the administration should be insisting that the United States rescind the resolution equating Zionism with racism.

As we head toward a peace conference, let us remember who we are sitting down with. On the one hand a longstanding democratic ally, and on the other hand a dictatorship with a history of treachery and belligerence toward the United States and toward Israel.

BUREAU OF LAND MANAGEMENT AUTHORIZATION FOR FISCAL YEARS 1992 THROUGH 1995

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 197 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 197

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1096) to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. Debate on the amendment offered by Representative Synar of Oklahoma, or his designee, printed in the report of the Committee on Rules accompanying this resolution, and all amendments thereto, shall not exceed one hour. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1300

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Ohio [Mr. MCEWEN]. Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 197 is an open rule providing for the consideration of H.R. 1096, the Bureau of Land Management authorization for fiscal years 1992 through 1995.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Interior and Insular Affairs Committee.

House Resolution 197 makes in order an Interior Committee amendment in the nature of a substitute which is to be considered as an original bill for purposes of amendment. Clause 7 of rule 16, prohibiting nongermane amendments, is waived against the substitute.

The rule additionally provides that debate on the Synar grazing fee amendment as printed in the report accompanying this rule and any amendments to the Synar amendment will be limited to 1 hour.

Finally, the rule makes in order one motion to recommit with or without instructions.

Mr. Speaker, the Bureau of Land Management was established by the Federal Land Policy and Management Act of 1976. The BLM is responsible for the conservation, development, and management of surface and mineral resources on approximately 270 million acres of public land. The BLM is also responsible for the leasing and supervision of mineral rights on an additional 300 million acres on which the Federal Government has mineral rights.

BLM lands are economic, scientific, recreational, and cultural assets. The BLM is required under the Federal Land Policy and Management Act to develop management plans for these public lands which combine the needs of private commercial use with those of public recreational use. H.R. 1096 improves upon this by updating the management of areas of critical environmental concern, improving planning requirements and professional qualifications of BLM officials, and prohibiting the subleasing of grazing allotments.

Mr. Speaker, Chairman MILLER and Chairman VENTO should be commended for their hard work and insight in crafting this comprehensive multiyear authorization bill. This is an open rule and I, encourage my colleagues to support House Resolution 197.

Mr. McEWEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Tennessee [Mr. GORDON] has explained, the House has before it a proposed open rule. It is worth noting that only such open rules allow for the unfettered and free debate which the American people rightfully expect from this body.

I would like to take this opportunity to congratulate the chairman of the Rules Committee, Mr. MOAKLEY of Massachusetts, for bringing this open rule before us. Acknowledgments also should go to Interior Committee Chairman MILLER of California and the chairman of the Subcommittee on National Parks and Public Lands, Mr. VENTO of Minnesota, for requesting that the rule be open so that the House can be heard on the many issues included in this bill to reauthorize the functions of the Bureau of Land Managment for the next 4 years.

And certainly there is much about this bill that deserves debate, and hopefully correction, here on the floor. Because the bill as it now stands is deeply flawed and strongly opposed by the administration.

Mr. Speaker, ever since the Federal Land Policy and Managment Act of 1976, the emphasis has been on multiple use and sustained yield when it came to managing much of the lands that belong to the people. That's just common sense. Well, as Will Rogers once observed, "common sense ain't very common."

This bill, in its present form, changes the longstanding commonsense policy of multiple use and sustained yield. If I may quote from the statement of administration policy:

> H.R. 1096 would give unwarranted preferential consideration to a few selected resources on public lands. If the bill is presented to the President in its current form, the Secretary of the Interior would recommend a veto.

Mr. Speaker, most of us in this Chamber know the Secretary of the Interior personally from his service in the House. We know him to be a thoughtful leader. I would submit that for him to take such a strong stance indicates that this bill is indeed deeply and fundamentally flawed. Regardless of the name that will be placed upon this legislation—peace, freedom, democracy or the environment—that does not mean that we surrender our obligation to taxpayers to manage their lands in a way that will provide some access and use by legitimate interests within our society.

Rather, we need a balanced approach, an approach that incorporates both a healthy concern for the environment with a healthy concern for the livelihoods of Americans.

Instead, by introducing new bundles of redtape and regulations, this bill would further complicate various Federal procedures and frustrate Americans trying to fulfill a legitimate need in our society—be it for transportation, minerals, grazing lands, or whatever. And Mr. Speaker, I submit that Americans are desirous of a Federal Government that is less frustrating, not more.

For all these reasons, it is worth noting that all 16 of the Republican members of the Interior Committee have joined with the administration in opposing the bill in its present form. And all of them have pointed to this central and fundamental problem: The bill as reported would radically transform the BLM's management approach from one based on the principle of multiple use of public lands to one based on a special, single use—or no use at all.

It almost appears that the Democrat majority on the committee is saying that all use on public lands is bad; that jobs are bad; that high unemployment is good; and that mountains of redtape serve the public interest.

There is another provision in the bill that deserves special mention because it goes against the very grain of American democracy. Presidential elections are staged in this country so that we might have a national debate and a national decision about which priorities to pursue. Whoever wins the office of the President is then to take the mandate of the people and implement that vision. This is done by selecting like-minded Cabinet members to run the agencies, with the help of people he or she chooses, on the basis of their holding the same values of the President and the majority of the people. Most Americans learned this in civics 101. But, the tyranny of the majority on this committee seeks to deny the Secretary of the Interior the right to appoint his own people; instead they insist on a permanent bureaucracy that would be more or less impervious to the policy directions of the Secretary and the President. And as every Member of this body knows, few things are as immovable as an entrenched bureaucrat who is not accountable to the public. Conversely, the President like every Member of Congress, is accountable to the public through the mechanism of elections.

Mr. Speaker, I cannot sum up the problems with the bill any better than the 16 Republican members of this committee did in their dissenting views in the bill report. They noted that this bill is equally, if not more, controversial than its predecessor, H.R. 828, which came to a political dead end.

As they conclude in their report:

> If the majority were willing to work closer with the minority and the administration to reach something closer to a consensus, there would be a good chance of enacting a reauthorization bill into law. However, since there has been little meaningful attempt at consultation and compromise, we are confident that this legislation will once again be merely a long and futile political exercise and will not become public law.

Nonetheless, there remains hope, Mr. Speaker. We can still achieve a consensus. We can still pass a bill that will become law. That remains possible because we have an open rule that will allow the issues I have mentioned, and many others, to be debated. All that is necessary is a willingness on behalf of the majority party to compromise with this administration.

So, I conclude, Mr. Speaker, by asking my colleagues to support this fair rule, and seek consensus and compromise during debate.

□ 1310

Mr. GORDON. Mr. Speaker, I reserve the balance of my time.

Mr. McEWEN. Mr. Speaker, I yield 5 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strongest opposition to this bill as presently structured, and urge its rejection by the House.

This is a feel good bill. It makes those without any BLM land in or near their districts feel good to be voting for a bill that is supposed to improve management, but it will never become law. A similar measure last Congress was so bad the other body didn't even take it up. And this year's bill goes even further to appeal to our feel good instincts. Even if the other body acts, the President strongly opposes it on the basis of its radical changes in the management of our Bureau of Land Management lands in the West. The Secretary of Interior has recommended a veto. And most of the amendments being offered today make it even worse than it already is.

This bill is not necessary. The BLM will operate without this bill, and is quite happy to keep operating the way they have been. So the authors of this bill will not even get minor changes in BLM's operations. To those who want to feel good, waste the time of this body and the money of the American taxpayer, I say "half a loaf is better than none at all." Maybe next time this bill comes up, you will remember that.

I could go on and on about this bill's faults—there is plenty to go on about. From buffer zones to restricting public access to wreaking havoc in rural America, this bill is flawed.

But I just want to take some time to discuss one of the major flaws as it relates to Alaska. The provisions of the bill dealing with public rights of way in Alaska and the West is a reversal of over 100 years of law dealing with how local governments get access across BLM lands for building roads or trails. BLM lands are public lands—for the public—they are meant to provide access for the public. Instead, this bill makes access more difficult for local folks. Alaska's Governor, Walter Hickel, has written the committee concerning his views on restricting access across BLM lands in Alaska, and I to insert his letter into the RECORD at this point.

STATE OF ALASKA,
Juneau, May 20, 1991.

Hon. GEORGE MILLER,
Chairman, House Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide additional comments on H.R. 1096, which authorizes appropriations for programs, functions, and activities of the Bureau of Land Management (BLM).

In particular, the State of Alaska has concerns over Section 8 Management of Lands and Public Participation. That section amends existing law to direct the Secretary, in managing public lands, to take any action necessary to prevent impairment or derogation of the resources and values of adjoining conservation system units (CSU).

The State believes that the proposed Section 8 is unnecessary in Alaska from an environmental perspective, and would affect an unwarranted intrusion of national park and wildlife refuge management into the multiple use regime of the Bureau of Land Management.

As you know, the Federal Land Policy and Management Act (FLPMA) already gives the BLM broad authority to protect lands under its jurisdiction. Further, in Alaska, the Alaska National Interest Lands Conservation Act (ANILCA) protects vast areas in conservation system units.

These units represent Congress' efforts to preserve entire ecosystems. Boundaries were generally drawn along hydrographic divides with a view toward creating clear cooperation between CSU's and adjoining lands.

Section 8, as proposed, would effectively extend CSU management practices beyond relevant boundaries, with no further scrutiny or consideration by Congress. We believe that such fundamental changes in land management practices should be properly considered by Congress.

An amendment, added in subcommittee and entitled "Rights-of-Way for Oil, Gas, and other Pipelines," substantially changes the regime for grant and renewal of rights-of-way for oil, gas, and fuel pipelines. These changes are being offered absent of any demonstration of need of greater public purposes. Currently, such rights-of-way are being administered capably under the auspices of the Mineral Leasing Act which adheres to the NEPA process and adequately protects the public interest. Under this amendment, however, administrative burdens on pipeline rights-of-way are increased by placing them under the additional jurisdiction of FLPMA. Additionally, it raises serious questions about which statutory regime shall govern an application for renewal of an existing right-of-way.

For these reasons, the State of Alaska would like to go on record as vigorously opposing Section 8, and the pipeline rights-of-way amendment of H.R. 1096. Thank you for this opportunity to comment.

With best regards.

Sincerely,

WALTER J. HICKEL,
Governor.

The Governor has also written regarding the issue of managing BLM lands next to parks and other protected lands like those areas. In Alaska, we have parks larger than many of the States in the East. We have national wildlife refuges larger than West Virginia, or South Carolina. The reason they are so big is that Congress wanted to protect the lands inside, and included big buffer zones around them back in 1980. This bill proposes to expand them even further, and Alaskans will not stand for it.

I realize that most of the Members in the House do not have any BLM lands in their districts. But I urge you to listen today to those of us who do. We will win hands down on the merits, but that does not account for much when you are stacked up against feel good votes.

In closing, I want to quote from the Interior Committee dissenting views on this legislation and point out to the Members that this bill is a "legislative Rosemary's Baby—flawed at conception and monstrous at birth". Vote against this monstrosity today, and do it on the merits.

Mr. Speaker, I might suggest something else. It is time that this Congress and those on the liberal side of this aisle recognize what is happening in America today. We have over 500 million acres of land owned by the Federal Government that is nonproductive. It pays no taxes. It supports no local communities, no counties, no schools, no hospitals, no police areas. It supports nothing. It is owned by the Government and does nothing.

For whom? Our country was built on private held lands, and this Congress day after day, year after year, for the last 20 years, has taken chunks and chunks and chunks and put them in nonproductive qualifications. That is land that is not providing for our people. It is taking jobs away. It is taking jobs away, and it is not creating new jobs.

We are importing oil. We are importing power from Canada and from Mexico. We are importing, and we are importing, and we are importing, and we wonder why we have a trade deficit.

Five hundred million acres, more than the national debt set aside, and this Congress keeps doing it.

Mr. Speaker, might I suggest respectfully that we here on this side of the aisle mostly have got to create jobs. Where is our economic program? Where is the President with his economic programs? Every time you pass a bill like you are passing today, you are taking jobs away from people.

I had a union leader in my office today who came in to me from Oregon to talk about the spotted owl. Their union membership went from 22,000 in 2 years to 14,000. Those jobs are lost. Those jobs shall never return, again, because we set aside an area of land, very frankly, for a little bird.

We are now saying as to the BLM land that we are going to make it better managed but there is not going to be public access. We are going to have buffer zones so we can create larger parks. You cannot take and have that multiple-use concept, and I say, Mr. Speaker, and I say to the Members of this House, it is time that we say "no more." That land belongs to all the people, just not the elitists, just not the specialists, just not those that have the money or the time to use them, but all the people.

It also belongs to the people who live there. You are taking away their rights.

Mr. Speaker, may I suggest respectfully this country cannot and will not buy socialism, and it will not buy communism, but it has bought environmentalism and consumerism. But if you look very closely at what is occurring, they parallel along the two previous-mentioned words.

Mr. GORDON. Mr. Speaker, I want to thank the gentleman from Alaska for his endorsement of the rule.

Mr. McEWEN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in support of the open rule, but in strong opposition to the Synar amendment and the Regula substitute, both to be offered later today. I understand the position of my friend from Ohio and can empathize with him. If I were the ranking member of the Interior Appropriations Subcommittee, I, too, would be sick and tired of having my appropriations bill used as the annual battleground for the war on grazing fees.

I appreciate Mr. REGULA's efforts to negotiate this situation. However, the fact of the matter is, half of an arbitrary number is still an arbitrary number, and thus remains unsatisfactory.

Mr. Speaker, we recently had this same debate. There are not many things left unsaid. However, I would like to make one point clear, any increases in the grazing fee will drive many of my constituents out of business.

During the debate last month, there was a lot of talk about the just released GAO report, the supposed lynchpin of Mr. SYNAR's argument. We are all very aware of the numbers game. Statistics and studies can tell you anything you want to hear. Many of my constituents were involved in assisting the GAO staff who were sent to learn the facts. According to my constituents, these staffers were not in the least bit knowledgeable about the cattle industry.

Further, by these ranchers own analysis, they believe these staffers were sent to Nevada with marching orders, and had their minds made up before they got to Nevada. As the president of the Nevada Cattlemen told me, "neither one understood the most elementary thing about cattle ranching or range management." Once again, we have a GAO report not worth the paper it is printed on.

Another point, Mr. Speaker, we heard a great deal about the Grace Commission report in last month's debate, and probably will hear more later today. It is interesting to note this report actually has two suggestions about grazing. Its number one suggestion is to sell the public lands historically used for grazing purposes to the ranchers who use them. I quote:

> The Task Force concluded that transfer of the rangeland to private ownership could save an estimated $93.1 million over 3 years.

That's right, Mr. Speaker, private ownership will save the Government money.

This is especially interesting, considering that the proponents of fee increases have been liberally quoting the Grace report.

Another point, Mr. Speaker, after last month's debate, I again went to my constituents to ascertain if there is any room at all for increases in the fee.. The answer was a resounding "no." "Any increase will kill us."

The amazing irony of this whole debate is that many of the proponents of increased fees are the same Members who constantly beat the drum for the small businessman. Yet, 85 percent of the permittees in Nevada are family-owned small businesses, most of which will be gone after fiscal year 1995 should this proposal become law. If you are truly prosmall business, where are you now?

But the most cruel and exploitative irony comes at the hands of the many Members of this body who trumpet their stalwart support for native American programs for self-sufficiency. The very same Members, who, at the same time, vote to increase grazing fees.

By far, some of the most successful off-reservation businesses are ranching operations. In fact, Native Americans run approximately 4 percent of the cattle grazed in Nevada on public land. These pronative American Members of the House certainly talk a good game, but where are they when it comes to the vote?

You are simply killing us. I urge defeat of the Synar and Regula amendments, and of the entire bill.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee.

Mr. VENTO. Mr. Speaker, I rise in support of the open rule on H.R. 1096.

□ 1310

This bill reauthorizes appropriations for programs, functions, and activities of the Interior Department's Bureau of Land Management.

During the last Congress, the House passed such a bill, but the Senate failed to act on it. The BLM is an important agency. It has full management duties on more than 270 million acres of public lands. It also has the responsibility on millions of acres of other lands that are wholly or partially the property of the American people. The property of the American people, Mr. Speaker, not private lands. Our public lands should have a mandate that expresses the wishes and concerns and serves the needs of all the American people.

The basic statutory authority for BLM's activities is the Federal Land Policy and Management Act of 1976, or FLPMA. What that act established was a system of periodic reviews and reauthorizations, to facilitate congressional oversight and to provide the basis for the appropriation of the funding actually needed for the BLM to carry out its diverse and difficult responsibilities.

The last authorization for BLM expired at the end of fiscal year 1982, nearly 9 years ago. Since then, funding for BLM has continued only because each annual appropriations bill was considered under a rule waiving the point of order that otherwise would lie against this unauthorized spending. This is an undesirable situation that should not continue.

The problem is not new with reauthorization, Mr. Speaker, the problem is one that is ongoing through the decade of the eighties. The reason that an authorizing bill has not been able to be successful is because of some of the contentious issues that really are going to be debated on this House floor today. Frankly, I think we ought to leave the rules apply. Let the House rules prevail and proceed with the consideration and enactment of an authorization for BLM so that important programs and responsibilities for BLM can have a proper authorization for appropriations.

My task as a subcommittee chairman as is the task of the Committee on Interior and Insular Affairs, is not to eliminate all controversy concerning many of the issues that are brought before the committee, but to provide deliberative forum in which these issues can be brought up in an orderly way. The rule today provides that opportunity. I cannot assure the House that there will not be any controversy. There will. These are major, important issues that deal with grazing fees, that deal with the management of 270 million acres of public lands. The fact of the matter is that the mandate for the BLM has changed in the last 50 years.

In 1976 an important law was passed, as I said, known as FLPMA, which broadened that mandate and provided a degree of professionalism that was not known in the BLM before that date. I want to comment that I think the agency is making considerable progress. In 15 years, since that law passed, I think there are some shortcomings and there are some signs of wear evident with regard to the law, and there has to be some modifications and repair to it.

The bill before Members today, some would suggest, is a very radical change in terms of what the mandate of the BLM is; the truth of the matter is that it is not a radical change. It still maintains the multiple use sustained yield concept inherent in the law. That multiple use sustained yield concept embraces the preservation and conservation in some instances of special resources which are located on BLM lands. This bill tries to address some of those concerns and some of the weak points that have occurred within the concept of this law in 15 years.

If we wrote these laws perfectly, we would not have to come back and try to modify them. We could do our work, and we would be all done. We would never have to modify them again. We know that is not the case, that there are many events that have occurred since 1976 that necessitate some reasonable, reasoned, and measured changes in terms of this law.

Of course, this open rule will provide for the debate of it. Controversial, yes. Are they important issues? Yes, I believe they are. I think they are issues that should be addressed by the Senate. I hope the Senate will not duck this issue again and provide Members no opportunity for authorization, because I think the House may be forced, then, to assert the rules, and prevent any appropriation of BLM dollars without the necessary authorization. That surely would be, I think, to the disadvantage of all that are involved within this particular issue in providing the management that public lands deserve.

Nevertheless, I think we get to a point where we have to do that. I hope we can move ahead today, and I know it will evoke debate. I do not apologize for that. I think the committee did a good job in terms of hearing this issue the last 3 or 4 years. Clearly this lack of an authorization since 1982 has been a problem, long before I assumed the subcommittee chairmanship on National Parks and Public Lands. The reason that that is the case is because there has been some strident controversy concerning this particular issue. I think we ought to recognize that up front. Much of the controversy, I think, is really based on those that want to use the lands for only a particular purpose. Some people look at a piece of public land, and all they see is a place for cows to graze. Or some look at trees, and all they think is that tree should be eliminated or put to use. Others look at it as a source of mineral resources. However, I think many people in the country who share an interest in public land, recognize those are important qualities, the use of some of those raw materials, from the land, but we see the type of damage that can occur by misuse and abuse.

These lands should be run by the BLM, not the private entities and individuals that extract resources from them solely. I think there ought to be a voice of reason, a voice of not just liberals, but a voice of conservatives in terms of conservation, and reasonable and economic use of these lands so they serve the needs of all the American people. This rule will provide Members, Mr. Speaker, with the opportunity to debate this issue fully. I hope the House sustains the actions of the Committee on Interior and Insular Affairs.

Under this open rule, we expect some amendments, notably including one on grazing fees similar to that added to the appropriations bill last month. Because the House has debated this proposal recently and the subject could well provoke debate without an end; the rule appropriately limits debate on that subject to 1 hour, which I hope would be adequate.

There will be an amendment by the bill manager to delete one section of the reported bill, in response to another committee's indication of a possible claim of a jurisdictional interest.

Mr. Speaker, some parts of this bill evoked debate in the Interior Committee, and this open rule will let the House work its will on those matters and the bill. Then the burden properly will be on the Senate to act, to complete this reauthorization so that funding for BLM can continue.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from Ohio [Mr. McEWEN] has 16 minutes remaining, and the gentleman from Tennessee [Mr. GORDON] has 21 minutes remaining.

Mr. McEWEN. Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I rise in opposition to the bill H.R. 1096. It clearly aborts a balanced management policy.

The BLM was created in 1946 when it was merged with the existing General Land Office and Grazing Service. From a hand full of employees in 1946 it has grown to over 8,000 employees today. That in itself must tell you something about the necessity of multiple use mandates that continue to come down. Even in 1946 the BLM was required to manage its lands by using the often conflicting mandates of hundreds of laws passed by the previous 150 years of Congress.

Today, if we vote for this legislation we will vastly increase the number of employees and the costs involved to deal with resulting litigation.

Mr. Speaker, H.R. 1096 will clearly be one of the most controversial bills the Interior Committee will bring to the floor during the 102d Congress. It was opposed by all committee Republicans and Secretary Lujan has recommended a veto if it reaches the President's desk in its current form.

Instead of litigation legislation what we need is a bill that simply reauthorizes the BLM as this legislation originated in the 101st Congress when it was simply an eight line reauthorization. I would have no objection if it were even expanded to specify that resources would be harvested in an environmentally sound manner and that recreation would be promoted—all of which the present BLM Director says are high priorities.

Modify — modify — modify — that's what the liberals did with our taxes—now they want to modify—modify—modify the management of BLM. It's called micromanagement. Don't be misled by those who say changes are necessary. Today BLM must comply with newer and more complex mandates such as the Endangered Species Act, Federal Land Policy and Management Act and the Clean Water Act which assure that the agency follow a clear stewardship program.

Before I talk about the substance of the bill in general debate. Let me say a few words about the process by which this bill was developed. Eighteen pages of this bill—more than half of it—were created after hearing.

Finally, the bill is vigorously opposed by the Bush administration. According to the statement of administration policy and I quote:

> If this bill is presented to the President in its current form, the Secretary of Interior will recommend a veto.

If it is the will of this body to increase the regulatory stranglehold on public land management—a stranglehold that could choke the economy—then vote for this bill before us today.

If it is the will of this body to vastly increase the cost of running the BLM, then vote for this bill.

If, indeed the Members of this body wish to enmesh the BLM into a regulatory gridlock of the type and nature of the Forest Service and the U.S. Fish and Wildlife Service, then by all means vote for this legislation.

We stand here ready to vote on wise use, a balanced conservation policy, lower costs and the return to the treasury of receipts from the harvest or renewable resources and the commitment to recreation.

But unfortunately, the only way to achieve these goals is to vote no on this legislation.

I urge my colleagues to follow the lead of the administration, millions of Americans who belong to groups that used public lands, and every Republican member of the Interior Committee and vote against H.R. 1096.

□ 1330

Mr. GORDON. Mr. Speaker, I just want to thank the gentleman from Montana [Mr. MARLENEE], as well as our colleague and earlier speaker, the gentlewoman from Nevada [Mrs. VUCANOVICH] for her endorsement of this rule.

Mr. McEWEN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS], a distinguished member of the committee.

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule for H.R. 1096. This is a good rule. Unfortunately, it is a bad bill. I rise with a certain amount of trepidation. My good friend, the chairman, has indicated that his is the voice of reason on this issue, but I do not agree with his position.

This bill has come to us with relatively little debate in the committee, but it will have a very long-lasting effect on my State. Fifty percent of Wyoming belongs to the Federal Government and in many States it is much higher than that. Much of that 50 percent, which equals nearly 50,000 square miles, is managed by the BLM.

Let me give you a little idea of the character of the land that we are talking about here today. This land is not a national park. This land is not a scenic river. It is not a wilderness. The BLM lands we are talking about here have not been withdrawn because of a special or unique character, as have national parks or the forest reserves. These lands were excess, or in fact residual lands that were left in the Western States after homesteading was completed. They were assigned to the BLM and its predecessor agency to be managed pending disposal, as a matter of fact. That charge was later changed to be managed in multiple use.

Multiple use means providing a balance among the compatible uses that are available. That includes hunting, fishing, recreation, oil and mineral production, livestock grazing, and other uses.

The balanced use of these resources is vital to the economic future of Wyoming, Wyoming communities, and Wyoming jobs. I suppose a balance is subjective. It is certainly viewed differently by those of us who live on and in and among the public lands, as opposed to those who do not.

But I would say that I think often we are more protective of those lands than others in terms of preserving their character.

The BLM under its present charter has done a good job of seeking to balance the use of the public lands. This bill moves abruptly away from that balance with congressional micromanagement. Let me point out a couple of areas that I think are examples. One is the establishment of buffer zones. This idea has been rejected time and again because it simply says that we are going to extend the single purpose management of unique areas into multiple use. When wilderness areas, for example, were established, it was clearly determined that the remainder would be used for multiple use. They come into this bill through the back door called area of critical environmental concern.

The second is the political establishment of grazing fees. Mr. Speaker, there is absolutely no call for a political move to make BLM lands single-purpose use by raising the fees beyond those that are economic to carry on. Rather than utilizing a reasonable formula, which is now the case, the bill establishes politically a level.

Mr. Speaker, this bill changes the long-term practice of multiple use. I support the rule and oppose the bill.

Mr. McEWEN. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from New Mexico [Mr. SKEEN], a member of the Appropriations Committee.

Mr. SKEEN. Mr. Speaker, I endorse this rule because it is an open rule. I oppose the grazing fee, the inclusion of the grazing fee language amendments in the substitute thereof.

You know, I approach this situation from a little different perspective. I have been in the grazing business for 40-some odd years. After listening to the debate that we had previous to this on the Interior Committee appropriations, I can barely recognize the industry that I thought I had grown up in as it was characterized by those who are seeking to raise grazing fees.

I know this is a good vote because environmentalists will go for it. The taxpayer organizations will go for it because they do not understand it.

Let me tell you what happened. When this country was developing, every State that come into the Union was ceded their land surplus by the Federal Government until it came to the 11 Western States that were west of the 30-inch Rainfall Belt. Why is this 30-inch Rainfall Belt so important? Because you cannot farm or raise a crop unless you have 30 inches of rainfall a year. So western lands, this vast area, was divided up under a new management aegis because there was so much of it and nobody could use it because there was no base water. So we came up with a grazing plan that would close down the open grazing system that was extant before the turn of the century, and that was if you were a grazer and you owned a piece of private lands that was adjacent to some of the public land and that you controlled the base water, then you could be granted a permit, not a lease, but a permit to graze on Federal lands that did not have any water, or was not fenced, if you, the permittee, would put in the fences, develop the water and manage the land for the Federal Government and yourself and keep it in as good condition as possible. It was a good system. It worked. But grazing fees have come under attack because very few people understand how they evolved, much less care, particularly those east of the 30-inch Rainfall Belt, because all western lands belong to all of us in the United States.

We have now the Bureau of Land Management that is going to manage those lands. Well, that is baloney. The Bureau of Land Management had never managed any western lands, unless they were in some kind of specialized situation, particularly not grazing lands.

After having grazed for 40 years, I will tell you how many times we have had BLM managers come to our particular operation—zip, none.

So back in 1967 I decided that I did not need to not only finance the operation and the improvements on public lands as well as my own, so I bought the public leases because they raised the moratorium on those sales and allowed that land to be sold. I bought the Federal Government out and I bought the State land office out of it, because we did not need three managers on one little four-member family operation. I am the fourth generation that has grazed on this particular plot of land. My son is the fifth. We own every inch of it, thank God, because I knew that someday, some Member of Congress or some member of the State legislature, was going to take a look at this and say, "Boy, what ripoff these guys are getting."

Well, I will tell you what. In 40 years of business, it is marginally profitable at very best, but it is a good way to live. You are your own boss. You come and go as you please, but you are still basically responsible for the improvements and the well-being of a parcel of land, and that is a very serious responsibility and taken very seriously, because if you do not take care of that land, there is no place else for another generation to go to use that for extracting a resource, or making a living.

Mr. McEWEN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio [Mr. REGULA], the ranking member of the Subcommittee on Commerce, Justice, State, and Judiciary, of the Committee on Appropriations.

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I will be offering an amendment by way of a substitute for the Synar amendment today.

I just want to get some facts out so that Members can be thinking about it. What I do in my amendment is to say that the grazing fee should be fair market value, not to exceed an increase of 33 percent in any one year. In other words, it could be less. It is fair market value, and that is defined by a formula that the BLM applies.

□ 1340

Under the proposal that I have, the ceiling would go the first year from $1.97 to $2.63. The Synar amendment would go to $4.35. So you can see this is a more modest approach.

I would point out that in the past 10 years Federal lease fees are down 15 percent, private leases are up 17 percent.

So that tells you that there is a disparity here in what the fair market value would be.

I would also point out—and we fund the Forest Service through our Subcommittee on Interior Appropriations—that it estimates that it spends $3.86 per animal unit to manage the land for which it is receiving $1.97.

That does not make sense that we are spending more tax dollars than we are receiving. I recognize the multiple-use factor. But I think it is something you have to consider.

Another fact I would leave with you, and that is that of all the livestock producers, only 2 percent are benefiting from grazing on Federal lands. Even if you take the 16 Western States, only 7 percent of the cattle producers are actually using the Federal lands for grazing purposes.

A report from the Colorado State University pointed out that in a thousand subleases, that is, where the rancher or the farmer will lease the Federal lands for grazing and then, in turn, sublease them, that they average $7 for the sublease even though they were paying the Federal Government $1.97.

So it does reflect the fact that we are not getting quite fair market value in the returns that we are getting.

One last item: We asked the Bureau of Land Management, and they are fa-

vorable to the grazers, in my judgment, to analyze what would happen under the language that I propose. Their estimate is that there would be no dropoff in AUM's under the numbers that would result from my substitute but there would be a substantial dropoff under the numbers that would be required under the Synar amendment.

What I am going to propose is a reasonable approach to getting a fair market value for the taxpayers who do, after all, own this land, and yet will allow the cattle producers to continue operating the land, give us the benefits of multiple use, which is good for sportsmen and many others who use the land, and would be fair to everyone concerned.

Mr. MCEWEN. Mr. Speaker, I yield the balance of my time to the gentleman from Arizona [Mr. KYL].

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Arizona [Mr. KYL] is recognized for up to 2 minutes.

Mr. KYL. Mr. Speaker, I rise in opposition to the Synar amendment and the Regula substitute.

Raising grazing fees to $8.70 per animal unit month [AUM] as proposed by Synar, or $4.87 per AUM as proposed by Regula, will not raise revenues for the Federal Government. What it will do is drive cattlemen off of public lands altogether. In many cases, it will put them out of business.

Let me address for just a moment the contention that the Synar amendment would set grazing fees at market levels. That is just not not the case in Arizona.

I spoke recently with an individual who runs a cattle operation on his own private land in Arizona. For $6.50 per AUM, he provides everything—from fencing and water, to salt and feed, to herding within the operation—everything.

Cattlemen who graze on public lands get none of that. They have to do their own fencing. They construct their own water containments which, I might add, are also used by wildlife. They move their own livestock. Everything. And then they pay the grazing fee to the Government on top of that.

The amendments do not peg grazing fees to market rates. It does just one thing: It targets one of the multiple uses of public lands for elimination. And ironically, instead of increasing revenues for the Treasury as proponents contend, it will cost the Treasury as much as $1 billion per year by reducing economic activity throughout the West.

It is a lot like the luxury tax the Congress passed last year in order to raise revenues to the Treasury. Sock the rich yacht buyers, was the theory. Well, even they didn't want to pay a 10-percent surcharge; they stopped buying boats, boat companies stopped making boats, and workers stopped working and paying as much income tax—and, in some cases, cost the Government money through more unemployment compensation. So, instead of more tax revenue there is less; tens of thousands are without jobs, and a new yacht industry has started up off shore. If the purpose of the Synar amendment is to reduce revenue to the Treasury and put people out of business and out of work, it will do that. It is obviously not a good idea.

We need balance on our public lands. If there is concern about too much grazing, the number of permits or AUM's can be reduced and additional management practices required. That makes more sense than just forcing ranchers off the land by raising the fees so high they simply cannot afford to be there.

Mr. Chairman, I urge opposition to the amendment and the substitute.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 197 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1096.

The Chair designates the gentleman from North Carolina [Mr. LANCASTER] as chairman of the Committee of the Whole and requests the gentleman from Kentucky [Mr. MAZZOLI] to assume the chair temporarily.

□ 1345

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1096) to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes with Mr. MAZZOLI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 30 mintues.

The Chair recognizes the gentleman from Minnestoa [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1096, a bill to reauthorize appropriations for the Department of the Interior's Bureau of Land Management, otherwise known as the BLM.

During the last Congress, the House passed a very similar bill, but unfortunately the Senate did not take any action, so there still is no formal authorization for the appropriation of any money for BLM to do the vital work of managing the public lands under its jurisdiction.

H.R. 1096 would provide such an authorization for 4 fiscal years, beginning with fiscal year 1992.

The last such authorization, as I pointed out in my previous statement in debate on the rule, ended in 1982. I commented that the reason the BLM has not been reauthorized is that there is controversy surrounding BLM and the management of public lands.

Mr. Chairman, like the bill the House passed in 1989, H.R. 1096 goes beyond a mere reauthorization, and includes a number of provisions intended to improve BLM's ability to properly and professionally manage the public lands and the rich diversity of values and resources that those lands contain.

These provisions include a number of revisions of the Federal Land Policy and Management Act of 1976, or FLPMA, which is BLM's basic organic act. As I said when the House was considering the predecessor bill in the last Congress, these are essentially fine tuning amendments, because FLPMA is a sound and wise statute that provides BLM with ample authority to properly manage the public lands under a multiple-use, sustained-yield mandate.

I know that some will raise the specter that these changes in FLPMA somehow would transform this mandate, and undermine multiple-use and sound-yield management of the public lands. But while this may be creative imagery with colorful rhetoric, it is not accurate. It is misleading, in fact that is not the intent, and that would not be the effect of the bill before us.

Mr. Chairman, the BLM is a very important agency. It is responsible for full management of some 270 million acres of Federal public lands in 28 States, for management of the Federal mineral estate underlying an additional 300 million acres nationwide, and for supervision of most mineral operations on Indian lands.

For a decade, the Interior Committee has been very concerned about the gap between BLM's responsibilities and the readiness of the agency to meet its challenges. Through extensive oversight activities, we have become very aware of BLM's shortcomings.

Most of these shortcomings have not been the result of inadequate authority. Instead, they have resulted from insufficient fiscal resources, or inadequate leadership, or both.

□ 1350

In other words, Mr. Chairman, for the most part it is not the basic law; it is the money, and it is the lack of leadership. In response, many of us have worked to increase the resources made available to BLM and to use the oversight process to urge better leadership. These efforts have brought some successes.

However, it has become evident that there should also be some revisions in the basic law and other laws as part of our ongoing, overall effort toward continued improvement in BLM's management of the lands for which it is responsible.

For example, some revisions were included in the reauthorization bill passed by the House in 1989. Some are included in this bill. However, there are some differences between the bill and the one passed by the House in the last Congress.

For instance, H.R. 1096 does not include provisions dealing with military use of the public lands. We will deal with that at a later date, but meanwhile it is important that the House continue to move ahead on this reauthorization bill.

After the subcommittee hearing on H.R. 1096, I discussed directly with BLM Director Jamison some of the points he and other administration witnesses had raised, and also indicated that there were other aspects of BLM activities that it would be desirable to address legislatively through amendments to the bill. Based on those discussions, the committee adopted a number of amendments, including some amendments to the part of the bill dealing with subleasing of grazing allotments, a section that was incorporated in the language added on the House floor in 1989 and proposed by the gentleman from Georgia [Mr. DARDEN].

The committee also adopted amendments that address some matters not dealt with in the House-passed bill of 1989. One such new provision would change from $2,000 to $10,000 the specified maximum penalty for a knowing and willful violation of the Wild Horses and Burros Act.

Also, the bill as reported includes several new sections.

Section 14 would amend FLPMA by adding an explicit provision for judicial review. This only came about, Mr. Chairman, because courts increasingly have cited the lack of a specific provision providing for judicial review, in the basic law as the basis for not moving forward.

Section 15 addresses the issuance and management of future rights-of-way for pipelines, moving them from under the Mineral Leasing Act to FLPMA, which basically has, or should have, the responsibility for rights-of-way across public lands. Although this is, I think, a desirable change, there is a jurisdiction problem that relates to that, so we will be offering an amendment to take it out of the bill at the appropriate time, but, nevertheless, I still think it would be an important change in terms of FLPMA, and we will proceed to pursue it in a different avenue, as with the military reservation issue.

Section 16 of this bill, deals with claims concerning highway rights-of-way alleged to have been established under an 1886 Act that was repealed in 1976. Really all we are asking, Mr. Chairman, is that those who claim such rights exert them, that they, in fact, exercise them, and that those claims then can be put into the records so we know who has a right-of-way across public lands. We provide for recordation of those types of rights and for investigation and appeal in the event, for instance, that those rights come under question. Just as we did with unpatented mineral claims on public lands, we are seeking the same sort of recordation with regard to access rights across public land. I think that is a reasonable and measured concern with regard to having adequate information surrounding the management of public lands.

Section 17 would require BLM to evaluate alternative ways of caring for the wild horses now located on the two wild horse sanctuaries in South Dakota and Oklahoma, this in an amendment offered by the gentleman from South Dakota [Mr. JOHNSON].

Mr. Chairman, as we proceed with this general debate and with consideration of such amendments as may be offered, I anticipate that there will be some rhetoric about the bill that will be more colorful than accurate. I regret that, but that I recognize as a fact in terms of the individuals and the arguments that they may tend to pursue.

I expect that some statements will be made that this bill is extreme or that it is unbalanced. I strongly disagree. The changes in existing law that this bill would make are not extreme, but moderate. They are balanced modifications to FLPMA and not a major rewrite of the 16 years old law.

There may be some overblown charges that this bill would change BLM from a multiple-use agency into something else. That, too, is inaccurate, I am happy to report. In fact, the purpose, intent, and effect of this bill is to further multiple-use management, by improving BLM's ability to manage the public lands in a way that properly accommodates and reflects the whole spectrum of multiple uses and users. It strengthens and improves BLM's organic act, which is a multiple-use act, and it strengthens and improves the Bureau of Land Management as a multiple-use agency.

As my colleagues know, the fact of the matter is that one of my colleagues just got up and said that the BLM does not manage anything. Well, I think that that may be, indeed, one of the problems, although I know that he was saying that in a light sort of way. I think the fact is that too often we see the land managers as being managed by those that are using the land as opposed to turning it around the other way. That is to say, if you happen to have grazing permits, or mining permits, or mineral claims, or even if you are someone that is just using it for recreation, hunting, fishing and other purposes that are so important in terms of our culture these uses need to be managed. It is important that the manager really be in charge. When we talk about 8,000 people as being a bloated bureaucracy, I think we ought to stop and think about the fact that we are asking every single land use manager, even if they were all in the field, and they are not in the field; there are some in Washington, there are some in offices doing support service; we are asking every one of them to be managing 33,000 acres a person. Now I think that that indicates the undervaluing of these public resources that we have had to some extent for some of these public lands. Clearly that has been the history, the BLM lands were thought of at one time early in our history as lands that were not good for anything else. I would say that some have thought of them as being wastelands. But today I think that we have an enlightened view of the importance of these arid regions, these areas that have ephemeral plant and animal presence on them. We recognize them as being extremely fragile and extremely special in terms of the type of wildlife, the type of plant, the type of use that they can and should be properly safeguarded from misuse. But here, too, of course, I would say the bill is balanced in terms of what it does. All it provides is that the claimants, for instance, with regard to the issue of recordation and other aspects would be able to come forth and make their claims that we could protect the resources.

Mr. Chairman, I would urge my colleagues to support the bill. I think it is a good bill, and I reserve the balance of our time.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to the bill in its present form.

Mr. Chairman, I wish to be recognized as a staunch opponent of the H.R. 1096, a bill designed to convert the Bureau of Land Management from a multiple use agency into a preservation agency. Few pieces of legislation which have been reported by the Interior and Insular Affairs Committee in recent years reflect such a one-sided treatment of such an important issue. This is indeed unfortunate, because there are probably many issues in this bill which could have been addressed in a bipartisan fashion. The one sided and hasty development of this measure is reflected in the major amendments which will be accepted by bill proponents without argument.

Today we have a bill drafted in isolation by environmentalists to the exclusion of the members of groups who are directly affected by this far reaching bill. Indeed, it is my understanding that there may be a number of additional amendments by other Members who have no interests at stake in this bill. As we see all the time in the Interior Committee it is always easy to be an environmentalist in someone else's district.

Mr. Chairman, I share the concerns of many Members about the policies of this body which are further eroding private property rights in this country. This is happening in two ways, first the ever-expanding appetite of Congress to gobble up private land by expansion of the Federal estate. The Federal Government already owns over 50 percent of the land in this country. Second, once in the Federal domain, these lands are subject to an ever-increasing body of restrictions which preclude virtually all uses. In the last 25 years, over 130 million acres have been forever removed as productive lands by designation as parks or wilderness areas. This represents an area about 1½ times the land mass of the State of California. While there are Federal lands which deserve such protection, the overly restrictive policies advocated under this bill are unjustified.

Because of the manner in which this bill was developed, it is strongly opposed by virtually all users of the public lands and the administration. I expect the measure will be opposed by every Member of this body who has substantial public lands in his or her district or who understands what multiple-use management is all about. This bill has been a classic example of the all or nothing negotiation style adopted by the major preservation groups. In this case, I expect that their efforts will yield nothing, which was exactly the fate of a less egregious BLM reauthorization bill last Congress.

While the language of the bill goes into great length to explain what the bill does not do, I share the concern of other members on the Interior Committee who have reviewed this bill are very concerned about what the bill does do.

Therefore, I urge my colleagues to vote against this measure.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this litigation legislation. We are about to vote today on a new bill that will, first, vastly increase the size of the BLM bureaucracy; second, vastly increase the cost of the agency; third, increase the number of government employees; fourth, decrease the opportunity to harvest renewable resources; fifth, increase litigation opportunities; and sixth, this legislation creates the kind of regulatory gridlock that precludes professional managers from moving forward with expediency in making professional judgment calls.

Every Republican on the committee opposed it. The Secretary of Interior will recommend a veto and in the last Congress the other body simply ignored similar legislation.

We could have simply reauthorized the BLM with a simple eight line bill. Do not be misled; the professional management of BLM must be and is bound—committed and required to follow a whole host of laws requiring environmental stewardship, Endangered Species Act, FLPMA, Federal Land Management Policy Act, Clean Water Act, and others.

If these are not followed the agency is out of compliance and I would like the chairman of the committee to point out where the BLM is not complying with the law.

If, in fact, there is a question of compliance then it was never raised in hearings and BLM never had an opportunity to respond in hearings.

Why? Because there were no hearings on over one-half of the provisions of this bill—18 pages of the 31 were written after the hearings were held.

In my opinion, this bill represents one of the worst examples of congressional micromanagement and litigation legislation that this body will ever see. It will also transform the BLM from an agency that manages for a broad range of traditional, multiple uses to one that manages its land for a few selected resources.

The provisions adopted after public hearings were held include section 14 on judicial review, section 15 on oil and gas pipeline rights-of-ways, and section 16 on RS 2477 rights of way.

A result, it should be no surprise that they have generated great concern from affected parties such as pipeline companies, State and local governments, and another House committee whose jurisdiction was usurped.

If a public hearing was held on these sections and these parties could have been heard from before markup, this bill would be far less controversial today.

H.R. 1096 is based on the faulty premise that BLM lands are being managed primarily for commodity uses such as grazing and mining at the expense of noncommodity uses such as recreation and fish and wildlife. This premise is based largely on a GAO study done several years ago.

As an avid sportsman and someone who represents a State with vast BLM holdings, I find that their premise could not be further from the truth.

I see larger and healthier big game populations on the public lands than ever before. As you can see from this chart, big game populations on public lands have increased dramatically from 1960 to 1988. Antelope populations have increased 112 percent, bighorn sheep are up 435 percent, deer numbers have increased 30 percent, elk have increased a staggering 782 percent, and moose have increased 476 percent.

These statistics clearly illustrate that BLM's professional land managers are doing an outstanding job under current law and do not deserve the sort of indictment, congressional micromanagement, and environmental gridlock that are contained in this legislation. The present Director has stated and demonstrated time and time again that recreation and enjoyment by the public of BLM lands are a high priority.

H.R. 1096 should probably be renamed the Lawyers Full Employment Act of 1991 for several reasons.

First, because of the bill's vague and ambiguous language in many areas, only the Federal courts will be able to provide the kind of clear definitions that people operating on BLM lands need to have before they can understand the ground rules they must follow. This means delay for delay.

Second, the judicial review section of this bill, among other things, attempts to overturn the Supreme Court's decision in Lujan versus National Wildlife Federation.

According to the administration's policy statement on this bill:

> This may overburden the courts with unwarranted, specious, and political challenges to agency actions that have no immediate impact on plaintiffs' interest.

In other words, this is litigation legislation at its worst.

Section six of the bill would limit the number of political employees in the BLM to only two.

H.R. 1096 has numerous other provisions that many of us find objectionable. Some of these will be described in detail by other Members during today's debate.

Let me point out the tremendous opposition that this bill has generated. H.R. 1096 is opposed by the 3.7-million member American Farm Bureau Federation, the American Motorcyclist Association, the American Mining Congress, the National Cattlemens' Association, the Rocky Mountain Oil and Gas Association, and the Western Regional Council.

Moreover, let us remember that a more scaled down version of this bill from the last Congress did not even receive a hearing from the Energy and Natural Resources Committee in the other body—even though it had over 1 year to do so.

□ 1400

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. DARDEN], a member of the committee and a sponsor of many of the provisions of this bill.

Mr. DARDEN. Mr. Chairman, I thank the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 1096, the Bureau of Land Management authorization bill. As a member of the Subcommittee on Parks and Public Lands, I am well aware of the long and difficult journey this bill already has traveled, and I am pleased that the end of the road is in sight.

Both the chairman of the full committee, Mr. MILLER, and the chairman of the subcommittee, Mr. VENTO, have worked diligently to craft the most responsible and reasonable bill possible. Many of our public lands have fallen prey to some to the most destructive forces of man and nature. Whether through development, drought, misuse or overuse, these lands have suffered, and it is our responsibility as guardians of the public trust to ensure that they are maintained properly.

As many of you know, BLM programs, while continuing to operate under appropriated funds, have not been authorized since 1982. Unfortunately, disputes between the administration and Congress have created an atmosphere in which meaningful legislation has become almost impossible to enact. Under the leadership of Chairman VENTO, however, we have a bill which not only continues the authority for BLM programs, but makes some necessary changes to the Organic Act which sets the management objectives for BLM operations.

The definition of areas of critical environmental concern [ACEC's] has been expanded so that BLM can continue to give these areas priority in protecting important resources located on public lands. Deadlines are established for the completion of land use plans required under FLPMA. The list of principal or major uses of the public lands as determined by FLPMA is expanded, and public participation, already required, is further encouraged.

While I support wholeheartedly the bill before us, I do believe there are concerns which have not been addressed, and I intend to offer the Synar-Darden-Atkins amendment to increase grazing fees at the appropriate time. However, there were aspects of the grazing permit process which I believed needed clarification, and I am pleased to note that the version of H.R. 1096 reflects the changes we advocated during subcommittee consideration.

Unfortunately, some confusion apparently has arisen about the nature of the rights of permit holders and the effect of grazing permits on property values and taxes. For the record, then, let me reiterate: Grazing permits, as licenses to exercise a privilege on Federal lands, cannot be bought or sold. However, because permits are business assets, some States levy a beneficial use or possessory interest tax on grazing permits, as they do on other special-use rights on lands not owned by the party having the right of use.

Grazing permits are neither inheritable nor directly transferable by permittees—only the Government can issue a grazing permit. In 1986, the Internal Revenue Service did rule that upon the death of a permittee, a grazing permit would remain in effect for the permittee's heirs for the remainder of the permit term. Consequently, to clarify this matter, section 10 of H.R. 1096 adds an explicit statement that a grazing permit terminates on the death of its holder, but the land-managing agency can permit continued grazing while the estate is settled.

In conclusion, I applaud the efforts of my subcommittee chairman, Mr. VENTO, and committee chairman, Mr. MILLER, and of their eminently capable and hard-working staff, and I urge my colleagues to join me in supporting this important and well-crafted legislation.

☐ 1410

Mr. MARLENEE. Mr. Chairman, I yield 5 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I rise in opposition to 1096. This bill would make a number of undesirable changes on how the Bureau of Land Management manages the public land.

I am one of those from a public land State. About 70 percent of my State is owned by the Federal Government, and we find it very objectionable in section 3 of the bill.

This bill reads:

> The BLM must manage the public lands to protect or enhance the resources and values of the Conservation Value Unit, but it is not the intent of Congress that the Secretary establish protective parameters or buffer zones around conservation system use.

That all sounds good, and we all feel good when we read that. But in reality, as we look at this disclaimer, it says it does not intend that the Secretary create buffer zones around the conservation unit. I am not convinced that that is what it does.

By requiring the land management agency to manage the public lands in the way that protects and enhances conservation system units, this will put great pressure on the Secretary of the Interior to create buffer zones and to avoid litigation.

According to the Director of BLM, Cy Jamison, section 3 of the bill would indeed create buffer zones. He stated that the requirement to establish an area of critical environmental concerns to protect and enhance might drastically change the management ethic of many conservation units which were established for administration within the framework of a program for multiple use and sustained yield and providing for resource use and development and maintenance of environmental quality. It is difficult to understand how compliance with the law would not create buffer zones.

Mr. Chairman, we have played this game a number of times, in 1983 to Chairman Seiberling, who had the position of the gentleman from Minnesota [Mr. VENTO]. He put in a bill. This is the third or fourth time we have played this buffer zone game.

This time we are talking about enhanced things, of conservation units. In the past we were talking about "adjacent to." We were also talking about "detrimental to."

Are there any of the great lawyers here who can tell me the definition of "adjacent to" or "detrimental to"?

At the time we debated it, we could find no one, no one in the House, no one in the Senate, no one in the judicial department. The great book Blackstone would not tell us what that meant.

So we are all betting on a pig in a poke. We are all saying well, let us just guess what it means, folks. We will guess on this thing, and hope it all comes out right. The chairman then, Mr. Seiberling, invited me to debate him on public radio. So I did. A guy called in and asked the question, "Mr. Chairman, I live down in southern Utah, and outside of the park, Bryce Canyon, if you happen to see some cows going across there and they put up the smoke, is that adjacent to?"

He said, "By all means."

He said, "Is that 'detrimental to'?"

The chairman answered, "By all means."

Well, most prudent people would not think that cows putting up some dust would be "adjacent to" or "detrimental to."

The next man called in and said, "Well, I live up in the northern area by Thiokol Chemical. At Thiokol Chemical we create these rocket motors that put the shuttle up into space. By that also happens to be the Golden Spike Monument, where the two railroads came together."

The question came up, when they test these rockets, and you ought to be there, it is ear shattering, would that be detrimental to?

The chairman answered, "By all means, it would be."

So now here we are going to play this game again. We are going to subject 11 States in the West to the idea of "adjacent to" and "detrimental to." Only this time, we are going to call it "enhance the resources." Why are we putting this burden on the Director of BLM?

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, the gentleman from Utah [Mr. HANSEN] indicated that these buffer zones, or areas adjacent to National Parks and U.S. Fish and Wildlife Refuges, would be subject to management by that agency.

Mr. HANSEN. Yes.

Mr. MARLENEE. Mr. Chairman, by the agency, I am talking about the Park Service.

Mr. HANSEN. No.

Mr. MARLENEE. But they would be managed to enhance?

Mr. HANSEN. Yes.

Mr. MARLENEE. Are there agreements that exist now whereby BLM must consult with the Park Service?

Mr. HANSEN. Mr. Chairman, reclaiming my time, there are informal agreements that BLM talk about that they have worked out, and they work very well.

Mr. MARLENEE. Mr. Chairman, if the gentleman will yield further, there are informal and formal agreements, as I understand it.

Mr. HANSEN. That is what the Director has told us, yes.

Mr. MARLENEE. That the BLM must have with the Park Service, for instance, in managing the land, if they make a management decision on land adjacent to.

Mr. HANSEN. I think it is working very well.

Mr. MARLENEE. Mr. Chairman, why do we need the buffer zones?

Mr. HANSEN. Mr. Chairman, that is exactly the point. The question comes down, and I hope Members listening to this please, do not put buffer zones on us. We have got endangered species, we have got wetlands, we have got all this other stuff. Let us not add another level on this thing. Let us not ask for a buffer zone, that no one knows what it is, no one can interpret, and say, well, let us turn it over to the courts; the courts apparently will know.

Mr. Chairman, I really object to that. I would hope Members would not go along with this.

Mr. VENTO. Mr. Chairman, I would inquire how much time remains on both sides?

The CHAIRMAN pro tempore (Mr. MAZZOLI). The gentleman from Minnesota [Mr. VENTO] has 15 minutes remaining, and the gentleman from Montana [Mr. MARLENEE] has 17 minutes remaining.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to comment on the concerns of the gentleman from Utah [Mr. HANSEN]. I might say that the bill in not one, but two instances, on page 3, suggests that there is not a buffer zone type of requirement. So in terms of buffer zone, we said that twice in the bill, and it is reiterated in the report.

All we are suggesting here is that where, we have, the interface of various types of public lands, that is, with respect to conservation system units which we define in here as being National/Parks, wildlife refuges, wild and scenic rivers, and so forth and so on, on page 3, we say that the lands that are adjacent to them should be managed, "to protect or enhance the resources and values of a conservation system unit, but it is not the intent of Congress that the Secretary establish protective parameters or buffer zones around conservation system units."

Mr. Chairman, all we are saying is that the left hand ought to know what the right hand is doing.

Insofar as consulation, that is not a requirement of this bill. I commend Director Jamison for talking to Director Ridenour concerning that particular matter.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman from Minnesota [Mr. VENTO] for yielding this time, and commend him and other members of the committee who have worked so hard to bring this bill to the floor.

Mr. Chairman, the Bureau of Land Management is responsible for managing hundreds of millions of acres of Federal lands. For many years, they were considered the leftovers that the more glamorous agencies like the Park Service and the Forest Service did not want. Today, we know this is a terrible misconception.

BLM lands are a treasure of environmental, scientific, scenic, recreational, and cultural assets as well as a source of familiar economic opportunity to ranchers, miners, and timber companies. There is no way the United States can justifiably claim to be a good steward of its environment until it cares as much for the management of these public lands as it does to its better-publicized crown jewels of parks, wildlife refuges, and forests.

This bill takes a step in that direction by updating management of areas of critical environmental concern, improving planning requirements and professional qualifications of BLM officials, effectively prohibiting subleasing of grazing allottments and revising certain outdated procedures.

For example, the bill sets forth new requirements for investigating and adjudicating rights-of-way across public lands. Currently, a 125-year-old statute known as RS 2477 continues to serve as a basis for right-of-way claims even though it was repealed by the Federal Land Policy and Management Act in 1966. RS 2477 claims have generated particular controversy in Alaska where the new State administration views this obscure statute as a means to circumvent procedures in title XI of the 1980 Alaska Lands Act. Contrary to the dissenting views in the committee report on H.R. 1096, the procedures of title XI of ANILCA clearly apply to all claims to rights-of-way across conservation system units in Alaska, including any which may be asserted based on RS 2477.

All these reforms are modest, Mr. Chairman, but they are constructive and long overdue.

In the final analysis, the responsibility for guarding the integrity of the public resources and the public lands rests with the Director of the BLM, the Secretary of the Interior and the President. To date, the record is very disturbing. They have delivered us from the Burford-Watt-Reagan era of outright environmental hostility to a new age of benign neglect and happy-talk press releases tinged with green.

This is progress, but it is entirely inadequate to our times. It does not restore our endangered riparian lands, or expand wildlife habitat or protect the public's economic interest in its ranges, minerals, forests, rivers, or recreation lands. It does not begin to address the fact that throughout the West we are asking our public lands to do too many things for too many people. We are literally chewing them up in the process.

Shortly, we will be debating an amendment offered by Mr. SYNAR addressing the critical issue of grazing fees, grazing advisory boards and use of range betterment funds. I strongly support this amendment, which the House passed only last month in the Interior appropriations bill.

Our current rangeland policy is shortsighted and seriously flawed. For example, the Department of the Interior charges one special interest group subsidized, below-cost fees for their use of the public resources. Then, without legislative authority, they organize boards made up solely of members of that same special interest group. These boards then decide how to spend half of the Government's revenues generated by the below-market fees they just paid. Not surprisingly, they decide to spend millions on projects that benefit themselves and don't bother to account for how more than half of it is spent at all. It is time to stop this indefensible practice and the Synar amendment will do just that.

So, Mr. Chairman, I am pleased to rise in support of the committee bill and the Synar amendment that will be offered to it.

□ 1420

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding time to me. Mr. Chairman, I support a 4-year reauthorization of the Bureau of Land Management. However, the radical nature of the substitute to H.R. 1096 causes my strong opposition to the measure before us.

This bill, as now written, would drastically change the BLM's mission. Currently, the agency is charged with managing the public's natural resources under the multiple use and sustained yield principles. Unfortunately, H.R. 1096 recasts BLM's mission to incorporate land management practices better suited to parks or other single use areas. This bill, in essence, says "no" to grazing and mining and other commodity uses of the public lands.

Mr. Chairman, there is no congressional district in this Nation, save that of the Interior Committee's ranking member DON YOUNG, that has more public land acreage within its borders than mine.

In Nevada, the BLM is responsible for managing more than 48 million acres of land—more than the whole State of North Dakota. This amounts to more than 67 percent of Nevada. Believe me, my constituents and I know the impacts this rewrite of the Federal Land Policy and Management Act of 1976 would have upon the West.

It is not mere speculation when I state that Nevadans and millions of other citizens residing west of the 100th meridian would have their livelihoods dramatically affected by this bill and the amendments expected to be offered to it.

I do not mean only the grazing fee amendment, either, though that is indeed a major concern of mine. There are hidden provisions in this bill which will be destructive to the West's economy.

Mr. Chairman, H.R. 1096 is simply "A wolf in sheep's clothing."

My colleagues have been, will be, focusing on various sections of this bill, and why we should vote it down, let me quickly voice a major concern of mine. The hidden requirement that BLM maintain biodiversity on the public lands worries me. Why? Not because a diverse plant or animal community is something to be shunned. Far from it, I agree that maintenance of species diversity has merit, but I also believe that current BLM practices achieve this goal.

Section 4's increased emphasis on biodiversity, coupled with section 14's standing to bring lawsuits, presents a clear and present danger for crippling environmental lawsuits brought by nonresidents of the rural West.

Section 14 would overturn a longstanding legal principle barring nonaffected parties from bringing suit. This opens the door to lengthy litigation by groups dedicated to locking up our public lands.

These groups have little to lose from protracted law suits. Rural small businessmen do. Even when the preservationist group's cases are ultimately lost on the merits, their common tactic of seeking injunctive relief shuts down small businesses and wreaks havoc on the West's economy.

Third parties to such litigation—ranchers, miners, loggers—must patiently wait, often years, for these cases to be decided. While BLM policy is debated in court, the real injured parties can only watch their livelihoods ebb away.

Consequently these small businessmen and women are finally run off the land, and then where will we be? Are we to be a nation of city dwellers, where our public lands are off-limits to resource harvesting?—urban encaves in a sea of parks?

My friends, what is so wrong with the Supreme Court's logic that plaintiffs must establish harm by the BLM in order to go forward with litigation against the agency? This is good commonsense law and deserves to be maintained. Overturning such precedent means "Katie, bar the door" because any citizen, anywhere, can allege harm and sue the BLM, enjoining the agency from doing its job.

Mr. Chairman, I strongly urge the Members of this body to reject H.R. 1096. It is a bad piece of legislation which will do great harm to the West, and thus to the Nation.

Mr. MARLENEE. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Oregon, Mr. BOB SMITH.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this BLM reauthorization bill, although we should pass it. We do not need it. The BLM has been operating in fine stead since 1982, so it is not imperative, and this bill will be vetoed. So thank God for separation of powers.

This is not a simple reauthorization bill at all. It rather transforms the Bureau of Land Management into a single use agency rather than a multiple use agency.

More than 300 million acres of land are under control of the Bureau of Land Management in the West. This land contributes to the needs of people for livestock forage, for timber, for mining, for their livelihoods. Each year the BLM returns a profit to the Treasury of America from those people and those lands, more than $232 million, by the way, last year.

This legislation would put an end to those profits and our way of life by stopping commodity production on BLM lands.

There has been a great deal of discussion about the question of buffer zones, and true, this bill does not allow buffer zones. Buffer zones became very much too controversial to stand any more. So if you cannot stand buffer zones you change the name, and you change it to areas of critical environmental concern, new idea for buffer zones.

I want to show Members this map, by the way, which is a map of the State of Oregon. As can be seen, the dots here are already areas of environmental critical concern across the State of Oregon.

We have more than 2.1 million acres of wilderness in Oregon which will be expanded by areas of environmental critical concern. We have 1,800 miles, 1,800, and one-third of all of the wild and scenic rivers in America are in Oregon, outlined by these black areas, expanded into areas of critical concern. They will be expanded. Wildlife refugees, national parks, already half of the State is in Federal control, and we are expanding the idea of all these designations to the areas of environmental critical concern. It is very possible that the whole State could become one set-aside in the definition of areas of critical concern.

Therefore, I ask all Members, do not be fooled by the idea they have eliminated buffer zones. They are substituted with another argument, and this map would be belonging totally to single purpose if this bill is adopted.

I urge Members to oppose the BLM reauthorization program.

Mr. MARLENEE. Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I just wanted to add a word with respect to game management on western lands where currently we have I think a good balance between wild game herds and grazing.

I am a hunter and a fisherman, and I've spent a lot of time in the West in game habitat, and I just want to remind my colleagues that with the balance that we have the elk herds in Idaho, in Wyoming, in Oregon, in Utah and in Colorado are at all time modern highs. In fact, the number of elk in Utah has doubled in the last 10 years. This has been done compatibly with the present balance that BLM has with respect to grazing.

I heard something also that troubled me when listening to the debate. I heard some advocates on the other side saying that only 2 percent of Americans benefited from the grazing lands that are made available to our ranchers and cattlemen in the West. Actually every American who is interested in having a good export balance benefits from this harvest that takes place on grazelands in the West. Grazelands are not timber. They are a perishable annual crop, and if we do not harvest the grass, when the winter snows come it is gone. It is not like a tree or a timber product that can be reserved for a later time. Unless we bring back tens of millions of buffalo, for example, that used to roam the West and harvest that crop in a natural way, the crop perishes and will perish every year without harvesting by the cattlemen and the grazing interests in the West.

This is a very, very important ace in the hole for America's exports, and I think we should maintain this balance that has accrued to the benefit of our wild game herds and the benefit of every American who wants to see a good export balance.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. The gentleman from California is a member of the sportsmens caucus, is that not correct?

Mr. HUNTER. That is true.

Mr. MARLENEE. The gentleman from California has spent an extensive amount of time in the field observing the outdoors, the wildlife, and hunting, and in outdoor activities, is that correct?

□ 1430

Mr. HUNTER. That is since I was 9 years old.

Mr. MARLENEE. Since the gentleman was 9 years old? Has he observed a dramatic conflict or any conflict at all between wildlife and the harvesting of the renewable resources of grass?

Mr. HUNTER. Actually there is not a conflict, and the species are very compatible. Elk are grazers. They are grazers like cattle. Where the brush is removed back and is kept in a state of retardation, and I am talking about the type of brush that chokes out grass, that is done by cattle, that produces more grass for elk, and that is the reason the elk herds in the West over the last decade have exploded in numbers, and that is the reason why the elk herd in Utah has more than doubled in the last 10 years because of the fact that they are so compatible with the grazers and with beef.

Mr. MARLENEE. I thank the gentleman.

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, at this time I would like to note for the record that the Government Printing Office made an error when it printed House Report 102-138 on H.R. 1096 filed by the Committee on Interior and Insular Affairs. The error occurred when GPO dropped from the second line of the last paragraph on page 20, nine words following "FLPMA" which is the first word of the line. The words which should have been included are "would be a disclaimer, stating that nothing in FLPMA." These additional words which were included in the committee report as filed make clear that nothing in FLPMA shall be construed as exempting proposals dealing with claimed RS 2477 rights-of-way from title XI of the Alaska National Interest Lands Conservation Act.

Mr. VENTO. Mr. Chairman, reclaiming my time, I thank the gentleman.

Mr. Chairman, I would point out that it has been repeatedly stated about the problems that have occurred with regard to BLM management, that nobody has said anything with regard to that, and clearly I think the record we have established in the last 5 or 6 years with regard to the Parks and Public Lands Committee indicates that there are problems. For instance, the GAO has appeared before the committee on numerous times to point out the problems with the damage to the resource, especially, for instance, to riparian areas from the grazing and the activities that go on around in these areas.

In fact, they contrasted Bureau of Land Management's practices and management in those areas as opposed to the Forest Service activities. There definitely has been damage to those riparian areas, very extensive areas, which the BLM was not adequately managing. Those reports are there for Members to see. They were sitting in the committee room.

Perhaps they heard what they wanted to hear, but they were not listening to the same type of report. They point out the inadequacies of research work on the part of the BLM.

Mr. Chairman, for another example in September of 1990 GAO reported that in over 13 years since the Congress mandated BLM's preparation of land-use plans to guide the management of public lands, less than half had been completed. These are, I think, an indication of some of the problems that are going on in BLM.

I think, as the Members look through this bill, they ought to be aware of what is being discussed. I tried to outline some of those particular provisions with regard to retardation of private access use over public lands. I tried to point out, for instance, many other examples that exist in this bill that address these problems.

GAO says, "We believe that the provisions of H.R. 1096 would serve to hasten BLM's movement to a more balanced public lands management" with regard to the plans with regard to other particular provisions of this bill.

It has been said that there were provisions added to the bill after the introduction and after the hearing and that is clearly the normal congressional process and the committee process. What would we do? Add the provisions before? I mean, the hearings served the purpose of providing information and highlighting additional problems concerning the BLM management.

Most of the provisions, I would suggest, were in the bill. Most of the provisions were known to the Members. Clearly we started out with a basic authorization, 4-year authorization bill, in the 101st Congress, and added to it after thorough discussion with the minority.

There were agreements on some points, disagreements on others, and I would suggest the same is the case today.

But we talk about, for instance, as I had indicated, new planning requirements, some expansion of the definitions to provide for a balanced approach. We provide for the BLM's working together with other land management agencies, especially where there are conservation units. We think the BLM ought to respond in those particular instances, and we point out specifically twice on page 3 they are not required to establish buffer zones.

Notwithstanding that, some Members have tended to disregard that and to try and turn the tables in this debate today.

Mr. Chairman, we provide, for instance, under the areas of critical environmental concern where the BLM establishes these areas within their own rules. We provide that there ought to be public comment on this particular procedure. I do not know that that is such an earthshaking type of provision with regard to law, but we do provide that.

This bill before us, I am proud to say, has provided some further prohibitions on subleasing. Repeatedly, and I think that many of the Members from non-Western States who come from other States to the east may not understand that when we talk of an animal unit month, we are talking about 800 pounds of grazing forage that actually gets consumed in an animal unit month, and we are suggesting, for instance, that we are going to hear a lot of debate about that, that that is worth only $1.97, at a time, of course, when beef prices are extensive in terms of what is happening.

I have nothing against a farmer, a rancher, making a profit in terms of these lands, but I think that if there is too big a profit to be made that we get into subleasing types of activities which are so common in some instances in the West, and that those benefits ought to flow to the taxpayer, not into the pockets of those that happen to have a grazing permit by virtue of birth, in that they have passed on to them the ownership of the base private land, and so get the permit.

I think the taxpayer has a right to suggest that they ought to share in some of the benefits from the public land, and it ought to be used in a manner that does not damage the resource in the final analysis.

Mr. Chairman, we have put a lot of provisions in this bill concerning Members' concerns with regard to rural electricification, dealing with strict liability, we have put provisions in dealing with congressional review, with judicial review, providing that the act will be more workable, and we have tried to work with many Members as they have come to us with special problems.

I am somewhat surprised, but I suppose I should not be surprised, by the opposition. It seems that no matter what you try to do there are some who would not be satisfied concerning what is in the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, the allegation is made that subleasing was common. This is certainly not the case. Subleasing is illegal. Subleasing is illegal and can be prosecuted under the law except under very special circumstances.

As to these allegations that flow around that we are abusing the land, I wonder if I could engage in a colloquy with the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding.

Mr. MARLENEE. The gentleman has had a lot of experience in grazing public lands, dealing with ranchers in the West, and he has a lot of public land in his area. Could he tell me, and he talked about the enhancement feature and the buffer zones and that they would be managed for enhancement; what does enhancement mean, if they are going to be managed for enhancement?

Mr. SMITH of Oregon. I thank the gentleman for yielding. Enhancement is expansion. Enhancement is so-called improvement, but when you apply it to all of the areas that I have described in Oregon and other places in the West, enhancement means expansion. It is that simple.

They have now eliminated, as I mentioned, buffer zones, because buffer zones create an animosity toward this legislation. We are suggesting that we have already identified wilderness areas. We have identified wild and scenic rivers. We have identified areas of environmental critical areas. Why do we need buffer zones?

So they displaced buffer zones with enhancement or additional areas of primary critical concern. It is the same issue.

Mr. MARLENEE. And enhancement is a nebulous phrase that means expansion of the area that is to be enhanced? Is that correct?

Mr. SMITH of Oregon. Exactly, to me, and if I could make another point under the gentleman's yielding to me, if, indeed, the Bureau of Land Management, with its desecrating of the public lands in the West by its management, then tell me this, why is it true by these numbers produced by the Fish and Wildlife Service, that under these same desecrated lands, antelope population in the last 30 years is up 112 percent, bighorn sheep are up 435 percent, deer are up 30 percent, elk are up 782 percent, and moose are up 476 percent at the same time we are grazing livestock?

□ 1440

Are these decimating the lands?

Mr. MARLENEE. Revenues to the Bureau of Land Management from grazing are up.

Mr. SMITH of Oregon. More than $232 million, from all public lands of the BLM to the Treasury.

Mr. MARLENEE. Mr. Chairman, reclaiming my time, allegations have been made that there would be a drop out in the number of grazing permits, the number of people seeking grazing permits, if we increased the fee. If we were to raise the fee, an allegation has been made there would be no dropoff in the number of permittees that are on public lands.

Does the gentleman have any information on that?

Mr. SMITH of Oregon. I do if the gentleman will continue to yield. I would be happy to respond to the gentleman that studies done by Utah State University and Oregon State University, that the analysis of the Synar amendment, going to $8.70; rather than $18 million to $20 million return from just livestock grazing, it will go to $1 million in 2 years. If the Regula amendment is adopted, livestock grazing will last about 6 years and will go to zero, under the Regula amendment. That is not just by the two universities, but the Office of Management and Budget, the most scrupulous organization in town, the most pennypinching, I know by all Members' affirmation in this body. The Office of Management and Budget said, "This is bad policy; therefore, we are opposing it because it is bad fiscal policy." It is the issue of eliminating the returns. So, it is bad public policy.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to a member of the committee, the gentleman from Utah [Mr. OWENS.]

Mr. OWENS of Utah. Mr. Chairman, I commend Chairman VENTO and his very capable staff for their efforts in crafting this BLM reauthorization bill. The BLM administers an enormous parcel of the United States—270 million acres—and the additional guidance this bill provides will translate into increased protection and better resource use on the ground. Reauthorization of the BLM is long overdue—times change, and even more importantly, public policy evolves. This BLM reauthorization, with its emphasis on areas of critical environmental concern, on the prevention of degradation of the public lands, on the needs of plant and animal communities, recognizes the fact that the American people now require more of their public lands than simple commodity management. Traditional multiple-uses are protected, but the BLM's mandate, through passage of this bill, must mature into a more comprehensive view of the increasing recreational, biological, and esthetic importance of the public lands. The development of the bill has been controversial and emotional, but the changes the bill makes are balanced, sensible, and needed. I urge my colleagues to support this important bill.

Mr. VENTO. Mr. Chairman, Will the gentleman yield?

Mr. OWENS of Utah. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I would like to point out that somebody said that we are getting into subleasing issues, but the Interior Department Inspector General report said in 1986:

> Grazing permittees are subleasing their grazing preferences to others for more than the PRIA-established grazing fee which the permittee pay to BLM.

The solution is to raise the fee so they do not have this problem.

I just want to point out where these statements are coming from. They are not statements that somebody is picking up out of the air in order to criticize. I think they are legitimate concerns. We have specific provisions in this bill. The gentleman is entirely correct. The practice is illegal, but nevertheless, it has gone on in the past. We hope this bill will eliminate it or curtail it.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, the more I listen to this debate that is going on over this bill, the more I am concerned about what we are talking about here, which is basic management.

We will go back and do a little upgrade in history on where the Bureau of Land Management came from. For instance, in my district, in New Mexico, in 1951, that office was handled by three persons. Today, they employ about 150 to 160, depending on the season. Most is mandated, not in land management areas, but in the environmental and the archaeological groups, and some of the other specialized disciplines dealing with that. That is what has happened at the Bureau of Land Management.

It is a great outfit. If we keep increasing grazing fees, as marginal as the grazing business is these days, we will have a lot more people that would be good candidates for the Bureau of Land Management employees, because once we take the permittees away from handling the bulk and the large management responsibility dealing with public lands in the West, they will become good candidates for employment by the Bureau of Land Management. At least they have had experience. Maybe this is not all bad.

If this happens, I can assure Members that it will be folks that would enjoy that kind of an association, and regular income as opposed to risking what they would risk in their own investment, giving their time day in and day out, 24 hours a day, 365 days a year, week in and week out.

If something breaks, they fix it, like fences, water lines and the rest, because they belong to them. That is what we are getting to, what is happening to the land management philosophy. Everyone wants to manage lands in the West, because everyone thinks they belong to everyone, and they do. It is unfortunate they are not handled as they would be under the private sector, and I think that it is too bad they have not lifted the moratorium on land sales and encouraged land sales with some of our public lands in the West that are not utilized for some multiuse purposes.

Mr. MARLENEE. Mr. Chairman, I yield myself the remaining 2 minutes. There has been a lot of misrepresentations here today about the abuse of the land. I think that is unfortunate because we have a lot of dedicated public servants out there who are professionals, who are professionals in range management, who are professionals in the area of the wildlife, and who are mandated by law to protect that wildlife.

I really have some concern about the allegations of profits that are being made. If it is so profitable, then why are we in such tough shape out there in those areas, that is, to graze those public land areas.

The communities are having a tough time making a go of it. They do not have a sufficient tax base. In addition to that, there is not a sufficient amount of revenue that is generated. Some of that is the fact that it is just not economical because of the regulation, because of the redtape, because of new laws that are coming in all the time, and we have a number of them including the endangered species and the wetland provisions and all that.

These are a number of the concerns of the people of the West. Now we are about to embark on another regulatory nightmare. We are going to increase the fees even further, probably, by the time this legislation is finished, in the amendment process, and make it even more unprofitable for those people, and maybe even not making it profitable at all.

I would urge my colleagues to defeat this whole piece of legislation, all of it in its entirety, and that we simply reauthorize the BLM. That can be done simply, with an eight-line reauthorization.

Remember that our employees are mandated by law to follow a number of acts that are designed to protect the environment and contribute to stewardship of those public lands. I urge defeat of the legislation.

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Again, I would like to rise, of course, in support of the legislation. Believe me, there is nothing in this legislation that undercuts the professionalism of BLM. In fact, one of the provisions of the bill limits the number of political appointees that can be mandated to the BLM.

□ 1450

I certainly recognize any administration has a right to have people in a position that can carry out their responsibilities; but the question is how far down could this reach? In fact, it has been, I think, an open book in terms of what the problems are with the BLM. The problem is that the professional land manager in the field has been undercut repeatedly by political decisions that are made in Washington and made within some of the States. I think that has been the record with regards to where the problems occur. If anything, the BLM's professionals need to get this language.

I think to imply that the modest changes made in this bill after 15 years of a reauthorization act somehow will turn everything upside down or to say the least inaccurate and misleading.

I hope we can move forward. Clearly, a problem with the grazing issue is that it does dominate this because of the economic impact that it has in these areas. I do not treat lightly the fact that Members who come from those States are concerned about getting the best break they can for those ranchers. I think in the past they have done a remarkable job for the few in number that they represent or that they in their numbers have done such a good job that we have not been able in fact to put in competitive fees. I do not question for a minute that ranchers and farmers are having a hard time making it in these economic times.

The fact of the matter is we must not damage the resource, the public ranges, in an effort to try to make up for the deficiencies of the economy, whether it be beef, cattle or lamb, or other types of grazing that is going on in those lands. We have to look at the overall values. That is what H.R. 1096 does, and I urge my colleagues to support it.

Mr. RAY. Mr. Chairman, I rise in opposition to the amendments to increase grazing fees for American ranchers.

Less than 2 percent of Americans are farmers or ranchers, and few of these are under the age of 35. The American farmer and rancher is an endangered species as a result of policies aimed at dismantling these efficient and well-crafted programs. It is certainly no surprise that American farmers and ranchers are discouraged. They are quitting the agricultural business or, worse yet, being forced into bankruptcy.

Because of the difficulties the President has encountered in the GATT negotiations in reducing Europe's agricultural subsidies, I would say the Europeans have learned the importance of maintaining a strong agricultural industry despite the cost.

In making changes in farm programs, our primary concern should be to improve the industry, not to destroy it. The increase in grazing fees proposed by these amendments will further dilute the unit that has benefited American farmers and ranchers for decades.

If we lose American agriculture, we lose not only a part of America's history, but we leave America's future up to chance. A strong America is one that can feed and provide for her citizens. A weak America is one that is willing to sacrifice a sector of her industrial base.

I urge my colleagues to oppose these amendments.

Mr. GREEN of New York. Mr. Chairman, I rise in support of the Committee on Interior and Insular Affairs for all the work it has done on this bill. I wish specifically to support the provision which seeks to strengthen the Wild Horses and Burros Act by establishing tough fines for anyone in violation of it. I have been disappointed by the BLM's management of that act for some time, and believe that this is a step in the right direction.

While I understand the BLM's difficulty in managing herds which, in many instances, have grown large in number and environmentally burdensome to maintain, I have trepidations as to the sincerity of the BLM's efforts to preserve these animals. In the Federal Register of July 2, 1991, for example, the BLM has proposed a rule allowing it to implement decisions to round up free-roaming wild horses and burros in specific areas even before resolution of appeals of those decisions. The rule would give the BLM license to conduct heedless roundups without any accountability as to whether or not the roundups are necessary.

The BLM already has an avenue, with the Interior Board of Land Appeals, in which to conduct a roundup should conditions exist which make one necessary. It does not need this additional rule which, in effect, circumvents the IBLA process.

The Wild, Free-Roaming Horses and Burros Act, established in 1971, sought to protect the wild horses of the West. Although conditions sometimes exist making roundups necessary, the situation with the wild horses and burros has not, as BLM would have you believe, reached crisis proportions. The provision included in today's bill strengthens the act, thereby affirming Congress' resolve to help preserve these animals. We need to tighten the reins on the BLM's policies, not loosen them. Please join me in supporting this provision, and in supporting the committee's bill.

Mr. PENNY. Mr. Chairman, I support the Regula amendment to increase grazing fees on BLM-administered lands.

It is time to send a signal to ranchers in the West that utilize public lands for grazing that they must pay higher grazing fees. Clearly, western ranchers receive a subsidy in the form of low grazing fees. In fact, the Congressional Budget Office reports that the BLM spends two and one-half to three times as much to administer the grazing program as the fees bring in. For example, Congress has appropriated $45 million for the BLM's range management program for fiscal year 1991, but the agency only took in about $18 million in grazing fee receipts on the 174 million acres of public rangeland it administered in 1990.

I did not support the Synar amendment to the Interior appropriations bill because the Appropriations Committee had included an increase in grazing fees from the current $1.97 to $2.62 per animal unit month [AUM]. I felt the Appropriations Committee was moving in the right direction, and I had hoped that the Interior Committee would take the same action in the BLM authorization bill. I am disappointed that this authorization bill recommends no increase in grazing fees.

Some of my colleagues argue that increasing grazing fees will reduce participation by ranchers in the grazing program, and that will ultimately lead to lower BLM revenues. I share that concern, and I urge the administration and the Interior Committee to review the Public Rangeland Improvement Act grazing fee formula in effect since 1978. The CBO, however, has reported that a grazing fee hike to $4.35 per AUM will not decrease revenues, but would raise an additional $20 to $25 million over BLM's administrative expenses. Net revenues would increase.

According to the Interior Committee's report accompanying this legislation, a substantial amount of the Federal rangelands is deteriorating in quality, and that installation of additional range improvements could arrest much of that damage to grazing lands, watersheds, and wildlife habitat. Since current law requires the BLM to use 50 percent of grazing fees for rangeland improvement and protection, it is in the best interests of the very ranchers who utilize BLM grazing lands to contribute to the protection and improvement of those lands. Increasing grazing fees on BLM lands will ensure the long-term and sustained use of these valuable public resources.

I believe the evidence clearly calls for fees higher than present levels. By supporting the Regula amendment, I trust we can secure a conference agreement with the Senate that provides for some increases in this area.

It is the right move from the standpoint of rangeland preservation. It is the right move in terms of the budget. It is the right move in terms of fairness to those many livestock producers who do not benefit from grazing on public lands.

Vote "yes" on the Regula amendment.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read.

Debate on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR] or his designee, printed in House Report 102-154, as well as all amendments thereto, shall not exceed 1 hours.

The clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary for programs, functions, and activities of the Bureau of Land Management, Department of the Interior (including amounts necessary for increases in salary, pay, retirements, and other employee benefits authorized by law, and for other nondiscretionary costs), during fiscal years beginning on October 1, 1991, and ending September 30, 1995.

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate section 2.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. MARLENEE. Reserving the right to object, so that we understand clearly the parliamentary procedure, Mr. Chairman, under my reservation I think I shall not object, but if we are operating under the 1-hour rule, does that mean that all amendments have a total of 1 hour of debate?

Mr. VENTO. Mr. Chairman, if the gentleman will yield to me, my understanding of the rule is that the Synar amendment, and all amendments thereto, is limited to 1 hour.

Mr. MARLENEE. The Synar amendment only.

Mr. VENTO. Just the Synar amendment and amendments thereto that deal with the topic of grazing would be limited to 1 hour.

On the other amendments, since we are under an open rule, we are under the 5-minute rule to govern speaking time of Members on amendments that may be offered during the course of the amending process.

Mr. Chairman, if the gentleman will yield further, my intent here, as the gentleman knows, is simply to open up the bill so that we can offer a number of amendments that are noncontroversial, to dispense with those amendments, and then to move on to those that may engender more controversy.

Mr. MARLENEE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 2. STATUTORY REFERENCE.

As used hereafter in this Act, the terms "the Act" and "FLPMA" mean the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

SEC. 3. FLPMA DEFINITIONS.

(a) AREAS OF CRITICAL ENVIRONMENTAL CONCERN.—Section 103(a) of the Act (43 U.S.C. 1702(a)) is amended to read as follows:

"(a) The term 'areas of critical environmental concern' means those areas (whether or not previously affected by one or more uses or developments) identified by the Secretary as areas where special management attention is required (which, among other things, may in some instances include restrictions on or prohibitions of any further development) in order—

"(1) to protect important resources and values (including but not limited to environmental, ecological, historic, cultural, scenic, fish and wildlife, and scientific resources or values) located on or likely to be affected by the use of specific portions of the public lands (but Congress does not intend that the Secretary establish protective perimeters or buffer zones around such areas);

"(2) to protect life and provide safety from natural hazards; or

"(3) to protect or enhance the resources and values of a conservation system unit, but it is not the intent of Congress that the Secretary establish protective perimeters or buffer zones around conservation system units.".

(b) CONSERVATION SYSTEM UNIT.—Section 103 of the Act (43 U.S.C. 1702) is amended by adding at the end thereof the following new subsection:

"(q) The term 'conservation system unit' means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Conservation Area, National Recreation Area, or National Forest Monument.".

SEC. 4. MAJOR USES AND INVENTORIES.

(a) DEFINITION.—Section 103(1) of the Act (43 U.S.C. 1702(1)) is amended—

(1) by striking "fish and wildlife development and utilization," and inserting in lieu thereof "maintenance of plant communities, maintenance of fish and wildlife populations and habitat, utilization of fish or wildlife populations,"; and

(2) by striking "and timber production" and inserting in lieu thereof "timber production, reforestation, and scientific research".

(b) INVENTORY.—Section 201(a) of the Act (43 U.S.C. 1711(a)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof "and riparian areas.".

(c) MANAGEMENT DECISIONS.—Section 202(e)(2) of the Act (43 U.S.C. 1712(e)(2)) is amended by striking "the Congress adopts a concurrent resolution" and inserting in lieu thereof "there is enacted a joint resolution".

SEC. 5. PLANNING REQUIREMENTS.

(a) DEADLINES.—Section 202(a) of the Act (43 U.S.C. 1712(a)) is amended—

(1) by designating section 202(a) as section 202(a)(1); and

(2) by adding at the end of section 202(a) the following new paragraphs:

"(2) Land use plans meeting the requirements of this Act shall be developed for all the public lands outside Alaska no later than January 1, 1998, and for all public lands no later than January 1, 2000.

"(3) Land use plans shall be revised from time to time when the Secretary finds that conditions have changed so as to make such revision appropriate or necessary for proper management of the public lands covered by any such plan. The Secretary shall review each plan at least once every 15 years in order to determine the need for or appropriateness of revision of such plan pursuant to this paragraph.".

(b) CRITERIA.—(1) Section 202(c)(1) of the Act (43 U.S.C. 1712(c)(1)) is amended to read as follows:

"(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law and evaluate the feasibility of measures, consistent with such principles, that would enhance the extent to which the public lands can support increases in the numbers and types of plant communities and fish and wildlife populations located on or supported by such lands;".

(2) Section 202(c)(3) of the Act (43 U.S.C. 1712(c)(3)) is amended to read as follows:

"(3) give priority to the designation and protection of areas of critical environmental concern and to identification, protection, and enhancement of the ecological, environmental, fish and wildlife, and other resources and values of riparian areas;".

(3) Section 202(c)(5) of the Act (43 U.S.C. 1712(c)(5)) is amended to read as follows:

"(5) consider present and potential uses (including recreational and other nonconsumptive uses) of the public lands;".

SEC. 6. PROFESSIONAL QUALIFICATIONS.

Section 301(c) of the Act (43 U.S.C. 1731(c)) is amended to read as follows:

"(c) In addition to the Director, there shall be a Deputy Director and so many Assistant Directors, State Directors, and other employees as may be necessary, appointed by the Secretary. After May 1, 1989, no person may be appointed as Deputy Director of the Bureau (except for Deputy Director for External Affairs) or as an Assistant Director or State Director who is not

at the time of appointment either a career appointee (as defined in section 3132(4) of title 5, United States Code) or in the competitive service. Other employees shall be appointed subject to provisions of law applicable to appointments in the competitive service, and shall be paid in accordance with the provisions applicable to such service.''.

SEC. 7. PENALTIES.

(a) FLPMA.—Section 303(a) of the Act (43 U.S.C. 1733(a)) is amended by striking ''no more than $1,000'' and by inserting ''no more than $10,000''.

(b) PUBLIC LAW 92–195.—Section 8 of Public Law 92–195 (16 U.S.C. 1338(a)) is amended by striking ''not more than $2,000'' and by inserting ''not more than $10,000''.

SEC. 8. MANAGEMENT OF LANDS AND PUBLIC PARTICIPATION.

(a) IN GENERAL.—The last sentence of section 302(b) of the Act (43 U.S.C. 1732(b)) is amended to read as follows:

''In managing the public lands, the Secretary, by regulation or otherwise, shall take any action necessary to prevent unnecessary degradation of such lands, to minimize adverse environmental impacts on such lands and their resources resulting from use, occupancy, or development of such lands, and to prevent impairment or derogation of the resources and values of conservation system units.''.

(b) ADVISORY COUNCILS.—Section 309(a) of the Act (43 U.S.C. 1739(b)) is amended—

(1) by striking the period at the end of the first sentence and inserting in lieu thereof '', including the protection of environmental quality, the management and enhancement of fish and wildlife populations and habitat, and outdoor recreation.''; and

(2) by striking the period at the end of the fourth sentence and inserting in lieu thereof '', who shall provide an opportunity for interested members of the public to suggest persons for appointment.''.

(c) ACEC REGULATIONS.—Section 310 of the Act (43 U.S.C. 1740) is amended by designating the existing provisions thereof as subsection (a) and adding the following new subsection:

''(b) By regulation, the Secretary shall provide an opportunity for members of the public to propose specific areas for consideration for designation as areas of critical environmental concern pursuant to section 201 of this Act.''.

SEC. 9. FUTURE REAUTHORIZATIONS.

Section 318(b) of the Act (43 U.S.C. 1748(b)) is amended by striking ''May 15, 1977, and not later than May 15 of each second even numbered year thereafter'' and inserting in lieu thereof ''January 1, 1993, and January 1 of each second odd-numbered year thereafter''.

SEC. 10. PROHIBITION OF SUBLEASING.

Section 402 of the Act (43 U.S.C. 1752) is amended by adding at the end thereof the following new subsection:

''(i) PROHIBITION OF SUBLEASING.—Subleasing is hereby prohibited.

''(2) For purposes of this subsection the following terms shall have the following meanings:

''(A) 'subleasing' means the grazing on public lands or on National Forest lands covered by a grazing permit of domestic livestock which are not both owned and controlled by the holder of the grazing permit.

''(B) 'grazing permit' means a permit or lease of the type described in subsection (a) of this section which has been issued by the Secretary concerned pursuant to applicable law, and which authorizes for a specified term of years the grazing of domestic livestock on public lands or lands within National Forests in the 16 contiguous Western States.

''(3) The Secretary concerned shall require each holder of a grazing permit to annually file an affidavit that such holder owns and controls all livestock which such holder is knowingly allowing to graze on public lands or National Forest lands covered by such holder's grazing permit.

''(4)(A) A grazing permit shall terminate 30 days after the effective date of any lease, conveyance, transfer, or other voluntary action on the part of a holder of a grazing permit which has the effect of removing the privately owned property or part thereof with respect to which a grazing permit was issued from the control of the holder of such permit, and no grazing pursuant to such permit shall be permitted after such termination unless prior to such termination the party that has obtained or will obtain control of such property or part thereof has submitted an application for a grazing permit based on such control, in which case the Secretary concerned may allow grazing to continue if such Secretary has reason to believe that such application is likely to be approved; but such continued grazing shall be for a period no longer than the remainder of the grazing year during which such application was submitted.

''(B)(i) A grazing permit shall terminate upon the death of its holder, but the Secretary may permit grazing to continue on lands covered by such grazing permit for a period not to exceed two years after the date of the death of such holder if necessary or appropriate in order to facilitate the orderly management of the deceased holder's estate.

''(ii) A grazing permit shall terminate upon an involuntary transfer from the control of its holder (including a transfer by operation of law) of the privately-owned property (or portion thereof) with respect to which such grazing permit was issued, but the Secretary may permit grazing to continue on lands covered by such grazing permit for a period not to exceed one year after such involuntary transfer if necessary in order to facilitate the redemption, sale or other disposition of such property or portion thereof.

''(iii) After any continuation of grazing pursuant to either subparagraph (i) or (ii) of this paragraph, any grazing on lands affected by such continuation shall occur only subject to a new grazing permit.

''(iv) Any decision by the Secretary concerned to permit a continuation of grazing pursuant to paragraph (4) shall be discretionary, and this paragraph shall not be construed as vesting in any party any right to graze livestock on any lands owned by the United States or any right to any grazing permit.

''(5) Any holder of a grazing permit who knowingly allows subleasing to occur on public lands or National Forest lands covered by such permit shall forfeit to the United States the dollar equivalent of any value in excess of the grazing fee paid or payable to the United States with respect to such permit, shall be disqualified from further exercise of any rights or privileges conferred by that permit or any other such permit, and shall be subject to the penalties specified in section 303 of this Act.

''(6) Any person other than the holder of a grazing permit who knowingly engages in subleasing shall be subject to the penalties specified in section 303 of this Act.''.

SEC. 11. EXEMPTION FROM STRICT LIABILITY.

Section 504(h) of the Act (43 U.S.C. 1764(h)) is amended by adding at the end thereof the following new paragraph:

''(3) No regulation shall impose liability without fault with respect to a right-of-way granted, issued, or renewed under this Act to a nonprofit entity or an entity qualified for financing under the Rural Electrification Act of 1936, as amended, if such entity uses such right-of-way for the delivery of electricity to parties having an equity interest in such entity. However, the Secretary may condition the grant, issuance, or renewal of a right-of-way to such entity for such purpose on the provision by such entity of a bond or other appropriate security, pursuant to subsection (i) of this section.''.

SEC. 12. CONGRESSIONAL REVIEWS.

(a) SALES.—Section 203(c) of the Act (43 U.S.C. 1713(c)) is amended by striking ''and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation'', and by inserting in lieu thereof ''unless there is enacted a joint resolution disapproving such designation''.

(b) WITHDRAWALS.—Section 204 of the Act (43 U.S.C. 1713) is amended as follows:

(1) By striking from subsection (c) the words ''if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal'' and by inserting in lieu thereof ''if prior to the end of such 90-day period there is enacted a joint resolution disapproving the withdrawal''.

(2) By striking from subsection (l)(2) the words ''the Congress has adopted a concurrent resolution'' and by inserting in lieu thereof ''there has been enacted a joint resolution''.

SEC. 13. CONFORMING AMENDMENTS.

(a) REPEAL.—Section 215 of the Act is hereby repealed.

(b) GRAZING STUDY.—Section 401 of the Act (43 U.S.C. 1751) is amended by striking subsection (a) and redesignating subsection (b) as subsection (a).

SEC. 14. JUDICIAL REVIEW.

Section 313 of the Act (43 U.S.C. 1743) is hereby amended by adding at the end thereof the following:

''(e) JUDICIAL REVIEW.—The promulgation of regulations, any other action constituting rulemaking, or any other final agency action to implement this section or any other provision of this Act shall be subject to judicial review in accordance with section 1391(a) of title 28, United States Code, upon the petition or complaint of any aggrieved party filed no later than 30 days after such final action, pursuant to section 1391(a) of title 28 of the United States Code, but commencement of such a proceeding shall not operate to enjoin or stay any action, order, or decision of the Secretary unless specifically so ordered by the court. The court shall hear any such petition or complaint solely on the record made before the Secretary or other official taking the action, and any action subject to the judicial review under this subsection shall be affirmed unless the court concludes that such action was arbitrary, capricious, or otherwise inconsistent with law.''.

SEC. 15. RIGHTS-OF-WAY FOR OIL, GAS, AND OTHER PIPELINES.

(a) FLPMA.—Section 501 of the Act (43 U.S.C. 1761) is amended—

(1) in subsection (a)(2), by striking ''and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom,'' and inserting a comma after ''water''; and

(2) by adding at the end of subsection (b) a new paragraph, as follows:

''(4)(A) On and after the effective date of this paragraph, a right-of-way granted or issued pursuant to this section for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, shall be granted or issued only to an applicant possessing the qualifications provided in the first section of the Mineral Leasing Act (30 U.S.C. 181) and shall be subject to the requirements of section 28 of such Act (30 U.S.C. 185) as well as to the requirements of this Act; and each renewal of a right-of-way granted or issued after such effective date shall be subject to the same requirements.

''(B) If an applicant for a right-of-way under this paragraph is a partnership, corporation, as-

sociation, or other business entity, the Secretary or agency head shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (i) the name and address of each partner, (ii) the name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (iii) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

"(C)(i) The Secretary shall impose requirements for the operation of a pipeline and related facilities to be located on a right-of-way issued under this paragraph that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline.

"(ii) The applicant for a right-of-way under this paragraph shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary or agency head. The Secretary may authorize an advance payment covering more than one year's rental but less in total than the sum of the amounts otherwise payable over the period covered by such advance payment if the Secretary determines that such a discount for advance payment will promote efficiency of administration and is in the public interest.

"(iii) The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon right-of-way applications filed after the effective date of this paragraph.

"(D)(i) Pipelines and related facilities authorized under this paragraph shall be constructed, operated, and maintained as common carriers.

"(ii) The owners or operators of pipelines subject to this paragraph shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

"(iii) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

"(iv) The common carrier provisions of this paragraph shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act (15 U.S.C. 717 et seq.) or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

"(v) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase or transport, without discrimination, any such natural gas produced in the vicinity of the pipeline.

"(vi) The Government shall in express terms reserve and shall provide in every lease of oil lands that the lessee, assignee, or beneficiary, if owner or operator of a controlling interest in any pipeline or of any company operating the pipeline which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipeline operating a lease or purchasing gas or oil under the provisions of this chapter.

"(vii) Whenever the Secretary has reason to believe that any owner or operator subject to this paragraph is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, he may request the Attorney General to prosecute an appropriate proceeding before the Secretary of Energy or Federal Energy Regulatory Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located to enforce such obligation or to impose any penalty provided therefor, or the Secretary may suspend or terminate the grant of right-of-way for such pipeline.

"(viii) The Secretary shall require, prior to granting or renewing a right-of-way under this paragraph, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to—

"(I) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand;

"(II) conditions for adding or abandoning intake, offtake, or storage points or facilities; and

"(III) minimum shipment or purchase tenders.

"(E)(i) The Secretary shall report to the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources annually on the administration of this paragraph and on the safety and environmental requirements imposed pursuant thereto.

"(ii) The Secretary shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources promptly upon receipt of an application for a right-of-way for a pipeline 24 inches or more in diameter, and no right-of-way for such a pipeline shall be granted until after a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees.

"(iii) If the Secretary concerned is considering transferring out of Federal ownership any lands covered by a right-of-way granted, issued, or renewed under this paragraph, the Secretary shall so inform the holder of such right-of-way in advance and shall take such actions pursuant to section 508 of this Act as may promote the public interest in continued use of such right-of-way for pipeline purposes.

"(F) In the event of conflict between the provisions of other applicable law (or regulations pursuant thereto) and the requirements of this Act (or regulations pursuant thereto) with respect to rights-of-way for purposes described in this paragraph, the Secretary concerned shall apply the more restrictive provisions.

"(G) This paragraph shall take effect on the effective date of regulations promulgated by the Secretary for the implementation of this paragraph, or the date which is one year after the date of enactment of this paragraph, whichever first occurs.".

(b) MINERAL LEASING ACT.—Subsection (a) of section 28 of the Mineral Leasing Act (30 U.S.C. 185(a)) is amended by adding at the end thereof the following new sentences: "On and after the effective date of paragraph (4) of section 501(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(b)(4)), such rights-of-way through public lands managed by the Bureau of Land Management or lands within the National Forest System shall be granted pursuant to applicable provisions of title V of such Act (43 U.S.C. 1761 et seq.), and shall be subject to the applicable requirements of such Act and regulations issued pursuant thereto as well as to applicable provisions of this section (including but not limited to subsections (d), (f), (h), (j), (k), (m), (n), (o), (p), (x), and (y) thereof) and regulations issued pursuant thereto. In the event of conflict between the provisions of such Act (or regulations pursuant thereto) and this section (or regulations pursuant thereto), the more restrictive provisions shall apply.".

(c) SAVINGS PROVISION.—Nothing in this section shall apply to any right-of-way granted, issued, or renewed prior to the effective date of the new paragraph (4) added to section 501(b) of the Act by this section, or to any renewal after such date of any such right-of-way that has remained in continuous service and has not been terminated for noncompliance with applicable requirements of law or regulations. Nothing in this section shall be construed as preempting any State or local substantive or procedural law or standard, including any such standard relating to public health and safety, environmental protection, or siting, construction, operation, or maintenance applicable to any right-of-way or facilities thereon if such standard is more stringent than a corresponding standard established by applicable Federal law.

SEC. 16. CLAIMED RIGHTS-OF-WAY.

The Act is hereby amended by adding at the end of title III the following new sections 319 and 320:

"SEC. 319. RECORDATION OF CLAIMED RIGHTS-OF-WAY.

"(a) FILING REQUIREMENTS.—(1) Any party claiming to be a holder of a right-of-way across public or other Federal lands for the construction of a highway pursuant to a grant made by Revised Statutes section 2477 (43 U.S.C. 932) that became operative before repeal of such section on October 21, 1976, shall, on or before January 1, 1994, file for record in the office or offices of the Bureau of Land Management responsible for management of public lands within the State or States wherein such claimed right-of-way is located either a notice of intent to hold and maintain the right-of-way or a notice of abandonment of such party's claim to be the holder of such right-of-way. A notice of intent to hold and maintain such a right-of-way shall be accompanied by information concerning the actual construction, maintenance, and public use on which such party bases its claim to have established such a right-of-way, and by such other information regarding the uses, location, and extent of such claimed right-of-way as the Secretary of the Interior may require. The Secretary may allow information already in the possession of the Bureau of Land Management to be included by reference to the documents in which such information is recorded.

"(2) A party filing a notice pursuant to paragraph (1) shall also simultaneously file a copy thereof in the appropriate office of any other agency responsible for management of any Federal lands traversed by the claimed right-of-way, and shall give public notice of the party's intention to hold and maintain or to abandon

the claimed right-of-way by publication of information concerning such intention in one or more newspapers of general circulation in the areas where the affected lands are located.

''(b) EFFECT.—(1) The failure of any party subject to the requirements of subsection (a) to file the notices or to publish the information required to be filed and published by such subsection within the time specified by such subsection shall be conclusively deemed to constitute an abandonment and relinquishment of a right-of-way with respect to which such filing and publication is required by such subsection.

''(2) Recordation pursuant to this section shall not, of itself, render valid any claim which would not otherwise be valid under applicable law or provide a basis for changing the scope, alignment, or character or extent of use of any claimed right-of-way; and nothing in this section shall be construed as waiving, altering, or otherwise affecting any terms or conditions applicable to any right-of-way under this Act or any other applicable law.

''(c) INVESTIGATIONS.—(1) Upon receipt of a notice filed pursuant to subsection (a) that a party intends to hold and maintain a claimed right-of-way involving any lands specified in paragraph (2) of this subsection, the Secretary of the Interior, acting through an appropriate officer of the Bureau of Land Management or (if any portion of a claimed right-of-way covered by this subsection is located within a unit of the National Park System) of the National Park Service, shall conduct an investigation to determine the validity of each such claimed right-of-way. The Secretary shall provide an opportunity for the public to contest or request an investigation of the validity of any other claimed right-of-way.

''(2)(A) The Secretary shall investigate the validity of each claimed right-of-way any portion of which involves—

''(i) any lands within the National Park System, the National Wild and Scenic River System, or the National Wilderness Preservation System; or

''(ii) any lands being managed so as to preserve their suitability for designation as wilderness, pursuant to section 603 of this Act or any other provision of law or regulation; or

''(iii) any area of critical environmental concern; or

''(iv) any other lands whose use for highway purposes would be inconsistent with the land-use plans for those lands.

''(B) The Secretary shall also investigate any claimed right-of-way not involving lands specified in subparagraph (A) but with respect to which a challenge is filed that states grounds which, if proved or confirmed, would constitute reason to doubt the validity of such claimed right-of-way or any portion thereof.

''(3) If any portion of such claimed right-of-way is on Federal lands managed by an agency other than the Bureau of Land Management or the National Park Service, the investigating officer shall request the comments of such agency with respect to the validity of such right-of-way.

''(4) Appropriate notice to the public, including the owners of any non-Federal lands affected by the claimed right-of-way, shall be provided with respect to initiation of each investigation carried out pursuant to this paragraph, and the investigating officer shall provide an opportunity for the public to submit comments concerning the subject of the investigation.

''(5) If information or comments submitted to the investigating officer demonstrate that there is a dispute as to any relevant facts with respect to the validity of a right-of-way subject to an investigation under this paragraph, the parties to such dispute shall be afforded an adjudicatory hearing on the record with respect to such disputed issues of fact. Any such adjudicatory hearing shall be before a qualified administrative law judge whose findings shall govern disposition of such issues of fact in any determination concerning the validity of a claimed right-of-way, subject to administrative and judicial review under applicable provisions of law.

''(6) If after an investigation pursuant to this paragraph, the investigating officer finds either that a claimed right-of-way or portion thereof is valid or that there is reason to doubt the validity of such claimed right-of-way or portion thereof, notice of such finding and the reasons therefor shall be provided to the party claiming the right-of-way and to all other affected parties, including the public.

''(7) For purposes of this section, if any portion of a claimed right-of-way includes lands managed pursuant to section 603 of this Act, that fact shall constitute a reason to doubt the validity of such portion of such right-of-way.

''(d) APPEALS.—(1) Any claimed right-of-way or portion thereof with respect to which it is found, pursuant to subsection (b), that there is reason to doubt the validity, shall be deemed to be invalid unless, within 30 days after such finding the party claiming the right-of-way has filed with the Secretary of the Interior an appeal of such finding, and the Secretary thereafter determines the right-of-way to be valid. Any party other than the party claiming the right-of-way, may intervene in any appeal filed under this paragraph in support of the finding of invalidity by filing with the Secretary a notice of such intervention within the period allowed for filing of the appeal.

''(2) Any finding by the investigating officer with regard to the validity or invalidity of a claimed right-of-way or portion thereof valid shall become final unless within 30 days after such finding a notice of appeal of such finding is filed with the Secretary of the Interior.

''(3) Any decision by the Secretary with regard to an appeal under this subsection shall be made after the party claiming or contesting a right-or-way has been provided with the evidence upon which the investigating officer's finding regarding its validity or invalidity was based and has been given an opportunity to respond, including an adjudicatory hearing on the record with respect to any disputed issues of fact.

''(4)(A) Pending a final determination of validity with respect to a claimed right-of-way that is subject to an appeal under this subsection, the Federal land covered by such claimed right-of-way shall be managed in accordance with applicable law (including this Act) and management plans as if such right-of-way did not exist, except that such lands may continue to be used for lawful transportation, access, and related purposes of the same nature and to the same extent as was properly permitted by the Secretary on the date of enactment of this section. Any such continued uses shall be subject to appropriate regulations to protect the resources and values of the affected lands.

''(B) Upon a final determination of invalidity with respect to a claimed right-of-way subject to an appeal under paragraph (3), Federal lands covered by such claimed right-of-way shall be managed in accordance with applicable law and management plans.

''(C) A determination by an investigating officer as to the validity or invalidity of a claimed right-of-way may be appealed to the Secretary by any person, provided such appeal is made no later than 30 days after the determination of the investigating officer. Any person filing such an appeal shall be afforded an adjudicatory hearing on the record with regard to any disputed issue of fact. Any decision of the Secretary regarding such an appeal shall be subject to judicial review.

''(5) Any decision by the Secretary pursuant to this subsection shall be subject to judicial review under applicable provisions of law, but nothing in this subsection shall be construed as affording any right to seek or participate in any judicial proceeding by any party not otherwise entitled to seek or participate in such proceeding.

''(e) CHANGE IN USE.—Any change in the scope, alignment, or character of use of a valid right-of-way established pursuant to Revised Statutes section 2477 shall be subject to terms and conditions required by section 505 of this Act or other applicable law.

''(f) SAVINGS CLAUSE.—Nothing in this section shall be construed as increasing or diminishing the requirements of any applicable law with respect to establishment, construction, or maintenance of a highway for purposes of obtaining a valid right-of-way pursuant to Revised Statutes section 2477 prior to its repeal.

"SEC. 320. RIGHT-OF-WAY IN ALASKA CONSERVATION SYSTEM UNITS.

''Nothing in this Act shall be construed as exempting any proposal for any construction on or change in the scope, alignment, or character or extent of use of any portion of any right-of-way claimed to have been established pursuant to Revised Statutes section 2477 on any lands within any conservation system unit in Alaska from the requirements of title XI of the Alaska National Interest Lands Conservation Act.''.

SEC. 17. WILD HORSE SANCTUARY REPORT.

(a) WAITING PERIOD.—The Secretary shall take no action to remove any animals covered by Public Law 92–195 (commonly known as the ''Wild Free-Roaming Horses and Burros Act'') from any area being operated, under an agreement with the Secretary, as a sanctuary for such animals on May 22, 1991, or to alter arrangements existing on such date for care and maintenance of such animals, sooner than 120 days after transmittal to the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of the report required by this section.

(b) REPORT.—(1) The Secretary of the Interior shall report to the committees specified in subsection (a) concerning the status of the sanctuaries specified in such subsection and any alternative arrangements that the Secretary may be considering to assure the continued longterm welfare of the wild horses located on such sanctuaries on May 22, 1991, with a detailed estimate of the costs and advantages or disadvantages of such alternatives as compared with continuation of arrangements in effect on such date for such animals.

(2) Prior to transmitting the report required by this section to the committees specified herein, the Secretary shall provide an opportunity for the public to make suggestions concerning the alternative arrangements to be discussed in such report, and to review and comment on the report.

SEC. 18. TABLE OF CONTENTS AMENDMENTS.

The table of contents of the Act is amended by inserting after the item relating to section 318 the following new items:

''Sec. 319. Recordation of claimed rights-of-way.

''Sec. 320. Right-of-way in Alaska Conservation System Unit.''.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 14, line 10, through page 22, line 8: strike section 15 in its entirety, and renumber subsequent sections accordingly.

Mr. VENTO. Mr. Chairman, this is a very simple amendment. It would delete section 15 from the bill entirely.

Section 15 is the part of the bill that would amend FLPMA so as to bring under that act the issuance and management of rights-of-way for oil and gas pipelines.

Currently, rights-of-way for other purposes are governed by FLPMA, but rights-of-way for oil and gas pipelines are issued and managed under the Mineral Leasing Act. The purpose of this part of the bill is simply to bring uniformity to this aspect of management of public lands.

After the bill was ordered reported, but before the report had been filed, the chairman of the Committee on Energy and Commerce wrote to Chairman MILLER, indicating that the Energy and Commerce Committee believed that it would be entitled to a sequential referral of the bill because of a jurisdictional interest in this part of the bill.

On behalf of the Interior Committee, Chairman MILLER responded that we do not agree that a sequential referral would be in order under the rules of the House, but in the spirit of cooperation and comity, we would move to delete this section.

That is all that this amendment would do. In my opinion, section 15 of the bill is sound and desirable, but under the circumstances it can be set aside now and dealt with later, in the interests of expediting action on the remainder of this BLM reauthorization bill.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I have no objection to the amendment. There is no objection on this side to the withdrawal of section 15.

If the gentleman from Minnesota would answer a question, that extends through what page?

Mr. VENTO. Page 22, all of section 15.

Mr. MARLENEE. Pages 14 through 22, section 15?

Mr. VENTO. Yes, the gentleman is correct.

Mr. MARLENEE. Mr. Chairman, I have no objection and would urge this amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYNAR

Mr. SYNAR. Mr. Chairman, I offer an amendment on behalf of myself, the gentleman from Georgia [Mr. DARDEN] and the gentleman from Massachusetts [Mr. ATKINS].

The Clerk read as follows:

Amendment offered by Mr. SYNAR: Page 31, after line 16 (at the end of the bill), add the following new section:

SEC. 19. GRAZING ON THE PUBLIC RANGELANDS.

(a) FEE STRUCTURE AND GRAZING REFORMS.—Section 401 of the Act (43 U.S.C. 1751), as amended by section 13(b) of this Act, is amended by adding at the end the following new subsections:

"(b)(1) Notwithstanding any other provision of law, the Secretary of Agriculture with respect to public domain lands (except for the National Grasslands) administered by the United States Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish the following domestic livestock grazing fee structure for such grazing:

"(A) For fiscal year 1992, the grazing fee on such lands shall not be less than $4.35 per animal unit month.

"(B) For fiscal year 1993, the grazing fee on such lands shall not be less than $5.80 per animal unit month.

"(C) For fiscal year 1994, the grazing fee on such lands shall not be less than $7.25 per animal unit month.

"(D) For fiscal year 1995, and each fiscal year thereafter, the grazing fee on such lands shall not be less than $8.70 per animal unit month or fair market value, whichever is higher.

"(2)(A) For purposes of this subsection, the term 'fair market value' is defined as follows:

$$\text{Fair Market Value} = \text{Appraised Base Value} \times \text{Forage Value Index}/100$$

"(B) For the purposes of subparagraph (A)—

"(i) the term 'Forage Value Index' means the Forage Value Index computed annually by the Economic Research Service, United States Department of Agriculture; and

"(ii) the term 'Appraised Base Value' means the 1983 Appraisal Value conclusions by animal class (expressed in dollars per head or pair month) for the pricing area concerned, as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of the Interior entitled 'Grazing Fee Review and Evaluation', dated February 1986.

"(3) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this Act.

"(c) The grazing advisory boards established pursuant to Secretarial action, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17874), are hereby abolished, and the advisory functions exercised by such boards shall, after the date of enactment of this sentence, be exercised only by the appropriate councils established under this section.

"(d) Funds appropriated pursuant to section 5 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904) or any other provision of law related to disposition of the Federal share of receipts from fees for grazing on public lands or National Forest lands in the 16 contiguous western States shall be used for the restoration and enhancement of fish and wildlife habitat, for restoration and improved management of riparian areas, and for implementation and enforcement of applicable land management plans, allotment management plans, and regulations regarding use of such lands for domestic livestock grazing. Such funds shall be distributed as the Secretary concerned deems advisable after consultation and coordination with the advisory councils established pursuant to section 309 of this Act and other interested parties.".

(b) REPEAL OF PRIOR AUTHORITY.—Section 5 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904) is amended by striking out subsection (c) and redesignating subsection (d) as subsection (c).

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. Pursuant to the rule, debate on this amendment and all amendments thereto shall not exceed 1 hour.

The gentleman from Oklahoma [Mr. SYNAR] is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. Mr. Chairman, how much time is allocated to this side?

The CHAIRMAN. At this time, there is no allocation and the Committee will proceed under the 5-minute rule, unless the Committee of the Whole agrees to a division of the time.

Mr. MARLENEE. Who has control of the time, Mr. Chairman?

The CHAIRMAN. Any Member seeking recognition will be recognized for 5 minutes. The rule is silent as to the allocation.

Mr. VENTO. Mr. Chairman, if the gentleman will yield to me, would a unanimous-consent request be in order to divide the time equally between the gentleman from Oklahoma [Mr. SYNAR] and a Member opposing the Synar and other related amendments?

The CHAIRMAN. That will be a proper request, if the gentleman would wish to make it.

Mr. SYNAR. Mr. Chairman, if the gentleman will yield, as the gentleman knows, not only is this an amendment to the bill, but there is probably going to be a second amendment to that. I think it would probably be better if we allowed the debate to proceed and then the gentleman from Ohio will be offering an amendment and be given an opportunity to debate his amendment.

Mr. VENTO. At some point, Mr. Chairman, I think we ought to divide the time. I will try to negotiate something with the minority side.

The CHAIRMAN. Perhaps the gentleman from Minnesota and the gentleman from Montana can agree on a unanimous-consent request that would follow the initial statement of the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, almost one year ago in October the House made a very important decision on behalf of our natural resources. We made a decision that we were going to make sure that we got the fair market value for the lands which are grazed throughout our country. Since that time, I have done my very best as the chairman of the Oversight Committee on

Government Operations in charge of Environment, Energy and Natural Resources, to provide the leadership necessary to make sure that we made the right decision back in October.

One year since that fateful day we presented to the Members for their consideration an updated GAO report, which took into account not only the facts that we have found leading into the October vote last year, but literally reviewing every document, every shred of evidence that had ever been written or talked about during the tenure of the grazing fee.

I also took the opportunity as the chairman of the Oversight Committee to travel out West to States like Colorado, New Mexico, and Arizona, to visit firsthand with the people who were involved in the grazing program throughout this country.

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After this period of time I came to the conclusion as GAO did in its report of just a month ago, that not only are the grazing fees too low in this country but they have been too low for too long a time.

The facts that we debate today are really not in debate. Only 2 percent of the cattle industry in this country enjoys the grazing benefits. Of those 2 percent, 10 percent of our grazing permittees control over 50 percent of the lands which are involved in grazing in this country.

A second fact is that we lose $150 million a year on our grazing permits. We have lost over $650 million in the last 5 years. And finally, it is undebatable that 60 to 70 percent of our grazing lands in this country are in poor or unsatisfactory condition.

Since that debate of October of last year, not one of those three basic facts has ever been refuted, and yet they have tried to change the debate into one of emotion and motive.

First of all, they accuse the authors, Mr. DARDEN, Mr. ATKINS and myself of not understanding the grazing situation in this country. After we brought to their attention that all three of us are former agricultural people involved in 4-H throughout our lives, they changed the debate. They then began to call us vegetarians, ecoterrorists, people who were for cattle-free in 1993. When they realized that none of us was trying to eliminate grazing on Federal lands, they dropped that argument.

Finally, they have come up with the argument that what we are going to do by this amendment is we are going to destroy literally the way of life in the West in the cattle industry as we know it. Yet, they have provided no evidence in the last year to substantiate that claim. In fact, if anything, the fact that it affects only 8 percent of the cattle industry west of the Mississippi and the fact that New Mexico doubled its grazing fee in the last year and not one grazing permittee dropped the lease, really begs the question.

Today the choice is very clear and very clean: If you want to quit subsidizing 2 percent of the cattle industry in this country, you must support the Darden-Atkins-Synar amendment. If you want to pay for this program and make it pay as it goes, you must support the Darden-Atkins-Synar amendment. If you want to protect our national assets and our natural resources for future generations, you must support the Darden-Atkins-Synar amendment. And if you want to start running this grazing program like a business, then you must support the Darden-Atkins-Synar amendment.

To do anything less denies the facts; to do anything less denies the impact. The time is now for leadership, accountability and fairness.

Support the Darden-Atkins-Synar amendment.

AMENDMENT OFFERED BY MR. REGULA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SYNAR

Mr. REGULA. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA as a substitute for the amendment offered by Mr. SYNAR: In lieu of the matter proposed to be inserted, insert:

Page 31, after line 16 (at the end of the bill), add the following new section:

SEC. 19. GRAZING ON THE PUBLIC RANGELANDS.

(A) FEE STRUCTURE.—Section 401(a) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1751), as amended by section 13(b) of this Act, is hereby amended by adding at the end the following new subsection:

"(b)(1) Notwithstanding any other provision of law, the Secretary of Agriculture, with respect to National Forest lands in the 16 contiguous western states (except National Grasslands) administered by the United States Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public domain lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish beginning with the grazing season which commences on March 1, 1992, an annual domestic livestock grazing fee equal to fair market value: *Provided*, That the fee charged for any given year shall not increase nor decrease by more than 33.3 percent from the previous year's grazing fee.

"(2)(A) For purposes of this subsection, the term 'fair market value' is defined as follows:

Fair Market Value=Appraised Base Value × Forage Value Index divided by 100.

"(B) For the purposes of subparagraph (A)—

"(i) the term 'Forage Value Index' means the Forage Value Index (FVI) computed annually by the Economic Research Service, United States Department of Agriculture, and set with the 1991 FVI equal to 100; and

"(ii) the term 'Appraised Base Value' means the 1983 Appraisal Value conclusions for mature cattle and horses (expressed in dollars per head or per month), as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of Interior entitled 'Grazing Fee Review and Evaluation,' dated 1986, on a westside basis using the lowest appraised value of the pricing areas adjusted for advanced payment and indexed to 1991.

"(3) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this Act."

"(c) The grazing advisory boards established pursuant to Secretarial action, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17874), are hereby abolished, and the advisory functions exercised by such boards, shall, after the date of enactment of this sentence, be exercised only by the appropriate councils established under this section.

"(d) Funds appropriated pursuant to section 5 of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904) or any other provision of law related to disposition of the Federal share of receipts from fees for grazing on public domain lands or National Forest lands in the 16 contiguous western States shall be used for restoration and enhancement of fish and wildlife habitat, for restoration and improved management of riparian areas, and for implementation and enforcement of applicable land management plans, allotment plans, and regulations regarding the use of such lands for domestic livestock grazing. Such funds shall be distributed as the Secretary concerned deems advisable after consultation and coordination with the advisory councils established pursuant to section 309 of this Act and other interested parties.".

Mr. REGULA (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. VENTO. Mr. Chairman, would it be appropriate at this time to offer an even distribution of the time? First, Mr. Chairman, how much time remains?

The CHAIRMAN. Fifty-five minutes remain.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio [Mr. REGULA] be recognized for 5 minutes as would be his right, that 22½ minutes be yielded to a Member in favor of the Regula-Synar amendment, and that 27½ minutes be yielded to a Member opposed to that, who I assume would be Congressman MARLENEE.

The CHAIRMAN. The Chair would clarify the gentleman's unanimous-consent request: He indicates he wishes the gentleman from Ohio to have 5 minutes, which would leave 50 minutes to be equally divided. Or would the gentleman's 5 minutes be included within the 55 minutes to be divided?

Mr. VENTO. Mr. Chairman, I would want Mr. REGULA's time to be included in that.

Mr. Chairman, I would ask that 27½ minutes be yielded, or that the time be divided equally between myself and Mr. MARLENEE and that we would then control the time and I would yield to Mr. REGULA such time as he may need to describe his amendment, and Mr. MARLENEE would control and yield such time in opposition to the Synar and/or Regula amendments.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. MARLENEE. Mr. Chairman, reserving the right to object, how much time do I have to yield to the opposition?

Mr. VENTO. Mr. Chairman, if the gentleman will yield, the gentleman would have half of the 55 minutes, or 27½ minutes.

Mr. MARLENEE. I thank the gentleman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] will be recognized for 27½ minutes, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 27½ minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased that at long last we are having the debate on grazing fees on this bill, the BLM reauthorization. In recent years this issue has been the subject of debate in the Interior Appropriations Subcommittee on which I serve as the ranking Republican, and the real issue—the fairness of the Federal grazing fee—has gotten lost in procedural issues. Today the real issue of an equitable level at which to set Federal fees for grazing on public lands can be fairly and openly debated, unfettered by procedural entanglements.

Let me say from the outset that I do not believe any of us on this floor today can definitively say what the proper grazing fee should be. After reading all of the voluminous literature, I am convinced that the current formula has succeeded in keeping the fee artificially low and that it is time for a change.

I am also convinced, as my colleague, the gentleman from Oregon said in a "Dear Colleague" this week, that for those who oppose my amendment and the amendment of the gentleman from Oklahoma, "the bottom line is that no increase is acceptable". And this my friends is really what this debate is about.

My amendment has two basic differences from the Synar amendment.

Whereas the gentleman from Oklahoma's amendment sets a floor on grazing fees, mine essentially would set a ceiling. Grazing fees could not increase by more than 33.3-percent in any one year. In 1992 for example, the maximum fee would be $2.63 under my amendment. The Synar amendment sets the fee at a minimum of $4.35 in 1992.

The second difference involves the basis used for calculating fair market value. Fair market value would be calculated using the appraised value of grazing lands in the area which has the lowest land values. Mr. SYNAR chose the highest basis, the pricing area basis and my amendment would choose the lowest base value the westwide basis which results in a much lower fee increase.

Another significant point is that the Bureau of Land Management has done an analysis of the revenue impact under both Mr. SYNAR's amendment and mine which shows that while revenues would begin to drop off in 1993 under the Synar amendment based on an estimated decline in AUM's sold, under my amendment, revenues continue to increase through 1995 with no estimated decline in AUM's sold. In other words, under my amendment, the projected demise in the western livestock industry would not occur.

The current grazing fee of $1.97 per AUM is inconsistent with the Federal Land Policy and Management Act mandate which requires the Government to receive fair market value for its public land resources.

In fact, the recent GAO report concluded that the formula meets an objective of promoting the economic stability of western livestock grazing operators and is intentionally designed to keep fees low. It does not recover reasonable program costs or provide a revenue base that can be used to better manage and improve Federal lands.

In fact, while private land lease rates have increased streadily over time, the current formula has kept Federal fees relatively low and within a fairly narrow range. The gap between Federal grazing fees and private land lease rates is wide and growing. Over the past 10 years the Federal grazing fee has dropped 15-percent while private rates have increased 17 percent.

Proponents of the status quo argue that the costs associated with operating on public lands are significantly higher than on private lands. In fact, the current formula has taken that concern into account twice by double counting ability-to-pay factors.

The formula has further suppressed the fee by emphasizing cost elements most affected by inflation and market changes, such as fuel and equipment costs and excluding those that tend to increase less over time such as feed and fertilizer.

If one looks at the costs associated with the grazing program the fee does not even cover the Government's costs of management of the grazing program. The Forest Service reports that it costs $3.86 per AUM to manage its livestock grazing program. The current grazing fee of $1.97 leaves a shortfall of $1.89 per AUM.

The BLM says its livestock grazing management costs represent 60-percent of its total rangeland management budget totaling about $21 million in fiscal year 1990. Gross grazing receipts during this same year were about $19 million.

In fact, the loss to the Federal Treasury, however, is even greater because the Treasury retains, at most, only 37.5-percent of the grazing fees collected. Of the gross Federal grazing fee revenue, between 12.5-percent and 50-percent of BLM collections and 25-percent of Forest Service collections are returned to the State and county government in which they were collected.

In addition, 50-percent of the collections are returned to BLM and the Forest Service to fund various range improvements—fences, water development, et cetera—all of which benefit the permittee. Range improvement funds ultimately expended are in addition to these program management costs.

Moreover, BLM and the Forest Service have recognized that existing levels of program management and range improvements are insufficient to perform all important management functions and restore lands damaged by grazing activity. A 1990 BLM report found that the agency needed a nearly 50-percent increase in its range management budget from fiscal year 1989 levels to accomplish its program management objectives.

The artificially low grazing fees currently in place benefit only 2-percent of all livestock producers and only 7-percent of all livestock producers in the 16 western States. It is time the subsidy ended and we begin to receive fair market value for the rights to graze on Federal lands.

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Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman and Members, I rise in opposition to the substitute of the gentleman from Ohio [Mr. REGULA]. The gentleman from Ohio will try to convince us that a 33-percent increase in the grazing fee is fair and equitable to the cattle industry in the West, and it is not. Any increase that would displace thousands of commercial ranch operations is not fair and is not equitable, and it would cause the cattle industry in the West to become extinct in 6 years.

Now do not be mistaken. This is not a 33⅓-percent increase. This changes the fair market value we are currently under in America under the Public Ranch Improvement Act enacted in 1978 from $1.23 to $4.68. That, my colleagues, is a 380-percent increase. So, do not be fooled by this 33⅓-percent business.

Mr. Chairman, a noted range economist from Oregon State University, who I had analyze the amendment of the gentleman from Ohio [Mr. REGULA], suggested this: In the first 3 years it would displace 1,900 small commercial ranch operations; within 4 years, two-thirds of the western livestock ranchers, and finally, in 6 years there would be no more western livestock operations and, therefore, no more income.

Despite these wild accusations we hear, people suggest that we are going to lose $150 million. Not so. The amendment of the gentleman from Ohio [Mr. REGULA] does not account for the differences in range forage between the Virginia countryside and the rock flats of the West.

Remember this: There are about 31,000 family operations in America; 88-percent of them make less than $28,000 annually. Now may I say that again? Twenty-seven thousand two hundred eighty people make less than $28,000 a year. Who are these big operators anyway?

Mr. MARLENEE. Mr. Chairman, I yield 1 minute the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Montana [Mr. MARLENEE] yielding this time to me.

Mr. Chairman, in this short time that I have in this 1 minute just let me say this. There is an old saying around that says, "You won't hurt a dog if you cut off his tail an inch at a time." Now I really think that the amendment of the gentleman from Oklahoma [Mr. SYNAR] cuts if off in one fell swoop, and the amendment of the gentleman from Ohio [Mr. REGULA] does it in 5 years, and the best information we have got is this amendment of the gentleman from Oklahoma [Mr. SYNAR] takes it in 1 year, they are gone, and the amendment of the gentleman from Ohio [Mr. REGULA] does it in 5 years.

Now I have great respect for the gentleman from Ohio [Mr. REGULA], an absolutely outstanding person, but here I think we are going to fool ourselves. We think this is a free environmental vote. It is not. We will fool ourselves if we do not think that we are going to kill the grazing industry, because we are.

Let me just say, Mr. Chairman, those folks are sitting in their offices and are going to come over and vote on this. Please, folks, keep in mind three things we are going to do. Number one, we are going to lose money for the Federal Government. BLM has told us it is going to go from 18 million to 1 million. Number two, some of the best range managers in the West have said that we are going to hurt the environment. For years we have been working on taking care of the environment. Number three, 31,000 families take gas.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. DARDEN], a sponsor of the grazing issues in the Committee on Interior and Insular Affairs.

Mr. DARDEN. Mr. Chairman, to summarize, our amendment increases grazing fees over a 5-year period so that by fiscal year 1995, the BLM would charge $8.70 for the privilege of grazing on public lands. This fee, while on the low side when compared to those charged for leasing private lands, is based on the BLM's own determination of the forage consumed by trespassers on public lands. The amendment also abolishes wasteful and outdated grazing advisory boards, which continue to make decisions about the expenditure of grazing fee receipts on the basis of a commitment to increased profits for cattle ranchers rather than to the range improvements required by law. Finally, the amendment provides that the grazing fees collected by BLM will be used appropriately, for repairs and improvements on the rangelands.

We offer this amendment again because this is the legislation to which it should be attached. The Bureau of Land Management controls a significant portion of the grazing lands, and any changes in grazing fees or permit process should be made by the authorizing legislation. Our preference would have been to proceed to consideration of H.R. 1096 before Interior appropriations came to the floor, but scheduling considerations precluded this approach.

As most of you know, I have been working on grazing fee increases for about 5 years now. The fee currently charged by the Government for use of public lands, $1.97, is well below comparable fees charged on private lands, and does not generate enough revenue to pay for the costs of operating this program.

Grazing permits are not entitlements nor does anyone hold an inherent right to graze on public lands. Grazing on public lands amounts to a privilege offered at the Government's sufferance; a program established for mutual benefit. But when the grazing program does not generate enough revenue to maintain the land, and when the resource is significantly damaged by continued use, it becomes a burden rather than in asset.

Grazers are profiting from public rangelands. Most of those who currently hold permits can well afford the increase; in fact, many are owned by large corporations and ranchers with major holdings.

The House has heard our case twice in the last year, and I see no need to waste anyone's time by restating the obvious. Our opponents clearly have not been convincing; their arguments have failed to address the glaring inequities in the current operation, and I urge my colleagues to once again support our efforts to end the free ride for wealthy ranchers, and to help us enact a fee that is reasonable and responsible.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Chairman, I rise today in strong opposition to Representative SYNAR's proposal to raise grazing fees on public rangelands.

Mr. Chairman, like Yogi Berra, "I'm having deja vu all over again." Just 29 days ago, I stood here in the well of the House opposing the same bad proposal to radically increase grazing fees on the public lands. And, here we are again, attempting to legislate, without hearings and adequate testimony, on a far-reaching proposal to drive ranchers off the public lands.

Let's look back for a minute. In 1978, Congress consulted, compromised, and constructed a commonsense solution to the problem of deteriorating rangelands. That solution was called the Public Rangelands Improvement Act [PRIA]. Thousands of hours of hard work went into this landmark piece of legislation. Numerous hearings were held in both bodies of Congress. As a matter of fact, more than 14,000 personal interviews were conducted with public and private land ranchers, scientists, economists, and the financial community, taking 3 years to complete. The market-based compromise enjoyed the support of groups such as the National Association of Conservation Districts, Society for Range Management, Wyoming Sierra Club, Northern Great Plains Sierra Club, Wyoming Wilderness Society, and Wyoming Outdoor Council; all supported the PRIA compromise.

The reason that the PRIA formula had, and still enjoys, broad support is that it is market oriented. The PRIA formula creates a fair market value for livestock grazing on public lands that is adjusted annually according to production costs, market prices, and private land lease rates. The PRIA formula is market oriented based upon the Forage Value Index, an index of annually surveyed grazing land lease rates in the Western States. Thus, when beef prices are high and ranchers can afford to pay higher fees, the fee increases. Under this formula, grazing fees increased nearly 9 percent last year.

Make no mistake. The issues of range management are complicated. They require intricate environmental and economic considerations. There is conflicting data and information about nearly every aspect of this entire issue.

For example, we have heard from the proponents of this meat-ax approach that our rangelands are in bad condition. However, according to the "State of the Public Range 1990" published by the BLM:

> The current trend is stable to improving on over eighty-seven percent of public range-

> lands. According to the report, the "public rangelands are in a better condition than at any time in this century."

The Society for Range Management said in a 1989 report titled "Assessment of Rangeland Condition and Trend of the United States":

> Current management practices are adequately protecting the soil and are acceptably maintaining or improving plant species composition and production.

Prof. Thadis Box, of New Mexico State University, supported this conclusion. According to Professor Box:

> American rangeland has improved over the past 40 to 60 years and is in much better condition than it was 80 years ago. Today, science is available to use grazing animals as tools to improve the landscape and enhance environmental stability.

The point is, Mr. Chairman, this debate should be returned to a proper forum, a place where testimony can be heard, facts submitted, and a well-thought-out solution can be formulated. That place is the Interior Committee.

In closing I want to say that I have an incredible amount of respect for this institution and its Members and I would urge my colleagues to reject the Synar proposal and allow the germane committees to complete their work. As a Member from a public land State with nearly 38 million acres of Federal land, where cattle represent a larger industry than our famous potatoes, and where nearly 90 percent of the cattle raised spend some time on the public range, I can tell you this legislation is a bad idea and we're going about it in the wrong way.

□ 1520

Mr. VENTO. Mr. Chairman, I reserve the balance of my time.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding to me.

I rise in opposition to the amendment by the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Ohio [Mr. REGULA].

I thank the gentleman from Ohio [Mr. REGULA] for what he is doing. I think his is more reasonable but still an unnecessary amendment to this bill.

As has been pointed out, we have been over this ground a number of times. There is hardly anything new to say.

Let me summarize some of the things that have been talked about that I guess need to be reviewed. One is, this amendment is unwarranted and an oversimplification. The comparison is always made to private leasing, private land leasing. There is no similarity at all between having a lease, sometimes a joint lease, on public lands and leasing private lands in terms of having water provided, fencing provided, transportation, and those things.

It has also been mentioned that these fees simply help large corporations raise livestock. That has not been raised today, but I am sure it will be before we are through. Eighty-eight percent of the grazing permittees on BLM lands are classified as family operations. Certainly that is the case in my State.

Grazing is beneficial to the resources, particularly for those of wildlife and hunters. Ranchers provide for landwater development, noxious weed control, increased forage growth. These are improvements to that resource that are enjoyed by others in addition to the grazers.

BLM has pointed out in Wyoming that the Wyoming conditions are better than they were a century ago, 6½ percent of the rangelands are in excellent condition; 50 percent are in good condition, and nearly 40 percent in fair condition by their own assessment.

Contrary to the statements made by the sponsors of the legislation, there is a contribution to the public treasury. The Director of the BLM testified before our committee that the cost to administer with the livestock provides some net return when the cost with no livestock would of course be a direct drain.

Finally, I am concerned this is a regional issue. This Congress is here for national policy. Multiple use is good national policy.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. ATKINS], a member of the Subcommittee on Interior of the Committee on Appropriations and active on this issue.

Mr. ATKINS. Mr. Chairman, I rise in support of the Regula amendment to the Synar amendment. Mr. Chairman, we have raised the issue of whether this is a public subsidy or not. Let me just make the record very clear. Not only is this a subsidy, this is one of the richest, sweetest, most narrowly focused subsidies that the Federal Government offers.

It is a subsidy, first of all, because we pay in taxpayer money $60 million more to maintain this rangeland than we take it in the fees each year. It is a subsidy because there is a fair market value established and a market rate established for these leases, and it is $9.22 per animal unit month, and the Federal Government charges only $1.97 per animal unit month.

It is finally a subsidy because the IRS itself has accepted it as a subsidy and indeed the opposition groups in their white paper have established very clearly the fact that if one has land, one has a permit, it has a value. The value is $600 per animal unit month. That is a value that the IRS has set, has been recognized, and a value that the Cattlemen's Association, the Wool Growers, have placed on this in talking about the capitalizations and the capitalization costs and how they affect the cost to private individuals.

Who is getting the subsidy? Is it just the small cattleman? Is it just that poor guy who is making $20,000 or $30,000 a year, his family? It is not.

I have a list here that the gentleman from Oklahoma [Mr. SYNAR] had to virtually drag out of the Bureau of Land Management of 300 of the largest people and who they are who have the bulk, I might add, the bulk of the total acreage, 90 percent of the acreage.

They are large corporations: Union Oil, Getty Oil, Texaco. There are foreign operations, Zenchiku Co., a Japanese-based meat company that leases 41,000 acres of United States taxpayer subsidized Federal ranchland in Montana. And yes, 88 percent of these people are private individuals, but the bulk of that land that is controlled by private individuals is controlled by a small percent of those individuals, people like Mr. Daniel H. Russell, of Santa Barbara, CA. He controls over 5 million acres of public rangelands, according to the BLM records.

This is a person who controls a ranch, a public subsidy, a Government grant in perpetuity virtually of an area that is larger than my State of Massachusetts. So this is not an issue of small ranchers. It is not an issue of destruction of a western way of life.

It is a subsidy that goes to less than 2 percent of the cattlemen in this country, that distorts the market forces for that industry, and it is a subsidy that is going, 90 percent of that subsidy is going to 10 percent of the corporations and individuals who are lessees.

Just to give my colleagues an idea of how sweet this subsidy really is, the gentleman from Ohio [Mr. REGULA] asked the BLM and the Forest Service how many people, if his amendment passes, how many people do they estimate will get out of the program. Not a one. The estimate from BLM and the Forest Service, the people who support this provision, is that they would not lose a single lessee with these increases.

Mr. MARLENEE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we hear so much about the question of subsidy and grazing on public lands. My esteemed colleagues, the gentleman from Massachusetts, surely would support an effort to remove the subsidy from grazing winter wheat in Oklahoma. One of the greatest subsidies in the United States of America, they seed the winter wheat in the fall. They graze it all fall. They graze it during the winter. They graze it in the summer, and then collect a subsidy in Oklahoma on grazing winter wheat.

It would seem to me that if we are going to remove subsidy, that would be one place where the greatest subsidy exists and we could cut.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. CAMPBELL].

□ 1530

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise in strong support of H.R. 1096, the bill authorizing funding for the Bureau of Land Management.

As many know, the congressional district I represent is comprised of more than 7 million acres of public lands that are managed by the BLM. The programs the BLM administers are crucial to the economic well-being of nearly every community in the district.

Since the Federal Land Policy and Management Act [FLPMA] was passed in 1976, public attitudes toward Federal land management have been radically transformed. While no one can argue that oil and gas development and timber harvesting are unimportant, no one could foresee that the recreation industry would replace natural resource exploitation industries as Colorado's most reliable source of income.

For instance, Grand Junction, CO, promotes Kokepelli's Trail, a 125-mile mountain bike trail that extends from Grand Junction to Moab, UT. In Montrose, Delta, and Gunnison, CO, the communities have united to support the designation of Black Canyon of the Gunnison National Conservation Area to blend hiking, river rafting, and fishing in the Gunnison River with the protection that wild and scenic river and wilderness designation will afford this area. In Cortez, CO, oil and gas development competes with archeological resource protection as the area's highest priority.

This increased attraction to the beauty of the lands BLM manages has increased the scrutiny on BLM management policies. As a result of this scrutiny I believe some fine tuning of the BLM's basic mission is necessary to allow the BLM to keep pace with changing public attitudes and needs.

Unless the BLM is given the authority to address issues that have been raised by the Interior Committee and the General Accounting Office, national environmental groups will continue to blame my constituents for the BLM's shortcomings.

My support is not unconditional, however, and I am adamantly opposed to the amendment by my colleagues Mr. SYNAR and Mr. REGULA to increase grazing fees. If that amendment is accepted, it will tip the scales and make it impossible for the reforms contained in this legislation to reach the President's desk.

In closing, I want to thank Chairman VENTO for being sensitive to my past concerns with respect to this bill, for crafting an acceptable compromise and to urge him and others to oppose any amendments that will hurt this bill's chances for passage.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Synar-Darden-Atkins amendment and the amendment offered by the gentleman from Ohio [Mr. REGULA].

Mr. Chairman, we did debate this amendment just a few short weeks ago, and the House spoke overwhelmingly at that time that it wanted an adjustment to these fees and to this program.

Mr. Chairman, as was mentioned in the general debate and the debate on the rule, the Regula amendment really goes to the issue of fairness. There is a great deal of emotion around this issue, on both sides, around the question of fairness.

But I think it goes to the question of whether or not the taxpayer, the Federal Government, is entitled to a fair return, to fair market value as is put forth in the amendment of the gentleman from Ohio [Mr. REGULA].

Mr. Chairman, I think that fairly states the case, because no private sector landlord would engage in the practices that we are asking the Federal Government to engage in here. He would ask at a minimum he get the cost of doing business, or the fair market value of those lands.

As has been pointed out here time and again, those lands are sublet for much higher fees than the Federal Government receives from the original lessee. Why are we the middleman, the person to enable that? What about the taxpayers that are paying for this program? That is what the Regula amendment goes to, and it is an amendment to Synar-Darden.

Mr. Chairman, I think this is an important piece of legislation. This is a program, mind you, where they have paid in the last decade some $200 million in grazing fees. Half of that money went immediately back to those same ranchers, to the same farmers, for the improvements that have allowed them to continue to ranch and farm this land.

The $112 million did not go to the Treasury, it did not go to offset the deficit, it did not go for any of those public purposes. It went right back into the pockets of the people that paid the Government in the first place.

Mr. Chairman, they paid at a subsidized rate, a less than fair market rate, and then we gave half of it back to them. We rebated half of the rents they paid back to them so they could build the ponds, so they could build fences, so they could build the gates, so they could build the support systems for grazing.

Out of that $112 million that we sent back to these people, they are unable to account for half of it. BLM tells us that they do not know how they spent over half of the money that we rebated to them.

Mr. Chairman, it is a little difficult to have them come in at this hour and cry poor, have them cry unfairness, when over half of the subsidized rates that they paid to the Government was given right back to them for them to determine how to be spent, without any oversight by BLM, without any oversight by this Congress, and now we find out they cannot tell us how they spent the money.

Mr. Chairman, I think the gentleman from Ohio [Mr. REGULA] is on to something, because if they have not spent the money in that fashion, they have sublet it. As the gentleman from Ohio [Mr. REGULA] pointed out earlier, in the private market, the rents are going up. In the public market, the rents are going down. The price of beef at the slaughterhouse is always the same. That is why I think consumers, or the ratepayers, are entitled to this kind of consideration offered by the gentleman from Ohio [Mr. REGULA].

Mr. Chairman, I rise in strong support of the Synar-Darden amendment to bring equity and sanity to the critical public land use issue of grazing fees and ranchland policy.

The Synar-Darden amendment will end the gross and unfair domination of public ranchland decision making by a privileged ranching elite. At a time of tight Federal budgets and a bull market for beef, this amendment couldn't be more welcome—it will save taxpayer's money, improve the management of public lands, and restore the ethic of efficiency and reasonableness to a public resource program that has run amok.

Far from being an objective assessment of the cost of grazing on public lands, the current grazing fee formula is a boondoggle for public land ranchers. The formula overestimates ranchers' grazing costs and underestimates the benefit of the subsidy. The grazing fees are below fair market price, noncompetitive, and do not even cover the Government's operational costs. The Bush administration, unfortunately, supports this taxpayer abuse. The General Accounting Office, however, concluded that the grazing fee formula accomplishes one and only one purpose of the range program—to keep fees as low and stable as possible.

Cattle ranchers and their supporters say that it is hard enough to turn a profit as a rancher these days and that they need these fat subsidies to stay in business. In fact, times couldn't be better for cattle ranchers. As today's Wall Street Journal reports, the Agriculture Department expects cattle revenues to surpass the $40 billion record the industry set last year. The Cattleman's Association says that beef prices last year rose nearly 9 percent. Cattle ranching is the strongest sector of the farm economy. "There's a bull market for beef, returning boom times to cattle country," the Journal reports.

We have all heard of crocodile tears, but this is the first time I have heard of cattle tears. How much more than $40 billion a year do cattle ranchers have to earn before the Nation's taxpayers get some relief? It is time to pay the going rate for grazing on the taxpayer's land.

Unfortunately, the public land ranchers have had a key accomplice in its crusade to keep grazing fees as low as possible—the Bureau of Land Management, which has failed to play its proper role in managing these public lands. The BLM is supposed to mediate the competing interests on Western lands, but today this Federal agency more closely resembles the ranchers' front office than a trusted public agent.

The Bureau appoints dozens of advisory boards made up exclusively of public land ranchers. These boards are given authority over half of the public revenues that they and other public land ranchers generate by paying these noncompetitive, below-cost fees. The fund that they control is supposed to be used to benefit many public resources. Not surprisingly, this special interest group that controls the boards decides to spend almost all the money on things that directly benefit themselves.

The Bureau and the ranchers do not even have to account to the public for how these public revenues are spent.

Congress terminated the grazing advisory boards in 1986, but they live on by virtue of an Executive order. It is bad enough when they stay within their mandate to tell the BLM how to benefit themselves by spending $10 million of the fees they have paid. Unfortunately, the record clearly shows many instances of the boards knowing no limits and financing lobbying trips to Congress and other unauthorized activities.

The BLM cannot account for at least half of the $10 million annual range betterment fund. It is supposed to be used for wildlife, watershed management, and grazing-related range improvements. From what we can tell, more than 96 percent of it has gone to grazing improvements.

The Synar-Darden amendment substitutes a reasonable formula for the current sweetheart deal. It eliminates the grazing advisory boards. The range betterment fund is left in the hands of the more representative multiple-use advisory boards. And it redirects the fund toward the pressing and grossly underfunded problems of wildlife habitat, riparian enhancement, and management and enforcement of grazing allotments.

The Synar-Darden amendment is the right thing to do and I urge my colleagues to support it.

Mr. MARLENEE. Mr. Chairman, I yield 1½ minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, the Synar amendment before us today is ill-considered and more than a little bit dangerous.

It's ill-considered because it assumes that fees returned to the government from grazing should equal the costs of administering the grazing program. Applying this kind of complete-repayment-for-value-provided logic to other uses of public lands leads to some startling conclusions.

I have here a study conducted by Dr. Bruce Godfrey, a professor of economics at Utah State University. He's analyzed public lands management for 13 Western States, and the results are quite interesting.

If we look at the administrative cost of the grazing program, we see that the Government spends about $5.50 on grazing for every dollar received in fees. But that looks good when we look at some of the other ratios for public lands. The National Park System spends $11.60 for every dollar returned. For recreation and wildlife on BLM lands, a stunning $152 is spent for every dollar returned to the Federal Treasury. Mr. Speaker, if our goal here today is to equalize revenue with costs it is clear where the most pressing need for attention lies—and it is not in the area of grazing fees.

My purpose here today is not to suggest prohibitive entrance fees for our national parks. With Arches, Canyonlands, and Zion, Utah contains a number of the crown jewels of our national park system, and I wouldn't for a minute want to limit the access of the average American to these pristine areas. But this kind of logic, complete-repayment-for-value-provided, reflecting a toll-road mentality as my colleague from Montana so aptly called it, just doesn't make sense when you consider the multiple uses we have for public lands.

Consider also the dangerous financial implications of raising grazing fees over 400 percent. For western farm credit associations the impact on loan portfolios is likely to be dramatic.

These farm credit associations have relied upon the value of grazing permits not just for the purpose of borrower financial statements, but also as collateral on loans they have made to the ranching community. Any increase in grazing fees, especially one over 400 percent, will make those assets less valuable. The rancher will face a diminished or negative cash flow. The farm credit association is left holding an under collateralized loan, perhaps even one that is uncollectible.

In Arizona, 16.4 percent of the farm credit services portfolio is in livestock loans to ranchers on public lands. These loans total $27.7 million a year.

Nevada's farm credit system holds over $60.7 million in loans for public lands grazing, for a total of 42.9 percent of the portfolio held by the Production credit Association and the Federal Land Bank Association.

In my home State of Utah, the statistics are even more ominous. Over 60 percent, or approximately $120 million of the portfolio of The Federal Land Bank Association of Utah and Utah Production Credit Association is in livestock loans.

Mr. Chairman, the astronomical increase in grazing fees contained in the Synar amendment would deal a body blow to our farm credit system. It is estimated that under the Farm Credit Administration guidelines, many of these loans will have to be classified as nonperforming-other high risk.

Commercial banks will not escape unscathed either. I have here a letter from the Utah Banker's Association, which reads in part:

> Any increase, let alone the proposal of up to 400 percent, will seriously jeopardize their (Utah's farmers and ranchers) ability to service existing debt. In addition, new or increased financing will be out of the question for many sheep and cattle operations.
>
> Existing loans, in the eye of regulators, may become classified as under collateralized and additional security may be insisted upon to make up the shortfall. If additional security is not available it could force foreclosure proceedings.

Mr. Chairman, I have here today numerous letters describing the impact on western commercial banks and the agricultural community they serve. The picture is grim. A representative sample of those opposing the Synar amendment includes the Utah Banker's Association, the Wyoming Banker's Association, and banks in New Mexico, Nevada, Colorado, North Dakota, and South Dakota.

In short, sharply higher grazing fees will have a devastating impact on our farm credit system including the borrowers and stockholders in the farm credit system. Agricultural credit to ranchers with outside grazing will dry up, and farm credit across the board will become even harder to come by. The economic health of rural communities will suffer yet again.

I urge my colleagues to reject the Synar amendment. It is based on flawed assumptions. And its effects will be devastating to rural communities throughout the West.

Mr. Chairman, I include for the RECORD a letter from the Utah Banking Association:

> UTAH BANKERS ASSOCIATION,
> *Salt Lake City, UT, July 22, 1991.*
>
> To: Pam Neal, Public Lands Council, FAX (202) 638-0607.
>
> From: Lawry Alder, President, Utah Banker Association.
>
> Subject: Grazing Fee Increase Legislation.
>
> The proposed grazing fee increase legislation before congress, if enacted, will impose a serious unfair financial burden on Utah's farmers and ranchers.
>
> Any increase, let alone the proposal of up to 400 percent, will seriously jeopardize their ability to service existing debt. In addition, new or increased financing will be out of the question for many sheep and cattle operations.
>
> Another factor often overlooked is the decreased value of permits if costs go up. In these cases, while permits cannot be pledged as security, they are factored into the rancher's ability to service the debt when a loan is applied for. Existing loans, in the eye of regulators, may become classified as under collateralized and additional security may be insisted upon to make up the shortfall. If additional security is not available it could force foreclosure proceedings.
>
> This legislation should be defeated.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in opposition to the Regula amendment and the Synar amendment, and want to take a moment briefly to show Members this chart.

Mr. Chairman, I know it is difficult to see this. This is not a forest fire out here, all these red dots. These are wells and water tanks that are paid for by the rancher.

This is a ranch in Coconino County, AZ. It shows over 100 wells and water tanks, at a cost of more than $30,000 a year to maintain. In 1989, $50,000 was spent by this rancher just to maintain the water tanks on this particular ranch.

Then look at the green lines here. That is fencing. He spent more than $2,200 to build each mile of those fences, 132 miles of fence, maintained by this rancher, not by the public, not by the taxpayers, not by BLM. It costs $50 a year per mile, over $60,000 per year, to maintain those fences, just to keep them in condition.

Then you have the purple lines, the roads which the rancher maintains. Those are the roads used by the rest of the public, the recreation users, the wildlife people. Those are roads that other people use. But the rancher pays for those and maintains those roads.

Those are the kinds of expenses that a rancher has on these public lands, that someone who is a private leaseholder does not have.

Mr. Chairman, I urge Members to consider these kinds of things when they talk about how ranchers are getting ripped off. It just simply is not true, when they talk about how the public is getting ripped off. It simply is not true.

Mr. MARLENEE. Mr. Chairman, might I inquire how much time remains?

The CHAIRMAN pro tempore (Mr. MAZZOLI). The gentleman from Montana [Mr. MARLENEE] has 16½ minutes remaining, and the gentleman from Minnesota [Mr. VENTO] has 11½ minutes remaining.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I rise in opposition to the Synar amendment, and to the Regula substitute. I oppose this amendment for two reasons.

First, I believe it represents an end-run around the authorizing process. The National Parks and Public Lands Subcommittee has held a number of hearings on this issue over the last few years. It has not passed this legislation and the full House should not do so now by writing this legislation on the floor. Second, this amendment would be an onerous burden to western permittees who view it as a raise of some 500 percent over the current price.

I have long maintained that the current fee system that was first mandated by Congress as part of the Public Rangelands Improvement Act of 1978 is fair to both the grazing permittees and the Federal Government.

The Federal grazing fee is determined by a formula set by Congress in 1978 with bipartisan support, including that of the Carter administration. The formula was later extended by President Reagan by Executive order and has since been upheld in Federal court.

The current fee is based on market conditions, and goes up or down depending on three market variables that are measured by the Government each year: private lease rates, beef cattle prices, and production costs in 11 Western States.

It is a reflection of market value because of the additional costs incurred by a producer in running cattle on public lands. Federal permittees must bear many additional nonfee costs not borne by private lessees. Public rangelands are less productive for feed, allowing lower carrying capacities. Transportation costs are greater, water hauling, fence repair, doctoring of sick animals and protection from predators all are costs paid by the producer and must be recognized in any comparison of fees for public versus private grazing costs.

Studies show that when these additional costs are added to the Federal grazing fee, the cost of grazing on public lands equals or surpasses private lease rates.

Western States, including my own State of Idaho, can offer substantial proof that the public grazing system is a vital part of their economic vitality, as well as being an organized program to manage public lands.

Mr. Chairman, the vast majority of the 31,000 ranchers who graze cattle and sheep on western public lands run small, family-owned operations. They simply cannot afford this kind of increase. These are not corporations, these are ranches which have been in the family for generations, and this amendment will put them out of business. Let's keep that in mind when we vote to increase the Federal fees more than 500 percent.

Mr. Chairman, I appreciate this opportunity to speak today and I encourage my colleagues to reject this amendment.

I include for the RECORD a study by a University of Idaho livestock specialist.

The University of Idaho livestock specialist believes the fourfold increase in Federal grazing fees now pending in Congress would cause the Idaho cattle industry to contract dramatically and shift calf production out of the West.

Jeff Mosley concedes the result would be a short-term improvement in the condition of public range but problems for migratory wildlife like elk.

With nine of every 10 head in Idaho spending at least some time on Federal range, the House-passed proposal to hike fees for grazing on Federal land from $1.81 to $8.70 a month per animal would drive most Idaho cattlemen out of business, he said. "It would certainly mean fewer cattle and fewer producers," Mosley said. "A significant number of the calves in the Great Plains States come from Idaho and the Mountain States so there would have to be a shift in calf production. * * * There probably wouldn't be much calf production in the West."

An assistant professor of range resources, Mosley said that as a result of reduced grazing prompted by the hike, "in the short term there would be some improvement in conditions" on the range although he maintained most areas are well managed now.

Non-migratory wildlife would probably benefit the most because they would not be competing with as many head of cattle, he said. But for migratory wildlife, the situation would probably worsen.

Now, migratory wildlife can take advantage of winter and summer cattle range while producers tend to tolerate at least some herd loss to depredation.

"But if ranchers are driven off public land, they're going to have to make do with smaller acreages, and they're not going to be willing to tolerate competition from wildlife," Mosley said.

In addition, the contraction of the livestock industry if Federal grazing opportunities become scarce would translate into fewer ranches with the deeded land held by out-of-business ranchers would likely be subdivided or sold off for recreational purposes.

"You're seeing that in the Sun Valley area right now," Mosley said. "Ranching created winter range in the Wood River Valley, but that range has been sold off. Now, Fish and Game has to feed wildlife in the winter."

He also speculated that if grazing declines on the Federal range because of the cost, local governments would suffer financially since the amount of cash raised from grazing would likely decline and with it their share of the take.

□ 1540

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, a carpenter would probably refer to both of these proposals as being a half a bubble off plumb. Surely it cannot be on the level. To say to a rancher in western North Dakota you have had a 46-percent increase in rent since 1987, and now what we propose to do is quadruple it in the coming years, that surely cannot be on the level.

The ranchers I represent in western North Dakota rent the rangelands out there. I grew up in that area. I have ridden a horse across those rangelands. Maybe we ought to have to saddle up before we discuss this, and get a little fresh air so that we will really get the facts on the table.

The fact is this is not a subsidy. The fact is those people out there are good people. They work hard. They do not ask for much and they pay a fair lease.

There are two motives, it seems to me, for these proposals. One is that we will somehow, by quadrupling the rent, increase the revenues to the Federal Government. How many landlords quadruple the rent and find they have more money coming in? What they find is they have more vacancies, and that is exactly what will happen here. We will drive people off those rangelands and, frankly, that is what some people want to do.

That is the second motive. "No moo in '92; cattle-free in '93," We have all heard that phrase; that is the motive. I am not suggesting it is in these amendments, but some people do not want livestock on rangelands. It seems to me that does not make much sense.

The BLM testified that the rangelands have never been in better shape in this century than now, and part of that is because of the stewardship of those people out there, the ranchers who have used that land in a productive way, in a very responsible way for the grazing of livestock.

No, this is not a subsidy, and I hope we will not find those who want to quadruple the rent for our family ranch operators are on the level. That cannot be on the level. We must insist on a fair deal for the ranchers.

Yes, we can discuss grazing fees, but not on the floor of the House in a quadrupling amendment. That makes no sense.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman I rise in opposition to Representatives SYNAR'S and REGULA's amendments. The American cattleman lives on the edge. Working from sunup to sundown, 7 days a week, he hopes to make $20,000 a year. Fixed costs are high. Debt burdens are heavy. Fluctuations in the market are frequent. He's not getting rich.

And that's pretty typical. Most of the 31,000 ranchers who graze cattle and sheep on western lands run small, family-owned operations. They are small family-owned operations who rarely make more than $28,000 annually.

Compound this humble situation with the patchwork ownership patterns of western land. The ranchers have no real choice in between using public or private property. On the contrary, they depend on a balanced mix of adjacent public and private lands if their livestock operations are to be viable.

In States like Colorado, where more than 36 percent of the land is owned by the Government, or Nevada, where 85 percent of the State is owned by the Government, this is especially true.

Because public and private lands are deeply intermingled in the West, cattlemen need both to feed their herds. In the West, a cattleman requires 68.5 acres per animal. This means that a cattleman's herd must be constantly rotated to follow the seasonal availability of forage and water. Many times this situation can force him to drive some 75 miles daily. But there's a limit—cows aren't commuters and land isn't portable. If you price the public lands forage beyond what is reasonable, the cattlemen will be out of business.

Without continued public land livestock grazing, the opportunities for rural economic development will vanish. Please consider: 88 percent of the cattle produced in Idaho, 64 percent in Wyoming, 63 percent in Arizona, and 25 percent in Colorado all depend on public grazing lands. Even the Director of the BLM maintains that significant increases in grazing fees "would result in a devastating impact on the Western States, where the ranching areas have historically low base values."

Let's not cripple the American cattlemen all the more. The existing PRIA formula is fair, predictable, and indexed to market values. It has been pointed out to me by Colorado ranchers that when you add up the total costs, using public rangelands is often as high, or often higher, than the cost of using private lands. Consistent and fairly priced public livestock grazing land is crucial to U.S. cattle and sheep production. No one is more concerned with the viability of western public rangelands resources than the ranchers who are its stewards. All of us, ranchers and nonranchers alike depend on this partnership, one that benefits the Nation as a whole.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I thank the gentleman for yielding some time to me today.

Mr. Chairman, I come from a background of being in the cattle business, growing up in a rural area.

Oklahoma has almost no land involved in this dispute. But I can tell Members from experience that the cattle business in this Nation is largely responsible for the low price of food and the availability of food that we have in America. I can also tell Members with pretty predictable results that if this amendment is passed there will certainly be a lowering in the number of cattle out there, and certainly an increase in the price of food.

I took the opportunity to call some places in Oklahoma and check and see what it would cost to lease land to run cattle. The supporters of the amendment say that the people are being subsidized who are currently running cattle. I can tell Members that is not the case.

In Oklahoma it costs anywhere from $25 to $40 per cow unit per year on an annual basis to graze cattle. On these units on the Federal land it is about $23.97 on an annualized basis, so there is very little difference in this regard.

I can also tell Members with fairly predictable results that if this amendment passes they will see, first off, a lowering in the price of beef because about 20 percent of the cattle in this Nation will go to market. Then we will see about 5 years down the road a tremendous increase in the price of beef and, ultimately, an importation of food.

I know that we do not want to import the energy that we use in this Nation. I can tell Members it will be a catastrophe if we have to start importing the food that we use in this Nation.

So I would urge Members to be realistic. Look at what is fair. Look at what is in the best interests of everybody in this country.

About 20 percent of the cattle in the Nation are grazed at one time or another on public lands. About 20 percent of the public lands currently go unused because no one can break even at today's rates, so an increase of this magnitude will certainly eliminate a lot of the cattle that are out there today and certainly cost the consumer more in the long run.

I would urge Members to oppose this amendment.

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in support of the Regula amendment and would urge my colleagues to support it. I think it is a reasoned approach. It is very similar to the Synar amendment in some respects. It does provide for a more gradual phase-in of an increased fee, recognizing that that would be of some help to those holding grazing permits on public lands.

Mr. Chairman, early in our history anyone could graze without cost on public lands. It was looked upon as a public benefit to have people settle and to develop the ranches and the farms across the western part of the United States and other parts of this Nation.

Then in the 1930's, of course, a nominal charge was put in place, and that nominal charge is what remains today.

Clearly there are a host of different problems related to water rights, to grazing permits, and the fact that these are passed on from generation to generation so people develop feelings of ownership to what are public lands, as something to which they are entitled. Congress today should know that the costs are in terms of per animal unit month [AUM], well above the $1.97 per AUM that we receive.

We cannot repeal the laws of supply and demand, and what happens here is that the accumulation of grazing permits by larger and larger corporations results in some 340 corporations controlling 90 percent of the public grazing lands.

I am surprised to hear the gentleman from Oklahoma [Mr. BREWSTER] talk about how many grazing allotments go unbid or unused. That is news to me. I was not aware of that and believe there is some misunderstanding. I know that fewer animal unit months can go on a plot of land during these arid conditions and harsh weather conditions that have prevailed the past 4 or 5 years.

There has been a lot of change occurring, regarding land use policies. One change we should recognize today and tomorrow is that the National Government need not subsidize the beef production through the grazing formula through the Public Range Improvement Act any longer. We need not do that.

□ 1550

Congress has been led to maintain a policy at the national level where individuals that act as if they own these lands or have these grazing permits in reality turn around and then sublet the land out at significantly higher price than the PIRA $1.97 per AUM.

I think that that should tell us something. There are many producers across this country who have no such advantage in terms of producing beef or producing other products, and that should also tell us that it is about time to make some changes with regard to the grazing formula and charges for grazing fees and restore a level playing field to farmers and ranchers across the country rather than providing for the subsidy to those who should not be receiving such.

This Regula amendment in effect combines parts of the Synar amendment with elements from a bill introduced by our colleague from Georgia, Mr. DARDEN, on which the subcommittee on national parks and public lands has held hearings in this current Congress and in other sessions over the last several years.

This amendment, like that of the gentleman from Oklahoma, would increase public rangeland grazing fees. As would the Synar amendment, it also would replace the present formula used for setting grazing fees with an alternative identified and analyzed by the Interior and Agriculture Departments in their 1986 report on grazing fees.

Unlike the Synar amendment, however, this amendment would phase in the higher fees by limiting annual increases. Under the Regula amendment, next year's fee would be $2.62 per AUM, rather than the $4.35 fee that would be set by the Synar amendment, and future increases would be similarly limited.

Another difference between this amendment and the proposals of Mr. SYNAR and Mr. DARDEN is that this amendment would retain a single grazing fee for all western rangelands, rather than establishing a number of separate pricing areas.

Mr. Chairman, as I have noted before, reform of the present formula is long overdue. While the present fee formula does tend to stabilize the grazing fee—and so works for stability in western rural communities—it has serious flaws.

Those flaws in the present formula keep the fees too low, not only as compared with the rates for private forage but also compared with the grazing fees applicable to lands of other Federal agencies and of the Western States themselves.

The formula in the Regula amendment does not have these flaws. It would eliminate the features of the present formula—especially the double-counting of producers costs—that now skew the outcome and result in excessively low fees.

Like the Synar amendment—and like the Interior appropriations bill passed by the House last month—this amendment would make other important changes in the management of grazing on the public rangelands of the West.

Like the Synar amendment, this amendment would abolish the grazing advisory boards and transfer their functions to the multiple-use advisory councils provided for the FLPMA.

Like the Synar amendment, this amendment would broaden the purposes for which the Federal share of the grazing-fee receipts can be used, to include restoration and enhancement of fish and wildlife habitat, restoration and improved management of riparian areas, and better grazing management, including increased range monitoring, enforcement of allotment requirements, and implementation of land-management plans.

As I said during the debate on the appropriations bill, all of these are problem subjects today with a demonstrated need for increased agency resources. Investments in these things can and should be made, for the benefit of all parties. For example, it has been demonstrated that better management of riparian areas can increase the grazeable forage as well as bettering fish and wildfish and environmental values.

Mr. Chairman, when the House debated Mr. Synar's amendment to the appropriations bill, some of us pointed out that it would be more appropriate for this grazing-fee issue to be addressed in authorizing legislation. Now we have the chance to do just that. The Regula amendment is a good one. Its changes in the grazing fees and rangeland management are sound, balanced, and long overdue. I urge approval for this amendment, to make this good bill even better.

Mr. MARLENEE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the chairman of the subcommittee again brings up the issue of subleasing. It is not an issue in this debate. It is illegal.

He brought up the subject that we no longer need to subsidize livestock operations in the West. Well, let me tell you, I want to go back over this scenario of grazing winter wheat, and perhaps those who are unfamiliar with agricultural programs can understand this, even the folks from Massachusetts.

In the fall, they seed winter wheat in Oklahoma, and then they graze the winter wheat in the fall, and then they graze the winter wheat in the winter, and then they graze the winter wheat in the spring, and then they harvest the winter wheat and collect the wheat deficiency payments, subsidizing grazing, extensive, extensive in the South and Southwest and particularly in Oklahoma.

Nobody is yelling about grazing winter wheat on this side of the aisle. I just wish to point it out that this is, in fact, a subsidy, and there exists a precedent, a precedent for cutting that subsidy; when you graze your conservation reserve program, your CRP, your contract is cut a percentage. When you graze your acreage-reduction program, your deficiency payments are cut. When you graze winter wheat, should you receive a cut in deficiency payments?

I think the gentleman from Oklahoma and some of those who are capitulating to this argument are playing in some very dangerous minefields, and I think that we need to come back together and support our agricultural communities.

With regard now to whether the public is being subsidized, let us remember that there is a difference, there is a big difference between leasing a furnished apartment and leasing an unfurnished apartment. The furnished apartments are the private leases. The unfurnished apartments are those public lands.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I think we have got to make sure we keep our facts straight here, and that is, first, I asked the BLM to do a study as to what the impact of this would be on reducing AUM's, and they point out very clearly, and BLM manages this, so they should know, that under the formula put forth in my amendment, there would be no reduction whatsoever over the 4-year period in AUM's, and there would be a substantial increase in revenues, but the important point is no reduction.

Now, under the Synar numbers, there would be a reduction at least as pointed out in the BLM study.

I would also point out that in a study done by the Department of the Interior and the Agriculture Department that in the non-BLM Federal lands, that is, military, refuges, reclamation lands, that the average, when these were done on a bid basis, was $6.53 for grazing permits. So this tells you also that these lands have substantially more value than has been the case on the BLM management in recent times.

Also, they point out in this same study, and this is Interior and Agriculture, that the average contribution of the lessee for AUM is 30 cents, not some great number for fencing, water, et cetera, but 30 cents, and that is in the 16 Western States.

Even if you factor in this contribution, it is still a cost under the present formula that is substantially less than is received where it is done on bid basis by non-BLM Federal agencies.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, the gentleman has done a very scholarly job and hard-working job. I would just like to point out that recently it has come to my attention that the State of Montana just set its AUM fee for next year at $4.24 for AUM on State lands, and in the same State we are getting $1.97.

Mr. MARLENEE. Mr. Chairman, I yield 2 minutes to my esteemed colleague, the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, it is always interesting to hear what States charge when States are such a small portion of the entire program. There are only four sections of a township in New Mexico that are so-called State sections that are ceded by the State, so that is not a factor.

We are talking about fair market versus fake market. I want to see, after having been in this business for some 40-odd years, I want to talk to the person who has been paying $8 in AUM, $9, or $10, or whatever over there, because I want to tell you one thing, they lost money, because the cattle market, as I know it, would not support $8, $9, or $10, but I will tell you what we have got.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. If you want to talk to them, they are pumping gas at the 7-Eleven.

Mr. SKEEN. They may be pumping gas, but, on the other hand, they are hobbyists or some other specialized reason, because you cannot make money and pay that much, and I know it for a fact.

But I will tell you what they do do—they do-do-do—they go in there and spend their money on grazing leases and so forth and lose money on the proposition and then write it off. So who is subsidizing who? That is what I would like to know, because that is a very neat writeoff, especially if you are not depending on cattle-raising or grazing to sustain yourself.

I will tell you, folks, you are not going to make it on $8 or $9 or $10 an animal unit. That is why you are going to lose the 38,000 folks who are dependent on that as their sole source of income and their sole occupation, because the market will not take much more than that. That is the fact.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I want to say again that it is unfair for 2 percent of the cattle producers in this country to receive this subsidy while 98 percent of the rest of the cattle producers in the country do not receive it.

Our cattle farmers in Georgia have to pay the market rate for their feed. Those in South Carolina have to pay the market rate. Those in Massachusetts and New York and everywhere else have to pay the market rate. Why should we single out and subsidize 2 percent of the cattle producers in this country with this subsidy worth more than $150 million a year?

Mr. Chairman, today's Wall Street Journal quotes the very high prices in cattle, and they call it, incidentally, a bull market, and quoting from that article, "Lucrative Livestock," it says, "high beef prices have made ranching extremely profitable." It further says, "So all across the Great Plains, ranchers are rounding up profits and plowing them into new pickups, tractors, or more frequent trips to Las Vegas."

All of that is fine, Mr. Chairman. However, the taxpayers should not subsidize a new pickup. They should not subsidize the new tractor or the new more frequent trips to Las Vegas. Private industry ought to do it.

So this is one subsidy that must be eliminated. Support the Regula amendment and the Synar-Darden-Atkins amendment, and let us bring fairness back to the cattle industry.

□ 1600

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Utah [Mr. OWENS].

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, one man's subsidy is another man's public interest program, as we have heard.

The gentleman from Montana, my neighbor, has spelled this out lucidly this afternoon. Sure, there is a soft subsidy here, but if we are concerned with corporate and wealthy ranchers abusing the system, why not craft a measured response which protects the small family rancher and eliminates the alleged subsidy only for wealthier corporate ranchers, as we have done with water subsidy in other debate over reclamation reform.

The Synar-Darden-Atkins amendment, and the Regula amendment, to a lesser degree, although well-intentioned, are the wrong approach to a very complicated issue. I urge their defeat.

This is a draconian increase in grazing fees on public lands. We fight this issue on a regular basis. Mr. Chairman, I have been part owner of a little ranch in southern Utah, and because we had grazing privileges in the past, initially at least, I declined to take part in this vote because I felt it was a conflict of interest. It is not a conflict of interest in the sense I am selling this land and this permit, and therefore, I have chosen to enter into this debate, because it is so distorted.

The arguments made are so unfair to the few ranchers in this country who, in essence, pay this animal unit month fee, and which would have very painful, very unfair increases imposed by these amendments.

I find it very uncomfortable, and it is extraordinary in that sense for me to be on the side of the gentleman from Montana, arguing against the chairman of the subcommittee for whom I have great respect. I have great respect for both of them. However, in this case the gentleman from Montana is right and the chairman of the subcommittee is wrong.

Mr. MARLENEE. Mr. Chairman, I yield 1 minute to my colleague from Montana [Mr. WILLIAMS].

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS], a member of the subcommittee.

Mr. WILLIAMS. Mr. Chairman, I thank both of my friends for their generosity in yielding time to me.

We can always tell when Congress is about to make a mistake. Fingers jab in the air, and fists bang the podium. That makes the herd stampede. The congressional herd is stampeding now and it is headed up the wrong draw.

With the amendment, either Synar, or Synar as amended by Regula, the Congress could be making one of those very big mistakes we make when we start to stampede. Let me give Members an example.

There are 20 million cattle out on ranges out our way in 13 States. We are told the average cost of production per head is about $525 now. If we multiply that out, and if we believe the Society for Range Management that says if this amendment goes forward, we might lose 9 million cattle off the land, we find out that we have a loss in production costs of $4,500 million. That is just in production costs. Out our way, we are having a tough economic time and have been for more than a decade. Add that to it, drop the tax base, increase costs to BLM, watch these local economies in these towns and cities, we begin to decline even further, and this Congress will rue the day, as will those Members in those 13 western States, that this herd ever started to stampede.

Be careful. Do not be pushed into this. Do not start to run too fast in this direction. Be careful. We have tough economic times out our way. What may sound as a good vote to Members here this afternoon, could keep the 13 Western States that run these cattle, may find very, very difficult and worse economic times ahead as a result.

Mr. MARLENEE. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. SMITH], a renowned expert on grazing and BLM authorization.

Mr. SMITH of Oregon. Mr. Chairman, either Synar of Regula passing is the end of the livestock grazing in the West. The people in the West are on death row. Either with Synar they have a year to live before they are hung, or with Regula they have 6 years before they are hung. Either way, they are done.

Now, I want to address this issue directly with respect to the subsidy. It has been charged over here that there is a subsidy involved in this, and I will prove to Members there is no subsidy whatsoever.

For instance, the Bureau of Land Management testifies that it costs $1.66 per AUM to manage cattle in the public ranges. The cattlemen are now paying $1.97. Where is the subsidy? That is $5 million returning to the Treasury of the United States that people are paying in the West, grazing cattle, to the Treasury.

Second, the comparison between public and private range. We have heard estimates of $9.60 from the gentleman from Massachusetts, or $6.70 from others. The real cost average to the country is $10.41 for the operation under private ranges. It actually costs to run on public ranges more. In fact, it costs $14.29 if we add all the costs. Where is the subsidy?

Finally, if we go to the gentleman from Ohio [Mr. REGULA] in this situation, we are going to now pay $17.57 for the privilege of running on public ranges, when it costs $10.41 to run on private ranges. Where is the subsidy? I do not think there is any subsidy. There never has been. Never was.

If these rangelands are depreciated in value, why is it we have an increase in wildlife? A 112-percent increase in antelope; 435-percent in bighorn sheep; deer are up 30 percent; elk are up 782; moose are up 476 percent. These people are trying to convince Members that the lands that we manage, and ranchers are contributing to it, all but the public range managers, these lands are depreciating.

How is it possible while we are grazing landstock, we can have these increases? It is impossible.

Let me argue and answer every one of the points of the gentleman from Oklahoma. He says 10 percent of the people own 50 percent of the permits. The facts are 27,000 people utilize public lands for grazing, and they are people that earn less than $28,000. Are these the magnates that we have heard about? The oil men and insurance companies? Of course not. This is rural America that built this country, and we will take them out of business.

I suggest if Members vote for Synar, if Members vote for Regula, they will take them out in 1 year or 6 years. Very frankly, why, if there is so much money available as these people maintain, $150 million, $60 million, why is the Office of Management and Budget not supporting this program? Why? Because they see a diminishing return. The Office of Management and Budget says, "We will strongly recommend a veto because there will be no money coming from grazing fees in the future if you pass either one of these proposals." As does, by the way, the President of the United States, who says, "I want to maintain the existing formula." The Secretary of Agriculture says, "I will strongly recommend a veto if the President's formula is changed." The Secretary of Interior says, "I will strongly recommend a veto if the grazing fee is changed."

Therefore, my friends, it is obvious the people that we serve are going to be out of business, and the people that know what is happening in America are urging a veto and no change in the grazing fee formula. Vote against both Regula and Synar.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEHMAN], a member of the committee.

☐ 1610

Mr. LEHMAN of California. Mr. Chairman, I thank my good friend for yielding this time to me.

I hope the House paid close attention to the gentleman from Montana [Mr. WILLIAMS] when he spoke here a couple moments ago, because I think he spoke the truth. You can concoct your notions of justice, equity, and fairness, and believe you are doing that no matter how you vote here; but the fact is you will be making a mistake if you support either the Synar amendment or the Regula amendment.

First, this notion that there ought to be parity between public property and private property is a myth. The Federal Government has no mortgage on its land, the private landowner does. The Federal Government is not paying property taxes, the private landholder is. The Federal Government is not supporting the schools, the police, and everything else at the local level; the private landholder is. Of course there is going to be a disparity.

The fact is the Federal Government has a monopoly on most of this land and the cattlemen have to graze it.

There is not going to be any better management if this passes. The best management you have now is when the people who use the land have a stake in the grass continuing to grow and the water not eroding the soil and that property maintaining its vigor and vitality. We are not going to see better management because the Federal Government is all of a sudden going to put more money in here. It is not going to happen.

Reject this amendment.

Mr. MARLENEE. Mr. Speaker, in the last 30 seconds, I am going to close the debate on this side.

I hope my colleague will oppose both the Regula and the Synar amendments.

It is very simple. With public lands, you are leasing an unfurnished apartment. With private land, you are leasing a furnished apartment. It is that simple. That is all the analysis and analogy that I need to make.

Further, I would like to close by saying that if the chairman searched or if I searched this Chamber on those who spoke in favor of Synar and Regula and asked if they had any BLM land in their districts or close to their districts, the answer would be no. These people have no BLM land. They are coming in somewhat around the committee and saying, "Hey we want to increase in grazing fees."

Mr. VENTO. Mr. Chairman, I yield the balance of our time, 2½ minutes, to the gentleman from Oklahoma [Mr. SYNAR], the major sponsor of this proposal.

Mr. SYNAR. Mr. Chairman, first of all, I thank the committee chairman for his excellent support, as well as the chairman of the full committee and I want to commend the gentleman from Ohio [Mr. REGULA] for his excellent work in improving on what has been a mission between the gentleman from Georgia [Mr. DARDEN], the gentleman from Massachusetts [Mr. ATKINS], and I to get the farm market value for natural resources, not only for this generation, but for future generations.

Mr. Chairman, we are down to probably what will be the final debate on grazing I hope, because I hope as we proceed through conference we can finally resolve this issue and move us to other very vital issues which do face the country; but as we begin the last of the debate, let us review really what the objections to the Regula amendment to the Synar amendment have posed to us.

One of our colleagues rose today and said what we need to do is start charging everyone for the use of our public lands, whether it be for recreation, for minerals, of for grazing. I could not agree more. In fact, as chairman of the Oversight Committee on the Environment, Energy and Natural Resources, that is exactly what we are doing. We are not picking on grazing. What we are trying to do is make sure we have fair market value for all our resources throughout this country.

One of our colleagues rose today, in fact a number rose today and said that there is a real difference between private land and public land and to try to compare them is like apples and oranges. Well, I have been concerned about that argument for a number of years. In fact, that is what we specifically asked the GAO to do, and the report which we issued less than 30 days ago reviewed it, reviewed it again, and reviewed it one more time, and came to the conclusion that under even the best scenario, the grazing fee on public lands should be raised.

One of our colleagues came foward and said that since the time of the grazing permits being allowed on our lands, wildlife has increased. In fact, they said that it has been better for hunters and our wildlife.

Well, the facts are, Mr. Chairman, according to Frederick H. Wagner, professor of wildlife management at Utah State University, bighorn sheep have declined 454 animals; deer have declined 2 million animals; elk have declined 300,000 animals. In fact, over the last 100 years, every study that has ever been commissioned on public lands shows that we have one-tenth the biological productivity that we had before.

Finally, the most persuasive argument that has been tried to be made today that if we pass this grazing fee increase, whether it is the Regula amendment or the Synar-Darden-Atkins amendment, we will devastate, I think the word was, we will displace, I think the word was used, there will be extinction of the cattle industry. They are on death row and it will be the end of western life as we know it.

Well, as the gentleman from Ohio [Mr. REGULA] pointed out, that is not what the people who we pay in the Reagan and Bush administrations say. They say we will not lose one AUM in the BLM. We will not lose one AUM with the Forest Service. In fact, these people, these opponents, bring no evidence, not one shred of evidence to us today to make that case.

Mr. Chairman, the debate is over. Let us do right for not only the land and our resources, let us do right by our children. Let us support the Regula amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA] as a substitute for the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

The question was taken; and on a division (demanded by Mr. MARLENEE) there were—ayes 9, noes 12.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that pursuant to clause 2(c) of rule XXIII, the Chair will reduce to not less than 5 minutes the time for any vote that may be ordered on the Synar amendment, without intervening business.

The vote was taken by electronic device, and there were—ayes 254, noes 165, not voting 14, as follows:

[Roll No. 218]

AYES—254

Abercrombie
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Bereuter
Berman
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Broomfield
Brown
Bruce
Bryant
Byron
Cardin
Carper
Clay
Clinger
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Dannemeyer
Darden
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Goodling
Gordon
Goss
Gradison
Gray
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Hyde
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Moody
Moran
Morella
Mrazek
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Owens (NY)
Oxley
Pallone
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Petri
Pickett
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Ridge
Rinaldo
Ritter
Roe
Roemer
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walker
Waters
Waxman
Weldon
Wheat
Wilson
Wise
Wolpe
Wyden
Yates
Zimmer

NOES—165

Alexander
Allard
Anthony
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Brewster
Browder
Bunning
Burton
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Carr
Chandler
Chapman
Clement
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cramer
Crane
Cunningham
Davis
de la Garza
DeFazio
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Edwards (OK)
Edwards (TX)
Emerson
English
Espy
Ewing
Fields
Frost
Gallegly
Gekas
Geren
Gilchrest
Gingrich
Gonzalez
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Herger
Holloway
Horton
Houghton
Hubbard
Hunter
Hutto
Inhofe
Jacobs
Johnson (SD)
Johnson (TX)
Jones (NC)
Kolbe
Kopetski
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lightfoot
Livingston
Long
Machtley
Marlenee
Martin
McCandless
McCollum
Mfume
Michel
Molinari
Mollohan
Montgomery
Moorhead
Morrison
Murtha
Myers
Natcher
Nichols
Nussle
Olin
Ortiz
Orton
Owens (UT)
Packard
Panetta
Parker
Paxon
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Pursell
Quillen
Ray
Rhodes
Richardson
Riggs
Roberts
Rogers
Rose
Roth
Sarpalius
Schaefer
Schiff
Schulze
Shaw
Skaggs
Skeen
Slaughter (VA)
Smith (OR)
Solomon
Spence
Staggers
Stallings
Stenholm
Stump
Tanner
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Vucanovich
Walsh
Weber
Whitten
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

NOT VOTING—14

Ackerman
Andrews (NJ)
Callahan
Ford (TN)
Hopkins
Kolter
Lowery (CA)
Matsui
Miller (WA)
Swift
Thomas (CA)
Washington
Weiss
Yatron

☐ 1639

The Clerk announced the following pairs:

On this vote:

Mr. Ackerman for, with Mr. Thomas of California against.

Messrs. BROOKS, UPTON, KANJORSKI, DYMALLY, LEVIN of Michigan, and TRAFICANT, Mrs. KENNELLY, and Mr. RINALDO changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. RHODES

Mr. RHODES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RHODES: Strike Section 14 of the bill as reported and in lieu thereof insert the following:

"**SEC. 14. JUDICIAL REVIEW.**

(a) Title VII of the Act is amended by adding at the end thereof the following:

"JUDICIAL REVIEW

"SEC. 708. Any agency action or failure to act to implement this Act, including the whole or part of any agency rule, order, license, sanction, relief, or the equivalent to denial thereof, shall be subject to judicial review in accordance with and to the extent provided by the Administrative Procedure Act (5 U.S.C. 551-559 and 701 et seq). For the purposes of this section, the term 'rule' has the same meaning as such term has in the Administrative Procedure Act (5 U.S.C. 551 (4))."

(b) The Table of Contents of the Act is amended by inserting after the item relating to section 707 the following new item:

"'Sec. 708. Judicial Review.'"

Mr. RHODES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RHODES. Mr. Chairman, I want to thank the gentleman from Minnesota [Mr. VENTO] and his staff for working with us in perfecting this amendment. It is my understanding that he intends to accept the amendment.

This is a refinement and clarification of the judicial review provisions in the bill.

The amendment preserves the intent of the bill to see to it that all agency actions are reviewable under FLPMA and nothing has changed in that regard. It clarifies that all provisions of the Administrative Procedure Act will apply to agency actions under FLPMA. Reaffirmation of the role of the Administrative Procedure Act is particularly appropriate in this context. It is backed up by over 40 years of judicial interpretation and provides a balanced and stable set of rules for all parties.

By specifically referencing the APA, this amendment preserves the requirement that litigants must show specific injury. This requirement ultimately has its roots in the cases and controversies language of article III of the Constitution.

The courts will be able to review an unlawful failure to act as well as an unlawful act when acting on the same basis as provided in the Administrative Procedure Act.

Neither the amendment nor the original bill language overturns the Supreme Court guidance in this area. The amendment does address the concern that the courts remain available to injured parties.

Mr. Chairman, this amendment meets the concerns addressed in section 14 and further ensures that none of the protections of the Administrative Procedure Act will be inadvertently lost or misinterpreted.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the Rhodes amendment is acceptable to me. I commend the gentleman from Arizona for his willingness to work with me on this and for the contribution he is making on this matter.

This amendment would revise section 14 of the bill as reported.

As the Interior Committee's report points out, section 14 was included in response to recent court decisions that have cast doubt on the availability of Judicial review of some agency policies or actions.

For example, as cited in the committee report, the Supreme Court recently stated that unless Congress explicitly provides otherwise, the courts would review only specific agency actions having "an actual or immediately threatened effect."

The purpose of section 14, as reported, is to be just such an explicit provision, and thus to make it clear that full judicial review will apply to all agency actions to implement FLPMA, including actions, such as rulemaking or the adoption of policies, that might not have an actual or immediately threatened effect.

The scope and intent of section 14 of the bill are discussed at length in the Interior Committee's report. The Rhodes amendment, I believe, would cover the same things covered by section 14 as reported, and would achieve the same purposes as that section.

In particular, I note that the amendment specifically refers to judicial review of "The whole or part of any agency rule * * * or the equivalent or denial thereof" and also specifically references the definition of "rule" in the Administrative Procedure Act.

Thus, this amendment would explicitly provide for judicial review of the "equivalent" of the issuance of a rule, which, under the referenced definition of a rule, includes the equivalent of "an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy."

This amendment, like section 14 of the bill as reported, would make it clear that Congress intends that Judicial review be available to test agency policies, whether or not they are adopted through formal rulemaking, that will have a future effect even if that effect is not actual or immediately threatened.

In short, the Rhodes amendment does all that section 14 of the bill as reported was intended to do, and therefore it is acceptable to me.

Mr. RHODES. Mr. Chairman, I urge my colleagues to support the amendment.

Mr. MARLENEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is a good amendment, and I urge my colleagues on my side to support the amendment and ask that we do support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona [Mr. RHODES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: Page 31, after line 16, add the following new section:

SEC. 19. BONNEVILLE SALT FLATS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Interior shall conduct a study to determine the nature and extent of the salt loss from the salt flat crust occurring at Bonneville Salt Flats, Utah, and how best to preserve the resources (including scenic, historic, economic, and recreational resources) threatened by such salt loss. In conducting the study, the Secretary shall consider whether to designate the Bonneville Salt Flats as a national recreation area or a national conservation area. Within 90 days after the completion of the study, the Secretary shall submit a report to the Congress concerning such study, together with recommendations, if any, of the Secretary.

Mr. OWENS of Utah (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. OWENS of Utah. Mr. Chairman, the Bonneville Salt Flats in Utah, administered by the BLM, are well known not only for land speed records across the flats, but for the unique and fragile nature of the landscape. But the salt flats are disappearing at a rapid rate. In 20 years, if the process continues unchecked, the crust will be too thin in most places to even support a vehicle, much less be suitable for high-speed tests. The salt flats are disappearing—and we're not even sure why. It may have to do with salt mining depleting the salt content of the flats, or recent highway construction that may have affected drainage, or even long-term changes in the water table.

We need to find out why the salt flats are disappearing before it is too late for their recovery. This amendment was originally presented as a freestanding bill earlier this Congress by my colleague from Utah, Mr. HANSEN. Although he is obviously not comfortable with this particular legislative vehicle to which I attach this amendment, we have agreed that I would offer it today and he will support the amendment because its passage demonstrates the Congress' commitment to preserve this national treasure from further deterioration. This noncontroversial, bipartisan amendment requires a study within 2 years to determine the nature and extent of salt loss from the salt crust and recommendations on how best to preserve the resource from further deterioration.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have reviewed the amendment. I think it is a good amendment, and I urge the House to act on this. The gentleman, of course, comes from the great State of Utah. I know there is great concern about the status of the salt flats. This gives some emphasis to review and to come back with some recommendations on what we might do to in fact preserve this resource.

Mr. OWENS of Utah. Mr. Chairman, I thank the gentleman from Minnesota [Mr. VENTO] for his comments.

Mr. Chairman, I yield to my colleague, the gentleman from Utah [Mr. HANSEN], who is the original author of this very progressive amendment. I am offering it tonight in his and my own behalf.

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding.

I hope the members of the committee will realize that we are talking about a national treasure. I will bet everyone here has watched some car go down there at 400 miles an hour over this speed area. All over the world people have heard of Great Salt Lake Flats and where they race cars. They have got to realize that that has shrunk now to about a fourth of what it was.

At one time there was a salt bed 26 feet deep. Now it is down to inches. How would my colleagues like to drive a car at 400 miles an hour, thinking they are going to go through. This is a treasure that people want.

It is something we should see and we do not know why it is disappearing. All we are asking today is to appropriate an amount of money so that we can determine where it is going, so that this national treasure of the United States can be preserved for future folks. I would urge a yes on this vote.

□ 1650

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. OWENS of Utah. I yield to my friend, the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, we have no objection to the amendment on this side, and urge its passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 31, after line 16 (at the end of the bill), add the following new section:

SEC. 19. RANGELAND DROUGHT RECOVERY STUDY.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall appoint a team of scientists to conduct a Rangeland Drought Recovery Study. The team shall be appointed from nominations made by the Director of the National Science Foundation and shall include persons expert in the disciplines of arid lands research, meteorology, botany and wildlife biology, fisheries, range ecology, and remote sensing technology and interpretation. The Director of the Bureau of Land Management and Chief of the Forest Service shall cooperate with the study team.

(b) STUDY AND REPORT.—(1) The study team shall compile data and prepare maps concerning the extent and severity of drought conditions on public rangelands and other lands in the 16 contiguous Western States and not later than 2 years after the date of enactment of this Act shall submit a report to the Congress concerning their findings.

(2) In preparing its report, the study team shall utilize remote sensing and other techniques and shall draw upon historical and current data regarding seasonal and other changes to rangelands resulting from the interaction of drought conditions and management regimes. The study team shall prepare maps showing range conditions, utilizing data on forage production, rainfall, and the presence or absence of native species or communities of wildlife and plants.

(3) The study team's report shall identify poor or satisfactory range conditions and recommend additional steps that should be taken to protect range resources, including (but not limited to) adjustments in permitted levels of domestic livestock grazing in areas affected by drought conditions.

Mr. JONTZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JONTZ. Mr. Chairman, this amendment would institute within the Bureau of Land Management a rangeland drought recovery study. As Members know, there is a very significant drought occurring in the Western States, which will have an impact on the range and other resources in public ownership.

Mr. Chairman, I believe the questions will come before the Congress and also before the agency as a consequence of this drought. The purpose of this amendment is to undertake collection of information through satellite imagery and other means.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, this amendment would be a free-standing provision, and not an amendment to existing law. It would require the National Science Foundation to assemble an expert team to compile existing information concerning the drought conditions in the Western States and to report concerning the effects of the drought in those States on the public rangelands and other lands.

I understand that information about the effects of the drought on the resources of the rangelands is available, or can be developed fairly quickly through existing methods. But it clearly would be useful for this information to be pulled together in a way that will provide a comprehensive view of the situation. This should be useful to the land managers and to the users of the rangelands as well.

Therefore, I can support this amendment.

Mr. MARLENEE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we do not have on this side of the aisle a great deal of opposition to this amendment. However, we do have concerns. I do wish to voice some concern about the amendment.

Mr. Chairman, we do not know the cost of this study. It may be taking resources that we can spend on conservation or other things on public lands that need improvement.

The one thing that I do have concern about is on page 2, "The study team shall report, and then recommend steps to be taken because of drought."

Mr. Chairman, that should be a natural activity of the management and the range management specialists, and is, as a matter of fact, with the range management specialists with BLM.

Mr. Chairman, I do not oppose the amendment, but I do have concern about some provisions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JOHNSTON OF FLORIDA

Mr. JOHNSTON of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSTON of Florida: Page 31, after line 16 (at the end of the bill), add the following new section:

SEC. 19. REPORT ON IMPACT OF CERTAIN LEASING PROPOSALS PRIOR TO THEIR IMPLEMENTATION.

The Secretary of the Interior shall not take any action to allow or approve any exploration for or development of any oil, gas, or other leasable mineral resource on any lands in Broward County, Florida, before the date which is 120 days after the date on which the Secretary submits to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning proposals for such exploration and development and the potential impacts of such exploration and development on water and other natural and environmental resources and values.

Mr. JOHNSTON of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. JOHNSTON of Florida. Mr. Chairman, today, I am offering an amendment to the BLM reauthorization that addresses a key concern of millions of Floridians. Oil exploration may commence on the boundaries of the Everglades water conservation area, which recharges the water supply for 4 million people in south Florida. I am asking Congress to review the potential impact of this exploration on our natural and environmental resources, and particularly the unique ecosystem of the Everglades.

Shell Western E&P, Inc., a subsidiary of Shell Oil Co., has a contract to drill on Federal lands in Broward County managed by the Bureau of Land Management. If the exploration is successful, Shell Western will commence drilling for the development of oil at that site.

Currently, the drilling permit is before the Bureau of Land Management for approval. Officials of the Bureau of Land Management have expressed to me that this drilling permit request is unique because of its drilling under a water conservation area and its proximity to the Everglades. I trust that the Bureau will execute its responsibilities in accordance to Federal guidelines that govern them. It is the uniqueness of this drilling site that concerns me.

My amendment requires that the Secretary of the Department of the Interior submit a report to Congress on the potential impact of this oil exploration and development on water and other natural and environmental resources in the Everglades. The Congress would have 120 days to review the proposal.

My amendment does not prohibit oil exploration or its development nor does it restrict it. I am simply asking that before this drilling permit is approved, the committee that has oversight over this matter has the opportunity to review the proposal and its potential environmental impact. The water supply for 4 million people in south Florida deserves no less. The integrity of the Everglades deserves no less.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. JOHNSTON of Florida. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have examined the amendment. I have a question for the gentleman from Florida. I tend to support what the gentleman is doing.

Mr. Chairman, I understand this would simply provide notification to Congress prior to the Secretary taking any action to approve any exploration for development of oil or gas and lease of mineral lands in Broward County, FL. It would just require notification?

Mr. JOHNSTON of Florida. Mr. Chairman, reclaiming my time, that is right. It only requires that they do a study and notify Congress. They cannot issue a permit for 120 days.

Mr. VENTO. Mr. Chairman, if the gentleman will yield further, I support the amendment of the gentleman from Florida [Mr. JOHNSTON]. I understand the sensitivity of individuals in that area. The BLM has significant responsibility in the State of Florida. In terms of exercising our responsibilities, we ought to be aware when such actions are taking place.

Mr. Chairman, I commend the gentleman from Florida [Mr. JOHNSTON], a member of the Committee on Interior and Insular Affairs, for his actions and interest in this, and support the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would seek clarification from the gentleman from Florida [Mr. JOHNSTON]. The land which is being proposed to be exploratory drilled, is it on State land, Federal land, or reservation land?

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, it is on reservation land that is managed by the BLM. I can show the gentleman from Alaska [Mr. YOUNG] a proposal by Shell Oil Co.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, with all due respect, the BLM does not manage reservation land. The native reservations are under the BIA.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, it is my understanding that this land is native American land, but that the BLM does manage the mineral estate.

Mr. YOUNG of Alaska. Mr. Chairman, a point of information: The BIA, under the trust reservation of an Indian tribe, a very poor tribe, has a right to lease this land for mineral exploration for their benefit, do they not?

Mr. VENTO. Mr. Chairman, if the gentleman would yield further, yes. It is my understanding they do not lease directly. It is an indirect lease that occurs in this instance.

Mr. YOUNG of Alaska. Mr. Chairman, what I am looking for here, we have a small tribe, and, if I am not mistaken, from information I have gotten from their chief council, Billy Cyprus, the chairman, they are probably one of the poorer groups of individuals in Florida. Florida has a very wealthy population, as everyone knows.

Mr. Chairman, this tribe has bingo, one gas station, one small restaurant, and they sell crafts.

Mr. Chairman, what I am looking for here is that we hear a whole lot about wanting to help the poor and downtrodden and impoverished people. If we are going to take and prohibit this tribe, as small as it is, from leasing their land for their benefit, then we ought to be able to pay them.

Mr. Chairman, we should be able to get with Congress and say, "All right, Big Brother With Forked Tongue is speaking again. We are not going to let you lease that land."

Mr. Chairman, that would hurt the water supply, and I support that idea. But in case and fact, if we are going to not reimburse them, again we are taking land from the private sector against an act of the Constitution, against this Congress, are we not?

Mr. VENTO. Mr. Chairman, if the gentleman will yield further, this provides for notification of 120 days. We are not making any determination. The suggestion of the amendment of the gentleman from Florida [Mr. JOHNSTON] is that the Congress receive notification of 120 days before they are issued. We are not barring that. There could be subsequent action in Congress which would do so.

□ 1700

But because of the sensitivity of the issue, the water supply, as the gentleman indicated, and other problems surrounding it, he wants and we would like to have notification. That is the suggestion in this particular instance.

Mr. YOUNG of Alaska. Is there anything in the gentleman's amendment that prohibits, after 120 days, this sale from going forward?

Mr. JOHNSTON of Florida. No.

Mr. YOUNG of Florida. No.

Mr. YOUNG of Alaska. The gentleman would have been happy with just the 120 days?

Mr. JOHNSTON of Florida. That is correct. In fact, it was suggested that it be 260, and I rejected that and contracted it back to 120.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I would have to say to the proponents of the amendment and my friend from Alaska, the thing that bothers me about this amendment is not so much its substance, but this fact: The law under which this reservation exists and the law under which the mineral rights under the reservation were reserved to the Indian tribe, the law which has given this small Indian tribe their rights under this reservation was a law passed by this Congress in the early 1980's, and that law was codification of a negotiated settlement entered into among the Indian tribe, the State of Florida, and the United States. Those negotiations were long and contentious and had many points to them, but it was a negotiated settlement agreed to by all three of those parties.

Under that negotiated settlement the State of Florida relinquished its right to approve and review mineral leasing on this reservation and left that to the Department of the Interior, specifically the Bureau of Land Management. The process of approving this proposed lease has been followed by the tribe and by the Department of the Interior through the Bureau of Land Management. The law has been followed.

Bear in mind that that law codified a negotiated agreement, and it said nothing about sending such an approved mineral lease application back to Congress for review. That was not negotiated for in that settlement. The Indians were not asked to send such an agreement back to Congress for a review. The State of Florida did not agree to send something back to Congress for a review, and Congress itself at that time did not ask for that review procedure.

Now here we are at the very end of this lease application process, and suddenly Congress is stepping in and saying we are going to change that negotiated agreement unilaterally. I do not think that is the way for us to proceed. I do not think it is right for us to do that.

I do not disagree with the substance of the gentleman's amendment. The reservation is in the gentleman's district, and the gentleman should know, if he does not already know that the gentleman from Alaska and I have a strong rule about not interfering in the business of other Members' districts. But I just have to lodge an objection to what we are doing right now, which is unilaterally changing a previously negotiated agreement.

I thank the gentleman for yielding.

Mr. YOUNG of Alaska. I thank the gentleman.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to point out that this does not in any way change the terms of the lease or any type of agreements that are entered into. What the gentleman's amendment calls for is a report concerning proposals and the impact on water and other natural resources, and that is really what it calls for, that the BLM would do and provide that to the House and Senate at 120 days before the issuance of a lease. So it does not change the terms.

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, I would say to the gentleman from Arizona [Mr. RHODES], I am not objecting to the drilling. I am not submitting an objection. I am not breaking an Indian treaty whatsoever.

The BLM, though, has come forth and said this is unique. This is the first time that they have asked for a permit under a water conservation area that provides water to 4 million people in south Florida. All I am asking for is a report back to the gentleman, to me, and the balance of the Congress what effect this will have on this natural resource under the Biscayne aquifer in south Florida.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I understand what the gentleman is doing. But my biggest concern, like the gentleman from Arizona mentioned, is what if they come back with a report saying if there is drilling there is potential for hurting the water for 4 million people, what do we do then with this tribe? I am saying fine, if you do not want them to drill the oil, then pay them for the water.

Mr. JOHNSTON of Florida. If the gentleman will yield, we will then.

Mr. YOUNG of Akaska. You will then?

Mr. JOHNSTON of Florida. We will then if in effect there is a taking without compensation.

Mr. VENTO. Mr. Chairman, I just think it is an acceptable amendment.

I yield back the balance of my time.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am the Congressman who represents this district, this piece of land, and the Miccosukee Indian Tribe and all of their lands, and frankly I am a little bit dismayed. The gentleman from Palm Beach County, my dear friend, with whom I served in the State legislature as well, notified me yesterday of this amendment. And this amendment is somewhat contentious because, although it is true that he absolutely is not changing the terms of any agreement, he is in fact delaying what might be ultimately the implementation of an agreement that was made with the approval of the BLM to begin with, and I find that difficult.

This is a contentious issue because environmentalists and those who are opposed to drilling on this land—and frankly I am not one of those who would prefer to see this. I would prefer to see no drilling either in the Everglades, on the Outer Continental Shelf, or anywhere else in Florida. But the Miccosukee are a sovereign Indian nation and they control these lands. There are those who want to ban this drilling altogether.

I am sympathetic with wanting to see what would happen with reference to any other ecological problems that might arise from this drilling, and I am distressed that the drilling may be diagonal drilling; that is, it may be drilling which is made on Miccosukee property but in fact winds up, the bores, being off the property into the rest of the Everglades. This is a problem.

By the same token, I am rather distressed that No. 1, I have not at all had a chance to discuss this with the Miccosukee, since I was only notified yesterday; and No. 2, and more importantly, I do not know what effect this will have.

Frankly, what I would prefer to do, if the gentleman from Florida would be willing to do this, is to withhold on this amendment because it does cause a delay, which is to some degree a variation of terms of an original agreement, and hopefully try to strike some kind of a balance with the tribe itself. They have already indicated that they would not proceed with drilling if there was any indication that there was going to be a problem ecologically. But I would prefer not to have anyone else brought into this picture.

This amendment, although it is only delaying for 120 days, provides that there is going to be a report which the Secretary has to submit to the Committee on Interior and Insular Affairs and the Committee on Energy and Natural Resources of the Senate. We are dealing with an issue that has a much broader reach than it once upon a time had, and I would suggest that we can do this without this amendment. I am sympathetic to the thrust of it. I do not really want to see drilling either.

☐ 1710

By the same token, the Indians are entitled to discharge on their sovereign land an agreement that was made with the consent of the BLM and with the BLM looking over their shoulder at this time.

There have already been investigations ecologically into what may happen here from the State of Florida. So I am caught, frankly, between a rock and a hard place, and I would urge that this amendment be withdrawn and some kind of other accommodation be sought to guarantee no ecological damage rather than just this delay, because, frankly, it is an unexplained delay. It may come to naught and may be a delay for no reason whatsoever.

Mr. JOHNSTON of Florida. Mr. Chairman, I ask unanimous consent to withdraw my amendment, and I remind my colleague from Broward County that I am in the phone book, and all he has to do is call me.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there other amendments to be offered?

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 31, after line 16 (at the end of the bill) add the following new section:

SEC. 19. MANAGEMENT OF PUBLIC LANDS RELATING TO NATURAL PRODUCTIVE CAPACITY.

Section 302(a) of the Act (43 U.S.C. 1732(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) The Secretary shall manage the public lands to maintain and restore their natural productive capacity and shall take no action to diminish the long-term sustainability of the biological resource as measured by the variety within and among the native species and communities of which it is comprised, except that where a tract of such public land has been dedicated to specific uses according to any other provision of law it shall be managed in accordance with such law.".

Mr. JONTZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JONTZ. Mr. Chairman, I think all the Members of this House accept the idea that we ought to be managing our Nation's resources in such a way that we leave them in better shape than we found them.

In fact, when you turn to the laws that govern the Bureau of Land Management, we find the idea of sustained yield, which at least suggests that concept.

Today, however, our scientific understanding of resources conservation suggests that we need to add to the idea of sustained yield. We understand better today than we did 15 years ago when FLPMA was written that the long-term productivity of our resources depends on how well we can maintain the biological systems of which they are constituted.

Another way of putting it is that trees, grass, and wildlife do not exist as separate entities but, rather, as parts of biological communities or ecosystems, if you prefer.

We now understand that our ability to produce timber or graze cattle on public lands over the long run depends on how well we can sustain these biological systems on which these commodity components depend and of which they are a part. Regrettably, this idea, our current scientific understanting of resource conservation, is not found anywhere in the law regarding BLM.

The basic idea that we leave things in better shape than we found them in a biological sense just is not there when you read FLPMA. My amendment would correct this shortcoming by saying, very simply, in addition to managing lands on a multiple-use, sustained-yield basis, the BLM would also be responsible for maintaining and restoring the long-term productivity of the biological resources under their jurisdiction, and that no actions would be allowed which would impair that productivity as measured by the variety within and among native plant and animal species and communities.

Mr. Chairman, this is the best way that scientists know how to determine the health of a biological system. A viable, functioning system has all of its components, and the first rule of intelligent tinkering, of course, is not to throw away any of the parts.

This concept of biological diversity really gets back to the idea of the balance of nature that a certain equilibrium must be maintained for the productivity of natural systems to be realized.

This amendment, in one sentence, adds that direction to the existing direction in the law for multiple use and sustained yield.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, this amendment would affect section 302(a) of FLPMA, which is BLM's general mandate to manage the public lands under principles of multiple use and sustained yield and in accordance with the land-use plans required by the act.

The amendment would add a requirement that BLM's management be aimed at maintenance and restoration of the natural biological productive capacity of the lands, and that BLM focus on the variety of native plants and animals as the measure of the biological resources of the lands.

The amendment would leave intact the existing language of section 302(a) of FLPMA, while adding this additional requirement. BLM would still be required to manage its lands for multiple uses, while at the same time giving special attention to maintenance and restoration of their ability to support native species.

While the amendment was not discussed in the committee's deliberations on the bill, I believe that it is consistent with the purposes and intent of the bill as reported, and therefore is acceptable.

Mr. JONTZ. I thank the chairman.

Madam Chairman, I do believe that the BLM does want to properly manage our Nation's public lands not just for use today but also for future generations. The agency does understand that we cannot harm the resource if we are going to meet our commitment to those who come after us.

My amendment does not change the existing direction in the law so far as the directive for management by the sustained-yield, multiple-use principle which I support, and I believe we all support it. It simply adds the idea that we must manage our lands to maintain and restore their long-term productivity.

Mr. YOUNG of Alaska. Madam Chairman, I rise in opposition to this amendment.

Madam Chairman, it is too bad this House is not in order. I know there is a ballgame on, and it is too bad nobody is listening to what this amendment does.

Madam Chairman, let me just read what the amendment does:

> The Secretary shall manage the public lands to maintain and restore their natural productive capacity and shall take no action to diminish the long-term sustainability of the biological resource.

Home, home on the range, where the buffalo roam.

Can you see what is going to happen with this? This is so bad it is hard for me not to do what a buzzard does when they eat too much. This is a sick amendment.

I am shocked that my chairman over there would accept this amendment with no hearings at all, no concept, no requests from anybody, and, you know, think about it a moment, and I am supposed to be a little calm about this.

But would livestock grazing be prohibited because they have to maintain the natural biological level? Yes. Would there be any changing of the species over the years? Yes, if those species have changed, they would have to maintain it as it was naturally before.

The BLM land would have no use other than the way it is and was before.

Madam Chairman, as I mentioned, the term "natural biological productive capacity": What is the capacity? Can you see what is going to happen when someone is out trying to do anything on this land? Nothing.

You know, there is one good thing about it. This amendment is so gagging, it is so gagging that I might support it, because I will guarantee you, as I said before, this bill already has no wings, no feet, no beak. It is not going to fly. It is a disgusting piece of legislation, and this is so much worse, and I am saying, as we say on the farm, you pile it on, and you pile it on and pile it on, and this is the biggest pile I have seen today.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, after that last outlandish barrage from the gentleman from Alaska, I feel constrained to say that this amendment is a moderate amendment, a thoughtful amendment, and tells us to do what every one of us knows we ought to do, that we ought to protect our natural heritage.

We are not the owners of this land. We are trustees. We inherited it from our forebears, and we are trustees for a while, and then we hand it down to our kids and our grandchildren.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. YOUNG of Alaska. Mr. Chairman, was the amendment adopted or not adopted?

The CHAIRMAN. The Chair announced that the amendment was agreed to.

The gentleman from New York may continue.

Mr. SCHEUER. Mr. Chairman, I did not hear.

The CHAIRMAN. The amendment was agreed to, but the gentleman may continue under the 5-minute rule.

□ 1720

Mr. SCHEUER. Mr. Chairman, I rise in support of the gentleman's management of public lands amendment. The honorable Member from Indiana has identified a crucial deficiency in the management of the Federal lands portfolio.

This amendment addresses a problem that the Science, Space, and Technology's Environment Subcommittee has been working on since 1985. The fact is that the Government should be managing public lands for many purposes, including the preservation of biological diversity.

The fact is, the long-term sustainability of biological resources is critical to our survival.

The conservation of ecosystems, with their naturally diverse components, is necessary to ensure continued ecological processes such as: climate modernization, production and conservation of soils, nutrient cycling, and degradation of wastes and pollutants.

Byproducts of these processes provide us with the raw materials for: the air we breathe, the food we eat, the clothing we wear, the shelters that house us, and most of the pharmaceuticals that heal us.

Certain critical habitats in this country are vanishing at an alarming rate.

Wetlands are being destroyed at a rate of 250,000 acres per year.

The U.S. Forest Service clear-cuts about 60,000 acres of old growth temperate forests annually in the Pacific northwest.

Hawaii, the national jewel of biological diversity, is also the capital of endangered tropical diversity. Hawaii represents less than 1 percent of U.S. land area, but 25 percent of the endangered species list.

I could stand here for hours and give you the rational arguments for why we must act now to preserve our biological resources. However, no argument is more powerful or moving than that given by Chief Seattle in a letter to President Franklin Pierce in 1854. I quote:

> What is man without the beasts? * * * For whatever happens to the beasts soon happens to man * * * All things are connected * * * Man did not weave the web of life, he is merely a strand in it * * * Whatever he does to the web, he does to himself * * * For when the buffalo are all slaughtered, the wild horses are all tamed, the sacred corners of the forests heavy with the scent of man, and the view of the ripe hills blotted by talking wires * * * Where is the thicket? * * * Gone! * * * Where is the Eagle? * * * Gone! * * * The end of living and the beginning of survival!

Within the next few weeks it is my hope to bring before this House further legislation—currently before the Committees on Science, Space, and Technology and Merchant Marine and Fisheries—on biological diversity. In addition, Senator MOYNIHAN has introduced a similar measure in the Senate that will make the preservation of biological diversity a national goal and priority.

The Jontz amendment to H.R. 1096 addresses one important aspect of preserving biological diversity—improved focused management of Federal lands to maintain these priceless natural biological resources.

I urge my colleagues to support this amendment.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page , after line , insert the following section:

SEC. . BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE SECRETARY.—If the Secretary, with the concurrence of the Trade Representative and the Secretary of Commerce, determines that the public interest so desires, the Secretary shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an internationl agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by this act (including the amendments made by this act) to be more available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of Contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) DOMESTIC FIRM.—The term "Domestic Firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(2) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is a Buy American amendment that requires a report to the Congress on procurement activities within appropriations of the bill.

Mr. VENTO. Will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, this is a Buy American amendment with regard to the BLM. We think there is some application. The gentleman has removed some of the objectionable parts of it. I have no problem with it. I understand he has added it to a number of other measures.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield.

Mr. TRAFICANT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to compliment the gentleman on his amendment, but I would also like to suggest to this body that they keep taking away the jobs of American workers. They keep putting them away in the areas of the parks and wildlife refuges, and take away the minerals and oil, and take away the steel and the coal. Pretty soon we will not have any jobs.

The gentleman from Oregon just the other day came here. As he said, they lost 14,000 union jobs in 2 years in Oregon. My State alone, we lost 5,000 jobs because we took the jobs away.

I know everybody said we need it for the environment. The gentleman from New York spoke eloquently a moment ago, after the amendment had been adopted. That is really what we would call being up to speed. We need people to understand that the United States is built on productivity of our resources. Our coal, our steel, our energy, and we have none of that going on now.

I support Buy American, but if we do not build anything, or do not have anything to build it out of it, we will not have anything.

I hope the gentleman understands my support others amendment. We pass this amendment every time, but every time we take out one oil well, one coal mine, one steelmill, one tree out of production, 1 acre, be it wetland or a refuge, we are taking a job away from an American. Not from a foreign country, but away from an American.

For some reason, there is sort of a ball over there around certain individual's heads that they think we will save the world and take jobs away from Americans. We passed the Clean Air Act. It will cost 130,000-some-odd jobs. Every time we pass one of these pieces of legislation, we are taking a job away from an American. I support the gentleman and compliment him for his amendments. But it is time we start saying, "Let's think of American workers." There may be only a few, but if we cut a tree down, we should cut it down and replant it. Let Members do what is right.

Mr. TRAFICANT. Mr. Chairman, I agree with the gentleman, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to the bill? If not, the question is on the committee amendment, in the nature of a substitute, as amended.

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCNULTY) having assumed the chair, Mr. LANCASTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1096) to authorize appropriations for programs, functions, and activities of the Bureau of Land Management for fiscal years 1992, 1993, 1994, and 1995; to improve the management of the public lands; and for other purposes, pursuant to House Resolution 197, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ANDREWS of New Jersey. Mr. Speaker, I left Washington in order to testify before a Federal judge in Philadelphia regarding the future of the Philadelphia Naval Shipyard. By order of the House, I was given leave to attend this event. Had I been present, I would have voted "no" on rollcall vote No. 218.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1096, BUREAU OF LAND MANAGEMENT AUTHORIZATION FOR FISCAL YEARS 1992 THROUGH 1995

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill, H.R. 1096, to include corrections in spelling, punctuation, section numbering, and cross-referencing.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1096, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken tomorrow.

AGRICULTURAL DISASTER ASSISTANCE ACT OF 1991

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2893) to extend to 1991 crops the disaster assistance provisions of the Food, Agriculture, Conservation, and Trade Act of 1990, as amended.

The Clerk read as follows:

H.R. 2893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EMERGENCY CROP LOSS ASSISTANCE TO 1991 CROPS.

(a) EXTENSION OF ASSISTANCE TO 1991 CROPS.—Chapter 3 of subtitle B of title XXII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 1421 note; 104 Stat. 3962) is amended to read as follows:

"CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

"SEC. 2240. SHORT TITLE.

"This chapter may be cited as the "Agricultural Disaster Assistance Act".

"Subchapter A—Annual Crops

"SEC. 2241. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

"(a) DISASTER PAYMENTS.—

"(1) PAYMENT ACRES.—Effective only for a crop year for which the producers on a farm elect to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for such crop year, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition, the total quantity of such crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for such crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) within the payment acres for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for such crop of the commodity under the Federal Crop Insurance Act, 35 percent) for such crop.

"(2) FLEXIBLE ACRES.—Payments shall be made available for a crop of a commodity planted for harvest in accordance with section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464), and for which prevented planting credit was provided for such crop, on the same terms and conditions as provided for such commodity under section 2242, 2243, or 2244, as applicable. Such payments shall be based on the reduction in the quantity of the crop of the commodity that producers are able to harvest on such acres.

"(3) LIMITATIONS.—

"(A) ACREAGE IN EXCESS OF PAYMENT ACREAGE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the payment acreage (or permitted acreage in the case of the 1990 crop) for the farm for the commodity.

"(B) CROP INSURANCE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

"(4) REDUCTION IN DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the

quantity on which a payment is made to the producers for the crop under paragraph (1).

"(5) ELECTION OF PAYMENTS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply for a crop year, effective only for the crops of wheat, feed grains, upland cotton, extra long staple cotton, and rice, to producers on a farm who—

"(i) had failed wheat, feed grain, upland cotton, extra long staple cotton, or rice acreage during such crop year; or

"(ii) were prevented from planting acreage to such commodity because of damaging weather or related condition.

"(B) ELECTION.—The Secretary of Agriculture shall (within 30 days after the date on which assistance is made available under this subchapter for a crop year) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments for such crop for such crop year in accordance with this section in lieu of payments received for such crop under section 101B(c)(1)(D), 103B(c)(1)(D), 105B(c)(1)(E), or 107B(c)(1)(E) of the Agricultural Act of 1949 (or the corresponding provision in the case of the 1990 crop).

"(6) SPRING WHEAT AS REPLACEMENT CROP FOR WINTER WHEAT.—In providing assistance under this section or section 2242 for a crop of winter wheat, the Secretary shall disregard spring wheat that is planted as a replacement crop for such winter wheat.

"(b) ADVANCE DEFICIENCY PAYMENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply only for a crop year for which the producers on a farm elect to participate in the production adjustment program established under the Agricultural Act of 1949 for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for such crop year.

"(2) FORGIVENESS OF REFUND REQUIREMENT.—

"(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition the total quantity of such crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the 'qualifying amount'), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) (or, in the case of 1990 crops, section 107C of such Act as in effect on November 27, 1990) with respect to that portion of the deficiency in production that does not exceed—

"(i) in the case of producers who obtained crop insurance for such crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

"(ii) in the case of other producers, 40 percent of the qualifying amount.

"(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

"(3) ELECTION FOR NONRECIPIENTS.—The Secretary shall allow producers on a farm who, before the date on which assistance is made available under this subchapter for a crop year, elect not to receive advance deficiency payments made available for the crop for such crop year under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) (or, in the case of 1990 crops, section 107C of such Act as in effect on November 27, 1990) to elect (within 30 days after such date) whether to receive such advance deficiency payments.

"(4) DATE OF REFUND FOR PAYMENTS.—If the Secretary determines that any portion of the advance deficiency payment made to producers for a crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice under section 114 of the Agricultural Act of 1949 (7 U.S.C. 1445j) (or, in the case of 1990 crops, section 107C of such Act as in effect on November 27, 1990) must be refunded, such refund shall not be required prior to July 31 of the year following such determination for that portion of the crop for which a disaster payment is made under subsection (a).

"SEC. 2242. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES AND PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES ON FLEXIBLE ACRES.

"(a) DISASTER PAYMENTS.—

"(1) IN GENERAL.—Effective only for a crop year for which the producers on a farm elect not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for such crop year (and for such crop on flexible acres as provided under section 2241(a)(2)), if the Secretary of Agriculture determines that, because of damaging weather or related condition, the total quantity of such crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or in the case of producers who obtained crop insurance for such crop, 65 percent) of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

"(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 40 percent for the crop (or in the case of producers who obtained crop insurance, 35 percent).

"(b) PREVENTED PLANTING CREDIT.—

"(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage for a crop year that producers on a farm were prevented from planting to such crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary.

"(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

"(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the immediately preceding crop year minus acreage actually planted to the commodity for harvest in the crop year involved;

"(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the three immediately preceding crop years minus acreage actually planted to the commodity for harvest in the crop year involved; or

"(C) with respect to flexible acres as provided under section 2241(a)(2) for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary.

"(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

"(c) LIMITATIONS.—

"(1) ACREAGE LIMITATION PROGRAM.—The amount of payments made available to producers on a farm who elect not to participate in the production adjustment program for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

"(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

"SEC. 2243. PEANUTS, SUGAR, AND TOBACCO.

"(a) DISASTER PAYMENTS.—

"(1) IN GENERAL.—Effective for a crop year only for crops of peanuts, sugar beets, sugarcane, and tobacco in such crop year, if the Secretary of Agriculture determines that, because of damaging weather or related condition, the total quantity of such crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for such crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

"(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

"(A) in the case of producers who obtained crop insurance for the crop of the commodity for such crop year under the Federal Crop Insurance Act—

"(i) 35 percent for the crop; or

"(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for such crop for such crop year; and

"(B) in the case of producers who did not obtain crop insurance for the crop of the commodity for such crop year under the Federal Crop Insurance Act—

"(i) 40 percent for the crop; or

"(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for such crop for such crop year.

"(3) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

"(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

"(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2); and

"(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for crops of sugar beets and sugarcane for the crop year involved, and that, insofar as is practicable, shall reflect no less return to the producer than under the price support levels in effect for such crop year.

"(b) PREVENTED PLANTING CREDIT.—

"(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage for a crop year that producers on a farm were prevented from planting

to such crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary.

"(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

"(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the immediately preceding crop year minus acreage actually planted for harvest in the crop year involved;

"(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the three immediately preceding crop years minus acreage actually planted to the commodity for harvest in the crop year involved; or

"(C) with respect to flexible acres as provided under section 2241(a)(2) for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary.

"(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying for a crop year the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for crops of tobacco for such crop year.

"(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

"(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

"(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

"(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

"(3) the quantity of undermarketings of quota peanuts from a farm for a crop that may otherwise be claimed under section 358–1 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358–1) (or, in the case of 1990 crops of peanuts, section 358 of such Act as in effect on November 27, 1990) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

"(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

"(1) the quantity of undermarketings of quota tobacco from a farm for a crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

"(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445–1(d)).

"(f) SPECIAL RULE FOR SUGARCANE.—For purposes of determining the total quantity of a crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

"SEC. 2244. OILSEEDS AND NONPROGRAM CROPS.

"(a) DISASTER PAYMENTS.—

"(1) IN GENERAL.—

"(A) ELIGIBILITY.—Effective for a crop year only for the crops of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 (7 U.S.C. 1446f(a)) and nonprogram crops, the Secretary shall make a disaster payment under this section available to the producers on a farm if the Secretary of Agriculture determines that, because of damaging weather or related condition, the total quantity of such crop of the commodity that the producers are able to harvest is less than—

"(i) with respect to oilseeds, the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for such crop year for the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent of the State, area, or county yield, adjusted for adverse weather conditions during the three immediately preceding crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

"(ii) with respect to nonprogram crops (other than as provided in clauses (i), (iii), (iv)), the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for such crop year for the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

"(iii) with respect to crops covered in section 207 of the Agricultural Act of 1949 (7 U.S.C. 1446h) (or, in the case of 1990 crops, section 201(b) of such Act as in effect on November 27, 1990), 60 percent (or in the case of producers who obtained crop insurance, if available, for such crop year for the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent of the historical annual yield of the producers for such crops, as determined by the Secretary; and

"(iv) with respect to fish or seafood, 60 percent of the historical annual yield of the producers of such crops, as determined by the Secretary.

"(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 40 percent for oilseeds and other nonprogram crops for the crop, except that in the case of producers who obtained crop insurance, if available, for such crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 35 percent.

"(C) SPECIAL RULE FOR 1990 CROPS.—In the case of 1990 crops, assistance under this section shall be available only to the extent that assistance was not made available under the Disaster Assistance Act of 1989 (Public Law 101–82; 103 Stat. 564) for the same losses of such crops.

"(D) LIMITATION ON ASSISTANCE FOR AQUACULTURE.—The total amount of payments made available to all producers under subparagraph (A)(iv) shall not exceed $30,000,000 in any year.

"(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

"(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

"(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

"(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

"(C) DOUBLE CROPPING.—

"(i) TREATED SEPARATELY.—In the case of a crop that is historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining whether the crop was affected by damaging weather or related condition and the total quantity of the crop that the producers are able to harvest.

"(ii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall not apply in the case of a replacement crop.

"(D) NAVEL AND VALENCIA ORANGES TREATED AS SEPARATE CROPS.—For the purpose of programs administered under this chapter and the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), navel oranges and valencia oranges shall be considered separate crops.

"(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of a nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude—

"(A) commodities that cannot be sold in normal commercial channels of trade; and

"(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

"(b) PREVENTED PLANTING CREDIT.—

"(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage for a crop year that producers on a farm were prevented from planting to the crop of the commodity for harvest because of damaging weather or related condition, as determined by the Secretary.

"(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

"(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the immediately preceding crop year minus acreage actually planted for harvest in the crop year involved;

"(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in the three immediately preceding crop years minus acreage actually planted to the commodity for harvest in the crop year involved; or

"(C) with respect to flexible acres as provided under section 2241(a)(2) for which no such planting history is established, a quantity of acreage determined to be fair and reasonable by the Secretary.

"(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

"(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance to the extent required under section 2247.

"(d) Special Rules for Nonprogram Crops.—

"(1) Nonprogram crop defined.—

"(A) Included in definition.—Except as provided in subparagraph (B), for purposes of this section, the term 'nonprogram crop' means—

"(i) all crops for which crop insurance through the Federal Crop Insurance Corporation was available for a crop year; and

"(ii) other commercial crops for which such insurance was not available for such crop year, including but not limited to—

"(I) ornamentals, such as flowering shrubs, flowering trees, field or container grown roses, or turf;

"(II) sweet potatoes; and

"(III) fish or seafood produced in established freshwater commercial aquaculture operations.

"(B) Exception.—The term 'nonprogram crop' in subparagraph (A) shall not include a crop covered under section 2241, 2242, or 2243, or oilseeds.".

"(2) Farm yields.—

"(A) Establishment.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

"(B) Proven yields available.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least one of the immediately preceding three crop years, the yield for the farm shall be based on such proven yield.

"(C) Proven yields not available.—If such data do not exist for any of the three preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

"(D) County average yields.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

"(3) Responsibility of producers.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of crop losses for a crop year resulting from damaging weather or related condition in order for such producers to obtain disaster payments under this section.

"(e) Special Rule for Valencia Oranges.—For the purposes of this section, the 1990 crop of valencia oranges shall include any crop of valencia oranges, regardless of the year in which those oranges would be harvested, that was destroyed or damaged by damaging weather or related condition in 1990.

"SEC. 2245. CROP QUALITY REDUCTION DISASTER PAYMENTS.

"(a) In General.—To ensure that all producers of crops covered under sections 2241 through 2244 are treated equitably, the Secretary of Agriculture shall make additional disaster payments to producers of such crops for a crop year who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition, as determined by the Secretary.

"(b) Eligible Producers.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 2241, 2242, 2243, or 2244, as appropriate).

"(c) Maximum Payment Rate.—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

"(1) the established price for the crop, for commodities covered under section 2241;

"(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 2242;

"(3) the payment level under section 2243(a)(3), for commodities covered by section 2243; and

"(4) the payment level under section 2244(a)(2), for commodities covered under section 2244.

"(d) Determination of Payment.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster, as determined by the Secretary.

"SEC. 2246. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

"In the case of producers on a farm who obtained crop insurance for a crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this subchapter for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this chapter for such crop exceeds the amount determined by multiplying—

"(1) 100 percent of the yield used for the calculation of disaster payments made under this chapter for such crop; by

"(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 2241, the eligible acreage established under paragraphs (1) and (3)(A) of section 2241(a)); by

"(3)(A) in the case of producers who participated in a production adjustment program for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for such crop year, the established price for such crop of the commodity;

"(B) in the case of producers who did not participate in a production adjustment program for the crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice for such crop year (and, with respect to flexible acres as provided under section 2241(a)(2), in the case of those producers who did participate in such program for such year), the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for such crop of the commodity;

"(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 2243(a)(3); and

"(D) in the case of producers of oilseeds or a nonprogram crop (as defined in section 2244(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

"SEC. 2247. CROP INSURANCE COVERAGE FOR NEXT CROP YEAR.

"(a) Requirement.—To be eligible to receive for a crop year a disaster payment under this subchapter, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition, or forgiveness of the repayment of advance deficiency payments under section 2241(b), the producers on a farm shall agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the first crop year that begins after the producer receives the payment, loan, or forgiveness for the crop of the commodity for which such payments, loans, or forgiveness are sought.

"(b) Limitations.—Notwithstanding subsection (a), producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

"(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this chapter otherwise may be made, exceeds 65 percent;

"(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

"(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the preceding crop year in the county in which the producers are located;

"(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness received; or

"(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

"(c) Implementation.—

"(1) County committees.—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 2241 through 2245 are implemented, and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

"(2) Other sources.—Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

"(3) Commissions.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

"(d) Repayment of Benefits.—Notwithstanding any other provision of law, if (before the end of the crop year for which multiperil crop insurance is obtained pursuant to subsection (a)) such crop insurance coverage is canceled by the producer, the producer—

"(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

"(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

"SEC. 2248. CROPS HARVESTED FOR FORAGE USES.

"Not later than 45 days after funds are appropriated to carry out this subchapter for a crop year, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a yield for that crop year with respect to crops that were, or will be, harvested during such crop year for silage and other forage uses.

"SEC. 2249. PAYMENT LIMITATIONS.

"(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive for a crop year under one or more of the programs established under this subchapter may not exceed $100,000.

"(b) NO DOUBLE BENEFITS.—No person may receive disaster payments for a crop year under this subchapter to the extent that such person receives a livestock emergency benefit for lost feed production in that year under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

"(c) COMBINED LIMITATION.—

"(1) IN GENERAL.—No person may receive any payment under this subchapter or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in a crop year if such payment or benefit will cause the combined total amount of such payments and benefits received by such person in such year to exceed $100,000.

"(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

"(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

"SEC. 2250. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

"(a) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary of Agriculture may permit each eligible producer of a crop of a commodity who has obtained multiperil crop insurance for such crop for a crop year or, as provided in subsection (c), the preceding crop year under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this subchapter, for the purposes of determining such producer's eligibility for a disaster payment on such crop under this subchapter for the crop year involved and the amount of such payment.

"(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, if an eligible producer of wheat, feed grains, upland cotton, extra long staple cotton, or rice for a crop year elects to substitute yields for such producer's crop under subsection (a), the producer's eligibility for a waiver of repayment of an advance deficiency payment on such crop under this chapter shall be adjusted as provided in paragraph (2).

"(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this subchapter shall be reduced by an amount of production equal to the difference between—

"(A) the amount of production eligible for disaster payments under this subchapter using a substituted yield under this section; and

"(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this chapter.

"(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's crop of a commodity for the preceding crop year for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's crop of the commodity for the crop year involved.

"(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term 'eligible producer' means a producer of a crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds.

"SEC. 2251. DE MINIMIS YIELDS.

"The Secretary of Agriculture may determine a de minimis yield for each crop eligible for reduced yield disaster payments under this subchapter. The de minimis yield shall be set at a level that will minimize any incentive (because of the prospect of disaster payments) for a producer to abandon crops that have a value that exceeds the cost of harvesting. In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary. Any producer whose actual yield for a crop is equal to or less than the de minimis yield for such crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for such crop under this subchapter.

"SEC. 2252. SEPARATE TREATMENT OF EACH PRODUCER ON A FARM.

"A producer on a farm who produces any crop of a commodity for which disaster payments are made available under this subchapter shall qualify for a disaster payment if the total quantity of the commodity that the producer is able to harvest on that farm is reduced as a result of damaging weather or related condition in an amount that meets the criteria of section 2241, 2242, 2243, or 2244, even though the producers on the farm, collectively, may not meet such criteria.

"SEC. 2253. DEFINITIONS.

"For purposes of this chapter:

"(1) DAMAGING WEATHER.—The term 'damaging weather' includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind (or any combination thereof) that occurs during the calendar year in which the crop involved is intended to be harvested or the preceding calendar year.

"(2) RELATED CONDITION.—The term 'related condition' includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

"(3) PERSON.—The term 'person' shall have the meaning given such term by the Secretary in regulations, which shall conform, to the extent practicable, to the regulations defining such term issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note).

"Subchapter B—Orchards

"SEC. 2255. ELIGIBILITY.

"(a) LOSS.—The Secretary of Agriculture shall provide assistance under section 2256 to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of damaging weather or related condition occurring in a calendar year after 1989, as determined by the Secretary.

"(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the damaging weather or related condition, exceeds 35 percent (adjusted for normal mortality).

"SEC. 2256. ASSISTANCE.

"The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 2255 shall consist of either—

"(1) reimbursement of 65 percent of the cost of replanting trees lost and rehabilitating or restoring trees damaged as a result of damaging weather or related condition in the calendar year involved in excess of 35 percent mortality (adjusted for normal mortality); or

"(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

"SEC. 2257. LIMITATION ON ASSISTANCE.

"(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subchapter for a calendar year may not exceed $25,000, or an equivalent value in tree seedlings.

"(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

"SEC. 2258. DEFINITION.

"For purposes of this subchapter, the term 'eligible orchardist' means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

"SEC. 2259. DUPLICATIVE PAYMENTS.

"The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subchapter and the forestry incentives program, agricultural conservation program, or other Federal program.

"Subchapter C—Forest Crops

"SEC. 2261. ELIGIBILITY.

"(a) LOSS.—The Secretary of Agriculture shall provide assistance, as specified in section 2262, to eligible tree farmers that planted tree seedlings in a calendar year or the next calendar year for commercial purposes but lost such seedlings as a result of damaging weather or related condition occurring in such next calendar year, as determined by the Secretary.

"(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the damaging weather or related condition, exceeds 35 percent (adjusted for normal mortality).

"SEC. 2262. ASSISTANCE.

"The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 2261 shall consist of either—

"(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to damaging weather or related conditions in the calendar year involved in excess of 35 percent mortality (adjusted for normal mortality); or

"(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

"SEC. 2263. LIMITATION ON ASSISTANCE.

"(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subchapter may not exceed $25,000 for a calendar year, or an equivalent value in tree seedlings.

"(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

"SEC. 2264. DEFINITION.

"For purposes of this subchapter, the term 'eligible tree farmer' means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

"SEC. 2265. DUPLICATIVE PAYMENTS.

"The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subchapter and the forestry incentives program, agricultural conservation program, or other Federal program.

"Subchapter D—Administrative Provisions

"SEC. 2266. INELIGIBILITY.

"(a) GENERAL RULE.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this chapter.

"(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

"(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

"(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

"SEC. 2267. TIMING AND MANNER OF ASSISTANCE.

"(a) TIMING OF ASSISTANCE.—

"(1) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—Subject to paragraph (2), the Secretary of Agriculture shall make disaster assistance available under this chapter for a crop year or a calendar year, as applicable, as soon as practicable after the date on which appropriations are made available to carry out this chapter for such year.

"(2) COMPLETED APPLICATION.—No payment or benefit provided under this chapter shall be payable or due until such time as a completed application for such payment or benefit for a crop of a commodity has been approved.

"(b) MANNER.—The Secretary may make payments available under subchapter A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

"SEC. 2268. COMMODITY CREDIT CORPORATION.

"(a) USE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this chapter.

"(b) EXISTING AUTHORITY.—The authority provided by this chapter shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"SEC. 2269. EMERGENCY LOANS.

"Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply for a calendar year to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in such year.

"SEC. 2270. REGULATIONS.

"The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this chapter as soon as practicable after the date on which appropriations are made to carry out this chapter, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

"Subchapter E—Appropriations

"SEC. 2271. AUTHORIZATION OF APPROPRIATIONS.

"Any benefits or assistance (including the foregiveness of unearned advanced deficiency payments or any emergency loans) made available under this chapter shall be provided for a year only to the extent provided for in advance in appropriations Acts. To carry out this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 and 1992. Sums appropriated under this section shall remain available until expended.

"SEC. 2272. PRORATION OF BENEFITS.

"Any funds made available for carrying out this chapter for a calendar year in appropriations Acts shall be prorated to all producers eligible for assistance under this chapter in such year.

"Subchapter F—Application of Chapter

"SEC. 2273. APPLICATION OF CHAPTER.

"(a) ANNUAL CROPS.—Subchapter A and section 2269 shall apply only with respect to 1990 and 1991 crops.

"(b) ORCHARDS AND FOREST CROPS.—Subchapters B and C shall apply only with respect to calendar years 1990 and 1991.".

(b) APPLICATION FOR ASSISTANCE.—

(1) PRODUCERS AFFECTED BY AMENDMENTS.—In the case of agricultural producers of 1990 or 1991 crops who are affected by the amendments made by this section, the Secretary of Agriculture shall allow those producers to submit applications for initial or additional assistance under chapter 3 of subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) until the later of—

(A) the date established by the Secretary under section 2267(a) of such Act for final submission of applications;

(B) the end of the 60-day period beginning on the date of the enactment of this Act; or

(C) the end of the 60-day period beginning on the date on which funds are appropriated to provide assistance for losses resulting from disasters as provided under chapter 3 of subtitle B or subtitle C of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990, or under this Act.

(2) NOTICE OF DETERMINATION.—Not later than 60 days after the date on which the Secretary receives an application for assistance under subsection (a), the Secretary shall inform the producer submitting the application of the Secretary's determination with regard to the application.

(c) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended—

(1) by inserting after the item relating to the chapter heading of chapter 3 of subtitle B of title XXII of such Act the following new item:

"Sec. 2240. Short title.";

(2) by striking the item relating to section 2242 and inserting the following new item:

"Sec. 2242. Payments to program nonparticipants for target price commodities and payments to program participants for target price commodities on flexible acres.";

(3) by striking the item relating to section 2244 and inserting the following new item:

"Sec. 2244. Oilseeds and nonprogram crops.";

(4) by striking the item relating to section 2247 and inserting the following new item:

"Sec. 2247. Crop insurance coverage required for next crop year.";

(5) by striking the item relating to section 2251 and inserting the following new items:

"Sec. 2251. De minimis yields.
"Sec. 2252. Separate treatment of each producer on a farm.
"Sec. 2253. Definitions."; and

(6) by inserting after the item relating to section 2272 the following new items:

"SUBCHAPTER F—APPLICATION OF CHAPTER
"Sec. 2273. Application of chapter.".

SEC. 2. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

(a) INCLUSION OF PERMANENT FARMWORKERS AND PACKINGHOUSE WORKERS.—Section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a) is amended—

(1) by inserting ", permanent," after "migrant" each place it appears; and

(2) in subsection (b)—

(A) by inserting "(including a packinghouse worker)" after "an individual"; and

(B) by inserting "or packinghouse work" after "farm work" both places it appears.

(b) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The section heading of such section is amended to read as follows:

"SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME FARMWORKERS AND PACKINGHOUSE WORKERS.".

(2) TABLE OF CONTENTS.—The item relating to such section in the table of contents in section 1(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359) is amended to read as follows:

"Sec. 2281. Emergency grants to assist low-income farmworkers and packinghouse workers.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

□ 1730

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, some people think that the only time we have full-fledged disasters is when Dan Rather and Tom Brokaw are walking through a drought-stunted cornfield in Iowa.

The truth of the matter is that Mother Nature has dealt a cruel blow to many farmers and farmworkers around the country this year.

Agricultural producers throughout much of California have had to deal with a devastating freeze this past winter on top of the continuing drought. The freeze put thousands of low-income farmworkers out of work for months in some areas.

Severe flooding delayed planting and destroyed crops for thousands of farmers from Louisiana and Mississippi up the Mississippi River Valley to Iowa and Minnesota.

Disasters of smaller but equally devastating magnitude have fallen upon many other agricultural producers around the country. In my own district in South Texas we have it all—drought, flooding, and now even the Africanized honeybee.

I will admit that this year's lengthy list of disasters has not captured the national media's attention for longer than a 90-second blurb. But that doesn't make the physical and financial losses for the affected farmers and farmworkers any less real.

In fact, in 1990, nearly 1,400 counties out of the 3,000 rural counties in the United States were declared disaster areas. This year, 559 counties have already been declared disaster areas.

Unfortunately, less than half of the Nation's eligible producers carry crop insurance, and for others crop insurance is not even available.

Mr. Speaker, for all these reasons and until we are able to create a crop insurance program that will cover a large majority of agricultural producers, H.R. 2893 is needed.

This bill basically extends through 1991 a disaster assistance program for crop producers that was authorized in the 1990 farm bill, the Food, Agriculture, Conservation and Trade Act of 1990.

H.R. 2893 would extend the same threshold loss levels and payment rates as were included in the 1989 and 1990 disaster assistance laws.

H.R. 2893 continues the general requirement that a producer applying for disaster benefits for 1991 crop losses must agree to obtain crop insurance for the 1992 crop.

The bill also continues the limit on total payments a person may receive through disaster assistance programs—including livestock emergency benefits—to not exceed $100,000. A person with a qualifying gross revenue of over $2 million per year is not eligible to receive any disaster payments.

I am pleased to report that H.R. 2893 contains a provision clarifying that low-income permanent farmworkers and packing house workers are eligible for assistance under the low-income migrant and seasonal farmworker provisions of the 1990 farm act. This will provide much-needed assistance to workers in fruit and vegetable growing areas that lost their jobs due to crop disasters, such as the devastating California freeze.

Mr. Speaker, this bill, if enacted into law, is still subject to a separate funding measure being approved.

Although action to fund this bill is uncertain at this time, it is necessary that the House act on this bill now so that the parameters of a disaster payment program are clearly defined if funding becomes a reality.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, I support the adoption of H.R. 2893, a bill extending the disaster assistance provisions of the Food, Agriculture, Conservation and Trade Act, the 1990 farm bill.

Mr. Speaker, many of America's farmers and producers need disaster assistance now. They include California producers whose crops were destroyed or damaged in the 1990 freeze, flooding in Southern States and drought in other parts of the Nation.

We have seen the devastation caused by flooding in the Mississippi Delta this spring. We heard testimony in committee from farmers in the delta who could water ski across their fields this spring. Disaster damage in Mississippi and Louisiana alone may total nearly a half billion dollars. In Texas, damage in 1990 and 1991 totals more than $2 billion.

And just as some producers are reeling in the aftermath of floods, farmers in central Illinois are wondering what kind of assistance, if any, may be forthcoming as they watch their crops burn up in the fields.

Although it still is too early to determine the extent of damage to spring planted crops in north Missouri, our soft red winter wheat crop was severely damaged, both in yields and quality. Farmers have been turned away at the elevators because of low test weight on their wheat, in some cases less than 50 pounds per bushel, as measured by University of Missouri extension agronomists. In addition, the various disease problems associated with the poor crop make the wheat in many cases unsuitable for animal feed. Extension agronomists estimate that 55 to 85 percent of Missouri's soft winter wheat crop is not marketable.

To compound the problems, these disasters are coming on the heels of a recession in the farm economy that many producers are just now recovering from. Those who barely made it through the mid 1980s are operating on the thinnest of margins. Without assistance, bad weather will put many of them over the edge into bankruptcy or foreclosure.

The committee has made some minor, technical changes in the legislation to reflect new policies written in the 1990 farm bill. Generally, those changes include recognition of oilseed producers instead of solely soybean farmers and payments that account for flexible acres that were a part of last year's farm and omnibus budget bills. Payment rates and beneficiaries otherwise are the same as contained in the 1990 farm bill.

This legislation also authorizes appropriations for fiscal years 1991 and 1992.

Mr. Speaker, assuming funds are appropriated, this legislation will provide disaster assistance to farm program participants as well as those producers whose crops are not included in the commodity programs: orchards and forest crops, ornamentals and turf, and fish produced in freshwater commercial aquaculture operations.

Although the committee considered eliminating a provision to require assisted producers to buy crop insurance next planting season, the legislation continues the policy that producers must obtain multiperil crop insurance for their 1992 crops with the exceptions that are enumerated in the bill. The members reluctantly kept it in the bill, even though passage of this ad hoc disaster assistance actually negates the intent of the Agriculture Committee to make crop insurance a viable risk management tool for American farmers. I am concerned about the message we send to agricultural producers, and I hope this is an issue the committee may address in the coming months.

Finally, the legislation continues the payment limitations that were included in previous disaster bills.

Mr. Speaker, although the administration opposes this bill, I urge adoption of H.R. 2893.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, I hope that the Members will support this legislation. The 1990 act authorized such appropriation. We have gotten no money. We do not know what happened in 1991; but at least this sends a message to our farmers.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise today to express my strong support of this bill to direct the Secretary of Agriculture to provide disaster assistance to producers of 1991 crops on the same terms and conditions as provided for 1990 crops under the 1990 farm bill. I want to take this opportunity to thank Chairman DE LA GARZA for his leadership in the efforts to promptly address the devastating impact of disasters on our agriculture industry.

As you know, California has suffered particularly harshly because of the freeze, and more recently, with a drought that has been ongoing for several years. With the passage of this legislation, we will be able to effectively assist farms and farmworkers. I was pleased that several provisions of my legislation, H.R. 1550, the Agriculture Disaster Assistance Act, were incorporated as part of this committee bill, in addition to an amendment that was accepted during the full committee markup.

The basics of my Agriculture Disaster Assistance Act were designed to address the very unique needs of California farmers. A number of areas were covered including crop insurance, emergency loans, and water development projects. Those provisions of my bill ultimately accepted in this committee bill include expanding a direct-payment program for orchard growers to include the cost of tree rehabilitation and restoration. If trees cannot be rehabilitated, it often means the orchardists must start their groves from scratch which has bankrupted many farmers in previous disasters. Also, Valencia crops were damaged primarily in the 1990 freeze but would normally be harvested in the summer of 1991. Valencia orange crop growers will now be eligible for assistance for the damage they incurred because of the freeze.

Of important note is the expansion of the emergency grant program for migrant workers to include permanent farmworkers as well as packinghouse workers. This provision helps to ensure that the Government takes into account the needs of those who have a harder time securing their livelihood outside of farm-related labor.

In addition, the committee adopted report language I authored regarding Farmers Home Administration to look specifically at the needs of California. Currently, Farmers' Home Administration rules prevent most California farmers from receiving assistance. All of this assistance for farmers and farmworkers is so critical for my district as most of them do not benefit from Federal price supports and subsidies.

Mr. Speaker, I urge my colleagues to support this much needed legislation which takes into account all regional differences in trying to best help our farmers and workers. I believe that this legislation does reflect the individual needs and concerns of the States and is an important step in expediting the dire help necessary.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in support of this legislation, which is gravely needed.

Heavy rains in Arkansas did serious damage to our wheat crop, with losses estimated at about $140 million. Farmers not only harvested less wheat than normal, but much of what was harvested was of poor quality and did not bring good prices.

One farmer near Hughes, AR, recently told me that his wheat crop was short by about two-thirds. This presents a significant problem for farmers since they use the money from the wheat crop to operate until they harvest their other commodities in the fall, without that money, they are in a real bind.

This situation is so serious that it threatens the ability of some farmers to continue operating.

I believe that the threat by the Bush administration to veto funds for disaster relief is ill advised and shows a lack of understanding as to the seriousness of the problem.

We will continue to work on a solution to this problem, but our job would be made much easier if the administration did not throw roadblocks in the way.

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 2893, the Agriculture Disaster Assistance Act of 1991.

This is an important bill. It's the first step to getting some very concrete assistance to the tens of thousands of farmers across the country that have suffered severe weather-related crop losses in 1990 and 1991.

And, I'd like to point out, Mr. Speaker, that this bill has been brought before this body without any leadership from the President. The President continues to turn his gaze toward the problems on distant shores, rather than focusing on those who are suffering here at home, those who need the aid of this Government to enable them to once again contribute to the economic strength of this Nation.

To date, the President has asked Congress for an additional $1.14 billion to respond to international emergencies, and he has said that every dime of that is for "emergency requirements" and therefore exempt from the discretionary spending limits set in the budget summit agreement.

The President has also asked Congress to exempt an additional $43.9 billion for Desert Storm under this procedure.

For domestic emergencies, the President has sought a mere $39 million in supplemental funding under the emergency requirements procedure. That's less than 3-percent of what the administration has sought for international emergencies.

The President has turned a deaf ear to the pleas for assistance from growers and farmworkers alike. And, in my own State of California, which was hit by a recordkeeping freeze last December—the third worst natural disaster in our State's history—that decision has meant that an estimated 70,000 agricultural workers and their families are still in danger of going hungry each day because there is no work in the fields.

For California, this bill promises help to some 4,500 citrus growers so they can get back on their feet and, in turn, reemploy tens of thousands of farm workers in the San Joaquin Valley.

The bill also authorizes emergency assistance to low-income farmworkers in California and other States who are out of work due to the freeze or other natural disasters.

Mr. Speaker, this is a sound bill, and I urge its adoption.

Mr. CONDIT. Mr. Speaker, I rise today in strong support of H.R. 2893, the Agricultural Disaster Assistance Act. This bill will extend disaster assistance to farmers who experienced disasters in 1990 or 1991 crop years. To farmers and farmworkers in California this bill represents a major step toward some relief for losses experienced in back to back disaster.

California is experiencing a fifth year of drought this year. In response to the massive shortage of water throughout the State, water deliveries have been cut from 25 percent to 100 percent in the State and Federal water projects. These cutbacks have resulted in many farmers not planting crops this year and using their small allocations to keep their orchards alive.

To compound the hardships caused by the drought, California was hit with a devastating freeze in December 1990. This freeze damaged orange, lemon, artichoke, strawberry, and avocado crops. Obviously, the farmers who grow these crops experienced losses because of the freeze. In addition, the large farmworker population in the San Joaquin Valley has suffered very significant economic devastation.

While many farmers and farmworkers believed that they would be able to get some assistance from the Federal Government to get them through a difficult time, the reality has been that very few, if any, farmers or farmworkers have qualified for or received assistance. The bill that we are considering today, while only providing for the authorization for disaster assistance, does make some minor changes in the disaster authorization that was included in the 1990 farm bill that will make limited assistance available.

What the farmers and farmworkers of the San Joaquin Valley really need is for Congress to pass an appropriations measure to fund the disaster programs that are already authorized. The House Appropriations Committee has taken the first step in addressing this need, but this action is now stalled. We have appropriated over $50 billion this year for emergency purposes including Operation Desert Storm/Shield, relief for the Kurds, forgiveness of debt to Egypt and other international needs. Less than $50 million has been appropriated for domestic needs.

While I recognize the need for funding for the crisis in the Middle East, I find incomprehensible that the administration has granted an emergency designation for other purposes, but refuses to provide a small amount of assistance to U.S. citizens who are facing a true crisis. The House Agriculture Committee held hearings earlier this year where the mayor of a small town in the San Joaquin Valley testified that the citizens of his community did not have enough food to eat, could not pay for medical care, and could not pay their rents or mortgages because of a lack of work caused by the freeze.

Mr. Speaker, I recognize that our Nation is facing a budget crisis that demands strict restraints on spending. I support stricter restraints on spending than many others. However, I believe that this is a question of equity. Citizens of our own country need assistance to get them through a bad time. It is disgraceful that the administration cannot make this funding available. I commend Chairman DE LA GARZA for acting on this important legislation. I also commend Chairman WHITTEN for taking action to address these needs.

I urge my colleagues to support this measure and the funding measure that is needed to accompany this bill.

Mr. KANJORSKI. Mr. Speaker, I rise in strong support of this legislation. This bill is necessary if we are going to pursue one of the foremost goals of our Nation—to help our citizens in times of dire need.

This bill will extend the Agriculture Disaster Assistance Program to cover 1991 crop losses. By approving this legislation, we are giving both relief and hope to farmers from every corner of this country—from California to Pennsylvania, from Minnesota to Texas.

The farmers who will benefit from this bill are those who, due to conditions beyond their control, have been unable to plant or harvest their crops in 1990 or 1991. These people are victims, and this bill will enable them to weather the conditions that have threatened to ruin their livelihood.

This bill has a special meaning for me and the people of my district. As many of my colleagues know, Pennsylvania has been stricken this year with a disastrous drought.

Two of the counties in my district—Sullivan and Montour—will together sustain an estimated crop loss of almost $6 million. This amount is devastating, considering the combined population of these counties is less than 24,000 people.

Many of the farmers who are affected by the drought, and who would benefit from this bill, are not millionaires who can afford to miss the proceeds brought in one season's harvest. These are people who work day in and day out, at one of the most noble and necessary professions, usually just to make ends meet.

These are people who not only need, but deserve our help.

H.R. 2893 extends a program that has proven to be of vital assistance to those who need it the most. Thus I urge my colleagues to support this legislation.

Mr. WEBER, Mr. Speaker, I rise in strong support of H.R. 2893, legislation which authorizes disaster assistance to farmers. I want to commend the chairman of the Agriculture Committee, Mr. KIKA DE LA GARZA, for recognizing the need to compensate farmers for the financial losses suffered due to a host of weather problems around the country.

In Minnesota alone, Mr. Speaker, 18 counties have been declared disaster areas with an additional 22 contiguous counties qualifying for assistance due to unprecedented rainfall. It is estimated that 15,000 acres in Minnesota may lie idle this year, since farmers were unable to plant a crop. Furthermore, Minnesota farmers that were able to plant a crop now find their fields under water. Without this legislation, Mr. Chairman, many farmers will find themselves on the brink of financial disaster.

This legislation, Mr. Speaker, authorizes disaster payments to producers of program and nonprogram crops who suffered production losses due to damaging weather or related conditions in 1990 or 1991. The bill also mandates payments in reductions in crop quality. It is a fair and equitable program which seeks to assist farmers through this difficult time.

I must remind my colleagues that this is only the first step in this important process. Congress will need to pass an appropriations bill to fund this disaster relief program. Two weeks ago the Subcommittee on Agriculture Appropriations, of which I am a member, reported out a bill which would provide $1.75 billion in disaster relief. I want to thank the chairman of the subcommittee, Mr. WHITTEN, for his work on this matter. It is my hope that the administration will realize the magnitude of the disaster and work with our committee in an effort to develop a bill which the President will sign.

Mr. BROWN. Mr. Speaker, the bill before us this afternoon, H.R. 2893—the Agriculture Disaster Assistance Act of 1991—is, like so many items that the House of Representatives considers, better late than never. Although we may be sweltering under a massive heat wave, let us not forget the December 1990 freeze that crippled the agriculture industry in the State of California.

Two weeks of subfreezing temperatures wrought havoc on the agriculture industry, ruining the year's crops for thousands of farmers, snapping citrus trees, closing packing plants, and forcing thousands of families into unemployment. This disaster, one of the worst natural calamities ever visited on the State of California, is far from over. The assistance the Federal Government provides in this bill will help ease the burden placed on too many farmers.

With so many current problems to face, it is all too easy to forget about the recent past. We tend to have short memories—moving from one tragic episode to the next.

Unfortunately, I suspect that had the 1990 California freeze interrupted the playing of a World Series game or the Superbowl, Congress would have focused its attention on the problem long before these sizzling days of July. If the damage done to California agriculture had occurred in a 3-hour time span, I am sure Congress would have moved quickly to assist those in need.

Unfortunately—for the workers, families and businesses of California—the freeze was an extended disaster. It did not happen overnight. It happened over a period of several days and nights. During that time, the heightened tensions in the Persian Gulf, Operation Desert Storm, and our mounting economic problems, left us little time to concentrate on addressing the very real problems that thousands of Californians were facing. Again, this bill may be late, but I can assure you that the needs of the people in my home State are indeed very real.

As all of us know well, the tight budget conditions that this Congress and this Nation face make it increasingly difficult to offer disaster assistance. But I also know, just as you do, that we cannot turn our backs on the people in our country, who, through no fault of their own, are forced to turn to public assistance. Californians have banded together in support these past few months to help each other make it through these difficult times. But private assistance is wearing thin and now is not the time for the Federal Government to forget the natural disaster that struck our farm communities during those cold days in December.

I applaud the work of the Agriculture Committee in fashioning a modest proposal to help the communities throughout this Nation which have been struck by natural disasters. The assistance we provide through this bill is greatly needed, make no mistake about that fact, and I urge you to join with me in supporting the Agriculture Disaster Assistance Act of 1991.

Mr. LEHMAN of California. Mr. Speaker, I rise today in support of legislation which will bring much needed relief to farmers and farmworkers alike in California. My State has been hard hit by a painful, 5-year drought as well as a devastating freeze last winter. The combination of these disasters has left both growers and workers without much needed income and little assistance has been provided to help remedy the problem.

In the meantime, damage to California farmers has been estimated at more than $900 million. The December 1990 freeze devastated almost all of the 1990 citrus crop, damaged several other crops in the Central Valley and accelerated unemployment to 50 percent in some areas. Because farming is a seasonal industry, with different crops ready for harvest at different times, the damage to a variety of crops has long-term effects. This is especially true for workers who are dependent on this cycle for year-round employment. In addition, industries related to the farm community such as packing sheds have also been severely affected.

Fortunately, the Congress is responding by authorizing an extension of 1990 agriculture disaster assistance provided for in last year's farm bill to crop losses incurred in 1991. For my district, where several counties have been declared disaster areas, producers will receive disaster payments aimed at helping them recover from their losses. This disaster assistance bill also authorizes assistance, in the form of cash payments or replacement seedlings, to orchardists and tree farmers who lose more than 35 percent of their trees due to damaging weather.

Assistance for farmworkers is also provided in the form of grants to public agencies and nonprofits that provide emergency services to low-income migrant and seasonal farmworkers. Because many are ineligible for unemployment benefits, this type of temporary aid is vital. This aid also extends to permanent farmworkers and packinghouse workers who meet the income eligibility standards.

Of course, the next key step is to come up with the necessary funding. The emergency supplemental appropriations measure being considered by the House Appropriations Committee will include $1.75 billion to fund agricultural disaster assistance, approximately $435 million of which will go to California farmers. I understand this bill is under a veto threat by the President. Regrettably, while the administration is on record as strongly supporting emergency assistance abroad in recent months, it does not see the need for the same compassionate relief at home.

I am confident that the administration's objections can be overcome and that this measure will be enacted into law with the greatest urgency. I urge my colleagues to support both the authorization and appropriations measures which will bring aid to hard-hit disaster areas both in my area and around the country.

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise today to express my strong support for the chairman's disaster assistance legislation.

Farmers in my district have suffered significant losses from Colorado's notoriously severe weather. Mesa County, located on the Colorado/Utah border, faces the possibility of losing $15 million in economic benefits stemming from a late April freeze that devastated many of the fruit orchards in the valleys surrounding Grand Junction.

The USDA, in its preliminary report, has estimated apple and pear growers suffered damages as high as 40 percent of their crops, while many of the apricot, peach, and cherry growers lost 100 percent of their fruit.

These growers are being particularly hard hit because, after having their crops destroyed, they now realize funds are not available for disaster assistance payments, a program they have relied on in the past to help through these tough times.

Growers in my district have repeatedly told me they are enthusiastic about the crop insurance program but have thus far found it unworkable. Under the current crop insurance program, the price paid per bushel for Colorado peaches does not come anywhere near the average price paid for the State's peaches on the wholesale market. The amount of paperwork and technicalities involved in the program also prevent many growers from participating in the program. These shortcomings need to be addressed before growers can realistically be expected to rely on the crop insurance program.

I am pleased that Congress has begun to address this very crucial issue. I sincerely believe that the future of the U.S. agricultural industry is at stake. Our commitment to helping our agriculture producers can be clearly demonstrated by supporting H.R. 2893.

Mr. HUCKABY. Mr. Speaker, there have been some very adverse weather conditions throughout the country this year and these weather problems have caused some very serious difficulties for agriculture. We have endured record flooding in the Mississippi Delta area, record drought in California, as well as extensive disasters in other areas of the country. In fact, in my State of Louisiana alone, it is estimated that there is approximately $178 million in crop damages and many millions more in lost farm labor wages and lost processing revenues.

There are minor provisions in existing law intended to provide some relief from the effects of inclement weather conditions and the Secretary of Agriculture and his staff have worked to help relieve some of the hardship. However, this has not been sufficient and we do need additional assistance.

Today, we bring a bill to the floor, H.R. 2893, to provide disaster assistance in the form of direct payments to eligible producers of all 1990 and 1991 crops who have experienced a disaster due to damaging weather or related condition. I think it is imperative that we provide assistance to those who have suffered great losses due to conditions beyond their control.

In addition, Mr. Speaker, I believe that we must make it a priority to take care of those here at home first before we give to those in need overseas. Of the funds that the administration has requested this year under the heading of "emergency spending", more has gone overseas than has stayed within our own borders. We have spent roughly $39 billion here at home and roughly $41 billion overseas.

Let me say that I do not object to offering assistance to other countries, I simply believe that we have a dire emergency here at home in rural America and we must quickly provide this assistance to those farm families throughout the country that have been adversely affected by devastating drought, flood, freeze, and other damaging weather.

Mr. EWING. Mr. Speaker, I rise in support of H.R. 2893, agriculture disaster assistance authorization. I return this morning from Illinois where I spent a good portion of the weekend talking with small farmers who are suffering the devastating effects of drought.

Farmers in different parts of America are hard hit with drought. One need look no further than the front page of this morning's Washington Times to see how drought is hurting farmers in the Washington, DC area. In parts of Illinois, farmers report that they've had no rain since June 1. With no weather relief in sight, farmers are facing a crisis of calamitous proportions.

This emergency comes on the heels of devastating droughts in 1983 and 1988, which thousands of farmers are still reeling from. The new drought will hurt the most those farmers who are less established and able to survive. We could lose a whole generation of young farmers because of serious drought conditions over the past decade, then who will operate the farms that feed the Nation and the world?

Without this legislation, many farmers will be driven out of business and our economy will suffer. Many American farmers are facing disaster, and this legislation is desperately needed.

I strongly support H.R. 2893 and urge my colleagues to vote in favor of this important legislation.

Mr. HERGER. Mr. Speaker, I rise in strong support of this legislation. One thing is clear—our rural communities in northern California are currently experiencing two particularly devastating natural disasters simultaneously. First, our farmers are suffering through a fifth consecutive year of drought. Second, the destruction to agricultural production from the freeze of late 1990 is estimated to be the third largest natural disaster in the history of California, after the earthquakes of 1906 and 1989. Statewide, it is estimated that damage to citrus crops alone will reach $500 million. We must act now in addressing these needs.

A large number of growers in northern California have had their Federal water supplies reduced by 75 percent in 1991. This is on top of reductions of 50 percent in 1990. A good illustration of what the drought means to people in rural areas is provided by the case of Colusa County, CA, in my district. This small, rural county, which is heavily dependent on agriculture, led all California counties with a March unemployment rate of 25.6 percent. This unusually high level of unemployment is attributed to the drought and the recession.

Our budgetary constraints are great, and certainly our top priority must be to put our fiscal house in order. It should be noted that it may indeed be more fiscally responsible to provide effective, efficient disaster assistance to growers than relying on increased outlays for Federal unemployment, food stamps, and other benefits.

I urge my colleagues to support this legislation today.

Mr. WEBER. Mr. Speaker, I rise in strong support of H.R. 2893, legislation which authorizes disaster assistance to farmers. I want to commend the chairman of the Agriculture Committee, Mr. KIKA DE LA GARZA, for recognizing the need to compensate farmers for the financial losses suffered due to a host of weather problems around the country.

In Minnesota alone, Mr. Speaker, 18 counties have been declared disaster areas with an additional 22 contiguous counties qualifying for assistance due to unprecedented rainfall. It is estimated that 15,000 acres in Minnesota may lie idle this year, since farmers were unable to plant a crop. Furthermore, Minnesota farmers that were able to plant a crop now find their fields under water. Without this legislation, Mr. Chairman, many farmers will find themselves on the brink of financial disaster.

This legislation, Mr. Speaker, authorizes disaster payments to producers of program and nonprogram crops who suffered production losses due to damaging weather or related conditions in 1990 or 1991. The bill also mandates payments in reductions in crop quality. It is a fair and equitable program which seeks to assist farmers through this difficult time.

I must remind my colleagues that this is only the first step in this important process. Congress will need to pass an appropriations bill to fund this disaster relief program. Two weeks ago the subcommittee on agriculture appropriations, of which I am a member, reported out a bill which would provide $1.75 billion in disaster relief. I want to thank the chairman of the subcommittee, Mr. WHITTEN, for his work on this matter. It is my hope that the administration will realize the magnitude of the disaster and work with our committee in an effort to develop a bill which the President will sign.

Mr. COLEMAN of Missouri. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2893, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 2893, the bill just considered.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 2942, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–159) on the resolution (H. Res. 200) waiving certain points of order during consideration of the bill (H.R. 2942) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and order to be printed.

RESEARCH NEEDED ON ADOLESCENT BEHAVIOR

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MCDERMOTT. Mr. Speaker, recently the administration decided to just say no to a proposed study of adolescent sexual behavior. This study is badly needed.

Adolescents today face increasingly serious health hazards. Teenage pregnancy, which had begun to decline in the 1980's, is on the rise. Young women are especially vulnerable to sexual assault and abuse. We are seeing a dramatic increase in the spread of sexually transmitted diseases—especially among adolescents. And teenagers are not immune to AIDS—according to one report, more than 20 percent of all AIDS patients may have become infected in their teens.

Adolescents need candid information and education to make informed decisions about their sexual behavior. Health professionals need accurate information to determine the education and prevention efforts that are most needed and most likely to be effective with teenagers.

No one wants to promote sexual activity among teenagers. But we cannot deny that it already is happening. A recent survey indicated that 84 percent of respondents said it is appropriate to talk to children about sexually transmitted diseases; 78 percent said they wanted more information on AIDS prevention for their children. These parents know that children are at risk and need help. In the era of AIDS, when people's behavior can prove fatal, we must understand what behaviors they are engaging in and why.

Ignorance and denial about our teenagers' sexual behavior will cost lives. This is no time to put ideology above public health. I urge the administration to reconsider its decision and promote research that provides honest answers for our children. I also want to share with my colleagues an editorial in today's New York Times that succinctly discusses this issue.

(The article is as follows:)

[From the New York Times, July 23, 1991]

SILENCING TEENS ABOUT SEX

The United States is a country that's still shy about talking about sex. But it is also a country in which 15-year-old mothers are common, and thousands of young men are dying of a sexually transmitted disease contracted in their teens.

A five-year nationwide study to determine the causes of behavior in adolescents that puts them at risk of unwanted pregnancy and AIDS sounds—quite literally—like a lifesaver. But not to Gary Bauer, president of the Family Research Council who says it's an "invasion of privacy." Nor to Representative William Dannemeyer, who calls its $18 million price tag "wasteful government spending." And not, perhaps, to the Secretary of Health and Human Services, Dr. Louis W. Sullivan, who has suddenly blocked its funding.

It's easy to see why the questions might rile some conservative and "family values" groups. Several questions about practices like oral and anal sex that some people consider unmentionable. But the privacy of participants in the study, to be conducted by researchers at the University of North Carolina, will be protected. The youngsters would need their parents' informed permission before taking part, and wouldn't have to answer questions they didn't want to. As for that $18 million, it's tiny compared with the financial consequences of teen-age pregnancy.

The Public Health Service laudably seeks a reduction in the rate of unwanted pregnancies and a rise in the age of first intercourse by the year 2000. (At present 27 percent of American girls and 33 percent of American boys are sexually active by 15.) But that goal won't be reached without the kind of information the North Carolina study can provide. Dr. Sullvian says he wants to become more familiar with the study. His department's efforts to understand teen-age sexuality deserve the same staunch support he has given the campaign to reduce tobacco and alcohol abuse.

□ 1740

ORDER OF BUSINESS

Mr. PEASE. Mr. Speaker, I ask unanimous consent to allow the majority leader, the gentleman from Missouri [Mr. GEPHARDT] to precede me with his 5-minute special order.

The SPEAKER pro tempore. (Mr. GEREN of Texas). Is there objection to the request of the gentleman from Ohio?

There was no objection.

REWARDS FOR RESULTS ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, as I rise to introduce new legislation to refashion the way we encourage learning and fund schools, I remind my colleagues of the historic commitment to education that is the hallmark of the Democratic Party.

Nearly half a century ago, at the height of World War II, President Franklin Roosevelt convened a White House Conference on Children.

Even though he was prosecuting a world war in two theaters on opposite sides of the globe, and even though we were only beginning to emerge from the Great Depression, FDR knew that if we lose our children, we lose our all. He said:

> It will be very bad economy to save money at the cost of the minds and the bodies of the children of this country. We cannot afford to let things rest as they are.

These courageous and visionary words are just as true today as they were almost 50 years ago. Today we truly cannot "afford to let things rest as they are."

That the minds and bodies of our young people are at risk is by now a truism. But the facts underpinning this truth shock us still:

One third of American babies borne by women who have not received adequate prenatal care; 7 million children who do not receive routine health care; only 14 percent of American eighth graders with an average proficiency in junior high school math; between 25 and 50 percent of our high school students dropping out of school; nearly 2 million young people leaving school each year deficient in basic and marketable skills; and employers spending more than $200 billion each year on training for their employees.

I could go on. And on.

It has become too easy simply to talk about problems; today, I want to talk about solutions.

My legislation provides solutions to the problems that shackle the minds and bodies of our children and threaten the future of our country.

I call it the Rewards for Results Act of 1991—a bill that provides Federal payments for actual improvements in the health and educational status of our children.

Simply put, no American taxpayer will spend a single dollar under this plan unless there is a measurable improvement in the educational and health status of the children it is designed to help.

The Rewards for Results Act of 1991 takes two of the national education goals, readiness to start school and excellence in student performance, specifies measurable criteria for achieving the goals, and pays the States and the schools for meeting those criteria.

It does not tell the States or the schools how to meet the criteria.

It does not design programs intended to meet the criteria, nor does it pay others for good intentions.

Rather, it specifies results and pays for them once they are achieved.

Every child registering for first grade having had health care, proper nutrition, and early childhood education will earn a reward of greater resources for his or her State.

Every high school senior who matches or beats the average math and science scores of the highest scoring nation on an international test will earn a reward for his or her school and school district—and a scholarship for postsecondary education or training.

These Federal rewards will provide incentives to States, schools, parents, and students to get the job done. The payments are adjusted to provide greater rewards for those who produce results starting from a disadvantage.

There will be no competition between States or schools.

All those who improve their own performance in achieving the specified results will earn their reward.

This system of incentives will supplement, not supplant, current Federal, State, and local efforts.

It will encourage those responsible for the health and education of our children to use all their resources efficiently and effectively, while increasing those resources when the necessary results are achieved.

The Rewards for Results Act of 1991 is a new kind of Federal commitment to American children, a commitment based on performance and contingent upon results. It will cost money—in the short term.

But children who are ready to learn when they start school, and young people who graduate from high school with math and science skills second to none in the world and then go on to postsecondary training or education are worth paying for.

And they will pay us back many times over—with gains in productivity, health status, citizen confidence in our education system, and national pride.

Confronted as we are with the stiffest competition in the world market that we have ever known, we cannot afford not to make this investment in the health and education of our children.

We must commit ourselves to this approach, and to other ideas, to fulfill the American dream, enabling all Americans to develop to their full potential, earn a good living, and provide for their children the opportunity to do even better.

We must do these things because America, to become a high wage economy, must become a high performance economy.

That will require additional investments in the skills of our people, in the areas of high school and postsecondary academic performance, school-to-work transition, worker training, and high performance workplaces.

And I will be introducing legislation in this area, as well, this coming September, because this cause must be America's cause as we head into the next century.

As I began these remarks by quoting Franklin Roosevelt, let me close by making reference to the founder of my political party, Thomas Jefferson, and by making an observation that has been made by others before me.

Jefferson had a number of outstanding careers—a genius who invented things besides a revolution; a Vice President and President who literally shaped the country's geographic and economic future. But in designing the tombstone beneath which he was laid to rest, he asked people to remember most his defense of liberty and commitment to education. He wrote:

> Here was buried Thomas Jefferson, author of the Declaration of Independence and of the Statute of Virginia for Religious Freedom and father of the University of Virginia.

Like Jefferson before us, America must focus its creative energies on enlarging the educational achievement of our people.

It is the greatest opportunity they will have for realizing the destiny of their lives; it is essential for keeping this Nation as strong and as good as Jefferson meant it to be.

□ 1750

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. GEREN of Texas). Is there objection to the request of the gentleman from Ohio?

There was no objection.

UPDATE ON UNITED STATES-MEXICO FREE TRADE AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 5 minutes.

Mr. PEASE. Mr. Speaker, the Mexican Government reportedly spent $100 million this spring for lobbyists in Washington, DC, to present Mexico's best face to the United States Congress. Nevertheless, President Bush had to pull out all of the stops, culminating with the issuance of a carefully polished action plan, just in order to win narrow approval to negotiate a proposed North American Free-Trade Agreement [NAFTA] on a fast-track basis.

Hyperbole became the norm too often in the weeks leading up to the fast-track vote 2 months ago. But it is not too late to get the facts for our Federal Government to deal with the trade and investment distortions certain to flow from any NAFTA because of vastly different labor and environmental standards and enforcement regimes in Mexico in contrast with the United States. Let me illustrate my point.

To date, when I asked President Bush and United States Trade Representative Carla Hills about respect for basic labor rights such as freedom of association in Mexico, I heard a standard refrain. They are quick to point out that a much higher percentage of the Mexican workforce belongs to unions than do American workers. They are quick to assert that the Mexican Constitution and Mexican labor laws are stronger than our own. They even went so far as to circulate to every member of the Congress a 15½-page document to convince us that Mexico "has strong labor protections which are integral to its Constitution and laws."

But what you see is not what you get when it comes to Mexican labor laws. Whether Mexico has an exemplary labor code on the law books is not what matters in relation to the NAFTA or othewise. In practice, the Mexican Government has dominated and effectively controlled attempts to organize Mexican workers into independent trade unions throughout much of the 20th century. More importantly, the Bush administration will find that cynical efforts to manipulate Mexican workers continue as I speak if they care enough to scratch beneath the legal sophistry.

Last May 15, three trade unionists, supported by the Minnesota Fair Trade Coalition, the International Labor Rights Education and Research Fund, and Minnesota Attorney General Hubert Humphrey III, filed a 39-page GSP petiton with the United States Trade Representative, pursuant to existing United States trade law, urging that Mexican imports be denied duty-free access to the United States market because of the systematic denial of fundamental worker rights in Mexico.

The U.S. Trade Representative has not yet decided whether to accept this petition for review, even though she is already a week beyond her own self-imposed deadline for announcing those decisions. I urge the Bush administration to take up the Mexico GSP petition and to investigate all of the allegations therein thoroughly and fairly. It paints a very disturbing picture of widespread, systemic labor repression throughout Mexico.

PETITION TO REVIEW THE ELIGIBILITY OF MEXICO AS A BENEFICIARY DEVELOPING COUNTRY UNDER THE GENERALIZED SYSTEM OF PREFERENCES

[Submitted to the Trade Policy Staff Committee by William McGaughey Jr., Thomas J. Laney, and Jose L. Quintana, May 15, 1991]

I. INTRODUCTION

Mexico is currently designated as a Beneficiary Developing Country under the Generalized System of Preferences (GSP) program. We, the undersigned, hereby request that Mexico's eligibility status as a beneficiary under this program be reviewed. We further request that Mexico's designation as a beneficiary developing country be revoked if the review confirms violations of GSP eligibility criteria. We make this request because Mexico has consistently violated internationally recognized worker rights. The respect of such rights is a criterion of eligibility for status as a beneficiary developing country under the GSP program.

II. LEGAL BASIS FOR REVIEW AND REVOCATION OF ELIGIBILITY STATUS

This petition is being submitted to the Trade Policy Staff Committee for review by William McGaughey Jr., Thomas Laney, and Jose Quintana, whose addresses appear as follows:

William McGaughey, Jr., 1618 Glenwood Ave. #11, Minneapolis, MN 55405; Thomas Laney, 59 Battle Creek Pl., St. Paul, MN 55119; Joes Quintana, 1425 Terrace Dr. #5C, Roseville, MN 55113.

The petition is supported by the Minnesota Fair Trade Coalition (821 Raymond Ave., #160, St. Paul, MN 55114), by the International Labor Rights Education and Research Fund (100 Maryland Ave., N.E., Washington, DC 20002), and by Hubert Humphrey III, Attorney General, State of Minnesota (State Capitol, St. Paul, MN 55155).

The Republic of Mexico is the beneficiary developing country subject to this GSP annual review.

The petitioners request a review of Mexico's GSP status with respect to the designation criteria listed in Section 502(b) of the Trade Act of 1974 as amended. According to the statute, the President shall not designate any country a beneficiary developing country under the GSP trade law "if such country had not taken or is not taking steps to afford internationally recognized worker rights to workers in the country." 19 U.S.C. 2462(b)(7).

The term "internationally recognized worker rights" is defined as follows:

"(a) the right of association;

(b) the right to organize and bargain collectively;

(c) a prohibition on the use of any form of forced or compulsory labor;

(d) a minimum age for the employment of children; and

(e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health." 19 U.S.C. Section 2462(a)(4)

The Republic of Mexico has repeatedly and consistently violated several types of worker rights as defined by U.S. trade laws. Therefore, Mexico should be ineligible to be designated by the President as a beneficiary developing country under the GSP program. We respectfully request that the Trade Policy Staff Committee review Mexico's eligibility status to the end that it recommend to the President termination of GSP benefits if significant violations of worker rights are found in that country.

III. EVIDENCE OF WORKER-RIGHTS VIOLATIONS

(A) Types of violations

The government of the Republic of Mexico has engaged in certain activities which effectively prevent Mexico workers from exercising their "right of association" and "right to organize and bargain collectively." In addition, this government has effectively condoned violations regarding "a minimum age for the employment of children" and "acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

The "right of association" and "right to organize and bargain collectively" refer to the right of Mexican workers to form free associations of workers for the purpose of bargaining collectively with employers. An essential element in the right of association is that the associations be truly representative of the workers which they comprise. Specifically, these associations should be democratically elected. As trade unions, they should conduct honest elections of officers and negotiate with employers on the basis of demands brought forth on behalf of the workers through their duly elected union representatives. Union policy should also be free of coercion from the government or other outside groups except within the context of law.

In theory, Mexican workers enjoy good constitutional and legal protections regarding their right of free association and power to bargain collectively. Article 123 of the Mexican Constitution gave workers the right to organize labor unions and the right to strike, and implied their right to bargain collectively for labor contracts. In addition, Article 123 of the Constitution provided for minimum labor standards as regards a minimum wage, overtime pay, daily work hours, profit sharing, protection of child and women workers, night work, forms of payment, and health and safety standards. Article 123 established a Federal Board of Conciliation and Arbitration, made up of management, labor, and government representatives, which had the power to resolve industrial disputes. Subsequent laws or court rulings made in 1924, 1927, 1929, 1931, and 1970 have tended to dilute these constitutional protections given to Mexican workers. In addition, Mexico signed Convention 87 of the International Labor Organization in 1950, which guaranteed workers the right of free association and trade-union activity.

Despite these legal protections, the government of the Republic of Mexico and trade-union organizations controlled by this government have engaged in certain practices which tend to negate workers' legally protected rights with respect to free association and collective bargaining. In the discussion which follows, we will identify specific techniques that have been used in Mexico to deny internationally recognized worker rights in practice.[1]

(B) Government influence upon Mexico's official trade unions

Most of Mexico's union workers are affiliated with government-controlled labor organizations under the umbrella of the "Congress of Labor" (Congreso de Trabajo) which is, in turn, associated with Mexico's ruling party, PRI. This structure was created when President Lazaro Cardenas of Mexico reorganized the ruling party in 1938 and merged the trade-union organizations which had supported him into what LaBotz calls the "'labor sector' of the ruling party." The Congress of Labor is comprised of several major labor federations, the most important of which is called the Confederation of Mexican Workers or "Confederacion de Trabajadores Mexicanos" (CTM). The general secretary of CTM is a 91-year-old man named Fidel Velazquez, who has been in this position since 1940. CTM is not a democratically elected union. Its sympathies often lie more with management than with the workers whom it nominally represents. This "trade-union" organization has, in fact, been controlled by the Mexican government. Since the Mexican government has historically been Mexico's principal employer and more recently has become closely allied with foreign corporations investing in Mexico, the interests of CTM, the government-controlled union, have been antithetical to those of the represented workers. Consequently, membership in CTM does not reflect Mexican workers' right of free association.[2]

As evidence of these assertions, we cite an article which appeared in the Wall Street Journal on February 12, 1991 on page 8a regarding the practices of Fidel Velazquez and CTM. With considerable understatement, the article declared: "Mr. Velazquez has always displayed at least as much sympathy for the government as for the rank and file. But during Mexico's debt crisis, he has looked the other way while workers endured hardship unmatched since the Great Depression. The number of strikes has dwindled as a result of government intimidation tactics, including the use of the army against recalcitrant unions." Elsewhere, the Wall Street Journal article called CTM a "government-loyal labor umbrella group", admitting that "businesses often benefit from repression, corruption, and lax work standards" linked to this labor group. Implying government approval of such tactics, Mexico's President Salinas himself was quoted in the article to the effect that "he (Fidel Velazquez) plays a very important role in the process of economic stabilization." In short, CTM, Mr. Velazquez's organization, functions more as a branch of the Mexican government to ensure labor peace through various strong-armed tactics than it does as an authentic trade union representing workers' interests. Indeed, CTM has been known to employ armed thugs who use violence against uncooperative groups of workers aspiring to elect their own union leaders.

C. Specific techniques used in Mexico to violate workers' rights of association, organization, and collective bargaining

The second chapter in Daniel LaBotz's book identifies the various ways that the Mexican government has consistently thwarted workers' rights to associate in democratically elected unions and to bargain collectively against employers. They may be summarized as follows:

(1) Denial of Legal Registration (El Registro).—The Federal Labor Law of 1931 required unions to register with the government in order to be legally recognized. It set certain requirements for registration, and gave the authorities the power to decide whether those requirements were met. Over the years, this provision has been converted into a requirement that the Mexican government give its approval to the formation of unions or to changes in union leadership. Practically speaking, this provision has posed a serious obstacle to democratically elected unions or union leadership seeking to replace the official unions affiliated with CTM or similar organizations. If a union is not registered with the government, then it cannot lawfully negotiate contracts or strike. Between 1982 and 1988, the Mexican government allowed only two independent unions to be registered. LaBotz concluded: "Clearly the Mexican labor authorities use the denial of the registro to deny Mexican workers their most fundamental labor union right, the right to free association and organization."[3]

(2) Denial of Contract to the Workers' Elected Union.—The Mexican government has actively obstructed the process of union democracy by denying "title" to the union contract to unions which a majority of workers favor. The federal Board of Conciliation and Arbitration typically has stalled worker petitions for election to certify a new union or confused the process by bringing in at the last moment previously uninvolved unions to participate. This happened, for instance, when the Ford workers at the Cuautitlan assembly plant sought to sever their ties to CTM and associate instead with COR, another government-affiliated union. Three other unions filed a petition for title to the contract, so that the matter has remained unresolved. In addition, the Mexican Secretary of Labor and the Federal Board of Conciliation and Arbitration removed the leadership of COR, replacing them with party loyalists. When certification elections

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[1] A student of Mexican industrial relations, Daniel LaBotz, has written a soon-to-be-published book concerning Mexico's recent labor history. Chapter 2, entitled "Mexican Workers, the State and the Law", explains precisely how the Mexican government violates workers rights. A photocopy of this chapter is provided as supporting evidence for this petition. Mr. LaBotz's book also describes several major cases of workers-rights violations pertaining to workers at the Ford Motor Company's Cuautitlan assembly plant, the Tornel Rubber Company, the Modelo Brewery, the Petroleum Workers' Union at PEMEX, the Cananea Mining Company, and Aeromexico. We are including with this petition a summary of events pertaining to each set of incidents except the last. This book was written as a research project of the International Labor Rights Education and Research Fund, based in Washington, D.C.

[2] CTM's identification with the Mexican government through its ruling political party is documented in certain books cited at the end of Chapter Two of Daniel LaBotz's book. See Frank Brandenburg, The Making of Modern Mexico (Englewood Cliffs, N.J.: Prenctice-Hall, Inc., 1964) and L. Vincent Padgett, The Mexican Political System (Boston: Houghton Mifflin Co., 1966).

[3] See LaBotz, Chapter Two, Evidential Documents, Item 1, pp. 6-8.

have been held, the elections have sometimes been disrupted by goon squads connected with the official unions as in the case of the Tornel Rubber Company elections. Sometimes workers are asked to cast their ballots on company time cards or identification cards, making it possible to retaliate against workers who support independent unions.[4]

(3) Employer Firing of Union Activists or Dissidents.—Although Article 123 of the Mexican Constitution forbids employers to fire union activists without cause, the Mexican government has tolerated abuses of this sort. Ford of Mexico fired members of the worker-elected negotiating committee. More than one hundred union activists still do not have their jobs back.[5]

(4) Exclusion of dissident Union Members.—A provision in the Federal Labor Law of 1931 required employers to fire workers who had been expelled from the legally recognized union. In some cases, a worker's refusal to join the ruling political party, the Institutional Revolutionary Party (PRI), has been grounds for expulsion from the union and resulting loss of a job. In the case of the Miners and Metal Workers Union (STMMRM), union rules forbid members "to propose or two propogate ideas foreign to the union." In other words, workers can be fired for having the wrong political beliefs.[6]

(5) Denial of the Right to Strike.—Although the Mexican Constitution guarantees workers the right to strike, the Federal Board of Conciliation and Arbitration has declared strikes to be illegal on the grounds that only the union that held title to the contract could conduct strikes. This provision has made it difficult for democratically elected insurgent labor groups to call strikes. The Secretary of Labor has reported that strikes were carried out in only 2.3% of the cases where a strike notification was filed. Also, Mexican workers are not allowed to strike against unions, although the desire to rid themselves of undemocratic unions has become a major labor grievance in Mexico. Some cases of abuse in this area would be the 1990 strike at the Modelo Brewery and the 1988 strike at Aeromexico.[7]

(6) Special Laws Restricting Unionization.—Special labor laws have denied certain groups of workers the right to form unions and bargain collectively. In 1937, the Cardenas government denied this right to bank employees. In 1960, workers were divided into two categories with respect to the rights of free association. Private-sector employees generally retained the right to organize, while the right of public-sector employees was curtailed. Daniel LaBotz observed: "Sometimes it is possible to have an unruly union previously covered by Apartado A declared to be a public service employer, moving to workers to Apartado B, and thus removing them of their collective bargaining rights and limiting their strike action." University workers are divided into three groups, and are not allowed to form a single union.[8]

(7) Military Seizure of the Work Place.—A law enacted during World War II, the Law of General Routes of Communications, gave the Mexican government the right to seize the means of communications and transportation in order to prevent "possible sabotage provoked by foreign agents." This power has been used repeatedly as a means of avoiding or obstructing strikes by public-sector employees—in particular, by employees of the state-owned telephone company. Its exercise is usually accompanied by violence and has an intimidating effect on the labor movement in Mexico. In August 1989, the Mexican army took over a copper mine operated by the state-owned Cananea Mining Company in order to block a strike.[9]

(8) Protection Contracts.—There is a widespread practice in Mexico for employers to have so-called "protection contracts" with government-affiliated unions, which are negotiated without the consent or even the knowledge of the represented workers. The Board of Conciliation and Arbitration will accept such contracts without the workers even being informed that they exist. The contracts "protect" the employer from charges of operating a non-union shop, but the terms of the contract provide for substandard wages and benefits. A staff member of the Congress of Labor told Daniel LaBotz that "a majority of labor union contracts (in Mexico) are protection contracts." Sometimes these contracts are sold to businesses by corrupt union officials, contributing to the gangster-like character of state-affiliated unions such as CTM. They are an obvious violation of worker rights.[10]

(9) Pattern Contracts.—Sometimes the heads of large labor organizations such as CTM negotiate contracts for entire sectors of industry without the participation of local unions or their members. Raul Escobar, a member of the worker-elected negotiating committee at the Ford Cuautitlan plant, reported overhearing a telephone conversation between Fidel Velazquez, head of CTM, and the Governor of Chihuahua in which Mr. Velazquez promised to sign an agreement that very evening. Presumably it had not been approved by the workers.[11]

(10) Manipulations by the Boards of Conciliation and Arbitration.—The Federal Boards of Conciliation and Arbitration act to block trade-union democracy by refusing to certify independent unions. Their tripartite structure is, in effect, dominated by the government. A frequent practice of the boards is to delay and postpone action on worker petitions to the point that the workers become frustrated or employers replace union activists with newly hired workers. Manuel Fuentes Muniz, an attorney who represented the Cuautitlan Ford workers, said: "As I see it, the Board of Conciliation and Arbitration is a kind of freezer where labor rights arrive and are frozen. The process is prolonged and the rights cannot be exercised." When the Cuautitlan Ford workers petitioned this board to switch their contract from CTM to COR, the board simply filed the request without taking action. The Board of Conciliation and Arbitration also postponed an election five times which workers at the Tornel Rubber Company has requested.[12]

(11) Extra-legal Interference in Union Activities. The government sometimes becomes involved in labor affairs in extra-legal ways. During the strike at the Modelo Brewery, the Governor of the Federal District pushed for a settlement of the strike which involved terminating the strike leaders. The government also put pressure on the Modelo strikers by arresting their attorney on petty charges resulting from a dispute in a bar a year and a half earlier. A judge required the striking Modelo workers to post an exorbitantly large bond against possible damage to the employer's property before ruling their strike to be illegal. The extra-legal approach includes the use of violence by police officers and thugs thired by government-affiliated unions such as CTM against recalcitrant unions. In the case of the Cuautitlan Ford workers, several hundred armed men entered the Ford plant on the morning of January 8, 1990, and shot seven workers, one of whom died. Dozens of others were beaten with fists and clubs. The workers captured three men belonging to this gang, who confessed that they had been hired by CTM. In the case of the Tornel workers, an armed gang of 200 men, some wearing CTM tee shirts, attacked workers arriving at the polling place on August 4, 1990. The mayor of the town of Tultitlan and several local police officers were seen accompanying this gang. Finally, on January 10, 1989 the Mexican army and police units attacked the home of Joaquin Hernandez Galicia, head of the Petroleum Workers Union who had backed President Salinas' opponent in the 1988 presidential election.[13]

(12) Employers Ignoring the Law.—Presumably due to lack of government enforcement, some employers simply ignore the law with respect to paying the Christmas bonus, profit sharing, and vacations.[14]

(13) The Underground Economy.—Workers in Mexico's "underground economy" work without the protection of labor laws, and enjoy few rights.[15]

In general, workers in Mexico's unionized industries are denied the right of free association and the right to bargain collectively because they are usually represented by government-controlled unions such as CTM who often go along with employers' plans to reduce wages and benefits or even encourage employers to reduce wages and benefits. Ford of Mexico, for instance, initially proposed to pay above-average wages to its employees, but CTM insisted that the wage offering be reduced lest it create dissatisfaction among workers at other CTM-represented firms. When workers attempt to elect more responsive leaders or to switch to another union, governmental agencies refuse to recognize their authority.[16]

Sometimes, as in the case of the Cuautitlan Ford plant, the government-affiliated unions employ thugs to use violence against workers seeking more democratic representation. Sometimes, as in the case of the Cananea copper mine, the courts use questionable bankruptcy proceedings to shield employers from contract demands made by workers threatening to strike. Sometimes, as in the case of the Modelo Brewery, police units are used to disperse workers on the picket line. Sometimes, as in the case of the Cananea copper mine, soldiers of the Mexican army seize company property in order to intimidate workers and head off a strike. The ability to declare constitutionally permitted strikes illegal gives the government license to disrupt strike activity.[17]

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[4] See LaBotz, p. 8. See also Evidential Documents, Item 2, pp. 3-4.

[5] See LaBotz, pp. 8-9.

[6] See LaBotz, pp. 9-10.

[7] See LaBoltz, pp. 10-11. See also Evidential Documents, Item 2, p. 5.

[8] See LaBotz, pp. 12-13.

[9] See LaBotz, pp. 13-14. See Also Evidential Documents, Item 2, p. 7.

[10] See LaBotz, pp. 14-15.

[11] See LaBotz, pp. 15-16. The reported remark by Raul Escobar, member of Cuautitlan Ford plant negotiating committee, was made at a conference held at Macalester College in St. Paul on Jan. 26, 1991.

[12] See LaBotz, pp. 16-18. See also Evidential Documents, Item 2, p. 2, p. 3.

[13] See LaBotz, pp. 18-19. See also Evidential Documents, Item 2, p. 1-6. See Evidential Documents, Items 3, 4, and 7.

[14] See LaBotz, pp. 18-19.

[16] See LaBotz, p. 8. See Evidential Documents, Item 2, pp. 6-8 and pp. 16-18; Item 3, p. 4. Also personal recollection of Jose Quintana.

D. Violations of acceptable work conditions and the minimum age for employment of children

Besides the rights of association and collective bargaining, two other types of "internationally recognized worker rights" include: "a minimum age for the employment of children" and "acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health." In these respects also the government of Mexico has permitted and perhaps even condoned worker-rights violations.

(1) Wages, Hours, Occupational Safety and Health.—Although Mexican law includes a minimum wage, this wage of 10,080 pesos per day, or about $3.60, is insufficient to support a single wageearner at a humane standard of living, let alone an entire family. Maria Barcenas, director of the Mexican Center for the Rights of Children, has said: "One million (children) under 5 years died between 1982 and 1988 because of malnutrition and 11 million suffered physical and mental damages that are irreversible. Daily 500 children die due to malnutrition in all the country, and daily 5,000 under the age of 5 survive with damages." It may be claimed that Mexico's level of economic development does not afford higher wages. Yet, real wages in Mexico, expressed in U.S. dollars, have fallen from $1.38 per hour in 1982 to an estimated $.51 per hour in 1991 in part because of policies deliberately pursued by the Mexican government. In the maquiladora plants at Cuidad Juarez, the normal work day is nine hours, but most work an hour or two extra. Work is repetitive and hard.[18]

Maquiladora workers face occupational health and safety problems as a result of exposure to toxic chemicals and fast production schedules. An article in the Wall Street Journal on September 22, 1989 described the border region as "a sinkhole of abysmal living conditions and environmental degradation." The same article declared that "some maquilas resemble sweatshops more than factories. They lack ventilation, and workers may pass out from the heat and fumes. Production demands can put them at risk; Edwviges Ramos Hernandez, a teacher in Juarez, worked at one factory where in a year three workers had fingers sliced off. The machines, she said, were set at a maddening pace."[19]

According to Leslie Kochan, Mexican workers are frequently denied basic health and safety protections against occupational illness or disease, and they risk the loss of their jobs if they protest these dangerous conditions. Gustavo de la Rosa Hickerson, a Juarez attorney, told Daniel LaBotz that, in LaBotz's words, "there are illnesses which are caused by the chemicals that are used in the plant . . . but what happens is that they are not reported. And in practice, Social Security does not recognize occupational illnesses."[20]

According to LaBotz, "Emma C. de Arche also accused the Mexican Institute of Social Security and the maquiladora industry with 'a kind of collusion' so that workers industrial accidents were not correctly reported and workers were not fully compensated for their injuries. In addition, she said, IMS refused to recognize the occupational illnesses of the workers, and did not give workers their full maternity leave subsidy."[21]

(2) Child-labor Violations.—Child labor is common throughout Mexico, although the legal age for working is 16. Teresa Almada, a social worker in Ciudad Juarez, told Daniel LaBotz: "When they are young they go to work at the maquiladora. Supposedly they can go to work at 16 years at age, but many of them begin at 14 or 15. In fact a study was done about two years ago here in this city, and it indicated that 15 percent of the workers in the maquiladora were between 14 and 16 years of age when they went to work, that is they could not legally work, or would have to work with a special permission and work fewer hours. However, it is very common that they change their birth certificates. I had the experience when we had a program in a high school, and we asked the students for their birth certificates that they said, 'Okay, but which one shall we give you, the good one or the one for the maquiladora? I changed the date.'" Deborah Bourque, vice-president of the Canadian Postal Workers, wrote of her visit to Ciudad Juarez: "The legal working age is 16 but employers and unions routinely turn a blind eye to this legal requirement. 'About 10% of the workforce is underage,' Enrique Lomas, a Mexican labor activist, told us. We talked with a group of young women who, when asked their ages, answered in unison 'dieciseis' (sixteen). They were obviously much younger and had been working in the maquila plant, some said, 'for more than one year.'"[22]

The Wall Street Journal cited other evidence of child-labor abuse in Mexico in its front-page article, "Working Children: Underage Laborers Fill Mexican Factories, Stir U.S. Trade Debate", which appeared on April 8, 1991. The article told of a 12-year-old boy, Vincente Guerrero, who had been a promising grade-school student but was forced to quit school to work in a shoe factory. In the course of his work, the boy was obliged to put his hand into a can of glue containing toluene, "a petroleum extract linked to liver, lung, and central nervous system damage." As a result, he was "home in bed with a cough, burning eyes, and nausea" just weeks after starting work. He also stank "as bad as a bicycle tire" at soccer games. The article observed more generally: "It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. 'Economic necessity is stronger than a theoretical prohibition,' says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman." The state of Guanajuato had just five child-labor inspectors to cover 22,000 businesses. Enforcement of child-labor laws was therefore totally ineffective.[23]

E. Concerning the murder at Ford's Cuautitlan Assembly Plant

The struggle of Ford workers at the Cuautitlan Assembly Plant brings into focus a number of worker-rights violations including the explicit denial of workers' right to affiliate with a union of their choice and the use of violence against workers. The bloody incident which occurred inside the plant on the morning of January 8, 1990, has attracted worldwide attention. We are attempting to document the worker-rights abuses in various ways. In addition to the summary of this dispute based on Daniel La Botz's book, we are providing as evidence relating to it certain printed articles and a videotape including an interview with Raul Escobar and Jose Santos Martinez, two elected members of the Cuautitlan workers' negotiating committee, and a speech delivered by Jose Santos Martinez at a conference held at Macalester College in St. Paul, Minnesota, on January 25th and 26th, 1991. A printed transcript of the English-language translation of remarks pertinent to workers' rights violations is also included with the evidence. Finally, we are including a photocopy of a letter addressed to William McGaughey, Jr., one of the petitioners, from Peter D. Olsen, manager of Ford of Mexico's public-affairs unit, stating that the Ford Motor Company had no knowledge whatsoever that violent acts would be committed against workers in its plants. If we take this statement at face value, the evidence is even stronger that government-sponsored unions—namely, CTM—were prime perpetrators of this violence.[24]

The evidence is indisputable that a Ford worker, Cleto Nigno, was shot to death inside the Cuautitlan plant on January 8, 1990. Mr. Nigno died in a hospital two days later. Eight other workers were shot during this incident, but were not fatally wounded. About one hundred other workers sustained wounds not inflicted by gunshot. Three assailants were apprehended in the plant, who subsequently made statements that they had been hired by Hector Uriarte and J. Guadalupe Uribe, leaders of CTM's local union at the Cuautitlan plant. This evidence appears on page 5 of the newspaper, Excelsior, on January 10, 1990. In the videotaped interview, Raul Escobar and Jose Santos Martinez give other details of the violent incident that took place inside the Cuautitlan plant on January 8, 1990. According to attorney Manuel Fuentes Muniz, the government police failed to appear on the scene during the attacks against workers. A possible motive for the attack is given by the fact that the attack followed by three days the distribution of literature calling for Ford workers to assemble at CTM's national headquarters, and that a group of thugs linked to the government police attacked and beat the democratically elected union leaders on the same day. Ultimately, the Cuautitlan workers' demand to replace Hector Uriarte with someone else through election may have triggered the attack.

F. Some similarities between incidents

We can see a consistent pattern here that attempts to choose local union leaders through democratic elections arouse the ire of Fidel Velazquez. The same situation developed in the dispute at the Modelo Brewery, even though the new union local general secretary, German Renglin, professed complete loyalty to CTM. In that case, Fidel Velazquez dissolved the union local itself, and appointed a new union with a new executive committee. The Cuautitlan Ford workers, however, petitioned the federal Board of Conciliation and Arbitration to affiliate with another national union, COR, instead of with CTM. In this respect, the Ford workers' struggle parallels that of workers at the Tornel Rubber Company, who likewise petitioned the Board of Conciliation and Arbitration to affiliate with a union other than CTM. The Tornel workers likewise sustained violent attacks by armed thugs obviously linked to CTM. Again, the Board of Conciliation and Arbitration kept stalling on the petition, and, in both cases, have succeeded in preventing workers from switching to a union of their choice. The same tactic of bringing in several other unions, including ones affiliated with CTM, was used by the federal board to delay and confuse the certification election. Even though an overwhelming majority of workers at both the Ford and Tornel plants voted in favor of another union, violence combined with governmental obstacles has prevented that option from being effectively exercised.

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[17] See LaBotz, pp. 13–14, pp. 18–19. See Evidential Documents, Item 2, pp. 5, 7, 8.

[18] The Pro-Canada Dossier, Jan.–Feb. 1991, p. 28, "The Two Faces of the Maquiladoras" by Tony Wohlfarth; "Dominant Trends of Mexico's Conjunction" by Comision de Informacion, Frente Autentico del Trabajo, Sept. 1990, p. 8; LaBotz book, chapter on maquiladoras, p. 4, based on figures supplied by the Mexican Secretary of Commerce.

[19] Wall Street Journal, September 22, 1989, pp. R26–R27.

[20] LaBotz book, chapter on maquiladoras, pp. 6, 12. See Leslie Kochan, The Maquiladoras and Toxics (Washington: AFL–CIO, 1989).

[21] LaBotz book, chapter on maquiladoras, p. 18.

[22] LaBotz book, chapter on maquiladoras, pp. 13–14; Pro-Canada Dossier, "Women in the Maquiladoras" by Deborah Bourque, p. 33.

[23] Wall Street Journal, April 8, 1991, pp. 1,14 Submitted in Evidential Documents as Item 6.

[24] See La Botz, p. 7–9, 16–18. See also Evidential Documents, Items 2 (pp. 1–3), 3, 4, 7, 8, 9. The videotaped interview and the talk by Jose Santos Martinez may be heard in their entirety in both Spanish and the English-language translation.

IV. CONCLUSION

Clearly, workers' rights of free association have been violated by the Mexican government. Whatever legal protections may exist in theory, their right to form independent unions has been consistently frustrated in practice. Child-labor laws have likewise been widely ignored. Occupational health and safety violations are rampant. Furthermore, there does not appear to be any substantial improvement in the respect for workers rights. On the contrary, ongoing efforts to attract foreign investment to Mexico have as a prime feature the maintenance of low wages and suppression of union democracy. Mexico's disguised totalitarian power structure makes it unlikely that the situation will change.

That is why we are petitioning for Mexico's eligibility to be reviewed as a beneficiary developing country under the Generalized System of Preferences. We believe that a thorough and impartial review of its status will determine that Mexico is ineligible to continue to benefit under that trade program because of clear and systematic violations of internationally recognized worker rights. We request that the review be made and that Mexico's eligibility to receive trade benefits under the GSP program be terminated if the violations cited in our petition are found to be valid and real.

WILLIAM MCGAUGHEY, JR.
THOMAS J. LANEY.
JOSE QUINTANA.

[From the Wall Street Journal, Feb. 12, 1991]

MEXICO'S UNION BOSS, ALLY OF SALINAS, IS A STUMBLING BLOCK IN TRADE TALKS

(By Matt Moffett)

MEXICO CITY.—Political cartoonists here have never quite agreed on how to render Fidel Velazquez, Mexico's 90-year-old union czar. Playing up his dark glasses and slicked-back hair, some draw the labor boss as a sinister gangster. Other artists emphasize Mr. Velazquez's baggy suits and cigar to sketch him as a grandfatherly vaudevillian.

The question of whether Mr. Velazquez is sinister or not is one question in the complex negotiations over a free trade agreement between the U.S. and Mexico.

The biggest opposition to the pact is coming from U.S. unions. They say free trade could depress U.S. wages and send jobs fleeing to Mexico, where businesses often benefit from repression, corruption and lax work standards linked to Mr. Velazquez's government-loyal labor umbrella group, the Confederation of Mexican Workers. "Fidel Velazquez is the Al Capone of Mexico's labor relations," says Daniel La Botz, an analyst for a U.S. worker rights group that has assailed the free-trade push.

U.S. proponents of free trade—big business and administration officials concerned about keeping a stable Mexico—emphasize the role of Mr. Velazquez's organization in maintaining tranquility during Mexico's debilitating debt crisis. "It's very easy to look at this in simplistic terms and say this is wrong," says Nicholas Scheele, director of Ford Motor Co. in Mexico. "But is there any other country in the world where the working class . . . took a hit in their purchasing power of in excess of 50% over an eight-year period and you didn't have social revolution?"

As head of a vast labor network that doubles as the last redoubt of an increasingly unpopular ruling political party, Mr. Velazquez stands at the crossroads where economic reform and political reform converge. On one hand, the government needs tight control of labor to buy time for its market-oriented economic reforms to flourish. On the other hand, it needs to dismantle the labor apparatus to make Mexico more democratic.

President Carlos Salinas de Gortari has been quite clear about which of the two reform projects he considers more urgent. "We established economic reform as the priority, and to be able to realize it, we have used mechanisms of the political system that permit this dialogue and this consensus-building," President Salinas said in an interview. "I think the least convenient thing is to try to do everything at the same time, because the result can be zero."

Mr. Salinas took another incremental step toward political opening yesterday when we met with populist Sen. Porfirio Munoz Ledo in what analysts called Mr. Salinas's first public encounter with a top leader of the leftist opposition since he took Mexico's highest office amid charges of electoral fraud in 1988.

Of Mr. Velazquez, the president says:

"He's a labor leader with whom it's possible to converse and to reach an agreement, and he has the ability to fulfill it. Thus, he plays a very important role in the process of economic stabilization."

Mexico's ruling elite feels its choice of priorities has been vindicated by the growing economic chaos, not to mention the rollback in political freedoms, that's occuring in the Soviet Union. They say Soviet leader Mikhail Gorbachev had it backwards when he placed a full-bore political overhaul before a relatively limited economic overhaul.

"Politically, if it's possible to have an evolution rather than a revolution, it's much more effective and better for all," says Alberto Santos, a leading industrialist, who has served as a ruling party congressman "Fidel Velazquez has been a very important factor in political stability during economic changes."

Mr. Velazquez has always displayed at least as much sympathy for the government as for the rank and file. But during Mexico's debt crisis, he has looked the other way while workers endured hardship unmatched since the Great Depression. The number of strikes has dwindled as a result of government intimidation tactics, including the use of the army against recalcitrant unions. Mr. Velazquez forbore pushing for an immediate recuperation of purchasing power and signed onto the government anti-inflation program.

One incentive for labor officials who keep the rank and file in line is the well-refined system of graft, a system that even offends some businessmen who benefit from tame unions. The union system "has its good points," says Fernanado Canales, a steel executive and member of the conservative opposition, "but in my opinion, the corruption has been carried to excess." He cites the case of a local union boss who has amassed a real estate empire.

Whatever the excesses of his subordinates, Mr. Velazquez's own style is spartan. The former milkman arrives at bargaining sessions without the retinue that accompanies most officials. At the negotiating table, he doesn't take notes but never forgets a detail, say those who have dealt with him. "He has a razor-sharp mind," says Ford's Mr. Scheele.

But for Mexican workers, the results of Mr. Velazquez's loyalty to the government have been mixed. A leading business chamber this week said that some 77,000 businesses, employing hundreds of thousands of workers, had closed since the government began tearing down trade barriers and opening the economy to foreign competition in 1986.

On the other hand, workers have benefited from the growth Mexico has recorded in each of the last two years. And a program that cut inflation to 29 percent last year from 170 percent in 1987 "has helped bring an important recuperation in purchasing power," says Jorge Vazquez Costilla, an economist at Grupo Visa, a conglomerate. He points out that some workers in service industries now earn as much as they did before the debt crisis, and that most manufacturers must now pay double the minimum wage to attract help.

The government is banking on free trade as the last step to recovery. But to even start talks, Mexico must overcome criticism of its political system, especially of the leader known as Don Fidel. "It's an odd irony," says a diplomat here. "This old man who was the government's greatest ally for a decade may in this case be one of its greatest liabilities."

[From the Wall Street Journal, Apr. 8, 1991]

WORKING CHILDREN—UNDERAGE LABORERS FILL MEXICAN FACTORIES, STIR UNITED STATES TRADE DEBATE

(By Matt Moffett)

LEON, MEXICO.—When Vicente Gurrero reported for work at the shoe factory, he had to leave his yo-yo with the guard at the door. Then Vicente, who had just turned 12 years old, was led to his post on the assembly line: a tall vertical lever attached to a press that bonds the soles of sneakers to the uppers.

The lever was set so high that Vicente had to shinny up the press and throw all his 90 pounds backward to yank the stiff steel bar downward. It reminded him of some playground contraption.

For Vicente this would have to pass for recreation from now on. A recent graduate of the sixth grade, he joined a dozen other children working full time in the factory. Once the best orator in his school and a good student, he now learned the wisdom of silence: even opening his mouth in this poorly ventilated plant meant breathing poisonous fumes.

Vicente's journey from the front-row desk of his schoolroom to the factory assembly line was charted by adults: impoverished parents, a heedless employer, hapless regulators, and impotent educators. "I figure work must be good for me, because many older people have helped put me here," says Vicente, shaking his hair out of his big, dark eyes. "And in the factory I get to meet lots of other boys."

Half of Mexico's 85 million people are below the age of 18, and this generation has been robbed of its childhood by a decade of debt crisis. It's illegal in Mexico to hire children under 14, but the Mexico City Assembly recently estimated that anywhere from five million to 10 million children are employed illegally, and often in hazardous jobs. "Economic necessity is stronger than a theoretical prohibition," says Alfredo Farit Rodriguez, Mexico's Attorney General in Defense of Labor, a kind of workers' ombudsman.

Child labor is one of several concerns about standards in the Mexican workplace clouding the prospects for a proposed U.S. Mexico free trade agreement. It is being seized upon, for example, by U.S. labor unions, which oppose free trade and fear competition from Mexican workers.

Recently, Democratic Sen. Lloyd Bentsen of Texas, the chairman of the Senate Finance Committee, and House Ways and Means Committee Chairman Dan Rostenkowski of Illinois warned President Bush in a letter of the major hang-up: "the disparity between the two countries in . . . enforcement of environmental standards, health and safety standards and worker rights." Mr. Bush yesterday reiterated his support for the trade pact.

Free-trade advocates argue that investments flowing into Mexico would ameliorate the economic misery that currently pushes Mexican children into the work force. Partisans of free trade also point to the aggressiveness Mexican President Carlos Salinas de Gortari has lately shown in fighting lawbreaking industries: Mexico added 50 inspectors to regulate foreign plants operating along the U.S.-Mexico border and shut down a heavily polluting refinery in Mexico City.

LITTLE FOXES

Young Vicente Guerrero's life exemplifies both the poverty that forces children to seek work and the porous regulatory system that makes it all to easy for them to find jobs. In the shantytown where Vicente lives and throughout the central Mexico state of Guanajuato, it is customary for small and medium-sized factories to employ boy shoemakers known as zorritas, or little foxes.

"My father says I was lucky to have so many years to be lazy before I went to work," says Vicente. His father, Patricio Guerrero, entered the shoe factories of Guanajuato at the age of seven. Three decades of hard work later, Mr. Guerrero lives in a tumbledown brick shell about the size and shape of a baseball dugout. It is home to 25 people, maybe 26. Mr. Guerrero himself isn't sure how many relatives and family friends are currently lodged with him, his wife and six children. Vicente, to get some privacy in the bedroom he shares with eight other children, occasionally rigs a crude tent from the laundry on the clotheslines crisscrossing the hut.

School was the one place Vicente had no problem setting himself apart from other kids. Classmates, awed by his math skills, called him "the wizard." Nearly as adept in other subjects, Vicente finished first among 105 sixth-graders in a general knowledge exam.

Vicent's academic career reached its zenith during a speaking contest he won last June on the last day of school. The principal was so moved by the patriotic poem he recited that she called him into her office to repeat it just for her. That night, Vicente told his family the whole story. He spoke of how nervous he had been on the speaker's platform and how proud he was to sit on the principal's big stuffed chair.

After he finished, there was a strained silence. "Well," his father finally said, "it seems that you've learned everything you can in school." Mr. Guerrero then laid his plans for Vicente's next lesson in life. In a few weeks, there would be an opening for Vicente at Deportes Mike, the athletic shoe factory where Mr. Guerrero himself had just been hired. Vicente would earn 100,000 pesos a week, about $34.

At the time, money was tighter than usual for the Guerreros: Two members of the household had been laid off, and a cousin in the U.S. had stopped sending money home.

After his father's talk, Vicente stowed his school books under a junk heap in a corner of the hut. It would be too painful, he thought, to leave them out where he could see them.

Last August Vicente was introduced to the Deportes Mike assembly line. About a dozen of the 50 workers were underage boys, many of whom toiled alongside their fathers. One youth, his cheek bulging with sharp tacks, hammered at some baseball shoes. A tiny 10-year-old was napping in a crate that he should have been filling with shoe molds. A bigger boy was running a stamping machine he had decorated with decals of Mickey Mouse and Tinker Bell. The bandage wrapped around the stamper's hand gave Vicente an uneasy feeling.

Showing Vicente the ropes was the plant superintendent's 13-year-old son, Francisco Guerrero, a cousin of Vicente's who was a toughened veteran, with three years' experience in shoemaking.

When a teacher came by the factory to chide school dropouts, Francisco rebuked her. "I'm earning 180,000 pesos a week," he said. "What do you make?" The teacher, whose weekly salary is 120,000 pesos, could say nothing.

Vicente's favorite part of his new job is running the clanking press, though that usually occupies a small fraction of his eight-hour workday. He spends most of his time on dirtier work: smearing glue onto the soles of shoes with his hands. The can of glue he dips his fingers into is marked "toxic substances . . . prolonged or repeated inhalation causes grave health damage; do not leave in the reach of minors." All the boys ignore the warning.

Impossible to ignore is the sharp, sickening odor of the glue. The only ventilation in the factory is from slits in the wall where bricks were removed and from a window near Vicente that opens only halfway. Just a matter of weeks after he started working, Vicente was home in bed with a cough, burning eyes and nausea.

What provoked Vicente's illness, according to the doctor he saw at the public hospital, was the glue fumes. Ingredients aren't listed on the label, but the glue's manufacturer, Simon S.A. of Mexico City, says it contains toluene, a petroleum extract linked to liver, lung and central nervous system damage. The maximum exposure to toluene permitted under Mexican environmental law is twice the level recommended by recently tightened U.S. standards. And in any event, Deportes Mike's superintendent doesn't recall a government health inspector coming around in the nine years the plant has been open.

When Vicente felt well enough to return to work a few days later, a fan was installed near his machine. "The smell still makes you choke," Vicente says, "but *el patron* says I'll get used to it."

El patron, the factory owner, is Alfredo Hidalgo. "These kinds of problems will help make a man of him," Mr. Hidalgo says. "It's a tradition here that boys grow up quickly." Upholding tradition has been good for Mr. Hidalgo's business: Vicente and the other zorritas generally are paid less than adult workers.

Mr. Hidalgo doesn't see that as exploitation. "If it were bad for Vicente, he wouldn't have come back after the first day of work," he says. "None of the boys would, and my company wouldn't be able to survive."

The system makes protecting the zorritas very, very difficult," says Teresa Sanchez, a federal labor official in Guanajuato state. The national labor code gives the federal government jurisdiction over only a limited number of industries that make up just 3% of businesses in the state. "The important industries, like shoes," she says, "are regulated by the states, and the states * * *." She completes the sentence by rolling her eyes.

At the state labor ministry, five child labor inspectors oversee 22,000 businesses. The staff has been halved in the decade since Mexico's economic crisis erupted, says Gabriel Eugenio Gallo, a sub-secretary. The five regulators make a monthly total of 100 inspections. At that rate it would take them more than two decades to visit all of the enterprises under state jurisdiction. Because child labor violations weren't even punishable by fines until very recently, state regulators say they have a hard time getting the tradition-bound employers they do visit to take them seriously. "Ultimately, the schools must be responsible for these kids," Mr. Gallo concludes.

Located just four blocks from where Vicente Guerrero labors, the Emperador Cuauhtemoc school employs two social workers to reclaim dropouts. (Children are required by law to stay in school through the sixth grade.) One-third of the students at Cuauhtemoc never finish the Mexican equivalent of junior high. With their huge caseloads, the two social workers certainly have never heard of Vicente Guerrero. "Ultimately, it's the boy's own responsibility to see to it that he gets an education," says Lourdes Romo, one of the counselors.

Vicente is still getting an education, but it's of a different sort than he would be getting in school. On a factory break, the superintendent puts a zorrita in a headlock to act out the brutal murder of a member of a local youth gang. This pantomime is presented to Vicente and a rapt group of boys as a cautionary tale. "Boys who don't work in the factory die this way on the street," the superintendent warns.

Vicente hasn't missed work again, though he always has a runny nose and red eyes. "One gets accustomed to things," he says. It's lucky for him that he is adaptable. The plant was expanded recently and Vicente's window, once his source of fresh air, now swings open onto a sewing room where several new boys labor.

The zorrita tradition is unlikely to fade any time soon. "We eat better now that Vicente works," says Patricio Guerrero, watching his wife stir a skillet of chicken in sweet mole sauce. "And Vicente has few pesos left over so he can enjoy being a boy."

But Vicente doesn't have the time. Even though he's the captain, he recently missed an important Saturday match of his soccer team. A rush order of soccer shoes had to be filled at Deportes Mike. His friends tell him that "I stink as bad as the patch on a bicycle tire," he says. "But I know that's just the smell of work."

Mr. BRUCE. Mr. Speaker, I rise today to urge the U.S. Trade Representative to investigate charges that the Government of Mexico acting to systematically repress worker movements independent of government control.

During the recent debate over the extension of the fast track procedure, there were numerous reports that the Mexican Government was acting directly, and indirectly through government controlled unions, to deny the Mexican people the right to associate, organize, and bargain collectively.

There were allegations that the government refused to register unions indpendent of its control; thereby rendering them illegal. There were further allegations that the government disrupted certification elections for democratically elected unions with groups from government controlled unions or refused to hold elections entirely. When independent unions have struck, their strikes have then been declared illegal despite provisions in the Mexican constitution which guarantee their right to strike. Finally, it is alleged that there have been military seizures of the workplace to break up strikes.

Because of the limited timeframe of the fast track debate, we were unable to thoroughly investigate these charges. The Trade Policy Committee has now filed a petition with the U.S. Trade Representative which thoroughly examines these charges and requests that the U.S. Trade Representative review Mexico's status under the generalized system of preferences.

Mr. Speaker, this petition provides an excellent forum in which to investigate these allegations. The administration has assured Congress that Mexico fully respects worker's rights and has pledged to work with Congress to resolve questions concerning them. In the spirit of these assurances to consult and to work with us, I strongly urge the U.S. Trade Representative to grant the Trade Policy Committee's request for a review of Mexico's labor practices and a hearing on the merits of these allegations.

□ 1750

TRIBUTE TO THE VALIANT PEOPLE OF THE REPUBLIC OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, before I begin my remarks, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of this, my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, today I rise with many others of my colleagues to pay tribute to the valiant people of the Republic of Cyprus on this, the 17th year of the occupation and division of that island nation. July 20 marked that 17th year, and this is a day of both sadness and embitterment for the Cypriot people. I am proud to extol the steadfast spirit of the Cypriots, a national spirit that has been strained for more than half of the years Cyprus has known independence. Indeed it remains a dark and lonely spot at a time when freedom is in fact raging across the world's landscape like a wild fire, and, therefore, on this day I stand with my colleagues in calling for peace and resolution of this crisis.

Mr. Speaker, at this point I am proud to yield to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I thank the gentleman from Florida [Mr. BILIRAKIS].

Mr. Speaker, the rich history of Cyprus can be chronicled by the number of times its soil has been trampled on by foreign invaders. For 27 centuries, armies of Phoenicians, Persians, Romans, Greeks, Ottomans, and British have laid claim to this small island in the Eastern Mediterranean.

It is no different today. In 1960, Cyprus gained its independence from British colonial rule through the London-Zurich Agreements negotiated with Great Britain, Greece, and Turkey. They were presented as a package to both Greek and Turkish Cypriots to be agreed to without modification. The agreements barred both union with Greece and partition of the country.

On July 20, 1974, the Greek Cypriot National Guard, acting on instructions from the military junta ruling Greece, overthrew the Government of Cyprus. Five days later, Turkey, using the illegal Greek-initatied coup as a pretext, invaded Cyprus, a sovereign nation and U.N. member, and occupied the northern part of the island in violation of U.N. Charter Article 2(4). Over 5,000 Greek Cypriots lost their lives. At present, Turkey is the only nation to formally recognize the regime they created, the self-proclaimed Turkish Republic of North Cyprus. Turkish Cypriots comprise only 18 percent of the country's population, but occupational forces have usurped nearly 40 percent of the territory.

For the last 17 years, the United Nations has repeatedly passed resolutions calling for the removal of Turkish troops. Several times, the U.N. has initiated dialog between the two sides, only to have the talks stall, be postponed, or collapse.

Turkey is in clear violation of the NATO Charter by failing to settle the Cyprus situation "by peaceful means in such a manner that international peace and security and justice are not endangered." Although Turkey continues to violate the North Atlantic Treaty by its presence in Cyprus, NATO continues to ignore this transgression. Nor has the United States required compliance with the rule of law as a condition for U.S. aid.

The histories of partitioned countries usually extend beyond internal squabblings into political issues controlled by distant governments, who see gains for themselves by resolving, or not resolving, particular conflicts. Cyprus is no different. The final act of this political drama may not be written by either Greece or Turkey, but by 12, not so geographically distant, governments—the members of the European Community. Turkey wants badly to join this exclusive club, and as the applicant waiting in line the longest, risks seeing Poland, Hungry, and Czechoslovakia being admitted before itself unless they withdraw from Cyprus.

The occupation of Cyprus is not the sole obstacle to Turkey's acceptance in the European Community, however. Turkey has engaged and continues to engage in a consistent pattern of gross violations of internationally recognized human rights. Over 35,000 Greek Cypriot homes and property have been confiscated. 1,614 Greek Cypriot citizens have been subject to prolonged detention. Their homes, shops, villages, and farms have been sold or given to Turkish settlers and members of the occupied forces without proper legal authority. These are issues that must be addressed before Turkey's application receives serious consideration.

Turkey and Greece are key United States allies. They are strategically located. Both were instrumental in the allied effort to free Kuwait. The President has gone on record that he is firmly committed to breaking this impasse and emphasized in Greece late last week that he hoped to resolve their long-standing differences with Turkey this year. Unfortunately, talks with both leaders made little apparent progress.

A solution is not difficult if the will to act is strong. Cyprus is the acid test for the new world order. Are we to continue a double standard for Turkey or do we apply the same rules to our friends and foes alike? Resolving this situation, sooner than later, would alleviate great tensions in that corner of the world. A solution that is mutually beneficial to both countries provides the ground work for future cooperation in other areas. The advantages of cooperation are vast and far-reaching, not only ensuring the stability of the Middle East, but the world at large. And the real winner is Cyprus.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from New York [Mr. FISH]. I appreciate, on behalf of myself, my fellow Hellenic Americans, in the United States and throughout the world, and Cypriots, those kind remarks, and I would remind the people throughout America that the gentleman serves as the ranking Republican on the Committee on the Judiciary, has served America and his people for many, many years, as did his father and grandfather before him. His remarks certainly are very profound and very much appreciated.

Mr. Speaker, at this point I would yield to the gentleman from Ohio [Mr. FEIGHAN], a gentleman who has been at the forefront on the issue of Cyprus, and I might add the issue of Greece, for many, many years, and I would also ask that at the tail end of his remarks that a particular column that he wrote and submitted in one of the newspapers here in the country be made a part of the RECORD, and I would submit it as a part of that RECORD.

Mr. FEIGHAN. Mr. Speaker, I appreciate the gentleman from Florida [Mr. BILIRAKIS] yielding to me, and I thank him particularly for all that he has done in this Congress on the very difficult and contentious issue of Cyprus. Mr. BILIRAKIS has been one of the most responsible and forceful voices in this Congress on that issue for the past several years, and it is an honor for me to join him, and the gentlewoman from Maryland [Mrs. BENTLEY], and so many of our other colleagues today who are coming to the floor or submitting their statements for the RECORD on the issue of Cyprus.

Mr. Speaker, I am pleased to join my colleagues, Mr. BILIRAKIS from Florida and Mrs. BENTLEY from Maryland in sponsoring this special order on Cyprus.

Tonight, our special order serves a twin purpose. Each year we recall the 1974 Turkish invasion of Cyprus, the forced division that took place, and the occupation of the northern third of the island that continues to this day. We remember the 200,000 refugees created by the conflict as well as those 1,614 missing and still unaccounted for by the authorities in Ankara. And we remember that this statistic includes five missing Americans—U.S. citizens whose families still do not know the fate of their loved ones.

At the same time, our special order comes at a time of unprecedented focus on the Cyprus issue. President Bush's trip to Greece and Turkey last week was the first by an American President since 1959. The visit follows several months of preliminary discussions between President Bush and President Ozal of Turkey and President Vassiliou of Cyprus.

President Bush clearly recognizes the important role that he can play. While he stated last week that he has no ready-made solution to the Cyprus problem, he has said that "The status quo is not an answer" and that he wants to play a "catalytic" role in solving the Cyprus issue.

These statements bring to mind the experience of the Camp David accords. That achievement remains a hallmark of United States diplomacy and holds an interesting object lesson for application to the Cyprus conflict: namely that the President of the United States can use his good offices to help create the necessary atmosphere for peacemaking.

To see a solution on Cyprus, we need to see political leadership that is willing to take risks for peace. Again, President Bush has helped set the stage by acknowledging the exceptional leadership that we have in President Mitsotakis of Greece, President Ozal and President Vassiliou. I must commend the President for a highly successful visit and for fully engaging the prestige and the power of the American Presidency in the search for a Cyprus solution.

Now, it's time for the parties themselves to get down to business. President Vassiliou has put forward proposals that would create a unitary, federal republic in which Turkish-Cypriots, now 18 percent of the population, would enjoy political power greater than their numbers alone would warrant. In exchange, Mr. Vassiliou seeks freedom for all Cypriots to move freely throughout the island, to hold property and to enjoy the bounty of the entire island—in partnership with the Turkish-Cypriot community.

It's now up to the Turkish-Cypriot community to respond to these proposals. And it's up to the leadership in Ankara to move the process forward.

Turkey continues to keep an occupation force of 35,000 troops on the island. Turkey remains the only country to recognize the breakaway state on northern Cyprus. And Turkish troops and their dependents regularly encroach on the city of Famagusta, an area that the Turks had pledged to leave unoccupied. Each of these actions has been condemned by U.N. Security Council resolutions.

It's time for Turkey to end its occupation of the northern part of Cyprus. In the past 2 years, we have witnessed the fall of the Berlin Wall; the parting of the Iron Curtain—even the crumbling of the apartheid system in South Africa.

Surely it's time for the people of Cyprus to join in the promise of this new era in international politics.

Surely it's time for Cyprus, once again, to be made whole and free.

Surely it's time for peace and justice to come to Cyprus.

□ 1800

Mr. BILIRAKIS. Mr. Speaker, I had referred earlier to the article, the column by the gentleman from Ohio [Mr. FEIGHAN] in a prominent newspaper. This is the column, "A Chance for Peace in Cyprus," in the New York Times Op-Ed section on Saturday, July 20, 1991, where he says in effect it is time for President Bush to get tough with the Turks.

I very much commend and appreciate the leadership that the gentleman from Ohio [Mr. FEIGHAN] has shown on this issue. It is certainly easy for a person like myself, who is a proud Greek-American, to try to show interest and leadership in an issue such as this, but much more difficult for the gentleman from Ohio, but I know it comes from the heart and I appreciate it so very much, ED.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN] for his remarks on this subject.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me. I want to commend the gentleman from Florida [Mr. BILIRAKIS] for bringing us together on this important issue this evening.

Mr. Speaker, on July 20, 1974, Turkish troops invaded the island of Cyprus. Since that time, Ankara has maintained an occupation force, 30,000 to 40,000 strong, in northern Cyprus. The United Nations, with U.S. support, has been promoting an intercommunal negotiating process aimed at creating a new federal republic on the island. Such a federal republic would be a bicommunal, bizonal, nonaligned, and independent state.

Since late 1988, Greek Cypriot President, George Vassiliou, and Turkish Cypriot leader, Rauf Denktash, have been meeting with United Nations Secretary-General Perez de Cuellar. After a June 1979 meeting in New York, U.N. officials circulated a draft outline to the two sides, outlining points of possible mutual understanding on such issues as territorial concerns, security guarantees, and the nature of the new constitution.

The United States Government has closely monitored developments in Cyprus. Our House Foreign Affairs Committee annually authorizes $15 million to Cyprus with the intent of promoting bicommunal projects, and to provide scholarship money to Cypriot students. Our executive branch has also played an important role in the quest toward a peaceful resolution to the Cyprus problem. To that end, I commend Ambassador Nelson Ledsky for his outstanding efforts.

Despite the many frustrations which we have encountered in Cyprus, there is some reason to be hopeful. President Bush has stressed the importance of the Cyprus issue during his recent talks with President Turgut Ozal of Turkey. We all hope and pray that a U.N. conference may soon take place, with all concerned parties participating.

Mr. Speaker, July 20, 1991, marked the tragic 17th anniversary of Turkey's illegal presence on the island of Cyprus. The invasion itself killed thousands of Cypriots, and displaced an additional 150,000 from their homes. The division of Cyprus has resulted in violent confrontations along the so-called green line for the last 16 years.

I commend our colleagues, the gentleman from Ohio [Mr. FEIGHAN], the gentleman from Florida [Mr. BILIRAKIS], and the gentlewoman from

Maryland [Mrs. BENTLEY] for their diligent work and leadership in sponsoring this special order on Cyprus. We join together in urging President Bush, and Secretary Baker to place the resolution of the division of Cyprus at the top of our Nation's foreign policy agenda. The executive and legislative branches of our Government must join together, in sending the strongest message possible to Ankara to "Get those occupying troops out now" and to both the Greek Cypriots and Turkish Cypriots to continue to confer and work for a peaceful, unified island.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from New York. He, too, has been a very stellar supporter of, I would say Greeks, but the issues of Greeks, the issues of Cyprus, but more than anything else the issues of justice and fairness.

Ben, it has been wonderful to work with you through all these years.

Mr. Speaker, I yield to the gentleman from New York [Mr. MANTON], who represents, in addition to other areas, the Astoria section of New York, a very much-loved individual there. I know that personally because I visit there often.

☐ 1810

Mr. MANTON. Mr. Speaker, I am proud to join my colleagues on the floor today to mark the 17th anniversary of the Turkish invasion of Cyprus. At the outset, I want to thank my colleague, MIKE BILIRAKIS, for reserving this time to call for a peaceful resolution to the strife which has gripped this island nation for nearly 20 years.

Unlike most of the world's longstanding geopolitical disputes, it is important to note there is no international disagreement about the genesis of the Cyprus conflict. The historical record is clear. On July 20, 1974, in an act of unprovoked aggression, Turkish troops invaded and seized 37 percent of the territory of the Republic of Cyprus. As a result, 200,000 Greek Cypriots were forcibly expelled from their homes. Perhaps most devastating, the fate of 1,619 other Greek Cypriots, missing since the invasion, has never been determined. The Turkish invasion violated the U.N. Charter and the NATO Treaty. I believe it is telling that Turkey is the only nation ever to recognize the Turkish Republic of Northern Cyprus.

Mr. Speaker, the people of Cyprus have suffered the division of their country for too long. Since 1974, the so-called green line which separates one-third of the island from the rest of the nation has separated Cypriots from their homes and land. I am hopeful the time has come for the occupation to come to an end.

In June, several of my colleagues and I met with Cyprus' President George Vassiliou during his visit to the United States. At that meeting, it was apparent that President Vassiliou is an energetic man devoted to bringing peace to his divided country. As a result of his efforts, I believe we have cause for optimism. The United Nations Security Council has endorsed U.S. Secretary General Javier Perez De Cuellar's plan to convene a U.N. conference on Cyprus.

Unfortunately, the stumbling block on the road to peace continues to be the Government of Turkey. Already this year Turkey has stubbornly refused to respond in a meaningful way to overtures from Secretary of State Baker and the European Community.

Mr. Speaker, how much longer is the world going to allow Turkey to ignore the rule of law? Now that the attention of the international community is focused on Cyprus, we in the United States must exert pressure on Turkey to withdraw all of its troops from Cyprus. Earlier this year, the United Nations worked in concert to free Kuwait from the grip of Saddam Hussein. If the United Nations can achieve this kind of success with an imperialist dictator, surely we should be able to achieve peace in Cyprus when all parties to the conflict are United States allies. Currently all hope for peace in Cyprus rests with Turkish President Turgut Ozal. It is up to the Turkish President to clear the way for the U.N. talks. I urge Mr. Ozal to cooperate fully with the U.N. effort. The time has come for Turkey to take the first step. In the face of international concern about widespread and persistent human rights abuses within Turkey, the Cyprus issue presents Turkey with an opportunity to improve its tarnished reputation among the nations of the world. It's time for Turkey to seize the opportunity. Failure to do so would jeopardize United States military assistance to Turkey and further undermine Turkey's status in the international community.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for his willingness to participate in this special order. The gentleman has been one of the leaders, along with a number of other Members who will participate here today.

Mr. Speaker, I might add that I have a long list here of participants, Members who will participate personally this evening, and others who are submitting their remarks into the RECORD. I know there are many other Members that I do not even know about who will be doing the same thing. I think it speaks for itself in terms of the interest in the Congress of the United States on the need, the strong need, to resolve this issue.

Mr. Speaker, I add for the RECORD a New York Times op-ed from Saturday, July 20, 1991.

[From the New York Times, July 20, 1991]

A CHANCE FOR PEACE IN CYPRUS

(By Edward F. Feighan)

WASHINGTON.—Tuesday's car bombings in Athens, which wounded the Turkish Ambassador to Greece, illustrated the continuing strife between the two countries. Two days later, President Bush told the Greek Parliament, "None of us should accept the status quo in Cyprus." To reach a settlement, he should live by his words and risk fraying his excellent relationship with Turkey's President, Turgut Ozal.

Mr. Bush has several reasons to get involved in Turkey's 17-year-old occupation of the northern third of Cyprus. The most dramatic is to avert the possibility of full-scale hostilities between two NATO allies. Greece and Turkey almost went to war in 1974 and 1987. The eruption of the Cyprus conflict could destabilize a region that sits uneasily between the Middle East and Balkans.

Fortunately, compared to other regional conflicts, the Cypriot situation appears solvable. The Greek Cypriot President, George Vassiliou, has promoted a reasonable settlement in which Turkish Cypriots (18 percent of the population) would enjoy greater political power than their numbers would warrant. In exchange, Mr. Vassiliou wants freedom for all Cypriots to move freely and hold property throughout the island.

However, the Turkish Cypriot leader, Rauf Denktash, appears content to be "president" of a state recognized only by Turkey rather than vice president of a republic representing all Cypriots, and has consistently rejected Mr. Vassiliou's offers. Mr Denktash's intransigence indicates that the key to a solution lies not on the island but in Ankara.

His regime depends on the 35,000 Turkish troops that maintain the "green line" that divide Cyprus—troops financed partly by $500 million in military aid the U.S. gives Turkey every year. President Bush should indicate to President Ozal that this aid can no longer be justified as support for a bulwark against Soviet expansionism. Turkey's dependence on America cannot be underestimated; Mr. Bush can make it clear that this money is conditional.

President Bush has a carrot as well as a stick for the Turks. In 1984, Congress approved legislation creating a $250 million reconstruction fund that would become available upon a settlement of the division. In the absence of negotiations, the money has not been appropriated. Mr. Bush could guarantee that, in exchange for concessions prompted by Mr. Ozal, some of the money would be used to reimburse Turkish Cypriots forced to return property they now occupy to its original Greek Cypriot owners.

Turkey's satisfaction with the status quo is puzzling, for Ankara pays a high political cost for its occupation of Cyprus. Its actions have been condemned by the U.N. Security Council. Congress, angered by the occupation and eager to maintain peace, gives Greece $7 for every $10 in military aid it gives Turkey. Perhaps of greater importance, the European Community has made it clear that without a resolution of the Cyprus problem, Turkey's application to join the Community will remain on hold.

American stature in world politics can also get a boost from a resolution of the problem. For 17 years, the U.S. has been unwilling to actively enforce U.N. condemnations on Cyprus in order not to strain relations with NATO-member Turkey. In the wake of the gulf war, this apparent double standard hurts U.S. credibility as a peace-keeper. This is a chance for President Bush to resolve another illegal occupation without resorting to warfare.

Mr. Speaker, I am very proud to yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I want to thank the gentleman from Florida [Mr. BILIRAKIS] for organizing this special order, which I think is very appropriate at this particular time.

Mr. Speaker, I join my colleagues today to remind us all of a sad moment in history; indeed, a moment which sounds all too familar in today's troubled world. In the fall of 1974, Turkish troops moved on Cyprus, killing thousands of villagers, and displacing thousands more. The invasion on tiny Cyprus by large, belligerent Turkey resulted in the permanent disappearance of over 1,600 persons, including 5 Americans.

Although a series of initiatives have occurred over the 17 years since Turkey's invasion of Cyprus, no tangible results have been gained. Turkish intransigence over Cyprus has left us with a dangerous precedent—that brutal invasions and denials of human rights can go uncorrected for decades. This is not the precedent on which a unified and peaceful European Community can be built, nor on which a new world order can be gained.

Although Turkey contributed to allied efforts in Operation Desert Storm, and although Turkey is making an international advertising pitch for investment in that country, these efforts at gaining respect cannot be considered apart from Turkey's refusal to adhere to nearly 50 U.N. resolutions on Cyprus.

Today, Turkey owes Cyprus, owes Europe, and owes the world community at least two things—a guarantee of property and human rights to Greek-Cypriots displaced by the 1974 attack, and the initiation of withdrawal of troops from Cyprus.

Mr. Speaker, we are at a very important point in history. Europe is experiencing both great advances, and great troubles. I urge the President to make a resolution of the Cyprus crisis a high priority. Now I think is the opportunity to resolve this crisis, so that Cyprus can resume its place among the free and independent nations of the world.

Mr. Speaker, I, too, am optimistic this is the time when we can see some tangible results.

Mr. BILIRAKIS. Mr. Speaker, the gentleman from New Jersey [Mr. PALLONE] is a relatively new Member of this body, but not to the world of politics. He is very welcome here, and I appreciate his interest in this subject.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. BENTLEY], who, too, has been a fantastic leader on this subject, and other subjects related thereto.

Mrs. BENTLEY. Mr. Speaker, I wish to commend Mr. BILIRAKIS, the distinguished gentleman from Florida, for his efforts in bringing forth the story of Cyprus in an effort to unify that island nation.

Once again, headlines around the world are focusing on the possibility of a heretofore unachievable Middle East peace conference. I want to be on record as fully supporting the tireless efforts of the President and his Secretary of State in furthering the dialog in this longstanding dispute, the resolution of which, continues to be of paramount importance to the civilized world.

I also want to be on record as voicing my support for all efforts aimed at bringing and lingering issue of Cyprus to a favorable conclusion. A favorable conclusion, Mr. Speaker, would involve the withdrawal of Turkish forces from Cyprus, which, as everyone gathered in this Chamber today knows, was occupied 17 years ago, on July 20, 1974.

Two weeks ago, just prior to the President's departure for Greece and Turkey, Mr. BILIRAKIS and I, sent a letter to President Bush in which we outlined our continued concern about the Cyprus question. We asked him, in the strongest of terms, to urge Turkish President Ozal to increase diplomatic activity toward reaching a negotiated settlement concerning the unresolved issue of Cyprus. Preliminary indications are that the issue was discussed and will continue to receive serious attention.

Everyone in this country is aware of the pivotal role that Turkey played during Operations Desert Shield and Storm—clearly this will not be forgotten by the American people. And we must not overlook the fact that Greece made substantial contributions as well. President Bush thanked Greece personally on his recent trip. However, as we enter into a new era whereby the rule of law is to be the cornerstone of the new world order, the fact remains that Turkish troops continue—despite condemnation from the United Nations—to occupy 40 percent of the island of Cyprus.

President Bush is to be commended for raising the issue of Cyprus during his recent visit to Turkey. During a scheduled news conference, the President floated the possibility of elevating the level of discussion through initiating a four-party peace conference. Sparks, quite naturally, already have begun to fly.

Yesterday, representatives of the Greek Cypriot Government stated their firm opposition to talks based on number of reasons, not the least of which is drug trafficking in Turkish occupied Cyprus. There have been allegations, and I stress the word allegations, that shipments of ballistic missiles originating in North Korea and the People's Republic of China—and destined for the Middle East actually may have passed through some portion of Cyprus. The bottom line is that despite the apparent level of animosity and seemingly intractable differences—a peaceful solution must occur. My fear is that concrete opportunities for the principles to sit down within the confines of the same room, could again slip away.

It is my hope that the President will continue to use the persuasive powers of his office and as the leader of the free world to help remedy this longstanding situation. Let's find a workable solution.

Again I commend the gentleman from Florida for his time—and his leadership on this important problem.

☐ 1820

Again I want to commend the gentleman from Florida [Mr. BILIRAKIS] for bringing this matter up on the anniversary or the anniversary period of the troops occupying Cyprus.

Mr. BILIRAKIS. I thank the gentlewoman from Maryland [Mrs. BENTLEY], who has been a forceful legislator, a great Representative of her part of Maryland, and a great friend of mine, and certainly a person that I would always want on my side no matter what the issue might be.

Mr. Speaker, again, before continuing my remarks, I yield to the gentleman from Illinois [Mr. PORTER], who has visited Cyprus I know at least once, possibly more often, and can talk about it from the heart as a result of actually having been there and seen some of the problems that exist.

Mr. PORTER. I thank the gentleman from Florida not only for yielding me time to participate in this special order, but also for his ongoing and forceful leadership in behalf of the reunification of Cyprus. And it has been truly forceful and ongoing, and someday I hope, Mr. Speaker, will culminate in the actual reunification of the island and the bringing together of the people of Cyprus once again.

Mr. Speaker, for the last 17 years July 20 has been a sad day throughout Cyprus, for on July 20, 1974, the armies of Turkey invaded the tiny island, divided the two communities, and occupied 38 percent of the land, driving 160,000 Greek-Cypriots from their homes. Today, 35,000 armed Turkish troops stand guard over the northern portion of the island—a constant reminder of the grim invasion and an unacceptable obstacle to reunification.

My wife, Kathryn, and I first visited Cyprus in 1981, and were struck with the natural beauty of the island, the cultural wealth we saw, and the warmth of the Cypriot people. Since that time we have returned several times and experienced the same feeling of friendliness and warmth. But a cloud hangs over the island in the form of an artificial separation. I have spent a great deal of time since my first visit to the island in 1981, trying to remove this cloud and bring all of the people of Cyprus together again.

Kathryn has become so involved in this issue that she joined together with a brave and determined group of Greek Cypriot women in support of the Women's Walk Home Movement. The movement was created to focus international attention on the Cyprus dilemma through the use of nonviolent political protest.

Kathryn participated in one of the group's marches and crossed the green line which splits the island. Shortly after they crossed the border they were surrounded by a group of Turkish military personnel. In true nonviolent manner they sat down and were subsequently removed back across the line by a U.N. peacekeeping force. Kathryn later helped found the Cypriot Women's Foundation. The foundation's goal is to channel the energies of women on both sides of the green line into bicommunal, interactive projects involving mothers and children. Such efforts offer a new vision for the society Cyprus can become.

The Foreign Operations Subcommittee, of which I am a member, has been working for the past several years to bring elements of the Greek and Turkish Cypriot communities into direct, personal contact through cooperative activities. This year the House has again approved $15 million for bicommunal projects that will bring together the two communities. This approach is especially important since the enforced separation of the two communities has lasted for so many years. There is a whole generation of Greek-Cypriot and Turkish-Cypriot youth who have never been to the other side of the island and who have never known a person from the other community. Such a situation is bound to produce distrust and misunderstanding. Bicommunal interaction, especially interaction between the women and children of Cyprus, is essential to the successful reunification of the island.

One issue that I want to particularly emphasize today regarding Cyprus is the plight of the disappeared. To many non-Cypriots it is difficult to understand the deep distrust between the two communities on the island of Cyprus. The issue of the disappeared may help to shed some light on what happened 17 years ago and some of the issues that are still very much alive in the minds and hearts of all Cypriots.

As Turkish troops moved southward after their invasion of the island, they imprisoned members of the national guard and arrested civilians in many villages. Many of these individuals were returned in accordance with an exchange agreement reached on July 20, 1974, between Greek and Turkish Cypriots. Although the exchange was monitored by the International Red Cross, 992 Greek-Cypriot soldiers and 662 Greek-Cypriot civilians, of whom 12 were women, were unaccounted for. Some were last seen in the custody of the Turkish Army. No information whatsoever exists for others.

To give you a point of reference, at the end of the Vietnam war, the United States reported 2,583 military personnel missing out of the entire United States population of over 200 million. The total population of the island of Cyprus—Greek-Cypriots and Turkish-Cypriots combined—is just over 600,000. The 1,618 disappeared represent an incredibly high proportional number compared to the POW/MIA dilemma that faces the United States. By some accounts, one in every 250 Greek-Cypriots disappeared in the month of July 1974.

Despite the relatively small number of POW/MIA's remaining from the Vietnam war, United States interest in its POW/MIA's remains very high. The recent publication of a photograph purporting to prove that several United States servicemen who are presently classified missing in action in Vietnam are still alive was first page news here in the United States for several days and is the subject of congressional hearings and Department of Defense investigations.

Just imagine the level of interest that the Greek-Cypriots—who live on an island no more than three times the size of Rhode Island and where you are never more than 150 miles away from anyone else on the island—feel about their missing. The families of the missing continue to suffer the uncertainty of their relatives' fate, hoping that at least some may still be alive, perhaps only a dozen miles to the north. Just as in the United States, hope is periodically reinforced by reported sightings of the missing.

The plight of the missing is an open wound for many Cypriots and the desire to know the fate of the disappeared is one of the many reasons the Greek-Cypriots are anxious to solve the Cyprus dilemma and reunify the island and have been so forthcoming in negotiations with the Turkish-Cypriots.

Mr. Speaker, I applaud the President's renewed interest in the Cyprus problem and his stated intention of elevating the resolution of the Cyprus dilemma in the broader context of United States-Turkish and United States-Greek relations. I am also pleased that Secretary General Perez de Cuellar has dedicated himself so fully to resolution of this problem. I would like to add my support and urge that resolving the status of the missing of Cyrus be a part of any agreement on reunification.

Mr. Speaker, I thank Mr. BILIRAKIS for calling this special order. He has been an outspoken and eloquent friend of Cyprus and a strong advocate for the concerns of the Cypriot community here in the United States. I am pleased to follow his leadership and work with him actively to achieve a reunited Cypriot nation.

Mr. BILIRAKIS. I sincerely thank the gentleman from Illinois [Mr. PORTER], who as I said before his remarks would speak from the heart, and he certainly has done that. He speaks from the heart and from love for the people in that area, and from experience, having visited that area, and I appreciate very much his being a strong part of this special order.

Mr. PORTER. I thank the gentleman for his very generous and kind remarks.

Mr. BILIRAKIS. Mr. Speaker, again at this point before continuing my remarks, I yield to a fellow Hellenic-American with whom I am proud to serve in the Congress of the United States, the gentleman from Massachusetts [Mr. MAVROULES], certainly one of the finest gentlemen here, one of the most loved Members of the U.S. House of Representatives.

Mr. MAVROULES. I very much thank the gentleman from Florida [Mr. BILIRAKIS], my good friend and colleague, and again thank him for his kind remarks. But also let me commend him for the leadership role that he has displayed on this issue year in and year out.

Mr. Speaker, I rise today to express my concerns over the problems in Cyprus, and to state my strong desire to see a resolution to the ongoing dispute that has torn this island nation.

First I would like to commend President Bush for his trip to Greece and Turkey, in which he initiated conversation on the Cyprus occupation. We in the U.S. Government are long overdue in fully addressing this issue. The President's willingness to focus international attention on this subject can only lead to enhanced dialog and a hopeful resolution to the problems plaguing this nation.

Let us look at recent developments in Cyprus to get a better feel for where the problems lie.

On June 8, 1991, the Cyprus National Council proposed that the U.N. Secretary-General convene a conference "to discuss and solve all the basic aspects of the Cyprus problem." This conference would be chaired by the Secretary-General and include "the participation of the governments of the permanent members of the Security Council, Greece, Turkey, and Cyprus, in which the two Cyprus communities would be invited to participate". The National Council stated that a Cyprus solution should be consistent with the U.N. resolutions on Cyprus, and with the 1977 and 1979 high-level agreements reached between the two Cypriot communities, and that a conference should be convened only "after appropriate preparation to make sure that there will be real possibilities for progress."

This conference proposal falls within the framework of the U.N. resolutions on Cyprus. As many of you know, on March 13, 1990, the United Nations passed resolutions callings for a Federal solution to the problem, a bicommunal approach to drafting a new constitution, and a bicommunal approach for resolving territorial disputes. President Vassiliou has since then been in contact with U.N. Secretary-General Javier Perez de Cuellar and the ambassadors to Cyprus of the five permanent Security Council members in an effort to try to develop a solution to this problem.

Turkey rejected the conference proposal the day after it was released.

Unfortunately, this recent development has been typical of the attempts to solve the Cyprus problem. Cyprus has consistently shown a desire to resolve the dispute, either by agreeing to U.N. resolutions or by initiating proposals for unification. Turkey, on the other hand, has resisted, and continues to resist, requests from the United Nations, the European Community, and the United States merely to clarify its views on the issues of territorial concessions, the status of displaced persons, and the structure of the Federal Government. They have failed to say even where they stand on these matters.

Turkey must see that it is in its own best interest to work for a solution. By not doing so, it is losing support on the international scene, and even the United States, one of its biggest allies, is pressing Turkey to negotiate. Greece will never concede to allow Turkey to enter the European Community if they do not settle the Cyprus dispute. Greece has also vetoed a European Community proposal to give $800 million in aid to Turkey. If Turkey agreed to negotiate, these situations could be reversed in its favor.

The Persian Gulf war has issued in a new era of international cooperation. Nations throughout the world successfully joined ranks to force the Iraqis out of Kuwait. Now it is time that the world focus on the problems in Cyprus. We did not tolerate the use of force to conquer an independent, legitimate, sovereign nation in the Persian Gulf. How can we still tolerate such unwarranted aggression in Cyprus, where Turkey still maintains 35,000 troops in an area that they acquired through military force?

The United States now has an unprecedented opportunity to help resolve the conflict in Cyprus. The unanimity that Greece and Turkey demonstrated throughout the Persian Gulf war must be utilized to bring about a peaceful solution. With U.S. resolve and U.N. initiation, we have the capacity to provide the diplomatic and political leadership necessary to resolve the conflict. All we are looking for, my friends, is a level playing field—where all sides involved can be convinced to sit down and peacefully, diplomatically work to resolve their differences.

The President and the U.S. Congress can, without a doubt, lead the way toward a solution. Since the invasion in 1974, Congress has used its leverage to try to help resolve the Cyprus problem. It has advocated more active American involvement in Cyprus efforts, favoring measures that maintain pressure on Turkey to reconsider its military presence. The 7:10 aid ratio has been an integral part of this effort. Now is the time for us to continue to work for a resolution, to continue to push for a peaceful dialog between the competing interests, and in doing so to show the world that we are in fact able to lead the way toward a new world order.

□ 1830

One other last statement I would make, Mr. Speaker, and I think my colleagues share this thought with me, that the Turkish Cypriots are now beginning to lose their own identity. Over 60,000 Turks have moved into northern Cyprus from the mainland, taken over from their own Turkish Cypriot people in Cyprus; 35,000 troops, 35,000 troops in northern Cyprus, and for what reason? What security reason? What security fears do they have to maintain 35,000 troops in northern Cyprus?

Mr. Speaker, this is wrong, and that is why I believe that where the united effort on the part of our Government, our President, our Congress in concert with the United Nations to put the proper pressure on Turkey to get to that negotiating table to once and for all do what is right, do what is right for the Cypriot nation, both Turkish Cypriots and Greek Cypriots alike.

Again I want to thank my good friend from Florida for his leadership in this effort and thank him for the time this evening.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MAVROULES] for his leadership all through the years long before I got to this Congress on this issue and other Greek-related issues, if you will, and issues, again, of justice and fairness and truth and the rule of law, if you will.

The gentleman's points are certainly well taken, and particularly his last point. What conceivable reason could there be for the country of Turkey to have 35,000 troops stationed in the northern portion of the island Republic of Cyprus? There just is not any reason.

I would be very interested in hearing the gentleman's explanations for something like that. I thank him so much.

Mr. Speaker, President Bush, as we know, has just returned from a visit to both Greece and Turkey, and I, along with many others, find myself cautiously optimistic in view of what transpired, optimistic because of the President's challenge to achieve a resolution by the end of the year, cautious because so many past initiatives have come to naught.

This time, my friends, and I say my friends in the Congress, I say my President, I say people in the Governments of Greece, Turkey, and the Republic of Cyprus, it is crucial that we seize upon this moment in history, while, in essence, the President urges both Greece and Turkey to reach a settlement in the Cyprus situation by the end of 1991. Never before, never before has such a challenge been offered.

□ 1640

I applaud the President's efforts to bring peace to this corner of the eastern Mediterranean.

However, it is important that any talks be held under the auspices of the United Nations—as proposed by the U.N. Secretary-General. There is a light glimmering in the darkness that shrouds Cyprus, but to ensure a successful and peaceful resolution, we need continued pressure from the United States and our friends abroad.

Direct talks outside of the United Nations that would lend legitimacy to the Turkish Cypriot authorities are unacceptable to both Greece and Greek Cypriots. As pointed out in an article on page 8A of today's Washington Times, Turkish Government authorities themselves admit to "shady interests in the Turkish portion—of Cyprus—including a lucrative trade in opium and other drugs * * *." Also, the Turkish Cypriot authorities have appropriated property and shown they have little respect for the sovereignty of law. There is a light glimmering in the darkness that shrouds Cyprus, but to ensure a successful and peaceful resolution, we need continued pressure from the United States and our friends abroad.

As this new decade has dawned and country after country has shaken free of the shackles of occupation and oppression, Cyprus remains bound. The green line divides not only a nation but a people.

While Turkey is to be commended for its role connected with Operation Desert Storm, a negotiated settlement of the Cyprus division remains elusive—and in view of the President's trip, the coming days and weeks will be important ones. They will be important for Cyprus; they can be gratifying for all who love and cherish freedom.

It is surely in Turkey's best interest to resolve this problem expeditiously. In fact, Turkey's intransigence is one more stumbling block keeping her from becoming an accepted part of the European Community. While Turkey has other problems to solve in this regard, the EC has made it clear that membership is contingent upon resolution of the Cyprus problem. Many are now saying that several eastern European countries such as Poland, Hungary, and Czechoslovakia may be admitted to the European Community before Turkey, despite the fact that Turkey has been waiting in line for admission the longest. In addition, Cyprus continues to be a major source of friction between NATO allies.

Over the past year, we here in Congress have compared the green line in Cyprus to the Berlin Wall that divided Germany for more than 40 years. But what does this really mean? What is the effect of the green line? It divides 650,000 Greek Cypriots in the south from 175,000 Turkish Cypriots in the North. This division means that Cypriots are prohibited from visiting their brothers, sisters, mothers, and fathers.

We applaud Germany's reunification following the destruction of the Berlin Wall, and we look to the future of Eastern Europe with anticipation, the barbed wire fences having been torn down, travel restrictions eased and democratic reforms begun. These once-captive nations are now free of the grip of totalitarianism.

Yet our own NATO ally, Turkey, to whom we have given hundreds of millions of dollars of aid, continues to occupy nearly 40 percent of Cyprus. One Western nation occupies another: This cannot continue.

Mr. Speaker, 200,000 men, women, and children were forcibly expelled from occupied Cyprus. They are now refugees—a people without a home. These refugees have been living through a 17-year darkness.

Cypriot resolve is daily tested by the effects of this long and terrible invasion and occupation. Freedom is sweeping the globe, yet Cyprus remains a dark and unswept corner.

Turkey continues its illegal occupation of northern Cyprus—one recognized by no other government on Earth. Turkey continues to station more than 30,000 troops there and to maintain some 65,000 settlers on Cyprus. Frequent incidents and disputes scar the populace.

Cyprus is the only, let me repeat the only, country in Europe with 37 percent of its land under the occupation of an invading force; 1,600 individuals remain missing. Furthermore, Turkey continues to change the demography of Cyprus by transplanting Turkish settlers there. In the near future, the settlers and the occupying troops will outnumber the indigenous Turkish Cypriot population—and with each passing day the tension on the island grows.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. Mr. Speaker, before I continue with my remarks, I am happy to yield to the gentleman from California [Mr. DANNEMEYER], who has professed a great interest in the subject.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from Florida [Mr. BILIRAKIS] for yielding. I want to thank the gentleman for taking this special order.

I am here joining the gentleman in this effort because I have a constituent in Orange County, CA, who comes from a family of Greek background. For a long time they have owned a property on Cyprus. They had the unfortunate experience of having that property—their home place in the territory that is not a part of that portion of Cyprus—administered by this new government of Turkish background, that is not recognized by the United States Government.

To be frank, I have met with the Turkish Ambassador to the United States, trying to resolve this problem. I have written to this so-called government that exists on Cyprus, attempting to resolve, just to begin negotiating the rights of this American citizen to the family place on Cyprus. I am tempted to send a postal inspector to see if that government in Cyprus is still in business because nobody is answering my mail. The gentleman and I both suspect and know what the answer is, that they do not want to answer my mail.

We cannot solve the problems of Cyprus and the antagonisms that have existed over the years and decades and centuries, really, on that island. However, I think as American citizens we say that there should be a means of resolving conflicts of this type. I am hopeful that the Turkish Government, which claims no accountability for this Turkish Government that has come to existence on Cyprus, can use its good offices to help in that regard.

I would hope that the U.S. State Department can use its negotiating stance in that region of the world to, hopefully reconcile conflicting claims.

It has always been amazing to me that the vast majority of people on Cyprus are of Greek background, not Turkish background, and those differences exist. For all to stand here this evening and try to paper over them is not common sense. If we have learned anything in our experience here in the Congress of the United States, it is that when these irreconcilable differences exist, short of war, and I hope it never comes to that, there has to be some means of resolving them.

I am happy to join the gentleman today in saying that this Member of Congress believes we should use all the pressure the United States Government can bring to bear in order that the legitimate claims of those United States citizens with respect to property in Cyprus can be resolved.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman for taking time at this late hour to come all the way over here in joining in this special order. The gentleman's remarks were not prepared remarks. They came from the heart, from the head. I know the gentleman to be a great patriot who cares about American security, and for freedom throughout the world, and would like to see these two nations friendly to the United States and friendly to the free world, get together. Again, I thank the gentleman from California [Mr. DANNEMEYER] for participating in this special order.

Greece and Turkey both can be valued and valuable United States allies, and trading partners in a region of growing significance. Is resolution of the Cyprus problem too much to ask to bring an end to long, bitter and sometimes hostile conflict, and to secure peace and stability in the region? I say no, Mr. Speaker. We here in Congress must do our utmost to see an end to the division of Cyprus. Like the Berlin Wall, the Nicosia Wall must fall as well.

Cyprus has remained a friend to the United States throughout the years and we should recognize her loyalty. The Persian Gulf war is a perfect example. Cyprus immediately supported the American condemnation of the Iraqi invasion of Kuwait and supported all of the U.N. resolutions on Iraq.

During Operations Desert Shield and Desert Storm, Cyprus authorized military overflight of its territory, as well as use of Cypriot air bases by American and coalition aircraft. The British bases on the island provided support for the British and allied forces from August 2, the end of the war. Indeed, I applaud the contribution of Cyprus to coalition efforts to expel Saddam Hussein's forces from Kuwait.

It took the point of a gun to ensure freedom from oppression this time, Mr. Speaker. Next time it may not because of the willingness of this coalition of nations to stand firm in defense of the rule of law. Another would-be oppressor at another time may not be so quick to undertake hostilities knowing the value the international community places on freedom.

Operation Desert Storm was but the latest proof of the United States' long history of support for foreign nations faced with the threat of losing their independence. Because of our allies' assistance, we are in a position to help other struggling nations preserve their freedom and home rule. We are especially well-situated to aid countries such as Cyprus, countries committed to freedom and democracy, yet which remain under oppressive rule. Indeed, while Kuwait is now free, Cyprus remains an occupied country.

Let us be consistent in our support of freedom, democracy, and the sovereignty of national borders, Mr. Speaker. We stood up for these principles in the Persian Gulf, and we should stand up for them on Cyprus as well.

We must stand up for them before Cyprus loses its identity.

Cyprus has seen a rape of its culture, a pillaging of its antiquities. Churches have been plundered and ransacked; beautiful frescos have been stripped off the walls of these religious institutions, including the famous Church of Antiphonitis. Other churches have been converted into mosques and still more have been turned into cinemas and recreational centers. What Cypriots have witnessed is the intentional destruction and pillaging of their cultural heritage.

Many archeological sites have been plundered and irreplaceable artifacts have been either destroyed or sold off. Foreign markets have been flooded with important artifacts since the invasion. Historical sites—some dating back to 500 B.C.—were damaged during the invasion and hostilities that followed. While important historical buildings often are the unintended casualties of war, I understand that some sites were bombed needlessly. Still other sites were vandalized by Turkish forces. In his article, "Cyprus: The Loss of a Cultural Heritage," Michael Jansen tells of how the artifacts found by teams of archaeologists were thrown into the streets and trampled underfoot.

Mr. Speaker, we must end the occupation of this island nation before all traces of Cypriot culture and history are trampled underfoot. Indeed, we must take up the President's challenge and work for a settlement of this conflict within the year.

We in the Congress have a responsibility to use our influence to see Cyprus made whole again, to rescue the thousands of Greek-Cypriots who have become refugees in the land of their birth. Like those faithful Cypriots in my district and elsewhere, we must do our utmost in this cause.

As the President noted, none of us should be satisfied with the status quo on Cyprus. This problem does not belong on the back burner. It belongs out in front and it should be resolved once and for all. I am committed to seeing that the occupation remains fresh in our minds. I am committed to seeing that none of us forget the brutalities, the plunder, the violations of U.N. resolutions and international law.

Thus, I commend the President for his words in Athens and I urge the administration to help bring to an end this illegal occupation. We do not wish to observe another painful July 20. Instead, let us celebrate a new independence day for the Republic of Cyprus.

With the support of the American people, the European community and, for that matter, the world community, we can solve this problem that divides a nation and a people.

Mr. BROOMFIELD. Mr. Speaker, I commend Congressmen MIKE BILIRAKIS and ED FEIGHAN for their work on this special order and for their commitment to the cause of justice on Cyprus. It is regrettable that this institution once again marks the anniversary of that tragic incident, the invasion of a sovereign nation on July 20, 1974. It is particularly difficult to remember this sad occasion during a period of great change in the world—a world that is giving so much hope to mankind.

In the past few years, democracy and freedom have come to Eastern Europe and major changes have occurred in the Soviet Union. All around the world, the promises of democracy are being fulfilled, and people who could only imagine the fruits of liberty a few years ago are now living in freedom. Former enemies are becoming friends. Problems are being solved not through the barrel of a gun, but through diplomacy. Wrongs are being righted and justice is prevailing.

Changes, however, have not yet come to Cyprus. The green line that separates the two communities on that island is still there. Unlike the Berlin Wall, it has not come down. Thirty thousand well-armed Turkish soldiers are still in the north of the island. They have not gone home. The 200,000 refugees who were displaced during the invasion have not returned to their ancestral homes. The 60,000 Turks who were brought from Turkey to settle in the north are still there. They have not gone home. There are 1,619 missing people, including 5 Americans. They have not returned to their loved ones. Rauf Denktash, the leader of the Turkish Cypriot community, still talks of peace on that island. But in his heart, he still opposes real change. Today, there is darkness in a sunny land.

In spite of these distressing facts, there is reason to be hopeful. For the first time in many years, the executive branch is giving the Cyprus problem the attention that it deserves. The administration has committed itself to making progress on the Cyprus issue. I welcome this prudent and timely decision. President Bush recently met with Prime Minister Mitsotakis in Greece and President Ozal in Turkey. Let us hope that they reached an understanding that can lead to a U.N. conference involving the parties to the dispute and others. Although much work remains to be done before the conference can be scheduled, I am hopeful that the main players will be forthcoming, flexible, and willing to negotiate. We all know that there is one country in the region that exerts tremendous influence on the question of Cyprus. Turkey holds the key to a solution of that complex problem.

As the occupying power on Cyprus, as a major financial supporter of Mr. Denktash, and as the only nation that recognizes northern Cyprus, Turkey wields significant influence in shaping the political landscape of the eastern Mediterranean. Over the years, our Government has been reluctant to ressure Turkey. We did not want to offend an ally that shared a long border with the Soviets and gave our country military base rights. For too long, we have been generous with a nation that has refused to fully commit itself to helping us settle this international dispute.

During the past 20 years, we have given Turkey billions of dollars. In fiscal year 1991, our Government allocated $553.7 million to Turkey and requested $703.9 million for fiscal year 1992. During a period of reduced tensions in Europe, such high levels of military assistance are clearly unwarranted. Although Turkey was a loyal partner during the recent gulf crisis, it has been well rewarded for its efforts. Where I come from, friends help friends. Is Turkey behaving like a friend? Why should the American taxpayer continue to provide the third largest package of United States assistance to a country that does so little to promote peace on Cyprus? Our European allies understand the dynamics of the Cyprus situation better than we do. The EC has told Turkey that the Cyprus question must be resolved before they will talk seriously with Ankara about a variety of issues, including membership in the EC. It is time for Turkish officials to rethink their policy regarding Cyprus.

Needless to say, I am delighted to say that President Bush and Secretary Baker are giving the Cyprus problem the attention that it justly deserves. I trust that President Ozal has had a change of heart and has told President Bush that Ankara truly wants to find peace on Cyprus. I hope that Mr. Ozal will use his considerable influence in future meetings with Mr. Denktash to promote the cause of peace. I am confident that enough diplomatic headway will be made in the next months to warrant the convening of a conference at the United Nations in September. Should a resolution of that longstanding dispute be found, this may be the last special order that we offer on the Cyprus problem. It is time to put this problem behind us.

Mr. YATRON. Mr. Speaker, I rise in support of the special order on Cyprus sponsored by my colleagues Representatives EDWARD FEIGHAN, MIKE BILIRAKIS, and HELEN BENTLEY. I commend them for their ongoing leadership in focusing much needed international attention on the dispute in Cyprus.

For too long Cyprus has been relegated to the backburner of United States foreign policy. Successive administrations have tended to ignore this idyllic island nation in the Mediterranean, notwithstanding the fact that Turkish forces, using United States military hardware, invaded Cyprus in 1974, occupying approximately 36 percent of the country.

After 17 years of occupation and division, the prospects for a just and lasting settlement on Cyprus appear to be better now than ever before. The United Nations, working in concert with officials from the Department of State, is piecing together an outline proposal which could lay the groundwork for achieving a negotiated settlement on Cyprus. The outline is expected to be finalized by this fall at which time the United Nations hopes to convene a meeting that would include the leaders of the Governments of Greece and Turkey, the President of the Republic of Cyprus, George Vassiliou, and the leader of the Turkish Cypriot community, Rauf Denktash.

Mr. Speaker, we should temper any optimism about a settlement by keeping in mind that Turkish intransigence doomed past U.N. efforts on Cyprus. What sets the positive tone for the current U.N. initiative is the apparent personal commitment on the part of President Bush to promote a durable settlement.

If the United Nations succeeds in establishing a negotiating procedure which will lead to a peaceful settlement, all parties to the dispute stand to benefit. But the Bush administration at the highest levels must remain focused on resolving this conflict.

With so many regional conflicts either resolved or close to resolution, there is no reason to delay a settlement on Cyprus any longer. The time for an agreement is now.

Mr. FAZIO. Mr. Speaker, on July 20, the Republic of Cyprus marked the 17th year of its occupation and division. I join my colleagues today in this special order to recognize this solemn anniversary, as well as the need for an end to the turmoil and conflict under which Cypriots currently live.

Thirty-one years ago, the island of Cyprus gained its independence from Great Britain; however, for 17 years, the northern part of the island has been under the grip of foreign occupation. When Turkish troops invaded Cyprus, 200,000 Greek Cypriots were driven from their homes, deprived of their possessions, and reduced to refugee status in their own land. Since the invasion, the island has been marked with violence and bloodshed.

Over the years, there has been an influx of approximately 65,000 settlers from mainland Turkey. In addition, 35,000 Turkish troops occupy 40 percent of the tiny island nation. The demographic and cultural character of the island has been drastically affected by this occupation. More recently, the president of the Turkish Cypriot state publicly invited Turks fleeing from Bulgaria to settle in Cyprus and become Turkish Republic of Northern Cyprus citizens. Although the influx never transpired, this incident is an example of how dangerously close Cyprus has come to losing what little cultural, social, and historical identity it struggles to hold on to.

With the dramatic events that have taken place in Eastern Europe, including the dismantling of the Berlin Wall, there is a greater need than ever to dissolve the green line that divides Cyprus, as the Wall formerly divided East and West Germany. However, settlement must allow the island nation to retain its cultural, social, and historical identity.

Today, I am once again urging the administration to take a more active approach both to a negotiated peace on Cyprus and for the reunification of this Mediterranean nation which has been our faithful ally over the course of its history. In the aftermath of the gulf war, this double standard hurts our Nation's credibility as a peacekeeper. It is important that we reaffirm our commitment to establishing a genuine and lasting peace in Cyprus—a peace that is achieved through meaningful negotiations and that is based on United Nations Security Council resolutions.

Mr. Speaker, I would like to close my remarks by commending the distinguished gentleman from Ohio [Mr. FEIGHAN]; the distinguished gentlewoman from Maryland [Mrs. BENTLEY]; and the distinguished gentleman from Florida [Mr. BILIRAKIS] for calling this special order. I also thank my other colleagues for their participation today.

Mr. ANNUNZIO. Mr. Speaker, earlier this year, President Bush said we were justified in waging a war against Iraq because of that country's invasion of Kuwait. To help carry this policy forward, Mr. Bush assembled a coalition of Western and Middle Eastern governments. He also obtained the approval of the United Nation's Security Council to legitimize his actions.

Now, in the aftermath of that war, President Bush has recently met with several foreign leaders, including Turgut Ozal of Turkey. During his meeting with Mr. Ozal, I hope President Bush reminded the Turkish leader of the similarity between the recent battle for Kuwaiti sovereignty and the need to resolve the crisis of divided Cyprus. Since 1974, thousands of Greek Cypriots have endured the illegal occupation of nearly a third of their country by Turkish troops. That force now numbers almost 30,000 soldiers who are stationed in the northern part of the island. The invasion began after a coup attempt in Cyprus was launched with support from the military junta that then ruled Greece.

Mr. Speaker, It's not hard to see the similarities between the invasions of Kuwait and Cyprus. If President Bush can justify risking the lives of American troops to defend Kuwait's right to self-determination, the least he can do is make a determined effort to get the Turks to accept a compromise plan that will end the division of Cyprus.

President Bush has the support of the United Nations Security Council on the Cyprus issue, just as he did in Kuwait. The Security Council has repeatedly called for a settlement of the Cyprus dispute and a withdrawal of Turkish troops. Most recently, a report from the Secretary General has called for an international conference to resolve this crisis.

I hope that this week, which marks the 17th anniversary of the invasion of Cyprus, will serve as a starting point for President Bush to redouble his efforts to bring peace to Cyprus. Ending the deadlock on Cyprus will require the Turks to accept that the thousands of Greek Cypriots who fled their homes after the invasion are entitled to return. If President Bush lends even a portion of the attention to this matter that he applied to the invasion of Kuwait, then I am sure he can help the Greek and Turkish Cypriots reach an agreement that respects the human rights of both communities.

On numerous occasions during and since the gulf war, the President has called for a new world order based on the rule of law. It's time he got beyond television sound bites, and seized on the principle of human rights as the key to settling the Cyprus dispute.

Mr. DELLUMS. Mr. Speaker, 17 years ago, on July 20, 1974, Turkey committed a grevious act of aggression by its invasion of Cyprus.

This violation of international law has been exacerbated by 17 years of Turkish occupation of the northern part of Cyprus.

The life of Cyprus has been seriously disrupted. Many persons are still missing and unaccounted for.

It is imperative that our Government seek now to redress the situation and to do everything possible to have Turkey withdraw and let the Cypriots find their own path to a solution of their many problems.

Mr. GALLO. Mr. Speaker, July 20 marked the 17th anniversary of the division of Cyprus. It is significant that we take this time to reflect on this crisis and remember the struggling people of Cyprus.

The climate for negotiations has recently brightened. Since the gulf war, the international impetus for a solution to the Cyprus issue has grown. President Bush has just returned from visiting Greece and Turkey where he urged leaders to resolve this crisis. I encourage all parties to continue the progress and negotiations of recent months.

The only way for a lasting solution to be reached is by the withdrawal of all foreign troops from Cyprus, as stated by U.N. resolutions. In the meantime, joint projects between the two Cypriot communities are crucial to restoring peace and stability in Cyprus, and I support the United States' annual funding of these programs.

Continued cooperation by all parties within the parameters of U.N. resolutions will help end the conflict and establish peace. Let us support this progress in negotiations, as a solution to the Cyprus problem seems within reach.

Mrs. BOXER. Mr. Speaker, I thank my colleague, Representative BILIRAKIS, for holding this special order on Cyprus. Seventeen years ago Turkish troops invaded the island republic of Cyprus. Since that time, there has been an artificial barrier separating Greek Cypriots in the south from Turkish Cypriots in the north. The green line is not only an ugly reminder of Turkish aggression, but also an immovable barrier dividing Cypriot families and friends.

The Cypriot people have suffered enough. It is time to end the hate and bitterness enveloping Cyprus and renew negotiations for a reunified country.

Adherence to the U.N. resolutions calling for the removal of Turkish troops would be a good start. In addition, United Nations sponsored talks should also be revived. The United States must work to bring Turkey back to the negotiating table.

Our cooperation with Turkey during the gulf war and the resulting political climate provide a real opportunity to break the longstanding deadlock. I hope that the recent meetings between President Bush and the leaders of Turkey and Greece will be the first step toward reunification for the nation of Cyprus.

Mr. GREEN of New York. Mr. Speaker, I join my colleagues in deploring the continued division of Cyprus.

For nearly two decades, some 30,000 Turkish troops have remained in Cyprus, prohibiting that nation from finding a political solution to its problems. I add my voice to the many that cry out today to urge Turkey to remove its troops immediately, so that all parties may work toward a peaceful resolution of the Cyprus problem.

The problem of Cyprus recently commanded the full attention of President George Bush, who met in Turkey with that nation's President, Turgut Ozal, on July 20, the 17th Anniversary of the Turkish invasion of Cyprus. I commend President Bush for his increased interest and activity on this problem, and I hope he will assign the highest priority to the Cyprus problem in all United States discussions with the Turkish leadership.

Turkish troop presence on Cyprus is unjust and in violation of international law. The situation has dragged on for 17 years without resolution, leaving a nation divided and a population embattled. The international community has repeatedly condemned the Turkish occupation of the island's northern third, and several U.N. resolutions have called for the immediate withdrawal of those troops.

While I agree with President Bush that the United States "cannot dictate terms" in resolving the question of Cyprus, I do believe that American strength and resolve must be applied to the problem of Cyprus, and that this untenable situation must end.

Cyprus must be permitted to benefit from the greater atmosphere of peace and freedom that is sweeping across so much of Europe. Cypriots, both Greek and Turkish, deserve to be free of the hostilities that have plagued their land for over 15 years. Let us erase the green line and bring an end to the division of Cyprus. Let us work to restore the civil liberties for the people of Cyprus. Clearly, the Turkish military presence must end, so that the citizens of Cyprus may at last enjoy peace and reunification.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in support of my distinguished colleagues, Representatives BILIRAKIS, FEIGHAN, and BENTLEY to mark the occasion of a grave international injustice: the invasion of Cyprus by Turkey.

Turkey's actions violate the United Nations Charter, the North Atlantic Treaty, and international as well as United States law. Clearly, we as a nation, which so heroically rose to the defense of Kuwait, must continue to apply the same standards to aggressor nations and promote the rule of law.

Turkey remains the only nation in the world to recognize the occupied territories, while flagrantly ignoring and failing to comply with relevant United Nations Security Council resolutions. I urge my colleagues and this Chamber to bring the full weight and collective condemnation of this body to bear on President Ozal to initiate negotiations toward a peaceful resolution.

After 17 years, Turkish troops continue to occupy 40 percent of this island and no progress has been made to peacefully rectify this situation. I stand in support of all those men and women who hunger for freedom and an end of this illegal occupation.

Mr. LEHMAN of California. Mr. Speaker, I rise today to join my colleagues in expressing my anguish about the ongoing division of Cyprus. I would like to thank the gentleman from Florida for taking time to focus our attention on the illegal occupation of Cyprus by the Turkish Army.

On July 20, 1974, the Republic of Cyprus was invaded by Turkey, which resulted in the death of 5,000 people and the disappearance of 1,619 Greek Cypriots and 8 Americans. To this day, about 35,000 Turkish troops continue to occupy the island's northern third in violation of several United Nation's resolutions calling for their immediate withdrawal.

Since 1974, the United Nations has sponsored negotiations to resolve the differences between the Greek and Turkish-Cypriot communities. Unfortunately, these negotiations have not produced an agreement. Recently, U.N. Secretary-General Javier Perez de Cuellar reinstated his longstanding commitment to reach an agreement on this 17-year-old problem.

I would like to express my wholehearted support for a negotiated peace and for reunification of Cyprus. With the dramatic events that have taken place in the Soviet Union and Eastern Europe, it is time to eliminate the green line that divides Cyprus. It is vital that we reaffirm our commitment to establishing a genuine and lasting peace through meaningful negotiations. The United States must use its leverage more effectively in order to force the removal of the Turkish troops and the restoration of majority rule to the nation.

I urge my colleagues to put their full support behind the United Nations efforts to end this stalemate and finally establish a reunified Cyprus. We should not leave Cyprus out of the New World Order as they should also enjoy the benefits of democracy and freedom.

Mr. AuCOIN. Mr. Speaker, I am pleased to join my colleagues today who are speaking out for an end to a divided Cyprus. I commend my colleagues, Representatives BILIRAKIS, FEIGHAN, and BENTLEY, for taking the lead and organizing this important debate.

On July 20, 1991, the world observed the 17th anniversary of the first phase of the Turkish invasion of the Republic of Cyprus. Turkey's stated purpose for the invasion of Cyprus was to restore a legitimate government and protect the Turkish Cypriots. However, Turkey failed to withdraw in accordance with U.N. Security Council resolutions. Those resolutions called for an immediate cease-fire and asked for the withdrawal of all foreign troops. Instead of complying with the resolutions, Turkey repeatedly violated the cease-fire and increased the number of Turkish troops in Cyprus. On August 14, 1974, Turkey made an attack on Cyprus, seizing 40 percent of its territory.

To this day, Turkey holds on to Cypriot territory in violation of the U.N. charter and numerous U.N. Security Council and General Assembly resolutions. Those resolutions are, in many respects, are similar to those against Iraq; the difference being that the ones against Turkey have not been implemented. Additionally, Turkey continues to violate other international and United States laws.

The United States House of Representatives voted to lift the arms embargo against Turkey with promises that Turkey would cooperate and settle the dispute. Unfortunately, Turkish resistance followed instead. In November 1983, Turkey set up its own government, recognized only by Turkey, in the occupied territories.

The Turkish invasion and occupation have brought about serious consequences for Cyprus. As a result of the invasion, 194,000 Greek Cypriots became refugees. Over 1,600 are still missing, including several Americans. A majority of the 20,000 Greek Cypriots under Turkish occupation have been expelled. Neither the 3,000 year-old Greek presence in the occupied North nor Cypriot churches have escaped Turkish violence. Finally, Turkey has altered the demographics of Cyprus by bringing approximately 80,000 Turkish settlers to the island in an attempt to balance the lopsided 18 percent Turkish and 80 percent Greek population breakdown in Cyprus.

The serious consequences of the Turkish occupation do not stop with Cyprus. The United States and its allies possess a vital interest in the improvement of conditions in Cyprus. The strengthening of Cyprus' economy could mean an eventual EC membership. Peace and stability in this region is key to U.S. interests. The creation of an independent, bicommunal federal republic could mean not only the safe return of refugees and the security of human rights and fundamental freedoms for Cypriots, but also the removal of one of the largest sources of friction between NATO allies. The United States should begin by working with the United Nations to demand from Turkey compliance with the U.N. resolutions. As the need for stability in the area persists, the United States Government must address the urgent issues concerning Cyprus.

Again, Mr. Speaker, I commend my colleagues for shining the spotlight on Cyprus today. We must continue to speak out against these injustices until we see an end to the military occupation of this country.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to comment on a long running dispute over the island of Cyprus. While Mideast peace plans make national headlines, and the resolution of long running disputes remains a high priority with the administration, there remains one dispute which is largely ignored. This, of course, is Cyprus.

Cyprus is a partitioned country, divided by an armed force, a buffer zone and long history of past wrongs. Whether this remains so depends upon not just the Cypriots themselves, but also the Greek and Turkish Governments and others.

At this point in time, there is no need to place blame on one group or another. Both sides have historical grievances which have never been settled and will, most likely, never be settled to anyone's satisfaction. Little is gained by proving one side right or wrong. Dwelling on the past will lead only to another 17 years of division.

The question now lies on whether or not to move into the future. Whether or not cooperation between Greece and Turkey can be achieved, and a constitutional framework can be established to govern Cyprus—one which will guarantee the constitutional rights of all citizens. Such a federal solution also needs to ensure the freedom of movement, property and settlement.

I strongly support the U.N.-sponsored negotiations which are working toward this end, and urge all parties involved to strive toward a negotiated settlement. It will not be easy, and it will require the effort and commitment of not just the partisans but the United States, the European Community, and the United Nations as well. If we are to be successful in truly establishing a New World Order, in moving beyond old divisions, we must make the necessary commitments. Living in a state of cold war—of armed division—is a past which needs to be left behind, whether that is in Eastern Europe or on the island of Cyprus.

Mr. TORRICELLI. Mr. Speaker, the 1974 division of Cyprus was a tragedy that continues to plague the harmony of the island. The United States has always maintained strong and close ties with Cyprus and it is clearly in the United States interest for there to be a fair and quick settlement between the Greek and Turkish Cypriots.

But a fair solution, while attainable, is undermined by the Turkish Government's insistence on recognition for a separate Turkish Cypriot state. No other government aside from Ankara recognizes this state. Ankara's obstinateness is a disservice not only to the international community, Cyprus and all the nations of the region, but to Turkey itself. The Turkish military occupation of Cyprus is condemned by the international community and prevents a peaceful solution to the conflict.

A solution to this problem must be found, and the United Nations is making every effort to find one. Congress must also make every effort to support the United Nations in its attempts to reach a settlement between the two parties. The gulf war proved that the United Nations can be effective in drawing the nations of the world together to resolve contentious and harmful disputes. Secretary General de Cuellar's efforts to resolve this conflict are crucial to stability in the Eastern Mediterranean region.

It is imperative that the Greek and Turkish Cypriots cooperate with the Secretary General in his attempt to provide an outline for a settlement of the dispute. I amended the fiscal year 1992 foreign aid authorization bill to express the sense of Congress that the Secretary General's efforts be encouraged and supported so that a conclusion to this conflict can be reached.

The Government of Turkey should finally adhere to the U.N. resolutions. Until the Ankara government recognizes the need for a compromise acceptable to all parties and negotiates under the guise of the United Nations, this conflict will continue to be an unnecessary and unwanted burden on the region and the world.

Mr. ERDREICH. Mr. Speaker, July 20 marked a dark anniversary for the people of a tiny island nation in the eastern Mediterranean. On that day, 17 years ago, the Republic of Turkey invaded Cyprus, an act that bears striking resemblance to Iraq's invasion of Kuwait.

It is impossible to calculate the toll in human suffering since that fateful day. Countless lives were lost, women and children raped, citizens denied fundamental liberties and imprisoned without cause. Over 180,000 Greek Cypriots were expatriated from their homes and land. What little that remained was stolen. Northern Cyprus is a land borne of man's inhumanity to man and serves as testament to the Old World Order. Turkey now stands alone in recognizing the puppet government of the Turkish Republic of Northern Cyprus.

This puppet government now occupies nearly 40 percent of the land mass while having only 19 percent of the island's total population. Today Cyprus remains a land divided by a border enforced by the United Nations with 29,000 troops on the Turkish side and 13,000 troops on the Greek side. All are at war's doorstep, just as they have been since 1974.

The United Nations has preserved a ray of hope for this region torn asunder. Our plan, proffered by the United Nations with U.S. support, is to promote a new federal republic on the island that would be bicommunal, bizonal, nonaligned and an independent state. Under the plan, both regions would pledge not to move toward union with any other nation. The U.N. Charter (article 2(4)) states that, "All members shall refrain in their international relations from the threat or use of force against territorial integrity or political independence of any state." Unfortunately, the United Nations cannot act alone. Such a plan requires leadership, leadership that, until now, the United States has been either unable or unwilling to provide.

Last week, on the day following the anniversary of Turkey's invasion, President Bush met with Turkish President Turgut Ozal to press the issue of divided Cyprus. While providing no new concrete solutions to the crisis, President Bush offered to act as a "catalyst" to settle the conflict by the end of this year.

In his speech to the Greek parliament, President Bush said, "" * * I pledge that the United States will do whatever it can to help Greece, Turkey and the Cypriots settle the Cyprus problem, and do so this year.

"Today, with new leaders of vision, your nations enjoy a unique opportunity to overcome the misunderstandings of the past. You can begin to heal the deep wound that scars Cyprus, that divides families and friends on that island."

Commendable words. Words that have been echoed over the past two decades, without action. The time has come for the United States to back up our words with action. That is why, Mr. Speaker, I rise in support of military aid to Greece that will preserve a balance between Greece and Turkey.

With the cold war beginning to thaw the world over, the U.S. effort to reduce its total forces worldwide, the collapse of the Warsaw Pact and democratization sweeping the globe, the time has come to prioritize. If the United States does not put forward a solid, constructive effort immediately to reunite Cyprus as a federal nation all hope for a peaceful settlement will be lost for the remainder of this century.

There has never been a greater opportunity for a peaceful unified Cyprus: President Ozal has been open to dialog on the subject; Mr. Denktash, the Turkish Cypriot leader, has been working with U.N. Secretary General Javier Perez de Cuellar on a draft proposal for a federated government; Turkey has stated that it is willing to cede to the Greek Cypriots 11 percent of the land now under their control in exchange for political concessions; and both President Bush and Secretary Baker have personally raised the issue to the Turkish President.

The United States must not let this opportunity pass. At a press conference following his meeting with Greek Prime Minister Constantine Mitsotakis, President Bush said, "It is my role to use whatever authority the United States may have * * * to further support for the United Nations Secretary General's proposals in any way I can." Mr. Speaker, I submit that if no progress is made toward uniting Cyprus, the decision must be made to withhold future Turkish aid. Anything less would be perceived as tacit acceptance of Turkey's authority in Northern Cyprus.

I wholeheartedly encourage President Bush to aggressively pursue this effort and pledge my support for a unified Cyprus.

Mr. RUSSO. Mr. Speaker, I would like to thank my distinguished colleagues, Mr. FEIGHAN and Mr. BILIRAKIS for calling today's special order to mark the 17th anniversary of the Turkish invasion of Cyprus. It is with deep regret that we find it necessary to once again observe this sad anniversary. Another year has passed and 35,000 Turkish troops continue to occupy 37 percent of the Republic of Cyprus.

In the past 2 years the world has witnessed changes and events of historic proportions. In 1990 the Berlin Wall was torn down leaving Nicosia, the Capitol of Cyprus, as the only divided city in Europe. In 1991 the world watched as a United States-led U.N. coalition implemented the rule of law and liberated Kuwait from the invading Iraqi Army.

The Turkish invasion of Cyprus is not unlike the Iraqi invasion of Kuwait, with a larger more powerful country invading a smaller neighbor. Unfortunately, unlike Kuwait, the numerous U.N. resolutions relating to Cyprus remain unimplemented. As problems once thought impossible to resolve are solved and the United Nations has a new respect and credibility the time is right to settle the Cyprus dispute.

After years of placing the Cyprus issue on the back burner, the administration is finally focusing attention on the conflict. I commend President Bush for his recent remarks in Athens where he stated:

> In the new world I have discussed, none of us should accept the status quo in Cyprus * * * And today I pledge that the United States will do whatever it can to help Greece, Turkey and the Cypriots settle the Cyprus problem and do so this year.

If the Cyprus problem is to be resolved this year then Ankara must show a willingness to cooperate and participate in the U.N. sponsored negotiations. The U.N. Secretary General, has repeatedly requested that the Turkish side submit its positions on the issues relating to the territorial aspects of the problem and on the 200,000 refugees who were displaced after the invasion. Turkey appears unwilling to cooperate with the Secretary General and has failed to submit concrete proposals on these key matters.

This Congress and the administration must make it absolutely clear to Turkey, that while we appreciate their outstanding contributions during the gulf war, we will no longer tolerate the status quo on Cyprus. The illegal Turkish occupation of Cyprus must end. The 200,000 refugees must be given the opportunity to return to their homes and Turkey must account for the fate of the 1,619 missing persons since the brutal invasion in 1974. Clearly, the solution to the Cyprus problem rests with Ankara.

Let's hope that at this time next year the Cyprus problem will be resolved and a special order remembering the 18th anniversary of the Turkish invasion of Cyprus will be unnecessary.

Mr. STARK. Mr. Speaker, I thank my colleague from Ohio, Mr. FEIGHAN, for planning this special order to call attention to the continuing Turkish occupation of the Republic of Cyprus.

For 17 years, tens of thousands of Greek Cypriots have lived under an oppressive Turkish rule; 35,000 Turkish soldiers have occupied 40 percent of the island state. Ankara has ignored a series of resolutions by the United Nations on this matter as well as countless calls by the international community.

This is an opportune moment to speak forth on this issue. Not only did Turkey's invasion take place 17 years ago last Saturday, but the United States has spent the better part of the last year addressing another invasion of a large country by a smaller one in the Middle East. If President Bush could expend billions of dollars in time and money to liberate Kuwait, he should certainly focus some energy on bringing justice to Cyprus. I was pleased to see him address this issue with Greek and Turkish leaders over the last week; I urge the administration to continue to work on this important issue.

Turkey's invasion was a clear violation of the U.N. Charter, the North Atlantic Treaty, and United States laws governing foreign assistance. If the President's so-called new world order means anything, it should mean that continuing acts of international aggression of this kind should no longer be tolerated. The United Nations must take an active role in mediating this dispute to bring an end to the division of Cyprus.

When the United States has a record Federal budget deficit of more than $300 billion, we have better things to do with the taxpayers' money than send $700 million of it to a regime that continually flouts international norms and ignores the diplomatic overtures of successive U.S. Presidents. We've tried the carrot approach for many years now—it's time to employ a more forceful approach and resolve this injustice.

Once again, I wish to commend Mr. FEIGHAN for his efforts and leadership on this important issue. We must let the people of Cyprus know that their cause is not forgotten and that justice, freedom, and independence will in the end triumph over foreign occupation and oppression in the island state.

Mr. HUGHES. Mr. Speaker, President Bush recently visited the leaders of both Greece and Turkey, and I was pleased to see that he has now decided to bring some attention to the continuing occupation of Cyprus by Turkish forces. Unfortunately, it seems that it took Saddam Hussein's invasion of Kuwait to remind the world that armed invasions of sovereign nations are wrong.

The people of Cyprus have waited over 16 years to have their nation restored. The U.N.-sponsored peace talks and President Bush's visit to the region have brought new hope to the Cypriots, but after such a long wait the time has come for concrete action.

If the new world order is to be based upon self-determination and national sovereignty, surely the international community must unite in support of Cyprus just as surely, we in Congress must take responsibility for providing Turkey with millions of dollars in military aid, essentially defraying the costs of occupation. With the crumbling of the Soviet bloc and Saddam Hussein, the high military aid levels of the past are not justified as long as Turkish forces remain in Cyprus.

Mr. Speaker, I urge my colleagues to remember Cyprus and to consider these issues carefully when considering future foreign aid legislation.

Mr. CARDIN. Mr. Speaker, I raise today to join my colleagues, Representative HELEN DELICH BENTLEY, Representative MICHAEL BILIRAKIS, and Representative EDWARD F. FEIGHAN, in remembering the 17th anniversary of the Turkish invasion of Cyprus. I wanted to join my colleagues in this special order in the hope that it will sharpen the focus of United States and world attention on this difficult situation.

The eastern Mediterranean island of Cyprus has been divided since the Turks invaded Cyprus in 1974. A U.N. force currently patrols a line separating about 170,000 Turkish Cypriots in the north and 650,000 Greek Cypriots in the south.

The people of Cyprus, both Turkish and Greek, have suffered over the course of the last 17 years. The status quo continues to be unacceptable. The Turkish troops that line the green sandbags and barbed wire that runs through the streets of Nicosia, Cyprus, represents one of the last remaining occupation armies in Europe.

The Persian Gulf conflict has drawn international attention to this turbulent region of the world. The breaking down of past barriers of oppression and the transition toward democracy throughout Eastern Europe and the Soviet Union illustrate that the spirit of change is still alive.

The U.N. Secretary General Javier Perez de Cuellar has been tireless in his efforts to bring all of the parties together to work out a negotiated solution in Cyprus. Earlier this summer, the Secretary General proposed convening a conference to discuss and solve all the basic aspects of the Cyprus problem. Having just waged a war to preserve the international order and to enforce the decisions of the United Nations, it is incumbent upon the United States and the rest of the international community to support efforts to bring the Cyprus question to a negotiated settlement.

President Bush has said that he will involve himself on a high level in breaking the impasse. In recent meetings with Turkish President Turgut Ozal, President Bush appears to have raised the issue of Cyprus. Hopefully, this high level United States involvement will push Turkey toward recognizing the irrationality of the current stalemate in which Turkey had a large role in creating.

The time has come for the occupation forces to be withdrawn. Greek and Turkish Cypriots should be permitted to return to their homes and to determine for themselves the future direction of Cyprus.

Mr. LANCASTER. Mr. Speaker, no nation on Earth has shown a greater respect for the rule of law and the peaceful pursuit of justice than the people of Cyprus since their island republic was split 17 years ago.

Without the one-third of the island in the north, which contains the greater part of Cyprus' natural resources, the nation has managed to prosper and to increase its status as a center for trade, communications, commerce, tourism, and industry. Many Cyprus leaders in these enterprise were totally destitute when they left their homes in the north and became refugees in their own land. They lifted themselves and restored their nation the old fashioned way: Through honest, hard work.

The demands of the people of Cyprus for reunification of their nation have not slackened during the 17 years of Turkish occupation of the north, and, if there is any change, it is that the determination to be one nation again is greater than it was after the 1974 occupation.

Mr. Speaker, our President has called for a resolution by the end of the year, and has stated that two democracies—referring to Greece and Turkey, should be able to resolve their differences. Our President's concern has been a long time in coming.

The people of this beautiful island republic in the Aegean have used all the available tools of decent, democratic lawful negotiation to get our help and the help of the United Nations. They deserve, for their human decency and respect for law, far better than we have yet managed to give.

Mr. BONIOR. Mr. Speaker, I'd like to thank my distinguished colleagues EDWARD FEIGHAN and MICHAEL BILIRAKIS for holding today's special order to mark the 17th anniversary of the Turkish invasion of Cyprus.

On July 20, 1974, Turkish troops invaded and occupied northern Cyprus. Today, over 25,000 Turkish troops remain there. The troops occupy nearly 40 percent of the island even though only 18 percent of the population is Turkish Cypriot.

Thousands of Greek Cypriots became refugees as a result of the invasion. A barbed wire fence, known as the green line, cuts across the island separating thousands of Greek Cypriots from the towns and communities that their families lived in for generations.

Although President Bush pledged to help resolve the unjust situation in Cyprus this year, he has yet to propose a plan to achieve this. Turkey receives over $500 million in United States aid annually. If the President is serious about ending this dispute, the administration has leverage to pressure Turkey to withdraw its troops. For truly, this question can be resolved with a sufficient amount of political will and determination.

The past few years have produced dizzying change around the world. Barriers between the East and West crumbled. Progress is being made toward peace in the Middle East. Yet, Cyprus remains divided. The time has come for the green line to meet the same fate as the Berlin Wall. The new world order must include a united Cyprus.

Mr. CONDIT. Mr. Speaker, I would like to take this opportunity to recognize the 17 years of Turkish occupation on the island of Cyprus.

In 1974, Turkish troops invaded Cyprus because Turkey believed Greece was threatening to take over the island. Approximately 29,000 Turkish troops continue to occupy Cyprus today. Tensions between Greece and Turkey have remained constant since this invasion.

As you know, this region is politically and military important to the United States. Cyprus played a key role in Operation Desert Shield/Storm by pledging its full support for all the U.N. resolutions on Iraq. By providing base access, transit assistance, and airfields to the allied forces, Cyprus proved to be a cooperative entity.

With international relations improving worldwide, it seems an approprite time for Greece and Turkey to end hostilities and move toward more peaceful relations. I commend President Bush's commitment to Prime Minister Constantine Mitsotakis of Greece, to act as a catalyst in promoting a solution in accordance with the U.N. resolution on Cyprus. The people of Cyprus are now looking to the United States for leadership. After many years of anger and dispute, it is time to reunite the people of this divided nation by resolving the differences which exist between them.

Mr. SCHUMER. Mr. Speaker, with freedom coming to Eastern Europe and glimpses of hope for peace in the Middle East, the time has come to end the 17-year-old Turkish occupation of northen Cyprus. The crimes and violations of human rights perpetrated by the Turks against the Cypriots cannot be tolerated.

In these 17 years that the Turkish Army has occupied 37.3 percent of the island of Cyprus, 180,000 Greek Cypriots have been evicted from their homes and over 1,600 Greek Cypriots have been forcibly detained. The 29,000-man Army has committed innumerable rapes and murders, as well as a host of other deplorable crimes.

A resolution of this situation is clearly in our national security interests. Nicosia, the capital, is the only divided city remaining in the world. Greece has long been willing to negotiate with Turkey and the time has come to start the process.

President Bush, on a visit to Greece recenty, called for new initiatives to end this conflict. I applaud him for this action. We must play an active role in this process, to ensure that these violations of Cypriots' rights are stopped before any more atrocities occur.

Ms. SNOWE. Mr. Speaker, I would like to commend the gentleman from Ohio [Mr. FEIGHAN] and the gentleman from Florida [Mr. BILIRAKIS] for conducting this special order today to draw attention to the continued agony of Cyprus, 17 years after its invasion and division by Turkish troops.

I wish that it were not necessary to remember this tragic event, and to recite once again the familiar fact of the Cyprus dispute. We are living in an exciting and dramatic time in world events, when other conflicts that long seemed unsolvable have swiftly given way to progress.

Freedom is returning to the people of Eastern Europe after decades under Communist oppression. Germany is again a united country after decades of forced division. Democracy has spread to parts of Latin America and Africa that have never known it. There have even been small steps toward peace in the ever-volatile Middle East.

Sadly, though, beleaguered Cyprus cannot join Germany, Hungary, Namibia, and Nicaragua on the roster of international success stories of our time. More than one-third of its territory remains occupied by Turkish troops who support settlers from the Turkish mainland and the illegitimate, self-proclaimed government of the Turkish Republic of Northern Cyprus.

As a supporter of peace and freedom for the Cypriot people, I have stood up in Congress year after year to mark this sad occasion. I sincerely hope that this is the last year that it will be necessary. The U.N. Secretary General has personaly sponsored talks between the leadership of the two Cypriot communities, and I commend him and his representatives for the considerable time and attention they have devoted to this effort.

I also commend President Bush for his attention to Cyprus. In his meetings with Greek Prime Minister Mitsotakis and Turkish President Ozal last week Cyprus was high on his agenda, as it should be.

To this point, these efforts have borne little fruit, however, for the simple reason that the Turkish Government refuses to end its occupation and allow a settlement to occur. In the face of Turkey's obstructionism, perhaps only the sustained and vocal attention of the world community to this issue can make a difference and break the deadlock. The world rightly joined together to condemn, year after year the Soviet occupation of Afghanistan and the Vietnamese occupation of Cambodia. I believe that such constant and high profile international pressure contributed to the withdrawal of foreign forces from those countries.

It is therefore incumbent upon us, as Members of Congress, to use occasions such as this to lend our voices to the international chorus, and to stress that the outrageous violation of human rights, freedom, and international law on Cyprus, is simply unacceptable, and must be brought to a speedy end.

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman from Florida [Mr. BILIRAKIS] for his continued attention to the division of Cyprus, and for calling this special order today, coinciding with the 17th anniversary of Turkey's invasion and occupation of northern Cyprus.

Much credit is due the United Nations Security Council and United Nations Secretary General Javier Perez de Cuellar for their ongoing efforts to resolve peacefully the continued division of that Mediterranean island. In recognition of his efforts, the Security Council on June 28 endorsed the Secretary General's proposal to convene an international meeting on Cyprus, provided that the parties concerned were near agreement on the issues involved; the Security Council has previously condemned Turkey's actions in Cyprus. The Security Council also accepted Perez de Cuellar's recommendation that U.N. officials continue with their meetings with concerned parties to prepare for a possible meeting. The Secretary General will report back to the Council by the end of August.

I am especially pleased by the renewed attention which President Bush and his administration have given to the division of Cyprus. Secretary of State Baker recently asked his Turkish counterpart to be more forthcoming in cooperating with the U.N. Secretary General's efforts, asking that he submit serious and concrete proposals addressing the outstanding issues. In his meeting with Cypriot President Vassiliou May 30, President Bush proposed that he would act as a catalyst in promoting a resolution of the division of Cyprus that would conform to United Nations resolutions on the situation.

I commend President Bush for the attention which he gave to the issue of Cyprus during his visit to Greece and Turkey in the last week. As the President told the Greek Parliament, "None of us should accept the status quo in Cyprus." He further pledged to support the U.N. Secretary General's proposals however he could. The United States should continue this renewed focus on the situation in Cyprus, with the goal stated by the President of resolving the division of Cyprus by the end of this year.

Mr. ABERCROMBIE. Mr. Speaker, I join today with my colleagues to call for an end to 17 years of occupation, oppression, and division.

Around the world we see chains of oppression being broken—the situation in Yugoslavia, the Baltics, and the tremendous wave of change that has swept across Eastern Europe. In this decade of a new world order, the quest for freedom is being sought more earnestly than ever.

Mr. Speaker, the United States and Congress has followed the ongoing United Nations-sponsored Cyprus negotiations with interest and concern. We have provided an annual amount of $15 million dollars in aid to promote bicommunal projects and scholarships for Cypriot students. Over the weekend, the President pledged in a speech to the Greek Parliament that the United States would take a more active role in the Cyprus problem, and said that "No one should accept the status quo in Cyprus."

Mr. Speaker, I encourage the President to keep to his pledge and use his capacity as leader of the United States and the international community to urge the withdrawal of foreign troops in Cyprus as a first step to ending the division which has remained since 1974.

Mr. EDWARDS of California. Mr. Speaker, I commend my colleagues; the gentleman from Florida, the gentleman from Ohio, and the gentlewoman from Maryland, for planning this special order enabling us to address the unacceptable and longstanding Turkish occupation of Cyprus.

Mr. Speaker, the dawning of this decade has allowed us to witness an unprecedented historical unrest throughout the world. Many nations are finding foreign occupation and influence to be unreasonable. Attempts to break free from foreign oppression are no longer rarities, but common occurrences. This unrest has led to the collapse of the Berlin Wall, numerous revolts in the Baltic States, and the decline of Soviet control in Eastern Europe. As foreign oppression ceases to be the order of the day, Cyprus remains a dark reminder of past offenses in a time of unparalleled world freedom.

July 20, 1991, marked the 17th anniversay of the Turkish occupation in Cyprus. The invasion of 1974 has created numerous problems for the people of Cyprus. By taking nearly 40 percent of the land, the Turks have displaced tens of thousands of Greek-speaking Cypriots from their natural homes. To this day, the green line separates the Greek Cypriots from the Turkish Cypriots. This division perpetuates ethnic boundaries and creates ill will between the two groups. If this barrier remains much longer the people on both sides will grow irreconcilably apart.

From an economic standpoint, the division of Cyprus proves to be detrimental to the wealth of the nation. With the invasion, Turkey inherited the prosperous port, Famagusta, which controls 83 percent of the general cargo in Cyprus. The Turks also gained major percentages of Cyprus' livestock production, tourism, and agricultural exports. In sum, Turkey controls 70 percent of the gross output of the Cyprus economy. It goes without mention how this economic imbalance affects the Greek Cypriots.

The President's recent visits to Greece and Turkey are representative of the need for the United States to make a more concerted effort to help resolve the Cyprus conflict. Maintaining the status quo in our actions toward Cyprus is no longer acceptable. We must use our influence and apply greater diplomatic pressure on the Turkish Government to withdraw their troops and return their settlers to home.

The U.N. efforts to bring the Cyprus conflict to a lasting compromise is to be commended. I support and urge all of my colleagues to support the efforts of Mr. Perez de Cuellar, the U.N. Secretary General, to produce a rapid and peaceful agreement between Greece and Turkey as set forth in previous negotiation talks with their leaders. Although these negotiations have faltered, the United States should let it be known that we still encourage any effort to bring about a peaceful solution to the Cyprus conflict.

Mr. Speaker, for the past 17 years, Cyprus has been under a division that does nothing to benefit the people of that country. It separates them and oftentimes violates their rights as citizens. I once again urge my colleagues to reflect upon this conflict and support efforts to resolve this longstanding problem.

Mr. MARTINEZ. Mr. Speaker, I would like to first commend and thank the gentleman from Florida for his initiative today. I praise him for his unwavering commitment to freedom and justice for all Cypriots.

Mr. Speaker, I join my colleagues in observing July 20 as the 17th anniversary of Turkey's invasion of northern Cyprus. This anniversary has weighed heavily on the conscience of all peoples of the world who share in the belief that states must eschew the destructive path of naked aggression and abide by the rules of international law. If nothing else, the historic international alliance against Iraq's invasion of Kuwait sends a clear signal to all states that naked aggression will not be tolerated by the world community.

In his recent trip to Greece and Turkey, President Bush expressed his willingness to act as a catalyst in order to jump start United Nations-sponsored mediation talks between the various actors in the Cyprus question. Mr. Speaker, I applaud the President's pledge to help resolve the Cypriot issue by the end of this year. However, it is going to take more than ceremonial rhetoric to break the political impasse that has torn this small island apart.

Mr. Speaker, the status quo must be broken, the paralysis in United Nations-sponsored negotiations must be broken, and the intercommunal strife that has divided Cypriots must be settled peacefully. But none of this can occur as long as Turkey continues to violate international law and flout United Nations resolutions pertaining to Cyprus. Seventeen years after its brutal invasion of northern Cyprus, Turkey still has 29,000 troops occupying 40 percent of this eastern Mediterranean island. The Ankara government must come to the realization that its troops in nothern Cyprus stand as an obstacle to a just and permanent settlement to the Cyprus problem.

Mr. Speaker, the United States can and should play a constructive role in helping to resolve the issues that divide Greek Cypriots and Turkish Cypriots. However, any proposed American initiative in unraveling the Gordion knot must have as its primary objective the withdrawal of Turkish forces from the island. Anything less than this United States-stated objective would be meaningless in helping to establish peace, liberty, and stability in Cyprus.

Ms. PELOSI. Mr. Speaker, I would like to commend my colleagues, Mr. FEIGHAN, Mr. BILIRAKIS, and Mrs. BENTLEY, for calling this special order on Cyprus. Today, I join with many of my colleagues in recognizing the 17th year of the Turkish occupation and division of the Republic of Cyprus, and the hardships and human rights violations long endured by Greek Cypriots in their homeland.

The past 17 years have been tragic ones for Greek Cypriots: Some 200,000 Cypriots, about 40 percent of the total population, are refugees in their own land; another 1,619 persons are missing, their fate unknown to their families and loved ones. Greek Cypriots deserve better than to be treated by strangers as second-class citizens in their homeland.

Despite longstanding pressure from the United Nations in the form of 24 resolutions, the Cyprus problem persists. This 17th anniversary reminds us of the continuing occupation and human rights violations, and the urgency of resolving this situation.

I would like to acknowledge the President's recent interest in resolving the Cyprus situation; however, I must express grave concern about the President's proposal for four-party talks, which would legitimize the results of the invasion. The area of Cyprus under Turkish occupation is recognized only by Turkey as an independent state.

During the many rounds of negotiations, the Cyprus Government and the Greek Cypriots have made serious concessions. They are making a good-faith effort to bring about a solution to this tragic division of Cyprus. The basic prerequisites for peace are straightforward: The withdrawal of the Turkish occupation troops, freedom of movement, settlement and property ownership anywhere in the Republic, with international guarantees for all of its citizens.

The Turkish Cypriot leader, Rauf Denktash, must come to realize the necessity of a resolution to the differences that have so bitterly divided Greece, Turkey, and Cyprus. A solution to the Cyprus problem would contribute to world stability and international order.

In a world lit by the fires of freedom and inspired by self-determination, we look to Cyprus with the hope that the conditions can be resolved diplomatically, peacefully, and with justice for Greek Cypriots.

Mr. OWENS of Utah. Mr. Speaker, 17 years ago, Turkish troops invaded and forcibly occupied northern Cyprus, claiming the lives of more than 4,000 Greek-Cypriots and casting out more than 200,000 from their homes, now refugees in their own country. More than 1,600 are still missing.

Since then, the island has been divided by barbed wire. Concrete barricades and reenforced checkpoints dot the green line. Nicosia remains divided. I wish I could join my colleagues today in remembering this invasion as a tragic event of 1974 alone. However, the events of 17 years linger on Cyprus, as do 38,000 Turkish troops and 60,000 Anatolian settlers.

I rise to commemorate this tragedy and underscore the President's view that "the status quo is not acceptable" on Cyprus. Continued intransigence, such as that of Rauf Denktash in last year's U.N.-sponsored talks last year, is not acceptable. Continued delays by Turkey in providing a detailed proposal to the Secretary General are not acceptable.

Mr. Speaker, the President's visit to Greece and Turkey, as well as his meeting in May with President Vassiliou, signify what many of us in Congress have been urging for a very long time: that the administration is heightening the priority of the Cyprus dispute on its foreign policy agenda. This is a welcome and positive development, and one which—with continued congressional scrutiny—will complement the U.N. Secretary General's good offices mission.

Many of us have argued over the years that the solution to this problem lies in Ankara. Though Turkey has yet to be forthcoming on several substantive issues, including refugees and exchange of territory, it is encouraging that President Ozal has properly stepped forward in dealings with the United Nations. With vigorous encouragement from the United States, along with the flexibility and goodwill to offer a meaningful proposal, Turkey could take the steps necessary for an international meeting to convene at an early date.

There are other reasons for optimism as well. Seceretary General Perez de Cuellar announced his intention to place a priority on the Cyprus dispute in this last year of his term. With his leadership and the continued good faith efforts of President Vassiliou, we can hope for movement at long last on this seemingly intractable dispute.

Mr. GUARINI. Mr. Speaker, I rise today to join my colleagues to call for peace and for the settlement of the tragic dispute that has torn apart the Republic of Cyprus.

Since its independence from the United Kingdom in 1960, this small Mediterranean island has been a source of strife between its inhabitants, as well as Turkey and Greece. Cyprus survived as a sovereign nation until a coup against President Makarios and the subsequent military invasion by Turkey partitioned the island in 1974. By 1975 the Turkish Cypriots seceded from the Republic of Cyprus and declared the Turkish Federated State of Cyprus, known since 1983 as the Turkish Republic of Northern Cyprus.

Almost 20 years has passed, and to this day the conflict has not been resolved. Nation states throughout the world are answering the call for democracy and removing the walls which have segregated their people. The time has come for all Cypriot parties to come to the bargaining table and settle their differences peacefully. The people of Cyprus, both Greek and Turkish, under a United Nations umbrella can and must find a solution to their dispute. This unnecessary suffering of peoples on both sides must end. Greater efforts must be made to unite families and to resolve the long-term disputes that have for too long separated Greek Cypriots from Turkish Cypriots.

The barriers that divide the people of Cyprus can be eliminated, if only there is a will.

Mr. COYNE. Mr. Speaker, 17 years after Turkish military forces invaded the island of Cyprus, there is new optimism that a peaceful resolution can be found to this problem.

It seems fitting that the world should seek a resolution to an issue which has separated our partners in NATO, Greece and Turkey. Over the past few years, the world has celebrated an end to the separation of Germany, the growth of a democratic Eastern Europe, and an end to the cold war. These are conflicts between East and West for which solutions have been sought and realized. Certainly, we should take advantage of this opportunity for resolving a longstanding dispute between two of our friends.

Efforts underway at the United Nations and in the European Community have focused renewed attention on the lingering separation of Cyprus into Greek and Turkish zones. More than ever before, it seems time to resolve an issue that has exacerbated tensions between Greece and Turkey for the past two decades.

President Bush is to be commended for raising this issue at the highest levels of Government during his recent visits with the leaders of Greece and Turkey. This is an issue which has been left on the diplomatic back burner for far too long.

The President should continue to build upon the strong relationship he developed with Turkey's President Ozal during the recent Persian Gulf war. These contacts enhance the administration's ability to make clear the United States' interest in resolving the Cyprus issue.

I am pleased that the House is taking the time to consider the history of this occupation, and address some of the issues which have kept Greek and Turkish Cypriots separated since 1974. The time has come for the removal of all foreign troops from Cyprus.

This dispute may not often occupy the Nation's front pages or evening newscasts, but the opportunity for real progress seems better than ever before. An independent and sovereign Cyprus is in the best interest of all of its neighbors in the Mediterranean.

The demarcation line between Greek and Turkish Cyprus should be removed soon for the sake of families on both sides of this conflict. For this reason, I hope that the United States will continue to play an active and positive role in diplomatic efforts to reunite Cyprus.

□ 1850

YAKUZA FIGURE BUYS PEBBLE BEACH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

THE CYPRUS ISSUE

Mrs. BENTLEY. Mr. Speaker, I am very happy to yield to the gentleman from New York [Mr. MRAZEK] if he wants to speak on the subject of Cyprus.

Mr. MRAZEK. Mr. Speaker, I want to thank my colleagues from Florida, Mr. BILIRAKIS; Ohio, Mr. FEIGHAN; and Maryland, Ms. BENTLEY, for organizing this important and timely special order.

In the 17 years that Turkey has illegally occupied one-third of Cyprus, there have been precious few moments for optimism that progress toward an end to the painful division of the island might be possible. The President gave us one such moment during his recent trip to the Mediterranean.

President Bush's visit to Greece, the first by a United States President in more than three decades, was very welcome; but even more welcome was his statement to the Greek Parliament that the United States will do whatever it can to help settle the Cyprus problem this year.

I put the emphasis on "this year" and I sincerely hope that President Bush will, too.

When Greek Prime Minister Mitsotakis visited the United States last year, he indicated that if there was to be progress on the Cyprus dispute, the United States needed to upgrade the issue, so that Turkey could not remain indifferent.

It may be a year late, but President Bush's comments indicate that the administration, at long last, may be giving a higher priority to resolution of the Cyprus problem.

On the down side, it is regrettable that the President had no concrete proposal on Cyprus; it is even more regrettable that he indicated that the administration once again intends to try to break that traditional 7 to 10 ratio of military aid for Greece and Turkey.

The United States can play an important role with respect to ending the division of Cyprus, but throwing more military aid at Turkey is clearly not a constructive approach.

The United States has already given Turkey about $6 billion in military aid since the 1974 invasion, and that aid has facilitated, if not encouraged, the continued occupation by Turkish troops.

The administration needs to spend less time thinking up new ways to reward Turkey for its opposition to Iraq's illegal occupation of Kuwait, and more time thinking up new ways to induce Turkey to and end its own illegal occupation of Cyprus.

The President's commitment to action this year, and his offer in May to the President of Cyprus, Mr. Vassiliou, to act as a catalyst in promoting a solution on Cyprus, and Secretary Baker's letter to Turkey's foreign minister asking for more flexibility and a more conciliatory position on Cyprus are steps in the right direction.

But if the administration truly intends to help end the division of Cyprus this year, it needs to bring effective pressure to bear on Turkey: pressure to cooperate fully with the efforts of the United Nations Secretary General; pressure to begin removing its troops and weapons from Cyprus, or at least to agree to a timetable for such a withdrawal; pressure to exercise its influence on Turkish-Cypriot leader Denktash to act responsibly; pressure to support various confidence building measures, such as the resettlement of Famagusta, and various bicommunal projects.

I believe Congress is ready to vigorously support any administration initiatives along these lines. Clearly, though, it is going to take continued active involvement at the highest levels, including the President and Secretary of State, if there is to be any chance for progress this year on ending the forced division of Cyprus.

Mrs. BENTLEY. Mr. Speaker, certainly those are important words from our distinguished colleague, the gentleman from New York [Mr. MRAZEK].

Mr. Speaker, now I have my very special colleague who shares the borderlines between our districts, the gentleman from Maryland [Mr. CARDIN], who has asked for a minute to speak on Cyprus, and I am very happy to yield to the gentleman.

Mr. CARDIN. Mr. Speaker, I raise today to join my colleagues, Representative HELEN DELICH BENTLEY, Representative MICHAEL BILIRAKIS, and Representative EDWARD F. FEIGHAN, in remembering the 17th anniversary of the Turkish invasion of Cyprus. I wanted to join my colleagues in this special order in the hope that it will sharpen the focus of United States and world attention on this difficult situation.

The eastern Mediterranean island of Cyprus has been divided since the Turks invaded Cyprus in 1974. A U.N. force currently patrols a line separating about 170,000 Turkish Cypriots in the north and 650,000 Greek Cypriots in the south.

The people of Cyprus, both Turkish and Greek, have suffered over the course of the last 17 years. The status quo continues to be unacceptable. The Turkish troops that line the green sandbags and barbed wire that runs through the street of Nicosia, Cyprus represents one of the last remaining occupation armies in Europe.

The Persian Gulf conflict has drawn international attention to this turbulent region of the world. The breaking down of past barriers of oppression and the transition toward democracy throughout Eastern Europe and the Soviet Union illustrate that the spirit of change is still alive.

The United Nations Secretary General Javier Perez de Cuellar has been tireless in his efforts to bring all of the parties together to work out a negotiated solution in Cyprus. Earlier this summer, the Secretary General proposed convening a conference "to discuss and solve all the basic aspects of the Cyprus problem." Having just waged a war to preserve the international order and to enforce the decisions of the United Nations, it is incumbent upon the United States and the rest of the international community to support efforts to bring the Cyprus question to a negotiated settlement.

President Bush has said that he will involve himself on a high level in breaking the impase. In recent meetings with Turkish President Turgut Ozal, President Bush appears to have raised the issue of Cyprus. Hopefully, this high level United States involvement will push Turkey toward recognizing the irrationality of the current stalemate in which Turkey had a large role in creating.

The time has come for the occupation forces to be withdrawn. Greek and Turkish Cypriots should be permitted to return to their homes and to determine for themselves the future direction of Cyprus.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from the Third District of Maryland [Mr. CARDIN]. As I said, he and I share the borders and we like to work together in our areas. We both have a number of Greek constituents and we are very, very happy to bring this message to our people.

□ 1900

Mr. Speaker, I am happy to yield now to the gentleman from Virginia [Mr. PICKETT], who shares his great interest in shipyards with me, along with the Cyprus situation.

Mr. PICKETT. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I rise today to again speak in support of a prompt resolution to the troublesome issue of the presence of Turkish troops on the island of Cyprus. It is an unacceptable state of affairs, yet one the Cypriot people have endured for nearly two decades.

In 1974, some 200,000 Greek Cypriots were displaced from their homes and another 1,500 were killed or remain missing. The infamous green line was established and is now maintained by force. Greek Cypriots cannot return to their homes and lands on the northern part of the island from which they were forced to flee 17 years ago.

The Turkish Republic of Northern Cyprus was unilaterally established. Turkish Cypriots, while comprising only 18 percent of the population of the island, occupy almost 40 percent of its land.

On this, the 17th anniversary of the Turkish invasion, there is reason for new hope that the impasse concerning Cypress will be resolved. President Bush has signaled his interest in a peaceful settlement of this long festering problem. With his demonstrated ability to successfully handle different foreign policy issues, I wish him every measure of success in this new endeavor.

The Secretary General of the United Nations, Javier Perez de Cuellar, has also stated that the settlement of this issue is an international priority. He has offered to help mediate a settlement and recognizes the delicate challenge of trying to move successful negotiations forward.

The Republic of Cyprus and its elected President, George Vassiliou, have accepted the Secretary General's suggestion of "one [bizonal and bicommunal] state comprising two politically equal communities." It remains to be seen whether Turkish Cypriots and their leader, Mr. Rauf Denktash, will agree and make the necessary territorial adjustments and accounting for displaced persons. These sticking points, which have stalled past negotiations, are already threatening talks which have not yet begun.

The European Community and the Group of Seven, have recently issued statements in support of a prompt resolution to the continuing Turkish occupation of northern Cyprus.

With so much interest in, and support for, a settlement of this issue, perhaps the time is at hand for a peaceful and permanent settlement that will again restore the long-term vitality and world position of this beautiful and bountiful island.

I applaud all these efforts and pledge my support to any effort which will restore to the Cypriots a peaceful and democratic government.

Mrs. BENTLEY. I thank the gentleman for his remarks.

YAKUZA FIGURE BUYS PEBBLE BEACH

Mr. Speaker, I have taken the time tonight not with the intention to devote any of it to the Cyprus situation because I knew the gentleman from Florida [Mr. BILIRAKIS] had taken time for that purpose.

In view of the tremendous interest, I was very happy to share some of my time on that important subject. But I have another issue that I want to bring up tonight, a subject that I think is equally important to many, many Americans.

Mr. Speaker, the recent rash of sales of America's trophy golf courses to Japanese individuals, and companies, should be examined very closely by our Government. Some of the individuals involved in the purchases are connected with the Japanese mob.

Minouri Isutani, a Japanese mobster, was allowed to buy Pebble Beach Golf Course, after being turned down for a casino gambling license by the State of Nevada Gambling Commission. I am a native of Nevada and fully understand what it means when the State turns down someone for a gambling license because of their organized crime connections—in this case the Japanese Yakuza, or mafia.

Mr. Isutani should not be allowed to own a golf course in America, nor to form business alliances with our top professional golfers, such as Ben Hogan or Jack Nicklaus, or with the PGA tour of golf professionals. Isutani bought the Ben Hogan Co., several years ago, and also funds the Ben Hogan Tour. He also signed Jack Nicklaus to design golf courses.

I am aware that individuals do not have the ability to check someone's background for mob connections like a State does, but we have worked very hard in the United States to keep the crooks and gangsters out of sports. Are we now letting them in golf?

Can you imagine the newspaper headlines if we knowingly allowed a member of the mafia in the United States to buy a trophy course like Pebble Beach? Those headlines would read "Mobster Buys Pebble Beach" where the PGA National Open will be played in 1992. The country would be in an uproar demanding an investigation of the sale.

Can you imagine how Al Capone would have envied the ease with which Mr. Isutani came into such a prestigious piece of property as Pebble Beach along with all of the alliances and opportunities that go with it? The Justice Department and the FBI are supposed to be the guardian for the American people so that organized crime does not disturb legitimate businesses in America. So, where are they in this case?

Apparently in Japan there is a different attitude about gangsters. A daily newsletter on Japan reported that a senior Finance Ministry official told reporters "that the Ministry of Finance has dropped plans to ban securities brokers from doing business with crime syndicates because even gangsters have the right to engage in economic activities." The same report stated that to ban trade with gangsters "would go against the spirit of the Constitution, which calls for equality for every citizen."

Our Constituiton does not guarantee criminals the right to operate in legitimate businesses. We have a criminal code to take care of problems like that. Will the Japanese attitude be a problem for us since Americans have been told not to criticize the Japanese because we need them to buy United States securities.

Will this mean that Americans will have to be nice to Japanese gangsters and look the other way when they move into legitimate businesses or sports in the United States? Is that why Minouri Isutani is allowed to buy Pebble Beach? This attitude of the Finance Minister shows a toleration of mobsters in business, which is not allowed in the United States—at least not up to now.

Japan's attitude about business is very different from ours. Golf is viewed more as a business arrangement not so much as recreation.

Even fees and golf memberships are regarded differently in Japan than in the United States. In Japan golf memberships are treated like stock or real estate and are traded and used as an investment. Membership prices of the 500 major golf clubs around Japan are published in a weekly statistic in the Nikkei Golf Membership Index.

In the United States golf is open to everyone from every walk of life. We have public courses and membership courses with a range of membership costs.

But, in Japan, the costs are prohibitive and the Japanese investors are bringing those ridiculous costs and attitudes about golf into the United States. At Pebble Beach the membership fees are a reported $740,000. Now at many of the courses the pro shop is staffed by a clerk and not with someone knowledgeable about golf.

It is difficult to fully understand what these high costs and changes will mean to American golfers. I do know though, that mothers and fathers in America have urged their children into sports and playing golf. We should continue our vigilance to make sports and golf available for your youngsters and citizens in a clean atmosphere. Japanese mobsters should be kept out of sports and Pebble Beach.

Tomorrow Congressman DUNCAN HUNTER and I will forward a letter to Attorney General Richard Thornburgh and request the Justice Department to investigate this invasion of U.S. sports by foreign mobsters in order to keep our sports on a very high plane.

SECOND BIENNIAL REVISION TO THE U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. GEREN of Texas), laid before the House the following message from the President of the United States which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology:

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984 (Public Law 98–373, section 109(a); 15 U.S.C. 4108(a)), I hereby transmit the second biennial revision (1991–93) to the United States Arctic Research Plan.

GEORGE BUSH.

THE WHITE HOUSE, *July 23, 1991.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CALLAHAN (at the request of Mr. MICHEL), for today, on account of personal reasons.

Mr. WEISS (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical leave.

Mr. MATSUI (at the request of Mr. GEPHARDT), for today, on account of family illness.

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. KOLTER (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. ANDREWS of New Jersey (at the request of Mr. GEPHARDT), for after 4:00 p.m. today, on account of official business.

Mr. WASHINGTON (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. CAMPBELL of California, for 5 minutes, on July 23.

Mrs. BENTLEY, for 60 minutes each day, on July 23, 24, 25, 26, 29, 30, and 31, and August 1 and 2.

Mr. WOLF, for 5 minutes, on July 29.

(The following Members (at the request of Mr. SLATTERY) to revise and extend their remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.

Mrs. UNSOELD, for 5 minutes, today.

Mr. RAY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. MINK, for 60 minutes, on July 25.

Mr. PEASE, for 5 minutes, on July 26.

Mr. ANDREWS of New Jersey, for 5 minutes, on July 24.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. BROOMFIELD.
Mrs. BENTLEY in two instances.
Mr. SHAW.
Mr. SOLOMON in two instances.
Mr. MACHTLEY.
Ms. ROS-LEHTINEN.
Mr. FIELDS.
Mr. ARCHER.
Mr. COX of California.
Mr. DOOLITTLE.
Mr. HANCOCK.
Mr. COBLE.
Mr. GUNDERSON.

(The following Members (at the request of Mr. SLATTERY) and to include extraneous matter:)

Mr. SHARP, in two instances.
Mr. MONGOMERY.
Mr. PEASE.
Mr. MATSUI.
Mr. HOYER.
Mr. KLECZKA.
Mr. RAHALL.
Mr. FALEOMAVAEGA.
Mr. EDWARDS of California.
Mr. DARDEN.
Ms. SLAUGHTER of New York.
Mr. KILDEE.
Mr. WEISS.
Mr. HUBBARD.
Mr. LEVINE of California.
Mr. TRAFICANT.
Mr. FASCELL.
Mrs. SCHROEDER.
Mr. STARK.
Mr. SKELTON.
Mr. LEHMAN of California.
Mr. BRUCE.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On July 20, 1991:

H.R. 427. An act to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes.

H.R. 998. An act to designate the building in Vacherie, Louisiana, which houses the primary operations of the United States Postal Service as the "John Richard Haydel Post Office Building".

H.R. 2347. An act to redesignate the Midland General Mail Facility in Midland, Texas, as the "Carl O. Hyde General Mail Facility," and for other purposes.

H.J. Res. 255. Joint resolution designating the week beginning July 21, 1991, as the "Korean War Veterans Remembrance Week."

On July 22, 1991:

H.R. 751. An act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives and to strengthen and coordinate adult literacy programs.

On July 23, 1991:

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, July 24, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1801. A communication from the President of the United States, transmitting classified and unclassified reports on the redeployment of the Armed Forces of the United States, in connection with Operation Desert Storm, pursuant to Public Law 102–28, section 108(a) (105 Stat. 166); to the Committee on Appropriations.

1802. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize supplemental appropriations for the fiscal year 1991 in connection with the tornado recovery program at McConnell Air Force Base, KS, and to authorize additional administrative procedures for the Persian Gulf regional defense fund; to the Committee on Armed Services.

1803. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 1121 of Public Law 100–180, 101 Stat. 1147, to allow more effective use of the Department of Defense Counterintelligence Polygraph Program; to the Committee on Armed Services.

1804. A letter from the Secretary of Housing and Urban Development, transmitting the annual report of the operations of the Federal National Mortgage Association during calendar year 1990, pursuant to 12 U.S.C. 1723a(h); to the Committee on Banking, Finance and Urban Affairs.

1805. A letter from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to provide for participation by the United States in a capital stock increase of the International Finance Corporation; to the Committee on Banking, Finance and Urban Affairs.

1806. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-51, "District of Columbia Good Time Credits Amendment Act of 1991", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

1807. A letter from the Secretary, Department of Energy, transmitting an update on energy targets transmitted during preceding year, pursuant to 42 U.S.C. 7361(c); to the Committee on Energy and Commerce.

1808. A letter from the Director, Federal Trade Commission, transmitting the Commission's Annual Report, pursuant to 15 U.S.C. 46(f); to the Committee on Energy and Commerce.

1809. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that it has extended the time period for acting on the appeal in No. 40365, "National Starch and Chemical Corporation v. The Atchison, Topeka and Santa Fe Railway Company, Et Al.". pursuant to 49 U.S.C. 10327(k)(2); to the Committee on Energy and Commerce.

1810. A letter from the Department of State, Assistant Secretary for Legislative Affairs, transmitting copies of Presidential Determinations No. 91-42, 91-45, authorizing the furnishing of assistance from the Emergency Refugee and Migration Assistance Fund for unexpected urgent needs of refugees and other persons in Western Sahara, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

1811. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending June 30, 1991, pursuant to Public Law 100-461, section 588(b)(3) (102 Stat. 2268-51); to the Committee on Foreign Affairs.

1812. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 91-27), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1813. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 91-28), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1814. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 91-43), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1815. A letter from the Director, U.S. Information Agency, transmitting a report entitled, "Special Report by the Advisory Board for Cuba Broadcasting on TV Marti"; to the Committee on Foreign Affairs.

1816. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a draft of proposed legislation to amend the act of October 15, 1966 (80 Stat. 915), as amended, establishing a program for the preservation of additional historic property throughout the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

1817. A letter from the Administrator, Federal Aviation Administration, transmitting the implementation plan for Federal security managers and civil aviation security liaison officers; to the Committee on Public Works and Transportation.

1818. A letter from the Director, Office of Management and Budget, transmitting the status report on credit management and debt collection, July 1991; to the Committee on Ways and Means.

1819. A letter from the Secretary of Energy, transmitting a report on waste tank safety issues at the Hanford site; jointly, to the Committees on Armed Services and Energy and Commerce.

1820. A letter from the Executive Director, Resolution Trust Corporation, transmitting the Corporation's status report for the month of June 1991, (review of 1988-89 FSLIC assistance agreements); jointly, to the Committees on Banking, Finance and Urban Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2893. A bill to extend to 1991 crops the disaster assistance provisions of the Food, Agriculture, Conservation, and Trade Act of 1990; with an amendment (Rept. 102-158). Referred to the Committee of the Whole House of the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 200. Resolution waiving certain points of order during consideration of H.R. 2942, a bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-159). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 6. A bill to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes with amendments. Referred to the Committee on Agriculture, the Committee on Energy and Commerce, the Committee on the Judiciary, and the Committee on Ways and Means for a period ending not later than September 27, 1991 only for consideration of such provisions of the amendments recommended by the Committee on Banking, Finance and Urban Affairs as fall within the respective jurisdictions of those committees pursuant to clauses 1(a), 1(h), 1(m), and 1(v) of Rule X (Rept. No. 102-157, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINEZ (for himself, Mr. ROYBAL, Mr. KILDEE, Mr. DOWNEY, Mr. GEKAS, Mrs. LOWEY of New York, and Mr. DE LUGO):

H.R. 2967. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes; to the Committee on Education and Labor.

By Mr. DELLUMS (for himself and Mr. BLILEY):

H.R. 2968. A bill to waive the period of congressional review of certain District of Columbia acts; to the Committee on the District of Columbia.

By Mr. BLILEY (for himself, Mr. DELLUMS, and Ms. NORTON):

H.R. 2969. A bill to permit the Mayor of the District of Columbia to reduce the budgets of the Board of Education and other independent agencies of the District, to permit the District of Columbia to carry out a program to reduce the number of employees of the District government, and for other purposes; to the Committee on the District of Columbia.

By Mr. DIXON:

H.R. 2970. A bill to amend the Higher Education Act of 1965 to provide program grants to medical and allied health professions institutions for graduate education and training which will benefit underserved, economically disadvantaged communities; to the Committee on Education and Labor.

By Mr. DOOLITTLE (for himself, Mr. HERGER, Mr. LENT, Mr. RIGGS, Mr. ROGERS, Mr. KOLTER, Mr. LAGOMARSINO, and Mr. EMERSON):

H.R. 2971. A bill to amend title II of the Social Security Act to provide that States and local governments may not tax Social Security benefits; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. BERMAN, Mr. CONYERS, Mr. DIXON, Mr. DYMALLY, Mr. KOPETSKI, Mr. LEVINE of California, Mr. WASHINGTON, and Mr. WATERS):

H.R. 2972. A bill to strengthen the Federal response to police misconduct; to the Committee on the Judiciary.

By Mr. FALEOMAVAEGA:

H.R. 2973. A bill to establish a native American University, and for other purposes; to the Committee on Education and Labor.

By Mr. GEPHARDT:

H.R. 2974. A bill to provide payments to States and certain other entities and individuals as a reward to increase the number of children who receive preschool health care and early childhood education and to increase the number of high school seniors who achieve outstanding scores in math and science; and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means

By Mr. HOCHBRUECKNER:

H.R. 2975. A bill to amend title 23, United States Code, to reduce traffic congestion resulting from construction of Federal-aid highway projects, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KOSTMAYER:

H.R. 2976. A bill to limit the antitrust exemption applicable to joint agreements among certain professional sports teams regarding telecasting their games played at home for viewing without charge to the public; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. RINALDO, Mr. SCHEUER, Mr. TAUZIN, Mr. WYDEN, Mr. RICHARDSON, Mr. BRYANT, Mr. BOUCHER, Mr. COOPER, Mr. MANTON, Mr. MCMILLEN of Maryland, Mr. LEHMAN of California, Mr. HARRIS, Mr. OXLEY, Mr. BILIRAKIS, Mr. SCHAEFER, and Mr. ECKART):

H.R. 2977. A bill to authorize appropriations for public broadcasting, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MATSUI (for himself and Mr. VANDER JAGT):

H.R. 2978. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment under the partnership allocation rules of certain nonrecourse financing qualifying under the at-risk rules; to the Committee on Ways and Means.

By Mr. MONTGOMERY (by request):

H.R. 2979. A bill to provide military commissary and exchange privileges to the surviving spouses of veterans dying from a service-connected disability; to the Committee on Armed Services.

H.R. 2980. A bill to provide eligibility for military commissary and exchange privileges and space-available transportation on military aircraft to certain former enlisted members of the Armed Forces discharged for disability; to the Committee on Armed Services.

H.R. 2981. A bill to restore Memorial Day to its original date; to the Committee on Post Office and Civil Service.

H.R. 2982. A bill to amend title 38, United States Code, to extend to recipients of the Medal of Honor eligibility for medical and dental care furnished by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

H.R. 2983. A bill to amend title 38, United States Code, to provide for an increase in the amount of dependency and indemnity compensation paid to dependent parents of deceased veterans in the case of parents who are permanently housebound; to the Committee on Veterans' Affairs.

H.R. 2984. A bill to amend title 38, United States Code, to repeal the requirement that a chronic disease becoming manifest in a veteran within 1 year of the veteran's discharge from military service must be at least 10 percent disabling in order to be presumed to be service-connected for purposes of veterans' benefits; to the Committee on Veterans' Affairs.

H.R. 2985. A bill to amend title 38, United States Code, to extend educational assistance benefits to dependents of veterans with a service-connected disability of 80 percent or more; to the Committee on Veterans' Affairs.

H.R. 2986. A bill to amend title 38, United States Code, to eliminate the delimiting date for spouses and surviving spouses eligible for benefits under chapter 35; to the Committee on Veterans' Affairs.

H.R. 2987. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide mortgage protection life insurance to certain veterans unable to acquire commercial mortgage protection life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 2988. A bill to authorize a period in which otherwise eligible veterans with service-connected disabilities may apply for coverage under the Service Disabled Veterans Insurance Program; to the Committee on Veterans' Affairs.

H.R. 2989. A bill to amend title 38, United States Code, to limit the apportionment of benefits paid by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

H.R. 2990. A bill to amend section 110 of title 38, United States Code, to liberalize the standard for preservation of disability evaluations for compensation purposes; to the Committee on Veterans' Affairs.

H.R. 2991. A bill to amend chapter 42 of title 38, United States Code, with respect to the definition of disabled veteran; to the Committee on Veterans' Affairs.

H.R. 2992. A bill to amend title 38, United States Code, to provide that former prisoners of war are eligible for reimbursement for emergency medical expenses on the same basis as veterans with total permanent service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 2993. A bill to amend title 38 of the United States Code to permit certain eligible veterans to purchase up to $20,000 of National Service Life Insurance; to the Committee on Veterans' Affairs.

H.R. 2994. A bill to amend chapter 24 of title 38, United States Code, to provide for the establishment of at least one national cemetery in each State; to the Committee on Veterans' Affairs.

By Mr. OBERSTAR:

H.R. 2995. A bill to amend title 18, United States Code, to permit Federal firearms licensees to conduct firearms business at out-of-State gun shows; to the Committee on the Judiciary.

By Mr. RICHARDSON (for himself and Mr. TOWNS):

H.R. 2996. A bill to amend the Communications Act of 1934 to assure equal employment opportunities are afforded by radio and television broadcasting stations; to the Committee on Energy and Commerce.

By Mrs. SCHROEDER (for herself, Mr. SCHAEFER, Mr. SKAGGS, Mr. ALLARD, Mr. CAMPBELL of Colorado, and Mr. HEFLEY):

H.R. 2997. A bill to amend title 28 of the United States Code to authorize the appointment of one additional bankruptcy judge for the district of Colorado: to the Committee on the Judiciary.

By Mr. SHARP:

H.R. 2998. A bill to amend the Natural Gas Act to permit the development of coalbed methane gas in areas where its development has been impeded or made impossible by uncertainty and litigation over ownership rights, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SLATTERY:

H.R. 2999. A bill to amend the Communications Act of 1934 to expand the broadcasting of information on election campaigns; to the Committee on Energy and Commerce.

H.R. 3000. A bill to provide for comprehensive reform of Federal election campaign financing; jointly, to the Committees on Ways and Means and House Administration.

By Mr. TORRICELLI (for himself, Mr. MCMILLEN of Maryland, and Mr. ROE):

H.R. 3001. A bill to provide for the development of a national strategic plan for advanced materials processing, synthesis, and research and development, the establishment of national advanced materials processing and synthesis centers, and the establishment of advanced materials principal investigator and fellowship awards programs, and for other purposes; to the Committee on Science, Space, and Technology.

By Mrs. UNSOELD (for herself and Mr. AUCOIN):

H.R. 3002. A bill to amend the Federal Power Act to provide a definition of the term "fishway"; to the Committee on Energy and Commerce.

By Mr. WISE:

H.R. 3003. A bill to provide that certain regulations of the Secretary of Labor relating to the adjudication of claims under the Black Lung Benefits Act shall be of no force or effect; to the Committee on Education and Labor.

By Mr. SLATTERY:

H.J. Res. 311. Joint resolution proposing an amendment to the Constitution of the United States to provide for a 4-year term for Members of the House of Representatives; to the Committee on the Judiciary.

By Mr. JOHNSON of Texas:

H. Con. Res. 185. Concurrent resolution commending the people of the United States who selflessly and heroically fight crime; to the Committee on the Judiciary.

By Ms. OAKAR (for herself, Mr. ROBERTS, Mr. THOMAS of California, and Mr. PANETTA):

H. Res. 199. Resolution providing for certain civilian support positions for the Capitol Police for the performance of functions with respect to the House of Representatives; to the Committee on House Administration.

By Mr. WEISS (for himself, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANTHONY, Mr. APPLEGATE, Mr. ARCHER, Mr. BACCHUS, Mr. BEVILL, Mr. BILBRAY, Mr. BLILEY, Mr. BUSTAMANTE, Mr. CARR, Mr. CLEMENT, Mr. COLEMAN of Texas, Mrs. COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. COMBEST, Mr. CONDIT, Mr. COOPER, Mr. DARDEN, Mr. DE LUGO, Ms. DELAURO, Mr. DELLUMS, Mr. DICKINSON, Mr. DINGELL, Mr. DIXON, Mr. DONNELLY, Mr. DOOLEY, Mr. DOWNEY, Mr. DYMALLY, Mr. ECKART, Mr. ERDREICH, Mr. ESPY, Mr. FISH, Mr. FLAKE, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FROST, Mr. GEKAS, Mr. GILMAN, Mr. GUARINI, Mr. HAMILTON, Mr. HARRIS, Mr. HASTERT, Mr. HATCHER, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOUGHTON, Mr. HUBBARD, Mr. HUTTO, Mr. INHOFE, Ms. KAPTUR, Mr. KENNEDY, Mr. KILDEE, Mr. KLECZKA, Mr. KOPETSKI, Mr. LANCASTER, Mr. LANTOS, Mr. LENT, Mr. LEVIN of Michigan, Mr. LOWERY of California, Mr. MACHTLEY, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. MFUME, Mrs. MINK, Mr. MOODY, Mr. MORAN, Mrs. MORELLA, Mr. MURPHY, Mr. MURTHA, Mr. MYERS of Indiana, Mr. NEAL of Massachusetts, Ms. OAKAR, Mr. OBERSTAR, Mr. ORTON, Mr. OWENS of New York, Mr. PACKARD, Mr. PANETTA, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PENNY, Mr. PURSELL, Mr.

RAHALL, Mr. RAMSTAD, Mr. RANGEL, Mr. RAVENEL, Mr. REED, Mr. RICHARDSON, Mr. RITTER, Mr. ROWLAND, Mr. SARPALIUS, Mr. SERRANO, Mr. SHAYS, Mr. SISISKY, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Jersey, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STENHOLM, Mr. SUNDQUIST, Mr. SWIFT, Mr. SYNAR, Mr. TALLON, Mr. THOMAS of Wyoming, Mr. TORRES, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. UPTON, Mr. VANDER JAGT, Mr. VOLKMER, Mrs. VUCANOVICH, Ms. WATERS, Mr. WEBER, Mr. WILSON, Mr. YATRON, and Mr. YOUNG of Alaska):

H. Res. 201. Resolution expressing the sense of the House of Representatives that the people of the United States should recognize "An Artistic Discovery," the congressional high school art competition; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII.

243. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to selection of a site in the Valley Forge area for a national cemetery; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 3004. A bill relating to the reliquidation of certain entries; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 3005. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mr. SCHIFF, Mr. CLINGER, Mr. HUBBARD, Mr. SANGMEISTER, and Mr. MURTHA.

H.R. 179: Mr. DIXON.

H.R. 303: Mr. MAVROULES.

H.R. 318: Mr. ECKART.

H.R. 381: Mr. HOYER, Mr. FAZIO. Mrs. SCHROEDER, and Mr. DOOLEY.

H.R. 382: Mr. JOHNSTON of Florida.

H.R. 384: Mr. GOODLING.

H.R. 418: Mr. HORTON, Mr. THOMAS of Wyoming, Mr. SERRANO, and Mr. SKEEN.

H.R. 423: Mr. FRANK of Massachusetts.

H.R. 443: Ms. NORTON.

H.R. 573: Mr. DWYER of New Jersey.

H.R. 576: Mr. STAGGERS, Mr. GUNDERSON, and Mr. MARKEY.

H.R. 778: Mr. GEPHARDT.

H.R. 875: Mr. DELLUMS, Mr. YATES, and Mr. SKAGGS.

H.R. 967: Mr. REED and Mr. RAY.

H.R. 1000: Mr. JOHNSTON of Florida.

H.R. 1077: Mr. UPTON.

H.R. 1161: Mr. RAHALL, Mr. MURTHA, Mr. MORRISON, and Mr. WILSON.

H.R. 1200: Mr. ECKART, Mr. STALLINGS, Mr. VANDER JAGT, Mr. PRICE, Mr. KANJORSKI, Mr. LAROCCO, and Mr. RAVENEL.

H.R. 1235: Mr. McDade and Mr. RIDGE.

H.R. 1263: Mr. JOHNSTON of Florida.

H.R. 1264: Mr. JOHNSTON of Florida.

H.R. 1292: Mr. SKEEN.

H.R. 1330: Mr. LENT, Mr. BLILEY, Mr. THOMAS of California, Mr. SPENCE, Mr. ANNUNZIO, Mr. CARR, Mr. GUNDERSON, Mr. SLAUGHTER of Virginia, Mr. SOLOMON, Mr. LEACH, Mr. REGULA, Mr. GALLEGLY, and Mr. SKEEN.

H.R. 1346: Mr. BACCHUS.

H.R. 1400: Mr. DOOLITTLE, Mr. UPTON, and Mr. BAKER.

H.R. 1417: Mr. NEAL of North Carolina.

H.R. 1450: Mr. MOODY.

H.R. 1468: Mr. LEWIS of Florida.

H.R. 1527: Mr. HOPKINS, Mr. WEBER, Mr. DYMALLY, Mr. SARPALIUS, Mr. PETERSON of Minnesota, Mr. MARLENEE, and Mr. KLECZKA.

H.R. 1531: Mr. SCHIFF, Mr. LIVINGSTON, and Mr. MARTINEZ.

H.R. 1538: Mr. BILBRAY and Mr. ROYBAL.

H.R. 1691: Mr. GUARINI, Mr. FLAKE, Mr. MARKEY, Mr. ZIMMER, Mr. HOBSON, Mr. ROGERS, and Mr. THOMAS of Wyoming.

H.R. 1751: Mr. MARTIN, Ms. NORTON and Mr. ENGEL.

H.R. 1883: Mr. ECKART.

H.R. 1916: Mr. KOSTMAYER.

H.R. 1970: Mr. KOSTMAYER, Mr. JONTZ, Mr. KOPETSKI, Mr. MCHUGH, Mr. TORRICELLI, Mr. SMITH of New Jersey, and Mr. WHEAT.

H.R. 1992: Mr. MFUME and Mr. ANDERSON.

H.R. 2027: Mr. CAMPBELL of Colorado.

H.R. 2099: Mr. HOCHBRUECKNER, Mr. RANGEL, Mr. WALSH, Mr. FOGLIETTA, Mr. HAYES of Illinois, Mr. BOEHLERT, Mr. JONTZ, Mr. DURBIN, Mr. ESPY, Mr. LANTOS, Mr. KOPETSKI, Mr. MARTINEZ, Mr. BRUCE, Mr. FROST, Mr. MFUME, Mr. ECKART, and Mr. SMITH of Florida.

H.R. 2115: Mr. DICKINSON and Mr. EVANS.

H.R. 2197: Mr. JOHNSON of South Dakota, Mr. BORSKI, and Ms. SNOWE.

H.R. 2210: Mr. HORTON, Mrs. SCHROEDER, and Mr. HOCHBRUECKNER.

H.R. 2224: Mr. BROWN and Mr. STARK.

H.R. 2235: Mr. SWETT and Mr. CAMPBELL of Colorado.

H.R. 2258: Mr. HAYES of Illinois, Mr. ROE, and Mr. YATES.

H.R. 2342: Mr. SHARP.

H.R. 2374: Mr. FRANK of Massachusetts, Mr. TOWNS, Mr. LEWIS of Georgia, and Ms. NORTON.

H.R. 2451: Mr. LEHMAN of California, Mr. BRYANT, Mr. MARTINEZ, Mr. OBERSTAR, and Mr. YATES.

H.R. 2452: Mr. MARTINEZ.

H.R. 2456: Mr. WOLPE, Mr. BEILENSON, Mr. SCHUMER, Mr. FRANK of Massachusetts, and Mr. ABERCROMBIE.

H.R. 2470: Mr. HENRY.

H.R. 2500: Ms. OAKAR.

H.R. 2523: Mr. KOLBE, Mr. RIGGS, Mr. RAMSTAD, Mr. DUNCAN, and Mr. SOLOMON.

H.R. 2526: Mr. GILMAN, Mr. BONIOR, Mr. BOUCHER, Ms. KAPTUR, Mr. ERDREICH, Mr. GORDON, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. EMERSON, Mr. MILLER of California, Mr. KASICH, Ms. PELOSI, Mr. VANDER JAGT, Mr. MCMILLEN of Maryland, Mr. RAHALL, Ms. OAKAR, Mr. DYMALLY, Mr. MCHUGH, Mr. LAGOMARSINO, Mr. FROST, Mr. BERMAN, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mr. ROGERS, Ms. SLAUGHTER of New York, Mr. ACKERMAN, Mr. TOWNS, Mr. ANDREWS of Texas, Mr. DANNEMEYER, Mr. WHITTEN, Mr. EVANS, Mr. HUGHES, Mr. ROE, and Mr. DWYER of New Jersey.

H.R. 2568: Mr. DOOLEY.

H.R. 2579: Mr. CAMPBELL of Colorado.

H.R. 2597: Mr. FLAKE.

H.R. 2600: Mr. RAHALL.

H.R. 2603: Mr. LANCASTER and Mr. BENNETT.

H.R. 2629: Mr. PERKINS, Mr. ECKART, Mr. MACHTLEY, Mr. PRICE, and Mr. SERRANO.

H.R. 2632: Mr. COYNE.

H.R. 2639: Mr. ALEXANDER.

H.R. 2649: Mr. WALSH, Mr. DORNAN of California, Mr. KLUG, Mr. GUNDERSON, Mr. GALLEGLY, Mr. HORTON, Mr. LAGOMARSINO, and Mr. HYDE.

H.R. 2740: Mr. EVANS, Mr. JOHNSON of South Dakota, Mr. LANCASTER, Mr. LEHMAN of Florida, and Mr. RANGEL.

H.R. 2751: Mr. FAWELL and Mr. DE LUGO.

H.R. 2755: Mr. DICKS, Mr. AUCOIN, Mr. KOSTMAYER, Mr. MACHTLEY, Mr. MRAZEK, Mr. ESPY, Mr. FRANK of Massachusetts, and Mr. FORD of Tennessee.

H.R. 2767: Mr. ROYBAL, Mr. DORNAN of California, Mr. JOHNSON of South Dakota, and Mr. LANCASTER.

H.R. 2786: Mr. KOLBE.

H.R. 2803: Mr. TAUZIN.

H.R. 2804: Mr. ROYBAL, Mr. DE LUGO, Mr. OWENS of New York, Mr. DOWNEY, Mr. RANGEL, Mrs. MINK, Mr. YOUNG of Alaska, Mr. HORTON, Mr. SERRANO, Mr. MCNULTY, Mr. TRAFICANT, Mr. FROST, Mr. SKELTON, Mr. DEFAZIO, and Mr. HUCKABY.

H.R. 2815: Mr. LIGHTFOOT.

H.R. 2840: Mr. BERMAN, Mr. DYMALLY, Mr. LEHMAN of Florida, Mr. LANTOS, Mr. MCDERMOTT, Mr. LAFALCE, and Mr. FROST.

H.R. 2855: Mr. GILLMOR, Mr. FROST, Mr. MARTINEZ, Ms. ROS-LEHTINEN, Ms. LONG, Mr. JOHNSTON of Florida, Mr. REED, Mr. BERMAN, Mr. BORSKI, Mr. FORD of Tennessee, Mr. JOHNSON of South Dakota, Mr. ANTHONY, Mr. HAYES of Illinois, Mr. KLECZKA.

H.R. 2879: Mr. SKEEN and Mr. SARPALIUS.

H.R. 2880: Mr. MCDERMOTT, Mrs. LOWEY of New York, Mr. PAYNE of Virginia, Mr. GIBBONS, Mr. DIXON, Mr. DEFAZIO, Mr. TRAFICANT, Mr. KILDEE, Mr. BEILENSON, Mrs. SCHROEDER, Ms. NORTON, and Mr. BERMAN.

H.R. 2893: Mr. TAYLOR of Mississippi.

H.R. 2946: Mr. MCMILLEN of Maryland and Mr. SYNAR.

H.R. 2966: Mr. HYDE.

H.J. Res. 102: Mr. SABO and Mr. LAGOMARSINO.

H.J. Res. 156: Mr. MORAN, Mrs. COLLINS of Michigan, Mr. GILMAN, Mr. DIXON, Mr. RHODES, Mr. GALLEGLY, and Mr. ROYBAL.

H.J. Res. 217: Mr. YOUNG of Alaska and Mr. SABO.

H.J. Res. 238: Mr. PAYNE of New Jersey, Mr. TAUZIN, Mr. JONES of North Carolina, Mr. NEAL of North Carolina, Mr. RAVENEL, Mr. JONES of Georgia, Mr. IRELAND, Mr. LUKEN, Mr. LANCASTER, Mr. RAMSTAD, Mr. VALENTINE, Mr. YATRON, Mr. MCCRERY, Mr. WYDEN, Mr. VOLKMER, and Mr. TOWNS.

H.J. Res. 239: Mr. DOOLEY AND Mr. FISH.

H.J. Res. 244: Mr. ACKERMAN, Mr. ASPIN, Mr. BENNETT, Mr. BONIOR, Mr. BURTON of Indiana, Mr. CARPER, Mrs. COLLINS of Michigan, Mr. CONYERS, Mr. DEFAZIO, Mr. DIXON, Mr. ENGEL, Mr. ESPY, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. GEKAS, Mr. GEREN of Texas, Mr. GORDON, Mr. HATCHER, Mr. HORTON, Mr. IRELAND, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. MAVROULES, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCMILLEN of Maryland, Mr. MINETA, Mr. OWENS of Utah, Mr. PALLONE, Mr. RAHALL, Mr. RAMSTAD, Mr. RAVENEL, Mr. ROE, Mr. ROTH, Mr. RUSSO, Mr. SAVAGE, Mr. SCHEUER, and Mr. SCHUMER.

H.J. Res. 252: Mr. ROYBAL, Mr. CRAMER, Mr. MCCLOSKEY, Mr. BATEMAN, Mrs. KENNELLY, Mr. PRICE, Mr. NOWAK, Mr. GEKAS, Mr. BUNNING, Mr. WOLPE, Mr. MINETA, Mr. NAGLE, Mr. DORGAN of North Dakota, Mr. FRANK of Massachusetts, Mr. TORRICELLI, Ms. HORN, Ms. LONG, Mr. SABO, Mr. LIGHTFOOT, Mr. STAGGERS, and Mr. MAVROULES.

H.J. Res. 266: Mr. FAZIO, Mr. OWENS of Utah, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. FROST, Mr. MCDERMOTT, Mr. ROYBAL, Mr. SARPALIUS, Mr. SAWYER, Mr. SCHEUER, Mr. SISISKY, Mr. SLATTERY, Mr. STOKES, Mr. TALLON, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. TRAFICANT, Mr. VOLKMER, Mr. WAXMAN, Mr. WEISS, Mr. WILSON, Mr. MARKEY, Mr. MILLER of California, Mr. NEAL of Massachusetts, Mr. RAY, Mr. ORTON, and Mr. FEIGHAN.

H.J. Res. 287: Mr. SMITH of Oregon, Mr. SOLOMON, Mr. DICKS, Mr. RAMSTAD, Mr. FRANKS of Connecticut, Mr. MAZZOLI, Mr. ATKINS, Mr. SCHAEFER, Mr. BROWDER, Mr. HOUGHTON, Mr. PETRI, Mr. NATCHER, Mr. SLATTERY, Mr. NAGLE, Mr. SANDERS, Mr. EDWARDS of Texas, Mr. LIGHTFOOT, Mrs. MINK, and Mr. SKEEN.

H.J. Res. 288: Mr. ROGERS, Mr. FROST, Mr. ESPY, Mr. SOLOMON, Mr. GUARINI, Mr. RANGEL, Mr. EMERSON, Mr. LANCASTER, Mr. EVANS, Mr. QUILLEN, Mr. WEISS, Mr. HORTON, Mr. KILDEE, Mr. MCMILLEN of Maryland, Mr. CLEMENT, Mr. TALLON, Mr. ROE, Mr. SERRANO, Mr. LIPINSKI, Mr. ERDREICH, and Mr. LAFALCE.

H.J. Res. 303: Mr. EMERSON, Mr. SCHIFF, Mr. BURTON of Indiana, Mr. REGULA, Mr. CARDIN, Mr. CARR, Mr. WILSON, Mr. DICKS, Mr. GALLO, Mr. GEREN of Texas, Mr. GEKAS, Mr. HALL of Texas, Mr. HATCHER, Mr. HUTTO, Mr. HYDE, Mr. HEFNER, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. DARDEN, Mr. KILDEE, Mr. WYDEN, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. DE LUGO, Mr. MCCOLLUM, Mr. MCDADE, Mr. MILLER of Ohio, Mr. OWENS of New York, Mr. PAXON, Mr. RAVENEL, Ms. OAKAR, Mr. RINALDO, Mr. ROE, Mr. RITTER, Mr. SAVAGE, Mr. ROYBAL, Mr. ECKART, Mr. GORDON, Mr. SHARP, Mr. SLATTERY, Mr. SPENCE, Mr. SPRATT, Mr. VALENTINE, Mr. TAUZIN, Mr. TRAFICANT, Mr. YATRON, Mr. FAWELL, Mr. MAZZOLI, Mr. FASCELL, Mr. WEISS, Mr. FORD of Tennessee, Mr. MCEWEN, Mr. STALLINGS, Mr. NEAL of North Carolina, Mr. LANCASTER, Mr. BEVILL, Mr. BORSKI, Mr. HOCHBRUECKNER, Ms. NORTON, Mr. PURSELL, Mr. GILMAN, Mr. NEAL of Massachusetts, Mr. CONYERS, Mr. LAGOMARSINO, Ms. LONG, Mr. RANGEL, and Mr. MOODY.

H. Con. Res. 18: Mr. TOWNS, Mr. ABERCROMBIE, and Mr. MFUME.

H. Con. Res. 146: Mr. CAMPBELL of Colorado.

H. Con. Res. 150: Mr. ECKART, Mr. EVANS, Mr. FROST, Mr. LEWIS of Georgia, Mr. MFUME, Mrs. MORELLA, and Mr. WASHINGTON.

H. Con. Res. 168: Mr. RAMSTAD, Mr. LEACH, Mr. ESPY, Mr. FRANK of Massachusetts, Mr. GOSS, Mr. BERMAN, Mr. PANETTA, Mr. RICHARDSON, and Mr. DINGELL.

H. Con. Res. 176: Mr. DELLUMS, Mr. MRAZEK, Mr. PORTER, Mr. HORTON, Mr. SMITH of Florida, Mrs. SCHROEDER, Mr. FORD of Tennessee, and Mr. TOWNS.

H. Con. Res. 184: Mr. RITTER, Mr. KOLTER, Mr. BROWN, and Mr. CARDIN.

H. Res. 167: Mr. UPTON.

H. Res. 173: Mr. HERGER and Mr. LAGOMARSINO.

SENATE—*Tuesday, July 23, 1991*

(Legislative day of Monday, July 8, 1991)

The Senate met at 8:59 a.m., on the expiration of the recess, and was called to order by the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota.

The PRESIDING OFFICER. Today's prayer will be offered by guest chaplain Rev. Michas Ohnstad, National Chaplain, American Legion, North Branch, MN.

PRAYER

The Reverend Michas Ohnstad, National Chaplain, the American Legion, North Branch, MN, offered the following prayer.

Let us pray:

Almighty God, more often invoked than obeyed, we acknowledge our utter dependence upon Thee, not only for life itself, but for all that gives meaning to life.

To You, sovereign Ruler of mankind and Judge over nations, we render thanks for the abundant blessings that You give us daily.

With grateful hearts we accept Your goodness toward us and, in response to Your abundant love, we commit ourselves to serve You by being of service to our fellow man.

Where we fail, forgive. That we might succeed, give us the will, the wisdom, the strength to accomplish Your purposes as our own, through Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 23, 1991.

To the Senate:

Under the Provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PAUL D. WELLSTONE, a Senator from the State of Minnesota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WELLSTONE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 10:15 a.m., with Senators permitted to speak therein.

The Senator from Tennessee [Mr. GORE] is permitted to speak up to 20 minutes. The Senator from Louisiana [Mr. JOHNSTON] is permitted to speak up to 20 minutes. The Senator from Minnesota [Mr. WELLSTONE] is permitted to speak up to 10 minutes and the Senator from Vermont [Mr. LEAHY] is permitted to speak up to 15 minutes.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, I would like to take a minute or two, if I may, and thank our guest chaplain, Michas Ohnstad of North Branch, MN, for honoring us with his presence, and by inference that of his family, that of all Minnesotans and that of all veterans, particularly, those associated with the American Legion, for his prayer this morning.

I have known our chaplain for the day for almost 30 years now, and I have known him in the area upon which he spoke, public service, the best. Chaplain Ohnstad and his wife, Alma, have served the people of Minnesota, as Michas has served the veterans of this country, most recently, by becoming the fifth Minnesotan to be honored to serve as the American Legion National Chaplain.

In addition, he is the vice chairman of the Minnesota Veterans Home Board, the public relations director of the Forty and Eight in Minnesota, the department Americanism chairman of the Minnesota VFW, and a member of the board of directors for the National Association of Atomic Veterans. He also served as Minnesota American Legion rehabilitation director from 1978 to 1988, the year that he retired, if there is such a word in his vocabulary.

Chaplain Ohnstad received a bachelor's degree from Augustana College in 1952 and began theological training at Augustana Seminary in September of that year. He transferred to Northwestern Seminary in Minneapolis where he received his divinity degree in May 1956. After serving as a Lutheran mission developer at Halifax, NS, in 1959, he became pastor at St. John's Lutheran Church at Stacy, where he was pastor 5 years and from whence, I believe, he sought a temporary career in politics and public service.

Fortunately for him, unfortunately for the rest of us, that part of his career did not last as long as some of us might have liked.

I was proud to hear him speak of will, of wisdom, and of strength. These are three characteristics that we all need, especially in this body, as we take on difficult issues. Some of the issues most difficult we may hear about this morning from our colleagues in morning business.

I am very proud, as I know the Acting President pro tempore is this morning, of the fact that our contribution to the National American Legion, guest chaplain Michas Ohnstad and his wife, Alma, are here with us this morning.

I yield the floor.

Mr. GORE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

THE ANTIBALLISTIC MISSILE TREATY

Mr. GORE. Mr. President, I rise this morning to discuss the issue on strategic defenses for the United States, and the future of the Antiballistic Missile Treaty. These issues have been hotly debated for at least two decades. Soon, probably next week, they will be debated again in this Chamber. This morning I would like to do my part in helping to prepare the way for that debate.

I think it was perhaps inevitable that the Senate would take up this question again, because at stake are fundamental questions about the nature of nuclear deterrence. Such matters are often very abstract and seem overly technical, but in the end, they touch upon the probability of human survival. In view of the vast changes which have occurred in United States-Soviet relations, there might now be some hope that our internal differences here could also narrow, or even finally be resolved.

Next week, when the defense authorization bill comes to the Senate floor, it will be said that the moment for that reconciliation has, in fact, arrived. The Armed Services Committee has approved language relating to SDI which purportedly is a step toward consensus. I wish that it were. Unfortunately, it is not.

In fact, this compromise language not only fails to resolve differences

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

among ourselves, but almost certainly will also widen differences between ourselves and the Soviet Union.

Consensus exists only when different points of view have been genuinely reconciled. Since this brings into being a new and consolidated idea of what needs to be done, the committee language we will be debating next week is not a consensus in this meaning of the word. It represents, instead, a kind of lowest-common-denominator agreement on words that do not resolve, but rather conceal, profound disagreements on the substance of what is contained in the committee's measure.

We had many hours of discussion before a majority in the committee finally agreed on the core language of the SDI amendment as follows:

> It is a goal of the United States to deploy an antiballistic missile system, including one, or an adequate additional number of ABM sites and space-based sensors, capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles.

Some on the committee supported the version of the ABM system that is to the left of the word "or." Others on the committee supported the version of the ABM system that is described to the right of the word "or." Both systems, radically different from each other, are included in the same sentence, same amendment, and the same bill.

The implications of the two systems are also very different. In the course of that discussion, it became abundantly clear how far apart Members who support the formulation actually are. I would like to begin with a very brief review of the ABM Treaty which is the necessary starting point.

The ABM Treaty, of course, permits us to build an antiballistic missile system within certain limits. Those limits are, broadly, that each side can build an antiballistic missile system, provided that it is located at only one site, that it has not more than 100 launches for its interceptor missiles, nor more than 100 missiles, and that, in terms of its overall capabilities, it must not be an effort to defend the entire territory of either country—thus, undermining the basis for deterrence—but only the defense of an individual region, within which originally the offensive missiles were presumed to be deployed.

Originally, the United States declared its intention to build its system in Grand Forks, ND, for the purpose of providing some protection for U.S. ballistic missile silos located in that region. Over time, however, technology has improved to the point where a treaty-compliant installation at just this one site could provide far more than just local defense.

It is this new technological development which has in a way stimulated the debate over the language eventually included in the committee bill, or at least part of the language.

A treaty compliance site, using these more advanced technologies, could theoretically defend more or less the central one-third of the United States but provide very little coverage for either coast and none at all for Alaska or Hawaii.

Assuming the system worked well, it would protect against no more than 100 warheads or nominally 10 heavy Soviet ICBM's or perhaps a fraction of a single boatload of Soviet SLBM's. In the event the Soviets have missiles that are fully equipped with penetration aids, however, the United States system might be unable to handle even one heavily MIRV'd ICBM with penetration aids and decoys and chaff to confuse the radars.

Ironically, if such a system were deployed without amendments to the treaty and without agreement by the Soviet Union in advance, as President Reagan contemplated when he first proposed the SDI system, its very deployment might well push the Soviet Union toward equipping its ICBM force with the penetration aids and decoys and chaff which would ironically then sharply undermine the usefulness of a system of this kind even against an accidental launch.

Some members of the committee believe that the United States should deploy no more than this single, ground-based installation, fully compliant with the ABM Treaty. They take comfort from certain phrases in the committee language that suggest this outcome is possible, and they discount the fact that this language makes no promises.

Other members of the committee make it abundantly clear that they believe this single treaty compliance site is a completely inadequate return on the investment made in the committee bill. They want full coverage of all 50 States. And to get that, of course, they have to break the ABM Treaty at many points by deploying for starters not just one site but 5 or 6 sites, and not just 100 missiles but 1,000 or probably more, not ground-based radars of the sort prescribed by the ABM Treaty but space-based equipment capable of coordinating the battle. But even this system cannot handle more than a half-hearted Soviet attack. One thousand warheads equals 100 heavy ICBM's from the Soviet Union and that is, of course, only a tiny fraction of what the Soviet Union will have even after the START-1 reductions, which brings us to Brilliant Pebbles.

Those who believe in space-based defense argue that Brilliant Pebbles is the only way to gain real efficiency, because this system, unlike any of its ground-based variants, can attack ballistic missiles from any part of the globe, and it can attack them before they have deployed their warheads and payloads, especially important when dealing with highly MIRV'd Soviet missiles.

Brilliant Pebbles, however, depends upon all sorts of undemonstrated assumptions. Moreover, even its development is clearly illegal under the ABM Treaty. Finally, the administration is proposing to deploy only a small Brilliant Pebbles system at first, their so-called G-PALS system, which stands for global protection against accidental launch. So we end up with only light protection, unless we go on to a full-scale SDI system.

Those who fashioned the committee's compromise will argue that the supporters of Brilliant Pebbles have given up a great deal. Brilliant Pebbles is explicitly ruled out of the first phase of deployment in the committee version of this system, the 5-6 site deployment that is the real core of the compromise. But Brilliant Pebbles will be handsomely funded by the compromise and the 5-6 site ground-based deployment is in fact required for G-PALS. This is in essence a phase one of the old phase one approach to SDI which the administration is now pursuing. Making this initial deployment, moreover, effectively smashes the ABM Treaty, the 5-6 site deployment that is. Therefore, it is not surprising that supporters of a full-scale SDI system based on Brilliant Pebbles look at this compromise and, for good reason, see that their glass is half full.

It was said often during our debate within the committee and will surely be emphasized later in debate on the floor of the Senate that "all" that the committee has really agreed to do is authorize deployment by 1996 of a single treaty compliant antiballistic missile defense site, but that site is also explicitly described in the language of the committee bill as only an "initial step" and then it goes on toward the more complete system also described in the committee bill as on the other side of the "or" in the beginning phraseology.

The committee does not agree on any point other than building that one site. Opinion does not converge on this point but rather it departs from it in radically different directions.

As for the mention of such critically important terms in the committee's statement of goals as "adequate additional number," "highly effective," and "limited attacks," there is no indication whatsoever in the text and no basis for agreement among the Members. Yet these terms are efforts to characterize the basic specifications of a major weapons system whose development and deployment Congress would be commissioning.

The Senate needs also to realize that if it sustains the committee's language on this point, it will also be adopting a policy which declares the intention of the United States to totally revise the ABM Treaty with the effort to begin immediately from first principles through the last technical detail, and, failing that, to abrogate the treaty. That is the certain meaning of committee language urging the President to "pursue immediately negotiations to amend the ABM Treaty." The goals of that negotiation, as outlined by the committee, are not at all narrow. Certainly, they do not include the right to deploy a space-based defense initially, and that point will be emphasized in the coming debate. But they do permit a ground-based system far beyond the present limits of the treaty, with a capability to defend the entire territory of the United States to some degree. It will allow us to deploy space-based sensors for battle-management functions, which is directly prohibited by the ABM Treaty as it is now written, and they open the door to full-scale development and testing of Brilliant Pebbles.

Moreover, the committee makes it clear that starting 4 years from now and ending with deployment of the first site in 1996, the United States might abrogate the ABM Treaty, unless the Soviets agree to change it to our liking. I expect you will hear some denials that the committee language is anywhere near that direct. It is not. All it says is that in May 1994, the President is to report to Congress on his progress in renegotiating the ABM Treaty with the Soviets. And if he is not making enough progress, then all it says is that by 1996, the President and Congress should have begun thinking about options under the ABM Treaty. Under the circumstances, however, the option of accepting the treaty as originally written is rejected, the option of amending the treaty is assumed to have failed. That leaves abrogating the treaty as the only choice. Not named, to be sure, but inevitable under the construct of the committee bill.

Now, if there were some compelling reason to abandon our present policies, perhaps all of these flaws would be acceptable. But we are presently under no such compulsion. Our present lines of research can be pursued usefully for a number of years before they run up against limits in the ABM Treaty. No one is suggesting that the risk of an accidental or unauthorized launch from the Soviet Union is high. As for the proliferation of ballistic missiles among other countries, that is indeed a major problem. But it is a regional problem, for countries that are within range of the kinds of missiles that are being developed and deployed. It is not expected to be a problem for the United States for some time to come.

We have seen that it is possible for the United States to defend locally against short range ballistic missiles. There is a true consensus in the committee that these defenses—so crucial during Desert Storm—need to be pushed and deployed for use in remote theaters of combat. We have a true consensus that more capable space-based sensors can and should be developed, and that potential issues involving their characteristics and the ABM Treaty ought to be the subject of negotiations. We have a true consensus that Soviet countermeasures could render a treaty compliant ABM system ineffective, and that we need an agreement that would preclude those countermeasures. These are the areas that should be our focus.

There is no need for us to force a choice among competing technologies and architectures. There is certainly no need for the Senate to urge the President to open a negotiation with the Soviets before the Senate even agrees on the true objectives of that negotiation. There is absolutely no need to try to buy the American people a placebo against the fear of nuclear war. We should develop short range defenses because they are feasible and important for dealing with proliferation at distances from ourselves. We should continue research and development on ground-based defenses. We should invest in possible breakthrough technologies. We should, in short, hold steady.

In the course of these remarks, I have said little about the implications of the committee's course of action for United States-Soviet relations. There are, after all, so many other unknowns about that subject. But assuming that in the end there continues to be a Soviet Government with responsibility for national defense, we will still have to make choices about what we would rather be talking about when it comes to nuclear weapons. Does it make more sense to prepare in the hope of further major reductions of strategic nuclear weapons? Or does it make sense, right now, just as START is to be signed, to invite a brand new chapter of discord about the role of defenses?

I am not unalterably opposed to anti-ballistic-missile defenses. I am not a believer that the ABM Treaty must exist forever in its present form, or even at all. If I oppose ballistic missile defense and support the ABM Treaty it is because of a reasoned conclusion valid in a given context. And my reasoning tells me that the committee's consensus on defenses is not a true guide to action, nor is it necessary at the present time.

Therefore, I intend to oppose the committee's compromise or proposed compromise during debate next week. I recognize that it will have a lot of support. This struggle will probably continue in the conference committee if we are not successful on the Senate floor in the initial debate.

Let me conclude, however, by saying I take this step with considerable regret, because in so doing I must differ with colleagues for whom I have very, very deep and genuine respect. In and around next weeks debate, you may hear that the committee's discussions of these issues were of unusual quality behind closed doors. I am very proud to say to my colleagues that in my opinion this is certainly true.

We had an extended debate lasting through parts of 2 weeks. Very rarely do we have the chance for sustained and serious dialog among ourselves without frequent interruptions and in a spirit of real inquiry. We had that kind of debate in the executive sessions of the Armed Services Committee over the last few weeks. I may claim, as I do here, that the results were flawed, but I also want to say that the process brought out some of the finest attributes of the Senate, and I was moved and impressed by the points made and the manner in which they were presented by my colleagues on both sides of the debate.

In closing, Mr. President, let me summarize what I believe to be the central point. For the foreseeable future, the most serious danger faced by the United States in the realm of strategic weaponry and intercontinental ballistics missiles will still be the threat we face from the arsenal possessed by the Soviet Union. We worry with some reason about the possibility that in the future some leader in the mold of Saddam Hussein might somehow acquire an intercontinental ballistic missile.

Mr. President, we have many, many thousands of such missiles, armed with nuclear warheads, ready to take off on a moment's notice, aimed at the United States of America right now. And they have been aimed at the United States of America for decades.

What has kept the peace, what has defended the United States of America is a mutually agreed deterrence which we accept and the Soviet Union accepts which we have labored mightily to reinforce with the strongest and most effective military forces of any nation in the world and which we have avoided undermining through a series not only of deployments but also of agreements such as the Anti-Ballistic Missile Treaty.

If we are going to discard the notion of deterrence, we ought to make certain that we have something at least equally effective to put in its place. We do not have a substitute for deterrence today, and we should not discard deterrence prematurely.

The language in the committee's bill, I fear, would undermine the public confidence in the ABM Treaty and in the notion of deterrence and would do so prematurely. I will therefore oppose the language of the committee bill.

I yield the floor.

Mr. JOHNSTON. Mr. President, I want to congratulate the distinguished Senator from Tennessee for a very clear and well-reasoned statement.

I share with him the view that the expenditures on SDI's, as proposed by the Armed Services Committee, are unequal and imbalanced to the threat that is posed by the Soviet Union. Just as peace is breaking out in the world and we are agreeing just last week to the outlines of a new treaty, just as the Soviet Union seems to be rushing pell-mell into free enterprise, we are spending an additional—I forget the percentage—increase in SDI, leading to further increases against what is a vanishingly small threat.

So I look forward to the debate on the floor next week and look forward to the leadership of the Senator from Tennessee.

NATIONAL ENERGY SECURITY ACT

Mr. JOHNSTON. Mr. President, almost 2 months ago the Senate Energy Committee reported the National Energy Security Act, a balanced 15-title bill dealing with a national energy policy. That act was reported by a vote of 17 to 3 in the Energy Committee. I have been dealing these last few days with different parts of that bill—with alternative fuels, with energy efficiency on successive days and last Friday with natural gas—and today, Mr. President, I want to talk about renewable energy and the hydroelectric provisions of this bill.

Until recently, the potential for generating power from non-hydro-renewable energy has gone largely untapped. Now it is being heralded as the energy source to wean us off everything from oil to coal. I, too, believe that the use of renewable energy resources such as solar and biofuels must play an important role in our Nation's energy policy. Just as energy efficiency can play a major role in helping this country to achieve energy independence and an improved environment, so too can renewable energy resources provide economic and environmental benefits. However, we must be careful to understand the contribution renewable energy can make to our overall energy independence.

Although energy supplied from renewable resources is expected to rise as new technologies and regulatory measures are brought on line, it cannot yet substitute for the development of other domestic energy sources such as coal, natural gas, and oil.

Renewable energy must be viewed as an important component of a comprehensive national energy strategy based on domestic production, alternative fuels, and energy efficiency. According to figures supplied by Department of Energy and industry sources, nonhydro renewable energy resources currently comprise approximately 1 percent of the Nation's total energy use—or an estimated 394,000 barrels of oil equivalent a day. This compares with a total U.S. daily consumption of 38,000,000 barrels of oil equivalent a day.

The renewable provisions in the National Energy Security Act are designed to promote the development of commercially sound renewable energy systems in order to overcome the artificial economic and regulatory barriers that have prevented wide-scale adoption. S. 1220 promotes the most promising renewable technologies, helping U.S. manufacturers to maintain their leadership role in renewable technology.

The Senate Energy Committee is commited to a cost-effective domestic renewable energy resource program and we have proposed the following measures in its National Energy Security Act of 1991.

S. 1220 would expand the joint venture program under Public Law 101-218, the Renewable Energy and Energy Efficiency Technology Competitiveness Act, to include energy from biomass combustion and cogeneration, geothermal, and fuel cells, as well as diesel fuel displacement by photovoltaic, wind energy systems, and biomass direct combustion or gasification.

In addition to the joint venture provisions, S. 1220 strengthens the mandate of the interagency Committee on Renewable Energy Commerce and Trade [CORECT] which promotes the spread of commercially viable renewable energy technologies in lesser developed countries. Because domestic renewable technology manufacturers are often unfamiliar with the complexities of international trade and marketing, and policy makers and businesspersons in lesser-developed countries may be unfamiliar with the range and potential of renewable energy technologies, the CORECT Program provides an outstanding opportunity for mutal economic benefit.

The committee legislation builds on the existing CORECT statute by providing funding for expanded training of foreign nationals in energy efficiency and renewable energy technologies and applications and establishing overseas offices in the Caribbean and the Pacific rim to promote technology transfer and implementation. S. 1220 also rectifies a previous gap in access to funding for prefeasibility studies, a crucial priority within the renewable industry.

Although electricity production from renewable energy is often cost competitive with that from more conventional technologies, financing for renewable energy projects has traditionally been difficult to secure. In fact, access to capital is one of the biggest barriers to the successful development of cost-effective renewable energy production. S. 1220 addresses this credit gap by granting authority to the Department of Energy to buy-down or subsidize interest rates on private bank loans in order to leverage long-term financing for the solar, biomass, and wind industries. The committee believes that allowing renewable companies to amortize loans over a longer period of time will help to bring the monthly costs of financing renewable energy projects on par with the monthly fuel costs of conventionally fueled energy systems.

In addition to the non-hydro-renewable energy measures I have described, S. 1220 will significantly improve the Nation's use of hydroelectric power, our oldest and most widely developed renewable energy resource. Hydropower currently comprises 14 percent of our Nation's total electric capacity—a significant portion of our total domestic energy supply. We have an obligation to use hydropower as efficiently as possible and to eliminate unnecessary obstacles to greater development of this clean, plentiful domestic resource.

During the 99th Congress, the Energy Committee spent many long hours building an up-to-date framework for hydropower regulation. We succeeded quite well, I think, in 1986 with the enactment of the Electric Consumers Protection Act. That law requires the Federal Energy Regulatory Commission, when considering the licensing or relicensing of a hydropower project, to give equal weight to consideration of a waterway's nondevelopmental values, such as fish and wildlife or recreation. In other words, the committee struck a balance between hydropower development and environmental protection. The Federal Energy Regulatory Commission considers these balancing responsibilities seriously as well, having accepted nearly 90 percent of other agencies' environmental recommendations since 1986. I strongly support that balance and I believe that S. 1220 does nothing to upset it.

Without giving up any existing environmental safeguards, S. 1220 would streamline the Federal hydro licensing process and grant States the power to license certain smaller projects. S. 1220 does not change the substantive environmental considerations the Commission is required to make in the course of licensing or relicensing a project. FERC must continue to strike that balance between hydropower development and environmental protection.

By streamlining the licensing process, S. 1220 does no more than eliminate unneeded procedural redundancies which frequently delay licensing decisions for 5 to 10 years. No one benefits from delay, neither developers nor environmentalists.

It is important to stress that the environmental community has a clear interest in improving the timeliness of the hydro licensing process. Most of FERC's licensing activities in the coming years will concern the relicensing of existing projects. Many of these facilities have been around for as long as 50 years and they operate under rules written decades ago. In virtually every case, this means that the projects fall short of meeting contemporary environmental standards. The sooner FERC can complete hydro relicensing, the sooner these environmental problems can be addressed.

The committee has determined that projects 5 megawatt and smaller do not generally present significant problems at the Federal level. Therefore, S. 1220 grants States the right to make decisions regarding licensing of certain small hydro projects. However, the bill does provide special protections in State licensing for Federal and Indian lands, wild and scenic rivers, and boundary rivers.

Some critics of S. 1220 have sought to portray this section as eliminating all environmental protection in the context of small projects licensing. That argument is a totally unwarranted attack on the integrity of State governments. I find it patronizing to suggest that the States are less interested in environmental protection than the Federal Government. Indeed, this measure is supported by some States who see it as a means of ensuring even greater environmental protection for their rivers while expediting less problematic development.

Finally, I believe S. 1220 will lead to more efficient use of existing Federal hydro projects by stimulating improvements in both facilities and project operations. S. 1220 should increase the amount of hydropower actually generated by Federal facilities, while also reducing the amount of hydropower used by Federal irrigation projects. These measures are vital to continued development of our most plentiful renewable domestic energy resource.

Mr. President, I would like to conclude my statement on the renewable energy provisions of S. 1220 with some brief observations.

Last year's Iraqi invasion of Kuwait showed this Nation once again how vulnerable it remains to disruptions in the supply of foreign oil. We must act not to show the American people that Congress is prepared to develop national energy legislation which will free us from dependence on imported oil and place us firmly on the path of energy self-sufficiency. The National Energy Security Act of 1991 is the balanced comprehensive energy strategy this Nation needs.

Although I recognize the important role that renewable energy plays in our national energy strategy, I urge you to remember that renewable resources, excluding hydropower, comprise a relatively small part of our overall energy mix. This situation is gradually changing with the continued development of renewable energy technologies, public concern about the environment, and the trend toward electricity accounting for a growing share of the Nation's energy mix.

However, I remind my distinguished colleagues that renewable energy can not do the job alone. Instead it must be coupled with a balanced energy strategy based on domestic oil production, alternative fuels, and energy efficiency. I believe S. 1220 accomplishes this goal and I urge my colleagues to join me in calling for timely consideration of the National Energy Policy Act of 1991.

USED OIL REFINING PROVISIONS IN S. 1220

Mr. President, I would like to discuss an additional provision of S. 1220 that deals with energy production from the reuse of used oil. Each year the Nation uses 60 million barrels of lubricating oil. Even more surprising, each year more than 10 million barrels of used lubricating oil are carelessly dumped into the Nation's soil and water causing substantial environmental damage. Just consider, 10 million barrels is equal to 400 million gallons, the equivalent of 35 *Exxon Valdez* oil spills every year.

What makes this careless disposal of oil even more troubling is that for all practical purposes used oil is the equivalent of crude oil and thus, a valuable commodity. Used oil can be rerefined into a variety of fuels or lubricants and could therefore replace 400 million gallons of imported crude oil each year.

The committee legislation seeks to address two problems associated with this tragic situation: First, the cost of gathering used oil from many sources requires the development of an extensive collection system; and second, current Federal law authorizing the Environmental Protection Agency to declare used oil a "hazardous waste" under the Solid Waste Disposal Act.

Even though the EPA has not actually declared used oil to be a hazardous waste, just the threat of such a declaration discourages most potential collectors and reprocessors from accepting used oil. By accepting used oil, collectors run the risk of exposing themselves to the regulatory and legal liabilities associated with handling a hazardous waste.

S. 1220 responds to these two issues by, first, prohibiting the EPA from declaring used oil to be a hazardous waste, and second, by establishing a credit trading system. The purpose of this credit system is to provide a mechanism for the Federal Government to establish an amount of used oil that must be reused each year by all producers and importers of lubricating oil, and to provide a mechanism for producers and importers to comply with this reuse requirement through the trading of reuse credits.

The used oil recycling provisions of S. 1220 are identical to legislation that was reported unanimously by the Senate Energy Committee last year. These important provisions were drawn from legislation introduced by Senator WIRTH and our late colleague from Pennsylvania, Senator Heinz.

In addition, S. 976, the Resource Conservation and Recovery Act Amendments of 1991 introduced by Senators BAUCUS, CHAFEE, and BURDICK, and referred to the Environment Committee is consistent with the objectives of the used oil provisions of S. 1220. I look forward to working with my colleagues on the Environment Committee during the consideration of S. 1220, to enact legislation to promote the reuse of the 400 million gallons of used oil that is now carelessly discarded into our Nation's soil and water.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Los Angeles Times, entitled "A Plan To Fight Mini-Oil 'Spills'" and an article from the Chicago Tribune entitled "Safety-Kleen Facility Refines Oil Recovery" by Cheryl Jackson.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, May 20, 1990]

A PLAN TO FIGHT MINI-OIL "SPILLS"

(By Catherine Collins)

Americans dispose of more than 400 million gallons of used motor oil a year—pouring it in containers to be hauled away with the rest of the household garbage to the local landfill. From there, the oil can leach directly into ground water supplies.

It is the equivalent of 35 Exxon Valdez oil spills.

Rep. Esteban Torres (D-Calif.) has proposed legislation, the Consumer Products Recovery Act (HR 2648), designed both to stop the waste of a valuable natural resource and to remedy a major environmental problem.

Despite the severity of the problem. Torres is waving a carrot, not a stick.

"More regulations, even if they are reasonable, to enforce without an army of inspectors and lawyers," he said. "The installation of a system of 'credits' to provide economic incentives to the actors in this drama, together with a simple but highly effective enforcement mechanism, would have a positive impact on this process."

The problem is that used motor oil has a negative value; it costs money to dispose of it properly. Gas stations and auto repair shops have accepted used oil from the do-it-yourselfers, who constitute roughly half of the motor oil market. But with today's tougher regulations and liability issues, they're reluctant to accept the oil. They have to pay to have their own hauled away.

The Consumer Products Recovery Act would give used oil an economic value. Here is how it would work:

The Environmental Protection Agency would get the authority to mandate annual recycling requirements. Producers could fulfill their obligation under the new law either by re-refining oil themselves, by purchasing recycled oil or by purchasing an "oil credit."

The credit: For every gallon of used oil that is recycled, the recycler is entitled to sell a used oil credit. It is as if he is producing a second product. By selling the credit at whatever the market will pay, he has two income streams. Thus, the recycler has the ability to lower the price of his product or increase his capacity.

Currently, 30% of lubricate oil sold is recycled, 60% is thrown away and 10% is lost in the system—burned up by engines, leaked out on garage floors or tossed out in filters. The law would set a rising recycling requirement each year, perhaps reaching 50% at the end of 10 years.

The revenue generated could be used by the reprocessor/recycler to purchase used oil from gas station owners. The station owners, now realizing a profit from used oil, might be willing to pay for oil returned by individuals.

"Recycling is technically feasible and environmentally sound but does not get done because the wrong economic incentives are in place," Torres said.

The Consumer Products Recovery Act has almost universal support from congressmen, environmental groups and even the oil industry.

[From the Chicago Tribune, July 10, 1991]

SAFETY-KLEEN FACILITY REFINES OIL RECOVERY

(By Cheryl Jackson)

A new oil-recycling facility in northwest Indiana promises to produce more than recycled oil and renewed hope for the environment. It also may pump badly-needed life into the town of East Chicago.

Safety-Kleen Corp., the Elgin-based recycler of industrial wastes, hosted a grand opening for its newest oil recovery plant Tuesday.

The facility will double North America's capacity for oil recycling. When it reaches full capacity, it will process 75 million gallons of used automotive and industrial oils per year, converting it into 43 million gallons of high-quality base lubricating oil, as well as additional petroleum products.

Total storage capacity at the new facility is 7.7 million gallons—more than twice the capacity of the Shedd Aquarium's new Oceanarium.

The $50 million facility, which actually began operation in April, already has had an impact on East Chicago's fortunes. The heavily industrialized town just across the state line from Chicago's Southeast Side has been hit hard by plant closings in recent years.

East Chicago vendors already have grabbed a portion of the $19 million the company said it has spent in the vicinity during construction.

Safety-Kleen said the new facility has created approximately 50 full-time jobs, and that the payroll could reach 100.

American consumers dispose of 400 million gallons of used automotive oil each year, pouring it down drains or putting it into the trash. By recycling waste oils, the company reduces contamination of water supplies and at the same time produces useful—and profitable—products, said Donald Brinckman, Safety-Kleen chairman and chief executive officer.

The East Chicago facility will take in 75 million gallons of used automotive or industrial oils, 20 million gallons of oily waste waters and 43 million gallons of base lubricating oil a year. The plant will produce 11 million gallons of distillate fuel, 9 million gallons of asphaltic oils and 5 million gallons of reprocessed fuel.

Safety-Kleen Corp. is the world's largest recycler of contaminated fluid waste. In 1990, the company collected more than 198 million gallons of fluid for reclamation.

The company, which has grown to become the Chicago area's 27th largest in market capitalization, started in 1968 selling and servicing parts—washing machines used by manufacturers.

Although used oil is not yet listed as a hazardous waste, there is growing awareness of the environmental damage that can result from improper handling and disposal, said Jospeh Knott, Safety-Kleen president.

"The plant is designed as a hazardous-waste facility, even though waste oil is not a listed hazardous waste," Knott said, adding that recycling oil will eventually reduce America's dependence on foreign oil. "And you don't have the cost effectiveness 20 to 40 years from now of having to clean this mess up."

Safety-Kleen's attitude toward recycling and waste management was endorsed by William Muno, associate director of the U.S. Environmental Protection Agency office in charge of administering the Resource Conservation and Recovery Act, the federal law governing solid and hazardous waste.

"The trend for the '90s is waste minimization. Don't produce the waste in the first place and if you produce it then recycle it," Muno said. "This factory is right in step with the program that EPA is trying to promote."

The new facility also will help Indiana reach its goal of decreasing the amount of waste in the state by 35 percent by 1995, and 50 percent by the year 2000, said Mitra Khazai, recycling coordinator at the Office of Energy Policy at the Indiana Department of Commerce.

"This may be the only acceptable way to handle used oil in the future," she said.

Safety-Kleen converts used oil from industrial and automotive customers into fuel oil for industrial use.

The company entered the oil-recovery business in 1987 when it acquired Breslube, of Breslau, Ontario, until recently the largest re-refiner in North America. The East Chicago facility is twice the size of the Breslau plant.

Last year, Safety-Kleen collected more than 100 million gallons of used oil that was converted to high-quality, re-usable lubricating oil or industrial boiler fuel.

Supported by an extensive collection network, Safety-Kleen gathers used oil from thousands of sites around North America, and converts it into lubricating oil that is equal in quality to the original product.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CLARENCE THOMAS

Mr. GORTON—

> I firmly insist that the Constitution be interpreted in a colorblind fashion. It is futile to talk of a colorblind society unless this constitutional principle is first established. * * *
>
> I don't believe in quotas. America was founded on a philosophy of individual rights, not group rights. The civil rights movement was at its greatest when it proclaimed the highest principles on which this country was founded, principles such as the Declaration of Independence, which were betrayed in the case of blacks and other minorities.

These are the words of Judge Clarence Thomas who is black, the grandson of a sharecropper, educated in Catholic schools, and a conservative.

He is decidedly not politically correct. And that is why he is now at the heart of the furious attacks after his nomination for the Supreme Court.

What is politically correct? An administrator at the University of Pennsylvania redlined a student's phrase referring to her "regard for the individual" and added:

> The word "individual" is a red flag phrase today which is considered by any to be racist.

The administrator went on to warn of the inequities that result from championing individual over group rights.

The politically correct believe that American society is sick. Their attitude is expressed clearly by Kirkpatrick Sale, the author of "The Conquest of Paradise: Christopher Columbus and The Columbian Legacy." He says that American civilization:

> * * * is founded on a set of ideas that are fundamentally pernicious, and they have to do with rationalism and humanism and materialism and nationalism and science and progress. These are, to my mind, just pernicious concepts.

If these are pernicious, consider then their opposites: emotionalism, anti-intellectualism, incomprehensibility, sophistry, anti-humanism, anarchy, superstition and regression. These are—to my mind—pernicious concepts, and these are, indeed, the foundations, the walls, and the cornerstone of political correctitude.

William Phillips, for more than 50 years the editor of the Partisan Review, and hardly a rightwinger, summarizes this politically correct philosophy as:

> * * * a vague but inauthentic radical outlook [that] still dominates the culture of the academy, the media, and the educated classes. * * *
>
> [That culture includes] a belief in a widespread relativism in moral, political, and philosophical matters; * * * a general rejection of the existing social system; a radical revision of academic curricula; with an atmosphere of leftism and anti-Americanism permeating the whole.

The "politically correct" reject the concept of individual rights and believe that one's race, gender, ethnic background, sexual preference, and the like are more important than our common humanity or American citizenship. They ignore or are indifferent to the fact that lesser tribalism has destroyed half the emerging nations in Africa and is about to destroy Yugoslavia, has divided Canada, and is at the root of the ethnic hatreds and divisions that so plague Eastern Europe and the Soviet Union. And tribalism is the future that the politically correct promise the United States.

Because he does not share their terribly destructive views the "politically correct" seek to destroy Clarence Thomas. They fully understand that the next Supreme Court Justice will be a conservative—at least as conservative as Clarence Thomas—but they react to the prospect of a black conservative with special fury. Because Clarence Thomas, by his very life and attitudes, destroys the thesis upon which their culture has built its castles: fortresses of division, mistrust, and hatred. But the fact that the grandchild of a black sharecropper, who has felt, and continues to decry, racism in our society, should nevertheless believe in the promises on which this Nation was founded in 1776—

> That all men are created equal, and are endowed by their creator with certain unalienable rights—

Illustrates more clearly than a thousand essays the moral bankruptcy of the "politically correct".

For many reasons, not least his great courage and independence of mind, Clarence Thomas richly deserves to be confirmed by acclamation by the Senate of the United States. He represents the redemption of the true promise of America, that all Americans are created free and equal and that any American can surmount the circumstances of birth, to arise, like Clarence Thomas himself, with a sense of history and pride, and with eyes open to the light ahead.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 1527 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 1527 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

WHO IS CARLOS FUENTES?

Mr. STEVENS. Mr. President, at a recent Interior Appropriations Subcommittee meeting, I raised concerns about the Smithsonian Institution's use of its funding.

One of those concerns regards the upcoming Columbus quincentenary celebration. Despite its name, the event has little to do with Christopher Columbus, the explorer. Rather, it is supposed to be a celebration of the history and culture of Latin America.

In any event, during those hearings, I asked why the Smithsonian selected Carlos Fuentes as a national spokesman on a Smithsonian-sponsored television series.

Although Carlos Fuentes is a well-known Mexican author, he is described by some as "an independent leftist," a friend of Fidel Castro and Daniel Ortega, and a known critic of United States policy in Latin America.

I just thought it strange the Smithsonian, which is supposed to be the guardian of our Nation's heritage, felt it necessary to select a foreigner, well known for his anti-U.S. biases, instead of a U.S. citizen or at least some qualified spokesperson who has a more objective viewpoint to do this job.

As a result of that hearing, many people, including many Senators, have asked me, "Who is Carlos Fuentes?" In an attempt to answer that question, I ask unanimous consent to include, at the end of my remarks, an article that appeared in the New Republic. It is written by Mr. Enrique Krauze, and will, I hope, answer that question. I urge my colleagues to read the article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GUERRILLA DANDY

(By Enrique Krauze)*

> He speaks all his words distinctly, half as loud again as the other. Anybody can see the is an actor.—HENRY FIELDING.

In the family album of exiled writers (Conrad, Nabokov, Zamyatin, Kundera), a close-up of Carlos Fuentes reveals something odd about his image. Is he a willing exile from Mexico in the United States, or a reluctant exile from the United States in Mexico? He has become something of a star in North America, where he lived until the age of 12, to the extent that even an American congressman observed that "Fuentes is a great man. He knows so much about his country." The congressman had not read a single book by Fuentes; his opinion, like the opinion of so many others, had been formed by the omnipresence of the writer in the media.

In Mexico, Fuentes has an altogether different image. No one doubts his exemplary passion for literature and his professional attachment to it. He has published novels, stories, essays, drama, and countless articles. And yet for some time now his writings have been arousing irritation and bewilderment. Mexico is a country whose complexity has exhausted several generations of intellectuals, but Fuentes seems unaware of that complexity. His work simplies the country; his view is frivolous, unrealistic, and, all too often, false.

In a poem by Octavio Paz, a story by Juan Rulfo, or a painting by Rufino Tamayo, Mexican life is the point of departure for the work, and the work participates in that life. Even certain foreign artists have captured what is new, and radically alien, about Mexico: the Mexican pink in Rauschenberg's canvases; the signs hanging on the cantina walls in Lowry's famous novel; the dark women in *Viva Zapata* walking over rough paving stones; the lighthearted, innocent cruelty in Buñuel's *Los Olvidados;* the market day in Lawrence's *Mornings in Mexico*. A reality embodied by Mexicans for foreigners to discover. But Fuentes, a foreigner in his own country, skirts that reality, and lingers over externals. For Fuentes, Mexico is a script committed to memory, not an enigma or a problem, not anything really living, not a personal experience.

There is the suspicion in Mexico that Fuentes merely uses Mexico as a theme, distorting it for a North American public, claiming credentials that he does not have. The appearance of *Myself with Others*, then, is timely. Its autobiographical pages finally reveal the origins of his intellectual sleight of hand. The book shows Fuentes's lack of identify and personal history. From the very start, it's clear that he filled in this void with films and literature. His real world was his fictional world: a cinematic sequence of authors and works. Lacking a personal point of view and an internal compass, Fuentes lost his way through the history of literature and found himself condemned to the histrionic reproduction of its texts, theories, and personages. The key to Fuentes is not in Mexico; it is in Hollywood. The United States produces actors for movies, for television, for radio, for politics. Now and then it produces actors for literature, too. Carlos Fuentes is one of them.

I.

"This is not a border, it is a scar." This statement by one of the characters in *The Old Gringo* is excessive as a description of the vicinity between Mexico and the United States, but an accurate epigraph for Fuentes himself. He was a gringo child of Mexican origin, born in Panama, a place where history and geography have indeed left a scar. On the outskirts of the Depression and the New Deal, his placid childhood was spent in the "territorial fiction" of diplomatic life, in a seven-room apartment that was "superbly furnished" and had a view of Meridian Hill Park in Washington, D.C. *Myself with Others* recalls long summers when "the livin' seemed easy," a good old time when Fuentes learned to prefer "grits to guacamole" and work to idleness ("no siestas for me"), and first dreamed the American dream: that everyone will be famous for 15 minutes.

On his vacations, he visited Mexico. "It was depressing to compare the progress of a country where everything worked, everything was new, everything was clean, with the inefficiency, backwardness, and dirt of my own country." In contrast to the North American past, Mexican history seemed little more than a series of "crushing defeats," beginning with the TTT: the "Tremendous Texan Trauma." Fuentes grew accustomed to seeing Mexico not on its own terms, but refracted through a North American perspective. No Mexican loses sleep over the TTT, and none would say, as Fuentes does, that "the world of North America blinds us with its energy: we cannot see ourselves. We must see you." Quite the opposite: Mexico has always been a country maniacally obsessed with itself. But Fuentes is a special kind of Mexican. He discovered the existence of his country at the age of ten, in 1938, when President Cardenas decreed the expropriation of foreign oil properties. He suddenly realized that this "nonexistent country" was his identity, an identity that was slipping away from him.

"How I Started to Write" (an autobiographical chapter in Myself with Others) is a good example of the onomastic prose, worthy of a marquee, that is so peculiar to Fuentes. It introduces the veneration of the

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*Enrique Krauze is deputy editor of *Vuelta* in Mexico City. His most recent books are *Por una democracia sin adjetivos* and biographies of 20th-century Mexican political figures in the eight-volume *Biografía del poder*.

great names that would populate his life and his writings: Gene Kelly, Dick Tracy, Clark Kent, Carole Lombard, Franklin D. Roosevelt, and a long and indiscriminate etcetera. "When I arrived [in America]," he told an audience a few weeks ago at the National Press Club in Washington, where he had come to help out with the Robert F. Kennedy Book Awards, "Dick Tracy had just met Tess Trueheart. As I left, Clark Kent was meeting Lois Lane. You are what you eat. You are also the comics you peruse as a child." Fuentes' was not exactly a life in exile, but an uprooting whose abrupt reversal in adolescene would leave a scar of ambiguity: "Mexico became a fact of violent approaches and separations in the face of which affection was no less strong than rejection."

The autobiographical pages make it clear that the only early links between Fuentes and his "paternal country" were a nationalism forged less by pride in the Mexican tradition than by resentment of the North American world, and by the determined effort he made throughout his childhood to preserve Spanish as his language. It is no exaggeration to see these links, respectively, as the origin of Fuentes' political and literary attitudes. When Fuentes finally approached "the gold and mud" of Mexico at the age of 16, language had already become "the center of his being and the possibility of joining his own destiny and that of his country into one." Mexico, the "imaginary, imagined country," was not a tangible, historical nation. It was only a victim of imperialism, an instrumental reality, a language.

Fuentes' struggle in Mexico to preserve the Spanish language led to the obsession with conquering it. The story of Myself with Others ends in 1950; to reconstruct fully the story of his struggle, one must turn to the testimony of friends, and to other incidental writings by Fuentes. Someone remembers that he became a mimetic being, all tongue and ears, a "brawler" with words. No wonder, because in Mexico the weapons of colloquial language are as sharp as, or even sharper than, real weapons. During those years he had already given up the idea of writing in English ("After all, the English language didn't need another writer"), but his use of Spanish indicated that he was tone-deaf to certain nuances, expressions, themes. He moved from reticence to excess: unexpected "damns," out of place.

In sum, to a linguistic machismo. Reality, however, was somewhere on the other side of language. In 1950 Mexico City was in the process of taking on the physiognomy of other modern capitals where Fuentes had been. He did not see the need, therefore, to go deeper into the countryside, where the reality of Mexico was more profound. His exploration of the city, although superficial, was incessant and orgiastic. Like a bedazzled and perplexed tourist, he lived the city of leisure, the nocturnal city, the show-biz city. He left out the workplace, working hours, and neighborhoods. Instead, he descended with pencil in hand into "the brash, sentimental, lowdown world of brothels smelling of disinfectant, cheap nightclubs decorated with silver-colored walls, the whores, pimps, magicians, midget strippers, and vaselined singers."

Mexico in the '50s was also defined (the word is Fuentes's) by its Star System: the muralist Diego Rivera and his scaffolding, the eyelashes of Maria Félix, the dancer Tongolele's shock of white hair, and the seal-like face of mambo orchestra leader Pérez Prado. To be a writer in the '50s, "one had to be" with the writer stars: Alfonso Reyes and Octavio Paz. Fuentes went so far as to live with Reyes in Cuernavaca. In the winter of 1950, he met Paz in Paris. Paz wrote about the young man who possessed "an avidity to know and touch everything—an avidity that is manifested in charges so intense and frequent that it is no exaggeration to call them electrical." It is significant that Paz speaks of avidity, not of curiosity. Fuentes urgently wanted to appropriate the latest intellectual keys to Mexico, he needed to complete libretto of the "imaginary country," and he thought he had found it in Paz's *The Labyrinth of Solitude*. His reading of that book was a revelation.

In 1958 he published his first novel. *Where the Air Is Clear*. Closely following the visual methods of the *U.S.A.* trilogy ("Dos Passos was my literary bible"), Fuentes took an important step in Mexican narrative; he acclimatized the genre of the urban novel that had been introduced two years before, with fewer literary resources but tellingly and honestly, by Luis Spota in Casi el paraiso (*Almost Paradise*). His main formal inspiration was Balzac. "I am very Balzacian. . . . In *The Human Comedy* (or, if you prefer, *The Mexican Comedy*) there is room for many storys." The image is exact. Fuentes envisioned Mexican society as a vertical social and historical stage set. In the basement were the masked, unseen Aztec gods, embodied, as faceless beings who carry out their designs. And above ground were the various social classes: the nostalgic aristocracy, the "Croesohedonic" bourgeoisie, the arriviste middle class, and at the bottom, the common people.

Fuentes's first book presaged the character of this entire work. The intellectual itinerary that he had chosen in order to learn about the country was transfigured into a strange confusion of genres. The characters had no life of their own: they simply acted out fashionable philosophical theses. A philosophical poet clearly inspired by Paz appears throughout the novel and dies in a manner that recalls the chapter on death in *The Labyrinth of Solitude;* the ruined banker does not consult a lawyer but discusses the essence of the Mexican spirit with Paz's alter ego; and so on. The most successful parody is not of the bourgeois class (Fuentes scorned it without knowing it), but of the aristocracy, to which he belonged without really belonging to it: its parties, its snobbery, its dandyism, its uprootedness. But finally Fuentes lacked the practical knowledge of social life that may be found in Balzac, for whom a bankruptcy, the work of a printing house, or the fall of the stock market were concrete realities, not symptoms of the life of a class. And he lacked something even more important. "There, where your shoe pinches, is the touch of Balzac," wrote Harry Levin. In *Where the Air is Clear* the common people do not suffer or work; they reflect philosophically on poverty in the setting of an endless and tragic binge.

Fuentes's first novel does not recall Balzac so much as that great actor of painting, Diego Rivera: immense texts and murals that proceed more by accumulation and schematic juxtaposition than by imaginative connection. Both are painfully rigid in suggesting the inner lives of their themes and characters, both treat them as theses or burden them with a didacticism that grows tedious, both have recourse to allegory. Texts that are murals, murals that are texts. The best of Rivera is the flowering of his forms and colors. The best of Fuentes is in the verbal avalanche of his prose.

The great Cuban poet Lezama Lima wrote that "I have found his novel strong, urgent, abundant, throbbing with symbols and masks." This verbal eroticism was the real substance of the novel, and it limned the central paradox of Fuentes's future work: there was something chimerical in his attempt to write the social novel of a reality he had not lived, something false that was supposed to be disguised by intellectual mimesis and lyrical expansion. But it was not disguised. Language was still the center of Fuentes's being, and Mexico remained an "imaginary, imagined country." His vast reading, diligent but independent of any experience that wasn't academic or folkloric, was never enough to correct his limitation. He never came to know the country that would be the central theme of his work. He thought he could resolve the deafness of his origins by turning it inside out: history, society, the life of the city, would be assimilated to the raging tumult of its voices. Balzac's characters still survive in the literary and popular memory of Europe. Nobody in Mexico remembers the characters of Fuentes.

II.

Like the great majority of Mexican intellectuals of all political tendencies (José Vasconcelos and Octavio Paz, Vicente Lombardo and Daniel Cosio Villegas), Carlos Fuentes celebrated the victory of the Cuban Revolution and interpreted it as an act of Spanish American affirmation: a triumph of Marti, not Lenin. For Fuentes in particular, the revolution had an additional significance: it seemed to resolve, not in language but in history, his latent identity crisis. It seemed to make his scar disappear. Revenge for the TTT. Mexico was still the imaginary country, but suddenly it was no longer necessary to compare it with the dubious paradise of the "cheerful robots" or with the cruel mirror of "crushing defeats." *In an article published in March 1959, Fuentes maintained that Cuba had opened the doors of the future when it interdicted all the founding philosophies of the United States: Locke, Adam Smith, Protestantism, the free enterprise system—"weapons that are much too feeble to attack the problems of the 20th century."* The nationalist vindication alone seemed to guarantee a happy ending.

"One must be Malraux," he had confided years before to a friend. Cuba offered Fuentes the opportunity to play a young, somewhat altered Malraux: the Malraux of a revolution in power. He traveled to Havana, he wrote enthusiastic articles, and with his closest friends he founded *El Espectador* (The Spectator), which in its short life closely followed the pulse of Cuba and interpreted the problems of Mexico in light of the Cuban experience. In Mexico, the natural effect of the Cuban Revolution was to push its old local homologue to the right, to make the Mexican Revolution seem like a pseudo-revolution.

This occurred, paradoxically, at precisely the time when the economic and social balance of the Mexican pseudo-revolution was not at all bad, whatever the point of comparison—internal or external, the past or the present. (The fundamental problem of the time was the growing insensitivity of the governing class, which blocked the country's political and economic growth). Very few intellectuals, however, had the wisdom to judge the situation with any equilibrium—the young, influenced by the academic Marxism made fashionable by Sartre, least of all. Democracy, certainly, was not on their horizon. After Cuba, the only horizon was the revolution in *El Espectador*, Fuentes asked: "Are we still in time to save the Mexican

Revolution from the pitiful stupor it fell into in 1940?" To set it back on course, he thought it necessary to abandon the "impoverishing anarchy of free enterprise" and fight for a "strong State that would assume total control and rational, popular planning of economic development."

Fuentes's Sartre was C. Wright Mills. Mills visited the University of Mexico in 1960 and taught a course on Marxism and liberalism. He envied the potential influence of the Latin American intellectual, who was, in his opinion, a unique factor for change in underdeveloped countries. For Mills, world competition was not a problem of power, but of prestige: the best model of industrial development would win. As for autocratic governments, Mills saw Leninism as the only way out. *El Espectador* disseminated Mills's ideas, and Fuentes, who adopted them as if they were a creed, dedicate his second novel, *The Death of Artemio Cruz*, to Mills. The colophon states the dates and places of its composition: Havana, May 1960; Mexico City, December 1961. An epitaph for the Mexican Revolution, written out of the vitality and hope of the Cuban Revolution.

In *The Death of Artemio Cruz*, Fuentes attempted to expose the prototype of the Mexican revolutionary, caught up in lies, corruption, and murder. Pursued by the phantoms of his victims—the idealists, the collaborators, the friends—and gnawed by the memory of true love and its abrupt demise, General Cruz, a sort of Mexican Citizen Kane, dies a slow, vengeful death. Outside, on the painted walls and in the empty speeches of the Institutionalized Revolutionary Party (PRI), the revolution was dying with him. The novel was an immediate and unanimous success. It is generally believed to be the best novel that Fuentes has written. It is certainly the most sincere. At a distance of 25 years, one is still struck by the verbal fury of an implacable narrator who, out of the ideological optimism of the early 1960s, censures the impurity of a revolutionary undeserving of the name. The explosion of indignation worked marvelously well in the novel's language, but it made the character of Cruz unbelievable. His villainy was too perfect: he had committed each of the Seven Deadly Sins and violated all of the Ten Commandments.

In the revolutionary narratives of Mariano Azuela, Martin Luis Guzmán, and Jose Vasconcelos, you can almost smell the gunpowder in the pages: death is real, made up of terror, hatred, blood, and stench. The characters are buffeted by contradictory and unpredictable wind storms, and their reactions are ambiguous. Almost a half century later, *The Death of Artemio Cruz* did away with all this ambiguity. The historical revolution lost its real contours. It had become corrupt. There arose before it its own idealized image: Revolution with a capital R. Now the pages smacked of ink, not gunpowder. Fuentes's novel functioned as an indictment by the younger generation of intellectuals who, from the vantage point of a revolution that shone for them, wished to prosecute a revolution that they considered betrayed.

Cuba's assertion of nationalism in its confrontation with the United States captured Fuentes's political consciousness in a definitive way. The North American world was still "blinding him with its energy," keeping him from seeing Latin American events in their internal variety and complexity. When the Soviet Union made its full-fledged appearance on the Cuban scene, Fuentes did not rejoice, but neigher did he rush to the defense of usurped Cuban nationalism. His ideology would remain fixed in a narrow range marked out by the Mexican (Cardenist) Revolution and the Cuban Revolution. The Cuban Revolution's only sin, in his opinion, would be intellectual intolerance.

Fuentes wrote several pieces of political journalism more notable for their pamphleteering enthusiasm than for their spirit of objectivity. One of them, for example, was the result of a trip through Michoacán with Gen. Lázaro Cárdenas. For 30 years the general had been involved in the development of the region. In 1938 he had created a union of community collectives. The sad truth was that the project was a failure from the very start. The community collectives had stopped cooperating with each other; the land was subject over the years to leasing, individual distribution, and foreign investment; the state banks and corporations used the campesinos as political capital. Fuentes did not hide this reality, exactly. He simply saw another one, its very opposite, the reality of his revolutionary idyll:

"Here the detractors of community collectives are refuted. Here individualist and greedy ideas have not made their appearance. Here disputes, confrontations, and exploitation do not exist. The collectivists cooperate with each other, they distribute their harvests and collect their profits in the oldest spirit of all—one that, when it has been lost and forgotten, seems brand new the spirit of fraternity."

Later, in early 1961, Fuentes was a correspondent for the Mexican magazine *Politica* and for the *Nation* at the meeting of the OAS at Punta del Este, Uruguay, where the incompatibility of the Cuban regime with democracy was noted, and Cuba was expelled from the organization. Two months after Punta del Este, however, the good student of Mills drew the natural conclusion:

"True representative democracy is socialist democracy, because in an underdeveloped country, only socialism can effect the structural changes capable of creating the real conditions of democracy. By declaring the incompatibility with democracy of the only Latin American government that is truly compatible with concrete democracy, the American states, paradoxically, have declared their own incompatibility with the future and with history."

In the days when he edited the *Revista Mexicana de Literatura* (Mexican Review of Literature), in 1955 and 1956, Fuentes's intellectual hero had been Camus: "See nuances and understand, never dogmatize and confuse." Seven years later Camus was dead, and Sartre was king. To be an engaged intellectual was not to be engaged with truth, but with the truth of revolutionary power. In political terms, the *Revista* had favored a third option: "neither Eisenhower nor Khrushchev: new forms of life and human community." But Cuba had been Fuentes's road to Damascus. The pale nuances of the third way, of the democratic option, for which so many of Castro's comrades were still desperately searching in 1962, could wait.

III.

Many other Mexican and Latin American intellectuals had followed the same ideological route, but very few had Fuentes's charm, his brilliance, his command of genres. The library of every self-respecting young radical reserved a space for *Where the Air Is Clear* and *the Death of Artemio Cruz*. They functioned as mirrors of academic thinking, brimming with good historical and moral consciousness. The image they reflected was as seductive as their narrative techniques and their prose.

But the long-awaited revolution decided not to arrive; what was left was the consolation of verbalizing it. There is an old tradition, in Mexico, of leftist multimillionaires, but the new hypocrisy was less elitist: one didn't need millions, only a bourgeois lifestyle and an anti-bourgeois ideology. Pierre Cardin and Che Guevara. From the start, Fuentes had understood the possibilities of the Guerrilla Dandy. Now he took on that character in all seriousness, although not without some cynicism, in a country where the true writers of the left (José Revueltas is the greatest example) were suffering persecution and imprisonment.

"When you have a strong literary vocation," Fuentes declared, "you soon find yourself facing the wall of bourgeois society that undermines and isolates the artist. For its own comfort, its own permanence, the bourgeoisie supposes that art and literature are innocuous, that they have nothing to do with practical life. . . . That is why there can be no rightist authors, authors who are accomplices of the status quo that denies all validity to their work. This is when the struggle begins between the writer and the bourgeoisie."

Never mind that so many among the bourgeoisie had bought his books. Fuentes felt undermined and isolated. He chose to live in Europe. He would never again take up permanent residence in Mexico. "The novelist goes through the world in search of his characters' identities," writes Fernando Benítez, in the introduction to the first volume of Fuentes's *Obras completas* (Complete Works), published in Spain in 1973. "We collected cities, sounds, smells, people, cathedrals, theaters." (And museums, cafés, provincial countrysides, concentration camps, islands in the Mediterranean.) The volume contains several Condé Nast-like photographs: "Carlos, stylishly dressed, seems to belong to that ambience of exuberant plaster goddesses, crystal candelabras, and old servants in tails." The autobiographical data prepared by Fuentes also testifies to his huge collection of friends, none of them obscure, almost all of them well-known figures in art, literature, politics, especially film. There are shots of the author with Joseph Losey, Jean Seberg, Passolini, Friedrich Dürrenmatt, Arthur Miller, Candice Bergen, Buñuel.

Before he left Mexico, Fuentes published *Aura*, a small masterpiece of magic realism on the theme of love enduring through time. (The aura of *Aura* paled somewhat because of its direct debt to *The Aspern Papers*; in *Myself with Others*, Fuentes attempts to diminish the influence of Henry James, proposing a variety of inspirations for *Aura*.) During 1965 and 1966, he wrote *Zona sagrada* (Holy Place), the novel that links the greatest star of Mexican films, Maria Félix, and her loving son, an unfortunate Oedipus metamorphosed into a dog. This time the Mexican critics were not so enthusiastic. The misgivings centered on the artificiality of his characters, on their reduction to verbal or verbalizing entities. But by then Fuentes had already freed himself from characters, that "old humanistic category," "that sentimental fetish of the bourgeoisie." In the structuralism of Foucault, Sollers, Barthes, and *Tel Quel* group, he had found his literary Cuba. Enough of Aschenbach, Bovary, Nostromo, Pedro Páramo, Dedalus: of "psychologizing subjectivity." Characters should be "transformers of the language, resistors to the language that runs through them and empties them." The novel was to be its own object, a linguistic structure valid in and of itself, where language meets the criticism of language.

One might have thought that the novel seeks a specific form of knowledge, that it is a genre in which composition matters. But Fuentes said that his novels are like "cancerous growths" preceded by total, instantaneous knowledge:

"There is a magical moment when the mind is an Aleph, a Borgesian Aleph. Everything you want to say is there. It is like a constellation in which all the elements coexist: they are words, nouns, verbs, adjectives. And they are images and they are sounds—and they are all the senses—forming a marvelous, magical totality."

Fuentes never speaks about the content of his words. In interview after interview, he insists that literary exploration is an exploration of language, inside language. Fuentes has very little intellectual curiosity. He looks for the script in an author or an ideology, and with that as a starting point, without reworking or conceptualizing it, he invokes the demons of language. In his hands, though, those demons often amount to no more than a cunning catalog of names. Thus, in the Aleph of *A Change of Skin*, which appeared in 1967, there are intersections of unconnected beaches and bullfights, crematoria and Aztec sacrifices, Theresienstadt and Cholula, Nazis and Jews, gringos and Mexico who just want to get even; all things are the same thing, an optical illusion of "pulverized identities," as one critic put it. Thirty, forty names per page. (Hals, Klee, Capri, Dietrich, Lorre, Garbo, Cuauhtémoc, Milan, Singapore, and Cole porter are all on page 150.) An abundant inventory of streets, magazines, cities, book titles, song lyrics, and above all films ("Not Greece, not Mexico, the world is called Paramount Pictures Presents"). Never has a novelist been so possessed by the noun.

The reader of *Myself with Others* can verify not only Fuentes's propensity for making catalogs, but also that his essays are as theatrical and derivative as his novels. His procedure may simply be an imitation of a popular writer (Kundera rediscovers Diderot, Fuentes rediscovers Diderot rediscovered by Kundera); a presentation of a popular theory (the odd avant-garde reading of *Don Quixote*); or an awkward attempt at a fiction based on other people's fictions ("Borges in action"). When the devices disappear, and Fuentes views the "others" from an independent "myself," the result may be a faithful and moving portrait, as in "Buñuel and the Cinema of Freedom." But this almost never happens. In the name of his right to experiment, Fuentes writes works without a center: vast, confused, formless, and oppressive literary happenings, parodies of novels that he or others have written, or parodies of themselves.

In 1968 Fuentes went a step further. He saw reality literally impersonating fiction. With novelistic opportuneness, the Revolution—the show of shows—returned to Paris. Fuentes saw words by Breton, Marx, Rimbaud, etc., on the walls, he recalled *Alexander Nevsky*, he listened to the young people talking about a European Moncada, he heard Sartre compare students to workers and praise the "admirable" pragmatism of Castro. On the basis of these images and sounds, Fuentes wrote "Paris: The May Revolution." This time the Aleph (in an illumination that made him feel like Borges, and Whitman) showed Fuentes the end of the Affluent Society. He saw a tide of change that would reach as far as Moscow and Washington, he saw the general will expressed with rocks and not with ballots, he saw strikes at Anaconda Copper, barricades in Arequipa, corrupt leaders in Mexico, he saw "the death of God and his privileged Western creation: white, bourgeois, Christian man."

A year later, when Fuentes returned to Mexico, he hung a huge photograph of Zapata in his study; he let his own mustache grow longer, and he paraphrased Daniel Cohn Bendit, one of the leaders of *les évènements*: "We are all Zapatists." And he had more visions. He saw that Latin America had lived four centuries of "sequestered, unknown language," he saw that our works should be works of disorder, that is, of an order contrary to the present one, he saw that the Latin American intellectual sees only with the perspective of the revolution: "To write about Latin America, to be a witness to Latin America in action or in language, means more and more a revolutionary act." In sum, he saw the novel in power, and power in the novel.

For the Guerrilla Dandy, there is no frontier between reality and fiction. Many years later, Fuentes revealed in an interview that he has always wanted to be a poet: "Richard III gave his kingdom for a horse. I would give all my books for a line by Eliot, Yeats, or Pound." It is only natural that in the optical illusion of his identities he has not seen himself for what he really is: a lyric poet lost in the novel and the essay, a spirited and abundant poet, though a little deaf to the beauty of the language. A macho, a stud, an Artemio Cruz who treats words like whores. His cherished need to impregnate everything with the sentimentality and the rhetoric of a lyric poet is the source of his problems as a novelist. In fact, Fuentes's old obsession with language ties him to a time, and to a rhetoric, that will pass very quickly. This novelist has run against the current of the novel's development. The author has not disappeared behind the text (as he was supposed to, after Flaubert, the Russians, Musil, Broch, Kafka, Nabokov, Faulkner); the text, instead, has disappeared behind the author.

IV.

One may forgive the hallucinations of 1968. What happened later, however, was decisive. In Mexico, after the student massacre of October 2, 1968, in Tlateloco, real revolution, armed revolution, seemed the only way possible to many young people. While Fuentes was "loading his words with dynamite," the guerrillas in the Sierra de Guerrero were moving from words to dynamite. Would he join them? Would he offer critical opposition to the authoritarian and anti-democratic regime? No, something had changed.

Some interpreted the significance of 1968 as a profound affirmative of civil society in the face of Mexico's political system, and aimed to consolidate spaces for independent criticism. But most intellectuals, Fuentes among them, chose to subordinate their vision and influence to the power of the new president. The first group was seeking the endlessly postponed alternative of freely choosing what kind of Mexico it wanted. The second believed that they already knew what kind of country their society wanted. Artemio Crux was dead. The Mexican Revolution was coming back to life, they believed and playing the role of a "new Cárdenas" was President Luis Echeverria.

During the first months of the Echeverria administration (1970–76), Fuentes published *Tiempo mexicano* (Mexican Time), a collection of his best essays and journalism of the previous ten years, along with an interpretation of the recent past and of the regime (which he thought promising) of his friend the president. The book reiterated Paz's old idea that the revolution is also a fact of myth, not only a fact of history: "Mexico broke its masks only with the Revolution. . . . In [it] the fact of Mexico is the mirror of Mexico." And what Fuentes saw in the mirror was almost an occupied country: "We are a dependent, semi-colonial nation. Our maneuvering room is no greater than Poland's." The basic facts of Mexico's prostration seemed very clear to him: a foreign debt of $4 billion, an oppressive rate of inflation, and so on. "Development for the sake of development" was useless. The solution lay, as he had written in 1962, in abandoning the "holy immobility of the center" and fighting for the energetic intervention of the state in economic life.

Fuentes considered it natural that the enterprises created by the state would be sufficiently numerous, broad, and productive to relegate ancillary functions ("tobacco stands and little grocery stores") to private enterprise. He remembered Mills's commandment: intellectuals and university students should be the agents of change. But instead of going to the mountains with a rifle, or even worse, "into their father's little business," young people should board the train of the revolution turned into a government, and there become the "vanguard" that Lenin described. Because the state embodied the revolution, the state, too, could be worshiped. "Mexican socialism," Fuentes realized in 1973, when he was living again in Paris, "will be the result of a process of contradictions . . . of confrontation between the national state and private enterprise, between the nation and imperialism, between the workers and the capitalists. Marx foresaw it all."

Point by point, Echeverria implemented the political program of Fuentes's intellectual generation as it was summarized in *Tiempo mexicano*. He swelled the power and the size of the state by adding tens of thousands of university students to the payroll. Wallet in hand, he corrected inequalities by increasing the foreign debt, which amounted to $26 billion at the end of his administration. The bureaucratic "vanguard" grew by almost two million people. By the end of his term, the "new Cárdenas" had become one of the richest men in Mexico, a Third World Artemio Cruz. And for the first time in a half century, the country that Echeverria was supposed to have raised from its prostration knew the effects of true inflation: the combined loss of real wages, financial health, economic growth. The practical result of the populist program against "developmentism" and dependence, then, was to hinder development, to deepen the dependence and the debt.

In politics, the performance of the government was even worse. On June 10, 1971, there was a reprise of Tlatelolco, in which hundreds of students were massacred in the streets by official paramilitary forces. The president vowed to investigate, and never mentioned it again. Then the public learned that Echeverria, former minister in the government of Diaz Ordaz, was himself implicated in the repressions of '71 and '68. This time Fuentes did not see what everyone saw, he saw what no one saw: "All the forces of Mexican reaction plotted to set a trap for Echeverria, stigmatize the new regime, discredit the difficult, carefully considered democratic option with which the new president tried to overcome the deep crisis of '68."

Fuentes was not the only intellectual, of course, who believed in Echeverria and took part in his parody of revolution, but his support reached grotesque extremes. Shortly after June 10, he maintained that the intellectuals who did not support Echeverria against the "real" culprits (the invisible forces of the right) were committing a "historic crime." The Mexican intellectual Gabriel Zaid responded that "the only historic criminal is Luis Echeverria," and later admonished Fuentes: "You have used your international prestige to put pressure on the executive instead of putting pressure on the independence in its confrontation with the executive. . . . You have made independence more difficult." For Fuentes, however, independence was a bourgeois value, a clamoring force "a model of democracy that was parliamentary, pluralist, British: I cannot help smiling at this Anglo-Saxon perspective." True independence was shown, rather, by the president, in the face of imperialism and its "lackeys" in the private sector. Thus, in 1973, Fuentes praised the way in which Echeverria had made the bureaucratic apparatus more "dynamic," had fought (if "only verbally") against private enterprise, had managed public funds "with absolute honesty."

In January 1975 Echeverria named Fuentes his ambassador to France. In July 1976 the president orchestrated the coup against the management of *Excelsior*, the country's leading newspaper. Everyone knew the details of the president's support of the coup. Everyone except Carlos Fuentes, who defended Echeverria publicly: "Is it conceivable that a man as politically astute as Echeverria could be the author of his own descrediting?" Yes, it was perfectly conceivable. All you needed was a breakaway from the idolatry of the state and the revolution, and open a window to concrete facts. But that was never the intellectual intention of Fuentes, for whom objectivity is both "impossible and undesirable."

V.

A word haunted Fuentes during those years: totality. He had been a "Joycean before reading Joyce." In *A Change of Skin*, one of his characters is possessed by a frustrated longing for the absolute: "to fix the past forever, to devour the present immediately, and to take charge of all imminence of the future." The fragmentation of reality seems vulgar to him. Years later, in an orgy of Joycification, his real self fulfilled his experimental dream: he wrote *Terra nostra*.

Obsessed by the mechanisms of power in Latin America, he had proposed to capture in a single vision the collective time of the founding of Ibero-America. In an essay written in 1973, "Cervantes o la Critica de la lectura" (Cervantes, or The Criticism of Reading), he had explained in detail the historical dimension of his project. He wanted to capture the Spain of the Counter-Reformation: monolithic, vertical, dogmatic, severe. Its perfect representation was the Escorial, Philip II's living tomb. Opposed to this fortress, and corroding it from within, was the *other* Spain, full of Arab sensuality, Jewish industry, Renaissance utopias, the Spain dreamed of in 1520 by the rebellious communards of Castile: democratic, pluralistic, tolerant, respectful of individual existence and local autonomy, watchful of the king—the Spain of Erasmus. The idea could not have been more ambitious. The novel's theme in the phantom, the dream, the desire for liberty in the walled cloister of the Counter-Reformation.

Fuentes could deal with the torments of the flesh in the Escorial, but the torments of faith escaped him: the novel recounts them ad nauseam, but it does not re-create them. The reason is clear. In *Terra nostra* he avoided throwing himself into the ring with his characters. He narrated the bullfight from an intellectual box. Or even less: he narrated a narration about the bullfight in the opacity of 800 pages, expressly accumulated in order to impose his majestic self on the reader: "I never think about the reader. Not at all. *Terra nostra* is not made for readers. . . . When I wrote it I was absolutely certain that nobody would read it, and in fact I wrote it with that in mind. . . . I gave myself the luxury of writing a book without readers." Joyce condemned the readers of *Finnegan's Wake* to spend as much time in reading the book as he had spent in writing it. Fuentes surpassed Joyce in *Terra nostra*, with its facile paraphrases and pastiches, and its transcriptions of encyclopedias and catalogs. The novel's real theme is its author's fascination with absolute power, not with the other Spain, the one that invented the word "liberal." The democratic values of the communards seem more alien to Fuentes than a Miuran bull. Ultimately, the book gives the feeling of a pathetically closed space: of totality that leads to asphyxiation.

In fragmentary passages, *Terra nostra* reads marvelously well, but its essay-characters do not really live their desires and their ambitions. In Fuentes, there is no existential exploration. His novels (*Terra nostra* most completely) are intra-literary—sometimes only intraverbal—exercises more akin to French structuralism than to anything Joycean. This lack of existential anchoring is the decisive difference between the actor and his model, but not the only one. Joyce worked at an extremely slow and steady pace, in careful and complex reflection. Fuentes proceeds by inspiration:

"I can write in a plane, in a bus, in a hotel room—anywhere I am—with ease. . . . There are writers who work very slowly because they are painfully looking for that adjective, that verb. I prefer to privilege the cataract: I will let everything rush through me and over me like Niagara Falls with a sort of *confianza*, a confidence. I give in to the abundance of language because I am . . . like a Bernini statue. I am abundant."

Then, suddenly, briefly, Fuentes removed the makeup, came down from the stage, turned out the lights, and walked out incognito to wander through Mexico City. A line by Paz concerning the mythic destruction of the Aztec city came to mind: burnt water. In *Burnt Water*, which appeared in 1980, Fuentes plays no one but himself. It is not written by himself as a personage, but by himself as person. These four perfect stories show, again, that his calling as a writer is the authentic investigation into the tragic fate of the city he loved. Suddenly, in a kind of parenthesis in his career, Fuentes is not afraid to create "psychologizing subjectivity," characters who dare to feel tenderness, filial love, pity, and the most bestial hatred.

A poor old woman, surrounded by street mongrels, remembers the ancient palaces in ruins, and an invalid child listens to her. A native aristocrat clings to the decorative world of his house now situated amid decay and drug violence, a nest of rats that do not conquer him: they devour him instead. And in "The Son of Andrés Aparicio," there is the life story of a lumpen turned bodyguard. Here the city is not unreal or purely visual. It is a visceral city, a city in pain. Here the extraordinary recreation of language is not the end, but the means. There are no useless names, no social or political didacticism, no reflections on the nature of the Mexican spirit, no sentimental lyricism. There are only four fragments that touch the Mexican soul of Carlos Fuentes.

This parenthesis of real feeling was closed, however, in the 1980s, when Fuentes definitively established himself in the country of his childhood and allowed himself the luxury of writing a nationalistic Western for American readers. *The Old Gringo* is a minor work. The book's explicit subject—Ambrose Bierce—is its least striking thing; Fuentes gives the basic facts, but he fails to penetrate Bierce's hallucinatory life. *The Old Gringo* is important, rather, because it reveals Fuentes's methods of appropriation and distortion with devastating clarity. The beginning of the novel is derived, for example, from *Memorias de Pancho Villa (The Memoirs of Pancho Villa)* where its author, Martin Luis Guzmán, narrates the twofold death of the English rancher Benton at the hands of a Vilista. Who would notice? Nobody in the United States knows Guzman. Then, along with Bierce, the novel presents an opague, enigmatic Mexican general named Arroyo, and a God-fearing Methodist school teacher who eventually succumbs to the transfiguration, to the sexual, telluric strength of the general; and the similarity to Cipriano and Kate in D. H. Lawrence's *The Plumed Serpent* is certainly remarkable. As Fuentes has written, "Is there any book without a father?"

After liberating himself from the imaginary need to imagine, Fuentes goes on to rearrange completely the history of the Mexican Revolution. In *The Old Gringo*, briefly, Zapatism becomes Villism. Fuentes transports the peasant revolution of indigenous southern Mexico to the northern border. He situates his story in Chihuahua, where there were *no* problems concerning land, *no* conflicts between haciendas and communities, *no* peasant in ponchos, *no* people drinking mezcal. It was easier that way, because he could imitate Jesus Sotelo Inclán's book about Zapata, which no one in the United States (except John Womack's readers) would know. In 1971 Fuentes wrote that "literature says what history covers up, it forgets or mutilates." Many Mexican readers of *The Old Gringo*, however, found themselves convinced of precisely the opposite.

VI.

The Central American crisis and the Reagan presidency opened the second chapter of a historical drama begun in 1959. It was natural that Fuentes, living now in the States, should become passionately interested in the conflict, but the similarity between his attitudes of the early '80s and his attitudes of the early '60s is disconcerting. By now, to be sure, it is a commonplace among the liberal left in Mexico to criticize Cuba, to let slip some slight doubts about internal affairs in Nicaragua. (Its own experience taught the Mexican left not to scorn "formal" democracy.) But Fuentes is humming the same old tune. He has said that Cuba is a colony, and that Marxism is intellectually facile; but he only demands of Castro "a little more *glasnost* and *perestroika*." His support for the Sandinistas has been complete.

Still, he has also experienced a good amount of intellectual confusion; it is difficult to serve truth and power at the same time. In his commencement address at Harvard University in 1983, and in various articles and conferences, Fuentes has referred to "the constant battle with the past" that Latin America is waging, a past of theocracy, centralism, paternalism: the fortress of the Counter-Reformation still imprisons us with its dogmas and hierarchies, its confusion of public and private rights, "its faith in ideas over facts." Fair enough. But then Fuentes is immediately enamored of precisely those closed political systems that are the heirs of the Counter-Reformation.

Fuentes sees clearly the mental prison of these countries, but he does not quite lament it, or see himself enclosed in it. His reading of the Central American conflict grows out of his old fascination with totality, with unity, with order. Reading him seriously can be a twisted adventure in dialectic. Consider his defense of the Sandinista revolution. At times he achieves a certain distance: "There is a sacred element to the revolution: that is why it does not tolerate opposition." But he also joins the faith: "The total history of a community is revealed in the dawn of the Revolution."

The political imagination of Fuentes seems frozen in the commonplaces of 1962, which not even the latest speechmaker of the PRI could repeat without blushing: "All of us in Mexico exist and work thanks to the Revolution." An eternal 1968, Fuentes's revolution is not only sacred, it is universal and inevitable as well. Speaking of the revolution, Fuentes the iron historicist reminds the North Americans that "their republic was also born out of the barrel of a gun." Speaking of democracy, however, Fuentes the tolerant relativist invokes "cultural contexts": every country should come to its own version of it. Unlike democracy, the revolution does not recognize frontiers or cultures. It is always the same—1648, 1776, 1789, Mexico, Havana, Managua. When it comes, it demands patience. Violence—Marx dixit—is the midwife of history. That is why the Arias plan took him by surprise. Arias's democratic legitimacy does not mean much to Fuentes: democracy does not reveal the total history of a community, only the fragmentary will of its citizens.

There is something even older and more frozen in the moral imagination of Fuentes: his old scar of identity. The love/hate he feels for the United States cuts him off from the possibility of any intrinsic understanding of Latin American phenomena. ("We cannot see ourselves, we must see *you*.") In response to the obligatory question regarding the need for democracy in Central America, Fuentes always has his ready-made answer: "Why does the United States worry about democracy in Nicaragua and not in Chile?" As a question, it is valid. As an answer, it is not. It defers the establishment of a democratic order until the United States stops being hypocritical, which is to say, until the cows come home. In Fuentes, there is a dependence on dependence.

We can all agree that the relations of the United States with the Caribbean, Central America, and Mexico are marked by a vast historical outrage assiduously carried out by North America long before a Cuban headline at the beginning of the century announced that "hatred of the North American will be the religion of the Cubans." It is an outrage made up of incomprehension, inattentiveness, prejudice, racism, exploitation, stupidity, disdain. Its greatest mistake was not to recognize, and to support intelligently, the liberal regimes of this century, trusting instead in "our bastards." And Reagan's bravado, his references to "freedom fighters" and to the "backyard," keeps the outrage alive.

But granted that all this is true, what is the responsibility of the Latin American intellectual? Once again, Camus: "To see nuances and understand, not to dogmatize and confuse." To point out endlessly, if you like, the historical responsibility of the North Americans, but to take note as well of the contribution that the revolutionaries themselves have made to the disaster. The struggle of the Miskitos has nothing to do with the adventure of William Walker. Fuentes reproduces Reagan-like illusions when he believes that the Sandinistas are the real "freedom fighters," struggling in the name of history, revolution, and destiny against the only enemy, which is imperialism. In Nicaragua, where he was becoming known as "the tenth comandante," Fuentes had the same idyllic visions of 1962, 1968, and 1976, and he exclaimed: "There will be foot-stamping and tail-thrashing by the dinosaur—the United States—but the relationship will change." An elemental, resentful, rhetorical nationalism, one that excludes all other values, is the sum total of Fuentes's political ideology.

After Fuentes's visit to Nicaragua early in 1988, Pablo Antonio Cuadra, the poet and the managing editor of *La Prensa*, wrote:

"I have been a friend of Fuentes, and I admire his literary work; but I never thought that he would take up again the old Spanish American rhetoric that has caused so much harm and confusion, in order to polarize concepts and reduce the very serious Nicaraguan problem to a struggle between David and Goliath in which, of course, one must be on the side of David. And what of the brutal Russian Goliath? . . . It is a great shame and a great responsibility, because the influence of men like him should serve to balance the scales. He should have seen that our poor America is exhausted by those great concepts that cost blood and misery . . . and all for nothing. Men like him could exert influence on fanatics to make them sane again, to make them think, to turn them once again toward objectivity and realism. Many of the comandantes are not Castros, but imitators who could be saved if so many intelligent people did not play their game."

Carlos Fuentes has not even recognized his own uprootedness as a problem. His politics are elemental and dogmatic. His literature is brilliant and insubstantial. He has created only one extraordinary character. Carlos Fuentes.—*Translated by Edith Grossman.*

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,320th day that Terry Anderson has been held captive in Lebanon.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to proceed as if in morning business for an additional 5 minutes, and that my colleague from New Mexico, Senator DOMENICI, also be allowed to proceed for that same length of time on a separate issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. I thank the Chair.

(The remarks of Mr. BINGAMAN, pertaining to the introduction of S. 1528 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. BINGAMAN. Mr. President, before yielding the floor, I ask unanimous consent that the time for morning business be extended for up to 6 minutes, following the recognition of Senator DOMENICI, and that Senator KOHL be recognized to speak at that time for that additional 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI, pertaining to the introduction of S. 1528 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMEMORATION OF GRANTS, NM, 50TH ANNIVERSARY AS INCORPORATED CITY

Mr. DOMENICI. Mr. President, I rise today to encourage my colleagues to join me in commemorating the 50th anniversary celebration to mark the incorporation of the city of Grants, NM.

It is appropriate at this time to review the rich history of Grants—its beginnings and its changing fortunes. From its beginnings as a Spanish frontier ranching settlement to its present status as the one-time uranium capital of the United States, Grants has shown a remarkable will to survive.

The present townsite originated at Los Alomitos—Little Cottonwoods—the ranch of Don Diego Antonio Chavez, who reportedly planted the cottonwood trees around a natural fresh water spring. Early homesteaders and settlers were sheep and cattlemen, who capitalized on the excellent grazing pastures and plentiful water.

Like many settlements in the West, Grants' early success was linked to the construction of the railroad. During the 1880's Los Alomitos became known as Grant's Camp, in recognition of Angus, John, and Lewis Grant, the three brothers who were awarded the contract to build the A&P Railroad. The name of the community was officially changed to Grants on December 1, 1931.

The lumber industry provided the first significant growth for Grants when the Breece Lumber Co. completed construction of a 38-mile railroad from Tenaja to the Zuni Mountains. This new industry made up for the losses incurred when a drought in 1918 crippled the livestock industry. Logging and lumber business became full-blown, employing 2,100 people and moving about 4,000 people into this northwest New Mexico town that boomed with hotels, cafes, general stores, saloons, dance halls, and even homes.

A decade of lumbering prosperity brought telephone service, an electric powerplant, a number of churches, and a high school to the area. The Grants Review, a local newspaper printed in Gallup, was distributed throughout the 1920's.

When the Great Depression stopped the lumber industry saws, completion of the Bluewater Dam brought the next economic boost to the town. The vegetable industry flourished in this new soil and water-rich valley, growing $2.5 million in produce in 1939. Unfortunately, changes in produce packaging eventually drew farmers away from the area and the community faced yet another economic setback.

In 1939, Grants flirted with the idea of becoming an incorporated municipality, but political pressures and livestock corralled within the would-be city limits kept the ordinance from becoming reality. Finally in 1941, a permanent legal city charter was approved. It is that distinct event that we celebrate now.

Although mining was not a new industry to the Grants area, it has represented the greatest and most sustained economic boom for the community. Pumice was regularly mined from Mount Taylor and copper ore was taken from the region, but Paddy Martinez' discovery in the early 1950's of the uranium proved to be a catalyst for decades of growth for the area. Five uranium mills—Anaconda, Kerr-McGee, Phillips, Homestake-New Mexico Partners and Homestake-Sapin—were built in the area by 1958.

Uranium boosted the population from 2,000 in 1950, to 7,000 by 1955 and more than 10,000 by 1960. In addition to the building of new schools, stores and banks, the city built the Cibola General Hospital in 1959. A public library was dedicated to the memory of Mother Whiteside, a frontier legend, and a branch campus of New Mexico State University was established there in 1968.

A historic event occurred in 1981, when Grants became the county seat of Cibola County, the first new county created in New Mexico in 32 years.

The following year brought the beginning of a precipitous decline in the uranium industry. Mines and mills closed. The town experienced an exodus of workers and families. Times were bleak. But many Grants residents remained, refusing to surrender to despair. These are the more than 11,000 residents who now celebrate their town's golden anniversary as new economic opportunities are created.

As the town begins its next 50 years of history, it looks forward to the advancement of two new State correctional facilities, the completion of a large electric generating plant, and development of a major open-pit coal operation. The city is looking toward a more diversified economy that will broaden its appeal as New Mexico, the Land of Enchantment, continues to grow.

I honor and commend the people of Grants and their forbearers who have created a hard-working, persevering community that represents the best of New Mexico.

And so, Mr. President, I encourage you and my colleagues, on the 50th anniversary celebration to salute the city of Grants, whose citizenry are eager to meet the challenges of the future as opportunities rather than impossibilities.

Mr. President, I inquire will we be back on the bill in 6 minutes, is that what the order is now?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I thank the Chair.

I yield back any time I have.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I ask unanimous consent to speak for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. KOHL pertaining to the introduction of S. 1527 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, parliamentary inquiry. Are we now back on the MFN bill?

The PRESIDING OFFICER. That will be the regular order, but we are not on it yet.

Mr. GORTON. What business takes place between now and then?

The PRESIDING OFFICER. Morning business unless consent is granted to the regular order.

Mr. GORTON. Then I call for regular order.

Mr. CONRAD. Mr. President, might I just inquire of the Senator from Washington. I had previously asked the managers if I might have 5 minutes to speak on the dairy bill that was previously introduced and had received agreement that that consent would be forthcoming to extend the period for morning business for 5 minutes. Perhaps we could find a way to work things out so that might occur.

Mr. GORTON. The Senator would be delighted to yield to his friend and colleague from North Dakota.

I ask unanimous consent that when the 5-mintue period is over, the Senator from Washington be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I thank the Senator from Washington. I appreciate his cooperation.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 1527 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, parliamentary inquiry: Are we now on the regular order?

The PRESIDING OFFICER. If the Senator permits the clerk to report, that will be the case.

UNITED STATES-CHINA ACT

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, with respect to debate on this bill at this particular point, this Senator feels like an orphan in the storm with no home apparent in sight. We now are dealing with a bill replete with conditions for the extension of most-favored-nation treatment to the People's Republic of China, beginning a year from now.

A similar bill passed the House with a very impressive majority and included a number of conditions, most or all of which this Senator felt to be appropriate. The Senate bill as was reported to the floor includes a number of additional conditions and is more stringent on several of those included in the House bill.

Last night, in the passage of the Bingaman amendment, we added additional and still more stringent conditions. I suspect we will continue to pile on what I might describe as "feel-good" conditions during the course of this debate today and until final passage of this proposal.

If MFN treatment for the People's Republic of China were a ship, it would long since have been loaded beyond its capacity and would have sunk without a trace beneath the surface of the sea.

We here in the Senate and our colleagues in the House may well feel that we have struck a blow for civil rights in China by the passage of this bill, but in fact we will not have done so. We know now the bill in its present form will be vetoed by the President. We know too that veto will be sustained.

Many of the Members, I daresay, who vote for the bill will be relieved at that result, and will have the best of both worlds.

If by some chance the bill in its present or future form should become law, the People's Republic of China obviously would be unwilling to accept the conditions in the bill and MFN status will die.

Some of the bill's conditions are concerned with human rights in China, and most particularly, with the victims who protested in favor of democracy at Tiananmen Square. Others have to do with the behavior of the People's Republic of China; still others with its foreign policy.

We now have conditions which relate to its policies not only toward Taiwan, but also toward Cambodia, Tibet and potential customers for China's missile technology. Finally, there are a series of conditions that concern trade between the United States and China.

The consideration of this bill had one positive impact. At the beginning of the discussion of this issue, the distinguished and thoughtful Senator from Montana [Mr. BAUCUS] together with 14 other Senators, wrote to the President setting out what he and they considered to be reasonable administrative measures to address concerns with China.

Last Friday, the President responded to that letter in a modestly positive vein. While the response was couched in terms of statements that simply reiterated existing administration policy, in fact I think he went slightly beyond it. For the first time, the administration gave a relatively clear commitment that it would support membership for Taiwan in the General Agreement on Tariffs and Trade, the GATT. Admission is long overdue for Taiwan, which has become a major trading partner of much of the rest of the world. Taiwan's international trade rivals or exceeds that of the People's Republic of China itself.

The President also promised at least marginally more strict enforcement of section 301 provisions to address certain of the more egregious trade practices of the People's Republic of China. The President also spoke affirmatively to a number of the other concerns expressed by the Senator from Montana and those who joined with him.

While this Senator and others would have preferred an even more positive response, it is certainly sufficient to gain for the President the support of one-third plus one of the Members of this body, and very likely that number of Members of the other body, when and if the President vetoes this or a successor bill.

The net result in that this debate has now become a formality, largely without purpose. This Senator regards that as regrettable. I feel it to be a shame, almost a disgrace to this country and to its business enterprises, that the U.S. Trade Representative and the administration are so easy to push around on trade-related issues connected with the extension of MFN status.

Even Senators, who represent States most dependent on foreign trade, as this Senator does, can have certain doubts about the desirability of a trading system which is almost completely open at the American end of the pipeline, and largely closed at the other, except for a handful of goods which the People's Republic of China cannot produce for itself.

Our bilateral trade deficit with the People's Republic of China is $10 billion a year, and rapidly climbing toward or beyond the $15 billion figure. That is not because of any natural trade-related characteristics of the two nations, but because of the overwhelmingly closed and unfair nature of the government-operated trading system of the People's Republic of China itself. Clearly, this cannot continue unabated.

The administration's response to such trade issues, specifically those raised by the Senator from Montana, at best can be characterized as barely adequate, designed to result in a political rather than a fair-trade end.

But the real issue in this debate, and in all of the debates in which we have been engaged on this subject for more than 2 years, is not human rights, weapons proliferation, or even trade. The real issue is the Government of the People's Republic of China itself; a government which maintains itself by terror and repression. It is a government which is inevitably destined for the same fate as the Governments of Czechoslovakia and Romania. In fact, it may well parallel the Government of Romania more closely than it does any other government in what was formerly the Eastern bloc.

That repressive regime will not last, Mr. President. As a consequence, it seems to this Senator and to many of the business enterprises which he represents, that even from a trade standpoint, in the middle-term, not to mention long term, it would be far wiser to bet on the future rather than on the past.

Democracy, or at least the dismantling of the present Government of the People's Republic of China, is as inevitable as the overthrow of the Communist governments of Eastern Europe. Far better, Mr. President, that we have the support and the friendship of, that we be the guiding examples for, those who are attempting to create a democracy in China than those who have so far successfully repressed that inevitability.

In that respect, Mr. President, we are different from and have different interests than even the rest of our trading partners in the West. When the students and others began their drive for democracy several years ago in Beijing, they did not utilize a German or a French or an English symbol. Their symbol was their own recreation of the Statue of Liberty, just as it was the United States and not Western Europe which inspired the liberation movements in Eastern Europe and, for that matter, the Soviet Union.

So it is the example set by the United States which inspires the same feelings in the People's Republic of China. It is the words of the Declaration of Independence about the unalienable rights of peoples to life, liberty, and the pursuit of happiness. It is the words which are engraved into the Jefferson Memorial, less than 2 miles from where we stand, Mr. President, which has inspired the citizens of China: "I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man." It is these sentiments which inspire our relationships with China and, for that matter, with many other peoples around the world who seek liberty.

But we have reached a point in this debate in which we find ourselves on a dead-end street. I urge upon the majority leader and upon all of those in this body who are truly concerned about the future of the People's Republic of China, about democracy, about a long-term constructive and balanced trade relationship between the United States and mainland China, that this bill should be far shorter and far more simple than it presently is. We should remove from it all of the rhetoric about what the Government of the People's Republic of China has done, and remove from it almost all of the conditions which have been added by individual Members of both the Senate and of the other body. We should concentrate on the thoughts which moved us 2 years ago as we watched that courageous young man standing in front of a tank on Tiananmen Square and simply condition the extension of most-favored-nation treatment to China a year from now upon an accounting and release from prison of those citizens of China who demonstrated for democracy in Beijing and who were arrested and imprisoned for engaging in the most fundamental of all of our human rights.

Only in that fashion, Mr. President, can we focus the attention of the citizens of this country where it ought to be focused. Only in that fashion can we present to the President of the United States what is the overriding issue: future of democracy in China.

Mr. President, a democratic China will not export to the United States the products of slave labor. A democratic China will not sell its missile technology to unstable regimes in the Middle East. A democratic China will not oppress the inhabitants or citizens of other countries and of other nations. If we succeed in the goal of a democratic China, all of our other goals will be reached as well.

If as I expect, this advice is not heeded, if we go forward with the bill in its present form and perhaps add a few other conditions to it, this Senator, regrettably, having started out as a sponsor of a very similar bill, will vote against that ultimate, overburdened product. But he will do so in the fervent hope that we will revisit this issue and that we will deal with it exactly as we dealt with the Soviet Union 15 to 20 years ago with Jackson-Vanik, concentrating on central human rights issues as a condition of this trade. We can now look back and say, though it took time, that approach brought spectacular results. It prodded the Soviet Union to free its people who wished to leave and helped to bring that country to the threshold of democracy and very great changes. We should be far more modest in our proposals, Mr. President, and far more direct. It is not appropriate for the United States of America simply to bow to every whim of the People's Republic of China in the course of this debate. It is not for us to fear the consequences of some kind of trade war with a nation which does not play fair and has a huge trade surplus with the United States. It is appropriate for or rather, incumbent upon the United States of America to stand up for the most fundamental of human rights in China itself, to stand behind those who took inspiration from the United States, whose symbol was the Statue of Liberty and to see to it that, at the very least, they are freed from the prisons to which they have been sentenced because they supported the ideas upon which this country was founded.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, we are on the Mitchell bill regarding MFN; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I know that others want to speak but I waited a little while yesterday and this morning. I want to make sure that everyone knows that I am not going to speak a long time. I think it might be 10 minutes, for those who are waiting, maybe slightly over that.

Mr. President, there can be no doubt that all 100 Senators in this Chamber support greater human rights in China. All 100 Senators, I think, support nonproliferation of strategic weapons, and all are concerned about the trade surplus between China and the United States, running in their favor. Every Senator in this Chamber and everyone who votes here, all 100, would like to see China provide greater protection for our intellectual property rights.

So in a very real sense, because of the democracy demonstrations that occurred in Tiananmen Square, we are tugged and I am tugged toward two different courses of action. My heart urges me to avenge the students who bravely faced tanks which the world was privileged to see on television. Some of the students died, some were arrested and remain in prison for little more than expressing their beliefs. So my heart, on the one hand—and I think that is what is happening in this body—beats to the rhythm of "deny most-favored-nation status." But my head argues for a more reasoned approach, carefully thought out to achieve changes in the governance of China, that would move it away from tyrannical dictatorial policies and obviously move it in the direction of a market-oriented economy.

In deciding how to vote on whether to renew MFN for China, should I listen to my heart or my head? Most favored nation is not really "most favored." MFN is a very misleading name.

On a scale of 1 to 4, 1 is the worst tariff treatment and 4 is the very best; MFN rates a 2. In the tariff pecking order, there is only one category worse than MFN. That category is a schedule based on the Smoot-Hawley tariffs guaranteed to kill trade.

MFN is the tariff schedule the United States uses for more than 150 countries. I think the distinguished Senator from Montana [Mr. BAUCUS] and the Republican manager on the floor, Senator PACKWOOD, have more than once told us what it means to recognize 150 countries of the ilk and type that some of them are, with reference to tyranny, dictatorship. Some of them recognize few human rights. It is inconsistent to come along and say in this case we are going to deny MFN to China.

A more favorable treatment than MFN is the generalized system of preferences. We grant that status to 134 countries and territories. And the very best tariff treatment is available under the bilateral trade agreements we have with Israel and Canada and soon, hopefully, with Mexico.

Having explained what MFN is, if Congress were to deny it, the question becomes: Who would our action hurt and how would it hurt them?

Denying MFN does not hurt the hardliners in China. The hardliners do not like the free market. They disdainfully, Mr. President, refer to entrepreneurs as "the peddlers." The hardliners live day by day, hoping they can rid China of the peddlers, and reverse the economic reforms.

If a recession comes to China's economy, the hardliners would be pleased to have the United States denial of MFN as a convenient and foreign scapegoat.

Southern China, the coastal provinces and Hong Kong would be economically damaged if MFN were denied. I do not think anyone denies that. Even for a country with a trade balance that is not running in our favor, it is estimated that 100,000 jobs would be lost in our country if trade with China were stopped. And believe you me, everyone agrees it would stop if MFN is denied.

Gao Xin, a well-known journalist who was one of the last four participating in the hunger strike in Tiananmen Square on June 14, 1989, has said, "Canceling MFN would help the hardliners. If MFN is withdrawn, the United States would lose the critical leverage needed to help the Chinese people." That is not President Bush talking. That is one of the four leaders of the democracy movement, who certainly knows his country better than most of us.

What is at issue is less a question of indignation than a question of judgment on how the American people can best play a role in influencing Chinese policies and liberalizing Chinese institutions. I believe just because we have seen great changes occur in Eastern Europe and even the Soviet Union, we have to understand the history of China. It will take a long, long time. As Senator BAUCUS said yesterday, it might even be something beyond America's strength and America's capability to literally cause a major change in China.

History provides ample precedents showing that almost every effort to coerce China through economic isolation has failed. On the other hand, almost every U.S. step toward constructive dialog has been met with some kind of liberalized response.

President Bush and his policy of engagement has resulted in an accounting of the participants from Tiananmen Square and the release of 970 detainees. Fang Lizhi was released as part of that dialog. The Chinese Government has made public commitments on its effort to prevent the export of prison labor products and has made positive assurances regarding family reunification. In addition, the Chinese are moving in the right direction on nonproliferation. Recently, they participated in several key meetings dealing with arms control.

I think we should follow the course set by President Bush. When I first heard his approach, frankly, I wondered whether it was right. But in the ensuing months, being able to participate to some extent and watching what occurred in committees that had jurisdiction, it appeared to me that the President was once again right. The letter he wrote recently to Senator BAUCUS of Montana, is a good game plan, one that we ought to be pursuing, one that we can do and yet retain MFN with China. Targeted sanctions are in place: These include termination of military exchanges, denial of export licenses, export restrictions on supercomputers, communications satellites, and a number of other initiatives.

We remain opposed to all World Bank lending except for basic human needs. The special 301 investigation on intellectual property is moving ahead as it should. It should not be handled in this legislation. It ought to be handled under the law that creates that set of processes and procedures for addressing unfair trade practices.

Denying MFN will cause aging Chinese leaders to become even more isolated, less inclined to meet internationally recognized standards of human rights to correct the trade imbalance or to comply with nuclear nonproliferation.

In formulating this policy, it is valuable to look at history.

A nation-state, as China has been, is the longest running show around—3,000 years. Much of it has been in isolation with little or no regard for what others thought or for human rights. They evidenced little interest in trade. This history lesson should teach us that isolating China does not bring about democratic principles.

Prior to the opening of relationships in Beijing in 1971, the United States sought for two decades to isolate China economically and politically. The United States has virtually no trade with China, few social political contacts, and almost no ability to influence its policies.

President Nixon's historic opening to China enabled us to begin to discuss issues of mutual concern. However, it was not until MFN status was granted to China in the late 1970's that our relationship grew and we truly began to interact with the Chinese on a wide range of issues.

The granting of MFN also profoundly increased access to Chinese society and our impact on economic and political reform within that country. Withdrawing or conditioning MFN for China threatens all that we have accomplished over the past two decades. I believe we have accomplished something. I do not believe we would have had the outpouring for democracy that occurred in Tiananmen Square if we had continued to isolate China. It was, indeed, an indication we were getting through to the hearts and minds of the Chinese people.

The world is changing rapidly. A new world order is in the making. Almost 1 out of 5 people living on this Earth now live in China. There is over 1 billion, some say 1.2 billion, 1.3 billion, others say 1.1 billion living in the country of China, all striving for something better.

When Mao was Premier, he talked about the four modernizations and the four musts. The four modernizations were in industry, agriculture, science, and technology, and national defense.

The four musts were the Chinese equivalent of the American dream and the outer limit of materialist yearnings that Chinese could hope to aspire to own—a bicycle, a radio, a watch, and a sewing machine.

In the era of Deng Xiaoping economic well-being progressed so that people now aspire to the three highs and the eight bigs. The three highs are what a man needs to get a good wife: A high salary, an advanced education, and a height of over 5 feet 6 inches. The eight bigs are a color television, a refrigerator, a stereo, a camera, a motorcycle, a room full of furniture, a washing machine, and an electric fan.

There is a tremendous potential market there that we should not abandon. If we end MFN for China, it is almost certain China will retaliate against American exports. The $5 billion in United States exports to China will almost certainly go to American competitors in Japan, West Germany, and other Western nations. The Australians, Canadians, and Europeans are especially anxious to take American grain markets from the United States.

Instead, we should grant MFN and continue our policy of engagement on specific issues.

We should continue to reach out to the Chinese people. We should do what we can to stop the grim cycle of protest and repression in China. If we deny MFN we abandon the people of China and we really act against our own interests.

In summary, let me suggest that it becomes ever more evident we ought to be voting with our heads and not our hearts.

The conditions should be attached separately and achieved separately, not as a part of the granting or denying of MFN.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Thank you Mr. President.

Mr. President, I rise for purposes of offering an amendment to improve the condition of Senate bill 1367. This condition would require China to reduce its economic trade with Cuba.

Mr. President, there are many good reasons for voting for this bill. China has a miserable human rights record, which has been well documented during this debate. They continue to export arms to volatile regions of the world. And they cheat on their U.S. trade quotas.

This bill appropriately addresses those concerns. What it does not address is the question of the blossoming relationship between the hardliners in Beijing and Fidel Castro, the last dictator in Latin America.

At a time when many Senators oppose granting MFN to the Soviet Union because of its continuing economic ties with Cuba, is it not appropriate that we should apply the same standard in regards to the China-Cuba relationship.

Cuba is increasingly isolated. And yet China is one of the few countries in the world today that is forging closer economic, political, and cultural ties with the Castro government.

Perhaps their shared view toward human rights have brought China and Cuba together. Cuba refused to condemn China for the Tiananmen Square massacre and China refuses to support U.N. sanctioned efforts to investigate human rights violations in Cuba.

Whatever the reason, these two hardline regimes are daily strengthening their fraternal socialist ties, much to the regret, no doubt, of their own citizens.

Trade between China and Cuba has grown dramatically over the past 3 years. Bilateral trade in 1990 was $500 million, a threefold increase over the $150 million worth of trade conducted in 1987.

This year, even though China expects a record sugar harvest, the Chinese are expected to import some 800,000 tons from Cuba in barter trade while cutting purchases from other sources. China is the second largest purchaser of Cuban sugar behind the Soviet Union. By the end of 1988, China was Cuba's third largest supplier of consumer goods.

In fact, China allows Cuba to run a trade surplus. In the first quarter of 1989, Cuba sold China 67 percent more than what it purchased. And in May, China agreed to construct Cuba's first factory to make electric motors.

Mr. President, this is a relationship that is strong and growing stronger. Indeed, officials of both countries say trade and economic cooperation will increase in the future. Castro claims Cuba has much to learn from China's experiences in building socialism. No doubt. Perhaps he can get some hints on how to handle dissidents—although I am not sure he has much to learn in this area. Nevertheless, China has invited Castro to visit; he may as soon as early November.

Mr. President, Castro's economic ties with China are valuable. But he's benefiting even more by making it appear that Cuba is developing a special relationship with China, thereby giving lie to claims of Cuban isolation.

There should be no doubt about Cuba's isolation. Castro attended the Ibero-American summit in Mexico last week and got an earful. Portugal's socialist leader, Mario Soares, called Castro "* * * a dinosaur; that is to say, a prehistoric animal on the path to extinction."

In perhaps the deepest dig of all, Spanish Prime Minister Felipe Gonzalez, another socialist, called on Latin leaders to "* * * relegate guerrilla adventures to the tales of the imaginative novelist that this continent has in such great supply." But perhaps Miami television reporter Bernadette Pardo said it best. A Cuban exile who left Cuba when she was 10 and now reports for the Miami Spanish language station WLTV channel 23, Pardo caught up to Castro long enough to ask why he did not allow a free press in Cuba.

It was a tough interview. She said later that, "It was very sad afterward to think that this one man had changed so many people's destinies. It's almost as if I wish I could have changed him, I could have made him realize how many lives he has wrecked."

Mr. President, Castro continues to wreck a lot of lives. Now he is doing it with China's help.

We continue to pressure the Soviets to cut their ties with Cuba. We should do the same with China.

Mr. President, before I yield I would like to thank Damean Fernandez of Florida International University for his assistance and research on this issue.

Mr. President, in summary, there has been a dramatic increase in trade between Communist China and Communist Cuba, particularly in the period since the fall of the Berlin Wall. As the former primary political and economic allies of Fidel Castro, countries such as Czechoslovakia, and the Soviet Union itself, have receded, and have found Fidel Castro's policies, practices, and intransigence to be incompatible with the new spirit of openness and revolution in central Europe and in the Soviet Union.

Communist Cuba has looked elsewhere for allies. One of those allies has been found in Communist China. In the past 3 years there has been approximately a two- to three-fold increase in trade between Communist China and Communist Cuba. The amendment which I will offer would provide that one of the factors in the determination as to whether to continue the United States most-favored-nation policy toward Communist China would be a demonstration of a reduction of assistance to Cuba, whether in the form of subsidized trade, management of trade balances, or in any other form.

AMENDMENT NO. 803

Mr. GRAHAM. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 803.

On page 7, between lines 16 and 17 insert the following: ( ) in reducing assistance to Cuba whether in the form of subsidized trade, management of trade balances or in any other form.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN] is recognized.

Mr. McCAIN. Mr. President, I rise to support the amendment proposed by Senator GRAHAM. I also have some remarks about it and the entire issue of most-favored-nation status with China.

Mr. President, I think the amendment of Senator GRAHAM is entirely appropriate, since clearly continued assistance to the most and last truly repressive government of our hemisphere is something which is not in the interest of China nor in the interest of peace.

Mr. President, I know of no Member of Congress, indeed, I know of no American, who is satisfied with the policies and practices of the Chinese leadership.

In an era when totalitarianism is approaching extinction, the aging tyrants who rule China persist in ignoring what are now the most obvious lessons of history: That the will to freedom is eternal in all societies, that democratization is essential to the progress of all humanity, that free markets require the participation of free peoples to function effectively.

At a time when the rights of man have gained ascendancy over the prerogatives of the state in one oppressed nation after another, China tragically remains a bulwark for those regimes which still dread the advance of human liberty.

When China's children bravely proclaim their human rights, China's rulers see only a rival claim against their own power and privilege. They respond to the just demands of their people with injustice. They greet the advance of democracy with a retreat from political reform. To paraphrase Churchill, China's leaders thought they had a choice between tyranny and disorder. They chose tyranny now, they will get disorder later.

Mr. President, our dissatisfaction with China's Government is not limited to its oppression of Chinese. Like all my colleagues, I have been gravely concerned by Beijing's role in the most dangerous and destabilizing problem of the post-cold-war world—the proliferation of weapons of mass destruction and the means to deliver them.

I have been appalled by Chinese material support for some of the most violently tyrannical regimes on Earth. The most egregious example of this, of course, is China's support for Cambodia's genocidal Khmer Rouge.

As an advocate of free trade, I am greatly disturbed by China's record of unfair trade practices. It is not the quality of American goods or the superior performance of our competitors that has caused the United States to run a trade deficit with China exceeding $10 billion. It is the theft of our intellectual property, the protection of Chinese markets, the fraud and deception of Chinese textile exporters, and other practices that is at fault.

For all these reasons and more, the American people rightly expect their Government to act forcefully and effectively to convince the Chinese of the error of their ways. And I understand my colleagues' desire to express their dissatisfaction with China's policies and to seek some way to effect changes in Chinese behavior. We are all determined to impress the Chinese with the depth of our aversion to their policies.

The vehicle at hand, of course, is the extension of most-favored-nation status. And I appreciate that many Senators may view the conditioning of MFN as a dramatic way to express our aversion. Such action would be a dramatic gesture indeed, Mr. President, but I fear that it would not serve as the best means to the ends we all desire: China's respect for human rights, for political reform, for international norms of behavior, for fair trade, and for the decent opinions of mankind.

Mr. President, I will not support the denial of China's MFN status. I did not arrive at this position easily. I made this decision after carefully anticipating the consequences of denying MFN, and after examining the other means at our disposal to influence China's behavior. I joined with Senator BAUCUS and other Senators in requesting the administration to identify its policies for affecting changes in Chinese policies. I have reviewed the administration's response to our request and am heartened by their commitment to achieving our shared goals. I have met with Chinese dissidents and found that while many support denying MFN, many others oppose it.

The undesired consequences of denying MFN include the closing of Chinese markets to American exporters, markets that accounted for $5 billion in American exports last year. American farmers, commercial aircraft manufacturers, and fertilizer manufacturers would suffer the most, but they would not be the only Americans to lose vitally important markets.

American retailers that depend on Chinese imports would also be grievously injured by the denial of MFN status. Many toy and footwear retailers could be rendered insolvent by such a decision.

Hong Kong, through which 70 percent of Chinese imports to the United States are shipped, would be enormously affected by revocation of MFN status. Indeed, Hong Kong's incorporation into China was negotiated by the United Kingdom and China with assurances that Hong Kong's unique relationship with the free world and its interdependence with Western economies would not be adversely affected. China's isolation from the United States would certainly jeopardize Hong Kong's future relations with the West.

Closing United States markets to Chinese goods would likely cause China to rely on other markets to secure hard currency. Unfortunately for United States security interests and world stability, one likely source of hard currency for the Chinese would be the international arms market.

There are a great many other likely consequences that argue against revoking MFN. But none of these consequences would have persuaded me to decline denying MFN, if I thought there was no other course for the United States to use in influencing Chinese behavior. There are other means, Mr. President. The administration has availed itself of many of them already. And President Bush has identified several other actions in his response to Senator BAUCUS' letter that has satisfied me that United States policy toward China is intended to strongly represent American interests and values.

Extending MFN status to China does not forfeit the use of economic and other sanctions against China. While other Western countries have pursued normal economic relations with China, the administration maintains in effect a number of severe economic sanctions until China makes substantial progress toward terminating its human rights abuses. For instance, the United States continues to oppose multilateral development loans for China that do not serve basic human needs.

With regard to proliferation, perhaps the most irresponsible of all Chinese policies, the President has taken strong actions to persuade China to abide by responsible norms of international behavior. The President has denied licenses to export satellite components to China, approved sanctions against two Chinese companies because of their involvement in missile equipment transfers, and directed that no new exports of high-speed computers or satellites to China be permitted until the United States is satisfied that Beijing observes international nonproliferation standards.

China's abhorrent use of slave labor to manufacture goods for export has also been the target of administration pressure. The administration has already obtained China's commitment not to export such products to the United States. As he indicated in his response to the Baucus letter, the President is not relying on Beijing's word alone that it will refrain from this despicable practice. He has instructed the Customs Service to investigate reports of slave labor exports and to deny entry to any Chinese products which are reasonably suspected of being produced by prison labor.

I am also encouraged by the administration's detailed response to China's unfair trade practices, as outlined to the signers of the Baucus letter. The President directed that China be investigated under the Special 301 provisions of the Trade Act for its failure to protect United States intellectual property rights, and he has promised to impose trade sanctions in the absence of China's correction of this failure. Moreover, the President has indicated his firm intention to use the prospect of 301 to compel China's cooperation in improving market access to American exports, and to curtail China's illegal textile exports to the United States through third countries.

The President has also informed us that he intends to work actively to promote Taiwan's accession to the GATT. I have long supported such a position, having twice cosponsored legislation introduced by Senator ROTH on the subject, and I applaud the administration's commitment to this goal. United States support for Taiwan's entry into the GATT may be premised on our appreciation for Taiwan's important contribution to the global trading system. However, I feel it is also an appropriate vehicle to register our disapproval with Chinese policies. And I am certain that signal will be understood by China's rulers.

Mr. President, China's responses to the United States' numerous concerns with the many repugnant features of its foreign and domestic policies have not been satisfactory. At times, China has seemed defiant, unwilling to respect international opinion, and seemingly oblivious to the march of history. However, this is not to say that there has been no evidence of Chinese cooperation in resolving some of the issues that concern us.

For example, China has now publicly promised to refrain from further support of the Khmer Rouge. This is long overdue, and the United States should carefully monitor China's compliance with this commitment and be prepared to take immediate and strong actions if China violates this pledge.

Also, China has lately evidenced a slightly better appreciation for United States views on nonproliferation. China played a constructive role in the recent Middle East arms control talks in Paris by endorsing the key provisions of the President's initiative, and has promised further cooperation in this endeavor.

Again, the United States should take the full measure of China's seriousness on this issue before believing these indications of their conversion to the principles of nonproliferation. Chinese sincerity will be more easily believed if they join the missile technology control regime and refrain from exporting M-9 and M-11 missiles. Until then, the United States must be prepared to respond forcefully to any further attempt by China to aggravate this already terrifying international dilemma.

On all the other issues, especially the flagrant abuse of human rights in China, there is yet little reason for optimism. The American people and their elected Representatives are right to expect United States policy to compel, by whatever means necessary, Beijing's belated respect for the values upon which this Nation was founded. The defense and promotion of those values, our impassioned advocacy of freedom, has been the principal pillar of our foreign policy for 215 years. We will not exempt China from our advocacy. I am certain that Senators supporting this bill are guided by that principle.

But the President has made a compelling argument for other approaches to achieve our shared objectives. He has on numerous occasions proven his competency as the steward of American foreign policy to the widespread satisfaction of the American people. I will not deny him his leadership of the policy.

Surely, Senators will not suggest that the President's commitment to freedom in China is any less firm than our own. Nor, given his many foreign policy successes, can we doubt his ability to effectively protect American security interests abroad. I intend to support the President and vote against S. 1367, and I urge my colleagues to do likewise. By so doing, I am confident that I join the President in the best defense of American values and interests, and in hastening the day when history will catch up to the rulers of China.

I support the amendment of my friend from Florida.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, for the majority side, I have examined the amendment of the distinguished Senator from Florida, and I think it strengthens the legislation. I have no objections to it.

Mr. PACKWOOD. Mr. President, I have looked at the amendment, also. I do not like the bill as we have it before us. I find it getting progressively worse. Although this amendment worsens it a bit more, I support it.

The PRESIDING OFFICER. Is there additional debate?

The question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 803) was agreed to.

AMENDMENT NO. 804

(Purpose: To add as a condition for granting most-favored-nation status to China Presidential certification that the Chinese government does not support a program of coercive abortion or sterilization)

Ms. MIKULSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, and Mr. WIRTH, proposes an amendment numbered 804.

On page 7, between lines 19 and 20 add the following:

(7) does not support or administer any program of coercive abortion or involuntary sterilization.

Ms. MIKULSKI. Mr. President, let me explain to my colleagues what this amendment does. It simply adds another condition which must be met before the most-favored-nation status could be granted to China. The condition is this: The President must certify that the Government of the People's Republic of China does not support or administer any kind of program of coerced abortion or involuntary sterilization.

This provision is in the House bill which was advocated by my colleague, Congresswoman PELOSI, and passed the House 313 to 112.

Why is this amendment necessary? Well, it is a human rights amendment. China has taken very stern measures to control its population, which is 1.14 billion. There are horrible reports of Chinese officials forcing women to have abortions, or to be sterilized against their will. If this is true, these crimes against women are repugnant and chilling—the worst sort of human rights abuse. They should be listed in this bill, along with other human rights conditions related to political prisoners, fundamental rights in China and Tibet, and others.

Mr. President, this is an issue with which I am quite familiar. In recent years, I have proposed, and the House and Senate have passed, amendments related to the U.N. Population Fund [UNFPA]. We are not participating in the UNFPA because this administration claims that because UNFPA maintains an office in China, it is therefore participating in the management of a program of forced abortion and sterilization. Since the Bush administration cites forced abortion and sterilizations in China as the reason we do not participate in the U.N. Population Fund, I thought we would apply the same standard to China's most-favored-nation status.

There are those who might say that there is a double standard in our policy to China, and that we have one standard when it relates to family planning, and another standard when it relates to trade; that we have one standard when it relates to women and another standard when it relates to profits.

Is China guilty of these crimes? Well, Mr. President, I do not know. That is why we will look to see if the President will certify that. The State Department's country reports on human rights says that the physical compulsion to support abortion and sterilization is not authorized, but there is evidence that this occurs as officials strive to meet population targets in local areas.

So it seems as if local officials rather than the central government are doing that. I do not have the wherewithal to verify that. But I want to be clear about congressional intent; that it is our intent that the certification apply only to physical coercion—not the system of incentives and punishment—and that this certification apply only to the policy of the central government.

So, Mr. President, we want to make sure that we have a consistent policy and, if the President wants to give trade benefits to governments, that they also have the same opportunity to participate in international family planning efforts.

Mr. President, I could elaborate on this amendment, but I think that essentially is the summary of it. So to recap, the Mikulski-Wirth amendment simply adds another human rights condition for most-favored-nation status: That the President must certify that the Government of China does not support or administer any program of coercive abortion or involuntary sterilization.

I hope the Senate adopts my amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. President, I am delighted to join with my old friend and colleague, Senator MIKULSKI, in sponsoring this amendment. This issue is not new to Members of the U.S. Senate. We dealt with this issue related to support for the U.N. Population Fund year after year after year. We run right into a brick wall every year because the administration comes back and says we are not going to support the United Nations because the United Nations fund coercive abortion programs in China. You end up with an enormous amount of frustration saying all the evidence we have, including that from the administration's own experts, says that is not the case, and yet they come back and make the statement and we lose the support every year.

But this is a "you cannot have your cake and eat it, too" amendment. We are saying to the administration, "If you want to grant most-favored-nation status to China, that is fine, but come back and certify that China is not offering coercive abortion programs.

The administration has to make up their mind. Which way do they want to go on this? It seems to me a perfectly logical situation for us to be in.

All of us are, or should be, concerned about the rapid pace of population growth around the world—particularly in the largest countries such as China. At a current growth rate of 1.8 percent, world population will grow from today's 5.3 billion to more than 6 billion by the turn of the century. Put another way, 274 human beings are added to global population every minute of every hour of every day—400,000 people per day. The best demographic evidence suggests that the global population will double and could triple in the latter half of the 21st century.

The implications of this growth—global environmental decline, pressure on political, economic, and social stability, and increased international conflict over scarce resources—are nothing but staggering. These trends are not perceptible at any given moment—but they are devastatingly clear over time. Indeed, I often wonder if we can comprehend what it means for the population to double. One only has to think about the problems we are having managing resources and the environment in a world of 5.3 billion to understand the magnitude of the challenge our children will face in managing 11, 12, or even 15 billion people.

Think of what is going on in the Middle East. We have all been focused on the Middle East where now population is growing more rapidly. The cadre of childbearing age population is larger than it has ever been. You have a large disillusioned unemployed, uneducated group of people. Their explosive political problem and economic problem, much less the demand on natural resources, is enormous with our current population and yet we are sort of whistling past the graveyard as we do not support the U.N. Population Fund.

Fortunately, the U.N. Population Fund was established to take on this issue. UNFPA is the premier international family planning effort. It conducts programs in about 140 nations, concentrating on the 90 countries whose population will double in the next 30 years. This organization provides one-third of all international funding for family planning programs. Unfortunately, the rising demand for the family planning services offered by UNFPA exceed its resources.

Regrettably, Mr. President, the United States—which pushed for the founding of the U.N. Population Fund—has not provided funding to UNFPA for 6 years. UNFPA is being caught in the contradictions of this administration's policy toward China.

As I mentioned earlier, on the one hand, the administration wants to provide MFN benefits to China. On the other hand, they have defunded the UNFPA because the administration claims it helps manage a concerted government program of forced abortion in China.

Does the Chinese Government manage a program of forced abortion and involuntary sterilization? I simply do not know. As the distinguished Senator from Maryland says, we do not know. If they do, Mr. President, it is such an egregious violation of human rights that I could not support extending MFN benefits to China. No responsible person would support a program of coercive family planning.

For too long, however, Congress has debated whether to provide funding to the U.N. program. Every year, an amendment is offered to the foreign operations appropriations bill to restore the U.S. contribution to UNFPA. And every year, the President vetoes or threatens to veto the legislation. Those who wish to restore funding to UNFPA have argued that even if China has a program of coercive abortion, UNFPA does not participate in the management of China's population program. Out of $1 billion in expenditures on family planning the United Nations provides only 1 percent, or $11 million, in funding. There are more than 200,000 individuals participating in family planning in China—UNFPA has four staff members in China. How can this organization—which represents only a small fraction of the overall effort in China—be helping to manage the program? It is nonsense.

UNFPA says it does not provide abortions or abortion services. UNFPA has made repeated pledges that it would prevent any United States funds from being used in China for this purpose. UNFPA has agreed to segregate and account for all U.S. funds. And yet the administration persists in withholding funds for population program help in China. Ironically, the programs offered by UNFPA are exactly the type of family planning programs that help reduce the need for abortion.

If we support the United Nations and do a little bit of prevention, we would not have this problem, but the administration does not even see that far.

Properly structured and aggressive family planning helps prevent unwanted pregnancies and the need for painful decisions about abortion.

It is time for the administration to make some choices. If the administration wants to continue MFN status for China, it needs to reconcile the issue of coercive family planning. If China has a program of coercive abortion, it should be held accountable—not a third party that has only four people in the country and provides about 1 percent of the funds for the over program.

If China does not have a coercive program and is thus worthy of MFN status, we should also begin immediately refunding the world's premier international family planning program.

Quite frankly, Mr. President, I am tired of fighting with a small group of ideologues in the White House about the UNFPA issue. We should be funding this organization now. UNFPA is directed by an outstanding and dedicated advocate of responsible family planning, Dr. Nafis Sadik. This organization does not support, provide, or promote abortions services in China. It is the one organization that is able to reach all of the most rapidly growing countries in the world. It is time that we refund UNFPA, and it is time that we fund these major international population efforts.

The amendment we are offering will force the President to decide once and for all what the situation is in China. And again, if the President decides that the Chinese population program is coercive in nature, we should not be extending MFN status to China. It is far past time to settle this debate and devote our full attention to the issue of population growth and global environmental decline. I hope that this amendment will help move us in that direction and I urge all of my colleagues to support the Mikulski-Wirth amendment.

Mr. President, I ask unanimous consent to print in the RECORD a piece on the U.N. Population Fund.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTS ABOUT THE UNITED NATIONS POPULATION FUND [UNFPA]

APRIL 1991.

WHAT IS THE UNITED NATIONS POPULATION FUND?

UNFPA is the largest multilateral provider of population and family planning assistance to the developing countries. The Fund was established in 1969 with strong encouragement from the United States. UNFPA is totally funded by voluntary contributions.

WHAT IS THE SCOPE OF UNFPA OPERATIONS?

In 1990, UNFPA provided support to 138 countries: 43 in Sub-Saharan Africa, 37 in Latin America and the Caribbean, 34 in Asia and the Pacific, 16 in the Arab States of North Africa and the Middle East, and eight in Europe, including six in Eastern Europe. Approximately one-third of all population aid to developing countries goes through UNFPA. Since 1969, the Fund has provided a total of $2.2 billion in population assistance to virtually all developing countries. The largest share goes to the most populous region, Asia, although Africa is receiving a growing proportion of UNFPA allocations. UNFPA assistance to all regions has continued to increase. The demand for population and family planning assistance from developing countries is increasing rapidly and far exceeds the available of UNFPA funds.

WHAT IS THE UNFPA POLICY ON ABORTION?

UNFPA does not provide support, nor has it ever provided support, for abortions or abortion-related activities anywhere in the world. This is in line with the recommendation of the 1984 International Population Conference in Mexico, which was affirmed by the UNFPA Governing Council in 1985. The Council's decision states that it is "the policy of the Fund . . . not to provide assistance for abortions, abortion service, or abortion-related equipment and supplies as a method for family planning." Neither does the Fund promote or provide support for involuntary sterilization or any coercive practices.

DO UNFPA-SUPPORTED PROJECTS HAVE ANY IMPACT ON ABORTION RATES?

As the provision of maternal and child health and voluntary family planning services and information is unquestionably the most effective means of preventing abortions, and as the greater part of UNFPA's assistance goes for projects in these areas, UNFPA should be in fact be recognized as a signficant factor in reducing the number of abortions in developing countries around the world.

WHAT IS THE UNFPA STAND ON HUMAN RIGHTS?

All UNFPA funds are utilized in line with the human rights language that is included in all UNFPA country program documents. This language requires that all UNFPA-funded projects must be undertaken "in accordance with the principles and objectives of the World Population of Action: that is, that population policies should be consistent with internationally and nationally recognized human rights of individual freedom, justice, and the survival of national, regional and minority groups; that respect for human life is basic to all human societies; and that all couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so."

WHO CONTRIBUTES TO UNFPA?

The Fund's major donors are: Japan, the Federal Republic of Germany, the Netherlands, Norway, Sweden, Finland, Denmark, Canada, the United Kingdom, Switzerland, and Italy. In 1990 there were 106 donors, most of them developing countries who wish to demonstrate their confidence in and support to the Fund. Contributions to UNFPA are voluntary, and are not part of the regular United Nations budget. UNFPA's income (provisional) in 1990 totalled $212.4 million, an increase of 13.9 per cent compared to 1989. From UNFPA's inception until 1985, the largest donor was the United States Government. However, the US has not contributed to the Fund since 1985.

WHAT ARE UNFPA'S SPECIFIC AREAS OF ASSISTANCE?

Nearly half of UNFPA assistance goes towards maternal and child health care and family planning. Another 18 per cent goes for related information, education and communication. The Fund also provides support for population data collection and analysis, research on demographic and socio-economic relationships, policy formulation and evaluation, the status of women, and population and environment.

ON WHAT BASIS DOES UNFPA PROVIDE POPULATION AND FAMILY PLANNING ASSISTANCE?

UNFPA uses a set of criteria to determine which developing countries are most in need of population assistance. The criteria are based on: national income, family size, population growth, infant mortality, rural population density, and literacy among women. There are 56 priority countries, and 31 of them are in Africa. More than 70 per cent of UNFPA assistance has gone to priority countries in recent years. The target is to reach 80 per cent by 1983.

DOES UNFPA PROVIDE ASSISTANCE TO NON-GOVERNMENTAL ORGANIZATIONS?

Over 10 per cent of UNFPA assistance goes to non-governmental organizations. UNFPA was among the first of the UN agencies to support national and international NGOs and to recognize the advantages of the NGOs special expertise, innovative approaches and grass-roots experience.

DOES UNFPA MONITOR THE PROJECTS IT FUNDS?

A strict account system, periodic audits, and monitoring and evaluation reports ensure that UNFPA funds are used only for the activities stated in project documents. UNFPA is held accountable to its Governing Council for every penny it receives in contributions, and for every penny it distributes in assistance.

TO WHOM DOES UNFPA REPORT? WHO GIVES IT DIRECTIONS?

UNFPA is a subsidiary organ of the United Nations General Assembly. UNFPA also reports to the Governing Council of the United Nations Development Program which is its immediate governing body, and receives over-all policy guidance from the United Nations Economic and Social Council. The United States is a member of the General Assembly, the Governing Council of UNDP, and the Economic and Social Council.

WHAT IS THE UNFPA MANDATE?

UNFPA's mandate, established in 1973 by the Economic and Social Council of the United Nations, is to: (1) build the capacity to respond to needs in population and family planning; (2) promote awareness of population problems in both industrialized and developing countries and possible strategies to deal with these problems; (3) assist developing countries at their request, in dealing with their population problems in the forms and means best suited to the individual country's needs; (4) assume a leading role in the United Nations system in promoting population programs, and to co-ordinate projects supported by the Fund.

FACTS ON UNFPA AND CHINA

DOES UNFPA PARTICIPATE IN THE MANAGEMENT OF THE CHINESE GOVERNMENT'S POPULATION PROGRAM?

UNFPA does not participate in the management of the China program. Assistance from UNFPA amounts to less that 1.1 per cent of the total cost of the China national program (estimated at about $1 billion), and UNFPA has control only over UNFPA funds which are used for specific and stipulated purposes. As decided by the UNFPA Governing Council, UNFPA assistance for the period 1990–1994 can be used only for the following: (1) to provide better quality and more reliable contraceptives; (2) to extend maternal and child health care and family planning services to the 300 poorest counties where infant mortality rates are highest; (3) to develop special income-generating and community development projects to improve the lives and status of women; (4) to strengthen information, education and communications activities, particularly at the grass-roots level and among young people; (5) to improve contraceptive and demographic research; and (6) to improve the status of certain groups in the society, such as the young and aged, women, and ethnic minorities.

HOW ARE UNFPA-FUNDED PROJECTS IN CHINA ADMINISTERED

Nearly all UNFPA assistance to China is administered ("executed," in UNFPA terminology) by other United Nations organizations and by international non-governmental organizations, which also provide technical assistance in their specific fields of expertise. Of the approximately $16 million that has to date been allocated to projects in China for the period 1990–1994, ninety-nine per cent goes to the executing agencies, and one per cent to the Government of China. Among the executing agencies are the World Health Organization (WHO), the United Nations Children's Fund (UNICEF), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Department of Technical Co-operation and Development (DTCD), and international non-governmental organizations.

WHAT ARE SOME EFFECTS OF THE UNFPA ASSISTANCE TO CHINA?

UNFPA-assisted projects have helped to prevent large numbers of unwanted pregnancies in China by making available safe and more effective contraceptives to replace less effective ones which had high failure rates. Three million improved IUDs are produced annually with UNFPA funding. The use of these three million IUDs would result in 324,000 fewer unwanted pregnancies. Fewer unwanted pregnancies result in fewer abortions. Another effect of UNFPA assistance has been the reduction of infant and maternal mortality rates. In UNFPA-assisted pilot areas, infant mortality rates have been reduced to between 12 and 20 infant deaths per thousand births, as against the national average of 32 infant deaths per 1,000 births for the period 1980–1985.

DOES UNFPA SUPPORT COERCIVE ACTIVITIES IN CHINA?

UNFPA does not provide support for coercive activities in China or anywhere in the world. UNFPA funds are used only for specific purposes described in detail in comprehensive project documents, which are prepared according to UNFPA guidelines, which provide lists of the activities that can be funded by UNFPA.

DOES UNFPA PROVIDE ASSISTANCE FOR ABORTIONS IN CHINA?

UNFPA does not provide support for abortions or abortion-related activites in China or anywhere in the world.

The PRESIDING OFFICER. Is there further debate?

The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, if there is no further debate or no Senator seeking recognition, the manager for the majority of this legislation has looked at the amendment and has no objection to it.

Mr. PACKWOOD. Mr. President, as I made clear, I do not like adding amendments unrelated to emigration. But if we are going to add amendments, this is the most meritorious of the ones we have had so far, and the most meritorious of the ones we have heard about. To that extent, on the substance, I find it acceptable. I just wish we were not having any of these amendments.

The PRESIDING OFFICER. Is there additional debate?

If not, the question is on agreeing to the amendment of the Senator from Maryland.

The amendment (No. 804) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. Without objection, a motion to lay that motion on the table is agreed to.

Who seeks recognition?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested, and the clerk will call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Will the distinguished Senator yield for a unanimous consent request?

Mr. ROTH. I will be happy to yield to the chairman.

Mr. BENTSEN. As manager of the bill, I have discussed with the majority leader and, in turn, with the Republican leader, a unanimous-consent request that the time between now and 12:30 p.m. be limited to debate with no amendments at that time, anticipating a recess being called for the caucus of both parties.

The PRESIDING OFFICER. Is there objection to the request for unanimous consent? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I rise in strong opposition to S. 1367. What we are really considering here is the eventual elimination of most-favored-nation treatment for China under the ruse of conditions. These conditions cannot and will not be met and no one should fool themselves over what is at stake in this debate.

Mr. President, I urge my colleagues to ask themselves two questions before deciding whether to support the measure now before us. The first is will it achieve the goals sought by its proponents? The second is how much importance does this body place on bolstering U.S. exports and competitiveness?

The answer to the first question is a resounding no. Not only will S. 1367 not bring about the desired objectives in human rights, trade, and weapons proliferation, it will lead China further in the opposition direction to the severe detriment of the people of China.

It will also inflict irreparable harm on China's neighboring countries and gravely affect our overall bilateral relationship with China.

I find it ironic that the very people we seek to help will be hurt the most if this legislation is enacted—those who are the most proreform oriented and offer the best hope for economic and political liberalization in China. Above all, they are represented by the Chinese people in the southern coastal provinces of China, such as the 60 million residing in Guangdong Province, the ancestral homeland of the vast majority of Chinese-Americans.

It has been precisely through the contact brought about by increased trade with the United States that has allowed provinces such as Guangdong to develop along market economy lines and, as a result, to improve the economic lot of the Chinese people. These changes, in turn, have been central to nurturing strong proreform political roots.

It is notable that the Central Government's reaction to the protests at Tiananmen Square was not duplicated by the local officials in Guangdong—according to testimony before the Finance Committee, the demonstrations that occurred in Guangdong were relatively peaceful and without violent incident.

Economic liberalization and improved economic conditions leading the way for political reform is nothing new—Taiwan and South Korea are telling models in that regard. Revoking MFN for China would present major roadblocks to this promising reform path and attempt to lead China down a different, much less-promising path. As seen from the examples of the Soviet Union and Eastern Europe, political reform driving economic reform is much more difficult than economic reform driving political reform.

From a U.S. policy standpoint, encouraging trade as an economic lever for political liberalization certainly seems preferable to discouraging trade and being called upon years later to provide massive aid as a lever for economic liberalization.

But the proponents of S. 1367 seem to feel the opposite. They would like to penalize those who have moved in a progressive direction and have depended, in large part, on MFN to do it.

This is underscored by reliable estimations that up to half the total damage to China from revoking MFN would be suffered by Guangdong Province.

The proponents of S. 1367 also fail to factor Hong Kong and Taiwan into the equation. These two vital areas are increasingly integrated into the Chinese economy and have played a direct role in China's reform process. Hong Kong's fate, above all, is tied to China.

As it approaches the 1997 date for returning to full Chinese sovereignty, the United States should build stability and confidence among the people of Hong Kong, not the fear and economic disruption that would be caused by eliminating China's MFN status. In preserving MFN, the bastion of freedom and free enterprise in Hong Kong will be strengthened and will continue to serve as a dynamic model for all of China.

Chinese dissidents and the people of Hong Kong strongly support continuing MFN. They recognize its critical importance in paving the way for the proreform future of China and the setback to this future if MFN is revoked. I have a June 4 editorial here, which I ask unanimous consent be printed in the RECORD, written by one of the last four hunger strikers on Tiananmen Square.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 4, 1991]

FAVORED TRADE WITH CHINA? YES. USE IT AS LEVERAGE

(By Gao Xin)

As one of the last hunger strikers on Tiananmen Square in 1989, I can understand the anger that many Americans feel toward China's hard-line rulers. I share that anger, but not the conclusion that the United States should cut off China's most favored nation trading status.

Canceling MFN would help the hard-liners in what they have been unable to achieve on their own—a reassertion of control over the non-state and more progressive sectors of China's society and economy.

In the two years since the Beijing massacre, the central authorities have been unable to regain control over reformist strongholds such as Guangdong province on China's southern coast. Chen Yuan, deputy director of the People's Bank of China and son of conservative leader Chen Yun, has publicly admitted this. If MFN is withdrawn, it will be areas such as these that will be most adversely affected.

It is clear that pressure from the outside world since June 4, 1989, has forced the Chinese government to soften its repressive tactics and ease up on its attempts to strangle certain economic reforms. Despite their hard-line rhetoric, the Beijing leaders have made compromises. They granted permission to astrophysicist Fang Lizhi and his wife to leave the country and have released a number of political prisoners, including "black hand" activists such as Liu Xiaobo. This is perhaps the first time in history that the Chinese Communist Party has responded to such pressures.

Had MFN been revoked last year, it seems to me inconceivable that any of this would have occurred. These concessions were due in no small part to pressure from the United States over the past two years.

Now China has reached a stalemate. The market economy has not yet developed to the point where the reformists can win over the conservatives. But if MFN is restored, it will boost the developing market economy in those areas of the country that are most open to the West. On the other hand, a withdrawal of MFN would give credibility to the hard-line propagandists who proclaim that only socialism and self-reliance can save China.

He Xin, de facto mouthpiece for the conservatives in the government since the crackdown, has virtually admitted that the hard-liners do not want to see any improvement in Sino-American relations. He has written that relations have been characterized by misperceptions on both sides. The Americans mistakenly assumed that China was turning capitalist, and the Chinese were fooled into thinking that the Americans wanted to help China modernize. From the point of view of some conservatives, MFN is part of an American plot to convert China to capitalism.

Of course, U.S. policy makers must address a number of tough issues. The selling of Chinese nuclear and missile technology cannot be condoned, and pressure should be brought not only on the Chinese foreign ministry but also on key military officers to limit such sales and bring China into international discussions to control nuclear and missile proliferation.

While the trade deficit with China is a growing problem, the Chinese have responded to this issue with a willingness to compromise and recently sent a high-level purchasing delegation to the United States.

The Chinese are also likely to compromise on the issue of prison laborers producing goods for export. From my own prison experience, I know that items produced in many prison factories are of such inferior quality that they are noncompetitive, even in the Chinese domestic market. The Chinese leadership will not risk losing MFN over products that represent only a small part of the country's exports.

Since the June 1989 massacre, Chinese intellectuals have placed great trust in the United States and appreciate the pressures placed on the Chinese government. The Chinese people on the whole probably feel more friendly toward Americans than at any time since the founding of the People's Republic more than four decades ago.

During my six months in prison, a sympathetic Chinese police guard assured me that the Chinese government would have to soften its treatment of prisoners because of the worldwide pressures on China. When I heard this I was deeply moved. If not for such help from America and other democratic countries, I don't think that I, and hundreds like me, would have been released so quickly. And certainly without this outside pressure, I would not have been allowed to accept an invitation from Harvard Unversity to come to America and thus have the chance to express my opinions freely.

There are, of course, limits to the effectiveness of international pressure and limits to how much the conservatives can, or will, back down. Wang Juntao and Chen Ziming were sentenced to 13 years in prison for their atttempts to bring peaceful change to China. Many others are still imprisoned under harsh conditions. But in April of this year, two prominent leaders of the workers movement were freed. More recently, the government has permitted the wives of five "counterrevolutionaries" who escaped to the West to leave the country and join their husbands.

In the long run, as the reformers' positions are strengthened and a market economy is established, the system of ownership in China can be changed. Political liberalization will only come gradually and only after economic liberalization. Every step forward will depend on support from the world community. In this respect, American support is crucial.

The MFN debate constitutes a long-term means of continuing to pressure the Chinese leadership to improve its human rights record. If MFN is withdrawn, the United States will lose the critical leverage needed to help the Chinese people.

Mr. ROTH. Mr. President, I would like to read part of this statement by this dissident. He starts out and says that:

As one of the last hunger strikers on Tiananmen Square in 1989, I can understand the anger that many Americans feel toward China's hard-line rulers. I share that anger, but not the conclusion that the United States should cut off China's most favored nation trading status.

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only socialism and self-reliance can save China.

As I said, Mr. President, this statement was written by one of the last hunger strikers on Tiananmen Square in 1989.

This dissident, who was imprisoned for 6 months, supports continuing MFN and emphasizes that its loss would eliminate critical United States leverage in helping the Chinese people.

Even former President Jimmy Carter, known to many as the human rights President, supports retaining MFN for China. The people of Hong Kong, moreover, have been one of the most vocal in expressing outrage to the Tiananmen Square crackdown, as manifested by their huge marches in commemoration of Tiananmen Square victims. Hong Kong, at the same time, has been united in its support for unconditional MFN status for China.

The primary beneficiaries of revoking MFN are the hardliners in the Central Government. They seek every possible means to hold onto to their dwindling power. China is in the midst of fundamental transition and it would be absolutely unconscionable for the United States to provide the golden opportunity for Beijing hardliners to justify greater repression and isolation on external subversive forces. And that is just what we would do by enacting S. 1367; we would play right into their hands.

The other primary beneficiaries of revoking MFN for China are our Japanese and European competitors. This brings me to the second major question my colleagues should answer—how much of a priority do we place on bolstering U.S. exports and competitiveness? If this country believes we need to be competitive in the global economy, then it is high time we stopped using trade as the whipping boy for our foreign policy concerns with other countries.

The measure before us exemplifies this in the worst possible manner for here we are expanding upon an increasingly antiquated cold war trade law and unilaterally threatening to use it to severe our relationship with China for decades to come.

And we are willing to do so without giving serious thought to the fact that it will jeopardize the $4 billion in United States investment in, and the $5 billion in United States exports to, China, and without any serious thought as to what that means in terms of United States jobs and competitiveness. I have watched in the past what happened when we used trade sanctions as a tool for foreign policy. Who did we hurt? We hurt the U.S. farmers by losing major export markets for grain and soybeans.

The problem of short-term thinking among U.S. business appears to originate right here in the U.S. Congress. Just how can we expect United States industry to take the long-term view and get involved in trade when after having encouraged their entry into China we now want to pull the rug out from under them? Why should they now venture into Central and Eastern Europe when we may take similar action against that region down the road? It is about time we stopped telling everyone to do as we say and not as we do.

It has been only 3 years since we enacted the Omnibus Trade and Competitiveness Act, which sought to improve U.S. competitiveness through opening markets overseas. We seem to have forgotten that overriding objective for now we are proposing to shut ourselves out of one the potentially largest markets in the world.

Of course, and while we are talking about cutting off MFN for China, Prime Minister Kaifu of Japan is preparing to visit China, to build better relations. A key focus of Kaifu's visit no doubt will be to expand economic and trade ties, even though Japan had an almost $6 billion bilateral trade deficit with China last year. When it comes to competitiveness, actions speak louder than words.

Breathing new life into a cold war trade law to address all of our concerns with a particular country is not only counterproductive and self-defeating, it is both bad policy and bad precedent. Should we now move along the path of revoking MFN for all countries which do not live up to our human rights standards and which may have unfair trade practices? China is not the only country that does not fully respect human rights—Amnesty International's just-released annual report highlights that human rights abuses continued, and often worsened, in some 141 countries last year. Should we now strictly condition their MFN status? This could lead to Smoot-Hawley reincarnated. So much for the new world order.

Most-favored-nation treatment is a cornerstone of our multilateral trade system. At a time when we are attempting to conclude over 4 years of multilateral trade negotiations to strengthen and improve this system, this body is undermining one of its founding principles. No other country contemplates such action, and we are the only ones for which MFN normal tariff treatment is even questioned as a basic trade right for countries like China. In fact, with the exception of a very few Communist countries, we accord MFN to the vast majority of nations. these include countries such as Iraq, Syria, and Burma.

The proponents of S. 1367 lead one to believe that we have taken no action condemning China's human rights abuses. This clearly is not the case. In fact, we are the only Nation still maintaining the original Tiananmen sanctions. The President has made it clear that we will not normalize relations with China until there is substantial progress on human rights. Other steps have been taken to address our concerns regarding China's policies on weapons proliferation. With respect to our trade problems, we have launched a special 301 case against China for its violation of United States intellectual property rights, and we have been holding bilateral market access talks.

I recently joined my friend and good colleague from Montana, Senator BAUCUS, in urging the President to utilize all the tools he has available in addressing our manifold concerns with China, as well as suggesting additional steps that the United States should take.

In his written response of last Friday, the President made specific commitments along the lines we had outlined. These include aggressive action to prevent prison labor imports from entering the United States and a commitment to self-initiate a section 301 case should current bilateral market access talks fail to yield concrete results. The President has also committed the United States to begin working actively in support of Taiwan's GATT accession, a step I have been urging for some time.

I hope this process will proceed expeditiously with the extablishment of a GATT working party on Taiwan's application in the very near-term.

In sum, Mr. President, I would just like to emphasize that I share the worthy goals set forth in S. 1367. The President shares them as well, and we have and must continue to seek appropriate means to achieve them. Above all, we must work toward supporting progressive change in China, and to do so in manner that is in our own best national interests.

It is my firm belief that S. 1367 would only turn us in the opposite direction. While it might make us feel good here at home, it would be a very short-term sensation. Ultimately, it would harm both ourselves and the Chinese people. For all of these reasons, I intend to vote against S. 1367 and urge my colleagues to do the same.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Illinois.

Mr. DIXON. Mr. President, the heart of the issue on whether or not to renew for 1 year most-favored-nation status for the People's Republic of China, is pressure—how much, and in what form. Strip away the tub- thumping speeches, and the lofty recitations on the theories of moral suasion, and what we have here is a debate about carrots and sticks.

Most-favored-nation status is one of the ripest carrots our Nation can dangle in front of other nations. We all know that most-favored-nation is a somewhat disingenuous term. The vast majority of the nations of the world have such a trade relationship with the United States.

However, China is, and has been, viewed as a special case. The decision in the Carter administration to extend most-favored-nation status in 1980 to the People's Republic was a threshold event in U.S. foreign policy. Because of the historic isolation of China from the rest of the world, because of its population, and frankly, because of the market potential, extending MFN to the People's Republic of China was seen as opening the floodgates of commerce which would transform the Chinese people and the Government.

Tiananmen Square showed us all that a few tanks could stop progress dead in its tracks.

As the aging and crumbling leadership in Beijing continues to cling to its outmoded ideology, the opportunity and responsibility of the outside world to pressure for reforms and change grows ever larger.

In its effort to retrench, the Chinese Government has sought literally to beat the ideas of freedom and democracy out of its people. It has enslaved students, workers, and prodemocracy activists, and locked them away, out of sight. The "trials"—and I use that term loosely, Mr. President—of prodemocracy activists have chugged along at a steady pace, without international observers, or even family knowledge, in some cases. Asia Watch, a human rights watchdog group, uncovered documents that show convincingly that the export of prison made goods is not rumor, but horrible fact.

And we saw my friend, the senior Senator from New York State, hold up those stockings on the floor of this body that were made in Peking jail No. 3.

Were such human rights and trade practices anecdotal, the case for conditioning renewal of MFN would not be so strong. But human rights and prison labor are parts of a foul whole, a systematic attempt by the Chinese Government to be engaged with the outside world, yet insist on operating by its own rules and on its own terms. Our China policy since Tiananmen has, unfortunately, accommodated such behavior. Such a policy is no longer viable, and, indeed, is ultimately harmful.

It has been, and continues to be, the policy of the United States that human rights, fair trade, and one's behavior as an international citizen are legitimate considerations in our bilateral relationship. China has embarked on policies in the areas of nuclear weapons, and weapons technology proliferation, that are potentially destabilizing to the regions in which they have been sold. Continued sales of weapons by the Chinese undermine efforts to bring peace to such regions. Therefore, China's renegade sales are in no one's interest.

The question remains as to what pressure should be brought to bear on China to move it away from its path of political and economic retrenchment. The present policy, I would argue, contains few sticks, and gives the People's Republic the MFN carrot while it routinely runs roughshod over its people, and all principles of fair play and justice.

The release of some Chinese political prisoners, and the Chinese acquiescence on Operation Desert Shield and Desert Storm, are token gestures timed to coincide with actions in the United States related to their trade status. We should not roll over and allow the Chinese to again dictate what our relationship with them will be.

If the Chinese wish to continue to receive the generous benefits provided by MFN, they must meet our criteria. The United States values human rights. We value adherence to international standards of justice. We value a level playing field for trade. These are not inconsequential principles or standards. They are principles applied by the United States to all the other nations of the world.

They are the sticks with which we should prod China to end its unfair, oppressive, and stubborn policies. If the Chinese choose not to change, they don't get the carrot.

Some of my colleagues will argue that there are plenty of other measures in place to move China forward. I would argue that as long as those measures are not linked to China's trade status with the United States, little forward progress will be made by China. In essence, the only carrot that matters to the Chinese is MFN. All else pales by comparison. It is therefore fitting that we utilize MFN status as a means of promoting change. The decision is in the hands of the Chinese Government leaders. Should they allow communist policies to rot away at the fabric of the Nation for another year, they will have chosen a self-destructive course for their Nation.

The choice, Mr. President, is theirs.

Our choice today, is whether to use the tools of our trade policy to achieve the best results. S. 1367 provides the proper balance of carrots and sticks to a policy in dire need of change if China is to be considered worthy of most-favored-nation trade treatment.

I thank my colleagues.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. SIMON. Mr. President, on the matter that is pending before the Senate, I just want to say very briefly that I think we ought to live up to our traditions and send a signal to the people of China that we are believers in human rights. For us to do anything less, demeans our heritage.

I know the political reality is that we are going to get a majority here to favor the Mitchell proposal. I also know the political reality is that the President is going to veto it, and we are probably not going to have the votes to override the veto.

The question is: Is it worth it to send a signal to the people of China that a majority of people in the U.S. Senate side with the people of China in their yearning for freedom and democracy, rather than with their oppressive leadership?

I say, by all means, it is worth it. For us to fail to stand up for freedom is to do less than what we should as a people. It is very interesting. And the Presiding Officer and I are old enough to remember when Jimmy Carter started talking about human rights, and there were those who snickered in the sophisticated circles about Jimmy Carter preaching about human rights.

But the message got across to the people of the world, and we are in a world where democracy and freedom are spreading. There is no question in my mind that a good portion of that is because we stood up for human rights. That is what we ought to be doing again. And my vote will be in support of the Mitchell proposal. I hope the people of China understand clearly that is where the people of the United States are.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. MITCHELL. Mr. President, will the Senator yield for a moment?

Mr. GRASSLEY. Yes.

UNITED STATES-CHINA ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, it is my understanding that several Senators wish to speak on the subject matter of the bill and that there are two possible amendments remaining, neither of which is at this moment ready for consideration. And so I am going to suggest that we extend the period that occurred just prior to the recess for debate only on the bill. I take it there is no objection by any of the Senators wishing to be recognized and that their purpose is merely to discuss the bill. This will give all Senators an opportunity to discuss the bill while the Senators who have remaining amendments prepare them and prepare to offer them.

Mr. President, I ask unanimous consent that the period for debate only on the bill be continued until 3 p.m. and that at 3 p.m. the majority leader or his designee be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues and I particularly thank the Senator from Iowa for his courtesy.

Mr. GRASSLEY. Mr. President, just by way of information for my friends waiting to speak, I probably will only take about 7 or 8 minutes. I would like to address the most-favored-nation status, as the majority leader has suggested.

Mr. President, the granting of MFN tariff status to China was a key element in the process of normalizing our relations with the People's Republic of China and provided a framework for a major expansion of our economic and commercial relations with that giant country.

The overriding question this body must now wrestle with today, in light of the events of Tiananmen Square, is whether it is necessary to condition MFN in order to promote further reform in China? And I do not question the good motives of our colleagues who are trying to promote that concept, but I guess I disagree with it.

In addition, we also need to consider the effect conditioning MFN will have on the United States economically, and whether it is in line with our foreign policy objectives. And I would say it is neither good for us economically nor is it in line with our overall foreign policy objectives.

Another question focuses on whether conditioning MFN would have a major impact on Hong Kong's free market economy, which depends heavily on United States-China trade, as well as the health of export industries in south China.

I have had the opportunity to hear many individuals testify before the Finance Committee, met with others in my office, and had others write to me directly on this issue particularly many letters from my own constituents. After digesting all of this information I have come to the conclusion that while United States-China relations still cannot return to normal under current circumstances, withdrawing China's MFN status would harm vital United States interests.

My concerns for denial of MFN with or without conditions brought me to some of the following considerations.

Loss of MFN would spark retaliation of industrial and agricultural goods, threatening billions in U.S. exports and over 100,000 U.S. jobs.

United States leverage on a full range of our priorities with China from trade, weapons proliferation, and human rights would be sharply reduced if MFN were effectively terminated.

The United States is already using existing trade law, export controls, suspension of military and nuclear cooperation, and other methods to address our various problems with China.

Not granting unconditional MFN to China will only abandon this market to the Japanese, the Europeans and others who automatically give China unconditional MFN status.

To end MFN for mainland China will barely pinch Beijing's aging leaders who are the authors of the repression. Instead, it will hurt reformers in China, consumers in America and deal a heavy blow to Hong Kong.

Lastly, on the issue of human rights, our continued strategy of sanctions and engagement has led to the release of about 1,000 political prisoners, freedom for prominent dissident Fang Lizhi and his family, public commitments to prevent the export of prison labor, and positive assurance of reunification cases. The Chinese have agreed to have a high-level human rights dialog with the United States. This new dialog would likely be one of the first casualties of MFN withdrawal. Emigration and student travel to the United States, which has continued since Tiananmen, would also suffer.

Farmers have long been suspicious of attempts to use food as a weapon, and we would be using food as a weapon, or to send a message to some real or imagined international outlaw. Nearly all past attempts to punish foreign governments have resulted in drastically lower prices for American farmers and less food for the oppressed people our action is supposed to be saving. However, there are some generally recognized standards for making such international actions work. One necessary measure is to make such action multilateral. This ensures that others do not snatch away your markets. Another is to make such action across all commodities. Neither of these two activities are present with China.

Idealism will cost our economy, and particularly, for me, our agricultural economy, dearly.

Although wheat is the major United States agricultural export to China, this trade is important for my State of Iowa, even though we do not raise much wheat. First of all, the effects of a healthy agricultural economy spill over from sector to sector and region to region. The reverse is often also true. One example of this phenomenon is that when wheat prices become low, livestock producers will substitute wheat for corn in their animal feed rations. This has been occurring in sections of the United States over the last 9 months as a result of burdensome wheat stocks. Low wheat prices lead to feed substitution which displaces corn usage resulting in low corn prices—a phenomenon on my State right now.

Denying the Chinese MFN will in effect tell them to search elsewhere—to go buy the same commodities from our competitors in the European Community. As an important export market for our agricultural commodities, I don't see how I will be able to tell Midwest farmers how lower corn prices are going to make conditions any better in China, as long as China continues to buy all the grain they need even if they get it from the European Community.

Iowa farmers have been through this before and they are smarter than that. They have learned painful lessons from the past and do not wish to see the United States Congress experiment again with their livelihood, as we did with the last Soviet grain embargo in 1979 and 1980.

Let me be perfectly clear that it is not my intent to be critical of anyone who is on the opposite side of this issue from myself. Rather, I believe we all want too see greater respect for human rights, a stronger Chinese commitment to weapons nonproliferation and fair trade, and a continuation of positive social, political, and economic change. The question is how best to achieve these goals.

I don't believe that using MFN is the proper or most effective way to accomplish these goals. We are already pursuing our differences with China through a number of channels. There's no question that more needs to be done and that more can be done.

For instance, I would like to tell this body about a bill that I am a cosponsor of, that would encourage American companies operating in China to abide by specific principles. These principles include the protection of human rights and the environment, as well as the promotion of democratic values. It's only appropriate that companies benefiting from Chinese trade, be willing to aid the progress toward reform in China.

In addition, I have supported a proposal by Senator HELMS that would create a private right of action against those who import goods produced by slave labor. Mr. President, these are the kind of initiatives that we should be pursuing—not conditioning MFN status.

If MFN is the proper vehicle for venting our spleen on these matters, then why are we not discussing MFN status that exists with Iraq or Libya, or even more recently the Soviet Union in light of their human rights abuses? Why are we not discussing MFN status with Japan in regard to its unfair trading practices?

No, Mr. President, we are not discussing these matters. And I am concerned that this debate has become more of a domestic political issue than a prudent discourse on how to bring about effective change in China. Just look at the Finance Committee vote on this bill. By a straight party-line vote, this bill was reported out of the committee without recommendation. The votes did not even exist to report it out favorably. I think the Finance Committee action gives us a good idea of what is yet to come.

Mr. President, I look forward to moving beyond this debate, so hopefully Congress can work with the administration in pursuing more effective and appropriate means to accomplish the goals in which we all agree.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. I thank the Chair. It is not very often I disagree with my friend from Iowa. Let me make a point, that it is not an idealism that is being rejected, but a dependency that is being embraced. If money becomes more important to us than the principles and ideals of this country, some years down the road that dependency will create an intolerable inability to assert any posture.

The United States granted MFN in 1980 to encourage the economic liberalization that was beginning in the late 1970's. Earlier in that decade, we recall the 1972 efforts of President Nixon to open relations with the People's Republic in hopes of bringing that country into the community of nations. And, indeed, the opening exposed Chinese people to democratic ideals and the wonders of a free market.

The United States went on to normalize trade relations with the People's Republic of China, and later to grant them MFN trading status. But let me emphasize that it is a grant; it is not a right. Throughout the 1980's, privatization was encouraged, special economic zones were established, central government control over microeconomic decisionmaking was relaxed. Our country, indeed the world, was heartened and encouraged by their behavior. Perhaps, we hoped, irreversible, if incremental, change was finally underway. Many asserted that on this floor.

But as we watched the tanks of the People's Liberation Army roll toward the peaceful demonstrators of their own race and country, our faith in the Government of the People's Republic of China was challenged. As happened before, the Chinese Government retrenched. Change had not been irreversible. After the bloody crackdown on June 4 and ensuing purges of reform-minded Government officials, hardliners regained control and began dismantling the progress that had occurred in the decade prior.

So, despite what we wanted to persuade ourselves to believe about the People's Republic of China, it remained an autocratic state, answerable to no one, especially to its people.

The Beijing regime continues its murderous and illegal occupation of Tibet, Mr. President. We hear very little of that. This is an occupation which has killed 1.2 million people, a full 20 percent of a country's indigenous population. Virtually in silence we have witnessed the eradication of one of the world's oldest religions and cultures.

It has become clear to this Senator that the People's Republic of China does not view MFN as a privilege for its nonmarket economy but as its automatic right. And why should they not? Judging by their behavior and our response to it, they have no reason to fear that their preferential treatment will be threatened.

For 2 years, despite the horrors of Tiananmen, we have agreed not to condition most-favored-nation trading status for the Chinese. For 2 years we have allowed the President his prerogative to run the "China account." And while it does not relate directly to our debate here today, I would like to commend the President with regard to the rest of China, free China—Taiwan. In his response to Senator BAUCUS' letter, the President pledged to work actively to resolve Taiwan's application to the GATT in a favorable manner and so it should be. Taiwan is a country that in both freedom of economics and freedom of politics has earned inclusion in the GATT. But to do right by the people of Taiwan does not justify ignoring the calls for freedom by the people across the strait.

In the opinion of this Senator, with regard to the mainland, the President has exercised his prerogative with a lot of talk and very little action and with even fewer results. The Chinese people today see less, not more freedom. The climate for democratic change has worsened. Leaders in Beijing have taken a hard line toward intellectuals, and they have sought to impose their ideological uniformity on the people.

As in the era of Mao Zedong, the urban populace is forced to engage in weekly political study sessions. Censors monitor and ban artistic works. Leading universities are under intense pressure. Voice of America radio is jammed. The propaganda apparatus organizes campaigns to recall and emulate heroes of the cultural revolution era.

Trade barriers in China have gone up. China's surplus with the United States will approach $12 billion this year. Mr. President, that is no coincidence. In documents with restricted circulation, government officials state explicitly the importance of seeking foreign markets through the use of forced labor. In 1989, one official wrote:

> The development of a foreign-oriented economy is an important aspect of China's economic development strategy. It is also a brand new task assigned to the labor reform enterprises. * * * In my opinion, the labor reform enterprises should * * * adopt effective policies and energetically develop [a] foreign-oriented economy.

That is an official statement, but it is an official statement to earn hard currency and not economic freedom.

Trade with China is becoming one way, with the Chinese becoming ever more aggressive in United States markets while simultaneously erecting trade barriers to United States goods. And let me add that the United States is not the only country to maintain a trade deficit with the People's Republic of China. Japan maintained a $5.8 billion deficit with the Chinese in 1990 while the European Community had a $6.8 billion deficit with China.

While ignoring accepted rules of trade for many products, the People's Republic of China has become a rogue trader in sophisticated weapons capable of mass destruction.

Does this not beg the question that others state about how seriously we ought to be examining the behavior of other countries with this privilege?

All of us have reason to worry about the sale of ballistic missiles and nuclear technology to the Middle East and other countries in the world. If the gulf taught us anything it was that the missile proliferation is not a theoretical or academic concern, but a very real threat with real and potentially fatal consequences for American service men and women.

At the G-7 summit in London, leaders of the world's seven major democracies pledged to strengthen the United Nations and limit international arms sales so as to avoid repeating disasters like the Persian Gulf and its aftermath, and the same G-7 leaders, along with President Gorbachev, followed immediately with the recommendation that we grant MFN status to the Chinese.

Mr. President, it is hard to imagine more inconsistencies from the leaders of the greatest countries in the world.

How is it that they can sit back and watch what China is doing?

I am sure that the administration would say that the effort to control missile proliferation must be conducted through other channels, their favorite battle cry in our debates responding to the cynical ways of the old men in Beijing. But I, for one, have grown weary of this approach, an approach which has achieved precious little despite the tough rhetoric. Clearly little, if any, of what the President hoped for has come to pass. Even worse, the Beijing regime admits nothing and promises nothing. While even the most careful analysis and the most reasoned approach cannot guarantee the actual results of a nation's policy, one thing is predictable and guaranteed: If you do nothing, nothing happens. There is no better example than the administration's "do-nothing new" attitude on China, and the "nothing is improving" response of the old men in Beijing.

In short, our renewal of MFN trading status without any conditions for the last 2 years—without telling the old men in Beijing that we are serious—has empowered them. We have encouraged them. Certainly that was not intended, but it is the result. So now in the face of Beijing's threats to retaliate, we bow.

While MFN on its own does not implicitly condone another government's behavior, unconditional renewal on top of a whole list of concessions—secret envoys to Beijing, receiving a high-level delegation in Washington when we supposedly banned such "high-level government exchanges," winking at World Bank and Asian Development Bank loans when clearly they exceed the exceptions for "basic human needs," and generally failing to send a unequivocal message to Beijing that the United States does not condone their behavior—is an objectionable state of affairs that desperately needs mending.

Some folk make much of the relatively free market and progressive atmosphere of China's southern provinces and I salute that and wish for more. Citing the huge strides made by democracy-advocates there, those favoring unconditional renewal of MFN assert that conditions—and thus the possibility of MFN's revocation—would only hurt the good guys and would not harm the old men in Beijing. But, it would not hurt them, the leaders in Beijing would not really care one way or another if it was renewed. Their actions, their threats to retaliate if we put conditions on MFN, which of and by itself, incidentally, is a condition—suggest otherwise. If they really do not care, then why has Beijing just hired Washington's largest and most prestigious lobbying firm, Hill & Knowlton, at some $150,000 a month to lobby on their behalf?

Mr. President, make no mistake, they care. They care very much. The United States currently buys 25 percent of China's $62 billion in exports. United States companies have contracted to invest $4 billion in China since 1979, making the United States second only to investors from Hong Kong and Macao. This is why Beijing is doing its utmost to prompt us in our decision today. This is why the Chinese Government is paying Chinese students in the United States to lobby against their own conscience on behalf of a regime only months ago they decried.

The argument that the involvement of American business in China has been a force for good is, overall, correct. It is my hope that ultimately it can continue. But at some level, at some time, we must look beyond profits, look beyond pure economic interests and consider two important facts. First: doing business is risky. It is more so in China—a country characterized by dramatic vacillations in the policies governing economic and political life.

But business investment is never a sure thing and if we buy into the argument that it should be, we obfuscate the most basic elements of a free market—risk taking and all the unknowns that characterize everyday business decisions. Second: profit seeking that is devoid of any moral basis is just plain wrong. America does not need that kind of dependence. To subvert the cause of freedom for the security of future profit streams is to engage in a perverse twisting of the notion that trade is always a force for good. If our foreign policy is indeed an extension of our ideals, how can we fail to encourage the basic principles which order our own society?

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I once again rise in strong support of the bill introduced by the distinguished majority leader to deny the People's Republic of China most-favored-nation trade treatment. Indeed, I would go even further. I have introduced legislation to immediately terminate China's MFN status, but that is not the issue before us today.

On June 4 of this year, 200 Chinese students assembled at Beijing University to mourn the second anniversary of the Tiananmen Square massacre, while the Chinese Government still steadfastly refused to acknowledge the deaths or the Chinese military's direct involvement in the massacre. More people would have attended, but the Government threatened reprisals against the peaceful demonstrators. Our President commemorated the anniversary a month later by once again trying to rally Congress to support his efforts to extend MFN status to China without conditions.

In the 2 years since the massacre, China has done nothing to demonstrate it is deserving of such treatment in international trade except to slide backward into the mire by further violating human rights. President Bush believes that we must allow China time to meet conditions laid out last year when he extended China's MFN status. We could examine the steps it has taken to meet these conditions. That will not take much of our time. Why? Because only minimal steps have been taken.

Indeed, the Chinese Government has had ample time to improve its human rights status and its treatment of its own people. It has had time to show that it is serious about extending to them their basic civil rights. Yet it has not. Two long years have passed since the senile Communist Chinese Government literally trampled the peaceful democracy movement in Tiananmen Square. Since that ruthless crackdown on the prodemocracy demonstrators, China has not yet progressed in meeting its obligations to the world and to its own people. Instead, it has regressed in these considerations.

President Bush attempted to justify his decision to extend this preferential treatment to China in a recent speech at Yale University where he said that "the most compelling reason to renew MFN and remain engaged in China is not economic; it's not strategic but moral." Moral for whom? I ask my colleagues, what is moral in rewarding a country which has refused to demonstrate any willingness to change its own oppressive policies in order to join the community of civilized nations? And what can be said about the morality of our country if we continue to ignore the atrocities and human rights violations by China?

The sad truth is that President Bush has essentially offered nothing constructive to the process of Congress' repeated attempts to hold China's feet to the fire on human rights issues. He pursues his counterproductive veto strategy, and makes policy by threatening vetoes. This can only serve to solidify the Chinese leadership against making any changes. They bcome even more convinced that President Bush will protect them and refuse to change their current repressive tactics. Thus the United States in put in the position of supporting this brutal regime.

It does not make any sense to examine the steps China has taken to demonstrate adherence to international principles of human rights because the steps are almost nonexistent. The Chinese Government has continued to persecute Chinese academics, journalists, police, and Government officials who demonstrated sympathy for the democratic movement. It has further restricted the international travel and study of any of those students who supported the prodemocracy movement in China.

Faced with the prospect of stiff sanctions during last year's MFN debate, the PRC released 200 prisoners incarcerated for nonviolent demonstrations. It later allowed physicist Fang Li-zhi to flee China to the West. You will recall that Dr. Fang had to take refuge in our embassy because he faced persecution and severe punishment, perhaps even the death sentence, from the Chinese Government. Ultimately this was to our immense advantage because, since his departure from China, Dr. Fang has accepted a professorship in the physics department at the University of Arizona. Dr Fang had been dismissed from the vice presidency of the University of Science and Technology at Hefei, Anhui, in 1987 for voicing support for the demoracy movement. He was submitted to public vilification and abuse for his prodemocracy ideals. That was also the year he was expelled from the Communist Party. He had become politically visible as early as 1986 when he was accused of helping incite the first demoncracy demonstrations at the university, demonstrations which later spread across the country.

This year, two peace leaders were released as we approached this debate. My colleagues will note that these gestures coincidentally accompanied obvious threats of sanctions and the denial of MFN status. This demonstrated to this Senator that China is vulnerable to sanctions and could be convinced of the need to cease and desist in its current tyranny given appropriate, measured gestures from the United States.

The People's Republic of China continues to hold demonstrators in detention without trial or charge. It has executed more than 273 prisoners of conscience in the wake of the 1989 prodemocracy protests. As Amnesty International has reported, 10,000 Chinese citizens were arrested in Beijing alone for their participation in the Tiananmen demonstrations.

The People's Republic of China has sent unknown numbers to labor camp after harsh, secret trials, when they bothered to hold trials at all. As Timothy Gelatt reported in the Christian Science Monitor of July 11, 1991, "China has been using prisoners undergoing 'reform through labor', including those convicted of 'counterrevolution', to enrich its foreign exchange coffers by producing export goods." The bill before us today strikes at the heart of the issue of slave labor. Who in this body can justify allowing such practices to continue unimpeded?

The People's Republic of China still illegally occupies Tibet. It has reportedly killed 1 million Tibetans in its continued policy of genocide toward these oppressed human beings. The Dali Lama, in his moving presentation to Congress, confirmed these atrocious acts against a peaceful, independent people. The Tibetans are denied freedom of worship in their own country, while the Chinese leadership denies that Tibet is anything other than a contented Himalayan Shangri-la. Eyewitness reports from Tibet graphically refute this.

We have seen reports of Chinese doctors being jailed for removing Government-mandated intrauterine birth control devices from women who wanted more than one child under China's abhorrent birth control policies. The Senate addressed this issue earlier today when it accepted the Mikulski amendment opposing these onerous policies. It is common for IUD's to be routinely inserted in women after they give birth to the one child they are permitted, and it is illegal to remove the devices without state approval.

Yet the Chinese Government insists that its family planning policy is voluntary. It fines parents or fires them from their jobs for violating the voluntary policy. Of course, if a woman succeeds in becoming pregnant, a forced abortion remains a Government option.

The State Department's Country Reports on Human Rights Practices for 1990 documents the human rights situation in China since President Bush's 1990 announcement of a 1-year MFN renewal for China. Because the Chinese Government has lifted martial law in Beijing and Lhasa, apparently concluded investigations of the Tiananmen protestors, and allowed Dr. Fang to leave China, the State Department has noted "cooperative behavior on the issue of human rights." However, the State Department acknowledges that abuses continue. Many detainees who disappeared after the 1989 demonstrations are not yet fully accounted for. Reports of degrading and harsh conditions in all Chinese prisons have been included in investigations by the Supreme People's Procuratorate. Reports of 500 cases of abuse represent a 59.6-percent increase over the same period in 1989. Officials confirmed 300 cases of torture in 1990. "Hundreds if not thousands of participants in the 1989 demonstrations have been assigned without trial to re-education through labor camps. In two re-education through labor camps near Beijing, for example, over 800 of the inmates consisted of youths detained for activities during the demonstrations. They were charged with hooliganism and destruction of property and were not included by Chinese authorities in any accounting of detentions in connection with the demonstrations." Even though the PRC officials protest that they have no political prisoners, of 1.1 million inmates in Chinese prisons and reform camps, 5,500 are there for counterrevolutionary crimes. Freedom of speech, self-expression, emigration, and peaceful assembly are severely restricted, and Chinese students and their families overseas have been threatened with reprisal if they don't stop their political activities.

But it is not merely a question of civil and human rights abuses. We have also witnessed China's continued proliferation of military technology and weapons of mass destruction to unstable parts of the Third World. In fact, there is a whole list of China's activities in the field of uncontrolled weapons trade. Until now, we have not received any assurances from the Chinese Government that it is willing to cease the proliferation of these weapons. It has sold nuclear-capable weapons and technology to the terrorist States of Syria, Iraq, and North Korea. China is constructing a nuclear reactor in Algeria which reportedly will have the capacity for producing plutonium which can be used in the development of nuclear weapons. China sold Iraq the lithium hydride used in the production of nerve gas. It continues to deliver weapons to the Khmer Rouge guerrillas in Cambodia. North Korean Scud missiles developed with Chinese technical assistance are being sold to Syria.

Yet the President maintains a firm determination to renew MFN status for China. The most shameful rationale the administration has proffered is that, if we, the United States, don't extend MFN status to China, other countries will jump into the void and take advantage of United States absence. Morals seem to have no place in our economic tactics and thirst for profit. But, as I will now explore, even the economic gain argument is a farce.

We have been told that United States businesses in China will suffer if the MFN status is withdrawn. The truth is that United States businesses have already suffered under China's manipulative protectionist trade practices. China has achieved trade surpluses on over 90 items with the United States. Their trade surplus with the United States went from zero in 1985 to $3.5 billion in 1988, then tripled to $10.4 billion in 1990. It is expected to reach $15 billion by the end of 1991, and conceivably $20 billion within a couple of years. Let me continue: While China's exports to the United States increased by 27 percent between 1989 and 1990, our exports to China decreased by 17 percent! The bottom line: A whopping trade deficit increase with China of 67 percent between 1989 and 1990. And, when you compare these figures with China's trade relationships with the rest of the world, the fact is that their worldwide positive balance derives from their trade relationship with us. And we want to further benefit them and reward them with most-favored-nation status?

Not only does it practice protectionist trade policies, China pursues unfair trade practices. The level of the United States intellectual property rights protection is largely nonexistent. Illegally pirated American copyrights, trademarks, and computer software are permitted in China. The Bush administration's assistant United States Trade Representative, Joseph Massey, described China's software piracy as enormous when China was cited for these illegal practices less than 3 months ago. Book and tape piracy is widespread, so American publishing, record, and tape industries have suffered substantial financial losses. China's current patent laws fail to provide adequate protection of pharmaceutical and chemical products. American chemical companies' products are sold without a license, not only for the domestic markets, but for export markets as well. China's trademark law enables Chinese companies to use well-known United States trademarks.

There is no adequate protection for trade secrets. Economic gain for the United States? I think not.

Are these the actions of a nation which accepts its responsibilities in the community of civilized nations? Of course not. Yet President Bush's decision to extend MFN status is a signal to China that these deplorable actions make the Chinese Government worthy of MFN treatment.

The Department of State is attempting to persuade the Congress that in every area in which we have concerns, China has already undertaken certain steps to rectify the problems. That indicates to this Senator that China can meet basic conditions it if is indeed serious about taking its proper place among civilized nations. Considering the evidence we have in front of us, we can only say that China has fallen short of our expectations. In fact, it appears that President Bush's policy toward China has the opposite effect. It has emboldened the Chinese leadership to ignore the world's outcry of "shame!" What will be the reaction of the people yearning for democracy all over the world to a U.S. policy which coddles dictators and human rights abusers? We must not abandon them.

Mr. President, I have searched my heart, making every attempt to be open-minded to the plight of China as a large, hungry, overpopulated country in an effort to understand any reason at all that the Government would not be open to reversing its policy of oppression they have practiced for centuries. I cannot fathom any reason a government would not perceive that a happy, satisfied, well-treated populace would contribute to a productive country so much more than a downtrodden, ignorant, and dissatisfied people. If the leaders of that country are intent upon continuing the subjugation of their people, it is only honorable and humane that we offer every condition and support we can to ensure they are forced, yes, forced to comply with the attainment of fundamental human rights and privileges for all their people.

Let China make respect for human rights a common practice. Let's insist on this, not because an illusory and probably fictitious economic reward hangs in the balance, but because the Chinese people are human beings deserving of these rights.

The conditions established in the leader's bill are fair and achievable. The Chinese Government is given an additional year—in essence a total of 3 years—to respond to the world and to the cries of its people. These conditions must be fulfilled by next year if China wants to have the MFN status renewed. This bill will send a very strong and clear message to China's Government. I urge my colleagues to support this important human rights legislation. Let's vote in support of human rights.

This country can stand with great pride, Mr. President, under Democrat and Republican administrations, under Democrat and Republican Senates, and the Democratic Congress; it has continuously stood for the last 75 years in opposition to granting any kind of preferential treatment on trade with the Soviet Union and the Eastern Bloc countries. Why did we do that? Well, some might say it is because the Soviet Union entered into the Helsinki Act in 1975. Indeed, they did. They promised to subscribe to human rights standards but indeed they did not. This was also a principle that this country subscribed to even before 1975 when the Helsinki Act was enacted. The Soviet Union signed the Helsinki Final Act that year as did 34 other nations, including the United States and Canada. Prior to that we stood up for human rights, for the individual, which is far different in our society than it is in the Soviet Union and in Eastern Europe.

So what ultimately happened? Over a long period of time this country continuously, at every meeting of heads of State, Secretaries of State, trade missions, exchanges between the Congress and the Supreme Soviet or any other opportunity, we stood up for human rights. It was the No. 1 issue on the table for discussion. Political prisoners were named and identified and we asked that they be released. The Helsinki Watch group in the Soviet Union was jailed and Congress passed resolutions time after time to free them. And something happened. Mr. Gorbachev made some changes. The Communist regime has fallen apart and human rights are now flourishing in those countries.

We did not waver as a nation. We stood fast. We did not grant any preferential trade treatment to the Soviet Union or Eastern bloc countries until they had elections, until they started to subscribe to human rights principles. And yet we have a different standard for China. Oh, yes, this is different all right. It is different because we have ignored the moral obligation that this country has which is not to continue to do business as usual.

I understand the economics. If wheat was very important to my State, I might think a little differently, but I do not think so. We export goods to China from Arizona. We have an aircraft industry. We have a computer industry that exports to China. We also grow cotton and export some of that to China.

It does not make moral sense to grant China preferential status at this time.

I hope this Senate will strongly support this legislation and I hope the President will see the fallacy of his judgment. This is a moral issue. The President said it is a moral issue. But his rationale to extend MFN status cannot be subscribed to or substantiated or supported based on morality, or for any other reason.

I submit, Mr. President, that the legislation offered by the majority leader, cosponsored by this Senator, should be adopted.

Mr. PACKWOOD. Mr. President, could I ask, before the Senator from Indiana speaks, one question of my friend from Arizona. He may yield the floor on my time to answer a question. Should the same standard on human rights be applied to other countries in terms of most favored nation?

Mr. DECONCINI. In my judgment they should.

Mr. PACKWOOD. I thank the Chair.

Mr. DECONCINI. Absolutely. If the Senator will yield for 30 seconds, that is exactly the point I guess I did not make in my statement, but I thank the Senator for underscoring it. If we stand for human rights, and we do as a nation, we have pride in that. I believe it really played an important role in turning the Soviet Union and Eastern European countries away from their Communist system and their persistent violations of human rigths. We should apply the same longstanding principle to the People's Republic of China.

Mr. PACKWOOD. Could I inquire further, there may be an exception or two, but therefore withdraw the status from all of the countries in Africa with maybe one or two exceptions?

Mr. DeCONCINI. I have no trouble with that.

Mr. PACKWOOD. Most of the countries in Asia with maybe half a dozen exceptions?

Mr. DeCONCINI. Point them out. Which ones?

Mr. PACKWOOD. All right, let us start down the line from the list of the State Department on those countries that violate human rights. India.

Mr. DeCONCINI. If it is violating human rights, and I do not have the latest State Department report on the region, it should be on the list.

Mr. PACKWOOD. Burma.

Mr. DeCONCINI. What do we do with India? We do not provide India with that much aid. Burma, the same thing. Where is the principle, I ask the Senator from Oregon?

Mr. PACKWOOD. That is fine. It is interesting. I am inclined to agree with the Senator from Arizona if we are willing to apply it uniformly, but we suddenly come here on the floor and say apply it to China, when we have this list from the State Department of countries that are as bad as China or worse. The most extraordinary example I can think of is Syria bombing——

Mr. DeCONCINI. I could not agree more.

Mr. PACKWOOD. It gets most-favored-nation status. A number of years ago they leveled the town of Hama in a religious dispute, men and women. Tanks surrounded the town and leveled it. It ground into the ground in some cases civilians with tracks of tanks, leveled the town, gone. They get most-favored-nation status.

Mr. DeCONCINI. Will the Senator yield? The Senator makes an excellent point. The point to me is we should not grant it to Syria. Granting MFN to Syria and making a huge mistake, as the Senator pointed out, certainly gives no justification in granting it to China. What we have to do is stand for the pride and the principle that we did apply this principle strictly to the Soviet Union and Eastern Europe, and it made some difference. But now we are willing to compromise on this principle because of international politics or for financial reasons. It just is not right. I thank the Senator for his question.

Mr. PACKWOOD. I thank my good friend from Arizona.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, in 213 B.C., the first Emperor of a United China ordered the execution of over 400 opponents of his oppressive regime and decreed that every book of history or philosophy in the kingdom be destroyed by fire. In one act, he intended to eradicate the written memory of anything preceding his rule. His purpose, as he stated it, was to prevent the "use of the past to discredit the present." The only way he could find legitimacy was by erasing history.

The first Emperor's dynasty barely outlasted his death. The power he exercised could instill terror, but it could not destroy memory. Seven years after his order to burn every record of the past, a rebel army destroyed his capitol city and massacred his imperial line.

Two years ago, another repressive Chinese regime began a similar attempt. Tanks were sent to respond to philosophy—a philosophy of freedom and individual worth. New restrictions on thought and expression were enforced to shape and obscure the past—a past that could be used to discredit the present. China was transformed again into a nation where principled men await execution. A nation where historical honesty is a crime against the State.

A British historian once said, "the most frightening of all spectacles is the strength of civilization without its mercy." China's Communist Party has proven again that it is not an instrument of reform, but a tool of power, untempered by mercy. It has lived down to Mao's blunt description: "Communism is not love. Communism is a hammer which we use to crush the enemy."

When the avenue of eternal peace was littered with the bodies of peaceful protesters, it was only the beginning. The tragedy of Tiananmen Square was the opening episode of the "the great leap backward," a broad, sustained campaign to reimpose the worst of Maoist oppression and warp the memory of recent history. The Chinese Government has set a course again to transform that nation into what's been called the clean, well-lit prison of a socialist utopia.

The catalog of crimes lengthens. And those memories, on our part, should inform every stage of this debate on relations between China and the United States. Whatever view we hold on trade, the extent of this repression cannot be minimized or dismissed. Recent concessions aimed at American opinion have been largely cosmetic. What we have seen is public relations, not the public apology that is owed to the victims of oppression, or the public renunication of organized terror we require.

In 2 years we have seen instead from China a pattern of abuses that is undeniable and unacceptable. The aftermath of Tiananmen is still with us. A human rights organization, Asia Watch, has documented the names of 860 prodemocracy protestors still in prison, but still untried. Estimates of those arrested following Tiananmen Square range from 3,000 to 30,000. Chinese authorities have reported less than 1,000 as being released, but refuse to provide their names.

The trials of dissidents lack the minimum standards of fairness or due process. Verdicts raise suspicion by their quickness. Defendants have little opportunity to prepare a defense. Independent observers are forbidden at the trials. When Wang Juntao was sentenced to 13 years of hard labor, his wife expressed the hopelessness of victims of China's corrupt legal system:

> I feel tiny and weak, as insignificant as a droplet of water in the sea. When I call out on behalf of my husband, I hear not a sound in response.

China will not allow international human rights organizations to go behind the walls of its labor camps and prisons. But we have enough information to be outraged.

It seems clear that China forces political prisoners into producing goods for export. It is believed that labor camps currently contain more political prisoners than at any time since Deng Xiaoping assumed power. Up to 30 people are crammed into small cellblocks, with inadequate rations, limited exercise and unsanitary conditions. Asia Watch reports beatings, use of electric cattle prods in torture, and solitary confinement in tiny cells with only enough room to stand. Political prisoners are forced to work in factories during the day, and endure endless political indoctrination and self-criticism at night.

The idea of factories behind prison walls is not, in every case, objectionable. Meaningful work for those justly convicted of crimes can be an effective alternative to idle boredom—a practice of other Far Eastern countries. But in the aftermath of the Tiananmen Square arrests, China's prison population has swelled with political prisoners, unjustly convicted, that may be employed in producing goods exported to the United States. And Asia Watch believes, in addition, it is common practice for China to keep prisoners in labor camps after they have completed their sentences in order to keep up the number of goods produced for export. That is nothing less than slavery.

The Chinese Government's repression of Tibet remains a policy of cultural genocide. In 40 years, attempting to eradicate Tibet's distinct history and identity, China has killed more than 1 million Tibetans through execution, warfare and famine. Tibetan religion has been a special target. Monasteries have been systematically destroyed—just 13 out of more than 6,000 remain. Monks have been routinely arrested and tortured.

The repression of that mountain kingdom continues despite the lifting of martial law in May 1990. The Chinese have refused to allow the celebration of the traditional Tibetan Great Prayer Festival. Monks have been arrested while demonstrating. Just last April, a demonstration of 100 monks, nuns, and workers was met with gunfire by the Chinese police. Asia Watch reports that Tibetan political prisoners have suffered torture: beatings with rifle butts, shocks with cattle prods, and attacks by dogs.

China has also begun a new offensive against that nation's 3.5 million Catholics. Recently, close to 150 bishops, priests and laymen have been arrested. Three Catholic seminarians detained in January 1989, according to Amnesty International, were "stripped naked, beaten, forced to lie on cold concrete and burned with cigaretts while in police custody." In April, several hundred Catholic Chinese were beaten by police in a raid on a village in Hebei Province. Two youths were killed while over 300 others, including children and the aged, were injuried—88 seriously. Amnesty International also reports that Chinese authorities have detained and harassed members of Protestant groups.

The list of China's abuse of human dignity and international trust goes on and on. Every month brings some new revelation.

Forced abortions and sterilizations are Government policy. In Gansu Province, 731 people with low IQ's were sterilized last year under eugenics regulations that prohibit birth to people with mental handicaps.

China has exported ballistic missiles to Syria and Pakistan and assisted in building a nuclear reactor in Algeria.

All university students now receive a month of political indoctrination. The entire freshman class of Beijing University and Shanghai's Fudan University were sent to an isolated military camp for a year of ideological thought control—in order, according to Chinese officials, "to unify people's thinking."

In a massive economic crackdown, China has closed more than 2.2 million private business enterprises.

When this record is recounted and weighed, in the words of one Western diplomat, it amounts to nothing less than the "slow asphyxiation of a culture."

This much should be clear: There can be no attempt to hide or excuse China's cold and careful abuse of human dignity. I do not believe the President has attempted to do so. I hope his supporters on the issue of trade will not make that mistake. But when the dismal facts of this record are granted, a question of policy and strategy still remains. What is the best way—not to show outrage—but to bring about change?

Here it is possible for people with the same facts, and the same deep concern, to remain in disagreement. The President has clearly stated his case for keeping China's favorable trade status.

> "The people of China who trade with us are the engine of reform. Our responsibility to them is best met not by isolating those forces * * * but by keeping open the channels of commerce.

Isolation has always been a tool of Chinese repression, the argument goes. Openness is the route for change.

If we knew without question that cutting our trade relationship with China would lessen the burdens of oppression, I would support the efforts of some of my colleagues to deny favored trade status to China without any hesitation. But that, to me, is far from clear. It seems even more likely that isolation is the best hope of Chinese hardliners. And it is equally clear that the strength of China's commercial class is the strength of future Chinese reform.

The President is convinced that the catalyst for change in China lies in continuing a relationship through trade. Because of MFN, the southern provinces have achieved economic prosperity and a degree of autonomy. Private enterprises in China have put to work over 1 million people. United States business joint ventures, comprising over 1,000 U.S. companies, have showed the Chinese in the southern provinces the advantages of a free market system. Two-thirds of China's industrial output of joint ventures and private enterprises is produced in the three provinces of Guandong, Fujian, and Shanghai. Income per capita in Guandong is double the national average. In fact, 20 percent of Guandong's gross domestic product [GDP] goes to the production of goods for U.S. markets. It is estimated that without MFN, losses to the Guandong Province could be as high as one-half their GDP. Businesses which have grown in the rocky soil of a Socialist state because of the favorable trade relationship would be uprooted.

MFN has had the effect of giving the provinces leverage over the Beijing Government because of the revenue they produce. Warren Williams, president of the American Chamber of Commerce in Hong Kong, reports that Beijing has sought more control through regulation and taxes. But the provinces have managed to avoid paying higher taxes by organizing local political support.

The PRESIDING OFFICER. The Senator from Indiana will suspend.

Under the prior order, the Senator from Maine, the majority leader, is recognized, the hour of 3 o'clock having arrived.

Mr. MITCHELL. Mr. President, let me assure my colleague we will arrange it so he can complete his remarks in 5 more minutes.

We had extended the period for debate only until 3 p.m. awaiting the arrival of one of the two or three remaining Senators who has an amendment. I see the distinguished Senator from Nebraska on the floor ready to proceed.

Would it be agreeable to the distinguished manager, following the remarks of the Senator from Indiana, that the Senator from Nebraska be recognized to offer his amendment so we can proceed with that amendment?

Mr. PACKWOOD. That is fine. I think it will be 2 or 3 hours. I do not think there will be any lengthy amendments or lengthy debate. That is fine with me.

Mr. MITCHELL. I hope to do that in less time than that, if possible.

Mr. PACKWOOD. I think the leader is correct.

Mr. MITCHELL. Mr. President, if agreeable to all concerned I ask unanmous consent that the Senator from Indiana be permitted to complete his remarks, and upon completion of remarks the Senator from Nebraska be recognized to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana is recognized for the completion of his remarks, and thereafter the Senator from Nebraska is recognized for his amendment.

The Senator from Indiana.

Mr. COATS. I thank the majority leader for the opportunity to finish this statement, and indicate to him and the Senator from Nebraska that I should not be more than 4 or 5 minutes, or so, until the completion of my statement.

Local officials have shown increasing independence from Beijing. And businessmen in the southern provinces have become the greatest source of political moderation, providing large amounts of money to protesting students, and have even risked their own lives to participate in the democracy movement. Our continued relationship with these Chinese can only strengthen their resolve and desire for reform. In a Washington Post editorial, Gao Xin, one of the hunger strikers who was imprisoned for 6 months following Tiananmen Square, expressed his belief that maintaining MFN and using it as leverage would be the only way to strengthen the reformers' positions and bring eventual change in China. "Political liberalization will only come gradually and only after economic liberalization," he writes.

Trade is not merely an exchange of money but an exchange of ideas—an instruction in the practice of freedom. It opens doors that allow Western democratic ideals to follow. The kind of contact between Chinese and Americans achieved through business relationships, travel, and study may help give deeper root to reform.

The future of Hong Kong should not determine our decision on trade, but it is important to consider. This is a colony which means a great deal to American interests in Asia. If China's favored trade status is repealed, Hong Kong will suffer. Most of Hong Kong's manufacturing is done in China's southern provinces by Chinese firms employing 2 million people. Seventy percent of China's exports go through Hong Kong. In his testimony before the Senate Finance Committee, the president of Hong Kong's Chamber of Commerce reported that one dollar of every six of Hong Kong's currency circulates in China's Guangdong Province rather than in Hong Kong itself. "Because Hong Kong is China's primary trade, foreign exchange, and technology window," he testified, "the burden of United States denial of MFN status to China falls disproportionately on Hong Kong." Without MFN, the Hong Kong government estimates that the colony would lose $8.8 to $11.7 billion in trade. The chamber also believes that 70 percent of American businesses in Hong Kong would be hurt by removal of MFN.

There are other ways to express our condemnation of Chinese brutality than removing favored trade status. The President favors a more selective application of pressure and has taken pains to show Beijing that we will not ignore its oppression. The President has announced that the United States will ban equipment and technologies for export to any Chinese company found to be violating standards in missile equipment transfer. He has limited the sale of high-speed computers to China. He has designated China under Special 301 provisions for violation of intellectual property rights. He has stopped grants from going to the Trade Development Program and to the Overseas Private Investment Corporation. And the President has refused to approve licenses for exporting United States satellite components to China.

In the last few days, in response to a letter from Senator BAUCUS and other Senators, the President reaffirmed his commitment to pressuring China toward reform. At the recent economic summit in London, he discussed his concerns about China's human rights abuses with our G-7 allies and emphasized to them that the United States would not support multilateral loans to China, except for basic human needs. He also pledged continued pressure on China to adhere to the Nuclear Nonproliferation Treaty and the missile technology control regime. The President has called on the Customs Service to investigate reports of the exportation of goods made from prison labor and to enforce the 1930 Trade Act Prohibitions on forced labor. He will pursue an agreement with China to set up procedures for speedy investigation of violations of United States law. In the meantime, if the United States suspects that goods have been produced by prison labor, they will be denied access to our markets.

The President also made a commitment to take the lead in pushing for Taiwan's entrance into the General Agreement on Tariffs and Trade. Such a move would reward Taiwan for its economic and political freedom while making very clear to China that reform is essential.

In the last 2 years China has provided a disturbing record of repression. But I am convinced, with the President, that the best strategy to seek change is continued trade. President Bush said in his address to Yale University, "[But] the most compelling reason to renew MFN and remain engaged in China is not economic, it's not strategic, but moral. It is the right to export the ideals of freedom and democracy to China. It is the right to encourage Chinese students to come to the United States, and for talented American students to go to China. It is wrong to isolate China if we hope to influence China."

Carlos Rangel writes:

> Marxist-Leninist socialism bases its stability on the concentration of all power; on a permanent readiness to employ any degree of repression as broad and brutal as may be necessary; and on the monopolistic grip on the economy and media. These last dissuade the population of any hope that there is a way out, a way back, and further deepen that hopelessness by drilling into subject's minds the deterministic notion that inevitably the rest of the world will be sooner or later infected by the same plague.

But today, in our world, we see just the opposite—a world that is recovering from its long bout with that plague. Once it was socialism that fed on claims of inevitability. Now freedom seems to have an inevitability of its own. Economic and political freedom are an infection that spreads across borders. They are transmitted through contacts of learning and trade into the most isolated pockets of fearful repression. Trade with China can continue to be route of reform, a method to spread the infection of freedom.

It is reported that Chinese hardliners have distributed a 1-hour video entitled "Eastern Europe in Turmoil." According to one viewer, the tape was created "to make local Communist officials realize that if in a crisis they fail to hitch a line to the Communist boat, they will all sink together, like Ceausescu."

That fear is the substance of Chinese hope. The timetable is unclear. Chinese history refuses to be hurried, but it makes sense to support those elements in China already skilled in the lessons of economic freedom. We can do so, I think, with a broader confidence. In Edmund Burke's works, "Depend on it: that the lovers of freedom will be free."

Mr. President, I yield the floor.

Mr. SANFORD. Mr. President, the President has, for the last few years, justified continuation of most-favored-nation [MFN] status for China on both moral grounds and the insistence that a strong, trading relationship with China would give the United States leverage to encourage changes in that country.

I recognize the advantages of a healthy trading relationship with China, but unfortunately I am concerned that this has not happened, nor will it happen, if we continue to allow China unconditional MFN status.

The world was horrified at the events in Tiananmen Square over 2 years ago. Since that time, repression and serious human rights violations have continued—albeit less blatantly—despite pressure from abroad. If the United States is an advocate of freedom and human rights, the Congress must now send a stronger message, requiring the Chinese Government to account for and release those thousands who were unjustly detained for nonviolently demonstrating their beliefs. In addition, this bill calls for significant progress on other aspects of human rights in China. Obviously, reform does not happen overnight, but there has been virtually no progress in the past 2 years. Where is the morality in turning a blind eye to that?

Furthermore, China's flagrant contribution to Third World nuclear proliferation make granting MFN suspect at best. Selling nuclear capability to Pakistan, Algeria, Iraq, and Syria, and supporting the Khmer Rouge in Cambodia—despite frequent assurances that they are not doing so—has established China's reputation as an irresponsible partner in the world arms market. China should not be favored for such deal-making. S. 1367 takes into account the urgency and importance of stopping these military transfers.

Finally, and perhaps most relevant to United States-Chinese trade relations, are that nation's trading policies. The extension of MFN status for China has had a profound impact on North Carolina and other textile-producing States. Almost 14 percent of all United States imports are textiles from China. It is difficult for United States companies to compete when hourly wages for textile workers in the United States are around $9.74, compared to China's $0.37.

MFN status was intended to benefit the United States to the degree that it would hurt us to withdraw it. In fact, it is hurting us to continue it. In the past 2 years, United States exports to China have fallen while Chinese exports to the United States have risen, increasing our trade deficit with China by 67 percent to $10.4 billion. Judging from such a trade deficit, we are not only stagnating when it comes to trading with the Chinese, we are rapidly falling behind.

The reason for this inequity is not American incompetence, but unfair Chinese trading practices. Prison labor is an integral part of the Chinese economy and the goods so produced are being exported, although this is a violation of international and United States domestic law. One prison cotton mill earned $28.51 million through the export of cloth to the United States, Germany, and Japan. Additionally, the Chinese often mislabel their goods by shipping them through other countries, a process called transshipping. A United States Customs officer in Hong Kong estimated that $2 billion worth of textiles and apparel entered the United States fraudulently in 1990. This is clearly damaging to North Carolina and the United States economy.

MFN status is a courtesy intended to foster a mutual trading relationship between two nations. The evidence clearly demonstrates, however, that there is nothing mutual about MFN between China and the United States. We are granting the Chinese the easiest possible access to United States markets, while they persist in raising tariffs, regulatory taxes, and licensing fees; engage in patent, trademark, and copyright piracy, and tighten administrative controls to restrict access to Chinese markets. The list goes on. The scales are unfairly weighted to benefit the Chinese. This bill requires them to begin rebalancing the scales.

The word favored in most favored nation can be misleading. Very few of the many nations we trade with are not accorded this status. However, with China's appalling lack of regard for human rights, international stability, and fair trade, I cannot at this time condone granting them equal status with our more responsible trading partners.

We as Members of the U.S. Congress, must hold other nations accountable to the agreements they make with us and to international standards and laws. When China meets the conditions stated in this bill, our trade relations will continue as before. Otherwise, the Senate must exercise its will and condition the extension of MFN on China's compliance with our requirements. To do so is in the interest of American workers, Chinese workers, freedom, and human rights.

Ms. MIKULSKI. Mr. President, I rise today to speak out on an issue which I should not have to speak out on. We are debating an issue which we should not have to debate. The issue is whether to extend unconditional most-favored-nation status to China.

What forces us to address this issue is the Bush administration's abdication of responsibility. What we have here is essentially a failure to communicate, a failure on the part of this administration to communicate to the Government of China our opposition to its repugnant and worsening human rights policies, its illegal trade practices, and its reckless nuclear proliferation program.

We all know what the Chinese Government is doing: It is detaining prodemocracy movement members without trial, executing political dissenters, using prison labor, and harsh import restrictions to produce an explosive trade surplus with the United States, marketing missiles to the Middle East, and reportedly forcing abortion and sterilization on its women.

Nobody debates these charges. The question is, what are we going to do about them? President Bush wants to do nothing. President Bush wants to pursue quiet diplomacy with his friends in Beijing. Well, Mr. President, the Senate should not be quiet or diplomatic on an issue of this importance. Quiet diplomacy for President Bush means business as usual, and that isn't good enough for this Senator.

What has been the result of the Bush administration's business-as-usual policy? According to Asia Watch, China's prisons and labor camps now hold more political prisoners than at any time since Deng Xiaoping's rise to power in the late 1970's. As former Ambassador to China Winston Lord testified earlier this summer, formal martial law in China and Tibet has been replaced by equally tight controls that serve the same ends. China's judicial system remains a cruel farce.

And China's unfair trading practices continue, the result of which is an astounding projected trade deficit of $15 billion for the United States this year, third in size behind our deficit with Japan and Taiwan.

What would be the result of a continued business-as-usual policy, of unconditional MFN extension? It would help convince Beijing that Americans are indifferent to their internal policies of repression. It would betray the hopes of those progressive democrats in China who have been looking to the United States for help. It would say that we are not going to fight for fair market access. And it would surrender the most potent instrument of leverage we have, favorable access to the world's greatest market.

Besides business-as-usual, what are our options? Immediately revoking MFN or conditioning it. Is the immediate cut off of MFN too drastic of a step? Possibly. Is a conditioned MFN too blunt a tool? Maybe. Maybe not. But we have no other option. Furthermore, MFN is the most appropriate tool we have. Since the early 1970's, we have used MFN to express our justified human rights concerns.

Some argue that conditioning MFN will hinder America's economic competitiveness and cost American jobs. Let me say right out, Mr. President, that no one in the Senate is more concerned about America's economic competitiveness and American jobs than I am. And if Beijing weren't unfairly restricting our imports, mocking our intellectual property rights, and running up such a huge trade surplus with us, I would be more worried about the possible negative consequences of a conditioned MFN for Maryland business. But how much worse can it get? A glance at the one-way flow of goods and today's trade statistics will reveal a very one-sided, unfair trading system—one that the current business-as-usual policy has done nothing to address.

With arguments eerily reminiscent of those used against imposing sanctions on South Africa in 1986, some today also assert that conditioning MFN will undermine China's progressive, free-market forces. Unfortunately, many of these prodemocracy advocates are either dead, exiled, in prison, or in hiding. Furthermore, it is only the pressure of a conditioned MFN which can simultaneously prod Beijing into liberalization and embolden China's remaining prodemocracy, free-market forces. Economic pressure against South Africa brought about positive changes. It can do the same in China.

Mr. President, we have no option today but to condition MFN for China. The Bush administration has given us no choice. It has failed to communicate. It has failed to enforce basic human rights and fair trade standards. Because it has abdicated this responsibility, it is up to the Congress to communicate to China—to the repressive leaders in Beijing as well as to the reformers in the countryside—the principles of democracy and liberalization our country stands for.

Mr. ADAMS. Mr. President, I am sure that all of us in this Chamber agree on the policy goals of the United States with respect to China: Political and economic liberalization as exemplified by open markets, freedom of speech, travel, and religion, and adherence to international standards in the areas of nonproliferation and human rights. The continuing repression in the wake of the Tiananmen Square crackdown is a testament to how far China still has to go. Unfortunately, no one can say with certainty which is the best course to help the Chinese people get back on the track of democratic reform.

All of us seek respect for human rights in China, and are particularly concerned about the fate of those arrested during Tiananmen Square. All of us deplore the sale of sophisticated weapons to unfriendly countries in the Middle East. And all of us would like China to eliminate barriers to American exports.

The United States should play a constructive role in shaping the future of China, but I question whether trade is the most effective tool. Many argue that withdrawal of MFN would remove one of the best avenues for dialogue with the Chinese on human rights, arms sales, nuclear nonproliferation, and a host of other matters.

Renewal of MFN for China is a decision that must be made pursuant to the relevant statutory requirements. The highly charged rhetoric emanating from both capitals is not conducive to a serious dialog. I, personally, am dismayed that Premier Li Peng chose to single out Boeing with threats of cancelled contracts if most-favored-nation [MFN] trade status is not renewed on China's terms. Such threats are frankly counterproductive to efforts to extend MFN. As one of the last four hunger strikers in Tiananmen Square wrote recently in the Washington Post:

> Canceling MFN would help the hardliners in what they have been unable to achieve on their own—a reassertion of control over the nonstate and more progressive sectors of China's society and economy. * * * A withdrawal of MFN would give credibility to the hardline propagandists who proclaim that only socialism and self-reliance can save China.

I would argue that China achieved far greater progress in the decade of openness to the West than in the previous 40 years of isolationism. The decision on MFN will determine whether China is integrated into or isolated from the global trading system and the world community at large.

Washington State has more at stake in this decision than any other State. Washingtonians and many of our companies were pioneers in reopening trade relations with this venerable nation. Today, Washington does more business with China than any other State—nearly 16 percent of all United States trade with China. Our companies sold 864 million dollars' worth of products to China last year, and imported a whopping $2.27 billion. China is especially important to our wheat farmers, whose crops are already suffering the devastating effects of a severe winter freeze.

Although MFN benefits flow automatically from membership in the General Agreement on Tariffs and Trade, known as the GATT, for nonmarket economy countries like

China and the Soviet Union, MFN is a privilege, not a right. This privileged status makes MFN a powerful instrument in our commercial relations with nonmarket economy countries.

In considering the legislation before us today, I would suggest that the most important yardstick is whether the bill provides for meaningful and achievable conditions. Unattainable conditions will not serve our interest in pursuing a broad agenda with the Chinese. Meaningless conditions undermine U.S. credibility. I believe the Mitchell bill, which extends MFN to China for 1 additional year, incorporates conditions that are both realistic and achievable.

It is also important that our policy on MFN for China be consistent with the policy we have followed for other MFN beneficiaries. We cannot impose upon China higher standards than we use for other nations, like the Soviet Union.

The Senate and House have the opportunity to use the annual congressional review of MFN to choose between a policy of cooperation or confrontation with the Chinese. A return to the failed isolationism of the past would be wrongheaded politically and devastating economically to the citizens of Washington State. I will work to assure that the Congress chooses cooperation.

Mr. CRAIG. Mr. President, the Senate's debate and vote on S. 1367 will greatly affect the future of relations between the United States and the People's Republic of China. S. 1367 applies a number of conditions to the future renewal of most-favored-nation [MFN] trading status for China. The reason for applying these conditions is to push the Chinese Government into making changes in its domestic policy.

I doubt there is a Member in this body who is not concerned about the human rights abuses that have occurred in China since the suppression of the Tiananmen Square democracy demonstration. Last year's debate centered on the human rights problems in China. Now MFN has turned into the pill designed to cure all of China's ills. But we must ask ourselves, Mr. President, what can be done to resolve these problems? Is the path to resolution, conditions on most-favored-nation trade status? I would argue "No."

Mr. President, MFN is a trade relationship that mutually benefits the United States and the corresponding country through lower tariffs and trade barriers. It is a trade relationship that we enjoy with all but a handful of nations. Eleven countries do not receive MFN status from the United States: Albania, Cambodia, Cuba, Laos, North Korea, and Vietnam; Afghanistan and Romania had MFN but lost it; Bulgaria, Mongolia, and the Soviet Union have received Jackson-Vanik waivers, but MFN cannot be extended until Congress approves the trade agreements. The list is small, Mr. President. If one looks at our relations with the countries on this list, one can see that applying conditions or revoking MFN for China will certainly not enhance our ability to influence the Government in Beijing.

The human rights situation in China has improved immensely since MFN was first granted in 1980. Part of the improvement has been through the direct contact between United States private industry and agriculture, and their counterparts in China. One of the most effective means we have of causing change in China is through our economic ties with that country, and through continued dialog. Part of the grassroots prodemocracy movement in China has resulted from this economic interaction. Those provinces with the best human rights records are also those provinces that are most heavily involved in trade with the United States. Mr. President, United States trade with China is not merely the trade of economic goods, it is also the trade of ideas—ideas about democracy, capitalism, and freedom. Revoking MFN, or applying conditions to MFN will terminate that grassroots influence in China.

Again, Mr. President, what are we trying to achieve here, and how can we best meet our goal? We are trying to improve human rights in China. Revoking MFN will not resolve that problem. Revoking MFN to improve human rights in a Communist country has not worked in the past, and there is no indication that it will work now. The suspension of MFN for Romania only served to damage our relations with that country, having no effect on the human rights situation there.

Some have said that the United States should take the lead in this problem. If the United States applies conditions, our trading partners will follow suit. Taking unilateral actions such as this legislation would impose, will result in providing a greater market share in China for our trading partners. The increase of Japanese and European activities in China does not support the theory that our trading partners are waiting for the United States to take action. The United States is now alone among Western countries in continuing to maintain its original Tiananmen sanctions against China. No other country has considered withdrawing MFN trade status in response to concerns about Chinese policies. If we take these actions, Mr. President, we take them alone, and we put our own producers and manufacturers at a gross disadvantage. The products we sell to China are easily provided by other producers, and given the competition for markets, the void we create in China will quickly be filled by one of our trading partners.

As I said, Mr. President, MFN is a trade relationship. There are problems with that trade relationship which need to be resolved through trade actions such as section 301, not by cutting off trade. We have problems with other trading partners, but we would not revoke MFN status to resolve market access problems with countries like Japan, or the nations of the European Community. Therefore, revoking MFN should not be used to resolve our market access problems in China.

China is also an important market for United States agriculture products. For example, China is the United States' largest cash customer for wheat. Given the current glut of wheat in the international market, loss of this market would be devastating to U.S. farmers. Last year, United States farmers sold almost 500 million dollars' worth of wheat to China; part of which was wheat from my State, Idaho. Loss of this market would be disastrous to my farmers, and to the whole economy of the State. The United States exports over 500 million dollars' worth of phosphates to China, a significant portion of which comes from Idaho. The United States has a significant trade deficit with China, Mr. President, but cutting off current trade will not improve our overall trade deficit. Rather it will aggravate it.

Applying conditions to MFN would amount to a public challenge by our Government that would be impossible for the Chinese leadership to meet. The Chinese Government would never succumb to this sort of unilateral pressure because it would imply a weakness on their part. Therefore attaching conditions will simply serve as a 1-year notice of termination of relations between the United States and China.

The reaction of the Chinese Government after the House voted for conditions clearly tells us that conditions will not produce change. The Chinese Government denounced congressional action as a "gross interference in China's internal affairs, which the Chinese Government firmly rejects." According to a Washington Post article, foreign ministry official Duan Jin said, "We would like to urge the U.S. Congress to stop this kind of practice * * * so as to avoid a serious retrogression on the relations between China and the United States."

Mr. President, there are other options at hand that can be used to resolve these issues; options that will help work to resolve some of the problems that have been highlighted by proponents of conditions. I recently joined my colleague from Montana, Senator BAUCUS, in sending a letter to the administration requesting comment on the various problems that have been raised in this debate. I hope that my colleagues will take a moment to look at the administration's response and weigh the merits of targeted actions versus revoking MFN. I think they will see the value to both the United States, and to the people of China, in addressing the specific problems in China with specific actions rather than following a blanket policy that will serve only to obscure this issue in the United States Congress.

Let's begin with the main issue behind conditions on MFN, human rights. The administration has publicly expressed concern regarding the situation in Tiananmen Square, and subsequent actions taken by the Chinese Government. We have suspended bilateral programs and high-level exchanges. Only a limited number of visits addressing issues like human rights, nonproliferation, unfair trade practices, and narcotics have been approved. All military exchanges have been suspended. There has been a halt to the transfer of military or dual-use technology, and we have worked with our Cocom partners to suspend planned liberalization of export controls to China. The administration has also been committed to an ongoing dialog with the Chinese, addressing the human rights problems—this would of course end if conditions are applied to MFN. Progress has occurred, but a great deal remains to be done. Through the commitment of the administration to continue these efforts, our Government will have far greater impact than by cutting off relations with China.

Nuclear proliferation and arms sales have been added to the laundry list of problems that revoking MFN can resolve. In response to the Baucus letter the administration outlines its efforts with the Chinese, discussing issues of nonproliferation. The Chinese have responded positively. They played a constructive role in the recent Middle East arms control talks in Paris and have agreed to work in followup meetings to resolve remaining issues. And, as I said, there have been efforts to restrict technology transfer with our trading partners while this issue is unresolved. Applying conditions to MFN status, Mr. President, will not induce the Chinese Government to continue working toward resolving this problem.

Our current trade deficit with China has been brought into this issue of applying conditions to MFN status. The administration in April, directed the United States Trade Representative to identify China as a priority foreign country under the Special 301 provisions of the Trade Act because of problems with protection of United States intellectual property rights. The administration has committed to further trade actions if no progress is made during the investigation. In regards to access problems, meetings with Chinese trade officials are scheduled for this August to continue talks initiated in June of this year. If the Chinese fail to make commitments to improve access, the administration has committed to self-initiate further action under section 301.

The administration has also made a number of assurances to block the import of goods produced by forced prison labor. The administration has stated that they would continue to closely monitor this issue and strictly enforce relevant legislation concerning prison-labor exports. The President has committed to the following additional actions:

> The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending negotiation of this agreement, the United States Customs Services will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor.

The President also stated he would provide additional Customs officials for identifying prison-labor products and illegal textile transhipment.

Some very positive actions have resulted from this debate, such as the administration's actions outlined above. However, there is one that I would like to highlight, and that is the comments the President made regarding Taiwan's accession to the GATT. In his response to the Baucus letter, the President stated that:

> The United States has a firm position of supporting the accession of Taiwan on terms acceptable to GATT contracting parties. The United States will begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Taiwan's GATT accession.

Many of us here in the Senate have long been supportive of this action, and are pleased to see this commitment to action by the administration.

Mr. President, applying conditions to MFN will not resolve the problems that have been addressed on this floor. Human rights are not going to improve if we apply conditions to MFN. Our trade deficit is not going to lessen if we apply conditions to MFN. Chinese arms sales are not going to end if we apply conditions to MFN. Mr. President, creative thinking and targeted actions such as those the administration has recommended will work toward a resolution of the problems that exist in the relations between the United States and China.

Mr. MURKOWSKI. Mr. President, the administration has asked the Congress to continue to extend most-favored-nation status to China without conditions. Having listened to the litany of problems we have with China, this seems like an unreasonable request. But I urge my colleagues to examine this question very closely.

We must ask ourselves what is the most effective way to influence the policymakers in Beijing, the people who make the policies which we in America so detest. Revoking MFN now may slam shut the door to relations with China after so many have worked to crack it open.

STRENGTHENING THE HARDLINERS

I share the concerns of many of my colleagues that somehow we must force China to respect international law. However, removal of MFN is not the way to influence policy in China. Throwing China back into the isolation she experienced from the 1950's to the 1970's will strengthen the very leaders which ordered the tanks into the streets in June of 1989. Those leaders were faced with demands from their own citizens to reform their economic system, to reform their political system, to end their daily practices of corruption.

The protesters in the street during the Tiananmen incident were begging their leaders to allow them some of the same freedoms that we enjoy in America and the West. Those protestors learned about what they wanted from their Government through trade and exchange with the West. In fact, events in Eastern Europe in recent years have shown just what a powerful influence western ideas can have on a totalitarian society.

But the leaders in Beijing realized that the protestors' demands meant that their own power was in jeopardy, that their own system of dictatorial rule was close to collapse. So the leaders cracked down on the students and workers and demonstrators.

What else did that leadership do? It tried to curtail the opportunities for its citizens to engage and exchange with the West.

Trade, education, literature, media contact—all these things represented a threat to their grip on power.

And for a short time it worked. Students were denied the right to come to the United States to study. Foreign exchange was tightly controlled, disabling businesses with joint venture partners from the West from completing contracts.

But, Mr. President, the good news of reform had already spread in China, and its symptoms are again beginning to appear. Studnts are finding ways to go abroad for study. Entrepreneurs are setting up enterprises to earn foreign exchange and they are trading abroad.

Just as the reformers—the students, the workers, the protesters—are slowly and quietly finding ways to push back on the open door, we in America are contemplating ways to give the leadership in Beijing the fuel to slam that door shut again. For just as soon as we lay down the conditions stated in this bill, you can rest assured that the small group of very old men at the top in Beijing will grab at the chance to shut out what they claim to be the "evil West."

REVOKING MFN WILL CUT OFF OUR INFLUENCE

If we chose to revoke MFN, surely many changes in our relationship with China will follow. Contacts with the United States will halt on all levels. Students will be denied visas to come to the United States to study. Foreign exchange controls will stiffen, market reforms—which are just starting to take off again—will end, and those who engage in free enterprise may be subject to reeducation and political training.

What will this lead to? Our ability to influence policy in China will drop to zero. Instead America will be the favorite target of those struggling to keep communism alive in China, as it dies around the globe. We will lose the ability to try to force China to respect laws of international trade.

We will lose the ability to influence China to release political prisoners. We will increase the likelihood of sales of weapons of mass destruction by ensuring that foreign exhange will be in greater demand.

LOSS OF MFN HURTS WRONG PEOPLE

Mr. President, my colleagues have been very eloquent in describing the long list of interests that will be hurt if we decide to revoke most-favored-nation status from China. I will not dwell on them all but let me just highlight a few:

Removing MFN will almost immediately put at least 2 million Chinese citizens from the most reformed coastal regions out of work.

Removing MFN will greatly destabilize a Hong Kong which is already suffering from an uncertain future.

Removing MFN will harm American business interests—interests that bring western ideas of democracy and free markets into China.

CONCLUSION

Mr. President, no one is pleased with the present state of relations between China and the United States.

As vice chairman of the Intelligence Committee and member of the Foreign Relations Committee, I am deeply concerned over reports of China's missile sales to the Mideast. I am also greatly concerned with unfair trade practices and human rights abuses.

None of these issues can go unanswered; we must pressure China to conform to international norms of behavior. But the past 2 years have not been "business as usual" as many critics of administration policy have claimed.

There is a long list of sanctions already in place and I support these sanctions The President has initiated a 301 trade investigation on intellectual property rights.

The President has instructed U.S. Customs to deny entry to any good suspected of being produced by forced labor.

Satellite sales and other high technology goods have been denied export licenses.

Our highest level human rights officials have held talks in Beijing to impress on China the importance of accounting for and releasing any political prisoners.

There is also a long list of sanctions and actions which the administration outlined last week that will be pursued in the future if China is not forthcoming on addressing our concerns. These specific actions are the correct way to influence policy in China and to keep the pressure on. What we need is a targeted approach that will take true aim at each issue.

Removing MFN is a broad stroke that may very well inflict pain on reform elements in China and bolster a dying Communist regime.

Mr. McCONNELL. Mr. President, I rise today to strongly endorse an unconditional renewal of most-favored-nation trading status for the People's Republic of China.

Until recently, I was genuinely undecided on this issue. It was with an open mind that, over the Fourth of July recess, I visited Hong Kong and Thailand. While there, I discussed the issue with Hong Kong and People's Republic of China Government officials, politicians from both ends of the political spectrum, American and foreign businessmen, and working men and women in the region. My colleagues might be interested to know that, after 7 days and dozens of meetings, I could not find one person who thought the United States should withdraw MFN status or extend it with conditions.

To the contrary, these folks agreed unanimously that the reform movement within the People's Republic of China, as well as the long-term interests of the region and of the United States, will be best served by an unconditional extension of MFN.

Before voting on the Mitchell bill, I urge my colleagues to step back for a moment and examine what we really hope to accomplish here. Is our goal to simply express outrage and punish China for its egregious behavior? Or is our goal to encourage long-term internal reform in that country? I believe, Mr. President, our goal should be reform. And the facts have convinced me that reform is best achieved by engagement through MFN trading status.

To be sure, the temptation to punish China is strong. Beijing's behavior since June 4, 1989, has been outrageous and out of step with global events. While the rest of the world moves toward freedom and democracy, China continues to suppress human rights, ignore international efforts to control arms sales, pursue Machiavellian trade policies—including the export of products made by prison labor—to increase their foreign reserves, and lend moral and financial support to murderous organizations like the Khmer Rouge.

Indeed, Mr. President, Beijing has done an excellent job of putting its MFN status at risk. And some now say we should punish China by denying MFN renewal or by attaching conditions that make renewal next year impossible.

Well, doing so will certainly constitute a punitive action. Unfortunately, it will punish all the people of China for the actions of a few octogenarians in Beijing. It will further isolate China and limit our influence there. It will snuff out the faint but hopeful flame of free market growth in southern and coastal China. It will damage the booming economies—and struggling democracies—in Hong Kong and Taiwan. And it will undoubtedly, make many Members of this body feel good.

But it will not bring about political reform in China. My meetings in Hong Kong and Thailand have convinced me that the driving force behind political change in China is and will continue to be economic development.

Take, for example, Guangdong Province. Guangdong, which borders Hong Kong, has a relatively free market and healthy economy. The province enjoys close commercial and social ties with Hong Kong. Hong Kong's economy is increasingly tied to the export industry of Guangdong Province. Thousands of Hong Kong firms have shifted export-related production facilities into southern China, creating thousands of jobs in the region. Not surprisingly, Guangdong Province is a reformist stronghold over which Beijing has been unable to gain control.

Punishing Beijing by withdrawing MFN will kill reform efforts in areas like Guangdong Province and hand the hardliners exactly what they so desperately want: control over the social and economic systems in these progressive regions.

It will also hurt Hong Kong's ability to export Western ideals to the southern provinces of China. It is estimated that withdrawal of China's MFN status could cost Hong Kong 43,000 jobs and $1 billion in income. Such a blow would further erode local confidence in a smooth transition in 1997 and accelerate outward migration from Hong Kong, already at alarmingly high levels. It would also certainly stifle the current attempt in Hong Kong to develop a system of direct elections prior to the 1997 reversion.

Mr. President, we all abhor China's behavior and we all want to see political change in that nation. But I urge my colleagues to resist quick, feel-good solutions.

Gao Xin, a dissident who spent 6 months in a Chinese prison for his hunger strike on Tiananmen Square in 1989, is closer to the issue than any of us here. I think he summed it up correctly in a recent Washington Post editorial. GAO Xin writes:

> I can understand the anger that many Americans feel towards China's hard-line rulers. I share that anger, but not the conclusion that the United States should cut off China's most-favored-nation trading status. * * * The MFN debate constitutes a long-term means of continuing to pressure the Chinese leadership to improve its human rights record. If MFN is withdrawn, the United States will lose the critical leverage needed to help the Chinese people.

I say to my colleagues, let us not play into the hands of the Beijing hardliners by canceling MFN or attaching conditions that will result in a cancellation next year. Let us not give up this leverage. We have a duty to the Chinese people to remain engaged with Beijing through economic relations to bring about political reform.

The PRESIDING OFFICER. Under the previous order, the Senator from Nebraska is recognized.

AMENDMENT NO. 805

(Purpose: To require the President to undertake efforts to ensure that other countries impose trade restrictions against China if restrictions are imposed by the United States)

Mr. KERREY. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY] proposes an amendment numbered 805.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . SANCTIONS BY OTHER COUNTRIES.

If, pursuant to this Act, nondiscriminatory (most-favored-nation) treatment is denied or a decision is made to terminate such treatment, most-favored-nation status for the People's Republic of China shall be rescinded 60 days after such denial or decision to terminate. During such 60-day period, the President shall undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

Mr. KERREY. Mr. President, I first of all want to applaud the distinguished Senator from Texas and the distinguished Senator from Maine in their effort to bring this bill to a vote. I know it is difficult to do. And I must say, at the same time, that I have a great deal of respect for the distinguished Senator from Montana. I know he is concerned about potential adverse impact upon U.S. economic interests.

But I must say, Mr. President, I have heard many of the arguments against the bill and I would like to very briefly comment on some of them. But as a foundation, Mr. President, one of the questions I think that all of us have to ask and answer is whether or not the United States under any circumstance should attempt to interfere with the internal policies of another nation.

We very often hear in response to our criticism of either the military policies or the trade policies or the domestic policies of some other nation, we hear their leaders saying, "Don't meddle. You are meddling in our internal affairs and thus you should not engage us in that way. Allow us to take care of our own internal affairs," we are told.

Mr. President, perhaps prior to the events of the last 3 years that kind of an argument would have persuaded a majority. I would observe in my own case that I possessed far more skepticism 3 years ago about our capacity to influence in a constructive fashion the events of internal affairs of some other nation. But after listening to Vaclav Havel, Lech Walesa, and Nelson Mandela come to joint meetings of the U.S. Congress and say to us "Thank you for standing for our freedom," most of that skepticism is gone.

I still hear the same arguments, any time it is proposed that Americans sacrifice for the freedom of others, that perhaps the sacrifice is too great; the same sort of arguments that were used against taking action on behalf of the freedom of now the President of Czechoslovakia, and the President of Poland, and Nelson Mandela. The arguments essentially were, "The price is too great. We can find other ways. We can accomplish the objective in some other way."

Personally, I hear in the words of the President of the United States, President Bush, at Yale, saying that we should continue the course that we are on with China and we are exporting the values of democracy. And I find myself reflecting instead on a different course, the course in fact that we are suggesting that should be taken with this bill. That is the course that recognizes that freedom is gained, freedom is secured, freedom is guaranteed when we are able to set aside our fear of losing not only what we own but perhaps even life itself.

Mr. President, the old men who run the Chinese Government place a very high value on order, and we will say that they need to press their people, they need to take action against their people in order to preserve order. They say we just do not understand that order is a very high value and if we only understood that, we would not be interferring in this way.

Mr. President, I believe the people of the United States do understand that there are tradeoffs between order and freedom. Those of us who believe that the United States should stand for freedom understand that there are times as well when we do have to pay a price, when we do have to set aside an economic interest and volunteer to go to serve our country, volunteer to wage the battle for freedom.

Mr. President, we all have given speeches on the Fourth of July and on Memorial Day and other sorts of events when we pause to reflect upon those who have paid a price. This proposal is a suggestion that we are going to pay a price again and that it is worthwhile paying, Mr. President.

None of us underestimate that fact. None of us, I believe, have not evaluated and calculated what sort of a price the United States of America could pay to assist the people of China in their struggle for freedom.

I believe that is the essential question here in this debate. Are we prepared to pay a price? Or do we simply want to continue the course of diplomacy and negotiation and discussions to try and move and dislodge the Government of the People's Republic of China?

I do not think there is much dispute that something needs to be done. I have heard the debate and I hear those who oppose the Mitchell proposal. I do not here them saying that they believe that something should not be done.

I just heard the distinguished Senator from Indiana identify the problem very articulately and suggest an alternative course. It seems to me that is a presentation that fairly accurately represents even those who strongly oppose this action in this legislation.

There are some who have argued very specific alternative courses that would, they believe, be better than this particular course of action. But, Mr. President, it seems to me that what all the alternatives lack is that hard willingness to give for somebody else, that incalculable willingness to sacrifice.

There is still in the alternative proposals a belief that somehow we are going to secure freedom easily, that it will occur without an effort, that we can do it just with a little trade, that we can do it with just a little negotiation, that in a little time perhaps the People's Republic of China's Government will moderate their policies.

Mr. President, I do not believe freedom is secured in that fashion. I do not think it falls like manna from heaven. I do not believe it springs from out of the the ground by accident. And the skepticism I had in fact here when I arrived in 1988–89 has been substantially diminished as a consequence of substantial sacrifices by the American people on behalf of the men and women of Eastern Europe and the men and women of South Africa and the men and women throughout this world.

Mr. President, in the postcontainment world, we are increasingly going to be called upon and are going to have to answer the question: Are we ready to pay a price? And if we do not, Mr. President, I believe freedom will retreat. I believe that the boundaries that now encircle free men and women on this Earth will be beaten back.

I know that there are some who have argued against using most-favored-nation status as a tool, and some have presented some persuasive arguments for alternatives that do in fact require some sacrifice.

I have heard some say "Well, other nations do not do it. Other nations have not proposed to do this." Mr. President, the United States of America has led in many instances where no other nation was willing to go, where no other nation was willing to pay a price, where no other nation was willing to make the sacrifice. And we should not, simply because the evidence shows that other nations are doing nothing, retreat from I believe a serious cry for freedom coming from the people of China itself.

I have heard secondary arguments that this is inconsistent, that what we do with the Chinese is not being applied to the people in other parts of the world. I hear persuasive arguments, in fact, for doing the same thing for Syria and other nations who engage in terrorism. But, Mr. President, with all due respect for the argument of consistency, I have heard it used too often here in the short period of time that I have been here to believe that it has much merit, particularly in the area of foreign policy.

The question here is not are we going to try to make certain that our foreign policy is consistent across the board; the question is do we recognize the cry of freedom from the people of China and do we recognize that China is exporting weapons, Mr. President, and God forbid that our sons and daughters are called upon to fight an enemy that is using the weapons that are being exported by the People's Republic of China.

The People's Republic of China cannot be restrained; it seems to me that we must take action and not fall upon a sword of consistency. Mr. President, when the call comes to fight for freedom, we should only ask ourselves, are we going to respond?

Last, Mr. President, there is a concern that the United States not simply go it alone. I find that to be somewhat of a persuasive argument and the amendment that I have introduced attempted to address that. It does not relieve the United States of America from the burden of leadership. It does not say to us, well, as soon as the Swedes do something, as soon as French do something, as soon as somebody else takes some action, then we will respond. As soon as we get a majority, then the United States of America will lead. It does not relieve us, Mr. President, from the burden of leadership. That burden still falls heavily upon us, and I believe we should assume it, with great respect for the people who have presented us with the freedom we have in America.

Mr. President, it simply says the President of the United States, if he believes that most-favored-nation status is going to be rescinded as a consequence of the People's Republic of China not adhering to the simple conditons that are laid out in the bill before us, that the President of the United States is asked to put together an international or multinational coalition.

He is asked to make an effort to put together a multinational effort, economic effort, in support of an objective of greater freedom for the People's Republic of China, for the cessation of abuse of human rights, for the cessation of trade policies that on their face deserve swift and stern action by the United States of America, and for cessation of weapons sales to nations that no one in this Congress trusts.

This simply presents to the President of the United States the opportunity to lead an international coalition as effectively as he had demonstrated the capacity to do in marshaling the forces of this world against the nation of Iraq. I believe this is a reasonable amendment that enables us to make certain that it will be a multinational effort; it will be not just the United States alone.

But I say for emphasis, it will fall upon this country many times in the future to assume the mantle of leadership. And it will occasionally be lonely. And it will occasionally be frightening. And we will occasionally wonder what is the economic impact going to be; what are we giving up in order to secure something as intangible as freedom? I hope and pray we do not shirk that responsibility in the future. We have not shirked it in the past and, as a consequence, the advance of freedom appears to be inexorable.

But I do not believe it is. It has been secured with sacrifice, and it will be preserved and expanded only with sacrifice.

I am prepared to yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, as manager of the bill for the majority, I have examined the legislation of the Senator from Nebraska. I want to congratulate him. I think it aids the piece of legislation. What we are talking about is, if we go ahead and deny MFN to China, the President himself should do everything he can to get the international community to support it.

International sanctions are really more effective when you get a multilateral approach to them; when you get other countries involved. I think a good example of economic sanctions working was what happened in South Africa and the change of course there. And, of course, what the President was able to do in Iraq: Putting an international embargo in effect on Saddam Hussein and having a considerable impact on that country.

So I think this is a plus. It is helpful to the legislation, and I support it.

The PRESIDING OFFICER. Is there further debate? The Senator from Nebraska.

Mr. KERREY. Mr. President, I would add some additional detail that is important only in the regard that it makes clear how I have arrived at the decision I have arrived at, which is to support the bill before us and to offer this particular amendment.

Mr. President, earlier this year I had a difficult vote presented to me in the form of a question: Should we give the President fast-track authority to negotiate an agreement between 107 nations, called the General Agreement on Tariffs and Trade, and a new agreement between the United States and Mexico that would include Canada, and thus has been described as the North American free-trade agreement.

It was a difficult vote for me. I unquestionably see some potential negative impact. I am concerned about that potential negative impact. It is not clear by any stretch that the General Agreement on Tariffs and Trade is going to be negotiated satisfactorily. There are a number of roadblocks still in the way.

But I want to establish for the RECORD that I voted with the majority. I was persuaded most particularly, I will say, by the distinguished senior Senator from Texas. His arguments on behalf of free trade and looking to lower barriers for trade were most persuasive. I believe that the long-term interests of the United States of America are served by us leading the world again.

There is no question we will have to lead the world in the area of trade. Thus, this action we take now should not be reduced simply to a trade issue, as many would like to do. This is not a trade issue. This is a moral issue. This is an issue of the United States of America leading in a very important moral sense.

As I said earlier, and I say again for emphasis, the highest morality of all is illustrated by our actions when we demonstrate that we are not afraid of losing those things that we have; that we are not afraid of losing, perhaps, our own life in behalf of someone else.

This should not be seen as a trade issue. It is not, in my judgment, anything other than the United States of America attempting to influence the People's Republic of China, and to say that we believe in much higher values than we see being expressed by that Government.

I appreciate further that the People's Republic of China buys a large number of products from the United States. Particularly, they buy a lot of agricultural products. I have heard from a large number of producers in my State, farmers in Nebraska, who are concerned about the potential adverse effect that this legislation would have; that sending a signal like this to China, attempting to influence China, could cause the Chinese to buy their product from someone else.

I point out two things in that regard. One, the Chinese have used our Export Enhancement Program to purchase wheat, and then have used that wheat to substitute for feed grains, and then turned around and exported corn in competition with us. So the slate is not quite as clean or clear as might appear on the surface. It is not a question, simply, that the United States of America is giving up market share. In fact, some of our sales have caused us to lose market share.

I have heard, as well, some say the French made a major sale of wheat to the Chinese recently, and more of that will happen if we enact this legislation. The way to stop that sale of wheat from France to China is not by voting against this bill. The way to stop that sale is to encourage the President to be far more forceful than he has been willing to be in persuading our friends in the European Community that they should accept the recommendations made by Mr. McSharry that call for substantial reductions in their internal subsidies and their external subsidies.

Once again, I must say it appeared to me, though the President said a few things about it last week in London—he talked a bit about wanting to do it—it appears to me again the President was a little bit worried about, perhaps, offending our G-7 colleagues, and thus did not spend a great deal of time pointing out that unless the Europeans make those reductions, not only will we not have an agreement on GATT, but we are apt to have a very expensive and very damaging trade war.

So rather than using the sale of French wheat to China as an example of something that might happen if we vote now, I believe that serves as a very strong example of what the Government of the United States needs to do under all circumstances to reduce this kind of subsidized sale that the French and Europeans are far too willing to participate in that indeed is distorting trade; that is making it difficult for us to capture fair share of market; and is not only costing our farmers and our taxpayers, but in the end, produces, I think, significant distortions throughout our policy.

Mr. President, I hope that my colleagues not only will accept this amendment but they will vote for the bill. I know it is difficult. I know that there are pieces of concern that we have, that we have heard from business interests, that say the price is too great. I do not believe that the price is too great, Mr. President. I believe the price that we will be paying with this particular action is warranted by the evidence at hand that we have and the behavior of the People's Republic of China.

Mr. President, before I explain my amendment, I would like to comment briefly on the general issue before us.

Included among the many appeals that we have received from the administration on the China-MFN issue are numerous warnings such as the following:

> By threatening to withdraw or condition MFN, we allow this vital link to be held hostage to the reactions of a small group of hardline leaders in Beijing.

By the administration's own admission, the policies that govern a nation of more than 1 billion people, and the U.S. response to those policies, are being shaped by "a small group of hardline leaders in Beijing."

In view of the administration's extreme sensitivity on the MFN issue, and its reluctance to push the Chinese on the whole range of concerns that gave rise to the majority leader's bill, it is clear to me that in fact it is administration policy that is being held hostage to "a small group of hardline leaders in Beijing."

In the face of the President's just-be-patient appeal toward China, I am inclined to conclude that administration policy entails little more than waiting for this small group of hardline leaders to quite literally, pass on.

Mr. President, in the brief time that I have been in the Senate I have seen the likes of Vaclav Havel, Lech Walesa, and Nelson Mandela come before Congress to describe their courageous efforts to replace repression and tyranny in their own country with freedom and democracy. Each of those remarkable leaders thanked the American people and the U.S. Government for standing with them in support of democratic ideals, and for giving force to that support in the form of political and economic sanctions.

I do not believe that Lech Walesa would be the popularly elected President of Poland today if we had told him, "Be patient, your time will come. Your elders will eventually leave the scene. Until then, the United States will continue business as usual, and we'll just wait them out."

The single question I ask of the President is: Why is China different?

Mr. President, the purpose of my amendment is to help ensure that the United States does not go it alone if we attempt to promote U.S. policy through the imposition of economic sanctions.

My amendment simply says that, should most-favored-nation treatment for China be denied or terminated, MFN status for China shall be rescinded 60 days after the denial or termination. During the ensuing 60 days when MFN for China remains in effect, the President is directed to undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar actions with respect to the People's Republic of China.

I should make clear that this amendment differs slightly from the amendment I circulated nearly 2 weeks ago. My original amendment simply directed the President to seek multilateral cooperation after the United States had taken action to revoke China's MFN treatment.

In response to the legitimate concerns raised by some that the United States should seek multilateral cooperation before MFN revocation becomes effective, I have modified my original amendment to give the President a full 2 months to enlist international cooperation in imposing sanctions against China before withdrawal of MFN takes effect.

Mr. President, to get to the point, I offer this amendment because I strongly believe that multilateral action should be a cornerstone of sanction measures such as the bill before us.

That is why, for example, I sided with a small minority of Senators who on July 27 of last year voted against an amendment to the 1990 farm bill that would have cut off United States agricultural credits to Iraq without regard to whether or not our major competitors in world agricultural trade were prepared to take similar action. Although Iraqi behavior prior to that date clearly demanded a response, that response should have been multilateral in scope. Had we unilaterally cut off United States export credits to Iraq at that time, the United States would have simply forfeited to the Europeans, the Australians, the Canadians, and others an important market for such United States commodities as wheat, rice, and edible beans.

Those who voted for unilateral sanctions last summer apparently had forgotten the costly and painful lesson of the 1980 Soviet grain embargo. In that case, the United States acted unilaterally in January 1980 to suspend grain sales to the Soviet Union following its December 1979 invasion of Afghanistan. The net result was to cede the Soviet grain market to the European Community, Argentina, and others. The Soviet Union, the target of our action, was merely inconvenienced. Only American agriculture suffered. That mistake must not be repeated.

By enlisting an international response to the policies of the Chinese Government, United States policy is made more effective. Moreover, the burden of enforcing that policy does not fall disproportionately on U.S. industry, whether its agriculture or aircraft.

I noted yesterday that the Republican leader termed my amendment an Alice-in-Wonderland approach. Perhaps he doubts the President's ability to marshall an international response to Chinese atrocities in the same way that the President was able to assemble international sanctions against Iraqi atrocities. Indeed, the success with which the President was able to assemble the coalition against Iraq—and the moral conviction that he brought to the effort—inspired and excited many who thought the New World Order of which the President spoke promised a bloodless, but still forceful approach to ensuring world peace.

If there are no doubts about the President's ability to successfully engineer a concerted response to China's offensive policies, then perhaps there is some concern about the President's willingness to lead such an effort against his Chinese friends, given his often expressed proclivity on the matter. My only response to any such concern is that this amendment directs the President to seek multilateral cooperation, and I certainly do not question the President's willingness, as Chief Executive, to carry out the law.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, yesterday I referred to this amendment as an Alice-in-Wonderland amendment. It is an apt description.

In my view, there is not the slightest chance—not one chance in a million—that any one of our GATT partners—or, for that matter, that any other nation on Earth—is going to join us in putting restrictions on trade with China. The G-7 leaders specifically and unequivocally made that point to President Bush in London again last week. If we terminate MFN, we are going to be out there all alone—the Long Ranger—and we are going to pay the price:

Our farmers and manufacturers are going to pay the price, in lost exports:

Our importers are going to pay the price, in lost suppliers;

Our consumers are going to pay the price, literally, in higher prices;

Our workers are going to pay the price, in lost jobs. And someone is going to pay the price, in terms of the reaction of our constituents.

This amendment is an attempt to shift the blame. It is an attempt by those who support the resolution to say: "It's not our fault." We told the administration to "ensure" that our allies did not take advantage of our folly. We instructed the administration to "ensure" that our allies do not replace our exports, buy up China's cheap goods, or continue other normal economic relations with China.

"It's not our fault all this happened," they will say. It is the administration's fault, or it is the allies' fault. It is not our fault.

This amendment, pure and simple, is a raincoat against the political storm which supporters of the resolution would face from their constituents—whose exports, and incomes, and jobs depend on trade with China—should this resolution be enacted into law.

Apparently, some think MFN may be the wonder weapon. Maybe they think that we should tell Australia, and Japan, and France, and Germany, and all the other allies, either you terminate MFN for China, or we terminate MFN for you. After all, if MFN is such a powerful weapon—that can bring great nations to heel—maybe it can scare the Australians, and the Japanese, and all the rest to follow Uncle Sam's lead.

Mr. President, this is Alice-in-Wonderland. Like most fairy tales, it is feel good. But, like all fairy tales, sooner or later the fantasy ends and reality sets in.

And one reality of enacting the underlying bill—with or without this amendment—is lower farm prices, reduced exports, higher prices, increased unemployment, all to no good end.

Mr. President, I think this amendment will be accepted, but I wanted the RECORD to reflect that it is not much of an amendment, and I would like to indicate that. I have great respect for my friend and colleague from the Midwest, from the State of Nebraska. I referred to this yesterday as an Alice in Wonderland amendment, and I still think it is an apt description. As I read the amendment, unless it has been modified, it says that the President shall undertake to ensure that members of GATT and trade take similar action with respect to the People's Republic of China.

Mr. KERREY. Will the distinguished Republican leader yield?

Mr. DOLE. Yes.

Mr. KERREY. There has been a modification to the amendment, I say with respect to the distinguished Republican leader. I did not want him to go further and make comments—it may not be a sufficient change to persuade him from making any further comments. I should point out it says on line 9 the President shall not just ensure, it says the President shall undertake efforts to ensure.

Mr. DOLE. Undertake efforts to ensure.

Mr. KERREY. I say to the distinguished Republican leader what I am attempting to do is similar to what was done last summer with the State Department authorization bill that was passed, I believe—Members can refer to it—title IX referencing the People's Republic of China. It actually calls upon it in one article, "* * * if systematic pressure in China deepens, the President should consult * * * (B) with the other signatories of the General Agreement on Tariffs and Trade [GATT] for the purpose of reviewing the People's Republic of China's observer status. * * *" It calls upon to use the membership of GATT. I selected the membership of GATT, Mr. President, as a consequence of this previous effort to direct our attention inside this particular body recognizing that one of the concerns we have is the potential impact upon trade.

Mr. DOLE. Mr. President, maybe I misunderstand the amendment. Let us say the President does undertake, maybe has a discussion or meeting, and they talk about GATT countries taking similar action with respect to the People's Republic of China. The similar action will be what, terminating most-favored-nation treatment?

Mr. KERREY. That is correct.

Mr. DOLE. I think that is the point I want to make.

I do not believe there is the slightest chance, not one chance in a million, that any of our GATT partners, for that matter any other nation on Earth, is going to join us at this time in putting restrictions on trade with the People's Republic of China. In fact, the one point that was made today at the Republican policy luncheon by the President's Chief of Staff, Mr. Sununu, was the fact that the G-7 countries in every instance were urging the President to do what he could to make certain we could continue MFN treatment with China. So I think as recently as the last 2 or 3 days there have been indications that this is not going to happen.

Again, the amendment is going to be accepted. The theory is the more amendments we accept, the better, the more conditions we put on. It responds to the very argument that we made at the outset: There should not be any conditions. Either we extend most-favored-nation treatment or we should not. We have already postponed indefinitely, which means that has been killed. So that question has already been answered. Now we are on the floor debating the resolution by our distinguished colleague and friend, the majority leader, and other cosponsors, where there is no time agreement, where we are trying to add conditions, where we are saying add MFN for a year and it will not be renewed unless certain conditions are met.

Again, the same point I made yesterday, do we want to be the Lone Ranger, the only country on the face of the Earth? And how many political prisoners are going to be released if we follow some of the actions that we hear from the rhetoric on the other side? How much are we going to increase trade if we follow some of the actions that I hear recommended on the other side? Who is going to pay the price for some of the actions, some of the rhetoric that I hear coming from opponents of extending most-favored-nation treatment?

My own view is that we have overplayed what we mean by most-favored-nation status. There are seven, eight—the distinguished chairman said there are only about nine countries that do not have most-favored-nation status. This is not a big deal. Russia does not have most-favored-nation status now but they might by the next weekend or weekend after that when the President goes to the Soviet Union or some time very soon. Cuba does not have most-favored-nation status. Libya does not have most-favored-nation status. I think we have set this up as the end-all here: Once we threaten anybody to take away their MFN status, they are going to buckle and do anything we want. That is not the case. But somebody is going to pay the price, and I think in this case, it is going to be farmers and manufacturers who are going to pay the price in lost exports. The importers are going to pay the price in lost suppliers. Consumers are going to pay the price in lost jobs. Someone is going to pay the price in terms of reaction from our constituents. It seems to me this amendment, in effect, says it is not our fault, we told the administration to "ensure that our allies did not take advantage of our folly." We are saying if we make a mistake and we engage in some folly, we ought to make certain that we get everybody else to engage in that folly. We are not going to do that. We are not going to legislate what any other country in the world can do. We are not going to intimidate the People's Republic of China. Either we ought to be in the loop or out of the loop. We ought to be having influence or not having influence. I think that is the choice we are going to face up to fairly soon.

This bill is not going to become law. It may receive a majority of the votes—I hope it will not—on final passage but it is not going to become law. The veto is going to be sustained. We have many more than the required 34 votes to sustain a veto. So I think this amendment is sort of a raincoat. It is sort of a political cover saying, if we do this, everybody else ought to do it and the President ought to ensure everybody else ought to do it and he ought to undertake to ensure everybody else ought to do it. I am not certain that is going to provide much protection if we get into a heavy storm.

Mr. President, though I respect the distinguished Senator from Nebraska and worked with him in a number of areas, I think there is an area we share a common interest in. When it comes to agriculture, we happen to see the result differently, but, in my view, we ought to accept the amendment; the amendment is going to be accepted in any event. We ought to have 30, 40 more amendments, put more conditions in this bill and make it even easier for some of us not to defend this bill, but certainly to indicate to the American people that President Bush was right in the first place, there should not be conditions. We cannot extract promises from our allies in this case, and, in the final analysis, the losers, as I said, are the farmers, the exporters, the consumers, the retailers, and the other people in the United States of America. The winners are going to be all those other countries who are going to rush in and pick up whatever we leave. As I said, I believe, yesterday, there are going to be a lot of parties in Australia, Japan, France, and Germany picking up all the business we are going to leave behind. This may be an issue somewhere. I have not yet determined where this is a big issue.

Most of the Chinese students in this country support President Bush. Maybe we ought to add a provision in this bill that in any country determined by Amnesty International that has a human rights problem they should not get most-favored-nation status. I wonder how many Senators would vote for that? Probably not a majority. But maybe we ought to be leveling the playing field and say, if we are going to apply this to the People's Republic of China, why not apply it across the board? Why not say to any country in the world, "If you are guilty of any human rights abuses determined by Amnesty International and some other group or by the U.S. Treasury report, then you lose your MFN status."

We do not like what we see in the People's Republic of China. I joined with the distinguished Senator from Montana, who made an excellent statement on the floor yesterday, in extracting from the administration answers to very difficult questions. In my view we are on the right track, and we ought to continue the initiative taken by the distinguished Senator from Montana, Senator BAUCUS, and others, Republicans and Democrats. This is not a partisan issue; it should not be a partisan issue. We should not attach conditions to the most-favored-nation status unless we are going to make them universal and apply them to every country, not just pick out this country or that country. Let us make them apply across the board if it is such a wonderful tool and weapon that we can work miracles with.

Mr. President, I yield the floor.

Mr. KERREY. Mr. President, I will just make a few additional comments in closing and then I will be prepared to yield on this issue.

Again, for emphasis, I am not trying to attach an amendment that provides cover. This is not for me a feel-good amendment of any kind. I understand what is at stake, and I listened to those who are concerned about losing market share and other nations rushing in while the United States of America takes a principled stand. I acknowledge that concern, and it is felt by me as well.

There is always potential loss, as I said earlier, when one takes a stand for freedom. It always is there. It seems to me that the United States of America has at its finest moments not waited for a majority to rally around it. This amendment says directly that the President of the United States should make an effort to assemble an international coalition, but that the President of the United States should also declare directly that we are prepared to fight for the freedom of the people of China; that we are prepared to put it on the line for the people of China and their freedom; that we are prepared to confront their trade policies with force; that we are prepared as well to do all we can to make certain that weapons sales do not occur. In fact, they are occurring today.

Mr. President, with this bill, I do not underestimate what I am asking the people of the United States to do. I am not suggesting that it is pain free. I am not suggesting that somehow this is an easy course of action. Quite the contrary, Mr. President. I am suggesting that the easy course of action should be rejected, that the easy course of action, of negotiating, of meeting, of trying to speak some reason and hope that time takes a better turn somehow—I heard some even suggest, well, the men who are in charge of the Chinese Government and the People's Republic of China are old and they will perhaps be passing on soon, to wait until they pass on perhaps and then we will get better policies.

Mr. President, I accept what the Republican leader has said that it is likely the votes are not here in this Senate to sustain a veto, it is likely that the President's course of action will be accepted, and perhaps you could rally a majority of Chinese students who would say do not do anything further. But I am not certain that that is a persuasive argument at all.

I think this is a bill that gives the United States of America an opportunity to stand tall for something in which all of us believe. Not only do I appreciate the distinguished Senator from Texas accepting this amendment, but I appreciate those who are willing to vote for this legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to address the underlying bill, not this amendment. I will be brief.

Mr. President, I intend to vote against the bill. I intend to vote to sustain the President's veto, and I hope that we will be successful in doing that.

I have heard a lot of good debate on this subject. I think Members are very sincere on both sides of the debate. I think, quite frankly, it is an open question as to whether we can influence China more by confrontation or more by engagement. Strong arguments have been made on both sides. I think it is an open question.

Mr. President, it is not an open question as to whether the President of the United States feels strongly that the way to go is through a policy of engagement. I submit that the President of the United States has more practical experience in this area than any Member who is currently serving in the Senate.

This is one of those close issues where one can make a strong argument on both sides. Here, however, the President is a legitimate expert. The President has strong feelings, based on practical experience of having served in China, knowing the leadership in China, knowing the Chinese people. I believe that as a result of that knowledge and as a result of the fact that it is an open question, we ought to give the President the benefit of the doubt.

I know this President is a Republican. I have never served in the Senate when we have had a Democratic President. But I believe that maybe the American Government would work better if on those issues that are close, from time to time we did a better job of giving the President the benefit of the doubt and giving him an opportunity to make his programs work.

So I do not know with any surety what the right path is. I do not know for certain whether we would achieve more through confrontation or more through engagement. The President has pratical experience in this area. He feels strongly about it. I for one intend to support him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. KERREY. Will the distinguished Senator from Wyoming yield. I know he is speaking to the underlying bill. I have a pending amendment. I believe it is going to be accepted. I wonder if it is possible to get that amendment accepted and then move back to the underlying bill itself.

Mr. SIMPSON. If the floor managers agree to that, that is certainly appropriate with me, I say to my friend from Nebraska.

Mr. KERREY. I thank the Senator.

The PRESIDING OFFICER. Is there any further debate on the amendment offered by the Senator from Nebraska, No. 805?

Mr. BENTSEN. Mr. President, as manager on the majority side we have no objections to moving forward on it.

Mr. PACKWOOD. I have objection but I am prepared to accept it.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 805) was agreed to.

Mr. BENTSEN. I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I rise to speak on the underlying resolution rather than the pending amendment, if I may. I do so admire my colleagues who are managing the floor discussion, Senator BENTSEN and Senator PACKWOOD. They are deeply respected people in this body.

I have watched personally the effectiveness of Senator BENTSEN with regard to the fast-track legislation. He was extraordinarily impressive in marshaling the forces and the effort to get that done.

Then, of course, Senator PACKWOOD has always been involved in some of the major issues of the day in previous years when he served as chairman and as ranking member of the Finance Committee.

I agree with the Senator from Texas, this is a plenty tough issue.

In my job as assistant leader of our side of the aisle, I sometimes do end up supporting the President when I have had to take a deep breath, a swallow and then jump in. I do know that feeling and I try not to do that too many times a year. Constituents might take a rather dim view of that if it were done too often. There must be a sensitive balance.

This is not one of those instances. I think the President is absolutely right. I have come to this conclusion in my own chain of thinking, a rather simplistic way, perhaps. There is not a single one of us who is not appalled by the human rights conduct of the Chinese.

It seems to me that no one is in disagreement about the condemnation of what the Government of the People's Republic of China did in Tiananmen Square; their defects in the area of human rights, and opposition to the sale of certain missile and nuclear technology to Algeria and other countries.

Those concerns are all real, and I would be very disturbed if the administration were not dealing with them. But they are dealing with them, and dealing with them in a very crisp and businesslike fashion.

To me it simply comes to this: How in the world do you continue a dialog with a country, with one-fifth of the world's population, by withdrawing a trade status, which we give to 162 other nations on Earth?

This is not some crown jewel that we keep in a special case and then grant to certain people. We have given MFN status to some real rounders in our time. If we are going to make that the condition, then we should certainly treat some of those other countries the same way.

If we are really going to deal with issues like global warming; really going to deal with the real issues of the day like the global population. We must include in those discussions the People's Republic of China. It is always startling to me how, on this floor, we have all heard the great passionate debates on the environment, human rights issues, and this condition on MFN or that condition, knowing that unless we get a handle on the global population, the world's resources will be consumed before our eyes. But no one seems to want to talk about or deal with that issue. That is the critical issue of control of the global population. Try that one.

I am not referring to abortion. I am not talking about that at all. I am talking about how many footprints there are on the Earth, and can be sustained by the Earth? It seems to me there is one country we ought to talk to about that a lot—and that is the People's Republic of China, since one-fifth of the people on this planet are right there.

The opponents of China's trade status focus their arguments on other issues, especially human rights standards. Those concerns have been deeply rooted since the Tiananmen Square tragedy in June of 1989. Every high-level meeting with the People's Republic of China since that event has been devoted to discussing human rights issues. Although this point is refuted by some, immediately following the Tiananmen Square event the administration embarked on a multifaceted strategy to very clearly, unequivocally, and tangibly express our condemnation of the human rights abuses that took place at that time in the PRC.

The President was the first world leader to condemn the forceful suppression of the student demonstrations. Do not miss the fact that even though there are few activists who favor the Mitchell resolution, there are many more Chinese students in this country who very much are saying what the President is saying; and that is: "Do not close off the People's Republic of China or they will go back to being a cloistered, restrictive, regressive society as they have been in the past. Keep that door open."

Remember this also, it is a curious thing sometimes people forget that we are carrying on immigration with the PRC. Some 30,000 visas, some tens of thousands of nonimmigrant visas have been granted. We have programs going on in the commercial area. There are numerous student exchanges benefitting young people. What is the purpose of shutting that off? What is gained by closing down programs that were the very programs that gave these courageous young people the energy to protest in Tiananmen Square? Those are the important things that I speak of.

The President has never waivered from his position regarding the protection of those Chinese students in the United States. They are receiving that protection. They will continue to receive it. They will not lose it. He has continued to express our national criticism of China's human rights record.

He has neither been conciliatory, nor waffling in that approach. In June 1989, he announced the suspension of a number of bilateral programs including high-level exchange visits with the Chinese Government, and the transfer of military equipment and technology. The administration has maintained a continuing dialog with Chinese officials on human rights. A few high level visits to China were authorized so that United States officials could personally, face to face, outline the threat that the human rights abuses which were taking place posed to our bilateral relationship.

These United States officials suggested steps the Chinese could take to address our deep concerns, our anguish, and our disapproval of their conduct. General Scowcroft, Deputy Secretary of State Eagleburger, Assistant Secretary Schifter, and most recently

Under Secretary Kimmit, have participated in this important dialog to stress the need for reform in China.

Because of this dialog, there have been some modest, admittedly modest, but positive steps made to improve the situation. Martial law was lifted in Beijing in January 1990, and in Lhasa, 4 months later.

Most of those detained after the Tiananmen tragedy have been released. Sentences meted out to political dissidents are now less severe, admittedly still beyond the ambit of our approval, but less severe than those that were routinely issued before and immediately after the Tiananmen Square demonstration. Political activists and their families have been allowed to leave the country. And I have described the situation with regard to immigration.

The progress made so far is not enough. However, we are seeing the beginning of some momentum needed to achieve greater freedom and democracy in China. We cannot afford to simply shut down the channels of communication and the possibility of achieving improvements in the behavior of the Chinese Government which we all seek. We need to be at the table. So do the Chinese, if real and permanent human rights progress is to be made. That is critical.

I have also heard many of my colleagues voice their concerns about the trade imbalance. That too is a critically important issue. Yet, we must keep in mind that MFN is not some special benefit awarded to only select countries. It goes to an extraordinary number of countries with whom we sometimes disagree with even more vehemence than we do with the People's Republic of China.

Of the 100 countries who grant China MFN, the United States is the only country considering the revocation of that status. So where would we be then? Any United States action that would label China the pariah of the world in the trading community provides no incentive to the Chinese to join us at the negotiating table to discuss the most important issue of market access. We cannot be naive to the fact that if MFN is denied, or renewed with unattainable conditions attached, China will simply close its markets to United States businessmen and agricultural producers while remaining open to our foreign competitors.

You do not have to look very far back in history to realize that unilateral actions of this type, the grain embargo for instance, have always backfired on us and our domestic producers. Every single one of them has backfired, and the greatest injury has been to our national competitiveness. That is what we always find. It is the same every time.

We can look at the most recent statistics which indicate that United States exports to China declined 17 percent in 1990, while the Chinese exports to the United States increased 27 percent. I am also aware of the granduated increase of the trade deficits since 1987—$2 billion in 1987 to $10 billion in 1990 with a 1991 projection to raise to $15 billion. It is serious. The trade deficit must be dealt with immediately. I do not argue with that one whit. Yet tying the trade imbalance to the renewal of MFN is not the answer.

Are we saying that we do not have other bad trading partners? We do have some that really put us in the box regarding trade deficits. I can think of one which has a $50 billion imbalance with us. We deal honestly with other countries where we have large trade deficits in an effort to try to reduce those figures. That is what I think we must do here.

Without MFN, we are going to lose our ability to negotiate increased U.S. market access for U.S. products. We will abandon any leverage we have to reduce trade barriers between our two countries. As long as we can keep the channel of communication open between the United States and China, there remains the possibility for a most prosperous and democratic China.

Those Chinese students are telling us the same thing. Please hear that. Oh, yes, there are some who are easily located by the media and presented to the American public who say: "MFN is a terrible thing. Close them up and teach them a lesson." But the vast, great majority of those fine, young students, in my State, and around the United States, are saying: "Do not take away MFN. Do not put conditions upon it that cannot be met, and human rights abuses which happened and which we endured are not likely to take place again."

That is what they are saying to us.

Let us keep the channel open. China is opening to the outside world, especially to the United States, and has reformed what was a stagnant economy to a more market-oriented economy that is striving to provide a higher standard of living for the Chinese people.

China claims at least 30,000 foreign joint ventures with a contract value of $40 billion—of that total 1,000 American companies have committed investments of more than $4 billion. Each one of us in our own States know of these things.

My fine State of Wyoming would be greatly impacted if MFN were revoked. In 1990, $790,000 in agricultural products were exported to China, down from a high of $1.3 million in 1989. Over $1 million of Wyoming-produced chemicals have been exported annually to China for the last 3 years. Other Wyoming exports include livestock, fish products, lumber, textiles, and many others—totalling $4.8 billion in 1990.

Since no other countries would be withdrawing MFN, U.S. wheat producers would be put at an extreme competitive disadvantage. Wyoming wheat exports valued at around $12 million would be at stake, and the entire U.S. wheat industry, valued at $511 million, would be in complete jeopardy.

But I am not going to put it solely on the basis of parochial economic gain. I am going to put it on the simple basis: How do you affect change in the PRC? You make change in that country by putting the hammer on them in the various ways within our system of government, and we are doing that. But you do not do it with MFN. MFN is not the place to address the grievances that all of us have with their Government.

I spent several hours with the Chinese Ambassador to the United States. I happen to feel that he is a very extraordinary person, doing an extraordinary job, in extraordinary times. He does not happen to be in the United States at this particular time. He has been called back to his country for deliberations and discussions of which I am not privy. But I can say to you that I would hunch that part of his mission is to try desperately, I think, within his own professional diplomatic agenda, to assure that these reforms do take place, and that these past terrible abuses do not continue, and that we continue to progress with this dialog, which is so important to both countries.

There is a final note, and it should not be the controlling one either. There are so many other important components to the argument against this resolution such as the need for dialog on the nuclear issue, and the issue of PRC's support of the United Nations during our very successful war in the gulf. There were 14 resolutions passed by the Security Council in support of the policy we executed so successfully, with great international cooperation, in the gulf. The PRC, could have derailed the entire process by exercising their right to veto each and everyone of those resolutions. They could have prevented us, on an international basis from achieving consensus on gulf policy. The world looks upon the Security Council cooperation in the gulf as an act of finally sticking close to the principles, and the mission, and the reputation of the United Nations.

You cannot dispute the fact that China's trade relationship with their allies in the Security Council did not affect the way they voted. Where would we be if as many of the supporters of the resolution argued in 1990, that we should have rejected MFN then? Where would we have been if we had rejected MFN status early in 1990? I know where I think we might have been. By that one vote in the Security Council, we would not have had the international support of the United Nations. The United Nations finally functioned in a way they had previously never functioned. It worked. The United Nations worked.

That was another side benefit of the extraordinary activity in the gulf. It worked because the PRC, the People's Republic of China, determined that they would support the international community—for their own purposes; I know that.

In conclusion, the Presidents desire to extend MFN is our best hope for dialog on many issues which are deeply troubling. We are all sometimes compelled to make progress when we deal within, and not outside, the framework of discussion and cooperation. MFN is just exactly that.

Isolating China at this time will not help them address the issues of nonproliferation. Why would they want to come to the table to talk about nonproliferation? No reason at all, when you isolate them. Why would they want to come and talk about any issue that confronts the world? Global warming? Why would they want to talk about population control? What do they care about human rights, when we begin to shut the door?

I think that anything constructive can only occur with dialog. You cannot do anything in this world by giving each other the ice treatment. It does not work in marriage. It does not work in relationships between parents and children. It does not work anywhere. It will not work here. If we look at the Middle East, I think we will slowly see that it will not work there either.

Sometime, at some point, you have to sit down, just like we do in this body, and meet and talk with people that we really have a lot of problems with—maybe personally, or with their philosophy, or with their ideas; or maybe we have been into one with them and we have not forgotten 6 years ago when old so and so did that.

But that is not the way you make progress. It is not the way you legislate or do the Nation's business. And it is not the way you address the international problems that confront the world. You cannot get there by simply using power, pressure, intransigence, stubbornness, past pain, past anguish, and past grievances. If we did that, there would be no progress in any form of human activity.

I thank the Chair.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I say to my colleagues that I will be very brief. Just to update my colleagues where we are on this bill, I think we have one, maybe two pending amendments that will be offered. It is the hope on the part of the managers that we can do this process rather rapidly this afternoon, so the Senate might have a chance to adjourn before dark. There have been a lot of comments of late about votes around here at 9:30 at night. But that seems to be when the votes usually start, somewhere between 9:30 and midnight.

If I can summarize very shortly, I will yield the floor to those Senators that have been waiting patiently to speak on this bill and offer amendments. Some resist. As I see it, the old guard is dying off in Communist China, and this is one time when we in the West can probably outweigh them. They are all over 80, and we have a much younger President that looks like he has about 6 more years left on his term, we hope. Our President has had a lot of experience with respect to dealing with the Chinese Communists. According to my recollection, he is the President.

The Senate has the right to pass a bill and the President has the right to veto it. And if the majority leader and his troops have the votes, they can then take this power from the President and have their say. If they do not have the votes, they cannot do it.

So why do we have to hang around here for 2 weeks or a week, or 2 more hours, to argue over this issue? I think we all know where we are on the issue. Everyone has made up their mind.

So my view of this is we should, if there are Senators who have amendments, let us offer the amendments. Let us get a vote on them, and let us vote on the final passage and disposition of this resolution.

I think the majority leader has the votes to pass them. We will see if he has the votes to override the veto and get on with it so we can adjourn and get out of here this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have not spoken on this issue, and I am a little hesitant to do so because I know there are very persuasive arguments on both sides. However, after reflecting on this during the debate, I have concluded that I am going to vote for the bill that came to the floor without recommendation and which would grant MFN status to China under the conditions listed in the bill and some of the amendments that have been adopted here.

Mr. President, in 1971, I was Governor of my State, and I went with a group of other Governors to the Soviet Union. As we left the Soviet Union, we came out through Romania. We went to Bucharest and had a couple of hours' conversation with Ceausescu, a very low-key, soft-voiced man whom I knew little about. He has only been in charge of Romania for about 4 years, and he immediately brought up the subject of most-favored-nation treatment.

I was just a country lawyer that had become Governor, and I did not have a clue as to what he was talking about. I did not know anything about most-favored-nation-treatment.

So when I came home, I asked my staff to do some detailed work on it. I found that in 1945, when the GATT countries were set up, it was generally agreed that all of those countries would provide equal tariff treatment to each other. And then, in 1951, Congress adopted a law that said: "We will not provide most-favored-nation treatment to any of the Communist countries, but principally the Sino-Soviet bloc, the Soviet Union and China."

That was in 1951, Mr. President. So neither of those countries had ever enjoyed this preferential treatment that we give to our good trading partners.

And then in 1974 we passed what has been popularly known as the Jackson-Vanik amendment that said, "We are not going to allow most-favored-nation treatment to anybody who does not allow free emigration." The reason for that being that the Soviets refused to allow Jews to emigrate from the Soviet Union.

I say all that just as a historical background of what we are debating here and what is involved, and whether or not this most-favored-nation treatment is being applied equally to the other countries of the world.

To go ahead with a little personal vignette, I read a book about 3 years ago by Madam Chiang, who had been imprisoned in Shanghai during the Cultural Revolution. I was so impressed with the fact that she spent 7 years in prison during the Cultural Revolution, and what she did to survive during that period of time: Innocent—innocent as she could possibly be—and yet under that crazy Cultural Revolution, she was imprisoned for 7 years under the most unspeakable conditions which she described in her great book, "Life and Death in Shanghai."

So I called her. I told her I would like to host a luncheon for her and six or seven other Senators just to talk to her. She was delighted. It turns out she is a member of the same church I am here in Washington. I did not realize that. She had gotten out of China, and through Canada, came to the United States, where I assume she still resides.

But in visiting with her and talking to her that day with the Senators that I invited, I remember I told her, "If I had been you, I would have crawled up in a fetal position and died." She said, "Well, you just think you would. Actually, I survived," she said, "because I was so angry at the thought that these people could do this to me, and I was absolutely determined to survive." And she said, "I made life almost as difficult for them as they did for me. I thought if they kill me, I will have done all I know to do."

She was certainly a very courageous woman. But I just thought, how on Earth could something like this happen, where just innocent people are dragged out of their homes and imprisoned, and with the end of the Cultural Revolution? Actually, before Mao Zedong died, the Cultural Revolution came to an end. And up, as you know, until recently, Mao's wife, part of the Gang of Four, was actually in prison. I think she died recently.

My point is this: Here is a nation which had made some improvements. Deng Xiaoping's son or daughter—I forget which—was victimized by the Cultural Revolution.

But China does not have a democratic history, nor does it have a history as a nation that has complied with human rights. They have come some distance, and everybody in this country thought they were going to go the rest of the distance until all of a sudden Tiananmen Square occurred 2 years ago.

Mr. President, would it not have been so easy for China, with all of their manpower and the army and their police departments, to have gone out to Tiananmen Square and personally picked these people up, put them in paddy wagons, and taken them to jail? They do not have the right of habeas corpus. They do not have all those rights to be informed as to what they are charged with, any of that. But they could have at least picked those several hundred students up out in Tiananmen Square and taken them to jail.

But instead, Mr. President, they chose to start mowing them down with guns and machineguns, and killing them. And nobody knows to this day how many people were killed.

It was an egregious violation of human rights by any definition, by any person in the world. And after that was all over, they detained 1,800-plus of those students. And today, so far as anybody knows, roughly 800 of them are still in prison for simply exercising what the people of this country take as a God-given right under the first amendment, and that is to express an opinion.

And they actually executed 50-plus people as a result of Tiananmen Square for exercising what we take for granted in the first amendment: the right to speak; the right to demonstrate. And the fact that 800 of those people are still in prison ought to be enough to cause the people of this body to have a second thought before they vote.

You can say, as I have said to myself: We are not going to alter the conduct of the Chinese with this legislation. I believe that. They are a tough lot. And while I would like to say to them, "We are pleased that you are not quite as big a violator of human rights as you used to be," we have not said that to the Soviet Union.

The Senator from Wyoming said, well, we have given most-favored-nation treatment to a lot of other countries that violate human rights, which is another way of saying two wrongs make a right. I will come back to that in just a moment.

But I want you to think for a moment about what has happened in the Soviet Union. The Berlin Wall; in less than 5 years time, the Berlin Wall has come down. They got out of Afghanistan. They say now that the state may not violate freedom of religion; Eastern Europe is free. All of those things. All of those things have happened in less than 5 years, and much more. Elections are being held.

I do not mind saying that Gorbachev has not gone as far as I would like, but every time I pick up the paper, there is something new. Just this morning, he has announced that if the Soviet Union is going to remain Communist, they are going have to be a democratic socialist state. And the truth of the matter is, the handwriting is on the wall for the Communists in the Soviet Union. It is simply a matter of time until the people can express themselves on it.

And yet, despite all those things, which were thought unthinkable by ever single Member of this body 5 years ago—you could have gotton 100-to-1 odds against that anyplace on the floor of the United States Senate—we do not grant most-favored-nation treatment to the Soviet Union.

Yet all that change has happened. And yet not one suggestion, during this entire debate, not one suggestion from the White House that we accord the Soviet Union most-favored-nation treatment. It is not a big issue with me. But when Gorbachev said, you want the Jews to emigrate, we are going to let them that seemed to meet the Jackson-Vanik test. Their policy is not perfect yet. I read a story in the New York Times Sunday indicating that everybody that wants out is not getting out. But tens of thousands of people whom we have been fighting for since the Jackson-Vanik amendment of 1974 suddenly can leave, and what was the first pronouncement of the Reagan administration when Gorbachev said, "go." Our first statement was: "Don't come here. We can't take you. We don't have room for you." So not a word about the repeal of Jackson-Vanik or MFN treatment for the Soviet Union.

And you think about what happened there and all over Eastern Europe in the past 5 years and then compare that with Tiananman Square. I am not here thumping the tub for MFN treatment for the Soviet Union. I am simply saying that there is something strange here that a nation that is hardcore Communist, permits no freedom of speech, no elections, no religion, no nothing, we are being asked to give them most-favored-nation treatment, but not the Soviet Union.

What is the rationale? Does this mean if George Bush had been Ambassador to the Soviet Union instead of China the results would be different today?

The suggestion is made that it was because he was Ambassador to China he knows those people. I do not doubt that, and I am not questioning that.

Somebody said, well, this trade is all free and fair. Is it? The United States Trade Representative has confirmed that China is engaging in numerous unfair trade practices toward the United States and other countries. They include the imposition of tariff and nontariff administrative controls to restrict foreign firms' access to its markets, and on and on. I will not bore you with what our own Trade Representative says about the unfairness of China's trade policy toward the United States and other countries.

And what has happened? Look at the charts. China in 1990 became the second biggest trade deficit holder against us of any nation on Earth. Japan was, is, and probably will always be No. 1. And Taiwan was No. 2. And now China has replaced Taiwan. In 1990, we sold the Chinese, I believe, $4.8 billion in goods and they sold us $15.2 billion.

Mr. President, when you look at what China is doing with the Germans, the Japanese, the Italians, the French, everybody, you find that there is very little disparity between what they import and what they export. They are fairly even. And here they hold over a $10 billion trade deficit; they have now become the No. 2 country as far as holding trade deficits against the United States. And you have the Trade Representative of the United States, George Bush's nominee, his appointee, saying they are guilty of all kinds of trade discrimination against the United States.

Finally, Mr. President, I remember in the last days of the air war before the ground war started in Iraq, a Saudi pilot was absolutely euphoric because he had shot down, I believe, two Silkworms made in China and sold to the Iraqis. And Iraq at this very moment has a lot more Silkworms, sold to them by China. And there is a real question that is not resolved by this administration to the satisfaction of a single person in this body as to what China is going to do, so far as sales of their M-9 and their M-11 missiles are concerned, to both Pakistan, which is in a very volatile environment in South Asia, and, even more volatile, Syria, which, with an M-9 missile with a 350 kilometer range, could wreak all kinds of havoc on the Middle East. Have you heard anybody come on this floor and tell you categorically that China will never sell those missiles to Pakistan and Syria? You have not.

I was standing in the salad line yesterday down in the basement of the Dirksen Building. And a fellow came up to me and handed me a packet of materials from the American Ambassador to China, a nice gentleman, who I know around here. He is a lobbyist. And I assured him I would look at it, and I kept my promise. I did.

In the American Ambassador's statement he says that we have China's commitment that no deliveries—now you have to be a country lawyer from Charleston, AR, to pick up on those little words—it says we have their word that no deliveries of missiles have been made to either Pakistan or Syria. It does not say that a sale has not been consummated, nor does it say that a sale will not be consummated, nor that missiles won't be delivered in the near future. What it says is, we have their assurance that no missiles have been delivered yet.

The other day I was heartened, admittedly heartened, when I saw the five permanment members of the Security Council of the United Nations—France, Britain, the Soviet Union, China, and the United States—all met and they agreed to quit selling what they called unconventional weapons in the Middle East or anyplace else. Now what is unconventional, I am not sure yet. Normally we think of nuclear, chemical, any weapon of so-called mass destruction. I was pleased to see that statement.

I would like to support the President on this because there are people in my State that really want me to vote against the Mitchell proposal, there are people who have a very strong economic interests in continuing to import from China and I understand that and, believe you me, I do not like to vote in a way that offends one single person in my State. But I can tell you categorically the thing that bothers me more than anything else about this, Mr. President, are these arms sales. If we did not learn anything else in Iraq, we should have learned not to start again arming both sides of every conflict we could find. The Mitchell bill, as one of the conditions for most-favored-nation treatment, says that the Chinese will not assist the Khmer Rouge with weapons. Now how could anybody here object to a condition like that? The Khmer Rouge are the most brutal, barbaric group of people I believe the world has ever seen. It is commonly estimated—and not one person in this body should ever forget—that the Khmer Rouge killed 1 million of their own people; 1 million, out of a population of about 7 million.

I think the most graphic, poignant movie I ever saw in my life was "The Killing Fields." I guess the reason it was so poignant and so dramatic was it portrayed what the Khmer Rouge did to the poor Cambodians precisely the way I have envisioned it in my imagination.

Why would anybody vote to say we are going to grant you most-favored-nation treatment whether you continue supplying arms to the Khmer or not? Is that not a legitimate complaint? Is it not legitimate to require that you will not sell to Syria and Pakistan those missiles which have the potential for so much mischief in these volatile areas of the world? Is it not fair to say I am not going to vote for most-favored-nation treatment for the Soviet Union until our Trade Representative tells us that they are no longer discriminating against our products?

Mr. President, if you do not think there is discrimination, in 1988 we sold them $5 billion worth of goods and they sold us 8.5 billion dollars' worth. Two short years later we sell them $4.8 billion; less than we sold them in 1988. And they sold us $15.2 billion; 3 to 1, and that occurred in 2 short years. Do you think that is just an accident?

Who could resist a proviso in this bill that says you will not ship goods until we are satisfied that these goods have not been made by slave labor? I can remember when the people of this place were salivating all over themselves, on top of their desks, pounding them, when that same amendment was offered here about the Soviet Union and slave labor. Now everybody says it is just hunky-dory, including the President. Why would the majority leader not put a proviso in this bill saying we would like some satisfaction that the goods you are sending here were not made by slave labor?

So despite all those things, it is kind of a tough vote simply because I can tell you most people of this country do not know what MFN is and they do not really care that much about it unless they are directly involved in importing from China or are farmers, from an agricultural State, and they know some agricultural products are being exported to China. But when we look at those agricultural exports, they are not that great.

I have nothing against China. I am not here as a tub thumper against China. But it seems to me the Mitchell proposal is the very least that a democratic Nation, committed to human rights, ought to demand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, this decision on trade status for China has great significance. If the Congress succeeds in imposing discriminatory conditions on trade between the United States and China, the interests of our country will be sabotaged by our own Congress. China has no more advantages than more than 100 other United States trading partners, under the present relationship. The question is not whether we will give China special privileges but whether we will permit bilateral trade to continue without discriminatory impediments or harmful provisos.

We are all dissatisfied with the policies of the Beijing regime. But placing tariffs on Chinese goods is not an effective way to help change those policies. The fact is, reform, when it finally comes in China, will come from within China and will not occur because of any effort by the United States Government to impose reform upon China.

Ending the trade relationship we now have with China would have serious consequences for the United States in at least three major areas.

First, Chinese products would become more costly to American consumers. Tariffs on Chinese goods would increase dramatically. United States consumers would pay substantially higher prices for Chinese-made clothing, footwear, toys, tools, and electronics.

Second, United States exporters would lose Chinese markets. A change in United States trade policy with China would provoke trade retaliation and put at risk billions of dollars in United States exports. Since no other country is imposing any discriminatory new trade restraints on China, businesses and exporters in Japan, Europe, Australia and Canada would quickly fill in behind United States firms and take over that vast market. Investments that have been made by our Government and U.S. business firms will be lost, at very great economic cost.

Third, the forces for reform and development in China, including moderate elements within the Chinese leadership, would suffer a mortal defeat. China's most dynamic region, the southeast, would be damaged substantially. We would punish the Chinese who are most western oriented and most committed to economc and political reform.

Some opponents of the President's policy of engagement and negotiation claim that their purpose is only to promote reform in China. But conditional extension of our trade rules would be little better than an outright embargo. Companies could not make long-term commitments knowing that continuation of trade depended on the short-run judgments of Congress regarding China's political behavior. United States investment would dry up, along with the dialog and engagement that offer the best chance for progress in China.

To yield to the pressure from the Senate Democrat leadership is to give up on our effort to influence reform in China. It would replace the current policy with a shotgun blast against the Chinese people and the United States economic interests.

The President's steady but aggressively policy of engagement is focusing on human rights, weapons control, fair trade and political reform. He is using his authority under existing law to target these and other issues in ongoing discussions with the Chinese. Progress has been made in some areas and more progress is likely if we will support our President.

Setting congressional conditions on trade would undermine the President's leadership and erode the foundation on which this progress has been built. It would destroy all incentives for China to respond in a favorable way to our Government's efforts.

Over the last decade, Sino-American trade has produced much more than financial transactions among Americans and Chinese. It has led to dramatic improvement in living standards for hundreds of millions of people in both of our countries. It has led to constructive contact, to the sharing of ideas and values, and to progressive developments in China.

Americans have contributed to the emergence of a new generation of Chinese businessmen and consumers. Western ideas have spread from the intellectual elite to the bureaucracy, the urban work force, and even the rural population.

In 1980 when President Jimmy Carter suggested, and the Congress approved, most-favored-nation status for China, that country was far more authoritarian than it is today. We acted then not to reward China for its human rights performance, but to demonstrate the benefits of trade and to expose China to American ideas and institutions. That decision to pursue a policy of engagement at a time when Chinese human rights practices were worse than they are today stimulated positive changes in China that very few thought possible at the time.

China is moving toward several important and historic new reforms. The attempt by the hardliners there to modernize economically without changing politically is bound to fail. The road may be difficult but the movement toward freedom will continue if we do not mess it up. The duty of free nations everywhere is to do everything possible to promote this change and that is better done through dialog and engagement, than through isolation.

Now more than ever the United States should have contact with China. Their future in the world community ultimately depends upon an open door to the world's ideas as well as its goods and services.

I urge the Senate to support President Bush and refrain from closing that door.

Mr. President, I ask unanimous consent that a copy of a table showing the value of United States agriculture exports to China over the past 5 years, and a copy of this morning's editorial appearing in the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VALUE OF UNITED STATES AGRICULTURAL EXPORTS TO CHINA

[In millions of dollars]

	1986	1987	1988	1989	1990
Wheat	0	139.2	698.3	1,099.0	497.3
Cotton	.5	.2	25.2	258.8	277.2
Corn	4.2	95.0	0.	33.5	15.0
Soybeans	25.4	85.9	0	0	0
Sugar	....	15.6	.2	.1	.1
Poultry meat [1]	....	0	....	.2	1.9
Hides and skins	13.1	10.6	6.5	7.0	1.3
Baby chicks	1.3	2.8	6.7	4.1	5.6
Soybean meal	0	0	0	6.5	0
Sausage casings	.8	1.8	4.2	2.6	1.7
Breeding stock	3.8	1.0	.5	0	.7
Tobacco	.7	0	3.7	0	.9
Horticul. Prods.	.6	1.7	.8	3.0	1.5
Seeds	.7	1.3	1.8	2.6	.7
Feathers and down	....	.7	2.5	1.0	2.5
Ginseng	1.0	1.3	.2	1.1	....
Other	7.9	8.8	8.6	5.2	12.2
Agricultural total	58.4	362.1	759.0	1,424.7	814.0
Forest products	183.8	167.2	448.2	181.0	179.9

[1] Significant sales of United States poultry meat, especially chicken feet, are transshipped through Hong Kong and do not show up on United States Census export figures.

Source: U.S. Census Bureau.

[From the New York Times, July 23, 1991]

RENEW CHINA'S TRADE STATUS

(By Li Xianglu and Lu Mai)

Since the violent suppression of the student movement in Tiananmen Square in June 1989, condemnation of the Government has been near universal. But revoking its most-favored-nation status with the U.S., or attaching conditions, is the least effective means of improving China's human rights picture. This move, which Congress may vote on today, would punish the wrong people by damaging economic reform that is helping bring about a free market.

Chen Ziming, a prominent dissident, agrees. Though sentenced to 13 years for his role in the 1989 demonstrations, he suspended a hunger strike lest U.S. critics of China use his protest as a reason to revoke most-favored-nation status. Such revocation is the last thing reformers in Beijing want.

The economic innovations of the late 70's have produced a private sector and market-oriented collectives, which have liberated hundreds of millions of peasants from deep poverty and state control. The introduction of new ideas from the outside world and growing freedom in the newly pluralistic economy have generated pressures for social and political change.

Foreign trade and investment are the driving forces behind the growth of the private sector. The State Statistical Bureau says that in 1990, while the output of state enterprises grew at an annual rate of about 4 percent, the private sector's output grew at a rate of more than 20 percent and that of enterprises involving foreign investment leaped more than 30 percent.

Some point to the release of the dissident Fang Lizhi and a select few prisoners as evidence that the Chinese Government can be bullied by the threat of losing its trade benefits. But these meager results are mostly the outcome of quiet American-Chinese negotiations. There is ample evidence that Beijing is prepared to endure substantial costs rather than succumb to international pressure.

Public posturing over China's most-favored-nation status and proposed conditions to renewing it challenge the leadership's legitimacy. Such demands hand conservatives an excuse to play on xenophobia, which is never far from the surface; the destructiveness of xenophobia in modern China is still a vivid memory.

Real human rights improvements will come only from systemic change. Foreign trade and investment and the demands they put on the centralized command economy promote such change and support those people who are pressing for structural reform.

Critics of the Chinese leadership erroneously suppose that canceling most-favored-nation status would create economic difficulties that would eventually lead to a popular uprising and the fall of the Government. Since 1949, however, the Government has weathered repeated economic crises by appealing to nationalism and renewing central planning. Those harmed by the revocation of its special trade status will not turn their frustration and anger against the Government; instead, reduced economic opportunities outside the state system will force them to return to dependency on the Government.

Withdrawing that status would provide the hard-liners with an excuse to recentralize control and curtail the influence of foreign economies. The hard-liners surely prefer things that way, for economic prosperity, rapid growth of the private sector and integration into the world economy are beyond the old system's control.

A gradual and peaceful transition to democracy is in the interests of the 1.2 billion Chinese, the U.S. and the rest of the world. Only economic prosperity and political openness can make democracy achievable. The extension of most-favored-nation status without conditions will help promote these fundamental changes.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I intend to be brief, but I feel the need to explain my position on the important vote we are about to take in this Chamber.

Mr. President, I find this to be a very difficult vote. I find great merit on both sides of the issue. The question simply put is: Do we condition most-favored-nation status for China?

Most-favored-nation status is in itself a misnomer. I think it misleads rather than enlightens, because we are not talking about some special trade status, as the term implies. Instead, we are talking about a standard trade treatment.

Less than 12 countries in the world do not have it. Over 140 countries with whom we trade do have it. As one of the signatories of the letter drafted by the senior Senator from Montana [Mr. BAUCUS] we outlined in a letter to the President the areas in which we agreed with the majority leader.

Senator MITCHELL was absolutely right in identifying three critical areas where Chinese behavior must change. He identified three areas in which there is a clear and continuing pattern of abuse.

First and most important, human rights. Who can forget the sight of the young man standing in the path of the tank, standing up for human rights in China and facing down a tank? Who can forget the sound of tanks crushing people as they demonstrated for change in China? And who can forget the stories of other young people being dragged off in the night and summarily executed because they stood up for freedom and democracy? And who can forget the continuing reports of detention and suppression in China? I submit, Mr. President, no fairminded person can forget that pattern of abuse.

As we have abuses in human rights, we also have a pattern of abuses in trade. It has been repeated on this floor often that this year China will enjoy a $15 billion trade surplus in the United States. Is that because China is outcompeting those who produce for America? Absolutely not. The hard reality, according to this administration, is that China enjoys a trade surplus with us, again, because of a pattern of unfair trade practices. The latest Government report outlines in detail 10 pages of what the Chinese do to restrict access to their markets by United States business interests.

The third area identified by the majority leader that we put in our letter to the President was in the area of missile sales, sales to Pakistan, sales to Iran, contemplated sales to Syria. That has to be an area of concern for anyone who worries about the proliferation of weapons around the world.

But in our letter we also express the view that MFN, the standard practice of the United States, was not the appropriate vehicle, was not the way to influence Chinese behavior. Those of us who signed the letter were in agreement that cutting off trade would perhaps be counterproductive; that it would make China less open; that it would hurt the forces of reform within China. Mr. President, we asked the President of the United States in our letter to respond on these points. We asked him what he intended to do to send a clear and unmistakable message to China that they must change.

We eagerly waited for 30 days for the President's response. The letter arrived in my office on Friday afternoon. I read that letter and, I must say, I was very disappointed. I found the President's response to be extremely weak. In fact, I found his letter was really nothing new. It was a simple cataloging of what has been done in the past.

The only new elements were providing GATT status for Taiwan and some vague talk about the potential for a 301 trade action against China. But it was a response so weak, Mr. President, that frankly, I do not think that any objective or fairminded reader could say that it was enough in the face of this pattern of abuses by the Chinese.

So I was asked earlier today, "Well, then, are you going to vote to condition MFN status?" Mr. President, my conclusion is, no, I am not going to vote to condition MFN because I am still not persuaded that trade is the appropriate tool. In fact, I am convinced that is not the way to get the result which is required. It seems to me it is the responsibility for anyone who takes that position to say what we should do. What should our position be?

Mr. President, first with respect to human rights, this President, who has demonstrated over and over a great interest in dealing with foreign nations and an ability to organize an international response, ought to work to organize the world community to condemn the patterns of abuse by China.

With respect to trade, this President ought to announce an immediate filing of a 301 action against China, a 301 action that can be tough, that can send an unmistakable message to the Chinese that their behavior is unacceptable.

On the question of missile sales, again, I think the President ought to work to organize the international community. Frankly, we do not come with clean hands to the question of international arm sales. No one sells more arms internationally than does this country. What is required is an international response to an international problem, and the President could provide real leadership.

So, Mr. President, I want to commend the majority leader for taking a principled stand. I was asked at noon, is the majority leader going to take a political hit if he does not have a vetoproof in this Chamber? My answer is, absolutely not. No one loses politically when they move from a principled stand. No one loses politically when they take a strong stand that has many elements worth supporting.

So, again, Mr. President, I will say that the majority leader has been courageous in bringing this issue to the Chamber. At the same time, I call on the President of the United States to act. The responses in his letter are simply inadequate. The President owes the American people and owes the world community a stronger response. Morality and decency demand more.

So Mr. President, I will be voting on this legislation, but that will be a no for this year. And I will be waiting and watching to see if this President finds it within himself to provide real leadership and to take on this issue to sending a clear and unmistakable message to the Chinese that their behavior is unacceptable and must change.

I thank the Chair and yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair for recognizing me.

This is one of these difficult times when I have to disagree with a friend. I sat around the table with the President of the United States on this issue and he was good enough to say, "I know Jesse does not agree with me on it but"—and then he gave a case for MFN to Red China. So I disagree. I know he is sincere, but I believe him to be sincerely wrong. He does not like yes men, and I will not be one. And for that reason, I am going to vote for the bill of the distinguished majority leader.

I am old enough to remember a trip to Munich taken by a man named Neville Chamberlain. He came back from that meeting with Adolf Hitler, and he said "This is a guy we can work with; we can have peace in our time." And I am sure that he said we are going to trade with them, we are going to do this, and we are going to do that. Neville Chamberlain lived to see this same man turn on the British Empire. Adolf Hitler was not to be trusted.

In 1949, with reference to Red China, the leaders of the Chinese Communist Party came to power through force and violence without, and this is an understatement of the year, without the consent of those that they govern. For more than 40 years, these leaders have maintained themselves in power through the same means. They massacred Chinese workers and young people in Tiananmen Square. These young people were peacefully assembled in their own capital city. I will never forget the sight of that young student standing up before that advancing tank and being ground into paste beneath it.

The Chinese Communists have secretly imprisoned without charge or trial thousands of their own people whose only wish was for the democratic freedoms desired by all mankind. They have created the world's largest system of slave labor camps, with millions of inmates, according to uncontested testimony before the Senate Foreign Relations Committee, of which I am the ranking member. The Chinese Communists have flooded international markets with a variety of products made by slave labor. That is why I respectfully disagree with my friend, the President of the United States. I say again, I do not doubt his sincerity. I just believe he is sincerely wrong.

They have secretly begun construction of a nuclear weapons plant in Algeria and sold to Pakistan ballistic missiles capable of carrying nuclear weapons—thereby threatening regional peace and security.

They have invaded and occupied their neighbor, Tibet, to the point that it may be dead both as a nation and as a culture.

They have armed the genocidal Khmer Rouge, causing the deaths of more than a million people and the destruction of Cambodia.

They have violated every internationally accepted standard of human rights and democracy.

Mr. President, it is imperative that such dangerous and inhumane behavior cease.

The United States is obliged to exert the kind of leadership necessary to bring this savagery to an end. If the United States has learned anything from the gulf war, Mr. President, it is that, without President Bush's courageous decision to force the issue, Kuwait would still be under Iraqi occupation. Similarly, Congress can force the issue in China by refusing to renew most-favored-nation trading status.

Since China is a nuclear weapons state, the United States does not have the options of military force. However, the United States does have the leverage provided by an enormous, open American market, upon which China's Communist leaders are becoming more and more dependent for the precious hard currency they need to hold onto power.

Removal of the privilege of the most-favored-nation status would instantly subject most Chinese imports to the full effect of our 1930 tariff law.

Between 1988 and 1990, Mr. President, the value of footwear imported from China increased threefold. Under current tariffs, certain kinds of footwear now enter the United States at a 6 percent ad valorem rate of duty; without most-favored-status and valorem rate of duty; without most-favored-status that duty would rise to a prohibitory 35 percent.

Toys now coming into the United States at 7.8 percent would face a 70-percent tariff. Cotton bathrobes would face a rise in tariffs from 8.5 to 90 percent. Toys, textiles and footwear, among the most likely products of the slave labor camp system, lead the list of United States imports from China.

Mr. President, not all products imported from China would be affected by removal of the trade status. For example, tin, a significant import, would remain duty free. Abolition of the status, therefore, would not be a protectionist gambit, but a powerful inducement to the Chinese Communist leaders to abandon the criminal and degrading practice of slave labor and to cease arming unstable regions of the world.

Although the argument based on human rights is the most important justification for withholding the favored nation status, Mr. President, there are other respectable arguments:

First, Communist China is not a member of the General Agreements on Tariffs and Trade, thus has no claim to permanent most-favored-nation status.

Second, such a status for China is dependent upon a key test of the Jackson-Vanik amendment to the trade bill of 1974—freedom to emigrate. The millions of unfortunates unjustly held in slave-labor camps are clearly denied this freedom.

Third, on April 26, United States Trade Representative Carla Hills named Communist China as the world's No. 1 thief of United States intellectual property. Her agency estimates American loses in pirated books, music recordings, and computer software to be at least $400 million annually. Losses in the pharmaceutical area are likely to drive the final figure well over half a billion dollars.

Finally, and most important, as the United States Embassy in Beijing has pointed out, the Chinese leadership has been engaged in a policy of discrimination against United States products ever since the Tiananmen massacre. On May 3, the Wall Street Journal reported that the United States would be prohibited from competing in the Chinese telecommunications market. One suspects that what ever the result of this debate, other U.S. industries will soon be discriminated against.

Removal of the trade status would force the Communist Chinese leadership to choose between freedom and oppression, between having access to the United States market and continuing arms sales to unstable areas. The United States market can be worth $20 billion a year to the Chinese in total sales, but arms sales bring them only $2 to $3 billion.

Mr. President, one suspects that the Chinese, being astute businessman, will not be long choosing.

AMENDMENT NO. 806

(Purpose: To provide that certain affected entities may file a petition with the Department of Commerce with respect to violations of section 307(a) of the Tariff Act of 1930, and other purposes.)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], proposes an amendment numbered 806.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ENFORCEMENT OF PROHIBITION AGAINST IMPORTATION OF CONVICT-MADE GOODS.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking "All goods" and inserting "(a) IN GENERAL.—All goods";

(2) by striking "'FORCED LABOR,'" and inserting "(b) FORCED LABOR.—'Forced Labor,'"; and

(3) by adding at the end thereof the following new subsections:

"(c) PENALTIES.—(1) With respect to any violation of subsection (a), an order under this section shall require the person to pay a civil penalty of—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person previously subject to one order under this section; or

"(C) $1,000,000 in the case of a person previously subject to more than one order under this section.

"(2)(A) Before imposing an order described in paragraph (1) against a person for a violation of subsection (a), the Secretary of the Treasury shall provide the person with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

"(B) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

"(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person an order described in paragraph (1).

"(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

"(4) A person adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(5) If a person fails to comply with a final order issued under this subsection against the person, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(d) PETITION FILED WITH THE DEPARTMENT OF COMMERCE.—(1) A petition to enforce the prohibitions contained in subsection (a) may be filed with the Secretary of the Department of Commerce (hereafter in this subsection referred to as the 'Secretary') by—

"(A) any public interest group or human rights organization; or

"(B) an entity including trade association, firm, certified or recognized union, or group of workers, which is representative of an industry adversely affected by the sale of imports produced by forced labor.

"(2)(A) Whenever a petition is filed under paragraph (1) the Secretary shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

"(B) In order for a proceeding to be commenced based on a petition filed with the Secretary under this subsection, such petition must be accompanied by reasonable evidence that a violation of subsection (a) has occurred.

"(3)(A) Upon the filing of a petition under paragraph (1), the Secretary shall, within 20 days after the date on which such petition is filed, determine whether the petition alleges the elements necessary to impose a penalty or issue an exclusion order under this subsection and contains reasonable evidence supporting such petition.

"(B) The Secretary shall make a determination within 180 days after the date on which a petition is filed with respect to whether a violation under subsection (a) has occurred.

"(4)(A) If the Secretary determines, as a result of an investigation under this subsection, that there is a violation of the provisions of this section, it shall—

"(i) direct that the articles concerned, imported by any person violating the provisions of this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the product of like or directly competitive articles in the United States, and United States consumers, the Secretary finds that such articles should not be excluded from entry; and

"(ii) direct the Secretary to impose penalties provided under subsection (c) against any person violating the provision of this section.

"(B) The Secretary shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry or imposition of penalties under subparagraph (A), and upon receipt of such notice, the Secretary shall, through the proper officers refuse such entry or provide for the imposition of such penalties.

"(5) The Secretary may, by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.".

Mr. HELMS. I will explain it.

Mr. President, under the terms of Section 307 of the Tariff Act of 1930, goods that are produced or mined in a foreign country by forced or convict labor cannot be imported into the United States. That is the law of the land now. There are also criminal penalties, sections 1761 and 1762 of chapter 85 of United States Code which make it a crime to transport, import, or fail to label prison-made products.

The amendment that I have just sent to the desk will address the issue of enforcement of existing law prohibiting importation of goods, products produced by slave labor, forced labor, or prison labor.

Let me summarize the amendment as briefly as I may. This amendment now pending would permit public interest groups and anyone else in competition with the imported product to petition the Commerce Department to determine whether the goods in question are, in fact, produced by prison or forced labor. If the Commerce Department finds a violation of the forced labor import laws, it can direct the Secretary of the Treasury to exclude the goods in question from the United States and impose penalties upon those who imported them.

The amendment will not change the existing definition of forced labor since that definition is not in question and similar statutes in England and Canada are similarly worded. Nor would it affect our obligations under the International Labor Organization Convention 105 recently ratified by this Senate.

Perhaps a bit of history is in order, Mr. President. Two years ago, I began to inquire about the fate of young Chinese people, the workers and ordinary citizens of mainland China who had survived the massacre of Tiananmen Square and the other prodemocracy uprisings across Communist China. All the experts I contacted agreed on this point: Those who took an active part had disappeared into the Communist Chinese gulag.

Upon coming to power in 1949, the Communist Chinese, under the guidance of Stalin's version of KGB, established a nationwide system of prisons, detention centers, and labor camps. According to testimony provided to the Senate Foreign Relations Committee by Mr. Harry Wu of the Hoover Institute and Mr. Stephen Moser of the Cleremont Institute, there are 5,000 labor camps in Communist China today, and these camps hold at least—now get this—at least 10 million people. The Asian-American Free Labor Institute estimates 20 million prisoners.

But no one in the free world knows the actual number because the Communists will not allow the International Red Cross or other human rights groups to inspect the prisons.

Question, Mr. President. Do we really want to extend MFN, most-favored-nation treatment, to a regime like this? My conscience tells me no. And that is why I disagree with my President.

These labor camps can fairly be called death camps. For most Chinese caught in the system, an assignment to the camps is a one-way ticket. I guess it is a physical incarceration equivalent of getting a case of AIDS.

Outside of Beijing is an enormous camp of about 100 square miles in size. Visualize that, if you will. According to testimony of Mr. Moser and Mr. Wu, a million people have passed through this camp. But as Mr. Wu and Mr. Moser said, "Many of them are still there. They are buried there." Henry Wu should know; he was there. He was a prisoner.

Very, very few prisoners ever completely break free of the labor camp system. As the Library of Congress Far Eastern Law Library experts told us last year, most of those in the camps have not been sentenced by any court and therefore they can be held indefinitely. Even those who have a defined sentence cannot return home in the vast majority of cases.

According to Asia Watch, they are "forcibly and indefinitely retained as workers after they have completed their sentences so that export-oriented productivity will not be diminished by their departure from the system."

How do you like that for justice? Is this the kind of regime, Mr. President, I ask again, that we want to recognize with most-favored-nation treatment? This Senator has to say, "No."

This raises the most sinister aspect of the Chinese gulag. As one long-suffering prisoner put it, "China surely must be the only country in the world whose prisons turn a profit."

Mr. President, I suspect that most Senators have made up their minds on this for one reason or another, perhaps loyalty, perhaps for some other reason. I had intended maybe to show some charts. But here again Senators should be or are aware of the information. What the charts show, if I would take the time to set them up, is that the prisoners are producing a multitude of products: T-shirts, underwear, ladies sweaters, blue jeans, wool cloth, cotton cloth, socks, work gloves, sneakers, slippers, leather shoes, flashlights, hand tools, electric drills, auto parts, iron and steel, galvanized wire, electric generators, diesel engines, power transformers, lead, coal, consumer electronics, arts and crafts, wine, and even the cardboard containers to pack it in and ship it to the United States in competition with our own workers. That is the point.

Mr. President, I am sorry to say—and this is a bipartisan folly; Democrat administrations and Republican administrations have taken the same view—the Government has known down through the years about the Communist Chinese gulag. State Department officers have been told that all the prisons in an entire province have slave labor subcontracting programs tied to outside factories. The Customs Department itself has even purchased products in the United States whose makers have admitted using slave labor in production.

I remind you—and that is what this pending amendment is all about—this is against the law. This is against U.S. law. It has nothing to do with MFN except MFN compounds the problem.

I guess what the amendment really says is let us enforce the existing law that has been on the books for a long time.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a sufficient second?

Mr. HELMS. Mr. President, I am in a novel position. I believe both managers are willing to accept the amendment. Senators are busy with committee meetings, and so forth, 5 minutes ago upstairs.

I will not ask for the yeas and nays. I withdraw the request.

Mr. BENTSEN. Mr. President, let me say first to the distinguished Senator that we have worked together regarding some concerns about the amendment. I want to express my appreciation for that cooperation.

I share the concern about exports of products made by prison labor in China. Frankly, the Treasury Department just has not enforced the import prohibition in the 1930 Tariff Act.

So this addresses that problem by establishing some penalties that would be applied to importers of products coming from prison laborers.

As manager for the majority, I see no objection to the amendment, and will be pleased to accept it.

Mr. HELMS. I thank my friend from Texas.

Mr. HOLLINGS. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina. The amendment offers a sorely needed method to ensure that section 307 of the Tariff Act of 1930 is enforced. Section 307 prohibits the importation of forced or slave labor products. It has been in place for over 60 years and has only been used once—in 1951, to ban imports of Soviet crab meat.

Over 1 year ago, Senator HELMS and I, along with Senators SANFORD and THURMOND, wrote the President urging him to initiate an investigation of products exported from the People's Republic of China. In September of last year, the Treasury Department responded, saying that they had initiated "an active investigation into the allegations of the manufacture, growth, and mining of a variety of products with the aid of forced or prison labor." We were assured by Treasury that the Customs Service would conduct its investigation in an expeditious manner. It is now July 22, 1991, and to my knowledge we have received nothing further from the administration.

We do have, however, a 1990 GAO report which indicated the following:

> Forced labor is an integral part of the political, judicial, penal, and economic systems in the PRC and is practiced throughout the country. To the extent possible, the PRC uses detainees for productive labor in areas such as farming, manufacturing, and mining.
>
> The State Department currently estimates the number of prisons and labor reform or reeducation facilities and detention centers at about 3,000. Although the labels attached to the various facilities vary, both U.S. government and private sources agree that imprisonment in the PRC usually involves forced labor.
>
> The State Department estimates the number [of detainees] to be over two million, while former detainees and researchers estimate the number to be many more.
>
> U.S. Customs Service officials said that in no instance had they banned forced-labor goods from the PRC. However, Customs is currently investigating allegations that certain products of forced labor have been imported into the United States from the PRC. Both government and private sources have circumstantial evidence that the products of forced labor have been exported by the PRC and that such products have reached the United States.

We also have a report from Asia Watch, dated April 19, 1991, which reports their finding of a restricted circulation journal for Chinese prison and labor camp officials. The journal describes China's policy of using forced labor to produce goods for exports.

For example, one article describes the products of the New Life Cotton Cloth Mill, a prison unit:

> In the last six years, we exported 8.52 million pieces of knit underwear, 10.37 million meters of cotton cloth, 85 tons of knit grey * * *. We won goodwill and praise from customers in such developed countries as Japan, *the United States* and West Germany (emphasis added).

We also have the results of a 6-month Business Week investigation, detailed in a story from the April 22, 1991, issue, entitled "China's Ugly Export Secret: Prison Labor." The article states:

> China's trade officials are crafting a secret policy to use labor from its camps and prisons to manufacture exports specifically for the U.S., Germany and Japan.

It goes on to say:

> [T]hese days, the Chinese are becoming less reticent about actively seeking foreign partners. U.S. and European companies have been given tours of prison factories.

This investigation revealed, according to the magazine, "just how committed the Chinese are to gulag communism as part of their economic planning. China is crossing the line by using its prisoners for commercial gain overseas. Moreover, many forced laborers are political detainees. Most are not tried or even convicted."

If we wish to show solidarity with the surviving Tiananmen Square freedom protesters, there is no better way than to vote for the Helms amendment. By allowing public interest or human rights groups to sue to compel the administration to enforce this long-neglected statute or to block importation of slave labor goods, we will prevent this abominable practice of allowing American importers to benefit from the sweat of political prisoners.

I understand that a compromise amendment will be offered and accepted. This compromise will allow human rights and public interest groups, as well as domestic competitors to petition the Department of Commerce for a determination that imports fall under the prohibition of section 307. While this amendment is much weaker than I would like, it is an important step forward to get section 307 enforced. It is a shameful record that section 307 has only been invoked by the Treasury Department once in 60 years—on crab meat from Russia. I hope this amendment will force the Treasury to perform the job assigned to it under the statute.

I urge my colleagues to support the Helms amendment.

Mr. BIDEN. I have a question for the distinguished Senator from North Carolina. Subsection (d)(1)(A) of the amendment refers to "public interest group or human rights group." Would Asia Watch, Amnesty International, the International Campaign for Tibet, the International League for Human Rights, the Lawyer's Committee for Human Rights, the Asian-American Free Labor Institute, the National Consumer's League, the International Labor Rights and Education Fund, the Washington Legal Foundation, and the Pacific Legal Foundation be among the organizations considered to be within the definition of "public interest group or human rights group" for the purposes of this provision?

Mr. HELMS. The distinguished Senator from Delaware is correct. The organizations he named, and similar organizations, would be within the definition of "public interest group or human rights group" for purposes of that subsection.

Mr. BIDEN. I thank the Senator from North Carolina.

Mr. WOFFORD. Mr. President, I rise in support of this amendment. China's inexcusable record on human rights needs no elaboration; that nation's use of forced labor is one of its worst practices.

The Chinese Government's labor and economic policies have harmed Americans as well as Chinese citizens. Thousands of jobs have been lost in Pennsylvania—and across the Nation—as a result of these policies. We must tell the Chinese Government, in unequivocal terms, that we will not stand for the importation of goods made by forced labor.

This amendment will send a strong message. By granting individuals, public interest groups, and human rights organizations standing to sue for violations of the U.S. ban on imported goods made with forced labor, this amendment will add teeth to our present policy.

It's no secret that China continues to export goods made with forced labor. I urge my colleagues to support this amendment and close the door on this abominable practice.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS. Mr. President, we accept the amendment on this side.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 806) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I want to just make a few brief comments in support of the Mitchell resolution, and I do so by starting out with the observation that today our Government, the administration in power in the executive branch, has an economic program for every country in the world except this one.

The administration has a jobs program for every country around the world except for our own country. We have real problems here at home. Probably as good an illustration of that as any is the cartoon in today's Washington Post. It shows some American people and children standing out ready to welcome President Bush back from his foreign trip, and they have a sign that says: "Welcome to the U.S.A., George Bush. Have a nice visit." And behind the sign, it shows all the problems in our country, with libraries closing, not enough money for housing, airlines in trouble, businesses going under, no health program, no proverty programs. It says up at the top, "Remember, he is not making the trip to our country to hear about our problems." Of course, the President, a friend of mine, I hasten to add that, is off within a matter of days to go over to the Soviet Union on still another foreign trip.

Here we are in here today with an economic program designed to help China. A month and a half ago, the administration was in here with an economic program to help Mexico with the proposed United States-Mexican Free-Trade Agreement, which is going to take hundreds of thousands, and I think millions, of jobs from this country down to Mexico.

Here is the administration in here today asking us to do some special favors for China, for mainland China. The question that has to be asked here today is what is fair for the United States? What is fair for the people of this country?

I think the people of this country ought to have some consideration in here on these economic issues, and not just the people of all the other countries around the world.

We have a serious recession here in America. You can pick up the paper today; pick it up yesterday, the day before. Virtually every major company in America is laying off workers—not calling them back, but laying off additional workers. IBM, within the last week, announced that it is going to permanently reduce its work force by 17,000 workers. General Motors has just announced it it going to be closing two more of its manufacturing plants across the United States. Virtually every company in America is shrinking in size.

There was an announced merger between two big banks in New York. They are going to lay off thousands of workers. There was an announcement yesterday by two big banks in the southeast part of the United States. They expect to be laying off 9,000 additional workers.

That is on top of the fact that in the United States today, of the people that we count in the unemployment list, there are 8.7 million people in the United States right now, who want to be working and who cannot work because their jobs have disappeared and they are unemployed.

In my own home State of Michigan, we have over 400,000 people unemployed. That does not count people that have been out of work so long that they are called discouraged workers" and have given up looking for work. They are not even counted in the numbers, although across our country there are several million more of those. If you want to see them around this town, drive under any one of the overpasses in town, and you will see homeless people there living in cardboard boxes, sleeping on the park benches or the hot air grates at night around this city. That is true not only here, but all across this country. We do not have a jobs program here in America, but today we have a proposal which is a jobs program for China.

China, this year, will have a trade surplus with the United States of $15 billion. What does that mean? It means that China, this year, will take out of our society, in a 12-month period of time, $15 billion of scarce capital; they will take that money to China, and they will take the jobs that are attached to that work to China, as well. As the Senator from North Carolina and others have pointed out, many of those jobs taken from the United States to China are being performed by people in labor camps under the most appalling conditions that one can imagine.

We cannot afford to have $15 billion worth of jobs shipped out of the United States to China. We cannot afford to have $15 billion worth of scarce capital go to China. But that is precisely what the Bush administration is asking for here today. In fact, they are saying: That is not enough. Let us send some more. Let us provide most-favored-nation status, so they can do even more in terms of increasing this trade inbalance and take more of this economic strength out of the United States.

It just does not make any sense. Why is this administration not fighting for American workers? Why do unemployed workers in this country not count for something? We have over $8 billion today in the national unemployment compensation fund that has been collected to pay extended unemployment benefits to workers who have not been called back to work. Yet, the workers in this country are not getting that money, which has been collected precisely to help them hold body and soul together in a serious recession like this one. We asked Mr. Darman the other day in the Budget Committee if they were going to allow those extended unemployment benefits to be paid out of that surplus that has been collected to go to our workers who have exhausted their unemployment benefits and have not been called back to work, men and women who are losing their cars, homes, family, and losing hope. The money has been collected to help them. The administration says: no, we are not spending one dime on them.

But they are in here today asking for economic help for China and for the Chinese workers. Here sits, in our own unemployment compensation fund, over $8 billion. It is needed by workers in this country, and the administration says, no, they cannot have it. They cannot have it. We have just had 48,000 workers in the State of Michigan trigger off of their extended unemployment compensation benefits because of the approach of this administration.

More than that—and many people do not know this—most of us have gone to ceremonies thanking and commemorating the service given by our service men and women in Desert Storm in the Persian Gulf. The fact is that the way the unemployment compensation program is working today in the United States, returning service men and women coming back to the United States who cannot find work, first of all, have to wait 4 weeks before they qualify for unemployment compensation benefits; and then, after they qualify, they only get 13 weeks, only half of what other workers in this society get. That is not right.

But the administration has not come in here to ask to set that right, to help these returning service men and women who cannot find work here in the civilian economy, no; they are in here asking us to help China.

Well, we are helping everybody around the world; how about helping people in America for a change? People here need the help. They deserve the help. They ought to come first, not last. In the view of this administration, they always come last, because some other foreign country comes first, and today it happens to be China; they are walking in here with a $15 billion trade surplus with this country. Some people say that—I have heard it argued on the floor—if we do not let the Chinese dump all of this surplus production in the United States, they will take their business elsewhere. What a laugh that is. Where are they going to take it? What other country will take a $15 billion trade surplus of this kind from China? There is not any country that will do it, because no other country can afford to. And this country cannot afford to do it. So no other country is going to sop up all of that excess production, because no other country will allow themselves to be taken advantage of by the Chinese the way this country is being taken advantage of.

People talk about the credit crunch. There is a credit crunch. Just a day ago, I talked to an entrepreneur in Michigan, who had just gone into chapter 11. There are 1,400 employees, and they are in the process to being laid off. He is experiencing a credit crunch, as are hundreds and hundreds of businesses across this country.

Well, $15 billion worth of scarce capital is going to leave the United States this year and go to China, compliments of the Bush administration. That is part of the credit crunch. The unemployed workers around this country that are increasingly desperate to try to just hold their lives together are having a hard time understanding why this Government, why this administration, has such a great concern about helping the Chinese, and virtually no concern about helping our own people right here in the United States.

Others have talked about the weapons technology that the Chinese are spreading around the world, making the world a more dangerous place. Yet, the proposal today is to reward them for it, give them something extra, give them a bonus, give them most-favored-nation trading status. Of course, China joins a long list. We have had the administration come in here this year and ask for emergency assistance, not for some community in this country, not for some group of workers that have lost their jobs; they asked for money for almost every country in the world. We have given money to Egypt this year. We came in on an emergency basis—an emergency basis—for money for the Sudan; money for Ethiopia. The Bush administration says we have to give money to Angola and give money to Bangladesh.

We are giving all these people money and giving China all of this special trade advantage. What about the people here at home? Do they not count for something, the ones that built this country, the ones that fought the war? Do they not deserve some consideration? How do we get them on the list? Maybe we ought to list the United States as a foreign country, and then they could qualify for foreign aid. We could come in here, and we could tack it onto the help for China.

I think people of the country are sick of this. They are sick of a government that turns its back on its own people. We need a national health-care program in this country because we have people today that are sick and dying and do not have a penny of insurance.

Do we see the administration coming in here and asking for health care? Not a peep. Fifteen billion dollars' worth of trade surplus for China would more than fund the health-care program that we introduced, a group of us here in the Senate, just 2 or 3 weeks ago.

You want to know how to pay for it? take that money and pay for it. Would we be better off with health care for our people or shipping the $15 billion to China?

I would like to put that on a ballot and get it out to the public and get a vote taken. We would settle this issue pretty darn quickly. The people of the United States are being used as a doormat and this administration is quick to help someone else.

There is a problem out there over the horizon in another country. Here comes the United States. How much money do you need? If it is somebody here, tough luck. That is your problem. Do the best you can. That is what this is all about. Make no mistake about it.

I know the President, who is my friend, was the envoy to China years ago and he has a close relationship with that country in terms of having put in that kind of service there. I understand that. I care about China myself, but not more than this country. I think our problems come first.

This proposition of most-favored-nation trading status for China helps China, but hurts America. It is just that simple. And one of these days I would like to get a proposition coming down from the White House, something that is designed to help America, to get America back on the list of countries that we are going to pay attention to and look at the needs of and help the people. The people across these 50 States need the help. They want to go back to work. They do not want their jobs sent to Mexico or sent to China or sent to the Soviet Union or sent some other place. They want their jobs brought back home so they can go to work, so they can earn a paycheck, so they can pay their bills, so they can feed their kids, and keep a roof over their head. It is just that simple, and it is just that basic.

The problem is when you get a government with too many people with elite views, and who have it made, and who are so far removed and disconnected from these problems that are hounding our people at the grassroots, and many of them in the middle class of this country who are sliding backward, too much of our Government is disconnected from those realities.

Oh, yes, we have a grand scheme for China here today and a grand scheme for Mexico and a grand scheme for the Soviet Union and a grand scheme for Kuwait, you name it. But no plan for America; no plan for America. And America is in trouble, America is sliding backward in economic terms, and our people need a response. And they deserve a response and the response ought not to be to come in here and say take more out of the hides of the American people so we can help the kind of a government that we see in place, if you can call it that, in China today.

Just 2 years ago in Tiananmen Square we all saw it on television, the massacre and slaughter of the students at that time by this brutal government, and now we are in here with the Bush administration saying let us give then a reward. Let us give them a reward. Let us send $15 billion of scarce money over to China today and 15 billion dollars' worth of jobs. Let us send that over to China to tell them how much we like them over there. Not with my vote; not with my vote.

And I hope this issue is going to get clearly into focus by the time that next election in this country rolls around because I hope the people of this country are going to have a choice and have a way to vote to do something to help this country because this country needs help, and it is not getting it with legislation of this kind.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. Mr. President, the conventional wisdom of the issue, before the Senate is supposedly the fairness in granting continuation of most-favored-nation status to the People's Republic of China in light of their obvious civil rights violations, their shipment of arms to third world countries and their breech of trade agreements. I think that we all agree they have done these bad things and continue to do them. There is ample reason to take them to the woodshed and like others, I am tempted to do just that.

But, may I suggest that we take a step back from the emotions that these transgressions have tempted us to shape retaliatory measures against them. Let us take a look at whether the restrictions that have been suggested with regard to the Chinese might rebound to our passing sanctions inadvertently against ourselves.

Most-favored-nation status is a little-understood term. It seems to contemplate that this is a special trade arrangement that we have graciously bestowed on only our best, most thoughtful partners around the world. That is hog-wash on its face, when you realize that we have such an arrangement with all but a dozen or so countries in the world. Who would realize that we have to this very moment most-favored-nation status in existence with the government of Saddam Hussein? Oh yes, it is ineffective because of the embargo. But the fact remains that we have had this in effect with Saddam for a long time. Has he ever fit the examples or values that some seem to think encompass justification for such status?

Then there are other countries such as Syria which is an established exporter of terrorism. Would you believe they would qualify for friendly MFN status? How about Jordan, one of Saddam Hussein's best supporters during the gulf war? Yep, they get MFN status also. And then there are others like Mu'ammar Qadhafi's Libya and of course as it follows the country of Iran. Obviously these are all our good buddies.

The point is that most-favored-nation status is granted to most, which in essence makes it not special, but standard trade policy, right or wrong, from the U.S. perspective. In our rush to punish China are we shooting China in the foot, or shooting off both of ours?

Now to the crux of my position, which I concede is parochial and directly related to agriculture, which will come as no surprise to my colleagues in the Senate.

I am confident that the harm direct restrictions would do to American farmers is not the crux of the President's position because his policies are and will be disastrous for the family farms of America. The result of crippling restrictions will accrue to the decided detriment of our food producers. There is no question that China will and can buy grain elsewhere. The world is full of it, and all of us at this critically adverse time should remember that right now to already further harm hard-hit farmers suffering from cash grain prices essentially below the cost of production would be especially ruinous. There could have been no other result of the last Bush-Yeutter-Hills farm program that continues steadily declining support prices, firmed up and made further mandatory by the famed budget summit last fall at Andrews Air Force Base.

All this is now beginning to come to a head as evidenced by the serious conditions in the dairy industry. We are continuing to produce our way into bankruptcy in agriculture and it will be even faster if we lost the China market, especially in the wheat sector.

The National Wheat Growers Association is now alarmed at the prospect of losing the China market because of their short-sighted policies in swallowing the Republican farm program.

I hope that they can now awaken from their slumbers of producing for profit in the level playing field of free international trade. How many times are some farm organizations going to be taken in by this myth of Republican farm policies that are openly stated to bring about the elimination of all subsidies with the promise that the farmstead will be taken care of by GATT and free and open international trade? It is a worthy but unattainable goal as far as we can see into the future. The Reagan-Bush farm policies are unrealistic at best and downright deceitful at worst. The perpetuators of this charade are as bad as those who blindly follow it and then complain when the bottom falls out of prices.

Mr. President, I reference a story in the Washington Post of July 16, 1991, and ask unanimous consent that it be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, it has the headline "Bush Fails to Budge G-7 Leaders On Farm Subsidy Issue."

Here is clearly stated the problem at hand and the utter continued failure of the administration and its domestic policy for many years.

I am going to quote briefly from the article just referenced. The headline, as I said, Mr. President, is "Bush Fails to Budge G-7 Leaders On Farm Subsidy Issue," and there is a picture of the President, the Secretary of State, the Secretary of Treasury, and others. The two or three lead paragraphs of the story are worthy of special emphasis.

> LONDON, July 15.—On the first day of the economic summit, President Bush failed to persuade other leaders of major industrialized nations to budge on agricultural issues that have stymied international trade talks for more than a year.
>
> Bush urged European nations in particular to reduce their farm subsidies and permit greater trade competition from countries outside the European community. But his counterparts made few concessions on what Bush had called the most important economic issue of the summit.
>
> The continuing impasse on trade underscores the difficulty Bush has had converting his leadership of the military coalition against Iraq into leadership on other global matters. It also raises the prospect that the three-day meeting will prove ineffective on the economic issues it was designed to address.
>
> At the last economic summit, leaders of the seven major economic powers committed themselves to completing by the end of 1990 the current round of talks on the General Agreement on Tariffs and Trade (GATT), begun in 1986 in Uruguay.
>
> Before the summit's first official session, Bush met with German Chancellor Helmut Kohl, Italian Prime Minister Giulio Andreotti, and European Community leaders Jacques Delors and Ruud Lubbers, appealing to them to show greater flexibility in reducing their farm subsidies and other trade barriers.
>
> But Kohl and Delors firmly rebuffed his plea, according to European officials. In separate meetings, the Japanese representatives reiterated their reluctance to make any further concessions on lowering barriers to imported agricultural goods, especially rice.

There is no success in London or elsewhere on domestic policy, only on international policy where this administration seemingly excels. When are they going to return home and exhibit the same zeal in tackling the domestic problems and the recession?

In essence, the Europeans told us to go fly a kite on the oft-stated goals of President Bush and his advisers to have the European Community eliminate their tremendously high subsidies to farmers. The Europeans say they cannot do it politically. I think that is the fact. How can our administration, then, get by with it politically here at home? Only because we have a dwindling number of farmers that in all too many cases have joined organizations that they have been fooled into believing represent their best interests. Oh, yes, and birds always fly north in the winter.

The loss of the Chinese export market would be another nail in the coffin of American agriculture. This debate comes on the heels of a failure of the Bush administration to secure movement on farm subsidies from our trading partners at the G-7 London summit. The problem, of course, is that the 1990 farm bill, with its sharp unilateral reductions in American farm subsidies, was built on the premise that Europe would reduce its subsidies and Japan would further open its agriculture market. It is increasingly clear that those assumptions were ill founded. To sacrifice the Chinese market in the wake of diminished hopes for fair agricultural competition from Europe and Japan would kick American agriculture when it is down.

The gloomy results of the G-7 meeting on agriculture subsidies have been one of the best kept secrets in rural America and ignored by too many who serve rural America. It also vindicates my opposition to the 1990 farm bill and the extension of the fast track.

I am also concerned that American investment in China could be lost if MFN is suspended or heavily conditioned. The loss of that investment would not only hurt the American companies who took business risks in China, it would also hurt the very individuals in China who have embraced American beliefs in free minds and free markets. American investment is centered in the southern part of China. The loss of that investment would pull the rug out from under the very forces of reform within China. The economic disruption would also create a new opportunity for a crackdown in the south, the freest region of China.

I cannot defend the Chinese, but I can defend the American farmer from using trade as a unilateral foreign policy tool. If the Senate were debating a broad, multilateral sanctions policy, my vote might be different. A go-it-alone policy which hurts American agriculture more than it hurts the Chinese is simply not a policy I can endorse.

I am convinced that the President of the United States understands that the Congress is tired of a soft policy toward China. The President has convinced me that he will adopt a significantly more aggressive but carefully targeted policy toward China in the coming months. It is for that reason that I will support the President's request to extend MFN trade status without condition. I only wish that the President was as concerned about agriculture in the United States as he is with his foreign policies. It so happens, strangely enough, though for very differing reasons, I support the President's position on this issue. Thank you, Mr. President. I yield the floor.

EXHIBIT 1

[From the Washington Post, July 16, 1991]

BUSH FAILS TO BUDGE G-7 LEADERS ON FARM SUBSIDY ISSUE

(By Steven Mufson and John E. Yang)

LONDON, July 15.—On the first day of the economic summit, President Bush failed to persuade other leaders of major industrialized nations to budge on agricultural issues that have stymied international trade talks for more than a year.

Bush urged European nations in particular to reduce their farm subsidies and permit greater trade competition from countries outside the European community. But his counterparts made few concessions on what Bush had called the most important economic issue of the summit.

The continuing impasse on trade underscores the difficulty Bush has had converting his leadership of the military coalition against Iraq into leadership on other global matters. It also raises the prospect that the three-day meeting will prove ineffective on the economic issues it was designed to address.

At the last economic summit, leaders of the seven major economic powers committed themselves to completing by the end of 1990 the current round of talks on the General Agreement on Tariffs and Trade (GATT), begun in 1986 in Uruguay.

Before the summit's first official session, Bush met with German Chancellor Helmut Kohl, Italian Prime Minister Giulio Andreotti, and European Community leaders Jacques Delors and Ruud Lubbers, appealing to them to show greater flexibility in reducing their farm subsidies and other trade barriers.

But Kohl and Delors firmly rebuffed his plea, according to European officials. In separate meetings, the Japanese representatives reiterated their reluctance to make any further concessions on lowering barriers to imported agricultural goods, especially rice.

Finance ministers briefly discussed the stalled GATT talks during the afternoon, but also failed to make any progress.

Generally, resistance to resolving international trade issues is driven by domestic political concerns rather than disagreement in principle over the desirability of lowering barriers.

In Germany, Kohl has been trying to cope with the political fallout from the high costs of German reunification and is reluctant to cut agricultural subsidies for fear of angering farmers.

In France, the ruling Socialists have tried to win support by appointing a prime minister sympathetic to some degree of protectionism.

Japanese government spokesman Taizo Watanabe said that Japanese self-sufficiency already had fallen to the "dangerously low" level of 48 percent, posing a security issue. He also said that the production of certain foods, such as rice and soybeans, carry cultural value.

"We always end up being the country that has to lead that fight with the EC," said Barry Bosworth, a former Carter administration official now at the Brookings Institution in Washington. "The EC continues to say [the farm subsidy issue is] a cultural issue and don't regard it as central to economic issues and do not want to compromise on it."

For the Bush administration, however, the trade issue is an area where it feels it can take the high ground. Bush personally led a lobbying effort to win congressional approval of legislation that makes it easier to negotiate trade agreements by barring congressional attempts to modify them. In addition, last year's budget agreement trimmed agriculture subsidies.

"The president expended an enormous amount of political capital on getting the fast track legislation through, [and that] indicates that the United States is here ready to go," said Treasury Secretary Nicholas F. Brady.

Bush had greater success in rounding up support for possible military action against Iraq. British Foreign Minister Douglas Hurd today became the latest allied official to give his endorsement. "We are ready to play our part in making sure . . . that Iraq does not become a nuclear power," he said.

The president wants to continue consulting with allies about the nuclear issue and had not yet settled on a military option, according to senior administration officials. Whether U.S. or allied forces act, depends on how forthcoming Saddam is in meeting the cease-fire condition that calls for disclosing the extent of his nuclear operations, the officials said.

The PRESIDING OFFICER. Is there further debate?

Mr. DASCHLE. Mr. President, much of the public debate over renewing most-favored-nation trading status for the People's Republic of China has focused on human rights. Some of the debate has focused on China's foreign policy. China's human rights record is appalling and its foreign policy is irresponsible. These facts concern me greatly. However, MFN is a trade issue, and my decision on China's MFN status deals primarily on trade considerations.

The Chinese Government is abusing the privilege of MFN status. China exports products to us that have been manufactured by forced labor. China ignores United States laws protecting patent, copyright, and intellectual property rights, in effect, stealing from American producers. China has erected countless tariffs and other barriers to United States trade. The United States Trade Representative projects that this year's United States trade deficit with China will be $15 billion. Simply put, we are exporting United States jobs to China.

China is making a mockery of its trade relationship with the United States. The Chinese Government is practicing a form of international economic extortion. It threatens us with retaliation if we withdraw MFN, while the Chinese Government thumbs its nose at us if we demand that it live up to its obligations in the relationship. The United States is strong enough to stand up for its interests and principles. We have allowed this situation to continue unabated for too long. It's time for us to get tough with China.

Some people are concerned that any action the United States may take to counteract these unfair trade practices will result in a Chinese decision to cut off United States agricultural exports. I take these concerns very seriously. Nevertheless, the continued erosion of United States trade interests with respect to China cannot go unchecked. If we fail to take strong action now to address China's trade violations, we risk undermining our long-term economic interests, including agriculture. We must draw the line; we must now knuckle under to every threat. Unless we show our resolve, our economic interests are always subject to threat; the exports we enjoy now may be cut off at any time by the whim of the Chinese Government. We must show the Chinese leaders that we will not bow to such pressure.

It is not enough to hope that the Chinese will change on their own. We have tried that approach, and it simply is not working. In fact, conditions are getting worse. It's time for us to demand that China and other countries trade fairly. That approach will insure that our economic and national security interests are not held hostage to trade extortion.

It is wrong to assume that indefinite, unconditional extension of China's MFN status in the only means of making United States agricultural sales to China. Both China and the United States have other options. MFN is not necessary to sell grain to China. There is no reason to link grain purchases to MFN. That the Chinese would do so is extortion. The United States should not bend to such coercion.

The Chinese will buy grain from the nation offering the best price. We have available various programs to make sales at competitive prices. The Soviet Union does not have MFN status, and we have found ways to sell record amounts of grain to the Soviets. The U.S.S.R. has ranked second behind Japan in the value of United States agricultural commodity purchases, and has been the No. 1 and No. 2 purchaser of feed grains and wheat, respectively. Despite lacking MFN status, agricultural sales to the U.S.S.R. generally exceeded those to China. Only recently, as China emerged as a top buyer of United States wheat. Given its history of inconsistent purchases, sales to China could drop, regardless of its MFN status.

[In millions of dollars]

	1987	1988	1989	1990
U.S. agricultural exports by value:				
U.S.S.R.	659.1	1,939.6	3,298.8	2,984
China	234.8	612.6	1,496.1	907
U.S. wheat exports by value:				
U.S.S.R.	325.1	822.5	819.7	550
China	64.7	524.1	1,225.4	544

The United States can sell grain and other agricultural products to the Chinese, just as we have done to the Soviet Union, if the President uses his authority to promote such sales. Furthermore, approving the Mitchell resolution need not result in the termination of MFN. The President can see to it that MFN is continued by forcefully pursuing United States interests and pressuring the Chinese Government for progress on our concerns.

Congress is considering several proposals relating to MFN for China. On one extreme are those who want to grant MFN without conditions; on the other extreme are those who want to revoke MFN immediately.

I have discussed the issue of renewing China's MFN status with many South Dakotans over the past few months. By overwhelming margins, they want the

United States to take a middle ground approach—to renew MFN for China, but to make the Chinese Government aware of our serious concerns over their unfair trade practices, human rights abuses, and foreign policy wrongdoings. The American people want the United States Government to insist on trading relationships that are fair, but overall the Chinese have not been fair with the United States.

The Mitchell resolution is the middle ground. It calls for renewing China's MFN status for 1 full year. The conditions really are imposed on the President. Next year, before MFN can be renewed again, the President must show that his policy is working. The President must certify that his policy has achieved the following results:

First, Chinese exports to the United States of goods produced by forced labor have stopped;

Second, Steps have been taken to rectify China's unfair trade practices toward the United States;

Third, Chinese exports of nuclear, chemical, and biological weapons have been terminated;

Fourth, Chinese military assistance to the brutal Khmer Rouge in Cambodia has been curtailed; and

Fifth, certain human rights abuses by the Chinese Government against its people have ceased.

No one can argue that these are not desirable goals. If the President believes that the renewal of MFN and his policy is the best means of achieving these goals, then the Mitchell resolution gives him both the renewal of MFN and time to show progress toward these objectives. The President, in his response to Senator BAUCUS, acknowledged that additional action is necessary to deal with China's unfair trade practices. The President also reaffirmed his support for Taiwan's accession to the GATT and declared that the United States will begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Taiwan's GATT accession. I commend the President for this step, but overall we need a more aggressive policy toward China than that reflected in the President's response.

The Mitchell resolution is the reasonable approach. It shows that we are not a toothless tiger. The bill will extend MFN until July 1992. At the same time, the resolution sets reasonable goals for the President to achieve to show that the Chinese Government is being held to its obligations in trade and human rights.

Mr. ROCKEFELLER. Mr. President, I support the majority leader's proposal on most-favored-nation status for the People's Republic of China. I do so because it is a reasonable, temperate approach to a difficult problem. It sends a message not of anger but of resolve. It identifies clearly our disagreements with China, lays out a plan for addressing them, and provides time for the Chinese to do so. It also makes clear that many of our key disagreements with China are economic. It is therefore appropriate to use economic leverage to achieve our objectives. MFN is just such leverage.

Mr. President, access to our market is not a right. It is a privilege. The fact that we accord it to most nations is a reflection of the progress we have made in building a market-based world trading system. The fact that we may take it away from the Chinese shows how far they have strayed from acceptable standards of international behavior.

To elaborate on that, I want to begin by discussing events that transcend economics. There is much at stake in our trade relations with China, but there is even more at stake, for the Chinese people and for the world, in their attitude toward basic human rights. In the Washington Post of June 30, Orville Schell described in considerable detail the difficulties he encountered as a Western journalist in Li Peng's China. Followed wherever he went and at one point taken to the state security bureau for questioning along with his wife, he ultimately was prevented from delivering a private speech to other Western journalists after the hotel, acting as host to the event, was intimidated into canceling it. This outrageous action reveals how far the Chinese Government has regressed in its effort to maintain power. The tragedy, of course, is that the lot of the Chinese people is far worse than anything its Government did to this foreign reporter.

The Chinese Government has taken a hard turn to the right. Deng Xiaoping, not a subscriber to democracy under the best of conditions, has obviously acquiesced in a major repression campaign designed to scare the Chinese population, particularly students, into cooperating with the regime. A popular tactic, according to Schell, is that of killing the chicken to scare the monkey; that is, attacking the relatively innocent in order to persuade the larger threats to keep silent.

These tactics can work in the short term. That has been proved over and over again all over the world. But the long-term prognosis for Li Peng's regime is bleaker. We learned in Eastern Europe how tenuously repressive dictatorships hold on to power and how quickly they collapse when the bankruptcy of the system becomes evident

China, people will say, is different. No tradition of democracy. A more collective social fabric. A huge rural population relatively uninfluenced by events in the cities. All true. But a look at Chinese history suggests similarities as well as differences. The civilization may be nearly 5,000 years old, but middle kingdom dynasties waxed and waned like governments everywhere. When a regime became too weak, it disintegrated from within or was attacked from the outside. While mass revolts were unusual—and rarely successful—emperors periodically were deemed to have lost the mandate of heaven and were replaced by others, often after some years of bloody conflict. The years between the abdication of the last emperor in 1911 and the Communist ascendancy in 1948 typified this cycle, although the Japanese invasion no doubt delayed its resolution.

What does this mean for today? For one thing, it means democracy and freedom—or prosperity for that matter—are not just around the corner. It appears they are, at best, a long-term goal to be reached after a long, complicated battle. Lenin referred to the march toward communism as one of two steps forward, one step backward. As we are learning in Eastern Europe and the Soviet Union, the march away from communism will be just as complicated with almost as many steps backward as forward. History does suggest, however, that as the Chinese regime continues to lose credibility because of the economic and political mess it has created, its replacement is inevitable.

What does that mean for American policy? Primarily that it is unwise to tie ourselves too closely to the stability of the status quo because the future of China is going to be anything but stable. Deng Xiaoping's days are numbered physically and Li Peng's days are numbered politically. The worst thing we can do is help both of them hang on.

During this debate some have suggested that using most-favored-nation status as leverage is inappropriate because MFN is available so broadly in the world. But to award that status to one simply because we give it to others completely misses the point. China is not a member of GATT. Our trade law obligations toward China are limited. As I said earlier, Mr. President, access to our market is a privilege not an automatic right. We have extended it broadly for the same reason we have supported GATT for more than 40 years—because we believe a free, market-oriented trading system is good for us as well as the rest of the world. We have been able to extend it broadly because most of the world's nations have agreed with us. We should use the same standard for China: Will continuing their MFN status facilitate their integration into the Western trading system? I believe there is a clear need to use the leverage of MFN to achieve this objective.

Look at the United States-China bilateral trade balance—$10 billion last year and likely to rise to $15 billion this year, second only to Japan. I am not one of those who has ever believed that a simple look at aggregate trade figures is a sufficient basis for making policy. We have a deficit with practically everyone and would like to have one with practically no one. In that regard we are no different from any other nation.

Instead we should look beyond the fact of the deficit and examine why it has grown so dramatically in such a short time. The answer to that is on two levels—imports and market access.

Chinese imports into the United States have increased tremendously since 1988—from $8.5 billion in 1988 to $12 billion in 1989 to over $15 billion in 1990. So far this year they are ahead of last year. The number of antidumping and customs fraud complaints has likewise mushroomed. In the last 2 years there have been 12 dumping or subsidy complaints against the Chinese, more than in any 2-year period since they received MFN. Of those 12, only 1½ have been resolved in favor of the Chinese, although fully half of them are still in progress.

In addition, our Government has reduced Chinese textile quotas by one million dozen apparel items and over one-half million kilograms of fabric—a total value of nearly $85 million—because of fraud and circumvention of our labeling and quota rules. These are new problems. We have had MFN trade relations with China since 1980, but we have had serious problems only since 1988.

This is, I might add, an unusual development. Nonmarket economies can have difficulties figuring out how to price appropriately in Western market situations, but over the years they have proven themselves surprisingly adept at making those judgments in ways that will not draw American trade complaints. The Chinese were no exception to that statement—until 1988. Under the circumstances, it is hard not to conclude that there has been a deliberate effort to export to the United States at any cost, regardless of the consequences.

That conclusion is all the more convincing when one looks at our growing problems of market access in China. While our exports have been increasing all over the world, to the point where we currently have a surplus with the EC, for example, they have been stable or declining to China.

This, too, appears to be the result of deliberate Chinese Government action. One telling example appeared in an article by James McGregor in the Wall Street Journal of May 3, 1991, in which he referred to the PRC State Council's secret directive that effectively shuts United States telecommunications companies out of the Chinese market. It orders that future contracts for telephone switches be awarded to Siemans, Alcatel, or NEC, a decision that will cost our companies up to $4 billion in business. Leaving aside the Chinese motivation for this action, we can all agree that it is the very antithesis of market economics and the kind of behavior which is simply unacceptable in today's global economy.

It is not difficult to find reasons for these mercantilist actions. In its decentralization drive in the mid-1980's, the Chinese Government effectively lost control of many economic decisions. Foreign purchases zoomed as provincial and local authorities were given authority to make them. Hard currency reserves dropped to practically nothing as the central government got stuck with the bill. The government's response to these difficulties in its economic liberalization program was to overreact—just as it tragically over reacted to the students' efforts to obtain political liberalization in 1988.

The difference, of course, is that it is the Chinese people who are paying the political price. And United States companies are paying the economic price, as the Chinese attempt to revitalize their economy and their hard currency reserves at our expense.

Another example of behavior that calls for an American response is the Chinese Government's relentless determination to sell weapons of mass destruction to governments in unstable regions. This is neither the time nor the place for a debate on arms sales policy. But no one in the community of civilized nations can condone the sale of sophisticated missiles and launchers and missile technology to countries like Syria, Iran, and Pakistan. This is the crassest kind of search for the almighty dollar, which the Chinese have tried to cover up so many times they have no credibility left.

This is classic mercantilist behavior. The same behavior we have opposed in Asia, Latin America, and Europe every time we have seen it. The President apparently chooses to ignore it in this case because China is large, important, and in some sense special. It may be all of those things, but it is still a nation that must fit into the community of nations rather than seek to take advantage of the rest of us.

In some circumstances, such as a regime genuinely trying to reform itself politically and implement market economics, a restrained and sympathetic reaction would be appropriate. But China is not a case where coddling will work. They are not reforming—if anything they are going backwards—and their behavior is not only hurting us, it is endangering thousands of innocent lives as well through its missile sales programs.

In addition, this is not a culture that responds to reason. The Chinese Government, regardless of its rhetoric, views its relationships hierarchically. It understands and respects strength, and it understands and has contempt for weakness. The President may think he is being reasonable. In fact, the message being received is one of weakness. The message says that they can continue to poke us in the eye and get away with it. And I would submit that this is not a message it is in our interest to convey, either to the Chinese, who will only respond by continuing their present course, or to our other Asian trading partners, who cannot help to draw an important lesson from this episode.

Look, for example, at the case of Korea. Here is a nation with a number of outstanding trade problems with the United States, some of which got sharply worse in 1990. It is also a nation with a government that has attempted to negotiate and settle those problems in good faith, despite considerable domestic political pressures to the contrary. As in all negotiations, they made concessions. So did we. They are now being confronted with the Chinese case, where, far from making any concessions, the Government is threatening to discriminate against United States products even more. And they're getting away with it. If you were the Korean trade minister, what conclusion would you draw about how to treat the United States?

A more appropriate message in this case is one of firmness and strength. Not hysteria, but a clear position that Chinese behavior is unacceptable and will not be tolerated without consequences. The Mitchell bill is just such a message. It does not remove MFN arbitrarily or peremptorily. It extends favorable treatment and states clearly what conditions must be met to continue such treatment beyond next year. Will there be short-term consequences for such a position? Of course there will. Will the Chinese immediately reform? Probably not. Will they reform if we do what the President wants? Also, probably not.

The short term is fairly clear regardless of what action we take. The Chinese Government can be expected to reduce its economic ties with American companies with or without MFN. They will do it for the same reason they have been doing it—to reduce imports and foreign dependence. They will say it is because of the MFN debate, and many of our companies will believe them.

Rather than worring about the short term, we should be looking at the long term. What kind of message do we want to send to the Chinese Government—and the Chinese people—about the Government's behavior? The appropriate one, in my judgment, is a clear statement of what is expected of modern nations heading into the 21st century that want to have stable economic and political relations with others. And a clear statement of the consequences of not meeting those standards.

Such a policy will give meaning to the concept of most-favored-nation. We should treat the Chinese like everybody else only if they behave like everybody else. For the last 3 years they have failed that test. The President would ignore the facts and give them a passing grade anyway. The Mitchell bill would essentially give them probation for another year, a far more responsible course, in my judgment. I hope all Senators will support this bill and by doing so send a message of firmness and resolve to China's leaders rather than one of weakness and confusion.

Mr. HARKIN. Mr. President, I rise in support of Senator MITCHELL's bill, S. 1367, to condition the extension of most-favored-nation [MFN] status to the People's Republic of China.

Mr. President, China's leaders must realize that it will not be business as usual with the United States unless they undertake serious political and economic reforms. Last year, President Bush argued that extending MFN would give Chinese leaders the incentive to take into account United States interests concerning human rights. Yet, 1 year later, according to human rights reports, including the State Department's own account, the situation in China has not improved. Hundreds of prodemocracy demonstrators remain in jail; there have been summary executions, arbitrary arrests, unfair trials, and torture. Moreover, the Government of China continues to violate the fundamental rights of the Tibetan people and repress citizens who advocate change.

The Chinese Government also violates human rights by its trade practices which include the use of forced labor to export cheap products. This is in direct violation of international labor treaties and U.S. law. Business Week, in an April 1991 report cites State Department documents evidencing official Chinese statements that China exports $100 million in goods produced by forced labor.

On the international level, the Chinese Government's support for the genocidal Khmer Rouge has become the main obstacle to peace in Cambodia and China's proposed sale of long-range ballistic missiles to Pakistan and Syria destablilize these volatile regions and harm United States interests.

Mr. President, most-favored-nation status is a reward not a right. To receive MFN China should be willing to afford its citizens their basic human rights. I support the normalization of political and economic relations with China, but not at the expense of sacrificing our concerns for human rights.

Aside from China's violation of human rights through its use of forced labor to export cheap products, China also engages in unfair trade practices. These practices include restriction of foreign firms' access to its domestic markets, lack of adequate protection for patents, copyrights, and trademarks, as well as severe restrictions on foreign investment in China. In its 1991 National Trade Estimate Report on Foreign Trade Barriers, the United States Trade Representative singled out China as 1 of 3 countries whose trade practices are "the most onerous and egregious and who are not making good faith or making progress in negotiations." Today, as a result of the administration's policy and China's discriminatory trade practices, our bilateral trade deficit with China is second only to Japan. China exported $15 billion to our country last year, a rise of 30 percent over 1989. At the same time, United States exports declined by 20 percent from $5.8 billion to $4.8 billion. Nearly 60 percent of this decline was attributable to a fall in wheat shipments. Shipments of fertilizers, our second largest export, did increase in 1990 by 11.5 percent but would have increased even further if China had not imposed quotas on fertilizer imports in August 1990. China is potentially a large market. If strong action isn't taken, China's market will never open up and United States agricultural exports as well as other United States exports will lose in the long run. We simply cannot afford to continue to be on the losing end of our trade relationships.

We need to change the terms of our engagement with China so that the United States does not fall short in its trade relations. The Bush administration's open door policy has been to leave our door wide open while the Chinese keep their door locked shut. That's not a policy that should be acceptable to the American people.

Mr. President, S. 1367 would not necessarily deny China most-favored-nation status. Under this bill it is up to China to take the necessary steps to respond to our trade and human rights concerns. Furthermore, the President would have a full year to employ other policy tools short of removing MFN to encourage China to change its policies. The United States is China's second largest trading partner and its largest export market. Mr. President, we should be prepared to use that economic leverage to encourage political reform in China.

Mr. President, as events in Eastern Europe have demonstrated, our Nation's security rests in helping people who promote democracy in Communist countries not with those who crush it. The United States should no longer permit China's leaders to profit at the expense of both the American and Chinese people. The United States should continue economic relations while safeguarding its principles and economic security by encouraging serious political and economic reform in China.

Mr. HOLLINGS. Mr. President, I rise in strong support of S. 1367, and I want to commend the majority leader for his consistent attention to Chinese human rights abuses. He has worked very hard to craft this legislation in a responsible fashion and bring it to the floor of the Senate and it is long overdue.

While it is certainly true that the Communists in control of the Chinese Government have shown a blatant disregard for their international responsibilities, their true crimes are in the treatment of their own population. I need not repeat the horror stories we have heard described on the floor today, but I must note the thousands of people shot, jailed, and disappeared," without any semblance of due process. In addition, why any one would wish to reward a regime that is capable of exterminating one-fifth of the population of Tibet, perhaps 1 million or more people, I cannot understand.

But let me turn to the statutory standard for granting MFN to a Communit country. That standard is that a country has granted freedom of emigration to its citizens. This provision may be waived if the President determines that waiver will substantially promote the objectives of freedom of emigration. For the prodemocracy movement leaders, for China's political prisoners, there is no question that these standards have not been met.

Freedom of emigration for leaders of the democracy movement is but the beginning of a litany of wrongs. I must call to the Senate's attention the serious charges that have been made regarding China's use of slave labor. In the April 29, 1991, edition of Business Week a story entitled "China's Ugly Export Secret: Prison Labor" detailed the results of a 6-month investigation by the magazine. The investigation "reveals just how committed the Chinese are to gulag communism as part of their economic planning." Senator HELMS, joined by me and others, requested that the Customs Service investigate the prison labor allegations in June 1990. Under U.S. law, goods produced by forced labor are not allowed to be imported into this country. As far as I know, they are still studying it. This inaction, this indifference to the exploitation of political prisoners to fuel the Chinese export machine, is inexcusable. That is why I have supported Senator HELMS' efforts to put some teeth in section 307 of the Tariff Act of 1930. If the administration is not going to enforce this statute, why don't they request its repeal?

There are these who say that denying MFN punishes the people, not the Government. I would ask those critics what surgical methods do they recommend that will punish the Chinese leadership only and no one else? What other method have they observed is working in China? There are those who say that revocation of MFN will hurt American companies and American exporters. The Chinese Government is doing a pretty good job of that themselves. In the words of the United States Trade Representative, "China employs a complex system of tariff and nontariff administrative controls to restrict foreign firms' access to its domestic market." We had a $10.4 billion deficit with China in 1990, and the deficit will be larger this year. As a matter of fact, after Tiananmen Square, United States exports to China fell 17 percent, while imports from China increased 27 percent. The Chinese have been singled out for their failure to protect United States intellectual property. The United States Government has charged the Chinese with breaking their bilateral textile agreement with us by transshipping over $100 million of their textiles through other countries.

Of course, there are far more deadly sins in China's repertoire—that is, their nuclear proliferation policy. I will leave those details to others—suffice it to say that there are serious allegations that China has been a shopping center for India, Pakistan, Brazil, Argentina, Algeria, Iraq, Iran, and Syria.

Our objectives as a country and as a member of the world community in freedom of emigration, in human rights, in trade and in nonproliferation are consistently repudiated by the Chinese Government. This, then, is a relationship we wish to cultivate? It brings to mind a quote President Kennedy was fond of reciting:

> There are three things which are real:
> God, human folly and laughter
> The first two are beyond our comprehension
> So we must do what we we can with the third.

Truly, the Chinese Government's policies from June 3, 1989, to the present are "human folly beyond our comprehension." I urge my colleagues to support S. 1367.

Mr. KASTEN. Mr. President, I rise to add my support to extending most-favored-nation [MFN] trading status to the People's Republic of China. I strongly support the people, not the Government, of China. MFN is a people-to-people benefit—not a government-to-government reward.

This afternoon I had several Chinese students in my office to discuss extending unconditional MFN to China. Their words impressed upon me that unconditional MFN was the very best means to strengthen democracy in China. They came armed with petitions from students and scholars in Wisconsin supporting the extension of unconditional MFN to China.

Mr. President, after my remarks I will ask to have them inserted into the RECORD, along with an op-ed article from the New York Times.

Since long before June 4, 1989, I have been a strong supporter of the democracy movement in China. I have spoken out publicly against the brutal regime that forcibly suppressed the student movement for democracy. I'm still outraged at the regime's violent actions, but I do not believe that adding conditions to the extension of MFN will serve the purpose of promoting change in China.

The human rights situation in China is unacceptable. However, conditional extension of MFN is the least effective means of improving the human rights situation—simply put, it punishes the wrong people.

I believe that a continuation of MFN for China is vital to advancing the cause of human rights and in supporting those Chinese who seek a modern, progressive China.

The advocates of political and economic reform and of greater human rights depend on outside contacts and support. Cutting them off will weaken them while giving xenophobic hardliners a foreign scapegoat for their failing policies.

History has shown that economic development provides the bedrock for political and social progress. It is essential that we maintain our trade and investment relations if the United States is to remain a positive force for progress in China.

Extending China's MFN status without conditions is crucial both to continuing China's economic evolution and to our own national interest.

Supporters of conditional MFN argue that the Chinese Government will be pressured to make human rights concessions for preferential trading with the United States. I disagree.

The current repressive Chinese Government, forced to make such a choice, would forgo the trade benefits. We here in the United States must dare to do what the Chinese Government will not—put the interests of the Chinese people first. And make no mistake:

If trading between our two countries ended, the people of China would lose. Their one outlet to the West would be shutdown for good.

Economic isolation can only hinder China's progress toward democracy. This isolation is not what the Chinese people hope for, and it is also not in the interest of Americans. Now more than ever, China needs increased contact with the outside world.

With more commercial trade, technical exchanges and cultural contacts between China and the rest of the world, the chances are better that ideological change and economic reform will occur, as more and more citizens become dependent on free market structures.

An open economy is China's only hope for the future. It is a prerequisite for reform—an essential precondition for freedom. I will vote to keep this window open—so that the breeze of freedom can someday breathe new life into the world's oldest civilization.

I ask unanimous consent that the material to which I earlier referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 19, 1991.

To: The Honorable Senator Robert Kasten,
110 Hart Office Building, U.S. Senate,
Washington, DC.

From: All of us, whose names and addresses in Wisconsin appear in the following pages.

We the voters in Wisconsin as petitioners hereby represent a very small percentage among the citizens who are not surveyed but may be also most seriously concerned about the negative consequences of the passage of HR 2212, and S. 1367 which is soon to come for floor vote in the Senate. Our position is to urge both of you not to vote for it.

We as a nation have always sought for greater American influence in China's rapid transformation into a democratic/free country to have undivided respect for human rights as enshrined in the U.N. Charter as was passed by the United Nations in 1948. The best way to achieve these goals is to use our economic, diplomatic and cultural influences inside China through President Bush's resourceful leadership and diplomatic negotiations. We must not alienate China and its people at this critical juncture. Millions of the Chinese people must understand that we are on their side, and that we do have honest disagreements with their government on certain specific issues.

Therefore, to cut-off the Most-Favored Nations (MFN) policy practice will hurt many Chinese workers and freedom-loving intellectuals. They seem to seek earnestly the potent good-will of the American people and its government. In additions, we shall undoubtedly lose influence with those inside the Beijing government who can be further alienated by our denial of MFN to China-made consumer goods in our domestic market. Furthermore, such "low-priced" Chinese goods are beneficial to most of American consumers. We seek your greater attention to underline and to analyze other most damaging consequences if this S. 1367 bill is passed against the Chinese government which may further misinterpret our goodwill and policy gains. And thus, Chinese media and the freedom-loving Chinese citizens and those average workers may be negatively affected against the American government and be gravely alienated from a feeling of abandonment and unexpected disappointment.

There are many other concrete factors and effective arguments against the passage of the bill. These may, at least, include the following:

1. Our President knows the conditions and politics in China much better than most of us citizens. We do not have the day to day information. He does.
2. Our diplomacy with China needs flexibility and strong Congressional support for more successful negotiations, especially on the practice of human rights.
3. Our long-term policy goal toward China must not be adversely affected by this bill, which may not at all help to achieve what Congress and the President want for the Chinese people or to influence Beijing the way we want to.
4. Over the past decades we have slowly built up our friendly influence in China. More positive economic, commercial and trade measures will reinforce this rising influence and friendship between the two nations.
5. The Chinese working class and those businessmen in foreign trade along the East seacoast from Canton to Manchuria will be

seriously damaged if we cut-off the MFN treaty to the goods they produce. These people, who benefit from reform and trade, represent the growing influence and leadership in China's democratization and respect for human rights.

6. Finally, the prosperity of Hong Kong as a trading center will also be negatively affected. Hong Kong is our showcase of free enterprise that influences China and other parts of Asia. As a transport harbor for Chinese consumer goods, it will suffer a serious blow if MFN is used against China.

This petition may come to you by faxing or personal direct presentation in Washington.

In conclusion, we remain eagerly to hear good news from the Senate floor against this bill. Thank you for your time and effort to consider our views in your voting. We are largely from the Madison-Oshkosh areas. The rest of the voters in Wisconsin may think the same way we do. It is for you both to freely survey them.

Thank you again.

The list of voters supporting the Presidents position against the passage of the bill:

Dr./Prof. John J. Liu, University of Wisconsin-Milwaukee, College of Business, 414-229-3833.

Dr./Prof. David W. Chang, UW-Oshkosh, Political Science, 414-231-0160.

Dr./Prof. Shi-jiang Li, Medical College of Wisconsin, Milwaukee 414-257-4029.

Mr. Wen Youzian, UW-Madison, 608-257-7135.

Mr. Du Can-ping, UW-Madison, 116 N. Orchard St., Madison, 53715.

Mr. Wang Chen, UW-Madison, 116 N. Orchard St., Madison, 53715.

Mr. Wang Jin-fung, UW-Madison, 116 N. Orchard St., Madison, WI 53715.

Ms. Tu Xin, UW-Madison, 608-238-7824, 201A Eagle Heights, Madison, WI 53705.

Mr. Huang Zhengyu, UW-Madison, 116 N. Orchard St., Madison, 53715.

Mr. Wang Bei-Liang, UW-Madison, 116 N. Orchard St., Madison, 53715.

Dr. & Mrs. Leslie H. Stone, 1835 Lake Breeze, Oshkosh, WI 54904. 414-235-6360.

Mr. & Mrs. Carl/Leona Stapel, 427 N. Main, Oshkosh, WI 54901, 414-236-3340.

Mr. James Staple, Kitz and Pfeil Hdwr., 427 No. Main, Oshkosh, WI 54901.

Dr. & Mrs. Eugene/Patricia Sonnleitner, 1218 Jackson, Oshkosh, WI 54901, 414-235-1866.

Dr. & Mrs. E.C./Nancy Ping, 600 S. Main, Oshkosh, WI 54901, 414-233-0141.

Mr. & Mrs. Don/Yoshi Specht, 125 Broad, Oshkosh, WI 54901, 414-233-0422.

Dr. & Mrs. H. Sang Lee, 1529 Bismark, Oshkosh, WI 54901, 414-233-0049.

Dr. Zillur Khan, UW-Oshkosh, Dept. of Political Science, Oshkosh, WI 54901.

Mrs. Alice G. Chang, 1781 Lake Breeze Rd., Oshkosh, WI 414-231-0160.

Dr. Tina Fu, 902 Viola, Oshkosh, WI 54901, 414-233-5779.

Mr. & Mrs. K.T. Hsu, 1732 Maricopa Dr., Oshkosh, WI 54901, 414-231-7739.

Victor Chang, 815 Frederick, Oshkosh, WI 54901.

Christopher H.S. Chang, 1781 Lake Breeze, Oshkosh, WI 54901.

Andy Hsu, 1732 Maricopa Dr., Oshkosh, WI 54901.

Kenneth Y.K. Hsu, 1732 Maricopa Dr., Oshkosh, WI 54901.

Ms. Shirley Chang, 817 Scott, Oshkosh, WI 54901.

Ms. Li Shu, 1651 Jackson Dr., Oshkosh, WI 54901.

Dr./Prof. and Mrs. Bertrand Chlang, UW-Oshkosh, College of Education, Oshkosh, WI 54901, 414-233-5930.

[From the New York Times, July 23, 1991]

RENEW CHINA'S TRADE STATUS

(By Li Xianglu and Lu Mai)

Since the violent suppression of the student movement in Tiananmen Square in June 1989, condemnation of the Government has been near universal. But revoking its most-favored-nation status with the U.S., or attaching conditions, is the least effective means of improving China's human rights picture. This move, which Congress may vote on today, would punish the wrong people by damaging economic reform that is helping bring about a free market.

Chen Ziming, a prominent dissident, agrees. Though sentenced to 13 years for his role in the 1989 demonstrations, he suspended a hunger strike lest U.S. critics of China use his protest as a reason to revoke most-favored-nation status. Such revocation is the last thing reformers in Beijing want.

The economic innovations of the late 70's have produced a private sector and market-oriented collectives, which have liberated hundreds of millions of peasants from deep poverty and state control. The introduction of new ideas from the outside world and growing freedom in the newly pluralistic economy have generated pressures for social and political change.

Foreign trade and investment are the driving forces behind the growth of the private sector. The State Statistical Bureau says that in 1990, while the output of state enterprises grew at an annual rate of about 4 percent, the private sector's output grew at a rate of more than 20 percent and that of enterprises involving foreign investment leaped more than 30 percent.

Some point to the release of the dissident Fang Lizhi and a select few prisoners as evidence that the Chinese Government can be bullied by the threat of losing its trade benefits. But these meager results are mostly the outcome of quiet American-Chinese negotiations. There is ample evidence that Beijing is prepared to endure substantial costs rather than succumb to international pressure.

Public posturing over China's most-favored-nation status and proposed conditions to renewing it challenge the leadership's legitimacy. Such demands hand conservatives an excuse to play on xenophobia, which is never far from the surface; the destructiveness of xenophobia in modern China is still a vivid memory.

Real human rights improvements will come only from systemic change. Foreign trade and investment and the demands they put on the centralized command economy promote such change and support those people who are pressing for structural reform.

Critics of the Chinese leadership erroneously suppose that canceling most-favored-nation status would create economic difficulties that would eventually lead to a popular uprising and the fall of the Government. Since 1949, however, the Government has weathered repeated economic crises by appealing to nationalism and renewing central planning. Those harmed by the revocation of its special trade status will not turn their frustration and anger against the Government; instead, reduced economic opportunities outside the state system will force them to return to dependency on the Government.

Withdrawing that status would provide the hard-liners with an excuse to recentralize control and curtail the influence of foreign economies. The hard-liners surely prefer things that way, for economi prosperity, rapid growth of the private sector and integration into the world economy are beyond the old system's control.

A gradual and peaceful transition to democracy is in the interests of the 1.2 billion Chinese, the U.S. and the rest of the world. Only economic prosperity and political openness can make democracy achievable. The extension of most-favored-nation status without conditions will help promote these fundamental changes.

Mr. WOFFORD. Mr. President, I'm going to vote for this bill later today. But as I've made clear from my very first days as Senator only a few short months ago, I oppose granting most-favored-nation status to China before that nation makes significant changes in its unfair trade policies and its inexcusable human rights policies.

I would have liked to support a resolution of disapproval, but that option isn't presented to us today. So I will vote for the toughest possible conditions on continued most-favored-nation status for a Chinese Government whose policies have been taking the jobs of working Americans and the rights of freedom-loving Chinese. I do so in opposition to this administration's effort to extend unconditional most-favored-nation status to China.

This administration has put American jobs and American principles at risk by seeking renewal of unconditional most-favored-nation status for China. But if we are to grant that status to China again this year, we must condition that extension on major, substantive action by the Chinese Government toward fair trade and basic human rights.

Certainly, we can do better, not only for our own working families, but also for the people of China who want to live in peace and freedom, and to have the chance to get paid fairly for an honest day's work. I have served as president of the International League for Human Rights which has monitored China's violations of the fundamental human rights of its people.

And I have talked with garment workers and manufacturers across Pennsylvania about this issue, as well as Chinese students studying here. And what I have seen and heard in my home State has convinced me that American workers are paying a steep price for our continued willingness to look the other way as China floods the United States market with cheap products made in sweatshops filled with no-wage political prisoners.

The administration is not telling us the truth. Last year President Bush argued that discontinuing most-favored-nation status would hurt the United States and cause a drop in trade. But that is not what happened. In 1990, our Nation's trade deficit with China increased 67 percent to $10.4 billion. China's exports to the United States increased 27 percent during this period while our exports to China decreased 17 percent. By the end of this year, our trade deficit is projected to reach $15 billion.

In addition, China has violated existing trade laws. This morning's Washington Post details how the Chinese Government has systematically evaded textile quotas in order to take advantage of the United States market; I ask that this article be printed in the RECORD immediately following my statement.

I have witnessed firsthand the result of our country's misguided trade policies and its impact on hardworking Pennsylvanians. I have seen the empty sewing machines at Maline Sewing Co. in Philadelphia and listened to the fears of workers at the Donora Sportswear Co. in the Mon Valley.

This administration has allowed China's unbalanced trade policies to steal thousands of garment and textile jobs from Pennsylvania and from the rest of our Nation.

President Bush has stated that most-favored-nation status gives the Chinese Government the incentive to take into account United States interests. I have seen no evidence of that kind of openness and accommodation by the Chinese in either trade or human rights policy. We have seen our trade deficit with China's well-documented human rights abuses. And we have seen little evidence that China has kept its promises to review its policies regarding nonproliferation in nuclear and missile technologies.

The legislation we are debating today is not as strong as I would have liked. I believe that China does not deserve favorable trade treatment at this time. But we are faced with a choice between attaching these strong conditions to most-favored-nation status or extending this status to China unconditionally. I certainly will not support the extension of unconditional most-favored-nation status to China in light of that nation's persistent refusal to address the crucial issues of unfair trade, human rights, and nuclear nonproliferation.

We have learned from experience that unconditional most-favored-nation status has not, and will not, compel China's leaders to change their ways. I hope that these conditions will show the Chinese Government that we are serious in seeking reforms. We are serious about defending American competitiveness and American jobs. We are serious about expanding human rights. We are serious in our commitment to trade policies which are both free and fair to the workers and families of my Commonwealth and our country.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHINESE ARE EVADING QUOTAS ON TEXTILES, U.S. OFFICIALS SAY

(By Stuart Auerbach)

U.S. Customs Service agents pounced one morning last fall as soon as the heavy trucks crossed the border from China into the tiny Portuguese enclave of Macao.

With the permission of the Macao government, they tore open the huge shipping containers and found hundreds of thousands of sweaters, all destined for American stores, all bearing phony labels saying they were made in Macao.

The deception was part of a concerted campaign by China to ship an estimated $2 billion in low-cost garments into the United States last year in violation of long-standing international quotas limiting textile imports into industrialized countries from the Third World, administration officials said.

China's rapidly growing trade surplus with the United States in textiles and other products formed part of the backdrop as the Senate began debate yesterday on maintaining China's status as a favored trading partner.

According to U.S. Customs Service and Commerce Department officials, China has gone to great lengths to evade textile quotas and get more of its clothing into the rich U.S. market.

In some cases it has slipped garments across its border to Macao or Hong Kong. U.S. officials have also reported intercepting falsely labeled shipments from countries that haven't used up their U.S. quota or aren't restricted, such as Lebanon, Honduras and Panama.

The officials said they have investigated other diversions through Persian Gulf states, including Kuwait, and suspect that some Chinese garments entered the United States with labels indicating they were made in African nations. In some cases, the officials say, the false labels were sewn in China. In other instances, the only transformation in the garments was the switching of labels in a third country.

A U.S. trade official said there always has been a limited amount of diversion by countries trying to ship more clothing than their quotas allowed. But the official said what is new with China is "the sheer volume and magnitude" of the activities, which has forced the U.S. government to take action. "It used to be isolated instances * * * pretty small potatoes," the official said.

Stephen DeVaughn, acting director of the Customs Service's Office of Investigative Programs, said the government is seeking criminal indictments against American importers in at least six instances for conspiring with Chinese manufacturers to ship falsely labeled clothing to the United States. "They were trying to beat the quotas," he said.

The sweaters found in Macao late last year were worth $85 million to wholesalers in the United States, officials said. President Bush announced Friday that the government found another $14 million worth of falsely labeled Chinese-made garments being shipped through other countries.

U.S. trade officials told a hearing of the Congressional Joint Economic Committee last month that the quota-beating textile transshipments comprise just one element in Chinese efforts over the past three years to increase foreign exchange earnings by boosting overseas sales and decreasing the amount of foreign goods allowed in China.

As a result, according to a Central Intelligence Agency report released at the hearing, "the United States * * * has emerged as China's foremost export market," accounting last year for one-fourth of its foreign sales.

Chinese sales to the U.S. market jumped an average of 30 percent a year through the 1980s, the CIA reported, 10 times as fast as China's purchases of U.S. goods. That pattern continued last year, when China's exports increased 27 percent to $15.2 billion, while its imports of U.S. products dropped 17 percent to $4.8 billion. The figures did not include the illegal textile trade.

The shifting trade patterns have figured only marginally in the sometimes heated debate in Congress over President Bush's request to renew China's "most favored nation" (MFN) trade status, which grants all Chinese products—including textiles that are within the quotas—the lowest duties of any U.S. trading partner.

In the congressional discussion on MFN status, Beijing's human rights record and its sales of missile and nuclear technology to Middle East hot spots generally have drawn more congressional opposition than China's trade activities.

The Senate yesterday began floor debate on whether to extend China's MFN status. A vote is expected today. Opponents of the extension are likely to win a narrow victory, but the margin is expected to be too small to override a promised presidential veto, which would have the effect of continuing China's MFN status.

While the MFN designation does not affect textile quotas, without it, tariffs on Chinese products would increase as much as tenfold, making them more expensive on U.S. store shelves.

In a letter aimed at easing congressional concerns, President Bush Friday promised to initiate unfair trade cases if Beijing continues to restrict American imports and said he would take additional action if China persists in trying to evade textile quotas.

U.S. officials said the giant American clothing market is such a tempting target and China's capacity to produce low-cost garments is so great that quota evasion is inevitable. "There is an enormous incentive for transshipments to occur," said Deputy Assistant Treasury Secretary John P. Simpson.

As an example of the difficulties that Customs Service and Commerce Department officials face in trying to enforce the quotas, Seth Bodner, executive director of the National Knitwear and Sportswear Association, described a tour last month of Macao factories to see if they are capable of producing the garments they say they are shipping into the United States.

"The whole thing was ludicrous," he said. "A few [workers] were pros and the rest looked as if they had never seen a knitting maching before." He quoted customs agents as saying they had visited the factories weeks earlier and they contained no knitting machines. "They move the machines back and forth across the border. It's a game they play," Bodner said.

Much of the government's initial intelligence on false labeling comes from the domestic industry, which closely monitors imports and has fought major political battles to limit foreign textile and clothing shipments to the United States.

For instance, Charles V. Bremer of the American Textile Manufacturing Institute informed customs officials when he noted that 156,000 T-shirts, sold wholesale at $1 each, and 136,000 square meters of rayon fabric were coming into the United States from Lebanon, which was in the midst of a civil war.

"Imports of spent shell casings or shrapnel from Lebanon I can see, but textiles and apparel? I doubt it," he wrote the Customs Service.

As a result, customs agents were at the docks when a ship from China arrived bearing a dozen 20-foot-long containers filled with clothing marked "Made in Lebanon." DeVaughn said the ship's manifest clearly showed the shipment originated in China.

CHINESE TEXTILE SHIPMENTS

[In millions of units]

Item	1991 quota	Diverted shipments
Cotton pants and shorts	26.3	2.4
Synthetic fiber sweaters	9.3	1.5
Wool sweaters	3.3	1.4
Cotton sweaters	1.4	0.9
Cotton industrial towels [1]	1.2	1.3

[1] In millions of pounds.

Source: American Fiber Manufacturers Association.

Mr. BIDEN. Mr. President, in the debate thus far over whether to extend most-favored-nation status to China, those who oppose unconditional approval have not been lacking for examples of unacceptable behavior on the part of the Chinese government.

My previous comments have focused on China's reckless proliferation of missile and nuclear technology. Other Senators have stressed China's ongoing detention of political prisoners; still others its violation of worker rights through the use of forced labor. Mr. President, I submit that these are all appropriate concerns for Members to consider in judging MFN renewal for China.

An additional concern I have relates to the unacceptable behavior of the Chinese Government in a matter in my home State of Delaware.

In 1987, the Phoenix Steel plant in Delaware shut down, leaving 600 workers in limbo. In June 1988, the plant was purchased by Citisteel, a company owned by an arm of the Chinese Government. Citisteel promised to raise Phoenix from the ashes on the shoulders of its former workers. In exchange for the help of their union in winning special environmental clearances from the Delaware Legislature, Citisteel promised that the former Phoenix steelworkers would have the first opportunity of filling the new jobs at Citisteel. But once the waiver was granted, Citisteel turned its back on the workers.

Four years after Phoenix Steel closed, Citisteel is in operation with 300 employees. Only 35 of these are former Phoenix Steel workers, despite over 200 of those workers having applied for work at the plant.

Citisteel's intentions are clear. The former Phoenix Steel's workers are members of the United Steelworkers of America, the union that has represented the workers at that plant since 1943. The Chinese-owned company does not want to recognize the union, nor allow it to represent the work force at the plant.

The problem Citisteel has, Mr. President, is that in this country, unlike in China, the Government upholds the laws that protect the rights of workers. In May, the National Labor Relations Board culminating a 2-year investigation, charged Citisteel with violations of the National Labor Relations Act in discriminating against the former employees of Phoenix Steel. The Board's complaint holds that Citisteel interrogated former Phoenix workers about their union sympathies in order to screen out prounion workers in rehiring so as to avoid having to recognize the union.

Mr. President, there is no shortage of reasons to be concerned about the way the Chinese Government treats its own citizens. I think we should also take into account how they treat our own citizenry.

Mr. KOHL. Mr. President, the issue presented to us today is both incredibly simple and tremendously complex. The simple part is our desire to respond to the totally unacceptable behavior of the Chinese Government.

Even before the dramatic confrontation in Tiananmen Square, that Government had demonstrated a cynical disrespect for human life and human rights. Their record in Tibet, their support for dictatorial forces in Cambodia, their blatant violation of international efforts to reduce the flow of arms to terrorist states and organizations, their persistent and consistent flouting of trade agreements—all this and more made it very clear that China has a long way to go before it merits special consideration from the United States.

But concern about China's behavior was, to a large extent, restricted to a small circle of foreign policy experts—until Tiananmen. After the tanks rolled through the square and over the protesting students, concern about China spread throughout the world. And now, some 2 years after Tianamen, that concern is finally translated into action, into an attempt to decide how the United States of America ought to respond to the leadership in Beijing.

Now as I look at the alternative responses we are being asked to consider I start with the assumption that both sides share a common goal: We do want to see changes in China; we do want to express American revulsion at China's behavior; we do want to protect human rights. But there are radically different visions of how we can accomplish those goals. And that is where the complexity comes in.

President Bush has made it clear that he believes that quiet diplomacy is the best way to promote change in China. In that context, he argues that economic growth and private enterprise are effective ways to liberalize and liberate the mass of people in that nation. I agree with that argument.

He also argues that attaching any explicit conditions on our economic relationship with China will be counterproductive: China will reject the concept of conditionality no matter what the specific criteria are. I'm afraid he may be right on that score as well.

Given those considerations, the President rejects conditionality because it will, at best, accomplish nothing in terms of promoting liberalization and, at worst, may actually set back the cause of reform. Conditionality, he claims, will accomplish nothing—but it will cost American workers and American business the jobs and benefits created by continued trade between China and the United States.

Senator MITCHELL and other advocates of conditionality do not repudiate the President's reasoning as much as they reject the results which he has been able to produce. After 2 years, in which the administration has been free to practice unfettered quiet diplomacy, it is impossible to claim that their strategy has produced any results. That is not a political conclusion—it is the only conclusion that the facts support. Indeed, as the Republican Senator from Washington State has said:

> In the 2 years since the massacre in and around Tiananmen Square, China has taken few positive steps. * * * [And] many of those outwardly positive steps taken by China were followed by the imposition of additional restrictive actions.

I'm not sure that quiet diplomacy is doomed to fail but I am concerned that this administration is not committed to making it work. In my judgment, the administration has demonstrated all too clearly that it is simply not willing to push the Chinese government. The President vetoed legislation to protect Chinese students who were in America when their government killed their colleagues in Tiananmen Square; he sent high level emissaries on secret missions to Beijing while saying he was cutting off such exchanges; he has praised China's willingness to talk about nonproliferation while failing to recognize that they are continuing to sell weapons to hostile states.

As the frustration with the administration's unwillingness to make quiet diplomacy work increased, we began casting about for an alternative course of action. We considered an immediate cut off of MFN—and then rejected that option as being too precipitous. We considered a 6-month conditional renewal—and then rejected that option as being too unrealistic. Finally, we considered a 1-year conditional extension of MFN and urged the administration to join us in developing a realistic set of conditions—and the administration rejected our offer to discuss that option.

So we find ourselves deadlocked. In an ideal world, I would support nonconditional extension of MFN combined with a realistic and tough diplomatic effort to promote reform. That, in my judgment, is the best way to produce results. But as I have learned all too often in the last 3 years, this is not an ideal world. I can't compel the administration to pressure China. I can't legislate common sense. The only legislative choice is some form of conditionality or a continuation of the bland and ineffective policies we have pursued over the past 2 years.

That is a Hobson's choice. And it appears that we will not fully resolve it today. A majority of my colleagues favor action now—but the President and a one-third minority of the Members of this body can prevent that from happening. As other Members of the Senate have pointed out, the vote today will not be definitive. We will pass this bill, the President will veto it, and his veto will, I fear, be sustained.

Given that reality, given the fact that we will end up with an unconditional extension of MFN, I believe it is critically important that both the President and China understand the meaning of this vote. No one should believe that unconditional means uncritical. We are very critical of what our Government and the Chinese government have done and failed to do.

My vote, and the votes of a majority of my colleagues should send a clear message to the President and to China: There had better be some real changes in the next year. If we face the same level of repression, the same sorts of violation of trade laws, the same policies toward proliferation, and the same nonresponse by the American government, then even though denial of MFN may not be the best choice, it is a choice that I predict two-thirds of the Congress will be willing to make.

The President has had 2 years to let his policies work. They haven't. The Chinese government has had 2 years to modify their behavior. They haven't. Now each will get another year to do what they have not yet done. And they had better do it.

The dangerous implications that some see in conditionality this year will pale in comparison to the dangerous precedent that would be set if we allowed the current situation to continue without reacting.

So today, Mr. President, I vote for conditionality knowing that it will fail. But if the President does not succeed in the year he has bought, then I will vote for conditionality again next year—and it will prevail.

Mr. JEFFORDS. Mr. President, this debate has pointed up many areas of disagreement among Senators on our policy toward the People's Republic of China. Yet it is clear that there is broad agreement on the overall goal of United States policy: The promotion of economic reform, democratization and respect for human rights in the People's Republic of China [PRC]. There is also general agreement that the administration has not been sufficiently forceful in pressuring the Chinese for progress in these areas. Worry about Chinese disapproval of American criticism seems to have dissuaded the administration from pushing as hard as it might have.

The disagreement among Senators centers on how we can best achieve the goals of U.S. policy. There seems to be broad agreement that retention of most-favored-nation [MFN] status for the coming year is critical to the survival of the democracy movement. Senator MITCHELL's legislation does not contest the President's decision to continue the trade preferences; preferences, I might add, that are granted to most all nations. The many Chinese students who have visited my office also agree that MFN should remain in effect for the coming year, and most indicated they did not want to see it revoked a year from now.

Unlike the Soviet Union, China's economy is not collapsing under the weight of a central planning bureaucracy. More than a decade ago, the Chinese leaders realized that they had to initiate reforms to head off economic decay of the kind that was plaguing its neighbor to the north. They believed opening their markets to Western investment and allowing development of a strong private sector would revitalize their economy and improve China's standard of living. In the decade since granting of MFN status, this has proved to be the case.

Sixty percent of the Chinese economy is now associated with the private sector. This sector is essential to the provision of the most basic of human rights—the right to earn a living and provide for one's family. It also provides an economic sanctuary for those individuals who feel compelled to criticize the government, to press for respect for human rights, and to prod the leadership toward democracy. In the absence of a viable private sector, the Government would have a stranglehold on every aspect of an individual's life, effectively preventing anyone from speaking out. One life-long activist indicated that the hard-liners in the Government would love nothing more than an excuse to exert their control over the private sector, but the necessity of maintaining MFN prevents them from doing so.

The interaction that comes with trade is also cited by many Chinese as critical to the development of diversity in China. The exposure to different world views, the exchange of ideas and the opportunities to meet Americans or perhaps even travel to the west—these are the keys to steady, gradual reform in China. No one thinks that big changes will happen immediately, and most experts with whom I consulted indicated that far-reaching changes are unlikely until the aging, hard-line leadership passes from the scene. Yet, while waiting for this to happen, Chinese reformers are mulling over options for the post-Deng Xiaoping era and formulating ideas on how best to proceed. They are hungry for Western thought and input. Cancellation of MFN would end most such contacts with Americans.

Greater Chinese involvement in the United Nations and increased international interaction has also been a goal of United States policy for some time. Recent events in the gulf provided an example of the pivotal position of the PRC, due to its veto power in the U.N. Security Council. Without China's acquiesence, the United Nations could not have organized an opposition to Saddam Hussein and could have been prevented from playing any role during the crisis or in the settlement.

Two years ago, in the wake of the tragic massacre in Tiananmen Square, the President announced a series of economic sanctions on Beijing and pledged to keep unrelenting political pressure on the government. While continuing MFN preferences, the President promised to use the channels of quiet diplomacy to express America's outrage. Unfortunately, I do not see much evidence that the administration has used these channels to their fullest advantage.

Human rights abuses continue unabated in China. Human rights organizations have listed more than 300 activists who have been sentenced since June 4, 1989, to harsh jail sentences for participating in the prodemocracy movement. Many of these trials were conducted more like show trials. Persecution of religious activists and Tibetan nationalists has shown no signs of declining. Amnesty International believes that perhaps as many as 200 Tibetan nationalists are being detained, some of them since 1987.

Trade is the one component of the China MFN deliberation that should be the easiest to get our arms around and to address. The administration has had the tools—tools in fact given it by the Congress—to directly target those trade issues for some time now. I am referring, of course, to the various section 301 procedures at the administration's disposal.

Yet what have we seen in the PRC trade area over the last several years? We have seen our trade deficit with that nation grow to $10.4 billion in 1990, the year after the Tiananmen Square crackdown, surpassed only by our trade deficit with Japan and Taiwan. Morever China's trade surplus is projected to grow to $15 billion in 1991.

It would be one thing if we could attribute this growing deficit to the natural law of trade that is the inevitable result of certain inherent advantages China might have in a free and unfettered trade environment. But the fact is that the evidence increasingly indicates that the surplus must be attributed to deliberately predatory trade practices of the PRC. We are faced with an arrogant China, cynical and manipulative in the trade arena, which unfairly and unilaterally exploits its basically open access to the United States market while restricting our access to its market.

Many specific examples of this growing arrogance can be recited. Today's Washington Post recounts a recognized deception by China in its shipment of an estimated $2 billion of low-cost garments into the United States last year in violation of longstanding international textile quotas. And this $2 billion was not even counted in the official 1990 deficit figure of $10.4 billion.

In another deception, the PRC secretly funnels exports through Hong Kong as a means of understating its own export statistics on trade with the United States and the rest of the world. Such deceptive trade accounting is so severe that China just this year, and with a straight face, claimed to have a $1.5 billion trade deficit with the United States.

By the administration's own admission in its reply to Senator MAX BAUCUS outlining United States policy objectives for the coming year, general access by United States merchants to China since 1988 has been severely impeded by increasingly more protectionist, nontariff barriers to imports. These measures have worked for China. There was a 17 percent decline in United States sales to China in 1990, the only major foreign market in which our exports declined last year.

There are also serious questions about China's willingness to improve its track record with regard to the enforcement of international standards concerning copyrights and other intellectual property rights. Although China's first copyright finally went into effect on June 1, past experience indicates that this may well be a token measure only to appease or put off legitimate complaints by the United States.

To be sure, the administration tells Senator BAUCUS that it will now use all its resources to address these devious trade maneuvers by China. Even if we give the administration the benefit of the doubt, the inescapable question remains: Why have they not taken these corrective steps over the last 2 or 3 years? The situation has only deteriorated in the face of administration procrastination and inaction.

I am also deeply concerned about Chinese sales of missiles to Iran, Iraq, and Saudi Arabia. A few months ago, reports surfaced that China was selling M-11 ballistic missiles to Pakistan and considering the sale of M-9s to Syria. There are also indications of Chinese willingness to assist nonnuclear nations in the development of nuclear weapons production capabilities. The President recently announced that the United States will now deny any requests from U.S. companies for licenses to export technology relating to satellite capabilities or high-speed computers until its nuclear proliferation concerns are satisfied.

After reviewing the unsatisfactory record of the past 2 years, my inclination was to refuse the President's request for yet another year of unconditioned MFN preferences. I felt the need to tell the President that the administration had not performed up to my expectations and that I was losing patience with his approach. I wanted to see more progress on our central policy goals.

So how do we get better results? Again and again I was reinforced in my judgment that revocation of MFN would not produce concessions from Beijing. Yet revocation would clearly hurt the Chinese people's standard of living and would greatly decrease the already limited breathing room of the prodemocracy activists, greatly setting back the pace of reform. It would also remove a point of leverage for reformers within the Chinese government who are in a tense struggle with the hardliners.

It is also clear to me that revocation of MFN would seriously hurt our own exporting sector disproportionate to any real benefits that could be expected from such action. Revocation would clearly lead to retaliation by the PRC through the cessation or severe restriction of purchases of grain, aircraft, cotton yarn and other products we now sell to China. The very industries we are counting on to reduce our unsustainable trade imbalances would be the ones most adversely affected.

Although often overlooked, the situation with the Vermont machine tool industry is illustrative of the serious consequences MFN revocation would have on our domestic exporters. As is true of the United States as a whole, Vermont used to have a vigorous machine tool industry which has now been sadly reduced to two or three companies fighting for their survival. I am told in no uncertain terms that the potential of the China market is critical to the survival of these remaining companies.

One of these companies reports current business with the PRC of approximately $3 to $5 million a year. The size of these numbers is deceptive. That business, in the form of grinding machines for the refrigerator and automotive industries, already represents 15 percent of the company's total business. More importantly, as the president of the company wrote me:

> We anticipate the Chinese market to grow over the next five years and to be a substantial source of business for the next decade, with a resultant increase over the present volume.

He goes on to state that a discontinuation of MFN would mean a loss to their German, Japanese, and Italian competitors to this specialized market they have worked hard to establish. This in turn would mean a loss of approximately 20 percent of the company's work force, and throw future survival into further doubt.

The story of these small machine tool companies in Vermont argues strongly against the wisdom of denying MFN to the PRC. The goals of those who would have us do so are entirely admirable, and are shared by me. But the effects of such action would be so counterproductive that I do not believe it can be justified.

If we are to continue MFN for the coming year, the question then becomes, how can we force the Chinese leadership to make the maximum amount of progress and how can we best prevent further abuse? We have to be realistic about what we can accomplish with our limited influence. Until the Chinese leadership believes that far-reaching reforms are in its best interest, there is little we can do to force its hand. However, we can, and must, keep the heat on. If we establish unreasonable conditions for MFN renewal a year from now, we lock ourselves into revocation of the status. Even reasonable demands may become unattainable if elevated to a high-profile position and laced with undercurrents of a challenge to a Nation's sovereignty. In dealing with China, lower profile channels often produce better results. Quiet diplomacy is frequently more likely to produce quiet results. And ongoing constructive influences eventually have a positive effect.

But Congress cannot conduct quiet diplomacy. That is the domain of the executive branch. Congress can only direct that it be done. And in my estimation, it has not been done satisfactorily to date. In his letter to Senator BAUCUS, President Bush outlined a long and thorough list of ways the administration will pressure the Chinese Government to address United States concerns over the coming year. I plan to follow these efforts closely and will return to this list when we come to review administration efforts this time next year.

Mr. President, my vote today comes with two strong warnings; one to the Chinese leadership that America wants to see progress on human rights, free trade and nonproliferation; and the other to the Bush administration that if it wants my support for renewal of MFN, in another year, it is going to have to fulfill the pledges made to Congress in the course of this debate.

If these things come to pass, and it is my great hope that they will, then I think we may at last be embarked on a strong, healthy, and morally responsible policy toward China. It's about time we had a China policy that the American people can be proud to support.

Mr. DURENBERGER. Mr. President, I rise to speak in opposition to the legislation that would impose conditions on extension of MFN for the People's Republic of China.

In reaching this decision, I have concluded that it is in our Nation's best economic and geopolitical interests to maintain normal trading relations with the People's Republic of China. I further believe that continuation of MFN will improve economic and political conditions for the people in China.

Mr. President, neither the President of the United States, nor this Senator believes that extending MFN can be interpreted as condoning the domestic repression in China, or the Chinese Government's irresponsible arms proliferation policies.

The United States was the first country to condemn the brutal repression in Tiananmen Square. We were the first nation to guarantee the rights of Chinese students studying at universities abroad. We were the first nation to impose sanctions against the Chinese, and we are the last, alone among our Western allies, to keep those original sanctions in place.

But those actions are not enough for the critics of the President's policy. Do the critics of the President's policy think we would be better off if we turned the clock back on Sino-American relations to 1970 when we exercised a policy aimed at isolating China from the rest of the world? That would be the net effect of our decision to abandon normal trade relations with the Chinese. Although it might make us feel good in the very short run, it will surely set back relations and dialog with the Chinese for years to come and likely lead to wider crackdowns within China against foreign influence.

Let those who want to return Sino-United States relations to 1970 remember that in 1970 China did not serve as a permanent member of the U.N. Security Council. Let them remember that because of President Nixon's opening to China, the people of China have ultimately benefited and our long-term bilateral relationship with China and the Chinese people has been enhanced.

Let the critics also remember that they are putting at risk more than $5 billion in U.S. exports, including wheat, $511 million; aerospace, $749 million; computers and electrical machinery, $860 million; fertilizer, $544 million; cotton, $259 million; and wood products, $281 million. And not only will our European and Japanese competitors immediately step in to take up the slack caused by the loss of American business, but we will be putting at risk more than $4 billion in United States investment in China.

Farmers and businesses in Minnesota stand to lose hundreds of millions of dollars if the United States decides to restrict MFN. For Minnesota wheat farmers, that's a $27 million market that will disappear; and for Cargill's wheat and phosphate exports that's a $150 million loss. For 3M, Control Data, Eaton, Honeywell, MTS, Thermoking, Conagra, North Star Steel, Medtronic and Crown Iron Works, restricting MFN means the wholesale transfer of export business to Japanese and European competitors.

And what about the American consumer, especially the low income consumers who rely on imports from developing countries like China for affordable clothing and footwear. If MFN is restricted, tariffs on clothing and footwear manufactured in China will rise by 72 percent—to the levels established in the Smoot-Hawley Act. In other words, raising tariffs on Chinese imports of clothing and footwear is equivalent to imposition of a $6 billion a year tax on the American consumer of low- and moderate-priced clothing and shoes.

Mr. President, it has been 12 years since the United States decided to use the American farmer as an instrument of foreign policy. Haven't we learned the lesson of the failed 1979 American grain embargo of the Soviet Union? And that lesson is simply that when America unilaterally decides to use trade as a weapon of foreign policy, the only party who is hurt is the American exporter. Other countries always step in to fill the breach left by our unilateral withdrawal from a market.

There's a second lesson that we should all keep in mind. And that is the lesson we learned last August after Iraq invaded Kuwait. Economic and trade policy can be a meaningful tool of foreign policy, but only when such a policy is carried out in concert with all of the world's trading partners. U.N. economic sanctions against Saddam Hussein certainly had a devastating impact on the people of Iraq. But those sanctions had meaning only because the whole world acted in unison.

Will Japan follow our lead and restrict MFN for China? Will France? Will Germany? Will Brazil? Of course not. Their manufacturers and farmers will simply step in and take the business that we lose.

Mr. President, no one can condone the human rights abuses that have occurred in China since Tiananmen Square. However, revoking or conditioning MFN will not improve the human rights picture in China. To the contrary, it will punish the very people we are trying to help—the economic reformers who are attempting to move China's command economy to a free market, and ultimately to a free society.

Moreover, I believe it is fundamentally inappropriate for the United States, acting unilaterally, to start and stop trade with other nations because of disputes over human rights issues. Which developing countries would we be trading with if we applied the same standards we are seeking to impose on China to the rest of the Third World? Very few, if any.

Let me quote from Human Rights Watch, and Amnesty International's 1991 report:

> Turkey: The human rights picture in Turkey grew worse during 1990, with increasing restrictions on freedom of expression, on the press, and on political activists. Torture also continued unabated.
>
> Kenya: The human rights situation in Kenya deteriorated seriously in 1990, with the government arresting, detaining, and sometimes torturing human rights advocates and proponents of multiparty democracy.
>
> HUMAN RIGHTS WATCH, WORLD REPORT, 1990
>
> Some political detainees were reportedly tortured or ill-treated in security police custody * * * There were frequent arrests, interrogations and other harassments, including death threats of government critics, particularly church leaders, lawyers, and others advocating a multi-party political system.
>
> AMNESTY INTERNATIONAL REPORT, 1991
>
> Brazil: While imprisonment for political reasons has subsided since the transition to civilian rule in 1985, the incidence of torture and killing remains high. * * *
>
> HUMAN RIGHTS WATCH, WORLD REPORT, 1990
>
> Death squads killed hundreds of people, often in circumstances that suggested extrajudicial executions."
>
> AMNESTY INTERNATIONAL REPORT, 1991
>
> Mexico: Mexicans have been subjected to killings, torture and other mistreatment by the police during criminal investigations. * * *
>
> HUMAN RIGHTS WATCH, WORLD REPORT, 1990
>
> Indonesia and East Timor: The human rights situation in Indonesia and East Timor took a sharp turn for the worse in 1990. The Indonesian military tortured and summarily executed detainees in the course of counterinsurgency efforts along the Irian Jaya-Papuan New Guinea border * * *, in northern Sumatra, and in East Timor.
>
> HUMAN RIGHTS WATCH, WORLD REPORT, 1990
>
> South Korea: The South Korean government's commitment to human rights and democratic reform seemed to weaken steadily in 1990 as restrictions on freedom of expression and association increased. * * *
>
> India: Several thousand political prisoners, including prisoners of conscience, were held without charge or trial under special or preventive detention laws. * * * Torture and ill-treatment were widespread and in some states systematic, resulting in scores of deaths in police custody.

Mr. President, the list of countries who abuse their citizens' human rights is, sadly, endless. Yet, I do not hear anyone calling for revocation of trading relations with Turkey, or Kenya, or Brazil, or Mexico, or Indonesia, or South Korea, or India. Acting unilaterally, America cannot change the behavior of the rest of the world. The forum for addressing these issues is not through trade, but through diplomacy in concert with other nations at the United Nations.

Mr. President, for many in the Senate, the debate over MFN has been narrowed to focus on the issue of Chinese missile sales to terrorist countries such as Iran and Syria. Under the Democratic leadership bill, MFN would be immediately revoked if it is determined that the Chinese have sold certain short-range missiles and launchers to Iran, Syria, and Pakistan.

Mr. President, I am appalled that the Chinese seem indifferent to the proliferation of ballistic missiles, especially to countries in the overmilitarized Middle East. Yet this has not gone unnoticed by the administration.

Three months ago, the President denied licenses for the export of components critical for the launch of a Chinese domestic satellite and he has indicated that he will not seek any further satellite waivers for China until missile proliferation concerns are satisfied. The President has also publicly stated that the United States would impose additional sanctions on any Chinese company found to violate international guidelines on missiles sales.

And just 2 weeks ago in Paris, the Chinese endorsed all of the key objectives of President Bush's Middle East arms control initiative. The Chinese also have agreed to work in follow-on meetings to flesh out the agreements reached in Paris to freeze and ultimately eliminate surface-to-surface missiles and block the production and acquisition of nuclear useable material.

Mr. President, MFN is the functional equivalent of closing down economic relations with a trading partner. It is a last resort trade weapon. Much as I believe that the Chinese have been irresponsible in selling missiles to certain terrorist countries, I do not believe that is a sufficient basis to terminate normal trading relations with China.

In fact, I would suggest that it was just as irresponsible for some of our own allies to sell missile parts, guidance systems, and facilities capable of manufacturing poison gas to Iraq as it would be for the Chinese to sell Silkworms, M-9's and M-11's. No one suggested that we terminate trade relations with the countries who supplied such weapons.

Nor did anyone suggest that we endanger the entire United States-Japan trade relationship after it was learned that a Toshiba subsidiary sold our cold war adversary, the Soviet Union, advanced machine tool milling machines that enabled the Soviets to jump two generations in submarine noise-reduction technology.

Mr. President, MFN is a vestige of the cold war. Very few countries are denied MFN—The Soviet Union, Afghanistan, Albania, Cuba, Laos, North Korea, Vietnam, Kampuchea. The list keeps shortening every year as free markets and free societies evolve out the rubble of Socialism. I believe it would be a step backward in international political and economic relations if the United States at this late date seeks to terminate a relationship that holds great promise for the future once the current generation of Octogenarian rulers in Beijing passes the mantle to the new generation.

I would hope my colleagues will look toward stabilizing relations between our two countries, and leave this matter to the wisdom and judgment of the President.

Mrs. KASSEBAUM. Mr. President, I share many of the concerns that have been voiced during this debate about our relationship with China and, particularly, about China's human rights practices since Tiananmen Square. The brutal repression by the Chinese government 2 years ago against the student supporters of democracy and their continuing repression are policies that demand international attention and coordinated action. China's irresponsible policies on missile proliferation, the proliferation of weapons of mass destruction, and trade policies are also issues that warrant our concern and demand action.

I fully agree that as a democracy we have a moral obligation to help foster democracy worldwide. I do not believe there is anyone in this Chamber who feels differently about this issue.

The question before us today is whether China's most-favored-nation status is the appropriate leverage for our efforts to help change China's policies. On this very critical question, I believe that placing conditions on MFN is simply not the vehicle we should use to exert pressure on the Chinese Government.

I believe this for several reasons. As the President has argued repeatedly, I believe it is true that cutting off MFN would hurt the most progressive forces for change in China, the free-market entrepreneurs. I also believe very strongly that in order to have any positive influence on China, we should not close the door on United States-Chinese relations. I believe that a cutoff of MFN would have such a result, ending any chance to influence change.

Instead, Mr. President, I believe that our policy toward China should be one which leaves the door open but selectively targets sanctions to our specific differences. If we cut off MFN, if we end all trade, we will not have this ability to apply incremental pressure. this is consistent with our policies over the years on trade sanctions. Whether it has been Libya, Iraq, or South Africa, we have maintained MFN while either selectively or completely cutting off trade.

It is important to emphasize that our current relationship with China since Tiananmen Square has not been a business-as-usual one. Unlike the other Western democracies, we alone have maintained sanctions on China. We have ended military cooperation with China, which was becoming a significant aspect of our relationship and an important one to the Chinese. We currently have an embargo on sales to the military and the police. Among other measures, the President has recently rejected licenses to export satellite components for a Chinese communications project and has directed that no further licenses of high-speed computers and no further exports of satellites be authorized. China has also been designated for trade sanctions under special 301 for violation of United States intellectual property rights.

In June, I joined with Senator BAUCUS and many of our colleagues in a letter to the President urging that we continue this approach and be even more active in addressing United States concerns with China. In specific, we urged reinvigorating our opposition to multilateral development loans for China, loans which our allies have supported over the past 2 years. We also urged stronger action against Chinese unfair trade practices and against China's proliferation policies, as well as strong support for Taiwan's application for GATT.

On Friday, we received a strong commitment from the President to this approach. Given this commitment and given what I believe will be the negative effects of cutting off MFN and shutting the door on China, I plan to vote against the Mitchell resolution. I believe our best chance for influencing positive change in China can best be served by using vehicles other than MFN to express our deep concern about the tensions in our relationship with China, particularly in the area of human rights.

Mr. GORE. Mr. President, I have listened with great care to the arguments presented by both sides of the debate regarding China and MFN. Of all the arguments presented in favor of retaining MFN, the one I find most compelling is that by withdrawing MFN we damage the very classes of people upon whom we want to bet for China's future. The idea that we might actually be doing a favor for China's present leadership, by helping them chop down those who have escaped the state-controlled economy, is enough to give some real food for thought.

Nevertheless, the idea that we should simply allow the Chinese government to do as it pleases until old age finally clears the stage, is equally repugnant. We have, of course, the President's 11th hour assurances to Senator BAUCUS, detailing measures he intends to take, that he ought to have taken already. Timely action on his part might have made his case credible. As it stands, all we really have is a pledge—and one given under duress, at that.

In my opinion, the Mitchell amendment offers a solution. It extends MFN for a year, which is time enough for the government of China to show a positive response. It allows that much time for the Bush administration to show what it can do on its own, enforcing existing law. If China does better or if the President shows that he really means to get tough with the Chinese government on his own, the Senate can revisit its position. For now, however, we need to speak plainly to people in the government of China who are tough minded and unlikely to respond to timidity on our part. Therefore, I support Senator MITCHELL'S bill.

Mr. JOHNSTON. Mr. President, like my colleague from Montana, I conclude that the renewal of most-favored-nation status with China is the wrong vehicle for encouraging changes which we all want. In the end, attaching restrictions which would lead to termination of MFN will only hurt the most the thousands of United States workers and farmers in America who produced almost $5 billion in exports to China in 1990. According to the Department of Commerce, Louisiana workers and farmers produced goods worth some $677 million which were exported to China in 1990. Most of these goods were agricultural, $517 million, but also important to my state's economy were the $129 million in chemicals produced in Louisiana which were exported to China, some $24 million in paper, and $7 million in scrap, waste, and primary metal industries. While I do not have solid numbers of the jobs supported in the production of these goods, if the general rule of thumb that $1 billion in trade results in between 20,000 and 30,000 jobs, then I can project that some 12,000 to 18,000 jobs in my State are related to the production of goods exported to China. In addition, other jobs connected with the Port of New Orleans are associated with the export and import of goods to and from China. In 1990, for example, some $463 million in goods from mainland China moved through the Port of New Orleans.

At a time when Louisiana's economic outlook is far from robust, and statewide unemployment remains above the national average, I simply cannot support any measure which would potentially have an adverse or disruptive impact on our economy.

Time after time, we have seen the futility of unilateral trade actions. Significant parts of the Soviet grain market were lost to other Western competitors during grain embargoes we imposed unilaterally in the 1970's.

Our European and Asian allies are not contemplating additional sanctions against China to protest continuing and serious human rights problems, weapons proliferation, and trade issues. In fact, most have relaxed actions they took following the outrageous Tiananmen massacre, and have moved to normalize their relationships with the PRC. For example, of the last 16 World Bank loan applications for China, our allies have supported virtually every one regardless of whether the funds would be used to serve basic human needs [BHN]. In contrast, the United States alone has opposed seven of these applications which, in our judgment, failed to meet the BHN criteria.

It is clear to me that if we fail to renew MFN status and impose non-MFN duty rates on Chinese imports, then China will take reciprocal action with respect to United States goods seeking entry into the PRC. We will not be able to compete under such a scenario, and our friends in Asia, Europe, and elsewhere will move in and fill our market share.

It simply does not make sense to me to set ourselves up to lose this market.

As to where the impact would be felt in China, I am convinced that a persuasive case has been made that failing to renew MFN will only strengthen the hard-line, antieconomic reform element of the Chinese leadership. It is also likely that the people in China who would be hurt the most are those involved in the most vigorous part of the Chinese economy in the private sector and in joint ventures. This is the sector most likely to support further changes and yet the imposition of non-MFN duty rates on their exports would be great.

In addition, many United States businesses located in Hong Kong—almost half of whom are engaged in business with China—would be hurt. United States investment in Hong Kong is significant, and totals almost $6 billion—about one-fourth of all foreign investment in Hong Kong. We could seriously hurt these businesses in this process.

I am convinced that the President has determined to take needed and aggressive steps through other means available to us to try to resolve the serious outstanding problems we have. I believe we should use the targeted approach he outlined and in the end, keeping China engaged as an active trading partner while using the targeted tools available to the President will result in the changes we are all seeking.

For this reason, I will support unconditional renewal of MFN trading status, and in addition will continue to urge as best I can that the targeted channels available to us to seek improvements in other key areas are used vigorously and well.

Mr. METZENBAUM. Mr. President, I am proud to rise tonight in support of a bill that, on its face, seems to be about trade and diplomacy. But it is really more simple than that. This bill is about justice.

The majority leader has introduced this bill, which I am proud to cosponsor, to condition continued most-favored-nation trading status for China. Senators have made compelling arguments over the past several hours regarding our trade balance—I should say, trade imbalance—with China; arguments regarding our need, or lack thereof, for a trade relationship with China; and other important economic and diplomatic arguments.

But I believe that the issue before the Senate is much more simple than all this.

Mr. President, the issue we are debating is justice.

Where exactly does the United States of America stand regarding justice in the most populous nation on earth?

Where does the United States stand on issues like slave labor, hermetically sealed societies, or political strangulation?

In years past, these questions were debated in relation to the Soviet Union. Back then, many who are supporting the President today thought nothing of using MFN as a lever to open up Soviet society. Yet, it is argued that holding MFN hostage is no way for the United States to promote change in China.

Mr. President, MFN was good enough to attack slave labor, gulags, and oppression in the Soviet Union. But today it is too delicate, too important an issue to use against identical wrongs in the People's Republic of China.

Where's the justice?

Two short years ago, we watched as Chinese soldiers mowed down demonstrators in Beijing's Tiananmen Square. I for one will never forget the picture of a single Chinese student standing down four Chinese tanks in the middle of a deserted boulevard—pleading with the soldiers to lay down their arms. A short time later, senior United States officials were toasting the Chinese leadership after high-level talks.

Where's the justice?

Mr. President, China's contempt for human rights has been felt even by Americans here in the United States. Employees of a Delaware steel company purchased 3 years ago by China have felt the pain of Beijing's draconian way of governing. In a pending suit, the Chinese owners are charged with discrimination in hiring, tenure, and regarding working conditions. China is also charged with undercutting the union that has represented these workers for 45 years: A Communist government engaged in union busting.

Mr. President, how are these Delaware steel workers supposed to feel about preferential trade status for China?

Where's the justice?

Over the past 2 years, China has thumbed its nose at the rights of its own people, cracking down on dissent, scholarship, and communication. China has thumbed its nose at the repeated calls for release of protesters, and at appeals for clemency in the many sentences of death that followed the student uprising.

Mr. President, where is the justice?

It seems that Chinese officials are full of righteous indignation every time a report surfaces about human rights abuses. Reports that China is rearming some of the most belligerent states in the Middle East drew indignant charges of meddling.

Mr. President, the situation in China is certainly alarming. But to supporters of this resolution, the response of our own Government to this situation is the true cause for alarm.

We are asked by the White House not to use MFN as a weapon against China, in the same way that we have used MFN against the Soviets for so long. President Bush asks us to trust his judgment. The President and his supporters point out that he is a foreign policy President, that we are being tough on the Beijing government in more subtle ways.

Mr. President, I say that if President Bush had acted as tough toward China as he has talked, we would not be here today. Congress has few options through which it can make a statement about foreign affairs. We do not have an aid program for China which can be cut.

The Congress does not take up this issue lightly, and certainly not on the spur of the moment. There have been congressional calls for tougher action against China ever since the June 1989 crackdown. Where has President Bush been all this time?

In effect, the President has thumbed his nose at the Congress in the same way China has thumbed its nose at the world. The time for George Bush to ask for our trust on China is long past.

By failing to take action over the past 2 years, President Bush has left Congress with no alternative but to withhold MFN trading status.

Mr. President, if the principles of American foreign policy do not command the Senate to pass this bill, then certainly the principles of simple justice command it.

Mr. KERRY. Mr. President, it has been 2 years since the tanks rolled into Tiananmen Square. That tragic event brought a brutal and bloody halt to the process of political liberalization that had begun to develop as China's contacts with the outside world expanded. The administration argues that the best way to breathe life back into that process is to provide most-favored-nation trade status [MFN] without conditions. I do not agree.

Extended MFN without conditions is the wrong approach. It implies business as usual at a time when China is engaging in relentless repression at home, supporting the genocidal Khmer Rouge, reaping economic gains through the use of unfair trade practices, and threatening to undermine international nonproliferation efforts. Extending MFN without conditions undermines American values and jeopardizes our longstanding commitment to human rights and freedom.

Our interests and the interests of those who are struggling for democracy in China demand that we pursue a meaningful and effective policy—a policy that sends a strong signal while at the same time encouraging those among China's leaders who recognize the need for reform. We need to attach realistic and achievable conditions to MFN. The bill which we are considering does that.

This legislation allows the President to extend MFN to China for the next year. However, it makes the renewal of MFN in July 1992 conditional upon improvements in a number of areas of concern to the American people. It requires the Government of China to make a full accounting of and to release those detained or imprisoned after Tiananmen Square, to cease exporting products produced by slave labor to the United States, and to cease supplying arms and military assistance to the Khmer Rouge. In addition, China must make significant progress toward practices and policies designed to undermine international nonproliferation regimes.

Mr. President, I believe that the Government of China can meet these conditions. Last year, in response to congressional threats to withdraw MFN, China provided a partial accounting of those imprisoned after Tiananmen Square and released approximately 1,000 of these prisoners including the well known dissident Fang Lizhi. It has since promised to cease exporting products made by convict labor to the United States, and it claims that its military support for the Khmer Rouge has been suspended. Obviously, we cannot take these statements on face value alone. Both Asia Watch and the State Department have reported that China uses prison labor to produce goods for export. Our law and our conscience require that this practice be ended before MFN can be renewed next year. And, in view of the historical relationship between China and the Khmer Rouge, we must be absolutely sure that military support has ended before renewing MFN.

If China fulfills these conditions, it need only make significant progress on the others. It does not have to terminate the objectionable practices, but it does have to take steps toward that goal.

Over the last 2 years, the American people, Congress, and the administration have spoken with many and different voices about what the United States expects from China. This legislation makes our expectations clear. It sets out the policies which we want China to follow and the standards by which we judge progress.

Mr. President, this legislation offers a compromise to those who want to cut off MFN immediately and to those, like myself, who have reservations about the ramifications of withdrawing MFN at this stage. I commend the majority leader for the way in which he has gone about shaping it. I, for one, had some concerns about the original version of this bill because I felt that it contained an unrealistic set of conditions which China could not meet. The majority leader willingly amended his legislation to meet my concerns and those of others in an effort to create a bill which we all could support. I thank the leader for his cooperation and commend him for producing a good piece of legislation which meets our common goal of sending a strong, but not devastating, signal to China.

There are substantial incentives for China to comply with the conditions in this bill. According to the Department of Commerce, China's United States trade surplus was $10.4 billion in 1990 and is projected to be $15 billion in 1991. If China loses MFN, 90 percent of its exports to the United States would be subject to higher tariffs. China would have to pay an additional $6 billion in duties and lose an estimated $3 to $6 billion in annual foreign currency earnings. In addition to the economic benefits, the political benefits of MFN are significant.

The United States, like other countries in the international community, generally trades on an MFN basis. However, in the case of Communist nations, the United States imposes certain conditions on the extension of MFN. Because of this, the extension of MFN by the United States to countries like China has become a symbol of improved relations and acceptance of those countries as legitimate members of the international community. Loss of MFN put China back in the pariah category—a political development which presumably the leadership in Beijing, especially the reformers, would want to avoid.

The administration argues that the hardline elements in the Chinese leadership will be strengthened if we attach conditions to MFN. This argument overlooks two fundamental points: First, that unconditional MFN would simply lead the hardliners to believe that they have a free hand to pursue repressive policies without approbation, as they have done for the last 2 years since Tiananmen Square; and second, that conditions have already been attached to the extension of MFN to China. The Jackson-Vanik amendment requires China to comply with various conditions related to freedom of emigration in order to obtain MFN. The bilateral United States-China trade agreement negotiated by the Carter administration required China to fulfill certain economic preconditions before MFN was extended. So, Mr. President, there is nothing unconditional about the extension of MFN.

None of us can know for sure how China's leaders will react to this bill. Historically, Chinese Governments have been relatively immune to outside influence. Over the last decade, however, that situation has begun to change as China has established political and economic relationships with other countries. Economic reforms instituted by former Chinese leader Deng Xiaoping led to China's participation in joint ventures, access to Chinese markets for foreign-made goods, and the establishment of various export industries. Political reforms, although modest at best, gave birth to the democracy movement.

We do know, however, that China reaps enormous political and economic benefits from the extension of MFN by the United States. That provides us with leverage which can be effective if it is used creatively. The approach taken in this bill—extending MFN for a year and attaching realistic conditions to the renewal—provides an incentive for reform while promoting the ideals for which the United States stands. It is a balanced approach that holds out the promise of success. I urge all of my colleagues to join me in voting for this bill.

Mr. DODD. Mr. President, parliamentary inquiry: In the question of time being managed, is there a time agreement?

The PRESIDING OFFICER. The Chair advises the Senator there is no allocation of time.

Mr. DODD. Mr. President, I rise today to express my very strong support for the resolution before us, and I commend the majority leader and others in this debate for the important work they have done on this legislation. Not only has the majority leader helped to frame this debate in a constructive and pertinent way, but he has also set before us a solid piece of legislation that I think goes a very long way toward addressing some of the problems in today's China.

The continued oppression by the leaders of the People's Republic of China has raised the concern of the United States and many other nations throughout the world. In addressing that oppression, the legislation offered by the distinguished majority leader is, I believe, clear and unequivocal. The bill extends MFN status for 1 year on a conditional basis, and it spells out the specific violations that must be addressed if MFN status is to continue after that period of time. That is a reasonable proposition.

Mr. President, on June 4, 1991, we marked the second anniversary of the decision by the Chinese Government to crush the prodemocracy movement then encamped in Beijing's Tiananmen Square. Over the past 2 years, there has been little to suggest the leaders of China are prepared to mend their ways, and I say that with deep regret.

In fact, most of the evidence is to the contrary. Despite continued strides in economic liberalization and free market ideology, when it comes to the subject of political rights, regrettably, the leaders of the People's Republic of China have withdrawn behind a great wall of oppression. In the process, they have cut off their nation and their people from the light of the free world as we see it today.

So the message from those who rule the most populous nation on this planet goes something like this. We are certainly willing to engage the West and to get our hands on all the material benefits that we can. But we are really not interested in playing by anyone's rules but our own.

The Chinese approach to internationally accepted human rights standards makes this message very, very clear. The People's Republic of China's violations continue to include torture, prolonged detention, forced labor, abduction, and summary executions.

Regrettably, those accusations are not just the opinion of one Member of this body, but rather the conclusion of one human rights organization after another.

On another front, consider the Chinese approach to trade relations. Of particular concern is the apparent disregard for the proliferation of military technology and advanced weapons systems such as ballistic missiles and launchers.

In addition, the Chinese have thumbed their noses at the concept of fair access to the Chinese markets, and have denied protection of United States patents and copyrights. Pirated software in China alone may cost the United States as much as $400 million a year, according to knowledgeable sources.

One of the most blatant violations of intellectual property rights hits right at home. In fact, in our very State, I would say to the Chair, my colleague from Connecticut; in the State of Connecticut. The Chinese company, Norinco, has made over 15,000 unauthorized copies of the M16A2 rifle, manufactured by Colt Manufacturing, in Hartford, CT. These 15,000 rifles would have meant 10.5 million dollars' worth of revenues to Colt Manufacturing, in a State already crippled by economic hard times. It would have meant 100 jobs being retained at that factory, had that particular copying of a copyright not occurred.

Unfortunately, the Chinese copied the United States trademark despite having signed as a member of the 1986 World Intellectual Property Commission, an international organization that pledges to respect well-known trademarks such as the one held by Colt Manufacturing. The failure of the Chinese Government to address this matter is one of the intellectual property rights issues that this legislation seeks to address.

Accordingly, when the President certifies that the People's Republic of China has made significant progress in intellectual property rights, I evaluate that claim against the specific violations that have occurred to people in my State and to industries in my State, as well.

There is no doubt that the People's Republic of China has made some strides in the course of the past decade, and we applaud that. This legislation, I think, reflects that by not calling for an immediate ban. But there is also no doubt that there is still a very far way to go.

Given China's less than enviable track record in a number of areas, such as human rights, trade relations, or immigration, I believe the time has come to put the leaders of the People's Republic of China on notice that major changes must be made.

I say this as someone who appreciates the improvements that have occurred, but who also says there is a distance yet to be traveled.

We know we are not seeking the impossible. The People's Republic of China can change. It has changed dramatically already. Its economic compass now points to the marketplace and the profit motive. These revolutionary changes used to be entirely alien to the concepts of our friends in Beijing. Such changes on the economic front must be matched, we believe, on the political front, as well.

Mr. President, in an address at Yale University only a few weeks ago, President Bush gave what I thought was an accurate and eloquent summary of the difficult choice we face today. The President told the students at Yale:

> There will come times when you will have difficulty distinguishing between the good guys and the bad guys. When these situations arise, identify your principles and stick by them.

Mr. President, the countless people in China that were arrested and beaten for nonviolent protest, the students imprisoned for writing democratic essays, the young men and women flattened by the treads of an oncoming tank in Tiananmen Square, are these people not fighting for our very own principles, the principles of freedom and democracy?

I believe the words of President Bush are very clear. We must indeed stick to our principles. And we must do so not only by upholding the democratic tradition here at home, but by sharing the responsibility of freedom throughout the globe, including the People's Republic of China.

So the message here this afternoon is not a complicated one. China has registered significant advances on the economic side of the equation. This legislation reflects that. It is the political side, the trade side, the arms sale side that concerns us. It causes concern because economic gain in the absence of political freedom is a hollow victory, indeed.

That was the message from Tiananmen Square. It should be our message as we consider this legislation.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? The Chair recognizes the Senator from Florida [Mr. MACK].

Mr. MACK. Mr. President, it was not my intention, really, to speak on this issue. I had a statement I had put in the RECORD yesterday. But as the debate began to wind down, I felt compelled to make some comments with respect to the legislation.

I am going to vote for the proposal to condition the granting of most-favored-nation status to China. Frankly, my feeling is that the proposal does not go far enough. I would have voted to eliminate MFN status some time ago. But that is not before us today, and the end result is I will support the proposal that is before us, and that is the conditional extension of MFN status.

I must say, I do understand that many consider revoking MFN a futile, unilateral act. I understand we have significant levels of trade with China, and that some American jobs are at stake. And I understand the argument that free trade is a liberalizing force in China that eats away at the regime's iron grip on the people. But although I understand these arguments, I keep coming back to the question of freedom and human rights.

I think about the image of the lone student standing in front of the line of tanks 2 years ago in Tiananmen Square, and I suspect that picture is probably pinned on the walls in many of the offices in the Senate office buildings. I think about the Statue of Liberty erected by the students in Tiananmen Square, and how the statue, and of the students on it, were crushed by the Chinese tanks.

I think about the people still in prison today for daring to speak out for democracy and human rights. I think to myself, what can we do that will best keep faith with those brave souls and the dream of democracy for 1 billion people that they represented?

Many argue that to take away most-favored-nation status would force us to give up the leverage that we have. I make the counter argument that if we really did have leverage, the most propitious use of that leverage would have been at Tiananmen Square, and if we did try to use it then, which I suppose that we did, I argue that we really did not have that leverage, and to argue that now we ought to continue most-favored-nation status because it is going to give us leverage is just erroneous.

Some say that passing the approval of most-favored-nation status even with conditions sends a strong message. I argue that just the opposite occurs: That the Chinese have to be looking at us and saying, if the only thing they are going to do is extend most-favored-nation status but with conditions, under the worst situations in which Tiananmen Square occurred, there is really no condition on which they are going to take most-favored-nation status away from us. Rather than being a message of strength, it is, in fact, a message of weakness. In a sense, it is kind of like raising your own child and saying that you are going to provide punishment for things the child did wrong and you keep saying it over and over and over again. Eventually, the child begins to learn and understand that there is nothing the parents are going to do.

I argue that is exactly what we are doing here. It is well intended, but we are sending another message that after the terrible human rights abuses that took place just a little over 2 years ago, the best we can come up with is extension of most-favored-nation status, with conditions again. I keep coming back to that human element. Unfortunately, I think, too many times in the debate we have a tendency to forget the focus of the debate, and the focus of the debate, frankly, is the people of China and the students who led the democracy movement, those who gave up their lives, those who are living today and still trying to keep that movement alive.

I remember having a discussion in my office with a number of people who, frankly, wanted to see that most-favored-nation status continued. They made the economic arguments. I must say I understand those economic arguments. I have been to Hong Kong, I have talked to people about the impact of this wave of capitalism that has hit Guangdong Province. I understand that argument well.

As I was carrying on the discussion, I looked above where they were seated and there is a picture that hangs on my wall of an individual by the name of Anatoly Michelson. Anatoly Michelson is dead today, but he fulfilled one dream that he carried for over 31 years. Anatoly Michelson defected from the Soviet Union in 1956, and for 31 years, he made every effort to try to see that his wife, his daughter, and eventually a grandson would have the opportunity to leave the Soviet Union and rejoin him. That is what he focused on for 31 years.

I remember sitting with him in a small room in the Capitol a number of years ago in which there was a video tape that had been smuggled out of the Soviet Union. On that video tape was his wife, his daughter, and a grandson he had never seen before. He got up out of that chair and he went over and got within 2 feet of that television screen. You could sense and feel the emotion in him and everyone in the room. He came back and sat down next to me and said, "Connie, we have to keep the fight up. We have to work until the day they are at my side." I was fortunate enought in December 1987 to be standing next to Anatoly Michelson when his wife, his daughter, and his grandson stood with him out at Dulles Airport.

So I keep coming back to the human side of this. I keep coming back to the comment, I guess, that was just mentioned a few moments ago that President Bush made: "Know your principles and stick with them." This is a tough issue. Which way are we going to bring about change in China? Which will be the most successful? Will it be as a result of the economic wave, or will it be because we stood up and said what you have done is wrong and there is a consequence for it and that is the loss of most-favored-nation status.

I come down on the side of our Nation taking that principled stand and standing up once again and saying, we are willing to fight for freedom.

We are willing to stand up and defend the rights of others. So when I try to look at both sides of this very difficult issue, I come to the conclusion that the only way to do that is to keep that picture in my mind not just of the student in front of the tank in Tiananmen Square but that picture which hangs on my wall and the recognition of this country's willingness to stand up to defend democracy and work for the freedom of all minkind. I think we best accomplish that by eliminating most-favored-nation status. Since that is not before us today, I will support the proposal that puts conditions on the extension of that most-favored-nation status.

I thank the Chair.

The PRESIDING OFFICER (Mr. KOHL). Is there further debate?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware [Mr. BIDEN].

Mr. SYMMS. Mr. President, will the Senator from Delaware yield for just a moment.

Mr. BIDEN. I am happy to yield.

Mr. SYMMS. I thank the Senator. For Senators who are not here, we have, I think, no other speakers remaining on this side. I think Senator BAUCUS is waiting to speak, and Senator BIDEN. I think we are getting very close to the end where we may have a vote, and I think Senators might want to know that.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. SYMMS. I thank the Senator for yielding.

Mr. BIDEN. Mr. President, I was just asking my distinguished friend from Montana whether he preferred to go next or would rather me go next. Since I think he has, quite frankly, made the most articulate and persuasive argument against the bill, which I support, he should have the opportunity to close the debate out here other than the leadership, if that turns out to be the case.

So I will take a few moments now, Mr. President, if I may, to try to point out why I think the Mitchell proposal is both reasonable and practicable, that this is not a fait accompli relative to MFN. This is a genuine, honorable, and honest approach to deal with what, thus far, has not been a very successful approach on the part of the administration to deal with what everyone must acknowledge are practices on the part of the Chinese that range from ill-advised to reprehensible.

I have heard, and I expect we will hear before this debate is closed out in a few moments, a number of arguments as to why the Mitchell approach is not the proper approach. At the outset, let me posit that some of those arguments are accurate. Some of those arguments have some merit. One of the arguments that we will hear, and I have heard, and we will hear again in a much more forceful and articulate way, that I am about to make because I do not fully agree with them, is that, look, there is the flourishing of some democratization and capitalism along the coastal provinces. True.

And that if this bill is to pass and were to become law in that it denied MFN—there are enough votes to override the President's veto—it might have a negative effect on what is happening in those coastal provinces. True, likely to have a negative effect.

I also hear and we are told that a similar effect, at least in its nature, would occur with regard to Hong Kong. Probably true.

Also, we hear stated that in effect the sanctions of any kind of an economic nature do not always work if it is only one nation participating in those sanctions. Generally speaking, true.

We also hear that China would be really the odd man out, that there are other nations in the world that in fact have reprehensible records on any number of items and still, nonetheless, received most-favored-nation treatment. Again, true.

And we are told again that the President is of the view that this action would offend Chinese nationalism and sense of pride, that it would be counterproductive for a long time. Potentially true.

But there are other things, Mr. President, I find significantly more compelling. A number of my colleagues, including the distinguished Senator from Florida who just spoke, have said, you know, in a strange way this may be counterproductive. It is like threatening a child with punishment and then not following through on the punishment.

I respectfully suggest to my friend from Florida that if he reads the legislation, there is at least one provision in it which says the President has no option, there is no wiggle room, that the child, if you will continue this metaphor must be punished. And that is if, in fact, there is a transfer of nuclear and/or missile technology or missiles to certain parts of the world, specifically if such transfers occur to Iran or to Syria.

Now, I also heard another one of my colleagues stand up and say, but you know—I think it was Senator CONRAD—we have no clean slate. We are arms suppliers, too, among those who are transferring weapons that are not helpful. True.

But, Mr. President, there is no one else that we know of at the moment that is transferring technology, contemplating the transfer of missiles and missile launchers into the most volatile region in the world at this moment. And to use a phrase that in the Foreign Relations Committee I get tired of hearing, there is a window, a window of vulnerability that we face in the very near term, and that is if the Chinese, as proscribed in this legislation, transfer M-9 and/or M-11 missile launchers and warheads to Syria or to Iran, it is over. There is no plausible circumstance in which we can say to the Chinese, to the Syrians, or the Iranians, by the way, notwithstanding the fact you have this new capability that can revolutionize your capacity to wage war, we would like you to give them up now in the name of peace.

It is not like human rights where you can debate whether or not some or enough, substantial, insubstantial, progress has been made. It is not like trade where you can argue whether or not on balance, notwithstanding the fact they are cheating, U.S. economic interests are better off with the present arrangement. It is not like either of those two things. If the M-9 and M-11 missiles and launchers are transferred, sold to the Middle East, it fundamentally alters the landscape. Period. No debate, no question. Period.

In this debate, one of my colleagues said the debate is about the people of China. I respectfully suggest it does impact on the people of China. But what brings this Senator to the floor at this moment is the debate is about Americans and about American lives.

We just committed one-half million Americans to the Middle East, to the Persian Gulf. At the outset of the debate on the gulf, the American people were not persuaded that we should go to war with Iraq because of the territorial integrity of Kuwait. They were not persuaded that we should go to war with Iraq because of the dominant position it was acquiring relative to the Arab world. They were not persuaded that we should go to war with Iraq because of oil. But when the administration pointed out that they may be on the verge of acquiring nuclear capability, bingo—bingo, American public opinion galvanized, world opinion galvanized and we committed a half a million forces.

What became the central concern once those forces were committed: A, whether or not Saddam Hussein had missiles that could deliver lethal poison gas; or B, whether or not he had missiles and capability of delivering warheads of destructive capacity, of consequence. Then we heard, with some good reason, for days on end, without a single moment's interruption, about the Scud missile, and it worried us, as it should have. The bulk of our attention and policy, once it became clear that the Iraqis lacked the will, if not the capacity, to take on our far superior force was what about these missiles?

These Scud missiles are 1959 versions of the M-9 and M-11 missiles, which the Chinese are contemplating negotiating, thinking about selling and transferring to that same area of the world. And my friends say to me, well, they are not going to transfer any of that to Iraq, but they are going to transfer some of it to good guys like Assad.

What a great, noble person Mr. Assad is, with a track record no more enviable than the vaulted leader of Iraq, who, I might add, is still roaming Baghdad with a sidearm strapped to his waist.

We are going to stand by and say to China, your need for hard currency—and I suspect that is what is driving it, for I do not even think that the present leadership in China is looking forward to another war in the Persian Gulf—your need for hard currency which will generate several billion dollars, resulting in the transfer of M-9 and M-11 missiles with ranges and accuracy far exceeding the Scud missile, we are going to sit by and do nothing about it.

Now, my friends who have a differing view on this will say, well, Joe, you know, you are right; it is a real concern. But this is not the place to do anything about it. Surely, we should not be entering into it in a debate on trade policy.

I respectfully suggest that this is of such serious consequence at such a propitious moment in history in that particular region of the world that this is the only reasonable vehicle we have to make the case.

I think at a minimum the leaders of China should be faced with the stark reality. Is the $15 billion in trade surplus regardless of how it is gained from the United States more or less valuable than the several-billion-dollar advantage that is gained from selling these incredibly destabilizing weapons into the Middle East? We are not talking about tanks. We are not talking about artillery. We are talking about missiles with ranges and capacity that I respectfully suggest would make it difficult to reform the coalition that was so successfully formed to take on Iraq.

I wonder how the Turks, I wonder how the Italians, I wonder how a whole number of people who heretofore were not in a reasonable position of concern in terms of the military might of Iraq might think about knowing that entering a coalition against an aggressor nation in the region with missiles and launchers like the M-9 and M-11 would think about whether or not it was in their interest to do that. I promise you, we will not be here whether there is another war in the Middle East wondering whether or not those nations that possess the M-9 and M-11 missiles can strike Israel. It is not a question. It will be no question. We have no capacity to defend or provide for defense to our friends against these missiles. And the Chinese at this moment, at this time have already transferred or are transferring into the region launchers and missiles.

Originally I convinced the leadership to put in Pakistan, but because some on the other side argued that including Pakistan would make a fait accompli that we would deny MFN, earlier we redrafted the amendment and changed the leadership amendment. Pakistan is out because they have already transferred launchers to Pakistan, and it is arguable that they may have already transferred some warheads to Pakistan.

I have no illusions. I what this to work. I have no illusions that we are going to turn around conduct that has already been consummated. But I certainly have no unwillingness to say to the Chinese from this moment such conduct is so inimical to the interests of the United States of America that were you to continue to engage in it our relationship with you will and must change.

I have heard, and I will hear from my distinguished friend from Montana and others, that we alone cannot make a difference. No other nation in the world is contemplating such action relative to China. I respectfully point out that no nation ever contemplates this kind of action. It is the United States in South Africa that went it alone first, and how long did we hear no one else is participating, it will not work? But we forced the administration to adopt a policy of sanctions, and although it took time, other of our noble brethren and allies came along and eventually the weight of the sanctions worked.

I can assure you if we do nothing relative to these missile transfers, no one else will do anything. No one will. But I can also assure you that if we do something the rest of the free world will be forced to reconsider their position on whether or not they engage in a collective approach to deal with the irresponsible actions of the Chinese jeopardizing American interests and, yes, American lives. Whether or not they come along we have an obligation to go it alone if need be.

There are certain times and certain places in history where you cannot stand by, and if we do not act now, a year from now, it will be over. It will be finished. What leverage if any we have with the Chinese will be squandered. And we are sitting here saying, oh, my goodness, this may hurt us economically.

This may in fact cause retrenchment of a regime that is already incredibly entrenched, that will only change, in my humble opinion, through death. I do not mean that we would impose that. I mean through them not able to beat the actuarial tables much longer.

We sit here and say, oh, my goodness, let us not offend their national pride. The hell with their national pride. They are transferring a technology that will revolutionize the ability to conduct and wage war in an area of the world that is most likely again to be a battlefield of any area in the world. And the area of the world where we have just demonstrated that we cannot allow a fundamental change in the status quo and we will not allow it.

I wonder where we will be a year, 2 years, 3 years from now when Mr. Assad, for whatever reason, concludes that his interests are better served by a new relationship with Saddam Hussein, who in all probability will still be there. What do we do then when we debate on the floor of this body sending 200,000, 500,000, 700,000 Americans into that region where now they have real weapons?

As I said, Mr. President, the analogy of the Scud to the M-9 or M-11 is like a 1955 Chevy to a 1991 Corvette. They "ain't" even in the same league, not even close. We are going to talk about whether or not we are going to offend the Chinese.

If my friends will look at this legislation, they will see that as drafted if in fact they transfer this technology, and my good friend from Rhode Island yesterday was saying, well, this provision that I have been banging away at makes it impossible for the President to be able to certify it. Well, we changed the language and required that the President, and in our legislation it says:

> No later than July 3rd, 1992, products of the People's Republic of China may not be provided nondiscriminatory most-favored-nation trade treatment if the President determines at any point subsequent to the enactment of this act that the People's Republic of China has transferred to Syria or Iran, number one, ballistic missiles, or missile launchers for the weapons system known as the M-9 or MN-11 or material equipment or technology which would contribute significantly to the manufacture of nuclear explosive devices.

Then section (b) says that the President shall promptly inform the Congress, in writing, of any determination described in the section I just read.

Does anybody on this floor seriously suggest that if they knew tomorrow that the Chinese were going to transfer nuclear weapon-making capabilities which would significantly enhance the ability to manufacture nuclear explosives to Syria or to Iran, we would be standing on this floor and saying, hey, no problem, OK, we did not like it; we will just continue the same old policy, though.

They are transferring that to make money. We are not going to change our relationship with them, though. Is anybody willing to stand up and say that if they knew for certain that tomorrow the Chinese were going to transfer nuclear technology which would significantly enhance the prospect of Syria or Iran to make a nuclear bomb, they would continue to maintain the position that we should not change our position relative to China?

Is anybody in here going to tell me that, if they knew for certain that tomorrow China will transfer to Assad the M-9 and/or M-11 missile and its launchers, which would put all of Israel in dire jeopardy immediately, they would say we are not going to consider changing the relationship with China?

Look, unlike human rights, unlike trade, there is nothing soft about this requirement. They either transfer the M-9 or M-11, or they do not. They either transfer technology that significantly enhances the ability to provide nuclear capability, or they do not. It is not whether they have gone far enough in human rights. No one in this body is suggesting that tomorrow we expect—although we would like it—China to turn into a democracy. Legislation does not require that. No one in this body is saying that we expect all the trade practices we find reprehensible, which China engages in, to stop tomorrow.

But there is one thing we can say: China, you have a choice. You have not transferred these deadly missiles with ranges exceeding 300 kilometers to these two unstable nations as of the moment. Now, understand, if you do, the $2 billion you are going to gain from the transfers are going to be offset by the $15 billion you now gain because of the most-favored-nation treatment.

It is real simple. They are grown, mature people. We can say: You have your most-favored-nation treatment the rest of the year, but just understand that if that happens, you have a real problem with us, which will require termination of that trade relationship.

If I may make an analogy that will make everybody angry probably, but I am going to do it anyway. There is a debate right now based upon whether our Ambassador to Iraq was crystal clear in her warnings to Saddam Hussein about Kuwait. She asserts that she said, and I am paraphrasing; If you move on Kuwait, you are going to have us to answer to.

Everybody in this body has said subsequent to our invasion of Kuwait that we certainly hope that was said. It would be an important thing to be said, because we certainly would not want any misunderstanding about the consequences of the Iraqi invasion of Kuwait. We all said that was an important precondition for our policy. I suspect that if it turns out she did not say that, or the State Department did not tell her to say that, we would all sit here and say: my God, what a horrible, stupid thing to have failed to do.

Well, if I can make an analogy, I do not want to be here tomorrow, next week, next month, regardless of what the rest of the world thinks, regardless of Chinese pride, and say, wow, guess what? Our Intelligence Committee just showed us photographs of these M-9 and M-11 missile launchers sitting in Assad's garage. Guess what? The Iranians, who now think they even have a greater stake in the future of the gulf, now have M-11 missiles and launchers. And, by the way, we have found out that they have purchased from the Chinese, who are a nuclear power, nuclear technology to build a bomb.

I wonder how many of us would stand up then and say we do not want to bring back Smoot-Hawley. We want free trade. We do not want to jeopardize those provinces on the eastern border of China. We do not want to hurt the folks in Hong Kong.

Mr. President, this is in a category very different than the other things we are looking for progress on. These are things that have not happened yet—the transfers to these two countries. Human rights violations have occurred; they are continuing to occur, and the question is how to keep them from occurring. Trade violations have occurred, continue to occur, and the question is how to stop them.

This is truly preventative. If the Chinese do not understand that the transfer of these missiles and nuclear technology to the Middle East will fundamentally alter her relationship to the United States of America, she is fundamentally misreading the United States of America, just as Saddam Hussein has.

I will predict to you all in this Chamber that, whether or not we deny MFN, if and when—and it will be when—the Chinese transfer that missile technology to Syria and to Iran, they will have badly misunderstood the sentiment of this Congress, because all of you will be on this floor saying, my God, what are we going to do now with the rogue elephant in international relations? What are we going to do now with the most destabilizing nation in the world in terms of supplying kerosene to a fire that still smolders? What are we going to do now?

To use the words of my friend from Florida, who reached a totally different conclusion than the Senator from Delaware, he said this sends the wrong message. If we fail to send a message to the Chinese that something that they have not done yet and is fully within their power not to do and clearly within their economic interest not to do, if they nonetheless go forward and transfer those missiles, those ballistic missiles, that nuclear technology, to the cauldron of the world, then we will have done a great disservice to them, we will have done a great disservice to the world. We will have done a great disservice to Americans, because we will respond, notwithstanding the fact that this President suffers from a China syndrome, notwithstanding the fact that this President has a blind eye at least, if not two blind eyes, the same President who thought it was necessary to go to war to stop the buildup of nuclear technology and capability of Iraq. I find it absolutely ridiculous that the same President would not be willing to contemplate denial of MFN to a nation that was going to sell ballistic missiles, not technology, ballistic missiles, whole, ready-to-launch on arrival, ballistic missiles to Syria, and to Iran, that same President who said it was in the interest of the United States to go to war to stop one screwball from getting nuclear capability, that he would stand by and contemplate another screwball selling to nations which are not known for their stability or democratic instincts or United States interest, that they in fact would now have nuclear technology, significant nuclear capability.

In conclusion, Mr. President, all this legislation does is say: (A) On trade and human rights, show some progress; and (B) Do not change the balance in the Middle East in one fell swoop, providing to two unstable nations missiles, ballistic missiles, or nuclear capability. If you do, we change our relationship with you, and if your desire to do so is driven by your need for hard currency, understand that when you sit in your councils of government and calculate is it better to derive $2 billion in hard currency from transferring this deadly capability and lose $15 billion in hard currency from the United States, or is it better to keep the $15 billion in hard currency from the United States and forego the several billion dollars that you derive from transferring ballistic missiles and nuclear capability.

I thank my colleagues, and again will point out if we do not do it, no one else will, and if we do not do it, by year's end at least one of those nations and probably both will have a sophisticated new ballistic missile capability while we argued about whether or not we were going to hurt Chinese pride.

I yield the floor.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I have had discussions with the distinguished Republican leader and the managers attempting to bring this matter to a resolution in the near future, and as a result of those conversations, I will propound a unanimous-consent request which I believe is agreeable to all concerned.

Mr. President, I ask unanimous consent that the Senator from Pennsylvania complete his remarks, and upon the completion of his remarks, which I understand will be for less than 10 minutes from this time, that Senator BENTSEN be recognized to offer an amendment which has been agreed upon and which I understand will take a very short period of time. And that following that, Senator BAUCUS be recognized for 10 minutes, then Senator PACKWOOD be recognized for 10 minutes, then Senator BENTSEN be recognized for 10 minutes, then Senator DOLE be recognized for 5 minutes, and then the majority leader be recognized for 10 minutes, and that upon the completion of my remarks, there occur without any intervening action or debate, third reading on the Senate bill, and the Senate then proceed to final passage of the House-numbered legislation, H.R. 2212.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, there is no requirement that any of these Senators take their full time, is there?

Mr. MITCHELL. No, there is not, in this request.

Mr. CHAFEE. If anybody feels they do not need their full time and wants to yield some back, I do not think there will be any objections from anyone on the floor. I just want to note that.

Mr. MITCHELL. I appreciate that remark by the Senator, and I hope all of us concerned will take it to heart.

The PRESIDING Officer. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I would just like to make clear that what we are now proposing is that there be approximately 50 minutes or so more of debate, and then we intend to act on the House bill as amended by the Senate bill.

I do not believe the yeas and nays have been requested. This may be the appropriate time to do that.

Mr. PACKWOOD. Mr. President, if I may just ask a question, I apologize because I did not hear what the majority leader said. Are you proposing to use the House vehicle on this?

Mr. MITCHELL. That is correct.

Mr. PACKWOOD. So that if there was a veto—was this part of the unanimous consent request? I did not hear what you said about third reading.

Mr. MITCHELL. Yes, it was. But if there is any objection or misunderstanding, I will vitiate the request, if it was not fully comprehendable.

Mr. PACKWOOD. I did not understand about the vehicle. I understood the time. Could we vitiate it for just a minute, unless you want to get the unanimous consent on the time right away, so somebody does not come and open that up.

Mr. MITCHELL. So that there can be no misunderstanding, Mr. President, I do not want any agreement to have been obtained if there was not a clear understanding. I therefore ask unanimous consent that the previous consent be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. And the Senator from Pennsylvania be permitted to continue his remarks, during which time I suggest we get together and make clearer what we are proposing.

I thank my colleague for his cooperation.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I agree with the dire dangers portrayed by the distinguished Senator from Delaware in terms of the sales of missiles to Syria, Pakistan, Iran, and the proliferation of other weapons which may be done by the Government of China. But I disagree with his conclusion as to what is the best way to affect the conduct of the Government of China. I do so based upon the hard evidence of the communique released from the meeting of the five superpowers, including China and the United States, and in addition thereto, France, the United Kingdom, and the Soviet Union, from Paris on July 8 and 9, just a few days ago, where commitments have been obtained, at least on the basis of this communique, on the precise threats and dangers which have been eloquently articulated by the distinguished Senator from Delaware.

I quote at this point from the communique. "They," referring to the five superpowers—

> Stressed that the ultimate response to the threat of proliferation is verifiable arms control and disarmament agreements among the parties concerned. They expressed strong support for full implementation of existing arms control regime. For their part, they will contribute to this objective by developing and maintaining stringent national and, as far as possible, harmonized controls to ensure that weapons of mass destruction, related equipment and materials are transferred for permitted purposes only and are not diverted.

Now, whether the Government of China lives up to that commitment remains to be seen. But at least at this point the Government of China has made this commitment.

I compliment President Bush and the administration for what has been obtained and achieved at Paris. It is my conclusion—and this is not an easy issue as to how you motivate the Government of China—that we have a better chance to motivate the Government of China by not attaching conditions to most-favored-nation status.

I am not concerned with the national pride of China. That is not a matter of concern to this Senator. And I am not concerned with the feeling of the representatives of the Government of China except as they relate to what is the best way to get something done.

The facts show that President Bush and his administration have had a very good record in influencing the conduct of the Government of China in very material respects. I would point to the President's success and the State Department's success in getting the Government of China to avoid a veto on U.N. Resolution 678 last year, November 29, authorizing the United Nations to use force in the Persian Gulf.

There are many in this Chamber who still may disagree with the wisdom of U.N. Resolution 678 and with the wisdom of the vote in the U.S. Senate, 52 to 47, to authorize the use of force, but I believe those were sound decisions and I believe that history has shown that the forceful action taken by President Bush and by the United States, sanctioned by this body and sanctioned by the House of Representatives, had a good result.

When questions are raised about how you deal with Iraq, it is a fact that we have not dealt perfectly with Iraq. There are many problems remaining in Iraq today. But the judgment to move ahead on U.N. Resolution 678 and the act of Congress in authorizing the use of force was successful and was positive, and it was not an easy task for President Bush to get acquiescence from China in the form of their abstaining from a veto.

Who would have suspected a few years ago that the Soviet Union would have permitted the United States to put 530,000 fighting men and women in the Persian Gulf and that the Soviet Union would have voted affirmatively for a resolution to that effect? Or who would have thought that it would have been possible to get the Government of China to abstain from vetoing U.N. Resolution 678? President Bush achieved that.

The communique from Paris, joined in by China, says that weapons of mass destruction, related equipment, and materials will not be transferred for purposes other than peaceful purposes—the specific language is "for their part, they will contribute to this objective by developing and maintaining stringent national and, as far as possible, harmonized controls to ensure that weapons of mass destruction, related equipment, and materials are transferred for permitted purposes only and are not diverted."

The communique further states: "They"—again referring to the superpowers, including China—

> Also strongly supported the objective of establishing a weapons-of-mass-destruction-free zone in the Middle East. They expressed their view that critical steps toward this goal include full implementation of UNSR, United National Security Resolution 687, and adoption by countries in the region of a comprehensive program of arms control for the region, including a freeze and ultimate elimination of ground-to-ground missiles in the region.

Now, on the face of this commitment, it would be my hope and really my expectation that China will not be selling missiles to Syria, Pakistan, or Iran. It may be that you could make a tight, legalistic interpretation, and say that that deal has already been made. But I do not think that would be a fair reading of this undertaking. If there is to be a freeze and ultimate elimination of ground-to-ground missiles in the region, then, that being an objective that China wants to obtain, they are saying that they are not going to be selling missiles in the region.

If there is to be a freeze, there would be no more than there are at the present time, and that should reasonably exclude a contract. If there is to be an ultimate elimination of ground-to-ground missiles in the region, that carries with it the thought that they are not going to sell them because it does not make any sense to sell them and put them in the hands of Syria and Iran and Pakistan—at least Syria and Iran, being in the Middle East—if you articulate a desire to have an elimination of ground-to-ground missiles in that area.

The communique also has another important feature, Mr. President, that I think is relevant to quote at this time. It is the statement that "they"—referring again to China and the others—"would not transfer conventional weapons in circumstances which would undermine stability." They also noted the threats to peace and stability posed by the proliferation of nuclear weapons, chemical and biological weapons, missiles.

So, there appears to be some considerable advance made in attracting China's attention and in getting these commitments. And that has been an achievement of the administration, the President, and the Secretary of State, which ought to be built upon.

In this context, it is my conclusion that there is a better chance to get China to cooperate with the objectives of the United States on these important means if we follow the request of the President and the administration, which have dealt very closely with China.

The President was the liaison to China years ago, the equivalent now of the United States Ambassador to China. It has not been an easy relationship, and we have not achieved the goals which we have sought on many important items.

We have not yet achieved the goals we have sought in trade. We have an enormous trade deficit, $10.4 billion. We do not have China recognizing United States intellectual property rights. We have violations of customs laws which work to the detriment of our textile industry. But the United States has to make a determination about what is the best way to get compliance with these important U.S. objectives.

There are many tremendous concerns on the human rights issues. There are the concerns on the forced labor exports; there are the concerns about restrictions on religious activity and detention, and about the "reeducation" of religious leaders. Free speech and political debate have been curtailed and controls on political expression exist.

I do not intend now to list all the problems which exist on trade and human rights.

But the basic decision has to be made, it seems to me, as to what is the preferable course to get China to listen to United States objectives and to have improved conduct by the Government of China on trade matters, on human rights, and on the arms sales.

The exerpts which I have quoted are contained in a document which is entitled, "Meeting of the Five"—referring to the United States, U.S.S.R., Great Britain, France, and China—"Meeting of the Five on Arms Transfers and Nonproliferation, Paris, July 8 and 9," which has been provided to me by Under Secretary for International Security Affairs, Reg Bartholomew.

I ask unanimous consent that the full text appear at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, in essence I believe this document shows very considerable progress. We have to hold China to it. We have to hold them to their commitments not to sell missiles into the Mideast, their commitments not to have a proliferation of nuclear weapons, and their commitments not to sell conventional arms which will be destabilizing.

If we find that these agreements are breached, there will be ample time for us to take corrective action. We can take action after the fact. We can revoke most-favored-nation. We do not have to have it written into the law at the present time for us to take this action at a later date. But on the calculation that the best way to deal effectively with the Government of China is to follow the recommendations of the President and his advisers who have dealt in detail with China and dealt successfully on United Nations Resolution 678, it is my view the current bill ought to be defeated and most-favored-nation status ought to be adopted without these conditions, as the President requested.

I yield the floor.

EXHIBIT 1

MEETING OF THE FIVE ON ARMS TRANSFERS AND NON-PROLIFERATION

(Paris, 8th and 9th of July 1991)

1. Representatives of the United States of America, the People's Republic of China, France, the United Kingdom, and the Union of Soviet Socialist Republics, met in Paris on the 8th and 9th of July to review issues related to conventional arms transfers and to the non-proliferation of weapons of mass destruction.

They noted with concern the dangers associated with the excessive buildup of military capabilities, and confirmed they would not transfer conventional weapons in circumstances which would undermine stability. They also noted the threats to peace and stability posed by the proliferation of nuclear weapons, chemical and biological weapons, and missiles, and undertook to seek effective measures of non-proliferation and arms control in a fair, reasonable, comprehensive and balanced manner on a global as well as on a regional basis.

2. They had a thorough and positive exchange of views on the basis of the arms control initiatives presented in particular by President Bush, President Mitterrand, Prime Minister Major and on other initiatives which address these problems globally and as a matter of urgency in the Middle East. They also agreed to support continued work in the United Nations on an arms transfers register to be established under the aegis of the UN Secretary General, on a non-discriminatory basis, as a step toward increased transparency on arms transfers and in general in military matters.

They stressed that the ultimate response to the threat of proliferation is verifiable arms control and disarmament agreements amongst the parties concerned. They expressed strong support for full implementation of existing arms control regimes. For their part, they will contribute to this objective by developing and maintaining stringent national and, as far as possible, harmonized controls to ensure that weapons of mass-destruction related equipments and materials are transferred for permitted purpose only and are not diverted.

They also strongly supported the objective of establishing a weapons of mass destruction-free zone in the Middle East. They expressed their view that critical steps toward this goal include full implementation of UNSC resolution 687 and adoption by countries in the region of a comprehensive program of arms control for the region, including:

A freeze and ultimate elimination of ground to ground missiles in the region;

Submission by all nations in the region of all of their nuclear activities to IAEA safeguards;

A ban on the importation and production of nuclear weapons usable materials;

Agreement by all states in the region to undertake to becoming parties to the CW Convention as soon as it is concluded in 1992.

3. They acknowledged that Article 51 of the UN Charter guarantees every state the right of self-defence. That right implies that states have also the right to acquire means with which to defend themselves. In this respect, the transfer of conventional weapons, conducted in a responsible manner, should contribute to the ability of states to meet their legitimate defence, security and national sovereignty requirements and to participate effectively in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security.

They recognized that indiscriminate transfers of military weapons and technology contribute to regional instability. They are fully conscious of the special responsibilities that are incumbent upon them to ensure that such risks be avoided, and of the special role they have to play in promoting greater responsibility, confidence and transparency in this field. They also recognize that a long term solution to this problem should be found in close consultation with recipient countries.

4. They expressed the intention that:

When considering under their national control procedures conventional weapons transfers, they will observe rules of restraint. They will develop agreed guidelines on this basis;

Taking into account the special situation of the Middle East as a primary area of tension, they will develop modalities of consultation and of information exchanges concerning arms transfers to this region as a matter of priority;

A group of experts will meet in September with a view to reaching agreement on this approach;

Another plenary meeting will be held in October in London;

Further meetings will be held periodically to review these issues.

5. They expressed the conviction that this process of continuing cooperation will contribute to a worldwide climate of vigilance in this field which other countries will share.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BENTSEN be recognized to offer an amendment, which I understand has been agreed upon, and that, following the disposition of that amendment, the remaining time for debate on this measure be divided as follows, in the order and in the amounts of time specified: Senator BAUCUS for 10 minutes; Senator CHAFEE for 3 minutes; Senator PACKWOOD for 10 minutes; Senator BENTSEN for 10 minutes; Senator DOLE for 5 minutes; and the majority leader for 10 minutes; and that upon the use or yielding back of such time, that the Senate proceed without any intervening action or debate to third reading of S. 1367.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, in conformance with the unanimous-consent request I have an amendment to offer.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 807

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. BENTSEN], for Mr. BIDEN, proposes an amendment numbered 807, page 7, line 20, delete section 4 and insert in lieu thereof the following:

SEC. 4. TERMINATION OF MOST-FAVORED-NATION STATUS.

(a) IN GENERAL.—Not later than July 3, 1992, products of the People's Republic of China may not be provided nondiscriminatory (most-favored-nation) trade treatment if the President determines, at any point subsequent to the enactment of this

Act, that the People's Republic of China has transferred to Syria or Iran—

(1) ballistic missiles or missile launchers for the weapon systems known as the M-9 or the M-11; or

(2) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

(b) NOTIFICATION.—The President shall promptly inform Congress in writing of any determination described in subsection (a).

Mr. BENTSEN. Mr. President, the manager for the majority has shown this piece of legislation to the distinguished Senator from Oregon. I appreciate his comments on it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. This is a modification offered by Senator BIDEN to a provision that was already in the bill. It was a provision I did not like, and I must say this particular amendment softens that provision so I prefer it to what we had, and I support the amendment.

The PRESIDING OFFICER. Is there further debate? The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. May I ask briefly, does this still make the approval contingent upon the absence of the sales of the M-11?

Mr. BENTSEN. It defers the denial of the MFN for a year instead of making it immediate if the conditions discussed occur. It adds language that MFN would be revoked after July 3, 1992, if material that would contribute significantly to the manufacture of a nuclear explosive device were transferred to Syria or Iran. Those are the basic things it does.

As the distinguished Senator says, "It in effect softens that particular provision."

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 807) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. (Mr. GLENN). Under the previous order the Senator from Montana is recognized for up to 10 minutes.

Mr. BAUCUS. Mr. President, I think this has been a very useful and constructive debate we have participated in, in the last couple of days; in some respect the last several weeks. I particularly commend the majority leader, Senator MITCHELL, for initiating this process; for bringing forth to us a conditionality resolution. He worked very assiduously with a good number of the Members of the Senate—I am thinking of Senator BIDEN from Delaware, Senator RIEGLE from Michigan, Senator PELL from Rhode Island—who were involved on the Democratic side. There were many others.

Mr. President, back in the 1930's the great American humorist Will Rogers, after returning from a trip through Asia, wrote:

> You know, the Chinese are the most patient people in the world; they have waited 4,000 years for something good to happen to 'em, and as it hasn't; they are all set for another 4,000.

Well, after seeing the uprising 2 years ago at Tiananmen Square, and after talking with leaders within the Chinese reform movement, I am convinced that the people of that nation are not going to wait another 4,000 years for something good to happen to them.

The people of China want change today, not tomorrow. They want the bright hope of democracy, not the dark tyranny of communism. They want freedom, not oppression.

The question before the Senate is do we want to stand with those fighting for freedom, or do we stand back and do nothing.

If we want reform in China—and I am convinced that every Member of this body does—then conditioning most-favored-nation status to China, which is tantamount to cutting off trade with China, is the wrong answer.

THE ABUSES OF CHINA

During the past 2 days of debate we have heard many examples about the abuses that the Chinese Government has made—from violating human rights, to giving weapons to our adversaries, to setting up unfair trade practices.

What China is doing is simply wrong, and this government must do everything in its power to put an end to their abuses.

But if we think that ending MFN to China will change China, then we are fooling ourselves. H.L. Mencken said that "complex situations bring about simple solutions, and they are usually wrong." The complex situation in China will not be solved by simply revoking MFN.

By denying MFN for China we would be cutting off the vein of democracy that runs from this Nation to China. We would inhibit not only the free flow of products between our two nations but also the free flow of people and ideas.

In this morning's New York Times, an excellent column appeared by Li Xianglu, the former assistant to the ousted Communist Party chief and now a leading reformer. Li Xianglu wrote:

"Only economic prosperity and political openness can make democracy achievable. The extension of most-favored-nation status without conditions will help promote these fundamental changes."

I ask unanimous consent that this article be placed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. The power is in our hands to help China achieve meaningful changes and real reform. The power is in our hands to help the Chinese people see change now, not in 4,000 years.

AMERICAN JOBS

Cutting off MFN for China would not only be a misdirected shot at the Chinese Government, it would be a fatal blow to thousands of working Americans.

We have talked about United States exports of $5 billion to China each year. Five billion dollars. I have been in the Senate for over 12 years, and that is still a figure that boggles the mind.

But what helps make it more clear in my mind is realizing that we are talking about not just $5 billion in trade, we are talking about 100,000 American jobs; 100,000 Americans would be put out of work if trade is cut off with China.

And we are not talking about wealthy jobs—lawyers and bankers and corporate executives would not lose their jobs if MFN with China is cut off. We are talking about the backbone of America. We are talking about farmers across the Farm Belt; we are talking about machinists at Boeing in Seattle or McDonnell Douglas in St. Louis; we are talking about America's miners; we are talking about timber workers in the Northwest.

The supporters of the resolution believe that cutting off MFN is sending a message to China. To those 100,000 American workers, cutting off MFN means that they no longer have a check to pay the rent, or their child's day care, or their doctor bills, or for their family's groceries.

I come from a State where the largest city barely approaches 100,000 people. I am not about to go back to Billings, MT, next weekend and tell the people there that I voted to eliminate more jobs than there are people in that city just to send an ineffective message to the Government of China.

PRESIDENT BUSH'S LETTER

This is an issue where we all share common goals—to bring about reform in China while maintaining trade with the world's largest nation. It is a situation where we can all achieve our common goals.

That is why I and several of my colleagues have put pressure on the administration to take action at stopping abuses by China.

Late last week, President Bush wrote me a lengthy letter. It was not—as some have said—filled with "mostly rhetoric." It was, for the first time in this administration, a comprehensive review of our policy toward China and a plan for future relations.

This letter addressed the concerns that many of my colleagues have raised, and spoke to the conditions that some want to chain to the continuation of MFN.

The President promised—I repeat, promised—to take the following steps:

First, reinvigorate its opposition to multilateral loans to China until its human rights abuses come to an end. At the recent G–7 summit, the President personally made this plea to leaders of the other nations.

Second, the administration is committed to using section 301 of our trade laws to open the Chinese market. My colleagues on this side of the aisle should remember that section 301 is a tough, effective, market-opening provision. Just ask countries who have felt the brunt of section 301.

Third, President Bush has pledged to crack down on imports of goods produced by slave labor. Many of those slaves are political prisoners, and this is a significant step at addressing our concerns about human rights.

Fourth, the administration will take a vigorous position in forcing China to halt the spreading of nuclear materials and missiles, and keep negotiations underway to convince China to abide by the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime.

Finally, the President will support Taiwan's application to join GATT, an important change in United States policy.

I view the President's letter as a major victory for those of us who are serious in our desire to maintain trade with China, protect American jobs, and encourage change and reform in China.

Now am I going to sit back and assume that with this one letter our problems are solved? No. I am going to be looking over the President's shoulder every step of the way to see to it that he abides by the promises he has made. Not only his market-opening promise, but those he has made on human rights, and weapons sales.

In the meantime, I believe that President Bush has made a serious and sincere effort to address our concerns. It is now up to those of us here to work together and reach our common goals.

CONCLUSION

If we want to send a message to China, then the best message we can send is to let the reformers know that we stand with them in their struggle for democracy, not to cut ourselves off from that nation.

If we want to make sure the Communist Chinese Government stops its abuses, then we must make sure President Bush stands by his promises to enforce existing laws.

If we want to protect thousands of American jobs, then we must continue to build a strong trade relationship with China.

Let us remember this: most-favored-nation status is not an endorsement of China's human rights abuses or support for their unfair trade practices. MFN is the minimum status that we give to nations with which we conduct trade. Currently, more than 160 nations around the globe have MFN status: nations such as Syria, Iran, Libya, South Africa, and even Iraq. Yes, Iraq, a nation that just a few months ago was killing our sons and daughters is viewed as a most favored nation.

Revoking MFN might make some of my colleagues feel good in the short run, but in the long run it will cost hope to the Chinese reformers and cost jobs for American workers. Do we want to simply make a statement or do we want to be effective?

We must encourage contact with China, not cut it off. We must foster trade with China, not cut American jobs. We must encourage reform in China, not allow oppression. We must move forward in our relations with China, not backward.

I encourage my colleagues to join me in opposition to imposing conditions on most-favored-nation status for China.

Mr. President, I just want to again thank all the Members who participated. I think each Senator has been very constructive in adding to this debate. I think when this is all said and done, we are going to have a good, strong China policy, and we are going to be a lot more effective in pushing China in the direction we want than we would have before. I congratulate all Senators who helped make that happen.

EXHIBIT 1

[From the New York Times, July 23, 1991]

RENEW CHINA'S TRADE STATUS

(By Li Xianglu and Lu Mai)

Since the violent suppression of the student movement in Tiananmen Square in June 1989, condemnation of the Government has been near universal. But revoking its most-favored-nation status with the U.S., or attaching conditions, is the least effective means of improving China's human rights picture. This move, which Congress may vote on today, would punish the wrong people by damaging economic reform that is helping bring about a free market.

Chen Ziming, a prominent dissident, agrees. Though sentenced to 13 years for his role in the 1989 demonstrations, he suspended a hunger strike lest U.S. critics of China use his protest as a reason to revoke most-favored-nation status. Such revocation is the last thing reformers in Beijing want.

The economic innovations of the late 70's have produced a private sector and market-oriented collectives, which have liberated hundreds of millions of peasants from deep poverty and state control. The introduction of new ideas from the outside world and growing freedom in the newly pluralistic economy have generated pressures for social and political change.

Foreign trade and investment are the driving forces behind the growth of the private sector. The State Statistical Bureau says that in 1990, while the output of state enterprises grew at an annual rate of about 4 percent, the private sector's output grew at a rate of more than 20 percent and that of enterprises involving foreign investment leaped more than 30 percent.

Some point to the release of the dissident Fang Lizhi and a select few prisoners as evidence that the Chinese Government can be bullied by the threat of losing its trade benefits. But these meager results are mostly the outcome of quiet American-Chinese negotiations. There is ample evidence that Beijing is prepared to endure substantial costs rather than succumb to international pressure.

Public posturing over China's most-favored-nation status and proposed conditions to renewing it challenge the leadership's legitimacy. Such demands hand conservatives an excuse to play on xenophobia, which is never far from the surface; the destructiveness of xenophobia in modern China is still a vivid memory.

Real human rights improvements will come only from systemic change. Foreign trade and investment and the demands they put on the centralized command economy promote such change and support those people who are pressing for structural reform.

Critics of the Chinese leadership erroneously suppose that canceling most-favored-nation status would create economic difficulties that would eventually lead to a popular uprising and the fall of the Government. Since 1949, however, the Government has weathered repeated economic crises by appealing to nationalism and renewing central planning. Those harmed by the revocation of its special trade status will not turn their frustration and anger against the Government; instead, reduced economic opportunities outside the state system will force them to return to dependency on the Government.

Withdrawing that status would provide the hard-liners with an excuse to recentralize control and curtail the influence of foreign economies. The hard-liners surely prefer things that way, for economic prosperity, rapid growth of the private sector and integration into the world economy are beyond the old system's control.

A gradual and peaceful transition to democracy is in the interests of the 1.2 billion Chinese, the U.S. and the rest of the world. Only economic prosperity and political openness can make democracy achievable. The extension of most-favored-nation status without conditions will help promote these fundamental changes.

The PRESIDING OFFICER. The Senator's 10 minutes has expired. Under the previous agreement, the Senator from Rhode Island is recognized for up to 3 minutes.

Mr. CHAFEE. I thank the Chair.

Mr. President, sometimes on this floor people do listen to what others say, which is perhaps an astonishing fact, but it is true.

Last night I stated that the Mitchell bill confronted the President with practically an impossible task: The President had to certify to Congress that something had not taken place. He had to certify in writing that the People's Republic of China had not transferred ballistic missiles on launchers to Syria or Iran and had not transferred ballistic missiles to Pakistan.

I pointed out on the floor that this was an impossible task for the President. How can the President swear to Congress that something has not taken place? His intelligence community sometimes can tell him that something has taken place, but he cannot swear to Congress, certify that no transfers have taken place. It is an impossibility.

The Senator from Delaware, it seemed to me, pooh-poohed that statement, but I am delighted to find in the amendment just presented by the distinguished Senator from Texas that this language has been changed. Section 4 has been deleted from the legislation, and in its place is a new provision requiring the President to promptly inform Congress if he determines something has occurred.

I appreciate the amendment that has been presented. I note that it is by Senator BENTSEN for Senator BIDEN. So I presume Senator BIDEN took part in it. I want to thank him for that, because it seems to me it makes a lot more sense to give the President a task whereby he informs Congress if something has taken place and removes this impossible burden that was previously on him to certify that something has not taken place.

I would also note that there is another change in the amendment which is a good one. It now refers to any transfers subsequent to the enactment of the bill whereas previously the bill read that if any transfers had ever taken place then most-favored-nation status is revoked. The Ambassador to the United States from China has already certified that such transfers have occurred.

But finally, Mr. Presdient, I wish to say what this bill is all about. It is about whether we want to feel good; whether we want to tell those Chinese, "You do what we want or you lose most-favored-nation status. It is about whether we are going to be tough with them.

Frankly, that is not going to get us anywhere. It may make us feel good, let us pat ourselves on the back, but China is not going to change one whit. That country, as everyone knows, has had a long history of isolationism. They have a group of old men running that country who would be perfectly delighted to retreat to that isolationism once again.

I think the approach the President outlined is a proper approach. I hope we will join in rejecting the bill by the distinguished majority leader.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous agreement, the Senator from Oregon is recognized for up to 10 minutes.

Mr. PACKWOOD. Will the Chair warn me at 9 minutes?

The PRESIDING OFFICER. Yes, the Senator will be warned.

Mr. PACKWOOD. I thank the Chair.

Once again, let us put in perspective what we mean by most favored nation, because we do speak in acronyms. Most favored nation means we will give trade status equal to the best we give to anybody else. Example: We have a tariff of 2½ percent on imported automobiles that come from Germany, come from England, from Japan, and from Mexico—a 2½-percent tariff. If we were to cut the tariff on cars from Mexico to 2 percent, we would automatically have to do it for cars from all of the other nations we have given most-favored-nation status to, 2 percent for all of them—160 nations, give or take 1 or 2, have most-favored-nation status. We give it to everybody in the world except Communist countries.

In 1951, we passed a law that said we will not give it to Communist countries. Then in 1974 we amended that to say we will even give it to Communist countries if they will allow their citizens to freely emigrate. If citizens of a Communist country can get out, that country can have most-favored-nation status. Picture the situation. All countries get it except for Communist countries, which get it if they will allow emigration unless for some reason we choose to take it away from them anyway, which we have never done. That is roughly what the situation is.

Now we come to China. Does China have bad trade policies? This is one of the arguments that has been mentioned by many people in this debate. You bet they do. Do they sell arms to Third World countries? You bet they do. As does France, by the way. France was a country that sold Iraq the material to build its reactor to build an atomic bomb that the Israelis bombed in 1981. France knew what they were doing. They knew this was an atomic bomb plant. They had several hundred technicians building it and 9 or 10 were killed in it. The French got caught with their hand in the cookie jar and they never said a word.

We cannot depend on Israel to police the world forever for us, unfortunately. They do a good job. France sold Mirages to Iraq. They sell Mirages to other countries—a very good fighter plane. China sells military equipment. The Soviet Union sells equipment. We sell them.

It is interesting, though, that we granted most-favored-nation status to China in 1980 knowing they had a bad trade policy, knowing they sold arms in 1981, 1982, 1983, 1984, 1985, 1986, and 1987, right on up while they had all these policies we did not like.

And then in 1989 Tiananmen Square happened, we saw it on television, and that is the reason we are having this debate about China today. Not because of their trade policy, not because of their arms sales, not because of a variety of other things that have been listed, but because of their human rights policy. And had Tiananmen Square not happened, or had we not known of it even if it happened, or maybe even if we had not seen it on television, we would not be having this debate about China today because—let us strip away all the veneer—this is a debate over the issue of human rights.

That may be a fair basis for the United States to add to its policy of denying most-favored-nation status to countries. But in that case it should not be limited to China. Among the countries that have most-favored-nation status today are Libya, Iran, Iraq, Syria, all bastions of democracy and protectors of civil liberties. Nonsense. Not one of them has the foggiest idea of civil liberties. Syria is up to its neck in complicity with the blowing up of the Pan Am plane over Lockerbie, Scotland. Syria, for years a haven for terrorist training camps; Syria, one of the principal provocateurs of the Middle East, has most-favored-nation status, and to this day Iraq has it.

One of the privileges of being in the Senate is the opportunity to meet some really extraordinary people. In the mid-1970's, I met Mustafa Barzani, who was the then-leader of the Kurds. He was in the United States in the mid-1970's for some reason. I had an opportunity with no more than 9 or 10 people to have dinner with him, a tall man, a proud man, fierce eyes, leading the fight for Kurdish independence from Iran, from Iraq, from Turkey, and asking for our help. We had been helping the Kurds except we then double-crossed him, made a deal with the Shah of Iran and pulled the rug out from under him. Mr. Barzoni, the poor man, died in the United States of cancer in 1979, but I think he really died of a broken heart because of the betrayal.

He has five sons, or I should say he had five sons. Massoud Barzani, who is the leader of the Kurds now; and Idris, his brother, another of the leaders of the Kurds; Ubaidullah Barzani died in 1981, executed by Iraq; Sabir Barzani died in 1983, executed by Iraq; Lukman Barzani, died in 1983, executed by Iraq. According to rumor—we cannot verify this because it did not appear on television—one of those three brothers died after having his toes, fingers, ears, lips, and nose cut off. He was buried alive. But we did not see it. So Iraq still gets most-favored-nation status. Had we at all seen the executions of any of those three brothers or the barbarities practiced upon them, do you think we would be here today allowing Iraq to continue its most-favored-nation status? No question about it. But we let them keep it.

So I would like to quote what the leader, the majority leader said in his closing comments, and they are good comments:

> Should we aim for a relationship in which both parties recognize that there are obligations that go along with the benefits of the relationship? All the governments in the world today recognize that they have international responsibilities as well as privileges. It is fair—

I want to emphasize again—

> It is fair to apply to the Government of China the same standards we apply to all the

> nations. Ultimately that is what this bill seeks to do. It is fair to apply to the Government of China the same standards we apply to all nations.

We are not doing that. We are saying to China while we were upset about your trade practices in 1981, and your arms sales in 1982, and your arming of the Khmer Rouge, we were not upset enough to take away your most-favored-nation status. But because of Tiananmen Square, because of your violation of human liberties, human rights, we are offended, and the majority leader says we should apply the same standard to China that we apply to others, the same standard that we apply to Syria, Libya, Iraq, Iran, in granting them most-favored-nation status.

No, Mr. President, I find the bill introduced by the majority leader and others inconsistent, and it will not work. Senator BAUCUS was right. Senator CHAFEE was right. If we pass this bill, and if we eventually take away most-favored-nation status from China, they will not change their positions. They may if we bring other pressures on them, but not this.

But, in the meantime, if we want to have a new policy, let us debate that fairly, openly, and have it be a consistent one. That policy perhaps will then be this: Any nation that does not roughly have our Bill of Rights, our freedom of speech, of the press, our provisions against government search and seizure, our provisions against self-incrimination, any nation that does not have the rough equivalent of these, we will deny to that nation most-favored-nation status.

Of the 160 nations in the world, I think we would be left with about 15 or 20 that would meet that standard. Maybe that is what we want. That is a subject for debate. This bill does not apply to China the same standard we apply to almost ever other government in the world.

I thank the Chair.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Texas is recognized for up to 10 minutes.

Mr. BENTSEN. Mr. President, it has been a good debate. The issue is really how far can you push, yet still get a positive reaction, still get some changes in the attitude and the conduct of China?

Let us look at this trade situation that we are talking about, the one that has been described as being so valuable to us to see what is really happening on trade.

In the last year, we have seen China's trade with this country increase by some 27 percent and we have seen our exports to them go down by some 17 percent. We have not had that kind of decrease in our exports in the last year with regard to any other major country or any other major market.

What you are seeing is a further centralizing of control of trade by the Chinese Government. We have a quota agreement on textiles with China. They have the largest quota allocation that the United States gives to any other nation insofar as exports to the United States of textiles.

I will read what we saw in the Washington Post this morning. It relates to China's evasion of the textile quota rules:

> The deception was part of a concerted campaign by China to ship an estimated $2 billion in low-cost garments into the United States last year in violation of long-standing international quotas limiting textile imports into industrialized countries from the Third World.

That is from the administration.

Over $2 billion worth of violations there alone.

When you are bargaining and negotiating with another country, the question is, What kind of trading relationship are we enjoying? Let us look at that. Our exports to China are decreasing because they enforce a controlled market. Their exports to the United States increased by 30 percent a year through the eighties 10 times as fast as China's purchases from the United States. Are we important to them? You bet we are.

The surplus they have in trade with the United States is more than their deficit throughout the rest of the world. We are by far their No. 1 customer. They say that China would not respond favorably to this legislation. But let us look at the world today, and the record around the world.

The law that brings us here, the Jackson-Vanik amendment, contributed to a sea change in Russia and Eastern Europe. We denied those countries the political legitimacy and the economic benefits that come from most-favored-nation status because of their restricted emigration practices, and today there are people in those countries who enjoy the exact same democratic freedoms for which the Chinese students were protesting in Tiananmen Square. We have seen a tenfold increase in Jewish emigration from the Soviet Union, from 16,000 in 1988 to 200,000 in 1990. You bet the conditions worked. And the Russians said they never would accede to that, but they did.

I heard the comments made time and time again that we give MFN to Iraq, that we give it to Libya, that we give it to Iran, that we give it to South Africa. The fact is they would have been delighted to settle for the revocation of MFN instead of what we did to them. We put on embargoes. We put on sanctions much worse than just the revocation of MFN.

How did South Africa react? We have seen a reversal of the policies so abhorrent to American beliefs. The direction is clear. We have seen what effect this debate has had on China as well. Last year, the Chinese scientist Fang Lizhi was allowed to leave the American Embassy where he had taken refuge for 1 year. The Chinese Government said it would never do that. But the pressure from the Congress, the fear of losing MFN, caused some changes in that type of thinking.

Nearly 900 Chinese were released in 1989 after being detained because of their participation in that prodemocracy movement. There are many more, however, that must be released. We know that. These have been modest measures so far but they show that the Chinese leadership will respond if they think MFN is at risk.

It has been reported that a working group on MFN was formed by Deng Xiaoping. The group estimated that almost 10 million Chinese jobs would be lost if MFN was revoked with the United States, that it would cost China $10 billion a year in foreign exchange, and that foreign exchange is precious to them.

I heard a comment ealier that the CIA said that revoking MFN would not have a major effect on China's GNP. But it takes only a very small percentage effect on GNP to have a large reaction. The fact that such a working party was formed demonstrates China's sensitivity to this issue, and that its leadership understands what it would mean to lose MFN to their country.

There is one thing we do know: This administration's policy of accommodation is just not working. It is a tough crowd that headed that long march to the north. But that crowd is also made up of realists who will react. We all know there is a new breed of Chinese leadership on the way, clearly economic reformers. They have seen the impressive growth of South Korea and Taiwan, and they want to emulate it. We have to make sure that they are political reformers as well.

We are China's largest export market. Thus, we hold significant leverage over the Chinese. We ought to use that leverage in pursuit of our principles.

Beijing does care about its standing in the world and it will respond. But it will not respond if it thinks this debate is just one of bluster and idle threats. Some say MFN has no leverage. Well, it is not leverage if you do not use it. You use it or you lose the leverage. They will only believe it is leverage if we use it as such. This bill makes that leverage credible. I believe we will see results in China if we enact it.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous agreement, the minority leader is recognized for up to 5 minutes.

Mr. DOLE. Mr. President, let me indicate to my colleagues on both sides I think the vote will come a little before 7:45. So they will have that notice.

Mr. President, I think pretty much everything has been said in this debate. It has been a good debate. I might suggest that some of us on both sides of the issue go to China, sit down with the Chinese leaders, express our concerns, and we might be surprised of the impact it would have in that country and upon the leadership.

I think in the final analysis, this legislation will not be enacted this year. I think also the debate has made it clear that it should not be enacted this year. We do have legitimate concerns in China. We must pursue those concerns, and we are doing that, and I believe we are going to be doing it in a much more effective way because of the initiative undertaken by the distinguished Senator from Montana, myself, and 13 other Senators from both sides of the aisle.

We concluded that MFN is not the tool to advance our goals, but we concluded, too, that we do have tools for that purpose, and we ought to be using those tools much more aggressively. The President made clear in his response to our letter that he agrees, and he will pursue a more aggressive course, as he outlined in his letter.

So it boils down to this: The way to feel good in the short run is to vote for the pending legislation; the way to get something done in the long run is to get behind the Baucus-Dole initiative, to get behind the President's action plan, to get behind a really effective approach toward advancing our very real interests in China.

Mr. President, this legislation is rewriting the rules of the game. It says, in effect, let us have different rules for China than we do for the other countries of the Earth; let us punish China, but not speak a peep about the other human rights violators, or trade abusers, or weapons merchants around the world.

It is rewriting the rules in a second way. It says: Let us pile all of our concerns, all of our grievances, all of our goals on the back of MFN, and let it carry the full load.

Mr. President, I think it is time to vote, time to vote for a sensible and effective policy, a fair policy, a policy that will advance America's interest in China, and help the American people here at home.

In my view, the way to vote is to vote against the pending legislation. Let us pursue the outline in the President's letter, and let those of us who have legitimate differences and different opinions—same goal: We are concerned about human rights abuses, and we are concerned about the other things mentioned by my colleagues—pursue those together.

I believe that, in the long run, the best course is to follow the President's direction, make certain the President sticks to that course, and make certain the President becomes more aggressive in the areas outlined in his letter to Senator BAUCUS and others.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. Under the previous agreement, the majority leader is recognized for up to 10 minutes.

Mr. MITCHELL. Mr. President, I thank my colleagues for their patience and courtesy through this long debate, during which much has been said. Some of it has clarified the issues; some of it has confused the issues.

The most confusing and the least accurate thing that has been said about this bill is that it denies most-favored-nation trade status to China and will, therefore, isolate China. It does not deny MFN status to China. It will not isolate China. That is not the question here.

To the contrary, the bill renews China's MFN status and extends it for a full year. During that year, the bill gives to President Bush meaningful tools with which to engage China, not isolate it. There is no realistic possibility of the Chinese returning to the self-imposed isolation of previous decades. Its economic circumstances alone will prevent that from occurring.

And of equal importance, few people there, even within the highest levels of the Communist government, want to return to isolation. It will not happen, because it is not in their interest that it happen. All of the dire predictions and the hand wringing that has occurred during this debate is wrong and totally irrelevant. They are going to do what they have done, and that is to act in their national interest.

Extending MFN status for another year, with reasonable and realistic conditions to be met for further extension, is the logical and the moral way to engage the Chinese Government, to get them to change their practices and their policies.

Unconditional extension of MFN, by contrast, which is what the opponents of this bill want, despite all of the words to the contrary, sends to the Chinese Communist leaders, and to the people of China, a clear, unmistakable, unambiguous message: You have done nothing wrong. You must pay no price. There is no problem. Keep on trucking. And keep on trucking, they will, to us, as they have done.

Any Member of the Senate who thought that last year's $10 billion trade deficit with China was bad will soon wake up to the hangover of a $15 billion trade deficit this year. And according to the most recent projection, it will be $22 billion the year after that. When and how are Members of the Senate going to get the backbone to stand up and say: That is enough.

That is what they are doing to us. And that is what a vote against this bill tells them to keep on doing. And they are doing it by unfair manipulation, unfair trade practices and, in plain English, by cheating—cheating, robbing Americans of property rights that they have earned.

Did the Senators read the story on the front page of today's Washington Post about systematic, widespread cheating, organized and directed by the Chinese Government against the United States and against American workers?

How much evidence do Senators need? Well, do not take the Washington Post's word for it. Do not take my word for it. Take the word of the Bush administration, its own expert on international trade, the Deputy Assistant Secretary of Commerce for International Economic Policy, who came before the Senate and testified. I quote him:

> Over the last 2 years, we have observed a pronounced increase and proliferation in tariff and non-tariff barriers to imports that have effectively denied imported goods fair access to China's domestic market.

He went on to say:

> In fact, China's policies have made it increasingly difficult for U.S. firms to gain fair access to domestic markets.

He said, finally, that more disturbing than the substantial and growing United States trade deficit with China is the fact that the deficit reflects a decision by China to intensify protectionist measures as a way of managing imports.

Mr. President, those are the words of the Bush administration about China's trade practices. It defies logic; it defies common sense, that so many Senators are here working so hard to preserve a trade relationship that is so infected with illegal Chinese behavior and so detrimental to American interests.

Beyond trade, there are two other reasons why we should vote for this bill. One is the reckless behavior by the Chinese in the sale of nuclear technology and materials, ballistic missiles, and missile launchers, which were already well covered in this debate. I will not repeat it.

Finally, there is human rights. Mr. President, Americans and people the world over have been moved profoundly by many images in recent years. But I say to the Members of the Senate that no image has been more profoundly moving than that of one Chinese citizen standing before a line of tanks, risking his life, because he wanted freedom and democracy.

Who among us were not moved by that? Who among us do not want to encourage the people of China? And to those who say they do not really want us to rock the boat, the Chinese people do not want us to do this giving any conditions.

I will quote the words of the so-called China expert recently before the Senate Foreign Relations Committee. He said:

> You really don't need a China expert in order to understand the basic reactions of

> human beings under oppression. Just step back for a moment and ask yourselves this: Where in modern history have a people under repression ever said to the outside world, "Don't bring pressure on our oppressors"? Or "Just stand aside, let the diplomats talk, and don't cause trouble"? Andrei Sakharov didn't say that; Nelson Mandela didn't say that; Vaclav Havel didn't; Elie Wiesel didn't; the people who suffered under Manuel Noriega didn't; the Kurds in Iraq didn't. These voices represent different countries with different cultures suffering different kinds of repression. But their voice in response to repression is consistent: They say please do speak, do exert pressure. You should do it precisely because you are free to do it and we are not, and our common humanity is the only reason you should need. Why do we suppose that the Chinese people are different from all these other cases?

Mr. President, the Chinese people are not different from others. The universal desire for freedom, for the expression of individual rights, is undeniable. It existed among the Chinese there in Tiananmen Square, brave young students who risked their lives and some of them who lost them, murdered by their own government, the very government being defended here today in the Senate.

They had the courage to stand up nonviolently for democracy and freedom, and as a tangible expression of their courage, they built a paper model of the Statue of Liberty. In their holding that paper model up before it was crushed by the tanks of the Communist government, defended here today, they held up a tangible expression of their belief in what we Americans say about freedom and individual dignity.

They believed in our words, and the question now before the Senate is, Do we?

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Has third reading occurred?

The PRESIDING OFFICER. Yes.

Mr. MITCHELL. I now ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2212, the House companion bill; that all after the enacting clause be stricken, and the text of S. 1367, as amended, be substituted in lieu thereof, and the bill be deemed to have been read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, this will be the last vote this evening. Then tomorrow morning, there will be a vote on the cloture motion on the motion to proceed to the foreign aid authorization bill. I have not yet set the time. I will do that after consultation with the Republican leader.

That vote will be at 10:45 in the morning.

Mr. President, I thank my colleagues for their courtesy.

I yield the floor.

The PRESIDING OFFICER. The question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—55

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Byrd
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Ford
Fowler
Garn
Glenn
Gore
Graham
Harkin
Heflin
Helms
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Smith
Wallop
Wellstone
Wirth
Wofford

NAYS—44

Baucus
Bond
Breaux
Brown
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Dole
Domenici
Durenberger
Exon
Gorton
Gramm
Grassley
Hatch
Hatfield
Jeffords
Johnston
Kassebaum
Kasten
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Warner

NOT VOTING—1

Pryor

So, the bill (H.R. 2212), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, by an overwhelming majority in the House of Representatives, and by a clear majority in the Senate, both bodies of the Congress have expressed their disagreement with the policy toward China now being pursued by the administration. I hope that, above all else, the message conveyed by these votes will be heard in Beijing by the leaders of the Chinese Government as they contemplate policies and practices that they intend to continue in the coming months.

There was much disagreement expressed during this debate among Senators on how best to proceed to encourage change in those policies and practices. But there was no disagreement, none whatsoever, on the need for that change. Senator after Senator, of both parties, of both views on this particular bill, took pains to express disagreement with, concern about, contempt for the policies now being pursued by the Chinese Government. And we hope that that single message, above all others, will be heard by the Communist leaders of the Chinese Government.

Mr. President, I thank my colleagues for their cooperation and I am pleased now to yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, let me also not disagree with the distinguished majority leader. I hope the Chinese are listening, particularly the leaders. There is no doubt about it, this legislation is not going to become law. The vote has clearly indicated that, even though there is a majority voting in the affirmative, there is a bipartisan minority more than enough by 10 or 11 votes to sustain a veto. But I do believe the majority leader has made a point that ought to be pursued, and that was the very point we tried to make during the debate.

We may have differences but we want the President to be more aggressive at certain points, as we spelled out in our letter to the President of the United States, 14 of us, Democrats and Republicans. And I do not believe the Chinese leadership should take any great satisfaction because it appears now that the veto will be sustained. I still think very seriously it might be in the interests of this country, and there might be a clear understanding in the People's Republic of China, if a bipartisan group of United States Senators went to Beijing and met with the leadership and spelled out some of the concerns we have. They are real. They are not going to disappear. And I believe the outcome is correct.

Do not misunderstand me. I think the outcome will be that this bill, if it is taken up in the House, whatever may happen, will be vetoed and the veto will be sustained. But I do not disagree with the major thrust of the statement of the majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, will the majority leader yield for a question?

Mr. MITCHELL. Yes, certainly.

Mr. SARBANES. As I understand it, the motion to proceed to the foreign assistance authorization bill will be before the Senate tomorrow morning. A vote will take place on a cloture motion on that motion to proceed. Is that correct?

Mr. MITCHELL. That is correct.

Mr. SARBANES. There will be a half an hour of debate before that vote takes place?

Mr. MITCHELL. That is correct.

Mr. SARBANES. I will address the issue at greater length, obviously, in the morning. But I simply want to say I very much hope to be able to proceed to the bill. I know there are some controversial items in the bill and I assume others will be raised, but this is, after all, the basic authorization bill for the entire foreign assistance program and it certainly ought to be considered on the floor of the Senate and debated and voted upon and taken up by the membership.

So I very much hope the cloture motion will carry and that we will be able, then, to move beyond simply the motion to proceed and have the legislation before us on the floor of the Senate and be able to consider it in the regular order of business.

The administration is interested in this bill. They have difficulties with some provisions of it, as do some Members, but in the overall, there are very good provisions in this legislation developed on a bipartisan basis within the committee and developed in, as it were, conjunction or working with the administration.

I very much hope that on tomorrow, we will be able to move forward and at least get the legislation before the Senate and consider it in the proper and due course.

Mr. DOLE. Mr. President, will the majority leader yield so I might respond to the Senator from Maryland?

Mr. MITCHELL. Certainly, yes.

Mr. DOLE. Mr. President, first, I ask unanimous consent to print in the RECORD a letter from Mr. Eagleburger with reference to this bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, DC.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: As the Senate approaches its consideration of the International Security and Economic Cooperation Act of 1991, I want to express the Administration's views on the bill as it has emerged from the Foreign Relations Committee.

The Committee measure is a considerable improvement over its House-passed counterpart. Although the legislation does not meet the goals for reforming our foreign assistance programs as outlined by the President in his letter of April 12, 1991, to the President of the Senate endorsing the Administration's proposed "International Cooperation Act of 1991," the Committee bill represents a positive first step toward meeting these reform objectives.

The Administration's commitment to the enactment of foreign aid reform legislation remains steadfast, and we applaud the Committee for its willingness to move forward. We strongly endorse the Committee's support for a variety of helpful provisions on reprogramming notifications, drawdowns, commitments of prior year military assistance funds, termination expenses, contracting, waiver and other authorities which will go a long way toward ensuring that foreign assistance may better serve the interests of the United States. In particular, we applaud the Committee for providing the authorization for the U.S. share of the IMF quota increase; recognizing the need to provide legislation which significantly modifies notification requirements including exemptions for meeting emergencies; increasing the applicable ceilings under sections 451 and 506 and updating the authority under section 533; authorizing assistance through NGOs in certain instances where prohibitions exist on the provision of direct aid; and providing satisfactory provisions to fund Support for Eastern European Democracy (SEED) programs.

Significant though these actions are, however, I must emphasize the Administration's strong opposition to several seriously objectionable portions of the bill. The most significant is the provision on Mexico City policy. It must be eliminated. The President has already indicated that inclusion of such a provision in a bill presented to him will trigger a veto.

Section 305 of the bill, the cargo preference provision, is also highly objectionable. It would establish drastic new restrictions on furnishing assistance from the ESF account. It would sharply reduce the usefulness of such assistance for achieving important foreign policy objectives and is fundamentally inconsistent with the objective of making foreign aid a more useful tool of foreign policy. Moreover, it would impose a costly penalty on producers of U.S. goods by decreasing the level of commercial exports to compensate for additional funds needed to pay higher U.S.-flag vessel transport costs. Should the final bill, when it is presented to the President, contain this provision in its present form, his senior advisers would recommend a veto.

In addition, we strongly believe that the Middle East arms control language needs to be eliminated or substantially modified. It is unnecessary in view of the initiative recently announced by the President. Issues of this type can only be addressed effectively through diplomatic channels. We do not believe it is helpful to attempt to resolve such issues through legislation.

We favor as well elimination of the business-as-usual approach to limiting military assistance for Turkey and linking it to funding for Greece. We based our FY-92 requests on best estimates of each country's very different, legitimate self-defense needs. To freeze U.S. military assistance to Turkey and Greece to maintain a 7:10 ratio ignores other critical military and political factors in the region.

We also favor significant modifications of several provisions, such as those under which FMF assistance would be all grant; those governing international narcotics control assistance (including more flexible authorities for furnishing narcotics-related assistance from other accounts and reform of the section 484 provision on title-to-aircraft); those contained in current section 620 and elsewhere regarding termination of assistance to countries; and the provisions on excess defense articles (to include the provision of lethal assistance); the provision on major non-NATO allies, and a number of provisions which raise constitutional concerns.

Additional concerns relate to provisions that would govern A.I.D. programs. Most notably, we believe consolidations of the development assistance accounts would contribute greatly to the effectiveness of our economic assistance. We also advocate the inclusion of provisions on the Enterprise for Americas Initiative that reflect the Administration's request. We disagree with the imposition of mandatory procedural requirements with respect to projects that have environmental impact statements, assessments or analyses. It is also our view that regional or country-specific provisions that would establish new conditions for (or limitations on) the provision of foreign aid should be eliminated.

We are disappointed that the Committee was not able to include several of the Administration's proposed initiatives. Most important in this regard, we regret that the Committee was also unable to provide language establishing a Democracy Contingency Fund (although we are still hopeful that acceptable language can be worked out for a floor amendment).

Lastly, we are disappointed that the Committee bill did not raise the threshold on reporting certain arms transfers. The value of the current thresholds, which were enacted in 1981, have been eroded by a decade of inflation.

In conclusion, I hope the Senate will delete the Mexico City provision and delete or modify the cargo preference provision, thereby avoiding a veto of the bill. I also hope the Senate can build on the Committee's work to ensure passage of a bill that will contribute materially to the efficiency of our foreign aid program, and that provisions are not adopted that detract from the Committee's commendable efforts.

Sincerely,

LAWRENCE S. EAGLEBURGER.

Mr. DOLE. Mr. President, the reason I printed this letter in the RECORD is so that Members may see it. It addresses some real concerns in the bill, but based on that letter indicating that certain things are not correct and a veto would be recommended, I think it is going to be possible to get cloture on a motion to proceed.

We have been working to receive a letter today, and it has arrived. There are concerns about the Mexico City policy, and also about cargo preference. There are other concerns in the bill, but these two were specifically addressed in the letter.

I say to the Senator from Maryland, I intend to vote for cloture on a motion to proceed. I hope there will be a majority. I know the Senator from Maryland and the Senator from Kentucky, Senator MCCONNELL, have been working for a number of years in an effort to pass this bill on the floor. We want to try to help if we can.

Mr. MITCHELL. Mr. President, if I might simply add that I too, intend to vote for cloture, and I hope most, if not all, of our colleagues will so we can proceed to this legislation.

If a Senator disagrees with one or another provision, of course, there is a process by which this disagreement can be expressed during debate on the bill. I thank my colleagues.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SPELLING INSPIRATION

Mr. PRESSLER. Mr. President, I would like to share with my colleagues an experience I had with an inspiring young man from South Dakota, Mr. Matthew Trask.

Matt is South Dakota's Spelling Bee Champion who represented our State in the National Spelling Bee competition here in Washington this past year. As you can see from the newspaper articles, which I will have printed in the RECORD following my remarks, young Matt has overcome obstacles and accomplished a great deal in his young career. But, what is most impressive about young Matt is not his amazing encyclopedic knowledge of the English language, not his very impressive reading list at the ripe old age of 12, and not even his accomplishments in State and national competitions. What is most memorable about Matt Trask is his incredible sense of purpose, his boundless enthusiasm, and his insatiable thirst for knowledge.

This is a young man who will go far in this world—mark my words. I was so impressed with Matt that I must confess one of my main reasons for speaking out on this outstanding young South Dakotan is so that 20 or 30 years from this date, when I am even grayer than I am today, I shall retrieve this prophetic speech and send it to a young leader who will have already left a considerable mark in this world.

This young man is bound for great things. It was just a real treat to visit with him. He represents the best of our youth and gives me great hope for our quality of leadership in the future.

Mr. President, I want to share with my colleagues correspondence I have had with Master Trask, and ask unanimous consent to include in the RECORD that correspondence, as well as newspaper articles providing some insight into his background. We are very proud of him in South Dakota and look forward with anticipation to his accomplishments in the decades ahead.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Rapid City (SD) Journal, May 30, 1991]

"WALKING DICTIONARY" LOSES BEE, WINS IN LIFE

(By Matthew King)

WASHINGTON.—When Matthew Trask walked to the microphone Wednesday to spell his first word in the 64th Annual Scripps Howard National Spelling Bee, he was not only the champion speller of western South Dakota, he was a champion in the battle for life.

Just walking to that microphone was a victory for the 12-year-old Elm Springs boy, who had to use crutches and an oxygen tank until he was 4 years old. Although he was born normal, by the time he was a year old, doctors at Children's Hospital in Denver weren't sure he would live to walking age.

Matt was what doctors called a "floppy baby" for lack of a better term, according to his mother, Rose Mary Trask. His problem was lack of muscle tone that affected his body and lungs. But the condition was never diagnosed further by the doctors in Denver or at the UCLA Medical Center in Los Angeles.

But today Matt is off all medication and, though he still walks awkwardly, he runs and jumps and even rides his pet horse, Dan, on his family's 8,000-acre Spanish Five Ranch north of Rapid City.

"Everything that he does just tickles us," his mother said in a telephone interview. "All of those things are like miracles."

The first word Matt spelled in Wednesday's competition was "lallation," which means defective pronunciation of the letter L. In the second round, he correctly spelled "drosophalist," which is a person who uses the vinegar fly in the study of genetics.

Finally, however, Matt met his match in the third round, when he was felled by "mesoseismal," relating to the center of an earthquake. By then more than 70 of the original 277 contestants had dropped out.

The remaining 165 students will compete until a grand champion triumphs this afternoon. The winner of the grueling bee will win $5,000, a trophy, a prize from Encyclopaedia Britannica and an appearance on ABC-TV's "Good Morning America."

Matt took the setback in stride. "I needed a Pepsi anyway," he said after leaving the stage. "So I had two. I knew the bell was going to ring on me sooner or later."

Matt made it to Washington by first winning a spelling contest at his school in Elm Springs, where he is one of only 18 students and has only one other classmate in the sixth grade.

He went on to win a regional contest, sponsored by the Rapid City Journal, in which he beat 40 other contestants.

"The first one at our school was harder than the one in Rapid City," Matt admitted. "I don't want to brag, but I've become the walking dictionary of the school."

He is accompanied in Washington by Patrick Stevens, a family friend from Faulkton, who is also in the city for the first time.

Matt's parents were unable to accompany him because his mother recently gave birth to a ninth child. Matt, the oldest, now has five brothers and three sisters.

The trip is his first to Washington and his first away from his parents, but he downplays his excitement.

"For some reason, I keep having this feeling that it's Pierre," he said.

Asked what he liked most about the trip so far, he answered, "Sitting around watching TV. But don't put that down."

His parents don't let him watch television at home, which accounts for the love of reading that he credits for his spelling prowess.

[From the Pennington County (SD) Courant, June 14, 1991]

SPELLING CHAMP RETURNS FROM WASHINGTON

O-P-O-S-S-U-M, who would think that a word like that could win you a trip to our nation's capital. Well for Matt Trask, 12, that is exactly what happened. Opossum was the word that Matt had to spell to win the West River Spelling Bee and to become South Dakota's representative to the National Spelling Bee in Washington, D.C.

Matt, a sixth grader at Elm Springs school, won the upper grades contest at Elm Springs which allowed him to compete in the West River Spelling Bee sponsored by the Rapid City Journal. Matt and four of his siblings attended home school until January of this year when they started attending Elm Springs. His mother, Rose Mary, laughs about the fact that Elm Springs went from a one teacher school to a two teacher school when the five Trask children went to school. Matt says that the home schooling helped him the most in the spelling competition.

Matt's parents are Pat and Rose Mary Trask of Elm Springs. He is the oldest of nine children ranging in age from barely a month old to 12 years of age.

Matt was accompanied to Washington, D.C. by a friend of the family, Pat Stevens, because Rose Mary was expecting their ninth child any day. The pair of travelers flew to Minneapolis and then on to Washington. Matt said the plane ride was kind of fun. Once they arrived in Washington they had a busy schedule. Matt got a special treat for Memorial Day this year. Because they were in Washington D.C. on Memorial Day, Pat and Matt took the opportunity to go observe the changing of the guard at Arlington National Cemetery. It was a special occasion because Vice President Dan Quayle was present to lay a wreath at the tomb of the unknown soldier.

The contestants for the Spelling Bee were housed, maybe I should say pampered, in the luxury of the Capitol Hilton. It was especially different to get an entire queen size bed to himself, when Matt is used to sharing a bedroom with his brothers. His family was rather stunned to hear that they had a television and a telephone in the bathroom, yes the bathroom, of their hotel room. "They had a television in the bathroom and in the main part of the room, as well as a refrigerator of candy, pop, fruit, that was provided by the hotel, but they didn't have a swimming pool in the building," laughed Rose Mary.

The National Spelling Bee was held in one of the ballrooms of the Capitol Hilton. Matt was pretty relaxed during the whole contest. As a matter of fact, he fell asleep seven times while sitting up on the stage. "I would wake up when they would ring the bell, then I would just fall back to sleep." Said Matt. Matt spelled two words correctly and missed his third word. You know I would print the words but I haven't the faintest idea how to say them, or what they mean, let alone spell them. Matt thinks that he did pretty well for his first time there. Some of the kids at the contest were there for the second or third time.

"Some of the places let the kids come back again, while others won't let them compete again," said Matt. There were 227 contestants from all over the United States, Canada, Mexico, Europe and the Virgin Islands, as well as from many other places. The students competing from Europe were military personnel children that flew over to compete. The grades allowed in the contest ranged from the fifth grade to the eighth grade. Matt said that there were only five fifth graders in the whole contest. His family commented on a cute girl from Mexico that Matt got to be good friends with. He really didn't have any comment on the subject, but he said that he met some really interesting people.

"Some of the kids' mothers and fathers were from different countries and had really funny names," says Matt. Matt was recognized as being rather special compared to the other 226 contestants. He came from the smallest school (18 students) and the largest family (11 members). Matt was also the only one there that was from a ranch and owned a horse. He laughed about how the one girl complained how small her school was because there were only 200 kids in the school.

The trip to Washington, D.C. wasn't all work and no play for Matt and his chaperone. They went touring the sites quite a bit while they were there. Some of the places they saw included Union Station, the Capitol, the Supreme Court building and his favorite place of all was the Smithsonian's Air and Space Museum. His one souvenir from his trip was a six-foot tall kite from the museum. With the South Dakota breezes we get everyday, he has gotten his kite up to about 1,000 feet so far.

Matt was also a special guest visitor to Senator Larry Pressler's office. He discussed a few spelling rules with the senator, as well as looking at Pressler's 7-inch-thick Random House Dictionary. This is how hard the words were that the contestants were spelling—Matt and Senator Pressler tried to find the words that he had to spell during the contest in the dictionary and they couldn't find them. After the visit Matt and Pat got to ride Senator Presslers' private subway back to the Capitol.

When asked if he would try again next year, Matt said he probably would. He has a list of words that they used at the national contest and hopes to study them throughout the year. He may have some competition though because his brothers and sisters now ask their mom to give them spelling words too. "I think God decides who goes on and who doesn't. After all if you get easy words you have a better chance of winning than if you get words you don't know how to spell," said Matt.

He represented South Dakota very well. Matt Trask is part of a pretty special family and their pride in his accomplishment is obvious when you speak with them. Congratulations to Matt on a good job and best of luck to him in the future.

U.S. Senate,
Washington, DC, June 28, 1991.

Mr. Matthew Trask,
Rural Route, Elms Springs, SD.

Dear Matt: I have done some checking on the word "mesoseismal." It has been an enlightening experience!

As you probably recall, we could not find the word in my own large Random House Dictionary, which contains 260,000 entries. Even the Senate Library could not find anything about the word! After searching various sources, I finally located the word in the Webster's Third New International Dictionary. Spelling Bee officials informed me that this dictionary was the one from which they took all of their words for the contest.

The definition of the word "mesoseismal" in this dictionary is, "of or relating to the center of an area of earthquake disturbance." Enclosed is a photocopy of some information about the word, which I received from the U.S. Geological Survey. According to the Glossary of Geology, the definition of the word is, "pertaining to the maximum destructive force of an earthquake." I will contact Spelling Bee officials about their selection of "mesoseismal." I will then get in touch with you when I receive a response from them.

Matt, once again I congratulate you on your performance in the competition. You were faced with a tough word and you did the best you could, and that is all one can ask for. It certainly was a pleasure to meet you and I hope you will have occasion to come to Washington and visit with me again.

Sincerely,

Larry Pressler,
U.S. Senator.

U.S. Senate,
Washington, DC, July 10, 1991.

Ms. Rita Rose,
1100 Central Trust Tower, Cincinnati, OH.

Dear Rita: Enclosed is a copy of my correspondence with Matthew Trask, who was South Dakota's contestant in the Scripps Howard National Spelling Bee competition on May 29th. He failed to accurately spell the word "mesoseismal" in the third round.

Matt was naturally disappointed; however, he was also very curious about the meaning of the word. We researched the word and could not find it in several dictionaries. It was also very difficult to find a precise definition of the word.

I am somewhat surprised about the Spelling Bee's selection of words that cannot be found in standard large dictionaries and other sources. I would appreciate any clarification you might be able to provide for me on the Spelling Bee's word selection procedures.

Thank you for your attention to this matter.

Sincerely,

Larry Pressler,
U.S. Senator.

SECOND BIENNIAL REVISION TO THE U.S. ARCTIC RESEARCH PLAN—MESSAGE FROM THE PRESIDENT—PM 64

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Pursuant to the provisions of the Arctic Research and Policy Act of 1984 (Public Law 98-373, section 109(a); 15 U.S.C. 4108(a)), I hereby transmit the second biennial revision (1992–93) to the United States Arctic Research Plan.

George Bush.

The White House, *July 23, 1991.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1992" (Rept. No. 102–115).

By Mr. BURDICK, from the Committee on Appropriations, with amendments:

H.R. 2698. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes (Rept. No. 102–116).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself, Mr. Cochran, Mr. Pryor, Mr. Boren, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Daschle, Mr. Baucus, Mr. Jeffords, Mr. Durenberger, Mr. Kohl, Mr. Wellstone, Mr. Levin, and Mr. Heflin):

S. 1527. A bill to amend the Agricultural Act of 1949 to establish a price support and production base system for the production of milk and products of milk that will increase producer prices and balance production with consumption of milk and products of milk, to establish a producer board to administer certain export enhancement, diversion and other milk inventory management programs, and to require increased solids content in fluid milk, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BINGAMAN (for himself, and Mr. Domenici):

S. 1528. A bill to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 1529. A bill to enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself, Mr. Inouye, Mr. Akaka, Mr. Murkowski, Mr. Burdick, Mr. Conrad, Mr. Daschle, Mr. DeConcini, Mr. Domenici, and Mr. Reid):

S. 1530. A bill to authorize the integration of employment, training and related services provided by Indian tribes; to the Select Committee on Indian Affairs.

By Mr. STEVENS:

S. 1531. A bill to authorize a certificate of documentation for the vessel LOGAN T; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM (for himself, Mr. McCain, Mr. Dodd, and Mr. Simon):

S. 1532. A bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BRYAN (for himself, Mr. Riegle, Mr. Graham, Mrs. Kassebaum, Mr. Cranston, Mr. Wirth, and Mr. Shelby):

S. 1533. A bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. COCHRAN, Mr. PRYOR, Mr. BOREN, Mr. HEFLIN, Mr. HARKIN, Mr. CONRAD, Mr. FOWLER, Mr. DASCHLE, Mr. BAUCUS, Mr. JEFFORDS, Mr. DURENBERGER, Mr. KOHL, Mr. WELLSTONE, and Mr. LEVIN):

S. 1527. A bill to amend the Agricultural Act of 1949 to establish a price support and production base system for the production of milk and products of milk that will increase producer prices and balance production with consumption of milk and products of milk, to establish a producer board to administer certain export enhancement, diversion and other milk inventory management programs, and to require increased solids content in fluid milk, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FAMILY DAIRY FARM PROTECTION ACT

Mr. WELLSTONE. Mr. President, this week our Agriculture Committee will consider legislation that will determine the future of an industry and the way of life that are basic to our agricultural economy but also to the soul of America. I am talking about family dairy farming. To maintain this country's family dairy industry, we in the Senate need to act quickly, before our August recess, if possible, to effect a change in Federal dairy policy that will make a difference, a difference to dairy farmers who are struggling when they receive a price that is less than what it cost them to produce the product.

That is why I am so pleased to cosponsor this legislation introduced by the chairman of the Agriculture Committee, the distinguished Senator from Vermont. The bill will establish a two-tier pricing system of dairy supply management and set the milk support price at $12.60 per hundredweight.

Mr. President, the administration has said that the current Dairy Program is working fine, and the administration has said that the President might veto a bill such as the one we are suggesting here. The administration has said that there is no crisis in the dairy industry. But, Mr. President, what we do here in Washington has to be rooted in the lives of the people we represent. It has to be based upon the reality of lives of people in our communities, including people in rural communities. I am joined today in the gallery by members of the Minnesota milk producers and many other dairy leaders. I think it is vitally important that all we have to do to understand that there is a crisis in capital letters with dairy farmers is to use our ears and our eyes and to go out and talk with people, talk to farmers, hardworking dairy farmers, good managers, sitting down in their kitchens adding up the figures trying to cash flow. There is simply no way they can do it. Talk to dairy farmers who try to convince their sons and daughters that there is no more honorable profession to go into than to be a farmer, to be a dairy farmer, to produce nutritious milk for people at affordable prices, and yet people do not get a decent price for their work.

In my State, fourth in the country in milk production, we have 15,500 dairy farmers with an average herd size of 50 cows. It is a family dairy industry. It is not a factory farm industry, and we want to keep it a family industry. Our dairy industry is efficient and it is innovative, and it produces a plentiful supply of pure wholesome milk at extremely reasonable prices, but it is also an industry in crisis. It is a crisis not only for dairy farmers themselves but for rural communities throughout the country because the health and vitality of our rural communities is not going to be based upon the size of the herds but the number of dairy farmers who live in those communities, who buy in those communities, who go to churches in those communities, who support the school systems and businesses in those communities.

I am afraid, as I speak here on the floor of the Senate, that in agriculture in our country we are about to go through a transition where all of agriculture will be dominated by giant conglomerates and we will not have any long era competitive sector. That is the family farm sector of agriculture. That will be a transition that we'll deeply regret and that is why we have to act now.

Mr. President, a month ago I received a copy of a resolution passed by the Minnesota State legislature. I would like the full text of this resolution entered into the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Mr. President, I will read the relevant whereas section and the key therefore section.

> Whereas, Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past 2 weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industry in our State;
>
> Therefore, be it resolved that the Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk support prices by $20.30 per hundredweight, an increase that will allow Minnesota producers to break even at the cost of production.

Mr. President, I hope we can respond appropriately to the pleas that are coming from my State and other agricultural States all around the country. Due to a drastic reduction in the prices paid to farmers for their milk during the past year, thousands of farmers are going out of business. In Minnesota, we have lost 300 dairy farms already this year. We will lose more if we do not change the course of policy. Federal dairy policy has allowed milk production and prices to fluctuate widely. This fluctuation has caused a tremendous amount of instability for producers and consumers but it has been especially bad for farmers. While retail prices for dairy farmers have gone down and while the price for farmers has been dramatically cut by 25 to 30 percent, for those of us who go to the grocery store, we have seen no such decrease.

The solution is a Federal policy that provides a decent living to hardworking family farmers producing needed milk. The average cost of production for milk in the United States is around $13 per hundredweight and yet farmers in my State are receiving less than $11 for the same hundredweight. We need a system that will match output to need and pay farmers a fair price.

There is widespread support around the country for a two-tier pricing method of supply management. Such a system will pay farmers a price that covers the cost of production up to their base amount and when farmers produce a surplus they will receive a less price for their overproduction.

Mr. President, I am a strong supporter of this piece of legislation.

I have some concerns, but those concerns are minor with what I think is accomplished by this piece of legislation introduced by the Senator from Vermont. I want to make it very clear that I believe the vitality of the dairy industry is important not only to my State's economic health and not only important to the economic health of agricultural States all across the country, but I think it is important if we are going to maintain viable rural communities. I think it is important if we are to protect the environment. I think it is important if we are to have diversity. I think it is important if we are to avoid more contration in the agricultural sector of our country. I think it is important if we are to continue to have family farmers who can produce wholesome milk at a decent price for consumers. I think it is important because it represents the very best of what we have been about as a nation. A two-tier program with a support price of $12.60 will revitalize an industry in crisis, and it can do so—and I am sure the Senator from Vermont will spell this out in fare more detail then I—without extra cost to taxpayers or burdensome consumer price increases. I hope we can move such a program through this Chamber. I hope we can do it before the August recess. I am very proud to cosponsor this piece of legislation introduced by the Senator from Vermont, Senator LEAHY.

I thank the Chair.

EXHIBIT 1

RESOLUTION 8

Whereas, the health of Minnesota's dairy industry, which is now in crisis, is key to the economic well-being of the state of Minnesota; and

Whereas, agriculture is the number one revenue-producing industry in Minnesota, and the dairy industry produces the largest share of this revenue; and

Whereas, the current milk price is the lowest farmers have received since September, 1978; and

Whereas, the present milk support price of $10.10 per hundredweight fails to meet dairy farmers' minimum costs of production; and

Whereas, Minnesota has lost 10,000 dairy farmers since 1980, has lost 40 more in the past two weeks, and in the face of the present crisis will continue to lose dairy farmers at an alarming rate, threatening the very existence of the dairy industy in the state; and

Whereas, the income of dairy farmers will be further reduced by an assessment of five cent per hundredweight on nearly ten billion pounds of Minnesota milk in 1991, which is just the latest in a continuing string of increases in fees and assessments paid by dairy farmer; and

Whereas, federal milk marketing orders are discriminatory and skewed to give unfair advantage to large corporate farms of the West and South, suppressing milk prices in the Upper Midwest and inflating prices by several dollars per hundredweight in non-traditional dairy areas; and

Whereas, the dairy farmer has taken more substantial cuts in federal support than any other sector of our economy and agriculture itself, starting with repeal of the April, 1981, six-month price support adjustment for inflation and a continuous series of cuts and reductions in the price support base and fee and assessment increases paid by dairy farmers on milk production in every decision made by the President and Congress; and

Whereas, the Minnesota House and Senate and the Minnesota Governor are committed to preserving the family farm structure and Minnesota's small dairy farmers, now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That it urges the President, Congress, and the Secretary of Agriculture to immediately respond to the crisis in the Midwest dairy industry by reopening the dairy provisions of the 1990 federal farm law to insure that Minnesota and Midwest dairy farmers receive cost of production plus a reasonable profit for their products; be it further

Resolved, That the United States Secretary of Agriculture should immediately take action to alleviate the Minnesota and Midwestern dairy crisis by modifying and changing the federal milk marketing order system so as to eliminate the discriminatory provisions from the orders that pay more for milk to Western and Southern producers than paid to Midwest dairy farmers and encourage increased dairy production in markets distant from the Upper Midwest, depressing prices for Minnesota producers; be it further

Resolved, That Congress take immediate action to alleviate the crisis in the Midwest dairy industry by increasing milk price supports by $2.30 per hundredweight, an increase that will allow Midwest producers to break even on costs of production; be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, the Chair of the House of Representatives Committee on Agriculture, the Chair of the Dairy Division of the House of Representatives Committee on Agriculture, Minnesota's Senators and Representatives in Congress, and the United States Secretary of Agriculture.

Mr. LEAHY. Mr. President, I thank the Senator from Minnesota for both his statement and his support. I know how deeply he cares about this issue.

It is no secret that our Nation's dairy farmers are facing one of their worst crises in history.

Between last summer and early this year, the price our farmers receive for their milk has dropped 25 percent—the lowest its been since 1978. Many have lost thousands of dollars in income. Some have been forced to apply for food stamps just to feed their families.

In virtually every State of the country—from Vermont to California—family farmers are in danger of losing their farms. Even USDA admits that dairy farmers' revenues will drop by $3 billion in 1991 alone.

The time for talk is past. Dairy farmers need action, and they need it now. They need a program that stabilizes the supply of milk and provides them with a decent income. They need supply management.

Today, Senator JEFFORDS and I are introducing legislation to establish a three-tier supply management program. This bill has the support of a majority of the Senate Agriculture Committee and is a version of the proposal Senator JEFFORDS and I submitted to USDA several months ago.

This legislation could put an additional $25,000 in the pocket of the average dairy farmer and pay that farmer as high as $15.50/hundredweight for his milk.

But with the strong opposition of the administration, I do not know what the fate of this legislation will be.

Last March, the administration, killed emergency dairy relief legislation that passed the Senate on a 60-40 vote.

More recently, after months of study, the administration announced it wants current law—not supply management. What they are saying is they do not want to help the dairy farmers in time of recession. They want supply management by bankruptcy. It is as simple as that. We do not want to give you a plan that will keep you in business, we do not want to give you a plan that is going to help you, but the administration says we will only make this work by the more bankruptcies.

At a time of a deepening recession throughout rural America, and certainly in rural Vermont, to say the only way we will help is to bankrupt more farmers makes no sense at all. It is cruel. It is wrong. And this legislation would stop that if only the administration would help.

But the administration has stepped up its attack. Last week, Secretary Madigan labeled the House Agriculture Committee supply management bill a "Mickey Mouse" proposal. He wants President Bush to veto any legislation that has a mandatory two-tier program and increases the price support level.

The administration has also cooked up new numbers on the impact dairy relief legislation will have on Federal nutrition programs. It is ironic that the same administration that so often opposes more money for these critical programs is using nutrition as an excuse to kill needed help for family dairy farmers.

Where was the administration all the time when I was fighting to get money for WIC, school lunch, and school breakfast, senior feeding programs? The administration says there is not enough money for it. The administration that would not help us on these programs now says, oh my gosh, we cannot help the dairy farmers because we are out there to protect the nutrition programs. That hypocrisy does not stand and nobody really believes it.

Some argue that dairy farmers do not need our help. Let the strongest survive, they say. In fact, this was the basis of the administration's argument last year during the farm bill debate, when it tried to cut the dairy support price in half, to $5.10/hundredweight—an effort we were able to block.

Today, I call upon the dairy farmers of America to let the administration know you support supply management. If dairy farmers stand united, we will have a chance of getting a bill passed by Congress and signed into law by the President.

In our society, we judge few things solely in dollars and cents. Some things simply cost because of the benefits received. Our automobiles cost more because of seatbelts and other safety standards. Our electricity costs more because the American public wants clean air. Our municipal water costs more, because of the efforts we must take to keep it clean.

There is also a cost in failing to pass supply management legislation—we will lose our family farmer.

These farmers are hard-working and industrious people. But they face the constant threats of rising prices, declining profits; but even more importantly, the dramatic boom or bust swings in the marketplace.

The giant corporate farms, the giant impersonal corporate farms, can make it through the lean times. They can handle these swings, these boom and bust. But our family farmers struggle to survive. The college tuition comes due. The bills for the doctor and the dentist come due. The electric bills, the mortgage and all come due. I have sat in the kitchens and in the living rooms and in the milksheds of these farmers in my own State.

I know what honest people they are. I know how they agonize whether they are going to be able to pay their bills after working 80, 90 hours a week. I know that they are not asking for a handout, but they are asking for some kind of help that will smooth out these booms and busts, so when the bills come due, they can be paid, so the work they do to provide food for us will be there.

When our country was founded, we were an agrarian Nation made up of small farms. In the past 200 years, large corporate farms have come to dominate our landscape, but some of our past—the family farmer—still survives.

The crisis facing dairy farmers is real. It hits those who live far from Washington, DC—people who spend their lives milking cows, not holding press conferences. These people need our help. Rejecting supply management legislation will only ensure their demise.

It is true that because of supply management, a gallon of milk could cost a few pennies more. But I think most Americans, once they understand the full issue, would be willing to pay a few pennies more for a gallon of milk to save their neighbors—our family farmers.

Mr. President, farming made this country very great long before there were computers. Family farmers keep the diversity, and the character, and nature of rural America. To those of us who come from rural America, as I do, those of us who lived all our life in rural America, as I have, we know what it means. Sometimes it is hard to come here to Washington to explain to people whose life has been in an urban setting what rural America really is. I was born in Vermont; I was raised in rural America. I live today in a community of just over 1,000 people. We know our neighbors, our friends, and we know how dependable they are. We do not want this to change.

Mr. President, I introduce on behalf of myself, Mr. COCHRAN, Mr. PRYOR, Mr. BOREN, Mr. HARKIN, Mr. CONRAD, Mr. FOWLER, Mr. DASCHLE, Mr. BAUCUS, Mr. JEFFORDS, Mr. DURENBERGER, Mr. KOHL, Mr. WELLSTONE, and Mr. LEVIN an act to amend the Agriculture Act of 1949 involving dairy, and that it be in order for that to be introduced and appropriately referred.

The PRESIDING OFFICER. The Senator has that right.

Mr. JEFFORDS. Will the senior Senator from Vermont yield to me for a moment?

Mr. LEAHY. I would be proud and honored to yield to the distinguished Senator from Vermont, my good friend, Senator JEFFORDS.

Mr. JEFFORDS. Mr. President, I want to commend the senior Senator from my great State for what I consider is a very important first step forward in moving the dairy industry into the future. What it really is, is a bill to stabilize and privatize. It will stabilize, first, by ensuring that our farmers will receive an adequate income over the course of the next few years, and at the same time, it will take a move to allow the dairy farmers to do what has to be done now for many reasons, to take over the industry, to learn how to take over the industry and to move forward with that important step forward.

The dairy industry is one of the most, if not the most, productive industries in America. The benefits it has passed on to the people of this country deserve to be commended. Yet, it is always the one, because of its visibility, because there is not a family in America that does not go to the store to get dairy products every day, and is the one that everyone kind of looks at and sometimes picks upon, and necessarily so.

But what we have to do is recognize that, for the future, there will be tremendous markets opening up, and as we move and try to work with GATT, we must have a program that can live and work with GATT.

This bill of Senator LEAHY's, supported by myself and others, will help us move in that direction. There are provisions that will help us to export, for instance, our wonderful dairy cows, to help the rest of the world, especially the Third World, improve their own nutrition. It has provisions to improve the nutrition of people in this country, which will not only help in the sense of providing more protein and, as some desire, less fat, but it will also help keep another several thousand more dairy farmers in business to provide that extra protein.

Thus, I want to say that I strongly recommend to this body this step forward. It creates a national dairy inventory management board to look to how the dairy industry itself can manage what the USDA has not done or taken any real efforts to figure out how to manage that inventory better, how to export, whether it be the cattle or the product, how to break into the markets of the world.

We have, outside of New Zealand, the lowest cost of producing, and we ought to therefore have the best opportunity to enhance the lives of billions of people in this world through exporting our technology, as well as our products, and at the same time keeping this country on a move toward a more nutritional and better society.

This proposed legislation is an important starting point for a number of fundamental changes in dairy policy that I believe are clearly in order.

First, it is vitally important that the dairy industry start to assume greater responsibility in running the dairy support program. I have strongly felt this way for some time and have stated so in the past on a number of occasions. The establishment of a National Dairy Inventory Management Board in this legislation is a good start in this direction.

A National Dairy Board with strong producer representation could move aggressively and creatively to develop export markets for both dairy products and dairy cattle. At the same time a privately run dairy board could function more effectively in quickly disposing of excess dairy products thereby keeping farm milk prices strong and stable. Stable farm milk prices are also beneficial to the consumer, since it is the wide swing in farm milk prices which cause consumer retail prices to increase. This is particularly harmful to those individuals who take part in the Federal domestic nutrition programs since high milk prices severly restrict the funding availability to purchase dairy products, forcing more of the participants off of these programs.

In the next few years the National Dairy Board should take over more and more of the current Commodity Credit Corporation responsibilities in landing in milk product surpluses. There is a provision in this legislation which would examine the effectiveness of the Dairy Board over the next 3 years and which would also come up with the ways that the Board could take over a much greater operational share of the current Federal dairy support program. This provision would also take into account the consistency of the activities of the Board with the General Agreement on Tariffs and Trade negotiations. In addition this provision would also examine how the National Dairy Promotion and Research Board could coordinate its activities more closely with the National Dairy Board.

I am also pleased that this legislation expands our dairy export capability by adding the export of dairy heifers to USDA's Dairy Export Enhancement Program [DEEP]. There is a great demand internationally for U.S. dairy livestock. This heifer export program would not only provide an excellent outlet for exports by our dairy breed associations, it would also help to reduce potential milk over production by decreasing the total number of future dairy cows.

Last, I would also like to comment on the importance of implementing new national standards of identity for milk which would increase the milk solids not fat in whole milk, low fat and skim milk similar to those in use in California. This would appreciably increase nutritional value by as much as 27 percent and at the same time it would substantially increase the utilization of milk solids—particularly protein—and not fat.

All of those provisions will help to make the dairy industry more vaiable and economically competitive in the future.

So I commend the senior Senator for introducing the bill.

Mr. President, with that, I yield the floor.

Mr. LEAHY. If the Senator will yield one moment, I wish to thank the distinguished Senator from Vermont for his comments. He has been in many, many meetings with me in Vermont plus numerous meetings of his own throughout the State. Senator JEFFORDS, both during his term in the Senate but also in his years in the House, was a leader in this whole area of dairy legislation. I appreciate very much his expertise in this matter.

I yield the floor.

Mr. KOHL. Mr. President, several of my colleagues have come to the floor this morning to speak on the introduction of the Family Dairy Farm Protection Act. As a cosponsor of this bill, I would like to take a moment to explain to my colleagues why many of us are seeking changes to the dairy program this year.

During last year's debate on the 1990 farm bill, we came to an impasse on Federal dairy policy. The administration proposed to solve the problem of surplus milk production by dropping the dairy price support. A solution of supply management through attrition. Put enough dairy farmers out of business and the milk surplus will disappear.

Thankfully, the administration's proposal was not warmly welcomed in Congress. Yet the administration's refusal to consider any kind of meaningful supply management program for the dairy industry made it virtually impossible to enact the type of diary program that many of us believe is necessary. A program that offers some degree of market and price stability for this country's dairy farmers.

As a result, the 1990 farm bill did not address the issue of supply management. Instead, USDA was directed to solicit and analyze supply management proposals from the dairy industry, and come back to Congress with a recommendation on a supply management program this year.

Now, Mr. President, USDA received almost 100 supply management proposals. Some were mandatory programs; some were voluntary. Some were permanent; some were designed as standby programs.

One would have thought that USDA could have found a supply management program to its liking out of all of these proposals. But USDA came back with a recommendation that no changes to the current program are necessary.

What I find so discouraging about this recommendation—or lack thereof—is that it was made on June 14 of this year. It was made when milk prices were at their lowest level since 1978. It was made after 60 Members of this body went on record in support of a temporary price increase for dairy farmers. It was made at a time when there is virtually no disagreement that changes to the dairy program are needed.

As a result, the National Milk Producers Federation—a national association of dairy cooperatives—came together and forged a consensus on recommended changes to the dairy program. That consensus is the basis of the Family Dairy Farm Protection Act of 1991.

Now I have to say that I do not agree with everything in this bill. I have a fundamental disagreement with exempting certain regions of the country from any supply management program. We have a national market for milk. And we have a national surplus. And, in my opinion, all regions—and all dairy farmers—should be held accountable for that surplus.

But I agree with the fundamental principles of this bill. I recognize that it represents a consensus that involved compromise from all regions of the country. And, more importantly, I am committed to seeing changes to the dairy program enacted this year. And this bill, the Family Dairy Farm Protection Act, represents our greatest chance of succeeding in this effort. For that reason I am a cosponsor of this legislation.

I am pleased to learn that the Agriculture Committee plans to act on this bill this week. And I want to offer my thanks to the distinguished chairman of the Agriculture Committee, Senator LEAHY, for his continued commitment to seeking changes in the dairy program this year. And I hope that we can bring this legislation to the floor before the August recess.

But I am not optimistic. I am not optimistic because the administration has threatened to veto a similar bill that was recently reported by the House Agriculture Committee. And that, Mr. President, leads me to my conclusion here this morning.

I disagree with this administration's position on dairy policy. I am discouraged with this administration's refusal to consider any form of supply management program for the dairy industry. And I am tired of being told that Congress should not propose dairy program changes that the administration will not support.

Frankly, Mr. President, I do not know what changes—if any—the administration will support. Because even a compromise offered in the House Agriculture Committee was not embraced by USDA. And frankly, Mr. President, I no longer care. If the administration refuses to engage in serious negotiations, then I believe we should press ahead without them.

I do not want to send a dairy bill to the President that will be vetoed. Because I do not want a partisan fight, I want a solution. And I want a solution this year. But if getting that solution means forcing the issue with the administration, then so so be it.

So, for that reason, I urge my colleagues on the Agriculture Committee to move on this legislation as soon as possible, so that we can bring this bill to the floor within the next 2 weeks.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, I am pleased to stand today to cosponsor legislation to strengthen our current dairy program. I want to compliment the hard work of Chairman LEAHY in introducing this important legislation.

Mr. President, I also want to commend Senator KOHL from Wisconsin who, while not a member of the Agriculture Committee, has devoted considerable time and effort to helping us write this legislation.

Most Americans are not aware that dairy prices have hit their lowest point in 13 years. Few Americans know that dairy farmers all over the country are struggling to keep their operations going on the same price they received in 1977.

It is ironic that at this time of crisis for the American dairy industry, the administration is claiming that the Government's present dairy program is functioning well. A USDA study released June 14, 1991, States that "no new plan to help dairy farmers and prevent over production is better than the Government's current program."

That study was a waste of the Government's money. It is simply not the case that the current dairy program is working. In real dollars, milk producers are receiving about one-half of what they were only 14 years ago. To be able to make a living at that price, dairy farmers are expected to increase productivity at over 5 percent per year for 14 years—more than three times the rate of productivity gain for the United States.

In my State of North Dakota, we are losing one dairy farmer daily—not monthly, not weekly, but daily. One dairy farmer per day is going out of business in my State as a result of poor dairy prices and high operating costs. In 1985, there were 3,400 dairy farmers in North Dakota. By 1988, that number had dropped to 2,500. Today, Mr. President, there are just over 1,500 dairy farmers in North Dakota.

Mr. President, we are liquidating an industry. More important, we are liquidating a way of life, I think we need to ask ourselves, is that really what we want the policy of the United States to be? Do we want to liquidate a way of life in this country?

Many people have argued that dairy farmers should not get an increase in price to compensate for inflation or even part of inflation because it would be unfair to consumers. In fact, some of that argument comes from the distinguished news media. I note with some interest, Mr. President, that in 1977 you could buy a Washington Post for 15 cents and the Sunday addition for 20 cents, and dairy farmers received about $10 per hundredweight for their milk. Today dairy producers still get about $10 per hundredweight for their milk, but it costs 25 cents per day for the Washington Post and $1.25 for the Sunday Post. The Washington Post had enough economic power to beat inflation—their prices have risen by 37 percent more than the rate of inflation since 1977.

This bill provides that dairy producers receive an increase equal to just 25 percent of the rate of inflation since 1977—that is not asking too much, not 25 percent more than inflation—just 25 percent of inflation.

We all know that improved animal husbandry techniques have led to productivity gains. However, even allowing for productivity growth of 2 percent per year would still mean that milk should be about $17 per hundredweight today, not $10.

Mr. President, our bankrupt dairy farmers are not a sign of inefficiency. The bankruptcies are a sign of a dairy program that is not helping the efficient producers it was designed to assist.

For some time now the dairy program has been operating to the detriment of dairy producers. Gross producer income in real dollars is down 15 percent since 1977 while output is up 25 percent. Consumers are getting more milk from farmers at a lower total cost; but those farmers are going bankrupt. We need a positive response from USDA, not a do-nothing approach.

Today's dairy farmers are in trouble because our dairy program is not assuring them the price they need to keep operating. Dairy farmers are not asking for the Sun and the Moon. The bill proposed by the dairy cooperatives, and embodied in Senator LEAHY's bill, would mean that dairy farmers would receive a pay raise of about 1.5 percent per year for the past 14 years when inflation averaged 5.2 percent per year. In other words, even with the improved price in the Leahy bill, dairy producers are expected to increase their productivity by 3.7 percent per year to survive. The administration and some others apparently feel that the dairy farmer needs no increase in pay after 14 years. How many other industries are expected to make such rapid gains in productivity to stay in business?

The American consumer pays a lower percent of his income for food than do the consumers of any other country in the world—about 10 percent. The American consumer pays so little because our farm programs have worked to the benefit of our consumers.

I have one strong reservation about this legislation. While USDA and other analysts agree that the legislation will have no long-term effects on the cattle industry, there is an impact in the first few months of implementation of a two-tier approach. I appreciate Chairman LEAHY's willingness to work with me and other members of the committee to add language to the bill to minimize the effects of implementation on the cattle industry. I will be asking for an assessment of the revised bill's impact on the cattle industry. In addition, I will be looking at additional amendments to further minimize the impact on the cattle industry. Before I vote for final passage of the bill, I must be convinced that as much as possible has been done to minimize the effects on the cattle industry.

I am also concerned that the new legislation will encourage dairymen to produce milk to build production history. I will have an amendment to minimize the incentive to build production history.

Let me close by stating once again that I am pleased to support this legislation with the above noted reservations. I am committed to developing a workable improvement in our dairy program.

Mr. DASCHLE. Mr. President, the Nation's dairy farmers are now facing the worst economic situation they have experienced in many years. Unless something is done soon, it is likely to get much worse. The dairy legislation being introduced by Senator LEAHY today, entitled the Family Dairy Farm Protection Act, is designed not only to address the current situation, but to return stability to the industry for the long term. This legislation incorporates some of the key principles of the National Dairy Act, which I introduced several weeks ago.

Prices for dairy producers have collapsed by 30 percent. Dairy farmers across the nation are leaving the farm as a result of continued losses and increasing debt. Worse yet, recent indications from the administration are that USDA plans to do nothing to address this crisis. In fact, President Bush has gone as far as to suggest he will veto any bill that differs significantly from the current program.

The problem with that head-in-the-sand approach is that the current dairy program has proven to be inadequate. When support prices are high, producers respond with increased production that causes large surpluses and high government costs. When the support price is too low, as is currently the case, large numbers of producers are forced out of business, and the market experiences dramatic price swings.

We need to adopt a program that will keep people on the farm, contain government costs at present levels, and provide price stability for both consumers and producers. The two-tier price approach, which was included in my earlier bill and is a key element of the Leahy legislation, is the only policy option that satisfies all of these criteria. The first tier price will be paid for milk produced within a producer's marketing base. A lower, second-tier price, will be paid for all milk produced above a producer's marketing base. While some producer flexibility may be lost under such a system, many efficient producers who are being forced out of business have found that the current system offers them only one choice—quit, or lose everything.

The most ironic statement to come out of USDA in years is that if efforts are taken to increase dairy prices, consumer prices will increase correspondingly. If anything positive has come out of the dairy price crisis, it is that consumers are beginning to realize that low prices on the farm do not necessarily translate into lower retail prices. Prices to dairy farmers for their product have dropped by nearly 30 percent, yet the price of dairy products in the Nation's grocery stores has hardly budged a penny.

This is the reality that people have to grasp if we are to hope for success in designing a dairy policy that will keep families on the farm. We must realize that a strong farm program is in the Nation's own best interest. If we continue to allow the needless sacrifice of our farmers, consumer prices will remain high while a host of new, costly problems are created in rural communities.

In the past, the cattle industry has been generally skeptical of reforms in dairy policy because of the potential effects reform might have on the cattle market. This case is not an exception. The beef industry is worried that a dairy program that limits the amount of milk a producer can market will result in increased numbers of dairy cattle being slaughtered, thereby putting downward pressure on cattle prices.

I am very sensitive to this concern. Any dairy program I support will ultimately have to address this concern by ensuring that any increased dairy cow marketing will be spread out over a period of time in order to minimize short-term effects on the cattle market. In the long run, a two-tier dairy program will prove to be beneficial to the beef industry by ensuring an orderly entry of dairy cattle to the slaughter market. Without a dairy reform package that returns stability to the industry, beef producers will have to continue to face the effects of periodic cycles of heavy culling in the dairy industry that results from wild fluctuations in milk prices.

I want to stress that the work being done on the dairy program should not be viewed in isolation, but as one piece of a puzzle. One of the reasons I opposed the 1990 farm bill was because it did not employ sufficient mechanisms to maintain prices. Today, we can see the effect of this omission in both grain and dairy prices. As we debate dairy policy, we must not forget the lessons of the 1990 farm bill. Failure to take a strong stand now and get a fair program for the Nation's dairy producers would be a disturbing omen for the Nation's other agricultural producers.

Time and again, both in-Washington and when I am home, I hear from proud, hard-working, efficient farmers that it is not a handout they are after—just a chance. Congress must design and enact dairy legislation that gives producers a chance. It will not be an easy task, but, for the future of rural America and other farm programs, we really do not have any other choice.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1528. A bill to establish the Mimbres Culture National Monument and to establish an archeological protection system for Mimbres sites in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

MIMBRES CULTURE NATIONAL MONUMENT ESTABLISHMENT ACT

Mr. BINGAMAN. Mr. President, today I am introducing together with my colleague, Senator DOMENICI, an important piece of legislation for our State and I believe for the Nation, legislation entitled the Mimbres Culture National Monument Establishment Act of 1991.

This legislation is intended to create a protection system for Mimbres sites throughout southwestern New Mexico.

The measure follows the enactment of the National Mimbres Culture Study Act of 1988. The act directed the Secretary of the Interior to analyze the significance of Mimbres culture, to identify sites appropriate for understanding and interpreting the culture, to recommend preserving known Mimbres resources located in and around Silver City, NM, and to outline the development of a facility that will allow for public education and understanding of this important culture resource.

The National Park Service study is complete. It is now time to introduce legislation to implement many of the study's recommendations. Creating a national monument will recognize the international significance of the cultural resource properties associated with the Mimbres culture and would protect and interpret these resources for the benefit and the enjoyment of present and future generations.

Mr. President, I would just point out to the Senate that this is legislation that was introduced in the last Congress. At the time it was introduced, there were objections raised by landowners and by others in the community. Objections and concerns were raised about the amount of land that the Federal Government was proposing to acquire, concerns were raised about water rights that people felt or feared might be threatened, concerns were raised that the rural way of life which many people have moved to southwestern New Mexico to enjoy might be threatened by this legislation.

In response to those concerns, I have met with many people in this area, in southwestern New Mexico, and in my home town of Silver City, and along the Mimbres River and the Gila River.

My colleague, Senator DOMENICI, I know has also met with many of our constituents there to hear their concerns and try to be responsive to those.

I am very pleased to report that the legislation we are introducing today accommodates those concerns to the greatest extent that we can. The legislation does reduce the amount of land the Federal Government will acquire. It makes it very clear that water rights are not to be disturbed, private water rights. It makes it very clear that we are trying to develop a monument, provide the protection for these sites, provide the interpretation and the ability of people to understand the significance of this culture resources with the least possible interference with activities as they now exists in that area of our State.

Mr. President, I am very pleased that my colleague, Senator DOMENICI, has taken the personal interest in this that he has. I know that he spent a substantial amount of time not only visiting some of the sites but talking with local people there, and I am very pleased that he has found changes that could be made in the legislation which I was very pleased to agree to that will accommodate his concerns and the concerns of those that he met with.

So, Mr. President, I commend this legislation to the full Senate, and I hope that the full Senate will support me and Senator DOMENICI in the enactment of this legislation.

Mr. President, I rise today to introduce legislation to establish the Mimbres Culture National Monument and to create a protection system for Mimbres sites in southwestern New Mexico. I am pleased to be joined today by my distinguished colleague from New Mexico, Senator DOMENICI.

This measure follows the enactment of the National Mimbres Culture Study Act of 1988, which I introduced. The act directed the Secretary of the Interior to analyze the significance of the Mimbres culture, to identify sites appropriate for understanding and interpreting the culture, to recommend preserving known Mimbres resources located in and around Silver City, NM, and to outline the development of a facility that would allow for public education and enjoyment.

The National Park Service study is complete and it is now time to introduce legislation to implement many of the study's recommendations. Creating a new national monument would recognize the international significance of the culture resource properties associated with the Mimbres culture, and would protect and interpret these resources for the benefit and enjoyment of present and future generations.

My home State of New Mexico is rich in cultural resources. People have lived there for at least 11,000 years. Three great civilizations—the Anasazi, the Hohokam, and the Mogollon—flourished in the southwest region. Each of these cultures expressed a particular adaptation to their specific environment.

The most significant expression of the Mogollon culture was left by those who are known today as the Mimbres people. The origin and demise of the Mimbres tradition are not fully understood; however, we do know that the Mimbres people lived between A.D. 200 and 1150.

The region occupied by the Mimbres people extended from southwestern New Mexico into southeastern Arizona and the northern Chihuahua State of Mexico. Today, many of the Mimbres sites are in the river valleys of Mimbres, Gila, and San Francisco that surround present day Silver City, NM.

Originally, the Mimbres people lived as nomadic hunters and gatherers. After A.D. 200, they began to build agricultural villages consisting of a few hundred people. They supplemented their farming with hunting and foraging. They excelled in agricultural development which included the creation of sophisticated stream diversion and canal irrigation systems.

Semi-subterranean pithouses were replaced around A.D. 1000 with masonry villages, achieving levels of population density unknown by other contemporary southwestern societies. Some of the pueblos built during the later Mimbres period of occupation are among the largest in the Southwest. We are only now becoming truly aware of the significance of the large pueblos and extensive irrigation systems associated with the Mimbres tradition. The Mimbres peoples' successful adaptation to their semi-arid environment could well hold lessons for us today.

The Mimbres tradition is best known for the development of an extraordinary decorated pottery characterized by striking black-on-white painted motifs. Mimbres pottery went through a series of well-defined changes from early to late periods, but it is the later black-on-white pottery that distinguishes Mimbres ceramic art.

Some of these black-on-white pots are painted with highly complex geometric designs, but the most intriguing works are beautifully executed representational designs, including paintings of plants, animals as well as humans any mythological beings. The mythical beings sometimes exhibit a combination of animal features and are often shown interacting with humans or animals. Scenes of pottery-making, food gathering, hunting, planting, childbirth, story-telling, swimming, gambling, and many other activities are also depicted on Mimbres pottery. Mimbres art is a unique visual resource that reveals the world of the Mimbres people and gives us glimpses into their intellectual and spiritual lives.

Mimbres pottery currently possesses an international reputation; about 7,000 pieces are displayed in museums around the world. Scholarly and popular literature has documented and attested to the beauty and craftsmanship of the work. Mimbres pottery is perhaps the single most famous prehistoric American Indian art style.

The pottery first came to public notice through archeology of the Southwest. During the 1870's and 1880's, accounts of ruins in the Southwest began to receive widespread attention in the East. These accounts focused on the cliff dwellings of Mesa Verde and the ruins of Chaco Canyon, but the ruins of the Mimbres area were also known to early archeologists.

It was not until the second decade of the 20th century that J. Walter Fewkes of the Smithsonian Institution made a reconnaissance of the Mimbres area and brought back the first collection of Mimbres pottery to the Smithsonian and the Museum of the American Indian in New York. His discovery led to a wave of scientific excavations in the 1920's and early 1930's. These excavations produced the first good evidence of the full range of Mimbres material culture. Several hundred rooms were excavated and over 2,500 painted bowls were removed.

As a result of the 1988 National Mimbres Culture Study Act, the National Park Service [NPS] has evaluated 22 of the largest, most well-known, and nationally significant sites in the Silver City area. These sites span a period of about 1,700 years and include numerous pithouses, room blocks, rock art, and ceramic and lithic materials, as well as agricultural irrigation systems. Some Mimbres sites have been vandalized and destroyed by looters, but outstanding Mimbres sites, that have a relatively high degree of integrity, still exist in the Silver City area.

In addition to the NPS study, there have been meetings with individuals and organizations that have recommended alternative sites for inclusion in the monument. I have talked with local residents and visited some of these areas with them. The bill I am introducing has been written to reflect our discussions.

While interest in Mimbres culture and art is international in scope, no unit of the National Park System or for that matter, any other agency, is dedicated to the preservation and interpretation of the Mimbres culture. My bill is intended to protect Mimbres resources and to provide for their interpretation, scientific study, and educational use.

The legislation I am introducing today would create a new unit of the National Park System dedicated to the Mimbres culture. For of the sites—the Cameron Creek, Maddock, TJ Ruin, and Woodrow Units—evaluated in the National Park Service study will comprise the new national monument. In addition, a Mimbres Archeological Site Protection System would be established to coordinate the protection of other Mimbres cultural properties. Mimbres sites have been looted for decades. Indian graves have been ravaged by pothunters seeking ceramics that had been buried with the dead. The Archeological Protection System will help preserve the remaining sites that are left to us and future generations.

A visitor center for the interpretation of Mimbres culture, including exhibits of Mimbres material culture and general visitor orientation, will be developed in Silver City as part of the national monument. On-site interpretation will also be considered for appropriate ruins in order to facilitate public understanding and enjoyment of some of their more subtle features.

Through interpretation and education, visitors can better comprehend the architectural, artistic, social and economic achievements of the Mimbres tradition, the relationship of the Mimbres to the Mogollon, Salado, and Casa Grandes cultures, and the tie between the Mimbres people and the land.

The National Park Service will coordinate with public and private entities in establishing, planning, and managing the Mimbres Culture National Monument and the Mimbres archeological site protection system. For example, Western New Mexico University and the National Park Service will work cooperatively to provide curatorial services of Mimbres cultural materials.

The National Park Service will also provide leadership in coordinating the efforts of the various landowners, such as Federal, State, and local agencies, foundations, private individuals, and others, involved in the Mimbres archeological site protection system. An advisory committee, representing these parties, will work with the National Park Service to promote the protection of Mimbres cultural resources and to provide for interpretation and research.

My goal is to foster public understanding of this Nation's rich heritage and provide for additional protection for Mimbres cultural resources. I urge my colleagues to join me in supporting this legislation to protect and preserve this important part of our past for the benefit of present and future generations.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mimbres Culture National Monument Establishment Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the prehistoric Mimbres tradition was the most significant expression of the Mogollon culture, and represents 1 of 3 great prehistoric civilizations of the American Southwest;

(2) the Mimbres and Gila River valleys, including the Silver City, New Mexico, area, contain many Mimbres sites;

(3) some of the Mimbres pueblos in these valleys were built during the classic phase of that culture in the 11th century and are among the largest in the southwestern United States;

(4) the Mimbres people developed sophisticated canal irrigation technology prior to the Anasazi Culture;

(5) the Mimbres material culture is epitomized by distinctive and strikingly painted black-on-white pottery that is recognized as the consummation of several formal, pictorial, and iconographic traditions in the American Southwest;

(6) Mimbres pottery is internationally known and is probably the single most famous prehistoric American art style;

(7) many Mimbres sites have been vandalized or destroyed, and remaining sites are threatened by further vandalism and illegal pot-hunting; and

(8) in light of the national significance of the Mimbres sites and the urgent need to protect the valuable Mimbres cultural resources from vandalism and destruction, it is appropriate that a national monument be established in New Mexico.

(b) PURPOSES.—The purposes of this Act are—

(1) to recognize the nationally significant cultural resources associated with the prehistoric Mimbres tradition;

(2) to provide for the protection and interpretation of these resources for the benefit and enjoyment of present and future generations;

(3) to facilitate research activities; and

(4) to encourage government and private sector protection actions.

SEC. 3. MIMBRES CULTURE NATIONAL MONUMENT.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the State of New Mexico the Mimbres Culture National Monument (hereafter in this Act referred to as the "Monument") as a unit of the National Park System, consisting of approximately 959 acres, including the Cameron Creek, Mattocks, TJ Ruin, and Woodrow Units, as generally depicted on a map entitled "Mimbres Culture National Monument", numbered 80,007-A and dated July 1991. This map shall be kept on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in appropriate offices of the National Park Service in the State of New Mexico.

(2) ACQUISITION OF LANDS.—

(A) IN GENERAL.—Within the boundaries of the Monument, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange.

(B) FUTURE ADDITIONS.—No lands or interests in lands added to the Monument after the date of enactment of this Act may be acquired without—

(i) the consent of the owner; and

(ii) specific authorization by Congress.

(C) RIGHT OF USE AND OCCUPANCY.—

(i) IN GENERAL.—Subject to negotiated agreements to ensure cultural resource protection, an owner of improved property within the boundaries of the Monument may, on the date of the acquisition of the property, retain for the owner, and the owner's successors or assigns, a right of use and occupancy of the property for such residential purposes as existed before August 2, 1991, for a term, as the owner may elect—

(I) of not more than 25 years; or

(II) ending at the death of the owner or the owner's spouse, whichever is later.

(ii) PAYMENT.—The Secretary shall pay to the owner the difference between—

(I) the fair market value of the property on the date of the acquisition; and

(II) the fair market value on that date of the right retained by the owner.

(3) VISITOR CENTER.—The Secretary shall establish a visitor center and administrative headquarters for the Monument in Silver City, New Mexico, and may acquire, through donation, purchase with donated or appropriated funds, or exchange, up to 3 acres of land in Silver City for that purpose.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall administer, manage, and protect the Monument—

(A) in accordance with this Act and the laws generally applicable to the administration of the units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666, chapter 593; 16 U.S.C. 461 et seq.); and

(B) in such manner as to preserve, for the benefit and enjoyment of present and future generations, its cultural and natural resources, and to provide for interpretation of and research relating to those resources.

(2) CURATORIAL OPERATION.—The Secretary may enter into a cooperative agreement with Western New Mexico University for the purpose of establishing a curatorial operation for the care and maintenance of Mimbres cultural materials. The cooperative agreement may include agreements to provide funding assistance to Western New Mexico University for curatorial needs.

(3) RESEARCH PLAN.—The Secretary shall develop a research plan in cooperation with other Federal agencies, institutions, and private entities to evaluate broad aspects of the Mimbres tradition. The Secretary may enter into cooperative agreements with other Federal agencies, institutions, and private entities to implement the research plan.

(4) RESEARCH SITE.—The Secretary shall administer the Woodrow Unit primarily as a research site. General public use facilities shall not be provided at the Woodrow Unit.

(5) WATER RIGHTS.—Any water right required by the Secretary to carry out the purposes for which the Monument is established shall be—

(A) limited to a right within the units of the Monument; and

(B) acquired and transferred for use within the Monument in accordance with State law.

(6) IRRIGATION DITCH MANAGEMENT.—If lands within the Monument boundaries are occupied or utilized for irrigation ditches on the date of enactment of this Act, the Secretary shall not interfere with the continued use, maintenance, and operation of the irrigation ditches.

(c) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after funding is made available to carry out this subsection, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the Monument consistent with the purposes of this Act. The plan shall include—

(A) a statement of the numbers of visitors and types of visitor use within the Monument that can be accommodated consistent with the protection of the resources;

(B) a general development plan for the Monument, including—

(i) a description of facilities needed to accommodate public use and to provide for resource protection; and

(ii) an estimate of the cost of these facilities;

(C) a long-range strategy for completion of—

(i) the research plan;

(ii) resource inventories;

(iii) resource nominations, as authorized under section 4(a)(3); and

(iv) protection of cultural resources of the Monument;

(D) details of cooperative agreements and other actions with agencies and Western New Mexico University that will be undertaken to accomplish the purposes of this Act and to protect resources within the Monument;

(E) an interpretive plan for units of the Monument and for the visitor center, which shall include arrangements with other agencies and dissemination of information on the Masau Trail; and

(F) a feasibility analysis of the WS Ranch archeological site including the potential for public use and interpretation, and management options.

(2) CONSULTATION.—The Secretary shall consult with American Indian groups, including the Zuni Tribe, for the preparation of those aspects of the plan required under paragraphs (1)(C)(iv) and (1)(E).

SEC. 4. MIMBRES CULTURE ARCHEOLOGICAL SITE PROTECTION SYSTEM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—To encourage the protection, interpretation, research, and integration of information about the Mimbres tradition, there is established the Mimbres Culture Archeological Site Protection System (hereafter referred to in this Act as the "system"), as generally depicted on a map entitled "Mimbres Culture Archeological Site Protection System", numbered ________ and dated ________.

(2) PUBLICLY OWNED SITES.—Eleven Federal- and State-owned archeological sites shall comprise the initial system. These are—

(A) in the Mimbres Valley—

(i) Black Mountain;

(ii) Cottonwood;

(iii) Gatton Park;

(iv) Lake Roberts;

(v) Old Town; and

(vi) Pony Hills;

(B) in the Silver City area, the Pine Flat;

(C) in the Gila Valley—

(i) Red Rock Cemetery; and

(ii) Red Rock Pithouse;

(D) in the San Francisco Valley, the WS Ranch; and

(E) in the Rio Grande Valley, the Rio Vista.

(3) PRIVATELY OWNED SITES.—The system may also include privately owned Mimbres sites. An owner of a private site may nominate the site for inclusion in the system by not later than 3 years after the date of enactment of this Act.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, and in consultation and cooperation with affected agencies, shall administer the system in a manner that will provide protection for Mimbres cultural resources and provide for interpretation and research opportunities.

(2) COOPERATIVE AGREEMENTS.—

(A) AUTHORIZATION.—The Secretary and the Secretary of Agriculture may enter into cooperative agreements with other Federal, State, and local agencies, foundations, private landowners, and other persons for the purposes of site system administration and management, protection, research, and interpretation.

(B) EXPENDITURES.—Federal funds may be expended on non-Federal sites through cooperative agreements with, and the willing consent of, landowners.

(3) NON-FEDERAL SITES.—Non-Federal protection sites shall be managed through cooperative agreements with landowners as authorized under paragraph (2). Nothing in this Act shall be deemed to be authority for the Federal Government to acquire non-Federal sites for the system.

(c) JOINT MANAGEMENT PLAN.—Not later than 3 years after funding is made available to carry out this section, the Secretary, acting through the Director of the National Park Service, and in cooperation with the State of New Mexico, the United States Forest Service, the Bureau of Land Management, and private landowners, shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a joint management plan that shall include—

(1) general administrative arrangements;

(2) protection measures and their cost;

(3) research needs and plans;

(4) interpretive plans and opportunities;

(5) cooperative agreements and their cost;

(6) a listing of all private sites to be included in the system; and

(7) guidelines for cooperative agreements as authorized under subsection (b)(2).

(d) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee, composed of representatives of Federal and State government agencies, and other interested parties, to provide guidance in the preparation of the joint management plan and implementation measures.

(e) RESEARCH AND REPORT.—Not later than 3 years after funding is made available to carry out this subsection, the Secretary shall—

(A) undertake research to locate additional Mimbres sites on Federal lands in New Mexico; and

(B) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a report that provides recommendations for additions to or deletions from the list of archeological protection sites in subsection (a)(2).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this Act.

Mr. DOMENICI. Mr. President, first let me say that this Mimbres monument and preservation scene happens to be the home county, the county of birth of Senator BINGAMAN and, frankly, I think it is fair to say that one of the most unique distinguished and credible American Indian cultures is the Mimbres culture. Mimbres are known for a lot of things. But many across the world are familiar with their pottery, very valuable, very unique, very distinguished, and very distinctive. It so happens that we made a mistake by not doing something much earlier to preserve the history of this American Indian culture.

Frankly, I do not believe we would have done anything but for the fact that Senator BINGAMAN who comes from that part of New Mexico decided a couple years ago to get started, and we did it together, in an orderly way. It was looked at by our Federal Government. Contributions were absolutely unequivocal that we better move and preserve what we could or we would only have a culture found in pottery and in various artifacts around the world. They would be in London, New York, Chicago, and Albuquerque, but we would not have anything there.

Frankly, because many, many people in growing numbers do not trust the Federal Government, especially when it comes to acquiring real estate, the first bill that was introduced created a significant firestorm about the issues that Senator BINGAMAN has talked about.

I will say now, unequivocally, I went to the site. I have talked to enough people, and I am absolutely convinced that on the major sites, so-called Maddock site, it was a controversial site because there is some development around there and some people thought they knew more about it than those expert archaeologists, and so we were being besieged with people saying you do not need it. Go somewhere else.

I am convinced today, as I join in an amended bill, that it is the right site. I am convinced that when we acquire it and the archaeologists go to work with the Park Service, we will have an entire Mimbres village in place underground and everything that goes with it will be on this site. I do not doubt it now at all.

I believe some of the property owners who were opposed because we all had to work at this, I think they are now, some of them, are convinced it is the right site. In fact, I spoke last night, as I told Senator BINGAMAN, to Mr. Wilson, one of those most affected on site. He now has convinced himself by talking to some experts who were on the site that it is the right site.

We have amended the bill so that we cannot under any circumstance without coming back to Congress take additional land. We have amended the bill to define the water rights and we permit some of the occupants of the site to take a life estate that they desire, to use if for their life instead of acquiring it now. I do not believe we are going to have any problems in that regard. In fact, I believe most of them will prefer to sell out and we will have to pay them a market value and that may be an argument as to what that is because of various strained interpretations of the law. Nonetheless, we will proceed with reference to it, and I believe it is affordable.

So I believe we will have both a museum ultimately in that part of the United States for this culture and its pottery and artifacts, and we will have a viewable, visible, onsite remnants of this Indian culture for people to see and experts to study for decades to come. I think that is a rather good achievement if we can get it done rather quickly and I believe we can.

By Mr. HATCH:

S. 1529. A bill to enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served; to the Committee on Labor and Human Resources.

COMMUNITY OPPORTUNITY ACT

Mr. HATCH. Mr. President, I am pleased to introduce the Community Opportunity Act of 1991 on behalf of the administration. This measure represents a lot of creative and thoughtful effort on the part of President Bush, Secretary Sullivan, and their key staff, and I hope the Senate will give it the serious consideration it deserves.

It should be obvious to everyone by now—after nearly 30 years of the war on poverty—that we need to come up with more effective delivery systems for assistance programs. Currently, our programs are fragmented, uncoordinated, duplicative, and frequently miss their marks. The "trickle down" approach to providing resources only means funds are siphoned off for administrative costs along the way.

Some of my colleagues might advocate creation of a new entity at the top level to coordinate these overlapping programs. But, Mr. President, it does not make much sense to me to create a new program to coordinate programs. In my view, that approach simply adds a new layer of administration and bureaucracy and would not result in more efficient service delivery.

What will work, Mr. President, are local initiatives to leverage available resources. The Community Opportunity Act of 1991 is intended to break down the barriers to innovative, locally designed programs to target assistance to low-income citizens.

First, it encourages elimination of the bureaucratic middlemen. Funds would go directly to the entity running the program.

Second, it encourages communities to put their own ideas forward. The Federal Government is not the fount of all wisdom. We have all seen some very impressive public-private partnerships at the local level; but, Federal regulations for specific programs sometimes inhibit the development and implementation of these ideas. This bill provides the mechanism for localities to obtain waivers of those regulations when it would benefit the needy citizens of that community.

Mr. President, I commend the Bush administration for suggesting this legislation. It may not solve every problem we have in the public assistance area; but, it is certainly on the right track. We cannot claim to have truly helped those less fortunate when we waste so much time and money spinning our wheels. This legislation will help get us out of the rut.

Mr. President, I ask unanimous consent that the text of the bill, a fact sheet prepared by the administration, and the transmittal letter from Secretary Sullivan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Community Opportunity Act of 1991".

PURPOSE; FEDERAL ADMINISTRATOR

SEC. 2. (a) It is the purpose of this Act to declare the need and provide the necessary authority for the development of new approaches to increase economic opportunity and opportunities for self-sufficiency, implemented through restructured delivery systems at the community level, so that in the case of each system—

(1) services and benefits for low-income individuals and families funded under categorical or other single or limited purpose Federal programs, can be integrated and restructured at the community level, through the increased discretion and flexibility afforded to the community by this Act, to increase the economic opportunity and self-sufficiency of those individuals and families;

(2) the system is neighborhood or community based, with a specified target group or groups of beneficiaries;

(3) the individuals and families to be served can participate in the design and implementation of the comprehensive system for the delivery of services and benefits; and

(4) the delivery system affords individuals and families in the target group of beneficiaries the maximum choice and control over the range, source, and objectives of the services and benefits to be provided.

(b) In order to provide a single focal point for the administration at the Federal level of government of the authorities provided under this Act, the President shall designate an official of the Executive Branch, or two or more such officials to act in concert as a panel. The designated official or officials (hereafter referred to as the "Federal administrator") shall exercise the authorities conferred below, in consultation with all heads of Federal departments and agencies having programs that an applicant agency seeks to include in its restructured system, and shall make a recommendation to each such department or agency head with respect to approving the inclusion of a program for which such department or agency head has legal responsibility, or the waiver of any Federal statutory or regulatory requirements applicable to that program.

TECHNICAL ASSISTANCE

SEC. 3. An agency eligible to submit an application under section 4 to conduct a demonstration may request, through the Federal administrator, technical assistance to aid in the development of the information necessary for the design and implementation of a restructured system for the integrated provision of services and benefits to low-income individuals or families within one or more communities in the State. Assistance under this section may be provided only upon application therefor which describes, in such detail as the Federal administrator finds appropriate, the nature of the system which the applicant proposes to implement and the target group or groups. The application must also provide reasonable assurances that in the development of the application under section 4 the applicant agency will afford adequate opportunity for participation by the low-income individuals and families, and by any agency carrying out a human services program, within the community and that the application will be developed only after considering fully the needs for services and benefits expressed by individuals and families, and the community priorities and available resources in the area served by the applicant agency.

(b) The Federal administrator may request that the head of the Federal department or agency with the preponderance of Federal funds or Federal programs likely to be included in the applicant's system furnish technical assistance to the applicant. The department or agency head may, out of any appropriations available to him (or to his department or agency), provide such assistance to the extent that he finds it will enhance the application and, ultimately, the successful conduct of the applicant's demonstration.

COMMUNITY OPPORTUNITY SYSTEMS

SEC. 4. (a) In order to be eligible to submit an application under subsection (b), an agency—

(1) must—

(A) be currently receiving or eligible to receive Federal grant funds or other Federal financial assistance under one or more of the Federally funded programs proposed in the application to be included in the restructured system, and

(B) provide documentation of the concurrence of each other non-Federal official or entity to which the Federal funds involved would otherwise be provided (either directly or through intervening levels of grantees or other recipients) and demonstrate that it will have the cooperation of each such non-Federal official or entity in the applicant's implementation of the system, and

(2) must provide assurance, found adequate by the Federal administrator, that—

(A) it has the ability to develop a community opportunity system and to implement the system, directly or through contractual or other arrangements, within a defined geographic area,

(B) it will implement effective fiscal control and related procedures in order to account for all Federal funds received for use in implementing the system, and

(C) the low-income individuals and families within the geographic area in which the demonstration will be conducted have participated in the development of the system described in the application.

(b) In order for an agency to implement a system under this Act, it must submit an application to the Federal administrator, which contains the following information:

(1) the geographic area to be served and the rationale, in light of the goals of the community opportunity system to be conducted in that area, for so defining the service area;

(2) the particular groups, by age, services needs, economic circumstances, or other defining factors, to whom services and benefits under the system will be targeted;

(3) the way in which the system will increase the economic opportunity and self-sufficiency of the members of the target groups within the geographic area to be served, the specific goals and performance levels to be achieved (and how the demonstration is expected to attain those goals and performance levels), how those performance levels will be measured, and a plan for the comprehensive evaluation of the impact on participants, community effects, and program costs;

(4) those elements of the program design that will assist the individuals and families, after receiving full information about available services and benefits and the providers, to participate actively in developing both long and short range plans for services and benefits, and in deciding other matters such as (A) the scope of services necessary and desired to meet the full range of the individual's or family's needs, (B) the choice of provider, and (C) any other choices affecting the service design for that individual or family;

(5) the Federally funded programs to be included within the system and the services and benefits that will be available, including criteria for determining eligibility for services and benefits under the system, the services available, the amounts and form (such as cash, in-kind contributions, or financial instruments) of non-service benefits, and any other descriptive information the Federal administrator may find necessary to decide on the system's potential for success;

(6) any Federal statutory or regulatory requirement applicable to a Federally funded program, for which waiver is sought in order to permit the applicant's system to be implemented;

(7) the fiscal control and related accountability procedures applicable to the system; and

(8) such other information as the Federal administrator may require to determine whether the application should be approved or otherwise to carry out the provision of this Act.

(c)(1) In the case of Federal funds which, pursuant to the relevant authorizing statute, are required to be paid to a non-Federal official or entity other than the applicant, the concurrence of the official or entity, as required under subsection (a)(2)(C), shall constitute its consent for the appropriate Federal official to pay directly to the applicant that portion of its funds that would otherwise be provided to such official or entity for the target group or groups within the geographic area to be served by the system.

(2) If the statute authorizing any such grant funds requires a non-Federal share, the application must describe, and provide assurance of the availability of, the requisite non-Federal funds with respect to all included Federal grants.

(d) The Federal administrator may request, in order to determine whether an application should be approved, that the applicant provide a statement by the Attorney General of the State involved that there is authority under State law for the applicant agency to take all actions described in its application and implement the community opportunity system.

APPROVAL OF APPLICATION

SEC. 5. (a)(1) Upon receipt of an application to implement a community opportunity system, the Federal administrator shall provide a copy to the head of any Federal department or agency with responsibility for the administration of any Federally funded program to be included in the applicant's system. Actions, taken by the Federal administrator to approve the inclusion of specific programs, or to waive program requirements, shall only be taken with respect to programs for which he has responsibility under Federal law; he shall make recommendations to each department or agency head with respect to programs of the department or agency that are proposed for inclusion in the applicant's system and each such department or agency head shall thereafter advise the Federal administrator whether the program has been approved for inclusion.

(2) Except as provided in subsection (c)(3), the Federal administrator with respect to a Federally funded program for which he has responsibility, or the head of any Federal department or agency with respect to a program included in an application for which he has responsibility, may waive any statutory or regulatory requirement applicable to that program (and substitute a lesser requirement, where appropriate) if he finds it necessary for the program's inclusion in and successful contribution to the applicant's community opportunity system.

(b)(1) The Federal administrator may approve an application under this Act only if he finds that the design of the system, and the proposed plan for its ongoing operation, show substantial promise for the improved economic opportunity of the target groups to be served and the achievement of the purposes of this Act.

(2) The Federal administrator may not approve an application under this Act unless he finds that under the restructured system individuals and families in the target groups who were previously assisted under one or more of the included programs will be able to reasonably meet the needs for which such included programs were originally designed.

(3) The authority provided by this Act shall not be exercised in a manner that, with respect to any community opportunity system, increases total obligations or outlays of discretionary appropriations for programs included in the system, or that increases total obligations or outlays of funding for all direct-spending programs included in such system, for any fiscal year over those that would have occurred absent the authority provided by this Act.

(c) In approving the application to implement a community opportunity system, the Federal administration shall specify the understandings that have been reached with the applicant on each of the following:

(1) the term of the demonstration, which may be extended with the consent of all parties,

(2) the Federally funded programs that will be included in the system, except that there shall not be included in any such system Federal benefits paid directly to the individuals by the Federal Government, Federal benefits financed from trust funds, or any medical assistance which a State is required under title XIX of the Social Security Act to

provide as a condition to the approval of its State plan,

(3) the program requirements that have been waived, and the requirements or conditions, if any, that have been substituted pursuant to subsection (a)(2), except that the Federal administrator (or other department or agency head)—

(A) may not waive any statutory or regulatory requirement under title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or the Age Discrimination Act of 1975,

(B) may not waive any requirement for a non-Federal share of funding for a Federal program included in the system,

(C) may waive a program requirement only if he finds that its waiver will not unnecessarily or unreasonably adversely affect individuals or families, and

(D) shall not impose any confidentiality or similar requirement which would impede the exchange, within the system, of information needed for the design and delivery of integrated services and benefits,

(4) the total Federal cost of the program over its full term (or mechanism for determining the total Federal cost), the amount that will come from each Federal program approved for inclusion in the system subject to the availability of Federal appropriations, and the source of the required non-Federal share, and

(5) the data to be collected during the terms of the demonstration to permit its comprehensive evaluation, including the application of measurable performance criteria over the term that the system is in operation to assess the extent to which the stated goals and performance levels are being achieved.

EXCLUSIVITY OF SYSTEM AS SOURCE OF SERVICES AND BENEFITS

Sec. 6. Any individual or family within a designated target group of a community opportunity system shall not be eligible for services or benefits under any included Federal program except under the terms and conditions of the approved application for that system.

EVALUATION AND MODIFICATION

SEC. 7. (a) Over the term of each community opportunity system under this Act, the non-Federal administering agency shall take all actions necessary to evaluate the system's impact on the target groups specified in the application, community effects, and program costs, and shall cooperate with the Federal administrator in Federal evaluation or other review. In addition, the non-Federal administering agency shall submit to the Federal administrator, not later than 90 days after the close of each 12-month period during which the demonstration is conducted, a report summarizing the principal activities and achievements of the system during that period, and comparing its achievements to the measurable performance criteria agreed upon in the application.

(b) If the Federal administrator determines, after consultation with each Federal department or agency head having Federal funds included in the applicant's system, that there is a substantial failure to meet the specified goals and performance levels, and that they remain sound in light of any experience gained to that point in the conduct of the demonstration, he may terminate the demonstration, allowing a reasonable period or periods of time for all affected Federal, State, or local agencies to resume, in an orderly and effective fashion, the administration of the various included programs in accordance with the applicable authorizing laws and regulations thereunder.

REPORTS; EXTENSION OF AUTHORITY FOR SUCCESSFUL SYSTEMS

SEC. 8. (a) the non-Federal administering agency implementing a community opportunity system shall submit such reports, at such time or times, and cooperate in such audits of Federal funds, as the Federal administrator may require, and shall submit a final report, including a full evaluation of the system's successes and shortcomings and the impacts on the self-sufficiency of the target groups, after the expiration of the term of the system. If the agency concludes that the system has demonstrated its worth and has proven a superior way to assist individuals and families, that agency may submit its final evaluation and reports prior to the expiration of the system's term and request, and the Federal administrator may approve (with the concurrence any Federal department or agency head having responsibility for a Federal program included in the demonstration, with respect to such program) for such period or periods as he finds appropriate, the extension of the system and the necessary waivers.

(b) A copy of the final report shall be promptly sent to the Governor of the State involved.

DEFINITIONS

SEC. 9. As used in this Act—

(1) the term "State" means the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands,

(2) the term "agency" or "applicant agency", when not referring to a Federal entity, includes any State or local agency, and such term also includes the governing organization of an Indian tribe (as defined by the Federal administrator), and

(3) the term "Governor" of a State means the chief elected official of the State.

REDUCING FEDERAL BUREAUCRACY AND ESTABLISHING OPPORTUNITY AREAS:

Programs providing social, child welfare, health and nutrition, education, and job training services are often delivered in fragmented ways. Allowing services to be integrated effectively will better serve the recipients of these programs, expand social and economic opportunities, and promote greater personal responsibility and individual and family self-sufficiency.

The Community Opportunity Act of 1991 will enable local communities to develop "community opportunity systems" and allow them to restucture Federal programs to provide services and benefits in the way the community deems best to meet the needs of the individuals and families served.

The legislation creates the framework for experimentation and innovation across a broad band of domestic social programs not allowed under current law. It moves Federal programs from being an impediment to being a catalyst in the work of States and localities as laboratories of change.

The legislation will allow a Federal administator designated by the President to recommend to the relevant Federal agency heads a waiver of most Federal statutory and regulatory requirements applicable to each of the Federally funded programs included in the community's opportunity delivery system. Activities carried out under the waiver must be budget-neutral overall but can target available funds to areas of innovation.

Communities will be able to develop community opportunity systems in which:

Services and benefits can be integrated, combined, and collocated at the community level;

The system is neighborhood- or community-based, with a specified target group of individuals and families and could adopt a consolidated and streamlined eligibility process;

The individuals and families served can participate in the design of the system;

The labeling and stigma associated with participation in many categorical programs can be eliminated; and

The delivery system offers individuals and families in the target group of beneficiaries the maximum choice and control over the types of the services and benefits to be provided, the providers of services, and the service environment.

Each community opportunity system will have clear and measurable goals and will be evaluated with regard to both the short- and long-term impact on individuals and families.

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, May 3, 1991.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To enable communities to develop community opportunity systems in order to improve economic opportunity for their low-income residents through the restructuring of programs providing services and benefits, to meet the identified priorities of the community and the needs of the individuals and families to be served," together with a section-by-section summary of its provisions. Upon enactment, it would be cited as the "Community Opportunity Act of 1991".

Despite substantial numbers of government and private assistance and service programs, many individuals and families continue to live in poverty and dependency. All too often, Federal domestic programs are directed at particular problems, provide a narrow range of services and assistance, and contain eligibility and benefit rules based on the specific goals of each program. Therefore, no program fully addresses the multiple needs of an individual or family in escaping from dependency. There is no accountability across the service system for the system's results, and few programs are accountable to the people they serve.

We must do a better job of offering low-income individuals and families an opportunity to participate in the economic and social mainstream of American life. I believe that communities, as well as individuals and families, can increase economic opportunity and self-sufficiency if we can clear away the tangled underbrush of federal categorical program requirements.

The "Community Opportunity Act of 1991" will enable American communities to demonstrate innovative systems to increase the economic opportunities of their low-income residents. Communities which can join in a cooperative effort involving low-income residents, relevant units of government at all levels, and the private sector will have an opportunity to restructure programs and benefits to meet their identified needs and priorities. Community opportunity systems will have clear measurable goals and objectives and will offer individuals and families in those communities the maximum choice and control over the range, source, and objectives of the benefits and services they receive.

Toward these ends, the bill authorizes the waiver of Federal statutory and regulatory requirements which would impede implementation of a promising community opportunity system. However, the approved system must be disigned to assure that individuals and families in the target group who were previously assisted under one or more of the included programs will be able to reasonably meet the need for which those programs were originally designed. The system may include any Federal program except those in which the Federal Government pays cash benefits directly to individuals and families, where Federal benefits are financed from trust funds, or the mandatory portions of State Medicaid programs.

It is our firm belief that there is untapped creativity both at the community level and among the individiuals who are served by the program. By giving them the latitude to restructure programs, to make choices, and to control the implementation of programs in their community, we will all be better served and our fiscal resources more effectively employed.

Therefore, we ask that the Congress give its prompt and favorable consideration to the enclosed draft bill.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

LOUIS W. SULLIVAN, M.D.

By Mr. SIMON (for himself, Mr. INOUYE, Mr. AKAKA, Mr. MURKOWSKI, Mr. BURDICK, Mr. CONRAD, Mr. DASCHLE, Mr. DECONCINI, Mr. DOMENICI, and Mr. REID):

S. 1530. A bill to authorize the integration of employment training and related services provided by Indian tribes; to the Select Committee on Indian Affairs.

INDIAN EMPLOYMENT, TRAINING AND RELATED SERVICES DEMONSTRATION ACT

• Mr. SIMON. Mr. President, today I am introducing a bill that would allow Indian tribes to merge the employment and training programs they participate in into a single program consistent with the policy of self-determination.

The Federal Government continually encourages tribes and other Native American groups to link and coordinate human resource development programs to improve the effectiveness of the services they provide. The Department of Labor, in particular, has repeatedly stressed such connections in numerous instructions issued to Indian Job Training and Partnership Act grantees and in the technical assistance workshops it conducts.

When you consider the myriad of just job training money a tribe may receive—JTPA, JOBS, and BIA Adult Vocational—it is easy to see why the ability to coordinate these services is essential for all tribes, especially small tribes. In many cases, these allocations do not even cover the cost of running the program. While the Federal Government preaches program coordination, the agencies' own operational procedures frequently penalize tribes that try to do this. Let me give you a few examples:

Every agency demands a separate contact within the tribal or organizational structure.

Reporting requirements are different and without much flexibility. Budgeting, cost classification systems and accounting procedures are different despite supposedly uniform OMB requirements.

On-site monitoring varies from nonexistent to punitive.

In one instance, despite Labor Department support for integrated operation of one tribe's JTPA and Job Opportunities and Basic Skills [JOBS] Programs, the Department still insisted that every cent spent by tribal council members and staff attending workshops on service integration be charged to separate grants.

The Department of Health and Human Services financial management staff told a group of tribal and Native Alaskan job training program managers running JTPA, JOBS and BIA adult vocational training programs that they must pro-rate the time they spend on each program, preferably on an hour-by-hour basis. Faced with this type of paperwork burden, several smaller grantees are considering merging their JOBS programs with their State welfare agencies. As tribes struggle to cope with the conflicting demands of Federal funding agencies, they often find that their needs and their desire to orient their job training programs around tribal goals and development projects may well be in conflict with an agency's desire to fund a more traditional program or activity.

We need to simplify the procedures for tribes and be more responsive to their employment and economic development needs. My bill directs the Secretary of the Interior to develop, in conjunction with other Federal agencies that administer Indian training and employment programs, a demonstration project that would allow tribal governments to integrate their job training and employment programs into a single program.

The bill would bring JTPA, JOBS, vocational education, and tribal employment assistance programs under one director within a tribal government. The tribal government would have to file only one report and keep one set of books, thus reducing the mountains of paperwork they must deal with when administering these programs.

I ask unanimous consent that the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act of 1991".[S23JY1-517]{S10687}SEC. 2. ST

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination. [S23JY1-518]{S10687}SEC. 3. DE

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) INDIAN TRIBE.—The terms "Indian tribe" or "tribe" shall have the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(2) INDIAN.—The term "Indian" shall have the same meaning as in section 4(d) of the Indian Self-Defermination and Education Assistance Act.

(3) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government authorize the tribal government, to consolidate, in accordance with such plan, its federally funded employment, training and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any such plan referred to in section 4 shall include, but are not limited to, programs authorized under the Job Training Partnership Act, the job opportunities and basic skills program under the Family Support Act of 1988, vocational education programs under the Carl D. Perkins Vocational Educational Act, and programs administered by the Secretary generally referred to as the "tribal work experience program" and the "employment assistance program".

SEC. 6. PLAN REQUIREMENTS.

For a plan to be acceptable pursuant to section 4, it shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the trib-

al government believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the affected tribe.

SEC. 7. PLAN REVIEW.

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act. Notwithstanding any other provision of law, the affected Secretary shall also have the authority to waive any statutory provisions so identified. Further, in carrying out their responsibilities under this section, the Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, and Secretary of Education shall interpret Federal laws in a manner that will facilitate the accomplishment of the purposes of this Act.

SEC. 8. PLAN APPROVAL.

Within 90 days of the receipt of a tribal government's plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

SEC. 9. JOB CREATION ACTIVITIES AUTHORIZED.

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall tribal economic development strategy which has a reasonable likelihood of success.

SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

Notwithstanding any other provision of law, a tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and to guarantee permanent employment to the participants upon satisfactory completion of the training period.

SEC. 11. FEDERAL RESPONSIBILITIES.

Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Office of Self-Governance in the Office of the Assistant Secretary for Indian Affairs, Department of the Interior, unless a tribal government requests that another office, including a Federal department or agency other than the Department of the Interior, serve as the lead agency for that tribal government's demonstration project. The responsibilities of the lead agency shall include

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

SEC. 12. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.

SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfers of funds otherwise available to a tribal government in order to further the purposes of this Act.

SEC. 14. FISCAL ACCOUNTABILITY.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

SEC. 15. FUNDS AUTHORIZED FOR TRAINING RELATED TO INDIAN ROAD CONSTRUCTION.

In expending moneys allocated for Indian road construction programs, the Secretary of the Interior shall expend an amount equal to one quarter of one percent of the amount so allocated to train Indians for employment on road construction projects.

SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION.

Within one year of the date of enactment of this Act, the Secretary shall submit a report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the implementation of the demonstration program authorized in this Act. Such report shall identify statutory barriers to the ability of tribal governments to more effectively integrate their employment, training, and related services in a manner consistent with the purposes of this Act.•

• Mr. MURKOWSKI. Mr. President, I rise today in support of the Indian Employment, Training, and Related Services Demonstration Act of 1991. This act will help us to improve upon the delivery of much-needed employment and training services to Indian peoples.

Too often, Government services are designed without taking into account the needs of the people they are supposed to serve. Indian employment and training programs share this program. There are several different employment and training programs for American Indians and Alaska Natives scattered throughout the Departments of the Interior, Labor, Health and Human Services, and Education. All of these programs are designed to help American Indians and Alaska Natives receive job training and find employment. However, their different rules and requirements often only confuse people and reduce their ability to find help.

Another problem with the current system is the burden it places on tribal administrations to understand several different sets of changing regulations. Each program requires its own coordinator. For a small village in Alaska it is unnecessarily difficult to find a separate, qualified person to administer each program, let alone pay them. Most tribes would like to do the logical thing and have a single department of employment. They do not have the resources to set up a separate division for JTPA and another for the JOBS Program.

However, their consolidation is countered by the "divide and conquer" Federal approach to employment problems. Every month new rules and information for each program are sent to participating tribes. The time and money spent studying and implementing each set of rules would be much better spent helping the people the programs are designed to serve.

This legislation will address these problems by authorizing Indian tribes with approved plans to consolidate federally funded employment, training, and related services programs into a single, coordinated, comprehensive program that will allow tribes to more effectively serve the needs of Indians seeking employment or training and will reduce costs by consolidating administrative functions.•

By Mr. STEVENS:

S. 1531. A bill to authorize a certificate of documentation for the vessel *Logan T*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "LOGAN T"

• Mr. STEVENS. Mr. President, this legislation would allow the Coast Guard to issue a valid certificate of documentation for the 58-foot fishing vessel *Logan T*, formerly the *Fedecoop XIX*, U.S. official number 953795, which is currently owned by John and Adele Swanson of Petersburg, AK. The vessel was built by Delta Marine Industries in Seattle, WA, in 1982. The boat was then owned by L.A.W. Maritima De Baja California S.A., a corporation controlled by the Mexican Government, until 1989 when it was purchased by the Swansons. Mr. Swanson has used the *Logan T* to fish for salmon since early

1990, under a license issued by the Alaska Department of Fish and Game.

The *Logan T* is currently documented under the laws of the United States for use as a fishing vessel. However, a vessel that has been owned or controlled by a foreign government at any point during its history cannot legally carry cargo for hire between two points in the United States. This legislation is needed in order to allow the Coast Guard to amend the *Logan T*'s present certificate of documentation so that the *Logan T* can be used as a fish tender vessel in the commercial fisheries off Alaska.●

By Mr. METZENBAUM (for himself, Mr. McCAIN, Mr. DODD, and Mr. SIMON):

S. 1532. A bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988, and for other purposes; to the Committee on Labor and Human Resources.

ABANDONED INFANTS ASSISTANCE ACT AMENDMENTS

● Mr. METZENBAUM. Mr. President, the drug crisis in this country has claimed many victims. Some of the most tragic are the children and families of drug abusers. With drug abuse during pregnancy on the rise, every year as many as 375,000 infants are born exposed to one or more illegal substances. In addition, the Centers for Disease Control estimates that by the end of 1991, there will be 10,000 to 20,000 children with the HIV infection. Most of these children will be born to mothers who are IV drug users or are sexually involved with an IV drug user.

Compounding this tragedy are the abuse and neglect these children may be exposed to by parents who are either unwilling or unable to properly care for them. Infants exposed to alcohol and infants exposed to alcohol and drugs during gestation tend to have complex problems. These medically fragile children are at a higher risk of premature birth and low birth weight; tend to display extreme irritability, hypersensitivity to stimulation, excessive crying, difficulty bonding, and developmental delays; and are more likely to be subject to sudden infants death syndrome.

Moreover, unprecedented numbers of alcohol, drug, and HIV exposed infants remain in hospitals after treatment, as "border babies"—children who are medically cleared to go home, but have no home to go to. Evidence of this rapidly growing problem is a Child Welfare League of America 1-day survey of five major U.S. cities, which discovered that 69 percent of babies boarding in the surveyed hospitals were born to chemically dependent mothers.

An initial Federal response to this problem was the Abandoned Infants Assistance Act of 1988. This act, which I am proud to have authored, enjoys bipartisan support in providing funding for much needed services for these at-risk children, their families, and caregivers. Indeed, the administration recognizes the value of the act and its programs by requesting appropriations for the act in its budget for fiscal year 1992.

Authorization for the act, however, expires in September of this year. Therefore, today we are introducing the Abandoned Infants Assistance Act Amendments of 1991 in order to continue to serve the needs of our most vulnerable children.

A primary goal of the legislation is to prevent abandonment and stop the pattern of neglect and abuse by providing comprehensive services to children, parents, and extended families before and after birth. In the event however, that care-giving by the parents or extended family is not possible or advisable, the bill provides funding for foster care and respite homes for abandoned babies. These homes not only provide a caring environment but also curtail the massive costs of warehousing these children in hospitals.

The bill also provides funding for the national resource center programs serving abandoned infants and infants at risk of abandonment. This center assists in developing and utilizing effective services and information for these infants and their care-givers. Priority for the center's services will be given to those communities with infants and families who have been statistically underserved by such information services and dissemination.

The legislation we are introducing today represents a modest investment of Federal dollars to help improve the quality of life for the most innocent victims of drug abuse and the aids epidemic.

I ask unanimous consent that the text of the Abandoned Infants Assistance Act Amendments of 1991 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Infants Assistance Act Amendments of 1991".

SEC. 2. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in paragraph (6), by striking ", and the number of cases has doubled within the last 13 months;

(2) in paragraph (9)—

(A) by inserting after "counseling services" the following: "early intervention and developmental services,"; and

(B) by striking "and" at the end thereof;

(3) by redesignating paragraph (10) as paragraph (11); and

(4) by inserting after paragraph (9) the following new paragraph:

"(10) one of the goals of these comprehensive services shall be to support the family in the broadest sense of the term, both with respect to those involved in the service and the coordinated and comprehensive services provided, with the goal of prevention of abandonment of the child; and".

SEC. 3. PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 101(a) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) in the matter preceding paragraph (1), by striking "may make grants" and inserting the following: "shall make grants from funds appropriated pursuant to section 104(a)";

(2) in paragraph (1), by inserting before the semicolon the following: ", including the provision of services to all members of the natural family for any condition that increases the probability of abandonment of an infant or young child";

(3) in paragraph (2), by inserting before the semicolon "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile";

(4) in paragraph (3), by inserting after "those with acquired immune deficiency syndrome" the following: "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile,";

(5) in paragraph (4)—

(A) by striking "children," and inserting the following: "children (including the actual expenses of the persons receiving the services),"; and

(B) by inserting "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or medically fragile children" before the semicolon;

(6) in paragraph (5), to read as follows:

"(5) to provide residential care programs for abandoned infants and young children, who are unable to reside with their families or be placed in foster family care, particularly those with acquired immune deficiency or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile;".

(7) In paragraph (6), by amending the paragraph to read as follows:

"(6) to carry out programs of respite care, family support groups, programs to teach parenting skills, and services (including, but not limited to, in-home support services, the use of volunteers and individual counselors and payment of expenses to attend such groups and provide alternative care) for natural families, foster families and adoptive families of infants and young children with acquired immune deficiency syndrome, or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or medically fragile children and young persons; and"; and

(8) in paragraph 7, by inserting before the period "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or those who are medically fragile.".

(b) COMPREHENSIVE SERVICE CENTERS.—Section 101 of the Abandoned Infants Assistance act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g); and

(2) by inserting after subjection (a) the following new subsection:

"(b) Comprehensive Service Centers.—

"(1) The Secretary shall make grants from funds appropriated pursuant to subsection 104(b) to fund a demonstration program to public and nonprofit private entities to plan, coordinate and establish model comprehensive service centers. These centers shall—

"(A) bring together and coordinate, at one site, services (including, but not be limited to, social service, child protection, health, and education/training components, including schools) needed to support the infants and young people and the natural, foster, and adoptive families covered under this Act, providing comprehensive services to all members of the families in order to strengthen the family unit and ameliorate or prevent potential dysfunctional conditions that will increase the probability of abandonment;

"(B) be conducted in a setting convenient to, and easily accessible by, large numbers of natural and foster families, particularly those providing services to infants and children with acquired immune deficiency syndrome or medically fragile conditions, or those who are pre- or post-natally exposed to the etiological agent for the human immunodeficiency virus, drugs or alchohol; and

"(C) involve community-based and nonprofit organizations that have demonstrated expertise in the operation of such programs or that demonstrate the potential expertise, to the greatest extent possible.

The Secretary shall make grants under this subsection based upon the most comprehensive services to be offered and shall prioritize the applications upon the need for such services, as evidenced by the relative numbers of infants and young children covered under this Act to be served.

"(2) In the case of public or nonprofit private entities that have been providing similar comprehensive services under grants made under subsection (a) before the date of the enactment of the Abandoned Infants Assistance Act Amendments of 1991, the Secretary shall make provision to transition these projects, upon application by said public or nonprofit private entity for such transition, to this program during the first period for which funds are made available under section 104(b) for this subsection, provided that the Secretary shall make provision in such transition for the expansion, over a period of no more than 2 years, to encompass all of the services required under this subsection.".

(c) Administration of Grant.—Section 101(d) of the Abandoned Infants Assistance Act of 1988, as redesignated by subsection (b)(1) of this section, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) in the matter preceding subparagraph (A) (as so redesignated), by striking "(d) Administration" and all that follows through "The Secretary" and inserting the following:

"(d) Administration of Grant.—

"(1) The Secretary";

(3) by moving each of subparagraphs (A) through (D) (as so redesignated) 2 ems to the right; and

(4) by adding at the end of following new paragraph:

"(2) Subject to the availability of funds, the Secretary shall make grants under this section for periods of not less than 3 years, with there being 2 automatic extensions of the grants being made absent a finding by the Secretary of substantial nonperformance.".

SEC. 4. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) Evaluations of Demonstration Projects.—Section 102(a) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "shall," and inserting "shall from funds appropriated under section 104(c),".

(b) Special Needs Dissemination.—Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) Special Needs Dissemination.—

"(1) The Secretary shall, from amounts appropriated under section 104(d), maintain the National Resource Center for Programs Serving Abandoned Infants and Infants at Risk of Abandonment and Their Families established by the Secretary under the Abandond Infants Assistance Act of 1988. The National Resource Center shall assist in identifying, developing and utilizing effective program practices, information and materials in order to meet the service needs of specific groups of individuals, who, on a national or State basis, demonstrate a disproportionate risk of dysfunctional behaviors that will lead to the abandonment of infants or young people covered under this Act and who have been historically underserved with respect to the provision of information and services.

"(2) The National Resource Center described in paragraph (1) shall—

"(A) identify innovative or exemplary programs, public and private agencies, resources and support groups;

"(B) disseminate information on prevention and preventive services;

"(C) provide technical assistance, training and consultation to service providers and to State agencies to improve professional competency, to ensure service coordination and integration and to promote the utilization of resources and the best practices related to the management and administration of abandoned infants assistance programs;

"(D) develop a national network of professionals in the field to serve as consultants and to link such individuals with persons and agencies requiring assistance; and

"(E) identify emerging issues with respect to child welfare, developmental disabilities and maternal and child health, particularly as such issues relate to pre and postnatal alcohol, drug and pediatric HIV exposure.

"(3) Among the groups to be given priority for these services under this provision are those who are drug or alcohol addicted, individuals with acquired immune deficiency syndrome, and minorities and limited English proficient individuals who have been statistically and historically underserved by such information services and dissemination. Information on prevention and services shall also be distributed to the communities of such individuals.

"(4) The Secretary shall enter into contracts or cooperative services under this subsection for periods of not less than 3 years. The Secretary shall extend the contract or grant for 2 additional consecutive 1-year periods absent a finding by the Secretary of substantial nonperformance.";

(3) in paragraph (1)(A) of subsection (c) (as so redesignated), by inserting after "infants who have acquired immune deficiency syndrome", the following: "or those who are pre- or post-natally exposed to the etiologic agent for the human immunodeficiency virus, drugs or alcohol, or who are medically fragile,"; and

(4) in paragraph (2) of subsection (d) (as so redesignated), by striking "April 1, 1991" and inserting "April 1, 1992".

SEC. 5. DEFINITIONS.

Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking "sec." and all that follows through "the term" and inserting the following:

"SEC. 103. DEFINITIONS.

"For purposes of this title:

"(1) The term"; and

(2) by adding at the end the following new paragraphs:

"(2) The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, familial members (including all siblings and children resident in the household), and others (on a continuing basis) who reside in the household and are in a care-giving situation with respect to infants and young children covered under this Act.

"(3) The term 'medically fragile' includes those infants and young children who exhibit medical, physical or developmental conditions occasioned by pre- or post-natal alcohol and drug exposure.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking "For the purpose" and all that follows and inserting the following:

"(a) Demonstration Grants in General.—For the purpose of making grants under section 101(a), there are authorized to be appropriated $15,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(b) Comprehensive Service Centers.—For the purpose of making grants under section 101(b), there are authorized to be appropriated $1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(c) Evaluations of Demonstration Projects.—For the purpose of making grants under section 102(a), there are authorized to be appropriated $1,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1992, 1994, and 1995.

"(d) Special Needs Dissemination.—For the purpose of making grants under section 102(b), there are authorized to be appropriated $5,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.

"(e) Administrative Expenses.—

"(1) In addition to the funds authorized above, there shall be an amount authorized for the purpose of administering this program of 5 percent of the amount appropriated for the programs in fiscal years 1992, 1993, 1994, and 1995.

"(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from the aggregate amounts appropriated under subsections (a) through (d) for the fiscal year, the Secretary has obligated for the purpose described in paragraph (1) an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

"(f) Availability of Funds.—Funds appropriated under this authority shall remain available until expended.".

SEC. 7. CONFORMING AMENDMENTS.

The heading for title I of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by adding at the end the following: "AND ABANDONMENT PREVENTION PROGRAMS".

SEC. 8. TERMINATION OF PROGRAM.

Section 105 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.●

• Mr. McCAIN. Mr. President, I rise today to join my colleague from Ohio, Senator METZENBAUM, in introducing the Abandoned Infants Assistance Act of 1991. This legislation reauthorizes a critical program that exists today as a result of legislation my colleague from Ohio and I introduced in 1987.

The Abandoned Infants Assistance Act addresses the human suffering of infants born with AIDS and addicted to narcotics.

Mr. President, we are in the throes of the most lethal epidemic in the history of humankind. AIDS is quite probably the most virulent social disease in history. It cruelly destroys the immune system of its victims, thus eliminating the body's ability to fight off illness. It ultimately leads to death. And—at present—there is no cure.

AIDS has brought enormous human suffering and great expense. Without a doubt, all of our hearts go out to those suffering at the hands of this most dreaded of diseases. Perhaps the most heart-wrenching aspect of this epidemic, however, is the cruel and needless suffering of the children who are being born with this infection.

Mr. President, the act this legislation reauthorizes provides adoption and care assistance for those kids born with this disease and who are abandoned by their parents at the time of their birth. It also provides similar assistance for children born addicted to narcotics.

It saddens me greatly to know that each day there are children born in America who may never be able to fully experience life as a result of being born with either a narcotics addiction, or being infected with the AIDS virus. Mr. President, most of these children will never make it to adulthood. And, were it not for the assistance provided by this act, many would never have the chance to experience the world outside of a hospital ward, or the loving touch of a surrogate parent.

Mr. President, I would encourage our colleagues to study this reauthorizing legislation carefully and ask that they consider joining the distinguished Senator from Ohio and myself as sponsors of the Abandoned Infants Assistance Act Amendments of 1991, so that we might reauthorize this critical program.•

By Mr. BRYAN (for himself, Mr. RIEGLE, Mr. GRAHAM, Mrs. KASSEBAUM, Mr. CRANSTON, Mr. WIRTH, and Mr. SHELBY):

S. 1533. A bill to establish a statute of limitations for private rights of action arising from a violation of the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES INVESTOR PROTECTION ACT

• Mr. BRYAN. Mr. President, I rise today to introduce legislation to restore important protections for investors from perpetrators of securities fraud.

Under Federal law, victims of securities fraud can file civil suits under section 10 of the Securities and Exchange Act of 1934. While States remedies are also available, most victims of such fraud choosen to file suit in the Federal courts, due to the interstate nature of many securities scams.

Since section 10 of the 1934 act does not include time limits for these suits, the time limit for filing such Federal cases have generally been determined in reference to appropriate State statutes. Many of these time limits are quite generous—often extending up to 6 years from the date the fraud is discovered.

On June 20, the U.S. Supreme Court reversed this longstanding practice. In the Lampf versus Gilbertson decision, the Court found that uniform Federal time limits should be used in section 10 civil suits. Accordingly, the Court, by a 5 to 4 decision, required plaintiffs to sue within 3 years of the date the fraud was committed, and within 1 years of the date the fraud is discovered. These arbitrary time limits are borrowed from other sections of the Securities and Exchange Act—sections involving far less egregious activities than section 10.

Even more alarmingly, it appears that the Court's decision will apply retroactively, nullifying thousands of securities fraud cases currently underway—cases filed in a timely manner in good faith reliance on the then existing rule.

While I do not debate the Court's desire to provide a uniform time limit for section 10 cases, the time limits propounded by the Court simply do not reflect the complexity and importance of cases filed under section 10. I find myself in agreement with Justice John Paul Stevens' dissent, when he writes that the Court—

> Has undertaken a lawmaking task that should properly be performed by Congress * * * uniform limitations rule is preferable to the often chaotic traditional approach of looking to the analogous state limitation * * * Congress * * * has the responsibility for making the policy determinations that are required in rejecting a rule selected under the doctrine of state borrowing, long applied to Section 10(b) cases.

It is time for Congress to step forward and make these policy determinations.

The legislation I am introducing today provides a reasonable solution to this problem. Given the nature of these frauds, my preference would be to enact a simple 2 or 3 year after discovery rule, with no overall repose period. Instead, the legislation I am introducing today subjects suits filed under section 10 to a 2 year from discovery-5 year repose limit. In addition, the legislation will eliminate the retroactivity of the Lampf decision, allowing suits already underway to move forward under the new time limit rule, and permit the prompt refiling of any case dismissed based on Lampf which would have been timely filed under the 2 year-5 year limitation.

It is hard to determine exactly who will be affected by the Lampf decision. Without question, some of the greatest losers will be the victims of fraud associated with limited partnerships or municipal bond offerings. Often, perpetrators of securities fraud can go undetected for years, and will not be exposed until their fraudulent investment schemes ultimately collapse. Even then, putting the pieces of these complicated scams together to form the basis for a lawsuit can take an enormous amount of time.

Of course, the securities industry needs to be protected as well. An unlimited time limit for filing section 10 suits would expose securities firms to unreasonable and unpredictable liabilities. The legislation I am introducing today recognizes the concerns of both the securities industry and the individual investor.

During the Court's deliberation of the Lampf case, the Securities Exchange Commission argued in favor of a 2 year-5 year time limitation, and supports the legislation I am introducing today.

There is a great deal of urgency involved in overturning the Lampf decision. In addition limiting recourse for victims of future and current fraud, the Lampf decision will result in the dismissal of a great number of legitimate cases currently under litigation. Plaintiffs who have made good faith efforts to file suits under current law will see their cases evaporate due to new conditions imposed by the Supreme Court—conditions that cannot possibly be met.

The unprecedented level of activity in the financial markets throughout the 1980's provided equally unprecedented opportunities for securities fraud. While many of the most disagreeable trends of the 1980's, including the proliferation of unwise and unsound limited partnerships, are behind us, there will always be something new on the horizon. Like most of the financial innovations of the 1980's, the great majority of investments will at least be honest, if not prudent. When fraud does surface, however, we have a responsibility to ensure that investors have enough time to seek legal redress.

I would like to thank Richard Griest from Sparks, NV, for bringing this important issue to my attention. Mr. Griest demonstrated to me how difficult it is to collect the material necessary to file a complicated investor fraud case. While a more lengthy filing period may be appropriate, I believe this bill provides a step in the right direction.

Mr. President, I urge other Senators to support this legislation.•

• Mr. RIEGLE. Mr. President, I am pleased to cosponsor the Securities Investor Protection Act of 1991 with my distinguished colleague from Nevada, Senator BRYAN. By extending the statute of limitations on implied rights of action under the Securities Exchange Act of 1934, this bill will give individual investors ample time to prepare for litigation in the event of securities fraud.

The bill is in response to the decision by the U.S. Supreme Court in Lampf versus Richardson. In that case, the Court determined that any litigation brought by a private litigant under section 10 of the Securities Exchange Act of 1934 must be initiated within 1 year of the discovery of the violation and no more than 3 years after the violation has occurred. The Court rejected an argument made by the Securities and Exchange Commission which said that the Court should have applied a significantly longer statute of limitations. The Court's determination resolved a longstanding question on this matter since the limitation period for implied rights of action are not clearly stipulated in the Securities Exchange Act of 1934.

The bill we introduce today will extend the statute of limitations for implied rights of action to 2 years after the plaintiff knew or should have known of the securities law violation, but in no event later than 5 years from the date of the securities law violation. This statute will apply to all implied rights of action under the 1934 act and contains a provision which protects currently pending cases from dismissal due to the Supreme Court's determination of the shorter statute of limitations.

This bill serves as a reminder that the individual investor is the key to the strength and liquidity of our securities markets. In order to attract participation by individual investors, we must ensure that the securities markets are accessible and fair. Regrettably, on occasion there will be violations of the securities laws. This bill will protect individual investors by providing them with sufficient time to put a case together to fight any violations of the securities laws.●

ADDITIONAL COSPONSORS

S. 102

At the request of Mr. COHEN, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 102, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs.

S. 140

At the request of Mr. WIRTH, the names of the Senator from Nebraska [Mr. EXON] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 499

At the request of Mr. LUGAR, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 499, a bill to amend the National School Lunch Act to remove the requirements that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 601

At the request of Mr. ADAMS, the name of the Senator from Florida [Mr. GRAHAM] was withdrawn as a cosponsor of S. 601, a bill to withhold United States military assistance for El Salvador, subject to certain conditions.

S. 665

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 665, a bill to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry.

S. 734

At the request of Mr. GRAHAM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 734, a bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes.

S. 736

At the request of Mr. GRAHAM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 736, a bill to amend the Outer Continental Shelf Lands Act.

S. 765

At the request of Mr. BREAUX, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 765, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 884

At the request of Mr. PACKWOOD, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 923

At the request of Mr. AKAKA, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 923, a bill to amend section 484(d) of the Higher Education Act of 1965 regarding methods for qualifying as an "ability to benefit" student at institutions of higher education and proprietary institutions of higher education, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 995

At the request of Mr. GORE, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 995, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for working families by providing a refundable credit in lieu of the deduction for personal exemptions for children and by increasing the earned income credit, and for other purposes.

S. 1093

At the request of Mr. BIDEN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1093, a bill to establish a commission to study the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

S. 1226

At the request of Mr. JEFFORDS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1226, a bill to direct the Administrator of the Environmental Protection Agency to establish a small community environmental compliance planning program.

S. 1270

At the request of Mr. MCCAIN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning United States personnel classified as prisoners of war or missing in action.

S. 1352

At the request of Mr. DODD, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Michigan [Mr. LEVIN], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 1352, a bill to place restrictions on United States assistance for El Salvador.

S. 1413

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1413, a bill to encourage the termination of human rights abuses inside the People's Republic of China and Tibet.

S. 1438

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1438, a bill to provide for international negotiations to seek increased equity in the sharing by foreign countries of the costs of maintaining military forces of the United States in such countries.

S. 1471

At the request of Mr. ADAMS, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1471, a bill to amend the Older Americans Act of 1965 to establish an elder rights program, and for other purposes.

S. 1498

At the request of Mr. BREAUX, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1498, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of businesses within Federal military installations which are closed or realigned and for the hiring of individuals laid off by reason of such closings or realignments, and for other purposes.

S. 1522

At the request of Mr. BOREN, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets.

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 164

At the request of Mr. GORE, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 164, a joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week."

SENATE JOINT RESOLUTION 176

At the request of Mr. DIXON, the names of the Senator from Tennessee [Mr. SASSER], the Senator from South Dakota [Mr. PRESSLER], the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. CRAIG], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 176, a joint resolution to designate March 19, 1992, as "National Women in Agriculture Day."

SENATE RESOLUTION 82

At the request of Mr. SMITH, the names of the Senator from Montana [Mr. BURNS] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENTS SUBMITTED

UNITED STATES—CHINA ACT

GRAHAM AMENDMENT NO. 803

Mr. GRAHAM proposed an amendment to the bill (S. 1367) to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met, as follows:

On page 7, between lines 16 and 17 insert the following:

( ) in reducing assistance to Cuba whether in the form of subsidized trade, management of trade balances or in any other form.

MIKULSKI (AND WIRTH) AMENDMENT NO. 804

Ms. MIKULSKI (for herself and Mr. WIRTH) proposed an amendment to the bill S. 1367, supra, as follows:

On page 7, between lines 19 and 20, add the following:

(7) does not support or administer any program of coercive abortion or involuntary sterilization.

KERREY AMENDMENT NO. 805

Mr. KERREY proposed an amendment to the bill S. 1367, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . SANCTIONS BY OTHER COUNTRIES.

If, pursuant to this Act, nondiscriminatory (most-favored-nation) treatment is denied or a decision is made to terminate such treatment, most-favored-nation status for the People's Republic of China shall be rescinded 60 days after such denial or decision to terminate. During such 60-day period, the President shall undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

HELMS AMENDMENT NO. 806

Mr. HELMS proposed an amendment to the bill S. 1367, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ENFORCEMENT OF PROHIBITION AGAINST IMPORTATION OF CONVICT-MADE GOODS.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) by striking "All goods" and inserting "(a) IN GENERAL.—All goods";

(2) by striking "'FORCED LABOR,'" and inserting "(b) FORCED LABOR.—'Forced Labor,'"; and

(3) by adding at the end thereof the following new subsections:

"(c) PENALTIES.—(1) With respect to any violation of subsection (a), an order under this section shall require the person to pay a civil penalty of—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person previously subject to one order under this section; or

"(C) $1,000,000 in the case of a person previously subject to more than one order under this section.

"(2)(A) Before imposing an order described in paragraph (1) against a person for a violation of subsection (a), the Secretary of the Treasury shall provide the person with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

"(B) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

"(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person an order described in paragraph (1).

"(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

"(4) A person adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(5) If a person fails to comply with a final order issued under this subsection against the person, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(d) PETITION FILED WITH THE DEPARTMENT OF COMMERCE.—(1) A petition to enforce the prohibitions contained in subsection (a) may be filed with the Secretary of the Department of Commerce (hereafter in this subsection referred to as the 'Secretary') by—

"(A) any public interest group or human rights organization; or

"(B) an entity including trade association, firm, certified or recognized union, or group of workers, which is representative of an industry adversely affected by the sale of imports produced by forced labor.

"(2)(A) Whenever a petition is filed under paragraph (1) the Secretary shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

"(B) In order for a proceeding to be commenced based on a petition filed with the Secretary under this subsection, such petition must be accompanied by reasonable evidence that a violation of subsection (a) has occurred.

"(3)(A) Upon the filing of a petition under paragraph (1), the Secretary shall, within 20 days after the date on which such petition is filed, determine whether the petition alleges the elements necessary to impose a penalty or issue an exclusion order under this subsection and contains reasonable evidence supporting such petition.

"(B) The Secretary shall make a determination within 180 days after the date on which a petition is filed with respect to whether a violation under subsection (a) has occurred.

"(4)(A) If the Secretary determines, as a result of an investigation under this subsection, that there is a violation of the provisions of this section, it shall—

"(i) direct that the articles concerned, imported by any person violating the provisions of this section, be excluded from entry into the United States, unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the product of like or directly competitive articles in the United States, and United States consumers, the Secretary finds that such articles should not be excluded from entry; and

"(ii) direct the Secretary to impose penalties provided under subsection (c) against any person violating the provision of this section.

"(B) The Secretary shall notify the Secretary of the Treasury of its action under this subsection directing such exclusion from entry or imposition of penalties under subparagraph (A), and upon receipt of such notice, the Secretary shall, through the proper officers refuse such entry or provide for the imposition of such penalties.

"(5) The Secretary may, by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.".

BIDEN AMENDMENT NO. 807

Mr. BENTSEN (for Mr. BIDEN) proposed an amendment to the bill S. 1367, supra, as follows:

Page 7, line 20, delete section 4 and insert in lieu thereof the following:

SEC. 4. TERMINATION OF MOST-FAVORED-NATION STATUS

(a) IN GENERAL.—Not later than July 3, 1992, products of the People's Republic of China may not be provided non-discriminatory (most-favored-nation) trade treatment if the President determines, at any point subsequent to the enactment of this Act, that the People's Republic of China has transferred to Syria or Iran—

(1) ballistic missiles or missile launchers for the weapon systems known as the M-9 or the M-11; or

(2) material, equipment, or technology which would contribute significantly to the manufacture of a nuclear explosive device.

(b) NOTIFICATION.—The President shall promptly inform Congress in writing of any determination described in subsection (a).

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee business meeting to markup dairy and nutrition legislation. The business meeting will be held on Thursday, July 25, in SR-332, at 9:30 a.m. and is scheduled to last all day.

For further information please contact Janet Breslin or Ed Barron of the committee staff at 224-5207.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that the oversight hearing scheduled before the Committee on Energy and Natural Resources to receive testimony on the resettlement of Rongelap, Marshall Islands, has been postponed.

The hearing, which was originally scheduled for July 30, 1991, has been rescheduled to take place on September 31, 1991, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building.

For further information, please contact Allen Stayman of the committee staff at 202-224-7865.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, July 23, 1991, at 2:30 p.m. to receive a report by the Defense Base Closure and Realignment Commission and to consider Senate Joint Resolution 175, a joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., July 23, 1991, to receive testimony on consent to amendments by the State of Hawaii to the Hawaiian Homes Commission Act, Senate Joint Resolution 23 through 34.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., July 23, 1991, to receive testimony on S. 140, to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; and S. 927, to provide for a transfer of lands between the U.S. Forest Service and Eagle and Pitkin Counties in Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, July 23, 10 a.m., to conduct a hearing on S. 481, the Water Research Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, July 23, 1991, at 10 a.m., to hold a hearing on legislative proposals for compensation of victims of sexual crime.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 23, 1991, at 9:30 a.m. on reauthorization of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, July 23, 1991, to hold a hearing on disaster legislation before the committee. Room 5323 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

U.S.-U.S.S.R. TRAVEL AND FAMILY VISITS

• Mr. DECONCINI. Mr. President, in September, the 35 signatory states of the Conference on Security and Cooperation in Europe will be meeting in Moscow for the third of three meetings of the Conference on the Human Dimension. The various human rights and humanitarian issues to be discussed at this meeting include that of travel and family visits. In signing the Helsinki Final Act, the CSCE states committed themselves to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families." The signatories also pledged that "applications for temporary visits to meet members of * * * families will be considered without distinction as to country of origin or destination."

The family visits issue is an excellent illustration of both how far the Soviet Government has come with respect to its obligations as well as to shortcomings that still exists. At a time when we are witnessing dramatic transformations in the Soviet Union, it is easy to lose sight of issues such as travel. But it is precisely human contacts, including visits between family members and private citizens, which have had such a profound impact on Soviet society. The transformation towards democracy and economic reforms in the U.S.S.R. depends on contacts with the outside world. The tens of thousands of Balts, Ukrainians, Russians, and Jews who have had the opportunity to travel to the West in the last few years have undoubtedly had an impact on democratization and economic reform in the Soviet Union. The same, of course, applies to the hundreds of thousands of Americans who have visited the U.S.S.R.—whether to renew family ties, assist in projects to help Soviet citizens in the various republics, or simply to visit and observe. The rise in the sheer number of human contacts is, indeed, impressive.

Numbers, however, do not tell the whole story. In fact, Mr. President, as impressive as the numbers may be in relation to what they were just a few short years ago, they are most certainly not on par with demand. Despite the liberalization of travel in practice and with the passage of the Soviet law on exit and entry, Soviet actions such as raising air fares between the U.S.S.R. and U.S.A. or eliminating savings kept in large denomination ruble notes serve as practical barriers to free travel. And, although to a much lesser extent than before, foreign travel permission can still be denied to people for political motives.

Even today, several Soviet citizens are prevented from exercising their right to leave the U.S.S.R. to visit family members in the United States who had defected from the Soviet Union. Natalia Kurbatova and Alexander Levchenko, Anna Shevchenko, Augusta and Ivan Sheymov, and Natalia Novikova and Kondrat Novikov, all continue to be refused permission to visit parents, children, and spouses in the United States. I would take this opportunity to commend Representative DON RITTER, the ranking House member of the Helsinki Commission, who recently initiated a letter to President Gorbachev on behalf of these four families. These refusals violate both the Helsinki Final Act and the 1989 Vienna Concluding Document of the CSCE, which states that the participating States will "ensure that acts or omissions by members of the applicant's family" will not adversely affect the rights of the travel applicant. I urge the Soviet Government to live up to its commitments and allow these Soviet citizens to visit their loved ones in the United States without further delay.

With respect to travel to the Soviet Union, the situation has undoubtedly improved. More of the Soviet Union is now open, thus individuals are better able to visit the homes of relatives in formerly closed areas where this was earlier forbidden. Despite these increased opportunities, however, the process of travel for private visits is still fraught with obstacles. One of the most significant impediments to normal travel is the requirement that foreign visitors have official invitations to stay in private homes—including homes of relatives—for extended periods of time (visitor's visa), procedures which can drag on for half a year—much longer than business or even tourist visas. Visits to family members or friends should certainly not have to take considerably longer than business or tourist visas.

Mr. President, while mindful of the progress that has been made in liberalizing human contacts, the Helsinki Commission, which I cochair, will continue to work toward ensuring that these contacts become fully normalized.•

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

• Mr. BURDICK. Mr. President, today I rise to participate in the Congressional Call to Conscience for Soviet Jews to call attention to the continued difficulties faced by Soviet Jews who wish to emigrate.

I would like to bring to the attention of the Senate the case of Regina Pashkovsky, who is from Minsk, U.S.S.R. Mrs. Pashkovsky and her late husband first decided to emigrate to Israel in 1974. At that time, they both worked at a research institute that had a connection with the Defense Ministry. In his work for the ministry, Mr. Pashkovsky had some sort of involvement with the development of computers used in military systems. She worked in a standardization section where she had no involvement with computers. Her husband lost his job at the institute at the time they applied to emigrate and their request subsequently was denied. Mr. Pashkovsky died of stomach cancer in 1989, which Mrs. Pashkovsky attributes to his forced work on a state farm in an area that was contaminated by the Chernobyl disaster.

Mrs. Pashkovsky was able to continue working at the institute until 3 days after she reapplied for permission to leave the Soviet Union in August 1989, along with her 80-year-old mother and Mrs. Pashkovsky's daughter's family. When Mrs. Pashkovsky was refused permission to emigrate in November of that year, the reason given was secrecy. She applied again the next year and, to my knowledge, has not received a decision on that application.

Her daughter's family was allowed to emigrate, however, and has lived in Israel since 1989. However, Mrs. Pashkovsky's mother stayed behind to help obtain the release of her daughter. Mrs. Pashkovsky and her mother would like to join Mrs. Pashkovsky's daughter and her family in Israel.

In the past few years, President Gorbachev has eased the way for Soviet Jews to emigrate and recently, the Soviet legislature has codified this new policy. I sincerely hope that Mrs. Pashkovsky's case will be reviewed in the context of this era of glasnost and that she and her mother be allowed to emigrate.•

SPECIAL TRANSIT: HELPING THE COMMUNITY AND OUR ENERGY DILEMMA

• Mr. WIRTH. Mr. President, I would like to address for a few moments the subject of natural gas, and the efforts of Special Transit, a Colorado company, to utilize this energy source. Our Nation's present energy dilemma has created a dire need for alternatives to oil. As our energy consumption increases and domestic production decreases, our Nation becomes more dependent on imported petroleum, and more vulnerable to unstable foreign politics. This growing dependence represents a real threat to our economic and national security.

Transportation is the single largest user of oil in our economy. The development of alternative automobile fuels represents one of our greatest opportunities for oil savings, advancing both our economic and energy independence goals. The use of compressed natural gas in vehicles is currently one of the most promising of these alternatives. It is safe, clean, efficient, and relatively inexpensive.

Companies which have experimented with natural gas energy have discovered its value. Special Transit, a Colorado nonprofit agency which offers transportation to elderly, disabled, and rural passengers recently began a pilot project by converting two of their vehicles to compressed natural gas. The vehicles ran cleanly and safely, performed efficiently, and operated with low maintenance costs. They applied for and received an alternative fuels initiative grant from the Urban Mass Transit Administration to convert their remaining 12 vehicles to natural gas, construct a safely ventilated garage, and install their own fueling station. Special Transit's project has saved money, helped the environment, and helped to contribute to everyone's goal of reducing our dependence on foreign oil. This is an excellent example of the promise of alternative fuels in the transportation sector. If we are to gain energy independence, we must continue to promote this promise.

Mr. President, our energy future demands that we develop and use alternative forms of energy. Our Nation simply cannot produce its way out of the current energy dilemma. Advancing technology is providing us with new options in the form of alternative fuels, which can be a huge component in our efforts to ensure a bright energy future for our Nation. I want to salute Special Transit for their initiative and their innovation in providing transportation for the elderly, the disabled, and others without access to the transportation they need, in a way that helps our entire Nation in its quest for a healthier environment, a more robust economy, and energy independence.•

SWITZERLAND TO PURCHASE McDONNELL DOUGLAS AIRCRAFT

• Mr. BOND. Mr. President, recently the Defense Minister of Switzerland, Mr. Kaspar Villiger, announced that Switzerland has reaffirmed its 1988 decision to buy 34 McDonnell Douglas F/A-18 Hornet aircraft from the United States in a deal that will bring more than $2 billion in export revenues to our country.

Facing strong pressure from European interests to buy the French-made Mirage 2000-5, Minister Villiger recommended, and the Swiss Federal Council approved, the decision to buy from McDonnell Douglas, where hardworking people build the world's best fighter aircraft.

Minister Villiger said the Hornet beat out its competitors—the French Mirage 2000-5, the Swedish Gripen, and the United States F-16—for a number of important reasons. These include the Hornet's superior performance capabilities, operational autonomy, and low life cycle costs. The Swiss also cited the Hornet's two engines, and sophisticated radar and avionics systems. Each of these factors is crucial for all-weather operations over Switzerland's mountainous terrain.

In their announcement, the Swiss recognized the importance of the United States as a trading partner saying "that even in times of closer European collaboration, Switzerland has vital interests throughout the world and in overseas markets."

We, too, have vital interests in overseas markets. Sales of defensive military equipment to friendly nations is not only important to American workers, but it is important to our overall economy, and to our ability to execute foreign policy.

Work from this sale will benefit more than 1,500 companies in 46 States. It will preserve jobs, help build homes, and keep communities healthy. And like sales of the Hornet to Canada, Australia, Spain, and Kuwait, it will help hold down the cost of the F/A-18 to the United States Navy, which has decided to make the F/A-18 the backbone of carrier aviation into the next century.•

THE DRIFT NET MORATORIUM ENFORCEMENT ACT

• Mr. D'AMATO. Mr. President, I rise today to cosponsor the Drift Net Moratorium Enforcement Act. I am pleased to join my colleague from Oregon, Senator PACKWOOD, in this vital effort to help end large-scale drift net fishing on the high seas by June 30, 1992.

This legislation will help to save thousands of sea birds, dolphins, whales, endangered turtles, and other wildlife from the snares of drift net fishing. The legislation is especially important for the preservation of the Pacific Northwest salmon, which originated in the United States and is currently facing possible endangered status due to the practice of drift net fishing.

The Drift Net Moratorium Enforcement Act serves to enforce the December 1989 U.N. resolution calling for a worldwide moratorium on large-scale drift netting on the high seas by June 30, 1992. The legislation offered by Mr. PACKWOOD would call for drift netting nations to notify the United States by January 1, 1992, whether they will stop large-scale drift net fishing on the high seas by June 30, 1992. If a country fails to comply, the President has authorization to place sanctions on fish and fish products that country exports to the United States.

The Drift Net Moratorium Enforcement Act will provide U.S. officials with the tools necessary to preserve the lives of several threatened and endangered wildlife species. I applaud Senator PACKWOOD for undertaking this worthwhile initiative, and I urge its prompt consideration and passage.•

COMPENSATION OF MUTUAL BENEFIT LIFE INSURANCE CO. EXECUTIVES

• Mr. LEVIN. Mr. President, an article in Friday's Washington Post reported that the executives of Mutual Benefit Life Insurance Co. of New Jersey voted to pay themselves a severance package valued at over $3 million less than a month before the company was placed under the custodianship of the State of New Jersey.

Mr. President, with all due respect, that stinks to high heaven.

What this means, Mr. President, is that Mutual Benefit customers may not be able to redeem their insurance policies while the company's senior executives walk away with $3 million of their money. There are people who have annuities held by Mutual Benefit which they had planned on having available upon retirement, who now potentially have little, maybe even nothing—we don't know, yet—that they can recover. Many of these, Mr. President, are people who have worked all their lives and felt they were being responsible and prudent in planning for their retirement. They are understandably angry and frightened.

Mr. President, this is another example of highly questionable executive compensation packages. My oversight subcommittee recently took testimony from experts in the field of executive compensation, and, Mr. President, the situation is worrisome to put it mildly. We presently have a situation in which our chief executive officers are making over 100 times that of our workers—100 times. In Japan the figure is about 17 times and in Germany about 23 times. That's a dramatic difference—a telling difference.

And stockholders have no say, under current SEC practice, over the pay of the executives in their own corporations. I have introduced a bill that would at least let the stockholders of publicly traded corporations have some say in how their executive pay is set. It's one way to bring greater rationality to their situation. It won't help the annuitants who may be left high and dry by Mutual Life's high rollers, but it can hopefully make a difference in the future.

I ask that the text of the July 19 article from the Washington Post be printed in the RECORD following my remarks.

The article follows:

INSURANCE EXECUTIVES SET PAYOUT

(By Albert B. Crenshaw)

Top executives of Mutual Benefit Life Insurance Co. voted less than a month before their company was taken over by regulators to give themselves a severance package that could be worth a total of $3 million.

The pay package was left intact by New Jersey insurance regulators because the Mutual Benefit executives refused to agree to a voluntary takeover otherwise, said an official of the New Jersey Department of Insurance.

Panicked policyholders were staging a "run" on the company, and regulators feared that if they were forced into a court fight for control of the company the delays would have worsened the situation, the state official said. "Our feeling was that an adversarial legal battle would have been disastrous for the policyholders," said the official, Jo Glading.

As state and company officials were negotiating terms for allowing the executives their severance, frightened and angry policyholders were gathered in the lobby of the company's headquarters demanding that Mutual Benefit workers give them their money back. Several told reporters their life savings were tied up in Mutual Benefit annuities.

Policyholders are blocked from cashing in their policies under the terms of the takeover, although state officials insist they will continue to honor benefit claims.

Rep. John Dingell (D-Mich.), chairman of the House Energy and Commerce Committee, which has been critical of state insurance regulation, said the package smacked of the kind of self-serving deals seen in other recent financial collapses and "tends to indicate the need for some effective federal supervision of the issue of [insurance company] solvency."

Under the severance package, Henry Kates, who was Mutual Benefit's chief executive officer until he resigned Tuesday, will get $937,500 in termination benfits plus $150,000 in deferred compensation that was earned previously but not paid, according to the state. Kates will also remain as a consultant.

Six other top officials, including Stephen J. Carlotti, who succeeded Kates as CEO of the Newark-based company, will share about $2 million under the plan.

The company did not respond to a request for comment.

New Jersey officials said the severance package was approved at a meeting of senior executives June 19. The executives told the state regulators that it was merely the formalization of a severance policy affecting all employees—not just top executives—that had been in place for years but not voted on by the company's directors, state officials said.

The policy was formalized in anticipation of layoffs, the company told the state.

Mutual Benefit, the nation's 18th-largest life insurance company with some $13.5 billion in assets, announced July 3 that it would lay off some 430 people in its home office by Aug. 5.

The existence of the severance package was disclosed in court documents in Trenton and originally reported by the New York newspaper Newsday.

Under the company's plan, everyone in the executive offices would receive two weeks' pay for each year of employment up to a maximum of 52 weeks. Employees at the rank of executive vice president or above received an additional 26 weeks' pay.

Mutual Benefit executives wanted the packages left untouched as "a precondition to agreeing to a voluntary state takeover, New Jersey officials said. The state balked, "and there were extensive talks about this," one state official said.

Company officials finally agreed to three conditions: that they remain on the job for the next six to 12 months (Kates is to "remain available" as a consultant); that if any evidence of wrongdoing or violation of state corporation law is found, the benefit is canceled; and that the package be approved by a state judge.

Judge Paul Levy tentatively approved the state takeover agreement Tuesday and has scheduled a hearing on final approval Aug. 5.●

BILL INDEFINITELY POSTPONED—S. 1367

Mr. FORD. Mr. President, I ask unanimous consent that S. 1367 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 1507

Mr. FORD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may proceed to consideration of Calendar No. 169, S. 1507, the Defense Department authorization bill, as any time after 12:30 p.m., Monday, July 29, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTED LEGISLATIVE AND EXECUTIVE CALENDAR BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that during the recess/adjournment of the Senate, that Senate committees may file reported Legislative and Executive Calendar business on Thursday, August 29, from 11 a.m. to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL SENIOR CITIZENS DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 181, a joint resolution designating August 18, 1991, as "National Senior Citizens Day" and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 181) designating the third Sunday of August of 1991 as "National Senior Citizens Day".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res 181) was ordered to a third reading, was read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Wednesday, July 24; that following the prayer, the Journal of Proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:15 a.m., with Senators permitted to speak therein; that during morning business, Senator ADAMS be recognized for up to 15 minutes, Senator JOHNSTON for up to 20 minutes, and Senator MURKOWSKI for up to 10 minutes; further, that the time from 10:15 to 10:45 a.m. be for debate on the motion to proceed to H.R. 1435, the foreign aid authorization bill, with the time equally divided and controlled between Senators PELL and HELMS or their designees; further, that at 10:45 a.m., the Senate vote on the motion to invoke cloture on the motion to proceed to H.R. 1435, the foreign aid authorization bill, with the mandatory live quorum being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I will not object, but I would add my comments along with those of Senator DOLE and Senator MITCHELL and others, that I too will assist in invoking cloture. I think we need to deal with that authorization. We do not seem to do it. We cannot leave it to the appropriators. I think it is very important, even though very contentious, that we begin to proceed with it. I hope that will be the case.

Mr. FORD. I thank my distinguished friend.

I, too, will vote to support cloture. I think it is improtant that we have this piece of legislation on the floor, that we debate the authorization. In the past, this is one piece of legislation that has not been debated; we have left it to the appropriators, and I think the distinguished Senator from Wyoming is exactly correct.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:30 a.m., Wednesday, July 24.

There being no objection, the Senate, at 8:17 p.m., recessed until Wednesday, July 24, 1991, at 9:30 a.m.

EXTENSIONS OF REMARKS

WHAT I'M HEARING ABOUT THE POSTAL SERVICE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. BROOMFIELD. Mr. Speaker, I have gotten an earful from my constituents recently about the U.S. Postal Service. Yesterday I sent a letter to the Postmaster General.

I told him what I was hearing. Among the many complaints: rising postal costs, declining post office hours, and fewer collection boxes.

Those who manage the Postal Service say they are just trying to improve operations. Maybe so, but they are doing it by squeezing their customers.

Right now the Postal Service is a Government-enforced monopoly. It can afford to be callous toward its customers because Congress continues to shield it from those it serves.

I recently introduced legislation which would create a commission to study the Postal Service. Our constituents want better service at more reasonable rates.

I urge my colleagues to join me as cosponsors of this urgently needed legislation.

INTRODUCTION OF THE PUBLIC TELECOMMUNICATIONS ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. MARKEY. Mr. Speaker, today I join with my colleague, the ranking Republican member of the Subcommittee on Telecommunications and Finance, Mr. RINALDO, as well as Messrs. SCHEUER, TAUZIN, WYDEN, RICHARDSON, BRYANT, BOUCHER, COOPER, MANTON, MCMILLEN of Maryland, LEHMAN of California, HARRIS, OXLEY, BILIRAKIS, ECKART and SCHAEFER, in introducing the Public Communications Act of 1991. This legislation authorizes appropriations for the Corporation for Public Broadcasting [CPB] for fiscal years 1994 through 1996 and authorizes the appropriation of funds for the Public Telecommunications Facilities Program for fiscal years 1992 through 1994.

Specifically, the act authorizes CPB appropriations of $310 million for fiscal year 1994, $373 million for fiscal year 1995, and $425 million for fiscal year 1996. These funding levels are necessary to ensure that CPB can continue to assist stations in maintaining high quality service and to provide adequate funds for the production of diverse and innovative programming. Moreover, the funds will enable CPB to harness the resources of the public broadcasting system for educational purposes and to continue the expansion of radio services to presently unserved and underserved audiences.

In addition, the legislation authorizes continued funding of the Public Telecommunications Facilities Program [PTFP], administered by the National Telecommunications and Information Administration [NTIA], at $42 million for each of fiscal years 1992, 1993, and 1994. These funds will enable public television and radio to extend service to areas not already served, and to maintain and upgrade existing facilities. The funds authorized by this legislation are necessary as well if PTFP is to continue its role in the development of public broadcasting facilities owned and operated by minorities and women.

The legislation I am introducing today also would expand the role of PTFP in enhancing the provision of public telecommunications services to underserved audiences, including deaf and hearing-impaired and blind and visually-impaired people. This provision will help to ensure that public telecommunications services are fully accessible to all Americans.

In order to maintain managerial efficiency at CPB, the legislation reduces the number of directors on the Board of CPB from 10 to 9, permits directors to serve until their successors are confirmed, increases the term of the Board members from 5 to 6 years, and staggers the terms of Board members so that three Board seats will turn over every 2 years. These changes will allow CPB to operate more efficiently by keeping a full Board in place and eliminating the potential for tie votes that tend to inhibit the work of the institution.

Through two statements of policy, the legislation emphasizes the potential for public television and radio stations and public telecommunications services to address national concerns and solve local problems by utilizing community outreach programs and services, and it recognizes the importance of the provision of public telecommunications services through all appropriate available distribution technologies.

The legislation also mandates that CPB, after consultation with the system, prepare and submit to Congress an annual report for each of fiscal years 1994, 1995 and 1996 on CPB's activities and expenditures relating to educational programs and services and the expansion of public radio services to unserved and underserved audiences.

Finally, the legislation clarifies the intent of Congress with regard to the Children's Television Act of 1990 to ensure that both commercial and noncommercial broadcasters are required, as a condition of license, to meet the informational and educational needs of children.

Since the passage of the Public Broadcasting Act of 1967 almost 25 years ago, Congress has enacted legislation increasing CPB's authorization from $9.0 million in fiscal year 1969 to $285 million in fiscal year 1993. These funding levels reflect a continued congressional commitment to ensuring sufficient funding for the public broadcasting system in the United States. The bill I am introducing today, and the funding levels contained in it, reaffirm this long-standing commitment.

Today, public television reaches 94 percent of American homes through 342 local community stations across the United States, compared with just 60 percent of homes reached by cable. For many Americans, therefore, public television is their only source of programming in the fields of science, cultural events, and children's television. Similarly, in many communities, public radio—which serves 86 percent of the population—is an unparalleled, if not the sole, source of radio news and public affairs programming. Public radio also provides listeners with access to classical and alternative music and other unique service offerings.

Public broadcasting has a reputation for excellence in educational, cultural and informative programming. Moreover, public broadcasting has been at the forefront of new technologies; it was the first to use a satellite interconnection system to broadcast its programs across the country. Public television and radio also have used technology to provide media access to people that in the past have been denied full and equal access. CPB and public television stations, for example, have funded over 1,600 hours of closed captioned programs for deaf and hearing-impaired individuals.

Similarly, Descriptive Video Service [DVS], developed by the WGBH Educational Foundation, provides narrated descriptions of a program's key visual elements without interfering with the program audio or dialog, making television more accessible to blind and visually impaired people. Public radio programs during which newspapers are read aloud over the airwaves also provide important services for blind and visually-impaired listeners. In addition, simultaneous second language audio broadcasts of public television programs and Spanish language radio programs have provided access to public broadcasting for millions of Spanish speaking people in the United States.

Local public television and radio stations also have been a source of community leadership in a variety of fields ranging from environmental clean-up to remedying social problems such as drug abuse and illiteracy. For instance, since 1993, "Project Literacy U.S.," a joint project of public television and Capital Cities/ABC, has recruited volunteer tutors and created 450 local literacy task forces. Locally, public television programs are the focus of community campaigns designed to meet hometown and regional needs; in Dallas, to encourage racial harmony; in Albuquerque, to raise concern about domestic violence; in North Carolina, to spotlight the crisis in childcare. Public radio also has sponsored a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

variety of locally based, community outreach programs, for instance, inspiring communities to participate in charity drives and educating the public about issues of public safety. Programs like these, targeted to solve community problems and coordinated with off-air activities, are the model for local programming at many public broadcasting stations.

Increasing educational opportunities through television has been one of public television's greatest successes. Today, the range of programming and educational services is astounding. For example, high-tech interactive videodiscs based on the PBS series "Nova" have transformed how children learn science in the classroom. The Satellite Educational Resources Consortium [SERC] allows high school students in 23 States to take advanced courses in math, science and foreign languages from teachers thousands of miles away. Learning programs offered on public television and available in people's homes have enabled thousands of adults to pass the high school equivalency GED exam, and thousands more to complete college through televised courses. At the preschool level, public television is helping children in the crucial first 5 years of life gain important skills and a love of knowledge that will prepare them to enter school ready to learn. Public television also has developed instructional materials for childcare provider, child development workers and Head Start program employees, teaching them to serve children's educational needs.

In public radio, educational activities encompass a wide range of activities: programs on children's books encourage students to read along; a music education series with accompanying workbooks enables students to continue learning in school districts that have cut music from the curriculum due to budget restraints; newsroom experiences for children range from one-time field trips to the station to weekly radio programs written and produced by children.

In sum, public broadcasting has a long history of serving both local communities and the Nation as a whole. It has established an outstanding reputation for quality and innovation in programming and technological development that have served the needs of all segments of American society. Public broadcasters have been at the forefront of many technological innovations and continue to pioneer the use of high technology, such as HDTV in television and DAB in radio, as we enter the second decade of the information revolution. The Public Telecommunications Act of 1991 is essential if public broadcasting is to continue to play this critical role. I urge my colleagues to support this legislation.

KELLY CHRISTOPHER WARD

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. ARCHER. Mr. Speaker, today I would like to recognize Kelly Christopher Ward, of Houston, TX. Kelly is the Texas winner of the Veterans of Foreign Wars' annual Voice of Democracy Scriptwriting Contest. His script is a tribute to the ideals of freedom and democracy, and I am pleased to submit his script to be inserted in the CONGRESSIONAL RECORD:

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Kelly C. Ward)

Today was the big day. The world was going to decide which political system it was going to adopt to launch mankind into the future. Tensions were high, but Uncle Sam remained cool and collected. He was going to represent democracy in this most unusual trial by his world peers. The judge pounded his gavel and asked for everyone to be seated. The court quieted and the judge motioned for Uncle Sam to take the stand: "You may now make any opening comments you'd like to, Uncle Sam . . ." the judge asked. "Thank you, your honor," Sam said. "Today, I represent democracy as the key to the voice of freedom. I'm reminded of a quote from my earlier days that stated 'Creating all men free and equal isn't enough. Some means must be devised to keep them free and equal.' I think democracy has done a good job of this and I hope to establish once and for all to this world court why democracy truly is the vanguard of freedom! I am now open for any questions this court may have."

A longstanding opponent to democracy slowly rose to his feet and calmly approached the Prosecutor's podium. After organizing his notes, he challengingly asked his first question. "What is it, Uncle Sam, about democracy that ensures we have freedom?"

"Well Mr. President," Sam answered, "the most precious thing democracy gives the people is the ability to choose, to have options. The more choices allowed, the more freedom the individual has in fulfilling basic human desires."

"And what, Uncle Sam, are those desires?" the Prosecutor queried. After a few hesitant moments Sam replied, "Human nature is very protective of itself. In order to preserve the future of mankind there is a strong emphasis on 'self'. Emotional, physical and mental stability, self-preservation, being a member of society, a high sense of self esteem—all of these are very important to the individual. But also inherent within man is a sense of 'kindness' and a desire to help his fellow man. These are the attributes coveted by the individual."

"Hmmmm," the Prosecutor mused, "well then if these desires are inherent within every man, then why don't other political systems such as socialism, fascism, monarchism—why don't these systems represent the vanguard of freedom?" "Because," Sam fiercely replied, "these systems fulfill the desires of only a limited portion of society—namely the elite. These elite only account for, say, one percent of society. The other 99 percent of the population are either deprived of choices or their rights are severely limited. I am reminded of a quote that stated 'Human nature is harder to change than a 1,000 dollar bill.' You see, human nature doesn't belong to just the elite, the one percent. It belongs to all of mankind, including the other 99 percent of society. Therefore, these other political systems don't have the capacity to fulfill the basic desires of all men like democracy can." The Prosecutor began to show signs of frustration, but toiled on. "So then, why aren't the political elite vanguards of freedom and furthermore, why does democracy fill this need?"

"Because the elite only represent one point of view—the elitist one. Democracy has this funny habit of allowing everyone that wishes to speak their mind to have the opportunity to do so. Democracy is like an orchestra, all of us contribute our own tune. Our instruments we play are our rights that we use to convey that point of view. Other political systems have a habit of only letting the drums play, or the woodwinds, or the strings. Democracy lets everyone play, even those that play out of tune because even they add to the richness and uniqueness of the tune called 'freedom'. In this way, democracy protects our freedom to 'play our own tune'—to 'march to the beat of our own drum.'"

The court fell silent. The Prosecutor was stunned. The judge smiled, he knew that this world court had reached a decision concerning which political path it was going to take. Uncle Sam remained unmoved. He had done a good job representing democracy. The judge tallied the votes from all the countries of the world and prepared his verdict . . . He addressed the court curtly, "Today, Uncle Sam has shed some light on why democracy truly is the vanguard of freedom. It is by the decision of this court that democracy will be our choice of government. The plan for democratization of the world will begin with the felling of the Berlin wall, then we'll move to the U.S.S.R., Eastern Europe will follow in suite, as will China, next will be . . ." And thus the list went on, and the world moved one step closer to harmony. Uncle Sam smiled to himself and quietly remembered a statement that had been broadcast from the far reaches of the moon earlier in his life. "That's one small step for man, one giant leap for mankind." The world's decision for democracy that day was definitely a huge leap for mankind, the one that would propel him into the future and protect his precious freedoms. Uncle Sam looked with pride upon the new world and was satisfied to be closer to democracy.

HOUSE PAYS TRIBUTE TO FRED W. DROMS, RESPECTED UPSTATE NEW YORK SUPERVISOR AND ASSEMBLYMAN

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SOLOMON. Mr. Speaker, a long-time friend of mine has passed away, a man after whom I patterned my own career as a public servant.

Fred W. Droms of Clifton Park, NY, served as town supervisor, chairman of the county board of supervisors, and as a State assemblyman. His passing is a loss to an entire community to which he devoted his entire life.

I could read from the account of a local newspaper to give you an idea of the enormous respect in which Mr. Droms was held by his peers, of which I was proud to be one.

A "man of integrity," one colleague called him. "A very honest man and very straightforward," said another. And "a pillar of the community" said yet another.

He was in public life at a time when Clifton Park was transformed from a rural community into the Albany area's fastest growing suburb. Mr. Droms played a vital role in that growth, yet he was always a friend of the farmers.

The elected positions he held tell only part of the story. He was active in fraternal, farming, and sporting organizations. I measure a man by how much he gives to his community. By that yardstick, Fred Droms was a giant.

The greatest loss is being suffered by his wife, Judith, and the rest of the family. I, too, will miss him greatly, and I know that I speak for everyone who has had the pleasure of working with him or knowing him.

Mr. Speaker, I ask Members to please rise in tribute to Fred W. Droms, a model public servant, a great American, and a valued friend.

WORKPLACE FAIRNESS ACT

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. KLECZKA. Mr. Speaker, on July 17, the House considered H.R. 5, the Workplace Fairness Act. Clearly, this is the most important labor-management relations legislation to come before Congress in years. I truly regret that I was unable to be in attendance for the debate, but due to a hospitalization on that date, I could not vote on this measure.

However, there has been a lot of debate over the past few months about what this bill will do. In short, H.R. 5 protects the individual's right to participate in a bona fide labor dispute without losing his job for doing so.

As far as a striking employee is concerned, when he is permanently replaced, he is fired. In effect, employers are saying to their employees, "If you participate in a labor dispute, you will be fired." This violates our most basic labor freedoms contained in the National Labor Relations Act. Any way you slice it, this is an unfair labor practice.

Opponents of this legislation have said that more strikes will occur if the bill is approved. They say the American workplace will become a breeding ground for strikes designed to put employers out of business. This view defies logic. No worker seeks to eliminate his own job. That is not why he goes on strike. A strike is a last resort. It is an act of frustration with a process that is not working. But it becomes a necessary action which service as a catalyst to put the collective bargaining process back on track.

Much has been said about the balance of negotiating power between labor and management and how this bill would affect that balance. The facts show employers are using permanent replacements more and more, and they threaten to use them when a dispute arises. Is that a balance? Definitely not. The balance is already tipped in favor of employers. The U.S. General Accounting Office [GAO] recently found that in 35 percent of all strikes employers explicity threatened to replace striking workers. Other observers have noted that this amounts to bargaining with a gun to your head, and I agree. We need H.R. 5 because it restores a balance between labor and management.

Mr. Speaker, the issues associated with labor disputes are more important than ever in these difficult fiscal times. Widespread problems, such as skyrocketing health care costs, have a direct impact on the American worker. This worker has a right to act to protect his health benefits and a right to act to protect his retirement benefits. These are core issues in modern labor disputes, and employers seeking to undermine worker rights by replacing workers who take a stand are acting unfairly.

The American worker needs to know that if he takes a stand to ensure better conditions for himself, his coworkers, and his firm, the law of the land will provide a level playing field for him to go to the bargaining table with his employer.

We in Congress should support the Workplace Fairness Act because we cannot afford to shortchange the basic rights of American workers. Let us do our job so they can keep their job.

SCALES OF JUSTICE MUST BE BALANCED

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. WOLPE. Mr. Speaker, for many reasons, Mr. Bush's nomination of Clarence Thomas to the Supreme Court is troubling. I commend to my colleagues a recent Battle Creek Enquirer editorial which spells out some persuasive arguments why the Senate should reject Mr. Thomas's nomination.

SCALES OF JUSTICE MUST BE BALANCED

President Bush may have claimed that Clarence Thomas was "the best person for the job" on the U.S. Supreme Court, but millions have seen it for the rhetoric it was.

Rather than proclaim Thomas as the best, it would have been more honest to acknowledge Thomas as the most expedient, politically shrewd choice.

Shrewd? Of course. Those who object to Thomas run the risk of appearing racially biased—because, wonder of wonders, Thomas is black, seemingly perfect for stepping into Thurgood Marshall's distinguished shoes.

But if they were members of the Senate panel weighing whether to approve Thomas for the court, most black voters probably would reject him as "the best person for the job." And so would we.

The nomination was a triumph for one side of the ideological fence. The current issue of the National Right to Life News heralds Thomas' nomination on its front page—and grows quickly ambiguous about the nominee's likely stand on abortion as if any doubt existed.

There's fear on the other side—fear that the nation ultimately will be torn as it was in the 1800s by the issue of slavery. The catalyst this time will be the issue of abortion.

There's little doubt that the addition of another conservative to the court is likely to tip the balance of future decisions toward an eventual overturn of the 1973 *Roe* v. *Wade* decision, which legalized abortion nationwide.

Therein lies the hub of the controversy. A little further out toward the rim, however, is a broader concern over the court's increasing extremism under Chief Justice William H. Rehnquist.

We don't equate conservatism with extremism. Earl Warren led the court in the 1960s into liberalism just as dangerously out of balance.

Whatever the direction, an extremist Supreme Court is bad news. The excesses of Warren's court were just as divisive for the nation as we might expect from Rehnquist's increasingly conservative panel.

We also have reservations about Thomas' qualifications. The Senate should weigh his nomination just as carefully as it considered, in 1987, that of Robert Bork, a far more capable jurist who nevertheless was rejected for his ultra-conservative views.

But qualifications aren't our major concern. Many seemingly unqualified judges have gone on to distinguished careers on the high bench. Our primary concern is balance—in American law, and in its impact on American society.

A minority view is needed on the Supreme Court, but that view should be more moderate. Rather than hand Thomas the job, Bush should be given the chance to choose more wisely.

REHOBOTH WELSH CHURCH CELEBRATES 100TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mrs. BENTLEY. Mr. Speaker, the year 1991 marks the 100th anniversary of the construction of the Rehoboth Welsh Church of Delta, PA—Cardiff, MD.

Situated on opposite sides of the Mason-Dixon line, the tiny communities of Delta, PA, and Cardiff, MD, have been a refuge and home for immigrants from Wales since the late 1700's who found the quarrying operations similar to those in their native land in Northwest Wales. These communities sprang to life with the discovery of abundant high quality slate and became known for their world renowned product.

In 1850, the slate was voted "Best in the World" at the London Crystal Palace Exhibition. The mining of peach bottom slate was the life blood and mainstay of the area. Delta, PA, often was described as a "one industry town." Settlers to the area built homes similar to the slate quarrymen's cottages in Wales, using the local slate for roofs and window sills. The use of slate and Welsh architecture continues to be prevalent in the town. Many of the town's buildings still retain their slate roofs and slate sidewalks.

Despite an inexhaustible supply of slate, the industry eventually died out. However, a source of inspiration to the communities of Delta and Cardiff has been the Rehoboth Welsh Church. For a century, the church has attended to the needs of its congregation with the warmth and caring that only the church can provide.

The Rehoboth Church still remains a living part of what some have called "one town in two States." The era of peach bottom blue slate indeed has passed, yet the rich Welsh-American tradition continues to thrive at the church. The Welsh Rehoboth Church and its surrounding communities personify an America of long ago. The sense of unity and responsibility among the community and parishioners never has been lost. The enticements and progress of a modern day world have not changed the unique qualities and warmth of this quiet community.

Our Nation owes much to the church and to those of Welsh ancestry. Thomas Jefferson, for example, was of Welsh ancestry and the church has indeed been a source of inspiration and guidance since the founding of this great land.

Mr. Speaker, my fellow collegues, it is with great respect and admiration that I commend the Rehoboth Welsh Church on the celebration of its 100th anniversary. May God bless the church and its parishioners with continued health and prosperity in the years ahead.

ANTITRUST LAWS SHOULD NOT APPLY TO STUDENT AID

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. EDWARDS of California. Mr. Speaker, the Justice Department under Presidents Reagan and Bush has for the most part been apathetic in its enforcement of our antitrust laws. For example, the Department has not brought a single case against price fixing in over a decade.

Given the Department's inaction on this issue, I was surprised and disappointed to learn that the Justice Department has charged the Ivy League universities with price fixing because they exchange information concerning financial aid. The Department argues that this restrains competition for students among the universities. However, the reality is that this practice helps these institutions to make certain that financial aid is awarded solely on the basis of need.

In a July 22 editorial in the New York Times, Paul E. Gray, chairman and former president of the Massachusetts Institute of Technology, persuasively argues that financial aid should not be used to promote a bidding war for students by our Nation's colleges. I commend this article to the attention of my colleagues:

MEASURE NEED, NOT MONEY

(By Paul E. Gray)

CAMBRIDGE, MA—Traditionally, many of America's private colleges and universities have admitted students based on intellectual merit regardless of their financial situation. Financial aid, on the other hand, has been awarded solely on the basis of need. Now these fundamental principles are under attack.

On May 22, 1991, Attorney General Dick Thornburgh charged the Ivy League schools and the Massachusetts Institute of Technology with violating the Sherman Antitrust Act. According to the Attorney General, the exchange of information among schools about financial aid decisions constitute a conspiracy to restrain price competition.

Mr. Thornburgh has in effect condemned the practice of awarding aid solely on the basis of need and asserted that it is in the public interest for colleges to compete for students with unrestrained financial aid offers.

In response to the complaint, the eight Ivy League schools consented to a decree that forbids them to cooperate to award aid solely on the basis of need or to confer about policies determining the level of family contributions. M.I.T., which did not sign, was sued by the Government. The Institute filed a response in Federal court in Philadelphia on July 8.

Antitrust laws are not intended to apply to college financial aid cases. The issue is not price fixing. There is no personal gain or profit motive involved here. In fact, it is quite the reverse: the issue concerns the fair distribution of subsidies—generated largely from private, charitable donations—to help defray the cost of education for talented students whose families cannot afford it.

The Attorney General's accusations flout the 1986 law, mandated by Congress, that requires schools to give Federal aid only to those who have demonstrated need. The charges reveal a basic misunderstanding of how and why need-based financial aid is practiced. Here is how it works:

Every year, colleges appraise the financial circumstances of each financial-aid applicant using information provided by the student's family about income, assets and financial commitments. The colleges then make an estimate of the amount the family can contribute. The student's need for aid is simply the difference between the college costs and the family conribution. The difference is made up with jobs, loans and scholarships provided by the college.

In 1990, M.I.T. provided financial aid to 60 percent of its students. The cost of tuition, room, board, books, incidentals and travel was about $23,000. The average family contribution was $7,500. The Institute made up the difference with an average aid package of $10,200 in scholarships and $5,300 in loans or term-time jobs.

Many other private institutions have similar aid practices. Consequently, applicants to more than one of these schools can expect similar parental contributions and levels of need-based aid. Indeed, to ensure consistency, financial aid officers from many private universities, including M.I.T., have in the past met to discuss their methods and to compare awards. Their openly declared aim has been to see that students receive the aid they need, allowing them to select a school that offers the most suitable education, not the most money.

If the antitrust action prevails, what will the consequences be? Given that funds are limited, once colleges and universities are forbidden to agree on aid, some will choose to compete for students by offering them sums beyond their needs, thus reducing the amount available to other students. Admissions practices may change to give preference to students whose families can pay for college rather than those with the highest academic ability.

Since the Justice Department began its investigation three years ago, M.I.T. and some 60 other private colleges have spent more than $10 million in legal fees to respond to these inquiries. These funds could have been used for scholarships.

If successful, the Government's antitrust action will result in financial competition for individual students that will, over time, drive up college costs. It will erode the principle of intellectual merit as the primary factor in admissions decisions and deny many the full measure of assistance they require to attend college. In the end, the course suggested by the Attorney General will stifle, not aid, the American dream of access to higher education.

A TRIBUTE TO KATE DRUMMOND

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. KILDEE. Mr. Speaker, there are some people you meet during your lifetime whose impact far exceeds the amount of time you were able to spend with them. Kathleen (Kate) Drummond was such a person. Her tragic loss is felt not only by her friends and family, but by all who came in contact with her.

Kate testified before my subcommittee in February on the importance of workplace literacy programs. Her testimony was excellently researched and presented, but more importantly she was able to convey the deep sense of commitment that she obviously had for her work and those around her. Additionally, Kate provided invaluable assistance to me and the subcommittee staff in preparing for the hearing.

Kathleen Drummond was born and raised in Flint, MI, the oldest of James and Delores Beattie's nine children. She attended St. Luke's Elementary School and St. Michael's High school, graduating with honors in 1963. While at St. Mike's she was a cheerleader, class officer, all parochial council officer, homecoming queen and winner of the DAR Award for Outstanding Citizenship. During most of her high school years and her first 2 years of college she worked at Pasadena Jewelers, proving to be an outstanding employee from the start.

She enrolled in Flint Junior College in the fall of 1963, graduating 2 years later. She then transferred to Michigan State University intending to become a special education teacher. In 1966 she left MSU to marry Gary Lee of Grand Blanc. Eventually they moved to Houghton County where Gary opened a barber shop. They had three daughters. The marriage ended in divorce in 1972. She moved back to Flint with her three small daughters. She had no money or job or property. She did, however, have a tremendous determination to create a good life for the girls and herself.

In 1973 she began working on the line at Chevrolet Manufacturing—now AC West. The quality of her work and her commitment to doing the best possible job were apparent. Management soon asked her to serve as a temporary foreman. Chevrolet sent her and several other employees through a management training program at Mott Community College in 1974. There she met James Drummond, an English instructor, also divorced, who was raising two small boys by himself.

In 1975 Kate transferred to AC Spark Plug where she was a supervisor in a department that made instrument panels. Later that year Kate and Jim were married. At the time of the wedding, their five children were 4, 5, 6, 7, and 8 years old.

Her career at AC went through several stages. She left instrument panels to be a supervisor in Plant Seven where air cleaners were manufactured. She volunteered to work third shift on this job because the alternative, second shift, would have kept her from spending time with her family each day. She was then made a suggestions coordinator, where she did an outstanding job of researching and evaluating suggestions. Her next position was apprenticeship coordinator, working with a UAW counterpart, Bernie Smith.

Later, Kate was promoted and transferred to the UAW-GM Human Resource Center where she continued to work cooperatively with UAW colleagues, such as Ed Foy and Miles Owens, on developing training programs and assisting laid off GM employees. Her work with the apprenticeship program and with UAW–GM human resources meant that she worked closely with Mott Community College. She was connected with the college in a variety of ways throughout her adult life. Her last position with AC Rochester was in personnel management in the ignition and filtration business unit. In every job she excelled. She brought to her work a genuine enthusiasm and a commitment to do the best possible job.

At the same time that she was raising five children, she was also deeply involved in church and volunteer work. She was a Sunday school teacher and youth leader. She organized and supervised the Christmas "Boar's Head" Dinner for several years. Kate served on the church board and as a leader at church camp. She worked successfully with people of all ages and backgrounds.

For years she was in charge of child care for the Mother's and Other's 10 kilometer race for the benefit of WFBE, Flint's public radio station. She volunteered for the Amercian Cancer Society and the Salem Housing project. For 2 years she was in charge of the United Way campaign at AC. In another connection with MCC, she joined her husband in working with Goals Unlimited, the senior citizen group at the college. Probably her most important vounteer work was with Hospice for Communities where she helped terminally ill people so that those people could die at home with dignity and without pain. She had been visiting a hospice patient the night of her death.

Kate was always very involved in her children's lives at school as well at home. The children particpated in athletics, music, drama, clubs and organizations, and Kate was always there. At the same time, she attended the University of Michigan—Flint, graduating with honors in 1984. The Flint Journal published a profile of Kate and her academic achievements, referring to her in the headline as "Supermom."

Beyond any list of activities, and more far more important, was Kate's sincere and profound love for others—her husband, her children, her friends, her coworkers. She had a sixth sense about other people. She understood them and could detect their feelings and moods without them having to tell her. She always seemed to know what to say and what to do. Her life touched many, many people. She was articulate and intelligent, and absolutely ethical in everything she ever said or did. She could organize events and activities without ever sounding or behaving like a boss.

Kate was a beautiful woman, and everyone was struck with how attractive she was. Her beauty, though, was certainly her least important trait. She was never too busy to help someone out. She carried her zeal into every aspect of her life and to everyone who knew her. She was strong willed but never stubborn, confident but never arrogant, helpful without being condescending or intrusive, kind and gentle at the same time that she was a leader. She packed more life into 45 years and touched the lives of more people than most could in 90.

A scholarship in Kate's memory has been established to assist low-income mothers 30 years of age and older in attending Mott Community College. The Kathleen M. Drummond Memorial Scholarship will ensure that Kate's deep concern and interest in the lives of others will continue to enrich our community.

A FAMILY'S PLEA FOR HELP

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. HUBBARD. Mr. Speaker, today I would like to draw the attention of my colleagues to an excellent letter which I received from Sandi Jacoby of Los Angeles, CA.

Sandi's father, Seymour Jacoby, a resident of Palm Springs, CA, suffers from Parkinson's disease. In her letter, Sandi details how this disease has affected not only her father, but her entire family as well.

She wrote this letter to urge me to support the National Institutes of Health Revitalization Amendments of 1991, H.R. 2507, which the full House is scheduled to consider on Thursday of this week.

Therefore, I would urge my colleagues to read this very touching letter, and consider this family's situation as you deliberate on this very important piece of legislation.

The letter is as follows:

LOS ANGELES, CA,
July 12, 1991.

Re Parkinson's disease—bill H.R. 2507, Title I.

Hon. CARROLL HUBBARD, Jr.
Member, U.S. House of Representatives, House Office Building, Washington, DC.

DEAR CONGRESSMAN HUBBARD: I am writing you regarding the above-stated bill with great hope that you will support it when it does go to the Full House of Representatives later this month.

My father became afflicted with Parkinson's disease about two years ago. In turn, our entire family became afflicted emotionally by the disease and his emotional and physical traumas. It turned all our lives upside down. Our only way to helping him, besides supporting him emotionally, is by supporting this bill, so that it will pass and give medical science a monumental chance to save lives!

All of my father's life, he has always been an extremely well man physically and an extraordinarily sharp minded businessman. When he was informed by his doctor that he had Parkinson's disease, it shattered him. The shaking in his left hand (of which he is lefthanded), was so terribly embarrassing for him, he became reclusive and my parents marriage in turn suffered from his frustration with the disease, leading my parents to live separately thereafter. My father didn't want to socialize or lead any type of life that entailed him being with people for the fear of them noticing the tremor in his hand. It didn't matter whether these people were close friends of my parents, acquaintances or strangers. It made him extremely uncomfortable, wherein he would choose to shelter himself from the world as much as possible. As another result of this disease, there is more rigidity in his walk and movements, which is part of the deterioration process of this disease. He has experimented with a couple of different types of medications to help lessen the tremor. The latest medication that he has just recently begun taking appears to be helping, but you just never know for how long, or, how great the side effects will be. One of the side effects of this particular medication is memory loss. When my father was made aware of this side effect by his doctor, he made a very important and courageous choice for himself. He chose risking memory loss over the other impairments that this disease causes. Why should he have to make this kind of sacrifice, when there's a possibility that fetal tissue transplant may help him.

You may not be aware that each drug that a person takes for this disease eventually begins to lose its efficacy and creates side effects as bad as the disease itself. This can happen anywhere from a few months of discovering the illness or for most others, within ten years. Parkinson's begins to rob the ability to walk, talk, write, even eat and move.

My family and I don't want to watch our father and husband slowly deteriorate. We want to support the research needed to make a medical breakthrough happen, hopefully in his lifetime when he can benefit, but if not, for all the others that suffer and will suffer with Parkinson's Disease.

This bill keeps being linked to the anti-abortion issue. It is not an anti-abortion issue. It's totally separate. The Bush Administration's own blue ribbon panels have endorsed the research and the ethical guidelines that protect the abortion decision from influence. Women are not going to be lured into having abortions by the benefit to medical science, especially because there would be the ethical guidelines. And, fetal tissue transplant may not only help Parkinson's afflicted people, but those with diabetes, spinal cord injury, alzheimer's disease and certain blood disorders.

Why should lucid, active and once happy human beings, now struck with their illness, have their dreams and hopes of a cure being found for the disease abandoned because of the misinterpretation of this bill? Because a woman chooses to have an abortion, independent of this issue, why shouldn't other lives benefit by being enhanced or saved? Don't we all hope and pray for medical science breakthroughs, not only for ourselves, but for our loved ones, our friends and others throughout the world.

If I have made the smallest impression on you today regarding your support of this bill passing, then I have made a breakthrough towards the world's future.

Thank you for taking the time to read my letter, and, I hope with all of my heart that you will be supporting the Bill HR2507, Title I, as we do. It will save lives!

Sincerely,

SANDI JACOBY.

DENNY CORSALE IS LONGEST-SERVING TRAIN CONDUCTOR IN THE UNITED STATES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SOLOMON. Mr. Speaker, there are few Members of Congress—indeed, few Americans—who do not have many fond memories of railroad trains, either traveling on them or just watching them roll through town.

But I can take that one step further. I can boast of knowing the No. 1 train conductor in the United States.

His name is Denny Corsale, and in the mind of those who know him, only Casey Jones can be more closely identified with the railroad. He's more than a railroad conductor. He's an institution.

He's from my hometown of Glens Falls, NY, but now lives in Saratoga Springs. He's pushing 70 years of age, but you would not know it. When you love your work, you stay young for a long time—and Denny Corsale loves his work.

Mr. Corsale started with Delaware & Hudson Railway in 1941 and joined Amtrak in 1986. That makes him, despite 3 years of Coast Guard service in World War II, the longest tenured conductor in the entire country.

You can not keep doing the same thing for 50 years without being of value to your employers. In the case of Mr. Corsale, his experience, knowledge, and conscientious performance make him the kind of employee his supervisors love to present to the public.

My own father-in-law was cut from the same cloth, working for Pennsylvania Railroad for 50 years himself. And, like others, I have spent more happy hours than I can count traveling on trains. There is no better way to discover America. People like Denny Corsale make it all possible.

Mr. Speaker, a few days ago, Mr. Corsale stepped off the train to find coworkers and company officials waiting for him to celebrate his 50 years of rail service.

Let us pay our own tribute today to Denny Corsale, a railroad institution, and a great American.

THE AMERICAN JEWISH CONGRESS: LEADERSHIP ON THE PEACE PROCESS IN THE MIDDLE EAST

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. WOLPE. Mr. Speaker, Henry Siegman, the executive director of the American Jewish Congress, recently wrote a letter, published in the New York Times, that effectively addresses the real issues in the efforts to bring about a genuine peace between Israel and her Arab neighbors.

The administration is making a grave mistake in placing primary blame on Israel, and its policy regarding settlements in the occupied territories, for the lack of progress in the diplomatic efforts underway following the war with Iraq.

The real issue is, and always has been, whether the Arab nations aligned with us against Iraq would put aside their state of war against Israel, end the boycott of Israel and recognize Israel's right to exist.

The lack of an affirmative answer to that question is the obstacle preventing a breakthrough in the Middle East.

That is the issue to which the administration's diplomacy should be primarily and overwhelmingly directed.

As I stated in floor debate on the foreign assistance authorization bill, H.R. 2508:

> In all honesty it is disappointing that the Administration has not expressed the same degree of concern on the threshold question that the Arab countries must face, and face immediately: whether they are willing to recognize the right of Israel to exist. I do not have any doubt that, should the leaders of Saudi Arabia, Syria and Jordan join Egypt in declaring their recognition of Israel, all the other issues that divide them from Israel could be bridged.

I oppose Israel's settlements policy in the occupied territories. They are in impediment to the peace process. And the United States should continue to urge the Shamir government to reassess its policy of settling the occupied territories.

But the greater and more compelling burden on whether peace can be achieved rests with Israel's Arab neighbors.

Henry Siegman has forcefully articulated the full dimensions of this overriding issue. I commend his letter to my colleagues:

> [From the New York Times, June 20, 1991]
>
> ISRAEL AND ARAB NEIGHBORS MUST BEND A LITTLE
>
> TO THE EDITOR: Secretary of State James A. Baker 3d's statement to the House Foreign Affairs Committee (news article, May 23) that he does not believe "there is any bigger obstacle to peace than the settlement activity," referring to Israeli settlements in the territories, was most unfortunate. Far from focusing attention on the real problems, he seemed to single out Israel as a party most responsible for obstructing peace.
>
> Considering that nearly half a century after the establishment of Israel, its Arab neighbors (with the exception of Egypt) have yet to recognize Israel's right to exist—with or without the territories—such an accusation is a gross distortion.
>
> This is not to say that the continued proliferation of settlements is not damaging to the peace process. Ariel Sharon, the Israeli Housing Minister, has made it clear that the purpose of settlements is to preclude the possibility of territorial compromise. There is a critical point, which the Israeli Government's policy is fast approaching, beyond which there will be nothing to negotiate about.
>
> No Arab country is likely to engage Israel in negotiations that do not offer a possibility of territorial compromise, even if the creation of a Palestinian state is precluded.
>
> That may not trouble right-wing members of the Israeli coalition Government, who believe—for religious and nationalistic reasons—that territories are more important than peace. But for those who believe that peace is critical for Israel's economy, security and capacity to absorb Soviet and Ethiopian immigrants, to destroy the possibility of peaceful relations is nothing short of a calamity.
>
> But Arab failure to recognize Israel's legitimacy is a prior obstacle to peace. It is time for the United States to tell Saudi Arabia, Syria and the Palestinians that their delay in coming to terms with Israel's legitimacy and permanence in the region is not cost-free, and that if they continue, the United States will do nothing to prevent further Israeli settlements.
>
> But if the United States is to take this position with Arab governments, it must also insist that Israel's Government put on hold further settlement activity.

BENEVOLENT AND PROTECTIVE ORDER OF ELKS, EDGEWOOD LODGE NO. 2354 CELEBRATES 25TH ANNIVERSARY

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mrs. BENTLEY. Mr. Speaker, on July 27, 1991 I will have the pleasure of attending the 25th anniversary gala celebration of the Benevolent and Protective Order of Elks, Edgewood Lodge No. 2354.

I look forward to this event, for among the various community and civic organizations, I hold the Elks very close to my heart. The Elks' work in awarding scholarships to deserving students is unrivaled by any other service organization, and second only to the U.S. Government. In fact, in 1941, I was the recipient of a national scholarship from the Elks as the Elks' national outstanding female student, which I used to attend the University of Missouri School of Journalism. I can thank the Elks for giving me the help I needed to attend Missouri and start a succcessful career in journalism and subsequently, in public service.

Our Nation is indeed blessed with the work of organizations such as the Elks which possess a strong civic-minded commitment to their fellow man and community. It is clearly evident that the Elks have a great interest in the welfare of our great Nation. By providing college scholarships, the Elks have invested in both the future of our youth and the future of our Nation. For this I am truly grateful.

As in my case, the Elks gave me the opportunity to pursue higher education, to which I can attribute much of my current position. We only can imagine the countless success stories that began, or will begin, thanks to an Elks scholarship.

However, the Elks investment in the future of this country goes beyond offering scholarships. In addition, the Elks actively support and promote patriotism, charity, justice, brotherly love, and fidelity. All are important qualities that often become obscured in a modern, fast paced world. Thanks to their hard work and dedication, the Elks have had a profound affect upon every community in which they work. To volunteer one's time and energy to such a worthwhile endeavor is truly commendable.

Mr. Speaker, my fellow colleagues, it is with great respect and admiration that I congratulate Elks Edgewood Lodge No. 2354 upon its 25th anniversary. I extend my personal thanks and gratitude for the work of Elks Lodge 2354 and the numerous other lodges throughout the country. The Elks personify the American ideal of charity, good will, and patriotism. May Elks Lodge 2354 and all others continue to prosper in the years to come.

RESOLUTION RECOGNIZING AN ARTISTIC DISCOVERY, THE CONGRESSIONAL HIGH SCHOOL ART COMPETITION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. WEISS. Mr. Speaker, it is my privilege today to introduce, along with 130 of my colleagues, a resolution recognizing a truly unique activity of Congress on behalf of the arts—"An Artistic Discovery," the congressional art competition for high school students.

For what has now been 10 years, Members of Congress have held local art competitions for high school students in their districts and have brought these winning works back to Washington to be displayed in the Cannon corridor leading to the Capitol. This year, nearly 250 Members participated. Since the competition's start in 1982, more than 375,000 high schools students have participated in over 2,500 local art competitions.

While the competition, helps to ensure that Members, staff, and thousands of visitors will enjoy viewing the extraordinary works created each year by young artists, congressional support for this activity has meant a great deal more. By sponsoring these local art competitions, Congress as an institution has shown its support for the arts throughout the Nation and has fostered a greater understanding of education in the arts. Individual Members have learned a great deal about arts activities within their districts—especially for young people—and have joined with local educators, businesses, school administrators, local artists and families in executing successful competitions.

But most importantly, through "An Artistic Discovery," Congress has played a direct role in fostering the vitality of our national cultural heritage and in nurturing a new generation of artists. The opportunity for young artists to publicly display their work—particularly within the U.S. Capitol—can help to give the support and recognition needed for futher development of their talents.

While the students gain much from participating in "An Artistic Discovery," I cannot help but feel that we who view the works gain the most. We gain an insight into the hearts and minds of high school students in every corner of the country. But, moreover, we learn more about our own culture and about our own humanity by experiencing the vision, passion and emotion expressed by these young artists.

I am proud to introduce this resolution recognizing such admirable congressional activity and ask permission for the text of the resolution to be inserted in the RECORD:

H. RES. —

Whereas the arts embody the soul of our national heritage and successfully blend the vast array of our Nation's diverse cultures and experiences into a living representation of our national identity;

Whereas since 1982 the Congressional High School Art Competition has successfully displayed the art work of talented high school students in the Capitol corridor, symbolizing our Nation's youthful artistic energy and passion;

Whereas this annual event focuses the House of Representative's attention on the great reservoir of artistically-talented young people throughout the United States, and brings together Members of Congress and their younger constituents to share a deeper appreciation of the importance of artistic expression;

Whereas this event captures the imagination and creativity of young Americans and provides Members of Congress and the public the opportunity to witness the contemporary concerns of these young artists;

Whereas this event symbolizes the combined efforts of art educators, Congressional offices, local business, and most importantly students and their families, in running a successful art contest;

Whereas this competition demonstrates the importance of the arts in family life by encouraging students and their families to work together, and enabling family members to participate in the opening ceremonies in Washington, D.C.;

Whereas since 1982 more than 375,000 high school students have participated in over 2,500 locally-run art competitions, and for many students this is their 1st opportunity to publicly exhibit their work;

Whereas businesses work with Congressional staff to enhance and promote the success of local competitions, and in many cases such businesses help to bring the winning students with their parents to the Washington D.C. unveiling;

Whereas the winning art entries create a colorful panorama in the Capitol corridor for Members of Congress, staff and thousands of visitors, illustrating our Nation's diversity in a building which is symbolic of our unity;

Whereas the support which students gain through Congressional recognition and final approval by the Architect of the Capitol and renowned curators may encourage them to develop their talents and to pursue further arts-related endeavors; and

Whereas the Congressional Arts Caucus highlights the many positive and educational aspects of the arts through the Congressional High School Art Competition: Now, therefore, be it

Resolved, That is is the sense of the House of Representatives that the people of the United States should recognize—

(1) the 10th anniversary of "An Artistic Discovery", the Congressional High School Art Competition, and

(2) the success of such Competition in—

(A) encouraging the creative endeavors of our Nation's young artists, and

(B) forging strong working relationships among the Congress, businesses, and the arts community towards the ultimate goal of providing opportunities for high school students to express their artistic talents.

NATIVE AMERICAN HERITAGE MONTH

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SCHEUER. Long Island was formed by the Wisconsin Glacier some 15,000 years ago. Archeological evidence found in Flushing, Bayside, and other parts of Queens, confirms the presence of early native Americans and their occupation of these sites in Queens, some 12,000 years ago.

Queens and the rest of Long Island, were major hunting, occupational, and cultural sites that supported 13 tribes: Canarsie, Rockaway, Merrick, Massapequa, Matinecock, Nesaquake, Secatoque, Setauket, Corchaug, Patchouge, Manhassett, Montauk, and Shinnecock which were known as the Montauk confederacy.

One of the 13 tribes, the Matiencock, lived in Flushing area and were instrumental in helping the early settlers to the area survive the winters, by teaching them to plant corn, squash, and beans, known by the native Americans as the three sisters, and also maintain a peaceful and harmonious coexistence with these early pioneers.

The native Americans have helped us by sharing their knowledge of planting, agricultural methods, food preservation, wildlife management, and their knowldege of medical herbs, they now deserve recognition for all of the contributions they have made to the growth of the country, from its earliest beginning to the present time.

Now therefore, I, JAMES H. SCHEUER, do hereby proclaim the month of November to be known as Native American Heritage Month in the United States of America and do hereby commend Carl Iruchel, "Strong Sun" a resident of Flushing, Queens, and ceremonial chief of the Comanche Indian Nation for his work in Queens in helping to preserve valuable archaeological sites, and for his work in teaching the Indian way to students, conservationists, and most important of all to the children of our country, the future caretakers of Mother Earth.

COALBED METHANE INTRODUCTORY STATEMENT

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SHARP. Mr. Speaker, today I am very pleased to introduce legislation that will serve the twin goals of energy security and environmental protection. It will encourage the development of one of our Nation's most significant energy resources: coal seam methane. When vented to the atmosphere for purposes of mine safety, methane is a major contributor to the greenhouse effect. When methane—also known as natural gas—is recovered and burned, it can make a major contribution to our energy security.

The major barrier to coalbed methane recovery is the issue of who owns the methane. The bill provides a forced pooling mechanism, modeled after a statute recently passed in the State of Virginia, for encouraging the development and resolving ownership simultaneously. It also protects the rights of coal owners or operators to ensure that coalbed methane development is consistent with mine safety and protection of the value of the coal resource.

I look forward to working with Congressman RAHALL, chairman of the Interior Subcommittee on Mining and Natural Resources, who has led the way in identifying and addressing this important ownership problem. I greatly appreciate his efforts, as well as the efforts of the many outside experts in these matters who have suggested helpful changes that have been incorporated into the bill since I testified on it before Mr. RAHALL's subcommittee.

I would like to put this legislation in the context of our concern about greenhouse warming. A few months ago, I introduced, along with many of my colleagues, "the Greenhouse Warming Response Resolution of 1991." It calls for prompt implementation of the recommendations the National Academy of Sciences issued recently. The Academy rejected the most aggressive and costly mitigation options. But they concluded that at least some insurance is cheap. There are many measures that we can implement at low cost, or an actual net gain to the economy.

The legislation I am offering today, like the energy efficiency legislation that just last week was unanimously approved in the Energy and Power Subcommittee, is part of an effort to implement the Academy's recommendations. I look forward to working with my colleagues in Congress in this important effort.

The bill and a more detailed explanation of the bill follows:

EXPLANATION OF BILL

THE SITUATION

In some parts of the country, mineral leases are "severed," which means that they are owned by different parties. Under a typical scenario, there might be one oil/gas owner, one coal owner, and several surface owners. Severed rights are common in the East, particularly in Appalachia. They are less common in the West. The alternative to severed rights is to own the mineral rights "in fee," which means that the same owner controls everything.

THE PROBLEM

Where rights are severed, it is not clear who owns the coalbed methane because it is not explicitly mentioned in the leases (because it was not a recognized resource at the time the leases were written). Ownership is not a problem where (1) the tract is owned in fee or (2) the lease is new and coalbed methane is included.

Where ownership is contested, there are arguments by all owners regarding who owns the coalbed methane:

Coal owners argue that they own the coalbed methane because it is physically in the coal. Further, they note that for years they have been allowed to vent the gas in order to produce their coal without claims by the oil/gas owners.

Oil/gas owners argue that they own all the gas/oil rights and since coalbed methane is gas, they own it as well. While they accept the right of the coal owner to vent the gas, they note that this is consistent with the rights of any mineral owner to infringe in a reasonable manner on another's resource to produce their own, and does not indicate that the coal owner owns the gas.

Surface owners argue that since they didn't know about the resource when they sold off the mineral rights, they never intended to lease it and thus retain the rights themselves.

THE SOLUTION

There are three approaches to the ownership problem. Of these, "forced pooling" is the most attractive, under this approach, which has been developed in Virginia, project development is encouraged and ownership resolved simultaneously. This system allows a developer to proceed with project development but requires that they set aside (escrow) a percentage of the earnings (typically a ⅛th royalty) as a payment for the owner of the resource. (In the event that a claimant is asserting the right to develop the methane, a larger share would have to be set aside.) This approach creates a system that closely resembles what would likely result from protracted negotiations over ownership, namely that the developer will receive ⅞th of the profit and the resource owner will receive the ⅛th royalty that is typically paid. While the project is developed, the various ownership claimants can argue about who should be paid the ⅛th royalty. In fact, the development of the resource and creation of the fund provides an incentive for claimants to step forward and negotiate. (In states without such provisions, development does not proceed, no money is directly at stake, and there is little incentive for possible owners to negotiate.) Moreover, by setting up this fund, developers cannot be accused of "willful trespass" if it is determined that they do not own the resource. Further, this approach does not legislate ownership and thus provides the case-by-case determination of property rights required under the Constitution.

Because of the relationship between coalbed methane development and coal mining, and the fact that the method of methane recovery can in certain instances affect the mineability of the coal, it is necessary to combine the forced pooling provisions with some protection for the coal owners. In Virginia, this means that coal owners are given the right to object to proposed coalbed methane projects that would affect their coal reserves. Projects cannot be developed if it is shown that the development would affect mine safety or coal mineability.

LESS EFFECTIVE SOLUTIONS

Two other types of solutions to the contested ownership problem are used in various states or at the Federal level. Neither of these is effective in encouraging development of the resources.

(1) Legal Resolution Prior to Development: Where there are no mechanisms for addressing coalbed methane, ownership must be determined prior to project development. The project developer must secure the consent of any possible owners before beginning the project. If the developer assumes that he has the right to the resource and proceeds without obtaining consent from the actual owner, he can be charged with willful trespass of anothers property which carries stiff penalties. It is complicated, time consuming and expensive for developers to ensure that they have the right to develop the project, because they must find all other possible owners and either ensure that these owners do not have a valid claim or negotiate with them. Because of the willful trespass issue, the downside risk of failing to find or negotiate with an owner is very high. The result of this system is that the resource is not developed. Pennsylvania and West Virginia have this type of system.

(2) Legislation: The second problematic approach is to attempt to legislate the ownership issue. This approach was tried in Virginia, and federal legislation has recently been proposed.

Virginia: In 1978, Virginia passed a law that attempted to address the ownership question by placing the rights to the coalbed methane with the surface owners unless specifically transferred in the mineral leases. This act was not a workable solution because:

(1) It is unconstitutional to legislate ownership and deprive people of their property rights; and

(2) There are too many surface owners and it is difficult for developers to get full consent to proceed with projects.

The coal and oil/gas industries organized opposition to the law, which was repealed in 1990 and replaced with a forced pooling law as described above.

Other proposed legislation would distribute the rights to the coalbed methane between the surface, coal and oil/gas owners. While this concept has merit, like the earlier Virginia attempt, (1) it would likely be contested in court and found unconstitutional; (2) it would still require that the developer get consent from all possible owners prior to project development. Further, that legislation states that it will apply in all states where the title issue is unresolved, which means that it could apply in those states (like Virginia) that have developed forced pooling policies to encourage coalbed methane development without legislating ownership.

SUGGESTED LEGISLATIVE PRINCIPLES

1. It should not legislate ownership. It should provide for resource development by requiring the implementation of forced pooling provisions in states without such provisions.

2. It should only apply in states where there are cases of conflicting ownership of coalbed methane. It should not apply in states that have developed other approaches for encouraging resource development (e.g., Virginia, Alabama).

3. It should contain protection for coal owners and operators, by giving them the right to object to development in mining areas.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OWNERSHIP OF COALBED METHANE.

Section 7 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(i) OWNERSHIP OF COALBED METHANE.—

"(1) FINDINGS.—The Congress finds that—

"(A) coalbed methane gas is an important and economical domestic energy resource, the utilization of which could increasingly contribute to the energy security of the nation;

"(B) coalbed methane gas must be removed in a manner such as will ensure that coal operators can continue to remove coalbed methane from underground coal mines and otherwise ensure the safety of underground coal mining operations;

"(C) when coalbed methane is removed from mineable coal seams, care must be taken so that the mineability of the coal is preserved;

"(D) the development of coalbed methane gas has been impeded or made impossible in some States by uncertainty and litigation over the ownership of the rights to the gas in situations where the rights to subsurface coal or to oil and gas, or both, have been severed from the surface estate; and

"(E) in order to facilitate the development of coalbed methane gas in those States and its subsequent sale in interstate commerce, it is necessary to provide for legislation to permit the development of coalbed methane in a manner which will protect the rights of all persons claiming an interest in coalbed methane gas while protecting the integrity of the Nation's coal reserves.

"(2) AFFECTED STATES.—Not later than 180 days after the enactment of this subsection, the Secretary shall publish a list of States—

"(A) in which the Secretary determines that disputes, uncertainty, or litigation exist or potentially exists, regarding the ownership of coalbed methane gas;

"(B) in which the Secretary determines that development of significant deposits of coalbed methane gas may be or is being impeded by said existing or potentially existing disputes, uncertainty, or litigation regarding ownership of said coalbed methane.

"(C) which do not have in effect a statutory or regulatory procedure permitting and encouraging the development of coalbed methane gas within that State prior to final resolution of disputes, uncertainty, or litigation relating to ownership of the gas; and

"(D) which do not have extensive development of coalbed methane gas.

The Secretary shall revise such list of affected States from time to time. Based on legislation enacted in the State after the enactment of this subsection, any affected State may petition the Secretary for a revision to remove the State from the list. Until the Secretary publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the affected States, effective on the date of the enactment of this subsection. States which have current development of coalbed methane gas and should not be included on the Secretary's list of affected States are: Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, and Alabama.

"(3) STATE AGENCIES FOR AFFECTED STATES.—(A) In order to provide for the expeditious and economical development of deposits of coalbed methane gas in affected States, within 360 days after a State becomes an affected State, each such affected State shall establish or designate one of more State agencies or instrumentalities to administer the provisions of this subsection. Such agencies or instrumentalities shall hereinafter in this subsection be referred to as the 'State Board' for the affected State. The State shall authorize the State Board to have such power and duties and to promulgate such regulations as may be necessary to carry out this subsection in that State. A person knowledgeable in underground coal mining methods concerned with preserving the integrity of workable coal seams shall be appointed to the Board.

"(B) If an affected State has not established or designated a State Board as provided in this paragraph within the 360-day period specified in subparagraph (A), the Secretary shall be treated as the State Board for such State for purposes of this subsection. In any such case, the Secretary shall have such powers and duties and shall promulgate such regulations as may be necessary to carry out this subsection in that State.

"(4) SPACING.—Except where State law in an affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the State Board for each affected State shall establish such requirements within 90 days after the date on which the State Board is established or designated.

"(5) DRILLING UNITS.—Any claimant to coalbed methane may drill and operate a coalbed methane gas well without complying with the spacing requirements of paragraph (4), and notwithstanding an objection filed under paragraph (12), only if the State Board issues—

"(A) an order establishing a drilling unit for development of coalbed methance gas, and

"(B) in any case where an objection has been filed under paragraph (11), a pooling order under paragraph (6) for such drilling unit.

Any person proposing to drill and operate a coalbed methane gas well may apply for such orders. Upon receipt of such an application, the State Board shall issue an order establishing the boundaries of the coalbed methane drilling units established. Such units (i) shall accommodate existing and future coal mining plans; (ii) shall generally be uniform acreage and (iii) shall provide for the efficient and economical development of coalbed methane gas in a manner which will protect the rights of all persons owning an interest in such coalbed methane gas.

"(6) DEVELOPMENT UNDER POOLING ARRANGEMENT.—Following issuance of any order establishing drilling units under paragraph (5), pursuant to an application of any person claiming an ownership interest in any such drilling unit in which a person proposes to drill a coalbed methane gas well, the State Board shall issue a pooling order this paragraph for such unit if there exists in such unit separately owned tracts, undivided interests in a tract, or conflicting claims to ownership of the coalbed methane. The pooling order shall not be issued before notice has been provided to each person who may claim an interest in the coalbed methane gas within such unit and each such person has been offered an opportunity to make one of the following elections—

"(A) An election to sell or lease his coalbed methane ownership interest to a participating operator.

"(B) An election to become a participating operator by bearing a share of the risks and costs of drilling, completing, equipping, operating, plugging and abandoning the well, and receiving a share of production from the well.

"(C) An election to share in the operation of the well as a nonparticipating operator by relinquished his working interest to the participating operators until the proceeds allocable to his share equal the following: (i) in the case of a leased tract, 300 percent of the share of such costs allocable to his interest, or (ii) in the case of an unleased tract, 200 percent of the share of such costs allocable to his interest. Thereafter the nonparticipating operator shall become a participating operator.

The pooling order shall designate a unit coalbed methane operator who shall be authorized to drill and operate in the unit. Such an order shall establish a mechanism for the reasonable sharing of costs among participating and nonparticipating operators. The pooling order shall provide that any person claiming an interest in the coalbed methane within such unit who does not make an election under the pooling order shall be deemed, to have leased his coalbed methane interest to the unit coalbed methane operator under such terms and conditions as the pooling order may provide. No pooling order shall be issued under this paragraph for any unit if all persons claiming an ownership interest in the coalbed methane in such unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for that unit.

"(7) ESCROW ACCOUNT.—(A) Each pooling order issued under paragraph (6) shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

"(i) Each participating operator shall deposit in the escrow account a proportionate share of the costs allocable to the ownership interest claimed by each such participating operator.

"(ii) The unit coalbed methane gas operator shall deposit in the escrow account one-eighth of all proceeds attributable to the conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses attributable to conflicting working interests.

"(B) The State Board shall order payment of principal and accrued interest from the escrow account to all persons legally entitled thereto within 30 days of receipt by the Board of notification of the final legal determination of entitlement thereto or upon agreement of all persons claiming an interest in the coalbed methane gas in a unit. Upon such final determination—

"(i) each participating operator shall receive a proportional share of the proceeds attributable to the conflicting interest,

"(ii) each nonparticipating operator shall receive a proportional share of the proceeds attributable to the conflicting interest, less the cost of being carried as a nonparticipating operator (as determined by the State Board); and

"(iii) each person leasing (or deemed to have leased) his coalbed methane ownership interest to the operator shall receive a share of the one-eighth share of all proceeds attributable to the conflicting interests of lessees.

"(8) APPROVAL OF STATE BOARD.—No person may drill any well for the production of coalbed methane gas from a coalbed in an affected State unless the drilling of such well has been approved by the State Board for that State.

"(9) CONSENT OF AFFECTED COAL OPERATOR.—No operator of a coalbed methane well may stimulate a coal seam or known coal bearing geologic strata without the written consent of each person who is operating, or who at the time of application for a drilling permit, has by virtue of ownership or a coal lease, the right to operate, a coal mine in a coal seam situated within 1500 feet horizontal distance of the well and 200 feet vertical distance of any known coal bearing geologic strata to be stimulted. The consent required herein shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of the effective date of this subsection between the coalbed methane operator and the coal operator and the existence of such lease or contractual agreement and any extensions or renewals thereto shall be deemed to fully meet the requirements of this subsection.

"(10) NOTICE AND OBJECTION.—The State Board shall not approve the drilling of any coalbed methane well unless the operator has notified each person who is operating, or has the right to operate, a coal mine in any portion of such coalbed within the distances referred to in paragraph (9). Any such person may object within 45 days after receipt of such notice to the drilling of such well. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted by any such person, the State Board may refuse to approve the drilling of any such well based on any of the following:

"(A) Proximity to any coal mine opening, shaft, underground workings, or to any proposed extension thereof, in any operated or abandoned or operating coal mine, or in any coal mine already surveyed and platted but not yet being operated.

"(B) Nonconformance with a coal operator's mine development plan.

"(C) Well spacing not in correspondence with mine operations (including the drilling of multiple coalbed methane gas wells on each drilling unit).

"(D) Evidence indicating the drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

"(E) Evidence that the proposed activity can be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

"(F) Unreasonable interference with the safe recovery of coal, oil and gas.

"(G) That the drilling is an arbitrary exercise of the well operator's right to explore for, market and produce oil or gas.

"(H) Unreasonable interference with present or future coal mining operations.

"(I) Feasibility of moving the proposed activity to a mined-out area, below the coal outcrop or to some other area.

"(J) Feasibility of a drilling moratorium for not more than two years in order to permit completion of coal mining operations.

"(K) The methods proposed for recovery of coal and gas.

"(L) The practicality of locating the proposed unit or well on a uniform pattern with other units or wells.

"(M) Surface topography and use.

"(11) PLUGGING.—All coalbed methane wells drilled after enactment of this subsection that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with standards prescribed by the State Board for the State in which the well is located, in consultation with any Federal and State agencies having authority over coal mine safety.

"(12) NOTICE AND OBJECTION BY OTHER PARTIES.—The State Board shall not approve the drilling of any coalbed methane well unless—

"(A) such well complies with the spacing requirements established by the State Board and the operator of such well has notified all persons claiming ownership of coalbed methane to be drained by such well and provided an opportunity to object in accordance with requirements established by the State Board; or

"(B) the well is subject to an order under paragraph (5) establishing a drilling unit for such well and, where conflicting interests exist, an order under paragraph (6) establishing pooling requirements for the drilling unit in which such well is located.

The notification requirements of this paragraph shall be additional to the notification referred to in paragraph (10). The State Board shall establish the conditions under which persons claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

"(13) FEDERAL LANDS AND MINERAL RIGHTS.—In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary shall act in lieu of the Board under this subsection and shall have all powers and authorities necessary to take such action.

"(14) VENTING FOR SAFETY.—Nothing in this subsection shall be construed to prevent or inhibit the person who has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

"(15) DEFINITIONS.—As used in this subsection—

"(A) The term 'affected State' means a State listed by the Secretary under paragraph (2).

"(B) The term 'coalbed methane gas' means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

"(C) The term 'coal seam' means any seam of coal 20 inches or more in thickness or any coal seam which is being worked, or in the judgment of the State Board for the State concerned can foreseeably be worked.

"(D) The term 'Secretary' means the Secretary of Energy.".

"(E) The term 'unit operator' means the person designated in a pooling order to develop a drilling unit by the drilling of one or more wells on the unit.

"(F) The term 'nonparticipating operator' means a gas or oil owner of a tract included in a drilling unit who elects to share in the operation of the well on a carried basis by agreeing to have his proportionate share of the costs allocable to his interest charged against his share of production of the well in accordance with paragraph (6)(C).

"(G) The term 'participating operator' means a gas or oil owner who elects to bear a share of the risks and costs of drilling, completing, equipping, operating plugging, and abandoning a well on a drilling unit and to receive a share of production from the well equal to the proportion which the acreage in the drilling unit he owns or holds under lease bears to the total acreage of the drilling unit.

THE VANGUARD OF FREEDOM

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. BRUCE. Mr. Speaker, I rise today to share one of my constituent's thoughts on democracy. John Frederick Schomberg from Urbana, IL, wrote a winning essay for the Veterans of Foreign Wars of the United States and its Ladies Auxiliary's Voice of Democracy Contest.

The recent war in the Middle East has reminded all Americans of their precious right to a democratic society. John's essay reinforces the thought that democracy is a treasure we must work to keep. I ask that his essay be included in the RECORD:

DEMOCRACY—THE VANGUARD OF FREEDOM

(By John Schomberg)

My father and I walked among the pale white tombstones that stood at attention in their respective rows. The markers looked cold to the touch and seemed to stretch on forever along the freshly mown lawn. At the time, I only came up to my father's hip and had to crane my neck in an effort to make eye contact. "Why did they all die, Dad?" My father took a deep breath, searching for simple words to answer this complicated question. He began by using words like liberty, freedom, and democracy. After he had finished his reply, he looked down at my blank stare and was forced to look for an answer that would hit closer to home.

Stroking his beard, he continued. "They died so your grandfather could farm his own land. They died so when you grow older you'll have a part in choosing the next President. They died so you and I can say what we believe in without any punishment." "Why is that so important? We've always been able to do those things." "I know, son, but they died to guarantee that you always will." As a child, I didn't quite understand how I could be better off than anyone else in the world. I was only allowed to have one dessert, had restricted television privileges, and had to be in bed by 8 o'clock. I thought I had it pretty rough.

I still think as that child until I remember the images from history books and television: the East Berliner hurling herself through a barbed wire fence in the midst of gunfire; the television cameras zooming in on the latest defector from the Eastern Bloc; and the student protestors in Beijing running from the gunfire of their own armies. In these three cases, people chanced imprisonment, separation from their families, and the loss of their lives so they might enjoy the freedoms that I'd taken for granted all my life.

In attempting to gain an appreciation for the value of freedom, I looked at not only the history and governments of other countries, but also the past of our own United States. In the American Revolution, in addition to desiring separation and freedom from Great Britain, we wanted a government "by the people, for the people." We created a democracy.

Democracy is a freedom and a right outlined in the Constitution and first acted upon through the drafting of the Bill of Rights. The Bill of Rights created freedom of speech, religion, and due process: rights that are still a vital part of American society today.

So how is democracy a vanguard of freedom? Flipping through my dad's old and well-worn Random House Dictionary, I read the second definition of vanguard: the forefront of any movement or activity. Translating this into my own words, I found vanguard to mean a leader by example.

The United States has been a leader by example in its establishment and preservation of freedoms. In the past few years, the United States' example has played a big part in bringing down the Berlin Wall. Democracies around the world have provided an example for the Eastern Bloc countries to emulate as they begin to realize what Winston Churchill said years ago, "Democracy is the worst form of government, except all the others that have been tried." As other countries realize the benefits of giving power to the people, those images from history of the East Berliner, the defector, and the Beijing students can become images of the past instead of the present.

It's incredible that a single example of democracy can bring change to the rest of the world, but it has. Democracy helped change the lives of our forefathers and its helping change the lives of the oppressed around the world, but what does it do for us today? In a word: everything. Let's not fail to realize that every action we take is in some way a product of our freedoms that have been created by democracy, whether it be going to the church of our choice, voting for the county clerk, or expressing what we believe through a VFW essay.

Franklin Delano Roosevelt once said, "Those who have long enjoyed such privileges as we enjoy forget in time that men have died to win them." I guess that's what my Dad meant in the cemetery. I never realized that someone could stop my grandfather from farming, I'd always taken it for granted that I would get to vote when I got older, and it seemed absurd that I could ever be persecuted for what I believe in. Our forefathers remembered those privileges * * * the oppressed pray for them * * * soldiers fight for them. Thinking back to those long rows of pale white tombstones, I now see a different face and story behind each one of them. If those soldiers could die for those privileges, at least we could learn to appreciate them.

VOICE OF DEMOCRACY CONTEST

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. GUNDERSON. Mr. Speaker, I wanted to take this opportunity to recognize a young citizen who took the time and effort to think, write, and speak on the challenges of what American citizenship, freedom, and democracy means to him in the Veterans of Foreign Wars annual Voice of Democracy Scriptwriting Contest.

For this reason, I wish to share with my colleagues a copy of a speech by William David Richmond of LaCrosse, WI. Mr. Richmond was the winner of the Voice of Democracy Contest for the State of Wisconsin.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By William David Richmond)

Since the beginnings of civilization, the human race has struggled to find the best way to govern itself. The need for rules and authority is a simple one which arises from the need for everyone to get along peacefully with each other, and to provide for the common good of all. Systems of government are directly tied to civilization itself, exactly what makes us human.

But the relationship between the citizens of a country and the government which rules them has often been difficult. Looking at history, there have been few governments which have been ideal. The earliest form of ruling under ancient kings, pharaohs, and emperors eventually fell as they became incompatible with people's needs. Slowly governmental systems evolved.

At a truly great moment in history, the original thirteen colonies of America chose a democratic government for their country newly formed out of a struggle over the rights of people, based on the principles laid out in its Declaration of Independence. This was a nation created out of freedom. The founders of this new country had seen the effects of past governments and knew that most systems would not fit their new country. They knew well what role government would have to play in their society.

With America's birth out of democratic values, the evolution of government's role had finally succeeded in what it was intended to do. Governments should reflect the will of those governed. Democracy is government, for what is government if it is not the exercise of the rights of people who have allowed themselves to be governed? Government which does not recognize the rights of the people it governs is inevitably doomed to failure. Witness the recent changes in Poland, Romania, Czechoslovakia, other former communist countries, and the changes currently going on within the Soviet Union. The ancient Greeks had known that a democracy was the most logical and effective means of government. Yet it has taken hundreds of years for the idea to become widespread. Autocracies, theocracies, dictatorships; all have failed to establish themselves as viable forms of government. That the idea of democracy is still with us today, contests to its effectiveness.

Rule by the people. What a simple and beautiful idea. However, ideas do not always transform so well into realities. Democracy's effectiveness can be argued, and must have some refinement to be feasible. In a large country representation of areas of the population by others must be used to make democracy workable. For the same reason, power must be placed within governmental areas to make actual carrying out of governmental tasks effective.

Democracy can remain true through changes if its most important principle—protecting the rights and freedoms of the individual—is assured. Disregard for the individual deteriorates government. If even one person's rights are denied, government will surely fall. Democracy only works if people believe in it. We must participate in our government to ensure its continued existence. The struggle to keep democracy alive is not easy. People have given their lives for it, and others will undoubtedly need to make similar sacrifices in the future.

I often think of the words in democracy to be one in the same, but they are not. One follows the other. Freedom follows democracy when democracy works at its dedicated purpose of defending freedom. It does this by guaranteeing each individual's chance to express himself; by leaving its hands off each person's own thoughts and beliefs. Democracy fights for freedom, by upholding individual rights and the well-being of society. It creates an equilibrium between the two, protecting both. Democracy is at the foremost part of freedom on two levels: individually and nationally. It is the essential part of safeguarding truth and justice. Democracy is the vanguard of freedom.

TRIBUTE TO LILIAN MARLENE RECKSIEK

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. HANSEN. Mr. Speaker, it is with great pleasure that I rise to congratulate Ms. Lilian Marlene Recksiek on her being named the 11th place national winner of the 1991 "Voice of Democracy Scholarship Program," which is sponsored by the Veterans of Foreign Wars. Lilian is the daughter of Mr. and Mrs. Walter Recksiek of Layton, UT, and she recently graduated from Layton High School with honors. Lilian received the prestigious $1,000 Robert A. Stock Memorial Scholarship Award for her authorship of an essay. It is outstanding and I wish to share it with my colleagues here today:

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Lilian M. Recksiek)

From his headquarters deep in the desert, the dictator contemplated his world wide conquests. The corridors and chambers of his great palace were filled with "yes men" eager to do his bidding and knowing that certain death would reward the slightest deviance from his will. He had personally given the command and his armies and devoured his weaker neighbors. He was the great leader: who now could question his right to rule. But then word came. Across the distant desert, an army had appeared to defy him: not the cringing conscripts of a king but free men, who at home governed themselves; free men, who had chosen to make their stand in this far off land for the freedom of a people they barely knew and for freedom everywhere.

The year was 499 BC; the dictator: Darius, King of Persia; and the determined and free-willed democrats: the people of Athens!

In the front line of battle, on the leading edge of any great enterprize we find the vanguard like a hatchet which cuts the way for all to pass. Democracy is the vanguard of freedom!

Herodotus records the clash between the Persian monarchy and the people of Athens. "A tyrant disturbs ancient laws," he writes, "violates women, kills men without trial. But the people ruling—first, the very name of it is so beautiful; and secondly, the people ruling does none of these things." The "beautiful" word for "a people ruling" is democracy: throughout history the vanguard of freedom!

History proves that where ever the rule of the people has appeared, freedom has followed. This summer, my family climbed the hill of the Acropolis in Athens. Next to the temples of the gods is the rocky hillside of the Areopagos, where the people of the city gathered to govern themselves. The freedom of the ancient world expressed itself in the writings of Plato, the plays of Sophocles, and the discoveries of Aristotle and Archimedes. All this vanished under the crush of Imperial Rome.

The history of freedom follows the return of democracy. When the people forced the signing of the Magna Carta, freedoms flames were fanned to life. We follow democracy to the 17th century Netherlands, where freedom expressed itself in the philosphy of Erasmus and the art of Rembrandt. The pilgrims found protection in democratic Holland while yet denied religious freedom by England's king. On the bloody fields of Bunker Hill and Valley Forge, the people took the government into their own hands and established the roots of freedom in the Constitution of the United States. For 200 years, a government of, by, and for the people has been cutting toward freedom.

The job is not finished. We follow the lead of those who have given us freedom. With great suffering, the people rid themselves of slavery. Abraham Lincoln called democracy to action: "We must disenthrall ourselves and then we shall save our country. . . . The fiery trail through which we pass will light us down in honor or dishonor . . . In giving freedom to the slave we assure freedom to the free. . . . We nobly save or meanly lose the last best hope of earth."

It was "a people ruling" that found the courage to stand on Flanders Field, and the Marne, at the Bulge, and Iow Jima.

It was a democratic nation that found the strength to strive for five decades to contain communism until "the walls came tumbling down" and the iron curtain parted to let in democracy, the vanguard of freedom!

It was "the people ruling" who, brought to their senses by courageous acts at Atlanta and Birmingham, demanded an end to segregation and took up the burden of removing the ignorance and fear that divides a people, allowing them to dream with Martin Luther King of a nation where: "Freedom will ring from . . . every city . . . and all God's children will sing. . . . Thank God almighty, we're free at last."

Freedom does not yet ring pure, but "the people ruling," democracy, fights for it! We can stand shoulder to shoulder with the ancient Athenians, who, when the Persian general demanded to know why they fought on, answered: "You know perfectly what it is to be a slave. Freedom you have never tried to know how sweet it is. If you had, you would urge us to fight for it, not with our spears only, but even with hatchets." So we, a democracy, "a people ruling," must cut the way through to freedom.

A TRIBUTE TO THE ROCCOS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Cathy and Connie Rocco, the talented sister performing duo known simply as Rocco. Originally from Pittsburgh, PA, the Roccos have been performing since childhood when their mother got them their first break at the age of 8 and 10. Dedication to their career has always been on the forefront, forcing Connie to finish high school on the road through a correspondence course.

But it was not without a great deal of hard work and the help and guidance of family, friends, and their agent that the Roccos have made it to where they are today. Since 1976, Joe Donofrio of my 17th Congressional District of Ohio has been managing the Roccos and is proud of their many accomplishments. The Roccos began their career in Pittsburgh and Youngstown and continued to work in many local towns throughout the country. As Cathy and Connie began working their way up the ladder of success, they were continuously looking for new ways of promoting themselves. In 1987, they sought the help of Patrick Lucas, an image designer from New York. Lucas, whose make-overs have included Cyndi Lauper, the Bangles, the Hooters, and until Tuesday, designed an image to appeal to the young MTV generation. Soon after, the Roccos released their first single, "I Can't Blame You" followed by their first album a month later.

In the 24 years that the Roccos have been performing, they have sang and danced their way into the hearts of many admirers. From Las Vegas, to Palm Springs, to Caesar's Palace and the Taj Mahal, the Roccos appeal to all age groups with their versatile format and pop tunes from the 1930's through present day. And when they are not busy working on their act, Cathy and Connie are always finding time out to help others. Always working hard to be in top physical condition, the Roccos sought to share their highpoints and pitfalls by releasing an exercise video with karate expert, Judy Colasar. The Roccos have been involved in a great deal of charity work as well, often performing at benefits and telethons for the March of Dimes and the Cancer Society.

After working with celebrity greats such as Phyllis Diller, Frankie Avalon, Jefferson Starship, and the Kingston Trio, Cathy and Connie will be back in the studio this fall, working on their new adult contemporary album to be released by the first of the year.

Mr. Speaker, I would like to take this opportunity to recognize Cathy and Connie Rocco for their hard work, dedication, and outstanding accomplishments. I admire their talent and ability to help out those less fortunate then themselves, and wish them well in all of their future endeavors.

ADDITIONAL JUDGES NEEDED

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mrs. SCHROEDER. Mr. Speaker, the economic distress in Colorado in recent years has put an inordinate strain on our bankruptcy courts. For this reason, I join my colleagues from Colorado to introduce the Colorado Emergency Bankruptcy Judgeship Act of 1991.

A 1989 survey conducted by the Administrative Office of the U.S. Courts indicated that Colorado bankruptcy judges averaged a caseload of 3,655 per judge—well over the national average of 2,000 cases per judge. The average in 1990 measured in at 3,300. Already this year the district has experienced a 5-percent increase in their caseload. Such an overload makes it impossible to provide Colorado with swift and thorough bankruptcy proceedings.

The Colorado Emergency Bankruptcy Judgeship Act will remedy this urgent situation by increasing the number of bankruptcy judges in Colorado from five to six. The additional judgeship is supported by the Administrative Office of the U.S. Courts and the Judicial Conference of the United States.

PROLIFERATION PROFITEERS: PART 23

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. STARK. Mr. Speaker, with assistance from Western companies, Saddam Hussein came close to building the bomb. Iraq used three different approaches of enriching uranium to weapons grade levels—the key step in manufacturing nuclear weapons.

We cannot afford to let terrorist nations like Iraq reach the threshold of possessing the ultimate weapon. In coming years, the United States will have to address the nuclear weapons programs in a number of developing countries, including Iran, Algeria, North Korea, India, and Pakistan.

Two important steps will help us stem the threat of nuclear proliferation. We must strengthen the mandate of the International Atomic Energy Agency [IAEA], the U.N. agency which is charged with safeguarding nuclear facilities all over the world. The IAEA must have the right to conduct frequent and unannounced inspections of any nuclear facility, whether or not it has been officially declared by its host country. Other steps are also necessary, such as an international registry of the sales of all nuclear and nuclear dual-use items. To allow the IAEA to fulfill these additional tasks, we must also increase our contribution to the Agency. A few extra million dollars would go a long way toward improving the reliability of the safeguards regime—a small but vital investment in our long-term national security.

The other critical area that must be addressed is the problem of foreign companies which have sold nuclear weapons technology without the proper safeguards. I have introduced the Nuclear Non-Proliferation Enforcement Act—H.R. 830—which would put import sanctions on these "proliferation profiteers." Today, I am entering into the CONGRESSIONAL RECORD the 23d in my series of case studies on these foreign firms which have supplied the means of building the bomb to countries like Iraq and Iran.

FIRM 10; PECHINEY SA (FRANCE)

Pechiney SA is one of France's major state-owned firms employing over 71,000 workers in the primary and fabricated metal products industries. Pechiney's annual revenues are in the $7 billion range. The firm has extensive trade and business relations with the United States, completing in 1989 the $1.26 billion acquisition of Triangle Industries Inc. Pechiney also maintains ownership, partial ownership, or joint-venture activity in several other U.S. enterprises such as American National Can Company, Howmet Corporation, Reynolds Metal Company, and the U.S. nuclear fuel service activities of Babcock & Wilcox, Inc.

Pechiney controls two subsidiaries, who, according to Politis-Le Citoyen, were allegedly engaged by Rudolph Ortmayer's Neue Technologien GmbH (NTG) to participate in the enterprise of evading German export controls on the sale of nuclear technology. The first of the two French subsidiaries, Compagnie Europeenne Du Zirconium Cezus (wholly owned by Pechiney), produces special metals and alloys, pipes and tubing, and zirconium. The second subsididiary, Zircotube (51 percent-owned by Pechiney and 49 percent-owned by France's huge nuclear engineering firm, Framatome), manufactures zircalloy tubing, These materials are used in the construction of nuclear reactors that can produce plutonium for a nuclear bomb. NTG procured these sensitive items form Pechiney's subsidiaries following meetings between representatives of the two companies in Germany. NTG allegedly altered the labels and destination of the shipments in Frankfurt and is believed to have subsequently routed up to 30 tons of the material from France to Pakistan.

Sources: New York Times, 11/22/88, p. D1 by Steven Greenhouse; New York Times, 11/25/88, p. D3 by Deborah Wise; Nuclear News, 1/88, p. 54. Politis-Le Citoyen (Paris), 2/22–28/90, pp. 50–55 by Mycle Schneider; Der Spiegel, 11/6/89, pp. 125–131; Wall Street Journal, 4/29/87, p. 49, 4/27/99, p. B5, 1/27/89, P. A12; World Nuclear Industry Handbook, 1990, pp. 188, 193, 191.

Sources: New York Times, 11/22/88, p. D1 by Steven Greenhouse; New York Times, 11/25/88, p. D3 by Deborah Wise; Nuclear News, 1/88, p. 53. Politis-Le Citoyen (Paris), 2/22-28/90, pp. 50–55 by Mycle Schneider; Der Spiegel, 11/6/89, pp. 125–131; Wall Street Journal, 4/29/87, p. 49, 4/27/88, p. 22, 12/5/88, p. B5, 1/27/89, p. A12; World Nuclear Industry Handbook, 1990, pp. 188, 193, 191.

RELATING TO THE 1992 UNCED CONFERENCE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. FASCELL. Mr. Speaker, I would like to bring to the attention of my colleagues information relating to the upcoming U.N. Conference on Environment and Development [UNCED]. A recent letter to the Committee on Foreign Affairs from Mr. Maurice F. Strong, Secretary General of the UNCED, forwarded a proposal to establish a fund to promote developing country nongovernmental organizations [NGO's] participation in the UNCED process.

Under the funding mechanism, travel and accommodations for at least 50 developing country NGO representatives to attend the remaining two preparatory committee meetings and the UNCED conference itself will be provided. The proposal lays out the guidelines for the selection process, which appears to be a fair and equitable plan. Eligibility is to be determined by a group of NGO representatives from 10 developing nations—3 African, 3 Latin, and 4 Asian—each representing a subregion, along with five observers who will monitor the transparency of the selection process.

There are several important aspects to the fund. In addition to promoting broad participation at UNCED, the fund will enable an important interchange of ideas between the governmental and nongovernmental sectors, as well as enhancing networking opportunities. Further, developing country NGO's can lend an important perspective from their own experiences working at the local and grassroots levels. It is a very modest investment which can have a multiplier effect in laying the groundwork for self-reliant and sustainable approaches to environment and development problems in the future.

The entire budget for the developing country NGO fund, estimated at $844,200, is a very modest amount. The U.S. contribution would be only a portion of that amount.

The Committee on Foreign Affairs recognizes the importance of promoting participation by both developing countries, and their NGO's in the UNCED process. Both the Foreign Aid and State Department authorization bills contain language encouraging the administration to contribute funds for UNCED-related purposes, and at levels commensurate with U.S. responsibilities in the world.

COMMEMORATE CAPTIVE NATIONS WEEK

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. RAMSTAD. Mr. Speaker, I rise today to commemorate Captive Nations Week, which began the week of July 14, 1991. I am referring to the captive nations of the Baltic States in the Soviet Union, who are so bravely fighting for the independence against the central government of the Soviet Union.

As we all know, in January of this year the Soviet Government enforced a brutal crackdown on the Baltic nations in which many people were injured and killed.

Recently, the House considered the foreign assistance authorization bill and I was glad to see issue of aid to the Soviet Union debated and resolved.

I applaud the efforts of my colleague, Mr. KYL, for his amendment to the Foreign Assistance Authorization Act. His amendment recognizes that the long term national security of the United States and of the peoples of the Soviet Union would benefit greatly from the transformation of the Soviet Union to a fully democratic nation and that assistance provided by the United States to the Soviet Union should promote rather than retard this transformation.

This amendment also sets many conditions on the Soviet Union to comply with international human rights standards before United States assistance is provided to the Soviet Union.

As a cosponsor of the direct aid to democracies bill, I was pleased to see so much support for Mr. KYL's amendment.

Let us all recognize and remember the Baltic nation's struggle for independence and democracy during this week of the Captive Nations.

SKELTON INTRODUCES RURAL CRIME AND DRUG CONTROL ACT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SKELTON. Mr. Speaker, I rise today to introduce the Rural Crime and Drug Control Act of 1991.

A recent report indicates that drug abuse and crime are increasing at a faster rate in rural America than in many of our largest cities, including New York and Los Angeles. As a former prosecuting attorney in rural Lafayette County, MO, it distresses me that hard-core drug abuse and drug-related violence are becoming increasingly common in rural areas across the country. The capital city of my State, Jefferson City, has seen a recent trend toward violence committed by groups of young people.

This legislation, similar to a measure introduced by the chairman of the Senate Judiciary Committee, aims to fight the war on drugs on two fronts: Supply and demand.

It increases assistance to State and local law enforcement by $50 million, and provides $45 million to hire an additional 350 Drug Enforcement Administration [DEA] agents to combat rural drug trafficking. It provides for the establishment of rural drug task forces; creation of programs to hire, train and better-equip rural police officers on the front lines of drugs and crime; and increases in the availability of drug treatment and prevention centers in rural communities. It would also increase penalties for trafficking "ice."

The law enforcement and drug treatment needs of small-town America have been overlooked for too long. People in rural communities deserve the same resources to fight their "war on drugs and crime" as those who live in the cities. I encourage my colleagues to support this important legislation.

TRIBUTE TO BILL IRWIN

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. COBLE. Mr. Speaker, on behalf of the citizens of the Sixth District of North Carolina, I would like to congratulate Mr. Bill Irwin for his remarkable achievement, and I would like to share his incredible story with you.

Bill Irwin, a former chemist for Roche Biomedical Lab, lost his sight 22 years ago as the result of an eye disease. Mr. Irwin, of Burlington, NC is the first blind person to complete a hike of the Appalachian Trail. Irwin, at the age of 50, began the more than 2,100-mile hike at Springer Mountain, GA, on March 9, 1990. Accompanied by his guide dog Orient, Irwin finished his journey at the Katahdin Stream Campground in Baxter State Park, ME, on November 21, 1990.

Bill and Orient spent the majority of their journey hiking through snow, freezing rain, or rain. In addition to coping with foul weather and failed equipment, Bill also had to endure many falls, including one that broke a rib. Perhaps the most frightening situation occurred when Bill and Orient encountered a bear along the trail. Luckily the bear walked off without bothering them, and they continued their remarkable journey.

Bill claims his plan to actually begin the hike was a message from God. The hike served as an affirmation of his faith. Bill talked to the other hikers about God as well as his conversion to Christianity following his battle with alcoholism. His mission was to teach others about his new-found faith.

Sponsors, friends, and reporters helped to support and publicize the physical and psychological accomplishment of Bill Irwin. Bill has just finished writing a book outlining his experiences. Entitled "But Now I See," the book was cowritten by David McCasland of Colorado. It should be out by October. In the meantime, Bill has returned to the Appalachian Trail twice, and he plans another hike this month with some Boy Scouts.

Bill Irwin, an extremely courageous man, has accomplished a feat which many others without his handicap could not have achieved. His journey proved that there are no handicaps that cannot be overcome through hard work and determination. I would like to extend my congratulations to Bill Irwin—not a handicapped man, just an extremely brave man.

TRIBUTE TO THE LATE FREDERICK SCHWAEMMLE

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. DARDEN. Mr. Speaker, today I rise to pay tribute to the late Mr. Frederick J. "Fritz"

Schwaemmle Sr. of Sandy Springs, GA. A noted aviation pioneer whose pilot's license was signed by father of flight Orville Wright, Mr. Schwaemmle was admired not only for his skills, but for his charming and personable manner with everyone—young and old. Mr. Schwaemmle, 88, died recently from leukemia.

The following information is taken from an interesting Atlanta-Journal Constitution article which describes the impressive accomplishments of Mr. Schwaemmle's career.

Mr. Schwaemmle was a retired public relations director of Delta Airlines, having moved from pilots' seats on its airliners to the marketing and public relations staff after suffering an eye ailment in 1949. He was a 33-year Delta employee, from 1935 to 1968.

As a Delta captain, Mr. Schwaemmle flew several significant inaugural flights, including DC-3 service in 1941 and DC-4 service in 1946. He rose to assistant chief pilot of the airline.

In the 1920s, when he began flying, his license was issued by an organization Mr. Wright headed.

In 1928, as an employee of Pitcairn Airlines, a forerunner of Eastern, Mr. Schwaemmle was the pilot of the inaugural flight on an air mail route from Miami to Atlanta, with a stop in Jacksonville—a route which helped pioneer air service to Atlanta.

As one of the first to land on the airfield here, a former raceway, he could recall the dangerous 1930s when the field still had a hump of earth in the center; it was later graded.

'You had to land short and slow down fast or you found yourself airborne again,' he told Betsy Braden and Paul Hagan in their 1989 history of the airport, "A Dream Takes Flight."

Frederick John Schwaemmle was born June 5, 1903, in Philadelphia, the son of a pharmacist.

The family moved to Hadden Heights, N.J., when he was a child. He developed an early interest in airplanes, making models, subscribing to aviation magazines and taking a correspondence course in aeronautical engineering.

After graduating from high school, he received an appointment as a flying cadet in the U.S. Air Service. He trained in San Antonio, completing his first solo flight in 1923 and graduating in 1924.

He entered commercial aviation with Pitcairn, but some time after the historic airmail flight to Atlanta, he was laid off. He drove to Delta's headquarter, then in Louisiana, and got a job as station manager in Jackson, Miss., for $150 a month. Later he was promoted to co-pilot, then pilot.

During World War II, he was an Army Air Forces pilot in Africa and Europe, rising to the rank of lieutenant colonel and receiving the Order of the British Empire.

He was a longtime College Park resident but lived in Sandy Springs the last four years of his life.

Mr. Schwaemmle belonged to the OX5 Club of pilots who had flown with a certain type of engine, and he was historian of the retired pilots group, the Delta Golden Wings. He also was a former trustee of South Fulton Hospital and a former member of the Housing Authority and Industrial Development Authority of College Park.

His wife of 63 years, Florence Smith Schwaemmle, died of a heart attack at 87 on June 22, preceding him in death by 13 days.

Surviving are two sons, Frederick J. Schwaemmle Jr. of Dunwoody and Richard Schwaemmle of Cumming; a brother, Albert R. Schwaemmle of Mesa, Ariz.; two sisters, Mildred Lamar of Hackettstown, N.J., and Dorothy Cunningham of Cherry Hill, N.Y.; five grandchildren; and five great-grandchildren.

Mr. Speaker, Mr. Schwaemmle's contributions to aviation and the airline industry will never be forgotten. His work was critical in establishing the foundation of flight as we know it today. And, those who had the opportunity to know Mr. Schwaemmle will miss his wonderful and entertaining stories of flying, and his warm character as a friend.

CORRECTION OF HOUSE REPORT 102-136 TO ACCOMPANY H.R. 2507—NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. FIELDS. Mr. Speaker, when House Report 102-136, the report to accompany H.R. 2507, the National Institutes of Health Revitalization Amendments of 1991, was printed by the Government Printing Office, my name was inadvertently omitted as the author of the Separate Views printed on page 205.

I filed these views because I have serious concerns about the crisis in trauma care facing this country. While I do not support passage of H.R. 2507 in its present form, I strongly support the provisions of the bill that create an Interagency Program for Trauma Research in the National Institutes of Health.

Therefore, in order to bring my concerns to the attention of my colleagues and to correct the printing error which occurred, I am inserting in the CONGRESSIONAL RECORD at this point the Separate Views I filed on H.R. 2507:

SEPARATE VIEWS ON H.R. 2507

Although I oppose the passage of H.R. 2507 for a number of reasons, I strong support the provisions of the bill that create an Interagency Program for Trauma Research at NIH. This language was added in Committee as an amendment sponsored by Congressman Markey and myself. This program would coordinate the various trauma research efforts at NIH. Last year's legislation, the Trauma Care Systems Planning and Development Act, was an important first step in improving trauma care in America. However, it was just that—a first step. Only through continued dedication and perseverance can we assure that all trauma victims receive the best care possible.

We are facing a crisis in trauma care just as we are increasing our reliance on it. According to a GAO study released last month, more than 140,000 Americans die from injury each year. And the American College of Surgeons has estimated that 25,000 of these are needless deaths. In my view, this is unacceptable.

In addition, injuries cause the loss of more working years of life than all forms of cancer and heart disease combined. One out of every eight hospital beds is occupied by a trauma patient.

While there are eight separate institutes at NIH that are doing research in trauma care, no mechanism exists to coordinate these activities. The establishment of an Interagency Program for Trauma Research will coordinate projects already in progress and provide a clearer picture of the direction our future research efforts should take. This will prevent duplication of research, and through the sharing by experts in various fields, will also provide research into more comprehensive trauma treatment. In addition, this provision will give us the knowledge to best meet the special needs of our children and elderly when treating them in our trauma centers.

Although I cannot support the legislation that currently contains this important trauma research language, I will be working with Congressman Markey to attach it to a more acceptable bill in the future. Hopefully we will all realize the importance of a coordinated research program at NIH and will make sure that this language becomes law in the near future.

SALUTE TO MRS. ANGIE FALCONE

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, this past July 4 marked more than another year of independence for the United States of America. In Batavia, NY, friends and relatives gathered to celebrate an additional milestone—the 80th birthday of Mrs. Angela Falcone. Angie, as she is known to all, was the first child born to Nicholas and Victoria Tessitore, who immigrated to the United States from Italy at the turn of the century. It was fitting that she was born on July 4, once they had come here for the opportunities and freedom our great country had to offer.

Angie worked until age 73, as a superviser at the Melton Shirt Factory and at Genesee Memorial Hospital. She survived her husband, Ralph, and has two sons. She has been a lifelong member of St. Anthony's Church. Angie remains active, and her friends and family rely on her advice and wisdom.

Mr. Speaker, I urge my colleagues to join me in wishing Mrs. Angie Falcone a very happy belated 80th birthday.

COMMEMORATING 100TH ANNIVERSARY OF THE BAUMGARDNER FAMILY FARM

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SARPALIUS. Mr. Speaker, I rise today in order to recognize a very special anniversary. This year, 1991, is the 100th anniversary of the purchase of the Baumgardner family farm by Joseph Fisher Baumgardner. The Baumgardner farm is located south of Wellington in the Texas Panhandle, just one of the fine rural communities I have the privilege to represent. What makes this anniversary special is that if you visit the Baumgardner farm today you will find David M. Baumgardner, Sr. still farming the land his father Joe Bailey Baumgardner farmed for 43 years, from 1911 to 1954. Mr. Speaker, to the average city slicker this may not seem to be any particularly great feat, but to those of us who represent agricultural districts and know the difficulties that plague the family farm today, it is an accomplishment more than worthy of recognition.

Mr. Speaker, you might believe those accomplishments would be enough for one family, but the Baumgardner family's commitment to agriculture goes much further. Besides David Baumgardner, his brother Robert farmed for 26 years in Terry County, TX, and his brother Haynes has farmed in Motley County, TX for the past 20 years. Another brother John Henry farmed in Lubbock and Hale Counties of Texas for 35 years, taught Agriculture at Texas Tech for 31 years, and served as a consultant for the U.S. Feed Grains Council from 1972 to 1977. Another brother Marion has taught Agronomy at Purdue University for over 30 years and served as director for the Laboratory of Remote Sensing. A sixth brother Forrest worked in dairy manufacturing for several years in the 1940's. Their sister Priscilla Jacobson has been a farming wife in Adrian, TX for 34 years.

Mr. Speaker, on August 2 to 4 over 80 members of the Baumgardner family will be holding a reunion on the family farm that Joseph Fisher Baumgardner purchased 100 years ago. Mr. Speaker, I think Joseph Baumgardner would be very proud of his family today.

Mr. Speaker, I hope you and all of my distinguished colleagues will join me in honoring the Baumgardner family on this special occasion and wish them another 100 years of peace and prosperity.

A TRIBUTE TO MARIA VALERIAY AND TERESA FIERRO'S RECYCLING PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to pay tribute to the achievements of two workers of the south Florida based Cordis Corp. In a company with over 1,000 workers, two employees, Ms. Maria J. Valeriay and Ms. Teresa Fierro, were determined to improve their environment. Thus, these workers began a tremendously successful recycling program within their company.

The recycling program itself is divided into two sections: paper and aluminum. Paper bins are placed on each employee's desk and collect computer printouts, memos, and other papers for recycling. Recycle receptacles for aluminum metal are placed near all soda machines. With the efforts of Ms. Valeriay and Ms. Fierro, the program accumulated more than $1,000 in the first year alone. This money was donated to the Camillus House for the Homeless in Miami, FL. This donation is yet another example of Ms. Valeriay and Ms. Fierro's dedication to their community.

The recycling program, initiated in April 1990, had full support from the management and immense approval from their coworkers. Since it began, the program has received numerous awards and acknowledgments, such as the Eco Hero and the Performance Award, demonstrating the viability of a recycling program. The program has also been nominated for the Community Service of the Year Award.

I would like to reemphasize the achievements of Ms. Maria Valeriay and Ms. Teresa Fierro. These two outstanding members of the south Florida community have displayed tremendous leadership qualities by initiating a recycling program within their company. They should be noted for their sacrifices and admired for the desire to improve their society. May they both have continued success and happiness in the years ahead.

THE LANGUAGE OF GOVERNMENT ACT

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. BATEMAN. Mr. Speaker, I rise as an original cosponsor and strong supporter of H.R. 123, the Language of Government Act. The time has come for the United States to formulate a clear language policy. We are a diverse nation, composed of many races, relgions and cultures. We take pride in our heritage and recognize that our country has been greatly strengthened by its unique cultural diversity. Amid this diversity, the role of the English language as a unifying element is widely acknowledged

America has always been viewed as the land of opportunity. However, to reap the benefits of living in the United State, it is essential to know English. This message is crucial for the future of our country.

Our Nation has become increasingly aware of the problem of illiteracy, young people are at great risk if they are functionally illiterate and unable to communicate in English. Without a thorough knowledge of English, langauge-minority students will not be able to fully participate in our English-speaking business and social world.

By designating English as the official language of the Federal Government, we will assure a channel of communication common to all diverse people of this great Nation. When English is established as our Nation's official language, the Government will be obligated to provide programs that will teach English to those who do not already know it. Contrary to the opinion of those who oppose the official language movement, such a step would not prohibit or discourage the use of foreign languages in homes, churches, community groups, private organizations, tourism or commerce. The Language of Government Act will not affect the teaching and learning of other languages, it will only emphasize English as the first language. By assuring that English is learned at a young age we are only seeing that the doors of opportunity remain open for all citizens.

As the most pluralistic Nation in the world, the United States is more dependent than any other on the unifying bond of language to facilitate communication, cooperation, and the exchange of knowledge. By making English our official language of our Government, we reaffirm our belief that a common language promotes unity and serves as a bridge for understanding.

Adopting English as the official language of the U.S. Government would have a tremendous impact on this nation by encouraging better assimilation of our myriad ethnic groups. A single language greatly enhances national unity, political stability, social equality and economic efficiency. We must ensure that our Nation's young people are prepared for the challenges before them in the English-speaking business and social world. I believe that H.R. 123 will help our country achieve these worthwhile goals. For these reasons, I am a strong supporter of the Language of Government Act and encourage my colleagues to support it.

THE NATIONAL ADVANCED MATERIALS PROCESSING AND RESEARCH AND DEVELOPMENT ACT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. TORRICELLI. Mr. Speaker, materials science, which involves the processing, design and use of advanced materials, is essential to most successful manufacturing today. Given the enormous challenges we face from our economic competitors in manufacturing technology, it is essential that we develop a national strategy for advanced materials processing, synthesis and research and development. Toward that end, today I am introducing the National Advanced Materials Processing and Research and Development Act.

My legislation would create a strategic plan for advanced materials that would bolster American competitiveness. The plan would be developed by the National Critical Materials Council in close collaboration with the Office of Science and Technology Policy, and would include specific focus on advanced ceramics, advanced composites, electronic and photonic materials, and advanced metallic and intermetallic alloy systems.

In addition, the legislation would direct the National Science Foundation, in close consultation with other relevant Federal agencies, to create up to 10 National Advanced Materials Processing Centers. Each of these centers would be consortia of industry, universities, research groups and Federal entities which would bid competitively to carry out research into the national advanced materials goals developed in the strategic plan.

Finally, this legislation would direct the Departments of Energy and Commerce, NASA and NSF to establish within their respective departments or agencies a new competitive grants program of Advanced Materials Principal Investigator Awards and a graduate fellowship program that would enable graduate students to conduct research on materials processing and synthesis in affiliation with the awarding department or agency. In this manner, students would be given incentive to do their graduate work in the challenging field of advanced materials, and Government researchers would benefit from being able to work with our best and brightest college students on advanced materials research.

Mr. Speaker, materials were selected as 5 of the 22 technologies deemed essential to the United States' long-term security and economic prosperity by the National Critical Technologies Panel. Unfortunately, the administration has turned away from the future in its rush to avoid anything that might resemble a coherent, thoughtful and effective industrial policy. In the meantime, our foreign competitors are rapidly moving to push forward the boundaries of science and use their discoveries for commercial advantage.

The National Advanced Materials Processing Research and Development Act would strengthen our research efforts in materials technologies and lead to concrete action to advance new technologies that will be critical for maintaining America's manufacturing and industrial prowess. I urge my colleague to support this measure. I would also like to submit the following letter of support for this legislation from the New Jersey Institute of Technology, with whom I worked closely in preparing this legislation:

NEW JERSEY INSTITUTE OF TECHNOLOGY,
April 30, 1991.

Hon. ROBERT G. TORRICELLI,
U.S. House of Representatives,
317 Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN TORRICELLI: As the United States moves into the twenty-first century, it faces unprecedented economic challenges from around the world, especially in manufacturing technology. Competing industrialized countries are moving aggressively ahead in research and development programs to advance new technologies. Such technologies will ensure the ability to compete in the ever-shrinking global marketplace. As President of New Jersey Institute of Technology, I am deeply concerned about this trend and the need to develop a national strategy to confront it. At the same time, I am also encouraged by new initiatives emerging in this country to improve our manufacturing base and to enhance the capabilities necessary to address our present shortcomings. The legislation addressing materials research, which you are sponsoring, can play a critical role in this process.

In order to succeed, we must develop innovative research programs to enhance our manufacturing and industrial capabilities. These programs should include basic laboratory research in addition to applied efforts which are coordinated with partners in industry. An essential component of this overall effort is the implementation of programs in materials science and engineering research. We face a critical need for this type of research, as it will extend the applications and range of new manufacturing processes to more diverse industries, such as aerospace, computer, pharmaceutical, semiconductor and telecommunications.

I know that you have been a key supporter of materials research in recent years, and I want to commend you for such an important commitment. As the Chairman of the Transportation, Aviation and Materials Subcommittee on the Science, Space and Technology Committee, you are an important ally in sustaining support for this field of research. I believe that your leadership and that of your colleagues in the Congress will be paramount in ensuring the ultimate success of such research and development programs.

At NJIT, we share your commitment to materials research. Through our research programs, we seek to achieve several goals. First, we seek to maintain close ties to industry. We believe that a comprehensive program of collaborative research is the best approach for transferring basic research advances to industry and to the university. In this regard, we work very closely with scientists and engineers from industry to coordinate research programs. We seek input from industry, and in turn, industry seeks feedback from us. This mutual exchange is very beneficial.

Second, we seek to conduct basic and applied research in emerging areas of materials science and manufacturing processes to stimulate new applications of technologies. We will utilize an interdisciplinary approach in this effort. Finally, we hope to promote new curriculum development and educational programs as changes occur in the very fluid fields of materials sciences and engineering. All of these factors distinguish our approach to research as one fully committed to technology development and transfer.

Your legislative initiative to develop a National Strategic Plan for Advanced Materials Processing, Synthesis, Research and Development can support research efforts at our university and at other similar institutions around the country. I applaud your efforts and want to express my strong support for this measure. As I indicated at the outset, a very definite need exists for increased research in this area, which the bill supports. Additionally, the legislation will implement a strategic direction and a coordinated plan for the various research efforts in the federal government, universities and industry. I believe that it will also spur more collaborative efforts among these three groups.

At New Jersey Institute of Technology, we conduct specialized progams in materials science and engineering research. Much of our work relates most closely to microelectronics, optoelectronics, innovative techniques for materials processing, precision manufacturing, and surface processing. This research program, all conducted with industry partners, seeks to help industry increase its productivity and to identify ideas for new products.

With these innovative progams, New Jersey Institute of Technology is a leading research institution in the field of materials research. NJIT is located in a perfect setting to interact with industry representatives in collaborative research efforts. We have a first-rate faculty to coordinate these programs. Finally, we have a strong commitment to developing innovative applications for materials, with the goal of improving the manufacturing base of this country and our overall economic competitiveness.

The legislation which you have introduced is badly needed as it provides a focus for a research field with very important implications for industry in this country. We hope to work with you as you seek to improve such research programs and to develop new applications for materials sciences.

Sincerely,
SAUL K. FENSTER,
President.

TAXATION OF SOCIAL SECURITY BENEFITS

HON. JOHN T. DOOLITTLE

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 1991

Mr. DOOLITTLE. Mr. Speaker, today I am introducing legislation which if enacted would right a great wrong that is occurring in some States of this country: the unfair taxation of Social Security benefits.

Mr. Speaker, as you know, Social Security benefits provide base level income protection for nearly all workers and their families from loss of income due to death, disability, or retirement of the worker. In fact, the Supreme Court has said Social Security is "for the general welfare" of the country.

Our colleagues may be shocked to know, Mr. Speaker, that 13 States currently include Social Security benefits as taxable income.

I am sure that all Members of this body will agree that, as an earned right, Social Security benefits should be exempt from State and local taxes. In order to protect the monthly benefits which our Nation's seniors so rightly deserve, I am introducing this legislation which would prohibit State and local governments from taxing Social Security benefits.

WAYNE OTTS TO RECEIVE OLIN E. TEAGUE AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES
Tuesday, July 23, 1991

Mr. MONTGOMERY. Mr. Speaker, in a ceremony tomorrow in the House Veterans' Affairs Committee hearing room, Mr. Lester (Wayne) Otts will be awarded the 12th annual Olin E. Teague Award for his efforts on behalf of America's disabled veterans.

The Olin E. Teague Award is presented annually to a VA employee, or employees working as a team, whose achievements have been of special benefit to veterans with service-connected disabilities.

Mr. Otts, who works as a vocational rehabilitation specialist at the VA regional office in Phoenix, AZ, is being cited for his role in job development and placement for all veterans involved in rehabilitation in the greater Phoenix area.

Mr. Otts is a disabled veteran. Because of this he has unique empathy for the problems the disabled have in breaking through the barriers to employment. Mr. Otts has met continuously with individuals responsible for hiring in every Federal agency in the Phoenix metropolitan area and throughout the State of Arizona. He continues to find employment for disabled veterans even though the State of Arizona is experiencing serious economic problems and a high unemployment rate.

In addition to his work with disabled veterans, Mr. Otts is actively involved with homeless and runaway teens. He has had 19 teenagers spend time in his home over the past 10 years and has had a significant impact on all of these young people's lives. They will all testify that Wayne and his wife, Dorothy, helped them survive and change their lives. He is a truly remarkable person that has devoted his life to giving to others.

Mr. Speaker, there is no greater record of service to the Nation's veterans than that of the late Olin E. "Tiger" Teague, for whom the award is named. Tiger Teague served on the House Veterans' Affairs Committee for 32 years, 18 as its distinguished chairman. No one before and no one since has had a greater understanding of veterans' concerns and needs, nor has done more to address them. He set the standards by which we can best serve all veterans.

I know my colleagues join me in offering our deep appreciation to Wayne Otts for his concern, dedication, and his innovation in meeting the special rehabilitation needs of our disabled veterans. We congratulate him for the excellence of his work and for the distinguished award he receives.

PEACETREES BRING TOGETHER YOUTHS OF MANY NATIONS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. OWENS of New York. Mr. Speaker, I rise to commend the Bedford-Stuyvesant Magnolia Tree Earth Center for hosting the Earthstewards Network's International PeaceTrees Program in my central Brooklyn Congressional District. Working together with the special support of the East Fulton Development Group, the New York City Department for Youth Services, the Council on the Environment in New York City, and with the cooperation of the New York City Department of Transportation and the New York City Housing Authority, the PeaceTrees Program brought together 48 youths. Sixteen of the youths are from Bedford-Stuyvesant. Twenty-four of the young people are from the Soviet Union, India, Belfast in Ireland, Costa Rica, Jordan, and Holland. Seven youths are from New Jersey and one is from California. They are participating in environmental improvement projects in central Brooklyn.

The purpose of the program, which began July 7 and ends July 25, is to promote intercultural harmony, to build awareness of environmental problems and solutions, and to empower young men and women with the skills and confidence to help create a better world. In its PeaceTrees projects in India and Costa Rica, the Magnolia Tree Earth Center found that the simple act of planting trees together provides a wonderful opportunity for people to get to know one another and dispel the false images and stereotypes that various ethnic groups and nationalities harbor about each other.

This month, the young people from Bedford-Stuyvesant, those from the participating countries, and those from other States in the United States learned about each other's cultures and customs by living together in a dormitory at Pratt Institute in Brooklyn. The activities of their first week together focused on creating the bonds of trust and understanding that helped make them a truly global team.

Training during that week included team building, cross-cultural learning and communications, leadership, conflict resolution, and urban forestry. During the first week they staged a groundbreaking ceremony at the Magnolia Tree Earth Center's Hattie Carthan Memorial Garden, which is named for Magnolia Tree's founder.

Their first project was to plant a grove of trees within the Carthan Memorial Garden. In an undeveloped section, they cleaned up the rubble and debris, and installed ground covers and flowers along with the trees to begin a children's garden. They were visited by 200 preschool and elementary school children who came to meet these committed youth, and thank them.

The group's second project is on Fulton Street between Sumpter and Ralph Avenue in Brooklyn. This area is undergoing long-term urban redevelopment under the direction of the East Fulton Development Group. There the PeaceTrees young people created a Peace Plaza and a Green Way on Fulton Street. The work included planting callery pear trees as a symbol of peace and making a meditation space in one of the triangles.

The Department of Transportation set curbs as part of its work repaving the streets. The Housing Authority plans urban landscaping at the adjacent Brevoort Housing Development which will complement the PeaceTrees Program work. Additionally, students from New York City Technical College participated in designs competitions to transform the neighborhood as part of their school curriculum.

The PeaceTrees teams' third project was to landscape the grounds of St. Mary's Episcopal Church, a Brooklyn landmark located near Pratt Institute. Aside from its projects, the group also donated a tree to a privately operated halfway house, located on the same block as the Magnolia Tree Earth Center, which cares for recovering substance abusers and former mental patients.

On Saturday, July 20, in one of its final activities of the summer, the young people held a dedication ceremony of the special peace triangle at Fulton Street and Patchen Avenue, which included the lowering of a time capsule commemorating the event for future generations. On Wednesday, July 24, there will be a farewell ceremony for the young people during which they will be awarded certificates for their outstanding performance.

Mr. Speaker, I applaud the work of these young volunteers as they link saving the planet with proving that it is possible for people, indeed, for nations, to become friends, to trust one another, and to work together for a better world. I congratulate the Magnolia Tree Earth Center for sponsoring PeachTrees this year in central Brooklyn, thus helping to set an example of international interaction and peaceful service. I sincerely hope that similar PeaceTrees programs are replicated and supported around the globe.

TRIBUTE TO TOM SMITH AND THE VIETNAM VETERANS MOTORCYCLE CLUB

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Tom Smith and the Vietnam Veterans Motorcycle Club for their efforts in sponsoring the Moving Wall's visit to Rhode Island. The Moving Wall is a half scale replica of the Vietnam Veterans Memorial in Washington, DC.

Tom Smith and the Vietnam Veteran's Motorcycle Club should be commended for their efforts in bringing the Moving Wall to Providence, RI. The Vietnam Veterans Motorcycle Club is a nationwide organization. Membership in the organization requires that you are a Vietnam-era veteran having served from 1962 to 1975, and that you own a motorcycle. The group was formed to provide camaraderie and social benefits to those who served during the Vietnam conflict. Their volunteer work centers around Rhode Island veterans homes and organizations.

Tom Smith is the chairman of the Moving Wall Committee. He served as a marine corporal in Vietnam from 1967 to 1968. He was a regimental scout sniper and his areas of service included Contien and Khe-Sahn. After his service in Vietnam he received his bachelor's degree from the University of Detroit under the G.I. bill. He went on to receive a graduate degree from MIT. Tom Smith is currently employed as an engineer.

The Moving Wall is currently under heavy demand and it is a great honor to have it in our State. It is with great pleasure that I congratulate Tom Smith and all the members of the Vietnam Veterans Motorcycle Club for helping to bring the Moving Wall to Rhode Island. I extend my best wishes to the Vietnam Veterans Motorcycle Club for a successful future.

TIME FOR PEACE ON CYPRUS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. LEVINE of California. Mr. Speaker, on this 17th year of occupation and division on the island of Cyprus, the United States should take advantage of the spirit of international cooperation that characterized our efforts in the gulf to resolve the Cyprus conflict. While a "window of opportunity" may exist to resolve the Cyprus dispute, immediate action must be taken to reach a settlement on Cyprus before this opportunity is lost.

As a close friend and benefactor of both Turkey and Greece, the United States can play a critical role in moving this peace process forward. While Turkey must be commended for its important role in the allied effort to liberate Kuwait, the administration must make it clear to President Ozal that it is not in his economic or political interest to continue the occupation of 29,000 Turkish troops to secure 40 percent of an island on which 18 percent of the population lives.

The United Nations resolutions calling for the removal of Turkish troops from the island must be enforced. Greece, Turkey, and Cypriots on both sides of the "green line" must reach a solution to this conflict through peaceful negotiations, not through the use of a massive military presence.

A solution to the Cyprus problem would alleviate tensions between our two NATO allies and would open the door for greater cooperation between Turkey and the European community. All parties clearly have more to gain by reaching a solution to this conflict than by maintaining the status quo.

The time has come for a unified and peaceful Cyprus where the rights of all citizens, Greek and Turkish, are guaranteed. Family and friends have been divided long enough on this tiny island nation. It is my hope that in the wake of the gulf war, a new era of peace and cooperation can begin not only in the eastern Mediterranean, but in the entire region.

THE CONGRESSIONAL SUN BELT CAUCUS VISITS ANTIETAM NATIONAL BATTLEFIELD

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. SHAW. Mr. Speaker, on June 14 of this year, the congressional Sun Belt caucus, of which I am cochairman, sponsored a day trip for 5 Members of Congress and 33 congressional staffers to Antietam National Battlefield, located in Sharpsburg, MD. The congressional delegation spent the day learning about the bloodiest day in American military history, as well as development pressures facing what some consider the best-preserved Civil War battlefield.

Ed Bearss, who appeared in the acclaimed PBS series "The Civil War," and who is Chief Historian for the National Park Service, conducted the tour. Members who participated at the day long event included Representative TIM VALENTINE, BOB LIVINGSTON, WALLY HERGER, and FRED GRANDY. Representative BEVERLY BYRON, who represents the Antietam Battlefield area, welcomed the delegation to the battlefield and spoke to members and staff about the battlefield. Representative BYRON has a particular affection for the battlefield, because her husband, the late Representative Goodlow Byron, is buried at Antietam National Cemetery alongside Union soldiers who fell there.

All who participated in the day's activities had glowing praise for the knowledge and charisma Ed Bearss brought to the tour. Mr. Bearss gave a comprehensive overview of events leading up to the battle, which occured on September 17, 1862. Mr. Bearss also led the tour to the various key spots of the battle, including Burnside Bridge, a site where approximately 400 Georgians held off for 3½ hours an entire Union Army Corps.

Although the battle is considered a tactical draw, the battle of Antietam was a strategic victory for the North and a turning point in the Civil War. President Lincoln issued the Emancipation Proclamation in response to the battle, thereby effectively thwarting any Confederate hope of England and France recognizing or overtly aiding the Confederacy for the remainder of the war. Additionally, because the Confederate Army returned safely to Virginia, it confirmed in Lincoln's mind his resolve to find a general who would fight as aggressively as the Confederate commander Robert E. Lee. That commander eventually turned out to be Gen. Ulysses S. Grant.

Our Nation was forever changed that fateful day in 1862. Because of Antietam, there was no turning back after the battle. Lincoln's emancipation of the slaves effectively and permanently altered the goals and ideals of the Civil War. Although the average Southern soldier never owned slaves, and did not fight to preserve the institution of slavery, Lincoln's bold move after Antietam forever placed a moral stigma on the Confederate cause. Almost 3 years would pass after the battle before the guns would finally fall silent.

Today it is hard to imagine the wholesale slaughter and unbridled carnage that occurred at Antietam, when the site is now so peaceful and serene. However, we in Congress must be vigilant if places like Antietam are to remain peaceful. As my colleagues may be aware, many Civil War battlefields are under a different type of attack from that which occured over 125 years ago—namely the specter of encroaching development which threatens them. While I am certainly not against economic growth, I am against developing haphazardly or without taking into account the unforeseen costs of building near land which should be forever preserved for the present and for future generations of Americans.

Mr. Speaker, I am sure that if every Member of Congress could tour a Civil War battlefield with the incomparable Ed Bearss, protecting those battlefields would be a foregone conclusion. In lieu of that, however, I urge my colleagues to visit these national treasures—for these lands not only embody important events in our national history, but they are also beautiful.

HONORING THE CITY OF IRVINE FOR OUTSTANDING COMMUNITY SERVICE FOR THE DISABLED

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. COX of California. Mr. Speaker, I rise today to pay tribute to the city of Irvine, CA. This fine community has been selected by the National Organization on Disability as the Grand Prize winner of the 1990 "Calling on America" Leadership Award Campaign. The citizens of Irvine are being honored for their exceptional achievements in the area of disability issues during 1990.

This prestigious award is the result of hours of planning and hard work by the Irvine City Council—under the direction of Mayor Sally Anne Sheridan—and the Irvine Residents with Disabilities Advisory Board. Working as a team, these individuals shared their expertise to write a winning proposal for the National Organization on Disability. This accomplishment deserves recognition and praise.

Having examined this comprehensive plan, I want to highlight some of its most important points. It incorporates provisions for the disabled into all aspects of community living—including education and training, employment, civic government, recreation, public awareness, transportation, housing, and child care. These services will make life safer, more meaningful, and more enjoyable for all of the disabled citizens of Irvine.

Ronald Reagan's former press secretary James Brady, has commended the citizens of the city of Irvine for their sensitivity to the needs of their disabled neighbors. It is a privilege to join with Jim Brady—who now serves as the vice chair of the National Organization on Disability—in congratulating all of the people of Irvine for this outstanding achievement.

LEGISLATION TO ESTABLISH A NATIVE AMERICAN UNIVERSITY

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. FALEOMAVAEGA. Mr. Speaker, I am introducing a bill to establish a Native American University. I have spoken on this bill as early as this past April when I introduced H.R. 1690. Because the university created by this bill will be directly related to programs administered by the Bureau of Indian Affairs under the auspices of the Department of the Interior, I am introducing a second bill which I believe will receive a joint referral to the Committee on Education and Labor and the Committee on Interior and Insular Affairs. With this joint referral, I believe both concerned committees will have the opportunity to conduct the appropriate review.

This bill was submitted once before but for some reason was not listed in the CONGRESSIONAL RECORD.

A BILL ADDRESSING THE PARTNERSHIP ALLOCATION RULES OF CERTAIN NONRECOURSE FINANCING QUALIFYING UNDER THE AT-RISK RULES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. MATSUI. Mr. Speaker, today I am introducing legislation to correct an apparent inconsistency in the partnership rules of the Tax Code.

Under section 465 of the Internal Revenue Code, certain taxpayers are allowed to deduct losses from an activity only to the extent they are "at risk" with respect to such activity. Generally, taxpayers are at risk if they have contributed cash or property for use in the activity or have incurred recourse borrowings from unrelated persons with respect to such activity.

The Tax Reform Act of 1986 established an "at-risk" category of nonrecourse borrowings for certain activity involving the holding of real property. This "qualified nonrecourse financing" category includes "certain commercially reasonable financing" even though such financing is loaned by a related person.

This exception for commercially reasonable loans from related persons was enacted in recognition that many real estate development joint ventures consist of a developer partner and a financing partner. Properties developed under such joint ventures frequently consist of industrial and commercial real estate, including manufacturing, warehousing, hotel, and office properties. These arrangements are entered into by institutional lenders in order that the lenders may receive a portion of their return from the loan in the form of operating cash-flow and appreciation of the developed real estate. Developers frequently seek out these arrangements because they are most likely to involve lenders that are more committed to the financed project and to future projects of the developer.

Subsequent to the enactment of the above provisions, regulations were issued under Code section 704(b) generally requiring the allocation of nonrecourse deductions to the partner who is the lender—or an affiliate of such lender—of a nonrecourse loan. In addition, the recently issued liability sharing regulations under section 752 generally allocate nonrecourse liabilities to the basis of the lender, or affiliate, partner. Pursuant to a de minimis exception provided under these regulations, nonrecourse liabilities and the related deductions generally will not be required to be allocated to a partner who owns 10 percent or less of the partnership even though such partner is the lender of an affiliate of such lender.

Thus, in the case of a joint venture, the regulations will generally result in a greater-than-10-percent partner/lender being allocated all the tax deductions related to the loan, while the partner/developer is unable to share in the deductions.

Supplementing the "commercially reasonable financing" amendment contained in my legislation, this bill includes two additional safeguards against use of this proposed change in interest allocation.

First, the distributive share of each partnership item allocated to a partner, directly or through tiered entities, must be the same as his distributive share of all other partnership items, and must remain the same during the entire period such person is a partner—"straight-up allocations". Second, the direct or indirect interest in the partnership of the person providing the financing may not exceed 50 percent.

The relief afforded "commercially reasonable financing" from related persons under section 465 was intended to have some usefulness by those drafting the 1986 Tax Act. The regulations under sections 704(b) and 752 have negated that relief for partnerships comprised of a developer and institutional lender. Thus, this bill is necessary to reestablish the relief originally envisioned, and legislated, by Congress in 1986.

TRIBUTE TO BRENDA T. ACKEN

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. RAHALL. Mr. Speaker, I rise to recognize a constituent and long-time personal friend, Brenda T. Acken, who, today, has been elected president of Quota International, Inc.

Quota International, Inc. is a nonprofit, nonpartisan, nonsectarian, organization of executive business and professional people dedicated to a common cause—service to those who need help—and are especially committed to providing assistance to the hearing and speech impaired citizens around the world. With its international headquarters in Washington, DC. Quota has clubs organized in 12 countries and links members of all ages, occupations, and nationalities in a world-wide organization of service and friendship.

Brenda T. Acken of Bluefield, WV and a member of Quota Club of South Bluefield, was elected to the prestigious office of president of Quota International, Inc. at the International Convention in Ottawa, Ontario, Canada. Brenda has been involved in Quota since 1973 and has many local, district, area, and international offices. Brenda is the first West Virginian in the last 50 years to hold this office. A native West Virginian, Brenda is the daughter of Mr. and Mrs. Murl Thomas of Princeton, WV and is a graduate of Concord College in Athens, WV.

Brenda is an officer of MAPCO Coal Inc.'s Virginia region and a trustee of the Robert E. Perkinson Trust; a board member of the American Institute of CPA's; the vice-president of the West Virginia Board of Accountancy; and is a past president of the West Virginia Society of CPA's serving as the first woman president. She is currently chairman of the board of Bluefield Health Systems; vice chairman of the board of directors of Bluefield Regional Medical Center; and treasurer of the board of directors of Bluefield Regional Medical Center Foundation.

Under Brenda's leadership, I am confident that the Quota International Organization will continue to grow and accomplish their many on-going goals for the improvement of the welfare of mankind. I know that every Member of this body joins me in congratulating Brenda and wishing her great success in her tenure as president of Quota International, Inc.

U.S. POLICY ON BALTIC STATES FALLS SERIOUSLY SHORT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 23, 1991

Mr. HOYER. Mr. Speaker, on June 25, 1991, in compliance with Public Law 101–309, the administration submitted its report on U.S. Government actions in support of the peaceful restoration of independence for the Baltic States.

According to the document:

> In wake of Soviet pressure against the Baltic States, our Government has undertaken a vigorous diplomatic effort designed to both help avert future violent confrontations in the Baltic States and to enable the Baltic people to realize their legitimate but long-denied aspirations.

Rather than calling the Bush administration's efforts on behalf of the Baltic States vigorous, I would call them restrained. While the administration has on occasion protested Soviet repression in the Baltics, and has expanded contacts with Baltic leaders, far too many of these actions have been inconsistent, incomplete, and hesitant. To this day, the administration has engaged in only half-hearted actions on behalf of Baltic independence, designed more to save president Gorbachev from embarrassment than to promote the Baltic cause.

With this in mind, I would like to address both the administration's report to Congress, and its recent actions in regard to Baltic independence.

The administration paper states that the United States currently supports granting the Baltic States observer status at CSCE meetings. True. The Bush administration has expressed support for observer status for Latvia, Lithuania, and Estonia. But will the United States raise the issue of observer status within the CSCE? The answer has consistently been "no," on the grounds that consensus would not be achieved. The Soviets or some other delegation might object, the administration reasons. But since when has the United States refused to raise an issue or make a proposal within the CSCE just because consensus was unlikely at the moment? If that were the case, many of the Helsinki principles which now provide strong moral guidelines for the participating states would never have been proposed, let alone adopted.

Our Government should not concede defeat before even entering the arena. Instead, we should raise an issue on principle and let the nations of the CSCE take a stand. The United States should formally propose CSCE observer status for the Baltic governments. Such a proposal will not only underscore our continued commitment to the democratization which has already taken place under President Gorbachev's leadership, it will also signal our impatience with Moscow's tired line that it is engaged in meaningful negotiations with Riga, Vilnius, and Tallin, when clearly it is not.

The report also states that since mid-January 1991, when at least 21 persons died from Soviet initiated violence in Lithuania and Latvia, the President and Secretary of State have repeatedly raised the issue of the Baltic States. Unfortunately, these statements have not been strong enough, and they have not put an end to the ongoing attacks on the Baltic peoples carried out by the infamous black berets. Throughout May and June and up to the present, these forces have been destroying customs posts on the Baltic borders, injuring and sometimes killing Baltic customs officials in the process. On June 26, they seized Lithuania's central telephone and telegraph exchange, completely isolating Lithuania from the outside world.

Conspicuous by its absence in the President's June 25 message to Congress was any mention of a particularly incredulous investigative report issued on June 3 of this year by the

Moscow-based Soviet Procuracy. Ordered to investigate the horrible events of January 12–13 in Vilnius, the Soviet Committee essentially blamed the Lithuanian people for the tragic deaths which took place. The State Department's response was to find the conclusions of the report "at odds with the facts." This response was entirely too mild. The administration should have called on Mr. Gorbachev to personally investigate this insult to the Lithuanian people. And Mr. Gorbachev should have gotten to the bottom of this travesty for the sake of his own credibility.

And finally, I want to address a recent U.S. action not listed in the report to Congress. A few days ago, the administration informed the Foreign Ministers of the Baltic States that it intended to extend most-favored-nation status to the Soviet Union based upon the adoption by the Soviet Government of a new emigration law "meeting international standards." Leaving aside the questionable assertion that the law meets international standards of freedom of movement, I would like to quote from the nonpaper delivered by our diplomatic representatives to the Baltic Foreign Ministers on the issue of MFN:

> **We want to use our influence to have Moscow negotiate seriously with you on independence. If you work either to exclude the Baltic States from inclusion in the trade agreement and MFN, or block passage of the agreement, that could make our task and yours more difficult.**

In other words, don't rock the boat. We fully recognize your legal claim to independence, but in this instance, we are going to accept Moscow's claim that the Baltic States are indeed Soviet Republics.

Last February I led a congressional delegation to each of the Baltic States as chairman of the Helsinki Commission. We met there with the democratically elected leaders of Latvia, Lithuania, and Estonia. They told us of their peaceful struggle for independence, and of the campaign of terror which is being waged against them by the center. We came away from those meetings with not only a deeply ingrained determination to promote their cause, but also ideas for some specific steps which could be taken by our Government to expand and solidify its support for the Baltic States.

These include:

Establishing an American presence, such as information offices, in each of the Baltic States to serve as a form of polticial recognition and support;

Channeling U.S. Governement humanitarian aid and economic assistance, as well as private sector humanitarian aid, to the Baltic States directly;

Recognizing and establishing direct contracts with the parliaments of Lithuania, Latvia, and Estonia as the legitimate, freely elected and democratic representatives of the peoples of the Baltic States; and as I have already mentioned;

Proposing and seeking support for observer status for the Baltic States in the CSCE at the very next opportunity.

These ideas have since been incorporated into House Joint Resolution 179, and Senate Joint Resolution 89, which enjoy over 100 cosponsors in the House and Senate.

Mr. Speaker, I realize that in a rapidly changing Europe, with various political forces arising from the wreckage of Marxist economics, Leninist politics, and Stalinist psychology, the administration is faced with a daunting mosaic of challenges amid contending political forces. Policy options are not always easily ascertained. However, United States policy for over 50 years has been that "we do not recognize the forced occupation of the Baltics." Now we have a historic window of opportunity to aid the Baltic States in their request for independence, and we are falling seriously short of the mark.